

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

## Contract of sale of land

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

The terms of this contract are contained in the -

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

in that order of priority.

### SIGNING OF THIS CONTRACT

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

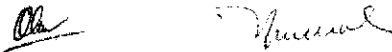
Purchasers should ensure that they have received a section 32 statement from the vendor before signing this contract. In this contract, "section 32 statement" means the statement required to be given by a vendor under section 32 of the *Sale of Land Act 1962*.

The authority of a person signing -

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

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

**SIGNED BY THE PURCHASER:** .....



on 24 / 03 / 2023

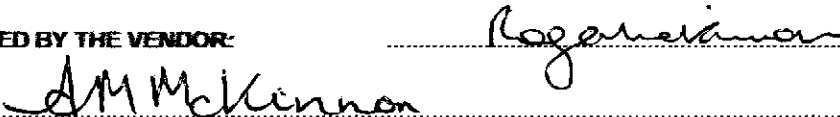
**Print name(s) of person(s) signing: MORASHA PTY LTD ATF MORASHA PROPERTY TRUST**

Vinh Le & Yen Hoang Le

State nature of authority, if applicable: Directors

This offer will lapse unless accepted within [3 days] ~~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 27 / 3 / 2023

**Print name(s) of person(s) signing: AZZURRO SUPER FUND PTY LTD**

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

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

### IMPORTANT NOTICE TO PURCHASERS – COOLING-OFF

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

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

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

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

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

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

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

## Table of contents

Particulars of Sale

Special Conditions

General Conditions

1.	ELECTRONIC SIGNATURE .....	11
2.	LIABILITY OF SIGNATORY .....	11
3.	GUARANTEE .....	11
4.	NOMINEE .....	11
5.	ENCUMBRANCES .....	11
6.	VENDOR WARRANTIES .....	11
7.	IDENTITY OF THE LAND.....	12
8.	SERVICES.....	12
9.	CONSENTS.....	12
10.	TRANSFER & DUTY .....	12
11.	RELEASE OF SECURITY INTEREST .....	12
12.	BUILDING WARRANTY INSURANCE.....	13
13.	GENERAL LAW LAND .....	13
14.	DEPOSIT .....	14
15.	DEPOSIT BOND.....	15
16.	BANK GUARANTEE.....	15
17.	SETTLEMENT .....	16
18.	ELECTRONIC SETTLEMENT.....	16
19.	GST.....	17
20.	LOAN .....	17
21.	BUILDING REPORT .....	17
22.	PEST REPORT .....	18
23.	ADJUSTMENTS .....	18
24.	FOREIGN RESIDENT CAPITAL GAINS WITHHOLDING .....	18
25.	GST WITHHOLDING.....	19
26.	TIME & CO OPERATION .....	20
27.	SERVICE .....	20
28.	NOTICES.....	21
29.	INSPECTION.....	21
30.	TERMS CONTRACT .....	21
31.	LOSS OR DAMAGE BEFORE SETTLEMENT .....	21
32.	BREACH.....	21
33.	INTEREST .....	22
34.	DEFAULT NOTICE .....	22
35.	DEFAULT NOT REMEDIED.....	22

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

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

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

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

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

### Particulars of sale

#### Vendor's estate agent

Name: N/A

Address:

Email:

Tel:

#### Vendor

**AZZURRO SUPER FUND PTY LTD ACN 153 826 996**

C/o Kadota Accounting Pty Ltd

278 Canterbury Road, Surrey Hills VIC 3127

#### Vendor's legal practitioner or conveyancer

**MUKUSHI + COHEN LAWYERS**

Suite 205/7 Jeffcott Street West Melbourne VIC 3003

Email: [lorraine@mukushi.com.au](mailto:lorraine@mukushi.com.au)

Tel: 1300 664 984

Ref: 1861

#### Purchaser

Name: **MORASHA PTY LTD (ACN 666 511 833) ATF MORASHA PROPERTY TRUST**

Address: 15 Vanderbilt Ave, Truganina VIC 3029

ABN/ACN: .....

Email: .....

#### Purchaser's legal practitioner or conveyancer

Name: **BMR LAWYERS**

Address: Level 1/760 Riversdale Rd, Camberwell VIC 3124

Email: [julian@bmlaw.com.au](mailto:julian@bmlaw.com.au)

Tel: 03 9888 6088

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

The land is described in the table below –

Certificate of Title reference		being lot	on plan
Volume 12425	Folio 993	17	PS635606V

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: **UNIT 206 LEVEL 2 7 JEFFCOTT STREET WEST MELBOURNE VIC 3003**

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

All fixtures and fittings as inspected save and except for personal and business files, small moveable furniture, equipment items and pictures/posters.

**Payment**

Price	\$ 470,000.00	Plus GST
Deposit	\$ 47,000.00	by upon signing of the Contract
Balance	<u>\$ 423,000.00</u>	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 17 April 2023**

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 23 March 2024 with options to renew two (2) further terms of five (5) years each
- OR
- a residential tenancy for a fixed term ending on \_\_\_\_\_
- OR
- a periodic tenancy determinable by notice

**Terms contract** (general condition 30)

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

**Loan** (general condition 20)

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

Lender:

(or another lender chosen by the purchaser)

Loan amount: no more than

Approval date:

**Building report**

General condition 21 applies only if the box is checked

**Pest report**

General condition 22 applies only if the box is checked



## 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*

### **Special condition 1 – Auction Clause**

The property is offered for sale by public auction, subject to the vendor's reserve price. The rules for the conduct of the auction shall be as set out in the schedules to the Sale of Land (Public Auctions) Regulations 2014 or any rules prescribed by regulation which modify or replace those rules.

### **Special condition 2 – Amendments of General Conditions**

Without limiting the specific provisions of any other special condition in this Contract, the General Conditions are amended as follows :

- (a) The Purchaser and the Vendor agree that if there is any inconsistency between the provisions of the General Conditions and these Special Conditions, then, except in the case of manifest error, to the extent of any inconsistency the provisions of these special conditions will prevail and have priority.
- (b) The following General Conditions are deleted :
- (a) General Condition 5 (Consents);
  - (b) General Condition 12 (Builders Warranty);
  - (c) General Condition 30 (Terms Contract);
  - (d) General Condition 31.4, 31.5 and 31.6 (Loss or damage before settlement).
- (c) General Condition 20 – Loan is amended by adding 20.1(a) and 20.1(b) as follows :
- 20.1(a) If this Contract is subject to a loan approval and the Purchaser wishes to terminate the Contract on the basis that he was unable to obtain a finance approval by the approval date, the Purchaser must provide a written confirmation from the Bank / Lender (or if no Bank / Lender is nominated in the Contract, then all the Bank / Lender to which the Purchaser has applied for finance approval) stating refusal of finance approval to the Purchaser;
- 20.1(b) If the Purchaser fails to provide such information within 5 days from the sale of ending this Contract referred to above, the Purchaser will be deemed to have obtained the approval of finance and this Contract shall be deemed to be unconditional in respect of finance.
- (d) The reference to “2%” in General Condition 33 - Interest is amended to read “6%”.
- (e) General Condition 32 – Breach is amended by adding the following new paragraph at the end of the condition :

The Vendor and the Purchaser agree that the following items constitute “a reasonably foreseeable loss” for the purpose of the General Conditions and Special Conditions of this Contract shall include without limitation the following :

- i. the cost of obtaining bridging finance to complete the Vendor's purchase or another property and interest charged on any such bridging finances calculated from the due date for settlement;
- ii. Interest payable by the Vendor under any existing Mortgage over the Property calculated from the due date for settlement;
- iii. Accommodation expenses necessarily incurred by the Vendor;
- iv. Legal costs and expenses as between the Vendor's representative and the Vendor;
- v. Penalties payable by the Vendor through any delay in completion of the Vendor's purchase of another property;

- vi. A fee payable by the Purchaser for rescheduling settlement on the day of settlement or after set at \$385.00 (including GST) per rescheduling and that this fee is payable on demand made by the Vendor or Vendor's representative irrespective whether a default notice has been issued;
  - vii. All sums payable to a Real Estate Agent including commissions, advertising, marketing and any other fees;
  - viii. The cost of a default notice of \$850.00 plus GST; and
  - ix. Any settlement fees incurred by the Vendor in cancellation of settlement of this contract and any other transaction; and
  - x. all additional outgoings or charges for which the Vendor will be liable as a result of the Vendor remaining or being recorded as remaining owner of the property.
- (f) General Condition 35.4(a) is amended to read as follows : - " an amount equal to 10% of the Purchase Price is forfeited to the Vendor as the Vendor's absolute property regardless of whether the deposit has been paid or not. The reference to the Purchase Price in this Special Condition refers to the Purchase Price plus any GST payable on the Purchase Price.

**Special condition 3 – Purchaser's Acknowledgement and Warranty**

3.1 The Purchaser acknowledges and declares that :

- (a) prior to paying any money or signing any document in relation to this sale, the Purchaser has received a copy of this contract and the Section 32 Statement in accordance to the Sale of Land Act 1962 in relation to the Property;
- (b) the Purchaser has had the option of obtaining independent legal advice prior to signing this Contract.

3.2 The Purchaser warrants to the Vendor that the decision to purchase the Property is on the Purchaser's sole reliance on his own investigation and not relying upon any representation made by the Vendor or any other person on the Vendor's behalf and the Purchaser had sufficient opportunity before signing this Contract to carry out his own investigation and enquiries and is satisfied with the Property and acknowledge that :

- (a) the property is sold in its present condition and state of repair;
- (b) subject to all defects latent and patent;
- (c) subject to any infestations and dilapidation;
- (d) subject to any structure, fence, wall or improvements that is located within the title boundary to the Land;
- (e) subject to any improvements located on adjoining properties do not encroach on to the Land;
- (f) subject to all existing water, sewerage, drainage and plumbing services and connections in respect of the property; and
- (g) subject to any non-compliance, that is disclosed herein, with the Local Government Act or any Ordinance under that Act in respect of any building on the land.

3.3 The Purchaser must not :

- (a) make any requisition, objection or claim;
- (b) request the Vendor to amend the title, take any action or incur any costs;
- (c) delay settlement or seek to terminate or rescind this Contract.

3.4 The Vendor does not represent or warrant that the property, its use or the condition of the property complied with Applicable Law. The Purchaser acknowledges as agrees to purchase the property subject to any Applicable Law, including the requirements of any planning schemes, planning permit or any regulations under Building Regulations 2018.

3.5 "Applicable Law" includes acts, regulations, by-laws, local laws, or requirements of any municipality, statutory authority or corporation with statutory jurisdiction over the property or any other statutory requirements applying to the property. It also includes planning, building, subdivision, environment, occupational health and safety and all laws requiring, restricting or imposing liability for works on the property.

**Special condition 4 – Restrictions on Use**

- 4.1 The Property is sold subject to the Usage Regulations and all Laws affecting the Property in its use and development. No Law constitutes a defect in the Vendor's title or affects the validity of this Contract.
- 4.2 The Purchaser acknowledges that the Vendor makes no representations as to the compliance of the Property with the Usage Regulations and any such restriction do not constitute a defect in the Vendor's title to the Property or affect the validity of this Contract. The Purchaser is responsible for remedying, at its own costs, any non-compliance of the Property to comply on the Day of Sale with any laws affecting the Property and the Purchaser shall indemnify and keep the Vendor indemnified in respect of all claims, loss, damages which the Vendor may incur or may become liable for as a result of the Purchaser's failure to remedy any such non-compliance.
- 4.3 The Vendor makes no representations as to the compliance of the Property with the Usage Regulations and the Purchaser must take title subject to all such restrictions and conditions and must not make any Claim, rescind or determine this Contract, delay or refuse settlement, retain any money or refuse payment of the Balance in this regard.
- 4.4 For the purposes of this Special Condition and this Contract, "**Usage Regulations**" means all applicable restrictions and law affecting the use of the Property including any order, permits, approvals, planning scheme, planning controls, regulation and by-law made by any Responsible Authority;
- 4.5 For the purposes of this Special Condition and this Contract, "**Responsible Authority**" means any government or governmental, semi-governmental, local, administrative, or statutory body, department, commission, authority, tribunal or other entity (whether public or private) exercising a similar function.

**Special condition 5 – Title to and Condition of Property and Goods**

- 5.1 The title to the Property and any Goods under this Contract do not pass to the Purchaser until full payment is made of the Purchase Price by the Purchaser to the Vendor. The Goods sold (if any) are sold without any warranties or conditions other than those expressly contained in this Contract.
- 5.2 The Purchaser acknowledges that he has inspected the Property and Goods prior to the Day of Sale. He agrees that he is purchasing and will accept delivery of the Property and Goods in their present condition and state of repair and with any defects existing at the date hereof including the existence of any pests or termites.

**Special condition 6 – Services and Utilities**

- 6.1 The Purchaser acknowledges that the Property is sold and he will take title subject to all existing water, sewerage and drainage, gas and electricity, telephone or other installations, services and utilities (if any) and will not make any requisition, objection or claim for compensation in respect of the nature, location, availability or non-availability of any such installations, services or utilities or any matter affecting them.
- 6.2 The Purchaser must assume responsibility for and indemnify the Vendor against any notice issued on or after the Day of Sale by any Responsible Authority imposing any charges and other liabilities for any works conducted by the Responsible Authority in relation to the Property including but not limited to drainage, sewerage, gas or electricity supply.

**Special condition 7 – Swimming pool / spa**

In the event that the property includes a swimming pool / spa, the Purchaser hereby acknowledges by signing this Contract of Sale that the swimming pool / spa located on the property may not have fencing or safety measures that comply with *Building Regulation 2018*. The Purchaser further acknowledges and agrees that it has made its own enquiries in relation to compliance with current building regulations and the Purchaser agrees that they cannot terminate this Contract of Sale in the event that the swimming pool / spa does not comply with current building regulations, nor will the Purchaser require the Vendor to comply with any notice issued by any authority nor seek any compensation from the Vendor for any non-compliance.

**Special condition 8 – Smoke alarms**

In the property includes a dwelling or sole occupancy unit which is or forms part of a building to which Building Regulations 2018 applies that requires the installation of a self- contained smoke alarm complying with AS3786-1993, it is agreed that the Purchaser shall comply with the said Regulation, and pay the cost of such compliance, within the time required by the sale Regulation, and the Purchaser shall indemnify and keep the Vendor indemnified against any non-compliance with the said Regulation.

**Special condition 9 – Nomination**

General Condition 4 - Nominee is deleted and replaced by the following :

- 9.1 If the Property is expressed as sold to the Purchaser "and/or nominee" (or words of like effect) then the Purchaser may no later than 7 days prior to the Settlement Date nominate a nominee by serving on the Vendor a form of nomination executed by the Purchaser and the nominee containing such terms and information as the Vendor may require and in the case of a corporation (other than a corporation listed on the Australian Stock Exchange), the Guarantee in the form annexed to this Contract must be executed by all its directors and also by its principal shareholders as guarantors.
- 9.2 Upon the Purchaser and the nominee complying with this Special Condition and agreeing along with the guarantors (if any) to be jointly and severally liable for the performance of the obligations of the Purchaser under this Contract and payment of any expenses (including legal costs on a solicitor/own client basis and stamp duty) arising out of the nomination, the nominee will be substituted for the Purchaser as purchaser.
- 9.3 The Purchaser and the nominee must fully and truthfully disclose the circumstances of the nomination to the Comptroller of Stamps and must hold the Vendor indemnified at all times against loss or damage of every description suffered by the Vendor arising out of a failure to make such disclosure.
- 9.4 All acts or omissions of the Vendor or the Purchaser including but not limited to requisitions made by the Purchaser and answers given by the Vendor continue to bind the Purchaser and the nominee respectively and any Deposit paid by the Purchaser will be treated by the Vendor as Deposit paid by the nominee.
- 9.5 The Purchaser / Nominee must pay the Vendor's legal costs and expenses of \$440.00 (including GST) being additional cost incurred by the Vendor in effecting the nomination.

**Special condition 10 – Non- Merger**

Each obligation of the Purchaser under this Contract which has not been carried into effect will not merge in the transfer of the Property to the Purchaser and will continue to have full force and effect for as long as is necessary to give proper effect to that term and despite completion of this Contract and of the sale hereby effected.

**Special condition 11 - Waiver of Breach**

No waiver of any breach of this contract or any of the terms of this contract will be effective unless that waiver is in writing and is signed by the party against whom the waiver is claimed. No waiver of any breach shall operate as a waiver of any other breach or subsequent breach.

**Special condition 12 – Entire Agreement**

- 12.1 This Contract embodies the entire understanding and agreement between the parties as the subject matter of this contract.
- 12.2 All previous negotiations, understandings, representations, warranties or commitments in relation to, or in any way affecting the subject matter of this contract are merged in and superseded by this contract and are of no force or effect whatsoever and no party is liable to any other party in respect of those matters.

12.2 The Purchaser acknowledges that any concept plans, display suites, suggested designs for alterations to or use of the Property or any other informational, promotional or advertising material prepared by the Vendor, the Vendor's Solicitors or the Vendor's Agent including any depreciation schedules, are provided as a guide only and the Purchaser must rely on its own investigations in relation to any matters referred to in any such material. This Special Condition will enure for the benefit of the Vendor, the Vendor's Solicitors and the Vendor's Agent.

**Special Condition 13 - Goods and Services Tax**

13.1 **Supply of a Going Concern**

The parties agree subject to Special Condition 13.3:

- (a) the Price and all payments required to be made by the Purchaser to the Vendor under this Contract have been negotiated without any allowance for a GST and are expressed as GST-exclusive amounts; and
- (b) this Contract provides for the Supply of a Going Concern (where applicable).

13.2 **Purchaser Registered for GST**

The Purchaser warrants that it is registered or required to be registered under Part 2.5 of the A New Tax System (Goods and Services Tax) Act 1999 (Cth) and will continue to be so at all relevant times up to and including the day of the supply.

13.3 **If not a Supply of a Going Concern**

If the Vendor reasonably considers this Contract (or any supply under it) is not a Supply of a Going Concern ("Taxable Supply") and GST is payable on the Taxable Supply:

- (a) the Price will be increased so that the Vendor receives an amount which after subtracting the GST amount, results in the Vendor retaining the same Price expressed in this Contract after payment of that GST liability;
- (b) the Purchaser must pay the amount of that GST to the Vendor at the same time and manner as the Purchaser is required to pay for the Taxable Supply; and
- (c) The Vendor must issue to the Purchaser a valid tax invoice for the Taxable Supply.

**Special Condition 14 - Foreign Investment**

The Purchaser warrants to the Vendor that any approval, consent or statement of non-objection required under the Foreign Acquisition and Takeovers Act 1975 Cth to enter into this Contract has been obtained. In the event that this warranty is untrue in any respect, the Purchaser hereby indemnifies and keeps indemnified the Vendor against any loss (including legal costs on a solicitor/own client basis and any other consequential loss) which the Vendor incurs as a result of the Vendor having relied on this warranty at the time of entering into this Contract.

**Special Condition 15 - Dispute Resolution**

15.1 If any dispute arises between the Vendor and the Purchaser, the parties may mutually agree to refer any such dispute for determination by a single expert (acting as an expert and not an arbitrator) agreed upon by them or, in default of agreement, nominated by the President for the time being of the Law Institute of Victoria; and

- (a) such expert's decision is final and conclusive and binding on the parties;
- (b) the cost of the expert's decision must be borne by the party against whom such decision is made, or (if there is no such party) by the party or parties and in the proportions determined by the expert;
- (c) neither party shall be entitled to delay settlement or withhold any part of the purchase money payable pending determination of any unresolved dispute.

**Special Condition 16 - Outgoings**

- 16.1 All Outgoings in respect of the Property shall be apportioned between the Vendor and the Purchaser as from the Day of Settlement.
- 16.2 The parties agree that the Vendor will pay the Outgoings when they are due to be paid and the Purchaser acknowledges and agrees that it cannot require them to be paid at or before Settlement under any circumstance. Despite this, the Outgoings must be apportioned as if they had been paid by the Vendor.
- 16.3 The Vendor acknowledges that it will be liable and responsible for the Outgoings until the Settlement and that it must pay any such Outgoings within the time limit specified.
- 16.4 General Condition 23.2(b) does not apply. For the purpose of calculating land tax for adjustments, land is not treated as the only land of which the vendor is the owner. Accordingly, land tax is to be calculated based on the total value of the land owned by the Vendor and the assessment on a proportional basis as being payable 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 23 of that Act.
- 13.2 The remaining provisions of this general condition 13 only apply if any part of the land is not under the operation of the *Transfer of Land Act 1958*.

- 13.3 The vendor is taken to be the holder of an unencumbered estate in fee simple in the land if there is an unbroken chain of title starting at least 30 years before the day of sale proving on the face of the documents the ownership of the entire legal and equitable estate without the aid of other evidence.
- 13.4 The purchaser is entitled to inspect the vendor's chain of title on request at such place in Victoria as the vendor nominates.
- 13.5 The purchaser is taken to have accepted the vendor's title if:
- (a) 21 days have elapsed since the day of sale; and
  - (b) the purchaser has not reasonably objected to the title or reasonably required the vendor to remedy a defect in the title.
- 13.6 The contract will be at an end if:
- (a) the vendor gives the purchaser a notice that the vendor is unable or unwilling to satisfy the purchaser's objection or requirement and that the contract will end if the objection or requirement is not withdrawn within 14 days of the giving of the notice; and
  - (b) the objection or requirement is not withdrawn in that time.
- 13.7 If the contract ends in accordance with general condition 13.6, the deposit must be returned to the purchaser and neither party has a claim against the other in damages.
- 13.8 General condition 17.1 [settlement] should be read as if the reference to 'registered proprietor' is a reference to 'owner' in respect of that part of the land which is not under the operation of the *Transfer of Land Act 1958*.
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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 lodgment
- 18.7 The parties must do everything reasonably necessary to effect settlement:
- (a) electronically on the next business day; or
  - (b) at the option of either party, otherwise than electronically as soon as possible –
- if, after the locking of the workspace at the nominated settlement time, settlement in accordance with special condition 18.6 has not occurred by 4.00 pm, or 6.00 pm if the nominated time for settlement is after 4.00 pm.
- 18.8 Each party must do everything reasonably necessary to assist the other party to trace and identify the recipient of any missing or mistaken payment and to recover the missing or mistaken payment.
- 18.9 The vendor must before settlement:
- (a) deliver any keys, security devices and codes ("keys") to the estate agent named in the contract,
  - (b) direct the estate agent to give the keys to the purchaser or the purchaser's nominee on notification of settlement by the vendor, the vendors subscriber or the electronic lodgment network operator,

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

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

## 19. GST

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

## 20. LOAN

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

## 21. BUILDING REPORT

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

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

## 22. PEST REPORT

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

## 23. ADJUSTMENTS

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

## 24. FOREIGN RESIDENT CAPITAL GAINS WITHHOLDING

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

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

## 25. GST WITHHOLDING

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

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

## 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.
-

**GUARANTEE & INDEMNITY**

I / We, Vinh Le of 15 Vanderbilt Ave, Truganina VIC 3029  
 and Yen Hoang Le of 15 Vanderbilt Ave, Truganina VIC 3029

being the ~~Sole Director~~ / Directors of **MORASHA PTY LTD ATF MORASHA PROPERTY TRUST** ACN \_\_\_\_\_


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

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

**IN WITNESS** whereof the parties hereto have set their hands and seals  
 this 24th day of March, 2023.


**SIGNED, SEALED AND DELIVERED** by \_\_\_\_\_ )  
 in the presence of: \_\_\_\_\_ )  
 Director's Signature  
 Name : Vinh Le

Signature of witness  
 Name & address of witness (block letters): Anita Battocchio of 8 Newburgh Court, Point Cook. 3030  
 Occupation of witness: Business Development & Finance Manager



**SIGNED, SEALED AND DELIVERED** by \_\_\_\_\_ )  
 in the presence of: \_\_\_\_\_ )  
 Director's Signature  
 Name : Yen Hoang Le

Signature of witness  
 Name & address of witness (block letters): Anita Battocchio of 8 Newburgh Court, Point Cook. 3030  
 Occupation of witness: Business Development & Finance Manager



**GST WITHHOLDING NOTICE**

Purchaser must make a GST Withholding

Payment:  No  Yes

(if yes, vendor must provide further details)

If the further details below are not fully completed at the contract date, the vendor must provide all these details in a separate notice within 14 days of the contract date.

**GST Withholding Payment Details**

Frequently the supplier will be the vendor. However, sometimes further information will be required as to which entity is liable for GST, for example, if the vendor is part of a GST group or a participant in a GST joint venture.

Supplier's Name:

Supplier's ABN:

Supplier's Business Address:

Supplier's Email Address:

Supplier's Phone Number:

Supplier's proportion of the GST Withholding Payment:

Amount purchaser must pay – price multiplied by the GST withholding rate: \$ \_\_\_\_\_

Amount must be paid:  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:

Other details (including those required by regulation or the ATO forms):

# Vendor Statement

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

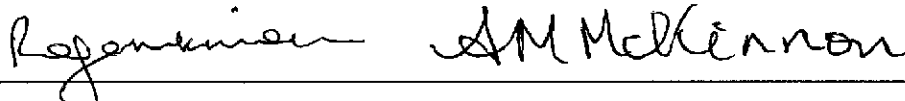
This statement must be signed by the vendor and given to the purchaser before the purchaser signs the contract.

The vendor may sign by electronic signature.

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

<b>Land</b>	UNIT 206 LEVEL 2 7 JEFFCOTT STREET WEST MELBOURNE VIC 3003
-------------	--

<b>Vendor's name</b>	AZZURRO SUPER FUND PTY LTD	<b>Date</b>	16 / 03 / 2023
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<b>Vendor's signature</b>			
---------------------------	--	--	--

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

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

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

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

**1. FINANCIAL MATTERS**

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

- (a) Are contained in the attached certificate/s.
- (b) The total outgoings does not exceed \$3,500.00 p.a.

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

	To	
--	----	--

Other particulars (including dates and times of payments):

**1.3 Terms Contract**

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

Not Applicable.

**1.4 Sale Subject to Mortgage**

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

Not Applicable.

**2. INSURANCE**

**2.1 Damage and Destruction**

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

Not Applicable.

**2.2 Owner Builder**

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

Not Applicable.

**3. LAND USE**

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

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

Not Applicable.

**3.2 Road Access**

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

**3.3 Designated Bushfire Prone Area**

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

3.4 **Planning Scheme**

Attached is a certificate with the required specified information

**4. NOTICES**

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

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

Not Applicable.

4.2 **Agricultural Chemicals**

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

Nil.

4.3 **Compulsory Acquisition**

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

Nil.

**5. BUILDING PERMITS**

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

Not Applicable.

**6. OWNERS CORPORATION**

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

As attached.

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

**9. TITLE**

Attached are copies of the following documents:

9.1 **Registered Title**

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

## 10. SUBDIVISION

### 10.1 Unregistered Subdivision

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

Not Applicable.

### 10.2 Staged Subdivision

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

Not Applicable.

### 10.3 Further Plan of Subdivision

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

Not Applicable.

## 11. DISCLOSURE OF ENERGY INFORMATION

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

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

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

Not Applicable.

## 12. DUE DILIGENCE CHECKLIST

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

- Vacant Residential Land or Land with a Residence
- Attach Due Diligence Checklist (this will be attached if ticked)

## 13. ATTACHMENTS

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

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

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



# Due diligence checklist

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

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

## Urban living

### Moving to the inner city?

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

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

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

## Growth areas

### Are you moving to a growth area?

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

## Flood and fire risk

### Does this property experience flooding or bushfire?

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

## Rural properties

### Moving to the country?

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

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

### Can you build new dwellings?

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

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

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

## Soil and groundwater contamination

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

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

(04/10/2016)

## Land boundaries

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

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

## Planning controls

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

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

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

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

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

## Safety

### Is the building safe to live in?

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

## Building permits

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

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

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

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

## Utilities and essential services

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

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

## Buyers' rights

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

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

(04/10/2016)

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

Page 1 of 2

VOLUME 12425 FOLIO 993

Security no : 124104683329C  
Produced 16/03/2023 09:10 AM

### LAND DESCRIPTION

Lot 17 on Plan of Subdivision 635606V.  
PARENT TITLE Volume 11221 Folio 582  
Created by instrument AV944801U 10/08/2022

### REGISTERED PROPRIETOR

Estate Fee Simple  
Sole Proprietor  
AZZURRO SUPER FUND PTY LTD of 31 CLIVE STREET ST MARYS TAS 7215  
AS037233R 26/03/2019

### 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  
AG085108C 16/09/2008

### DIAGRAM LOCATION

SEE PS635606V 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: UNIT 206 LEVEL 2 7 JEFFCOTT STREET WEST MELBOURNE VIC 3003

### ADMINISTRATIVE NOTICES

NIL

eCT Control 23509D MUKUSHI & COHEN LAWYERS  
Effective from 27/09/2022

### OWNERS CORPORATIONS

The land in this folio is affected by  
OWNERS CORPORATION 1 PLAN NO. PS635606V



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

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

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Page 2 of 2

DOCUMENT END



# Imaged Document Cover Sheet

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Document Assembled	<b>16/03/2023 09:37</b>

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<b>PLAN OF SUBDIVISION</b>	<b>EDITION 1</b>	<b>PS635606V</b>
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<p><b>LOCATION OF LAND</b></p> <p>PARISH: MELBOURNE NORTH              CITY OF MELBOURNE              SECTION: 33 AT WEST MELBOURNE              CROWN ALLOTMENT: 11 (PART)</p> <p>LAST PLAN REF: TP552548F (LOT 1)              TITLE REFERENCE: VOL.6875 FOL.801</p> <p>POSTAL ADDRESS: 369-379 KING STREET              &amp; 1-7 JEFFCOTT STREET              WEST MELBOURNE VIC 3003</p> <p>MGA 94 CO-ORDS E 319 830              OF APPROX. CENTRE N 5813 110              OF LAND IN PLAN ZONE 55</p>	<p><b>COUNCIL CERTIFICATION</b></p> <p>COUNCIL NAME: MELBOURNE CITY COUNCIL REF: SA-2010-44</p> <p>(1) THIS PLAN IS CERTIFIED UNDER SECTION 6 OF THE SUBDIVISION ACT 1988.</p> <p><del>(2) THIS PLAN IS CERTIFIED UNDER SEC. 11(7) OF THE SUBDIVISION ACT 1988.              DATE OF ORIGINAL CERTIFICATION UNDER SECTION 6 / /</del></p> <p>(3) THIS IS A STATEMENT OF COMPLIANCE ISSUED UNDER SECTION 21 OF THE SUBDIVISION ACT 1988</p> <p>OPEN SPACE:</p> <p>(A) A REQUIREMENT FOR PUBLIC OPEN SPACE UNDER SECTION 18 OF THE SUBDIVISION ACT 1988 HAS NOT BEEN MADE</p> <p>(B) THE REQUIREMENT HAS BEEN SATISFIED</p> <p>(C) THE REQUIREMENT IS TO BE SATISFIED IN STAGE:</p>
--	---

<b>VESTING OF ROADS OR RESERVES</b>		<p>COUNCIL DELEGATE  <del>COUNCIL SEAL</del> </p> <p>DATE 27/7/2010</p>
IDENTIFIER	COUNCIL/BODY/PERSON	
NIL	NIL	
<p><b>OWNERS CORPORATION</b></p> <p>LOTS IN THIS PLAN MAY BE AFFECTED BY ONE OR MORE OWNERS CORPORATIONS - SEE OWNERS CORPORATION SEARCH REPORT FOR DETAILS</p>		<p>RE-CERTIFIED UNDER SECTION 11(7) OF THE SUBDIVISION ACT 1988</p> <p>COUNCIL DELEGATE              COUNCIL SEAL              DATE / /</p>

<b>NOTATIONS</b>	
<p><b>DEPTH LIMITATION:</b> DOES NOT APPLY</p> <p><b>STAGING:</b> THIS IS NOT A STAGED SUBDIVISION PLANNING PERMIT NO: TP-2010-420</p> <p><b>SURVEY:</b> THIS PLAN IS BASED ON SURVEY THIS SURVEY HAS BEEN CONNECTED TO PERMANENT MARK: IN PROCLAIMED SURVEY AREA NUMBER:</p>	<p><b>LOCATION OF BOUNDARIES DEFINED BY BUILDINGS:</b> BOUNDARIES SHOWN BY THICK CONTINUOUS LINES ARE DEFINED BY BUILDINGS</p> <p>INTERIOR FACE: ALL BOUNDARIES</p> <p><b>COMMON PROPERTY No. 1 IS ALL THE LAND IN THE PLAN EXCEPT THE LOTS AND INCLUDES THE STRUCTURE OF ALL WALLS FLOORS AND CEILINGS WHICH DEFINE BOUNDARIES.</b></p> <p>ALL INTERNAL SERVICE DUCTS AND PIPE SHAFTS ARE DEEMED TO BE PART OF THE COMMON PROPERTY. THE POSITIONS OF THESE DUCTS AND SHAFTS HAVE NOT ALWAYS BEEN SHOWN ON DIAGRAMS SHOWN HEREIN.</p>

<b>EASEMENT INFORMATION</b>					<p>LRS USE ONLY</p> <p>STATEMENT OF COMPLIANCE EXEMPTION STATEMENT</p> <p>RECEIVED FORM 6 DATE 9/08/2010</p>
LEGEND: A --APPURTENANT EASEMENT E -ENCUMBERING EASEMENT R -ENCUMBERING EASEMENT (ROAD)					
EASEMENTS PURSUANT TO SECTION 12(2) OF THE SUBDIVISION ACT 1988 APPLY TO THE LAND IN THIS PLAN					<p><b>PLAN REGISTERED</b></p> <p>TIME 2:42 PM DATE 18/08/2010</p> <p>ROB Mc BAIN Assistant Registrar of Titles</p> <p>SHEET 1 OF 8 SHEETS</p>
EASEMENT REF.	PURPOSE	WIDTH (METRES)	ORIGIN	LAND BENEFITED/IN FAVOUR OF	

<p><b>Absolute Surveying Pty Ltd</b>  <small>total surveying solutions</small>  <b>PO Box 530, Bentleigh 3204</b>  <b>info@absolutesurveying.com.au</b>  <b>ph (03) 95571407</b></p>	<p>LICENSED SURVEYOR: PHILIP FRANCIS CULVENOR</p> <p>SIGNATURE  DATE 12/7/10</p> <p>REF:1266PS VERSION: 3</p>	<p>DATE 27/7/2010</p> <p></p> <p>..... COUNCIL DELEGATE SIGNATURE</p> <p>ORIGINAL SHEET SIZE A3</p>
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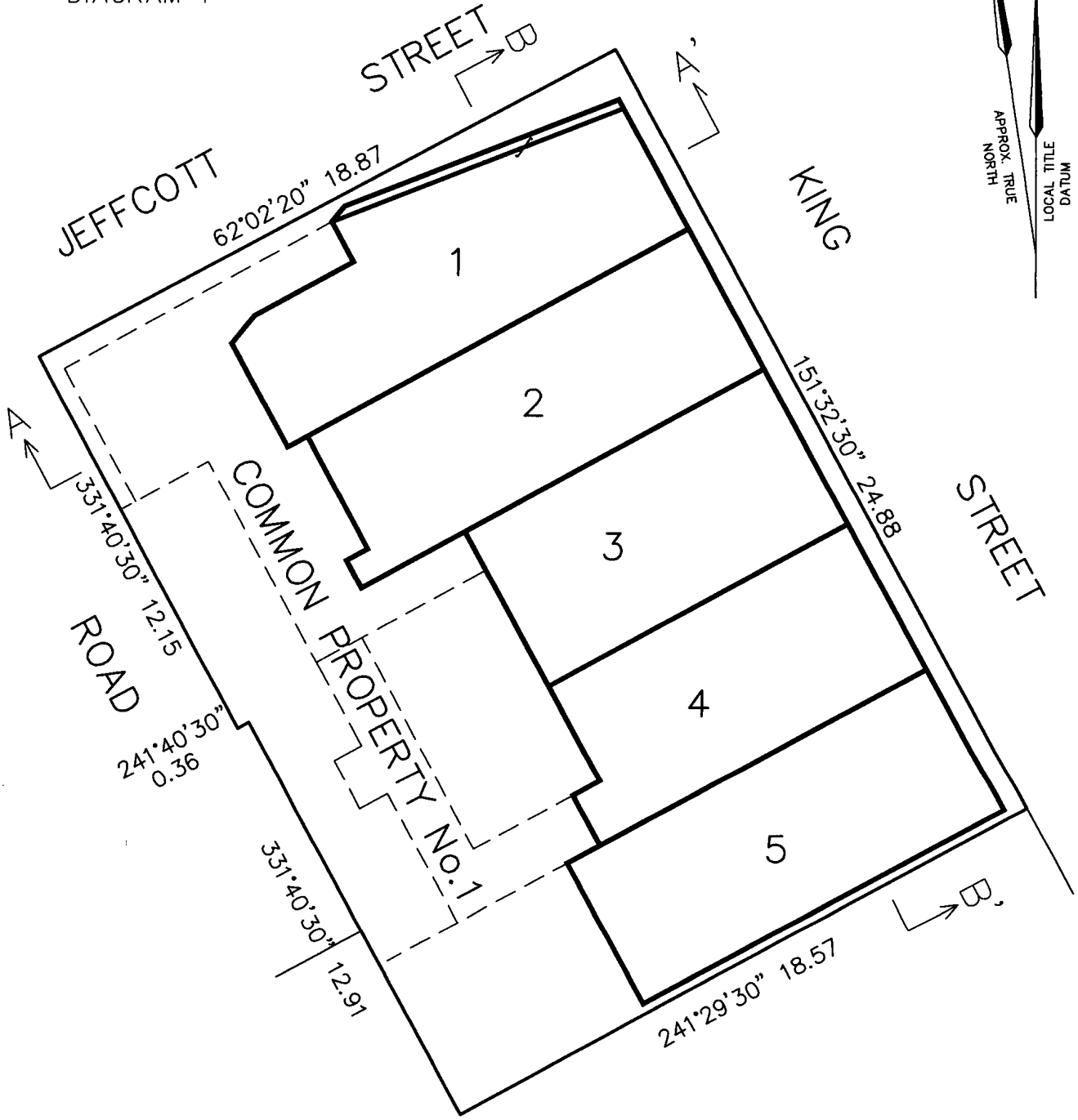
# PLAN OF SUBDIVISION

STAGE NO

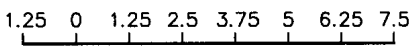
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PS635606V

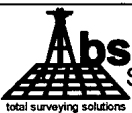
## GROUND STOREY & GROUND LEVEL DIAGRAM 1



SCALE 1:125



LENGTHS ARE IN METRES



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SIGNATURE: *P.F. Culvenor* DATE 12/7/10

REF: 1266PS VERSION: 3

SHEET 2 OF 8 SHEETS

DATE 27/7/2010

*[Signature]*  
COUNCIL DELEGATE SIGNATURE

ORIGINAL SHEET SIZE A3

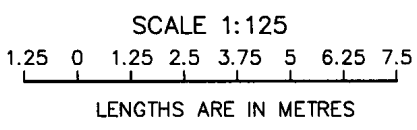
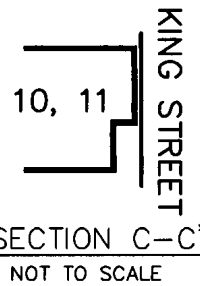
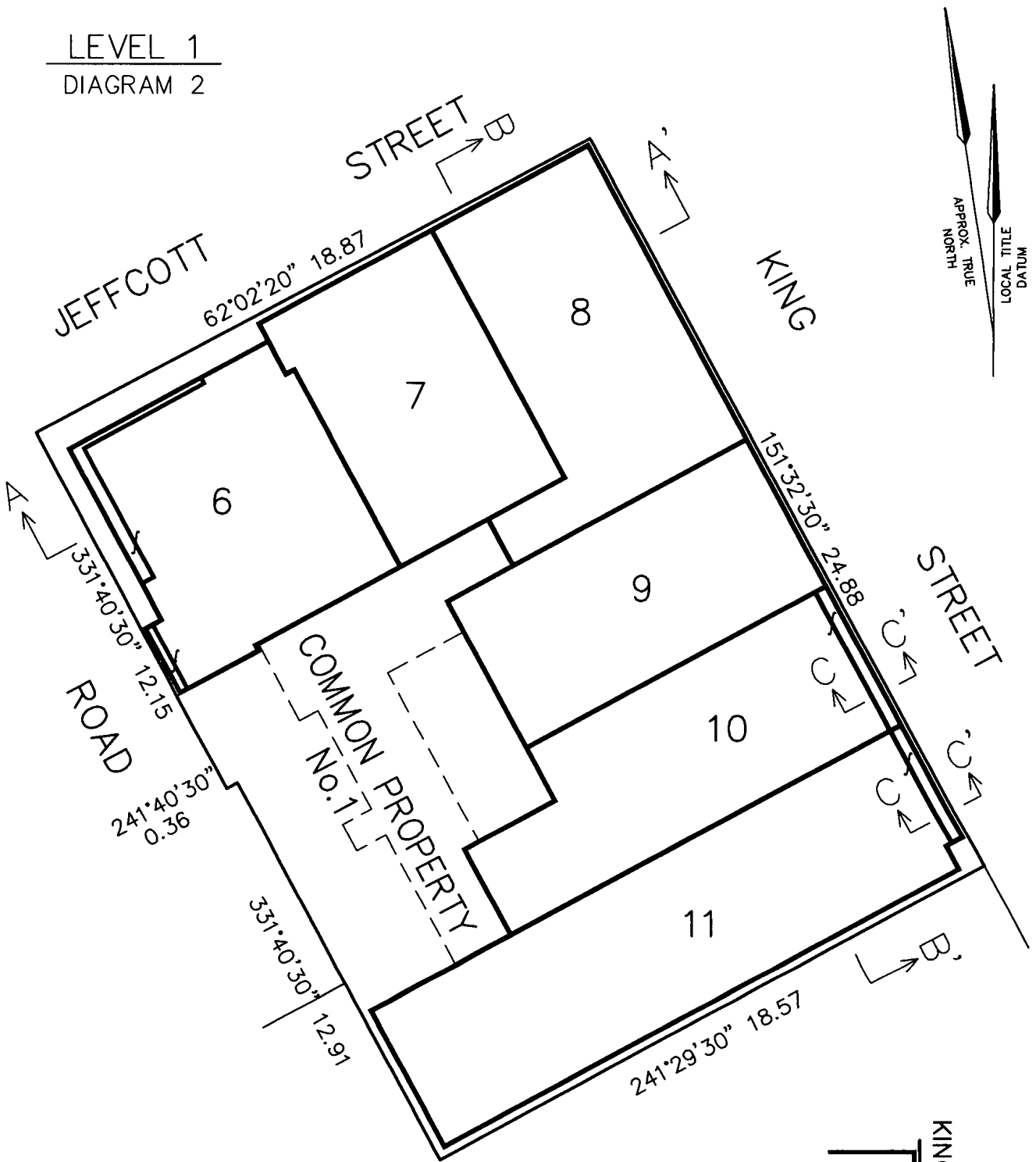
PLAN OF SUBDIVISION

STAGE NO

PLAN NUMBER

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LEVEL 1  
DIAGRAM 2



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SIGNATURE *Philip Francis Culvenor* DATE 12/1/10  
REF: 1266PS VERSION: 3

SHEET 3 OF 8 SHEETS  
DATE 27/7/2009  
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COUNCIL DELEGATE SIGNATURE  
ORIGINAL SHEET SIZE A3



PLAN OF SUBDIVISION

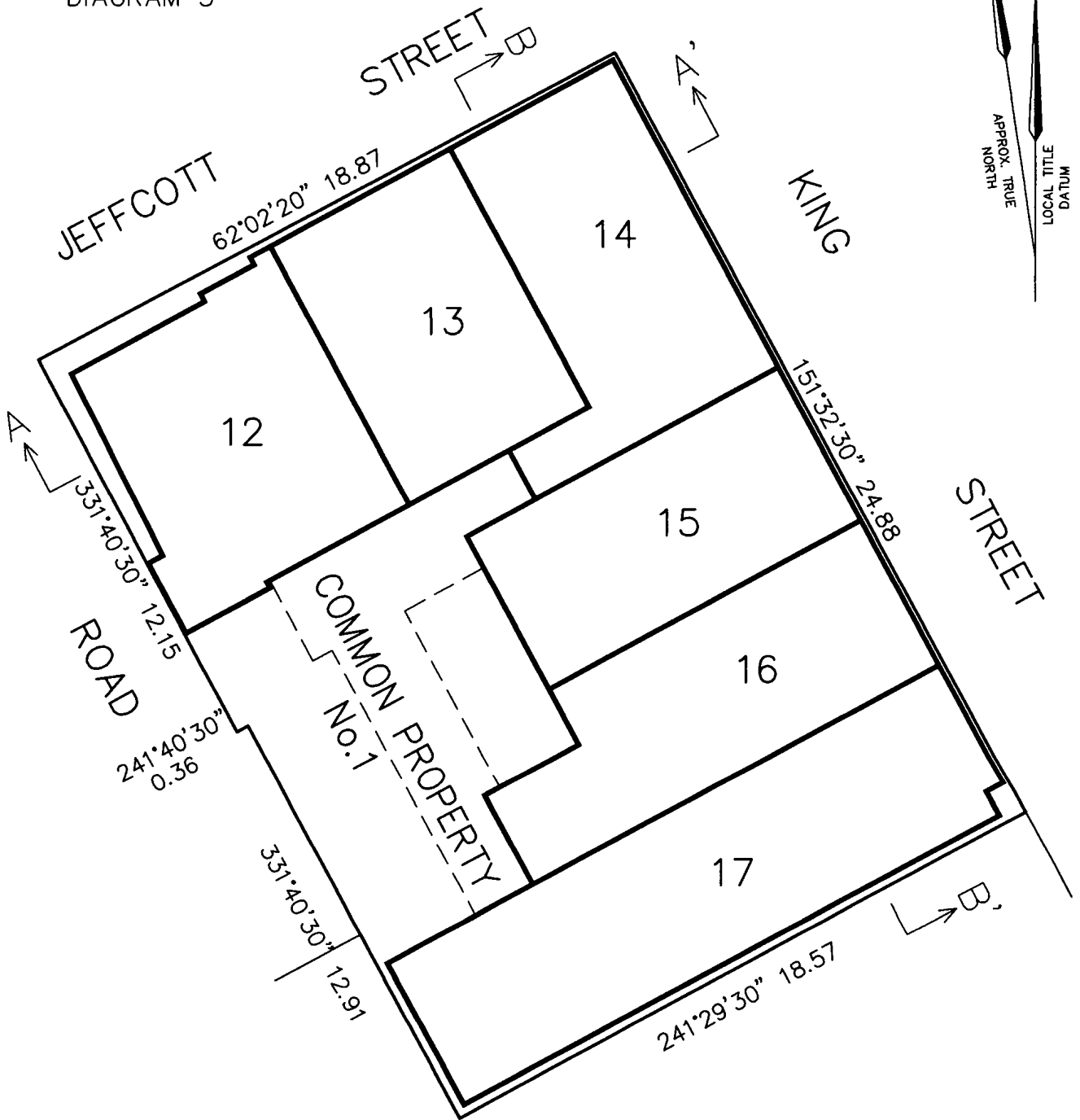
STAGE NO

PLAN NUMBER

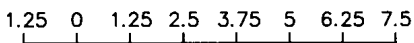
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LEVEL 2

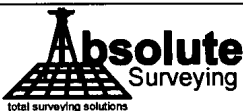
DIAGRAM 3



SCALE 1:125



LENGTHS ARE IN METRES



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SIGNATURE *Philip Francis Culvenor* DATE 12/7/10

REF: 1266PS

VERSION: 3

SHEET 4 OF 8 SHEETS

DATE 27/7/2010

*[Signature]*  
 COUNCIL DELEGATE SIGNATURE

ORIGINAL SHEET SIZE A3

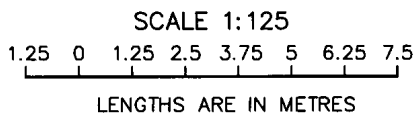
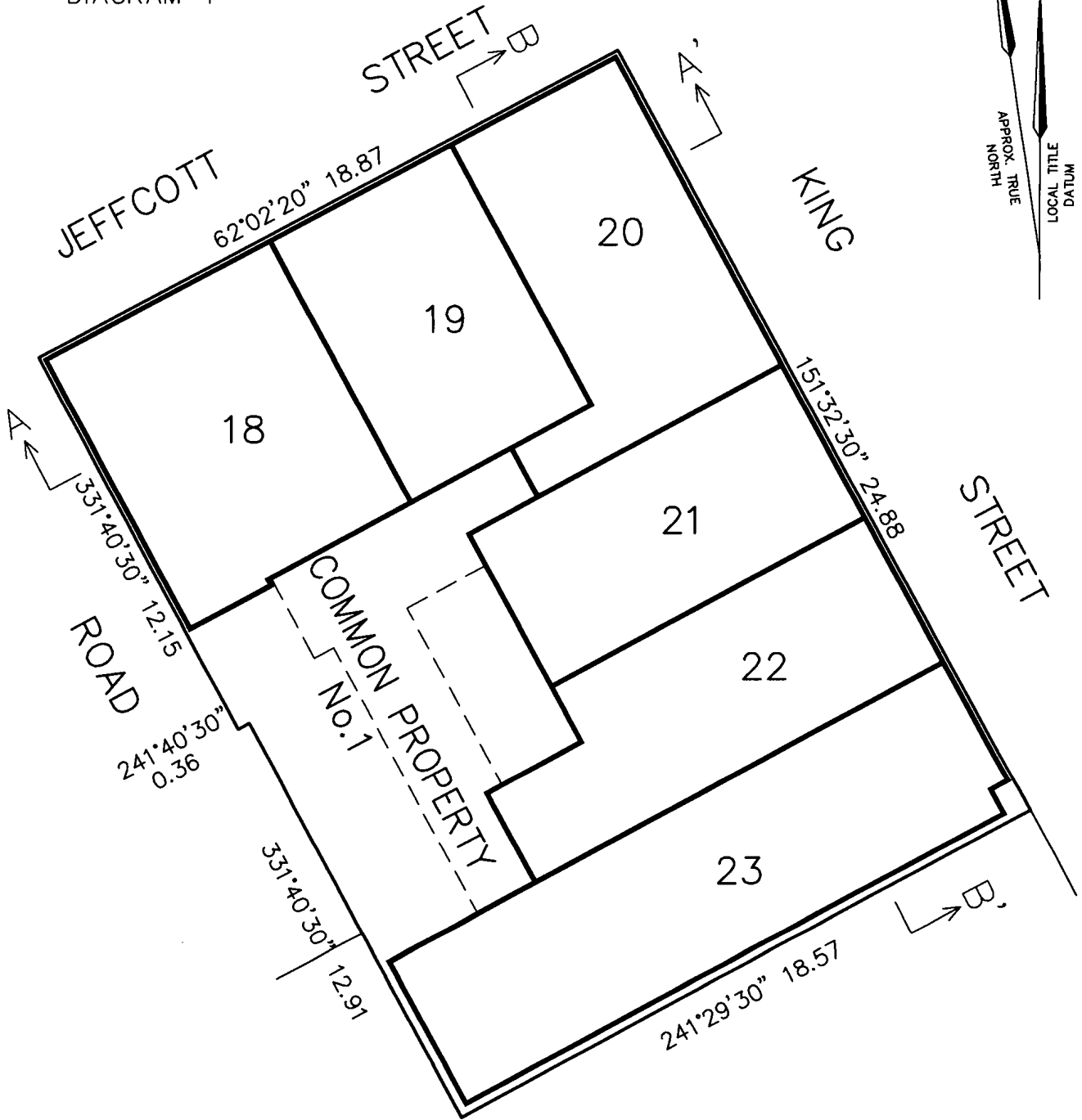
PLAN OF SUBDIVISION

STAGE NO

PLAN NUMBER

PS635606V

LEVEL 3  
DIAGRAM 4



SHEET 5 OF 8 SHEETS

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REF: 1266PS VERSION: 3

DATE 27/7/2010

*[Signature]*  
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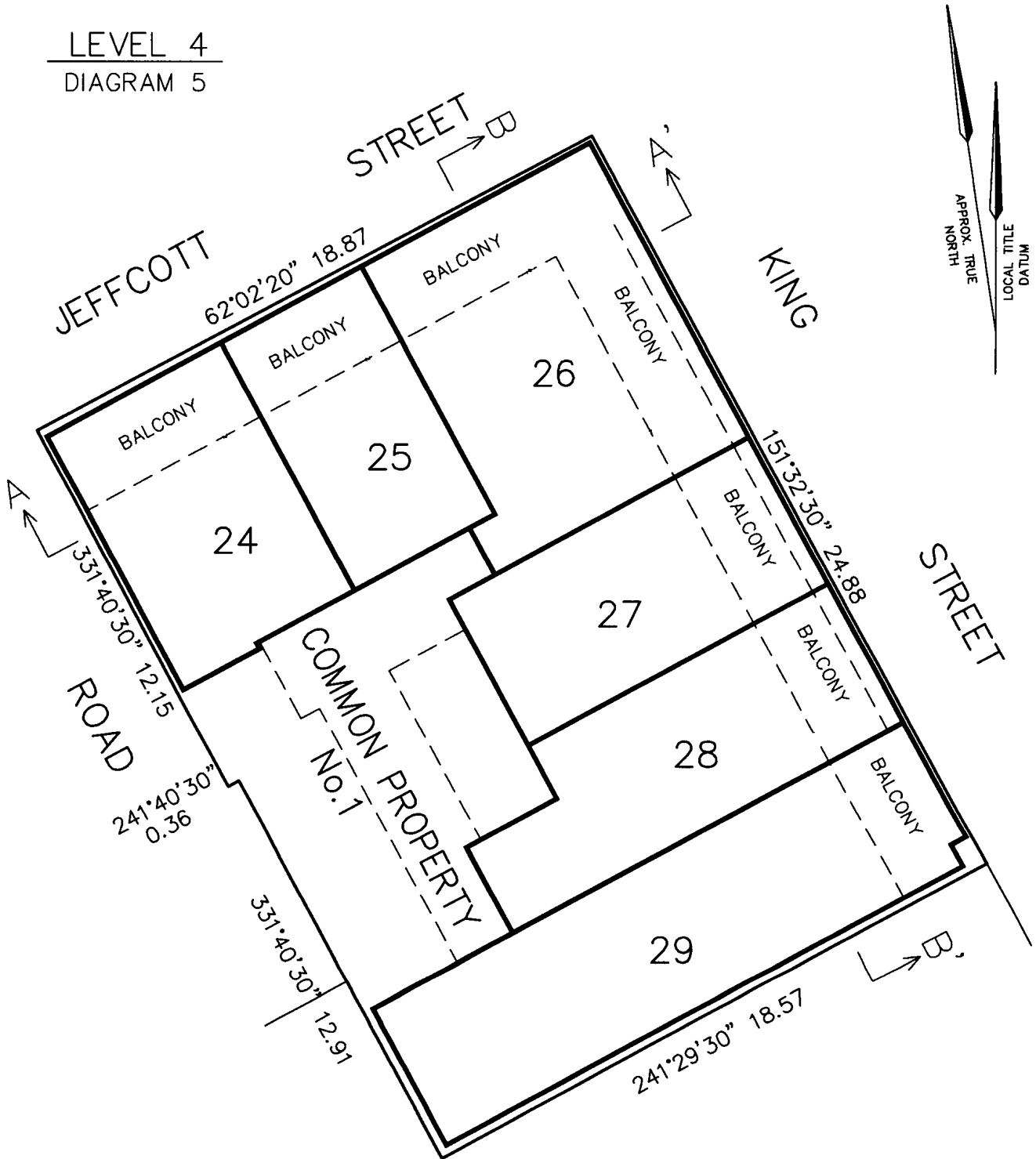
PLAN OF SUBDIVISION

STAGE NO

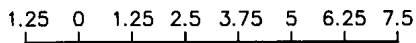
PLAN NUMBER

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LEVEL 4  
DIAGRAM 5



SCALE 1:125



LENGTHS ARE IN METRES



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REF: 1266PS

VERSION: 3

SHEET 6 OF 8 SHEETS

DATE 27/7/2010

*[Signature]*  
COUNCIL DELEGATE SIGNATURE

ORIGINAL SHEET SIZE A3

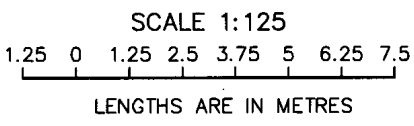
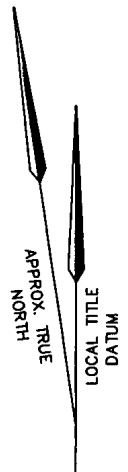
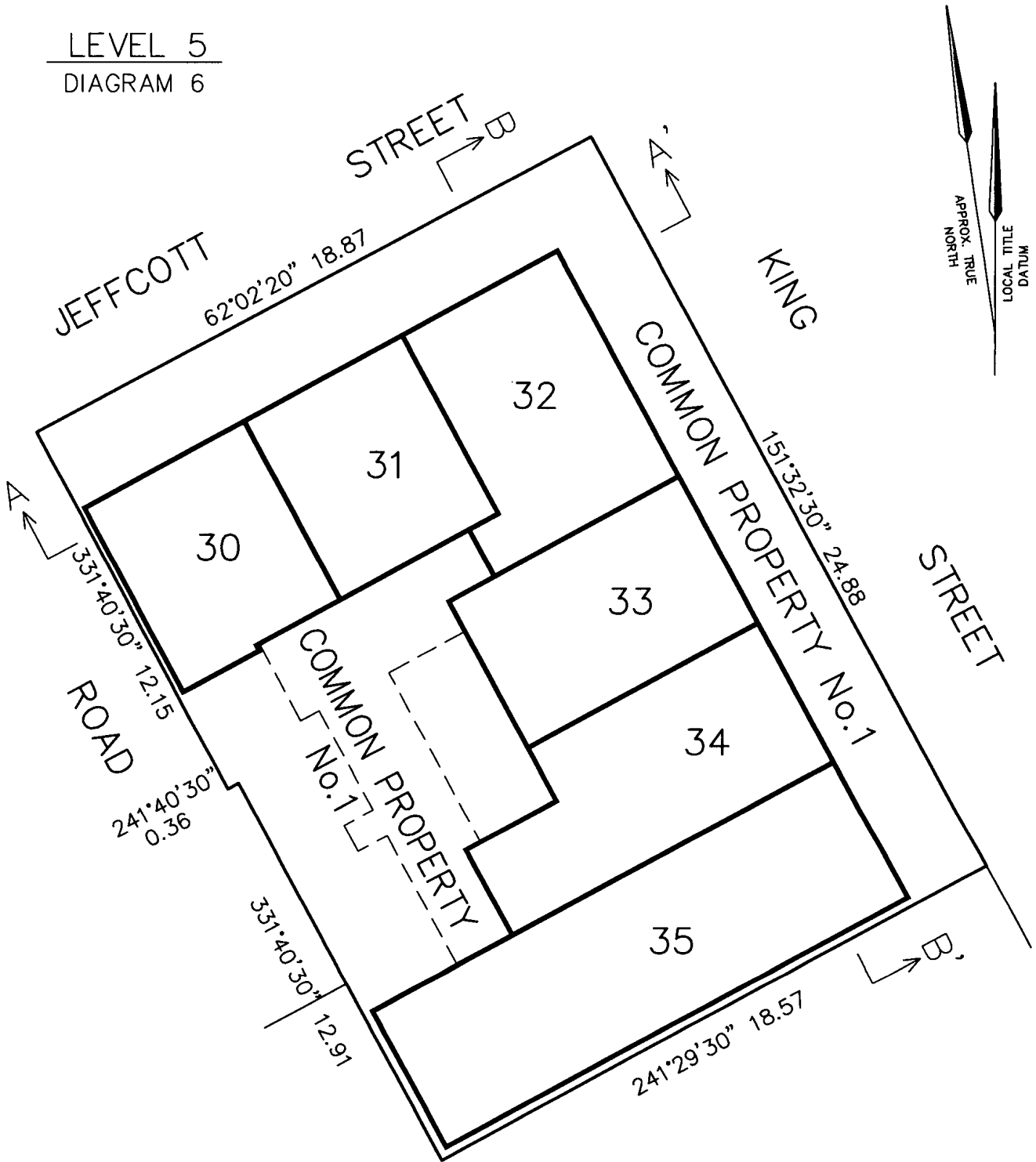
PLAN OF SUBDIVISION

STAGE NO

PLAN NUMBER

PS635606V

LEVEL 5  
DIAGRAM 6



SHEET 7 OF 8 SHEETS

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 SIGNATURE *Philip Francis Culvenor* DATE 12/7/10  
 REF: 1266PS VERSION: 3

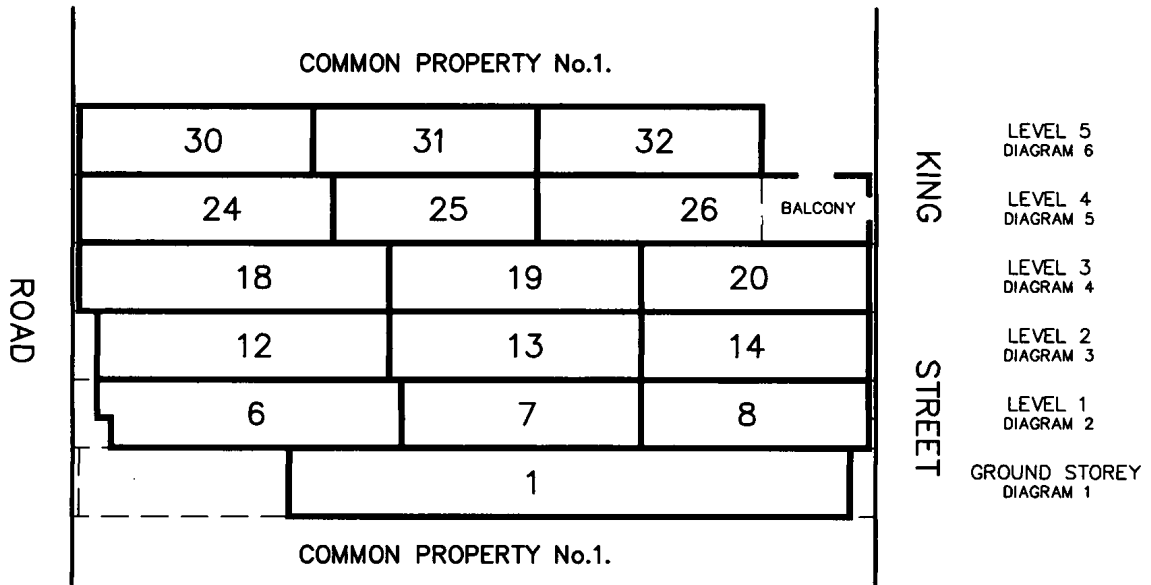
DATE 27/7/2010  
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PLAN OF SUBDIVISION

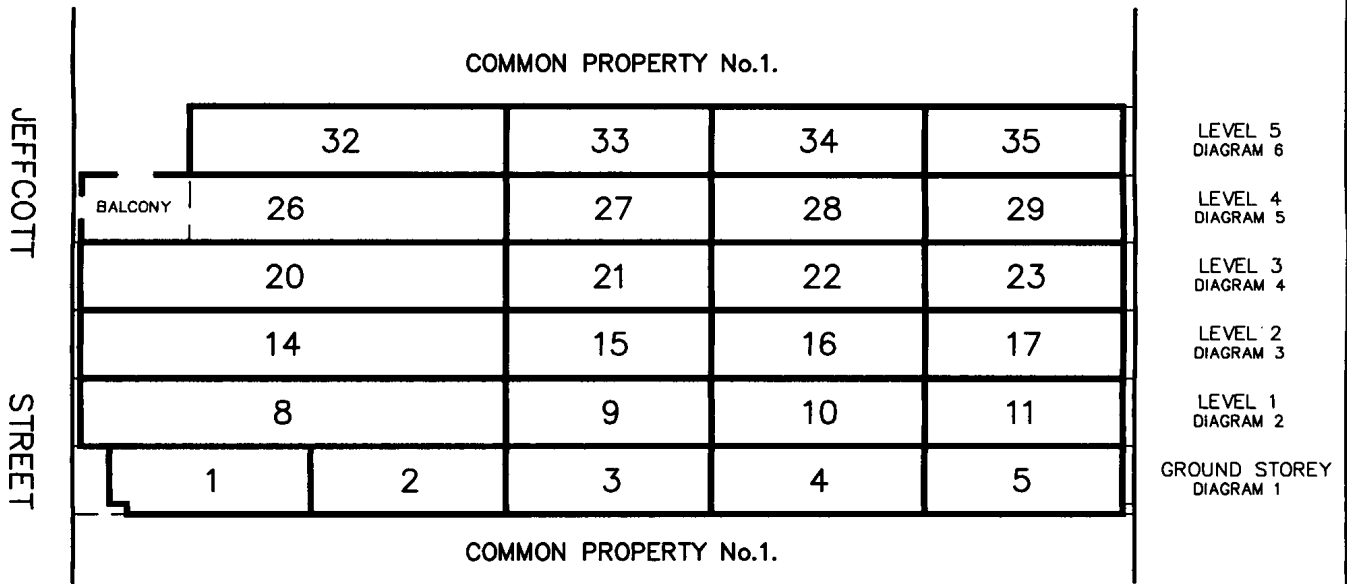
STAGE NO

PLAN NUMBER

PS635606V



SECTION A-A'  
NOT TO SCALE



SECTION B-B'  
NOT TO SCALE

SHEET 8 OF 8 SHEETS



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LICENSED SURVEYOR: PHILIP FRANCIS CULVENOR

SIGNATURE *Philip Culvenor* DATE 12/7/10

REF: 1266PS VERSION: 3

DATE 27/7/2010

COUNCIL DELEGATE SIGNATURE

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**AG085108C**

16/09/2008 \$99.90 173



Section 181

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

**Planning and Environment Act 1987**

Lodged by:

Name: **Mallesons Stephen Jaques**

Phone: **Code : 1177B**

Address:

Ref:

Customer Code: 1177B

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 6875 Folio 801*

Authority:

**Melbourne City Council  
Town Hall  
90 Swanston Street  
Melbourne, Victoria, 3000**

Section and Act under which agreement made:

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

A copy of the Agreement is attached to this Application.

Signature for the Authority:

Name of Officer: Kim Wood

Title of Officer: Manager Legal Services

Date: 9 September 2008

**AG085108C**

16/09/2008 \$99.90 173



Dated the 5<sup>th</sup> day of September, 2008

**MELBOURNE CITY COUNCIL**

and

**KING STREET DEVELOPMENT PTY LTD**  
ACN 119 529 430

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

**Land** 369 – 379 King Street, West Melbourne

**MELBOURNE CITY COUNCIL**  
Legal Services Branch  
3<sup>rd</sup> Floor Town Hall  
90 Swanston Street  
MELBOURNE VIC 3000

Melbourne City Council



**AG085108C**

16/09/2008 \$99.90 173

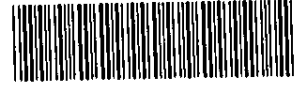
**SECTION 173 AGREEMENT  
CONTENTS**

<b>DESCRIPTION</b>	<b>Page</b>
<b>RECITALS:</b>	<b>1</b>
<b>OPERATIVE PROVISIONS:</b>	<b>1</b>
1. <b>DEFINITIONS</b>	<b>1</b>
2. <b>INTERPRETATION</b>	<b>2</b>
3. <b>AGREEMENT UNDER SECTION 173 OF THE ACT</b>	<b>2</b>
4. <b>EFFECT OF AGREEMENT</b>	<b>2</b>
5. <b>SUCCESSORS IN TITLE</b>	<b>3</b>
6. <b>COVENANTS OF OWNER</b>	<b>3</b>
7. <b>DEFAULT OF OWNER</b>	<b>4</b>
8. <b>COUNCIL'S POWERS</b>	<b>4</b>
9. <b>INTEREST AND CHARGE</b>	<b>5</b>
10. <b>NOTICES</b>	<b>6</b>
11. <b>FURTHER ASSURANCE</b>	<b>6</b>
12. <b>OWNER'S ACKNOWLEDGMENT</b>	<b>6</b>
13. <b>NO WAIVER</b>	<b>6</b>
14. <b>SEVERABILITY</b>	<b>6</b>
15. <b>MORATORIUM</b>	<b>6</b>
16. <b>COUNTERPARTS</b>	<b>7</b>
17. <b>GOVERNING LAW</b>	<b>7</b>
18. <b>ENDING OF AGREEMENT</b>	<b>7</b>
<b>SCHEDULE</b>	<b>9</b>

DATE: 5 September 2008

AG085108C

16/09/2008 \$99.90 173



PARTIES: MELBOURNE CITY COUNCIL of Town Hall, Swanston Street, Melbourne, Victoria 3000 ("Council")

The Party referred to in Item 1 of the Schedule ("Owner")

RECITALS:

- A. The Council is the responsible authority for the administration of the Melbourne Planning Scheme pursuant to the provisions of the Planning and Environment Act 1987.
- B. The Owner is or is entitled to be the registered proprietor of the land referred to in Item 2 of the Schedule.
- C. The Council issued the permit referred to in Item 3 of the Schedule.
- D. The permit allows the use or development referred to in Item 4 of the Schedule.
- E. The permit is conditional on the Owner entering into an Agreement under Section 173 of the *Planning and Environment Act 1987* with the responsible authority. The Agreement must provide for the matters referred to in Item 5 of the Schedule.
- F. The subject land is encumbered by a Mortgage, details of which are referred to in Item 6 of the Schedule.

OPERATIVE PROVISIONS:

1. DEFINITIONS

In this Agreement the terms and words set out in this clause shall have the following meanings unless otherwise indicated by the context:

- 1.1. "Act" means the Planning and Environment Act 1987.
- 1.2. "Commencement Date" means the date on which this Agreement commences and referred to in Item 7 of the Schedule.
- 1.3. "Council's Representative" means the person referred to in Item 8 of the Schedule.
- 1.4. "Land" means the land described in Item 2 of the Schedule.
- 1.5. "Lot" means a lot on the Plan.
- 1.6. "Owner" means the person or persons entitled from time to time to be registered by the Registrar of the Land Titles Office as proprietor or proprietors of an estate in fee simple of the Land or any part of it.
- 1.7. "Permit" means the Planning Permit referred to in Item 3 of the Schedule.

- 1.8. "Plan" means the Plan of Subdivision referred to in Item 9 of the Schedule.
- 1.9. "Planning Approval" shall mean and include any planning permit issued in accordance with the Act.
- 1.10. "Scheme" means the Melbourne Planning Scheme.
- 1.11. "Termination Date" means the date or specified event referred to in Item 10 of the Schedule on which this Agreement shall end in accordance with Section 177 of the Act.
- 1.12. "Works" means the works referred to in Item 11 of the Schedule to be carried out pursuant to the Permit.

## 2. INTERPRETATION

- 2.1. Unless the context provides otherwise, the singular includes the plural and the plural includes the singular.
- 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.
- 2.4. If the Owner is more than one person this Agreement binds them jointly and each of them severally.
- 2.5. A reference to legislation includes a modification or re-enactment of it, a legislative provision substituted for it or amendment of it, and a regulation or statutory instrument issued under it.
- 2.6. All headings are for ease of reference only and shall not be taken into account in the construction or interpretation of this Agreement.
- 2.7. The recitals to this Agreement are and will be deemed to form part of this Agreement.
- 2.8. Any reference in this Agreement to the Council includes its agents, officers, employees, servants, workers and contractors.

## 3. AGREEMENT UNDER SECTION 173 OF THE ACT

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

## 4. EFFECT OF AGREEMENT

### 4.1. Agreement runs with the Land

This Agreement shall be deemed to come into force and effect as from the date of commencement of the Agreement and the benefit and burden of this Agreement shall run with and be annexed to the Land.

### 4.2. Planning Objectives

The parties acknowledge that the provisions of this Agreement are intended to achieve or advance the objectives of planning in Victoria and the objectives of the Scheme and any matters incidental thereto.

**AG085108C**

16/09/2008 \$99.90 173

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16/09/2008 \$99.90 173

SECTION 173 AGREEMENT



**4.3. Binding Covenants**

The obligations of the Owner under this Agreement will take effect as separate and several covenants which shall be annexed to and run at law and equity with the Land to bind the Owner and each successor, assign or transferee of the Owner, the registered proprietor, the mortgagee in possession and the beneficial owner for the time being of the Land and every part of the Land.

**5. SUCCESSORS IN TITLE**

Without limiting the operation or effect which this Agreement has, the Owner shall until such time as a memorandum of this Agreement is registered on the title to the Land ensure that the Owner's successors in title:

- 5.1. give effect to and do all acts and sign all documents which will require those successors to give effect to this Agreement; and
- 5.2. execute under seal a deed agreeing to be bound by the terms of this Agreement and upon such execution this Agreement shall continue as if executed by such successors as well as by the parties to this Agreement as if the successor's name appeared in each clause in which the name of the Owner appears and in addition to the name of the Owner.

**6. COVENANTS OF OWNER**

The Owner covenants and agrees that:

**6.1. ~~Balcony Maintenance~~**

*Williams  
AK*

~~the Owner shall be solely responsible for all care, repair, replacement, maintenance and any Works of any kind required in relation to or to be carried out on the Subject Areas and shall undertake those Works at such times as are necessary and sufficient to maintain the Subject Areas in good order and condition;~~

**6.2. Care and Maintenance of Airspace**

in accordance with the requirements of Condition 10 of the Permit in relation to those parts of the development that extend into the airspace of land under the care and management of Council ("the projections"):

- 6.2.1. the Owner shall be solely responsible for all care, repair, replacement, maintenance or any other works of any kind required in relation to or to be carried out on the projections and shall undertake those works at such times as are necessary and sufficient to maintain the projections in good order and condition.
- 6.2.2. the Owner shall indemnify Council against all actions, claims, demands, losses, damages, costs and expenses for which the Council may become liable in respect of or arising from the projections.

6.3. there are no mortgages, liens charges or other encumbrances or leases or any rights inherent in any person other than the Owner affecting the Land not disclosed by the usual searches or notified to the Council; and

**6.4. Payment**

forthwith upon the Council producing to the Owner a certificate of a certified practising valuer appointed by the Council specifying the value of the right to construct and maintain the projections, the Owner shall pay the sum specified to the Council, whereupon the Council shall provide a receipt in proof of payment; and

- 6.5. no part of the Land is subject to any rights obtained by adverse possession or subject to any easements or rights described or referred to on Section 42 of the Transfer of Land Act; and
- 6.6. it will do all things necessary including the signing of any further agreements, undertakings, covenants and consents, approvals or other documents necessary for the purpose of ensuring that the Owner carries out the Owner's covenants, agreements and obligations under this Agreement and to enable the Council to enforce the performance by the Owner of such covenants and undertakings; and
- 6.7. it consents to the Council making application to the Registrar of the Land Titles Office to make a recording of this Agreement in the Register on the folio of the Register which relates to the Land in accordance with Section 181 of the Act and do all things necessary to enable the Council to do so including signing any further agreement, acknowledgment or document or procuring the consent to this Agreement of any mortgagee or caveator to enable the recording to be made in the Register under that Section; and
- 6.8. it will indemnify and keep indemnified the Council and the Council's agents in relation to all costs, expenses, losses or damages whatsoever which the Council or its agents may sustain, incur or suffer or be or become liable for in respect of any suit, action, proceeding, judgment or claim brought by any person whatsoever arising from or referable to the matters referred to in this Agreement or any breach of this Agreement.

**7. COSTS**

- 7.1. The Owner shall forthwith pay on demand to the Council the Council's costs and expenses including legal expenses of and incidental to:
  - 7.1.1. the negotiation, preparation, execution registration and enforcement of this Agreement including all moneys, costs (including charges for consultants, architects and legal advice and assistance) charges and expenses for which the Council may pay, incur or expend, in consequence of any default in the performance and observance of any covenant, proviso, condition or agreement herein contained or implied and on the Owner's part to be performed and observed or under or in exercise or enforcement or attempted exercise or enforcement of any right, power or remedy herein contained;
  - 7.1.2. administration and supervision costs of the Council properly and reasonably incurred in relation to this Agreement except for administration and supervision which the Council is obliged to undertake pursuant to its statutory duties; and
  - 7.1.3. any request by the Owner for the Council's consent or approval where such consent or approval is required under any covenant, proviso, condition or agreement herein contained or implied immediately the Council shall have expended or incurred the same.

**8. DEFAULT OF OWNER**

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

**9. COUNCIL'S POWERS**

- 9.1. Default Notice

**AG085108C**

16/09/2008 \$99.90 173



- 9.1.1. Should the Owner fail or neglect to carry out or complete the works described in Item 11 of the Schedule and referred to in the Permit the Council's Representative may cause to be served on the Owner a notice in writing ("the notice") specifying the works in respect of which the Owner is in default.
- 9.1.2. Should the default continue for a period of 14 days after the service of the notice the Council may enter upon the Land and cause the works to be constructed or completed and made good or cause any faults defects or failures in the works which have developed appeared or occurred within a period of six months from the date of completion of construction of the works to be maintained repaired or made good and for any such purpose the Council may employ a contractor or contractors and professional advisers.
- 9.1.3. The notice may set out the cost as estimated by the Council's Representative of constructing or completing the construction of the works. If the Owner does not comply with the notice to remedy the default the Council's Representative may cause to be served on the Owner a demand in writing ("the demand") for the amount of the costs specified in the notice.
- 9.1.4. The costs specified in the demand shall be paid forthwith by the Owner to the Council and the Council may exercise its rights under any Bank Guarantees provided by the Owner to the Council in order to recover the costs.

## 9.2. Completion of Works

- 9.2.1. As soon as practicable after the completion of the work the Council's Representative shall certify the actual costs of the work to the Council. The certificate of the Council's Representative shall be final, binding and conclusive as between the parties to this Agreement. The difference between the actual cost and the estimated cost paid to the Council pursuant to this Clause shall be paid by the Owner to the Council or by the Council to the Owner as the case may require.
- 9.2.2. If the notice does not require the Owner to pay the estimated costs, the actual costs of any works carried out by or on behalf of the Council pursuant to this Clause of this Agreement shall be paid on demand by the Owner to the Council.
- 9.2.3. If any Bank Guarantee referred to above is insufficient to recover the actual cost of the work carried out by or on behalf of the Council pursuant to this Clause such cost shall be capable of being recovered by the Council in any Court of competent jurisdiction as a civil debt recoverable summarily.
- 9.2.4. The Owner covenants and agrees that the Owner will indemnify and keep indemnified the Council from and against all costs, expenses, losses or damages whatsoever which they may sustain, incur or suffer or be or become liable for or in respect of any suit, action, proceeding, judgment or claim brought by any person whatsoever arising from or referable to the carrying out of works referred to in this Clause.

## 10. INTEREST AND CHARGE

- 10.1. If any of the monies payable pursuant to this Agreement are not paid by the due date, the amount then due and unpaid shall attract interest from the relevant due date until the date when such money is paid at the rate of interest from time to time which the Council may be authorised by legislation to charge as interest on any unpaid rates and charges.
- 10.2. Any payments made for the purposes of this Agreement shall be appropriated first in payment of any interest and unpaid costs and expenses of the Council and shall then be applied in repayment of the unpaid sum.

**AG085108C**

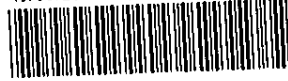
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**AG085108C**

16/09/2008 \$99.90 173

SECTION 173 AGREEMENT



**11. NOTICES**

11.1. A notice or other communication required or permitted to be served by a party on another party shall be in writing and may be served at the address, telephone or facsimile details of the parties are set out in the Schedule,

11.1.1. by delivering it personally to that party;

11.1.2. by sending it by prepaid post; or

11.1.3. 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,

11.2. and notice or other communication is deemed served:

11.2.1. if delivered, on the next following business day;

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

11.2.3. if sent by facsimile, at the time recorded by the facsimile machine of the party receiving the transmission provided always that if the time recorded is after business hours, the time will be deemed to be 9.00am on the business day following the transmission.

**12. FURTHER ASSURANCE**

Each of the parties to this Agreement shall respectively sign and execute all further documents and deeds and do all acts and things as shall reasonably be required to effect the terms and conditions contained in this Agreement.

**13. OWNER'S ACKNOWLEDGMENT**

The Owner expressly acknowledges and agrees that nothing in this Agreement nor the performance by the Owner of any of its obligations under this Agreement does or will restrain, limit or otherwise fetter the exercise by the Council of the powers, duties and discretions which the Council has or may have under the scheme to consider, approve, amend or to require further information in respect of any plans or applications relating to the use or development allowed by the Permit or the Land generally.

**14. NO WAIVER**

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

**15. 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 shall be severed and the other provisions of this Agreement shall remain operative.

**16. MORATORIUM**

To the fullest extent to which it may from time to time be lawful so to do the provisions of all statutes (including moratorium statutes) whether now existing or hereafter to come into force

and operating directly or indirectly to lessen or otherwise modify or vary or affect in favour of any party the obligation of that party or stay, postpone or otherwise prevent or prejudicially affect the exercise by a party of all or any to the rights, powers and remedies conferred on the party by this Agreement are hereby expressly negated and excluded from this Agreement.

**17. COUNTERPARTS**

This Agreement may be executed in any number of counterparts each of which when so executed shall be deemed to be an original and such counterparts shall together constitute but one agreement.

**18. GOVERNING LAW**

This Agreement takes effect, is governed by and shall be construed in accordance with the laws from time to time in force in the State of Victoria.

**19. ENDING OF AGREEMENT**

19.1. This Agreement shall cease to operate on the termination date or otherwise as contemplated in Item 10 of the Schedule.

19.2. As soon as reasonably practicable after the Agreement has ended the Council will at the request and at the cost of the Owner make application to the Registrar of Titles under Section 183 (2) of the Act to cancel the recording of this Agreement on the Register.

**EXECUTED as a DEED**

SIGNED SEALED AND DELIVERED by )  
MARTIN WILLIAMS pursuant to an Instrument )  
of Delegation authorised by Resolution of )  
Council. )

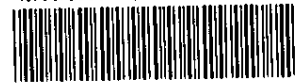
*M Williams*  
.....

*[Signature]*

Witness

**AG085108C**

16/09/2008 \$99.90 173



EXECUTED by KING STREET )  
DEVELOPMENT PTY LTD by being signed by )  
those persons who are authorised to sign for )  
the company: )

*[Signature]*

Sole Director/Secretary

Henry Birner  
38 Lumeah Road, Caulfield North



NATIONAL MUTUAL LIFE NOMINEES LIMITED as Mortgagee under Instrument of Mortgage No. AE373357R dated 24.05.2006 which encumbers the Land consents to the Owner entering into this Agreement and agrees to be bound by the terms and conditions of this Agreement.

BRUCE ASHLEY-COOPER

NATIONAL MUTUAL LIFE NOMINEES LTD (ACN 004 387 133) by its Attorneys under Power of Attorney dated 26 October 2000 2000 271 AT PAGE 16

.....Attorney

*DALE AUSTIN MCMENAMIN*

.....Attorney

who hereby declare that no notice of alteration to or revocation of the said Power of Attorney has been received by them.

DALE AUSTIN MCMENAMIN

ASHE MORGAN CAPITAL PTY LTD as Mortgagee under Instrument of Mortgage No. AF045379D dated 04.05.2007 which encumbers the Land consents to the Owner entering into this Agreement and agrees to be bound by the terms and conditions of this Agreement.

*[Signature]*

*Michael R. [Signature]*

*[Signature]*

*Adam Sargent*

AG085108C

16/09/2008 \$99.90 173



BIRNER PROPERTY GROUP PTY LTD as Mortgagee under Instrument of Mortgage No. AF045380U dated 04.05.2007 which encumbers the Land consents to the Owner entering into this Agreement and agrees to be bound by the terms and conditions of this Agreement.

*[Signature]*

**SCHEDULE**

ITEM NO.	ISSUE	SPECIFICATION
1.	Owner	<b>KING STREET DEVELOPMENT PTY LTD</b> (ACN 119 529 430) Level 1, 1032 High Street ARMADALE VIC 3143
2.	Land description by address and Certificate of Title details	369 – 379 King Street, West Melbourne being the whole of the land comprised in Certificate of Title Volume 6875 Folio 801
3.	Permit Number and date issued	TP-2006-605 dated 4 January 2007
4.	What the Permit allows	Construction of buildings and works (six storey building), use of the site as office and ground floor shops and waiver of the car parking requirement associated with the use and a reduction in the bike parking dimension requirements of Clause 52.34
5.	What the condition requiring the Agreement provides for	5.1 Liability and maintenance of those parts of the development projecting into the airspace or sub-soil of land under the care and maintenance of Council and disclaiming any right or intention to make or cause to be made at any time any claim or application relating to adverse possession of the land, including provision of an indemnity and comprehensive insurance cover against damage and injury resulting from the erection and use of the projection, to the satisfaction of the responsible Authority; 5.2 Providing for the payment to the Council of one lump sum licence fee of such amount as may be reasonably determined by a certified practising valuer appointed by the council for that purpose.
6.	Mortgage details including name and address of Mortgagee, date mortgage registered and registered number	National Mutual Life Nominees Pty Ltd ACN 004 387 133 Level 15, 447 Collins Street, Melbourne Mortgage AE373357R dated 24 May 2006.  Ashe Morgan Capital Pty Ltd Level 32, 126 Phillip Street SYDNEY NSW 2000 Mortgage AF045379D dated 4 May 2007  Birner Property Group Pty Ltd Unit 1, 30 Allison Road ELSTERNWICK VIC 3185 Mortgage AF045380U dated 4 May 2007
7.	Commencement date	The date of this Agreement
8.	Council's Representative is:	Martin Williams, <del>Acting</del> Executive Officer Planning

**AG085108C**

16/09/2008 \$99.90 173



*Stallions*  
*MRC*

## SECTION 173 AGREEMENT

9.	Plan of Subdivision Reference Number	Not applicable
10.	Termination date or specified event	Upon the demolition and removal of all projections into the airspace or sub-soil of land under the care and management of Council
11.	Works to be carried out under the Permit	Construction of six storey office building with ground floor shops
12.	Address, phone and facsimile of Council	Melbourne City Council Town Hall, Swanston Street Melbourne Ph: 9658 8414 Facsimile: 9650 1026
13.	Address, phone and facsimile of Owner	Henry Bimer King Street Development Pty Ltd Level 1, 1032 High Street Armadale Vic 3143 Ph: 0418 321 521 Facsimile: 9500 2713

**AG085108C**

16/09/2008 \$99.90

173





# Department of Environment, Land, Water & Planning

## Owners Corporation Search Report

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Produced: 16/03/2023 09:37:23 AM

**OWNERS CORPORATION 1**  
**PLAN NO. PS635606V**

The land in PS635606V is affected by 1 Owners Corporation(s)

### Land Affected by Owners Corporation:

Common Property 1, Lots 1 - 35.

### Limitations on Owners Corporation:

Unlimited

### Postal Address for Services of Notices:

LR REED (CITY) PTY LTD LEVEL 1 405 COLLINS STREET MELBOURNE VIC 3000

AJ388056E 21/12/2011

### Owners Corporation Manager:

NIL

### Rules:

Model Rules apply unless a matter is provided for in Owners Corporation Rules. See Section 139(3) Owners Corporation Act 2006

### Owners Corporation Rules:

1. OC008379C 18/08/2010

### Additional Owners Corporation Information:

OC008378E 18/08/2010

### Notations:

NIL

### Entitlement and Liability:

NOTE – Folio References are only provided in a Premium Report.

Land Parcel	Entitlement	Liability
Common Property 1	0	0
Lot 1	63	63
Lot 2	64	64
Lot 3	51	51
Lot 4	51	51
Lot 5	59	59
Lot 6	59	59



# Department of Environment, Land, Water & Planning

## Owners Corporation Search Report

Produced: 16/03/2023 09:37:23 AM

OWNERS CORPORATION 1  
PLAN NO. PS635606V

### Entitlement and Liability:

NOTE – Folio References are only provided in a Premium Report.

Land Parcel	Entitlement	Liability
Lot 7	51	51
Lot 8	61	61
Lot 9	54	54
Lot 10	60	60
Lot 11	90	90
Lot 12	57	57
Lot 13	52	52
Lot 14	61	61
Lot 15	54	54
Lot 16	60	60
Lot 17	86	86
Lot 18	65	65
Lot 19	52	52
Lot 20	61	61
Lot 21	54	54
Lot 22	60	60
Lot 23	90	90
Lot 24	65	65
Lot 25	52	52
Lot 26	61	61
Lot 27	54	54
Lot 28	60	60
Lot 29	90	90
Lot 30	38	38
Lot 31	30	30
Lot 32	44	44
Lot 33	42	42
Lot 34	48	48
Lot 35	79	79



# Department of Environment, Land, Water & Planning

## Owners Corporation Search Report

Produced: 16/03/2023 09:37:23 AM

**OWNERS CORPORATION 1  
PLAN NO. PS635606V**

### Entitlement and Liability:

NOTE – Folio References are only provided in a Premium Report.

Land Parcel	Entitlement	Liability
<b>Total</b>	<b>2078.00</b>	<b>2078.00</b>

From 31 December 2007 every Body Corporate is deemed to be an Owners Corporation. Any reference to a Body Corporate in any Plan, Instrument or Folio is to be read as a reference to an Owners Corporation.

Statement End.

## PROPERTY DETAILS

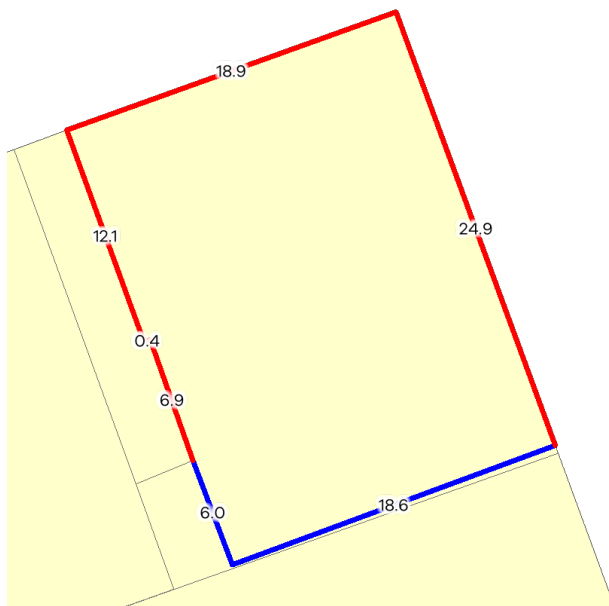
Address: **206/7 JEFFCOTT STREET WEST MELBOURNE 3003**  
Lot and Plan Number: **Lot 17 PS635606**  
Standard Parcel Identifier (SPI): **17\PS635606**  
Local Government Area (Council): **MELBOURNE**  
Council Property Number: **629855**  
Directory Reference: **Melway 2E K2**

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

**Note:** There are 40 properties identified for this site.  
These can include units (or car spaces), shops, or part or whole floors of a building.  
Dimensions for these individual properties are generally not available.

## SITE DIMENSIONS

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



**Area:** 468 sq. m

**Perimeter:** 88 m

For this property:

— Site boundaries

— Road frontages

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

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

For more accurate dimensions get copy of plan at [Title and Property Certificates](#)

## UTILITIES

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

## STATE ELECTORATES

Legislative Council: **NORTHERN METROPOLITAN**  
Legislative Assembly: **MELBOURNE**

## PLANNING INFORMATION

Property Planning details have been removed from the Property Reports to address duplication with the Planning Property Reports which are DELWP's authoritative source for all Property Planning information.

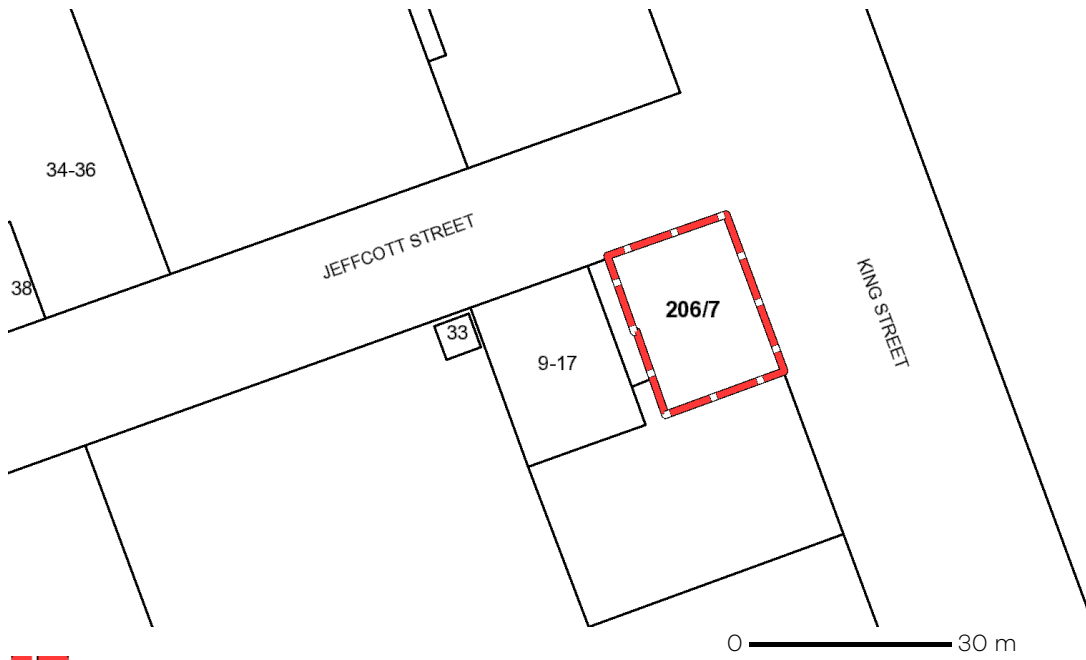
The Planning Property Report for this property can found here - [Planning Property Report](#)

Planning Property Reports can be found via these two links

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

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

## Area Map



 Selected Property



From [www.planning.vic.gov.au](http://www.planning.vic.gov.au) at 16 March 2023 09:39 AM

## PROPERTY DETAILS

Address: **206/7 JEFFCOTT STREET WEST MELBOURNE 3003**  
Lot and Plan Number: **Lot 17 PS635606**  
Standard Parcel Identifier (SPI): **17\PS635606**  
Local Government Area (Council): **MELBOURNE**  
Council Property Number: **629855**  
Planning Scheme: **Melbourne**  
Directory Reference: **Melway 2E K2**

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

[Planning Scheme - Melbourne](#)

## UTILITIES

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

## STATE ELECTORATES

Legislative Council: **NORTHERN METROPOLITAN**  
Legislative Assembly: **MELBOURNE**

## OTHER

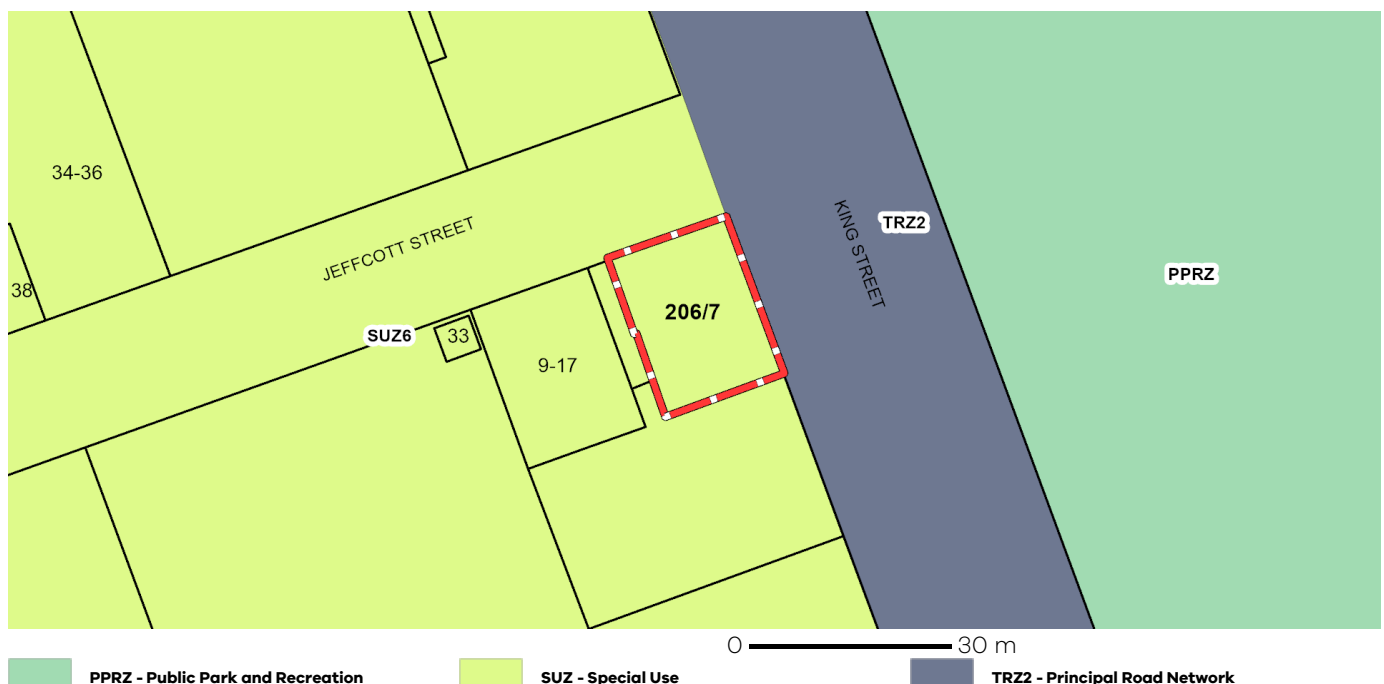
Registered Aboriginal Party: **Wurundjeri Woi Wurrung Cultural  
Heritage Aboriginal Corporation**

[View location in VicPlan](#)

## Planning Zones

[SPECIAL USE ZONE \(SUZ\)](#)

[SPECIAL USE ZONE - SCHEDULE 6 \(SUZ6\)](#)



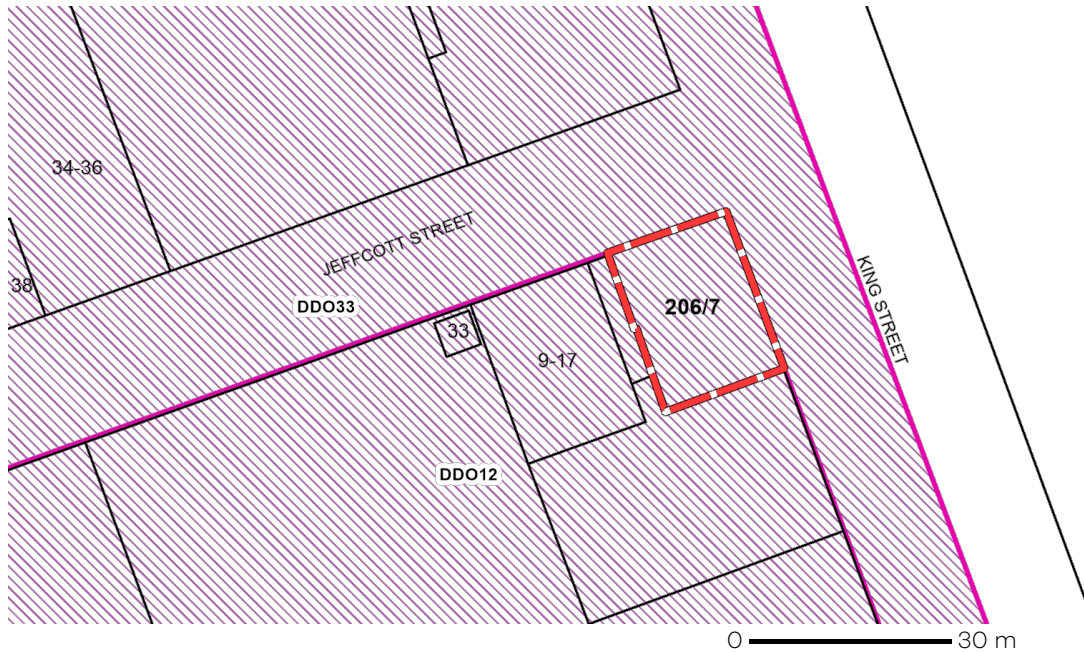
Note: labels for zones may appear outside the actual zone - please compare the labels with the legend.

## Planning Overlays

[DESIGN AND DEVELOPMENT OVERLAY \(DDO\)](#)

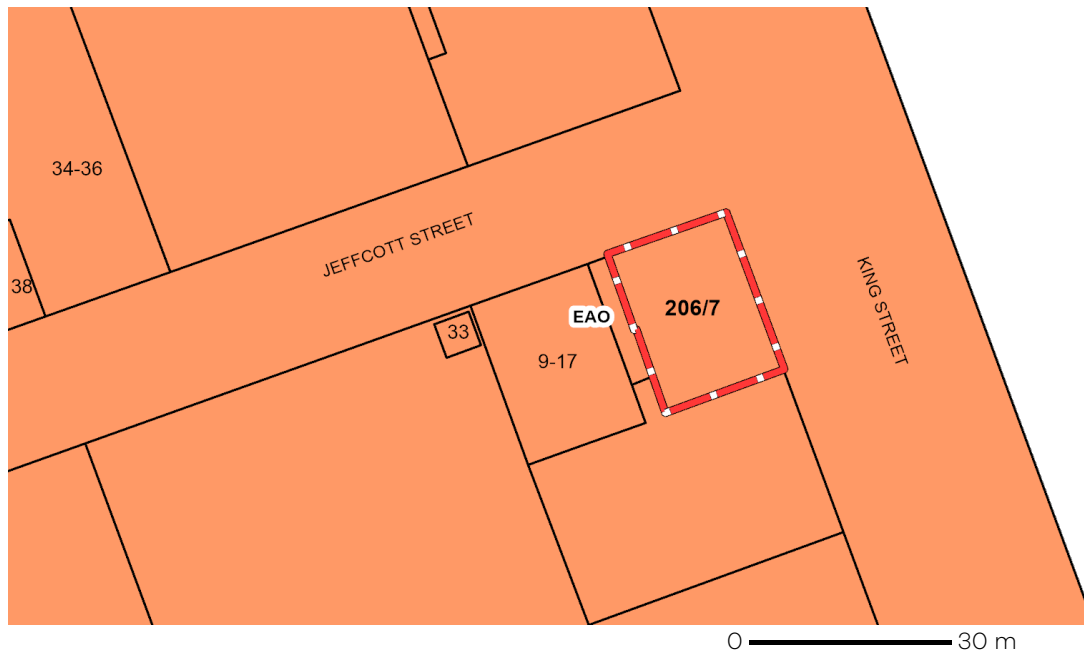
[DESIGN AND DEVELOPMENT OVERLAY - SCHEDULE 12 \(DDO12\)](#)

[DESIGN AND DEVELOPMENT OVERLAY - SCHEDULE 33 \(DDO33\)](#)



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

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



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

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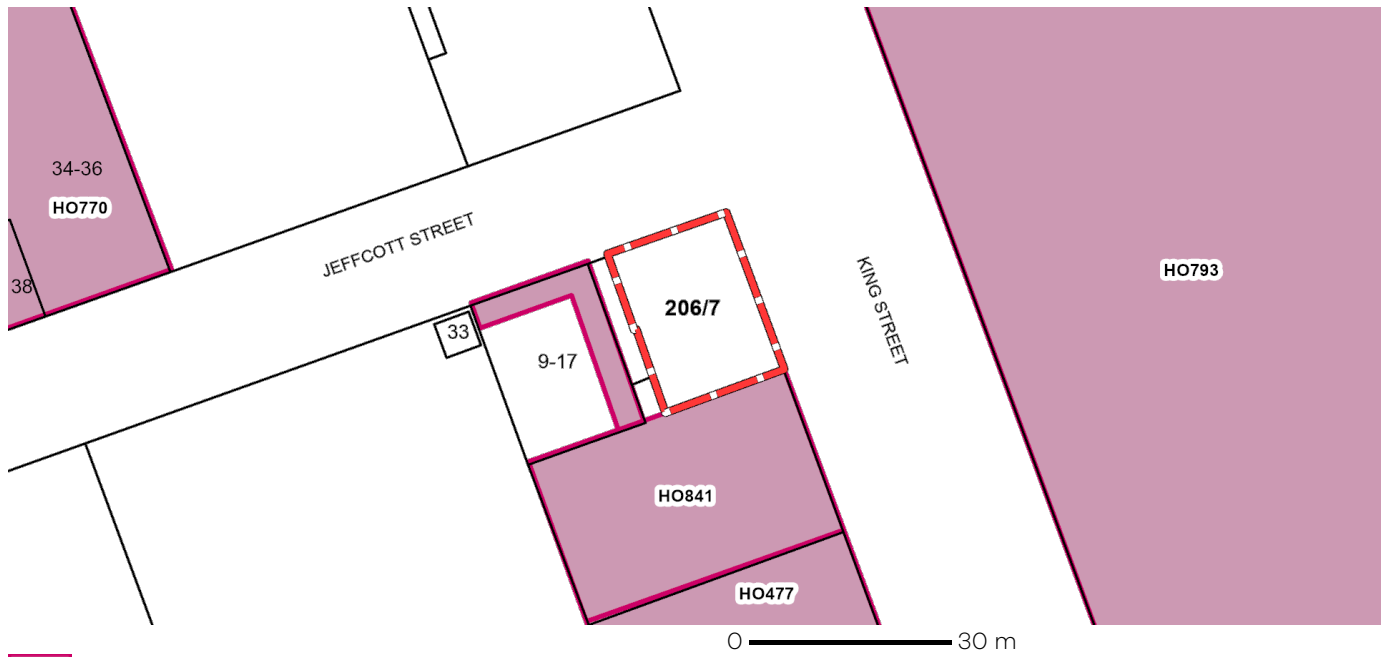
Read the full disclaimer at <https://www.delwp.vic.gov.au/disclaimer>

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 Overlays

### HERITAGE OVERLAY (HO)

#### HERITAGE OVERLAY - SCHEDULE (HO841)



**HO - Heritage Overlay**

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

### PARKING OVERLAY (PO)

#### PARKING OVERLAY - PRECINCT 14 SCHEDULE (PO14)



**PO - Parking Overlay**

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

## Further Planning Information

Planning scheme data last updated on 8 March 2023.

A **planning scheme** sets out policies and requirements for the use, development and protection of land.

This report provides information about the zone and overlay provisions that apply to the selected land.

Information about the State and local policy, particular, general and operational provisions of the local planning scheme that may affect the use of this land can be obtained by contacting the local council

or by visiting <https://www.planning.vic.gov.au>

This report is NOT a **Planning Certificate** issued pursuant to Section 199 of the **Planning and Environment Act 1987**.

It does not include information about exhibited planning scheme amendments, or zonings that may affect the land.

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

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

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

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

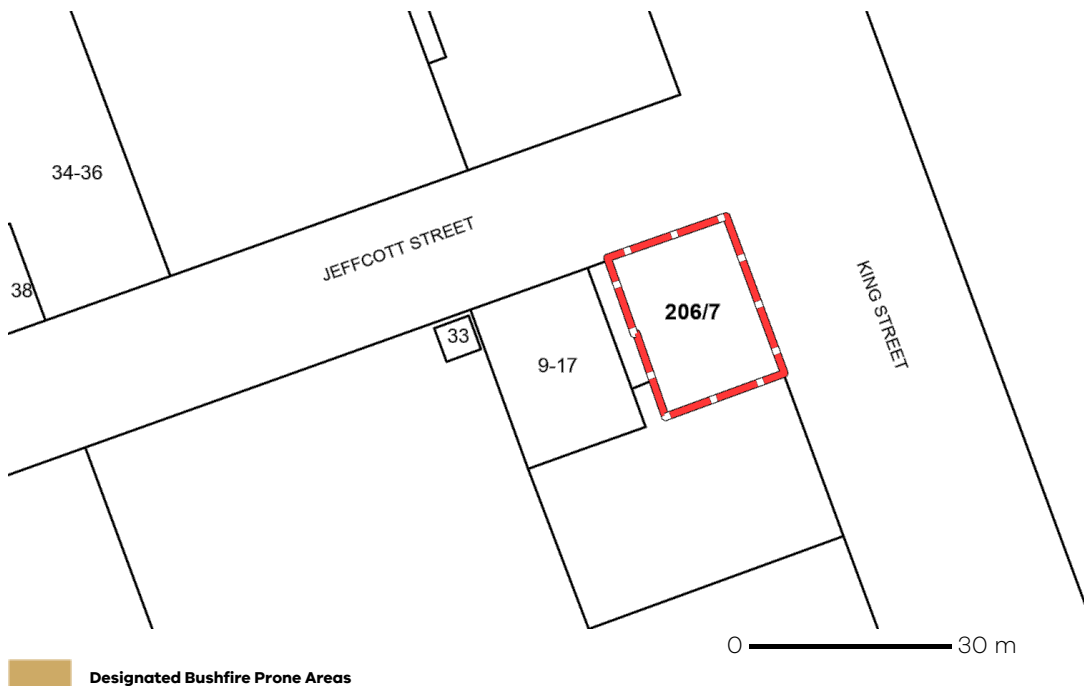
For other information about planning in Victoria visit <https://www.planning.vic.gov.au>

## Designated Bushfire Prone Areas

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

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

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



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

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

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

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

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

## 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 \(environment.vic.gov.au\)](http://Native%20vegetation%20(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 \(environment.vic.gov.au\)](http://NatureKit%20(environment.vic.gov.au))

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**CITY OF MELBOURNE**  
**LAND INFORMATION CERTIFICATE**  
**(SECTION 121 LOCAL GOVERNMENT ACT 2020)**

**CERTIFICATE NO:** 192536  
**DATE OF ISSUE:** 16-Mar-2023  
**YEAR ENDING:** 30-Jun-2023

- 1) This certificate provides information regarding Valuations, Rates, other monies owing and any orders and notices made under the Local Government Act 1958, Local Government Act 1989, Local Government Act 2020 or under a local law or by-law of the council.
- 2) This certificate is not required to include information regarding Planning, Health, Land Fill, Land Slip, flooding information or service easements. Information regarding these matters may be available from the council or relevant authority. A fee may be charged for such information.

**Property situated at:** Unit 206, Level 2, 7 Jeffcott Street, WEST MELBOURNE VIC 3003

**Legal Description:** Lot 17 PS635606V CT-11221/582

**Valuation Date:** 01-Jul-2022

**Assessment No:** 98143 1

**Net Annual Value:** 21,800    **Capital Improved Value:** 395,000    **Site Value:** 265,000

**Owner recorded by Council:** Azzurro Super Fund Pty Ltd

**RATES AND CHARGES**  
**for the period 01/07/2022 to 30/06/2023**

	<b>Balance Owing</b>
General Rates	\$ 918.76
Fire Services Levy	\$ 476.98
Waste Services	\$ 150.00
Town Rate Arrears	\$ 0.00
Interest on overdue amounts	\$ 0.00
Legal Costs	\$ 0.00
Total Payments	\$ -1770.60

**TOTAL DUE**    **\$ -224.86**

**The total due as shown on this certificate may change prior to settlement**

**Please note:** After settlement, the responsibility for payment of outstanding rates rests with the purchaser. Please advise your client accordingly.

**How to Pay**

**By Mail**

To GPO Box 2158  
Melbourne Vic 3001

**In person**

Melbourne Town Hall  
Business Hours  
Monday to Friday  
Cash Payments not  
accepted. Card payment  
available.

**Phone and Internet**

**Mastercard or Visa only**

**Tel:** Call 1300 130453  
**Internet:** [www.melbourne.vic.gov.au/rates](http://www.melbourne.vic.gov.au/rates)



**Billers code:** 79616  
**Ref:** 10981431

**Landata  
DX250639 MELBOURNE**

**OTHER INFORMATION**

**Local Government (General) Regulations**

13(1)(d)(v)	Money owed for works under the Local Government Act 1958	Nil
13(1)(d)(vi)	Potential liability for rates under the Cultural and Recreational Lands Act 1963	N/A
13(1)(d)(vii)	Potential liability for land to become rateable under section 173 or 174A of the act	N/A
13(1)(d)(viii)	any money owed in relation to land under section 94(5) of the Electricity Industry act 2000	N/A
13(1)(d)(ix)	Any outstanding amount required to be paid for recreational purposes or any transfer of land to the council for recreational purposes under Section 18 of the Subdivision Act 1988 or LGA 1958.	Nil
13(1)(d)(x)	Money owed under Section 227 of the Local Government Act 1989	Nil
13(1)(d)(xi)	any environmental upgrade charge in relation to the land which is owed under section 270 of the City of Melbourne Act 2001	N/A
13(1)(e)	any notice or order on the land has continuing application under the Act, the Local Government Act 1958 or under a local law of the Council and, if so, the details of the notice or order	N/A



Applicants Reference 68238564-018-9:191901

Authorised Officer \_\_\_\_\_

**Updates on this certificate will only be provided for a period of 90 days**

**For inquiries regarding this certificate:**

Phone: 9658 9759  
Email: [rates@melbourne.vic.gov.au](mailto:rates@melbourne.vic.gov.au)

**To lodge Notice of Acquisition/Disposition**

Mail: GPO Box 2158, Melbourne, VIC 3001  
Email: [propertydata@melbourne.vic.gov.au](mailto:propertydata@melbourne.vic.gov.au)

# Property Clearance Certificate

Taxation Administration Act 1997



INFOTRACK / MUKUSHI LEGAL

<b>Your Reference:</b>	1861: AZZURRO SUPER FUNI
<b>Certificate No:</b>	61440346
<b>Issue Date:</b>	16 MAR 2023
<b>Enquiries:</b>	ESYSPROD

**Land Address:** UNIT 206, LEVEL 2, 7 JEFFCOTT STREET WEST MELBOURNE VIC 3003

Land Id	Lot	Plan	Volume	Folio	Tax Payable
38180373	17	635606	12425	993	\$0.00

**Vendor:** AZZURRO SUPER FUND PTY LTD

**Purchaser:** FOR INFORMATION PURPOSES

Current Land Tax	Year	Taxable Value	Proportional Tax	Penalty/Interest	Total
AZZURRO SUPER FUND PTY LTD	2023	\$265,000	\$0.00	\$0.00	\$0.00

**Comments:**

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

Arrears of Land Tax	Year	Proportional Tax	Penalty/Interest	Total
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This certificate is subject to the notes that appear on the reverse. The applicant should read these notes carefully.

**Paul Broderick**  
Commissioner of State Revenue

<b>CAPITAL IMP VALUE:</b>	<b>\$395,000</b>
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<b>SITE VALUE:</b>	<b>\$265,000</b>
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<b>AMOUNT PAYABLE:</b>	<b>\$0.00</b>
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# Notes to Certificates Under Section 95AA of the *Taxation Administration Act 1997*

Certificate No: 61440346

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## Power to issue Certificate

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

## Amount shown on Certificate

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

## Land tax is a first charge on land

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

## Information for the purchaser

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

## Information for the vendor

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

## General information

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

## For Information Only

LAND TAX CALCULATION BASED ON SINGLE OWNERSHIP

Land Tax = \$0.00

Taxable Value = \$265,000

Calculated as \$0 plus ( \$265,000 - \$0) multiplied by 0.000 cents.

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## Property Clearance Certificate - Payment Options

**BPAY**



Billers Code: 5249  
Ref: 61440346

**Telephone & Internet Banking - BPAY®**

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

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

**CARD**



Ref: 61440346

**Visa or Mastercard**

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

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



# Information Statement & Certificate

SECTION 158 WATER ACT 1989

ABN 70 066 902 467

CONTACT  
13 44 99

REFERENCE NO.

1252 1416 4120

DATE OF ISSUE - 16/03/2023

APPLICATION NO.

1108424

LANDATA COUNTER SERVICES

YOUR REF.  
68238564-027-1

SOURCE NO. 99904685210

**PROPERTY:** SUITE 206/7 JEFFCOTT STREET WEST MELBOURNE VIC 3003

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

The sum of eighty two dollars and thirty eight cents is payable in respect of the property listed above to the end of the financial year.

Service Charge Type	Annual charge 1/07/2022 - 30/06/2023	Billing Frequency	Date Billed To	Year to Date Billed Amount	Outstanding Amount
WATERWAYS AND DRAINAGE CHARGE - NRES	164.76	Quarterly	31/03/2023	123.57	41.19
PARKS SERVICE CHARGES	81.60	Annually	30/06/2023	81.60	0.00
<b>TOTAL</b>	<b>246.36</b>			<b>205.17</b>	<b>41.19</b>

Service charges owing to 30/06/2022	0.00
Service charges owing for this financial year	41.19
Adjustments	0.00
<b>Current amount outstanding</b>	<b>41.19</b>
Plus remainder service charges to be billed	41.19
<b>BALANCE including unbilled service charges</b>	<b>82.38</b>

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

Biller Code:	8789
Reference:	1252 1416 4120



# Information Statement & Certificate

SECTION 158 WATER ACT 1989

ABN 70 066 902 467

CONTACT  
13 44 99

REFERENCE NO.

1252 1416 4120

DATE OF ISSUE - 16/03/2023

APPLICATION NO.

1108424

This property does not have a separate water meter but is supplied by a common water meter and any volume related charges are billed to the Owners Corporation.

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

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

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



# Information Statement & Certificate

SECTION 158 WATER ACT 1989

ABN 70 066 902 467

CONTACT  
13 44 99

REFERENCE NO.

1252 1416 4120

DATE OF ISSUE - 16/03/2023

APPLICATION NO.

1108424

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

Information available at Melbourne Water indicates that this property is not subject to flooding from Melbourne Water's drainage system, based on a flood level that has a probability of occurrence of 1% in any one year.

Sewer & or Water Assets if available are shown on the attached Plan. Should this plan not display all of the requested property please contact Greater Western Water on 13 44 99.

AUTHORISED OFFICER:

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

ROHAN CHARRETT  
GENERAL MANAGER  
CUSTOMER EXPERIENCE

GREATER WESTERN WATER CORPORATION

Unless prior consent has been obtained from both GREATER WESTERN WATER and MELBOURNE WATER (Section 148 Water Act 1989), the erection and/or replacement of any structure or filling over or under any easement, sewer or drain, any interference with, any sewer, drain or watercourse, or any connection to any sewer drain or watercourse is PROHIBITED.

Greater Western Water provides information in this statement relating to waterways and drainage pursuant to Section 158 of the Water Act 1989, as an agent for Melbourne Water.

Please contact Greater Western Water prior to settlement for an update on these charges and remit payment to Greater Western Water immediately following settlement. Updates of rates and other charges will only be provided for up to three months from the date of this statement.

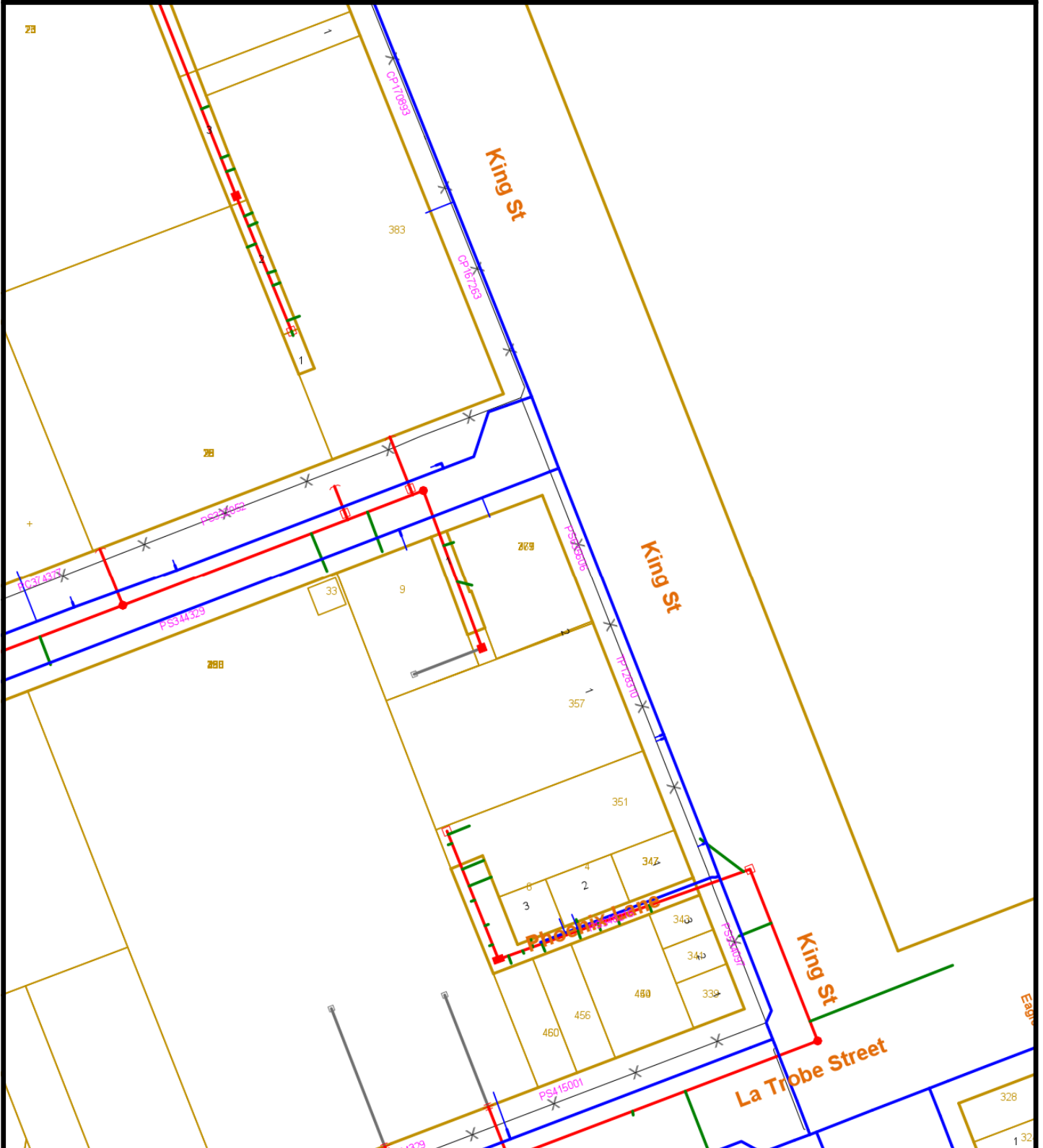


**Greater  
Western  
Water**

# Encumbrance Plan

**7 JEFFCOTT STREET MELBOURNE WEST 3003**

**Application No. 1108424**



## LEGEND

	Circular Manhole		Recycled Water Main		MW Sewer Main		
	Inspection Shaft		MW Channel		MW Abandoned Sewer Main		
	Sewer Main		MW Abandoned Channel		MW Water Main		
	Abandoned Sewer Main		MW Natural Waterway		MW Abandoned Water Main		
	Water Main		MW Underground Drain		MW Manhole		
	Abandoned Water Main		MW Abandoned Underground Drain		MW Abandoned Manhole		
							Date: 16/03/2023

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

Our Reference: 2023/071

Your Reference: 1861: Azzuro Super Fund

## OWNERS CORPORATION CERTIFICATE

*s.151 Owners Corporations Act 2006 and r.16 Owners Corporations Regulations 2018*

Owners Corporation Number **1**

Address 7 Jeffcott Street & 373 King Street, West Melbourne VIC 3003

This certificate is issued for Lot 17 on Plan of Subdivision Number: PS 635606V

Postal address **Suite 206/7 Jeffcott Street, West Melbourne VIC 3003**

Applicant for the certificate InfoTrack on behalf of Mukashi Legal

Address for delivery of certificate **Email to: [ownerscorp@infotrack.com.au](mailto:ownerscorp@infotrack.com.au)**

Date that the application was received 16 March 2023

### IMPORTANT:

The information in this certificate is issued on 18 March 2023

You can inspect the Owners Corporations register for additional information and you should obtain a new certificate for current information prior to settlement.

If you would like to make payment of any outstanding charges on settlement using PEXA via EFT or BPAY, please email your request to [andrewm@lreedcity.com.au](mailto:andrewm@lreedcity.com.au) and/or [deannaw@lreedcity.com.au](mailto:deannaw@lreedcity.com.au) and the relevant information will be provided.

- The current annual fees for Owners Corporation 1 for the above lot are:  
**Administrative Fund Levies \$ 7,796.58 per annum incl GST**  
**Maintenance Fund Levies \$ NIL per annum incl GST**  
Fees are payable bi-annual in advance on 1 September and 1 March each year
- The date which the fees for the lot have been paid up to is:  
The fees are paid up to **31 August 2023**
- The total of any unpaid fees or charges for the lot is: **\$ NIL**

### Please Note:

#### Owners Corporation Fees instalments for the balance of the 2022/23 year are as follows:

OC1 Contribution Adjustment from AGM for 1/9/22 to 31/8/23 \$ 137.76 (Due 1/5/23)

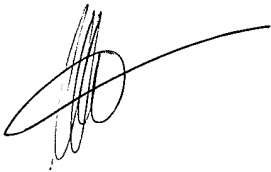
- The special fees or levies which have been struck and the dates on which they were struck and are payable are:  
**NIL**
- Repairs, maintenance or other work which has been or is about to be performed, and which may incur additional charges not been included in annual fees, maintenance fund and special fees as set out above:  
**NIL**

6. The Owners Corporation has the following insurance cover:
- |                          |  |
|--------------------------|--|
| Name of Insurer          | Strata Unit Underwriting Agency Pty Ltd on behalf of CGU Insurance Limited   |
| Policy Number            | 01R8265439   |
| Type of Policy           | Commercial Strata Insurance  |
| Building Amount          | \$ 9,720,000   |
| Legal Liability Amount   | \$ 20,000,000  |
| Fidelity Guarantee       | \$ 100,000   |
| Office Bearers Liability | \$ 100,000   |
| Excess                   | \$ 5,000 (Malicious Damage, Vandalism & Graffiti Claims)<br>\$ 10,000 (Glass Claims)<br>\$ 5,000 (Theft Claims)<br>\$ 1,000 (All Other Claims) |
| Building Covered         | 373 King Street (& 7 Jeffcott Street), West Melbourne VIC 3003   |
| Renewal Date             | 12 August 2023   |
| Name of Broker           | Honan Insurance Group Pty Ltd<br>03 9947 4333<br><a href="mailto:info@honan.com.au">info@honan.com.au</a>                                      |
7. Has the Owners Corporation resolved that the members may arrange their own insurance under section 63 of the Act? If so then provide the date of that resolution:  
**NO**
8. The total funds held by the Owners Corporation:  
Refer to the attached Balance Sheet as at the end of the last financial year of the Owners Corporation on 31 August 2022
9. Are there any liabilities of the Owners Corporation that are not covered by annual fees, special levies and repairs and maintenance as set out above? If so, then provide details:  
**NIL**
10. Are there any current contracts, leases, agreements affecting the common property. If so, provide details:
- LR Reed (City) Pty Ltd, dated 12 December 2019, for two (2) years for the management of the owners corporation.
  - United Lift Services Pty Ltd, dated 5 July 2011 for the servicing and maintenance of the lift.
  - Eliza Air Conditioning Aust Pty Ltd, dated 18 December 2017 for the servicing and maintenance of the ventilation systems.
  - Waste Wise Environmental Pty Ltd, dated 17 July 2020 for rubbish removal services.
  - The Owners Corporation entered into a Lease Agreement with Telstra Corporation Limited on 30 April 2021 for the use of rooftop common property to install, maintain and operate a telecommunications facility for an initial term of ten (10) years with options for two (2) further terms of five (5) years each. It was resolved by the Committee on 15 April 2021 to credit the revenue from this Lease Agreement to the Maintenance Fund. A copy of the agreement is available for inspection upon request to the Owners Corporation Manager.
11. Are there any current agreements to provide to lot owners, occupiers or the public? If so, provide details:  
The Owners Corporation has not made any agreement to provide service to members and occupants for a fee.
12. Are there any notices or orders served on the Owners Corporation in the last 12 months that have not been satisfied? If so, then provide details:  
There are no notices or orders as at the date of this Certificate.

13. Are there any legal proceedings to which the Owners Corporation is a party and any circumstances of which the Owners Corporation is aware that are likely to give rise to proceedings? If so, then provide details:  
The manager is not aware of any legal proceedings as at the date of this certificate other than the proceedings to recover overdue Owners Corporation fees and charges.
14. Has the Owners Corporation appointed or resolved to appoint a manager? If so, provide details:  
A manager has been appointed.  
The manager is LR Reed (City) Pty Ltd of Level 1, 405 Collins Street, Melbourne VIC 3000
15. Has an administrator been appointed for the Owners Corporation, or has there been a proposal for the appointment of an administrator?  
The manager is not aware of any proposal for the appointment of an administrator as at the date of this certificate.
16. A copy of the minutes of the most recent annual general meeting of the owners corporation are attached to this certificate.
17. Documents required to be attached to the Owners Corporation certificate are:
- A copy of all resolutions made at the last annual general meeting
  - A copy of the consolidated rules registered at Land Victoria
  - A copy of Schedule 3 of the Owners Corporations Regulations 2018 entitled "Statement of advice and information for prospective purchasers and lot owners"
18. **NOTE:**  
More information can be obtained by an inspection of the Owners Corporation register.  
Please make your request to inspect the Owners Corporation register in writing to:  
LR Reed (City) Pty Ltd of Level 1, 405 Collins Street, Melbourne VIC 3000

This Owners Corporation Certificate was prepared by:

LR Reed (City) Pty Ltd  
Level 1, 405 Collins Street, Melbourne VIC 3000



.....  
**Andrew Musumeci**

LR Reed (City) Pty Ltd as delegate of the Owners Corporation  
Dated this day: **18 March 2023**

The common seal of Owners Corporation Number 1 on Plan of Subdivision PS 636606V was affixed on this day in accordance with Section 20 of the *Owners Corporation Act 2006*.

**Attachments:**

1. Balance Sheet as at the end of the last financial year of the Owners Corporation on 31 August 2022
2. Minutes of Annual General Meeting held on 27 February 2023
3. Registered Rules
4. Model Rules for an Owners Corporation
5. Statement of Advice and Information for Prospective Purchasers and Lot Owners



**Balance Sheet - Detailed - Group**  
**As at 31/08/2022**

Owners Corporation on PS 635606V

7 Jeffcott Street & 369-377 King Street, WEST  
 MELBOURNE VIC 3003

**Owners Corporation 1**

	<b>Current period</b>	<b>Previous year</b>
<b>Owners' funds</b>		
<b>Administrative Fund</b>		
Operating Surplus/Deficit--Admin	3,057.89	(15,231.25)
Owners Equity--Admin	21,643.23	36,874.48
	<u>24,701.12</u>	<u>21,643.23</u>
<b>Maintenance Fund</b>		
Operating Surplus/Deficit--Sinking	17,913.61	59,061.40
Owners Equity--Sinking	224,353.80	165,292.40
	<u>242,267.41</u>	<u>224,353.80</u>
<b>Net owners' funds</b>	<u><b>\$266,968.53</b></u>	<u><b>\$245,997.03</b></u>
<b>Represented by:</b>		
<b>Assets</b>		
<b>Administrative Fund</b>		
Cash at Bank--Admin	58,405.74	51,892.84
Prepaid Expenses--Admin	15,342.24	12,727.09
Receivable--Levies--Admin	10,634.83	9,687.47
Receivable--Owners Other--Admin	330.00	1,350.20
	<u>84,712.81</u>	<u>75,657.60</u>
<b>Maintenance Fund</b>		
Cash at Bank--Sinking	104,601.20	85,343.90
Investments--Sinking Term Deposit 1	137,084.20	136,470.74
Receivable--Levies--Sinking	582.01	2,040.35
	<u>242,267.41</u>	<u>223,854.99</u>
<b>Unallocated Money</b>		
Cash at Bank--Unallocated	146.07	0.03
	<u>146.07</u>	<u>0.03</u>
<i>Total assets</i>	<u>327,126.29</u>	<u>299,512.62</u>
<b>Less liabilities</b>		
<b>Administrative Fund</b>		
Accounts Payable--Admin	12,186.25	10,187.24
Accrued Expenses--Admin	7,663.50	4,278.38
Payable--GST--Admin	(2,653.36)	(3,003.60)
Prepaid Levies--Admin	42,815.30	42,552.35
	<u>60,011.69</u>	<u>54,014.37</u>
<b>Maintenance Fund</b>		
Payable--GST--Sinking	0.00	(498.81)
	<u>0.00</u>	<u>(498.81)</u>
<b>Unallocated Money</b>		
Prepaid Levies--Unallocated	146.07	0.03

	146.07	0.03
<i>Total liabilities</i>	60,157.76	53,515.59
<b>Net assets</b>	<b>\$266,968.53</b>	<b>\$245,997.03</b>

28 February 2023

All Members  
Owners Corporation 1  
PS 635606V  
7 Jeffcott Street & 369-377 King Street  
WEST MELBOURNE VIC 3003

Dear Lot Owner,

**Re: MINUTES OF INTERIM DECISIONS OF OWNERS CORPORATION 1**

We write on behalf of Owners Corporation 1 on Plan No. 635606V at 7 Jeffcott Street & 369-377 King Street, West Melbourne and attach the Minutes of the Annual General Meeting held on Monday 27 February 2023.

As a quorum was not present at the Annual General Meeting, all resolutions made at the Meeting are interim resolutions. We advise that under 78(4) of the *Owners Corporations Act 2006*:

**Interim Resolutions become Resolutions of the Owners Corporation:**

- (a) Subject to paragraph (b) and (c), 29 days from the date of the interim resolution; *or*
- (b) If notice of a special general meeting is given within that 29-day period and the meeting is held within 28 days after that notice is given, only if confirmed at that meeting; *or*
- (c) If notice of a special general meeting is given within the 29-day period and the meeting is not held within 28 days after the notice is given, at the end of that 28-day period.

This Section of the *Owners Corporations Act 2006* provides the effect that an Interim Resolution cannot be acted on for 29 days after it is made but if notice of a Special General Meeting is given within that 29-day period, the Interim Resolution cannot be acted upon until confirmed at that meeting which must be held within 28 days after the notice, or if not held, until the end of the 28 day period.

Should you disagree with the Interim Resolutions you must petition in writing (with representation of Lot owners totaling at least 25% of the lot entitlements) against the resolution, to the Owners Corporation Manager within 28 days of the meeting being held.

Should you have any queries, please do not hesitate to contact our office.

Sincerely,



**Zach Tay**  
Owners Corporation Manager  
For and on behalf of Owners Corporation 1 Plan No. 635606V



## **5.2 Complaints/Dispute Resolution Report**

It was resolved THAT the Owners Corporation Complaints/Dispute Resolution Report for the period ending 31 August 2022 be accepted as tabled.

*Motion: Carried*

## **6. Financial Statements**

### **6.1 Adoption of the Financial Statements**

It was resolved THAT the Financial Statements for the year 1 September 2021 to 31 August 2022 as tabled be accepted.

*Motion: Carried*

## **7. Budgets & Contributions**

### **7.1 Proposed Administrative Fund Budget**

It was resolved THAT the proposed Administrative Fund Budget of \$171,261.00 (exclusive of GST) for the year 1 September 2022 to 31 August 2023 be approved.

*Motion: Carried*

### **7.2 Proposed Maintenance Fund Budget**

It was resolved THAT the proposed Maintenance Fund Contributions of \$0.00 (exclusive of GST) for the year 1 September 2022 to 31 August 2023 be approved.

*Motion: Carried*

### **7.3 Contributions**

It was resolved THAT the proposed contributions for the Administrative Fund and Maintenance Fund be based on Lot liability and be due and payable bi-annually in advance on 1 September 2022 and 1 March 2023 and THAT fees will continue to be collected at this rate until the next Annual General Meeting.

*Motion: Carried*

**Note:** *As accounts have already been issued at the old rate, it is intended that if any adjustment to owner contributions is applicable it will be included with the next scheduled Fee Notice issued to owners.*

## **8. Arrears, Penalty Interest & Cost Recovery**

### **8.1 Penalty Interest on Arrears**

It was resolved THAT pursuant to S.29 of the *Owners Corporations Act 2006* the Owners Corporation may charge interest at the maximum rate of interest payable under the *Penalty Interest Rate Act 1983* on any money owed by a member to the Owners Corporation after the due date. The Owners Corporation may charge interest at the maximum rate of interest payable under the *Owners Corporations Act 2006*.

*Motion: Carried*

## **8.2 Waiver of Interest in the First Instance**

It was resolved THAT pursuant to S.29(4) of the *Owners Corporation Act 2006* the Owners Corporation Manager be delegated the power to grant a waiver of payment of interest in the instance of first offences only. All other cases must be referred to the Owners Corporation Committee for a decision.

*Motion: Carried*

## **8.3 Cost Recovery**

It was resolved THAT the Owners Corporation resolve to recover outstanding Owners Corporation fees and charges by action in a Court of competent jurisdiction, including but not limited to the Magistrates Court and VCAT and THAT the Owners Corporation also resolve that the Owners Corporation may recover as a debt due from the person, persons or company in default or breach, the costs, charges and expenses incurred by the Owners Corporation (not including the personal time cost of any person acting in an honorary capacity, including the Chairperson or a Committee Member of the Owners Corporation) arising out of any default or breach by any Lot Owner or Occupier of a Lot, of any obligation under the *Owners Corporations Act 2006* or the *Owners Corporation Regulations 2007*.

*Motion: Carried*

## **8.4 Final Fee Notices / Letter of Demand**

It was resolved THAT The Owners Corporation instruct its Manager:

- a) To send Final Fee Notice to any Lot Owner detailing all that Lot Owner's arrears of fees, Special fees, charges and contributions as soon as any such arrears remain unpaid for more than 28 days; *and*
- b) To levy against any such Lot Owner in arrears an amount of \$55.00 (inclusive of GST) in regard to the administrative processes required to collate the information required for the sending of the additional Final Fee Notice; *and*
- c) To levy against any such Lot Owner a sum to indemnify the Owners Corporation for the solicitor's costs incurred in issuing a Letter of Demand.

*Motion: Carried*

## **9. Insurance - Certificate of Currency**

### **9.1 Strata Insurance Cover**

It was resolved THAT the Strata insurance cover for the Owners Corporation be noted and THAT the renewal of the policy on the next due date be approved.

*Motion: Carried*

### ***Personal/Owners Contents & Legal Liability***

***Note:*** Members are reminded that it is their own responsibility to arrange insurance cover for public liability and personal contents inside their Lot (including carpets, curtains, and light fittings).

## 9.2 Insurance Valuation

It was resolved THAT the Owners Corporation undertake an Insurance Valuation every 5 years, and the policy be adjusted to the limits of cover as recommended in the valuation. The most recent valuation on the property, valued the building at \$9,720,000.00

The next valuation is due May 2025.

*Motion: Carried*

## 10. Election of Committee of Management

### 10.1 Election of Committee

Pursuant to *Section 100 and 103* of the *Owners Corporation Act 2006* an Owners Corporation affecting 10 or more Lots must elect a Committee of at least 3 and not more than 7 Members. The Owners Corporation, by Ordinary Resolution may resolve that the Committee may have more than 7 Members but not more than 12 Members.

Committee Members must be Lot Owners or hold a Proxy for a Lot Owner.

If a Lot Owner is in arrears for any amount of fees or other amount owing to the Owners Corporation the Lot Owner or a Proxy for the Lot Owner is not eligible to be elected as a Member of the Committee.

Nominations will be called for and tabled at the Meeting

It was resolved THAT the following persons be elected to the Owners Corporation Committee:

Tietse Stelma	Lot 13
Roger McKinnon	Lot 17
Con Fakiris	Lot 30

*Motion: Carried*

Pursuant to *Sections 105, 107 and 109* of the *Owners Corporation Act 2006* The Committee is to call a meeting as soon as practicable to elect a Chairperson and Secretary of the Owners Corporation.

### 10.2 Committee Delegation

It was resolved THAT the Committee is delegated all the powers and functions that may be delegated under *S.11* of the *Owners Corporations Act 2006* (except for the powers or functions that require Unanimous or Special Resolutions, or the power to delegate or the powers delegated to the Manager).

*Motion: Carried*

## **11. General Business**

### **11.1 Ground Floor Cleaning**

There was a general discussion around the level of cleaning required for the common areas on the ground floor.

It was agreed that the Owners Corporation commences a periodic major scrub and clean on the ground floor rear common areas on a 6 monthly basis.

## **12. Close of Meeting**

There being no further business, the meeting closed at 4:18pm.



369-379 King Street & 1-7 Jeffcott Street,  
West Melbourne, 3003  
Owners Corporation No. 1 PS635606V

## ADDITIONAL OWNERS CORPORATION RULES

### DEFINITIONS & INTERPRETATION:

"**Common Property**" means any common property described on the Plan of Subdivision and includes all equipment and facilities in, on, under or above such common property.

"**Developer**" means 373 King Street Pty Ltd the Developer's Mortgagee.

"**Developer's Mortgagee**" means any person who has taken from the Developer a mortgage or charge over any such Lot and each of the successors in title to those persons.

"**Development**" means all the land and improvements comprised in the Plan of Subdivision and known as 369-379 King Street & 1-7 Jeffcott Street, West Melbourne, 3003.

"**Lot**" means a Lot on the Plan of Subdivision.

"**Member**" means an owner of a Lot.

"**Model Rules**" means the rules set out in Schedule 2 of the Owners Corporations Regulations 2007.

"**Occupier**" means any person occupying or in possession of a Lot and can include a Proprietor.

"**Owners Corporation**" means Owners Corporation No. 1 PS635606V.

"**Plan of Subdivision**" means Plan of Subdivision No. PS635606V whether or not registered by the Registrar of Titles.

"**Proprietor**" means the registered owner of the freehold of a Lot on the Plan of Subdivision.

Unless the context otherwise requires:

- (i) headings are for convenience only;
- (ii) words importing the singular include the plural and vice versa;
- (iii) an expression importing a natural person includes any company, partnership, joint venture association or other Owners Corporation and any governmental authority;

- (iv) references to any gender include the others; and
- (v) a reference to a thing includes part of that thing,

## **MODEL RULES**

The Model Rules apply in relation to the Development to the extent that they are not inconsistent with the rules set out in this document. For clarity the Model Rules are set out below.

### *MODEL RULES FOR AN OWNERS CORPORATION*

## **1. HEALTH, SAFETY AND SECURITY**

### **1.1 *Health, Safety and Security of Lot Owners, Occupiers of Lots and Others***

A Lot Owner or Occupier must not use the lot, or permit it to be used, so as to cause a hazard to the health, safety and security of an Owner, Occupier, or user of another Lot,

### **1.2 *Storage of flammable liquids and other dangerous substances and materials***

- (1) Except with the approval in writing of the Owners Corporation, an Owner or Occupier of a Lot must not use or store on the Lot or on the Common Property any flammable chemical, liquid or gas or other flammable material.
- (2) This rule does not apply to—
  - (a) chemicals, liquids, gases or other material used or intended to be used for domestic purposes; or
  - (b) any chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine.

### **1.3 *Waste Disposal***

An Owner or Occupier must ensure that the disposal of garbage or waste does not adversely affect the health, hygiene or comfort of the Occupiers or users of other Lots.

## **2. MANAGEMENT AND ADMINISTRATION**

### **2.1 *Metering of Services and apportionment of costs of services***

- (1) The Owner's Corporation must not seek payment or reimbursement for a cost or charge from a Lot Owner or Occupier that is more than the amount that the supplier would have charged the Lot Owner or Occupier for the same goods or services.

- (2) If a supplier has issued an account to the Owner's Corporation, the Owner's Corporation cannot recover from the Lot Owner or Occupier an amount which includes any amount that is able to be claimed as a concession or rebate by or on behalf of the Lot Owner or Occupier from the relevant supplier.
- (3) Subrule (2) does not apply if the concession or rebate—
  - (a) must be claimed by the Lot Owner or Occupier and the Owners Corporation has given the Lot Owner or Occupier an opportunity to claim it and the Lot Owner or Occupier has not done so by the payment date set by the relevant supplier; or
  - (b) is paid directly to the Lot Owner or Occupier as a refund.

### 3. USE OF COMMON PROPERTY

#### 3.1 *Use of Common Property*

- (1) An Owner or Occupier of a Lot must not obstruct the lawful use and enjoyment of the Common Property by any other person entitled to use the Common Property.
- (2) An Owner or Occupier of a Lot must not, without the written approval of the Owner's Corporation, use for his or her own purposes as a garden any portion of the Common Property.
- (3) An approval under subrule (2) may state a period for which the approval is granted.
- (4) If the Owner's Corporation has resolved that an animal is a danger or is causing a nuisance to the Common Property, it must give reasonable notice of this resolution to the Owner or Occupier who is keeping the animal.
- (5) An Owner or Occupier of a Lot who is keeping an animal that is the subject of a notice under subrule (4) must remove that animal.
- (6) Subrules (4) and (5) do not apply to an animal that assists a person with an impairment or disability.

#### 3.2 *Vehicles and Parking on Common Property*

An Owner or Occupier of a Lot must not, unless in the case of an emergency, park or leave a motor vehicle or other vehicle or permit a motor vehicle or other vehicle-

- (a) to be parked or left in parking spaces situated on Common Property and allocated for other lots, or
- (b) on the Common Property so as to obstruct a driveway, pathway, entrance or exit to a lot, or
- (c) in any place other than a parking area situated on Common Property specified for that purpose by the owners corporation.

### 3.3 ***Damage to Common Property***

- (1) An Owner or Occupier of a Lot must not damage or alter the Common Property without the written approval of the Owner's Corporation.
- (2) An Owner or Occupier of a Lot must not damage or alter a structure that forms part of the Common Property without the written approval of the Owner's Corporation.
- (3) An approval under subrule (1) or (2) may state a period for which the approval is granted, and may specify the works and conditions to which the approval is subject.
- (4) An Owner or person authorised by an owner may install a locking or safety device to protect the Lot against intruders, or a screen or barrier to prevent entry of animals or insects, if the device, screen or barrier is soundly built and is consistent with the colour, style and materials of the building.
- (5) The Owner or person referred to in subrule (4) must keep any device, screen or barrier installed in good order and repair.

## 4. LOTS

### 4.1 ***Change of use of lots***

An Owner or Occupier of a lot must give written notification to the Owner's Corporation if the Owner or Occupier changes the existing use of the Lot in a way that will affect the insurance premiums for the Owner's Corporation.

Example:

If the change of use results in a hazardous activity being carried out on the Lot, or results in the Lot being used for commercial or industrial purposes rather than residential purposes.

## 5. BEHAVIOUR OF PERSONS

### 5.1 ***Behavior of owners, occupiers and invitees on Common Property***

An Owner or Occupier of a Lot must take all reasonable steps to ensure that guests of the Owner or Occupier do not behave in a manner likely to

unreasonably interfere with the peaceful enjoyment of any other person entitled to use the Common Property.

## **5.2 Noise and other nuisance control**

- (1) An Owner or Occupier of a Lot, or a guest of an Owner or Occupier, must not unreasonably create any noise likely to interfere with the peaceful enjoyment of any other person entitled to use the Common Property.
- (2) Subrule (1) does not apply to the making of a noise if the Owner's Corporation has given written permission for the noise to be made.

## **6. DISPUTE RESOLUTION**

- (1) The grievance procedure set out in this rule applies to disputes involving a Lot Owner, Manager, or an Occupier or the Owner's Corporation.
- (2) The party making the complaint must prepare a written statement in the approved form.
- (3) If there is a grievance committee of the Owner's Corporation, it must be notified of the dispute by the complainant.
- (4) If there is no grievance committee, the Owner's Corporation must be notified of any dispute by the complainant, regardless of whether the Owner's Corporation is an immediate party to the dispute.
- (5) The parties to the dispute must meet and discuss the matter in dispute, along with either the grievance committee or the Owner's Corporation, within 14 working days after the dispute comes to the attention of all the parties.
- (6) A party to the dispute may appoint a person to act or appear on his or her behalf at the meeting.
- (7) If the dispute is not resolved, the grievance committee or Owners Corporation must notify each party of his or her right to take further action under Part 10 of the Owners Corporations Act 2006.
- (8) This process is separate from and does not limit any further action under Part 10 of the Owners Corporations Act 2006.

## ADDITIONAL RULES

### 1. USE OF PROPERTY AND COMMON PROPERTY

The common property is under the absolute control of the Owners Corporation.

#### 1.1 A Member must not:

- (a) Obstruct the Common Property or use the common property for any purpose other than ingress and egress to and from each Lot
- (b) Cover or obstruct any lighting or illumination of the Common Property;
- (c) Place any externally visible sign on any lot without the written consent of both the Owners Corporation and the Developer (for so long as the Developer remains a Member of the Owners Corporation). If a Member is asked to remove a sign by the Owners Corporation or by the Developer and fails to do so within 24 hours of the request, the Owners Corporation or the Developer may, at that Member's expense, remove the sign.

#### 1.2 Members may erect externally visible signs to Lots provided:

- (a) The Member has obtained the written approval of the Developer (for so long as the Developer remains a Member in respect of the location, size, design, colour scheme and layout of the sign; and
- (b) The Member has obtained written approval from the Owners Corporation in respect of the location, size, design, colour scheme and layout of the sign; and
- (c) The Member uses a contractor nominated or approved by the Owners Corporation and by 373 King St Pty Ltd the Developer (for So long as the 373 King St Pty Ltd is a member of the Owners Corporation) Developer (for so long as the Developer is a Member); and
- (d) The sign is affixed within the area designated by the Owners Corporation for that sign; and
- (e) The sign does not detract from the appearance of the property.

#### 1.3 Each Member must give immediate notice to the Owners Corporation of any damage or defects in pipes, electrical light fittings or other fittings in the common area as soon as the Member becomes aware of such.

#### 1.4 A Member must not use the Common Property for:

- (a) Displaying or storing of any products

- (b) Hanging of any articles of clothing
  - (c) Storage of any other item of property
  - (d) Parking of any vehicles
- 1.5 A Member must not use the common property in such a way that would unreasonably prevent or interfere with the use of it by other Members, Member's agents, employees or occupiers and must not alter, damage, deface or obstruct any part of the Common Property.
- 1.6 The Owners Corporation is not liable or responsible for any damage to a Member's property.
- 1.7 Each Member must promptly advise the Owners Corporation of:
- (a) The private address and telephone number of the Member;
  - (b) The private address and telephone number of the person authorised to make decisions for the Member if the Member is a company;
  - (c) Any change of address and phone number.
- 1.8 Members must keep all garbage and refuse in tightly sealed containers and stored inside the member's lot. Garbage containers can be placed for collection at the times designated by the Owners Corporation and in the location designated by the Owners Corporation but at all other times are not to be kept in the common area.
- 1.9 A Member must not burn any rubbish or waste in the member's lot or the Common Property.
- 1.10 The Owners Corporation may prevent or restrict access to the Common Property from time to time and may take all actions it deems necessary to prohibit undesirable persons from entering the Common Property.
- 1.11 A Member must not conduct or permit to be conducted any sale or auction on a Lot.
- 1.12 A Member must keep that member's Lot clean and in good repair at all times and must not use the Lot for any purpose which may be illegal or injurious to the appearance and amenity of the property or may cause a nuisance or hazard to another member or another Member's agents, employees and Occupiers or in a noisy, noxious immoral or offensive manner which may disturb Occupiers of other Lots.
- 1.13 A Member must not enter the plant and machinery room without the consent of the Owners Corporation

- 1.14 A Member must not make structural alternations to a lot which may affect the support and shelter of any other lot.
- 1.15 A Member must give prompt notice to the Owners Corporation of any accident on the Common Property.
- 1.16 A Member must not reproduce or allow to be reproduced any keys or access devices provided for access to the common area,
- 1.17 A Member must not carry out or allow to be carried out any structural works to the member's lot unless the member:
  - (a) has obtained the prior written approval of the Owners Corporation for those works;
  - (b) uses contractors for the works who are approved in writing by the Owners Corporation;
  - (c) obeys all reasonable directions of the Owners Corporation in relation to the works; and
  - (d) indemnifies the Owners Corporation against all loss and damage caused by the works to the property.
- 1.18 Members must ensure that all works carried out to member's lots comply with all laws.
- 1.19 If a Member is in breach of one or more of these Owners Corporation rules and the Owners Corporation has issued a notice to the Member specifying the breach or breaches and the breach or breaches are not remedied within 14 days of the issue of the notice then the Owners Corporation may do anything reasonably required to remedy the default(s) at the cost and expense of the member.

## 2. POWERS AND OBLIGATIONS

- 2.1 A Member must incorporate these rules (as they are amended from time to time) in any lease, license or other occupancy agreement granted over the Member's Lot.
- 2.2 The Owners Corporation may appoint a person to manage the affairs of the Owners Corporation on any terms and conditions the Owners Corporation considers appropriate.
- 2.3 The Owners Corporation may permit the Manager to do on behalf of the Owners Corporation anything that the Owners Corporation may lawfully permit the Manager to do.



### 3. SPECIAL RULES FOR THE DEVELOPER

- 3.1 Save as provided in this Rule, nothing in these Rules will prevent or hinder the Developer from completing construction of and improvements on and to the Lots and Common Property and without limitation the Developer may at any time or times (and whether in one or more stages):
- (a) create additional Lots and additional Owners Corporation, consolidate Lots and vary the boundaries of Lots and of Common Property;
  - (b) cause to be carried out all and any building, construction and fitting out works on or to the Building, including its external walls, its services, fixtures, fittings and finishes;
  - (c) erect scaffolding and erect or employ lifts and cranes on and near the Common Property and exterior of the Building;
  - (d) construct one or more additional floors, mezzanine levels or other improvements on the Building and, or construct one or more additional buildings;
  - (e) stack or store building materials on any Lot or the Common Property or near the front or rear of the Building; and
  - (f) use in any way it considers necessary any part of the Common Property to facilitate completion of building, construction or fitting out works.
- 3.2 In exercising these special rights, the Developer must:
- (a) first obtain all requisite permits approvals and consents under all relevant laws from all relevant authorities;
  - (b) cause to be effected and maintained during the period of the building works, a contractor's all risk insurance policy;
  - (c) ensure that such works are undertaken strictly in accordance with all permits approvals and consents and all conditions thereof;
  - (d) use reasonable endeavours to avoid unnecessary annoyance, disturbance and inconvenience from building operations to other Proprietors and Occupiers;
  - (e) supply to the Owners Corporation upon request such particulars of the proposed works as the Owners Corporation reasonably requests; and
  - (f) upon completion of the works where practical pass to the Owners Corporation the benefit of all warranties and guarantees in respect of works carried out on or to the Common Property.

- 3.3 Nothing in these Rules will prevent or hinder the Developer from selling any Lot and without limitation the Developer may at any time:
- (a) use any Lot as a display Lot or office to assist in the marketing and sale of other Lots;
  - (b) place anywhere on the Common Property signs and other materials relating to the marketing and sale of Lots;
  - (c) conduct in a Lot or anywhere on the Common Property any inspection or auction sale of a Lot; and
  - (d) use in any way it considers necessary any part of the Common Property for the purposes of selling Lots.
- 3.4 Every Proprietor and Occupier hereby consents to and agrees to the Developer undertaking any or all of the rights of the Developer set out in this Rule without any prevention or hindrance of such Proprietor or Occupier.
- 3.5 The Owners Corporation must do all things reasonably required by the Developer to facilitate efficient and economic completion of construction of and improvements on and to the Lots and Common Property by the Developer and sale by the Developer of Lots and without limitation the Owners Corporation must for those purposes sign all necessary consents to permits required by the Developer and must close off from access by Proprietors and Occupiers parts of the Common Property when it is necessary to do so.

# MODEL RULES FOR AN OWNERS CORPORATION

## **1 Health, safety and security**

### **1.1 Health, safety and security of lot owners, occupiers of lots and others**

A lot owner or occupier must not use the lot, or permit it to be used, so as to cause a hazard to the health, safety and security of an owner, occupier, or user of another lot.

### **1.2 Storage of flammable liquids and other dangerous substances and materials**

- (1) Except with the approval in writing of the owners corporation, an owner or occupier of a lot must not use or store on the lot or on the common property any flammable chemical, liquid or gas or other flammable material.
- (2) This rule does not apply to
  - (a) chemicals, liquids, gases or other material used or intended to be used for domestic purposes; or
  - (b) any chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine.

### **1.3 Waste disposal**

An owner or occupier must ensure that the disposal of garbage or waste does not adversely affect the health, hygiene or comfort of the occupiers or users of other lots.

## **2 Committees and sub-committees**

### **2.1 Functions, powers and reporting of committees and sub-committees**

A committee may appoint members to a sub-committee without reference to the owners corporation.

## **3 Management and administration**

### **3.1 Metering of services and apportionment of costs of services**

- (1) The owners corporation must not seek payment or reimbursement for a cost or charge from a lot owner or occupier that is more than the amount that the supplier would have charged the lot owner or occupier for the same goods or services.
- (2) If a supplier has issued an account to the owners corporation, the owners corporation cannot recover from the lot owner or occupier an amount which includes any amount that is able to be claimed as a concession or rebate by or on behalf of the lot owner or occupier from the relevant supplier.
- (3) Sub rule (2) does not apply if the concession or rebate—
  - (a) must be claimed by the lot owner or occupier and the owners corporation has given the lot owner or occupier an opportunity to claim it and the lot owner or occupier has not done so by the payment date set by the relevant supplier; or
  - (b) is paid directly to the lot owner or occupier as a refund.

## **4 Use of common property**

### **4.1 Use of common property**

- (1) An owner or occupier of a lot must not obstruct the lawful use and enjoyment of the common property by any other person entitled to use the common property.
- (2) An owner or occupier of a lot must not, without the written approval of the owners corporation, use for his or her own purposes as a garden any portion of the common property.
- (3) An approval under sub rule (2) may state a period for which the approval is granted.
- (4) If the owners corporation has resolved that an animal is a danger or is causing a nuisance to the common property, it must give reasonable notice of this resolution to the owner or occupier who is keeping the animal.
- (5) An owner or occupier of a lot who is keeping an animal that is the subject of a notice under subrule (4) must remove that animal.
- (6) Subrules (4) and (5) do not apply to an animal that assists a person with an impairment or disability.

### **4.2 Vehicles and parking on common property**

An owner or occupier of a lot must not, unless in the case of an emergency, park or leave a motor vehicle or other vehicle or permit a motor vehicle or other vehicle—

- (a) to be parked or left in parking spaces situated on common property and allocated for other lots; or
- (b) on the common property so as to obstruct a driveway, pathway, entrance or exit to a lot; or
- (c) in any place other than a parking area situated on common property specified for that purpose by the owners corporation.

### 4.3 Damage to common property

- (1) An owner or occupier of a lot must not damage or alter the common property without the written approval of the owners corporation,
- (2) An owner or occupier of a lot must not damage or alter a structure that forms part of the common property without the written approval of the owners corporation.
- (3) An approval under sub rule (1) or (2) may state a period for which the approval is granted, and may specify the works and conditions to which the approval is subject.
- (4) An owner or person authorised by an owner may install a locking or safety device to protect the lot against intruders, or a screen or barrier to prevent entry of animals or insects, if the device, screen or barrier is soundly built and is consistent with the colour, style and materials of the building.
- (5) The owner or person referred to in sub rule (4) must keep any device, screen or barrier installed in good order and repair.

## 5 Lots

### 5.1 Change of use of lots

An owner or occupier of a lot must give written notification to the owners corporation if the owner or occupier changes the existing use of the lot in a way that will affect the insurance premiums for the owners corporation.

**Example:**

*If the change of use results in a hazardous activity being carried out on the lot, or results in the lot being used for commercial or industrial purposes rather than residential purposes.*

### 5.2 External appearance of lots

- (1) An owner or occupier of a lot must obtain the written approval of the owners corporation before making any changes to the external appearance of their lot.
- (2) An owners corporation cannot unreasonably withhold approval, but may give approval subject to reasonable conditions to protect quiet enjoyment of other lot owners, structural integrity or the value of other lots and/or common property.

### 5.3 Requiring notice to the owners corporation of renovations to lots

An owner or occupier of a lot must notify the owners corporation when undertaking any renovations or other works that may affect the common property and/or other lot owners' or occupiers' enjoyment of the common property.

## 6 Behaviour of persons

### 6.1 Behaviour of owners, occupiers and invitees on common property

An owner or occupier of a lot must take all reasonable steps to ensure that guests of the owner or occupier do not behave in a manner likely to unreasonably interfere with the peaceful enjoyment of any other person entitled to use the common property.

### 6.2 Noise and other nuisance control

- (1) An owner or occupier of a lot, or a guest of an owner or occupier, must not unreasonably create any noise likely to interfere with the peaceful enjoyment of any other person entitled to use the common property.
- (2) Sub rule (1) does not apply to the making of a noise if the owners corporation has given written permission for the noise to be made.

## 7 Dispute resolution

- (1) The grievance procedure set out in this rule applies to disputes involving a lot owner, manager, or an occupier or the owners corporation.
- (2) The party making the complaint must prepare a written statement in the approved form.
- (3) If there is a grievance committee of the owners corporation, it must be notified of the dispute by the complainant.
- (4) If there is no grievance committee, the owners corporation must be notified of any dispute by the complainant, regardless of whether the owners corporation is an immediate party to the dispute.
- (5) The parties to the dispute must meet and discuss the matter in dispute, along with either the grievance committee or the owners corporation, within 14 working days after the dispute comes to the attention of all the parties.
- (6) A party to the dispute may appoint a person to act or appear on his or her behalf at the meeting.
- (7) If the dispute is not resolved, the grievance committee or owners corporation must notify each party of his or her right to take further action under Part 10 of the **Owners Corporations Act 2006**.
- (8) This process is separate from and does not limit any further action under Part 10 of the **Owners Corporations Act 2006**.

### What is an owners corporation?

The lot you are considering buying is part of an owners corporation. Whenever a plan of subdivision creates common property, an owners corporation is responsible for managing the common property. A purchaser of a lot that is part of an owners corporation automatically becomes a member of the owners corporation when the transfer of that lot to the purchaser has been registered with Land Use Victoria.

If you buy into an owners corporation, you will be purchasing not only the individual property, but also ownership of, and the right to use, the common property as set out in the plan of subdivision. This common property may include driveways, stairs, paths, passages, lifts, lobbies, common garden areas and other facilities set up for use by owners and occupiers. In order to identify the boundary between the individual lot you are purchasing (for which the owner is solely responsible) and the common property (for which all members of the owners corporation are responsible), you should closely inspect the plan of subdivision.

### How are decisions made by an owners corporation?

As an owner, you will be required to make financial contributions to the owners corporation, in particular for the repair, maintenance and management of the common property. Decisions as to the management of this common property will be the subject of collective decision making. Decisions as to these financial contributions, which may involve significant expenditure, will be decided by a vote.

### Owners corporation rules

The owners corporation rules may deal with matters such as car parking, noise, pets, the appearance or use of lots, behaviour of owners, occupiers or guests and grievance procedures.

You should look at the owners corporation rules to consider any restrictions imposed by the rules.

### Lot entitlement and lot liability

The plan of subdivision will also show your lot entitlement and lot liability. Lot liability represents the share of owners corporation expenses that each lot owner is required to pay. Lot entitlement is an owner's share of ownership of the common property, which determines voting rights. You should make sure that the allocation of lot liability and entitlement for the lot you are considering buying seems fair and reasonable.

### Further information

If you are interested in finding out more about living in an owners corporation, you can contact Consumer Affairs Victoria. If you require further information about the particular owners corporation you are buying into you can inspect that owners corporation's information register.

### Management of an owners corporation

An owners corporation may be self-managed by the lot owners or professionally managed by an owners corporation manager. If an owners corporation chooses to appoint a professional manager, it must be a manager registered with the Business Licensing Authority (BLA).

**IF YOU ARE UNCERTAIN ABOUT ANY ASPECT OF THE OWNERS CORPORATION OR THE DOCUMENTS YOU HAVE RECEIVED FROM THE OWNERS CORPORATION, YOU SHOULD SEEK EXPERT ADVICE.**

## ROADS PROPERTY CERTIFICATE

The search results are as follows:

Mukushi Legal C/- InfoTrack (ActionStep)  
135 King Street  
SYDNEY 2000  
AUSTRALIA

Client Reference: 354606

NO PROPOSALS. As at the 16th March 2023, VicRoads has no approved proposals requiring any part of the property described in your application. You are advised to check your local Council planning scheme regarding land use zoning of the property and surrounding area.

This certificate was prepared solely on the basis of the Applicant-supplied address described below, and electronically delivered by LANDATA®.

UNIT 206, LEVEL 2 7 JEFFCOTT STREET, WEST MELBOURNE 3003  
CITY OF MELBOURNE

This certificate is issued in respect of a property identified above. VicRoads expressly disclaim liability for any loss or damage incurred by any person as a result of the Applicant incorrectly identifying the property concerned.

Date of issue: 16th March 2023

Telephone enquiries regarding content of certificate: 13 11 71

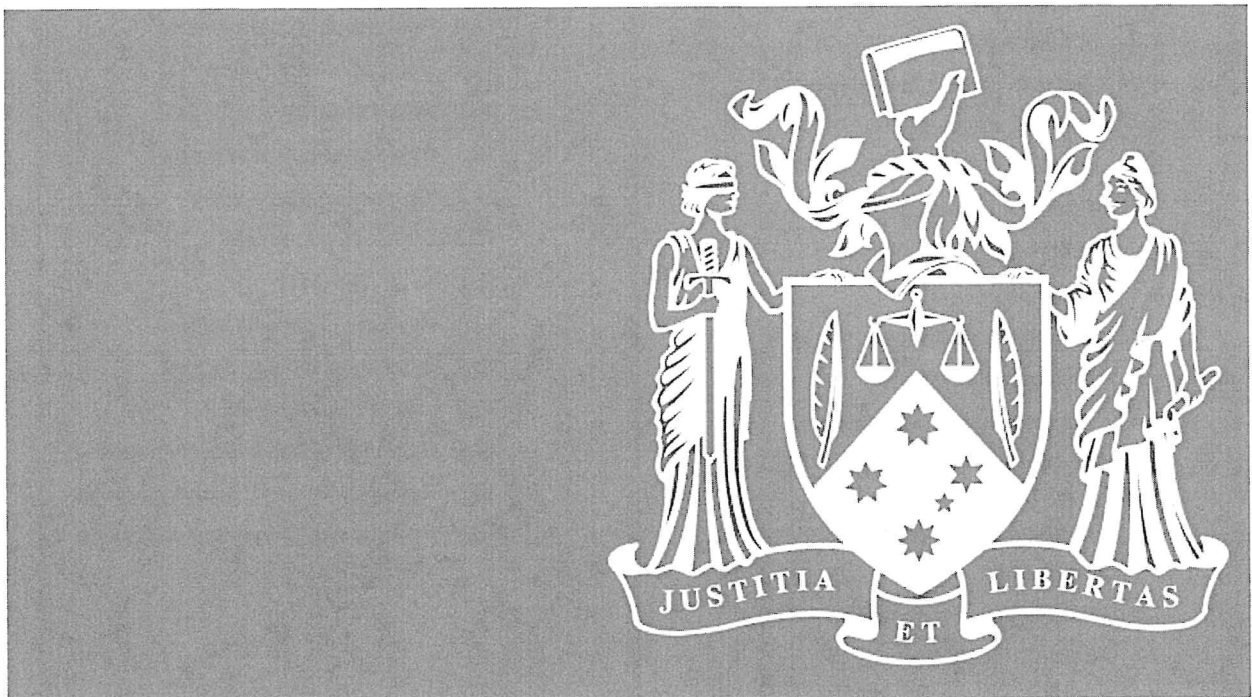
**[Vicroads Certificate] # 68238564 - 68238564091016 '354606'**

# Lease of Real Estate

## with Guarantee & Indemnity (Commercial Property)

Unit 206, Level 2, 7 Jeffcott Street West Melbourne VIC 3003

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# Contents

1. **DEFINITIONS AND INTERPRETATION**
2. **TENANT'S PAYMENT, USE AND INSURANCE OBLIGATIONS**
  - 2.1 Payment and use obligations
  - 2.2 Negative use obligations
  - 2.3 Tenant's insurance
3. **REPAIRS, MAINTENANCE, FIRE PREVENTION AND REQUIREMENTS OF AUTHORITIES**
  - 3.1 Tenant's general repair obligations
  - 3.2 Tenant's specific repair obligations
  - 3.3 Exceptions to tenant's obligations
4. **LEASE TRANSFERS, SUBLETTING ETC**
  - 4.1 No transfer or subletting
  - 4.2 Landlord's consent
  - 4.3 Request for consent
  - 4.4 Deemed consent
  - 4.5 Execution of document
  - 4.6 Payment of landlord's expenses
  - 4.7 No licence or sharing arrangements
  - 4.8 Obligations of transferor after transfer
5. **GENERAL AGREEMENTS BETWEEN LANDLORD AND TENANT**
  - 5.1 Yield up when lease ends
  - 5.2 Abandoned Items
  - 5.3 Release and indemnity by tenant
  - 5.4 Building outgoing
  - 5.5 Transfer of premises by landlord
  - 5.6 Payment of cheque
6. **LANDLORD'S OBLIGATIONS**
  - 6.1 Quiet possession
  - 6.2 Landlord's insurance
  - 6.3 Mortgagee's consent
  - 6.4 Landlord's repair obligations
7. **EVENTS OF DEFAULT AND LANDLORD'S RIGHTS**
  - 7.1 Termination by landlord for default
  - 7.2 Damages
  - 7.3 Section 146 *Property Law Act 1958*
  - 7.4 Essential terms
  - 7.5 Notice before termination for repudiation or event to which section 146 does not apply
  - 7.6 Effect of non-enforcement
  - 7.7 Waiver
8. **DESTRUCTION OR DAMAGE**
  - 8.1 Abatement in case of damage
  - 8.2 Reinstatement where premises not substantially destroyed
  - 8.3 Substantial destruction
  - 8.4 Insurance cover denied due to tenant act or omission
  - 8.5 Resolution of disputes
9. **CONSENTS AND WARRANTIES**
  - 9.1 Consents and approvals
  - 9.2 Whole agreement
10. **OVERHOLDING AND ABANDONMENT OF THE PREMISES**
  - 10.1 Holding over
  - 10.2 Certain conduct not waiver
11. **RENT REVIEWS TO MARKET**
  - 11.1 Market review procedure
  - 11.2 Determination binding
  - 11.3 Valuer's fee
  - 11.4 Rent pending determination
  - 11.5 Delay in market review
12. **FURTHER TERM(S)**
  - 12.1 Exercise of option to renew
  - 12.2 Terms of renewed lease
  - 12.3 Director's guarantees
13. **SECURITY DEPOSIT**
  - 13.1 Payment of security deposit
  - 13.2 Interest on security deposit
  - 13.3 Use of security deposit
  - 13.4 Refund of unused security deposit
  - 13.5 Bank guarantee as security deposit
  - 13.6 Replacement guarantee on change of landlord



# Contents

## 14. NOTICES

- 14.1 Service of notices
- 14.2 Time notices served
- 14.3 Notices by email

## 15. OBLIGATIONS OF GUARANTOR(S) UNDER GUARANTEE AND INDEMNITY

- 15.1 Guarantee and indemnity
- 15.2 Guarantee and indemnity not affected by certain events
- 15.3 Insolvency of tenant
- 15.4 Unenforceability of tenant's obligations
- 15.5 Multiple guarantors
- 15.6 Deemed breaches of lease

## 16. GST

- 16.1 Terms used
- 16.2 Amounts GST exclusive
- 16.3 Recipient of supply to pay amount for GST
- 16.4 Reimbursements
- 16.5 Tax Invoice

## 17. CONSUMER PRICE INDEX

- 17.1 CPI formula
- 17.2 Delay in publications of index
- 17.3 Change in CPI basis
- 17.4 CPI discontinued
- 17.5 No decrease unless Act applies

## 18. IF PREMISES ONLY PART OF THE LETTABLE AREA OF THE BUILDING

- 18.1 Application of clause
- 18.2 Naming rights and logos
- 18.3 External surfaces and outside areas
- 18.4 Landlord reserves certain rights
- 18.5 No obstruction of common areas
- 18.6 Building rules

## 19. PERSONAL PROPERTY SECURITIES ACT

- 19.1 Interpretation
- 19.2 Landlord may register financing statement
- 19.3 When lease ends
- 19.4 Tenant to co-operate
- 19.5 Tenant not to register
- 19.6 Tenant to pay landlord's expenses
- 19.7 Confidentiality
- 19.8 Service of PPSA notices

## 20. ADDITIONAL PROVISIONS

## 21. ELECTRONIC SIGNATURE

- 21.1 Consent
- 21.2 Signatory's warranty
- 21.3 Counterparts
- 21.4 Electronic exchange
- 21.5 Physical counterparts

## 22. LANDLORD WARRANTY

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You should note the warranty in clause 22 and record any alterations to the lease conditions in schedule item 17 and **not** in the lease conditions. If the lease is one to which the *Retail Leases Act 2003* (Vic) applies, the parties should refer to that Act for important rights and obligations that are not set out in this lease.

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The **landlord** leases the **premises** to the **tenant** for the **term** and at the **rent** and on the conditions set out in this lease together with all necessary access over any **common areas**.

The parties, including the **guarantor**, if any, agree to be bound by and promptly perform their respective obligations set out in this lease.

# Lease Conditions

## 1. DEFINITIONS AND INTERPRETATION

1.1 The listed expressions in **bold print** have the meaning set out opposite them -

EXPRESSION	MEANING
<b>accounting period</b>	the period of 12 months ending 30 June or other period of 12 months adopted by the <b>landlord</b> in respect of this lease for recovery of <b>building outgoings</b> and includes any broken periods at the start and end of the <b>term</b>
<b>Act</b>	the <i>Retail Leases Act 2003</i> (Vic)
<b>Building</b>	any building comprising the <b>premises</b> or in which the <b>premises</b> are located, including the <b>landlord's installations</b>
<b>Building outgoings</b>	<p>any of the following expenses (excluding capital expenses and expenses whose recovery from the <b>tenant</b> would be contrary to applicable legislation) incurred in respect of the <b>land</b>, the <b>building</b>, the <b>premises</b> or any <b>premises</b> in the <b>building</b> which include the <b>premises</b> -</p> <p>(a) rates, levies and assessments imposed by any relevant authorities;</p> <p>(b) taxes including land tax (unless the <b>Act</b> applies), calculated on the basis that the <b>land</b> is the only land of the <b>landlord</b> liable to tax and is not subject to a trust but excluding income tax and capital gains tax;</p> <p>(c) the costs of maintaining and repairing the <b>building</b> and the <b>landlord's installations</b> and carrying out works as required by relevant authorities (but excluding any amount recovered in respect of maintenance or repair by the <b>landlord</b> from its insurer);</p> <p>(d) premiums and charges for the following insurance policies taken out by the <b>landlord</b> -</p> <p>(i) damage to and destruction of the <b>premises</b> for their replacement value for the risks listed in <b>item 11</b>,</p> <p>(ii) removal of debris,</p> <p>(iii) breakdown of <b>landlord's installations</b>,</p> <p>(iv) breakage of glass,</p> <p>(v) public risk for any single event for \$20 million or other amount reasonably specified from time to time by the <b>landlord</b>, and</p> <p>(vi) loss of rent and outgoings for 18 months,</p> <p>and excesses paid or payable on claims,</p> <p>(e) costs incurred in providing services to the land, the <b>building or the premises</b> including -</p> <p>(i) heating,</p> <p>(ii) cooling,</p> <p>(iii) air-conditioning,</p> <p>(iv) cleaning,</p> <p>(v) pest control,</p> <p>(vi) waste collection,</p> <p>(vii) lighting,</p> <p>(viii) landscaping and garden maintenance,</p> <p>(ix) security, and</p> <p>(x) fire safety prevention, detection and control;</p> <p>(f) costs of repairs or maintenance work in respect of an <b>essential safety measure</b>; and</p> <p>(g) if the <b>premises</b> comprise only a part of the lettable area of the <b>building</b>, costs of whatever description, reasonably incurred by the <b>landlord</b> in the administration, management or operation of the <b>land</b>, the <b>building</b> and the <b>premises including accountancy and audit fees</b>,</p> <p>whether incurred by the <b>landlord</b> directly or as owners corporation levies, at cost to the <b>landlord</b> on the basis that an expense is deemed to have been paid at the time it fell due for payment</p>

<b>building rules</b>	any rules adopted from time to time for the <b>building</b> , including the rules of an owners corporation affecting the <b>premises</b>
<b>common areas</b>	areas in the <b>building</b> or on the <b>land</b> that are under the control of the <b>landlord</b> or an owners corporation and are used or intended for use - (a) by the public; or (b) in common by the landlord or tenants of <b>premises</b> in the <b>building</b> in relation to the carrying on of businesses on those <b>premises</b> , other than areas which are let or licensed, or intended to be let or licensed, other than on a casual basis
<b>Consumer Price Index</b>	the consumer price index published by the Australian Government Statistician under the heading All Groups, Melbourne
<b>CPI review date</b>	a date specified in <b>item 13 (b)</b>
<b>electronic signature</b>	a visual representation of a person's handwritten signature or mark which is placed on a physical or electronic copy of this lease (or a notice given under this lease) by electronic or mechanical means, and "electronically signed" has a corresponding meaning
<b>essential safety measure</b>	has the same meaning as in the <i>Building Regulations 2018</i> or any subsequent corresponding regulations
<b>fixed review date</b>	a date specified in <b>item 13 (c)</b>
<b>GST</b>	GST within the meaning of the <b>GST Act</b>
<b>GST Act</b>	<i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth)
<b>guarantor</b>	the person named in <b>item 3</b>
<b>item</b>	an item in the schedule to this lease
<b>land</b>	the parcel of land comprising the <b>premises</b> or on which the <b>building</b> is erected and which is described in <b>item 4(b)</b>
<b>landlord</b>	the person named in <b>item 1</b> , or any other person who will be entitled to possession of the <b>premises</b> when this lease ends
<b>landlord's installations</b>	any property other than the land of the <b>landlord</b> , in the <b>premises</b> or on the <b>land</b> and includes the property listed in <b>item 5</b>
<b>lettable area</b>	unless the <b>Act</b> applies and requires otherwise - (a) in relation to the <b>premises</b> , the area let; and (b) in relation to the <b>building</b> , the total area of the <b>building</b> that is used by the landlord or let or licensed or intended to be and capable of being let or licensed, other than on a casual basis.  When it is necessary to measure the <b>lettable area</b> of the <b>building</b> or any part of the <b>building</b> , the measurement is to be carried out using the most recent revision of the relevant Property Council of Australia method of measurement
<b>market review date</b>	a date specified in <b>item 13(a)</b>
<b>permitted use</b>	the use specified in <b>item 12</b>
<b>PPSA</b>	the <i>Personal Property Securities Act 2009</i> (Cth)
<b>premises</b>	the <b>premises</b> described in <b>item 4(a)</b> and fixed improvements and the <b>landlord's installations</b> within the <b>premises</b> but excluding the tenant's installations
<b>rent</b>	the amount in <b>item 6</b> , as varied in accordance with this lease
<b>review date</b>	a date specified in <b>item 13</b>
<b>start of the lease</b>	the earlier of- (a) the first day of the <b>term</b> ; and (b) the date upon which the <b>tenant</b> or any previous tenant took occupation of the <b>premises</b> under this lease or pursuant to an earlier lease or licence (whether or not on terms that are materially different from those in this lease) which together with this lease created an unbroken right to occupation of the <b>premises</b>
<b>tenant</b>	the person named in <b>item 2</b> , or any person to whom the lease has been transferred
<b>tenant's agents</b>	the <b>tenant's</b> employees, agents, contractors, customers and visitors to the <b>premises</b>
<b>tenant's installations</b>	the items of equipment and fittings listed in <b>item 7</b> and those introduced by the <b>tenant</b> after the lease starts
<b>term</b>	the period stated in <b>item 8</b>
<b>valuer</b>	a person holding the qualifications or experience specified under section 13DA(2) of the <i>Valuation of Land Act 1960</i> (Vic) and, if the <b>Act</b> applies, a specialist retail valuer.

- 1.2 References to laws include statutes, regulations, instruments and by-laws and all other subordinate legislation or orders made by any authority with jurisdiction over the **premises**. Illegal means contrary to a law as defined in this sub-clause.
- 1.3 This lease must be interpreted so that it complies with all laws applicable in Victoria. If any provision of this lease does not comply with any law, then the provision must be read down so as to give it as much effect as possible. If it is not possible to give the provision any effect at all, then it must be severed from the rest of the lease.
- 1.4 The law of Victoria applies to this lease.
- 1.5 Any change to this lease must be in writing and signed by the parties.
- 1.6 If a party consists of more than one person –
- (a) the acts and omissions of any of them bind all of them; and
  - (b) an obligation imposed by this lease on or in favour of more than one person binds or benefits them separately, together and in any combination.
- 1.7 The use of one gender includes the others and the singular includes the plural and vice versa.
- 1.8 If the **landlord**, **tenant** or **guarantor** is an individual, this lease binds that person's legal personal representative. If any of them is a corporation, this lease binds its transferees.
- 1.9 This lease, including all guarantees and indemnities, is delivered and operates as a deed.
- 1.10 The **tenant** is bound by and answerable for the acts and omissions of the **tenant's agents**.
- 1.11 If there is a conflict between a provision in the schedule and one of these lease conditions then the provision in the schedule is to prevail.
- 1.12 "Include" and every form of that word is to be read as if followed by "(without limitation)".
- 1.13 This lease includes the schedule.
- 1.14 Unless the context otherwise requires, words to the effect of, a party "must" (or "must not") do a specified act or thing, create an obligation and undertaking by that party, a breach of which will constitute a default.
- 2. TENANT'S PAYMENT, USE AND INSURANCE OBLIGATIONS**
- 2.1 The **tenant** must –
- 2.1.1 pay the **rent** without any set-off (legal or equitable) or deduction whatever to the **landlord** on the days and in the way stated in **item 9** without the need for a formal demand. The **landlord** may direct in writing that the **rent** be paid to another person. The **rent** is reviewed on each **review date** specified in **item 13**–
    - (a) on a **market review date**, the **rent** is reviewed in accordance with clause 11,
    - (b) on a **CPI review date**, the **rent** is reviewed in accordance with clause 17, and
    - (c) on a **fixed review date**, the **rent** is either increased by the fixed percentage or changed by or to the fixed amount, in either case as specified in **item 13** in respect of that **fixed review date**.
  - 2.1.2 produce receipts for paid **building outgoings** within 7 days of a request.
  - 2.1.3 pay when due all charges for the provision of services to the **premises** including gas, electricity, water, internet and telephone.
  - 2.1.4 remove regularly from the **premises** all rubbish and waste generated by the **tenant's** operations.
  - 2.1.5 pay the proportion of the **building outgoings** specified in **item 10** in accordance with clause 5.4.
  - 2.1.6 pay or reimburse the **landlord** within 7 days of a request all increases in insurance premiums paid or payable by the **landlord** as the result of the **tenant's** use of the **premises**.
  - 2.1.7 pay within 7 days of a request interest at the rate that is 2% more than the rate from time to time fixed by the *Penalty Interest Rates Act 1983* (Vic.) on any **rent** or other money which the **tenant** has not paid within 7 days of the due date. Interest is to be calculated daily from the due date, continues until the overdue money is paid and is capitalised monthly.
  - 2.1.8 pay within 7 days of a request the **landlord's** reasonable expenses and legal costs in respect of –
    - (a) the negotiation, preparation, settling, execution and stamping (if applicable) of this lease,
    - (b) change to this lease requested by the **tenant** whether or not the change occurs,
    - (c) the surrender or ending of this lease (other than by expiration of the **term**) requested by the **tenant**, whether or not the lease is surrendered or ended,
    - (d) the transfer of this lease or subletting of the **premises** or proposed transfer or sub-letting whether or not the transfer or subletting occurs,

- (e) a request by the **tenant** for consent or approval, whether or not consent or approval is given,
  - (f) any breach of this lease by the **tenant**, or
  - (g) the exercise or attempted exercise by the **landlord** of any right or remedy against the **tenant**,
- but, if the **Act** applies, only to the extent to which the **Act** permits recovery.
- 2.1.9 pay any stamp duty on this lease, on any renewal, and any additional stamp duty after a review of **rent**.
  - 2.1.10 subject to clauses 3.3.2 and 3.3.3, comply with all laws relating to the use or occupation of the **premises** including those relating to **essential safety measures**, occupational health and safety and disability discrimination .
  - 2.1.11 carry on the business of the **permitted use** efficiently and, subject to all applicable laws, keep the **premises** open during the business hours which are normal for the **permitted use** and not suspend or discontinue the operation of the business.
  - 2.1.12 comply with the **landlord's** reasonable requirements in relation to the use of the **landlord's installations** and any services provided by the **landlord**.
- 2.2 The **tenant** must not, and must not let anyone else -
- 2.2.1 use the **premises** except for the **permitted use**, but the **tenant** agrees that the **landlord** has not represented that the **premises** may be used for that use according to law or that the **premises** are suitable for that use.
  - 2.2.2 use the **premises** for any illegal purpose.
  - 2.2.3 carry on any noxious or offensive activity on the **premises**.
  - 2.2.4 do anything which might cause nuisance, damage or disturbance to a tenant, occupier or owner of any adjacent property.
  - 2.2.5 conduct an auction or public meeting on the **premises**.
  - 2.2.6 use radio, television or other sound-producing equipment at a volume that can be heard outside the **premises**.
  - 2.2.7 do anything which might affect any insurance policy relating to the **premises** by causing -
    - (a) it to become void or voidable,
    - (b) any claim on it to be rejected, or
    - (c) a premium to be increased.
  - 2.2.8 keep or use chemicals, inflammable fluids, acids, or other hazardous things on the **premises** except to the extent necessary for the **permitted use**, or create fire hazards.
  - 2.2.9 do anything which might prejudicially affect the essential safety measures or the occupational health and safety or disability discrimination status of the **premises** or the **building**.
  - 2.2.10 place any sign on the exterior of the **premises** without the **landlord's** written consent.
  - 2.2.11 make any alteration or addition, or affix any object, to the **premises** except with the **landlord's** written consent; consent is at the **landlord's** discretion for any alteration, addition or affixation affecting the structure of the **building** or any of the infrastructure for the provision of services to the **building** but, otherwise, clause 9.1 applies. In undertaking any work for which the **landlord's** consent has been obtained, the **tenant** must strictly conform to plans approved by the **landlord** and comply with all reasonable conditions imposed on that consent by the **landlord** and the requirements of each authority with jurisdiction over the **premises**.
  - 2.2.12 bring onto the **premises** any object which, due to its nature, weight, size or operation, might cause damage to the **premises**, the **building**, or the effective operation of the infrastructure for the provision of services to the **premises** or the **building** without the **landlord's** written consent.
  - 2.2.13 except in an emergency, interfere with any infrastructure for the provision of services in the **premises**, the **building**, or in any property of which the **premises** are part.
- 2.3 The **tenant** must -
- 2.3.1 take out and keep current an insurance cover for the **premises** in the name of the **tenant** and noting the interest of the **landlord**, for public risk for any single event \$ 20 million, with an extension which includes the indemnities given by the **tenant** to the **landlord** in clauses 5.3.2 and 5.3.3 of this lease to the extent that such an extension is procurable on reasonable terms in the Australian insurance market.
  - 2.3.2 maintain the insurance cover with an insurer approved by the **landlord**.
  - 2.3.3 produce satisfactory evidence of insurance cover on written request by the **landlord**.

### 3 REPAIRS, MAINTENANCE, FIRE PREVENTION AND REQUIREMENTS OF AUTHORITIES

- 3.1 Subject to clause 3.3, the **tenant** must -
- 3.1.1 keep the **premises** in the same condition as at the **start of the lease**, except for fair wear and tear; and
- 3.1.2 comply with all notices and orders affecting the **premises** which are issued during the **term** except any notices or orders that applicable legislation makes the responsibility of the **landlord**.
- 3.2 In addition to its obligations under clause 3.1, the **tenant** must -
- 3.2.1 repaint or refinish all painted or finished surfaces in a workmanlike manner with as good quality materials as previously at least once every 5 years during the **term** and any further or earlier term viewed as one continuous period.
- 3.2.2 keep the **premises** properly cleaned and free from rubbish, keep waste in proper containers and have it removed regularly.
- 3.2.3 immediately replace glass which becomes cracked or broken with glass of the same thickness and quality.
- 3.2.4 immediately repair defective windows, light fittings, doors, locks and fastenings, and replace missing or inoperative light-globes and fluorescent tubes, keys and keycards.
- 3.2.5 maintain in working order all plumbing, drainage, gas, electric, solar and sewerage installations.
- 3.2.6 promptly give written notice to the **landlord** or **landlord's** agent of -
- (a) damage to the **premises** or of any defect in the structure of, or any of the infrastructure for the provision of services to, the **premises**,
  - (b) receipt of a notice or order affecting the **premises**,
  - (c) any hazards threatening or affecting the **premises**, and
  - (d) any hazards arising from the **premises** for which the **landlord** might be liable.
- 3.2.7 immediately make good damage caused to adjacent property by the **tenant** or the **tenant's** **agents**.
- 3.2.8 permit the **landlord**, its agents or workmen to enter the **premises** during normal business hours, after giving reasonable notice (except in cases of emergency) -
- (a) to inspect the **premises**,
  - (b) to carry out repairs or agreed alterations, and
  - (c) to do anything necessary to comply with notices or orders of any relevant authority, bringing any necessary materials and equipment.
- 3.2.9 carry out repairs within 14 days of being served with a written notice of any defect or lack of repair which the **tenant** is obliged to make good under this lease. If the **tenant** does not comply with the notice, the **landlord** may carry out the repairs and the **tenant** must repay the cost to the **landlord** within 7 days of a request.
- 3.2.10 only use persons approved by the **landlord** to repair and maintain the **premises** but, if the **Act** applies, only use persons who are suitably qualified.
- 3.2.11 comply with all reasonable directions of the **landlord** or the insurer of the **premises** as to the prevention, detection and control of fire including, if the **Act** applies, to engage at its own cost suitably qualified consultants to maintain and repair essential safety equipment and installations and if requested, to provide annual inspection reports to the **landlord**.
- 3.2.12 on vacating the **premises**, remove all signs and make good any damage caused by installation or removal.
- 3.2.13 take reasonable precautions to secure the **premises** and their contents from theft, keep all doors and windows locked when the **premises** are not in use and comply with the **landlord's** reasonable directions for the use and return of keys or keycards.
- 3.2.14 permit the **landlord** or its agent access to the **premises** at reasonable times by appointment to show the **premises** -
- (a) to valuers and to the **landlord's** consultants,
  - (b) to prospective purchasers at any time during the **term**, and
  - (c) to prospective tenants within 3 months before the end of the **term** (unless the **tenant** has exercised an option to renew this lease)
- and to affix "for sale" or "to let" signs in a way that does not unduly interfere with the **permitted use**.



- 3.2.15 maintain any grounds and gardens of the **premises** in good condition, tidy, free from weeds and well-watered.
- 3.2.16 maintain and keep in good repair any heating, cooling or air conditioning equipment exclusively serving the premises.

3.3 The **tenant** is not obliged -

- 3.3.1 to repair damage against which the **landlord** must insure under clause 6.2 or to reimburse the **landlord** for items of expense or damage that would be covered under insurance of the type specified unless the **landlord** loses or, where the **landlord** has failed to insure as required, would have lost, the benefit of the insurance because of acts or omissions by the **tenant** or the **tenant's agents**.
- 3.3.2 to carry out structural or capital repairs or alterations or make payments of a capital nature unless the need for them results from -
  - (a) negligence by the **tenant** or the **tenant's agents**,
  - (b) failure by the **tenant** to perform its obligations under this lease,
  - (c) the **tenant's** use of the **premises**, other than reasonable use for the **permitted use**, or
  - (d) the nature, location or use of the **tenant's installations**,
 in which case the repairs, alterations or payments are the responsibility of the **tenant**.
- 3.3.3 to carry out any work that applicable legislation makes the responsibility of the **landlord**.

#### 4. LEASE TRANSFERS, SUBLETTING ETC

- 4.1 The **tenant** must not transfer this lease or sublet or licence the **premises** without the **landlord's** written consent, and section 144 of the *Property Law Act 1958 (Vic)* and clause 9.1 do not apply.
- 4.2 The **landlord** -
  - 4.2.1 subject to sub-clause 4.2.2, must not unreasonably withhold consent to a transfer of this lease or a sublease or licence of the **premises** if the **tenant** has complied with the requirements of clause 4.3 and the proposed transferee, subtenant or licensee proposes to use the **premises** in a way permitted under this lease. If the **Act** applies, the **landlord** may only withhold consent to a transfer of this lease in accordance with the **Act**.
  - 4.2.2 may withhold consent at the **landlord's** discretion if the **Act** does not apply, and a transfer of this lease would result in the **Act** applying, or applying if this lease is renewed for a further term.
- 4.3 To obtain the **landlord's** consent to a transfer, sublease or licence the **tenant** must -
  - 4.3.1 ask the **landlord** in writing to consent to the transfer, sublease or licence,
  - 4.3.2 give the **landlord** -
    - (a) in relation to each proposed new tenant, sub-tenant or licensee such information as the **landlord** reasonably requires about its financial resources and business experience and if the **Act** does not apply, any additional information reasonably required by the **landlord** to enable it to make a decision, and
    - (b) a copy of the proposed document of transfer, sublease or licence, and
  - 4.3.3 remedy any breach of the lease which has not been remedied and of which the **tenant** has been given written notice.
- 4.4 If the **Act** applies and -
  - 4.4.1 the **tenant** has asked the **landlord** to consent to a transfer and complied with clause 4.3 and section 61 of the **Act**, and
  - 4.4.2 the **landlord** fails to respond by giving or withholding consent to the transfer within 28 days, then the **landlord** is to be taken as having consented.
- 4.5 If the **landlord** consents to the transfer, sublease or licence, the **landlord**, the **tenant**, the new tenant, sub-tenant or licensee, and the **guarantor** must execute the documents submitted under sub-clause 4.3.2(b). The directors of the new tenant, sub-lessee or licensee (if it is a corporation) must execute a guarantee and indemnity in the terms of clause 15.
- 4.6 The **tenant** must pay the **landlord's** reasonable expenses incurred in connection with an application for consent or the granting of consent and the completion of the documents, as well as any stamp duty on the documents.

- 4.7 Except by a transfer, sublease or licence to which the **landlord** has consented, or is to be taken as having consented, the **tenant** must not give up possession of or share occupancy of the **premises** to or with anyone else or mortgage or charge its interest under this lease or enter into any arrangement that gives a person the right to enter into occupation of the **premises**, without the **landlord's** written consent; consent is at the **landlord's** discretion.
- 4.8 Subject to the **Act**, if it applies, the obligations to the **landlord** of every **tenant** who has transferred this lease continue until this lease ends. They do not continue into any period of overholding after this lease ends, nor into any renewed term: at those times they are the responsibility only of the **tenant** in possession. This clause does not prevent the **landlord** from enforcing rights which arise before this lease ends.

## 5. GENERAL AGREEMENTS BETWEEN LANDLORD AND TENANT

- 5.1 When this lease ends, the **tenant** must -
- 5.1.1 return the **premises** to the **landlord** clean and in the condition required by this lease, and
- 5.1.2 remove the **tenant's installations** and other **tenant's** property from the **premises** and make good any damage caused in installing or removing them.
- 5.2 After this lease ends -
- 5.2.1 all **tenant's installations** and other **tenant's** property on the **premises** may be removed by the **landlord** and the **landlord** may recover the costs of removal and making good as a liquidated debt payable on demand.
- 5.2.2 all **tenant's installations** and **tenant's** property on the premises will be considered abandoned and will become the property of the **landlord**, either at the end of the term or if this lease ends before the term expires, 14 days after this lease ends.
- 5.2.3 The parties acknowledge that this clause 5.2 is an agreement about the disposal of uncollected goods for the purposes of section 56(6) of the *Australian Consumer Law and Fair Trading Act 2012* (Vic) and to the extent permitted by law will operate in relation to **tenant's installations** and **tenant's** property in place of any legislation that might otherwise apply to goods remaining on the **premises**.
- 5.3 The **tenant** -
- 5.3.1 uses and occupies the **premises** at its own risk,
- 5.3.2 releases the **landlord** from and indemnifies the **landlord** against all claims resulting from incidents occurring on the **premises** (except to the extent caused or contributed to by the **landlord**, or a person for whom the **landlord** is responsible) or resulting from damage to adjacent premises covered by clause 3.2.7, and
- 5.3.3 indemnifies the **landlord** against any claim resulting from any act or failure to act by the **tenant** or the **tenant's agents** while using the **premises**
- 5.4 In relation to **building outgoings** -
- 5.4.1 the **landlord** must pay the **building outgoings** when they fall due for payment but, if the **landlord** requires, the **tenant** must pay when due a **building outgoing** for which the **tenant** receives notice directly and reimburse the **landlord** within 7 days of a request all **building outgoings** for which notices are received by the **landlord**.
- 5.4.2 the **tenant** must pay or reimburse the **landlord** the proportion specified in item 10.
- 5.4.3 at least 1 month before the start of an **accounting period**, the **landlord** may, or if the **Act** applies must, give the **tenant** an estimate of **building outgoings** for the **accounting period**.
- 5.4.4 despite clause 5.4.1, if the **landlord** requires, the **tenant**, must pay its share of the estimated **building outgoings** by equal monthly instalments during the **accounting period** on the days on which **rent** is payable (after allowing for **building outgoings** paid directly or separately reimbursed by the **tenant**).
- 5.4.5 if the **Act** applies, the **landlord** must make a statement of **building outgoings** available during each **accounting period** as required by the **Act**.
- 5.4.6 within three months after the end of an **accounting period**, the **landlord** must give the **tenant** a statement of the actual **building outgoings** for the **accounting period** (if the **Act** applies and requires that the statement be accompanied by a report by a registered company auditor, the statement must be accompanied by a report complying with section 47(5); if the **Act** applies but does not require that the statement be accompanied by a report by a registered company auditor, the statement must be accompanied by the items specified in section 47(6)(b)).
- 5.4.7 the **tenant** must pay any deficiency or the **landlord** must credit or repay any excess, within 1 month after a statement is provided under clause 5.4.6 or within 4 months after the end of the **accounting period**, whichever is earlier.
- 5.4.8 the parties must make an appropriate adjustment for any **building outgoing** incurred in respect of a period beginning before the start of the **term** or continuing after this lease ends.



- 5.5 If the freehold of the **premises** (or the **building**) is transferred, the transferor **landlord** is released from all lease obligations falling due for performance on or after the date of the instrument of transfer.
- 5.6 Payment or tender by cheque is not effective until clearance of funds.

## 6. LANDLORD'S OBLIGATIONS

- 6.1 The **landlord** must give the **tenant** quiet possession of the **premises** without any interruption by the **landlord** or anyone connected with the **landlord** as long as the **tenant** does what it must under this lease.
- 6.2 The **landlord** must take out at the start of the **term** and keep current policies of insurance for the risks listed in **item 11** against -
- 6.2.1 damage to and destruction of the **building**, for its replacement value,
- 6.2.2 removal of debris,
- 6.2.3 breakdown of **plant and equipment at the premises**, and
- 6.2.4 breakage of glass, for its replacement value.
- 6.3 The **landlord** must if requested, give to the **tenant** the written consent to this lease of each mortgagee whose interest would otherwise have priority over this lease.
- 6.4 The **landlord** must keep the structure (including the external faces and roof) of the **building** and the **landlord's installations** in a condition consistent with their condition at the **start of the lease**, but is not responsible for repairs which are the responsibility of the **tenant** under clauses 3.1, 3.2 and 3.3.2.

## 7. EVENTS OF DEFAULT AND LANDLORD'S RIGHTS

- 7.1 The **landlord** may terminate this lease, by re-entry or notice of termination, if -
- 7.1.1 subject to clause 7.5, the **rent** is unpaid after the day on which it falls due for payment,
- 7.1.2 the **tenant** does not meet its obligations under this lease,
- 7.1.3 the **tenant** is a corporation and -
- (a) an order is made or a resolution is passed to wind it up except for reconstruction or amalgamation,
- (b) goes into liquidation,
- (c) is placed under official management,
- (d) has a receiver, including a provisional receiver, or receiver and manager of any of its assets or an administrator appointed,
- (e) without the **landlord's** written consent, there is a different person in control of the **tenant** as a result of changes in -
- (i) the directors of the company
- (ii) membership of the company or its holding company,
- (iii) beneficial ownership of the shares in the company or its holding company, or
- (iv) beneficial ownership of the business or assets of the company,
- but this paragraph does not apply if the **tenant** is a public company listed on a recognised Australian public securities exchange, or a subsidiary of one, nor does it apply if the change results from the death or incapacity of an individual director or shareholder.
- "control" has the meaning set out at s.50AA of the *Corporations Act 2001*,
- 7.1.4 a warrant issued by a court to satisfy a judgement against the **tenant** or a **guarantor** is not satisfied within 30 days of being issued,
- 7.1.5 a **guarantor** is a natural person and -
- (a) becomes bankrupt,
- (b) takes or tries to take advantage of Part X of the *Bankruptcy Act 1966* (Cth),
- (c) makes an assignment for the benefit of their creditors, or
- (d) enters into a composition or arrangement with their creditors,
- 7.1.6 a **guarantor** is a corporation and one of the events specified in (a) to (e) of clause 7.1.3 occurs in relation to it, or
- 7.1.7 the **tenant**, without the **landlord's** written consent -
- (a) discontinues its business on the **premises**, or
- (b) leaves the **premises** unoccupied for 14 days.
- 7.2 Termination by the **landlord** ends this lease, but the **landlord** retains the right to sue the **tenant** for unpaid money or for damages (including damages for the loss of the benefits that the **landlord** would have received if the lease had continued for the full **term**) for breaches of its obligations under this lease.
- 7.3 For the purpose of section 146(1) of the *Property Law Act 1958* (Vic), 14 days is fixed as the period within which the **tenant** must remedy a breach capable of remedy and pay reasonable compensation for the breach.

- 7.4 Breach by the **tenant** of any of the following clauses of this lease is a breach of an essential term and constitutes repudiation: 2.1.1, 2.1.5, 2.1.6, 2.1.10, 2.1.11, 2.2.1, 2.2.2, 2.2.7, 2.2.8, 2.2.9, 2.2.11, 2.2.12, 2.3, 3.2.11, 4.1, 4.7, 5.4.4.2, 5.4.7, 13 and 16. Other **tenant** obligations under this lease may also be essential.
- 7.5 Before terminating this lease for repudiation (including repudiation consisting of the non-payment of rent) or for an event to which section 146(1) of the *Property Law Act 1958 (Vic)* does not extend, the **landlord** must give the **tenant** written notice of the breach and a period of 14 days in which to remedy it (if it is capable of remedy) and to pay reasonable compensation for it. A notice given in respect of a breach amounting to repudiation is not an affirmation of the lease.
- 7.6 Even though the **landlord** does not exercise its rights under this lease on one occasion, it may do so on any later occasion.
- 7.7 The **landlord** may only waive any –
- 7.7.1 breach of this lease by the **tenant** that is the subject of, or
- 7.7.2 rights or entitlements pursuant to:
- a notice under clause 7.5 or section 146(1) of the *Property Law Act 1958 (Vic)* by giving clear written notice of that waiver to the **tenant**.

## 8. DESTRUCTION OR DAMAGE

- 8.1 If the **premises** or the **building** are damaged so that the **premises** are unfit for use for the **permitted use** or inaccessible-
- 8.1.1 a fair proportion of the **rent** and **building outgoings** is to be suspended until the **premises** are again wholly fit for the **permitted use**, and accessible, and
- 8.1.2 the suspended proportion of the **rent** and **building outgoings** must be proportionate to the nature and extent of the unfitness for use or inaccessibility.
- 8.2 If the **premises** or the **building** are partly destroyed, but not substantially destroyed, the **landlord** must reinstate the **premises** or the **building** as soon as reasonably practicable.
- 8.3 If the **premises** or the **building** are wholly or substantially destroyed -
- 8.3.1 the **landlord** is not obliged to reinstate the **premises** or the **building**, and
- 8.3.2 if the reinstatement does not start within 3 months, or is not likely to be completed within 9 months, the **landlord** or the **tenant** may end this lease by giving the other written notice.
- 8.4 The **tenant** will not be entitled to suspension of **rent** or **building outgoings** under sub-clause 8.1.1 nor to end the lease under sub-clause 8.3.2 and the **landlord** will not be obliged to reinstate the **premises** or the **building** under clause 8.2 if payment of an insurance claim is properly refused in respect of the damage or destruction because of any act or omission by the **tenant** or the **tenant's agents**.
- 8.5 If the **Act** does not apply and there is a dispute under this clause, the **landlord** or the **tenant** may request the President of the Australian Property Institute, Victorian Division, to nominate a practising valuer member of that Institute to determine the dispute or the **landlord** and **tenant** may refer the dispute to mediation. The valuer acts as an expert and not as an arbitrator and the determination is binding.

## 9. CONSENTS AND WARRANTIES

- 9.1 Subject to the **Act** (if it applies), the **landlord** must not unreasonably withhold its consent or approval to any act by the **tenant** or matter which needs consent or approval unless any other clause provides otherwise, but -
- 9.1.1 the **landlord** may impose reasonable conditions on any consent or approval, and
- 9.1.2 the **tenant** must reimburse the **landlord's** reasonable expenses resulting from an application for its consent or approval, including fees paid to consultants.
- 9.2 This lease, together with (if the **Act** applies) any disclosure statement, contains the whole agreement of the parties. Neither the **landlord** nor the **tenant** is entitled to rely on any warranty or statement in relation to -
- 9.2.1 the conditions on which this lease has been agreed,
- 9.2.2 the provisions of this lease, or
- 9.2.3 the **premises**
- which is not contained in those documents.

## 10. OVERHOLDING AND ABANDONMENT OF THE PREMISES

- 10.1 If the **tenant** remains in possession of the **premises** without objection by the **landlord** after the end of the **term** -
- 10.1.1 the **tenant**, without any need for written notice of any kind, is a monthly tenant on the conditions in this lease, modified so as to apply to a monthly tenancy,

- 10.1.2 the **landlord** or the **tenant** may end the tenancy by giving one month's written notice to the other which may expire on any day of the month,
- 10.1.3 the monthly rent starts at one-twelfth of the annual **rent** which the tenant was paying immediately before the term ended unless a different rent has been agreed, and
- 10.1.4 the **landlord** may increase the monthly **rent** by giving the **tenant** one month's written notice.
- 10.2 If the **tenant** vacates the **premises** during the **term**, whether or not it ceases to pay **rent** -
- 10.2.1 the **landlord** may -
- (a) accept the keys,
  - (b) enter the **premises** to inspect, maintain or repair them, or
  - (c) show the **premises** to prospective tenants or purchasers,
- without this being re-entry or an acceptance of repudiation or a waiver of the **landlord's** rights to recover **rent** or other money under this lease.
- 10.2.2 this lease continues until a new tenant takes possession of the **premises**, unless the **landlord**-
- (a) accepts a surrender of the lease, or
  - (b) notifies the **tenant** in writing that the **landlord** accepts the **tenant's** repudiation of the lease, or
  - (c) ends the lease in accordance with clause 7.1.

## 11. RENT REVIEWS TO MARKET

- 11.1 In this clause "review period" means the period following each **market review date** until the next **review date** or the end of this lease.

The review procedure on each **market review date** is -

- 11.1.1 each review of **rent** may be initiated by the **landlord** or the **tenant** unless **item 14** states otherwise but, if the **Act** applies, review is mandatory.
- 11.1.2 the **landlord** or **tenant** entitled to initiate a review does so by giving the other a written notice stating the current market rent which it proposes as the **rent** for the review period. If the **Act** does not apply and the recipient of the notice does not object in writing to the proposed rent within 14 days the proposed **rent** becomes the **rent** for the review period.
- 11.1.3 If -
- (a) the **Act** does not apply and the recipient of the notice serves an objection to the proposed rent within 14 days and the **landlord** and **tenant** do not agree on the **rent** within 14 days after the objection is served, or
  - (b) the **Act** applies and the **landlord** and **tenant** do not agree on what the **rent** is to be for the review period,

the **landlord** and **tenant** must appoint a **valuer** to determine the current market **rent**.

If the **Act** does not apply and if the **landlord** and **tenant** do not agree on the name of the **valuer** within 28 days after the objection is served, either may apply to the President of the Australian Property Institute, Victorian Division to nominate the **valuer**. If the **Act** applies, the **valuer** is to be appointed by agreement of the **landlord** and **tenant**, or failing agreement, by the Small Business Commissioner.

- 11.1.4 In determining the current market **rent** for the **premises** the **valuer** must -
- (a) consider any written submissions made by the **landlord** and **tenant** within 21 days of their being informed of the **valuer's** appointment, and
  - (b) determine the current market rent as an expert

and, whether or not the **Act** applies, must make the determination in accordance with the criteria set out in section 37(2) of the **Act**.

- 11.1.5 The **valuer** must make the determination of the current market rent and inform the **landlord** and **tenant** in writing of the amount of the determination and the reasons for it as soon as possible after the end of the 21 days allowed for submissions.

- 11.1.6 If -
- (a) no determination has been made within 45 days (or such longer period as is agreed by the **landlord** and the **tenant** or, if the **Act** applies, as is determined in writing by the Small Business Commissioner) of the **landlord** and **tenant**
    - (i) appointing the **valuer**, or
    - (ii) being informed of the **valuer's** appointment, or
  - (b) the **valuer** resigns, dies, or becomes unable to complete the valuation,

then the **landlord** and **tenant** may immediately appoint a replacement **valuer** in accordance with sub-clause 11.1.3.

- 11.2 The **valuer's** determination is binding.
- 11.3 The landlord and tenant must bear equally the **valuer's** fee for making the determination and if either pays more than half the fee, may recover the difference from the other.
- 11.4 Until the determination is made by the **valuer**, the tenant must continue to pay the same **rent** as before the **market review date** and within 7 days of being informed of the **valuer's** determination, the parties must make any necessary adjustments.
- 11.5 If the **Act** does not apply, a delay in starting a market review does not prevent the review from taking place and being effective from the **market review date** but if the market review is started more than 12 months after the **market review date**, the review takes effect only from the date on which it is started.

## 12. FURTHER TERM(S)

- 12.1 The **tenant** has an option to renew this lease for the further term or terms stated in **item 15** and the **landlord** must renew this lease for the further term immediately following the **term** if -
  - 12.1.1 there is no unremedied breach of this lease by the **tenant** of which the **landlord** has given the **tenant** written notice at the time the **tenant** requests renewal as required by clause 12.1.3 ,
  - 12.1.2 the **tenant** has not persistently committed breaches of this lease of which the **landlord** has given written notice during the **term**, and
  - 12.1.3 the **tenant** has exercised the option for renewal in writing (unless the Act otherwise permits) not more than 6 months nor less than 3 months before the end of the **term**.
- 12.2 The lease for the further term -
  - 12.2.1 starts on the day after the **term** ends,
  - 12.2.2 has a starting **rent** determined in accordance with **item 13**, and
  - 12.2.3 must contain the same terms as this lease (but with no option for renewal after the last option for a further term stated in **item 15** has been exercised) including any provisions appearing in this document that may have been read down or severed to comply with any applicable law that has ceased to be applicable, as if they had not been read down or severed.
- 12.3 If the **tenant** is a corporation and was required to provide directors' guarantees for this lease, the **tenant** must provide guarantees of its obligations under the renewed lease by its directors , and by each person who has provided a guarantee for the expired **term**, in the terms of clause 15.

## 13. SECURITY DEPOSIT

- 13.1 The **tenant** must pay a security deposit to the **landlord** of the amount stated in **item 16** and must maintain the deposit at that amount.
- 13.2 Any security deposit not in the form of a guarantee may be invested in an interest bearing deposit and any interest accruing on it is to be treated as a supplementary payment of security deposit. When the **term** starts, the **tenant** must provide the **landlord** with the **tenant's** tax file number.
- 13.3 The **landlord** may use the deposit to make good the cost of remedying breaches of the **tenant's** obligations under this lease (or any of the events specified in clause 7.1) and the **tenant** must pay whatever further amount is required to bring the deposit back to the required level.
- 13.4 As soon as practicable after this lease has ended and the **tenant** has vacated the **premises** and performed all of its obligations under the lease, the **landlord** must refund the unused part of the deposit.
- 13.5 The **tenant** may, and if the **landlord** requires must, provide the security deposit by means of a guarantee in a form approved by the **landlord** by an ADI within the meaning of the *Banking Act 1959* (Cth).
- 13.6 If the freehold of the **premises** is transferred:
  - 13.6.1 the **tenant** must provide a replacement guarantee in exchange for the existing guarantee if requested by the **landlord** in writing to do so, but the **landlord** must pay the reasonable fees charged by the ADI for the issue of the replacement guarantee, and
  - 13.6.2 the **landlord** must transfer any security deposit held under this lease to the transferee.

## 14. NOTICES

- 14.1 A notice under this lease may be served or given -
  - 14.1.1 by pre-paid post,
  - 14.1.2 by delivery

- 14.1.3 by email, or
- 14.1.4 in any manner authorised by law or the Supreme Court for service of documents, including any manner authorised for service on or by a legal practitioner,
- to the party's last known address, registered office, or ( if to the **tenant**) at the **premises**.
- 14.2 Posted notices will be taken to have been received on the fifth day after posting that is not a Saturday, Sunday or bank holiday in the place of intended receipt, unless proved otherwise.
- 14.3 Notices delivered or sent by email are taken to have been served or given at the time of receipt as specified in section 13A of the *Electronic Transactions (Victoria) Act 2000*.

## 15. OBLIGATIONS OF GUARANTOR(S) UNDER GUARANTEE AND INDEMNITY

- 15.1 The **guarantor** in consideration of the **landlord** having entered into this lease at the **guarantor's** request—
- 15.1.1 guarantees that the **tenant** will perform all its obligations under this lease for the **term** and any further term and during any period of overholding after the end of the **term**,
- 15.1.2 must pay on demand any amount which the **landlord** is entitled to recover from the **tenant** under this lease whether in respect of the **term**, any further term or any period of overholding, and
- 15.1.3 indemnifies the **landlord** against all loss resulting from the **landlord's** having entered into this lease whether from the **tenant's** failure to perform its obligations under it or from this lease being or becoming unenforceable against the **tenant** and whether in respect of the **term**, any further term or any period of overholding.
- 15.2 The liability of the **guarantor** will not be affected by -
- 15.2.1 the **landlord** granting the **tenant** or a **guarantor** time or any other indulgence, or agreeing not to sue the **tenant** or another **guarantor**,
- 15.2.2 failure by any **guarantor** to sign this document,
- 15.2.3 transfer (except in accordance with the **Act**, if the **Act** applies) or variation of this lease, but if this lease is transferred the **guarantor's** obligations, other than those which have already arisen, end when the **term** ends and do not continue into a term renewed by a new tenant nor a period of overholding by a new tenant,
- 15.2.4 the fact that this lease is subsequently registered at the Land Registry or not registered, or, for any reason, is incapable of registration, or
- 15.2.5 transfer of the freehold of the **premises**.
- 15.3 The **guarantor** agrees that —
- 15.3.1 the **landlord** may retain all money received including dividends from the **tenant's** bankrupt estate, and need allow the **guarantor** a reduction in its liability under this guarantee only to the extent of the amount received,
- 15.3.2 the **guarantor** must not seek to recover money from the **tenant** to reimburse the **guarantor** for payments made to the **landlord** until the **landlord** has been paid in full,
- 15.3.3 the **guarantor** must not prove in the bankruptcy or winding up of the **tenant** for any amount which the **landlord** has demanded from the **guarantor**, and
- 15.3.4 the **guarantor** must pay the **landlord** all money which the **landlord** refunds to the **tenant's** liquidator or trustee in bankruptcy as preferential payments received from the **tenant**.
- 15.4 If any of the **tenant's** obligations are unenforceable against the **tenant**, then this clause is to operate as a separate indemnity and the **guarantor** indemnifies the **landlord** against all loss resulting from the **landlord's** inability to enforce performance of those obligations. The **guarantor** must pay the **landlord** the amount of the loss resulting from the unenforceability.
- 15.5 If there is more than one **guarantor**, this guarantee binds them separately, together and in any combination.
- 15.6 Each of the events referred to in clauses 7.1.5 and 7.1.6 is deemed to be a breach of an essential term of this lease.

**16. GST**

- 16.1 Expressions used in this clause 16 and in the **GST Act** have the same meanings as when used in the **GST Act** unless the context requires otherwise.
- 16.2 Amounts specified as payable under or in respect of this lease are expressed exclusive of **GST**.
- 16.3 The recipient of a taxable supply made under or in respect of this lease must pay to the supplier, at the time payment for the supply is due, the **GST** payable in respect of the supply. This obligation extends to supply consisting of entry into this lease.
- 16.4 An amount payable by the **tenant** in respect of a creditable acquisition by the **landlord** from a third party must not exceed the sum of the value of the **landlord's** acquisition and the additional amount payable by the **tenant** under clause 16.3 on account of the **landlord's** liability for **GST**.
- 16.5 A recipient of supply is not obliged, under clause 16.3, to pay the **GST** on a taxable supply to it under this lease, until given a valid tax invoice for it.

**17. CONSUMER PRICE INDEX**

- 17.1 On a **CPI review date**, the **rent** is adjusted by reference to the **Consumer Price Index** using the following formula -

$$AR = R \times \frac{CPIB}{CPIA}$$

- Where:
- “AR” means adjusted **rent**,
  - “R” means **rent** before adjustment,
  - “CPIB” means the **Consumer Price Index** number for the quarter immediately preceding the **CPI review date**, and
  - “CPIA” means the **Consumer Price Index** number for the quarter immediately preceding the most recent earlier **review date** or, where there is no earlier **review date**, the quarter immediately preceding the start of the **term**.

- 17.2 If CPIB is not published until after the **CPI review date**, the adjustment is made when it is published but the adjustment takes effect from the relevant **CPI review date**. In the meantime, the **tenant** must continue to pay the **rent** at the old rate and, when the adjustment is made, the **tenant** must immediately pay any deficiency or the **landlord** must immediately repay any excess.
- 17.3 If the base of the **Consumer Price Index** is changed between the two comparison dates an appropriate compensating adjustment must be made so that a common base is used.
- 17.4 Unless the **Act** applies and requires otherwise, if the **Consumer Price Index** is discontinued or suspended, then the calculation is to be made using whatever index is substituted for it. If no other index is substituted for it, the calculation is to be made using the index or calculation which the President of the Australian Property Institute, Victorian Division (acting as an expert and not as an arbitrator), determines is appropriate in the circumstances. This determination is binding.
- 17.5 Unless the **Act** applies, the adjustment is not made if it would result in a decrease in the **rent** payable.

**18. IF PREMISES ONLY PART OF THE LETTABLE AREA OF THE BUILDING**

- 18.1 If the **premises** are only a part of the **lettable area** of the **building**, the provisions of this clause apply.
- 18.2 The **landlord** -
- 18.2.1 may adopt whatever name it chooses for the **building** and change the name from time to time, and
  - 18.2.2 reserves all proprietary rights to the name of the **building** and any logo adopted for the **building**.
- 18.3 The **landlord** reserves for itself the use of all external surfaces of the **building** and areas outside the **building**.
- 18.4 The **landlord's installations** remain under the absolute control of the **landlord** whilst the **building** and **common areas** remain under the absolute control of either the landlord or the owners corporation. In each case the controller may manage them and regulate their use as it considers appropriate. If the landlord is the controller, in particular the **landlord** has the right -
- 18.4.1 to close off the **common areas** as often as the **landlord** reasonably considers appropriate to prevent rights of way or user arising in favour of the public or third parties,
  - 18.4.2 to exclude persons whose presence the **landlord** considers undesirable,
  - 18.4.3 to grant easements over any parts of the **land** which do not materially and adversely affect the **tenant's** use,
  - 18.4.4 to install, repair and replace, as necessary, the infrastructure necessary or desirable for the provision of services to the various parts of the **building**, and
  - 18.4.5 to repair, renovate, alter or extend the **building** but, in doing so, the **landlord** must not cause more inconvenience to the **tenant** than is reasonable in the circumstances.
- If the **Act** applies, these rights may only be exercised in a manner consistent with the **Act**.



- 18.5 The **tenant** must not obstruct the **common areas** or use them for any purpose other than the purposes for which they were intended.
- 18.6 The **tenant** must comply with the **building rules**. The **landlord** may change the **building rules** from time to time and the **tenant** will be bound by a change when it receives written notice of it. The **landlord** must not adopt a **building rule** or change the **building rules** in a way that is inconsistent with this lease. To the extent that a **building rule** is inconsistent with this lease, the lease prevails.

## 19. PERSONAL PROPERTY SECURITIES ACT

- 19.1 Expressions used in this clause that are defined in the **PPSA** have the meanings given to them in the **PPSA**.
- 19.2 The **landlord** may, at any time, register a financing statement for any security interest arising out of or evidenced by this lease over any or all of –
- 19.2.1 the **landlord's installations**,
  - 19.2.2 any security deposit provided by the **tenant**, and
  - 19.2.3 **tenant's installations** and other **tenant's** property left on the **premises** after the end of the lease,
- that are personal property, and must identify the property affected by the financing statement in the free text field of the statement.  
The **tenant** waives the right to receive notice under section 157(1) of the **PPSA**.
- 19.3 When this lease –
- 19.3.1 ends and the **tenant** has vacated the **premises** and performed all of its obligations under it, or
  - 19.3.2 is transferred,
- the **landlord** must register a financing change statement with respect to any security interest for which the **landlord** has registered a financing statement other than those to which sub-clause 19.2.3 relates.
- 19.4 The **tenant** must sign any documents and do anything necessary to enable the **landlord** to register the statements referred to in the preceding sub-clause and to enforce its rights and perform its obligations under this clause and the **PPSA**. In particular, if the **tenant** is a natural person, the **tenant** must provide the **landlord** with the **tenant's** date of birth and a certified copy of a Victorian driver's licence (or other evidence acceptable to the **landlord**) to confirm the **tenant's** date of birth. The **landlord** must keep the **tenant's** date of birth and any evidence provided to confirm it secure and confidential.
- 19.5 The **tenant** must not register, or permit to be registered, a financing statement in favour of any person other than the **landlord**, for any security deposit provided by the **tenant** or any of the **landlord's installations**.
- 19.6 The **tenant** must pay the **landlord's** reasonable expenses and legal costs in respect of anything done or attempted by the **landlord** in the exercise of its rights or performance of its obligations under this clause or the **PPSA**, except the **landlord's** costs of registering a financing statement under sub-clause 20.2 which are to be borne by the **landlord**.
- 19.7 In accordance with section 275(6)(a) of the **PPSA**, the parties agree that neither of them will disclose information of the kind mentioned in subsection 275(1).
- 19.8 Subject to any requirement to the contrary in the **PPSA**, notices under this clause or the **PPSA** may be served in accordance with clause 14 of this lease.

## 20. ADDITIONAL PROVISIONS

Any additional provisions set out in **item 17** –

- 20.1 bind the parties, and
- 20.2 if inconsistent with any other provisions of this lease, override them.

## 21. ELECTRONIC SIGNATURE

- 21.1 The parties consent to execution of this lease (and any notice given under this lease) by any signatory by an electronic signature.
- 21.2 Where this lease (or a notice given under this lease) is electronically signed by a signatory, the signatory warrants and agrees that the electronic signature has been used to identify the person signing and to indicate that the signatory or the relevant party (as the case may be) intends to be bound by the electronic signature.
- 21.3 This lease may be electronically signed in any number of counterparts which together will constitute the one document.
- 21.4 Each party consents to the exchange of counterparts of this lease by delivery by email or such other electronic means as may be agreed in writing.
- 21.5 Each party must upon request promptly deliver a physical counterpart of this lease 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 lease.

## 22. LANDLORD WARRANTY

The landlord warrants that clauses 1 to 22 appearing in this lease are identical to clauses 1 to 22 of the copyright Law Institute of Victoria Lease of Real published in the month and year set out at the foot of this page and that any modifications to them are set out as additional provisions in item 17.



# Schedule

## Important Notice To The Person Completing This Schedule

This lease is in a standard form. You may need to make changes to record the agreement of the landlord, tenant and any guarantor. You should carefully check the whole document and make appropriate deletions, alterations and/or additions so it agrees with the instructions you have received. You should note the warranty in clause 22 and record any deletions, alterations and/or additions to the standard lease conditions as additional provisions in item 17 and not in the lease conditions.

Item 1  
[1.1]

**Landlord:**  
Azzurro Super Fund Pty Ltd ACN 153 826 996  
278 Canterbury Road, Surrey Hills VIC 3127

Item 2  
[1.1]

**Tenant:**  
Caleb Engineers Pty Ltd ACN 652 848 005  
Level 1, 268 Canterbury Road  
Surrey Hills VIC 3127

Item 3  
[1.1]

**Guarantor:**  
NA

Item 4  
[1.1]

**(a) Premises:**  
Unit 206, Level 2, 7 Jeffcott Street West Melbourne VIC 3003

**(b) Land:**  
Lot 17 PS635606V comprised in Title Volume 12425 Folio 993

Item 5  
[1.1]

**Landlord's installations:**  
All fixtures and fittings as inspected by the tenant but excluding personal and business files, small moveable furniture, equipment and pictures and posters

Item 6  
[1.1]

**Rent:**  
\$48,000 plus GST per annum

**Note:** There is no need to refer to GST if the rent is expressed as a GST exclusive sum – see clause 16; if the rent is expressed as a GST inclusive sum, an additional provision will be needed to modify the operation of clause 16.

Item 7  
[1.1]

**Tenant's installations:**

All the tenant's installation installed at the premise after the commencement date of the lease

Item 8  
[1.1]

**Term of the lease:**

One (1) years starting on 24 March 2023

Item 9  
[2.1.1]

**How rent is to be paid:**

Monthly in advance on the first day of each month from the commencement date, subject to the 1st month being rent free

Item 10  
[1.1,  
2.1.2,  
2.1.5 &  
5.4]

**Building outgoings which the tenant must pay or reimburse:**

***Premises consist of the entire lettable area of the building***

100% of all building outgoings

OR

***Premises consist of only a part of the lettable area of the building***

**Tenant's proportion of building outgoings**

(a) in relation to **building outgoings** that benefit all of the premises in the **building**: the proportion that the **lettable area** of the **premises** bears to the total **lettable area** of the **building**, which at present is 50 % [insert percentage];

(b) in relation to **building outgoings** that benefit the **premises** and other premises but not all of the **premises** in the **building**: the proportion that the **lettable area** of the **premises** bears to the total **lettable area** of all premises (including the **premises**) that benefit from the outgoing;

(c) in relation to **building outgoings** that benefit only the **premises**: 100%

OR

**Other terms:**

Item 11  
[1.1 &  
6.2]

**Risks which the insurance policies must cover: \***

- Fire
- Flood
- Lightning
- Storm and tempest
- Explosion
- Riots and civil commotion
- Strikes
- Malicious damage
- Earthquake
- Impact by vehicles
- Impact by aircraft and articles dropped from them
- Internal flood water

and such other risks as the **landlord** reasonably requires from time to time.

\* Delete risks not required to be covered and add any other risks required to be covered

**Item 12**  
[2.2.1]

**Permitted use:**  
Commercial offices

**Item 13**  
[2.1.1,  
11, 17]

**Review date(s):**

**Term**

(a) *Market review date(s):*  
NA

(b) *CPI review date(s):*  
NA

(c) *Fixed review date(s) and percentage or fixed amount increases:*  
NA

**Further term(s)**

(a) *Market review date(s):*  
On exercise of option to renew

(b) *CPI review date(s):*  
NA

(c) *Fixed review date(s) and percentage or fixed amount increases:*  
4% increase on each anniversary day of the the commencement date

**Item 14**  
[2.1.1,  
11, 17]

**Who may initiate reviews:**

*Market review:* Landlord, subject to Act, if it applies

*CPI review:* Review is automatic

*Fixed review:* Review is automatic

**Item 15**  
[12]

**Further term(s):**

Two (2) further terms of five (5) years each

**Item 16**  
[13]

**Security deposit:**

NA

**Item 17**  
[20]

**Additional provisions:**

EXECUTED AS A DEED ON:

Date: 22/03/2023
------------------

EXECUTION & ATTESTATION  
LANDLORD/S

[If a company]

Executed by Azzurro Super Fund Pty Ltd ACN 153 826 996 in accordance with section 127 of the Corporations Act 2001(Cth)	
*Director <del>*Sole Director/Sole Secretary</del> [*Delete one]	<i>Roag McKinnon</i> (Sign here)
Print Name	ROAG NEIL MCKINNON
Print usual address	31 CLIVE ST ST MARYS 7215
*Director/*Secretary [*Delete one]	<i>AM McKinnon</i> (Sign here)
Print Name	ANNE MARGARET MCKINNON
Print usual address	31 CLIVE ST ST MARYS 7215

[If individual(s), then each of them needs one of these signing clauses]


Signed, sealed and delivered by the said _____ (Sign here)	
in the presence of:	_____ (Sign here)
Witness Signature	
Print name	
Print usual address	

Signed, sealed and delivered by the said _____ (Sign here)	
in the presence of:	_____ (Sign here)
Witness Signature	
Print name	
Print usual address	

EXECUTION & ATTESTATION

TENANT/S

*[If a company]*

<b>Executed by Caleb Engineers Pty Ltd ACN 652 848 005</b> in accordance with section 127 of the <i>Corporations Act 2001</i> (Cth)	
*Director *Sole Director/Sole Secretary [*Delete one]	Director  (Sign here)
Print Name	Vinh Le
Print usual address	Tower 5, Level 23, 727 Collins St, Docklands VIC 3008
*Director/*Secretary [*Delete one]	(Sign here)
Print Name	
Print usual address	

*[If individual(s), then each of them needs one of these signing clauses]*

<b>Signed, sealed and delivered</b> by the said _____ (Sign here)	
in the presence of: _____	
Witness Signature	
Print name	
Print usual address	

<b>Signed, sealed and delivered</b> by the said _____ (Sign here)	
in the presence of: _____	
Witness Signature	
Print name	
Print usual address	

EXECUTION & ATTESTATION **GUARANTOR/S (if applicable)**

***[If a company]***

<b>Executed by</b> in accordance with section 127 of the <i>Corporations Act 2001</i> (Cth)	
*Director *Sole Director/Sole Secretary [*Delete one]	(Sign here)
Print Name	
Print usual address	
*Director/*Secretary [*Delete one]	(Sign here)
Print Name	
Print usual address	

***[If individual(s), then each of them needs one of these signing clauses]***

<b>Signed, sealed and delivered</b> by the said _____ (Sign here)	
in the presence of:	
Witness Signature	
Print name	
Print usual address	

<b>Signed, sealed and delivered</b> by the said _____ (Sign here)	
in the presence of:	
Witness Signature	
Print name	
Print usual address	