

SPECIAL CONDITIONS included in Contract of Sale
BETWEEN
Brendan John Fryar and Natalie Rae Fryar as Vendors
And
As Purchaser

SPECIAL CONDITIONS:

1. GST Withholding

- 1A 1.** Words and expression defined or used in Subdivision 14-E of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* or in *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* have the same meaning in the Special Condition unless the context requires otherwise. Words and expression first used in the Special Condition and shown in italics and marked with an asterisk are defined or described in at least one of those Acts.
- 1A 2.** This Special Condition 1A applies if the purchaser is requires to pay the Commissioner an *amount in accordance with section 14-250 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* because the property is *new residential premises or *potential residential land in either case falling within the parameters of that section, and also if the sale attracts the operation of section 14-255 of the legislation. Nothing in this Special Condition 1A is to be taken as relieving the Vendor from compliance with Section 14-255.
- 1A 3.** The amount is to be deducted from the Vendor's entitlement to the contract*consideration and is then taken to be paid to the Vendor, whether or not the Vendor provides the Purchaser with a GST Withholding notice in accordance with section 14-255 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*. The Vendor must pay to the purchaser at settlement such part of the amount as is represented by nonmonetary consideration.
- 1A 4.** 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 Special Condition; an
 - (b) Ensure that the representative does so.
- 1A 5.** 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 monies under the control or direction of the representative in accordance with this Special 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 top the Commissioner relating to payment; and
 - (c) Otherwise comply, or ensure compliance, with this Special 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.

1A 6. The representative is taken to have complied with the requirements of special condition 1A.5 if:

- (a) Settlement is conducted through the electronic conveyancing system operated by Property Exchange Australia Ltd or any other electronic conveyancing system agreed by the parties; and
- (b) The amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.

1A 7. The Purchaser may at settlement give the vendor a bank cheque for the amount in accordance with section 16-30 (3) of Schedule 1 to the Taxation Administration Act 1953 (Cth), but only if:

- (a) So agreed by the vendor in writing; and
- (b) The settlement is not conducted through an electronic settlement system described in special condition 1A.6.

However, if the purchaser gives the bank cheque in accordance with this special condition 1A.7, 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.

1A 8. The Vendor must provide the purchaser with a GST withholding notice in accordance with section 14-255 of Schedule 1 to the Taxation Administration Act 1953 (Cth) at least 14 days before the due date for settlement.

1A 9. A party must provide the other party with such information as the other party requires to:

- (a) Decide if an amount is required to be paid or the quantum of it, or
- (b) Comply with the purchaser's obligation to pay the amount,
In accordance with section 14-250 of Schedule 1 to the Taxation Administration Act 1953 (Cth). The party providing the information warrants that it is true and correct.

1A 10. The Vendor warrants that:

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

1A 11. The purchaser is responsible for any penalties or interest payable to the Commissioner on account of non-payment or late payment of the amount, except to the extent that:

- (a) The penalties or interest arise from the vendor's failure, including breach of a warranty in special condition 1A 10; or
- (b) The purchaser's reasonable belief that the property is neither new residential premises nor potential residential land requiring the purchaser to pay an amount to the Commissioner in accordance with section 14-250 (1) of Schedule 1 to the Taxation Administration Act 1953 (Cth).

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

1A 12. This special condition will not merge on settlement.

2. Whole Agreement:

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

3. Representation and Warranty as to Building:

The Purchaser acknowledges that the Vendor has not, nor has anyone on the Vendor's behalf, made any representation or warranty as to the fitness for any particular purpose or otherwise of the property or that any structures comply with the current or any building regulations and the Purchaser expressly releases the Vendor and/or the Vendor's agent from any claims demands in respect thereof.

4. Planning:

The property is sold subject to any restriction as to user imposed by law or by an authority with power under any legislation to control the use of land. Any such restriction shall not constitute a defect in title or a matter of Title or effect the validity of this Contract and the Purchaser shall not make any requisition or objection or claim or be entitled to compensation or damages from the Vendor in respect thereof.

5. Director's Guarantee and Warranty:

In the event that the Purchaser is a corporate entity then the Director/s signing on behalf of the Corporate Purchaser shall execute the Contract and shall warrant that same is done lawfully in accordance with the Articles of Association of the Purchaser Company and further shall cause either the Sole Director or at least two Directors of the Purchaser Company to execute the form of Guarantee and Indemnity annexed hereto.

The following Guarantee shall be executed by each person who executed this Contract for and on behalf of the Purchaser (if not the same person) and by each Director of the Purchaser (if the Purchaser is a Corporation):

GUARANTEE and INDEMNITY

I/We, of

and of

being the Sole Director / Directors of ACN.....

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

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

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

this day of 20.....

SIGNED SEALED AND DELIVERED by the said

Print Name.....

in the presence of:

Witness.....

Director (Sign)

SIGNED SEALED AND DELIVERED by the said

Print Name.....

in the presence of:

Witness.....

Director (Sign)

**Vendors Statement to the Purchaser of Real Estate
Pursuant to Section 32 of the Sale of Land Act ("the Act")**

This document is prepared from a precedent intended solely for use by legal practitioners with the knowledge, skill and qualifications required to use the precedent to create a document suitable to meet the vendor's legal obligation to give certain statements and documents to a purchaser before the purchaser signs a contract to purchase the land. This document incorporates the requirements in section 32 of the *Sale of Land Act 1962* as at 1 October 2014.

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.

PROPERTY: 79 McEdward Street, Birdwoodton

VENDOR'S NAME: Brendan John Fryar and Natalie Rae Fryar

VENDOR'S SIGNATURE:  

DATE: 2.9.2020

PURCHASER'S NAME:

PURCHASER'S SIGNATURE:

DATE:

**VENDORS STATEMENT TO THE PURCHASER OF REAL ESTATE
PURSUANT TO SECTION 32 OF THE SALE OF LAND ACT ("the Act")**

Vendor: Brendan John Fryar and Natalie Rae Fryar
Of 79 McEdward Street, BIRDWOODTON, VIC, 3505

Property: 79 McEdward Street, Birdwoodton
BEING Lot 1 on Plan of Subdivision No. 629656P
AND BEING the land contained in Certificate of Title
Volume 11193 Folio 338

1. Financial matters in respect of the land

Information concerning the amount of Rates, Taxes, Charges and other similar outgoings affecting the property and interest (if any) payable thereon (including any Owners Corporation Charges and Interest):

(a) Are as follows:

<u>Authority</u>	<u>Amount</u>	<u>Interest</u>
1. Mildura Rural City Council	\$2,750.75 per annum 2019/2020	
2. Lower Murray Water- Urban	\$ 52.09 per quarter 2020/2021 (tariff only)	

Any further amounts (including any proposed Owners Corporation Levy) for which the Purchaser may become liable as a consequence of the purchase of the property are as follows: Usual Adjustment of outgoings and water by measure

(a) ~~Their total does not exceed \$~~

(b) ~~The particulars of any Charge (whether registered or not) over the property imposed by or under any Act to secure an amount due under that Act are as follows:~~

(c) ~~The Purchaser may be liable for ongoing Lower Murray Water charges that are applicable to water righted land. Refer to information statement attached hereto for information.~~

(d) ~~The parties acknowledge that the Purchaser will be responsible for the payment of any charges and fees in relation to continuing the Lower Murray Water Authority water connection and also the installation and supply of a Lower Murray Water meter (if required).~~

2. Insurance details in respect of the land

(a) If the contract provides that the land does not remain at the vendor's risk before the purchaser is entitled to possession or receipt of rents and profits:

No such insurance has been effected
~~Particulars of vendor's insurance policy:~~

(b) If there is a residence on the land which was constructed within the preceding 6 years and section 137B of the **Building Act 1993** applies to the residence:

No such insurance has been effected.
~~Particulars of vendor's required insurance:~~

3. Matters relating to land use

- (a) Information concerning any easement, covenant or similar restriction affecting the property, registered or unregistered, are as follows:
 - (i) Description: see attached copy Title
 - (ii) Particulars of any existing failure to comply with the terms of that easement, covenant and/or restriction are as follows: None known to the Vendors
- (b) This land is within a bushfire prone area within the meaning of the regulations made under the *Building Act 1993*
- (c) There is access to the property by road.
- (d) In the case of land to which a planning scheme applies a statement specifying—
 - (i) name of the planning scheme: See attached
 - (ii) name of the responsible authority: See attached
 - (iii) zoning of the land: See attached
 - (iv) name of any planning overlay affecting the land: See attached
 - (v) Salinity – See attached

4. Notices made in respect of land

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

Is contained in the attached certificate/s and/or statement/s.

~~Is as follows:~~

~~None to the Vendor's knowledge~~

- (b) Whether there are any notices, property management plans, reports or orders in respect of the land issued by a government department or public authority in relation to livestock disease or contamination by agricultural chemicals affecting the ongoing use of the land for agricultural purposes:

~~Is contained in the attached certificate/s and/or statement/s.~~

~~Is as follows:~~

~~None to the Vendor's knowledge~~

- (c) Particulars of any notice of intention to acquire served under section 6 of the *Land Acquisition and Compensation Act 1986*.

~~Is contained in the attached certificate/s and/or statement/s.~~

~~Is as follows:~~

~~None to the Vendor's knowledge~~

5. Building permits

Particulars of any building permit issued during the past seven years under the *Building Act 1993* (where the property includes a Residence):

~~No such Building permit has been granted to the Vendor's knowledge~~

Is contained in the attached certificate/s.

~~Is as follows:~~

6. Information relating to any Owners Corporation

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

~~(a) Unless paragraph (b) below applies—~~

~~either—~~

~~(A) specify the information prescribed for the purposes of section 151(4)(a) of the *Owners Corporations Act 2006* relating to the Owners Corporation; or~~

~~(B) (i) attach a copy of the current Owners Corporation certificate issued in respect of the land under section 151 of the *Owners Corporations Act 2006*; and~~

~~(ii) attach a copy of the documents specified in section 151(4)(b)(i) and (iii) of the *Owners Corporations Act 2006* that are required to accompany an Owners Corporation certificate under that Act; or~~

~~(c) If the Owners Corporation is inactive, specify the Owners Corporation is inactive as the Owners Corporation HAS NOT in the previous 15 months:—~~

~~(i) had an annual general meeting;~~

~~(ii) fixed any fees; and~~

~~(iii) held any insurance.~~

7. Growth areas infrastructure contribution

There is not a work-in-kind agreement (within the meaning of Part 9B of the *Planning and Environment Act 1987*) –

~~Particulars of work-in-kind agreement:~~

~~Is contained in the attached certificate/s and / or notice/s:~~

8. Disclosure of non-connected services

The following services are not connected to the land—

~~(a) electricity supply;~~

(b) gas supply; Bottled Gas

~~(c) water supply;~~

(d) sewerage; Septic

(e) telephone services.

9. Evidence of title

Attached are copies of the following document/s concerning Title:

- (a) in the case of land under the *Transfer of Land Act 1958*, a copy of the Register Search Statement and the document, or part of the document, referred to as the diagram location in the Register Search Statement that identifies the land and its location;
- ~~(b) in any other case, a copy of—~~
 - ~~(i) the last conveyance in the chain of title to the land; or~~
 - ~~(ii) any other document which gives evidence of the vendor's title to the land;~~
- ~~(c) if the vendor is not the registered proprietor of the land or the owner of the estate in fee simple in the land, evidence of the vendor's right or power to sell the land;~~
- ~~(d) in the case of land that is subject to a subdivision—~~
 - ~~(i) if the plan of subdivision has not been registered, a copy of the plan of subdivision which has been certified by the relevant municipal council; or~~
 - ~~(ii) if the plan of subdivision has not yet been certified, a copy of the latest version of the plan;~~
- ~~(e) In the case of land that is part of a staged subdivision within the meaning of Section 37 of the Subdivision Act 1988—~~
 - ~~(i) If the land is in the second or a subsequent stage, a copy of the plan for the first stage; and~~
 - ~~(ii) Details of any requirements in a statement of compliance relating to the stage in which the land is included that have not been complied with; and~~
 - ~~(iii) Details of any proposals relating to subsequent stages that are known to the vendor; and~~
 - ~~(iv) A statement of the contents of any permit under the Planning and Environment Act 1987 authorising the staged subdivision.~~
- ~~(f) In the case of land that is subject to a subdivision and in respect of which a further plan within the meaning of the Subdivision Act 1988 is proposed—~~
 - ~~(i) If the later plan has not been registered, a copy of the plan which has been certified by the relevant municipal council; or~~
 - ~~(ii) If the later plan has not yet been certified, a copy of the latest version of the plan.~~

10. 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 the 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 but the checklist has been attached as a matter of convenience.

IMPORTANT NOTICE – ADDITIONAL DISCLOSURE REQUIREMENTS:

Where the property is to be sold subject to a Mortgage that is not to be discharged by the date of possession (or receipt of rents and profits) of the property and/or sold on Terms – the Vendor must provide an additional Statement containing the particulars specified in Schedules 1 and 2 of the Act.

Where the land is to be sold pursuant to a terms contract which obliges the purchaser to make two or more payments to the vendor after the execution of the contract and before the purchaser is entitled to a conveyance or transfer of the land, then the vendor must provide an additional statement containing the information specified in Schedule 2 of the Sale of Land Act 1962.

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

VOLUME 11193 FOLIO 338

Security no : 124085230858R
Produced 01/09/2020 11:23 AM

LAND DESCRIPTION

Lot 1 on Plan of Subdivision 629656P.
PARENT TITLE Volume 10725 Folio 110
Created by instrument PS629656P 24/03/2010

REGISTERED PROPRIETOR

Estate Fee Simple
Joint Proprietors
BRENDAN JOHN FRYAR
NATALIE RAE FRYAR both of 79 MCEDWARD STREET BIRDWOODTON VIC 3505
AH459049A 27/08/2010

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AM345691S 23/11/2015
VICTORIA TEACHERS LTD

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

AGREEMENT Section 173 Planning and Environment Act 1987
AG955338K 05/01/2010

DIAGRAM LOCATION

SEE PS629656P 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: 79 MCEDWARD STREET BIRDWOODTON VIC 3505

DOCUMENT END


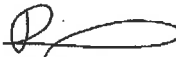

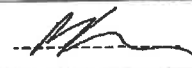
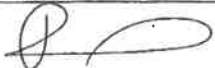
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PLAN OF SUBDIVISION		Stage No. LTO use only EDITION 2	PS629656P 	
Location of Land Parish: MILDURA (IN THE MALLEE COUNTRY) Township: _____ Section: A Crown Allotment: 5 ^A (PART), 6 ^B (PART) & 6 ^C AND Crown Portion: II (PART) Title References: Vol 10725 Fol 110 Last Plan Reference: PS 509526Y (LOT 2) Postal Address: 79 M ^C EDWARD STREET, MERBEIN, 3505. MGA Co-ordinates: E 599700 (Of approx. centre of plan) N 6217900 Zone 54		Council Certification and Endorsement Council Name: MILDURA RURAL CITY COUNCIL Ref: 501595 1. This plan is certified under section 6 of the Subdivision Act 1988. 2. This plan is certified under section 11(7) of the Subdivision Act 1988. Date of original certification under section 6 _____ 3. This is a statement of compliance issued under section 21 of the Subdivision Act 1988. Open Space (I) A requirement for public open space under section 18 Subdivision Act 1988 has / has not been made. (II) The requirement has been satisfied. (III) The requirement is to be satisfied in Stage _____ Council Delegate  Council seal _____ Date 18 / 1 / 2010 Re-certified under section 11(7) of the Subdivision Act 1988 _____ Council Delegate _____ Council seal _____ Date _____		
Vesting of Roads or Reserves				
Identifier	Council/Body/Person			
NIL	NIL			
Notations				
Depth Limitation: 15.24 Metres below the surface. Applies to C.A.s 5 ^A , 6 ^B & 6 ^C , Section A only.		Staging This is/ is not a staged subdivision Planning Permit No. P08/424		
OTHER PURPOSE OF THIS PLAN REMOVAL OF THE EASEMENT FOR DRAINAGE IN FAVOUR OF C/T's V. 8808 F. 906 & V. 8817 F. 485 SHOWN AS E-1 ON PS 509526Y. GROUNDS FOR EASEMENT REMOVAL CONSENT OF ALL AFFECTED REGISTERED PROPRIETORS.		Survey: This plan is / is not based on survey. LOT 1 ONLY AND THE M ^C EDWARD STREET DIMENSIONS 94.616' 73.04', 313°46'20" 50.42 AND 228°30'20" 51.41 ARE THE RESULT OF THIS SURVEY. THE BALANCE OF LOT 2 IS THE BALANCE OF TITLE. To be completed where applicable. This survey has been connected to permanent marks no(s). 948 & 949 In Proclaimed Survey Area no. _____		
Easement Information				
Legend: E - Encumbering Easement or Condition in Crown Grant in the Nature of an Easement A - Appurtenant Easement R - Encumbering Easement (Road)		LTO use only Statement of Compliance / Exemption Statement Received  Date 18/03/2010		
* SECTION 103 OF THE STATE ELECTRICITY ACT 1988 & SECTION 49 OF THE LANDS COMPENSATION ACT VIDE NOTIFICATION R6959IN				
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefitted/In Favour Of
E-1	DRAINAGE	4	THIS PLAN	MILDURA RURAL CITY COUNCIL
E-2	TRANSMISSION OF ELECTRICITY	SEE DIAG.	* SEE ABOVE	STATE ELECTRICITY COMMISSION OF VICTORIA
E-3	DRAINAGE	5	PS 445689K	LOT 1 ON PS 445689K AND THE MILDURA RURAL CITY COUNCIL
E-4	DRAINAGE	3	PS 509526Y	LOT 1 ON PS 509526Y AND THE MILDURA RURAL CITY COUNCIL
E-5	WATER SUPPLY	3	THIS PLAN	LOT 2 ON THIS PLAN
LICENSED SURVEYOR: ROBERT BRUCE FREEMAN REF 8945 VERSION 1 DATE 09/09/2009 SIGNATURE 				LTO use only PLAN REGISTERED TIME 3:21 PM DATE 24/03/2010 Christopher Nicholson Assistant Registrar of Titles Sheet 1 of 2 Sheets  DATE 18 / 1 / 2010 COUNCIL DELEGATE SIGNATURE Original sheet size A3
FREEMAN & FREEMAN LAND SURVEYORS PO BOX 2195 MILDURA VIC 3502 TELEPHONE: (03) 50236239				

MODIFICATION TABLE

RECORD OF ALL ADDITIONS OR CHANGES TO THE PLAN

PLAN NUMBER

PS629656P

**WARNING: THE IMAGE OF THIS DOCUMENT OF THE REGISTER HAS BEEN DIGITALLY AMENDED.
NO FURTHER AMENDMENTS ARE TO BE MADE TO THE ORIGINAL DOCUMENT OF THE REGISTER.**

[illegible]



Imaged Document Cover Sheet

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Number of Pages (excluding this cover sheet)	10
Document Assembled	01/09/2020 12:38

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AG955338K



FORM 18

Section 181

**APPLICATION BY RESPONSIBLE AUTHORITY FOR THE MAKING OF A
RECORDING OF AN AGREEMENT**

Planning and Environment Act 1987

Lodged by:

Name: Martin Irwin & Richards Lawyers
Phone: 03 50237900
Address: 61 Deakin Avenue, Mildura VIC 3500
Ref: FOREMAN
Customer Code: 1008B

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

LAND: Lot 2 on Plan of Subdivision 509526Y contained in Certificate of Title
Volume 10725 Folio 110

AUTHORITY: Mildura Rural City Council of 108-116 Madden Avenue, Mildura, Victoria
3500

**Section and Act under
which agreement is
made:**


Section 173 of the *Planning and Environment Act 1987*.

A COPY OF THIS AGREEMENT IS ATTACHED TO THIS APPLICATION

Signature of Authority

Name of Officer

Date


Mark Henderson C.E.O.
10.12.09

AG955338K

05/01/2010 \$102.90 173



MILDURA RURAL CITY COUNCIL

and

**DARREN ROGER FOREMAN and
BRONWEN ELISABETH FOREMAN**

**SECTION 173 AGREEMENT
79 McEDWARD STREET MERBEIN**



**Martin Irwin & Richards
Lawyers**

**61 Deakin Avenue
MILDURA VIC 3500
DX 50022 MILDURA**

**Phone: 03 5023 7900
Fax: 03 5021 2700
Ref: KEM:DD 09-1231**

AG955338K

05/01/2010 \$102.90 173



Section 173 Agreement – 79 McEdward Street Merbein

THIS AGREEMENT is made on the 10 day of 12 **2009.**

PARTIES

BETWEEN **MILDURA RURAL CITY COUNCIL** of 108 – 116 Madden Avenue,
Mildura in the State of Victoria ("the Council")

AND **DARREN ROGER FOREMAN and BRONWEN ELISABETH FOREMAN** both of McEdward Street Merbein in the State of Victoria ("the Owners")

RECITALS

- A. The Owners are registered or are entitled to be registered as the proprietors of the Land.
- B. The Council is the responsible authority under the Planning and Environment Act 1987 ("the Act") for the Mildura Planning Scheme ("the Planning Scheme").
- C. The Owner has made an application to the Council for a planning permit under the Planning Scheme for the development of the Land for a two (2) lot subdivision dwelling excision ("the Development").
- D. The Council has agreed to the Development subject to the conditions contained in the planning permit issued on the 5 June 2009 and numbered P08/424 ("the Permit").
- E. Condition 3 of the Permit provides:
 - 3. Before the plan of subdivision is certified under the Subdivision Act 1988, the owner must enter into an agreement with the Responsible Authority under Section 173 of the Planning and Environment Act, 1987 and make application to the Registrar of Titles to have the agreement registered on title to the land under Section 181 of the Act which provides the following:
 - That the land will not be further subdivided unless the zoning of the land changes to Residential 1 or Low Density Residential;
 - No dwellings are able to be developed under the proposed Lot 2 in accordance with the plans endorsed to Planning Permit P08/424.

AG955338K

05/01/2010 \$102.90 173



Section 173 Agreement – 79 McEdward Street Merbein

The Owner must pay the reasonable costs of preparation, execution and registration of the agreement.

THE PARTIES AGREE:

1. DEFINITIONS

In this Agreement unless inconsistent with the context or subject matter: -

“Act” means the Planning and Environment Act 1987 (Vic);

“Council” means the Mildura Rural City Council and any or its successors or assigns;

“Land” means the property situate at 79 McEdward Street Merbein in the State of Victoria and described as:

- Lot 2 on Plan of Subdivision 509526Y contained in Certificate of Title Volume 10725 Folio 110.

“Lot” means any allotment created as a result of the Development;

“Owner” means the person or persons described as Owner at the time of entering into this Agreement and the person or persons entitled from time to time to be registered by the Registrar of Titles as the proprietor or proprietors of an estate in fee simple of the Land or any allotment created by any subdivision of the same and shall include the singular and the plural;

“Permit” means planning permit number P08/424 issued by the Council on 5 June 2009.

2. INTERPRETATION

In this Agreement, unless a contrary intention appears:

- (a) the singular includes the plural and vice versa;
- (b) words importing any gender include all other genders;
- (c) “person” includes a firm, a body corporate, or an unincorporated association;
- (d) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes, assigns, employees, servants, agents, consultants, contractors, advisers, financiers, subcontractors, licensees and invitees;
- (e) a reference to this Agreement or another instrument includes any variation or replacement of any of them;

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05/01/2010 \$102.90 173



Section 173 Agreement – 79 McEdward Street Merbein

- (f) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them.

3. SECTION 173 AGREEMENT

3.1 Agreement under Section 173 of the Act

The Council and the Owners have agreed that without restricting or limiting their respective powers to enter into this Agreement and insofar as it can be so treated this Agreement shall be treated as an agreement under Section 173 of the Act.

3.2 Covenants Run with the Land

The Owners acknowledges and agrees that any obligation imposed on the Owners under this Agreement takes effect as a covenant which is annexed to the Land and runs at law and in equity with the Land until this Agreement ends.

4. COMMENCEMENT

This Agreement will come into force and effect from the date of this Agreement.

5. OWNER'S COVENANTS

5.1 Successors in title

The Owners will not sell, transfer, dispose of, assign, mortgage or otherwise part with possession of all or part of the Land after execution of this Agreement and before its registration at the Land Titles Office without first disclosing to its successors the existence and nature of this Agreement.

5.2 Registration

The Owners will do all things necessary to enable the Council to register this Agreement on the Certificate of Title to the Land in accordance with Section 181 of the Act including signing any further agreement, acknowledgement or document to enable the Agreement to be registered under that Section.

5.3 Performance of Covenants

The Owners will do all things necessary including the signing of such further agreements, undertakings, covenants, consents, approvals or other documents

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05/01/2010 \$102.90 173



Section 173 Agreement – 79 McEdward Street Merbein

for the purpose of ensuring that it carry out the covenants and agreements and obligations contained in this Agreement and to enable the Council to enforce the performance by the Owners of such covenants, agreements and undertakings.

5.4 Comply with Permit

The Owners will comply with and carry out the conditions of the Permit.

5.5 Costs

The Owners will pay the Council's costs of and incidental to the preparation and execution of this Agreement and the registration of this Agreement at the Land Titles Office pursuant to Section 181 of the Act and any duties or fees payable in connection with either the Agreement or the registration of the Agreement at the Land Titles Office.

5.6 No further subdivision

The Owners will not further subdivide or permit to be subdivided the land unless the zoning of the land changes to Residential 1 or Low Density Residential.

5.7 Development of Proposed Lot 2

The Owners acknowledge and agree that no dwellings will be developed upon proposed Lot 2 pursuant to the endorsed plans of Planning Permit P08/424.

6. ADDITIONAL MATTERS

6.1 Severance

If any provision of this Agreement is not valid it shall not effect the validity of the other provisions of this Agreement but shall be read down or severed so as to leave the other provisions of this Agreement in effect.

6.2 Proper law

This Agreement is governed by and the parties submit to the jurisdiction of the laws of the State of Victoria.

AG955338K

05/01/2010 \$102.90 173



Section 173 Agreement – 79 McEdward Street Merbein

6.3 Joint & several

This Agreement is binding on the Owners and the Owners for the time being of any Lot created by the Development. In the event that there is more than one Owner of any Lot the covenants, undertakings, warranties and liabilities of the Owners of the Lot shall be joint and several.

6.4 No Waiver

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

7. DEFAULT OF OWNERS

In the event of the Owners defaulting or failing to perform any of the obligations under this Agreement, the Council may without prejudice to any other remedies rectify such default and the cost of any works undertaken by the Council to rectify any default shall be borne by the Owners and any such costs together with any amount payable to Council pursuant to this Agreement shall be capable of being recovered by the Council in any Court of competent jurisdiction as a civil debt recoverable summarily.

EXECUTED as a deed.

AG955338K

05/01/2010 \$102.90 173



Section 173 Agreement – 79 McEdward Street Merbein

THE COMMON SEAL of the)
MILDURA RURAL CITY COUNCIL)
was affixed hereto by authority of)
the Council in the presence of:)



[Signature]
Councillor Mark Eckel

[Signature]
Councillor John Arnold

[Signature]
Chief Executive Officer

SIGNED SEALED & DELIVERED)
by the said DARREN ROGER FOREMAN)
in the presence of:)

[Signature]
Harold 10/5/15
Solicitor & Barrister Super Court
Victoria

SIGNED SEALED & DELIVERED)
by the said BRONWEN ELISABETH)
FOREMAN in the presence of:)

[Signature]
Harold 10/5/15
Solicitor & Barrister Super Court
Victoria

AG955338K

05/01/2010 \$102.90 173



Section 173 Agreement – 79 McEdward Street Merbein

MORTGAGEE'S CONSENT

RCP FINANCE LTD being the registered Mortgagee as to part Mortgage No **U293569F** which encumbers the land firstly described in clause 1 in the attached agreement **HEREBY CONSENTS** to the Owners, Darren Roger Foreman and Bronwen Elisabeth Foreman, encumbering the land with the within Agreement.

DATED this 18th day of November 2009.

.....
FOR AND ON BEHALF OF RCP FINANCE LTD

AG955338K

05/01/2010 \$102.90 173



Section 173 Agreement – 79 McEdward Street Merbein

CAVEATOR'S CONSENT

WESTPAC BANKING CORPORATION being the registered Caveator under Caveat No. **AD287814C** which encumbers the land firstly described in clause 1 in the attached agreement **HEREBY CONSENTS** to the Owners, Darren Roger Foreman and Bronwen Elisabeth Foreman, encumbering the land with the within Agreement.

DATED this 18th day of November 2009.

.....
**FOR AND ON BEHALF OF WESTPAC
BANKING CORPORATION**

SIGNED, SEALED and DELIVERED by
MARGARET HANCOCK..... who holds the position of Tier
Three Attorney for Westpac Banking Corporation under power
of attorney dated 17 January 2001, a certified copy of which
is filed in the Permanent Order Book, No. 277, Page 15.

.....
By executing this agreement the attorney states that the
attorney has received no notice of the revocation of the power
of attorney.

.....
Signature of Witness

Form 2
Building Act 1993 Building Regulations 2006 Regulation 313
BUILDING PERMIT No. BS-U1070 / 160084/0



Issued to
Owner **Brandon & Natalie Fryar**
Postal Address **79 McEdward Street BIRDWOODTON 3505**
Telephone **0417 877 323**

95 Pine Avenue
Mildura Victoria 3500

Property details (include Title details as and if applicable)

Number 79	Street/Road McEdward Street	City/Suburb/Town BIRDWOODTON	P 03 5023 4826
Postcode 3605	Lot/s 1	L.P./S 629666	F 03 5023 4849
Volume 11193	Folio 338	Crown Allotment	if reception@regionalbuilding.com.au
Section	Parish Mildura	Municipal District Mildura Rural City Council	

Builder:

Name **Welsh Building Pty. Ltd.**
Address **PO Box 474, MILDURA**

Ph. **0438 215 923**
Postcode **3502**

Details of building practitioners and architects: (a) to be engaged in the building works and (b) who were engaged to prepare documents forming part of the application for this permit:

Type	Registration number	Name	Company
Builder	DB-U 40970	Andrew Welsh	Welsh Building Pty. Ltd.
Drafting	DP-AD 24713	Duncan Hocking	Innovative Design and Drafting
Civil Engineer	EC 2164	Michael Talladira	T M K Consulting Engineers

The issuer or provider of the required insurance policy is: **N/A**

Nature of building work: **Construction of a verandah**

Stage of building work permitted: **All Stages**

Cost of building work **\$14,200**

Total floor area of new building work **42m²**

Building classification

1a1 Extension **Verandah**

Occupation or Use of building:

A Certificate of Final Inspection is required prior to the occupation or use of this building

Commencement and completion:

This building work must commence by: **06/04/2017**

This building work must be completed by: **06/04/2018**

Display of Sign:

Pursuant to regulation 317 of the Building Regulations 2006, the person in charge of the building works is to display a sign on the building site at all times. The sign must include the Name, Registered Numbers and Contact Details of the builder and building surveyor and the building permit number & date.

Inspection requirements

The mandatory notification stages are:

Inspection of pad footings
Inspection of framework
Final inspection upon completion of all work

Relevant building surveyor

Name: **WAYNE D. WILKIE**

Registration No. **BS-U1070**

Signature:

Issued: **06/04/2016**

Building Act 1993
Building Regulations 2006
Regulation 1006
Form 7



Certificate of Final Inspection
For Building Permit number: BS-U1070 /160084/0
Certificate number: 160084

95 Pine Avenue
Mildura Victoria 3500
P 03 5023 4826
F 03 5023 4849
E reception@regionalbuilding.com.au

Issued to (owner)
Brendan & Natalie Fryar
79 McEdward Street
BIRDWOODTON VIC 3505

Site
Lot 1 No. 79 Street McEdward Street
Suburb BIRDWOODTON Postcode 3505

P/S: 629656 Volume: 11193 Folio: 338
Municipality Mildura Rural City Council

Description of Building Work:
Construction of a verandah

Nature of Building Work:
1st Extension Verandah

Any directions under Part 4 of the Building Act 1993 have been complied with.

Issued By: WAYNE D. WILKIE

Registration No.: BS-U1070

Signature:

Certificate date: 03 May 2016



Mildura Rural City Council

File: PA36309
23 January 2017

B&N Fryar
PO Box 19
MILDURA VIC 3502

Dear Sir/Madam

APPLICATION TO REMOVAL OF S173 AGREEMENT AG955338K 79 MCEDWARD STREET BIRDWOODTON (LOT 2 PS629656P)

Council has received an application from Freeman and Freeman Land Surveyors requesting the removal of the Section 173 Agreement AG955338K listed on the Certificate of Title for the above land. The agreement prohibits the subdivision of the above mentioned property.

Pursuant to section 178A of the *Planning & Environment Act 1987* a preliminary assessment has been made on the merit of removing the Section 173 Agreement. Council has provided in principle support to undertake a formal assessment of an application for its removal.

Assessment of the application is against the matters listed in section 178B of the *Planning & Environment Act 1987* and includes a decision from the Council's Chief Executive Officer.

Pursuant to section 178A of the *Planning and Environment Amendment (General) Act 2013*,

"the responsible authority must notify the owner as to whether it agrees in principle to the proposal under subsection (1)" – An owner of land, or a person who has entered into an agreement under section 173 in anticipation of becoming the owner of the land, may apply to the responsible authority for agreement to a proposal –

- (a) *to amend an agreement in respect of that land; or*
- (b) *to end an agreement in respect of that land, wholly or in part or as to any part of that land.*

Section 178C Notice of Proposal

- (2) *The responsible authority must give notice of the proposal to:*
 - a) *All parties to the agreement; and*
 - b) *Any other persons, if the responsible authority considers that the decision to amend or end the agreement may cause material detriment to them.*

Macdon Avenue Service Centre
108 Macdon Avenue, Mildura
Phone: (03) 5018 8100
Fax: (03) 5021 1099
PO Box 105, Mildura Vic 3502
OX 50014, Mildura

Deakin Avenue Service Centre
76 Deakin Avenue, Mildura
Phone: (03) 5018 8100
Fax: (03) 5021 1699

Ouyen Service Centre
79 Oke Street, Ouyen
Phone: (03) 5018 8600
Fax: (03) 5092 1017

www.mildura.vic.gov.au
mccc@mildura.vic.gov.au

ABN 42 498 937 037

File: PA36309

23 January 2017

Please respond in writing whether you agree or disagree in principle with the proposal to remove the Section 173 Agreement and the reasons for this decision. No decision on the application will be made prior to 13 February 2017.

Should you require any further information, please contact Andrea Collins, Senior Town Planner on ☎ 5018 8408.

Yours sincerely

A handwritten signature in black ink, appearing to be 'J. Turner', with a long horizontal stroke extending to the right.

JAMES TURNER
PRINCIPAL STATUTORY PLANNER

Copy to: Freeman & Freeman

FORM 18

Section 178C

NOTICE OF PROPOSAL TO REMOVE AN AGREEMENT



Mildura Rural City Council

PROPERTY ADDRESS: 79 MCEDWARD STREET BIRDWOODTON (LOT 2 PS629656P)

The proposal is to remove the Section 173 Agreement from the Certificate of Title.

The existing agreement states:

Before the plan of subdivision is certified under the Subdivision Act 1988, the owner must enter into an agreement with the responsible authority under Section 173 of the Planning and Environment Act 1987, and make application to the Registrar of Titles to have the agreement registered on the title to the land under Section 181 of the Act which provides the following:

- *That the land will not be further subdivided unless the zoning of the land changes to Residential 1, or Low Density Residential.*
- *No dwellings are able to be developed upon the proposed Lot 2 in accordance with the plans endorsed to Planning Permit P08/424.*
- *The owner must pay the reasonable costs of preparation, execution and registration of the agreement.*

The proposal was initiated by Freeman & Freeman Land Surveyors who applied to the responsible authority for agreement to the proposal under section 178A of the **Planning and Environment Act 1987**.

You may look at the proposal and any documents that support the proposal at the office of the responsible authority, 108 Madden Avenue Mildura.

This can be done during officer hours and is free of charge.

Any person who is given notice of the proposal, or who ought to have been given notice of the proposal under section 178C of the **Planning and Environment Act 1987**, may be object to, or make any submission in relation to, the proposal.

The responsible authority will not make a decision of the proposal under section 178E of the **Planning and Environment Act 1987** before 15 February 2017.

If the responsible authority decides to amend or end the agreement, or refuses to amend or end the agreement, the responsible authority will give notice of its decision to any person who made an objection.

In most cases, the responsible authority will give notice of its decision to any person who made a submission.

If the responsible authority proposed to amend or end the agreement in a manner that is substantively different from the proposal, the responsible authority will give notice of the new proposal to all parties to the agreement and any other persons to whom the responsible

authority considers the decision to amend or end the agreement may cause material detriment.

Should you require further information, please contact Andrea Collins, Senior Town Planner on 03 5018 8408

Yours sincerely,

A handwritten signature in dark ink, appearing to be 'J. Turner', with a long horizontal stroke extending to the right.

JAMES TURNER
PRINCIPAL STATUTORY PLANNER

JT/ac



Mildura Rural City Council

File: 005.2017.00000291.001
7 August 2019

Mr B J & Mrs N R Fryar
PO Box 19
MILDURA VIC 3502

Dear Brendan and Natalie

**15 LOT STAGED SUBDIVISION
33 MCEDWARD STREET BIRDWOODTON, 59 MCEDWARD STREET
BIRDWOODTON**

Following advice from the Victorian Civil and Administrative Tribunal that no appeals have been lodged in the prescribed time, please be advised that a Planning Permit has been granted.

Please refer to the attached Planning Permit for relevant permit conditions.

Should you require any further information, please contact Mr Matthew Jackson, Principal Statutory Planner, on (03) 5018 8467.

Yours sincerely

A handwritten signature in black ink, appearing to read 'AC'.

**ANDREA COLLINS
SENIOR TOWN PLANNER**

enc

AC/jm



PLANNING PERMIT

(Form 4)

Application No: 005.2017.00000291.001

Planning Scheme: Mildura Planning Scheme

Responsible Authority: Mildura Rural City Council

ADDRESS OF THE LAND:

33 McEdward Street BIRDWOODTON, 59 McEdward Street BIRDWOODTON,
Lot: 1 Sec: A LP: 209499M, LOT: 3 Sec: A PS: 442282V, LOT: 2 PS: 629656P,
CA: 2439 Psh: MILDURA

THE PERMIT ALLOWS:

15 Lot Staged Subdivision

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

- (1) Prior to the certification of stage 1 amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - a) Lots 10 to 14 having a common driveway to McEdwards Street.
- (2) The subdivision as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
- (3) The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
- (4) All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.
- (5) The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.
- (6) The owner of the land must enter into an agreement with:
 - A telecommunications network or service provider for the provision of telecommunication services to each lots shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
 - A suitably qualified person for the provision of fibre ready telecommunications facilities to each lot shown on the endorsed plan in accordance with any industry

Date Issued: 07/08/2019

**Signature for
the Responsible
Authority**

A handwritten signature in black ink, appearing to be "Mandy Whelan", written over a horizontal line.

**MANDY WHELAN
GENERAL MANAGER
DEVELOPMENT**



PLANNING PERMIT

(Form 4)

Application No: 005.2017.00000291.001

Planning Scheme: Mildura Planning Scheme

Responsible Authority: Mildura Rural City Council

ADDRESS OF THE LAND:

33 McEdward Street BIRDWOODTON, 59 McEdward Street BIRDWOODTON,
Lot: 1 Sec: A LP: 209499M, LOT: 3 Sec: A PS: 442282V, LOT: 2 PS: 629656P,
CA: 2439 Psh: MILDURA

THE PERMIT ALLOWS:

- 15 Lot Staged Subdivision

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:

- a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
 - a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in area where the National Broadband Network will not be provided by optical fibre.
- (7) Prior to the certification of each stage a drainage design prepared in consultation with Council's Engineering Department must be submitted and approved. Once approved the plans will be endorsed to form part of the permit.
- (8) Any works required as per the endorsed drainage plan must be completed to the satisfaction of the Responsible Authority prior to the issue of the Statement of Compliance for each stage.
- (9) This permit will expire if one of the following circumstances applies:
- a) The subdivision is not certified within two years of the date of this permit.
 - b) The subdivision is not completed within five years of the date of certification.

Date Issued: 07/08/2019

**Signature for
the Responsible
Authority**


**MANDY WHELAN
GENERAL MANAGER
DEVELOPMENT**



PLANNING PERMIT

(Form 4)

Application No: 005.2017.00000291.001

Planning Scheme: Mildura Planning Scheme

Responsible Authority: Mildura Rural City Council

ADDRESS OF THE LAND:

33 McEdward Street BIRDWOODTON, 59 McEdward Street BIRDWOODTON,
Lot: 1 Sec: A LP: 209499M, LOT: 3 Sec: A PS: 442282V, LOT: 2 PS: 629656P,
CA: 2439 Psh: MILDURA

THE PERMIT ALLOWS:

15 Lot Staged Subdivision

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

The permit time may be extended pursuant to Section 69 of the Planning and Environment Act 1987 if a written request is received before the permit expires or within 6 months of the expiry date if the Plan of Subdivision has not been certified.

Lower Murray Water

- (10) The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to Lower Murray Water pursuant to Section 8 of that Act.
- (11) The requirements of Lower Murray Water must be met, regarding the provision of water supply and drainage services to the land, including payment of all associated costs prior to the Corporation agreeing to the issue of a Statement of Compliance.
- (12) The holder of this permit or authorised agent must meet Lower Murray Water's requirements regarding easements in favour of the Lower Murray Urban and Rural Water Corporation prior to the submission of any plan of subdivision for Certification.
- (13) The applicant or owner must lodge a Rural Subdivision Application and complete any requirements necessary to amend the Victorian Water Register and conditions listed by Lower Murray Water related to irrigation and drainage pursuant to Section 11 of the Water Act 1989.

Powercor

- (14) The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to Powercor Australia Ltd in accordance with Section 8 of that Act.
- (15) The applicant shall:-
 - Provide an electricity supply to all lots in the subdivision in accordance with Powercor's requirements and standards, including the extension, augmentation or re-arrangement of any existing electricity supply system, as required by Powercor (A payment to cover the cost of such work will be required). In the event that a supply

Date Issued: 07/08/2019

**Signature for
the Responsible
Authority**

A handwritten signature in black ink, appearing to be "Mandy Whelan", written over a horizontal line.

**MANDY WHELAN
GENERAL MANAGER
DEVELOPMENT**



PLANNING PERMIT

(Form 4)

Application No: 005.2017.00000291.001

Planning Scheme: Mildura Planning Scheme

Responsible Authority: Mildura Rural City Council

ADDRESS OF THE LAND:

33 McEdward Street BIRDWOODTON, 59 McEdward Street BIRDWOODTON,
Lot: 1 Sec: A LP: 209499M, LOT: 3 Sec: A PS: 442282V, LOT: 2 PS: 629656P,
CA: 2439 Psh: MILDURA

THE PERMIT ALLOWS:

15 Lot Staged Subdivision

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

is not provided the applicant shall provide a written undertaking to Powercor Australia Ltd that prospective purchasers will be so informed.

- Where buildings or other installations exist on the land to be subdivided and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity Supply Industry. You shall arrange compliance through a Registered Electrical Contractor.
- Any buildings must comply with the clearances required by the Electricity Safety (Installations) Regulations.
- Any construction work must comply with Energy Safe Victoria's "No Go Zone" rules.
- Set aside on the plan of subdivision for the use of Powercor Australia Ltd reserves and/or easements satisfactory to Powercor Australia Ltd where any electric substation (other than a pole mounted type) is required to service the subdivision.

Alternatively, at the discretion of Powercor Australia Ltd a lease(s) of the site(s) and for easements for associated powerlines, cables and access ways shall be provided. Such a lease shall be for a period of 30 years at a nominal rental with a right to extend the lease for a further 30 years. Powercor Australia Ltd will register such leases on the title by way of a caveat prior to the registration of the plan of subdivision.

- Provide easements satisfactory to Powercor Australia Ltd, where easements have not been otherwise provided, for all existing Powercor Australia Ltd electric lines on the land and for any new powerlines required to service the lots and adjoining land, save for lines located, or to be located, on public roads set out on the plan. These easements shall show on the plan an easement(s) in favour of "Powercor Australia Ltd" for "Power Line" pursuant to Section 88 of the Electricity Industry Act 2000.

Date Issued: 07/08/2019

**Signature for
the Responsible
Authority**

A handwritten signature in black ink, appearing to be "Mandy Whelan", written over a horizontal line.

**MANDY WHELAN
GENERAL MANAGER
DEVELOPMENT**



PLANNING PERMIT

(Form 4)

Application No: 005.2017.00000291.001
Planning Scheme: Mildura Planning Scheme
Responsible Authority: Mildura Rural City Council

ADDRESS OF THE LAND:

33 McEdward Street BIRDWOODTON, 59 McEdward Street BIRDWOODTON,
Lot: 1 Sec: A LP: 209499M, LOT: 3 Sec: A PS: 442282V, LOT: 2 PS: 629656P,
CA: 2439 Psh: MILDURA

THE PERMIT ALLOWS:

15 Lot Staged Subdivision

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

- Obtain for the use of Powercor Australia Ltd any other easement external to the subdivision required to service the lots.
- Adjust the position of any existing easement(s) for powerlines to accord with the position of the line(s) as determined by survey.
- Obtain Powercor Australia Ltd's approval for lot boundaries within any area affected by an easement for a powerline and for the construction of any works in such an area.
- Provide to Powercor Australia Ltd, a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.

Date Issued: 07/08/2019

**Signature for
the Responsible
Authority**

A handwritten signature in black ink, appearing to be "Mandy Whelan", written over a horizontal line.

**MANDY WHELAN
GENERAL MANAGER
DEVELOPMENT**

PLANNING PROPERTY REPORT



Environment,
Land, Water
and Planning

From www.planning.vic.gov.au at 01 September 2020 10:52 AM

PROPERTY DETAILS

Address: **79 MCEDWARD STREET BIRDWOODTON 3505**
Lot and Plan Number: **Lot 1 PS629656**
Standard Parcel Identifier (SPI): **1\PS629656**
Local Government Area (Council): **MILDURA**
Council Property Number: **22838**
Planning Scheme: **Mildura**
Directory Reference: **Vicroads 537 R12**

www.mildura.vic.gov.au

[Planning Scheme - Mildura](#)

UTILITIES

Rural Water Corporation: **Lower Murray Water**
Urban Water Corporation: **Lower Murray Water**
Melbourne Water: **Outside drainage boundary**
Power Distributor: **POWERCOR**

[View location in VicPlan](#)

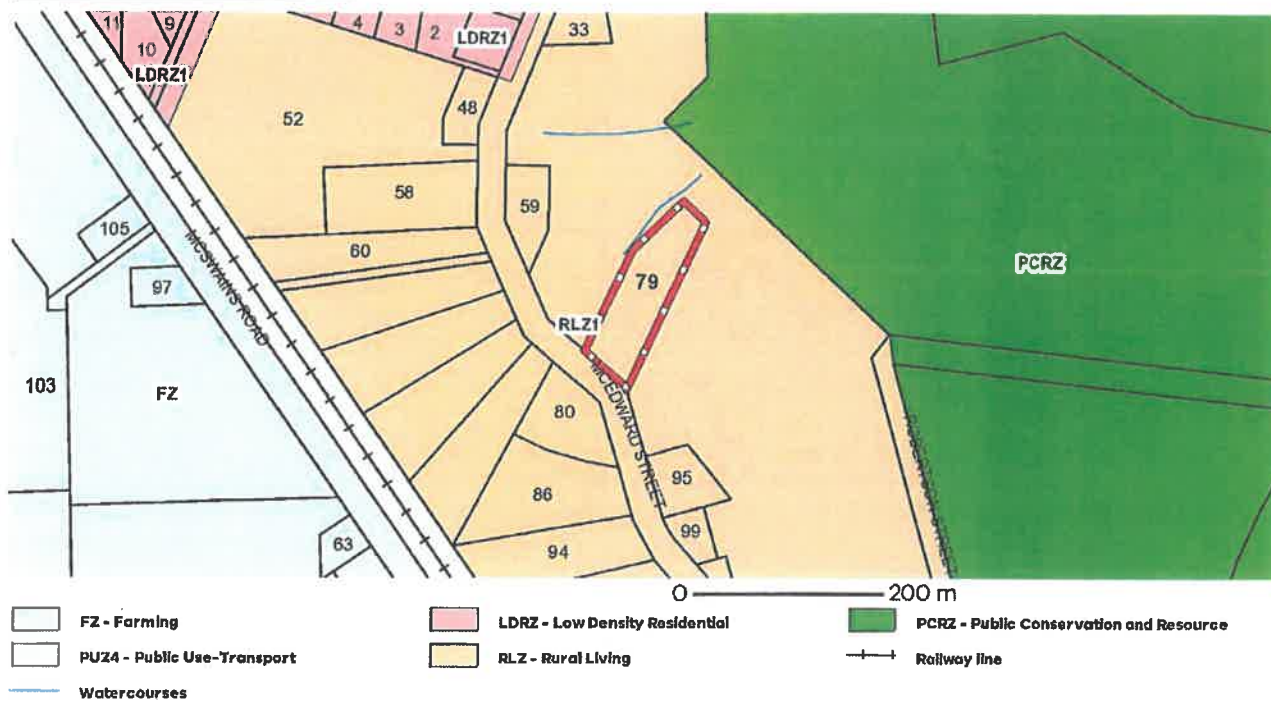
STATE ELECTORATES

Legislative Council: **NORTHERN VICTORIA**
Legislative Assembly: **MILDURA**

Planning Zones

[RURAL LIVING ZONE \(RLZ\)](#)

[RURAL LIVING ZONE - SCHEDULE 1 \(RLZ1\)](#)



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

PLANNING PROPERTY REPORT

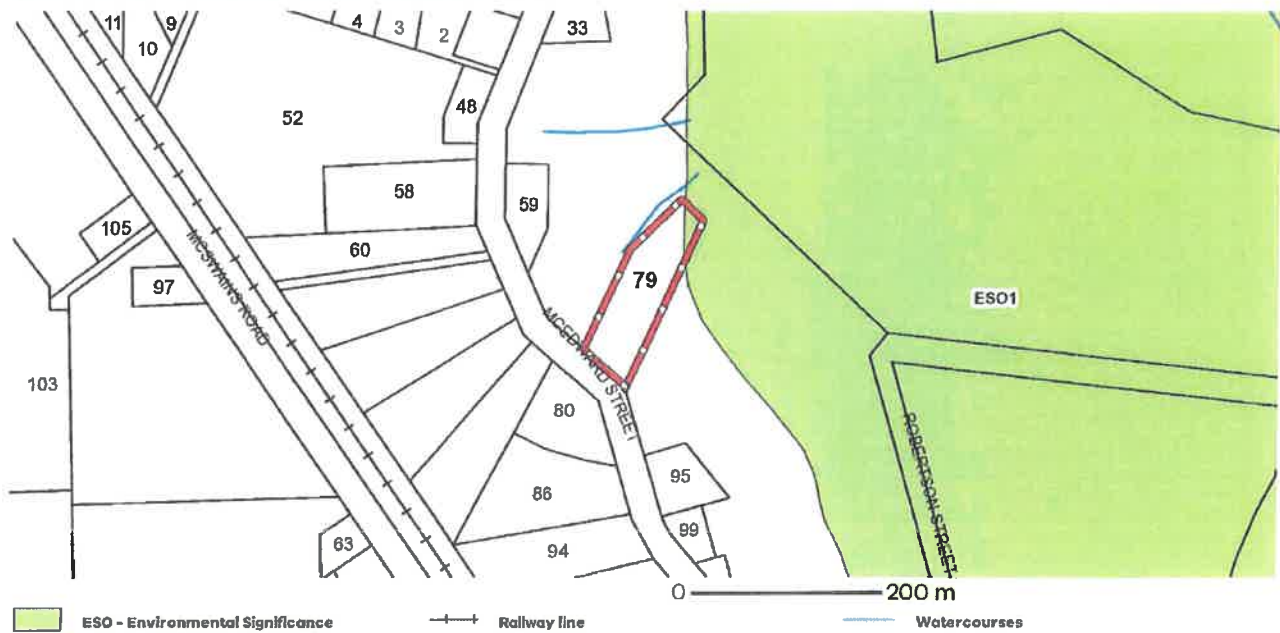


Environment,
Land, Water
and Planning

Planning Overlays

ENVIRONMENTAL SIGNIFICANCE OVERLAY (ESO)

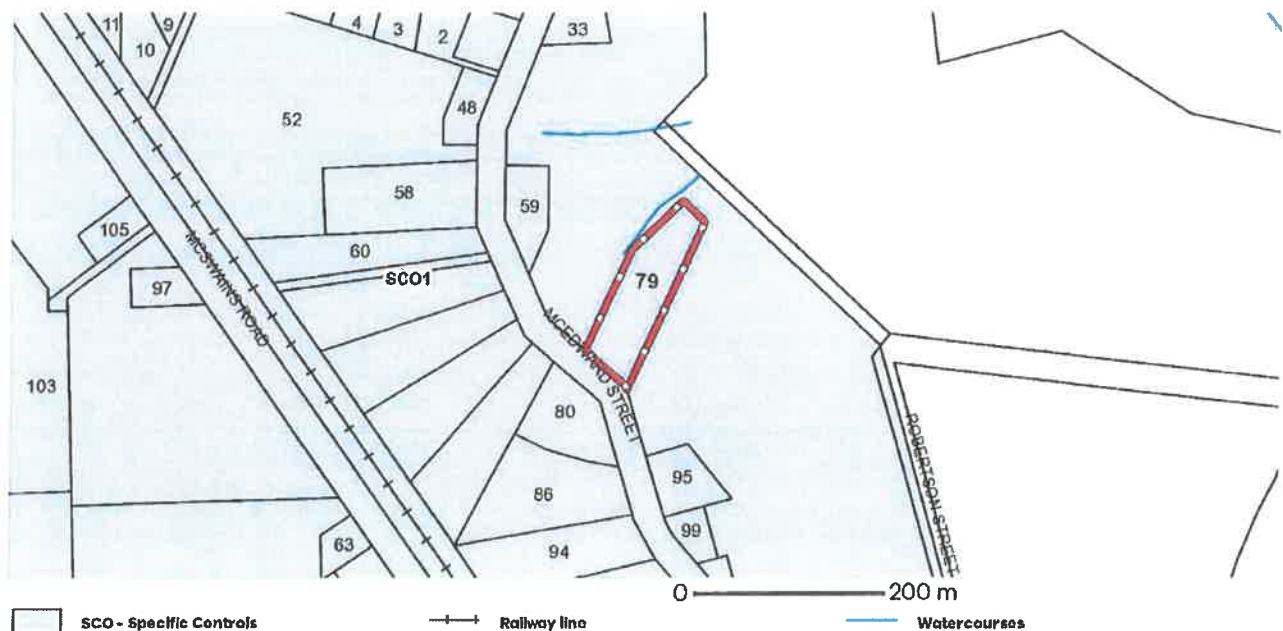
ENVIRONMENTAL SIGNIFICANCE OVERLAY - SCHEDULE 1 (ESO1)



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

SPECIFIC CONTROLS OVERLAY (SCO)

SPECIFIC CONTROLS OVERLAY - SCHEDULE 1 (SCO1)



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

PLANNING PROPERTY REPORT



Environment,
Land, Water
and Planning

Planning Overlays

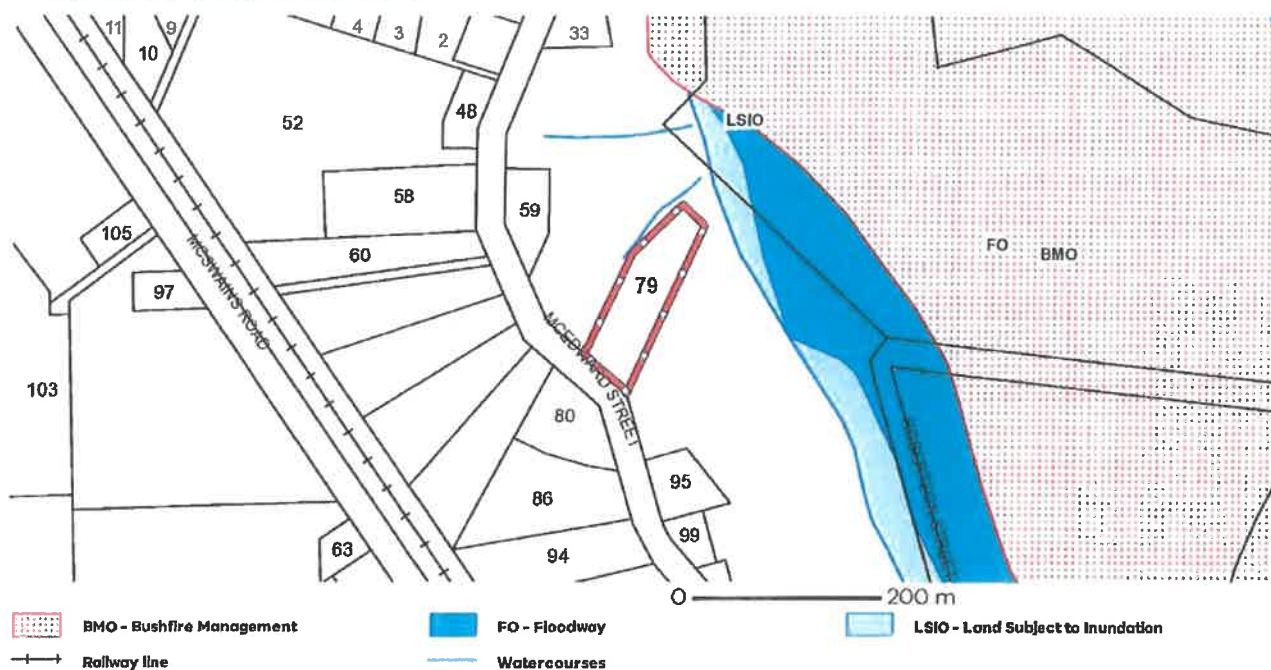
OTHER OVERLAYS

Other overlays in the vicinity not directly affecting this land

BUSHFIRE MANAGEMENT OVERLAY (BMO)

FLOODWAY OVERLAY (FO)

LAND SUBJECT TO INUNDATION OVERLAY (LSIO)



Further Planning Information

Planning scheme data last updated on 26 August 2020.

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 abut the land.

To obtain a Planning Certificate go to Titles and Property Certificates at Landata - <https://www.landata.vic.gov.au>

For details of surrounding properties, use this service to get the Reports for properties of interest.

To view planning zones, overlay and heritage information in an interactive format visit

<https://mapshare.maps.vic.gov.au/vicplan>

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

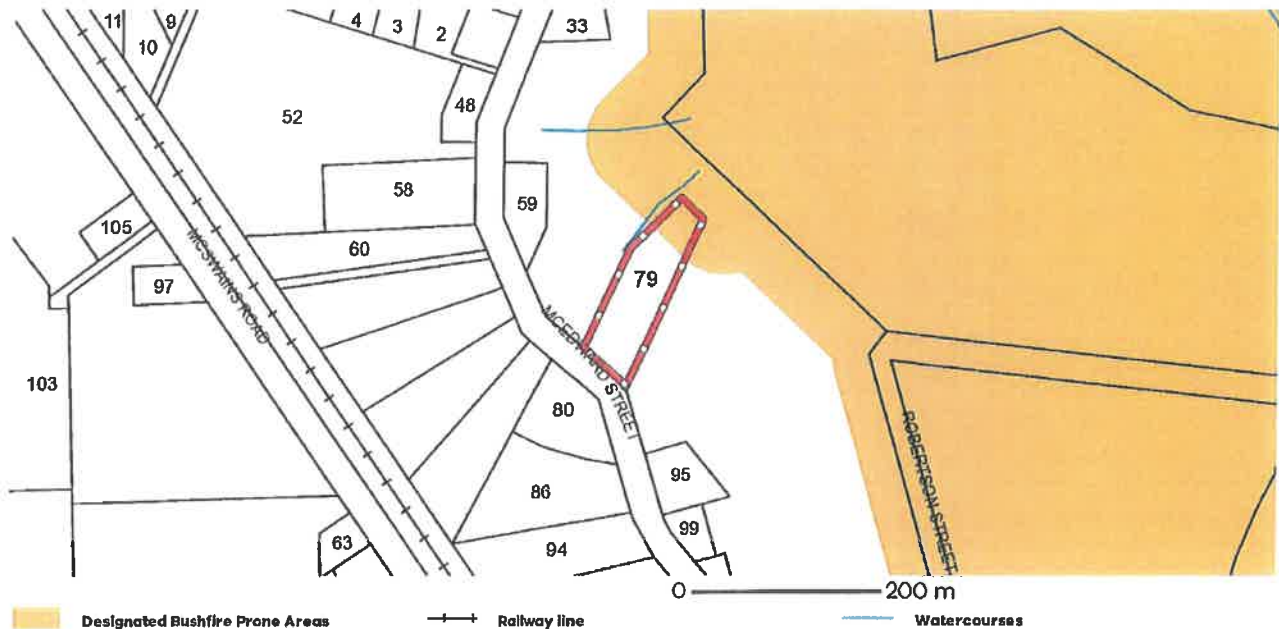
PLANNING PROPERTY REPORT



Environment,
Land, Water
and Planning

Designated Bushfire Prone Areas

This property is in a designated bushfire prone area.
Special bushfire construction requirements apply. Planning provisions may apply.



Designated bushfire prone areas as determined by the Minister for Planning are in effect from 8 September 2011 and amended from time to time.

The Building Regulations 2018 through application of the Building Code of Australia, apply bushfire protection standards for building works in designated bushfire prone areas.

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

Note: prior to 8 September 2011, the whole of Victoria was designated as bushfire prone area for the purposes of the building control system.

Further information about the building control system and building in bushfire prone areas can be found on the Victorian Building Authority website <https://www.vba.vic.gov.au>

Copies of the Building Act and Building Regulations are available from <http://www.legislation.vic.gov.au>

For Planning Scheme Provisions in bushfire areas visit <https://www.planning.vic.gov.au>

Property Report from www.land.vic.gov.au on 01 September 2020 10:51 AM

Address: 79 MCEDWARD STREET BIRDWOODTON 3505

Lot and Plan Number: Lot 1 PS629656

Standard Parcel Identifier (SPI): 1\PS629656

Local Government (Council): MILDURA **Council Property Number:** 22838

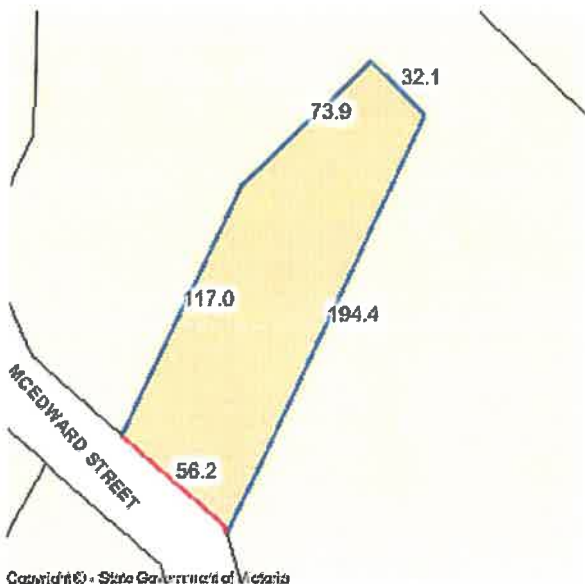
Directory Reference: VicRoads 537 R12

**This property is in a designated bushfire prone area.
Special bushfire construction requirements apply. Planning provisions may apply.**

Further information about the building control system and building in bushfire prone areas can be found in the Building Commission section of the Victorian Building Authority website www.vba.vic.gov.au

Site Dimensions

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



Area: 10007 sq. m
(1.0 ha)

Perimeter: 478 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.

2 dimensions shorter than 4m not displayed

Calculating the area from the dimensions shown may give a different value to the area shown above - which has been calculated using all the dimensions.

For more accurate dimensions get copy of plan at
Title and Property Certificates

State Electorates

Legislative Council: NORTHERN VICTORIA

Legislative Assembly: MILDURA

Utilities

Rural Water Corporation: Lower Murray Water

Urban Water Corporation: Lower Murray Water

Melbourne Water: outside drainage boundary

Power Distributor: POWERCOR (Information about [choosing an electricity retailer](#))

Planning information continued on next page

Planning Zone Summary

Planning Zone: RURAL LIVING ZONE (RLZ)

RURAL LIVING ZONE - SCHEDULE 1 (RLZ1)

Planning Overlays: ENVIRONMENTAL SIGNIFICANCE OVERLAY (ESO)

ENVIRONMENTAL SIGNIFICANCE OVERLAY - SCHEDULE 1 (ESO1)

SPECIFIC CONTROLS OVERLAY (SCO)

SPECIFIC CONTROLS OVERLAY - SCHEDULE 1 (SCO1)

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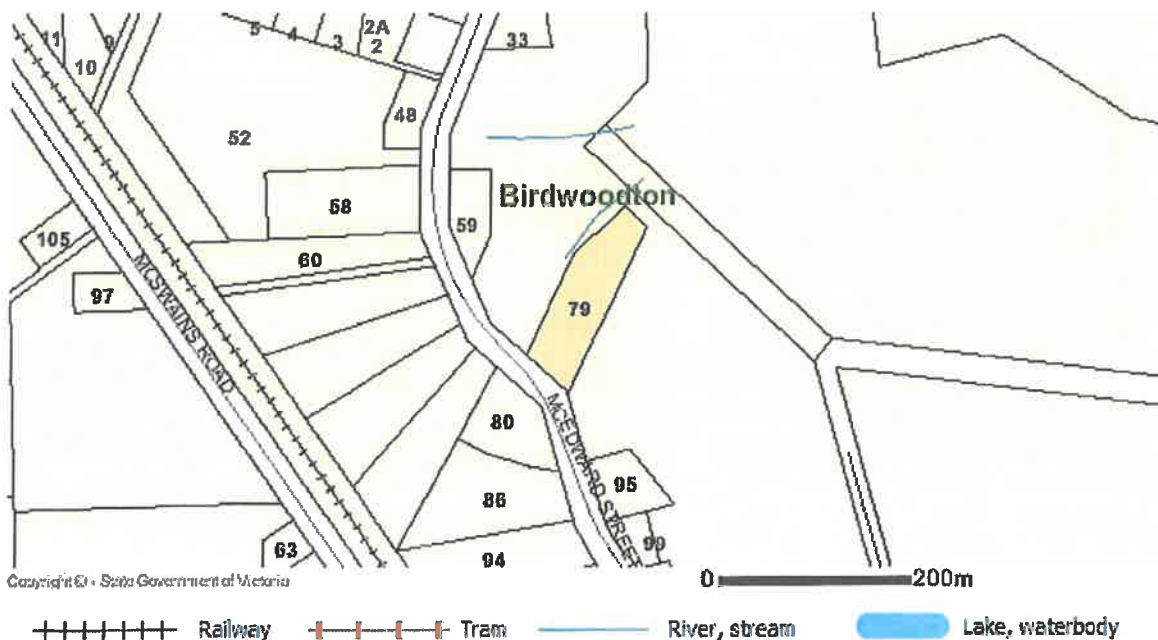
The Planning Property Report includes separate maps of zones and overlays

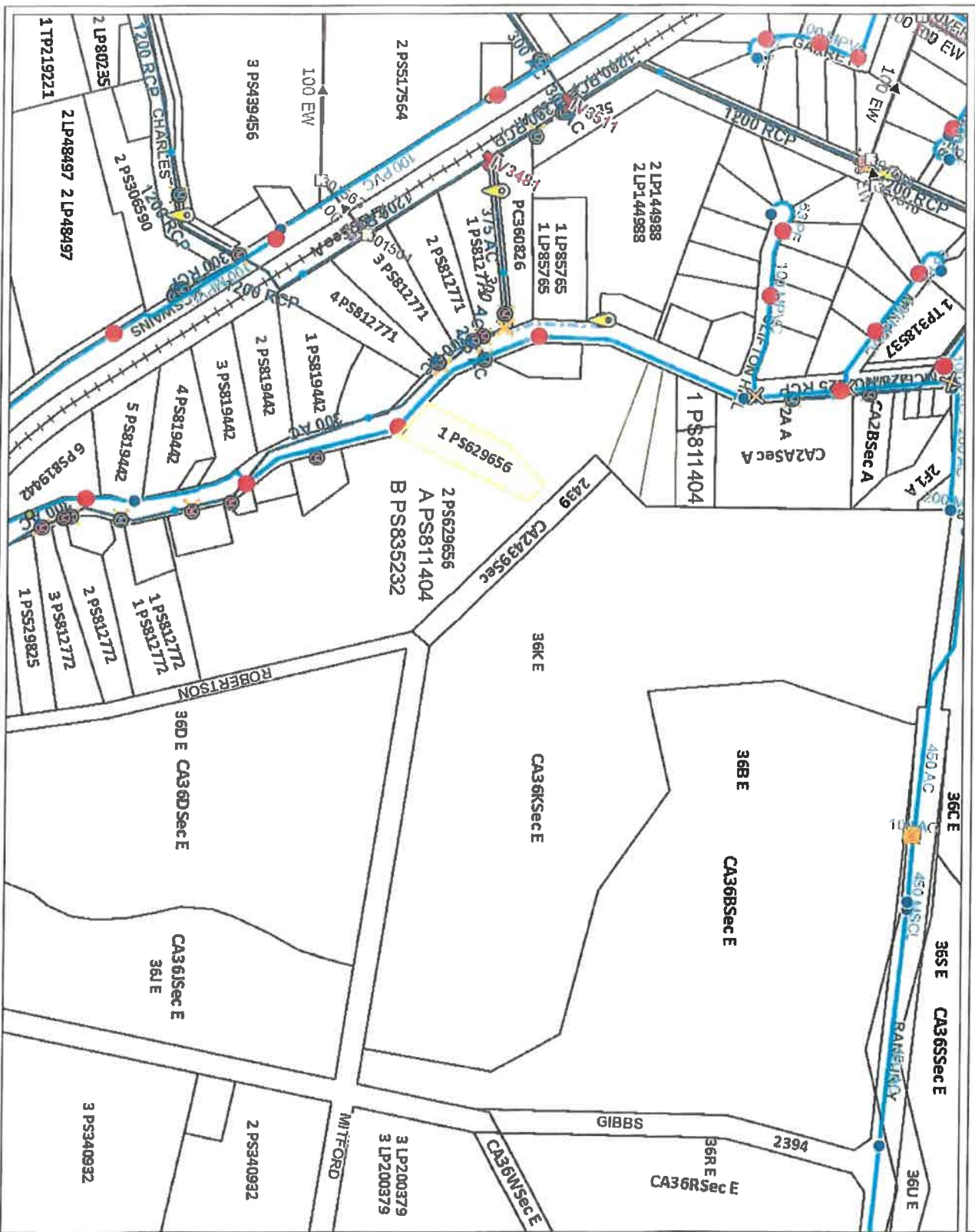
For details of surrounding properties, use this service to get the Reports for properties of interest

To view planning zones, overlay and heritage information in an interactive format visit [Planning Maps Online](#)

For other information about planning in Victoria visit www.planning.vic.gov.au

Area Map





- Legend**
- Urban Water
 - Pipeline
 - Retired Pipeline
 - Urban Sewer
 - Gravity Pipeline
 - Pressure Main Pipeline
 - Rising Main Pipeline
 - Retired Gravity Pipeline
 - Retired Pressure Main Pipeline
 - Retired Rising Main Pipeline
 - Rural Irrigation
 - Channel
 - Pipeline
 - Retired Channel
 - Retired Pipeline
 - Rural Drainage
 - Channel
 - Gravity Pipeline
 - Rising Main
 - Retired Channel
 - Retired Pipeline

0 132.12 264.2
Meters

1: 6,936

Printed: 02/09/2020

GDA 1994 MGA Zone 54

© Lower Murray Urban and Rural Water Corporation

Notes/Comments

LMW DISCLAIMER: The accuracy and completeness shown on this plan is not guaranteed and therefore shall be used as a guide only. The user is responsible to provide locations and depths in the field. This information is only to be used for the initial project and shall not be passed onto a third party. Note: For further assistance please contact LMW.



**ATTACHMENT TO REQUEST FOR INFORMATION
BUILDING REGULATION 51
SALINITY AFFECTING THE MUNICIPALITY**

Some land within the municipality of the Mildura Rural City Council contains high levels of salt resulting in a condition commonly referred to as 'salinity'. Salinity can result in 'salt damp' or 'rising damp and salt attack' which can cause damage to certain building materials such as concrete and masonry.

Council recommends that you make your own inquiries regarding the presence of high salinity on land which you own or are considering to purchase.

If you are proposing to construct buildings on land in the municipality, you should ascertain whether or not special measures should be taken during the construction of these buildings to minimise any effects that salinity may have.

Council provides this information to assist you to make informed decisions about existing buildings or the construction of new buildings in high salinity areas.

Yours sincerely



Mark Yantzes

MUNICIPAL BUILDING SURVEYOR

MY/mn

Due diligence checklist for home buyers

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. This page contains links to organisations and web pages that can help you learn more.

From 1 October 2014, all sellers or estate agents must make this checklist available to potential buyers.

Sellers or estate agents must:

- ensure copies of the due diligence checklist are available to potential buyers at any open for inspection
- include a link to this webpage ([consumer.vic.gov.au/due diligence checklist](http://consumer.vic.gov.au/due-diligence-checklist)) or include a copy on any website maintained by the estate agent or the seller (if no estate agent is acting for the seller).

You can print additional copies of the [Due diligence checklist \(Word, 140KB\)](#).

Urban living

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.

For more information, visit the [Commercial and industrial noise page on the Environment Protection Authority website](#) and the [Odour page on the Environment Protection Authority website](#).

Buying into 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.

For more information, view our [Owners Corporations section](#) and read the [Statement of advice and information for prospective purchasers and lot owners \(Word, 53KB\)](#).

Growth areas

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

For more information, visit the [Growth Areas Infrastructure Contribution page on the Department of Planning, Transport and Local Infrastructure website](#).

Flood and fire risk

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.

More information:

- [Australian Flood Risk Information Portal - Geoscience Australia website](#)
- [Melbourne Water website](#)
- [Mallee Catchment Management Authority website](#)
- » [North Central Catchment Management Authority website](#)
- [Glenelg Hopkins Catchment Management Authority website](#)
- [North East Catchment Management Authority website](#)
- [Wimmera Catchment Management Authority website](#)
- [West Gippsland Catchment Management Authority website](#)
- » [Bushfire Management Overlay in planning schemes - Department of Transport, Planning and Local Infrastructure website](#)
- [Building in bushfire prone areas - Department of Transport, Planning and Local Infrastructure website](#).

Rural properties

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. For information about what impacts you should expect and how to manage them, visit the [new landholders section on the Department of Environment and Primary Industries website](#).
- » Are you considering removing native vegetation? There are regulations which affect your ability to remove native vegetation on private property. The limitations on clearing and processes for legal clearing are set out on the [Native Vegetation page on the Department of Environment and Primary Industries website](#).
- » Do you understand your obligations to manage weeds and pest animals? Visit the [New landholders section on the Department of Environment and Primary Industries website](#).
- Can you build new dwellings? Contact the local council for more information.
- » 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? For more information, visit the [Department of Environment and Primary Industries website](#).

Earth resource activity, such as mining

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.

For more information, visit the [GeoVic page on the Department of State Development Business and Innovation website](#) and the [Information for community and landholders page on the](#)

Department of State Development Business and Innovation website.

Soil and groundwater contamination

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.

For information on sites that have been audited for contamination, visit the contaminated site management page on the Environment Protection Authority website.

For guidance on how to identify if land is potentially contaminated, see the Potentially Contaminated Land General Practice Note June 2005 on the Miscellaneous practice and advisory notes page on the Department of Planning and Community Development website.

Land boundaries

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.

For more information, visit the Property and land titles page on the Department of Transport, Planning and Local Infrastructure website.

Planning controls affecting 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.

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.

The local council can give you advice about planning schemes, as well as details of proposed or current planning permits. For more information, visit the Planning Schemes Online on the Department of Planning and Community Development website.

A cultural heritage management plan or cultural heritage permit may be required prior to works

being undertaken on the property. [The Aboriginal Heritage Planning Tool on the Department of Premier and Cabinet website](#) can help determine whether a cultural heritage management plan is required for a proposed activity

Safety

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.

For more information, visit the [Consumers section on the Victorian Building Authority website](#) and the [Energy Safe Victoria website](#).

Building permits

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.

For more information about building regulation, visit our [Building and renovating section](#).

Aboriginal cultural heritage and building plans

For help to determine whether a cultural heritage management plan is required for a proposed activity, visit the [Aboriginal Cultural Heritage Planning Tool section on the Department of Premier and Cabinet website](#).

Insurance cover for recent building or renovation works

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

You can find out more about insurance coverage on the [Owner builders page on the Victorian Building Authority website](#) and [Domestic building insurance page on the Victorian Building Authority website](#).

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.

For more information, visit the [Choosing a retailer page on the Your Choice website](#).

For information on possible impacts of easements, visit the [Caveats, covenants and easements page of the Department of Transport, Planning and Local Infrastructure website](#).

For information on the National Broadband Network (NBN) visit the [NBN Co website](#).

Buyers' rights

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.

For more information, view our [Buying property section](#).

Professional associations and bodies that may be helpful:

* Archicentre website

[Association of Consulting Surveyors Victoria website](#)

[Australian Institute of Conveyancers \(Victorian Division\) website](#)

[Institute of Surveyors Victoria website](#)

[Law institute of Victoria website](#)

[Real Estate Institute of Victoria website](#)

[Strata Community Australia \(Victoria\) website](#).

Government of Victoria (Consumer Affairs Victoria) 2014

<http://www.consumer.vic.gov.au/duediligencechecklist> 5/5

Vendor: Brendan John Fryar and Natalie Rae Fryar

Vendor's Section 32 Statement

Property: 79 McEdward Street, Birdwoodton

Vendor's Conveyancer:
ALLSTATE CONVEYANCING SERVICES PTY. LTD.
Of 170 Eighth Street, Mildura, Vic, 3500.

Phone: 03 50 235355
Facsimile: 03 50 235653
Ref: 20610 Fryar (SAH:LP)