

# Contract of sale of land

Property:

**28 Birregurra Drive, Tarneit VIC 3029**

**Settled** LAW  
& CONVEYANCING

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# Contract of Sale of Land

**Property:**

28 Birregurra Drive, Tarneit VIC 3029

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## IMPORTANT NOTICE TO PURCHASERS – COOLING-OFF

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

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* (Vic))

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* (Vic) 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* (Vic).

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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**

# 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* (Vic).

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:

#### WHERE SIGNATORY IS AN INDIVIDUAL

**SIGNED** on ...../...../.....

for and on behalf of:

.....

Name of individual

State nature of authority (if applicable): .....

.....

Signature of individual

#### WHERE SIGNATORY IS AN INDIVIDUAL

**SIGNED** on ...../...../.....

for and on behalf of:

.....

Name of individual

State nature of authority (if applicable): .....

.....

Signature of individual

**SIGNED BY THE PURCHASER:**

**WHERE SIGNATORY IS A COMPANY**

**EXECUTED by** .....

ABN .....  
in accordance with the requirements of s.127  
*Corporations Act 2001* (Cth) by:

.....  
Name of director

.....  
Signature of director

.....  
Name of director/secretary

.....  
Signature of director/secretary

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* (Vic)

**SIGNED BY THE VENDOR:**

**SIGNED** on ...../...../.....

for and on behalf of:

**Ertan Kuvanci**

.....  
Name of individual

.....  
Signature of individual

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: Everywhere Real Estate  
Address: Suite 205, 111 Overton Road, Williams Landing VIC 3027  
Email: archi@everywherere.com.au  
Tel: 03 9526 8103 Mob: 0424 786 708 Fax: Ref: Archi Altun

## Vendor

Name: Ertan Kuvanci  
Address: C/- Settled Law, Level 21, 459 Collins Street, Melbourne VIC 3000  
ABN/ACN:  
Email:

## Vendor's legal practitioner or conveyancer

Name: Settled Law  
Address: Level 21, 459 Collins Street, Melbourne VIC 3000  
Email: elle@settled.com.au Mob: 0485 935 766  
Tel: 1300 666 354 Ref: 26-162548 – Elle Pikos

## 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: Mob: Fax: Ref:

## Land (general conditions 7 and 13)

The land is described in the table below –

Certificate of Title reference	being lot	on plan
Volume 12433 Folio 236	1104	PS 826705E

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 unless otherwise stated or inferred.

**Property address**

The address of the land is: 28 Birregurra Drive, Tarneit VIC 3029

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

All fixed floor coverings, light fittings, window furnishings and all other fixtures and fittings of a permanent nature

**Payment**

Price \$ \_\_\_\_\_

Deposit \$ \_\_\_\_\_ by \_\_\_\_\_ (of which \_\_\_\_\_ has been paid)

Balance \$ \_\_\_\_\_ payable at settlement

**Deposit bond**

General condition 15 applies only if the box is checked

**Bank guarantee**

General condition 16 applies only if the box is checked

**GST** (general condition 19)

Subject to general condition 19.2 and special condition 8, the price includes GST (if any), unless the next box is checked

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

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

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

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

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

**is due on**

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

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

**Lease** (general condition 5.1)

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

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

a lease for a term ending on ..... / ..... /20..... with [.....] options to renew, each of [.....] years

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 (Vic)* 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: \$ \_\_\_\_\_ Approval date: \_\_\_\_\_

**Building report**

General condition 21 applies only if the box is checked

**Pest report**

General condition 22 applies only if the box is checked

# Supplier Notification - GST Withholding

The vendor reserves its rights to vary the notice at or prior to settlement

To: Purchaser / buyer

Property: 28 Birregurra Drive, Tarneit VIC 3029

## Supplier details

Name of supplier: Ertan Kuvanci

ABN: Not applicable

Address: 16 Somerton Park Drive, Campbellfield VIC 3061

## Withholding payment details

Purchaser / buyer must make a GST withholding payment:  No  Yes

Reason: **the premises is not new or sale is not a taxable supply**

Supplier's proportion of residential withholding payment: Not applicable

To be paid: Not applicable

Any consideration expressed otherwise than an amount in money? Not applicable

If yes, the GST inclusive market value of the non-monetary consideration: Not applicable

Other details: .....Not applicable

# Special Conditions

## Special condition 1 – Auction

1.1 If the property is sold by way of auction then:

- (a) The rules for the conduct of the auction shall be as set out in the Schedules to the Sale of Land Regulations 2005 or any rules prescribed by regulation which modify or replace those rules.
- (b) The Property is offered for sale by public auction, subject to the vendor's reserve price.
- (c) The bidding must be at a lump sum for the property sold. Subject to this contract and to the vendor's reserve price, the person making the highest bid which is accepted by the auctioneer by the fall of the hammer is the purchaser. If any dispute arises over any bid the auctioneer may decide:
  - (i) who was the last bidder; or
  - (ii) to submit the property at some former bidding.
- (d) No person may retract a bid or advance a lesser sum than the amount named by the auctioneer and the vendor may refuse any bid or withdraw the property from sale.

1.2 Payment of deposit

The person making the highest bid which is accepted by the auctioneer must immediately upon acceptance pay the deposit to the vendor's agent and sign this contract. If ten (10) minutes after acceptance the highest bidder has not paid the deposit and signed this contract the vendor may at any time sell the property to any other person either by auction, private treaty or any other means the purchaser will have no rights against the vendor, the vendor's agent or the auctioneer.

## Special condition 2 – Entire agreement

2.1 Acknowledgment

The purchaser acknowledges and agrees that:

- (a) this contract of sale is the sole repository of the agreement between the parties;
- (b) there are no terms, conditions, representations or warranties relating to the sale of the land which have been relied upon by the purchaser in entering into this contract of sale except those included in this contract of sale;
- (c) the purchaser has not relied on any information in any brochure, investment report, information, memorandum, sales material or advertisement about the Land relating to:
  - (i) its area or measurements;
  - (ii) any description of any improvements, chattels, fixtures or fittings on the land,
- (d) the purchaser has relied on its own inspection and inquiries in purchasing the land, fixtures, fittings and goods sold with the land;
- (e) the purchaser has purchased the property in its present condition and state of repair with all existing patent and latent defects, infestations, contamination and dilapidation;
- (f) the purchaser agrees to the vendor not removing any items situated on the garden or land nor is the vendor required to attend to any gardening works of whatsoever nature on the property prior to settlement;
- (g) general conditions 9, 12, 13 and 19.1 do not apply.

2.2 No warranties

The vendor and the agents of the vendor have not made any representation or given any warranty:

- (a) about the condition or quality of the Installations, the property or the services connected or available to it;
- (b) that the property is suitable for any purpose which the purchaser may have indicated as its intention to pursue;
- (c) that any permit of any nature has been obtained or is available from any relevant authority;
- (d) that any other land is available for acquisition (unless otherwise indicated in this contract of sale);
- (e) about the merchantability, quality or fitness for any purpose of the property;
- (f) that the property is free from defects, infestations, contamination or dilapidation;
- (g) that the property will be free from defects, infestations, contamination or dilapidation;
- (h) whether development of any description may be carried out on the property; or
- (i) whether the improvements have been built or placed on the land in accordance with each approval required by law or currently comply with any law affecting such improvement.

2.3 No compensation

The purchaser must not seek compensation due to any building on the land not complying with the *Building Act 1993*, the *Building Regulations 2006*, the *Building Code of Australia* or any other statutes, regulations, rules or local laws or because of their state of repair and condition and general condition 28.1 does not apply if it relates to a building.

## Special condition 3 – Waiver

3.1 An express or implied waiver of a breach of any obligation, provision or condition of this contract of sale does not operate as a waiver of any other breach of the same or any obligation, provision or condition of this contract of sale.

#### **Special condition 4 – Swimming Pool/Spa (if applicable)**

- 4.1 If the Land includes a swimming pool, spa or pond, the purchaser acknowledges and agrees that:
- (a) the purchaser has made its own enquiries regarding the obligations with respect to the pool, spa and pond and any existing or required safety barriers located at the property and accepts the current condition of the pool, spa and pond, whether it is fenced, unfenced or registered with the council;
  - (b) the purchaser will be responsible to comply with the *Building Act 1993* and its regulations including any amendments to the *Building Act 1993* in relation to the pool, spa or pond from the day of sale in relation to the pool or any existing or required safety barriers;
  - (c) the purchaser shall not make any claim against the vendor in relation to the pool, spa and pond or any existing safety barriers;
  - (d) the purchaser indemnifies the vendor against all costs associated with the pool, spa and pond including and safety barriers; and
  - (e) acknowledges that neither the vendor's agent or vendor has made any representation or warranties in relation to the pool or any safety barriers.

#### **Special condition 5 – Stamp duty - purchasers buying unequal interests**

- 5.1 If there is more than one purchaser, it is the purchasers' responsibility to ensure that the contract of sale correctly records at the date of sale the proportions in which they are buying the property (**the proportions**).
- 5.2 If the proportions recorded in the transfer of land differ from those recorded in the contract of sale, it is the purchasers' responsibility to pay any additional duty which may be assessed as a result of the variation.
- 5.3 The purchasers fully indemnify the vendor, the vendor's agent and the vendor's legal practitioner against any claims or demands which may be made against any or all of them in relation to any additional duty payable as a result of the proportions in the Transfer differing from those in the contract of sale.

#### **Special condition 6 – FIRB**

- 6.1 The purchaser warrants that the provisions of the *Foreign Acquisitions and Takeovers Act 1975* (Cth) do not require the purchaser to obtain consent to enter this contract of sale or if there is a requirement to obtain consent, the purchaser has already received consent and been approved to purchase the property.
- 6.2 If there is a breach of the warrant contained in this clause the purchaser must compensate indemnify and keep indemnified the vendor for any loss, damage or cost the vendor incurs as a result of the breach.

#### **Special condition 7 – Delivery of statement of adjustments**

- 7.1 The purchaser agrees to deliver to the vendor or vendor's legal practitioner's office a statement of adjustments together with copies of all certificates and other information used to calculate the adjustments under general condition 23 at least 5 business days prior to settlement. Should the purchaser default in providing the statement of adjustments as required under this special condition, the purchaser must pay the vendor's reasonable costs \$220.00.

#### **Special condition 8 – Default**

- 8.1 If the purchaser default in payment of the whole or part of the purchase money the purchaser must pay upon demand:
- (a) all reasonable expenses incurred by the vendor as a result of the breach;
  - (b) the purchaser agrees that the reasonable costs of each and every default is \$990.00 for each and every default. The exercise of the vendor's right hereunder shall be without prejudice to any other rights, powers or remedies of the vendor under this contract of sale or otherwise.
- 8.2 The purchaser agrees to not seek a variation of the contract of sale or variation or extension of any due date under the contract of sale. In the event of the purchaser's breach of this special condition and for the purposes of section 42(3)(a) of the *Property Law Act 1958* the purchaser agrees to pay the vendor's costs and expenses including but not limited to:
- (a) rescheduling settlement at \$220.00 for each change to the settlement time;
  - (b) requests to change the settlement date at \$330.00 for each change and if requested by the vendor then the purchaser must enter into a deed of variation to record the change.
- 8.3 The parties acknowledge that in the event that the purchaser fails to complete the purchase of the property on the due date under the contract the vendor will suffer loss and damages. The purchaser will in addition to interest chargeable on the balance of purchase moneys outstanding under the contract pay to the vendor the following sums:
- (a) the cost of obtaining bridging finance to complete the vendor's purchase of another property and interest charged on such bridging finance;
  - (b) interest payable by the Vendor under any existing mortgage over the property calculated from the due date of settlement;
  - (c) accommodation expenses necessarily incurred by the vendor;
  - (d) storage cost of the vendor's furniture and other possessions;
  - (e) legal costs and expenses as between solicitor and client;
  - (f) penalties payable by the vendor through any delay in completion of the vendor's purchase of another property;

## Special condition 9 – Guarantee and indemnity

### 9.1 Delivery of guarantee and indemnity

If the purchaser is or includes a corporation (other than a corporation whose shares are listed on a recognised Australian public securities exchange or a subsidiary of one), the purchaser must deliver to the vendor a guarantee and indemnity in the form annexed to this contract on the day of sale:

- (a) duly completed and executed by every director of the purchaser; or
- (b) if the purchaser is a wholly owned subsidiary of a corporation whose shares are listed on a recognised Australian public securities exchange or a subsidiary of one, duly completed and executed by that listed corporation.

### 9.2 Consequences of non-compliance

If the purchaser does not comply with special condition 9.1, the vendor may immediately rescind this contract by notice in writing to the purchaser and retain the Deposit.

## Special condition 10 – GST

### 10.1 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) unless:

- (a) the purchaser is required to under general condition 19.2; or
- (b) the purchaser is ineligible for an input tax credit and notwithstanding the particulars of sale specifying:
  - (i) the price as including GST,
  - (ii) the supply as being a 'going concern', or
  - (iii) the supply as being of land on which a 'farming business' is carried on;

in the event of the supply not being GST-free, then the purchaser must pay GST in addition to the price.

### 10.2 The purchaser acknowledges that any nomination of a substitute or an additional person take the transfer of the land is subject to the vendor's consent (in its absolute discretion) and for the nominated purchaser to agree for GST to be treated in the same manner as provided for under this contract between the vendor and the purchaser. The parties agree that the purchaser's right to nominate under the common law does not apply.

## Special condition 11 – Compensation for additional land tax and CIPT due to purchaser's default

### 11.1 The purchaser acknowledges and agrees that if as a result of the purchaser's breach, settlement of this contract takes place on a date that is after 31 December in the year that settlement of this contract is due to take place (**Settlement Year**), then

- (a) The purchaser's breach will in addition to other losses, result in loss to the vendor in the amount of the vendor's land tax assessment and commercial and industrial property tax (CIPT) assessment (if CIPT is payable) 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; and
- (b) The additional tax which the vendor will 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.

### 11.2 The purchaser further acknowledges that if this special condition applies due to the purchaser's default, then on settlement date the purchaser must in addition to the balance payable to the vendor under this contract pay to the vendor on account of compensation payable to the vendor for that loss an amount equal to 2.65% of the price of the property (**Amount Paid**).

### 11.3 The parties agree that if the additional tax as assessed by the commissioner of State Revenue Office is:

- (a) less than the Amount Paid, the vendor will refund the difference to the purchaser; or
- (b) more than the Amount Paid, the purchaser must pay the difference to the vendor within 7 days of being served with a written demand for such payment.

### 11.4 Payment of the purchase price must not be delayed and no money must be withheld by the purchaser from the vendor out of the purchase price on account of any land tax or CIPT which may be or may subsequently become charged on the property.

### 11.5 The purchaser acknowledges that the vendor is not required to pay any land tax or CIPT assessed on the property before it is due as specified in the assessment notice.

## Special condition 12 – Loan approval (if applicable)

### 12.1 If the particulars of sale specify that this contract is subject to a loan being approved, and for the purposes of general condition 20.2(c), written evidence of rejection of non-approval of the loan must be from the bank or non-bank lender. For the avoidance of doubt a letter from a mortgage broker is not satisfactory written evidence.

### Special Conditions - Notes

These special conditions have been prepared by Settled Law and Conveyancing. Minor amendments and additions can be requested through the agent listed in the particulars of sale.

# 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 all 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.

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## Title

### 5. ENCUMBRANCES

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

### 6. VENDOR WARRANTIES

- 6.1 The vendor warrants that these general conditions 1 to 35 are identical to the general conditions 1 to 35 in the form of contract of sale of land published by the Law Institute of Victoria Limited and the Real Estate Institute of Victoria 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 (Vic)* 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 (Vic)* and regulations made under the *Building Act 1993 (Vic)*.
- 6.7 Words and phrases used in general condition 6.6 which are defined in the *Building Act 1993 (Vic)* 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 digital duties form 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 At least 21 days before the due date for settlement the purchaser must notify the vendor of any registered security interest which the purchaser reasonably requires to be released.
- 11.12 The vendor may delay settlement until 21 days after the purchaser notifies the vendor of the security interests that the purchaser reasonably requires to be released if the purchaser does not provide a notification 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. DOMESTIC BUILDING INSURANCE

The vendor will provide any current domestic building insurance required pursuant to section 43B of the *Domestic Building Contracts Act 1995* (Vic), in the vendor's possession relating to the property, if requested in writing to do so at least 14 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* (Vic) 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* (Vic).
- 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* (Vic).

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# 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 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.
- 14.4 The stakeholder may pay the deposit and any interest into court if it is reasonable to do so.
- 14.5 Where the purchaser is deemed by section 27(7) of the *Sale of Land Act 1962* (Vic) 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.

- 14.6 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.
- 14.7 Payment by electronic funds transfer is made when cleared funds are received in the recipient's bank account.
- 14.8 Before the funds are electronically transferred the intended recipient must be notified in writing and given sufficient particulars to readily identify the relevant transaction.
- 14.9 As soon as the funds have been electronically transferred the intended recipient must be provided with the relevant transaction number or reference details.
- 14.10 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 Where settlement is not conducted electronically, settlement must be conducted between the hours of 10.00 am and 4.00 pm unless the parties agree otherwise.
- 17.3 Where settlement is conducted electronically in accordance with the Electronic Conveyancing National Law, settlement must occur during the time available for settlement in the operating time of the settling ELNO.
- 17.4 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. For the purposes of any electronic transactions legislation (only) the workspace is an electronic address for the service of notices and for written communications.
- 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 during the hours that the settling ELNO operates in the State of Victoria.
- 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 with the land 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
  - (d) 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 these general conditions –
- (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 –
    - (i) a registered building surveyor;
    - (ii) a registered building inspector;
    - (iii) a registered domestic builder; or
    - (iv) an architect,which is –
    - (v) prepared in compliance with Australian Standard AS 4349.1-2007;
    - (vi) identifies a current defect in a structure on the land; andthe author states is a major 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 inspector which is prepared in accordance with the relevant Australian Standard approved on behalf of the Council of Standards Australia and 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 basis that 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
- 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.
- 23.4 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* (Vic) applies.

### 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) (Tax Act) 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 Tax Act. 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 Tax Act ("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 Tax Act 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 Tax Act. 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 Tax Act or in the GST Act 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 Tax Act 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 Tax Act, 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 Tax Act 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 Tax Act. 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 Tax Act. 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 Tax Act, 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 Tax Act. 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 Tax Act 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 Tax Act 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 Tax Act.
- The vendor is responsible for any penalties or interest payable to the Commissioner on account of non-payment or late payment of the amount if either exception applies.

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## Transactional

### 26. TIME & CO OPERATION

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

### 27. SERVICE

- 27.1 Any document required to be served by or on any party may be served by or on the legal practitioner or conveyancer for that party.
- 27.2 A cooling off notice under section 31 of the *Sale of Land Act 1962* or a notice under general condition 20 [loan approval], 21 [building report] or 22 [pest report] may be served on the vendor's legal practitioner, conveyancer or estate agent even if the estate agent's authority has formally expired at the time of service.
- 27.3 A document is sufficiently served –

- (a) personally; or
  - (b) by pre-paid post; or
  - (c) in any manner authorised by law or by the Supreme Court for service of documents, including any manner authorised for service on or by a legal practitioner, whether or not the person serving or receiving the document is a legal practitioner; or
  - (d) by email.
- 27.4 Any document properly sent by –
- (a) express post is taken to have been served on the next business day after posting, unless proved otherwise;
  - (b) priority post is taken to have been served on the fourth business day after posting, unless proved otherwise;
  - (c) regular post is taken to have been served on the sixth business day after posting, unless proved otherwise;
  - (d) email is taken to have been served at the time of receipt within the meaning of section 13A of the *Electronic Transactions (Victoria) Act 2000*.
- 27.5 Any written communication in the workspace of the electronic lodgement network does not constitute service of a notice other than a notice for the purposes of any electronic transactions legislation.
- 27.6 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.
- 28.4 General condition 28 does not apply to any amounts to which section 10G or 10H of the *Sale of Land Act 1962 (Vic)* applies.

## 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 (Vic)* –
- (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 (Vic)*; 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 and the purchaser is entitled to possession or receipt of the rents and profits, 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.

### 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 the rate for the time being fixed by section 2 of the *Penalty Interest Rates Act 1983 (Vic)* 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 or acceptance by the vendor of a repudiation by the purchaser –
- (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.
-

# Guarantee and Indemnity

## 1. Guarantee

1.1 The persons signing below as guarantors (each, a **Guarantor** and together, the **Guarantors**), in consideration of the vendor entering into this contract of Sale with the purchaser at the Guarantors' request, hereby jointly and severally guarantee to the vendor (and the vendor's successors and assigns) the due and punctual payment of:

- (a) the deposit;
- (b) the balance of the price;
- (c) any interest payable under this contract; and
- (d) any other amounts payable by the purchaser under this contract (together, the **Guaranteed Money**).

1.2 The Guarantors further jointly and severally guarantee the due and punctual performance and observance by the purchaser of all the purchaser's obligations under this contract (**Guaranteed Obligations**).

1.3 If the purchaser defaults in:

- (a) payment of any of the Guaranteed Money, or
- (b) performance of any of the Guaranteed Obligations,

then, immediately upon demand by the vendor, the Guarantors must pay the vendor the amount of the Guaranteed Money unpaid and must indemnify and keep indemnified the vendor against all loss, costs, charges, expenses, damages, and liabilities whatsoever incurred by the vendor arising from or in connection with any default by the purchaser.

## 2. Continuing Guarantee and Indemnity

This Guarantee and Indemnity is a continuing obligation and:

- (a) is not affected by any time or other indulgence granted by the vendor to the purchaser or to the Guarantors;
- (b) is not discharged or prejudiced by any variation (including any extension of time or waiver), novation, assignment, or termination of the contract;
- (c) remains in full force despite the vendor assigning its rights under the contract;
- (d) is not affected by the death, bankruptcy, liquidation, administration, or insolvency of the purchaser, any co-guarantor, or any other person;
- (e) is not affected by any release or discharge of any co-guarantor; and
- (f) binds the Guarantors jointly and severally, and their respective executors, administrators, legal personal representatives, and permitted assigns.

## 3. No Discharge

The Guarantors waive all rights inconsistent with this guarantee and indemnity, including any rights of subrogation, contribution, or indemnity against the purchaser until all Guaranteed Money and Guaranteed Obligations have been fully paid and performed.

## 4. Security and Enforcement Rights

4.1 The vendor may enforce this Guarantee and Indemnity without first being required to exhaust any remedy it may have against the purchaser or enforce any other guarantee or security.

4.2 Any payment by the Guarantors which is later avoided by law shall be deemed not to have discharged the Guarantors' liability, and the vendor shall be entitled to recover the amount from the Guarantors as if the payment had not been made.

Dated: .....

## Execution

Print Name: .....

Guarantor (Sign): .....

Print Name: .....

Guarantor (Sign): .....

# Vendor Statement

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

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

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

<b>Land</b>	28 BIRREGURRA DRIVE, TARNEIT VIC 3029
-------------	---------------------------------------

Vendor's name	<b>Ertan Kuvanci</b>	Date	/ /
Vendor's signature	_____		

Purchaser's name		Date	/ /
Purchaser's signature	_____		
Purchaser's name		Date	/ /
Purchaser's signature	_____		

# 1. FINANCIAL MATTERS

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

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

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

Not Applicable

## 1.3 Terms Contract

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

Not Applicable

## 1.4 Sale Subject to Mortgage

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

Not Applicable

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

(a) The Australian Valuation Property Classification Code (within the meaning of the CIPT Act) most recently allocated to the land is set out in the attached Municipal rates notice or property clearance certificate or is as follows	AVPCC No.
(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 vendor statement is in respect of a contract which does NOT provide for the land to remain at the risk of the vendor until the purchaser becomes entitled to possession or receipt of rents and profits.

Not Applicable

## 2.2 Owner Builder

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

Not Applicable

### 3. LAND USE

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

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

Is in the attached copies of title document/s

(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 restriction.

#### 3.2 Road Access

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

#### 3.3 Designated Bushfire Prone Area

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

#### 3.4 Planning Scheme

Attached is a certificate with the required specified information.

### 4. NOTICES

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

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

Not Applicable

#### 4.2 Agricultural Chemicals

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

NIL

#### 4.3 Compulsory Acquisition

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

NIL

### 5. BUILDING PERMITS

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

Are contained in the attached certificate

### 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.

Not Applicable

## 8. SERVICES

The services which are marked with an 'X' in the accompanying square box are NOT connected to the land:

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

## 9. TITLE

Attached are copies of the following documents:

9.1  (a) Registered Title

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

## 10. SUBDIVISION

### 10.1 Unregistered Subdivision

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

Not Applicable

### 10.2 Staged Subdivision

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

- (a) Attached is a copy of the plan for the first stage if the land is in the second or subsequent stage.
- (b) The requirements in a statement of compliance relating to the stage in which the land is included that have Not been complied With are As follows:

NIL

- (c) The proposals relating to subsequent stages that are known to the vendor are as follows:

NIL

- (d) The contents of any permit under the Planning and Environment Act 1987 authorising the staged subdivision are:

NIL

### 10.3 Further Plan of Subdivision

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

Not Applicable

## 11. DISCLOSURE OF ENERGY INFORMATION

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

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

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

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 vendor statement but the checklist may be attached as a matter of convenience.)*

Is attached

### **13. ATTACHMENTS**

*As per attachment*

---

# Due diligence checklist

## What you need to know before buying a residential property

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

### Urban living

#### Moving to the inner city?

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

#### Is the property subject to an owners corporation?

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

### Growth areas

#### Are you moving to a growth area?

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

### Flood and fire risk

#### Does this property experience flooding or bushfire?

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

### Rural properties

#### Moving to the country?

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

- Is the surrounding land use compatible with your lifestyle expectations? Farming can create noise or odour that may be at odds with your expectations of a rural lifestyle.
- Are you considering removing native vegetation? There are regulations which affect your ability to remove native vegetation on private property.
- Do you understand your obligations to manage weeds and pest animals?

#### Can you build new dwellings?

Does the property adjoin crown land, have a water frontage, contain a disused government road, or are there any crown licences associated with the land?

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

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

### Soil and groundwater contamination

#### Has previous land use affected the soil or groundwater?

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

### 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.

(04/10/2016)

## 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 12433 FOLIO 236

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### LAND DESCRIPTION

Lot 1104 on Plan of Subdivision 826705E.  
PARENT TITLE Volume 12217 Folio 247  
Created by instrument PS826705E 25/10/2022

### REGISTERED PROPRIETOR

Estate Fee Simple  
Sole Proprietor  
ERTAN KUVANCI of 2 COCKATIEL CIRCUIT CRAIGIEBURN VIC 3064  
AW273097S 16/11/2022

### ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AW273098Q 16/11/2022  
COMMONWEALTH BANK OF AUSTRALIA

COVENANT PS826705E 25/10/2022

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

AGREEMENT Section 173 Planning and Environment Act 1987  
AS230106W 05/06/2019

AGREEMENT Section 173 Planning and Environment Act 1987  
AS940580G 30/01/2020

AGREEMENT Section 173 Planning and Environment Act 1987  
AV998399Q 25/08/2022

### DIAGRAM LOCATION

SEE PS826705E 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: 28 BIRREGURRA DRIVE TARNEIT VIC 3029

### ADMINISTRATIVE NOTICES

NIL

eCT Control 15940N COMMONWEALTH BANK OF AUSTRALIA  
Effective from 16/11/2022

Title 12433/236

Page 1 of 2



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

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

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Page 2 of 2

DOCUMENT END



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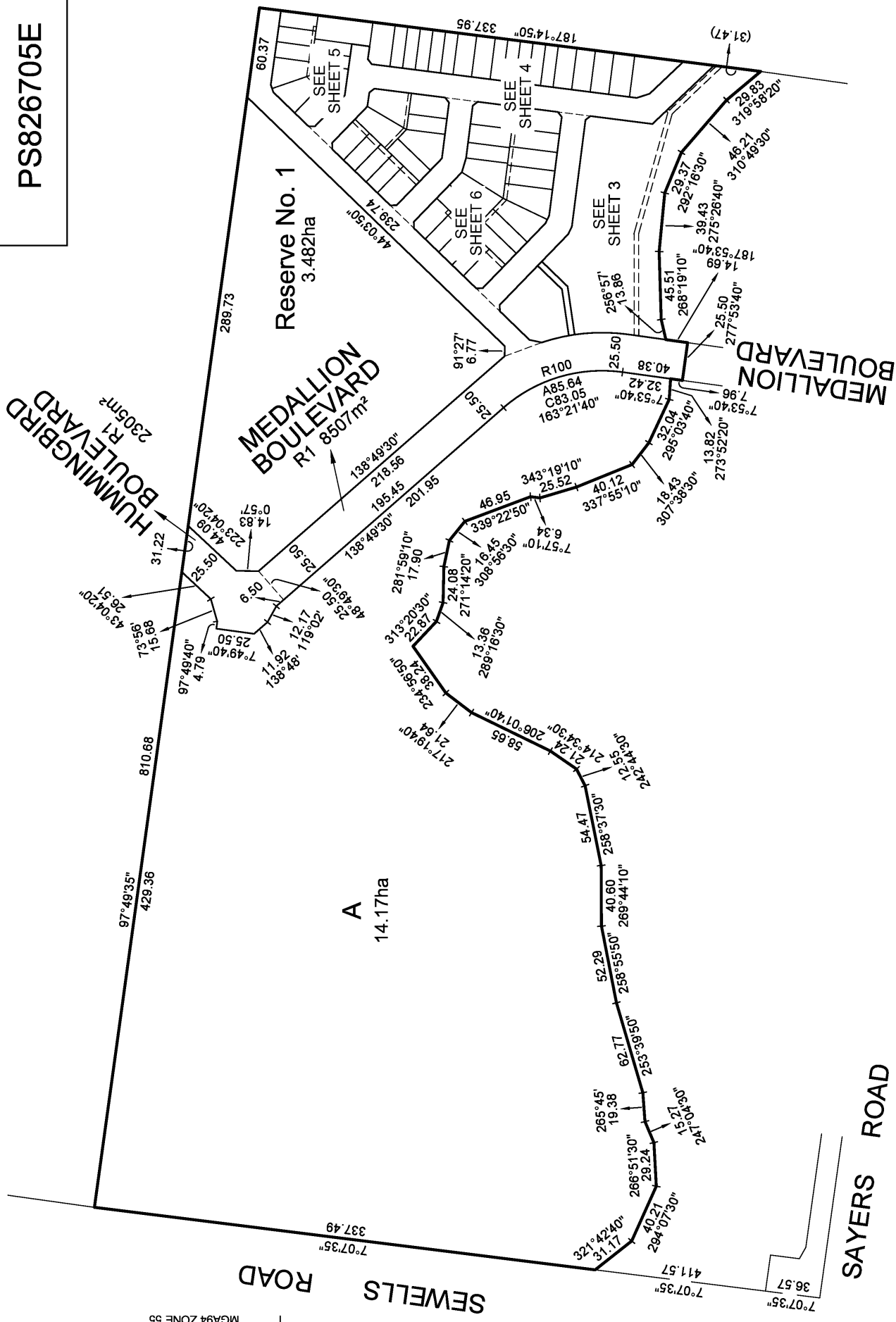
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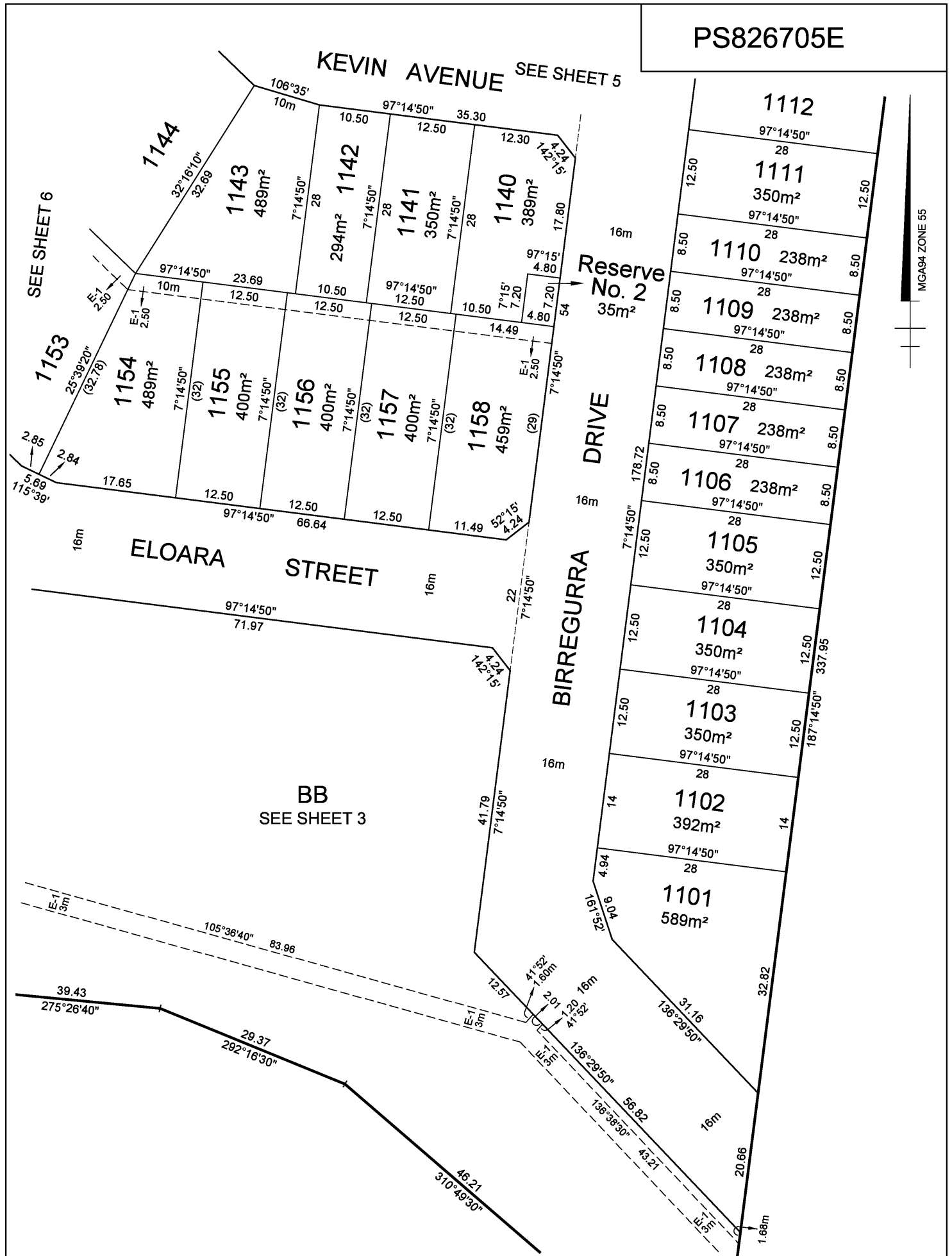
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	<p>Digitally signed by: Matthew Thomas Watt, Licensed Surveyor,                  Surveyor's Plan Version (13),                  24/06/2022, SPEAR Ref: S134190B</p>	<p>Digitally signed by: Wyndham City Council,                  25/07/2022,                  SPEAR Ref: S134190B</p>	



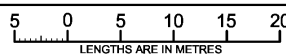
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**TAYLORS**

Urban Development | Built Environments | Infrastructure  
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 Surveyor's Plan Version (13),  
 24/06/2022, SPEAR Ref: S134190B

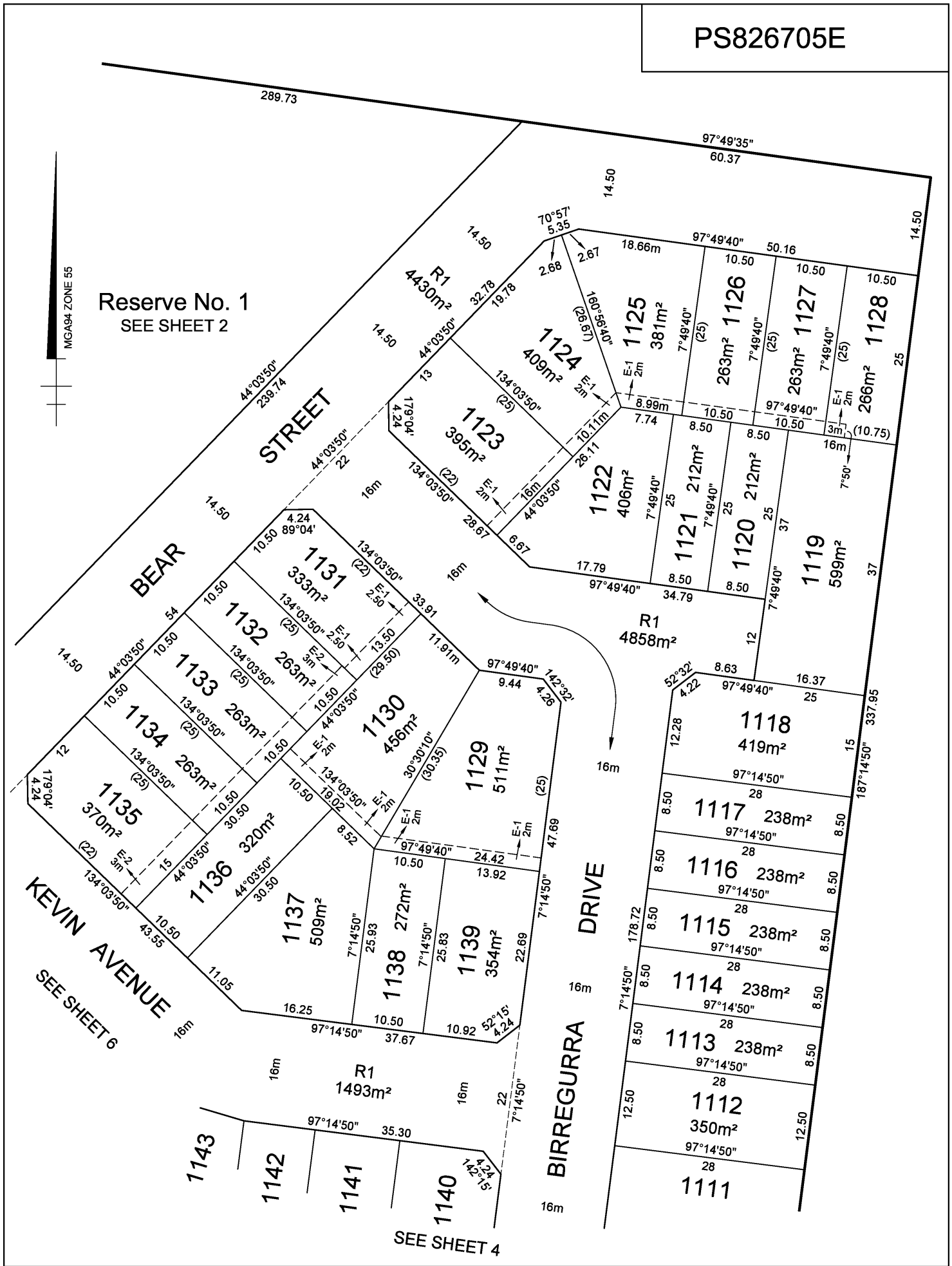
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Ref. 02230-S11  
 Ver. 13

SHEET 4

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 Wyndham City Council,  
 25/07/2022,  
 SPEAR Ref: S134190B

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8 / 270 Ferntree Gully Road, Notting Hill, Victoria, 3168  
Tel: 61 3 9501 2800 | Web: taylorss.com.au

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LENGTHS ARE IN METRES

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Surveyor's Plan Version (13),  
24/06/2022, SPEAR Ref: S134190B

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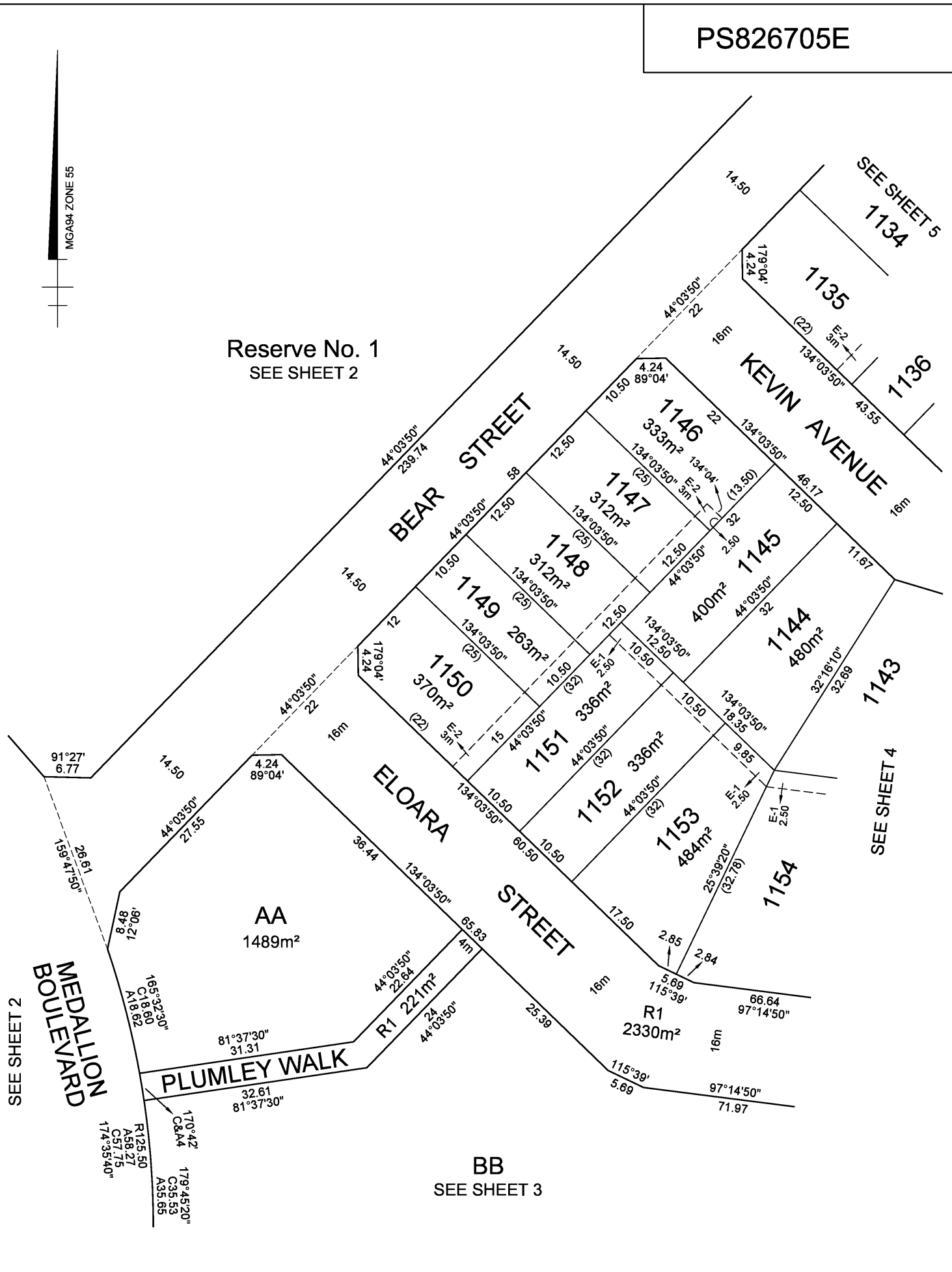
SHEET 5

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Reserve No. 1  
SEE SHEET 2



SEE SHEET 2

SEE SHEET 5  
1134

SEE SHEET 4

BB  
SEE SHEET 3



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SHEET 6

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**CREATION OF RESTRICTION 'A'**

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

BURDENED LAND: See Table 1  
BENEFITED LAND: See Table 1

**RESTRICTION:**

The burdened land cannot be used except in accordance with the provisions recorded in MCP AA8387.

Expiry date: 31/12/2035

TABLE 1

BURDENED LOT No.	BENEFITING LOTS ON THIS PLAN
1101	1102
1102	1101, 1103
1103	1102, 1104
1104	1103, 1105
1105	1104, 1106
1111	1110, 1112
1112	1111, 1113
1118	1117, 1119
1119	1118, 1120, 1127, 1128
1122	1121, 1123, 1124, 1125
1123	1122, 1124
1124	1122, 1123, 1125
1125	1121, 1122, 1124, 1126
1129	1130, 1138, 1139
1130	1129, 1131, 1132, 1133, 1136, 1137
1131	1130, 1132
1135	1134, 1136
1136	1130, 1133, 1134, 1135, 1137
1137	1130, 1136, 1138

TABLE 1 continued

BURDENED LOT No.	BENEFITING LOTS ON THIS PLAN
1139	1129, 1138
1140	1141, 1158
1141	1140, 1142, 1157
1143	1142, 1144, 1154, 1155, 1156
1144	1143, 1145, 1152, 1153
1145	1144, 1146, 1147, 1148, 1151, 1152
1146	1145, 1147
1147	1145, 1146, 1148
1148	1145, 1147, 1149, 1151
1150	1149, 1151
1151	1145, 1148, 1149, 1150, 1152
1152	1144, 1145, 1151, 1153
1153	1144, 1152, 1154
1154	1143, 1153, 1155
1155	1143, 1154, 1156
1156	1142, 1155, 1157
1157	1141, 1156, 1158
1158	1140, 1157

**CREATION OF RESTRICTION 'B'**

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

BURDENED LAND: Lots 1101 to 1158 on this plan  
BENEFITED LAND: Lots 1101 to 1158 on this plan

**RESTRICTION:**

- 1) Must not construct or allow to be constructed or remain on the lot or any part of it any dwelling house or outbuilding without the design of a dwelling being in accordance with the Stockland Design Essentials.
- 2) Must not construct or allow to be constructed or remain on the lot or any part of it any dwelling house or outbuilding that is visible from a road reserve or other reserve without approval by Stockland prior to lodging an application for a building permit.
- 3) Must not build or permit to be built a dwelling or commercial building unless the building incorporates dual plumbing for recycled water supply for toilet flushing and garden watering use if it becomes available.

Expiry date: 31/12/2035



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SHEET 7

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**CREATION OF RESTRICTION 'C'**

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

BURDENED LAND: See Table 2  
BENEFITED LAND: See Table 2

**RESTRICTION:**

The registered proprietor or proprietors for the time being of any lot on this plan to which the following restriction applies must not :-

Build or permit to be built or remain on the lot or any part of it any dwelling house or garage other than a dwelling house or garage which has been built in accordance with the Small Lot Housing Code (Type A) incorporated in to the Wyndham Planning Scheme unless a planning permit is granted by the responsible authority for a dwelling house or garage that does not conform with the Small Lot Housing Code.

Expiry date: 31/12/2035

TABLE 2

BURDENED LOT No.	BENEFITING LOTS ON THIS PLAN
1106	1105, 1107
1107	1106, 1108
1108	1107, 1109
1109	1108, 1110
1110	1109, 1111
1113	1112, 1114
1114	1113, 1115
1115	1114, 1116
1116	1115, 1117
1117	1116, 1118
1120	1119, 1121, 1126, 1127

TABLE 2 continued

BURDENED LOT No.	BENEFITING LOTS ON THIS PLAN
1121	1120, 1122, 1125, 1126
1126	1120, 1121, 1125, 1127
1127	1119, 1120, 1126, 1128
1128	1119, 1127
1132	1130, 1131, 1133
1133	1130, 1132, 1134, 1136
1134	1133, 1135, 1136
1138	1129, 1137, 1139
1142	1141, 1143, 1156
1149	1148, 1150, 1151

**CREATION OF RESTRICTION 'D'**

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

BURDENED LAND: See Table 3  
BENEFITED LAND: See Table 3

**RESTRICTION:**

The registered proprietor or proprietors for the time being of any lot on this plan to which the following restriction applies must not :-

Build or permit to be built or remain on the lot any building or garage on a side boundary of a lot unless the building or garage is set back a minimum of one metre from the other side boundary of that lot in order to provide the required reasonable access for maintenance of any sewer assets at the rear of the lot, by the relevant authority.

TABLE 3

BURDENED LOT No.	BENEFITING LOTS ON THIS PLAN
1126	1120, 1121, 1125, 1127
1127	1119, 1120, 1126, 1128
1133	1130, 1132, 1134, 1136



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SHEET 8

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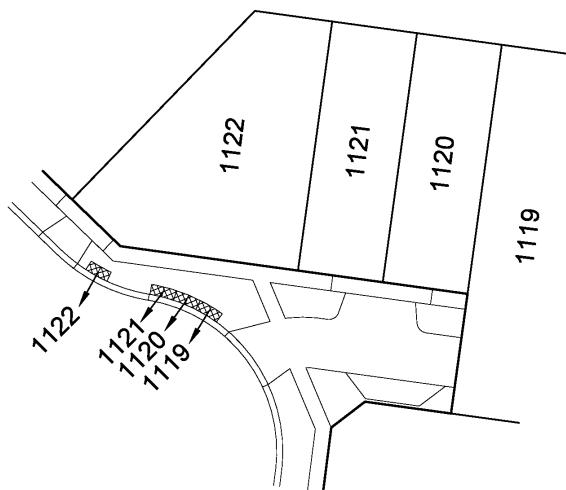
**CREATION OF RESTRICTION 'E'**

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

BURDENED LAND: 1119, 1120, 1121, 1122  
 BENEFITED LAND: 1119, 1120, 1121, 1122

**RESTRICTION:**

Bins must not be placed for waste collection other than in accordance with the diagram below.



**CREATION OF RESTRICTION 'F'**

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

BURDENED LAND: 1119, 1120, 1121  
 BENEFITED LAND: 1119, 1120, 1121

**RESTRICTION:**

The construction of more than one dwelling on the burdened lot is forbidden.



# Department of Transport and Planning

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## Electronic Instrument Statement

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Status	Registered	Dealing Number	AV998399Q
Date and Time Lodged	25/08/2022 06:25:09 PM		

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### Lodger Details

Lodger Code	17223H
Name	MADDOCKS
Address	
Lodger Box	
Phone	
Email	
Reference	TGM: 8765371

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## APPLICATION TO RECORD AN INSTRUMENT

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Jurisdiction	VICTORIA
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### Privacy Collection Statement

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### Estate and/or Interest

FEE SIMPLE

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### Land Title Reference

12217/247

---

### Instrument and/or legislation

RECORD - AGREEMENT - SECTION 173  
Planning & Environment Act - section 173

---

### Applicant(s)

Name	WYNDHAM CITY COUNCIL
Address	
Street Number	45
Street Name	PRINCES
Street Type	HIGHWAY
Locality	WERRIBEE
State	VIC
Postcode	3030

---

### Additional Details



# Department of Transport and Planning

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## Electronic Instrument Statement

Refer Image Instrument

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

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### Execution

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

Executed on behalf of	WYNDHAM CITY COUNCIL
Signer Name	REBEKAH PARIKH
Signer Organisation	PARTNERS OF MADDOCKS
Signer Role	AUSTRALIAN LEGAL PRACTITIONER
Execution Date	25 AUGUST 2022

---

### File Notes:

NIL

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Statement End.



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**Date** 25 / 08 / 2022

**Agreement under section 173  
of the Planning and Environment Act 1987**

**Subject Land:** 1070 Sayers Road, Tarneit

**Purpose:** WIK Agreement for Land Projects

**City of Wyndham**

and

**AW Bidco No. 8 Pty Ltd ACN 647357597**



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AV998399Q



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## Agreement under section 173 of the Planning and Environment Act 1987

**Dated** 25 / 08 / 2022

---

### Parties

Name	<b>Wyndham City Council</b>
Address	Civic Centre, 45 Princes Highway, Werribee, Victoria 3030
Short name	<b>Council</b>
Name	<b>AW Bidco No. 8 Pty Ltd</b> <b>ACN 647357597</b>
Address	Piccadilly Tower Level 25 133 – 145 Castlereagh Street Sydney NSW
Short name	<b>Owner</b>

---

### Background

- A. Council is the responsible authority for the Planning Scheme.
- B. Council is also the Collecting Agency and the Development Agency under the Development Contributions Plan.
- C. Council enters into this Agreement in its capacity as the responsible authority as the Collecting Agency and Development Agency.
- D. The Owner is the registered proprietor of the Subject Land.
- E. The Development Contributions Plan applies to the Subject Land. It specifies the contributions required to fund infrastructure necessary as a result of development of the area for urban purposes.
- F. The Planning Permit contain conditions including conditions 27 & 28 which requires the Owner to pay development contributions.
- G. The Owner has asked Council for permission to vest the Land Projects in Council.
- H. In accordance with section 46P(2) of the Act Council has agreed that the Owner may vest the Land Project in Council and Council will provide the Owner with a credit against its development contribution liability under the Development Contributions Plan in respect of the Land Project.



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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*.

**Agreed Land Value** means the Agreed Land Value specified in Schedule 2.

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

**Collecting Agency** has the same meaning as in the Act.

**Consent Fee** means the fee specified on Council's internet web site which is payable by a person to Council for deciding whether to give consent or secondary consent for anything in an agreement or where a permit provides that something must not be done without Council's consent.

**Credit** means a credit in the amount of the Agreed Land Value against the Owner's Development Infrastructure Levy for the Subject Land.

**Current Address** means:

- for Council, the address shown on page one of this Agreement, or any other address listed on Council's website; and
- for the Owner, the address shown on page one of this Agreement or any other address provided by the Owner to Council for any purpose relating to the Subject Land.

**Current Email** means:

- the Council email address listed on Council's website; and
- for the Owner, any email address provided by the Owner to Council for the express purpose of electronic communication regarding this Agreement.

**Detail Layout Plans** means the two plans both titled "Detail Layout Plan" prepared by Taylors and endorsed by the Council under condition 54 of the Planning Permit on 21 October 2021, being drawings numbered 02230-11-E-110 (version 2 dated 10 September 2021) and 02230-11-E-111 (version 3 dated 10 September 2021), sheets 1 and 2 of 2.

**Development Agency** has the same meaning as in the Act.

**Developable Land** means the area of land identified as developable land in the land use budget of the Development Contributions Plan.

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

**Development Contributions Plan** means the Development Contributions Plan specified in Schedule 1, being an incorporated document in the Planning Scheme.



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**Endorsed Plan** means the plan endorsed with the stamp of Council from time to time as the plan which forms part of the Planning Permit.

**GAIC** means the Growth Areas Infrastructure Contribution under the Act.

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

**Indexation** means an adjustment to an amount carried out in accordance with the method set out in the Development Contributions Plan.

**Inherent GAIC Liability** means the current or future liability of the Subject Land for GAIC upon the happening of a GAIC event as defined and described in the Act whether before, at or after the vesting or transfer of the land in or to Council.

**Land Project** means a land project described in Schedule 2.

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

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

**NBN** means Australia's broadband internet utility service commonly known as the National Broadband Network.

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

**Owner's obligations** means the Owners obligations under this Agreement.

**Party or Parties** means the Parties to this Agreement.

**Plan Checking Fee** means the fee payable to Council by the Owner for checking plans for an Infrastructure Project in the amount of 0.75% of the Infrastructure Project Value.

**Plan of Subdivision** means a plan of subdivision which creates an additional lot which can be disposed of separately or which is intended to be used for a dwelling or which can be re-subdivided.

**Planning Permit** means the planning permit specified in Schedule 4 as amended from time to time.

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

**Precinct Structure Plan** means the Riverdale Precinct Structure Plan incorporated in the Planning Scheme and which applies to the Subject Land.

**Provision Trigger** means the milestone or provision trigger set out in the relevant columns of Schedules 2 or 3 as the case may be.



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

**Satisfaction Fee** means a fee specified on Council's internet web site which is payable by a person to Council for deciding whether any one of obligation in a permit, agreement or any other requirement has been undertaken to Council's satisfaction.

**Schedule** means a schedule to this Agreement.

**Stage** is a reference to a stage of subdivision of the Subject Land.

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

**Subject Land** means the land described in Schedule 4 and any reference to the Subject Land in this Agreement includes any lot created by the subdivision of the Subject Land or any part of it.

---

## 2. Interpretation

In this Agreement unless the context admits otherwise:

- 2.1 the singular includes the plural and vice versa;
- 2.2 a reference to a gender includes all genders;
- 2.3 a reference to a person includes a reference to a firm, corporation or other corporate body and that person's successors in law;
- 2.4 any agreement, representation, warranty or indemnity by 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 Land Project will be provided to Council in lieu of the cash payment of the Development Infrastructure Levy; and

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- 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 entered into this Agreement for the following reasons:

- 4.1 Council would not have consented to the Owner vesting the Land Project without the Owner entering into this Agreement; and
- 4.2 the Owner has elected to enter into this Agreement in order procure Council's agreement to the Owner to vesting the Land Project in Council.

---

#### **5. Payment of Development Infrastructure Levy**

The Parties agree that

- 5.1 subject to the Owner's entitlement to a Credit, the Owner is not required to pay the Development Infrastructure Levy in cash on a stage-by-stage basis; but
- 5.2 any component of the Development Infrastructure Levy in respect of the Subject Land which is not offset by an entitlement to a Credit under this Agreement must be paid to Council prior to the issue of the Statement of Compliance for subdivision of the Subject Land as a result of which the obligation to pay the Development Infrastructure Levy in cash arises or at such other time as is specified in this Agreement.

---

#### **6. Land Projects**

##### **6.1 Vesting of Land Project**

- 6.1.1 The Owner agrees to vest each Land Project in Council:
- (a) prior to the relevant Provision Trigger, unless a later date is approved by Council in writing under clause 6.2;
  - (b) free of all encumbrances and any structure, debris, rubbish, refuse and contamination, except as agreed by Council;
  - (c) with all services to be available as specified in the relevant column of Schedule 2; and
  - (d) in a condition that is otherwise to the satisfaction of Council, acting reasonably, in its capacity as Development Agency.
- 6.1.2 Council agrees and acknowledges that –
- (a) the services to be made available by the Owner to service the Land Project on the Subject Land are to be generally in accordance with the existing and proposed services described in the Detail Layout Plans; and



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- (b) the types and locations of those services, when installed, will satisfy clause 6.1.1(c) of this Agreement and Council will not require any additional or other services to be installed to service the Land Project; and
- (c) the Owner may alter the location of the existing and proposed service infrastructure shown on the Detail Layout Plans at the Owner's absolute discretion and subject to all necessary statutory authorisations being obtained for such alteration, provided that the alteration does not result in any service specified in the relevant column of Schedule 2 being unavailable to the Land Project.

## 6.2 Time for vesting of Land Project

The Owner agrees that if the Owner does not meet the Provision Trigger for any Land Project, Council may:

- 6.2.1 refuse to issue any relevant Statement(s) of Compliance which remain at the time of the Provision Trigger in respect of the development of the Subject Land until the Land Project has been transferred to or vested in Council in its capacity as Development Agency in accordance with this Agreement; or
- 6.2.2 at its absolute discretion, in writing, extend the timeframe of the Provision Trigger at the request of the Owner.

## 6.3 Agreed Land Value

The Owner acknowledges and agrees that:

- 6.3.1 the Agreed Land Value:
  - (a) is an amount determined by reference to the 1 July 2021 land value ascribed to the Land Project in accordance with the Development Contributions Plan and is fixed and non-variable;
  - (b) is deemed to include all transfer costs, costs of plans of subdivision, registration fees and the like and any other amount specifically agreed to in writing by Council;
  - (c) replaces the market value and any other method of calculating compensation payable to a person under the *Land Acquisition and Compensation Act 1986* and the Act in respect of the Land Project; and
- 6.3.2 upon -
  - (a) the vesting of the Land Project in Council in satisfaction of the obligations under this Agreement; and
  - (b) payment being made to the Owner in accordance with this Agreement whether as a monetary amount or by a Credit in respect of the Agreed Land Value -

no other compensation will be claimed by the Owner or is to be paid to the Owner for the effect of severance or for solatium as those terms or concepts are understood in the context of the *Land Acquisition and Compensation Act 1986* or any other act for any other category of or form of loss or compensation in respect of the Land Project.



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## 6.4 Environmental Assessment

The Owner covenants and agrees that prior to vesting the Land Project in Council, the Owner must provide Council with an environmental assessment prepared by a properly qualified environmental consultant that clearly and unequivocally states that the Land Project is suitable to be used and developed for the purpose for which it is intended to be used as set out in the Precinct Structure Plan.

---

## 7. Credit and processing of credits

### 7.1 Credit

The Parties agree that:

- 7.1.1 the Owner will be entitled to a Credit for the Agreed Land Value from the commencement of this Agreement;
- 7.1.2 the Owner will not be required to pay the Development Infrastructure Levy in cash until the Credit has been exhausted, determined as set out in Clause 7.1.3;
- 7.1.3 prior to the issue of a Statement of Compliance by Council for a Stage, Council must:
  - (a) calculate the Development Infrastructure Levy payable for such Stage(s) as at that date; and
  - (b) deduct the amount calculated under clause (a) from the Credit until the Credit has been exhausted;
- 7.1.4 when the amount of the Development Infrastructure Levy payable in relation to a Stage exceeds the amount of the Credit remaining:
  - (a) in relation to that Stage, the Owner must pay in cash an amount equal to the amount of the Development Infrastructure Levy payable in relation to that Stage that exceeds the amount of Credit remaining prior to the issue of a Statement of Compliance; and
  - (b) in relation to subsequent Stages, the Owner must pay the Development Infrastructure Levy in cash prior to the issue of a Statement of Compliance;

---

## 8. Localised Infrastructure

The Parties acknowledge and agree that:

- 8.1 this Agreement is intended to relate only to the infrastructure that is funded by the Development Contributions Plan and not Localised Infrastructure; and
- 8.2 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.



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## **9. Further obligations of the Parties**

### **9.1 Transaction costs**

Where the Owner is required to transfer or vest a Land Project the Owner is responsible for the payment of all costs and disbursements associated with that transfer or vesting as the case may be.

### **9.2 Notice and registration**

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

### **9.3 Further actions**

The Owner:

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

### **9.4 Fees**

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

- 9.4.1 Plan Checking Fee;
- 9.4.2 Satisfaction Fee; or
- 9.4.3 Consent Fee

as required.

### **9.5 Council's costs to be paid**

The Owner must pay to Council within 14 days after a written request for payment, Council's agreed or if not agreed, its reasonable costs and expenses (including legal expenses) relating to this Agreement, including:

- 9.5.1 drafting, finalising, signing and recording this Agreement;
- 9.5.2 drafting, finalising and recording any amendment to this Agreement; and
- 9.5.3 drafting, finalising and recording any document to give effect to the ending of this Agreement.

### **9.6 Time for determining satisfaction**

If Council makes a request for payment of:

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9.6.1 a fee under clause 9.4; or

9.6.2 any costs or expenses under clause 9.5

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.

#### **9.7 Interest for overdue money**

The Owner agrees that:

9.7.1 the Owner must pay to Council interest in accordance with the rate used for the purposes of section 172 of the *Local Government Act 1989* on any amount due under this Agreement that is not paid by the due date.

9.7.2 if interest is owing, Council will apply any payment made first towards interest and then any balance of the payment will be applied to the principal amount.

---

#### **10. 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.

---

#### **11. Owner's warranties**

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

11.2 The Owner warrants that:

11.2.1 each Land Project is free of contamination of any kind which would make the Land Project unsuitable for its intended purpose as set out in the Precinct Structure Plan; and

11.2.2 is in an environmental condition such as to be suitable to be used and developed for the purpose for which it is intended to be used as set out in the Precinct Structure Plan.

---

#### **12. Successors in title**

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

12.1 give effect to this Agreement; and

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



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**13. General matters**

**13.1 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:

- 13.1.1 personally on the other Party;
- 13.1.2 by leaving it at the other Party's Current Address;
- 13.1.3 by posting it by prepaid post addressed to the other Party at the other Party's Current Address; or
- 13.1.4 by email to the other Party's Current Email.

**13.2 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.

**13.3 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.

**13.4 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.

**13.5 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.

**13.6 Counterparts**

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

**13.7 Governing law**

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

---

**14. GST**

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



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- 14.2 Except as otherwise provided by this clause, all consideration payable under this Agreement in relation to any supply is exclusive of GST.
- 14.3 If GST is payable in respect of any supply made by a supplier under this Agreement, subject to clause 14.4 the recipient will pay to the supplier an amount equal to the GST payable on the supply at the same time and in the same manner as the consideration for the supply is to be provided under this Agreement.
- 14.4 The supplier must provide a tax invoice to the recipient before the supplier will be entitled to payment of the GST payable under clause 14.3.

---

**15. GAIC**

- 15.1 The Owner acknowledges and agrees that apart from the land specified in Schedule 3, all land transferred to or vested in Council must have any Inherent GAIC Liability discharged prior to it being transferred to or vested in Council and to the extent it is not, the Owner shall remain liable to Council for any GAIC liability incurred by Council.
- 15.2 The Parties agree that clause 15.1 survives the termination of this Agreement
- 15.3 The Owner agrees that the Owner must provide a certificate of release under section 201SY of the Act confirming the release of the land referred to in clause 15.1 from its Inherent GAIC Liability.

---

**16. Foreign resident capital gains withholding**

**16.1 Definitions**

For the purposes of this clause, the following definitions apply:

**12.5%** means 12.5% or any other amount set out in the Tax Act from time to time as the withholding amount.

**Clearance Certificate** means a valid clearance certificate under section 14-220(1) of Schedule 1 to the Tax Act.

**Consideration** means any monetary and non-monetary consideration including a Credit required to be paid or given by Council to the Owner for the transfer or vesting of a Land Project under this Agreement.

**Excluded Transaction** has the meaning given to that term in section 14-215 of Schedule 1 to the Tax Act.

**Statement of Compliance** has the same meaning as in the Subdivision Act 1988

**Tax Act** means the *Taxation Administration Act 1953* (Cth)

**Variation Amount** means, where the Owner has served a Variation Notice on Council, the amount required to be withheld as specified in the Variation Notice.

**Variation Notice** means a valid variation notice issued by the Australian Taxation Office in respect of a variation application made under section 14-235(2) of Schedule 1 of the Tax Act.



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## 16.2 Foreign resident status of Owner

The Owner is taken to be a foreign resident under Subdivision 14-D of Schedule 1 to the Tax Act unless the Owner gives to Council a Clearance Certificate no later than 10 Business Days before the Land Project is transferred to or vested in Council.

## 16.3 Excluded transaction

16.3.1 Clause 16.5 does not apply if:

- (a) the transfer or vesting of the Land Project is an Excluded Transaction; and
- (b) the Owner provides Council with all information and documentation to satisfy Council that the transfer or vesting of the Land Project is an Excluded Transaction no later than 10 Business Days before the Land Project (as the case may be) is transferred to or vested in Council's ownership.

16.3.2 Without limiting clause 16.3.1, the transfer or vesting of a Land Project is an Excluded Transaction if the market value of the Land Project as at the date of this Agreement is less than \$750,000.

## 16.4 Variation notice

If the Owner provides Council with a Variation Notice prior to the transfer or vesting of the Land Project then Council will adjust the withholding amount (as specified in clause 16.5 below) in accordance with the Variation Notice.

## 16.5 Withholding

16.5.1 This clause 16.5 applies if the Owner is taken to be foreign residents under clause 16.2 and the Owner has not satisfied Council that the transfer or vesting of the a Land Project is an Excluded Transaction under clause 16.3.

16.5.2 Subject to clauses 16.5.3 and 16.5.4, Council will deduct from any monetary consideration payable to the Owner an amount equal to:

- (a) 12.5% of the Consideration (excluding GST) in accordance with section 14-200(3) of Schedule 1 to the Tax Act; or
- (b) the Variation Amount, if the Owner have provided Council with a Variation Notice in accordance with clause 16.4,

(the **withholding amount**).

16.5.3 Subject to clause 16.5.4, if any monetary consideration payable to the Owner is less than 12.5% of the Consideration, the Owner must deliver to Council:

- (a) a cash payment equal to 12.5% of the Consideration (or such other amount as required by Council); or
- (b) the Variation Amount, if the Owner has provided Council with a Variation Notice in accordance with clause 16.4 -

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

16.5.4 If there is no Consideration specified in this Agreement, the Owner must deliver to Council:

**Maddocks**

- (a) a cash payment equal to 12.5% of the market value of the Land Project valued as at the date of this Agreement; or
- (b) the Variation Amount, if the Owner has provided Council with a Variation Notice in accordance with clause 16.4,

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

**16.6 Council to remit withholding amount**

16.6.1 Council agrees to:

- (a) pay the withholding amount or amounts determined under clause 16.5 to the Reserve Bank of Australia (on behalf of the Australian Taxation Office) by electronic funds transfer immediately after the earlier of:
  - (i) Council receiving a transfer of land in respect of the Land Project in registrable form; or
  - (ii) the registration of a plan of subdivision which vests the Land Project in Council's ownership;
- (b) provide the Owner with a copy of the purchaser payment notification form submitted by Council to the Australian Taxation Office; and
- (c) provide the Owner with a copy of any receipt of payment or proof of payment of the withholding amount issued by the Australian Taxation Office to Council.

**16.7 Consideration adjusted after withholding**

For the avoidance of doubt and notwithstanding anything else in this Agreement, the Consideration payable to the Owner and the Developer is reduced to the extent that a withholding amount is deducted from the Consideration under clause 16.5.

**16.8 Owner to co-operate**

16.8.1 The Owner must:

- (a) not procure the registration of a plan of subdivision which vests a Land Project in Council's ownership unless:
  - (i) a Clearance Certificate has been provided to Council; or
  - (ii) the Owner and Council have agreed upon the amount to be withheld by and/or remitted by Council to the Australian Taxation Office in accordance with clause 16.5;
- (b) provide Council with 20 Business Days prior written notice of the lodgement of a plan of subdivision at Land Use Victoria which will have the effect of vesting any land in Council's ownership; and
- (c) notify Council immediately on the date on which a plan of subdivision registers which vests land in Council's ownership.

16.8.2 The Owner must provide Council with all information, documentation and assistance necessary to enable Council to comply with its obligation to pay the



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withholding amount within the time set out in section 14-200(2) of Schedule 1 to the Tax Act.

**16.9 Owner's and Developer's warranty**

The Owner warrants that the information provided to Council under this clause 16 is true and correct.

**16.10 Indemnity**

The Owner agrees to indemnify Council against any interest, penalty, fine or other charge or expense incurred by Council as a result of the Owner's failure to comply with this clause 16.

---

**17. Commencement of Agreement**

This Agreement commences on the date of this Agreement.

---

**18. Amendment of Agreement**

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

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

---

**19. Ending of Agreement**

19.1 This Agreement ends:

19.1.1 when the Owner has complied with all of the Owner's obligations under this Agreement; or

19.1.2 the Permit lapses; or

19.1.3

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

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

19.4 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.



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- 19.5 Upon the issue of a Statement of Compliance for a plan of subdivision for Residential Lots created over the Subject Land or earlier by agreement with Council, the Agreement ends in respect of that part of the Subject Land in the plan of subdivision in accordance with section 177 of the Act provided that at all times, the Agreement must remain registered on the balance of the Subject Land and Parent Titles.
- 19.6 Once this Agreement ends as to part of the Subject Land, Council will, within a reasonable time following a request from the Owner and at the cost of the Owner, execute all documents necessary to make application to the Registrar of Titles under section 183(2) of the Act to cancel the recording of this Agreement on the register as to that part of the Subject Land.
- 19.7 On completion of all the Owner's obligations under this Agreement, Council must as soon as practicable following the ending of this Agreement and at the Owner's request and at the Owner's cost, execute all documents necessary to make application to the Registrar of Titles under section 183(2) of the Act to cancel the recording of this Agreement on the register.

---

**20. Electronic execution**

**20.1 Consent to electronic execution**

Each party consents to the signing of this Agreement by electronic means. The parties agree to be legally bound by this Agreement signed in this way.



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## Schedule 1

- Wyndham North Development Contributions Plan as incorporated in the Planning Scheme from time to time .

## Schedule 2

### Land Project

DCP Project No.	Description of Land Project*	% of project costs	Provision Trigger	Authority the Land Project is to be transferred to or vested in.	Services to be available (Av) or connected (Cn).	Agreed Land Value	Credit Value
DCP Project S-91-03	Land for a sports reserve comprising 3.4819 hectares	100%	1 September 2022	Council	All utility services including water, gas, electricity NBN and sewer, to the extent shown in the Detail Layout Plans.	The Agreed Land Value is based on a land value of \$1,620,000 per hectare. Therefore, \$1,620,000 x 3.4819 hectares = \$5,640,678 as at 1 July 2021	\$5,640,678

\* If necessary, the Land Project can be described by reference to a plan of subdivision or a survey plan or some other accurate drawing or plan relating to the Land Project.



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## Schedule 3

Land Specified for the purposes of clause 15.1

Project No.	Land Description	Plan Reference	Land Area
-	-	-	-

AV998399Q



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## Schedule 4

- **Subject Land –The land described in Certificate of Title Volume 12217 Folio 247 being lot Z on Plan of Subdivision 803053C.**
- **Planning Permit No. WYP10277/17 issued on 31 July 2018**

AV998399Q



Maddocks

# Signing Page

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

Signed, sealed and delivered for and on behalf of the **Wyndham City Council** by its duly authorised delegate. )  
)  
)  
)

Stephen Wall  
Name of Delegate

Timmy Williams  
Name of Witness

*[Handwritten Signature]*  
Signature of Delegate

*[Handwritten Signature]*  
Name of Witness

25/08/22  
Date

25/08/22  
Date

AV998392



Maddocks

Signed, sealed and delivered by AW Bidco No. 8 Pty Ltd ACN 647357597 by being signed by:  
David Allington

.....  
Name of Attorney

being a person duly authorised pursuant to a Power of Attorney dated 16 February 2021 which is in the form authorised by Victorian legislation and of which the attorney has no notice of revocation, in the presence of

Edward Krushka

.....  
Witness

)  
)  
)  
)  
)

DocuSigned by:  
*David Allington*

.....D69F40239D6AAE5.....

Signature of Attorney

DocuSigned by:  
*Edward Krushka*

.....EEDC908652B547A.....

Signature of witness

AW998395



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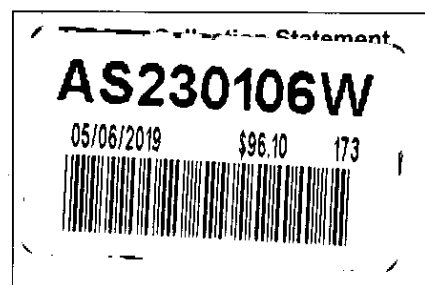
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**Application by a responsible authority for the  
making of a recording of an agreement  
Section 181 Planning and Environment Act 1987**



Lodged by:

Name: MADDOCKS  
Phone: 03 9258 3555  
Address: COLLINS SQUARE, TOWER TWO, LEVEL 25, 727 COLLINS STREET MELBOURNE  
VIC 3008  
Ref: TGM:7256419  
Customer Code: 1167E

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.

Land: (volume and folio)

VOLUME 9509 FOLIO 864

Responsible authority: (full name and address, including postcode)

WYNDHAM CITY COUNCIL OF 45 PRINCES HIGHWAY, WERRIBEE, VICTORIA

Section and act under which agreement is made:

SECTION 173 OF THE PLANNING AND ENVIRONMENT ACT 1987

A copy of the agreement is attached to this application

Signing:

35271702A

181PEA

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**THE BACK OF THIS FORM MUST NOT BE USED**

Land Use Victoria contact details: see [www.delwp.vic.gov.au/property](http://www.delwp.vic.gov.au/property)>Contact us  
[7256419: 24239221\_1]

**Application by a responsible authority for the making of a recording of an agreement**  
**Section 181 Planning and Environment Act 1987**



**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: WYNDHAM CITY COUNCIL  
 Signer Name: TERRY MONTEBELLO  
 Signer Organisation: MADDOCKS  
 Signer Role: AUSTRALIAN LEGAL PRACTITIONER

Signature:

Execution Date: 5 June 2019

TERRENCE MATTHEW GEORGE MONTEBELLO  
 727 Collins St, Melbourne 3008  
 An Australian legal practitioner  
 within the meaning of the Legal  
 Profession Uniform Law (Victoria)

35271702A

181PEA

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[7256419: 24239221\_1]

**AS230106W**

05/06/2019 \$96.10 173



Date *30 / 5* /2019

**Agreement under section 173 of the Planning and Environment Act 1987**

**Subject Land: 1070 Sayers Road, Tarneit**

**Purpose: WIK Agreement, and Land Projects and Clause 53.01 Open Space**

**Wyndham City Council**

and

**New Sky Management Pty Ltd ACN 610 142 268**

**AS230106W**

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## Agreement under section 173 of the Planning and Environment Act 1987

Dated 30 / 5 / 2019

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### Parties

Name	<b>Wyndham City Council</b>
Address	Civic Centre, 45 Princes Highway, Werribee, Victoria 3030
Short name	<b>Council</b>
Name	<b>New Sky Management Pty Ltd</b>
Address	<b>ACN 610 142 268</b>
Address	Suite 502, 492 St Kilda Road, Melbourne, Victoria 3004
Short name	<b>Owner</b>

---

### Background

- A. Council is the responsible authority for the Planning Scheme.
- B. Council is also the Collecting Agency and the Development Agency under the Development Contributions Plan.
- C. Council enters into this Agreement in its capacity as the responsible authority as the Collecting Agency and Development Agency.
- D. The Owner is the registered proprietor of the Subject Land.
- E. The Development Contributions Plan applies to the Subject Land. It specifies the contributions required to fund infrastructure necessary as a result of development of the area for urban purposes.
- F. The Planning Permit contains conditions which require the Owner to pay development contributions or enter into an Agreement under Section 173 of the Act providing for:
  - F.1 payment of development contributions;
  - F.2 any works-in-kind the Owner agrees with Council to undertake; and
  - F.3 satisfaction of the public open space contribution pursuant to clause 53.01 of the Planning Scheme.
- G. The Owner has asked Council for permission to
  - G.1 carry out the Infrastructure Projects all of which are funded at least in part by the Development Contributions Plan;

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- G.2 transfer to or vest in Council the Land Projects; and
- G.3 to transfer to or vest in Council the Open Space Land.
- H. Council has agreed that the Owner will:
  - H.1 carry out the Infrastructure Project;
  - H.2 transfer to or vest in Council the Land Projects; and
  - H.3 transfer to or vest in Council the Open Space Land -  
and Council will provide the Owner with
    - H.4 a credit against its development contribution liability under the Development Contributions Plan; or
    - H.5 recognition of satisfaction of part or all of its liability under clause 53.01 of the Planning Scheme -  
as the case may be.
- I. As at the date of this Agreement, the Subject Land is subject to a mortgage in favour of the Mortgagee. The Mortgagee consents to the Owner entering into this Agreement.

**The Parties agree:**

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**1. Definitions**

In this Agreement unless the context admits otherwise:

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

**Agreed Land Value** means the Agreed Land Value specified in Schedule 3, as may be revalued in accordance with the terms of this Agreement and the Development Contributions Plan.

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

**Approved Plans** means the Designs of an Infrastructure Project approved by Council under clause 6.6 of this Agreement.

**Bank Guarantee** means a bank guarantee or other form of security to the satisfaction of Council in the amount set out in Schedule 5.

**Building Permit** means a building permit issued under the *Building Act 1993* or any regulations or code made under the *Building Act 1993*.

**Certificate of Practical Completion** means a written certificate issued by Council in its capacity as the development agency for an Infrastructure Project stating that an Infrastructure Project or a specified stage of the Infrastructure Project has been completed to the satisfaction of Council and any other relevant authority.

**Collecting Agency** has the same meaning as in the Act.

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**Consent Fee** means the fee specified on Council's internet web site which is payable by a person to Council for deciding whether to give consent or secondary consent for anything in an agreement or where a permit provides that something must not be done without Council's consent.

**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 Infrastructure Project Value; or
- the Agreed Land Value –

against the Owner's Development Infrastructure Levy for the Subject Land.

**Current Address** means:

- for Council, the address shown on page one of this Agreement, or any other address listed on Council's website; and
- for the Owner, the address shown on page one of this Agreement or any other address provided by the Owner to Council for any purpose relating to the Subject Land.

**Current Email** means:

- the Council email address listed on Council's website; and
- for the Owner, any email address provided by the Owner to Council for the express purpose of electronic communication regarding this Agreement.

**Designs** means the detailed design and engineering plans and specifications of an Infrastructure Project approved by Council in its capacity as Development Agency under clause 6.6.

**Development Agency** has the same meaning as in the Act.

**Development Contributions Plan** means the Development Contributions Plan specified in Schedule 1, being an incorporated document in the Planning Scheme.

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

**Endorsed Plan** means the plan endorsed with the stamp of Council from time to time as the plan which forms part of the Planning Permit.

**GAIC** means the Growth Areas Infrastructure Contribution under the Act.

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

**Indexation** means an adjustment to an amount carried out in accordance with the method set out in the Development Contributions Plan.

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**Infrastructure Project** means a project to be delivered by the Owner under this Agreement, identified in the relevant column of the table to Schedule 2 and which may be further illustrated and defined in a plan annexed to this Agreement.

**Infrastructure Project Value** means the Infrastructure Project Value specified in the relevant column of the table in Schedule 2.

**Infrastructure Design Manual** means the manual entitled 'Engineering Design and Construction Manual for Growth Areas – April 2011 prepared by the Metropolitan Planning Authority.

**Inherent GAIC Liability** means the current or future liability of the Subject Land for GAIC upon the happening of a GAIC event as defined and described in the Act whether before, at or after the vesting or transfer of the land in or to Council.

**Land Project** means a land project described in Schedule 3.

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

**Maintenance Period** means the period specified in Schedule 7 for each specified category of Infrastructure Project commencing on the date of the Certificate of Practical Completion of an Infrastructure Project to Council.

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

**Open Space Land** means land for public open space described in Schedule 4 and which may also be identified in a plan annexed to this Agreement.

**Open Space Land Value** means the amount specified in Schedule 4 as the Open Space Land Value or if not specified, then an amount determined by applying the methodology set out in Schedule 4 as the case may be.

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

**Owner's obligations** means the Owner's obligations under this Agreement.

**Party or Parties** means the Parties to this Agreement.

**Plan Checking Fee** means the fee payable to Council by the Owner for checking plans for an Infrastructure Project in the amount of 0.75% of the Infrastructure Project Value.

**Plan of Subdivision** means a plan of subdivision which creates an additional lot which can be disposed of separately or which is intended to be used for a dwelling or which can be re-subdivided.

**Planning Permit** means the planning permit specified in Schedule 6 as amended from time to time.

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

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**Precinct Structure Plan** means the precinct structure plan incorporated in the Planning Scheme and which applies to the Subject Land and known as the Riverdale Precinct Structure Plan.

**Provision Trigger** means the milestone or provision trigger set out in the relevant columns of Schedules 2, 3 or 4 as the case may be.

**Residential Lot** means a lot created by subdivision of the Subject Land which, in the opinion of Council (acting reasonably), is of a size and dimension intended to be developed as a housing lot without further subdivision.

**Satisfaction Fee** means a fee specified on Council's internet web site which is payable by a person to Council for deciding whether any obligation in a permit, agreement or any other requirement has been undertaken to Council's satisfaction.

**Schedule** means a schedule to this Agreement.

**Stage** is a reference to a stage of subdivision of the Subject Land.

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

**Subject Land** means the land described in Schedule 6 and any reference to the Subject Land in this Agreement includes any lot created by the subdivision of the Subject Land or any part of it.

**Supervision Fee** means the fee payable to Council by the Owner for supervision of an Infrastructure Project in the amount of 2.5% of the Specified Value of the Infrastructure Project.

**Tribunal** means the Victorian Civil and Administrative Tribunal.

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## **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;

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- 2.9 any reference to a clause, page, condition, attachment or term is a reference to a clause, page, condition, attachment or term of this Agreement; and
- 2.10 a reference to a Schedule is to a Schedule to this Agreement, .

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**3. Purposes of Agreement**

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

- 3.1 record the terms and conditions on which Council in its capacity as Collecting Agency agrees to the Owner paying any component of the Development Infrastructure Levy where the Owner has not provided land or undertaken works in lieu of the cash payment of the Development Infrastructure Levy;
- 3.2 record the terms and conditions on which Council in its capacity as Collecting Agency agrees to the Owner undertaking any Infrastructure Project in lieu of the cash payment of the Development Infrastructure Levy;
- 3.3 record the terms and conditions on which a Land Project will be provided to Council in lieu of the cash payment of the Development Infrastructure Levy;
- 3.4 record the terms and conditions on which Open Space Land will be provided to Council in satisfaction of the Owner's obligation under clause 53.01 of the Planning Scheme and of the Planning Permit; and
- 3.5 to achieve and advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Subject Land.

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**4. Reasons for Agreement**

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

- 4.1 Council would not have consented to the Owner undertaking the Infrastructure Projects and transferring or vesting the Land Projects without the Owner entering into this Agreement; and
- 4.2 the Owner has elected to enter into this Agreement in order to procure Council's agreement to the Owner to carrying out the Infrastructure Projects as works in lieu and to the transferring or vesting of the Land Projects to Council.

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**5. Payment of Development Infrastructure Levy**

The Parties agree that:

- 5.1 subject to the Owner's entitlement to a Credit, the Owner is not required to pay the Development Infrastructure Levy in cash on a stage-by-stage basis; and
- 5.2 any component of the Development Infrastructure Levy in respect of the Subject Land which is not offset by an entitlement to a Credit under this Agreement must be paid to Council prior to the issue of the Statement of Compliance for subdivision of the Subject Land as a result of which the obligation to pay the Development Infrastructure Levy in cash arises or at such other time as is specified in this Agreement.

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**6. Works in kind – Infrastructure Projects**

**6.1 Construction of Infrastructure Projects**

The Owner must construct and complete the Infrastructure Projects:

- 6.1.1 in accordance with the Designs approved by Council under clause 6.6;
- 6.1.2 prior to the relevant Provision Trigger, unless a later date is approved by Council in writing under clause 6.3;
- 6.1.3 otherwise to the satisfaction of Council in its capacity as the Development Agency.

**6.2 Standard of work**

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

- 6.2.1 accord with the Approved Plans and the Infrastructure Design Manual unless otherwise agreed in writing by Council;
- 6.2.2 be fit and structurally sound, fit for purpose and suitable for its intended use;
- 6.2.3 comprise best industry practice to the extent required by the Approved Plans;
- 6.2.4 not encroach upon any land other than the land shown in the Approved Plans; and
- 6.2.5 comply with any relevant current Australian Standard unless otherwise agreed in writing by Council in its capacity as Development Agency.

**6.3 Time for completion of Infrastructure Projects**

The Owner agrees that if the Owner does not construct and complete the Infrastructure Project by the relevant Provision Trigger for an Infrastructure Project, Council may:

- 6.3.1 in its capacity as the Collecting Agency, at its absolute discretion, in writing, extend the timeframe; or
- 6.3.2 in its capacity as Council, refuse to issue any Statements of Compliance in respect of the development of the Subject Land until the Infrastructure Project is completed to the satisfaction of Council in its capacity as Development Agency.

**6.4 Obligation to complete Infrastructure Projects once commenced**

The Owner agrees that when the Owner commences works associated with an Infrastructure Project, the Owner must complete the Infrastructure Project in accordance with this Agreement regardless of whether the total cost of completing the Infrastructure Project exceeds the Infrastructure Project Value.

**6.5 Infrastructure Project Value**

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

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**6.6 Design of Infrastructure Projects**

The Owner agrees that:

- 6.6.1 the Owner must, at the full cost of the Owner, prepare the Designs of an Infrastructure Project and submit the Designs to Council and any other relevant authorities for their approval, and Council agrees and acknowledges that, as at the date of this Agreement, Council has approved the Design for the Infrastructure Project;
- 6.6.2 approval of the Designs will be reflected in a set of plans and specifications endorsed by Council as the Approved Plans; and
- 6.6.3 the Owner must obtain all necessary permits and approvals for the Infrastructure Projects.

**6.7 Variation of Approved Plans**

The Owner agrees that upon the approval by Council of the Designs under this Agreement there will be no further variations to the Approved Plans without the prior written consent of Council (acting reasonably) in its capacity as Development Agency.

**6.8 Construction of Infrastructure Projects**

In carrying out the Infrastructure Projects:

- 6.8.1 the Owner is responsible for all design and construction risks in relation to construction and completion of the Infrastructure Projects; and
- 6.8.2 Council is released from liability to pay, and the Owner holds Council harmless in respect of, any costs beyond the Infrastructure Project Value.

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**7. Certificate of Practical Completion**

**7.1 Construction Procedures**

The Parties agree that:

- 7.1.1 upon the completion of an Infrastructure Project, the Owner must notify Council and any other relevant authority;
- 7.1.2 within 14 days of receiving notice of the completion of an Infrastructure Project from the Owner, Council will arrange for it and any other relevant authority to promptly inspect the Infrastructure Project and determine whether Council will issue a Certificate of Practical Completion;
- 7.1.3 prior to Council being required to issue a Certificate of Practical Completion, the Owner must provide to Council:
  - (a) a copy of any maintenance information, operational manual or other material which is reasonably required for the ongoing operation and maintenance of the Infrastructure Project;
  - (b) a copy of any certificate, consent or approval required by any authority for the carrying out, use or occupation of the Infrastructure Project;

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- 7.1.4 if Council is not satisfied with the Infrastructure Project, Council may refuse to issue a Certificate of Practical Completion provided Council:
- (a) identifies in what manner the Infrastructure Project is not satisfactorily completed; and
  - (b) what must be done to satisfactorily complete the Infrastructure Project;
- 7.1.5 Council may, notwithstanding a minor non-compliance, determine to issue a Certificate of Practical Completion if Council in its capacity as Development Agency is satisfied that the proper construction of the Infrastructure Project can be secured or otherwise guaranteed to its satisfaction;
- 7.1.6 before accessing land owned by Council or a third party for the purpose of constructing an Infrastructure Project or undertaking any maintenance or repair of defects in respect of the Infrastructure Project in accordance with this Agreement, the Owner must satisfy Council or if requested by a third party, that person, that the Owner has:
- (a) consent of the owner of land to access such land;
  - (b) satisfied any condition of such consent; and
- the Owner must put in place all proper occupational health and safety plans as may be required under any law of the State of Victoria for that purpose;
- 7.1.7 subject to the Owner satisfying any conditions of consent to access land owned by Council, Council will provide all reasonable access as may be required to its land in order to enable an Infrastructure Project to be constructed and completed, maintained or repaired in accordance with this Agreement.

**7.2 Obligations following Certificate of Practical Completion**

Following the issue of a Certificate of Practical Completion for an Infrastructure Project, the Owner is responsible for the maintenance of the Infrastructure Project in good order, condition and repair to the satisfaction of Council until

- 7.2.1 the end of the Maintenance Period or
  - 7.2.2 until the transfer of the land containing the Infrastructure Project to Council by a transfer or by a vesting; or
  - 7.2.3 the transfer of the Infrastructure Project in accordance with clause 10 -
- whichever is the later.

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**8. Land Projects**

**8.1 Transfer or vesting of Land Project**

The Owner agrees to transfer to or vest in Council as directed by Council any Land Project:

- 8.1.1 prior to the relevant Provision Trigger, unless a later date is approved by Council in writing under clause 8.2;
- 8.1.2 free of all encumbrances and any structure, debris, rubbish, refuse and contamination, except as agreed by Council; and

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- 8.1.3 with all services to be available as specified in the relevant column of Schedule 3.
- 8.1.4 in a condition that is otherwise to the satisfaction of Council in its capacity as Development Agency.

**8.2 Time for transfer or vesting of Land Project**

The Owner agrees that if the Owner does not meet the Provision Trigger for any Land Project, Council may:

- 8.2.1 refuse to issue any relevant Statements of Compliance which remains at the time of the Provision Trigger in respect of the development of the Subject Land until the Land Project has been transferred to or vested in Council in its capacity as Development Agency in accordance with this Agreement; or
- 8.2.2 at its absolute discretion, in writing, extend the timeframe of the Provision Trigger on the request of the Owner.

**8.3 Agreed Land Value**

The Owner acknowledges and agrees that:

- 8.3.1 the Agreed Land Value:
  - (a) is an amount determined by reference only to the land value ascribed to the Land Project in accordance with the Development Contributions Plan and is fixed and non-variable subject only to revaluation in accordance with the Development Contributions Plan up to the date of commencement of this Agreement;
  - (b) is deemed to include all transfer costs, costs of plans of subdivision, registration fees and the like and any other amount specifically agreed to in writing by Council;
  - (c) replaces the market value and any other method of calculating compensation payable to a person under the *Land Acquisition and Compensation Act 1986* and the Act in respect of the Land Project; and
- 8.3.2 upon -
  - (a) the transfer of the Land Project to Council or the vesting of the Land Project in Council in satisfaction of the obligations under this Agreement; or
  - (b) payment being made to the Owner in accordance with this Agreement whether as a monetary amount or by a Credit in respect of the Agreed Land Value -

no other compensation will be claimed by the Owner or is to be paid to the Owner for the effect of severance or for solatium as those terms or concepts are understood in the context of the *Land Acquisition and Compensation Act 1986* or any other act for any other category of or form of loss or compensation in respect of the Land Project.

**8.4 Environmental Assessment**

- 8.4.1 The Owner covenants and agrees that prior to transferring to or vesting the Land Project to or in Council, the Owner must provide Council with an environmental assessment prepared by a properly qualified environmental consultant that clearly

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and unequivocally states that the Land Project is suitable to be used and developed for the purpose for which it is intended to be used as set out in the Precinct Structure Plan.

## **9. Public Open Space**

### **9.1 Open Space Land**

The Owner must transfer to or vest in Council for municipal purposes as directed by Council, the Open Space Land:

- 9.1.1 in accordance with the relevant Provision Trigger;
- 9.1.2 free of all encumbrances and any structure, debris, waste, rubbish and refuse except as agreed by Council;
- 9.1.3 with all services to be available or connected as specified in the relevant column of Schedule 4; and
- 9.1.4 in a condition that is otherwise to the satisfaction of Council (acting reasonably) in its capacity as Development Agency.

### **9.2 Time for transfer or vesting of Open Space Land**

The Owner agrees that if the Owner does not meet the Provision Trigger for any Open Space Land, Council may:

- 9.2.1 refuse to issue any relevant Statement of Compliance in respect of the development of the Subject Land which remains at the time of the Provision Trigger until the Open Space Land has been transferred to or vested in Council; or
- 9.2.2 at its absolute discretion, in writing, extend the timeframe of the Provision Trigger.

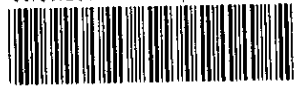
### **9.3 Value of Open Space Land**

The Owner agrees that:

- 9.3.1 the Open Space Land Value:
  - (a) is the fixed amount as specified in Schedule 4 or alternatively is a fixed amount determined by applying the methodology set out in Schedule 4, as the case may be;
  - (b) is deemed to include all transfer costs, costs of plans of subdivision, registration fees and the like and any other amount specifically agreed to in writing by Council;
  - (c) replaces the market value and any other method of calculating compensation payable to a person under the *Land Acquisition and Compensation Act 1986* and the Act and any other act in respect of the Open Space Land; and
- 9.3.2 upon
  - (a) the transfer of the Open Space Land to Council or the vesting of the Open Space Land in Council in satisfaction of the whole or part of its open space contribution liabilities under clause 53.01 of the Planning Scheme; or

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(b) payment being made to the Owner in accordance with this Agreement –

no other compensation will be claimed by the Owner or is to be paid to the Owner for the effect of severance or for solatium as those terms or concepts are understood in the context of the *Land Acquisition and Compensation Act 1986* or for any other category of or form of loss or compensation in respect of the Open Space Land.

**9.4 Under-provision**

9.4.1 The Parties agree that as the Open Space Land that the Owner is obliged to transfer to or vest in Council under this Agreement is less than the total public open space contributions that the Owner is required to make under clause 53.01 of the Planning Scheme in respect of the Subject Land, the Owner must provide the under-provision by way of a monetary payment to Council so as to bring the total of the land and monetary contribution up to the amount specified in clause 53.01 of the Planning Scheme in respect of the Subject Land or any stage of the Subject Land as the case may be; and

9.4.2 as a monetary payment is due to be paid to Council, the monetary contribution for under-provision must be paid before the Provision Trigger specified in Schedule 4 unless the Owner has agreed in writing with Council to provide the under-provision by way of the transfer to or vesting in Council of other land forming part of the Subject Land so as to result in an overall public open space contribution which is equal to the total public open space contribution that the Owner is required to make under clause 53.01 of the Planning Scheme in respect of the Subject Land.

**9.5 Environmental Assessment**

9.5.1 The Owner covenants and agrees that prior to transferring to or vesting the Open Space Land to or in Council, the Owner must provide Council with an environmental assessment prepared by a properly qualified environmental consultant that clearly and unequivocally states that the Open Space Land is suitable to be used and developed for the purpose for which it is intended to be used as set out in the Precinct Structure Plan

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**10. Transfer of ownership**

**10.1 Transfer**

The ownership of a Land Project, Open Space Land and Infrastructure Projects will be transferred to Council upon;

10.1.1 the registration of a plan of subdivision in the case of a Land Project and Open Space Land or at such other time as the Owner and Council may agree in writing; and

10.1.2 upon the issue of a Certificate of Practical Completion in the case of any other Infrastructure Project not also including a Land Project.

**10.2 Bank Guarantee**

The Owner agrees that:

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- 10.2.1 prior to the issue of a Certificate of Practical Completion for an Infrastructure Project, the Owner must provide Council with a Bank Guarantee in respect of the maintenance liability under this Agreement of that Infrastructure Project;
- 10.2.2 if the Owner fails to comply with a written direction from Council to undertake maintenance to an Infrastructure Project, Council may at its absolute discretion use the Bank Guarantee to correct any defects; and
- 10.2.3 the Bank Guarantee will be returned to the Owner after the Maintenance Period, less any amount applied to correcting any defects in the Infrastructure Project.

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## **11. Credit and processing of credits**

### **11.1 Credit**

The Parties agree that:

- 11.1.1 the Owner will be entitled to a Credit for the Infrastructure Project Value from the commencement of this Agreement;
- 11.1.2 the Owner will be entitled to a Credit for the Agreed Land Value from the commencement of this Agreement;
- 11.1.3 the Owner will not be required to pay the Development Infrastructure Levy in cash until the Credit has been exhausted, determined as set out in Clause 11.1.4;
- 11.1.4 prior to the issue of a Statement of Compliance by Council for a Stage, Council must:
  - (a) calculate the Development Infrastructure Levy payable for such Stage(s) as at that date; and
  - (b) deduct the amount calculated under clause (a) from the Credit until the Credit has been exhausted;
- 11.1.5 when the amount of the Development Infrastructure Levy payable in relation to a Stage exceeds the amount of the Credit remaining:
  - (a) in relation to that Stage, the Owner must pay in cash an amount equal to the amount of the Development Infrastructure Levy payable in relation to that Stage that exceeds the amount of Credit remaining prior to the issue of a Statement of Compliance; and
  - (b) in relation to subsequent Stages, the Owner must pay the Development Infrastructure Levy in cash prior to the issue of a Statement of Compliance

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## **12. Localised Infrastructure**

The Parties acknowledge and agree that:

- 12.1 this Agreement is intended to relate only to the infrastructure that is funded by the Development Contributions Plan and not Localised Infrastructure; and
- 12.2 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

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obligation may be imposed as a requirement in a planning permit for the subdivision or development of the Subject Land.

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**13. Further obligations of the Parties**

**13.1 Transaction costs**

Where the Owner is required to transfer or vest a Land Project or Open Space Land, the Owner is responsible for the payment of all costs and disbursements associated with that transfer or vesting as the case may be.

**13.2 Notice and registration**

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

**13.3 Further actions**

The Owner:

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

**13.4 Fees**

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

- 13.4.1 Plan Checking Fee;
- 13.4.2 Supervision Fee;
- 13.4.3 Satisfaction Fee; or
- 13.4.4 Consent Fee

as required.

**13.5 Council's costs to be paid**

The Owner must pay to Council within 14 days after a written request for payment, Council's agreed or if not agreed, its reasonable costs and expenses (including legal expenses) relating to this Agreement, including:

- 13.5.1 drafting, finalising, signing and recording this Agreement;
- 13.5.2 drafting, finalising and recording any amendment to this Agreement; and

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

**13.6 Time for determining satisfaction**

If Council makes a request for payment of:

- 13.6.1 a fee under clause 13.4; or
- 13.6.2 any costs or expenses under clause 13.5

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.

**13.7 Interest for overdue money**

The Owner agrees that:

- 13.7.1 the Owner must pay to Council interest in accordance with the rate used for the purposes of section 172 of the *Local Government Act* 1989 on any amount due under this Agreement that is not paid by the due date.
- 13.7.2 if interest is owing, Council will apply any payment made first towards interest and then any balance of the payment will be applied to the principal amount.

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**14. Agreement under section 173 of the Act**

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

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**15. Owner's warranties**

- 15.1 The Owner warrants that apart from the Owner and any other person who has consented in writing to this Agreement, no other person has any interest, either legal or equitable, in the Subject Land which may be affected by this Agreement.
- 15.2 The Owner warrants that as far as it is aware and having regard to the standard of remediation specified in the environmental assessment it has provided to Council pursuant to clause 8.4 of this Agreement:
  - 15.2.1 each Land Project is free of contamination of any kind which would make the Land Project unsuitable for its intended purpose as set out in the Precinct Structure Plan; and
  - 15.2.2 is and will be up to the time of transfer or vesting of the Land Project in an environmental condition such as to be suitable to be used and developed for the purpose for which it is intended to be used as set out in the Precinct Structure Plan.

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**16. Successors in title**

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

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

---

**17. General matters**

**17.1 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:

- 17.1.1 personally on the other Party;
- 17.1.2 by leaving it at the other Party's Current Address;
- 17.1.3 by posting it by prepaid post addressed to the other Party at the other Party's Current Address; or
- 17.1.4 by email to the other Party's Current Email.

**17.2 No waiver**

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

**17.3 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.

**17.4 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.

**17.5 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.

**17.6 Counterparts**

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

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**17.7 Governing law**

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

---

**18. GST**

- 18.1 In this clause words that are defined in the GST Act have the same meaning as their definition in that Act.
  - 18.2 Except as otherwise provided by this clause, all consideration payable under this Agreement in relation to any supply is exclusive of GST.
  - 18.3 If GST is payable in respect of any supply made by a supplier under this Agreement, subject to clause 18.4 the recipient will pay to the supplier an amount equal to the GST payable on the supply at the same time and in the same manner as the consideration for the supply is to be provided under this Agreement.
  - 18.4 The supplier must provide a tax invoice to the recipient before the supplier will be entitled to payment of the GST payable under clause 18.3
- 

**19. GAIC**

- 19.1 The Owner acknowledges and agrees that all land transferred to or vested in Council must have any Inherent GAIC Liability discharged prior to it being transferred to or vested in Council and to the extent it is not, the Owner shall remain liable to Council for any GAIC liability incurred by Council.
  - 19.2 The Parties agree that clause 19.1 survives the termination of this Agreement
  - 19.3 The Owner agrees that the Owner must provide a certificate of release under section 201SY of the Act confirming the release of the land referred to in clause 19.1 from its Inherent GAIC Liability.
- 

**20. Foreign resident capital gains withholding**

**20.1 Definitions**

For the purposes of this clause, the following definitions apply:

**Clearance Certificate** means a valid clearance certificate under section 14-220(1) of Schedule 1 to the Tax Act.

**Consideration** means any monetary and non-monetary consideration including a Credit required to be paid or given by Council to the Owner for the transfer or vesting of a Land Project under this Agreement.

**Excluded Transaction** has the meaning given to that term in section 14-215 of Schedule 1 to the Tax Act.

**Statement of Compliance** has the same meaning as in the Subdivision Act 1988

**Tax Act** means the *Taxation Administration Act 1953* (Cwlth)

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**Variation Amount** means, where the Owner has served a Variation Notice on Council, the amount required to be withheld as specified in the Variation Notice.

**Variation Notice** means a valid variation notice issued by the Australian Taxation Office in respect of a variation application made under section 14-235(2) of Schedule 1 of the Tax Act.

**20.2 Foreign resident status of Owner**

The Owner is taken to be foreign residents under Subdivision 14-D of Schedule 1 to the Tax Act unless the Owner gives to Council a Clearance Certificate no later than 10 Business Days before the Land Project is transferred to or vested in Council.

**20.3 Excluded transaction**

20.3.1 Clause 20.5 does not apply if:

- (a) the transfer or vesting of the Land Project is an Excluded Transaction; and
- (b) the Owner provides Council with all information and documentation to satisfy Council that the transfer or vesting of the Land Project is an Excluded Transaction no later than 10 Business Days before the Land Project as the case may be is transferred to or vested in Council's ownership.

20.3.2 Without limiting clause 20.3.1, the transfer or vesting of a Land is an Excluded Transaction if the market value of the Land Project as at the date of this Agreement is less than \$750,000.

**20.4 Variation notice**

If the Owner provides Council with a Variation Notice prior to the transfer or vesting of the Land Project, then Council will adjust the withholding amount (as specified in clause 20.5 below) in accordance with the Variation Notice.

**20.5 Withholding**

20.5.1 This clause 20.5 applies if the Owner is taken to be foreign residents under clause 20.2 and the Owner has not satisfied Council that the transfer or vesting of the Land Project is an Excluded Transaction under clause 20.3.

20.5.2 Subject to clauses 20.5.3 and 20.5.4, Council will deduct from any monetary consideration payable to the Owner an amount equal to:

- (a) 12.5% of the Consideration (excluding GST) in accordance with section 14-200(3) of Schedule 1 to the Tax Act; or
- (b) the Variation Amount, if the Owner have provided Council with a Variation Notice in accordance with clause 20.4,

**(withholding amount).**

20.5.3 Subject to clause 20.5.4, if any monetary consideration payable to the Owner is less than 12.5% of the Consideration, the Owner must deliver to Council:

- (a) a cash payment equal to 12.5% of the Consideration (or such other amount as required by Council); or

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- (b) the Variation Amount, if the Owner has provided Council with a Variation Notice in accordance with clause 20.4 -

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

20.5.4 If there is no Consideration specified in this Agreement, the Owner must deliver to Council:

- (a) a cash payment equal to 12.5% of the market value of the Agreed Land Valued as at the date of this Agreement; or
- (b) the Variation Amount, if the Owner has provided Council with a Variation Notice in accordance with clause 20.4,

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

**20.6 Council to remit withholding amount**

20.6.1 Council agrees to:

- (a) pay the withholding amount or amounts determined under clause 20.5 to the Reserve Bank of Australia (on behalf of the Australian Taxation Office) by electronic funds transfer immediately after the earlier of:
  - (i) Council receiving a transfer of land in respect of the Land Project, in registrable form; or
  - (ii) the registration of a plan of subdivision which vests the Land Project in Council's ownership;
- (b) provide the Owner with a copy of the purchaser payment notification form submitted by Council to the Australian Taxation Office; and
- (c) provide the Owner with a copy of any receipt of payment or proof of payment of the withholding amount issued by the Australian Taxation Office to Council.

**20.7 Consideration adjusted after withholding**

For the avoidance of doubt and notwithstanding anything else in this Agreement, the Consideration payable to the Owner and the Developer is reduced to the extent that a withholding amount is deducted from the Consideration under clause 20.5.

**20.8 Owner to co-operate**

20.8.1 The Owner must:

- (a) not procure the registration of a plan of subdivision which vests a Land Project in Council's ownership unless:
  - (i) a Clearance Certificate has been provided to Council; or
  - (ii) the Owner and Council have agreed upon the amount to be withheld by and/or remitted by Council to the Australian Taxation Office in accordance with clause 20.5;

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- (b) provide Council with 20 Business Days prior written notice of the lodgement of a plan of subdivision at Land Use Victoria which will have the effect of vesting any land in Council's ownership; and
- (c) notify Council immediately on the date on which a plan of subdivision registers which vests land in Council's ownership.

20.8.2 The Owner must provide Council with all information, documentation and assistance necessary to enable Council to comply with its obligation to pay the withholding amount within the time set out in section 14-200(2) of Schedule 1 to the Tax Act.

**20.9 Owner's and Developer's warranty**

The Owner warrants that the information provided to Council under this clause 20 is true and correct.

**20.10 Indemnity**

The Owner agrees to indemnify Council against any interest, penalty, fine or other charge or expense incurred by Council as a result of the Owner's failure to comply with this clause 20.

---

**21. Commencement of Agreement**

This Agreement commences on the date of this Agreement.

---

**22. Amendment of Agreement**

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

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

---

**23. Ending of Agreement**

23.1 This Agreement ends:

23.1.1 when the Owner has complied with all of the Owner's obligations under this Agreement; or

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

23.2 Notwithstanding clause 23.1, 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.

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

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- 23.4 Council will not unreasonably withhold its consent to a written request made pursuant to clause 23.2 if it is satisfied that the obligations in this Agreement are secured to its satisfaction.
- 23.5 Upon the issue of a Statement of Compliance for a plan of subdivision for Residential Lots created over the Subject Land or earlier by agreement with Council, the Agreement ends in respect of that part of the Subject Land in the plan of subdivision in accordance with section 177 of the Act provided that at all times, the Agreement must remain registered on the balance of the Subject Land and Parent Titles.
- 23.6 To give effect to clause 23.5, Council will, within a reasonable time following a request from the Owner and at the cost of the Owner, execute all documents necessary to make application to the Registrar of Titles under section 183(2) of the Act to cancel the recording of this Agreement on the register as to that part of the Subject Land which may include executing such application form prior to, or at the same time as, issue of a Statement of Compliance so that it may be registered at the same time as the relevant plan of subdivision.
- 23.7 On completion of all the Owner's obligations under this Agreement, Council must as soon as practicable following the ending of this Agreement and at the Owner's request and at the Owner's cost, execute all documents necessary to make application to the Registrar of Titles under section 183(2) of the Act to cancel the recording of this Agreement on the register.

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**Schedule 1**

- Wyndham North Development Contributions Plan



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## Schedule 2

### Infrastructure Projects

DCP Project No.	Description of the Infrastructure Project*	% of project costs	Provision Trigger	Infrastructure Project Value	Credit
IN-91-06	Sayers Road / North-South Connector – construction of arterial to connector signalised 4-way intersection. The project is also illustrated in Annexure A to this Agreement.	100%	Prior to 30 June 2019	\$3,870,923 This is a December 2018 \$ figure subject to indexation to the date of commencement of this Agreement.	\$3,870,923 This is a December 2018 \$ figure subject to indexation to the date of commencement of this Agreement.

\* If necessary, the Infrastructure Project can be described by reference to the Approved Plans if they have been approved or some other drawing or plan relating to the Infrastructure Project.

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**Schedule 3**

Land Project

Part of DCP Project No.	Description of Land Project*	Land area to be provided under this Agreement	Provision Trigger	Authority the Land Project is to be transferred to or vested in	Services to be available (Av) or connected (Cn)	Agreed Land Value	Credit
IN-91-05	Land required for the intersection of Sayers Road and Sewells Road.  The total area of land required for the intersection of Sayers Road and Sewells Road is 1.0025 located across Property No.91-NO-03, 91-NO-04 and 91-NO-91-NO-06.	0.1919 hectares located on Property 91-NO-03 of the Riverdale PSP.	Prior to 30 June 2019	Council	Power Gas Water Drainage Telecommunications Sewer	\$268,660  calculated as \$1,400,000 per hectare x 0.1919 hectares.  This is a 1 July 2018 \$ figure subject to revaluation in accordance with the Development Contributions Plan to the date of commencement of this agreement.	\$268,660  This is a 1 July 2018 \$ figure subject to revaluation in accordance with the Development Contributions Plan to the date of commencement of this agreement.
RD-91-07	Land required for the widening of Sayers Road (Davis Road to Sewells Road).  The total area of land required for the widening of Sayers Road (Davis Road to	0.4496 hectares located on Property 91-NO-03 of the Riverdale PSP.	Prior to 30 June 2019.	Council	Power Gas Water Drainage Telecommunications Sewer	\$ 629,440  calculated as \$1,400,000 per hectare x 0.4496 hectares.  This is a 1 July 2018 \$ figure subject to revaluation in accordance with the Development Contributions Plan to the date of commencement of this agreement.	\$ 629,440  This is a 1 July 2018 \$ figure subject to revaluation in accordance with the Development Contributions Plan to the date of commencement of this agreement.



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IN-91-06	Sewells Road) is 1,2404 hectares across property 91-NO-01 and 91-NO-03.	Land required for the intersection of Sayers Road/North-South Connector. The total area of land required for the intersection is 0.5843 hectares across property 91-NO-03 and 91-SO-19.	0.5023 hectares on Property 91-NO-03 of the Riverdale PSP.	Prior to 30 June 2019	Council	Power Gas Water Drainage Telecommunications Sewer	\$703,220 calculated as \$1,400,000 per hectare x 0.5023 ha. This is a 1 July 2018 \$ figure subject to revaluation in accordance with the Development Contributions Plan to the date of commencement of this agreement	\$703,220 This is a 1 July 2018 \$ figure subject to revaluation in accordance with the Development Contributions Plan to the date of commencement of this agreement
----------	---	--	--	-----------------------	---------	--	---	---

\* If necessary, the Land Project can be described by reference to a plan of subdivision or a survey plan or some other accurate drawing or plan relating to the Land Project. The part of the DCP Project No. which comprises The Land Project is underlined.

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**Schedule 4**

**Open Space Land**

Project No.	Description of Open Space Land*	Provision Trigger	Authority the Open Space Land is to be transferred to or vested in.	Services to be available (Av) or connected (Cn).	Area (in hectares) of Open Space Land	Open Space Contribution that the Owner is required to make under clause 53.01 of the Planning Scheme (in hectares)	Actual Open Space Provision	Open Space Land Value or methodology to be used for determining the Open Space Land Value
P NO-05	P NO-05 - 0.62 hectares neighbourhood park in accordance with the Riverdale Precinct Structure Plan.	Upon the issue of a Statement of Compliance for a stage within which the park is located on the Endorsed Plans	Wyndham Council City	All services including Power Water	0.62 hectares	1.4643 hectares 3.0% of the Net Developable Area as per the Riverdale Precinct Structure Plan The Net Developable Area in the Riverdale PSP is 48.81 hectares. 0.0643 hectares of under provision of passive open space	0.62 hectares  Actual open space provision is 1.4 hectares comprising P NO-05 (0.62 hectares) and P NO-06 (0.78 hectares).  0.0643 hectares of under provision of passive open space	Value as at 1 July 2018 \$899,000 (0.62 ha x \$1,450,000)
P NO-06	P NO-06 - 0.78 hectares neighbourhood park in accordance with the Riverdale Precinct Structure Plan.	Upon the issue of a Statement of Compliance for a stage within which the park is located on the Endorsed Plans	Wyndham Council City	All services including Power Water	0.78 hectares	1.4643 hectares 3.0% of the Net Developable Area as per the Riverdale Precinct Structure Plan The Net Developable Area in the Riverdale PSP is 48.81 hectares.	0.78 hectares  Actual open space provision is 1.4 hectares comprising P NO-05 (0.62	Value as at 1 July 2018 \$1,131,000 (0.78 ha x \$1,450,000)




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	hectares) and P NO-06 (0.78 hectares). 0.0643 hectares of under provision of passive open space	0.0643 ha of under provision	0.0643 ha of under provision. Value as at 1 July 2018 \$93,235.00 (0.0643 x \$1,450,000) This is a 1 July 2018 \$ figure subject to revaluation on an annual basis. The methodology for determining the Open Space Value is the application of the relevant 1 July revaluation amount calculated by Council as part of its annual DCP and 53.01 land revaluations for Property 91-NO.03 in the Riverdale Precinct Structure Plan at the date 7 days prior to payment to Council using the following formula. 0.0643 x 'A' = Open Space Value Where 'A' is the relevant 53.01 land revaluation provided to Council for Property 91-NO-03 in the Riverdale Precinct Structure Plan.
0.0643 hectares of under provision of passive open space	1.4643 hectares	3.0% of the Net Developable Area as per the Riverdale Precinct Structure Plan The Net Developable Area in the Riverdale PSP is 48.81 hectares.	
	N/A	N/A	
	N/A	N/A	
	Prior to 30 June 2019	N/A	
Under Provision	0.0643 hectares under provision		

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\* If necessary, the Open Space Land can be described by reference to a plan of subdivision or a survey plan or some other accurate drawing or plan relating to the Open Space Land.  
# The figures in the columns and rows identified are subject to change as part of the subdivision process. The areas in the subdivisions ultimately certified and subject to statements of compliance will form the basis of calculations and obligations relating to open space contributions under Clause 53.01 of the Planning Scheme.

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**Schedule 5**

**Amount of Bank Guarantee: 5% of the Infrastructure Project Value identified in Schedule 2**



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## Schedule 6

- Subject Land – 1070 Sayers Road, Tameit being land contained and described in Certificate of Title Volume 9509 Folio 864.
- Planning Permit No. WYP6213/12 issued on 14 November 2014, as amended.
- Planning Permit, WYP10277/17 issued on 31 July 2018, as amended

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### Schedule 7

Maintenance Period for defined categories of infrastructure

Infrastructure Project Category	Maintenance Period
IN-91-06 Intersection	3 months

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# Signing Page

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

**EXECUTED** as a Deed.

Signed for and on behalf of the **Wyndham City Council** by its duly authorised delegate

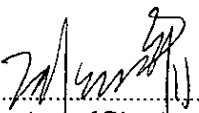
)  
 )  


Stephen Thorne A/CEO

Date 30 / 05 / 19

Executed by **New Sky Management Pty Ltd** ACN 610 142 268 in accordance with s 127(1) of the *Corporations Act 2001* by authority of its directors:

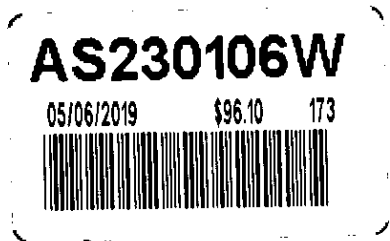
)  
)

  
 Signature of Director (sole)

\_\_\_\_\_  
 Signature of Director/Company Secretary

BINGQIAN GU  
Print full name

\_\_\_\_\_  
Print full name



**RMBL INVESTMENTS LIMITED ACN 004 493 789 as proprietor of Mortgage No. AQ535078R over Certificate of Title Volume 9509 Folio 864 hereby consents to this Section 173 Agreement.**

Signed for and on behalf of RMBL Investments Limited ACN 004 493 789 by two (2) of its attorneys:

- 1)
- 2)

~~Alexine Pauline Margaret Courtney~~

**SURINDER GURDIAL**

before me

Signature of Witness

**Roopa Kumar**

Name of Witness

RMBL Investments Limited by two (2) of its appointed attorneys:

Under Power of Attorney dated 28<sup>th</sup> October 2015  
A certified copy of which is filed in Permanent order  
Book No 277 at page 036 Item 03.

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**Annexure A**

Plan of intersection.

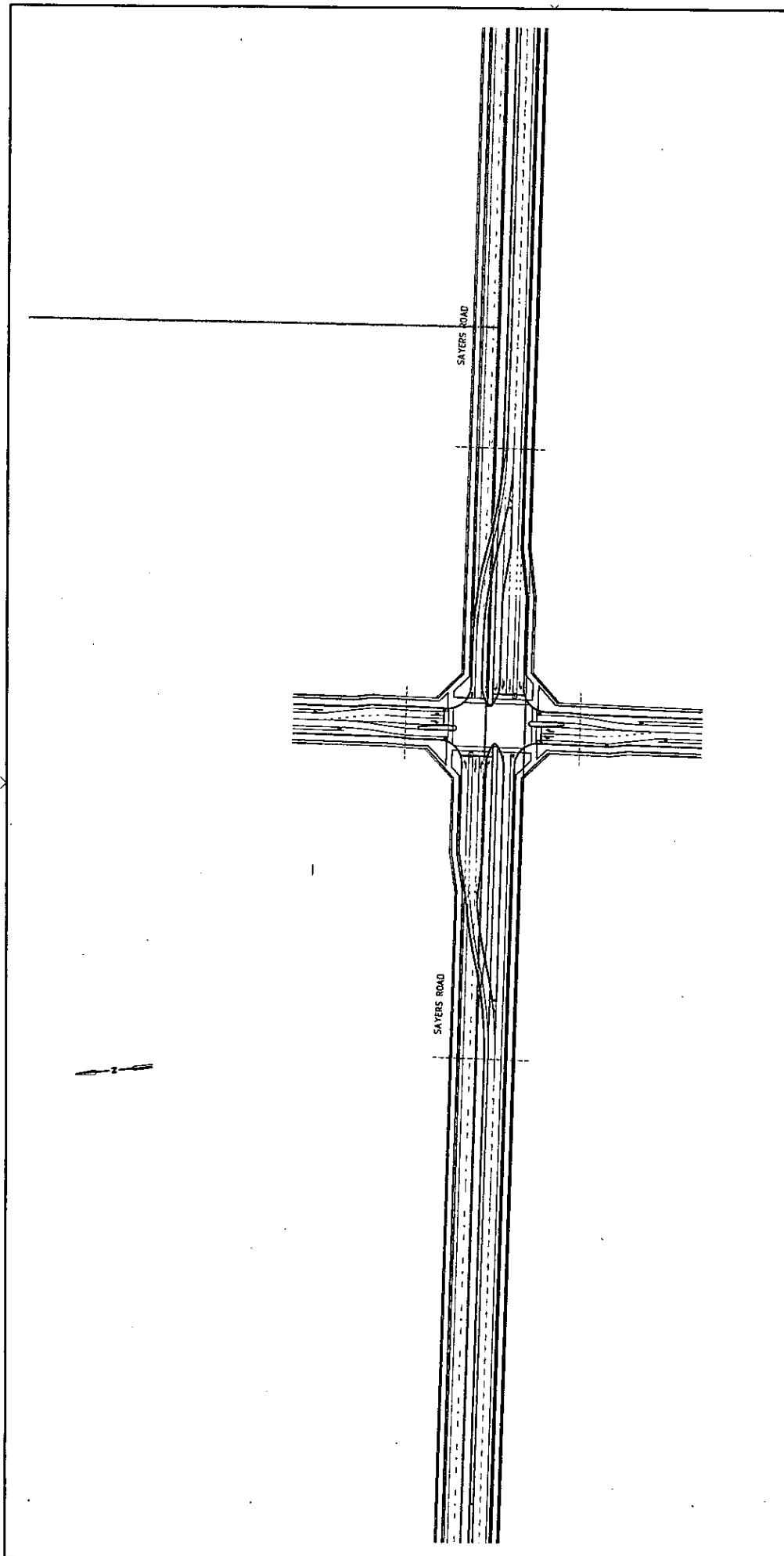
[Annexure A has been removed in the counterpart of this Deed lodged with the Titles office for registration. A copy of Annexure A will be attached to each other counterpart of this Agreement.]



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\$96.10

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PROJECT TITLE <b>WYNDHAM NORTH</b> <b>IN-91-06 SAYERS RD &amp; CONN</b> <b>INTERSECTION TYPE 'I'</b>		PROJECT NUMBER <b>3004869-007-1054</b>	DATE <b>F</b>
APPROVED  METROPOLITAN PLANNING AUTHORITY		PROJECT STATUS <b>CONCEPT</b>	
DESIGNER  <b>SMC AUSTRALIA PTY LTD</b> 15/150 WYNDHAM RD WYNDHAM VIC 3084 PH 03 9511-1700 FAX 03 9511-1059		DATE	
SCALE 1:1000 0 10 20 30 40 50 60 70 80 90 100		SCALE 1:1000	
NAME SAYERSON DATE 23.04.2014	DATE 23.04.2014	NAME SAYERSON	DATE 23.04.2014
CHECKED BY SAYERSON	CHECKED BY SAYERSON	CHECKED BY SAYERSON	CHECKED BY SAYERSON
PROJECT MANAGER SAYERSON	PROJECT MANAGER SAYERSON	PROJECT MANAGER SAYERSON	PROJECT MANAGER SAYERSON
PROJECT DIRECTOR SAYERSON	PROJECT DIRECTOR SAYERSON	PROJECT DIRECTOR SAYERSON	PROJECT DIRECTOR SAYERSON



# Department of Transport and Planning

## Electronic Instrument Statement

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Status	Registered	Dealing Number	AS940580G
Date and Time Lodged	30/01/2020 10:03:12 AM		

### Lodger Details

Lodger Code	17223H
Name	MADDOCKS
Address	
Lodger Box	
Phone	
Email	
Reference	TGM:7994462 - S173 f

## APPLICATION TO RECORD AN INSTRUMENT

Jurisdiction	VICTORIA
--------------	----------

### Privacy Collection Statement

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

### Estate and/or Interest

FEE SIMPLE

### Land Title Reference

12166/188

### Instrument and/or legislation

RECORD - AGREEMENT - SECTION 173  
Planning & Environment Act - section 173

### Applicant(s)

Name	WYNDHAM CITY COUNCIL
Address	
Street Number	45
Street Name	PRINCES
Street Type	HIGHWAY
Locality	WERRIBEE
State	VIC
Postcode	3030

### Additional Details



# Department of Transport and Planning

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## Electronic Instrument Statement

Refer Image Instrument

---

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

---

### Execution

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

Executed on behalf of	WYNDHAM CITY COUNCIL
Signer Name	THY NGUYEN
Signer Organisation	PARTNERS OF MADDOCKS
Signer Role	AUSTRALIAN LEGAL PRACTITIONER
Execution Date	30 JANUARY 2020

---

### File Notes:

NIL

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

Statement End.



# Imaged Document Cover Sheet

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Date 22/1/2020

**Agreement under section 173  
of the Planning and Environment Act 1987**

**Subject Land: 1070 Sayers Road Tarneit**

**Purpose: WIK Agreement for Infrastructure Projects**

**City of Wyndham**

and

**New Sky Management Pty Ltd Pty Ltd ACN 610 142 268**

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Schedule 4.....19

Schedule 5.....19

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## Agreement under section 173 of the Planning and Environment Act 1987

Dated 22 / 1 / 2020

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### Parties

Name	<b>Wyndham City Council</b>
Address	Civic Centre, 45 Princes Highway, Werribee, Victoria 3030
Short name	<b>Council</b>
Name	<b>New Sky Management Pty Ltd</b>
	<b>ACN 610 142 268</b>
Address	Suite 1, Ground Floor, 437 St Kilda Rd Melbourne, Victoria 3004
Short name	<b>Owner</b>

---

### Background

- A. Council is the responsible authority for the Planning Scheme.
- B. Council is also the Collecting Agency and the Development Agency under the Development Contributions Plan.
- C. Council enters into this Agreement in its capacity as the responsible authority as the Collecting Agency and Development Agency.
- D. The Owner is the registered proprietor of the Subject Land.
- E. The Development Contributions Plan applies to the Subject Land. It specifies the contributions required to fund infrastructure necessary as a result of development of the area for urban purposes.
- F. The Planning Permit contain conditions which requires the Owner to pay development contributions or enter into an Agreement under Section 173 of the Act providing for:
  - F.1 payment of development contributions;
  - F.2 implementation of an approved public infrastructure plan.



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- G. The Owner has asked Council for permission to carry out the Infrastructure Projects all of which are funded at least in part by the Development Contributions Plan; and
- H. Council has agreed that the Owner will carry out the Infrastructure Project and Council will provide the Owner with a credit against its development contribution liability under the Development Contributions Plan.
- I. As at the date of this Agreement, the Subject Land is subject to a mortgage in favour of the Mortgagee. The Mortgagee consents to the Owner entering into this Agreement.

### The Parties agree:

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#### 1. Definitions

In this Agreement unless the context admits otherwise:

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

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

**Approved Plans** means the Designs of an Infrastructure Project approved by Council under clause 6.6 of this Agreement.

**Bank Guarantee** means a bank guarantee or other form of security to the satisfaction of Council in the amount set out in Schedule 3.

**Building Permit** means a building permit issued under the *Building Act 1993* or any regulations or code made under the *Building Act 1993*.

**Certificate of Practical Completion** means a written certificate issued by Council in its capacity as the development agency for an Infrastructure Project stating that an Infrastructure Project or a specified stage of the Infrastructure Project has been completed to the satisfaction of Council and any other relevant authority.

**Collecting Agency** has the same meaning as in the Act.

**Consent Fee** means the fee specified on Council's internet web site which is payable by a person to Council for deciding whether to give consent or secondary consent for anything in an agreement or where a permit provides that something must not be done without Council's consent.

**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 Infrastructure Project Value against the Owner's Development Infrastructure Levy for the Subject Land.

**Current Address** means:

- for Council, the address shown on page one of this Agreement, or any other address listed on Council's website; and



## Maddocks

- for the Owner, the address shown on page one of this Agreement or any other address provided by the Owner to Council for any purpose relating to the Subject Land.

**Current Email** means:

- the Council email address listed on Council's website; and
- for the Owner, any email address provided by the Owner to Council for the express purpose of electronic communication regarding this Agreement.

**Designs** means the detailed design and engineering plans and specifications of an Infrastructure Project approved by Council in its capacity as Development Agency under clause 6.6.

**Development Agency** has the same meaning as in the Act.

**Developable Land** means the area of land identified as developable land in the land use budget of the Development Contributions Plan.

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

**Development Contributions Plan** means the Development Contributions Plan specified in Schedule 1, being an incorporated document in the Planning Scheme.

**Endorsed Plan** means the plan endorsed with the stamp of Council from time to time as the plan which forms part of the Planning Permit.

**GAIC** means the Growth Areas Infrastructure Contribution under the Act.

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

**Indexation** means an adjustment to an amount carried out in accordance with the method set out in the Development Contributions Plan.

**Infrastructure Project** means a project to be delivered by the Owner under this Agreement, identified in the relevant column of the table to Schedule 2 and which may be further illustrated and defined in a plan annexed to this Agreement.

**Infrastructure Project Value** means the Infrastructure Project Value specified in the relevant column of the table in Schedule 2.

**Infrastructure Design Manual** means the manual entitled 'Engineering Design and Construction Manual for Growth Areas – April 2011 prepared by the Metropolitan Planning Authority.

**Inherent GAIC Liability** means the current or future liability of the Subject Land for GAIC upon the happening of a GAIC event as defined and described in the Act whether before, at or after the vesting or transfer of the land in or to Council.

**Localised Infrastructure** means works, services or facilities necessitated by the subdivision or development of land including but not limited to provision of utility services such as water supply, stormwater drainage, sewerage, gas and electricity services, telecommunications infrastructure and local roads, bridges, culverts and other water crossings, any required associated traffic control measures and devices and which is not funded by the Development



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**Contributions Plan.** For the purposes of this Agreement, Localised Infrastructure does not include the infrastructure required for the Infrastructure Projects.

**Maintenance Period** means the period specified in Schedule 5 for each specified category of Infrastructure Project commencing on the date of the Certificate of Practical Completion of an Infrastructure Project to Council.

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

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

**Owner's obligations** means the Owners obligations under this Agreement.

**Party or Parties** means the Parties to this Agreement.

**Plan Checking Fee** means the fee payable to Council by the Owner for checking plans for an Infrastructure Project in the amount of 0.75% of the Infrastructure Project Value.

**Plan of Subdivision** means a plan of subdivision which creates an additional lot which can be disposed of separately or which is intended to be used for a dwelling or which can be re-subdivided.

**Planning Permit** means the planning permit specified in Schedule 4 as amended from time to time.

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

**Precinct Structure Plan** means the precinct structure plan incorporated in the Planning Scheme and which applies to the Subject Land.

**Provision Trigger** means the milestone or provision trigger set out in the relevant columns of Schedules 2.

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

**Satisfaction Fee** means a fee specified on Council's internet web site which is payable by a person to Council for deciding whether any one of obligation in a permit, agreement or any other requirement has been undertaken to Council's satisfaction.

**Schedule** means a schedule to this Agreement.

**Stage** is a reference to a stage of subdivision of the Subject Land.

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

**Subject Land** means the land described in Schedule 4 and any reference to the Subject Land in this Agreement includes any lot created by the subdivision of the Subject Land or any part of it.



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**Supervision Fee** means the fee payable to Council by the Owner for supervision of an Infrastructure Project in the amount of 2.5% of the Specified Value of the Infrastructure Project.

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## 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.



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### **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 Council in its capacity as Collecting Agency agrees to the Owner undertaking any Infrastructure Project in lieu of the cash payment of the Development Infrastructure Levy;
- 3.2 to achieve and advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Subject Land.

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### **4. Reasons for Agreement**

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

- 4.1 Council would not have consented to the Owner undertaking the Infrastructure Projects without the Owner entering into this Agreement; and
- 4.2 the Owner has elected to enter into this Agreement in order procure Council's agreement to the Owner to carrying out the Infrastructure Projects as works in kind.

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### **5. Payment of Development Infrastructure Levy**

The Parties agree that

- 5.1 subject to the Owner's entitlement to a Credit, the Owner is not required to pay the Development Infrastructure Levy in cash on a stage-by-stage basis; and
- 5.2 any component of the Development Infrastructure Levy in respect of the Subject Land which is not offset by an entitlement to a Credit under this Agreement must be paid to Council prior to the issue of the Statement of Compliance for subdivision of the Subject Land as a result of which the obligation to pay the Development Infrastructure Levy in cash arises or at such other time as is specified in this Agreement.

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### **6. Works in kind – Infrastructure Projects**

#### **6.1 Construction of Infrastructure Projects**

The Owner must construct and complete the Infrastructure Projects:

- 6.1.1 in accordance with the Designs approved by Council under clause 6.6;
- 6.1.2 prior to the relevant Provision Trigger, unless a later date is approved by Council in writing under clause 6.3;
- 6.1.3 in accordance with any Public Infrastructure Plan or the like endorsed under the Planning Permit; and
- 6.1.4 otherwise to the satisfaction of Council in its capacity as the Development Agency.



## 6.2 Standard of work

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

- 6.2.1 accord with the Approved Plans and the Infrastructure Design Manual unless otherwise agreed in writing by Council;
- 6.2.2 be fit and structurally sound, fit for purpose and suitable for its intended use;
- 6.2.3 comprise best industry practice to the extent required by the Approved Plans;
- 6.2.4 not encroach upon any land other than the land shown in the Approved Plans; and
- 6.2.5 comply with any relevant current Australian Standard unless otherwise agreed in writing by Council in its capacity as Development Agency.

## 6.3 Time for completion of Infrastructure Projects

The Owner agrees that if the Owner does not construct and complete the Infrastructure Project by the relevant Provision Trigger for an Infrastructure Project, Council may:

- 6.3.1 in its capacity as the Collecting Agency, at its absolute discretion, in writing, extend the timeframe; or
- 6.3.2 in its capacity as Council, refuse to issue any Statements of Compliance in respect of the development of the Subject Land until the Infrastructure Project is completed to the satisfaction of Council in its capacity as Development Agency.

## 6.4 Obligation to complete Infrastructure Projects once commenced

The Owner agrees that when the Owner commences works associated with an Infrastructure Project, the Owner must complete the Infrastructure Project in accordance with this Agreement regardless of whether the total cost of completing the Infrastructure Project exceeds the Infrastructure Project Value.

## 6.5 Infrastructure Project Value

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

## 6.6 Design of Infrastructure Projects

The Owner agrees that:

- 6.6.1 the Owner must, at the full cost of the Owner, prepare the Designs of an Infrastructure Project and submit the Designs to Council and any other relevant authorities for their approval;
- 6.6.2 approval of the Designs will be reflected in a set of plans and specifications endorsed by Council as the Approved Plans;
- 6.6.3 the Owner must obtain all necessary permits and approvals for the Infrastructure Projects; and
- 6.6.4 prior to awarding any contract for the Infrastructure Projects, the Owner must submit to Council for its approval:



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- (a) a copy of the terms and conditions of the contract to be awarded; and
- (b) a copy of the proposed construction program which accompanies the contract.

#### **6.7 Variation of Approved Plans**

The Owner agrees that upon the approval by Council of the Designs under this Agreement there will be no further variations to the Approved Plans without the prior written consent of Council in its capacity as Development Agency.

#### **6.8 Construction of Infrastructure Projects**

In carrying out the Infrastructure Projects:

- 6.8.1 the Owner is responsible for all design and construction risks in relation to construction and completion of the Infrastructure Projects; and
- 6.8.2 Council is released from liability to pay, and the Owner holds Council harmless in respect of, any costs beyond the Infrastructure Project Value.

---

### **7. Certificate of Practical Completion**

#### **7.1 Construction Procedures**

The Parties agree that:

- 7.1.1 upon the completion of an Infrastructure Project, the Owner must notify Council and any other relevant authority;
- 7.1.2 within 14 days of receiving notice of the completion of an Infrastructure Project from the Owner, Council will arrange for it and any other relevant authority to promptly inspect the Infrastructure Project and determine whether Council will issue a Certificate of Practical Completion;
- 7.1.3 prior to Council being required to issue a Certificate of Practical Completion, the Owner must provide to Council:
  - (a) a copy of any maintenance information, operational manual or other material which is reasonably required for the ongoing operation and maintenance of the Infrastructure Project;
  - (b) a copy of any certificate, consent or approval required by any authority for the carrying out, use or occupation of the Infrastructure Project;
- 7.1.4 if Council is not satisfied with the Infrastructure Project, Council may refuse to issue a Certificate of Practical Completion provided Council:
  - (a) identifies in what manner the Infrastructure Project is not satisfactorily completed; and
  - (b) what must be done to satisfactorily complete the Infrastructure Project;
- 7.1.5 Council may, notwithstanding a minor non-compliance, determine to issue a Certificate of Practical Completion if Council in its capacity as Development Agency is satisfied that the proper construction of the Infrastructure Project can be secured or otherwise guaranteed to its satisfaction;



- 7.1.6 before accessing land owned by Council or a third party for the purpose of constructing an Infrastructure Project or undertaking any maintenance or repair of defects in respect of the Infrastructure Project in accordance with this Agreement, the Owner must satisfy Council or if requested by a third party, that person, that the Owner has:
  - (a) consent of the owner of land to access such land;
  - (b) satisfied any condition of such consent;
- 7.1.7 the Owner must put in place all proper occupational health and safety plans as may be required under any law of the State of Victoria for that purpose;
- 7.1.8 subject to the Owner satisfying any conditions of consent to access land owned by Council, Council will provide all reasonable access as may be required to its land in order to enable an Infrastructure Project to be constructed and completed, maintained or repaired in accordance with this Agreement.

## 7.2 Obligations following Certificate of Practical Completion

Following the issue of a Certificate of Practical Completion for an Infrastructure Project, the Owner is responsible for the maintenance of the Infrastructure Project in good order, condition and repair to the satisfaction of Council until -

- 7.2.1 the end of the Maintenance Period: or
- 7.2.2 until the transfer of the land containing the Infrastructure Project to Council by a transfer or by a vesting -

whichever is the later.

## 7.3 Bank Guarantee

The Owner agrees that:

- 7.3.1 prior to the issue of a Certificate of Practical Completion for an Infrastructure Project, the Owner must provide Council with a Bank Guarantee in respect of the maintenance liability under this Agreement of that Infrastructure Project;
- 7.3.2 if the Owner fails to comply with a written direction from Council to undertake maintenance to an Infrastructure Project, Council may at its absolute discretion use the Bank Guarantee to correct any defects; and
- 7.3.3 the Bank Guarantee will be returned to the Owner after the Maintenance Period, less any amount applied to correcting any defects in the Infrastructure Project.

---

## 8. Credit and processing of credits

### 8.1 Credit

The Parties agree that:

- 8.1.1 the Owner will be entitled to a Credit for the Infrastructure Project Value from the commencement of this Agreement;
- 8.1.2 the Owner will not be required to pay the Development Infrastructure Levy in cash until the Credit has been exhausted, determined as set out in Clause 8.1.3;



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- 8.1.3 prior to the issue of a Statement of Compliance by Council for a Stage, Council must:
- (a) calculate the Development Infrastructure Levy payable for such Stage(s) as at that date; and
  - (b) deduct the amount calculated under clause (a) from the Credit until the Credit has been exhausted;
- 8.1.4 when the amount of the Development Infrastructure Levy payable in relation to a Stage exceeds the amount of the Credit remaining:
- (a) in relation to that Stage, the Owner must pay in cash an amount equal to the amount of the Development Infrastructure Levy payable in relation to that Stage that exceeds the amount of Credit remaining prior to the issue of a Statement of Compliance; and
  - (b) in relation to subsequent Stages, the Owner must pay the Development Infrastructure Levy in cash prior to the issue of a Statement of Compliance;

---

## 9. Localised Infrastructure

The Parties acknowledge and agree that:

- 9.1 this Agreement is intended to relate only to the infrastructure that is funded by the Development Contributions Plan and not Localised Infrastructure; and
- 9.2 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.

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## 10. Further obligations of the Parties

### 10.1 Notice and registration

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

### 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 and the Parent Titles in accordance with section 181 of the Act; and
- 10.2.3 agrees to do all things necessary to enable Council to do so, including:
- (a) sign any further agreement, acknowledgment or document; and
  - (b) obtain all necessary consents to enable the recording to be made.



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### 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

as required.

### 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 agreed or if not agreed, its reasonable costs and expenses (including legal expenses) relating to this Agreement, including:

- 10.4.1 drafting, finalising, signing and recording this Agreement;
- 10.4.2 drafting, finalising and recording any amendment to this Agreement; and
- 10.4.3 drafting, finalising and recording any document to give effect to the ending of this Agreement.

### 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

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

The Owner agrees that:

- 10.6.1 the Owner must pay to Council interest in accordance with the rate used for the purposes of section 172 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 first towards interest and then any balance of the payment will be applied to the principal amount.

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## 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.



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**12. Owner's warranties**

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

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**13. Successors in title**

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

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

---

**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.



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**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 Counterparts**

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

**14.7 Governing law**

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

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**15. GST**

15.1 In this clause words that are defined in the GST Act 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 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.

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**16. Commencement of Agreement**

This Agreement commences on the date of this Agreement.

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**17. Amendment of Agreement**

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

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

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**18. Ending of Agreement**

18.1 This Agreement ends:

18.1.1 when the Owner has complied with all of the Owner's obligations under this Agreement; or



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- 18.1.2 otherwise by agreement between the Parties in accordance with section 177 of the Act.
- 18.2 Notwithstanding clause 18.1, 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.
- 18.3 If notice of a proposal to end this Agreement is required pursuant to section 178C of the Act, the parties agree that only Council and the Owner of the Subject Land or that part of the Subject Land that is the subject of the proposal to end this Agreement are required to be notified of the proposal.
- 18.4 Council will not unreasonably withhold its consent to a written request made pursuant to clause 18.2 if it is satisfied that the obligations in this Agreement are secured to its satisfaction.
- 18.5 Upon the issue of a Statement of Compliance for a plan of subdivision for Residential Lots created over the Subject Land or earlier by agreement with Council, the Agreement ends in respect of that part of the Subject Land in the plan of subdivision in accordance with section 177 of the Act provided that at all times, the Agreement must remain registered on the balance of the Subject Land and Parent Titles.
- 18.6 Once this Agreement ends as to part of the Subject Land, Council will, within a reasonable time following a request from the Owner and at the cost of the Owner, execute all documents necessary to make application to the Registrar of Titles under section 183(2) of the Act to cancel the recording of this Agreement on the register as to that part of the Subject Land.
- 18.7 On completion of all the Owner's obligations under this Agreement, Council must as soon as practicable following the ending of this Agreement and at the Owner's request and at the Owner's cost, execute all documents necessary to make application to the Registrar of Titles under section 183(2) of the Act to cancel the recording of this Agreement on the register.

## Schedule 1

- Wyndham North Development Contributions Plan

## Schedule 2

### Infrastructure Projects

DCP Project No.	Description of the Infrastructure Project*	% of project costs	Provision Trigger	Infrastructure Project Value	Credit Value
RD – 91-07	Construction of Sayers Road between Davis Road and Sewells Road	100%	Prior to a Statement of Compliance for Stage 6 or 30 September 2020 whichever occurs first	\$4,407,810 This is a July 2019 \$ figure which is not subject to Indexation after the commencement of this Agreement.	\$4,407,810 This is a July 2019 \$ figure which is not subject to Indexation after commencement of this Agreement

\* If necessary, the Infrastructure Project can be described by reference to the Approved Plans if they have been approved or some other drawing or plan relating to the Infrastructure Project.



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### Schedule 3

Amount of Bank Guarantee: 5% of the Infrastructure Project Value

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### Schedule 4

- Subject Land – Certificate of Title Volume 12166 Folio 188.
  
- Planning Permit No. WYP 10277/17
- Planning Permit No. WYP 6213/12.13

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### Schedule 5

Maintenance Period for defined categories of infrastructure

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Infrastructure Project Category	Maintenance Period
Roads	1 Year



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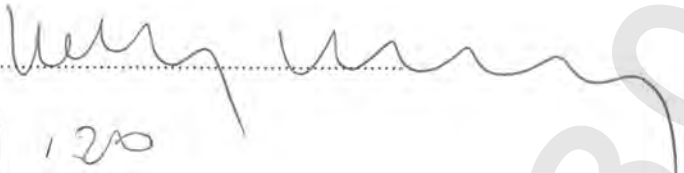
# Signing Page

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

**EXECUTED** as a Deed.

Signed for and on behalf of the **Wyndham City Council** by its duly authorised delegate.


)  
)  
)

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Date 28 | 1 20

**Executed** by New Sky Management Pty Ltd  
**ACN 610 142 268** in accordance with s 127(1)  
of the *Corporations Act 2001* by authority of its  
directors:

)  
)

.....   
Signature of Director

.....  
Print full name  
BING QIAN GU

.....   
Signature of Director/Company Secretary

.....  
Print full name

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**Mortgagee's Consent**

RMBL Investments Pty Ltd as Mortgagee under instrument of mortgage no. AQ535078R consents to the Owner entering into this Agreement and in the event that the Mortgagee becomes mortgagee-in-possession, agrees to be bound by the covenants and conditions of this Agreement.

Signed for and on behalf of RMBL Investments Limited ACN 004 493 789 by two (2) of its attorneys:

1) **ANDRE MARK BOKOS**

2) **ELENA GRAYSON**

Before me:

Signature of Witness

**Helen Mavroudis**

Name of Witness

RMBL Investments Limited by two (2) of its appointed attorneys:

*A. M. Bokos*

*Elena Grayson*

Under Power of Attorney dated 28<sup>th</sup> October 2015

A certified copy of which is filed in Permanent order Book No 277 at page 036 Item 03.



Civic Centre  
Postal

45 Princes Highway, Werribee, Victoria 3030, Australia  
PO Box 197, Werribee, Victoria 3030, Australia

Telephone  
Email

1300 023 411  
mail@wyndham.vic.gov.au  
www.wyndham.vic.gov.au

ABN: 38 393 903 860

Your Ref: 727724

Our Ref: wLIC05096/26

Date: 27/05/2026

Landata  
DX 250639  
MELBOURNE VIC

**LAND INFORMATION CERTIFICATE**  
**Year Ending :30/06/2026**  
**Assessment No: 259231**  
**Certificate No: wLIC05096/26**  
**All Enquiries and Updates to 1300 023 411**

259231

Property Description: V 12433 F 236 L 1104 PS 826705 Tarneit Parish  
AVPCC Code: 110 - Detached Home  
Property Situated: 28 Birregurra Drive  
TARNEIT VIC 3029

Site Value	\$325000	CIV	\$570000	NAV	\$28500
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The level of valuation is 01/01/2025.

The Date Valuation was adopted for rating purposes is 01/07/2025.

Current Year's Rates		
General DL Rates		\$1263.12
Municipal Charge		\$70.32
Garbage Charge		\$461.80
Fire Services Levy		\$234.61
Current Rates Levied	\$2029.85	
Interest		\$8.62
Less Payments		(\$2038.47)
Balance Outstanding		

<b>TOTAL OUTSTANDING</b>	<b>\$0.00</b>
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*Council strongly recommends that an updated certificate be sought prior to any settlement of land or other reliance on this certificate. A written update will be provided free of charge for up to 3 months after the date of issue.*

This certificate provides information regarding valuation, rates, charges, other moneys owing and any orders and notices made under the Local Government Act 1958, the Local Government Act 1989 or under a local law of the Council and the specified flood level by the Council (if any).

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

**OTHER INFORMATION NOTICES AND ORDERS:**

There is no potential Liability for Rates under the Cultural and Recreational Lands Act 1974.

There is no potential Liability for the Land to become Rateable under Section 173 or 174A of the Local Government Act 1989.

There is no Outstanding Amount to be paid for Recreational Purposes or any transfer of Land required to be made to Council for Recreational Purposes under the Local Government Act 1958.

**LAND CLEARANCE CHARGES:**

Directions to maintain vacant land to Council requirements all year round are in place under the Local Law.

Although there may be no charges shown on the Certificate, it is possible that a Charge OR a Notice to Comply to maintain the vacant land as required may exist by settlement date.

Please contact Council's City Resilience Department via email at [mail@wyndham.vic.gov.au](mailto:mail@wyndham.vic.gov.au) to check if there are any pending Charges that are not listed but which may transfer with the property to the new owner.

**NOTE:** Whilst all efforts have been made to ensure that the information contained in this Certificate is accurate and reflects the current records of the City as at the date of the Certificates issue, information contained in the Certificate is subject to regular update and it is strongly recommended that an updated Certificate be sought immediately prior to any settlement of land or other reliance on this Certificate.

I hereby certify that as at the Date of Issue the information given in this Certificate is a true and correct disclosure of Rates and other Monies payable to the Wyndham City Council, together with any Notice or Orders referred to in this Certificate

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APPLICANT:Landata

RECEIVED THE SUM OF \$30.60 BEING FOR THE FEE FOR THE CERTIFICATE

REFERENCE:wLIC05096/26



Abhinav Mehra/Coordinator Finance Operations

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**Payment Options**



**BPAY (Rates payments only)**

Bill Code: 76869

Customer Reference Number: 2432204

**Online via Credit Card**

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

**Rates Payment**

Bank Reference Number: 2432204

**Land Clearance Charge (if applicable)**

See Reference Number above

**Cheque Payment**

Send cheque made payable to Wyndham City Council and a copy of this LIC to PO Box 197, Werribee, VIC 3030



LANDATA  
LEVEL 13 697 COLLINS ST  
DOCKLANDS VIC 3008

## Information Statement Certificate

**Reference number**

80674246-025-2

**Statement number**

6505710769

**Date of Issue** 3 Jun 2026**Total amount**

**\$551.28**

Total amount to end of June 2026 and includes any unbilled amount

Please see page 2 for detailed information

### Water Act, 1989, Section 158

This Statement details all tariffs, charges and penalties due and payable to Greater Western Water, as at the date of this Statement, and also includes tariffs and charges, (other than for water yet to be consumed), which are due and payable to the 30 June 2026 as well as any relevant orders, notices and encumbrances applicable to the property, described hereunder.

**Property address** 28 BIRREGURRA DRIVE, TARNEIT VIC 3029

**Property number** 4597460000

**Lot on Plan** 1104\PS826705

**Comments**

## Payment options

Greater Western Water ABN 70 066 902 467

**BPAY**

Billcode: **8789**  
Ref: **62819700005**  
Go to **bpay.com.au**  
@Registered to BPAY  
Pvt Ltd  
ABN 69 079 137 518

**Australia Post**

Billcode: **0362**  
Ref: **0628 1970 0008**  
Pay at any post office,  
by phone **13 18 16**, at  
**postbillpay.com.au**, or  
via Auspost app



\*362 062819700008

# Annual Charges

## Service charges

	Annual charge FY 2025 - 26	Frequency	Year to date billed amount	Outstanding amount
<b>Residential Water Service Charge</b>	\$224.25	Quarterly	\$56.52	\$0.00
<b>Residential Sewer Service Charge</b>	\$297.99	Quarterly	\$75.11	\$0.52
<b>Parks</b>	\$89.80	Quarterly	\$22.63	\$22.63
<b>Waterways and Drainage</b>	\$125.00	Quarterly	\$31.50	\$31.50
<b>Total annual charges</b>	<b>\$737.04</b>		<b>\$185.76</b>	<b>\$54.65</b>

## Other charges and adjustments

<b>Service charges owing for previous financial years</b>				-\$54.65 CR
<b>Adjustments</b>				\$0.00
<b>Total charges and adjustment</b>				\$0.00

## Outstanding charges

<b>Current balance</b>				\$0.00
<b>Plus remainder service charges to be billed</b>				\$551.28
<b>Total charges</b>				<b>\$551.28</b>

## Volumetric Charges

Please note, this property was recorded as having been occupied by a tenant from 06/03/2027 and this statement does not include any volumetric charges from this date.

## Disclaimer

Greater Western Water hereby certify that the information detailed in this statement is true and correct according to records held and that the prescribed fee has been received. However, Greater Western Water does not guarantee or make any representation or warranty as to the accuracy of this plan or associated details. It is provided in good faith as the best information available at the time. Greater Western Water therefore accepts no liability for any loss or injury suffered by any party as a result of any inaccuracy on this plan. The cadastral data included on this map originates from VICMAP Data and is licenced for re-use under Creative Commons License. Please refer to <https://www.propertyandlandtitles.vic.gov.au/> for any queries arising from information provided herein or contact Greater Western Water 13 44 99. This statement is valid for a period of 90 days from date of issue.

Please note that the property is in an area designated by Greater Western Water for the provision of a recycled water supply in addition to drinking water and sewerage services. The conditions of connection for recycled water are available on our web site at [www.gww.com.au](http://www.gww.com.au). Should you require further information, please contact Greater Western Water on 13 44 99 or by emailing to [contact@gww.com.au](mailto:contact@gww.com.au).

Portion of the land could be subject to inundation at times of high storm flow. Therefore any proposed development on the property is to be referred to Melbourne Water, Land Development Team (Postal Address: GPO Box 4342, Melbourne 3001) - Telephone: 131722.

Where applicable, this statement gives particulars of Greater Western Water service charges as well as Parks Service and Waterways & Drainage service charges. Parks Service and Waterways & Drainage service charges are levied and collected on behalf of Parks Victoria and Melbourne Water Corporation respectively.

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Section 274(4A) of the Water Act 1989 provides that all amounts in relation to this property that are owed by the owner are a charge on this property.

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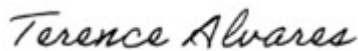
Section 275 of the Water Act 1989 provides that a person who becomes the owner of a property must pay to the Authority at the time the person becomes the owner of the property any amount that is, under Section 274(4A), a charge on the property.

## General Information

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If a special meter reading is required for settlement purposes please contact Greater Western Water on 13 44 99 at least 7 business days prior to the settlement date. Please note that results of the special meter reading may not be available for at least two business days after the meter is read. An account for charges from the previous meter read date to the special meter read date will be forwarded to the vendor of the property. Please visit Greater Western Water's website prior to settlement for an update on these charges and remit payments to Greater Western Water immediately following settlement - [gww.com.au/information-statements](http://gww.com.au/information-statements). Updates of rates and other charges will only be provided for up to a period of 90 days from the date of issue.

Authorised Officer,



Terence Alvares

General Manager, Customer Experience

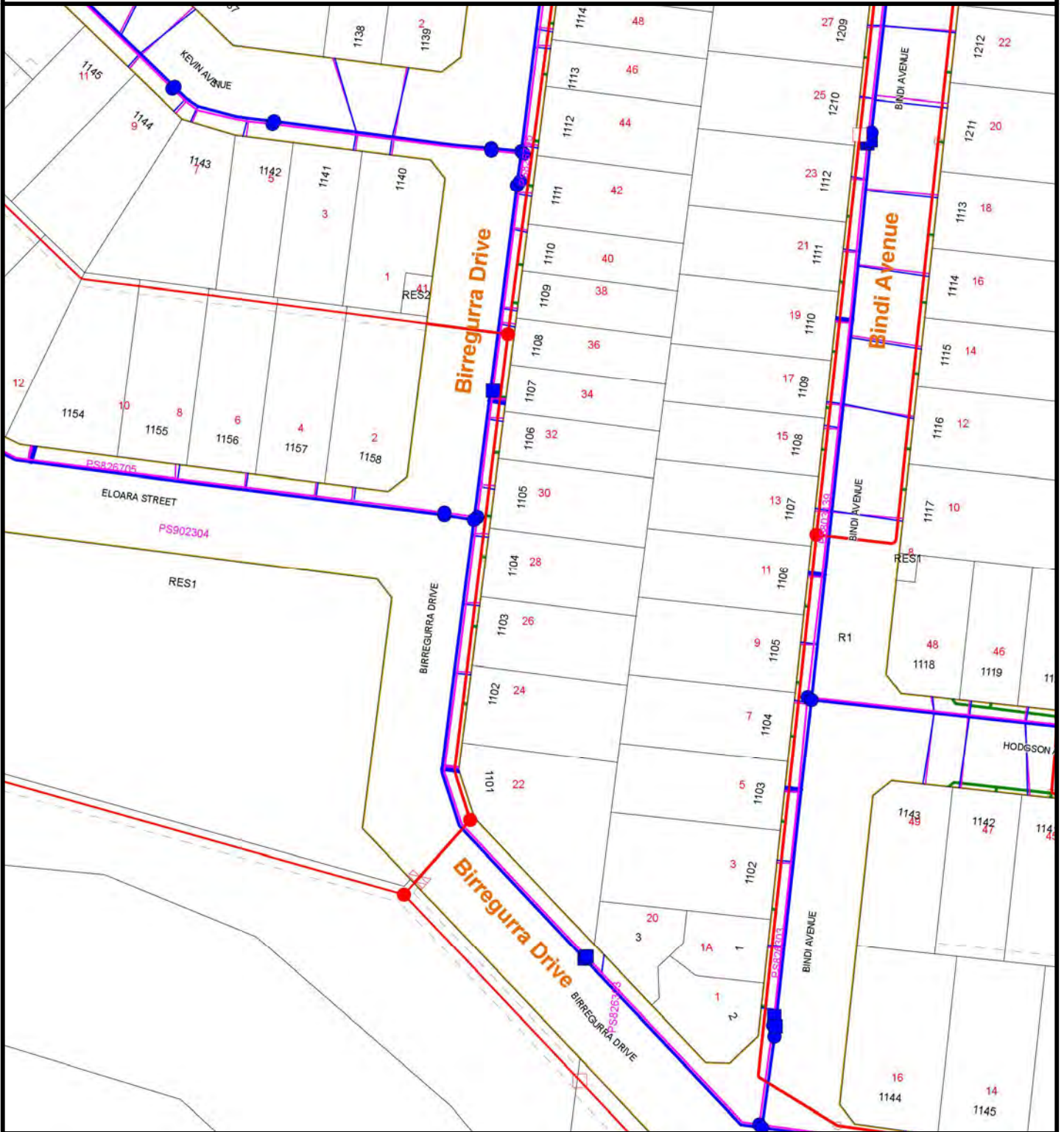
# INFORMATION STATEMENT PLOT

Address :

**28 BIRREGURRA DRIVE TARNEIT 3029**

Reference :

**PID000647954**



Scale 1:1000  
 Printed on : 27/05/2026

Water Main DOES NOT traverse property  
 Sewer Main DOES NOT traverse property



- Water Potable
- Water Recycled
- Sewer Main
- Abandoned Main

- Maintenance Shaft
- Inspection Shaft
- Node / Valve
- Hydrant



Greater Western Water  
 36 Macedon St.  
 Sunbury  
 Locked Bag 350  
 Sunshine  
 VIC 3020  
 Ph: 134 499  
[www.gww.com.au](http://www.gww.com.au)

Disclaimer : The location of assets must be proved in the field prior to the commencement of work. A separate plan showing asset labels should be obtained for any proposed works. These plans do not indicate private services. Greater Western Water Corporation does not guarantee and makes no representation or warranty as to the accuracy or scale of this plan. This corporation accepts no liability for any loss, damage or injury by any person as a result of any inaccuracy in this plan.

# Property Clearance Certificate

## Land Tax



INFOTRACK / SETTLED LAW PTY LTD

**Your Reference:** 26-162548

**Certificate No:** 99365766

**Issue Date:** 27 MAY 2026

**Enquiries:** ESYSPROD

**Land Address:** 28 BIRREGURRA DRIVE TARNEIT VIC 3029

Land Id	Lot	Plan	Volume	Folio	Tax Payable
49453103	1104	826705	12433	236	\$0.00

**Vendor:** ERTAN KUVANCI

**Purchaser:** FOR INFORMATION PURPOSES

Current Land Tax	Year Taxable Value (SV)	Proportional Tax	Penalty/Interest	Total
MR ERTAN KUVANCI	2026	\$325,000	\$1,425.00	\$0.00

**Comments:** Land Tax of \$1,425.00 has been assessed for 2026, an amount of \$1,425.00 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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Arrears of Vacant Residential 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): \$570,000

SITE VALUE (SV): \$325,000

**CURRENT LAND TAX AND  
VACANT RESIDENTIAL LAND TAX  
CHARGE: \$0.00**

# Notes to Certificate - Land Tax

Certificate No: 99365766

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## 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 = \$1,425.00

Taxable Value = \$325,000

Calculated as \$1,350 plus ( \$325,000 - \$300,000) multiplied by 0.300 cents.

VACANT RESIDENTIAL LAND TAX CALCULATION

Vacant Residential Land Tax = \$5,700.00

Taxable Value = \$570,000

Calculated as \$570,000 multiplied by 1.000%.

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## Land Tax - Payment Options

### BPAY



Billers Code: 5249  
Ref: 99365766

### Telephone & Internet Banking - BPAY®

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

[www.bpay.com.au](http://www.bpay.com.au)

### CARD



Ref: 99365766

### Visa or Mastercard

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

[sro.vic.gov.au/paylandtax](http://sro.vic.gov.au/paylandtax)

# Property Clearance Certificate

## Commercial and Industrial Property Tax



INFOTRACK / SETTLED LAW PTY LTD

Your Reference: 26-162548

Certificate No: 99365766

Issue Date: 27 MAY 2026

Enquires: ESYSPROD

Land Address: 28 BIRREGURRA DRIVE TARNEIT VIC 3029

Land Id	Lot	Plan	Volume	Folio	Tax Payable
49453103	1104	826705	12433	236	\$0.00

AVPCC	Date of entry into reform	Entry interest	Date land becomes CIPT taxable land	Comment
110	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: \$570,000

SITE VALUE: \$325,000

CURRENT CIPT CHARGE: \$0.00

# Notes to Certificate - Commercial and Industrial Property Tax

Certificate No: 99365766

## 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](http://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 / SETTLED LAW PTY LTD

**Your Reference:** 26-162548

**Certificate No:** 99365766

**Issue Date:** 27 MAY 2026

**Land Address:** 28 BIRREGURRA DRIVE TARNEIT VIC 3029

Lot	Plan	Volume	Folio
1104	826705	12433	236

**Vendor:** ERTAN KUVANCI

**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: 99365766

## 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><b>BPAY</b></p>  <p>Billers Code: 416073 Ref: 99365769</p> <p><b>Telephone &amp; Internet Banking - BPAY®</b></p> <p>Contact your bank or financial institution to make this payment from your cheque, savings, debit or transaction account.</p> <p><a href="http://www.bpay.com.au">www.bpay.com.au</a></p>	<p><b>CARD</b></p>  <p>Ref: 99365769</p> <p><b>Visa or Mastercard</b></p> <p>Pay via our website or phone 13 21 61. A card payment fee applies.</p> <p><a href="http://sro.vic.gov.au/payment-options">sro.vic.gov.au/payment-options</a></p>	<p><b>Important payment information</b></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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Civic Centre 45 Princes Highway, Werribee, Victoria 3030, Australia  
Postal PO Box 197, Werribee, Victoria 3030, Australia

Telephone (03) 1300 023 411  
Facsimile (03) 9741 6237  
Email mail@wyndham.vic.gov.au  
www.wyndham.vic.gov.au

DX 30258 Werribee Vic  
ABN: 38 393 903 860

Your Ref: 727724

Our Ref: w2026C56728

27 May 2026

Landata  
DX 250639  
MELBOURNE VIC

Dear Sir/Madam,

**BUILDING PERMIT HISTORY**  
**PROPERTY: 28 Birregurra Drive TARNEIT VIC 3029**

A search of Building Services records for the preceding 10 years has revealed the following building history.

Permit No	Building Type	Permit Date	Occupancy/Final No.	Occupancy/Final Date
4965600721389	Construction of a New Single Dwelling & Associated Garage	01/02/2023	4965600721389	10/11/2023

**Determinations made under Regulation 64(1) or exemptions granted under regulation 231(2)**

Council has no records of any determinations or exemptions granted. Check current Building or Occupancy Permits for these details.

**Outstanding orders or notices**

Our records show that there are no outstanding notices or orders under the Building Regulations. However, it is to be noted that we have not conducted an inspection of the property in regard to this enquiry and that this does not preclude Council from taking action on any illegal building works subsequently identified.

**Make your own enquiries**

The information supplied in this letter is based solely on current Building Services records. We have made no enquiries beyond consulting these records. Consequently we recommend that you make your own enquiries for any specific details you may require.

**Personal safety**

In the interests of personal safety, we also remind you that:

- All residential properties with existing swimming pools or spas must have compliant safety pool fencing
- If smoke alarms have not been installed in a residential property, they must be installed by the new owner within 30 days of property settlement.

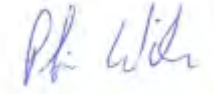
**Failure to comply with either of these requirements may result in significant fines and Court prosecution.**

**Disclaimer**

We expressly disclaim any liability for loss, however occasioned from reliance upon the information herein.

If you have any questions about this letter, please contact Building Services on (03) 9742 0716 or email [mail@wyndham.vic.gov.au](mailto:mail@wyndham.vic.gov.au).

Yours faithfully,

A handwritten signature in blue ink, appearing to read "Philip Wilson".

**PHILIP WILSON**  
**CO ORDINATOR BUILDING SERVICES**



Opes Building Solutions  
ABN: 93613 578 493  
PO BOX 362, GLENROY, VIC, 3046  
Tel: (03) 9304 4412  
Email: admin@opesbs.com.au  
Website: www.opesbs.com.au

Project Number: 20224058

FORM 2

Building Act 1993  
Building Regulations 2018 - Regulation 37(1)  
Building Permit No. CBS-U 66127/4965600721389

Issue to

Agent of Owner: Aziz Bas  
Postal Address: 13/27 Graystone Court, EPPING VIC  
Email: [info@othogroup.com](mailto:info@othogroup.com)  
*Address for serving or giving of documents:*  
13/27 Graystone Court, EPPING VIC  
Contact Person: Aziz Bas

Postcode: 3076  
Telephone: 0432 544 400  
Postcode: 3076  
Telephone: 0432 544 400

Ownership Details

Owner: Ertan Kuvanci  
Postal Address: 3 Ivy Close, DERRIMUT VIC  
Email: [info@tunedbyanton.com](mailto:info@tunedbyanton.com)  
Contact Person: Ertan Kuvanci

Postcode: 3026  
Telephone: 0411 390 495

Property Details

Number: 28 Street/Road: Birregurra Drive Suburb: Tarneit Postcode: 3029  
Lot/s: 1104 LP/PS: 826705E Volume: 12433 Folio: 236  
CA: C (part) Section No: 15 Parish: Tarneit County: n/a  
Municipal District: Wyndham City Council

Builder

Name: Aziz Bas  
Telephone: 0432 544 400  
Registration no.: DB-U 47404 Domestic Builder - Unlimited  
Postal Address: 13/27 Graystone Court, EPPING VIC  
Postcode: 3076

This builder is specified under section 24B [4a] of the Building Act 1993 for the building work to be carried out under this permit.

Building practitioner or architect engaged to prepare documents for this permit

Name	Category/class	Registration Number
Sina Yucel	Draftsperson - Building Design (Architectural)	DP-AD 39426
Lei Yi	Engineer Civil	PE0002719

Details of Domestic Building Work Insurance

Name of Builder: Aziz Bas  
Name of Issuer or Provider: Insurance House Pty Ltd  
Policy Number: C761905  
Policy cover: \$300,000.00

Nature of Building Work

Construction of a New Single Dwelling & Associated Garage  
Storeys contains: 1  
Version of BCA applicable to permit: BCA Vol.2 2019  
Stage of Building Work Permitted: Entire - Dwelling & Garage  
Cost of Building Work: \$350,000.00  
Total floor area of new building work m<sup>2</sup>: 211

## BCA Classification

Part of Building: Dwelling

Class: 1a(a)

Part of Building: Associated Garage

Class: 10a

## Performance Solution

A performance solution was used to determine compliance with the following performance requirements of the BCA that relate to the building to which this permit applies:

Relevant performance requirement	Details of performance solution
P2.6.1 / Part 3.12.0	To permit use of reticulated Class A recycled water in lieu of providing a solar hot water system or rainwater tank connected to sanitary flushing facilities as prescribed within BCA Vol 2.

## Prescribed Reporting Authorities

The following bodies are Prescribed Reporting Authorities for the purpose of the application for this permit in relation to the matters set out below:

Matter Reported On	Regulation	Reporting Authority
Legal Point of Discharge	Regulation 133 (2)	Wyndham City Council

## Protection Work

Protection work is not required in relation to the building work proposed in this permit.

## Inspection Requirements

The mandatory inspection notification stages are:

1. Pre-Slab Inspection
2. Slab-Steel Inspection
3. Frame Inspection
4. Final Inspection

Occupation or User of Building: An occupancy permit is required prior to the occupation or use of this building.

If an occupancy permit is required, the permit is required for the building in relation to which the building work is carried out.

## Commencement and Completion

This building work must commence by 01 February 2024

If the building work to which this building permit applies is not commenced by this date, this building permit will lapse unless an extension is applied for and granted by the relevant building surveyor before this date under regulation 59 of the Building Regulations 2018.

This building work must be completed by 01 February 2025

If the building work to which this building permit applies is not completed by this date this building permit will lapse, unless an extension is applied for and granted by the relevant building surveyor before this date under regulation 59 of the Building Regulations 2018.

## Conditions and required Certificates

This building permit is issued subject to compliance with all the conditions as listed in attached Annexures (Appendix)

## Relevant Building Surveyor

Name: Opes Permits Pty Ltd  
Address: 824 Pascoe Vale Road, GLENROY VIC 3046  
Email: [admin@opesbs.com.au](mailto:admin@opesbs.com.au)  
Building practitioner registration no.: CBS-U 66127  
Municipal district: Wyndham City Council

## Designated Building Surveyor

Name: Oktay Ozcelik  
Permit no.: CBS-U 66127/4965600721389  
Building practitioner registration no.: BS-L 72286  
Date of issue of permit: 01 February 2023  
Signature:



FORM 16  
Regulation 192  
Building Act 1993  
Building Regulations 2018

Occupancy Permit  
Project Number: 20224058

**OCCUPANCY PERMIT**  
For Building Permit No. CBS-U 66127/4965600721389

**Property Details**

Address: 28 Birregurra Drive, Tarneit Vic 3029  
Lot: 1104 LP/PS: 826705E Section: 15  
CA: C (part) Volume: 12433 Folio: 236  
Municipality: Wyndham City Council Parish: Tarneit County: n/a

**Building permit details**

Building permit number: CBS-U 66127/4965600721389  
Version of BCA applicable to building permit: BCA Vol.2 2019

**Building Details**

Part of building to which permit applies: Entire - Dwelling & Associated Garage  
Permitted Use: Residential  
BCA Class of building: 1a(a), 10a  
Maximum Permissible Floor Live Load: Dwelling Floor 1.5 kPa & Roof 0.25 kPa  
Garage Floor 2.5 kPa & Roof 0.25 kPa  
Storeys contained: 1

**Performance Solutions**

A performance solution was used to determine compliance with the following performance requirements of the BCA that relate to the building to which this permit applies:

Relevant performance requirement	Details of performance solution
P2.6.1 / Part 3.12.0	To permit use of reticulated Class A recycled water in lieu of providing a solar hot water system or rainwater tank connected to sanitary flushing facilities as prescribed within BCA Vol 2.
P2.2.1, P2.2.2 & P2.2.3	To allow for a reduce threshold to external surface area of entry and pavement abutting door thresholds of dwelling

**Reporting Authority**

The following bodies are reporting authorities for the purposes of the application for this permit in relation to the matters set out below:

Matter Reported On	Regulation	Reporting Authority
Legal Point of Discharge	Regulation 133 (2)	Wyndham City Council

**Suitability of Occupation**

The building to which this permit applies is suitable for occupation.

**Date of Approved Inspection:**

Pre-Slab Inspection: 21/02/2023  
Slab-Steel Inspection: 23/02/2023  
Frame Inspection: 28/03/2023  
Final Inspection: 24/10/2023

**Relevant Building Surveyor:**

Name: Oktay Ozcelik  
Address: PO BOX 2042, Oak Park VIC 3046  
Email: [admin@opesbs.com.au](mailto:admin@opesbs.com.au)  
Building practitioner registration no.: BS-L 72286  
Municipal district name: Wyndham City Council  
Certificate no: CBS-U 66127/4965600721389 - Occupancy Permit  
Date of issue: 10 November 2023  
Date of final inspection: 24 October 2023  
Signature:



## Domestic Building Insurance

## Certificate of Insurance

**Ertan Kuvanci**

**3 Ivy Ct  
DERRIMUT  
VIC 3026**

Policy Number:

**C761905**

Policy Inception Date:

**24/01/2023**

Builder Account Number:

**087369**

A contract of insurance complying with the Ministerial Order for Domestic Building Insurance issued under Section 135 of the Building Act 1993 (Vic) (Domestic Building Insurance) has been issued by the insurer Victorian Managed Insurance Authority a Statutory Corporation established under the Victorian Managed Insurance Authority Act 1996 (Vic), in respect of the domestic building work described below.

### Policy Schedule Details

Domestic Building Work: **C01: New Single Dwelling Construction**

At the property: **28 Birregurra Dr TARNEIT VIC 3029 Australia**

Carried out by the builder: **AZIZ BAS**

Builder ABN: **49531962836**

**!** If the builder's name and/or its ABN/ACN listed above does not exactly match with the information on the domestic building contract, please contact the VMIA. If these details are incorrect, the domestic building work will not be covered.

For the building owner(s): **Ertan Kuvanci**

Pursuant to a domestic building contract dated: **21/11/2022**

For the contract price of: **\$ 350,000.00**

Type of Cover: **Cover is only provided if AZIZ BAS has died, becomes insolvent or has disappeared or fails to comply with a Tribunal or Court Order \***

The maximum policy limit for claims made under this policy is: **\$300,000 all inclusive of costs and expenses \***

The maximum policy limit for non-completion claims made under this policy is: **20% of the contract price limited to the maximum policy limit for all claims under the policy\***

### PLEASE CHECK

If the information on this certificate does not match what's on your domestic building contract, please contact the VMIA immediately on 1300 363 424 or email [dbi@vmia.vic.gov.au](mailto:dbi@vmia.vic.gov.au)

### IMPORTANT

This certificate must be read in conjunction with the policy terms and conditions and kept in a safe place. These documents are very important and must be retained by you and any successive owners of the property for the duration of the period of cover.

\* The cover and policy limits described in this certificate are only a summary of the cover and limits and must be read in conjunction with, and are subject to the terms, conditions, limitations and exclusions contained in the policy terms and conditions.

### Period of Cover

Cover commences on the earlier of the date of the domestic building contract or date of building permit for the domestic building work and concludes:

- Two years from completion of the domestic building work or termination of the domestic building contract for non structural defects\*
- Six years from completion of the domestic building work or termination of the domestic building contract for structural defects\*

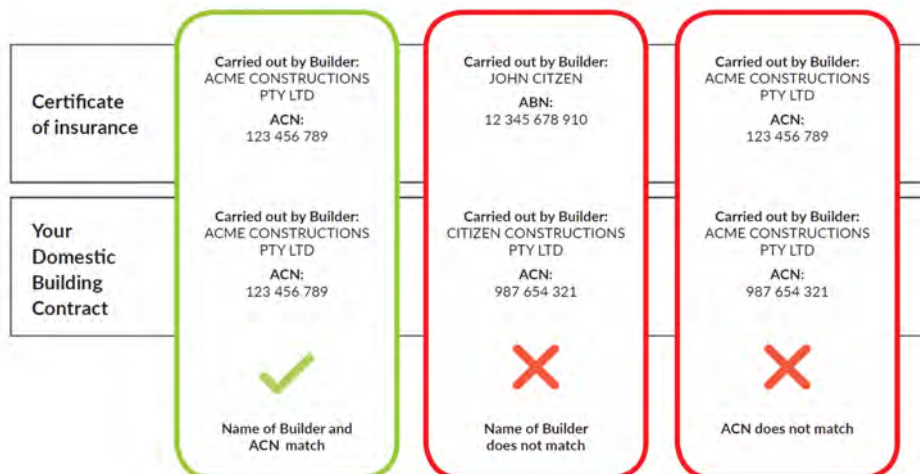
Subject to the Building Act 1993, and the Ministerial Order and the conditions of the insurance contract, cover will be provided to the building owner named in the domestic building contract and to the successors in title to the building owner in relation to the domestic building work undertaken by the Builder.

Issued by Victorian Managed Insurance Authority (VMIA)

### Domestic Building Insurance Premium and Statutory Costs

Base DBI Premium:	<b>\$1,728.00</b>
GST:	<b>\$172.80</b>
Stamp Duty:	<b>\$190.08</b>
<b>Total:</b>	<b>\$2,090.88</b>

**If the information on the certificate does not match exactly what is on your domestic building contract, please contact VMIA on 1300 363 424**  
*Below are some example of what to look for*



From [www.planning.vic.gov.au](http://www.planning.vic.gov.au) at 04 June 2026 02:11 PM

## PROPERTY DETAILS

Address: **28 BIRREGURRA DRIVE TARNEIT 3029**  
 Lot and Plan Number: **Lot 1104 PS826705**  
 Standard Parcel Identifier (SPI): **1104\PS826705**  
 Local Government Area (Council): **WYNDHAM**  
 Council Property Number: **259231**  
 Planning Scheme: **Wyndham**  
 Directory Reference: **Melway 234 E3**

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

[Planning Scheme - Wyndham](#)

## UTILITIES

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

## STATE ELECTORATES

Legislative Council: **WESTERN METROPOLITAN**  
 Legislative Assembly: **TARNEIT**  
**OTHER**  
 Registered Aboriginal Party: **Bunurong Land Council  
 Aboriginal Corporation**  
 Fire Authority: **Fire Rescue Victoria & Country  
 Fire Authority**

[View location in VicPlan](#)

## Note

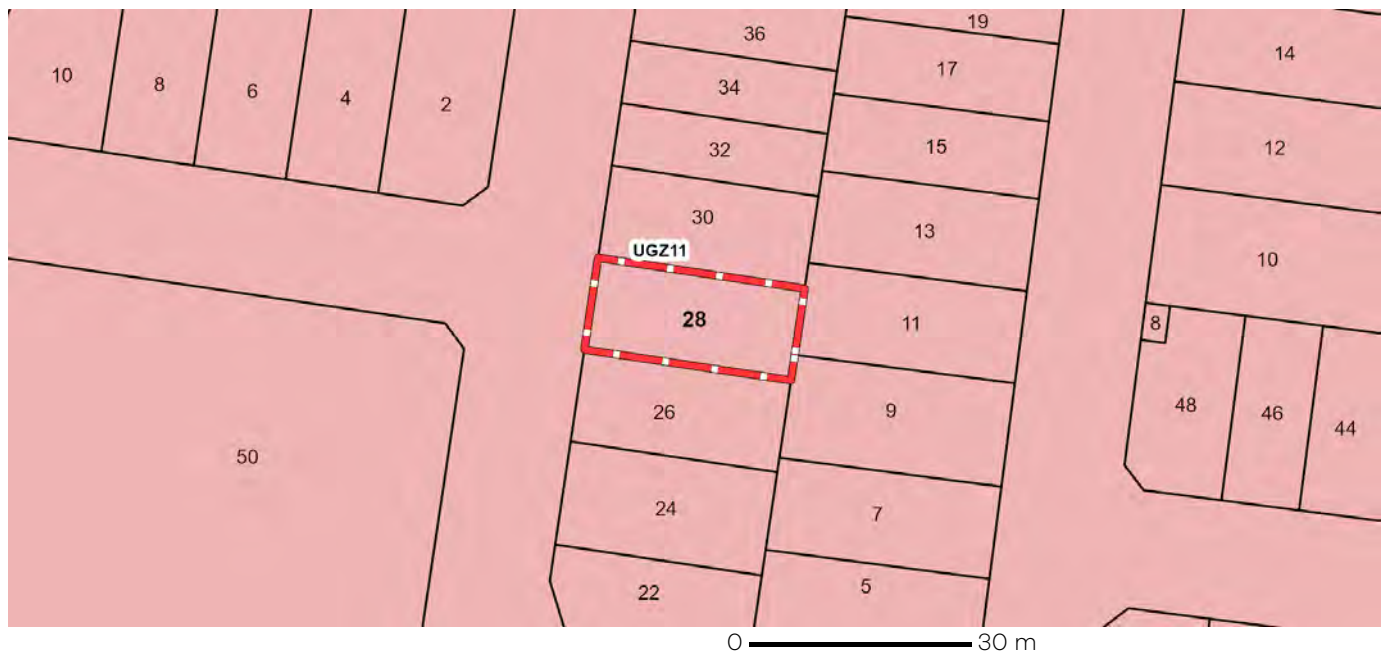
**This land is in an area added to the Urban Growth Boundary after 2005. It may be subject to the Growth Area Infrastructure Contribution.**

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

## Planning Zones

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

[URBAN GROWTH ZONE - SCHEDULE 11 \(UGZ11\)](#)



**UGZ - Urban Growth**

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

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

Notwithstanding this disclaimer, a vendor may rely on the information in this report for the purpose of a statement that land is in a bushfire prone area as required by section 32C (b) of the Sale of Land 1962 (Vic).

## Planning Overlay

[DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY \(DCPO\)](#)

[DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY - SCHEDULE 13 \(DCPO13\)](#)



 **DCPO - Development Contributions Plan Overlay**

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

## Growth Area Infrastructure Contribution

This property is in an area added to the Urban Growth Boundary after 2005. It may be subject to the Growth Area Infrastructure Contribution. For more information about this contribution go to [Victorian Planning Authority](#)



 **Land added to the UGB since 2005**

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Notwithstanding this disclaimer, a vendor may rely on the information in this report for the purpose of a statement that land is in a bushfire prone area as required by section 32C (b) of the Sale of Land 1962 (Vic).

## Melbourne Strategic Assessment

This property 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/>



## 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 28 May 2026.

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/>

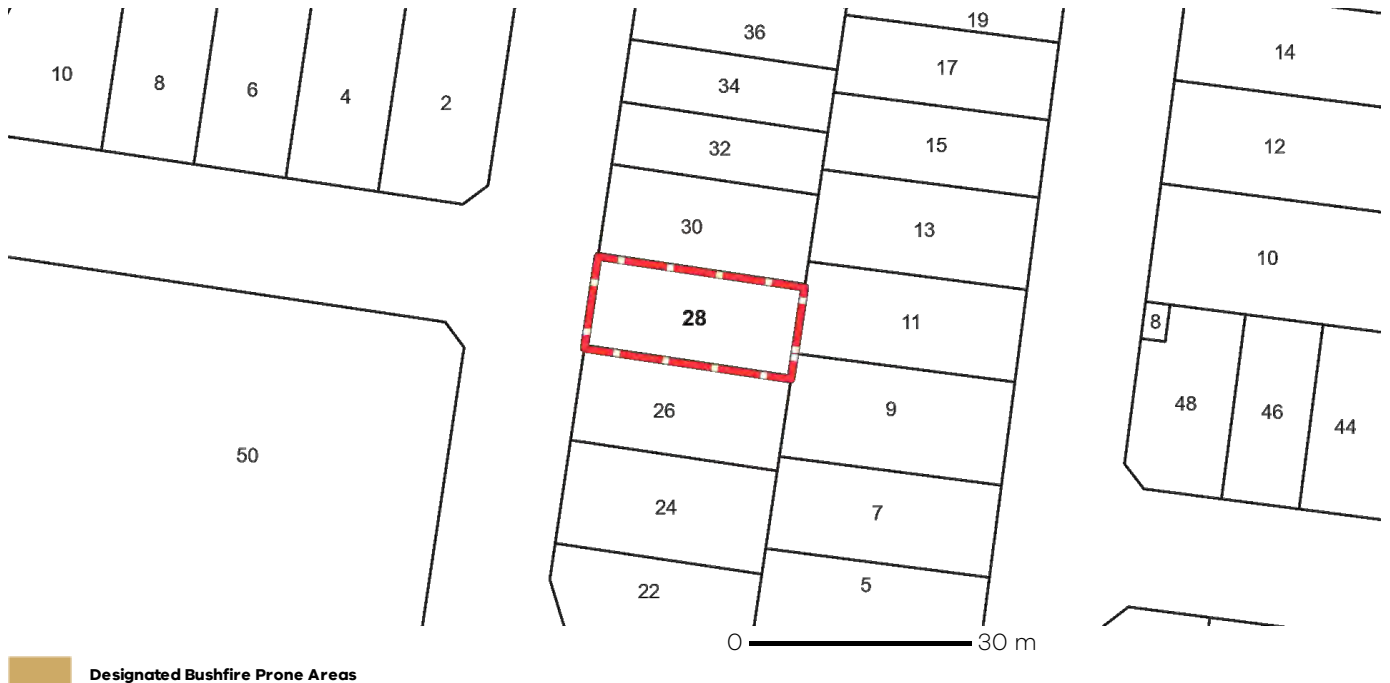
For other information about planning in Victoria visit <https://www.planning.vic.gov.au>

## 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 \(environment.vic.gov.au\)](#)

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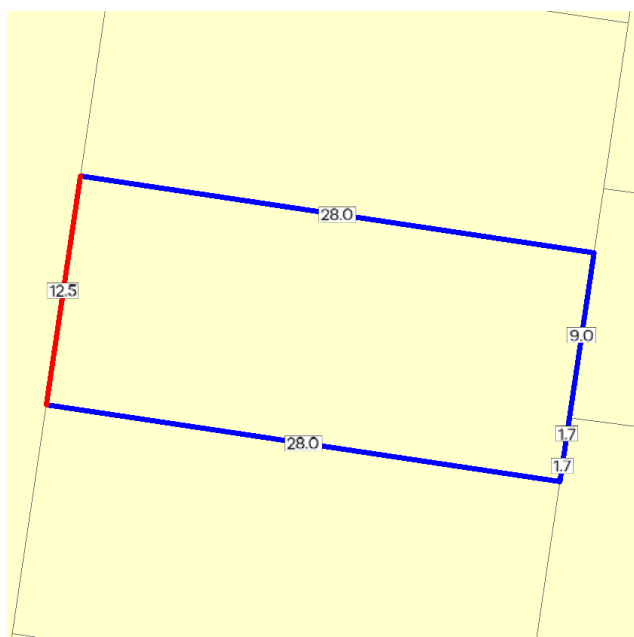
## PROPERTY DETAILS

Address: **28 BIRREGURRA DRIVE TARNEIT 3029**  
Lot and Plan Number: **Lot 1104 PS826705**  
Standard Parcel Identifier (SPI): **1104\PS826705**  
Local Government Area (Council): **WYNDHAM**  
Council Property Number: **259231**  
Directory Reference: **Melway 234 E3**

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

## SITE DIMENSIONS

All dimensions and areas are approximate. They may not agree with those shown on a title or plan.



**Area:** 350 sq. m

**Perimeter:** 81 m

For this property:

— Site boundaries

— Road frontages

Dimensions for individual parcels require a separate search, but dimensions for individual units are generally not available.

Calculating the area from the dimensions shown may give a different value to the area shown above

For more accurate dimensions get copy of plan at

[Title and Property Certificates](#)

## UTILITIES

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

## STATE ELECTORATES

Legislative Council: **WESTERN METROPOLITAN**  
Legislative Assembly: **TARNEIT**

## PLANNING INFORMATION

Property Planning details have been removed from the Property Reports to avoid duplication with the Planning Property Reports from the Department of Transport and Planning which are the authoritative source for all Property Planning information.

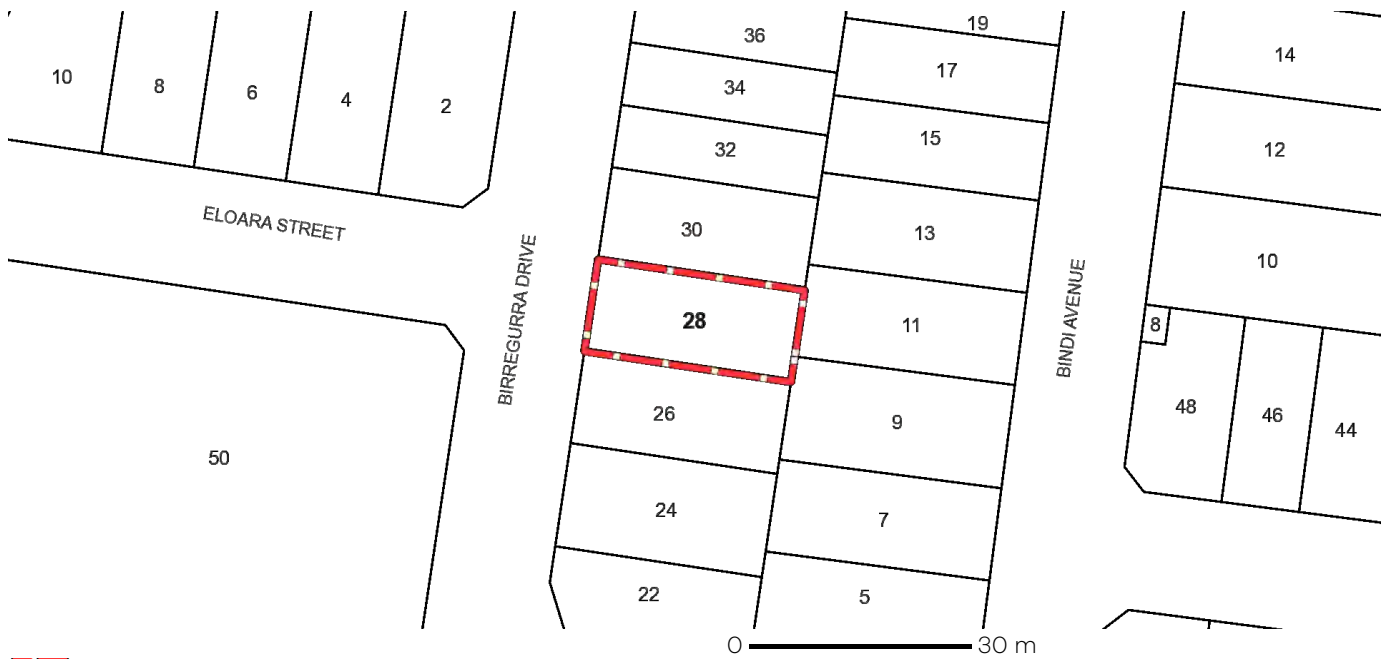
The Planning Property Report for this property can found here - [Planning Property Report](#)

Planning Property Reports can be found via these two links

**Vicplan** <https://mapshare.vic.gov.au/vicplan/>

**Property and parcel search** <https://www.land.vic.gov.au/property-and-parcel-search>

## Area Map



 Selected Property