



## Contract of Sale of Land

Nym Developments Pty Ltd ACN 127 066 844

Lot No. .... on proposed Plan of Subdivision No.  
PS632567U/3 and being part of Settlers Key, Cohuna Vic  
3568

# Contract of Sale of Land

## IMPORTANT NOTICE TO PURCHASERS – COOLING-OFF

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

- You may end this contract within 3 clear business days of the day that you sign the contract if none of the exceptions listed below applies to you.
- You must either give the vendor or the vendor's agent **written** notice that you are ending the contract or leave the notice at the address of the vendor or the vendor's agent to end this contract within this time in accordance with this cooling-off provision.
- You are entitled to a refund of all the money you paid EXCEPT for \$100 or 0.2% of the purchase price (whichever is more) if you end the contract in this way.

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

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

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

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

- **Off-the-plan sales** (Section 9AA(1A) of the *Sale of Land Act 1962*)
- You may negotiate with the vendor about the amount of the deposit moneys payable under the contract of sale, up to 10 per cent of the purchase price.
- A substantial period of time may elapse between the day on which you sign the contract of sale and the day on which you become the registered proprietor of the lot.
- The value of the lot may change between the day on which you sign the contract of sale of that lot and the day on which you become the registered proprietor.

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

Property address                    **Lot No. .... on proposed Plan of Subdivision No. PS632567U/3  
and being part of Settlers Key, Cohuna Vic 3568**

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

The terms of this contract are contained in the -

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

in that order of priority.

## SIGNING OF THIS CONTRACT

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

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

The authority of a person signing -

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

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

### SIGNED BY THE PURCHASER:

..... on ...../...../202 .

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

.....

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

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

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

### SIGNED BY THE VENDOR:

..... on ...../...../202 .

Print name(s) of person(s) signing:                    **Jason Brett Hoghton & Gregory Shaun Menzel**

State nature of authority, if applicable:                    **Directors – Nym Developments Pty Ltd ACN 127 066 844**

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

## Particulars of sale

### Vendor's estate agent

First National Charles L King & Co  
7 Market Street, Cohuna, VIC, 3568

Email:  
Tel: (03) 5456 2214

### Vendor

**Nym Developments Pty Ltd ACN 127 066 844**  
145 Ahern Road, Pakenham, VIC, 3810

### Vendor's Legal Practitioner

**Duffy & Simon Lawyers**  
13 John Street, Pakenham VIC 3810  
PO Box 75, Pakenham VIC 3810  
DX: 81001 Pakenham

Email: tammy@duffysimon.com.au  
Tel: 5941 1622

Ref: DD:TP:2211344

### Purchaser

Name: .....  
Address: .....  
ABN/ACN: .....  
Email: .....

### Purchaser's legal practitioner or conveyancer

Name: .....  
Address: .....  
Email: .....  
Tel:..... Mob: ..... Ref: .....

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

The land is described in the table below –

Certificate of Title reference - <b>PART</b>				being lot	on <b>proposed</b> plan
Volume	12174	Folio	937		632567U/3

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

The land includes all improvements and fixtures.



**Property address**

The address of the land is: **Lot No. .... on proposed Plan of Subdivision No. PS632567U/3 and being part of Settlers Key, Cohuna, VIC, 3568**

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

Vacant Land

**Payment**

Price \$  
 Deposit \$ \_\_\_\_\_ by / /202 (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, 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 the \_\_\_\_\_ day of \_\_\_\_\_ 202 ;

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

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

**Lease** (general condition 5.1)

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

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

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

OR

a residential tenancy for a fixed term ending on \_\_\_\_\_

OR

a periodic tenancy determinable by notice

**Terms contract** (general condition 30)

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

**Loan** (general condition 20)

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

Lender:

(or another lender chosen by the purchaser)

Loan amount: \$

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

**GST withholding**

For contracts entered into from 1 July 2018 notice is required if taxable supply of residential premises or potential residential land.

**Is the Purchaser required to withhold and make a residential withholding payment?**

(refer section 14-250 of Schedule 1 of the Taxation Administration Act 1953)

NO  YES

Requisite GST Withholding Notice attached hereto

**Vendor GST withholding notice**

Pursuant to section 14-255 Schedule 1 Taxation Administration Act 1953 (Cth)

Amount purchaser must withhold and pay – sale price multiplied by the RW rate (residential withholding rate). Typically – 1/11<sup>th</sup> of the “contract price”; or 7% of the “contract price” where the margin scheme applied.

**RW Payment Amount**

7% of purchase price

Amount must be paid at:  AT COMPLETION  at another time (specify):

Is any of the consideration not expressed as an amount in money?  No  Yes

If “yes”, the GST inclusive market value of the non-monetary consideration: \$ \_\_\_\_\_

**Supplier’s name:**

Nym Developments Pty Ltd

**Supplier’s ABN:**

74 127 066 844

**Supplier’s business address:**

145 Ahern Road, Pakenham, VIC, 3810

**Supplier’s email address:**

[gregmen@bigpond.net.au](mailto:gregmen@bigpond.net.au)

**Supplier’s phone number:**

+61 3 5945 5220

## Special Conditions

**Instructions:** *It is recommended that when adding Special Conditions:*

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



## Schedule 1

### BANK GUARANTEE (Special Condition 5)

Yes

No

### FURTHER ENCUMBRANCES

If the sale is subject to an encumbrance other than an existing mortgage, those encumbrances appear in Schedule 2.



## Schedule 2

### Encumbrances to be assumed by the Purchaser –

#### Encumbrances to be assumed by the Purchaser –

- 1) all registered and any unregistered and implied easements, covenants and restrictive covenants (if any) including those disclosed in the Vendor's Statement;
- 2) any easements and restrictions created by the Plan;
- 3) requirements of any planning permit, affecting the Property;
- 4) the provisions of any agreement which the Vendor may be required to enter into with any responsible authority in relation to the Plan including but not limited to an agreement under Section 173 of the Planning and Environment Act 1987 (as amended from time to time); and
- 5) any Restrictions and Additional Restrictions (if any).



## SPECIAL CONDITIONS

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### 1. Definitions and Interpretation

#### 1.1 Definitions

In these Special Conditions:

**Additional Restrictions** includes all easements, encumbrances, rights, privileges, restrictions on use, covenants, dedications of land, agreements (including any agreement entered into under section 173 of the *Planning & Environment Act 1987* (Vic), leases, licences, other occupation rights and arrangements relating to all or part of the land comprised in the Development which are described in Special Conditions 6.1 and 15.3 which are:

- (a) required by an Authority;
- (b) required by a condition of an Approval;
- (c) reasonably and properly required for the Development;
- (d) necessary to satisfy a Requirement; or
- (e) required by NBN Co Limited.

**Approvals** means any permit, licence, consent, certificate or other approval obtained or required to be obtained from an Authority in relation to the Development, any lot on the Plan or the Parent Title and includes approval from the Design Assessor.

**Approval Date** means the period commencing on the day of sale and expiring 30 months after the day of sale.

**Authority** means any government or any public, statutory, governmental, semi-governmental, local governmental, municipal or judicial body, entity or authority and includes a Minister of the Crown (in any right), and any person, body, entity or authority exercising a power pursuant to an Act of Parliament.

**Bank** means an Australian-owned bank approved by the Vendor in its sole and unfettered discretion which is on the list, current on the day of sale, of authorised deposit-taking institutions regulated by the Australian Prudential Regulation Authority.

**Bank Guarantee** means an unconditional and irrevocable guarantee or undertaking by a Bank, subject to the terms of this Contract and in favour of the Vendor's solicitor with an expiry date (if any) at least 60 days after the expiry of the Registration Period or such other date authorised by the Vendor in writing and in a form satisfactory to the Vendor and the Vendor's financier and includes any replacement bank guarantee that is accepted by the Vendor.

**Business Day** means any day which, is not a Saturday, Sunday or proclaimed public holiday in the State of Victoria.

**Chattels** are the goods, if any, sold as part of the Property under this Contract.

**Claim** means any and all claims, actions, disputes, differences, demands, proceedings, accounts, interest, costs (whether or not the subject of a court order), loss, expenses and debts or liabilities of any kind (including those which are prospective or contingent and those the amount of which is not ascertained) of whatever nature and however arising.

**Contract** means this contract of sale and includes all enclosures and annexures.

**Deal or Dealing** includes a sale, agreement to sell, the granting of an option and a transfer or otherwise dealing in the land with a party other than the Vendor.

**Deposit** means an amount equal to the proportion of the price that is set out as the deposit in the particulars of sale.

**Development** means the land in the Plan and any surrounding land to be developed by the Developer in stages and known as Stage 3 – Cohuna.

**FIRB** means the Foreign Investment Review Board.

**General Conditions** are the conditions set out in Part 1 of the Law Institute of Victoria standard form of contract prescribed by the *Estate Agents (Contracts) Regulations 2008* (Vic).

**Guarantee** means the guarantee and indemnity in the form set out in Annexure A.

**GST** means GST within the meaning of the GST Act.

**GST Act** means the goods and services tax system which is Australian law under the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and associated legislation or any amendment or replacement of that Act or legislation.

**Hazardous Materials** includes all hazardous substances and any pollutant or contaminant defined as such in (or for the purposes of) any federal, state or local statute, law, ordinance, Rule or regulation, regulating or imposing liability of standards of conduct or concerning any such substance or material.

**Interest** means the interest (if any) that accrues on the Deposit less the taxes, charges and fees charged on, or attracted by, the Deposit or by the interest earned on it.

**Insolvency Event** means, in relation to a party, any of the following events:

- (a) the party assigns any of its property for the benefit of creditors or any class of them;
- (b) the party's interest in or under this Contract or in the subject matter of this Contract becomes attached or taken in execution or under any legal process;
- (c) an encumbrance takes any step towards taking possession or takes possession of any assets of the party or exercises any power of sale;
- (d) the party ceases, suspends or threatens to cease or suspend the conduct of a majority of its business, or disposes of or threatens to dispose of its assets, except for the purposes of a solvent reconstruction or amalgamation previously approved by the other party;
- (e) any security interest becomes enforceable or is enforced against the party;
- (f) a distress, attachment or other execution is levied or enforced against the party in excess of \$10,000;
- (g) the party has a judgment or order given against it in an amount exceeding \$10,000 (or the equivalent in another currency) and that judgment or order is not satisfied or quashed or stayed within 20 Business Days after being given;
- (h) the party takes any step to obtain protection or is granted protection from its creditors under any applicable legislation;

- (i) a resolution is passed by the party to appoint an administrator or an administrator of the party is appointed;
- (j) an order is made that the party be wound up;
- (k) an order is made appointing a liquidator or a provisional liquidator of the party;
- (l) the party resolves to wind itself up or otherwise dissolve itself, or gives notice of its intention to do so, except for the purposes of a solvent reconstruction or amalgamation previously approved by the other party, or is otherwise wound up or dissolved;
- (m) an order is, made or a resolution is passed for the party to enter into any arrangement, compromise or composition with or assignment for the benefit of its creditors or any class of them, except for the purposes of a solvent reconstruction or amalgamation previously approved by the other party;
- (n) the party is, or states that it is, or under applicable legislation is taken to be, unable to pay its debts (other than as a result of a failure to pay a debt or claim the subject of a dispute in good faith) or stops or suspends or threatens to stop or suspend payment of all or a class of its debts;
- (o) a receiver, receiver and manager, administrator, controller or similar officer of any of the assets or the whole or any part of the undertaking of the party is appointed;
- (p) the party is or makes a statement from which it may be reasonably deduced by the other party that the party is the subject of an event described in section 459C(2) of the *Corporations Act 2001*(Cth);
- (q) any event that is analogous or having a substantially similar effect to any of the events specified in this definition; or
- (r) the party, being an individual, commits an act of bankruptcy or becomes insolvent.

**Law** means any law (including principles of law or equity established by decisions of courts) that applies in Victoria, and any rule, regulation, ordinance, order, by-law, local law, statutory instrument, control, restriction, direction or notice made under a law by any Authority.

**Lot or Lots** means a lot or lots on the Plan.

**Nature Strip** means that part of the land between the Lot and the road not forming part of the Purchaser's title.

**NBN Building Ready Specifications** means specifications governing the building requirements for connection of a dwelling house to the national broadband fibre optic network as may be provided by the Vendor or as otherwise available at the website [www.nbnco.com.au](http://www.nbnco.com.au).

**Outgoings** means all rates, taxes, assessments, fees and other outgoings and includes land tax, levies, fire insurance premiums, Owners Corporation fees (if any) or insurance premiums or other expenses levied in respect of the Property but excludes any supplementary rates or taxes or other such rates assessed in respect of the Property after the Settlement Date which are the responsibility of the Purchaser.

**Parent Title** means Certificate of Title Volume 12174 Folio 937.

**Plan** means proposed Plan of Subdivision number PS 632567U/3, a copy of which is included in the Vendor's Statement and includes any amendments or alterations made to the plans and



any restriction noted on the plan as amended from time to time.

**Plan of Surface Level Works** means the plan attached as Annexure B to this Contract.

**Planning Scheme** means the Gannawarra Planning Scheme.

**Property** means the property sold pursuant to this Contract. The terms Land, Lot, Property are used intermittently throughout this Contract, however, they all mean the property sold pursuant to this Contract.

**Property Controls** means all existing and future planning, environmental, building and similar controls relating to the use or development of the Property, including (as applicable), the Planning Scheme.

**Purchaser Rights** means:

- (a) claiming compensation;
- (b) rescinding or purporting to rescind;
- (c) calling the Vendor to amend title or bear any cost of doing so;
- (d) delaying settlement;
- (e) avoiding any of its obligations; and
- (f) making any other Claims,

under this Contract.

**Registrar** means the Registrar of Titles of Victoria.

**Requirement** means any notice, order, direction, requirement, statute, ordinance, proclamation, regulation, scheme, permit, by-law or other regulatory requirement, present or future, affecting or relating to the Property, the use of the Property or the Development irrespective of whether the Requirement is addressed to the Vendor, the Purchaser or any other person.

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

**Settlement Date** means the date on which the Balance must be paid.

**Site** means the whole of the land comprised in the Plan.

**Stage** means a stage of the Development.

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

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

**Takeovers Act** means the *Foreign Acquisition & Takeovers Act 1975 (Cth)*.

**Utilities** means water, recycled water, sewerage, drainage, gas, electricity, telecommunications and other like services and includes all installations, pipes, wires, fibre optic cables, mains, connections and machinery relating to those services (if any).

**Vendor's Agent** means the estate agent or estate agents for the Vendor, if any, whose details

are set out in the particulars of sale.

**Vendor's Statement** means a statement made under Section 32 of the Sale of Land Act. A copy of the Vendor's Statement for this Contract is attached.

**Works** means all design, building and construction work that the Purchaser intends to complete including because of a Law that applies to the Site.

## 1.2 Interpretation

In this Contract:

1.2.1 a reference to:

- (a) any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any statutory instrument issued under, that legislation or legislative provision;
- (b) the singular includes the plural and vice versa;
- (c) an individual or person includes a corporation, firm, authority, government or government authority and vice versa;
- (d) any gender includes the other genders;
- (e) a party to this Contract includes that party's executives, administrators, successors and permitted assigns; and
- (f) a condition, annexure or schedule is a reference to a condition, annexure or schedule of this Contract.

1.2.2 including and singular expressions are not words of limitation;

1.2.3 headings are for convenience and reference only and do not affect the meaning or interpretation of this Contract;

1.2.4 if the whole of any part of a provision of this Contract is invalid or unenforceable, the validity or enforceability of the remaining provisions will not be affected;

1.2.5 any obligation on the part of two or more persons under this Contract binds all of them jointly and each of them severally, unless expressed to be only several;

1.2.6 the obligations imposed and the benefits conferred under this Contract on each of the parties are binding upon and enure for the benefit of the respective parties and each of their respective successors in title, legal personal representatives and permitted assigns;

1.2.7 if an act must be done on a specified day, which is not a Business Day, the act must be done on the Business Day immediately after that specified day; and

1.2.8 if a provision is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable;

1.2.9 if it is not possible to read down a provision as required in Special Condition 1.2.8, that provision is severable without affecting the validity or enforceability of the remaining part of that provision or the other provisions in this Contract.

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## 2. Amendment to General Conditions

2.1 The Purchaser and the Vendor agree that if there is:

2.1.1 any inconsistency between the provisions of the General Conditions and Special Conditions then, except in the case of manifest error, to the extent of any inconsistency the provisions of the Special Conditions will prevail and have priority; and

2.1.2 any inconsistency between this Special Condition and any other Special Condition then, except in the case of manifest error, to the extent of any inconsistency the provisions of any other Special Conditions will prevail and have priority over this Special Condition.

2.2 Without limiting the specific provisions of any other Special Condition, the General Conditions are amended as set out in this Special Condition 2.

2.3 The General Conditions (GC) are amended as follows:

2.3.1 GC3 is deleted and replaced with the following:

**'3. Guarantee**

*If the purchaser is a company other than a public company or if the purchaser nominates a substitute purchaser which is a company other than a public company, the purchaser must procure the execution of the guarantee by:*

*(a) each of its directors; or*

*(b) a listed company of which the purchaser is a subsidiary,*

*at the purchaser's expense and deliver it to the vendor together with the executed contract.'*

2.3.2 GC4 is amended by adding the following text at the end of the general condition:

*(a) If the nominee is a corporation to which general condition 4 applies, a guarantee and indemnity which complies with the requirements of general condition 3 but includes changes necessary by reason of the nomination;*

*(b) a written acknowledgment from the guarantors that the nomination of the nominee does not vitiate the guarantors' obligations;*

*(c) a statement signed by the purchaser and the nominee that the nominee is not obliged by the Foreign Acquisition & Takeovers Act 1975 (Cth) to furnish notice to the Treasurer of its intention to acquire an interest in the property.*

2.3.3 GC9 is deleted and replaced with the following:

**'9. Consents**

*The vendor must obtain any consent or approval required by the vendor as a condition of the vendor selling the property. The contract will be at an end and all money must be refunded to the purchaser if any necessary consent or approval is not obtained by settlement.'*

2.3.4 GC14.1(c) is deleted.

2.3.5 GC17.2 is amended by substituting the reference to 4.00pm with 3.00pm and adding the following sentence at the end of the general condition: 'A settlement which occurs after 3.00 pm will, unless the vendor agrees otherwise, be treated as having occurred at 9.00 am on the next day which is not a Saturday, Sunday or proclaimed public holiday in the State of Victoria.'

2.3.6 GC18.7 is amended by substituting the reference to 4.00pm with 3.00pm.

2.3.7 GC19 is amended by adding the following new paragraphs as GC19.8, 19.9 and 19.10;

*'19.8 This general condition will not merge on either settlement or registration.*

*19.9 Despite any other provision of this contract, if either party is required to reimburse to the other any costs, expenses or other amounts that the other party has incurred in connection with this contract, the amount to be reimbursed must be reduced by any part of that amount which is recoverable by the other party by way of input tax credit, partial input tax credit or other like set-off.*

*19.10 The amount recoverable on account of GST under this clause by the vendor will include any fines, penalties, interest and other charges incurred as a consequence of late payment or other default by the purchaser under this clause.'*

2.3.10 The second sentence of GC28.3 is amended to read:

*'The purchaser may enter the property on reasonable times and following prior written notice to the vendor to comply with that responsibility where action is required before settlement. The purchaser must use its reasonable endeavours not to disrupt the use and occupation of the property by the vendor and indemnifies the vendor for any loss or damage suffered by the vendor as a consequence of the purchaser exercising its rights under this general condition.'*

2.3.11 GC29 is amended by adding the following sentence at the end of the general condition:

*'The vendor may stipulate the time for inspection and limit the length of time for the inspection and the number of persons entitled to attend the inspection'.*

2.3.12 GC31 is deleted.

2.3.13 GC32 is deleted and replaced with the following:

**'32. Breach**

**32.1** *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,*

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

- (a) *expenses payable by the vendor under any existing loans secured over the property or other property of the vendor;*
- (b) *if the default results in settlement being delayed after 31 December in any calendar year, any additional land tax incurred by the vendor as a result of the land being included in the vendor's land tax assessment for the next calendar year;*
- (c) *the vendor's legal costs and expenses as between solicitor and client incurred due to the breach, including the cost of issuing any default notice agreed at \$400 plus GST;*
- (d) *any commission or other expenses claimed by the vendor's agents or other representing relating to sale of the property; and*
- (e) *penalties and any other expenses payable by the vendor due to any delay in completion of the purchase of another property.'*

2.3.14 GC33 is deleted and replaced with the following.

**'33. Interest**

*If the purchaser defaults in payment of any money due under this contract, the purchaser must pay the vendor interest at a rate 4% higher than the rate for the time being fixed under section 2 of the Penalty Interest Rates Act 1983 on the money overdue during the period of default without any demand and without prejudice to any other rights of the vendor under this contract or at law'*

2.3.15 GC35 is amended by including a new paragraph 35.6 as follows:

*'Unless the price includes GST, the reference to 'the price' in this general condition 28 refers to the price plus any GST payable on the price'.*

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**3 Deposit**

- 3.1 The Deposit monies paid or payable under this Contract must not exceed 10 per cent of the purchase price. The Deposit must be paid to the Vendor's solicitor or to the Vendor's Agent named in this Contract to be held on trust for the Purchaser held in the Vendor's solicitor or the Vendor's Agent's trust account until the registration of the Plan.
- 3.2 The Vendor and the Purchaser authorise the Vendor's solicitor to invest the Deposit and agree that any Interest which accrues on the Deposit money will be paid to the party entitled to the Deposit on the date on which the Deposit is released to that party.
- 3.3 Upon registration of the Plan the Deposit will be held or invested by the Vendor's solicitor upon the terms set out in this Special Condition as stakeholder for the parties.
- 3.4 Within 7 days after the day of sale, the Purchaser must give the Purchaser's tax file number either to the Vendor's solicitor or to the Bank. If the Purchaser gives its tax file number to the Bank it must, as soon as it has done so, give the Vendor's solicitor verification of this.
- 3.5 If the Purchaser breaches Special Condition 3.4, and then becomes entitled to a refund of the Deposit, the Purchaser must within 7 days of becoming entitled to a refund of the Deposit, provide the Purchaser's tax file number either to the Vendor's solicitor or to the Bank prior to receiving the Interest, whereupon the Interest will be payable to the Purchaser.

- 3.6 The Purchaser and the Vendor must not make any claim on the Vendor's solicitor for any matter arising out of this Special Condition 3.4.

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**4. Bank Guarantee**

- 4.1 The Vendor may accept a Bank Guarantee from the Purchaser instead of actual payment of the Deposit or any part of the Deposit.
- 4.2 The Vendor will not be deemed to have accepted a Bank Guarantee merely by reason of its receipt or 'Yes' being selected in relation to 'Bank Guarantee' in Schedule 1 to the particulars of sale.
- 4.3 If the Vendor agrees to accept a Bank Guarantee, the Purchaser must deliver it to the Vendor's solicitor (within 10 days after the day of sale) for an amount equal to the Deposit. For the avoidance of doubt, the Vendor's Agent is not authorised to hold the Bank Guarantee.
- 4.4 If the Purchaser complies with Special Condition 4.3, the Purchaser must pay the Deposit in cleared funds to the Vendor's solicitor on the first to occur of:
- 4.4.1 the Settlement Date;
  - 4.4.2 the date that is 30 days before the Bank Guarantee expires
  - 4.4.3 any earlier date on which:
    - (a) the Vendor would be entitled to the release of Deposit to it having regard to the provisions of this contract and section 27 of the Sale of Land Act;
    - (b) the Vendor rescinds or otherwise terminates this Contract for breach by the Purchaser;
    - (c) the Bank Guarantee becomes ineffective; or
    - (d) issuer of the Bank Guarantee is not of at least the Required Rating and the Purchaser has not served on the Vendor's solicitor a replacement Bank Guarantee from an issuer of at least the Required Rating.
- 4.5 When the Purchaser pays the Deposit, the Vendor will return the Bank Guarantee. If the Purchaser breaches Special Condition 4.3, the Purchaser must immediately pay the Deposit in cleared funds to the Vendor's solicitor.
- 4.6 If the Purchaser breaches Special Condition 4.4 or 4.5 (time being of the essence), the Purchaser will be in default under this Contract and without limiting the Vendor's rights the Vendor's solicitor (but in no circumstances the Vendor) is irrevocably authorised to draw on the Bank Guarantee if one has been provided.
- 4.7 Any Bank Guarantee provided to the Vendor under this Special Condition 4 will be held on trust by the Vendor's solicitor for the Purchaser until registration of the Plan.
- 4.8 Any moneys paid by the Bank pursuant to Special Condition 4.6 must be dealt with by the Vendor's solicitor and in accordance with Special Condition 4.1 and otherwise the Sale of Land Act. For the avoidance of doubt, this Special Condition takes precedence over anything else in this Special Condition.
- 4.9 Should the Purchaser pay the Deposit or any part of the Deposit by way of Bank Guarantee, the Purchaser will be required to pay a fee of \$320 to the Vendor's solicitor before such Bank



Guarantee (including any replacement Bank Guarantee) is accepted and in any event before or as a condition of settlement.

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**5. Registration of Plan Approvals**

- 5.1 This Contract is subject to and conditional upon:-
- (a) the issue of permits, necessary consents and approvals ("the Approval") or the Plan of Subdivision; and
  - (b) registration of the Plan of Subdivision, within twenty four (24) months from the Day of Sale ("Approval Date");
- 5.2 The Vendor may terminate this Contract by notice in writing to the Purchaser if:
- (a) any condition imposed in an Approval is not acceptable to the Vendor; or
  - (b) any requirement imposed in relation to the certification or registration of the Plan of Subdivision is, in the opinion of the Vendor, too onerous; or
  - (c) any authority refuses to grant an Approval or imposes unacceptable conditions in the grant of an Approval for any reason whatsoever (whether or not the Vendor has a right of appeal).
- 5.3 If by the Approval Date the Plan of Subdivision has not been registered either party may rescind this Contract by notice in writing at any time after the Approval Date and prior to the actual registration of the Plan of Subdivision. The Vendor's right to so rescind the Contract is however subject to the following requirements:
- (a) the Vendor is required to give notice of a proposed rescission of the Contract at least twenty eight (28) days before the proposed rescission; and
  - (b) the Purchaser has the right to consent to the proposed rescission of the Contract but is not obliged to consent; and
  - (c) the Vendor has the right to apply to the Supreme Court for an order permitting the Vendor to rescind the Contract; and
  - (d) the Supreme Court may make an order permitting the rescission of the Contract if satisfied that making the order is just and equitable in all the circumstances.
- 5.4 If this Contract is so terminated all moneys paid hereunder shall be refunded to the Purchaser and neither party shall have any action right, claim or demand against the other under this Contract or arising from or out of the rescission of this Contract including the failure of the Vendor to procure registration of the Plan of Subdivision.

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**6. Amendments to Plan**

- 6.1 Subject to section 9AC of the Sale of Land Act, the Vendor may make such minor alterations to the Plan that:
- 6.1.1 may be necessary to:
- (a) accord with surveying practice; or
  - (b) alter the Plan so that the land in the Plan is developed in stages; or
  - (c) comply with any requirement, recommendation or requisition of an Authority or of a consultant to the Vendor or a combination of them;
- 6.1.2 in the opinion of the Vendor, are required for the development, use, occupation, proper management or adequate servicing of the Site or any part of it.

- 6.2 The Purchaser acknowledges and agrees that section 10(1) of the Sale of Land Act does not apply to this Contract in respect of:
- 6.2.1 any alterations to the Plan made by the Vendor pursuant to Special Condition 6.1; and
  - 6.2.2 the final location of an easement shown on the certified Plan.
- 6.3 The Purchaser will accept the Property described on the Plan as ultimately registered notwithstanding that there may be minor variations or discrepancies between the Lot or Lots hereby sold and the Lot or Lots on the registered Plan.
- 6.4 The Purchaser agrees not to make any objection, requisition or exercise any of the Purchaser's Rights because of:
- 6.4.1 any amendment or alteration to the Plan (including alterations to the lot entitlement or lot liability attributed to the Property) which does not materially and detrimentally affect the Purchaser; or
  - 6.4.2 any alleged misdescription of the Land or deficiency in its area or measurements; or
  - 6.4.3 any renumbering of stages of Lots on the Plan.
- 6.5 For the purposes of Special Conditions 6.2 and 6.4, the Purchaser agrees that an alteration to the Plan which results in a change to the area of the Property of less than 5% is a minor variation or discrepancy and does not materially or detrimentally affect the Purchaser.

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**7. Caveat**

- 7.1 The Purchaser must not lodge or cause or allow any person claiming through it or acting on its behalf to lodge on the Purchaser's behalf any caveat in relation to the land prior to the registration of the Plan.
- 7.2 The Purchaser acknowledges that this Special Condition is an essential term of the Contract, breach of which (without prejudice) to any other rights that the Vendor may have with respect of the breach will entitle the Vendor to make a claim for damages which the Purchaser must pay on demand as the damages suffered by the Vendor up to the date of which the caveat is withdrawn.
- 7.3 The Purchaser appoints the Vendors solicitors as its attorney to withdraw any such caveat or signing a withdrawal of such caveat. This appointment will survive the rescission or termination of this Contract by either party.

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**8. Disclosure of Surface Level Works**

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

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

are set out in the Plan of Surface Level Works.



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**9. Memorandum of Common Provisions**

- 9.1 It is the Vendor's present intention that a Memorandum of Common Provisions substantially in the form of the Memorandum of Common Provisions at Annexure B will be registered on the titles of all the lots in the Stage.
- 9.2 The Purchaser covenants and agrees with the Vendor that:
- 9.2.1 it has read and understood the terms of the Memorandum of Common Provisions;
- 9.2.2 it must observe and comply with the terms of the Memorandum of Common Provisions; and
- 9.2.3 the property is sold subject to the Memorandum of Common Provisions.
- 9.3 The Purchaser acknowledges that a relevant Authority may require that the Memorandum of Common Provisions may varied or amended at any time. The Purchaser must not make any claim, objection, requisition or take steps to rescind or terminate this Contract by reason of such variation or amendment.
- 9.4 The Purchaser acknowledges that ResCode (Vic) 2001 (**ResCode**) applies to the Works on the Property and that the Works will be considered by the relevant Authority or private building surveyor (as the case may be) (**statutory authorities**) under the provisions of ResCode.
- 9.5 The Purchaser indemnifies the Vendor against any loss or damage it suffers as a result of the Purchaser breaching Special Condition 9.2.
- 9.6 This condition with enure for the benefit of the Vendor after the Settlement Date.
- 9.7 The Vendor will not be liable to the Purchaser in respect of any buildings to be constructed on other lots in the Development or the Stage or any failure by the Vendor to enforce any of the terms of the Memorandum of Common Provisions.

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**10. Utilities**

- 10.1 The Purchaser acknowledges that the Property is sold subject to all Utilities (if any) affecting the Land.
- 10.2 The Purchaser will not exercise any Purchaser Rights by reason of:
- 10.2.1 any Utility which, is a joint service with any other land or building;
- 10.2.2 any Utility servicing the Property or any other property passing through, under or over the Land whether subject to a registered easement or otherwise; or
- 10.2.3 if, as a result of the presence of Utilities on the Land, any Authority or any other person or property has the benefit of any right or easement over the Land in respect of Utilities.
- 10.3 The Purchaser acknowledges that:
- 10.3.1 the Utilities referred to in the Vendor's Statement as being available to the Property may be laid outside the boundary of the Property and it will be the responsibility of the

Purchaser to connect those Utilities to the Property, including payment of any connection fee; and

10.3.2 it is responsible for complying with any of NBN Co Limited's requirements for the connection of the national broadband network to the Property.

10.4 Without limiting Special Condition 10.2 or 10.3, the Purchaser acknowledges that:

10.4.1 subject to Special Condition 10.5, the Vendor will install underground conduits suitable for the installation of optical fibre cabling up to the front title boundary of the Site (to a location point determined by the Vendor in its sole and unfettered discretion) and the Purchaser must, at its own cost, do all things necessary (including obtaining any required statutory or other approvals) to bring optical fibre cabling from that connection point to the dwelling on the Property.

10.5 The Purchaser must not construe anything in Special Condition 10.5.2 as a warranty by the Vendor that optical fibre cabling will be available to the Property which remains at the sole discretion of the Vendor.

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**11. Hazardous Materials**

On and from the Settlement Date, the Purchaser:

11.1 agrees to keep the Vendor indemnified against:

11.1.1 the presence of Hazardous Materials on the Property and anything incidental to them and agrees to comply with all relevant legislation, all Property Controls and the requirements of any relevant Authority in respect of them; and

11.1.2 all Claims resulting in any way from the existence of Hazardous Materials on or emanating from the Property, including actions based on injury to any person or property; and

11.2 waives all Purchaser Rights in relation to any of the matters referred to in this Special Condition and agrees that those matters do not affect the Vendor's title to the Property.

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**12. Vendor may conduct activities**

12.1 The Purchaser acknowledges that both before and after the Settlement Date the Vendor and persons authorised by the Vendor may:

12.1.1 conduct selling activities from the Site including by operating a Display Village on the Site;

12.1.2 place and maintain on and outside the Site (excluding the Property) signs in connection with those selling activities; and

12.1.3 place and maintain on and about the Site an office or facility or both for representatives of the Vendor and their representatives.

12.2 The Purchaser waives all rights to make or take any objection to the methods used by the Vendor and persons authorised by the Vendor in its efforts to sell by public auction or otherwise the remaining Lots in the Development including without limitation the use of signs,

public auctions provided that the Vendor must at all times display reasonable consideration for the comfort and convenience of the Purchaser.

- 12.3 The Purchaser covenants with the Vendor that upon the Purchaser or any of the Purchaser's tenants being entitled to possession or occupation of the Property, they must do all things necessary to cooperate with the Vendor's marketing and selling of the other Lots. The Purchaser agrees (and the Purchaser must cause the Purchaser's tenants to comply) that they must not cause any nuisance which may hinder the marketing and sale of the Lots.
- 12.4 If the Purchaser wishes to sell or lease their Property, the Purchaser agrees not to erect any signs including advertising boards on the Property without the Vendor's prior written consent. The Purchaser acknowledges and agrees that the Vendor may remove any such signs that are erected on the Property at the Purchaser's cost.
- 12.5 This Special Condition will not merge on settlement, but, will continue in full force and effect.
- 12.6 The Purchaser will not make any objection, requisition or claim nor rescind, terminate or delay settlement of this Contract because of anything contemplated by Special Condition 12.1.

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**13. Staged Development**

13.1 The Purchaser acknowledges that the:

13.1.1 Land forms part of the Development by the Vendor, which will occur in stages;

13.1.2 development of the Land may occur in stages with the effect that some parts of the Development may not be completed at the same time or in fact prior to the date some purchasers in the Development may be required to settle and the Purchaser must not at any time, including after the Settlement Date:

- (a) object to the carrying out of any works on the Development, including the development of the Subsequent Stage Land, by any party;
- (b) object to the dust, noise or other discomforts that may arise during the course of completion of the Development, including the development of the Subsequent Stage Land; and
- (c) exercise any Purchaser Rights or institute or prosecute any action or proceeding for injunction or damages arising out of, connected with or consequent upon the completion of these works or the dust and noise and other discomforts which might arise from them.

13.1.3 Vendor who is, or is entitled to be, registered proprietor of the Subsequent Stage Land, reserves the right in its absolute discretion to develop or to refrain from developing the Subsequent Stage Land. The Vendor gives notice to the Purchaser that the Vendor or the Vendor's successors in title may, at any time in future:

- (a) subdivide the Subsequent Stage Land;
- (b) carry out or permit the carrying out of building works on the Subsequent Stage Land;
- (c) construct or cause to be constructed improvements including, without limitation, structures, buildings, roads, footpaths and access-ways over any part or parts of the Subsequent Stage Land;

- (d) apply to relevant Authorities for any approval required to develop the Subsequent Stage Land; or
- (e) refrain from doing any or all of these things; and

13.1.4 Vendor cannot and does not give any assurances as at the day of sale as to:

- (a) the timetable for carrying out the Development;
- (b) the nature of the Development (including the number of lots, types of uses and PSP Requirements); and/or
- (c) the manner in which the Development will be carried out.

13.1.5 The Purchaser further acknowledges that as the person who is, or is entitled to be, registered proprietor of the Subsequent Stage Land the Vendor proposes to create further stages of the Plan and the Purchaser acknowledges and consents to such subdivision including the altering of the lot entitlement or lot liability of any of the lots on the Plan as authorised by section 37(3)(c)(iv)(C) of the Subdivision Act.

13.1.6 The Purchaser must (whether before or after the Settlement Date) do all things and execute all documents as may be reasonably required by the Vendor to give effect to provisions of this Special Condition 13.1.6.

13.1.7 The Purchaser covenants with the Vendor that it will not, nor cause anybody on its behalf to either directly or indirectly hinder, delay, impede, object or prevent the Vendor exercising the rights set out in Special Condition 13.1.2 and 13.1.4 or exercise any Purchaser Rights.

13.1.8 The Purchaser indemnifies and will keep indemnified the Vendor against all claims, damages and costs for which the Vendor may suffer due to a breach of Special Condition 13.1.7. The Purchaser agrees that the indemnity will not merge on completion.

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**14.1 Fencing**

**14.1 Rear Fencing Lots 34-42 & 57-72 (inclusive)**

The Vendor will erect 1.8 metre Grey Ridge Colourbond fencing to match existing fencing to the rear boundary of Lots 34-42 and 57-72 at no cost to the Purchaser.

**Side Fencing Lots 34-42 & 57-72 (inclusive)**

The Purchaser acknowledges that all side boundary fencing costs are at the Purchaser's cost for Lots 34-42 and 57-72 (inclusive).

**Fencing – Lots 30-33; 43- 56 (inclusive)**

The Vendor agrees to construct rear boundary fencing to Lots 30-33 and 43-56 with 200 mm x 200 mm sheep wire mesh fencing with single strand top wire and 100 mm round treated pine posts at no cost to the Purchaser. The Purchaser acknowledges

that all side boundary fencing costs on Lots 30-33 and 43-56 (Inclusive) are at the Purchasers costs.

14.2 Purchaser's contribution

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

14.3 Vendor's contribution limited

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

14.4 Further sale by Purchaser

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

*"In this condition, 'Landowner' means*

**NYM DEVELOPMENTS PTY LTD**

*While the Landowner owns any land adjoining the property, the purchaser agrees that the Landowner's contribution towards the cost of constructing any dividing fence will be \$1.00."*

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

14.5 Fence maintenance and substitution

The Purchaser must not remove or in any way damage any part of any fence built or located on or within the Property. The Purchaser must maintain all such fences, and must not allow those fences to fall into a state of neglect or disrepair at any time. If any of those fences have to be replaced, the replacement fence must be constructed to the same specifications as the fence being replaced.

14.6 Non merger

This Special Condition does not merge upon Settlement and ensures for the benefit of the Vendor and the Purchaser.

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15. Encumbrances

15.1 Subject to all Laws

The Purchaser buys the Property subject to any applicable Law including, without limitation, the requirements of any planning scheme.

## 15.2 Easements

The Purchaser:

15.2.1 admits that the Property is sold subject to the provisions of the Subdivision Act; and

15.2.2 buys the Property subject to:

- (a) all easements and encumbrances affecting the Site including those disclosed in the Schedule to this Contract and/or created or implied by the Subdivision Act; and
- (b) the rights of the Vendor under Special Condition 15.3.

The Purchaser must not make any requisition or objection or exercise the Purchaser's Rights in relation to any other matter referred to in this Special Condition 15.2.

## 15.3 Additional Restrictions

15.3.1 The Purchaser acknowledges that as at the day of sale and the Settlement Date not all of the Additional Restrictions may have been entered into, granted or finalised.

15.3.2 The Vendor can enter into, grant or finalise any Additional Restriction on or after the day of sale.

15.3.3 The Vendor does not however give any assurance:

- (a) as to the nature of the Additional Restriction;
- (b) that it will proceed, and may refrain from proceeding with, any Additional Restriction; and
- (c) when any Additional Restriction will be entered into, granted or finalised.

15.3.4 Within 5 Business Days after receipt of a request from the Vendor, the Purchaser must execute any acknowledgement or covenant required by the Vendor under which the Purchaser:

- (a) agrees to accept and observe an Additional Restriction; and
- (b) acknowledges that the Additional Restriction runs with the relevant land.

15.3.5 Subject to the Purchaser's rights under the Sale of Land Act, the Purchaser will not exercise any Purchaser Rights by reason of the existence, granting, entering into or imposition of Additional Restrictions.

## 15.4 Sale of Land Act 1962

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

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## 16. State of the Property

16.1 The Purchaser agrees that after the Settlement Date the Purchaser must:

16.1.1 keep the Property neat and tidy;

- 16.1.2 promptly remove rubbish and debris from the Property;
  - 16.1.3 cut the grass on the Property;
  - 16.1.4 not dump or permit to be dumped any rubbish, debris or fill from the Property on any other public or private land in the Development;
  - 16.1.5 not allow the Property to be left in a condition which in the reasonable opinion of the Vendor is unsightly; and
  - 16.1.6 take all reasonable steps to protect the Property from any damage to avoid rubbish being dumped on the Property, including, without limitation, installing temporary fencing to secure the Property, if required.
- 16.2 The Purchaser must ensure that no boats, caravans, trailers, commercial vehicles or other recreational vehicles are parked on the Property unless they are screened from public view.
- 16.3 If the Purchaser breaches Special Condition 16.1 or 16.2, the Vendor may give the Purchaser a notice requiring the Purchaser to remedy the breach within 48 hours.
- 16.4 If the Purchaser fails to comply with a notice given under Special Condition 16.3, the Purchaser authorises the Vendor and its employees, agents and contractors to do whatever works are necessary to remedy the breach (and, if necessary, to enter the Land for that purpose and to remove property from the Land and dispose of it as the Vendor thinks fit without being liable to the Purchaser in any way) and the Purchaser agrees to pay to the Vendor on demand all costs and expenses incurred by the Vendor in so doing.
- 16.5 The Vendor or its agents may enter the Land at any time after the Settlement Date, without creating liability for trespass or otherwise, to maintain, slash or mow the Land without receiving authority from the Purchaser, where in the Vendor's opinion it is necessary to do so.
- 16.6 Where the Vendor enters the land for the purposes stated in Special Condition 16.5, the Purchaser must pay the Vendor a sum of \$100 upon the Vendor presenting the Purchaser with an invoice.
- 16.7 The Purchaser acknowledges and agrees that:
- 16.7.1 the Vendor will, prior to registration of the Plan, define the boundaries of the Land by pegging.
  - 16.7.2 the Vendor will not replace any pegs on the Land in the event that pegs are moved or taken by any party after the installation by the Vendor.

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**17. Vendor's right to terminate**

**17.1 Requirements**

If any requirement imposed by an Authority for the Plan is in the opinion of the Vendor (acting reasonably) too onerous to perform or accept, the Vendor may elect to terminate this Contract by notice in writing to the Purchaser. If the Vendor gives notice under this Special Condition 18.1, this Contract will be at an end and all moneys paid by the Purchaser will be refunded.

**17.2 Benefit of this Special Condition**

Special Condition 17.1 is for the benefit of the Vendor. Only the Vendor may give notice under it or waive the benefit of it.



### 17.3 No compensation

If this Contract is terminated or rescinded by the Vendor under this Special Condition 17 neither party will have any right to compensation or damages against the other party as a result of the termination or rescission.

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### 18. Acknowledgements

The Purchaser acknowledges:

- 18.1 having received from the Vendor or the Vendor's Agent prior to signing this Contract or any agreement or document in respect of the sale hereby made which is legally binding upon or intended legally to bind the Purchaser:
  - 18.1.1 the Vendor's Statement executed by the Vendor containing the particulars required by section 32(2) of the Sale of Land Act (as amended); and
  - 18.1.2 a copy of this Contract;
- 18.2 that the Purchaser has read and understood those documents (including all attachments); and
- 18.3 that no promise with respect to the obtaining of a loan of money to defray some or all of the cost of the purchase price has been made by or on behalf of any estate agent representing the Vendor.

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### 19 Outgoings

- 19.1 All Outgoings for the Property will be adjusted between the Vendor and the Purchaser on the basis that they have or will be paid by the Vendor. Despite this Special Condition the Vendor is only obliged to pay all outgoings when they are due to be paid and the Purchaser will not require them to be paid on an earlier date.
  - 19.2 If the Property is not separately assessed in respect of the Outgoings, then the portion of any such Outgoings to be adjusted between the Vendor and the Purchaser will be either:
    - 19.2.1 on the basis that the amount to be apportioned between them is the proportion of the Outgoing equal to the proportion which:
      - (a) the lot liability of the Property bears to the total liability of all of the lots on the Plan; or
      - (b) the surface area of the Property bears to the surface area of the land that is subject to the assessment; or
    - 19.2.2 on such other basis,
- as the Vendor may reasonably direct the Purchaser on or before the Settlement Date.

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### 20. Land Tax

- 20.1 Despite any other clause in the Contract and General Condition 15.2(b), the parties agree that:



20.1.1 for the purpose of the adjustment of land tax the relevant assessments for land tax is any effected, on 31 December preceding the day of sale together with any subsequent assessments which include the Property (Land Tax Assessment); and

20.1.2 land tax will be adjusted:

- (a) based on the proportional land tax stated on the Land Tax Assessment;
- (b) on the basis that the amount to be apportioned between them is the proportion of the proportional land tax equal to the proportion which the surface area of the Property bears to the surface area of the land that is subject to the proportional land tax stated on the Land Tax Assessment; and
- (c) from the day of sale.

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**21. No Warranties**

The Purchaser acknowledges that it:

- (a) accepts the Property with all Property Controls and Approvals;
- (b) has made all the enquiries with Authorities that a prudent and careful person would make before entering into this contract;
- (c) enters into this contract on the basis of its inspection and the enquiries it has carried out, and relying on its own judgment;
- (d) acknowledges that the Vendor has been or may be in the course of carrying out infrastructure and other works on the Land and that the Land may be filled, raised, levelled, compacted or cut; and
- (e) has not relied, and does not rely, on any representation or warranty of any nature made by or on behalf of the Vendor, the Vendor's solicitor or the Vendor's Agent other than those expressly set out in this contract.

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**22. Whole Agreement**

The covenants provisions terms and agreements contained in this Contract expressly or by statutory implication cover and comprise the whole of the agreement between the parties and the parties expressly agree and declare that no further or other covenants agreements provisions or terms will be deemed to be implied in this Contract or to arise between the parties by way of collateral or other agreement by reason of any promise representation warranty or undertaking given or made by either party to the other on or before the execution of this Contract and the existence of any such implication or collateral or other agreement is hereby expressly negated.

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**23. Indemnity**

Subject to any provision to the contrary in this Contract, the Purchaser will indemnify and keep indemnified the Vendor against all claims, demands, proceedings, judgements, damages, costs and losses of any nature whatsoever which the Vendor may suffer, sustain or incur in connection with or relating to any liability, claim, action, demand, suit or proceedings howsoever arising made or incurred on or subsequent to the Settlement Date or from events or occurrences happening or arising on or subsequent to the Settlement Date out of or in respect of the Land or any act, matter or thing occurring thereon.

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**24. Non-Merger**

Any provision of this Contract, which is capable of taking effect after completion of this Contract, will not merge on completion but rather will continue in full force and effect.

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**25. Personal Information**

25. In this Special Condition:

25.1.1 Privacy Act means the *Privacy Act 1988* (Cth) and any ancillary rules, regulations, guidelines, orders, directions, directives, codes of conduct or practice or other instrument made or issued thereunder, including:

- (a) any consolidation, amendment, re-enactment or replacement of any of them or the Privacy Act; and
- (b) the National Privacy Principles under the Privacy Act.

25.1.2 Personal Information has the meaning given to it in the Privacy Act.

25.2 The purchaser consents to the collection, use and disclosure of the Personal Information of the Purchaser by the Vendor and its related entities:

25.2.1 for entering into, administering and completing this Contract and any development by the Vendor referred to therein;

25.2.2 for planning and product development by the Vendor;

25.2.3 to comply with the Vendor's obligations or to enforce its rights under this Contract;

25.2.4 to owners of adjoining land to enable them to deal with the Purchaser concerning any development or other work which they wish to undertake on their land (including disclosure of personal information to contractors to assist adjoining land owners to comply with their obligations and to enforce their rights in relation to fencing);

25.2.5 to surveyors, engineers and other parties who are engaged by the Vendor to carry out works which may affect the property;

25.2.6 to service providers engaged by the Vendor, such as legal advisers, financial advisers, market research organisations, mail houses and delivery companies;

25.2.7 to any third party who has a right or entitlement to share in the monies paid or payable to the Vendor under this Contract; and

25.2.8 in other circumstances where the Vendor is legally entitled, obliged or required to do so, including any disclosure which is permitted or authorised under the Privacy Act.

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**26 Trust**

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

26.1 the Purchaser must not do anything to prejudice any right of indemnity the Purchaser may have under the Trust;

- 26.2 the Purchaser warrants that the Purchaser has power under the Trust to enter into this Contract;
- 26.3 if the trustee is an individual, that signatory is personally liable under the Contract for the due performance of the Purchaser's obligations as if the signatory were the purchaser in the case of a default by the Purchaser;
- 26.4 the Purchaser warrants that the Purchaser has right of indemnity under the Trust; and
- 26.5 the Purchaser must not allow the variation of the Trust or the advance or distribution of capital of the Trust or resettlement of any property belonging to the Trust.

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**27 Insolvency Event Deemed Default**

- 27.1 If an Insolvency Event occurs, the Purchaser is deemed to have fundamentally breached a term of this Contract at the time that the Insolvency Event occurs and the Vendor may terminate this Contract at any time after the Insolvency Event by notice in writing to the Purchaser.
- 27.2 An Insolvency Event in respect of the Vendor does not constitute a breach of this Contract by the Vendor.

# General Conditions

## Contract signing

### 1. ELECTRONIC SIGNATURE

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

### 2. LIABILITY OF SIGNATORY

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

### 3. GUARANTEE

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

### 4. NOMINEE

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

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## Title

### 5. ENCUMBRANCES

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

### 6. VENDOR WARRANTIES

- 6.1 The vendor warrants that these general conditions 1 to 35 are identical to the general conditions 1 to 35 in the form of contract of sale of land published by the Law Institute of Victoria Limited and the Real Estate Institute of Victoria Pty Ltd in the month and year set out at the foot of this page.
- 6.2 The warranties in general conditions 6.3 and 6.4 replace the purchaser’s right to make requisitions and inquiries.
- 6.3 The vendor warrants that the vendor:
  - (a) has, or by the due date for settlement will have, the right to sell the land; and
  - (b) is under no legal disability; and
  - (c) is in possession of the land, either personally or through a tenant; and

- (d) has not previously sold or granted any option to purchase, agreed to lease or granted a pre-emptive right which is current over the land and which gives another party rights which have priority over the interest of the purchaser; and
- (e) will at settlement be the holder of an unencumbered estate in fee simple in the land; and
- (f) will at settlement be the unencumbered owner of any improvements, fixtures, fittings and goods sold with the land.

6.4 The vendor further warrants that the vendor has no knowledge of any of the following:

- (a) public rights of way over the land;
- (b) easements over the land;
- (c) lease or other possessory agreement affecting the land;
- (d) notice or order directly or indirectly affecting the land which will not be dealt with at settlement, other than the usual rate notices and any land tax notices;
- (e) legal proceedings which would render the sale of the land void or voidable or capable of being set aside.

6.5 The warranties in general conditions 6.3 and 6.4 are subject to any contrary provisions in this contract and disclosures in the section 32 statement.

6.6 If sections 137B and 137C of the *Building Act 1993* apply to this contract, the vendor warrants that:

- (a) all domestic building work carried out in relation to the construction by or on behalf of the vendor of the home was carried out in a proper and workmanlike manner; and
- (b) all materials used in that domestic building work were good and suitable for the purpose for which they were used and that, unless otherwise stated in the contract, those materials were new; and
- (c) domestic building work was carried out in accordance with all laws and legal requirements, including, without limiting the generality of this warranty, the *Building Act 1993* and regulations made under the *Building Act 1993*.

6.7 Words and phrases used in general condition 6.6 which are defined in the *Building Act 1993* have the same meaning in general condition 6.6.

## 7. IDENTITY OF THE LAND

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

## 8. SERVICES

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

## 9. CONSENTS

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

## 10. TRANSFER & DUTY

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

## 11. RELEASE OF SECURITY INTEREST

- 11.1 This general condition applies if any part of the property is subject to a security interest to which the *Personal Property Securities Act 2009* (Cth) applies.

- 11.2 For the purposes of enabling the purchaser to search the Personal Property Securities Register for any security interests affecting any personal property for which the purchaser may be entitled to a release, statement, approval or correction in accordance with general condition 11.4, the purchaser may request the vendor to provide the vendor's date of birth to the purchaser. The vendor must comply with a request made by the purchaser under this condition if the purchaser makes the request at least 21 days before the due date for settlement.
- 11.3 If the purchaser is given the details of the vendor's date of birth under condition 11.2, the purchaser must
- (a) only use the vendor's date of birth for the purposes specified in condition 11.2; and
  - (b) keep the date of birth of the vendor secure and confidential.
- 11.4 The vendor must ensure that at or before settlement, the purchaser receives –
- (a) a release from the secured party releasing the property from the security interest; or
  - (b) a statement in writing in accordance with section 275(1)(b) of the *Personal Property Securities Act 2009* (Cth) setting out that the amount or obligation that is secured is nil at settlement; or
  - (c) a written approval or correction in accordance with section 275(1)(c) of the *Personal Property Securities Act 2009* (Cth) indicating that, on settlement, the personal property included in the contract is not or will not be property in which the security interest is granted.
- 11.5 Subject to general condition 11.6, the vendor is not obliged to ensure that the purchaser receives a release, statement, approval or correction in respect of personal property –
- (a) that –
    - (i) the purchaser intends to use predominately for personal, domestic or household purposes; and
    - (ii) has a market value of not more than \$5000 or, if a greater amount has been prescribed for the purposes of section 47(1) of the *Personal Property Securities Act 2009* (Cth), not more than that prescribed amount; or
  - (b) that is sold in the ordinary course of the vendor's business of selling personal property of that kind.
- 11.6 The vendor is obliged to ensure that the purchaser receives a release, statement, approval or correction in respect of personal property described in general condition 11.5 if –
- (a) the personal property is of a kind that may be described by a serial number in the Personal Property Securities Register; or
  - (b) the purchaser has actual or constructive knowledge that the sale constitutes a breach of the security agreement that provides for the security interest.
- 11.7 A release for the purposes of general condition 11.4(a) must be in writing.
- 11.8 A release for the purposes of general condition 11.4(a) must be effective in releasing the goods from the security interest and be in a form which allows the purchaser to take title to the goods free of that security interest.
- 11.9 If the purchaser receives a release under general condition 11.4(a) the purchaser must provide the vendor with a copy of the release at or as soon as practicable after settlement.
- 11.10 In addition to ensuring a release is received under general condition 11.4(a), the vendor must ensure that at or before settlement the purchaser receives a written undertaking from a secured party to register a financing change statement to reflect that release if the property being released includes goods of a kind that are described by serial number in the Personal Property Securities Register.
- 11.11 The purchaser must advise the vendor of any security interest that is registered on or before the day of sale on the Personal Property Securities Register, which the purchaser reasonably requires to be released, at least 21 days before the due date for settlement.
- 11.12 The vendor may delay settlement until 21 days after the purchaser advises the vendor of the security interests that the purchaser reasonably requires to be released if the purchaser does not provide an advice under general condition 11.11.
- 11.13 If settlement is delayed under general condition 11.12, the purchaser must pay the vendor –
- (a) interest from the due date for settlement until the date on which settlement occurs or 21 days after the vendor receives the advice, whichever is the earlier; and
  - (b) any reasonable costs incurred by the vendor as a result of the delay –  
as though the purchaser was in default.
- 11.14 The vendor is not required to ensure that the purchaser receives a release in respect of the land. This general condition 11.14 applies despite general condition 11.1.
- 11.15 Words and phrases which are defined in the *Personal Property Securities Act 2009* (Cth) have the same meaning in general condition 11 unless the context requires otherwise.



## 12. BUILDING WARRANTY INSURANCE

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

## 13. GENERAL LAW LAND

- 13.1 The vendor must complete a conversion of title in accordance with section 14 of the *Transfer of Land Act 1958* before settlement if the land is the subject of a provisional folio under section 223 of that Act.
- 13.2 The remaining provisions of this general condition 13 only apply if any part of the land is not under the operation of the *Transfer of Land Act 1958*.
- 13.3 The vendor is taken to be the holder of an unencumbered estate in fee simple in the land if there is an unbroken chain of title starting at least 30 years before the day of sale proving on the face of the documents the ownership of the entire legal and equitable estate without the aid of other evidence.
- 13.4 The purchaser is entitled to inspect the vendor's chain of title on request at such place in Victoria as the vendor nominates.
- 13.5 The purchaser is taken to have accepted the vendor's title if:
- (a) 21 days have elapsed since the day of sale; and
  - (b) the purchaser has not reasonably objected to the title or reasonably required the vendor to remedy a defect in the title.
- 13.6 The contract will be at an end if:
- (a) the vendor gives the purchaser a notice that the vendor is unable or unwilling to satisfy the purchaser's objection or requirement and that the contract will end if the objection or requirement is not withdrawn within 14 days of the giving of the notice; and
  - (b) the objection or requirement is not withdrawn in that time.
- 13.7 If the contract ends in accordance with general condition 13.6, the deposit must be returned to the purchaser and neither party has a claim against the other in damages.
- 13.8 General condition 17.1 [settlement] should be read as if the reference to 'registered proprietor' is a reference to 'owner' in respect of that part of the land which is not under the operation of the *Transfer of Land Act 1958*.

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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 is sold on an unregistered plan of subdivision, the deposit:
- (a) must not exceed 10% of the price; and
  - (b) must be paid to the vendor's estate agent, legal practitioner or conveyancer and held by the estate agent, legal practitioner or conveyancer on trust for the purchaser until registration of the plan of subdivision.
- 14.3 The deposit must be released to the vendor if:
- (a) the vendor provides particulars, to the satisfaction of the purchaser; that either
    - (i) there are no debts secured against the property; or
    - (ii) if there are any debts, the total amount of those debts together with any amounts to be withheld in accordance with general conditions 24 and 25 does not exceed 80% of the sale price; and
  - (b) at least 28 days have elapsed since the particulars were given to the purchaser under paragraph (a); and
  - (c) all conditions of section 27 of the *Sale of Land Act 1962* have been satisfied.
- 14.4 The stakeholder must pay the deposit and any interest to the party entitled when the deposit is released, the contract is settled, or the contract is ended.
- 14.5 The stakeholder may pay the deposit and any interest into court if it is reasonable to do so.
- 14.6 Where the purchaser is deemed by section 27(7) of the *Sale of Land Act 1962* to have given the deposit release

authorisation referred to in section 27(1), the purchaser is also deemed to have accepted title in the absence of any prior express objection to title.

- 14.7 Payment of the deposit may be made or tendered:
- (a) in cash up to \$1,000 or 0.2% of the price, whichever is greater; or
  - (b) by cheque drawn on an authorised deposit-taking institution; or
  - (c) by electronic funds transfer to a recipient having the appropriate facilities for receipt.
- However, unless otherwise agreed:
- (d) payments may not be made by credit card, debit card or any other financial transfer system that allows for any chargeback or funds reversal other than for fraud or mistaken payment, and
  - (e) any financial transfer or similar fees or deductions from the funds transferred, other than any fees charged by the recipient's authorised deposit-taking institution, must be paid by the remitter.
- 14.8 Payment by electronic transfer is made when cleared funds are received in the recipient's bank account.
- 14.9 Before the funds are electronically transferred the intended recipient must be notified in writing and given sufficient particulars to readily identify the relevant transaction.
- 14.10 As soon as the funds have been electronically transferred the intended recipient must be provided with the relevant transaction number or reference details.
- 14.11 For the purposes of this general condition 'authorised deposit-taking institution' means a body corporate for which an authority under section 9(3) of the *Banking Act 1959* (Cth) is in force.

## 15. DEPOSIT BOND

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

## 16. BANK GUARANTEE

- 16.1 This general condition only applies if the applicable box in the particulars of sale is checked.
- 16.2 In this general condition:
- (a) "bank guarantee" means an unconditional and irrevocable guarantee or undertaking by a bank in a form satisfactory to the vendor to pay on demand any amount under this contract agreed in writing, and
  - (b) "bank" means an authorised deposit-taking institution under the *Banking Act 1959* (Cth).
- 16.3 The purchaser may deliver a bank guarantee to the vendor's legal practitioner or conveyancer.
- 16.4 The purchaser must pay the amount secured by the bank guarantee to the vendor's legal practitioner or conveyancer on the first to occur of:
- (a) settlement;
  - (b) the date that is 45 days before the bank guarantee expires;



- (c) the date on which this contract ends in accordance with general condition 35.2 [default not remedied] following breach by the purchaser; and
  - (d) the date on which the vendor ends this contract by accepting repudiation of it by the purchaser.
- 16.5 The vendor must return the bank guarantee document to the purchaser when the purchaser pays the amount secured by the bank guarantee in accordance with general condition 16.4.
- 16.6 The vendor may claim on the bank guarantee without prior notice if the purchaser defaults under this contract or repudiates this contract and the contract is ended. The amount paid by the bank satisfies the obligations of the purchaser under general condition 16.4 to the extent of the payment.
- 16.7 Nothing in this general condition limits the rights of the vendor if the purchaser defaults under this contract or repudiates this contract except as provided in general condition 16.6.
- 16.8 This general condition is subject to general condition 14.2 [deposit].

## 17. SETTLEMENT

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

## 18. ELECTRONIC SETTLEMENT

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

accordance with the instructions of the parties; or

- (b) if there is no exchange of funds or value, the documents necessary to enable the purchaser to become registered proprietor of the land have been accepted for electronic 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 Special Condition 18.6 has not occurred by 4.00 pm, or 6.00 pm if the nominated time for settlement is after 4.00 pm.
- 18.8 Each party must do everything reasonably necessary to assist the other party to trace and identify the recipient of any missing or mistaken payment and to recover the missing or mistaken payment.
- 18.9 The vendor must before settlement:
- (a) deliver any keys, security devices and codes (“keys”) to the estate agent named in the contract,
  - (b) direct the estate agent to give the keys to the purchaser or the purchaser’s nominee on notification of settlement by the vendor, the vendors subscriber or the electronic lodgment network operator,
  - (c) deliver all other physical documents and items (other than the goods sold by the contract) to which the purchaser is entitled at settlement, and any keys if not delivered to the estate agent, to the vendor’s subscriber or, if there is no vendor’s subscriber, confirm in writing to the purchaser that the vendor holds those documents, items and keys at the vendor’s address set out in the contract, and  
give, or direct its subscriber to give, all those documents and items and any such keys to the purchaser or the purchaser’s nominee on notification by the electronic lodgment network operator of settlement.

## 19. GST

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

## 20. LOAN

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

## 21. BUILDING REPORT

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

## 22. PEST REPORT

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

## 23. ADJUSTMENTS

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

under general condition 23, if requested by the vendor.

#### 24. FOREIGN RESIDENT CAPITAL GAINS WITHHOLDING

- 24.1 Words defined or used in Subdivision 14-D of Schedule 1 to the *Taxation Administration Act 1953* (Cth) have the same meaning in this general condition unless the context requires otherwise.
- 24.2 Every vendor under this contract is a foreign resident for the purposes of this general condition unless the vendor gives the purchaser a clearance certificate issued by the Commissioner under section 14-220 (1) of Schedule 1 to the *Taxation Administration Act 1953* (Cth). The specified period in the clearance certificate must include the actual date of settlement.
- 24.3 The remaining provisions of this general condition 24 only apply if the purchaser is required to pay the Commissioner an amount in accordance with section 14-200(3) or section 14-235 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) ("the amount") because one or more of the vendors is a foreign resident, the property has or will have a market value not less than the amount set out in section 14-215 of the legislation just after the transaction, and the transaction is not excluded under section 14-215(1) of the legislation.
- 24.4 The amount is to be deducted from the vendor's entitlement to the contract consideration. The vendor must pay to the purchaser at settlement such part of the amount as is represented by non-monetary consideration.
- 24.5 The purchaser must:
- (a) engage a legal practitioner or conveyancer ("representative") to conduct all legal aspects of settlement, including the performance of the purchaser's obligations under the legislation and this general condition; and
  - (b) ensure that the representative does so.
- 24.6 The terms of the representative's engagement are taken to include instructions to have regard to the vendor's interests and instructions that the representative must:
- (a) pay, or ensure payment of, the amount to the Commissioner in the manner required by the Commissioner and as soon as reasonably and practicably possible, from moneys under the control or direction of the representative in accordance with this general condition if the sale of the property settles;
  - (b) promptly provide the vendor with proof of payment; and
  - (c) otherwise comply, or ensure compliance with, this general condition;
- despite:
- (d) any contrary instructions, other than from both the purchaser and the vendor; and
  - (e) any other provision in this contract to the contrary.
- 24.7 The representative is taken to have complied with the requirements in Special Condition 24.6 if:
- (a) the settlement is conducted through an electronic lodgement network; and
  - (b) the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.
- 24.8 Any clearance certificate or document evidencing variation of the amount in accordance with section 14-235(2) of Schedule 1 to the *Taxation Administration Act 1953* (Cth) must be given to the purchaser at least 5 business days before the due date for settlement.
- 24.9 The vendor must provide the purchaser with such information as the purchaser requires to comply with the purchaser's obligation to pay the amount in accordance with section 14-200 of Schedule 1 to the *Taxation Administration Act 1953* (Cth). The information must be provided within 5 business days of request by the purchaser. The vendor warrants that the information the vendor provides is true and correct.
- 24.10 The purchaser is responsible for any penalties or interest payable to the Commissioner on account of late payment of the amount.

#### 25. GST WITHHOLDING

- 25.1 Words and expressions defined or used in Subdivision 14-E of Schedule 1 to the *Taxation Administration Act 1953* (Cth) or in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) have the same meaning in this general condition unless the context requires otherwise. Words and expressions first used in this general condition and shown in italics and marked with an asterisk are defined or described in at least one of those Acts.
- 25.2 The purchaser must notify the vendor in writing of the name of the recipient of the \*supply for the purposes of section 14-255 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) at least 21 days before the due date for settlement unless the recipient is the purchaser named in the contract.
- 25.3 The vendor must at least 14 days before the due date for settlement provide the purchaser and any person nominated by the purchaser under general condition 4 with GST withholding notice in accordance with section 14-255 of Schedule 1 to the *Taxation Administration Act 1953* (Cth), and must provide all information required by the purchaser or any person so nominated to confirm the accuracy of the notice.

- 25.4 The remaining provisions of this general condition 25 apply if the purchaser is or may be required to pay the Commissioner an \*amount in accordance with section 14-250 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) because the property is \*new residential premise or \*potential residential land in either case falling within the parameters of that section, and also if the sale attracts the operation of section 14-255 of the legislation. Nothing in this general condition 25 is to be taken as relieving the vendor from compliance with section 14-255.
- 25.5 The amount is to be deducted from the vendor's entitlement to the contract \*consideration and is then taken to be paid to the vendor, whether or not the vendor provides the purchaser with a GST withholding notice in accordance with section 14-255 of Schedule 1 to the *Taxation Administration Act 1953* (Cth). The vendor must pay to the purchaser at settlement such part of the amount as is represented by non-monetary consideration.
- 25.6 The purchaser must:
- (a) engage a legal practitioner or conveyancer ("representative") to conduct all the legal aspects of settlement, including the performance of the purchaser's obligations under the legislation and this general condition; and
  - (b) ensure that the representative does so.
- 25.7 The terms of the representative's engagement are taken to include instructions to have regard to the vendor's interests relating to the payment of the amount to the Commissioner and instructions that the representative must:
- (a) pay, or ensure payment of, the amount to the Commissioner in the manner required by the Commissioner and as soon as reasonably and practicably possible, from moneys under the control or direction of the representative in accordance with this general condition on settlement of the sale of the property;
  - (b) promptly provide the vendor with evidence of payment, including any notification or other document provided by the purchaser to the Commissioner relating to payment; and
  - (c) otherwise comply, or ensure compliance, with this general condition;
- despite:
- (d) any contrary instructions, other than from both the purchaser and the vendor; and
  - (e) any other provision in this contract to the contrary.
- 25.8 The representative is taken to have complied with the requirements of general condition 25.7 if:
- (a) settlement is conducted through the electronic lodgement network; and
  - (b) the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.
- 25.9 The purchaser may at settlement give the vendor a bank cheque for the amount in accordance with section 16-30 (3) of Schedule 1 to the *Taxation Administration Act 1953* (Cth), but only if:
- (a) so agreed by the vendor in writing; and
  - (b) the settlement is not conducted through an electronic lodgement network.
- However, if the purchaser gives the bank cheque in accordance with this general condition 25.9, the vendor must:
- (c) immediately after settlement provide the bank cheque to the Commissioner to pay the amount in relation to the supply; and
  - (d) give the purchaser a receipt for the bank cheque which identifies the transaction and includes particulars of the bank cheque, at the same time the purchaser gives the vendor the bank cheque.
- 25.10 A party must provide the other party with such information as the other party requires to:
- (a) decide if an amount is required to be paid or the quantum of it, or
  - (b) comply with the purchaser's obligation to pay the amount,
- in accordance with section 14-250 of Schedule 1 to the *Taxation Administration Act 1953* (Cth). The information must be provided within 5 business days of a written request. The party providing the information warrants that it is true and correct.
- 25.11 The vendor warrants that:
- (a) at settlement, the property is not new residential premises or potential residential land in either case falling within the parameters of section 14-250 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) if the vendor gives the purchaser a written notice under section 14-255 to the effect that the purchaser will not be required to make a payment under section 14-250 in respect of the supply, or fails to give a written notice as required by and within the time specified in section 14-255; and
  - (b) the amount described in a written notice given by the vendor to the purchaser under section 14-255 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) is the correct amount required to be paid under section 14-250 of the legislation.



- 25.12 The purchaser is responsible for any penalties or interest payable to the Commissioner on account of non-payment or late payment of the amount, except to the extent that:
- (a) the penalties or interest arise from any failure on the part of the vendor, including breach of a warranty in general condition 25.11; or
  - (b) the purchaser's reasonable belief that the property is neither new residential premises nor potential residential land requiring the purchaser to pay an amount to the Commissioner in accordance with section 14-250 (1) of Schedule 1 to the *Taxation Administration Act 1953* (Cth)

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

---

## Transactional

### 26. TIME & CO OPERATION

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

### 27. SERVICE

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

### 28. NOTICES

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

### 29. INSPECTION

The purchaser and/or another person authorised by the purchaser may inspect the property at any reasonable time during

the 7 days preceding and including the settlement day.

### 30. TERMS CONTRACT

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

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

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

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

### 31. LOSS OR DAMAGE BEFORE SETTLEMENT

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

### 32. BREACH

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

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

---

## Default

### 33. INTEREST

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

rights of the offended party.

#### 34. DEFAULT NOTICE

- 34.1 A party is not entitled to exercise any rights arising from the other party's default, other than the right to receive interest and the right to sue for money owing, until the other party is given and fails to comply with a written default notice.
- 34.2 The default notice must:
- (a) specify the particulars of the default; and
  - (b) state that it is the offended party's intention to exercise the rights arising from the default unless, within 14 days of the notice being given-
    - (i) the default is remedied; and
    - (ii) the reasonable costs incurred as a result of the default and any interest payable are paid.

#### 35. DEFAULT NOT REMEDIED

- 35.1 All unpaid money under the contract becomes immediately payable to the vendor if the default has been made by the purchaser and is not remedied and the costs and interest are not paid.
- 35.2 The contract immediately ends if:
- (a) the default notice also states that unless the default is remedied and the reasonable costs and interest are paid, the contract will be ended in accordance with this general condition; and
  - (b) the default is not remedied and the reasonable costs and interest are not paid by the end of the period of the default notice.
- 35.3 If the contract ends by a default notice given by the purchaser:
- (a) the purchaser must be repaid any money paid under the contract and be paid any interest and reasonable costs payable under the contract; and
  - (b) all those amounts are a charge on the land until payment; and
  - (c) the purchaser may also recover any loss otherwise recoverable.
- 35.4 If the contract ends by a default notice given by the vendor:
- (a) the deposit up to 10% of the price is forfeited to the vendor as the vendor's absolute property, whether the deposit has been paid or not; and
  - (b) the vendor is entitled to possession of the property; and
  - (c) in addition to any other remedy, the vendor may within one year of the contract ending either:
    - (i) retain the property and sue for damages for breach of contract; or
    - (ii) resell the property in any manner and recover any deficiency in the price on the resale and any resulting expenses by way of liquidated damages; and
  - (d) the vendor may retain any part of the price paid until the vendor's damages have been determined and may apply that money towards those damages; and
  - (e) any determination of the vendor's damages must take into account the amount forfeited to the vendor.
- 35.5 The ending of the contract does not affect the rights of the offended party as a consequence of the default.
-



Annexure B –

Memorandum of Common Provisions for the Restrictive Covenant



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

**Privacy Collection Statement**

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

Lodged by	
Name:	DUFFY & SIMON
Phone:	03 5941 1622
Address:	DX81001 PAKENHAM
Reference:	DD:TP 2211344
Customer code:	18030P

This memorandum contains provisions which are intended for inclusion in transfers of land under the Transfer of Land Act 1958 to be subsequently lodged for registration.

**Operative words including words to bind the burdened land and words of annexation must not be included.**

Provisions to apply to the transfer:

**Burdened land:**

THE LAND

*The land being transferred.*

**Benefited land:**

30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, & Lot S4 on Plan of Subdivision PS632567U

The benefited land does not include the land being transferred.

*Set out the specific folios, range of folios or some or all the lots in the registered plan(s) or plan(s) to be lodged for registration that take the benefit of the covenants.*

**Covenants:**

**Definitions (if any):**

**Development** means the residential housing development to be carved out on the land originally comprised in the Parent Title by the Transferor.

**Transferor** means NYM Developments Pty Ltd ACN 127 066 844.

**Covenants:**

The Registered Proprietors their Executors, Administrators and assigns will not any time on the burdened land or any part or parts thereof:

35392012A

V3

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

91ATLA

Page 1 of 3

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

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

## Memorandum of common provisions

### Section 91A Transfer of Land Act 1958

1. build or allow to be built on the Land more than one dwelling house together with the usual outbuildings save and except Lot 1 in Stage 1 & S4 of the said Plan of Subdivision;
2. build or allow to be built a dwelling house which is not constructed:-
  - (i) With a front verandah or a front porch or patio of not less than 4 square metres having a roof which is separate from the main roofline of the dwelling house.
  - (ii) with external walls (excluding windows) of brick, stone, brick or masonry veneer, painted weatherboard, Colourbond type steel, rendered cement sheet, masonry, brick or other approved texture coated materials approved by Nym Developments Pty Ltd;
  - (iii) with a roof of any material other than tiles of terracotta, concrete or slate or other non-reflective material such as Colourbond type steel.
3. build or allow to be built a dwelling house which:-
  - (i) has a floor area (excluding the area of any garage, verandah, eaves or any other outbuilding) of not less than 140 square metres (15 squares).
4. build or allow to be built a dwelling house:-
  - (i) unless constructed with a sealed driveway wholly constructed prior to the occupation of the dwelling house;
  - (ii) Unless all plumbing pipes and fittings are concealed within the building.
  - (iii) The purchaser will maintain and clear grass and keep grass at a minimal and respectable level.
5. build or allow to be built a dwelling house:-
  - (i) within 5.5 metres of the front boundary of the Land or if a corner lot, within 5.5 metres of the front boundary and within 2 metres of the side boundary abutting a street unless otherwise agreed in writing by Nym Developments Pty Ltd;
  - (ii) within 1.2 metres of any boundary of the land (apart from one Garage on not more than one boundary).
6. build or allow to be built a shed or outbuilding unless constructed:
  - (i) of a non reflective material, such as colourbond type steel or in materials that match the dwelling house.
  - (ii) not closer than 2 metres of any reserve or parkland boundary.
7. build or allow to be built a shed or outbuilding which has a floor area exceeding 20 square metres unless constructed:
  - (i) in materials that match the dwelling house;
  - (ii) of Colorbond type steel;
  - (iii) with a height not exceeding 4 metres from the natural ground surface.
8. erect any signs except a professional painted sign advertising the Land for sale or a sign required by law;

## Memorandum of common provisions

### Section 91A Transfer of Land Act 1958

9. allow residential streets, naturestrips or front yards to be used for the permanent storage, repair, maintenance, wrecking or construction of any motor vehicle, motor bike, caravan, trailer, boat, yacht or other vehicle;
10. fail to complete any improvements to the Land within one (1) year of the date of commencement of such improvements;
11. build or allow to be built:-
  - (i) side or rear boundary fences other than grey ridge coloured Colourbond steel 1.8 metres in height to match profile of nominated material;
  - (ii) fences from the front boundary to the building line other than grey ridge coloured Colourbond steel to match profile of nominated material of not more than 0.9 metres in height for at least 3 metres from the front boundary and then raked up for a further 2.7 metres to meet the side boundary fence at a height of 1.8 metres;
  - (iii) a fence on the front boundary unless otherwise approved by Nym Developments Pty Ltd;
  - (iv) a side or rear boundary fence facing any street not constructed of ridge grey coloured Colourbond steel or other material as approved by Nym Developments Pty Ltd of not more than 1.8 metres high;
  - (l) allow any material of any description other than approved by Nym Developments Pty Ltd to be attached to or placed against any decorative fences erected on the boundaries of reserves or allow any such decorative fences to be replaced with any fence other than a fence of similar design and materials;
12. allow landscaping to the front street view of the Land and nature strip to remain or be left incomplete for a period of more than 6 months after the date of issue of the Certificate of Occupancy, or leave any fence incomplete after the completion of construction of the dwelling house erected on the Land

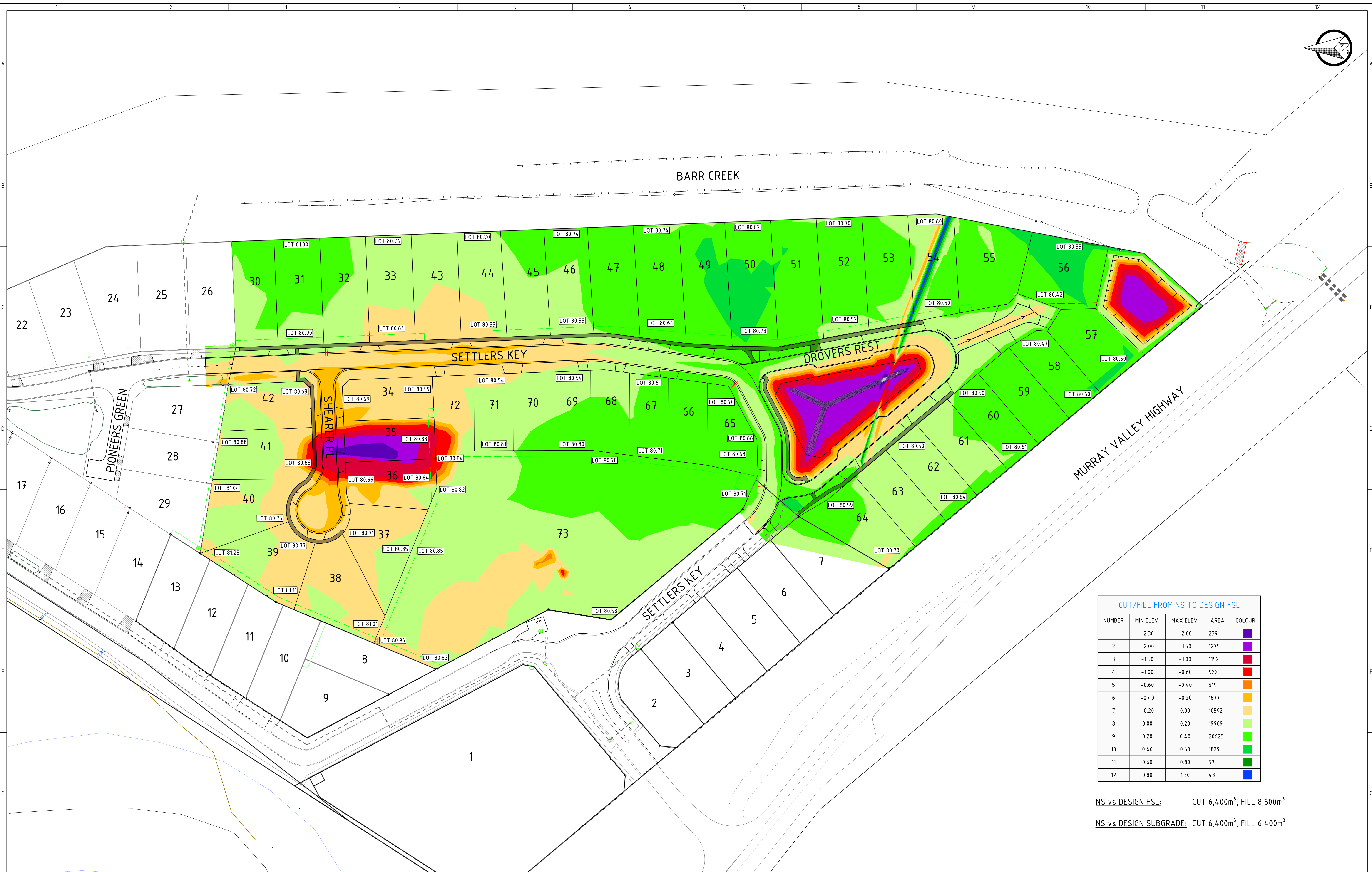
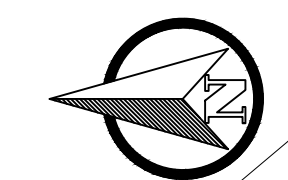
**Expiry:**

31<sup>st</sup> December 2034.

*Optional. Specify the date the covenants are to expire or if the covenants are to expire on the happening of a particular event, specify the event. If the expiry only applies to particular covenants or specific lots/folios, this must be clearly specified.*

## Annexure C – Surface Level Plan





CUT/FILL FROM NS TO DESIGN FSL				
NUMBER	MIN ELEV.	MAX ELEV.	AREA	COLOUR
1	-2.36	-2.00	239	Dark Purple
2	-2.00	-1.50	1275	Purple
3	-1.50	-1.00	1152	Red
4	-1.00	-0.60	922	Red-Orange
5	-0.60	-0.40	519	Orange
6	-0.40	-0.20	1677	Yellow-Orange
7	-0.20	0.00	10592	Yellow
8	0.00	0.20	19969	Light Green
9	0.20	0.40	20625	Green
10	0.40	0.60	1829	Dark Green
11	0.60	0.80	57	Dark Green
12	0.80	1.30	43	Blue

NS vs DESIGN FSL: CUT 6,400m<sup>3</sup>, FILL 8,600m<sup>3</sup>

NS vs DESIGN SUBGRADE: CUT 6,400m<sup>3</sup>, FILL 6,400m<sup>3</sup>

REV	DATE	AMENDMENT	DRAWN	DESIGNED	CHECKED	APP'D
E	24/05/23	ISSUED FOR COUNCIL APPROVAL	KW	MC	MC	----
D	02/02/23	ISSUED FOR REVIEW	KW	MC	MC	----
C	24/11/22	ISSUED FOR REVIEW	KW	MC	MC	----
B	03/10/22	ISSUED FOR REVIEW	KW	MC	MC	----
A	22/02/22	ISSUED FOR REVIEW	DM	DM	MC	MC
0	03/12/21	ISSUED FOR REVIEW	DM	DM	MC	--

**pricemerrett**  
CONSULTING  
Engineers, Surveyors, Irrigation Consultants

**Kerang**  
9478 Murray Valley Highway  
PO Box 313  
3579 Vic.  
Ph: (03) 5452 2490  
Email: pnc@pricemerrett.com.au

**Mildura**  
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3502 Vic.  
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Email: mildura@pricemerrett.com.au

**Swan Hill**  
69 Beveridge St  
PO Box 1172  
3585 Vic.  
Ph: (03) 5032 3685  
Email: smsh@pricemerrett.com.au

**Website:**  
www.pricemerrett.com.au

**SCALE OF METRES**

7.5 0 15 30

ORIGINAL DRAWING SCALE 1: 750

DATUM HORIZONTAL: APPROX. MGA-55  
 DATUM VERTICAL: AHD  
 LEVEL DATUM ORIGIN: SR/-/-  
 SURVEY DATE: --/--/--  
 AREA: -- Ha

CLIENT: **NYM DEVELOPMENTS**

PROJECT: **MURRAY SOUND DEVELOPMENT**

LOCATION: **COHUNA, VIC**

SHEET TITLE: **CUT/FILL FROM NATURAL SURFACE TO DESIGN FSL**

DRAWING CREATED: 25 October 2023  
 LAST PLOTTED: 31 October 2023

LOT DESCRIPTION: CA. --, SEC. -- & PARISH OF --

FILE NUMBER:  
**F6112**

DRAWING NUMBER:  
**6335**

SHEET NUMBER:  
**32**

REVISION:  
**E**

ORIGINAL SHEET SIZE:  
**A1**





## Vendor Statement

**Nym Developments Pty Ltd ACN 127 066 844**

**Lot No. ....**

on proposed Plan of Subdivision No. PS 632567U/3 and being  
part of Settlers Key, Cohuna Vic 3568

REF DD:TP:2211344



# Vendor Statement

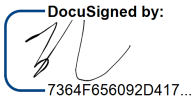

The vendor makes this statement in respect of the land in accordance with section 32 of the *Sale of Land Act* 1962.

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.

## Electronic/Digital execution

- DocuSign means the secure electronic technology system operated by DocuSign Inc.
- The parties acknowledge and agree that prior to the signing of this Vendor Statement all parties consented to the document being electronically signed using DocuSign.
- The parties further acknowledge that this Vendor Statement may be electronically signed either wholly or in part by the parties.
- The parties agree that they will be bound by, have complied with and will comply with the *Electronic Transactions (Victoria) Act 2000*, in relation to the execution of this Vendor Statement.

<b>Land</b>	Lot No. .... on proposed Plan of Subdivision No. PS 632567U/3 and being part of Settlers Key, Cohuna	
<b>Vendor's name</b>	Nym Developments Pty Ltd ACN 127 066 844	<b>Date</b> 5/12/2023
<b>Vendor's signature</b>		
<b>Purchaser's name</b>		<b>Date</b>
<b>Purchaser's signature</b>		

## 1. FINANCIAL MATTERS

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

(a) Their total does not exceed:

\$3,000.00

(b) There are NO amounts for which the purchaser may become liable as a consequence of the sale of which the vendor might reasonably be expected to have knowledge.

**None to the Vendors knowledge, save and except for the usual rate adjustments at settlement.**

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

### 1.3 Terms Contract

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

**Not Applicable.**

### 1.4 Sale Subject to Mortgage

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

**Not Applicable.**

## 2. INSURANCE

### 2.1 Damage and Destruction

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

**Not Applicable.**

### 2.2 Owner Builder

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

**Not Applicable.**

## 3. LAND USE

### 3.1 Easements, Covenants or Other Similar Restrictions

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

**Is in the attached copies of title documents.**

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

**To the best of the vendors knowledge there is no existing failure to comply with the terms of any easement, covenant or other similar restriction.**

### 3.2 Road Access

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

### 3.3 Designated Bushfire Prone Area

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

### 3.4 Planning Scheme

The required specified information is as follows:

Name of planning scheme	GANNAWARRA PLANNING SCHEME
Name of responsible authority	GANNAWARRA SHIRE
Zoning of the land	GENERAL RESIDENTIAL ZONE - SCHEDULE 1
Name of planning overlay	ENVIRONMENTAL SIGNIFICANCE OVERLAY - SCHEDULE 4; DEVELOPMENT PLAN OVERLAY - SCHEDULE 1; SPECIFIC CONTROLS OVERLAY, and abuts TRANSPORT ZONE 2 - PRINCIPAL ROAD NETWORK

## 4 NOTICES

### 4.3 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:

The Vendor is not aware of nor has it received any notices.

### 4.4 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.

### 4.5 Compulsory Acquisition

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

Nil.

## 5 BUILDING PERMITS

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

Not Applicable.

## 6 OWNERS CORPORATION

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

Not Applicable.

## 7 GROWTH AREAS INFRASTRUCTURE CONTRIBUTION ("GAIC")

Not applicable.

## 8 SERVICES

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

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

## 9 TITLE

Attached are copies of the following documents:

### 9.1 (a) Registered Title

9.2 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.

See Item 13.

## 10. SUBDIVISION

### 10.1 Unregistered Subdivision

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

(a) Attached is a copy of the version of the plan not yet certified by Council.

### 10.2 Staged Subdivision

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

Not Applicable.

### 10.3 Further Plan of Subdivision

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

## 11. DISCLOSURE OF ENERGY INFORMATION

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

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

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

Not Applicable.

## 12. DUE DILIGENCE CHECKLIST

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

Is attached.

## 13. ATTACHMENTS

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

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

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

- 13.1 Due Diligence Checklist.
- 13.2 Register Search Statement Volume 12174 Folio 937
- 13.3 Plan of Subdivision No. 632567U;

13.4 Section 173 Agreement in dealing no. AJ778883S

13.5 Proposed Plan of Subdivision No 632567U/3

13.6 Planning Permit P21158;

13.7 Planning Certificate;

13.8 Designated Bushfire Prone Area Report.

# 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 ([consumer.vic.gov.au/duediligencechecklist](http://consumer.vic.gov.au/duediligencechecklist)).

## Urban living

### **Moving to the inner city?**

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

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

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

## Growth areas

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

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

## Flood and fire risk

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

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

## Rural properties

### **Moving to the country?**

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

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

### **Can you build new dwellings?**

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

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

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

## Soil and groundwater contamination

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

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

## Land boundaries

### **Do you know the exact boundary of the property?**

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

## Planning controls

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

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

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

### **Are there any proposed or granted planning permits?**

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

## Safety

### **Is the building safe to live in?**

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

## Building permits

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

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

### **Are any recent building or renovation works covered by insurance?**

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

## Utilities and essential services

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

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

## Buyers' rights

### **Do you know your rights when buying a property?**

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

(  
04/10/2016)

consumer.vic.gov.au/duediligencechecklist





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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**

VOLUME 12174 FOLIO 937

Security no : 124110120476J  
Produced 29/10/2023 05:04 PM

**LAND DESCRIPTION**

Lot S3 on Plan of Subdivision 632567U.  
PARENT TITLE Volume 11378 Folio 929  
Created by instrument PS632567U Stage 2 18/12/2019

**REGISTERED PROPRIETOR**

Estate Fee Simple  
Sole Proprietor  
NYM DEVELOPMENTS PTY LTD of 145 AHERN ROAD PAKENHAM VIC 3810  
PS632567U Stage 2 18/12/2019

**ENCUMBRANCES, CAVEATS AND NOTICES**

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

AGREEMENT Section 173 Planning and Environment Act 1987  
AJ778883S 06/07/2012

**DIAGRAM LOCATION**

SEE PS632567U 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: 2 KING GEORGE STREET COHUNA VIC 3568

**ADMINISTRATIVE NOTICES**

NIL

eCT Control 18030P DUFFY & SIMON  
Effective from 18/12/2019

DOCUMENT END



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Document Identification	<b>PS632567U</b>
Number of Pages (excluding this cover sheet)	<b>9</b>
Document Assembled	<b>29/10/2023 17:07</b>

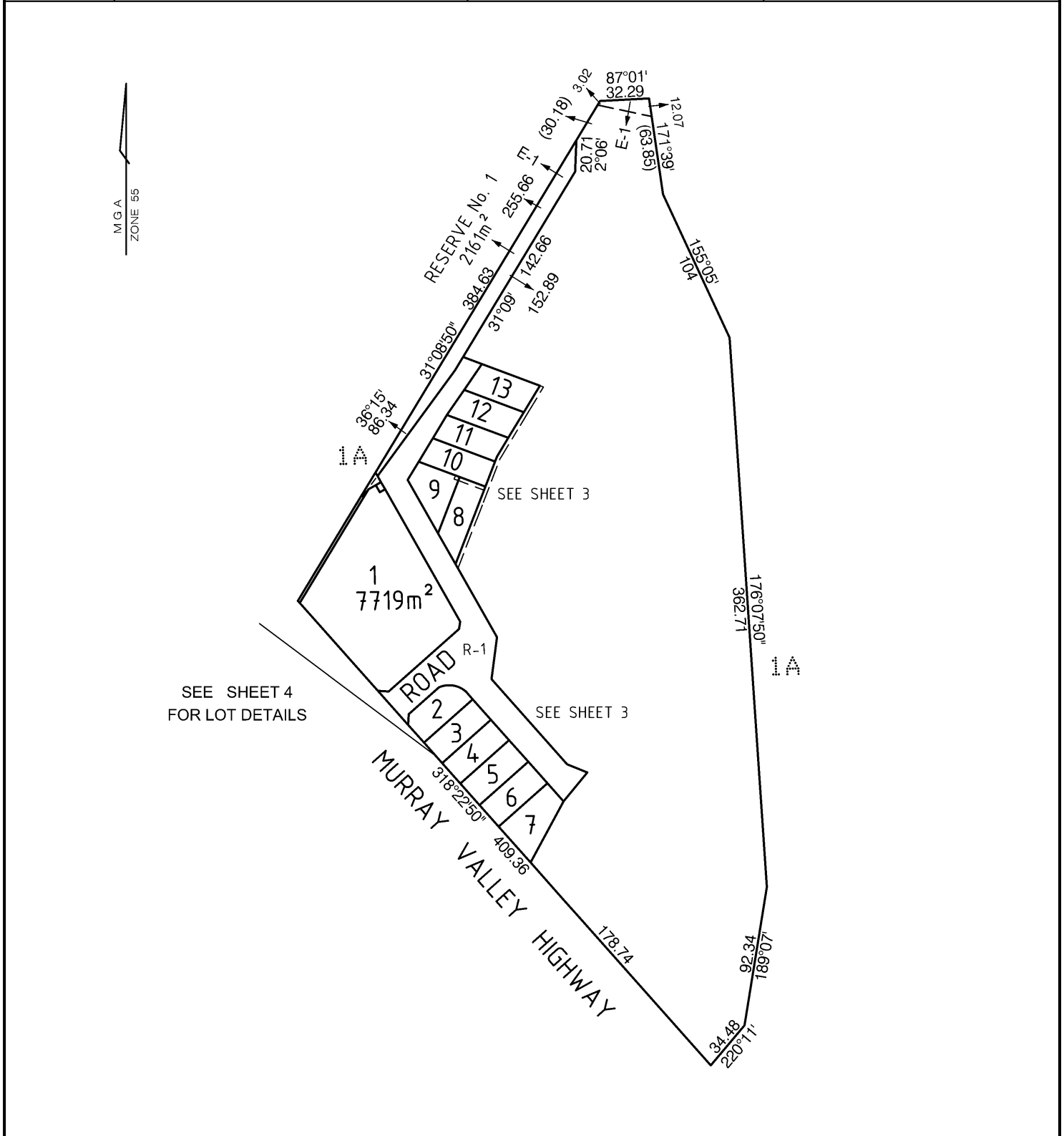
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<b>PLAN OF SUBDIVISION</b>	STAGE NO.	Plan Number <b>PS 632567U</b>
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SEE SHEET 4 FOR LOT DETAILS

SEE SHEET 3

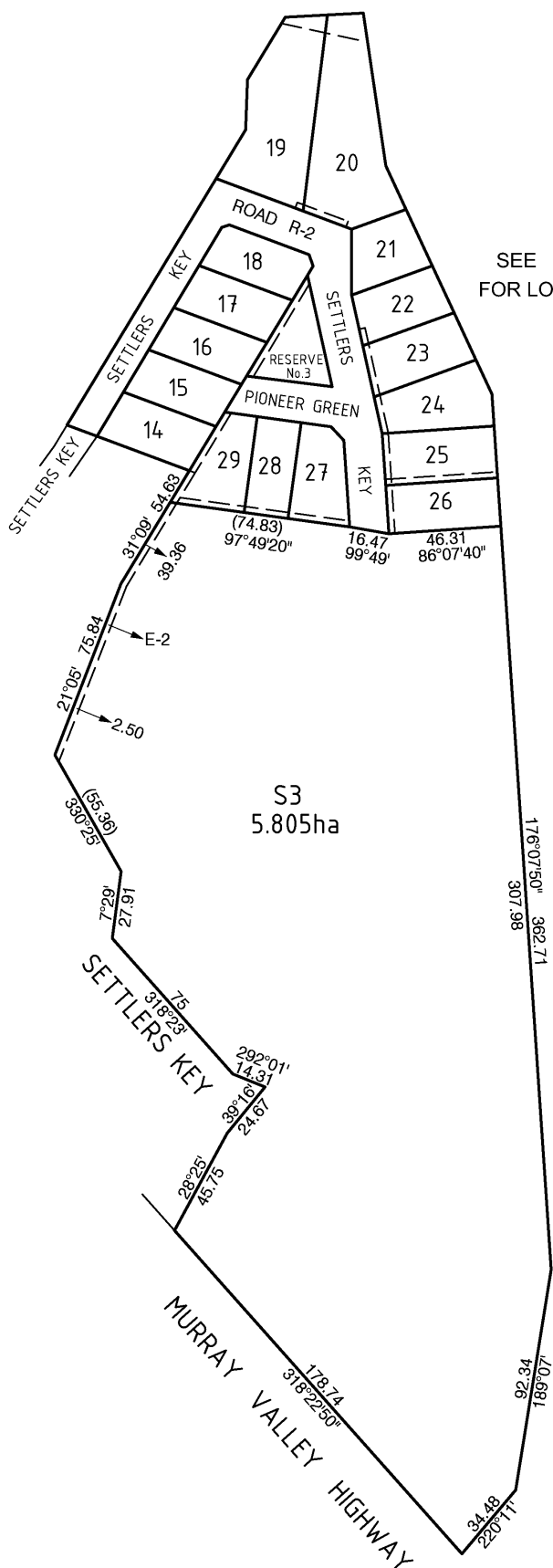
SEE SHEET 3

## Price Merrett Consulting

CONSULTING SURVEYORS, ENGINEERS, IRRIGATION DESIGNERS  
69 BEVERIDGE STREET, SWAN HILL 3585  
PO BOX 1172 SWAN HILL 3585  
PH (03) 5032 3685 FAX (03) 5032 2472  
EMAIL- pmash@pricemerrett.com.au

ORIGINAL	SCALE	LICENSED SURVEYOR (PRINT) PHILIP RAYMOND PRICE	Sheet 2
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SHEET SIZE A3		DATE	COUNCIL DELEGATE SIGNATURE
		REF F5779	VERSION 12
			Original sheet size A3

PS 632567U

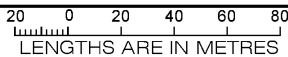


SEE SHEET 5 FOR LOT DETAILS

S3  
5.805ha

MURRAY VALLEY HIGHWAY

SCALE  
1 : 2,000



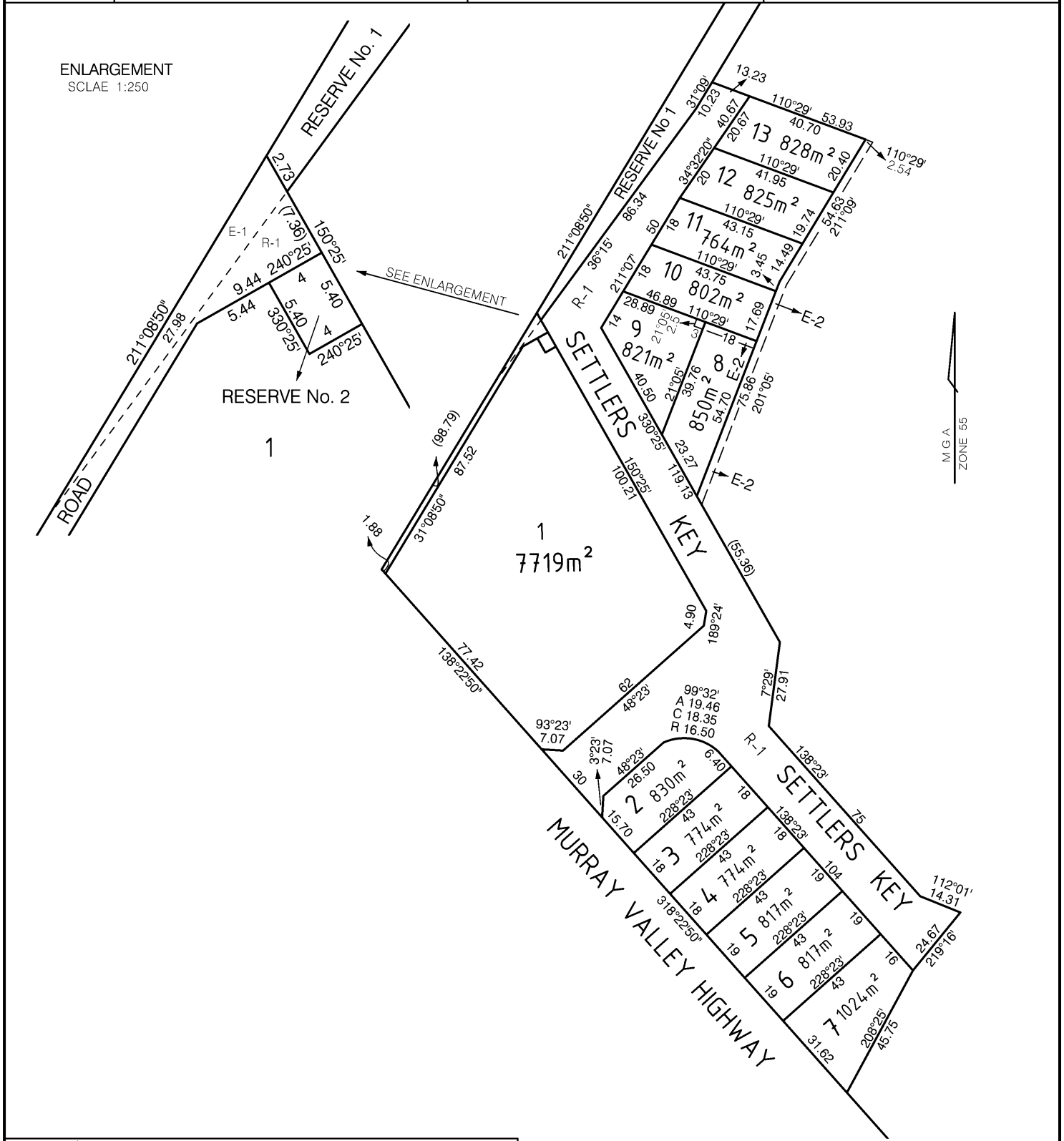
ORIGINAL SHEET  
SIZE: A3

SHEET 3

Digitally signed by: Andrew Robert Merrett, Licensed Surveyor,  
Surveyor's Plan Version (Version 6),  
21/10/2019, SPEAR Ref: S137223S

Digitally signed by:  
Gannawarra Shire Council,  
11/12/2019,  
SPEAR Ref: S137223S

<b>PLAN OF SUBDIVISION</b>	STAGE NO.	Plan Number <b>PS 632567U</b>
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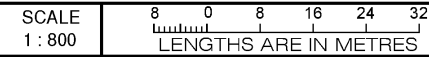
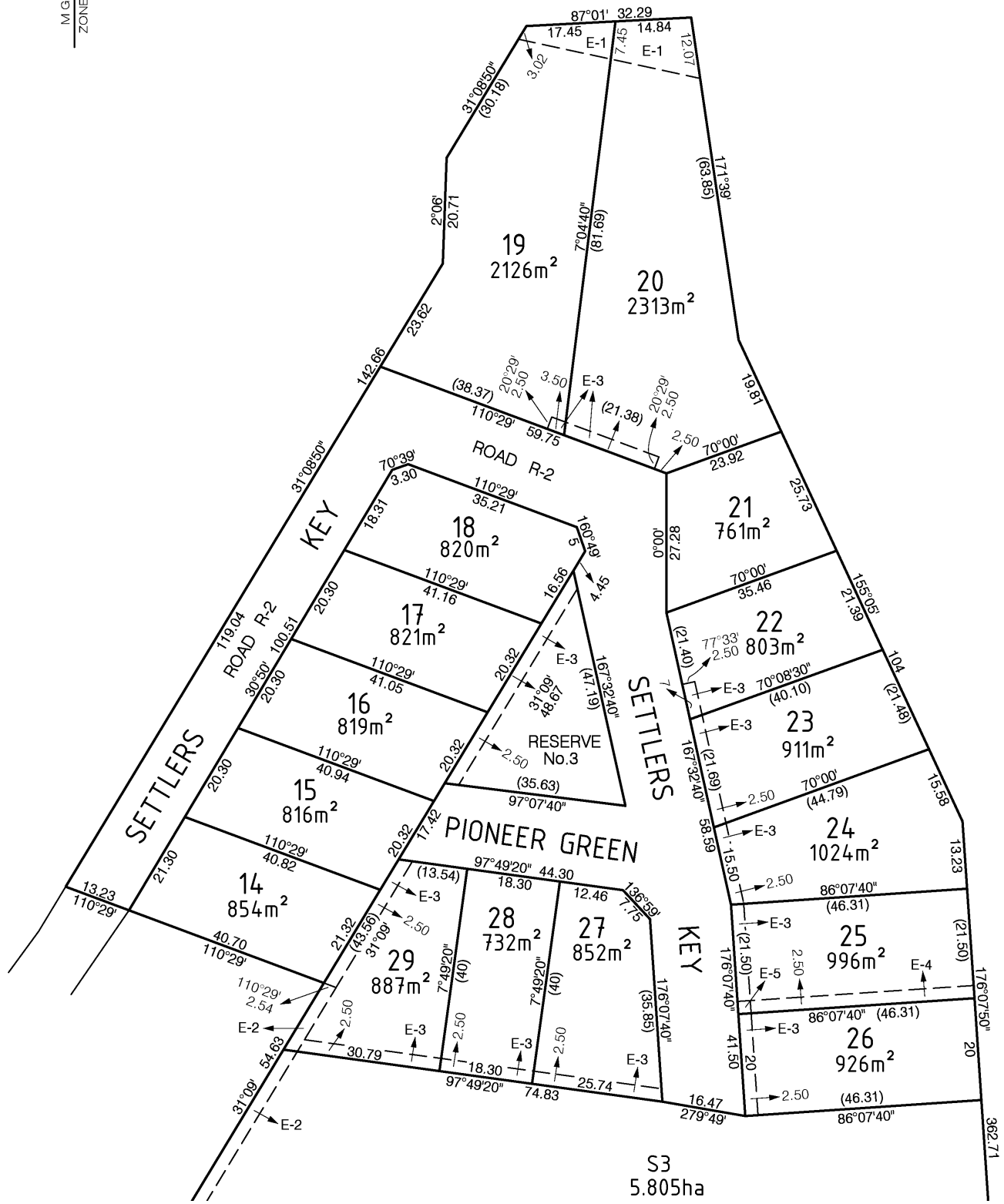
## Price Merrett Consulting

CONSULTING SURVEYORS, ENGINEERS, IRRIGATION DESIGNERS

69 BEVERIDGE STREET, SWAN HILL  
PO BOX 1172 SWAN HILL 3585  
PH (03) 5032 3685 FAX (03) 5032 2472  
EMAIL - pmash@pricemerrett.com.au

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SHEET SIZE A3		REF F5779      VERSION 12	COUNCIL DELEGATE SIGNATURE
			Original sheet size A3

**PS 632567U**



ORIGINAL SHEET SIZE: A3 SHEET 5

Digitally signed by: Andrew Robert Merrett, Licensed Surveyor, Surveyor's Plan Version (Version 6), 21/10/2019, SPEAR Ref: S137223S

Digitally signed by: Gannawarra Shire Council, 11/12/2019, SPEAR Ref: S137223S



	<b>PLAN OF SUBDIVISION</b>	STAGE NO.	Plan Number <b>PS 632567U</b>
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CREATION OF RESTRICTION 'A'  
UPON REGISTRATION OF THIS PLAN THE FOLLOWING IS CREATED

LAND TO BE BURDENED  
LOTS 1 TO 13 (BOTH INCLUSIVE) ON THIS PLAN

LAND TO BE BENEFITTED  
LOTS IN THIS PLAN

DESCRIPTION OF RESTRICTION  
THE REGISTERED PROPRIETOR OR PROPRIETORS FOR THE TIME BEING ON THIS PLAN OF SUBDIVISION SHALL NOT:

- A. CONSTRUCT ANY DWELLING OR GARAGE WITH A FLOOR LEVEL OF LESS THAN 81.0m AHD FOR LOT 1.
- B. CONSTRUCT ANY DWELLING OR GARAGE WITH A FLOOR LEVEL OF LESS THAN 80.8m AHD FOR LOTS 2 TO 7.
- C. CONSTRUCT ANY DWELLING OR GARAGE WITH A FLOOR LEVEL OF LESS THAN 81.4m AHD FOR LOTS 8 TO 13.



**Price Merrett Consulting**  
PTY LTD  
 CONSULTING SURVEYORS, ENGINEERS, IRRIGATION DESIGNERS  
 69 BEVERIDGE STREET, SWAN HILL  
 PO BOX 1172 SWAN HILL 3585  
 PH (03) 5032 3685 FAX (03) 5032 2472  
 EMAIL- pmash@pricemerrett.com.au

Sheet 6

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LICENSED SURVEYOR (PRINT) PHILIP RAYMOND PRICE

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DATE / /

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COUNCIL DELEGATE SIGNATURE

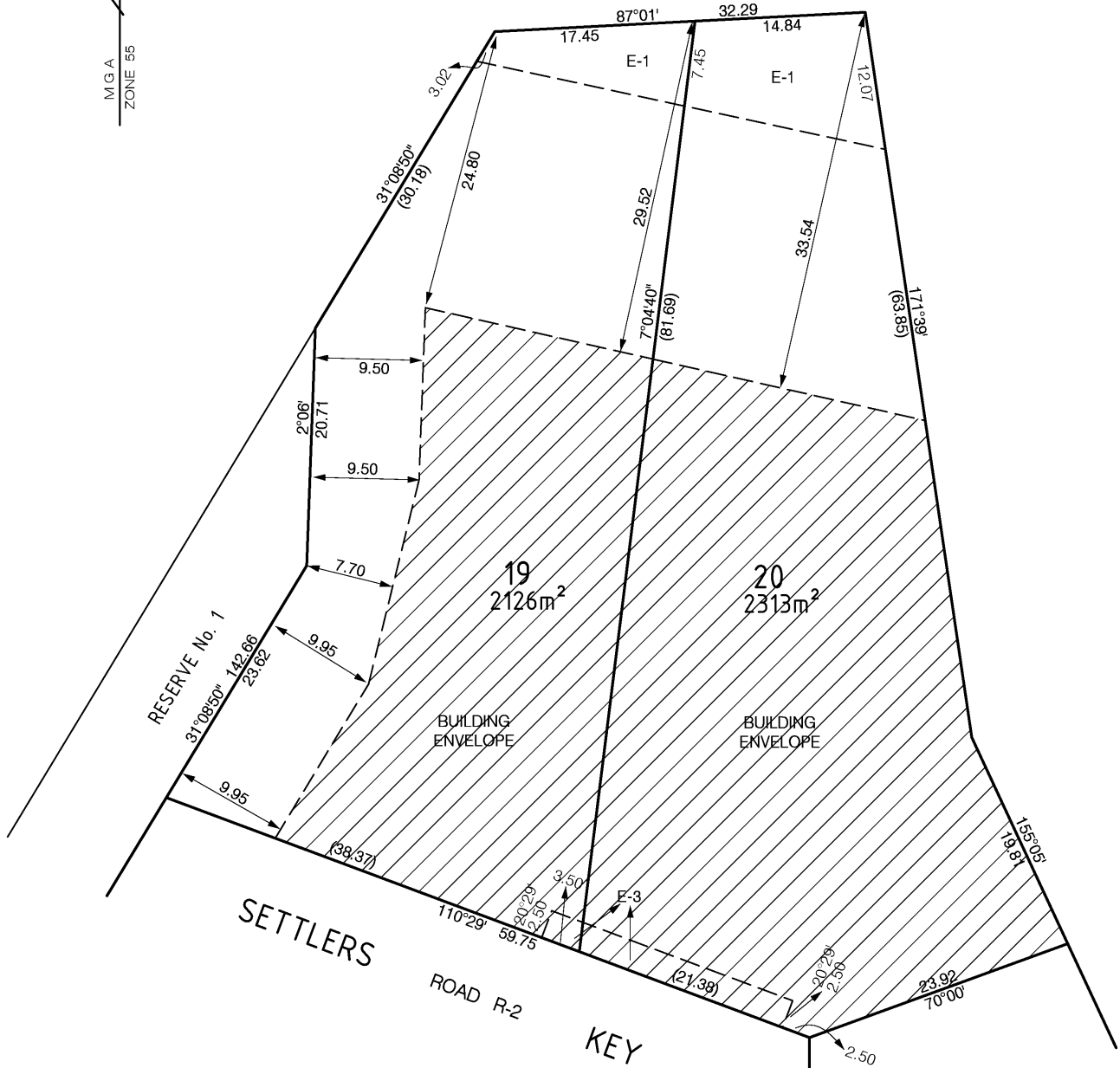
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PS 632567U

M.G.A.  
ZONE 55



CREATION OF RESTRICTION 'B'  
UPON REGISTRATION OF THIS PLAN THE FOLLOWING IS CREATED

LAND TO BE BURDENED  
LOTS 14 TO 29 (BOTH INCLUSIVE) ON THIS PLAN

LAND TO BE BENEFITTED  
LOTS IN THIS PLAN

DESCRIPTION OF RESTRICTION  
THE REGISTERED PROPRIETOR OR PROPRIETORS FOR THE TIME BEING LOTS 14 - 29 ON THIS PLAN OF SUBDIVISION SHALL NOT CONSTRUCT ANY DWELLING OR GARAGE WITH A FLOOR LESS THAN 80.8m AHD.

THE REGISTERED PROPRIETOR OR PROPRIETORS FOR THE TIME BEING LOTS 19 & 20 ON THIS PLAN OF SUBDIVISION SHALL NOT CONSTRUCT ANY DWELLING OR GARAGE OUTSIDE THE AREA SHOWN BUILDING ENVELOPE ON THIS PLAN ABOVE.

SCALE 1:400  
4 0 4 8 12 16  
LENGTHS ARE IN METRES

ORIGINAL SHEET SIZE: A3

SHEET 7





**Plan of Subdivision PS632567U/S1  
Certifying a New Version of an Existing Plan (Form 21)**

SUBDIVISION (PROCEDURES) REGULATIONS 2000

SPEAR Reference Number: S004073S  
Plan Number: PS632567U/S1  
Responsible Authority Name: Gannawarra Shire Council  
Responsible Authority Reference Number 1: P08.077  
Surveyor's Plan Version: 12

**Certification**

This plan is certified under section 11 (7) of the Subdivision Act 1988  
Date of original certification under section 6: 10/02/2010  
Date of previous recertifications under Section 11(7): 10/02/2012

**Public Open Space**

A requirement for public open space under section 18 of the Subdivision Act 1988

Has not been made

Digitally signed by Council Delegate: Geoffrey Rollinson  
Organisation: Gannawarra Shire Council  
Date: 20/02/2012



# Imaged Document Cover Sheet

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Document Type	<b>Instrument</b>
Document Identification	<b>AJ778883S</b>
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Document Assembled	<b>29/10/2023 17:07</b>

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**AJ778883S**

06/07/2012 \$110.30 173



Planning and Environment Regulations 1998 No. 8

Form 13

Section 181

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

PLANNING AND ENVIRONMENT ACT 1987

Lodged By : Elaine Leo  
Name: Duffy & Simon Lawyers  
Phone: (03) 5941 1622  
Address: 13 John Street, Pakenham, Vic, 3810  
Ref: EH:EL:KC:12.1.1218  
Customer Code: 0756P

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: Certificate of Title Volume 3229 Folio 661  
AUTHORITY OR COUNCIL: Gannawarra Shire Council, Patchell Plaza  
47 Victoria Street, KERANG VIC 3579

SECTION AND ACT UNDER WHICH AGREEMENT MADE:

Section 173 of the Planning and Environment Act

A copy of the agreement is attached to this application.

**SIGNED AND DELIVERED** by the parties on the date set out at the commencement of this Agreement.

Signed for and on behalf of Gannawarra Shire )  
Council as per Instrument of Delegation )  
dated ~~19<sup>th</sup> August 2008~~ 20 February 2012 )  
In the presence of: )

  
\_\_\_\_\_  
Rosanna Kava  
CHIEF EXECUTIVE OFFICER

Executed by **NYM DEVELOPMENTS PTY LTD** )  
**ACN 127 066 844** in accordance with Section 127 of the )  
Corporations Act 2001 by being signed by the person who is )  
authorised to sign for the company: )

  
\_\_\_\_\_  
Gregory Shaun Menzel

  
\_\_\_\_\_  
Gary Douglas Valentine

**THIS AGREEMENT UNDER SECTION 173 OF THE PLANNING AND ENVIRONMENT ACT 1987** is made on the 1st day of May 2012

**BETWEEN**

**GANNAWARRA SHIRE COUNCIL**  
of Patchell Plaza , 47 Victoria Street, Kerang 3579

(“Council”)

**AND NYM DEVELOPMENTS PTY LTD A.C.N. 127 066 844**  
of 145 Ahern Road, Pakenham 3810

(“the Owner”)

**RECITALS**

- A. The Council is the Responsible Authority pursuant to the Act for the Planning Scheme
- B. The Owner is or is entitled to be the registered proprietor of the Subject Land.
- C. On the 12<sup>TH</sup> of June 2009 Council issued Planning Permit No. P08.077 (“the Planning Permit”) allowing the Subject Land to be subdivided into 74 lots in stages generally in accordance with the endorsed plan. Condition 9 of the Planning Permit requires the Owner to enter into this Agreement to provide for the matter set out in that condition.
- D. As at the date of this agreement, the Subject Land is not encumbered by a Mortgage.
- E. The parties enter into this Agreement:
  - (a) to give effect to the requirements of the Planning Permit; and
  - (b) to achieve and advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Subject Land.

**AJ778883S**

06/07/2012 \$110.30 173



**THE PARTIES AGREE**

**1. DEFINITIONS**

In this Agreement the words and expressions set out in this clause have the following meaning unless the context admits otherwise:

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

**Agreement** this agreement and any agreement executed by the parties expressed to be supplemental to this Agreement;

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

**Lot** means a lot on the Endorsed Plan;

**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 it and includes a Mortgagee-in-possession;

**Party or Parties** means the owner and council under this Agreement as appropriate;

**Planning Scheme** means the Cardinia Planning Scheme and any other planning scheme that applies to the Subject Land;

**Subject Land** means that the land situated at Lot 1 on Title Plan 381901, 2 King George Street, Cohuna being the land referred to in Certificate of Title Volume 3229 Folio 661. 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. INTERPRETATIONS

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 a reference to each other gender
- 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 If any party consists of more than one person this Agreement binds them jointly and each of them severally
- 2.5 A term used in the Agreement has its ordinary meaning unless that term is defined in this Agreement. If a term is not defined in this Agreement and it is defined in the Act it has the Meaning as defined in the Act.
- 2.6 A reference to an Act, Regulation or the Planning Scheme includes any Acts, Regulations or amendments amending, consolidating or replacing the Act, Regulation or Planning Scheme.
- 2.7 The introductory clauses to this Agreement are and will be deemed to form part of the Agreement.
- 2.8 The obligations of the Owner under this Agreement, will take effect as separate and several covenants which are annexed to and run at law and equity with the Subject Land provided that if the Subject Land is Subdivided, this Agreement must be read and applied so that each subsequent owner of a lot is only responsible for these covenants and obligations which relate to that owner's lot.

**AJ778883S**





**AJ778883S**

06/07/2012 \$110.30 173



### 3. **SPECIFIC OBLIGATIONS OF THE OWNER**

The Owner acknowledges and agrees that the Owner will deny direct access including not allowing erection of gates to the Murray Valley Highway for each of lots 2-7 inclusive in stage 1 of Plan of Subdivision 632567U.

### 4. **FURTHER OBLIGATIONS OF THE OWNER**

#### 4.1 **Notice and Registration**

The owner further covenants and agrees that the Owner will bring this Agreement to the attention of all prospective purchasers, lessees, mortgagees, charges transferees and assigns.

#### 4.2 **Further Actions**

The owner further covenants and agrees that:

4.2.1 the Owner will do all things necessary to give affect to this Agreement.

4.2.2 the Owner will make an Application to the Registrar of Titles to make a recording of this Agreement in the Register on the Certificate of Title of Title to the Subject Land in accordance with Section 181 of the Act and covenant to do all things necessary to enable the Agreement to be recorded including procuring the consent to this Agreement of any Mortgagee or Caveator.

#### 4.3 **Council's Costs to be Paid**

The owner further covenants and agrees that the Owner will immediately pay to Council, Council's reasonable costs and expanses (including legal expenses) of and incidental to the preparation, drafting, finalisation, engrossment, execution, registration and enforcement of this Agreement which are and until paid will remain a debt due to Council by the Owner,

### 5. **AGREEMENT UNDER SECTION 173 OF THE ACT**

Council and the Owner agree that without limiting or restricting the respective powers to enter into this Agreement and, insofar as it can be treated, this Agreement is made as a Deed pursuant to Section 173 of the Act.

### 6. **OWNERS'S WARRANTIES**

Without limiting the operation or effect which the Agreement has, 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 lie affected by this Agreement.

### 7. **SUCCESSORS IN TITLE**

Without limiting the operation or effect that this Agreement has, Owner must ensure that, until such time as a memorandum of this Agreement is registered on the title to the Subject Land, Successors in title shall be required to.

7.1 Give effect to and do all acts and sign all documents which will require those successors to give effect to this Agreement; and

7.2 execute a deed agreeing to be bound by the terms of this Agreement.

**AJ778883S**



**8. GENERAL MATTERS**

**8.1 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;

8.1.1 by delivering it personally to that party;

8.1.2 by sending it by prepaid post addressed to that party at the address set out in this Agreement or subsequently notified to each party from time to time; or

8.1.3 by sending it by facsimile provided that a communication sent by facsimile shall be confirmed immediately in writing by the sending party by hand delivery or prepaid post.

**8.2 Service of notice**

A notice or other communication is deemed served

8.2.1 if delivered, on the next following business day;

8.2.2 if posted, on the expiration of two business days after the date of posting; or

8.2.3 if sent by facsimile, on the next following business day unless the receiving party has requested retransmission before the end of that business day.

**8.3 No Waiver**

Any time or other – indulgence granted by Council to the Owner or any variation of the terms and conditions of this Agreement or any judgement or order obtained by Council against the owner will not in any way amount to a waiver of any of the rights or remedies of Council in relation to the terms of this Agreement.

**8.4 Severability**

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

**8.5 No Fettering of Council's Powers**

It is acknowledge and agreed that this Agreement does not fetter or restrict the power of discretion of Council to make any decision or impose any requirements or conditions in connection with the granting of any planning approval or certification of any plans of subdivision applicable to the Subject Land or Relating to any use or development of the Subject Land.

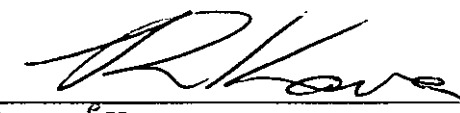
**9. COMMENCEMENT OF AGREEMENT**

Unless otherwise provided in this Agreement, this Agreement commences from the date of this Agreement.

**10. ENDING OF AGREEMENT**

Upon the Owner complying with all conditions and obligations herein contained in this Agreement, the Owner may make application to the Council for the ending of the Agreement.

**SIGNED AND DELIVERED** by the parties on the date set out at the commencement of this Agreement.

Signed for and on behalf of Gannawarra Shire )  
Council as per Instrument of Delegation )  
dated ~~19<sup>th</sup> August 2008~~ *20 February 2012* )   
In the presence of: *RK* Rosanna Kava  
CHIEF EXECUTIVE OFFICER

Executed by **NYM DEVELOPMENTS PTY LTD** )  
**ACN 127 066 844** in accordance with Section 127 of the )  
Corporations Act 2001 by being signed by the person who is )  
authorised to sign for the company:

**AJ778883S**  
06/07/2012 \$110.30 173  


  
\_\_\_\_\_  
Gregory Shaun Menzel

  
\_\_\_\_\_  
Gary Douglas Valentine

..... as Mortgagee of registered Mortgage Number..... 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.

**AJ778883S**

06/07/2012 \$110.30 173



**PLAN OF SUBDIVISION****EDITION 1****PS632567U / S3****LOCATION OF LAND**

PARISH: GUNBOWER WEST

TOWNSHIP:

SECTION: 3

CROWN ALLOTMENT: 1 (PART)

CROWN PORTION:

TITLE REFERENCE: VOL 12174 FOL 937

LAST PLAN REFERENCE: PS632567U LOT S3

POSTAL ADDRESS: SETTLERS KEY  
(At time of subdivision) COHUNA VIC 3568MGA94 Co-ordinates  
(of approx. centre  
of land in plan)

E 249450

N 6033550

Zone: 55  
GDA94

Council Name: GANNAWARRA SHIRE COUNCIL

**VESTING OF ROADS AND/OR RESERVES****NOTATIONS**

IDENTIFIER

COUNCIL/BODY/PERSON

ROAD R-3  
RESERVE No 3GANNAWARRA SHIRE COUNCIL  
GANNAWARRA SHIRE COUNCIL

LOTS 1 TO 29 HAVE BEEN OMITTED FROM THIS PLAN

CREATION OF RESTRICTION 'C'

LAND TO BE BURDENED  
LOTS 30 TO 46LAND TO BE BENEFITTED  
LOTS IN THIS PLANDESCRIPTION OF RESTRICTION  
THE REGISTERED PROPRIETOR/S FOR THE TIME BEING ON THIS  
PLAN OF SUBDIVISION SHALL NOT:CONSTRUCT ANY DWELLING OR GARAGE WITH A FLOOR  
LEVEL OF LESS THAN 80.8m AHD**NOTATIONS**

DEPTH LIMITATION DOES NOT APPLY

SURVEY: This plan is based on survey

To be completed where applicable.

This survey has been connected to permanent marks no(s) 103 & 104  
In Proclaimed Survey Area No.STAGING: This is a staged subdivision.  
Planning Permit No. P08.077**EASEMENT INFORMATION****LEGEND:** A-Appurtenant Easement E-Encumbering Easement R-Encumbering Easement (Road)

Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
E-2	SEWERAGE	2.5	PS632567U	COLIBAN REGION WATER CORPORATION
E-3	PIPELINE OR ANCILLARY PURPOSES	SEE DIAG	THIS PLAN SEC 136 WATER ACT 1989	COLIBAN REGION WATER CORPORATION
E-4	POWERLINE	SEE DIAG	THIS PLAN - SEC 88 ELECTRICITY INDUSTRY ACT 2000	POWERCOR AUSTRALIA LIMITED
E-5	DRAINAGE THROUGH UNDERGROUND PIPES	2.5	THIS PLAN	GANNAWARRA SHIRE COUNCIL



**pricemerrett**  
CONSULTING

M: PO BOX 1172 SWAN HILL 3585 P: (03) 5032 3685  
E: pmash@pricemerrett.com.au F: (03) 5032 2472

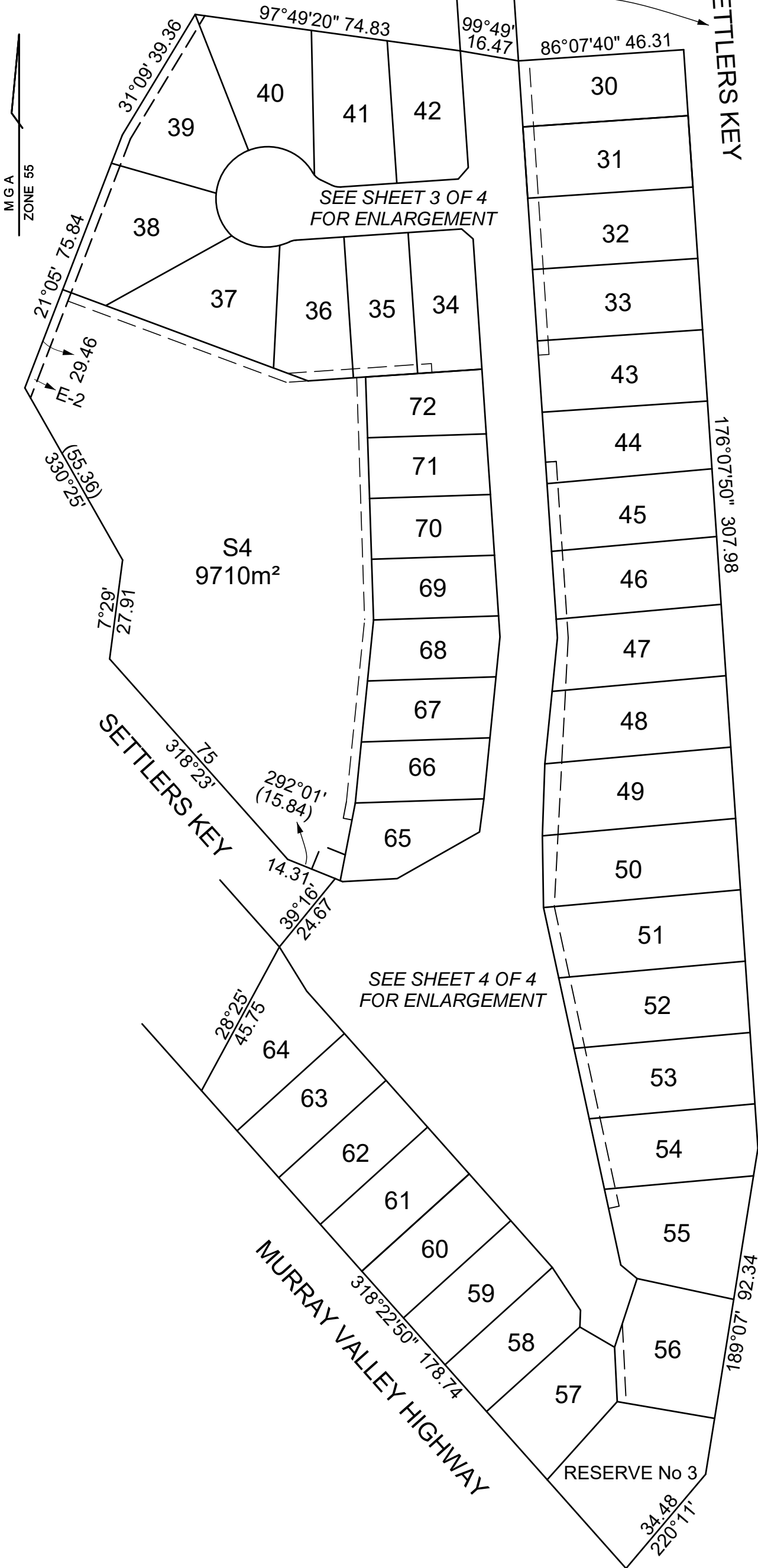
SURVEYORS FILE REF: F6112

ORIGINAL SHEET  
SIZE: A3

SHEET 1 OF 4

SURVEYORS NAME VERSION 4  
ANDREW R MERRETT

PS632567U / S3



M: PO BOX 1172 SWAN HILL 3585 P: (03) 5032 3685  
 E: pmash@pricemerrett.com.au F: (03) 5032 2472

SCALE 1:1250

12.5 0 12.5 25 37.5 50

LENGTHS ARE IN METRES

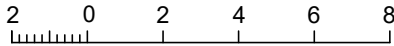
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SHEET 2

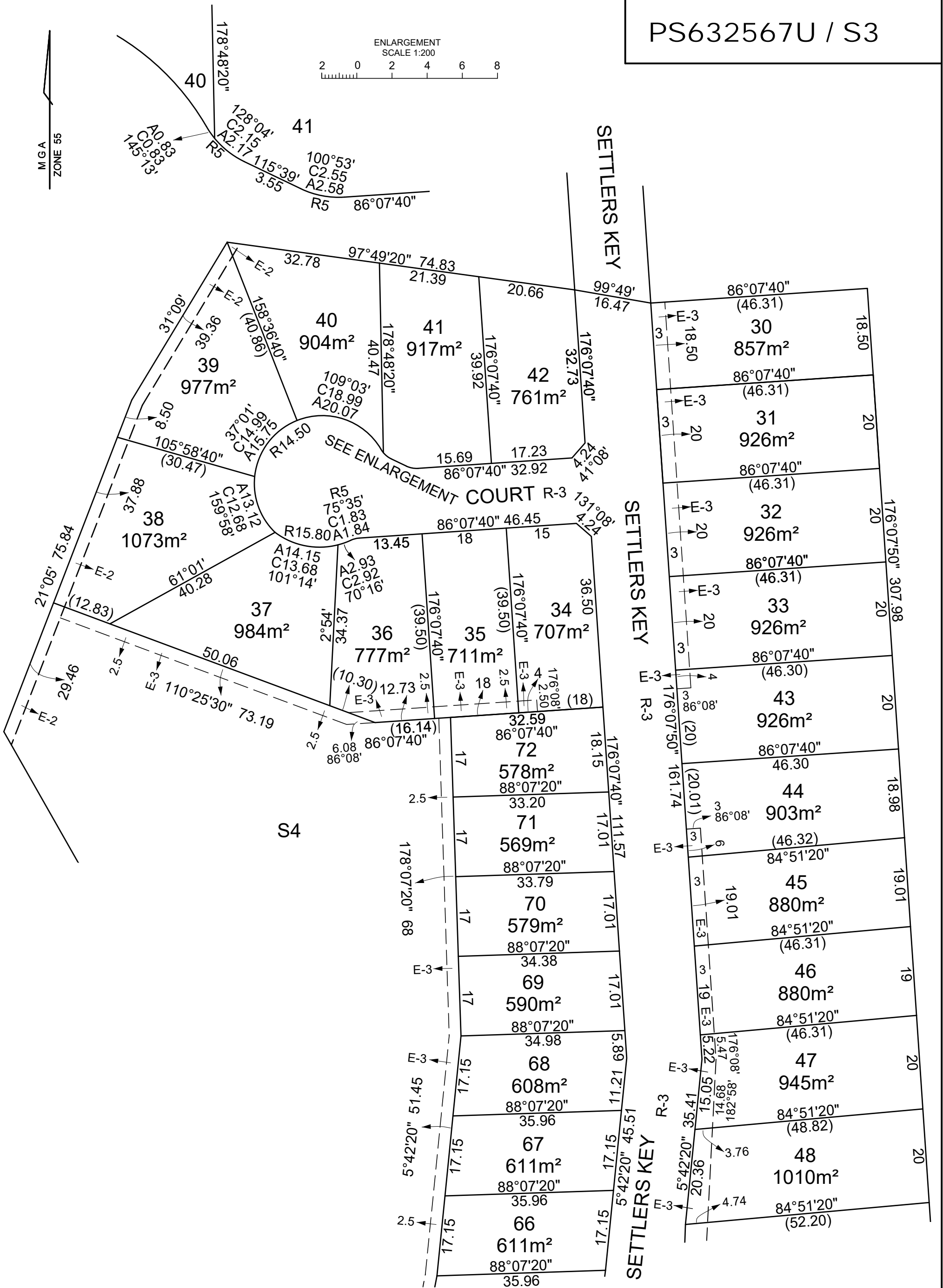
SURVEYORS NAME VERSION 4  
 ANDREW R MERRETT

PS632567U / S3

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SCALE 1:200

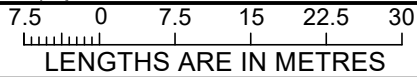


MGA  
ZONE 55



M: PO BOX 1172 SWAN HILL 3585 P: (03) 5032 3685  
E: pmash@pricemerrett.com.au F: (03) 5032 2472

SCALE  
1:750



LENGTHS ARE IN METRES

ORIGINAL SHEET  
SIZE: A3

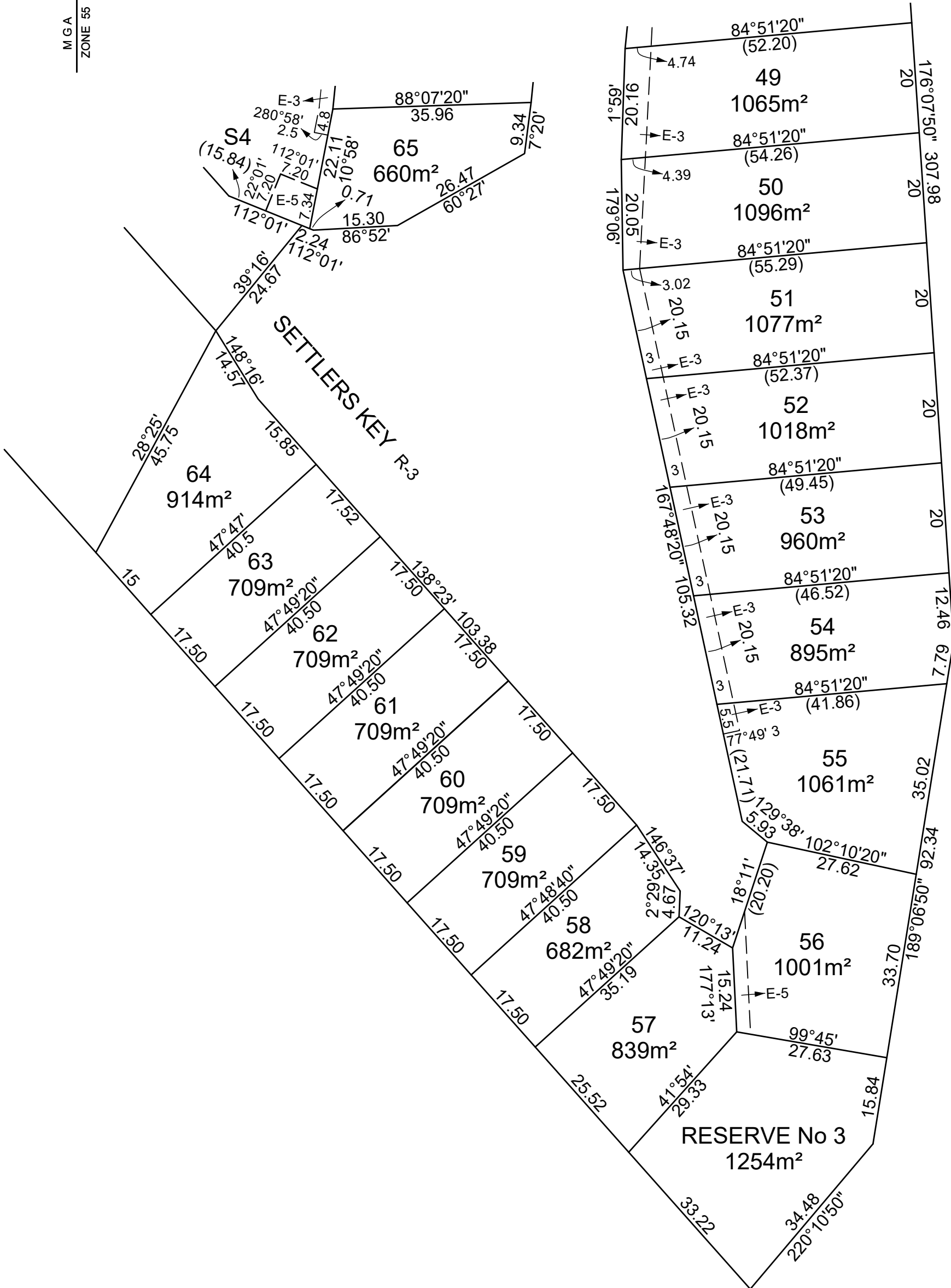
SHEET 3

SURVEYORS NAME VERSION 4  
ANDREW R MERRETT



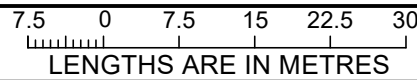
PS632567U / S3

MGA  
ZONE 55



M: PO BOX 1172 SWAN HILL 3585 P: (03) 5032 3685  
E: pmash@pricemerrett.com.au F: (03) 5032 2472

SCALE  
1:750



ORIGINAL SHEET  
SIZE: A3

SHEET 4

SURVEYORS NAME VERSION 4  
ANDREW R MERRETT



# PLANNING PERMIT



PERMIT NO: P21158

PLANNING SCHEME: Gannawarra Planning Scheme

RESPONSIBLE AUTHORITY: **Gannawarra Shire Council**

ADDRESS OF THE LAND: Lot S3, PS632567, 2 King George Street, Cohuna

THIS PERMIT ALLOWS: Forty three (43) lot subdivision in accordance with the endorsed plan

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

## Amended plans required

1. Before the plan of subdivision is certified, 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. Such plans must be generally in accordance with the plans submitted but modified to show:
  - a. Detailed construction plans as required by Condition 4.
  - b. Drainage Discharge Plan as required by Condition 5.
  - c. As constructed plans as required by Condition 6.
  - d. Landscaping plan as required by Condition 7.
  - e. Site layout plan as amended as required by Condition 9.
  - f. Stormwater management design plan as required by Condition 34.

## Layout

2. The Plan of Subdivision lodged with Council for certification must be in accordance with the endorsed plan and must not be modified except to comply with statutory requirements or conditions of this permit, without the written consent of the Responsible Authority.

## Statement of Compliance

3. All conditions of this permit must be complied with prior to the issue of a Statement of Compliance for the subdivision.

## Detailed Construction Plans

4. Before any road, drainage or landscaping works associated with the development or subdivision start, detailed construction 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 include:
  - a. Fully sealed pavement with roadside drainage;

Date Issued: 1 April 2022

Signature for the  
Responsible Authority:

A handwritten signature in blue ink, appearing to read "Kellie Burmeister".

Kellie Burmeister

**MANAGER PLANNING AND REGULATORY SERVICES**

# PLANNING PERMIT



PERMIT NO: P21158

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- b. Traffic control measures such as signage and line marking;
- c. Street lighting;
- d. Underground drains;
- e. Other underground utilities (e.g. Telstra, sewer, water etc.);

All works constructed or carried out must be in accordance with those plans.

## Drainage Discharge Plan

5. Before any of the development starts or before the plan of subdivision is certified under the Subdivision Act 1988, a properly prepared drainage discharge plan with computations 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 a minimum of three copies must be provided. The information submitted must show the details listed in the Council's Infrastructure Design Manual and be designed in accordance with the requirements of that manual.

The information and plan must include:

- a. allowance for future development areas;
- b. details of how the works on the land are to be drained and/or retarded;
- c. computations including total energy line and hydraulic grade line for the existing and proposed drainage as directed by Responsible Authority;
- d. underground pipe drains conveying stormwater to the legal point of discharge for each allotment;
- e. documentation demonstrating approval from the relevant authority for the legal point of discharge;
- f. provision of gross pollutant and/or litter traps to prevent the discharge of pollutants to the legal point of discharge.

Before the issue of a Statement of Compliance, all works constructed or carried out must be in accordance with those plans, to the satisfaction of the Responsible Authority.

## As Constructed Plans

6. Prior to the issue of Statement of Compliance under the Subdivision Act 1988, the applicant or developer shall submit to the satisfaction of the relevant authority the following:
- a. an assets statement for each street;
  - b. a certified plan showing the extent and depth of fill in excess of 300 mm placed on any of the allotments;
  - c. 'as constructed' drainage information shall be provided to Council's satisfaction including pipe material, diameters and lengths, invert depths, pit sizes;
  - d. full set of 'as constructed' digitised construction plans in PDF and CAD format for landscaping, roads and drainage (USB or other format as appropriate)
  - e. GPS coordinates for the location of water, sewer and storm water property connections.

Date Issued: 1 April 2022

Signature for the  
Responsible Authority: \_\_\_\_\_

Kellie Burmeister

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## Landscaping

7. Before the development starts a landscape plan, showing street tree location and species along with details for the detention basin, to the satisfaction of the Responsible Authority must be approved by the Responsible Authority and be in accordance with the requirements of the Infrastructure Design Manual. Trees must be planted according to this plan prior to issue of Statement of Compliance under the Subdivision Act 1988.

## Nature Strips

8. The nature strips fronting the development must be constructed in accordance with levels and specifications submitted to and approved by the Responsible Authority. Once approved all works detailed on the plans must be installed to the satisfaction of the Responsible Authority prior to the issue of a Statement of Compliance.

## Amended Site Plan Required

9. Before the plan of subdivision can be endorsed, an amended site plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions. The plan must be generally in accordance with the plan submitted with the application but modified to show:
- a. Road widths consistent with those specified in the Infrastructure Design Manual version 5.30 and Clause 56.06-8 of the Gannawarra Planning Scheme:
    - i. Access Place – 5.5 m wide carriageway with 1 hard standing verge parking space per 2 lots, or with appropriately signed provision for parking on one-side of the carriageway.
    - ii. Access Street – 7 m-7.5 m wide carriageway within a 16.0 m minimum road reserve width.
    - iii. Residential Court bowl – minimum 10.0 m radius.
  - b. Roadside infrastructure including street lighting, footpaths and tree planting consistent with the requirements of the Responsible Authority.
  - c. Landscaping in accordance with Condition 7.
  - d. Location of any areas to be filled to a depth exceeding 300 mm.
  - e. Bin pads or other arrangements for collection of waste, recycling and glass for Lots 55, 56, 57, 58 and 59.
  - f. Concept plans of proposed future developments.

## General

10. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority  
 Details of a contact person/site manager must be provided, so that this person can be easily contacted should any issues arise.  
 Appropriate measures must be implemented throughout the construction stage of the development to rectify and/or minimise mud, crushed rock or other debris being carried onto public roads or footpaths from the subject land, to the satisfaction of the Responsible Authority.  
 All works must be at no cost to Gannawarra Shire Council.

Date Issued: 1 April 2022

Signature for the  
Responsible Authority: \_\_\_\_\_

Kellie Burmeister

**MANAGER PLANNING AND REGULATORY SERVICES**

# PLANNING PERMIT



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## Defects Liability

11. A 12 month defect liability period shall apply from the date of issue of Statement of Compliance for all roadworks, drainage, footpath, kerb, landscaping and fencing. The developer shall arrange for a final inspection to be undertaken with Council representatives at least four (4) weeks prior to the expiration date of this defect liability period.

## Supervision Fees

12. Payment to the Responsible Authority of an amount up to 2.5% of the actual cost of work, being for costs of the Responsible Authority supervision of the works, as determined by the Responsible Authority.

## Plan Checking Fee

13. Payment to the Responsible Authority of an engineering design checking fee of an amount up to 0.75% of the value of documented works.

## Street/Road Name Allocation

14. Prior to the issue of Statement of Compliance under the Subdivision Act 1988, the applicant must:
  - a. lodge an application to the Council's Street Naming Committee for the approval of any street names and street numbers on the proposed plan of subdivision;
  - b. provide and install street name plates or pay an equivalent contribution to Council

## Easements to be Created

15. All existing and proposed easements and sites for existing and required utility services and roads must be set aside in favour of the relevant authority for which the easement or site is to be created on the plan of subdivision submitted for certification under the Subdivision Act 1988.

## Generation of Dust

16. The applicant must ensure that dust suppression is undertaken in the form of constant water spraying or other natural based proprietary dust suppressant to ensure that dust caused by works within the site does not cause a nuisance to surrounding properties to the satisfaction of the Responsible Authority.

## Environmental Health Officer

17. All lots must connect to Coliban Water's reticulated sewerage system.

## Vehicle Access

18. Vehicular access to lots 57-64 must be via the internal road network. No vehicular access from these lots to the Murray Valley Highway will be permitted.

Date Issued: 1 April 2022

Signature for the  
Responsible Authority: \_\_\_\_\_

A handwritten signature in blue ink, appearing to read "Kellie Burmeister".

Kellie Burmeister

**MANAGER PLANNING AND REGULATORY SERVICES**

# PLANNING PERMIT



PERMIT NO: P21158

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## Public Open Space Contribution

19. The applicant or owner must pay to the Responsible Authority a sum equivalent to 5% of the site value of all the land in the subdivision. This payment shall be made prior to the issue of a Statement of Compliance.

## Coliban Water

20. The owner is required to provide reticulated water and sewerage services to each of the lots within the subdivision and comply with any requirements arising from any effect of the proposed development on Coliban Water assets. Services are to be provided in accordance with our specifications.
21. The reticulated water and sewer main extensions required to service the proposed lots within this subdivision, must be finalised in accordance with Coliban Water's Developer Installed Works process.
22. Please note Under section 165(5) of the Water Act (1989), Coliban Water is not required to ensure that the water pressure is adequate for firefighting.
23. All Coliban Water assets within the subdivision, both existing and proposed, are to be protected by an easement in favour of Coliban Region Water Corporation.
24. 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 make payment to Coliban Water of New Customer Contributions (NCCs). These contributions are based upon the number of additional allotments connected (or to be connected) to Coliban Water's water, sewer or recycled water networks. A quote will be supplied to the owner on the referral of the Certified plan of subdivision.
25. Applications via Coliban Water's Consent to Connect Process is required to be received and consented to, prior to any existing and/or proposed drains or water supply services being amended and/or connected to Coliban Water assets and complying with our conditions.
26. All private works for water supply and sanitary drainage must be constructed in accordance with the National Plumbing and Drainage Code of Australia being AS 3500, the MRWA Water Metering & Servicing Guidelines 2020 and or any relevant requirements of Coliban Water.

## Powercor Australia Ltd

27. The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to the Distributor in accordance with Section 8 of that Act.
28. The applicant shall provide an electricity supply to all lots in the subdivision in accordance with the Distributor's requirements and standards. Note: Extension, augmentation or rearrangement of the Distributor's electrical assets may be required to make such supplies available, with the cost of such works generally borne by the applicant.

Date Issued: 1 April 2022

Signature for the  
Responsible Authority: \_\_\_\_\_

A handwritten signature in blue ink, appearing to read "Kellie Burmeister".

Kellie Burmeister

**MANAGER PLANNING AND REGULATORY SERVICES**

# PLANNING PERMIT



PERMIT NO: P21158

29. The applicant shall ensure that existing and proposed buildings and electrical installations on the subject land are compliant with the Victorian Service and Installation Rules (VSIR). Note: Where electrical works are required to achieve VSIR compliance, a registered electrical contractor must be engaged to undertake such works.
30. The applicant shall, when required by the Distributor, set aside areas with the subdivision for the purposes of establishing a substation or substations. Note: Areas set aside for substations will be formalised to the Distributor's requirements under one of the following arrangements: RESERVES established by the applicant in favour of the Distributor. SUBSTATION LEASE at nominal rental for a period of 30 years with rights to extend the lease for a further 30 years. The Distributor will register such leases on title by way of a caveat prior to the registration of the plan of subdivision.
31. The applicant shall establish easements on the subdivision, for all existing Distributor electric lines where easements have not been otherwise provided on the land and for any new powerlines to service the lots or adjust the positioning existing easements. Note: Existing easements may need to be amended to meet the Distributor's requirements. Easements required by the Distributor shall be specified on the subdivision and show the Purpose, Origin and the In Favour of party as follows:

Easement Reference	Purpose	Width (Metres)	Origin	Land Benefitted / In Favour Of
	Power Line		Section 88 - Electricity Industry Act 2000	Powercor Australia Ltd

Note: It is recommended that applications for electricity supply to each lot be submitted at the earliest opportunity so that the precise requirements of the Distributor can then be determined and accommodated. Applications for electricity supply shall be submitted via the Distributor's web portal, "mySupply" which can be accessed via the following link: <https://customer.portal.powercor.com.au/mysupply/CIWQuickCalculator>

## Goulburn Murray Water

32. Any Plan of Subdivision lodged for certification must be referred to Goulburn-Murray Rural Water Corporation pursuant to Section 8(1)(a) of the Subdivision Act.
33. All works within the subdivision must be done in accordance with EPA Publication 960 "Doing It Right on Subdivisions, Temporary Environmental Protection Measures for Subdivision Construction Sites", September 2004.
34. Each lot must be provided with connection to the reticulated sewerage system in accordance with the requirements of the relevant urban water authority.
35. All infrastructure and works to manage stormwater must be in accordance with the requirements of the Responsible Authority and Goulburn Murray Water. The applicant must demonstrate to Goulburn Murray Water in the form of a design plan, with supporting calculations, how the

Date Issued: 1 April 2022

Signature for the  
Responsible Authority:

Kellie Burmeister

**MANAGER PLANNING AND REGULATORY SERVICES**



# PLANNING PERMIT



PERMIT NO: P21158

development complies with Goulburn Murray Water's retardation basin design criteria. This must be provided to Goulburn Murray Water prior to discharging into Barr Creek.

Note: Any enquiries or applications regarding stormwater management for the proposal should be made to Goulburn-Murray Water's Assets Team by calling 1800 013 357.

## Country Fire Authority

### 36. Hydrants

- a. Prior to the issue of a Statement of Compliance under the Subdivision Act 1988 the following requirements must be met to the satisfaction of the CFA:
  - i. Above or below ground operable hydrants must be provided. The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of building envelopes, the rear of the lots) must be 120 metres and the hydrants must be no more than 200 metres apart. These distances must be measured around lot boundaries.
  - ii. The hydrants must be identified with marker posts and road reflectors as applicable to the satisfaction of the Country Fire Authority.

Note - CFA's requirements for identification of hydrants are specified in 'identification of Street Hydrants for Firefighting Purposes' available under publications on the CFA website ([www.cfa.vic.gov.au](http://www.cfa.vic.gov.au))

### 37. Roads

- a. Roads must be constructed to a standard so that they are accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable width
- b. Proposed roads must have a suitable trafficable width to allow the unimpeded access of emergency fire fighting vehicles (notwithstanding any parking restrictions that Council may apply) to the satisfaction of CFA
- c. Dead-end roads and cul-de-sacs more than 60mts in length from the nearest intersection must have a turning circle with a minimum radius of 8mts (including roll-over kerbs if provided); T or Y heads of dimensions specified by CFA may be used as alternatives
- d. The average grade must be no more than 1 in 7 (14.4%) (8.1 degrees) with a maximum of no more than 1 in 5 (20%) (11.3 degrees) for no more than 50mts. Dips must have no more than a 1 in 8 (12%0 (7.1 degrees) entry and exit angle
- e. Curves must have a minimum inner radius of 10mts

## North Central Catchment Management Authority

38. Unless otherwise agreed in writing with the North Central CMA and the responsible authority, all lots must be filled to a minimum level of 80.5 metres AHD, i.e. no lower than the 1% AEP flood level. Prior to issuing a statement of compliance, a certified survey plan must be submitted to the responsible authority and North Central CMA for approval demonstrating that this condition has been achieved.

Date Issued: 1 April 2022

Signature for the  
Responsible Authority:

A handwritten signature in blue ink, appearing to read "Kellie Burmeister".

Kellie Burmeister

**MANAGER PLANNING AND REGULATORY SERVICES**

# PLANNING PERMIT



PERMIT NO: P21158

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39. Prior to certification, a suitable restriction must be placed on the plan of subdivision stipulating that dwellings must be constructed a minimum of 0.3 metres above the 1% AEP flood level of 80.5 metres AHD, i.e. no lower than 80.8 metres AHD.

Notes: Flood levels for the 1% AEP (100-year ARI) flood event have been estimated for this area under provisions of the Water Act 1989. The applicable 1% AEP flood level for the location described above is 80.5 metres AHD.

North Central CMA advises that in the event of a 1% AEP flood event it is possible that a portion of the property may be subject to inundation. However, it is recommended that a licensed surveyor be engaged to determine the exact effect of the applicable flood level on the property.

## Department of Transport

40. Unless otherwise agreed in writing by the Head, Transport for Victoria, prior to the issue of a Statement of Compliance, the following must be completed to the satisfaction of and at no cost to the Head, Transport for Victoria and the Responsible Authority:
- Any existing vehicular crossing made redundant by this permit must be removed and re-instated to surrounding conditions
  - Intersection lighting to be provided to V3 standard.

Notes: Separate consent for works within the road reserve and the specifications of these works is required under the Road Management Act 2004. For the purposes of this application the works will include provision of:

- Removal of any redundant vehicular crossings
- Intersection lighting

## Telecommunications

41. 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 lot 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 telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
42. 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

Date Issued: 1 April 2022

Signature for the  
Responsible Authority: \_\_\_\_\_

Kellie Burmeister

**MANAGER PLANNING AND REGULATORY SERVICES**



# PLANNING PERMIT



PERMIT NO: P21158

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demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

**Notes:**

1. **Aboriginal Cultural Heritage**

*Works must cease immediately upon the discovery of any Aboriginal cultural material, and Aboriginal Affairs Victoria must be notified immediately of any such discovery at GPO Box 2392V, Melbourne 3001 or on (telephone) 1300 551 380.*

*If any suspected human remains are found, work in the area must cease and the Victoria Police and the State Coroner's Officer must be informed of the discovery without delay. The State Coroner's Office can be contacted at any time on Telephone (03) 9684 4444.*

*If there are reasonable grounds to suspect that the remains are Aboriginal, the discovery should also be reported to Aboriginal Affairs Victoria on (telephone) 1300 888 544 or (03) 92083287 and the provisions of Division 2 of Part 2 of the Aboriginal Heritage Act 2006 will apply.*

*Officers of Aboriginal Affairs Victoria shall be permitted access to the site at any reasonable time, for the purpose of monitoring adherence to conditions above.*

*All Aboriginal Cultural Heritage, that is, Aboriginal places, Aboriginal objects and Aboriginal human remains, is protected under the State Aboriginal Heritage Act 2006. It is an offence to do an act that will harm Aboriginal Cultural heritage or is likely to harm Aboriginal Cultural Heritage.*

*Please note that under the Aboriginal Heritage Act 2006 any works involving high impact activities located within 200 metres of a culturally sensitive area, will require the development of a Cultural Heritage Management Plan. For more information regarding the kind of activities that trigger a Cultural Heritage Management Plan please refer to the Aboriginal Heritage Regulations 2007 or follow the web link to <http://www.aav.nrms.net.au/aavQuestion1.aspx>.*

Date Issued: 1 April 2022

Signature for the  
Responsible Authority: \_\_\_\_\_

A handwritten signature in blue ink, appearing to read "Kellie Burmeister".

Kellie Burmeister

**MANAGER PLANNING AND REGULATORY SERVICES**

## IMPORTANT INFORMATION ABOUT THIS PERMIT

## WHAT HAS BEEN DECIDED?

The Responsible Authority has issued a permit.

- ❖ (Note: This is not a permit granted under Division 5 or 6 of Part 4 of the Planning and Environment Act 1987)

## WHEN DOES A PERMIT BEGIN?

A permit operates:

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

## WHEN DOES A PERMIT EXPIRE?

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

## WHAT ABOUT REVIEWS?

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

# PLANNING CERTIFICATE

Official certificate issued under Section 199 Planning & Environment Act 1987  
and the Planning and Environment Regulations 2005

## CERTIFICATE REFERENCE NUMBER

976556

## APPLICANT'S NAME & ADDRESS

DUFFY & SIMON C/- INFOTRACK (LEAP) C/- LANDATA  
DOCKLANDS

## VENDOR

MENZEL, GREGORY SHAUN

## PURCHASER

NOT KNOWN, NOT KNOWN

## REFERENCE

940

This certificate is issued for:

LOT S3 PLAN PS632567 ALSO KNOWN AS 2 KING GEORGE STREET COHUNA  
GANNAWARRA SHIRE

The land is covered by the:

GANNAWARRA PLANNING SCHEME

The Minister for Planning is the responsible authority issuing the Certificate.

The land:

- is included in a GENERAL RESIDENTIAL ZONE - SCHEDULE 1
- is within a ENVIRONMENTAL SIGNIFICANCE OVERLAY - SCHEDULE 4
- and a DEVELOPMENT PLAN OVERLAY - SCHEDULE 1
- and a SPECIFIC CONTROLS OVERLAY
- and abuts a TRANSPORT ZONE 2 - PRINCIPAL ROAD NETWORK

A detailed definition of the applicable Planning Scheme is available at :  
<http://planningschemes.dpcd.vic.gov.au/schemes/gannawarra>

Historic buildings and land protected under the Heritage Act 1995 are recorded in the Victorian Heritage Register at:

<http://vhd.heritage.vic.gov.au/>

30 October 2023

**Sonya Kilkeny**  
Minister for Planning

Additional site-specific controls may apply.  
The Planning Scheme Ordinance should be checked carefully.

The above information includes all amendments to planning scheme maps placed on public exhibition up to the date of issue of this certificate and which are still the subject of active consideration

Copies of Planning Schemes and Amendments can be inspected at the relevant municipal offices.

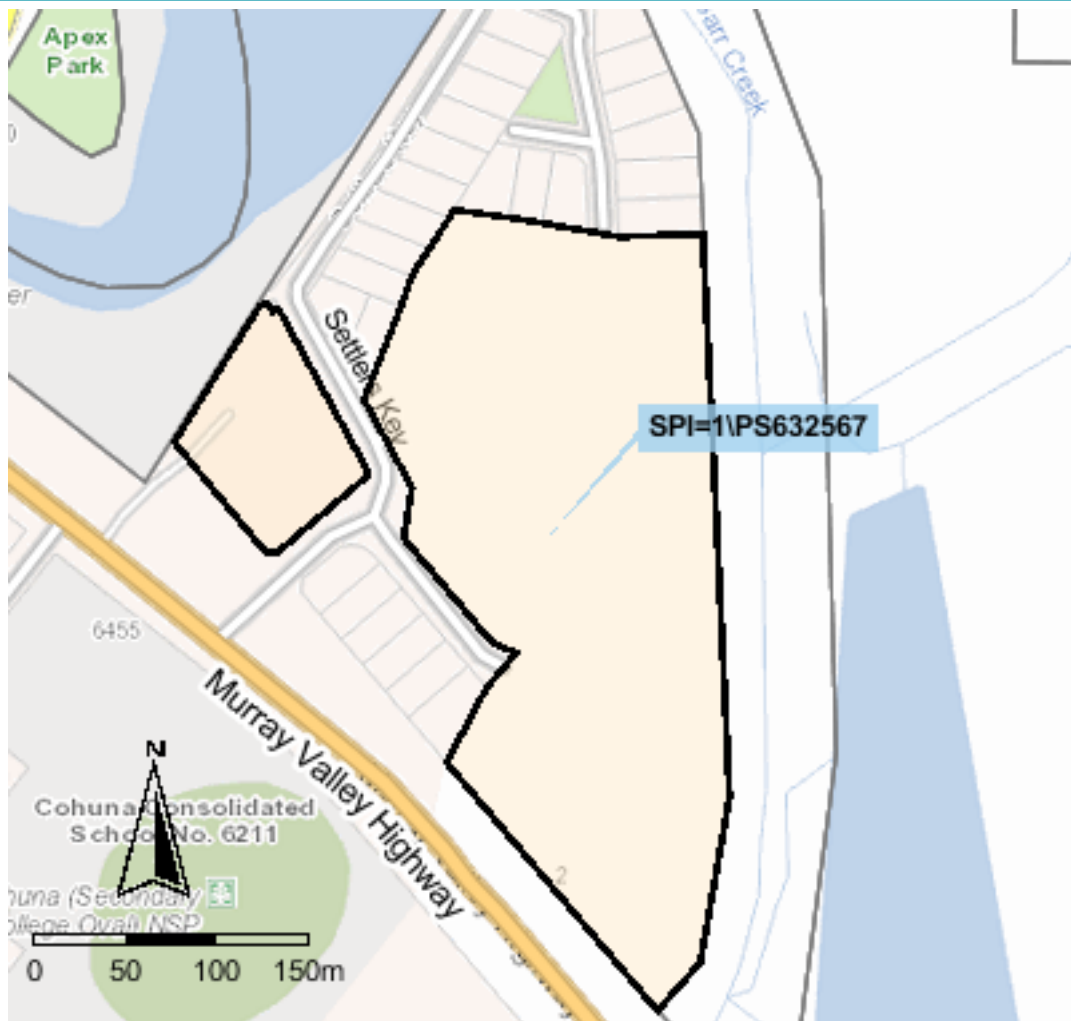
LANDATA@  
T: (03) 9102 0402  
E: [landata.enquiries@servictoria.com.au](mailto:landata.enquiries@servictoria.com.au)

The attached certificate is issued by the Minister for Planning of the State of Victoria and is protected by statute.

The document has been issued based on the property information you provided. You should check the map below - it highlights the property identified from your information.

If this property is different to the one expected, you can phone (03) 9102 0402 or email [landata.enquiries@servictoria.com.au](mailto:landata.enquiries@servictoria.com.au)

**Please note: The map is for reference purposes only and does not form part of the certificate.**



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### Choose the authoritative Planning Certificate

#### *Why rely on anything less?*

As part of your section 32 statement, the authoritative Planning Certificate provides you and / or your customer with the statutory protection of the State of Victoria.  
Order online before 4pm to receive your authoritative Planning Certificate the same day, in most cases within the hour.  
Next business day delivery, if further information is required from you.

### Privacy Statement

The information obtained from the applicant and used to produce this certificate was collected solely for the purpose of producing this certificate. The personal information on the certificate has been provided by the applicant and has not been verified by LANDATA®. The property information on the certificate has been verified by LANDATA®. The zoning information on the certificate is protected by statute. The information on the certificate will be retained by LANDATA® for auditing purposes and will not be released to any third party except as required by law.

# PLANNING PROPERTY REPORT

From [www.planning.vic.gov.au](http://www.planning.vic.gov.au) at 30 October 2023 03:02 PM

## PROPERTY DETAILS

Address: **2 KING GEORGE STREET COHUNA 3568**

Lot and Plan Number: **More than one parcel - see link below**

Standard Parcel Identifier (SPI): **More than one parcel - see link below**

Local Government Area (Council): **GANNAWARRA**

Council Property Number: **A62059**

Planning Scheme: **Gannawarra**

Directory Reference: **Vicroads 590 K11**

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

[Planning Scheme - Gannawarra](#)

This property has 2 parcels. For full parcel details get the free Property report at [Property Reports](#)

## UTILITIES

Rural Water Corporation: **Goulburn-Murray Water**

Urban Water Corporation: **Coliban Water**

Melbourne Water: **Outside drainage boundary**

Power Distributor: **POWERCOR**

## STATE ELECTORATES

Legislative Council: **NORTHERN VICTORIA**

Legislative Assembly: **MURRAY PLAINS**

## OTHER

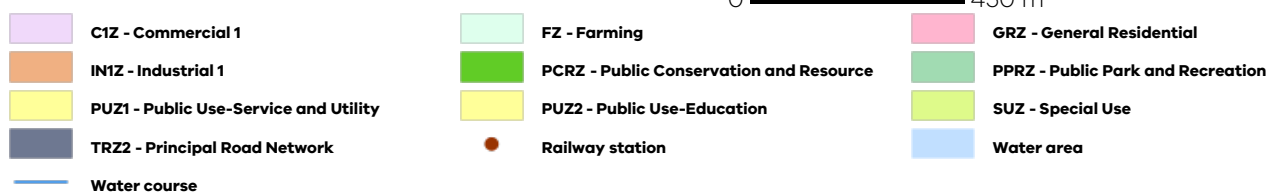
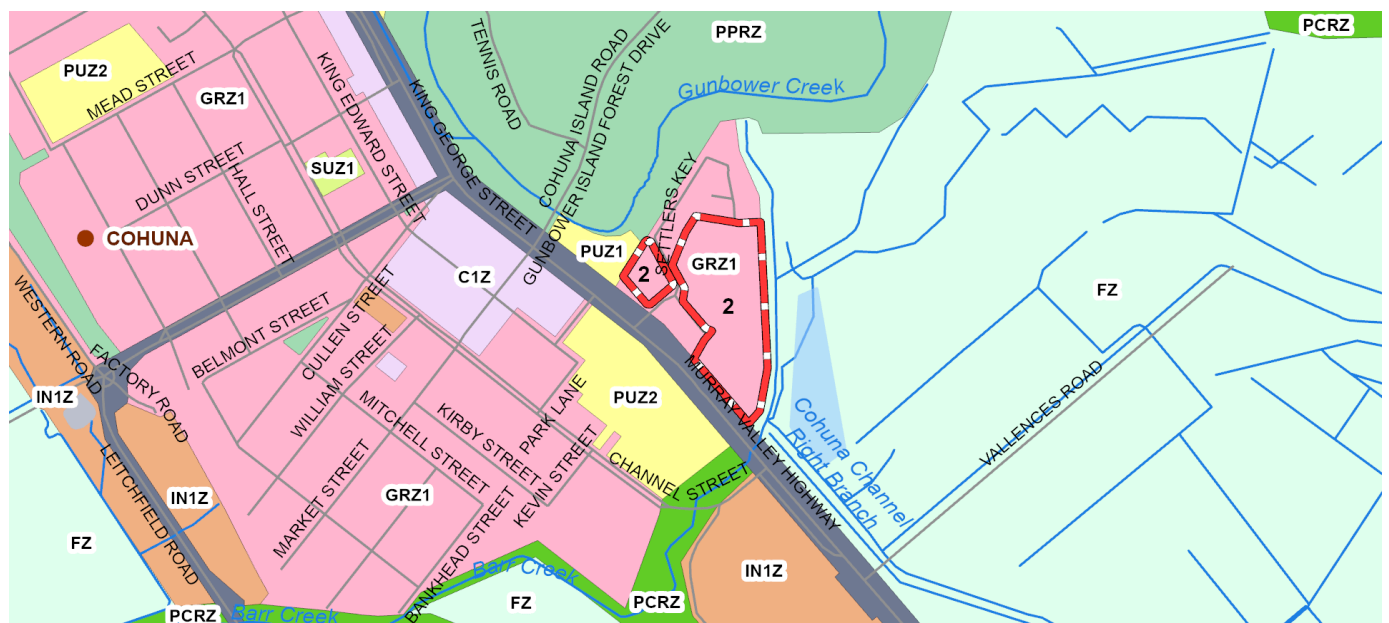
Registered Aboriginal Party: **Yorta Yorta Nation Aboriginal Corporation**

[View location in VicPlan](#)

## Planning Zones

[GENERAL RESIDENTIAL ZONE \(GRZ\)](#)

[GENERAL RESIDENTIAL ZONE - SCHEDULE 1 \(GRZ1\)](#)



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

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

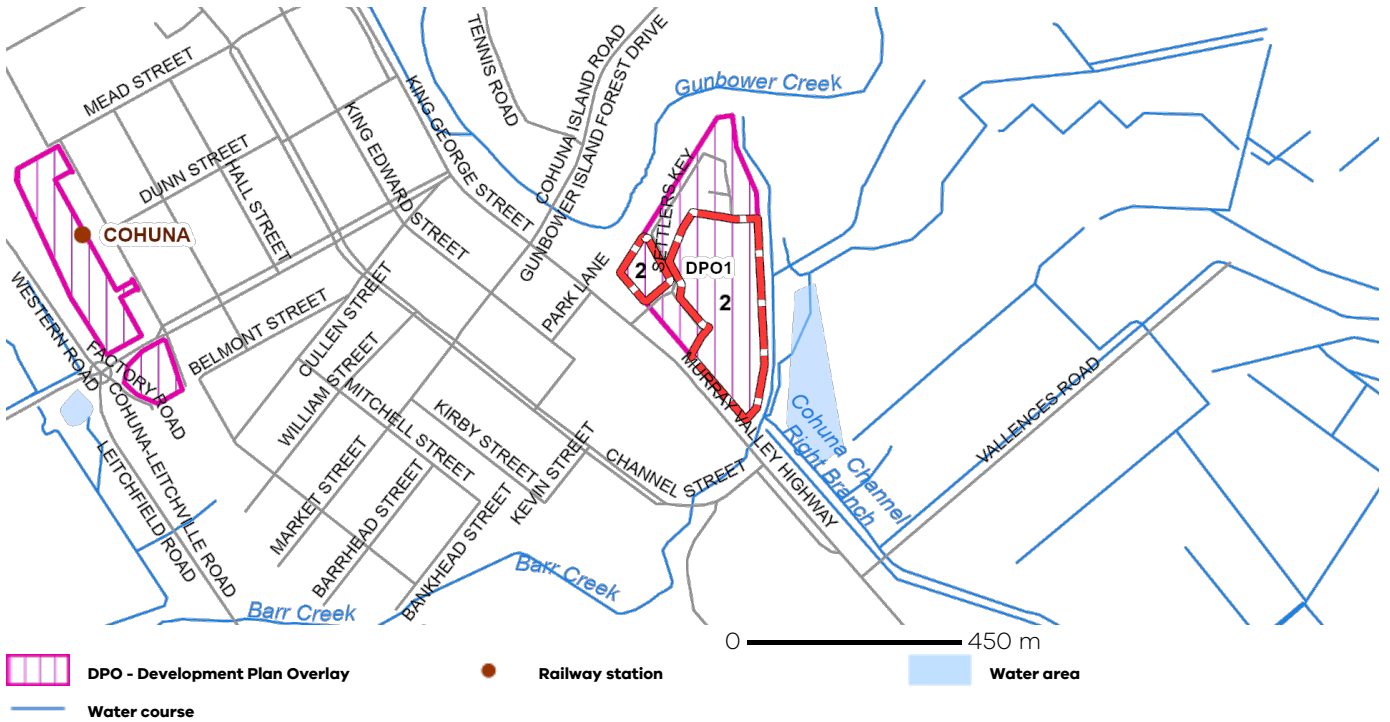
Notwithstanding this disclaimer, a vendor may rely on the information in this report for the purpose of a statement that land is in a bushfire prone area as required by section 32C (b) of the Sale of Land 1962 (Vic).

# PLANNING PROPERTY REPORT

## Planning Overlays

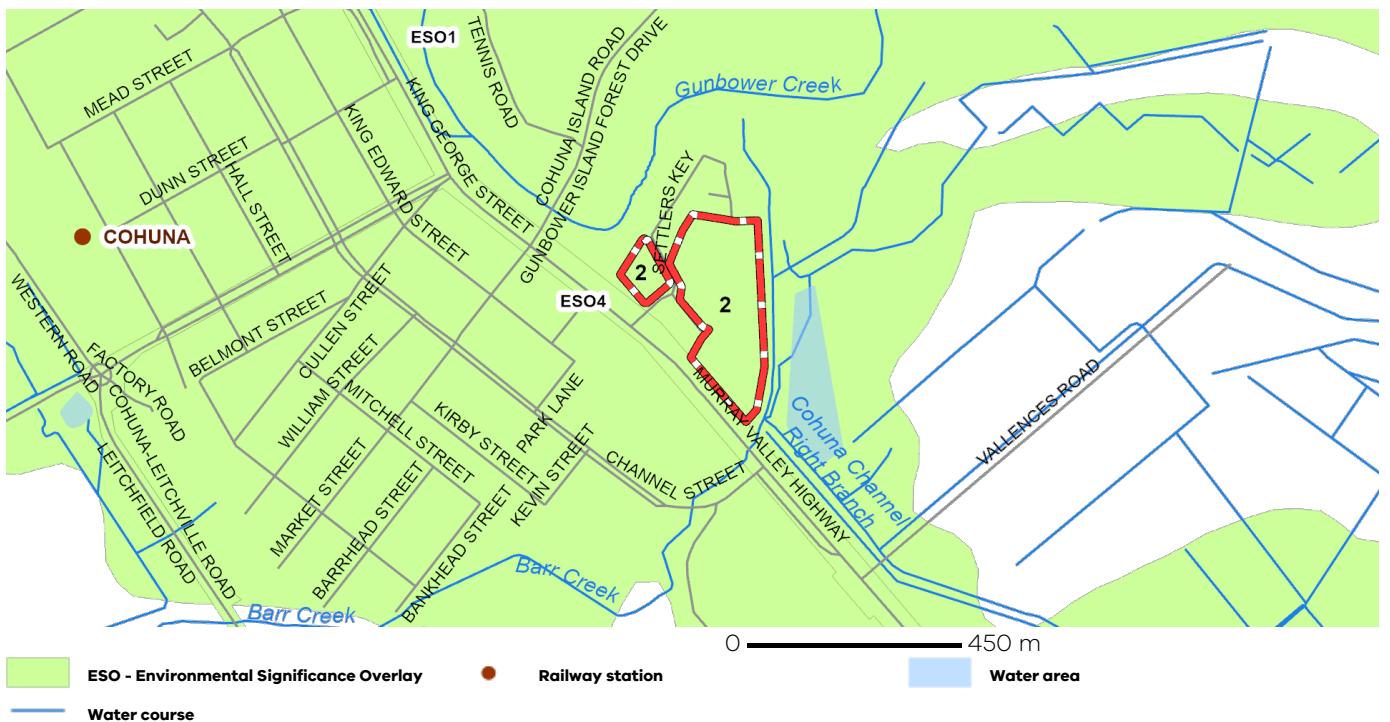
DEVELOPMENT PLAN OVERLAY (DPO)

DEVELOPMENT PLAN OVERLAY - SCHEDULE 1 (DPO1)



ENVIRONMENTAL SIGNIFICANCE OVERLAY (ESO)

ENVIRONMENTAL SIGNIFICANCE OVERLAY - SCHEDULE 4 (ESO4)



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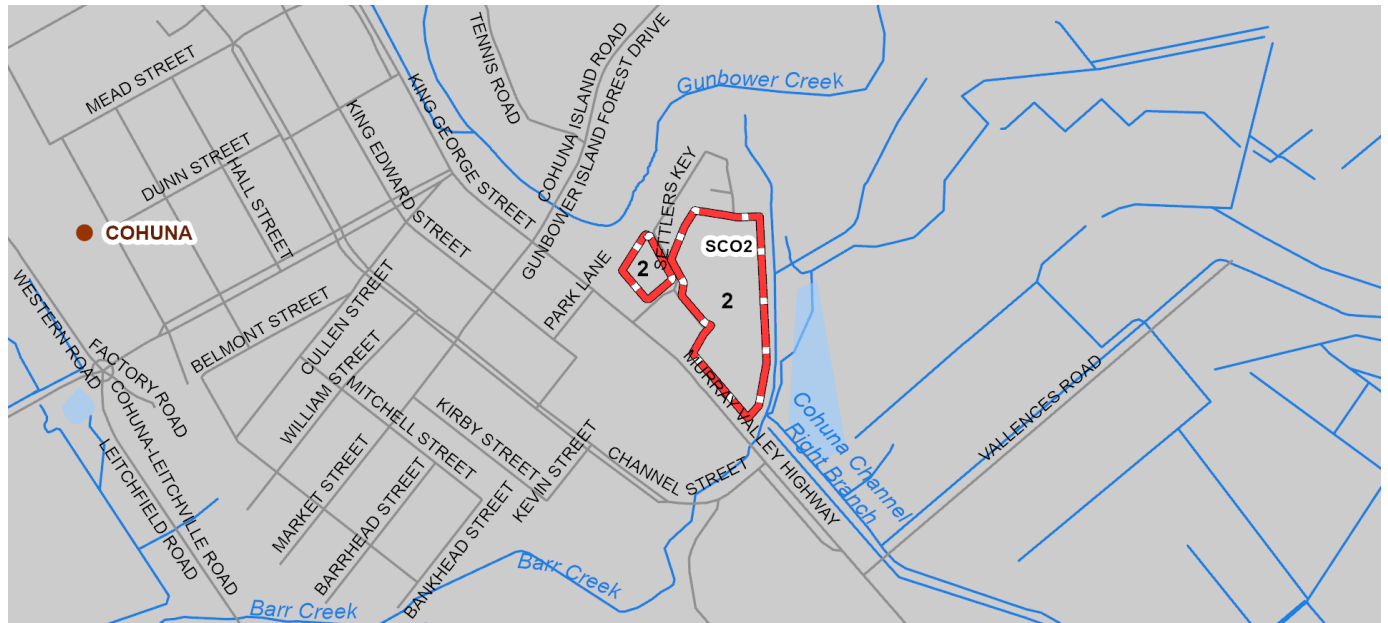


# PLANNING PROPERTY REPORT

## Planning Overlays

[SPECIFIC CONTROLS OVERLAY \(SCO\)](#)

[SPECIFIC CONTROLS OVERLAY - PS MAP REF SCO2 SCHEDULE \(SCO2\)](#)



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

# PLANNING PROPERTY REPORT

## OTHER OVERLAYS

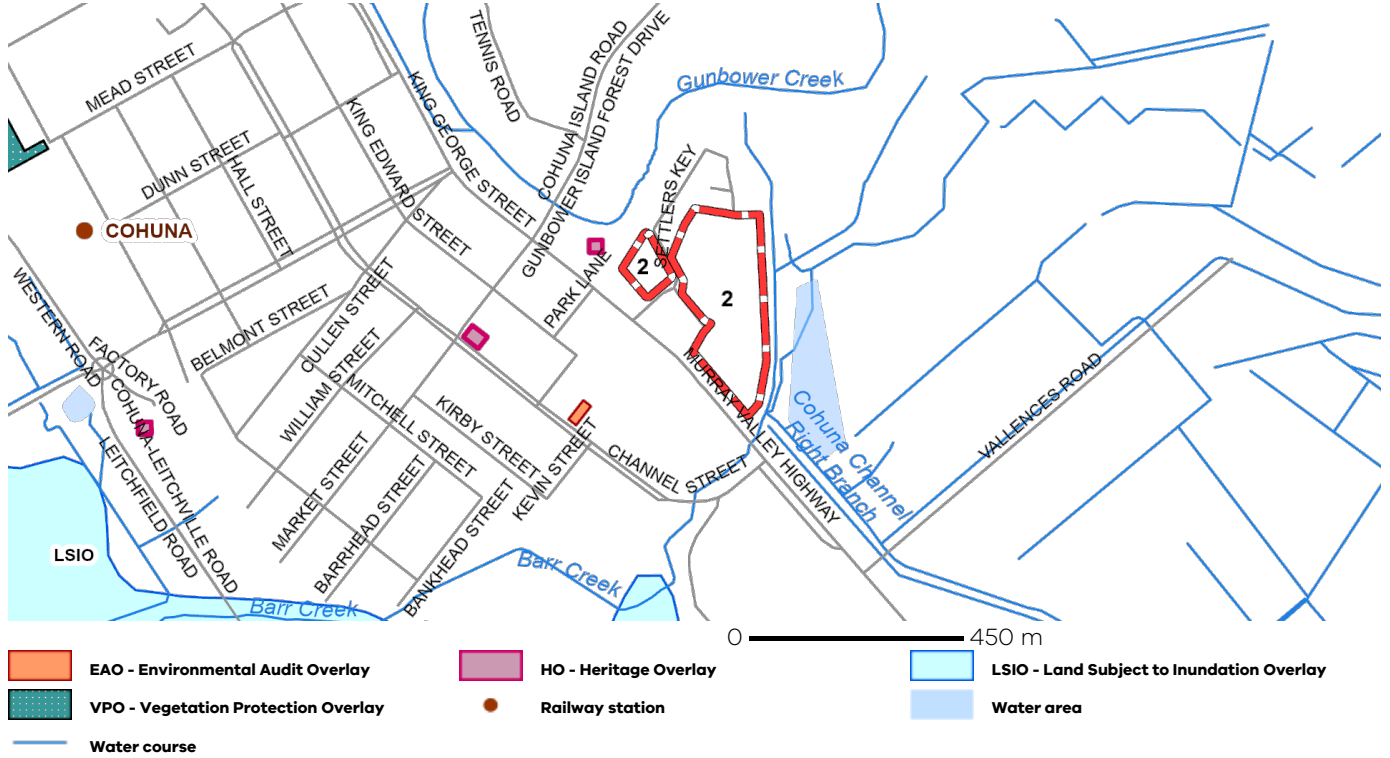
Other overlays in the vicinity not directly affecting this land

[ENVIRONMENTAL AUDIT OVERLAY \(EAO\)](#)

[HERITAGE OVERLAY \(HO\)](#)

[LAND SUBJECT TO INUNDATION OVERLAY \(LSIO\)](#)

[VEGETATION PROTECTION OVERLAY \(VPO\)](#)



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



# PLANNING PROPERTY REPORT

## 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.

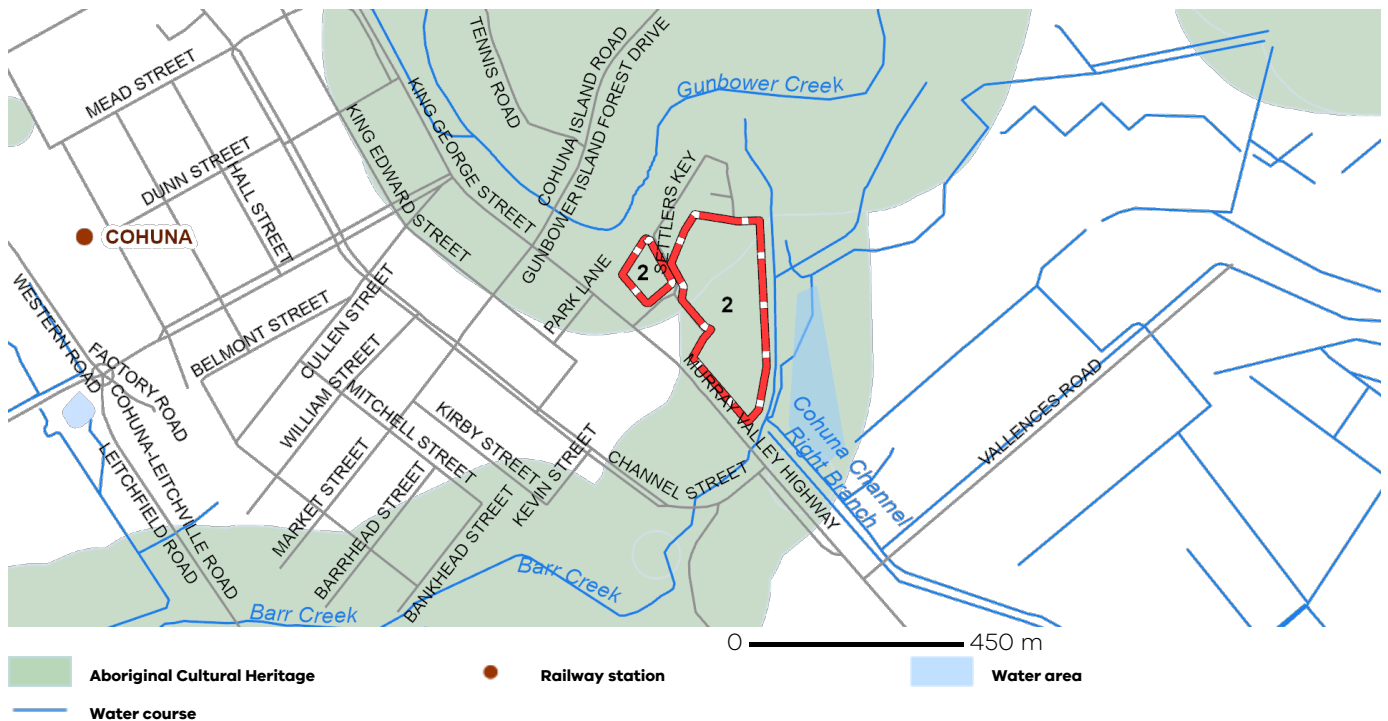
Under the Aboriginal Heritage Regulations 2018, 'areas of cultural heritage sensitivity' are one part of a two part trigger which require a 'cultural heritage management plan' be prepared where a listed 'high impact activity' is proposed.

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 <http://www.aav.nrms.net.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.aboriginalvictoria.vic.gov.au/aboriginal-heritage-legislation>



# PLANNING PROPERTY REPORT

## Further Planning Information

Planning scheme data last updated on 26 October 2023.

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

This report is NOT a **Planning Certificate** issued pursuant to Section 199 of the **Planning and Environment Act 1987**. It does not include information about exhibited planning scheme amendments, or zonings that may affect the land. To obtain a Planning Certificate go to Titles and Property Certificates at Landata - <https://www.landata.vic.gov.au>

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

To view planning zones, overlay and heritage information in an interactive format visit <https://mapshare.maps.vic.gov.au/vicplan>

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

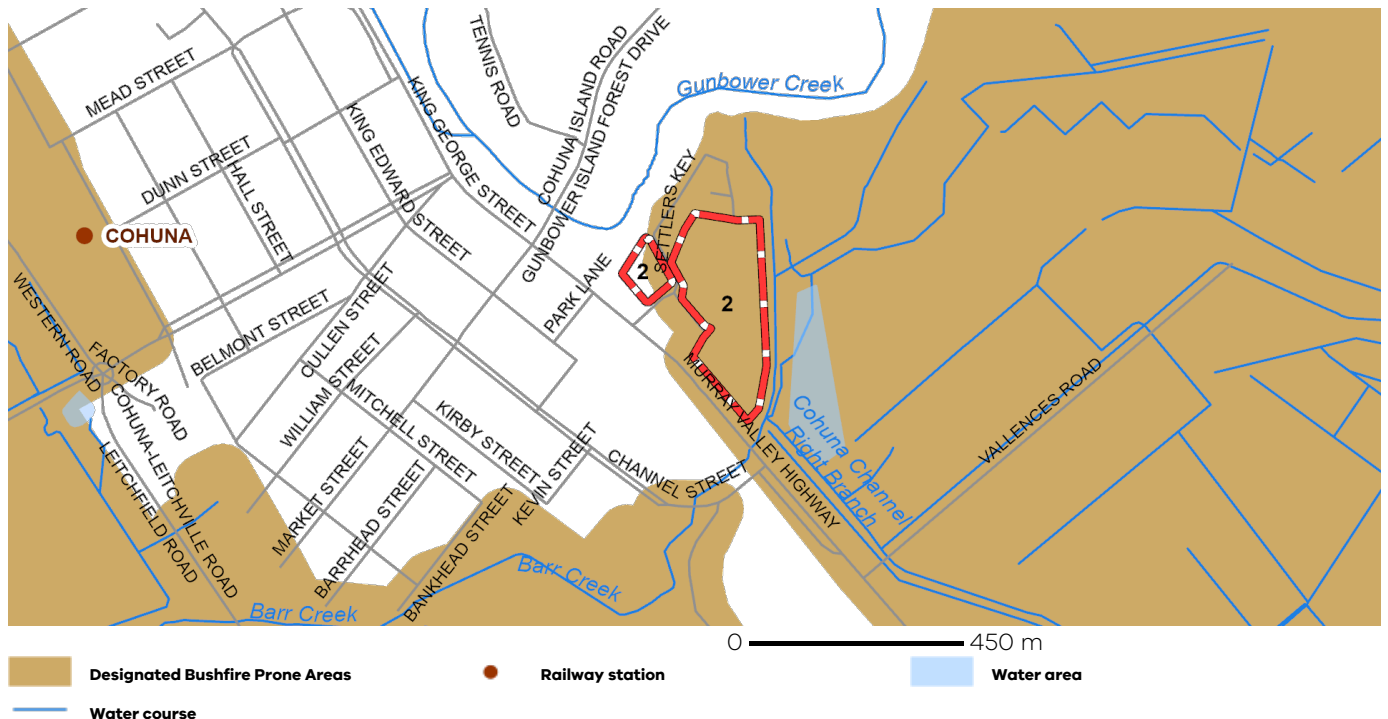
# PLANNING PROPERTY REPORT

## Designated Bushfire Prone Areas

**This property is in a designated bushfire prone area. Special bushfire construction requirements apply to the part of the property mapped as a designated bushfire prone area (BPA). 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 the region 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 Information Management system <https://nvim.delwp.vic.gov.au/> and [Native vegetation \(environment.vic.gov.au\)](https://www.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 \(environment.vic.gov.au\)](https://www.environment.vic.gov.au)

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