

DATED

ORECON PTY LTD

to

CONTRACT OF SALE OF REAL ESTATE

Property: 13 Fairhill Road, Wollert VIC 3750

Candor Conveyancing
Licensed Conveyancing Practitioners
Nambrok VIC 3847
Tel: 0401880861
Email: info@candorconveyancing.com.au
Ref: PT: 26:280

Contract of Sale of Land

Property address: 13 Fairhill Road, Wollert VIC 3750

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

The terms of this contract are contained in the:

- Particulars of sale; and
- Special conditions, if any; and
- General conditions

in that order of priority.

IMPORTANT NOTICE TO PURCHASERS

Cooling-off period

Section 31, 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 or within 3 clear business days before or after a publicly advertised auction; or
- the property is used primarily for industrial or commercial purposes; or
- the property is more than 20 hectares in size and is used primarily for farming; or
- you and the vendor have previously signed a contract for the sale of the same land in substantially the same terms; or
- you are an estate agent or a corporate body.

Signing of this contract

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

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

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

The authority of a person signing:

- under power of attorney; or
- as director of a corporation; or
- as an 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
dd/mm/yyyy

Print name(s) of person(s) signing

State nature of authority if applicable
e.g. 'director', 'attorney under power
of attorney'

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

Signed by the vendor

on
dd/mm/yyyy

Print name(s) of person(s) signing

State nature of authority if applicable
e.g. 'director', 'attorney under power
of attorney'

The **day of sale** is the date by which both parties have signed this contract.

Notice to purchasers of property “off-the-plan”

Section 9AA(1A), *Sale of Land Act 1962*

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

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

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

Particulars of sale

Vendor’s estate agent

Name:	Harcourts Rata & Co (Epping/Wollert)
Address:	769 High Street Epping VIC 3076
Telephone:	03 9401 1117
Fax:	
Email:	sold@rataandco.com.au

Vendor

Name(s):	Orecon Pty Ltd ACN: 607 900 854
Address:	
Telephone:	W: H:
Email:	

Land (general conditions 6 and 12)

The land is described in the following table.

Certificate of Title reference				being lot	on plan
Volume	12516	Folio	624	128	PS837651P
Volume		Folio			

or

described in the copy title(s) and plan(s) as attached to the Vendor's Statement if no title or plan references are recorded in the table above or if the land is general law land.

The land includes all improvements and fixtures.

Property address
The address of the land

13 Fairhill Road, Wollert VIC 3750

Goods sold with the land
General condition 5.2(f). List
or attach schedule.

*** All fixed floor coverings, light fittings, window furnishings and all fixtures and fittings of a permanent nature. (or attach Schedule)

Payment

Price \$

Deposit \$

by
dd/mm/yyyy

(of which [amount] has been
paid) \$

Balance payable at
settlement \$

Deposit bond

General condition 14 applies only if the box is checked

Bank guarantee

General condition 15 applies only if the box is checked

GST (general condition 18)

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

If this is a sale of a 'farming
business' or 'going concern'
then add the words '**farming
business**' or '**going concern**'
in this box:

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

Margin Scheme

Settlement (general condition 16 and 25.2)

Is due on:
dd/mm/yyyy

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

Lease (general condition 4.1)

At settlement the purchaser
is entitled to vacant
possession of the property
unless the words '**subject to
lease**' appear in this box:

in which case refer to general condition 4.1. If '**subject to lease**' then particulars of the lease are:

Terms contract (general condition 29)

If this contract is intended to be a terms contract within the meaning of the *Sale of Land Act 1962* then add the words '**terms contract**' in this box

--

and refer to general condition 29 and add any further provisions by way of special conditions.

Loan (general condition 19) – NOT APPLICABLE AT AUCTION

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

Lender	
Loan amount	
Approval date	

Building report

General condition 20 applies only if the box is checked

Pest report

General condition 21 applies only if the box is checked

Special conditions

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

SPECIAL CONDITIONS

Contract of Sale of Land—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 this page; and
- attach additional pages if there is not enough space and number pages accordingly (eg.5a, 5b, 5c etc.)

INFORMATION ONLY

SPECIAL CONDITIONS

1) If Sold by Auction

The property is offered for sale by auction, subject to the vendor's reserve price. The Rules for the conduct of the auction shall be as set out in Schedules 1-5 of the Sale of Land (Public Auctions) Regulations 2014 or any rules prescribed by regulation which modify or replace those Rules."

2) Property as described

The Purchaser admits that the land as offered for sale and inspected by him or her is identical with that described in the title particulars given in the Vendor's Statement and in the Particulars of Sale hereof. The Purchaser shall not make any requisitions or claim any compensation for any alleged misdescription of the land or deficiency in its area or measurements or any patent or latent defects in the land or call upon the Vendor to amend title or bear all or any part of the cost of doing so provided that nothing herein shall release the Vendor from his obligations or affect the rights of the Purchaser pursuant to Section 9AC of the Sale of Land Act, 1962 (as amended)

3) Notices from day of sale

The Purchaser shall assume responsibility for and comply with all notices, orders or directions served, given or made in respect of the property sold on or after the day of sale.

4) Default

Should the purchaser default in payment of any money due under this Contract then interest at the rate of fifteen per centum (15%) per annum shall be paid on demand by the Purchaser to the Vendor upon the money overdue. The said interest shall be calculated from the due date herein provided for the payment of the said money until such monies are paid and shall be payable by the Purchaser to the Vendor upon demand without the necessity for any notice in writing. The exercise of the Vendors rights hereunder shall be without prejudice to any other rights powers and remedies of the Vendor under this Contract or otherwise. If the Purchaser fails to complete the purchase of the property on the due date for settlement or such later date as may be agreed between the parties, the Purchaser shall also be liable for:

- (a) All costs incurred by the Vendor in obtaining bridging finance to complete the Vendors purchase of another property and interest charged on such bridging finance.
- (b) Accommodation expenses necessarily incurred by the Vendor.
- (c) Additional costs and expenses incurred by the Vendor as between the Vendor and the Vendors legal representative.
- (d) Any costs, expenses and penalties, incurred by the Vendor to the third party through any delay in completion of the Vendors purchase.

5) Deposit

The Purchaser shall pay 10% Deposit upon entering into this Contract of Sale. This is an implicit condition of this Contract and non-negotiable.

6) Settlement delay

If the Purchaser is not in default under this Contract and the Purchaser requests a change of Settlement Date (or any other change to the Contract or settlement document), the Purchaser shall pay the sum of \$330.00 to cover the cost incurred by the Vendor for extra administration costs to attend to each request.

7) Condition of Property and Chattels

- (a). The Purchaser acknowledges that the Purchaser has inspected the Property and Chattels.
 - (b). The Purchaser signs this Contract accepting delivery of the Property and Chattels in their present condition and state of repair and with any defects existing at the date hereof.
 - (c). The Purchaser agrees that the Vendor is under no liability or obligation to carry out renovations, alterations or improvements at the Property after the date of sale.
 - (d). The Purchaser shall not require the Vendor to pay all or part of the cost of ensuring that the Property and the Chattels comply with any applicable Law, are free from defect or are fit for any particular use.
 - (e). The Purchaser agrees that the Vendor is under no obligation to enhance the property by adding anything so as to benefit the Purchaser and/or the value of the property.
 - (f). The Purchaser shall not delay settlement, make any requisition or objection or claim any compensation from the Vendor in connection with any notice or order made or any alleged non-compliance of the Property and/or the Chattels with any Law, covenant of the state of repair or condition of the Property and the Chattels.
 - (g). The Vendor makes no warranty or representation as to the condition of the Property and the Chattels, the suitability or fitness of the Property and Chattels, nor that do the Property and the Chattels comply with any applicable Law.
- (e). General Conditions 31.4, 31.5 and 31.6 shall not apply.

8) Purchasers Inspection

Purchaser warrants to the Vendor that, because of the Purchasers own inspection and enquiries, the Purchaser:

- a) Is satisfied as to the nature, quality, condition and state of repair of the Property;
- b) Accepts that all structures or improvement on the property are contained wholly within the title boundaries of the property and that no structure or improvements of any adjoining property encroaches over or under the title boundaries to the property;
- c) Accepts the Property as it is subject to all defects (latent or patent) and all dilapidation and infestation;
- d) Is satisfied about the purposes for which the Property may be used and about all restrictions and prohibitions on its development.

9) The Vendor gives no warranty

- a) That the improvements erected on the Land or any alterations or additions to the improvements comply with any Building Legislation.
- b) The Purchaser must not make any requisition or objection or claim any compensation in respect of any non-compliance with any Building Legislation or Planning Legislation and must not call upon the Vendor to

bear all or any part of the cost of complying with any Building or Planning Legislation for any Building Order or Planning Order in relation the Property.

10) Settlement

Settlement of this Contract is not conditional or dependent upon the Purchaser obtaining any consent or approval from any Authority lawfully necessary in order to enable the property or any part of it to be used or occupied by the Purchaser or any other person for any purpose whatsoever, and is not conditional upon any matter referred to in these Special Conditions.

11) Restrictions

The Purchaser buys the land subject to any prohibition or restriction affecting the land or the use or the development of it whether imposed by any act, ordinance, regulation, by-law, planning scheme, interim development order or other statutory enactment or order of court or otherwise and whether actual or potential or otherwise. The property is sold subject to any restriction as to user imposed by law or by any Authority with power under any legislation to control the use of the land. Any such restriction shall not constitute a defect in or affect the validity of this Contract and the Purchaser shall not make any requisition or objection or claim or be entitled to compensation or damages from the Vendor in respect thereof.

12) Whole Agreement

The Purchaser acknowledges that no information, representation, comment, opinion or warranty by the Vendor or the Vendor's Agent was supplied or made with the intention or knowledge that it would be relied upon by the Purchaser and no information, representation comment, opinion or warranty has in fact been so relied upon and that there are no conditions, warranties or other terms affecting this sale other than those embodied in this Contract.

13) Statement Of Adjustments

Statement of Adjustments and all relevant Certificates must be prepared on behalf of the Purchasers and provided to the Vendors representative not less than 3 business days prior to the due date of settlement and failure to do so will cause the Purchasers to pay administration fee to the Vendors Representative of \$330.00 for the delay in receiving the Statement of Adjustments and all relevant certificates.

(14) Nomination

The Purchaser may no later than 14 days before the due date for Settlement Nominate a substitute or additional person to take a Transfer of Land, but the named Purchaser remains personally liable for the performance of all Purchasers obligations under this Contract.

The Purchaser has to pay the professional fees to the Vendors Conveyancer of \$220 for the Nomination.

Contract of Sale of Land - General Conditions

Contract Signing

1. NOMINEE

The purchaser may nominate a substitute or additional transferee, but the named purchaser remains personally liable for the due performance of all the purchaser's obligations under 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.

Title

4. ENCUMBRANCES

4.1 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.

4.2 The purchaser indemnifies the vendor against all obligations under any lease or tenancy that are to be performed by the landlord after settlement.

5. VENDOR WARRANTIES

5.1 The warranties in general conditions 5.2 and 5.3 replace the purchaser's right to make requisitions and inquiries.

5.2 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.

5.3 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.

5.4 The warranties in general conditions 5.2 and 5.3 are subject to any contrary provisions in this contract and disclosures in the section 32 statement.

5.5 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.

5.6 Words and phrases used in general condition 5.5 which are defined in the *Building Act* 1993 have the same meaning in general condition 5.5.

6. IDENTITY OF THE LAND

6.1 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.

6.2 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.

7. SERVICES

7.1 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.

7.2 The purchaser is responsible for the connection of all services to the property after settlement and the payment of any associated cost.

8. 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.

9. TRANSFER & DUTY

- 9.1 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.
- 9.2 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.

10. RELEASE OF SECURITY INTEREST

- 10.1 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.
- 10.2 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 10.4, 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.
- 10.3 If the purchaser is given the details of the vendor's date of birth under general condition 10.2, the purchaser must
- (a) only use the vendor's date of birth for the purposes specified in general condition 10.2; and
 - (b) keep the date of birth of the vendor secure and confidential.
- 10.4 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.
- 10.5 Subject to general condition 10.6, 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.

- 10.6 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 10.5 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.
- 10.7 A release for the purposes of general condition 10.4(a) must be in writing.
- 10.8 A release for the purposes of general condition 10.4(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.
- 10.9 If the purchaser receives a release under general condition 10.4(a) the purchaser must provide the vendor with a copy of the release at or as soon as practicable after settlement.
- 10.10 In addition to ensuring that a release is received under general condition 10.4(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.
- 10.11 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.
- 10.12 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 10.11.
- 10.13 If settlement is delayed under general condition 10.12 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.
- 10.14 The vendor is not required to ensure that the purchaser receives a release in respect of the land. This general condition 10.14 applies despite general condition 10.1.
- 10.15 Words and phrases which are defined in the *Personal Property Securities Act 2009* (Cth) have the same meaning in general condition 10 unless the context requires otherwise.

11. 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.

12. GENERAL LAW LAND

- 12.2 The remaining provisions of this general condition 12 only apply if any part of the land is not under the operation of the *Transfer of Land Act 1958*.
- 12.3 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.

- 12.4 The purchaser is entitled to inspect the vendor's chain of title on request at such place in Victoria as the vendor nominates.
- 12.5 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.
- 12.6 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.
- 12.7 If the contract ends in accordance with general condition 12.6, the deposit must be returned to the purchaser and neither party has a claim against the other in damages.
- 12.10 General condition 16.1 [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

13. DEPOSIT

- 13.1 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.
- 13.2 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.
- 13.3 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 23 and 24 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.

- 13.4 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.
- 13.5 The stakeholder may pay the deposit and any interest into court if it is reasonable to do so.
- 13.6 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.
- 13.7 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.
- 13.8 Payment by electronic funds transfer is made when cleared funds are received in the recipient's bank account.
- 13.9 Before the funds are electronically transferred the intended recipient must be notified in writing and given sufficient particulars to readily identify the relevant transaction.
- 13.10 As soon as the funds have been electronically transferred the intended recipient must be provided with the relevant transaction number or reference details.
- 13.11 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.

14. DEPOSIT BOND

- 14.1 This general condition only applies if the applicable box in the particulars of sale is checked.
- 14.2 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.
- 14.3 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.
- 14.4 The purchaser may at least 45 days before a current deposit bond expires deliver a replacement deposit bond on the same terms and conditions.
- 14.5 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 34.2 [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.

14.6 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 14.5 to the extent of the payment.

14.7 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 14.6.

14.8 This general condition is subject to general condition 13.2 [deposit].

15. BANK GUARANTEE

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

15.2 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)*.

15.3 The purchaser may deliver a bank guarantee to the vendor's legal practitioner or conveyancer.

15.4 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 34.2 [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.

15.5 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 15.4.

15.6 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 15.4 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 13.2 [deposit].

16. SETTLEMENT

16.1 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.

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

16.3 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.

17. ELECTRONIC SETTLEMENT

17.1 Settlement and lodgment of the instruments necessary to record the purchaser as registered proprietor of the land will be conducted electronically in accordance with the Electronic Conveyancing National Law. This general condition 17 has priority over any other provision of this contract to the extent of any inconsistency.

17.2 A party must immediately give written notice if that party reasonably believes that settlement and lodgment can no longer be conducted electronically. General condition 17 ceases to apply from when such a notice is given.

17.3 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.

17.4 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.

17.5 This general condition 17.5 applies if there is more than one electronic lodgment network operator in respect of the transaction. In this general condition 17.5 "the transaction" means this sale and purchase and any associated transaction involving any of the same subscribers.

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

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

17.6 Settlement occurs when the workspace records that:

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

17.7 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 17.6 has not occurred by 4.00 pm, or 6.00 pm if the nominated time for settlement is after 4.00 pm.

17.8 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.

17.9 The vendor must before settlement:

- (a) deliver any keys, security devices and codes (“keys”) to the estate agent named in the contract,
- (b) direct the estate agent to give the keys to the purchaser or the purchaser’s nominee on notification of settlement by the vendor, the vendor’s subscriber or the electronic lodgment network operator;
- (c) deliver all other physical documents and items (other than the goods sold by the contract) to which the purchaser is entitled at settlement, and any keys if not delivered to the estate agent, to the vendor’s subscriber or, if there is no vendor’s subscriber, confirm in writing to the purchaser that the vendor holds those documents, items and keys at the vendor’s address set out in the contract, and

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

18. GST

18.1 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).

18.2 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.

- 18.3 The purchaser is not obliged to pay any GST under this contract until a tax invoice has been given to the purchaser.
- 18.4 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.
- 18.5 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.
- 18.6 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.
- 18.7 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.

19. LOAN

- 19.1 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.
- 19.2 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.
- 19.3 All money must be immediately refunded to the purchaser if the contract is ended.

20. BUILDING REPORT

- 20.1 This general condition only applies if the applicable box in the particulars of sale is checked.
- 20.2 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.

20.3 All money paid must be immediately refunded to the purchaser if the contract ends in accordance with this general condition.

20.4 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.

20.5 The registered building practitioner may inspect the property at any reasonable time for the purpose of preparing the report.

21. PEST 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 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.

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 pest control operator may inspect the property at any reasonable time for the purpose of preparing the report.

22. ADJUSTMENTS

22.1 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.

22.2 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.

22.3 The purchaser must provide copies of all certificates and other information used to calculate the adjustments under general condition 22, if requested by the vendor.

23. FOREIGN RESIDENT CAPITAL GAINS WITHHOLDING

- 23.1 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.
- 23.2 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.
- 23.3 The remaining provisions of this general condition 27 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.
- 23.4 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.
- 23.5 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.
- 23.6 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.
- 23.7 The representative is taken to have complied with the requirements of general condition 23.6 if:
- (a) the settlement is conducted through an electronic lodgment network; and
 - (b) the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.
- 23.8 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.
- 23.9 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.

23.10 The purchaser is responsible for any penalties or interest payable to the Commissioner on account of late payment of the amount.

24. GST WITHHOLDING

24.1 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.

24.2 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.

24.3 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.

24.4 The remaining provisions of this general condition 21 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 21 is to be taken as relieving the vendor from compliance with section 14-255.

24.5 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.

24.6 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.

24.7 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.

24.8 The representative is taken to have complied with the requirements of general condition 24.7 if:

(a) settlement is conducted through an electronic lodgment network; and

(b) the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.

24.9 The purchaser may at settlement give the vendor a bank cheque for the amount in accordance with section 16-30 (3) of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*, but only if:

(a) so agreed by the vendor in writing; and

(b) the settlement is not conducted through an electronic lodgment network.

However, if the purchaser gives the bank cheque in accordance with this general condition 24.9, 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.

24.10 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.

24.11 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.

24.12 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 24.11; 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

25. TIME & CO OPERATION

- 25.1 Time is of the essence of this contract.
- 25.2 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.
- 25.3 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.
- 25.4 Any unfulfilled obligation will not merge on settlement.

26. SERVICE

- 26.1 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.
- 26.2 A cooling off notice under section 31 of the *Sale of Land Act 1962* or a notice under general condition 19 [loan approval], 20 [building report] or 21 [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.
- 26.3 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.
- 26.4 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*.

26.5 In this contract 'document' includes 'demand' and 'notice', 'serve' includes 'give', and 'served' and 'service' have corresponding meanings.

27. NOTICES

27.1 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.

27.2 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.

27.3 The purchaser may enter the property to comply with that responsibility where action is required before settlement.

28. 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.

29. TERMS CONTRACT

29.1 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.

29.2 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.

30. LOSS OR DAMAGE BEFORE SETTLEMENT

- 30.1 The vendor carries the risk of loss or damage to the property until settlement.
- 30.2 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.
- 30.3 The purchaser must not delay settlement because one or more of the goods is not in the condition required by general condition 30.2, but may claim compensation from the vendor after settlement.
- 30.4 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 30.2 at settlement.
- 30.5 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.
- 30.6 The stakeholder must pay the amounts referred to in general condition 30.5 in accordance with the determination of the dispute, including any order for payment of the costs of the resolution of the dispute.

31. 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

32. 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.

33. DEFAULT NOTICE

33.1 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.

33.2 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.

34. DEFAULT NOT REMEDIED

- 34.1 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.
- 34.2 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.
- 34.3 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.
- 34.4 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.
- 34.5 The ending of the contract does not affect the rights of the offended party as a consequence of the default.

GUARANTEE and INDEMNITY

I/We		of	
And		of	
	being the Sole Director / Directors of		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 <input style="width: 300px;" type="text"/>	<input style="width: 300px;" type="text"/>
In the presence of	Director(Sign)
Witness <input style="width: 300px;" type="text"/>	

SIGNED SEALED AND DELIVERED by the said

Print Name <input style="width: 300px;" type="text"/>	<input style="width: 300px;" type="text"/>
In the presence of	Director(Sign)
Witness <input style="width: 300px;" type="text"/>	

SCHEDULE 1

Regulations 5, 6 and 7

GENERAL RULES FOR THE CONDUCT OF PUBLIC AUCTIONS OF LAND

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

OR

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

[*One of these alternatives must be deleted]

2. The auctioneer may refuse any bid.

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

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

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

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

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

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

INFORMATION ONLY

13 FAIRHILL ROAD, WOLLERT
(Property)

VENDOR STATEMENT

Vendor: Orecon Pty Ltd

CANDOR CONVEYANCING

C/- 570 Nambrok Hall Road
Nambrok VIC 3847

Tel: 0401880861

Email: info@candorconveyancing.com.au

Ref: PT: 26:280

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: 13 Fairhill Road, Wollert

Vendor: Orecon Pty Ltd

Vendor's signature

_____/_____/20_____
Date

Vendor:

Vendor's signature

_____/_____/20_____
Date

Purchaser:

Purchaser's signature

_____/_____/20_____
Date

Purchaser:

Purchaser's signature

_____/_____/20_____
Date

1. FINANCIAL

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

Are contained in the attached certificate(s).

Their total does not exceed: \$5,500

Their amounts are:

Authority	Amount	Interest (if any)
Whittlesea City Council		
Yarra Valley Water		

There are NO amounts for which the purchaser may become liable as a consequence of the sale of which the vendor might reasonably be expected to have knowledge, which are not included in items 1.1(a), (b) or (c) above; other than:-

Nil, so far as the vendor(s) are aware.

As attached

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

Not applicable.

As attached

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.

"Additional Vendor Statement" is attached.

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.

"Additional Vendor Statement" is attached.

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.

- Attached is a copy or extract of any policy of insurance in respect of any damage to or destruction of the land.
- Particulars of any such policy of insurance in respect of any damage to or destruction of the land are as follows:
 - Name of insurance company:
 - Type of policy:
 - Policy number:
 - Expiry Date:
 - Amount insured:

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.
- Attached is a copy or extract of any policy of insurance required under the Building Act 1993.
- Particulars of any required insurance under the Building Act 1993 are as follows:
 - Name of insurance company:
 - Policy number:
 - Expiry date:

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

3. LAND USE

3.1 **Easements, Covenants or Other Similar Restrictions**

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

- Is in the attached copies of title document/s.
- Is as follows:
- Not applicable.

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

- In the attached copies of title document/s.
- As follows:
- Not applicable.

3.2 **Road Access**

There is:

- access to the property by road
- NO access to the property by road

3.3 **Designated Bushfire Prone Area**

If the land is in an area that is designated as a bushfire prone area under section 192A of the Building Act 1993, a statement that the land is in such an area'.

- Is NOT in a designated bushfire prone area within the meaning of regulations made under the Building Act 1993

IS in a designated bushfire prone area within the meaning of regulations made under the Building Act 1993

3.4 **Planning Scheme**

Attached is a certificate with the required specified information.

The Planning Scheme information required to be provided is as follows:

Name of planning scheme: Whittlesea City Council Planning Scheme

Name of responsible authority: Whittlesea City Council

Zoning of the land: UGZ, UGZ5

Name of planning overlay: DCPO, DCPO16

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.

Are contained in the attached certificates and/or statements.

Are as follows:

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.

Are contained in the attached certificates and/or statements.

Are as follows:

4.3 **Compulsory Acquisition**

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

Not applicable.

Are contained in the attached certificates and/or statements.

Are as follows:

5. **BUILDING PERMITS**

5.1 **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.

Are contained in the attached certificates and/or statements.

Are as follows:

6. OWNERS CORPORATION

- 6.1 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.
 - Attached is a current owners corporation certificate with its required accompanying documents and statements, issued in accordance with section 151 of the Owners Corporations Act 2006.
 - Attached is the information prescribed for the purposes of section 151(4)(a) of the Owner Corporations Act 2006 and the copy documents specified in section 151(4)(b)(i) and (iii) of that Act.
 - The owners corporation is **INACTIVE**

7. GROWTH AREAS INFRASTRUCTURE CONTRIBUTION ("GAIC")

- GAIC (and Section 7) is **NOT** applicable on the sale of this property.
- GAIC (and Section 7) **IS** applicable on the sale of this property. Words and expressions in this section 7 have the same meaning as in Part 9B of the Planning and Environment Act 1987.

7.1 Work-in-Kind Agreement

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

- (a) The land is **NOT** to be transferred under the agreement
 - The land **IS** to be transferred under the agreement
- (b) The land is **NOT** land on which the works are to be carried out under the agreement (other than Crown Land)
 - The land **IS** land on which the works are to be carried out under the agreement (other than Crown Land)
- (c) The land is **NOT** land in respect of which a GAIC is imposed
 - The land **IS** land in respect of which a GAIC is imposed

7.2 GAIC Recording

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

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

- Any certificate of release from liability to pay a GAIC
- Any certificate of deferral of the liability to pay the whole or part of a GAIC
- Any certificate of exemption from liability to pay a GAIC
- Any certificate of staged payment approval
- Any certificate of no GAIC liability
- Any notice providing evidence of the grant of a reduction of the whole part of the liability for a GAIC or an exemption from that liability
- A GAIC certificate issued under Part 9B of the Planning and Environment Act 1987 must be attached if there is no certificate or notice issued under any of sub-sections 7.2(a) to (f) above

8. SERVICES

8.1 The services which are marked with an "X" in the box below are **NOT connected to the land**:

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

9. TITLE

9.1 Attached are copies of the following **title documents**:

- 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.
- General Law Title. The last conveyance in the chain of title or other document which gives evidence of the vendor's title to the land.
- Evidence of the vendor's right or power to sell (where the vendor is not the registered proprietor or the owner in fee simple).

10. SUBDIVISION

This sale is NOT affected by a subdivision and therefore Section 10 is NOT applicable.

This sale IS affected by a subdivision and therefore Section 10 applies as follows:-

10.1 Unregistered Subdivision

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

- Attached is a copy of the plan of subdivision certified by the relevant municipal council if the plan is not yet registered.
- Attached is a copy of the latest version of the plan if the plan of subdivision has not yet been certified.

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.

- Attached is a copy of the plan for the first stage if the land is in the second or a subsequent stage.
- The requirements in a statement of compliance, relating to the stage in which the land is included that have not been complied with are:-
 - attached.
 - as follows:
- The proposals relating to subsequent stages that are known to the vendor are:
 - attached.
 - as follows:
- The contents of any permit under the Planning and Environment Act 1987 authorising the staged subdivision are:
 - attached.
 - as follows:

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.

- Attached is a copy of the plan which has been certified by the relevant municipal council (if the later plan has not been registered).
- Attached is a copy of the latest version of the plan (if the later plan has not yet been certified).

11. DISCLOSURE OF ENERGY INFORMATION

- Disclosure of this information is not required under section 32 of the Sale of Land Act 1962.
- Disclosure of this information is not required under section 32 of the Sale of Land Act 1962 but IS included in this Vendor Statement for convenience.

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

- (a) to be a building or part of a building used or capable of being used as an office for administrative, clerical, professional or similar based activities including any support facilities; and
- (b) which has a net lettable area of at least 2000m²; (but does not include a building under a strata title system or if an occupancy permit was issued less than 2 years before the relevant date):

- Not applicable.
- Are contained in the attached building energy efficiency certificate.
- Are as follows:

12. DUE DILIGENCE CHECKLIST

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

- Is attached.
- Is not attached.

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

Page 1 of 1

VOLUME 12516 FOLIO 624

Security no : 124131847697P
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LAND DESCRIPTION

Lot 128 on Plan of Subdivision 837651P.
PARENT TITLE Volume 12383 Folio 249
Created by instrument PS837651P 24/11/2023

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
ORECON PTY LTD of 14 CRESCENDO BOULEVARD WOLLERT VIC 3750
AY172454Q 04/07/2024

ENCUMBRANCES, CAVEATS AND NOTICES

COVENANT PS837651P 24/11/2023

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

AGREEMENT Section 173 Planning and Environment Act 1987
AU914967L 14/10/2021

AGREEMENT Section 173 Planning and Environment Act 1987
AV044370P 22/11/2021

AGREEMENT Section 173 Planning and Environment Act 1987
AV565374Y 27/04/2022

DIAGRAM LOCATION

SEE PS837651P 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: 13 FAIRHILL ROAD WOLLERT VIC 3750

ADMINISTRATIVE NOTICES

NIL

eCT Control 25310S GLENN PHILLIP TAIGEL
Effective from 04/07/2024

DOCUMENT END



Imaged Document Cover Sheet

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Document Identification	PS837651P
Number of Pages (excluding this cover sheet)	8
Document Assembled	03/02/2026 18:47

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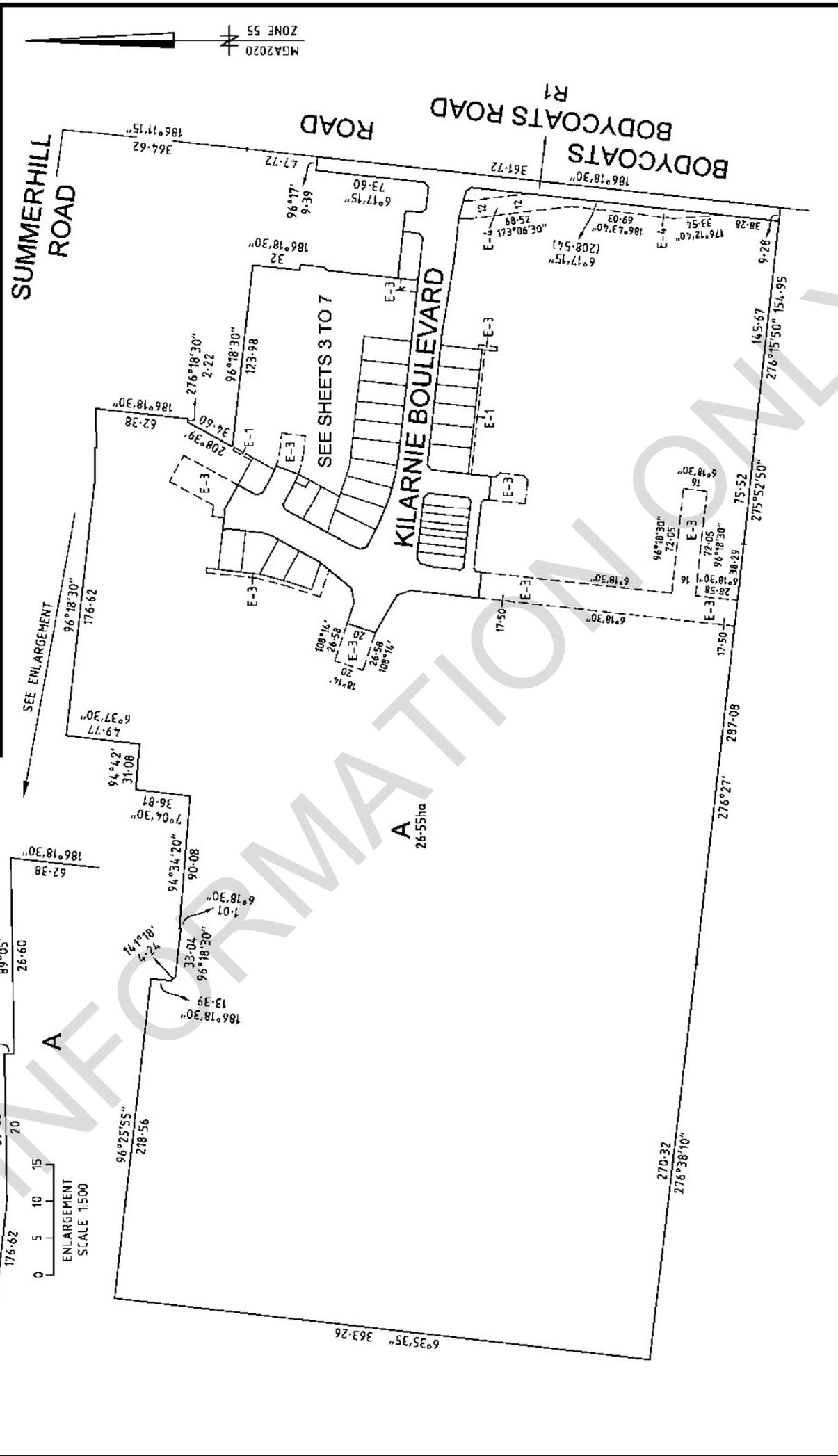
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PLAN OF SUBDIVISION		LUV USE ONLY EDITION 1	PLAN NUMBER PS837651P	
<p style="text-align: center;">LOCATION OF LAND</p> <p>PARISH: KALKALLO</p> <p>TOWNSHIP:</p> <p>SECTION:</p> <p>CROWN ALLOTMENT:</p> <p>CROWN PORTION: 5 (PART) & 8 (PART)</p> <p>TITLE REFERENCES: Vol. 12383 Fol. 249</p> <p>LAST PLAN REFERENCE/S: PS837658Y LOT E</p> <p>POSTAL ADDRESS: 115 BODYCOATS ROAD (At time of subdivision) WOLLERT, 3750</p> <p>MGA 2020 Co-ordinates E 325 080 (of approx centre of land in plan) N 5838 840 ZONE 55</p>		<p>Council Name: Whittlesea City Council</p> <p>Council Reference Number: 610301 Planning Permit Reference: 717910 SPEAR Reference Number: S156794C</p> <p>Certification</p> <p>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: 14/10/2021</p> <p>Public Open Space</p> <p>A requirement for public open space under section 18 or 18A of the Subdivision Act 1988 has been made and the requirement has not been satisfied at Certification</p> <p>Digitally signed by: Renee Kueffer for Whittlesea City Council on 27/09/2023</p> <p>Statement of Compliance issued: 03/11/2023</p> <p>Public Open Space</p> <p>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 at Statement of Compliance</p>		
VESTING OF ROADS AND/OR RESERVES		NOTATIONS		
IDENTIFIER	COUNCIL/BODY/PERSON	<p>LOTS 1 TO 100 (BOTH INCLUSIVE) HAVE BEEN OMITTED FROM THIS PLAN.</p> <p>LOTS ON THIS PLAN MAY BE AFFECTED BY ONE OR MORE RESTRICTIONS SEE SHEET B FOR DETAILS.</p> <p>OTHER PURPOSE OF THE PLAN: REMOVAL OF THAT PART OF POWERLINE EASEMENT E-2 ON PS837658Y AS AFFECTS BODYCOATS ROAD (ROAD R1), KILARNIE BOULEVARD AND PLUNKETT STREET ON THIS PLAN.</p> <p>GROUND FOR REMOVAL: BY AGREEMENT OF ALL INTERESTED PARTIES UPON REGISTRATION OF THIS PLAN PURSUANT TO SECTION 6(1)(k)(iv) OF THE SUBDIVISION ACT 1988.</p>		
ROAD R1 RESERVE No.1 RESERVE No.2	WHITTLESEA CITY COUNCIL WHITTLESEA CITY COUNCIL AUSNET ELECTRICITY SERVICES PTY LTD			
NOTATIONS				
<p>DEPTH LIMITATION DOES NOT APPLY</p> <p>STAGING This is not a staged subdivision. Planning permit No.</p> <p>SURVEY. THIS PLAN IS BASED ON SURVEY.</p> <p>THIS SURVEY HAS BEEN CONNECTED TO PERMANENT MARKS No(s): 10, 13, 43, 92, 99, 107, 108, 109, 113 AND MMBW4173 (PARISH OF KALKALLO) PROCLAIMED SURVEY AREA: 74</p> <p style="text-align: center;">WOLLERT RISE 1 2.671ha</p> <p style="text-align: right;">31 LOTS</p>				
EASEMENT INFORMATION				
LEGEND A-Appurtenant Easement E-Encumbering Easement R-Encumbering Easement (Road)				
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
E-1	DRAINAGE	SEE PLAN	THIS PLAN	WHITTLESEA CITY COUNCIL
E-2	SEWERAGE	SEE PLAN	THIS PLAN	YARRA VALLEY WATER CORPORATION
E-3	DRAINAGE SEWERAGE	SEE PLAN SEE PLAN	THIS PLAN THIS PLAN	WHITTLESEA CITY COUNCIL YARRA VALLEY WATER CORPORATION
E-4	POWERLINE	SEE PLAN	PS837658Y (SECTION 88 OF THE ELECTRICITY INDUSTRY ACT 2000)	AUSNET ELECTRICITY SERVICES PTY LTD
 <p>Member of the Surbana Jurong Group</p>		<p>SURVEYOR REF: 2459s-01</p> <p>Digitally signed by: Bruce Tallon, Licensed Surveyor, Surveyor's Plan Version (L), 23/08/2023, SPEAR Ref: S156794C</p>		<p>ORIGINAL SHEET SIZE: A3</p> <p>PLAN REGISTERED</p> <p>TIME: 4.21pm DATE: 24/11/2023</p> <p>A.R.T. Assistant Registrar of Titles</p>
				SHEET 1 OF 8

PLAN OF SUBDIVISION

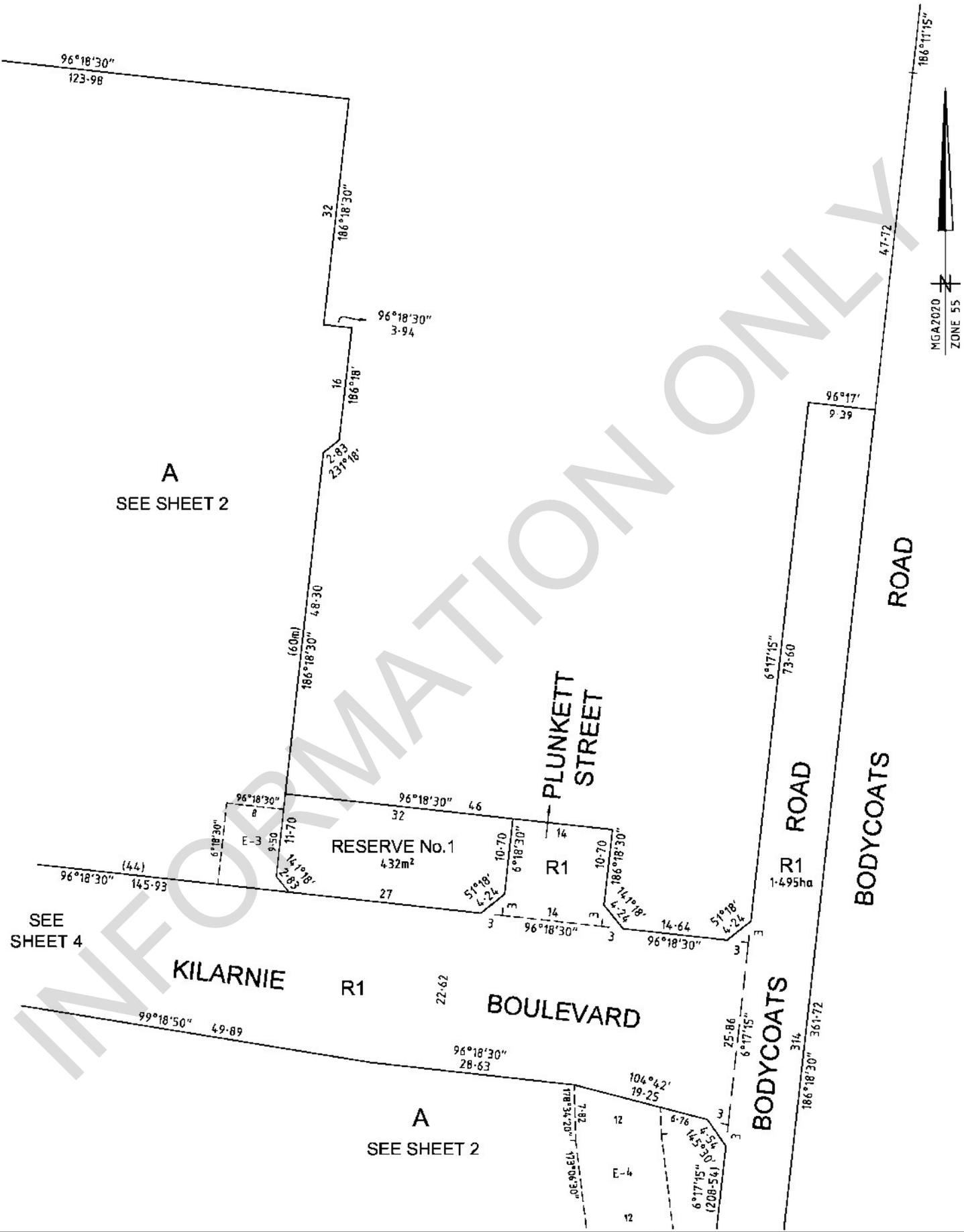
PLAN NUMBER
PS837651P



 2459S-01 VER L DWG BC/BC SMEC Member of the Surbana Jurong Group REF 2459s-01	SCALE 1:2500	25 0 25 50 75 100 LENGTHS ARE IN METRES	ORIGINAL SHEET SIZE A3	SHEET 2
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PLAN OF SUBDIVISION

PLAN NUMBER
PS837651P



A
SEE SHEET 2

SEE SHEET 4

KILARNIE

A
SEE SHEET 2

2458S-01 VER L.DWG BC/BC
 **SMC**
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 REF 2459s-01

SCALE
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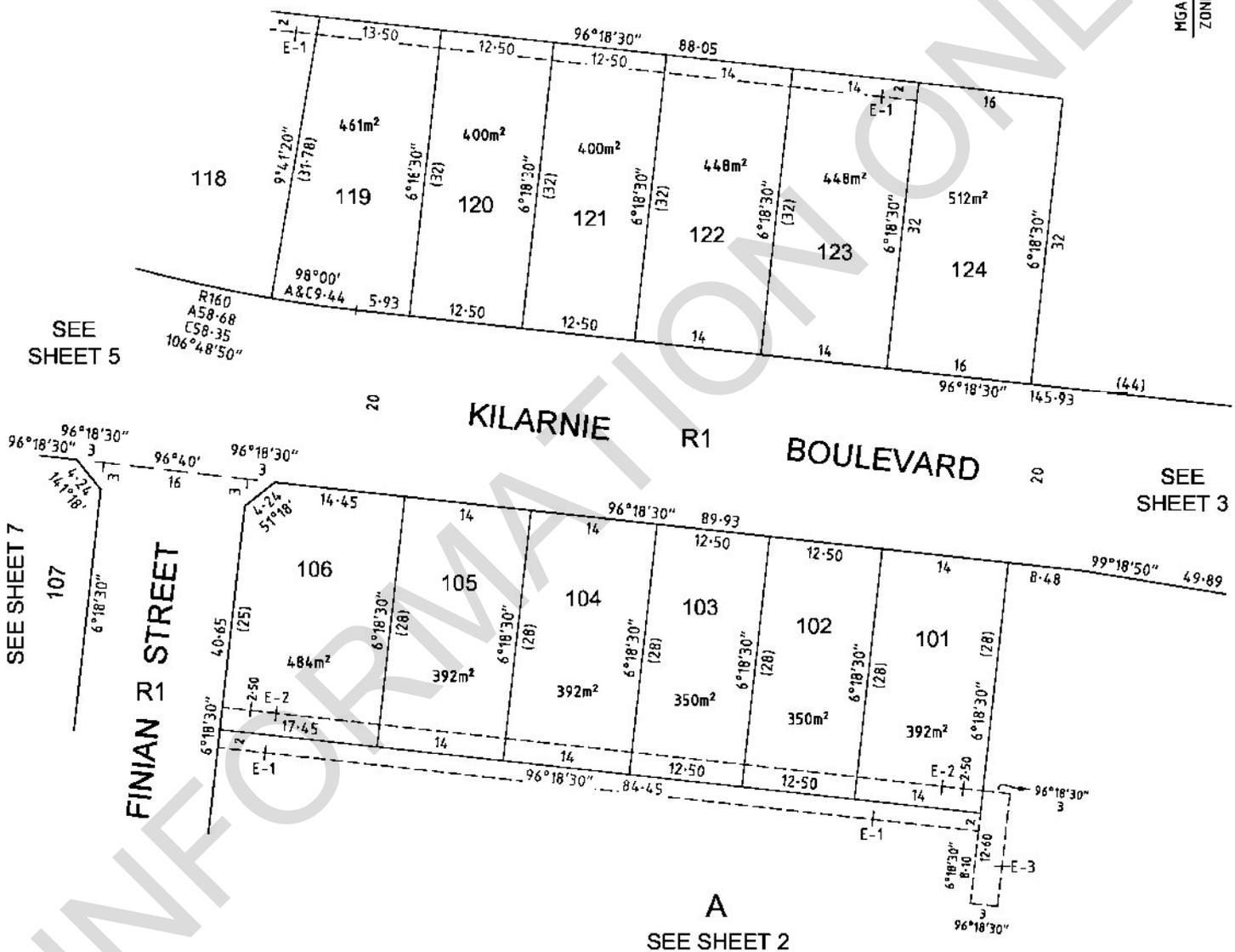
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 SHEET 3

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PLAN OF SUBDIVISION

PLAN NUMBER
PS837651P

A
SEE SHEET 2



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REF 2459s-01

SCALE
1:500

LENGTHS ARE IN METRES

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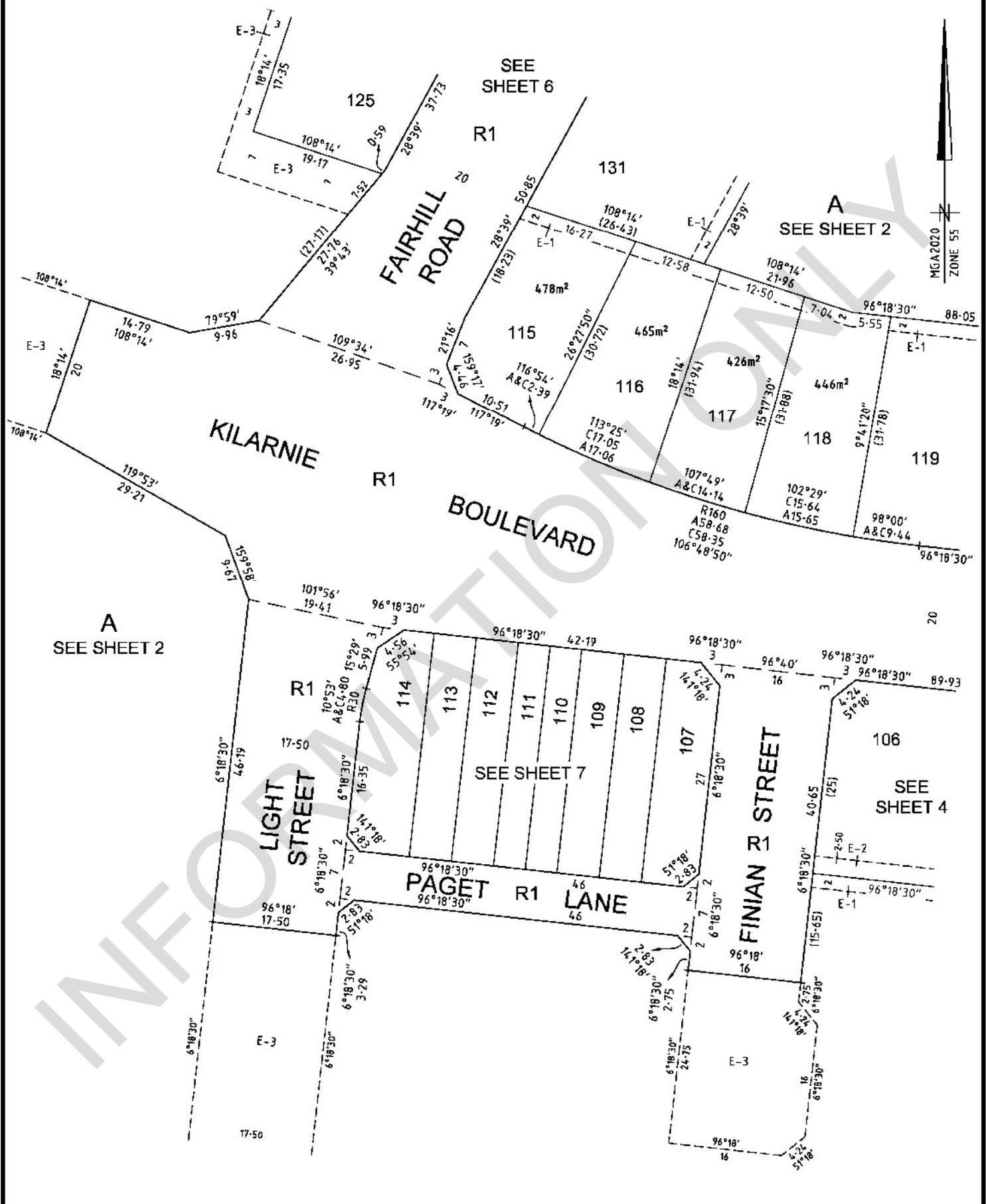
SHEET 4

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PLAN OF SUBDIVISION

PLAN NUMBER
PS837651P



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 REF 2459s-01

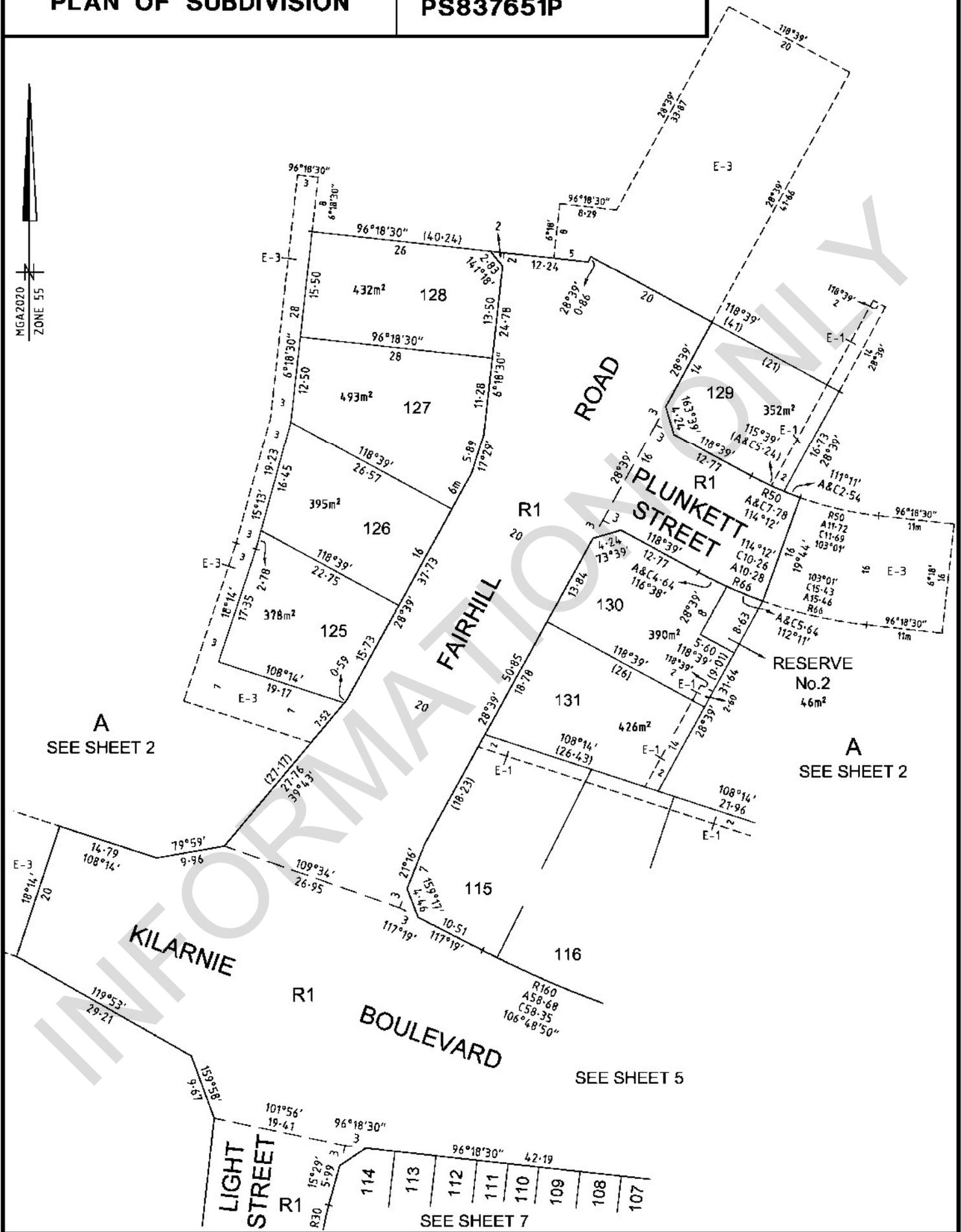
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PLAN OF SUBDIVISION

PLAN NUMBER
PS837651P



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REF 2459s-01

SCALE
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LENGTHS ARE IN METRES

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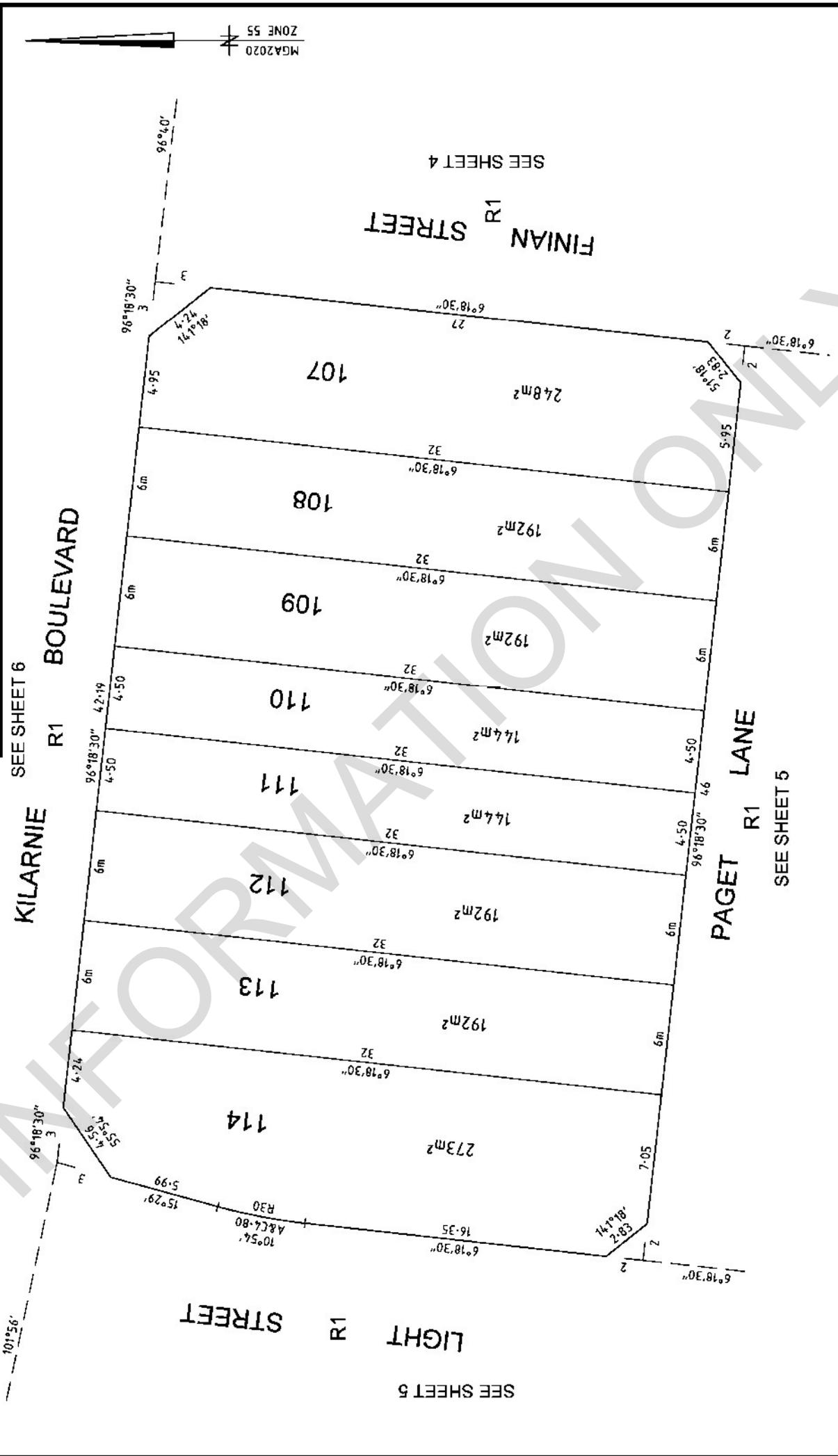
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PLAN OF SUBDIVISION

PLAN NUMBER
PS837651P



 <p>SMEC 2459S-01 VER L DWG BC/BC Member of the Surbana Jurong Group REF 2459s-01</p>	<p>SCALE 1:200</p>	<p>LENGTHS ARE IN METRES</p> <p>0 2 4 6 8</p>	<p>ORIGINAL SHEET SIZE A3</p>	<p>SHEET 7</p>
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PLAN OF SUBDIVISIONPLAN NUMBER
PS837651P**CREATION OF RESTRICTION A**

Upon registration of this plan the following restriction is created:

Land to Benefit: Lots 101 to 131 (All Inclusive)**Land to be Burdened:** Lots 101 to 131 (All Inclusive)**Description of Restriction**

The registered proprietor or proprietors for the time being of any lot on this plan to which the following restrictions apply must not build or cause to be built or allow to be built or allow to remain a dwelling, commercial building or any other improvements, or carry out cause to be carried out or allow to be carried out any building or construction works on the Lot unless:

Design Guidelines

1. Copies of the site plan, floor plan, elevations (incorporating setback from all boundaries, existing contour, proposed finished floor levels and site levels, all proposed driveways and paths, details of fences and outbuildings and landscaping) and schedule of external colours and materials ("plans") have been submitted to the Design Review Panel care of Urbtech Pty Ltd, 1304/20 Rakaia Way, Docklands Vic 3008 or such other entity as may be nominated by the Design Review Panel from time to time;
2. The plans comply with the Wollert Rise Design Guidelines, a copy of which can be obtained from the website at www.wollertrise.com.au;
3. The Design Review Panel or such other entity as may be nominated by the Design Review Panel from time to time has given its written approval to the plans prior to the commencement of works;

Dual Plumbing

4. The dwelling or commercial building incorporates a dual plumbing system for the use of recycled water for toilet flushing and garden watering;

Garages

5. The garage is constructed at least 5 metres from the road alignment at the front of the lot;
6. For a lot with a width of 10 metres or less at the lot frontage a garage other than a single garage where access is proposed from the lot frontage;

Corner Lots

7. The side wall of the first level of any dwelling is constructed at least 900mm from the ground level wall that faces a side street; or with less than 30% glazing for the area of the wall and the remainder of the wall being constructed in contrasting material finishes.

Expiry

The restriction shall cease to burden any Lot on the Plan of Subdivision with effect from the earlier of the issue of the occupancy permit for the whole of a dwelling on that Lot or from 10 years from the date of registration of this Plan of Subdivision.

CREATION OF RESTRICTION B

The following restriction is to be created upon registration of Plan of Subdivision PS837651P by way of restrictive covenant and as a restriction as defined in the Subdivision Act 1988.

Description of Restriction

Table of burdened and land benefited

BURDENED LOT No.	BENEFITING LOTS
107	108
108	107, 109
109	108, 110
110	109, 111
111	110, 112
112	111, 113
113	112, 114
114	113

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

This restriction shall cease to have effect on the burdened lot after the issue of a certificate of occupancy for the whole of a dwelling on the burdened lot provided that the whole of the dwelling complies with the Small Lot Housing Code for Type A allotments.



24585-01 VER L.DWG BC/BC

Member of the Surbana Jurong Group

REF 2459s-01

ORIGINAL SHEET
SIZE: A3

SHEET 8

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SPEAR Ref: S156794C



Department of Transport and 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.

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Status	Registered	Dealing Number	AU914967L
Date and Time Lodged	14/10/2021 08:42:29 PM		

Lodger Details

Lodger Code	17223H
Name	MADDOCKS
Address	
Lodger Box	
Phone	
Email	
Reference	TGM: 8417322

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

11908/514
11908/515

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



Department of Transport and Planning

Electronic Instrument Statement

Additional Details

Refer Image Instrument

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

Execution

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

Executed on behalf of	WHITTLESEA CITY COUNCIL
Signer Name	REBEKAH PARIKH
Signer Organisation	PARTNERS OF MADDOCKS
Signer Role	AUSTRALIAN LEGAL PRACTITIONER
Execution Date	14 OCTOBER 2021

File Notes:

NIL

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Statement End.



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Deed of Agreement under s173 of the
Planning and Environment Act 1987

**Purpose: Implementation of Condition 8 on Planning
Permit No. 719692**

City of Whittlesea

and

**Dahua Group Melbourne Number 6 Pty Ltd
(ACN 615 975 347)**

Ref: JL: SJ: 1023494

Level 8, 447 Collins Street, Melbourne VIC 3000 Australia
PO Box 3, Collins Street West VIC 8007 Australia
DX 564 Melbourne

Telephone +613 8644 3500
Facsimile 1300 365 323 (Australia) +613 9034 3257 (International)
hwlebsworth.com.au

Deed of Agreement
##

Printed 23 August 2021 (##)

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Deed of Agreement

Date 11/10/2021

Parties **Dahua Group Melbourne Number 6 Pty Ltd (ACN 615 975 347)**
of Level 50, 360 Elizabeth Street, Melbourne VIC 3000
(Owner)

City of Whittlesea
of 25 Ferres Boulevard, South Morang VIC 3752
(Council)

- Recitals
- A. Council is the Responsible Authority pursuant to the Act for the administration and enforcement of the Planning Scheme, which applies to the Subject Land.
 - B. The Owner is or is entitled to be the registered proprietor of the Subject Land, which is the land over which this Agreement is intended to be registered.
 - C. On 8 April 2020, Council issued Planning Permit No. 717910 (**Subdivision Permit**), which allows a multi-lot staged subdivision, creation of reserves and restrictions on title, and removal and alteration of dry stone walls in accordance with plans to be endorsed under the Subdivision permit at 115 Bodycoats Road and 225 Summerhill Road Wollert (Lot 2 on PS945830X and Lots 1 and 2 on PS710782T).
 - D. On 1 December 2020, Council issued Planning Permit No. 719692 (**Planning Permit**), which allows a boundary realignment in accordance with plans to be endorsed under the Planning Permit at the Subject Land.
 - E. Condition 8 of the Planning Permit provides that:

8. Section 173 Agreement requirements

Prior to the certification of the Plan of Subdivision, the permit holder must enter into an agreement with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987.

The Section 173 Agreement must specify requirements relating to the following matters to the satisfaction of the Responsible Authority:

a. No development may occur on the land unless it is in accordance with Planning Permit No. 717910; in order to satisfy the conditions including relating to Clause 37.07-10 of the Whittlesea Planning Scheme, particularly in relation to the mandatory conditions as listed in Clause 4.0 of Urban Growth Zone Schedule 5.

All costs for, and arising from, the preparation and execution of the Agreement must be borne by the permit holder. It is further required that this Agreement must be registered at the Land Registry Office pursuant to Section 181 of the Planning and Environment Act 1987.

- F. The Parties have agreed to enter into this Agreement:
- (a) to give effect to the requirements of the Planning Permit; and
 - (b) to achieve or advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Subject Land.

This deed witnesses that in consideration of, among other things, the mutual promises contained in this deed the Parties agree as follows:

1. Definitions and interpretation clauses

1.1 Definitions

In this deed the following definitions apply:

Act	means the <i>Planning and Environment Act 1987 (Vic)</i> .
Agreement	means this deed of agreement and any Agreement executed by the Parties expressed to be supplemental to this Agreement.

Business Day	means a day that is not a Saturday, Sunday or public holiday in Melbourne.
Claim	means any claim, action, proceeding or demand made against the person concerned, however it arises and whether it is present or future, fixed or unascertained, actual or contingent.
Loss	means any loss, damage, cost, expense or liability incurred by the person concerned, however it arises and whether it is present or future, fixed or unascertained, actual or contingent.
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 in the Subject Land or any part of it and includes a Mortgagee-in-possession.
Party or Parties	means the Owner and Council under this Agreement as appropriate.
Planning Permit	means Planning Permit No. 719692, as amended from time to time and including any plans which may be endorsed under that permit.
Planning Scheme	means the Whittlesea Planning Scheme and any other planning scheme which applies to the Subject Land.
Residential Lot	means a lot created as a result of the subdivision of the Subject Land which in the opinion of Council is of a size and dimension that it is intended to be developed as a housing lot without further subdivision.
Statement of Compliance	means a statement of compliance issued by Council under the <i>Subdivision Act 1988</i> .
Subdivision Permit	means Planning Permit No. 717910 as amended from time to time and including any plans which may be endorsed under that permit.

Subject Land means the land comprised in:

- certificate of title Volume 11908 Folio 514, formally described as Lot 1 on PS945830X; and
- certificate of title Volume 11908 Folio 515, formally described as Lot 2 on PS945830X,

also known as 115 Bodycoats Road, Wollert 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.

VCAT or Tribunal means the Victorian Civil and Administrative Tribunal.

1.2 Interpretation

- (a) In this document, unless the context otherwise requires:
- (i) The singular includes the plural and vice versa.
 - (ii) A reference to a gender includes a reference to each other gender.
 - (iii) A reference to a person includes a reference to a firm, corporation or other corporate body and that person's successors in law.
 - (iv) If a Party consists of more than one person this Agreement binds them jointly and each of them severally.
 - (v) A term used in this Agreement has its ordinary meaning unless that term is defined in this Agreement. If a term is not defined in this Agreement and it is defined in the Act it has the meaning as defined in the Act.
 - (vi) A reference to an Act, Regulation or the Planning Scheme includes any Acts, Regulations or amendments amending, consolidating or replacing the Act, Regulation or Planning Scheme.
 - (vii) The introductory clauses to this Agreement are and will be deemed to form part of this Agreement.
 - (viii) Headings are for guidance only and do not affect the interpretation of this Agreement.
- (b) The obligations of the Owner under this Agreement, will take effect as separate and several covenants which are annexed to and run at law and equity with the Subject Land; and

- (i) bind the Owner, its successors, transferees and permitted assigns, the registered proprietor or proprietors for the time being of the Subject Land; and
- (ii) if the Subject Land are subdivided further, this Agreement must be read and applied so that each subsequent Owner of a lot is only responsible for those covenants and obligations which relate to that Owner's lot.

2. Owner's obligations

The Owner of the Subject Land covenants and agrees that it must not develop the Subject Land unless such development is in accordance with the Subdivision Permit.

3. Further obligations

3.1 Notice and registration

The Owner will bring this Agreement to the notice of all prospective purchasers, Mortgagees, lessees, charges, transferees and assigns of the Subject Land.

3.2 Giving effect to this Agreement

The Owner will do all things necessary to give effect to this Agreement, including executing any further documents and will comply with its obligations under this Agreement.

3.3 Recording by Registrar of Titles

The Owner will consent to Council making application to the Registrar of Titles to make a recording of this Agreement in the Register on the Certificate of Title of the Subject Land in accordance with s181 of the Act and do all things necessary to enable Council to do so including signing any further agreement, acknowledgement or document or procuring the consent to this Agreement of any Mortgagee or caveator to enable the recording to be made in the Register under that section.

3.4 Council's costs to be paid

- (a) The Owner will immediately pay to Council, Council's reasonable costs and expenses (including legal expenses) of and incidental to the preparation, drafting, finalisation, engrossment, execution, registration and enforcement of this Agreement which are and until paid will remain a debt due to Council by the Owner.
- (b) If in dispute, Council may have the costs assessed by the Law Institute of Victoria Costing Service and the parties will be bound by any assessment, and the cost of any assessment will be paid equally by the parties.

4. Agreement under Section 173 of the Act

Council and the Owner agree without limiting or restricting their respective powers to enter into this Agreement and, insofar as it can be so treated, this Agreement is made pursuant to section 173 of the Act.

5. Owner's warranties

Without limiting the operation or effect which this Agreement has, the Owner warrants that apart from the Owner and any other person which 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.

6. Successors in title

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

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

7. Notices

7.1 Service

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:

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

7.2 Time of service

A notice or other communication is deemed served:

- (a) if delivered, on the next following Business Day;

- (b) if posted, on the expiration of two Business Days after the date of posting, or
- (c) if sent by facsimile, on the next following Business Day unless the receiving Party has requested retransmission before the end of that Business Day.

8. Miscellaneous

8.1 Commencement of Agreement

Unless otherwise provided in this Agreement, this Agreement commences from the date of this Agreement.

8.2 Default

- (a) If the Owner fails to comply with the provisions of this Agreement, Council may serve a notice on the Owner specifying the works, matters and things in respect of which the Owner is in default.
- (b) If the alleged default continues for 30 days after the service of such notice, Council may, by its officers, employees, agents and contractors, enter the Subject Land and ensure that the works, matters and things are carried out.
- (c) The costs incurred by the Council in undertaking the works as a result of the Owner's default will be payable by the Owner.

8.3 Ending of Agreement

- (a) The Parties agree that this Agreement will end:
 - (i) with respect to a Residential Lot, upon the issue of a Statement of Compliance relating to a subdivision which creates the Residential Lot, provided that the Agreement must remain registered on the balance of the Subject Land;
 - (ii) once the Owner has completed, to the satisfaction of Council, all of the obligations imposed upon it under this Agreement; or
 - (iii) otherwise in accordance with the Act.
- (b) Once this Agreement ends with respect to part or all of the Subject Land, Council will, within 28 days of the Agreement ending with respect to that part of all of the Subject Land, following a request from the Owner and at the cost of the Owner, complete and execute within 21 days all documents necessary to make application to the Registrar of Titles under s 183(2) of the Act to cancel the recording of this Agreement on the register in relation to the relevant land.

8.4 Application to Registrar

As soon as reasonably practicable after the Agreement has ended, Council will, at the request and at the cost of the Owner make application to the Registrar of Titles under s183(2) of the Act to cancel the recording of this Agreement on the register.

8.5 No fettering of Council's powers

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

8.6 No waiver

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

8.7 Severability

- (a) If a court, arbitrator, tribunal or other competent authority determines that a word, phrase, sentence, paragraph or clause of this Agreement is unenforceable, illegal or void then it must be severed and the other provisions of this Agreement will remain operative.
- (b) Clause 8.7(a) will not apply if to do so will materially affect the commercial arrangement formed by this Agreement.

8.8 Proper law

This Agreement is governed by and the Owner submits to the laws of the State of Victoria.

Executed as a deed

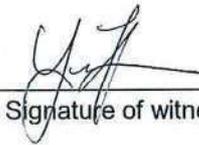
Signed, sealed and delivered by

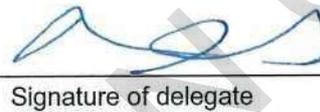
Julian Edwards
(name of delegate)

Manager Building & Planning
(title of delegate)

on behalf of the **City of Whittlesea**
pursuant to the power delegated to that
person by an Instrument of Delegation in
the presence of:




Signature of witness


Signature of delegate

Siobhan Short
Full name of witness (print)

Executed by Dahua Group Melbourne
Number 6 Pty Ltd ACN 615 975 347 in
accordance with section 127 of the
Corporations Act 2001 (Cth) by:


Signature of Director

Xuanke Chen

Full name (print)


Signature of Director/Company Secretary

Ye Fan

Full name (print)

Schedule 1

Mortgagee's Consent

Commonwealth Bank of Australia as Mortgagee of registered Mortgage No. AT698482U consents to the Owner entering into this Agreement and agrees to be bound by the terms and conditions of this Agreement as if it were the Owner of the Subject Land.

DATED:



KEVIN THIO

Executed for and on behalf of

COMMONWEALTH BANK OF AUSTRALIA



Department of Transport and 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 03/02/2026 06:47:17 PM

Status	Registered	Dealing Number	AV044370P
Date and Time Lodged	22/11/2021 02:53:01 PM		

Lodger Details

Lodger Code	17223H
Name	MADDOCKS
Address	
Lodger Box	
Phone	
Email	
Reference	TGM: 8417322

APPLICATION TO RECORD AN INSTRUMENT

Jurisdiction	VICTORIA
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Estate and/or Interest

FEE SIMPLE

Land Title Reference

11908/515

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 Transport and 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	22 NOVEMBER 2021

File Notes:

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Deed of Agreement under s173 of the
Planning and Environment Act 1987

**Purpose: Restrictions relating to open space areas within
odour buffer area**

City of Whittlesea

and

Dahua Group Melbourne Number 6 Pty Ltd

Ref: JL:SJ:1023494

Level 8, 447 Collins Street, Melbourne VIC 3000 Australia
PO Box 3, Collins Street West VIC 8007 Australia
DX 564 Melbourne

Telephone +61 3 8644 3500
Facsimile 1300 365 323 (Australia) +61 3 9034 3257 (International)
hwlebsworth.com.au

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Deed of Agreement

Date

Parties

Dahua Group Melbourne Number 6 Pty Ltd (ACN 615 975 347)

of Level 50, 360 Elizabeth Street, Melbourne VIC 3000

(Owner)

City of Whittlesea

of 25 Ferres Boulevard, South Morang VIC 3752

(Council)

Recitals

- A. Council is the Responsible Authority pursuant to the Act for the administration and enforcement of the Planning Scheme, which applies to the Subject Land.
- B. The Owner is or is entitled to be the registered proprietor of the Subject Land, which is the land over which this Agreement is intended to be registered.
- C. On 8 April 2020, Council issued the Planning Permit, which allows a multi-lot staged subdivision, creation of reserves and restrictions on title, and removal and alteration of dry stone walls in accordance with the endorsed plans at the Subject Land.
- D. Condition 14 of the Planning Permit provides that:

14. Future open space areas

Prior to certification of any plan of subdivision the permit holder must enter into an agreement with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987 which requires that the superlots located within the 250m odour buffer area (as shown on the endorsed Subdivision Layout Plan approved as part of Planning Permit No. 717910) must:

- a. ensure no buildings or works (including paving) are to be constructed within the boundaries of the

Tree Protection Zones endorsed under Planning Permit 717910.

b. ensure no trees shown for retention on the subdivision layout plan endorsed under Planning Permit 717910 shall be removed, lopped or destroyed without approval of the Responsible Authority.

c. must as part of any future planning permit application:

i. submit a landscape masterplan and landscape works plan identifying the embellishments to the open space areas to the satisfaction of the Responsible Authority. Embellishments may include installation of pathways, park lighting, garden beds, seating, shelters, picnic facilities, boardwalks, tree planting, signage, drinking fountains, irrigation systems, playgrounds, artwork, retaining walls, protective fencing (temporary and permanent), wetlands and ornamental water bodies.

ii. transfer or vest in Council the open space areas at no cost to Council.

iii. embellish the open space areas to Council's satisfaction prior to transferring or vesting the land to Council.

The costs for preparation and execution of the Agreement shall be borne by the permit holder.

E. It is the Parties' intention that this Agreement only applies legal obligations to that part of the Subject Land which is within the boundary of the 'Land within Broiler Farm buffer' line as shown on the Subdivision Layout Plan, a copy of which is contained in Schedule 2 to this Agreement (**Buffer Area**).

F. The Parties have agreed to enter into this Agreement:

- (a) to give effect to the requirements of the Planning Permit; and
- (b) to achieve or advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Subject Land.

This deed witnesses that in consideration of, among other things, the mutual promises contained in this deed the Parties agree as follows:

1. Definitions and interpretation clauses

1.1 Definitions

In this deed the following definitions apply:

Act	means the <i>Planning and Environment Act 1987</i> (Vic).
Agreement	means this Deed of Agreement and any Agreement executed by the Parties expressed to be supplemental to this Agreement.
Buffer Area	means the land identified within the area denoted as 'Land within Broiler Farm buffer' as shown on the Subdivision Layout Plan.
Business Day	means a day that is not a Saturday, Sunday or public holiday in Melbourne.
Claim	means any claim, action, proceeding or demand made against the person concerned, however it arises and whether it is present or future, fixed or unascertained, actual or contingent.
Embellishments	includes the installation of pathways, park lighting, garden beds, seating, shelters, picnic facilities, boardwalks, tree planting, signage, drinking fountains, irrigation systems, playgrounds, artwork, retaining walls, protective fencing (temporary and permanent), wetlands and ornamental water bodies as approved by Council in any plans endorsed under future planning permits for the Buffer Land.
Loss	means any loss, damage, cost, expense or liability incurred by the person concerned, however it arises and whether it is present or future, fixed or unascertained, actual or contingent.
Mortgagee	means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as mortgagee of the Subject Land or any part of it.

- Open Space Areas** means the Open Space shown on the Subdivision Layout Plan in Schedule 2 to this Agreement.
- 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 in the Subject Land or any part of it and includes a Mortgagee-in-possession.
- Party or Parties** means the Owner and Council under this Agreement as appropriate.
- Planning Permit** means Planning Permit No. 717910 as amended from time to time and including any plans which may be endorsed under that permit.
- Planning Scheme** means the Whittlesea Planning Scheme and any other Planning Scheme which applies to Subject Land.
- Residential Lot** means a lot created as a result of the subdivision of the Subject Land which in the opinion of Council is of a size and dimension that it is intended to be developed as a housing lot without further subdivision.
- Statement of Compliance** means a statement of compliance issued by Council under the *Subdivision Act 1988*.
- Subject Land** means the land comprised in certificate of title Volume 11908 Folio 515, formally described as Lot 2 on PS945830X also known as the land at 115 Bodycoats Road, 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.
- Tree Protection Zones** means the area comprising the Tree Protection Zones as described in the Treemap Arborist Assessment dated 18 May 2018, which is endorsed under the Planning Permit, a copy of which is included at Schedule 1 to this Agreement. A copy of the Treemap Arborist Assessment dated 18 May 2018 is also available for inspection at Council's offices on request.
- Tree to be Retained** means the trees in the Tree Retention/Removal Plan, identified as 'Trees To Be Retained'

**Tree Retention/
Removal Plan** means the Tree & Dry Stone Wall Retention/Removal Plan (Drawing No. RD1209, Rev O, dated 10 November 2020 prepared by Roberts Day) which is endorsed under the Planning Permit, a copy of which is included at Schedule 2 to this Agreement, and which is available for inspection at Council's offices.

VCAT or Tribunal means the Victorian Civil and Administrative Tribunal.

1.2 Interpretation

- (a) In this document, unless the context otherwise requires:
- (i) The singular includes the plural and vice versa.
 - (ii) A reference to a gender includes a reference to each other gender.
 - (iii) A reference to a person includes a reference to a firm, corporation or other corporate body and that person's successors in law.
 - (iv) If a Party consists of more than one person this Agreement binds them jointly and each of them severally.
 - (v) A term used in this Agreement has its ordinary meaning unless that term is defined in this Agreement. If a term is not defined in this Agreement and it is defined in the Act it has the meaning as defined in the Act.
 - (vi) A reference to an Act, Regulation or the Planning Scheme includes any Acts, Regulations or amendments amending, consolidating or replacing the Act, Regulation or Planning Scheme.
 - (vii) The introductory clauses to this Agreement are and will be deemed to form part of this Agreement.
 - (viii) Headings are for guidance only and do not affect the interpretation of this Agreement.
- (b) The obligations of the Owner under this Agreement, will take effect as separate and several covenants which are annexed to and run at law and equity with the Subject Land; and
- (i) bind the Owner, its successors, transferees and permitted assigns, the registered proprietor or proprietors for the time being of the Subject Land; and
 - (ii) if the Subject Land is subdivided further, this Agreement must be read and applied so that each subsequent Owner of a lot is only responsible for those covenants and obligations which relate to that Owner's lot.

2. Owner's obligations

The Owner covenants and agrees that within the Buffer Area it will:

- (a) not construct buildings or commence works within the boundaries of the Tree Protection Zones;
- (b) not remove, lop or destroy any Tree to be Retained as identified on the Tree Retention/Removal Plan without prior written approval of Council; and
- (c) as part of any future planning permit application relating to the Buffer Area:
 - (i) submit a landscape masterplan and a landscape works plan identifying Embellishments to the Open Space Areas to the satisfaction of Council;
 - (ii) vest in Council the Open Space Areas at no cost to Council; and
 - (iii) complete at the Owner's cost in each respect, the required Embellishments to the Open Space Areas to Council's satisfaction prior to the vesting of the Open Space Areas in Council.

3. Further obligations

3.1 Notice and registration

The Owner will bring this Agreement to the notice of all prospective purchasers, Mortgagees, lessees, charges, transferees and assigns of the Subject Land.

3.2 Giving effect to this Agreement

The Owner will do all things necessary to give effect to this Agreement, including executing any further documents and will comply with its obligations under this Agreement.

3.3 Recording by Registrar of Titles

The Owner will consent to Council making application to the Registrar of Titles to make a recording of this Agreement in the Register on the Certificate of Title of the Subject Land in accordance with s181 of the Act and do all things necessary to enable Council to do so including signing any further agreement, acknowledgement or document or procuring the consent to this Agreement of any Mortgagee or caveator to enable the recording to be made in the Register under that section.

3.4 Council's costs to be paid

- (a) The Owner will immediately pay to Council, Council's reasonable costs and expenses (including legal expenses) of and incidental to the preparation,

drafting, finalisation, engrossment, execution and registration of this Agreement which are and until paid will remain a debt due to Council by the Owner.

- (b) If in dispute, Council may have the costs assessed by the Law Institute of Victoria Costing Service and the parties will be bound by any assessment, and the cost of any assessment will be paid equally by the parties.

4. Agreement under Section 173 of the Act

Council and the Owner agree without limiting or restricting their respective powers to enter into this Agreement and, insofar as it can be so treated, this Agreement is made pursuant to section 173 of the Act.

5. Owner's warranties

Without limiting the operation or effect which this Agreement has, the Owner warrants that apart from the Owner and any other person which 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.

6. Successors in title

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

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

7. Notices

7.1 Service

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:

- (a) by delivering it personally to that Party;
- (b) by sending it by prepaid post addressed to that Party at the address set out in this Agreement or subsequently notified to each Party from time to time; or

- (c) by sending it by facsimile provided that a communication sent by facsimile shall be confirmed immediately in writing by the sending Party by hand delivery or prepaid post.

7.2 Time of service

A notice or other communication is deemed served:

- (a) if delivered, on the next following Business Day;
- (b) if posted, on the expiration of two Business Days after the date of posting, or
- (c) if sent by facsimile, on the next following Business Day unless the receiving Party has requested retransmission before the end of that Business Day.

8. Miscellaneous

8.1 Commencement of Agreement

Unless otherwise provided in this Agreement, this Agreement commences from the date of this Agreement.

8.2 Default

- (a) If the Owner fails to comply with the provisions of this Agreement, Council may in addition to any other remedy available to it, serve a notice on the Owner specifying the works, matters and things in respect of which the Owner is in default.
- (b) If the alleged default continues for 30 days after the service of such notice, Council may, by its officers, employees, agents and contractors, enter the Subject Land and ensure that the works, matters and things are carried out.
- (c) The costs incurred by the Council in undertaking the works as a result of the Owner's default will be payable by the Owner.

8.3 Ending of Agreement

- (a) The Parties agree that this Agreement will end:
 - (i) with respect to any part of the Subject Land that is not within the Buffer Area, upon the issue of a Statement of Compliance which subdivides the Subject Land so as to differentiate between that part of the Subject Land within and outside the Buffer Area, provided that the Agreement must remain registered on any part of the Subject Land which is within the Buffer Area;
 - (ii) with respect to a Residential Lot external to the Buffer Area, upon the issue of a Statement of Compliance relating to a subdivision which

creates the Residential Lot, provided that the Agreement must remain registered on any part of the Subject Land which is within the Buffer Area; or

- (iii) otherwise in accordance with the Act.
- (b) The Parties agree that once this Agreement ends with respect to part or all of the Subject Land, Council will, following a request from the Owner and at the cost of the Owner, complete and execute within a reasonable time 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 in relation to the relevant part of the Subject Land.

8.4 Application to Registrar

As soon as reasonably practicable after the Agreement has ended, Council will, at the request and at the cost of the Owner make application to the Registrar of Titles under s183(2) of the Act to cancel the recording of this Agreement on the register.

8.5 No fettering of Council's powers

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

8.6 No waiver

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

8.7 Severability

- (a) If a court, arbitrator, tribunal or other competent authority determines that a word, phrase, sentence, paragraph or clause of this Agreement is unenforceable, illegal or void then it must be severed and the other provisions of this Agreement will remain operative.
- (b) Clause 8.7(a) will not apply if to do so will materially affect the commercial arrangement formed by this Agreement.

8.8 Proper law

This Agreement is governed by and the Owner submits to the laws of the State of Victoria.

INFORMATION ONLY

Executed as a deed



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

Delegate Julian Edwards, Manager Building & Planning

.....
Delegate

Executed by Dahua Group Melbourne
Number 6 Pty Ltd ACN 615 975 347 in
accordance with section 127 of the
Corporations Act 2001 (Cth) by:

Signature of Director

Xuanke Chen

Full name (print)

Signature of Director/Company
Secretary

Ye Fan

Full name (print)

Schedule 1

Mortgagee's Consent

Commonwealth Bank of Australia as Mortgagee of registered Mortgage No. AT698482U consents to the Owner entering into this Agreement and agrees to be bound by the terms and conditions of this Agreement as if it were the Owner of the Subject Land.

DATED:



KEVIN THIO

Executed for and on behalf of

COMMONWEALTH BANK OF AUSTRALIA

Schedule 2 - Treemap Arborist Assessment

INFORMATION ONLY

Schedule 3 - Tree Retention/Removal Plan



INFORMATION



Department of Transport and 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.

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Status	Registered	Dealing Number	AV565374Y
Date and Time Lodged	27/04/2022 10:56:04 AM		

Lodger Details

Lodger Code	17223H
Name	MADDOCKS
Address	
Lodger Box	
Phone	
Email	
Reference	TGM: 8684896

APPLICATION TO RECORD AN INSTRUMENT

Jurisdiction	VICTORIA
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Privacy Collection Statement

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Estate and/or Interest

FEE SIMPLE

Land Title Reference

11908/515

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 Transport and 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	27 APRIL 2022

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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HWLEBSWORTH
LAWYERS

HWLEBSWORTH
LAWYERS

Deed of Agreement under s173 of the
Planning and Environment Act 1987

**Purpose: Implementation of Condition 13 on
Planning Permit No. 717910**

Conservation Management Plan

City of Whittlesea

and

**Dahua Group Melbourne Number 6 Pty Ltd
(ACN 615 975 347)**

Level 8, 447 Collins Street, Melbourne VIC 3000
Australia
PO Box 3, Collins Street West VIC 8007 Australia
DX 564 Melbourne

Telephone +61 3 8644 3500
Facsimile 1300 365 323 (Australia) +61 3
9034 3257 (International)
hwlebsworth.com.au

Deed of Agreement
##

Printed 15 December 2021 (##)

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Ref: JL:AG:1023494

Deed of Agreement

Date 5 APRIL 2022

Parties

City of Whittlesea

of 25 Ferres Boulevard, South Morang VIC 3752

(Council)

Dahua Group Melbourne Number 6 Pty Ltd (ACN 615 975 347)

of Level 50, 360 Elizabeth Street, Melbourne VIC 3000

(Owner)

Recitals

- A. Council is the Responsible Authority pursuant to the Act for the administration and enforcement of the Planning Scheme, which applies to the Subject Land.
- B. The Owner is or is entitled to be the registered proprietor of the Subject Land, which is the land over which this Agreement is intended to be registered.
- C. On 8 April 2020, Council issued Planning Permit No. 717910 (**Planning Permit**), which allows a multi-lot staged subdivision, creation of reserves and restrictions on title, and removal and alteration of dry stone walls in accordance with the endorsed plans at the Subject Land.
- D. Condition 13 of the Planning Permit provides that:

13. Local Conservation Reserves - Conservation Management Plans

Prior to the certification of any plan of subdivision for any parcel of land containing a Local Conservation Reserve on Plan 2 - Future Urban Structure within the incorporated Wollert Precinct Structure Plan, June 2017, the owner must enter into an agreement with the responsible authority pursuant to section 173 of the Planning and Environment Act 1987 which requires the owner to prepare and implement a Conservation Management Plan for the land, unless otherwise agreed by the responsible authority.

The Conservation Management Plan must be prepared prior to the approval of any construction plans (engineering plan) for any part of the land and be consistent with the Local Conservation Reserve Treatment and Management Guidelines in the incorporated Wollert Precinct Structure Plan, June 2017 to the satisfaction of the Responsible Authority.

Specifically, the Conservation Management Plan must provide for:

- a. early securing and fencing of the conservation reserve and establishment of interpretive signage prior to the commencement of subdivision construction activity on any part of the land, and
- b. A 10-year action plan providing for the protection of all areas proposed for conservation rehabilitation, biodiversity improvement works and actions focussing on improvement to Grassy Eucalypt Woodland of the Victorian Volcanic Plain and other matters of national environmental significant, re-vegetation and landscaping, pest plant and animal control, soil stabilisation, and on-going maintenance and monitoring.

Where applicable, the Plan shall quantify the extent of offset gain to be achieved commensurate with the Permitted Clearing of Native Vegetation - Biodiversity Assessment Guidelines and defined by the Bush Broker Landowner Agreement and Quality Assurance Process.

The costs for preparation and execution of the Agreement shall be borne by the owner.

E. The Parties have agreed to enter into this Agreement:

- (a) to give effect to the requirements of Condition 13 of the Planning Permit; and
- (b) to achieve or advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Subject Land.

This deed witnesses that in consideration of, among other things, the mutual promises contained in this deed the Parties agree as follows: