



Contract of Sale of Land

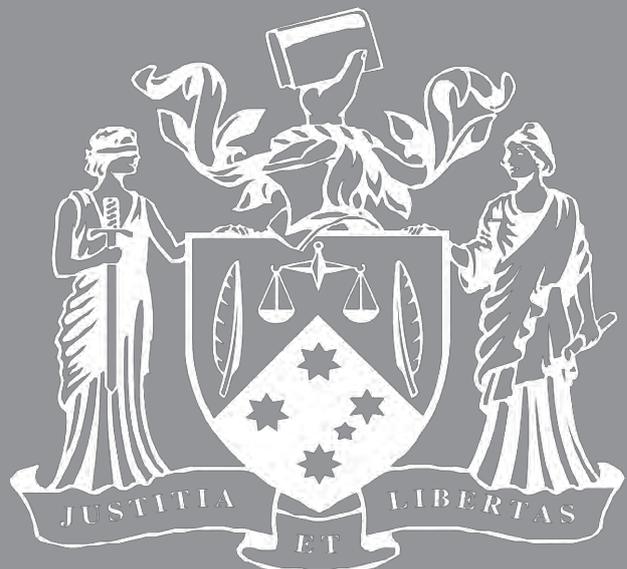
Property:

**LOT ___ ON PROPOSED PLAN OF SUBDIVISION 722310J
BERWICK WATERS – MONDOUS ISLAND STAGE 14**

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of Conveyancers (Victorian Division)



Contract of sale of land

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IMPORTANT NOTICE TO PURCHASERS – COOLING-OFF

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

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

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

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

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

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

NOTICE TO PURCHASERS OF PROPERTY OFF-THE-PLAN

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

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

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

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

Approval

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

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Disclaimer

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

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

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WARNING TO ESTATE AGENTS

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

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

Contract of sale of land

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

The terms of this contract are contained in the –

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

in that order of priority.

SIGNING OF THIS CONTRACT

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

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

The authority of a person signing –

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

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

SIGNED BY THE PURCHASER:

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

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

.....

State nature of authority, if applicable:

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

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

SIGNED BY THE VENDOR:

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

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

.....

State nature of authority, if applicable:

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

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Particulars of sale

Vendor's estate agent

Name: OLIVER HUME REAL ESTATE
Address: Level 2, 4 Riverside Quay, Southbank Vic 3006.....
Email: berwickwaters@oliverhume.com.au.....
Tel: 9669 5999..... Mob: Fax:..... Ref:

Vendor

Name: S & N SUPER FUND PTY LTD ATF the Mondous Superannuation Fund ABN 20 864 277 027.....
Address: SLC Partners Pty Ltd Suite 1 Level 1 38 Margaret Street Moonee Ponds Vic 3039.....
Email:

Vendor's legal practitioner or conveyancer

Name: BELLELI KING & ASSOCIATES LAWYERS AND CONSULTANTS.....
Address: Level 1 , 9 – 11 Pultney Street, Dandenong Vic 3175.....
Email: kmcivor@belleliking.com.au.....
Tel: 9794 9088..... Mob: Fax: Ref:DR:CT:776949

Purchaser's estate agent

Name:
Address:
Email:
Tel: Mob: Fax: Ref:

Purchaser

Name:
Address:
ABN/ACN:
Email:

Purchaser's legal practitioner or conveyancer

Name:
Address:
Email:
Tel: Fax: DX:..... Ref:

Land (general conditions 7 and 13)

The land is described in the table below –

Certificate of Title reference	being lot	on proposed plan
PART Volume 12573 Folio 099	_____	722310J

~~If no title or plan references are recorded 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: **LOT ___ ON PROPOSED PLAN OF SUBDIVISION 722310J
BERWICK WATERS – MONDOUS ISLAND STAGE 14**

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

Not Applicable – Vacant Land

Payment

Price \$

Deposit \$ being % of the price of which \$..... has been paid on / / 20..... (“initial deposit”) with the balance within days of the date of this Contract.

Balance \$ payable at settlement

Deposit bond

General condition 15 applies only if the box is checked

Bank guarantee

General condition 16 applies only if the box is checked

GST (general condition 19)

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

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

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

This sale is a sale of a ‘going concern’ if the box is checked

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

Settlement (general conditions 17 & 26.2)

is due on / /20.....

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 / /20..... with [.....] options to renew, each of [.....] years

OR

a residential tenancy for a fixed term ending on / /20.....

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: / /20.....

Building report

General condition 21 applies only if the box is checked

Pest report

General condition 22 applies only if the box is checked

Foreign Person

Is the purchaser a Foreign Person?

Yes

No

For the purposes of this contract "Foreign Person" means a foreign person as defined in the Foreign Acquisition and Takeovers Act 1975.

Special conditions

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

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



GC 23 – special condition

For the purposes of general condition 23, the expression "periodic outgoings" does not include any amounts to which section 10G of the Sale of Land Act 1962 applies.



GC 28 – special condition

General condition 28 does not apply to any amounts to which section 10G or 10H of the Sale of Land Act 1962 applies.

FURTHER SPECIAL CONDITIONS ARE ATTACHED

General conditions

Contract signing

1. ELECTRONIC SIGNATURE

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

2. LIABILITY OF SIGNATORY

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

3. GUARANTEE

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

4. NOMINEE

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

Title

5. ENCUMBRANCES

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

6. VENDOR WARRANTIES

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

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

7. IDENTITY OF THE LAND

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

8. SERVICES

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

9. CONSENTS

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

10. TRANSFER & DUTY

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

11. RELEASE OF SECURITY INTEREST

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

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

12. BUILDER WARRANTY INSURANCE

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

13. GENERAL LAW LAND

13.1 The vendor must complete a conversion of title in accordance with section 14 of the *Transfer of Land Act 1958* before settlement if the land is the subject of a provisional folio under section 23 of that Act.

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

Money

14. DEPOSIT

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

However, unless otherwise agreed:

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

15. DEPOSIT BOND

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

16. BANK GUARANTEE

- 16.1 This general condition only applies if the applicable box in the particulars of sale is checked.
- 16.2 In this general condition:
- (a) "bank guarantee" means an unconditional and irrevocable guarantee or undertaking by a bank in a form satisfactory to the vendor to pay on demand any amount under this contract agreed in writing, and
 - (b) "bank" means an authorised deposit-taking institution under the *Banking Act 1959* (Cth).
- 16.3 The purchaser may deliver a bank guarantee to the vendor's legal practitioner or conveyancer.
- 16.4 The purchaser must pay the amount secured by the bank guarantee to the vendor's legal practitioner or conveyancer on the first to occur of:
- (a) settlement;
 - (b) the date that is 45 days before the bank guarantee expires;
 - (c) the date on which this contract ends in accordance with general condition 35.2 [default not remedied] following breach by the purchaser; and
 - (d) the date on which the vendor ends this contract by accepting repudiation of it by the purchaser.
- 16.5 The vendor must return the bank guarantee document to the purchaser when the purchaser pays the amount secured by the bank guarantee in accordance with general condition 16.4.

- 16.6 The vendor may claim on the bank guarantee without prior notice if the purchaser defaults under this contract or repudiates this contract and the contract is ended. The amount paid by the bank satisfies the obligations of the purchaser under general condition 16.4 to the extent of the payment.
- 16.7 Nothing in this general condition limits the rights of the vendor if the purchaser defaults under this contract or repudiates this contract except as provided in general condition 16.6.
- 16.8 This general condition is subject to general condition 14.2 [deposit].

17. SETTLEMENT

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

18. ELECTRONIC SETTLEMENT

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

18.9 The vendor must before settlement:

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

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

19. GST

19.1 The purchaser does not have to pay the vendor any amount in respect of GST in addition to the price if the particulars of sale specify that the price includes GST (if any).

19.2 The purchaser must pay to the vendor any GST payable by the vendor in respect of a taxable supply made under this contract in addition to the price if:

- (a) the particulars of sale specify that GST (if any) must be paid in addition to the price; or
- (b) GST is payable solely as a result of any action taken or intended to be taken by the purchaser after the day of sale, including a change of use; or
- (c) the particulars of sale specify that the supply made under this contract is of land on which a ‘farming business’ is carried on and the supply (or part of it) does not satisfy the requirements of section 38-480 of the GST Act; or
- (d) the particulars of sale specify that the supply made under this contract is of a going concern and the supply (or a part of it) does not satisfy the requirements of section 38-325 of the GST Act.

19.3 The purchaser is not obliged to pay any GST under this contract until a tax invoice has been given to the purchaser, unless the margin scheme applies.

19.4 If the particulars of sale specify that the supply made under this contract is of land on which a ‘farming business’ is carried on:

- (a) the vendor warrants that the property is land on which a farming business has been carried on for the period of 5 years preceding the date of supply; and
- (b) the purchaser warrants that the purchaser intends that a farming business will be carried on after settlement on the property.

19.5 If the particulars of sale specify that the supply made under this contract is a ‘going concern’:

- (a) the parties agree that this contract is for the supply of a going concern; and
- (b) the purchaser warrants that the purchaser is, or prior to settlement will be, registered for GST; and
- (c) the vendor warrants that the vendor will carry on the going concern until the date of supply.

19.6 If the particulars of sale specify that the supply made under this contract is a ‘margin scheme’ supply, the parties agree that the margin scheme applies to this contract.

19.7 In this general condition:

- (a) ‘GST Act’ means *A New Tax System (Goods and Services Tax) Act 1999* (Cth); and
- (b) ‘GST’ includes penalties and interest.

20. LOAN

20.1 If the particulars of sale specify that this contract is subject to a loan being approved, this contract is subject to the lender approving the loan on the security of the property by the approval date or any later date allowed by the vendor.

20.2 The purchaser may end the contract if the loan is not approved by the approval date, but only if the purchaser:

- (a) immediately applied for the loan; and
- (b) did everything reasonably required to obtain approval of the loan; and
- (c) serves written notice ending the contract, together with written evidence of rejection or non-approval of the loan, on the vendor within 2 clear business days after the approval date or any later date allowed by the vendor; and
- (d) is not in default under any other condition of this contract when the notice is given.

20.3 All money must be immediately refunded to the purchaser if the contract is ended.

21. BUILDING REPORT

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

21.2 The purchaser may end this contract within 14 days from the day of sale if the purchaser:

- (a) obtains a written report from a registered building practitioner or architect which discloses a current defect in a structure on the land and designates it as a major building defect;

- (b) gives the vendor a copy of the report and a written notice ending this contract; and
 - (c) is not then in default.
- 21.3 All money paid must be immediately refunded to the purchaser if the contract ends in accordance with this general condition.
- 21.4 A notice under this general condition may be served on the vendor's legal practitioner, conveyancer or estate agent even if the estate agent's authority has formally expired at the time of service.
- 21.5 The registered building practitioner may inspect the property at any reasonable time for the purpose of preparing the report.

22. PEST REPORT

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

23. ADJUSTMENTS

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

24. FOREIGN RESIDENT CAPITAL GAINS WITHHOLDING

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

despite:

- (d) any contrary instructions, other than from both the purchaser and the vendor; and
 - (e) any other provision in this contract to the contrary.
- 24.7 The representative is taken to have complied with the requirements of general condition 24.6 if:
- (a) the settlement is conducted through an electronic lodgement network; and
 - (b) the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.
- 24.8 Any clearance certificate or document evidencing variation of the amount in accordance with section 14-235(2) of Schedule 1 to the *Taxation Administration Act 1953* (Cth) must be given to the purchaser at least 5 business days before the due date for settlement.
- 24.9 The vendor must provide the purchaser with such information as the purchaser requires to comply with the purchaser's obligation to pay the amount in accordance with section 14-200 of Schedule 1 to the *Taxation Administration Act 1953* (Cth). The information must be provided within 5 business days of request by the purchaser. The vendor warrants that the information the vendor provides is true and correct.
- 24.10 The purchaser is responsible for any penalties or interest payable to the Commissioner on account of late payment of the amount.

25. GST WITHHOLDING

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

despite:

- (d) any contrary instructions, other than from both the purchaser and the vendor; and
 - (e) any other provision in this contract to the contrary.
- 25.8 The representative is taken to have complied with the requirements of general condition 25.7 if:
- (a) settlement is conducted through an electronic lodgement network; and
 - (b) the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.
- 25.9 The purchaser may at settlement give the vendor a bank cheque for the amount in accordance with section 16-30 (3) of Schedule 1 to the *Taxation Administration Act 1953* (Cth), but only if:

- (a) so agreed by the vendor in writing; and
- (b) the settlement is not conducted through an electronic lodgement network.

However, if the purchaser gives the bank cheque in accordance with this general condition 25.9, the vendor must:

- (c) immediately after settlement provide the bank cheque to the Commissioner to pay the amount in relation to the supply; and
- (d) give the purchaser a receipt for the bank cheque which identifies the transaction and includes particulars of the bank cheque, at the same time the purchaser gives the vendor the bank cheque.

25.10 A party must provide the other party with such information as the other party requires to:

- (a) decide if an amount is required to be paid or the quantum of it, or
- (b) comply with the purchaser's obligation to pay the amount,

in accordance with section 14-250 of Schedule 1 to the *Taxation Administration Act 1953* (Cth). The information must be provided within 5 business days of a written request. The party providing the information warrants that it is true and correct.

25.11 The vendor warrants that:

- (a) at settlement, the property is not new residential premises or potential residential land in either case falling within the parameters of section 14-250 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) if the vendor gives the purchaser a written notice under section 14-255 to the effect that the purchaser will not be required to make a payment under section 14-250 in respect of the supply, or fails to give a written notice as required by and within the time specified in section 14-255; and
- (b) the amount described in a written notice given by the vendor to the purchaser under section 14-255 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) is the correct amount required to be paid under section 14-250 of the legislation.

25.12 The purchaser is responsible for any penalties or interest payable to the Commissioner on account of non-payment or late payment of the amount, except to the extent that:

- (a) the penalties or interest arise from any failure on the part of the vendor, including breach of a warranty in general condition 25.11; or
- (b) the purchaser has a reasonable belief that the property is neither new residential premises nor potential residential land requiring the purchaser to pay an amount to the Commissioner in accordance with section 14-250 (1) of Schedule 1 to the *Taxation Administration Act 1953* (Cth).

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

Transactional

26. TIME & CO OPERATION

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

27. SERVICE

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

- (b) priority post is taken to have been served on the fourth business day after posting, unless proved otherwise;
- (c) regular post is taken to have been served on the sixth business day after posting, unless proved otherwise;
- (d) email is taken to have been served at the time of receipt within the meaning of section 13A of the *Electronic Transactions (Victoria) Act 2000*.

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

28. NOTICES

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

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

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

29. INSPECTION

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

30. TERMS CONTRACT

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

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

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

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

31. LOSS OR DAMAGE BEFORE SETTLEMENT

31.1 The vendor carries the risk of loss or damage to the property until settlement.

31.2 The vendor must deliver the property to the purchaser at settlement in the same condition it was in on the day of sale, except for fair wear and tear.

31.3 The purchaser must not delay settlement because one or more of the goods is not in the condition required by general condition 31.2, but may claim compensation from the vendor after settlement.

31.4 The purchaser may nominate an amount not exceeding \$5,000 to be held by a stakeholder to be appointed by the parties if the property is not in the condition required by general condition 31.2 at settlement.

31.5 The nominated amount may be deducted from the amount due to the vendor at settlement and paid to the stakeholder, but only if the purchaser also pays an amount equal to the nominated amount to the stakeholder.

31.6 The stakeholder must pay the amounts referred to in general condition 31.5 in accordance with the determination of the dispute, including any order for payment of the costs of the resolution of the dispute.

32. BREACH

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

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

Default

33. INTEREST

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

34. DEFAULT NOTICE

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

34.2 The default notice must:

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

35. DEFAULT NOT REMEDIED

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

35.2 The contract immediately ends if:

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

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

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

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

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

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

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SPECIAL CONDITIONS

1 DEFINITIONS

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

- 1.1 **"Bank"** means an authorised deposit-taking institution as defined in the *Banking Act 1959* (Cth).
- 1.2 **"Bank Guarantee"** means an unconditional and irrevocable bank guarantee issued by one of Citibank Limited, Westpac Banking Corporation, St George Bank Limited, National Australia Bank Limited, Commonwealth Bank of Australia Limited, Bankwest, Australia and New Zealand Banking Group Limited, HSBC Bank Australia, Macquarie Bank Limited or Suncorp Metway Ltd or such other financial institution approved by the Vendor from time to time, in a form and on terms which are acceptable to the Vendor in its absolute discretion.
- 1.3 **"Claim"** includes:
- 1.3.1 any claim, objection, requisition, notice, demand, action, proceeding, litigation, investigation or judgment, whether based in contract, tort, statute or otherwise; and
- 1.3.2 any delay in Settlement or rescission or termination of this Contract or attempt to do so.
- 1.4 **"Contract"** means this contract of sale of real estate, including the Particulars of Sale, General Conditions, Special Conditions, Schedules and annexures (if any) and attachments to this contract.
- 1.5 **"Corporations Act"** means the *Corporations Act 2001* (Cth).
- 1.6 **"Council"** means Casey City Council.
- 1.7 **"Default Interest"** means interest calculated at the rate of 15% per annum.
- 1.8 **"Deposit Bond"** means an unconditional and irrevocable deposit bond issued by Aussie Bonds Australia Pty Ltd, Deposit Bonds Australia Pty Limited or Deposit Underwriters Pty Limited and underwritten by QBE Insurance (Australia) Ltd, or by an insurer otherwise approved by the Vendor, in a form and on terms which are acceptable to the Vendor in its absolute discretion.
- 1.9 **"Design and Siting Guidelines"** means the design and siting guidelines in the form or substantially in the form of those attached to the Vendor's Statement or as provided by the Vendor to the Purchaser from time to time.
- 1.10 **"Development Land"** means all the land described in certificate of title volume 11642 folio 391 including any lot, reserve, road or otherwise created upon subdivision of that land.
- 1.11 **"FIRB"** means the Foreign Investment Review Board.
- 1.12 **"FIRB Application"** means a notice of the Purchaser's intention to purchase the Property made and delivered pursuant to the Takeovers Act in the prescribed form and in accordance with any current guidelines regarding Australian foreign investment policy.
- 1.13 **"FIRB Approval Date"** means a day that is 50 days after the date of this Contract.
- 1.14 **"Foreign Person"** means a foreign person as defined in the Takeovers Act.

- 1.15 "**GST**" has the same meaning as defined in the GST Law and also includes penalties and interest.
- 1.16 "**GST Act**" means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
- 1.17 "**GST Law**" has the same meaning as defined in the GST Act.
- 1.18 "**Law**" means any law, rule, Act, ordinance, regulation, by-law, local law, order, statutory instrument, control, restriction, direction, notice or proclamation and includes the requirements of any municipal or statutory body or any permit, planning scheme or approval affecting the Land.
- 1.19 "**Loss**" means any liability, charge, claim, loss, damage, expense or cost including any legal costs on a solicitor/client basis.
- 1.20 "**Plan**" means Plan of Subdivision PS722310J a copy of which is annexed to the Vendor's Statement.
- 1.21 "**Planning Permit**" means planning permit PInA01047/15.A issued on 19 August 2019 and any other planning permit issued for the use and/or development of the Development Land, or any part of the Development Land of which the Land is a part, issued by the Council (as amended from time to time).
- 1.22 "**Property**" means the Land and any improvements on the Land.
- 1.23 "**Purchaser's Warranties**" means the Purchaser's warranties referred to in Special Condition 15.1.
- 1.24 "**Related Body Corporate**" means the same as "Related Body Corporate" means in the Corporations Act.
- 1.25 "**Representatives**" means all employees, agents, officers and successors in title of the relevant party.
- 1.26 "**Restrictions**" means the restrictions, building envelopes, and the building envelope profiles forming part of the Plan, some or all of which may be included in a memorandum of common provisions which may be incorporated into the Plan.
- 1.27 "**Sales Material**" means any marketing or sales publications, price lists, concept and other plans, and advertisements issued by or on behalf of the Vendor or any Related Body Corporate.
- 1.28 "**Section 173 Agreement**" means an agreement under Section 173 of the *Planning and Environment Act 1987* (Vic).
- 1.29 "**Settlement**" means the acceptance of title and payment by the Purchaser of the Price and all other money due to the Vendor under this Contract.
- 1.30 "**Settlement Date**" means the date Settlement occurs.
- 1.31 "**Takeovers Act**" means the *Foreign Acquisitions and Takeovers Act 1975* (Cth).
- 1.32 "**Treasurer**" means the Treasurer of the Commonwealth of Australia.
- 1.33 "**Transfer**" means the instrument of transfer of land to the Purchaser.
- 1.34 "**Vendor's Lawyers**" means Belleli King & Associates of First Floor, 9-11 Pultney Street, Dandenong, 3175.

1.35 **"Vendor's Statement"** means the statement made by the Vendor under section 32 of the *Sale of Land Act 1962 (Vic)*, a copy of which is attached to this Contract.

2 INTERPRETATION

In this Contract, unless the context otherwise requires:

- 2.1 A reference to:
- 2.1.1 the singular includes the plural and vice versa;
 - 2.1.2 words that suggest one gender include other genders;
 - 2.1.3 a document or instrument, including this Contract, includes that document or instrument as novated, altered or replaced;
 - 2.1.4 a person includes any type of entity or body of persons whether or not it is incorporated or has a separate legal identity and any executor, administrator or successor in law of that person;
 - 2.1.5 a party includes that party's substitutes and assigns provided that the substitution or assignment complies with this Contract and is effective under any applicable law;
 - 2.1.6 anything includes any part of it; and
 - 2.1.7 a statute, code or other Law includes regulations and other instruments made under it and includes consolidations, amendments, re-enactments or replacements of any of them.
- 2.2 Where a word or expression is defined, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- 2.3 All monetary amounts are in Australian dollars.
- 2.4 Headings and the provision of a table of contents are for convenience only and do not affect the interpretation of this Contract.
- 2.5 Any word or expression that is defined in the GST Law has the same meaning in this Contract.

3 GENERAL CONDITIONS DELETED OR AMENDED

- 3.1 General Condition 10 (Transfer & Duty) is deleted and replaced with Special Condition 13.
- 3.2 General Condition 12 (Builder warranty insurance) is deleted.
- 3.3 General Condition 17.2 (Settlement) is amended by adding a new sentence at the end of the condition as follows: A Settlement that occurs after 4pm, will unless the Vendor agrees otherwise, be treated as having occurred at 10am the following day.
- 3.4 General Condition 19 (GST) is deleted and replaced with Special Condition 16.
- 3.5 General Condition 20 (Loan) is deleted and replaced with Special Condition 42.
- 3.6 General Condition 23 (Adjustments) is deleted and replaced with Special Condition 18.
- 3.7 General Condition 4 (Nominee) is deleted and replaced with Special Condition 5.

- 3.8 General Condition 3 (Guarantee) is deleted and replaced with Special Condition 4.
- 3.9 General Condition 31 (Loss or damage before Settlement) is deleted and replaced with Special Condition 10.
- 3.10 General Conditions 32 (Breach) and 33 (Interest) are deleted and replaced with Special Condition 9.
- 3.11 General Condition 35.4(a) is amended to read as follows:

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

4 GUARANTEE

Should the Purchaser be a company then the Purchaser shall forthwith arrange for the Directors of the Purchaser as at the date hereof to guarantee the payment of the purchase money and any other moneys payable under this Contract or any Mortgage entered into pursuant to the terms hereof or the provisions of the *Sale of Land Act 1962 (Vic)* (as amended) by the Purchaser and the performance and observance by the Purchaser under this Contract or any such mortgage. The form of guarantee shall be in or to the effect of the attached form of guarantee and completed with the said Directors full name and address and with the particulars of this Contract. The Purchaser shall deliver such completed Guarantee duly executed by all the Purchaser's directors at the same time as entering into this Contract and non-delivery within such period shall constitute default by the Purchaser.

5 NOMINATION

- 5.1 If the Purchaser buys as agent on behalf of a principal the Purchaser in addition to the principal shall remain personally liable under this Contract.
- 5.2 The parties hereto hereby agree that at the written request of the Purchaser and upon the Purchaser producing to the Vendor within 14 days of the date hereof a Contract ("the substituted Contract") identical in all its terms and conditions (save as hereinafter provided) to this Contract ("the present Contract") such substituted Contract being executed as Purchaser by the persons ("the substituted Purchaser") nominated by the Purchaser named in the present Contract, then the Vendor shall execute such substituted Contract and the parts thereof shall be exchanged and the present Contract shall, ipso facto, be and be deemed to be cancelled subject to the following:
- (a) All moneys previously paid by the Purchaser under the present Contract shall be credited as having been paid by the substituted Purchaser to the Vendor under the substituted Contract; and
 - (b) The Purchaser under the present Contract will:
 - (i) indemnify and keep indemnified the Vendor free and against any claim or claims hereafter made or to be made against the Vendor arising howsoever under the provisions of the present Contract or of the substituted Contract and the inclusion herein at the request of the Purchaser of this Special Condition;
 - (ii) guarantee and indemnify the due performance by the substituted Purchaser of the substituted Purchaser's obligations under the Guarantee and Indemnify annexed hereto;
 - (iii) pay any additional legal costs incurred by the Vendor arising out of the foregoing arrangements.

PROVIDED ALWAYS that IT IS HEREBY AGREED that the substituted Contract shall vary from the present Contract in the following respects:

- (a) the purchaser named therein shall be the substituted Purchaser;
- (b) this Special Condition relating to the ability to nominate a substituted purchaser shall be omitted therefrom;
- (c) the substituted Contract shall provide for an adjustment of the date upon which the substituted Purchaser under the substituted Contract:
 - (i) becomes responsible for any notice or orders relating to the Property;
 - (ii) accepts the adjustment of the outgoings;
 - (iii) carries the risk of loss and damage to the Property;
 so as to correspond with the date or dates applicable under the present Contract;
- (d) the substituted Contract shall provide that the substituted Purchaser is deemed to have accepted title and shall not be entitled to make requisitions thereon.

6 ACKNOWLEDGEMENTS BY PURCHASER

- 6.1 The Purchaser acknowledges that prior to paying the initial deposit or signing this Contract or any Agreement or document in respect of the sale hereby effected which is legally binding upon or intended legally to bind the Purchaser, the Purchaser has been given a statement in writing containing the particulars required by Section 51 of the *Estate Agents Act 1980* (Vic), as amended, receipt of a copy of this Contract in compliance with Section 53 of the said Act and a statement in writing containing the particulars required by Section 32 of the *Sale of Land Act 1962* (Vic). Any condition contained in the referred to Vendor Statement shall be deemed as part of the special conditions contained herein.
- 6.2 The Purchaser acknowledges that all of the provisions of this Contract are reasonably necessary in order to protect the Vendor's legitimate interests including but not limited to the Vendor's legitimate commercial interest in providing the Vendor with sufficient flexibility in relation to the economic viability of the development of the Development Land and in relation to the current or future design and construction requirements of the Council and/or any other public authority.

7 DEPOSIT

The parties agree that the initial deposit will be paid to or transferred to the Vendor's Lawyers within the time required by this Contract and it must be held by the Vendor's Lawyers on trust for the Purchaser until the registration of the Plan. The Vendor and Purchaser authorise the Vendor's Lawyers at the absolute discretion of the Vendor's Lawyers to invest the initial deposit in a separate interest bearing trust account at a bank. Within 7 days after the Day of Sale the Purchaser must give the Purchaser's Tax File Number to the Vendor's Lawyers and such other documentation necessary to give effect to this Special Condition. The Purchaser must not make any claim on the Vendor's Lawyers for any matter arising out of this Special Condition. The interest will belong to the Vendor unless the Purchaser becomes entitled to a refund of the deposit. If this happens then subject to the following sentence, interest will belong to the Purchaser. If the Purchaser fails to provide its Tax File Number all interest will belong to the Vendor even if the Purchaser becomes entitled to a refund of the deposit.

8 DEPOSIT BY BANK GUARANTEE OR DEPOSIT BOND

8.1 Payment by Bank Guarantee or Deposit Bond

The Deposit must be paid by the Purchaser in cash or by cheque drawn on an Australian Bank. However, if the Vendor agrees, payment of all or part of the Deposit may be secured:

8.1.1 by means of a Bank Guarantee; or

8.1.2 a Deposit Bond.

8.2 Payment at Settlement

If the Purchaser secures payment of the Deposit or any part of it by way of a Bank Guarantee or Deposit Bond in accordance with Special Condition 8.1, then, Settlement must take place on the basis that the Purchaser must pay to the Vendor 100% of the Price (less any amount of the Deposit paid in cash or by cheque) by way of cash or bank cheque in accordance with the terms of this Contract. Upon receipt of the cash or bank cheque at Settlement, the Vendor must return to the Purchaser the Bank Guarantee or Deposit Bond (as the case may be).

8.3 Replacement Bank Guarantee or Deposit Bond

If the Deposit Bond or Bank Guarantee that has an expiry date, the Purchaser must deliver a replacement Deposit Bond or Bank Guarantee to the Vendor no later than 45 days before the expiry date.

8.4 Insolvency of issuer

Should an Insolvency Event occur in relation to the party who has issued the Deposit Bond or Bank Guarantee, the Purchaser must deliver a replacement Deposit Bond or Bank Guarantee to the Vendor within 7 days of the Vendor's request for such a replacement.

8.5 Purchaser's default

Subject to General Condition 34, if the Purchaser is in default under any provision of this Contract and does not remedy the default, then, the Vendor will be entitled to:

8.5.1 rescind this Contract; and

8.5.2 exercise its rights under the Bank Guarantee or Deposit Bond (as the case may be).

8.6 Compliance with *Sale of Land Act 1962*

The Vendor and Purchaser agree that the moneys paid out from the Bank Guarantee or Deposit Bond, including any replacement of that Bank Guarantee or Deposit Bond, are deemed to form all or part (as the case may be) of the cash Deposit under this Contract, and must be dealt with in accordance with the terms of this Contract and the *Sale of Land Act 1962* (Vic).

9 DEFAULT

9.1 Costs on default

If the Purchaser breaches this Contract, without limiting any other rights or remedies the Vendor may have against the Purchaser, the Purchaser must pay or reimburse the Vendor on demand:

9.1.1 all costs, charges and expenses incurred, whether directly or indirectly, by the Vendor as a result of the breach, including any legal costs on a solicitor and client basis; and

9.1.2 any other money payable under this Contract.

9.2 Interest on default

9.2.1 If the Purchaser defaults in payment of any money due under this Contract, the Purchaser must pay to the Vendor Default Interest on the money overdue during the period of default without the need for any demand and without prejudice to any other rights of the Vendor.

9.3 Insolvency

It is hereby agrees and declared that if:

- (a) The Purchaser suffers, commits or be involved in an act of bankruptcy or assigns her estate for the benefit of her creditors or proposes or enters into a composition or arrange with her creditors; or
- (b) a receiver or a receiver and manager or an official manager of the Purchaser's assets or undertaking or any part thereof is appointed; or
- (c) execution shall be levied against any of the assets or undertaking of the Purchaser; or
- (d) being a company a petition is presented for the winding up of the Purchaser.

Then in any of such events the Purchaser shall be deemed to be in default under this Contract and the Vendor without prejudice to and in addition to any other right or remedy shall have the option (to be exercised by notice in writing) either rescind this Contract, or (subject to the prior approval by the Registrar of Titles of the relevant Plan of Subdivision) to require the whole of the balance of purchase monies then unpaid together with interest thereon calculated in the manner set out in this Contract to the end of the current period for calculation of interest and any other monies which the Purchaser may now or later be indebted or liable to the Vendor under the terms of this Contract to become due and payable on the date following such notice.

10 CONDITION, RISK, IDENTITY AND USE OF PROPERTY

10.1 Condition

10.1.1 The Purchaser buys the Property in its condition on the Day of Sale.

10.1.2 The Purchaser carries the risk of loss or damage to the Property from the Day of Sale.

10.1.3 The Purchaser relied on its own enquiries about the nature, quality and condition of the Property in entering into this Contract.

10.1.4 If any buildings or improvements fail to comply with any applicable Law, this does not constitute a defect in the Vendor's title, or affect the validity of this Contract.

10.2 No warranty

The Purchaser acknowledges that no information representation or warranty of the Vendor or the Vendor's agent was supplied or made with the intention or knowledge that it would be

relied upon by the Purchaser and that no information representation or warranty has in fact been so relied upon and that this Contract is the sole and full repository of the agreement between the Vendor and the Vendor's agent on the one hand and the Purchaser on the other hand.

10.3 **Acknowledgment**

The Property is sold subject to any restrictions as to user under any order, plan, scheme, regulation or by-law contained in or made pursuant to the provisions of any legislation. No such restriction shall constitute a defect in the Vendor's Title and the Purchaser shall not make any requisition or objection nor be entitled to any compensation from the Vendor in respect thereof.

10.4 **Indemnity**

The Purchaser must indemnify hold harmless and keep indemnified the Vendor and the Representatives of the Vendor against any Loss or Claim that the Vendor and the Representatives of the Vendor directly or indirectly suffer, incur, pay or are liable for which results in any way from the existence of any contaminant on or emanating from the Property including any actions based on injury to any person, corporation, property or segment of the environment.

10.5 **No Claim**

The Purchaser must not:

- 10.5.1 make any Claim or require the Vendor to take or refrain from taking any action because of any matter referred to in this Special Condition; or
- 10.5.2 require the Vendor to pay all or any part of the cost of making any alteration to the Property to ensure it is fit for any particular purpose, are free from defect or comply with any applicable Law.

11 **FOREIGN INVESTMENT**

11.1 **Warranty**

Unless the Purchaser has stated in the Particulars of Sale that the Purchaser is a Foreign Person, the Purchaser warrants that the Purchaser has not breached the Takeovers Act by entering into this Contract.

11.2 **Consequences**

- 11.2.1 If the warranty in Special Condition 11.1 is untrue:
 - (a) the Vendor may rescind this Contract and retain the Deposit and any Interest; and
 - (b) the Purchaser must indemnify hold harmless and keep indemnified the Vendor against any Loss or Claim that the Vendor suffers, incurs or is liable for as a result of any breach of this Special Condition.

12 **FIRB APPROVAL**

12.1 **Condition subsequent**

If the Purchaser is a Foreign Person, then this Contract is subject to the condition subsequent that on or before 5.00 pm on the FIRB Approval Date, the Treasurer either:

- 12.1.1 advises that it does not object to entry into this Contract by the Purchaser; or
- 12.1.2 is no longer empowered to make an order or decision under the Takeovers Act concerning the acquisition of the Property.

12.2 **Application by Purchaser**

The Purchaser must:

- 12.2.1 produce evidence to the Vendor that the Purchaser has delivered to the Treasurer, the FIRB Application;
- 12.2.2 promptly do all things required by the Treasurer or which, in the Vendor's opinion, are desirable to satisfy Special Condition 12.1;
- 12.2.3 not withdraw the FIRB Application or do anything which may jeopardise satisfaction of Special Condition 12.1; and
- 12.2.4 use its best endeavours to satisfy Special Condition 12.1 as soon as possible.

12.3 **Vendor to be kept informed**

The Purchaser must keep the Vendor informed of the progress of the FIRB Application and promptly deliver to the Vendor copies of:

- 12.3.1 the FIRB Application and all relevant documents;
- 12.3.2 all amendments or variations to the FIRB Application;
- 12.3.3 all communications received or transmitted by the Purchaser concerning the FIRB Application including, without limitation, written details of all verbal communications; and
- 12.3.4 all orders or decisions made by the Treasurer.

12.4 **Vendor may communicate with Treasurer**

The Vendor may communicate with the Treasurer about the FIRB Application and any order or decision of the Treasurer concerning it. The Purchaser must provide the Vendor with all things required by the Vendor to enable the exercise of its rights under this Special Condition.

12.5 **Failure of condition**

If on or before the FIRB Approval Date the Treasurer:

- 12.5.1 makes an order prohibiting the Purchaser's acquisition of the Property;
- 12.5.2 makes a decision that the Treasurer objects to entry into this Contract by the Purchaser;
- 12.5.3 extends the examination period for the FIRB Application beyond the FIRB Approval Date by issuing an interim order under the Takeovers Act; or
- 12.5.4 makes a conditional order or approval with conditions that are unsatisfactory to the Purchaser;

then either the Vendor or the Purchaser may terminate this Contract by written notice to the other party. In that event, all moneys paid by the Purchaser must be refunded to the Purchaser.

12.6 **Where conditional approval given**

- 12.6.1 The Purchaser acknowledges that the Treasurer may grant approval to the FIRB Application subject to a condition to the effect that the Purchaser builds or causes a dwelling to be built and completed on the Property within specified time frames. The Purchaser confirms and agrees that such a condition is a condition which is satisfactory and acceptable to the Purchaser.
- 12.6.2 If the Treasurer makes a conditional order or approval with conditions that are satisfactory to the Purchaser, then the Purchaser must use its best endeavours to comply with the conditions.

12.7 **Breach by Purchaser**

For the avoidance of doubt, the parties confirm and agree that if:

- 12.7.1 the Purchaser breaches any part of this Special Condition; or
- 12.7.2 due to any action or inaction by the Purchaser, the FIRB Application is not lodged within 7 days after the Day of Sale; and
- 12.7.3 the Treasurer does not grant approval to the Purchaser's acquisition of the Property by the FIRB Approval Date;

then, the Vendor will be entitled to immediately terminate this Contract by notice in writing to the Purchaser. In that event, the Purchaser will not be entitled to a refund of the moneys paid by the Purchaser, and such moneys will instead be forfeited to the Vendor.

13 **TRANSFER & DUTY**

- 13.1 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.
- 13.2 Where applicable, at least 7 days before the due date for settlement, the transfer of land must be created by the Purchaser's representative in the workspace.
- 13.3 The Vendor will initiate the Duties Online or other form required by the State Revenue Office in respect of this transaction as soon as reasonably practicable ("the DOL Form"). At least 5 days before the due date for settlement, the Purchaser must:
- 13.3.1 complete its section of the DOL Form; and
- 13.3.2 sign the DOL Form and make it ready and available for signature by the Vendor.
- 13.4 The Vendor may delay settlement of this Contract in accordance with special condition 13.5 if the Purchaser (or the Purchaser's representative) does not comply with:
- 13.4.1 Special condition 13.2; or
- 13.4.2 Special condition 13.3.
- 13.5 The Vendor may settle this Contract on a date (to be determined at the Vendor's discretion) that is on or between the due date for settlement and the date which is 7 days from the date on which the Purchaser has complied with all of its obligations referred to in special condition 13.4.

- 13.6 If settlement is delayed pursuant to special condition 13.5, the Purchaser is deemed to have defaulted in payment of the balance and must pay interest on this amount under special condition 9 from the due date for settlement until Settlement.

14 CONFIDENTIALITY

The Vendor and the Purchaser shall treat as and keep private and confidential all matters relating to the sale of the land by the Vendor to the Purchaser including but not limited to the terms of this Contract provided that nothing herein shall prevent either party from making any of the following disclosures:

- (a) The sale of the land by the Vendor provided that the terms of the sale and the sale provisions are not to be disclosed and the identity of the Purchaser is not to be disclosed without the consent of the Purchaser;
- (b) Full disclosure by a party to that party's professional legal or accountancy advisers solely for the purposes of obtaining legal, financial and accountancy advice;
- (c) A disclosure to any other person or authority to which that party is legally obliged to make such a disclosure but only to the extent of that legal obligation;
- (d) In any Court proceedings where such disclosure is deemed by that party to be reasonable and necessary for the purposes of those proceedings and then only to the extent the party reasonably deems the disclosure to be necessary;
- (e) Any disclosure where that disclosure is necessary or reasonably required for the purposes of or which may assist the achievement of anything to be done or not to be done pursuant to the terms of this Contract or any actual or proposed application for development of the land by the Purchaser.

15 PURCHASER'S WARRANTIES

15.1 Warranties

The Purchaser represents and warrants that from the Day of Sale up to and including the Settlement Date:

- 15.1.1 if the Purchaser is a company, it is a company limited by shares under the Corporations Act;
- 15.1.2 this Contract constitutes binding obligations, enforceable against the Purchaser under its terms;
- 15.1.3 the Purchaser has full legal capacity and power to enter into and perform the Purchaser's obligations under this Contract;
- 15.1.4 all conditions and things required by any applicable Law to be done in order to enable the Purchaser to lawfully to enter into and perform the Purchaser's obligations under this Contract have been done;
- 15.1.5 the entry into and performance of this Contract does not or will not:
 - (a) contravene any applicable Law to which the Purchaser or any of the Purchaser's property is subject;
 - (b) contravene any approval, authorisation, consent or exemption required by any applicable Law;

- (c) contravene any undertaking or instrument binding on the Purchaser or any of the Purchaser's property; or
- (d) if the Purchaser is a company, contravene any provisions of the Purchaser's constitution; and

15.2 **Vendor's investigations**

15.2.1 The Purchaser's Warranties will not be modified, discharged, extinguished or affected by any investigation made or information acquired by or on behalf of the Vendor.

15.2.2 The Purchaser's Warranties are continuing warranties and do not merge on Settlement but remain in full force and effect.

15.3 **Reliance**

The Purchaser acknowledges that the Vendor entered into this Contract in reliance on the Purchaser's Warranties.

15.4 **Prompt disclosure of breach**

The Purchaser must immediately disclose to the Vendor anything which may arise or become known to the Purchaser before Settlement that is a breach of or is inconsistent with any of the Purchaser's Warranties.

15.5 **Indemnity**

The Purchaser must indemnify hold harmless and keep indemnified the Vendor against any Loss or Claim that the Vendor suffers, incurs or is liable for as a result of any breach of this Special Condition.

16 **GST**

16.1 **Price inclusive of GST**

16.1.1 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".

16.1.2 The Purchaser must however pay to the Vendor any GST payable by the Vendor 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.

16.2 **Margin scheme**

The parties agree that:

16.2.1 the Vendor will apply the margin scheme to the supply of the Land under this Contract for the purpose of calculating the Vendor's GST liability on the supply; and

16.2.2 the Purchaser will not be entitled to claim any input tax credit for GST paid in respect of the Purchaser's acquisition of the Property as a result of the application of the margin scheme.

17 DUTY INDEMNITY**17.1 No warranty**

The Vendor and the Representatives of the Vendor make no representation or warranty as to the amount of duty payable on the Contract, the Transfer and any related document including any instrument of nomination or assignment.

17.2 No reliance

The Purchaser relied on its own enquiries about the amount of duty payable on the Contract, the Transfer and any related document including any instrument of nomination or assignment to enter into this Contract.

17.3 Indemnity

The Purchaser must indemnify hold harmless and keep indemnified the Vendor against any Losses or Claims that the Vendor, the Representatives of the Vendor or the Vendor's Legal Practitioner pay, suffer, incur or are liable for in relation to any duty payable on the Contract, the Transfer and any related document including any instrument of nomination or assignment.

18 ADJUSTMENTS

18.1 All rates, taxes, assessments and outgoings (collectively referred to as "the outgoings") in respect of the land shall be adjusted between the Vendor and Purchaser as from the earlier of the Day of sale or payment of the initial deposit.

18.2 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 assessments 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 divided equally amongst the number of lots provided for in that assessment from the earlier of the Day of Sale or payment of the initial deposit.

18.3 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 24 months after the settlement date and be accompanied by a copy of the original notice.

18.4 The Vendor will pay the outgoings when they are due to be paid and the Purchaser cannot require them to be paid at or before settlement.

18.5 Despite special condition 18.4 the outgoings must be apportioned as if they had been paid by the Vendor.

18.6 This condition will not merge on the transfer of the Property.

18.7 All the outgoings rated, levied, assessed or charged on the Property shall be adjusted and apportioned between the Vendor and the Purchaser as at the Day of Sale or payment of the initial deposit and reflected in the statement of adjustments. The Purchaser must deliver a statement of adjustments of the outgoings not less than 7 days prior to the Settlement Date together with copies of all rating certificates and other information used to calculate the adjustments, unless the Vendor advises that they will provide the Statement of Adjustments under clause 18.8.

18.8 The Purchaser accepts that the Vendor may choose to prepare a Statement Of Adjustments. If the Vendor chooses to prepare the Statement of Adjustments, the Vendor must notify the Purchaser to this effect at least 10 days before the Settlement Date.

- 18.9 If the Vendor prepares a Statement of Adjustments:
- (a) The Purchaser must deliver all rating certificates to the Vendors Lawyers no later than 7 days before the Settlement date;
 - (b) the Vendor will forward the Statement of Adjustments to the Purchaser or the Purchasers Solicitor at least 3 days before the Settlement Date; and
 - (c) if the Purchaser does not object to the Statement of Adjustments before the Settlement Date, the parties must settle this Contract on the basis of the Statement of Adjustments.
- 18.10 Where the Purchaser breaches Special Condition 18.7 or 18.9 as the case may be;
- (a) The Vendor will not be obliged to complete settlement until the expiration of the period stipulated therein from when the Purchaser delivered the statement of adjustments or the certificates to the Vendors Lawyers; and
 - (b) The Purchaser must, at settlement pay interest under special condition 9 on the balance of monies payable to the Vendor from the date settlement was due as defined within this Contract .
- 18.11 The Purchaser is not liable to pay any amount to which section 10G or 10H of the *Sale of Land Act 1962* (Vic) applies and this Special Condition shall override any provision of this Contract to the contrary.
- 18.12 The Vendor shall not be prevented from recovering amounts payable by the Purchaser due to the default of the Purchaser including such amounts as referred to below.
- 18.13 The Purchaser acknowledges and agrees that:
- 18.13.1 if the Purchaser is in breach of this Contract by not completing this Contract on the due date for settlement; and
 - 18.13.2 if as a result of the Purchaser's breach, completion of this Contract takes place on a date that is after 31 December in the year that completion of this Contract is due to take place ("Settlement Year");
- then
- 18.13.3 the Purchaser's breach may result in an increase in the amount of the Vendor's land tax assessment for the year following the Settlement Year as a result of the Property continuing to be included in the Vendor's total landholdings in Victoria;
 - 18.13.4 the additional tax which the Vendor may incur in accordance with this Special Condition is a reasonably foreseeable loss incurred by the Vendor as a result of the Purchaser's breach in respect of which the Vendor is entitled to compensation from the Purchaser; and
 - 18.13.5 to better secure the Vendor's entitlement to such compensation, the Land will be charged with payment of the said compensation and this charge will constitute an equitable interest in the Property which gives the Vendor the right to lodge a caveat on the title to the Land.
- 18.14 Special Condition 18.13 shall not merge upon settlement and shall enure for the benefit of the Vendor.

- 18.15 The Purchaser must not make any requisition or objection, claim any compensation or damages, refuse to pay the Price or delay settlement because of any matter referred to in this Special Condition.

19 ADDITIONAL LAND TAX PROVISIONS

- 19.1 Land tax including any assessments of land tax for any years will be paid by the Vendor when correctly assessed and save as provided in this Contract no other land tax adjustment shall be made by the Purchaser on settlement nor shall any money be withheld on account of land tax by the Purchaser.

20 REGISTRATION OF PLAN OF SUBDIVISION

- 20.1(a) This Contract is conditional upon the approval and registration by the Registrar of Titles of a Plan of Subdivision approved by the Vendor within 36 months from the date hereof.
- (b) If the Plan of Subdivision is not approved by the Registrar of Titles within 36 months of the date hereof or such extended period as may be in writing mutually agreed upon by the Vendor and the Purchaser then this Contract shall at the option of either the Vendor or the Purchaser (to be exercised by notice in writing to the other party provided always that the Plan of Subdivision is not registered) be at an end and void and of no effect and all moneys paid by the Purchaser except for any money payable by the Purchaser as an occupation rent shall forthwith be refunded by the Vendor to the Purchaser. Neither the Vendor nor the Purchaser shall be in that event entitled to any refund on or compensation for any costs fees or other expenses paid or incurred by them in relation to this sale or pursuant to the terms and conditions thereof.
- (c) The ability of the Vendor to terminate the contract pursuant to the above condition is subject to any provision of the *Sale of land Act 1962 (Vic)* which may provide a procedure or restriction on the Vendor doing so.
- (d) The Vendor notifies the Purchaser that:
- (a) the Vendor is required to give notice of a proposed rescission of the contract under the said sunset clause; and
 - (b) the Purchaser has the right to consent to the proposed rescission of the contract but is not obliged to consent; and
 - (c) the Vendor has the right to apply to the Supreme Court for an order permitting the Vendor to rescind the contract; and
 - (d) the Supreme Court may make an order permitting the rescission of the contract if satisfied that making the order is just and equitable in all the circumstances.
- 20.2 The Vendor shall proceed as expeditiously as practicable and use his best endeavours to cause the plan to be approved and registered by the Registrar of Titles.
- 20.3 Both the Vendor and the Purchaser agree:
- (a) To do all things and to sign and produce all documents and to do all acts matters and things considered reasonably necessary or desirable to satisfy all requisitions and requirements of the municipality and the Registrar of Titles in order to have such plan certified approved and registered without undue delay.
 - (b) The Vendor reserves the right to make such alteration or amendment to the said plan so as to secure its approval and registration by the Registrar of Titles (including the creation and/or reservation of any drainage sewerage or other easement which may be required by the municipality and/or the Registrar of Titles).
 - (c) Upon approval of the said plan by the Registrar of Titles the Purchaser shall accept and admit that the land (as shown on the approved plan) comprises and is identical with the land hereby sold and the Vendor shall be entitled absolutely to rely on General Condition 7 of this Contract.
 - (d) The Purchaser shall make no objection or requisition or claim and compensation in respect of:
 - (i) any excess or deficiency whether in area, boundary measurement, occupation or otherwise between the Lot or Lots as inspected by the Purchaser and shown on the

- Plan annexed hereto and the Lot or Lots as shown on the Plan of Subdivision as registered.
- (ii) any alteration to the number, size or location of Lots on the Plan (other than the Lot or Lots hereby sold) or to the common property;
- (e) If any requirement imposed in relation to certification or registration of the plan by the Council is in the opinion of the Vendor too onerous for the Vendor to perform or if certification or registration of the plan is refused other than as a result of the act or omission of the Vendor the Vendor may avoid the contract.
- 20.4 All costs and expenses of and incidental to the preparation of the plan and its submission to the municipality and to the Registrar of Titles shall be borne by the Vendor provided however if the Contract does not proceed on account of the Purchasers failure to do so pursuant to the terms of this contract or failure on the Purchasers behalf to settle on the due date, the Vendor shall be entitled to deduct costs and expenses referred to herein without further notice to the Purchaser from the deposit monies held.
- 20.5 The Vendor shall notify the Purchasers forthwith upon becoming aware that the plan has been approved by the Registrar of Titles.
- 20.6 Pursuant to Section 9AB of the *Sale of Land Act 1962* (Vic) the Vendor hereby notifies the Purchaser:
- (a) the works affecting the natural surface level of the land in the allotments hereby sold carried out on the said land after the certification of the said Plan of Subdivision and before the date hereof and as at the date hereof the works proposed to be carried out on the said land are as disclosed in the attached engineering plans.
 - (b) the works affecting the natural surface level of the land in any land abutting the allotments in the same subdivision carried out after the certification of the Plan of Subdivision and before the date hereof and as at the date hereof proposed to be carried out after the date hereof are as disclosed in the attached engineering plans.
- 20.7(a) The Purchaser shall not take any action so as to prevent or delay the registration of the Plan of Subdivision and in particular shall not lodge nor allow any person claiming through the Purchaser or acting on the Purchaser's behalf to lodge at the Land Registry a Caveat or Priority Notice in respect of the property.
- (b) The Purchaser appoints the Vendor's Solicitor as his attorney to do all acts and things in relation to the property including without limitation the power to execute and lodge a Withdrawal of Caveat or Priority Notice form to remove the Caveat or Priority Notice lodged by or on behalf of the Purchaser in breach of this special condition.
- 20.8 The deposit and all other moneys payable by the Purchaser are to be paid to the Vendor's Lawyers or Agent to be held on trust in accordance with Section 9AG of the *Sale of Land Act* until the said Plan of Subdivision has been registered.

21 FENCING

21.1 Purchaser's contribution

The Purchaser agrees that if from the Day of Sale to the settlement date the Vendor shall be obligated to contribute towards the cost of constructing any fence on the boundaries of the Property, the Purchaser must on or before the settlement date reimburse the Vendor for any such costs.

21.2 Vendor's contribution

While the Vendor is the owner of any land adjoining the property, the parties agree that the Vendor's contribution towards the cost of constructing any dividing fence shall be \$1.00.

21.3 Further sale by Purchaser

If the Purchaser enters into any contract for sale of the land, the Purchaser must include in the contract of sale the following special condition:

‘In this condition, ‘Landowner’ means S & N Super Fund Pty Ltd.

While the Landowner owns any land adjoining the property, the Purchaser agrees that the Landowner’s contribution towards the cost of constructing any dividing fence shall be \$1.00.

and the Purchaser agrees to indemnify the Vendor against all costs, losses, charges and expenses incurred by the Vendor as a result of any claim for fencing contribution brought against the Vendor by the second Purchaser.

21.4 Non merger

This Special Condition shall not merge upon settlement and shall enure for the benefit of the Vendor.

22 PURCHASER AS TRUSTEE

If the Purchaser is buying the Property as trustee under a trust ("**Purchaser's Trust**") then the Purchaser:

- 22.1 must not do anything to prejudice any right of indemnity the Purchaser may have under the Purchaser's Trust;
- 22.2 warrants that the Purchaser has power under the Purchaser's Trust to enter into this Contract;
- 22.3 is personally liable under the Contract;
- 22.4 warrants that the Purchaser has a right of indemnity under the Purchaser's Trust; and
- 22.5 must not allow the variation of the Purchaser's Trust or the advance or distribution of capital of the Purchaser's Trust or resettlement of any property belonging to the Purchaser's Trust.

23 DEVELOPMENT WORKS

23.1 Purchaser's acknowledgement

The Purchaser acknowledges that the Vendor will proceed with the subdivision and undertake landscaping works, road works, fencing and other works in accordance with its proposed development plans and in accordance with directions it receives from all the relevant authorities. The Vendor reserves the right to alter and/or remove any of the landscaping works during the course and/or at the completion of the project and may alter the layout of the roads, fencing and other works in accordance with any amended development plan or in accordance with any direction received from any relevant authority.

23.2 No objection

The Purchaser accepts and agrees to the Vendor carrying out any such alterations and/or amendments to the works and/or development referred to above either with respect to the land and/or surrounding land as may be required by the Vendor, Council and/or any other public authority. The Purchaser must not make any requisition, objection or claim or to take any action against the Vendor in relation to the quality or condition of the property and its soil or any change, alteration, modification occurring between the Purchaser’s first inspection of the Property and the settlement date.

24 SECTION 173 AGREEMENTS

The Purchaser acknowledges and agrees that:

- 24.1 the Council may require the Vendor to enter into one or more Section 173 Agreement that affect the Property and in relation to each such Section 173 Agreement, the Purchaser:
 - 24.1.1 irrevocably authorises the Vendor to negotiate the terms of that Section 173 Agreement; and
 - 24.1.2 must not make any Claim in relation to any act, matter or thing contained in or required by such a Section 173 Agreement or require the recording of the Section 173 Agreement to be cancelled from the folio of the Register for the Property; and
 - 24.1.3 if any Section 173 Agreement has not been recorded on the folio of the Register which relates to the Property or to the parent title to the Property, must promptly do all things necessary to enable such Section 173 Agreement to be so recorded when requested in writing to do so by the Vendor or the Vendor's Lawyers, including executing any consents, orders or further agreement;
- 24.2 any Section 173 Agreement which has been entered into in accordance with this Special Condition will not constitute a defect in the title to the Property.
- 24.3 Without prejudice to the generality of the foregoing, the Vendor may enter into a Section 173 Agreement with the Council in a form substantially similar to the draft Section 173 Agreement a copy of which is attached to the Vendor's Statement, and the Purchaser purchases the Property with full knowledge of the contents of the agreement and shall not make any Claim in respect of the agreement.

25 RESTRICTIONS, DESIGN AND SITING GUIDELINES

25.1 Compliance

The Purchaser must comply with the Restrictions, and the Design and Siting Guidelines. The Purchaser acknowledges that:

- 25.1.1 under the Design and Siting Guidelines, the Purchaser must submit the Purchaser's building plans to the Vendor for approval and endorsement before the Purchaser commences construction of any building works on the Land;
- 25.1.2 the Vendor's approval to the Purchaser's building plans does not constitute a warranty or representation that the requirements of the Design and Siting Guidelines, the Restrictions, or any requirement under any Law have been satisfied.

25.2 Discrepancies

If there are any discrepancies between the Restrictions, these Special Conditions and the Design and Siting Guidelines then they will be ranked in priority as follows:

- 25.2.1 first, the Restrictions;
- 25.2.2 second, these Special Conditions; and
- 25.2.3 third, the Design and Siting Guidelines.

25.3 **Sale by Purchaser**

The Purchaser agrees not to enter into a contract of sale to sell the Land unless:

- 25.3.1 a house has been erected in accordance with the provisions of Special Conditions 25.1 and 25.2; or
- 25.3.2 the contract of sale contains a special condition in the same form as Special Conditions 25.1, 25.2 and 25.3 and the Design and Siting Guidelines are attached to the Vendor's Statement.

25.4 **Vendor's right to rectify**

If the Purchaser is in breach of the Purchaser's obligations under this Special Condition, or fails to comply with the Design and Siting Guidelines or the Restrictions, then the Vendor may:

- 25.4.1 enter the Property;
- 25.4.2 complete all works and supply whatever materials as are necessary to complete compliance with the Design and Siting Guidelines or the Restrictions; and
- 25.4.3 recover the cost of the works and materials from the Purchaser or later owner of the Property plus interest at the rate of 15% per annum.

25.5 **Charge on Land**

The Land will be charged with payment of monies due to the Vendor under this Special Condition and this charge will constitute an equitable interest in the Property which gives the Vendor the right to lodge a caveat on the title to the Land.

25.6 **Waiver or amendment by Vendor**

The Purchaser acknowledges that the Vendor may, at the Vendor's absolute discretion waive, or vary any part of the Design and Siting Guidelines for any property within the Development Land. The Purchaser must not make any Claim by reason of any such waiver or variation.

26 **BUILDING PERMIT**

When the Purchaser applies for a building permit, the Purchaser must advise the building surveyor or Council of the Restrictions and the provisions of the Design and Siting Guidelines. The Purchaser must ensure that the Restrictions and Design and Siting Guidelines are complied with at all times.

27 **BUSHFIRE PRONE AREAS**

27.1 The Purchaser acknowledges, confirms and agrees that:

- 27.1.1 the Vendor has attached to the Vendor's Statement a Planning Property Report which includes a record of Designated Bushfire Prone Areas ("the Report");
- 27.1.2 regardless of the content of the Report:
 - (a) the Minister for Planning ("the Minister") may, from time to time, make a formal determination to designate Bushfire Prone Areas under section 192A of the *Building Act 1993* (Vic);
 - (b) may, after the date of the Report, make a determination which changes the status of the Property so that the Property.

- 27.2 The Purchaser must not make any Claim in respect of any matter contained in this Special Condition.

28 DISPLAY VILLAGE

28.1 Purchaser's acknowledgement

The Purchaser acknowledges that some or all of the lots on the Plan may be used as a builder's display village, car park, a sales office/house, and/or for signage by the Vendor and/or other parties and it is intended that these lots will be used as residential lots in the future. The Purchaser agrees to make no objection to any authority or person or in any way attempt to hinder or obstruct or delay progress of such development or use.

28.2 Further sale by Purchaser

The Purchaser agrees to ensure that a special condition in the same form as this Special Condition appears in any future contract for the sale of the Land.

29 MULTI-DWELLING SITES AND LOCAL CENTRES

29.1 Purchaser's acknowledgement

The Purchaser acknowledges that some areas within the Development Land may be developed as multi-dwelling sites and/or or local centres.

29.2 No objection by Purchaser

The Purchaser agrees:

29.2.1 not to make any objection to any authority or person or in any way attempt to hinder or obstruct or delay progress of the developments referred to in Special Condition 29.1 above; and

29.2.2 to ensure that a special condition in the same form or to the same effect as this Special Condition appears in any future contract for the sale of the Land.

30 SIGNAGE

30.1 No signage permitted

Subject to Special Condition 30.2, and except with the Vendor's written consent, the Purchaser must not erect or permit to be erected on the Land or any part of the Land or any building erected on the Land any advertisement billboards, signs or similar structures or allow the Land or any building erected on the Land to be used for the display of any such billboards, signs or structure.

30.2 Exception

Special Condition 30.1 does not apply to the erection of signage advertising the Land for sale after the expiration of 5 years from the registration of the Plan.

31 ENTRY FEATURE

31.1 Construction of Entry Feature

The Purchaser agrees that:

- 31.1.1 the Vendor may, at its own expense and in its absolute discretion, construct an entry feature, wall, feature fence or other structure ("**Entry Feature**") on any part of the Development Land;
- 31.1.2 the Entry Feature may be removed when development of the Development Land has been completed; and
- 31.1.3 the Purchaser must not make an objection to any authority or person or in any way attempt to hinder, delay or prevent the construction or removal of any Entry Feature constructed on the Development Land by the Vendor.

31.2 **Resale by Purchaser**

The Purchaser agrees to include a special condition in the same form as this Special Condition in any future contract for the sale of the Land.

31.3 **No Claim by Purchaser**

The Purchaser must not make any Claim as a result of or in respect of the installation or removal, or the failure to install or remove, the Entry Feature.

32 **RECYCLED WATER**

32.1 **Infrastructure**

The Purchaser acknowledges that the Vendor shall install the infrastructure required by South East Water Limited on the Land to ensure that the Land is able to be connected to the Class A recycled water in the event that Class A recycled water is made available to the Land by South East Water Limited in the future.

32.2 **Connection**

The Purchaser acknowledges that South East Water Limited have advised the Vendor that they may make Class A recycled water available to the Land, and other land within the Development Land on certain conditions, and that if they do so, the Purchaser shall be required to connect such recycled water to the Land. The Purchaser further acknowledges that fees shall be payable to South East Water Limited by the Purchaser for such connection, and that the uses to which the recycled water may be put may be limited.

32.3 **Usage**

The Purchaser also acknowledges that the Purchaser may be required to use the Class A recycled water for certain purposes, such as flushing of toilets, and may be required to install an external recycled water tap at the front and back of a residence built on the Land at the Purchaser's cost.

32.4 **No Claim**

The Purchaser further acknowledges that the Vendor makes no warranties as to the availability or quality of the Class A recycled water, or any representations regarding the terms under which South East Water Limited may make reticulated water supply and reticulated sewerage facilities recycled water available. The Purchaser shall not make any Claim as a result of or in respect of the availability or otherwise of Class A recycled water, or the terms and conditions imposed by South East Water Limited.

33 **VENDOR'S RIGHT TO MAINTAIN**

The Vendor has the right to enter onto the Land at any time after Settlement to attend to maintenance of the yard of the Land in order to maintain a neat and tidy presentation of the Development Land. If

the Vendor exercises its rights under this Special Condition, the Purchaser must, upon demand, reimburse the Vendor for all costs incurred by the Vendor in exercising the Vendor's rights.

34 UTILITY SERVICES

34.1 Purchaser's acknowledgement

The Purchaser acknowledges that the Vendor has no control over the siting or location of service pits, service markers, man-holes, telephone, street lights, fire hydrants, bus routes or electricity poles.

34.2 No claim by Purchaser

The Purchaser must not make any Claim in respect of any matter set out in this Special Condition.

34.3 Connection charges

If there is any cost or fee to connect services to the Property, that cost or fee must be paid by the Purchaser.

35 ELECTRICAL SUBSTATIONS

The Purchaser acknowledges the location of reserves for the purpose of electrical substations as shown on the Plan, and that the position of such substations may have changed, and may change in the future. The Purchaser specifically acknowledges the position of the electrical substations shown on the Plan (if any). The Purchaser shall not make any Claim a result of any such reserve shown on the Plan, or the position of any such reserve within the Development Land despite the fact that such reserves may be in different positions than shown on marketing material and earlier versions of the Plan.

36 LANDSCAPING

36.1 Works

The Purchaser must complete the following works on the Land within 6 months of the issue of an occupancy permit for the dwelling constructed on the Land:

36.1.1 the landscaping of that part of the Land between the front building setback and the front boundary (the front garden) with lawn, garden beds, shrubs, trees and paving or any combination of them; and

36.1.2 the construction of the driveway from the vehicular crossing to the garage or the car accommodation area in accordance with the Design and Siting Guidelines.

36.2 No Claim

The Purchaser shall not make any Claim as a result of or in respect of any matters disclosed in this Special Condition.

37 FIBRE OPTIC INSTALLATION

The Purchaser acknowledges that the Vendor shall be installing a fibre optic network within all of the Development Land, and that specific wiring, conduits and other works may be required to take advantage of and use the network on the Land. The Purchaser further acknowledges that such conduits, works and wiring may be required to be constructed early in the construction of any home on the Land and agrees that they shall advise their builder of the fibre optic network as soon as possible so that it may be taken into account in the design of the home. The Purchaser shall not make any Claim as a result of or in connection with of the fibre optic network.

38 ACKNOWLEDGEMENT REGARDING STREET NAMES**38.1 Street names subject to change**

The Purchaser acknowledges and agrees that the proposed street names shown on the Plan may be changed by the Vendor, and are subject to Council approval.

38.2 No Claim by Purchaser

The Purchaser shall not make any Claim in the event that the proposed street names shown on the Plan change prior to the Settlement Date.

39 NATURE STRIP

The Purchaser shall be required to keep the nature strips bounding the land tidy at all times. The Purchaser is also responsible for any damage to the street tree in the nature strip fronting the Land that may be caused during the period of the construction of the house.

40 GENERAL**40.1 Severance**

A clause or part of a clause of this document that is illegal or unenforceable may be severed from this document and the remaining clauses or parts of the clause of this document continue in force.

40.2 Variation

This document may only be amended by written agreement between the parties.

40.3 Waiver

The Purchaser's liability and obligation to pay the purchase money interest and other moneys payable under the Contract and otherwise to pay perform and observe the terms and conditions of this Contract shall not nor shall the right of the Vendor to enforce each and every such liability and obligation be or be deemed to be waived diminished varied prejudiced or otherwise affected by any time indulgence or forbearance allowed or granted or extended by the Vendor to the Purchaser or by any acceptance by the Vendor of moneys tendered by the Purchaser otherwise than in accordance with this Contract and time shall be and remain of the essence of this Contract notwithstanding any act or omission on the part of the Vendor.

40.4 Further acts

Each party must do all things reasonably necessary to give effect to this document and the transactions contemplated by it.

40.5 No merger

Any provisions of this Contract that bind the Purchaser and are capable of continued operation after Settlement do not merge on or by virtue of Settlement.

40.6 Joint and several liability

If a party to this Contract is made up of more than one person, an obligation of those persons is joint and several and a right of those persons is held jointly and severally.

40.7 **Counterparts**

This document may be signed in any number of counterparts. All counterparts together make one instrument.

41 **ADDITIONAL FENCING CONDITIONS**

41.1 **Fencing to some Lots**

The Purchaser acknowledges that the Vendor may at its own cost elect to construct fencing in some or all parts of the Development.

41.2 **Fencing design**

Fencing installed by the Vendor shall be generally in accordance with the design as selected by the Vendor from time to time at its absolute discretion.

41.3 **Maintenance and repair**

The Purchaser must at its own cost maintain as new and if required immediately repair fencing installed by the Vendor failing which the Vendor may elect at its absolute discretion to attend to same and obtain reimbursement from the Purchaser.

41.4 **Further sale by Purchaser**

If the Purchaser enters into any contract for sale of the land, the Purchaser must include in the contract of sale the following special condition:

The Purchaser must at its own cost maintain as new and if required immediately repair fencing installed by the Vendor failing which S & N Super Fund Pty Ltd may elect at its absolute discretion to attend to same and obtain reimbursement from the Purchaser.

and the Purchaser agrees to indemnify the Vendor against all costs, losses, charges and expenses incurred by the Vendor as a result of any maintenance or repairs for fencing installed by the Vendor.

41.5 **Non merger**

This Special Condition shall not merge upon settlement and shall enure for the benefit of the Vendor.

42 **LOAN**

42.1 **Contract subject to approval**

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.

42.2 **Loan not approved**

The Purchaser may end the Contract if the loan is not approved by the Approval Date, but only if the Purchaser:

42.2.1 Immediately applied for the loan; and

42.2.2 did everything reasonably required to obtain approval of the loan; and

42.2.3 serves written notice ending the Contract on the Vendor on or before the Approval Date or any later date allowed by the Vendor (“**Notice**”); and

42.2.4 attaches to the Notice written evidence from the Lender which:

(a) is dated and on the Lender’s letterhead;

(b) identifies the Purchaser and the Property; and

(c) sets out the Loan Amount applied for and states that the loan has not been approved; and

42.2.5 is not in default under any other condition of this Contract when the Notice is given.

42.3 **Refund of Deposit**

All monies paid by the Purchaser must be immediately refunded to the Purchaser if the Contract is ended in accordance with this Special Condition.

GUARANTEE AND INDEMNITY

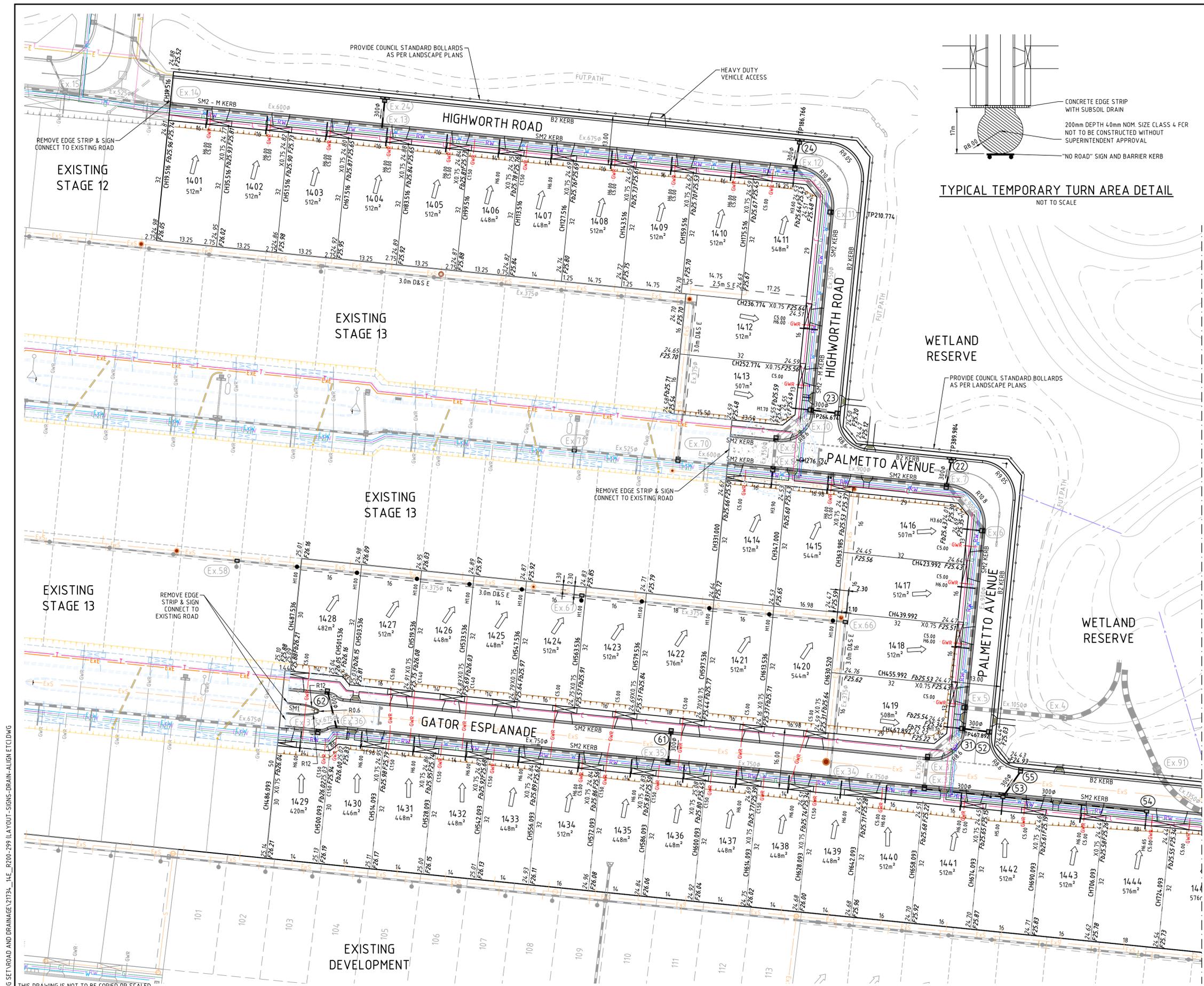
I/We
of

(hereinafter called "the Guarantors") in consideration of the within named vendor selling to the within named purchaser at our request the land described in the within contract for the price and upon the terms and conditions therein set forth DO HEREBY for ourselves our respective executors and administrators JOINTLY AND SEVERALLY COVENANT with the said vendor that if at any time default shall be made in the payment of the deposit or residue of purchase money or interest or other moneys payable by the purchaser to the vendor under the within contract or in the performance or observance of any term or condition of the within contract to be performed or observed by the purchaser we will forthwith pay to the vendor the whole of such deposit residue of purchase money interest or other moneys which shall then be due and payable to the vendor and will keep the vendor indemnified against all loss 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 as aforesaid on the part of the purchaser. This guarantee shall be a continuing guarantee and shall not be released by any neglect or forbearance on the part of the vendor in enforcing payment of any of the moneys payable under the within contract or the performance or observance of any of the agreements obligations or conditions under the within contract or by time given to the purchaser for any such payment performance or observance or by any other thing which under the law relating to sureties would but for this provision have the effect of releasing us our executors and administrators.

IN WITNESS WHEREOF we have set our hands hereto this day of
Two thousand and

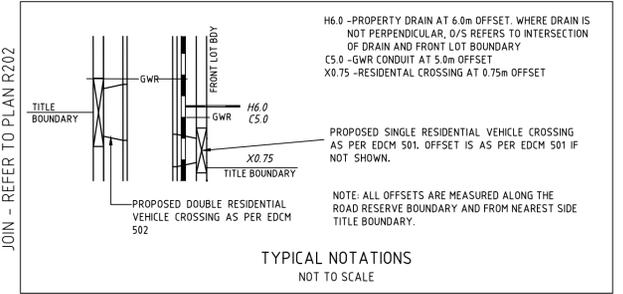
SIGNED SEALED AND DELIVERED
by the said
in the presence of:

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



LEGEND

	PROPOSED WATER MAIN		Ex. WATER MAIN
	NON-DRINKING WATER MAIN		Ex. NON-DRINKING WATER MAIN
	PROPOSED SEWER		Ex. SEWER
	PROPOSED GAS MAINS		Ex. GAS MAINS & VALVE
	PROP. ELECTRICAL CABLES		Ex. ELECTRICAL CABLE
	PROP. ELECTRICAL O/H		Ex. ELECTRICAL O/H
	PROPOSED COMMS CABLES		Ex. COMMS CABLES
	PROPOSED DRAIN & PIT		Ex. DRAIN & PIT
	PROPOSED HOUSE DRAIN		Ex. HOUSE DRAIN
	PROPOSED TOE OF BATTER		Ex. TOE OF BATTER
	PROPOSED TOP OF BATTER		Ex. TOP OF BATTER
	PROPOSED GAS/WATER CONDUIT		PSM
	PROPOSED GAS/WATER/RECYCLED CONDUIT		TBM
	PROPOSED ELEC/TELSTRA CONDUIT		STREET SIGN
	PROPOSED ELECTRICAL CONDUIT		DRAINAGE PIT No.
	PROPOSED TELSTRA CONDUIT		TANGENT POINT
	EXISTING LEVELS - (NO PREFIX)		CHAINAGE
	FINISHED SURFACE AFTER CUTTING OR FILLING		
	TOP OF PROPOSED BATTER		
	TOP OF RETAINING WALL LEVEL		
	BOTTOM OF RETAINING WALL LEVEL		
	PROPOSED PAVEMENT OR FOOTPATH SURFACE		
	EXISTING OR PROPOSED INVERT LEVEL OF PIPE OR OPEN DRAIN		
	PROP. ELECTRICAL ASSETS		Ex. ELECTRICAL ASSETS
	PROP. POLE WITH STAY		Ex. POLE WITH STAY
	PROP. ELEC. PILLAR/CABINET		Ex. ELEC. PILLAR/CABINET
	PROPOSED COMMS PITS		Ex. COMMS CABLES O/H
	PROP. COMMS ELEVATED JUNCTION		Ex. COMMS PITS & PEDESTAL
	PROPOSED HOUSE DRAIN		Ex. HOUSE DRAIN
	RETAINING WALLS		Ex. RETAINING WALLS
	RETAINING WALL ROCKWORK		Ex. CONTOUR MINOR
	PROP. CONTOUR MINOR		Ex. WALL OR BUILDING
	PRO. WALL OR BUILDING		Ex. ROOF LINE
	PRO. ROOF LINE		Ex. FENCE
	PROPOSED FENCE		Ex. SAFETY BARRIER
	PROPOSED SAFETY BARRIER		Ex. GUARD FENCE
	PROPOSED GUARD FENCE		Ex. WIRE SAFETY FENCE
	PROPOSED WIRE SAFETY FENCE		Ex. NOISE WALL
	PROPOSED NOISE WALL		Ex. STREET/ROAD SIGNS
	PROPOSED STREET/ROAD SIGNS		Ex. LETTER BOX, BOLLARDS
	PROPOSED MARKER POST		Ex. MARKER POST
	PROPOSED TRAFFIC PITS		Ex. TRAFFIC PITS
	PROPOSED TRAFFIC CONTROLLER		Ex. TRAFFIC CONTROLLER
	PROPOSED TRAFFIC SIGNALS		Ex. TRAFFIC SIGNALS
	DIRECTIONAL WARNING		Ex. TACTILES
	Ex. TREES TO REMAIN		Ex. TREES TO BE REMOVED
	PROPOSED TREES		
	PROPOSED MINOR CONTOUR		
	PROPOSED MAJOR CONTOUR		
	Ex. WATER MAIN REDUNDANT		



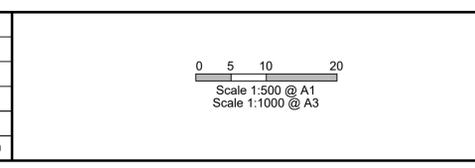
WARNING
BEWARE OF UNDERGROUND SERVICES
The locations of underground services are approximate only and their exact position should be proven on site prior to commencing works. No guarantee is given that all existing services are shown.

PRELIMINARY ISSUE ONLY
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VERSION	REMARKS	DATE	APP'D
A	PRELIMINARY ISSUE	10.12.25	KM



DRAWN BY	D.KONSTANDIS	DESIGNED BY	K.MOMENI
MELWAY	131,B10	CHECKED BY	D.NEAL / K.MOMENI
DATUM	AHD	AUTHORISED BY	D.NEAL

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LAND SURVEYING
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www.reedsconsulting.com.au
engineering@reedsconsulting.com.au

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p (03) 8640 3000

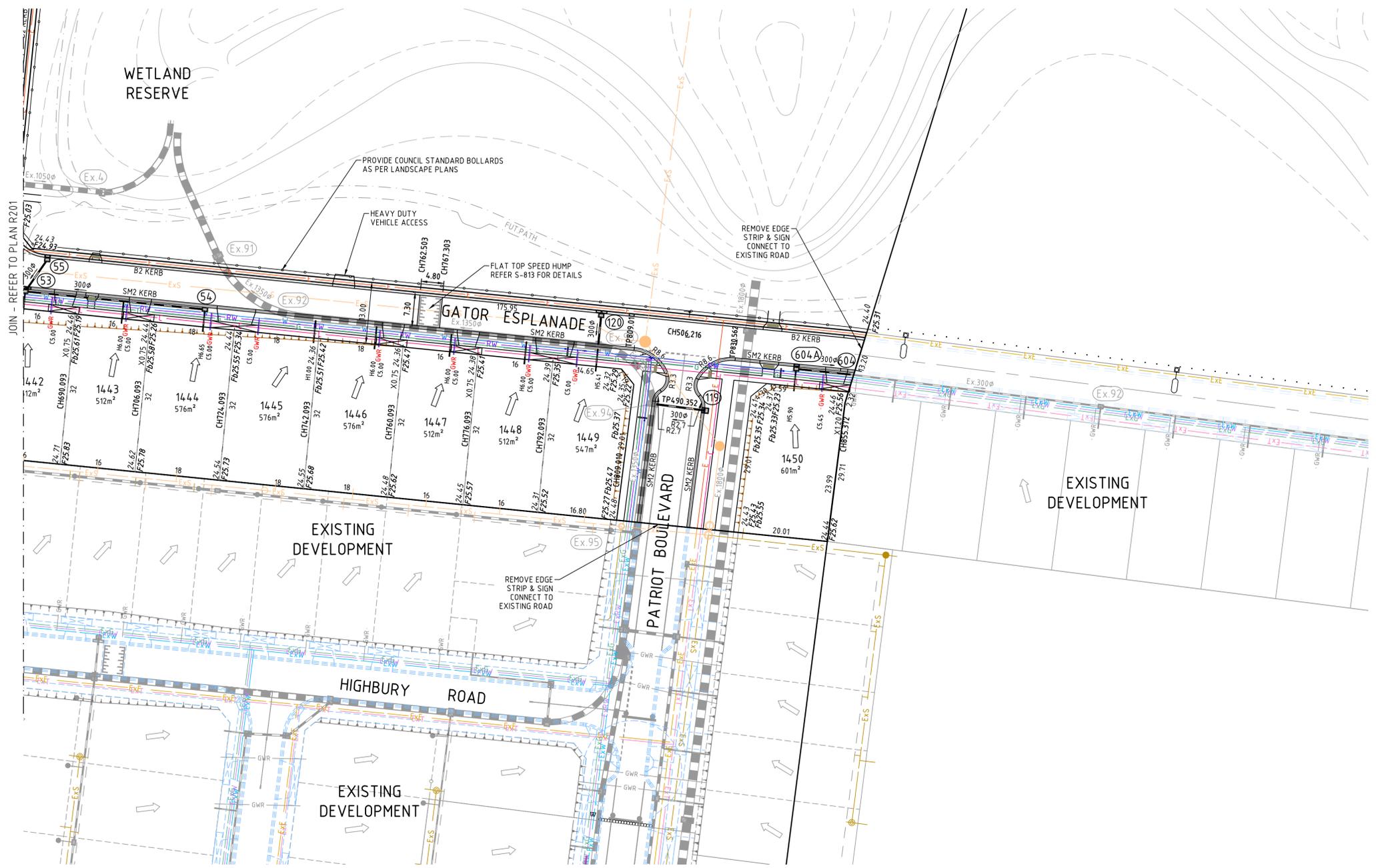
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CITY OF CASEY
WATERSIDE ESTATE
STAGE 14
LAYOUT PLAN -1

DRAWING No. 14R201
VERSION A

REFERENCE 21734E/14

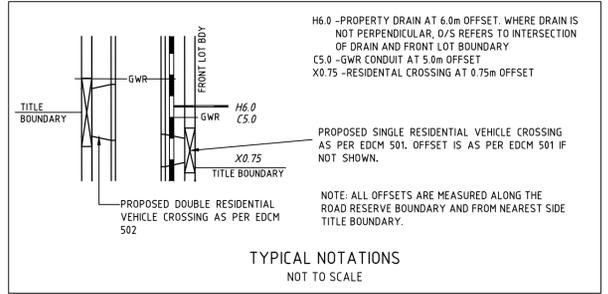
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LEGEND

PROPOSED WATER MAIN	Ex. WATER MAIN
NON-DRINKING WATER MAIN	Ex. NON-DRINKING WATER MAIN
PROPOSED SEWER	Ex. SEWER
PROPOSED GAS MAINS	Ex. GAS MAINS & VALVE
PROP. ELECTRICAL CABLES	Ex. ELECTRICAL CABLE
PROP. ELECTRICAL O/H	Ex. ELECTRICAL O/H
PROPOSED COMMS CABLES	Ex. COMMS CABLES
PROPOSED DRAIN & PIT	Ex. DRAIN & PIT
PROPOSED HOUSE DRAIN	Ex. HOUSE DRAIN
PROPOSED TOE OF BATTER	Ex. TOE OF BATTER
PROPOSED TOP OF BATTER	Ex. TOP OF BATTER
PROPOSED GAS/WATER CONDUIT	PSM
PROPOSED GAS/WATER/RECYCLED CONDUIT	TBM
PROPOSED ELEC/TELSTRA CONDUIT	STREET SIGN
PROPOSED ELECTRICAL CONDUIT	DRAINAGE PIT No.
PROPOSED TELSTRA CONDUIT	TANGENT POINT
EXISTING LEVELS - (NO PREFIX)	CHAINAGE
FINISHED SURFACE AFTER CUTTING OR FILLING	
TOP OF PROPOSED BATTER	
TOP OF RETAINING WALL LEVEL	
BOTTOM OF RETAINING WALL LEVEL	
PROPOSED PAVEMENT OR FOOTPATH SURFACE	
EXISTING OR PROPOSED INVERT LEVEL OF PIPE OR OPEN DRAIN	

LIGHT POLE	PROP. ELECTRICAL ASSETS	Ex. LIGHT POLE	Ex. ELECTRICAL ASSETS
PROP. POLE WITH STAY	PROP. ELEC. PILLAR/CABINET	Ex. POLE WITH STAY	Ex. ELEC. PILLAR/CABINET
PROPOSED COMMS PITS	PROP. COMMS ELEVATED JUNCTION	Ex. COMMS CABLES O/H	Ex. COMMS PITS & PEDESTAL
PROP. COMMS ELEVATED JUNCTION		Ex. COMMS ELEVATED JUNCTION	
HD HOUSE DRAIN	PROPOSED HOUSE DRAIN	Ex. HOUSE DRAIN	
RETAINING WALLS	RETAINING WALL ROCKWORK	PROP. CONTOUR MINOR	Ex. RETAINING WALLS
PROP. CONTOUR MINOR	PRO. WALL OR BUILDING	Ex. WALL OR BUILDING	Ex. CONTOUR MINOR
PRO. WALL OR BUILDING	PRO. ROOF LINE	Ex. ROOF LINE	Ex. FENCE
PROP. ROOF LINE	PROPOSED FENCE	Ex. FENCE	Ex. SAFETY BARRIER
PROPOSED FENCE	PROPOSED SAFETY BARRIER	Ex. SAFETY BARRIER	Ex. GUARD FENCE
PROPOSED SAFETY BARRIER	PROPOSED GUARD FENCE	Ex. GUARD FENCE	Ex. WIRE SAFETY FENCE
PROPOSED GUARD FENCE	PROPOSED WIRE SAFETY FENCE	Ex. WIRE SAFETY FENCE	Ex. NOISE WALL
PROPOSED WIRE SAFETY FENCE	PROPOSED NOISE WALL	Ex. NOISE WALL	Ex. STREET/ROAD SIGNS
PROPOSED NOISE WALL	PROPOSED STREET/ROAD SIGNS	Ex. STREET/ROAD SIGNS	Ex. LETTER BOX, BOLLARDS
PROPOSED STREET/ROAD SIGNS	PROPOSED MARKER POST	Ex. LETTER BOX, BOLLARDS	Ex. MARKER POST
PROPOSED MARKER POST	PROPOSED TRAFFIC PITS	Ex. MARKER POST	Ex. TRAFFIC PITS
PROPOSED TRAFFIC PITS	PROPOSED TRAFFIC CONTROLLER	Ex. TRAFFIC PITS	Ex. TRAFFIC CONTROLLER
PROPOSED TRAFFIC CONTROLLER	PROPOSED TRAFFIC SIGNALS	Ex. TRAFFIC CONTROLLER	Ex. TRAFFIC SIGNALS
PROPOSED TRAFFIC SIGNALS	LANTERNS	Ex. TRAFFIC SIGNALS	LANTERNS
LANTERNS	PED. BUTTON & SIGNAL	LANTERNS	PED. BUTTON & SIGNAL
PED. BUTTON & SIGNAL	DIRECTIONAL WARNING	PED. BUTTON & SIGNAL	Ex. TRAFFIC SIGNALS
DIRECTIONAL WARNING	TACTILES	Ex. TRAFFIC SIGNALS	Ex. TACTILES
TACTILES	Ex. TREES TO REMAIN	Ex. TACTILES	Ex. TREES TO BE REMOVED
Ex. TREES TO REMAIN	PROPOSED TREES	Ex. TREES TO BE REMOVED	
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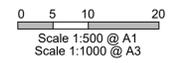
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VERSION	DATE	APP'D	REMARKS
A	10.12.25	KM	PRELIMINARY ISSUE



DRAWN BY	D.KONSTANDIS	DESIGNED BY	K.MOMENI
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CITY OF CASEY
WATERSIDE ESTATE
STAGE 14
LAYOUT PLAN -2

DRAWING No.	VERSION
14R202	A
REFERENCE	
21734E/14	

This document is prepared from a precedent intended solely for use by legal practitioners with the knowledge, skill and qualifications required to use the precedent to create a document suitable to meet the vendor's legal obligation to give certain statements and documents to a purchaser before the purchaser signs a contract to purchase the land. This document incorporates the requirements in section 32 of the *Sale of Land Act 1962* as at 30 October 2018.

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Section 32 Statement

Instructions for completing this document

Words in *italics* are generally for instruction or information only.

Where marked "+" below, the authority of a person signing under a power of attorney, as a director of a corporation or as an agent authorized in writing must be added in the vendor or purchaser's name or signature box. A corporation's ACN or ABN should also be included.

"Nil" may be written in any of the rectangular boxes if appropriate.

Additional information may be added to section 13 where there is insufficient space.

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

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

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

Land	LOT ___ ON PROPOSED PLAN OF SUBDIVISION 722310J	
	BERWICK WATERS – MONDOUS ISLAND STAGE 14	
	Being part of the land contained in Title Volume 12753 Folio 099	
+ Vendor's name	S & N Super Fund Pty Ltd ATF the Mondous Superannuation Fund ABN 20 864 277 027	Date 15 / 01 / 26
+ Vendor's signature		
+ Vendor's name	Kameel Mondous Naila Mondous	Date / /
+ Vendor's signature		
+ Purchaser's name		Date / /
+ Purchaser's signature		
+ Purchaser's name		Date / /
+ Purchaser's signature		

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1. FINANCIAL MATTERS

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

(a) Their total does not exceed:

\$5,000 per annum

OR

(b) Are contained in the attached certificate/s.

OR

(c) Their amounts are:

Authority	Amount	Interest (if any)
(1) <input type="text"/>	(1) \$ <input type="text"/>	(1) \$ <input type="text"/>
(2) <input type="text"/>	(2) \$ <input type="text"/>	(2) \$ <input type="text"/>
(3) <input type="text"/>	(3) \$ <input type="text"/>	(3) \$ <input type="text"/>
(4) <input type="text"/>	(4) \$ <input type="text"/>	(4) \$ <input type="text"/>

(d) There are NO amounts for which the purchaser may become liable as a consequence of the sale of which the vendor might reasonably be expected to have knowledge¹, which are not included in items 1.1(a), (b) or (c) above; other than any amounts described in this rectangular box.

A community infrastructure levy in an amount to be determined by the City of Casey Council from time to time for each lot on which a dwelling is to be constructed will be payable by the purchaser to the Council prior to the issue of a building permit for the property.

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 section 32 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 section 32 statement is in respect of a contract which provides that any mortgage (whether registered or unregistered), is NOT to be discharged before the purchaser becomes entitled to possession or receipts of rents and profits.

Not applicable.

¹ Other than any GST payable in accordance with the contract.

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

(a) The Australian Valuation Property Classification Code (within the meaning of the CIPT Act) most recently allocated to the land is set out in the attached Municipal rates notice or property clearance certificate or is as follows	AVPCC No. 102
(b) Is the land tax reform scheme land within the meaning of the CIPT Act?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
(c) If the land is tax reform scheme land within the meaning of the CIPT Act, the entry date within the meaning of the CIPT Act is set out in the attached Municipal rates notice or property clearance certificate or is as follows	Date: OR <input checked="" type="checkbox"/> Not applicable

2. INSURANCE

2.1 Damage and Destruction

This section 2.1 only applies if this section 32 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.

The Vendor has no insurance in respect of the property.

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): -

Are contained in the attached documents.

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

To the best of the Vendor's knowledge there is no existing failure to comply with the terms of any easements, covenants or other similar restrictions.

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:

Are contained in the attached certificates and/statements.

4.2 Agricultural Chemicals

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

None to the Vendor's knowledge.

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:

None to the Vendor's knowledge.

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:

None to the Vendor's knowledge.

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")

Words and expressions in this section 7 have the same meaning as in Part 9B of the *Planning and Environment Act 1987*.

7.1 Work-in-Kind Agreement

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

- (a) The land is NOT to be transferred under the agreement unless the square box is marked with an "X"
- (b) The land is NOT land on which works are to be carried out under the agreement (other than Crown land) unless the square box is marked with an "X"
- (c) The land is NOT land in respect of which a GAIC is imposed unless the square box is marked with an "X"

Not applicable.

7.2 GAIC Recording

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

Any of the following certificates or notices must be attached if there is a GAIC recording.

The accompanying boxes marked with an "X" indicate that such a certificate or notice that is attached:

- (a) Any certificate of release from liability to pay a GAIC
- (b) Any certificate of deferral of the liability to pay the whole or part of a GAIC
- (c) Any certificate of exemption from liability to pay a GAIC

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

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 Gas supply Water supply Sewerage Telephone services

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.

OR

(b) General Law Title

The last conveyance in the chain of title or other document which gives evidence of the vendor's title to the land.

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).

Not applicable.

10. SUBDIVISION

10.1 Unregistered Subdivision

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

Attached is a copy of the latest version of the plan.

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 section 32 statement for convenience.)

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

- (a) to be a building or part of a building used or capable of being used as an office for administrative, clerical, professional or similar based activities including any support facilities; and
- (b) which has a net lettable area of at least 1000m²; (but does not include a building under a strata title system or if an occupancy permit was issued less than 2 years before the relevant date):

Are as follows:

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 section 32 statement but the checklist may be attached as a matter of convenience.)

Due Diligence Checklist 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 a Law Institute of Victoria published "Additional Section 32 Statement" if section 1.3 (Terms Contract) or section 1.4 (Sale Subject to Mortgage) applies)

ATTACHED ARE THE FOLLOWING DOCUMENTS:-

1. Diligence Checklist.
2. Certificate of Title Volume 12573 Folio 099.
3. Plan of Subdivision PS722309S.
4. Section 173 Agreement AM343499U.
5. Section 173 Agreement AM559801U.
6. Section 173 Agreement AR636041U.
7. Section 173 Agreement AU633422W.
8. Memorandum of Common Provisions AA9814 – Stage 13.
9. Proposed Plan of Subdivision PS722310J.
10. Proposed Memorandum of Common Provisions – Stage 14.
11. Planning Permit PInA01047/15.A.
12. Endorsed Estate Development Plan No. PInA01047/15.A.
13. Planning Certificate.
14. Planning Property Report and Property Report.
15. City of Casey Land Information Certificate.
16. South East Water Information Statement.
17. Land Tax Property Clearance Certificate.
18. Roads Property Certificate.
19. EPA Certificate.
20. Public Infrastructure Plan.
21. Landscape Master Plan.
22. Design and Siting Guidelines – Mondous Island.

ADDITIONAL INFORMATION

1. Purchaser is to note that there may be sewers, drains, water pipes, underground and/or overhead electricity cables, underground and/or overhead telephone cables and underground gas pipes (if applicable) laid outside registered easements. The Purchaser indemnifies the Vendor in all respects in this regard.
2. The Purchaser may become liable for an adjustable proportion of the Rates, Taxes, Charges, other similar outgoings, and Statutory Charges at settlement as a consequence of the sale.
3. The Purchaser acknowledges that the property hereby sold may be within an area designed as subject to termites' infestation and the Purchaser should contact the relevant authorities to satisfy themselves as to the extent that the same may affect the property.

Due Diligence Checklist

What you need to know before buying a residential property

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

Urban living

Moving to the inner city?

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

Is the property subject to an owners corporation?

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

Growth areas

Are you moving to a growth area?

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

Flood and fire risk

Does this property experience flooding or bushfire?

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

Rural properties

Moving to the country?

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

- Is the surrounding land use compatible with your lifestyle expectations? Farming can create noise or odour that may be at odds with your expectations of a rural lifestyle.
- Are you considering removing native vegetation? There are regulations which affect your ability to remove native vegetation on private property.
- Do you understand your obligations to manage weeds and pest animals?
- Can you build new dwellings?
- Does the property adjoin crown land, have a water frontage, contain a disused government road, or are there any crown licences associated with the land?

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

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

Soil and groundwater contamination

Has previous land use affected the soil or groundwater?

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

Land boundaries

Do you know the exact boundary of the property?

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

Planning controls

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

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

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

Are there any proposed or granted planning permits?

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

Safety

Is the building safe to live in?

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

Building permits

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

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

Are any recent building or renovation works covered by insurance?

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

Utilities and essential services

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

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

Buyers' rights

Do you know your rights when buying a property?

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

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

Page 1 of 2

VOLUME 12573 FOLIO 099

Security no : 124130794719F
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LAND DESCRIPTION

Lot B on Plan of Subdivision 722309S.
PARENT TITLE Volume 12530 Folio 061
Created by instrument PS722309S 18/09/2024

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
S & N SUPER FUND PTY LTD of UNIT 1B 4 ROCKLEA DRIVE PORT MELBOURNE VIC 3207
PS722309S 18/09/2024

ENCUMBRANCES, CAVEATS AND NOTICES

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
AM343499U 20/11/2015

AGREEMENT Section 173 Planning and Environment Act 1987
AM559801U 15/02/2016

AGREEMENT Section 173 Planning and Environment Act 1987
AR636041U 08/11/2018

AGREEMENT Section 173 Planning and Environment Act 1987
AU633422W 29/07/2021

DIAGRAM LOCATION

SEE PS722309S 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: 38S GATOR ESPLANADE CLYDE NORTH VIC 3978

ADMINISTRATIVE NOTICES

NIL

eCT Control 21059U BELLELI KING & ASSOCIATES
Effective from 18/09/2024



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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

Page 2 of 2

DOCUMENT END



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Document Type	Plan
Document Identification	PS722309S
Number of Pages (excluding this cover sheet)	6
Document Assembled	16/12/2025 12:23

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SUBDIVISION ACT 1988 PLAN OF SUBDIVISION	EDITION 1	PLAN NUMBER PS722309S
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LOCATION OF LAND PARISH: CRANBOURNE TOWNSHIP: ----- SECTION: ----- CROWN ALLOTMENT: 44 (PART) CROWN PORTION: ----- TITLE REFERENCES: VOL. 12530 FOL. 061 LAST PLAN REFERENCE: PS836532D LOT A POSTAL ADDRESS: 800S BERWICK-CRANBOURNE ROAD, <small>(at time of subdivision)</small> CLYDE NORTH, VIC 3978 MGA CO-ORDINATES: E 354 360 ZONE: 55 <small>(of approximate centre of land in plan)</small> N 5 783 472 GDA 2020	Council Name: Casey City Council Council Reference Number: SubA00268/20 Planning Permit Reference: PlnA01047/15 SPEAR Reference Number: S162570J Certification This plan is certified under section 11 (7) of the Subdivision Act 1988 Date of original certification under section 6 of the Subdivision Act 1988: 05/05/2022 Public Open Space A requirement for public open space under section 18 or 18A of the Subdivision Act 1988 has been made and the requirement has not been satisfied at Certification Digitally signed by: Michele Scarlett for Casey City Council on 01/03/2024 Statement of Compliance issued: 13/09/2024 Public Open Space A requirement for public open space under section 18 or 18A of the Subdivision Act 1988 has been made and the requirement has been satisfied for: Lots 1301 to Lot 1348 only at Statement of Compliance
---	---

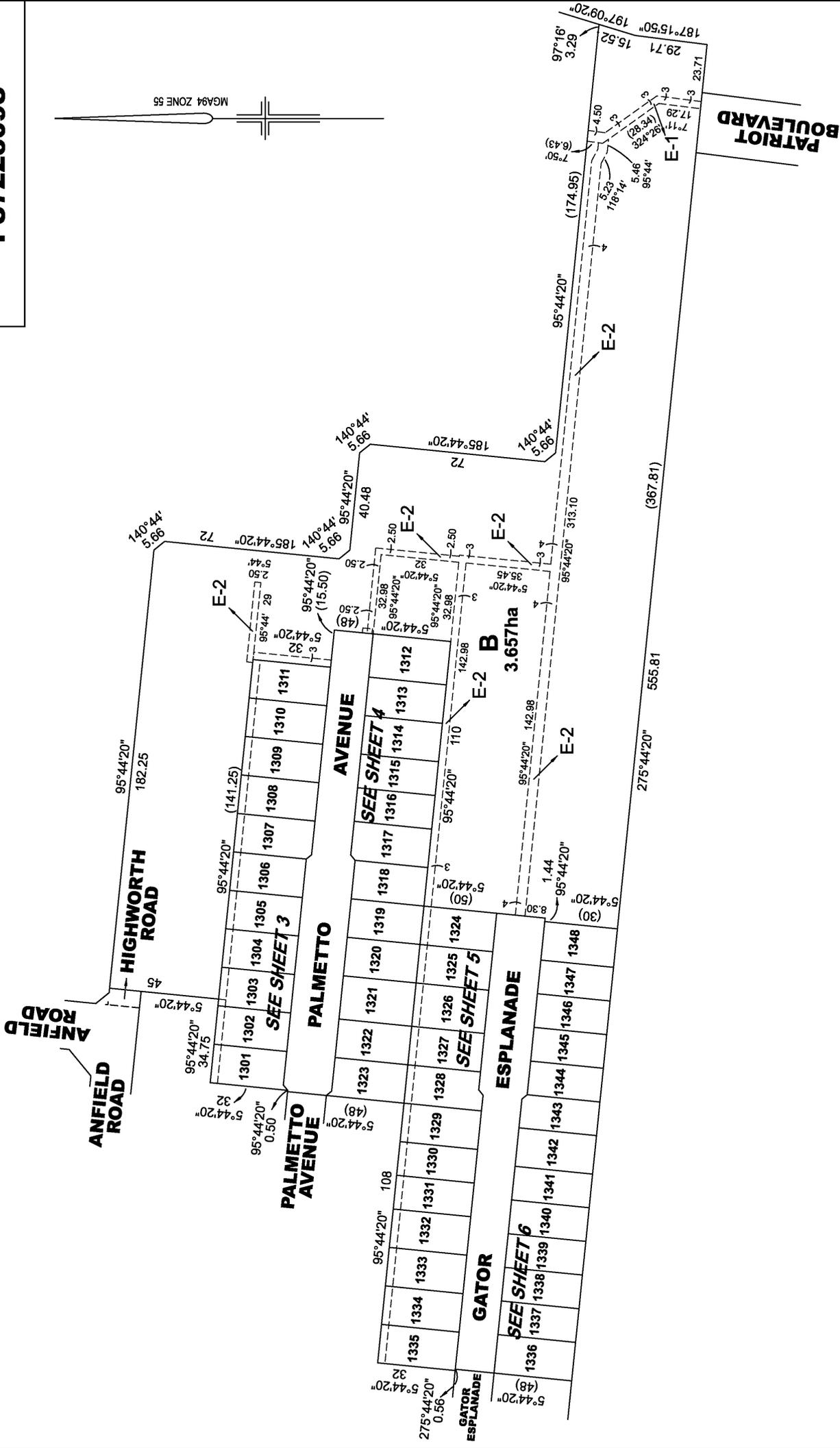
VESTING OF ROADS OR RESERVES	
IDENTIFIER	COUNCIL / BODY / PERSON
ROADS, R-1	CITY OF CASEY

MONDOUS ISLAND ESTATE - RELEASE 13	
NUMBER OF LOTS IN THIS PLAN : 48	
TOTAL AREA OF LAND IN THIS PLAN : 6.655ha (INCLUDES BALANCE 3.660ha)	
DEPTH LIMITATION: DOES NOT APPLY	

NOTATIONS	
LOTS 1-1300 (BOTH INCLUSIVE) HAVE BEEN OMITTED FROM THIS PLAN. ANY EASEMENTS SHOWN ON PREVIOUS PLANS AS IT AFFECTS ROADS R-1 ON THIS PLAN ARE REMOVED VIDE SCHEDULE 5, CLAUSE 14 OF THE ROAD MANAGEMENT ACT 2004.	OTHER PURPOSE OF THIS PLAN: CREATION OF RESTRICTION THE REGISTERED PROPRIETORS OF THE BURDENED LAND COVENANT WITH THE REGISTERED PROPRIETORS OF THE BENEFITED LAND AS SET OUT IN THIS RESTRICTION WITH THE INTENT THAT THE BURDEN OF THE RESTRICTION RUNS WITH AND BINDS THE BURDENED LAND AND THE BENEFIT OF THE RESTRICTION IS ANNEXED TO AND RUNS WITH THE BENEFITED LAND BURDENED LAND: LOTS 1301 - 1348 (BURDENED LOTS) BENEFITED LAND: LOTS 1301 - 1348 (BENEFITED LOTS) RESTRICTION: UNLESS WITH THE PRIOR APPROVAL OF THE RESPONSIBLE AUTHORITY, THE BURDENED LAND CANNOT BE USED EXCEPT IN ACCORDANCE WITH THE PROVISIONS RECORDED IN THE MCP AA9814 EXPIRY DATE: 1st MAY 2030. WARNING: The restrictive covenant(s)/restriction(s) in this plan may have been varied or removed. For current information, please refer to the relevant folio(s) of the Register, noting section 88(3) of the Transfer of Land Act 1958

EASEMENT INFORMATION					STAGING: THIS IS NOT A STAGED SUBDIVISION PLANNING PERMIT No. PLNA01047/15 SURVEY: THIS PLAN IS BASED ON SURVEY THIS SURVEY HAS BEEN CONNECTED TO PERMANENT MARKS No(s). ----- IN PROCLAIMED SURVEY AREA No. 45
LEGEND: A - APPURTENANT EASEMENT E - ENCUMBERING EASEMENT R - ENCUMBERING EASEMENT (ROAD)					
EASEMENT REFERENCE	PURPOSE	WIDTH (METRES)	ORIGIN	LAND BENEFITED /IN FAVOUR OF	
E-1	SEWERAGE	SEE DIAG.	PS730842C	SOUTH EAST WATER CORPORATION	
E-2, E-3, E-4 E-6	SEWERAGE	SEE DIAG.	PS836532D	SOUTH EAST WATER CORPORATION	
E-3	DRAINAGE	SEE DIAG.	PS836532D	CITY OF CASEY	
E-4	DRAINAGE	SEE DIAG.	THIS PLAN	CITY OF CASEY	
E-5, E-6	SUPPLY OF WATER (THROUGH UNDERGROUND PIPES)	SEE DIAG.	THIS PLAN	SOUTH EAST WATER CORPORATION	

PLAN NUMBER
PS722309S



REF: 21734/13PS F
 VERSION: F
 DATE: 12/12/2023
 21734-13-PS-F.DGN
REEDS
 CONSULTING
 Reeds Consulting Pty Ltd
 Lvl 6, 440 Elizabeth Street
 Melbourne Victoria 3000
 p (03) 8660 3000
 www.reedsconsulting.com.au
 survey@reedsconsulting.com.au

SCALE 1:1500
 LENGTHS ARE IN METRES
 0 20 40 60
 Digitally signed by: Thomas Andrew Millar, Licensed Surveyor,
 Surveyor's Plan Version (F),
 25/01/2024, SPEAR Ref: S162570J

ORIGINAL SHEET SIZE A3
 SHEET 2
 Digitally signed by: Casey City Council,
 01/03/2024,
 SPEAR Ref: S162570J

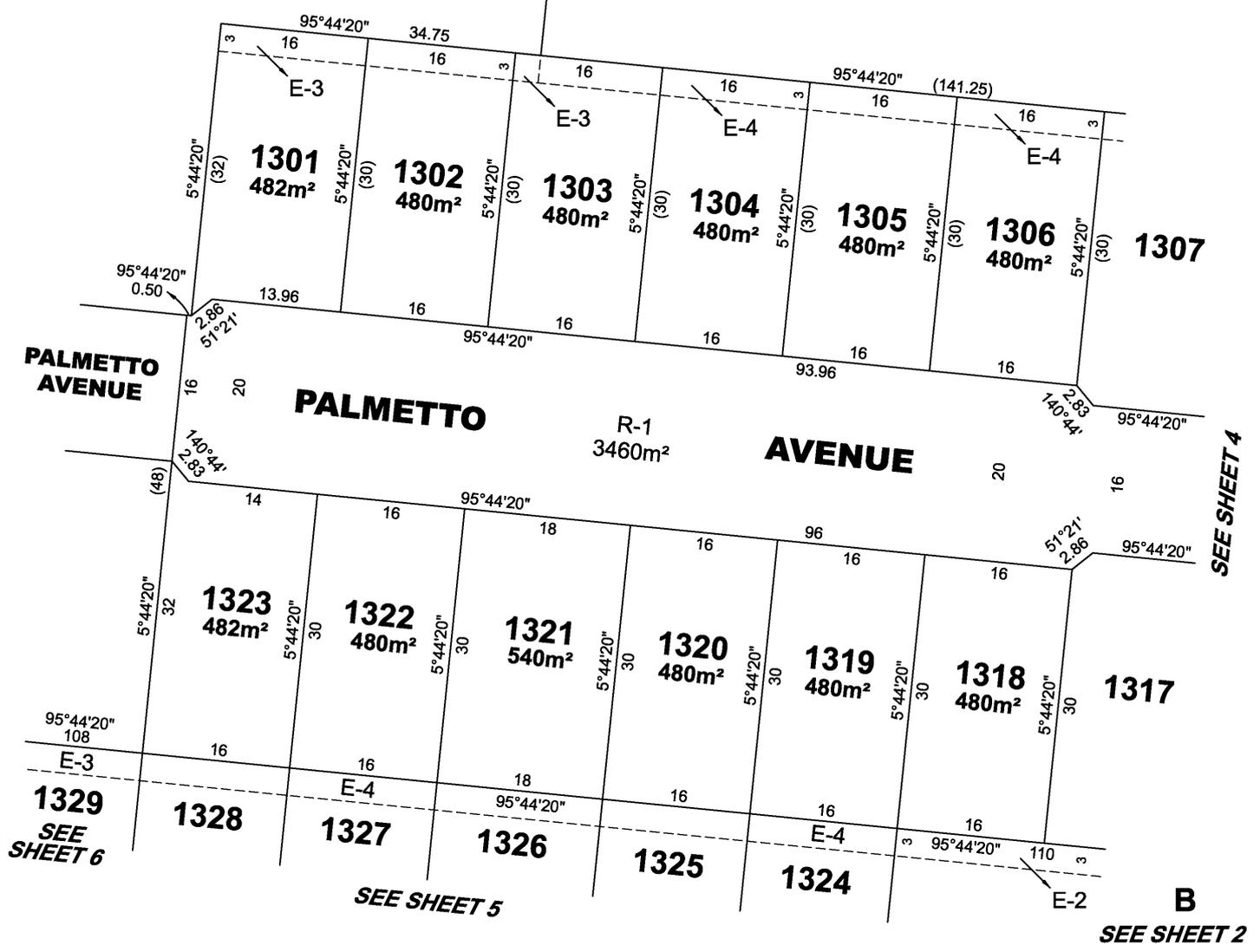
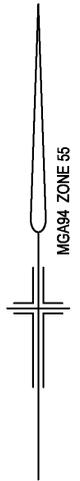
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ANFIELD ROAD

ANFIELD ROAD

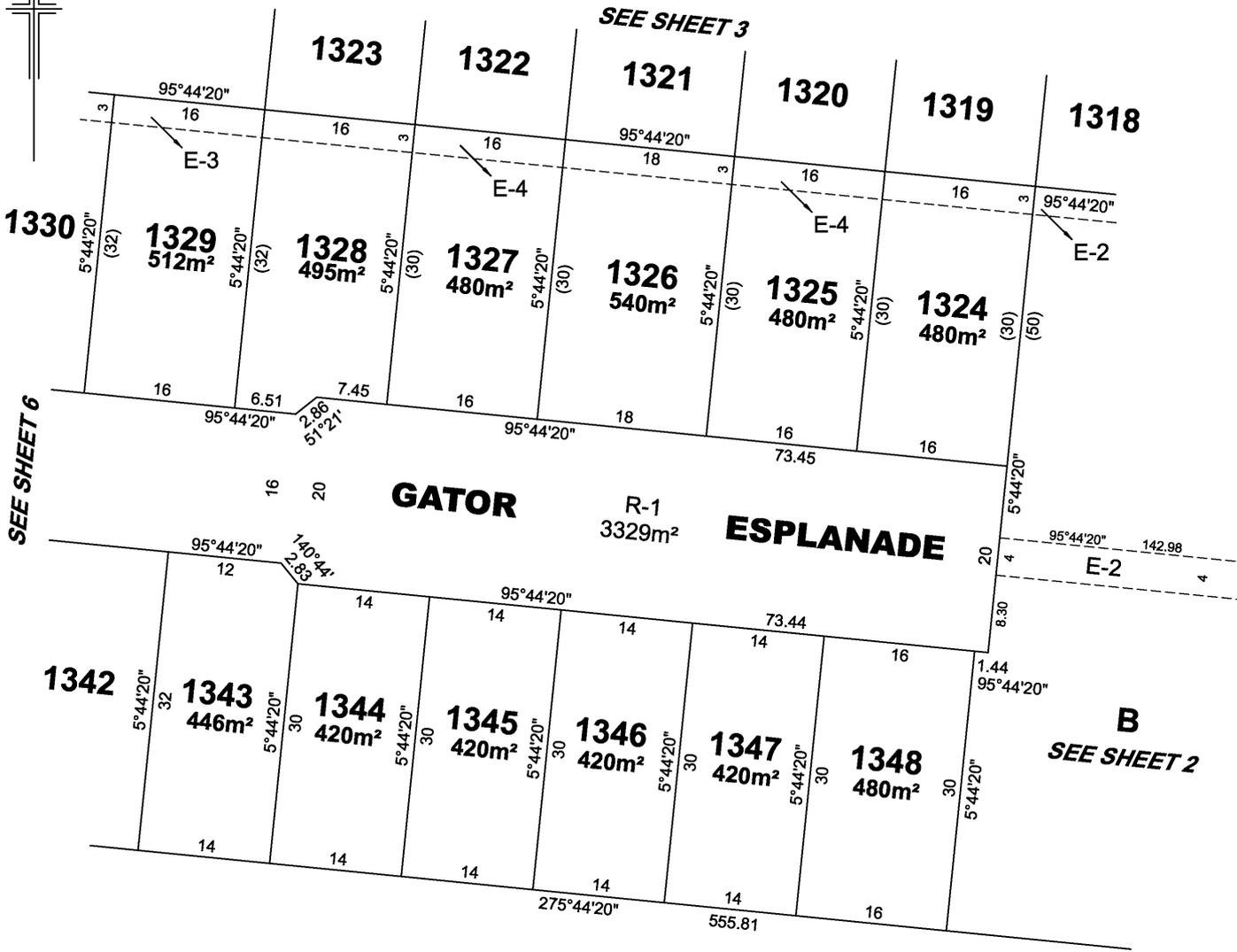
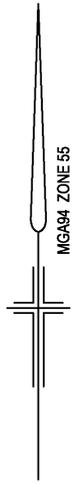
HIGHWORTH ROAD

B
SEE SHEET 2



REF: 21734/13PS	VERSION: F	DATE: 12/12/2023 21734-13-PS-F.DGN	SCALE 1:500	<p>LENGTHS ARE IN METRES</p>	ORIGINAL SHEET SIZE A3	SHEET 3
<p>Reeds Consulting Pty Ltd Lvl 6, 440 Elizabeth Street Melbourne Victoria 3000 p [03] 8660 3000 www.reedsconsulting.com.au survey@reedsconsulting.com.au</p>			Digitally signed by: Thomas Andrew Millar, Licensed Surveyor, Surveyor's Plan Version (F), 25/01/2024, SPEAR Ref: S162570J		Digitally signed by: Casey City Council, 01/03/2024, SPEAR Ref: S162570J	

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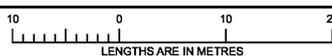


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SCALE
1:500



ORIGINAL SHEET
SIZE A3

SHEET 5

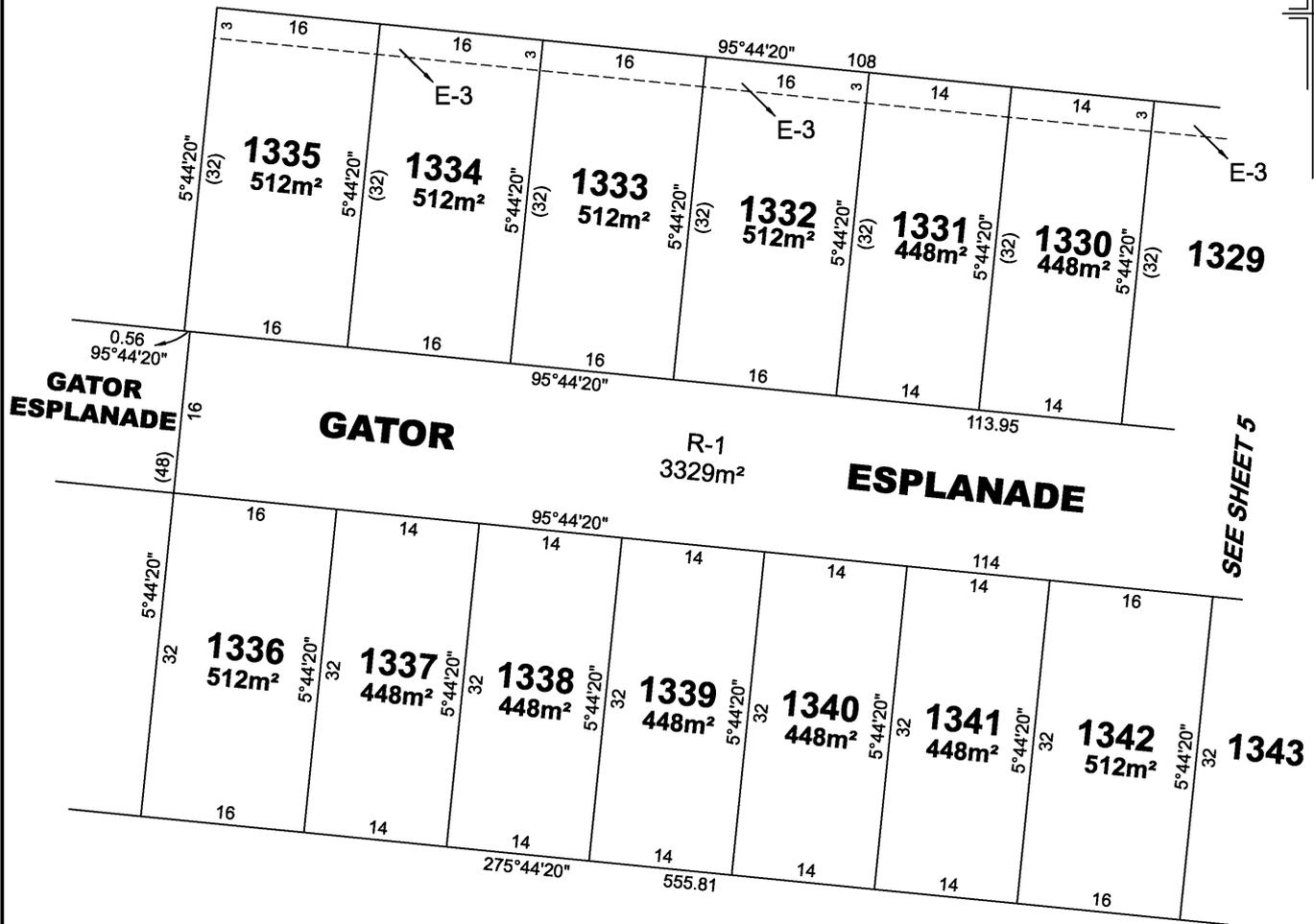
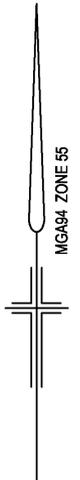


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Lv 6, 440 Elizabeth Street
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p (03) 8660 3000
www.reedsconsulting.com.au
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25/01/2024, SPEAR Ref: S162570J

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REF: 21734/13PS	VERSION: F	DATE: 12/12/2023 21734-13-PS-F.DGN	SCALE 1:500	<p>LENGTHS ARE IN METRES</p>	ORIGINAL SHEET SIZE A3	SHEET 6
		Reeds Consulting Pty Ltd Lvl 6, 440 Elizabeth Street Melbourne Victoria 3000 p [03] 8660 3000 www.reedsconsulting.com.au survey@reedsconsulting.com.au	Digitally signed by: Thomas Andrew Millar, Licensed Surveyor, Surveyor's Plan Version (F), 25/01/2024, SPEAR Ref: S162570J		Digitally signed by: Casey City Council, 01/03/2024, SPEAR Ref: S162570J	



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14
Melbourne Victoria 3000 Australia

Telephone 61 3 9258 3555
Facsimile 61 3 9258 3666

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

DX 259 Melbourne

Date / /

Agreement under section 173 of the Planning and Environment Act 1987

Subject Land: 1100 Pound Road, Clyde North

Purpose of Agreement: Development Infrastructure Contributions

Casey City Council
and

S & N Super Fund Pty Ltd
ACN 116 380 057

Version dated 14 October 2015

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Agreement under section 173 of the Planning and Environment Act 1987

Dated / /

Parties

Name	Casey City Council
Address	Magid Drive, Narre Warren, Victoria
Short name	Council

Name	S & N Super Fund Pty Ltd ACN 116 380 057
Address	SLC Partners Pty Ltd, Suite 1, Level 1, 38 Margaret Street, Moonee Ponds, Victoria
Short name	Owner

Background

- A. Council is the responsible authority for the Planning Scheme. Council is also the collecting agency and the development agency under the Development Contributions Plan.
- B. Council enters into this Agreement in its capacity as the responsible authority and the collecting agency.
- C. The Owner is or is entitled to be the registered proprietor of the Subject Land.
- D. The Development Contributions Plan applies to the Subject Land and adjacent areas. It outlines the contributions expected from individual landholders within the area covered by the Development Contributions Plan to fund infrastructure and services required as a result of development of the area.
- E. The Owner has asked Council for permission to carry out certain works which are funded by the Development Contributions Plan.
- F. On the terms and conditions set out in this Agreement and prior to the residential development or subdivision of the Subject Land, Council has agreed to allow the Owner to carry out the Infrastructure Project in return for a Credit against its development contribution liability under the Development Contributions Plan.
- G. The Owner will be required to make cash payments to meet the obligation to pay the Development Contributions Levy less the amount of the Credit.

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The Parties agree

1. Definitions

In this Agreement unless the context admits otherwise:

Act means the *Planning and Environment Act 1987*.

Actual Cost of Construction means the actual price of a contract in respect of the delivery of the Infrastructure Project including all project design and engineering fees as detailed in the relevant estimate contained in the Development Contributions Plan.

Agreed Project Value means the amount specified in Schedule 2 or any other amount which has been specifically agreed to in writing by Council.

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

Approved Plans means the Designs of the Infrastructure Projects approved by Council under clause 6.3 of this Agreement.

Certificate of Practical Completion means a written certificate prepared by the relevant Roads Authority(/s) stating that an Infrastructure Project has been completed to its satisfaction.

Consent Fee means a fee payable by the Owner to Council for deciding whether to give consent for anything this Agreement provides must not be done without Council's consent, and which is payable at the rate of:

- (a) \$102 if paid within 12 months from the date that this Agreement commences; or
- (b) \$102 plus Indexation if paid at any time after 12 months from the date that this Agreement commences.

Construction Procedures means the procedures set out in Schedule 1 of this Agreement.

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

Credit means a credit in the amount of the Agreed Project Value for the relevant Infrastructure Project against the amount of the Development Contribution Levy that the Owner is obliged to pay for the Subject Land under this Agreement and the Development Contributions Plan.

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.

Current Email means:

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

Defects Liability Period means the period of 12 months from the issue of a Certificate of Practical Completion for an Infrastructure Project.

Designs means detailed design and engineering plans and specifications of an Infrastructure Project.

Development Contributions Levy has the same meaning as in the Development Contributions Plan. In this Agreement it means the levy payable per developable hectare at the rate specified in the Development Contributions Plan for the Subject Land.

Development Contributions Plan means the 'Clyde North Precinct Structure Plan Development Contributions Plan' (August 2011), as amended from time to time, being an incorporated document in the Planning Scheme.

Early lots means lots created by the subdivision of the Subject Land that are not Residential Lots but will ultimately be used for the provision of utility services or some other public purpose.

Endorsed Plan means the plans endorsed under the Planning Permit.

Equalisation Payment means the amount calculated in accordance with Schedule 3 described as the equalisation payment required to be paid by the Owner or Council as the case may be. This amount is calculated by reference to the percentage difference between:

- (a) the area of Open Space Land that the Owner is required to transfer to or vest in Council under this Agreement, the Development Contributions Plan or a condition on a planning permit in respect of the Subject Land; and
- (b) the public open space contribution that the Owner is required to make under clause 52.01 of the Planning Scheme.

GAIC means the Growth Areas Infrastructure Charge under the Act.

Indexation means an annual adjustment to the Satisfaction Fee carried out in accordance with CPI.

Infrastructure Project means the project specified in Schedule 2 of this Agreement.

Later Stage means a Stage identified on the Public Infrastructure Plan in which an Early Lot will need to be embellished or serviced to the satisfaction of Council.

Localised Infrastructure means works, services or facilities necessitated by the subdivision or development of land including but not limited to provision of utility services such as water supply, stormwater drainage, sewerage, gas and electricity services, telecommunications infrastructure and local roads, bridges, culverts and other water crossings, any required associated traffic control measures and devices. For the purposes of this Agreement, Localised infrastructure does not include the infrastructure required for the Infrastructure Project or other infrastructure that is in the nature of regional or state infrastructure.

Lot means a lot on the Endorsed Plan/s.

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Maintenance Period means the period of 3 months from the issue of a Certificate of Practical Completion for the Infrastructure Project.

Open Space Land means land for passive open space in respect of which equalisation is to apply under either the Development Contributions Plan applying to the Subject Land.

Owner means the person registered or entitled from time to time to be registered as proprietor of an estate in fee simple of the Subject Land and includes a mortgagee-in-possession.

Owner's obligations includes the Owner's specific obligations and the Owner's further obligations.

Party or Parties means the Parties to this Agreement but does not include a person who has transferred or otherwise disposed of all of their interests in the Subject Land.

Plan Checking Fee means a fee payable to Council by the Owner for checking plans for the Infrastructure Projects and which is payable at the rate of 0.75% of the estimated cost of constructing the Infrastructure Project shown on the plans to be checked.

Planning Permit means planning permit no. PlnA00206/14 issued on 29 July 2014 and PlnA00374/14 issued on 21 November 2014, as amended from time to time, authorising the subdivision of the Subject Land or part of the Subject Land, among other things, in accordance with the Endorsed Plan.

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

Public Infrastructure Plan means the plan labelled 'Public Infrastructure Plan' approved by Council from time to time under the Planning Permit.

Residential Lot means a lot created as a result of the subdivision of the Subject Land which in the opinion of Council is of a size and dimension such that it is intended to be developed as a housing lot without further subdivision.

Satisfaction Fee means a fee payable by the Owner to Council for determining whether any one of the Owner's obligations has been undertaken to Council's satisfaction, or for deciding whether to give consent for anything this Agreement provides must not be done without Council's consent, and which is payable at the rate of:

- (a) \$102 if paid within 12 months from the date that this Agreement commences; or
- (b) \$102 plus Indexation if paid at any time after 12 months from the date that this Agreement commences.

Schedule means a schedule to this Agreement.

Stage means a specified stage of the development of the Subject Land as identified in any staging plan forming part of plans endorsed under a Planning Permit.

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

Subject Land means the land situated at 1100 Pound Road, Clyde North being the land referred to in certificate of title volume 11233 folio 832 and volume 11233 folio 836 and any reference to the Subject Land includes any lot created by the subdivision of the Subject Land or any part of it.

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Supervision Fee means a fee payable to Council by the Owner for supervision of an Infrastructure Project and which is payable at the rate of 2.5% of the estimated cost of constructing the Infrastructure Project.

2. Interpretation

In this Agreement unless the context admits otherwise:

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

3. Purposes of Agreement

The Parties acknowledge and agree that the purposes of this Agreement are to:

- 3.1 record the terms and conditions on which the Owner will undertake the Infrastructure Project and transfer or vest the Open Space Land to Council; and
- 3.2 achieve and advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Subject Land.

4. Reasons for Agreement

The Parties acknowledge and agree that Council has entered into this Agreement for the following reasons:

- 4.1 the Owner has elected to enter into this Agreement in order to undertake the Infrastructure Project instead of making a cash payment as a Development Contributions Levy; and
- 4.2 Council has granted consent to the Owner to undertake the Infrastructure Project on the terms and conditions of this Agreement.

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5. Agreement required

The Parties agree that this Agreement will continue to be required until the Owner has complied with all of the Owner's obligations.

6. Owner's specific obligations - payment of Development Contributions Levy and delivery of the Infrastructure Project

6.1 Payment of Development Contributions Levy

The Owner covenants and agrees that the Owner will pay the Development Contributions Levy in accordance with the Development Contributions Plan subject to the Owner's entitlement to a Credit under this Agreement.

6.2 Infrastructure Project

The Owner covenants and agrees that:

6.2.1 the Owner will construct the Infrastructure Project specified in Schedule 2 prior to the milestone identified in Schedule 2 for the Agreed Project Value; and

6.2.2 the Agreed Project Value will be paid as a Credit against the Owner's liability to pay the Development Contributions Levy in the manner described in and payable at the time set out in the Schedule 2.

6.3 Design and construction of the Infrastructure Project

The Owner agrees that, except with the prior written consent of Council:

6.3.1 the Owner will prepare the Designs of the Infrastructure Project and submit the Designs to Council for approval ;

6.3.2 the Designs must:

(a) be to the satisfaction of Council;

(b) comply with any relevant standard in the Development Contributions Plan; and

(c) comply with any conditions or requirements of a Planning Permit or the Planning Scheme;

6.3.3 approval of the Designs by Council will be reflected in a set of plans and specifications endorsed by Council as the Approved Plans;

6.3.4 the Owner will obtain all necessary permits and approvals for the Infrastructure Project ;

6.3.5 prior to awarding any contract for the Infrastructure Project, the Owner will submit to Council for approval:

(a) information as requested by Council which is sufficient for Council to satisfy itself that the price of the contract is a competitive price;

(b) a copy of the detailed cost schedules including quantities, unit rates and identification of any provisional items; and

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- (c) a copy of the proposed construction program;
- 6.3.6 in carrying out the Infrastructure Project, the Owner must provide for the protection of people and property in accordance with appropriate occupational health and safety plans and practices; and
- 6.3.7 the Owner will:
 - (a) construct the Infrastructure Project in accordance with the Approved Plans to the satisfaction of Council unless Council has approved in writing a variation from the Approved Plans; and
 - (b) comply with the Construction Procedures.

6.4 Certificate of Practical Completion

The Owner covenants and agrees that:

- 6.4.1 the issue of a Certificate of Practical Completion by Council is subject to compliance with this Agreement and the Construction Procedures; and
- 6.4.2 following the issue of a Certificate of Practical Completion, the Owner:
 - (a) must provide the relevant Road Authority with a copy of any maintenance information, operational manual or other material which is reasonably required for the ongoing operation and maintenance of the Infrastructure Project;
 - (b) must provide a copy of any certificate, consent or approval required by any authority for the carrying out, use or occupation of the Infrastructure Project;
 - (c) is responsible for the maintenance of the Infrastructure in good order, condition and repair to the satisfaction of Council for the Maintenance Period; and
 - (d) is responsible for the repair of any defects during the Defects Liability Period.

6.5 Credit

The Parties agree that:

- 6.5.1 upon the issue of a Certificate of Practical Completion in respect of the Infrastructure Project, the Owner will be entitled to the Credit for the Infrastructure Project as set out in Schedule 2;
- 6.5.2 the Development Contributions Levy payable by the Owner is to be reduced by the amount of the Credit;
- 6.5.3 upon the provision of a Credit for an Infrastructure Project, Council's obligations to the Owner in respect of that Infrastructure Project are complete but the Owner's obligations for maintenance and repair of defects of the Infrastructure Project under this Agreement remain for the duration of the Maintenance Period and the Defects Liability Period; and
- 6.5.4 after the expiry of the Maintenance Period and the Defects Liability Period, maintenance of the works and repair of any defects in respect of an Infrastructure Project, the Infrastructure Project becomes the responsibility of the relevant Road Authority.

AM343499U

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6.6 Exhaustion of the Credit

The Owner covenants and agrees that when the amount of the Development Contributions Levy payable in relation to the Stage exceeds the amount of Credit remaining, the Owner will pay the Development Contributions Levy less the Credit as follows:

- 6.6.1 in relation to that Stage, the Owner must pay in cash an amount equal to any remaining amount of the Development Contribution Levy payable in accordance with the Development Contributions Plan; and
- 6.6.2 in relation to subsequent Stages the Owner must pay any remaining amount of the Development Contribution Levy in cash in accordance with the Development Contributions Plan.

7. Owner's specific obligations – compliance with the Public Infrastructure Plan and public open space equalisation

7.1 Public Infrastructure Plan

The Owner covenants and agrees that subject to this Agreement, the Owner will comply with and implement the Public Infrastructure Plan.

7.2 Open Space Land and Equalisation Payment

The Owner covenants and agrees that subject to this Agreement:

- 7.2.1 the Owner will transfer to or vest in Council the Open Space Land specified in Schedule 3 prior to the milestone identified in Schedule 3;
- 7.2.2 the Owner will pay to Council the Equalisation Payment specified for the Open Space Land in Schedule 3 prior to the milestone identified in Schedule 3; and
- 7.2.3 upon complying with clause 7.2, the Owner has fulfilled its obligations in relation to the Subject Land under the Planning Scheme in relation to the Open Space Land.

8. Sale or vesting of Early lots

Unless with the prior written consent of Council, the Owner covenants and agrees that the Owner will not settle the sale of any early lots or vest any Early lots until:

- 8.1.1 Council is satisfied that the Early lot has been embellished and serviced in accordance with the Planning Permit; and
- 8.1.2 a Statement of Compliance has been issued for the applicable Later Stage of subdivision.

9. Acknowledgement by the Parties

The Parties acknowledge and agree that:

- 9.1.1 this Agreement is intended to relate only to infrastructure that is commonly funded by a development contributions plan and not Localised Infrastructure; and

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9.1.2 compliance with the obligations of this Agreement does not relieve the Owner of any obligation imposed by Council or a Tribunal to provide Localised Infrastructure which obligation may be imposed as a requirement in a planning permit for the subdivision or development of the Subject Land.

10. Owner's further obligations

10.1 Notice and registration

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

10.2 Further actions

The Owner:

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

10.3 Fees

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

- 10.3.1 Plan Checking Fee;
- 10.3.2 Supervision Fee;
- 10.3.3 Satisfaction Fee; or
- 10.3.4 Consent Fee.

10.4 Council's costs to be paid

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

- 10.4.1 preparing, drafting, finalising, signing, recording and enforcing this Agreement;
- 10.4.2 preparing, drafting, finalising and recording any amendment to this Agreement;
- 10.4.3 determining whether any of the Owner's obligations have been undertaken to Council's satisfaction; and
- 10.4.4 preparing, drafting, finalising and recording any document to give effect to the ending of this Agreement.

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10.5 Time for determining satisfaction

If Council makes a request for payment of:

- 10.5.1 a fee under clause 10.3; or
- 10.5.2 any costs or expenses under clause 10.4.3,

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

10.6 Interest for overdue money

- 10.6.1 The Owner must pay to Council interest in accordance with section 227A of the *Local Government Act* 1989 on any amount due under this Agreement that is not paid by the due date.
- 10.6.2 If interest is owing, Council will apply any payment made to interest and any balance of the payment to the principal amount.

10.7 Notification of compliance with Owner's obligations

The Owner must notify Council of its compliance with all of the Owner's obligations.

11. Agreement under section 173 of the Act

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

12. Owner's warranties

The Owner warrants that apart from the Owner and any other person who has consented in writing to this Agreement, no other person has any interest, either legal or equitable, in the Subject Land which may be affected by this Agreement.

13. Successors in title

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

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

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14. General matters

14.1 Notices

A notice or other communication required or permitted to be served by a Party on another Party must be in writing and may be served:

- 14.1.1 personally on the other Party;
- 14.1.2 by leaving it at the other Party's Current Address;
- 14.1.3 by posting it by prepaid post addressed to the other Party at the other Party's Current Address; or
- 14.1.4 by email to the other Party's Current Email.

14.2 No waiver

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

14.3 Severability

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

14.4 No fettering of Council's powers

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

14.5 Inspection of documents

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

14.6 Governing law

This Agreement is governed by and is to be construed in accordance with the laws of Victoria.

15. GST

- 15.1 In this clause words that are defined in *A New Tax System (Goods and Services Tax) Act 1999* have the same meaning as their definition in that Act.
- 15.2 Except as otherwise provided by this clause, all consideration payable under this Agreement in relation to any supply is exclusive of GST.
- 15.3 If GST is payable in respect of any supply made by a supplier under this Agreement, subject to clause 15.4 the recipient will pay to the supplier an amount equal to the GST payable on

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the supply at the same time and in the same manner as the consideration for the supply is to be provided under this Agreement.

- 15.4 The supplier must provide a tax invoice to the recipient before the supplier will be entitled to payment of the GST payable under clause 15.3.

16. GAIC

- 16.1 All land transferred to or vested in Council must have any liability for GAIC discharged prior to it being transferred to or vested in Council and to the extent it is not, the Owner will remain liable to Council for any GAIC liability incurred by Council.
- 16.2 The Owner must provide Council with a certificate from the State Revenue Office certifying that all GAIC liability in respect of the land referred to in clause 16.1 has been discharged.

17. Dispute Resolution

- 17.1 Except as otherwise specified in this Agreement, if any dispute arises then, subject to clause 17.5 either party may at its election:
- 17.1.1 refer the dispute to the Tribunal for resolution to the extent permitted by the Act; or
 - 17.1.2 refer the dispute to arbitration by an arbitrator agreed upon in writing by the parties or, in the absence of such agreement the chairman of the Victorian Chapter of the Institute of Arbitrators, Australia or his nominee.
- 17.2 A party may not commence any of the processes referred to in clause 17.1 until it has complied with clauses 17.3 and 17.4.
- 17.3 If a dispute arises, then either party will send a notice of dispute in writing adequately identifying and providing details of the dispute.
- 17.4 Within 14 days after service of a notice of dispute, the parties shall confer at least once, to attempt to resolve the dispute and failing resolution of the dispute to explore and, if possible, agree on methods of resolving the dispute by other means. At any such conference each party must be represented by a person having authority to agree to a resolution of the dispute.
- 17.5 If the dispute cannot be resolved or if at any time either party considers that the other party is not making reasonable efforts to resolve the dispute, either party may by notice to the other party refer such dispute to the Tribunal (to the extent permitted by the Act) or if the Tribunal is unable to determine the matter for lack of jurisdiction then to arbitration.

18. Commencement of Agreement

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

19. Ending of Agreement

- 19.1 This Agreement ends when the Owner has complied with all the Owner's obligations under this Agreement.

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- 19.2 Notwithstanding clause 19.1, the Owner may request in writing Council's consent to end the Agreement in respect of Residential Lots in any Stage upon the issue of a Statement of Compliance in respect of that Stage.
- 19.3 Council will not unreasonably withhold its consent to a written request made pursuant to clause 19.2 if it is satisfied that the obligations in this Agreement are secured to its satisfaction.
- 19.4 On the issue of a Statement of Compliance for a plan of subdivision for Residential Lots created over the Subject Land or earlier by agreement with Council, the Agreement ends in respect of that part of the Subject Land in the plan of subdivision in accordance with the Act provided that at all times, the Agreement must remain registered on the balance of the Subject Land.
- 19.5 Once this Agreement ends as to part of the Subject Land in accordance with clause 19.4, Council will, within a reasonable time, following a request from the Owner and at the cost of the Owner, execute all documents necessary to make application to the Registrar of Titles under section 183 of the Act to cancel the recording of this Agreement on the register as to that part of the Subject Land.
- 19.6 On completion of all the Owner's obligations in accordance with this Agreement, Council must as soon as practicable following the ending of this Agreement and at the request and at the cost of the Owner, execute all documents necessary to make application to the Registrar of Titles under section 183 of the Act to cancel the recording of this Agreement on the register.

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Schedule 1

CONSTRUCTION PROCEDURES

Procedure for issue of Certificate of Practical Completion

1. Upon the completion of the Infrastructure Project the Owner must notify Council or any other relevant authority.
2. Within 14 days of receiving notice of the completion of the Infrastructure Project from the Owner, Council or any other relevant authority must inspect the Infrastructure Project and determine whether to issue the Certificate of Practical Completion.
3. If Council is not satisfied with the Infrastructure Project, Council may refuse to issue a Certificate of Practical Completion provided Council:
 - 3.1 identifies in what manner or respect the Infrastructure Project is not satisfactorily completed; and
 - 3.2 what must be done to satisfactorily complete the Infrastructure Project.
4. Council may, notwithstanding the detection of a minor non-compliance, determine to issue a Certificate of Practical Completion if Council is satisfied that the proper completion of the outstanding matter can be secured by the payment of a financial amount to Council or the provision of some other security for the proper completion of that outstanding matter.

Access

5. Before accessing land owned by Council or a third party for the purpose of constructing any Infrastructure Project or undertaking any maintenance or repair of defects in respect of any Infrastructure Project in accordance with this Agreement, the Owner must satisfy Council or if requested by a third party that person, that the Owner has:
 - 5.1 consent of the owner of land to access such land;
 - 5.2 satisfied any condition of such consent; and
 - 5.3 in place all proper occupational health and safety plans as may be required under any law of the State of Victoria.
6. Subject to the Owner satisfying any conditions of consent to access land owned by Council, Council will provide all reasonable access as may be required to its land in order to enable the Infrastructure Project to be completed, maintained or repaired in accordance with the Approved Plans.

Quality of work

7. Apart from any other requirement contained in the Agreement, all work must:
 - 7.1 accord with Council's Engineering Standard Drawings and Specifications unless otherwise approved;
 - 7.2 use good quality materials, not involving asbestos and which are suitable for the purpose for which they are required;
 - 7.3 be carried out in a good and workmanlike manner;
 - 7.4 be fit and structurally sound, fit for purpose and suitable for its intended use;

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- 7.5 not encroach on land other than the land shown in any plans or specifications approved by Council;
- 7.6 comprise best industry practice;
- 7.7 unless otherwise authorised comply with any relevant current Australian Standard; and
- 7.8 accord with a construction management plan to be prepared to the satisfaction of Council.

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Schedule 2

THE INFRASTRUCTURE PROJECT

Project Number	Infrastructure Project Description	Extent of Project	Milestone for the completion of the Infrastructure Project	Agreed Project Value	Funding Source	Timing for Credit
1	Development Contributions Plan project RD12 – East-West Collector Road/Mid-block Benwick Cranbourne Road – Signalised Intersection 5.	Refer to Plan 4 and Page 46 of the Development Contributions Plan.	Prior to Statement of Compliance for the first Stage of development.	The amount of \$1,760,904.00 (Jan 2015 figure) plus indexation value in accordance with the DCP or the Actual Cost of Construction whichever is the lesser amount. Where the claim for credit is divided into parts: the date of the first claim for credit sets the date to determine the maximum indexed value.	Development Contributions Plan Credit.	Immediately upon issue of a satisfactory claim by the Owner for the Agreed Project Value and the issue of a Certificate of Practical Completion

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Schedule 3

OPEN SPACE LAND

Open Space Land	Open Space Land Description	Title of plan reference	Area of the Open Space Land	Milestone for transfer or vesting of the Open Space Land	Equalisation Payment for Open Space Land	Funding Source	Timing for Payment/Credit (Payment/Credit Date)
2	Provision of public open space	The public open space shown on the Endorsed Plans.	1.216ha	Concurrent with the registration of the Plan of Subdivision comprising the public open space as shown on the Endorsed Plans.	\$0	N/A	N/A
2(a)	Public open space Equalisation Payment for provision below the 3.54% requirement under the Planning Scheme.	N/A	.127ha	Prior to Statement of Compliance for stage 13	The equivalent of the value of .127ha of the Subject Land valued on the dollar per hectare rate assessed on a pro rata basis by reference to the engiobo value of the parent land parcel being 1100 Pound Road, Clyde North, and being 56.95ha in area and assuming that the parent parcel has services and infrastructure available to it, but not yet constructed.	Owner	Prior to Statement of Compliance for stage 13.

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Signing Page

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

Signed sealed and delivered by the Chief Executive Officer on behalf of **Casey City Council** pursuant to the power delegated to that person by an Instrument of Delegation in the presence of:

[Handwritten signature]

Witness

[Handwritten signature: Mike Pyles]

Chief Executive Officer

Executed by **S. & N. Super Fund Pty Ltd** ACN 116 380 057 in accordance with section 127(1) of the *Corporations Act* 2001:

Signature of Director

Print full name

[Handwritten signature]

Signature of Director (or Company Secretary)

Print full name

[Handwritten signature]



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Application by a responsible authority for the recording of an agreement

Section 181 **Planning and Environment Act 1987**

Form 21



Lodged by:

Name: Russell Kennedy Lawyers
Phone: 03 9609 1555
Address: Level 12, 469 La Trobe Street, Melbourne 3000
Ref: 115905-01335
Customer Code: 1513M

The responsible authority, having made an agreement referred to in section 181(1) of the **Planning and Environment Act 1987**, requires a recording to be made in the Register for the land.

Land: *[insert Volume and Folio reference] [if part only, define the part]*

Volume 11233 Folios 832 and 836

Responsible authority: *[name and address]*

Casey City Council of Civic Centre, Magid Drive, Narre Warren, Victoria 3805

Section and Act under which agreement made:

Section 173 of the *Planning and Environment Act 1987*

A copy of the agreement is attached to this application.

Signature for the responsible authority:



Name of Officer:

Paul Tolson

Date:

11 FEBRUARY 2016



CASEY CITY COUNCIL

and

S. & N. SUPER FUND PTY LTD

**AGREEMENT MADE PURSUANT TO
SECTION 173 OF THE PLANNING AND
ENVIRONMENT ACT 1987**

Property: Lot 1 on PS606533L and
Lot 1 on PS604926B,
Clyde North, Victoria 3978

Russell Kennedy Pty Ltd ACN 126 792 470 ABN 14 940 129 185
Level 12, 469 La Trobe Street, Melbourne VIC 3000 PO BOX 5146AA, Melbourne VIC 3001 DX 494 Melbourne
T +61 3 9609 1555 F +61 3 9609 1600 info@rk.com.au

Liability limited by a scheme approved under Professional Standards Legislation

rk.com.au

Ref IDP 115905-01335



© Russell Kennedy

THIS AGREEMENT is made on

11 FEBRUARY

2016

PARTIES

1 **CASEY CITY COUNCIL**
of Civic Centre, Magid Drive, Narre Warren, Victoria 3805
("Council")

2 **S. & N. SUPER FUND PTY LTD**
ACN 116 380 057
of Suite 1, Level 1, 38 Margaret Street, Moonee Ponds, Victoria 3039
(formerly of 18-22 Leemak Crescent, Berwick, Victoria 3806)
("Owner")



RECITALS

- A The Council is the responsible authority under the Act for the Scheme.
- B The Owner is registered or is entitled to be registered as proprietor of the Land.
- C Condition 28 of the Permit provides as follows:

Community Infrastructure Levy

28. *Before the issue of a Statement of Compliance for the subdivision the developer must make payment to Council for the provision of Community Infrastructure, unless before the relevant plan of subdivision is certified under the Subdivision Act 1988, the owner enters into an agreement with the Responsible Authority made pursuant to Section 173 of the Planning and Environment Act 1987 (‘the Act’) and makes application to the Registrar of Titles to have the agreement registered on the title to the land under Section 181 of the Act, which provides for the payment of a Community Infrastructure Levy to Council by a future land owner in accordance with the provisions of the Development Contributions Plan applying to the land and Section 46O of the Act.*

The owner/applicant must pay the Responsible Authority’s costs of the preparation, execution and registration of the Section 173 agreement.”

- D This Agreement has been entered into in order to:
 - comply with all relevant conditions of the Permit;
 - prohibit, restrict or regulate the use or development of the Land;
 - achieve and advance the objectives of planning in Victoria or the objectives of the Scheme in relation to the Land.

E This Agreement is made under Division 2 of Part 9 of the Act.

THE PARTIES AGREE THAT:

1 DEFINITIONS

In this Agreement:

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

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- 1.2 "Agreement" means this Agreement, including the recitals and any annexures to this Agreement.
- 1.3 "Business Day" means Monday to Friday excluding public holidays in Victoria.
- 1.4 "Building Permit" means a building permit under the *Building Act 1993*.
- 1.5 "Community Infrastructure Levy" means the community infrastructure levy required to be paid to the collecting agency under the Development Contributions Plan.
- 1.6 "Development Contributions Plan" means the *Clyde North Precinct Structure Plan Development Contributions Plan, August 2011* which is incorporated in the Scheme (as amended).
- 1.7 "GST Act" means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (as amended).
- 1.8 "GST" means the goods and services tax as defined in the *GST Act*.
- 1.9 "Input Tax Credit" in relation to a supply, means a credit under the GST Act for the GST payable by the recipient in respect of the supply.
- 1.10 "Land" means the land within the Scheme described as:
 - 1.10.1 lot 1 on PS604926B being the whole of the land more particularly described in certificate of title volume 11233 folio 836; and
 - 1.10.2 lot 1 on PS606533L being the whole of the land more particularly described in certificate of title volume 11233 folio 832.
- 1.11 "Lot" means any lot created as a result of:
 - 1.11.1 the subdivision of the Land; or
 - 1.11.2 the subdivision of any part of the Land.
- 1.12 "Mortgagee" means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as mortgagee of the Land or any part of it.
- 1.13 "Permit" means planning permit PInA00374/14, issued by the Council on 21 November 2014 and amended by the Council on 10 March 2015, authorising the multi-lot subdivision, construction and carry out works including roadworks, removal of drainage easement E-1 on PS604926B, creation of restrictions, and creation of access to a road in a Road Zone Category 1 in accordance with the endorsed plans.
- 1.14 "Scheme" means the *Casey Planning Scheme* or any other planning scheme which applies to the Land from time to time.
- 1.15 "Tax Invoice" in relation to a supply, means an invoice for the supply required by the GST Act to support a claim by the recipient for an Input Tax Credit for the GST on the supply.

2 COMMENCEMENT

This Agreement comes into force on the date it was made as set out above.

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3 TERMINATION OF AGREEMENT

3.1 Termination

This Agreement ends in accordance with the Act.

3.2 Cancellation of Agreement

As soon as reasonably practicable after this Agreement has ended, the Council must, at the request and at the cost of the Owner, apply to the Registrar of Titles under section 183(2) of the Act to cancel the recording of this Agreement on the Register.

4 OWNER'S COVENANTS

4.1 Community Infrastructure Levy

The Owner covenants and agrees that the Community Infrastructure Levy in respect of the development of any Lot must be paid to the Council in accordance with the Development Contributions Plan prior to the issue of any Building Permit in connection with that Lot.

4.2 Successors in title

Until this Agreement is recorded on the folio of the Register which relates to the Land pursuant to section 181 of the Act, the Owner must ensure that the Owner's successors in title give effect to and do all acts and sign all documents which will require those successors to give effect to this Agreement including requiring the successors in title to execute a deed agreeing to be bound by the terms of this Agreement. Until that deed is executed, the Owner, being a party to this Agreement, remains liable to perform all of the Owner's obligations contained in this Agreement.

4.3 Further assurance

The Owner must do all things necessary (including signing any further agreement, acknowledgment or document) to enable the Council to record this Agreement on the folio of the Register which relates to the Land.

4.4 Payment of Council's costs

The Owner agrees to pay on demand to the Council the Council's costs and expenses (including any legal fees incurred on a solicitor-client basis) of and incidental to the preparation, execution, recording and enforcement of this Agreement.

4.5 Mortgagee to be bound

The Owner covenants to obtain the consent of any Mortgagee to be bound by the covenants in this Agreement if the Mortgagee becomes mortgagee in possession of the Land.

4.6 Indemnity

The Owner covenants 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

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judgement or claim brought by any person arising from or referable to this Agreement or any non-compliance with this Agreement.

4.7 Non-compliance

If the Owner has not complied with this Agreement within 14 days after the date of service on the Owner by the Council of a notice which specifies the Owner's failure to comply with any provision of this Agreement, the Owner covenants:

- 4.7.1 to allow the Council its officers, employees, contractors or agents to enter the Land and rectify the non-compliance;
- 4.7.2 to pay to the Council on demand, the Council's reasonable costs and expenses ("Costs") incurred as a result of the Owner's non-compliance;
- 4.7.3 to pay interest at the rate of 2% above the rate prescribed under section 2 of the *Penalty Interest Rates Act 1983* on all moneys which are due and payable but remain owing under this Agreement until they are paid in full;
- 4.7.4 if requested to do so by the Council, to promptly execute in favour of the Council a mortgage to secure the Owner's obligations under this Agreement,

and the Owner agrees:

- 4.7.5 to accept a certificate signed by the Chief Executive Officer of the Council (or any nominee of the Chief Executive Officer) as prima facie proof of the Costs incurred by the Council in rectifying the Owner's non-compliance with this Agreement;
- 4.7.6 that any payments made for the purposes of this Agreement shall be appropriated first in payment of any interest and any unpaid Costs of the Council and then applied in repayment of the principal sum;
- 4.7.7 that all Costs or other monies which are due and payable under this Agreement but which remain owing shall be a charge on the Land until they are paid in full; and
- 4.7.8 if the Owner executes a mortgage as required by clause 4.7.4, any breach of this Agreement is deemed to be a default under that mortgage.

4.8 Covenants run with the Land

The Owner's obligations in this Agreement are intended to take effect as covenants which shall be annexed to and run at law and in equity with the Land and every part of it, and bind the Owner and its successors, assignees and transferees, the registered proprietor or proprietors for the time being of the Land and every part of the Land.

4.9 Owner's warranty

The Owner warrants and covenants that:

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- 4.9.1 the Owner is the registered proprietor (or is entitled to become the registered proprietor) of the Land and is also the beneficial owner of the Land;
- 4.9.2 there are no mortgages, liens, charges or other encumbrances or leases or any rights inherent in any person other than the Owner affecting the Land which have not been disclosed by the usual searches of the folio of the Register for the Land or notified to the Council;
- 4.9.3 no part of the Land is subject to any rights obtained by adverse possession or subject to any easements or rights described or referred to in section 42 of the *Transfer of Land Act 1958*; and
- 4.9.4 until this Agreement is recorded on the folio of the Register which relates to the Land, the Owner will not sell, transfer, dispose of, assign, mortgage or otherwise part with possession of the Land or any part of the Land without first disclosing to any intended purchaser, transferee, assignee or mortgagee the existence and nature of this Agreement.

5 GOODS AND SERVICES TAX

5.1 Definitions and expressions

Expressions used in this Agreement that are defined in the *GST Act* have the same meaning as given to them in the *GST Act*, unless expressed to the contrary.

5.2 Amounts payable do not include GST

Each amount, of whatever description, specified as payable by one party to the other party under this Agreement is expressed as a GST exclusive amount unless specified to the contrary.

5.3 Liability to pay any GST

Subject to clause 5.4, in addition to any amount payable by one party to the other party under this Agreement in respect of a taxable supply, the party liable to pay the amount ("**Recipient**") must pay to the other party ("**Supplier**") a sum equivalent to the GST payable, if any, by the Supplier in respect of the taxable supply on the date on which the Supplier makes a taxable supply to the Recipient irrespective of when the Supplier is liable to remit any GST under this Agreement in respect of a taxable supply to any governmental authority.

5.4 Tax Invoice

A party's right to payment under clause 5.3 is subject to a Tax Invoice being delivered to the Recipient.

6 GENERAL

6.1 No fettering of Council's powers

This Agreement does not fetter or restrict the Council's power or discretion in respect of any of the Council's decision making powers including but not limited to an ability to make decisions under the *Local Government Act 1989*, and the Act or to make or impose requirements or conditions in connection with any use

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or development of the Land or the granting of any planning permit, the approval or certification of any plans of subdivision or consolidation relating to the Land or the issue of a Statement of Compliance in connection with any such plans.

6.2 Time of the essence

Time is of the essence as regards all dates, periods of time and times specified in this Agreement.

6.3 Governing law and jurisdiction

This Agreement is governed by and is to be construed in accordance with the laws of Victoria. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts and tribunals of Victoria and waives any right to object to proceedings being brought in those courts or tribunals.

6.4 Enforcement and severability

6.4.1 This Agreement shall operate as a contract between the parties and be enforceable as such in a Court of competent jurisdiction regardless of whether, for any reason, this Agreement were held to be unenforceable as an agreement pursuant to Division 2 of Part 9 of the Act.

6.4.2 If a Court, arbitrator, tribunal or other competent authority determines that a word, phrase, sentence, paragraph or clause of this Agreement is unenforceable, illegal or void, then it shall be severed and the other provisions of this Agreement shall remain operative.

7 NOTICES

7.1 Service of notice

A notice or other communication required or permitted, under this Agreement, to be served on a person must be in writing and may be served:

- 7.1.1 personally on the person;
- 7.1.2 by leaving it at the person's address set out in this Agreement;
- 7.1.3 by posting it by prepaid post addressed to that person at the person's current address for service; or
- 7.1.4 by facsimile to the person's current number notified to the other party.

7.2 Time of service

A notice or other communication is deemed served:

- 7.2.1 if served personally or left at the person's address, upon service;
- 7.2.2 if posted within Australia to an Australian address, two Business Days after posting;
- 7.2.3 if served by facsimile, subject to the next clause, at the time indicated on the transmission report produced by the sender's facsimile machine indicating that the facsimile was sent in its entirety to the addressee's facsimile; and

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7.2.4 if received after 5.00pm in the place of receipt or on a day which is not a Business Day, at 9.00am on the next Business Day.

8 INTERPRETATION

In this Agreement, unless the contrary intention appears:

- 8.1 the singular includes the plural and vice versa;
- 8.2 a reference to a document or instrument, including this Agreement, includes a reference to that document or instrument as novated, altered or replaced from time to time;
- 8.3 a reference to an individual or person includes a partnership, body corporate, government authority or agency and vice versa;
- 8.4 a reference to a party includes that party's executors, administrators, successors, substitutes and permitted assigns;
- 8.5 words importing one gender include other genders;
- 8.6 other grammatical forms of defined words or expressions have corresponding meanings;
- 8.7 a covenant, undertaking, representation, warranty, indemnity or agreement made or given by:
 - 8.7.1 two or more parties; or
 - 8.7.2 a party comprised of two or more persons,is made or given and binds those parties or persons jointly and severally;
- 8.8 a reference to a statute, code or other law includes regulations and other instruments made under it and includes consolidations, amendments, re-enactments or replacements of any of them;
- 8.9 a recital, schedule, annexure or description of the parties forms part of this Agreement;
- 8.10 if an act must be done on a specified day that is not a Business Day, the act must be done instead on the next Business Day;
- 8.11 if an act required to be done under this Agreement on a specified day is done after 5.00pm on that day in the time zone in which the act is performed, it is taken to be done on the following day;
- 8.12 a party that is a trustee is bound both personally and in its capacity as trustee;
- 8.13 a reference to an authority, institution, association or body ("**original entity**") that has ceased to exist or been reconstituted, renamed or replaced or whose powers or functions have been transferred to another entity, is a reference to the entity that most closely serves the purposes or objects of the original entity;
- 8.14 headings and the provision of a table of contents are for convenience only and do not affect the interpretation of this Agreement.

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EXECUTED as an agreement under Division 2 of Part 9 of the Act.

SIGNED SEALED AND DELIVERED by the)
Director Planning & Development Services)
on behalf of CASEY CITY COUNCIL)
pursuant to the power delegated to that)
person by an Instrument of Delegation in the)
presence of:)

Witness

Susan Krol

Print Name

EXECUTED by S. & N. SUPER FUND PTY)
LTD in accordance with section 127(1) of the)
Corporations Act 2001 (Cth) by being signed)
by authorised persons:)

Director
*Director/company secretary
*Delete whichever is inapplicable

SOUHAIL MONDOUS.
Full Name

NAILA MONDOUS.
Full Name

SUIT 1, LEVEL 1
Usual Address
38 MARGARET ST
MOONY PONDS.
VIC 3039

SUIT 1, LEVEL 1
Usual Address
38 MARGARET ST
MOONY PONDS
VIC 3039



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Application by a Responsible Authority for the making of a Recording of an Agreement

Section 181 **Planning and Environment Act 1987**



Lodged by:

Name: MADDOCKS
Phone: 03 9258 3555
Address: Collins Square, Tower Two, Level 25, 727 Collins Street Melbourne VIC 3008
Ref: MYM:OXO:7630881
Customer Code: 1167E

The Authority having made an agreement referred to in section 181(1) of the **Planning and Environment Act 1987** requires a recording to be made in the Register for the land.

Land: Volume 11642 Folio 391 and Volume 11942 Folio 675

Responsible Authority: Casey City Council of Magid Drive, Narre Warren, Victoria

Section and Act under which agreement made: Section 173 of the *Planning and Environment Act 1987*

A copy of the agreement is attached to this application

Signing

AUSTRALIAN LEGAL PRACTITIONER

Representing: Representing another

Signer Name: Ann Maree Diakos

Signer Organisation: MADDOCKS

Signer Role: Australian Legal Practitioner

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Certifications

1. The Certifier has taken reasonable steps to verify the identity of the applicant.
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: Casey City Council

Signer Name: Ann Marie Prokosz

Signer Organisation: MADDOCKS

Signer Role: Australian Legal Practitioner

Signature: 

Execution Date: 8 November 2018



Level 25, 727 Collins Street
Melbourne VIC 3008
Australia

Telephone 61 3 9258 3555
Facsimile 61 3 9258 3666

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

DX 259 Melbourne

**Agreement under section 173
of the Planning and Environment Act 1987**
Subject Land: 800 Berwick-Cranbourne Road, Clyde North

Casey City Council
and

S & N Super Fund Pty Ltd
ACN 116 380 057



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Agreement under section 173 of the Planning and Environment Act 1987

Dated

Parties

Name	Casey City Council
Address	Bunjil Place, Patrick Northeast Drive, Narre Warren, Victoria
Short name	Council

Name	S & N Super Fund Pty Ltd ACN 116 380 057
Address	Level 1, 38 Margaret Street, Moonee Ponds, Victoria
Short name	Owner

Background

- A. Council is the responsible authority for the Planning Scheme.
- B. The Owner is or is entitled to be the registered proprietor of the Subject Land.
- C. On 5 December 2017 Council resolved to prepare Amendment C235 to the Planning Scheme and in addition Council resolved to consider Planning Application No. PIn A01047/15 for staged subdivision of the land and creation of restrictions concurrently with Amendment C235 under Section 96A of the *Planning and Environment Act 1987*.
- D. Council also resolved that prior to Council considering Amendment C235 for adoption, the Owner of the land must enter into an agreement with Council and Melbourne Water under Section 173 of the *Planning and Environment Act 1987* to provide that upon the approval of Amendment C235 and the granting of the Planning Permit, the Owner will undertake the planting and ongoing protection of native trees within the Melbourne Water drainage reserve above the 1-in-100-year flood level, at a density of 170 trees per hectare, in accordance with this Agreement. The trees are to be planted prior to the issue of a Statement of Compliance for the first stage of the subdivision permitted by the Planning Permit once the Planning Permit is approved. The Owner must pay the reasonable costs of the preparation, execution and registration of the section 173 agreement.



The Parties agree

1. Definitions

In this Agreement unless the context admits otherwise:

Act means the *Planning and Environment Act 1987*.

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

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

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.

Current Email means:

- (a) for Council, caseycc@casey.vic.gov.au, or any other email address listed on Council's website; and
- (b) for the Owner, kameel@mondousproperty.com or any other email address provided by the Owner to Council for the express purpose of electronic communication regarding this Agreement.

Estimated Cost means:

- (a) for the purpose of calculating the Plan Checking Fee, the estimated cost, as agreed by Council, of constructing the Public Works shown on the plans to be checked; and
- (b) for the purpose of calculating the Supervision Fee, the estimated cost, as agreed by Council, of constructing the Public Works to be supervised.

Indexation means an annual adjustment to the Satisfaction Fee carried out in accordance with CPI.

Maintain includes to inspect, construct, repair, clean, remove, renew, alter, erect, lay or reinstate.

Owner means the person registered or entitled from time to time to be registered as proprietor of an estate in fee simple of the Subject Land and includes a mortgagee-in-possession.

Owner's obligations includes the Owner's specific obligations and the Owner's further obligations.



Party or Parties means the Parties to this Agreement but does not include a person who has transferred or otherwise disposed of all of their interests in the Subject Land.

Planning Permit means planning permit no. PlnA01047/15, as amended from time to time, authorising the staged multi lot subdivision of the Subject Land in accordance with the plans endorsed by Council.

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

Satisfaction Fee means a fee payable by the Owner to Council for determining whether any one of the Owner's obligations has been undertaken to Council's satisfaction, or for deciding whether to give consent for anything this Agreement provides must not be done without Council's consent, and which is payable at the rate of:

- (a) \$317.90 if paid within 12 months from the date that this Agreement commences; or
- (b) \$317.90 plus Indexation if paid at any time after 12 months from the date that this Agreement commences.

Satisfaction Fee means a fee payable by the Owner to Council for determining whether any obligation of the Owner set out in this Agreement has been undertaken to Council's satisfaction or deciding whether to give consent for anything this Agreement provides must not be done without the Council's consent.

Statement of Compliance means a statement of compliance issued under the *Subdivision Act 1988* for the subdivision of the Subject Land that creates the drainage reserve.

Subject Land means the land situated at 800 Berwick-Cranbourne Road, Clyde North being the land referred to in certificates of title volume 11642 folio 391 and volume 11942 folio 675 and any reference to the Subject Land includes any lot created by the subdivision of the Subject Land or any part of it.

Tree Location Plan means the 'Waterside Wetland Indicative Tree Location Plan', Revision 2, drawing 0310-0210-70 DD-300 dated June 2017, as amended from time, prepared by Tract Landscape Architects and approved by Council.

Tree Maintenance Bond means a bond in the form of a bank guarantee equivalent to the cost of the Wetlands Tree Planting, plus a 35% contingency cost, to be paid to Council by the Owner prior to the issue of the Statement of Compliance.

Wetlands Trees means the trees as shown on the Tree Location Plan

Wetlands Tree Planting means the planting of trees in accordance with the Tree Location Plan.

2. Interpretation

In this Agreement unless the context admits otherwise:

- 2.1 the singular includes the plural and vice versa;
- 2.2 a reference to a gender includes all genders;
- 2.3 a reference to a person includes a reference to a firm, corporation or other corporate body and that person's successors in law;

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

3. Purposes of Agreement

The Parties acknowledge and agree that the purposes of this Agreement are to:

- 3.1 give effect to the Council resolution; and
- 3.2 achieve and advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Subject Land.

4. Agreement required

The Parties agree that this Agreement will continue to be required until the Owner has complied with all of the Owner's obligations.

5. Owner's specific obligations

5.1 Wetlands Tree Planting

Unless with the prior written consent of Council, the Owner covenants and agrees that prior to the issue of the Statement of Compliance for the relevant stage of the subdivision authorised by the Planning Permit, the Owner must complete the Wetlands Tree Planting in accordance with the Tree Location Plan:

- 5.1.1 at the full cost of the Owner; and
- 5.1.2 to the satisfaction of Council.

5.2 Maintenance of the Wetlands Trees

The Owner covenants and agrees that the Owner:

- 5.2.1 must provide to Council the Tree Maintenance Bond prior to the issue of the Statement of Compliance;

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- 5.2.2 must Maintain the Wetlands Trees for a period of 2 years from the date of the issue of the Statement of Compliance; and
- 5.2.3 is responsible for all costs associated with Maintaining the Wetlands Trees for the 2 year period.

6. Owner's further obligations

6.1 Notice and registration

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

6.2 Further actions

The Owner:

- 6.2.1 must do all things necessary to give effect to this Agreement;
- 6.2.2 consents to Council applying to the Registrar of Titles to record this Agreement on the certificate of title of the Subject Land in accordance with s 181 of the Act; and
- 6.2.3 agree to do all things necessary to enable Council to do so, including:
 - (a) sign any further agreement, acknowledgment or document; and
 - (b) obtain all necessary consents to enable the recording to be made.

6.3 Fees

The Owner must pay to Council within 14 days after a written request for payment, any:

- 6.3.1 Plan Checking Fee;
- 6.3.2 Supervision Fee; and
- 6.3.3 Satisfaction Fee.

6.4 Council's costs to be paid

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

- 6.4.1 preparing, drafting, finalising, signing, recording and enforcing this Agreement;
- 6.4.2 preparing, drafting, finalising and recording any amendment to this Agreement;
- 6.4.3 determining whether any of the Owner's obligations have been undertaken to Council's satisfaction; and
- 6.4.4 preparing, drafting, finalising and recording any document to give effect to the ending of this Agreement.

6.5 Time for determining satisfaction

If Council makes a request for payment of:



6.5.1 a fee under clause 6.3.3; or

6.5.2 any costs or expenses under clause 6.4.3,

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

6.6 Interest for overdue money

6.6.1 The Owner must pay to Council interest in accordance with s 227A of the *Local Government Act 1989* on any amount due under this Agreement that is not paid by the due date.

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

6.7 Notification of compliance with Owner's obligations

The Owner must notify Council of its compliance with all of the Owner's obligations.

7. Agreement under s 173 of the Act

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

8. Owner's warranties

The Owner warrants that apart from the Owner and any other person who has consented in writing to this Agreement, no other person has any interest, either legal or equitable, in the Subject Land which may be affected by this Agreement.

9. Successors in title

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

9.1 give effect to this Agreement; and

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

10. General matters

10.1 Notices

A notice or other communication required or permitted to be served by a Party on another Party must be in writing and may be served:

10.1.1 personally on the other Party;



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

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

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

10.2 Counterparts

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

10.3 No waiver

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

10.4 Severability

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

10.5 No fettering of Council's powers

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

10.6 Inspection of documents

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

10.7 Governing law

This Agreement is governed by and is to be construed in accordance with the laws of Victoria.

11. Commencement of Agreement

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

12. Ending of Agreement

12.1 This Agreement ends when the Owner has complied with all of the Owner's obligations, or Amendment C235 is not approved or the Planning Permit is not issued.

12.2 After this Agreement has ended, Council will, at the Owner's written request, apply to the Registrar of Titles under s 183(1) of the Act to cancel the record of this Agreement.



Signing Page

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

Signed sealed and delivered by the Manager
Statutory Planning and Building Services on behalf of
Casey City Council pursuant to the power delegated
to that person by an Instrument of Delegation in the
presence of:

.....
Witness

Elle Dewacht
.....
Print name

Executed by S & N Super Fund Pty Ltd)
)
ACN 116 380 057 in accordance with s 127(1) of the)
Corporations Act 2001:)

.....
Signature of Director

KAMEEL MONDOOS
.....
Print full name

.....
Signature of Director (or Company Secretary)

SOUHAIL MONDOOS
.....
Print full name



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CASEY CITY COUNCIL

and

S & N SUPER FUND PTY LTD

25/06/2021

**AGREEMENT MADE PURSUANT TO
SECTION 173 OF THE PLANNING AND
ENVIRONMENT ACT 1987**

Property: Lot 2 on PS730842C, Berwick-
Cranbourne Road, Clyde North, Victoria 3978.

Russell Kennedy Pty Ltd ACN 126 792 470 ABN 14 940 129 185
Level 12, 469 La Trobe Street, Melbourne VIC 3000 PO Box 5146, Melbourne VIC 3001 DX 494 Melbourne
T +61 3 9609 1555 F +61 3 9609 1600 info@rk.com.au russellkennedy.com.au

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Ref CYW 115905-01670

© Russell Kennedy Pty Ltd

THIS AGREEMENT is made on 25th June 2021

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PARTIES

- 1 **CASEY CITY COUNCIL**
of Bunjil Place, 2 Patrick North East Drive, Narre Warren VIC 3805
(Council)
- 2 **S & N SUPER FUND PTY LTD**
of 1B/4 Rocklea Drive, Port Melbourne VIC 3207
(Owner)

RECITALS

- A The Council is the responsible authority under the Act for the Scheme.
- B The Owner is registered or is entitled to be registered as proprietor of the Land.
- C Condition 25 of the Permit provides as follows:

Community Infrastructure Levy

"25. Before the issue of a Statement of Compliance for the subdivision the developer must make payment to Council for the provision of Community Infrastructure, unless before the relevant plan of subdivision is certified under the Subdivision Act 1988, the owner enters into an agreement with the Responsible Authority under Section 173 of the Planning and Environment Act 1987 ('the Act') and makes application to the Registrar of Titles to have the agreement registered on the title to the land under Section 181 of the Act. The agreement is to provide for the payment of a Community Infrastructure Levy to Council by a future landowner, in accordance with the provisions of the Development Contributions Plan applying to the land and Section 46O of the Act.

The owner/applicant must pay the Responsible Authority's costs of the preparation, execution and registration of the Section 173 agreement."

- D This Agreement has been entered into in order to:
 - (i) comply with condition 25 of the Permit;
 - (ii) prohibit, restrict or regulate the use or development of the Land;
 - (iii) achieve and advance the objectives of planning in Victoria or the objectives of the Scheme in relation to the Land.
- E This Agreement is made under Division 2 of Part 9 of the Act.

OPERATIVE PROVISIONS

1 DEFINITIONS

In this Agreement:

- (a) **Act** means the *Planning and Environment Act 1987*.

- (b) **Agreement** means this Agreement, including the recitals and any annexures to this Agreement.
- (c) **Building Permit** means a permit issued under the *Building Act 1993* (Vic).
- (d) **Business Day** means Monday to Friday excluding public holidays in Victoria.
- (e) **Community Infrastructure Levy** means the community infrastructure levy required to be paid to the collecting agency under the Development Contributions Plan.
- (f) **Development Contributions Plan** means the Clyde North Precinct Structure Plan Development Contributions Plan.
- (g) **Endorsed Plan** means the plan or plans endorsed from time to time with the stamp of Council as the plan which forms part of the Permit.
- (h) **Land** means the land described as lot 2 on PS730842C being the whole of the land contained in certificate of title volume 11642 folio 391 and any part of it.
- (i) **Lot** has the same meaning as in the *Subdivision Act 1988* and includes a lot created as a result of the subdivision of the Land or any part of it.
- (j) **Mortgagee** means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as mortgagee of the Land or any part of it.
- (k) **Owner** means the person or persons who are registered or are entitled to be registered as proprietor of an estate in the Land or any part thereof, and includes a mortgagee in possession.
- (l) **Permit** means planning permit PlnA01047/15.A issued in respect of the Land by Council on 19 August 2019 authorising the development of the Land for staged subdivision and creation of restrictions (S96A) concurrent with planning scheme amendment to rezone land, in accordance with the Endorsed Plans.
- (m) **Scheme** means the Casey Planning Scheme or any other planning scheme, which applies, to the Land from time to time.

2 COMMENCEMENT

This Agreement comes into force on the date it was made as set out above.

3 ENDING OR AMENDING AGREEMENT

3.1 Ending or amending

This Agreement:

- 3.1.1 ends in respect of a Lot, upon payment of the Community Infrastructure Levy plus any interest, costs or expenses required to be paid to Council under this Agreement in respect of that Lot, to the satisfaction of the Council;
- 3.1.2 Otherwise amended or ended in accordance with the Act.

3.2 **Cancellation or alteration of recording**

As soon as reasonably practicable after this Agreement has ended or has been amended, the Council must, at the request and at the cost of the Owner, apply to the Registrar of Titles under the Act to cancel or alter the recording of this Agreement on the folio of the Register to the Land.

4 **OWNER'S COVENANTS**

4.1 **Community Infrastructure Levy**

The Owner covenants and agrees that:

- 4.1.1 the Community Infrastructure Levy in respect of the development of a Lot must be paid to the Council in accordance with the Development Contributions Plan that applies to that Lot prior to the issue of any Building Permit in connection with that Lot; and
- 4.1.2 if for any reason a Building Permit is not required for the development of a Lot, the Community Infrastructure Levy in respect of the development of that Lot must be paid to the Council in accordance with the Development Contributions Plan that applies to that Lot before the commencement of that development.

4.2 **Successors in title**

Until this Agreement is recorded on the folio of the Register which relates to the Land pursuant to section 181 of the Act, the Owner must ensure that the Owner's successors in title give effect to and do all acts and sign all documents which will require those successors to give effect to this Agreement including requiring the successors in title to execute a deed agreeing to be bound by the terms of this Agreement. Until that deed is executed, the Owner, being a party to this Agreement, remains liable to perform all of the Owner's obligations contained in this Agreement.

4.3 **Further assurance**

The Owner must do all things necessary (including signing any further agreement, acknowledgment or document) to enable the Council to record this Agreement on the folio of the Register which relates to the Land.

4.4 **Payment of Council's costs**

The Owner agrees to pay on demand to the Council the Council's reasonable costs and expenses (including any reasonable legal fees incurred on a solicitor-client basis) of and incidental to the preparation, execution, recording, removal, amendment and enforcement of this Agreement.

4.5 **Mortgagee to be bound**

The Owner covenants to obtain the consent of any Mortgagee to be bound by the covenants in this Agreement if the Mortgagee becomes mortgagee in possession of the Land.

4.6 **Indemnity**

The Owner covenants 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 a breach (or non compliance) of this Agreement by the Owner.

4.7 Non-compliance

The Owner covenants and agrees that:

- 4.7.1 if the Owner has not complied with this Agreement (in particular with clause 4.1) the Council as the responsible authority for the administration and enforcement of the Act, may commence an enforcement process to bring the Land and or Owner into compliance with the requirements of this Agreement; and
- 4.7.2 the Owner will pay to the Council on demand, the Council's reasonable costs and expenses incurred as a result of the Owner's non-compliance.

4.8 Council access

The Owner covenants to allow the Council and its officers, employees, agents, workmen and contractors or any of them, to enter the Land (at any reasonable time) to assess compliance with this Agreement.

4.9 Covenants run with the Land

The Owner's obligations in this Agreement are intended to take effect as covenants which shall be annexed to and run at law and in equity with the Land and every part of it, and bind the Owner and its successors, assignees and transferees, the registered proprietor or proprietors for the time being of the Land and every part of the Land.

4.10 Owner's warranty

The Owner warrants and covenants that:

- 4.10.1 the Owner is the registered proprietor (or is entitled to become the registered proprietor) of the Land and is also the beneficial owner of the Land;
- 4.10.2 the execution of this Agreement by the Owner complies with the Registrar's Requirements for Paper Conveyancing Transactions made under section 106A of the *Transfer of Land Act 1958*;
- 4.10.3 there are no mortgages, liens, charges or other encumbrances or leases or any rights inherent in any person other than the Owner affecting the Land which have not been disclosed by the usual searches of the folio of the Register for the Land or notified to the Council;
- 4.10.4 no part of the Land is subject to any rights obtained by adverse possession or subject to any easements or rights described or referred to in section 42 of the *Transfer of Land Act 1958*; and
- 4.10.5 until this Agreement is recorded on the folio of the Register which relates to the Land, the Owner will not sell, transfer, dispose of, assign, mortgage or otherwise part with possession of the Land or any part of the Land without first disclosing to any intended purchaser, transferee, assignee or mortgagee the existence and nature of this Agreement.

5 GENERAL

5.1 No fettering of Council's powers

This Agreement does not fetter or restrict the Council's power or discretion in respect of any of the Council's decision making powers including but not limited to an ability to make decisions under the *Local Government Act 1989*, and the Act or to make or impose requirements or

conditions in connection with any use or development of the Land or the granting of any planning permit, the approval or certification of any plans of subdivision or consolidation relating to the Land or the issue of a Statement of Compliance in connection with any such plans.

5.2 Time of the essence

Time is of the essence as regards all dates, periods of time and times specified in this Agreement.

5.3 Counterparts

5.3.1 This Agreement may be executed in any number of counterparts and all the counterparts together constitute one and the same instrument; and

5.3.2 A copy of an executed counterpart received by email:

- (a) must be treated as an original counterpart;
- (b) is sufficient evidence of the execution of the original; and
- (c) may be produced in evidence for all purposes in place of the original.

5.3.3 If the signatures on behalf of one party are on different counterparts, this will be taken to be, and have the same effect as, signatures on the same counterpart and on a single copy of this Agreement.

5.4 Governing law and jurisdiction

This Agreement is governed by and is to be construed in accordance with the laws of Victoria. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts and tribunals of Victoria and waives any right to object to proceedings being brought in those courts or tribunals.

5.5 Enforcement and severability

5.5.1 This Agreement shall operate as a contract between the parties and be enforceable as such in a Court of competent jurisdiction regardless of whether, for any reason, this Agreement were held to be unenforceable as an agreement pursuant to Division 2 of Part 9 of the Act.

5.5.2 If a Court, arbitrator, tribunal or other competent authority determines that a word, phrase, sentence, paragraph or clause of this Agreement is unenforceable, illegal or void, then it shall be severed and the other provisions of this Agreement shall remain operative.

6 NOTICES

6.1 Service of notice

A notice or other communication required or permitted, under this Agreement, to be served on a person must be in writing and may be served:

- 6.1.1 personally on the person;
- 6.1.2 by leaving it at the person's address set out in this Agreement;

- 6.1.3 by posting it by prepaid post addressed to that person at the person's current address for service;
- 6.1.4 by email to the person's current email address notified to the other party; or
- 6.1.5 by facsimile to the person's current number notified to the other party.

6.2 Time of service

A notice or other communication is deemed served:

- 6.2.1 if served personally or left at the person's address, upon service;
- 6.2.2 if posted within Australia to an Australian address by express post, two Business Days; by standard post, six Business Days after posting;
- 6.2.3 if sent by email, subject to the clause 6.2.5, at the time of receipt as specified in section 13A of the *Electronic Transactions (Victoria) Act 2000*;
- 6.2.4 if served by facsimile, subject to the clause 6.2.5, at the time indicated on the transmission report produced by the sender's facsimile machine indicating that the facsimile was sent in its entirety to the addressee's facsimile; and
- 6.2.5 if received after 5.00pm in the place of receipt or on a day which is not a Business Day, at 9.00am on the next Business Day.

6.3 Proof of receipt of notice by email

In proving that a notice given by email has been received by the recipient, it is sufficient to produce an acknowledgement or receipt that the email has reached the recipient's email address.

7 INTERPRETATION

In this Agreement, unless the contrary intention appears:

- 7.1 the singular includes the plural and vice versa;
- 7.2 a reference to a document or instrument, including this Agreement, includes a reference to that document or instrument as novated, altered or replaced from time to time;
- 7.3 a reference to an individual or person includes a partnership, body corporate, government authority or agency and vice versa;
- 7.4 a reference to a party includes that party's executors, administrators, successors, substitutes and permitted assigns;
- 7.5 words importing one gender include other genders;
- 7.6 other grammatical forms of defined words or expressions have corresponding meanings;
- 7.7 a covenant, undertaking, representation, warranty, indemnity or agreement made or given by:
 - 7.7.1 two or more parties; or
 - 7.7.2 a party comprised of two or more persons,is made or given and binds those parties or persons jointly and severally;

- 7.8 a reference to a statute, code or other law includes regulations and other instruments made under it and includes consolidations, amendments, re-enactments or replacements of any of them;
- 7.9 a recital, schedule, annexure or description of the parties forms part of this Agreement;
- 7.10 if an act must be done on a specified day that is not a Business Day, the act must be done instead on the next Business Day;
- 7.11 if an act required to be done under this Agreement on a specified day is done after 5.00pm on that day in the time zone in which the act is performed, it is taken to be done on the following day;
- 7.12 a party that is a trustee is bound both personally and in its capacity as trustee;
- 7.13 a reference to an authority, institution, association or body (original entity) that has ceased to exist or been reconstituted, renamed or replaced or whose powers or functions have been transferred to another entity, is a reference to the entity that most closely serves the purposes or objects of the original entity;
- 7.14 headings and the provision of a table of contents are for convenience only and do not affect the interpretation of this Agreement.

EXECUTED pursuant to Division 2 of Part 9 of the Act.

SIGNED SEALED AND DELIVERED by the)
 Manager Growth and Investment on behalf of)
CASEY CITY COUNCIL pursuant to the power)
 delegated to that person by an Instrument of)
 Delegation in the presence of:)



Richard Overall
 Witness

RICHARD OVERALL
 Print Name

25/06/2021

SIGNED SEALED AND DELIVERED BY S)
& N SUPER FUND PTY LTD in accordance)
with section 127(1) of the Corporations Act)
2001 (Cth) in the presence of authorised)
persons:

K. Mondous
Director

KAMEEL MONDOUS
Full name

13/4 ROCKLEA DRIVE, PORT MELBOURNE VIC 3207
Usual address

N. Mondous
*Director/~~company secretary~~
*Delete whichever is inapplicable

NATALIE MONDOUS
Full name

18 LEEMAK CRESCENT, BERWICK VIC 3806
Usual address

AU63342V

**Memorandum of common provisions
Restrictive covenants in a plan
Section 91A Transfer of Land Act 1958**

AA9814

Privacy Collection Statement

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

Lodged by	
Name:	Belleli King & Associates
Phone:	03 9794 9088
Address:	Level 1, 9-11 Pultney Street, Dandenong Vic 3175
Reference:	776949
Customer code:	21059U

This memorandum contains provisions which are intended for inclusion in plans under the Subdivision Act 1988 to be subsequently lodged for registration.

Provisions to apply to the plan:

Burdened land:	As set out in the plan.
Benefited land:	As set out in the plan.
Covenants:	
CREATION OF RESTRICTION 1	
Upon registration of plan of subdivision 722309S the following restriction is to be created as directed in Planning Permit PlnA01047/15.A issued by the City of Casey.	
Description of Restriction:	
1. The registered proprietor or proprietors for the time being of a burdened lot to which this restriction applies shall not:	
(a) Construct or cause or permit to be constructed any building or structure on a lot containing a building envelope on the MCP Diagram below outside the building envelopes as noted on the MCP Diagram below other than,	
i. a porch, portico or veranda no more than 3.6 metres in height and encroaching no more than 1.0 metre into the Front Setback Zone;	
ii. deck, steps or landing no more than 500mm in height encroaching no more than 1.0 metre into the Front Setback Zone;	

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V3

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

91ATLA

Page 1 of 7

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OFFICIAL

Memorandum of common provisions
Section 91A Transfer of Land Act 1958

- iii. a pergola, eaves, fascia and/or gutters encroaching no more than 1.0 metre into the Front Setback Zone;
- iv. a balcony not more than 4.5 metres high encroaching no more than 1.0 metre into the Front Setback Zone;
- v. encroachments into the nominated Side and Rear Setback Zone as provided for under Regulation 79(4) of the Building Regulations 2018 except to where a wall is on a boundary,

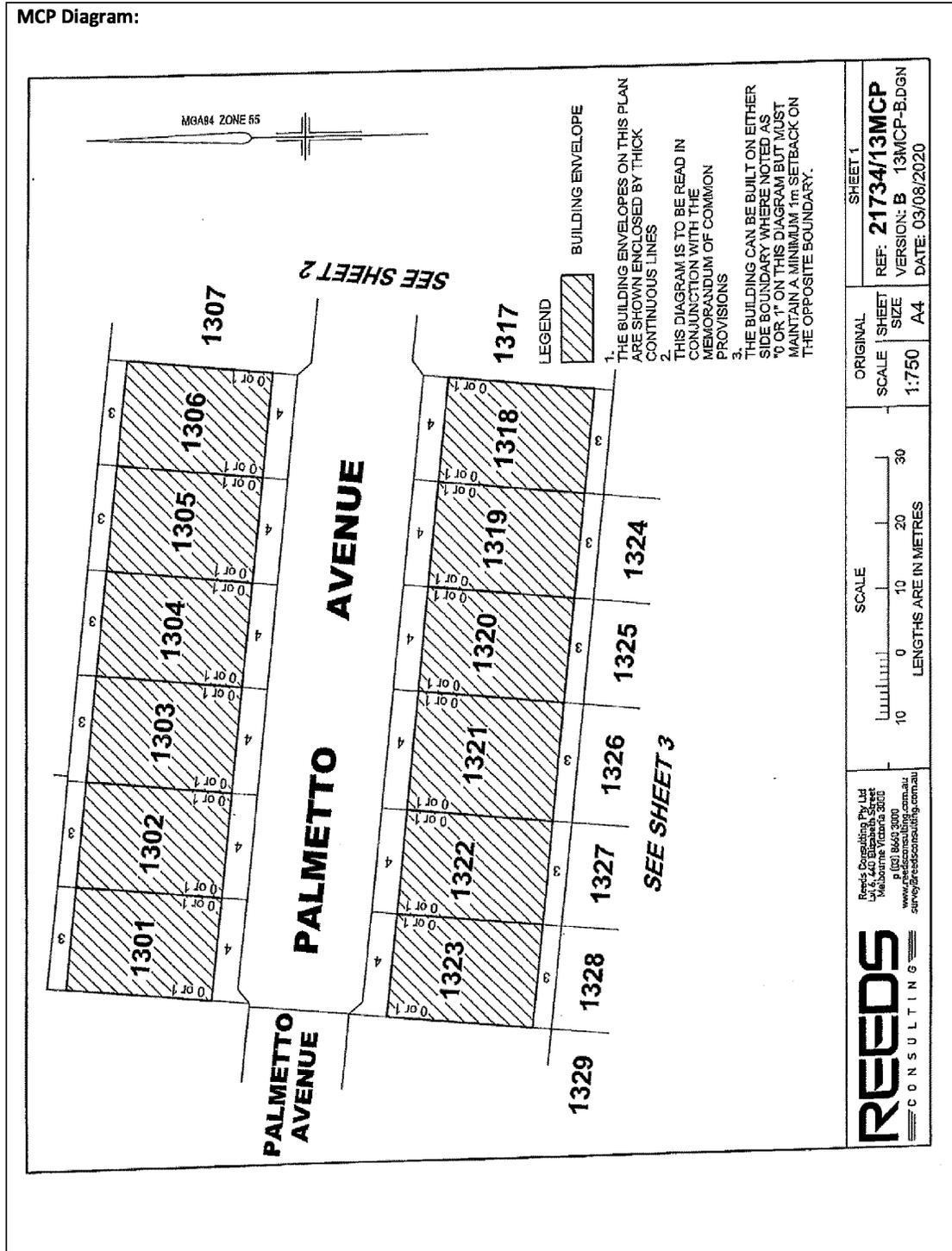
unless with the written consent of the Responsible Authority.

Further setback restrictions may apply where a Lot is affected by an easement or easements.

- (b) Construct or cause or permit to be constructed any garage openings which occupy more than 40% of the width of the primary frontage, unless the building is two or more storeys and on a lot with an area of 250 to 300 square metres whereby the garage opening must not exceed 30% of the area of the front façade of the dwelling with the area of the front façade measured from a two dimensional elevation plan of the façade excluding the area of the roof of the dwelling.
 - (c) Construct or cause or permit to be constructed any garages or carports to be setback less than 5.5 metres from the primary frontage, or, in special circumstances where lots are identified on the building envelope within an associated plan of subdivision as having an alternative garage setback whereby garages on those lots must not be setback between 3 and 5 metres from the primary frontage.
 - (d) Construct or cause or permit to be constructed any front fencing and, on side boundaries, construct or cause or permit to be constructed any fencing between the Front Boundary and the point that is 5 metres from the Front Boundary of any residence on the lot.
2. The *Building Act 1993* including regulations and other instruments made under it and including consolidations, amendments, re-enactments, or replacements of any of them applies to all matters not addressed in this Restriction.

**Memorandum of common provisions
Section 91A Transfer of Land Act 1958**

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Page 3 of 7

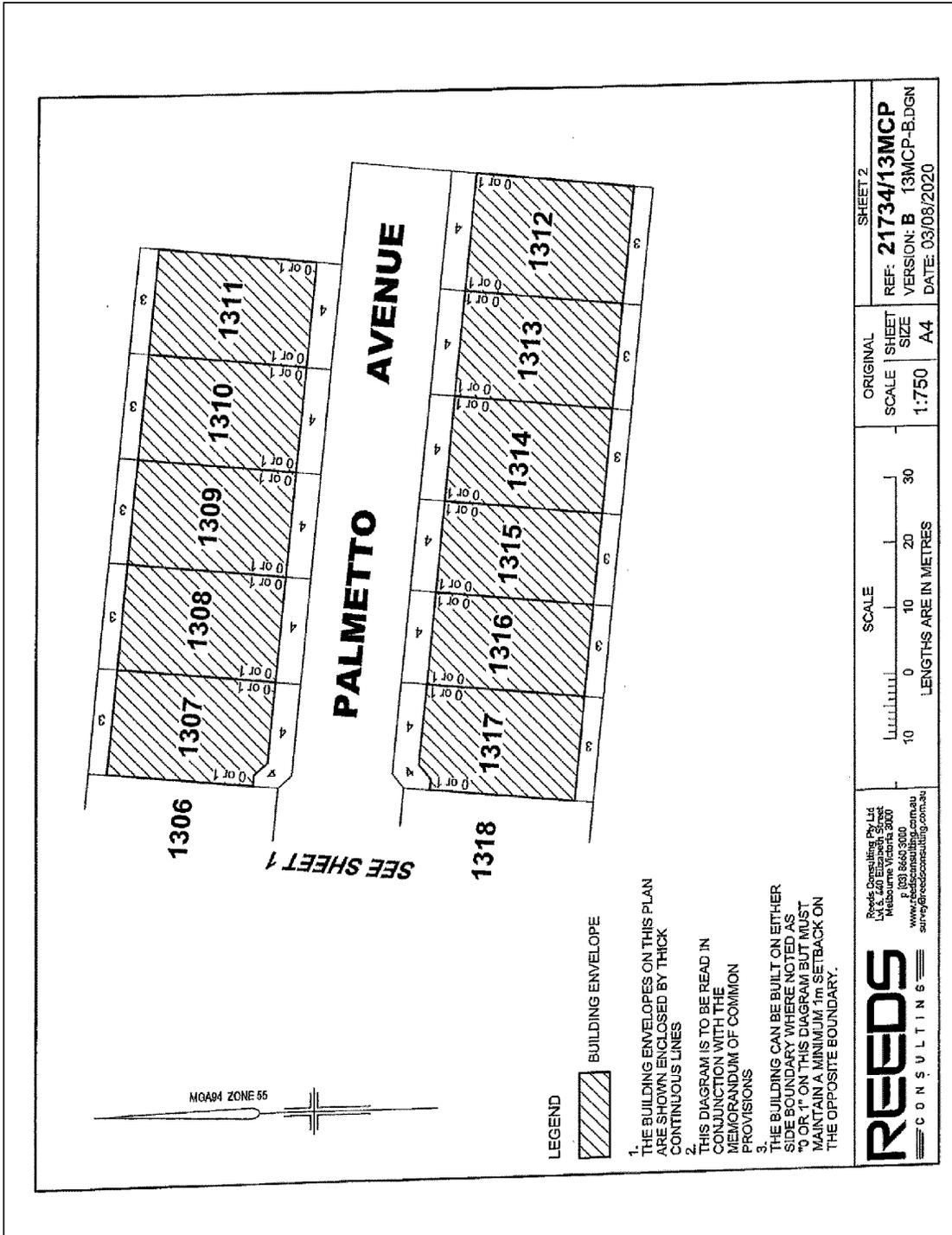
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**Memorandum of common provisions
Section 91A Transfer of Land Act 1958**

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Page 4 of 7

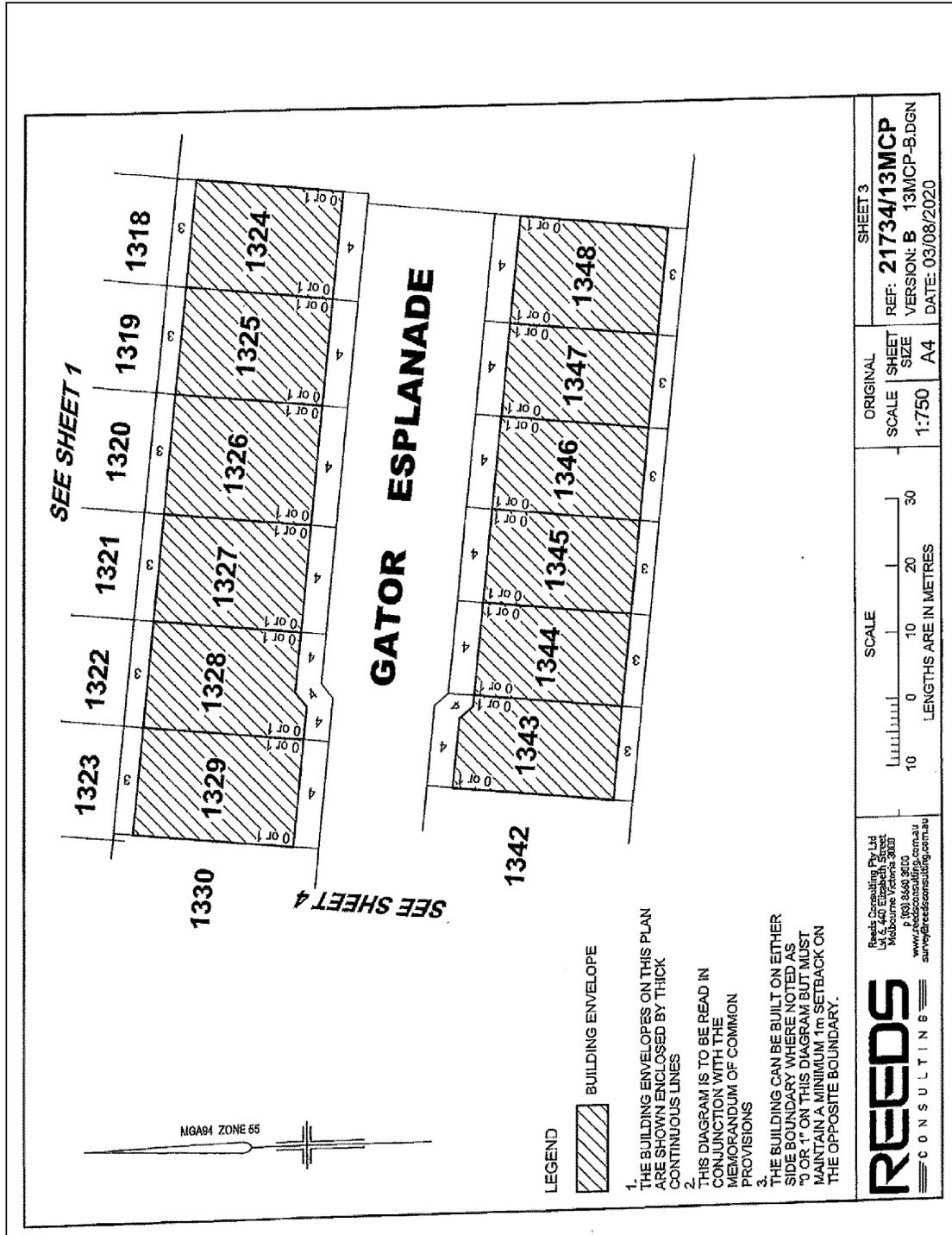
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**Memorandum of common provisions
Section 91A Transfer of Land Act 1958**

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Page 5 of 7

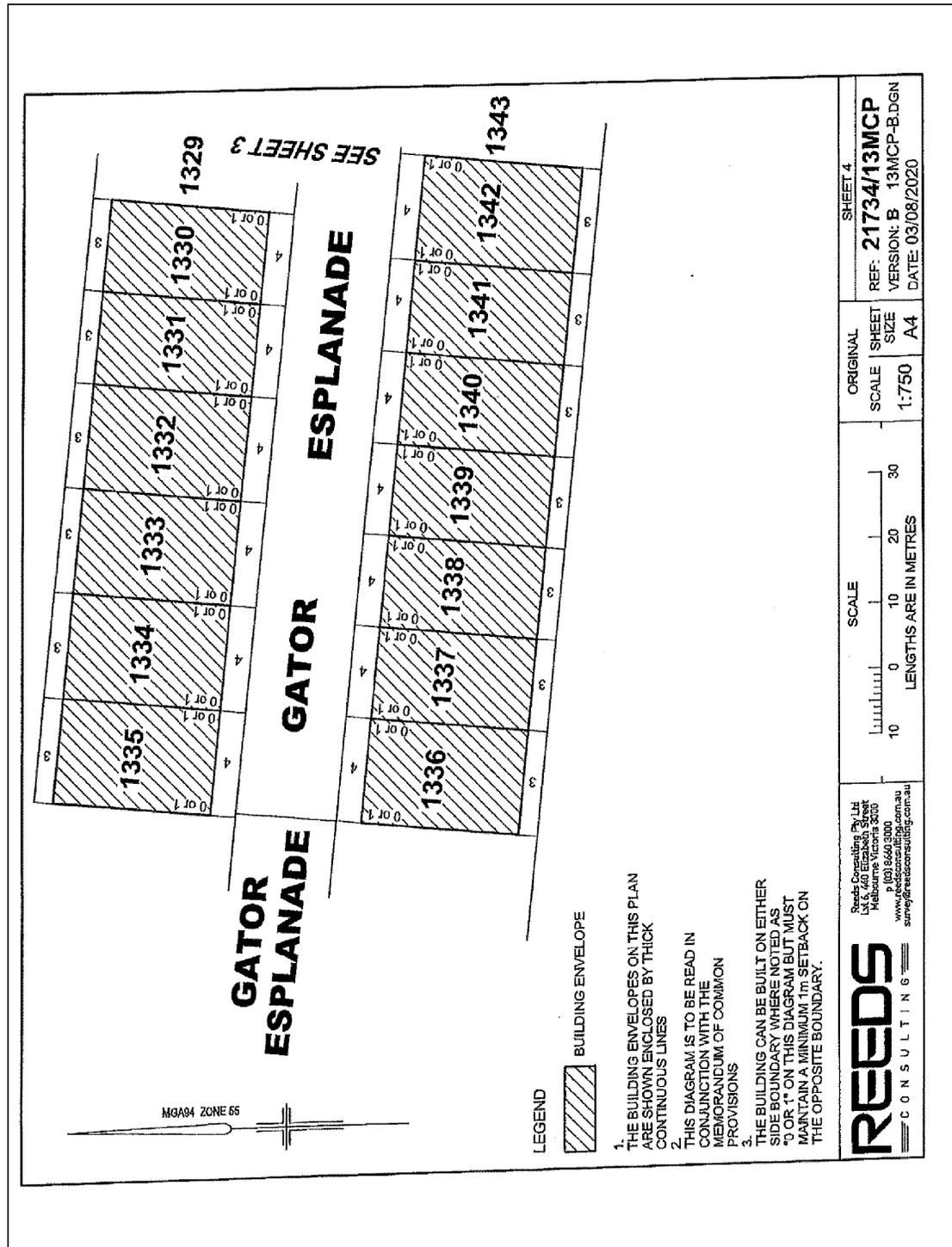
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**Memorandum of common provisions
Section 91A Transfer of Land Act 1958**

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**Memorandum of common provisions
Section 91A Transfer of Land Act 1958**

CREATION OF RESTRICTION 2

Upon registration of plan of subdivision 722309S the following restriction is to be created as directed in Planning Permit PInA01047/15.A issued by the City of Casey.

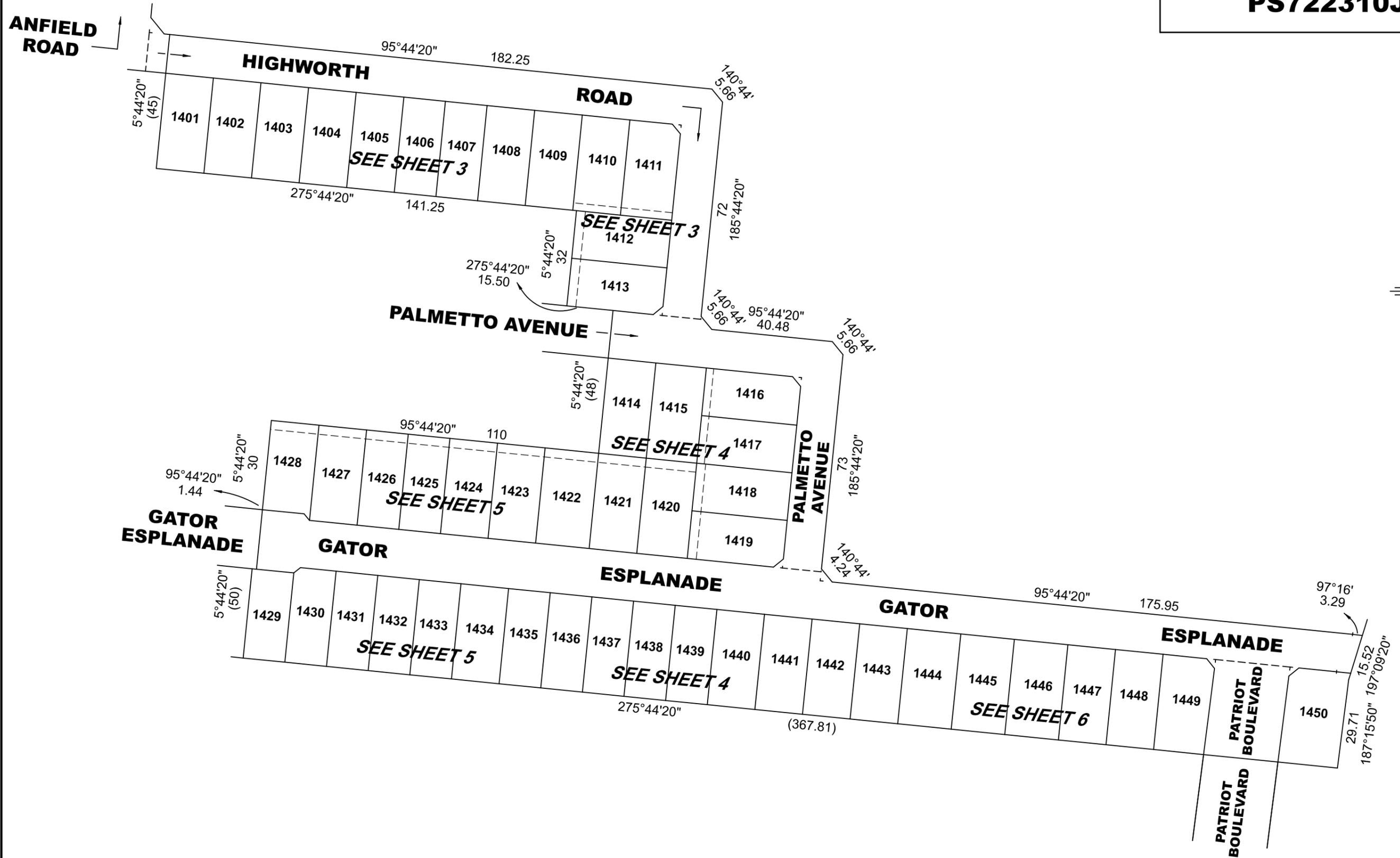
Description of Restriction:

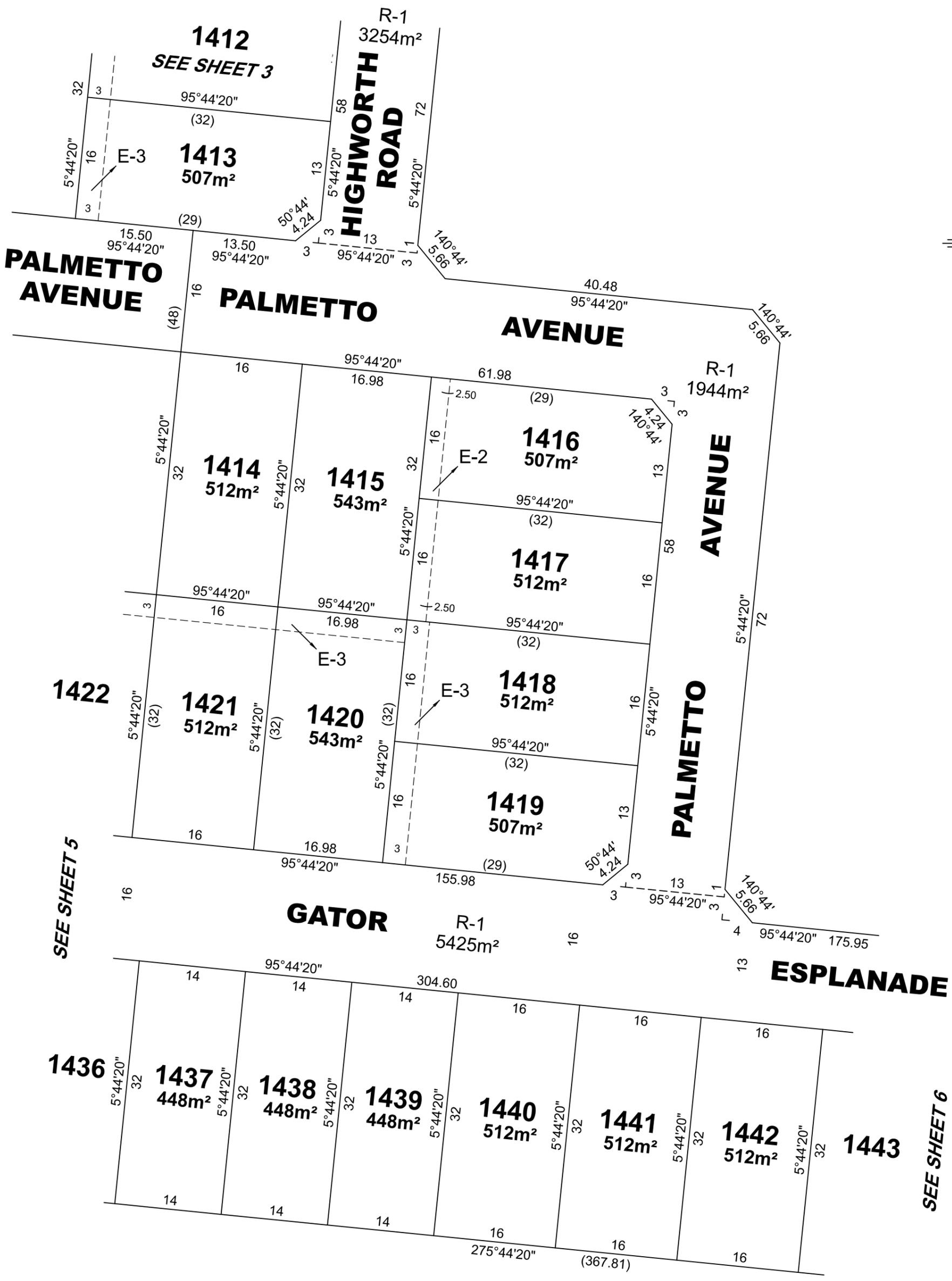
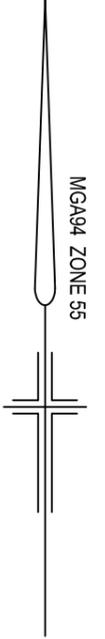
1. The registered proprietor or proprietors for the time being of a burdened lot to which this restriction applies shall not:
 - (a) Unless with the written approval of S & N Super Fund Pty Ltd, commence construction of a dwelling or outbuildings on any burdened lot in this plan.
 - (b) Unless with the written approval of S & N Super Fund Pty Ltd, commence construction of a dwelling or outbuildings on any burdened lot in this plan other than in accordance with the Berwick Waters – Mondous Island Design Guidelines, which means the Design Guidelines endorsed under the Planning Permit PInA01047/15.A, as amended from time to time.
2. S & N Super Fund Pty Ltd means S & N Super Fund Pty Ltd or a person, company or group nominated by S & N Super Fund Pty Ltd.

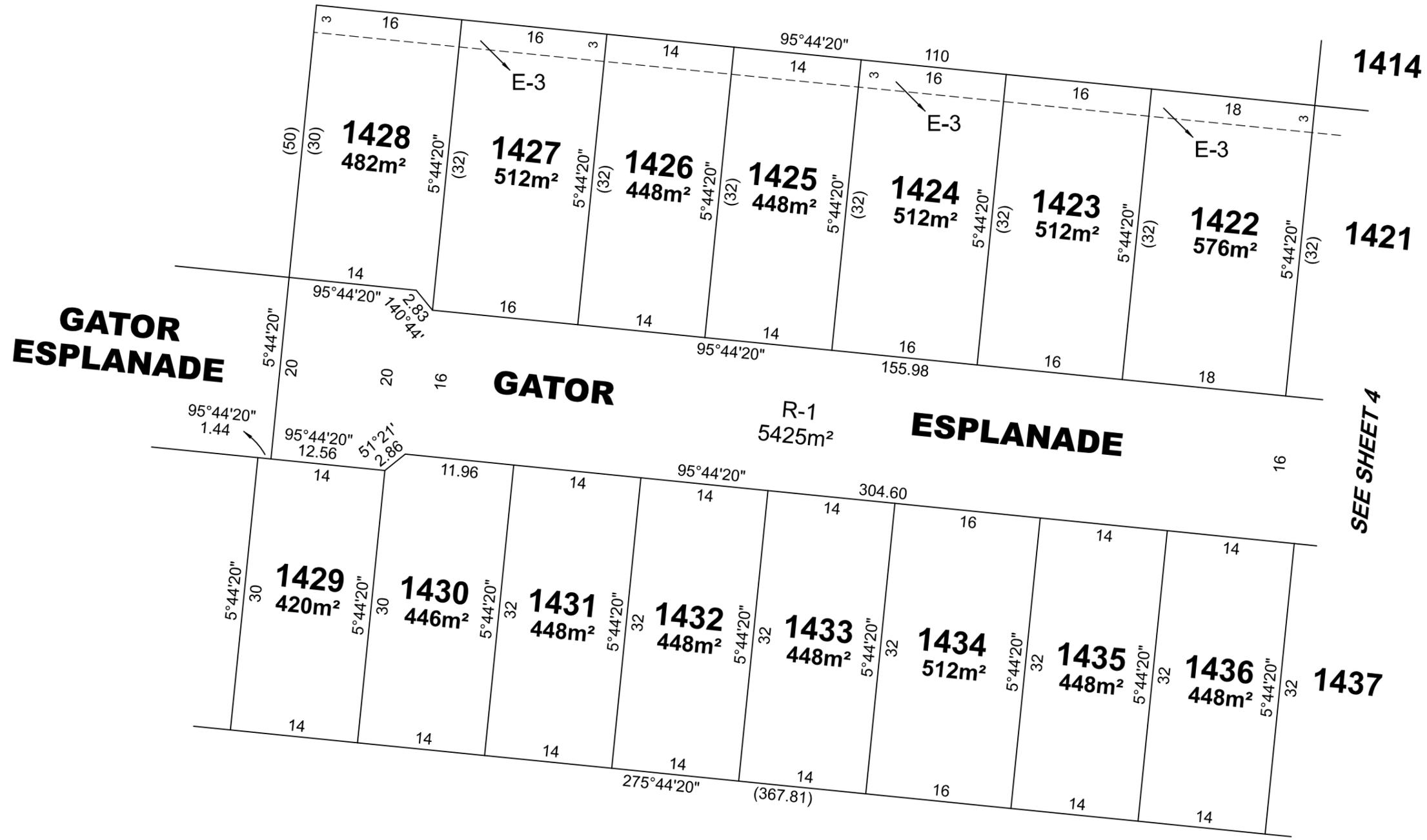
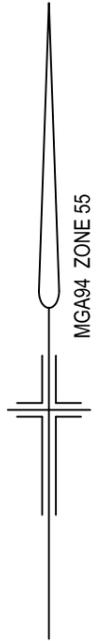
Expiry:

As set out in the plan (if applicable).

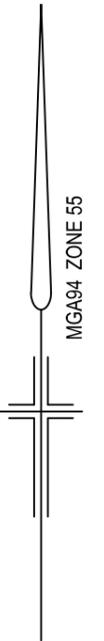
SUBDIVISION ACT 1988		PLAN OF SUBDIVISION	EDITION	PLAN NUMBER PS722310J	
LOCATION OF LAND PARISH: CRANBOURNE TOWNSHIP: ---- SECTION: ---- CROWN ALLOTMENT: 44 (PART) CROWN PORTION: ---- TITLE REFERENCES: VOL. 12573 FOL. 099 LAST PLAN REFERENCE: PS722309S LOT B POSTAL ADDRESS: 800S BERWICK-CRANBOURNE ROAD, <small>(at time of subdivision)</small> CLYDE NORTH, VIC 3978. MGA CO-ORDINATES: E 3540360 ZONE: 55 <small>(of approximate centre of land in plan)</small> N 5 783 470 GDA 2020			COUNCIL NAME : CITY OF CASEY		
VESTING OF ROADS OR RESERVES			MONDOUS ISLAND ESTATE - RELEASE 14		
IDENTIFIER	COUNCIL / BODY / PERSON		NUMBER OF LOTS IN THIS PLAN: 50		
ROADS, R-1	CITY OF CASEY		TOTAL AREA OF LAND IN THIS PLAN: 3.657ha		
			DEPTH LIMITATION: DOES NOT APPLY		
NOTATIONS					
LOTS 1-1400 (BOTH INCLUSIVE) HAVE BEEN OMITTED FROM THIS PLAN. ANY EASEMENTS SHOWN ON PREVIOUS PLANS AS IT AFFECTS ROADS R-1 ON THIS PLAN ARE REMOVED VIDE SCHEDULE 5, CLAUSE 14 OF THE ROAD MANAGEMENT ACT 2004.			OTHER PURPOSE OF THIS PLAN: CREATION OF RESTRICTION THE REGISTERED PROPRIETORS OF THE BURDENED LAND COVENANT WITH THE REGISTERED PROPRIETORS OF THE BENEFITED LAND AS SET OUT IN THIS RESTRICTION WITH THE INTENT THAT THE BURDEN OF THE RESTRICTION RUNS WITH AND BINDS THE BURDENED LAND AND THE BENEFIT OF THE RESTRICTION IS ANNEXED TO AND RUNS WITH THE BENEFITED LAND BURDENED LAND: LOTS 1401 - 1450 (BURDENED LOTS) BENEFITED LAND: LOTS 1401 - 1450 (BENEFITED LOTS) RESTRICTION: UNLESS WITH THE PRIOR APPROVAL OF THE RESPONSIBLE AUTHORITY, THE BURDENED LAND CANNOT BE USED EXCEPT IN ACCORDANCE WITH THE PROVISIONS RECORDED IN THE MCP _____ EXPIRY DATE: 1st MAY 2033.		
EASEMENT INFORMATION					STAGING:
LEGEND: A - APPURTENANT EASEMENT E - ENCUMBERING EASEMENT R - ENCUMBERING EASEMENT (ROAD)					THIS IS NOT A STAGED SUBDIVISION
					PLANNING PERMIT No. PLNA1047/15
EASEMENT REFERENCE	PURPOSE	WIDTH (METRES)	ORIGIN	LAND BENEFITED /IN FAVOUR OF	
E-2, E-3	SEWERAGE	SEE DIAG.	PS836532D	SOUTH EAST WATER CORPORATION	
E-3	DRAINAGE	SEE DIAG.	THIS PLAN	CITY OF CASEY	
					SURVEY: THIS PLAN IS BASED ON SURVEY THIS SURVEY HAS BEEN CONNECTED TO PERMANENT MARKS No(s). ----- IN PROCLAIMED SURVEY AREA No. -----
REF: 21734/14PS	VERSION: D	DATE: 24/09/2025 21734-14-PS-D.DGN		ORIGINAL SHEET SIZE A3	SHEET 1 OF 6 SHEETS
REEDS CONSULTING		Reeds Consulting Pty Ltd Lvl 16, 501 Swanston Street Melbourne Victoria 3000 p (03) 8660 3000 www.reedsconsulting.com.au survey@reedsconsulting.com.au		LICENSED SURVEYOR THOMAS ANDREW MILLAR	



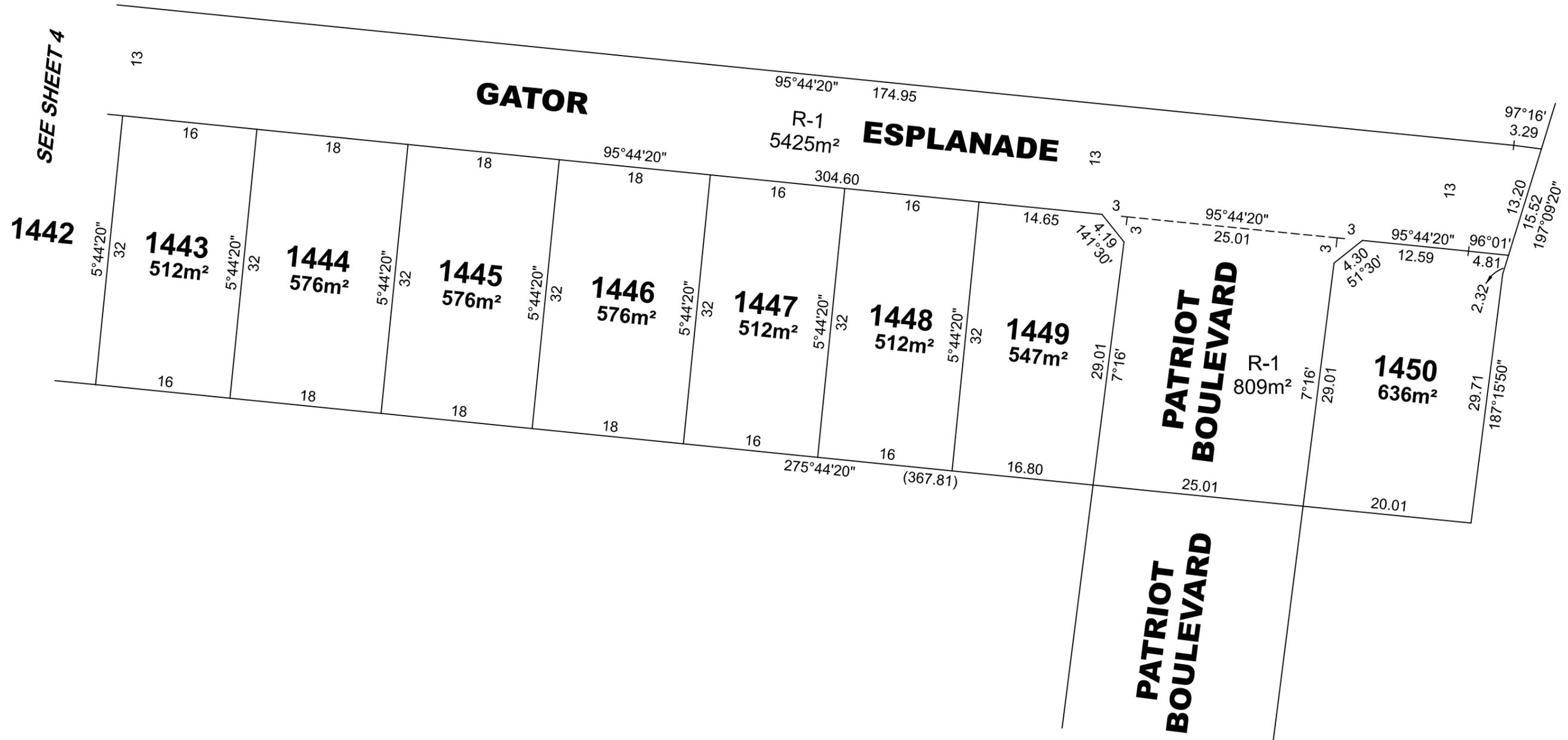




SEE SHEET 4



SEE SHEET 4



REF: 21734/14PS VERSION: D DATE: 24/09/2025
21734-14-PS-D.DGN



Reeds Consulting Pty Ltd
Lvl 16, 501 Swanston Street
Melbourne Victoria 3000
p (03) 8660 3000
www.reedsconsulting.com.au
survey@reedsconsulting.com.au

SCALE 1:500
10 0 10 20
LENGTHS ARE IN METRES

ORIGINAL SHEET
SIZE A3

SHEET 6

LICENSED SURVEYOR
..... THOMAS ANDREW MILLAR

Memorandum of common provisions
Restrictive covenants in a plan
Section 91A Transfer of Land Act 1958

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Lodged by	
Name:	Belleli King & Associates
Phone:	03 9794 9088
Address:	Level 1, 9-11 Pultney Street, Dandenong Vic 3175
Reference:	776949
Customer code:	21059U

This memorandum contains provisions which are intended for inclusion in plans under the Subdivision Act 1988 to be subsequently lodged for registration.

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ii. deck, steps or landing no more than 500mm in height encroaching no more than 1.0 metre into the Front Setback Zone;	

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V3

1. The provisions are to be numbered consecutively from number 1.
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Page 1 of 8

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Memorandum of common provisions

Section 91A Transfer of Land Act 1958

- iii. a pergola, eaves, fascia and/or gutters encroaching no more than 1.0 metre into the Front Setback Zone;
- iv. a balcony not more than 4.5 metres high encroaching no more than 1.0 metre into the Front Setback Zone;
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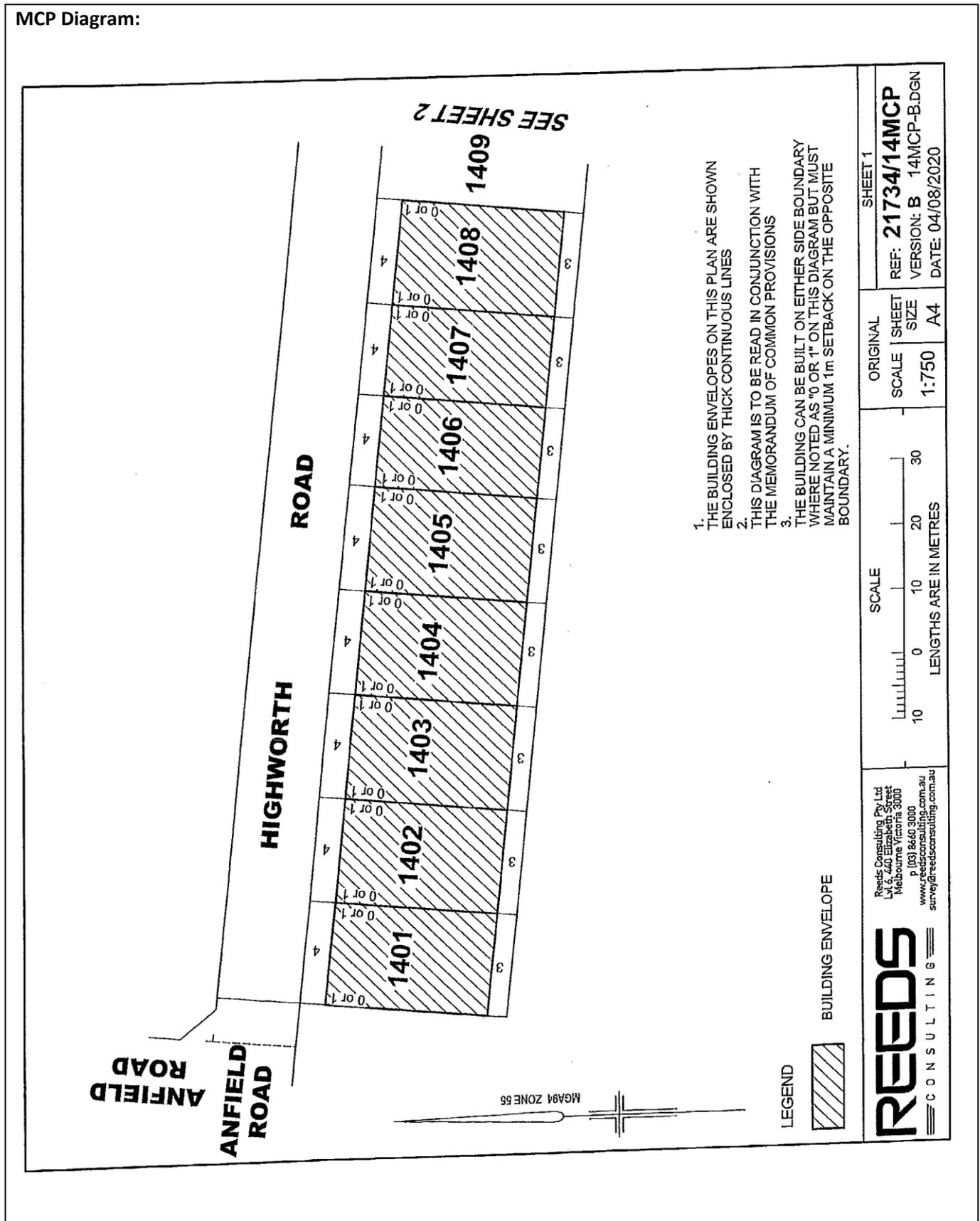
unless with the written consent of the Responsible Authority.

Further setback restrictions may apply where a Lot is affected by an easement or easements.

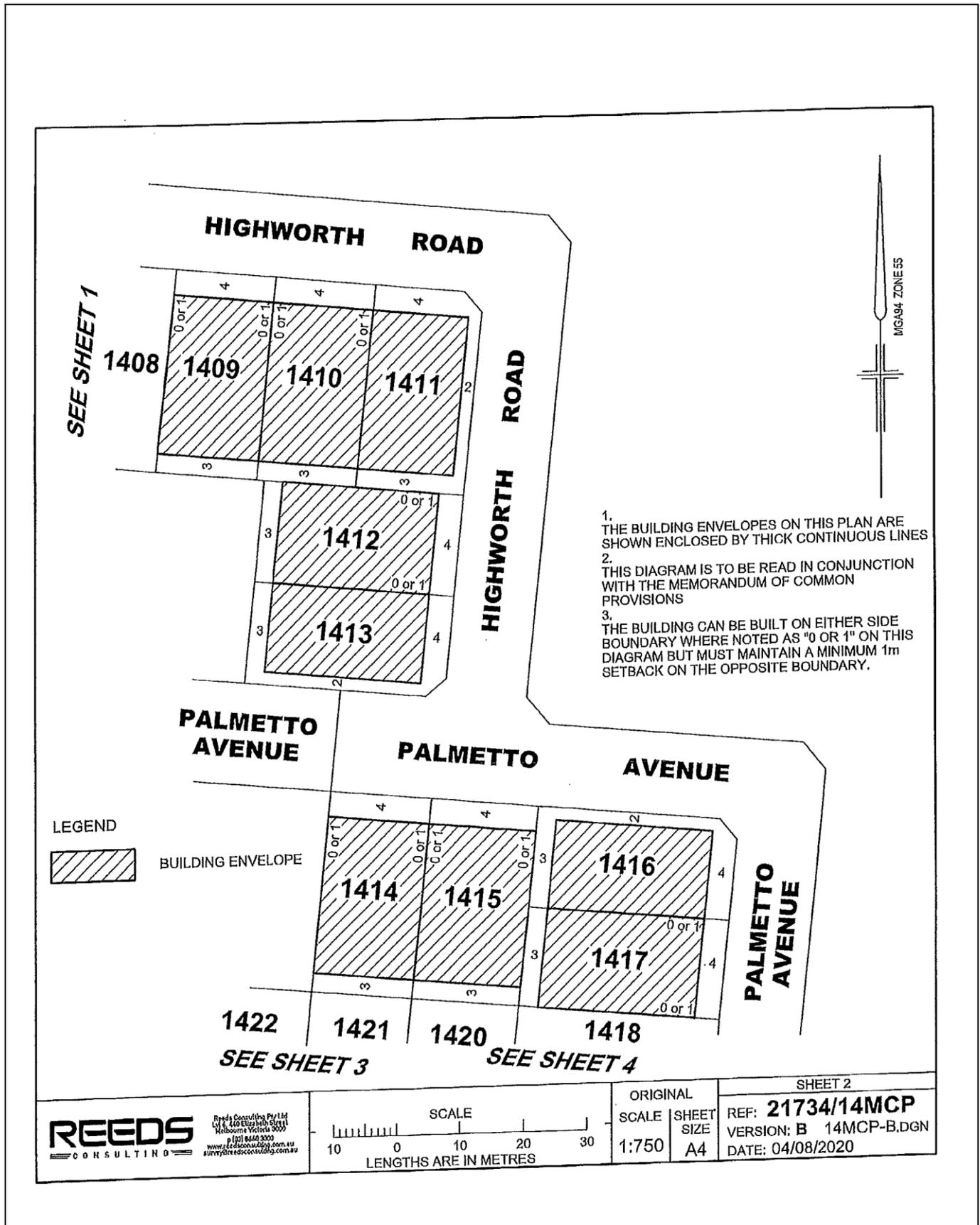
- (b) Construct or cause or permit to be constructed any garage openings which occupy more than 40% of the width of the primary frontage, unless the building is two or more storeys and on a lot with an area of 250 to 300 square metres whereby the garage opening must not exceed 30% of the area of the front façade of the dwelling with the area of the front façade measured from a two dimensional elevation plan of the façade excluding the area of the roof of the dwelling.
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Memorandum of common provisions
Section 91A Transfer of Land Act 1958

MCP Diagram:

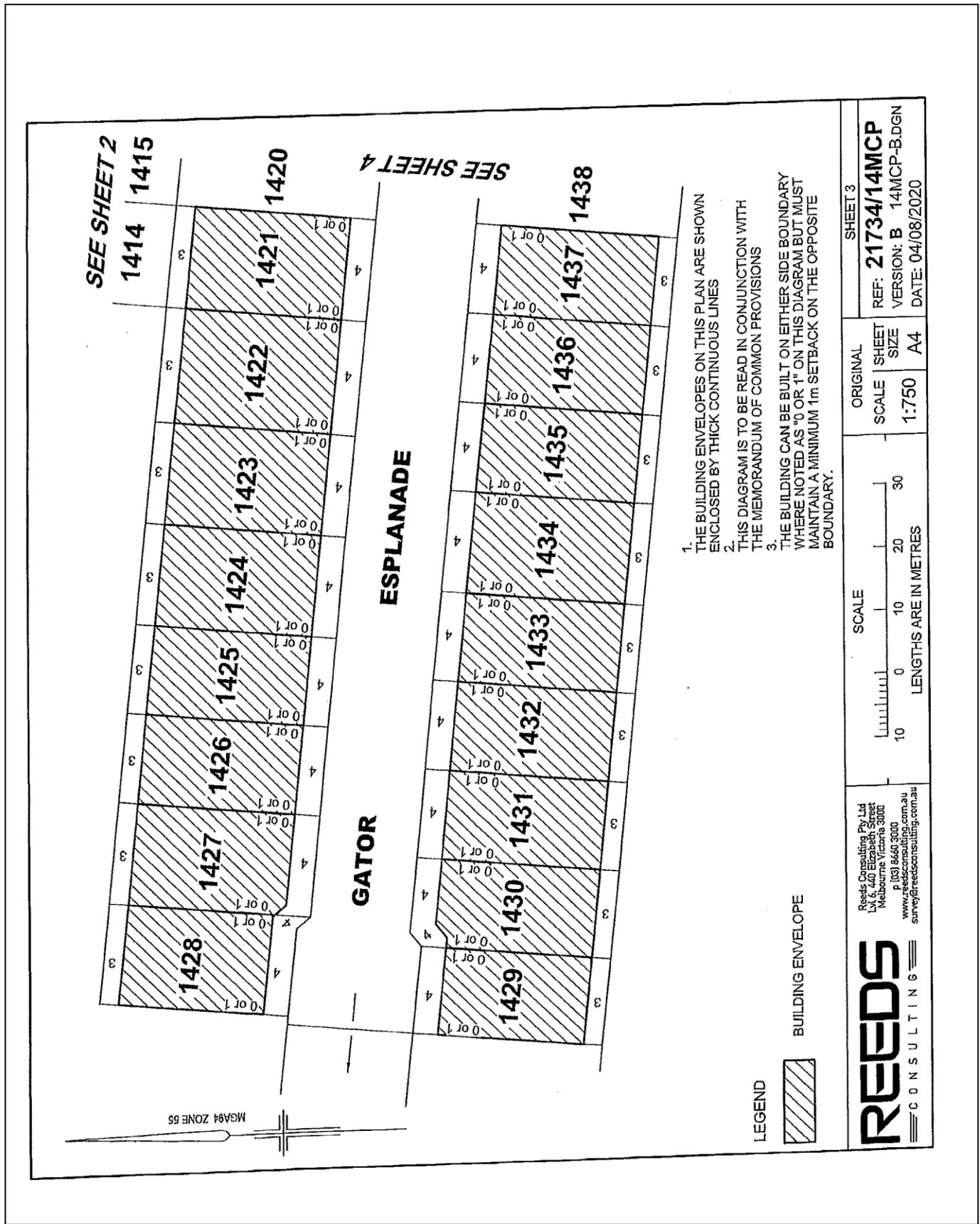


Memorandum of common provisions
Section 91A Transfer of Land Act 1958



Casey Planning Scheme Endorsed in accordance with condition(s) 10 on 06/09/2023 under Permit No. PlnA01047115 (App Ref PSEC23-0227) Sheet 4 of 8 by nfelstead

Memorandum of common provisions
Section 91A Transfer of Land Act 1958



1. THE BUILDING ENVELOPES ON THIS PLAN ARE SHOWN ENCLOSED BY THICK CONTINUOUS LINES
2. THIS DIAGRAM IS TO BE READ IN CONJUNCTION WITH THE MEMORANDUM OF COMMON PROVISIONS
3. THE BUILDING CAN BE BUILT ON EITHER SIDE BOUNDARY WHERE NOTED AS "0 OR 1" ON THIS DIAGRAM BUT MUST MAINTAIN A MINIMUM 1m SETBACK ON THE OPPOSITE BOUNDARY.

LEGEND

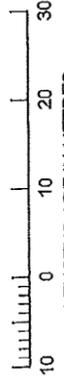


BUILDING ENVELOPE

REEDS
CONSULTING

Reeds Consulting Pty Ltd
Lvl 6, 470 Elizabeth Street
Melbourne Victoria 3000
p (03) 8660 3000
www.reedsconsulting.com.au
surveys@reedsconsulting.com.au

SCALE



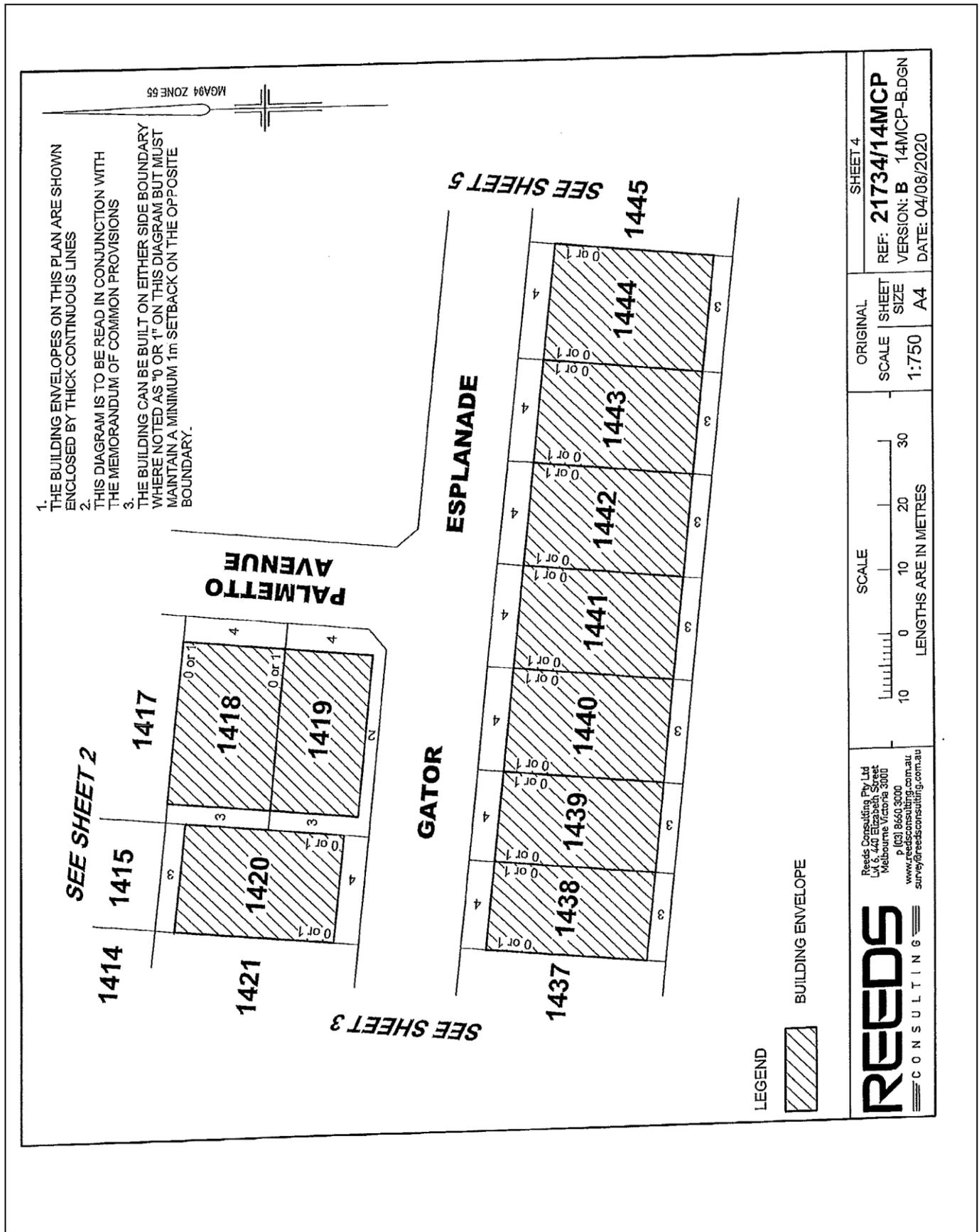
ORIGINAL

SCALE 1:750
SHEET SIZE A4

SHEET 3

REF: 21734/14MCP
VERSION: B 14MCP-B.DGN
DATE: 04/08/2020

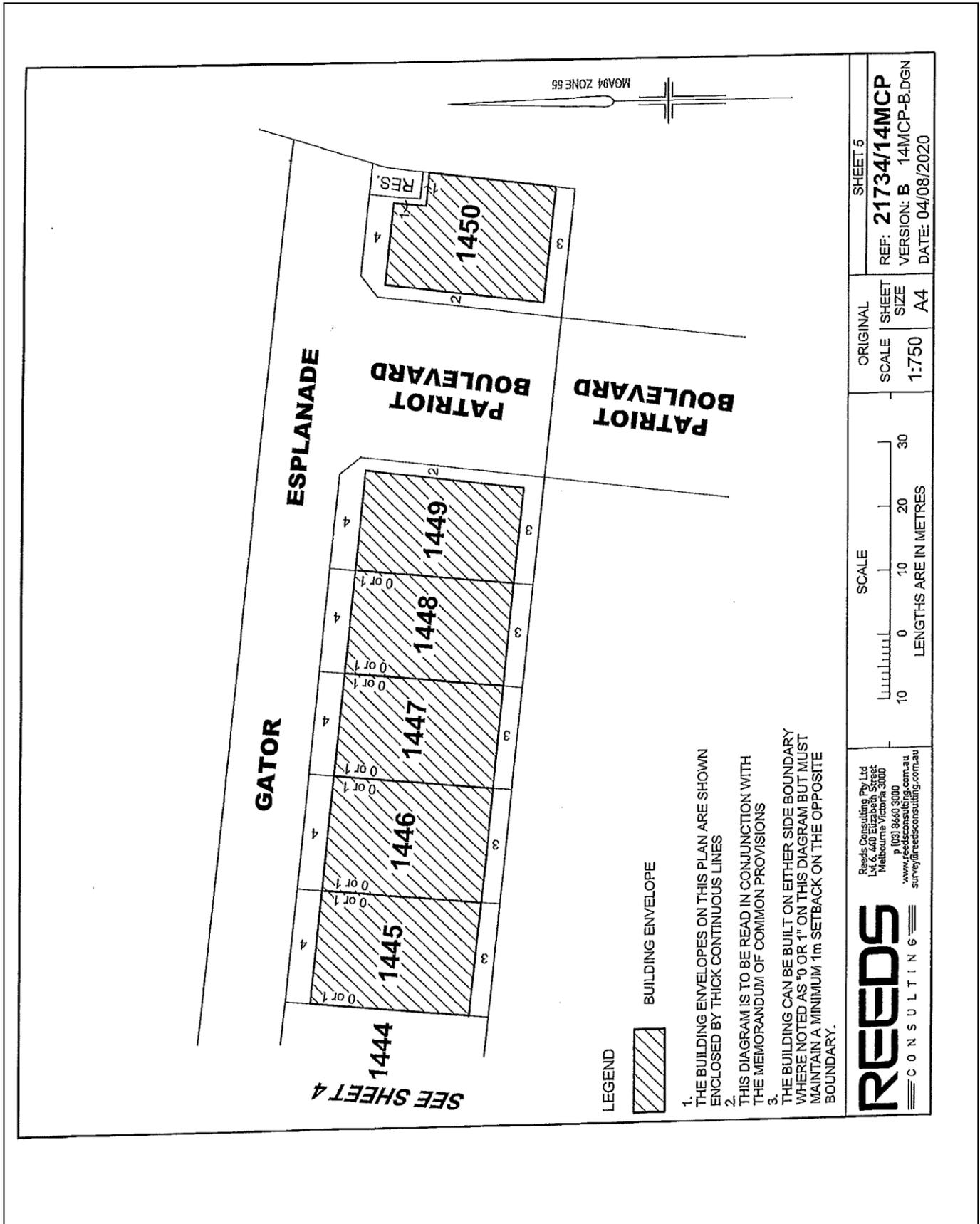
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REEDS CONSULTING		Reeds Consulting Pty Ltd Unit 6, 440 Elizabeth Street Melbourne Victoria 3000 P (03) 8640 3000 www.reedsconsulting.com.au survey@reedsconsulting.com.au	SCALE 10 0 10 20 30 LENGTHS ARE IN METRES	ORIGINAL SCALE 1:750	SHEET SIZE A4	SHEET 4 REF: 21734/14MCP VERSION: B 14MCP-B.DGN DATE: 04/08/2020
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Memorandum of common provisions
Section 91A Transfer of Land Act 1958



Memorandum of common provisions
Section 91A Transfer of Land Act 1958

CREATION OF RESTRICTION 2

Upon registration of plan of subdivision 722310J the following restriction is to be created as directed in Planning Permit PInA01047/15.A issued by the City of Casey.

Description of Restriction:

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 - (a) Unless with the written approval of S & N Super Fund Pty Ltd, commence construction of a dwelling or outbuildings on any burdened lot in this plan.
 - (b) Unless with the written approval of S & N Super Fund Pty Ltd, commence construction of a dwelling or outbuildings on any burdened lot in this plan other than in accordance with the Berwick Waters – Mondous Island Design Guidelines, which means the Design Guidelines endorsed under the Planning Permit PInA01047/15.A, as amended from time to time.
2. S & N Super Fund Pty Ltd means S & N Super Fund Pty Ltd or a person, company or group nominated by S & N Super Fund Pty Ltd.

Expiry:

As set out in the plan (if applicable).

PLANNING PERMIT

Permit No. PInA01047/15.A
Planning scheme Casey Planning Scheme
Responsible authority City of Casey

ADDRESS OF THE LAND:

720 Berwick-Cranbourne Road CLYDE NORTH VIC 3978 Lot 2 PS 730842C

THE PERMIT ALLOWS:

Staged Subdivision and Creation of Restrictions (S96A) concurrent with Planning Scheme Amendment to rezone land - see PSA00023/15

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

Conditions: 1-75 and Notes (Inclusive)

Staged Subdivision Master Plan

1. Prior to the commencement of works and / or the certification of the first plan of subdivision, an amended subdivision layout plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided (hard copies at an A1 scale). The plans must be generally in accordance with Reeds Consulting Pty Ltd drawing 'Waterside Estate South Development Plan, Ref 21734P/S, Version M, 01/08/2017' submitted on 1 August 2017, but modified to show:
 - (a) ***DELETED***
 - (b) ***DELETED***
 - (c) Road reserve dimensions in accordance with Growth Areas Authority Standard Drawings.
 - (d) Street names to the satisfaction of the Responsible Authority or deleted from the plan.
 - (e) Widths of all shared paths in accordance with Clyde North Precinct Structure Plan
 - (f) The 'Removed Native Vegetation' area and associated notations amended to 'Destroyed Native Vegetation' on the plan and the notations legend.
 - (g) The notation regarding removal of the Land Subject to Inundation Overlay deleted.

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Public Infrastructure Plan

2. Prior to the commencement of works and / or the certification of the first plan of subdivision, a Public Infrastructure Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Public Infrastructure Plan must address the following:
- (a) What land may be affected or required for the provision of public infrastructure works and the timing of when such land will be provided.
 - (b) The provision, staging and timing of stormwater drainage works, including any temporary drainage works approved by Melbourne Water and the Responsible Authority.
 - (c) The provision, staging and timing of road works (including intersections) internal and external to the land consistent with any relevant traffic report or assessment.
 - (d) The provision of public open space and tree reserves.
 - (e) The landscaping of any land.
 - (f) What (if any) infrastructure set out in the Development Contributions Plan applying to the land is sought to be provided as “works in lieu” subject to the consent of Casey City Council.
 - (g) Include the following notation:
 - (i) The permit applicant acknowledges to Council that the approval of the Permit PIP by Council is being done by Council in its capacity as the Responsible Authority and does not provide any indication or advice as to whether Council, acting in its capacity as the Collecting Agency under the relevant Development Contributions Plan, will approve a proposal to carry out any DCP projects as works in kind. The permit applicant acknowledges that a separate and formal request to carry out a DCP project as a works in kind project is required.

Street Tree Landscape Master Plan

3. Before the certification of the first plan of subdivision, a Street Tree Landscape Master Plan for all stages of the subdivision prepared by a person suitably qualified or experienced in landscape design to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The Street Tree Master Plan must show:
- (a) Buildings and trees (including botanical names) on neighbouring properties where impacted on by the proposed subdivision.
 - (b) The proposed road reserve widths including proposed areas within the road reserves set aside for the retention of existing vegetation.
 - (c) The general layout of street tree plantings including the proposed tree species.

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- (d) The location of paths as per the approved subdivision master plan.
- (e) The location of fencing including tree, walkway and vehicle exclusion fencing.
- (f) Indicative road reserve cross-sections with street tree planting illustrated.
- (g) Consistency of streetscape planting where streets continue from adjoining developments into the subject site. Note: It is the developers responsibility to liaise with adjoining developer(s) to ensure planting consistency.

All species selected must be to the satisfaction of the Responsible Authority.

Landscape and Wetlands Tree Planting Master Plan

4. Before the certification of the plan of subdivision for the first stage of development, a landscape master plan (including Wetlands Tree Planting) for the whole of the estate prepared by a person suitably qualified or experienced in landscape design to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with Reeds Consulting Pty Ltd drawing 'Waterside Estate South Development Plan, Ref 21734P/S, Version M, 01/08/2017' submitted on 1 August 2017, but modified to show:
- (a) A survey (including location, size and botanical name) of all existing vegetation on the land.
 - (b) Vegetation that is approved to be retained, removed and/or lopped.
 - (c) Buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary.
 - (d) Site contours and any proposed changes to existing levels including any structural elements such as retaining walls.
 - (e) The proposed road reserve widths including proposed areas within the road reserves set aside for the retention of existing vegetation.
 - (f) The general layout of street tree and reserve plantings including a list of proposed species.
 - (g) The proposed areas within the Melbourne Water drainage reserve (wetlands) set aside to accommodate tree planting required by the Section 173 Agreement affecting the land.
 - (h) The proposed location of structures and street furniture items.
 - (i) The proposed location of paths and any other pavement areas.
 - (j) The proposed location of playgrounds or play items.
 - (k) The location of fencing including tree, walkway and open space reserve fencing.

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- (l) A legend to indicate proposed elements within open space and streetscapes
- (m) Other information as requested to the satisfaction of the Responsible Authority

All species selected must be to the satisfaction of the Responsible Authority

Secondary Consents

- 5. The subdivision master plan and any other documentation endorsed to form part of the permit must not be altered or modified without the prior written consent of the Responsible Authority.
- 6. The subdivision must proceed in the order of stages as shown on the endorsed plans unless otherwise agreed in writing by the Responsible Authority.

Small Lot Housing Code

- 7. Prior to the certification of the plan of subdivision, a plan must be submitted for approval to the satisfaction of the responsible authority. The plan must identify the lots that will include a restriction on title allowing the use of the provisions of the Small Lot Housing Code incorporated pursuant to Clause 81 of the Casey Planning Scheme.
- 8. The plan of subdivision submitted for certification must identify whether Type A or Type B of the Small Lot Housing Code applies to each lot to the satisfaction of the responsible authority.

Actions Prior to Works and/or Certification

- 9. Prior to the certification of any plan of subdivision (or a relevant stage of a subdivision), building envelopes in accordance with Part 4 of the Building Regulations must be submitted to the Responsible Authority for approval for lots of between 250 square metres and 500 square metres where the Small Lot Housing Code is not applied, all to the satisfaction of the Responsible Authority. Once approved the building envelope plan will be endorsed and form part of the permit. The building envelopes must be designed to consider the provision of solar access and any other requirements provided on the plans endorsed to the permit as relevant, and must show:
 - (a) At least a 4 metre setback from the primary frontage to all lots.
 - (b) At least a 1 metre setback from any boundary abutting a reserve.
 - (c) At least a 2 metre setback from any boundary abutting a side street.
 - (d) Any zero or 1 metre setback from a side boundary must only apply to one side boundary. This can be shown on both side boundaries with a notation stipulating that only one of these zones can be utilised per lot in relation to the location of the crossover provided to that lot.
 - (e) At least a 3 metre setback from rear boundaries.
 - (f) No easement within building envelopes.

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10. Prior to the certification of any plan of subdivision (or a relevant stage of a subdivision), any restrictions on the plan of subdivision including relevant "Design Guidelines" and / or Memorandum of Common Provisions must be submitted to the Responsible Authority for approval and applied to all lots to the satisfaction of the Responsible Authority. Once approved, the restrictions and associated documentation will be endorsed and form part of the permit. The restrictions / Design Guidelines / Memorandum of Common Provisions must include:
 - (a) A restriction that does not allow construction outside the approved building envelopes shown on the building envelope plan endorsed to the permit.
 - (b) A restriction that does not allow garage openings to occupy more than 40% of the width of the primary frontage, unless the building is two or more storeys and on a lot with an area between 250 to 300 square metres whereby the garage opening must not exceed 30% of the area of the front façade of the dwelling with the area of the front façade measured from a two dimensional elevation plan of the façade excluding the area of the roof of the dwelling.
 - (c) A restriction that does not allow garages or carports to be setback less than 5.5 metres from the primary frontage, or, in special circumstances where lots are identified on the building envelope within an associated plan of subdivision as having an alternative garage setback whereby garages on those lots must not be setback between 3 and 5 metres from the primary frontage.
 - (d) Differentiation of fencing restrictions for corner lots as opposed to standard lots in relation to fencing of a side boundary, acknowledging that corner lots should address both the primary and secondary street frontage.
 - (e) A consent mechanism with respect to building outside of a building envelope with the written consent of the Responsible Authority.
11. Prior to the commencement of works a Salvage Plan for threatened species including Southern Toadlet, Glossy Grass Skink and Growling Grass Frog must be prepared to the satisfaction of the Secretary to the Department of Sustainability and Environment and the approval of the responsible authority.
12. The approved Salvage Plan must be implemented to the satisfaction of the Secretary to the Department of Sustainability and Environment and the responsible authority.
13. Before any plan of subdivision is certified under the Subdivision Act 1988, for each stage of the subdivision, a schedule of lots created and housing densities, must be submitted to Council showing the number of lots created in the stage together with cumulative totals of any lots created and housing densities in earlier stages of the subdivision, to the satisfaction of the Responsible Authority.

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14. Prior to certification of any plan of subdivision, the plan must be referred to the following authorities under Section 8 of the Subdivision Act 1988:

- Melbourne Water;
- South East Water;
- APT O & M Services Pty Ltd.
- Country Fire Authority.
- AusNet Electricity Services Pty Ltd.
- VicRoads.
- Public Transport Victoria.

Certification Plans

15. The plans submitted for certification must be in accordance with the endorsed plans but modified to show to the satisfaction of the Responsible Authority and relevant servicing authorities:

- (a) Waterway management easements or reserves shown on the plan of subdivision are vested in Melbourne Water.
- (b) All land to be set aside for drainage works.
- (c) All easements required by servicing authorities as well as any easements required by the responsible authority over any temporary drainage assets which are to be managed by the responsible authority.
- (d) Sewerage/water supply easements over all existing and/or proposed South East Water Limited sewers/water mains located within the land, to be in favour of South East Water Limited pursuant to Section 12(1) of the Subdivision Act.
- (e) Building envelopes and the creation of restrictions to accord with those identified on plans/documents endorsed to the Permit.
- (f) Unless otherwise agreed in writing by the Responsible Authority, road reserves, splays and court head dimensions in accordance with the Growth Areas Authority Standard Drawings.
- (g) Any tree reserves to be vested with the City of Casey.
- (h) All bearings, distances, levels, street names, lot numbers, lot sizes, reserves and easements.
- (i) Street names to the satisfaction of the Responsible Authority.

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Actions Prior to Construction

16. Before subdivision, the construction of a building, or the construction or carrying out of works on the land starts, offsets for the loss or deemed loss of native vegetation and threatened species habitat must be secured in accordance with the Biodiversity Conservation Strategy for Melbourne's Growth Corridors (Department of Environment and Primary Industries, 2013) and Habitat compensation under the Biodiversity Conservation Strategy (Department of Environment and Primary Industries, 2013), to the satisfaction of the Secretary to the Department of Environment and Primary Industries.

17. No less than 14 days before the subdivision starts a site specific Environmental Management Plan (Site EMP) must be submitted to and approved by the Responsible Authority. The Site EMP must be prepared in accordance with Council's 'Site EMP Kit' to the satisfaction of the Responsible Authority. No alterations to the Site EMP may occur without the consent of the Responsible Authority. All works must be undertaken in accordance with the approved Site EMP to the satisfaction of the Responsible Authority.

In preparation of the Site EMP, the applicant must use the environmental protection measures as set out in EPA's publication 480 "Environmental Management Guidelines for Major Construction Sites" unless it can be demonstrated that alternative techniques can fulfil the specified site requirements.

18. Before any road/drainage works associated with each stage of the subdivision start, detailed construction plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must include, as relevant:

- (a) Fully sealed pavements with kerb and channel (or rollover kerbs where appropriate) to dimensions generally in accordance with the relevant road cross-sections in the Clyde North Precinct Structure Plan and the Growth Areas Authority Standard Drawings.
- (b) Traffic management devices.
- (c) Vehicle exclusion fencing where necessary.
- (d) Corner splays, as required, to suit the road function.
- (e) Driveway links designed to provide one (1) visitor space per lot served by the link.
- (f) Concrete footpaths or shared paths in accordance with the Clyde North Precinct Structure Plan on both sides of each roadway with the exception of the side of a road that abuts a public open space.
- (g) A vehicular crossing to each lot designed in accordance with the Growth Areas Authority Standard Drawings unless an alternative treatment is approved by the Responsible Authority. Crossovers should be:
 - (h) located on the long side of corner sites where roundabout splitter islands will hinder access.

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- (i) located a minimum of 1 metre from any service facilities.
 - (i) offset a minimum of 6 metres from the tangent point of any side streets (refer to Australian Standards, Parking Facilities, Part 1: Off-street car parking).
 - (ii) Temporary turnaround areas within the site for waste collection vehicles (8.8 metres in length) at the dead end of any road.
 - (iii) Drainage systems, including:
 - (iv) construction details of any temporary drainage works approved by Melbourne Water and the Responsible Authority, along with details of any safety measures, edge treatments and separation distances between those works and the land being subdivided.
- (j) Permanent survey marks, levelled to the Australian Height Datum and coordinated to the Australian Map Grid.
- (k) The location of street lighting.
- (l) Street tree placement.
- (m) Any water sensitive urban design features.
- (n) Details of any cut and fill.
- (o) Services located in shared trenches wherever possible.
- (p) Fibre optic conduit network throughout the subdivision.
- (q) All concrete and construction materials used on site must comply with AS 2159-2009 and AS 3600-2009.
- (r) All shared paths as required by the endorsed subdivision master plan.

The engineering construction plans must include any lot or reserve previously created from the parent title that has yet to be embellished/serviced in accordance with the requirements of this Permit.

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19. Before the start of any landscaping or planting works for any stage of the subdivision, a detailed landscape plan (including Wetlands Tree Planting) and plant schedule prepared by a person suitably qualified or experienced in landscape design to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plan must show the proposed landscape and plant schedule for all public open space areas, including streetscapes, parkland water retention areas, buffer zones, service corridors and community uses. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The landscaping plan must be generally in accordance with the landscape master plan approved under the relevant condition of this permit, except that the plan must show:
- (a) Existing vegetation that is approved to be retained.
 - (b) New plantings including their layout to be provided in all road, open space, plantation and municipal reserves.
 - (c) A detailed plant schedule including all proposed tree, shrub, groundcover and climbing plant species.
 - (d) Trees planted at a density of 170 trees per hectare within the Melbourne Water drainage reserve(wetlands) above the 1-in-100-year flood level as required by the Section 173 Agreement affecting the land. The plants must be indigenous trees relevant to the Ecological Vegetation Class type.
 - (e) The proposed location and final set out of paths, areas of pavement, playgrounds, play items, structures and street furniture.
 - (f) Detailed planting and construction drawings including site contours and any proposed changes to existing levels including any structural elements such as retaining walls.
 - (g) Additional supporting information, such as certified structural designs or building forms

Note that A-Spec digital documentation for open space assets must be provided at Practical Completion stage of landscape construction in a format consistent with Condition No. 47.

All species selected must be to the satisfaction of the Responsible Authority.

20. The developer must notify the Responsible Authority a minimum of 7 days prior to commencing street tree planting, wetlands tree planting, and landscaping so that surveillance of the works can be undertaken.

Engineering Fees

21. Before approval of the engineering plan/s submitted under Section 15(1) of the Subdivision Act 1988, the developer must pay Council an amount equivalent to 0.75% of the estimated cost of constructing the works proposed on the engineering plans.

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22. Before the issue of a Statement of Compliance for the plan of subdivision under the Subdivision Act 1988, the developer must pay Council an amount equivalent to 2.5% of the estimated cost of works, which are subject to supervision in accordance with section 17(2)(b) of the Subdivision Act 1988.

Development Contributions

23. A Development Infrastructure Levy, in accordance with the provisions of the Clyde North Precinct Structure Plan Development Contributions Plan must be paid by the applicant to the Collecting Agency after certification of the relevant plan of subdivision but not more than 21 days prior to the issue of a Statement of Compliance in respect of that plan under the Subdivision Act 1988.
24. Where the subdivision is to be developed in stages the infrastructure levy for the stage to be developed only may be paid to the Collecting Agency within 21 days prior to the issue of a Statement of Compliance in respect of that stage, provided that a Schedule of Development Contributions is submitted with each stage of the plan of subdivision. This Schedule must show the amount of development contributions payable for each stage and value of the contributions in respect of prior stages to the satisfaction of the Collecting Agency.

Community Infrastructure Levy

25. Before the issue of a Statement of Compliance for the subdivision the developer must make payment to Council for the provision of Community Infrastructure, unless before the relevant plan of subdivision is certified under the Subdivision Act 1988, the owner enters into an agreement with the Responsible Authority under Section 173 of the Planning and Environment Act 1987 ('the Act') and makes application to the Registrar of Titles to have the agreement registered on the title to the land under Section 181 of the Act. The agreement is to provide for the payment of a Community Infrastructure Levy to Council by a future land owner, in accordance with the provisions of the Development Contributions Plan applying to the land and Section 46O of the Act.

The owner/applicant must pay the Responsible Authority's costs of the preparation, execution and registration of the Section 173 agreement.

Growth Areas Infrastructure Contribution

26. Where the land is subdivided so as to create a lot or a reserve that is proposed or anticipated to be transferred to or vested in Council pursuant to the relevant Development Contributions Plan, the owner or developer of the land must, prior to the transfer to or vesting of that lot or reserve in Council (transaction):
- (a) pay the Growth Areas Infrastructure Charge (GAIC) if a GAIC event could occur subsequent to the transfer to or vesting of the lot or reserve in Council provided that the development and the associated issue of a Building Permit which may give rise to the GAIC event is consistent with the manner in which that lot or reserve is anticipated to be developed under the relevant Development Contribution Plan or the relevant Precinct Structure Plan; and

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- (b) produce and provide to Council a Certificate of Release under section 201SY of the Planning and Environment Act 1987 (Act) in respect of that lot or reserve;

or

- (c) pay the GAIC liability in respect of that lot or reserve which is triggered upon the happening of the transaction; and
- (d) produce and provide to Council a Certificate of Release under section 201SY of the Act in respect of that lot or reserve.

Actions Prior to Statement of Compliance

- 27. Before the issue of a Statement of Compliance for the subdivision under the Subdivision Act 1988, the proponent must provide written evidence from a suitably qualified environmental professional that provides confirmation that the soils on the land proposed for residential development are within acceptable levels in accordance with EPA Publication IWRG621.
- 28. Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the developer must construct in accordance with the approved engineering construction plan/s and to the satisfaction of the Responsible Authority:
 - (a) Roads, including traffic management devices, kerb and channel, footpaths, shared foot/cycle paths, and vehicular crossings to each lot.
 - (b) Drainage and any water sensitive urban design features.
 - (c) Fibre optic conduits.
 - (d) Permanent survey marks, levelled to the Australian Height Datum and coordinated to the Australian Map Grid.
 - (e) Temporary turnaround areas.
 - (f) Any tree protection fencing.
 - (g) Lighting of roads and pedestrian/cycle paths designed and provided in accordance with Australian Standard 1158.1.
- 29. Before the issue of a Statement of Compliance under the Subdivision Act 1988 the stormwater drainage must be:
 - (a) Constructed in accordance with the stormwater drainage design approved by Council; and
 - (b) Provide a legal point of stormwater discharge for each allotment.all to the satisfaction of the responsible authority and any relevant other drainage authority.
- 30. Any temporary drainage works must be installed to the satisfaction of the Responsible Authority before the issue of a Statement of Compliance for the relevant stage.

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31. The landscaping works shown on the approved landscape construction plans for each stage must be carried out and completed to the satisfaction of the Responsible Authority, before the issue of a Statement of Compliance for each stage or by such later date as is approved by the Responsible Authority in writing.
32. Prior to the issue of a Statement of Compliance (or such later date as approved in writing by the Responsible Authority), all public open space areas, including, parklands, water retention areas, buffer zones, service corridors, community use areas and all streetscapes including road and plantation reserves must be landscaped and planted as shown on the approved landscape construction plans, (or bonded), to the satisfaction of the Responsible Authority.
33. Prior to the issue of a Statement of Compliance for any plan of subdivision under this permit that creates any public open space the owner must re-grade, top dress, landscape and otherwise embellish the land to the satisfaction of the Responsible Authority including the following works:
 - (a) Removal of all existing disused structures, foundations, pipelines or stockpiles.
 - (b) Cleared of rubbish and environmental weeds, levelled, topsoiled and grassed with warm climate grass (unless a conservation reserve).
 - (c) Provision of water tapping.
 - (d) Provision of planting and park furniture as identified on the approved landscape construction plans;
 - (e) Vehicle exclusion devices (fence or other suitable method) with controlled access points.
 - (f) Shared paths and/or footpaths as shown in the plans both endorsed and approved under this permit and the approved Clyde North Precinct Structure Plan applying to the land.

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- 34. All filling on the site over 300mm must be carried out, supervised, completed and recorded in accordance with AS 3798 - 2007 (Guidelines on earthworks for commercial and residential developments) to specifications to the satisfaction of the Responsible Authority. The geotechnical authority responsible for supervision and testing under this condition must be independently engaged by the applicant and not be engaged by the contractor carrying out the works. Before the issue of a Statement of Compliance unless otherwise agreed in writing by the Responsible Authority, compaction test results and a report shall be provided to the satisfaction of the Responsible Authority.
- 35. Before a Statement of Compliance is issued under the Subdivision Act 1988 for any stage, a public open space contribution of 3.54% must be provided in accordance with the Schedule to Clause 52.01 of the Casey Planning Scheme in a manner consistent with the Clyde North Precinct Structure Plan Development Contributions Plan and the terms of any Section 173 Agreement required/prepared under this Permit.
- 36. Prior to the issue of a Statement of Compliance for the first stage of a development, the owner must, if required, enter into an agreement, or agreements, under Section 173 of the Act which specifies the infrastructure required to be provided as part of the development. The agreement must give effect to the approved Public Infrastructure Plan.

Mandatory Clause 66.06-1 Conditions

- 37. The owner of the land must enter into an agreement with:
 - (a) a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the providers requirements and the relevant legislation at the time; and,
 - (b) a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
- 38. Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:
 - (a) a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and,
 - (b) a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

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Referral Authority Conditions

39. Melbourne Water conditions require that:

- (a) Prior to the certification of any stage, engineering plans of the subdivision, in accordance with the accepted stormwater strategy must be submitted and approved by Council and Melbourne Water, outlining the following:
 - (i) Demonstrating the proposed alignment for the 1 in 5 year drainage infrastructure and the overland flow paths directions for the 1 in 100 year ARI flood event
 - (ii) Concept design plans and MUSIC model for the Melbourne Water Retarding Basin/Wetland demonstrating that the designated surface area can accommodate the required stormwater storage and treatment assets in accordance with the Melbourne Water Constructed Wetland Guidelines.
 - (iii) A Flood Extent Plan and Overland Flow-path Plan for the ultimate floodplain, including 1-in-100 year ARI flood levels
 - (iv) Details of the outlet connections and relevant calculations
 - (v) The subdivisional layout must be in accordance with the approved drainage strategy.
- (b) Prior to Certification, the Plan of Subdivision must be referred to Melbourne Water, in accordance with Section 8 of the Subdivision Act 1988.
- (c) Prior to Certification, a free draining outfall and any temporary assets are to be arranged to the satisfaction of Council, Melbourne Water and the affected downstream property owner(s). Written acceptance from downstream landowners and Council is to be forwarded to Melbourne Water for our records.
- (d) Prior to Certification, the Plan of Subdivision must show sufficiently sized easements and/or reserves to be created over any proposed Melbourne Water asset to our satisfaction.
- (e) Prior to Certification of any stage of the estate associated with works that is to be constructed in conjunction with Melbourne Water's Development Services Scheme; a financial arrangement to support the delivery of those works is to have been agreed between Melbourne Water and the Owner.
- (f) Prior to the issue of a Statement of Compliance, a separate application direct to Melbourne Water Asset Services team, must be made for any works around Melbourne Water's mains, drains and waterways. Application shall be made online via the Melbourne Water website.
- (g) Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or waterways. Prior to the commencement of works, a Site Management Plan detailing pollution and sediment control measures is to be submitted to Melbourne Water for our records.

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- (h) All new lots are to be filled to a minimum of either 300mm above the 1 in 100 year flood level associated with an existing or proposed Melbourne Water pipeline or 600mm above the 1 in 100 year flood level associated with an existing or proposed Melbourne Water waterway, wetland or retarding basin, whichever is greater.
- (i) The subdivision is to make provision for overland flows from the upstream catchment utilising roads and/or reserves. Alignment of roads and reserves with any adjoining estates must ensure continuity and provide uninterrupted conveyance of overland flows.
- (j) Any road or access way intended to act as a stormwater overland flow path must be designed and constructed to comply with the floodway safety criteria outlined within Melbourne Water's Land Development Manual.
- (k) All new lots must achieve appropriate freeboard in relation to local overland flow paths to Council's satisfaction.
- (l) Local drainage must be to the satisfaction of Council.
- (m) Prior to the issue of a Statement of Compliance, the Owner shall enter into and comply with an agreement with Melbourne Water Corporation for the acceptance of surface and storm water from the subject land directly or indirectly into Melbourne Water's drainage systems and waterways, the provision of drainage works and other matters in accordance with the statutory powers of Melbourne Water Corporation.
- (n) Prior to the issue of a Statement of Compliance for the subdivision, a certified survey plan must be submitted to Melbourne Water for approval after the completion of filling, verifying that the specified fill levels have been achieved.
- (o) Prior to the issue of a Statement of Compliance, copies of all relevant Asset Services signed practical completion forms must be submitted. For queries contact Asset Services on 131 722 or assetservices@melbournewater.com.au
- (p) Prior to the issue of a Statement of Compliance, Melbourne Water requires evidence demonstrating that appropriate interim drainage solutions have been implemented to mitigate the risk to downstream landowners. Council acceptance of any temporary drainage infrastructure should be forwarded to Melbourne Water.

40. **South East Water** conditions require that:

- (a) The owner of the subject land must enter into an agreement with South East Water for the provision of potable water supply and fulfil all requirements to its satisfaction.
- (b) The owner of the subject land must enter into an agreement with South East Water for the provision of recycled water supply and fulfil all requirements to its satisfaction.
- (c) The owner of the subject land must enter into an agreement with South East Water for the provision of sewerage and fulfil all requirements to its satisfaction.
- (d) All lots on the Plan of Subdivision are to be provided with separate connections to our potable water supply, recycled water supply and sewerage systems.

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- (e) Prior to certification, the Plan of Subdivision must be referred to South East Water, in accordance with Section 8 of the Subdivision Act 1988.

41. AusNet Electricity Services Pty Ltd conditions require that:

- (a) The Plan of Subdivision submitted for certification must be referred to AusNet Electricity Services Pty Ltd in accordance with Section 8 of the Subdivision Act 1988.
- (b) The applicant must:
 - (i) Enter into an agreement with AusNet Electricity Services Pty Ltd for supply of electricity to each lot on the endorsed plan.
 - (ii) Enter into an agreement with AusNet Electricity Services Pty Ltd for the rearrangement of the existing electricity supply system.
 - (iii) Enter into an agreement with AusNet Electricity Services Pty Ltd for the rearrangement of the points of supply to any existing installations affected by any private electric power line which would cross a boundary created by the subdivision, or by such means as may be agreed by AusNet Electricity Services Pty Ltd.
 - (iv) Provide easements satisfactory to AusNet Electricity Services Pty Ltd for the purpose of "Power Line" in favour of "AusNet Electricity Services Pty Ltd" pursuant to Section 88 of the Electricity Industry Act 2000, where easements have not been otherwise provided, for all existing AusNet Electricity Services Pty Ltd electric power lines and for any new power lines required to service the lots on the endorsed plan and/or abutting land.
 - (v) Obtain for the use of AusNet Electricity Services Pty Ltd any other easement required to service the lots.
 - (vi) Adjust the position of any existing AusNet Electricity Services Pty Ltd easement to accord with the position of the electricity line(s) as determined by survey.
 - (vii) Set aside on the plan of subdivision Reserves for the use of AusNet Electricity Services Pty Ltd for electric substations.
 - (viii) Provide survey plans for any electric substations required by AusNet Electricity Services Pty Ltd and for associated power lines and cables and execute leases for a period of 30 years, at a nominal rental with a right to extend the lease for a further 30 years. AusNet Electricity Services Pty Ltd requires that such leases are to be noted on the title by way of a caveat or a notification under Section 88(2) of the Transfer of Land Act prior to the registration of the plan of subdivision.
 - (ix) Provide to AusNet Electricity Services Pty Ltd a copy of the plan of subdivision submitted for certification that shows any amendments that have been required.

PLANNING PERMIT

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Planning scheme Casey Planning Scheme
Responsible authority City of Casey

- (x) Agree to provide alternative electricity supply to lot owners and/or each lot until such time as permanent supply is available to the development by AusNet Electricity Services Pty Ltd. Individual generators must be provided at each supply point. The generator for temporary supply must be installed in such a manner as to comply with the Electricity Safety Act 1998.
- (xi) Ensure that all necessary auditing is completed to the satisfaction of AusNet Electricity Services Pty Ltd to allow the new network assets to be safely connected to the distribution network.

42. **APT** conditions require that:

- (a) Easements in favour of “Australian Gas Networks (VIC) Pty Ltd” must be created on the plan to the satisfaction of APT.
- (b) The plan of subdivision submitted for certification must be referred to APT O&M Services Pty Ltd, in accordance with Section 8 of the Subdivision Act 1988.

43. The **Country Fire Authority (CFA)** conditions require that:

(a) Water Supply Requirement

- (i) Operable below ground hydrants meeting the requirements of Australian Standard 3952 Water supply-Spring hydrant valve for waterworks purposes, must be provided to the satisfaction of CFA.
- (ii) The fire hydrants must be installed to the satisfaction of CFA and must be located within 120 metres of the furthest edge of every building envelope (or in the absence of the building envelope, the rear of the lots) and must be no more than 200m apart.
- (iii) Three copies of water reticulation drawings must be provided to CFA for approval.
- (iv) Fire hydrants must be clearly identified as specified in the Fire Services Guideline “Identification of Street Hydrants for Firefighting Purposes.”

(b) Roads

- (i) Roads must be constructed to a standard so that they are accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width.
- (ii) The amount and location of parking facilities should not impede access of emergency vehicles (off-street parking is therefore encouraged where possible).

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44. **EPA Victoria** conditions require that:

- (a) Construction and post-construction activities must be in accordance with EPA Publication 275 Construction Techniques for Sediment Pollution Control 1991 or as amended.
- (b) Any fill material brought onto the subject land must meet the specifications contained in EPA publication IWRG621, Soil Hazard Categorisation and Management 2009 or as amended.

Final Construction Plans

45. Before the responsibility for the future care and maintenance of the works is transferred to Council, the developer must provide to the Responsible Authority:

- (a) Copies of the as constructed engineering roads and drainage drawings in the format of A1 tracing per drawing.
- (b) Survey enhanced “as constructed” GIS data for the drainage, fibre optic conduits, road and footpath information components of the subdivision in accordance with the current version of D-Spec and R-Spec. Council’s preferred format for the submission of the graphic data is in :”Map info Native Format”. A secondary format is “Map Info MID/MIF” files. Grid Co-ordinates must be MGA zone 55 (GDA 94). Please refer to the A-Spec website (D-Spec and R-Spec) for further information www.dspeg.com.au.
- (c) Sketches of the details of the permanent survey marks.

Title Office Plans

46. The applicant must send the following documents to the Responsible Authority within four (4) weeks of the registration of the plans at the Land Titles Office.

- A Certificate of Title for all land vested in the Responsible Authority on the plan of subdivision; and,
- A clear A3-size photocopy of the Title Office approved Plan of Subdivision.

Aboriginal Cultural Heritage

47. The recommendations within approved Cultural Heritage Management Plan No. 111697 prepared by Archaeology at Tardis Pty Ltd dated 20 July 2012 as approved by the Acting Deputy Director, Aboriginal Affairs Victoria on 15 August, 2012 or any subsequent approved Plan, must be undertaken, prior to and during, the construction of the development hereby approved.

Roads and Traffic

48. Streets must be named to the satisfaction of the Responsible Authority prior to the certification of the relevant Plan of Subdivision.

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- 49. The developer must provide the allocated street number on the kerb in front of each lot. The kerbside numbers must be 100mm white lettering on a black background located on the front of the kerb at the property frontage to the satisfaction of the Responsible Authority.
- 50. Unless otherwise agreed in writing by the Responsible Authority, access to each lot created must be provided via a sealed road.
- 51. Land required for road widening including right of way flaring for the ultimate design of any intersection within an existing or proposed local road must be transferred to or vested as 'road' in the Roads Corporation (in the case of land for arterial roads under the Road Management Act 2004) or in Casey City Council (in the case of other roads) at no cost to the acquiring agency. This includes the widening of a road reserve required to provide right of way flaring for the ultimate design of any intersection with an existing or proposed arterial road to the satisfaction of the Roads Corporation.

Temporary Turning Areas

- 52. Any temporary turning areas to the land must be constructed in accordance with engineering construction plans approved by the Responsible Authority and maintained to the satisfaction of the Responsible Authority.
- 53. If the temporary turning area is to be retained after the relevant Statement of Compliance is issued, a bond of sufficient value to cover all reinstatement works must be lodged with the Responsible Authority before the Statement of Compliance is issued.
- 54. All works undertaken for a temporary turning area must be removed and all affected road pavement, concrete works, nature strips and other land must be reinstated to the satisfaction of the Responsible Authority when the turning area is no longer required.
- 55. A sign of at least 1 square metre in area must be displayed in a prominent position near the temporary turning area whilst the temporary turning areas are in operation advising that they are temporary turning areas only. The sign must be removed after the temporary turning areas are removed.

Environment Management

- 56. The land must be filled and constructed in a manner that does not:
 - (a) Cause an unreasonable amount of dust to be carried onto nearby land; and
 - (b) Adversely affect the drainage of adjacent land.
- 57. Appropriate sediment control measures must be undertaken during construction to ensure that the development site is adequately managed in such a way that no mud, dirt, sand, soil, clay or stones are washed into or allowed to enter the stormwater drainage system.
- 58. All works must be undertaken in a manner that minimises soil erosion and adhere to Construction Techniques for Sediment Pollution Control, EPA 1991, and any exposed areas of soil must be stabilised to prevent soil erosion, to the satisfaction of the Responsible Authority.

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- 59. All construction activities associated with the subdivision must be managed by the owner/developer so as to limit any inconvenience to existing residents in the vicinity of the works to the satisfaction of the Responsible Authority. The matters to be considered include but are not limited to site access, times of operation, dust, vibration, stormwater runoff etc.
- 60. The works must be managed so that the amenity of the area is not detrimentally affected, through the:
 - (a) Transport of materials, goods or commodities to and from the land.
 - (b) Appearance of any building, works or materials.
 - (c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
- 61. All green waste generated from the clearing of land during the construction phase must be mulched or transported from the site as appropriate. Green waste must not be burnt on site.

Stormwater

- 62. Storm water must not be discharged from the site other than by means of an underground pipe drain discharged to an approved outlet to the satisfaction of the Responsible Authority.
- 63. Polluted drainage must not be discharged beyond the boundaries of the lot from which it emanates, or into a watercourse or easement drain, but must be treated and/or absorbed on that lot to the satisfaction of the Responsible Authority.

Reticulated Services

- 64. Reticulated water supply, drainage, sewerage facilities, underground electricity, gas and telecommunication services and fibre optic cable conduits must be provided to each lot shown on the endorsed plan.
- 65. Any fibre optic conduits and associated infrastructure must be protected from damage to the satisfaction of the Responsible authority.
- 66. Unless otherwise agreed by the Responsible Authority, ownership of any fibre optic conduits must vest in Council.
- 67. Where a conduit crosses private land, an easement may be required in favour of the relevant authority.
- 68. Subject to South East Water agreeing to do so, the developer must enter into an agreement with South East Water requiring the subdivision to be reticulated with a dual pipe recycled water system to provide for the supply of recycled water from a suitable source or scheme to all lots and the Melbourne Water Drainage reserves within the subdivision.

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- 69. Irrespective of whether the relevant water authority has entered into an agreement as contemplated, connection points for the third pipe are to be provided by the developer/landowner to all public open space at no cost to the relevant water authority or Council to facilitate irrigation of public open space using recycled water if it is to become available.
- 70. Any existing above ground electricity powerlines less than 66kv voltage on the land must be removed and replaced underground before the issue of any Statement of Compliance or the final Statement of Compliance if the land is to be developed in stages.

Public Open Space & Reserves

- 71. Where a tree reserve is required to be created, the tree reserve must be shown as vesting in Casey City Council by a registered plan of subdivision at no cost to Council.
- 72. The developer must construct and paint or suitably finish all fences along the common boundary between any tree/plantation reserves and the abutting lots to the requirements and satisfaction of the Responsible Authority.
- 73. The landscaping and wetland tree planting shown on the approved landscaping and wetland tree planting plan must be carried out in accordance with the endorsed approved plan and must be maintained to the satisfaction of the Responsible Authority, for a period of two (2) summers (or other period as approved in writing by the Responsible Authority), following the granting of Practical Completion of landscape construction works. During this time any diseased, dead, damaged or missing plants must be replaced.

Substation / Kiosk Sites

- 74. Utility service substation/kiosk sites must not be located on any land identified as public open space or to be used for any Municipal purpose unless otherwise agreed by the Responsible Authority.

Permit expiry

- 75. This permit will expire if:
 - (a) The subdivision is not started within two (2) years of the date of this permit; or,
 - (b) The subdivision is not completed within five (5) years from the date of starting;

Where the subdivision is to be developed in stages, the time specified for the commencement of the first stage is two (2) years from the date of the permit. The time specified for the commencement of any subsequent stage is ten (10) years from the date of this permit and the time specified for the completion of each stage is five (5) years from the date of its commencement.

The Responsible Authority may extend the commencement periods referred to if a request is made in writing before the permit expires or within six (6) months of the expiration of the permit for the commencement of subdivision.

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Responsible authority City of Casey

NOTES:

- **City of Casey Council:**
 - The Site EMP Kit is available on the City of Casey's website, www.casey.vic.gov.au
- **Melbourne Water:**
 - If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Melbourne Water on 9679 7517, quoting Melbourne Water's reference 272264.
- **AusNet Electricity Services Pty Ltd:**
 - It is recommended that, at an early date the applicant commences negotiations with AusNet Electricity Services Pty Ltd for a supply of electricity in order that supply arrangements can be worked out in detail, so prescribed information can be issued without delay (the release to the municipality enabling a Statement of Compliance with the conditions be issued).
 - Arrangements for the supply will be subject to obtaining the agreement of other Authorities and any landowners affected by routes of the electric power lines required to supply the lots and for any tree clearing.
 - Prospective purchasers of lots on this plan should contact this office to determine the availability of a supply of electricity. Financial contributions may be required.

PLANNING PERMIT

Permit No.	PlnA01047/15.A
Planning scheme	Casey Planning Scheme
Responsible authority	City of Casey

- **South East Water:**

- The owner of the subject land is required to obtain a 'Notice of Agreement' from South East Water. All requirements must be fulfilled to its satisfaction prior to South East Water consenting to the issue of a Statement of Compliance.
- The following South East Water agreement options are available:
 - Application to enter into a Development Deed-Works – If South East Water reticulated sewer/water/recycled water (as applicable) is required to be extended to service lots within the development.
 - Application for Notice of Agreement Subdivision-Non Works – If South East Water reticulated sewer/water/recycled water (as applicable) is available to the development and the owner only required Statement of Compliance to release the titles (i.e. subdivision prior to building).
 - Plumbing Industrial, Commercial, Units & Private Water application – If South East Water reticulated sewer/water/recycled water (as applicable) is available to the development and the owner wishes to commence construction of the buildings (i.e. building prior to the subdivision).

To obtain a copy of the appropriate application forms required please go to our website: www.southeastwater.com.au (Property Tab / Land Development).

- **Victorian Desalination Project:**

- The integrity of the water supply, power supply and other associated assets located within the easement is to be maintained during the proposed works; and,
- The appropriate Permit to Work documents must be issued prior to any works commencing on site. Please contact AquaSure's James Xenophontos on 0419 171 808 for more information for details regarding Watersure's Permit to Work and contact Denis Andrews on 9696 6165 for AusNet Services Permit to Work.

PLANNING PERMIT

Permit No. PInA01047/15.A
Planning scheme Casey Planning Scheme
Responsible authority City of Casey

CAN THE RESPONSIBLE AUTHORITY AMEND THIS PERMIT?

The responsible authority may amend this permit under Division 1A of Part 4 of the **Planning and Environment Act 1987**.

THIS PERMIT HAS BEEN AMENDED AS FOLLOWS:

Date of Amendment	Brief Description of Amendment	Name of Responsible Authority that approved the amendment
31 March 2020	<ul style="list-style-type: none">Conditions 1 (a) and (b) Deleted	City of Casey

Applicant's Name & Address: S & N Super Fund Pty Ltd
C/- Reeds Consulting Pty Ltd
GPO Box 2240
MELBOURNE VIC 3001

IMPORTANT INFORMATION ABOUT THIS PERMIT

WHAT HAS BEEN DECIDED?

The responsible authority has issued a permit.

(NOTE: This Is not a permit granted under Division 5 or 6 of Part 4 of the **Planning and Environment Act 1987**.)

The responsible authority may amend this permit under Division 1A of Part 4 of the **Planning and Environment Act 1987**.

WHEN DOES A PERMIT BEGIN?

A Permit operates:

- from the date specified in the permit, or
- if no date is specified, from:
 - (i) the date of the decision of the Victorian Civil and Administrative Tribunal, if the permit was issued at the direction of the Tribunal, or
 - (ii) the date on which it was issued in any other case.

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if:-
 - the development or at any stage of it does not start within the time specified in the permit; or
 - the development requires the certification of a plan of subdivision or consolidation under the **Subdivisions Act 1988** and the plan is not certified within two years of the issue of the permit, unless the permit contains a different provision; or
 - the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the **Subdivision Act 1988**.
2. A permit for the use of land expires if:-
 - the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
 - the use is discontinued for a period of two years.
3. A permit for the development and use of land expires if:-
 - the development or any stage of it does not start within the time specified in the permit; or
 - the development or any stage of it is not completed within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
 - the use does not start within the time specified in the permit, or if no time is specified, within two years after the completion of the development; or
 - the use is discontinued for a period of two years.
4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in Section 6A(2) of the **Planning and Environment Act 1987**, or to any combination of use, development or any of those circumstances requires the certification of a plan under the **Subdivision Act 1988**, unless the permit contains a different provision:-
 - the use or development of any stage is to be taken to have started when the plan is certified; and
 - the permit expires if the plan is not certified within two years of the issue of the permit.
5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

WHAT ABOUT REVIEWS?

- The person who applied for the permit may apply for a review of any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal, in which case no right of review exists.
- An application for review must be lodged within 60 days after the permit was issued, unless a Notice of Decision to Grant a Permit has been issued previously, in which case the application for review must be lodged within 60 days after the giving of that notice.
- An application for review is lodged with the Victorian Civil and Administrative Tribunal.
- An application for review must be made on the relevant form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
- An application for review must state the grounds upon which it is based.
- A copy of an application for review must also be served on the responsible authority.
- Details about applications for review and fees payable can be obtained from the Victorian Civil and Administrative Tribunal.

Contact City of Casey

03 9705 5200

NRS: 133 677 (for the deaf, hearing or speech impaired)

TIS: 131 450 (Translating and Interpreting Service)

caseycc@casey.vic.gov.au

PO Box 1000
Narre Warren VIC 3805

ABN: 43 320 295 742

Customer Service Centres

Narre Warren

Bunjil Place, Patrick Northeast Drive

Cranbourne

Cranbourne Park Shopping Centre



22 September 2021

S & N Super Fund Pty Ltd
C/- Reeds Consulting Pty Ltd
GPO Box 2240
MELBOURNE VIC 3001

Dear Sir/Madam

Application Ref: PEOT21-0149

**Original (Parent)
Planning Permit No:** PInA01047/15

Permit Allows: PInA01047/15.A - Staged Subdivision and Creation of Restrictions (S96A) concurrent with Planning Scheme Amendment to rezone land - see PSA00023/15 - Extension of Time Received

Address: 720 Berwick-Cranbourne Road CLYDE NORTH VIC 3978

Lot 2 PS 730842C

Proposal: Application for Extension of Time to Planning Permit

I refer to your letter requesting an extension of the time limit on the above Planning Permit.

That the Responsible Authority extends the time by 2 year(s) and the subdivision authorised by the above permit must now be:

- Certification by **19 August 2023**, and
- Completed within five years from the date of certification of the plan of subdivision.

N.B. the starting of the subdivision is regarded by Section 68(3A) of the *Planning and Environment Act 1987* as the certification of the plan under Section 6 of the *Subdivision Act 1988*. Completion is regarded as registration of the subdivision.

A copy of the planning permit is attached for your attention. **Please check your permit to ensure all applicable requirements/conditions have been met prior to the commencement of the development and/or building permit issued.**

Under the *Planning & Environment Act 1987* appeal rights to the Victorian Civil & Administrative Tribunal have been removed where Council refuses to extend a permit that is received outside of the timeframes stipulated in section 69 of the Act. **It is your responsibility to ensure that any future extension requests are received within these timeframes.** Should your extension request be received outside of these

timeframes, your request will be refused, and you will be required to lodge a new planning permit application which will be assessed afresh against the Casey Planning Scheme, if you wish to proceed with your project.

Please contact **Peter Whebell** of Council's Planning Department on telephone 9709 9972 if you have any queries.

Yours faithfully

Peter Whebell

Peter Whebell
Statutory Planning

ARBOURLEA BOULEVARD

THE CREATION OF THE ENTRANCE ROAD FROM BERWICK-CRANBOURNE ROAD IS SUBJECT TO A SEPARATE PLANNING PERMIT (PInA00206/14)



LEGEND

- SUBJECT SITE
- STAGE BOUNDARIES
- PUBLIC OPEN SPACE (ENCUMBERED)
- DESTROYED NATIVE VEGETATION
- SHARED PATH (3m Wide)
- ON ROAD BIKE PATH (1.7m Wide)
- SHARED PATH (2.5m Wide)
- POTENTIAL TRAFFIC CALMING DEVICE
- * REVERSE PRIORITY T - INTERSECTION
- PROPOSED PATH NETWORK (WETLANDS AREA - 2.5m Wide)
- 10 YEAR INUNDATION LINE
- 100 YEAR INUNDATION LINE
- PEDESTRIAN BRIDGE

This plan has been prepared for review and comment only and should not be used for any other purpose without the written consent of Reeds Consulting PTY LTD. The plan is subject to survey, title and easement verification, engineering design, recommendations / management of the hydrological assessment and approval from council and all other relevant authorities. Findings from flora and fauna reports, cultural heritage assessments and other site investigations may result in changes to the design. All landscape and paving detail shown hereon is indicative only. No reliance should be placed on the information on this plan for detailed design or for any financial dealings involving the land.

The Subject Site is comprised of one Certificate of Title, being Lot 2 on PS 730842C (Vol. 11642, Fol. 391).

This plan has been prepared in support of planning permit PInA01047/15 and Planning Scheme Amendment PSA00023/15.

Despite the areas summarised on the plan, any development contribution levies paid and collected will be done so in accordance with the Land Use Budget contained within the Clyde North Development Contributions Plan.

The vegetation in the former conservation reserve has been removed. To compensate for this loss, approximately 680 trees will be planted above the 1 in 100 ARI, which equates to 170 trees per hectare.

The area of land above the 1 in 100 ARI is 3.95 ha.

The Existing Drainage Easement E-1 is permitted to be removed as directed under Planning Permit PLNA00374/14A.

The 0.1m wide Tree Reserve on the south side of the 8m wide laneway is provided to prevent the lots on the south side of the 8m wide laneway having direct road access.

The location of footpaths is indicative only and subject to the approval of the responsible authority.

The face to face kerb width for Road 1 will be 7.3m, in accordance with Cross Section 1 in the Clyde North Precinct Structure Plan.

The elongated traffic calming devices on Roads 3 & 5 are subject to Council approval at the detailed design stage.

Tree planting along Berwick-Cranbourne Road will comprise species as identified in the City of Casey Arterial Roads Tree Strategy within the Public Open Space (Encumbered) reserve. No additional tree reserve will be provided.

The layout proposed with full interface to Berwick-Cranbourne Road and Honour Avenue provides a net community benefit for all future residents in the Clyde North PSP area through provision of amenity, extensive tree plantings, path networks, bridges and water bodies.

STATISTICS	
Site Area	24.84 ha
Encumbered Reserve (Drainage)	14.11 ha
Tree Reserve	0.001 ha
Substation Sites (4)	0.011 ha
Net Developable Area	10.72 ha
Area of Road	3.415 ha
Land Available for Lots	7.303 ha
Number of Lots	147 No
Average Lot Area	497 m ²
Lots/Ha	13.7 No



PLANNING CERTIFICATE

Official certificate issued under Section 199 Planning & Environment Act 1987
and the Planning and Environment Regulations 2005

CERTIFICATE REFERENCE NUMBER

1209144

APPLICANT'S NAME & ADDRESS

BKA PRACTICE CO PTY LTD C/- INFOTRACK C/- LANDATA
MELBOURNE

VENDOR

S & N SUPER FUND PTY LTD

PURCHASER

NOT KNOWN, NOT KNOWN

REFERENCE

358961

This certificate is issued for:

LOT B PLAN PS722309 ALSO KNOWN AS 38S GATOR ESPLANADE CLYDE NORTH
CASEY CITY

The land is covered by the:

CASEY PLANNING SCHEME

The Minister for Planning is the responsible authority issuing the Certificate.

The land:

- is included in a URBAN GROWTH ZONE - SCHEDULE 3
- is within a LAND SUBJECT TO INUNDATION OVERLAY
- and a DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY - SCHEDULE 13
- and MAY BE SUBJECT TO A GROWTH AREAS INFRASTRUCTURE CONTRIBUTION - FOR MORE INFORMATION GO TO THE WEBSITE
<https://www.planning.vic.gov.au/legislation-regulations-and-fees/planning-legislation/growth-areas-infrastructure-contribution>

A detailed definition of the applicable Planning Scheme is available at :
<http://planningschemes.dpcd.vic.gov.au/schemes/casey>

Historic buildings and land protected under the Heritage Act 1995 are recorded in the Victorian Heritage Register at:

<http://vhd.heritage.vic.gov.au/>

Additional site-specific controls may apply.
The Planning Scheme Ordinance should be checked carefully.

The above information includes all amendments to planning scheme maps placed on public exhibition up to the date of issue of this certificate and which are still the subject of active consideration

Copies of Planning Schemes and Amendments can be inspected at the relevant municipal offices.

LANDATA®

T: (03) 9102 0402

E: landata.enquiries@servictoria.com.au

16 December 2025

Sonya Kilkeny
Minister for Planning

The attached certificate is issued by the Minister for Planning of the State of Victoria and is protected by statute.

The document has been issued based on the property information you provided. You should check the map below - it highlights the property identified from your information.

If this property is different to the one expected, you can phone (03) 9102 0402 or email landata.enquiries@servictoria.com.au

Please note: The map is for reference purposes only and does not form part of the certificate.



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Why rely on anything less?

As part of your section 32 statement, the authoritative Planning Certificate provides you and / or your customer with the statutory protection of the State of Victoria.

Order online before 4pm to receive your authoritative Planning Certificate the same day, in most cases within the hour. Next business day delivery, if further information is required from you.

Privacy Statement

The information obtained from the applicant and used to produce this certificate was collected solely for the purpose of producing this certificate. The personal information on the certificate has been provided by the applicant and has not been verified by LANDATA®. The property information on the certificate has been verified by LANDATA®. The zoning information on the certificate is protected by statute. The information on the certificate will be retained by LANDATA® for auditing purposes and will not be released to any third party except as required by law.

From www.planning.vic.gov.au at 16 December 2025 12:33 PM

PROPERTY DETAILS

Address: **38S GATOR ESPLANADE CLYDE NORTH 3978**

Lot and Plan Number: **Lot B PS722309**

Standard Parcel Identifier (SPI): **B\PS722309**

Local Government Area (Council): **CASEY** www.casey.vic.gov.au

Council Property Number: **171988**

Planning Scheme: **Casey** [Planning Scheme - Casey](#)

Directory Reference: **Melway 131 B10**

UTILITIES

Rural Water Corporation: **Southern Rural Water**

Melbourne Water Retailer: **South East Water**

Melbourne Water: **Inside drainage boundary**

Power Distributor: **AUSNET**

STATE ELECTORATES

Legislative Council: **SOUTH-EASTERN METROPOLITAN**

Legislative Assembly: **BERWICK**

Registered Aboriginal Party: **Bunurong Land Council
Aboriginal Corporation**

Fire Authority: **Country Fire Authority**

[View location in VicPlan](#)

Note

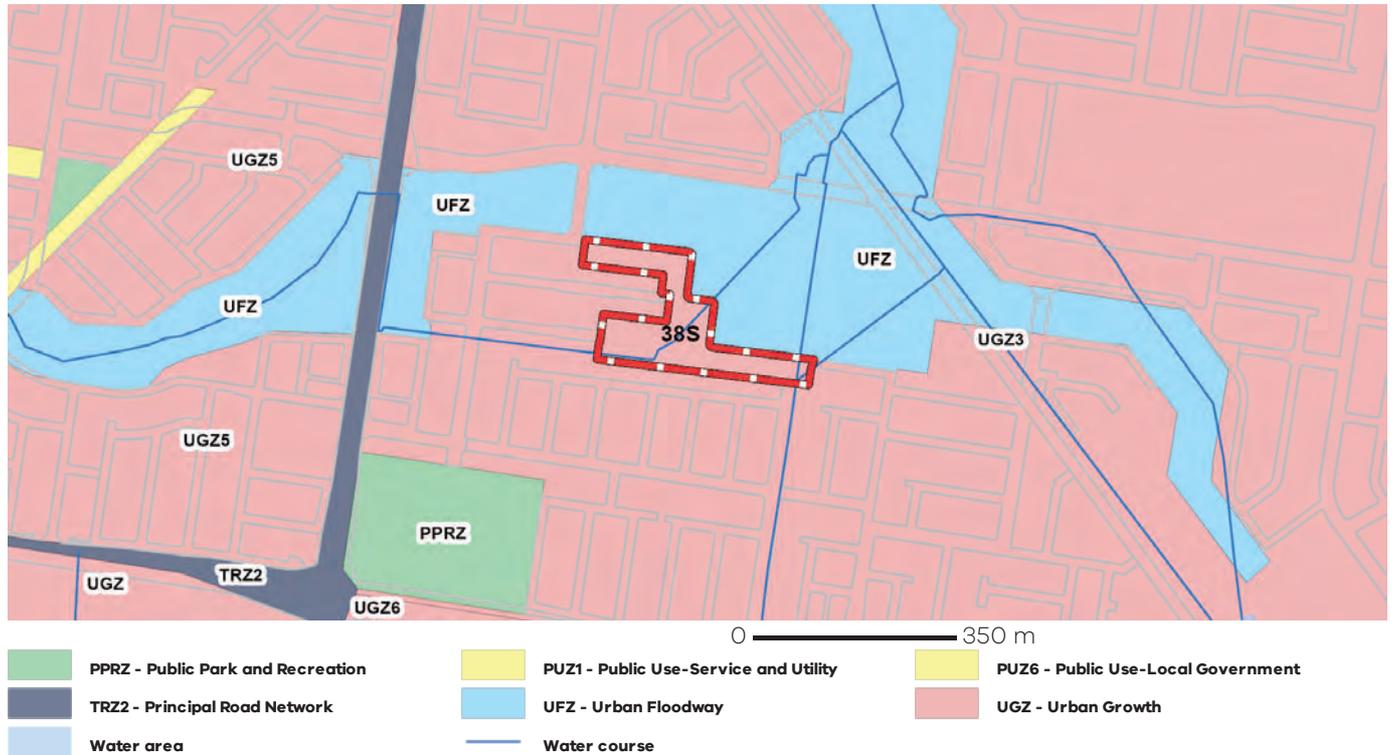
**This land is in an area added to the Urban Growth Boundary after 2005.
It may be subject to the Growth Area Infrastructure Contribution.**

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

Planning Zones

URBAN GROWTH ZONE (UGZ)

URBAN GROWTH ZONE - SCHEDULE 3 (UGZ3)



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

Planning Overlays

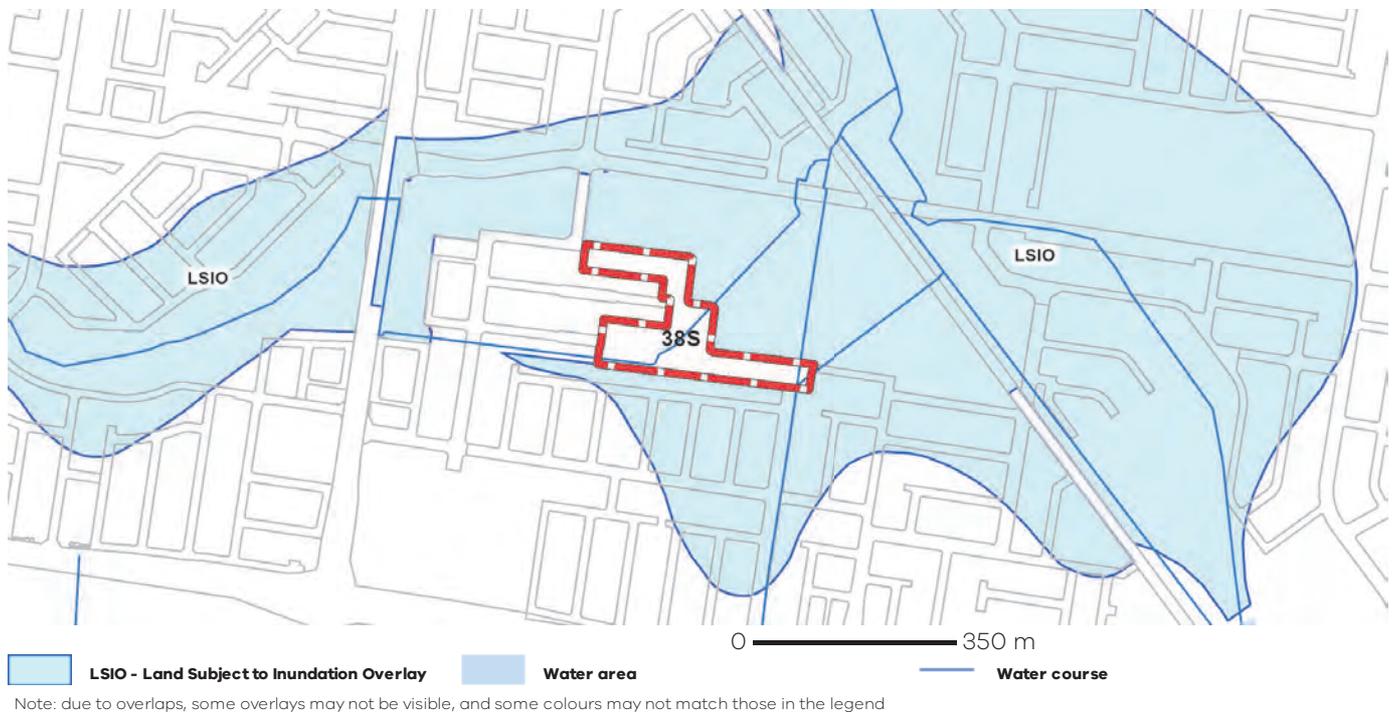
DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY (DCPO)

DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY - SCHEDULE 13 (DCPO13)



LAND SUBJECT TO INUNDATION OVERLAY (LSIO)

LAND SUBJECT TO INUNDATION OVERLAY SCHEDULE (LSIO)



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Read the full disclaimer at <https://www.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 Overlays

OTHER OVERLAYS

Other overlays in the vicinity not directly affecting this land

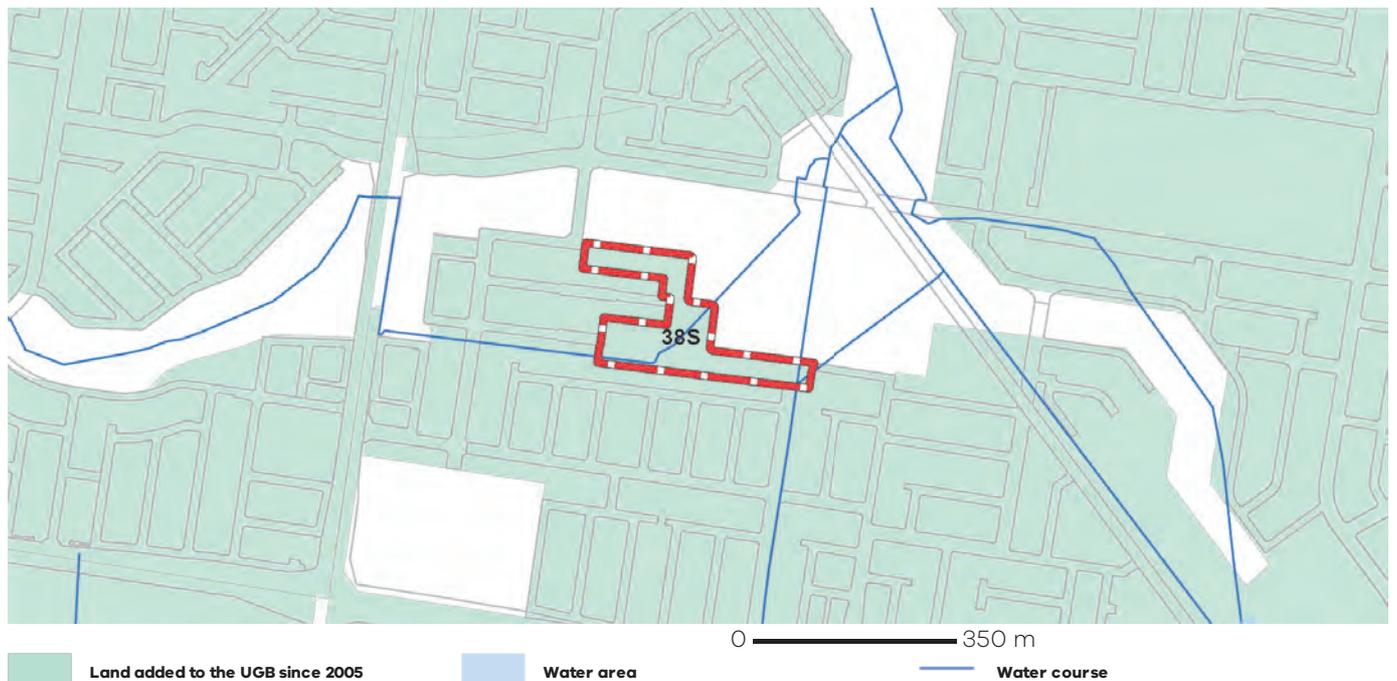
PUBLIC ACQUISITION OVERLAY (PAO)



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)



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Read the full disclaimer at <https://www.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 is located within the Melbourne Strategic Assessment program area. Actions associated with urban development are subject to requirements of the Melbourne Strategic Assessment (Environment Mitigation Levy) Act 2020 and the Commonwealth Environment Protection and Biodiversity Conservation Act 1999. Follow the link for more details: <https://mapshare.vic.gov.au/msa/>



Melbourne Strategic Assessment Area **Water area** **Water course**

Areas of Aboriginal Cultural Heritage Sensitivity

All or part of this property is an 'area of cultural heritage sensitivity'.

'Areas of cultural heritage sensitivity' are defined under the Aboriginal Heritage Regulations 2018, and include registered Aboriginal cultural heritage places and land form types that are generally regarded as more likely to contain Aboriginal cultural heritage.

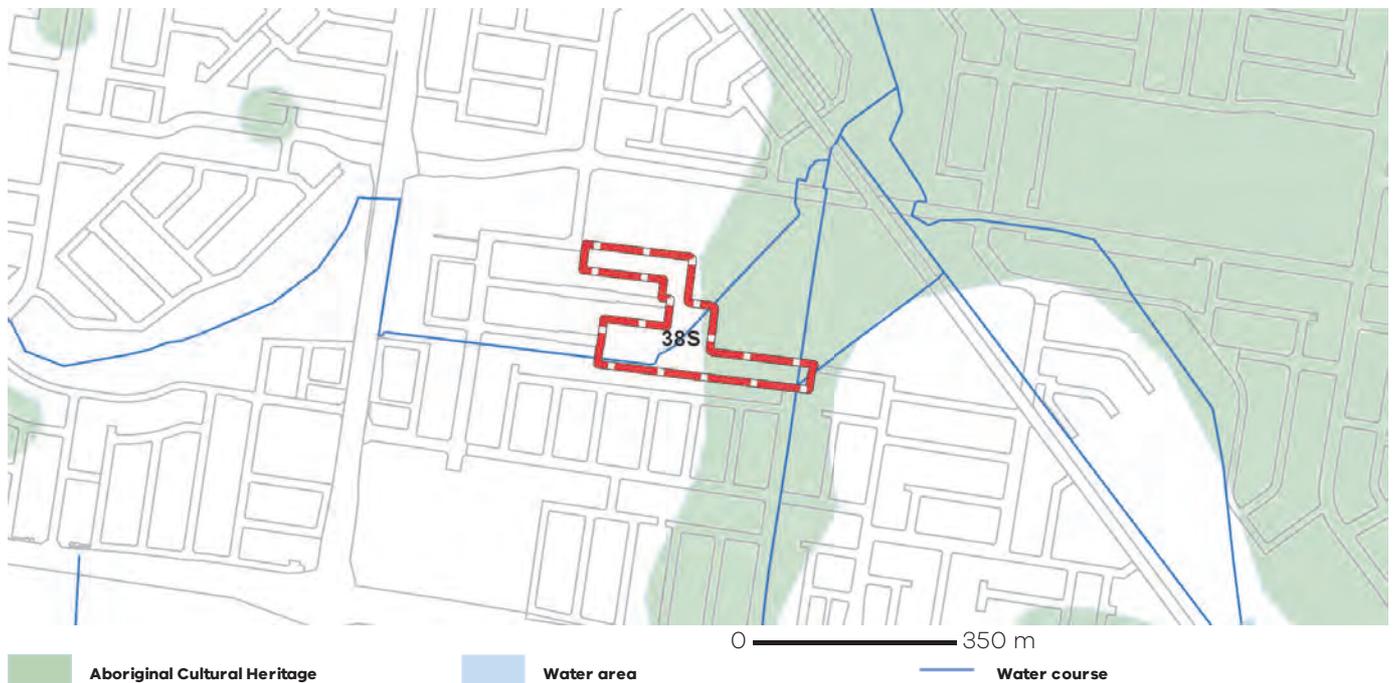
Under the Aboriginal Heritage Regulations 2018, 'areas of cultural heritage sensitivity' are one part of a two part trigger which require a 'cultural heritage management plan' be prepared where a listed 'high impact activity' is proposed.

If a significant land use change is proposed (for example, a subdivision into 3 or more lots), a cultural heritage management plan may be triggered. One or two dwellings, works ancillary to a dwelling, services to a dwelling, alteration of buildings and minor works are examples of works exempt from this requirement.

Under the Aboriginal Heritage Act 2006, where a cultural heritage management plan is required, planning permits, licences and work authorities cannot be issued unless the cultural heritage management plan has been approved for the activity.

For further information about whether a Cultural Heritage Management Plan is required go to <https://heritage.achris.vic.gov.au/aavQuestion1.aspx>

More information, including links to both the Aboriginal Heritage Act 2006 and the Aboriginal Heritage Regulations 2018, can also be found here - <https://www.firstpeoplesrelations.vic.gov.au/aboriginal-heritage-legislation>



Further Planning Information

Planning scheme data last updated on 10 December 2025.

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.vic.gov.au/vicplan/>

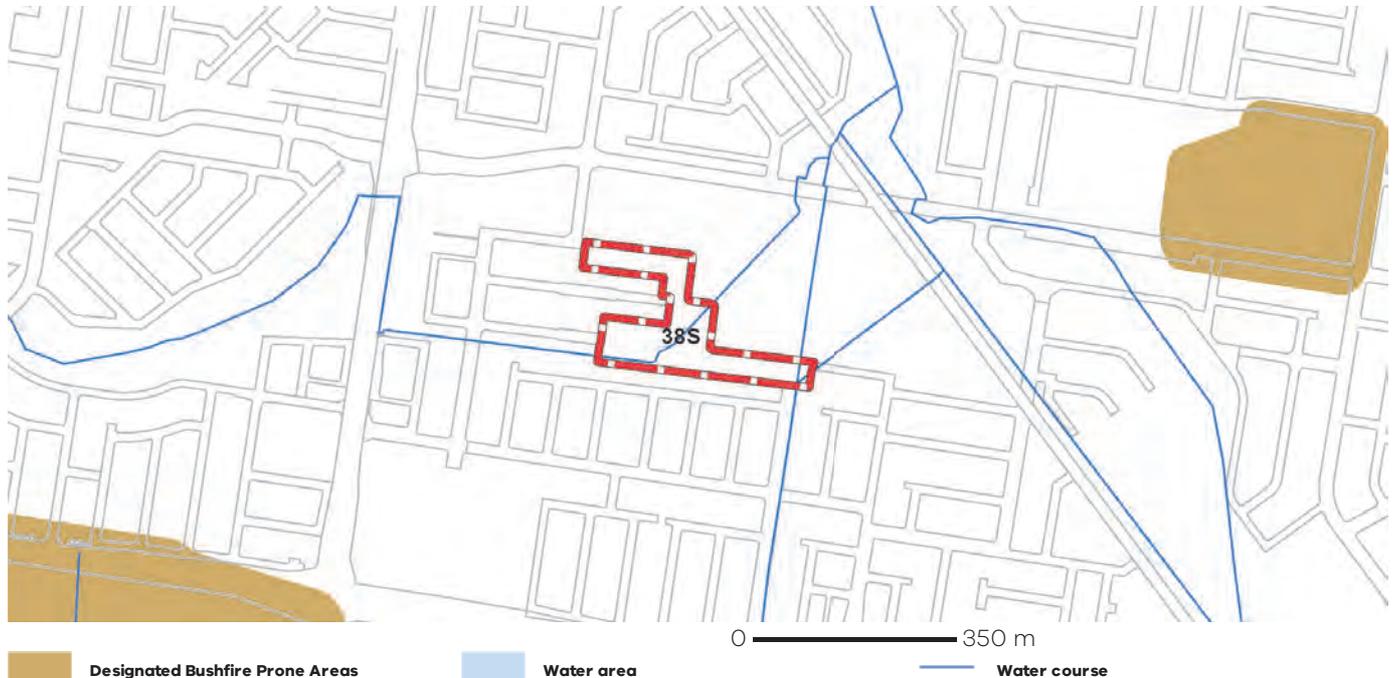
For other information about planning in Victoria visit <https://www.planning.vic.gov.au>

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>.

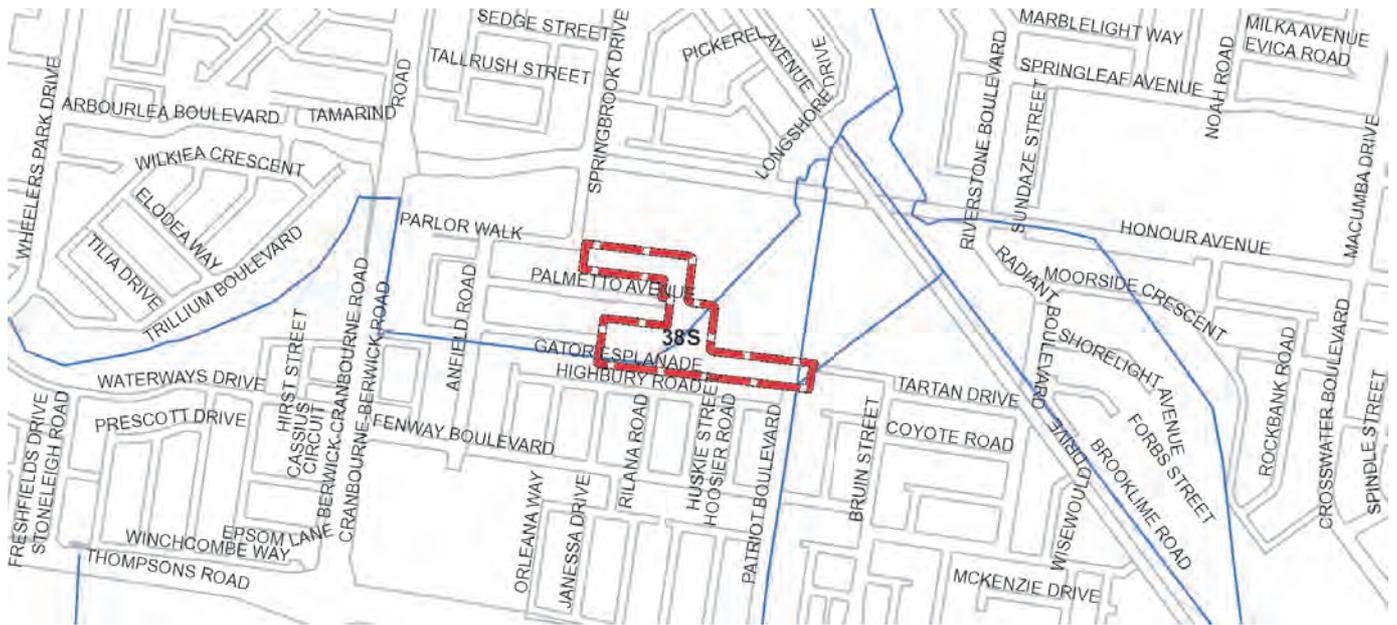
Native Vegetation

Native plants that are indigenous to Victoria and important for biodiversity might be present on this property. This could include trees, shrubs, herbs, grasses or aquatic plants. There are a range of regulations that may apply including need to obtain a planning permit under Clause 52.17 of the local planning scheme. For more information see [Native Vegetation \(Clause 52.17\)](#) with local variations in [Native Vegetation \(Clause 52.17\) Schedule](#)

To help identify native vegetation on this property and the application of Clause 52.17 please visit the Native Vegetation Regulations Map (NVR Map) <https://mapshare.vic.gov.au/nvr/> and [Native vegetation \(environment.vic.gov.au\)](#) or please contact your relevant council.

You can find out more about the natural values on your property through NatureKit [NatureKit \(environment.vic.gov.au\)](#)

Area Map



0 350 m



Selected Property



Water area



Water course

Contact City of Casey

03 9705 5200

NRS: 133 677 (for the deaf,
hearing or speech impaired)TIS: 131 450 (Translating
and Interpreting Service)

caseycc@casey.vic.gov.au

PO Box 1000
Narre Warren VIC 3805

ABN: 43 320 295 742

Customer Service Centres

Narre Warren
Bunjil Place, Patrick Northeast DriveCranbourne
Cranbourne Park Shopping Centre

LAND INFORMATION CERTIFICATE

SECTION 229 LOCAL GOVERNMENT ACT 1989

Certificate Number: wCerR/C075193
Your Reference: 358961

Issue Date: 16 December 2025

Landata - Rates Web Certificates
C/- Victorian Land Registry Services Pty Ltd
L 13 697 Collins St
DOCKLANDS VIC 3008

Property Number:	171988
Property Address:	38S Gator Esplanade CLYDE NORTH VIC 3978
Property Description:	Lot B PS 722309S
Land Area:	36600 sqm

Valuation Date	01/07/2025	Effective Date	01/07/2025
Site Value	\$8,250,000		
Capital Improved Value	\$8,250,000		
Net Annual Value	\$412,500		

This certificate provides information regarding valuation, rates, charges, other moneys owing and any orders and notices made under the **Local Government Act 1989**, or under a local law of the Council and specified flood level by the Council (if any). This certificate is not required to include information regarding planning, building, health, land fill, land slip, flooding information or service easements. Information regarding these matters may be available from Council or the relevant authority. A fee may be charged for such information.

Details for financial year ending 30th June 2026

Rate Category		
Current Year's General Rates	18,093.49	
Current Year's Garbage Charge	385.00	
Current Year's ESVF Levy	1,563.25	
Current Rates Year's Charges - SUB TOTAL		20,041.74
Interest	6.42	
Current Rates Year Adjust\Payments - SUB TOTAL		6.42
Arrears		156.99
Costs Pursuant to Sec 225-227 LGA 1989 5502497	1,151.15	1,151.15
Scheme Charges		
Scheme Charges - TOTAL		0.00
TOTAL BALANCE OUTSTANDING		\$21,356.30

Contact City of Casey

03 9705 5200

NRS: 133 677 (for the deaf,
hearing or speech impaired)TIS: 131 450 (Translating
and Interpreting Service)

caseycc@casey.vic.gov.au

PO Box 1000
Narre Warren VIC 3805

ABN: 43 320 295 742

Customer Service Centres**Narre Warren**
Bunjil Place, Patrick Northeast Drive**Cranbourne**
Cranbourne Park Shopping Centre

PLEASE NOTE: In accordance with section 175(1) of the Local Government Act 1989, the purchaser must pay all overdue rates and charges at the time that person becomes the owner of the land. All other amounts must be paid by their due dates to avoid penalty interest at 10.00% p.a. Full rate payments are due by 16/02/2026.

PLEASE NOTE: Council will only give verbal updates to the applicant within 60 days of this certificate and it should be noted that Council will only be held responsible for information given in writing, i.e. a new certificate, and not information provided or confirmed verbally. For further information contact Council's Rate Department.

PLEASE NOTE: If property is assessed as a Part Lot (PT) - multiple notices may be required, contact council for further information.

Should you have any queries regarding this Certificate, please contact City of Casey and quote reference **wCerR/C075193**.

A handwritten signature in black ink, appearing to read "Jo Kaylock".

Jo Kaylock

Head of Revenue and Rating

PLEASE NOTE:

Interest continues to accrue at 10.0% on any overdue balances until paid in full.

This property has been assessed as vacant land. Any improvements made to the property, may be subject to supplementary rate and valuation.

Electronic Payments

Biller Code: 8995 Ref: 01719883

Telephone & Internet Banking - BPAY®

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

More info: www.bpay.com.au

BKA Practice Co Pty Ltd C/- InfoTrack
E-mail: certificates@landata.vic.gov.au

Statement for property:
LOT B GATOR ESPLANADE CLYDE
NORTH 3978
B PS 722309

REFERENCE NO.	YOUR REFERENCE	DATE OF ISSUE	CASE NUMBER
53G//13676/00026	LANDATA CER 79123204-026-0	16 DECEMBER 2025	51050631

1. Statement of Fees Imposed

The property is classified as a serviced property with respect to charges which as listed below in the Statement of Fees.

(a) By Other Authorities

(b) By South East Water

TOTAL UNPAID BALANCE \$0.00

- Financial Updates (free service) are only available online please go to (type / copy the complete address shown below): <https://secureapp.southeastwater.com.au/PropertyConnect/#/order/info/update>

* Please Note: if usage charges appear above, the amount shown includes one or more of the following:

Water Usage, Recycled Water Usage, Sewage Disposal, Fire Service Usage and Trade Waste Volumetric Fees.

Interest may accrue on the South East Water charges listed in this statement if they are not paid by the due date as set out in the bill.

- The total annual service fees and volumetric fees for water usage and sewerage disposal for each class of property are set out at www.southeastwater.com.au.
- Updates of rates and other charges will only be provided for up to six months from the date of this statement.
- If this property has recently been subdivided from a "parent" title, there may be service or other charges owing on the "parent" which will be charged to this property, once sold, that do not appear on this statement. You must contact us to see if there are any such charges as they may be charged to this property on sale and should therefore be adjusted with the owner of the parent title beforehand.
- If the property is sold, the vendor is liable to pay all fees incurred in relation to the property until the vendor gives South East Water a Notice of Disposition of Land required by the Water (General) Regulations 2021, please include the Reference Number set out above in that Notice.
- Fees relating to the property may change from year-to-year in accordance with the Essential Service Commission's Price Determination for South East Water.

AUTHORISED OFFICER:



LARA SALEMBIER
GENERAL MANAGER
CUSTOMER EXPERIENCE

South East Water
Information Statement Applications
PO Box 2268, Seaford, VIC 3198

- Every fee referred to above is a charge against the property and will be recovered from a purchaser of the property if it is not paid by the vendor.
- Information about when and how outstanding fees may be paid, collected and recovered is set out in the Essential Services Commission's Customer Service Code, Urban Water Businesses.
- If this Statement only sets out rates and fees levied by Parks Victoria and Melbourne Water, the property may not be connected to South East Water's works. To find out whether the property is, or could be connected upon payment of the relevant charges, or whether it is separately metered, telephone 131 694.
- For a new connection to our water or sewer services, fees / charges will be levied.

2. Encumbrance Summary

Where available, the location of sewers is shown on the attached plan. Please ensure where manholes appear, that they remain accessible at all times "DO NOT COVER". Where driveways/paving is proposed to be constructed over easements for water supply/sewerage purposes, or within 1 metre of a South East Water asset, the owner will be responsible for all costs associated with any demolition and or re-instatement works, necessary to allow maintenance and or repair of the asset effected. Where changes to the surface levels requires maintenance shafts/holes to be altered, all works must be carried out by South East Water approved contractors only. For information call 131694. For all other works, prior consent is required from south East Water for any construction over easements for water supply/sewerage purposes, or within 1 metre of a South East Water asset.

Melbourne Water provides main drainage services to this property, consistent with the standards that applied at the time the Melbourne Water drainage system was constructed. In the event of a storm exceeding the design capacity of the underground / open drain, this property could be affected by overland flows. Please contact Melbourne Water's Waterways and Drainage Group for information available to Melbourne Water on the effect of overland flows on this property. (Telephone 9679-7517)

ENCUMBRANCE ENQUIRY EMAIL infostatements@sew.com.au

If no plan is attached to this Statement, South East Water is not aware of any works belonging to South East Water being present on the property.

If a plan is attached to this Statement, it indicates the nature of works belonging to South East Water, their approximate location, and the approximate location of any easement relating to those works.

Important Warnings

The map base for any attached plan is not created by South East Water which cannot and does not guarantee the accuracy, adequacy or completeness of any information in the plan, especially the exact location of any of South East Water's works, which may have changes since the attached plan was prepared. Their location should therefore be proven by hand before any works are commenced on the land.

Unless South East Water's prior written approval is obtained, it is an offence to cause any structure to be built or any filling to be placed on a South East Water easement or within 1 metre laterally of any of its works or to permit any structure to be built above or below any such area.

Any work that requires any South East Water manhole or maintenance shaft to be altered may only be done by a contractor approved by South East Water at the property owner's cost.

AUTHORISED OFFICER:



LARA SALEMBIER
GENERAL MANAGER
CUSTOMER EXPERIENCE

South East Water
Information Statement Applications
PO Box 2268, Seaford, VIC 3198

If the owner builds or places filling in contravention of that requirement, the owner will be required to pay the cost of any demolition or re-instatement of work that South East Water considers necessary, in order to maintain, repair or replace its asset.

This Statement does not include any information about current or outstanding consent issued for plumbing works on at the property.

3. Disclaimer

This Statement does not contain all the information about the property that a prospective purchaser may wish to know. Accordingly, appropriate enquiries should be made of other sources and information.

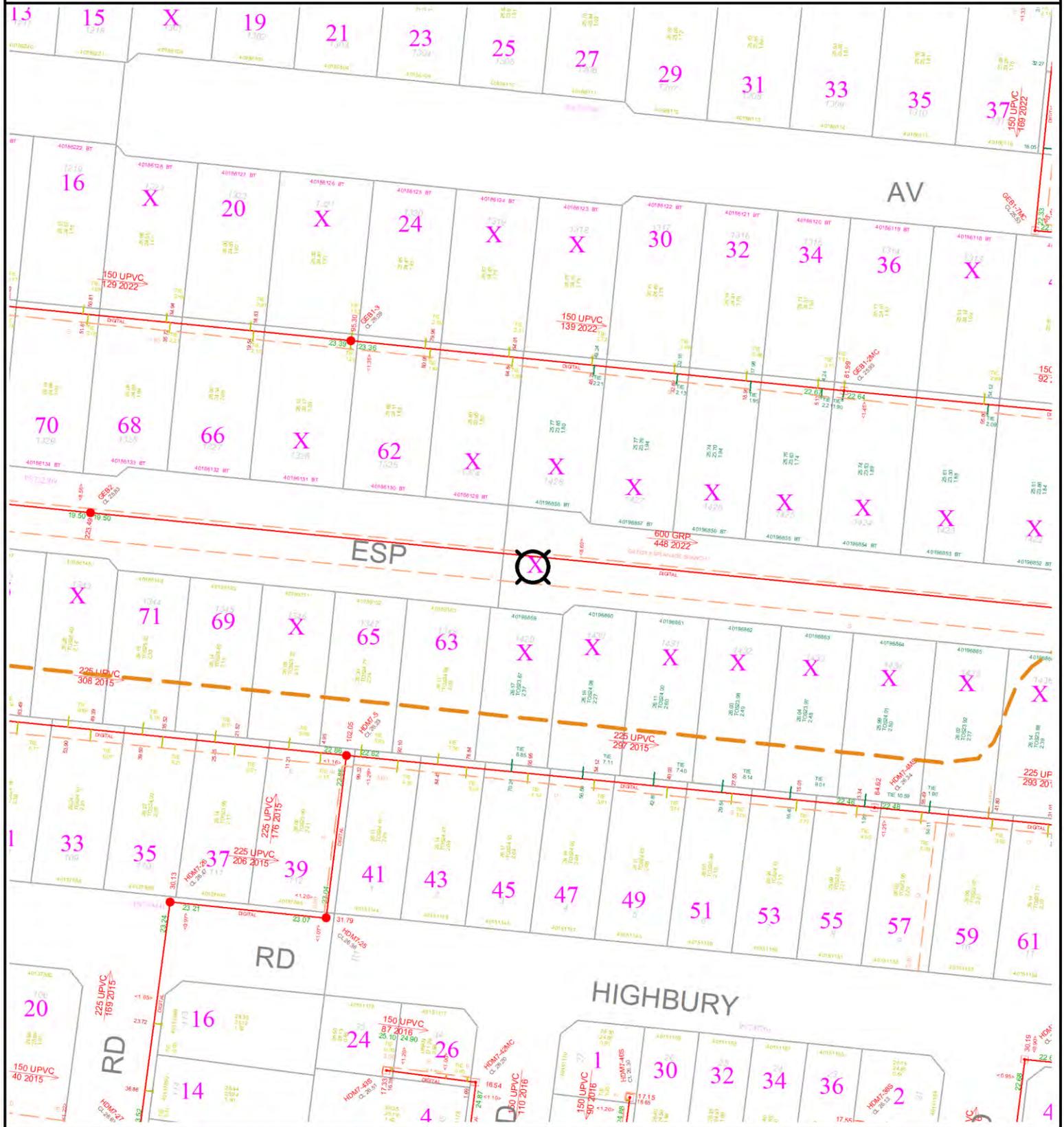
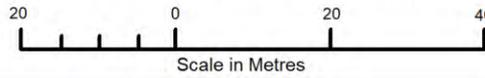
South East Water has prepared the information in this Statement with due care and diligence. It cannot and does not accept liability for any loss or damage arising from reliance on the information given, beyond the extent set out in section 155 of the Water Act 1989 and sections 18 and 29 of the Australian Consumer Law.

AUTHORISED OFFICER:



LARA SALEMBIER
GENERAL MANAGER
CUSTOMER EXPERIENCE

South East Water
Information Statement Applications
PO Box 2268, Seaford, VIC 3198



WARNING: This plan is issued solely for the purpose of assisting you in identifying South East Water's and Melbourne Water's specified assets through further investigation only. It is not to be used for any other purpose, including to identify any other assets, property boundaries or dimensions. Accordingly, the location of all assets should be proven by hand on site prior to the commencement of any work. (Refer to attached letter for further details). Assets labelled AC may contain asbestos and therefore works on these assets must be undertaken in accordance with OH&S Regulations. Abandoned and currently unused assets are shown in orange.

Title/Road Boundary	Subject Property	Maintenance Hole	Abandoned Sewer
Proposed Title/Road	Sewer Main & Property Connections	Inspection Shaft	
Easement	Direction of Flow	Offset from Boundary	

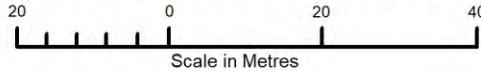
Melbourne Water Assets		
Sewer Main	Underground Drain	Natural Waterway
Maintenance Hole	Channel Drain	Underground Drain M.H.



ASSET INFORMATION - RECYCLED WATER

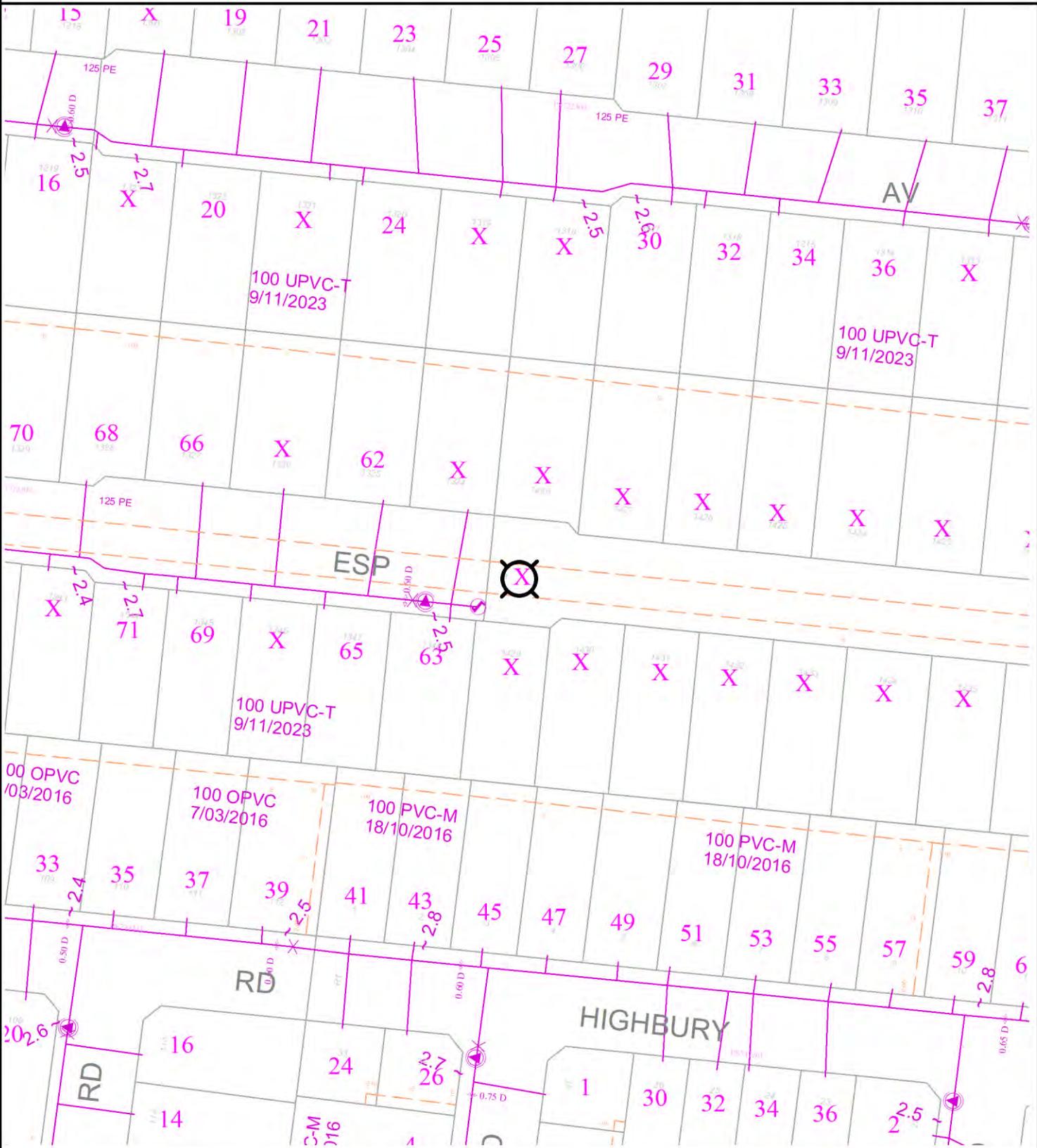
(RECYCLE WATER WILL APPEAR IF IT'S AVAILABLE)

Property: Lot B LOT B GATOR ESPLANADE CLYDE NORTH 3978



Case Number: 51050631

Date: 16DECEMBER2025



WARNING: This plan is issued solely for the purpose of assisting you in identifying South East Water's and Melbourne Water's specified assets through further investigation only. It is not to be used for any other purpose, including to identify any other assets, property boundaries or dimensions. Accordingly, the location of all assets should be proven by hand on site prior to the commencement of any work. (Refer to attached letter for further details). Assets labelled AC may contain asbestos and therefore works on these assets must be undertaken in accordance with OH&S Regulations. Abandoned and currently unused assets are shown in orange.

LEGEND			
	Title/Road Boundary		Subject Property
	Proposed Title/Road		Recycled Water Main Valve
	Easement		Recycled Water Main & Services
			Hydrant
			Fireplug/Washout
			Offset from Boundary

Property Clearance Certificate

Land Tax



INFOTRACK / BKA PRACTICE CO PTY LTD

Your Reference:	776949
Certificate No:	94663559
Issue Date:	17 DEC 2025
Enquiries:	JXD11

Land Address: 38S GATOR ESPLANADE CLYDE NORTH VIC 3978

Land Id	Lot	Plan	Volume	Folio	Tax Payable
50931122	B	722309	12573	99	\$0.00

Vendor: S & N SUPER FUND PTY LTD
Purchaser: FOR INFORMATION PURPOSES

Current Land Tax	Year Taxable Value (SV)	Proportional Tax	Penalty/Interest	Total
S & N SUPER FUND PTY LTD	2025	\$8,650,000	\$217,170.17	\$0.00

Comments: Land Tax of \$217,170.17 has been assessed for 2025, an amount of \$217,170.17 has been paid.

Current Vacant Residential Land Tax	Year Taxable Value (CIV)	Tax Liability	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 IMPROVED VALUE (CIV):	\$8,650,000
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SITE VALUE (SV):	\$8,650,000
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CURRENT LAND TAX AND VACANT RESIDENTIAL LAND TAX CHARGE:	\$0.00
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Notes to Certificate - Land Tax

Certificate No: 94663559

Power to issue Certificate

1. Pursuant to section 95AA of the *Taxation Administration Act 1997*, the Commissioner of State Revenue must issue a Property Clearance Certificate (Certificate) to an owner, mortgagee or bona fide purchaser of land who makes an application specifying the land for which the Certificate is sought and pays the application fee.

Amount shown on Certificate

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

Land tax is a first charge on land

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

Information for the purchaser

4. Pursuant to section 96 of the *Land Tax Act 2005*, if a purchaser of the land described in the Certificate has applied for and obtained a certificate, the amount recoverable from the purchaser by the Commissioner cannot exceed the amount set out in the certificate, described as the "Current Land Tax Charge and Vacant Residential Land Tax Charge" overleaf. A purchaser cannot rely on a Certificate obtained by the vendor.

Information for the vendor

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

Apportioning or passing on land tax to a purchaser

6. A vendor is prohibited from apportioning or passing on land tax including vacant residential land tax, interest and penalty tax to a purchaser under a contract of sale of land entered into on or after 1 January 2024, where the purchase price is less than \$10 million (to be indexed annually from 1 January 2025, as set out on the website for Consumer Affairs Victoria).

General information

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

For Information Only

LAND TAX CALCULATION BASED ON SINGLE OWNERSHIP

Land Tax = \$181,375.00

Taxable Value = \$8,650,000

Calculated as \$31,650 plus (\$8,650,000 - \$3,000,000) multiplied by 2.650 cents.

VACANT RESIDENTIAL LAND TAX CALCULATION

Vacant Residential Land Tax = \$86,500.00

Taxable Value = \$8,650,000

Calculated as \$8,650,000 multiplied by 1.000%.

Land Tax - Payment Options

BPAY



Biller Code: 5249
Ref: 94663559

Telephone & Internet Banking - BPAY®

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

www.bpay.com.au

CARD



Ref: 94663559

Visa or Mastercard

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

sro.vic.gov.au/paylandtax

Property Clearance Certificate

Commercial and Industrial Property Tax



INFOTRACK / BKA PRACTICE CO PTY LTD

Your Reference:	776949
Certificate No:	94663559
Issue Date:	17 DEC 2025
Enquires:	JXD11

Land Address: 38S GATOR ESPLANADE CLYDE NORTH VIC 3978

Land Id	Lot	Plan	Volume	Folio	Tax Payable
50931122	B	722309	12573	99	\$0.00
AVPCC	Date of entry into reform	Entry interest	Date land becomes CIPT taxable land	Comment	
102	N/A	N/A	N/A	The AVPCC allocated to the land is not a qualifying use.	

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

Paul Broderick
Commissioner of State Revenue

CAPITAL IMPROVED VALUE:	\$8,650,000
SITE VALUE:	\$8,650,000
CURRENT CIPT CHARGE:	\$0.00



Notes to Certificate - Commercial and Industrial Property Tax

Certificate No: 94663559

Power to issue Certificate

1. Pursuant to section 95AA of the *Taxation Administration Act 1997*, the Commissioner of State Revenue must issue a Property Clearance Certificate (Certificate) to an owner, mortgagee or bona fide purchaser of land who makes an application specifying the land for which the Certificate is sought and pays the application fee.

Amount shown on Certificate

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

Australian Valuation Property Classification Code (AVPCC)

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

Commercial and industrial property tax information

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

Change of use of tax reform scheme land

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

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

Commercial and industrial property tax is a first charge on land

8. Commercial and industrial property tax (including any interest and penalty tax) is a first charge on the land to which the commercial and industrial property tax is payable. This means it has priority over any other encumbrances on the land, such as a mortgage, and will continue as a charge even if ownership of the land is transferred. Therefore, a purchaser may become liable for any unpaid commercial and industrial property tax.

Information for the purchaser

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

Information for the vendor

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

Passing on commercial and industrial property tax to a purchaser

11. A vendor is prohibited from apportioning or passing on commercial and industrial property tax to a purchaser under a contract of sale of land entered into on or after 1 July 2024 where the purchase price is less than \$10 million (to be indexed annually from 1 January 2025, as set out on the website for Consumer Affairs Victoria).

General information

12. Land enters the tax reform scheme if there is an entry transaction, entry consolidation or entry subdivision in respect of the land (within the meaning given to those terms in the CIPT Act). Land generally enters the reform on the date on which an entry transaction occurs in respect of the land (or the first date on which land from which the subject land was derived (by consolidation or subdivision) entered the reform).
13. The Duties Act includes exemptions from duty, in certain circumstances, for an eligible transaction (such as a transfer) of tax reform scheme land that has a qualifying use on the date of the transaction. The exemptions apply differently based on whether the entry interest in relation to the land was a whole interest or a partial interest. For more information, please refer to www.sro.vic.gov.au/CIPT.
14. A Certificate showing no liability for the land does not mean that the land is exempt from commercial and industrial property tax. It means that there is nothing to pay at the date of the Certificate.
15. An updated Certificate may be requested free of charge via our website, if:
 - the request is within 90 days of the original Certificate's issue date, and
 - there is no change to the parties involved in the transaction for which the Certificate was originally requested.

Property Clearance Certificate

Windfall Gains Tax



INFOTRACK / BKA PRACTICE CO PTY LTD

Your Reference: 776949

Certificate No: 94663559

Issue Date: 17 DEC 2025

Land Address: 38S GATOR ESPLANADE CLYDE NORTH VIC 3978

Lot	Plan	Volume	Folio
B	722309	12573	99

Vendor: S & N SUPER FUND PTY LTD

Purchaser: FOR INFORMATION PURPOSES

WGT Property Id	Event ID	Windfall Gains Tax	Deferred Interest	Penalty/Interest	Total
		\$0.00	\$0.00	\$0.00	\$0.00

Comments: No windfall gains tax liability identified.

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

CURRENT WINDFALL GAINS TAX CHARGE:

\$0.00

A handwritten signature in black ink, appearing to read 'Paul Broderick'.

Paul Broderick
Commissioner of State Revenue

Notes to Certificate - Windfall Gains Tax

Certificate No: 94663559

Power to issue Certificate

1. Pursuant to section 95AA of the *Taxation Administration Act 1997*, the Commissioner of State Revenue must issue a Property Clearance Certificate (Certificate) to an owner, mortgagee or bona fide purchaser of land who makes an application specifying the land for which the Certificate is sought and pays the application fee.

Amount shown on Certificate

2. The Certificate shows in respect of the land described in the Certificate:
 - Windfall gains tax that is due and unpaid, including any penalty tax and interest
 - Windfall gains tax that is deferred, including any accrued deferral interest
 - Windfall gains tax that has been assessed but is not yet due
 - Windfall gains tax that has not yet been assessed (i.e. a WGT event has occurred that rezones the land but any windfall gains tax on the land is yet to be assessed)
 - Any other information that the Commissioner sees fit to include such as the amount of interest accruing per day in relation to any deferred windfall gains tax.

Windfall gains tax is a first charge on land

3. Pursuant to section 42 of the *Windfall Gains Tax Act 2021*, windfall gains tax, including any accrued interest on a deferral, is a first charge on the land to which it relates. This means it has priority over any other encumbrances on the land, such as a mortgage, and will continue as a charge even if ownership of the land is transferred. Therefore, a purchaser may become liable for any unpaid windfall gains tax.

Information for the purchaser

4. Pursuant to section 42 of the *Windfall Gains Tax Act 2021*, if a bona fide purchaser for value of land applies for and obtains a Certificate in respect of the land, the maximum amount recoverable from the purchaser by the Commissioner is the amount set out in the certificate, described as the "Current Windfall Gains Tax Charge" overleaf.
5. If the certificate states that a windfall gains tax is yet to be assessed, note 4 does not apply.
6. A purchaser cannot rely on a Certificate obtained by the vendor.

Information for the vendor

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

Passing on windfall gains tax to a purchaser

8. A vendor is prohibited from passing on a windfall gains tax liability to a purchaser where the liability has been assessed under a notice of assessment as at the date of the contract of sale of land or option agreement. This prohibition does not apply to a contract of sale entered into before 1 January 2024, or a contract of sale of land entered into on or after 1 January 2024 pursuant to the exercise of an option granted before 1 January 2024.

General information

9. A Certificate showing no liability for the land does not mean that the land is exempt from windfall gains tax. It means that there is nothing to pay at the date of the Certificate.
10. An updated Certificate may be requested free of charge via our website, if:
 - The request is within 90 days of the original Certificate's issue date, and
 - There is no change to the parties involved in the transaction for which the Certificate was originally requested.
11. Where a windfall gains tax liability has been deferred, interest accrues daily on the deferred liability. The deferred interest shown overleaf is the amount of interest accrued to the date of issue of the certificate.

Windfall Gains Tax - Payment Options

<p>BPAY</p>  <p>Billers Code: 416073 Ref: 94663556</p> <p>Telephone & Internet Banking - BPAY®</p> <p>Contact your bank or financial institution to make this payment from your cheque, savings, debit or transaction account.</p> <p>www.bpay.com.au</p>	<p>CARD</p>  <p>Ref: 94663556</p> <p>Visa or Mastercard</p> <p>Pay via our website or phone 13 21 61. A card payment fee applies.</p> <p>sro.vic.gov.au/payment-options</p>	<p>Important payment information</p> <p>Windfall gains tax payments must be made using only these specific payment references.</p> <p>Using the incorrect references for the different tax components listed on this property clearance certificate will result in misallocated payments.</p>
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ROADS PROPERTY CERTIFICATE

The search results are as follows:

BKA Practice Co Pty Ltd C/- InfoTrack
135 King Street
SYDNEY 2000
AUSTRALIA

Client Reference: 358961

NO PROPOSALS. As at the 16th December 2025, VicRoads has no approved proposals requiring any part of the property described in your application. You are advised to check your local Council planning scheme regarding land use zoning of the property and surrounding area.

This certificate was prepared solely on the basis of the Applicant-supplied address described below, and electronically delivered by LANDATA®.

38S GATOR ESPLANADE, CLYDE NORTH 3978
CITY OF CASEY

This certificate is issued in respect of a property identified above. VicRoads expressly disclaim liability for any loss or damage incurred by any person as a result of the Applicant incorrectly identifying the property concerned.

Date of issue: 16th December 2025

Telephone enquiries regarding content of certificate: 13 11 71

[Vicroads Certificate] # 79123204 - 79123204121900 '358961'

Extract of EPA Priority Site Register

Page 1 of 1

PROPERTY INQUIRY DETAILS:

STREET ADDRESS: 38S GATOR ESPLANADE

SUBURB: CLYDE NORTH

MUNICIPALITY: CASEY

MAP REFERENCES: Melways 40th Edition, Street Directory, Map 131 Reference B10
Melways 40th Edition, Street Directory, Map 131 Reference C10

DATE OF SEARCH: 16th December 2025

ACKNOWLEDGMENT AND IMPORTANT INFORMATION ABOUT THE PRIORITY SITES REGISTER AND THIS EXTRACT:

A search of the Priority Sites Register for the above map reference(Melways), corresponding to the street address provided above, has indicated there is no Priority Site within the same map reference based on the most recent file provided to LANDATA by the Environment Protection Authority, Victoria (EPA).

The Priority Sites Register is not an exhaustive or comprehensive list of contaminated sites in Victoria. A site should not be presumed to be free of contamination just because it does not appear on the Priority Sites Register. Persons intending to enter into property transactions should be aware that EPA may not have information regarding all contaminated sites. While EPA has published information regarding potentially contaminating land uses, local councils and other relevant planning authorities may hold additional records or data concerning historical land uses. It is recommended that these sources of information should also be consulted in addition to this Extract.

Prospective buyers or parties to property transactions should undertake their own independent investigations and due diligence. This Extract should not be relied upon as the sole source of information regarding site contamination.

To the maximum extent permitted by law:

- Neither LANDATA, SERV nor EPA warrants the accuracy or completeness of the information in this Extract. Any person using or relying upon such information does so on the basis that LANDATA, SERV and EPA assume no liability whatsoever for any errors, faults, defects or omissions in the information in this Extract. Users are advised to undertake independent due diligence and seek professional advice before relying on this information
- Users of this Extract accept all risks and responsibilities for losses, damages, costs or other consequences resulting directly or indirectly from reliance on the information in this Extract or any related information; and
- LANDATA, SERV and EPA expressly disclaim all liability to any person for any claims arising from the use of this Extract or information therein. In circumstances where liability cannot be excluded, the total liability of LANDATA, SERV and EPA is limited to the payment made by you for the supply by LANDATA of this Extract.

For sites listed on the Priority Sites Register, copies of the relevant Notices, including reasons for issuance and associated management requirements, is available on request from EPA through the contact centre via 1300 EPA VIC (1300 372 842). For more information relating to the Priority Sites Register, refer to the EPA website at: <https://www.epa.vic.gov.au/for-community/environmental-information/land-groundwater-pollution/priority-sites-register>

[Extract of Priority Sites Register] # 79123204 - 79123204121900
'358961'

DESIGN VISION

The vision for Mondous Island is to promote elegant, timeless and contemporary design befitting of the future premium residential precinct. The landscape character and high quality treatment will set the tone and standards for this precinct, whilst linking in with the ribbon element and curving feature walls that link together all the precincts of Berwick Waters.

A signature material palette of galvanised steel powdercoated black panels, off white concrete walling, teamed with charcoal and light grey stone and concrete paving and accents of Coldstream boulders that tie in with the rest of Berwick Waters. A contemporary planting palette of mass planted grasses, sculptural accent planting, and trailing species over concrete walls will be utilised to further complement the high quality.

Legend

- 1 PICNIC SHELTER & LOOKOUT - SUBJECT TO WRITTEN CONSENT OF RELEVANT AUTHORITIES
- 2 EXERCISE STATION - SUBJECT TO WRITTEN CONSENT OF RELEVANT AUTHORITIES
- 3 ENTRY BRIDGE AND THRESHOLD - SUBJECT TO SEPARATE CIVIL WORKS APPROVAL
- 4 PEDESTRIAN BRIDGE - SUBJECT TO WRITTEN CONSENT OF RELEVANT AUTHORITIES
- 5 ELECTRICAL SUBSTATION
- 6 VEHICLE EXCLUSION FENCING
- 7 MAINTENANCE ACCESS
- SITE BOUNDARY
- VEHICLE EXCLUSION FENCING, INC. BOLLARDS
- ... PATH - 1.5M WIDE
- ... PATH - 2.0M WIDE
- ... SHARED PATH - 2.5M WIDE
- 10 YEAR FLOOD LINE
- 100 YEAR FLOOD LINE
- NWL
- 1:40 GRADING ALL SHOWN AS APPROXIMATE ONLY

NOTE

OVERALL AREA FROM THE 1:100 YEAR FLOOD LEVEL TO THE PROPERTY BOUNDARY IS 3.95 HECTARES. A RATIO OF 170 PER HECTARE IS REQUIRED WITH AN OVERALL FIGURE OF 680 TREES REQUIRED. EXACT LOCATION TO BE DETERMINED AND RESOLVED THROUGH THE DESIGN DEVELOPMENT STAGE

SOFTWORKS

EXISTING HONOUR AVE STREET TREES
Quercus coccinea (Scarlet Oak)

WETLAND TREES
Eg. Melaleuca ericifolia, Eucalyptus ovata, Eucalyptus tereticornis spp mediana, Eucalyptus camaldulensis (EVC 53 and EVC 55)

TERRESTRIAL PLANTING AT WETLAND INTERFACE
Eg. Mass planted grasses and accent species refer plant schedule

NOTE

TREE PLANTING ALONG BERWICK-CRANBOURNE ROAD WILL BE COMPRISED OF SPECIES IDENTIFIED IN THE CITY OF CASEY ARTERIAL ROADS STRATEGY TO BE RESOLVED THROUGH THE DESIGN DEVELOPMENT STAGE.

HARDWORKS

EXISTING ENTRY WALL TO HONOUR VILLAGE
Stainless stain and black powdercoated steel curving panels

PROPOSED HARD EDGES TO WETLAND INTERFACE
eg. Vehicle exclusion to corners - low off-white concrete walls and black powdercoated steel curving panels
SUBJECT TO APPROVAL AT DETAILED DESIGN STAGE

Disclaimer

Wetland Park Concept is indicative only. All structures including bridges, boardwalks shelters retaining and feature walls are subject to change and gain approval and require written consent by the relevant Authorities such as Vic Roads and Melbourne Water.

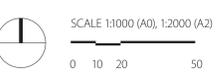


INDICATIVE PLANT SCHEDULE

Botanical Name	Common Name	Install Size	Spacing
Trees			
<i>Acacia mearnsii</i>	Black wattle	45L pot	As Shown
<i>Acacia melanoxylon</i>	Blackwood	45L pot	As Shown
<i>Banksia serrata</i>	Saw Banksia	45L pot	As Shown
<i>Eucalyptus tereticornis spp mediana</i>	Forest Red Gum	45L pot	As Shown
<i>Eucalyptus ovata</i>	Swamp Gum	45L pot	As Shown
<i>Eucalyptus radiata</i>	Narrow Leaf Peppermint	45L pot	As Shown
<i>Eucalyptus camaldulensis</i>	River Red Gum	45L pot	As Shown
<i>Eucalyptus viminalis sub sp pryoriana</i>	Manna Gum	45L pot	As Shown
<i>Leptospermum lanigerum</i>	Woolly tea-tree	45L pot	As Shown
<i>Melaleuca ericifolia</i>	Swamp Paperbark	45L pot	As Shown
Low grasses and shrubs			
<i>Acacia novae zelandiae</i>	Bidgee Widgee		4
<i>Themeda triandra</i>	Kangaroo Grass	Tubestock	
<i>Brachycome multifida</i>	Rocky Daisy	Tubestock	
<i>Chrysocephalum apiculatum</i>	Yellow Buttons	Tubestock	
<i>Austrodanthonia caespitosa</i>	Wallaby Grass	Tubestock	
<i>Dianella revoluta</i>	Flax Lily	Tubestock	
<i>Craspedia paludicola</i>	Swamp Billy Buttons	Tubestock	
<i>Ficinia nodosa</i>	Knobby club sedge	Tubestock	
<i>Dilwynia glaberrima</i>	Heath Parrot Pea	Tubestock	
<i>Correa reflexa</i>	Native Fuschia	Tubestock	
<i>Lomandra longifolia</i>	Spiny Head Mat Rush	Tubestock	
<i>Hibbertia sericea</i>	Silky Guinea-flower	Tubestock	
<i>Poa labillardieri</i>	Common tussock Grass	Tubestock	
Medium Shrub			
<i>Platylobium obtusangulum</i>	Common Flat Pea	Tubestock	
<i>Dianella longifolia</i>	Blue Berry Lily	Tubestock	
<i>Epacris impressa</i>	Common Heath	Tubestock	
<i>Correa reflexa</i>	Native Fuschia	Tubestock	
<i>Leptospermum lanigerum</i>	Woolly Tea Tree	Tubestock	
<i>Bursaria spinosa</i>	Sweet Bursaria	Tubestock	
<i>Leptospermum myrsinoides</i>	Silky Tee Tree	Tubestock	

Wetland planting approved by Melbourne Water

Wetland Margin	Plant Species	Install Size	Spacing
Wetland Margin	<i>Baumea arthropophylla</i>	Fine Twig-rush	Tubestock
	<i>Carex appressa</i>	Tall Sedge	Tubestock
	<i>Carex fascicularis</i>	Tassell Sedge	Tubestock
	<i>Ficinia nodosa</i>	Knobby club sedge	Tubestock
	<i>Lomandra longifolia</i>	Spiny Head Mat Rush	Tubestock
	<i>Juncus amabilis</i>	Hollow Rush	Tubestock
	<i>Poa labillardieri</i>	Common tussock Grass	Tubestock
Ephemeral Marsh	<i>Carex appressa</i>	Tall Sedge	Hiko
	<i>Cyperus lucidus</i>	Leafy Flat-Sedge	Hiko
	<i>Eleocharis acuta</i>	Common Spike-sedge	Hiko
	<i>Juncus amabilis</i>	Hollow Rush	Hiko
	<i>Juncus australis</i>	Austral Rush	Hiko
Shallow Marsh	<i>Baumea articulata</i>	Jointed Twig-Rush	Hiko
	<i>Bolboschoenus caldwelii</i>	Sea Club-rush	Hiko
	<i>Bolboschoenus fluviatilis</i>	Tall Club-rush	Hiko
	<i>Bolboschoenus medianus</i>	Marsh Club-rush	Hiko
	<i>Eleocharis acuta</i>	Common Spike Sedge	Hiko
Deep Marsh	<i>Baumea articulata</i>	Jointed Twig-Rush	Hiko
	<i>Eleocharis sphacelata</i>	Tall Spike-rush	Hiko
	<i>Eleocharis sphacelata</i>	Tall Spike-rush	Hiko
	<i>Schoenoplectus tabernaemontani</i>	River Club-Rush	Hiko
Sub Merged Marsh	<i>Triglochin procerum</i>	Water Ribbons	Hiko
	<i>Myriophyllum salzigineum</i>	Lake Milfoil	Hiko
	<i>Potamogeton ochreatus</i>	Blunt Pondweed	Hiko
	<i>Vallisneria Americana</i>	Eel-Grass	Hiko



DESIGN VISION
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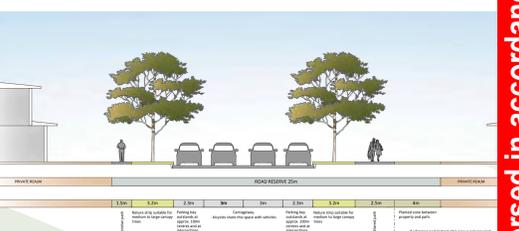
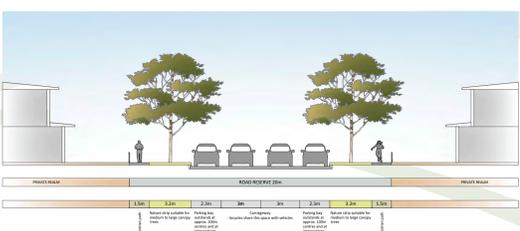
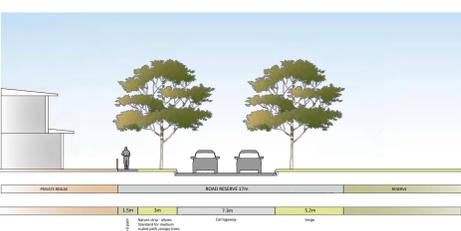
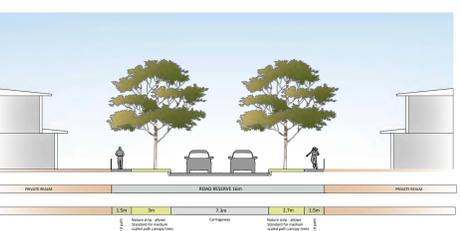
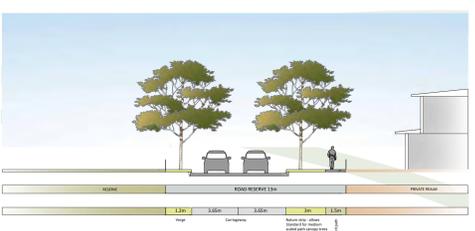
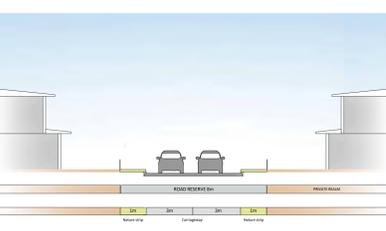
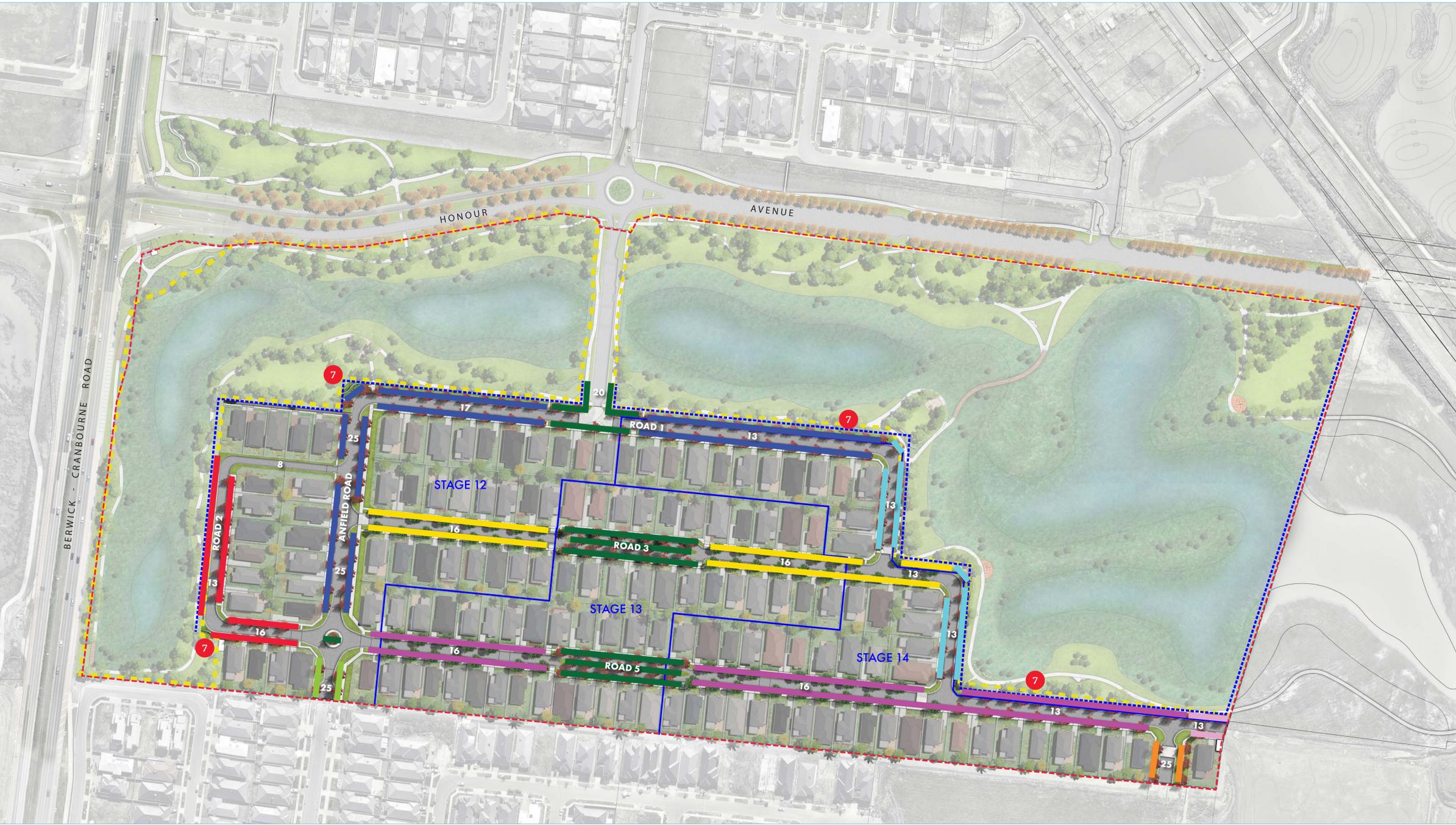
Legend

- SITE BOUNDARY
- STAGE BOUNDARY
- PROPERTY BOUNDARY
- ROAD WIDTHS
- 7 LOCATIONS OF MAINTENANCE GATES
- VEHICLE EXCLUSION

- TREES**
- FRAXINUS 'CIMMARON'
- NYSSA SYLVATICA
- ULMUS PARVIFOLIA 'BURNLEY SELECT'
- QUERCUS ACCUTISSIMA
- MALUS TRILOBATA
- BRACHYCHITON 'JERILDERIE RED'
- ULMUS PARVIFOLIA 'TODD'
- SPECIES TO MATCH IN WITH EXISTING/PROPOSED TREE SPECIES
- EUCALYPTUS MANNIFERA 'LITTLE SPOTTY'
- SPECIES TO MATCH IN WITH EXISTING/PROPOSED TREE SPECIES
- EUCALYPTUS MANNIFERA 'LITTLE SPOTTY'
- SPECIES TO MATCH IN WITH EXISTING/PROPOSED TREE SPECIES

NOTE
 TREE PLANTING ALONG BERWICK-CRANBOURNE ROAD WILL BE COMPRISED OF SPECIES IDENTIFIED IN THE CITY OF CASEY ARTERIAL ROADS STRATEGY TO BE RESOLVED THROUGH THE DESIGN DEVELOPMENT STAGE.

Disclaimer
 Street tree masterplan indicative only subject to change following review by City of Casey.



8m
 Access Place/Access Street - Level 1

13m
 Access Place/Access Street - Reserve Frontage

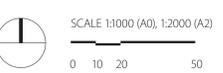
16m
 Access Place/Access Street - Level 1
 Clyde North Precinct Structure Plan

17m
 Access Place/Access Street - Level 1

20m
 Access Street - Level 2
 Clyde North Precinct Structure Plan

25m
 Access Street with Shared Path
 Clyde North Precinct Structure Plan

Notes
 Cross sections referenced from Clyde North PSP - NTS
 Final review and approval of the sections to be completed by the City of Casey
 A section will be provided for the alternative road design along Roads 3 and 5, subject to engineering design



Landscape Masterplan - Street Tree Plan
 Mondous Island, Berwick Waters

berwickwaters::

Mondous Island

Design and
Siting Guidelines

December 2020



berwickwaters::

Mondous Island

Mondous Island is a new precinct of the Berwick Waters residential development, laid out amongst expansive wetlands and parkland. Mondous Island offers an aspirational neighbourhood for new residents to become a part of as the estate grows into a vibrant and prospering community.

These Guidelines present a series of easy to follow measures designed to protect the integrity of Mondous Island and ensure a high standard of design that will support the value of the investment of your home.

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1.1 purpose

The principal aim of these Design Guidelines ('Guidelines') is to create a coherent character within the neighbourhood for the Mondous Island community.

These Guidelines have been developed to guide the design of the built environment within Mondous Island. The Guidelines are designed to ensure a high standard of innovative and contemporary design whilst encouraging a variety of housing styles and allowing for flexibility in design.

The Mondous Island Guidelines will be a restriction included on the Registered Plan of Subdivision.

1.2 the value of design

Each individual house design should contribute to the surrounding environment and to the estate in a positive way.

Owners are encouraged to construct innovative and appropriate designs that address sustainability issues and present a cohesive residential image for the estate.

Building Envelopes have been designed for all allotments to ensure homes are appropriately sited with setbacks and height controls to help limit overlooking and overshadowing.

1.3 operation

The Design Assessment Panel ('DAP') will be responsible for the review and approvals of your house plans. All proposed building works including houses, garages, outbuildings and fencing are required to be approved by the DAP in relation to these Guidelines prior to seeking a Building Permit.

In considering the designs submitted, the DAP may approve designs not strictly in accordance with the Guidelines at their discretion if it is deemed that the design is in accordance with the Mondous Island vision.

Covenants or Restrictions on the Plan of Subdivision cannot be changed by the DAP and therefore must be adhered to at all times.

1.4 landscaping construction

Landscaping works must be completed within 6 months of you moving into your home.

2. Approval Process

The following steps outline the process to construct a house at Mondous Island.

step 1 awareness

Homes must be designed in accordance with the Guidelines and any other governing requirements.



step 2 submission

Designs are to be submitted in duplicate to DAP for approval as follows:

- House floor plans (1:100 scale)
- Elevations from four sides (1:100 scale)
- Roof plan
- Schedule of external materials
- Completed Check List (refer Appendix A of Guidelines)
- Site plan (1:200 scale) showing:
 - setbacks from all boundaries
 - building envelope
 - external features including driveways, paths, fencing and outbuildings
 - landscaping



step 3 approval

When all documents are submitted (refer Appendix A) and meet compliance, allow approximately 10 working days for approval.



Not
Approved



Approved



step 4 re-submission

Plans that do not comply with the Guidelines will be requested to be amended by the DAP.

Amended plans can be resubmitted for approval. Any alterations made to the resubmission other than the initial non-compliance should be highlighted on the plans or detailed in an accompanying letter.

step 5 building permit

Before you apply for a Building Permit you must first gain approval of your house design from the DAP. A Building Permit can be applied for from the City of Casey or a Private Building Surveyor.

Note: Design approval from DAP does not exempt the plans from any building or statutory regulations. Separate approval must be obtained from the relevant authorities. Approval by the DAP does not infer compliance under the Building Code of Australia, Rescode and other applicable planning or building regulations.



step 6 construction

Once a Building Permit has been obtained, and all legal and conveyancing requirements have been met, construction of your house may commence.

3. Siting & Orientation

3.1 considerations

Careful siting of houses and garages is important for a number of reasons:

- Ensuring best visual presentation from the street
- Maximising the benefits of solar access
- Promoting energy efficiency
- Minimising overlooking
- Respecting the privacy and amenity of neighbours

3.2 land use

One dwelling only is permitted per allotment. Dual occupancy and further subdivision is not permitted. This excludes those lots designated for multiple dwellings or medium density housing.

3.3 house orientation

Houses must be orientated towards the front boundary of the lot.

In the case of any lot where more than one boundary abuts a road, the shortest of the boundaries which abuts a road is the front boundary and where there is a splayed corner on a lot, that part of the boundary which is created by the splay (i.e. the corner section) shall be disregarded.

Where possible, houses should be sited so that habitable rooms and private open spaces face northwards to receive maximum solar efficiency.

3.4 building envelopes, setbacks from front, side & rear boundaries

3.4.1 building envelopes

Building Envelopes have been prepared for the lots in each stage at Mondous Island and are contained within the Memorandum of Common Provisions. All buildings, including garages, must be contained within the Building Envelope specified for that lot.

3.4.2 setbacks

The front, side and rear setbacks are designated on the specified Building Envelopes for each lot.

All dwellings must be setback in accordance with the Building Envelopes incorporated into the applicable Memorandum of Common Provisions.

4. Built Form

4.1 architectural style

At Mondous Island, high standards of housing design will be required, and a variety of styles are encouraged. Designs should be responsive to the individual attributes of the lot, having regard to the slope, vegetation and outlook.

The design should consider the front entries visible from the street, with the inclusion of protruding elements such as verandahs and porticos strongly encouraged.

Further enhancement can be achieved through the use of detail and shade in the form of pergolas and extended eaves.

To ensure diversity across Mondous Island, a dwelling should avoid replicating an identical façade, within four houses in any direction.

4.2 fibre to the home

Fibre to the Home ('FTTH') will be provided to parts or all of the development. Due to the provision of FTTH throughout the estate, new technology is employed and as a result the wiring within your house needs to be done differently as part of its construction. This is something that will need to be addressed as part of the house design, and we therefore recommend that you raise this issue with your builder as part of the design process. The services provided with FTTH are telephone and broadband internet.

4.3 external materials

The materials of the walls and roofs of houses will have a major impact on the visual quality of Mondous Island. The use of a combination of finishes is encouraged for the purpose of achieving a degree of individuality and interest.

Thoughtful selection of materials will achieve a degree of visual harmony between houses. For these reasons, purchasers are requested to submit roof and wall materials for approval, based on the following criteria:

- At least 50% of the external walls (excluding windows) of all dwellings (including garages and carports) must be constructed of brick, brick veneer, stone, masonry or masonry veneer.
- The external walls of all other usual outbuildings must be constructed of brick, stone, rendered concrete, concrete sheet, timber or coloured non-reflective metal.

4.4 dwelling size

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

4.5 energy efficiency

An energy smart home takes advantage of the sun's free warmth and light and, with the inclusion of energy efficient appliances and systems, will save a great deal of energy.

Well-designed homes reduce the demand on heating and cooling. Any style of house can be energy efficient. Energy smart homes have a combination of features which work together to ensure you achieve the highest degree of comfort with minimum energy use. Homes at Mondous Island must achieve at least a 6-star energy rating in accordance with the Victoria Home Energy Rating System.

An Energy Rating certificate will not be required prior to DAP approval; however, a certificate will be required prior to obtaining your Building Permit. It is recommended that the minimum Energy Rating be checked with the relevant authority at the time in case there has been a revision of the standard required by the authority.

4.6 roofs

The roof of your dwelling will have a large impact on the streetscape character and therefore must be carefully considered. Residents are encouraged to explore varying roof forms which could include pitched, flat roofs or skillion roofs.

All roofs must be constructed of masonry, slate, terracotta or Colourbond. Other non-reflective materials may be considered for review by the DAP.

4.7 garages

The garage for each dwelling will have a significant impact on the streetscape. The design and location of the garage should be harmonious to the main body of the dwelling and should not be an obtrusive feature.

Car ports are not permitted.

Garages must not occupy more than 40% of the width of the primary frontage of the lot. Garages must be constructed within the Building Envelopes and sited a minimum of 5.5 metres from the primary frontage.

The garage setbacks also apply for entry to the garage from the secondary frontage. It is preferable for garages to be constructed under the main roof of the house. If garages are free standing, they should match in with the roof form and be constructed of the same materials as the house.

Landscaping is encouraged to soften the side of garage which is facing the street.

The garage door must be of a colour which complements the house. Roller doors are not permitted.

5. External Considerations

5.1 access and driveways

Driveways are a major visual element and should be constructed using materials that blend with or complement the dwelling textures and colours.

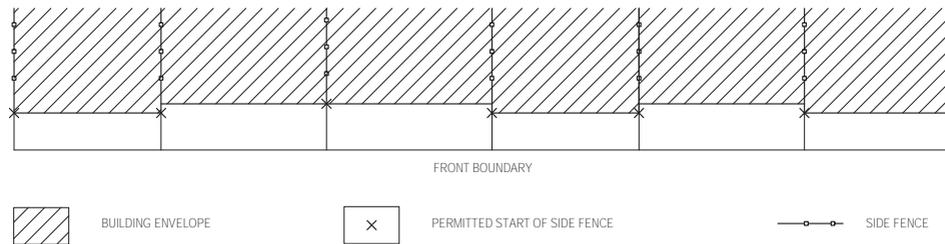
Only one driveway will be permitted for each lot. If a new driveway is constructed to match the house design, the existing driveway must be removed at the time the new driveway is constructed.

Driveways to all lots must be set back a minimum of 0.5 metre from the side boundary to allow for landscaping along the length of the driveway. Recommended paving materials include stone, brick, exposed aggregate or coloured concrete. All driveways must be completed prior to the Certificate of Occupancy being issued.

5.2 fences

The objective of the DAP is to provide a degree of uniformity throughout the estate and thereby avoid an untidy mix of various fence standards, colours and types.

To enhance the park-like character of the estate, front fencing will not be permitted. On side boundaries, no fencing is permitted between the Front Boundary and the point that is 5m from the Front Boundary of any residence on the lot.



All side and rear fences are to be constructed of timber palings with a timber cap across the top, exposed posts on both sides of the fence, and to a height of 2.0 metres, including capping (excluding a screen required for overlooking purposes).

Fences must be constructed prior to the Certificate of Occupancy being issued.

5.3 water saving initiatives

Berwick Waters is committed to saving water and encourages all residents to consider water saving initiatives in the home including:

- Front loading washing machine (AAAA rating or greater)
- Dishwasher (AAAA rating or greater)
- Garden with native plant species, or other appropriate drought tolerant plants
- Rainwater to infiltrate into the garden as opposed to draining out to the stormwater system
- Garden irrigation drip system (rather than sprayers)

Recycled water is mandated through the development. South East Water requirements for supply are to be complied with; please speak to your builder about this.

5.4 general

External fixtures must adhere to the following principles and the location must be noted on plans to be submitted to the DAP.

Clotheslines, garden sheds, external hot water services and ducted heating units or similar must not be visible from the street.

Solar water heaters are permitted and, where possible, are to be located out of view from the front boundary and the street abutting it. The solar panels shall be located on the roof, not on a separate frame, and the storage tanks detached and located out of view from the street frontage.

Both refrigerated and evaporative air-conditioning units must be positioned so that they are not visible from the front boundary and the street abutting it. They must be painted to match the colour of the roof, be low profile units and installed as low as possible below the roof ridgeline towards the rear of the house.

Wall mounted air-conditioners must be located below the eaves line, screened so they are not visible from the front boundary and the street abutting it and suitably baffled to reduce noise.

Satellite dishes will only be approved if located below the roofline of the house and must be screened so they are not visible from the front boundary and the street abutting it.

Rainwater tanks must not be visible from the front boundary and the street abutting it.

External plumbing (excluding stormwater drainage downpipes) must not be visible from abutting streets and in the case where lots front onto parkland must not be visible from the park.

Rubbish bins & recycling bins should be stored out of view from the street.

Commercial vehicles with a carrying capacity of 1 tonne or more or any boat, caravan or trailer shall not be permitted to be parked on a lot so that it is visible from any street or park adjacent to or abutting the lot.

Advertising signage is not permitted on any residential lot except when the lot is being sold after the expiration of 5 years from the registration of the Plan of Subdivision or completion of a dwelling, whichever occurs first.

5.5 landscaping and tree protection

General Guidelines

To create an attractive neighbourhood, residents are encouraged to install high quality landscaping treatments in their gardens with the inclusion of resilient, indigenous vegetation.

The form and type of plantings should complement and enhance the architecture of the dwelling.

Landscaping design should be prepared with the objective of low water usage. No tree or shrub with a mature height greater than 3 metres should be planted closer than 2 metres to the house. The use of prohibited invasive weeds should be avoided.

Front Gardens

All landscaped areas between the front boundary and the dwelling must be established within 6 months of the issuing of the Occupancy Permit to ensure that a good presentation is achieved for the local community.

appendix a: design guidelines checklist

Lot No:

Street Address:

Owner's Name:

Preferred Contact No:

Address:

Builder's Name:

Contact Name:

Contact No:

Signature of Owner/Builder (Please circle)

Date / /

Documentation required to be submitted for approval to the Berwick Waters Design Panel.

1. **Site Plan**
Including dwelling, carports, garages and outbuildings.
Including dimensioned setbacks from all boundaries.
2. **Floor plans fully dimensioned**
House only.
3. **Elevation fully dimensioned**
Front, rear and both sides.
4. **Schedule of external materials and colours**
Walls and roofs of house and outbuildings.
5. **Fencing**
Location, height and materials of all boundary fencing.
6. **Landscaped plan and planting proposal**

Each box is to be ticked. Applications cannot be assessed until all of the above information is available.

Please submit the above documentation to:

Berwick Waters Design Approval

A copy of this form must be included with the lodgement of plans for approval.



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