

## Contract of Sale of Real Estate

**Property: Lot \_\_\_\_\_ on proposed Plan  
of Subdivision PS 826701N, Stage 11, "Savana",  
50 Hobbs Road, Wyndham Vale, Victoria 3024**

**Avid Property Group Nominees Pty Ltd ACN 088  
212 631**

Ref LAD:JQ:1003878

# CONTRACT OF SALE OF REAL ESTATE - PARTICULARS OF SALE

Part 1 of the standard form of contract prescribed by the Estate Agents (Contracts) Regulations 2008

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; and
- Vendor's Statement

and in that order of priority.

The Vendor's Statement required by section 32(1) of the **Sale of Land Act 1962** is attached to and forms part of the terms of this contract.

## IMPORTANT NOTICE TO PURCHASERS

### Cooling-off

Section 31

period

### 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.

## IMPORTANT NOTICE TO PURCHASERS

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

Subject to the limit set by section 9AA(1)(b) of the Sale of Land Act 1962 (Vic), the purchaser may negotiate with the vendor about the amount of deposit moneys payable under the contract.

A substantial period of time may elapse between the day on which the purchaser signs the contract for sale and the day on which the purchaser becomes the registered proprietor of the lot.

The value of the lot may change between the day on which the purchaser signs the contract for sale of that lot and the day on which the purchaser becomes the registered proprietor.

## SIGNING OF THIS CONTRACT

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

Purchasers should ensure that prior to signing this contract, they have received a copy of the 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 ...../...../20.....

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

.....

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

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

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

..... on ...../...../20.....

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

State nature of authority, if applicable: Peter Vitas and Davina Sher as attorneys for Avid Property Group Nominees Pty Ltd ACN 088 212 631 as trustee for the Hobbs Road Wyndham Trust ABN 47 262 319 891 pursuant to the power of attorney dated .....

or

Lydia Antoniette Arrico-Dunn or Michael Mammen as attorneys for Avid Property Group Nominees Pty Ltd ACN 088 212 631 as trustee for the Hobbs Road Wyndham Trust ABN 47 262 319 891 pursuant to the power of attorney dated .....

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

## Particulars of Sale

<b>Vendor's Agent</b>	<b>Estate</b>	<b>RPM Real Estate Pty Ltd</b>			
of Suite Level 5, 52 York Street, South Melbourne, Victoria 3205					
Contact: Monique Ruggieri		Telephone: 1300 656 011		Email: savana@avid.com.au	
<b>Vendor</b>	<b>Avid Property Group Nominees Pty Ltd ACN 088 212 631 as trustee for the Hobbs Road Wyndham Trust ABN 47 262 319 891</b>				
of Ground Floor, 80 Dorcas Street, Southbank, Victoria 3006					
<b>Vendor's Practitioner</b>	<b>Legal</b>	<b>HWL Ebsworth Lawyers</b>			
of Level 26, 530 Collins Street, Melbourne VIC 3000 DX 564 Melbourne					
☎ : (03) 8644 3500		Fax: 1300 365 323		Ref: LAD:JQ:1003878	
<b>Purchaser</b>	of				
☎ :		Fax:		Ref: Email:	
<b>Purchaser's Legal Practitioner or Conveyancer</b>	or of:				
☎ :		Fax:		Ref: Email:	
<b>Property address</b>	the Land together with any improvements known as				
Lot _____ on proposed Plan of Subdivision PS 826701N, Stage 11, " <b>Savana</b> ", 50 Hobbs Road, Wyndham Vale, Victoria 3024.					
<b>Land</b>	Lot(s) _____ on proposed Plan of Subdivision PS 826701N (Stage 11), (a copy of which is contained in the Vendor's Statement) and being part of the land described in Certificate of Title Volume 12152 Folio 609.				
<b>Goods (list or attach schedule)</b>	Nil (vacant land)				
<b>Payment</b>	<b>Price</b>	<b>\$</b>	including GST		
	<b>Deposit</b>	<b>\$</b>			
	<b>Balance</b>	<b>\$</b>	payable at settlement		
<b>GST</b> (refer to general condition 13)					
The price includes GST (if any) unless the words ' <b>plus GST</b> ' appear in this box					Not applicable
If this is a sale of a 'farming business' or 'going concern' then add the words ' <b>farming business</b> ' or ' <b>going concern</b> ' in this box					Not applicable
If the margin scheme will be used to calculate GST then add the words ' <b>margin scheme</b> ' in this box					Margin scheme



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**Settlement** is due on the date that is the later of:

- 14 days after the date of registration of the Plan of Subdivision; and
- 35 days after the Day of Sale.

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

in which case refer to general condition 1.1. If '**subject to lease**' then particulars of the lease are:

Not applicable

If this contract is intended to be a terms contract within the meaning of the [Sale of Land Act 1962](#) then add the words '**terms contract**' in this box and refer to general condition 23 and add any further provisions by way of Special Conditions

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### Encumbrances

This sale is NOT subject to an existing mortgage unless the words '**subject to existing mortgage**' appear in this box:

If the sale is '**subject to existing mortgage**' then particulars of the mortgage are:

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### Special conditions

This contract does not include any Special Conditions unless the words '**Special Conditions**' appear in this box

Special Conditions

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**Loan** (refer to general condition 14)

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

Lender:

Loan amount: \$

Approval Date: 21 days after the Day of Sale

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### Schedule 1

The Purchaser assumes the following encumbrances:

1. all registered and any unregistered and implied easements, covenants and restrictive covenants (if any) affecting the Land including those disclosed in the Vendor's Statement and any apparent or implied easements for services, drains, sewer pipes and wires not located in registered easements;
2. any easements and restrictions created by the Plan of Subdivision or implied under the Subdivision Act or otherwise appropriated, reserved or created upon registration of the Plan of Subdivision; and
3. the following encumbrances specific to the Development:
  - 3.1 the conditions and other restrictions contained in the Permit and any other planning permit affecting the Property which may issue after the Day of Sale or which may otherwise be imposed by a responsible authority;
  - 3.2 the provisions of any agreement which the Vendor has or may be required to enter into with any responsible authority in relation to the Plan of Subdivision including but not limited to an agreement under section 173 of the *Planning and Environment Act 1987* (Vic);
  - 3.3 requirements of the Planning Documents;
  - 3.4 the requirements of the MCP;
  - 3.5 the requirements of the Design Guidelines; and
  - 3.6 the Planning and Building Controls.

## FORM 2

### Estate Agents Act 1980

Regulation 5(a)

## CONTRACT OF SALE OF REAL ESTATE – GENERAL CONDITIONS

Part 2 of the standard form of contract prescribed by the *Estate Agents (Contracts) Regulations 2008*  
(October 2014)

### TITLE

#### 1. Encumbrances

- 1.1 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 in the crown grant; and
  - (c) any lease referred to in the particulars of sale.
- 1.2 The purchaser indemnifies the vendor against all obligations under any lease that are to be performed by the landlord after settlement.
- 1.3 In this general condition 'section 32 statement' means a 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.

#### 2. Vendor warranties

- 2.1 The vendor warrants that these general conditions 1 to 28 are identical to the general conditions 1 to 28 in the standard form of contract of sale of real estate prescribed by the **Estate Agents (Contracts) Regulations 2008** for the purposes of section 53A of the **Estate Agents Act 1980**.
- 2.2 The warranties in general conditions 2.3 and 2.4 replace the purchaser's right to make requisitions and inquiries.
- 2.3 The vendor warrants that the vendor:
- (a) has, or by the due date for settlement will have, the right to sell the land; and
  - (b) is under no legal disability; and
  - (c) is in possession of the land, either personally or through a tenant; and
  - (d) has not previously sold or granted any option to purchase, agreed to a lease or granted a pre-emptive right which is current over the land and which gives another party rights which have priority over the interest of the purchaser; and
  - (e) will at settlement be the holder of an unencumbered estate in fee simple in the land; and
  - (f) will at settlement be the unencumbered owner of any improvements, fixtures, fittings and goods sold with the land.
- 2.4 The vendor further warrants that the vendor has no knowledge of any of the following:
- (a) public rights of way over the land;
  - (b) easements over the land;
  - (c) lease or other possessory agreement affecting the land;
  - (d) notice or order 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.
- 2.5 The warranties in general conditions 2.3 and 2.4 are subject to any contrary provisions in this contract and disclosures in the section 32 statement required to be given by the vendor under section 32 of the **Sale of Land Act 1962** in accordance with Division 2 of Part II of that Act.
- 2.6 If sections 137B and 137C of the **Building Act 1993** apply to this contract, the vendor warrants that:
- (a) all domestic building work carried out in relation to the construction by or on behalf of the vendor of the home was carried out in a proper and workmanlike manner; and
  - (b) all materials used in that domestic building work were good and suitable for the purpose for which they were used and that, unless otherwise stated in the contract, those materials were new; and
  - (c) domestic building work was carried out in accordance with all laws and legal requirements, including, without limiting the generality of this warranty, the **Building Act 1993** and regulations made under the **Building Act 1993**.
- 2.7 Words and phrases used in general condition 2.6 which are defined in the **Building Act 1993** have the same meaning in general condition 2.6.
- #### 3. Identity of the land
- 3.1 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.
- 3.2 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.

#### 4. Services

- 4.1 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.
- 4.2 The purchaser is responsible for the connection of all services to the property after settlement and the payment of any associated cost.

#### 5. Consents

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

#### 6. Transfer

The transfer of land document must be prepared by the purchaser and delivered to the vendor at least 10 days before settlement. The delivery of the transfer of land document is not acceptance of title. The vendor must prepare any document required for assessment of duty on this transaction relating to matters that are or should be within the knowledge of the vendor and, if requested by the purchaser, must provide a copy of that document at least 3 days before settlement.

#### 7. Release of security interest

- 7.1 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.
- 7.2 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 7.4, 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.
- 7.3 If the purchaser is given the details of the vendor's date of birth under condition 7.2, the purchaser must:
- (a) only use the vendor's date of birth for the purposes specified in condition 7.2; and
  - (b) keep the date of birth of the vendor secure and confidential.
- 7.4 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.
- 7.5 Subject to general condition 7.6, the vendor is not obliged to ensure that the purchaser receives a release, statement, approval or correction in respect of personal property:
- (a) that:
    - (i) the purchaser intends to use predominantly for personal, domestic or household purposes; and
    - (ii) has a market value of not more than \$5000 or, if a greater amount has been prescribed for the purposes of section 47(1) of the **Personal Property Securities Act 2009 (Cth)**, not more than that prescribed amount; or
  - (b) that is sold in the ordinary course of the vendor's business of selling personal property of that kind.
- 7.6 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 7.5 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.
- 7.7 A release for the purposes of general condition 7.4(a) must be in writing.
- 7.8 A release for the purposes of general condition 7.4(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.
- 7.9 If the purchaser receives a release under general condition 7.4(a) the purchaser must provide the vendor with a copy of the release at or as soon as practicable after settlement.
- 7.10 In addition to ensuring that a release is received under general condition 7.4(a), the vendor must ensure that at or before settlement the purchaser receives a written undertaking from a secured party to register a financing change statement to reflect that release if the property being released includes goods of a kind that are described by serial number in the Personal Property Securities Register.
- 7.11 The purchaser must advise the vendor of any security interest that is registered on or before the day of sale on the Personal Properties Securities Register, which the purchaser reasonably requires to be released, at least 21 days before the due date for settlement.

- 7.12 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 7.11.
- 7.13 If settlement is delayed under general condition 7.12 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.
- 7.14 The vendor is not required to ensure that the purchaser receives a release in respect of the land. This general condition 7.14 applies despite general condition 7.1.
- 7.15 Words and phrases which are defined in the **Personal Property Securities Act 2009 (Cth)** have the same meaning in general condition 7 unless the context requires otherwise.

## **8. 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.

## **9. General law land**

- 9.1 This general condition only applies if any part of the land is not under the operation of the **Transfer of Land Act 1958**.
- 9.2 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.
- 9.3 The purchaser is entitled to inspect the vendor's chain of title on request at such place in Victoria as the vendor nominates.
- 9.4 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.
- 9.5 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.
- 9.6 If the contract ends in accordance with general condition 9.5, the deposit must be returned to the purchaser and neither party has a claim against the other in damages.
- 9.7 General condition 10.1 should be read, in respect of that part of the land which is not under the operation of the **Transfer of Land Act 1958**, as if the reference to 'registered proprietor' is a reference to 'owner'.

## **MONEY**

### **10. Settlement**

- 10.1 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.
- 10.2 The vendor's obligations under this general condition continue after settlement.
- 10.3 Settlement must be conducted between the hours of 10.00a.m. and 4.00p.m. unless the parties agree otherwise.

### **11. Payment**

- 11.1 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.
- 11.2 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.
- 11.3 The purchaser must pay all money other than the deposit:
- (a) to the vendor, or the vendor's legal practitioner or conveyancer; or
  - (b) in accordance with a written direction of the vendor or the vendor's legal practitioner or conveyancer.
- 11.4 At settlement, payments may be made or tendered:

- (a) in cash; or
  - (b) by cheque drawn on an authorised deposit-taking institution; or
  - (c) if the parties agree, by electronically transferring the payment in the form of cleared funds.
- 11.5 For the purpose of this general condition 'authorised deposit-taking institution' means a body corporate in relation to which an authority under subsection 9(3) of the **Banking Act 1959 (Cth)** is in force.
- 11.6 At settlement, the purchaser must pay the fees on up to three cheques drawn on authorised deposit-taking institution. If the vendor requests that any additional cheques be drawn on an authorised deposit-taking institution, the vendor must reimburse the purchaser for the fees incurred.

## 12. Stakeholding

- 12.1 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 do 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 the **Sale of Land Act 1962** have been satisfied.
- 12.2 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.
- 12.3 The stakeholder may pay the deposit and any interest into court if it is reasonable to do so.

## 13. GST

- 13.1 The purchaser does not have to pay the vendor any GST payable by the vendor in respect of a taxable supply made under this contract in addition to the price unless the particulars of sale specify that the price is 'plus GST'. However the purchaser must pay to the vendor any GST payable by the vendor:
- (a) 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
  - (b) if 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 a part of it) does not satisfy the requirements of section 38-480 of the GST Act; or
  - (c) if 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.
- 13.2 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 the particulars of sale specify that the price is 'plus GST'.
- 13.3 If the purchaser is liable to pay GST, the purchaser is not required to make payment until provided with a tax invoice, unless the margin scheme applies.
- 13.4 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.
- 13.5 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.
- 13.6 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.
- 13.7 This general condition will not merge on either settlement or registration.
- 13.8 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.

## 14. Loan

- 14.1 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.
- 14.2 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 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.
- 14.3 All money must be immediately refunded to the purchaser if the contract is ended.

## **15. Adjustments**

- 15.1 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.
- 15.2 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.

## **TRANSACTIONAL**

### **16. Time**

- 16.1 Time is of the essence of this contract.
- 16.2 Time is extended until the next business day if the time for performing any action falls on a Saturday, Sunday or bank holiday.

### **17. Service**

- 17.1 Any document sent by:
- (a) post is taken to have been served on the next business day after posting, unless proved otherwise;
  - (b) 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**.
- 17.2 Any demand, notice, or document required to be served by or on any party may be served by or on the legal practitioner or conveyancer for that party. It is sufficiently served if served on the party or on the legal practitioner or conveyancer:
- (a) personally; or
  - (b) by pre-paid post; or
  - (c) in any manner authorised by law or the Supreme Court for service of documents, including any manner authorised for service on or by a legal practitioner; or
  - (d) by email.
- 17.3 This general condition applies to service of any demand, notice or document by or on any party, whether the expression 'give' or 'serve' or any other expression is used.

### **18. 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.

### **19. 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 default by a proprietary limited company purchaser.

### **20. 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.

### **21. Notices**

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 that does not relate to periodic outgoings. The purchaser may enter the property to comply with that responsibility where action is required before settlement.

### **22. 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.

### **23. Terms contract**

- 23.1 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.
- 23.2 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.

#### **24. Loss or damage before settlement**

- 24.1 The vendor carries the risk of loss or damage to the property until settlement.
- 24.2 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.
- 24.3 The purchaser must not delay settlement because one or more of the goods is not in the condition required by general condition 24.2, but may claim compensation from the vendor after settlement.
- 24.4 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 24.2 at settlement.
- 24.5 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.
- 24.6 The stakeholder must pay the amounts referred to in general condition 24.5 in accordance with the determination of the dispute, including any order for payment of the costs of the resolution of the dispute.

#### **25. 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**

#### **26. 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 on any money owing under the contract during the period of default, without affecting any other rights of the offended party.

#### **27. Default notice**

- 27.1 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.
- 27.2 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.

#### **28. Default not remedied**

- 28.1 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.
- 28.2 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.
- 28.3 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.
- 28.4 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.
- 28.5 The ending of the contract does not affect the rights of the offended party as a consequence of the default.
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### **\* Law Institute of Victoria Property Law Dispute Resolution Committee Guidelines**

1. The Committee has been established to decide disputes relating to property law matters. Where one party does not have a solicitor representing them, the dispute cannot be heard until that party instructs a solicitor.
2. An *agreed* Statement of Facts must be signed by all parties and referring solicitors and must include:
  - 2.1 A clear and concise statement of all the relevant *agreed* facts upon which the dispute is based. The Committee is unable to make any decision unless the facts are *agreed* between the parties.
  - 2.2 A copy of all relevant documents.
  - 2.3 The issues, based on the agreed facts, to be decided by the Committee.
3. Applications for disputes to be decided by the Committee shall include an agreement by the referring solicitors and the parties to be bound by the Committee's decision on any question of law or practice.
4. Applications in the appropriate form must be lodged with the Secretary of the Property Law Dispute Resolution Committee C/- the Law Institute of Victoria.
5. An administration fee of \$100.00 for each referring solicitor must be paid to the Law Institute of Victoria when the application is lodged.
6. The Committee's decision will be based upon the material contained in the Statement of Facts only. In making its decision the Committee shall act as an expert panel and not as an arbitrator.
7. The Committee reserves the right:
  - (i) to call for further and better particulars in order to make a decision.
  - (ii) to refuse to decide any dispute, in which case any fees will be refunded in full.
8. The Committee's written decision will be sent to the referring legal practitioners within seven days of the dispute being decided.

*\* The guidelines and forms required can be obtained from the Secretary of the Property & Environmental Law Section, Law Institute of Victoria. Tel: (03) 9607 9522.*

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# Special Conditions

## 1. Definitions and Interpretation

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### 1.1 Definitions

In this Contract, capitalised terms have the meaning given to them in the Particulars of Sale and, unless the context requires otherwise:

**Authority** means any federal, state or local government, semi-government, municipal, statutory or other authority or body charged with the administration of the Law;

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

**Business Day** means a day other than a Saturday, Sunday or public holiday in Melbourne;

**Claim** means a claim, action, proceeding, damage, loss, expense, cost or liability, immediate, future or contingent and includes a claim for compensation;

**Contaminant** means a substance at a concentration above the concentration at which the substance is normally present in, on or under (respectively) land in the same locality, being a presence that presents a risk of harm to human health or any other aspect of the environment (including asbestos) and **Contamination** has a corresponding meaning;

**Construct** means to construct the Residence on the Land in accordance with this Contract and **Construction** has a corresponding meaning;

**Construction Permits** means any permit, consent or approval required from any Authority for the Construction and includes building and planning permits;

**Construction Plans** means all documents, plans and specifications required in relation to the application for the Construction Permits and all plans and specifications relating to the Construction, including floor plans, elevation plans and landscaping plans;

**Contract** means this contract of sale of real estate and includes the annexures;

**Corporations Act** means the *Corporations Act 2001* (Cth);

**Council** means Wyndham City Council;

**Day of Sale** means the date on which this Contract is signed by both the Vendor and the Purchaser;

**Deposit Interest** means any interest earned on the Deposit less any relevant fees, taxes (including any amount required to be withheld under income tax legislation where a tax file number has not been advised) and charges;

**Design Guidelines** means the design guidelines for the Development, a copy of which is included in Annexure C, as those guidelines may be amended, added to or varied from time to time;

**Development** means the land in the Plan of Subdivision and any surrounding land to be developed by or on behalf of the Vendor;

**Development Land** means the whole of the land contained in Certificate of Title Volume 12152 Folio 609 and any additional, adjacent or nearby land of which the Vendor or a related entity of the Vendor is the registered proprietor;

**Development Works** means the construction and completion of all infrastructure works, landscaping, installation of services and the subdivision of the Site and the construction of other lots on the Site and includes works of any kind necessary or incidental to establishing utility infrastructure and utility services, connections to such infrastructure and services, and including any excavation and general earthworks;

**Due Date** means the date settlement is due in the Particulars of Sale or such other date agreed by the parties in writing;

**Election Date** means the day that is 30 months after the Day of Sale;

**Encumbrances** means the encumbrances specified in Schedule 1 of the Particulars of Sale;

**Engineering Drawings** means the drawings attached in Annexure D;

**Environmental Law** means any and all past, present and future laws, and any codes of practice, guidance notes, national Environment Protection Measures, State Environment Protection Policies, order, directions, consents, authorisations or permits concerning environmental, health or safety matters (including the clean up standards and practices for Contamination in buildings, equipment, soil, sub surface-strata, air, surface or ground water), where they are provided for in applicable Laws or applied and practised to the Property;

**FIRB** means the Foreign Investment Review Board and includes the Minister of the Australian Government who administers the Government's foreign investment policy under the provisions of the *Foreign Acquisitions and Takeovers Act 1975* (Cth).

**GST** means GST within the meaning of GST Law;

**GST Law** has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

**Guarantee and Indemnity** means a guarantee and indemnity in the form of Annexure A;

**Input Tax Credit** has the meaning given to it in GST Law;

**Insolvency Event** means:

- (a) where the Purchaser (or if the Purchaser consists of 2 or more persons, any of those persons) is a corporation:
  - (i) an official manager, receiver, receiver and manager, administrator, liquidator, provisional liquidator or agent for a mortgagee is appointed to the Purchaser or to any or all of its assets or undertakings;
  - (ii) the Purchaser enters into, or resolves to enter into, a scheme of arrangement or composition with, or assignment for the benefit of, all or any class of its creditors, or it proposes a reorganisation, moratorium or other administration involving any of them (except to reconstruct or amalgamate while solvent on terms approved by the Vendor);
  - (iii) the Purchaser resolves to wind itself up, or otherwise dissolve itself, or gives notice of intention to do so (except to reconstruct or amalgamate while solvent on terms approved by the Vendor);
  - (iv) an application is made to a court for an order, or an order is made, that the Purchaser be wound up or dissolved;
  - (v) the Purchaser is or states that it is insolvent;
  - (vi) the Purchaser becomes an insolvent under administration as defined in the *Corporations Act* or action is taken which could result in that event;
  - (vii) the Purchaser takes any step to obtain protection or is granted protection from its creditors, under any applicable legislation;

- (viii) the Purchaser fails to comply with a statutory demand in accordance with section 459F(1) of the *Corporations Act*;
  - (ix) execution is levied against the Purchaser and is not satisfied within 30 days; or
  - (x) anything which is analogous to or has a substantially similar effect to any of the events specified above occurs; or
- (b) where the Purchaser (or if the Purchaser consists of 2 or more persons, any of those persons) is a natural person:
  - (i) the Purchaser becomes bankrupt;
  - (ii) an authority is signed under section 188 of the *Bankruptcy Act 1966* (Cth);
  - (iii) the Purchaser makes an assignment for the benefit of its creditors, or enters into composition or arrangements with its creditors;
  - (iv) the Purchaser is unable to pay its debts when due;
  - (v) the Purchaser dies; or
  - (vi) the Purchaser becomes mentally ill;

**Law** includes any statute, rule, regulation, proclamation, ordinance or by-law (whether present or future);

**Lot or Lots** means a lot or lots on the Plan of Subdivision;

**Margin Scheme** means the scheme for working out the amount of GST on a Taxable Supply under Division 75 of GST Law;

**MCP** means the draft memorandum of common provisions which will be registered and imposed with or by the Plan of Subdivision, a copy of which is contained in the Vendor's Statement (if any);

**Object** means to make any Claim against the Vendor (before or after the date of actual settlement), to seek to withhold all or part of the Price, raise any objection, requisition, rescind or terminate this Contract or seek to delay or avoid Settlement;

**Outgoings** means all outgoings, costs and expenses paid or payable by the Vendor in relation to the Property (whether or not recoverable from tenants or not) including all rates, taxes (including land tax but excluding capital gains or income taxes), assessments, insurance premiums, statutory outgoings but excludes any supplementary rates or taxes or other charges assessed in respect of the Property after the date of registration of the Plan of Subdivision;

**Particulars of Sale** means the particulars of sale attached to and forming part of this Contract;

**Permit** means planning permit No. WYP9847/17 issued by Council, a copy of which is attached to the Vendor's Statement;

**Plan of Subdivision** means proposed plan of subdivision number PS 826701N a copy of which is attached to the Vendor's Statement and includes any amendment or alteration of that plan from time to time and, on registration by the Registrar, means that plan in the form in which it is registered;

**Plan of Surface Level Works** means the plan attached in Annexure B;

**Planning and Building Controls** means the Restrictions and this Contract;

**Planning Documents** means the Permit and any other planning permits issued in respect of the Property before and after the Day of Sale as those permits may be amended, added to, varied, extended or endorsed from time to time and include the planning permits annexed to the Vendor's Statement;

**Property** means the Land and improvements constructed on the Land as at the Day of Sale;

**Registrar** means the Registrar of Titles of Victoria;

**Registration Date** means the day that is 30 months after the Day of Sale;

**Residence** means a dwelling to be constructed on the Land in accordance with this Contract;

**Restrictions** means the restrictions to be included in the Plan of Subdivision and which will be created on registration of the Plan of Subdivision (if any);

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

**Services** means all water, sewerage, drainage, gas, electricity, telecommunications or other installations, services and utilities at the Property;

**Settlement** means the date the Purchaser accepts title to the Property and pays the Price in full;

**Settlement Date** means the date when Settlement occurs;

**Site** means the land owned or developed by the Vendor known as 50 Hobbs Road, Wyndham Vale, Victoria 3024 and any other adjoining or neighbouring land owned by the Vendor and, where the context permits or requires, includes the Property;

**Staged Development** means the Development effected in stages;

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

**Subsequent Stage Land** means all the land included in the Development except for the land in the Plan of Subdivision;

**Tax Invoice** has the meaning given to it in GST Law;

**Taxable Supply** has the meaning given to it in GST Law;

**Vendor's Legal Practitioner** means HWL Ebsworth or any other firm of solicitors about whom the Vendor gives details in writing to the Purchaser; and

**Vendor's Statement** means a statement made by the Vendor under section 32 of the *Sale of Land Act*, a copy of which is contained in Annexure E.

## 1.2 Interpretation

In the interpretation of this Contract, unless the context otherwise requires:

- (a) the headings are inserted only as a matter of convenience and do not affect the interpretation of this Contract;
- (b) the singular includes the plural and vice versa and words of one gender include the other genders;
- (c) where two or more persons are named as a party to this Contract, the representations, warranties, covenants, obligations and rights given, entered into or conferred (as the case may be), bind them jointly and each of them severally;
- (d) a reference to any party to this Contract or any other document or arrangement includes that party's successors, substitutes, permitted assigns, executors and administrators;
- (e) where a word or phrase is defined, its other grammatical forms have corresponding meanings;
- (f) "person" includes a natural person, corporation, body corporate, unincorporated association, firm or an authority or body (whether it be any government, semi-government, municipal, statutory or other authority or body);

- (g) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any subordinate legislation issued under, the legislation or legislative provision;
- (h) a reference to any agreement or document is to that agreement or document (and where applicable, any of its provisions) as varied, amended, novated, supplemented or replaced from time to time;
- (i) a reference to "include" or "including" means includes, without limitation, or including, without limitation, respectively;
- (j) anything includes each part of it; and
- (k) any reference to time in this Contract is a reference to time in Melbourne.

## **2. Variations to General Conditions**

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### **2.1 Amendments to General Conditions**

Without limiting the specific provisions of any other Special Condition in this Contract, the General Conditions are amended as follows:

- (a) General Conditions 2.2 to 2.7 (inclusive) are deleted.
- (b) General Condition 5 is deleted.
- (c) General Condition 10.1(b)(i) is amended to read:  
  
*"provide all title documents necessary to enable the purchaser to become the registered proprietor of the land; and"*
- (d) General Condition 11.1(b) is amended by deleting the words *"if there is no estate agent,"*.
- (e) General Condition 11.5 is amended to read:  
  
*"For the purposes of this general condition 'authorised deposit taking institution' means a Bank."*
- (f) General condition 12.4 is added:  
  
*"Where the purchaser is deemed by section 27(7) of the Sale of Land Act 1962 to have given the deposit release authorisation referred to in section 27(1), the purchaser is also deemed to have accepted title in the absence of any prior express objection to title."*
- (g) General Condition 15.2(b) is deleted.
- (h) General Condition 15.2(c) is deleted.
- (i) General Condition 20 is deleted.
- (j) The second sentence of General Condition 21 is amended to read:  
  
*"The purchaser may enter the property at reasonable times and following prior written notice to the vendor to comply with that responsibility where action is required before settlement. The purchaser must use its reasonable endeavours not to disrupt the use and occupation of the property by the vendor and indemnifies the vendor for any loss or damage suffered by the vendor as a consequence of the purchaser exercising its rights under this general condition."*
- (k) General Conditions 24.4 to 24.6 (inclusive) are deleted.
- (l) General Condition 25 is amended by adding the following new paragraph at the end of the Condition:

*"The purchaser acknowledges that the following items constitute 'a reasonably foreseeable loss':*

- (i) expenses payable by the vendor under any existing loan secured over the property or other property of the vendor;*
  - (ii) the vendor's legal costs and expenses as between solicitor and client incurred due to the breach, including the cost of issuing any default notice agreed at \$660 plus GST for each notice;*
  - (iii) any commission or other expenses claimed by the Vendor's Estate Agent or any other person relating to the sale of the property; and*
  - (iv) penalties and any other expenses payable by the vendor due to any delay in completion of the purchase of another property."*
- (m) General Condition 28 is amended by including a new paragraph 28.6 as follows:
- "Unless the price includes GST, the reference to "the price" in this General Condition 28 refers to the price plus any GST payable on the price."*
- (i) General Condition 28.4(a) is amended to read as follows:
- "an amount equal to 10% of the price is forfeited to the vendor as the vendor's absolute property".*

### **3. Acknowledgements**

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#### **3.1 Disclosure**

The Purchaser acknowledges that prior to the signing of this Contract or any other documents relating to this sale, the Purchaser received a Vendor's Statement.

#### **3.2 Estate Agents Act 1980 (Vic)**

- (a) The Purchaser acknowledges that it received a copy of this Contract at the time of execution of this Contract.
- (b) The Purchaser warrants that it has not received any promise from the Vendor's Estate Agent (or any person acting on behalf of the Vendor's Estate Agent) in relation to obtaining a loan for the purchase of the Property.

#### **3.3 Further acknowledgements**

The Purchaser acknowledges and agrees that:

- (a) having sufficient opportunity to carry out investigations and to make enquiries in relation to the Property before signing this Contract;
- (b) that no information, representation or warranty provided or made by or on behalf of the Vendor other than expressed in this Contract was provided or made with the intention or knowledge that it would be relied upon by the Purchaser;
- (c) that no information, representation or warranty referred to in Special Condition 3.3(b) has been relied upon by the Purchaser;
- (d) the Vendor gives no warranty and makes no representation as to the fitness of the Property for the construction thereon of any particular style, type or model of dwelling and the Purchaser must satisfy itself in this regard;
- (e) that the Purchaser relied only on the Purchaser's inspection of, and searches and enquiries in connection with, the Property when entering into this Contract; and

- (f) that to the maximum extent permissible by law and equity, the Vendor is not liable to the Purchaser in connection with any information, representation or warranty provided or made by or on behalf of the Vendor.

### 3.4 Grants or rebates

Without limiting Special Condition 3.3, the Purchaser acknowledges and agrees that:

- (a) neither the Vendor nor the Vendor's Estate Agent has made any promise, representation or warranty to the Purchaser regarding any grants, rebates or other financial assistance that the Purchaser may be entitled to receive or claim in respect of the purchase of the Property (**Financial Assistance**);
- (b) the Purchaser has relied on its own searches and enquiries regarding what (if any) Financial Assistance the Purchaser may claim or receive; and
- (c) the Purchaser may not Object if the Purchaser is not entitled to any Financial Assistance.

### 3.5 Disclosure of payments

The Purchaser must disclose to any financier, valuer, Authority or other party the existence of any payments, rebates, incentives or other inducements offered to the Purchaser in respect of this Contract by the Vendor or any other party.

### 3.6 Vendor may pay fees to others

The Purchaser acknowledges and agrees that the Vendor may pay a fee to another party (including but not limited to the Vendor's Estate Agent) for introducing the Purchaser to the Vendor or otherwise in respect of this Contract.

### 3.7 Advice and negotiation

Despite anything else in this Contract, the Purchaser acknowledges and agrees that:

- (a) the Vendor gave the Purchaser the opportunity to seek advice on the terms and conditions, and effect of, this Contract prior to signing this Contract;
- (b) the Purchaser has had a genuine and effective opportunity to review and negotiate the terms of this Contract prior to signing this Contract; and
- (c) the Vendor's rights and the Purchaser's obligations in this Contract are reasonably necessary to protect the Vendor's genuine and legitimate commercial interest.

## 4. Laws and Planning

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### 4.1 Laws

The Purchaser acknowledges and agrees that it buys the Property subject to all restrictions on its use or development that are imposed or prescribed by the Laws that apply to it.

### 4.2 Planning

The Purchaser buys the Property subject to:

- (a) any restriction or condition affecting or imposed on the Property or its use or development (including any restriction imposed by any Authority and any restriction imposed under any planning permit, approval or agreement); and
- (b) the applicable planning scheme and any other relevant planning controls.

#### **4.3 Planning Permit**

- (a) The Purchaser agrees to comply with the provisions of the Permit and any other planning permit or permits as they affect the use and development of the Property.
- (b) The Purchaser acknowledges the Vendor may apply for amendments to existing Permit or one or more new planning permits or amendments to the planning scheme in connection with any Development Works, at its absolute discretion, including but not limited to use of any part of the Development Land as shopping centres, activity centres, childcare centres, retirement villages, medium density sites and other purposes. The Purchaser must not:
  - (i) object, assist in or encourage any objection, to any application by or on behalf of the Vendor for a planning permit or amendments to planning permits for the Development Works;
  - (ii) oppose, or assist or encourage the opposition of, any amendment to the planning scheme proposed by or on behalf of the Vendor to enable the Development Works;
  - (iii) object, or assist in or encourage any objections to any planning permit application or oppose, or assist or encourage the opposition of any amendment to the planning scheme which relates to any proposed Development Works; or
  - (iv) make any requisitions or objections, claim compensation or refuse or delay payment of the Price or rescind or terminate this Contract on account of any amendment or proposed amendment to the Permit or the grant of any new planning permit in relation to the Property.

#### **4.4 Measurements**

The Vendor does not represent, and gives no warranty, that the area, measurements, boundaries, occupation or location of the Property are identical with those of the land described in the Plan of Subdivision.

#### **4.5 No Claims**

The Purchaser may not Object in respect of any matters referred to in this Special Condition 4.

### **5. Services**

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The Purchaser acknowledges that the Property is sold subject to the Services. To the extent permitted by law, the Purchaser may not make any Claim, nor require the Vendor to take or refrain from taking any action, in relation to:

- (a) the nature, location, availability or non-availability of any Services;
- (b) any defects in any Services;
- (c) there being or not being an easement or other right in respect of any Services;
- (d) any Service being a joint service with any other land or building;
- (e) any Service for any other land or building passing through or over the Property;
- (f) any Service installed in, on or under the Property not having been approved by an Authority; or
- (g) any sewer, vent, manhole or water or sewerage main or connection passing through, in or over the Property.

### **6. Goods**

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#### **6.1 Ownership**



Ownership of the Goods will not pass to the Purchaser until the Vendor receives full payment of the Price.

## **6.2 No Warranty**

The Vendor makes no representation or warranty as to the state of repair or condition or suitability of the Goods nor any compliance or non-compliance of the Goods with any Law.

## **7. Deposit**

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### **7.1 Amount**

The Deposit must not exceed 10 per cent of the Price.

### **7.2 Deposit Paid to Vendor's Legal Practitioner or Vendor's Estate Agent**

The Purchaser must pay the Deposit to the Vendor's Legal Practitioner or to the Vendor's Estate Agent within the time required by this Contract (time being of the essence) and it must be held by either of them on trust for the Purchaser until registration of the Plan of Subdivision.

### **7.3 Investment of Deposit**

- (a) The Vendor and the Purchaser authorise the Vendor's Legal Practitioner (but it is not obliged) to hold the Deposit in an interest bearing trust account with a bank nominated by the Vendor or the Vendor's Legal Practitioner.
- (b) Subject to Special Condition 7.3(c), any Deposit Interest will accrue for the benefit of the Vendor.
- (c) If the Purchaser lawfully rescinds this Contract the Purchaser is entitled to the Deposit Interest.
- (d) The Vendor and the Purchaser authorise and direct the Vendor's Legal Practitioner to pay the Deposit Interest to the party entitled to it at the Settlement Date or immediately following lawful rescission or termination of this Contract (whichever occurs first).
- (e) The Vendor and the Purchaser release the Vendor's Legal Practitioner from any claim concerning the investment of the Deposit.

### **7.4 Tax file number**

Within 7 days after the Day of Sale, the Purchaser must give the Purchaser's tax file number either to the Vendor's Legal Practitioner or to the Bank. If the Purchaser gives its tax file number to the Bank it must, as soon as it has done so, give the Vendor's Legal Practitioner verification of this from the Bank. The Purchaser must not make any claim on the Vendor's Legal Practitioner for any matter arising out this Special Condition 7.4.

### **7.5 Entitlement to interest**

The interest earned on the Deposit (if any) will belong to the Vendor unless the Purchaser becomes entitled to a refund of the Deposit. If this happens, then, subject to Special Condition 7.4, interest earned on the Deposit (if any) will belong to the Purchaser.

## **7.6 Stakeholder**

Upon registration of the Plan of Subdivision, the Deposit shall be held or invested by the Vendor's Legal Practitioner as stakeholder for the parties and shall thereafter be held or released pursuant to the provisions of the Sale of Land Act.

## **8. GST**

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### **8.1 Interpretation**

In this Special Condition 8:

- (a) words or expressions used in this Special Condition which have a particular meaning in the GST Law have the same meaning, unless the context otherwise requires;
- (b) any reference to GST payable by a party includes any corresponding GST payable by the representative member of any GST group of which that party is a member;
- (c) any reference to an input tax credit entitlement by a party includes any corresponding input tax credit entitlement by the representative member of any GST group of which that party is a member; and
- (d) if the GST Law treats part of a supply as a separate supply for the purpose of determining whether GST is payable on that part of the supply or for the purpose of determining the tax period to which that part of the supply is attributable, such part of the supply is to be treated as a separate supply.

### **8.2 Margin Scheme**

Provided that the Vendor is eligible, the parties agree that the GST payable on the taxable supply of the Property will be calculated by the Vendor using the Margin Scheme under Division 75 of the GST Law.

### **8.3 GST Exclusive**

Unless otherwise stated, any amount specified in this Contract as the consideration payable for any taxable supply does not include any GST payable in respect of that supply.

### **8.4 Liability to pay GST**

If the Vendor makes a taxable supply under this Contract, then the Purchaser must also pay, in addition to the consideration for that supply, the amount of GST payable in respect of the taxable supply as follows:

- (a) in relation to the supply of the Property, on the earlier of settlement and the date on which a taxable supply of the property occurs; and
- (b) in relation to any other supply, at the time the consideration for the supply is payable.

## 8.5 Reimbursement of Expenses

If a third party makes a taxable supply and this Contract requires a party to this Contract (**the payer**) to pay for, reimburse or contribute to (**pay**) any expense or liability incurred by the other party to that third party for that taxable supply, the amount the payer must pay will be the amount of the expense or liability plus the amount of any GST payable in respect thereof but reduced by the amount of any input tax credit to which the other party is entitled in respect of the expense or liability.

## 8.6 Non Merger

This clause does not merge on settlement and will continue to apply after expiration or termination of this Contract.

# 9. Duty

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## 9.1 No stamp duty warranty

The Purchaser acknowledges and agrees that:

- (a) no representation or warranty has been made to the Purchaser regarding the amount of stamp duty that will be payable; and
- (b) the Purchaser will not Object because of the amount of stamp duty payable on a transfer of the Land to the Purchaser or to any nominated or substituted purchaser.

## 9.2 Indemnity

The Purchaser is liable for and indemnifies the Vendor against any stamp duty that becomes payable in respect of a transfer of the Land to the Purchaser or to any nominated or substituted purchaser.

## 9.3 Stamp duty: Purchasers buying unequal interests

If the Purchaser comprises more than one person or entity:

- (a) it is each Purchaser's responsibility to ensure the Contract correctly records at the Day of Sale the proportions in which they are buying the Property;
- (b) if the proportions recorded in the transfer of land document differ from those recorded in the Contract, it is each Purchaser's responsibility to pay any additional duty or charge which may be assessed as a result of the variation; and
- (c) each Purchaser jointly and severally indemnifies the Vendor, the Vendor's Estate Agent and the Vendor's Legal Practitioner against any claims or demands which may be made against any or all of them in relation to any additional duty or charge payable as a result of the proportions in the transfer of land document differing from those in the Contract.

## 9.4 Non Merger

This Special Condition 9 will not merge on the transfer of the Land but will continue to have full force and effect.

# 10. Plan of Subdivision

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## 10.1 Conditional sale

This Contract is subject to the condition subsequent that the Plan of Subdivision is registered by the Registration Date. The period between the Day of Sale and the Registration Date is the specified period for the purposes of section 9AE of the Sale of Land Act.

## 10.2 Vendor's endeavours

The Vendor will, at its own cost, endeavour to have the Plan of Subdivision certified, endorsed with a statement of compliance, and registered under Part 4 of the Subdivision Act. The Vendor reserves the right to make any alteration to the Plan of Subdivision which may be required by the Registrar or otherwise necessary in the reasonable opinion of the Vendor.

## 10.3 Right to terminate

- (a) If the Plan of Subdivision is not registered by the Registrar by the Registration Date, the Purchaser may rescind this Contract by giving written notice to the Vendor before the Plan of Subdivision is registered and the Vendor may rescind this contract in accordance with this Special Condition.
- (b) Before rescinding this Contract under 10.3(a), the Vendor must give the Purchaser 28 days' written notice ('**notice period**'), setting out:
  - (i) the reason why the Vendor is proposing to rescind this Contract;
  - (ii) the reason for the delay in the registration of the Plan of Subdivision; and
  - (iii) that the Purchaser is not obliged to consent to the proposed rescission.

## 10.4 Deemed Consent

For the purpose of Special Condition 10.3, the Purchaser will be deemed to have consented to the proposed rescission if no written objection is received by the Vendor on or before the end of the notice period.

## 10.5 Consequences of termination

- (a) If this Contract is terminated pursuant to Special Condition 10.3, the Deposit and any Deposit Interest will be refunded to the Purchaser.
- (b) The Purchaser must not claim any compensation if this Contract is terminated pursuant to Special Condition 10.3.
- (c) The right to a refund of the Deposit and any Deposit Interest shall be the sole right of the Purchaser in connection with such termination.

## 10.6 Section 10F of the Sale of Land Act

- (a) This Special Condition 10.6 only applies if section 10F of the Sale of Land Act is in effect on or before the Day of Sale.
- (b) For the purpose of section 10F of the Sale of Land Act, if the Vendor wishes to rescind this Contract under Special Condition 10.3:
  - (i) the Vendor is required to give notice of a proposed rescission of this Contract under Special Condition 10.3; and
  - (ii) the Purchaser has the right to consent to the proposed rescission of this Contract but is not obliged to consent; and
  - (iii) the Vendor has the right to apply to the Supreme Court for an order permitting the Vendor to rescind this Contract; and
  - (iv) the Supreme Court may make an order permitting the rescission of this Contract if satisfied that making the order is just and equitable in all of the circumstances.

# 11. Amendments to Plan of Subdivision and Engineering Drawings

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### 11.1 **Vendor may amend Plan of Subdivision**

Subject to section 9AC of the Sale of Land Act, the Vendor may make such amendments to the Plan of Subdivision that:

- (a) may be necessary to:
  - (i) accord with surveying practice; or
  - (ii) alter the Plan of Subdivision so that the land in the Plan of Subdivision is developed as a Staged Development; or
  - (iii) comply with any requirement, recommendation or requisition of an Authority or the Registrar; or
- (b) in the opinion of the Vendor (acting reasonably) are required or necessary for the purposes of the Development, which may include:
  - (i) alterations required for the adequate servicing of the Site or any part of it;
  - (ii) creating additional lots; and
  - (iii) altering or varying the position or location of any other Lot.

### 11.2 **Vendor to notify Purchaser of amendments**

The Vendor will advise the Purchaser in writing of any proposed amendment to the Plan of Subdivision required by the Registrar or requested by the Vendor within 14 days after the receipt of the requirement of the Registrar or the making of the request by the Vendor (as the case may be).

### 11.3 **Acceptance of Plan of Subdivision as registered**

The Purchaser agrees to accept the Property described on the Plan of Subdivision as ultimately registered notwithstanding that there may be minor variations or discrepancies between the Lot or Lots hereby sold and the Lot or Lots on the registered Plan of Subdivision.

### 11.4 **Authorised amendments**

Without limiting any other provision in this Special Condition 10, the Purchaser acknowledges and agrees that:

- (a) the Vendor may create additional Lots by further subdividing any Lots in any stage of the Plan of Subdivision;
- (b) the Vendor may amalgamate any Lot with another Lot; and
- (c) if on the Day of Sale the Land is described as more than one Lot, the Vendor may consolidate those lots into one or more titles as the Vendor sees fit (but is not obliged to do so).

### 11.5 **No Objection**

The Purchaser agrees not to Object because of:

- (a) any amendment or alteration to the Plan of Subdivision which does not materially affect the Land (as determined by the Law Institute Property Law Dispute Resolution Committee of Victoria); or
- (b) the creation of any additional Lots; or
- (c) the consolidation of any Lot with another Lot or Lots; or
- (d) the subdivision of any Lots shown on the Plan of Subdivision to create additional or less Lots;

- (e) any alleged misdescription of the Land or deficiency in its area or measurements;
- (f) the creation of any:
  - (i) public walkway or footpath;
  - (ii) easement; or
  - (iii) encumbrance; or

- (g) any renumbering of stages or Lots on the Plan of Subdivision,

nor will the Purchaser call upon the Vendor to amend title or pay all or any part of the cost of doing so.

#### **11.6 Changes to area**

The Purchaser agrees that (without limitation) an amendment to the Plan of Subdivision which results in a change to the area of the Property of less than 5% is a minor variation or discrepancy and does not materially affect the Land.

#### **11.7 Alterations to Engineering Drawings**

- (a) The Vendor can, without being required to give any notice to the Purchaser, make amendments to the Engineering Drawings:
  - (i) to meet, or as a consequence of meeting, any requirement, recommendation or requisition of any Authority; or
  - (ii) which the Vendor determines, in its absolute discretion, are required for the adequate servicing of the Site or any part of it; or
  - (iii) any minor amendment or alteration which does not materially affect the Land, including, without limitation, a change to:
    - (A) the linear dimensions for bearing and distances of up to 2%;
    - (B) the height of surface contours or fill levels up to 500mm; or
    - (C) the height and location of retaining walls up to 500mm.
- (b) The Purchaser cannot Object in respect of any amendments to the Engineering Drawings made under this Special Condition 11.7.

#### **11.8 Signing of documents**

If the Vendor asks, the Purchaser must promptly sign any document required, in order to give effect to any amendment or alteration to the Plan of Subdivision or Engineering Drawings, which does not materially affect the Land.

### **12. Encumbrances**

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#### **12.1 Purchaser buys subject to Encumbrances**

The Purchaser:

- (a) admits that the Property is sold subject to the provisions of the Subdivision Act;
- (b) buys the Property subject to:
  - (i) the Encumbrances;

- (ii) all restrictions on its use or development that are imposed or prescribed by the Laws that apply to it;
  - (iii) all easements and encumbrances affecting the Site including those created or implied by the *Subdivision Act*; and
  - (iv) the rights of the Vendor under Special Condition 12.2; and
- (c) agrees that the matters specified in Special Condition 12.1(b) do not constitute a defect in the Vendor's title to the Property.

The Purchaser must not Object in relation to any matter referred to in this Special Condition 12.1.

## 12.2 Further encumbrances

The Purchaser acknowledges that the Vendor:

- (a) may create or grant easements, covenants, restrictions and other rights and obligations affecting the whole or any part of the Site;
- (b) may enter into agreements under section 173 of the *Planning and Environment Act 1987* (Vic);
- (c) may grant leases or other occupation rights to third parties over the Site (excluding the Property) including, without limitation, statutory authorities and suppliers of utilities;
- (d) is entitled to require that:
  - (i) the instrument of transfer incorporate a covenant; or
  - (ii) the Purchaser create an easement or other restriction that will burden the Land,
 if any one or more of these are:
  - (iii) required by any Authority;
  - (iv) required for the certification or registration of the Plan of Subdivision; or
  - (v) in the opinion of the Vendor (acting reasonably), necessary or desirable for the development, use, occupation, proper management or adequate servicing of the Site or of any part of it.

## 12.3 Sale of Land Act

Section 10(1) of the Sale of Land Act does not apply to this Contract in respect of the final location of an easement shown on the certified Plan of Subdivision.

# 13. Disclosure of Surface Level Works

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## 13.1 Disclosure

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

- (a) have been carried out on that land after the certification of the Plan of Subdivision and before the date of this Contract; or
  - (b) are at the date of this Contract being carried out or are proposed to be carried out on that land,
- are set out in the Plan of Surface Level Works.

### 13.2 Existing Fill

The Purchaser:

- (a) acknowledges that the Property may have been filled, raised, levelled, compacted or cut prior to or after the Vendor becoming registered proprietor of that part of the Site; and
- (b) may not Object in respect of anything referred to in Special Condition 13.2(a).

### 13.3 Subdivisional works

- (a) The Purchaser acknowledges that the Property has been, or is, or will be, in the course of subdivisional works and may be filled, raised, levelled, compacted or cut as disclosed in the Plan of Surface Level Works ("**subdivisional works**").
- (b) The Purchaser acknowledges and agrees that the plans disclosing the subdivisional works are design plans only and are not as built plans and that such plans and subdivisional works may be changed before settlement in accordance with Special Condition 13.4.

### 13.4 Works

At the Day of Sale:

- (a) if no works affecting the natural surface level of the Lot or any land abutting the Lot which is in the Plan of Subdivision are proposed to be carried out, then the Vendor has not given disclosure pursuant to section 9AB(1) of the Sale of Land Act;
- (b) if works affecting the natural surface level of the Lot or any land abutting the Lot which is in the Plan of Subdivision are proposed to be carried out, then the Vendor has given disclosure pursuant to section 9AB(1) of the Sale of Land Act; and
- (c) if such works are proposed after the Day of Sale or if any change occurs to any proposed works, the Vendor will provide disclosure in accordance with section 9AB(2) of the Sale of Land Act as soon as practicable after the details required for disclosure come to the knowledge of the Vendor.

### 13.5 No Objection

Subject to the Sale of Land Act, the Purchaser may not Object in respect of any works affecting the natural surface level of the Property or any land abutting it or any variations or alterations to those works.

### 13.6 Fill levels

The Purchaser acknowledges and agrees that:

- (a) the Vendor makes no representation or warranty regarding the amount of any:
  - (i) topsoil that has been, or may be, removed from the Property; or
  - (ii) filling and regrading that may be required;
- (b) the Purchaser has relied upon its own searches and enquiries regarding what works to the Land (including the natural surface level of the Land) may be required to permit or allow any construction that the Purchaser does, or proposes to, undertake on the Property; and
- (c) the Purchaser may not Object in respect of any works that the Purchaser may be required to undertake to or on the Land.

### 13.7 Timing of subdivisional works

The Vendor and its employees, agents and consultants may commence or complete the subdivisional works before and/or after settlement of this Contract.



### **13.8 Indemnity**

The Purchaser is liable for and indemnifies the Vendor against any Claim made by any person in respect of subdivisional works.

## **14. Caveat**

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### **14.1 No caveat to be lodged**

The Purchaser must not lodge nor cause or allow any person claiming through it or acting on its behalf to lodge any caveat over any certificate of title relating to the Site, the Development, the Land or the Property including over any certificate of title that issues upon registration of the Plan of Subdivision by the Registrar.

### **14.2 Purchaser's acknowledgement**

The Purchaser acknowledges that breach of Special Condition 14.1:

- (a) may delay or prevent registration of the Plan of Subdivision by the Registrar;
- (b) may delay or prevent settlement by the Vendor of sales of all or some of the Lots; and
- (c) to the extent that it delays any such settlement, entitles the Vendor to recover from the Purchaser interest, holding costs and other charges including under any other contract of sale for any Lot or any agreement relating to financing of the Development.

### **14.3 Appointment as attorney**

The Purchaser irrevocably appoints the Vendor and each director, officer and manager of the Vendor as its attorney to sign and lodge a withdrawal of any caveat lodged by the Purchaser in breach of Special Condition 14.1.

## **15. Development Works**

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### **15.1 Undertaking of Development Works**

The Purchaser acknowledges and agrees that to facilitate the progressive development of the Development, the Vendor may undertake further Development Works on other lots after settlement and, notwithstanding that the works in any part of the Development or on lots to be built subsequently may block out or impede access to light and air available to the Lot currently or at Settlement or any other time, the Vendor will be entitled to carry out those works.

### **15.2 Acknowledgement**

The Purchaser acknowledges and agrees that:

- (a) at the Settlement Date, the construction of the Development Works may not be wholly completed;
- (b) the Vendor and any contractor contracted for works on any part of the Site may enter and carry out other Development Works on other lots on the Plan of Subdivision and for that purpose may bring upon the Site any machinery, tools, equipment, vehicles and workmen to facilitate the carrying out of the Development Works;
- (c) the Vendor may continue to cause or permit such works to be carried out after the Settlement Date;
- (d) any contractor working on the Site shall be entitled to full, free and uninterrupted access over and to any lot to carry out and undertake the Development Works and that the Purchaser shall not make any claim or objection to the Vendor in relation to such access; and
- (e) the Purchaser is not entitled to Object in respect of any Development Works which the Vendor is permitted by an Authority to complete after registration of the Plan of Subdivision.

### 15.3 No proceedings

As long as the Vendor takes all reasonable steps to minimise inconvenience to the Purchaser in completing the Development Works, the Purchaser will take no objection to the Development Works or to the dust and noise and other discomforts which might arise therefrom and will not institute or prosecute any action or proceedings for injunctions or damages arising out of or consequent upon the Development Works or to the dust and noise and other discomforts which might arise therefrom.

### 15.4 No responsibility

The Purchaser acknowledges and agrees that the Vendor is not responsible for any contractor carrying out works under contracts with the purchasers of any other lots forming part of the Site.

### 15.5 No Objection

Without limiting any other provision of this Contract, the Purchaser may not Object by reason of:

- (a) the operations associated with any construction, completion, improvement or extension of any facilities in the Development and the noise and other discomforts which might arise therefrom;
- (b) during construction of the Development, the use by the Vendor, its employees, agents, contractors, consultants and others of the other lots in the Site for the purpose of:
  - (i) gaining access or egress to any part of the Site or any adjoining land whether by foot or in vehicles and heavy machinery; or
  - (ii) for the storage of building materials, vehicles, equipment or fill associated with the construction of the Development,

and will not institute or prosecute any action or proceedings for an injunction or damages arising out of or consequent upon such further Development Works;

- (c) any easements restrictions or other encumbrances created or implied by the Subdivision Act or created or executed by the Vendor;
- (d) construction of any services on or under the Site which may not be protected by easements;
- (e) any alteration to the area or dimensions of the Site;
- (f) non-completion of the facilities to be constructed on the Site;
- (g) the siting or location of service pits, service markers, man-holes, telephone or electricity poles, or electricity substations on the Site;
- (h) any boundary on the Site not being fenced or any boundary fence or wall not being on or within the boundary; and
- (i) the methods used by the Vendor in its efforts to sell lots in the Development, including but without limiting the generality of the foregoing use of signs and the maintenance of display units provided that in such sales efforts the Vendor shall display at all times reasonable consideration for the comfort and convenience of the Purchaser.

## 16. Planning and Building Controls

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### 16.1 Disclosure

The Purchaser acknowledges and agrees that:

- (a) the Planning and Building Controls as at the Day of Sale are contained in the Vendor's Statement;
- (b) the Purchaser read the Planning and Building Controls prior to signing this Contract; and

- (c) the Purchaser had an opportunity to receive advice regarding the Planning and Building Controls prior to signing this Contract.

#### **16.2 Restrictions**

- (a) The Purchaser covenants and agrees with the Vendor to be bound by, and comply with, the Restrictions.
- (b) The Purchaser must not do anything or allow anything to be done on the Property before registration of the Plan of Subdivision which would not be allowed by the Restrictions.
- (c) If the Purchaser breaches its obligations under Special Condition 16.2(a), the Purchaser grants the Vendor an irrevocable licence to enter the Property and do whatever is required to rectify the Purchaser's breach, and indemnifies the Vendor against all costs and expenses incurred by the Vendor in respect of rectifying such breach.
- (d) The Purchaser acknowledges that where permitted by law to do so, the Vendor can, at its absolute discretion, consent to variation or waiver of the Restrictions for any particular lot on the Plan of Subdivision and that the Purchaser may not Object because of that consent.

#### **16.3 Alternative Controls**

- (a) The Purchaser acknowledges and agrees that the Vendor can, at any time prior to Settlement, substitute or introduce alternative or additional forms of planning and building controls (including but not limited to design guidelines, memoranda of common provisions and restrictive covenants) to implement and enforce additional controls which are consistent with the Planning and Building Controls or required by the Planning Documents.
- (b) The Purchaser may not Object because of any such additional controls.

#### **16.4 Variation and Waiver**

- (a) The Purchaser acknowledges that where permitted by law to do so, the Vendor can, at its absolute discretion, consent to variation of, or waive, any of the Planning and Building Controls for any particular lot on the Plan of Subdivision.
- (b) The Purchaser may not Object because of any such consent or waiver.

#### **16.5 Purchaser Covenants**

The Purchaser:

- (a) acknowledges that the Vendor, being responsible for the Development, has an interest in ensuring the overall quality of the subdivision and the Development;
- (b) covenants with the Vendor to fully observe and comply with the Planning and Building Controls and agrees that the Planning and Building Controls:
  - (i) will not merge on completion of this Contract; and
  - (ii) will bind the Purchaser, their successors-in-title, their heirs, executors, administrators and assigns;
- (c) must comply with, and do all reasonable things (at the expense of the Purchaser) to give effect to the Planning and Building Controls and without limitation, if the Purchaser sells or transfers the Property, the Purchaser must ensure that any contract for sale by the Purchaser as vendor includes a Special Condition in the form of this Special Condition 16; and
- (d) covenants with the Vendor to complete Construction within 12 months of commencement of Construction.

#### **16.6 Conflict in Planning and Building Controls**

In the event of any conflict between the Planning and Building Controls, then the same shall be ranked in priority as follows:

- (a) first, the Restrictions; and
- (b) second, these Special Conditions.

#### 16.7 **MCP**

- (a) The Purchaser acknowledges that:
  - (i) the MCP will be referenced as part of the Restrictions and registered as an encumbrance on the title to the Property;
  - (ii) the Purchaser will be bound by the terms and conditions of the MCP; and
  - (iii) the Purchaser must not Object or require the Vendor to take any action in respect of the MCP.

#### 16.8 **Design Guidelines**

- (a) The Purchaser acknowledges and agrees that it has read and understood the Design Guidelines and it will comply with the Design Guidelines at all times.
- (b) The Purchaser must:
  - (i) obtain approval from the Vendor for the Purchaser's Construction Plans before lodging an application for Construction Permits with the local government or commencing Construction; and
  - (ii) comply with:
    - (A) the Design Guidelines; and
    - (B) any conditions of consent or approval given by the Vendor under the Design Guidelines.
- (c) The Purchaser further covenants with the Vendor that:
  - (i) it is an essential term of the Contract that this Special Condition and the Design Guidelines are included in any contract of sale relating to the future sale or transfer of the Property by the Purchaser; and
  - (ii) it must procure a deed executed in a form satisfactory to the Vendor, with the Vendor as a party to the deed, from any purchaser and/or transferee (**New Purchaser**) containing agreement by the New Purchaser to observe and comply with the covenants in this Special Condition and the Design Guidelines.
- (d) If the Purchaser fails to comply with this Special Condition or the Design Guidelines, the Vendor is entitled in addition to any other rights:
  - (i) to seek an injunction to prevent the Purchaser, its agents, successors or assigns from continuing with the Construction of the Residence;
  - (ii) to remove any non-complying structures or works at the Purchaser's cost; and
  - (iii) to seek damages for breach of this Special Condition or the Design Guidelines.
- (e) The Purchaser indemnifies the Vendor for any costs, expenses, damages or other liabilities incurred by the Vendor as a result or in connection with a breach by the Purchaser of this Special Condition or the Design Guidelines.

- (f) The Purchaser acknowledges that the Vendor may:
  - (i) amend, modify or vary the Design Guidelines (or cause the Design Guidelines to be amended, modified or varied) in its absolute discretion. The Purchaser is not entitled to Object by any reason of any such amendment, modification or variation;
  - (ii) approve any application in relation to another lot that does not comply with the Design Guidelines (or cause such approval to occur). The Purchaser is not entitled to Object by reason of any such approval in relation to another lot.

#### 16.9 **Rescode**

- (a) The Purchaser acknowledges that:
  - (i) ResCode legislation sets standards for building heights, setbacks, access to daylight, overlooking and overshadowing; and
  - (ii) ResCode may apply to development on or in respect of the Property.
- (b) The Purchaser may not Object in respect of any Rescode requirements.

#### 16.10 **Bushfire Attack Level**

Without limiting any other Special Condition in this Contract, the Purchaser acknowledges and agrees:

- (a) the Property may be, or is, in a bushfire prone area and that the Purchaser may be required to obtain a Bushfire Attack Level (**BAL**) rating assessment prior to undertaking any works, including but not limited to construction and renovation works, on the Property;
- (b) unless otherwise stated in the Vendor's Statement, the Vendor gives no warranty and makes no representation as to whether the Property is in a bushfire prone area or as to its BAL rating and the Purchaser must satisfy itself in this regard;
- (c) when undertaking works on the Property, the Purchaser may have to comply with building regulations and standards (including Australian Standard 3959-2009) that regulate construction and renovation works on land in a bushfire prone area;
- (d) that, unless otherwise stated in the Vendor's Statement, no information, representation or warranty was made by the Vendor, the Vendor's Estate Agent (if any) or any other party as to whether the Property is in a bushfire prone area or as to its BAL rating and that:
  - (i) the Purchaser has made or procured its own inspections, investigations, examinations and enquiries in respect of all aspects of whether the Property is in a bushfire prone area and its BAL rating; and
  - (ii) the Purchaser has purchased the Property as a result of the Purchaser's own inspection, investigation, examination or enquiries and in its present condition subject to any requirements if the Property is in a bushfire prone area and its BAL rating;
- (e) that it must not Object in respect of any matter relating to whether the Property is in a bushfire prone area or its BAL rating.

#### 16.11 **Vendor Access**

The Vendor has the right to access the Property after Settlement on provision of prior written notice to ensure compliance with this Special Condition 16.

#### 16.12 **Construction**

- (a) The Purchaser must not alter, or cause to be altered any retaining walls or lot drainage on the Property, unless:

- (i) the Purchaser obtains:
    - (A) all necessary permits, consents or approvals required from any Authority; and
    - (B) approval in writing from a qualified engineer; and
  - (ii) the structural integrity of any retaining wall(s) on the Property is not affected; and
  - (iii) the alterations do not affect any part of the Site (including the lots adjoining the Property) and any structures (including, without limitation, retaining walls) constructed or being constructed on any part of the Site.
- (b) The Purchaser acknowledges that any retaining walls constructed on the Property, prior to Settlement, form part of the Property and must be maintained by the Purchaser.

#### **16.13 No Merger**

This Special Condition 16 does not merge on Settlement.

### **17. Environment**

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#### **17.1 Acknowledgment**

The Purchaser acknowledges that:

- (a) the Property may be contaminated; and
- (b) Contaminants may have emanated from the Property in the past.

#### **17.2 Release and indemnity**

From the date of actual settlement, the Purchaser:

- (a) will be responsible at its own expense for complying with all Laws, including without limitation, all directions and orders made and policies declared, under Laws, in relation to;
- (b) releases the Vendor and the Vendor's employees, agents and officers from all liability in relation to; and
- (c) indemnifies the Vendor and the Vendor's employees, agents and officers, and will keep them indemnified, against all liability, claims and proceedings in respect of any loss, damage or expense arising from or in any way connected with,

any Contaminant in, on, under or emanating from, or which may have emanated from, the Property, regardless of when the Contaminant may have come onto the Property or emanated from it.

The Vendor need not incur any expense or make any payment to enforce the indemnity in Special Condition 17.2(c).

#### **17.3 No objection**

The Purchaser may not Object or require the Vendor to take any action on account of any Contaminants in, on, under or emanating from the Property, any part of the Site or any adjoining land.

### **18. Fences**

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#### **18.1 Definitions**

In this Special Condition 18, the words "Fencing Works" means the fencing works to be carried out in accordance with Special Condition 16.7.

## 18.2 Purchaser acknowledgement

The Purchaser acknowledges and agrees that:

- (a) the Purchaser buys the Property subject to this Special Condition 18 and that the Purchaser will not make any requisition, objection or exercise the Purchaser's rights in respect of any matter referred to in this Special Condition 18;
- (b) the Vendor may undertake the Fencing Works on the Property prior to settlement;
- (c) if the Vendor undertakes the Fencing Works, the Purchaser must reimburse the Vendor for fifty per cent of the costs of the Fencing Works by way of an adjustment in the Vendor's favour at settlement;
- (d) if, before settlement, the Vendor receives one or more fencing notices from the owners of the land adjoining the Property then the Purchaser will be liable for the full cost set out in each of the fencing notices; and
- (e) while the Vendor is the owner of any land adjoining the Property, the Vendor is not required to contribute towards the cost of any dividing fence, as the Vendor's share of the cost of any such dividing fence is included in the Price.

## 18.3 Purchaser's obligations

If the Vendor does not complete the Fencing Works prior to settlement:

- (a) the Purchaser must undertake the Fencing Works on the Property;
- (b) the Purchaser indemnifies the Vendor from any Claims resulting from the Fencing Works; and
- (c) except as otherwise provided in this Contract, the Purchaser agrees with the Vendor that the Purchaser will not make any Claim against the Vendor for any contribution to the cost of undertaking the Fencing Works or any other types of fencing on any other part of the Property or the Development Land pursuant to the provisions of the *Fences Act 1968* (Vic), including any sums for liabilities which the Vendor may (whether or not it was aware of any) have incurred with any adjoining owners.

## 18.4 Fencing

- (a) The Purchaser must not Object or require the Vendor to take any action if:
  - (i) one or more of the boundaries of the Property is not fenced; or
  - (ii) any boundary fence or wall is not on or within the boundaries of the Property.
- (b) The Purchaser acknowledges that Special Condition 16.7 applies in respect of any fence the Purchaser proposes to erect on the Property, and the Purchaser must obtain approval from the Vendor prior to erection of any fence, in accordance with Special Condition 16.7.

## 18.5 Payment

Any amounts payable by the Purchaser under this Special Condition may be payable to the Vendor under Special Condition 22 by way of an adjustment to the Balance.

# 19. Vendor's Rights

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## 19.1 Completion of the Development

The Vendor may, for the purposes of completion of the Development, after settlement:

- (a) carry out works (including demolition, alterations and repairs) on the Site;

- (b) use, operate, install, repair, maintain, remove, replace and temporarily interrupt services; and
- (c) appoint agents or others to exercise any of the Vendor's rights,

but in doing so, the Vendor must take reasonable steps to minimise interference with the Purchaser's enjoyment and use of the Property.

#### **19.2 Vendor may conduct activities**

The Purchaser acknowledges that both before and after the date of actual settlement, the Vendor and the Vendor's employees and agents may:

- (a) conduct selling activities from the Site;
- (b) place and maintain on and outside the Site (excluding the Property) signs in connection with those selling activities; and
- (c) place and maintain on and about the Site an office, suite or facility or both for representatives of the Vendor and their representatives.

#### **19.3 No Objection**

The Purchaser may not Object because of anything contemplated by Special Conditions 19.1 or 19.2.

### **20. Dealings**

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#### **20.1 No resale**

- (a) The Purchaser must not prior to settlement sell, agree to sell or agree to transfer the Land without the prior written consent of the Vendor (which may be given or withheld at the Vendor's absolute discretion) until every lot on the Plan of Subdivision has been sold by the Vendor.
- (b) In addition to Special Condition 20.1(a), the Purchaser must not, prior to constructing any house or dwelling on the Land in accordance with the terms of this Contract, sell, agree to sell or agree to transfer the Land without the prior written consent of the Vendor (which may be given or withheld at the Vendor's absolute discretion).

#### **20.2 Authorised sale or transfer**

Where the Vendor consents to sale or transfer or where consent is not required in accordance with Special Condition 20.1, the Purchaser may and only with the prior written consent of the Vendor, sell or transfer the Land if:

- (a) the Purchaser has complied with all of the Purchaser's obligations under this Contract to the Vendor's satisfaction (acting reasonably); or
- (b) the Purchaser procures the transferee of the Land to sign a deed on terms acceptable to the Vendor pursuant to which the transferee agrees to comply with all of the obligations in this Contract which remain to be performed at the date of the proposed transfer of the Land.

#### **20.3 No release**

The Purchaser will not be released from its obligations under this Contract upon any sale or transfer of the Land.

#### **20.4 Dealings by the Vendor**

- (a) The Purchaser acknowledges and agrees that the Vendor may assign, transfer or otherwise dispose of its rights under this Contract to a third party.



- (b) The Vendor will notify the Purchaser if it deals with its rights under this Contract pursuant to Special Condition 20.4.
- (c) The Purchaser agrees not to Object if the Vendor deals with its rights under this Contract.
- (d) If the Vendor does any of the things contemplated by this Special Condition, the Purchaser agrees to enter into a deed or agreement as may be required by the Vendor to give effect to such actions and to acknowledge that the Purchaser will comply with its obligations under this Contract in favour of the party to whom this Contract has been assigned, transferred or novated.

#### 20.5 **Mortgages and charges**

The Vendor may grant mortgages or charges over the Site or the Land at any time up until settlement.

#### 20.6 **Essential term**

- (a) This Special Condition 20 is an essential term of this Contract and does not merge on settlement. The Purchaser must ensure that its related bodies corporate, employees, agents, representatives, nominees, assigns and successors in title comply with this Special Condition 20.
- (b) The Purchaser acknowledges that damages of themselves will not be sufficient remedy for breach by the Purchaser of this Special Condition 20 because the Vendor must be able to specifically enforce the Purchaser's obligations under this Special Condition 20.

### 21. **Settlement**

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#### 21.1 **Settlement**

Settlement must take place before 3pm on the Settlement Date. If Settlement takes place after 3pm on the Settlement Date, the Purchaser will be deemed to be in default of the Balance until the next Business Day and the Vendor will be entitled to interest on the Balance in accordance with this Contract.

#### 21.2 **Charges**

- (a) General Condition 7 does not apply to this Contract.
- (b) The Vendor is not required to provide at any time any:
  - (i) release from any secured party releasing a security interest in respect of the Property; or
  - (ii) 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 the Settlement Date; or
  - (iii) a written approval or correction in accordance with section 275(1)(c) of the *Personal Property Securities Act 2009* (Cth) indicating that, on the Settlement Date, the personal property included in the Contract is not or will not be property in which the relevant security interest is granted.
- (c) The Purchaser may not Object, or require the Vendor to take any action, in respect of any charge or security interest registered under the *Personal Property Securities Act 2009* (Cth).

### 22. **Adjustment of Outgoings**

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#### 22.1 **No application**

General Condition 15 does not apply to this Contract.

#### 22.2 **Apportionment**

All Outgoings in respect of the Property shall be apportioned between the Vendor and Purchaser as from the Settlement Date.

### 22.3 Bulk assessment

The Property is part of land which is part of a subdivision for which outgoings are nominally assessed under a bulk assessment. If there is no separate assessment issued for Outgoings for the Property at the Settlement Date the Outgoings attributable to the Property for apportionment purposes shall be that proportion of the total assessment which the area of the Lot bears to the total area of all lots on the Plan of Subdivision (or of all lots subject to the assessment, as the case may be).

### 22.4 Separate assessments

If a separate assessment for the same period issues to the Purchaser or the Vendor after the Settlement Date any further adjustment necessary shall be based on the amount payable after deducting any discount for early payment and after allowance being made for any refund made or to be made by the relevant Authority. Any such readjustment must be made within 12 months after the Settlement date and be accompanied by a copy of the original notice.

### 22.5 Payment

The Vendor will pay the Outgoings when they are due to be paid and the Purchaser acknowledges and agrees that it cannot require them to be paid at or before Settlement under any circumstances.

### 22.6 Apportionment as if paid by the Vendor

Despite Special Condition 22.5, the Outgoings must be apportioned as if they had been paid by the Vendor.

### 22.7 Land tax

- (a) Despite any other provision in this Contract, the parties agree that:
  - (i) for the adjustment of land tax the relevant assessment for land tax is that effected on 31 December of the year preceding the Settlement Date which includes all the titles that comprise the Development Land (**Land Tax Assessment**); and
  - (ii) land tax will be adjusted:
    - (A) based on the proportional land tax stated in the Land Tax Assessment;
    - (B) between the Vendor and the Purchaser on the basis that the amount to be apportioned between them is the proportion of the proportional land tax equal to the proportion which the lot liability of the Property bears to the total liability of all of the lots on the Plan of Subdivision; and
    - (C) from the Settlement Date.
- (b) Despite Special Condition 22.7(a), payment of the Price will not be delayed and no money will be withheld by the Purchaser from the Vendor out of the Price on account of any land tax which may be or may subsequently become charged on the Land.
- (c) The Vendor acknowledges that:
  - (i) it is liable and responsible for payment of land tax chargeable on the Land until the date upon which the Purchaser becomes entitled to possession; and
  - (ii) subject to Special Condition 22.7(a), it must pay any such land tax for which it receives an assessment notice within the time limit specified in the assessment notice.

## 23. Nomination

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### 23.1 **Application**

Any common law right to effect a nomination is expressly excluded from this Contract.

### 23.2 **Interpretation**

In this Special Condition 23:

- (a) **Associated Person** has the same meaning as in Section 3 of the *Duties Act 2000*; and
- (b) **Nominee** means the substitute or additional purchaser, together with the Purchaser in the case of nomination of an additional purchaser.

### 23.3 **Right of Nomination**

- (a) Subject to Special Condition 23.3(b), the Purchaser may, with the prior written consent of the Vendor, nominate one Nominee for the Property by giving to the Vendor, not less than 14 Business Days and not more than 30 Business Days before the Due Date:
  - (i) a signed notice nominating the Nominee;
  - (ii) if the Nominee is or includes a company (other than a company listed on an Australian Stock Exchange) the company shall, simultaneously upon execution of the nomination notice, procure the execution by all of its directors of the Guarantee and Indemnity and provide the fully executed Guarantee and Indemnity to the Vendor; and
  - (iii) payment to the Vendor's solicitors by the Nominee of \$350.00 plus GST, being the Vendor's legal costs of dealing with the Nominee.
- (b) The Purchaser is not entitled to nominate a Nominee under this Special Condition 23 if:
  - (i) at the time it purports to nominate a Nominee, the Purchaser is in default under the Contract; or
  - (ii) the Nominee is not an Associated Person of the Purchaser.

### 23.4 **Purchaser liability**

- (a) The Purchaser remains personally liable for the due performance of all of the Purchaser's obligations and liabilities under or arising out of the Contract notwithstanding a nomination under this Special Condition 23.
- (b) Wherever this Contract prohibits the Purchaser from doing or obliges the Purchaser to do any matter or thing, the Purchaser will be deemed to have done or failed to have done that matter or thing if it is done or not done by the Nominee.
- (c) Except as expressly permitted by this Special Condition 23 the Purchaser must not, without the prior written consent of the Vendor, assign, transfer or otherwise deal with its interest in, or any rights or obligations under or arising out of, the Contract.

### 23.5 **Indemnity**

The Purchaser:

- (a) must fully and truthfully disclose (and must procure that the Nominee fully and truthfully discloses) a nomination under this Special Condition 23 to the State Revenue Office of Victoria; and
- (b) indemnifies the Vendor from and against any Claim or loss, damage or expense arising out of or in connection with a nomination under this Special Condition 23.

### 23.6 **Foreign Purchaser**

If the Nominee is or includes a person required to give notice of its intention to purchase the Property under the *Foreign Acquisitions and Takeovers Act 1975* (Cth), the Purchaser warrants that the Nominee has obtained any necessary consent or approval from the FIRB and any other relevant Authority to the purchase of the Property by the Nominee on the terms and conditions set out in this Contract.

## **24. Substitute Vendor**

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24.1 The Purchaser acknowledges that:

- (a) the Vendor may enter into a contract with a substitute vendor (**Substitute Vendor**) whereby the Vendor agrees to sell, transfer or dispose of its interest in the Development Land to the Substitute Vendor;
- (b) the Vendor has the right to assign its interest in this Contract to the Substitute Vendor and the Substitute Vendor is entitled to enforce all of the Vendor's rights under this Contract provided that the Substitute Vendor and the Vendor give a written notice to the Purchaser to that effect; and
- (c) the Purchaser must, if required by the Vendor or the Substitute Vendor, enter into a deed releasing the Vendor from its obligations and/or confirming its obligations to the Substitute Vendor under this Contract.

## **25. Guarantee and Indemnity**

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If the Purchaser is or includes a corporation (other than a corporation whose shares are listed on the Australian Securities Exchange), the Purchaser must deliver to the Vendor a Guarantee and Indemnity on the Day of Sale:

- (a) duly completed and executed by every director of the Purchaser; or
- (b) if the Purchaser is a wholly owned subsidiary of a corporation whose shares are listed on the Australian Securities Exchange, duly completed and executed by that listed corporation.

## **26. FIRB**

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### **26.1 Warranty**

The Purchaser warrants that one of the following apply:

- (a) the Purchaser:
  - (i) is not required to provide notice of the entering into of this Contract or the purchase of the Property to the FIRB or any other relevant Authority; and
  - (ii) does not require any consent or approval under the *Foreign Acquisitions and Takeovers Act 1975* (Cth) or in compliance with the foreign investment policy of the Commonwealth of Australia to enter into this Contract; or
- (b) the Purchaser has obtained any necessary consent or approval from the FIRB and any other relevant Authority to the purchase of the Property by the Purchaser on the terms and conditions set out in this Contract.

### **26.2 Indemnity**

If the warranty in Special Condition 26.1 is untrue in any respect the Purchaser must indemnify the Vendor against any claim, liability, loss, damage, cost or expense arising (directly or indirectly) from or incurred by the Vendor in having relied on this warranty when entering into this Contract.

### **26.3 Non merger**

This Special Condition 26 will not merge on the transfer of the Land but will continue to have full force and effect.

## **27. Default**

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### **27.1 Specific breaches**

If:

- (a) the Purchaser breaches:
  - (i) Special Condition 7.2; or
  - (ii) Special Condition 25; or
- (b) an Insolvency Event occurs,

General Condition 27 will not apply and the Vendor may terminate this Contract by notice in writing to the Purchaser at any time after the breach or the Insolvency Event occurs.

### **27.2 If Vendor terminates**

If the Vendor terminates this Contract under Special Condition 27.1, General Condition 28.4(a) will apply as if this Contract had been terminated by notice under General Condition 28.2.

### **27.3 Time remains of the essence**

The Purchaser's obligation to pay interest under Special Condition 28.1 does not mean that time is not of the essence for the performance of the Purchaser's obligations under this Contract.

### **27.4 Other rights unaffected**

Nothing in this Special Condition 27 limits the rights of the Vendor if the Purchaser defaults under this Contract.

### **27.5 Land tax**

If, as a result of a breach of this Contract by the Purchaser, the Property is registered in the name of the Vendor at midnight on 31 December following the Due Date, land tax will be adjusted on the basis that the Purchaser pays all of the land tax assessed, charged and levied on the Vendor in respect of the Property after the Due Date.

## **28. Costs of Default**

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### **28.1 Interest on Default**

- (a) If the Purchaser does not complete this Contract by the Due Date or the Purchaser defaults in payment of any amount due under this Contract then (without prejudice to any other rights, powers or remedies of the Vendor) the Purchaser must pay interest to the Vendor on the Due Date or earlier on demand:
  - (i) calculated daily at a rate of 2% higher than the rate for the time being fixed under the *Penalty Interest Rates Act 1983* (Vic); and
  - (ii) on the amount overdue for the period of the default.
- (b) The Purchaser may not require the Vendor to settle this Contract unless interest payable under this Contract is paid to the Vendor.
- (c) This Special Condition 28 is an essential term of this Contract.

### **28.2 Payments on Default**

If the Vendor gives to the Purchaser a notice of default under this Contract, the default will not be remedied until the last to occur of the following:

- (a) remedy by the Purchaser of the default, or if the default is incapable of remedy, compensation paid to the Vendor to the Vendor's satisfaction; and

- (b) payment by the Purchaser to the Vendor of all expenses incurred by the Vendor as a result of the default including:
  - (i) legal costs and disbursements (calculated on a full indemnity basis) incurred in drawing and giving the notice and any advice;
  - (ii) all additional costs incurred by the Vendor including bridging finance, relocation costs, interest, discount on bills and borrowing expenses; and
  - (iii) the payment of interest in accordance with this Contract.

### **28.3 Failure to Settle**

- (a) The Purchaser acknowledges and agrees that if the Purchaser fails to settle on the date and at the time and place settlement is due in accordance with this Contract, time being of the essence (**Settlement Default**):
  - (i) the Purchaser will be in default of this Contract;
  - (ii) the Purchaser must pay to the Vendor's Legal Practitioner an amount of \$250 (plus GST) for each and every Settlement Default; and
  - (iii) the Purchaser must pay any costs of the Vendor's mortgagee for each and every Settlement Default.

For the avoidance of doubt, the Purchaser must pay the Vendor's Legal Practitioner both of the amounts contained in Special Condition 31.3(a)(ii) and 31.3(a)(iii) for each and every Settlement Default.

## **29. Purchaser's indemnity**

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- 29.1 The Purchaser indemnifies the Vendor against all actions, claims, proceedings, demands, liabilities, losses, damages, expenses and costs (including legal costs on a full indemnity basis) that may be brought against the Vendor or which the Vendor may pay, sustain or incur as a direct or indirect result of any one or more of the following:

- (a) breach or non-performance of this Contract by the Purchaser; or
- (b) breach of warranty under this Contract by the Purchaser.

## **30. Additional Vendor's rights**

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### **30.1 Vendor's right not to proceed**

The Vendor may before the Election Date end this Contract by notice to the Purchaser if:

- (a) in the Vendor's opinion it has been or will be unable to enter into a sufficient number of contracts to sell lots on the Plan of Subdivision to enable the Development to proceed; or
- (b) it is unable to obtain finance for the Development on terms acceptable to it.

### **30.2 Consequences of termination**

- (a) If this Contract is terminated pursuant to Special Condition 30.1, the Deposit and any Deposit Interest will be refunded to the Purchaser.
- (b) The Purchaser must not claim any compensation if this Contract is terminated pursuant to Special Condition 30.1.
- (c) The right to a refund of the Deposit and any Deposit Interest shall be the sole right of the Purchaser in connection with such termination.

## **31. Confidentiality**

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### **31.1 Confidentiality**

The parties acknowledge that the terms of this Contract and all information exchanged between the parties under this Contract or under negotiations preceding this Contract are confidential. A party must not (without the prior written approval of the other party) disclose such information to any person unless the disclosure is to:

- (a) the extent required by law (which includes the rules of the Australian Securities Exchange); or
- (b) a party's officers, employees, consultants, advisers or financiers as is necessary to enable the parties to perform their obligations under this Contract or to seek professional advice.

### **31.2 Public Announcements**

A party must not make any public announcement, press statement or press release concerning this Contract (other than disclosure to the extent required by law or to be made to the Australian Securities Exchange) without the prior written consent of the other party (which consent must not be unreasonably withheld or delayed).

## **32. Purchaser as trustee**

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If the Purchaser enters into this Contract in its capacity as a trustee of any trust ("**Purchaser Trust**") then the Purchaser covenants and warrants to the Vendor that:

- (a) the Purchaser is the only trustee of the Purchaser Trust and no action has been taken or to the best of its knowledge, is proposed to remove it as trustee of the Purchaser Trust;
- (b) the Purchaser will provide a true, correct, up to date and complete copy of the trust deed which discloses all of the terms of the Purchaser Trust to the Vendor not less than 10 Business Days before the Settlement Date;
- (c) the Purchaser is complying in all material respects with the terms of the Purchaser Trust;
- (d) the Purchaser has the power and authority under the terms of the trust deed creating the Purchaser Trust to enter into and perform this Contract;
- (e) the entry into and performance of this Contract is for the benefit of the beneficiaries of the Purchaser Trust;
- (f) it has a right to be fully indemnified out of the trust assets of the Purchaser Trust in respect of all of its obligations and liabilities incurred by it under this Contract;
- (g) pending Settlement, the Purchaser will not:
  - (i) resign as trustee of the Purchaser Trust or willingly permit any substitute or additional trustee to be appointed;
  - (ii) do anything which effects or facilitates the termination of the Purchaser Trust;
  - (iii) willingly do anything which effects or facilitates the variation of the terms of the Purchaser Trust;
  - (iv) vest or distribute or advance any property of the Purchaser Trust to any beneficiary or sell any of the property of the Purchaser Trust except in the ordinary course; or
  - (v) willingly do anything which effects or facilitates the resettlement of the Purchaser Trust funds.

## **33. Capacity**

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The Purchaser warrants to the Vendor that:

- (a) the Purchaser has full legal capacity and power to enter into, exercise its rights and observe its obligations under this Contract;
- (b) the Purchaser has in full force and effect the authorisations necessary to enter into this Contract, exercise its rights and observe its obligations under this Contract and to allow this Contract to be enforced;
- (c) the Purchaser's obligations under this Contract are valid and binding and are enforceable against it in accordance with their terms; and
- (d) this Contract does not contravene the Purchaser's constituent documents (where the Purchaser is incorporated) or any of its obligations or undertakings by which it or any of its assets are bound.

### **34. Vendor as trustee**

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- (a) In this Special Condition 34, the word "**Trust**" means the Hobbs Road Wyndham Trust ABN 47 262 319 891.
- (b) The Purchaser acknowledges and agrees that the Vendor enters into this Contract solely in its capacity as the trustee of the Trust and in no other capacity.
- (c) A liability arising under or in connection with this Contract can be enforced against the Vendor only to the extent to which it can be satisfied out of the Property of the Trust out of which the Vendor is actually indemnified for the liability.
- (d) The limitation of the Vendor's liability contained in this Special Condition 34 applies notwithstanding any other provisions of this Contract and extends to all liabilities and obligations of the Vendor in connection with this Contract.
- (e) The Purchaser may not sue the Vendor in any capacity other than as trustee of the Trust, including seeking the appointment to the Vendor of a receiver (except in relation to the property of the Trust), a liquidator, administrator or any other similar person.
- (f) The provisions of this Special Condition 34 will not apply to any liability or obligation of the Vendor to the extent there is a reduction in the extent of its indemnification out of the assets of the Trust as a result of the operation of the Law or the application of any provision of the Trust's constitution or to the extent the liability arises out of the Vendor's own fraud, gross negligence or breach of trust or breach of duty.

### **35. Access for Construction and Post Settlement Matters**

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- (a) The Purchaser acknowledges and agrees that:
  - (i) the Vendor may conduct marketing activities in or about the Development generally in respect to the marketing of any unsold Lots within the Development and the Purchaser grants the Vendor an irrevocable right to access the Development after the Settlement Date for those purposes;
  - (ii) the Purchaser must not make and furthermore will use its best endeavours to procure that the Owners Corporation of which the Purchaser is a member does not make, any objection or requisition or bring any claim or action, or issue, injunctive proceedings or any proceedings of any description against either the Vendor or any builder or other contractor appointed by the Vendor (**Contractor**) or any other person as a consequence of anything connected with:
    - (A) any application for a permit or approval in connection with the Development;



- (B) any continuing surveying, engineering and construction works or rectification and repair works being carried out from time to time after the Settlement Date or in the Development, the Common Property or on any Lot on the Plan and in respect to any access or use rights exercised by the Vendor or its Contractors or other person in respect of them and in respect to any inconvenience, nuisance, noise, dust, vibration, loss of amenity or discomfort that may result from those works and/or the Vendor's or its Contractor's exercise of their rights under this Special Condition; or
  - (C) the Vendor's marketing activities conducted from any lot on the Plan or any part of the Development after the Settlement Date involving, among other things, the placement and maintenance in any lot or lots on the Plan (except the Property) or upon the Common Property or other part of the Development, of sale signs, insignia and other fixtures and fittings for marketing purposes which the Vendor in its absolute discretion thinks fit and in respect to any access rights exercised by the Vendor in respect of those activities and any inconvenience that may result from those activities;
- (iii) the Vendor intends using or may in the future decide to use a lot for the marketing and selling of any unsold lots on the Plan and the Purchaser hereby consents thereto;
  - (iv) the Vendor or its Contractors may need access to the Property or to the Development after the Settlement Date to carry out rectification and repair works to the Development or to the Property or to another lot on the Plan or to carry out rectification or repair works, or for surveying, engineering and construction works and the Purchaser hereby grants to the Vendor, its servants or agents and its Contractors an irrevocable right of access to the Property and the Development after the Settlement Date for those purposes.

## **36. Subject to finance**

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### **36.1 Application**

This Special Condition 36 only applies if the "Loan" section has been completed in the Particulars of Sale.

### **36.2 Definition**

In this Special Condition 36:

- (a) **"Approval Date"** means the approval date specified in the "Loan" of the Particulars of Sale;
- (b) **"Loan"** means a loan for not less than the Loan Amount for the purchase of the Property from a bank licensed to conduct banking business in Australia; and
- (c) **"Loan Amount"** means the loan amount specified in the "Loan" of the Particulars of Sale.

### **36.3 Purchaser's' Obligations**

The Purchaser must:

- (a) apply for the Loan before, or within 2 Business Days after, the Day of Sale (time being of the essence);
- (b) do everything reasonably required to obtain approval of the Loan prior to the Approval Date;
- (c) keep the Vendor and the Vendor's Legal Practitioner informed of the progress of the Loan application; and
- (d) if the Loan application is refused or has not been approved on or before the Approval Date, promptly obtain and deliver to the Vendor and the Vendor's Legal Practitioner a copy of the letter signed by its lender stating why the Loan application was refused.

### **36.4 Non-satisfaction of condition**

- (a) If the Loan is not approved on or before the Approval Date (time being of the essence) and the Purchaser is not and has not been in default under this Contract, the Purchaser may end this Contract by giving written notice and a copy of the letter required by Special Condition 36.3(d) to the Vendor by 5.00pm on the day after the Approval Date (time being of the essence).
- (b) If the Purchaser validly terminates this Contract under Special Condition 36.4(a):
  - (i) the Vendor will refund the Deposit paid by the Purchaser to the Purchaser; and
  - (ii) neither party shall have any claim against the other except for any antecedent breach of this Contract.

### 36.5 Waiver

If the Purchaser does not end this Contract within the time specified in Special Condition 36.4(a) (time being of the essence), the Purchaser is taken to have waived this condition.

## 37. Entire Contract

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### 37.1 Acknowledgment

The Purchaser warrants that except as is provided in this Contract or the Vendor's Statement:

- (a) the Purchaser has not relied on any information, representation or warranty (express or implied) provided or made by or on behalf of the Vendor, the Vendor's Estate Agent or the Vendor's Legal Practitioner, including in relation to:
  - (i) any present use of the Property or any use to which the Property may be put or the fitness of the Property for any lawful purpose;
  - (ii) compliance with any Laws affecting the Property;
  - (iii) any development or subdivision which may be undertaken on or in relation the Property;
  - (iv) the existence or non-existence of any Contamination of the Property;
  - (v) the amenity or neighbourhood in which the Property is located; or
  - (vi) any financial return or income that may be derived from the Property;
- (b) no information, representation or warranty (express or implied) provided or made by the Vendor, the Vendor's Estate Agent or the Vendor's Legal Practitioner was provided or made with the intention or knowledge that it would be relied upon by the Purchaser and no information, representation or warranty has in fact been relied upon;
- (c) the Purchaser relies entirely upon the Purchaser's own inspection of and searches and enquiries in connection with the Property, including in relation to those matters referred in Special Condition 37.1(a);
- (d) to the extent permitted by law, the Vendor is not liable to the Purchaser as a result of or in connection with any information, representation or warranty having been provided or made by or on behalf of the Vendor, the Vendor's Estate Agent or the Vendor's Legal Practitioner; and
- (e) the Purchaser may not make any Claim by reason of any matter, thing or liability arising from:
  - (i) any actual or alleged representation or warranty by any person;
  - (ii) any actual or alleged agreement or understanding not embodied in this Contract; and
  - (iii) any actual or alleged agreement with an owner of an adjoining property,

in relation to anything concerning the Property.

### **37.2 Entire Agreement**

This Contract contains the entire agreement between the parties and supersedes any other communications, negotiations, arrangements and agreements between the parties, whether oral or in writing, in connection with the subject matter of this Contract.

## **38. General**

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### **38.1 Applicable Law**

This Contract is governed by and construed in accordance with the laws of the State of Victoria and the Commonwealth of Australia.

### **38.2 Waiver**

A right may only be waived in writing, signed by the party giving the waiver. A waiver by a party of any breach or a failure to enforce or to insist upon the observance of a provision of this Contract will not be a waiver of any other or of any subsequent breach.

### **38.3 Severance**

If any part of this Contract is invalid, unenforceable, illegal, void or voidable for any reason, this Contract will be construed and be binding on the parties as if the invalid, unenforceable, illegal, void or voidable part had been deleted from this Contract, or read down to the extent necessary to overcome the difficulty.

### **38.4 Co-operation**

Each party must do anything (including execute any document) to give effect to this Contract and to the transactions contemplated by it, and must ensure that its employees and agents do anything (including execute any document) that the other party may reasonably require to give full effect to this Contract.

### **38.5 Continuing Obligations**

The provisions of this Contract capable of having effect after the Settlement Date do not merge on transfer of the Land and continue to have full force and effect irrespective of whether this Contract expressly provides that this is the case.

### **38.6 Indemnities**

If a party is required to indemnify another party under this Contract, that party must pay on demand the amount the other party is liable to pay by the time the other party is required to make payment.

### **38.7 Amendment**

This Contract can only be amended, supplemented or replaced by another document signed by the parties.

### **38.8 Notices**

- (a) A notice may be served by being sent by fax to the fax number of a party or that party's solicitors specified in this Contract or last notified to the sender.
- (b) A notice may be signed by a party or a party's officer, legal representative or attorney.
- (c) A demand, notice or document will be considered received from a party:
  - (i) if delivered, on delivery;

- (ii) if sent by pre-paid post, 2 Business Days after posting (if posted within Australia to an address in Australia) or 7 Business Days after posting (if posted to or from a place outside Australia); and
  - (iii) sent by fax, when the transmitting machine produces a written report that the notice has been sent in full.
- (d) If a notice is delivered or received by fax on a day that is not a Business Day or after 5pm on a Business Day, the notice will be considered delivered or received on the next Business Day.

#### 38.9 Attorneys and Authorised Representatives

- (a) Each person who executes this Contract on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.
- (b) Each person who executes this Contract on behalf of a party as that party's authorised representative or agent declares that he or she has authority to do so.

#### 38.10 Counterparts

This Contract may be signed in any number of counterparts and all such counterparts taken together will be deemed to constitute one and the same document.

#### 38.11 Electronic delivery

If a party delivers an executed counterpart of this Contract or any other document executed in connection with it (**Relevant Document**) by facsimile or other electronic means:

- (a) the delivery will be deemed to be an effective delivery of an originally executed counterpart; and
- (b) the party will still be obliged to deliver an originally executed counterpart, but the failure to do so will not effect the validity or effectiveness of the Relevant Document.

#### 38.12 Rule of Construction

The parties acknowledge and agree that no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this Contract or part of it.

### 39. Digital Duties Form and SRO Settlement Statement

---

#### 39.1 Definitions

In this Special Condition 39:

**DDF** means the online form called "Digital Duties Form" generated from the SRO website.

**Due Date** means the date settlement is due in the Particulars of Sale or such other date agreed by the parties in writing.

**SRO** means the State Revenue Office of Victoria.

**SRO Settlement Statement** means the statement called "Settlement Statement" generated from the SRO website after completion of a DDF.

#### 39.2 Vendor's obligations

The Vendor must:

- (a) complete, or procure the Vendor's Legal Practitioner to complete, those parts of the DDF which are to be completed by the Vendor in respect of the sale of the Property under this Contract (**Vendor DDF**);
- (b) send, or procure the Vendor's Legal Practitioner to send, to the Purchaser's Legal Practitioner (or if none then the Purchaser), the completed Vendor DDF at least 3 Business Days prior to the Due Date; and
- (c) if the Purchaser has complied with Special Condition 39.3 sign or approve the DDF prior to Settlement, unless there is manifest error in which case the Vendor must notify the Purchaser of the error and request the Purchaser to amend it.

### 39.3 **Purchaser's obligations**

The Purchaser must:

- (a) complete, or procure the Purchaser's Legal Practitioner to complete, those parts of the DDF which are to be completed by the Purchaser (**Purchaser DDF**) at least 2 Business Days prior to the Due Date;
- (b) sign or approve the DDF at least 2 Business Days prior to the Due Date, unless there is manifest error in which case the Purchaser must promptly notify the Vendor of the error and request the Vendor to amend it;
- (c) make any changes to the DDF requested by the Vendor or the Vendor's Legal Practitioner and sign or approve (or re-sign or re-approve) the amended DDF within 1 Business Day of being requested to do so;
- (a) prior to Settlement:
  - (i) generate a SRO Settlement Statement in respect of the sale of the Property under this Contract; and
  - (ii) deliver to the Vendor or the Vendor's Legal Practitioner, the SRO Settlement Statement in respect of the sale of the Property under this Contract; and
- (e) not make or require any changes to the DDF except as requested by the Vendor or the Vendor's Legal Practitioner less than 2 business days prior to the due date.

### 39.4 **No Objection**

The Purchaser may not Object if the Vendor or the Vendor's Legal Practitioner request amendments to the DDF at any time prior to Settlement.

### 39.5 **Settlement if not an electronic conveyance**

- (a) This Special Condition 39.5 only applies if settlement is not conducted electronically in accordance with the Electronic Conveyancing National Law.
- (b) Subject to the Vendor complying with Special Condition 39.2:
  - (i) Settlement is not conditional upon:
    - (A) the Purchaser signing or approving a DDF; or
    - (B) production of an SRO Settlement Statement; and
  - (ii) the Purchaser may not Object if:

- (A) the DDF is not completed prior to Settlement or at all; or
- (B) an SRO Settlement Statement is not generated (or able to be generated) prior to Settlement.

**39.6 Settlement if an electronic conveyance**

- (a) This Special Condition 39.6 only applies if Special Condition 39.5 does not apply.
- (b) Special Condition 39.3 is a fundamental term of this Contract.
- (c) The Purchaser acknowledges and agrees that unless and until the Purchaser complies with Special Condition 39.3, Settlement will not be able to proceed and the Purchaser will be in breach of this Contract.

**39.7 Breach of Purchaser's obligations**

Without prejudice to the Vendor's other rights in this Contract, if the Purchaser breaches any of its obligations in Special Condition 39.3, the Purchaser must pay the Vendor's reasonable legal costs incurred as a result of the breach, which the parties agree is \$150.00 plus GST for each and every breach and which may be charged on multiple occasions by the Vendor's Legal Practitioner in the event of multiple breaches by the Purchaser.

**39.8 General Condition 10.1**

The Purchaser acknowledges and agrees that the DDF (other than the Vendor DDF) and the SRO Settlement Statement in respect of the sale of the Property under this Contract are not title documents for the purposes of General Condition 10.1(b)(i) (as that General Condition is amended by Special Condition 2.1(c)).

## **40. GST Withholding**

---

**40.1 Definitions**

In this Special Condition 40:

**Commissioner** means the Commissioner of Taxation.

**GST Act** means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**GST Withholding Amount** means the amount payable to the Commissioner and determined under section 14-250 of the Withholding Law.

**Withholding Law** means Schedule 1 to the *Taxation Administration Act 1953* (Cth).

**40.2 Interpretation**

In this Special Condition 40, words or expressions that are defined or used in the Withholding Law have the same meaning given to them in the Withholding Law, unless the context suggests otherwise.

**40.3 Vendor's Notice**

If the Property qualifies as residential premises or potential residential land (and the exceptions in section 14-255(2) of the Withholding Law do not apply), the Vendor will, before the date of Settlement, provide a written notice to the Purchaser stating:

- (a) whether the Purchaser will be required to make a payment under section 14-250 of the Withholding Law in relation to the supply of the Property; and
- (b) if the Purchaser is required to make a payment referred to in Special Condition 40.3(a):

- (i) the name and ABN of the Vendor;
- (ii) the GST Withholding Amount;
- (iii) when the GST Withholding Amount is required to be paid;
- (iv) where some or all of the consideration for the supply of the Property is not expressed as an amount of money - the GST inclusive market value of the non-monetary consideration; and
- (v) any other information required by law.

#### 40.4 **Withholding**

- (a) This Special Condition 40.4 applies if the Purchaser is required to pay a GST Withholding Amount on the taxable supply of the Property under this Contract.
- (b) For the purposes of General Condition 11, the Vendor irrevocably directs the Purchaser to draw a bank cheque for the GST Withholding Amount in favour of the Commissioner (**GST Cheque**) and:
  - (i) the Purchaser must provide the GST Cheque to the Vendor on or before the date of Settlement; and
  - (ii) on the date of Settlement, or within such further period as may be allowed by the Commissioner, the Vendor must give the GST Cheque to the Commissioner.
- (c) If Settlement is to be conducted through the system operated by Property Exchange Australia Ltd for settlement of conveyancing transactions, the Vendor and the Purchaser will be taken to have complied with Special Condition 40.4(b) if the electronic settlement schedule within the electronic workspace used for Settlement specifies payment of the GST Withholding Amount to the bank account nominated by the Commissioner.

#### 40.5 **No Effect on Other Terms**

Except as expressly set out in this Special Condition 40, the rights and obligations of the parties under this Contract are unaffected, including (without limitation) any agreement to apply the margin scheme to the supply of the Property.

#### 40.6 **Other Information**

If the Property qualifies as potential residential land and:

- (a) the Purchaser is registered (within the meaning of the GST Act); and
- (b) the Purchaser acquires the Property for a creditable purpose,

then the Purchaser must give written evidence to the Vendor of these matters, no later than 10 Business Days before the date of Settlement.

### **41. Introduction Fee**

---

- (a) The Purchaser acknowledges and agree that the Vendor may:
  - (i) enter into service or referral agreements or arrangements with third parties (including without limitation with any building practitioners) that relate to the Property; and/or
  - (ii) pay a fee or incentive to, or receive a fee or incentive from, third parties (including building practitioners), under any such service or referral agreements or any other arrangements.
- (b) The Purchaser must not make any Claim with respect to any matter referred to in this Special Condition 41.

## **42. Exclusion from promotions**

---

- (a) For the purposes of this Special Condition 42, the words "**Promotional Offer**" means any package, voucher or other offer made available to purchasers who proceed with a purchase of a property within the Development.
- (b) The Purchaser acknowledges and agrees that at no time was a Promotional Offer made available to the Purchaser as a result of the Purchaser's purchase or acquisition of the Property or entry into this Contract.
- (c) The Purchaser acknowledges and agrees that notwithstanding any Promotional Offer advertised or made available at any time, the Purchaser is not entitled to claim or redeem any Promotional Offer.

## **43. No Childcare Centre Use**

---

### **43.1 Definition**

In this Contract, the words "**Restrictive Covenant**" means the restrictive covenant to be registered as part of the MCP generally in accordance with the restrictive covenant (which may be amended from time to time by the Vendor in its absolute discretion) contained in Annexure E.

### **43.2 Purchaser covenants**

The Purchaser covenants and agrees with the Vendor that the Restrictive Covenant will be registered in a memorandum of common provisions before the Settlement Date.

### **43.3 Purchaser acknowledgement**

The Purchaser acknowledges and agrees that:

- (a) the Vendor may amend the form of the Restrictive Covenant in its absolute discretion at any time;
- (b) the Restrictive Covenant shall apply and bind the Purchaser, its successors, assigns and transferees with effect from the Settlement Date;
- (c) the Vendor will not be liable to the Purchaser in respect of any failure by the Vendor to enforce any covenant in respect of any lot in the Development; and
- (d) the Purchaser must promptly execute all documents and do all things the Vendor reasonably requires from time to time to assist the Vendor with some or all of the Vendor's rights and obligations contained in this Special Condition 43.

## **44. Community Infrastructure Levy**

---

### **44.1 The Purchaser acknowledges and agrees that it:**

- (a) will required to make a payment to Council as a community infrastructure payment prior to obtaining any building approval in respect of the Property which as at 30 September 2020, is \$1,210.00 and is subject to change by Council as published on the below website:

<https://www.wyndham.vic.gov.au/payments/community-infrastructure-levy-payments>

- (b) must not make any Claim or Object or make any requisition or be entitled to any compensation from the Vendor in respect of any such payment or increase by Council in the amount of the payment;
- (c) if the Vendor has made the community infrastructure payment prior to Settlement then the Purchaser must reimburse or pay the Vendor the amount of the community infrastructure payment at Settlement.



## 45. **Electronic Conveyancing**

---

### 45.1 **Electronic Conveyancing (Adoption of National Law) Act**

In this Special Condition 41 all references and defined terms correlate with the *Electronic Conveyancing (Adoption of National Law) Act 2013*.

### 45.2 **Application of Special Condition**

This Special Condition 41 has priority over any other provision to the extent of any inconsistency. This Special Condition applies if this Contract specifies, or the parties subsequently agree in writing, that Settlement and lodgement of the instruments necessary to record the Purchaser as registered proprietor of the Land will be conducted electronically in accordance with the Electronic Conveyancing National Law.

### 45.3 **Agreement**

- (a) Each party must:
  - (i) be, or engage a representative who is a subscriber for the purposes of the Electronic Conveyancing National Law;
  - (ii) 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
  - (iii) conduct the transaction in accordance with the Electronic Conveyancing National Law.
- (b) The Vendor must open the Electronic Workspace ('**workspace**') as soon as reasonably practicable. The workspace is an electronic address for the service of notices and for written communications for the purposes of any electronic transactions legislation.
- (c) The Vendor must nominate a time of the day for locking of the workspace at least 2 Business Days before the due date for Settlement.
- (d) Settlement occurs when the workspace records that:
  - (i) the exchange of funds or value between the financial institutions in accordance with the instructions of the parties has occurred; and
  - (ii) the documents necessary to enable the Purchaser to become registered proprietor of the land have been accepted for electronic lodgement.

## **Annexure A – Guarantee and Indemnity**

In consideration of the Vendor named and described in the Schedule annexed hereto entering into the Contract with the Purchaser named and described in the Schedule the party described as the Guarantor in the Schedule hereto (**Guarantor**) agrees to guarantee and indemnify the Vendor as follows:

1. The Guarantor guarantees to the Vendor prompt performance of all of the obligations of the Purchaser contained or implied in the Contract.
2. If the obligation of the Purchaser is to pay money, the Vendor may if the Purchaser has not paid the money when due immediately recover the money from the Guarantor as a liquidated debt without first commencing proceedings or enforcing any other right against the Purchaser or any other person.
3. The Guarantor is liable for and indemnifies the Vendor against any cost (including legal fees and disbursements on a full indemnity basis and any counsel or consultant's fees and expenses at the rate charged to the Vendor), liability, loss, fine, penalty, suit, claim or damage that the Vendor may suffer because of:
  - (a) a failure by the Purchaser to pay any money to the Vendor under the Contract; or
  - (b) the Vendor having no legal right to recover any money from the Purchaser under the Contract; or
  - (c) any money payable by the Purchaser to the Vendor under the Contract not otherwise being payable.
4. The indemnity in clause 3:
  - (a) is in addition to and separate from the guarantee in clause 1; and
  - (b) is a principal obligation and is independent of the Purchaser's obligations to the Vendor.
5. The Guarantor must pay the Vendor the amount owing under the indemnity in clause 3 on demand by the Vendor.
6. The Vendor may without affecting this Guarantee grant time or other indulgence or compound or compromise with or release the Purchaser or any person or corporation whatsoever (including any person or corporation liable jointly with the Guarantor or severally in respect of any other guarantee or security) or release, part with, vary, relinquish or renew in whole or in part any security, document of title, asset or right held by the Vendor.
7. All moneys received by the Vendor from or on account of the Purchaser including any dividends upon the liquidation or bankruptcy of the Purchaser or from any other person or corporation or from the realisation or enforcement of any security capable of being applied by the Vendor in reduction of the indebtedness of the Purchaser will be regarded for all purposes as payment in gross without any right on the part of the Guarantor to stand in place of the Vendor or claim the benefit of any moneys so received until the Guarantor has repaid the total indebtedness of the Purchaser and so that in the event of the liquidation or bankruptcy of the Guarantor the Vendor will be entitled to prove for the total indebtedness of the Purchaser.
8. In the event of the liquidation or bankruptcy of the Purchaser the Guarantor authorises the Vendor to prove for all moneys which the Guarantor has paid hereunder and to retain and to carry to a suspense account and appropriate at the discretion of the Vendor any dividends received until the Vendor has with the aid thereof been paid in full in respect of the indebtedness of the Purchaser to the Vendor. The Guarantor waives in favour of the Vendor all rights against the Vendor and the Purchaser and any other person or corporation estates and assets so far as necessary to give effect to anything contained in this Guarantee.
9. The remedies of the Vendor against the Guarantor will not be affected by reason of any security held or taken by the Vendor in relation to the indebtedness of the Purchaser being void, defective or informal.

10. The Guarantor is liable for and indemnifies the Vendor against any loss which the Vendor may suffer by reason of the Purchaser having exceeded his powers or being incompetent to enter into the Contract and against any loss which the Vendor may suffer by reason of the Purchaser going into liquidation or becoming bankrupt.
11. Any demand or notice under this Guarantee may be made in writing signed by the Vendor or its solicitors on its behalf and (without prejudice to any other mode of service for the time being permitted by law) may be served on the guarantor by prepaid letter addressed to the Guarantor at his address herein mentioned. Such notice or demand when posted will be deemed to be properly given on the day next following the day of posting.
12. Where not inconsistent with the context the expression Guarantor as herein used will where there is only one Guarantor mean and include the Guarantor, his executors and administrators or in the case of a corporate Guarantor that Guarantor and its successors and will when there are two or more Guarantors mean and include those Guarantors and each and every or any of them and the executors, administrators or successors of each and every one of them. When two or more Guarantors are parties hereto the covenants and agreements on their part herein contained will bind them and any two or more of them jointly and each of them severally.

#### SCHEDULE

Vendor: **Avid Property Group Nominees Pty Ltd ACN 088 212 631 as trustee for Hobbs Road Wyndham Trust ABN 47 262 319 891**

Purchaser:

Property: **Lot \_\_\_\_\_ on proposed Plan of Subdivision PS 826701N, Stage 11, Savana, 50 Hobbs Road, Wyndham Vale, Victoria 3024**

Guarantor:

EXECUTED by the Guarantors this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

**Signed Sealed and Delivered by** \_\_\_\_\_ )  
 \_\_\_\_\_ )  
 in the presence of: \_\_\_\_\_ )

.....  
 Signature of Witness

.....  
 Signature of

.....  
 (Print) Name of Witness

.....  
 Address

**Signed Sealed and Delivered by** \_\_\_\_\_ )  
 \_\_\_\_\_ )  
 in the presence of: \_\_\_\_\_ )

.....  
 Signature of Witness

.....  
 Signature of

.....  
 (Print) Name of Witness

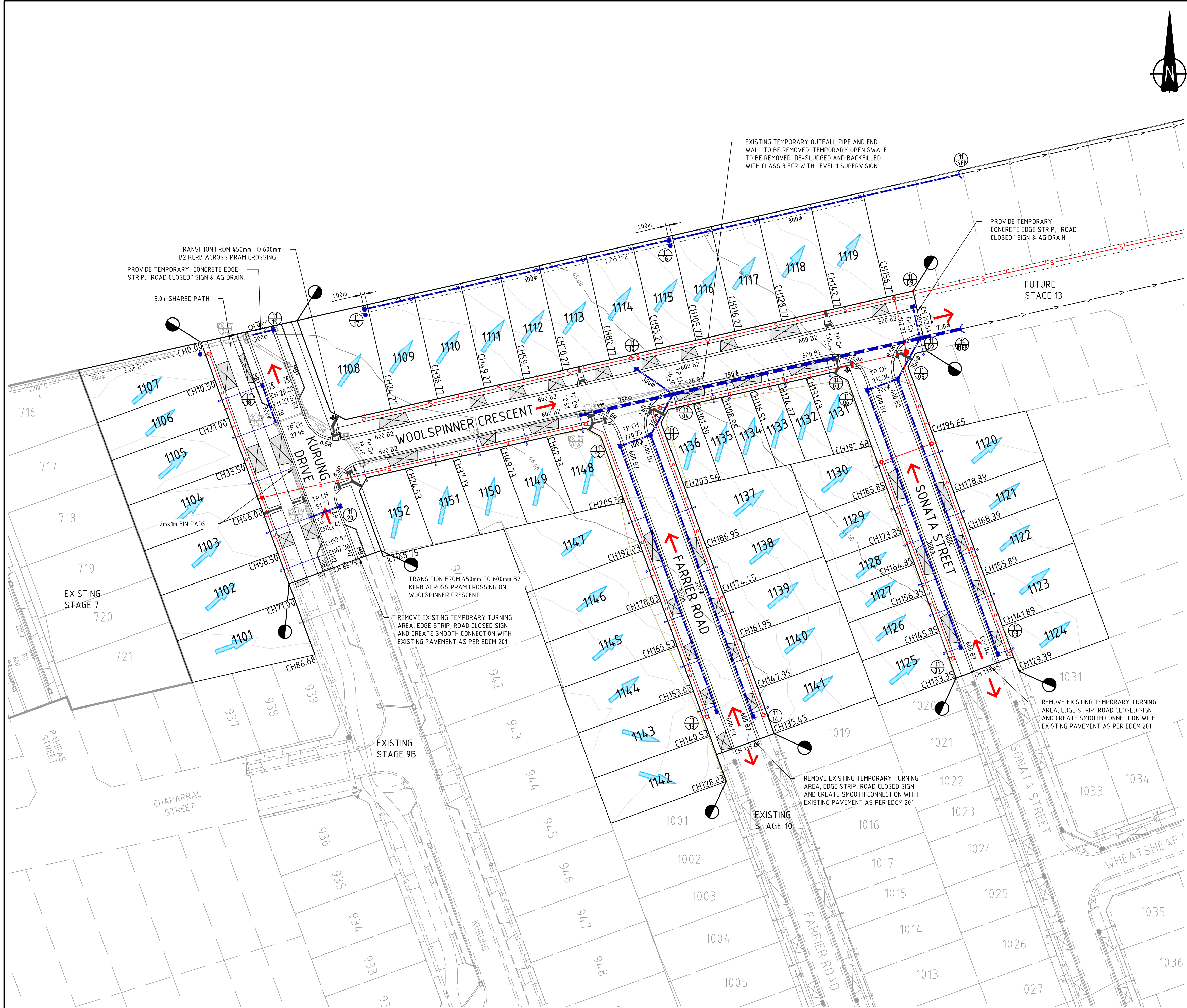
.....  
 Address

## **Annexure B – Plan of Surface Level Works**









LEGEND		
DESCRIPTION	EXISTING	PROPOSED
CENTRAL INVERT		
SEWER & MANHOLE		
COUNCIL STORMWATER DRAIN & PIT		
MELBOURNE WATER LINEWORK		
STORMWATER DRAINAGE PROPERTY INLETS		
COUNCIL STORMWATER PITS		
HOUSE DRAIN		
DRAINAGE PC INVERT LEVEL		PI XX.XX
AG DRAIN		
STORMWATER DRAINAGE PIT NUMBER		
CONCRETE VEHICLE CROSSING		
CONCRETE FOOTPATH		
PAVEMENT SAWCUT LINE		SAWCUT
SURFACE CONTOUR MINOR		-51.20-
SURFACE CONTOUR MAJOR		-52.00-
SURFACE LEVEL	E43.21	F44.33
BATTER LEVEL (TOP / TOE)	T43.55	T43.55
PERMANENT SURVEY MARK		
TEMPORARY BENCH MARK		
ROAD CHAINAGES	CH36.20 (L/R)TP CH36.20	CH36.20 (L/R)TP CH36.20
LOT CHAINAGE	CH28.50	CH28.50
LIMIT OF WORKS		
BATTER		
ROCK BEACHING		
FENCE - TREE PROTECTION		
FENCE - VEHICLE EXCLUSION		
FENCE - TEMPORARY		
FENCE - OTHER		
TREE TO BE RETAINED		
TREE TO BE REMOVED		

Planning and Environment Act 1987  
Wyndham Planning Scheme

Approved Plan As Required  
under Condition 28  
Permit No WYP9847/17  
Date 21/09/2020



WARNING

BEWARE OF UNDERGROUND/OVERHEAD SERVICES  
THE LOCATION OF SERVICES ARE APPROXIMATE ONLY AND THEIR EXACT POSITION SHOULD BE PROVEN ON SITE. NO GUARANTEE IS GIVEN THAT ALL EXISTING SERVICES ARE SHOWN. SPECIAL CONSIDERATION SHOULD BE GIVEN TO CONSTRUCTION PROCEDURES UNDER OVERHEAD ELECTRICITY TRANSMISSION LINES.

0	12.08.20	RG		ISSUED FOR CONSTRUCTION
REV	DATE	DRN	CKD	APP
				AMENDMENT

FOR CONSTRUCTION

H 1:500  
SCALE @ A1

0 10 20 30m

**CW** Cossill & Webley  
CONSULTING ENGINEERS

Mailing Address  
PO Box 33152  
Melbourne VIC 3004  
T (03) 8548 1560

Street Address  
Suite 2.04, 390 St Kilda Road  
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E melbourne@cosweb.com.au

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This plan is not to be used for construction unless issued as revision 0 or higher

CLIENT  
**AVID**  
Property Group

APPROVED

DESIGNED  
R. GAUTAM

SCALE  
AS SHOWN

PROJECT	SAVANA - STAGE 11
TITLE	ROADWORKS PLAN
MUNICIPALITY	WYNDHAM CITY COUNCIL
PP No.	WYP9847/17
DRAWING No.	3138-11-200
REVISION	0

A1  
ORIGINAL SIZE



# LEGEND

DESCRIPTION	EXISTING	PROPOSED
WATER MAIN - DRINKING WATER		
WATER MAIN - NON-DRINKING WATER		
UNDERGROUND ELECTRICITY		
OVERHEAD ELECTRICITY & POLE		
TELSTRA & SERVICE PIT		
OPTIC FIBRE		
GAS MAIN		
SEWER & MANHOLE		
CENTRAL INVERT		
COUNCIL STORMWATER DRAIN & PIT		
STORMWATER DRAINAGE PROPERTY INLETS		
COUNCIL STORMWATER PITS		
HOUSE DRAIN		
DRAINAGE PC INVERT LEVEL		
STORMWATER DRAINAGE PIT NUMBER		
GAS & WATER CONDUITS		

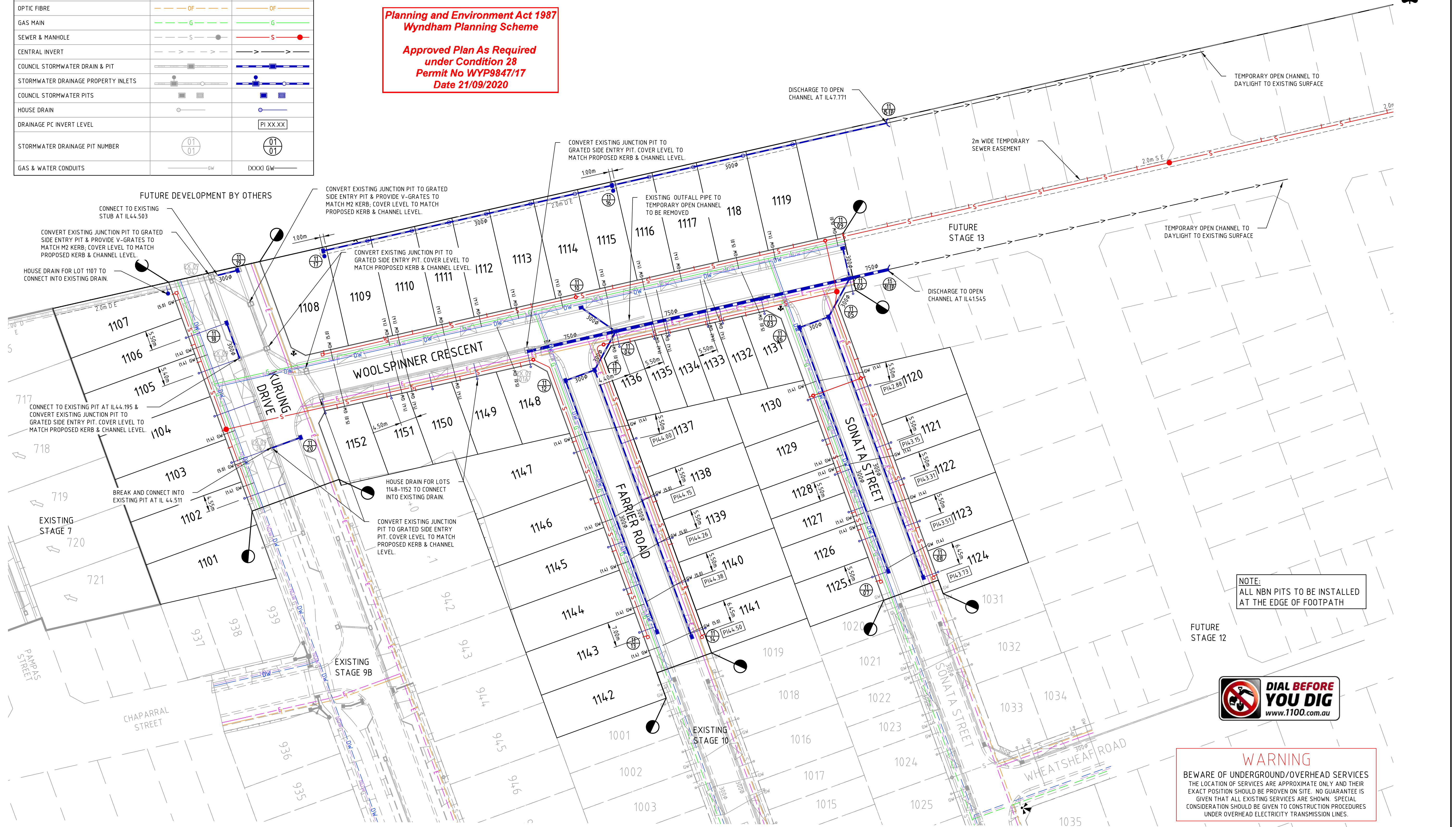
## SERVICES OFFSET TABLE

STREET NAME	GAS		NON-DRINKING WATER		DRINKING WATER		TELCO		ELECTRICITY		SEWER	
	SIDE	OFFSET	SIDE	OFFSET	SIDE	OFFSET	SIDE	OFFSET	SIDE	OFFSET	SIDE	OFFSET
WOOLSPINNER CRESCENT	NORTH	2.10	NORTH	2.60	NORTH	3.00	SOUTH	1.80	SOUTH	2.50	NORTH & SOUTH	1.00 & 0.8
FARRIER ROAD & SONATA STREET	WEST	2.25	WEST	2.70	WEST	3.15	EAST	1.80	EAST	2.50	EAST & WEST	1.00
KURUNG DRIVE	WEST	2.30	WEST	2.75	WEST	3.20	EAST	1.80	EAST	2.50	WEST	1.00

1. NBN AND ELECTRICITY CABLES TO BE CONSTRUCTED IN A COMMON TRENCH IN ACCORDANCE WITH ELECTRICAL AUTHORITY STANDARD DRAWING'S.
2. GAS AND WATER MAINS TO BE CONSTRUCTED IN A COMMON TRENCH.
3. ALL NBN PITS SHALL BE INSTALLED AT THE EDGE OF THE FOOTPATH.

**Planning and Environment Act 1987  
Wyndham Planning Scheme**

**Approved Plan As Required  
under Condition 28  
Permit No WYP9847/17  
Date 21/09/2020**



**NOTE:**  
ALL NBN PITS TO BE INSTALLED  
AT THE EDGE OF FOOTPATH

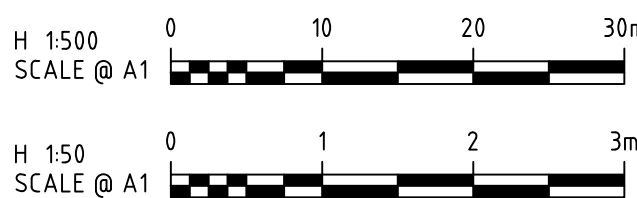


### WARNING

BEWARE OF UNDERGROUND/OVERHEAD SERVICES  
THE LOCATION OF SERVICES ARE APPROXIMATE ONLY AND THEIR EXACT POSITION SHOULD BE PROVEN ON SITE. NO GUARANTEE IS GIVEN THAT ALL EXISTING SERVICES ARE SHOWN. SPECIAL CONSIDERATION SHOULD BE GIVEN TO CONSTRUCTION PROCEDURES UNDER OVERHEAD ELECTRICITY TRANSMISSION LINES.

1	27.08.20	RG		SERVICE OFFSETS FOR WOOLSPINNER CRESCENT MODIFIED
0	12.08.20	RG	FP	ISSUED FOR CONSTRUCTION
REV	DATE	DRN	CKD	APP
				AMENDMENT

**FOR CONSTRUCTION**



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E melbourne@cossweb.com.au

**AVID**  
Property Group  
APPROVED 17.08.20 DESIGNED R. GAUTAM  
SCALE AS SHOWN

PROJECT SAVANA - STAGE 11  
TITLE SERVICES PLAN  
MUNICIPALITY WYNDHAM CITY COUNCIL  
PP No. WYP9847/17  
DRAWING No. 3138-11-201  
REVISION 1

ORIGINAL SIZE  
A1



## **Annexure C - Design Guidelines**



# Home Design Guidelines

Stage 11 - October 2020



**savana**

by AVID Property Group



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# 01 Introduction

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## 1.1 DESIGN GUIDELINES

These Design Guidelines apply to all allotments within the Savana Development approved under Wyndham Planning Permit No. WYP7871/14

All care has been taken to ensure that these guidelines comply with current Building Regulations. However, the owner is responsible for ensuring compliance with all statutory requirements.

In the event that requirements in this document contradict the provisions of the Small Lot Housing Code or ResCode, the Small Lot Housing Code and ResCode will prevail.

Owners, Designers and Builders should review this MCP and the current Design Guidelines in conjunction with the land sales contract.

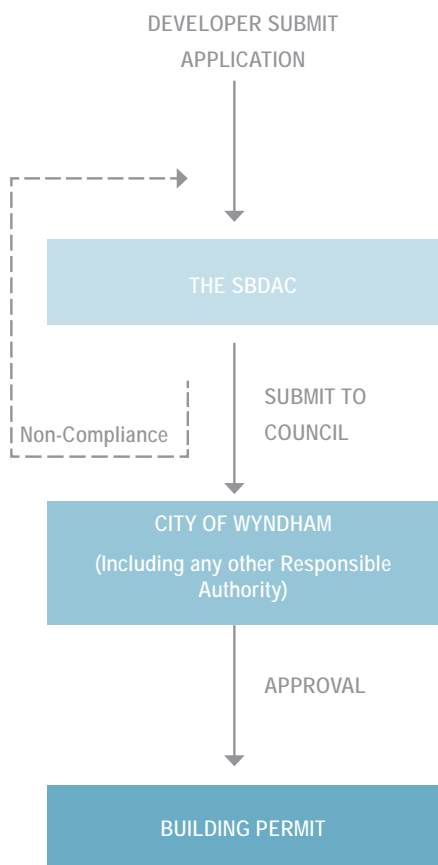


Figure 1 – Approval Process

## 1.2 DEVELOPERS APPROVAL

The siting and design of homes at Savana is to be approved by The Savana Building and Design Approval Committee (SBDAC). Approval by the SBDAC is required before applying for a building permit for the construction of a new dwelling. Approval by the SBDAC is not a building approval nor does it imply compliance with the building code, Building Regulations or City of Wyndham Planning Scheme.

The SBDAC also reserves the right to approve applications based on architectural merit.

It is the applicant's responsibility to ensure that plans meet the relevant planning and building requirements, in addition to these design guidelines.

Only a fully scaled set of application documents will be considered. No concept designs will be accepted. The SBDAC will assess all designs and if they are compliant with the Design Guidelines, provide a letter of approval along with an endorsed copy of the plans and external colour schedule. Applications that substantially comply with the Design Guidelines may be given a letter of approval with conditions requiring the rectification of minor deviations. These deviations may also be noted on the plans. The SBDAC may also offer suggestions intended to improve designs.

If the design submission does not comply with the Design Guidelines, the SBDAC will advise the applicant of the reasons of non-compliance and suggest amendments. Applicants will then be required to re-submit amended plans in order to gain approval.

The final decision of all aspects of the Design Guidelines will be at the discretion of the SBDAC.

The SBDAC will endeavour to process applications as quickly as possible, generally within 7 business days of receipt. Once approval is obtained, an application for a building permit may be lodged with the City of Wyndham or an accredited building surveyor.

### 1.3 MEDIUM AND HIGH DENSITY LOTS

The design guidelines do not cover integrated development sites that require a separate planning permit. Medium or High density lots cannot be developed without obtaining a planning permit from Council. Prior to a planning application being lodged with Council for the development of a medium or high density lot, the plans must be assessed and approved by the SBDAC.

### 1.4 PLANNING PERMIT

A planning permit is not required to construct or extend one dwelling on a lot with an area less than 300m<sup>2</sup> where:

- > an approved building envelope as defined in Part 4 of the Building Regulations 2006 applies to the lot, and
- > the building envelope complies with the Small Lot Housing Code incorporated in the Wyndham Planning Scheme; and
- > the dwelling is constructed or extended in compliance with the building envelope.

If a dwelling is to be built outside of an approved building envelope an additional planning permit is required for the proposal prior to obtaining a Building Permit. Before applying for a planning permit approval must be obtained from the SBDAC.

### 1.5 COVENANTS

In the event that requirements under the Design Guidelines contradict covenants defined within the Plan of Subdivision or this MCP, the Plan of Subdivision or the MCP will prevail.

### 1.6 STATUTORY OBLIGATIONS

It is the purchaser's responsibility to ensure all submitted documents comply with the Victorian Building Code, Rescode and all other planning and authority requirements, along with current Victorian energy rating standards prior to construction.

## 02 Dwelling Design

### 2.1 DWELLINGS

Only one dwelling is permitted per property for lots under 600m<sup>2</sup>.

On a lot greater than 600m<sup>2</sup>, an additional dwelling is subject to approval from the SBDAC and City of Wyndham and may be considered for:

- (a) A dependant persons unit on lots greater than 600m<sup>2</sup>;
- (b) Corner lots and
- (c) Lots identified as integrated housing sites

No further subdivision is permitted without the approval of the SBDAC.

### 2.2 IDENTICAL FACADE ASSESSMENT



Figure 2 – Example of non compliance facades, identical facades too close together

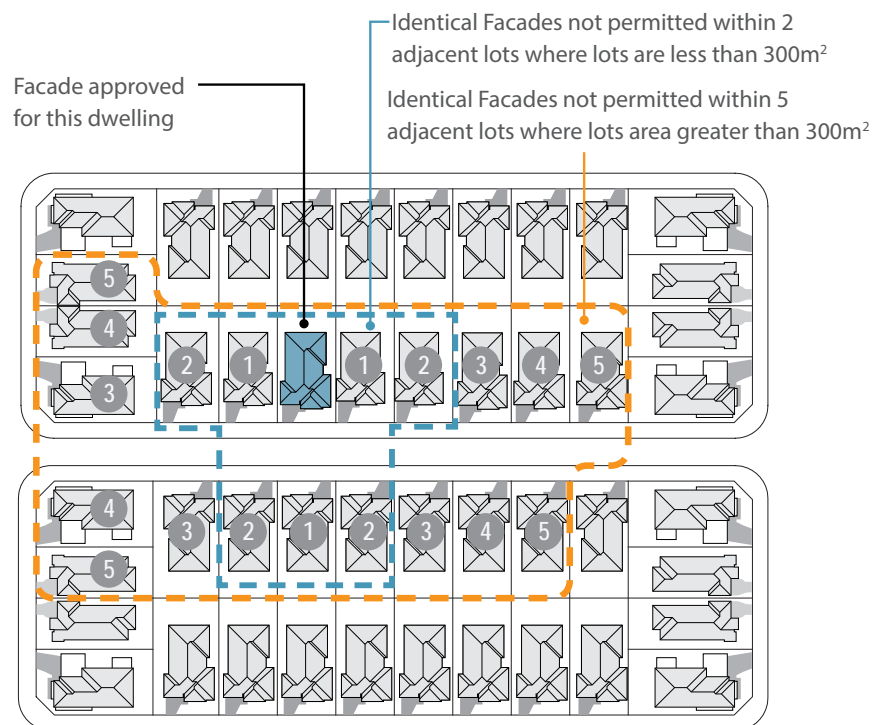


Figure 3 – Identical Facade Diagram

In order to uphold the integrity of all new homes, 2 dwellings of the same front facade shall not be built within:

- > 5 contiguous lot spaces of the original lot. Provision includes lots either side, opposite and encompassing other street frontages where applicable.
- > On lots less than 300m<sup>2</sup>, 2 dwellings with identical façades shall not be built within 2 contiguous lot spaces of the original lot. Under this clause, a mirrored (symmetrical) façade is not considered to be an identical facade.

This provision will not apply to integrated housing developments.



## 2.3 ARCHITECTURAL CHARACTERISTICS

Designs incorporating a variety of modern architectural styles are encouraged. Unique dwelling designs displaying innovation and originality will be assessed favourably if they are shown to be in keeping with the contemporary design intent of SBDAC.

Architectural features such as verandahs, porticoes, feature windows, façade detailing, roof features and articulated building forms are required. Building materials such as masonry, render, natural stone and timber cladding should be used and paint work should be complementary in colour selection.

Contemporary roof and awning themes coupled with articulation of single and double storey volumes are also preferred design initiatives.



Figure 4 – Articulated building forms



Figure 5 – Façade detailing with contemporary awnings



Figure 6 – Roof features



Figure 7 – Complementary building materials





Figure 8 – Compliant corner lot treatment with detailing for both street frontages



Figure 9 – Feature less wall on corner lots are to be avoided



Figure 10 – Entry feature and balcony

## 2.4 CORNER LOT CHARACTERISTICS

Dwellings constructed on corner blocks and on lots that abut public open space areas such as a park or reserve must address both street frontages through the use of wrap around verandahs, feature windows, detailing, etc. Well-articulated architectural treatments should be provided where built form is visible beyond the side fence line, and at upper levels.

Overall facade articulation and material variation is strongly encouraged. It will be at the discretion of the SBDAC to determine acceptable corner treatment for each corner lot submission.

Entries and/or garages facing the secondary street frontage may be considered by the SBDAC where they are located adjoining open space and linear pedestrian open space links.

## 2.5 PORCHES & ENTRIES

An entry feature complementary to the dwelling design must be incorporated to create a sense of entry. This can be a porch, portico, balcony or verandah and can be a central feature of the façade or located towards the end. Appropriate location of the entry will increase the character of the dwelling and contribute to a varied streetscape.



Figure 11 – Entry feature



Figure 12 – Building oversized for the lot



Figure 13 – Non compliant treatment to eaves



Figure 14 – Eaves that overhang the dwelling facades that face the street

## 2.6 DWELLING SIZE

The siting and proportion of the dwelling on the lot should be a well thought out response to the site.

## 2.7 BUILDING HEIGHTS

Maximum building heights should generally accord with Rescode requirements and where relevant, the Small Lot Housing Code.

Triple storey dwellings and/or basements should adhere to the relevant height requirements. Basements may have a maximum projection of 1.2m above natural ground level.

A ceiling height of 2590mm is encouraged for all single storey dwellings and the ground floor of double storey dwellings. A minimum ceiling height of 2440mm is permitted, subject to approval by the SBDAC but is not encouraged.

## 2.8 ROOFS

Applicants are encouraged to explore varying roof forms which could include combinations of pitched and flat roofs as well as curved elements. The minimum roof pitch must be 22° while skillion and accent sections may have a minimum pitch of 16°.

Eaves with a minimum overhang of 450mm must be provided on dwellings to any street face of single storey dwellings and to all faces of double storey dwellings. On single storey dwellings eaves must wrap around a minimum of 2000mm along the side of the dwelling from any street frontage (except where built to the boundary).

Permitted roof materials include masonry, slate, terracotta tiles or Colorbond®. Other non-reflective materials may be considered for review by the SBDAC.



Figure 15 – Varied Roof Forms





Figure 16 – Carports are not permitted



Figure 17 – Compliant treatment for garage with sectional door



Figure 18 – Non compliant treatment for garage, set forward from the main built form

## 2.9 GARAGES

A lock-up garage for 2 vehicles must be provided on all properties with frontages greater than 10.5m. Open carports to the front of the dwelling will not be permitted. Single garages will be considered for lots with a street frontage of 10.5m or less. Triple garages will be strongly discouraged.

The architectural character of the garage must be harmonious to the main body of the dwelling.

Garages must have a slim line, sectional, tilt or panel lift door to all street frontages. Roller doors will only be permitted at the rear of the garage, as an opening to the backyard and where they are not within public view.

Where the garage door is located to the front of a dwelling, the door or opening of any garage must occupy less than 50% of the width of the lot's street frontage to a maximum of 6.0m.

On 2 storey dwellings with garages that exceed 40% of the lot frontage, balconies or windows above the garage are required.

For lots with frontages less than 8.5m that are not rear-loaded, refer to the Small Lot Housing Code incorporated into the Wyndham Planning Scheme.

Refer to the Streetscape and Siting section for garage setback requirements.



Figure 19 – Maximum garage Frontage

## 03 **STREETSCAPE AND SITING**

### 3.1 **SMALL LOT SETBACKS**

Small lot setbacks must be in accordance with the Small Lot Housing Code incorporated into the Wyndham Planning Scheme.



Figure 20 – Compliant treatment for small lot setbacks



Figure 21 – Compliant treatment for small lot setbacks



### 3.2 STANDARD LOT SETBACKS

A standard lot is a lot which has an area greater than 300m<sup>2</sup>.

Dwellings must be setback from the front boundary by a minimum of 4.0m and a maximum of 6.0m.

Porches, porticos and verandahs less than 3.6m in height may encroach up to 1.0m into the minimum front setback.

Unless rear loaded, garages must be located behind the front wall of the main dwelling (not including the porch, portico or verandah) or a minimum of 4.9m from the front boundary, whichever is greater.

Garages may be built on side boundaries in accordance with Rescode.

Double storey dwellings must be setback from side boundaries in accordance with Rescode.

Rear setbacks are to be in accordance with Rescode. These requirements may be varied with the written approval of the SBDAC and the City of Wyndham.



Figure 22 – Garage is set back from facade



Figure 23 – Garage should be set back from the front wall



Figure 24 – Compliant treatment for double storey dwelling setback

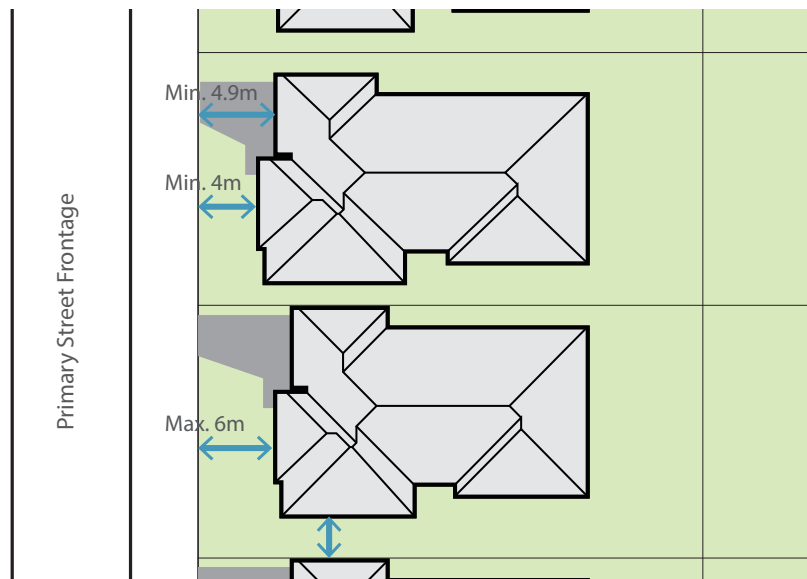


Figure 25 – Dwelling Setbacks plan



Figure 26 – Garage should be setback 5m from the Secondary Street



Figure 27 – Corner lot setback must comply with Rescode

### 3.3 STANDARD LOT CORNER SETBACKS

Where applicable, standard corner lots must comply with the setback requirements listed in Item 17 of the Memorandum of Common Provisions, as well as the following.

Setbacks from the secondary street frontage must comply with Rescode.

Where facing the secondary street frontage, the garage must be setback a minimum of 5.0m from the secondary street frontage. An easement running along the rear of the lot cannot be built over, and the garage may have to be setback from the rear boundary to accommodate the easement. Garages must be located adjacent to the lot boundary but are not permitted adjacent to boundaries abutting public open space.

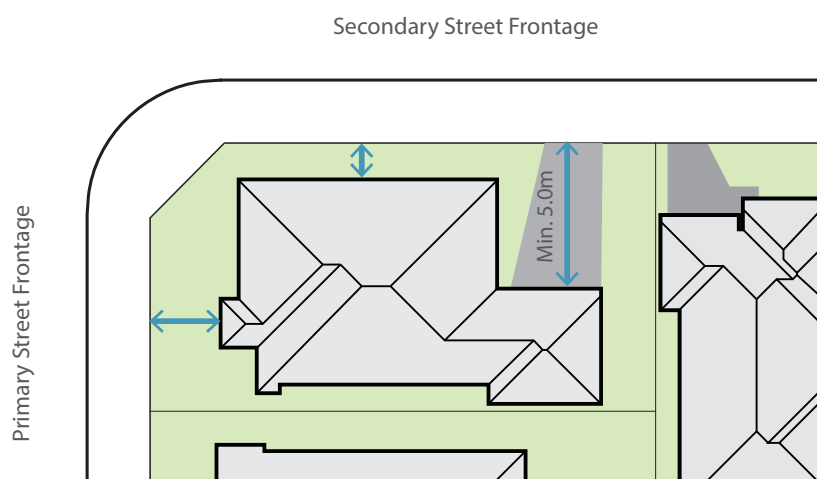


Figure 28 – Corner lot garage on secondary street setback plan

### 3.4 BUILDING ENVELOPES

All dwellings must be constructed in accordance with rescode and where relevant to the Small Lot Building Code.

It is the responsibility of the applicant to investigate the existence of any building envelopes prior to design and submission to the SBDAC.



## 04 EXTERNAL MATERIALS AND COLOURS



Figure 29 – 25% of the facade should be of a contrasting colour

### 4.1 MATERIALS

External walls must be constructed from a minimum of 75% face brick, brick or masonry veneer or other approved texture coated material. At least 25% of the facade of the home must be finished in a contrasting/feature element in a different texture, material or colour.

The utilisation of materials such as natural stone, exposed timber or other feature cladding materials will be considered and encouraged as key design articulation elements. Use of quality materials and finishes is encouraged to give a timeless appeal.

Homes in kit or modular form and the use of second hand materials will be subject to approval by the SBDAC and City of Wyndham. New building materials based on recycled content is permitted.

Unless otherwise approved by the SBDAC, unpainted and/or untreated metalwork and reflective glazing will not be permitted. Infill fibre sheet panels are not permitted above window and door openings where visible from the street.

Fibre-cement sheeting may be permitted if finished as either a textured, painted or rendered surface except as above.

### 4.2 COLOUR SCHEMES

A harmonious colour palette consisting of natural, subdued hues which are complimentary to the surrounding environment and colour tones which reflect the theme of the dwelling will be encouraged. Limited use of strong or bold colours may be adopted to reinforce the contemporary nature of the dwelling design.

In order to avoid further information being requested in regards to colour schedules, the applicant must ensure that all relevant information is provided when applying for design approval.

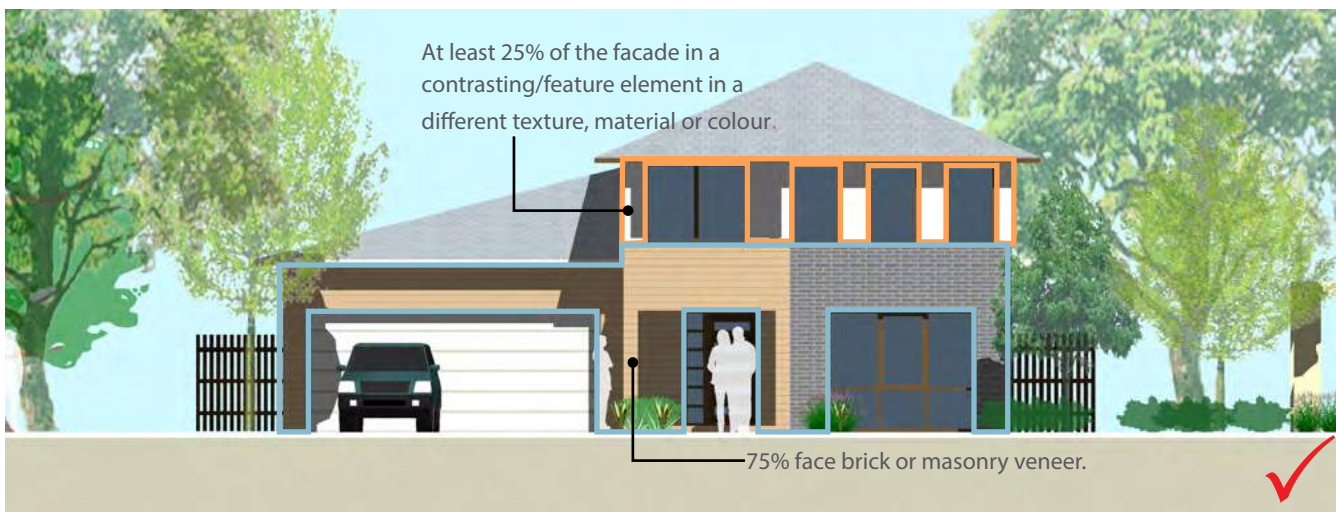


Figure 30 – 25% of the facade should be of a contrasting colour



Masonry colours should be similar to:

#### Light Tone Masonry Colour Range



Austral Urban One Nougat



Austral Homestead Mushroom



Boral Nuvo Aspire Moss



Boral Nuvo Aspire Mist



Boral Nuvo Aspire Coco

#### Mid Tone Masonry Colour Range



Austral Symmetry Grey



Austral Access Fawn



Boral Smooth Face Cinnamon



Boral Elan Riverside Beaumonde



Boral Elan Signature Grey Nuance

#### Dark Tone Masonry Colour Range



Austral Elements Graphite



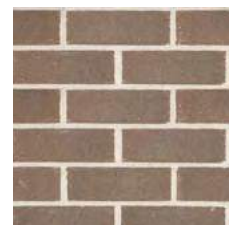
Austral Access Chestnut



Boral Nuvo Aspire Storm



Boral Labassa



Boral Nuvo Aspire Mangrove

Dwelling materials should be similar to:



Lightweight Cladding types - vertical panel



Lightweight Cladding types - horizontal panel



Lightweight Cladding types - timber



Lightweight Cladding types - flat panel



Lightweight Cladding types - corrugated and batted



## 05 DRIVEWAYS, FENCING & LANDSCAPING

### 5.1 DRIVEWAYS

There must be only one driveway per lot, located to align with the crossover. Garages should be sited on the lot in response to the location of existing crossovers with driveways tapered to match crossover width. There must be at least 300mm of screen planting between the driveway and the adjacent side boundary.

Driveways must be fully constructed prior to the issue of the Occupancy Permit.

All driveways, porches and any other concreted areas within the front yard must be constructed of masonry pavers, exposed aggregate, coloured concrete, fixed granular surfaces or stamped or stencilled masonry surface. The colour selection must complement the building design and external colour scheme.

No plain concrete will be permitted unless it is out of public view.



Figure 31 – Plain concrete is not permitted



Figure 32 – Plain Concrete is not permitted, but driveway does taper to align with cross over



Figure 33 – Textured concrete surface



Figure 34 – Textured concrete surface with tapering to match crossover

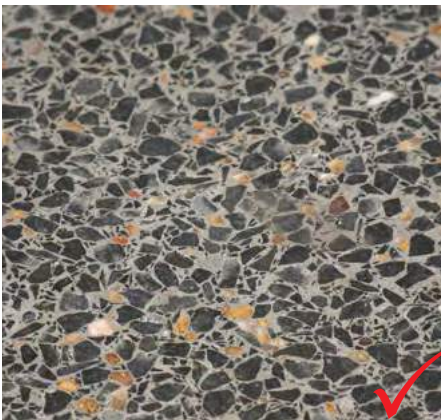






Figure 35 – Largely transparent front fencing



Figure 36 – Fence is too high and too opaque



Figure 37 – Wing Fence

## 5.2 BOUNDARY FENCING

Fencing type will be consistent throughout SBDAC. Fencing is a common link binding the streetscape and highlighting the individuality of each dwelling.

All fencing must be shown on plans submitted to the SBDAC for approval.

In addition to meeting the requirements within section 23 of the Memorandum of Common Provisions, all fencing must also be in accordance with the provisions set out in the Small Lot Housing Code.

### 5.2.1 FRONT FENCING

Front fencing is permitted on lots identified on Figure 38 – Front Fencing Plan, subject to approval. Proposed front fences that are up to 1.2m in height and are largely transparent (ie. 50% or more) in construction are preferred. It is expected that any front fences will return along the side boundary, and extend to meet the side fence. Low masonry walls not exceeding 0.9m height which complement the façade of the building will be permitted. Where a front fence is to be constructed on a corner allotment, it must turn around and extend to meet the side fence.

Front Fencing on all lots adjacent to and fronting public open space must not exceed 1.2m in height.

### 5.2.2 SIDE AND REAR FENCING

All side and rear boundary fencing must be constructed from timber palings, to a height of 1900mm (+/- 50mm). Side boundary fencing must terminate and return to the dwelling at least 1.0m behind the front building line. This part of the fence that returns to the house is known as a wing fence. Wing fencing must also be constructed from timber palings, unless approved by the SBDAC. Wing fencing must be 1900mm (+/-50mm) in height. It is encouraged to include a gate within the wing fencing; however, direct access to the rear yard may be possible either via a gate or directly from your garage. Where timber paling fencing is used, timber capping is encouraged. Fencing constructed along the side boundary forward of the dwelling or along the front boundary is not encouraged.





Figure 39 – Semi Transparent Street Fencing

### 5.2.3 SIDE STREET FENCING

On an allotment with a side boundary that forms the rear boundary of an adjoining allotment, the side fence on that boundary can continue to the front boundary. On corner allotments, fencing to the secondary street frontage should be setback a minimum of 3.0m from the primary street frontage.

For fencing to boundaries abutting a reserve and on corner allotments, a minimum of 30% of the length of the secondary street frontage is required to have no / transparent fencing and should be consistent with fencing along the primary street frontage (Figure 40). For the remaining 70%, the length of solid fence along the secondary street frontage must not exceed 30%. The remaining side fence must be semi-transparent and must provide a minimum of 25% transparency (Figure 40).

Solid and semi-transparent fencing must be constructed from timber palings to a height of 1900mm (+/-50mm). Exposed posts on both sides of the palings are encouraged and palings must be on the external side fronting the street.



Figure 40 – Side street fencing on corner lots

### Transparent Fencing - Front / Side Street Fencing

Transparent Fencing (Front / Side Street Fencing) should be similar to:





### **Semi Transparent Fencing - Side Street / Wing Fencing**

Semi Transparent Fencing (Side Street / Wing Fencing) should be similar to:





### **Solid Fencing - Side Street Fencing**

Solid Fencing (Side Street Fencing) should be similar to:







Figure 41 – Drought tolerant planting



Figure 42 – Low quality landscaping with no canopy tree at least 2m high



Figure 43 – Mail box colour matches the architecture

### 5.3 FRONT LANDSCAPING

To promote an attractive neighbourhood, residents are encouraged to install quality landscaping.

The form and texture of the plantings should complement and enhance the architecture of the dwelling. Planting of canopy trees in appropriate locations is encouraged. Landscape designs should be prepared with an objective for low water usage.

Gardens are encouraged to be environmentally sensitive by utilising appropriate drought tolerant native plants, organic or mineral mulches and drip irrigation systems. Native plants that are common to Victoria and the Region are also encouraged.

Landscaping of your front garden must be completed within 6 months of issue of the Occupancy Permit. Hard paved or impervious surfaces must be limited to driveways and pedestrian pathways only.

The minimum front landscaping works will include:

- > Fine grading and shaping of landscaped and lawn areas.
- > Cultivation of existing soil in the garden beds to a 200mm depth, the addition of imported topsoil and fertiliser to all landscaped areas, as well as the use of mulch and/or other selected topping.
- > At least 1 mature tree (2.0m minimum height).

### 5.4 LETTERBOXES

Letterboxes should be designed to match and compliment the dwelling design. Single post supporting letterboxes are discouraged.



Figure 44 – Mail box integrated into a landscape feature wall



Figure 45 – Single posted letterboxes are discouraged







## 06 ENVIRONMENTAL SUSTAINABILITY

### 6.1 LIVEABILITY CONSIDERATIONS

Applicants are encouraged to submit designs that are environmentally responsible.

The orientation of an allotment will determine the best siting of the house on the allotment. A building's orientation plays a large part in achieving the optimum solar access for a home during winter.

Allotments on the north side of a street will have sunny backyards – good for private outdoor living.

Allotments on the south side of a street will have sunny front yards – good for show piece gardens.

Allotments facing east-west will have sunny side yards to the north – these houses should be sited to leave the largest possible outdoor living space along the northern boundary.

Dwellings can become more liveable by taking into account the orientation of rooms and windows, shading of windows and walls, ceiling heights, sustainable building materials, cross flow ventilation, covered open spaces, insulation and water efficient fixtures. Eave design can act as excellent shading devices during warmer months. Implementing these features can also result into substantial financial savings for the home owner.

Double storey homes must respect the privacy of neighbouring dwellings, including potential overshadowing issues that may arise as a result of siting choices. It is the responsibility of applicants with double storey proposals to ensure their design has demonstrated these factors and to receive approval from the relevant authority and/or Building Surveyor prior to construction.



Figure 46 – Upper floor has sun protected from the eave and the lower floor from the pergola



Figure 47 – North facing windows have no passive sun control



Figure 48 – Trees used to provide shade for the house

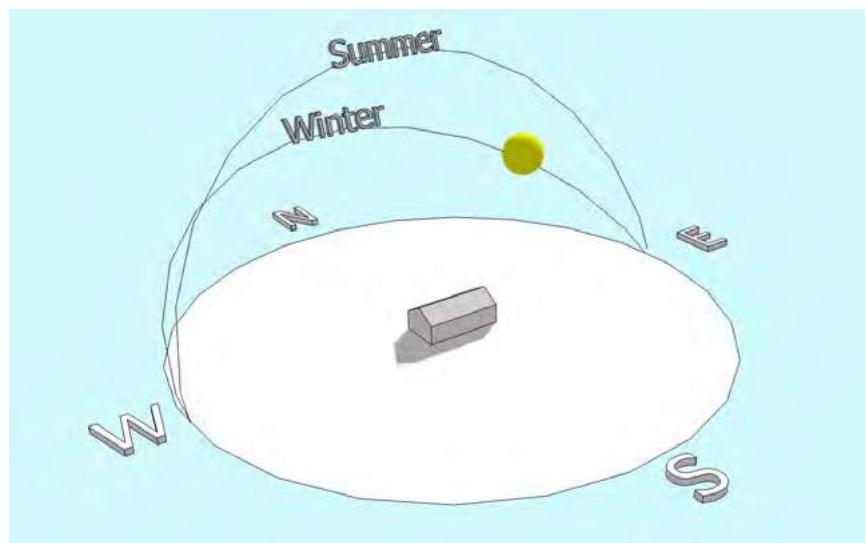


Figure 49 – Energy Efficient homes provide sun access in winter and shade in summer



Figure 50 – Solar panels follow the roof pitch



Figure 51 – Rainwater tanks must not be located in the front

## 6.2 SOLAR HEATING PANELS

Solar heating panels must be located on roof planes preferably not visible from public areas. The panels should follow the roof pitch.

Where visible from public areas, solar panels will be assessed on their merits with regard to scale, form and colour.

## 6.3 RAINWATER TANKS

Rainwater storage is encouraged. The rainwater tank and all accessories must not be located in front of the dwelling or be visible from the street and public spaces. The rainwater tank and all accessories must be coloured to match the dwelling.

To help calculate the size of water storage that may be required please contact the Department of Environment and Primary Industries for appropriate storage requirements in relation to the collection area provided..

## 6.4 RECYCLED WATER

Recycled water will be in use at SBDAC for toilet flushing and garden usage. All residents are required to connect to this service to reduce the consumption of potable water.

## 6.5 ENERGY RATINGS

It is the applicant's responsibility when building a home to comply with Victoria's energy rating requirements. Dwelling designs should be assessed by a licensed energy rating company, and they in turn will make recommendations regarding insulation and other resource saving measures. Dwellings must achieve the minimum standard as currently legislated.

## 6.6 NBN CO

The development qualifies for future NBN roll out. All premises must be aware of and conform with the NBN Co Preparation and Installation Guide for SDU's and MDU's.

## 07 ADDITIONAL BUILDINGS AND ANCILLARY STRUCTURES



Figure 52 – Sheds must not be larger than 15m<sup>2</sup> and must be hidden from public view

### 7.1 SHEDS

Sheds should be constructed of materials and colours consistent with and complimentary to, the materials used for the dwelling. Coloured steel and similar products are acceptable materials.

Sheds must be screened from any street and/or public view by locating to the rear or side of the dwelling. An appropriately located carport out of public view must be considered to store boats, trailers or any similar vehicles.

Sheds must not cover an area greater than 15m<sup>2</sup> and not exceed a maximum height of 2.5m.



Figure 53 – Coolers are to be located out of public view

### 7.2 PERGOLAS, PATIOS & DECKING

Any proposed additional buildings or ancillary structures including decking, pergolas, patios, carports, swimming pools, BBQ areas or similar, must be submitted to the SBDAC for approval. This can be done at the time of submitting the dwelling design or done at a later date as a standalone submission.

The SBDAC will assess these on their merits. Please note that later date stand-alone submissions will incur an additional assessment fee.

### 7.3 ANCILLARY ITEMS

All external plumbing must be out of public view, with the exception of gutters and downpipes. Downpipes must not be located on the front façade of the dwelling.

External TV antennae and other aerials must be unobtrusive and located towards the rear of the dwelling. Satellite dishes will only be approved if out of public view. Clothes lines must not be visible from public areas.



Figure 54 – Downpipes must not be on the front facade

Externally mounted spa equipment attached to side boundary walls of any dwelling must be positioned out of public view, be painted in a colour matching the adjoining wall surface and fitted with noise baffles.

Evaporative cooling units are to be located out of public view where possible and must be of low profile, located below the ridgeline and coloured to match the roof.

Metal security shutters are not permitted.



## 08 GENERAL



Figure 55 – Lot must be maintained and grass cut



Figure 56 – Caravans, recreational and commercial buildings should be screened from public view



Figure 57 – No signs

### 8.1 MAINTENANCE OF THE ALLOTMENT

Prior to the occupation of a dwelling, the allotment must be maintained by keeping the grass cut, and the allotment free from rubbish. Builder's waste materials and rubbish during construction must be removed on a regular basis and must not be allowed to accumulate. If any allotments areShould lots not be maintained to an acceptable level, the Developer reserves the right to carry out clean up works as necessary. Any such costs incurred by the Developer will be passed on to the allotment owner.

After occupation of the dwelling, front yards must be maintained to an acceptable level.

Rubbish and recycle bins must be stored out of public view. It will be at the discretion of the SBDAC to determine if allotments are being maintained to an acceptable level.

### 8.2 COMMERCIAL VEHICLES

Trucks or commercial vehicles (exceeding 1 tonne), recreational vehicles and caravans shall be screened from public view when parked or stored.

### 8.3 SIGNS

No signs, including 'For Sale' signs may be erected by the Purchaser other than a 'Home for Sale' sign which may be erected after completion of construction of a dwelling.

Builder's signs may be permitted (600mm x 600mm maximum) where they are required on allotments during construction. Only one advertising sign is permitted per dwelling at any one time and these signs must be removed once the property is sold.



## 09 DEFINITIONS

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**ALLOTMENT** has the same meaning as in the Building Regulations. Articulation means both horizontal and vertical projection forward and back from the primary building face.

**SBDAC** means the Savana Building and Design Approval Committee that includes CRG Nominees Pty Ltd as the developer/owner of Savana Residential Estate.

**Building** has the same meaning as in the Building Regulations.

**Building Act** means the act of the Victorian Parliament known as the Building Act 1993.

**Building Envelope** means an area within each allotment (defined by the particular allotment setbacks) where development of a dwelling, shed and garage is allowed subject to the particular provisions of this document, and the Scheme

**Building Permit** means a building permit in terms of the Building Regulations.

**Corner Allotment** means an allotment with a corner where each boundary connects to a street or public open space.

**Design Guidelines** mean the Design Guidelines which may be amended on occasions at the developer's discretion, subject to Wyndham City Council approval, to reflect changes in design trends or to coincide with the release of later stages.

**Dwelling** means a building used as a self-contained residence which must include:

- > A kitchen sink;
- > Food preparation facilities;
- > A bath or shower; and
- > A closet pan and wash basin.

It includes out-buildings and works normal to a dwelling.

**Frontage** means the road alignment at the front of an allotment. If an allotment abuts two or more roads, the one to which the building or proposed building faces.

**Front Garden** includes any area between the building line and the front boundary of an allotment and side street boundary or boundary abutting public open space of a corner allotment that is visible from a street.

**Height** has the same meaning as in the Building Regulations.

**On the Boundary** includes a setback of up to 200 millimetres from the allotment/property boundary.

**Private Open Space** means an unroofed area of land; or a deck, terrace, patio, balcony, pergola, verandah, gazebo or swimming pool.

**Regulations** mean the Building Regulations 2006 or any subsequent regulations made pursuant to the Building Act which relate to the siting of a building.

**ResCode** means the residential development provisions incorporated into the Wyndham Planning Scheme and the Building Regulations.

**Scheme** means the City of Wyndham Planning Scheme.

**Secluded Private Open Space** means that part of private open space primarily intended for outdoor living activities which enjoys a reasonable amount of privacy.

**Secondary Street** means the street that runs along the side boundary of a property when located on a corner.

**Setback** means the minimum distance from any allotment boundary to a building.

**Side Boundary** means a boundary of an allotment that runs between and connects the street frontage of the allotment to the rear boundary of the allotment.

**Site Coverage** means the proportion of a site covered by buildings.

**Storey** means that part of a building between floor levels. If there is no floor above, it is the part between the floor level and ceiling. It may include an attic, basement, built over car parking area, and mezzanine.

**Street**, for the purposes of determining setbacks, street means any road other than a footway or carriageway easement.

**Window** has the same meaning as in the Building Code of Australia.





## 11 APPENDIX

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### Building and Design Approval Application Form

#### Land Owners Details

Name	
Current Address	
Phone	
Email	

#### Land Owners Details

Lot Number	
Street Address	

#### Builder | Designer | Architect

Company Name	
Contact	
Address	
Phone	
Email	

#### Building Design Details

Builder	
Building Model (if applicable)	
Floor Area	

#### Submission Requirements.

The following plans are required and should be submitted to [designapprovalvic@avid.com.au](mailto:designapprovalvic@avid.com.au).

☐

##### **Site Plan**

Showing proposed structures, setbacks from all boundaries, eaves overhang, fencing locations, outbuildings, driveway and path areas. Minimum Scale 1:200.

☐

##### **Floor Plan/s**

Including Roof Plan Minimum Scale 1:100.

☐

##### **Elevations**

All elevations of the structure(s) including building and roof heights, roof forms and roof pitch. Minimum Scale 1:100.

☐

##### **Landscape Plan**

Including driveway location and material, planting locations, lawn areas and planting schedule. Minimum Scale 1:200.

☐

##### **Schedule of Materials and Colours**

In the form attached.

Approval of the Building proposal as detailed in this submission is requested. I/ we acknowledge that an incomplete application cannot be considered and that approval by the BBDAC is not a building approval nor does it imply compliance with

---

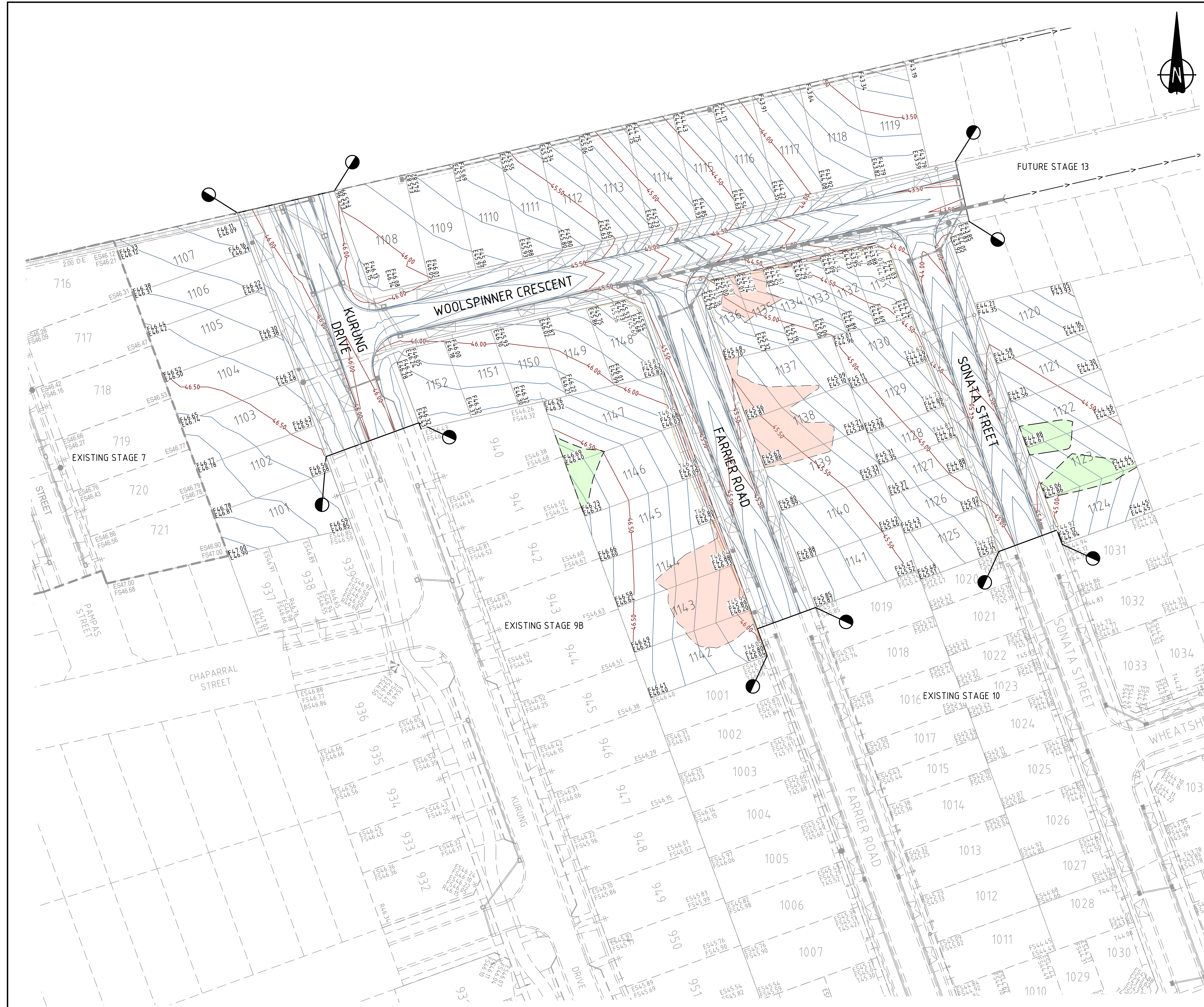
Builder / Designer / Owner

#### DISCLAIMER:

1. The receipt of documents, including building plans, colour and materials specifications, any assessment of compliance by Investa or the Covenant Administrator, their review, assessment or comment on the those documents or any other documents prepared by or on behalf of or provided by the Owner, does not result in the assumption of any obligation or liability by Investa or the Covenant Administrator and does not affect the Owner's obligations or absolve the Owner from its obligations and its responsibility to comply with these Design Guidelines. Owners, Designers and Builders should review these Design Guidelines in conjunction with the land sales contract.
2. Avia Property Group may from time to time, in its absolute discretion, vary, relax or waive any of the requirements under these Design Guidelines. In the event that Avid Property Group allows a variation, relaxation or waiver of the application of the Design Guidelines, this will not set a precedent nor imply that any such action will apply again

## **Annexure D - Engineering Drawings**





LEGEND		
DESCRIPTION	EXISTING	PROPOSED
CENTRAL INVERT		
SEWER & MANHOLE		
COUNCIL STORMWATER DRAIN & PIT		
STORMWATER DRAINAGE PROPERTY INLETS		
COUNCIL STORMWATER PITS		
HOUSE DRAIN		
AG DRAIN		
SURFACE CONTOUR SURFACE MINOR		
SURFACE CONTOUR MAJOR		
SURFACE LEVEL	E43.21	F44.33
BATTER LEVEL (TOP / TOE)	T43.55	T43.55
PERMANENT SURVEY MARK		
TEMPORARY BENCH MARK		
BATTER		
CUT GREATER THAN 200mm		
FILLING GREATER THAN 200mm		
ROCK BEACHING		
200mm (MAX) HIGH PLINTH		
FENCE - TREE PROTECTION		
TEMPORARY PROTECTIVE FENCING		
TREE TO BE RETAINED		
TREE TO BE REMOVED		

**Planning and Environment Act 1987**  
**Wyndham Planning Scheme**

**Approved Plan As Required  
under Condition 28  
Permit No WYP9847/17  
Date 21/09/2020**

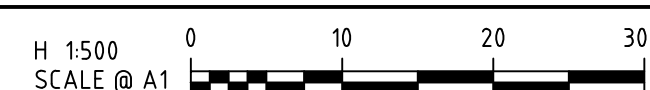


## WARNING

**BEWARE OF UNDERGROUND/OVERHEAD SERVICES**  
THE LOCATION OF SERVICES ARE APPROXIMATE ONLY AND THEIR EXACT POSITION SHOULD BE PROVEN ON SITE. NO GUARANTEE IS GIVEN THAT ALL EXISTING SERVICES ARE SHOWN. SPECIAL CONSIDERATION SHOULD BE GIVEN TO CONSTRUCTION PROCEDURES UNDER OVERHEAD FLUCTUITY TRANSMISSION LINES.

0	12.08.20	RG	<i>Alan</i>	<i>Paul</i>	ISSUED FOR CONSTRUCTION
REV	DATE	DRN	CKD	APP	AMENDMENT

FOR CONSTRUCTION





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This plan is not to be used for construction unless issued as revision 0 or higher

**CW** **Cossill & Webley**  
CONSULTING ENGINEERS

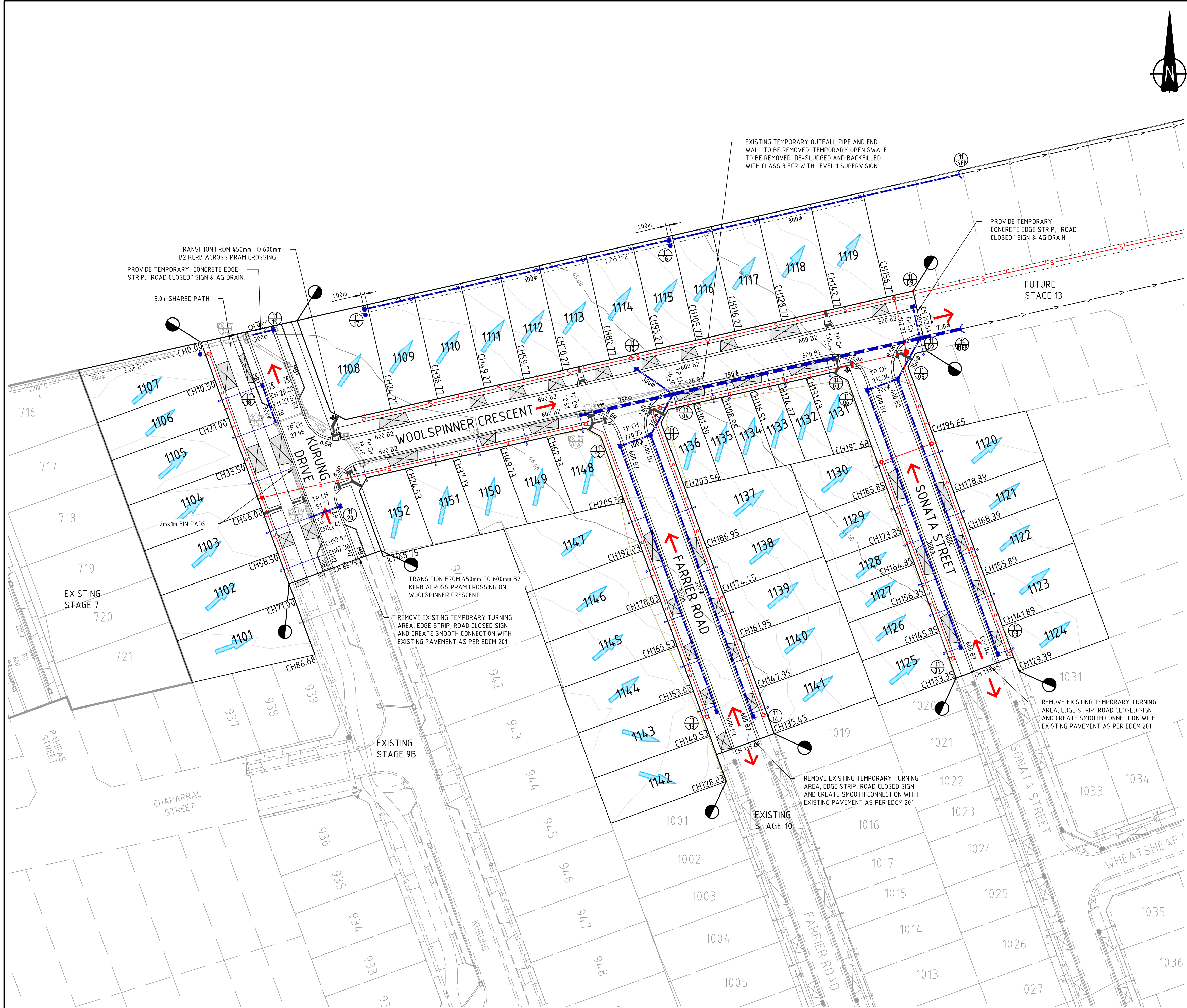
<b>Mailing Address</b>	<b>Street Address</b>
PO Box 33152	Suite 2.04, 390 St Kilda Road
Melbourne VIC 3004	Melbourne VIC 3004
T (03) 8548 1560	E <a href="mailto:melbourne@cosweb.com.au">melbourne@cosweb.com.au</a>

CLIENT		
APPROVED	12.08.20	DESIGNED
		R. GAUTAM
		SCALE
		AS SHOWN

PROJECT	SAVANA - STAGE 11		
TITLE	EARTHWORKS PLAN		
MUNICIPALITY	WYNDHAM CITY COUNCIL		
PP No.	WYP98/47/17	DRAWING No.	3138-11-100
			REVISION 0

ORIGINAL	A1
----------	----





LEGEND		
DESCRIPTION	EXISTING	PROPOSED
CENTRAL INVERT		
SEWER & MANHOLE		
COUNCIL STORMWATER DRAIN & PIT		
MELBOURNE WATER LINEWORK		
STORMWATER DRAINAGE PROPERTY INLETS		
COUNCIL STORMWATER PITS		
HOUSE DRAIN		
DRAINAGE PC INVERT LEVEL		PI XX.XX
AG DRAIN		
STORMWATER DRAINAGE PIT NUMBER		
CONCRETE VEHICLE CROSSING		
CONCRETE FOOTPATH		
PAVEMENT SAWCUT LINE		
SURFACE CONTOUR MINOR		
SURFACE CONTOUR MAJOR		
SURFACE LEVEL	E43.21	F44.33
BATTER LEVEL (TOP / TOE)	T43.55	T43.55
PERMANENT SURVEY MARK		
TEMPORARY BENCH MARK		
ROAD CHAINAGES	CH36.20 (L/R)TP CH36.20	CH36.20 (L/R)TP CH36.20
LOT CHAINAGE	CH28.50	CH28.50
LIMIT OF WORKS		
BATTER		
ROCK BEACHING		
FENCE - TREE PROTECTION		
FENCE - VEHICLE EXCLUSION		
FENCE - TEMPORARY		
FENCE - OTHER		
TREE TO BE RETAINED		
TREE TO BE REMOVED		

Planning and Environment Act 1987  
Wyndham Planning Scheme

Approved Plan As Required  
under Condition 28  
Permit No WYP9847/17  
Date 21/09/2020



WARNING

BEWARE OF UNDERGROUND/OVERHEAD SERVICES  
THE LOCATION OF SERVICES ARE APPROXIMATE ONLY AND THEIR  
EXACT POSITION SHOULD BE PROVEN ON SITE. NO GUARANTEE IS  
GIVEN THAT ALL EXISTING SERVICES ARE SHOWN. SPECIAL  
CONSIDERATION SHOULD BE GIVEN TO CONSTRUCTION PROCEDURES  
UNDER OVERHEAD ELECTRICITY TRANSMISSION LINES.

0	12.08.20	RG		ISSUED FOR CONSTRUCTION
REV	DATE	DRN	CKD	APP
				AMENDMENT

FOR CONSTRUCTION

H 1:500  
SCALE @ A1

0 10 20 30m

**CW** Cossill & Webley  
CONSULTING ENGINEERS

Mailing Address  
PO Box 33152  
Melbourne VIC 3004  
T (03) 8548 1560

Street Address  
Suite 2.04, 390 St Kilda Road  
Melbourne VIC 3004  
E melbourne@cosweb.com.au

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Consulting Engineers constitutes an  
infringement of copyright.  
  
This plan is not to be used for construction  
unless issued as revision 0 or higher

CLIENT  
**AVID**  
Property Group

APPROVED

DESIGNED  
R. GAUTAM

SCALE  
AS SHOWN

12.08.20

PROJECT	SAVANA - STAGE 11
TITLE	ROADWORKS PLAN
MUNICIPALITY	WYNDHAM CITY COUNCIL
PP No.	WYP9847/17
DRAWING No.	3138-11-200
REVISION	0

A1  
ORIGINAL  
SIZE



# LEGEND

DESCRIPTION	EXISTING	PROPOSED
WATER MAIN - DRINKING WATER		
WATER MAIN - NON-DRINKING WATER		
UNDERGROUND ELECTRICITY		
OVERHEAD ELECTRICITY & POLE		
TELSTRA & SERVICE PIT		
OPTIC FIBRE		
GAS MAIN		
SEWER & MANHOLE		
CENTRAL INVERT		
COUNCIL STORMWATER DRAIN & PIT		
STORMWATER DRAINAGE PROPERTY INLETS		
COUNCIL STORMWATER PITS		
HOUSE DRAIN		
DRAINAGE PC INVERT LEVEL		
STORMWATER DRAINAGE PIT NUMBER		
GAS & WATER CONDUITS		

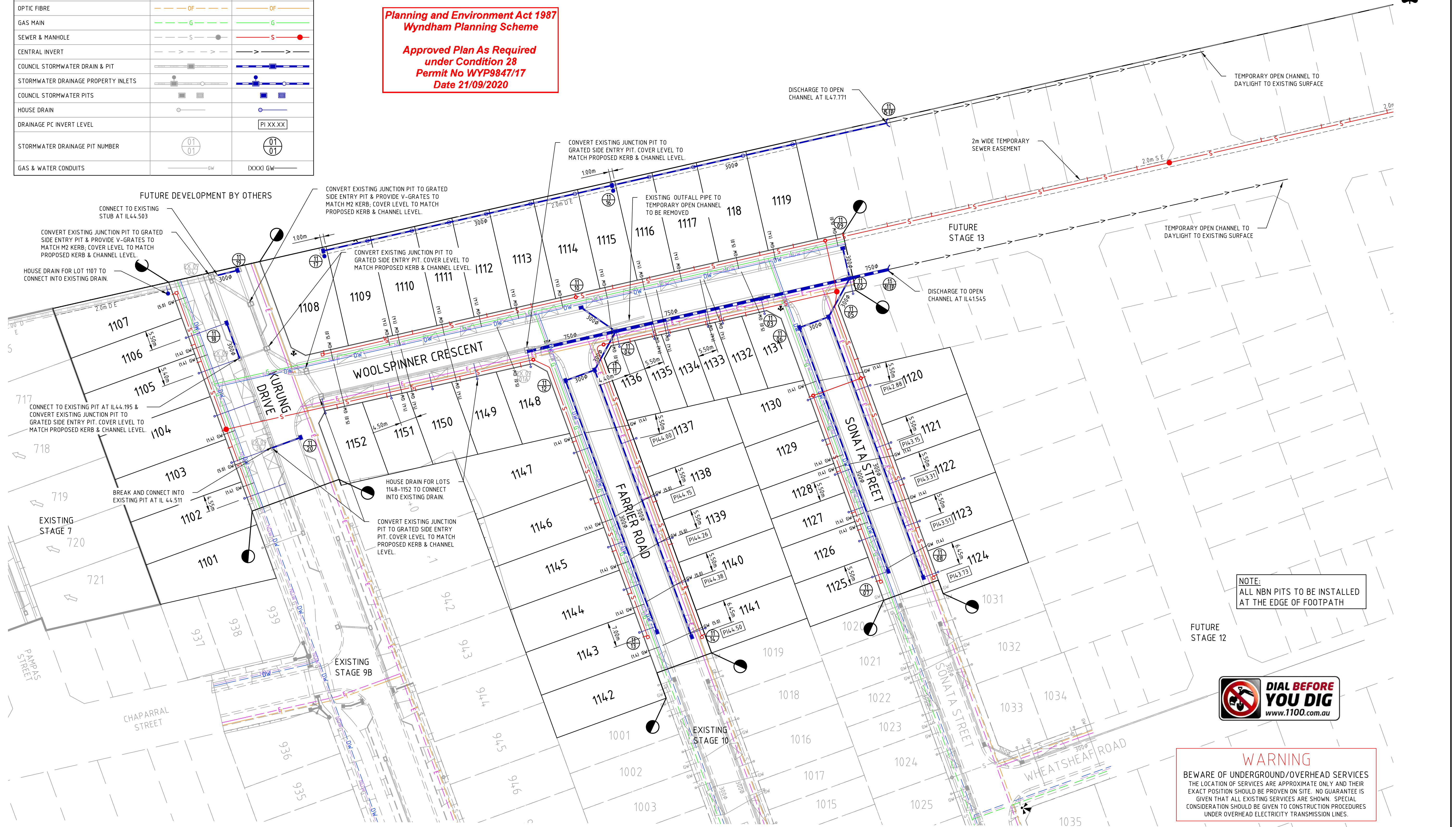
## SERVICES OFFSET TABLE

STREET NAME	GAS		NON-DRINKING WATER		DRINKING WATER		TELCO		ELECTRICITY		SEWER	
	SIDE	OFFSET	SIDE	OFFSET	SIDE	OFFSET	SIDE	OFFSET	SIDE	OFFSET	SIDE	OFFSET
WOOLSPINNER CRESCENT	NORTH	2.10	NORTH	2.60	NORTH	3.00	SOUTH	1.80	SOUTH	2.50	NORTH & SOUTH	1.00 & 0.8
FARRIER ROAD & SONATA STREET	WEST	2.25	WEST	2.70	WEST	3.15	EAST	1.80	EAST	2.50	EAST & WEST	1.00
KURUNG DRIVE	WEST	2.30	WEST	2.75	WEST	3.20	EAST	1.80	EAST	2.50	WEST	1.00

1. NBN AND ELECTRICITY CABLES TO BE CONSTRUCTED IN A COMMON TRENCH IN ACCORDANCE WITH ELECTRICAL AUTHORITY STANDARD DRAWING'S.
2. GAS AND WATER MAINS TO BE CONSTRUCTED IN A COMMON TRENCH.
3. ALL NBN PITS SHALL BE INSTALLED AT THE EDGE OF THE FOOTPATH.

**Planning and Environment Act 1987  
Wyndham Planning Scheme**

**Approved Plan As Required  
under Condition 28  
Permit No WYP9847/17  
Date 21/09/2020**



**NOTE:**  
ALL NBN PITS TO BE INSTALLED  
AT THE EDGE OF FOOTPATH

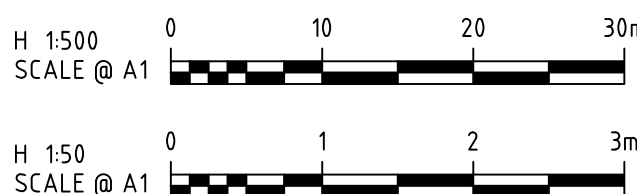


### WARNING

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1	27.08.20	RG		SERVICE OFFSETS FOR WOOLSPINNER CRESCENT MODIFIED
0	12.08.20	RG	FP	ISSUED FOR CONSTRUCTION
REV	DATE	DRN	CKD	APP
				AMENDMENT

**FOR CONSTRUCTION**



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Melbourne VIC 3004  
E melbourne@cossweb.com.au

**AVID**  
Property Group  
APPROVED 17.08.20 DESIGNED R. GAUTAM  
SCALE AS SHOWN

PROJECT SAVANA - STAGE 11  
TITLE SERVICES PLAN  
MUNICIPALITY WYNDHAM CITY COUNCIL  
PP No. WYP9847/17  
DRAWING No. 3138-11-201  
REVISION 1

A1  
ORIGINAL SIZE



## **Annexure E Restrictive Covenant**

### **1. Restrictive Covenant**

Any registered proprietor of the land hereby transferred (Burdened Land) must not at any time (and not cause, allow or permit any other person or party to) use or develop the Land hereby transferred for a commercial childcare centre.

### **2. Benefited Land**

Lot 112 on PS 739613U and every lot forming part of the plan of subdivision on which the Burdened Land forms part.

### **3. General**

The burden of this restrictive covenant will run with and bind the Burdened Land, the registered proprietor of the Burdened Land, its successors, transferees and assigns until the date that is 10 years after registration of this restrictive covenant.

## **Annexure F Vendor's Statement**



# VENDOR'S STATEMENT PURSUANT TO SECTION 32 OF THE SALE OF LAND ACT 1962

PROPERTY Lot \_\_\_\_\_ on proposed Plan of Subdivision PS 826701N, Stage 11, Savana, 50 Hobbs Road, Wyndham Vale, Victoria 3024

## 1. FINANCIAL MATTERS

1.1 **Rates, Taxes, Charges or Other Similar Outgoings** affecting the land and any interest payable, are as follows:

- (a) Are contained in the attached certificates.
- (b) 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 of, are as follows:
  - (i) The purchaser will be liable for municipal, water, sewerage and drainage rates and charges; and
  - (ii) The purchaser may also become liable for State Land Tax depending on the use to which the property is put and other properties owned by the purchaser.

1.2 **Charges** (whether registered or not) over the land imposed by or under an Act to secure an amount due under that Act, are as follows:

See attached certificates.

1.3 **Mortgages** (whether registered or unregistered) over the land, which will not to be discharged before the purchaser becomes entitled to possession or to the receipt of rents and profits, are as follows:

Nil.

1.4 **Terms Contract** - where the purchaser is obliged to make 2 or more payments to the vendor after the execution of the contract and before the purchaser is entitled to a conveyance or transfer of the land, particulars are as follows:

Not applicable.

## 2. INSURANCE

2.1 **Damage and Destruction** - if the contract does not provide for the land to remain at the risk of the vendor until the purchaser becomes entitled to possession or to the receipt of rents and profits, particulars of any policy of insurance maintained by the vendor in respect of any damage to or destruction of the land are as follows:

Not applicable.

2.2 **Owner-Builder** - if there is a residence on the land which was constructed within the preceding 6 years and section 137B of the *Building Act 1993* applies to the residence, particulars of any required insurance under that Act applying to the residence are as follows:

Not applicable.

## 3. LAND USE

3.1 **Easements, Covenants or Other Similar Restrictions** affecting the land (whether registered or unregistered):

- (a) To the best of the Vendor's knowledge, there are no easements, covenants or other similar restrictions affecting the Property other than:

- (i) those set out in the attached copies of the title documents;
  - (ii) the easements created by section 98 of the *Transfer of Land Act 1958* (Vic), section 12(2) of the *Subdivision Act 1988* (Vic) and any other easements noted on the Plan of Subdivision;
  - (iii) the requirements of the Planning Documents (as that term is defined in the contract of sale); and
  - (iv) any easements, covenants or other similar restrictions referred to in or contemplated by the contract of sale.
- (b) Particulars of any existing failure to comply with the terms of that easement, covenant or restriction are as follows:

Save as disclosed in the attachments to the Vendor's Statement, none to the best of the Vendor's knowledge.

**3.2 Designated Bushfire Prone Area** - the property is in a bushfire prone area within the meaning of regulations made under the *Building Act 1993*. Special bushfire construction requirements apply.

**3.3 Road Access** - there is access to the property by road.

**3.4 Planning Scheme** - information concerning the planning scheme is contained in the attached certificate.

## **4. NOTICES**

**4.1 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 particulars are as follows:

Save as disclosed in the attachments to the Vendor's Statement, none to the best of the Vendor's knowledge.

**4.2 Livestock Disease or Contamination by Agricultural Chemicals** - particulars of any 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 are as follows:

Save as disclosed in the attachments to the Vendor's Statement, none to the best of the Vendor's knowledge.

**4.3 Compulsory Acquisition** - particulars of any notice of intention to acquire served under section 6 of the *Land Acquisition and Compensation Act 1986* are as follows:

Save as disclosed in the attachments to the Vendor's Statement, none to the best of the Vendor's knowledge.

## **5. BUILDING PERMITS**

Particulars of any building permits issued in the past 7 years under the *Building Act 1993* (required only where there is a residence on the land) are contained in the attached certificate.

## **6. OWNERS CORPORATION**

The land is not affected by an Owners Corporation within the meaning of the *Owners Corporations Act 2006*.

## **7. GROWTH AREAS INFRASTRUCTURE CONTRIBUTION (GAIC)**

The land is affected by the GAIC.

Attached are the following certificates or notices:

- (a) any GAIC certificate relating to the land issued under Part 9B of the *Planning and Environment Act 1987*.

## **8. NON-CONNECTED SERVICES**

The following services are **not** connected to the land:

- (a) electricity supply;
- (b) gas supply;
- (c) water supply;
- (d) sewerage; and
- (e) telephone services.

## **9. TITLE**

Attached is:

- (a) a copy of the Register Search Statement and the document, or part of the document, referred to as a diagram location in the Register Search Statement that identifies the land from which the Property will be derived and its location, being Certificate of Title Volume 12152 Folio 609;
- (b) Registered Plan of Subdivision PS 809299K (Stage 9);
- (c) Proposed Plan of Subdivision PS 809300E (Stage 10);
- (d) Proposed Plan of Subdivision PS 826701N (Stage 11);
- (e) Draft MCPs and Small Lot Code Plan;
- (f) GAIC Notice No. AH336996N;
- (g) Section 173 Agreement AL114846N;
- (h) Section 173 Agreement AQ257914E;
- (i) Section 173 Agreement AQ257915C;
- (j) Planning Permit;
- (k) Planning Certificate;
- (l) Planning Report, including Designated Bushfire Prone Area information;
- (m) Land Information Certificate;
- (n) Building Certificates;
- (o) GAIC Certificate;
- (p) Land Tax Certificate;
- (q) Water Information Certificate;
- (r) EPA Register Extract;
- (s) Victoria Heritage Certificate;
- (t) National Trust Certificate;
- (u) VicRoads Certificate and
- (v) Aboriginal Heritage Certificate.

## **10. SUBDIVISION**

### **10.1 Unregistered Subdivision**

Attached is a copy of the latest version of the plan as the plan of subdivision has not yet been registered.

### **10.2 Staged Subdivision**

Not applicable.

**10.3 Further Plan of Subdivision**

Not applicable.

**11. DISCLOSURE OF ENERGY EFFICIENCY INFORMATION**

There is no certificate relating to Energy Efficiency Information applicable.

**12. DUE DILIGENCE CHECKLIST**

The Sale of Land Act 1962 provides that the vendor or the vendor's licensed estate agent must ensure that a prescribed due diligence checklist is made available to any prospective purchasers from the time the land is offered for sale where that land is vacant residential land or land on which there is a residence. The due diligence checklist is provided with, or attached to, this vendor's statement.

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

Date of this Statement: 2 November 2020



Signature of the vendor:

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

Date of this Acknowledgment: ..... / ..... / .....

Signatures of the purchaser: .....

.....

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

VOLUME 12152 FOLIO 609

Security no : 124080320705P

Produced 19/11/2019 07:02 PM

LAND DESCRIPTION

Lot Q on Plan of Subdivision 809299K.  
PARENT TITLE Volume 12099 Folio 947  
Created by instrument PS809299K 24/09/2019

REGISTERED PROPRIETOR

Estate Fee Simple

Sole Proprietor

AVID PROPERTY GROUP NOMINEES PTY LTD of SUITE 6 LEVEL 2 2 QUEEN STREET  
MELBOURNE VIC 3000  
PS809299K 24/09/2019

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AS287790J 24/06/2019  
ANZ FIDUCIARY SERVICES PTY LTD

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

NOTICE Section 201UB Planning and Environment Act 1987  
AH336996N 01/07/2010

AGREEMENT Section 173 Planning and Environment Act 1987  
AL114846N 28/05/2014

AGREEMENT Section 173 Planning and Environment Act 1987  
AQ257914E 18/09/2017

AGREEMENT Section 173 Planning and Environment Act 1987  
AQ257915C 18/09/2017

DIAGRAM LOCATION

SEE PS809299K FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NUMBER	PLAN OF SUBDIVISION	STATUS	DATE
PS809299K (B)	PLAN OF SUBDIVISION	Registered	24/09/2019

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

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

ADMINISTRATIVE NOTICES

NIL

eCT Control 19085G ASHURST AUSTRALIA  
Effective from 24/09/2019

DOCUMENT END

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The information supplied by InfoTrack has been obtained from

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PLAN OF SUBDIVISION		EDITION 1	PS809299K
<b>LOCATION OF LAND</b>  PARISH: <b>WERRIBEE</b> TOWNSHIP: ..... SECTION: <b>9</b> CROWN ALLOTMENT: ..... CROWN PORTION: <b>A (Part) and B (Part)</b> TITLE REFERENCE: <b>Vol.12099 Fol. 947</b>  LAST PLAN REFERENCE: <b>Lot P on PS809298M</b>  POSTAL ADDRESS: <b>50 Hobbs Road</b> (at time of subdivision) <b>WYNDHAM VALE 3024</b>  MGA 84 CO-ORDINATES: E: <b>290 450</b> ZONE: <b>55</b> (of approx centre of land in plan) N: <b>5806 590</b>		Council Name: <b>Wyndham City Council</b>  Council Reference Number: <b>WYS4621/18</b> Planning Permit Reference: <b>WYP7671/14</b> SPEAR Reference Number: <b>S126192H</b>  <b>Certification</b> This plan is certified under section 11 (7) of the Subdivision Act 1988. Date of original certification under section 6: <b>15/01/2019</b>  <b>Statement of Compliance</b> This is a statement of compliance issued under section 21 of the Subdivision Act 1988.  Public Open Space A requirement for public open space under section 13 of the Subdivision Act 1988 has not been made.  Digitally signed by: <b>Maureen Tesoro</b> for Wyndham City Council on 13/09/2019	
VESTING OF ROADS AND/OR RESERVES		NOTATIONS	
IDENTIFIER	COUNCIL/BODY/PERSON	Lots 901 to 920 (both inclusive) have been omitted from this plan.  Lots 921 - 957 (both inclusive) may be affected by one or more restrictions. Refer to Creation of Restrictions A, B, C & D on Sheets 6 & 7 of this plan for details.  <b>OTHER PURPOSE OF PLAN</b> Removal of the Drainage & Sewerage easement marked E-2 on PS809298M, upon registration of this plan.  Removal of the Drainage easement E-3 on PS809298M in so far as where it lies within new roads R1 on this plan, upon registration of this plan.  <b>GROUND FOR REMOVAL:</b> By agreement between all interested parties vide Sec.8(1)(x) of the Subdivision Act 1988.	
ROAD R1	Wyndham City Council		
NOTATIONS			
DEPTH LIMITATION: Does Not Apply			
SURVEY: This plan is based on survey.  STAGING: This is not a staged subdivision.  This survey has been connected to Werribee PM 7 and Werribee PM 439 in Proclaimed Survey Area No. (Not Applicable)			
<b>SAVANA ESTATE - Release No. 9B</b> Area of Release: <b>2.440ha</b> No. of Lots: <b>37 Lots and Balance Lot Q</b>			
EASEMENT INFORMATION			
LEGEND: A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)			
Easement Reference	Purpose	Width (Metres)	Land Benefited/In Favour Of
E-1	Sewerage	2.50m	City West Water Corporation
E-2	Drainage	See Diag.	Wyndham City Council
E-3	Sewerage	See Diag.	City West Water Corporation
	Drainage		Wyndham City Council
E-4	Sewerage	See Diag.	City West Water Corporation
TAYLORS		SURVEYORS FILE REF: Ref. Var. <b>02188-088</b> <b>4</b> Digitally signed by: <b>Raymond Li</b> , Licensed Surveyor, Surveyor's Plan Version (4), 09/06/2019, SPEAR Ref. S126192H	
Urban Development   Built Environment   Infrastructure 8 / 270 Fernree Gully Road, Mering Hall, Victoria, 3169 Tel: 03 9501 2800   Web: taylorss.com.au		ORIGINAL SHEET SIZE: A3	SHEET 1 OF 7
		PLAN REGISTERED TIME: <b>2:56 pm</b> DATE: <b>24 / 09 / 2019</b> IT Assistant Registrar of Titles	

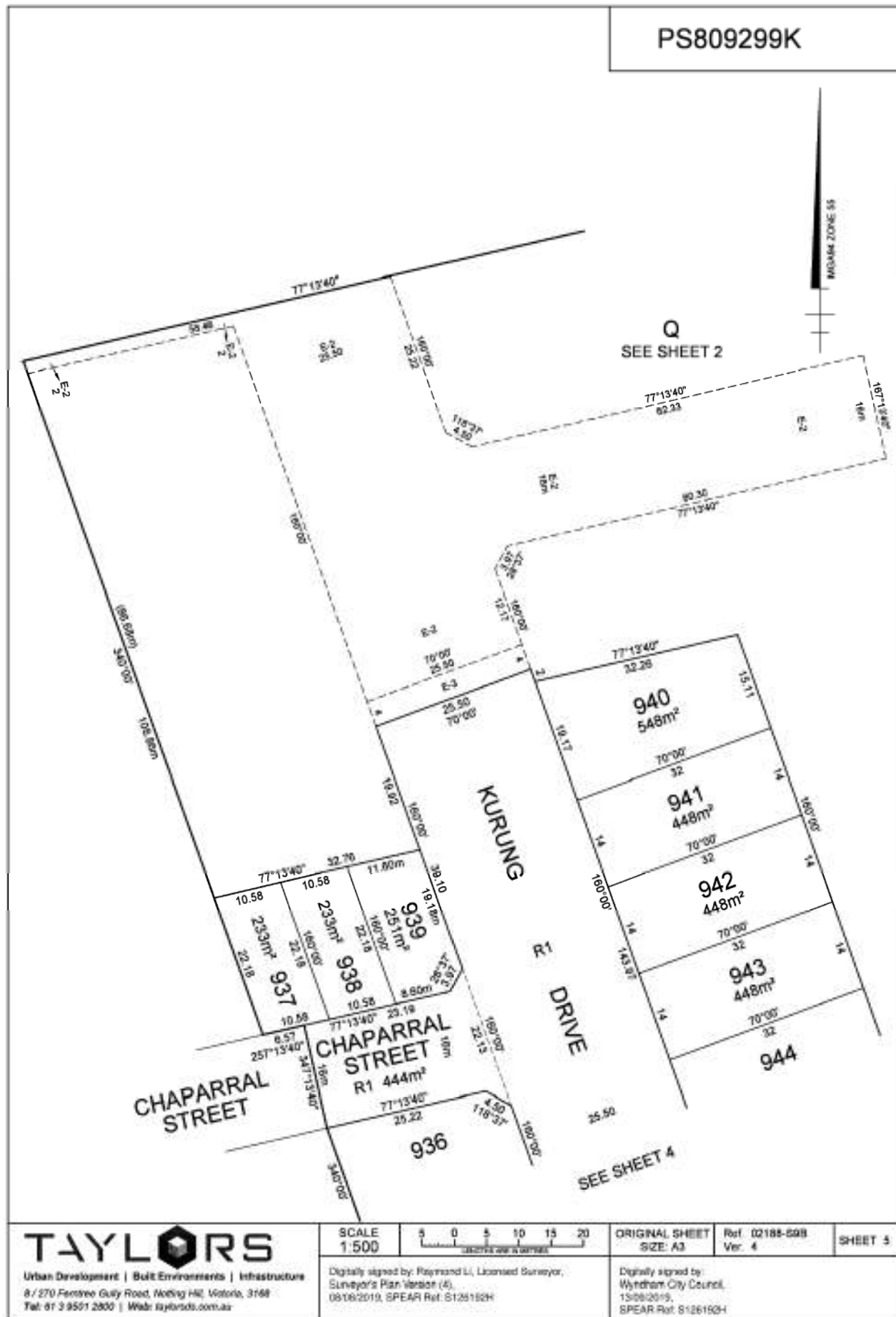








PS809299K



**TAYLORS**

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

SCALE  
1:500

0 5 10 15 20  
METRES

ORIGINAL SHEET  
SIZE: A3

Ref: Q2185-GBB  
Ver: 4

SHEET 5

Digitally signed by: Raymond Li, Licensed Surveyor,  
Surveyor's Plan Version (4),  
08/08/2019, SPEAR Ref: S126162H

Digitally signed by:  
Wyndham City Council,  
13/08/2019,  
SPEAR Ref: S126162H

PS809299K

**CREATION OF RESTRICTION A**

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

LAND TO BE BURDENED: See Table 1

LAND TO BENEFIT: See Table 1

**RESTRICTION**

The registered proprietor or proprietors for the time being of any burdened lot on this plan:

1. must not build or permit to be built or remain on the lot or any part of it any building other than a building which has been constructed in accordance with the approved Memorandum of Common Provisions (MCP) registered in dealing no AA5448 without the prior written consent of the Responsible Authority. The provisions of the said MCP are incorporated into this restriction;
2. must not make an application to amend a building envelope unless such an amendment and any criteria or matters which must be considered by the Responsible Authority in deciding on such an amendment are to the satisfaction of the Responsible Authority; and
3. must not erect any building on a lot unless the plans for such a building are endorsed by the Savana Building and Design Approval Committee (SBDAC) prior to the issue of a building permit.

EXPIRY DATE: 31/12/2029

TABLE 1

BURDENED LOT No.	BENEFITING LOTS ON THIS PLAN
921	922
922	921, 923
923	922, 924
924	923, 925
925	924, 926
926	925, 927, 929
927	926, 928, 929
928	927, 929
929	926, 927, 928, 930
930	929, 931
931	930
932	933
933	932, 934
934	933, 935
935	934, 936
936	935
937	938
938	937, 939
939	938

TABLE 1 (Continued)

BURDENED LOT No.	BENEFITING LOTS ON THIS PLAN
940	941
941	940, 942
942	941, 943
943	942, 944
944	943, 945
945	944, 946
946	945, 947
947	946, 948
948	947, 949
949	948, 950
950	949, 951
951	950, 952, 953
952	951, 953
953	951, 952, 954
954	953
955	956
956	955, 957
957	956

**TAYLORS**

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

SCALE



Digitally signed by: Raymond Li, Licensed Surveyor,  
Surveyor's Plan Version (A),  
08/08/2019, SPEAR Ref: S126162H

ORIGINAL SHEET  
SIZE: A3

Ref: Q2185-698  
Ver. 4

SHEET 6

Digitally signed by:  
Wyndham City Council,  
13/09/2019,  
SPEAR Ref: S126162H

PS809299K

**CREATION OF RESTRICTION B**

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

LAND TO BE BURDENED: Lots in Table 2

LAND TO BENEFIT: Lots in Table 2

**RESTRICTION**

The registered proprietor or proprietors for the time being of any burdened lot on this plan must not build or permit to be built or remain on the lot any building other than a building which has been constructed in accordance with the Small Lot Housing Code (Type A) incorporated into the Wyndham Planning Scheme unless a planning permit is granted by the Responsible Authority for a building that does not conform with the Small Lot Housing Code.

EXPIRY DATE: 31/12/2029

TABLE 2

BURDENED LOT No.	BENEFITING LOTS ON THIS PLAN
921	922
922	921, 923
923	922, 924
924	923, 925
925	924, 926
926	925, 927, 929
933	932, 934
935	934, 938
937	938
938	937, 939
939	938

**CREATION OF RESTRICTION C**

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

LAND TO BE BURDENED: Lot 921 to 926 (both inclusive), 933, 935 and 937 to 939 (both inclusive).

LAND TO BENEFIT: The relevant abutting lots.

**RESTRICTION**

The registered proprietor or proprietors for the time being of any burdened lot on this plan:

1. Must not build or permit to be built a building that is not free standing within the title boundaries of the lot on which it is built.
2. Must not build or permit to be built a building that relies on the walls of adjacent buildings for support.

EXPIRY DATE: 31/12/2029

**CREATION OF RESTRICTION D**

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

LAND TO BE BURDENED: Lots 921 to 957 (both inclusive) on this plan.

LAND TO BENEFIT: Lots 921 to 957 (both inclusive) on this plan.

**RESTRICTION**

The registered proprietor or proprietors for the time being of any burdened lot to which this restriction applies must not build or permit to be built a dwelling or commercial building unless the building incorporates dual plumbing for recycled water supply for toilet flushing and garden watering use if it becomes available.

EXPIRY DATE: 31/12/2029

**TAYLORS**

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

SCALE

0

10 METRES AND 100 METRES

Digitally signed by: Raymond Li, Licensed Surveyor,  
Surveyor's Plan Version (A),  
09/08/2019, SPEAR Ref: S126162H

ORIGINAL SHEET  
SIZE: A3

Ref: Q2185-59B  
Ver. 4

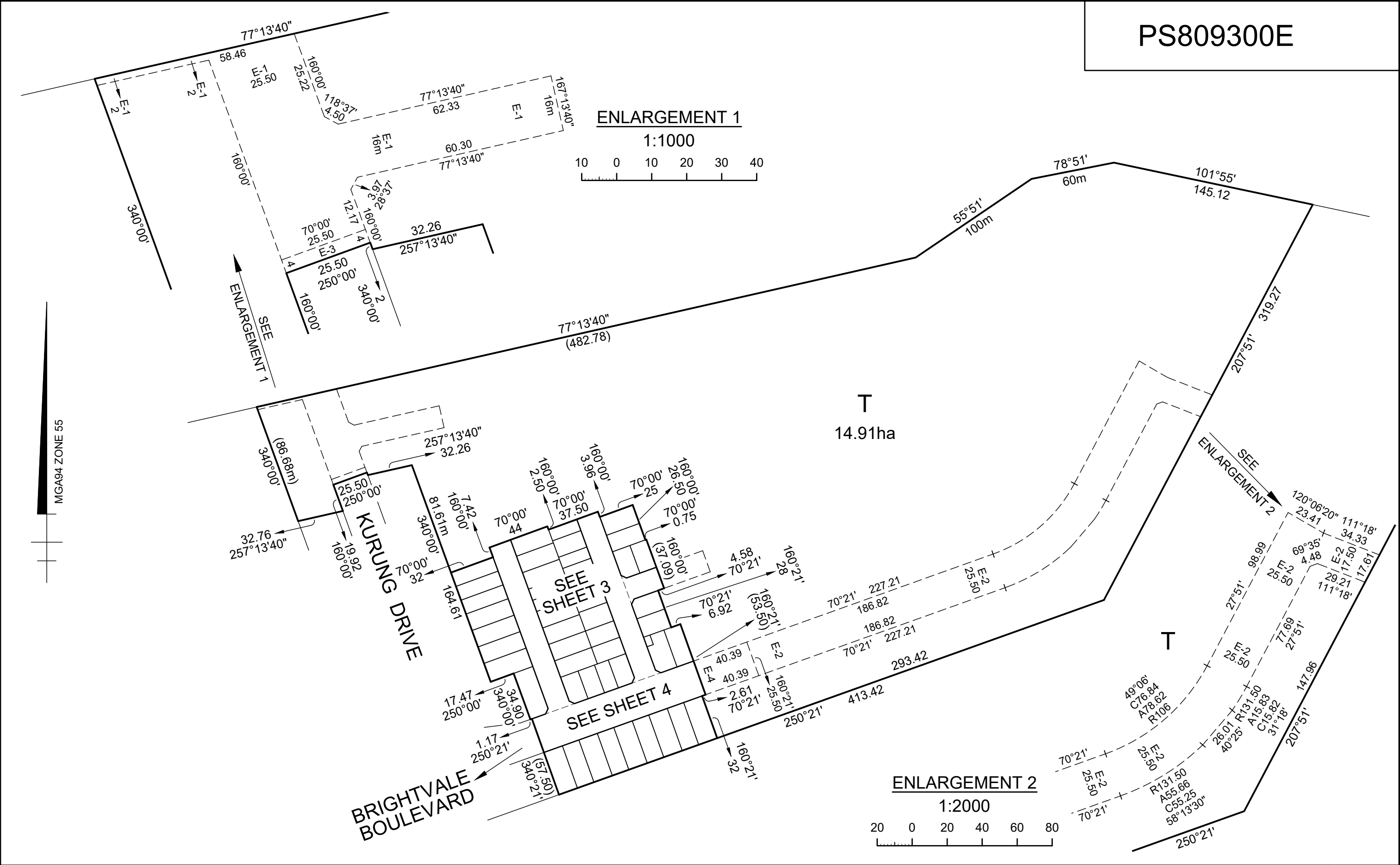
SHEET 7

Digitally signed by:  
Wyndham City Council,  
13/09/2019,  
SPEAR Ref: S126162H

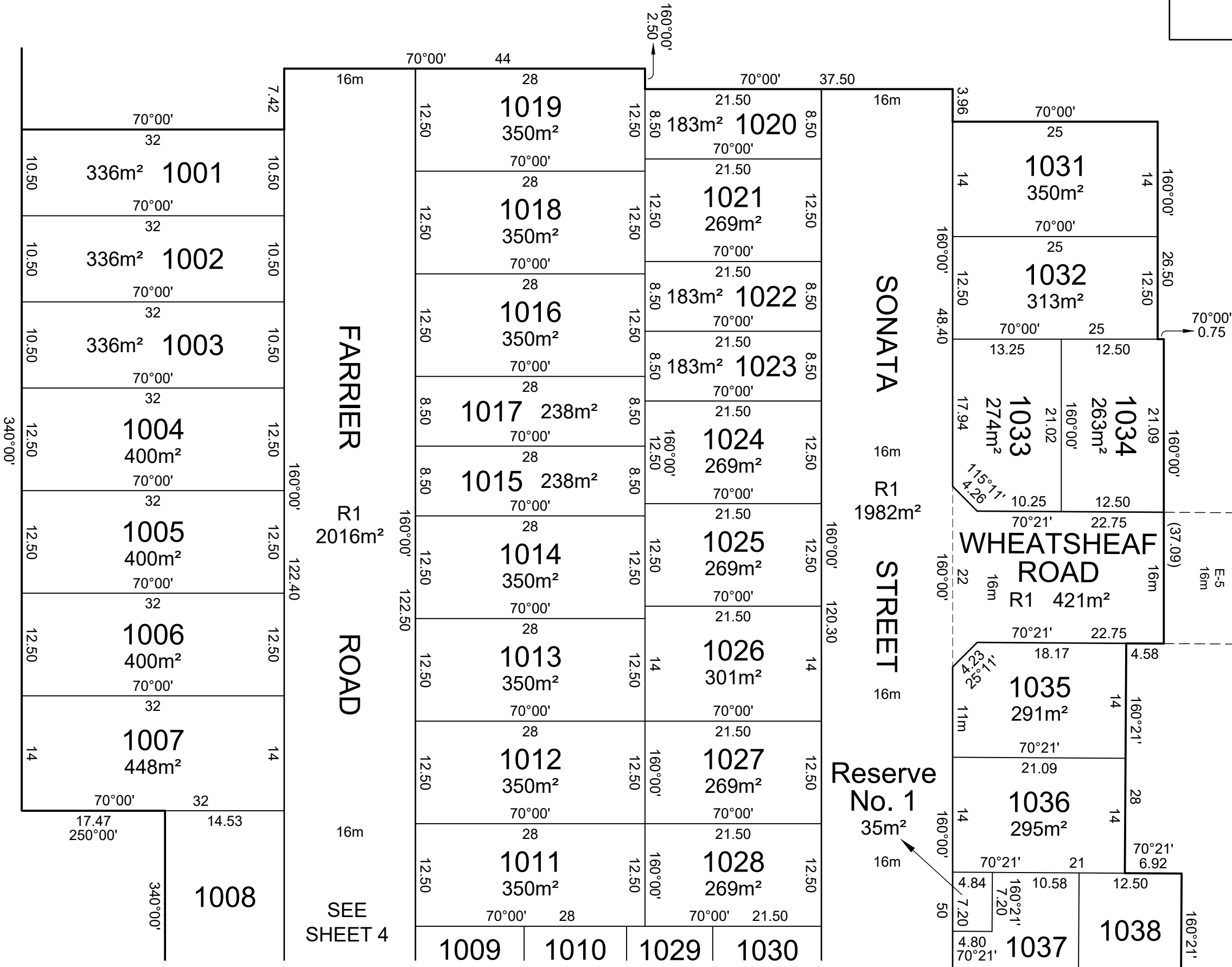
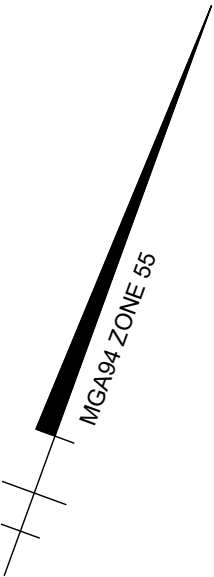
PLAN OF SUBDIVISION			EDITION 1		PS809300E	
LOCATION OF LAND			COUNCIL NAME: WYNDHAM CITY COUNCIL			
PARISH: WERRIBEE						
TOWNSHIP: .....						
SECTION: 9						
CROWN ALLOTMENT: .....						
CROWN PORTION: A (Part) and B (Part)						
TITLE REFERENCE: Vol. 12152 Fol. 609						
LAST PLAN REFERENCE: Lot Q on PS809299K						
POSTAL ADDRESS: 50 Hobbs Road (at time of subdivision) WYNDHAM VALE 3024						
MGA 94 CO-ORDINATES: E: 290 580 ZONE: 55 (of approx centre of land in plan) N: 5806 580						
VESTING OF ROADS AND/OR RESERVES			NOTATIONS			
IDENTIFIER		COUNCIL/BODY/PERSON		Lots 1001 - 1047 (both inclusive) may be affected by one or more restrictions. Refer to Creation of Restrictions A, B, C & D on Sheets 5 & 6 of this plan for details.  OTHER PURPOSE OF PLAN Removal of the sewerage easement marked E-4 on PS809299K in so far as where it lies within new roads R1 on this plan, upon registration of this plan.  GROUNDS FOR REMOVAL: By agreement between all interested parties vide Sec.6(1)(k) of the Subdivision Act 1988.		
ROAD R1 Reserve No. 1		Wyndham City Council Powercor Australia Ltd				
NOTATIONS						
DEPTH LIMITATION: Does Not Apply						
SURVEY: This plan is based on survey.  STAGING: This is not a staged subdivision. Planning Permit No.   This survey has been connected to Werribee PM 7 and Werribee PM 439 In Proclaimed Survey Area No. (Not Applicable)						
SAVANA ESTATE - Release No. 10 Area of Release: 2.326ha No. of Lots: 47 Lots and Balance Lot T						
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 Diag.	PS803044D	Wyndham City Council		
E-2	Sewerage	See Diag.	This Plan	City West Water Corporation		
E-3	Drainage	See Diag.	PS803044D	Wyndham City Council		
	Sewerage		PS809299K	City West Water Corporation		
E-4	Drainage	See Diag.	This Plan	Wyndham City Council		
	Sewerage			City West Water Corporation		
E-5	Drainage	See Diag.	This Plan	Wyndham City Council		
<div>TAYLORS</div> <div>Urban Development   Built Environments   Infrastructure</div> <div>8 / 270 Ferntree Gully Road, Notting Hill, Victoria, 3168</div> <div>Tel: 61 3 9501 2800   Web: taylorstds.com.au</div>		SURVEYORS FILE REF: Ref. 02188-S10 Ver. 6		ORIGINAL SHEET SIZE: A3	SHEET 1 OF 6	
		Licensed Surveyor:  RAYMOND LI / Version No 6				

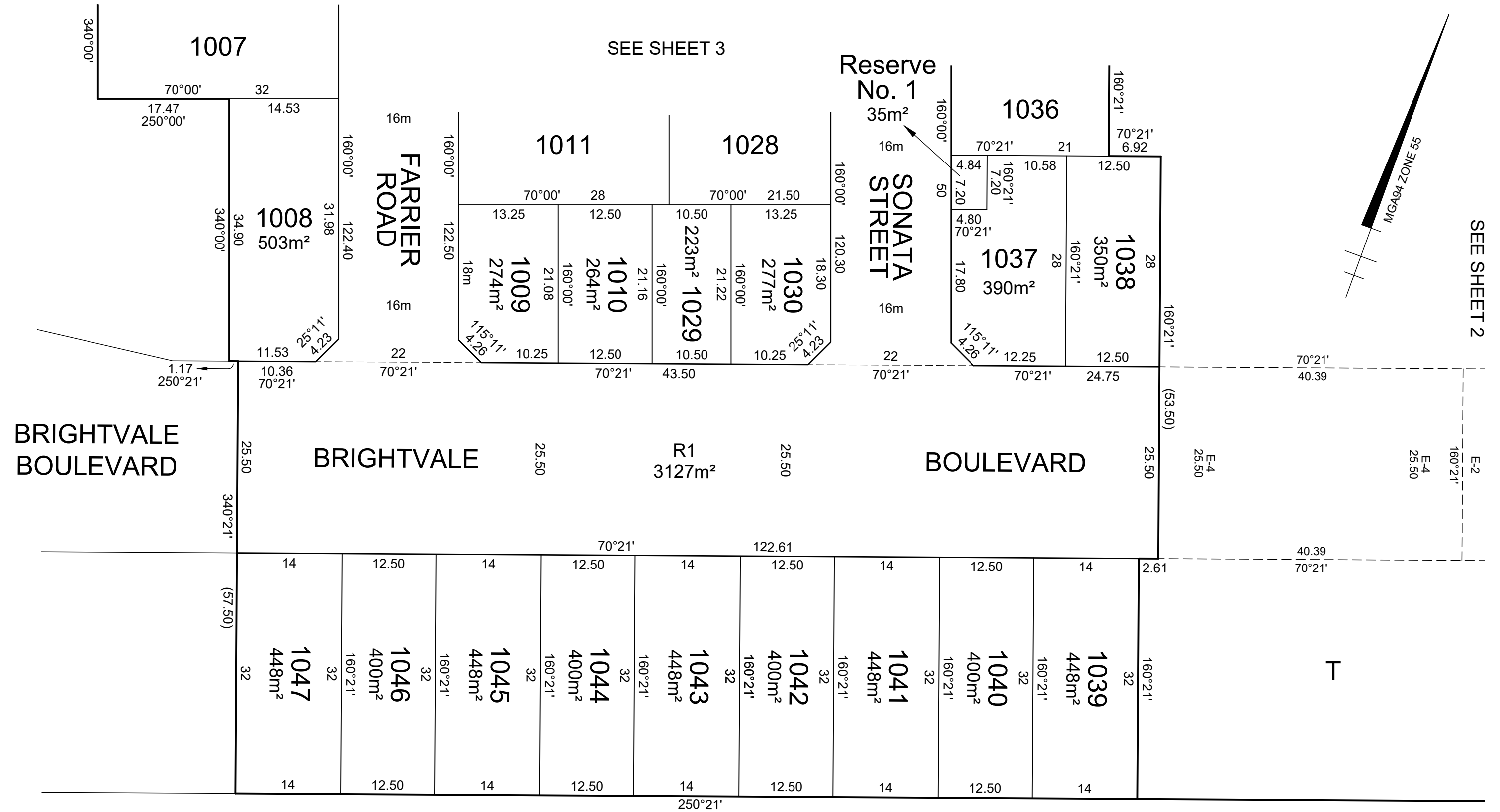


PS809300E



T  
SEE SHEET 2





CREATION OF RESTRICTION A

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

LAND TO BE BURDENED: See Table 1  
LAND TO BENEFIT: See Table 1

RESTRICTION

The Registered Proprietor or Proprietors for the time being of any burdened lot on this plan:

- 1. Must not build or permit to be built or remain on the lot or any part of it any building other than a building which has been constructed in accordance with the approved Memorandum of Common Provisions (MCP) Registered in Dealing No. AA6049 without the prior written consent of the Responsible Authority. The provisions of the said MCP are incorporated into this restriction;
- 2. Must not make an application to amend a building envelope unless such an amendment and any criteria or matters which must be considered by the Responsible Authority in deciding on such an amendment are to the satisfaction of the Responsible Authority; and
- 3. Must not erect any building on a lot unless the plans for such a building are endorsed by the Savana Building and Design Approval Committee (SBDAC) prior to the issue of a building permit.

Expiry date: 31/12/2029

TABLE 1

BURDENED LOT No.	BENEFITING LOTS ON THIS PLAN
1001	1002
1002	1001, 1003
1003	1002, 1004
1004	1003, 1005
1005	1004, 1006
1006	1005, 1007
1007	1006, 1008
1008	1007
1009	1010, 1011
1010	1009, 1011, 1029
1011	1009, 1010, 1012, 1028, 1029
1012	1011, 1013, 1027
1013	1012, 1014, 1026
1014	1013, 1015, 1025, 1026
1015	1014, 1017, 1024, 1025
1016	1017, 1018, 1022, 1023
1017	1015, 1016, 1023, 1024
1018	1016, 1019, 1021, 1022
1019	1018, 1020, 1021
1020	1019, 1021
1021	1018, 1019, 1020, 1022
1022	1016, 1018, 1021, 1023
1023	1016, 1017, 1022, 1024
1024	1015, 1017, 1023, 1025

TABLE 1 (Continued)

BURDENED LOT No.	BENEFITING LOTS ON THIS PLAN
1025	1014, 1015, 1024, 1026
1026	1013, 1014, 1025, 1027
1027	1012, 1026, 1028
1028	1011, 1027, 1029, 1030
1029	1010, 1011, 1028, 1030
1030	1028, 1029
1031	1032
1032	1031, 1033, 1034
1033	1032, 1034
1034	1032, 1033
1035	1036
1036	1035, 1037, 1038
1037	1036, 1038
1038	1036, 1037
1039	1040
1040	1039, 1041
1041	1040, 1042
1042	1041, 1043
1043	1042, 1044
1044	1043, 1045
1045	1044, 1046
1046	1045, 1047
1047	1046

CREATION OF RESTRICTION B

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

LAND TO BE BURDENED: See Table 2  
LAND TO BENEFIT: See Table 2

RESTRICTION

The Registered Proprietor or Proprietors for the time being of any burdened lot on this plan must not build or permit to be built or remain on the lot any building other than a building which has been constructed in accordance with the Small Lot Housing Code (Type A) incorporated into the Wyndham Planning Scheme unless a Planning Permit is granted by the Responsible Authority for a building that does not conform with the Small Lot Housing Code.

Expiry date: 31/12/2029

TABLE 2

BURDENED LOT No.	BENEFITING LOTS ON THIS PLAN
1009	1010, 1011
1010	1009, 1011, 1029
1015	1014, 1017, 1024, 1025
1017	1015, 1016, 1023, 1024
1020	1019, 1021
1021	1018, 1019, 1020, 1022
1022	1016, 1018, 1021, 1023
1023	1016, 1017, 1022, 1024
1024	1015, 1017, 1023, 1025

TABLE 2 (Continued)

BURDENED LOT No.	BENEFITING LOTS ON THIS PLAN
1025	1014, 1015, 1024, 1026
1027	1012, 1026, 1028
1028	1011, 1027, 1029, 1030
1029	1010, 1011, 1028, 1030
1030	1028, 1029
1033	1032, 1034
1034	1032, 1033
1035	1036
1036	1035, 1037, 1038

CREATION OF RESTRICTION C

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

LAND TO BE BURDENED: Lots 1009, 1010, 1015, 1017, 1020 to 1025, 1027 to 1030, and 1033 to 1036.  
LAND TO BENEFIT: The relevant abutting lots.

RESTRICTION

The Registered Proprietor or Proprietors for the time being of any burdened lot on this plan:

- 1. Must not build or permit to be built a building that is not free standing within the title boundaries of the lot on which it is built.
- 2. Must not build or permit to be built a building that relies on the walls of adjacent buildings for support.

Expiry date: 31/12/2029

CREATION OF RESTRICTION D

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

LAND TO BE BURDENED: Lots 1001 to 1047 on this plan.  
LAND TO BENEFIT: Lots 1001 to 1047 on this plan.

RESTRICTION

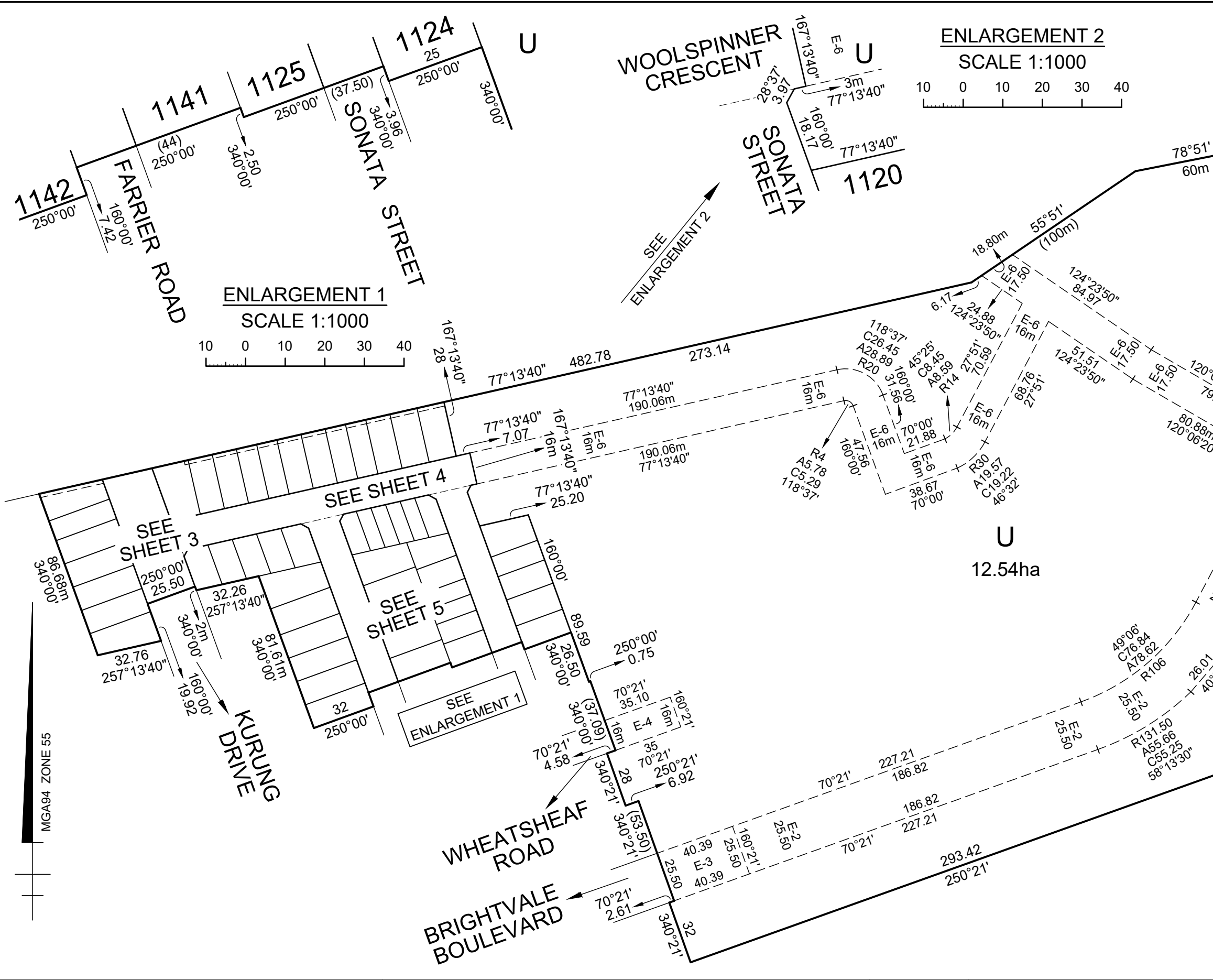
The Registered Proprietor or Proprietors for the time being of any burdened lot to which this restriction applies must not build or permit to be built a dwelling or commercial building unless the building incorporates dual plumbing for recycled water supply for toilet flushing and garden watering use if it becomes available.

Expiry date: 31/12/2029



PLAN OF SUBDIVISION			EDITION 1		PS826701N	
LOCATION OF LAND			Council Name: Wyndham City Council			
PARISH: WERRIBEE			Council Reference Number: WYS5354/20			
TOWNSHIP:			Planning Permit Reference: WYP9847/17			
SECTION: 9			SPEAR Reference Number: S154451T			
CROWN ALLOTMENT:			Certification			
CROWN PORTION: A (PART) & B (PART)			This plan is certified under section 6 of the Subdivision Act 1988			
TITLE REFERENCE: Vol. Fol.			Public Open Space			
LAST PLAN REFERENCE: Lot T on PS809300E			A requirement for public open space under section 18 of the Subdivision Act 1988 has not been made			
POSTAL ADDRESS: Brightvale Boulevard			Digitally signed by: Irene Baker for Wyndham City Council on 06/10/2020			
(at time of subdivision) WYNDHAM VALE 3024						
MGA 94 CO-ORDINATES: E: 290 500 ZONE: 55						
(of approx centre of land in plan) N: 5806 730						
VESTING OF ROADS AND/OR RESERVES			NOTATIONS			
IDENTIFIER		COUNCIL/BODY/PERSON		Lots 1101 to 1152 (both inclusive) may be affected by one or more restrictions. Refer to Creation of Restriction A, B, C, and D on Sheets 6, and 7 of this plan for details.		
Road R1		Wyndham City Council				
NOTATIONS			OTHER PURPOSE OF PLAN			
DEPTH LIMITATION: Does Not Apply			1. To remove that part of the drainage easement E-1 on PS809300E in so far as it lies within Road R1 herein.			
SURVEY: This plan is based on survey.			2. To remove that part of the drainage and sewerage easement E-3 on PS809300E in so far as it lies within Road R1 herein.			
STAGING: This is not a staged subdivision.			GROUND FOR REMOVAL:			
This survey has been connected to Werribee PM 7 & Werribee PM 439			By agreement between all interested parties pursuant to Section 6(1)(k) of the Subdivision Act 1988.			
In Proclaimed Survey Area No. (Not Applicable)						
SAVANA ESTATE - Release No. 11						
Area of Release: 2.376ha						
No. of Lots: 52 Lots and Balance Lot U						
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 Diag.	PS803044D	Wyndham City Council		
E-2	Sewerage	See Diag.	PS809300E	City West Water Corporation		
E-3	Drainage	See Diagram	PS809300E	Wyndham City Council		
	Sewerage			City West Water Corporation		
E-4	Drainage	See Diag.	PS809300E	Wyndham City Council		
E-5	Drainage	2	This Plan	Wyndham City Council		
E-6	Sewerage	See Diag.	This Plan	City West Water Corporation		
<div>TAYLORS</div> <div>Urban Development   Built Environments   Infrastructure</div> <div>8 / 270 Ferntree Gully Road, Notting Hill, Victoria, 3168</div> <div>Tel: 61 3 9501 2800   Web: taylorstds.com.au</div>		SURVEYORS FILE REF: Ref. 02188-S11 Ver. 3		ORIGINAL SHEET SIZE: A3	SHEET 1 OF 7	
		Digitally signed by: Raymond Li, Licensed Surveyor, Surveyor's Plan Version (3), 02/09/2020, SPEAR Ref: S154451T				

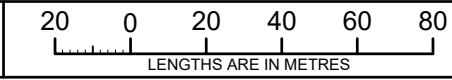
PS826701N
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**TAYLORS**

**Urban Development | Built Environments | Infrastructure**  
 8 / 270 Ferntree Gully Road, Notting Hill, Victoria, 3168  
**Tel:** 61 3 9501 2800 | **Web:** [taylorstds.com.au](http://taylorstds.com.au)

SCALE  
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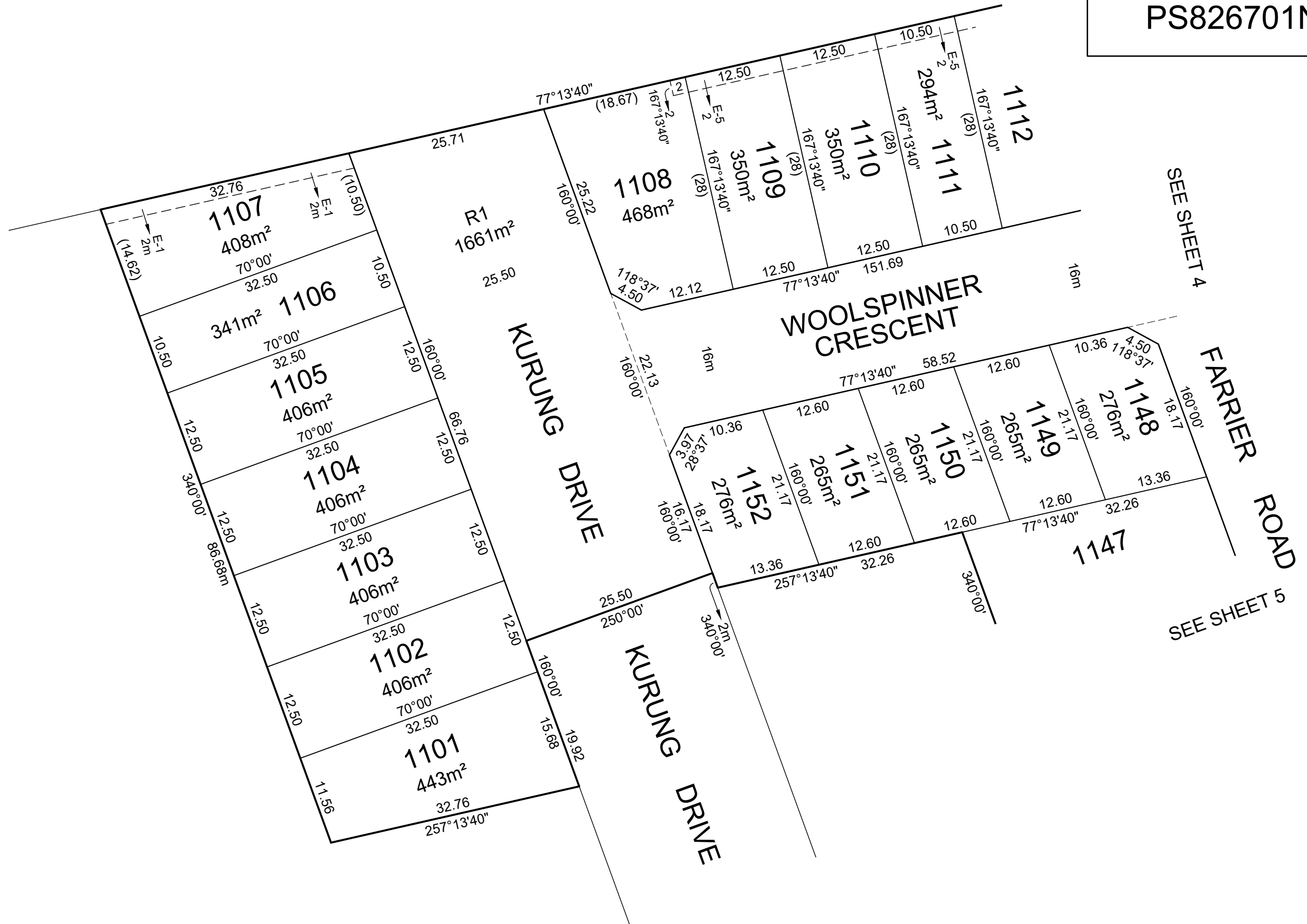
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Ref. 02188-S11  
Ver. 3

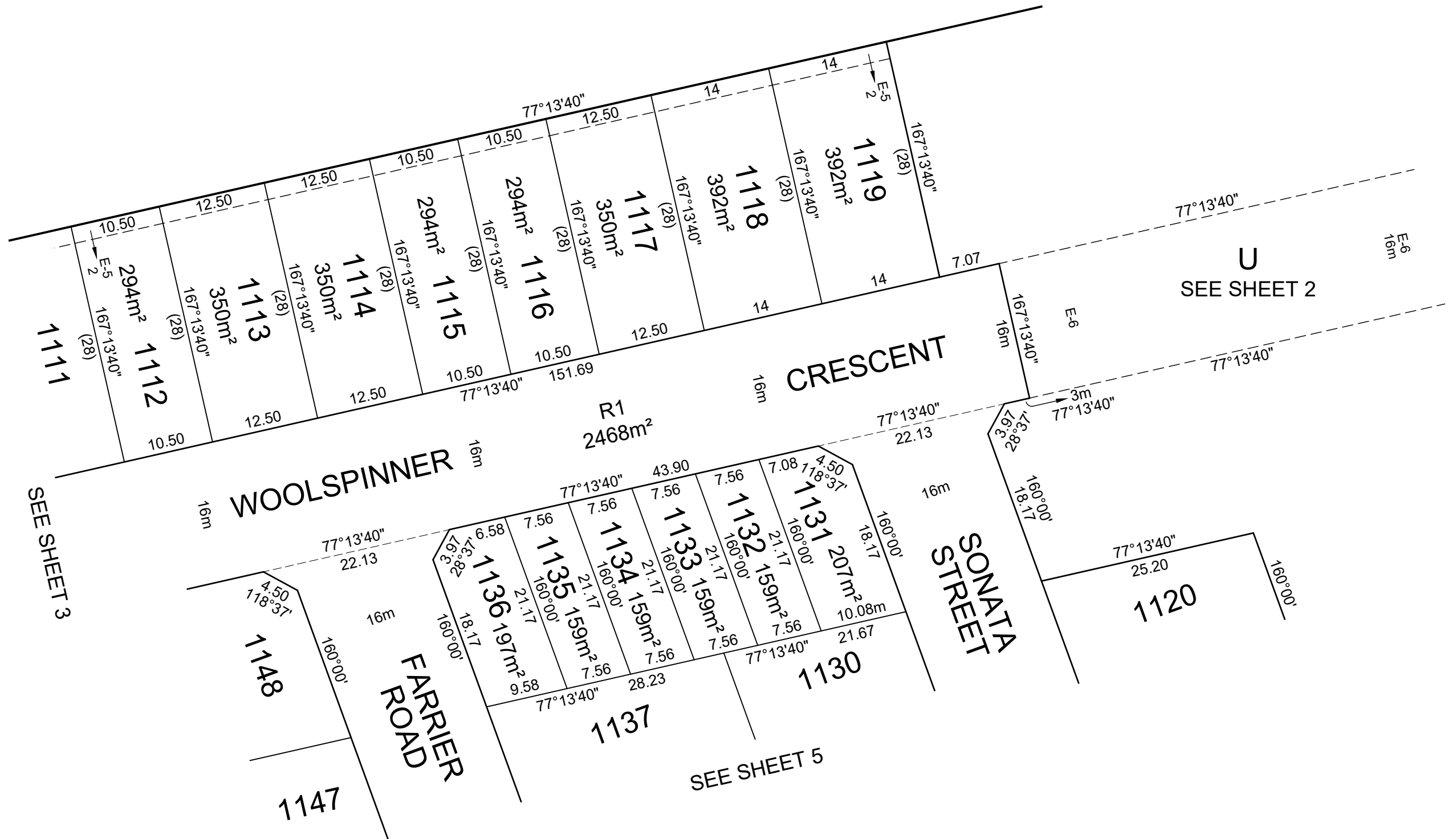
SHEET 2

Digitally signed by: Raymond Li, Licensed Surveyor,  
Surveyor's Plan Version (3),  
02/09/2020, SPEAR Ref: S154451T

Digitally signed by:  
Wyndham City Council,  
06/10/2020,  
SPEAR Ref: S154451T



MGA94 ZONE 55



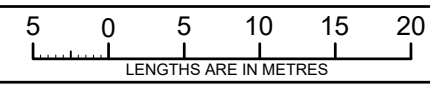


PS826701N

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**Urban Development | Built Environments | Infrastructure**  
 8 / 270 Ferntree Gully Road, Notting Hill, Victoria, 3168  
**Tel:** 61 3 9501 2800 | **Web:** [taylorsds.com.au](http://taylorsds.com.au)

Digitally signed by: Raymond Li, Licensed Surveyor,  
Surveyor's Plan Version (3),  
02/09/2020, SPEAR Ref: S154451T



Digitally signed by:  
Wyndham City Council,  
06/10/2020,  
SPEAR Ref: S154451T

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T

SHEET 5



**CREATION OF RESTRICTION A**

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

BURDENED LAND: See Table 1

BENEFITED LAND: See Table 1

**RESTRICTION:**

The Registered Proprietor or Proprietors for the time being of any burdened lot on this plan:

1. Must not build or permit to be built or remain on the lot or any part of it any building other than a building which has been constructed in accordance with the approved Memorandum of Common Provisions (MCP) Registered in Dealing No. .... without the prior written consent of the Responsible Authority. The provisions of the said MCP are incorporated into this restriction;
2. Must not make an application to amend a building envelope unless such an amendment and any criteria or matters which must be considered by the Responsible Authority in deciding on such an amendment are to the satisfaction of the Responsible Authority; and
3. Must not erect any building on a lot unless the plans for such a building are endorsed by the Savana Building and Design Approval Committee (SBDAC) prior to the issue of a building permit.

Expiry date: 31/12/2029

TABLE 1

BURDENED LOT No.	BENEFITING LOTS ON THIS PLAN
1101	1102
1102	1101, 1103
1103	1102, 1104
1104	1103, 1105
1105	1104, 1106
1106	1105, 1107
1107	1106
1108	1109
1109	1108, 1110
1110	1109, 1111
1111	1110, 1112
1112	1111, 1113
1113	1112, 1114
1114	1113, 1115
1115	1114, 1116
1116	1115, 1117
1117	1116, 1118
1118	1117, 1119
1119	1118
1120	1121
1121	1120, 1122
1122	1121, 1123
1123	1122, 1124
1124	1123
1125	1126, 1141
1126	1125, 1127, 1140, 1141

TABLE 1 continued

BURDENED LOT No.	BENEFITING LOTS ON THIS PLAN
1127	1126, 1128, 1139, 1140
1128	1127, 1129, 1139
1129	1128, 1130, 1138, 1139
1130	1129, 1131, 1132, 1133, 1137, 1138
1131	1130, 1132
1132	1130, 1131, 1133
1133	1130, 1132, 1134, 1137
1134	1133, 1135, 1137
1135	1134, 1136, 1137
1136	1135, 1137
1137	1130, 1133, 1134, 1135, 1136, 1138
1138	1129, 1130, 1137, 1139
1139	1127, 1128, 1129, 1138, 1140
1140	1126, 1127, 1139, 1141
1141	1125, 1126, 1140
1142	1143
1143	1142, 1144
1144	1143, 1145
1145	1144, 1146
1146	1145, 1147
1147	1146, 1148, 1149, 1150
1148	1147, 1149
1149	1147, 1148, 1150
1150	1147, 1149, 1151
1151	1150, 1152
1152	1151

**CREATION OF RESTRICTION B**

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

BURDENED LAND: See Table 2

BENEFITED LAND: See Table 2

**RESTRICTION:**

The Registered Proprietor or Proprietors for the time being of any burdened lot on this plan must not build or permit to be built or remain on the lot any building other than a building which has been constructed in accordance with the Small Lot Housing Code incorporated into the Wyndham Planning Scheme unless a Planning Permit is granted by the Responsible Authority for a building that does not conform with the Small Lot Housing Code.

Expiry date: 31/12/2029

TABLE 2

BURDENED LOT No.	SLHC TYPE	BENEFITING LOTS ON THIS PLAN
1111	A	1110, 1112
1112	A	1111, 1113
1115	A	1114, 1116
1116	A	1115, 1117
1121	A	1120, 1122
1125	A	1126, 1141
1126	A	1125, 1127, 1140, 1141
1127	A	1126, 1128, 1139, 1140
1128	A	1127, 1129, 1139
1129	A	1128, 1130, 1138, 1139
1130	A	1129, 1131, 1132, 1133, 1137, 1138

TABLE 2 continued

BURDENED LOT No.	SLHC TYPE	BENEFITING LOTS ON THIS PLAN
1131	A	1130, 1132
1132	A	1130, 1131, 1133
1133	A	1130, 1132, 1134, 1137
1134	A	1133, 1135, 1137
1135	A	1134, 1136, 1137
1136	A	1135, 1137
1148	A	1147, 1149
1149	A	1147, 1148, 1150
1150	A	1147, 1149, 1151
1151	A	1150, 1152
1152	A	1151

**CREATION OF RESTRICTION C**

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

BURDENED LAND: Lots 1111, 1112, 1115, 1116, 1121, 1125 to 1136, and 1148 to 1152

BENEFITED LAND: The relevant abutting lot

**RESTRICTION:**

The Registered Proprietor or Proprietors for the time being of any burdened lot on this plan:

1. Must not build or permit to be built a building that is not free standing within the title boundaries of the lot on which it is built.
2. Must not build or permit to be built a building that relies on the walls of adjacent buildings for support.

Expiry date: 31/12/2029

**CREATION OF RESTRICTION D**

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

BURDENED LAND: Lots 1101 to 1152 on this plan

BENEFITED LAND: Lots 1101 to 1152 on this plan

**RESTRICTION:**

The Registered Proprietor or Proprietors for the time being of any burdened lot to which this restriction applies must not build or permit to be built a dwelling or commercial building unless the building incorporates dual plumbing for recycled water supply for toilet flushing and garden watering use if it becomes available.

Expiry date: 31/12/2029



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

Digitally signed by: Raymond Li, Licensed Surveyor,  
Surveyor's Plan Version (3),  
02/09/2020, SPEAR Ref: S154451T

ORIGINAL SHEET  
SIZE: A3

Ref. 02188-S11  
Ver. 3

SHEET 7

Digitally signed by:  
Wyndham City Council,  
06/10/2020,  
SPEAR Ref: S154451T

# Memorandum of common provisions

## Section 91A Transfer of Land Act 1958

### Privacy Collection Statement

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

Lodged by	
Name:	
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Address:	
Reference:	
Customer code:	

This memorandum contains provisions which are intended for inclusion in instruments and plans to be subsequently lodged for registration.

#### Provisions:

### 1 Savana, Wyndham Vale

This MCP applies to allotments 1101 - 1152 of PS826701N (also known as Stage 11 of Savana) approved under Wyndham Planning Permit No. WYP9847/17.

All care has been taken to ensure that this MCP complies with current Building Regulations. However, the owner is responsible for ensuring compliance with all statutory requirements.

In the event that requirements in this document contradict the provisions of the SLHC or ResCode, the SLHC and ResCode will prevail.

Owners, Designers and Builders should review this MCP and the current Design Guidelines in conjunction with the land sales contract.

### 2 Developer Approval

The siting and design of homes at Savana is to be approved by The Savana Building and Design Approval Committee (SBDAC). Approval by the SBDAC is required before applying for a building permit for the construction of a new dwelling. Approval by the SBDAC is not a building approval nor does it imply compliance with the building code, Building Regulations or City of Wyndham Planning Scheme.

The SBDAC also reserves the right to approve applications based on architectural merit.

It is the applicant's responsibility to ensure that plans meet the relevant planning and building requirements, in addition to these design guidelines.

Only a fully scaled set of application documents will be considered. No concept designs will be accepted.

The SBDAC will assess all designs and if they are compliant with the Design Guidelines, provide a letter of approval along with an endorsed copy of the plans and external colour schedule.

Applications that substantially comply with the Design Guidelines may be given a letter of approval

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V3

1. The provisions are to be numbered consecutively from number 1.
2. Further pages may be added but each page should be consecutively numbered.
3. To be used for the inclusion of provisions in instruments and plans.

91ATLA

Page 1 of 12

THE BACK OF THIS FORM MUST NOT BE USED

Land Use Victoria contact details: see [www.delwp.vic.gov.au/property](http://www.delwp.vic.gov.au/property)>Contact us

# Memorandum of common provisions

## Section 91A Transfer of Land Act 1958

with conditions requiring the rectification of minor deviations. These deviations may also be noted on the plans. The SBDAC may also offer suggestions intended to improve designs.

If the design submission does not comply with the Design Guidelines, the SBDAC will advise the applicant of the reasons of non-compliance and suggest amendments. Applicants will then be required to re-submit amended plans in order to gain approval.

The final decision of all aspects of the Design Guidelines will be at the discretion of the SBDAC.

The SBDAC will endeavour to process applications as quickly as possible, generally within 7 business days of receipt. Once approval is obtained from the SBDAC, an application for a building permit may be lodged with the City of Wyndham or an accredited building surveyor.

### **3 Medium and High Density Allotments**

This MCP and the design guidelines do not cover integrated development sites that require a separate planning permit. Medium or high density allotments cannot be developed without obtaining a planning permit from Council. Prior to a planning application being lodged with Council for the development of a medium or high density allotment, the plans must be assessed and approved by the SBDAC.

All allotments with an area of 300m<sup>2</sup> or less are subject to the provisions set out in the Small Lot Housing Code (SLHC) incorporated into the Wyndham Planning Scheme.

### **4 Planning Permit**

A planning permit is not required to construct or extend one dwelling on an allotment with an area of 300m<sup>2</sup> or less where the dwelling is constructed in accordance with the Small Lot Housing Code (SLHC) incorporated in the Wyndham Planning Scheme

If a dwelling is to be built outside of the provision in the SLHC, an additional planning permit is required for the proposal prior to obtaining a Building Permit. Before applying for a planning permit approval must be obtained from the SBDAC.

### **5 Covenants**

In the event that requirements under the Design Guidelines contradict covenants defined within the Plan of Subdivision or this MCP, the Plan of Subdivision or the MCP will prevail.

### **6 Statutory Obligations**

It is the purchaser's responsibility to ensure all submitted documents comply with the Victorian Building Regulations, ResCode and all other planning and authority requirements, along with current Victorian energy rating standards prior to construction.

### **7 Dwellings**

Only one dwelling is permitted per property for allotments under 600m<sup>2</sup>.

On an allotment greater than 600m<sup>2</sup>, an additional dwelling may be permitted subject to approval from the SBDAC and City of Wyndham.

No further subdivision is permitted without the approval of the SBDAC.

# Memorandum of common provisions

## Section 91A Transfer of Land Act 1958

### 8 Identical Façade Assessment

In order to uphold the integrity of all new homes, two dwellings of the same front facade shall not be built within five contiguous allotment spaces of the original allotment. Provision includes allotments either side, opposite and encompassing other street frontages where applicable.

On allotments less than 300m<sup>2</sup>, two dwellings with identical facades shall not be built within two contiguous allotment spaces of the original allotment. Under this clause, a mirrored (symmetrical) façade is not considered to be an identical facade.

This provision will not apply to integrated housing developments.

### 9 Architectural Characteristics

Designs incorporating a variety of modern architectural styles are encouraged. Unique dwelling designs displaying innovation and originality will be assessed favourably if they are shown to be in keeping with the contemporary design intent of Savana.

Architectural features such as verandahs, porticos, feature windows, façade detailing, roof features and articulated building forms are required. Building materials such as masonry, render, natural stone and timber cladding should be used and paint work should be complementary in colour selection.

Contemporary roof and awning themes coupled with articulation of single and double storey volumes are also preferred design initiatives.

### 10 Corner Allotment Characteristics

Dwellings constructed on corner allotments and on allotments that abut public open space areas such as a park or reserve must address both street frontages through the use of wrap around verandahs, feature windows, detailing, etc. Well-articulated architectural treatments should be provided where built form is visible beyond the side fence line, and at upper levels.

Overall facade articulation and material variation is strongly encouraged. It will be at the discretion of the SBDAC to determine acceptable corner treatment for each corner allotment submission.

Entries and/or garages facing the secondary street frontage may be considered by the SBDAC where they are located adjoining open space and linear pedestrian open space links.

### 11 Porches and Entries

An entry feature complementary to the dwelling design must be incorporated to create a sense of entry. This can be a porch, portico, balcony or verandah and can be a central feature of the façade or located towards the end. Appropriate location of the entry will increase the character of the dwelling and contribute to a varied streetscape.

### 12 Dwelling Size

The siting and proportion of the dwelling on the allotment should be a well thought out response to the site.



# Memorandum of common provisions

## Section 91A Transfer of Land Act 1958

### 13 Building Heights

Maximum building heights must be in accordance with ResCode requirements and where relevant, the SLHC.

Triple storey dwellings and/or basements should adhere to the relevant height requirements. Basements may have a maximum projection of 1.2m above natural ground level.

A ceiling height of 2590mm is encouraged for all single storey dwellings and the ground floor of double storey dwellings. A minimum ceiling height of 2440mm is permitted, subject to approval by the SBDAC but is not encouraged.

### 14 Roofs

Applicants are encouraged to explore varying roof forms which could include combinations of pitched and flat roofs as well as curved elements. The minimum roof pitch must be 22° while skillion and accent sections may have a minimum pitch of 16°.

Eaves with a minimum overhang of 450mm must be provided on dwellings to any street face of single storey dwellings and to all faces of double storey dwellings. On single storey dwellings eaves must wrap around a minimum of 2000mm along the side of the dwelling from any street frontage (except where built to the boundary).

Permitted roof materials include masonry, slate, terracotta tiles or coloured steel. Other non-reflective materials may be considered for review by the SBDAC.

### 15 Garages

A lockup garage for two vehicles must be provided on all properties with frontages greater than 10.5m. Open carports to the front of the dwelling will not be permitted. Single garages will be considered for allotments with a street frontage of 10.5m or less. Triple garages will be strongly discouraged.

The architectural character of the garage must be harmonious to the main body of the dwelling.

Garages must have a slim line, sectional, tilt or panel lift door to all street frontages. Roller doors will only be permitted at the rear of the garage, as an opening to the backyard and where they are not within public view.

Where the garage door is located to the front of a dwelling, the door or opening of any garage must occupy less than 50% of the width of the allotment's street frontage to a maximum of 6.0m.

On two storey dwellings with garages that exceed 40% of the allotment frontage, balconies or windows above the garage are required.

For allotments with areas less than 300m<sup>2</sup>, refer to the Small Lot Housing Code incorporated into the Wyndham Planning Scheme.

Refer to the Streetscape and Siting section for garage setback requirements.

# Memorandum of common provisions

## Section 91A Transfer of Land Act 1958

### 16 Small Allotment Setback

Small Allotments setbacks must be in accordance with the SLHC incorporated into the Wyndham Planning Scheme.

### 17 Standard Allotment Setbacks

A standard allotment is an allotment which has an area greater than 300m<sup>2</sup>.

The dwelling on Lot 1026 must be set back from the front boundary by a minimum of 3m.

Dwellings on all other standard allotments must be setback from the front boundary by a minimum of 4.0m and a maximum of 6.0m.

Porches, porticos and verandahs less than 3.6m in height may encroach up to 1.0m into the minimum front setback.

Unless rear loaded, garages must be located behind the front wall of the main dwelling (not including the porch, portico or verandah) or a minimum of 4.9m from the front boundary, whichever is greater.

Garages may be built on side boundaries in accordance with ResCode.

Double storey dwellings must be setback from side boundaries in accordance with ResCode.

Rear setbacks are to be in accordance with ResCode.

These requirements may be varied with the written approval of the SBDAC and the City of Wyndham.

### 18 Standard Corner Allotment Setbacks

Where applicable, standard corner allotments must comply with the setback requirements listed in Item 17, as well as the following.

Setbacks from the secondary street frontage must comply with ResCode.

Where facing the secondary street frontage, the garage must be setback a minimum of 5.0m from the secondary street frontage. An easement running along the rear of the allotment cannot be built over, and the garage may have to be setback from the rear boundary to accommodate the easement. Garages must be located adjacent to the allotment boundary but are not permitted adjacent to boundaries abutting public open space.

### 19 Building Envelopes

All dwellings must be constructed in accordance with ResCode and where relevant the SLHC.

It is the responsibility of the applicant to investigate the existence of any building envelopes prior to design and submission to the SBDAC.

### 20 Materials

External walls must be constructed from a minimum of 75% face brick, brick or masonry veneer or other approved texture coated material. At least 25% of the facade of the home must be finished in a contrasting/feature element in a different texture, material or colour.

# Memorandum of common provisions

## Section 91A Transfer of Land Act 1958

The utilisation of materials such as natural stone, exposed timber or other feature cladding materials will be considered and encouraged as key design articulation elements. Use of quality materials and finishes is encouraged to give a timeless appeal.

Homes in kit or modular form and the use of second hand materials will be subject to approval by the SBDAC and City of Wyndham. New building materials based on recycled content is permitted.

Unless otherwise approved by the SBDAC, unpainted and/or untreated metalwork and reflective glazing will not be permitted. Infill fibre sheet panels are not permitted above window and door openings where visible from the street.

Fibre-cement sheeting may be permitted if finished as either a textured, painted or rendered surface except as above.

### 21 Colour Schemes

A harmonious colour palette consisting of natural, subdued hues which are complimentary to the surrounding environment and colour tones which reflect the theme of the dwelling will be encouraged. Limited use of strong or bold colours may be adopted to reinforce the contemporary nature of the dwelling design.

In order to avoid further information being requested in regards to colour schedules, the applicant must ensure that all relevant information is provided when applying for design approval.

### 22 Driveways

There must be only one driveway per allotment, located to align with the crossover. Garages should be sited on the allotment in response to the location of existing crossovers with driveways tapered to match crossover width. There must be at least 300mm of screen planting between the driveway and the adjacent side boundary.

Driveways must be fully constructed prior to the issue of the Occupancy Permit.

All driveways, porches and any other concreted areas within the front yard must be constructed of masonry pavers, exposed aggregate, coloured concrete, fixed granular surfaces or stamped or stencilled masonry surface. The colour selection must complement the building design and external colour scheme.

No plain concrete will be permitted unless it is out of public view.

### 23 Boundary Fencing

Fencing type will be consistent throughout Savana. Fencing is a common link binding the streetscape and highlighting the individuality of each dwelling.

All fencing must be shown on plans submitted to the SBDAC for approval.

In addition to meeting the requirements within Section 23 of this MCP, if an allotment has been identified as being a small allotment in Section 16 of this MCP then all fencing must also be in accordance with the provisions set out in the SLHC.

#### 23.1 Front Fencing

Front fencing is not permitted on corner allotments and allotments fronting Brightvale Boulevard. Front fencing on all other allotments is permitted subject to approval.

# Memorandum of common provisions

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Proposed front fences that are up to 1.2m in height and are largely transparent (ie. 50% or more) in construction are preferred. It is expected that any front fences will return along the side boundary, and extend to meet the side fence. Low masonry walls not exceeding 0.9m height which complement the façade of the building will be permitted.

Front fencing on all lots adjacent to and fronting public open space must not exceed 1.2m in height.

### 23.2 Side and Rear Fencing

All side and rear boundary fencing must be constructed from timber palings, to a height of 1900mm (+/-50mm). Side boundary fencing must terminate and return to the dwelling at least 1.0m behind the front building line. This part of the fence that returns to the house is known as a wing fence. Wing fencing must also be constructed from timber palings, unless approved by the SBDAC. Wing fencing must be 1900mm (+/-50mm) in height. It is encouraged to include a gate within the wing fencing; however, direct access to the

rear yard may be possible either via a gate or directly from your garage. Where timber paling fencing is used, timber capping is encouraged. Fencing constructed along the side boundary forward of the dwelling or along the front boundary is not encouraged.

### 23.3 Side Street Fencing

On an allotment with a side boundary that forms the rear boundary of an adjoining allotment, the side fence on that boundary can continue to the front boundary. On corner allotments, fencing to the secondary street frontage should be setback a minimum of 3.0m from the primary street frontage.

For fencing on boundaries abutting a reserve and on corner allotments, a minimum of 30% of the length of the secondary street frontage must be transparent fencing or be unfenced. All fencing should be consistent with the fencing along the primary street frontage. For the remaining length along the side boundary, a solid fence must not exceed 30% and the remaining side fence must be semi-transparent and must provide a minimum of 25% transparency.

Solid and semi-transparent fencing must be constructed from timber palings to a height of 1900mm (±50mm). Exposed posts on both sides of the palings are encouraged and palings must be on the external side fronting the street.

## 24 Front Landscaping

To promote an attractive neighbourhood, residents are encouraged to install quality landscaping.

The form and texture of the plantings should complement and enhance the architecture of the dwelling. Planting of canopy trees in appropriate locations is encouraged. Landscape designs should be prepared with an objective for low water usage.

Gardens are encouraged to be environmentally sensitive by utilising appropriate drought tolerant native plants, organic or mineral mulches and drip irrigation systems. Native plants that are common to Victoria and the Region are also encouraged.

Landscaping of your front garden must be completed within 6 months of issue of the Occupancy Permit. Hard paved or impervious surfaces must be limited to driveways and pedestrian pathways only.

The minimum front landscaping works will include:

# Memorandum of common provisions

## Section 91A Transfer of Land Act 1958

- Fine grading and shaping of landscaped and lawn areas.
- Cultivation of existing soil in the garden beds to a 200mm depth, the addition of imported topsoil and fertiliser to all landscaped areas, as well as the use of mulch and/or other selected topping.
- At least 1 advanced tree (2.0m minimum height).

### 25 Letterboxes

Letterboxes should be designed to match and compliment the dwelling design. Single post supporting letterboxes are discouraged.

### 26 Liveability Considerations

Applicants are encouraged to submit designs that are environmentally responsible.

The orientation of an allotment will determine the best siting of the house on the allotment. A building's orientation plays a large part in achieving the optimum solar access for a home during winter.

Allotments on the north side of a street will have sunny backyards – good for private outdoor living.

Allotments on the south side of a street will have sunny front yards – good for show piece gardens.

Allotments facing east-west will have sunny side yards to the north – these houses should be sited to leave the largest possible outdoor living space along the northern boundary.

Dwellings can become more liveable by taking into account the orientation of rooms and windows, shading of windows and walls, ceiling heights, sustainable building materials, cross flow ventilation, covered open spaces, insulation and water efficient fixtures. Eave design can act as excellent shading devices during warmer months. Implementing these features can also result into substantial financial savings for the home owner.

Double storey homes must respect the privacy of neighbouring dwellings, including potential overshadowing issues that may arise as a result of siting choices. It is the responsibility of applicants with double storey proposals to ensure their design has demonstrated these factors and to receive approval from the relevant authority and/or Building Surveyor prior to construction.

### 27 Solar Heating Panels

Solar heating panels must be located on roof planes preferably not visible from public areas.

The panels should follow the roof pitch.

Where visible from public areas, solar panels will be assessed on their merits with regard to scale, form and colour.

### 28 Rainwater Tanks

Rainwater storage is encouraged. The rainwater tank and all accessories must not be located in front of the dwelling or be visible from the street and public spaces. The rainwater tank and all accessories must be coloured to match the dwelling.

To help calculate the size of water storage that may be required please contact the Department of Environment and Primary Industries for appropriate storage requirements in relation to the collection area provided.



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### 29 Recycled Water

Recycled water will be in use at Savana for toilet flushing and garden usage. All dwellings are required to connect to this service to reduce the consumption of potable water.

### 30 Energy Ratings

It is the applicant's responsibility when building a home to comply with Victoria's energy rating requirements. Dwelling designs should be assessed by a licensed energy rating company, and they in turn will make recommendations regarding insulation and other resource saving measures. Dwellings must achieve the minimum standard as currently legislated.

### 31 NBN Co.

The development qualifies for future NBN roll out. All premises must be aware of and conform with the NBN Co Preparation and Installation Guide for SDU's and MDU's.

### 32 Sheds

Sheds should be constructed of materials and colours consistent with and complimentary to, the materials used for the dwelling. Coloured Steel and similar products are acceptable materials.

Sheds must be screened from any street and/or public view by locating to the rear or side of the dwelling. An appropriately located carport out of public view must be considered to store boats, trailers or any similar vehicles.

Sheds must not cover an area greater than 15m<sup>2</sup> and not exceed a maximum height of 2.5m.

### 33 Pergolas, Patios & Decking

Any proposed additional buildings or ancillary structures including decking, pergolas, patios, carports, swimming pools, BBQ areas or similar, must be submitted to the SBDAC for approval. This can be done at the time of submitting the dwelling design or done at a later date as a standalone submission.

The SBDAC will assess these on their merits. Please note that later date stand-alone submissions will incur an additional assessment fee.

### 34 Ancillary Items

All external plumbing must be out of public view, with the exception of gutters and downpipes.

Downpipes must not be located on the front façade of the dwelling.

External TV antennae and other aerials must be unobtrusive and located towards the rear of the dwelling.

Satellite dishes will only be approved if out of public view. Clothes lines must not be visible from public areas.

Externally mounted spa equipment attached to side boundary walls of any dwelling must be positioned out of public view, be painted in a colour matching the adjoining wall surface and fitted with noise baffles.

# Memorandum of common provisions

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Evaporative cooling units are to be located out of public view where possible and must be of low profile, located below the ridgeline and coloured to match the roof.

Metal security shutters are not permitted.

### **35 Maintenance of the Allotment**

Prior to the occupation of a dwelling, the allotment must be maintained by keeping the grass cut, and the allotment free from rubbish. Builder's waste materials and rubbish during construction must be removed on a regular basis and must not be allowed to accumulate. If any allotments are not maintained to an acceptable level, the Developer reserves the right to carry out clean up works as necessary. Any such costs incurred by the Developer will be passed on to the allotment owner.

After occupation of the dwelling, front yards must be maintained to an acceptable level.

Rubbish and recycle bins must be stored out of public view. It will be at the discretion of the SBDAC to determine if allotments are being maintained to an acceptable level.

### **36 Commercial Vehicles**

Trucks or commercial vehicles (exceeding 1 tonne), recreational vehicles and caravans shall be screened from public view when parked or stored.

### **37 Signs**

Signs (other than a 'Home for Sale' or a builder's sign) must not be erected without the prior approval of the SBDAC.

'Home for Sale' signs may only be erected after the completion of construction of the dwelling and only with the prior approval of the SBDAC.

Builder's signs may be permitted (600mm x 600mm maximum) where they are required on allotments during construction. Only one advertising sign is permitted per dwelling at any one time and these signs must be removed once the property is sold.

The SBDAC reserves the right to access and remove signs that do not comply without providing notice to the allotment owner.

# Memorandum of common provisions

## Section 91A Transfer of Land Act 1958

### 38 Definitions

**Articulation** means both horizontal and vertical projection forward and back from the primary building face.

**SBDAC** means the Savana Building and Design Approval Committee that includes AVID Property Group Nominees Pty Ltd as the developer/owner of Savana Residential Estate.

**Building** has the same meaning as in the Building Regulations.

**Building Act** means the act of the Victorian Parliament known as the Building Act 1993.

**Building Envelope** means an area within each allotment (defined by the particular allotment setbacks) where development of a dwelling, shed and garage is allowed subject to the particular provisions of this document, and the Scheme

**Building Permit** means a building permit in terms of the Building Regulations.

**Corner Allotment** means an allotment with a corner where each boundary connects to a street or public open space.

**Design Guidelines** mean the Design Guidelines which may be amended on occasions at the developer's discretion, subject to Wyndham City Council approval, to reflect changes in design trends or to coincide with the release of later stages.

**Developer** means AVID Property Group Nominees Pty Ltd.

**Dwelling** means a building used as a self-contained residence which must include:

- A kitchen sink;
- Food preparation facilities;
- A bath or shower; and
- A closet pan and wash basin.

It includes out-buildings and works normal to a dwelling.

**Frontage** means the road alignment at the front of an allotment. If an allotment abuts two or more roads, the one to which the building or proposed building faces.

**Front Garden** includes any area between the building line and the front boundary of an allotment and side street boundary or boundary abutting public open space of a corner allotment that is visible from a street.

**Height** has the same meaning as in the Building Regulations.

**Allotment** has the same meaning as in the Building Regulations.

**On the Boundary** includes a setback of up to 200 millimetres from the allotment/property boundary.

**Private Open Space** means an unroofed area of land; or a deck, terrace, patio, balcony, pergola, verandah, gazebo or swimming pool.

**Regulations** mean the Building Regulations 2018 or any subsequent regulations made pursuant to the Building Act which relate to the siting of a building.

# Memorandum of common provisions

## Section 91A Transfer of Land Act 1958

**ResCode** means the residential development provisions incorporated into the Wyndham Planning Scheme and the Building Regulations.

**Scheme** means the City of Wyndham Planning Scheme.

**Secluded Private Open Space** means that part of private open space primarily intended for outdoor living activities which enjoys a reasonable amount of privacy.

**Secondary Street** means the street that runs along the side boundary of a property when located on a corner.

**Setback** means the minimum distance from any allotment boundary to a building.


**Side Boundary** means a boundary of an allotment that runs between and connects the street frontage of the allotment to the rear boundary of the allotment.

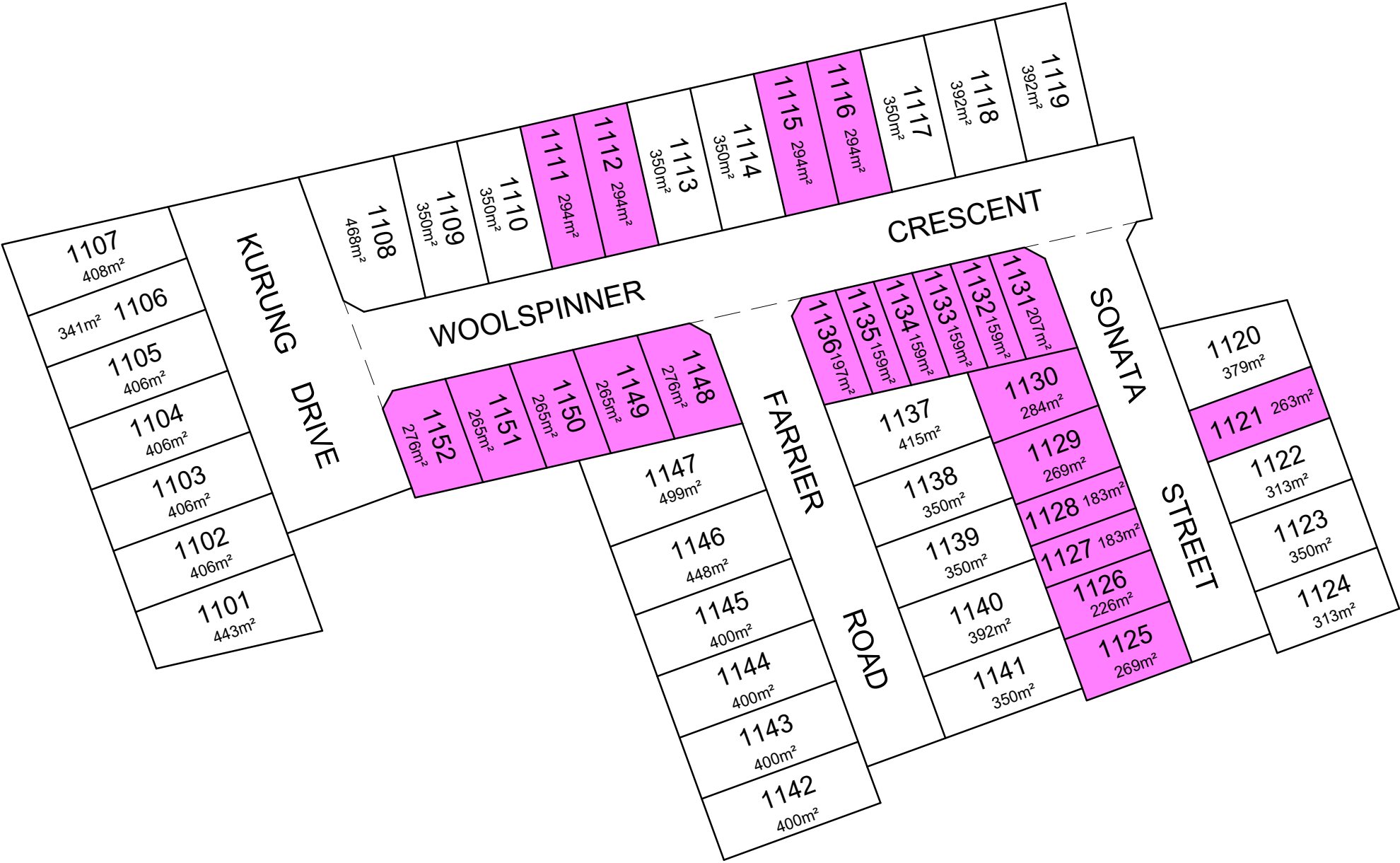
**Site Coverage** means the proportion of a site covered by buildings.

**Storey** means that part of a building between floor levels. If there is no floor above, it is the part between the floor level and ceiling. It may include an attic, basement, built over car parking area, and mezzanine.

**Street**, for the purposes of determining setbacks, street means any road other than a footway or carriageway easement.

**Window** has the same meaning as in the Building Code of Australia.

NOTE: For Lots shown thus  the Small Lot Housing Code applies. These lots are subject to "Type A" conditions as designated in the Small Lot Housing Code.





# G1 Application to Record Notification

Section 201UB Planning and Environment Act 1987

Use to notify the Registrar of land subject to GAIC

Privacy Collection Statement: The information from this form is collected by the Registrar of Titles and is used for the purpose of maintaining publicly searchable registers and indexes.

**AH336996N**

01/07/2010 \$0 201UB



## Read this before you start

- Fill page 1 online
- Print form single sided
- Sign with a blue or black pen

## Purpose

The Growth Areas Authority applies to the Registrar of Titles to record a notification on the folio(s) of the Register described at item 1 that a growth areas infrastructure contribution may be payable.

### 1. What land is subject to GAIC?

Land Title 1

Volume Folio

Land Title 2

Volume Folio

Other Land Titles

see attached listing

### 2. Signature/s

Growth Areas Authority



PETER SEAMER

Name of Signatory

### 3. Date (dd/mm/yyyy)

23/06/2010

### 4. Does the lodging party have a customer code?

No Go to question 5  
Yes What is the customer code? Reference  
142734 01015935

### 5. Lodging party details

Lodging party

Given Name(s)

Family Name/ Company Name

GAA

Phone 03 9651 9600

Address

No. Level 29 Street 35 Collins St

Suburb Melbourne

Postcode 3000

You may lodge this form in two ways:

#### 1. In person

Level 9, 570 Bourke Street  
Melbourne 3000

#### 2. By mail

P.O. Box 500  
East Melbourne 3002

**AH336996N**

01/07/2010 \$0 201.18



Vol/Fol	Vol/Fol	Vol/Fol	Vol/Fol	Vol/Fol	Vol/Fol	Vol/Fol
2653/464	8460/840	8826/757	9400/606	9573/296	9768/698	10287/885
2739/613	8499/602	8958/110	9400/607	9573/297	9769/001	10310/687
3351/178	8499/603	9019/664	9400/608	9573/298	9769/550	10335/090
3431/066	8499/604	9041/695	9400/609	9573/299	9769/551	10346/417
3451/097	8499/605	9041/696	9409/902	9573/300	9769/552	10346/420
3494/753	8510/612	9047/508	9412/866	9573/301	9769/553	10353/885
3498/413	8510/613	9047/509	9418/330	9584/888	9769/554	10354/868
3529/743	8525/626	9068/407	9434/235	9584/889	9769/555	10354/869
3659/736	8525/627	9068/408	9441/095	9584/890	9769/556	10364/835
4024/689	8535/846	9068/410	9441/096	9584/891	9769/558	10387/819
4120/995	8559/003	9068/411	9441/097	9584/892	9769/559	10392/883
4144/695	8570/377	9068/412	9441/098	9584/894	9792/811	10392/884
4317/220	8574/170	9068/413	9441/099	9589/589	9797/850	10467/987
4643/431	8574/171	9091/159	9445/613	9603/847	9818/407	10488/902
5244/653	8589/156	9091/160	9459/267	9603/848	9818/408	10515/166
5378/559	8590/053	9091/161	9464/464	9603/849	9818/409	10515/167
5419/739	8618/945	9091/162	9464/465	9603/850	9818/410	10529/857
5623/570	8618/946	9091/163	9464/466	9613/003	9818/411	10529/858
5861/083	8618/947	9091/164	9464/467	9613/004	9818/413	10529/859
5879/798	8618/948	9091/167	9464/468	9613/006	9818/414	10529/860
5897/243	8618/949	9091/168	9464/469	9613/007	9818/415	10529/861
6153/539	8618/950	9091/169	9464/470	9622/089	9818/416	10533/550
6268/567	8645/296	9091/170	9464/472	9622/479	9818/417	10548/571
6313/505	8645/297	9091/171	9464/477	9630/985	9823/781	10555/205
6588/458	8645/298	9091/172	9464/478	9630/988	9828/775	10558/952
6828/581	8645/299	9156/474	9464/479	9637/198	9829/168	10559/138
6850/889	8645/300	9162/231	9472/647	9637/199	9829/169	10559/139
7016/149	8645/301	9162/233	9505/016	9637/200	9829/170	10578/614
7241/131	8645/302	9162/235	9506/354	9645/118	9829/171	10591/667
7297/320	8645/303	9162/236	9506/355	9645/119	9829/172	10591/669
7649/106	8645/304	9162/239	9506/356	9646/711	9829/173	10631/394
7721/063	8693/465	9164/126	9506/357	9653/943	9847/761	10631/395
8060/150	8693/466	9212/048	9506/358	9670/430	9850/172	10631/396
8105/076	8693/467	9281/403	9506/359	9670/431	9850/173	10643/019
8139/039	8693/468	9281/404	9506/360	9679/020	9891/057	10643/020
8139/040	8693/469	9281/405	9506/361	9679/022	9904/374	10662/609
8139/041	8693/470	9302/167	9511/336	9679/031	9911/058	10662/610
8139/042	8695/978	9307/840	9512/652	9690/926	9943/887	10668/112
8139/043	8716/634	9310/362	9512/655	9690/928	9943/888	10684/297
8139/044	8716/635	9317/264	9530/273	9690/929	9947/688	10684/298
8158/838	8716/636	9317/265	9531/535	9690/930	9947/689	10699/832
8164/741	8716/637	9317/266	9536/875	9692/053	9951/963	10699/833
8167/220	8733/753	9317/267	9536/876	9702/195	9961/562	10703/758
8182/120	8756/899	9317/269	9538/957	9706/679	9968/697	10703/759
8223/415	8776/891	9320/510	9546/805	9717/080	10008/331	10710/963
8255/346	8776/892	9320/987	9546/806	9717/081	10035/791	10710/964
8268/078	8795/871	9327/702	9546/807	9717/082	10091/287	10728/731
8294/528	8810/831	9327/703	9546/808	9723/056	10091/288	10728/732
8319/753	8817/127	9327/704	9546/809	9764/061	10111/889	10731/092
8322/627	8831/247	9327/706	9547/026	9764/062	10191/894	10743/778
8322/628	8833/446	9329/578	9547/027	9764/063	10267/821	10803/208
8413/375	8844/913	9332/136	9547/028	9764/064	10267/822	10817/497
8413/376	8889/375	9379/582	9547/030	9764/065	10276/848	10817/498
8426/111	8900/410	9394/598	9550/779	9764/066	10276/849	10817/864
8451/208	8901/079	9400/604	9573/295	9768/697	10276/986	10820/364

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01/07/2019 \$0 201UB



Vol/Fol	Vol/Fol	Vol/Fol
10821/506	11134/054	11198/849
10821/507	11134/056	11198/850
10822/764	11141/164	11198/851
10822/765	11144/531	11198/852
10825/741	11157/739	11198/853
10844/147	11166/738	11198/854
10844/148	11183/432	11198/855
10850/362	11183/433	11198/856
10850/363	11183/434	11198/857
10858/584	11184/928	11198/858
10858/585	11188/439	11198/859
10879/860	11188/800	11198/860
10891/490	11188/801	11198/861
10891/491	11188/802	11198/862
10893/012	11188/815	11198/863
10893/013	11189/027	11198/864
10893/908	11189/028	11198/865
10893/909	11189/076	11198/866
10898/975	11191/050	11198/867
10898/976	11191/089	
10919/796	11192/901	
10928/419	11192/902	
10928/421	11192/903	
10931/283	11192/904	
10931/286	11192/949	
10936/546	11192/950	
10938/477	11196/320	
10939/559	11196/321	
10947/739	11196/322	
10947/835	11196/323	
10961/299	11196/324	
10978/465	11196/325	
10983/580	11196/326	
10995/818	11196/327	
11018/870	11196/328	
11018/871	11196/329	
11036/793	11196/330	
11036/794	11196/331	
11041/313	11196/332	
11049/193	11196/333	
11049/194	11196/334	
11054/791	11196/335	
11062/880	11196/336	
11067/255	11196/337	
11068/855	11196/338	
11072/660	11196/339	
11085/720	11196/340	
11100/896	11196/341	
11105/203	11196/342	
11105/204	11196/343	
11117/311	11196/344	
11117/312	11196/345	
11127/035	11198/846	
11134/051	11198/847	
11134/053	11198/848	

Form 18

**Application by a responsible authority for the making of a recording of an agreement**

**Section 181 Planning and Environment Act 1987**

**AL114846N**



Lodged by

Name: Maddocks  
 Phone: 03 9288 0523  
 Address: 140 William Street, Melbourne  
 Ref: NFM: N3: 5913153  
 Customer Code: 11528E

The Authority having made an agreement referred to in Section 181(1) of the Planning and Environment Act 1987 requires a recording to be made in the Register for the land.

Land: Lot 1 on PS 708624 being the land described in Certificate of Title Volume 9317 Folio 265, and Lot 2 on LP 125673 being the <sup>Folio 265</sup>

Authority: Wyndham City Council, Wyndham Civic Centre, 45 Princes Highway, Werribee, Victoria 3030.

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

A copy of the agreement is attached to this application.

Signature for the Authority:   
 Name of officer: Kerry Thompson  
 Office held: Chief Executive Officer  
 Date: 26/5/2014

**AL114846N**



**PLANNING AGREEMENT**

**CRG Nominees Pty Ltd**

**("the Owner")**

**and**

**WYNDHAM CITY COUNCIL**



THIS AGREEMENT is made the 16th day of May  
pursuant to Section 173 of the *Planning and Environment Act 1987* ("the

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**PARTIES:**

1. Wyndham City Council of Civic Centre, 45 Princes Highway, Werribee, Victoria 3030 ("**Council**"); and
2. CRG Nominees Pty Ltd as trustee for the Wyndham Vale Unit Trust ACN 088 212 631 of Level 4, Podium Building, 120 Collins Street, Melbourne, VIC 3000 ("**the Owner**")

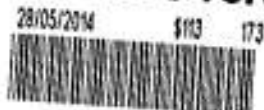
**RECITALS:**

- 1 Council is responsible for the administration and enforcement of the Wyndham Planning Scheme ("**the Planning Scheme**") pursuant to the provisions of the Planning and Environment Act 1987 ("**the Act**").
- 2 The Owner is the registered proprietor of the land described in Certificates of Title Volume 9317 Folio 265 being Lot 1 on PS708624, and Volume 9317 Folio 264 being Lot 2 on LP 125673 ("**the Land**").
- 3 The Land is zoned Urban Growth Zone ("**UGZ**") and will be subject to a future Development Contributions Plan.
- 4 The Owner and Council acknowledge that development contributions in relation to the Land shall be made generally in accordance with the DCP applying to the land.
- 5 Council will be the collecting agency and the development agency under the DCP.
- 6 Council enters into this Agreement in its capacity as a responsible authority and in its capacity as a collecting agency.
- 7 The DCP will provide that, where the collecting agency agrees in writing, infrastructure projects funded in the DCP may be provided by Owners of Land covered by the DCP, with a credit being provided to the Owner against its Development Contribution Liability.
- 8 Clause 52.01 of the Planning Scheme and the Precinct Structure Plan ("**PSP**") will, together, specify the passive open space contribution to apply to the land.
- 9 The Planning Permit provides, at condition 2, that the 2 lots created by the Plan must not be further subdivided under the excision provisions of clause 37.07-3 of the Planning Scheme.
- 10 The Planning Permit also provides, at condition 3, that the Owner must not construct or cause or permit to be constructed, on the Land a dwelling, garage, carport or any type of outbuilding over the Hobbs Road Frontage and the Ballan Road Frontage.
- 11 The parties enter into this Agreement to facilitate the requirements referred to in these Recitals.

**IT IS AGREED THAT:**

1. Without limiting the operation or effect which this Agreement otherwise has, the parties acknowledge that this Agreement is made pursuant to the provisions of Section 173 of the Act.
2. This Agreement shall come into force immediately and shall run with the title to the Land.

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### Interpretation

3. The parties agree that in the interpretation of this Agreement:

**"Agreement"** means this agreement, as amended from time to time.

**"Ballan Road Frontage"** means the area set aside for the widening of Ballan Road as described on the Public Acquisition Overlay Plan as PAO2 exhibited as part of Amendment G21 to the Wyndham Planning Scheme, as subsequently approved and gazetted under the Wyndham Planning Scheme.

**"Certification"** means certification of a plan of subdivision by Council under the *Subdivision Act 1988*;

**"Community Infrastructure Levy"** means the community infrastructure levy required to be paid pursuant to a Planning Permit and clause 45.06 of the Planning Scheme;

**"Development"** means the development intended to be carried out on the Land;

**"Development Contributions Liability"** has the meaning given in clause 17;

**"DCP"** means the draft Wyndham West Development Contributions Plan, August 2013, or as later amended and approved under any revision to the Wyndham West Development Contributions Plan.

**"Development Infrastructure Levy"** means the development infrastructure levy required to be paid pursuant to a Planning Permit and clause 45.06 of the Planning Scheme;

**"Grima Lot"** means lot 1 on PS612204W and lot 1 on PS612203Y;

**"Hobbs Road Frontage"** means a proposed area of land for the widening of Hobbs Road of approximately 14 metres in width as is more particularly described as 'Infrastructure Project RD-05' and the area set aside for the intersection of Hobbs Road with Ballan Road described as "infrastructure Project IN-15 in the DCP;

**"Land"** means the land referred to in recital 2;

**"Net Developable Area"** will be defined in the future DCP;

**"Owner"** shall be deemed to include the Owner's successors, assignees and transferees and the obligations imposed upon and assumed by the Owner with respect to the Land of which it is registered as proprietor shall also be binding on its successors, transferees, Purchasers, mortgagees, assigns and any person obtaining possession of whole or part of the Land (**"the successors"**) as if each of those successors had separately executed this Agreement;

**"Plan"** means plan of subdivision PS612204W;

**"Planning Permit"** means planning permit WYP6366/12 as amended from time to time;

**"Planning Scheme"** means the Wyndham Planning Scheme, as amended from time to time;

**"Practical Completion"** means when practical completion is achieved under the relevant building contract for the Potential DCP Project;

**"Potential DCP Project"** means a project funded partially or wholly by the future DCP that is reasonably required or desirable to be provided as part of the development of the Land;

**"PSP"** means the future Precinct Infrastructure Plan (currently known as the Ballan Road Precinct Structure Plan which will be referred to in a future Schedule to the UGZ;

**"Residential Lot"** means a lot which is of a size and dimension such that it is intended to be developed as a house lot without further subdivision; and

**"Statement of Compliance"** means a statement of compliance issued by Council under the *Subdivision Act 1988*;

#### **Interpretation**

4. The parties agree that in the interpretation of this Agreement:

- 4.1 The singular includes the plural and the plural includes the singular;
- 4.2 A reference to a gender includes a reference to each other gender;
- 4.3 A reference to a person includes a reference to a firm, corporation or other corporate body and their successors in law;
- 4.4 If a party consists of more than one person this Agreement binds them jointly and each of them severally;
- 4.5 A reference to a statute shall include any statutes amending, consolidating or replacing same and any regulations made under such statutes;
- 4.6 All headings are for ease of reference only and shall not be taken into account in the construction or interpretation of this Agreement; and
- 4.7 The recitals to this agreement are and will be deemed to form part of this Agreement including any terms defined within the recitals.

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#### **Severability**

5. 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 shall be severed and the other provisions of this Agreement shall remain operative.

#### **Obligations of the Parties**

6. The Owner agrees:
- 6.1 to make contributions towards the provision of infrastructure as set out in the DCP; and
  - 6.2 to make a contribution towards the provision of major active and passive open space as set out in the PSP and DCP;

#### **Owner Not to Subdivide Further Under Clause 37.07-3 of the Planning Scheme**

7. The Owner must not subdivide any further either of the lots created by the Plan under clause 37.07-3 of the Planning Scheme. Nothing in this clause 7 operates to limit the Owner from subdividing the lots created by the Plan further when the PSP is applied.

#### **Owner not to build over**

8. Subject to clause 9, the Owner shall not without the prior written consent of Council construct, or cause or permit to be constructed, on the Hobbs Road Frontage or the Ballan Road Frontage a dwelling, garage, carport or any type of outbuilding.
9. The parties agree and acknowledge that:
- 9.1 the provisions of clause 8 do not prejudice the right of the Owner to trigger claim, or otherwise disadvantage the Owner with respect to, any compensation payable under the Land Acquisition and Compensation Act 1986 as a result of any public acquisition overlay being applied over the Ballan Road Frontage; and

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- 9.2 in the absence of clause 8 and the proposed public acquisition overlay the Owner would otherwise have sought to include the Ballan Road Frontage in the proposed future subdivision and development of the Land.

**Credits to be allowed by Council**

10. Council agrees that upon entering into this Agreement, where applicable Council will allow the Owner:
- 10.1 a credit against its Development Contributions Liability in relation to the transfer to, or vesting in, Council of any land for arterial roads and major pathways in accordance with clause 6.1, including, without limitation, the Hobbs Road Frontage;
  - 10.2 a credit against its Development Contributions Liability in relation to the vesting of any land for community facilities in Council, in accordance with clause 6.1; and
  - 10.3 a credit against its Development Contributions Liability in relation to the vesting of any Active Open Space Reserve in Council, in accordance with clause 6.1.

**Potential Works In Kind**

11. The Owner may apply for approval to construct, or provide (as land), one or more of the Potential DCP Projects. The Owner's application must be in writing and must be given to Council at least 3 months prior to the proposed commencement of construction of a Potential DCP Project or the proposed provision via vesting or transfer of land to Council in respect of a Potential DCP Project.
12. If Council allows the Owner to provide a Potential DCP Project, the Owner agrees that it will construct the Potential DCP Project:
- 12.1 in accordance with the plans and specifications approved by Council under clause 11 of this Agreement;
  - 12.2 by a date to be agreed with Council; and
  - 12.3 to the reasonable satisfaction of Council.
13. If Council allows the Owner to construct a Potential DCP Project, the Owner must submit proposed plans and specification details for the Potential DCP Project to Council for approval. The proposed design and specification details for the Potential DCP Project must be in accordance with the DCP unless otherwise agreed in writing.
14. If the Owner does not meet the timeframe set out in clause 12.2, Council may:
- 14.1 extend the time for completion of the Potential DCP Project;
  - 14.2 refuse to issue any further Statements of Compliance for subdivision until the Potential DCP Project is completed; or
  - 14.3 extend the time for completion of the Potential DCP Project and require a bank guarantee to secure the completion of the Potential DCP Project.
- If Council allows the provision of a Potential DCP Project, then upon Practical Completion of the Potential DCP Project Council will allow the Owner a credit against its Development Contributions Liability equal to the value listed for that Potential DCP Project in the DCP.
- If Council allows the provision of land comprising a Potential DCP Project, then upon vesting in or transfer to Council of the land comprising the Potential DCP Project,

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Council will allow the Owner a credit against its Development Contributions Liability equal to the value listed for that Potential DCP Project in the DCP.

**Balancing liabilities and credits and carrying forward of credit**

17. Subject to clause 19, the Owner acknowledges that it will have a liability ("**Development Contributions Liability**") in relation to the Land and it must:
  - 17.1 pay the Development Infrastructure Levy in cash calculated on a per net developable hectare basis as set out in the DCP:
    - 17.1.1 after Certification of the plan of subdivision for the relevant stage of subdivision and not more than 21 days prior to the issue of a Statement of Compliance in respect of the plan of subdivision for the relevant stage of subdivision; or
    - 17.1.2 as agreed with Council; and
  - 17.2 pay the Community Infrastructure Levy payable in relation to the Residential Lots to be created by a stage prior to issue of a Statement of Compliance for that stage or otherwise as agreed with Council.
18. Subject to clause 19, the Owner agrees to pay its Development Contributions Liability on a stage-by-stage basis except as otherwise provided for in this Agreement.
19. Council agrees:
  - 19.1.1 that the Owner will not be required to pay as Development Contributions Liability until all credits the Owner is entitled to under this Agreement have been exhausted; and acknowledges
  - 19.2 that, upon the Owner complying with its obligations under this Agreement, the Owner will have, in relation to the Land, fully discharged its obligations in relation to the Owner's Development Contributions Liability.

**Adjustment and administration**

20. The parties agree that, unless otherwise specified, any dollar amounts in this Agreement are to be adjusted, in accordance with the methodology to be specified in the DCP:
  - 20.1 in relation to land; and
  - 20.2 in relation to works.
21. The parties acknowledge and agree that the table contained in Schedule 1 reflects the parties' understanding of the table to be completed and maintained by Council to record payments to be made by and the credits to be granted to the Owner under this Agreement.
22. The Owner must on 1 July in each year after the execution of this Agreement prior to seeking a Statement of Compliance for a stage submit a table in substantially the same form as Schedule 1 but adjusted for indexation and land adjustments in accordance with the DCP and which also takes into account payments made, credits allowed and credit utilised all to the reasonable satisfaction of Council.
23. In relation to a planning permit for subdivision of the Land other than the Planning Permit, the Owner must:
  - 23.1 prior to commencing works pursuant to a permit; and

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- 23.2 prior to seeking a Statement of Compliance for a stage of the subdivision approved by such planning permit, submit a table in the format contained at Schedule 1, which is cross referenced to the DCP and sets out DCP payments made, DCP credits allowed and DCP credit utilised.

#### **Agreed Land Values**

24. Council and the Owner agree that:

- 24.1 the provisions of this Agreement that refer or relate to land values are intended to replace the market value and any other method of calculating compensation payable to a person under the Land Acquisition and Compensation Act 1986 and the Act in respect of any part of the Land; and
- 24.2 upon payment being made in accordance with this Agreement whether as a monetary amount or by a credit in respect of any of the Land, no other compensation is payable for the effect of severance or for solatium as those terms or concepts are understood in the context of the Land Acquisition and Compensation Act 1986 or for any other category of or form of loss or compensation in respect of any part of the Land.

#### **Disputes**

25. In the event of any dispute between the parties concerning the interpretation or implementation of this Agreement, such a dispute shall be referred to the Victorian Civil and Administrative Tribunal ("**the tribunal**") for resolution to the extent permitted by the Act. In the event of a dispute concerning any matter which is not referable to the tribunal pursuant to the Act, such matters shall be referred to arbitration by an arbitrator agreed upon in writing by the parties or, in the absence of such agreement the chairman of the Victorian chapter of the Institute of Arbitrators, Australia or his nominee, for arbitration pursuant to the Commercial Arbitration Act 2011.
26. Where provision is made in this Agreement that any matter be done to the satisfaction of the Council or any of its officers and a dispute arises in relation thereto, such disputes shall be referred to the tribunal in accordance with Section 149 (1) (b) of the Act.
27. The parties shall be entitled to legal representation for the purposes of any arbitration or referral referred to under clauses 25 and 26. Unless the arbitrator, chairman, nominee or the tribunal shall otherwise direct, each party must bear its own costs.

#### **Owner's Covenants**

28. The Owner warrants and covenants that as at the date hereof, the Owner is the registered proprietor of the Land;
29. Without limiting the operation or effect which this Agreement has, apart from the Owner and any other person who has consented in writing to this Agreement and those parties who have entered into a contract of sale for purchase or transfer of a lot prior to registration of the relevant plan of subdivision, no other person has any interest, either legal or equitable, in the Land which may be affected by this Agreement.

The Land or any part of it is not subject to any rights obtained by adverse possession or subject to any easements, rights or encumbrances mentioned in Section 42 of the *Transfer of Land Act 1958* as far as the Owner is aware.

#### **Registration of Agreement**

Council and the Owner shall do all things necessary (including signing any further Agreement, acknowledgment or document) to enable Council to register this Agreement on the certificate of title to the Land, in accordance with section 181 of the Act.

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- 31.1 without limiting the operation or effect which this Agreement has, the Owner must ensure that until such time as this Agreement is registered on the certificate of title to the Land, successors in title shall be required to:
- 31.2 give effect to and do all acts and sign all documents which will require those successors to give effect to this Agreement; and
- 31.3 execute under seal a deed agreeing to be bound by the terms of this Agreement and upon such execution this agreement shall continue as if executed by such successors as well as by the parties to this agreement as if the successor's name appeared in each clause in which the name of the Owner appears and in addition to the name of the Owner.

#### **Ending of agreement**

- 32. Subject to clause 33, this Agreement ends when the Owner has complied with all of the Owner's obligations under this Agreement. Council must, within 10 days of receiving a written request from the Owner, sign and return an application under section 183(3) of the Act to end this Agreement.
- 33. If Council issues a statement of compliance for a stage of the Development, it must at the same time issue the Owner with a signed application to the Land Registry under section 183(1) of the Act to end this Agreement in respect of all of the land contained in that stage.
- 34. Clause 8 ceases to have effect with respect to:
  - 34.1 the Ballan Road Frontage should the Council withdraw or not apply the proposed public acquisition overlay over the Ballan Road Frontage; and
  - 34.2 the Hobbs Road Frontage should that area cease to be the subject of a road widening proposal in an infrastructure project in the Wyndham West Development Contributions Plan.

#### **Notification to Successors in Title**

- 35. The Owner will not sell, transfer, assign or otherwise part with possession of the Land or any part thereof without first disclosing to the intended Purchaser, transferee or assignee the existence and nature of this agreement.
- 36. The Owner and Council acknowledge and agree that this agreement is made pursuant to Section 173 of the Act and during the period of this agreement the obligations imposed on the Owner are conditions on which the Land may be used or developed for specified purposes and are intended to take effect as covenants which shall be annexed to and run at law and in equity with the Land and bind the Owner, their successors in title, assignees and transferees and the registered proprietor and proprietors for the time being of the Land and every part of the Land.

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#### **Owner may apply for planning permission**

The parties acknowledge and agree that this agreement will not and is not intended to prejudice the rights of the Owner to make any application under the Planning Scheme for permission to use and develop the Land or prevent or constrain the Council from considering and determining any such application in accordance with the requirements of the Planning Scheme and the Act.

#### **Notice**

- 37. A notice or other communication required or permitted to be served by a party on another party shall be in writing and may be served:

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- 38.1 By delivering it personally to that party;
  - 38.2 By sending it by prepaid post addressed to that party at the address set out in this agreement or subsequently notified to each party from time to time; or
  - 38.3 By sending it by facsimile provided that a communication sent by facsimile shall be confirmed immediately in writing by the sending party by hand delivery or prepaid post.
39. A notice or other communication is deemed served:
- 39.1 If delivered, on the next following business day;
  - 39.2 If posted, on the expiration of two business days after the date of posting; or
  - 39.3 If sent by facsimile, on the next following business day unless the receiving party has requested retransmission before the end of that business day.

#### **Entire understanding**

40. This Agreement:
- 40.1 Is the entire agreement and understanding between the parties on everything connected with the subject matter of this Agreement; and
  - 40.2 Supersedes any prior agreement or understanding on anything connected with that subject matter.

#### **Counterparts**

41. This Agreement may be executed in counterparts. Each counterpart is an original but the counterparts together are one and the same agreement. This Agreement is binding on the parties on the exchange of the executed counterparts. A copy of the original executed counterpart sent by facsimile machine or email:
- 41.1 Must be treated as an original counterpart;
  - 41.2 Is sufficient evidence of the execution of the original; and
  - 41.3 May be produced in evidence for all purposes in place of the original.



- 10 -


**IN CONFIRMATION** of their agreement the parties have executed this agreement on the date set out at the commencement of this agreement.

**EXECUTED by**

CRG Nominees Pty Ltd

**ACN 088 212 631**

in  
accordance with Section 127 of the  
Corporations Act 2001 by being signed by  
those persons who are authorised to sign for  
the company:



Director

Full name:

Jonathan Peter Callaghan

Address: Level 6 No. 126  
Phillip Street, Sydney NSW 2000



Director

Full name:

Cameron Richard Holt

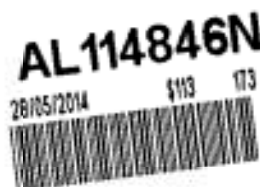
Address: Level 6 No. 126  
Phillip Street, Sydney NSW 2000

**SIGNED FOR AND ON BEHALF OF**  
**WYNDHAM CITY COUNCIL** pursuant to an  
Instrument of Delegation dated 24 June 2013



KERRY THOMPSON, CEO  
Name and Position Title

26th May 2014  
Date



## Application by a Responsible Authority for the making of a Recording of an Agreement

Section 181 Planning and Environment Act 1987

Form 21

Lodged by:

Name: MADDOCKS  
Phone: 03 9258 3555  
Address: Collins Square, Tower Two, Level 25, 727 Collins Street Melbourne VIC 3008  
Ref: TGM:AZV:6906275  
Customer Code: 1167E

**AQ257914E**



The Authority having made an agreement referred to in section 181(1) of the **Planning and Environment Act 1987** requires a recording to be made in the Register for the land.

Land: The land described at Lot A on PS612203Y and being the land described in Certificate of Title Volume 11817 Folio 516

Responsible Authority: Wyndham City Council of Civic Centre, 45 Princes Highway, Werribee, Victoria 3030

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

A copy of the agreement is attached to this application

Signature for the Authority:

Name of officer:

ANNETTE SUSAN MONK

Position Held:

SUBDIVISIONS OFFICER

Date:

13 SEPTEMBER 2017



Maddocks

Date 26 / 7 / 2018

**AQ257914E**

18/06/2017 \$94.60 173

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

**Subject Land:** 50 Hobbs Road, Wyndham Vale

**Purpose:** Open Space Contribution

City of Wyndham

and

AVID Property Group Nominees Pty Ltd ACN 088212631 as ~~Trustee~~ for the Hobbs Road Wyndham ~~Trust~~

CB

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

Dated 26 / 7 / 2016

**AQ257914E**

18/09/2017	\$94.60	173
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## Parties

	Name	Wyndham City Council
	Address	Civic Centre, 45 Princes Highway, Werribee, Victoria 3030
	Short name	Council
CB	Name	AVID Property Group Nominees Pty Ltd ACN 088212631 as <del>Trustee</del> for the Hobbs Road Wyndham <del>Trust</del>
	Address	Suite 02 Level 35 259 George Street, Sydney NSW 2000
	Short name	Owner

## Background

- A. Council is the responsible authority for the Planning Scheme.
- B. Council enters into this Agreement in its capacity as the responsible authority.
- C. The Owner is the registered proprietor of the Subject Land.
- D. The Precinct Structure Plan applies to the Subject Land. It generally identifies land to be provided as Open Space Land and contains or references a land budget specifying the amount of open space to be provided by each parcel of land within the Precinct Structure Plan.
- E. Council and the Owner have agreed that the Owner will transfer to or vest in Council the Open Space Land in return for a credit against its liability under clause 52.01 of the Planning Scheme.
- F. As at the date of this Agreement, the Subject Land is subject to a mortgage in favour of the Mortgagee. The Mortgagee consents to the Owner entering into this Agreement.

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The Parties agree:

1. Definitions

In this Agreement unless the context admits otherwise:

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

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

**Current Address** means:

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

**Current Email** means:

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

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

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

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

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

**Open Space Land** means land for public open space land described in Schedule 2 and which may also be identified in the plan at Annexure "A".

**Open Space Land Value** means the amount specified in Schedule 2 as the open space land value or an amount determined by applying the methodology set out in Schedule 2 as the case may be.

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

**Owner's obligations** includes the Owner's specific obligations and the Owner's further obligations.

**Party or Parties** means the Parties to this Agreement but does not include a person who has transferred or otherwise disposed of all of their interests in the Subject Land.

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

**Planning Permit** means the planning permit specified in Schedule 3 as amended from time to time.

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

**Precinct Structure Plan** means the Precinct Structure Plan specified in Schedule 1, being an incorporated document in the Planning Scheme.

**Provision Trigger** means the provision trigger set out in the relevant column of Schedule 2.

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

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

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

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

**Subject Land** means the land described in Schedule 3 and any reference to the Subject Land in this Agreement includes any lot created by the subdivision of the Subject Land or any part of it.

## 2. Interpretation

In this Agreement unless the context admits otherwise:

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



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2.9 any reference to a clause, page, condition, attachment or term is a reference to a clause, page, condition, attachment or term of this Agreement.

### 3. Purposes of Agreement

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

3.1 to record the terms and conditions on which Open Space Land will be provided to Council and the terms and conditions on which any over provision of Open Space Land in respect of the Subject Land will be dealt with; and

3.2 achieve and advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Subject Land –

and also acknowledge that the Council entered into this Agreement for these reasons.

#### 4. Public Open Space

#### 4.1 Open Space Land

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

4.1.1 in accordance with the relevant Provision Trigger set out in Schedule 2:

4.1.2 free of all encumbrances and free of any structures, debris, waste, refuse and contamination, except as agreed by Council;

4.1.3 with all services to be available or connected as specified in the relevant column of Schedule 2; and

4.1.4 in a condition that is to the satisfaction of Council.

#### 4.2 Value of Open Space Land

The Owner agrees that:

#### 4.2.1 the Open Space Land Value:

- (a) is the fixed amount as specified in Schedule 2 or alternatively is a fixed amount determined by applying the methodology set out in Schedule 2 as the case may be
- (b) is deemed to include all transfer costs, costs of plans of subdivision, registration fees and the like and any other amount specifically agreed to in writing by Council;
- (c) replaces the market value and any other method of calculating compensation payable to a person under the *Land Acquisition and Compensation Act 1986* and the Act in respect of the Open Space Land; and

4.2.2 upon

(a) the transfer of the Open Space Land to Council or the vesting of the Open Space Land in Council in satisfaction of the whole or part of its open space contribution liabilities under clause 52.01 of the Planning Scheme; or

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(b) payment being made to the Owner in accordance with this Agreement –

no compensation or further compensation is payable for the effect of severance or for solatium as those terms or concepts are understood in the context of the *Land Acquisition and Compensation Act 1986* or for any other category of or form of loss or compensation in respect of the Open Space Land.

### 4.3 Over – provision

The Parties agree that:

- 4.3.1 as the Open Space Land that the Owner is obliged to transfer to or vest in Council under this Agreement is greater than the total public open space contribution that the Owner is required to make under clause 52.01 of the Planning Scheme in respect of the Subject Land, Council must reimburse the Owner the over-provision by way of a monetary payment to the Owner's so as to equalise the open space contribution made by the Owner to the amount specified in clause 52.01 of the Planning Scheme in respect of the Subject Land; and
- 4.3.2 where a monetary payment is due to be paid to the Owner under clause 4.3.1, the monetary payment to the Owner must be paid within a timeframe agreed in writing between the Parties prior to the Statement of Compliance for the final stage of the subdivision of the Subject Land.

#### 4.4 Environmental Assessment

The Owner agrees that prior to transferring to or vesting Open Space Land to or in Council, the Owner must provide Council with an environmental assessment prepared by a properly qualified environmental consultant that clearly and unequivocally states that the Public Open Space Land is suitable to be used and developed for public open space with no risk to the public.

## 5. Further obligations of the Parties

### 5.1 Transaction costs

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

## 5.2 Notice and registration

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

### 5.3 Further actions

The Owner:

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

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**Maddocks**

- 5.3.3 agrees to do all things necessary to enable Council to do so, including:
- (a) sign any further agreement, acknowledgment or document; and
  - (b) obtain all necessary consents to enable the recording to be made.

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

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

- 5.4.1 preparing, drafting, finalising, signing and recording this Agreement;
- 5.4.2 preparing, drafting, finalising and recording any amendment to this Agreement; and
- 5.4.3 preparing, drafting, finalising and recording any document to give effect to the ending of this Agreement.

#### **5.5 Interest for overdue money**

The Owner agrees that:

- 5.5.1 the Owner must pay to Council interest in accordance with section 172 of the *Local Government Act 1989* on any amount due under this Agreement that is not paid by the due date.
- 5.5.2 if interest is owing, Council will apply any payment made first towards interest and then any balance of the payment will be applied to the principal amount.

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

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

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### **7. Owner's warranties**

- 7.1 The Owner warrants that apart from the Owner and any other person who has consented in writing to this Agreement, no other person has any interest, either legal or equitable, in the Subject Land which may be affected by this Agreement.
- 7.2 The Owner warrants that the Open Space Land is in an environmental condition such as to be suitable to be used and developed for public open space with no risk to the public.

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### **8. Successors in title**

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

- 8.1 give effect to this Agreement; and

**0** **1** **2** **3** **4** **5** **6** **7** **8** **9** **A** **B** **C** **D** **E** **F**

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

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## 9. General matters

## 9.1 Notices

A notice or other communication required or permitted to be served by a Party on another Party must be in writing and may be served:

- 9.1.1 personally on the other Party;
- 9.1.2 by leaving it at the other Party's Current Address;
- 9.1.3 by posting it by prepaid post addressed to the other Party at the other Party's Current Address; or
- 9.1.4 by email to the other Party's Current Email.

**9.2 No waiver**

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

### 9.3 Severability

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

#### 9.4 No fettering of Council's powers

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

### 9.5 Inspection of documents

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

## 9.6 Counterparts

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

### 9.7 Governing law

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

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## 10. GST

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

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## 11. GAIC

- 11.1 All land transferred to or vested in Council must have any inherent liability for GAIC discharged prior to it being transferred to or vested in Council and to the extent it is not, the Owner shall remain liable to Council for any GAIC liability incurred by Council. This clause shall survive the termination of this Agreement.
- 11.2 If required by Council, the Owner must provide a certificate of release under section 201SY of the Act confirming the release of the land referred to in clause 11.1 from GAIC liability.

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## 12. Commencement of Agreement

This Agreement commences on the date of this Agreement.



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## 13. Ending of Agreement

- 13.1 This Agreement ends:
- 13.1.1 when the Owner has complied with all of the Owner's obligations under this Agreement; or
  - 13.1.2 otherwise by agreement between the Parties in accordance with section 177 of the Act.
- 13.2 Notwithstanding clause 13.1, the Owner may request in writing Council's consent to end the Agreement in respect of Residential Lots in any Stage upon the issue of a Statement of Compliance in respect of that Stage.
- 13.3 Council will not unreasonably withhold its consent to a written request made pursuant to clause 13.2 if it is satisfied that the obligations in this Agreement are secured to its satisfaction.
- 13.4 Upon the issue of a Statement of Compliance for a plan of subdivision for Residential Lots created over the Subject Land or earlier by agreement with Council, the Agreement ends in respect of that part of the Subject Land in the plan of subdivision in accordance with section 177 of the Act provided that at all times, the Agreement must remain registered on the balance of the Subject Land and Parent Titles.



1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011 1012 1013 1014 1015 1016 1017 1018 1019 1020 1021 1022 1023 1024 1025 1026 1027 1028 1029 1030 1031 1032 1033 1034 1035 1036 1037 1038 1039 1040 1

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- 13.5 Once this Agreement ends as to part of the Subject Land, Council will, within a reasonable time following a request from the Owner and at the cost of the Owner, execute all documents necessary to make application to the Registrar of Titles under section 183(2) of the Act to cancel the recording of this Agreement on the register as to that part of the Subject Land.
- 13.6 On completion of all the Owner's obligations under this Agreement, Council must as soon as practicable following the ending of this Agreement and at the Owner's request and at the Owner's cost, execute all documents necessary to make application to the Registrar of Titles under section 183(2) of the Act to cancel the recording of this Agreement on the register.

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## Schedule 1

- Ballan Road Precinct Structure Plan

**AQ257914E**

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## Schedule 2

## Open Space Land

Project No.	Description of Open Space Land*	Provision Trigger	Authority by the Open Space Land is to be transferred to or vested in.	Services to be available (Av) or connected (Co).	Stage Area (in hectares)†	Open Space Contribution that the Owner is required to make under clause 52.01 of the Planning Scheme (in hectares)‡	Open Space Provision	Open Space Land Value or methodology to be used for determining the Open Space Land Value
Part of Park ID's P3, P4 and P5 in Table 4 - Open Space Delivery Guide of the Ballan Road PSP.	The land shown in the Open Space Plan annexed to this Agreement.	Before or as part of the Issue of a Statement of Compliance for the Stage of the subdivision of the Subject Land within which the Open Space Land is contained	Council	Power Gas Sewerage Telecommunications Water Drainage	N/A	1.17ha	1.3148ha	0.1449ha of over provision  Value as at 1 July 2016 : \$79,895  (0.1449ha x \$550,000)  This is a 1 July 2016 \$ figure subject to revaluation on an annual basis.  The methodology for determining the Open Space Value is the application of the relevant 1 July revaluation amount calculated by Council as part of its annual DCP and 52.01 land revaluations for Property 10 in the Ballan Road PSP at the date 7 days prior to payment by Council using the following formula:  0.1449ha x 'A' = Open Space Value.  Where 'A' is the relevant 52.01 land revaluation provided to Council for Property 10 in the Ballan Road PSP as at the 1 July each year.

\* If necessary, the Open Space Land can be described by reference to a plan of subdivision or a survey plan or some other accurate drawing or plan relating to the Open Space Land.  
 † The figures in the columns and rows identified are subject to change as part of the subdivision process. The areas in the subdivisions ultimately certified and subject to statements of compliance will form the basis of calculations and obligations relating to open space contributions under Clause 52.01 of the Planning Scheme.

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### Schedule 3

- Subject Land – 50 Hobbs Road, Wyndhamvale being the land described as Lot A on PS 612203Y and being the land described in Certificate of Title Volume 11817 Folio 516
- Planning Permit No. WYP 7871/14

**AQ257914E**





Maddocks

## Signing Page

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

EXECUTED as an agreement.  
Signed for and on behalf of the Wyndham  
City Council pursuant to Instrument of  
Delegation dated 24 June 2013.

Date 26 / 7 / 13



Executed by Avid Property Group Nominees Pty  
Ltd ACN 088212631 in accordance with s 127(1) of  
the Corporations Act 2001:

Signature of Director

Cameron Holt

Print full name

Signature of ~~Director~~ Company Secretary

Nicole Bannerman

Print full name

2/12/16





## Application by a Responsible Authority for the making of a Recording of an Agreement

Section 181 Planning and Environment Act 1987

**AQ257915C**



### Form 21

Lodged by:

Name: MADDOCKS  
Phone: 03 9258 3555  
Address: Collins Square, Tower Two, Level 25, 727 Collins Street Melbourne VIC 3008  
Ref: TGM:AZV:6906238  
Customer Code: 1167E

The Authority having made an agreement referred to in section 181(1) of the **Planning and Environment Act 1987** requires a recording to be made in the Register for the land.

Land: The land described at Lot A on PS612203Y and being the land described in Certificate of Title Volume 11817 Folio 516

Responsible Authority: Wyndham City Council of 45 Princes Highway, Werribee, Victoria

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

A copy of the agreement is attached to this application

Signature for the Authority:

Name of officer:

ANNETTE SUSAN MONK

Position Held:

SUBDIVISIONS OFFICER

Date:

13 SEPTEMBER 2019

Maddocks

Date 26 / 7 / 2017

**AQ257915C**  
18/09/2017 \$94.60 173

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

**Subject Land: 50 Hobbs Road, Wyndham Vale**

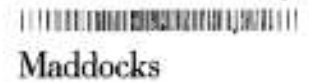
**Purpose: WIK Agreement – Transfer of Land Projects**

City of Wyndham

and

CB

AVID Property Group Nominees Pty Ltd ACN 088212631 as ~~Treasurer~~ for the Hobbs Road Wyndham ~~Trust~~



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

Dated 26 / 7 / 2016

**AQ257915C**

19/09/2017 \$94.60 17

## Parties

C6	Name	Wyndham City Council
	Address	Civic Centre, 45 Princes Highway, Werribee, Victoria 3030
	Short name	Council
C6	Name	AVID Property Group Nominees Pty Ltd ACN 088212631 as <del>Trustee</del> for the Hobbs Road Wyndham <del>Trust</del>
	Address	Suite 02 Level 35 259 George Street, Sydney NSW 2000
	Short name	Owner

## Background

- A. Council is the responsible authority for the Planning Scheme.
- B. Council is also the collecting agency and the development agency under the Development Contributions Plan.
- C. Council enters into this Agreement in its capacity as the responsible authority and the collecting agency.
- D. The Owner is the registered proprietor of the Subject Land.
- E. The Development Contributions Plan applies to the Subject Land. It specifies the contributions required to fund infrastructure necessary as a result of development of the area for urban purposes.
- F. The Owner has asked Council for permission to transfer to or vest in Council the Land Projects.
- G. Council has agreed that the Owner will transfer to or vest in Council the Land Projects in return for a Credit against its development contribution liability under the Development Contributions Plan.
- H. As at the date of this Agreement, the Subject Land is subject to a mortgage in favour of the Mortgagee. The Mortgagee consents to the Owner entering into this Agreement.



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**The Parties agree:**

## 1. Definitions

In this Agreement unless the context admits otherwise:

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

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

**Credit** means a credit in the amount of the Land Project Value against the Owner's Development Infrastructure Levy for the Subject Land.

**Current Address means:**

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

**Current Email means:**

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

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

**Development Agency and Collecting Agency** have the same meaning as in the Act.

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

**Development Contributions Plan** means the Development Contributions Plan specified in Schedule 1, being an incorporated document in the Planning Scheme.

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

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

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

**Land Project** means a land project described in Schedule 2 and which may also be identified in the plan at Annexure "A".

**Land Project Value** means the amount specified in Schedule 2 as the Land Project Value or an amount determined by applying the methodology set out in Schedule 2 as the case may be.

100% 90% 80% 70% 60% 50% 40% 30% 20% 10% 0%

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**Localised Infrastructure** means works, services or facilities necessitated by the subdivision or development of land including but not limited to provision of utility services such as water supply, stormwater drainage, sewerage, gas and electricity services, telecommunications infrastructure and local roads, bridges, culverts and other water crossings, any required associated traffic control measures and devices. For the purposes of this Agreement, Localised infrastructure does not include the infrastructure required for the Infrastructure Projects or other infrastructure that is in the nature of regional or state infrastructure.

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

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

**Owner's obligations** includes the Owner's specific obligations and the Owner's further obligations.

**Party or Parties** means the Parties to this Agreement but does not include a person who has transferred or otherwise disposed of all of their interests in the Subject Land.

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

**Planning Permit** means the planning permit specified in Schedule 3 as amended from time to time.

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

**Provision Trigger** means the provision trigger set out in the relevant column of Schedule 2.

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

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

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

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

**Subject Land** means the land described in Schedule 3 and any reference to the Subject Land in this Agreement includes any lot created by the subdivision of the Subject Land or any part of it.

## 2. Interpretation

In this Agreement unless the context admits otherwise:

- 2.1 the singular includes the plural and vice versa;
- 2.2 a reference to a gender includes all genders;

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

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### **3. Purposes of Agreement**

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

- 3.1 to record the terms and conditions on which a Land Project will be provided to Council;
  - 3.2 achieve and advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Subject Land –
- and Council has entered into this Agreement for the these reasons.

---

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

The Parties agree that:

- 4.1 subject to the Owner's entitlement to a Credit, the Owner is required to pay the Development Infrastructure Levy in cash on a stage-by-stage basis; and
- 4.2 any amount of the Development Infrastructure Levy in respect of the Subject Land which is not offset by an entitlement to a Credit under this Agreement must be paid to Council prior to the issue of the Statement of Compliance for the relevant stage of the subdivision of the Subject Land.

---

### **5. Land Projects**

#### **5.1 Transfer or vesting of Land Project**

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

- 5.1.1 prior to the relevant Provision Trigger, unless a later date is approved by Council in writing under clause 5.2;



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- 5.1.2 free of all encumbrances and any structure, debris, waste, refuse and contamination, except as agreed by Council;
- 5.1.3 with all services to be available as specified in the relevant column of Schedule 2; and
- 5.1.4 in a condition that is to the satisfaction of Council in its capacity as Development Agency.

## 5.2 Time for transfer or vesting of Land Project

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

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

## 5.3 Land Project Value

The Owner agrees that:

- 5.3.1 the Land Project Value:
  - (a) is a fixed amount determined by reference only to the land value ascribed to the Land Project in accordance with the Development Contributions Plan;
  - (b) is deemed to include all transfer costs, costs of plans of subdivision, registration fees and the like and any other amount specifically agreed to in writing by Council;
  - (c) replaces the market value and any other method of calculating compensation payable to a person under the *Land Acquisition and Compensation Act 1986* and the Act in respect of the Land Project; and
- 5.3.2 upon payment being made in accordance with this Agreement whether as a monetary amount or by a Credit in respect of the Land Project, no other compensation is payable for the effect of severance or for solatium as those terms or concepts are understood in the context of the *Land Acquisition and Compensation Act 1986* or for any other category of or form of loss or compensation in respect of the Land Project.

## 5.4 Environmental Assessment

The Owner covenants and agrees that prior to transferring to or vesting a Land Project to or in Council, the Owner must provide Council with an environmental assessment prepared by a properly qualified environmental consultant that clearly and unequivocally states that the Land Project is suitable to be used and developed for the purpose for which it is intended to be used under the Development Contributions Plan with no risk to the public.

## 6. Credit and processing of credits

### 6.1 Credit

The Parties agree that:



- 6.1.1 the Owner will be entitled to a Credit for the Land Project Value upon the commencement of this Agreement;
- 6.1.2 Council agrees that the Owner will not be required to pay the Development Infrastructure Levy in cash until the Credit determined as set out in Clause 6.1.3 has been exhausted.
- 6.1.3 prior to the issue of a Statement of Compliance by Council for a Stage, Council must:
- (a) calculate the Development Infrastructure Levy payable for such Stage(s) as at that date; and
  - (b) deduct the amount calculated under paragraph (a) of this clause 6.1.3 from the Credit until the Credit has been exhausted;
- 6.1.4 when the amount of the Development Infrastructure Levy payable in relation to a Stage exceeds the amount of the Credit remaining:
- (a) the Owner must pay in cash an amount equal to the amount of the Development Infrastructure Levy payable in relation to that Stage that exceeds the amount of Credit remaining prior to the issue of a Statement of Compliance; and
  - (b) in relation to subsequent Stages, the Owner must pay the Development Infrastructure Levy in cash prior to the issue of a Statement of Compliance.

## 7. Localised Infrastructure

The Parties acknowledge and agree that:

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

## 8. Further obligations of the Parties

### 8.1 Transaction costs

The Owner is responsible for the payment of all costs and disbursements associated with that transfer or vesting of the Land Project as the case may be.

## 8.2 Notice and registration

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

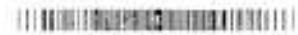
### 8.3 Further actions

The Owner:

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

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

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

- 8.4.1 preparing, drafting, finalising, signing and recording this Agreement;
- 8.4.2 preparing, drafting, finalising and recording any amendment to this Agreement; and
- 8.4.3 preparing, drafting, finalising and recording any document to give effect to the ending of this Agreement.

#### **8.5 Interest for overdue money**

The Owner agrees that:

- 8.5.1 the Owner must pay to Council interest in accordance with section 172 of the *Local Government Act 1989* on any amount due under this Agreement that is not paid by the due date.
- 8.5.2 if interest is owing, Council will apply any payment made first towards interest and then any balance of the payment will be applied to the principal amount.

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

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

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### **10. Owner's warranties**

- 10.1 The Owner warrants that apart from the Owner and any other person who has consented in writing to this Agreement, no other person has any interest, either legal or equitable, in the Subject Land which may be affected by this Agreement.
- 10.2 The Owner warrants that the Land Projects are in an environmental condition such as to be suitable to be used and developed for the purpose for which they are intended to be used under the Development Contributions Plan with no risk to the public.

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**11. General matters**

**11.1 Notices**

A notice or other communication required or permitted to be served by a Party on another Party must be in writing and may be served:

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

**11.2 No waiver**

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

**11.3 Severability**

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

**11.4 No fettering of Council's powers**

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

**11.5 Inspection of documents**

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

**11.6 Counterparts**

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

**11.7 Governing law**

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

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**12. GST**

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

8 1 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011 1012 1013 1014 1015 1016 1017 1018 1019 1020 1021 1022 1023 1024 1025 1026 1027 1028 1029 1030 1031 1032 1033 1034 1035 1036 1037 1038 1039 1040 1041 1042 1043

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| 12.2 | Except as otherwise provided by this clause, all consideration payable under this Agreement in relation to any supply is exclusive of GST.   |
| 12.3 | If GST is payable in respect of any supply made by a supplier under this Agreement, subject to clause 12.4 the recipient will pay to the supplier an amount equal to the GST payable on the supply at the same time and in the same manner as the consideration for the supply is to be provided under this Agreement. |
| 12.4 | The supplier must provide a tax invoice to the recipient before the supplier will be entitled to payment of the GST payable under clause 12.3.   |

### 13. GAIC

- 13.1 The Land Project must have any liability for GAIC discharged prior to it being transferred to or vested in Council and to the extent it is not, the Owner shall remain liable to Council for any GAIC liability incurred by Council.
- 13.2 The Owner must provide a certificate of release under section 201SY of the Act confirming the release of the Land Project from GAIC liability.

#### 14. Commencement of Agreement

This Agreement commences on the date of this Agreement.

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## 15. Ending of Agreement

- 15.1 This Agreement ends:
- 15.1.1 when the Owner has complied with all of the Owner's obligations under this Agreement; or
- 15.1.2 otherwise by agreement between the Parties in accordance with section 177 of the Act.
- 15.2 Notwithstanding clause 15.1, the Owner may request in writing Council's consent to end the Agreement in respect of Residential Lots in any Stage upon the issue of a Statement of Compliance in respect of that Stage.
- 15.3 Council will not unreasonably withhold its consent to a written request made pursuant to clause 15.2 if it is satisfied that the obligations in this Agreement are secured to its satisfaction.
- 15.4 Upon the issue of a Statement of Compliance for a plan of subdivision for Residential Lots created over the Subject Land or earlier by agreement with Council, the Agreement ends in respect of that part of the Subject Land in the plan of subdivision in accordance with section 177 of the Act provided that at all times, the Agreement must remain registered on the balance of the Subject Land.
- 15.5 Once this Agreement ends as to part of the Subject Land, Council will, within a reasonable time following a request from the Owner and at the cost of the Owner, execute all documents necessary to make application to the Registrar of Titles under section 183(2) of the Act to cancel the recording of this Agreement on the register as to that part of the Subject Land.









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### Schedule 3

- Subject Land – 50 Hobbs Road, Wyndham Vale being the land described as Lot A on PS 612203Y and being the land described in Certificate of Title Volume 11817 Folio 516
- Planning Permit No. WYP7871/14

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18/09/2017 \$94.60 173



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## Signing Page

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

EXECUTED as an agreement.

Signed for and on behalf of the Wyndham  
City Council pursuant to Instrument of  
Delegation dated 24 June 2013.

Date 26 / 7 / 17

**AQ257915C**

18/09/2017 \$94.60 173

Executed by Avid Property Group Pty Ltd ACN 088212631 in accordance with s 127(1) of the Corporations Act 2001:

Signature of Director

**Cameron Holt**

Print full name

2/12/16

Signature of Director/Company Secretary

**Nicole Bannerman**  
Group General Counsel  
35/259 George St  
Sydney NSW 2000



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### Mortgagee's Consent

ANZ Fiduciary Services Pty Ltd as Mortgagee under instrument of mortgage no. AM391597X consents to the Owner entering into this Agreement and in the event that the Mortgagee becomes mortgagee-in-possession, agrees to be bound by the covenants and conditions of this Agreement.

WITNESS  
  
ANTHONY HERDEN

ATTORNEY  
  
KIT LIEW

**AQ257915C**

18/05/2017 \$94.60 173



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**Memorandum of common provisions**  
**Section 91A Transfer of Land Act 1958**



**Lodged by**

**Name:** MADDOCKS

**Phone:** 03 9253 3376

**Address:** LEVEL 25, 727 COLLINS STREET, MELBOURNE VIC 3008

**Reference:** NJS:AMAG:6804943 (SAVANA)

**Customer code:** 1167E

This memorandum contains provisions which are intended for inclusion in instruments and plans to be subsequently lodged for registration.

**Provisions:**

**1 RESTRICTIVE COVENANT**

ANY REGISTERED PROPRIETOR OF THE LAND HEREBY TRANSFERRED OR ANY OTHER LAND ON THE PLAN OF SUBDIVISION CREATING THAT LAND (BURDENED LAND) MUST NOT AT ANY TIME (AND NOT TO CAUSE, ALLOW OR PERMIT ANY OTHER PERSON OR PARTY TO) USE THE LAND FOR A COMMERCIAL CHILDCARE CENTRE.

**2 BENEFITED LAND**

LOT 112 ON PS739613U

**3 GENERAL**

THE BURDEN OF THIS RESTRICTIVE COVENANT WILL RUN WITH AND BIND THE BURDENED LAND, THE REGISTERED PROPRIETOR OF THE BURDENED LAND, ITS SUCCESSORS, TRANSFEREES AND ASSIGNS.

**Signing:**

WARNING: THE IMAGE OF THIS DOCUMENT OF THE REGISTER HAS BEEN DIGITALLY AMENDED.  
NO FURTHER AMENDMENTS ARE TO BE MADE TO THE ORIGINAL DOCUMENT OF THE REGISTER.

35271702A

91ATLA

1. The provisions are to be numbered consecutively from number 1.
2. Further pages may be added but each page should be consecutively numbered.
3. To be used for the inclusion of provisions in instruments and plans.

Page 1 of 2

**THE BACK OF THIS FORM MUST NOT BE USED**

Land Use Victoria contact details: see [www.delwp.vic.gov.au/property](http://www.delwp.vic.gov.au/property)>Contact us



Civic Centre 45 Princes Highway, Werribee, Victoria 3030, Australia  
Postal PO Box 197, Werribee, Victoria 3030, Australia

Telephone (03) 9742 0777  
Facsimile (03) 9741 6237  
Email [mail@wyndham.vic.gov.au](mailto:mail@wyndham.vic.gov.au)  
[www.wyndham.vic.gov.au](http://www.wyndham.vic.gov.au)

DX 30258 Werribee Vic  
ABN: 38 383 903 860

WYP9847/17

21 December 2018

Tract Consultants Pty Ltd  
L 6 6 Riverside Qy  
SOUTHBANK VIC 3006

Dear Sir/Madam,

**Planning Permit Application No.:** WYP9847/17  
**Description:** Staged residential subdivision, creation of restriction,  
and removal of native vegetation  
**Location:** 50 Hobbs Road WYNDHAM VALE VIC 3024  
V 11499 F 802 L A PS 612203 Werribee Parish

I advise that your application for a planning permit has been approved under the Wyndham Planning Scheme and the permit is enclosed.

This permit should be carefully considered as Council's approval is subject to the proposed use/development complying with all permit conditions.

If endorsed plans are not enclosed with the permit, please check the conditions to ascertain whether amended plans are required. You are reminded that the proposal permitted cannot commence before amended plans have been submitted to and approved by Council.

Should you have any further enquiries regarding the above matter, please contact me on 8734 5463.

Yours faithfully,

**Johnny Zhang**  
Senior Town Planner

Encl.

## PLANNING PERMIT

Application No.: WYP9847/17  
Planning Scheme: Wyndham Planning  
Responsible Authority: Wyndham City Council

### ADDRESS OF LAND:

Land Title: V 11499 F 802 L A PS 612203 Werribee Parish  
Land Address: 50 Hobbs Road WYNDHAM VALE VIC 3024

### THE PERMIT ALLOWS:

**Staged residential subdivision, creation of restriction, and removal of native vegetation**

### THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

#### General modified subdivision plan

1. A plan of subdivision must not be lodged with the Council for certification under the Subdivision Act 1988 until a modified plan has been submitted to and approved by the Responsible Authority. When approved the plan will be endorsed and will then form part of this permit. The plan must be generally in accordance with the plans (Drawing No: 0316-0728-50 D001, Revision: 09, 04 July 2018) but modified to show in particular:
  - (a) Information of Native vegetation removal for the trees to be removed, in accordance with the submitted Arboricultural Assessment and Report (Treelogic Ref. 4340).
  - (b) All trees to be retained and associated tree protection zones, in accordance with the submitted Arboricultural Assessment and Report (Treelogic Ref. 4340).
  - (a) The extended permit area for proposed native vegetation removal must be within the permit boundary.
  - (b) A notation on the plan to show the off shared pathways must be at least 3m wide.
  - (c) A notation on the plan to show the provision of traffic calming device on the East-West local access street in stage 13.
  - (d) A notation on the plan to show the provision of traffic calming device on the East-West local access street in stage 14.

Date Issued

21 December 2018

Signature for the Responsible Authority



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Senior Town Planner



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#### No subdivision layout alteration

2. The subdivision permitted by this permit as shown on the endorsed plan(s) and/or described in the endorsed documents must not be altered or modified (for any reason) except with the prior written consent of the Responsible Authority.

#### Stage Plan

3. A sequential staging plan, with a staging and sequencing table on the plan, must be submitted to and approved by the responsible authority. When approved, the staging plan will be endorsed and will then form part of the permit. The subdivision of the land must proceed in the order of stages shown on the endorsed plan except with prior written consent of the responsible authority.

#### Storm Water Management Strategy

1. Prior to Certification of any Plan of Subdivision associated with the application, a stormwater management strategy including associated modelling must be submitted and approved by responsible authority. When approved the plan will be endorsed and will then form part of this permit.

#### Building Envelopes (lots greater than 300sqm)

5. Before certification of a Plan of Subdivision for each stage of the subdivision under the Subdivision Act 1988, where building envelopes are proposed, a plan/document showing building envelopes for each lot of 300sqm in area or greater to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. Once approved, the building envelope plan/document will be endorsed under this permit.
6. Before certification of a Plan of Subdivision for each stage of the subdivision under the Subdivision Act 1988, where building envelopes are proposed, a restriction must be added to the relevant Plan of Subdivision to give effect to the building envelopes.

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The restriction must include the following to the satisfaction of the Responsible Authority.

- (a) Building envelopes in accordance with plans endorsed under this permit shown for each relevant lot;
- (b) Any buildings constructed on a lot containing a building envelope to conform to the relevant envelope;
- (c) The construction of a building outside a building envelope may only occur with the written consent of the Responsible Authority.
- (d) Dwellings on corner lot (including lots interfacing with pedestrian links) should restrict boundary fencing to no more than 1.2m in height forward of the front wall of the dwelling.

### Payment of Development Infrastructure Contribution

- 7. A development infrastructure levy must be paid to the Collecting Agency in accordance with the provisions of the approved Development Contributions Plan applying to the land. Unless otherwise agreed in accordance with Wyndham West Development Contributions Plan, the Development Infrastructure Levy must be paid to the Collecting Agency within the times specified in the Development Contributions Plan or if no time is specified then after certification of the relevant plan of subdivision but not more than 21 days before a Statement of Compliance is issued in respect of that plan under the Subdivision Act 1988.
- 8. Unless otherwise agreed in accordance with Wyndham West Development Contributions Plan, a Schedule of Development Contributions must be submitted with each stage of the plan of subdivision. This Schedule of Development Contributions must show the amount of development contributions likely to be payable for each subsequent stage and the value of the development contributions in respect of prior stages to the satisfaction of the Collecting Agency.

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#### Small Lot Housing Code (C1 – Ballan Road PSP)

9. Prior to the certification of the plan of subdivision for the relevant stage, a plan must be submitted for approval to the satisfaction of the responsible authority. The plan must identify the lots that will include a restriction on title allowing the use of the provisions of the Small Lot Housing Code incorporated pursuant to Clause 81 of the Wyndham Planning Scheme.

The plan of subdivision submitted for certification must identify whether type A or type B of the Small Lot Housing Code applies to each lot to the satisfaction of the responsible authority.

#### Kangaroo Management Plan (C2 – Ballan Road PSP)

10. Before the certification of the plan of subdivision, a Kangaroo Management Plan must be approved by the Department of Environment, Land, Water & Planning. Once approved the plan will be endorsed by the responsible authority and form part of the permit.

The endorsed Kangaroo Management Plan must be implemented to the satisfaction of the responsible authority.

#### Protection of conservation areas and native vegetation during construction (C3- Ballan Road PSP)

11. Unless otherwise agreed by the Responsible Authority, before the start of construction or carrying out of works the conservation area, scattered native tree or patch of native vegetation identified in the incorporated Ballan Road Precinct Structure Plan the developer of the land must erect a conservation area/vegetation protection fence that is:

- (a) highly visible;
- (b) at least 2 metres in height;
- (c) sturdy and strong enough to withstand knocks from construction vehicles;

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- (d) in place for the whole period of construction;  
(e) located the following minimum distance from the element to be protected:

Element	Minimum distance from element
Conservation area	2 metres
Scattered tree	twice the distance between the tree trunk and the edge of the tree canopy
Patch of native vegetation	2 metres

Construction stockpiles, fill, machinery, excavation and works or other activities associated with the buildings or works must:

- (f) be located not less than 15 metres from a waterway;  
(g) be located outside the vegetation protection fence;  
(h) be constructed and designed to ensure that the Conservation Area or scattered trees or patches of native vegetation identified for retention in the Precinct Structure Plan are protected from adverse impacts during construction;  
(i) not be undertaken if it presents a risk to any vegetation within a Conservation Area; and  
(j) be carried out under the supervision of a suitable qualified ecologist or arborist.

#### Environmental Management Plan (C4 – Ballan Road PSP)

12. The subdivision, buildings or works must not commence until an Environmental Management Plan for the relevant works has been approved to the satisfaction of the Department of Environment, Land, Water & Planning, unless otherwise agreed by the Department of Environment, Land, Water & Planning.

#### Salvage and translocation (C5 – Ballan Road PSP)

13. The Salvage and Translocation Protocol for Melbourne's Growth Corridors (Department of Environment and Primary Industries, 2014) must be implemented in the carrying out of development to the satisfaction of the Department of Environment, Land, Water & Planning.

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#### Land Management Co-operative Agreement - Conservation Areas (C6 – Ballan Road PSP)

14. Before the issue of a statement of compliance for the last stage of the subdivision, the owner of the land:
- 1) Enters into an agreement with the Department of Environment, Land, Water & Planning under section 69 of the Conservation Forests and Lands Act 1987, which must:
    - a) Must provide for the conservation and management of that part of the land shown as a conservation area in the Ballan Road Precinct Structure Plan; and
    - b) May include any matter that such an agreement may contain under the Conservation Forests and Lands Act 1987.
  - 2) Makes application to the Registrar of Titles to register the agreement on the title to the land.
  - 3) Pays the reasonable costs of the Secretary to the Department of Environment, Land, Water & Planning in the preparation, execution and registration of the agreement.

The requirement for a Land Management Co-operative Agreement in this clause does not apply to land of any lot or part of a lot within a conservation area identified in the Precinct Structure Plan that:

- 4) is identified in a Precinct Structure Plan as public open space and is vested, or will be vested, in the council as a reserve for the purposes of public open space; or
- 5) is identified in a Precinct Structure Plan as a drainage reserve and is vested, or will be vested, in Melbourne Water Corporation or the council as a drainage reserve; or
- 6) is within a Conservation Area identified in a Precinct Structure Plan for nature conservation and is vested, or will be vested, in the Department of Environment, Land, Water & Planning for conservation purposes; or
- 7) is the subject of an agreement with the Department of Environment, Land, Water & Planning to transfer or gift that land to:
  - a) the Department of Environment, Land, Water & Planning;
  - b) the Minister for Environment and Climate Change; or

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- c) another statutory authority.  
8) to the satisfaction of the Department of Environment, Land, Water & Planning.

### Landscape Estate Masterplans (for large estates with multiple properties)

15. Before the commencement of works, a landscape master plan for the whole of the subdivision must be approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show and include:
- (a) The landscaping theme and graphical concepts to be developed for the subdivision;
  - (b) The type of species to be used for street tree planting in various stages of the subdivision;
  - (c) The areas which will be available for landscaping;
  - (d) Landscaping treatment (the drainage corridor as shown on the application plan) consistent with the relevant conservation management plan approved under the *Environment Protection and Biodiversity Act 1999* unless otherwise agreed by the Department of Sustainability and Environment;
  - (e) Entrance treatments;
  - (f) The principles and graphical concepts of the proposed treatment of the open space and drainage reserves;
  - (g) How the subdivision will achieve the minimum level of streetscape diversity required by the Precinct Structure Plan; and
  - (h) How any landscape requirements or guidelines within the Precinct Structure Plan are proposed to be implemented.

### General Landscaping

16. Landscape plans are required to be submitted to and approved by Council's City Presentation Department prior to the issue of a Statement of Compliance. These plans will show the development of reserves to include playgrounds, paths and shared trails, park furniture, landscaping and recreation facilities as appropriate to

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the size and proposed use of the reserve, and in accordance with the endorsed plans. The following is also required to be shown on the plans:

- (a) All surface treatments.
- (b) The location, type and height of all fencing.
- (c) The botanical name, height and width at maturity, and location of all vegetation to be used.
- (d) A works specification and the method of preparing, draining watering and maintaining the landscape area.
- (e) A barrier, where necessary, to prevent vehicles causing damage to garden areas.

### Landscaping of Reserves including Rubbish/Weed Removal

17. The reserve(s) shown on the endorsed plan(s) must be cleared of all rubbish, noxious weeds, debris and spoil and must be levelled, graded and developed to the satisfaction of the Responsible Authority, specifically Council's City Presentation Department, to allow for future maintenance by Council. Such landscaping must be in accordance with a plan approved by the Responsible Authority prior to certification of the Plan of Subdivision.

### Public Open Space Contribution

18. Before the Statement of Compliance for any stage is issued under the Subdivision Act 1988, a public open space contribution as specified for the land in the Schedule to Clause 52.01 of the Wyndham Planning Scheme must be made to the Council in a manner which is consistent with the Precinct Structure Plan applying to the land.

### Landscaping Bonds

19. Landscaping bonds to a value agreed to be the Responsible Authority, must be paid prior to the issue of Statement of Compliance. These bonds are to comprise 150% of the total value of the landscaping works to cover the outstanding works and a further 35% of the total landscaping cost to cover the maintenance Period.

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#### Street Trees

20. The owner or developer of the subject land must plant street trees within the subdivision permitted by this permit to the satisfaction of the Responsible Authority. Such street tree planting must be in accordance with the plan approved by the Responsible Authority.

#### Landscape Handover

21. The landscaping maintenance period will be for a minimum two (2) summers prior to Handover to the Responsible Authority. During this period, the developer must maintain the landscaping works to the satisfaction of, and at no cost to, the Responsible Authority. Detailed 'as constructed' plans, in a format agreed with Council, must be provided prior to the issue of the Practical Completion Certificate.

#### Servicing of Reserves

22. Those reserves shown on the endorsed plan(s) and nominated by the Responsible Authority must be provided with the following services and facilities to the satisfaction of and at no cost to the Responsible Authority. Generally utilities such as power and water are required for neighbourhood parks and power, water, gas and sewer as required for active recreation reserves and district open space.
- (a) City West Water approved water tapping;
  - (b) Powercor approved power pillar box to provide the necessary power supply for the reserve;
  - (c) A sewer point for the entire reserve;
  - (d) An industrial type vehicle crossing and security gate; and
  - (e) Security lighting.

The provision of the above services and facilities must include payment of all associated fees and charges.

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#### Weed Control

23. Weed control of the identified serious threat environmental weeds and all noxious weed species must occur prior to any development and removal/relocation of soils. Such weeds (and any colonies in the event of soil disturbance or importation of soils and other actions) as well as any regrowth of previously controlled weeds are to be controlled throughout the development process and maintenance period. Weed control must be at no cost to and to the satisfaction of the Responsible Authority before the site is transferred to Council for future management/maintenance.

#### O-Spec Drawing Requirement

24. Prior to the issue of a Practical Completion for any stage of the subdivision, the following must be submitted to the satisfaction of the responsible authority:
- (a) An electronic copy of all 'as constructed' landscape drawings, and relevant files in both Autocad DWG and Adobe PDF file formats. The minimum resolution of the PDF required is 300dpi.
  - (b) 'As-constructed' open space/landscape asset information for open space/landscape and related assets in digital format in accordance with O-Spec (the Consultant/Developer Specifications for the delivery of the digital data to Local Government).

#### Construction Management Plan – Bushfire Risk (Requirement 50 of Ballan Road PSP)

25. Prior to the commencement of works, a Construction Management Plan (CMP) that addresses Bushfire Risk Management must be submitted to and approved by the Responsible Authority and the CFA. The CMP must specify, amongst other things:
- (a) Measures to reduce the risk from fire within the surrounding rural landscape and protect residents from the threat of fire;
  - (b) A separation buffer, consistent with the separation distances specified in AS3959-2009, between the edge of development and non-urban areas;

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- (c) How adequate opportunities for access and egress will be provided for early residents, construction workers and emergency vehicles.

### Functional layout plan

26. Prior to the submission and approval of construction plans (engineering plans) and the certification of the relevant plan of subdivision for each stage, a functional layout plan for the subdivision or stage of subdivision, must be submitted to and approved by the responsible authority. This plan must be in accordance with the endorsed Subdivision Permit Plan and endorsed Stormwater Management Plan.

When approved, the functional layout plan will be endorsed and will then form part of the permit. The functional layout plan must be drawn to scale, with dimensions, and must show:

- (a) the subdivision layout, including preliminary street names, lot areas, lot numbers and the width of each road reserve;
- (b) topography and existing features, including contours for the subject land and any affected adjacent land;
- (c) the location of all trees or groups of trees existing on the site, including dead trees and those that overhang the site from adjoining land;
- (d) details of tree protection zones for all trees to be retained on site;
- (e) any trees proposed for removal from the site clearly designated;
- (f) typical cross sections for each road, demonstrating service offsets and street trees;
- (g) a table of utility services and street trees;
- (h) location and alignment of kerbs, indented parking bays, footpaths, shared paths, bus stops and traffic control devices (signals, roundabouts, splitter islands, etc.) including critical swept path diagrams and turning templates;
- (i) the proposed minor drainage network and any land required for maintenance purposes;
- (j) the major drainage system, including outfall drains, wetlands and/or waterways and any land required for maintenance purposes;

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- (k) overland flow paths (100 year ARI) to indicate how excess runoff will safely be conveyed to its destination;
- (l) the drainage outfall system indicating a legal point of discharge for all allotments and any access requirements for construction and/or maintenance;
- (m) preliminary location of reserves for electrical kiosks;
- (n) works external to the subdivision, including both interim and ultimate access requirements;
- (o) provision of notional on-street parking for all lots at a rate of one car space per dwelling; and
- (p) traffic calming devices where the straight section of the road exceeds more than 200m.

### Certification plan requirements

27. An endorsed copy of the plan(s) to be certified under the Subdivision Act must form part of this permit. The plan must show all bearings, distances, street names, lot numbers and any necessary easements and reserves, in accordance with the approved Functional Layout Plan.

### Construction Plans

28. Before any road and/or drainage works associated with the subdivision commence, detailed construction plans must be submitted to and approved by the responsible authority. The construction plans will not be considered until the functional layout plan(s) for the relevant stage has been approved and the plan of subdivision has been lodged for certification with the responsible authority. When approved, the construction plans will be endorsed and will then form part of the permit. The construction plans must be drawn to scale, with dimensions, and must include:
- (a) Engineering plans, sewer and water reticulation plans, drainage computations and catchment plans, traffic assessment reports, geotechnical reports, pavement design and specifications of the proposed works that are to become public assets;

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- (b) all details of works consistent with the approved Functional Layout Plan and lodged plan of subdivision;
- (c) design for full construction of pavements with kerb and channel in accordance with the approved Functional Layout Plan;
- (d) concrete footpaths/shared paths in all streets and reserves in accordance with the approved Functional Layout Plan/Precinct Structure Plan;
- (e) underground drainage;
- (f) all aspects of the stormwater drainage system including drainage reserves, retarding basins, wetlands, stormwater connections, outfalls and any Water Sensitive Urban Design measures (where applicable);
- (g) a drainage asset management and maintenance schedule (where applicable);
- (h) indented car parking bays where appropriate;
- (i) temporary turn around areas for waste collection vehicles at the temporary end of any road that services more than two (2) lots;
- (j) provision for all services and conduits (underground), including alignments and offsets, on a separate services layout plan. Each lot created by the subdivision permitted by this permit must be provided with all services to the satisfaction of the Responsible Authority;
- (k) a vehicle crossing to each lot in accordance with Council standards;
- (l) location of public lighting and underground electricity supply within all streets;
- (m) details of any traffic control measures;
- (n) details in relation to any cut and/or fill on the site;
- (o) details of any tree protection zones;
- (p) splays (min 3m x 3m) which must be provided at all intersections of the local road networks;
- (q) splays of 2m x 2m which must be provided at the intersection with any laneway
- (r) street signs in accordance with Council's standard design;
- (s) details of the proposed treatment and provision for lot boundary fencing adjoining all reserves other than road reserves;
- (t) appropriate methods for protecting environmental and heritage assets during the construction phase of the subdivision;
- (u) high stability permanent survey marks;
- (v) appropriate signage;
- (w) school crossing(s) where appropriate;

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Works must not commence prior to the issue of a certified plan of subdivision and approval of engineering construction plans. All works shown on the endorsed plans must be constructed in accordance with the approved plans, guidelines and specifications prior to Council issuing a Statement of Compliance for the relevant stage

#### Vehicle Access

29. Vehicle access to and egress from the subdivision permitted by this permit must be designed and constructed to the satisfaction of the Responsible Authority. Such roadworks must be designed and constructed at no cost to Council.

#### Filling of land

30. Before any filling works associated with the subdivision commence, bulk earthworks plans must be submitted to and approved by the responsible authority. When approved, the bulk earthworks plans will be endorsed and will then form part of the permit. Works must not commence prior to the approval of an SEMP. All works shown on the endorsed plans must be done under 'Level 1 Inspection and Testing' conditions, as per Australian Standard AS3798. Level 1 test reports, compiled by a reputable geotechnical engineer, must be submitted to council prior to the issue of a Statement of Compliance.

The owner or developer of the subject land must ensure that wherever the approved construction plans for roadworks and drainage show filling exceeding 300mm compacted depth (finished surface level) within any lot created by the subdivision, the existence of such filling must be made known to any prospective purchaser of such lot. Information on the construction plans relating to the filling of any lot must be referred to when completing a statement pursuant to Section 32 of the Sale of Land Act.

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### Construction vehicle Access

31. During construction works under this permit, access to and egress from the subject land must be via a route approved by the responsible authority.

### As Constructed Plans

32. Prior to the issue of a Statement of Compliance for any stage of the subdivision, the following must be submitted to the satisfaction of the responsible authority:
- (a) An electronic copy of all 'as constructed' drawings, and relevant files in both AutoCAD DWG and Adobe PDF file formats. The minimum resolution of PDF required is 300dpi;
  - (b) An electronic copy of the 1 in 5 and 1 in 100 year catchment plans and relevant computations in Adobe PDF file formats
  - (c) 'As-constructed' asset information for drainage and related assets in digital format in accordance with D-Spec (the Consultant/Developer Specifications for the delivery of digital data to Local Government);
  - (d) 'As-constructed' asset information for assets within the road reserve in digital format in accordance with R-Spec (the Consultant/Developer Specifications for the delivery of digital data to Local Government). Street tree data is to be supplied in accordance with R-Spec prior to the issue of the Certificate of Practical Completion for landscape works; and
  - (e) A Certificate of Compliance for Design and a Certificate of Compliance for Construction for the following infrastructure items constructed as part of the subdivision development:
    - i. Retaining walls;
    - ii. Entrance structures;
    - iii. Bridges;
    - iv. Culvert structures; and/or
    - v. Other structures as applicable

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#### Reticulated Services

33. Prior to the issue of a Statement of Compliance, reticulated water, drainage, sewerage and electricity reticulation underground must be available to each lot, including reserves, shown on the endorsed plan.

#### Third Pipe Recycled Water Infrastructure (Requirement 92 of Ballan Road PSP)

34. Third pipe recycled water infrastructure must be provided to each lot to the satisfaction of the Responsible Authority.

#### Dual Pipe Recycling Water (Requirement 93 of Ballan Road PSP)

35. Unless otherwise agreed in writing with City West Water, the developer must enter into an agreement with City West Water requiring the subdivision to be reticulated with a dual pipe recycled water system to provide for the supply of recycled water from a suitable source to all lots and open space reserves provided in the subdivision.

#### Dual Plumbing for Recycled Water Supply (Requirement 94 of Ballan Road PSP)

36. Prior to the Statement of Compliance for the relevant Stage, any plan of subdivision must contain a restriction which provides that no dwelling or commercial building may be constructed on any allotment unless the building incorporates dual plumbing for recycled water supply for toilet flushing and garden watering use if it is to become available.

#### Undergrounding of Electricity Cables (Requirement 97 of Ballan Road PSP)

37. All existing above ground electricity cables of less than 66kv voltage must be placed underground as part of the upgrade of existing roads to the satisfaction of responsible authority.

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### Residential Stormwater Drainage

38. Provision must be made for the drainage of each allotment shown on the endorsed plan(s) to the requirements and satisfaction of the responsible drainage authority. Drainage of the subject land for residential purposes must be provided by underground drainage systems catering for up to 1 in 5 year storm return periods. Flows in excess of 1 in 5 year storm return periods, up to and including 1 in 100 year storm return periods must be accommodated in separate channels and/or within the road reserves and/or within the provided drainage system

Unless otherwise agreed by the Responsible Authority, all urban storm water systems must incorporate measures to satisfy the objectives of "Best Practice Environmental Management Guidelines" (CSIRO 1999) to reduce or retain in total:-

- (a) 80% of suspended solids;
- (b) 45% phosphorus;
- (c) 45% nitrogen; and
- (d) 70% litter/gross pollutants larger than 5mm.

### Site Environmental Management Plan

39. Prior to the commencement of any works, including any vegetation removal and works required by other authorities, a Site Environmental Management Plan must be submitted to and approved by the responsible authority. When approved, the Site Management Plan will be endorsed and will then form part of the permit.

The SEMP must be in accordance with Council's SEMP template and guidelines. The approved SEMP must be implemented at all times to the satisfaction of the Responsible Authority. Any non-compliance may be enforced under the Planning and Environment Act and other related legislation.

Access to the site must be available at all times for Council representatives to monitor implementation of the SEMP.

Date Issued

21 December 2018

Signature for the Responsible Authority



Johnny Zhang  
Senior Town Planner



## PLANNING PERMIT

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Planning Scheme: Wyndham Planning  
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The SEMP applies for all works approved in this Permit up to where public land is handed over (and accepted) by the relevant authority and the remainder is completely in private ownership.

- (a) Prior to commencement of works, contractors must be inducted into the SEMP and all flora and fauna conservation requirements.
- (b) Prior to commencement of works, the works zone must be enclosed by secure and obvious temporary fencing. The work zone fence must remain in place until works are completed. Fill, machinery and building materials must not be placed outside of the works zone.
- (c) All litter and building waste must be contained on the site and must not be allowed to leave the site until the time it is correctly disposed of.
- (d) All earthworks must be undertaken in a manner that will minimise soil erosion and adhere to Construction Techniques for Sediment Pollution Control (EPA 1991) or updated version.
- (e) Any construction stockpiles, fill and machinery must be placed away from areas supporting native vegetation and drainage lines to the satisfaction of the responsible authority.
- (f) Noxious weeds and serious threat environmental weeds must be controlled. Any weed infestations resulting from soil disturbance and/or the importation of sand, gravel and other material used in the construction process must be controlled. Weed control must be at no cost to and to the satisfaction of the Responsible Authority.
- (g) Prior to felling, trees identified for removal must be examined by a qualified zoologist for the presence of fauna, including those using external nests (e.g. Common Ringtail Possums, bird nests) and tree hollows. If native fauna species are located, they are to be salvaged and relocated in accordance with all relevant legislation and approvals, further to consultation with the Department of Environment, Land, Water and Planning.

40. Tree protection fencing must be erected around the Tree Protection Zone of all trees to be retained on or adjacent to works (including street trees) prior to the commencement of works. The fence must remain in place until all works are completed to the satisfaction of the Responsible Authority.

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All tree protection zones and fencing must comply with *AS 4970-2009 Protection of Trees on Development Sites* and Wyndham City's Tree Protection Guidelines to the satisfaction of the Responsible Authority.

Except with the written consent of the Responsible Authority, within the tree protection zone, the following are prohibited:

- (a) vehicular or pedestrian access
- (b) trenching or soil excavation
- (c) storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products
- (d) entry and exit pits for underground services
- (e) any other actions or activities that may result in adverse impacts to retained native vegetation.

Any encroachment into the Tree Protection Zone will condition a requirement to submit a Tree Management Plan as per AS 4970-2009 to the satisfaction of the Responsible Authority.

### Tree Management Plan

41. Prior to the commencement of any works, including any vegetation removal or works required by other authorities, a Tree Management Plan must be submitted to and approved by Council.

The Tree Management Plan must include:

- 1) A tree assessment/survey:
  - (a) Trees to be positioned on a map, named to at least to species level (tree defined as any woody vegetation over 2m high)
  - (b) All trees within proximity (20m) to the works to be marked (edge of works to be specified and Tree Protection Zones according to AS 4970-2009 section 1.4.7 to be marked).

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- (c) An assessment of the height, canopy spread, health, structure, age, useful life expectancy of all trees marked on the map.
- 2) The design/plan/map with Arboricultural impact:
  - (a) Trees marked for removal due to the proposed works
  - (b) Edge of works to be marked. Works include as per AS4970-2009 section 4.2:
    - i. machine excavation including trenching;
    - ii. excavation for silt fencing;
    - iii. cultivation;
    - iv. storage;
    - v. preparation of chemicals, including preparation of cement products;
    - vi. parking of vehicles and plant;
    - vii. refuelling;
    - viii. dumping of waste;
    - ix. wash down and cleaning of equipment;
    - x. placement of fill;
    - xi. lighting of fires;
    - xii. soil level changes;
    - xiii. temporary or permanent installation of utilities and signs, and
    - xiv. physical damage to the tree.
  - (c) Trees marked for retention and works encroaching the Tree Protections Zone according to AS 4970-2009 sections 1.4.7 to be marked
  - (d) Structural Root Zones marked when tree is for retention and encroachment occurs (AS 4970 section 1.4.5)
- 3) Tree protection plan including:
  - (a) A description of proposed protective fencing as per AS4970-2009 section 4.3.
  - (b) A description of proposed signage as per AS 4970-2009 section 4.4.
  - (c) A description of proposed ground protection as per AS4970-2009 section 4.5.3.
  - (d) A description of proposed root protection during works within the Tree Protection Zone as per AS 4970-2009 section 4.5.4

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- 4) The tree management documentation is to be prepared by someone with no less than AQFL5 in Arboriculture. We prefer the information to be given both as a document and a GIS file. The plan is to be available onsite at commencement of and during works. All visitors or workers inducted onto the site should include a siting and explanation of the Tree Management Plan. A suitably qualified arborist (AQFL5) should be employed onsite when any encroachment of the TPZ occurs.

#### Native vegetation

42. Prior to certification, proof of payment to the Department of Environment, Land, Water and Planning (DELWP) must be received by the Responsible Authority for habitat compensation offsets consistent with the Biodiversity Conservation Strategy for Melbourne's Growth Corridors (BCS).
43. No earthworks, compaction or modification of existing drainage patterns may be undertaken which present a risk to any trees, understorey, or revegetation areas unless a permit allows removal of the affected vegetation.

#### Removal of excavated material

44. Approval for the removal and disposal of any excavated material or top soil from the subject land is required from the Council.

#### Dust from material stockpiles

45. Adequate measures must be undertaken to ensure dust from materials stockpiled does not affect adjoining properties or surrounding area, to the satisfaction of the Responsible Authority. Adequate measures to control dust must be in place at all times whilst works are being undertaken to the satisfaction of the Responsible Authority.

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#### During Construction

46. Measures must be taken to suppress dust, noise or other emissions during construction to prevent nuisance to surrounding neighbours as defined by the Public Health and Wellbeing Act 2008. Construction and/or demolition works must comply with the requirements specified in the Environment Protection Authorities, Noise Control Guidelines Publication 1254, October 2008.

#### Agreement with relevant authorities for utility services

47. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with that authority's requirements and relevant legislation at the time.

#### Serviced Lots

48. Prior to its use for any purpose, each lot created by the subdivision permitted by this permit must be provided with reticulated water, sewerage and electricity, roads and drainage to the satisfaction of the Responsible Authority.

#### Provision of Telecommunications services

49. The owner of the land must enter into an agreement with:
- (a) a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
  - (b) a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in

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an area where the National Broadband Network will not be provided by optical fibre.

#### Telecommunications services prior to SoC

50. Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:
- (a) a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
  - (b) a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

#### Easements to be set aside

51. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created. Easements will not be permitted on areas set aside as unencumbered open space. Where there is no alternative available, compensation will be payable at a valuation determined by the Responsible Authority.

#### Melbourne Water Condition

52. Prior to approval of detailed engineering design of Stage 10, or alternatively the first subdivisional stage proposed to drain to the east (Werribee River), an amended Stormwater Management Strategy (SMWS) must be submitted to and accepted by Melbourne Water. The SMWS must be generally in accordance with the "Water

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Quality Report - Savana Precinct 1 & 2 and Wynbrook Village 3 & 4", prepared by Cardno, ref V161345C, dated 23 May 2018 but amended to include the following:

- (a) Confirmation that the overall capacity of the flood plain (ie cut/fill balance) will not be reduced through the construction of additional earthworks (ie bund) as part of the stormwater quality assets
  - (b) Evidence must be provided to Melbourne Water that Wyndham City Council has accepted the design and location of the stormwater quality asset
  - (c) Confirmation of the details concerning the proposed temporary sediment basin to service stages draining east prior to Stage 12, and confirmation that the developer is to construct and maintain temporary assets until ultimate assets are constructed and finalized
53. Prior to issue of Statement of Compliance of Stage 12, the downstream Bioretention Basin must be constructed to Council's satisfaction for provision of stormwater quality treatment for all stages draining east of the estate. Council satisfaction of the completed works must be forwarded to Melbourne Water for our records. Prior to the consent to Statement of Compliance of any stages draining east prior to and including Stage 12, sufficient evidence of the progress of the Bioretention Basin concurrent to the subdivision works of stages leading up to Stage 12 must be to Melbourne Water's satisfaction and forwarded to Melbourne Water for approval and records.
54. All costs associated with the preparation and registration of this agreement is to be borne by the landowner and/or developer.
55. The Plan of Subdivision must be referred to Melbourne Water, in accordance with Section 8 of the Subdivision Act 1988.
56. Prior to commencement of any works in proximity to the Werribee River, a separate application direct to Melbourne Water's Asset Services team must be made for formal approval. The application must be made via the 'Apply Online' section of the Melbourne Water website.

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57. Prior to the issue of a Statement of Compliance for the subdivision, the Owner shall enter into and comply with an agreement with Melbourne Water Corporation for the acceptance of surface and storm water from the subject land directly or indirectly into Melbourne Water's drainage systems and waterways, the provision of drainage works and other matters in accordance with the statutory powers of Melbourne Water Corporation.
58. Prior to the issue of a Statement of Compliance for the subdivision, engineering plans of the development (in electronic format) are to be forwarded to Melbourne Water for comment/approval. A Certified Survey Plan may be required following our comments on the engineering drawings.
59. If a Certified Survey Plan is required, the CSP prepared by or under the supervision of a licensed land surveyor, showing levels reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the land has been filled in accordance with Melbourne Water's requirements. The CSP must show 1 in 100 year flood levels and extents associated with any existing or constructed Melbourne Water asset.

### City West Water Condition

60. It is essential the owner of the land enters into an agreement with City West Water for the provision of water supply.
61. It is essential the owner of the land enters into an agreement with City West Water for the provision of sewerage.
62. Prior to certification, the Plan of Subdivision must be referred to City West Water in accordance with Section 8 of the Subdivision Act 1988.

### Downer / AusNet Gas Condition

63. The plan of subdivision submitted for certification must be referred to AusNet Gas Services in accordance with Section 8 of the Subdivision Act 1988.

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### Powercor Condition

64. The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to Powercor Australia Ltd in accordance with Section 8 of that Act.
65. The applicant shall:
- (a) Provide an electricity supply to all lots in the subdivision in accordance with Powercor's requirements and standards, including the extension, augmentation or re-arrangement of any existing electricity supply system, as required by Powercor (A payment to cover the cost of such work will be required). In the event that a supply is not provided the applicant shall provide a written undertaking to Powercor Australia Ltd that prospective purchasers will be so informed.
  - (b) Where buildings or other installations exist on the land to be subdivided and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity Supply Industry. You shall arrange compliance through a Registered Electrical Contractor.
  - (c) Any buildings must comply with the clearances required by the Electricity Safety (Installations) Regulations.
  - (d) Any construction work must comply with Energy Safe Victoria's "No Go Zone" rules.
  - (e) Set aside on the plan of subdivision for the use of Powercor Australia Ltd reserves and/or easements satisfactory to Powercor Australia Ltd where any electric substation (other than a pole mounted type) is required to service the subdivision.
66. Alternatively, at the discretion of Powercor Australia Ltd a lease(s) of the site(s) and for easements for associated powerlines, cables and access ways shall be provided. Such a lease shall be for a period of 30 years at a nominal rental with a right to extend the lease for a further 30 years. Powercor Australia Ltd will register such leases on the title by way of a caveat prior to the registration of the plan of subdivision.

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- (a) Provide easements satisfactory to Powercor Australia Ltd, where easements have not been otherwise provided, for all existing Powercor Australia Ltd electric lines on the land and for any new powerlines required to service the lots and adjoining land, save for lines located, or to be located, on public roads set out on the plan. These easements shall show on the plan an easement(s) in favour of "Powercor Australia Ltd" for "Power Line" pursuant to Section 88 of the Electricity Industry Act 2000.
- (b) Obtain for the use of Powercor Australia Ltd any other easement external to the subdivision required to service the lots.
- (c) Adjust the position of any existing easement(s) for powerlines to accord with the position of the line(s) as determined by survey.
- (d) Obtain Powercor Australia Ltd's approval for lot boundaries within any area affected by an easement for a powerline and for the construction of any works in such an area.
- (e) Provide to Powercor Australia Ltd, a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.

### Fire Hydrant Requirements

67. Hydrants and fire plugs must be compatible with the relevant fire service equipment. Where the provision of fire hydrants and fire plugs does not comply with the requirements of standard C29 (Clause 56 - ResCode), fire hydrants must be provided to the satisfaction of the relevant fire authority.

### Electrical Kiosk Locations

68. The plan of subdivision submitted for certification must show the location of any reserves to be used to accommodate electrical substations or kiosks to the satisfaction of the Responsible Authority. Utility reserves adjoining or within any open space reserves or within road reserves will not be permitted except with the prior written consent of the Responsible Authority.

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#### Certified Plans to be referred under S8 of Subdivision Act

69. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.

#### Satisfactory Continuation of Subdivision

70. The subdivision permitted by this permit must be carried out to the satisfaction of the Responsible Authority.

#### Completion of Subdivision

71. This permit will expire if (any of the following apply):
- (a) The Plan of Subdivision for the first stage is not certified within two (2) years of the date of this permit; or
  - (b) The Plan of Subdivision for the last stage of the subdivision is not certified within **five (5)** years of the date of this permit; or
  - (c) The registration of the last stage of the subdivision is not completed within five (5) years of the certification of that Plan of Subdivision.

The Responsible Authority may extend the periods referred to if a request is made in writing whereby either of the following instances apply:

- (d) before or within six (6) months after the permit expiry date, where the use or development allowed by the permit has not yet started; or
- (e) within twelve (12) months after the permit expiry date, where the proposal allowed by the permit has lawfully started before the permit expires.

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### Expiry of Permit

**FOOTNOTE:** In the event that this permit expires or the subject land is proposed to be used or developed for purposes different from those for which this permit is granted, there is no guarantee that a new permit will be granted. If a new permit is granted then the permit conditions may vary from those included on this permit having regard to changes that might occur to circumstances, the planning scheme or policy.

### Protection of Aboriginal Heritage Places

**FOOTNOTE:** All Aboriginal places and objects in Victoria are protected under the Aboriginal Heritage Act 2006. It is an offence to wilfully or negligently disturb or destroy an Aboriginal place or object under the Aboriginal Heritage Act 2006.

### Cultural Heritage – Approved Cultural Heritage Management Plan

**FOOTNOTE:** All works required and specified in the approved Cultural Heritage Management Plan must be undertaken in accordance with the approved plan approved by Aboriginal Affairs Victoria.

### Cultural Heritage

**FOOTNOTE:** Should the discovery of Aboriginal objects be discovered during the course of the development, the discovery must be reported to Aboriginal Affairs Victoria. If suspected human remains are discovered, you must contact the Victoria Police and the State Coroner's Officer immediately. If there are reasonable grounds to believe that the remains are Aboriginal, the Department of Sustainability and Environment's Emergency Co-Ordination Centre should be contacted.

### AAV Contact Details

**FOOTNOTE:** Information on Aboriginal cultural heritage relating to the project area may be obtained from the Aboriginal Affairs Victoria web site at <http://www.dpcd.vic.gov.au/indigenous/aboriginal-cultural-heritage>. Contact lists of

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Registered Aboriginal Parties, cultural heritage advisors, maps and information for landowners are located on the website. Further, if the proposal includes Crown land, it may be necessary to consult with any parties who hold Native Title interests in the area.

### Road Opening / Crossovers

**FOOTNOTE:** Any new or modified crossovers require separate approval from Council's Assets & Roads Department. Town Planning stamped approved plans must be presented when applying for a Consent for Works approval. Refer <https://www.wyndham.vic.gov.au/services/building-planning/other-related-permits/consent-works-road-reserves>. The location, design and construction of the crossover(s) is to be in accordance with Council's standard drawings. Refer <https://www.wyndham.vic.gov.au/services/roads-parking-transport/plans-policies-drawings/standard-drawings>. Any proposed crossover(s) must maintain a 1.0m clearance from any service provider infrastructure, 3.0m clearance from any street tree and 10.0m clearance from any intersection. If these clearance requirements cannot be maintained, service provider infrastructure may need to be upgraded/modified and street tree compensation fees may be applicable at the permit holder's cost and to the satisfaction of the Council.

### Owners and Developers

**FOOTNOTE:** Notwithstanding the issue of this Planning Permit, Wyndham City Council has not granted its consent to the carrying out of any infrastructure project under the Wyndham West Development Contributions Plan as Works In Kind and or in return for a credit as against development contribution liabilities. Consent to undertake an infrastructure project under the Wyndham West Development Contributions Plan as Works In Kind and or in return for a credit as against development contribution liabilities must be obtained specifically and in writing from Wyndham City Council.

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### Department of Environment, Land, Water & Planning

**FOOTNOTE:** On 5 September 2013 and 11 September 2014, approvals under Part 10 of the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) were granted. The approvals apply to all actions associated with urban development in growth corridors in the expanded Melbourne 2010 Urban Growth Boundary as described in page 4 in the Biodiversity Conservation Strategy for Melbourne's Growth Corridors (Department of environment and primary industries, 2013).

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## IMPORTANT INFORMATION ABOUT THIS PERMIT

### WHAT HAS BEEN DECIDED?

The Responsible Authority has issued a permit. *NOTE: This is not a permit granted under Division 5 or 6 of Part 4 of the Planning and Environment Act 1987.*

### WHEN DOES A PERMIT BEGIN?

A permit operates:

- from the date specified in the permit; or
- if no date is specified, from—
  - (i) the date of the decision of the Victorian Civil and Administrative Tribunal, if the permit was issued at the direction of the Tribunal; or
  - (ii) the date on which it was issued, in any other case.

### WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if—
  - the development or any stage of it does not start within the time specified in the permit; or
  - the development requires the certification of a plan of subdivision or consolidation under the *Subdivision Act 1988* and the plan is not certified within two years of the issue of the permit, unless the permit contains a different provision; or
  - the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the *Subdivision Act 1988*.
2. A permit for the use of land expires if—
  - the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
  - the use is discontinued for a period of two years.
3. A permit for the development and use of land expires if—
  - the development or any stage of it does not start within the time specified in the permit; or
  - the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
  - the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
  - the use is discontinued for a period of two years.
4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the *Planning and Environment Act 1987*, or to any combination of use, development or any of those circumstances requires the certification of a plan under the *Subdivision Act 1988*, unless the permit contains a different provision—
  - the use or development of any stage is to be taken to have started when the plan is certified; and
  - the permit expires if the plan is not certified within two years of the issue of the permit.
5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

### WHAT ABOUT REVIEWS?

- The person who applied for the permit may apply for a review of any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal, in which case no right of review exists.
- An application for review must be lodged within 60 days after the permit was issued, unless a notice of decision to grant a permit has been issued previously, in which case the application for review must be lodged within 60 days after the giving of that notice.
- An application for review is lodged with the Victorian Civil and Administrative Tribunal.
- An application for review must be made on an Application for Review form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
- An application for review must state the grounds upon which it is based.
- A copy of an application for review must also be served on the Responsible Authority.
- Details about applications for review and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal.



# PLANNING CERTIFICATE

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

## CERTIFICATE REFERENCE NUMBER

625005

## APPLICANT'S NAME & ADDRESS

MADDOCKS C/- INFOTRACK C/- LANDATA  
MELBOURNE

## VENDOR

AVID PROPERTY GROUP NOMINEES  
PTY LTD

## PURCHASER

## REFERENCE

356744

This certificate is issued for:

LOT Q PLAN PS809299 ALSO KNOWN AS 50 HOBBS ROAD WYNDHAM VALE  
WYNDHAM CITY

The land is covered by the:

WYNDHAM PLANNING SCHEME

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

The land:

- is included in a URBAN GROWTH ZONE - SCHEDULE 8
- and a RURAL CONSERVATION ZONE
- is within a INCORPORATED PLAN OVERLAY - SCHEDULE 3
- and a DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY - SCHEDULE 11
- and MAY BE SUBJECT TO A GROWTH AREAS INFRASTRUCTURE  
CONTRIBUTION - FOR MORE INFORMATION GO TO THE WEBSITE  
(<https://www.planning.vic.gov.au/legislation-regulations-and-fees/planning-legislation/growth-areas-infrastructure-contribution>)

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

Historic buildings and land protected under the Heritage Act 1995 are recorded in the Victorian  
Heritage Register at:

(<http://vhd.heritage.vic.gov.au/>)

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

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

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

LANDATA@  
2 Lonsdale Street  
Melbourne VIC 3000  
Tel: (03) 9194 0606

21 November 2019

Hon. Richard Wynne MP  
Minister for Planning

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

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

If this property is different to the one expected, you can phone (03) 9194 0606 or email [landata.enquiries@delwp.vic.gov.au](mailto:landata.enquiries@delwp.vic.gov.au).

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



---

## Choose the authoritative Planning Certificate

### *Why rely on anything less?*

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

### Privacy Statement

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

From: [www.planning.vic.gov.au](http://www.planning.vic.gov.au) on 20 November 2019 10:53 AM

## PROPERTY DETAILS

Lot and Plan Number: **Lot Q PS809299**  
Address: **50 HOBBS ROAD WYNDHAM VALE 3024**  
Standard Parcel Identifier (SPI): **Q\PS809299**  
Local Government Area (Council): **WYNDHAM**  
Council Property Number: **211313**  
Planning Scheme: **Wyndham**  
Directory Reference: **Melway 233 K9**

[www.wyndham.vic.gov.au](http://www.wyndham.vic.gov.au)

[planning-schemes.delwp.vic.gov.au/schemes/wyndham](http://planning-schemes.delwp.vic.gov.au/schemes/wyndham)

## UTILITIES

Rural Water Corporation: **Southern Rural Water**  
Melbourne Water Retailer: **City West Water**  
Melbourne Water: **inside drainage boundary**  
Power Distributor: **POWERCOR**

## STATE ELECTORATES

Legislative Council: **WESTERN METROPOLITAN**  
Legislative Assembly: **WERRIBEE**

## Note

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

For more information about this contribution go to [Victorian Planning Authority](http://Victorian Planning Authority)

## Planning Zones

[RURAL CONSERVATION ZONE \(RCZ\)](#)

[SCHEDULE TO THE RURAL CONSERVATION ZONE \(RCZ\)](#)

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

[URBAN GROWTH ZONE - SCHEDULE B \(UGZB\)](#)



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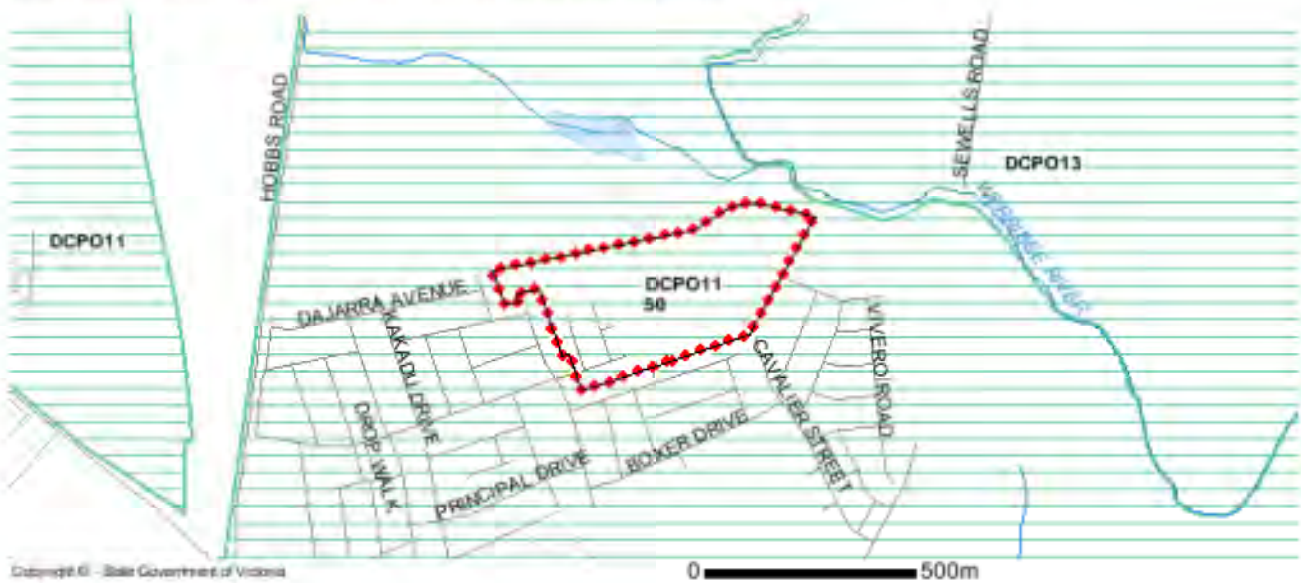
Notwithstanding this disclaimer, a vendor may rely on the information in this report for the purpose of a statement that land is in a bushfire prone area as required by section 32C (b) of the Sale of Land 1962 (VIC).



## Planning Overlays

### DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY (DCPO)

#### DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY - SCHEDULE 11 (DCPO11)



DCPO - Development Contributions Plan

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

### INCORPORATED PLAN OVERLAY (IPO)

#### INCORPORATED PLAN OVERLAY - SCHEDULE 3 (IPO3)



IPO - Incorporated Plan

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

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

PLANNING PROPERTY REPORT: Lot G P5805290

Page 2 of 8

## Planning Overlays

### OTHER OVERLAYS

Other overlays in the vicinity not directly affecting this land

DESIGN AND DEVELOPMENT OVERLAY (DDO)

DEVELOPMENT PLAN OVERLAY (DPO)

ENVIRONMENTAL SIGNIFICANCE OVERLAY (ESO)

HERITAGE OVERLAY (HO)

PUBLIC ACQUISITION OVERLAY (PAO)





## Growth Area Infrastructure Contribution

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

It may be subject to the Growth Area Infrastructure Contribution.

For more information about this contribution go to [Victorian Planning Authority](http://www.victorianplanningauthority.gov.au)



## Melbourne Strategic Assessment

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



++++ Melbourne Strategic Assessment Area  
++++



## Areas of Aboriginal Cultural Heritage Sensitivity

All or part of this parcel is an 'area of cultural heritage sensitivity'.

'Areas of cultural heritage sensitivity' are defined under the Aboriginal Heritage Regulations 2018, and include registered Aboriginal cultural heritage places and land form types that are generally regarded as more likely to contain Aboriginal cultural heritage.

Under the Aboriginal Heritage Regulations 2018, 'areas of cultural heritage sensitivity' are one part of a two part trigger which require a 'cultural heritage management plan' be prepared where a listed 'high impact activity' is proposed.

If a significant land use change is proposed (for example, a subdivision into 3 or more lots), a cultural heritage management plan may be triggered. One or two dwellings, works ancillary to a dwelling, services to a dwelling, alteration of buildings and minor works are examples of works exempt from this requirement.

Under the Aboriginal Heritage Act 2006, where a cultural heritage management plan is required, planning permits, licences and work authorities cannot be issued unless the cultural heritage management plan has been approved for the activity.

For further information about whether a Cultural Heritage Management Plan is required go to:

<http://www.gov.vic.nms.net.au/govQuestion1.aspx>

More information, including links to both the Aboriginal Heritage Act 2006 and the Aboriginal Heritage Regulations 2018, can also be found here - <https://www.vic.gov.au/aboriginalvictoria/heritage/planning-and-heritage-management-processes.htm>



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Aboriginal Heritage

## Further Planning Information

Planning scheme data last updated on 14 November 2019.

A **planning scheme** sets out policies and requirements for the use, development and protection of land.

This report provides information about the zone and overlay provisions that apply to the selected land.

Information about the State and local policy, particular, general and operational provisions of the local planning scheme that may affect the use of this land can be obtained by contacting the local council

or by visiting <http://www.planning.vic.gov.au>

This report is NOT a **Planning Certificate** issued pursuant to Section 198 of the *Planning and Environment Act 1987*.

It does not include information about exhibited planning scheme amendments, or zonings that may affect the land.

To obtain a Planning Certificate go to Titles and Property Certificates at Landata - <https://www.landata.vic.gov.au>

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

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

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

## Designated Bushfire Prone Area

This parcel is in a designated bushfire prone area.  
Special bushfire construction requirements apply. Planning provisions may apply.



Designated bushfire prone areas as determined by the Minister for Planning are in effect from 8 September 2011 and amended from time to time.

The Building Regulations 2018 through application of the Building Code of Australia, apply bushfire protection standards for building works in designated bushfire prone areas.

Designated bushfire prone areas maps can be viewed on VicPlan at <http://mapshare.maps.vic.gov.au/vicplan/> or at the relevant local council.

Note: prior to 8 September 2011, the whole of Victoria was designated as bushfire prone area for the purposes of the building control system.

Further information about the building control system and building in bushfire prone areas can be found on the Victorian Building Authority website [www.vba.vic.gov.au](http://www.vba.vic.gov.au)

Copies of the Building Act and Building Regulations are available from [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au)

For Planning Scheme Provisions in bushfire areas visit <https://www.planning.vic.gov.au>





Civic Centre  
Postal

45 Princes Highway, Werribee, Victoria 3030, Australia  
PO Box 197, Werribee, Victoria 3030, Australia

Telephone  
Facsimile  
Email

(03) 9742 0777  
(03) 9741 6237  
mail@wyndham.vic.gov.au  
[www.wyndham.vic.gov.au](http://www.wyndham.vic.gov.au)

DX 30258 Werribee Vic  
ABN: 38 393 903 880

Your Ref: 356744

Our Ref: wLIC06751/19

Date: 20/11/2019

Landata  
DX 250639  
MELBOURNE VIC

**LAND INFORMATION CERTIFICATE**

**Year Ending :30/06/2020**

**Assessment No: 211313**

**Certificate No: wLIC06751/19**

**All Enquiries and Updates to 03 9742 0777**



Property Description: V 12072 F 501 L L PS 803043 Werribee Parish V 12099 F 947 L P PS 809298  
Werribee Parish  
AVPCC Code: 102 - Vacant Englobo Residential Subdivisional Land  
Property Situated: 50 Hobbs Road  
WYNDHAM VALE VIC 3024

Site Value	\$29025000	CIV	\$29025000	NAV	\$1451250
------------	------------	-----	------------	-----	-----------

The level of valuation is 01/01/2019.

The Date Valuation was adopted for rating purposes is 26/08/2019.

Current Year's Rates	
Englobo Land Rates	\$122122.95
Municipal Charge	\$60.98
Fire Services Levy	\$2031.45
Current Rates Levied	\$124215.38
Interest	\$263.35
Less Payments	(\$31053.38)
Balance Outstanding	\$93425.35

<b>TOTAL OUTSTANDING</b>	<b>\$93425.35</b>
--------------------------	-------------------

*Council strongly recommends that an updated certificate be sought prior to any settlement of land or other reliance on this certificate. A written update will be provided free of charge for up to 3 months after the date of issue.*

**LAND NOT SEPARATELY RATED**

Lot Q PS 809299 has not yet been separately assessed for the purpose of rates and charges. This lot forms part of the above parent property, an update of this certificate will be provided, free of charge, for a period of three months, if required.

The current portion of the rates raised and any rates payments will not be allocated to the child properties.

This certificate provides information regarding valuation, rates, charges, other moneys owing and any orders and notices made under the Local Government Act 1958, the Local Government Act 1989 or under a local law of the Council and the specified flood level by the Council (if any).

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

**OTHER INFORMATION NOTICES AND ORDERS:**

There is no potential Liability for Rates under the Cultural and Recreational Lands Act 1974.

There is no potential Liability for the Land to become Rateable under Section 173 or 174A of the Local Government Act 1989.

There is no Outstanding Amount to be paid for Recreational Purposes or any transfer of Land required to be made to Council for Recreational Purposes under the Local Government Act 1958.

**LAND CLEARANCE CHARGES:**

Directions to maintain vacant land to Council requirements all year round are in place under the Local Law.

Although there may be no charges shown on the Certificate, it is possible that a Charge OR a Notice to Comply to maintain the vacant land as required may exist by settlement date.

**Please contact** Council's City Resilience Department via email at [mail@wyndham.vic.gov.au](mailto:mail@wyndham.vic.gov.au) to check if there are any pending Charges that are not listed but which may transfer with the property to the new owner.

**NOTE:** Whilst all efforts have been made to ensure that the information contained in this Certificate is accurate and reflects the current records of the City as at the date of the Certificate's issue, information contained in the Certificate is subject to regular update and it is strongly recommended that an updated Certificate be sought immediately prior to any settlement of land or other reliance on this Certificate.

I hereby certify that as at the Date of Issue the information given in this Certificate is a true and correct disclosure of Rates and other Monies payable to the Wyndham City Council, together with any Notice or Orders referred to in this Certificate

APPLICANT: Landata

RECEIVED THE SUM OF \$27.00 BEING FOR THE FEE FOR THE CERTIFICATE

REFERENCE: WLC06751/19



Mary-Jane Moola/Coordinator Finance Operations

**Payment Options**



**BPAY (Rates payments only)**

Bill Code: 76869

Customer Reference Number: 1984262

**Online via Credit Card**

Visit [www.wyndham.vic.gov.au](http://www.wyndham.vic.gov.au)

**Rates Payment**

Bank Reference Number: 1984262

**Land Clearance Charge (if applicable)**

See Reference Number above

**Cheque Payment**

Send cheque made payable to Wyndham City Council and a copy of this UC to PO Box 197, Wernbee, VIC 3030





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www.wyndham.vic.gov.au

DX 30258 Werribee Vic  
ABN: 38 383 903 860

OurRef: w2019C17315

Your Ref: 356744

21 November 2019

Landata  
DX 250639  
MELBOURNE VIC

## PROPERTY DETAILS

Property No: 211313

50 Hobbs Road

WYNDHAM VALE VIC 3024

V 11499 F 802 L A PS 612203 Werribee Parish, V 11992 F 170 L B PS 739613 Werribee Parish, V 11992 F 424 L F PS 742083 Werribee Parish, V 11992 F 635 L G PS 739617 Werribee Parish, V 11993 F 931 L H PS 746251 Werribee Parish, V 11994 F 118 L J PS 749042 Werribee Parish, V 11994 F 291 L K PS 803042 Werribee Parish, V 12072 F 501 L L PS 803043 Werribee Parish, V 12073 F 049 L M PS 803044 Werribee Parish, V 12073 F 048 L N PS 803044 Werribee Parish, V 12099 F 947 L P PS 809298 Werribee Parish, V 12152 F 609 L Q PS 809299 Werribee Parish

## PROPERTY INFORMATION REQUEST: Building Regulations 2018 – Regulation 51

Liabile to flooding (Reg 153)	"A Flood Level has not been set by Council under the Building Regulations 2018". The land in the opinion of the Director of City Operations is not liable to flooding
Designated as subject to attack by termites (Reg 150)	YES
Subject to significant snow falls (Reg 152)	NO
Designated land or works under Part 10 of the Water Act 1989 (Reg 154)	Council have no knowledge of any uncontrolled overland drainage
Bushfire Attack Level specified in Planning Scheme (Reg 156)	NO
Community Infrastructure Levy Section 24(5) of the Building Act 1993	NO.

**NOTE:** Melbourne Water became responsible for waterway management, floodplain management and regional drainage on 18 November 2005. Melbourne Water is undertaking an ongoing process of investigation within this area, which may provide additional information applicable to this property. For information on flood levels please visit the Landata or Anstat websites. Where City West Water is the relevant water authority this information can be obtained by purchasing a property information statement from this authority. For information on drainage assets please contact Melbourne Water on 9235 2265.

JOHN BASELMANS  
**CO ORDINATOR BUILDING SERVICES**



Your Ref: 356744

Our Ref: w2019C17314

21 November 2019

Landata  
DX 250639  
MELBOURNE VIC

Dear Sir/Madam,

#### **BUILDING PERMIT HISTORY**

**PROPERTY: 50 Hobbs Road WYNDHAM VALE VIC 3024**

A search of Building Services records for the preceding 10 years has revealed that no permits were issued during this time.

#### **Outstanding orders or notices**

Our records show that there are no outstanding notices or orders under the Building Regulations. However, it is to be noted that we have not conducted an inspection of the property in regard to this enquiry and that this does not preclude Council from taking action on any illegal building works subsequently identified.

#### **Make your own enquiries**

The information supplied in this letter is based solely on current Building Services records. We have made no enquiries beyond consulting these records. Consequently we recommend that you make your own enquiries for any specific details you may require.

#### **Personal safety**

In the interests of personal safety, we also remind you that:

- All residential properties with existing swimming pools or spas must have compliant safety pool fencing
- If smoke alarms have not been installed in a residential property, they must be installed by the new owner within 30 days of property settlement.

**Failure to comply with either of these requirements may result in significant fines and Court prosecution.**

**Disclaimer**

We expressly disclaim any liability for loss, however occasioned from reliance upon the information herein.

If you have any questions about this letter, please contact Building Services on (03) 9742 0716 or email [mail@wyndham.vic.gov.au](mailto:mail@wyndham.vic.gov.au).

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'J Baselmans', with a stylized flourish at the end.

**JOHN BASELMANS  
CO ORDINATOR BUILDING SERVICES**



# Growth Areas Infrastructure Contribution Certificate



Certificate Id: 10357

Issue date: 29 November 2019

## PART 1 – DETAILS OF APPLICANT

Maddocks  
C/- Landata

## PART 2 - LAND DETAILS

Land Address: 50 Hobbs Road  
Wyndham Vale 3024

### Details of Land Title:

Lot / Plan: Lot Q / PS809299  
Volume / Folio: 12152 / 609

Municipality: Wyndham  
Land Type: Type A  
Land Area: 17.24 ha

## PART 3 - GROWTH AREAS INFRASTRUCTURE CONTRIBUTION LIABILITY STATUS

The amount of Growth Areas Infrastructure Contribution unpaid at the date of this certificate in accordance with a Notice of Approval of Staged Payment Arrangement is **\$1,589,679.30** (including interest).

Note: Interest is calculated in accordance with section 201ST of the *Planning and Environment Act 1987*.

## PART 4 – CERTIFICATION

The information in this certificate relates only to the matters affecting the land detailed above and matters relevant to the Growth Areas Infrastructure Contribution (GAIC) amount as at the date of issue of the certificate. If there has been a change to any of the matters affecting the property or relevant to the Growth Areas Infrastructure Contribution amount, the information contained in this certificate is no longer valid and it may be advisable to apply for an updated certificate. **NB:** This certificate is for information purposes only, and is **not** a notice of assessment for the purposes of the *Taxation Administration Act 1997*.

## Notes to GAIC Certificate

### General

- The Growth Areas Infrastructure Contribution (GAIC) is a contribution on certain land in the growth areas of metropolitan Melbourne (see more detail at [www.sro.vic.gov.au](http://www.sro.vic.gov.au)).
- GAIC is calculated on a per hectare or part thereof basis.
- The liability to pay the GAIC only arises upon the first occurrence of a GAIC event i.e. the issuing of a statement of compliance, the making of an application for a building permit in respect of substantive building works or a dutiable transaction relating to the land.

### GAIC Certificate

This shows the amount of GAIC that:

- is due and unpaid,
  - has been deferred,
  - is subject to a staged payment approval,
  - is affected by a work-in-kind agreement, or
  - the potential amount of GAIC if the proposed GAIC event were to occur in the financial year of the issue of this certificate in respect of the land (certificate year).
- If a GAIC event is proposed to occur in a financial year for which the GAIC rates are not yet published, the potential GAIC amount on the GAIC certificate is calculated based on the GAIC rates of the certificate year. The GAIC amount is an estimate only and an updated GAIC certificate should be applied for when the new GAIC rates are published.
  - A current GAIC certificate is to be attached to the vendor's statement in accordance with s 32(3)(f) of the *Sale of Land Act 1962*.

### GAIC rates

- For 2010-2011, the GAIC rate for type A land was \$80,000 per hectare. The rate for type B-1, B-2 and C land was \$95,000 per hectare.
- For each subsequent financial year, the GAIC rates per hectare are indexed based on the Consumer Price Index for Melbourne.
- GAIC rates are published before 1 June of the preceding financial year. Current GAIC rates are published on the State Revenue Office website [www.sro.vic.gov.au](http://www.sro.vic.gov.au).

### Certificate Number

- The number is on the top right corner on the front of this certificate.
- Quoting this number will give you access to information about this certificate and enable you to enquire about your application by phone.
- You should quote the Certificate Number on any written correspondence.

**This certificate is for information purposes only and is not a notice of assessment for the purposes of the *Taxation Administration Act 1997*.**

### For more information please contact:

<b>State Revenue Office – GAIC enquiries</b> <b>Mail</b> State Revenue Office, GPO Box 1641, MELBOURNE VIC 3001 or DX260090 Melbourne	<b>Internet</b> <a href="http://www.sro.vic.gov.au">www.sro.vic.gov.au</a> <b>Email</b> <a href="mailto:gaic@sro.vic.gov.au">gaic@sro.vic.gov.au</a> <b>Phone</b> 13 21 61 (local call cost) <b>Fax</b> 03 9628 6856
<b>Victorian Planning Authority – GAIC enquiries</b> <b>Mail</b> Victorian Planning Authority, Level 25, 35 Collins Street, MELBOURNE VIC 3000	<b>Internet</b> <a href="http://www.vpa.vic.gov.au">www.vpa.vic.gov.au</a> <b>Email</b> <a href="mailto:info@vpa.vic.gov.au">info@vpa.vic.gov.au</a> <b>Phone</b> 03 9651 9600 <b>Fax</b> 03 9651 9623

# Land Tax Clearance Certificate

## Land Tax Act 2005

INFOTRACK / MADDOCKS

Your Reference: 6604943.026

Certificate No: 32464088

Issue Date: 20 NOV 2019

Enquiries: ESYSPROD

Land Address: 50 HOBBS ROAD WYNDHAM VALE VIC 3024

Land Id	Lot	Plan	Volume	Folio	Tax Payable
45056040	Q	809299	12152	609	\$48,297.95

Vendor: AVID PROPERTY GROUP NOMINEES PTY LTD

Purchaser: FOR INFORMATION PURPOSES

Current Land Tax	Year	Taxable Value	Proportional Tax	Penalty/Interest	Total
HOBBS RD WYNDHAM TRUST	2019	\$13,759,401	\$266,714.29	\$0.00	\$48,297.95

Comments: Land Tax of \$266,714.29 has been assessed for 2019, an amount of \$218,416.34 has been paid. Land Tax will be payable but is not yet due - please see note 6 on reverse.

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

Comments:

Arrears of Land Tax	Year	Proportional Tax	Penalty/Interest	Total
---------------------	------	------------------	------------------	-------

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

Paul Broderick  
Commissioner of State Revenue

CAPITAL IMP VALUE: \$13,759,418

SITE VALUE: \$13,759,401

AMOUNT PAYABLE: \$48,297.95



# Notes to Certificates Under Section 105 of the *Land Tax Act 2005*

Certificate No: 32464088

1. Under Section 96 of the *Land Tax Act 2005* (the Act), unpaid land tax (including special land tax and vacant residential land tax) is a first charge on the land to which it relates and should the vendor default, payment will be obtained from the purchaser. The purchaser should take into account the possibility that the vendor may default where land tax has been assessed but not paid.
2. A purchaser who has obtained a Certificate is only liable to a charge on the land to the amount of unpaid land tax as certified by a Certificate. A purchaser must obtain the Certificate from the Commissioner. They cannot rely on the Certificate obtained by the vendor.
3. If land tax (including special land tax and vacant residential land tax) is due but not paid on a property, the Land Tax Clearance Certificate will certify the amount of land tax due and payable on that land. This amount will be binding on the Commissioner of State Revenue (the Commissioner) for purposes of section 96 of the Act whether or not it is paid to the State Revenue Office (SRO) on, or shortly after, settlement.
4. The amount of land tax on this certificate relates to the amount of land tax (including special land tax and vacant residential land tax) due and payable as at the date of the application only and not to any future liability or the tax status of the land.
5. A 'Nil' Land Tax Clearance certificate does not mean that the land on the certificate is exempt from land tax or vacant residential land tax.
6. If land tax (including special land tax or vacant residential land tax) will be payable on a property but payment is not due at the time the application is processed, the certificate will certify the amount that should be retained by the purchaser at settlement and remitted to the SRO. The Commissioner will consider himself bound by this amount against the purchaser, only if the amount is remitted to the SRO.
7. If the amount in 4. (above) is understated, the Commissioner has the right to seek recovery of the correct amount, or the balance, as the case may be, from the:
  - a. vendor, or
  - b. purchaser, if the vendor defaults and the certified amount has not been remitted to the SRO.
8. If an amount is certified in respect of a proposed sale which is not completed, the Commissioner will not be bound by the same amount in respect of a later sale of the subject land - another certificate must be applied for in respect of that transaction.
9. If an amount certified is excessively high (for example, because an exemption or concession has not been deducted in calculating the amount) the Commissioner will issue an amended certificate, without an additional fee being charged on receipt of sufficient evidence to that effect from the vendor.
10. If no land tax (including special land tax or vacant residential land tax) is stated as being payable in respect of the property, the Commissioner will consider himself bound by that certification, in respect of the purchaser, if the land is subsequently found to be taxable and the vendor defaults.
11. If the vendor refuses to be bound by an amount stated by the Commissioner and does not agree to the amount being withheld and remitted at settlement, the purchaser cannot rely on such refusal as a defence to an action by the Commissioner to recover the outstanding amount from the purchaser under Sections 96 or 98 of the Act.
12. The information on a certificate cannot preclude the Commissioner from taking action against a vendor to recover outstanding land tax (including special land tax and vacant residential land tax).
13. You can request a free update of a Land Tax Clearance Certificate via our website if:
  - there is no change to the parties involved in the transaction, and
  - the request is within 90 days of the original certificate being issued.

## For Information Only

LAND TAX CALCULATION BASED ON SINGLE OWNERSHIP

Land Tax = \$267,061.55

Taxable Value = \$13,759,401

Calculated as \$24,975 plus ( \$13,759,401 - \$3,000,000)  
multiplied by 2.250 cents.

## Land Tax Clearance Certificate - Payment Options

### BPAY

Billers Code: 5249  
Ref: 32464088

### Telephone & Internet Banking - BPAY®

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

[www.bpay.com.au](http://www.bpay.com.au)

### CARD

Ref: 32464088

### Visa or Mastercard.

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

[sro.vic.gov.au/paylandtax](http://sro.vic.gov.au/paylandtax)



City West Water

ABN 70 065 902 467

# Information Statement & Certificate

SECTION 158 WATER ACT 1989

ENQUIRIES  
131691

REFERENCE NO

1254 1587 4109

DATE OF ISSUE - 20/11/2018

APPLICATION NO

858076

LANDATA COUNTER SERVICES

YOUR REF.  
33584948-027-1

SOURCE NO. 99904685210

**PROPERTY:** LOT Q/HOBBS ROAD WYNDHAM VALE VIC 3024

**Statement & Certificate as to Waterways & Drainage, Parks Service and City West Water Charges**

The sum of Zero dollars is payable in respect of the property listed above to the end of the financial year.

Service Charge Type	Annual charge	Billing Frequency	Date Billed To	Year to Date Billed Amount	Outstanding Amount
<b>TOTAL</b>	0.00			0.00	0.00
Service charges owing to 30/06/2019					0.00
Service charges owing for this financial year					0.00
Adjustments					0.00
<b>Current amount outstanding</b>					0.00
Plus remainder service charges to be billed					0.00
<b>BALANCE including unbilled service charges</b>					0.00

City West Water property settlement payments can be made via BPAY. If using BPAY please use the BPAY Biller code and reference below.

Biller Code: 8789  
Reference: 1254 1587 4109





City West Water

ABN 70 065 902 467

# Information Statement & Certificate

SECTION 158 WATER ACT 1989

ENQUIRIES  
131691

REFERENCE NO

1254 1587 4109

DATE OF ISSUE - 20/11/2011

APPLICATION NO

858076

This property is currently not liable for Parks and/or Waterway and Drainage charges however may be liable for these charges from date of sale.

Where applicable, this statement gives particulars of City West Water service charges as well as Parks Service and Waterways & Drainage service charges. Parks Service and Waterways & Drainage service charges are levied and collected on behalf of Parks Victoria and Melbourne Water Corporation respectively.

Section 274(4A) of the Water Act 1989 provides that all amounts in relation to this property that are owed by the owner are a charge on this property.

Section 275 of the Water Act 1989 provides that a person who becomes the owner of a property must pay to the Authority at the time the person becomes the owner of the property any amount that is, under Section 274(4A), a charge on the property.

This installation is not supplied with water through a City West Water meter.



City West Water

ABN 70 065 902 467

# Information Statement & Certificate

SECTION 158 WATER ACT 1989

ENQUIRIES  
131691

REFERENCE NO

1254 1587 4109

DATE OF ISSUE - 20/11/2011

APPLICATION NO

858076

## Information given pursuant to section 158 of the Water Act 1989

Please note that the property is in an area designated by City West Water for the provision of a recycled water supply in addition to drinking water and sewerage services. The conditions of connection for recycled water are available on our web site at [www.citywestwater.com.au](http://www.citywestwater.com.au). Should you require further information, please contact City West Water on 13 16 91 or by emailing to [enquiries@citywestwater.com.au](mailto:enquiries@citywestwater.com.au).

The applicable flood level for this property is RL 37.34 metres to Australian Height Datum (AHD). If further information is required please contact Melbourne Water on 9679 7517.

Sewer & or Water Assets if available are shown on the attached Plan. Should this plan not display all of the requested property please contact City West Water on 131691.

AUTHORISED OFFICER:

FRAN DUIKER  
GENERAL MANAGER  
CUSTOMERS AND COMMUNITY  
CITY WEST WATER CORPORATION

Unless prior consent has been obtained from both CITY WEST WATER and MELBOURNE WATER (Section 148 Water Act 1989), the erection and/or replacement of any structure or filling over or under any easement, sewer or drain, any interference with, any sewer, drain or watercourse, or any connection to any sewer drain or watercourse is PROHIBITED.

City West Water provides information in this statement relating to waterways and drainage pursuant to Section 158 of the Water Act 1989, as an agent for Melbourne Water.

Please contact City West Water prior to settlement for an update on these charges and remit payment to City West Water immediately following settlement. Updates of rates and other charges will only be provided for up to three months from the date of this statement.



City West  
Water™

# Encumbrance Plan

## LOT Q/ HOBBS ROAD WYNDHAM VALE 3024

### Application No. 859876

Q

R

#### LEGEND

	Circular Manhole		Recycled Water Main		MW Sewer Main
	Inspection Shaft		MW Channel		MW Abandoned Sewer Main
	Sewer Main		MW Abandoned Channel		MW Water Main
	Abandoned Sewer Main		MW Natural Waterway		MW Abandoned Water Main
	Water Main		MW Underground Drain		MW Manhole
	Abandoned Water Main		MW Abandoned Underground Drain		MW Abandoned Manhole



Date: 28/10/2019

Disclaimer : The location of assets must be proved in the field prior to the commencement of work. A separate plan showing asset labels should be obtained for any proposed works. These plans do not indicate private services. City West Water Corporation does not guarantee and makes no representation or warranty as to the accuracy or scale of this plan. This corporation accepts no liability for any loss, damage or injury by any person as a result of any inaccuracy in this plan.

## Extract of EPA Priority Site Register

Page 1 of 2

\*\*\* Delivered by the LANDATA<sup>®</sup> System, Department of Environment, Land, Water & Planning \*\*\*

### PROPERTY INQUIRY DETAILS:

STREET ADDRESS: 50 HOBBS ROAD

SUBURB: WYNDHAM VALE

MUNICIPALITY: WYNDHAM

MAP REFERENCES: Melways 40th Edition, Street Directory, Map 233 Reference K10  
Melways 40th Edition, Street Directory, Map 233 Reference K9  
Melways 40th Edition, Street Directory, Map 233 Reference J9  
Melways 40th Edition, Street Directory, Map 234 Reference A10  
Melways 40th Edition, Street Directory, Map 234 Reference A9

DATE OF SEARCH: 19th November 2019

### PRIORITY SITES REGISTER REPORT:

A search of the Priority Sites Register for the above map references, corresponding to the address given above, has indicated that this site is not listed on, and is not in the vicinity of a site listed on the Priority Sites Register at the above date.

### IMPORTANT INFORMATION ABOUT THE PRIORITY SITES REGISTER:

You should be aware that the Priority Sites Register lists only those sites for which:

- EPA has requirements for active management of land and groundwater contamination; or
- where EPA believes it is in the community interest to be notified of a potential contaminated site and this cannot be communicated by any other legislative means.

Where EPA has requirements for active management of land and/or groundwater, appropriate clean up and management of these sites is an EPA priority, and as such, EPA has issued either a: Clean Up Notice pursuant to section 62A, or a Pollution Abatement Notice (related to land and groundwater) pursuant to section 31A or 31B of the Environment Protection Act 1970 on the occupier of the site to require active management of these sites.

The Priority Sites Register does not list all sites known to be contaminated in Victoria. A site should not be presumed to be free of contamination just because it does not appear on the Priority Sites Register.

Persons intending to enter into property transactions should be aware that many properties may have been contaminated by past land uses and EPA may not be aware of the presence of contamination. EPA has published information advising of potential contaminating land uses. Municipal planning authorities hold information about previous land uses, and it is advisable that such sources of information also be consulted.

For sites listed on the Priority Sites Register, a copy of the relevant Notice, detailing the reasons for issue of the Notice, and management requirements, is available on request from EPA for \$8 per Notice.

For more information relating to the Priority Sites Register, refer to EPA contaminated site information bulletin: Priority Sites Register Contaminated Land



## Extract of EPA Priority Site Register

\*\*\* Delivered by the LANDATA<sup>®</sup> System, Department of Environment, Land, Water & Planning \*\*\*

Audit Site Listing (EPA Publication 735). For a copy of this publication, copies of relevant Notices, or for more information relating to sites listed on the Priority Sites Register, please contact EPA as given below:

Environment Protection Authority Victoria  
GPO Box 4395 Melbourne Victoria 3001  
Tel: 1300 372 842



## CERTIFICATE

Pursuant to Section 58 of the *Heritage Act 2017*

**Maddocks**

CERTIFICATE NO:  
**33584948**

PROPERTY ADDRESS:  
**50 HOBBS ROAD WYNDHAM VALE**

PARCEL DESCRIPTION:  
**Lot Q PS809299K**

1. The place or object is not included in the Heritage Register.
2. The place is not in a World Heritage Environs Area.
3. The place or object is not subject to an interim protection order.
4. A nomination has not been made for inclusion of the place or object in the Heritage Register.
5. The place or object is not being considered for inclusion in the Heritage Register.
6. The site is not included in the Heritage Inventory.
7. A repair order is not in force in respect of the place or object.
8. There is not an order of the Supreme Court under Division 3 of Part 10 in force in respect of the place or object.
9. There is not a Governor in Council declaration made under section 227 in force against the owner of the place or object.
10. There is not a court order made under section 229 in force against a person in respect of the place or object.
11. There are no current proceedings for a contravention of this Act in respect of the place or object.
12. There has not been a rectification order issued in respect of the place or object.



**Ainsley Thompson**  
**Heritage Officer (Registry)**

(as delegate for Steven Avery, Executive Director, Heritage Victoria, pursuant to the instrument of delegation)

**DATED: 20 November 2019**

*Note: This Certificate is valid at the date of issue.*

19 November 2019

Maddocks C/- InfoTrack  
c/- Landata  
GPO BOX 527  
MELBOURNE VIC 3001



6 Parliament Place  
East Melbourne  
VIC 3002

Email: [conservation@nattrust.com.au](mailto:conservation@nattrust.com.au)  
Web: [www.nationaltrust.org.au](http://www.nationaltrust.org.au)

T 03 9656 9818

Re: Vol 12152 Folio 609, 50 HOBBS ROAD, WYNDHAM VALE VIC 3024  
Reference: 33584948-032-5

Dear Sir/Madam,

With reference to your recent enquiry, I write to advise that as of this date the above property is **not classified** by the National Trust.

Please note that the property may have been identified on the following statutory registers:

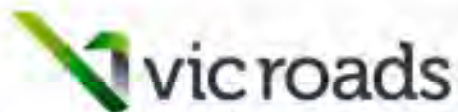
- Victorian Heritage Register—Heritage Victoria, Department of Environment, Land, Water and Planning  
<https://www.heritage.vic.gov.au/> or 03 9938 6894
- Victorian Aboriginal Heritage Register—Department of Premier and Cabinet  
[vahr@dpc.vic.gov.au](mailto:vahr@dpc.vic.gov.au) or 1800 762 003
- Municipal planning controls—contact the Statutory Planning department of the **City of Wyndham**
- World, National and Commonwealth Heritage Lists—Department of the Environment  
<http://www.environment.gov.au/topics/heritage/heritage-places>

For further information about classification on the National Trust Register visit:  
<https://www.nationaltrust.org.au/services/heritage-register-vic/>

For enquiries please contact the National Trust Conservation & Advocacy Team on 03 9656 9818.

Yours faithfully,

Felicity Watson  
Advocacy Manager  
National Trust of Australia (Victoria)



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

## ROADS PROPERTY CERTIFICATE

The search results are as follows:

Maddocks C/- InfoTrack  
135 King Street  
SYDNEY 2000  
AUSTRALIA

Client Reference: 356744

NO PROPOSALS. As at the 19th November 2019, VicRoads has no approved proposals requiring any part of the property described in your application. You are advised to check your local Council planning scheme regarding land use zoning of the property and surrounding area.

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

50 HOBBS ROAD, WYNDHAM VALE 3024  
CITY OF WYNDHAM

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

Date of issue: 19th November 2019

Telephone enquiries regarding content of certificate: 13 11 71

[Vicroads Certificate] # 33584948 - 33584948191145 '356744'

## Victorian Aboriginal Heritage Register – Advice as to the existence of records in relation to a nominated area of land.

Reference Number:

25229

### SECTION 1 – Applicant Information

Name of applicant:

- Alexandra Yorston

Organisation:

InfoTrack

Postal address:

Level 5 - 459, Collins Street

Melbourne

VIC 3000

Telephone number:

0386094740

Email address:

vicsearching@infotrack.com.au

Customer Reference No.:

6804943.026

### SECTION 2 – Land Description (as provided by the applicant)

Subdivisional References (Lot / Plan):

Q/PS809299K

Crown References:

Title References (Volume / Folio):

12152/609

Street Address:

50 HOBBS ROAD, WYNDHAM VALE 3024

Other description:

Order ID: 63361135

Directory Reference:

Directory:

### SECTION 3 – Registered Information

Are there any registered Aboriginal Places or Objects on the nominated area of land?

Yes

*Please see attached Aboriginal Place*

Are there any other areas of cultural heritage sensitivity associated with the nominated area of land? (See over).

Yes

Does the Register contain a record of a notified place (ie a place reported but not yet inspected) in relation to the nominated area of land?

No

Does a stop order exist in relation to any part of the nominated area of land?

No

Does an interim or ongoing protection declaration exist in relation to any part of the nominated area of land?

No

Does a cultural heritage agreement or Aboriginal cultural heritage land management agreement exist in relation to any part of the nominated area of land?

No

Signed:



Date: 22/Nov/2019

Oona Phillips  
Senior Heritage Registrar  
Aboriginal Victoria



## SECTION 4 – Terms & Conditions

### Terminology

In these terms and conditions, the expressions "we", "us" and "our" are a reference to the Government of the State of Victoria, acting through Aboriginal Victoria, an agency of the Department of Premier and Cabinet.

### Advice provided from the Register

Access to the information requested from the Register in the "Application for advice as to the existence of records in relation to a nominated area of land" form (the "Form") is subject to the discretion of the Secretary and the requirements of the Act.

The absence of records on the Register for a nominated area of land does not necessarily mean that the area is devoid of Aboriginal cultural heritage values. Applicants should be aware of the provisions of s.17 and s.24 of the *Aboriginal Heritage Act 2006*, which require the reporting of Aboriginal remains, Aboriginal places and objects discovered in Victoria. Applicants should also be aware that it is an offence under the *Aboriginal Heritage Act 2006* to harm Aboriginal cultural heritage, for which significant penalties apply. This advice does not abrogate any requirement to prepare a Cultural Heritage Management Plan under the *Aboriginal Heritage Act 2006*.

### Specific conditions of advice provided from the Register for an application under s.147

The Secretary, Department of Premier and Cabinet may refuse to provide any information to the Applicant if the provision of the information would be likely to endanger Aboriginal cultural heritage (refer to s.147 (4) of the Act).

### Use of information

Information provided to the Applicant from the Register as a result of this application and for the land described in Section 2 ("Information") may only be used for the purposes nominated by the Applicant in the Form (and for no other purposes). The Information may not be on-sold or rebadged without our written permission.

### Documents to be lodged with Registrar

Two copies (one of which must be in digital format) of any article, publication, report or thesis which relies on any Information provided to the Applicant must be lodged with the Registrar as soon as practicable after their completion.

### Acknowledgment of source of information

We must be acknowledged in any article, publication, report or thesis (including a newspaper article or display) which incorporates or refers to material supplied from the Register.

### Copyright

We retain copyright in all materials for which legal title of the relevant organisation is clear. Apart from fair dealing for the purposes of private study, research, criticism or review, as permitted under the copyright legislation, and apart from uses specifically authorised by these terms and conditions, no part may be reproduced or reused for any commercial purposes whatsoever.

Specifically, and other than for the purposes of and subject to the conditions prescribed in the *Copyright Act 1968* (Cth), you may not in any form or by any means adapt, reproduce, store, create derivative works, distribute, print, display, perform, publish or commercialise the Information without our written permission.

### Disclaimer

The Information is provided for information purposes only. Except as expressly stated to the contrary, no claim is made as to the accuracy or authenticity of its content. The Information is provided on the basis that any persons having access to it undertake responsibility for assessing the relevance and accuracy of its content. We do not accept responsibility for any loss or damage, however caused (including through negligence) which you may directly or indirectly suffer in connection with your use of the Information, nor do we accept any responsibility for any such loss arising out of your use or reliance (or any other person's use or reliance) on the Information.

The disclaimer set out in these terms and conditions is not affected or modified by any of the other terms and conditions in these Terms and Conditions. Nevertheless, our disclaimer does not attempt to purport to exclude liability in relation to any term implied by law which cannot be lawfully excluded.

### Indemnity

You agree to indemnify and hold us, our agents and employees, harmless from any claim or demand, made by any third party due to, or arising out of or in connection with, your breach of these terms and conditions, or your infringement of any rights of a third party, or the provision of any information to a third party.

### Governing Law

These terms and conditions are governed by the laws in force in the State of Victoria, Australia.

### Third Party Disclosure

Where the information obtained from the Register is provided to a third party, details of the above Terms and Conditions must also be provided.

### Areas of Cultural Heritage Sensitivity

You can find out more about 'areas of Aboriginal Cultural Heritage Sensitivity' including maps showing these areas, at

<https://www.vic.gov.au/aboriginalvictoria/heritage/planning-and-heritage-management-processes/planning-and-development-of-land.html>



**50 HOBBS ROAD, WYNDHAM VALE 3024**  
**Registered Aboriginal Heritage Places**

Place Number	Name	Component Number	Type
7822-2511	HOBBS 0932	7822-2511-1	Artefact Scatter
7822-2511	HOBBS 0932	7822-2511-2	Object Collection
7822-2512	HOBBS 0933	7822-2512-1	Artefact Scatter
7822-2512	HOBBS 0933	7822-2512-2	Object Collection
7822-2516	HOBBS 0937	7822-2516-1	Artefact Scatter
7822-2516	HOBBS 0937	7822-2516-2	Object Collection
7822-2517	HOBBS 0936	7822-2517-1	Artefact Scatter
7822-2517	HOBBS 0936	7822-2517-2	Object Collection
7822-2519	HOBBS 0944	7822-2519-1	Artefact Scatter
7822-2519	HOBBS 0944	7822-2519-2	Object Collection
7822-2520	HOBBS 0943	7822-2520-1	Artefact Scatter
7822-2520	HOBBS 0943	7822-2520-2	Object Collection
7822-2521	HOBBS 0949	7822-2521-1	Artefact Scatter
7822-2521	HOBBS 0949	7822-2521-2	Object Collection
7822-2522	HOBBS 0950	7822-2522-1	Artefact Scatter
7822-2522	HOBBS 0950	7822-2522-2	Object Collection
7822-2524	HOBBS 0952	7822-2524-1	Artefact Scatter
7822-2524	HOBBS 0952	7822-2524-2	Object Collection
7822-2525	HOBBS 0955	7822-2525-1	Artefact Scatter
7822-2525	HOBBS 0955	7822-2525-2	Object Collection
7822-2559	HOBBS 0946	7822-2559-1	Artefact Scatter
7822-2559	HOBBS 0946	7822-2559-2	Object Collection
7822-2560	HOBBS 0953	7822-2560-1	Artefact Scatter

**50 HOBBS ROAD, WYNDHAM VALE 3024**  
**Registered Aboriginal Heritage Places**

Place Number	Name	Component Number	Type
7822-2560	HOBBS 0953	7822-2560-2	Object Collection
7822-2561	HOBBS 0954	7822-2561-1	Artefact Scatter
7822-2561	HOBBS 0954	7822-2561-2	Object Collection
7822-2563	HOBBS 0958	7822-2563-1	Artefact Scatter
7822-2563	HOBBS 0958	7822-2563-2	Object Collection
7822-2564	HOBBS 0951	7822-2564-1	Artefact Scatter
7822-2564	HOBBS 0951	7822-2564-2	Object Collection
7822-2568	HOBBS 0942	7822-2568-1	Artefact Scatter
7822-2568	HOBBS 0942	7822-2568-2	Object Collection
7822-2569	HOBBS 0947	7822-2569-1	Artefact Scatter
7822-2569	HOBBS 0947	7822-2569-2	Object Collection
7822-2570	HOBBS 0948	7822-2570-1	Artefact Scatter
7822-2570	HOBBS 0948	7822-2570-2	Object Collection
7822-2769	Hobbs 0913	7822-2769-1	Artefact Scatter
7822-2770	Hobbs 0912	7822-2770-1	Artefact Scatter
7822-2771	Hobbs 0909	7822-2771-1	Artefact Scatter
7822-2771	Hobbs 0909	7822-2771-2	Object Collection
7822-2773	Hobbs 0911	7822-2773-1	Artefact Scatter
7822-2774	Hobbs 0910	7822-2774-1	Artefact Scatter
7822-2775	Hobbs 0908	7822-2775-1	Artefact Scatter
7822-2775	Hobbs 0908	7822-2775-2	Object Collection
7822-2776	Hobbs 0907	7822-2776-2	Artefact Scatter
7822-2776	Hobbs 0907	7822-2776-1	Scattered Tree

**50 HOBBS ROAD, WYNDHAM VALE 3024**  
**Registered Aboriginal Heritage Places**

Place Number	Name	Component Number	Type
7822-2777	Hobbs 0903	7822-2777-1	Artefact Scatter
7822-2777	Hobbs 0903	7822-2777-2	Object Collection
7822-2780	Hobbs 0917	7822-2780-1	Artefact Scatter
7822-2780	Hobbs 0917	7822-2780-2	Object Collection
7822-2781	Hobbs 0919	7822-2781-1	Artefact Scatter
7822-2781	Hobbs 0919	7822-2781-2	Object Collection
7822-3551	Wyndham Vale PSP 40 East LDAD	7822-3551-51	Low Density Artefact Distribution
7822-3927	145 Wollahra Rise, Wyndham Vale, AS 1	7822-3927-1	Artefact Scatter
7822-3927	145 Wollahra Rise, Wyndham Vale, AS 1	7822-3927-2	Object Collection

**Total Components** 55  
**Total Registered Places** 30

# Due diligence checklist

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

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

## Urban living

### Moving to the inner city?

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

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

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

## Growth areas

### Are you moving to a growth area?

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

## Flood and fire risk

### Does this property experience flooding or bushfire?

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

## Rural properties

### Moving to the country?

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

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

### Can you build new dwellings?

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

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

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

## Soil and groundwater contamination

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

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

(04/10/2016)

## **Land boundaries**

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

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

## **Planning controls**

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

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

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

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

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

## **Safety**

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

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

## **Building permits**

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

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

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

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

## **Utilities and essential services**

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

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

## **Buyers' rights**

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

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