



**MCP**  
LEGAL

## Contract of Sale of Real Estate

**Property:** 70 Plymouth Drive Rockbank Vic 3335 (formerly known as Thornhill Park)

**Vendor:** CDB PROPERTY HOLDINGS PTY LTD A.C.N. 642 179 208

**Purchaser:** \_\_\_\_\_

### IMPORTANT NOTICE TO PURCHASERS

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

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

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

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

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

- you bought the property at or within 3 clear business days **before or after** a publicly advertised auction;
- 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.

# Particulars of Sale

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

**Property address** 70 Plymouth Drive Rockbank Vic 3335 (formerly known as Thornhill Park)

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;
- Conditions, if any;
- Conditions; and
- the Vendor's Statement, required by Section 32(1) of the *Sale of Land Act 1962* being attached hereto and forms part of the terms of this contract.

in that order of priority.

## IMPORTANT NOTICE TO PURCHASERS

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- you and the Vendor have previously signed a contract for the sale of the same land in substantially the same terms; or
- you are an estate agent or a corporate body.



## Signing of This Contract

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

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

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

The authority of a person signing –

- under power of attorney; or
- as director of a corporation; or
- as agent authorised in writing by one of the parties –

must be noted beneath the signature.

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

**SIGNED BY THE PURCHASER ON:**

2023

SIGNED BY THE PURCHASER:	
Name (Print):	
Nature of Authority, if applicable:	

SIGNED BY THE PURCHASER:	
Name (Print):	
Nature of Authority, if applicable:	

***If executed under Power of Attorney, the Attorney declares by signing this Contract that it has received no notice of revocation of the power of attorney***

**THIS OFFER WILL LAPSE UNLESS ACCEPTED WITHIN 10 CLEAR BUSINESS DAYS.**

**SIGNED BY THE VENDOR ON:**

2023

SIGNED BY THE VENDOR:	
Name (Print):	<b>CDB PROPERTY HOLDINGS PTY LTD A.C.N. 642 179 208</b>
Nature of Authority, if applicable:	

SIGNED BY THE VENDOR:	
Name (Print):	
Nature of Authority, if applicable:	

***If executed under Power of Attorney, the Attorney declares by signing this Contract that it has received no notice of revocation of the power of attorney***

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

## Particulars of Sale

<b>Vendor's Estate Agent</b>	Name:		
	Address:		
	Agent:	Tel:	Fax:
	Mobile:	Email:	

<b>Vendor</b>	Name: <b>CDB PROPERTY HOLDINGS PTY LTD A.C.N. 642 179 208</b>
	Address:

<b>Vendor's Lawyer</b>	Name: MCP Legal	
	Address: Level 2,72 River Street, South Yarra, Vic, 3141	
	Email: a.artemiou@mcpgroup.com.au	Tel: +61 3 9620 2001
	Ref: AA:6047/23	Contact: Angela Artemiou

<b>Purchaser</b>	Name:
	Address:

<b>Purchaser's Lawyer</b>	Name:		
	Address:		
	Email:	Tel:	Fax:
	Ref:	DX:	

<b>Land</b> (Conditions 18 & 19)	Part of the land in Certificate of Title	Being Lot	on Registered Plan
	Volume	12373	Folio
	269	208	816954

OR

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

The land includes all improvements and fixtures.

**Property Address** **70 Plymouth Drive Rockbank Vic 3335 (formerly known as Thornhill Park)**

**Goods sold with the land**  
(Condition 13.1(f))

As per specifications attached.

**Payment**  
(Condition 28)

<b>Price</b>	\$
<b>Deposit</b>	\$
<b>Balance</b>	\$

Paid: \$  
Due: / / 2023  
Payable at the Settlement Date

**GST**  
(Condition 39)

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

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

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

**MARGIN SCHEME**

**Settlement Date**  
(Condition 2.3)

The **Settlement Date** is  or the day which is the latter of:

- (a) **14 days after written notice by the Vendor's Lawyer to the Purchaser of the issue of the Occupancy Permit**

**Lease**  
(Condition 14.3(b))

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 Condition 14.3(b).

**Terms contract**  
(Condition 33)

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 Condition 23 and add any further provisions by way of Conditions.

**Loan**  
(Condition 37)

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

**Lender:**

**Loan Amount:** \$ **Approval Date:** / / 2020

**Registration Period**

36 months from the Date of Sale

**Defects Period**

For a period of 30 days from the earlier of:

- issuing of the Certificate of Occupancy; or
- issuing of the Certificate of Final Inspection; or
- registration of the Final Plan.

**Deposit Bond**  
(Condition 31)

If the box is ticked and initialled, the parties have agreed that a deposit bond may be provided in lieu of cash deposit and Condition 31 applies

**Bank Guarantee**  
(Condition 32)

If the box is ticked and initialled, the parties have agreed that a bank guarantee may be provided in lieu of cash deposit and Condition 32 applies

**GST**  
(Condition 40)

If the box is ticked and initialled by the Vendor, Condition 40 applies

**FIRB**  
(Condition 17)

The Purchaser(s) declare(s) that they are an:

- 1. Australian Citizen  A
- 2. New Zealand Citizen  B
- 3. Australian Permanent Resident Visa Holder  C
- 4. Foreign Resident purchasing as joint tenant with Australian citizen spouse, New Zealand Spouse or Australian permanent spouse  D
- 5. Foreign Resident  E

(Condition 17.1)

- a) Not required to apply for FIRB (*please state below the reason why, as a Foreign Resident, you understand you are exempt from FIRB approval in this instance*)  E1

(Condition 17.2)

- b) Have already received FIRB Approval  E2

(Condition 17.3)

- c) Need to apply for FIRB  E3

**Reason for answer to E1:**

\_\_\_\_\_

**If Box 'E' is ticked above, please complete the following:**

**Purchaser(s) nationality**

\_\_\_\_\_

(Condition 17.3)

**If Box 'E3' is ticked above, this contract is subject to the Purchaser(s) obtaining FIRB approval in respect to the purchase of this property**

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# Contract Conditions

## Administrative Provisions

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### 1. Interpretation

In the interpretation of this Contract where the context permits:

- 1.1 The provisions of this Contract bind the Purchasers, if more than one, jointly and severally;
- 1.2 Headings are for document navigation only and do not affect interpretation;
- 1.3 Words importing or denoting:
  - (a) either gender shall be deemed to include the other gender and those persons identifying as neither gender;
  - (b) the neutral gender shall be deemed to include either gender and those persons identifying as neither gender;
  - (c) the singular number shall be deemed to include the plural and vice versa;
  - (d) natural persons include bodies corporate, partnerships, associations, firms, governments and governmental authorities and agencies and vice versa;
- 1.4 Where there are two or more Purchasers the agreements and obligations of the Purchaser hereunder shall bind them each jointly and severally;
- 1.5 a reference to a party includes its executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns;
- 1.6 where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- 1.7 a reference to a party, clause, paragraph, schedule or attachment is a reference to a party, clause, paragraph, schedule or attachment to, or of, this Contract;
- 1.8 a reference to this Contract includes all Conditions, Conditions, Vendor Statement (Section 32 Statement), Schedules or Attachments;
- 1.9 a reference to:
  - (a) currency in this Contract are references to Australian currency;
  - (b) a time is a reference to Australian Eastern Standard Time (or Australian Eastern Daylight Savings Time if applicable);
- 1.10 a reference to any legislation or to any provision of any legislation includes:
  - (a) any modification, re-enactment or replacement of the legislation; and
  - (b) all legislation, statutory instruments and regulations issued under the legislation or provision;
- 1.11 no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this Contract or any part of it;
- 1.12 the words "including", "for example", "such as" or other similar expressions (in any form) are not words of limitation; and
- 1.13 terms described in the Particulars of Sale have the same meanings when used in this Contract.
- 1.14 Any reference to 'registered proprietor' can be taken to mean 'owner' for any part of the land which is not under the operation of the Transfer of Land Act 1958.

### 2. Definitions

The following terms are defined as follows save and except of any inconsistency as to context or subject matter):

- 2.1 **ATO** means the Australian Taxation Office.
- 2.2 **Authority** means an authority having jurisdiction over the Property (including its occupation, use and development) including any government, statutory body or corporation or service provider.
- 2.3 **Bank Cheque** means a cheque drawn on a Bank.
- 2.4 **BA** means the *Building Act* 1993 (Vic)
- 2.5 **Business Day** means any day which is not a Saturday, Sunday or a public holiday in the State of Victoria.



- 2.6 **Claim** means any claim, notice, demand, action, proceeding, litigation, investigation or judgment, however it arises and whether it is present or future, fixed or unascertained, actual or contingent.
- 2.7 **Cost** means any cost, charge, expense, outgoing, payment, fee, liability or penalty of any kind, including legal and professional fees.
- 2.8 **Commissioner** means the Commissioner of Taxation for the time being of the ATO.
- 2.9 **Duties Act** means the *Duties Act 2000* (Vic).
- 2.10 **Duties** means any duty payable pursuant to the Duties Act;
- 2.11 **Digital Duties Form** means the electronic stamp duty declaration available on the State Revenue Office of Victoria's 'Duties Online' Website;
- 2.12 **Electronic Transmission** means the giving of a document by the Vendor to the Purchaser by:
- (a) transmitting the document by email; or
  - (b) transmitting, by email, notification that the document is given together with a hyperlink at which the document can be viewed and downloaded or the web address where the document can be viewed and downloaded.
- 2.13 **ECNL** means the Electronic Conveyancing National Law.
- 2.14 **Encumbrance** means any mortgage, lien, hypothecation, charge, security interest, bill of sale, caveat, pledge, claim, trust arrangement, preferential right, right of set-off, title retention or other form of encumbrance.
- 2.15 **FIRB Act** means the Foreign Acquisitions and Takeovers Act 1975 (Cth).
- 2.16 **FIRB Approval** means the approval of the Treasurer pursuant to the provisions of the FIRB Act.
- 2.17 **FIRB Regulations** means the Foreign Acquisitions and Takeovers Regulations 1989 (Cth).
- 2.18 **Government Agency** means:
- (a) a government or government department;
  - (b) a governmental, semi-governmental, regulatory or judicial entity or authority; or
  - (c) a person (whether autonomous or not) who is charged with the administration of a law.
- 2.19 **Guarantee** means a guarantee and indemnity in the form set out in Schedule A.
- 2.20 **GST** means goods and services tax and any penalties and interest thereon.
- 2.21 **GST Act** means the A New Tax System (Goods and Services Tax) Act 1999 (Cth).
- 2.22 **Law** means any law whether that law arises under statute or common law or pursuant to any act, statutory instrument, regulation, order, ordinance, rule, by-law, proclamation, control, permit, approval, authorisation, consent, or licence, notice or directive of any Authority or otherwise and includes any law relating to or affecting the Property or its occupation, use or development.
- 2.23 **Loss** means any loss, damage (including death or injury) or Cost of any kind.
- 2.24 **NTSA** means A New Tax System (Goods and Services Tax) Act 1999 (Cth)
- 2.25 **Outgoings** means all outgoings and operating expenses relating to the Property including rates, taxes, assessments, land tax and levies including Owners Corporation fees and levies.
- 2.26 **Particulars of Sale** means the Particulars of Sale to which these Conditions are attached.
- 2.27 **Payment Direction** means a direction in writing to the Purchaser's Representative from the Vendor's Representative:
- (a) In respect to a PEXA transaction, confirming Source Funds and Destination Line Items required for Settlement on a PEXA Workspace; or
  - (b) In respect to paper transaction, confirming the bank cheques to be provided by the Purchaser at Settlement.
- 2.28 **PEXA** means the electronic conveyancing system operated by Property Exchange Australia Ltd its successors or assigns and/or any other electronic conveyancing system agreed by the parties for use in this transaction.
- 2.29 **PEXA Workspace** means the transactional workspace created in respect to a particular transaction in PEXA.
- 2.30 **Provider** means the Government Agency or corporation which supplies any Services.
- 2.31 **Purchaser's Representative** means the Australian Legal Practitioner or conveyancer appointed by the Purchaser for the purposes conducting all legal aspects of Settlement, including the performance of the Purchaser's obligations under this Contract.

- 2.32 **Purchaser's Agent** refers to an agent appointed by the Purchaser under specific authority and does not include the selling agent or real estate agent appointed in respect to the sale of the Property.
- 2.33 **Revenue Ruling** means State Revenue Office Revenue Ruling DA.048 in respect to duty concession for off the plan sales (land and building packages and refurbishments).
- 2.34 **Settlement means** the date upon which possession of the Property is provided, title is accepted and the Price is paid.
- 2.35 **Settlement Date** means the due date for Settlement detailed in the Particulars of Sale.
- 2.36 **Service Fees** means any fee, contribution, charge or expense paid to or payable to a Provider for the supply, connection, work, installation, infrastructure to enable, connect or transfer any Services to the Land.
- 2.37 **Services** means all services specified in the Section 32 Statement and all services of any nature from time to time provided to the Land or made available for use by the Purchaser at the Land including any electricity, gas, lighting, fuel, electricity, telephone, Internet, or other communications, pay TV, NBN service, smoke detector, water, sewerage, ventilation, drainage, air conditioning, water disposal or hydraulic services.
- 2.38 **SLA** means the Sale of Land Act 1962 (Vic).
- 2.39 **Spouse** means a spouse within the meaning of the *Foreign Acquisitions and Takeovers Act 1975* (Cth), *Income Tax Assessment Act 1997* (Cth), associated regulations and guidance notes issued by the Foreign Investment Review Board from time to time.
- 2.40 **TAA** means the *Tax Administration Act 1953* (Cth)
- 2.41 **TLA** means the *Transfer of Land Act 1958* (Vic)
- 2.42 **Transfer** means such registrable instrument or instruments of transfer of the Land as will enable the Purchaser to become registered as proprietor of the Land.
- 2.43 **Treasurer** means the Treasurer of the Commonwealth of Australia.
- 2.44 **Vendor's Representative** means the Australian Legal Practitioner or conveyancer appointed by the Vendor for the purposes conducting all legal aspects of Settlement, including the performance of the Vendor's obligations under this Contract.
- 2.45 **Vendor Statement** means a statement in accordance with Section 32 of the SLA which is attached to, and forms part of, this Contract.
- 2.46 **Vendor's Agent** refers to an agent appointed by the Vendor under specific authority and does not include the selling agent or real estate agent appointed in respect to the sale of the Property.

### 3. Time

- 3.1 Time is of the essence of this contract.
- 3.2 Time is extended until the next business day if the time for performing any action falls on a Saturday, Sunday or bank holiday.
- 3.3 Time is extended to the second business day after the Vendor's representative's office reopens after any Christmas and New Year closure period as advised by the Vendor's representative in writing.

### 4. Whole Agreement

- 4.4 This Contract sets out all the terms and Conditions of this sale and any promise, Condition, representation or warranty which may have been made by the Vendor or by any person on behalf of the Vendor not contained in this Contract is expressly negated and withdrawn.
- 4.5 The Purchaser acknowledges that there is no other contract, agreement and collateral warranty subsisting at the time of signing this Contract which related to the property.
- 4.6 This Condition shall operate for the benefit of the Vendor and the Vendor's estate agent and their respective employees, agents and contractors.

### 5. Service

- 5.1 Any document required to be served by or on any party may be served by or on the legal practitioner or conveyancer for that party.
- 5.2 A document being a cooling off notice under Section 31 of the SLA or a notice under Condition 37.2 (ending the contract if the loan is not approved) may be served on the Vendor's legal practitioner, conveyancer or estate agent even if the estate agent's authority has formally expired at the time of service.
- 5.3 A document is sufficiently served:
- (a) personally, or
  - (b) by pre-paid post, or

(c) in a manner authorised by law or by the Supreme Court for service of documents, including any manner authorised for service on or by a legal practitioner, whether or not the person serving or receiving the document is a legal practitioner, or

(d) by email.

5.4 Any document properly sent by:

(a) express post is taken to have been served on the next business day after posting, unless proved otherwise;

(b) priority post is taken to have been served on the fourth business day after posting, unless proved otherwise;

(c) regular post is taken to have been served on the sixth business day after posting, unless proved otherwise

(d) email is taken to have been served at the time of receipt within the meaning of Section 13A of the *Electronic Transactions (Victoria) Act 2000*.

5.5 The expression 'document' includes 'demand' and 'notice', and 'service' includes 'give' in this contract.

## 6. Notices

6.1 The Vendor is responsible for any notice, order, demand or levy imposing liability on the property that is issued or made before the day of sale and does not relate to periodic outgoings.

6.2 The Purchaser is responsible for any notice, order, demand or levy imposing liability on the property that is issued or made on or after the day of sale and does not relate to periodic outgoings.

6.3 The Purchaser may enter the property to comply with that responsibility where action is required before Settlement.

## 7. Severability

If any part of this Contract is void, unenforceable or illegal then that part must be read down so as to give it as much effect as possible and if this cannot be achieved, then it must be severed from this Contract and all parts which are not void, unenforceable or illegal remain in full force and effect.

## 8. Further assurance

Each party must do or cause to be done all things necessary or reasonably desirable to give full effect to this Contract and the transactions contemplated by it (including, but not limited to, the execution of documents).

## 9. Counterparts

This Contract may be executed in any number of counterparts and all counterparts taken together will constitute one instrument.

## 10. Non-Merger

Any part of this Contract that remains to be performed or is capable of having effect after the Settlement Date will not merge on transfer of the property but will continue to have full force and effect until such time as effect is given to that part.

## 11. Reference to Statutes

In this Contract a reference to a statute, ordinance, code or other law includes any regulations and other instruments made under it and any consolidations, amendments, re-enactments or equivalent provision in any replacement of any of them occurring at any time before or after the date of this Contract.

## 12. Governing Law

This Contract is governed by the laws of the State of Victoria.

## Warranties and Acknowledgements

---

### 13. Vendor Warranties

13.1 The Vendor warrants that the Vendor:

(a) has, or by the Settlement Date 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 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.
- 13.2 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.
- 13.3 The warranties in Conditions 13.1 and 13.2 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 SLA in accordance with Division 2 of Part II of that Act.
- 13.4 If Sections 137B and 137C of the BA 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 BA and regulations made under the Building Act 1993.
- 13.5 Words and phrases used in Condition 13.4 which are defined in the BA have the same meaning in Condition 13.4.
- 13.6 These warranties replace the Purchaser's right to make requisitions and inquiries.

## 14. Purchaser Acknowledgements and Warranties

- 14.1 The Purchaser acknowledges that they are purchasing the property as a result of their own enquiries and inspection and not relying upon any representation made by the Vendor or any other person on the Vendor's behalf:
- (a) In its present Condition and state of repair;
  - (b) Subject to all defects latent and patent;
  - (c) Subject to any infestations and dilapidation;
  - (d) Subject to all existing water, sewerage, drainage and plumbing services and connections in respect of the property; and
  - (e) Subject to any potential or actual non-compliance, that is disclosed herein or in the Vendor Statement attached hereto, with the Local Government Act or any Ordinance under that Act in respect of any building or structure on the land.
- 14.2 The Purchaser agrees not to seek to terminate rescind or make any objection requisition or claim for compensation arising out of any of the matters covered by this clause.
- 14.3 The Purchaser acknowledges that they are purchasing the property subject to:
- (a) any encumbrance included in the Vendor Statement attached hereto other than mortgage and caveats and any reservation in the crown grant.
  - (b) Any lease referred to in the Particulars of Sale and in respect to such lease the Purchaser indemnifies the Vendor against all obligations as landlord under any such lease after Settlement.
- 14.4 The Purchaser acknowledges that any signatory for a proprietary limited company Purchaser is personally liable for the due performance of the Purchaser's obligations as if the signatory were the Purchaser in the case of a default by a proprietary limited company Purchaser.

- 14.5 The Purchaser acknowledges having received from the Vendor or their legal representative prior to the execution of this Contract or any preliminary contract or contract note or any other document relating to this sale which is or is intended to be legally binding, or payment of any deposit or other money:
- (a) a copy of this Contract pursuant to Section 53 of the Estate Agents Act 1980; and
  - (b) a statement required by Section 32(1) of the SLA.

## 15. Purchaser Authority and Capacity

15.1 The Purchaser warrants that:

- (a) it has full legal capacity and power to enter into this Contract of Sale and perform its obligations hereunder;
- (b) is legally allowed to own property;
- (c) no representation, warranty or other information provided by the Purchaser contains any untrue statement of material fact or omits to state a material fact necessary to ensure that the representation, warranty or information is not misleading;
- (d) If entering into this Contract as the trustee of a trust or Settlement, the Purchaser further warrants that:
  - (i) the trust is legally constituted and no action has been taken or proposed to terminate the trust; and
  - (ii) it has full legal capacity and power under the trust deed, agreement, undertaking or instrument in respect to the trust or its assets, to enter into and perform its obligations under this Contract; and
  - (iii) is doing so as part of the proper administration of the trust.
- (e) no litigation, arbitration, mediation, conciliation, criminal or administrative proceedings are current, pending or (to its knowledge after due inquiry) threatened which, if adversely determined, could have a material adverse effect on its ability to perform its obligations under this Contract.

## 16. Transfer, Licence or Agreement

The Purchaser acknowledges that they are responsible for cost of preparation of any consent or licence required pursuant to Condition 21.1.

## 17. Foreign Investment Review Board Act

17.1 If the Purchaser has ticked any box "A", "B", "C", "D" or "E1" on the Particulars of Sale:

- (a) The Purchaser warrants that FIRB Approval is not required for its purchase of the Property from the Vendor;
- (b) The Purchaser acknowledges that the Vendor is relying on the Purchaser's warranty contained in Condition 17.1;
- (c) The Purchaser indemnifies the Vendor against all Claims and Loss which the Vendor may incur or may become liable for (including any consequential loss which the Vendor may incur or may become liable for) as a consequence of the Vendor having relied upon the Purchaser's warranty when entering into this Contract;
- (d) If this Contract does not proceed to Settlement as a consequence of the Purchaser's breach of the warranty contained in Condition 17.1 the Deposit paid by the Purchaser will be forfeited to the Vendor.

17.2 If the Purchaser has ticked box "E2" in the Particulars of Sale:

- (a) The Purchaser warrants that FIRB Approval is required for its purchase of the Property from the Vendor and it has obtained that approval; and
- (b) The Purchaser must provide a copy of the FIRB approval to the Vendor upon executing this Contract.

17.3 If the Purchaser has ticked box "E3" in the Particulars of Sale:

- (a) the Purchaser must:
  - (i) within 5 Business Days after the Day of Sale apply for FIRB Approval for its purchase of the Property from the Vendor if it has not already done so;
  - (ii) use its best endeavours to obtain that FIRB Approval as soon as possible; and
  - (iii) provide to the Vendor within 2 Business Days of receipt or despatch a copy of:
    - (A) the application for the FIRB Approval and all communications received from the Treasurer in respect to the application; and

- (B) either:
  - (I) the order from the Treasurer prohibiting the acquisition of the Property by the Purchaser; or
  - (II) advice in writing that the Treasurer has no objection to the acquisition of the Property by the Purchaser;
- (b) If no objection is received from the Treasurer in respect to the Purchaser's acquisition of the Property within 30 days of the date hereof, the Vendor may terminate this Contract by written notice to the Purchaser.
- (c) If this Contract is terminated pursuant to Condition 17.3(b), the Deposit is to be refunded in full to the Purchaser.

## The Land

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### 18. General Law Land

- 18.1 This Condition only applies if any part of the land is not under the operation of the TLA.
- 18.2 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.
- 18.3 The Purchaser is entitled to inspect the Vendor's chain of title on request at such place in Victoria as the Vendor nominates.
- 18.4 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.
- 18.5 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.
- 18.6 If the contract ends in accordance with Condition 18.5, the deposit must be returned to the Purchaser and neither party has a claim against the other in damages.

### 19. Identity of the Land

- 19.1 The Purchaser admits that:
  - (a) the Property as inspected by it is identical with the Property described in the title particulars contained in the Particulars of Sale;
  - (b) any structure, fence, wall or improvement is located on or inside the title boundary to the Land;
  - (c) improvements located on adjoining properties do not encroach on to the Land; and
  - (d) any improvements on the Land comply with all Laws.
- 19.2 The Purchaser may not make any objection or claim for compensation for any deficiency in the area, description or measurements of the land nor can the Purchaser require the Vendor to amend title nor make any reparation of costs for any such amendment.
- 19.3 Any deficiency under Condition 19.2 will not invalidate the sale.

### 20. Land and Use

- 20.1 The Land is sold subject to all Laws affecting the Land, its use and development.
- 20.2 No Law constitutes a defect in the Vendor's title or affects the validity of this Contract.
- 20.3 The Purchaser:
  - (a) is responsible for remedying, at its own cost, any failure of the Land to comply on the Day of Sale with any Laws affecting the Land; and
  - (b) indemnifies the Vendor in respect of all Claims and Loss which the Vendor may incur or may become liable for as a result of the Purchaser's failure to remedy any such failure.

## 21. Connection/Service Fees

- 21.1 The Purchaser acknowledges that:
- (a) the Services may not be connected to the Property at Settlement;
  - (b) at settlement and in addition to the Balance of the Price, the Purchaser will be responsible to reimburse the Vendor at settlement for any charge or expense paid to or payable to a Provider for the supply, connection work, installation, infrastructure to enable, connect or transfer any services to the land.
- 21.2 The Purchaser acknowledges that the Vendor has made no representation as to the quantum of Service/Connection Fees, availability or adequacy of the Services for the Purchaser's proposed use of the Land and the Purchaser must rely on their own appropriate inquiries as to the quantum of Service Fees, availability or adequacy of Services and will not make any claim against the Vendor in respect to same.
- 21.3 The condition of the available or connected 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.
- 21.4 The Vendor at its absolute discretion may arrange for the connection of any or all Services to the Land and the Purchaser will not make any claim against the Vendor should the Services not be connected to the Property at settlement.
- 21.5 Any Service Fee paid or to be paid by the Vendor to a Provider must be paid to the Vendor in full by the Purchaser at Settlement and the Purchaser must not make any claim, requisition or inquiry, delay or refuse settlement, retain, withhold or require any adjustment of money and/or issue proceedings, injunctive or otherwise because of any matters contemplated by this Special Condition **Error! Reference source not found.**
- 21.6 This special condition will continue for the benefit of the Vendor and will not merge with the transfer of the property.

## 22. Encumbrances and Licences

- 22.1 The Property is sold subject to all easements, covenants, leases/licences, encumbrances, appurtenant easements and encumbrances and restrictions (if any) contained in the Contract.
- 22.2 The Purchaser acknowledges that:
- (a) sewers, drains or other services may be laid outside registered easements; and
  - (b) the Property may be subject to unregistered easements in relation to pipes, connections or structures of service supply authorities or others which may not have been disclosed to the Vendor and which may not be apparent from inspection of the Property.
- 22.3 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 the Settlement Date.

## 23. Planning

- 23.1 The Purchaser buys subject to any restrictions imposed by the provisions of any applicable town planning legislation, orders, plans, schemes, overlays, local government by-laws or other enactments by any Government Agency empowered to make restrictions.
- 23.2 Any such restriction shall not constitute a defect in the Vendor's title.
- 23.3 Any warranties or representations with respect to the use of the said land or any part thereof are hereby expressly excluded and negated.

## 24. Condition of property

The Purchaser acknowledges that subject to Conditions 58 to 64 inclusive:

- 24.1 The property and the chattels are purchased in the existing condition;
- 24.2 The Vendor makes no representation or warranties as to any plans, designs or specifications that may exist in relation to the constructions of any building in or on the property or to the condition of any building on the property.
- 24.3 They have purchased the property as a result of their own inspections and enquiries and accept the land sold (including improvements thereon) in its present state of repair and condition.
- 24.4 They shall not be entitled to make any objections, requisitions or Claim in respect of the condition or state of repair of the land and improvements, of any defect (whether latent or patent) or the location of any structure or improvement over any sewer drain or other property service (whether or not any required approval consent was obtained or Condition complied with) or of any non-compliance with the provisions of legislation or regulations relating to such improvements.



- 24.5 The Purchaser acknowledges that they 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 Date.

## 25. No Requisitions

- 25.1 The Purchaser shall not make any requisitions or objections on or to title concerning any matter the subject of this Contract.
- 25.2 The Vendor provides to the Purchaser the various warranties regarding the property as are set out in the Vendor Statement attached hereto.
- 25.3 The Purchaser indemnifies the Vendor and must not:
- (a) make any requisition, objection or Claim;
  - (b) ask the Vendor to take any action or incur any Cost; or
  - (c) delay Settlement, or rescind or terminate this Contract;
  - (d) due to any matter or any failure of the Property to comply in any respect with any matter referred to in Conditions 14.1, 0, 23, 24, 26 and 27.

## 26. Loss or Damage before Settlement

- 26.1 The Vendor carries the risk of loss or damage to the property until Settlement.
- 26.2 Except for fair wear and tear, the Vendor must deliver the property to the Purchaser in the same Condition it was in as at the date of sale and the Purchaser cannot delay Settlement because of any deficiency in the Condition of the property or the chattels therein.
- 26.3 The Purchaser nominate an amount not exceeding \$5,000 to be held by the Vendor's representative and the parties hereto agree that each party must pay half of the nominated amount into the Vendor's representative's trust account to be held until such time a determination of the Purchaser's claim is made.

## 27. Rights of entry

The rights of entry under Condition 6.3 must be exercised at reasonable times and with the Vendor's prior written approval.

## Financial

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## 28. Payment

- 28.1 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.
- 28.2 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
- 28.3 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.
- 28.4 Payments may be made or tendered:
- (a) by electronic funds transfer to a recipient having the appropriate facilities for receipt; or
  - (b) up to \$1,000 in cash; or
  - (c) by cheque drawn on an authorised deposit taking institution; or
- 28.5 However, unless otherwise agreed:
- (a) payment may not be made by credit card, debit card or any other financial transfer system that allows for any chargeback or funds reversal other than for fraud or mistaken payment, and
  - (b) any financial transfer or similar fees or deductions from the funds transferred, other than any fees charged by the recipient's authorised deposit-taking institution, must be paid by the remitter.



- (i) At Settlement, the Purchaser must pay the fees on up to three cheques drawn on an authorised deposit taking institution. If the Vendor requests that any additional cheques be drawn on an authorised deposit-taking institution, the Vendor must reimburse the Purchaser for the fees incurred.
  - (ii) Payment by electronic funds transfer is made when cleared funds are received in the recipient's bank account.
  - (iii) Before the funds are electronically transferred the intended recipient must be notified in writing and given sufficient particulars to readily identify the relevant transaction.
  - (iv) As soon as the funds have been electronically transferred the intended recipient must be provided with the relevant transaction number or reference details.
- 28.6 Each party must do everything reasonably necessary to assist the other party to trace and identify the recipient of any missing or mistaken payment and to recover the missing or mistaken payment.
- 28.7 For the purpose of this Condition 'authorised deposit-taking institution' means a body corporate for which an authority under Section 9(3) of the Banking Act 1959 (Cth) is in force.

## 29. Deposit – Release

- 29.1 Despite anything else in this Contract the Deposit is to be held on trust for the Purchaser until:
- (a) Settlement; or
  - (b) Rescission or lawful termination of this Contract by either party; or
  - (c) Release of the Deposit pursuant to Section 27 of the SLA in which case the deposit must be released to the Vendor if:
    - (i) the Vendor provides particulars, to the satisfaction of the Purchaser, that either:
      - (A) there are no debts secured against the property; or
      - (B) if there are any debts, the total amount of those debts does not exceed 80% of the sale price; and
    - (ii) at least 28 days have elapsed since the particulars were given to the Purchaser under paragraph (a); and
    - (iii) all Conditions of Section 27 of the SLA have been satisfied.
- 29.2 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.
- 29.3 The stakeholder may pay the deposit and any interest into Court if it is reasonable to do so.
- 29.4 If the Purchaser does not pay the Deposit when due under this Contract, the Vendor may terminate this Contract and is entitled to recover the Deposit from the Purchaser as a liquidated debt.

## 30. Acceptance of title

Where the Purchaser is deemed by Section 27(7) of the SLA 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.

## 31. Deposit bond

- 31.1 This Condition applies if the box marked Deposit Bond is ticked and initialled by all parties in the Particulars of Sale hereto.
- 31.2 In this Condition:
- (a) "deposit bond" means an irrevocable undertaking by an insurer in a form satisfactory to the Vendor to pay on demand an amount equal to the deposit or any unpaid part of the deposit. The deposit bond must have an expiry date at least 30 days after the agreed date for Settlement.
  - (b) "issuer" means an entity regulated by the Australian Prudential Regulatory Authority or the Reserve Bank of New Zealand;
- 31.3 The Purchaser may deliver a deposit bond to the Vendor's estate agent, legal practitioner or conveyancer within 7 days after the day of sale.
- 31.4 The Purchaser may at least 30 days before a current deposit bond expires deliver a replacement deposit bond on the same terms and Conditions.
- 31.5 Where a deposit bond is delivered, the Purchaser must pay the deposit to the Vendor's legal practitioner or conveyancer on the first to occur of:
- (a) Settlement;

- (b) the date that is 30 days before the deposit bond expires;
  - (c) the date on which this contract ends in accordance with Condition 51.2 following breach by the Purchaser; and
  - (d) the date on which the Vendor ends this contract by accepting repudiation of it by the Purchaser.
- 31.6 The Vendor may claim on the deposit bond without prior notice if the Purchaser defaults under this contract or repudiates this contract and the contract is ended. The amount paid by the issuer satisfies the obligations of the Purchaser under Condition 31.5 to the extent of the payment.
- 31.7 Nothing in this Condition limits the rights of the Vendor if the Purchaser defaults under this contract or repudiates this contract, except as provided in Condition 31.6.
- 31.8 This Condition is subject to Condition 28.2.

## 32. Bank guarantee

This Condition applies if the box marked Bank Guarantee is ticked and initialled by all parties in the Particulars of Sale hereto.

- 32.1 In this Condition:
- (a) "bank guarantee" means an unconditional and irrevocable guarantee or undertaking by a bank in a form satisfactory to the Vendor to pay on demand under this contract agreed in writing, and
  - (b) "bank" means an authorised deposit-taking institution under the Banking Act 1959 (*Cth*).
- 32.2 The Purchaser may deliver a bank guarantee to the Vendor's legal practitioner or conveyancer.
- 32.3 The Purchaser must pay the amount secured by the bank guarantee to the Vendor's legal practitioner or conveyancer on the first to occur of:
- (a) Settlement;
  - (b) the date that is 30 days before the bank guarantee expires;
  - (c) the date on which this contract ends in accordance with Condition 51.2 following breach by the Purchaser; and
  - (d) the date on which the Vendor ends this contract by accepting repudiation of it by the Purchaser.
- 32.4 The Vendor must return the bank guarantee document to the Purchaser when the Purchaser pays the amount secured by the bank guarantee in accordance with Condition 32.3.
- 32.5 The Vendor may claim on the bank guarantee without prior notice if the Purchaser defaults under this contract or repudiates this contract and the contract is ended. The amount paid by the bank satisfies the obligations of the Purchaser under Condition 32.3 to the extent of the payment.
- 32.6 Nothing in this Condition limits the rights of the Vendor if the Purchaser defaults under this contract or repudiates this contract, except as provided in Condition 32.5.

## 33. Terms Contract

- 33.1 If this is a 'terms contract' as defined in the SLA:
- (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 SLA; 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.
- 33.2 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.

### 34. Release of Security Interest

- 34.1 This Condition applies if any part of the property is subject to a security interest to which the *Personal Property Securities Act 2009* (Cth) applies.
- 34.2 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 Condition 34.4, 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.
- 34.3 If the Purchaser is given the details of the Vendor's date of birth under Condition 34.2, the Purchaser must
- (a) only use the Vendor's date of birth for the purposes specified in Condition 34.2; and
  - (b) keep the date of birth of the Vendor secure and confidential.
- 34.4 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.
- 34.5 Subject to Condition 34.6, 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 predominately 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.
- 34.6 The Vendor is obliged to ensure that the Purchaser receives a release, statement, approval or correction in respect of personal property described in Condition 34.5 if –
- (a) the personal property is of a kind that may be described by a 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.
- 34.7 A release for the purposes of Condition 34.4(a) must be in writing.
- 34.8 A release for the purposes of Condition 34.4(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.
- 34.9 If the Purchaser receives a release under Condition 34.4(a) the Purchaser must provide the Vendor with a copy of the release at or as soon as practicable after Settlement.
- 34.10 In addition to ensuring a release is received under Condition 34.4(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.
- 34.11 The Purchaser must advise the Vendor of any security interest that is registered on or before the day of sale on the Personal Property Securities Register, which the Purchaser reasonably requires to be released, at least 21 days before the due date for Settlement.

- 34.12 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 Condition 34.11.
- 34.13 If Settlement is delayed under Condition 34.12, 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.
- 34.14 The Vendor is not required to ensure that the Purchaser receives a release in respect of the land. This Condition 34.14 applies despite Condition 34.1.
- 34.15 Words and phrases which are defined in the *Personal Property Securities Act 2009* (Cth) have the same meaning in Condition 34 unless the context requires otherwise.

### 35. Outgoings

- 35.1 The Vendor is responsible for all Outgoings required to be paid by the Vendor in relation to the Property up to, and including, the Settlement Date. The Purchaser must pay all Outgoings required to be paid after Settlement.
- 35.2 The Vendor is not required to pay Outgoings for the property at the Settlement Date if at that date the Property is not separately rated but the Vendor undertakes to pay the Outgoings when they become due and payable in respect to the whole unsubdivided land.
- 35.3 Outgoings must be apportioned and adjusted at Settlement in accordance with the provisions of this Condition 35 as follows:
- (a) An apportionment must be made in respect of the period to which the amount relates (e.g. quarterly adjusted quarterly or yearly adjusted yearly). Land Tax is to be adjusted on a proportional basis.
  - (b) An Outgoing must be apportioned between the Vendor and the Purchaser on Settlement on the basis that the relevant Outgoing has been paid by the Vendor for the whole of the current period for which the assessment relates irrespective of whether it has actually been paid.
  - (c) Any personal statutory benefit available to any party must be disregarded when calculating an apportionment.
  - (d) If at Settlement an **Outgoing has been assessed** on the Property but is not due for payment;
    - (i) the Purchaser is not entitled to deduct from or delay the payment of any part of the Price on the basis that such Outgoing has not been paid; and
    - (ii) the Vendor may elect to, subject to any adjustment payable by the Purchaser, either attend to the payment of the Outgoing within the time provided in the assessment notice or at Settlement.
  - (e) If any **Outgoing is not separately assessed** by the relevant Government Agency:
    - (i) the amount to be apportioned between the Vendor and the Purchaser will be apportioned in the same proportion as the lot liability of the Property bears to the total lot liability of all Lots on the Final Plan;
    - (ii) the Vendor will, subject to any adjustment payable by the Purchaser and to any rights of appeal which the Vendor may have to the relevant Government Agency, attend to the payment of the Outgoing when notice of assessment has been received by the Vendor by the due date provided in the assessment notice;
    - (iii) the Vendor may, at its option, require the Purchaser to adjust at Settlement an amount which the Vendor, acting reasonably, considers to be an appropriate estimate of the unassessed Outgoing for the relevant period. As soon as possible after the assessment of the Outgoing the parties must make any necessary re-adjustment between themselves; and
    - (iv) the Purchaser is not entitled to deduct from, or delay the payment of, any part of the Price on the basis that an Outgoing has not been assessed at Settlement.

### 36. Adjustments

- 36.1 Subject to Condition 35, the Purchaser's Lawyer must make the apportionments required by this Contract and must deliver a statement of adjustments to the Vendor's Lawyer no later than 3 business days prior to Settlement (**the Statement of Adjustments**).
- 36.2 If the Purchaser, or its Lawyer, does not comply with Condition 36.1 then:

- (a) the Vendor may settle this Contract at any time on or between the Settlement Date and 10 Business Days from the latter date on which it receives the Statement of Adjustments or Transfer of Land (if applicable) pursuant to Condition 55.1; and
  - (b) the Purchaser is deemed to have defaulted in payment of the balance of the Price and must pay interest on this amount pursuant to Condition 48 from the Settlement Date until the expiry of the period of 10 Business Days from latter delivery of the Statement of Adjustments or Transfer of Land.
- 36.3 In addition to the requirements under Condition 35 and Condition 36.1 the Statement of Adjustments must:
- (a) include contributions, if any, demanded by the body corporate;
  - (b) any amounts paid by the Vendor to or on behalf of the body corporate in respect of insurance premiums;
  - (c) any licence fee payable pursuant to Condition 53; and
  - (d) The Purchaser must provide copies of all certificates and other information used to calculate the adjustments under Condition 14.5(b), if requested by the Vendor.
- 36.4 For the purposes of clarification, the definition of 'certificates' in Condition 36.3(d) shall be taken to mean certificates obtained by the Purchaser or the Purchaser's representative which are dated not more than two months prior to the date upon which the adjustments were prepared and specifically excludes copies of certificates included in the Vendor Statement attached hereto.
- 36.5 In the event that the lot or lots hereby sold are not separately assessed in respect of any rates, taxes, assessments, fire insurance premiums or other outgoings then for the purpose of apportionment the lot sold shall be liable to that proportion of any such rates, taxes, assessments, fire insurance premiums and other outgoings levied or assessed against the parcel as a whole which the lot liability of such lot bears to the total liability of all lots contained in the plan of subdivision.

## Conditional Provisions (as applicable)

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### 37. Loan

- 37.1 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.
- 37.2 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.
- 37.3 All money must be immediately refunded to the Purchaser if the contract is ended.

## Stamp Duty and Tax

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### 38. Stamp Duty

- 38.1 If there is more than one Purchaser it is the Purchasers' responsibility to ensure the contract correctly records at the date of sale the proportions in which they are buying the property (the Proportions);
- 38.2 If the Proportions recorded in the Transfer of Land differ from those recorded in the contract, it is the Purchasers' responsibility to pay any additional duty which may be assessed as a result of the variation;
- 38.3 The Purchasers indemnify the Vendor, the Vendor's agent and the Vendor's Representative against any claim or demand which may be made against any or all of them in relation to any additional duty payable as a result of the proportions in the Transfer of Land differing from that shown herein; and
- 38.4 This Condition will not merge upon completion.

### 39. GST

- 39.1 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.
- 39.2 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'.
- 39.3 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.
- 39.4 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.
- 39.5 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.
- 39.6 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.
- 39.7 This Condition will not merge on either Settlement or registration.

#### 40. GST Withholding

- 40.1 Words and expressions defined or used in Subdivision 14-E of Schedule 1 to the TAA or in NTSA have the same meaning in this Condition unless the context requires otherwise.
- 40.2 This Condition 40 applies if the Purchaser is required to pay the Commissioner an amount in accordance with Section 14-250 of Schedule 1 to the TAA because the property is:
- (a) new residential premises; or
  - (b) potential residential land
- in either case falling within the parameters of that Section and also if the sale attracts the operation of Section 14-255 of the TAA or NTSA. Nothing in this Condition 40.2 is to be taken as relieving the Vendor from compliance with Section 14-255.
- 40.3 The amount is to be deducted from the Vendor's entitlement to the contract consideration and is then taken to be paid to the Commissioner, whether or not the Vendor provides the Purchaser with a GST withholding notice in accordance with Section 14-255 of Schedule 1 to the TAA. The Vendor must pay to the Purchaser at Settlement such part of the amount as is represented by non-monetary consideration.
- 40.4 The Vendor must provide to the Purchaser a GST Withholding Notice as required under Section 14-255 of Schedule 1 of the TAA no later than 14 days prior to Settlement.
- 40.5 Should the Purchaser be required to withhold GST at Settlement, the Purchaser must acquire a reference number from the ATO and this reference number must accompany any payment of GST to the ATO.
- 40.6 The representative is taken to have complied with the requirements of Condition 40.3 if:
- (a) Settlement is conducted through PEXA or any other electronic conveyancing system agreed by the parties; and
  - (b) the amount is included in the Settlement statement requiring payment to the Commissioner in respect of this transaction.
- 40.7 The Purchaser may at Settlement give the Vendor a bank cheque for the amount in accordance with Section 16-30 (3) of Schedule 1 to the TAA, but only if:
- (a) so agreed by the Vendor in writing; and
  - (b) the Settlement is not conducted through PEXA or any other electronic conveyancing system agreed by the parties.
- 40.8 However, if the Purchaser gives the bank cheque in accordance with this Condition 40.7, the Vendor must immediately after Settlement:
- (a) provide the bank cheque to the Commissioner to pay the amount in relation to the supply; and



- (b) give the Purchaser a receipt for the bank cheque which identifies the transaction and includes particulars of the bank cheque, at the same time the Purchaser gives the Vendor the bank cheque.
- 40.9 In accordance with Section 14-250 of Schedule 1 of the TAA, each party must provide the other party with such information as the other party requires to:
- (a) decide if an amount is required;
  - (b) determine the amount to be paid; or
  - (c) in order to comply with the Purchaser's obligation to pay the amount,
- within 5 business days of a written request for such information and the party providing the information warrants that it is true and correct.
- 40.10 The Vendor warrants that at Settlement:
- (a) the property is not new residential premises or potential residential land in either case falling within the parameters of Section 14-250 of Schedule 1 to the TAA if the Vendor gives the Purchaser a written notice under Section 14-255 to the effect that the Purchaser will not be required to make a payment under Section 14-250 in respect of the supply, or fails to give a written notice as required by and within the time specified in Section 14-255; and
  - (b) the amount described in a written notice given by the Vendor to the Purchaser under Section 14-255 of Schedule 1 to the TAA is the correct amount required to be paid under Section 14-250 of the legislation.
- 40.11 The Purchaser is responsible for any penalties or interest payable to the Commissioner on account of non-payment or late payment of the amount, except to the extent that:
- (a) the penalties or interest arise from the Vendor's failure, including breach of a warranty in Condition 40.10; or
  - (b) the Purchaser's reasonable belief that the property is neither new residential premises nor potential residential land requiring the Purchaser to pay an amount to the Commissioner in accordance with Section 14-250 (1) of Schedule 1 to the TAA.
- The Vendor is responsible for any penalties or interest payable to the commissioner on account of non-payment or late payment of the amount if either exception applies.
- 40.12 This Condition 40 will not merge on Settlement.

## 41. Tax invoice

If the Vendor makes a taxable supply under this contract (that is not a margin scheme supply) and

- 41.1 the price includes GST; or
- 41.2 the Purchaser is obliged to pay an amount for GST in addition to the price (because the price is "plus GST" or under Condition 39.1(a), (b) or (c)), the Purchaser is not obliged to pay the GST included in the price, or the additional amount payable for GST, until a tax invoice has been provided.

## 42. Foreign resident capital gains withholding

- 42.1 Words defined or used in Subdivision 14-D of Schedule 1 to the TAA have the same meaning in this Condition unless the context requires otherwise.
- 42.2 Every Vendor under this contract is a foreign resident for the purposes of this Condition unless the Vendor gives the Purchaser a clearance certificate issued by the Commissioner under Section 14-220 (1) of Schedule 1 to the TAA. The specified period in the clearance certificate must include the actual date of Settlement.
- 42.3 This Condition only applies if the Purchaser is required to pay the Commissioner an amount in accordance with Section 14-200(3) or Section 14-235 of Schedule 1 to the TAA ("the amount") because one or more of the Vendors is a foreign resident, the property has or will have a market value not less than the amount set out in Section 14-215 of the legislation just after the transaction, and the transaction is not excluded under Section 14-215(1) of the legislation.
- 42.4 The amount is to be deducted from the Vendor's entitlement to the contract consideration. The Vendor must pay to the Purchaser at Settlement such part of the amount as is represented by non-monetary consideration.
- 42.5 The Purchaser must:
- (a) engage a legal practitioner or conveyancer ("representative") to conduct all legal aspects of Settlement, including the performance of the Purchaser's obligations under the legislation and this Condition; and
  - (b) ensure that the representative does so.

- 42.6 The terms of the representative's engagement are taken to include instructions to have regard to the Vendor's interests and instructions that the representative must:
- (a) pay, or ensure payment of, the amount to the Commissioner in the manner required by the Commissioner as soon as reasonably and practicably possible, from moneys under the control or direction of the representative in accordance with this Condition if the sale of the property settles;
  - (b) promptly provide the Vendor with proof of payment; and
  - (c) otherwise comply, or ensure compliance with, this Condition;
- despite:
- (d) any contrary instructions, other than from both the Purchaser and the Vendor; and
  - (e) any other provision in this contract to the contrary.
- 42.7 The representative is taken to have complied with the requirements in Condition 42.6 if:
- (a) the Settlement is conducted through the electronic conveyancing system operated by Property Exchange Australia Ltd or any other electronic conveyancing system agreed by the parties; and
  - (b) the amount is included in the Settlement statement requiring payment to the Commissioner in respect of this transaction.
- 42.8 Any clearance certificate or document evidencing variation of the amount in accordance with Section 14-235(2) of Schedule 1 to the TAA must be given to the Purchaser at least 5 business days before the due date for Settlement.
- 42.9 The Vendor must provide the Purchaser with such information as the Purchaser requires to comply with the Purchaser's obligation to pay the amount in accordance with Section 14-200 of Schedule 1 to the TAA. The information must be provided within 5 business days of request by the Purchaser. The Vendor warrants that the information the Vendor provides is true and correct.
- 42.10 The Purchaser is responsible for any penalties or interest payable to the Commissioner on account of late payment of the amount.

## Settlement

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### 43. Electronic Conveyancing

- 43.1 Settlement and lodgement of the instruments necessary to record the Purchaser as registered proprietor of the land will be conducted electronically in accordance with the ECNL. The parties may subsequently agree in writing that this Condition 43 applies even if the box next to it is not checked. This Condition 43 has priority over any other provision to the extent of any inconsistency.
- 43.2 A party must immediately give written notice if that party reasonably believes that Settlement and lodgement can no longer be conducted electronically. Condition 43 ceases to apply from when such a notice is given.
- 43.3 Each party must:
- (a) be, or engage a representative who is, a subscriber for the purposes of the ECNL,
  - (b) ensure that all other persons for whom that party is responsible and who are associated with this transaction are, or engage, a subscriber for the purposes of the ECNL, and
  - (c) conduct the transaction in accordance with the ECNL.
- 43.4 The Vendor must open the Electronic Workspace ("workspace") as soon as reasonably practicable. The inclusion of a specific date for Settlement in a workspace is not of itself a promise to settle on that date. The workspace is an electronic address for the service of notices and for written communications for the purposes of any electronic transactions legislation.
- 43.5 The Vendor must nominate a time of the day for locking of the workspace at least 7 days before the due date for Settlement.
- 43.6 Settlement occurs when the workspace records that:
- (a) the exchange of funds or value between financial institutions in accordance with the instructions of the parties has occurred; or
  - (b) if there is no exchange of funds or value, the documents necessary to enable the Purchaser to become registered proprietor of the land have been accepted for electronic lodgement.
- 43.7 The parties must do everything reasonably necessary to effect Settlement:
- (a) electronically on the next business day; or
  - (b) at the option of either party, otherwise than electronically as soon as possible –



if, after the locking of the workspace at the nominated Settlement time, Settlement in accordance with Condition 43.6 has not occurred by 4.00 pm, or 6.00 pm if the nominated time for Settlement is after 4.00 pm.

- 43.8 Each party must do everything reasonably necessary to assist the other party to trace and identify the recipient of any missing or mistaken payment and to recover the missing or mistaken payment.
- 43.9 The Vendor must before Settlement:
- (a) deliver any keys, security devices and codes (“keys”) to the estate agent named in the contract,
  - (b) direct the estate agent to give the keys to the Purchaser or the Purchaser’s nominee on notification of Settlement by the Vendor, the Vendor’s subscriber or the Electronic Network Operator,
  - (c) deliver all other physical documents and items (other than the goods sold by the contract) to which the Purchaser is entitled at Settlement, and any keys if not delivered to the estate agent, to the Vendor’s subscriber or, if there is no Vendor’s subscriber, confirm in writing to the Purchaser that the Vendor holds those documents, items and keys at the Vendor’s address set out in the contract, and give, or direct its subscriber to give, all those documents and items and any such keys to the Purchaser or the Purchaser’s nominee on notification by the Electronic Network Operator of Settlement.
- 43.10 The Vendor must, at least 7 days before the due date for Settlement, provide the original of any document required to be prepared by the Vendor in accordance with Condition 43.
- 43.11 The parties agree that neither party is to be liable to the other for any delay in the performance of their respective obligations under this Contract in the event that Settlement is unable to proceed on the Settlement Date as required in this Contract, if such delay is solely due to the PEXA system or any affiliated system not being operational and thus incapable of conducting and completing an electronic Settlement.
- 43.12 The parties acknowledge that time is of the essence under this contract and as such each party undertakes to settle the matter as soon as practicable after the PEXA system resumes operation.
- 43.13 Any complete inability by either party to settle electronically due to the continued non-operation of the PEXA system will not constitute an ending of this Contract unless it is also impossible to complete a paper based transaction in lieu thereof.

#### **44. Parties Obligations at Settlement**

- 44.1 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.
- 44.2 Settlement must be conducted between the hours of 10:00 am and 4:00 pm unless the parties agree otherwise and should the parties not agree Settlement after 4:00 pm shall be deemed to take place on the next business day.
- 44.3 Settlement will be conducted on PEXA or any other electronic conveyancing system or if the transaction is incapable of being conducted electronically then paper Settlement will occur at a venue at the Vendor’s direction.
- 44.4 If Settlement is to occur pursuant to Condition 44.3 and the Purchaser requires Settlement take place at a venue other than as stipulated under Condition 44.3, the Purchaser shall pay the Vendor’s legal costs of arranging an alternate Settlement venue of \$440.00 (GST inclusive) plus the costs of any variation to the Vendor’s Settlement agent’s fee to attend Settlement.
- 44.5 The Vendor’s obligations under this Condition 44 continue after Settlement.

#### **45. Delivery of Documents (if converted to Paper Settlement)**

- 45.1 Subject to Condition 43 the Transfer of Land shall be delivered to the Vendor’s representative no later than 10 days before Settlement.
- 45.2 Should the Purchaser fail to deliver the Transfer of Land within the time prescribed under Condition 55.1, then the Vendor may, without prejudice to the Vendor’s other rights:
- (a) Complete this Contract at any time between the date for payment of the residue and the date which is 10 days after the Purchaser delivers the Transfer of Land; and
  - (b) The Purchaser must pay penalty interest pursuant to Condition 48 until such time as Settlement occurs.

## Breach

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### 46. Penalty Interest

Interest at a rate of 6% 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.

### 47. Waiver of Breach

- 47.1 No waiver of any breach of this Contract or any of the terms of this Contract will be effective unless that waiver is in writing and signed by the party entitled to the benefit of that power or right.
- 47.2 Such waiver referred to in Condition 47.1 is applicable only to the extent of the waiver set out in writing and shall not operate as a waiver of any other breach or subsequent breach.

### 48. Default – Penalty Interest

- 48.1 The Purchaser must pay to the Vendor default interest at the rate of 6% higher than the penalty interest rate as fixed by Section 2 of the *Penalty Interest Rate Act 1983* (Vic) calculated on the balance payable upon completion still due and owing to the Vendor during the default period.
- 48.2 Interest payable under Condition 48.1 accrues daily from, and including, the due date for payment up to, but excluding, the actual date of payment.

### 49. Default - Vendor's Damages

- 49.1 The Vendor gives notice to the Purchaser that in the event that the Purchaser fails to complete the purchase of the property on the due date under this Contract or at a time subsequently arranged by consent of the parties, the Vendor will or may suffer the following losses and expenses which the Purchaser shall pay in addition to any interest chargeable on the balance of purchase moneys in accordance with the terms of this Contract:
- (a) This costs of obtaining bridging finance to complete the Vendor's purchase of another property and interest charged on such bridging finance calculated from the due date for Settlement;
  - (b) Any penalties payable by the Vendor to a third party through any delay in completion of the Vendor's purchase of another property.
  - (c) Interest payable by the Vendor under any existing mortgage over the property calculated from the due date for Settlement;
  - (d) Accommodation expenses necessarily incurred by the Vendor;
  - (e) Legal costs and expenses as between the Vendor's representative and the Vendor; and
  - (f) The Vendor's legal costs of \$880.00 (GST inclusive) for rescheduling a Settlement which has been booked with the Vendor's Lawyer.
- 49.2 The Vendor reserves its rights to claim liquidated damages.

### 50. Default Notice

- 50.1 Until a written default notice is served and not remedied by the defaulting party, the serving party is not entitled to exercise any rights arising from the defaulting party's default, other than the right to receive interest and the right to sue for money owing,
- 50.2 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.
- 50.3 The obligation under Condition 50 for a party to serve a default notice before exercising any rights arising from the other party's default does not apply in relation to the Vendor's right to end this Contract for failure to pay the deposit pursuant to Condition 29.4.
- 50.4 For the purposes of clarifying what is deemed to be a 'reasonable cost' in Condition 50.2(b)(ii) in respect to each default by the Purchaser:
- (a) The Vendor's legal costs on preparation and service of each default notice is \$880.00 (GST inclusive); and
  - (b) The Vendor's legal costs on preparation and service of a rescission notice is \$880.00 (GST inclusive).

## 51. Default - Consequences

- 51.1 If a default notice issued in accordance with Condition 50 does not state that unless the default is remedied and the reasonable Costs incurred as a result of the default and any interest payable are paid this Contract will be ended in accordance with that Condition then, if the default notice is not fully complied with, the party not in default under this Contract may:
- (a) terminate this Contract in which case Condition 51.2 or Condition 51.2 as applicable will apply; or
  - (b) leave this Contract on foot and sue the party in default under this Contract for damages, specific performance or both.
- 51.2 If the Vendor defaults and the contract ends pursuant to 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.
- 51.3 The Contract will immediately end 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 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.
- 51.4 If the Purchaser defaults all unpaid money under the contract becomes immediately payable to the Vendor but only if the default has been not remedied and the costs and interest are not paid.
- 51.5 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
- 51.6 any determination of the Vendor's damages must take into account the amount forfeited to the Vendor.

## 52. Default - Rescission

- 52.1 Upon rescission of this Contract by the Purchaser, the Purchaser becomes entitled to the return of the Deposit and all other money paid by the Purchaser under this Contract, with the exclusion of any money paid by the Purchaser as an occupation fee for any time during which the Purchaser was in actual occupation of the Property.
- 52.2 Upon rescission of this Contract by the Vendor, the Vendor becomes entitled to the Deposit.
- 52.3 The party rescinding this Contract must notify the stakeholder holding the Deposit in writing and instruct the stakeholder to pay the Deposit to the party entitled to the Deposit in accordance with the terms of this Contract.
- 52.4 The Vendor and the Purchaser appoint each other as their lawful attorney for the purpose specified in Condition 52.3 and release the stakeholder from any liability in complying with such written notice; and
- 52.5 Condition 51.2 must be read subject to Condition 52.1.

## Occupation Prior to or after Settlement

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### 53. Occupation by the Purchaser prior to Settlement

The Purchaser acknowledges that upon requesting occupation of the property prior to Settlement, the Vendor will provide to the Purchaser a licence upon the following terms (**the Occupancy Licence**):

- 53.1 The licence fee is to be payable weekly and is to be determined by the selling agent appointed by the Vendor in respect to the Property as being similar to rental for a comparable property type in the geographical area;
- 53.2 The risk shall pass to the Purchaser as at the date of occupation;

- 53.3 Adjustments as required under Condition 36 shall be made from the commencement date of the occupation and not the Settlement Date.
- 53.4 An adjustment in favour of the Vendor shall be made on the Statement of Adjustments in respect to the licence fee determined under Condition 53.1 or the occupancy fee may be paid in any manner directed by the Vendor in writing from time to time.
- 53.5 The Purchaser shall be liable for the Vendor's costs of preparation of the Occupancy Licence fixed at \$440.00, such sum to be adjusted in the Vendor's favour on the Statement of Adjustments.
- 53.6 Should the parties agree that the Purchaser shall require occupation of the property for a period of 12 months or longer the parties agree to enter into a Residential Tenancy Agreement pursuant to Section 26 of the *Residential Tenancies Act 1997* and in the form required under Regulation 8, Schedule 1, Form 1 or 2 (as applicable) of the *Residential Tenancies Regulations 2019*.

## 54. Continued Occupation by the Vendor after Settlement

The Purchaser acknowledges that upon requesting occupation of the property after Settlement for a period less than 12 calendar months, the Vendor will provide to the Purchaser a licence upon the following terms (**the Occupancy Licence**):

- 54.1 The licence fee is to be payable weekly and is to be determined by the selling agent appointed by the Vendor in respect to the Property as being similar to rental for a comparable property type in the geographical area;
- 54.2 The licence fee shall be paid in such a manner as directed by the Purchaser.
- 54.3 The Vendor shall be liable for the costs of preparation of the Occupancy Licence.
- 54.4 Should the parties agree that the Vendor shall require occupation of the property for a period of 12 months or longer the parties agree to enter into a Residential Tenancy Agreement pursuant to Section 26 of the *Residential Tenancies Act 1997* and in the form required under Regulation 8, Schedule 1, Form 1 or 2 (as applicable) of the *Residential Tenancies Regulations 2019*.

## Nomination

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### 55. Nomination by Purchaser

- 55.1 Provided the Purchaser is not in default under this Contract at the time, the Purchaser may nominate a substitute or additional transferee (**Nominated Transferee**) by providing the following to the Vendor not less than 14 days before the Settlement Date:
  - (a) Details of the Nominated Transferee's lawyer or conveyancer;
  - (b) a copy of the completed and executed Nomination in a format acceptable to the Vendor's Representative;
  - (c) a Guarantee completed by the officers of the Nominated Transferee in accordance with Condition 55 (if applicable);
  - (d) a current copy of an ASIC Extract showing the current officeholders of the Nominated Transferee (if applicable); and
  - (e) a warranty by the nominee that FIRB Approval is required and has been obtained for its purchase of the Property from the Vendor, such warranty to be accompanied by a copy of the FIRB Approval (if applicable); or
  - (f) a warranty by the nominee that FIRB Approval is not required for its purchase of the Property from the Vendor and an indemnity in favour of the Vendor against all Claims and Loss which the Vendor may incur or may become liable for (including any consequential loss which the Vendor may incur or may become liable for) as a consequence of the Vendor having relied upon the Nominated Transferee's warranty (if applicable).
- 55.2 If the Purchaser nominates a substitute or additional transferee pursuant to this Condition 55, the named Purchaser remains personally liable for the due performance of all the Purchaser's obligations under this Contract.

## Guarantee

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### 56. Guarantee and Indemnity

- 56.1 Where the Purchaser is a corporation (other than a corporation listed on the Australian Stock Exchange) the Purchaser must simultaneously with the execution hereof obtain the execution of a Guarantee and Indemnity in the form shown at Annexure A hereto by the sole director, two directors or one director and a secretary of the Purchaser company as applicable.

- 56.2 The Purchaser must provide to the Vendor with the executed Guarantee, a current ASIC Extract showing the current status of the corporation together with the names and addresses of all officeholders.
- 56.3 Each indemnity in this Contract is separate and independent from the Purchaser's other obligations in this Contract and continues after Settlement or after this Contract ends.
- 56.4 The Vendor may recover under an indemnity before incurring expense.

## Unregistered Plan of Subdivision

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### 57. Definitions

- 57.1 For the purposes of Conditions 58 to the end of this contract following definitions apply:
- (a) **Builder** means a person who is registered as a builder under the BA.
  - (b) **Building** means building works:
    - (i) to be carried out on or within the Land; and
    - (ii) necessary to procure the issuing of an Occupancy Permit for the Land.
  - (c) **Certificate of Final Inspection** means a certificate of final inspection as defined in Section 38 of the BA issued in respect of the Works.
  - (d) **Claim** means any claim, notice, demand, action, proceeding, litigation, investigation or judgment, however it arises and whether it is present or future, fixed or unascertained, actual or contingent.
  - (e) **Cost** means any cost, charge, expense, outgoing, payment, fee, liability or penalty of any kind, including legal and professional fees.
  - (f) **Defects** means any, omission or defect in the Works due to faulty materials or workmanship which affects the Property.
  - (g) **Defects Liability Period** means the period of shown in the Particulars of Sale.
  - (h) **Draft Plan** means proposed plan of subdivision PS [field] (a copy of which is included in the Vendor's Statement) and includes, where the context requires it, the Draft Plan as amended from time to time in the manner permitted by this Contract before registration at the Land Registry.
  - (i) **Duties Act** means the Duties Act 2000 (Vic).
  - (j) **Final Plan** means the final version of the Draft Plan which is registered at the Land Registry pursuant to Condition 58.2
  - (k) **MDBC** means a Major Domestic Building Contract as defined in the Domestic Building Contracts Act 1995 (Vic).
  - (l) **OC Act** means the Owners Corporations Act 2006 (Vic).
  - (m) **OC Regulations** means the Owners Corporations Regulations 2007 (Vic).
  - (n) **OC Rules** means the model rules set out in Schedule 2 of the OC Regulations or special rules as otherwise amended from time to time by the Owner's Corporation.
  - (o) **Occupancy Permit** means all Authorisations required by Law before the Property may be occupied.
  - (p) **Project** means the construction, development and subdivision of the buildings and improvements on the Site including the development of [residential apartments/serviced apartments/retail premises] and associated facilities/insert as applicable] as outlined in the Plans and Specifications.
  - (q) **Registration Period** means the period shown in the Particulars of Sale.
  - (r) **Works** means that part of the Project comprising works:
    - (i) to be carried out on or within the Land; and
    - (ii) necessary to procure the issuing of an Occupancy Permit for the Property.

### 58. Registration of Plan

- 58.1 The Purchaser acknowledges that the Property is a Lot on a draft plan of subdivision (Draft Plan) which has not been registered in accordance with the *Subdivision Act 1988* (Vic).
- 58.2 The Vendor must at its own Cost use all reasonable endeavours to procure the certification and registration of the Final Plan.
- 58.3 The Vendor must promptly notify the Purchaser in writing when the Final Plan has been registered.

### 59. Expiration of Registration Period

- 59.1 If the Final Plan has not been registered by the end of the Registration Period the parties may rescind this Contract at any time after the expiry of the Registration Period as follows:
- (a) the Purchaser may exercise their rights under Section 9AE of the SLA by written notice to the Vendor; and
  - (b) the Vendor, pursuant to Section 10B of the SLA, must obtain the written consent of the Purchaser to the rescission by giving at least 28 days' written notice of the proposed rescission setting out:
    - (i) the reason why the Vendor is proposing to rescind the contract; and
    - (ii) the reason for the delay in the registration of the plan of subdivision and/or the issuing of the occupancy permit; and
    - (iii) that the Purchaser is not obliged to consent to the proposed rescission.
  - (c) The Purchaser must not unreasonably withhold such consent and in the event reasonable Purchaser consent is not forthcoming the Vendor reserves their right to exercise their rights under Section 10E of the SLA.
  - (d) Upon rescission under Condition 66.5:
    - (i) the Deposit must be returned to the Purchaser:
      - (A) If the deposit has been invested, any interest earned as a result will be divided evenly between the parties. and
      - (B) neither party will have any further liability to the other under this Contract, but the rescission is without prejudice to any existing rights and liabilities of the parties under this Contract.

## 60. Amendments to Plan

If any amendment is made to the Draft Plan after the Day of Sale which restricts or limits the use of the Land, the Purchaser may avoid this Contract at any time before the Final Plan is registered unless the amendment results from any recommendation of a public authority or government department.

## 61. Rescission

61.1 The Vendor may rescind this Contract prior to the Registration Date if:

- (a) any requirement imposed in relation to registration of the Final Plan is, in the opinion of the Vendor, too onerous for the Vendor to perform; or
- (b) registration of the Final Plan is refused other than as a result of the act or omission of the Vendor.

## 62. Natural Surface Level

62.1 The Vendor discloses to the Purchaser works affecting the natural surface level of the Land or any land abutting the Land specified in Annexure B hereto as being the only works which, to the Vendor's knowledge, that have been carried out on the Land after the preparation of the Draft Plan and before the Day of Sale or are at the Day of Sale being carried out, or are proposed to be carried out, on the Land.

62.2 The Purchaser must not:

- (a) make any objection or Claim; or
- (b) ask the Vendor to incur any Cost,

because either the Final Plan is not registered within the Registration Period or the Final Plan is not registered and this Contract is terminated as a result.

## 63. Amendments to Plan

63.1 The Vendor reserves the right to:

- (a) consolidate any Lots shown on the Draft Plan to form one Lot prior to registration; and
- (b) make amendments to the Draft Plan necessary to secure its registration.

63.2 Subject to the provisions of Section 9AC and Section 9AH of the SLA, the Purchaser must not:

- (a) make any requisition, objection or Claim;
- (b) ask the Vendor to take any action or incur any Cost; or
- (c) rescind or determine this Contract,

because the Final Plan does not accord with the Draft Plan or because of any changes made by an Authority to the street numbering or sequencing of the lots on the Final Plan.

63.3 The restriction set out in this Condition applies to:

- (a) any minor variation or discrepancy between the number, size or location of any Lot or the common property as presently appearing on the Draft Plan and as appearing on the Final Plan and which is not greater than a [5%] variation or discrepancy in size, or a distance of [2] metres in location; or
- (b) any minor alteration made prior to registration of the Final Plan to the schedule of lot entitlement or the schedule of lot liability as presently shown on the Draft Plan which does not materially affect the Purchaser.

## 64. Vendor to Comply with Authority

64.1 The Purchaser acknowledges that to enable completion of the Works and registration of the Final Plan the Vendor may be required by an Authority after the Day of Sale to:

- (a) enter into agreements (including agreements under Section 173 of the Planning and Environment Act 1987 (Vic), leases or licences); or
- (b) create easements, enter into covenants or grant or create other rights and restrictions, which may burden and be recorded against the certificate of title to the Land.

64.2 Subject to the Purchaser's rights under the SLA, the Purchaser must not:

- (a) make any requisition, objection or Claim;
- (b) ask the Vendor to take any action or incur any Cost; or
- (c) delay Settlement, or rescind or terminate this Contract,

because of the creation of anything referred to in Condition 64.1(b).



## 65. Vendor Right of Entry

- 65.1 The rights of entry under Condition 6 and Condition 24.5 must be exercised at reasonable times and with the Vendor's prior approval.
- 65.2 The Purchaser acknowledges that some or all of the Lots contained in the Final Plan may be settled at or about the same time as Settlement of this Contract. To make sure that inspection appointments by all Purchasers of Lots in the Final Plan will be carried out in a safe and orderly manner, the Vendor has the right to:
- (a) set the time and date of the Purchaser's inspection of the Property;
  - (b) limit the time spent by the Purchaser in inspecting the Property; and
  - (c) limit the number of persons attending an inspection appointment.

## 66. The Building

- 66.1 A separate MDBC does not apply to this Contract.
- 66.2 The Building will be constructed pursuant to the plans and specifications forming Attachment 1.
- 66.3 The Vendor undertakes to make good all Defects within the Defects Liability Period.
- 66.4 The Vendor's obligations in relation to the Building (if any) contained in this Contract cease at the expiration of the Defects Liability Period.
- 66.5 If the Building is not at a stage where the Occupancy Permit will issue by the end of the Registration Period the parties may rescind this Contract at any time after the expiry of the Registration Period and/or before the Building is at a stage where the Occupancy Permit will issue as follows:
- (a) the Purchaser may exercise their rights under Section 9AE of the SLA by written notice to the Vendor; and
  - (b) the Vendor, pursuant to Section 10B of the SLA, must obtain the written consent of the Purchaser to the rescission by giving at least 28 days' written notice of the proposed rescission setting out:
    - (i) the reason why the Vendor is proposing to rescind the contract; and
    - (ii) the reason for the delay in the registration of the plan of subdivision and/or the issuing of the occupancy permit; and
    - (iii) that the Purchaser is not obliged to consent to the proposed rescission.
  - (c) The Purchaser must not unreasonably withhold such consent and in the event reasonable Purchaser consent is not forthcoming the Vendor reserves their right to exercise their rights under Section 10E of the SLA.
  - (d) Upon rescission under Condition 66.5:
    - (i) the Deposit must be returned to the Purchaser:
      - (A) If the deposit has been invested, any interest earned as a result will be divided evenly between the parties. and
      - (B) neither party will have any further liability to the other under this Contract, but the rescission is without prejudice to any existing rights and liabilities of the parties under this Contract.
- 66.6 In the event of rescission pursuant to Condition 66.5, the Purchaser will have no right or remedy against the Vendor in respect of any failure by the Vendor to commence or complete the Building.
- 66.7 The Vendor will make all reasonable endeavours to ensure that the Building is constructed pursuant to the specifications set out therein and attached at Annexure B hereto.
- 66.8 The Vendor may make minor variations to the Building, including substituting fixtures and fittings for others of a similar nature and quality, but must not make any variation which materially adversely affects the standard, layout or quality of the Building without the Purchaser's approval which must not be unreasonably withheld.
- 66.9 The Vendor shall upon registration of the said plan notify the Purchaser of such registration and that the residue of purchase moneys shall be payable within fourteen (14) days of such notification.
- 66.10 All rates, taxes, levies, insurance premiums and assessments (including State Land Tax calculated on a single holding basis) in respect of the lot hereby sold and payable by the Vendor shall be borne and paid by the Purchaser as from the date on which he becomes entitled to possession and the same shall, if necessary, be apportioned between the Vendor and the Purchaser and the rent (if any) shall be apportioned on the same day and the balance paid or received as the case may require. The Vendor hereby undertakes to pay any outgoings when they are due and payable and the Purchaser shall not make any deduction at Settlement on account of same.



- 66.11 Should the Purchaser fail to settle as required under this Contract and as a result Settlement is delayed past 31 December in any one year, then any Land Tax is assessed on a single holding basis in respect to the Property for that following year against the Vendor becomes the responsibility of the Purchaser and shall be paid in full by the Purchaser at Settlement.
- 66.12 A certificate by the Vendor's Representative in relation to:
- (a) the commencement, progress or completion of the Building, or
  - (b) any other issue in relation to the Building,
  - (c) is binding on the parties.
- 66.13 The Purchaser must not:
- (a) make any requisition, objection or Claim;
  - (b) ask the Vendor to take any action or incur any Cost;
  - (c) delay Settlement, or rescind or terminate this Contract; or,
  - (d) retain any part of the balance of the Price at Settlement;
- because of the Building or the Vendor's obligations in relation to the Building (if any) contained in this Contract.

## 67. Variations

- 67.1 Subject to any limitations specified in Condition 24, the Vendor may from time to time both before and after Settlement:
- (a) vary the number, size, position or usage mix of Lots within the Draft Plan or the Final Plan;
  - (b) alter the layout of the Site;
  - (c) apply for variations to existing Authorisations;
  - (d) apply for variations in the time by which the development and use under existing Authorisations must be commenced and completed; or
  - (e) apply for any other necessary Authorisations and the certification and registration of further plans of subdivision.
- 67.2 The Purchaser approves all applications by the Vendor relating to Authorisations pursuant to Condition 67.2.
- (a) The Purchaser must sign such forms of approval as the Vendor may from time to time reasonably require.
  - (b) The Purchaser appoints the Vendor as its attorney and agent for the purpose of signing and giving the Purchaser's approval in respect of the Authorisation applications referred to in Condition 67.2.
  - (c) Production of this Contract constitutes sufficient evidence of the Purchaser's approval and appointment of attorney pursuant to this Condition.
- 67.3 The Purchaser acknowledges that the members of the Owners Corporation may include the owners of other Lots created within the Subsequent Stages.
- 67.4 The Purchaser must not:
- (a) make any requisition, objection or Claim;
  - (b) ask the Vendor to take any action or incur any Cost;
  - (c) instigate, join in or fund any legal action; or
  - (d) delay Settlement, or rescind or terminate this Contract,
- because of any matters referred to in this Condition 67.

## 68. Owners Corporations

- 68.1 Owners Corporations
- (a) The Purchaser admits that the Property is sold subject to the provisions of the Subdivision Act, the OC Act and in particular:
    - (i) the lot entitlement and lot liability and all other information set out in the Final Plan;
    - (ii) the provisions of the OC Regulations;
    - (iii) the easements (expressed and implied) affecting the Land by virtue of the Subdivision Act or the Transfer of Land Act 1958 (Vic); and
    - (iv) the OC Rules.

- 68.2 Fees set pursuant to Section 23 of the OC Act for recovery of general administration, maintenance, insurance, rates and taxes and other recurrent obligations of the Owners Corporation must be adjusted between the Vendor and Purchaser at Settlement in accordance with Conditions 35 and 36 3.
- 68.3 On the registration of the Final Plan, the Vendor:
- (a) may procure the Owners Corporation to appoint a managing agent nominated by the Vendor to be registered in accordance with Part 12 of the OC Act for the Owners Corporation; and
  - (b) may enter into any contract with one or more Providers for the provision of any Services for the Owners Corporation and if applicable set any levies for the recovery of such services; and
  - (c) must procure the Owners Corporation to make rules in the form, or to the effect, of the OC Rules; and
  - (d) must effect insurance in accordance with the OC Act as if the Vendor were the Owners Corporation until:
    - (i) if the Owners Corporation meets within 6 months after registration of the Final Plan, the end of one month after its first meeting; and
    - (ii) in any other case, the end of 6 months after registration of the Final Plan.
  - (e) The Purchaser must not:
    - (i) vote or exercise any right, power or privilege granted or accruing to the Purchaser as a member of the Owners Corporation in any way which is:
      - (A) contrary to any term or Condition of this Contract; or
      - (B) prejudicial to the Vendor's activities referred to in Condition 68.3(h) or is otherwise prejudicial (as determined by the Vendor) to the interests of the Vendor;
    - (ii) amend, add to or repeal (or permit the Owners Corporation to amend, add to or repeal) any of the schedules to the Final Plan or the OC Rules; and
    - (iii) lease, licence, dispose of or grant any right over common property (or cast any vote or otherwise permit the Owners Corporation to do such things).
  - (f) The Purchaser undertakes and agrees that it will be a Condition or term of any sale, disposal or transfer of the Property by the Purchaser, that any Purchaser, transferee and their successors in title will be bound by and must comply with the obligations set out in this Condition 68.3(e) and Condition 68.3(h) in favour of the Vendor.
  - (g) This Condition 68.3 continues to have effect and bind the Purchaser after the Settlement Date, unless expressly waived in writing by the Vendor and lapses 12 months after the date on which the Vendor is registered as proprietor of less than [10%] (by number) of Lots on the Final Plan.
  - (h) Despite anything else contained in this Contract, so long as the Vendor is a member of the Owners Corporation or occupier or owner of a Lot then the OC Rules will not in any way apply to or be enforced against the Vendor where to do so would prevent, hinder, obstruct or in any way interfere with the completion of the Project.
  - (i) The Purchaser covenants with the Vendor that:
    - (i) it will not prevent, limit or restrict the Vendor from (or vote at any meeting of the Owners Corporation to prevent, limit or restrict the Vendor from):
      - (A) erecting any barriers, fences, hoardings and signs which the Vendor deems necessary to complete the Project;
      - (B) taking exclusive and sole possession of any parts of the common property which the Vendor may need to have exclusive and sole possession of in order to carry out and complete the Project;
      - (C) erecting "for sale", promotional, advertising or other signs which the Vendor may require on any part of the common property;
      - (D) using all rights of way and all points of egress and ingress to the Site which the Vendor deems necessary to carry out and complete the Project and to block, for whatever periods as the Vendor at its sole discretion determines, all points of egress and ingress to the Site in order to carry out and complete the Project; and
      - (E) making any application to an Authority for any Authorisation for the development of the Site; and
    - (ii) this Condition 68.3(i) is solely for the benefit of the Vendor and can be relied on by the Vendor despite any conflict with the OC Rules.
  - (j) The Purchaser must not:
    - (i) make any requisition, objection or Claim;

- (ii) delay Settlement or rescind or terminate this Contract,  
because of anything relating to or arising from this Condition 68.3.

**69. Staged Subdivision ~~[delete if not applicable]~~**

~~69.1 The Purchaser acknowledges that:~~

- ~~(a) the Vendor proposes to subdivide the Site in stages;~~
- ~~(b) the Vendor may not have completed the Project prior to satisfying the Conditions to enable Settlement to occur pursuant to this Contract;~~
- ~~(c) works may be undertaken on the Subsequent Stages after Settlement which may affect the Land or any resident of the Land; and~~
- ~~(d) the other Lots or the Subsequent Stages may not be developed in accordance with the Plans and Specifications due to market, regulatory or other reasons.~~

# Annexure A - Guarantee

**Property:** 70 Plymouth Drive Rockbank Vic 3335 (formerly known as Thornhill Park)

**Date of Sale:** \_\_\_\_\_

**Vendor:** CDB PROPERTY HOLDINGS PTY LTD A.C.N 642179208

**Purchaser:** \_\_\_\_\_ **ABN:** \_\_\_\_\_  
**ACN:** \_\_\_\_\_

**First Guarantor:** \_\_\_\_\_ **Position:**  Director  
(Full Name)  Secretary

**Address:** \_\_\_\_\_

**Second Guarantor:** \_\_\_\_\_ **Position:**  Director  
(Full Name)  Secretary

**Address:** \_\_\_\_\_

(hereinafter collectively referred to as 'the Guarantors')

**Dated:** \_\_\_\_\_

1. In consideration of the Vendor contracting with the Corporate Purchaser the Guarantors, as is evidenced by the Guarantors execution hereof, guarantee the performance by the Purchaser of all of the Purchaser's obligations under the contract and indemnify the Vendor against any Cost or Loss whatsoever arising as a result of the default by the Purchaser in performing its obligations under this Contract for whatever reason.
2. As the Purchaser remains liable under Condition 56 of the Contract of Sale, the Guarantors acknowledge and agree that this Guarantee will continue in full force and effect despite the entering into of a similar Guarantee by the guarantors for the Nominated Transferee.
3. The Vendor may seek to recover any Loss from the Guarantors before seeking recovery from:
  - a. the Purchaser and any Settlement or compromise with the Purchaser will not release the Guarantors from the obligation to pay any balance that may be owing to the Vendor; and/or
  - b. the Guarantors of the Nominated Transferee (if applicable).
4. This guarantee is binding on the Guarantors, their executors, administrators and assigns and the benefit of the guarantee is available to any assignee of the benefit of this Contract by the Vendor.

**SIGNED** by the First Guarantor )  
in the presence of: )

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Print Name of Witness

**SIGNED** by the Second Guarantor )  
in the presence of: )

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Print Name of Witness

## **Annexure B – Plans and Specifications**

# PEMBROOK HOMES



## PROJECT SPECIFICATION

**Project Address:** 70 Plymouth Dr, Rockbank VIC 3335

**Postal Address:** 6 Cain Ave, East Keilor VIC 3033

**Phone:** 0414 848 466

These specifications form part of the Building Contract. The owner shall, therefore, ensure that that they are fully and accurately completed to suit the design including any special requirements and that all copies agree in every respect.

**Builder:** Pembroke Homes

**Phone:** 0414 848 466

**Address:** 6 Cain Avenue, Keilor East Victoria 3033

These project specifications, in conjunction with the drawings form part of the Building Contract dated:

\_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

Owner/s: \_\_\_\_\_

Builder: \_\_\_\_\_

Witness: \_\_\_\_\_

Witness: \_\_\_\_\_

Date: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Date: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

## 1 PRELIMINARY

1.1 These are the specifications to be used in the construction of a building as shown on dimensioned in the accompanying drawings.

1.2 These specifications specify finishes and/or materials to be used in the construction of a building, both parties must initial amendments

1.3 All works shall comply with the Building Regulations, as legislated for and adopted by the State Government, inclusive of any code or other document that is adopted by or specified in the Building Regulations, and any other regulation provided, or administered by a State or local authority having jurisdiction over the building works.

Where in addition to the works referred to in the drawings and specifications any authority having jurisdiction over works requires additional work to enable the issue of a building approval/permit, or directs that additional work be performed, that work, shall be at the owner's expense, in accordance with the conditions of contract.

1.4 **These specifications** shall be taken as being generally applicable to the drawings and other documents forming part of the building agreement or contract

1.5 **Notices.** The builder shall give and receive all notices, except fencing notices.

1.6 **Plant and Labour.** In accordance with the contract the builder shall supply materials tools, scaffolding, plant, and do or have done works in all trades necessary to carry out the work indicated on the drawings and in these specifications

1.7 **Materials.** Unless otherwise specified, agreed to by the owner and approved of by the builder and Local Authority, materials used in the works shall be new, of good quality and in conformity with the drawings and these specifications. Defective materials shall, as soon as practical, be removed from the site.

1.8 **Allotment Identification.** The builder shall display on site, a conspicuous notice indicating the lot, street or identification number of the property and the name of builder.

1.9 **Temporary Water and single-phase Electric Power Supply.** Where the services are available for connection adjacent to the allotment, and unless otherwise specified, the builder shall arrange for water and electricity necessary for the carrying out of the building works, and shall pay all charges / costs associated with the connection and supply thereof. **Where the services are not available, and unless otherwise specified, the owner shall arrange and pay for alternative services (e.g.: generator), which are acceptable to the builder.**

1.10 **Allotment Verification.** The owner shall be responsible for the accuracy and clear delineation of all the allotment boundaries. In addition, the owner shall supply the builder with a current copy of the title of the allotment and if requested by the builder the owner shall further provide a survey plan showing the correct boundaries

Initials (Client) \_\_\_\_\_

Initials (Builder) \_\_\_\_\_

of the allotment and its location that can be established from a fixed reference point.

Unless otherwise shown on the drawings, the owner shall be responsible for establishing the point from which the builder will set out the building and this set out will be carried out by the builder using the details set out on the site plan.

1.11 **Access to the site.** Unless otherwise agreed, the owner will be responsible for providing an all-weather access to the building site to enable the delivery of all equipment, materials, and goods necessary for the works.

1.12 **Final completion.** Where such work is within the scope of the contract, the builder will remove all builders equipment and debris from the site, check satisfactory operation of all equipment doors, windows, locks, remove paint spots, clean windows, sweep floors, clean all plumbing fixtures, clean cupboards, clear gutters and downpipes, and leave the building and the site in a clean and tidy condition. The builder will obtain and give to the owner all necessary certificates of final approval from the various authorities.

1.13 **Purchasers Variations.** Requests for any changes/variations to the specification by the purchaser are to be made in writing and will incur a **minimum** \$500 administration fee payable by the purchaser. Any variations will be considered on their merit may be authorised at the discretion of the builder.

#### **CLIENTS PLEASE NOTE THE FOLLOWING IMPORTANT INFORMATION**

The building will be constructed as per the Building Contract, Specifications and Working Drawings. Please ensure you have read these documents carefully and agree with what has been included.

As per Occupational Health & Safety Regulations 2007, owners are NOT permitted to enter the construction site unless they are accompanied by an authorised representative of the Builder.

I/We \_\_\_\_\_ acknowledge and agree that these specifications take precedence over any past conversations and quotes previously supplied or discussed. I/We understand that we must not enter the building site unless they are accompanied by an authorised representative of the Builder.

Signed: \_\_\_\_\_ Dated: \_\_\_\_\_

Initials (Client) \_\_\_\_\_

Initials (Builder) \_\_\_\_\_



## Planning & External Works

	Y	N
Demolition of existing house and clearing of site by registered demolisher including demolition permit		X
Planning Permit		X
Building permit fees <i>Note: Only the fee payable for the application of a building permit to the building surveyor will be payable by Develpro Constructions. Any additional consultant fees will be payable by the client for example, structural amendments, footing probe, fire engineers report etc.</i>	X	
Builders indemnity insurance	X	
Contract works and public liability insurance	X	
Council contribution fees/bonds <i>Note: Applications will be arranged by Develpro Constructions, but all associated costs are payable by the Owner</i>	X	
PIC charges <i>Note: Applications will be arranged by Develpro Constructions, but all associated costs are payable by the Owner</i>	X	
Additional/alteration of new sewer branch if required	X	
Stormwater drains in accordance with council approved civil design	X	
Drainage beyond property boundary as per stamped civil engineering design including reinstatement of any damaged concrete and traffic management requirements	X	
Temporary power, fencing and toilet provided by builder	X	
Excavation/site cut (if any) – Allowance: <i>Note: When the cost of soil removal is greater than the allowance above the balance is payable by the owner</i>	X	
Internal fencing	X	
Retaining walls	X	
Perimeter fencing	X	
Rock removal	X	
Electrical connection application from underground pit external to property boundary to meter box and switchboard (single phase) <i>Note: Connection fees as well as any charge for the installation of an electricity pit will be charged to the Owner</i>	X	
Water Tapping including installation of meters <i>Note: Water tapping requirements to be confirmed by water authority. Please also refer to Note 1</i>	X	
Underground telephone conduit with draw string installed from the property boundary to external point of each unit <i>Note: Underground conduit provided will also be suitable for NBN lead in. Telephone line connection after handover including all consumer account opening fees to be paid by client. Please also refer to Note 1</i>	X	
NBN contribution and connection fees	X	
Sewer drains and connections to point nominated by relevant authority within the property boundary <i>Note: Please also refer to Note 1</i>	X	
Gas connection based on high pressure gas being available including meters. <i>Note: Connection fees if any payable by the client</i>	X	

Initials (Client) \_\_\_\_\_

Initials (Builder) \_\_\_\_\_

	Y	N
Termite pest control if required by council property information	x	
OH&S Compliance and relevant signage	x	
<b>Note 1: Should service authorities require fees for upgrades or extensions, these costs are to be paid by the client</b>	x	
<b>Note 2: A “No Go Zone” permit is required if the site is in close proximity to power lines. If the acting authority deems power shutdowns, line protection or additional forms of compliance are required, the fees associated in doing so are to be paid by the client. Pembroke Homes are unable to determine the costs at the time of quoting, they can only be determined once onsite</b>	x	
<b>Note (Tree Protection Zone) 3: Standard construction techniques have been allowed for, in particular opening trenches for slabs and providing services to each townhouse. No allowance has been made for an arborist to attend site prior to or during construction. Should an arborist be required to attend site to ensure works within tree protection zones are carried out in line with the planning permit then costs shall be incurred by the client</b>	x	

### Foundations & Concreting

Slab on ground: As per soil test and engineers design up to P Class	x	
Note: Should a situation arise where excess concrete over and above the allowance is required, Develpro Constructions will contact the owner prior to the placement of concrete, and this will be charged at \$300 per cubic meter	x	
<b>Note: Should any revisions to engineering and subsequently to the building permit be required as a result of improving the design and structural integrity, such costs will be paid by the client</b>	x	

### Frame Construction

Conventional stick build or prefabricated wall framing	x	
Prefabricated floor and roof trusses	x	
Compliance with AS 1684-Residential timber framed construction	x	
Compliance with endorsed town planning & working drawings	x	
Compliance with endorsed engineering design/plans	x	

### Windows

Aluminium framed windows in accordance with plans and elevations. <i>Note: Windows and doors will be nearest standard size to the nominated sizes on the architectural plans.</i> Colour: Refer to colour schedule Glass: Refer to plans & energy report	x	
Obscure glass: As indicated on plan	x	

Initials (Client) \_\_\_\_\_

Initials (Builder) \_\_\_\_\_

## External Cladding

	Y	N
Face brickwork \$1,150 per 1,000 allowance		X
25mm Boral shaftliner system to partiwall		X
50/75mm thick rendered polystyrene/hebel to areas as nominated on elevations (where required)	X	
50/75mm thick rendered polystyrene/hebel with grooves to areas as nominated on elevations (where required)		X
Stria cladding with painted finish to areas as nominated on town planning approved elevations (where required)		X
Matrix cladding with painted finish to areas as nominated on town planning approved elevations (where required)		X
Axon cladding with painted finish to areas as nominated on town planning approved elevations (where required)	X	
Colourbond metal cladding to comply with town planning requirements as nominated on elevations (where required)		X
Porch/Veranda/Eave Lining: Flush jointed cement sheet lining	X	

## Roof Cover

Concrete roof tiles: Boral tudor profile or similar Colour: Refer to colour schedule		X
Corrugated, colorbond sheet metal roofing Colour: Refer to colour schedule	X	
Kliplock roofing to all flat roof construction (where required) Colour: Refer to colour schedule	X	
Single sided reflective foil to underside of metal roofing or as required by energy rating report	X	
Metal fascia, downpipes, quad gutters, rain heads and box gutters Downpipes: 100x50mm rectangular, colorbond Charged downpipes: 90mm diameter round PVC (where required)	X	

## External Doors

Front Door: Primed solid front door with painted finish as per plan	X	
Front Door: Stained timber solid front door to all units as per plan		X
External Garage Door: Solid core flush panel door to rear of garage Door furniture: Gainsborough governor keyed alike to front door		X
Door stops: White cushion	X	

## Infills

Brickwork over windows		X
Garage infill brickwork		X

Initials (Client) \_\_\_\_\_

Initials (Builder) \_\_\_\_\_

## Balconies

	Y	N
Waterproof balconies as per AS3740		X
Floor tiling (Refer to tiling specifications for allowance)		X
Glass balustrading to balconies as per town planning requirements		X
Rendered walls as per town planning requirements		X
Powdered coated fixed louvre screens as per town planning requirements		X

## Insulation

Wall and ceiling insulation as per energy rating report	X	
Acoustic glass wool insulation to Boral Firewall Shaft liner system	X	
Sisalation foil to exterior walls	X	
Weather seals to external doors	X	
Caulking to all external expansion joints including wet areas internally	X	

## Plaster

10mm unispan plasterboard to ceiling of each unit (fixed directly to underside of trusses/joists)	X	
10mm RE plasterboard to walls of each unit (excluding wet areas)	X	
10mm aquacheck plasterboard to wet areas	X	
Steel battens to ceiling only where required	X	
Square set ceiling line throughout each unit	X	
75mm scotia cornice throughout each unit		X

## Fixing Material

Builders range <b>black</b> internal door handles	X	
Quick-slide flush panel sliding doors (2040mm H) to all built in robes	X	
Quick-slide mirror doors (2040mm H) to all built in robes		X
2040mm high, flush panel, hinged and cavity sliding doors to ground floor and first floor of each unit	X	
67x18mm square dressed (primed MDF) architraves	X	
67x18mm square dressed (primed MDF) skirting boards	X	
Vic Ash staircase with satin finish		X
Vic Ash handrail with square profile		X
Plaster lined dwarf walls to stairs and first floor voids where required		X
Upgrade: glass balustrade		X
Tasmanian oak timber flooring throughout excluding bedrooms and wet areas of each unit – Allowance \$80 p/sqm including installation		X
WPC/SPC hybrid flooring throughout excluding wet areas – Allowance \$50 p/sqm	X	

Initials (Client) \_\_\_\_\_

Initials (Builder) \_\_\_\_\_

## Shelving

	Y	N
Robes: single fixed white melamine shelf with chrome hanging rail to all built in robes	x	
Linen: 4 fixed melamine shelves to linen	x	
Pantry: 4 fixed melamine shelves	x	

## Water Proofing

Waterproof shower enclosures to bathroom and ensuite	x	
Seal floor & wall junctions to bathroom and ensuite	x	
Waterproof all wet areas including floor & walls as per AS3740	x	

## Wall & Floor Tiling

Wall tiling standard, 500mm to bath, 1800mm to shower, 300mm to vanity including 100mm skirting tiles		x
Wall tiling upgrade: floor to ceiling in bathrooms and ensuites	x	
Floor tiling only to laundry and powder rooms of each unit including 100mm high skirting tiles	x	
Wall tiling 600mm to laundry splashback	x	
300mm high skirting tiles in garages where the internal walls are plastered	x	
Front porch/external tiling (if required)		x
Note: Allowance for supply of tiles is \$25 per m2	x	

## Painting

2 coat paint system as per Develpro Constructions standard painting specifications	x	
Ceiling: Wattyl, flat ceiling white	x	
Walls: Wattyl, chalk dust	x	
Skirtings, Architraves & Internal Doors: Wattyl, chalk dust matt finish	x	

## Bathroom/Laundry

Laminate vanities as per internal elevations with 20mm thick 'Ambassador Stone' (from builders range) to bathroom, ensuite, and laundry cabinetry	x	
<b>Black</b> handles to below bench, 25mm overhang to overheads	x	
Upgrade: Powder coated J scoop handles to below bench, 25mm overhang to overheads		x
Ceramic bench mounted basins as per builders range	x	
<b>Black</b> mixer, basin mounted as per builders range	x	
Semi-frameless <b>black</b> pivot shower screens to all shower enclosures of each unit	x	
<b>Black</b> hand shower with rail to shower as per builders range	x	
Fibreglass shower bases with round waste outlets to all shower enclosures of each unit		x
Upgrade: Tiled hob shower base with square chrome waste	x	

Initials (Client) \_\_\_\_\_

Initials (Builder) \_\_\_\_\_

	Y	N
Upgrade: Inline tiled shower base with square chrome waste		X
Upgrade: tiled shower niche	X	
Polished edge frameless mirrors over vanity units	X	
Builders range standard toilets suites	X	
White acrylic drop in bath with tiled hob		X
Upgrade: White acrylic freestanding bath	X	
<b>Black</b> wall mounted spout and mixer to bath	X	
Accessories fitted to bathroom, laundry, and toilet <b>Note: 600mm towel rails to bathrooms and ensuites. Towel rails may need to be reduced in length due to space constraints</b>	X	
Builders range stainless steel laundry trough	X	
<b>Black</b> mixer as per builders range	X	

## Kitchen

Laminate base and overhead cupboards as per internal elevations with 40mm thick 'Ambassador Stone' or similar (from builders range) including waterfall	X	
Tiled splashback 600mm above bench	X	
<b>Black</b> handles to below bench, 25mm overhang to overhead joinery	X	
Upgrade: Powder coated J scoop handles to below bench, 25mm overhang to overheads		X
Easy clean cutlery trays fitted to draws	X	
Stainless steel or <b>black</b> double bowl kitchen sink	X	
<b>Black</b> kitchen mixer bench mounted	X	
600mm stainless steel under bench electric oven (Di Lusso) or similar		X
600mm stainless steel gas hot plate/cook top (Di Lusso) or similar		X
600mm stainless steel slide out rangehood (Di Lusso) or similar		X
900mm stainless steel under bench electric oven (Di Lusso) or similar	X	
900mm stainless steel gas hot plate/cook top (Di Lusso) or similar	X	
900mm stainless steel slide out rangehood (Di Lusso) or similar	X	
600mm stainless steel dishwasher (Di Lusso) or similar	X	
900mm fridge provision	X	

## Garage Door

Standard colorbond panel lift garage door including motor with 2 remotes	X	
Upgrade: Timber look colorbond panel lift garage door including motor with 2 remotes		X

Initials (Client) \_\_\_\_\_

Initials (Builder) \_\_\_\_\_

## Electrical

	Y	N
LED downlights (white) throughout	x	
1 x builders range wall light/s to rear of dwelling	x	
Ceiling exhaust to each unit (where required)	x	
Builders range white double internal power points as per plan or where required	x	
Builders range white switches as per plan or where required	x	
1 x builders range external power point or where required	x	
1 x data point	x	
2 x TV points including antenna fitted	x	
Hardwired smoke alarms in accordance with BCA requirements	x	
Intercom with 7" LCD monitor	x	
2 x pendent lights over kitchen bench where suitable	x	

## Heating & Cooling

1 x Builders range ducted heating unit and evaporative cooling	x	
<b>Note: The size and capacity of the heating/cooling unit will be determined by the installer prior to installation by calculating the volume of each room. Should an alternative system be required, any changes or cost implications will be discussed on site with the client</b>		x

## Carpet

Carpet on standard underlay to first floor, bedrooms, and robes (excluding wet areas) of each unit – Allowance \$100 p/blm inclusive of supply and labour		x
---	--	---

## Concrete Paving

Coloured concrete paving to driveway as per plan	x	
Upgrade: Aggregate concrete paving to driveway as per plan		x
New vehicle crossing(s) including associated permits where required	x	
Reinstate/resize /remove existing crossover where required	x	
Reinstate footpath bays if damaged where required	x	

## Hot Water

Solar hot water panel heating and gas boosted storage tank fitted in accordance with 6-star energy rating requirements		x
Rainwater tank provided to each unit connected to toilet cisterns in lieu of solar heating system. Size of tanks to comply with the civil design as endorsed by the responsible authority	x	
Builders range continuous flow gas hot water system to each unit	x	

Initials (Client) \_\_\_\_\_

Initials (Builder) \_\_\_\_\_

## Miscellaneous Items

	<b>Y</b>	<b>N</b>
Window Furnishing: Single roller binds	<b>x</b>	
Landscaping: Hard and soft landscaping including concrete pavers or where required	<b>x</b>	
Fold down clothesline	<b>x</b>	
Timber decking to rear courtyards as per endorsed landscape design		<b>x</b>
Detailed cleaning inside and outside prior to handover	<b>x</b>	
Garden sheds where required to conform with town planning requirements		<b>x</b>
Freestanding letterbox	<b>x</b>	
Garden taps at front and rear	<b>x</b>	
Window shrouds/privacy screens as per town planning requirement		<b>x</b>
Front fence as per endorsed town planning design		<b>x</b>

Initials (Client) \_\_\_\_\_

Initials (Builder) \_\_\_\_\_



# Vendor Statement

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

This statement must be signed by the vendor and given to the purchaser before the purchaser signs the contract.  
The vendor may sign by electronic signature.

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

<b>Land</b>	<b>70 Plymouth Drive Rockbank Vic 3335 (formerly known as Thornhill Park)</b>
-------------	---

<b>Vendor's name</b>	CDB Property Holdings Pty Ltd ACN 642 179 208	<b>Date</b> 23 / 5 / 23
----------------------	---	----------------------------

<b>Vendor's signature</b>	 <b>as authorised by vendor</b>	Director/Secretary
---------------------------	--	--------------------

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

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

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

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

# 1. FINANCIAL MATTERS

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

(a) Their total does not exceed:

\$5,000.00

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

	To	
--	----	--

Other particulars (including dates and times of payments):
--

## 1.3 Terms Contract

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

Not Applicable.

## 1.4 Sale Subject to Mortgage

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

Not Applicable.

# 2. INSURANCE

## 2.1 Damage and Destruction

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

Not Applicable.

## 2.2 Owner Builder

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

Not Applicable.

# 3. LAND USE

## 3.1 Easements, Covenants or Other Similar Restrictions

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

Is in the attached copies of title documents.

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

Nil to the Vendor's knowledge
-------------------------------

## 3.2 Road Access

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

## 3.3 Designated Bushfire Prone Area

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

## 3.4 Planning Scheme

Attached is a certificate with the required specified information.

## 4. NOTICES

### 4.1 Notice, Order, Declaration, Report or Recommendation

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

Not Applicable.

### 4.2 Agricultural Chemicals

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

Nil.

### 4.3 Compulsory Acquisition

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

Nil.

## 5. BUILDING PERMITS

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

Are as follows:

The Vendor will apply for the required Building Permit and furnish the Purchaser with the said Building Permit and Builder's Warranty Insurance prior to settlement.

**6. OWNERS CORPORATION**

This section 6 only applies if the land is affected by an owners corporation within the meaning of the *Owners Corporations Act 2006*.

Not Applicable.

**7. GROWTH AREAS INFRASTRUCTURE CONTRIBUTION (“GAIC”)**

Not applicable.

**8. SERVICES**

The services which are marked with an ‘X’ in the accompanying square box are NOT connected to the land: Services will be available at the time of settlement.

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

**9. TITLE**

Attached are copies of the following documents:

9.1 (a) **Registered Title**

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

9.2 Evidence of the vendor’s right or power to sell (where the vendor is not the registered proprietor or the owner in fee simple). THE VENDOR has entered into a Contract of Sale with the Head Vendor (annexed hereto) to purchase the said land. Upon settlement (due on 23 February 2023) the Vendor will commence construction of the dwelling in accordance with the specifications attached hereto.

**10. SUBDIVISION**

10.1 **Unregistered Subdivision**

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

Not Applicable.

10.2 **Staged Subdivision**

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

Not Applicable.

10.3 **Further Plan of Subdivision**

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

Not Applicable.

**11. DISCLOSURE OF ENERGY INFORMATION**

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

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

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

Not Applicable.

## 12. DUE DILIGENCE CHECKLIST

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

Is attached.

## 13. ATTACHMENTS

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

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

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

--

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

Page 1 of 1

VOLUME 12373 FOLIO 269

Security no : 124103593003N

Produced 01/02/2023 11:05 AM

**LAND DESCRIPTION**

Lot 208 on Plan of Subdivision 816954N.  
PARENT TITLE Volume 12373 Folio 186  
Created by instrument PS816954N 12/05/2022

**REGISTERED PROPRIETOR**

Estate Fee Simple  
TENANTS IN COMMON  
As to 1 of a total of 5 equal undivided shares  
Sole Proprietor  
MANSOOR IBRAHIM JANJUA of 6 IVAN WAY POINT COOK VIC 3030  
As to 4 of a total of 5 equal undivided shares  
Sole Proprietor  
NADIA MANSOOR of 6 IVAN WAY POINT COOK VIC 3030  
AV687848W 31/05/2022

**ENCUMBRANCES, CAVEATS AND NOTICES**

COVENANT PS816954N 12/05/2022

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

AGREEMENT Section 173 Planning and Environment Act 1987  
AV318972J 10/02/2022

**DIAGRAM LOCATION**

SEE PS816954N FOR FURTHER DETAILS AND BOUNDARIES

**ACTIVITY IN THE LAST 125 DAYS**

NIL

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

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

Street Address: 70 PLYMOUTH DRIVE ROCKBANK VIC 3335

**ADMINISTRATIVE NOTICES**

NIL

eCT Control 19984U JOSHI LAWYERS  
Effective from 31/05/2022

DOCUMENT END

**REGISTER SEARCH STATEMENT (Title Search) Transfer of  
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**ADMINISTRATIVE NOTICES**

NIL

eCT Control 19984U JOSHI LAWYERS  
Effective from 31/05/2022

DOCUMENT END



# Imaged Document Cover Sheet

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Number of Pages (excluding this cover sheet)	<b>4</b>
Document Assembled	<b>01/02/2023 11:09</b>

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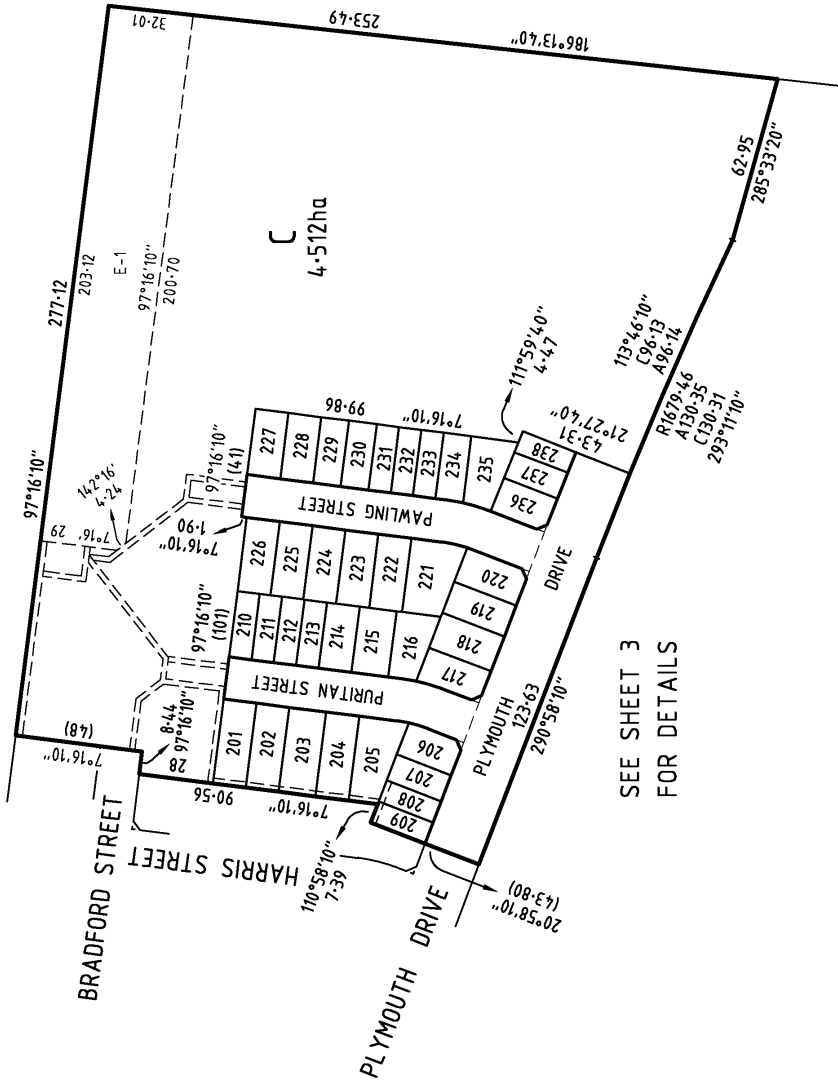
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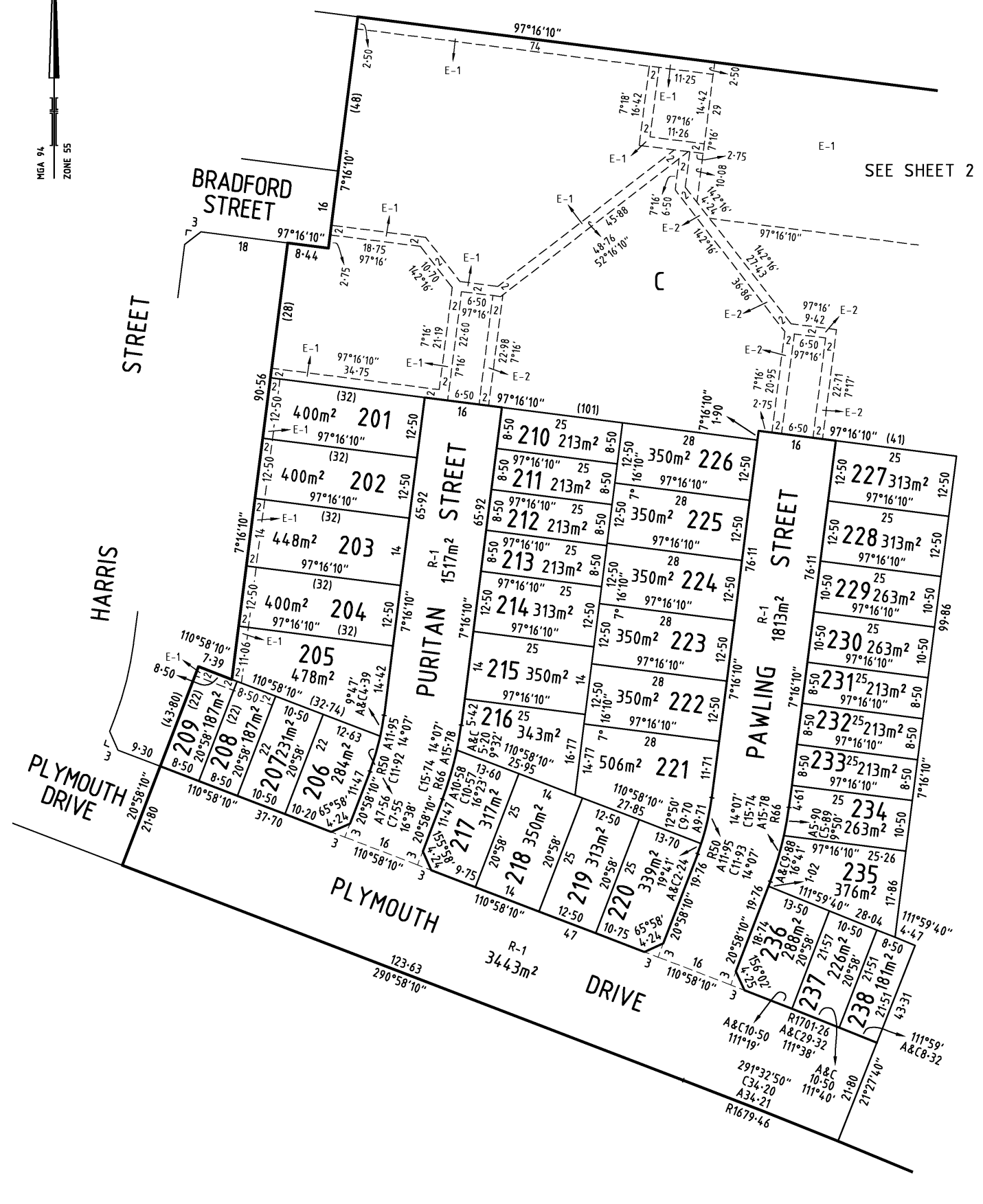
<b>PLAN OF SUBDIVISION</b>			EDITION 1	<b>PS 816954N</b>
<b>LOCATION OF LAND</b> PARISH: KOROROIT TOWNSHIP: - SECTION: 3 CROWN ALLOTMENT: 4 (PART) CROWN PORTION: - TITLE REFERENCE: C/T VOL.12373 FOL.186  LAST PLAN REFERENCE: Lot A on PS 816953Q  POSTAL ADDRESS: 207 - 231 PAYNES ROAD (at time of subdivision) THORNHILL PARK VIC 3335  MGA94 CO-ORDINATES: E: 291 850 ZONE: 55 (of approx centre of land N: 5 822 350 in plan)			Council Name: Melton City Council  Council Reference Number: Sub 5364 Planning Permit Reference: PA2017/5836 SPEAR Reference Number: S140170V  <b>Certification</b>  This plan is certified under section 11 (7) of the Subdivision Act 1988 Date of original certification under section 6: 10/02/2021  Public Open Space  A requirement for public open space under section 18 of the Subdivision Act 1988 has not been made  Digitally signed by: Karen Gaskett for Melton City Council on 07/09/2021  <b>Statement of Compliance</b> issued: 29/03/2022	
<b>VESTING OF ROADS AND/OR RESERVES</b>			<b>Notations</b>	
IDENTIFIER	COUNCIL/BODY/PERSON		Land being subdivided is enclosed within thick continuous lines.  Lots 1 to 200 (both inclusive) and Lots A and B have been omitted from this plan.  <b>WARNING:</b> The restrictive covenant(s)/restriction(s) in this plan may have been varied or removed. For current information, please refer to the relevant folio(s) of the Register, noting section 88(3) of the Transfer of Land Act 1958	
ROAD R-1	MELTON CITY COUNCIL			
<b>NOTATIONS</b>				
DEPTH LIMITATION DOES NOT APPLY				
SURVEY: This plan is based on survey  STAGING: This is not a staged subdivision Planning Permit No. PA 2017/5836  This survey has been connected to permanent marks No(s). - In Proclaimed Survey Area No. -				
<b>EASEMENT INFORMATION</b>				
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	PS 816953Q	MELTON CITY COUNCIL
E-2	DRAINAGE	SEE DIAG	THIS PLAN	MELTON CITY COUNCIL
<b>THE MAYFLOWER ESTATE - STAGE 2 (38 LOTS)</b>				<b>AREA OF STAGE - 1.834ha</b>
414 La Trobe Street PO Box 16084 Melbourne Vic 8007 T 61 3 9993 7888 spiire.com.au		SURVEYORS FILE REF: 306086SV00	ORIGINAL SHEET SIZE: A3	SHEET 1 OF 4
		Digitally signed by: James Patrick Gleeson, Licensed Surveyor, Surveyor's Plan Version (3), 23/08/2021, SPEAR Ref: S140170V	PLAN REGISTERED TIME: 9:34am DATE: 12/05/2022 L.Hawkins Assistant Registrar of Titles	

PS 816954N



 <p>414 La Trobe Street PO Box 16084 Melbourne Vic 8007 T 61 3 9993 7888 spire.com.au</p>	<p>SCALE 1:2000</p>	<p>20 0 20 40 60 80 LENGTHS ARE IN METRES</p>	<p>ORIGINAL SHEET SIZE: A3</p>	<p>SHEET 2</p>
	<p>Digitally signed by: James Patrick Gleeson, Licensed Surveyor, Surveyor's Plan Version (3), 23/08/2021, SPEAR Ref: S140170V</p> <p>Digitally signed by: Melton City Council, 07/09/2021, SPEAR Ref: S140170V</p>			

PS 816954N

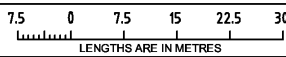


SEE SHEET 2



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SCALE  
1: 750



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23/08/2021, SPEAR Ref: S140170V

ORIGINAL SHEET  
SIZE: A3

Digitally signed by:  
Melton City Council,  
07/09/2021,  
SPEAR Ref: S140170V

SHEET 3

**CREATION OF RESTRICTION No. 1**

Upon registration of this plan, the following restriction is created:

**Land to Benefit:** Lots 201 to 238 (both inclusive)  
**Land to be Burdened:** Lots 201 to 238 (both inclusive)

**Description of Restriction:**

The registered proprietor or proprietors for the time being of any burdened lot on this Plan shall not:

1. Construct or allow to be constructed any improvement on any lot:
  - (i) that is not in accordance with the Design Guidelines approved under PA 2017/5836 unless otherwise approved by the Design Review Panel and Melton City Council; and
  - (ii) without obtaining written approval of the design for that improvement from the Design Review Panel, such approval to be obtained even if the design for that improvement complies with the Design Guidelines.
2. Construct or allow to be constructed any more than one dwelling per lot.

This restriction shall cease to have effect 10 years after the date of registration of this Plan.

In this restriction:

**Design Guidelines** means the design, development and use controls for Lots 201 to 238 (both inclusive) on the Plan, a copy of which can be obtained from the Design Review Panel (and as amended from time to time by the Design Review Panel) and Melton City Council

**Design Review Panel** means the panel appointed for the purposes of assessing compliance with the Design Guidelines, of Unit 3, 69 Lorimer Street, Southbank, Vic. 3006 (or such other address as that panel may nominate from time to time).

**Plan** means PS 816954N.

**CREATION OF RESTRICTION No. 2**

Upon registration of this plan the following restriction is created:

**Description of Restriction:**

Table of land burdened and land benefited (Table 1):

BURDENED LOTS SUBJECT TO THE SMALL LOT HOUSING CODE	BENEFITING LOTS ON THIS PLAN	BURDENED LOTS SUBJECT TO THE SMALL LOT HOUSING CODE	BENEFITING LOTS ON THIS PLAN
206	205, 207	230	229, 231
207	205, 206, 208	231	230, 232
208	205, 207, 209	232	231, 233
209	205, 208	233	232, 234
210	211, 226	234	233, 235
211	210, 212, 225, 226	236	235, 237
212	211, 213, 224, 225	237	235, 236, 238
213	212, 214, 224	238	235, 237
229	228, 230		

The registered proprietor or proprietors for the time being for any burdened Lot on this plan in Table 1 is a Lot subject to the 'Small Lot Housing Code (Type A)' and must not build or permit to be built or remain on the Lot any building or structure that has not been constructed in accordance with the 'Small Lot Housing Code (Type A)' unless in accordance with a planning permit granted to construct a dwelling on the Lot.

This restriction shall cease to have effect after the issue of certificate of occupancy for the whole of the dwelling on the Lot.

**CREATION OF RESTRICTION No. 3**

Upon registration of this plan, the following restriction is created:

**Land to Benefit:** Lots 206 to 209, 217 to 220 and 236 to 238 (all inclusive)  
**Land to be Burdened:** Lots 206 to 209, 217 to 220 and 236 to 238 (all inclusive)

**Description of Restriction:**

The registered proprietor or proprietors for the time being of any burdened lot on this Plan shall not construct a dwelling unless:

- (i) the dwelling is constructed in accordance with memorandum of common provisions registered in dealing no. AA6680; and
- (ii) the glazing of any such dwelling is constructed using the glazing designation set out in that memorandum of common provisions and Table 1 below.

GLAZING DESIGNATION	LOTS ON THIS PLAN
1	206, 207, 208, 209, 217, 218, 219, 220, 236, 237, 238



414 La Trobe Street  
 PO Box 16084  
 Melbourne Vic 8007  
 T 61 3 9993 7888  
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SHEET 4

Digitally signed by: Melton City Council, 07/09/2021, SPEAR Ref: S140170V

From [www.planning.vic.gov.au](http://www.planning.vic.gov.au) at 14 February 2023 11:52 AM

## PROPERTY DETAILS

Address: **70 PLYMOUTH DRIVE ROCKBANK 3335**  
 Lot and Plan Number: **Lot 208 PS816954**  
 Standard Parcel Identifier (SPI): **208\PS816954**  
 Local Government Area (Council): **MELTON**  
 Council Property Number: **929588**  
 Planning Scheme: **Melton**  
 Directory Reference: **Melway 344 D7**

[www.melton.vic.gov.au](http://www.melton.vic.gov.au)

[Planning Scheme - Melton](#)

## UTILITIES

Rural Water Corporation: **Southern Rural Water**  
 Melbourne Water Retailer: **Greater Western Water**  
 Melbourne Water: **Inside drainage boundary**  
 Power Distributor: **POWERCOR**

## STATE ELECTORATES

Legislative Council: **WESTERN METROPOLITAN**  
 Legislative Assembly: **KOROROIT**

## OTHER

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

[View location in VicPlan](#)

## Note

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

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

## Planning Zones

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

[URBAN GROWTH ZONE - SCHEDULE 7 \(UGZ7\)](#)



**UGZ - Urban Growth**

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

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Read the full disclaimer at <https://www.delwp.vic.gov.au/disclaimer>

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 Overlay

DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY (DCPO)

DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY – SCHEDULE 7 (DCPO7)



 DCPO - Development Contributions Plan Overlay

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

## Growth Area Infrastructure Contribution

This property is in an area added to the Urban Growth Boundary after 2005.  
It may be subject to the Growth Area Infrastructure Contribution.  
For more information about this contribution go to [Victorian Planning Authority](http://www.vic.gov.au/victorian-planning-authority)



 Land added to the UGB since 2005

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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).

## Melbourne Strategic Assessment

This property may be located within the Melbourne Strategic Assessment program area. Actions associated with urban development are subject to requirements of the Commonwealth Environment Protection and Biodiversity Conservation Act 1999. Follow the link for more details: <https://nvm.delwp.vic.gov.au/BCS>



## Further Planning Information

Planning scheme data last updated on 8 February 2023.

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

This report is NOT a **Planning Certificate** issued pursuant to Section 199 of the **Planning and Environment Act 1987**. It does not include information about exhibited planning scheme amendments, or zonings that may 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 <https://mapshare.maps.vic.gov.au/vicplan>

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

## Designated Bushfire Prone Areas

**This property is not in a designated bushfire prone area.  
No special bushfire construction requirements apply. Planning provisions may apply.**

Where part of the property is mapped as BPA, if no part of the building envelope or footprint falls within the BPA area, the BPA construction requirements do not apply.

Note: the relevant building surveyor determines the need for compliance with the bushfire construction requirements.



Designated BPA are determined by the Minister for Planning following a detailed review process. The Building Regulations 2018, through adoption of the Building Code of Australia, apply bushfire protection standards for building works in designated BPA.

Designated BPA maps can be viewed on VicPlan at <https://mapshare.vic.gov.au/vicplan/> or at the relevant local council.

Create a BPA definition plan in [VicPlan](#) to measure the BPA.

Information for lot owners building in the BPA is available at <https://www.planning.vic.gov.au>.

Further information about the building control system and building in bushfire prone areas can be found on the Victorian Building Authority website <https://www.vba.vic.gov.au>. Copies of the Building Act and Building Regulations are available from <http://www.legislation.vic.gov.au>. For Planning Scheme Provisions in bushfire areas visit <https://www.planning.vic.gov.au>.



# LAND INFORMATION CERTIFICATE

Section 121(1) Local Government Act, 2020.

## Rates and Charges for period 1 July 2022 to 30 June 2023

Issue date: 07/02/2023

Your Reference: 67736992-014-2

Rate updates (03) 9747 7333

Assessment Number: 929588

Certificate No: 111949

### Applicant:

Landata  
DX 250639  
MELBOURNE 3000

### Property Location: 70 Plymouth Drive ROCKBANK 3335

Title: LOT: 208 PS: 816954N V/F: 12373/269

Ward: CAMBRIDGE

Capital Improved Value: \$185,000 Site Value: \$185,000 Net Annual Value: \$9,250

Effective Date: 01/07/2022 Base Date: 01/01/2022

### 1. RATES CHARGES AND OTHER MONIES:

Vacant Land Date Levied 01/07/2022	\$649.07
Municipal Charge Date Levied 01/07/2022	\$155.00
Residential FSPL Fixed Charge Date Levied 01/07/2022	\$117.00
Residential FSPL Variable Charge Date Levied 01/07/2022	\$9.81
<b>Current Rates Levied: \$930.88</b>	
Rate Arrears to 30/06/2022:	\$0.00
Interest to 24/01/2023:	\$10.90
Other Monies:	\$0.00
Less Rebates*:	\$0.00
Less Payments:	\$0.00
Less Other Adjustments:	\$0.00

<b>Rates &amp; Charges Due:</b>	<b>\$941.78</b>
<b>Additional Monies Owed:</b>	
<b>Total Due:</b>	<b>\$ 941.78</b>

**Council strongly recommends that an update be sought prior to settlement as interest accrues daily at 10% p.a.**

Interest will be charged on outstanding amounts after the due dates as set below;  
30 September, 30 November, 28 February and 31 May

\*If there is a Rebate amount of -\$388.20 is a Pension Rebate and should be adjusted for the vendor. Any other Rebate amount please contact Council for adjustments.

This assessment may be subject to sections 173 or 174A of the Local Government Act 1989.

### 2. OTHER INFORMATION:

**A NOTICE OF ACQUISITION MUST BE SENT WITHIN ONE MONTH OF SETTLEMENT (PEXA WILL NOT AUTOMATICALLY SEND THIS TO COUNCILS OR WATER AUTHORITIES)**





Assessment Number: 929588      Certificate Number: 111949

**3. SPECIFIED FLOOD LEVEL:**

The Council does not have a **Specified** flood level for this property. For further information on flooding, if any, can be obtained from Council's Design Services Department. Any other enquiries under the Building Act 1993 & Building Regulations 1994 should be directed to the Melton City Council's Building Section on 9747 7275.

**4. SPECIAL NOTES:**

After the issue of this certificate, Council may be prepared to provide a verbal update of information to the applicant about the matters disclosed in this certificate within 90 days of the date of issue, but if it does so, Council accepts no responsibility whatsoever for the accuracy of the verbal information given and no employee of the Council is authorised to bind Council by the giving of such verbal information.

**5. IMPORTANT INFORMATION:**

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

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

**6. NOTICE OF ACQUISITIONS:**

Electronic copies of Notice of Acquisitions can be emailed to [revenue@melton.vic.gov.au](mailto:revenue@melton.vic.gov.au)

In accordance with Local Government Act 1989 S231 the failure to comply with the Local Government Regulations 2015 may result in a fine of 10 penalty units.

**7. SETTLEMENT PAYMENT VIA BPAY:**



**Biller code** 747998  
**Reference Number** 929588  
Min payment \$25

I hereby certify that as at the date of this certificate the information given is a correct disclosure of the rates, other monies and interest payable to Melton City Council, together with details of any Notices or Orders on the land pursuant to the Local Government Acts and Local Laws.

Received the sum of \$27.80 being the fee for this certificate.

Authorised Officer



# Information Statement & Certificate

SECTION 158 WATER ACT 1989

ABN 70 066 902 467

CONTACT  
13 44 99

REFERENCE NO.

1254 6056 6114

DATE OF ISSUE - 3/02/2023

APPLICATION NO.

1100224

LANDATA COUNTER SERVICES

YOUR REF.  
67736992-027-2

SOURCE NO. 99904685210

**PROPERTY:** 70 PLYMOUTH DRIVE ROCKBANK VIC 3335

## Statement & Certificate as to Waterways & Drainage, Parks Service and Greater Western 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 30/06/2022				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

Greater Western Water property settlement payments can be made via BPAY. Please use the BPAY Biller code and reference below.

Biller Code:	8789
Reference:	1254 6056 6114



# Information Statement & Certificate

SECTION 158 WATER ACT 1989

ABN 70 066 902 467

CONTACT  
13 44 99

REFERENCE NO.

1254 6056 6114

DATE OF ISSUE - 3/02/2023

APPLICATION NO.

1100224

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 Greater Western 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 Greater Western Water meter.



# Information Statement & Certificate

SECTION 158 WATER ACT 1989

ABN 70 066 902 467

CONTACT  
13 44 99

REFERENCE NO.

1254 6056 6114

DATE OF ISSUE - 3/02/2023

APPLICATION NO.

1100224

## Information given pursuant to section 158 of the Water Act 1989

This property may be subject to Water, Sewer, Parks and Waterways & Drainage charges. If this statement does not include all these details, it is suggested that you contact Greater Western Water on 1300 299 228 to confirm liability against the property for all these charges as well as any Melbourne Water assets that may encumber this property.

Portion of the land could be subject to inundation at times of high storm flow. Therefore any proposed development on the property is to be referred to Melbourne Water, Land Development Team (Postal Address: GPO Box 4342, Melbourne 3001) - Telephone: 9679-7517.

AUTHORISED OFFICER:

A handwritten signature in black ink, appearing to read "R. Charrett", with a horizontal line underneath.

ROHAN CHARRETT  
GENERAL MANAGER  
CUSTOMER EXPERIENCE

GREATER WESTERN WATER CORPORATION

Unless prior consent has been obtained from both GREATER WESTERN 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.

Greater Western 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 Greater Western Water prior to settlement for an update on these charges and remit payment to Greater Western 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.



# Information Statement & Certificate

SECTION 158 WATER ACT 1989

ABN 70 066 902 467

CONTACT  
13 44 99

REFERENCE NO.

1218 8476 5117

DATE OF ISSUE - 3/02/2023

APPLICATION NO.

1100224

LANDATA COUNTER SERVICES

YOUR REF.  
67736992-027-2

SOURCE NO. 99904685210

**PROPERTY:** PREV 207-231 PAYNES ROAD ROCKBANK VIC 3335

## Statement & Certificate as to Waterways & Drainage, Parks Service and Greater Western Water Charges

The sum of four hundred and eighty eight dollars and forty one cents 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
PARKS SERVICE CHARGES	317.12	Annually	30/06/2023	317.12	315.12
<b>TOTAL</b>	317.12			317.12	315.12

Service charges owing to 30/06/2022	0.00
Service charges owing for this financial year	315.12
Adjustments	173.29
<b>Current amount outstanding</b>	<b>488.41</b>
Plus remainder service charges to be billed	0.00
<b>BALANCE including unbilled service charges</b>	<b>488.41</b>

Greater Western Water property settlement payments can be made via BPAY. Please use the BPAY Biller code and reference below.

Biller Code:	8789
Reference:	1218 8476 5117



# Information Statement & Certificate

SECTION 158 WATER ACT 1989

ABN 70 066 902 467

CONTACT  
13 44 99

REFERENCE NO.

1218 8476 5117

DATE OF ISSUE - 3/02/2023

APPLICATION NO.

1100224

For the purpose of levying Parks and/or Waterways and Drainage charges Property no: 125460566 is not yet separately rated by Greater Western Water and is part only of the property for which this certificate is issued. Property 125460566 may be separately rated from the date of sale and may attract these charges.

Where applicable, this statement gives particulars of Greater Western 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 Greater Western Water meter.



# Information Statement & Certificate

SECTION 158 WATER ACT 1989

ABN 70 066 902 467

CONTACT  
13 44 99

REFERENCE NO.

1218 8476 5117

DATE OF ISSUE - 3/02/2023

APPLICATION NO.

1100224

## Information given pursuant to section 158 of the Water Act 1989

Melbourne Water became responsible for waterway management, floodplain management and regional drainage on Friday 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 further information please contact Melbourne Water on 9679-7517.

This property may be subject to Water, Sewer, Parks and Waterways & Drainage charges. If this statement does not include all these details, it is suggested that you contact Greater Western Water on 1300 299 228 to confirm liability against the property for all these charges as well as any Melbourne Water assets that may encumber this property.

AUTHORISED OFFICER:

A handwritten signature in black ink, appearing to read "R. Charrett", with a horizontal line underneath.

ROHAN CHARRETT  
GENERAL MANAGER  
CUSTOMER EXPERIENCE

GREATER WESTERN WATER CORPORATION

Unless prior consent has been obtained from both GREATER WESTERN 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.

Greater Western 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 Greater Western Water prior to settlement for an update on these charges and remit payment to Greater Western 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.





ABN 70 066 902 467  
36 Macedon Street Sunbury  
LOCKED BAG 350 SUNSHINE VIC 3020

Call 13 44 99  
www.gww.com.au  
contact@gww.com.au



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MCP Group  
C/-Secure Electronic Registries Victoria  
Level 13 697 Collins St  
DOCKLANDS VIC 3008

<b>Your Reference</b> <b>67736992-031-9</b>
<b>Statement No</b> <b>159343</b>
<b>Service Request ID</b> <b>0</b>
<b>Account No</b> <b>16-4877-3500-01-3</b>
<b>Date Issued</b> <b>01 February 2023</b>

## Information Statement

Water Act 1989, Section 158

*This Statement details all Tariffs, Charges and Penalties due and payable to Greater Western Water, as at the date of this Statement, and also includes Tariffs and Charges, (other than for water yet to be consumed), which are due and payable to the 30-June-2023 as well as any relevant Orders, Notices and Encumbrances applicable to the property, described hereunder.*

**Property Address: 70 PLYMOUTH DR, ROCKBANK VIC 3335**

**Title(s):** Lot 208, Plan of Subdivision 816954, Volume 12373, Folio 269, Parish of Kororoit

**Owner(s):** The Mayflower Estate Victoria Pty Ltd

### Comments:

There are no Comments applicable to this property

### Account Calculation:

Charges Previously Billed:	\$0.00
<b>Current Charges (see over for details):</b>	<b>\$0.00</b>
<b>Total Amount Owing to 30-June-2023</b>	<b>\$0.00</b>

To calculate charges to settlement date, calculations should be based on daily access fees and volumetric charges from the period of the last account until settlement date.

**Please email the Notice of Acquisition/Disposition to Greater Western Water within 14 days of settlement.**

**Property No:** 16-4877-3500

**Property Address:** 70 Plymouth Dr, Rockbank VIC 3335

**Current Charges for services provided and their tariffs:**

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This property is not chargeable.

**Encumbrances and other information:**

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Greater Western Water recommend that you contact us prior to settlement to obtain details of any payments or charges which may have been applied to the account after this statement was issued.

The subject property may be affected by a drainage and/or flooding issue. For further information please contact Melbourne Water on 131 722.

Although this property is Vacant Land, Water and/or Sewer network charges will be applicable from settlement date for any change in ownership, or from date of meter fitting, whichever occurs first.

The approximate annual network charge for Water is \$206.31 and Sewer is \$506.34 for the period 1 July 2022 to 30 June 2023

Although this property is Vacant Land a Waterways Charge will apply from settlement date for any change in ownership, or from date of meter fitting, whichever occurs first. The annual charge for Residential properties within the Urban Growth boundary is \$109.68 for the period 1 July 2022 to 30 June 2023.

Please note an Annual Parks Charge may apply to this property. You should request a separate Parks charge information statement from Greater Western Water [https://www.citywestwater.com.au/moving\\_selling/property\\_information\\_statement](https://www.citywestwater.com.au/moving_selling/property_information_statement) OR Landata for properties in the Melton region. For properties in the Sunbury region please contact Yarra Valley Water (Ph: 1300 304 688) for further information.

We apologise for any inconvenience this may cause. Greater Western Water is currently working to centralise legacy City West Water and Western Water Systems to provide a complete service to all our customers.

**Disclaimer:**

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Greater Western Water hereby certify that the information detailed in this statement is true and correct according to records held and that the prescribed fee has been received. However, Greater Western Water does not guarantee or make any representation or warranty as to the accuracy of this plan or associated details. It is provided in good faith as the best information available at the time. Greater Western Water therefore accepts no liability for any loss or injury suffered by any party as a result of any inaccuracy on this plan. The cadastral data included on this map originates from VICMAP Data and is licenced for re-use under Creative Commons License. Please refer to <https://www.propertyandlandtitles.vic.gov.au/> for any queries arising from information provided herein or contact Greater Western Water 13 44 99. This statement is valid for a period of 120 days from date of issue.



Rohan Charrett  
General Manager Customer Experience

01 February 2023

## Information Statement Remittance Page



**Bill Code: 757955**  
**Ref: 1648 7735 0001 3**  
® Registered to BPAY Pty Ltd ABN 69 079 137 518

**Electronic Payment Option:**  
Please make this payment via internet or phone banking.

**Post**  
Mail your cheque with this payment slip to:  
PO Box 2371  
Sunbury DC VIC 3429

**Property No:** 16-4877-3500

**Property Address:** 70 Plymouth Dr, Rockbank VIC 3335

<u>Account No</u>	<u>Description</u>	<u>Amount</u>	<u>Barcode</u>
16-4877-3500-01	Water Account	\$0.00	

**Total: \$0.00**

**\* \* \* \* If paying by Post, please return this page with your payment \* \* \* \***

# Property Clearance Certificate

## Taxation Administration Act 1997



INFOTRACK / MCP GROUP

**Your Reference:** 5914/22  
**Certificate No:** 58992457  
**Issue Date:** 01 FEB 2023  
**Enquiries:** ESYSPROD

**Land Address:** 70 PLYMOUTH DRIVE ROCKBANK VIC 3335

Land Id	Lot	Plan	Volume	Folio	Tax Payable
49046689	208	816954	12373	269	\$374.08

**Vendor:** NADIA MANSOOR & MANSOOR IBRAHIM JANJUA

**Purchaser:** CDB PROPERTY HOLDINGS & CHARLIE BORG

Current Land Tax	Year	Taxable Value	Proportional Tax	Penalty/Interest	Total
MS NADIA MANSOOR	2023	\$185,000	\$374.08	\$0.00	\$374.08

**Comments:** Land Tax will be payable but is not yet due - please see notes on reverse.

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

Arrears of Land Tax	Year	Proportional Tax	Penalty/Interest	Total
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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:** \$185,000

**SITE VALUE:** \$185,000

**AMOUNT PAYABLE:** \$374.08

# Notes to Certificates Under Section 95AA of the *Taxation Administration Act 1997*

Certificate No: 58992457

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## Power to issue Certificate

1. The Commissioner of State Revenue can issue a Property Clearance Certificate (Certificate) to an owner, mortgagee or bona fide purchaser of land who makes an application specifying the land for which the Certificate is sought and pays the application fee.

## Amount shown on Certificate

2. The Certificate shows any land tax (including Vacant Residential Land Tax, interest and penalty tax) that is due and unpaid on the land described in the Certificate at the date of issue. In addition, it may show:
  - Land tax that has been assessed but is not yet due,
  - Land tax for the current tax year that has not yet been assessed, and
  - Any other information that the Commissioner sees fit to include, such as the amount of land tax applicable to the land on a single holding basis and other debts with respect to the property payable to the Commissioner.

## Land tax is a first charge on land

3. Unpaid land tax (including Vacant Residential Land Tax, interest and penalty tax) is a first charge on the land to which it relates. This means it has priority over any other encumbrances on the land, such as a mortgage, and will continue as a charge even if ownership of the land is transferred. Therefore, a purchaser may become liable for any such unpaid land tax.

## Information for the purchaser

4. If a purchaser of the land described in the Certificate has applied for and obtained a Certificate, the amount recoverable from the purchaser cannot exceed the 'amount payable' shown. A purchaser cannot rely on a Certificate obtained by the vendor.

## Information for the vendor

5. Despite the issue of a Certificate, the Commissioner may recover a land tax liability from a vendor, including any amount identified on this Certificate.

## General information

6. A Certificate showing no liability for the land does not mean that the land is exempt from land tax. It means that there is nothing to pay at the date of the Certificate.
7. An updated Certificate may be requested free of charge via our website, if:
  - The request is within 90 days of the original Certificate's issue date, and
  - There is no change to the parties involved in the transaction for which the Certificate was originally requested.

## For Information Only

LAND TAX CALCULATION BASED ON SINGLE OWNERSHIP

Land Tax = \$0.00

Taxable Value = \$185,000

Calculated as \$0 plus ( \$185,000 - \$0) multiplied by 0.000 cents.

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## Property Clearance Certificate - Payment Options

### BPAY



Billers Code: 5249  
Ref: 58992457

### 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: 58992457

### 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)

## SALE OF REAL ESTATE NOMINATION FORM

Relating to a Contract between:

VENDOR: **MANSOOR IBRAHIM JANJUA AND NADIA MANSOOR**  
PURCHASER: **CHARLIE BORG**  
PROPERTY: **70 Plymouth Drive, Thornhill Park**  
NOMINEE: **CDB PROPERTY HOLDINGS PTY LTD A.C.N. 642 179 208**

As the property is expressed as sold to the Purchaser "and/or Nominee" (or words to that effect) then pursuant to the conditions of the contract the Purchasers nominate the Nominee as substituted purchaser to take a transfer or conveyance in lieu of the Purchasers.

The Purchasers and the Nominee acknowledge that they will henceforth be jointly and severally liable for the due performance of all the obligations of the Purchasers under the Contract and payment of any expenses resulting from this nomination (including any Stamp Duty).

DATED the 13TH day of DECEMBER 2022

Signature of Purchaser:

DocuSigned by:  
*Charlie Borg*  
A29F79318A9F4A8...

Charlie Borg

Signature of Nominee

DocuSigned by: *Charlie Borg* Charlie Borg DocuSigned by: *Donna Borg* Donna Borg  
A29F79318A9F4A8... 1C5569A8687E4EE...  
Charlie Borg and Donna Borg- Directors of CDB  
Property Holdings P/L

## GUARANTEE and INDEMNITY

We, Charlie Borg and Donna Borg of 2/10 Orange Grove, Essendon North, 3040 being the Directors of CDB Property Holdings Pty Ltd A.C.N. 642 179 208,

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

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

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

13/12/2022

This ..... day of ..... 20.....

SIGNED SEALED AND DELIVERED by the said )  
Charlie Borg )  
Print name ..... )

DocuSigned by:  
*Charlie Borg*  
A29F79318A9F4A8.....  
Director (sign)

In the presence of: )  
Witness... Angela Artemiou )  
FDDDCAB626354AA... )

SIGNED SEALED AND DELIVERED by the said )  
Donna Borg )  
Print name ..... )

DocuSigned by:  
*Donna Borg*  
1C5569A8687E4FE...  
Director (sign)

In the presence of: )  
Witness... Angela Artemiou )  
FDDDCAB626354AA... )

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

# Contract of sale of land

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

The terms of this contract are contained in the -

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

in that order of priority.

## SIGNING OF THIS CONTRACT

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

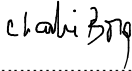
Purchasers should ensure that they have received a section 32 statement from the vendor before signing this contract. In this contract, "section 32 statement" means the statement required to be given by a vendor under section 32 of the *Sale of Land Act 1962*.

The authority of a person signing -

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

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

**SIGNED BY THE PURCHASER:**



CHARLIE BORG

on 25/11/2022

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

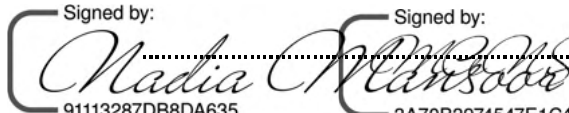
State nature of authority, if applicable:

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

In this contract, "business day" has the same meaning as in section 30 of the *Sale of Land Act 1962*

**SIGNED BY THE VENDOR:**

Signed by:



Signed by:

25/11/2022

91113287DB8DA635

3A70B3974547E1C4

on / /2022

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

**MANSOOR IBRAHIM JANJUA AND NADIA MANSOOR**

State nature of authority, if applicable:

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

## IMPORTANT NOTICE TO PURCHASERS – COOLING-OFF

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

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

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

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

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

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

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



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

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

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

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

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

### Particulars of sale

#### Vendor's estate agent

Name: MK REALTY PTY LTD .....

Address: 31/180 Fairbairn Road, Sunshine West VIC 3020 .....

Email: info@mkrealty.com.au .....

Tel: 1300 407 672 ..... Mob: 0424 936 180 ...Fax: ..... Ref: .....

#### Vendor

#### MANSOOR IBRAHIM JANJUA AND NADIA MANSOOR

Email:

#### Vendor's legal practitioner or conveyancer

##### Joshi Lawyers Pty Ltd

Suite 7, Unit 114/22-30 Wallace Avenue, Point Cook VIC 3030

Email: info@joshilawyers.com.au

Tel: 03 8386 9502 Mob: Fax: 03 8080 3276 Ref: DJ:KL:21/1316

#### Purchaser

Name: CHARLIE BORG .....

Address: .....

ABN/ACN: .....

Email: .....

#### Purchaser's legal practitioner or conveyancer

Name: .ATTN: ANGELA - MCP LEGAL .....

Address: .....

Email: a.artemious@mcpgroup.com.au .....

Tel: ..... Mob: ..... Fax: ..... Ref: .....

#### Land (general conditions 7 and 13)

The land is described in the table below –

Certificate of Title reference	being lot	on plan of subdivision
Volume 12373 Folio 269	208	PS816954N
Volume	Folio	

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

The land includes all improvements and fixtures.

**Property address**

The address of the land is: **70 Plymouth Drive, Thornhill Park 3335**

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

Vacant land

**Payment**

Price \$ ~~2000000~~ <sup>CBarg</sup> 26 nov 2022

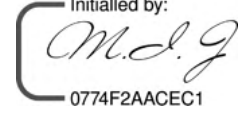
Deposit \$ ~~600000~~

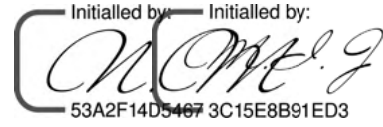
by (of which \$ has been paid)

Balance \$ ~~1000000~~

payable at settlement

Initialled by:  8998B2678F98

Initialled by:  0774F2AAC1

Initialled by:  53A2F14D54673C15E8B91ED3

**Deposit bond**

General condition 15 applies only if the box is checked

**Bank guarantee**

General condition 16 applies only if the box is checked

**GST** (general condition 19)

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

GST (if any) must be paid in addition to the price if the box is checked

This sale is a sale of land on which a 'farming business' is carried on which the parties consider meets the requirements of section 38-480 of the GST Act if the box is checked

This sale is a sale of a going concern' if the box is checked

The margin scheme will be used to calculate GST if the box is checked

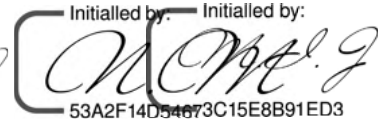
**Settlement** (general conditions 17 & 26.2)

is due or **23/02/2023**

<sup>CBarg</sup>

Initialled by:  8998B2678F98

Initialled by:  0774F2AAC1

Initialled by:  53A2F14D54673C15E8B91ED3

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

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

**Lease** (general condition 5.1)

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

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

a lease for a term ending on with options to renew, each of years

OR

a residential tenancy for a fixed term ending on

OR

a periodic tenancy determinable by notice

**Terms contract** (general condition 30)

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

**Loan** (general condition 20)

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

Lender:

(or another lender chosen by the purchaser)

Loan amount: no more than

Approval date:

**Building report**

General condition 21 applies only if the box is checked

**Pest report**

General condition 22 applies only if the box is checked

# General Conditions

## Contract signing

### 1. ELECTRONIC SIGNATURE

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

### 2. LIABILITY OF SIGNATORY

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

### 3. GUARANTEE

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

### 4. NOMINEE

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

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## Title

### 5. ENCUMBRANCES

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

### 6. VENDOR WARRANTIES

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

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

## 7. IDENTITY OF THE LAND

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

## 8. SERVICES

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

## 9. CONSENTS

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

## 10. TRANSFER & DUTY

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

## 11. RELEASE OF SECURITY INTEREST

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

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

## 12. BUILDING WARRANTY INSURANCE

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

## 13. GENERAL LAW LAND

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

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

## Money

### 14. DEPOSIT

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

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

## 15. DEPOSIT BOND

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

## 16. BANK GUARANTEE

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

- 16.7 Nothing in this general condition limits the rights of the vendor if the purchaser defaults under this contract or repudiates this contract except as provided in general condition 16.6.
- 16.8 This general condition is subject to general condition 14.2 [deposit].

## 17. SETTLEMENT

- 17.1 At settlement:
- (a) the purchaser must pay the balance; and
  - (b) the vendor must:
    - (i) do all things necessary to enable the purchaser to become the registered proprietor of the land; and
    - (ii) give either vacant possession or receipt of rents and profits in accordance with the particulars of sale.
- 17.2 Settlement must be conducted between the hours of 10.00 a.m. and 4.00 p.m. unless the parties agree otherwise.
- 17.3 The purchaser must pay all money other than the deposit in accordance with a written direction of the vendor or the vendor's legal practitioner or conveyancer.

## 18. ELECTRONIC SETTLEMENT

- 18.1 Settlement and lodgment of the instruments necessary to record the purchaser as registered proprietor of the land will be conducted electronically in accordance with the Electronic Conveyancing National Law. This general condition 18 has priority over any other provision of this contract to the extent of any inconsistency.
- 18.2 A party must immediately give written notice if that party reasonably believes that settlement and lodgment can no longer be conducted electronically. Special condition 18 ceases to apply from when such a notice is given.
- 18.3 Each party must:
- (a) be, or engage a representative who is, a subscriber for the purposes of the Electronic Conveyancing National Law,
  - (b) ensure that all other persons for whom that party is responsible and who are associated with this transaction are, or engage, a subscriber for the purposes of the Electronic Conveyancing National Law, and
  - (c) conduct the transaction in accordance with the Electronic Conveyancing National Law.
- 18.4 The vendor must open the electronic workspace ("workspace") as soon as reasonably practicable and nominate a date and time for settlement. The inclusion of a specific date for settlement in a workspace is not of itself a promise to settle on that date or at that time. The workspace is an electronic address for the service of notices and for written communications for the purposes of any electronic transactions legislation.
- 18.5 This general condition 18.5 applies if there is more than one electronic lodgment network operator in respect of the transaction. In this general condition 18.5 "the transaction" means this sale and purchase and any associated transaction involving any of the same subscribers.
- To the extent that any interoperability rules governing the relationship between electronic lodgment network operators do not provide otherwise:
- (a) the electronic lodgment network operator to conduct all the financial and lodgment aspects of the transaction after the workspace locks must be one which is willing and able to conduct such aspects of the transaction in accordance with the instructions of all the subscribers in the workspaces of all the electronic lodgment network operators after the workspace locks;
  - (b) if two or more electronic lodgment network operators meet that description, one may be selected by purchaser's incoming mortgagee having the highest priority but if there is no mortgagee of the purchaser, the vendor must make the selection.
- 18.6 Settlement occurs when the workspace records that:
- (a) there has been an exchange of funds or value between the exchange settlement account or accounts in the Reserve Bank of Australia of the relevant financial institutions or their financial settlement agents in accordance with the instructions of the parties; or
  - (b) if there is no exchange of funds or value, the documents necessary to enable the purchaser to become registered proprietor of the land have been accepted for electronic lodgment
- 18.7 The parties must do everything reasonably necessary to effect settlement:
- (a) electronically on the next business day; or
  - (b) at the option of either party, otherwise than electronically as soon as possible –
- if, after the locking of the workspace at the nominated settlement time, settlement in accordance with special condition 18.6 has not occurred by 4.00 pm, or 6.00 pm if the nominated time for settlement is after 4.00 pm.
- 18.8 Each party must do everything reasonably necessary to assist the other party to trace and identify the recipient of any missing or mistaken payment and to recover the missing or mistaken payment.
- 18.9 The vendor must before settlement:
- (a) deliver any keys, security devices and codes ("keys") to the estate agent named in the contract,
  - (b) direct the estate agent to give the keys to the purchaser or the purchaser's nominee on notification of settlement by the vendor, the vendors subscriber or the electronic lodgment network operator,



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

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

## 19. GST

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

## 20. LOAN

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

## 21. BUILDING REPORT

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

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

## 22. PEST REPORT

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

## 23. ADJUSTMENTS

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

## 24. FOREIGN RESIDENT CAPITAL GAINS WITHHOLDING

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

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

## 25. GST WITHHOLDING

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

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

### 26. TIME & CO OPERATION

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

### 27. SERVICE

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

## 28. NOTICES

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

## 29. INSPECTION

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

## 30. TERMS CONTRACT

- 30.1 If this is a 'terms contract' as defined in the *Sale of Land Act 1962*:
  - (a) any mortgage affecting the land sold must be discharged as to that land before the purchaser becomes entitled to possession or to the receipt of rents and profits unless the vendor satisfies section 29M of the *Sale of Land Act 1962*; and
  - (b) the deposit and all other money payable under the contract (other than any money payable in excess of the amount required to so discharge the mortgage) must be paid to a legal practitioner or conveyancer or a licensed estate agent to be applied in or towards discharging the mortgage.
- 30.2 While any money remains owing each of the following applies:
  - (a) the purchaser must maintain full damage and destruction insurance of the property and public risk insurance noting all parties having an insurable interest with an insurer approved in writing by the vendor;
  - (b) the purchaser must deliver copies of the signed insurance application forms, the policies and the insurance receipts to the vendor not less than 10 days before taking possession of the property or becoming entitled to receipt of the rents and profits;
  - (c) the purchaser must deliver copies of any amendments to the policies and the insurance receipts on each amendment or renewal as evidence of the status of the policies from time to time;
  - (d) the vendor may pay any renewal premiums or take out the insurance if the purchaser fails to meet these obligations;
  - (e) insurance costs paid by the vendor under paragraph (d) must be refunded by the purchaser on demand without affecting the vendor's other rights under this contract;
  - (f) the purchaser must maintain and operate the property in good repair (fair wear and tear excepted) and keep the property safe, lawful, structurally sound, weatherproof and free from contaminations and dangerous substances;
  - (g) the property must not be altered in any way without the written consent of the vendor which must not be unreasonably refused or delayed;
  - (h) the purchaser must observe all obligations that affect owners or occupiers of land;
  - (i) the vendor and/or other person authorised by the vendor may enter the property at any reasonable time to inspect it on giving 7 days written notice, but not more than twice in a year.

## 31. LOSS OR DAMAGE BEFORE SETTLEMENT

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

## 32. BREACH

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

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

## Default

### 33. INTEREST

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

### 34. DEFAULT NOTICE

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

34.2 The default notice must:

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

### 35. DEFAULT NOT REMEDIED

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

35.2 The contract immediately ends if:

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

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

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

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

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

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

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## **SPECIAL CONDITIONS**

Notwithstanding anything contained in this Contract of Sale where the General Conditions conflict with or differ to the Special Conditions the Special Conditions shall prevail.

### **1. Auction**

The property is offered for sale by public auction, subject to the vendor's reserve price. The Rules for the conduct of the auction shall be as set out in Schedule 1 to the Sale of Land Regulations 2004 or any rules prescribed by regulation which modify or replace those Rules. The bidding must be at a lump sum for the property sold. Subject to this Contract and to the Vendor's reserve price, the person making the highest bid which is accepted by the Auctioneer by the fall of the hammer is/are the Purchaser/s. If any dispute arises over any bid the Auctioneer may decide:

- (a) who was the last bidder; or
- (b) to submit the property at some former bidding.

No person may retract a bid or advance a lesser sum than the amount named by the Auctioneer and the Vendor may refuse any bid or withdraw the property from sale.

The person making the highest bid which is accepted by the Auctioneer must immediately upon acceptance pay the deposit the Vendor/s agent and sign this Contract. If ten (10) minutes after acceptance the highest has not paid the deposit and signed this contract:

- (a) The Vendor's may at any time sell the property to any other person either by auction, private treaty or any other means; and
- (b) The Purchaser/s will have no rights against the Vendor/s, the Vendor's Agent or the Auctioneer.

### **2. Acknowledgment**

The Purchaser/s acknowledge/s that prior to the execution of this Contract of Sale she/he/it received from the Vendor's Agent:

- (a) a copy of this Contract; and
- (b) a Vendor's Statement made in accordance with Section 32 of the Sale of Land Act 1962.

### **3. Town Planning and Other Restrictions**

The Vendor/s do/does not warrant that the property may be use for any particular purpose. The Purchaser/s buy/s the land subject to:

- (a) any Act, Order, Regulation, By-Law or Local Law affecting the land;
- (b) any restriction or condition imposed upon the land by or with the authority of any government;
- (c) any easements or rights vested in or claimed by any statutory authority; and
- (d) the restrictions contained in any applicable planning scheme.

### **4. Improvements**

- (a) The Purchaser/s accepts the improvements on the land in their conditions as on the day of sale and acknowledge/s that the Vendor/s do/does not warrant that any building, fixture or other improvement is free from defect or fit for any particular use.
- (b) The Vendor/s make's no representations that the improvements on the and or any alterations, additions or demolition works to the property comply with the Victoria Building Regulations, the requirements of the Local Municipal Council or other Statutory authority or any other Statutory requirements. The Purchaser/s may not make any requisitions or claim any compensation for any alleged non-compliance or call upon the Vendor's to bear all or any part of the costs of compliance.

**5. Guarantee and Indemnity**

If the Purchaser/s is/are or includes a company other than a company listed on the Australian Stock Exchange the Purchaser/s must deliver to the Vendor's an enforceable Guarantee and Indemnity in the form annexed to this Contract duly executed by all Directors of that Company. If the indemnity and Guarantee is not delivered in accordance with this Special Condition within seven days of the Vendor's or his/her/its Solicitors make a demand, the Purchaser/s will be in default under this Contract.

**6. Default**

if the Purchaser/s default/s in payment of the whole or part of the purchase money the Purchaser/s must pay upon demand:

- (a) all reasonable expenses incurred by the Vendor's as a result of the breach; and
- (b) interest at a rate of five (5) per cent higher than the rate for the time being fixed under Section 2 of the Penalty Interest Rates Act 1983 computed on the money overdue during the period of default payable by the purchaser to the vendor upon demand without the necessity of any notice in writing whether under Condition 6 of the said Table A or otherwise. The purchaser agrees to pay the sum of \$330.00 (inclusive of GST) to the vendor's solicitor being the costs of each default together with a further sum of \$750.00 (inclusive of GST) for each and every Notice of Rescission prepared and served on the purchaser or his representative. The exercise of the vendor's rights hereunder shall be without prejudice to any other rights, powers or remedies of the vendor under the Contract or otherwise.

**7. Exclusion of Prior Warranties**

The Purchaser/s acknowledge/s that the aforesaid Agent's have acted as Agents of the Vendor's and that no information, representation or warranty of the Vendor/s or his/her/its Agents was made with the intention or knowledge that it would be relied upon and that no such information, representations or warranty has in fact been relied upon and it is further agreed that this Contract of Sale is the sole and full repository of the Agreement between the Vendor/s his/her/its Agents and the Purchaser/s.

**8. Stamp Duty: Purchasers buying unequal interest**

- (a) If there is more than one purchaser, it is the purchaser's responsibility to ensure the contract correctly records at the date of sale the proportions in which they are buying the property (the proportions).
- (b) If the proportions recorded in the transfer differ from those recorded in the contract, it is the purchasers' responsibility to pay any additional duty which may be assessed as a result of the variation.
- (c) The purchasers fully indemnify the vendor, the vendor's 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 payable as a result of the proportions in the transfer differing from those in the contract.
- (d) This Special Condition shall not merge on completion.

**9. Buildings and Chattels**

The purchaser acknowledges and declares that he has purchased the property as a result of his own inspections and enquiries of the property and all buildings and structures thereon and that the purchaser does not rely upon any representation or warranty of any nature made by or upon behalf of the vendor or his consultants or any agents or servants notwithstanding anything to the contrary herein contained or by law otherwise provided or implied and it is agreed that the purchaser shall not be entitled to make any objection, requisition or claim any



compensation whatsoever in respect of the state of repair and/or condition of any buildings or other structures on the property and any items or chattels within the said buildings or structures. The purchaser acknowledges that any improvements on the property may be subject to or require compliance with the Victorian Building Regulations, Municipal By-Laws, relevant statutes and/or any other regulations thereunder and any repealed laws under which the improvements were or should have been constructed. Any failure to comply with any one or more of those laws or regulations shall not be and shall not be deemed to constitute a defect in the vendors title and the purchaser shall not make any requestion or claim any compensation from the Vendor, nor require the Vendor to comply with any one or more of those laws or regulations or to carry out any final inspection including any requirement to fence any pool or spa or install smoke detectors. The purchaser shall have no right to call upon the vendor to provide a Certificate of Occupancy or any other similar document or any copy of any Guarantee or Insurance policy under any building legislation.

#### **10. Statutory Warranties if Vendor is an Owner Builder (if applicable)**

If any building work carried out on the land is subject to the Domestic Buildings Contracts and Tribunal Act 1995 then the warranties implied by Section 137C of that Act are set out hereunder.-

- (a) The vendor warrants that all domestic building work carried out in relation to the construction by or on behalf of the vendor was carried out on the home, in a proper and workmanlike manner.
- (b) The vendor warrants that all materials used in the domestic work were good and suitable for the purpose for which they were used and that unless otherwise stated in the report of the prescribed building practitioner, those materials were new.
- (c) The vendor warrants that the domestic building work was carried out in accordance with all laws and legal requirements including without limiting the generality of this warranty, the Domestic Building Contracts and Tribunal Act 1995 and the regulations made thereunder.

The purchaser acknowledges receipt prior to the date of the contract, a Report on the building works from a prescribed building practitioner which is not more than six months old and a certificate of evidencing the existence of the required building insurance (if applicable - i.e. the cost of the building works exceeded \$12,000.00).

#### **11. Restrictions**

The property is sold subject to all easements, covenants, leases, encumbrances, appurtenant easements and encumbrances and restrictions (if any) as set out herein or attached hereto. The purchaser should make his own enquiries whether any structures or ceilings are constructed over any easements prior to signing the contract, otherwise the purchaser accepts the location of all buildings and shall not make any claim in relation thereto. If the property sold is affected by a Body Corporate the purchaser purchases the property subject to the Strata Titles Act 1967 (as amended) and/or Subdivision Act 1989 and the regulations made thereunder, the unit entitlement and the unit liability and all other matters or restrictions set out in any plan, scheme regulations or by-law and the rules of the Body Corporate.

#### **12. Services**

The purchaser acknowledges that it is his responsibility to check with the appropriate authorities as to the availability and the cost of connecting or re-connecting to the property any services he may require. Unless the purchaser contacts the supply authorities and takes over any existing service, a final reading will be obtained and all services will be disconnected at settlement. The purchaser acknowledges that it will be his responsibility to pay all costs and incidental to connection or re-connection of all the services he may require.

**13. Breach**

If the purchaser breaches this contract then the purchaser must pay to the vendor on demand:-

- (a) The full amount payable under the contract attached hereto, whether due to be paid or not;
- (b) compensation for any reasonably foreseeable loss to the vendor resulting from the breach and
- (c) any interest due under the contract attached hereto as a result of the breach.

The purchaser agrees that the vendor shall not be liable for any damages, costs or interest whatsoever and howsoever arising.

**14. Insurance**

The property remains at the risk of the vendor until final settlement, however the purchaser acknowledges that he has been advised to fully insure all the improvements on the property as soon as possible.

**15. Delivery of Transfer**

The instrument of transfer shall be delivered by the purchaser to the vendor's representative not less than fourteen days prior to the date upon which the purchaser is obliged to pay the residue of the purchase money under the Contract. Notwithstanding anything contained in any documents, the vendor shall not be obliged to complete the contract until the expiration of fourteen days from the date the said instrument of transfer is received by the vendor's representative. The purchaser shall be deemed to have defaulted in the payment of the residue of the purchase money, as from the date he is required to pay the residue of the purchase money, where the instrument of transfer is received by the vendor's representative less than fourteen days prior to the due date he is required to pay the residue of the purchase money, until fourteen days has expired from the date the instrument of Transfer is received by the vendor's representative or the settlement date, whichever is the later. The purchaser shall pay interest pursuant to the contract from the date of default together with all costs and losses as set out herein. The purchaser shall not be entitled to call for a settlement until the expiration of fourteen days from the date the instrument of transfer is received by the vendor's solicitor.

**16. Settlement**

Settlement shall be affected prior to 3.00pm (Eastern Standard Time) at the office of the vendor's representative or at any place nominated by the vendor's representative. Should the settlement not occur before the said time on or after the due date for the completion of the contract as a result of the conduct of the purchaser, his representative or his mortgagee or mortgagees, the purchaser shall be deemed to be in default in the payment of the residue of the purchase money until the following business day. The purchaser shall pay all interest, costs, losses and charges due under the contract. The purchaser also agrees to pay a settlement re-booking fee of \$60.00 for every subsequent settlement time arranged, after the first settlement appointment has been made.

**17. Purchaser Resident of Australia**

The purchaser warrants that if the purchaser is a natural person, he is ordinarily resident in Australia and that the Foreign Acquisition and Takeover Act 1975 does not apply to the purchaser or any nominee. If the purchaser or any person claiming through him is in breach of this warranty, then the purchaser agrees to indemnify the vendor in respect of any loss,

damages, penalties, fines or costs which may be incurred as a consequence of the breach of this warranty.

#### **18. Service of Documents**

Any demand, notice or document shall be deemed to be sufficiently served or delivered to the purchaser if served and delivered personally or if posted by prepaid post or sent by facsimile to the purchaser or the purchaser's representative. "Purchaser's representative" shall at all times and in all contexts mean and include - the purchaser's legal practitioner, conveyancer or any other person who has held themselves out as representing the purchaser, to the vendor or the vendor's legal practitioner, the vendor's conveyancer or the vendor's representative.

#### **19. Settlement**

The purchaser acknowledges that at the settlement date, the Certificate of Title relating to the and may not have issued from the Land Titles Office and/or may not be available to be handed over to the purchaser at the settlement. The purchaser shall accept in lieu of the Certificate of Title relating to the land a Transfer of Land with an Order to Register endorsed thereon directing the Land Titles Office to issue the Certificate of Title to the purchaser or any other person nominated by the purchaser.

#### **20. Reservations**

- The Vendor makes no representation in relation to the condition of the property or any chattels and the Purchaser relies solely upon the Purchaser's own enquiries and inspection.
- The Vendor makes no representations that the services referred to in the Vendors Statement are adequate for the Purchasers proposed use of the property and the Purchaser should make his own enquiries of the service providers as to the availability and cost of connection or re-connection to the property of the services they require. The provision of services may change between the day of sale and the settlement date and the Vendor makes no representations that the provision of any services will remain the same after the day of sale. The Purchaser will be responsible for the connection, re-connection and/or transfer of all services to the property and will bear all costs associated with such connection, re-connection and/or transfer.

#### **21. Nomination**

If the contract states that the property is sold to a named purchaser "and/or nominee" the named purchaser shall only have the right for a period of fourteen (14) days from the date of this contract to nominate a substitute or additional purchaser, but the named purchaser shall remain personally liable for the due performance and observance of all the named purchaser's obligations under this contract and it shall be a condition precedent of such nomination that:-

- (a) The purchaser and/or named purchaser shall pay the vendor's solicitor the additional sum of \$350.00 (inclusive of GST).
- (b) The named purchaser shall have the substituted purchaser sign an acknowledgement of receipt of a copy of the Vendors Statement and provide the statement to the vendor's representative.
- (c) If the nominated purchaser or one or more of them is an incorporated body, then the named purchaser shall deliver a personal guarantee to the vendor's representative, signed by all the directors of the said incorporated body.

#### **22. Foreign Acquisition**

The Purchaser warrants that in the event that he or she is a person as defined by the Foreign Acquisitions & Takeovers Act all requirements with the Act have been observed and that any

loss occasioned by a breach of such warranty shall form the basis of damages recoverable from the Purchaser.

**23. On Sale**

- (a) The Purchaser acknowledges this Contract of Sale is subject to consent of Mayflower Estate Victoria Pty Ltd ACN 625 109 917 as trustee for The Mayflower Unit Trust (Head Vendor).
- (b) The Purchaser acknowledges receipt and acceptance of all Special Conditions of the Head Contract.

## Guarantee & Indemnity

TO: The withinnamed and described Vendor (hereinafter called "the Vendor")

IN CONSIDERATION of the Vendor having at the request of the person whose name address and description are set forth in the Schedule hereto (hereinafter called the Guarantor) agreed to sell the land described in the within Contract of Sale to the withinnamed Purchaser (hereinafter called "the Purchaser") the Guarantor HEREBY GUARANTEES to the Vendor the due and punctual payment by the Purchaser of the purchase money and interest payable thereon as detailed in the said Contract of Sale and all other monies that are payable or may become payable pursuant thereto (hereinafter called "the monies hereby secured") AND ALSO the due performance and observance by the Purchaser of all and singular the covenants provisions and stipulations contained or implied in the said Contract of Sale and on the part of the Purchaser to be performed and observed AND THE GUARANTOR HEREBY EXPRESSLY ACKNOWLEDGES AND DECLARES that it has examined the said Contract of Sale and has access to a copy thereof and further that this Guarantee is given upon and subject to the following conditions:-

- A. THE Vendor shall have the fullest liberty without affecting this Guarantee to postpone for any time and from time to time the exercise of all or any of the powers rights authorities and discretions conferred by the said Contract of Sale on it and to exercise the same at any time and in any manner and either to enforce or forbear to enforce the covenants for payment of the monies owing or any other covenants contained or implied in the said Contract of Sale or any other remedies or securities available to the Vendor and the Guarantor shall not be released by any exercise by the Vendor of its liberty with reference to the matters aforesaid or any of them or by any time being given to the Purchaser or by any other thing whatsoever which by Contract of Sale or any other remedies or securities available to operation of law would but for this provision have the effect of so releasing the Guarantor.
- B. THIS Guarantee shall be a continuing Guarantee and shall not be considered as wholly discharged by the payment at any time hereafter of any part of the monies hereby secured or by any settlement of account, intervening payment or by any other matter or thing whatsoever except the payment by the Purchaser of the whole of the purchase price, interest and other monies payable by the Purchasers under the said Contract of Sale.
- C. THIS Guarantee shall not be determined by the liquidation of the Guarantor and shall bind the successors or assignees of the Guarantor.
- D. THIS Guarantee shall not be affected or prejudiced by any variation or modification of the terms of the said Contract of Sale except that the Contract as varied or modified shall thereafter be deemed to be the Contract of Sale referred to herein or by the Transfer or partial Transfer of any part of the land to the Purchaser pursuant to the terms thereof.
- E. This Guarantee shall not affect or be affected by any or any further security now or hereafter taken by the Vendor or by any loss by the Vendor of such collateral or other security or otherwise any of the moneys at any time owing under the said Contract of Sale to the Vendor or by any laches or mistake on the part of the Vendor.
- F. THIS Guarantee and Indemnity shall at all times be valid and enforceable against the Guarantor notwithstanding:-
  - (a) That the contract for the repayment of the moneys hereby secured is void or cannot be legally enforced against the Purchaser for reasons arising out of an act, omission, state or condition of the Purchaser.
  - (b) That the Purchaser was prohibited (whether expressly or by implication) by law contract or otherwise from entering into the said Contract of Sale or was without the capacity or under some legal disability in respect thereof;

- (c) That the Vendor had or ought to have had knowledge of any matters referred to in subparagraph (b) of this clause.
- G. UNTIL the Vendor shall have received all monies payable to it under the said Contract of Sale the Guarantor shall not be entitled on any grounds whatsoever to claim the benefit of any security for the time being held by the Vendor or either directly or indirectly to claim or receive the benefit of any dividend or payment on the winding up of the Purchaser and in the event of the Purchaser going into liquidation or assigning its assets for the benefit of its creditors or making a deed or arrangement or a composition in satisfaction of its debts or a scheme of arrangement of its affairs the Guarantor shall not be entitled to prove or claim in the liquidation of the Purchaser in competition with the Vendor so as to diminish any dividend or payment which but for such proof the Vendor would be entitled to receive out of such winding up and the receipt of any dividend or other payment which the Vendor may receive from such winding up shall not prejudice the right of the Vendor to recover from the Guarantor to the full amount of this Guarantee the monies due to the Vendor. The Guarantor further covenants with the Vendor after the Purchaser shall have gone into liquidation to pay to the Vendor all sums of money received by the Guarantor for credit of any account of the Purchaser and for which the Guarantor may in any liquidation or official management of the Purchaser be obliged to account or may in its discretion so account.
- H. ANY demand or notice to be made upon the Guarantor by or on behalf of the Vendor hereunder shall be deemed to be duly made if the same be In writing and signed by a Director of the Vendor or by any Solicitor purporting to act for the Vendor or by any other person duly authorised by the Directors of the Vendor to make such demand on behalf of the Vendor and the same may be left at or sent through the post in a prepaid registered letter addressed to the Guarantor at its address as hereinbefore provided.
- I. THE Guarantor shall be deemed to be jointly and severally liable with the Purchaser (in lieu of being merely a surety for it) for the payment of the purchase moneys interest and all other monies if any payable pursuant to the within Contract in the performance of the obligations herein contained and it shall not be necessary for the Vendor to make any claim or demand on or to take any action or proceedings against the Purchaser before calling on the Guarantor to pay the moneys or to carry out and perform the obligations herein contained.
- J. THIS Guarantee shall enure for the benefit of the Vendor and its successors and transferees.
- K. FOR the consideration aforesaid and as a separate and coverable covenant the Guarantor HEREBY AGREES to indemnify the Vendor not only by reason of the non-payment by the Purchaser of all monies payable or that may become payable under the said Contract of Sale but also in respect of all costs charges and expenses whatsoever which the Vendor may incur by reason of any default on the part of the Purchaser in relation to the said Contract of Sale.
- L. NOTWITHSTANDING anything else herein contained (but subject to Clause F(a) and K hereof) the Guarantor shall not be liable, in any circumstances whatsoever, for any amount whatsoever in excess of the amount for which the Purchaser shall be liable under the said Contract and upon payment to the Vendor of all monies payable as aforesaid under the said Contract and any monies payable under clause F(a) and K hereof (if any) whether by the Purchaser or by the Guarantor or otherwise then this Guarantee shall be at an end and the Guarantor shall be forever freed and discharged from all of its provisions.

## SCHEDULE

Vendor:

Purchaser:

Guarantor:

IN WITNESS whereof the said Guarantors have set their hands and seals this ..... day of  
....., 20

SIGNED SEALED AND DELIVERED by the said Guarantor in Victoria in the presence of:

# **Annexure A – Special Conditions of Head Contract**



# SPECIAL CONDITIONS

## 1. INTERPRETATION AND DEFINITIONS

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- 1.1 In this Contract, capitalised terms have the meaning given to them in the Particulars of Sale and the following words have these meanings in this Contract unless the contrary intention appears:

"Act" means the *Sale of Land Act 1962*.

"Bank" means a bank for the purposes of the *Banking Act 1959*.

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

"Commissioner" means the Commissioner of Taxation.

"Contaminant" means any substance which is or may be harmful to the environment or to the health or safety of any person or which may cause damage to any property or the environment;

"Council" means Melton Shire Council.

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

"Deposit" means the deposit specified in the Particulars of Sale.

"Design Guidelines" means the set of building and design guidelines named "Mayflower Estate Design Guidelines", as amended from time to time, a copy of which is attached to the Vendor's Statement (if available at Day of Sale) and referred to in the Plan of Subdivision.

"Development" means any dwellings, structures and improvements constructed or to be constructed on the Development Land;

"Development Land" means the land owned by the Vendor or any related body corporate or associated entity known as Mayflower Estate, and where the context admits or requires includes the Property;

"Development Works" means the construction and completion of all infrastructure works, landscaping, installation of services and the subdivision of the Development Land and the construction of other lots on the Development Land 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;

"*Environmental Law*" means a law regulating or otherwise relating to the environment current at the date of this Contract including any law relating to land use, planning, pollution of air or water, soil or groundwater contamination, chemicals, waste, use of dangerous goods or to any other aspect of protection of the environment or a person or property;

"*GST*" means goods and services tax as defined in the *A New Tax System (Goods and Services Tax) Act 1999*;

"*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.

"*Guarantee*" means the form of guarantee annexed to this Contract as Annexure 1;

"*Head Contracts*" means the contracts of sale dated 23 June 2016 and 7 November 2018 pursuant to which the Vendor is entitled to be the registered proprietor of the Development Land, a copy of the particulars of sale, execution pages and nomination notice (where applicable) of which is contained in the Vendor's Statement attached to this Contract.

"*Lot*" means the lot number specified in the Particulars of Sale.

"*MCP*" means draft memorandum of common provisions, being restrictions which will be registered and imposed by the Plan, a copy of which is included 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 of this Contract.

"*Permit*" means planning permit PA2017/5836 issued by Council.

"*Plan of Subdivision*" means the unregistered Plan of Subdivision PS 816954N, a copy of which is annexed to the Vendor's Statement.

"*Planning Agreement*" means one or more agreements pursuant to Section 173 of the *Planning & Environment Act 1987* with the Council (or its successor).

"*Planning and Building Controls*" means the Restrictions, this Contract, the Design Guidelines and any other matters set out in Special Condition 28.

"*Property*" means the property described as such in the Particulars of Sale.

"*Restrictions*" means the restrictions created on registration of the Plan of Subdivision.

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

"*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.

"Vendor's Statement" means the statement made by the Vendor under Section 32 of the Act, a copy of which is attached to this Contract.

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

1.2 In this Contract, unless the context otherwise requires:

- (a) words importing:
  - (i) the singular include the plural and vice versa; and
  - (ii) any gender includes the other genders;
- (b) an obligation of two or more parties shall bind them jointly and severally;
- (c) if a word or phrase is defined cognate words and phrases have corresponding definitions;
- (d) a reference to:
  - (i) a person includes a body corporate, a firm, a natural person, an unincorporated association and an authority;
  - (ii) a person includes a reference to the person's legal personal representatives successors and permitted substitutes and assigns;
  - (iii) a statute ordinance code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them; and
  - (iv) a condition in Table A means a reference to the conditions contained in Annexure 3 being the general conditions formerly contained in Table A of the *Seventh Schedule of the Transfer of Land Act 1958*, which apply as amended by this Contract.

## 2. ACKNOWLEDGMENT

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2.1 The Purchaser acknowledges:

- (a) having received from the Vendor:
  - (i) the Vendor's Statement executed by the Vendor; and
  - (ii) a copy of this Contract;
- (b) that no promise with respect to the obtaining of a loan of money to defray some or all of the cost of the Price has been made by or on behalf of the Vendor's agent;

- (c) that the Purchaser has had a genuine and effective opportunity to review and negotiate the terms of this Contract;
- (d) that the Purchaser must disclose to any financier, valuer, governmental 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; and
- (e) that the Vendor may pay a fee to another party (including but not limited to the Vendor's Agent) for introducing the Purchaser to the Vendor or otherwise in respect of this Contract.

### 3. WHOLE CONTRACT

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- 3.1 This Contract contains the entire understanding and agreement between the parties as to its subject matter. All previous negotiations, understandings, representations, warranties (other than warranties set out in this Contract), or commitments in relation to, or in any way affecting, the subject matter of this Contract are superseded by this Contract and are of no force or effect whatsoever and no party shall be liable to any other party in respect of those matters.
- 3.2 No oral explanation or information provided by any party to another shall affect the meaning or interpretation of this Contract or constitute any collateral agreement, warranty or understanding between any of the parties.
- 3.3 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.
- 3.4 Any representation or advice in respect of any such fitness (if given) will have been given without the authority or knowledge of the Vendor and the Vendor shall not be bound by it and the Purchaser must not rely upon any such representation and or advice.
- 3.5 Without limiting this Special Condition 3, the Purchaser acknowledges that no information, representation or warranty made by the Vendor, the Vendor's Agent (if any) or any other party was supplied or made with the intention or knowledge that it would be relied upon by the Purchaser and that:
  - (a) no information, representation or warranty has in fact been relied upon;
  - (b) the Purchaser has made or procured its own inspections, investigations, examinations and enquiries in respect of all aspects of the Development including but without limitation the Property, construction of any building on the Property, planning restrictions, building regulations and the suitability of the Property for the Purchaser's intended use; and
  - (c) the Purchaser has purchased the Property as a result of the Purchaser's own inspection or enquiries and in its present condition subject to any defects whether latent or patent.

#### 4. FINANCE

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- 4.1 Further to the provisions of General Condition 3, the parties agree that if the Purchaser fails to make application in accordance with the Particulars of Sale or fails to provide information requested by a potential lender within sufficient time to enable that potential lender to make a decision by the Approval Date, then the Purchaser shall be deemed to have obtained approval of finance and this Contract shall be deemed to be unconditional in respect of finance.
- 4.2 If the Purchaser attempts to end the Contract on the basis that it is unable to obtain finance approval by the Approval Date, the Purchaser must simultaneously provide written proof to the Vendor from the potential lender verifying that the Purchaser has applied for finance in accordance with the Particulars of Sale and refusing finance approval to the Purchaser, failing which the Purchaser shall be deemed to have obtained approval of finance and this Contract shall be deemed to be unconditional in respect of finance.

#### 5. IDENTITY OF LAND

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- 5.1 The Purchaser admits that the Property offered for sale and inspected by the Purchaser is identical with the Lot. Subject to the provisions of the Act, the Purchaser accepts as identical with the land the lot bearing the same number on the Plan of Subdivision when registered as the lot number specified in the title particulars set out in the Particulars of Sale or if the lots on the Plan of Subdivision are re-numbered prior to its registration, the Purchaser shall accept as identical with the land the lot on the Plan of Subdivision when registered which occupies the same or approximately the same position on the ground as is indicated on the Plan of Subdivision included in the Vendor's Statement attached to this Contract as being occupied by the lot specified in the title particulars set out in the Particulars of Sale.
- 5.2 The Purchaser will not make any requisition or claim any compensation or rescind this Contract for:
- (a) any actual or alleged misdescription of the Property or deficiency in its area or measurements; or
  - (b) any minor variations (being variations which will not materially affect the Property) between the Property as inspected by the Purchaser and the corresponding lot as shown on the Plan of Subdivision as registered; or
  - (c) any other amendments or variations on the Plan of Subdivision which do not affect the Property.
- 5.3 Condition 3 of Table A does not apply to this sale.

#### 6. CONDITION OF LAND

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- 6.1 The Purchaser acknowledges that it has purchased the Property in its present condition and has entered into this Contract on the basis that it:

- (a) acknowledges that it assumes all risk of loss, damage, liability or injury to any person, corporation or property resulting in any way from the use of the Property or existence or previous existence of any underground storage tank or tanks (including without limitation, leakage or spillage of oil or other products) or the presence of any Contaminant which may be in or on the improvements or any fixtures, fittings or installation in, to or on the improvements or in, on or under the Property;
- (b) releases and discharges the Vendor and its successors, assigns, employees and agent from and against all claims, suits, demands and actions of every description whatsoever and whenever occurring which the Purchaser has, may have, or which may accrue in the future or which, but for the execution of this Contract, the Purchaser would or might have had against the Vendor as a result of the presence of any Contaminant in, on or under that Property and from and against all claims for costs and expenses in respect of such claims, suits, demands and actions; and
- (c) indemnifies and holds harmless the Vendor and its successors, assigns, employees and agents from and against all loss, damage, liability, claims, suits, demands, financial penalties and actions of every description whatsoever and whenever occurring resulting or arising from the presence of any Contaminant in, on or under the Property (including without limitation, any costs or expenses incurred in relation to any notice, direction or order issued or made under any Environmental Law) and from and against all claims for costs and expenses in respect of such loss, damage, liability, claims, suits, demands and action.

## **7. PLANNING RESTRICTIONS AND PLANNING PERMITS**

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- 7.1 The Purchaser buys the Property subject to any restriction on the use of the Property pursuant to any planning scheme, order, regulation, rule, permit or condition imposed by any authority empowered by statute or otherwise to control the use of the Property. No such restriction shall constitute a defect in the Vendor's title or affect the validity of this Contract. The Purchaser shall not make any requisition or objection or be entitled to any compensation from the Vendor in respect of any such restriction.
- 7.2 The Purchaser agrees to comply with the provisions of the Permit or any other planning permit or permits as they affect the use and development of the Property.
- 7.3 The Purchaser acknowledges the Vendor may apply for amendments to the Permit or any existing planning permits or one or more new planning permits or amendments to the Planning Scheme in connection with any Development Works, at its absolute discretion. The Purchaser must not:
  - (a) 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;
  - (b) 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;



- (c) 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
- (d) 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.

## **8. DEPOSIT**

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- 8.1 The deposit shall be paid to the Vendor's Solicitor or the Vendor's Agent to be held on trust for the Purchaser until registration of the Plan of Subdivision and thereafter as stakeholder under the Act.
- 8.2 All other moneys shall be paid by bank cheques drawn in favour of payees as may be directed by the Vendor's Solicitor.
- 8.3 The parties authorise the Vendor's Solicitor to hold the deposit in an interest bearing trust account with a Bank. If the Contract is avoided through no fault of the Purchaser interest on the account will accrue for the benefit of and be paid to the Purchaser, but otherwise will accrue for the benefit of and be paid to the Vendor. In either case bank accounts debits tax may be deducted from interest paid and if a tax file number has not been advised by the party to whom the interest is to be paid the amount required to be withheld pursuant to the provisions of the *Income Tax Assessment Act 1997* may be appropriated in accordance with that Act.

## **9. PURCHASER INDEMNITY**

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- 9.1 The Purchaser indemnifies and will keep indemnified at all times the Vendor against all claims, demands, proceedings, judgments, damages, costs and losses of any nature whatsoever which the Vendor may suffer or incur arising from or in any way connected with or relating to:
  - (a) the *Duties Act 2000* relating to the Contract and the instrument of transfer of land;
  - (b) the Property, however arising, made or incurred subsequent to the Settlement Date or any act, matter or thing occurring after the Settlement Date by which the Vendor may become liable in any way, unless the Vendor has contributed to the same; and
  - (c) any liability including any penalty or interest under the *Duties Act 2000* relating to this Contract, any substitute contract of sale of real estate or the transfer or any transfer or conveyance under any substitute contract of sale of real estate.

## 10. PURCHASER TO PROCURE EXECUTION OF GUARANTEE

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- 10.1 If the Purchaser is or includes a company (other than a company listed on an Australian Stock Exchange) the company shall, simultaneously upon execution of this Contract, procure the execution by all of its directors of the Guarantee and provide the fully executed Guarantee to the Vendor.

## 11. DEFAULT

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- 11.1 If the Vendor gives to the Purchaser a notice of default under this Contract, the default will not be remedied until all of the following have occurred:

- (a) the remedy by the Purchaser of the relevant default;
- (b) the payment by the Purchaser of all reasonable expenses incurred by the Vendor as a result of the default including without limitation all interest and bank charges payable by the Vendor under any existing mortgage affecting the Property, calculated from the designated Settlement Date;
- (c) the payment of the Vendor's solicitors legal costs (on an indemnity basis) and disbursements incurred in connection with the preparation and service of the notice of default and any necessary instructions and advice; and
- (d) the payment of interest under Special Condition 12.

- 11.2 The Purchaser agrees that the reasonably foreseeable loss the Vendor may suffer due to the Purchaser's breach of this Contract may include, without limitation, interest payable by the Vendor in relation to loans secured on the Property for the period from the date the Balance is payable under this Contract to the date the Balance is paid, interest incurred on any purchase by the Vendor which is incurred as a result of the Purchaser's default, interest on bridging finance obtained by the Vendor for the same period to cover the Vendor's intended use of the Price and costs of that bridging finance and, if the Vendor is usually accommodated in the Property, accommodation costs incurred by the Vendor and the cost of storing the Vendor's property usually kept in the Property.

- 11.3 If the Purchaser fails to settle at the time and place scheduled for settlement (time being of the essence) and settlement is rescheduled, the Purchaser will be in default of this Contract. The Purchaser must pay the Vendor's Solicitor \$250.00 plus GST together with any costs of the Vendor's mortgagee, for each and every rescheduled settlement, such additional amount or amounts to be paid at Settlement.

## 12. DEFAULT INTEREST

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- 12.1 If the Purchaser defaults in any payment of any money under this Contract, the Purchaser shall pay to the Vendor interest at the rate of 4% more than the amount specified as the penalty rate for the time being fixed under Section 2 of the *Penalty Interest Rates Act* 1983 on the amount in default from the time it fell due until the default ceases without prejudice to any other rights of the Vendor.



### 13. WAIVER

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- 13.1 The Purchaser's liability and obligation to pay any money and otherwise to perform the terms and conditions of this Contract will not be or be deemed to be waived or varied by any time indulgence or forbearance allowed or granted by the Vendor to the Purchaser or by any acceptance by the Vendor of moneys tendered by the Purchaser not in accordance with this Contract. Time shall be and remain of the essence of this Contract notwithstanding any act or omission on the part of the Vendor.

### 14. PLAN OF SUBDIVISION

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- 14.1 This Contract is subject to and conditional upon the Plan of Subdivision being registered by the Registrar of Titles. If the Plan of Subdivision is not registered within 24 months after the Day of Sale either party may rescind this Contract by giving the appropriate written notice to the other party before the Plan of Subdivision is so registered.
- 14.2 The Vendor shall do all acts matters and things and execute all documents as may be reasonably necessary to cause the Plan of Subdivision to be registered by the Registrar of Titles. The Vendor reserves the right to make any alteration to the Plan of Subdivision which may be required by the Registrar of Titles or otherwise necessary in the reasonable opinion of the Vendor.
- 14.3 Notwithstanding Special Condition 14.2, if the Registrar of Titles or any authority having jurisdiction in respect of the subdivision requires a material modification to the subdivision or material amendment of the Plan of Subdivision, or imposes any conditions or other requirements which in the opinion of the Vendor may be likely to substantially increase the cost of the subdivision of the land, then the Vendor may rescind this Contract by giving the appropriate written notice to the Purchaser within 30 days after being notified of the event referred to in this Special Condition.
- 14.4 Subject to sections 9AC and 9AE of the Act, the Purchaser may not rescind this Contract as a consequence of any amendment to the Plan of Subdivision irrespective of whether the amendment restricts or limits the use of the Property, if the amendment:
- (a) results from any recommendation of a public authority or government department, or
  - (b) concerns the final location on the Plan of Subdivision of an easement.
- 14.5 For the purposes of Section 9AC of the Act, the Purchaser acknowledges that while the following amendments may affect the Lot, the effect of these variations will not be considered to be material. The variations are:
- (a) minor variations to accord with surveying practice;
  - (b) minor variations to meet any requirement or requisition of the Council or any statutory body or any authority or the Registrar of Titles to effect registration; and

- (c) the amendments required to effect a consolidation, merger or otherwise to accommodate the development of any adjoining property or merger with any other plan affecting such property.

14.6 Where a Statement of Compliance or similar certification has been issued by Council in respect of the Plan of Subdivision, the Purchaser shall not and is not entitled to make any objection or requisition, claim any compensation in respect of, or rescind, terminate or delay settlement or withhold any part of the Price as a consequence of any issue relating to a matter certified by Council.

## **15. CAVEAT**

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15.1 Until the Plan of Subdivision has been registered, the Purchaser must not lodge or cause or permit to be lodged on the Purchaser's behalf any caveat in the Land Titles Office in respect of the Purchaser's interest in the Property. The Purchaser shall indemnify and keep indemnified the Vendor against any loss or damage which the Vendor may incur or suffer as a consequence of any breach by the Purchaser of this condition.

15.2 The Purchaser irrevocably appoints the Vendor as its attorney for the purpose of withdrawing any caveat lodged in breach of Special Condition 15. The appointment shall not be affected by the rescission or termination of this Contract by either party.

15.3 This Special Condition is an essential term of the Contract and the rights conferred hereby are in addition to any common law rights or other rights of the Vendor.

## **16. NATURAL SURFACE LEVEL**

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16.1 The Purchaser acknowledges that the Property may have been filled, raised, levelled, compacted or cut prior to the Vendor becoming registered proprietor of that part of the Development Land containing the Property and that the Purchaser must not make any requisition nor claim any compensation nor claim any setoff nor rescind this Contract for any such works.

16.2 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 Vendor's Statement ("subdivisional works").

16.3 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 16.4.

16.4 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 Vendor has not given disclosure pursuant to section 9AB(1) of the Act; and

- (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 Act.
- (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 Act as soon as practicable after the details required for disclosure come to the knowledge to the Vendor.

- 16.5 The Purchaser will not make any requisition nor claim any compensation nor claim any setoff nor rescind this Contract for any works affecting the natural surface level of the Property or any land abutting it or any variations or alterations to those works, particulars of which have been disclosed to the Purchaser.
- 16.6 The Purchaser further acknowledges and agrees that in calculating the amount of any fill provided to the Property, any amount of topsoil removed from the Property prior to filling and regrading and replaced thereafter shall not be included in such calculation.
- 16.7 The Purchaser indemnifies the Vendor against any claim made by any person in respect of subdivisional works. This condition shall not merge on the transfer of the Property. The Vendor and its employees, agents and consultants may commence or complete the subdivisional works after settlement of this Contract.

## **17. REQUISITIONS ON TITLE**

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- 17.1 The Purchaser is deemed to have delivered requisitions and objections as annexed to this Contract (Annexure 2). The Purchaser acknowledges the answers to those requisitions as specified in Annexure 2 and may not deliver any further or other requisitions or objections.
- 17.2 Condition 1 of Table A shall not apply to this Contract.

## **18. ADJUSTMENT OF RATES**

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- 18.1 Condition 9 of Table A does not apply to this Contract.
- 18.2 All rates, taxes (including land tax), assessments and outgoings (collectively referred to as "the outgoings") in respect of the Property shall be apportioned between the Vendor and Purchaser as from the date of registration of the Plan of Subdivision.
- 18.3 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).
- 18.4 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.

- 18.5 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.
- 18.6 Despite Special Condition 18.5 the outgoings must be apportioned as if they had been paid by the Vendor.
- 18.7 This condition will not merge on settlement.

## 19. ENCUMBRANCES

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- 19.1 The Purchaser acknowledges that it is aware of the possibility that at the Day of Sale there may not have been created all the easements, restrictions or other encumbrances which may be required by any governmental agency or authority, any provider of utility services including electricity, gas, water or telecommunications, the Council, the Registrar of Titles or the Vendor, in which case:
  - (a) if a governmental agency or authority, any provider of utility services including electricity, gas, water or telecommunications, the Council, the Registrar of Titles or the Vendor requires the creation of further easements, restrictions or other encumbrances then subject to Special Condition 19.1(c), the Purchaser may not make any objection, requisition or claim, delay completion of or rescind or terminate this Contract or withhold any part of the Price because of that creation;
  - (b) the Vendor must notify the Purchaser of the creation of any further easement, restriction or other encumbrance within 14 days after receipt of the requirement from the governmental agency or authority, the service provider, the Council or the Registrar of Titles for, or a decision of the Vendor to make a requirement for, the creation of a further easement, restriction or other encumbrance;
  - (c) the Purchaser may notify the Vendor of its intention to rescind this Contract within 14 days after being advised by the Vendor of the requirement if the further easements, restrictions or other encumbrances will materially adversely affect the Property, but not otherwise;
  - (d) the Vendor may by notice withdraw the requirement or cause it to be withdrawn within 10 days of receipt of the Purchaser's notice under Special Condition 19.1(c) or dispute the Purchaser's opinion that the further easement, restriction or other encumbrance will have a materially adverse effect on the Property. If the Vendor does not do so, the Purchaser may rescind this Contract by notice within a further 14 days after the date of expiry of the notice under Special Condition 19.1(c);

- (e) if the Vendor disputes the Purchaser's opinion that the further easement, restriction or other encumbrance will have a materially adverse effect on the Property, the Vendor may refer the dispute to arbitration under the *Commercial Arbitration Act 1984*. In that case, the time periods in this Special Condition will be suspended pending the outcome of the arbitration. The cost of the arbitration (including legal costs on a solicitor-own client basis) must be paid by the party who loses the arbitration; and
  - (f) for the purposes of Special Condition 19.1(e), a reduction in the usable area of the Property by an easement affecting not more than 5% in area of the Property and located adjacent to a boundary will not be considered to be material.
- 19.2 The Purchaser acknowledges and agrees that the Vendor may prior to the Settlement Date enter into one or more Planning Agreements and that, in that case, each Planning Agreement will be registered and run with the title to the Property. If any Planning Agreement is entered into prior to the Settlement Date:
- (a) the Purchaser must take title to the Property subject to any Planning Agreement; and
  - (b) the Purchaser may not make any requisition or objection in relation to any Planning Agreement and shall not be entitled to refuse or delay settlement nor be entitled to any reduction in the Price nor to any compensation whatsoever as a result of or in any way connected with the Planning Agreement or the Vendor having entered into any Planning Agreement.

## 20. DEVELOPMENT

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- 20.1 The Purchaser acknowledges and agrees that:
- (a) the Property forms part of an overall subdivision of the whole or part of the Development Land and that the Development Land will be a mixed use development, with the Vendor considering various options to develop all or part of the balance of the Development Land for a variety of possible purposes including residential, recreational, commercial, retail, aged accommodation, educational, childcare, display home, low, medium and/or high density, and other uses;
  - (b) any promotional material prepared by the Vendor with respect to the possible use of the Development Land does not constitute promises or representations on the part of the Vendor that the balance of the Development Land or any part of it will be developed for any of the purposes disclosed in the promotional material;
  - (c) the Vendor is continuing to consider development options for the balance of the Development Land and may in its discretion decide to proceed with development of only part of it (for any one or more of the uses referred to in Special Condition 20.1(a) and/or for any other purpose) or not develop it at all;



- (d) the Vendor has given no promises or representations as to the timing of any development of the Development Land; and
  - (e) the subdivision development, use and management of all or any part of the Development Land, including the Property will be subject to the lawful directions, requirements, licences or permits from time to time issued by the Council or any other governmental authority and the Vendor will be bound to comply with such directions, requirements, licences or permits.
- 20.2 The Purchaser acknowledges and agrees that it shall not and is not entitled to make any objection or requisition, claim any compensation in respect of, or rescind, terminate or delay settlement as a consequence of the Vendor's use of the Development Land or any part thereof.
- 20.3 The Purchaser acknowledges and agrees that it shall not and is not entitled to make any objection or requisition, claim any compensation in respect of, or rescind, terminate or delay settlement as a consequence of any issue which does not materially and adversely affect the Purchaser's use of the Property.

## **21. DEVELOPMENT WORKS**

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- 21.1 The Purchaser acknowledges and agrees that to facilitate the progressive development of the Development, the Vendor may undertake further Development Works on other lots or on any common property after settlement and, notwithstanding that the works in any part of the Development or on lots to be built subsequently to the Lot 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.
- 21.2 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 Development Land may enter and carry out other Development Works on other lots on the Plan of Subdivision and the construction of one or more new buildings and for that purpose may bring upon the Development Land 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 Development Land 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 make any objection or requisition, claim any compensation in respect of, or rescind, terminate or delay settlement as a

consequence of any Development Works which the Vendor is permitted by Council to complete after registration of the Plan of Subdivision.

- 21.3 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.
- 21.4 The Purchaser acknowledges 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 Development Land.
- 21.5 Without limiting any other provision of this Contract, the Purchaser shall not be entitled to make any objection, requisition or claim for compensation or withhold any part of the Balance of the Price or delay settlement 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 Development Land for the purpose of:
    - (i) gaining access or egress to any part of the Development Land 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 1988 (Vic) or executed by the Vendor as provided for elsewhere in this Contract, in particular under Special Condition 19.1;
  - (d) construction of any services on or under the Development Land which may not be protected by easements;
  - (e) any alteration to the area or dimensions of the Development Land;
  - (f) non-completion of the facilities to be constructed on the Development Land;
  - (g) the siting or location of service pits, service markers, man-holes, telephone or electricity poles, or electricity substations on the Development Land;
  - (h) any boundary on the Development Land 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.

## 22. SERVICES

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- 22.1 The Purchaser acknowledges that the Property is sold and the Purchaser shall take title thereto subject to all existing water, sewerage and drainage, gas, electricity, telephone or other installations, services and utilities (if any). The Purchaser shall not make any requisition, objection or claim for compensation or terminate or rescind this Contract or delay settlement or withhold any part of the Price in respect of any of the following:
- (a) the nature, location availability or non-availability of any such installations, services and utilities;
  - (b) if any such service is a joint service with any other land or building;
  - (c) if any such service for any other Property or building or any parts or connections therefore pass through the Property;
  - (d) if any sewer or water main or connection passes through in or over the Property;
  - (e) if there is a man hole or vent on the Property; or
  - (f) if because of or arising out of any such limitations, services and utilities the Property may be subject to or have the benefit of any rights or easements in respect of any such installation service or utility.

## 23. FENCING

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- 23.1 The Purchaser may not make any claim against the Vendor for any fencing costs or expenses where the Vendor owns land adjoining the Property.
- 23.2 The Purchaser acknowledges and agrees that it may not ask the Vendor to contribute towards any fencing costs because the Price in this Contract has already been reduced by an amount assessed by the Vendor to cover the Vendor's estimated expenses in respect of contributions as adjoining proprietor to the costs of fencing to the Property.
- 23.3 The Purchaser indemnifies the Vendor against any loss or damage incurred by the Vendor as a result of the breach of this Special Condition 23 by the Purchaser or any new purchaser or as a result of any claim being made against the Vendor for a contribution towards any boundary fencing, whether under the *Fences Act 1968* (Vic) or otherwise.
- 23.4 The Purchaser, by signing this Contract, agrees that it understands and accepts the provisions of this Special Condition 23.



23.5 This Special Condition 23 does not merge on Settlement.

## 24. FOREIGN INVESTMENT REVIEW BOARD

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24.1 This Contract is subject to and conditional upon the Purchaser obtaining the approval of the Foreign Investment Review Board ('FIRB') for the purchase of the Property within 28 days of the Day of Sale ('approval date'). The Purchaser must make immediate application for such approval and do everything necessary to obtain it by the approval date. If approval has not been granted by the approval date (through no default of the Purchaser) then the Purchaser may avoid this Contract by giving written notice to the Vendor or the Vendor's Solicitor by the day which is 2 days after the approval date, in which case this Contract will be at an end and the all deposit monies paid by the Purchaser must be refunded without deduction. If no notice is given, this condition is deemed satisfied and this Contract is otherwise unconditional.

## 25. GST

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25.1 In this Contract and unless the context otherwise requires:

"GST" means a tax that is payable under the GST Law;

"GST Law" has the meaning given by Section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999*.

25.2 The Price specified in the Particulars of Sale page of this contract is expressed as a GST inclusive amount.

25.3 The supply of the Property made pursuant to this Contract is one which involves the application of the margin scheme, if available as specified in the GST Law, by the Vendor.

25.4 If a supplier makes a supply under or in connection with this Contract to a recipient which is a taxable supply that is not a supply of real property and is not a supply the consideration for which is specifically described as GST-inclusive, then:

(a) the consideration is increased by and the recipient must also pay to the supplier an amount equal to the GST payable by the supplier on that supply; and

(b) subject to Special Condition 25.6, the amount by which the GST exclusive consideration is increased must be paid to the supplier by the recipient at the time at which the GST exclusive consideration is payable.

25.5 If this Contract requires a party to pay for, reimburse or contribute to any expense or liability ("reimbursable expense") incurred by the other party ("payee") to a third party, the amount to be paid, reimbursed or contributed the amount to be paid, reimbursed or contributed must be charged by the third party or payee as a taxable supply subject to Special Condition 25.6 or otherwise will be the amount of the reimbursable expense net of any input tax credit to which the payee is entitled in respect of the reimbursable expense.

25.6 A party is not obliged to pay the GST on a taxable supply to it other than one to which the margin scheme applies, until that party is given a valid tax invoice for the supply.

**26. NON-MERGER**

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26.1 Obligations under this Contract which have not been satisfied or performed by the Settlement Date remain in full force and effect irrespective of settlement and do not merge on the transfer of the Property.

**27. TIME OF THE ESSENCE**

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27.1 Unless a contrary intention appears in relation to any time expressed in this Contract, time shall be and remain of the essence of this Contract notwithstanding any waiver given or indulgence granted by the Vendor to the Purchaser.

**28. PLANNING AND BUILDING CONTROLS**

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28.1 Restrictions

- (a) The Purchaser hereby covenants and agrees with the Vendor to be bound by 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 28.1(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 for all expenses incurred in rectification.

28.2 MCP

The Purchaser acknowledges that:

- (a) the MCP will be referenced as part of the Restrictions and registered as an encumbrance on the title to the Property;
- (b) the Purchaser will be bound by the terms and conditions of the MCP; and
- (c) the Purchaser must not object or require the Vendor to take any action in respect of the MCP.

28.3 Design Guidelines

- (a) The Purchaser shall comply with the Design Guidelines and acknowledges receipt of a copy of them as referred to in the Restrictions and as attached to the Vendor's Statement forming part of this Contract of Sale.

- (b) The Purchaser acknowledges that the Design Guidelines are current as at the Day of Sale and are accurate for land contained only in the Plan of Subdivision, and that the Vendor reserves the right to amend the Design Guidelines as reasonably necessary from time to time for land contained in the Plan of Subdivision, or for other parts of the Development Land at its absolute discretion.
- (c) If the Vendor amends the Design Guidelines in accordance with Special Condition 28.2(b), the Purchaser must not make any requisition or objection or be entitled to any compensation from the Vendor in respect of any such amendment.

28.4 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 memoranda of common provisions and restrictive covenants) to implement and enforce additional controls which are consistent with the Planning and Building Controls.
- (b) The Purchaser may not make any objection, requisition or claim, delay completion of or rescind or terminate this Contract because of any such additional controls.

28.5 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 or waiver of any of the Planning and Building Controls for any particular lot on the Plan of Subdivision.
- (b) The Purchaser may not make any objection, requisition or claim, delay completion of or rescind or terminate this Contract because of any such consent.

28.6 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 and contains the Design Guidelines.

#### 28.7 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;
- (b) second, the MCP;
- (c) third, these Special Conditions; and
- (d) fourth, the Design Guidelines.

#### 28.8 Rescode

The Purchaser acknowledges being made aware of the recent introduction of changes to town planning and building controls, known as ResCode, which legislation sets standards for building heights, setbacks, access to daylight, overlooking and overshadowing. The Purchaser shall make no claim against the Vendor in respect of any Rescode requirements, in respect of the Purchaser's proposed use or development of the Property.

#### 28.9 Bushfire Attack Level

Without limiting Special Condition 3 of 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 stated otherwise 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 stated otherwise in the Vendor's Statement, no information, representation or warranty was made by the Vendor, the Vendor's 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 make any requisitions or objections, claim any compensation or refuse or delay payment of the Price or rescind, terminate or delay settlement on account of any matter relating to whether the Property is in a bushfire prone area or its BAL rating.

#### 28.10 Vendor Access

The Vendor has the right to access the Property after Settlement on provision of prior written notice to ensure compliance with the Restrictions, the MCP, Design Guidelines, approved dwelling house plans, and this Contract.

### 29. **HOUSE PLAN APPROVAL AND CONSTRUCTION**

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- 29.1 The Purchaser agrees that whilst determining the type and style of house to be erected on the Property it must avoid using the same or similar façade to any other dwelling house within close proximity of the Property as specified in the Design Guidelines.
- 29.2 The Purchaser covenants that if the Purchaser applies to a building surveyor or the responsible authority for a building permit that he or she will advise that building surveyor or responsible authority of the Planning and Building Controls (and provide copies of such controls) and any other information in any way relevant to construction on the Property, and the Purchaser warrants that any form of construction and works on the Property will be strictly in accordance with these Planning and Building Controls.
- 29.3 The Purchaser acknowledges that in compliance with this Contract, it must submit all proposed plans and specifications for the dwelling house, including floor plans and elevations, to the Vendor for approval prior to entering into any domestic building contract with a builder for the construction of a dwelling house on the Property or commencement of such construction.
- 29.4 Further to the Vendor's rights under this Contract, the Vendor also has the right to reject and not grant approval at its absolute discretion to any dwelling house plans submitted if it forms the reasonable view that the façade of the proposed dwelling house is in contravention of Special Condition 29.1.
- 29.5 The Purchaser must commence construction of a dwelling in accordance with this Contract within 12 months of Settlement and complete construction within 30 months of Settlement.

### 30. OPTIC FIBRE NETWORK TO THE PROPERTY

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- 30.1 After the Settlement Date, the Vendor will use all reasonable endeavours to procure Opticomm Co Pty Ltd ('Opticomm') provide a fibre optic network connection point in the form of a communication conduit to be located at the front boundary of the Property, underground and close to the electricity connection point.
- 30.2 The Purchaser acknowledges and agrees that:
- (a) the Vendor will not, and Opticomm or any other telecommunications provider will not, install or provide any form of copper wiring to the Property;
  - (b) the Vendor will provide the Purchaser at settlement with information on connection and service providers for the Development's fibre optic network;
  - (c) the Purchaser are not compelled to connect to the fibre optic network and may elect not use the fibre optic network at all;
  - (d) to connect to the fibre optic network, the residential dwelling constructed on the Property must be specifically wired to allow connection. The Purchaser's builder must enquire with the Vendor as to the details for connection;
  - (e) the Purchaser is responsible for the continuation of the communications conduit;
  - (f) all connection costs and usage costs are solely the Purchaser's responsibility and the Purchaser should make enquiries of any relevant service provider to the Purchaser's satisfaction; and
  - (g) the Purchaser will not make any objection, requisition or claim nor rescind, terminate or delay settlement of this Contract because of anything contemplated by this Special Condition 30.
- 30.3 The Purchaser acknowledges that the Vendor makes no representations nor gives any warranties in respect of any fibre optic network services offered or supplied to the Property by Opticomm or any other service provider, and that the Purchaser must make its own inquiries as to the eligibility criteria, timing, capacity, suitability for intended use, terms and conditions which apply to such offers.
- 30.4 The Purchaser agrees that the Vendor may disclose the Purchaser's name, contact details and the Lot in this Contract to Opticomm or any other service provider who offers, or is considering offering, services to or at the Property so that Opticomm or any other service provider can provide details of offers for such services to the Purchaser.



## 31. SETTLEMENT

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- 31.1 On the Settlement Date, settlement must be effected prior to 3.00pm at the offices of the Vendor's Solicitor or at such other place as the Vendor or the Vendor's Solicitor may direct.
- 31.2 At settlement in addition to any other matter, the Purchaser must pay to the Vendor the Balance of the Price less any deductions provided herein, by an unendorsed bank cheque or bank cheques in favour of the Vendor or as the Vendor or the Vendor's Solicitor may direct in writing.
- 31.3 If settlement is effected later than 3.00pm on the Settlement Date, settlement shall be deemed for the purpose of Condition 4 of Table A to have occurred on the business day following the day on which payment of the Balance of the Price is made and the Purchaser will be deemed to have made a default in payment of the Balance of the Price, so that the Vendor will be entitled to interest under Condition 4 of Table A for the intervening days.
- 31.4 The Purchaser is not entitled to call for or receive at settlement or at any other time a Form 312 or any other release or letter of comfort or discharge of any charge or interest registered under the Corporations Act 2001 or the Personal Property Securities Register over the Property, the Development Land or the assets and undertaking of the Vendor generally ("**Security Interest**"). If the Vendor provides a Form 312 or some other form of release of a Security Interest, the Purchaser must pay any registration fee and arrange for lodgement at its expense.

## 32. INSOLVENCY AND INCAPACITY

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- 32.1 If before completion of this Contract:
- (a) the Purchaser, being a natural person:
    - (i) dies;
    - (ii) becomes bankrupt or enters into a scheme of arrangement, composition or assignment with or in favour of its creditors;
    - (iii) is sentenced to imprisonment for a term exceeding one month; or
    - (iv) is a protected person under any legislation or an involuntary patient or security patient under the *Mental Health Act 1986*; or
  - (b) the Purchaser, being a company:
    - (i) is subject to an application for its winding up;
    - (ii) is ordered to be wound up, or is placed in provisional liquidation;
    - (iii) enters into a scheme of arrangement for the benefit of the creditors;
    - (iv) resolves to go into liquidation; or

- (v) is put into the control of a receiver, receiver and manager, official manager or administrator,

then the Vendor may terminate this Contract by notice. The Vendor must refund all money paid under this Contract and any interest earned on it in such circumstances.

- 32.2 For the purposes of this Special Condition, "Purchaser" includes any of the persons that comprise the Purchaser.

### 33. NOMINATION

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- 33.1 General Condition 5 of this Contract is deleted and any common law right to effect a nomination is expressly excluded from this Contract.

- 33.2 In this Special Condition 33:

- (a) **Associated Person** has the same meaning as in Section 3 of the *Duties Act 2000*;
- (b) **Nomination Notice** means a nomination notice in the form attached in Annexure 4, executed by the Nominee and the Purchaser; and
- (c) **Nominee** means the substitute or additional purchaser together with the Purchaser in the case of nomination of an additional purchaser.

- 33.3 If this Contract says that the Property is sold to the Purchaser "and/or nominee" (or similar words), 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 before the due Settlement Date):

- (a) a Nomination Notice;
- (b) 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 provide the fully executed Guarantee to the Vendor; and
- (c) 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.

- 33.4 The Purchaser is not entitled to nominate a nominee under this Special Condition 33 if:

- (a) at the time it purports to nominate and substitute a substitute or additional purchaser, the Purchaser is in default under the Contract; or
- (b) the Nominee is not an Associated Person of the Purchaser.

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**34. VENDOR'S RIGHT TO MORTGAGE, CHARGE, ASSIGN OR NOVATE**

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34.1 The Purchaser acknowledges and agrees that at any time before Settlement:

- (a) the Vendor is entitled to grant a mortgage or charge over the Land (including a fixed and/or floating charge over all the assets and undertaking of the Vendor) from time to time;
- (b) the Vendor is entitled to assign, novate or otherwise transfer its rights and benefits in and under this Contract to another party at any time;
- (c) to accept a transfer of land duly executed by the party to which the Vendor has assigned, novated or otherwise transferred its rights and benefits in and 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 or novated; and
- (e) if a bank guarantee has been provided in payment of the Deposit, the Purchaser will provide a replacement bank guarantee in favour of the new party or pay an amount equivalent to the Deposit in cleared funds to the Vendor's solicitor in exchange for return of the original bank guarantee.

**35. RESALE AND ADVERTISING**

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35.1 Until a certificate of occupancy is issued for a dwelling constructed in accordance with this Contract, the Purchaser must not without the consent of the Vendor sell, advertise, transfer, assign, mortgage or otherwise encumber or in any other way whatsoever deal with the Property or any part thereof or the Purchaser's rights or interest in or under this Contract, and must not erect any advertising signs for resale.

35.2 The Purchaser acknowledges that in any resale consented to by the Vendor prior to issuing of a certificate of occupancy, the Vendor shall be entitled to impose a condition on its consent that the transferee or assignee must execute a deed with the Vendor pursuant to which the transferee or assignee agrees to be bound by the Purchaser's obligations in this Contract and the Purchaser must procure any transferee or assignee of the Property to execute a deed in favour of the Vendor pursuant to which the transferee or assignee agrees to be bound by the Purchaser's obligations in this Special Condition 35.2.

35.3 Despite anything else in this Special Condition 35, if the Purchaser carries on a business of selling house and land packages in Victoria:

- (a) the Purchaser may without the Vendor's consent advertise that the Property is for sale as a house and land package provided that settlement of such a sale is conditional upon completion of construction of a residential dwelling on the Property; and

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(b) the Purchaser may erect advertising boards on the Property in a size approved by the Vendor in writing from time to time advertising the house and land package.

35.4 This Special Condition 35 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 35.

35.5 The Purchaser acknowledges that damages of themselves will not be a sufficient remedy for breach by the Purchaser of this Special Condition 35 because the Vendor must be able to specifically enforce the Purchaser's obligations under this Special Condition 35.

### **36. FIRST HOME OWNER ASSISTANCE**

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36.1 The Purchaser acknowledges and agrees that the Vendor or the Vendor's estate agent has made no representation or warranty, or given any oral or written explanation or information as to the timing of registration of the Plan of Subdivision or the timing of settlement of the Land, particularly in respect of Purchaser's eligibility for any form of financial assistance, including but not limited to the First Home Owners Grant or First Home Owners Boost or First Home Owners Bonus or any such similar assistance.

### **37. NOTICE**

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37.1 Any notice, approval, consent or other communication under this Contract:

- (a) must be in writing; and
- (b) must be delivered and left at the address of the addressee, or sent by prepaid post or by facsimile to the address of the addressee specified in this Contract or if the addressee has notified another address to that new address.

37.2 A notice, approval, consent or other communication takes effect from the time it is received unless a later time is specified in it.

37.3 A letter or facsimile is taken to be received:

- (a) in the case of a posted letter, on the 2nd day (or if to or from an international address, on the 5th day) after posting; and
- (b) in the case of a facsimile, on production of a transmission report by the machine from which the facsimile was sent indicating that the facsimile was sent in its entirety to the facsimile number of the recipient.

37.4 A notice given by a party may be signed on its behalf and despatched by the party's solicitors rather than by the party personally.

- 37.5 If a conveyancer (as defined in the *Legal Profession Act 2004*) acts for a party to this Contract, then the conveyancer may be served with a notice in the same manner as a party's solicitor may be served in accordance with General Condition 13 of Table A.

### **38. DEVELOPMENT LAND LANDSCAPING**

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- 38.1 The Purchaser acknowledges that the Vendor, as part of the Development, may provide, or may be required to provide, landscaping on areas within the Development Land.
- 38.2 The Purchaser agrees and acknowledges that:
- (a) any information provided by the Vendor in respect of such landscaping is indicative only, and believed to be correct at the Day of Sale;
  - (b) the Purchaser is not relying upon such information in entering into this Contract;
  - (c) no warranty or representation has been given or is to be construed as a result of the provision of such information by the Vendor;
  - (d) the Vendor retains the right to change such landscaping at its absolute discretion, including the right to not provide such landscaping at all; and
  - (e) any potential changes made by the Vendor to such landscaping may have the affect of altering the visual amenity from the Property.
- 38.3 The Purchaser shall not make any requisition or objection nor claim any compensation nor seek to avoid or delay settlement as a direct or indirect consequence of anything contained in this Special Condition.

### **39. DIGITAL DUTIES FORM AND SRO SETTLEMENT STATEMENT**

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39.1 Vendor's obligations

The Vendor must:

- (a) complete, or procure the Vendor's Solicitor to complete, those parts of the DDF which are to be completed by the Vendor in respect of the Property under this Contract (**Vendor DDF**);
- (b) send, or procure the Vendor's Solicitor to send, to the Purchaser's Solicitor (or if none then the Purchaser), the completed Vendor DDF at least 3 Business Days prior to the Settlement Date; and
- (c) if the Purchaser has complied with Special Condition 39.2(a), 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.

39.2 Purchaser's obligations

The Purchaser must:

- (a) complete, or procure the Purchaser's Solicitor 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 Settlement Date;
- (b) sign or approve the DDF at least 2 Business Days prior to the Settlement 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 Solicitor and sign or approve (or re-sign or re-approve) the amended DDF within 1 Business Day of being requested to do so; and
- (d) prior to Settlement:
  - (i) generate a SRO Settlement Statement in respect of the sale of the Property under this Contract;
  - (ii) deliver to the Vendor or the Vendor's Solicitor, the SRO Settlement Statement in respect 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 Solicitor less than 2 business days prior to the due date.

39.3 No objection

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

39.4 Settlement if not an electronic conveyance

This Special Condition 39.4 only applies if settlement is not conducted electronically in accordance with the *Electronic Conveyancing National Law*.

- (a) Subject to the Vendor complying with Special Condition 39.1:
  - (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.

39.5 Settlement if an electronic conveyance

This Special Condition 39.5 only applies if Special Condition 39.4 does not apply.

- (a) Special Condition 39.2 is a fundamental term of the Contract.
- (b) The Purchaser acknowledges and agrees that unless and until the Purchaser complies with Special Condition 39.2, Settlement will not be able to proceed and the Purchaser will be in breach of this Contract.

39.6 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 39.2, 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 Solicitor in the event of multiple breaches by the Purchaser.

**40. FOREIGN RESIDENT CAPITAL GAINS WITHHOLDING**

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40.1 Definitions and Interpretation

In this Special Condition 40:

- (a) words defined or used in Subdivision 14-D of Schedule 1 in the Act have the same meaning in this Special Condition 40 unless the context otherwise requires;
- (b) a reference to a section of the Act is a reference to a section of Schedule 1 in the Act unless otherwise expressed;
- (c) **Act** means the *Taxation Administration Act 1953* (Cth);
- (d) **Clearance Certificate** means a certificate issued by the Commissioner of Taxation in accordance with section 14-220 of the Act;
- (e) **Commissioner** means the Commissioner of Taxation;
- (f) **Representative** means a registered legal practitioner or conveyancer (as the case may be); and
- (g) **Withholding Amount** means the amount payable to the Commissioner in accordance with section 14-200 of the Act or an amount varied under section 14-235 of the Act.

40.2 Application

This Special Condition 40 only applies if:

- (a) the Day of Sale is on or after 1 July 2016; and
- (b) the Purchaser is required to pay the Commissioner a Withholding Amount because of the application of section 14-200(1) of the Act.

40.3 Vendor's status

The Vendor is a foreign resident for the purposes of this Special Condition 40 unless the Vendor gives the Purchaser a Clearance Certificate before Settlement. The specified period in the Clearance Certificate must include the actual date of Settlement.

40.4 Vendor's obligation

The Vendor must provide the Purchaser with the following items:

- (a) all necessary information that the Purchaser requires in order to comply with the Purchaser's obligation to pay the Withholding Amount under section 14-200 of the Act. This information must be provided to the Purchaser within five Business Days after receiving a request from the Purchaser. For this purpose, the Vendor warrants that the information the Vendor provides is true and correct; and
- (b) any Clearance Certificate or document evidencing a variation of the Withholding Amount in accordance with section 14-235(2) of the Act before Settlement.

40.5 Withholding amount

- (a) If the Vendor fails to provide a Clearance Certificate to the Purchaser before Settlement, the Purchaser is irrevocably authorised to deduct the Withholding Amount from the balance of the Price payable to the Vendor at Settlement (**Balance Payable**).
- (b) If the Balance Payable at Settlement is less than the Withholding Amount, the Vendor must pay the difference to the Purchaser at Settlement.

40.6 Purchaser's obligations

- (a) The Purchaser must:
  - (i) engage a Representative to conduct all the legal aspects of Settlement, including the performance of the Purchaser's obligations in this Special Condition 40.6;
  - (ii) as soon as reasonably practicable after Settlement, procure its Representative to:
    - (A) pay, or ensure payment of, the Withholding Amount to the Commissioner in the manner required by the Commissioner and from the moneys under control or direction of the Representative in accordance with this Special Condition 40;
    - (B) promptly provide the Vendor with proof of payment; and



(C) otherwise comply, or ensure compliance, with Special Condition 40,

despite:

(D) any contrary instructions, other than from both the Purchaser and the Vendor in writing; and

(E) any other provisions in this Contract to the contrary.

(b) The Representative will be taken to have complied with its obligations in Special Condition 40.6(a) if in the case of Settlement being conducted through the electronic conveyancing system:

(i) the settlement is conducted through the electronic conveyancing system operated by Property Exchange Australia Ltd or any other electronic conveyancing system agreed by the parties; and

(ii) the Withholding Amount is included in the settlement statement requiring payment to the Commissioner in respect of this Contract.

#### 40.7 Penalties

The Purchaser is responsible for any penalties or interest payable to the Commissioner arising from the late payment of the Withholding Amount except to the extent that the penalty or interest arises from the Vendor failing to pay the Purchaser the amount of any difference as required under Special Condition 40.5.

### 41. **COMMUNITY INFRASTRUCTURE LEVY**

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41.1 The Purchaser acknowledges and agrees that it:

(a) will be 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 28 November 2018, is \$900 and is subject to change by Council as published at <http://www.melton.vic.gov.au/Services/Building-Planning-Transport/Statutory-planning/Community-Infrastructure-Levy>;

(b) must not make any claim, requisition or objection 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.

## 42. GST WITHHOLDING

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### 42.1 Interpretation

In this Special Condition 42, 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.

### 42.2 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 42.2(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.

### 42.3 Withholding

- (a) This Special Condition 42.3 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 42.3(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.

42.4 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 on the supply of the Property.

42.5 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 Settlement.

**43. RIGHT TO SELL**

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43.1 The Vendor warrants that pursuant to the Head Contracts, it is entitled to be the registered proprietor of the land contained in the Plan of Subdivision, the particulars of sale and execution pages (and relevant nomination form) for which are contained in the Vendor's Statement attached to this Contract.

43.2 This Contract is subject to and conditional upon the Vendor completing settlement of the Head Contracts, failing which this Contract is at an end, the Deposit is to be refunded in full without deduction to the Purchaser and the parties have no further rights in respect of any matter.

**44. ELECTRONIC CONVEYANCING**

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**44.1 Interpretation**

- (a) This Special Condition 44 has priority over any other special condition to the extent of any inconsistency.
- (b) This Special Condition 44 applies if the Contract specified or the parties subsequently agree in writing that Settlement and lodgement of the instruments necessary to record the Purchaser as the registered proprietor of the Property will be conducted electronically in accordance with the *Electronic Conveyancing National Law*.

**44.2 Settlement cannot proceed electronically**

- (a) A party must immediately give written notice to the other parties if that party reasonably believes that Settlement and lodgement of the instruments

necessary to record the Purchaser as registered proprietor of the Property can no longer be conducted electronically.

- (b) This Special Condition 44 ceases to apply in the event that a notice is given in accordance with Special Condition 44.2(a).

#### 44.3 **Electronic conveyancing subscription**

Each party must:

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

#### 44.4 **Workspace**

- (a) The Vendor must open the electronic workspace as soon as reasonably practicable and invite the Purchaser to the workspace.
- (b) The parties acknowledge and agree that the electronic workspace will be deemed an electronic address for service of notices and for written communications for the purposes of any electronic transactions legislation.
- (c) Where Settlement is to occur in the electronic workspace, the Purchaser acknowledges and agrees that:
  - (i) any bank guarantee provided to secure the payment of the Deposit cannot be exchanged via the electronic workspace; and
  - (ii) if payment of the Deposit is secured by way of a bank guarantee, the Purchaser must deliver to the Vendor a bank cheque in favour of the Vendor's Legal Practitioner for the amount secured by the bank guarantee not less than 10 Business Days before Settlement.

#### 44.5 **Electronic Settlements**

Settlement occurs when the electronic workspace records that:

- (a) the exchange of funds or value between the parties or the financial institutions in accordance with the instructions of the parties has occurred; or
- (b) if there is no exchange of funds or value, the documents necessary to enable the Purchaser to become the registered proprietor of the Property have been accepted for electronic lodgement.

#### 44.6 **Failed settlements**

In the event that Settlement fails to proceed using the electronic workspace, the parties must do everything reasonably necessary to effect Settlement:

- (a) electronically on the next business day; or
- (b) if both parties agree, by a non-electronic method as soon as reasonably possible.

**44.7 Other matters**

- (a) Each party must do everything reasonably necessary to assist the other party to trace and identify the recipient of any mistaken payment and to recover any mistaken payment.
- (b) Before Settlement, the Purchaser must manage all necessary requirements relating to aggregated duty assessment and make the necessary enquiries to confirm that the transaction can proceed in an electronic workspace.
- (c) As soon as practicable after Settlement, the Vendor must:
  - (i) deliver any keys, security devices and codes to the Vendor's Estate Agent;
  - (ii) direct the Vendor's Estate Agent to give the keys to the Purchaser; and
  - (iii) deliver all other physical documents and items (other than the goods sold pursuant to the Contract) to which the Purchaser is entitled at Settlement.
- (d) The Vendor must, no later than 7 days before Settlement, provide the original of any document required to be prepared by the Vendor in accordance with General Condition 6.
- (e) Each party is to bear its own costs in connection with Settlement occurring in the electronic workspace.

**45. GENERAL PROVISIONS**

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- 45.1 This Contract may consist of one or more counterpart copies. All counterparts of this Contract, when taken together, constitute one fully executed document.
- 45.2 Each party must execute and deliver all documents, instruments and writings and do and procure to be done all acts and things necessary or desirable or reasonable to give effect to this Contract.
- 45.3 This Contract is to be governed by and construed in accordance with Victorian law and each party submits to the non-exclusive jurisdiction of the Victorian courts.
- 45.4 A reference to "consent" of the Vendor means prior written consent which may be given or withheld at the Vendor's sole discretion and may be given on conditions.

45.5 If any provision of this Contract or its application to any party or any circumstance is or becomes illegal, unenforceable, or invalid then the remaining provisions of this Contract will not be affected but will remain in full force and effect and will be valid and enforceable to the fullest extent permitted by law.

45.6 The provisions of this Contract may only be varied by further written agreement of the parties. No variation of the provisions of this Contract shall be inferred from a course of dealing.



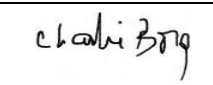
# Vendor Statement

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

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

The vendor may sign by electronic signature.

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

<b>Land</b>	70 Plymouth Drive, Thornhill Park 3335	
<b>Vendor's name</b>	Mansoor Ibrahim Janjua	<b>Date</b> / /
<b>Vendor's signature</b>	Signed by:  25/11/2022 3A70B3974547E1C4	
<b>Vendor's name</b>	Nadia Mansoor	<b>Date</b> / /
<b>Vendor's signature</b>	Signed by:  25/11/2022 91113287DB8DA635	
<b>Purchaser's name</b>	CHARLIE BORG	<b>Date</b> 25 / 11 / 22
<b>Purchaser's signature</b>		
<b>Purchaser's name</b>		<b>Date</b> / /
<b>Purchaser's signature</b>		

# 1. FINANCIAL MATTERS

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

(a) Their total does not exceed:

\$3,500.00

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

	To	
--	----	--

Other particulars (including dates and times of payments):

## 1.3 Terms Contract

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

Not Applicable.

## 1.4 Sale Subject to Mortgage

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

Not Applicable.

# 2. INSURANCE

## 2.1 Damage and Destruction

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

Not Applicable.

## 2.2 Owner Builder

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

Not Applicable.

# 3. LAND USE

## 3.1 Easements, Covenants or Other Similar Restrictions

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

Is in the attached copies of title documents.

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

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

## 3.2 Road Access

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

## 3.3 Designated Bushfire Prone Area

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

**3.4 Planning Scheme**

Attached is a certificate with the required specified information.

**4. NOTICES**

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

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

Not Applicable.

**4.2 Agricultural Chemicals**

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

Nil.

**4.3 Compulsory Acquisition**

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

Nil.

**5. BUILDING PERMITS**

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

Not Applicable.

**6. OWNERS CORPORATION**

This section 6 only applies if the land is affected by an owners corporation within the meaning of the *Owners Corporations Act 2006*.

Not Applicable.

**7. GROWTH AREAS INFRASTRUCTURE CONTRIBUTION (“GAIC”)**

Not applicable.

**8. SERVICES**

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

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

**9. TITLE**

Attached are copies of the following documents:

**9.1 (a) Registered Title**

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

**10. SUBDIVISION**

**10.1 Unregistered Subdivision**

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

Not Applicable.

**10.2 Staged Subdivision**

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

Not Applicable.

**10.3 Further Plan of Subdivision**

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

Not Applicable.

**11. DISCLOSURE OF ENERGY INFORMATION**

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

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

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

Not Applicable.

**12. DUE DILIGENCE CHECKLIST**

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

- Attach Due Diligence Checklist (this will be attached if ticked)

**13. ATTACHMENTS**

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

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

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

--



# Due diligence checklist

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

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

## Urban living

### Moving to the inner city?

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

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

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

## Growth areas

### Are you moving to a growth area?

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

## Flood and fire risk

### Does this property experience flooding or bushfire?

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

## Rural properties

### Moving to the country?

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

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

### Can you build new dwellings?

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

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

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

## Soil and groundwater contamination

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

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

(04/10/2016)

## Land boundaries

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

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

## Planning controls

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

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

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

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

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

## Safety

### Is the building safe to live in?

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

## Building permits

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

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

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

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

## Utilities and essential services

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

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

## Buyers' rights

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

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

(04/10/2016)



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

VOLUME 12373 FOLIO 269

Security no : 124098064278W  
Produced 02/06/2022 06:29 PM

**LAND DESCRIPTION**

Lot 208 on Plan of Subdivision 816954N.  
PARENT TITLE Volume 12373 Folio 186  
Created by instrument PS816954N 12/05/2022

**REGISTERED PROPRIETOR**

Estate Fee Simple  
TENANTS IN COMMON  
As to 1 of a total of 5 equal undivided shares  
Sole Proprietor  
MANSOOR IBRAHIM JANJUA of 6 IVAN WAY POINT COOK VIC 3030  
As to 4 of a total of 5 equal undivided shares  
Sole Proprietor  
NADIA MANSOOR of 6 IVAN WAY POINT COOK VIC 3030  
AV687848W 31/05/2022

**ENCUMBRANCES, CAVEATS AND NOTICES**

COVENANT PS816954N 12/05/2022

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

AGREEMENT Section 173 Planning and Environment Act 1987  
AV318972J 10/02/2022

**DIAGRAM LOCATION**

SEE PS816954N FOR FURTHER DETAILS AND BOUNDARIES

**ACTIVITY IN THE LAST 125 DAYS**

NUMBER		STATUS	DATE
PS816954N (B)	PLAN OF SUBDIVISION	Registered	12/05/2022
AV617775T	REMOVAL OF ENCUMBRANCE	Registered	12/05/2022
AV687846B (E)	WITHDRAWAL OF CAVEAT	Registered	31/05/2022
AV687847Y (E)	DISCHARGE OF MORTGAGE	Registered	31/05/2022
AV687848W (E)	TRANSFER	Registered	31/05/2022

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

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

Street Address: 70 PLYMOUTH DRIVE THORNHILL PARK VIC 3335

**ADMINISTRATIVE NOTICES**

NIL

eCT Control 19984U JOSHI LAWYERS



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

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

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Page 2 of 2

Effective from 31/05/2022

DOCUMENT END



# Department of Environment, Land, Water & Planning

## Electronic Instrument Statement

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

Produced 02/06/2022 06:33:44 PM

Status	Registered	Dealing Number	AV318972J
Date and Time Lodged	10/02/2022 11:39:12 AM		

### Lodger Details

Lodger Code	18776H
Name	HARWOOD ANDREWS
Address	
Lodger Box	
Phone	
Email	
Reference	AL - 22105878

## APPLICATION TO RECORD AN INSTRUMENT

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

### Privacy Collection Statement

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

### Estate and/or Interest

FEE SIMPLE

### Land Title Reference

8903/211

### Instrument and/or legislation

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

### Applicant(s)

Name	MELTON CITY COUNCIL
Address	
Street Number	232
Street Name	HIGH
Street Type	STREET
Locality	MELTON
State	VIC
Postcode	3337

### Additional Details



# Department of Environment, Land, Water & Planning

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## Electronic Instrument Statement

Refer Image Instrument

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

---

### Execution

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

Executed on behalf of	MELTON CITY COUNCIL
Signer Name	CLARE MARGARET MCKENNA
Signer Organisation	THE LANTERN LEGAL GROUP PTY LTD
Signer Role	LAW PRACTICE
Execution Date	10 FEBRUARY 2022

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### File Notes:

NIL

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

Statement End.



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HWL  
EBSWORTH  
LAWYERS

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

Purpose: Implementation of Public Infrastructure Plan, payment of contributions under the DCP and requirements relating to interim retarding basin

Lot 2 on PS088806  
207-231 Paynes Road, Rockbank

**Melton City Council**  
(Council)

and

**The Mayflower Estate Victoria Pty Ltd**  
(Owner)

Ref.JL:CB:1083028

Doc ID 915382453/v1 Level 8, 447 Collins Street, Melbourne VIC 3000 Australia  
PO Box 3, Collins Street West VIC 8007 Australia  
DX 564 Melbourne

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



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## Deed of Agreement

Date 9 FEBRUARY 2022

Parties **Melton City Council**  
of Civic Centre, 232 High Street, Melton, Victoria 3337  
(Council)

**The Mayflower Estate Victoria Pty Ltd**  
**ACN 625 109 917**  
Of Suite 3, Level 1, 4 Park Road, Milton, Queensland 4604  
(Owner)

- Recitals
- A. Council is the Responsible Authority pursuant to the Act for the administration and enforcement of the Planning Scheme, which applies to the Subject Land. Council is also the Collecting Agency and the Development Agency specified in the DCP and for the purposes of Part 3B of the Act.
  - B. Council enters into this Agreement in its capacity as the Responsible Authority, Collecting Agency and Development Agency.
  - C. The Owner is or is entitled to be the registered proprietor of the Subject Land, which is the land over which this Agreement is intended to be registered.
  - D. The Subject Land is affected by the Development Contributions Plan Overlay - Schedule 7 (DCPO7) pursuant to the Planning Scheme.
  - E. The PSP and the DCP apply to the Land.
  - F. The DCP sets out the contribution required from individual land owners within the area covered by the DCP to fund infrastructure and services required as a result of development of the area covered by the DCP.

---

G. The DCP provides that if the collecting agency agrees in writing, infrastructure or land identified in the DCP may be provided by land owners developing land covered by the DCP in partial or complete satisfaction of its obligation to pay a contribution under the DCP.

H. Council issued the Planning Permit for the Subject Land. The Planning Permit allows "amendment to a permit associated with a multi lot subdivision, creation of reserves and removal of native vegetation".

I. Conditions 10 to 12 of the Planning Permit provide that:

*10. A development infrastructure levy must be paid to the Responsible Authority in accordance with the provisions of the approved Development Contributions Plan for the land within the following specified time, namely after Certification of the relevant plan of subdivision but not more than 21 days prior to the issue of Statement of Compliance in respect of that plan.*

*11. Prior to the Certification of the Plan of Subdivision under the Subdivision Act 1988 for the first stage of the subdivision, an amended Public Infrastructure Plan must be submitted to and approved by the Responsible Authority. The updated Public Infrastructure Plan should include the following:*

- *Items which will be undertaken as works in kind*
- *Staging of works*
- *A breakdown of the value of works and percentages of items to be delivered.*

*12. Prior to the issue of a Statement of Compliance under the Subdivision Act 1988 for the first stage of subdivision, or such other time as agreed, the owner must, if required by the Responsible Authority, enter into an agreement, or agreements, under Section 173 of the Planning and Environment Act 1987 which specifies the infrastructure required to be provided as part of the development. The agreement must give effect to the approved Public Infrastructure Plan.*

*Application must be made to the Registrar of Titles to register the 173 Agreement on the title to the land under Section 181 of the Act.*

*The landowner under this permit must pay the reasonable costs of the preparation, execution, registration and any future amendments of the Section 173 agreement.*

J. Condition 27 of the Planning Permit provides that:

*Prior to the issue of Statement of Compliance for Stage 4 of the development and to the satisfaction of the Responsible Authority, the Developer/Landowner must enter into an agreement under Section 173 of the Planning and Environment Act 1987 which specifies:*

- (a) *That any temporary or interim retarding basins and ancillary infrastructure shall be maintained by the Developer until the ultimate drainage outfall is fully constructed.*
- (b) *That any temporary or interim retarding basins and ancillary infrastructure shall be removed, the land filled, underground drainage connections and ancillary works constructed once the ultimate drainage outfall has been fully built.*

*An application must be made to the Registrar of Titles to register this 173 Agreement on the title to the land under Section 181 of the Act. The Developer/Landowner must pay all costs of the preparation, execution, and registration of this agreement.*

K. A PIP has been approved and endorsed under the Planning Permit. It details the Infrastructure Items which are required to be delivered by the Owner and the time for delivery of such items.

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

- (a) to set out the obligations of the Owner to pay the DCP Levy or, in lieu of payment, provide the land or works specified in this Agreement that the collecting agency has agreed to accept in full or partial satisfaction of the obligation to pay DCP Levy on the terms set out in this Agreement in accordance with conditions 8 to 10 of the Planning Permit;
- (b) to implement the PIP in accordance with condition 12 of the Planning Permit;
- (c) to provide for the maintenance and removal of temporary or interim retarding basins prior to

---

construction of the ultimate drainage outfall in accordance with condition 27 of the Planning Permit; and

(d) to achieve or advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Subject Land.

M. All Mortgagees and Caveators have consented to this Agreement

---

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

## 1. Definitions and interpretation clauses

---

### 1.1 Definitions

In this deed the following definitions apply:

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

**Agreement** means this Deed of Agreement and any Agreement executed by the Parties expressed to be supplemental to this Agreement.

**Ancillary Infrastructure** means any infrastructure ancillary to the Interim Drainage Asset, including fencing.

**Approved Plans** means the plans for an Infrastructure Project that are approved by Council pursuant to this Agreement on the basis of the Designs.

**Ancillary Works** means any works ancillary to any Underground Drainage Connections.

**Building Permit** means a building permit under the *Building Act 1993*.

- Business Day** means a day that is not a Saturday, Sunday or public holiday in Melbourne.
- Caveator** means any caveator identified at Schedule 2.
- Claim** means any claim, action, proceeding or demand made against the person concerned, however it arises and whether it is present or future, fixed or unascertained, actual or contingent.
- Collecting Agency** has the same meaning as in the Act.
- Council** means:
- (a) in its capacity as responsible authority, Melton City Council or its successor as the authority responsible for administering and enforcing the Planning Scheme and includes its agents, officers, employees, servants, workers and contractors; and
  - (b) in its capacity as collecting agency, Melton City Council or its successor as the authority identified in the DCP as the collecting agency and includes its agents, officers, employees, servants, workers and contractors; and
  - (c) in its capacity as development agency, Melton City Council or its successor as the authority identified in the DCP as the development agency and includes its agents, officers, employees, servants, workers and contractors.
- Credit** means a credit against the Owner's liability to pay the DCP Levy in the amount specified in Schedule 4.
- Current Address** means:
- (a) for Council, the address shown on page one of this Agreement, or any other address listed on Council's website; and
  - (b) 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.

<b>Current Email</b>	means the email addresses which are detailed at Schedule 1 to this Agreement.
<b>DCP</b>	means the development contributions plan specified at Schedule 1 to this Agreement, which is incorporated into the Planning Scheme.
<b>DCP Account</b>	means the account the Collecting Agency uses to collect the DCP funds.
<b>DCP Land Project</b>	means an Infrastructure Project comprising the provision of land included in the DCP, identified at Schedule 3.
<b>DCP Levy</b>	means the development infrastructure levy required to be paid pursuant to the DCP in respect of the Subject Land.
<b>Development</b>	means the development of the Subject Land in accordance with the Planning Permit.
<b>Developer Works</b>	means those Infrastructure Projects that are identified as developer works in the PIP, do not fall within the DCP and are the responsibility of the Owner, comprising the Developer Works – Land Project.
<b>Developer Works – Land Project</b>	means Developer Works comprising the provision of land, as identified at Schedule 4.
<b>Development Agency</b>	has the same meaning as in the Act.
<b>Drainage Scheme</b>	means the Melbourne Water Drainage Scheme known as the 4172 Iramoo Circuit DSS, or any equivalent successor drainage scheme which applies to the Land from time to time.
<b>Endorsed Plans</b>	means the plans endorsed under the Planning Permit.
<b>GAIC</b>	means the Growth Areas Infrastructure Contribution under the Act.

<b>GST</b>	means the <i>New Tax System (Goods and Services Tax) Act 1999 (Cth)</i> as amended from time to time.
<b>GST Regulations</b>	means the <i>New Tax System (Goods and Services Tax) Regulations 1999 (Cth)</i> as amended from time to time.
<b>Indexation</b>	means: <ul style="list-style-type: none"><li>(a) a quarterly adjustment to an amount carried out in accordance with the methods set out in the DCP as appropriate; or</li><li>(b) an adjustment to land value in accordance with the methodology specified in the DCP as appropriate,</li></ul> and in the event that one or more of the listed indexes is no longer available then Council will nominate a replacement index.
<b>Infrastructure Project</b>	means a project which will be delivered by the Owner under this Agreement, comprising the DCP Land Project and the Developer Works – Land Project.
<b>Intellectual Property</b>	means all current and future intellectual property rights in respect of copyright, trademarks, patents, designs, rights in relation to confidential information, trade secrets, know how, manners of manufacture, formulas, inventions, databases, get up and all other rights falling within the scope of this term whether arising by common law, equity or statute.
<b>Interim Drainage Asset</b>	means the retarding basin built on a temporary and interim basis and constructed in accordance with the Endorsed Plans.
<b>Land Project</b>	means a DCP Land Project and a Developer Works – Land Project.
<b>Localised Infrastructure</b>	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 road, 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 in accordance with the DCP or other



infrastructure that is in the nature of regional or state infrastructure.

<b>Loss</b>	means any loss, damage, cost, expense or liability incurred by the person concerned, however it arises and whether it is present or future, fixed or unascertained, actual or contingent.
<b>Milestone</b>	means the milestone for the delivery of a DCP Land Project, as identified at Schedule 3.
<b>Mortgagee</b>	means the mortgagee identified at Schedule 2 and any subsequent person or persons registered or entitled from time to time to be registered by the Registrar of Titles as mortgagee of the Land or any part of it.
<b>Over Provision</b>	means where the Owner's Credit exceeds the Owner's DCP Levy.
<b>Open Space Land</b>	means part of the Land for passive open space as shown on the Endorsed Plans
<b>Owner</b>	means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as proprietor or proprietors of an estate in fee simple in the Subject Land or any part of it and includes a Mortgagee-in-possession.
<b>Party or Parties</b>	means the Owner and Council under this Agreement as appropriate.
<b>PIP</b>	means the public infrastructure plan that is endorsed under the Planning Permit from time to time.
<b>Planning Permit</b>	means the planning permit specified at Schedule 1 to this Agreement, as amended from time to time.
<b>Planning Scheme</b>	means the planning scheme specified at Schedule 1 to this Agreement and any other planning scheme which applies to the Subject Land.
<b>Precinct Structure Plan or PSP</b>	means the precinct structure plan specified at Schedule 1 to this Agreement, which is incorporated into the Planning Scheme.

<b>Register and Registrar</b>	have the same meaning as in the <i>Transfer of Land Act 1958</i> (Vic).
<b>Residential Lot</b>	means a Lot which, in the opinion of Council, is of a size and dimension such that it is intended to be developed for residential purposes without the need for further subdivision.
<b>Schedule</b>	means a schedule to this Agreement.
<b>Schedule of Contributions</b>	means the schedule of contributions for the Development submitted to and approved by Council under the Planning Permit.
<b>Schedule of Contributions for the Stage</b>	means the schedule of contributions in respect of a Stage submitted to and approved by Council under the Planning Permit.
<b>Stage</b>	is a reference to a stage of subdivision of the Subject Land.
<b>Staged Lot</b>	means a lot that is intended to be further subdivided to create lots.
<b>Statement of Compliance</b>	means a Statement of Compliance under the <i>Subdivision Act 1988</i> .
<b>Subject Land</b>	means the land described at Schedule 1 to this Agreement and any reference to the Subject Land in this Agreement includes any lot created by the subdivision of the Subject Land or any part of it.
<b>Tax Act</b>	means the <i>Taxation Administration Act 1953</i> (Cth) as amended from time to time.
<b>Ultimate Drainage Outfall</b>	means the drainage outfall that is constructed in accordance with the Drainage Scheme.
<b>Underground Drainage Connections</b>	means the underground drainage connections to the Ultimate Drainage Outfall constructed in accordance with the Endorsed Plans.
<b>VCAT or Tribunal</b>	means the Victorian Civil and Administrative Tribunal.

**Works** has the same meaning as in the Act.

## 1.2 Interpretation

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

## 2 DCP Levy

### 2.1 Payment of DCP Levy

- (a) The Owner must pay the DCP Levy to the Collecting Agency in accordance with the Planning Permit.
- (b) The Owner's liability to pay the DCP Levy is subject to the Owner's entitlement to a Credit under this Agreement.

## 3. Provision of land

### 3.1 DCP Land Projects

- (a) The Owner agrees that, prior to the relevant Milestone or such other time as agreed by Council in writing, the Owner must:
- (i) transfer to or vest in Council the DCP Land Project; or
  - (ii) nominate the DCP Land Project as a road or reserve on a plan of subdivision such that the DCP Land Project will vest in Council upon registration of the plan.
- (b) The Owner agrees that any land transferred to or vested in Council in accordance with clause 3.1(a) must:
- (i) be sown to grass (minimum 95% coverage without bare areas exceeding 1 square metre, with grass seed germinated and grass able to be mown); free from rock, debris and weeds; graded to gradients no steeper than 1:6; and freely draining, to the satisfaction of Council;
  - (ii) be free of all encumbrances;
  - (iii) be free from contamination;
  - (iv) have any liability for GAIC discharged prior to it being transferred to Council and to the extent that it is not, the Owner shall remain liable to Council for any GAIC liability incurred by Council;
  - (v) be accompanied by a certificate from the State Revenue Office certifying that all GAIC (if applicable) or any tax liabilities in respect of the land have been discharged; and
  - (vi) be connected to services, where applicable,  
unless otherwise agreed to in writing by Council.
- (c) The Owner agrees that clause 3.1(b)(iv) survives the termination or ending of this Agreement.
- (d) If a DCP Land Project is not transferred to or vested in Council in accordance with clauses 3.1(a) and (b), Council may:
- (i) refuse to issue any further Statements of Compliance in relation to future Stages until the DCP Land Project has been transferred to or vested in Council; or
  - (ii) at its absolute discretion, extend the timeframe.
- (e) Prior to the transfer or vesting of a DCP Land Project, the Owner must, if required by Council, provide Council with an environmental assessment

prepared by a suitably qualified environmental consultant which states that the DCP Land Project is suitable to be used and developed for the purpose for which it is intended to be used.

- (f) The Owner acknowledges and agrees that, upon Council complying with its obligations under this Agreement, no further compensation of any kind whatsoever is payable to the Owner in relation to the land transferred to Council for the DCP Land Project.

### 3.2 Developer Works – Land Project

- (a) The Owner agrees that, prior to the relevant Milestone or such other time as agreed by Council in writing, the Owner must:
  - (i) transfer to or vest in the relevant authority the Developer Works – Land Project; or
  - (ii) nominate the Developer Works – Land Project as a road or reserve on a plan of subdivision such that the Developer Works – Land Project will vest in the relevant authority upon registration of the plan.
- (b) The Owner agrees that it must comply with all other requirements of the relevant authority in fulfilling the Owner's obligations in clause 3.2(a).

## 4 Implementation of PIP

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The Owner covenants and agrees that, subject to this Agreement, the Owner must:

- (a) comply with and implement the PIP; and
- (b) prior to the issue of a Statement of Compliance for a Stage, deliver the relevant Infrastructure Project to the satisfaction of Council, and in accordance with the relevant Milestone for that Infrastructure Project unless otherwise agreed in writing by the Council.

## 5 Developer Works and Localised Infrastructure

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The Parties acknowledge and agree that:

- (a) this Agreement relates only to the Infrastructure Projects;
- (b) compliance with this Agreement does not relieve the Owner of any obligation imposed by Council or a Tribunal to provide any other developer works identified in the PIP or Localised Infrastructure which obligation may be imposed as a requirement in a planning permit for the subdivision or development of the Subject Land; and

- (c) the Owner will not be entitled to any Credit in relation to Developer Works or Localised Infrastructure or any other developer works identified in the PIP.

## 6. Interim Drainage Asset

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The Owner covenants and agrees that:

- (a) the Owner must maintain the Interim Drainage Asset and Ancillary Infrastructure in good order, condition and repair until the Ultimate Drainage Outfall is fully constructed and operational;
- (b) If requested by Council following an inspection of the Interim Drainage Asset and Ancillary Infrastructure, the Owner must rectify any defects identified by Council as soon as reasonably practicable; and
- (b) within 3 months of the completion and operation of the Ultimate Drainage Outfall the Owner must:
  - (i) remove the Interim Drainage Asset and Ancillary Infrastructure;
  - (ii) fill any part of the Subject Land used for the Interim Drainage Asset and Ancillary Infrastructure; and
  - (iii) complete the Underground Drainage Connections and Ancillary Works,all at the cost of the Owner and to the satisfaction of the Council.

## 7. Credit and processing of credits

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### 7.1 Credit

The Parties agree that:

- (a) The Owner will be entitled to a Credit in relation to a DCP Land Project, and Council will issue the Owner with a Credit in relation to a DCP Land Project:
  - (i) upon a Statement of Compliance issuing, where the land comprising the DCP Land Project will vest in Council on registration of the plan of subdivision to which the Statement of Compliance relates; or
  - (ii) once the land comprising the DCP Land Project has vested in or been transferred to Council,whichever is earlier;

- (b) The Owner will not be required to make cash payments towards the Owner's obligation to pay the DCP Levy until any Credit has been exhausted as determined in accordance with clause 7.1(c);
- (c) Prior to the issue of a Statement of Compliance for a Stage, Council must:
  - (i) Calculate the DCP Levy relevant to that Stage as at that date; and
  - (ii) Deduct the amount calculated from the Credit until the Credit has been exhausted;
- (d) When the DCP Levy payable in relation to a Stage exceeds the amount of the Credit remaining:
  - (i) Council must notify the Owner in writing that the Credit has been or will be exhausted;
  - (ii) In relation to that Stage, prior to the issue of a Statement of Compliance for that Stage, the Owner must pay the DCP Levy in cash to the extent that the DCP Levy exceeds the amount of the available Credit; and
  - (iii) In relation to subsequent Stages, the Owner must pay the DCP Levy in cash prior to the issue of a Statement of Compliance for each Stage or as otherwise agreed by Council, unless a further Credit is issued by Council.

#### 7.2 Rollover of Credit to other land parcels

The Parties agree that at the completion of the development of the Subject Land, if the Owner is still entitled to a Credit:

- (a) Council must at the request of the Owner apply such Credit towards the Development Infrastructure Levy for any other parcel of land which is included in the DCP and is owned by the Owner; and
- (b) If a Credit is to be applied to other land pursuant to this clause, the Parties agree to use their best endeavours to enter into a new agreement containing substantially the same terms as this agreement, amended as necessary to apply to the other land parcel and relevant infrastructure projects.

#### 7.3 Cash reimbursement for Over Provision

The Parties agree that, at the completion of the Development, if the Owner is still entitled to a Credit and the Owner makes a written request for a refund of the remaining Credit, and if the Owner does not make a request to rollover any Credit to another land parcel in accordance with Clause 7.2:

- (a) Council must reimburse the Owner in cash to the extent of the Over Provision; and
- (b) The payment is to be made within 80 Business Days of the later of:

- (i) a Statement of Compliance being issued in respect of the final Stage; or
- (ii) the transfer to or vesting in Council of the final DCP Land Project,  
subject to the availability of funds in the DCP Account.

## 8. Open Space Land

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### 8.1 Requirement to provide Open Space Land

The Owner agrees that prior to the issue of a Statement of Compliance for any Stage or such later time as agreed to by Council in writing, the Owner must:

- (a) provide to Council any Open Space Land; and/or
- (b) pay to Council cash in lieu of the provision of open space,

as required under Clause 53.01 of the Planning Scheme, the PSP and the DCP to ensure a public open space contribution in the percentage set out at Schedule 2.

### 8.2 Obligation to provide Open Space Land fulfilled

The parties agree that, upon complying with clause 8.1, the Owner has fulfilled its obligations under the Planning Scheme and the Planning Permit in relation to the provision of open space.

## 9. Council Access

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The Owner covenants and agrees to allow Council and its officers, employees, contractors or agents or any of them, to enter the Subject Land (at any reasonable time) to assess compliance with this Agreement.

## 10. Indemnity

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The Owner covenants and agrees to indemnify and keep the Council, its officers, employees, agents, workmen and contractors indemnified from and against all costs, expenses, losses or damages which they or any of them may sustain incur or suffer or be or become liable for or in respect of any suit action proceeding judgement or claim brought by any person arising from or referable to this Agreement or any non-compliance with this Agreement.



## 11. Default

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- (a) If the Owner fails to comply with the provisions of this Agreement, Council may serve a notice on the Owner specifying the works, matters and things in respect of which the Owner is in default.
- (b) If the alleged default continues for 14 days after the service of such notice, Council may, by its officers, employees, agents and contractors, enter the Subject Land and ensure that the works, matters and things are carried out.
- (c) The costs incurred by Council in undertaking the works as a result of the Owner's default will be payable by the Owner.

## 12. Further obligations

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### 12.1 Notice and registration

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

### 12.2 Giving effect to this Agreement

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

### 12.3 Recording by Registrar of Titles

The Owner will consent to Council making application to the Registrar of Titles to make a recording of this Agreement in the Register on the Certificate of Title of the Subject Land in accordance with section 181 of the Act and do all things necessary to enable Council to do so including signing any further agreement, acknowledgement or document or procuring the consent to this Agreement of any Mortgagee or Caveator to enable the recording to be made in the Register under that section.

### 12.4 Council's costs to be paid

- (a) The Owner will within 20 Business Days pay to Council, Council's reasonable costs and expenses (including legal expenses) of and incidental to the preparation, amendment, execution, ending, registration and enforcement of this Agreement which until paid will remain a debt due to Council by the Owner.
- (b) If in dispute, Council may have the costs assessed by the Law Institute of Victoria Costing Service and the parties will be bound by any assessment, and the cost of any assessment will be paid equally by the parties.

### 13 Agreement under Section 173 of the Act

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

### 14 Owner's warranties

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

### 15 Successors in title

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The Owner must ensure that until such time as a memorandum of this Agreement is registered on the title to the Subject Land, successors in title shall be required to:

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

### 16 Notices

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#### 16.1 Service

A notice or other communication required or permitted to be served by a Party on another Party must be in writing and may be served:

- (a) personally on the other Party;
- (b) by leaving it at the other Party's Current Address;
- (c) by posting it by prepaid post addressed to the other Party at the other Party's Current Address; or
- (d) by email to the other Party's Current Email.

#### 16.2 Time of service

A notice or other communication is deemed served:

- (a) if delivered, on the next following business day;

- (b) if posted, on the expiration of two business days after the date of posting; or
- (c) if sent by email, at the time of receipt within the meaning of the *Electronic Transactions (Victoria) Act 2000*.

## 17. Miscellaneous

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### 17.1 Commencement of Agreement

Unless otherwise provided in this Agreement, this Agreement commences

- (a) from the date of this Agreement; or
- (b) if the Agreement bears no date, on the date it is recorded in the Register.

### 17.2 Ending of Agreement

This Agreement ends:

- (a) in accordance with the Act; or
- (b) on the date that the Council issues a letter confirming that the Owner has complied with, to the satisfaction of Council, all of its obligations under this Agreement; or
- (c) in relation to a Residential Lot, upon the registration of a plan of subdivision which creates that Residential Lot.

### 17.3 Application to Registrar

As soon as reasonably practicable after the Agreement has ended in respect to part or all of the Subject Land, Council will, at the request and at the cost of the Owner make application to the Registrar of Titles under s183(2) of the Act to cancel the recording of this Agreement on the register in relation to the relevant land.

### 17.4 No fettering of Council's powers

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

### 17.5 No waiver

Any time or other indulgence granted by Council to the Owner or any variation of the terms and conditions of this Agreement or any judgment or order obtained by Council

against the Owner will not in any way amount to a waiver of any of the rights or remedies of Council in relation to the terms of this Agreement.

17.6 **Severability**

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

17.7 **Proper law**

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

17.8 **Interest on overdue moneys**

Any amount due under this Agreement but unpaid by the due date incurs interest at the rate prescribed under section 120 of the *Local Government Act 2020* (Vic) and any payment made shall be first directed to payment of interest and then the principal amount owing.

17.9 **Entire Agreement**

This Agreement constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous agreements or understandings between the parties in connection with its subject matter.

17.10 **GST**

The parties agree that:

- (a) expressions used in this Clause and in the GST Act have the same meanings as when used in the GST Act;
- (b) a supply under this Agreement of:
  - (i) in-kind contributions of any kind provided by the Owner to the Council for the supply by the Council to the Owner of a right to develop land where the right/s granted comply with requirements imposed by or under an Australian law (as that term is understood in the GST Act) will be exempt from GST;
  - (ii) payments, fees, charges levies or other amounts payable (**the amount payable**) by the Owner to the Council for the supply of a right to develop land, to the extent the amount payable:
    - (A) is a payment of an Australian tax under subsection 81-5(1) of the GST Act; or

- (B) is an amount that is subject to subsection 81-10(1) of the GST Act and is not an amount listed in regulation 81-10.01 of the GST Regulations; or
  - (C) is an amount that is not subject to subsection 81-10(1) of the GST Act but is listed in regulation 81-15.01 of the GST Regulations; or
  - (D) is an amount that is subject to subsection 81-10(1) of the GST Act and is listed in regulations 81-10.01 and 81-15.01 of the GST Regulations but is listed in subregulation 81-10.01(1)(g),  
  
will be exempt from GST
- (c) the recipient of a taxable supply made under or in respect of this Agreement must pay to the supplier, at the time the consideration for the supply is due, the GST payable in respect of the supply. This obligation extends to supply consisting of a Party's entry into this document; and
  - (d) a Party is not obliged, under clause 17.10(c), to pay the GST on a taxable supply to it until given a valid tax invoice for the supply.

#### 17.11 Foreign Resident Capital Gains Withholding Tax

- (a) The Parties agree that the words defined or used in subdivision 14-D of schedule 1 of the Tax Act have the same meaning in this clause unless the context requires otherwise.
- (b) The Owner acknowledges and agrees that if Council is required to pay the Commissioner an amount in accordance with subdivision 14-D of schedule 1 of the Tax Act for any transfer to or vesting of land by the Owner in Council under this Agreement (**the Amount**):
  - (i) at least 60 days prior to the transfer to or vesting of such land in Council, the Owner must provide Council with a clearance certificate issued by the Commissioner under section 14-220 (1) of schedule 1 to the Tax Act, which must be valid for the period within which the relevant land is to be vested in or transferred to Council and must be issued in the exact name of the Owner; or
  - (ii) where a clearance certificate is not provided in accordance with clause 17.11(b)(i):
    - (A) if the land is to be transferred or vested in Council in exchange for a cash payment to the Owner, then the Amount is to be deducted from the total cash payment;
    - (B) if the land is to be transferred or vested in Council in exchange for non-cash consideration, the Owner must pay the Amount to Council at least 30 days prior to the transfer to or vesting of the land in Council; and

- (C) if the land is to be transferred or vested in Council in exchange for part cash payment and part non-cash consideration, then the Amount is to be deducted from the total cash payment and to the extent that the total cash payment is less than the Amount, the Owner must pay the difference to Council at least 30 days prior to the transfer to or vesting of the land in Council.
- (c) The Owner acknowledges and agrees that it must provide Council with all information and assistance necessary to enable Council to comply with its obligation to make a payment under subdivision 14-D of schedule 1 of the Tax Act in respect to the transfer to or vesting of land in Council under this Agreement.
- (d) The Owner indemnifies Council against any interest, penalty, fine or other charge or expense incurred by Council arising from a failure by Council to pay the Amount in accordance with subdivision 14-D of schedule 1 of the Tax Act as a result of the Owner's failure to comply with its obligations under this clause of the Agreement.

#### 17.12 Counterparts

- (a) This Agreement may consist of a number of counterparts and, if so, the counterparts taken together constitute this Agreement.
- (b) Execution by either or both parties of a fax or email copy of this Agreement, or transmission or email of a copy of this Agreement, executed by that party, will constitute valid and binding execution of this Agreement by such party or parties.
- (c) The parties acknowledge and agree that this Agreement may be executed electronically in accordance with the requirements of the *Electronic Transactions (Victoria) Act 2000* (Vic).

## Schedule 1 Subject Land and other matters

**Subject Land**

Street Address	Volume	Folio	Lot / Plan
207-231 Paynes Road, Rockbank	8903	211	Lot 2 on LP88806

**Planning Permit**

PA2017/5836/3 issued on 7 November 2018 (amended on 14 October 2021)

**Planning Scheme**

Melton Planning Scheme

**Precinct Structure Plan**

Rockbank Precinct Structure Plan, August 2016

**Development Contributions Plan**

Rockbank Development Contributions Plan, August 2016

**Public Open Space Contribution**

2.89%

**Current Email Addresses**

Council: legalservices@melton.vic.gov.au, or any other email address listed on the website of the Council

Owner: any email address provided by the Owner to the Council for the express purpose of electronic communication regarding this Agreement

**Mortgagee and Instrument of Mortgage**

Instrument of Mortgage No. AT944629W in favour of Bass Loan Services Pty Ltd

**Caveator and Instrument of Caveat**

Instrument of Caveat No. AU533334B in favour of Bass Loan Services Pty Ltd

## Schedule 2 Mortgagee and Caveator Consent

### **Mortgagee Consent**

Bass Loan Services Pty Ltd as Mortgagee of registered Mortgage No AT944629W consents to the Owner entering into this Agreement and agrees to be bound by the terms and conditions of this Agreement as if it were the Owner of the Subject Land.

### **Caveator Consent**

Bass Loan Services Pty Ltd as Caveator of registered Caveat No AU533334B consents to the Owner entering into this Agreement and agrees to be bound by the terms and conditions of this Agreement as if it were the Owner of the Subject Land.

AV318972J



# Centuria | BASS

## BASS LOAN SERVICES

2 February 2022

Mr Robert Baggio  
Manager Planning Services  
Melton City Council  
Civic Centre, 232 High Street  
Melton, VIC 3337

Dear Robert

**Lot 2 on PS088806, 207-231 Paynes Road, Rockbank  
The Mayflower Estate Victoria Pty Ltd (Owner)**

We have been advised that the Section 173 Agreement (Planning and Environment Action 1987) is not able to be registered on title until the council has received Mortgagee and Caveator Consent.

Bass Finance No 34 Pty Ltd is the financier of the residential land subdivision with Stages 1 and 2 nearing completion. Our mortgage and caveat is registered by related entity Facility Agent / Security Trustee – Bass Loan Services Pty Ltd.

To enable the Section 173 Agreement to be registered, consent is provided as follows:

### **Mortgagee Consent**

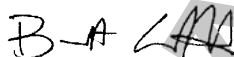
Bass Loan Services Pty Ltd as Mortgagee of registered Mortgage No AT944629W consents to the Owner entering into this Agreement and agrees to be bound by the terms and conditions of this Agreement as if it were the Owner of the Subject Land.

### **Caveator Consent**

Bass Loan Services Pty Ltd as Caveator of registered Caveat No AU533334B consents to the Owner entering into this Agreement and agrees to be bound by the terms and conditions of this Agreement as if it were the Owner of the Subject Land.

If you have any queries, please do not hesitate to contact the undersigned.

Yours faithfully,



---

Brett Corfield  
Head of Loan Management

Schedule 3 DCP Land Projects

DCP Project No.	Description of DCP Project	Extent of DCP Project	Milestone		Services to be available (Av) or connected (Cn)	Agreed Land Value	Credit <sup>1</sup>
BR04A	<b>Paynes Road Rail Flyover</b> Purchase of land for the construction of a rail-road grade separation at the intersection of Paynes Road and the Melbourne-Ballarat rail corridor (ultimate standard)	Part of DCP Project – 0.6648 hectares	Stage 1		N/A	\$895,963.97	\$1,070,000.00

<sup>1</sup> Fixed and not subject to Indexation.

Schedule 4 Developer Works - Land Projects

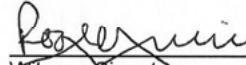
Description of Project	Extent of Project	Milestone	Relevant authority the Project is to be transferred to or vested in	Services to be available (Av) or connected (Cn)
<p><b>Rockbank Rail Stabling Land</b></p> <p>Item No. 4 on the PIP, being the provision of 2.089 hectares of land for the construction of a rail stabling yard associated with the ultimate upgrade of the Melbourne-Ballarat Rail Corridor</p>	<p>Whole of project (2.089 hectares)</p>	<p>Prior to the issue of a Statement of Compliance for Stage 1</p>	<p>Rail authority</p>	<p>N/A</p>

AV318972U

Executed as a deed

SIGNED, SEALED AND DELIVERED by )  
and on behalf of Melton City Council by )  
ROBERT BAGGIO, MANAGER PLANNING )  
SERVICES pursuant to the Instrument of )  
Delegation authorised by a Council )  
resolution dated 30 August 2021 in the )  
presence of:

  
\_\_\_\_\_


  
\_\_\_\_\_  
Witness Signature

ROGER SUCIC  
\_\_\_\_\_  
Witness Name

By witnessing this Agreement, the witness confirms that either:

- this Agreement was signed physically in their presence; or
- where this Agreement was witnessed via audio-visual link, the requirements for witnessing by audio-visual link under section 12 of the *Electronic Transactions (Victoria) Act 2000 (Vic)* have been met.

Executed by THE MAYFLOWER ESTATE  
VICTORIA PTY LTD ACN 625 109 917 in  
accordance with section 127 of the  
*Corporations Act 2001 (Cth)* by:

  
\_\_\_\_\_  
Signature of sole Director and sole  
Company Secretary

Brent Stevens  
\_\_\_\_\_  
Full name (print)



# Imaged Document Cover Sheet

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Document Type	<b>Plan</b>
Document Identification	<b>PS816954N</b>
Number of Pages (excluding this cover sheet)	<b>4</b>
Document Assembled	<b>02/06/2022 18:33</b>

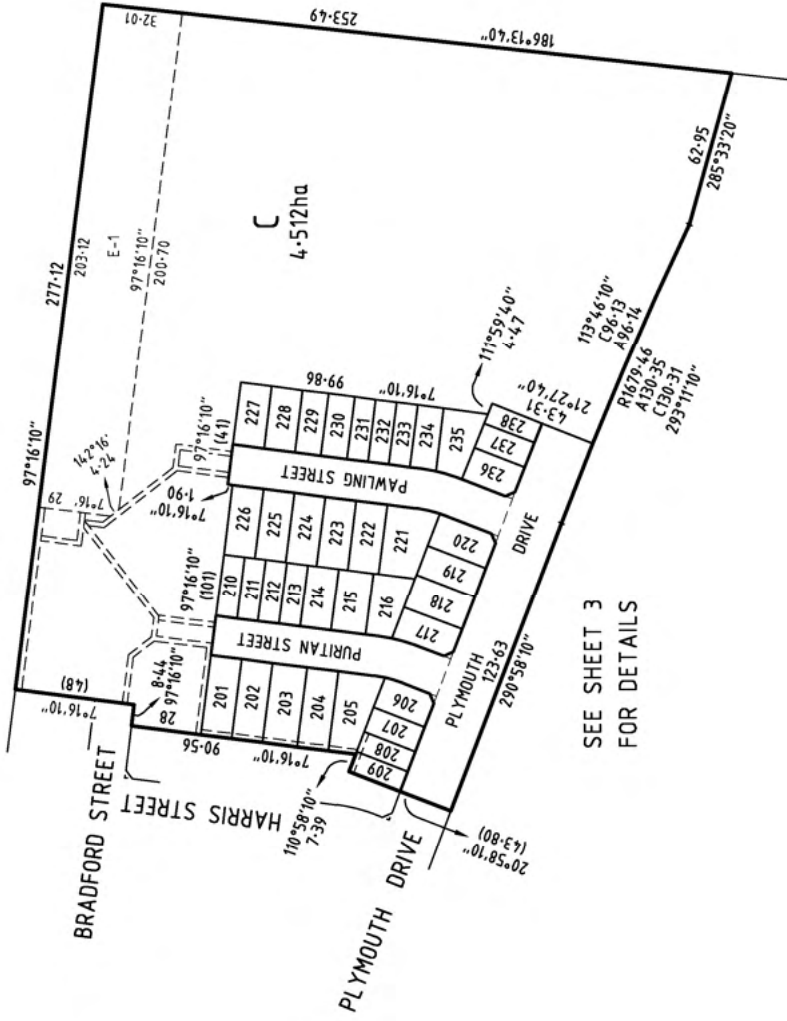
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© State of Victoria. This publication is copyright. No part may be reproduced by any process except in accordance with the provisions of the Copyright Act 1968 (Cth) and for the purposes of Section 32 of the Sale of Land Act 1962 or pursuant to a written agreement. The information is only valid at the time and in the form obtained from the LANDATA® System. None of the State of Victoria, LANDATA®, Secure Electronic Registries Victoria Pty Ltd (ABN 86 627 986 396) as trustee for the Secure Electronic Registries Victoria Trust (ABN 83 206 746 897) accept responsibility for any subsequent release, publication or reproduction of the information.

The document is invalid if this cover sheet is removed or altered.

<b>PLAN OF SUBDIVISION</b>			EDITION 1	<b>PS 816954N</b>
<b>LOCATION OF LAND</b> PARISH: KOROROIT TOWNSHIP: - SECTION: 3 CROWN ALLOTMENT: 4 (PART) CROWN PORTION: - TITLE REFERENCE: C/T VOL.12373 FOL.186  LAST PLAN REFERENCE: Lot A on PS 816953Q  POSTAL ADDRESS: 207 - 231 PAYNES ROAD (at time of subdivision) THORNHILL PARK VIC 3335  MGA94 CO-ORDINATES: E: 291 850                      ZONE: 55 (of approx centre of land                              N: 5 822 350 in plan)			Council Name: Melton City Council  Council Reference Number: Sub 5364 Planning Permit Reference: PA2017/5836 SPEAR Reference Number: S140170V  <b>Certification</b>  This plan is certified under section 11 (7) of the Subdivision Act 1988 Date of original certification under section 6: 10/02/2021  Public Open Space  A requirement for public open space under section 18 of the Subdivision Act 1988 has not been made  Digitally signed by: Karen Gaskett for Melton City Council on 07/09/2021  <b>Statement of Compliance</b> issued: 29/03/2022	
<b>VESTING OF ROADS AND/OR RESERVES</b>			<b>Notations</b>	
IDENTIFIER	COUNCIL/BODY/PERSON		Land being subdivided is enclosed within thick continuous lines.  Lots 1 to 200 (both inclusive) and Lots A and B have been omitted from this plan.  <b>WARNING:</b> The restrictive covenant(s)/restriction(s) in this plan may have been varied or removed. For current information, please refer to the relevant folio(s) of the Register, noting section 88(3) of the Transfer of Land Act 1958	
ROAD R-1	MELTON CITY COUNCIL			
<b>NOTATIONS</b>				
DEPTH LIMITATION DOES NOT APPLY				
SURVEY: This plan is based on survey  STAGING: This is not a staged subdivision Planning Permit No. PA 2017/5836  This survey has been connected to permanent marks No(s). - In Proclaimed Survey Area No. -				
<b>EASEMENT INFORMATION</b>				
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	PS 816953Q	MELTON CITY COUNCIL
E-2	DRAINAGE	SEE DIAG	THIS PLAN	MELTON CITY COUNCIL
<b>THE MAYFLOWER ESTATE - STAGE 2 (38 LOTS)</b>			<b>AREA OF STAGE - 1.834ha</b>	
414 La Trobe Street PO Box 16084 Melbourne Vic 8007 T 61 3 9993 7888 spiire.com.au		SURVEYORS FILE REF: 306086SV00	ORIGINAL SHEET SIZE: A3	SHEET 1 OF 4
		Digitally signed by: James Patrick Gleeson, Licensed Surveyor, Surveyor's Plan Version (3), 23/08/2021, SPEAR Ref: S140170V		PLAN REGISTERED TIME: 9:34am                      DATE: 12/05/2022 L.Hawkins Assistant Registrar of Titles

PS 816954N

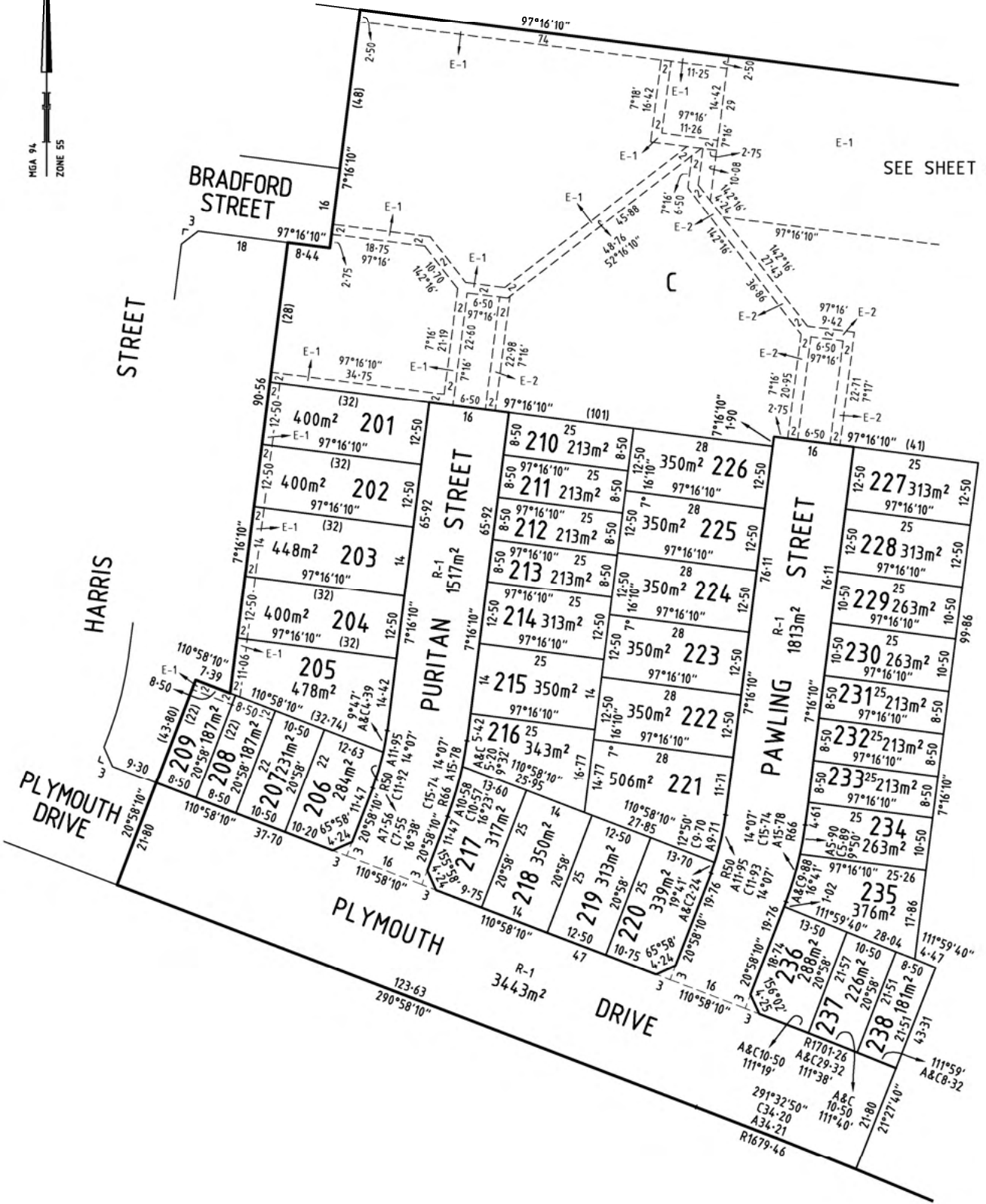


<p>414 La Trobe Street          PO Box 16084          Melbourne Vic 8007          T 61 3 9993 7888          spire.com.au</p>	<p>Scale: 1:2000          Lengths are in metres          0 20 40 60 80</p>	<p>Scale: 1:2000          Lengths are in metres          0 20 40 60 80</p>	<p>ORIGINAL SHEET SIZE: A3          SHEET 2</p>
<p>Digitally signed by: James Patrick Gleeson, Licensed Surveyor's Plan Version (3),          23/08/2021, SPEAR Ref: S140170V</p>	<p>Digitally signed by: James Patrick Gleeson, Licensed Surveyor's Plan Version (3),          23/08/2021, SPEAR Ref: S140170V</p>	<p>Digitally signed by: James Patrick Gleeson, Licensed Surveyor's Plan Version (3),          23/08/2021, SPEAR Ref: S140170V</p>	<p>Digitally signed by:          Melton City Council,          07/09/2021,          SPEAR Ref: S140170V</p>

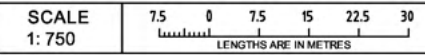
PS 816954N



SEE SHEET 2



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 23/08/2021, SPEAR Ref: S140170V

ORIGINAL SHEET  
 SIZE: A3

Digitally signed by:  
 Melton City Council,  
 07/09/2021,  
 SPEAR Ref: S140170V

SHEET 3



**CREATION OF RESTRICTION No. 1****PS 816954N**

Upon registration of this plan, the following restriction is created:

**Land to Benefit:** Lots 201 to 238 (both inclusive)  
**Land to be Burdened:** Lots 201 to 238 (both inclusive)

**Description of Restriction:**

The registered proprietor or proprietors for the time being of any burdened lot on this Plan shall not:

1. Construct or allow to be constructed any improvement on any lot:
  - (i) that is not in accordance with the Design Guidelines approved under PA 2017/5836 unless otherwise approved by the Design Review Panel and Melton City Council; and
  - (ii) without obtaining written approval of the design for that improvement from the Design Review Panel, such approval to be obtained even if the design for that improvement complies with the Design Guidelines.
2. Construct or allow to be constructed any more than one dwelling per lot.

This restriction shall cease to have effect 10 years after the date of registration of this Plan.

In this restriction:

**Design Guidelines** means the design, development and use controls for Lots 201 to 238 (both inclusive) on the Plan, a copy of which can be obtained from the Design Review Panel (and as amended from time to time by the Design Review Panel) and Melton City Council

**Design Review Panel** means the panel appointed for the purposes of assessing compliance with the Design Guidelines, of Unit 3, 69 Lorimer Street, Southbank, Vic. 3006 (or such other address as that panel may nominate from time to time).

**Plan** means PS 816954N.

**CREATION OF RESTRICTION No. 2**

Upon registration of this plan the following restriction is created:

**Description of Restriction:**

Table of land burdened and land benefited (Table 1):

BURDENED LOTS SUBJECT TO THE SMALL LOT HOUSING CODE	BENEFITING LOTS ON THIS PLAN	BURDENED LOTS SUBJECT TO THE SMALL LOT HOUSING CODE	BENEFITING LOTS ON THIS PLAN
206	205, 207	230	229, 231
207	205, 206, 208	231	230, 232
208	205, 207, 209	232	231, 233
209	205, 208	233	232, 234
210	211, 226	234	233, 235
211	210, 212, 225, 226	236	235, 237
212	211, 213, 224, 225	237	235, 236, 238
213	212, 214, 224	238	235, 237
229	228, 230		

The registered proprietor or proprietors for the time being for any burdened Lot on this plan in Table 1 is a Lot subject to the 'Small Lot Housing Code (Type A)' and must not build or permit to be built or remain on the Lot any building or structure that has not been constructed in accordance with the 'Small Lot Housing Code (Type A)' unless in accordance with a planning permit granted to construct a dwelling on the Lot.

This restriction shall cease to have effect after the issue of certificate of occupancy for the whole of the dwelling on the Lot.

**CREATION OF RESTRICTION No. 3**

Upon registration of this plan, the following restriction is created:

**Land to Benefit:** Lots 206 to 209, 217 to 220 and 236 to 238 (all inclusive)  
**Land to be Burdened:** Lots 206 to 209, 217 to 220 and 236 to 238 (all inclusive)

**Description of Restriction:**

The registered proprietor or proprietors for the time being of any burdened lot on this Plan shall not construct a dwelling unless:

- (i) the dwelling is constructed in accordance with memorandum of common provisions registered in dealing no. AA6680; and
- (ii) the glazing of any such dwelling is constructed using the glazing designation set out in that memorandum of common provisions and Table 1 below.

GLAZING DESIGNATION	LOTS ON THIS PLAN
1	206, 207, 208, 209, 217, 218, 219, 220, 236, 237, 238



414 La Trobe Street  
 PO Box 16084  
 Melbourne Vic 8007  
 T 61 3 9993 7888  
 spiire.com.au

Digitally signed by: James Patrick Gleeson, Licensed Surveyor,  
 Surveyor's Plan Version (3),  
 23/08/2021, SPEAR Ref: S140170V

ORIGINAL SHEET  
 SIZE: A3

SHEET 4

Digitally signed by:  
 Melton City Council,  
 07/09/2021,  
 SPEAR Ref: S140170V

# PROPERTY REPORT



Environment,  
Land, Water  
and Planning

From [www.planning.vic.gov.au](http://www.planning.vic.gov.au) at 02 June 2022 06:43 PM

## PROPERTY DETAILS

Address: **70 PLYMOUTH DRIVE ROCKBANK 3335**  
Lot and Plan Number: **Lot 208 PS816954**  
Standard Parcel Identifier (SPI): **208\PS816954**  
Local Government Area (Council): **MELTON**  
Council Property Number: **929588**  
Directory Reference: **Melway 344 D7**

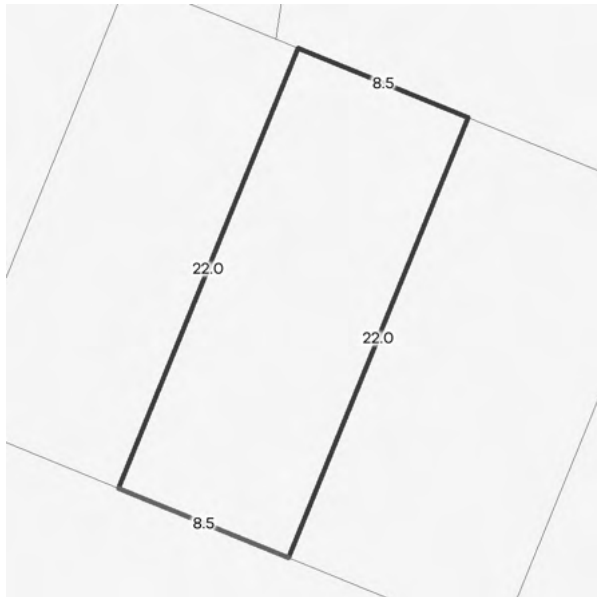
[www.melton.vic.gov.au](http://www.melton.vic.gov.au)

**This property is not in a designated bushfire prone area.  
No special bushfire construction requirements apply. Planning provisions may apply.**

Further information about the building control system and building in bushfire prone areas can be found on the Victorian Building Authority website <https://www.vba.vic.gov.au>

## SITE DIMENSIONS

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



**Area:** 187 sq. m

**Perimeter:** 61 m

For this property:

— Site boundaries

— Road frontages

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

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

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

## UTILITIES

Rural Water Corporation: **Southern Rural Water**  
Urban Water Corporation: **Western Water**  
Melbourne Water: **Inside drainage boundary**  
Power Distributor: **POWERCOR**

## STATE ELECTORATES

Legislative Council: **WESTERN METROPOLITAN**  
Legislative Assembly: **KOROROIT**

## PLANNING INFORMATION

**Planning Zone:** [URBAN GROWTH ZONE \(UGZ\)](#)

[URBAN GROWTH ZONE - SCHEDULE 7 \(UGZ7\)](#)

**Planning Overlay:** [DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY \(DCPO\)](#)

[DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY - SCHEDULE 7 \(DCPO7\)](#)

# PROPERTY REPORT

Planning scheme data last updated on 25 May 2022.

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

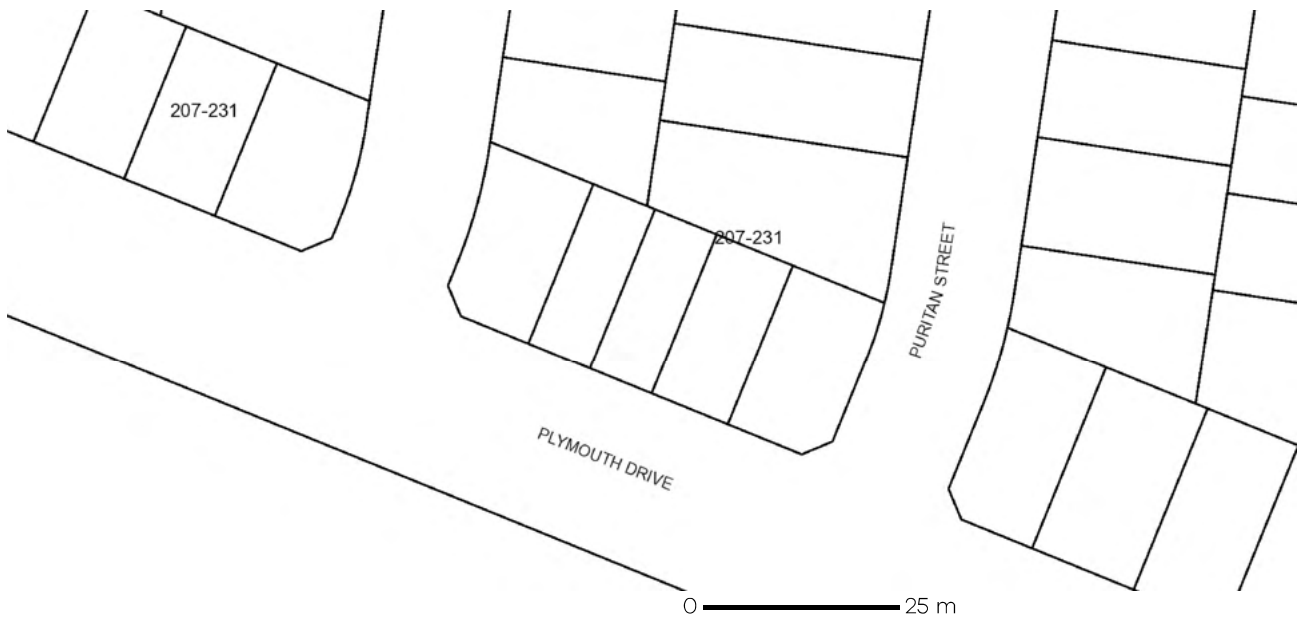
This report is NOT a **Planning Certificate** issued pursuant to Section 199 of the **Planning and Environment Act 1987**. It does not include information about exhibited planning scheme amendments, or zonings that may apply to the land. To obtain a Planning Certificate go to Titles and Property Certificates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

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

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

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

## Area Map



Selected Property

From [www.planning.vic.gov.au](http://www.planning.vic.gov.au) at 02 June 2022 06:42 PM

## PROPERTY DETAILS

Address: **70 PLYMOUTH DRIVE ROCKBANK 3335**  
Lot and Plan Number: **Lot 208 PS816954**  
Standard Parcel Identifier (SPI): **208\PS816954**  
Local Government Area (Council): **MELTON**  
Council Property Number: **929588**  
Planning Scheme: **Melton**  
Directory Reference: **Melway 344 D7**

[www.melton.vic.gov.au](http://www.melton.vic.gov.au)

[Planning Scheme - Melton](#)

## UTILITIES

Rural Water Corporation: **Southern Rural Water**  
Urban Water Corporation: **Western Water**  
Melbourne Water: **Inside drainage boundary**  
Power Distributor: **POWERCOR**

## STATE ELECTORATES

Legislative Council: **WESTERN METROPOLITAN**  
Legislative Assembly: **KOROROIT**

## OTHER

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

[View location in VicPlan](#)

## Note

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


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

## Planning Zones

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

[URBAN GROWTH ZONE - SCHEDULE 7 \(UGZ7\)](#)



 **UGZ - Urban Growth**

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

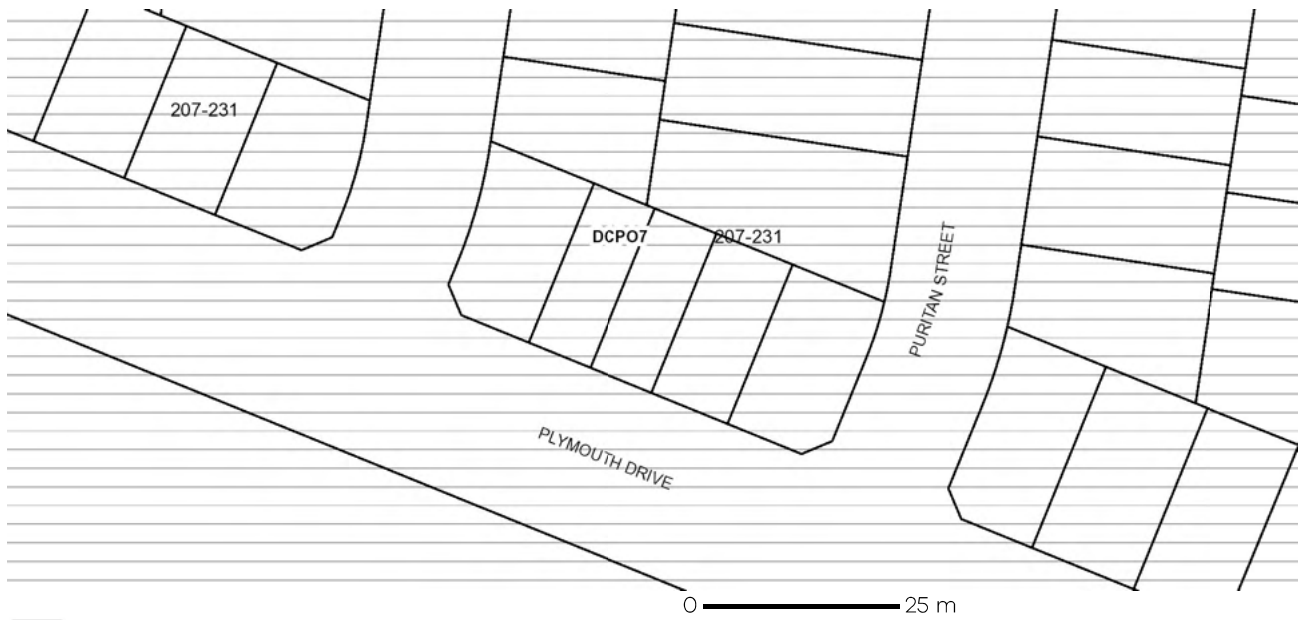
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Read the full disclaimer at <https://www2.delwp.vic.gov.au/disclaimer>

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 Overlay

DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY (DCPO)  
DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY - SCHEDULE 7 (DCPO7)



 DCPO - Development Contributions Plan

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

## Growth Area Infrastructure Contribution

This property is in an area added to the Urban Growth Boundary after 2005.  
 It may be subject to the Growth Area Infrastructure Contribution.  
 For more information about this contribution go to [Victorian Planning Authority](http://www.vpa.vic.gov.au)



 Land added to the UGB since 2005

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 Read the full disclaimer at <https://www2.delwp.vic.gov.au/disclaimer>

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).

## Melbourne Strategic Assessment

This property may be located within the Melbourne Strategic Assessment program area. Actions associated with urban development are subject to requirements of the Commonwealth Environment Protection and Biodiversity Conservation Act 1999. Follow the link for more details: <https://nvim.delwp.vic.gov.au/BCS>



## Further Planning Information

Planning scheme data last updated on 25 May 2022.

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

This report is NOT a **Planning Certificate** issued pursuant to Section 199 of the **Planning and Environment Act 1987**. It does not include information about exhibited planning scheme amendments, or zonings that may 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 <https://mapshare.maps.vic.gov.au/vicplan>

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

## Designated Bushfire Prone Areas

**This property is not in a designated bushfire prone area.  
No special bushfire construction requirements apply. Planning provisions may apply.**



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 <https://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 <https://www.vba.vic.gov.au>

Copies of the Building Act and Building Regulations are available from <http://www.legislation.vic.gov.au>

For Planning Scheme Provisions in bushfire areas visit <https://www.planning.vic.gov.au>

## LAND INFORMATION CERTIFICATE

Section 121(1) Local Government Act, 2020.

### Rates and Charges for period 1 July 2021 to 30 June 2022

Issue date: 13/05/2022

Your Reference: 64308376-020-3

Rate updates (03) 9747 7333

Assessment Number: 19398

Certificate No: 106627

#### Applicant:

Landata  
DX 250639  
MELBOURNE 3000

#### Property Location: 207-231 Paynes Road ROCKBANK 3335

Title: LOT: 2 LP: 88806 V/F: 8903/211

Ward: CAMBRIDGE

Capital Improved Value: \$10,875,000 Site Value: \$10,850,000 Net Annual Value: \$543,750

Effective Date: 01/07/2021 Base Date: 01/01/2021

#### 1. RATES CHARGES AND OTHER MONIES:

General Rate Date Levied 01/07/2021	\$9,458.35
Vacant Land Date Levied 01/11/2021	\$27,659.33
Municipal Charge Date Levied 01/07/2021	\$152.00
Waste Service E Date Levied 01/07/2021	\$332.00
Residential FSPL Fixed Charge Date Levied 01/07/2021	\$114.00
Residential FSPL Variable Charge Date Levied 01/07/2021	\$643.62
<b>Current Rates Levied: \$38,359.30</b>	
Rate Arrears to 30/06/2021:	\$44,379.94
Interest to 22/08/2021:	\$470.21
Other Monies:	\$0.00
Less Rebates*:	\$0.00
Less Payments:	-\$12,000.00
Less Other Adjustments:	\$0.00

<b>Rates &amp; Charges Due:</b>	<b>\$71,209.45</b>
<b>Additional Monies Owed:</b>	
<b>Total Due:</b>	<b>\$71,209.45</b>

**Council strongly recommends that an update be sought prior to settlement as interest accrues daily at 10% p.a.**

Interest will be charged on outstanding amounts after the due dates as set below;  
30 September, 30 November, 28 February and 31 May

\*A Rebate amount of -\$382 is a Pension Rebate and should be adjusted for the vendor. Any other Rebate amount is a Rural Rebate and should be adjusted for both parties.

This assessment may be subject to sections 173 or 174A of the Local Government Act 1989.

#### 2. OTHER INFORMATION:

A NOTICE OF ACQUISITION MUST BE SENT WITHIN ONE MONTH OF SETTLEMENT (PEXA WILL NOT AUTOMATICALLY SEND THIS TO COUNCILS OR WATER AUTHORITIES)

**Lot 201 PS816954N is not rated separately.**



A thriving community  
where everyone belongs

Civic Centre  
232 High Street  
Melton VIC 3337

Postal Address  
PO Box 21  
Melton VIC 3337

DX 33005 Melton  
ABN 22 862 073 889

03 9747 7200  
csu@melton.vic.gov.au  
melton.vic.gov.au  
cityofmelton





Assessment Number: 19398      Certificate Number: 106627

**3. SPECIFIED FLOOD LEVEL:**

The Council does not have a **Specified** flood level for this property. For further information on flooding, if any, can be obtained from Council's Design Services Department. Any other enquiries under the Building Act 1993 & Building Regulations 1994 should be directed to the Melton City Council's Building Section on 9747 7275.

**4. SPECIAL NOTES:**

After the issue of this certificate, Council may be prepared to provide a verbal update of information to the applicant about the matters disclosed in this certificate within 90 days of the date of issue, but if it does so, Council accepts no responsibility whatsoever for the accuracy of the verbal information given and no employee of the Council is authorised to bind Council by the giving of such verbal information.

**5. IMPORTANT INFORMATION:**

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

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

**6. NOTICE OF ACQUISITIONS:**

Electronic copies of Notice of Acquisitions can be emailed to [revenue@melton.vic.gov.au](mailto:revenue@melton.vic.gov.au)

In accordance with Local Government Act 1989 S231 the failure to comply with the Local Government Regulations 2015 may result in a fine of 10 penalty units.

**7. SETTLEMENT PAYMENT VIA BPAY:**



**Bill code** 747998

**Reference Number** 19398

**Min payment** \$25

I hereby certify that as at the date of this certificate the information given is a correct disclosure of the rates, other monies and interest payable to Melton City Council, together with details of any Notices or Orders on the land pursuant to the Local Government Acts and Local Laws.

Received the sum of \$27.40 being the fee for this certificate.

Authorised Officer



ABN 70 066 902 467  
 36 Macedon Street Sunbury  
 LOCKED BAG 350 SUNSHINE VIC 3020

Call 13 44 99  
[www.gww.com.au](http://www.gww.com.au)  
[contact@gww.com.au](mailto:contact@gww.com.au)



022

Landata C/-Secure Electronic Registries Victoria  
 Locked Bag 20005  
 MELBOURNE VIC 3001

<b>Your Reference</b> <b>60211604-028-6</b>
<b>Statement No</b> <b>139497</b>
<b>Service Request ID</b> <b>0</b>
<b>Account No</b> <b>90-2241-0250-01-4</b>
<b>Date Issued</b> <b>09 February 2022</b>

## Information Statement

Water Act 1989, Section 158

*This Statement details all Tariffs, Charges and Penalties due and payable to Greater Western Water, as at the date of this Statement, and also includes Tariffs and Charges, (other than for water yet to be consumed), which are due and payable to the 30-June-2022 as well as any relevant Orders, Notices and Encumbrances applicable to the property, described hereunder.*

**Property Address: 207-231 PAYNES RD, ROCKBANK VIC 3335**

**Title(s):** Lot 2, Lodged Plan 88806, Volume 8903, Folio 211, Parish of Kororoit

**Owner(s):** The Mayflower Estate Victoria PTY LTD

### Comments:

Two Statements are required for this Service Area, this one covers water & sewer and Melbourne waterways charges.

### Account Calculation:

Charges Previously Billed:	\$0.00
<b>Current Charges (see over for details):</b>	<b>\$0.00</b>
<b>Total Amount Owing to 30-June-2022</b>	<b>\$0.00</b>

To calculate charges to settlement date, calculations should be based on daily access fees and volumetric charges from the period of the last account until settlement date.

**Please email the Notice of Acquisition/Disposition to Greater Western Water within 14 days of settlement.**

**Greater Western Water was formed by bringing together City West Water and Western Water on 1 July 2021. To find out more visit [gww.com](http://gww.com)**

**Property No:** 90-2241-0250

**Property Address:** 207-231 Paynes Rd, Rockbank VIC 3335

**Current Charges for services provided and their tariffs:**

---

All Charges have been raised for the current year ending 30th June 2022.

Refer to Total Amount Owing (on front page) for any amounts outstanding.

Sub Total = \$0.00

This property incurs the following charges, which for 1 July 2021 to 30 June 2022 are:

These charges should be adjusted at settlement.

Melbourne Water - Waterways Charge of \$105.56 (Daily Rate: \$0.2892)

**Encumbrances and other information:**

---

Greater Western Water recommend that you contact us prior to settlement to obtain details of any payments or charges which may have been applied to the account after this statement was issued.

The subject property may be affected by a drainage and/or flooding issue. For further information please contact Melbourne Water on 131 722.

**Disclaimer:**

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Greater Western Water hereby certify that the information detailed in this statement is true and correct according to records held and that the prescribed fee has been received. However, Greater Western Water does not guarantee or make any representation or warranty as to the accuracy of this plan or associated details. It is provided in good faith as the best information available at the time. Greater Western Water therefore accepts no liability for any loss or injury suffered by any party as a result of any inaccuracy on this plan. The cadastral data included on this map originates from VICMAP Data and is licenced for re-use under Creative Commons License. Please refer to <https://www.propertyandlandtitles.vic.gov.au/> for any queries arising from information provided herein or contact Greater Western Water 13 44 99. This statement is valid for a period of 120 days from date of issue.



Rohan Charrett  
General Manager Customer Experience

09 February 2022



## Information Statement Remittance Page



**Bill Code: 757955**  
**Ref: 9022 4102 5001 4**  
® Registered to BPAY Pty Ltd ABN 69 079 137 518

**Electronic Payment Option:**  
Please make this payment via internet or phone banking.

**Post**  
Mail your cheque with this payment slip to:  
PO Box 2371  
Sunbury DC VIC 3429

**Property No:** 90-2241-0250

**Property Address:** 207-231 Paynes Rd, Rockbank VIC 3335

<u>Account No</u>	<u>Description</u>	<u>Amount</u>	<u>Barcode</u>
90-2241-0250-01	Water Account	\$0.00	

**Total: \$0.00**

**\* \* \* \* If paying by Post, please return this page with your payment \* \* \* \***

# INFORMATION STATEMENT - PLAN OF ASSETS TRaversING LAND



Prop No. : 90-2241-0250  
 Address : 207-231 Paynes Road Rockbank VIC 3335  
 Scale : 2642  
 Printed on: 09-02-2022

Water Main DOES NOT traverse property  
 Sewer Main DOES NOT traverse property



Greater Western Water

36 Macedon St,  
 Sunbury  
 Locked Bag 350  
 Sunshine  
 VIC 3020

Ph: 134 499

## Water Legend

Water main	—	Air Valve	⊙ AV
Junction	○	Hydrant	■ Hyd
End of Line	] ]	Fire Plug	● FP
Swab Point	◆ SP	Pres Reducing Valve	⊗
Non Return Valve	⊥	Reducer	▼
		Valve	⊗

## Other

Recycled water main	—	Water private service	----
Easement	- - - -	Sewer private gravity	====
		Sewer private rising	-----

## Sewer Legend

Sewer main	—
Sewer rising main	- - - -
Standard manhole	●
Inspection shaft	■
Air valve	⊙
Stop Valve	⊗
End of Line	] ]
Selected Parcels	■
Registered Parcels	□
Proposed Parcels	□

The Mayflower at



# Design Guidelines

Version 1.0 February 2019

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  - 1.3 The Approval Process
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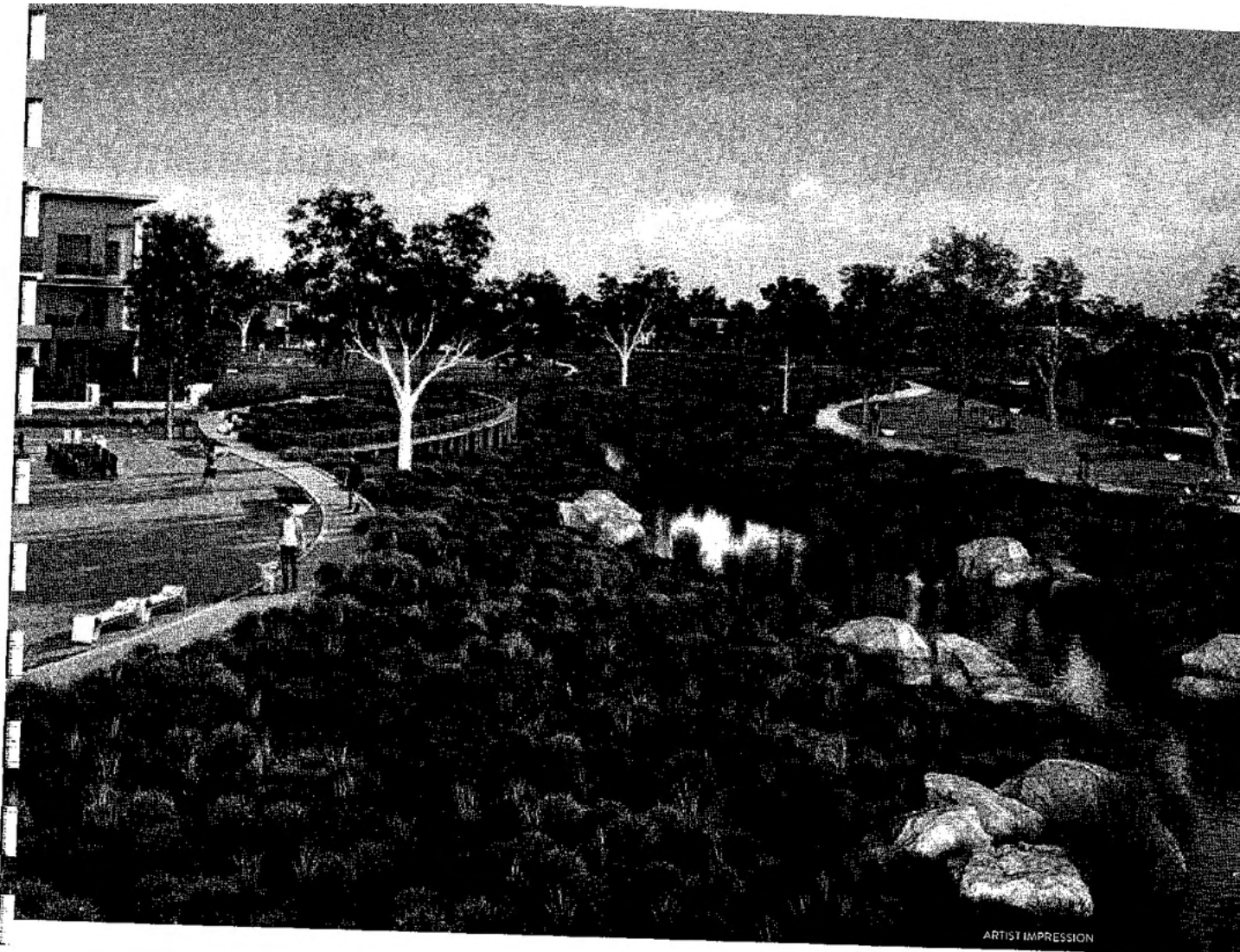
# 1. Introduction

## 1.1 Vision for The Mayflower at Thornhill Park

The Mayflower at Thornhill Park represents the future of community living in the western growth corridor of Melbourne. Residents will benefit from a master-planned community that provides a number of lifestyle opportunities.

Located on the southern side of the Western Freeway, The Mayflower at Thornhill Park's position is unrivalled in the region, approximately 30 minutes west from Melbourne's CBD. Residents will have access to the Western Freeway and Western Ring Road, The Melton and Rockbank railway stations and two new future train stations just a short drive away. Living in The Mayflower at Thornhill Park gives you premium access to a future town epicentre, only a short walk from Alfred Road.





The community at The Mayflower at Thornhill Park will be provided with a high level of facilities and amenities by way of a substantial public open space network. This will consist of centralised landscaped parkland and accompanying walking trails, and access to local community centres spread in and around the area. For homebuyers with families, The Mayflower at Thornhill Park will be an aspirational location with the ability to choose from a range of public and private schools, all located within a short distance of the development.

The Mayflower at Thornhill Park will also feature an integrated landscape design that combines a rustic river gum woodland style with dynamic urban character, as well as incorporated waterways to provide an environment that all residents will be proud to live in.

Each Neighbourhood Grove within The Mayflower at Thornhill Park will be focused around a unique and central park, which will incorporate various facilities and recreational experiences that cater to the local community.

Your future starts here.

This vision for The Mayflower at Thornhill Park is expressed in the Landscape Masterplan Document that accompanies the Guidelines.

The key principles for The Mayflower at Thornhill Park are:

- Homes connected to quality parklands.
- Walkable neighbourhoods linked through an expansive open space network.
- Master-planned community with access to surrounding facilities and services.
- Modern landscapes with reference to agriculture and the indigenous past of the western basalt plains.
- Conveniently connected to amenities in the Western Region of Melbourne and beyond.



## 1.2 Purpose of the Guidelines

Smart Capital are committed to creating beautiful communities. As part of this commitment, it is essential to ensure that the quality of the homes in The Mayflower at Thornhill Park reflect the quality of the community being created. The key purpose of the The Mayflower at Thornhill Park Design Guidelines ('Guidelines') is to achieve a consistently high standard of the homes and landscaping that achieves the The Mayflower at Thornhill Park "vision". The final outcome will complement the current façades and designs of our major builder partners and will still offer flexibility in design controls to ensure your dream home can become a reality.

These Guidelines are intended to assist you in considering the design of your home and landscaping so they can contribute to, and enhance the overall character of, The Mayflower at Thornhill Park. The Guidelines will help you navigate initial consideration and the design process of building your new home. The Guidelines will not only enhance your building experience but will underpin the amenity of The Mayflower at Thornhill Park and contribute to creating a vibrant community that you will proudly call home. Importantly, the Guidelines strive to protect the investment you have made at The Mayflower at Thornhill Park, for your future and your family home.

## 1.3 The Approval Process

To achieve a superior outcome at The Mayflower at Thornhill Park, all building designs must be approved by the Design Review Panel (DRP) before your home qualifies for a building permit for construction. The DRP has sole discretion to waive or vary the requirements of the Guidelines if it is satisfied an alternative design achieves the intent of the Guidelines. The developer may modify the Guidelines from time to time to ensure quality design and enhancement within the neighbourhoods at The Mayflower at Thornhill Park and adapt to new trends in the residential market.

Building designs must comply with the Building Regulations of Victoria and the Melton Planning Scheme, which will be addressed by your building surveyor.

The DRP approval process includes all proposed dwellings, garages, outbuildings and fencing.

### Step 1 Review the Guidelines

In conjunction with selecting your home, familiarise yourself with these Guidelines to ensure it is consistent with the overarching vision for the estate. Feel free to ask the DRP if you have any questions.

### Step 2 Submit your Plans

Plans of all buildings should be submitted via email along with the completed checklist in Section 6 of the Guidelines to: [drp@thornhillpark.com.au](mailto:drp@thornhillpark.com.au)

The submission of plans must include:

- A siting plan of the home on the lot with dimensions and setbacks from all boundaries, proposed fencing and driveway location;
- Floor plans that show the layout of the home indicating all rooms, windows, external doors, external fixtures and nominated floor levels;
- Full elevations indicating wall heights and all external finishes, including garage door type;
- Relevant cross sections showing roof pitches, eaves depth and height of walls along the boundaries; Colour selection (External Only).

### Step 3 Approval

The DRP will review and approve plans that comply with the Guidelines within 10 working days.

### Step 4 Re-submission

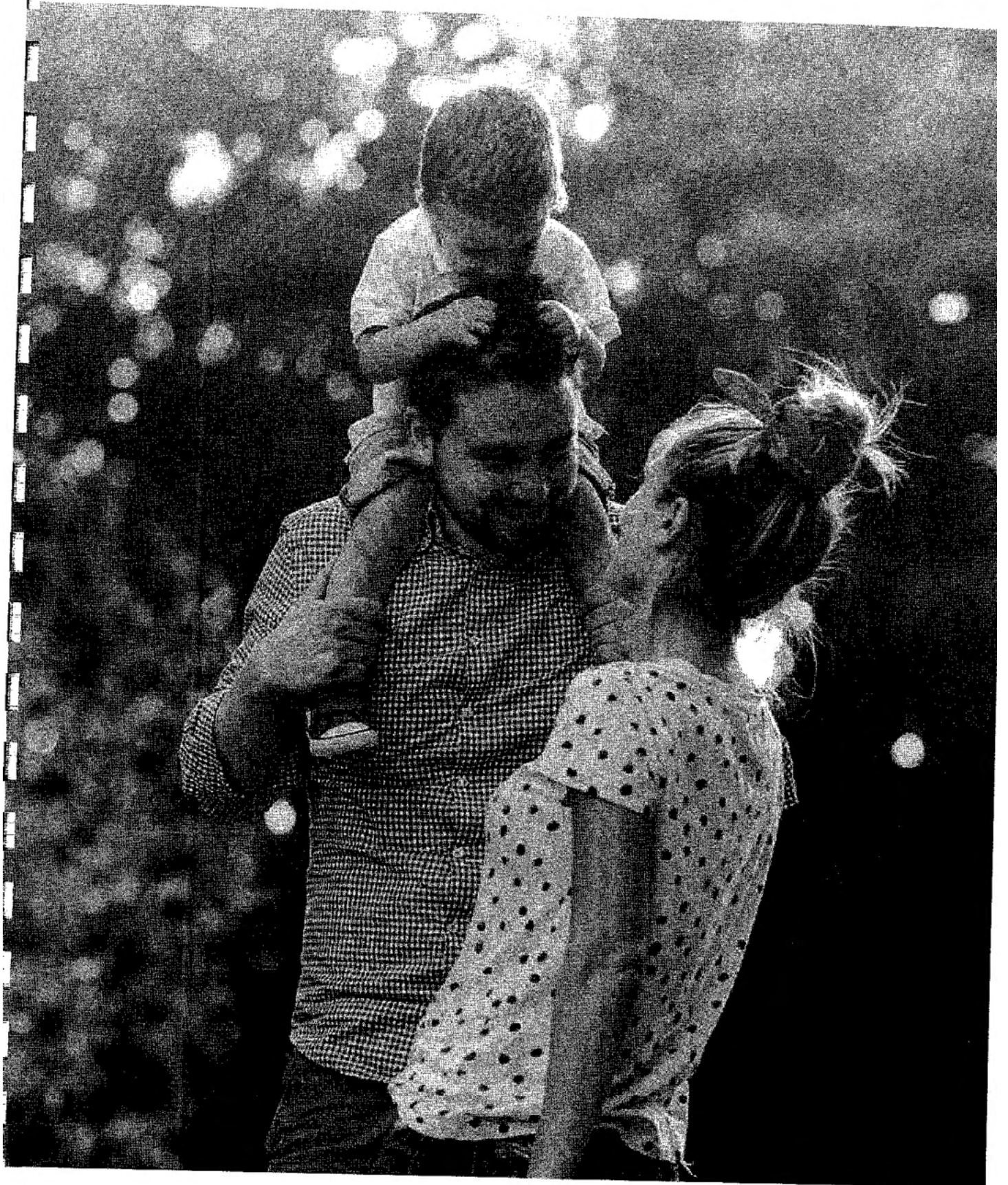
Where plans do not comply with the Guidelines, the DRP will advise of issues. Revised plans should then be resubmitted to the DRP explaining changes for reassessment and approval. A third submission will attract a fee of \$260 per additional submission.

### Step 5 Building Permit

Following DRP Approval, your builder will need to obtain a building Permit through a licensed building surveyor.

### Step 6 Construction & Certificate of Occupancy

Once a building permit is issued, construction of your home may commence and a Certificate of Occupancy will be issued following completion of construction.



Your future starts here.

## 2. Dwelling Siting

Siting guidelines will ensure homes in The Mayflower at Thornhill Park will have appropriate solar orientation and building setbacks to enhance the streetscape, ensure good passive solar design and prevent overlooking and overshadowing of adjoining homes.

### 2.1 Siting for aspect and energy efficiency

Dwellings should take advantage of appropriate access to natural sunlight, and living areas should be orientated to face north where possible. West facing bedrooms should be avoided.

Outdoor living areas will need to be located where they will receive direct access to natural sunlight. The planting of larger shrubs and trees should enable the winter sun to penetrate into your living areas and outdoor areas, as well as offering necessary shade in warmer months.

All homes must achieve a minimum 6-star energy rating in line with current building regulations. Consider the materials and design of your home to maximise energy efficiency.

Further information on siting and solar access is available in Sustainable Energy Authority Victoria's publication "Sustainable Energy Info Facts Sheet" at

[www.sustainability.vic.gov.au/resources/documents/Siting\\_and\\_solar\\_access.pdf](http://www.sustainability.vic.gov.au/resources/documents/Siting_and_solar_access.pdf).

### 2.2 Front Setbacks

Front setbacks on dwellings on lots less than 300sqm must comply with the Small Lot Housing Code.

Dwellings on all lots greater than 300sqm in area must have a minimum front setback of 4m unless otherwise approved by the DRP.

All homes must face the primary street frontage of the lot and present a visible entrance to the street.

Balconies, porches, porticos and verandahs may encroach into the front setback no more than 1.5m on lots less than 300sqm and 2m on lots 300sqm and greater.

### 2.3 Side and Rear Setbacks

On lots greater than 300sqm, single and double storey dwellings must be set back from side and rear boundaries in accordance with ResCode.

On lots less than 300sqm, single and double storey dwellings must be set back from side and rear boundaries in accordance with the Small Lot Housing Code.

A minimum 1m setback must be provided for all lots of 10.5m width and greater, except for garage components which can be built on boundary.

Your builder will be able to advise you how ResCode and the Small Lot Housing Code requirements can be incorporated into your home design.

### 2.4 Corner Lots

On corner lots, homes must address both street frontages and provide the primary address to the front boundary, which is generally the shorter of the two street frontages and the same frontage to that containing the garage.

Standard front setback requirements apply to corner lots.

On secondary street frontages, dwelling setbacks must comply with ResCode requirements.

Garages facing the secondary street frontage must be set back a minimum of 2.0m from the lot boundary.

### 2.5 Garage siting

Except for rear-loaded lots (where garages are accessed from the rear of a lot), garages should be set back 5.0m from the primary street frontage to provide a visitor car space between the garage and front boundary and avoid cars overhanging the footpath. Garages should be set back a minimum of 0.5m behind the front building line.

On corner lots where garages are located in from the secondary street, a garage must be located at the furthest point away from the intersection of streets.

# 3. Dwelling Design

The design of each home in The Mayflower at Thornhill Park contributes the achievement of the Vision for the community as a high quality, modern residential environment. Requirements for important aspects of home design are described below.

## 3.1 Building Articulation and Massing

The overall form and proportions of new homes should be articulated using variation of materials and colours, varied locations of windows, porches and porticos, larger eaves, and recessed upper storeys as shown in Figure 1.



Figure 1

Dwellings should provide genuine and well-proportioned windows to street frontages to enhance dwelling presentation and facilitate passive surveillance of streets. Double storey dwellings should provide genuine windows to ground and first levels.

All visible walls must be effectively articulated and include appropriate fenestration as shown in Figure 2.

Blank walls visible from the street or areas of public open spaces must be avoided.



Figure 2

## 3.2 Corner Lots

On corner lots, visible walls within the secondary street frontage should be articulated and detailed to the same standard as the front façade of the dwelling.

The front façade of a dwelling must return 4m along the secondary frontage so the dwelling engages with the secondary frontage. Side fencing on the secondary frontage should not commence within 4m of the front building line so that corner treatments are visible from the street.

Building design elements which integrate the primary and secondary elevation of the dwelling should be provided as shown in Figures 3a and 3b. This may include wrap-around verandahs, feature windows, formwork or panels. External services shall not be visible from either street or public open space frontages.



Figure 3a



Figure 3b



### 3.3 Roofing

Roofing is an integral part of the architecture of your home. Roof forms should be pitched or skillion and incorporate a combination of hips or gables to articulate the roofline. Flat roof may be considered at the discretion of the DRP. Plain or single-hipped roofs will not be permitted. See Figure 4 for an example.

Pitched roofs are to be designed at a minimum of 22°.

Alternative roof forms including combinations will be considered by the DRP, provided they contribute to the merit of the dwelling design and the vision for The Mayflower at Thornhill Park.

All pitched roofs are to have a continuous minimum 450mm eave along street frontages (primary and secondary).

Eaves must return a minimum of 3m from the front façade. No habitable room or window is permitted within 3m of the front façade if the distance between the eave and side boundary is less than 1m. Corner lot dwellings must continue the minimum 450mm eave to both street frontages.

Where a dwelling or garage wall is constructed to a side boundary, no eave is required.

External fixtures, such as air conditioners units must not be visible from the street frontage. Where solar panels are desired, and their optimum location will be visible from a street or public frontage, the panel design is required to be of a low profile and match the roof colour.



Figure 4

### 3.4 Building Height

Single storey dwellings should have a maximum overall height of 6m. Double storey dwellings should have a maximum overall height of 9m.

On some lots suitable for medium density housing, taller buildings may be appropriate. The DRP will nominate lots potentially suitable for buildings taller than two storeys.

### 3.5 Front Façade Replication

To provide a balanced streetscape in each street, variability of dwelling façades, form and presentation is important. Repetition of identical façades immediately next to each other will not be permitted.

On lots greater than 300sqm, dwellings with the same façade should not be constructed within five contiguous lots of one another on either side of the street as shown in Figure 5.

On lots smaller than 300sqm, dwellings with the same façade should not be constructed within three contiguous lots of one another on either side of the street.

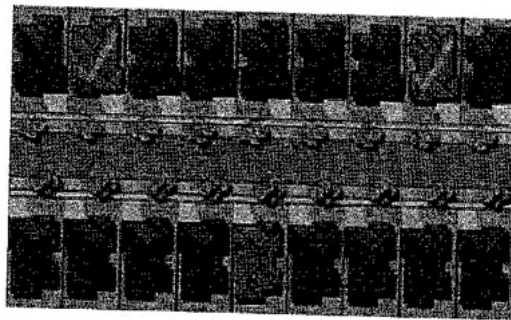


Figure 5

- Dwelling with same or similar façade to have 5 lot separation
- Dwelling with same or similar façade located within 5 lot separation

### 3.6 Balconies, Verandahs, Porticos

Balconies, verandahs and porticos add interest, architectural appeal and serve to activate the street. All homes are required to have at least one balcony, verandah or portico facing the street which denotes the main entry to the dwelling. These features should complement the architectural style of the dwelling, provide weather protection and have a clear path to the street as shown in Figure 6.

On lots greater than 300sqm, porticos should have a minimum area of 4sqm. On lots smaller than 300sqm, porticos should have a minimum area of 3sqm.

All porticos must have a minimum depth of 1m.



Figure 6

### 3.7 Garages

Garages must be incorporated into the main roofline of the dwelling to reduce the visual impact the garage has on the façade and streetscape. Panel lift or sectional doors are required to the front of the garage that complement the overall house design and external colour scheme.

One garage or carport is permitted on each lot, with a maximum width of 6.5m.

Garage doors shall not comprise more than 40% of the lot frontage.

Garage doors should not comprise more than 40% of the width of the lot for single storey dwellings, or more than 40% of the total front façade areas for double storey dwellings.

Carports visible from the street must be enclosed with brick or rendered block work to match the architectural style of the house and appear as a garage. Plain steel or exposed timber carports is not be permitted.

Commercial/recreational vehicles, boats, caravans, trucks and other mobile machinery must not be stored where they are visible from the street, and must be contained solely within the rear yard.

### 3.8 Materials and Colours

To create variation and interest in the façade, a variety of materials, colours and finishes should be used on each dwelling. A minimum of two colours and/or materials should be used for the face of any wall visible from the street unless agreed by the DRP for exceptional design outcomes with demonstrated architectural merit.

Walls visible from the street may be constructed from the following materials:

- Brickwork
- Weatherboard
- Exposed timber
- Hardiplank
- Mini orb sheeting
- Painted Alucobond
- Render
- Slate tiles
- Lightweight cladding

Use of materials including plain cement sheeting; plain concrete blocks; corrugated cement sheeting; zinc or aluminium coated steel and brick bagging are not permitted on walls visible from the street.

Industrial treatments of external walls visible from the street will be considered on architectural merit by the DRP.

Lightweight materials are not permitted above openings such as doorways and windows where visible from a street or public area (except when integral to the architectural character).

A complementary palette of colours selected from warm earth or pastel tones should be incorporated into dwelling presentation.

Limited use of strong, bold colours should generally be minimised, however it will be considered by the DRP where it highlights elements in a contemporary dwelling design.

### 3.9 Driveways

One crossover location is permitted to each lot.

Driveways shall not exceed the width of the garage - driveways should be tapered to match the crossover width as shown in Figure 7.

Plain asphalt or concrete driveways are not permitted. Driveways, pathways and porches in the front yard may be constructed from the following list of materials:

- Coloured concrete
- Textured finishes
- Paving
- Exposed aggregate
- Stamp-Crete

The driveway must be completed prior to occupancy of the dwelling.



Figure 7

### 3.10 Fencing

Front fencing forward of the dwelling is not permitted.

For all corner lots, side fencing on the secondary frontage should not commence within 4m of the front building line so that corner treatments in the dwelling are visible from the street.

Side and rear boundary fencing must be constructed from capped and lapped vertical timber with exposed timber posts. Fencing must be a minimum of 1.80m and maximum of 1.95m.

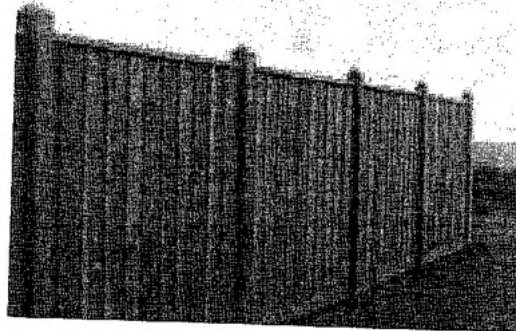


Figure 8

For all corner lots on Wiltshire Boulevard, fencing along secondary frontages must be constructed from exposed timber posts, with timber and corrugated iron detailing as shown in Figure 9.

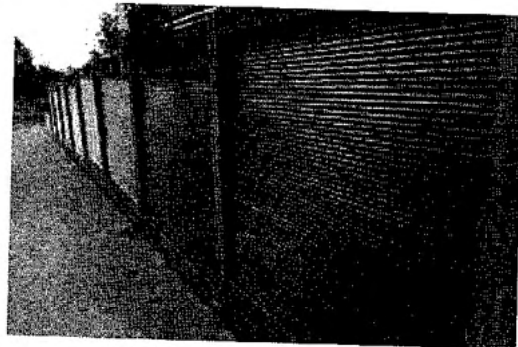


Figure 9

Side boundary fences must finish at least 500mm behind the front wall of a dwelling. Side boundary fences must return at 90 degrees to meet the dwelling or garage at least 500mm behind the front dwelling wall. These fences should be constructed in materials that complement the materials in façade of the dwelling. No privacy screens, latticework or decorative screens may extend forward of the building line.

As highlighted, low front fencing may be appropriate on designated medium density housing sites within The Mayflower at Thornhill Park. The DRP will consider suitable fencing in applications for this housing and seek direction from Melton Council.

Aluminium and Colorbond fencing is not permitted.

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

### 3.11 Dwelling services and other structures

All homes in The Mayflower at Thornhill Park will have access to an advanced 'Fibre to the Home' network by OptiComm. This will provide telephone and high speed internet services. In order to take advantage of this, all homes must be prepared according to OptiComm's requirements. Refer to [www.opticomm.net.au](http://www.opticomm.net.au) for more information.

All dwellings over 300sqm should consider a rainwater tank of minimum capacity (2000L) which is plumbed for toilet use.

Non-permanent structures such as sheds, antennas, satellite dishes, air conditioning units and rainwater tanks must not be visible from the street and must not protrude above the roofline.

Solar hot water heaters, antennas, satellite dishes, evaporative units, Photo Voltaic Cells, Solar Panels and the like cannot be located on the front elevation of the dwelling. These are encouraged to be located behind return side fencing.

External plumbing, particularly from upper storeys, must not be visible from the street or abutting public open space and must be concealed or screened.

Any outbuilding structure with a wall or roof exceeding 20sqm, will not be permitted unless:

- The structure is made of the same materials as the residence.
- The roof is shielded from front view by parapet walling.
- The structure otherwise matches or complements the dwelling in terms of materials, design and external appearance (including colour and the quality of construction).

### 3.12 Energy Efficiency

Internal light fittings such as down lights, pendants, wall mounts, etc. are encouraged to allow for compact fluorescent or LED lights.

External light fittings should not result in excessive light spill.

Zone dwelling layout is encouraged to enable main living areas to be separately heated and cooled.

Your home is required to meet a 6 Star Energy Rating in accordance with the Sustainable Energy Authority's House Energy Rating Scheme. Your building surveyor will assist you in appropriately satisfying these requirements when you design your home.

### 3.13 Passive Design

Locate living spaces with a northern aspect to facilitate solar access in winter months.

Where possible, use shading devices such as eaves, pergolas, trees, tinted glass, etc. to prevent excessive summer heating.

Where possible, locate private open space with a northern aspect and with sufficient dimensions to minimise overshadowing.

### 3.14 Windows

Roller Shutters to external windows visible from the street or public Open Space will not be permitted.

### 3.15 Dwelling completion timeframe

Construction of all homes should commence within 12 months of settlement must be completed within 30 months.



# 4. Landscape Style Guide

The following landscape guidelines will assist in the design and plant selection for your garden. This section provides an example layout and three plant lists that evoke different themes:

- Contemporary,
- Classic and
- Waterwise.

The style guide also includes a recommended plant list of species chosen for their suitability to this landscape and provides guidance on hard surfaces and planting procedures.

## 4.1 Designing your garden

The external part of your home forms space that is as precious and as useful as the internal areas if designed correctly.

It is important to design your garden as you would your house with a series of rooms for different purposes. Identifying your different needs and the possible elements for inclusion in your design is encouraged. It is encouraged to use the style and architecture of your house to inform the style of the garden.

Future dwellings must locate the utilitarian areas such as bin storage, clothes lines and garden sheds in areas that are discrete or can be screened and locate the entertaining and/or play areas within easy access of the internal living spaces, in good view and using the natural aspect to provide for sun and shade.

Ensure paths follow the desired lines of access and that paving provides for flexibility of use. Planting can be used to assist in screening and differentiating different areas of use. Consider vegetable gardens, landscape features, play equipment, pet facilities, pergolas, BBQ, outdoor seating, swimming pools, etc.

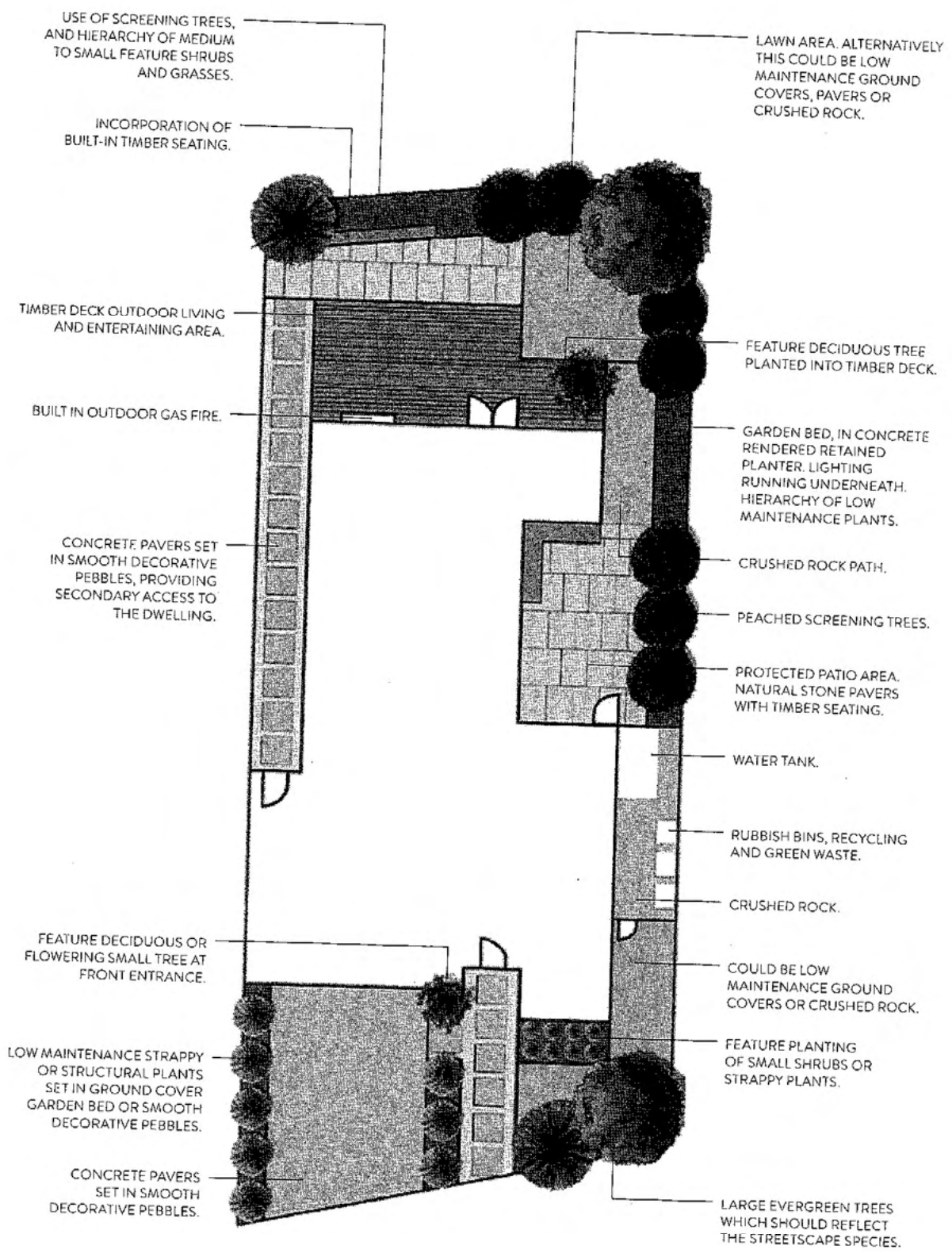
Ask your builder for a scaled plan of your house and land to allow you to design your garden and ensure you create a functional and beautiful outdoor space.

There are numerous garden themes you can adopt to create a cohesive design for your garden, but to create a strong design it is important to follow some basic design rules:

Limit your plant palette in species, colour and foliage type:

- Use single species in narrow linear area, particularly when screening
- Consider the ultimate height and width of plants you are choosing
- Create interest by layering plants and providing plants of various height, colour and foliage type
- Create focal points
- Use plants that provide seasonal change
- Avoid paths hard against buildings.

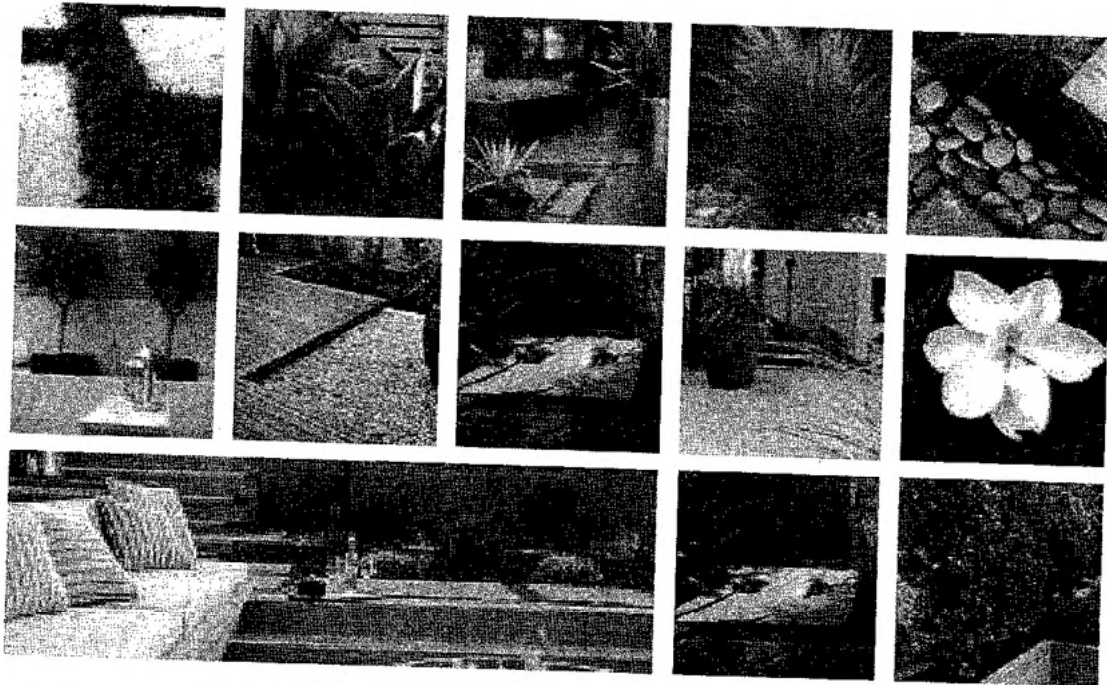
A number of garden designs suitable for use at The Mayflower at Thornhill Park are illustrated in the following pages.



## 4.1.1 Contemporary Garden Style

### Design summary

- For the low maintenance gardener
- Minimal lawn areas
- Defined garden beds/raised garden beds
- Contrasting colours and textures
- Clean lines and "architectural planting"
- Pavers, pebbles/rocks, gravel, timber, concrete



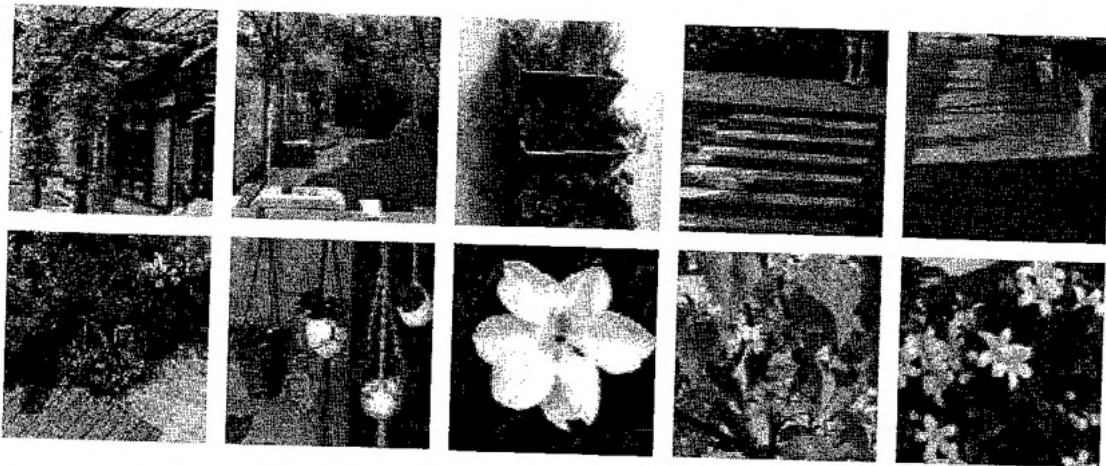
Botanical Name	Common Name
<b>Trees</b>	
<i>Acer platanoides</i> 'Crimson sentry'	Crimson Sentry Maple
<i>Eucalyptus leucoxylon</i> 'eukie dwarf'	Yellow Gum Eucalyptus
<i>viminialis</i>	Manna Gum
<i>Fraxinus oxycarpa</i> 'Raywood'	Claret Ash
<i>Magnolia grandiflora</i>	Little Gem
<i>Olea europaea</i>	Olive Tree
<i>Pyrus calleryana chanticleer</i>	Ornamental Pear
<i>Ulmus parvifolia</i>	Chinese Elm
<i>Waterhousia floribunda</i>	Weeping Lilly Pilly
<b>Large Shrubs</b>	
<i>Acmena smithii</i> 'minor'	Dwarf Lilly Pilly
<i>Banksia marginata</i>	Silver Banksia
<i>Myoporum insulare</i>	Boobialla
<i>Westringia fruticosa</i>	Coastal Rosemary

Botanical Name	Common Name
<b>Small Shrubs</b>	
<i>Acacia cognata</i>	Limelight
<i>Convolvulus cneorum</i>	Silver Bush
<i>Epacris impressa</i>	Common Heath
<i>Leucadendron</i> 'yellow devil'	Yellow Devil
<b>Grasses and Succulents</b>	
<i>Agave attenuata</i>	Century Plant
<i>Anigozanthos flavidus</i>	Kangaroo Paw
<i>Calamagrostis</i> 'Karl Foerster'	Feather Reedgrass
<i>Lomandra longifolia</i> 'Tanika'	Spiny Head Mat Rush
<i>Ophiopogon species</i>	Mondo Grass Species
<i>Poa labillardieri</i>	Common Tussock
<i>Poa poiformis</i> var. <i>poiformis</i>	Coastal Tussock Grass
<i>Senecio vitalis</i>	Chalk Sticks

## 4.1.2 Classic Garden Style

### Design summary

- For the garden lover
- Softer, more informal lines
- Incorporation of stone or timber pavers in lawn
- Open lawn areas
- Decorative plant species, hanging plants and herb gardens
- Pavers, timber decking, lawn, mulch, timber edge and raised and natural garden beds



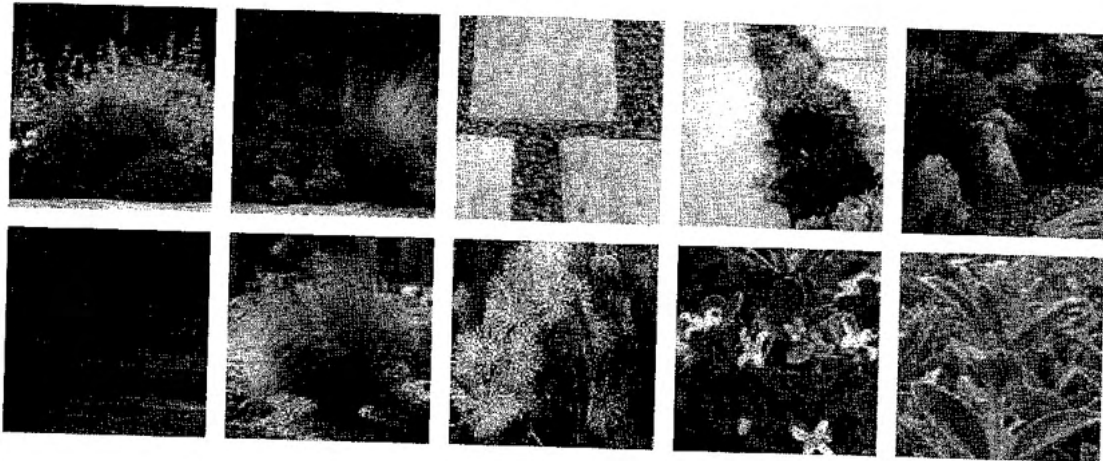
Botanical Name	Common Name
<b>Trees</b>	
<i>Acer palmatum</i>	Japanese Maple
<i>Eucalyptus viminalis</i>	Manna Gum
<i>Fraxinus oxycarpa</i> 'Raywood'	Claret Ash
<i>Magnolia grandiflora</i>	Little gem
<i>Lagerstroemia indica</i>	Crepe Myrtle
<i>Laurus nobilis</i>	Bay Tree
<i>Olea europaea</i>	Olive Tree
<i>Pyrus calleryana chanticleer</i>	Ornamental Pear
<i>Ulmus parvifolia</i>	Chinese Elm
<i>Waterhousia floribunda</i>	Weeping Lilly Pilly
<b>Large Shrubs</b>	
<i>Acmena smithii</i> 'minor'	Dwarf Lilly Pilly
<i>Banksia marginata</i>	Silver Banksia
<i>Murraya paniculata</i>	Orange Jasmine
<i>Westringia fruticosa</i>	Coastal Rosemary

Botanical Name	Common Name
<b>Small Shrubs</b>	
<i>Acacia cognata</i>	Limelight
<i>Atriplex cinera</i>	Coastal Saltbush
<i>Convolvulus cneorum</i>	Silver Bush
<i>Correa alba</i>	White Correa
<i>Banksia spinulosa</i>	Birthday Candles
<i>Stachys byzantine</i>	Lambs Ears
<b>Grasses and Succulents</b>	
<i>Dietes grandiflora</i>	Wild Iris
<i>Lomandra longifolia</i> 'Tanika'	Spiny Head Mat Rush
<i>Liriope muscari</i>	Lily Turf
<i>Poa labillardieri</i>	Common Tussock
<b>Vines and Climbers</b>	
<i>Trachelospermum jasminoides</i>	Star Jasmine

## 4.1.3 Waterwise Garden Style

### Design summary

- Use of recycled timber and pavers
- Stone steppers
- Softened garden edges
- Clustered textural plant species
- Pavers, gravel paths, rocks, timber and ground covers



Botanical Name	Common Name
<b>Trees</b>	
<i>Acacia implexa</i>	Light Wood
<i>Eucalyptus leucoxylon</i> 'eukie dwarf'	Yellow Gum
<i>Eucalyptus caesia</i>	Silver Princess
<i>Eucalyptus viminalis</i>	Manna Gum
<i>Laurus nobilis</i>	Bay Tree
<i>Olea europaea</i>	Olive Tree
<i>Tristaniopsis laurina</i>	Kanooka
<i>Waterhousia floribunda</i>	Weeping Lilly Pilly
<b>Large Shrubs</b>	
<i>Adenanthos sericea</i>	Woolly Bush
<i>Artemisia absinthium</i>	Wormwood
<i>Banksia marginata</i>	Silver Banksia
<i>Myoporum insulare</i>	Boobialla
<i>Viminaria juncea</i>	Golden Spray
<i>Westringia fruticosa</i>	Coastal Rosemary

Botanical Name	Common Name
<b>Small Shrubs</b>	
<i>Acacia cognate</i>	Limelight
<i>Agave attenuata</i>	Century Plant
<i>Atriplex cinera</i>	Coastal Saltbush
<i>Banksia spinulosa</i>	Birthday Candles
<i>Convolvulus cneorum</i>	Silver Bush
<i>Correa alba</i>	White Correa
<i>Epacris impressa</i>	Common Heath
<i>Euphorbia wulfenii</i>	Mediterranean Spurge
<i>Leucadendron</i> 'yellow devil'	Yellow Devil
<i>Nepeta cataria</i>	Cat Mint
<i>Stachys byzantine</i>	Lambs Ears
<b>Grasses and Succulents</b>	
<i>Anigazanthos flavidus</i>	Kangaroo Paw
<i>Calamagrostis</i> 'Karl Foerster'	Feather Reedgrass
<i>Echeveria</i> varieties	Succulents
<i>Lomandra longifolia</i> 'Toniko'	Spiny Head Mat Rush
<i>Panicum virgatum</i> 'Cloud Nine'	Switch Grass
<i>Poa poiformis</i> var. <i>poiformis</i>	Switch Grass
<i>Senecio vitalis</i>	Chalk Sticks

## 4.2 Recommended Plant List

Scientific Name	Common Name	Mature Size	Evergreen/Deciduous	Native/Exotic
<b>Trees</b>				
<i>Acacia implexa</i>	Light Wood	12 x 7m	Evergreen	Native
<i>Acer buergerianum</i>	Tridant Maple	9 x 7m	Deciduous	Exotic
<i>Acer platanoides</i> 'Crimson sentry'	Crimson Sentry Maple	7 x 4m	Deciduous	Exotic
<i>Corymbia eximia</i> 'nana'	Yellow Bloodwood	12 x 6m	Evergreen	Native
<i>Corymbia ficifolia</i>	Albany Red Flowering Gum	5 x 4m	Evergreen	Native
<i>Eucalyptus caesia</i>	Silver Princess	4-10 x 3-8m	Evergreen	Native
<i>Eucalyptus leucoxylon</i> 'eukie dwarf'	Yellow Gum	5 x 3m	Evergreen	Native
<i>Eucalyptus mannifera</i> 'little spotty'	Brittle Gum	5-10 x 3-5m	Evergreen	Native
<i>Eucalyptus ovata</i>	Swamp Gum	20 x 10m	Evergreen	Native
<i>Eucalyptus polyanthemus</i>	Red Box	10-20 x 10m	Evergreen	Native
<i>Eucalyptus viminalis</i>	Manna Gum	30 x 15m	Evergreen	Native
<i>Fraxinus oxycarpa</i> 'Raywood'	Claret Ash	15 x 10m	Deciduous	Exotic
<i>Lagerstroemia indica</i>	Crepe Myrtle	4-8 x 2-6m	Deciduous	Exotic
<i>Laurus nobilis</i>	Bay Tree	6 x 3m	Evergreen	Exotic
<i>Magnolia grandiflora</i>	Little Gem	4 x 2.8m	Deciduous	Exotic
<i>Melia azaderach</i>	White Cedar	6 x 4.5m	Evergreen	Native
<i>Olea europaea</i>	Olive Tree	7 x 5m	Evergreen	Exotic
<i>Pistacia chinensis</i>	Chinese Pistacho	10 x 6m	Deciduous	Exotic
<i>Pyrus betulaeifolia</i> 'southworth dancer'	Dancer Pear	10-14 x 5-8m	Deciduous	Exotic
<i>Pyrus calleryana</i> chanticleer	Ornamental Pear	10-14 x 5-8m	Deciduous	Exotic
<i>Tristaniopsis laurina</i>	Kanooka	8 x 5m	Evergreen	Native
<i>Ulmus parvifolia</i>	Chinese Elm	13 x 10m	Deciduous	Exotic
<i>Waterhousia floribunda</i>	Weeping Lilly Pilly	6 x 8m	Evergreen	Native
<b>Large Shrubs</b>				
<i>Acmena smithii</i> 'minor'	Dwarf Lilly Pilly	2.5 x 1.5m	Evergreen	Native
<i>Adenanthos sericea</i>	Woolly Bush	2.5 x 2m	Evergreen	Native
<i>Artemisia absinthium</i>	Wormwood	1.5 x 1.5m	Evergreen	Exotic
<i>Banksia marginata</i>	Silver Banksia	6 x 5m	Evergreen	Native
<i>Bursaria spinosa</i>	Sweet Bursaria	3 x 4m	Evergreen	Native
<i>Callistemon salignus</i>	Willow Bottlebrush	6 x 3m	Evergreen	Native
<i>Callistemon sieberi</i>	River Bottlebrush	3 x 2m	Evergreen	Native
<i>Dodonaea viscosa</i>	Wedge-Leaf Hop Bush	3 x 1.5m	Evergreen	Native
<i>Indigofera australis</i>	Austral Indigo	2 x 2m	Evergreen	Native
<i>Muraya paniculata</i>	Orange Blossom Jasmine	3 x 1.5m	Evergreen	Exotic
<i>Myoporum insulare</i>	Boobialla	5 x 2m	Evergreen	Native
<i>Viminaria juncea</i>	Golden Spray	2 x 2m	Evergreen	Native
<i>Westringia fruticosa</i>	Coastal Rosemary	1.5 x 1.5m	Evergreen	Native

## 4.2 Recommended Plant List cont.

Scientific Name	Common Name	Mature Size	Evergreen/Deciduous	Native/Exotic
<b>Small Shrubs</b>				
<i>Acacia cognata</i>	Green Mist	1 x 2m	Evergreen	Native
<i>Atriplex cinera</i>	Coastal Saltbush	-	Evergreen	Native
<i>Banksia spinulosa</i>	Birthday Candles	0.6 x 1.2m	Evergreen	Native
<i>Callistemon viminalis 'little john'</i>	Dwarf Bottlebrush	1 x 1m	Evergreen	Native
<i>Convolvulus cneorum</i>	Silver Bush	1 x 0.5m	Evergreen	Exotic
<i>Correa alba</i>	White Correa	1.5 x 1m	Evergreen	Native
<i>Correa glabra</i>	Rock Correa	1.5 x 1.5m	Evergreen	Native
<i>Epacris impressa</i>	Common Heath	2 x 1.5m	Evergreen	Native
<i>Euphorbia wulfenii</i>	Mediterranean Spurge	1.0 x 1.0m	Evergreen	Exotic
<i>Goodenia ovata</i>	Hop Goodenina	1 x 2.5m	Evergreen	Native
<i>Leucadendron 'yellow devil'</i>	Yellow Devil	1.5 x 2m	Evergreen	Exotic
<i>Nepeta cataria</i>	Cat Mint	0.5 x 0.5m	Evergreen	Exotic
<i>Rhagodia parabolica</i>	Fragrant Saltbush	0.3-0.8 x 2m	Evergreen	Native
<i>Stachys byzantina</i>	Lambs Ears	0.3 - 0.75m	Evergreen	Native
<b>Grasses and Succulents</b>				
<i>Anigozanthos flavidus</i>	Kangaroo Paw	0.5 x 1m	Evergreen	Native
<i>Calamagrostis 'Karl Foerster'</i>	Feather Reedgrass	0.5 x 2m	Evergreen	Exotic
<i>Dietes grandiflora</i>	Wild Iris	1 x 0.5m	Evergreen	Native
<i>Echeveria varieties</i>	Succulents	-	Evergreen	Exotic
<i>Liriope muscari</i>	Lily Turf	0.5 x 0.5m	Evergreen	Native
<i>Lomandra longifolia 'Tonika'</i>	Spiny Head Mat Rush	0.5 x 0.6m	Evergreen	Native
<i>Panicum virgatum 'Cloud Nine'</i>	Switch Grass	0.5 x 2m	Evergreen	Exotic
<i>Panicum virgatum 'Heavy Metal'</i>	Switch Grass	0.5 x 2m	Evergreen	Exotic
<i>Poa labillardieri</i>	Common Tussock Grass	0.5-1.3m x 0.5-1.5m	Evergreen	Native
<i>Poa poliformis var. poiformis</i>	Coastal Tussock Grass	0.6 - 1m	Evergreen	Native
<i>Senecio vitalis</i>	Chalk Sticks	-	Evergreen	Exotic
<b>Vines and Climbers</b>				
<i>Trachelospermum jasminoides</i>	Star Jasmine	-	Evergreen	Exotic



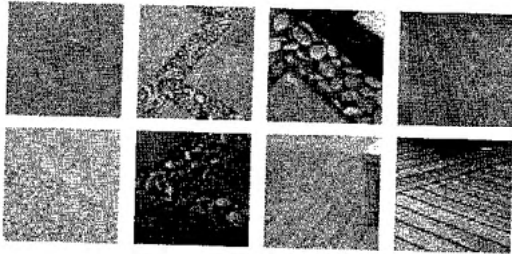
### 4.3 Paths and paving

Front paths, decks, porches and side access paths should reflect the landscape theme and planting that you have selected. Below are some example materials within the landscape themes to be considered for new dwellings.

Paths, decks, porches and side access paths may be constructed from one or a combination of the following materials:

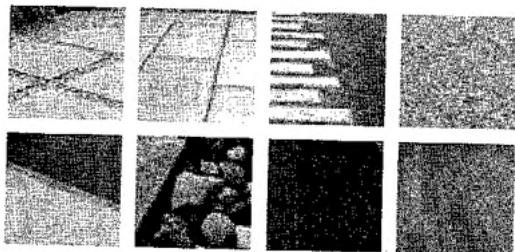
#### Contemporary (low maintenance)

- Natural stone paving
- Pre-cast concrete pavers
- Exposed aggregate concrete
- Natural decorative smooth pebbles in natural colours of grey
- Timber decking/recycled plastic timber decking



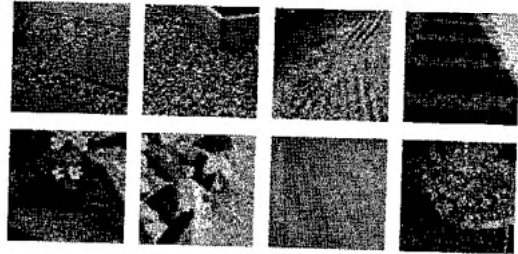
#### Classic (garden lover)

- Natural stone paving
- Pre-cast concrete pavers
- Exposed aggregate concrete
- Natural crushed stone aggregate or self-binding gravel (grey or brown in colour)
- Natural decorative irregular pebbles/rocks in natural colours of grey to brown
- Timber decking/recycled plastic timber decking
- Recycled pine mulch



#### Waterwise (low maintenance)

- Natural stone paving
- Pre-cast concrete pavers
- Natural crushed stone aggregate or self-binding gravel (grey or brown in colour)
- Natural locally sourced irregular rocks in natural colours of grey to brown
- Timber decking/recycled plastic timber decking
- Timber sleepers
- Recycled pine mulch



### 4.4 Garden Beds

All garden beds must have a depth of at least 200mm of top soil. Garden bed areas are to include an 80mm depth of mulch to retain moisture within the soil and suppress weed growth.

Cultivating the soil thoroughly by hand or with a rotary hoe is suggested before planting new trees or shrubs. The addition of gypsum for clay soils and compost or organic matter to soils will improve the quality and nutrients in your soil and will greatly contribute to the life and success of your plants. Mulch also helps to maintain moisture in the soil. Garden beds should be mulched with one of the following types of mulch:

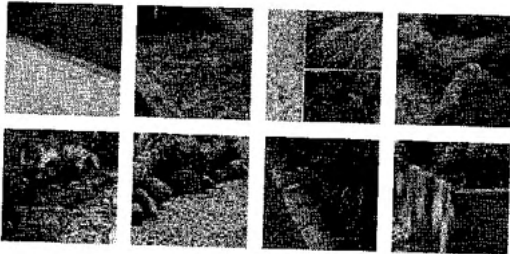
- Pine bark
- Recycled hardwood mulch
- Decorative stone pebbles in natural colours, ranging from smooth formal style through to locally sourced irregular shaped rocks.



Garden beds must be flush edged to present neatly using one of the following types of edging:

- Timber: ACQ treated pine 25mm width, or Hardwood 10mm width
- Steel: Electro-galvanised mild steel edging 75-100mm depth x 3-5mm width
- Rock: locally sourced or purchased pebbles or rocks
- Concrete or timber raised planter box with 100mm minimum width

Obtain plant advice from local nurseries. Ensure plants are of good quality and thoroughly watered prior to planting.



## 4.5 Letterboxes

Letterboxes should be designed using materials which integrate with and complement the architectural style and material palette of the dwelling.

Stylised and single post supporting letterboxes will not be supported.

Details of letterboxes must be included on all plans lodged with the DRP for approval.

## 4.6 Waste Management

Reducing your household excess waste through the reuse, reduce and recycle practice is encouraged. Consider locally sourced recycled materials and products to assist this process. Below are some tips for helping to manage your waste efficiently:

- Provide adequate space and access for recycling and garbage disposal
- Talk to your builder about recycling waste during the construction phase
- Minimise packaging through the materials you select
- Consider recycling waste products from the construction in your garden (such as timber cut offs and damaged bricks, etc.)
- Create a worm farm or compost bin for feeding and maintaining your garden
- Reuse green waste wherever possible in the garden

## 4.7 Further Resources

Melton Shire Council

[www.melton.vic.gov.au/Home](http://www.melton.vic.gov.au/Home)  
Sustainable Gardening Booklet

Native Plant List

Indigenous Nurseries Location Website  
[www.iffa.org.au/indigenous-nurseries](http://www.iffa.org.au/indigenous-nurseries)

Water Sensitive Urban Design

Melbourne Water Website  
[www.melbournewater.com.au/wsud](http://www.melbournewater.com.au/wsud)



## 5. General Information

These Guidelines are a legally binding part of your contract and you are required to adhere to them. From time to time, designs may not comply with these Guidelines, in part or in whole.

While we make every effort to retain consistency, the developer reserves the right to approve or refuse any design based on architectural merit, to allow innovative and contemporary designs to be considered.

In particular circumstances there may be special requirements in addition to this document. Where conflict occurs between this document and special requirements, the special requirements take precedence.

These Design Guidelines will discontinue five years from the date of settlement and will revert to any Government requirements at that time.

These Guidelines are in addition to, not in lieu of, any other Government requirements. To learn about these, please refer to Part IV of the Building Regulations and the Melton Planning Scheme.

# 6. Checklist

The following checklist has been developed to ensure your house and landscape comply with the Guidelines. When submitting your plans in Step 2, please enclose this checklist completed for the DRP approval.

## House setbacks

- Are the required setbacks for your home achieved?  Yes  No
- Does your home have the required one balcony, verandah or portico facing the street?  Yes  No

## Corner Lot Dwellings

- Are all visible walls detailed to the same quality as the front elevation?  Yes  No

## Roofing

- Does your roof include a combination of hips?  Yes  No
- Does your roof achieve a minimum pitch of 22 degrees?  Yes  No
- Does your roof meet the minimum eave requirements?  Yes  No

## Garaging

- Is your garage located behind the front wall of the dwelling?  Yes  No
- Is the garage set back a minimum of 5.0m from the front boundary?  Yes  No

## Driveway

- Is the driveway an approved material as established in the Guidelines?  Yes  No

## Materials

- Is the dwelling constructed of materials identified in the Guidelines?  Yes  No

## Fencing

- Is your fencing consistent with the Design Guidelines?  Yes  No
- Have you shown the type and location of fencing on your house plans?  Yes  No

## Energy Efficiency

- Does your house meet the required 6 star energy rating?  Yes  No

## Services and Non-Permanent Structures

- Does your home design include OptiComm requirements?  Yes  No
- Does your home incorporate plumbing for recycled water supply?  Yes  No
- Are there any structures such as sheds, antennas, air conditioning units and rainwater tanks visible from the street?  Yes  No
- Are all services such as hot water heaters, plumbing, photo voltaic cells and solar panels, etc. located away from the front elevation of the dwelling?  Yes  No

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This document strictly serves as Guidelines for the building regulations at The Mayflower at Thornhill Park.  
Smart Capital retains the rights to amend these Guidelines at any time and all final building decisions are  
made at The Developer's discretion.





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# DUE DILIGENCE CHECKLIST

Consumer Affairs Victoria

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

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

### Urban living

#### Moving to the inner city?

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

Is the property subject to an owners corporation?

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

### Growth areas

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

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

### Flood and fire risk

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

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

### Rural properties

#### Moving to the country?

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

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

#### Can you build new dwellings?

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



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

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

## **Soil and groundwater contamination**

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

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

## **Land boundaries**

Do you know the exact boundary of the property?

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

## **Planning controls**

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

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

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

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

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

## **Safety**

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

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

## **Building permits**

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

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

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

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

## **Utilities and essential services**

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

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

## **Buyers' rights**

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

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