



Precontractual Disclosure Statement to the Buyer

Part A | General Information about strata titles schemes

What you need to know

This information applies to a lot in a strata scheme or survey-strata scheme (scheme), which is subject to the *Strata Titles Act 1985* (the Act). Section 156 of the Act sets out that the seller of a strata lot or survey-strata lot (lot) must give the buyer certain information before the buyer signs the contract of sale.

Instruction for the seller

The seller must give the information incorporated in this document to a buyer before the buyer signs a contract for the sale and purchase of a lot in a scheme. Failure to do so may give the buyer the right to avoid the contract and/or delay the proposed settlement date.

Information for the buyer

The buyer should keep this document including any attachments in a safe place as it contains important information which might be needed at a later date.

It is strongly recommended that the buyer read all the information provided by the seller before signing the contract. The buyer should consider obtaining independent professional legal advice before signing the contract.

There are different rights, restrictions and obligations that apply in relation to a lot in a scheme than those that apply to a 'green title' lot. Those rights, restrictions and obligations can be found in the Act, the *Strata Titles (General) Regulations 2019* (regulations), scheme by-laws, the certificate of title, the strata / survey-strata plan for the lot and, if the scheme is a leasehold scheme, the strata lease for the lot. Your right to deal with the lot and to use the common property is restricted by these, as well as by any resolutions and decisions made by the strata company. You will not be able to build on the lot or make any alterations to (including removal of) a building on the lot without the approval of the strata company, except in certain circumstances.

As an owner of a lot, you will also have a share in any common property in the scheme. You will be a member of the strata company, along with all of the other lot owners, and have a right to participate in managing the scheme.

Each lot owner has to abide by the rules of the strata company, known as by-laws. By-laws can be different for each strata scheme and you should understand which by-laws apply to your scheme. The seller must give you the current by-laws before you sign the contract for sale. A strata company can make, amend or repeal by-laws by voting on them, and registering them with the Registrar of Titles at Landgate within 3 months.

As the owner of a lot, you will be liable to pay a strata levy or contribution to the strata company for expenses including for maintenance, repair and insurance of the common property unless the lot is in a scheme of 2 to 5 lots which may be exempt from these requirements. Be aware that if the unpaid amounts for the lot are not paid by the seller before you complete the purchase (settle), you as the new owner will have to pay the strata company these unpaid amounts.



As part of this disclosure you must receive the strata or survey-strata plan (the plan) which includes the lot you are proposing to buy. This plan will show all of the lots and the common property in the scheme. The common property is all the land within the scheme boundary that is not a lot. In a strata plan each lot is clearly identified, but the common property is not; it is everything that is not a lot. In comparison, in a survey-strata plan common property areas are clearly identified as common property. It is important to understand what is your lot, as you will be responsible for repairing and maintaining it, whereas the strata company will generally be responsible for the common property, unless there are by-laws which set out something different.

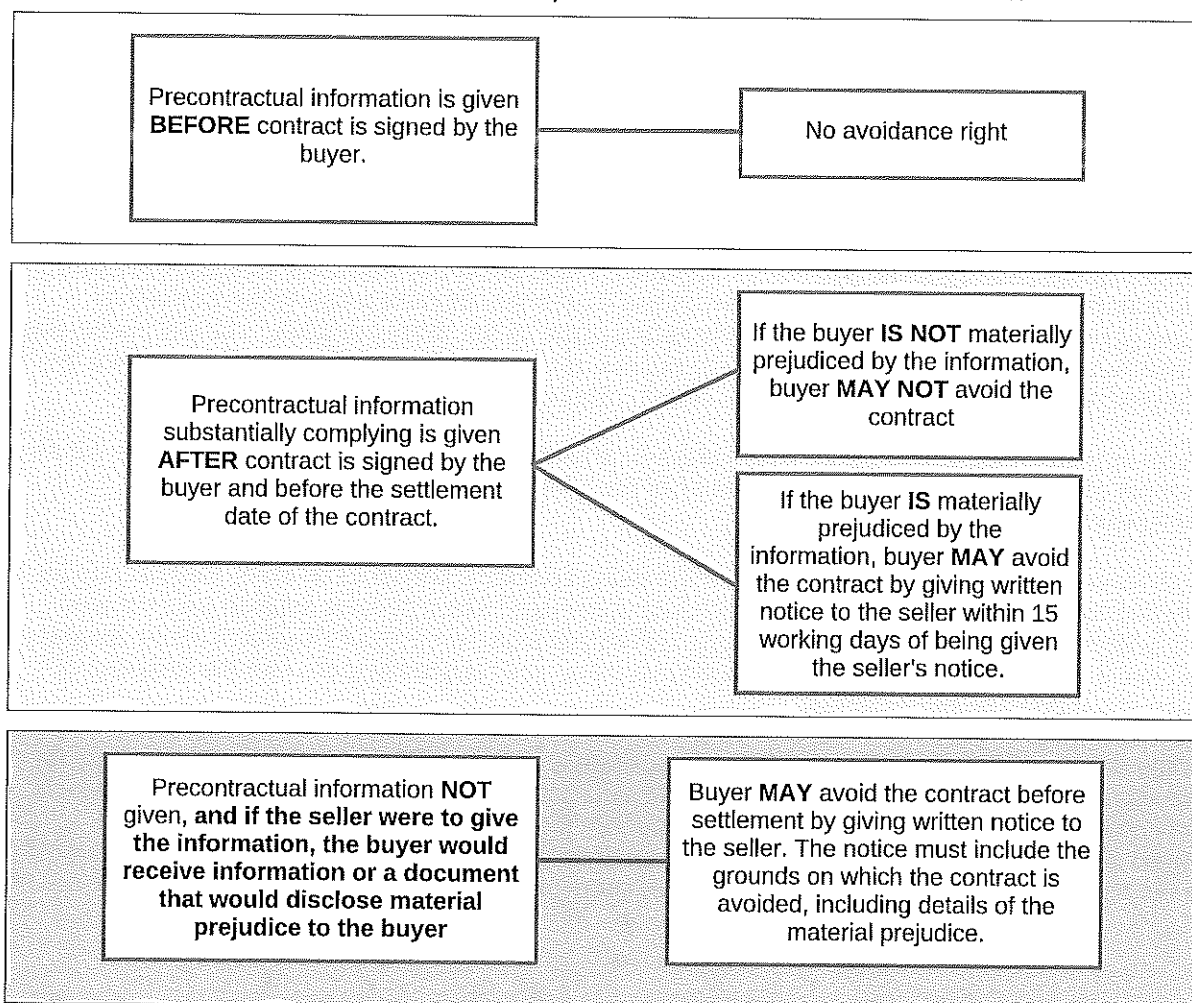
A buyer may consider seeking more information about the lot, the strata company and the strata / survey-strata scheme by asking the seller to provide it, or by making an application to the strata company for more information under section 107 of the Act.

The buyer should consider reading Landgate's publication *A Guide to Strata Titles* as this provides extra information about schemes.

Buyer's avoidance and other rights

Avoidance for failure to give precontractual information to the buyer

The buyer's right to avoid the contract for precontractual information is as follows:





Avoidance rights for notifiable variations

After the buyer has signed the contract, it is possible a particular type of event known as a type 1 or type 2 notifiable variation may occur. If this happens, the seller must provide written notice of the variation to the buyer before the proposed settlement date.

Type 1 and Type 2 notifiable variations are as follows:

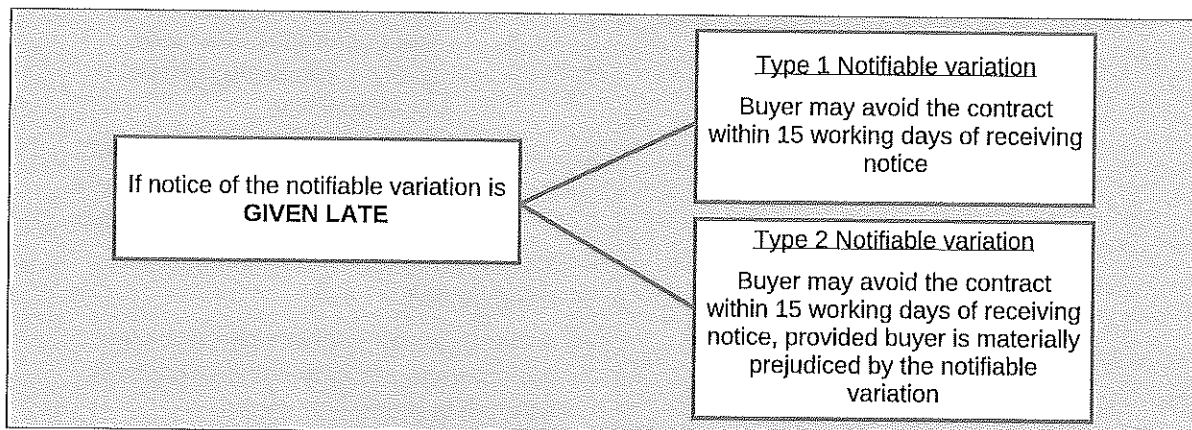
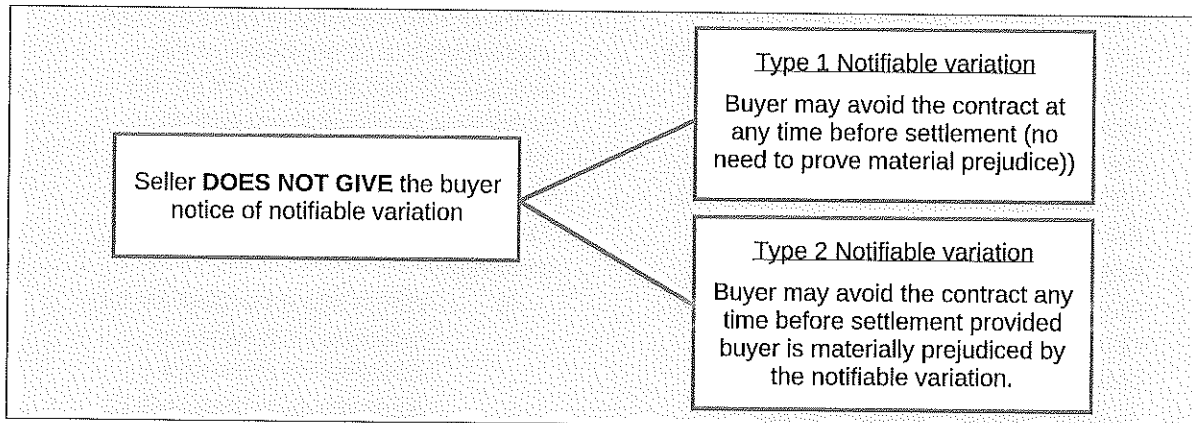
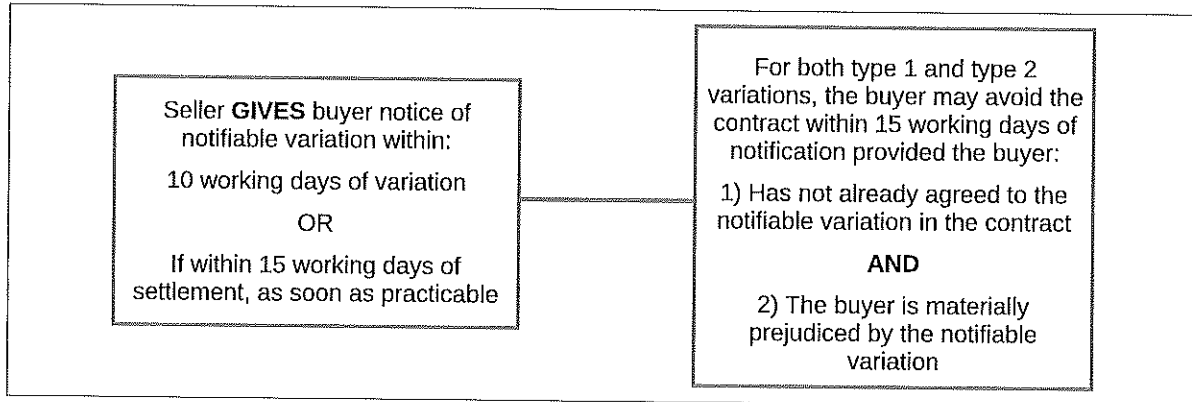
Type 1 Notifiable Variation	Type 2 Notifiable Variation
<ul style="list-style-type: none"> • The area or size of the lot/proposed lot is reduced by 5% or more from the area or size notified to the buyer before the buyer entered into the contract. • The proportion that the unit entitlement, or a reasonable estimate of the unit entitlement of the lot bears to the sum of the unit entitlements of all the lots is increased/decreased by 5% or more in comparison to that which was notified to the buyer before the buyer entered into the contract. • Anything relating to a proposal for the termination of the strata titles scheme is served on the seller by the strata company. • Any other event classified by the regulations as a type 1 notifiable variation. 	<ul style="list-style-type: none"> • The current/proposed scheme plan or amendment of the scheme plan for the scheme is modified in a way that affects the lot or the common property (that is not a type 1 notifiable variation). • The current/proposed schedule of unit entitlements or amendment of the schedule of unit entitlements for the scheme is modified in a way that affects the lot (that is not a type 1 variation). • The strata company or a scheme developer- <ul style="list-style-type: none"> (i) enters into a contract for the provision of services or amenities to the strata company or to members of the strata company or a contract that is otherwise likely to affect the rights of the buyer; OR (ii) varies an existing contract of that kind in a way that is likely to affect the rights of the buyer • The current/proposed scheme by-laws are modified. • A lease, licence, right or privilege over the common property in the strata titles scheme is granted or varied. • Any other event classified by the regulations as a type 2 notifiable variation.

See section 161 and 162 of the Act for further details.

Regulation 106 describes when certain notifiable variations are deemed to have occurred.



The buyer's right to avoid the contract for notifiable variations is as follows:



See section 163 of the Act for special protections which apply if the lot has not yet been created by the registration of the scheme or an amendment of the scheme - that is, an 'off the plan' sale.

Buyer's right to postpone settlement

The buyer has a right to postpone settlement date of the contract for the sale and purchase of the lot, by providing written notice to the seller, if the seller has not complied with their obligation to provide pre-contractual information or particulars of a notifiable variation to the buyer. The buyer may postpone settlement date by no more than 15 working days after the latest date that the seller complies with the relevant disclosure requirement.



Landgate Approved Form 2021-69701
Effective for use from: 17/09/2021

Disputes about avoidance rights to be heard in the State Administrative Tribunal

If the buyer or seller has a dispute about a right to avoid or whether a seller has provided the notifiable information / notifiable variations as required and within the time required, the buyer and or seller may apply to the State Administrative Tribunal for orders to resolve the dispute.



Precontractual Disclosure Statement to the Buyer

Part B | Information specific to the sale of the strata lot

This form sets out the information requirements in section 156 of the *Strata Titles Act 1985* (the Act), that the seller must give the buyer. It is the information designated as information specific to the sale of a strata lot, which, if included in the contract, must be included in a prominent position (such as the first page). The term 'lot' includes strata and survey-strata lot.

Personal information

The seller(s)

Name NEWTON PROPERTY WA PTY LTD Mark NEWTON

Address 35 Vinciullo Way, SINAGRA WA

Telephone/mobile 0403 606 925 Email mnewton@aerison.com

Name _____

Address _____

Telephone/mobile _____ Email _____

Scheme Information

The term 'scheme' includes strata and survey-strata schemes

Scheme Details

Scheme name Cove

Name of the strata company Realmark Strata

Address for service of the strata company (taken from scheme notice) Ground/658 Newcastle St, Leederville WA 6007

Name of Strata Manager _____

Address of Strata Manager Ground/658 Newcastle St, Leederville WA 6007

Telephone/Mobile (08) 93280999

Email strata.admin@realmark.com.au

The status of the scheme is:

- ☐ proposed
- ☒ registered

The scheme type is:

- ☒ strata
- ☐ survey-strata

The tenure type is

- ☒ freehold
- ☐ leasehold



For leasehold only:

The scheme has a term of ____ years ____ months ____ days commencing on registration of the scheme _____

If there is a registered scheme notice, the expiry day for the leasehold scheme is _____

For any attachments, please include the attachment number in the column titled 'Att.' on the right-hand side of this document.

Att.

Scheme Documents (must be attached)

Schemes created on or after 1/5/2020 must provide a copy of the scheme notice.
Schemes created before 1/5/2020 only have to provide a scheme notice if a change of scheme name or address was registered on or after 1 May 2020.

A copy of the scheme plan showing the exact location and definition of the lot _____

A copy of the scheme by-laws _____

A copy of the scheme by-laws made but not yet registered by the Registrar of Titles at Landgate _____

Do the scheme by-laws include staged subdivision by-laws ☒ no ☐ yes

☐ If yes, they are included with this form _____

☐ If yes, they are not included but a notice concerning staged subdivision by-laws that are spent has been provided _____

A copy of the schedule of unit entitlements showing the unit entitlement of the lot AND sum of unit entitlements of all the lots in the scheme _____

If this is a leasehold lot, a copy of the strata lease for the lot _____

Additional comments: _____

Minutes (choose one option)

☒ A copy of the minutes of the most recent annual general meeting and any subsequent extraordinary general meeting(s) _____

☐ A statement that the strata company does not keep minutes of its meetings* _____

☐ A statement of why the seller has been unable to obtain the minutes _____

Additional comments: _____

Statement of accounts (choose one option)

☒ The statement of accounts last prepared by the strata company _____

☐ A statement that the strata company does not prepare a statement of accounts* _____

☐ A statement of why the seller has been unable to obtain a statement of accounts _____

** Note that section 140(1) sets out that 2-lot schemes are not required to keep minutes or statements of account, and section 140(3) provides that 3, 4 and 5-lot schemes are allowed to have a by-law exempting them from these requirements. If this applies to the scheme, write that down in these fields.*

Additional comments: _____



Termination proposal

Has the seller received a copy of any notice from the strata company in relation to any current termination proposal for the scheme?

☒ no ☐ yes _____

If yes, attach a copy.

Lot information (choose all that apply)

Att.

☒ This lot is on a registered scheme plan

☐ This lot has not yet been created

☐ This lot is a leasehold strata expiring on _____
(being the expiry day of the scheme set out in the scheme notice)

Street address of the lot (if known)

24/2 Molloy Promenade, JOONDALUP WA 6027

Lot 24 on scheme plan no. S054963

(The lot owner will also own a share in the common property of the scheme)

Voting right restrictions

Does the contract contain any voting right restriction which has the meaning in regulation 103 of the *Strata Titles (General) Regulations 2019*? *

☒ no ☐ yes

If yes, describe the restriction _____

* A voting right restriction includes if the contract requires the buyer to grant an enduring proxy or power of attorney to the seller.

Exclusive use by-laws

This lot is a 'special lot', subject to exclusive use by-laws giving exclusive use of an area of common property

☒ no ☐ yes

If yes, please give details _____

Strata levy/contributions for the lot (choose one option)

(Local government rates are payable by the lot owner in addition to the strata levy/contributions)

☒ Contributions that have been determined within the previous 12 months

☐ If not determined, estimated contributions for 12 months after proposed settlement date

	Actual (\$)	OR	Estimated (\$) 12 months after the proposed settlement date
--	-------------	----	---

Administrative fund: \$765

Reserve fund: \$714

Other levy
(attach details) _____

☒ Actual ☐ Estimated total contribution for the lot \$ 1479

Payable ☐ annually ☐ bi-annually ☒ quarterly ☐ other: _____

Due dates \$1479 on 1/2/23 \$1479 on 1/5/23

TBA on _____ TBA on _____

Strata levy/contributions/other debts owing

If the seller has a debt owed to the strata company, the total amount owing is \$ _____

If the seller has a debt owed to a utility company, the total amount owing is \$ _____



Details of who is owed, how the debt arose, date on which it arose and the amount outstanding is attached. _____

Additional comments: _____

Scheme developer specific information

Information specific to the sale of a strata lot - only to be

Att.

completed if the seller of the lot is a scheme developer

The scheme developer is defined as:

- The registered owner(s) of a lot(s) before it is subdivided by a strata titles scheme
- The registered owner/s of a lot in a staged strata development that is to be subdivided by the registration of an amendment of scheme to which staged subdivision by-laws apply

This part applies where the seller of the lot is a scheme developer in any of the following circumstances:

- The scheme has not been registered
- The first annual general meeting of the strata company has not been held
- The scheme developer owns 50% or more of the lots
- The scheme developer owns lots with an aggregate unit entitlement of 50% or more of the sum of the unit entitlements of all lots in the scheme

Statement of estimated income and expenditure

A statement of the estimated income and expenditure of the strata company for the 12 months after the proposed settlement date is attached. _____

Additional comments: _____

Agreements for amenity or service

Are there any current or proposed contracts for the provision of any amenity or service to the proposed strata company/strata company or members of the strata company entered into or arranged by the scheme developer?

☒ no ☐ yes

If yes, attach details including terms and conditions, the consideration and estimated costs to members of the strata company _____

Additional comments: _____

Lease, licence, exclusive right or use and enjoyment or special privilege over common property

Are there any current or proposed leases, licences, right of exclusive use and enjoyment, restricted right of use and enjoyment, or special privilege over common property?

☒ no ☐ yes

If yes, attach details including terms and conditions. _____

Additional comments: _____

Section 79 Disclosure of remuneration and other benefits

Has the scheme developer and/or their associate received or reasonably expects to receive remuneration or other benefit?

☒ no ☐ yes



Is there any other direct or indirect pecuniary interest the scheme developer and/or their associate has in the contract, lease or licence other than as a member of the strata company?

☒ no ☐ yes

If yes, attach details of any remuneration, other benefit and/or pecuniary interest disclosed in accordance with s.79 of the Act, including its value.

Additional comments: _____

Acknowledgement by seller and buyer

The statements by the seller and buyer relate to the following precontractual disclosures:

- **Part A, general information about strata titles schemes.** This information can be included in a form that is separate from the rest of the contract; and
 - **Part B, information specific to the sale of a strata lot.** This information can be included in a separate form, or within the contract in a prominent position.
- Both the Part A and Part B disclosures can be provided electronically if the buyer has consented to this.

Statement by the seller(s) / seller's representative

☒ I / ☐ We¹, hereby certify that Part A and Part B of the required precontractual disclosures were given to the buyer before the buyer signed the contract of sale.

Signature  _____
ET380F32AD3040A

Name Mark Newton

Date 14/2/2023

Signature _____

Name _____

Date _____

Statement by the buyer(s) / buyer's representative

☐ I / ☐ We¹, the buyer/s, acknowledge that ☐ I / ☐ we¹ received Part A and Part B of the required precontractual disclosures before ☐ I / ☐ We¹ signed the contract of sale.

☐ I / ☐ We¹ understand that the disclosures given by the seller(s) or by the seller's representative are not an offer or a contract to purchase a lot (though they may be included in such contract) but only provide information to ☐ me / ☐ us¹.

Signature _____

Name _____

Date _____

Signature _____

Name _____

Date _____

¹ Select one.

Realmark

Realmark Strata Pty Ltd the Trustee for
Strata West Unit Trust
T/as Realmark Strata
ABN 57 751 430 272 ACN 169 264 822

658 Newcastle Street, Leederville
Western Australia 6007

telephone 08 9328 0999
facsimile 08 9227 9229

realmark.com.au

01/12/2022

MINUTES OF ANNUAL GENERAL MEETING

FILE COPY

Dear Owner,

MINUTES OF ANNUAL GENERAL MEETING OF STRATA COMPANY Cove 2 Molloy Promenade JOONDALUP

Please find enclosed a copy of the minutes for the Annual General Meeting held on 30th November 2022 for your record and safe keeping.

Please note, a copy of these minutes have also been made available for downloading from the owners portal for your convenience.

If we may assist further in this or any other matter, please do not hesitate to contact our office on the details below

Sincerely,

REALMARK STRATA
For and On Behalf of SP 54963

Minutes for the Annual General Meeting

S/Plan 54963 Cove 2 Molloy Promenade
30/11/2022 04:30 pm

1. Preliminary Matters

Welcome

Those present were welcomed by Jessica Wilkes.

Attendance and Proxies

The persons present and represented by proxy were recorded, as per the meeting attendance register as attached to these minutes.

Quorum

A quorum was declared with 21 of the 41 persons entitled to vote being present or represented by proxy.

A quorum was not present at the time appointed for the meeting. After 30 minutes had elapsed from the time appointed for the meeting, the persons entitled to vote who were present or represented by proxy were taken to constitute a quorum for the purposes of the meeting.

The meeting was declared open at 4:42pm and it was confirmed that the meeting was properly constituted.

2. Appointment of Chairperson for the meeting

It was resolved that Jessica Wilkes be authorised to act as the Chairperson for the purposes of the meeting.

3. Confirmation of minutes of previous meeting

On a motion moved by Lot 10 and seconded by Lot 36, it was resolved that the minutes of the previous General Meeting of the Strata Company held on 29/11/2021 be accepted as a true and correct record of that meeting.

Business arising

There was no business arising from those previous minutes.

4. Consideration of Accounts

On a motion moved by Lot 36 and seconded by Lot 47, it was resolved that the statement of accounts for the period 01/11/2021 to 31/10/2022 be adopted as a true and correct record.

5. Election of Council of Owners

1. On a motion moved by Lot 64 and seconded by Lot 30, it was resolved that the Council consist of 4 members.

2. The number of candidates was equal to the number of members of Council, and a ballot was not required. The Chairperson declared the candidates to be elected as members of the Council. Please refer to the list attached to these minutes for details of the duly elected members of the Council.

6. Strata Company Insurance

1. On a motion moved by Lot 36 and seconded by Lot 10, it was resolved that the presentation of the copies of certificates and schedules for the current insurance be accepted.

2. On a motion moved by Lot 36 and seconded by Lot 10, it was resolved that the Council be instructed to place insurance for the Strata Company at such sums as are suggested by the Insurer or in line with an updated replacement cost valuation prior to the expiry date of the current policy.

3. It was noted that the most recent valuation was obtained on 01/08/2022 for \$21,624,900.00.

4. Realmark Strata disclosed an interest in the business of some insurers and brokers, and receives a commission based on a percentage of the premium paid. The insurance commission received by Realmark Strata is excluding GST for policy 879040 covering 26/05/2022 - 26/05/2023.

General Advice Warning: Any advice given by the Strata Manager is general advice only. Owners can inform

themselves through reading the Product Disclosure Statement. The Product Disclosure Statement and Financial Services Guide from the Insurer are available from the Strata Manager upon request.

7. Council Authority to Sign

On a motion moved by Lot 62 and seconded by Lot 47, it was resolved that, pursuant to Section 118 of the Strata Titles Act 1985, one (1) member of the Council of Owners, or the Strata Manager under the direction of the Council of Owners, be authorised to execute documents which are either desirable or necessary for the achievement of the Strata Company's objectives and the performance of the Strata Company; and

If the Strata Company has a common seal, and when desirable or necessary to do so, the common seal may be applied to documents and attested by the signatures of two (2) members of the Council of Owners.

8. Chairperson's Report

The Strata Company acknowledged the report as presented at the Chairperson of the Council of Owners, a copy of the presentation is attached to these minutes of this general meeting.

9. 10 Year Plan & Reserve Fund Forecasting

On a motion moved by Lot 62 and seconded by Lot 8, it was resolved that, pursuant to Section 100(2A) of the Strata Titles Act 1985, the 10 Year Plan be adopted into the records of the Strata Company, and that the recommended Reserve Fund forecasting be considered when determining budgets and levy contributions at future General Meetings.

10. Maintenance - Painting

On a motion moved by Lot 36 and seconded by Lot 35, it was resolved that the Council be authorised to proceed with Perrot Painting's quotation as attached to this notice of meeting for exterior painting at a cost not to exceed \$210,00.00 inc GST, with the works to be funded from the Reserve Fund. The works are anticipated to commence in February 2024.

11. Administrative Fund Budget & Contributions

Budget

On a motion moved by Lot 10 and seconded by Lot 47, it was resolved to adopt the Administrative Fund budget of expenditure totalling \$245,110.00 inclusive of GST for the period 01/11/2022 to 31/10/2023.

Determination of Levy Contributions

On a motion moved by Lot 10 and seconded by Lot 47, it was resolved that the contributions to the Administrative Fund to raise a total of \$175,860.00 inclusive of GST for the period 01/11/2022 to 31/10/2023 be met by the raising of levies calculated in accordance with the unit entitlement, due and payable in instalments in the amounts and on the dates outlined below:

Amount	Per Unit Entitlement	Due on or before	Date
\$40.86	Per unit entitlement	Due on or before	01/11/2022
\$45.00	Per unit entitlement	Due on or before	01/02/2023
\$45.00	Per unit entitlement	Due on or before	01/05/2023
\$45.00	Per unit entitlement	Due on or before	01/08/2023

And, that the contributions to the Administrative Fund continue to be raised at a rate of \$45.00 per unit entitlement per quarter until otherwise determined at a future General Meeting.

12. Reserve Fund Budget & Contributions

Budget

On a motion moved by Lot 47 and seconded by Lot 62, it was resolved to adopt the Reserve Fund budget of expenditure totalling \$100,100.00 inclusive of GST for the period 01/11/2022 to 31/10/2023.

Determination of Levy Contributions

On a motion moved by Lot 47 and seconded by Lot 62, it was resolved that the contributions to the Reserve Fund to raise a total of \$168,400.00 inclusive of GST for the period 01/11/2022 to 31/10/2023 be met by the raising of levies

calculated in accordance with the unit entitlement, due and payable in instalments in the amounts and on the dates outlined below:

Amount	Per Unit Entitlement	Due on or before	Date
\$42.40	Per unit entitlement	Due on or before	01/11/2022
\$42.00	Per unit entitlement	Due on or before	01/02/2023
\$42.00	Per unit entitlement	Due on or before	01/05/2023
\$42.00	Per unit entitlement	Due on or before	01/08/2023

And, that the contributions to the Reserve Fund continue to be raised at a rate of \$42.00 per unit entitlement per quarter until otherwise determined at a future General Meeting.

13. Work, Health & Safety Report

On a motion moved by Lot 62 and seconded by Lot 47, it was resolved to engage a suitably qualified company to carry out a Compliance Report of the common property in accordance with the *Work Health and Safety Act 2011*.

14. Other Business

Council of Owners

The owners thanked both the existing and resigning members of the Council of Owners for their dedication and hard work.

Electric Vehicles

The owners discussed the potential for electric vehicle charging stations at the complex in the future.

15. Closure of Meeting

There being no further business to address, Jessica Wilkes thanked all attendees and declared the meeting closed at 5:55pm.

Attendance

S/Plan 54963 Cove 2 Molloy Promenade

Annual General Meeting

30/11/2022 04:30 pm

Attendees

Lot	Unit	Name	Apologies	Voting Sheet
8	8	Thir Bhowan & Sundrakanthi Singh	N	N
10	10	Rodney Allen Nelson	N	N
13	13	Chairperson on behalf of Ghaleb & Aida Jabado	N	N
14	14	Chairperson on behalf of Ghaleb & Aida Jabado	N	N
16	16	Chairperson on behalf of Philip Edward Higgins & Alan Malcolm Martin	N	N
22	22	Chairperson on behalf of Peter John Dickson	N	N
30	30	Charlene Foo	N	N
32	32	Christian Louis & Margaretha Van Tonder	N	N
33	33	William James & Julia Ann Gobbert	N	N
35	35	Daniel Barry Alexander Niklas	N	N
36	36	Mark Dentice	N	N
37	37	Lynette Vivenne Robcke	N	N
43	43	Carol Anne O'Leary	N	N
46	46	Chairperson on behalf of Suzanne Jenkins	N	N
47	47	Stefania Basile	N	N
49	49	Chairperson on behalf of Jessica Yune Ting Chan	N	N
50	50	Chairperson on behalf of Peter John Dickson	N	N
55	55	Andrew Price & Doris Andreoli	N	N
60	60	Paul Duncan & Julie Heyes	N	N
62	62	Esther Demuth	N	N
64	64	Andrew James & Wendy Elizabeth Burr	N	N

Non Attendees - Apologies or Voting Sheets Received

Lot	Unit	Name	Apologies	Voting Sheet
18	18	Estate of Alan George Richards	Y	N

Quorum Achieved: N

Committee

S/Plan 54963 Cove 2 Molloy Promenade

Annual General Meeting

30/11/2022 04:30 pm

Lot	Unit	Name	Position	Appointed	Type
10	10	Rodney Allen Nelson	Member	03/03/2020	Rep
32	32	Christian Van Tonder	Member	03/03/2020	Rep
62	62	Esther Demuth	Member	30/11/2022	
64	64	Andrew James Burr	Member	30/11/2022	

2022 General Conditions

JOINT FORM OF GENERAL CONDITIONS FOR THE SALE OF LAND

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1 Deposit

1.1 Payment

Subject to clause 1.3, the Buyer must pay the Deposit to:

- (a) the Seller Agent; or
- (b) the Seller Representative; or
- (c) if the Seller has not appointed a Seller Agent or a Seller Representative, the Seller.

1.2 Deposit Holder - Stakeholder

- (a) Subject to this clause 1.2, if the Deposit is paid to a Deposit Holder, the Deposit Holder must hold the Deposit as stakeholder.
- (b) If a Party contends that:
 - (1) the Contract has been terminated; and
 - (2) that Party is entitled to payment of the Deposit, the following provisions of this clause 1.2 apply.
- (c) The Deposit Claimant must:
 - (1) serve on the Deposit Holder and the Deposit Respondent the Deposit Holder Notice; and
 - (2) provide proof to the Deposit Holder of the service of the Deposit Holder Notice on the Deposit Respondent.
- (d) Unless the Deposit Respondent serves a Notice on the Deposit Holder in accordance with subclause (e), the Deposit Holder must after:
 - (1) the expiry of 8 Business Days after the last to occur of service of the Deposit Holder Notice on the Deposit Respondent and the Deposit Holder; and
 - (2) the Deposit Holder has received proof as required by subclause (c) that the Deposit Holder Notice has been served on the Deposit Respondent, pay the Deposit to the Deposit Claimant.
- (e) The Deposit Respondent may, within 5 Business Days after service on the Deposit Respondent of the Deposit Holder Notice, serve a Notice on the Deposit Holder and the Deposit Claimant:
 - (1) stating that the Deposit Respondent disputes that the Deposit Claimant is entitled to receive the Deposit; and
 - (2) specifying the reasons why the Deposit Respondent contends that the Deposit Claimant is not entitled to receive the Deposit.
- (f) If the Deposit Respondent serves a Notice on the Deposit Holder and the Deposit Claimant under subclause (e), the Deposit Holder may:
 - (1) obtain legal advice as to the action to be taken by the Deposit Holder;
 - (2) institute interpleader proceedings in a court; and
 - (3) deduct from the Deposit the legal cost and expense incurred by the Deposit Holder in connection with obtaining that legal advice and those interpleader proceedings.
- (g) Each Party:
 - (1) directs the Deposit Holder to comply; and
 - (2) releases the Deposit Holder from liability for complying, with this clause 1.2.
- (h) Payment by the Deposit Holder of the Deposit in accordance with:
 - (1) subclause (d); or
 - (2) interpleader proceedings referred to in subclause (f)(2) discharges the Deposit Holder from any further liability in respect to the Deposit.
- (i) The failure by a Party to serve a Deposit Holder Notice or a Notice under subclause (e):
 - (1) does not affect; and
 - (2) is not treated as a waiver of, any right as between the Parties.
- (j) In this clause 1.2, a reference to the Deposit includes:
 - (1) any money in addition to the Deposit, paid to the Deposit Holder by the Buyer in accordance with the Contract; and
 - (2) interest earned on the Deposit or on any other money specified in subclause (j)(1) invested by the Deposit Holder with a Deposit Financial Institution.

1.3 Deposit - Proposed Scheme Lot

- (a) Subject to clause 1.4, if the Contract relates to the sale of:
 - (1) a Proposed Strata Lot; or
 - (2) a Proposed Community Lot, the Deposit must be:
 - (3) unless otherwise agreed by the Parties, paid by cheque or by direct transfer into a bank account as notified by the Buyer; and
 - (4) paid to and held by a Legal Practitioner, Real Estate Agent or Settlement Agent in accordance with the Strata Titles Act or the Community Titles Act (as applicable) until registration of the Scheme Plan.
- (b) Subject to clause 1.4, on the registration of the Scheme Plan in respect to the Proposed Strata Lot or Proposed Community Lot (as applicable), the Deposit is treated as being held in accordance with clause 1.2.

1.4 Deposit - Future Lot Contract

If the Contract is a Future Lot Contract:

- (a) clause 1.1(c) does not apply;
- (b) clauses 1.2 and 1.3 do not apply until the condition in clause 13.9(a)(1) has been satisfied;

- (c) the Deposit or other amount payable by the Buyer under the Contract must be:
 - (1) paid by the Seller to a Deposit Holder specified in the Contract within 2 Business Days after receipt of the payment from the Buyer; and
 - (2) held by the Deposit Holder on trust for the person entitled to receive it under the Contract or the Sale of Land Act; and
- (d) the Deposit Holder must comply with the Sale of Land Act.

1.5 Notice of non-payment

If the Buyer:

- (a) does not pay the Deposit in full as required by the Contract; or
- (b) pays the Deposit by cheque and that cheque is dishonoured on presentation,

the Seller may give the Buyer a Notice requiring the Deposit to be paid or the cheque to be honoured within 48 hours of service of the Notice.

1.6 Termination for non-payment

- (a) If a Notice under clause 1.5 is not complied with:
 - (1) the Buyer is in default; and
 - (2) the Seller may terminate the Contract by giving notice of termination to the Buyer.
- (b) Clause 23.1 does not apply if clause 1.5 and this clause 1.6 apply.

1.7 Terms Contract and other right

Clauses 1.5 and 1.6 do not:

- (a) apply if the Contract is a Terms Contract; or
- (b) limit any other right of the Seller.

1.8 Direction to Deposit Holder

Subject to clause 1.11, and unless each Party otherwise agrees in writing, a Party is not entitled to direct the Deposit Holder to pay the Deposit to any person before the Possession Date.

1.9 Investment of Deposit

If requested by the Buyer and permitted by law, the Deposit Holder may pay the Deposit into an interest bearing trust account with a Deposit Financial Institution in the name of the Deposit Holder.

1.10 Interest on Deposit

- (a) Subject to clause 24.8, if the Deposit is invested by the Deposit Holder in an interest bearing account with a Deposit Financial Institution in accordance with clause 1.9, the Buyer is entitled to the interest, less:
 - (1) any fees or charges payable to the Financial Institution in respect to the lodgment and withdrawal of the Deposit; and
 - (2) any other amount required to be deducted by the Financial Institution under the Income Tax Act.
- (b) If the Buyer is entitled to interest on the Deposit, the Buyer is not entitled to be paid any interest until Settlement unless otherwise specified in the Contract.

1.11 Payment of Deposit on Settlement

Subject to clause 24, the Strata Titles Act, the Community Titles Act and the Sale of Land Act, each Party authorises the Deposit Holder to pay the Deposit to:

- (a) the Seller at Settlement; or
- (b) the Seller Representative before Settlement, but only for the purpose of enabling Settlement to occur.

1.12 Deduction from Deposit

The Seller irrevocably authorises the Deposit Holder to deduct from the Deposit before it is paid to the Seller or the Seller Representative:

- (a) the selling fee payable to the Seller Agent; and
- (b) all proper expenses payable by the Seller to the Seller Agent in connection with the sale of the Property.

2 Encumbrance

2.1 Noted Encumbrance

The Seller sells the Property free of any Encumbrance except for:

- (a) a Specified Encumbrance; and
- (b) if the Land is a Scheme Lot, the interests and notifications specified in clause 10.8.

2.2 Benefit of right over Land

If the Land is entitled to the benefit of a right over other land:

- (a) that benefit is not an Encumbrance; and
- (b) the Land is sold and transferred with that benefit.

2.3 Rate Encumbrance - Unpaid Rate Outgoing

- (a) Subject to subclause (b), if at Settlement the Land is subject to a Rate Encumbrance which arises from an Unpaid Rate Outgoing:

- (1) if the Rate Encumbrance is registered on the Certificate of Title for the Land, the Seller must provide to the Buyer at Settlement any discharge, withdrawal or other document required to remove the Rate Encumbrance from the Certificate of Title for the Land;
- (2) the Seller must arrange for the Unpaid Rate Outgoing to be paid at Settlement; and
- (3) the Unpaid Rate Outgoing must be apportioned in accordance with clause 7.

- (b) If at Settlement the Land is subject to a Rate Encumbrance which arises from an Unpaid Rate Outgoing but the Rate Encumbrance is not registered on the Certificate of Title for the Land, then the Seller is not required to arrange for the Unpaid Rate Outgoing to be paid at Settlement if:
- (1) the Seller Representative has, not later than 3 Business Days before the Settlement Date, provided a written undertaking to the Buyer Representative to:
 - (A) deduct from the settlement proceeds due to the Seller or otherwise hold in trust an amount equal to the amount required to pay that Unpaid Rate Outgoing; and
 - (B) pay that amount to the relevant Authority immediately following Settlement; or
 - (2) the Buyer Representative has, not later than 3 Business Days before the Settlement Date, provided a written undertaking to the Seller Representative to:
 - (A) hold money in trust from the Buyer at Settlement equal to the amount which is required to pay that Unpaid Rate Outgoing; and
 - (B) pay to the relevant Authority immediately following Settlement, that Unpaid Rate Outgoing.
- (c) If subclause (b)(1) applies, the Seller is treated as having given an irrevocable authority and direction to the Seller Representative:
- (1) If applicable, to withhold the amount specified in subclause (b)(1) at Settlement; and
 - (2) to pay the Unpaid Rate Outgoing to the relevant Authority immediately after Settlement.
- (d) If subclause (b)(2) applies, the Buyer is treated as having given an irrevocable authority and direction to the Buyer Representative to pay the Unpaid Rate Outgoing to the relevant Authority immediately after Settlement.

2.4 Land sold subject to easement or restrictive covenant

If on the Contract Date:

- (a) the Land is subject to an easement or a restrictive covenant which is not a Specified Encumbrance;
 - (b) the Land is not vacant land; and
 - (c) the Land:
 - (1) includes a residence or other principal building which was used for a purpose before the Contract Date which use the Buyer would reasonably be expected to continue after Settlement; or
 - (2) was being used on the Contract Date for a purpose which the Buyer would reasonably be expected to continue after Settlement; and
 - (d) the easement or restrictive covenant does not unreasonably affect the use specified in subclause (c)(1) or (c)(2),
- the Land is treated as being sold subject to the easement or restrictive covenant and the Buyer has no right to terminate the Contract or to defer or delay Settlement as a result of the easement or restrictive covenant.

2.5 Land sold subject to Title Restriction

- (a) If:
- (1) the Land is subject to a Title Restriction, which is not a Specified Encumbrance;
 - (2) the Land is vacant land; and
 - (3) the Buyer:
 - (A) was aware; or
 - (B) should reasonably have been aware,
 of the Title Restriction or the effect of the Title Restriction, before the Contract Date; and
 - (4) the Title Restriction does not:
 - (A) unreasonably affect the proposed use of the Property by the Buyer; or
 - (B) materially affect the value of the Property,
 the Buyer is treated as having agreed to buy the Property subject to the Title Restriction and the Buyer has no right to terminate the Contract or defer or delay Settlement as a result of the Title Restriction.
- (b) If:
- (1) the Land is subject to a Title Restriction, which is not a Specified Encumbrance;
 - (2) the Land is not vacant land; and
 - (3) the Land:
 - (A) includes a residence or other principal building which was used for a purpose before the Contract Date, which use the Buyer would reasonably be expected to continue after Settlement; or
 - (B) was being used on the Contract Date for a purpose which the Buyer would reasonably be expected to continue after Settlement; and
 - (4) the Buyer:
 - (A) was aware; or
 - (B) reasonably should have been aware,
 of the Title Restriction or the effect of the Title Restriction before the Contract Date; and
 - (5) the Title Restriction does not unreasonably affect the use specified in subclause (b)(3),
- the Land is treated as having been sold subject to the Title Restriction and the Buyer has no right to terminate the Contract or defer or delay Settlement as a result of the Title Restriction.

2.6 Land sold subject to Remediated Site Memorial

- (a) If:
- (1) the Land is a Remediated Site;
 - (2) a Remediated Site Memorial has been lodged against the Certificate of Title for the Land; and
 - (3) the Remediated Site Memorial is not a Specified Encumbrance, subclauses (b) and (c) apply.
- (b) If:
- (1) the Land is vacant land; and
 - (2) the Restricted Use related to the Remediated Site Memorial does not:
 - (A) unreasonably affect the proposed use of the Property by the Buyer; or
 - (B) materially affect the value of the Property,
 the Buyer is treated as having agreed to buy the Property subject to the Remediated Site Memorial and the Buyer has no right to terminate the Contract or defer or delay Settlement as a result of the Restricted Use or the Remediated Site Memorial.
- (c) If:
- (1) the Land is not vacant land; and
 - (2) the Land:
 - (A) includes a residence or other principal building which was used for a purpose before the Contract Date which use the Buyer would reasonably be expected to continue after Settlement; or
 - (B) was being used on the Contract Date for a purpose which the Buyer would reasonably be expected to continue after Settlement; and
 - (3) the Restricted Use related to the Remediated Site Memorial does not unreasonably affect the use specified in subclause (c)(2),
- the Land is treated as having been sold subject to the Remediated Site Memorial and the Buyer has no right to terminate the Contract or defer or delay Settlement as a result of the Restricted Use or the Remediated Site Memorial.

2.7 Buyer right to terminate

- (a) If:
- (1) the Land is subject to an easement, a restrictive covenant, a Remediated Site Memorial or a Title Restriction which is not a Specified Encumbrance; and
 - (2) the Land is not treated as being sold subject to the easement, restrictive covenant, Remediated Site Memorial or Title Restriction in accordance with clauses 2.4 to 2.6,
- the Buyer is entitled at any time up to 3 Business Days before the Settlement Date to terminate the Contract by giving Notice to the Seller.
- (b) If the Buyer fails to exercise the right to terminate within 3 Business Days before the Settlement Date in accordance with subclause (a), the Buyer loses the right to terminate under the Contract and at general law.
- (c) If the Buyer terminates the Contract in accordance with subclause (a):
- (1) the Deposit and any other money paid by the Buyer under the Contract must be promptly repaid to the Buyer;
 - (2) if the Deposit has been invested by the Deposit Holder in accordance with clause 1.9, the Buyer is entitled to the interest on the Deposit;
 - (3) if any other money has been paid to the Deposit Holder by the Buyer, and invested by the Deposit Holder with a Deposit Financial Institution, the Buyer is entitled to the interest on that other money; and
 - (4) subject to subclauses (c)(1) to (c)(3), no Party has any claim or right of action against the other arising from the termination, except in respect to any matter which arose before the termination.

2.8 Security Interest

- (a) If requested by the Buyer in writing, the Seller must give to the Buyer a reasonable time before Settlement, all information including accurate copies of source documents contemplated by Schedule 1 Part 1 of the PPS Regs sufficient for the Buyer to determine whether the Property Chattels are subject to a security interest to which the PPSA applies.
- (b) The Buyer must keep any information and supporting documents provided by the Seller in accordance with clause 2.8(a) secure and confidential (to the extent the information is not publicly available) and only use that information to search the PPSR.
- (c) If any of the Property Chattels are:
- (1) subject to a security interest to which the PPSA applies; and
 - (2) not property free of the security interest pursuant to Chapter 2 Part 2.5 of the PPSA,
- the Seller must:
- (3) remove the security interest from the PPSR on or before the Settlement Date; or
 - (4) provide the Buyer a release of the security interest in a form acceptable to the Buyer (acting reasonably) on or before the Settlement Date; or
 - (5) otherwise deal with the security interest by written agreement with the Buyer.

3 Settlement

3.1 Preparation of Transfer

The Buyer must arrange for the Transfer to be prepared.

3.2 Delivery to Seller

The Buyer must:

- (a) sign the Transfer; and
- (b) deliver the Transfer to the Seller or the Seller Representative a reasonable time before the Settlement Date.

3.3 Duty

- (a) The Buyer must arrange for:
 - (1) Duty to be paid on the Contract; and
 - (2) the Transfer to be Duty Endorsed at Settlement or, if the Duty has been assessed through Revenue Online, a Certificate of Duty to be given at Settlement.
- (b) Following the delivery of the Transfer to the Seller or the Seller Representative in accordance with clause 3.2(b), the Seller must within a reasonable time sign the Transfer pending Settlement.
- (c) The Buyer must, on request by the Seller in writing, made not later than 20 Business Days after Settlement, provide to the Seller:
 - (1) an original of the Contract Duty Endorsed; or
 - (2) a photocopy of the Contract showing an endorsement as specified in subclause (c)(1),
 to enable the Seller to arrange for a duplicate of the Contract held by the Seller to be Duty Endorsed.
- (d) If the Buyer:
 - (1) provides to the Seller an original copy of the Contract Duty Endorsed; and
 - (2) requests the return of the Contract specified in subclause (d)(1),
 the Seller must, immediately after a duplicate of the Contract held by the Seller has been Duty Endorsed, return the copy of the Contract to the Buyer.
- (e) Subject to subclauses (g) to (i), the Buyer may make a request in writing to the Seller that:
 - (1) the Seller sign the Transfer; and
 - (2) the Seller Representative return the Transfer to the Buyer Representative,
 without payment by the Buyer of Duty on the Contract, and without the Transfer being Duty Endorsed, to be held by the Buyer Representative solely for:
 - (3) payment by the Buyer of Duty on the Contract before Settlement; and
 - (4) the Transfer being Duty Endorsed before and for the purpose of Settlement.
- (f) If Duty has been assessed and will be paid through Revenue Online:
 - (1) the Buyer may make a request in writing to the Seller that the Seller sign the Transfer; and
 - (2) if that request is made, the Seller must provide a copy of the Transfer signed by the Seller to the Buyer before the Settlement Date.
- (g) If the Seller provides the Transfer to the Buyer Representative in accordance with subclause (e) or (f):
 - (1) the Seller must provide the Transfer signed by the Seller to the Buyer Representative; and
 - (2) the Buyer is treated as having given unconditional undertakings to the Seller that the Buyer Representative must:
 - (A) hold the Transfer solely for the purpose of payment of Duty on the Contract, and for the Transfer to be Duty Endorsed for the purposes of Settlement; and
 - (B) promptly following a direction in writing by the Seller or the Seller Representative, deliver the Transfer to the Seller or the Seller Representative whether or not the Transfer has been Duty Endorsed.
- (h) If the Seller or the Seller Representative has provided the Transfer to the Buyer Representative in accordance with subclauses (e) and (g), the provision of the Transfer to the Buyer Representative is without prejudice to any right of the Seller arising from:
 - (1) any claim the Seller has or may have against the Buyer under clause 4 arising from a delay in Settlement; or
 - (2) without affecting subclause (h)(1), any default by the Buyer under the Contract.
- (i) If the Buyer Representative:
 - (1) is registered for Revenue Online; and
 - (2) has elected to have Duty on the Contract assessed and paid through Revenue Online,
 then:
 - (3) the Buyer must advise the Seller or the Seller Representative that the Buyer Representative has elected to have Duty on the Contract assessed and paid through Revenue Online;
 - (4) the Buyer must, within 5 Business Days after the Transaction Summary is generated, provide a copy of the Transaction Summary to the Seller or the Seller Representative; and
 - (5) on Settlement the Buyer must provide to the Seller or the Seller Representative a copy of the Certificate of Duty.

3.4 Place for Settlement

- (a) If the Contract specifies the time and place for Settlement, Settlement must take place at the time and place specified.
- (b) If the Contract does not specify the time for Settlement, the Buyer must specify the time for Settlement which must be during normal business hours on a Business Day.
- (c) If the Contract does not specify the place for Settlement, the Buyer must specify the place for Settlement which must be in the Perth CBD.

3.5 Completion of Settlement

Each Party must complete Settlement on:

- (a) the date for Settlement specified in the Contract; or
- (b) if no date for Settlement is specified in the Contract, the later of:
 - (1) the Business Day which is 25 Business Days after the Contract Date; and
 - (2) if the Contract is subject to a condition which, if not satisfied, will result in:
 - (A) termination of the Contract; or
 - (B) a Party being entitled to terminate the Contract,
 the Business Day which is 15 Business Days after the date on which the last condition is satisfied.

3.6 Balance of purchase price

- (a) The Buyer must on Settlement pay:
 - (1) to the Seller; or
 - (2) to any other person as the Seller or the Seller Representative has directed in writing not later than 2 Business Days before the Settlement Date,
 by 1 or more bank cheques:
 - (3) the balance of the Purchase Price; and
 - (4) any other money payable by the Buyer to the Seller at Settlement, less any deductions allowed under the Contract.
- (b) If there is a registered mortgage on the Land, the Seller must pay, or must request the Buyer to pay from the balance of the Purchase Price, the Landgate fee to register a discharge of the mortgage at Settlement.

3.7 Foreign Resident Withholding

- (a) This clause 3.7 applies (despite any other provision of the Contract) if:
 - (1) the market value of the Land is the Threshold Amount or more and the Seller does not provide a Clearance Certificate to the Buyer at least 2 Business Days before Settlement; or
 - (2) for any other reason the Buyer is obliged to pay a Withholding Amount to the Commissioner.
- (b) If this clause 3.7 applies:
 - (1) the Buyer must deduct the Withholding Amount from the Purchase Price and pay the Withholding Amount to the Commissioner by no later than Settlement; or
 - (2) if the Buyer provides to the Seller at Settlement:
 - (A) evidence from the Commissioner or the Australian Taxation Office that the Withholding Amount has been paid to the Commissioner; or
 - (B) a written undertaking from the Buyer Representative to pay the Withholding Amount to the Commissioner immediately following Settlement; or
 - (C) any other evidence relating to the payment of the Withholding Amount that is acceptable to the Seller,
 the Buyer is not required to pay that part of the Purchase Price to the Seller.
- (c) If subclause (b)(2)(B) applies, the Buyer is treated as having given an irrevocable authority and direction to the Buyer Representative to pay the Withholding Amount to the Commissioner immediately following Settlement.
- (d) Any Variation Notice not provided to the Buyer at least 2 Business Days before Settlement is to be disregarded for the purposes of determining the Withholding Amount.
- (e) If clause 3.12 applies, payment of the Withholding Amount under this clause 3.7 will be made as part of an 'Electronic Settlement'.

3.8 More than 3 Bank Cheques

If the Seller requires the Buyer to provide more than 3 Bank Cheques at Settlement, the Seller must pay to the Buyer at Settlement the additional bank fees incurred by the Buyer in order to obtain more than 3 Bank Cheques.

3.9 Settlement Cheque dishonoured

If a cheque provided by the Buyer at Settlement is dishonoured on presentation, the Buyer:

- (a) is in default; and
- (b) remains liable to pay to the Seller the amount of the cheque, together with interest on that amount at the Prescribed Rate:
 - (1) from and including the Settlement Date;
 - (2) to but excluding the date on which the Buyer pays that amount with interest to the Seller.

3.10 Seller obligation on Settlement

- (a) The Seller must at Settlement give the Buyer:
- (1) subject to clause 3.11, the Duplicate Certificate of Title for the Land;
 - (2) the Transfer signed by the Seller;
 - (3) each other document, including:
 - (A) any transfer executed by a third party;
 - (B) every application, declaration and other document, necessary to enable the Buyer to become the registered proprietor of the Land free of any Encumbrance, other than:
 - (i) an Encumbrance specified in clauses 2.1(a) and 2.1(b); and
 - (ii) if applicable, an Encumbrance subject to which the Land is transferred in accordance with clause 2;
 - (4) all other documentation required to be delivered on Settlement including:
 - (A) any discharge or withdrawal of an Encumbrance which is required to be withdrawn or discharged on Settlement; and
 - (B) subject to subclause (b), the documentation specified in clauses 6.10 and 11.2;
- (b) If:
- (1) possession of the Property has been given to the Buyer before Settlement; and
 - (2) the Seller has delivered the documentation specified in clause 6.10 to the Buyer on or after possession and before Settlement,
- the Seller has no obligation to deliver the documentation specified in clause 6.10 to the Buyer at Settlement.
- (c) If the Seller is required to deliver to the Buyer on Settlement a document as specified in subclause (3)(A), (3)(B) or (4)(B), the Seller must deliver to the Buyer a true copy of that document not later than 3 Business Days before the Settlement Date.
- (d) If the Seller is unable to transfer the Land to the Buyer free of Encumbrances, other than an Encumbrance specified in clause 2:
- (1) the Seller is treated as being in default; and
 - (2) subject to clauses 23 and 24, the Buyer is entitled to exercise every right of the Buyer arising from that default.

3.11 No duplicate Certificate of Title

If a Duplicate Certificate of Title for the Land has not issued in accordance with Section 48B(1)(a) of the Transfer of Land Act, the Seller is not obliged to give the Duplicate Certificate of Title for the Land to the Buyer on Settlement under clause 3.10.

3.12 Electronic conveyancing

- (a) This clause 3.12 applies if:
- (1) Landgate requires that the Contract is completed by an Electronic Settlement;
 - (2) the Contract specifies that there will be an Electronic Settlement; or
 - (3) the Parties agree to an Electronic Settlement.
- (b) Acceptance of an invitation to a Workspace by a Party is taken to be agreement for the purposes of subclause (a)(3).
- (c) If this clause 3.12 applies:
- (1) it has priority over any other provision of the Contract to the extent of any inconsistency; and
 - (2) without limiting subclause (c)(1), any provision of the Contract requiring the physical preparation, signing, delivery or payment of anything that is dealt with digitally or electronically within or using the Workspace is amended accordingly.
- (d) Each Party must:
- (1) be, or engage a Representative who is, a Subscriber;
 - (2) ensure that each other person for whom that Party is responsible and who is associated with the transaction is, or engages, a Subscriber;
 - (3) authorise their Representative to act on their behalf in the manner required by the ECNL; and
 - (4) conduct the transaction in accordance with the ECNL.
- (e) Unless Landgate requires that Settlement must be completed by an Electronic Settlement, and subject to subclause (g), a Party may elect not to proceed with an Electronic Settlement by giving written Notice to the other Party.
- (f) If a Withdrawal Notice is given, this clause 3.12 ceases to apply and Settlement is to be effected in accordance with the Contract otherwise than as an Electronic Settlement.
- (g) A Withdrawal Notice may not be given later than 5 Business Days before the Settlement Date unless Settlement cannot proceed as an Electronic Settlement. If a Withdrawal Notice is given less than 5 Business Days before the Settlement Date:
- (1) the Withdrawal Notice must specify why Settlement cannot proceed as an Electronic Settlement; and
 - (2) at the written request of either Party, the Settlement Date may be extended to a date being not more than 5 Business Days after the date the Withdrawal Notice is given.
- (h) The Buyer or the Buyer Representative must:
- (1) create a Workspace as soon as reasonably practicable;
 - (2) invite the Seller or the Seller Representative and any Financial Institution involved in the transaction to join the Workspace; and
 - (3) set the time for Settlement on the Settlement Date.

- (i) If the Buyer or the Buyer Representative fails to comply with subclause (h) within 10 Business Days before the Settlement Date, the Seller or the Seller Representative may:
 - (1) create a Workspace;
 - (2) invite the Buyer or the Buyer Representative and the relevant Financial Institutions to join the Workspace; and
 - (3) set the time for Settlement on the Settlement Date.
- (j) The Parties consent to written communications for the purposes of preparing for and facilitating Electronic Settlement being given and received electronically within the Workspace but not to any Notice being given in that manner.
- (k) Settlement occurs when the Workspace records that the exchange of funds or value (if any) between the Financial Institutions in accordance with the instructions of the Parties has occurred and the definition of 'Settlement' in clause 26.1 is amended accordingly.
- (l) Each Party must do everything reasonably necessary to:
 - (1) progress the transaction in the Workspace to Electronic Settlement on the Settlement Date at the time specified in the Workspace; and
 - (2) assist the other Party to trace and identify the recipient of any mistaken payment made under the Electronic Settlement and to recover the mistaken payment.
- (m) If Settlement in accordance with subclause (k) has not occurred by the Closing Time, the Parties must do everything reasonably necessary to effect Settlement:
 - (1) as an Electronic Settlement; or
 - (2) at the option of either Party, exercised by giving Notice to the other Party to that effect, otherwise than as an Electronic Settlement, on the next Business Day and time remains of the essence.
- (n) A Party is not in default under the Contract if:
 - (1) that Party is prevented from complying with an obligation because the other Party or the other Party's Financial Institution has not done something in the Workspace; or
 - (2) Electronic Settlement fails and does not occur by the Closing Time because a computer system of Landgate, the Office of State Revenue, the ELNO or the Reserve Bank of Australia is inoperative for any reason,

but that Party must comply with that Party's obligations as soon as the event referred to in subclause (n)(1) or (n)(2) ceases to apply.
- (o) No Party may exercise any rights under the Contract or at law to terminate the Contract during the time that the Workspace is locked for Electronic Settlement.
- (p) Subject to subclause (m), nothing in this clause 3.12 affects the rights of a Party under the Contract if Settlement does not occur on or before the Settlement Date due to the delay or default by the other Party.
- (q) Each Party must pay that Party's own fees and charges for using the ELNO for Electronic Settlement.
- (r) In this clause 3.12:
 - (1) **Business Day** means any day except:
 - (A) a Saturday, Sunday or public holiday in Western Australia; or
 - (B) a public holiday on the same day in both of Victoria and New South Wales.
 - (2) **ECNL** means the Electronic Conveyancing National Law as adopted in Western Australia by the *Electronic Conveyancing Act 2014 (WA)*;
 - (3) **Electronic Settlement** means Settlement and the lodgment of the documents necessary to record the Buyer as registered proprietor of the Land facilitated by the ELNO;
 - (4) **ELNO** has the meaning set out in the ECNL;
 - (5) **Closing Time** means the time the ELNO usually closes for settlement transactions in Western Australia on the Settlement Date;
 - (6) **Subscriber** means a subscriber under the ECNL;
 - (7) **Withdrawal Notice** means a Notice given under clause 3.12(e); and
 - (8) **Workspace** means an 'Electronic Workspace' as defined in the participation rules made under the ECNL for the transaction within the ELNO.

4 Delay in Settlement**4.1 Buyer delay**

- (a) If for any reason not attributable to the Seller, Settlement is not completed within 3 Business Days after the Settlement Date, the Buyer must pay to the Seller at Settlement interest on:
- (1) the balance of the Purchase Price; and
 - (2) any other money payable at Settlement.
- (b) The right of the Seller to interest under this clause 4.1 is in addition to the entitlement of the Seller to Rent under clause 6.7.

4.2 Seller delay

If for any reason attributable to the Seller, Settlement is not completed within 3 Business Days after the Settlement Date, the Seller must allow to the Buyer at Settlement, as a deduction from the Purchase Price, compensation equal to interest on:

- (a) the balance of the Purchase Price; and
- (b) any other money payable at Settlement.

4.3 Interest or compensation

Interest payable under clause 4.1 and compensation allowable under clause 4.2 is to be calculated:

- (a) at the Prescribed Rate; and
 - (b) from and including the Settlement Date to but excluding the date on which Settlement occurs,
- and is treated as being in full satisfaction of any claim the Party claiming interest or compensation has against the other Party as a result of the delay in Settlement.

4.4 Seller ready, willing and able

- (a) If the Seller is not ready, willing and able to complete Settlement on the Settlement Date, the Seller is not entitled to Interest under clause 4.1 until the Seller:
 - (1) is ready, willing and able to complete Settlement; and
 - (2) has given Notice of that fact to the Buyer.
- (b) If a Notice is given in accordance with subclause (a) within 3 Business Days after the Settlement Date, Interest is calculated and payable from and including the Settlement Date to but excluding the date on which Settlement occurs.
- (c) If a Notice is given in accordance with subclause (a), later than 3 Business Days after the Settlement Date, Interest is calculated and payable from and including the day on which the Notice is given up to but excluding the date on which Settlement occurs.

4.5 Buyer ready, willing and able

- (a) If the Buyer is not ready, willing and able to complete Settlement on the Settlement Date, the Buyer is not entitled to compensation under clause 4.2 until the Buyer:
 - (1) is ready, willing and able to complete Settlement; and
 - (2) has given Notice of that fact to the Seller.
- (b) If a Notice is given in accordance with subclause (a) within 3 Business Days after the Settlement Date, compensation is calculated and payable from and including the Settlement Date to but excluding the date on which Settlement occurs.
- (c) If a Notice is given in accordance with subclause (a) later than 3 Business Days after the Settlement Date, compensation is calculated from and including the day on which the Notice is given up to but excluding the date on which Settlement occurs.

4.6 Dispute – interest or compensation

- (a) If:
 - (1) the Interest Party claims that the Interest Default Party is liable to pay interest or compensation under clauses 4.1 to 4.5; and
 - (2) the Interest Default Party disputes the entitlement of the Interest Party to the interest or compensation,
 this clause 4.6 will apply.
- (b) Subject to subclause (h), and if the Interest Party requires the Interest Default Party to pay interest or compensation under clauses 4.1 to 4.5 at Settlement, the Interest Party must not later than 2 Business Days before Settlement serve an Interest Notice on the Interest Default Party setting out:
 - (1) the basis on which the claim for interest or compensation is made; and
 - (2) the amount claimed, which may include an amount to be calculated on a daily basis.
- (c) The Interest Default Party must pay the Interest Amount on Settlement to:
 - (1) the Representative of the Interest Party; or
 - (2) if the Interest Party has not appointed a Representative, then to the Representative of the Interest Default Party; or
 - (3) If subclauses (c)(1) and (c)(2) do not apply, then to the Interest Party, to be held by the Representative or the Interest Party subject to and for the purposes specified in this clause.
- (d) On the day which is 20 Business Days after Settlement, unless:
 - (1) the dispute has been resolved between the Parties; or
 - (2) court proceedings are instituted by a Party to determine the dispute,
 the Representative who holds the Interest Amount must pay the Interest Amount to the Interest Party or, if applicable, the Interest Party may retain the Interest Amount.
- (e) If:
 - (1) court proceedings are instituted by a Party as specified in subclause (d); or
 - (2) an agreement is reached between the Interest Party and the Interest Default Party with regard to the dispute,
 the Representative who holds the Interest Amount or, if applicable, the Interest Party must pay the Interest Amount, as applicable:
 - (3) as determined in accordance with the court proceedings; or
 - (4) in accordance with the agreement between the Parties.
- (f) If the Interest Default Party disputes the entitlement of the Interest Party to interest or compensation under clauses 4.1 to 4.5:
 - (1) that dispute does not affect the obligations of the Parties to proceed to Settlement; and
 - (2) subject to the obligation of the Interest Default Party to pay the Interest Amount on Settlement in accordance with this clause, the Parties must proceed to Settlement.

- (g) Each Party authorises a Representative who holds the Interest Amount under this clause to:
 - (1) pay; and
 - (2) otherwise deal with,
 the Interest Amount as specified in this clause.
- (h) This clause 4.6 does not affect the right of the Interest Party after Settlement to claim and, if appropriate, institute proceedings against the Buyer to recover, an amount of interest or compensation as specified in clauses 4.3 to 4.5.

4.7 Restriction on right in case of court proceeding

- (a) The right of a Party under this clause 4 to interest or compensation ceases from and including the date on which court proceedings are instituted by a Party for:
 - (1) specific performance of the Contract; or
 - (2) a declaration that the Contract:
 - (A) has been terminated; or
 - (B) remains valid and enforceable; or
 - (3) any other order or declaration to the same or similar effect to an order or declaration as specified in subclause (a)(1) or (a)(2); or
 - (4) other relief based on the Contract having been terminated.
- (b) It is the Intention of the Parties that if there is a delay in respect to Settlement, interest or compensation payable under this clause 4 represents the best estimate as to the damages sustained arising from the delay.
- (c) If court proceedings are instituted by a Party in accordance with subclause (a), nothing in the Contract:
 - (1) restricts, limits or prejudices the entitlement of a Party to claim interest under an Act or by way of damages or compensation; or
 - (2) limits or otherwise affects the discretion of the court.

4.8 Right not affected

The rights of a Party under this clause 4 do not affect the rights of a Party under clause 24.

5 Inspection**5.1 Right to inspect**

- (a) Subject to clause 5.2 and subclause (b):
 - (1) the Buyer is entitled to inspect the Property to check that the Seller has complied with the Seller's obligations under the Contract; and
 - (2) the Seller must grant access to the Property to enable the Buyer to inspect the Property for that purpose,
 on 1 occasion within 5 Business Days before the Possession Date.
- (b) If following an inspection under subclause (a) the Buyer identifies items that require rectification by the Seller under the Contract, the Buyer may give Notice of those items to the Seller following which:
 - (1) the Buyer is entitled to inspect the Property to check that the Seller has rectified those items; and
 - (2) the Seller must grant access to the Property to enable the Buyer to inspect the Property for that purpose,
 on 1 further occasion before the Possession Date.
- (c) The Buyer may be accompanied by 2 persons on an inspection.
- (d) If the Buyer is a corporation, the reference in this clause 5.1 and in clause 5.2 to the Buyer means a reference to a director, secretary or officer of the corporation or any other person nominated by the corporation.

5.2 Time for inspection

- (a) Subject to subclause (b), if the Buyer wishes to inspect the Property as specified in clause 5.1, the Buyer and the Seller must endeavour to agree the date and time for the inspection.
- (b) If the Buyer and the Seller do not reach agreement by 5 Business Days before the Settlement Date, the Buyer may by not less than 1 Business Day's Notice to the Seller or the Seller Agent specify the date and time for the inspection.
- (c) The inspection must be:
 - (1) on a Business Day; and
 - (2) at a time between 9.00am and 4.00pm.
- (d) Where the Buyer serves Notice under subclause (b) which complies with subclause (c), the Seller must permit the Buyer to inspect the Property at the time and on the date specified in that Notice.
- (e) This clause 5.2 applies in respect of each inspection to which the Buyer is entitled under clause 5.1.

6 Possession and Rent**6.1 Entitlement to possession**

- (a) Subject to clauses 6.2 and 6.3, the Buyer is entitled to possession of the Property on the earlier of:
 - (1) the date for possession (if any) specified in the Contract; and
 - (2) Settlement.
- (b) Subject to clause 6.3, and without affecting the rights of the Buyer on possession, if the Property is not sold subject to a Lease:
 - (1) the Buyer is entitled to vacant possession of the Property; and
 - (2) the Seller must remove from the Property before the Possession Date, all vehicles, rubbish and chattels, other than the Property Chattels.

6.2 Early possession

If the Buyer is given possession of the Property before Settlement:

- (a) for a period of less than one month, then clauses 14.6 to 14.9 apply until Settlement; or
- (b) for a period of one month or longer, then:
 - (1) clauses 14.6 to 14.9 apply until Settlement subject to the Residential Tenancies Act; and
 - (2) the Parties must comply with the Residential Tenancies Act.

6.3 Principal residence – limited occupation right

- (a) If immediately before Settlement, the Seller occupies the Property as the Seller's principal place of residence, the Seller may, subject to clause 6.4, remain in occupation of the Property until 12 noon on the day immediately following Settlement.
- (b) If subclause (a) applies and the Seller remains in occupation of the Property in accordance with subclause (a):
 - (1) the Seller must entirely vacate the Property by 12 noon on the day immediately following Settlement; and
 - (2) the Buyer is entitled to possession, and the Seller must give to the Buyer possession, of the Property at 12 noon on the day immediately following Settlement.

6.4 Damage to Property

If clause 6.3 applies:

- (a) the Seller is responsible to the Buyer for damage caused to the Property between:
 - (1) Settlement; and
 - (2) possession of the Property being given to the Buyer under clause 6.3; and
- (b) if damage is caused to the Property between Settlement and possession, the Seller must pay to the Buyer the cost of repairing the damage immediately on request by the Buyer.

6.5 Keys and security devices

- (a) Subject to subclauses (b) to (d), the Seller must deliver the Access Device to the Buyer on the Possession Date.
- (b) If clause 6.3 applies, the Seller must, at the time of giving possession of the Property to the Buyer, deliver to the Buyer the Access Device.
- (c) If agreed by the Buyer, the Access Device may be delivered to, and be held by, the Seller Agent for delivery to the Buyer following Settlement.
- (d) If subclause (c) applies, the Seller:
 - (1) must deliver the Access Device to the Seller Agent at a time sufficient to enable the Seller Agent to comply with subclause (c); and
 - (2) is treated as having authorised and directed the Seller Agent to deliver the Access Device to the Buyer in accordance with subclause (c).

6.6 Lease Provisions apply

Clauses 6.7 to 6.10 inclusive apply if the Contract provides that the Property is sold subject to the Lease.

6.7 Rent

- (a) The Seller is entitled to all Rent up to and including the Possession Date.
- (b) The Buyer is entitled to all Rent from and including the day after the Possession Date.

6.8 Rent paid before Settlement

- (a) The Seller must pay to the Buyer at Settlement any Rent:
 - (1) to which the Buyer is entitled under clause 6.7; and
 - (2) which was paid to the Seller before the Possession Date.
- (b) The Seller is not obliged to pay to the Buyer on Settlement any Rent which was payable by a Tenant under a Lease but is unpaid on the Possession Date.

6.9 Rent received after Settlement

If after Settlement either Party is paid Rent to which the other Party is entitled, the Party receiving the money must pay the money to the Party entitled to it as soon as reasonably possible.

6.10 General provisions where property leased

If the Property is on the Possession Date subject to a Lease:

- (a) the Seller must deliver to the Buyer on the Possession Date:
 - (1) if the Lease is in writing, an original or true copy of the Lease showing signing by the Parties; and
 - (2) if the Lease is liable to be assessed for Duty, the original or a true copy of the Lease delivered by the Seller to the Buyer under subclause (a)(1), showing that the Lease has been Duty Endorsed; and
 - (3) if the Lease is an oral lease or tenancy agreement, a written memorandum setting out all relevant details applicable to the Lease which are applicable on the Possession Date; and
 - (4) a statement which shows:
 - (A) the Rent payable for the Rent Period during which the Possession Date occurs; and
 - (B) the amount paid by the Tenant before the Possession Date in respect to the Rent Period specified in subclause (a)(4)(A); and
 - (5) any Property Condition Report that has been prepared in respect to the premises the subject of the Lease; and

- (6) if the Tenant has provided a Tenant Bond under the Lease, the Tenant Bond and any interest which has accrued on the Tenant Bond:
 - (A) by payment of a Bank Cheque in favour of the Buyer for the amount of the Tenant Bond; or
 - (B) by the provision of documentation which will effect the transfer of the Seller's rights in respect to the Tenant Bond to the Buyer; and
- (7) a Notice signed by the Seller or the Seller Representative, addressed to each Tenant, in a form reasonably determined by the Seller:
 - (A) in which the Seller notifies the Tenant of the sale of the Property to the Buyer; and
 - (B) which directs the Tenant to pay all Rent as from the Possession Date to the Buyer or as otherwise directed by the Buyer in writing.
- (b) Subject to clause 6.9, if, on the Possession Date, Rent was due to the Seller and has not been paid by the Tenant:
 - (1) the Buyer assigns to the Seller the unpaid Rent;
 - (2) the Buyer must immediately on request by the Seller sign:
 - (A) a deed of assignment of that unpaid Rent in favour of the Seller; and
 - (B) a notice to the Tenant of the assignment, which deed and notice of assignment must be prepared by the Seller at the expense of the Seller; and
 - (3) the Seller may institute proceedings against the Tenant for the unpaid Rent.
- (c) If a person has:
 - (1) guaranteed the obligations of the Tenant under the Lease; and
 - (2) executed the Lease as a guarantor,
 the Seller is, unless the guarantee specifies otherwise, treated as having assigned to the Buyer the benefit of that guarantee.
- (d) If a person has:
 - (1) guaranteed the obligations of the Tenant under the Lease; and
 - (2) executed a guarantee document which is not included in the Lease,
 the Seller must deliver that guarantee document to the Buyer at the time specified in subclause (a) and, unless the guarantee document otherwise specifies, the Seller is treated as having assigned the benefit of the guarantee to the Buyer.
- (e) If subclause (d) applies and the guarantee document is liable to be assessed for Duty, the original or a true copy of the guarantee document delivered by the Seller to the Buyer under subclause (d) must show that the guarantee document has been Duty Endorsed.
- (f) If a guarantee as incorporated in a Lease or guarantee document provides that the guarantee is not capable of assignment, except with the approval of the guarantor, the Seller must on request by the Buyer cooperate with the Buyer in requesting the guarantor to grant approval for the assignment of the guarantee to the Buyer.
- (g) Any fee payable to a guarantor in relation to an assignment referred to in subclause (f) must be paid by the Buyer.

7 Outgoing**7.1 Seller and Buyer obligation**

Subject to this clause 7:

- (a) the Seller must pay each Outgoing payable up to and including the Possession Date; and
- (b) the Buyer must pay each Outgoing payable from and including the day after the Possession Date.

7.2 Apportionment

Subject to this clause 7 an Outgoing must be apportioned under clause 7.1 and any amount payable by one Party to the other must be paid:

- (a) at Settlement; or
- (b) if the Contract is a Terms Contract, on the Possession Date; or
- (c) at a later time agreed by the Parties in writing.

7.3 Buyer not liable for Land Tax

The Buyer is not liable to pay any amount on account of Land Tax if the Property is at the Possession Date a residence which is capable of being used as a residence and for no other purpose.

7.4 Settlement Date 30 June

- (a) If:
 - (1) the Settlement Date is before or on 30 June; and
 - (2) Settlement does not occur before 5 pm on 30 June for a reason attributable to the Buyer,
 the Buyer must pay to the Seller any Land Tax assessed in respect to the Land as at midnight on 30 June calculated as if the Land is the only land owned by the Seller.
- (b) If:
 - (1) the Settlement Date is before or on 30 June;
 - (2) a separate Certificate of Title for the Land has been issued before 1 June;
 - (3) the Seller has given a Notice to the Buyer not later than 15 Business Days before the Settlement Date, that:
 - (A) the Seller is the registered proprietor of land other than the Land; and
 - (B) the Land and that other land are liable to Land Tax; and

(4) Settlement does not occur before 5:00pm on 30 June for a reason attributable to the Buyer,

the Buyer must pay to the Seller at Settlement the Land Tax assessed in respect to the Land for the Financial Year which commences on 1 July following the date specified in subclause (b)(1).

(c) Subject to subclause (d):

- (1) the Notice as specified in subclause (b)(3) may, subject to the Contract Date being before 1 June, be incorporated in the Contract; and
- (2) if the Notice is incorporated in the Contract in accordance with subclause (c)(1), that Notice is treated as having been given in accordance with subclause (b)(3).

(d) Subclause (c) does not apply unless before 1 June:

- (1) a separate Certificate of Title for the Land has issued; and
- (2) the Buyer has been given Notice by the Seller of the issue of that separate Certificate of Title for the Land.

7.5 Land Tax - Subdivided Land

(a) If on the Possession Date:

- (1) the Property is not a residence as described in clause 7.3; and
 - (2) the Land is the subject of a subdivision after the commencement of the Financial Year in which the Possession Date occurs,
- Land Tax will be apportioned as specified in subclause (b).

(b) If subclause (a) applies, Land Tax is apportioned and payable as an Outgoing in accordance with clauses 7.1 and 7.2 on the basis that the Land Tax payable in respect to the Land is:

- (1) the same proportion as the area of the Land bears to the total area of the Subdivision Land; and
- (2) the Subdivision Land is the only land owned by the Seller.

7.6 Land Tax general

(a) If clause 7.3 applies, the Seller must pay all Land Tax assessed in respect to the Property.

(b) Except as provided in clause 7.3, and subject to clauses 7.4 and 7.5, Land Tax must be apportioned:

- (1) as an Outgoing and paid as provided in clauses 7.1 and 7.2; and
- (2) otherwise on the basis that the Land is the only land owned by the Seller.

7.7 Future Rate Outgoing

(a) If at Settlement the Land will be subject to a Future Rate Outgoing:

- (1) the Seller must procure the Seller Representative to, not later than 3 Business Days before the Settlement Date, provide a written undertaking to the Buyer Representative that at Settlement, the Seller Representative will:

(A) hold in trust an amount, which must be specified in that undertaking, sufficient to pay the proportion of the Future Rate Outgoing which is payable by the Seller; and

(B) immediately after the assessment of the Future Rate Outgoing, pay the Seller's proportion of the Future Rate Outgoing to the relevant Authority; and

- (2) the Buyer must procure the Buyer Representative to, not later than 3 Business Days before the Settlement Date, provide a written undertaking to the Seller Representative that at Settlement, the Buyer Representative will:

(A) hold in trust an amount specified by the Buyer Representative in that undertaking, which is sufficient to pay the proportion of the Future Rate Outgoing payable by the Buyer; and

(B) immediately after the assessment of the Future Rate Outgoing, pay the Buyer's proportion of the Future Rate Outgoing to the relevant Authority.

(b) If there is a dispute as to the amount to be held by the Seller Representative and the Buyer Representative in accordance with subclause (a), that dispute must be determined by the Seller Agent.

(c) If there is no Seller Agent, the amount to be held by the Seller Representative and the Buyer Representative must be determined by a Real Estate Agent appointed by the Buyer.

(d) If the dispute is determined by the Seller Agent or a Real Estate Agent:

- (1) the Seller Agent or the Real Estate Agent must act as an expert and not as an arbitrator;

- (2) the determination of the Seller Agent or the Real Estate Agent is final and binding on the Seller and the Buyer; and

- (3) if any cost is payable to the Seller Agent or a Real Estate Agent for determining a dispute, as specified in subclause (b) and (c), that cost must be paid by the Buyer and the Seller in equal shares.

(e) If subclause (a)(1) applies, the Seller is treated as having given to the Seller Representative an irrevocable authority and direction to hold and apply the relevant money in the manner specified in subclause (a)(1).

(f) If subclause (a)(2) applies, the Buyer is treated as having given to the Buyer Representative an irrevocable authority and direction to hold and apply the relevant money in the manner specified in subclause (a)(2).

8 Risk

8.1 Passing of risk

Despite any rule of law or equity to the contrary, risk relating to the Property passes from the Seller to the Buyer at the time when the:

- (a) Purchase Price is paid in full; or
 - (b) Settlement occurs; or
 - (c) Buyer is given possession of the Property;
- whichever first occurs.

8.2 Damage or destruction

(a) If the Property includes a building or other improvement which is:

- (1) destroyed; or
 - (2) partially damaged,
- before Settlement, subclause (b) applies.

(b) If:

- (1) the building is a residence and is made substantially uninhabitable; or
 - (2) in any other case, a building or other improvement is made substantially unusable for the current use as at the Contract Date;
- clauses 8.3 to 8.7 apply.

8.3 Notice of damage or destruction

The Seller must, immediately following the damage or destruction referred to in clause 8.2, give Notice to the Buyer specifying:

- (a) full particulars of the damage or destruction;
- (b) that the Buyer may, within 15 Business Days of service of the Notice, terminate the Contract; and
- (c) that it is desirable for the Buyer to obtain legal advice following service of the Notice.

8.4 Right of Buyer to terminate

The Buyer may, within 15 Business Days of the service of Notice under clause 8.3, give Notice to the Seller that the Buyer has elected to terminate the Contract.

8.5 Right of Seller to terminate

If:

- (a) clause 8.2 applies;
- (b) the Seller has insured the building or improvement specified in clause 8.2 against damage or destruction;
- (c) the Seller within 5 Business Days after the damage or destruction specified in clause 8.2, notifies the insurer of a claim for the loss arising from the damage or destruction;
- (d) the Seller in notifying the claim in accordance with subclause (c), makes a request to the insurer that the insurer make a cash payment to the Seller in respect to the loss; and
- (e) the insurer has not within 10 Business Days after notification or the lodgment of the claim by the Seller, whichever is the later, agreed in writing to provide a cash payment to the Seller to compensate the Seller for the loss,

the Seller may within 15 Business Days of the service of the Notice in accordance with clause 8.3, by Notice to the Buyer or the Buyer Representative, terminate the Contract.

8.6 Termination

If:

- (a) the Buyer gives a Notice to the Seller in accordance with clause 8.4; or
 - (b) the Seller gives a Notice to the Buyer in accordance with clause 8.5,
- then
- (c) subject to subclauses (d) to (g), the Contract is terminated as from and including the date of service of that Notice;
 - (d) the Deposit, and any other money paid by the Buyer under the Contract, must be promptly repaid to the Buyer;
 - (e) if the Deposit has been invested by the Deposit Holder in accordance with clause 1.9, the Buyer is entitled to the interest on the Deposit;
 - (f) if any other money has been paid to the Deposit Holder by the Buyer, and invested by the Deposit Holder with a Deposit Financial Institution, the Buyer is entitled to the interest on that other money; and
 - (g) subject to subclauses (d) to (f), no Party has any claim or right of action against the other arising from the termination, except in respect to any matter which arose before the termination.

8.7 Right of Buyer to proceed

If the Buyer, within 15 Business Days of the service of Notice under clause 8.3:

- (a) gives Notice to the Seller that the Buyer intends to proceed with the Contract; or
 - (b) does not give a Notice under subclause (a) or clause 8.4,
- the Contract will, unless the Seller has given a Notice to the Buyer in accordance with clause 8.5, remain valid and enforceable, but clause 8.8 and 8.9 apply.

8.8 Reduction of Purchase Price

If clause 8.7 applies:

- (a) the Purchase Price is reduced by the amount of the reduction in value of the Property following the damage or destruction;

- (b) the amount of the reduction of the Purchase Price is, subject to this clause 8.8, the amount which is agreed in writing between the Seller and the Buyer within 30 Business Days of the date of service of the Notice under clause 8.3;
- (c) if the reduction of the Purchase Price is not agreed in writing between the Seller and the Buyer, the amount of the reduction of the Purchase Price must, subject to subclause (d), be determined by arbitration in accordance with clause 25.1; and
- (d) even if:
 - (1) the period specified in subclause (b) has expired; and
 - (2) arbitration proceedings have commenced under subclause (c),
 the Buyer and the Seller may at any time agree in writing the amount of the reduction of the Purchase Price.

8.9 Variation of Settlement Date

If the Contract proceeds in accordance with clause 8.7 the Settlement Date is the date which is 10 Business Days after the amount of the reduction of the Purchase Price has been:

- (a) agreed between the Buyer and the Seller; or
- (b) determined by arbitration.

9 Seller Representation and Warranty

9.1 As at Contract Date and Possession Date

Except to the extent disclosed in writing by the Seller to the Buyer before the Contract Date, or as otherwise specified in the Contract, the Seller represents and warrants to the Buyer on the Contract Date (and is taken to repeat those representations and warranties at the Possession Date) that:

- (a) the Seller does not know of:
 - (1) any demand, order, requisition or requirement relating to the Property which:
 - (A) has been made by an Authority and remains current; or
 - (B) which an Authority proposes to make;
 - (2) any proposal by an Authority:
 - (A) for the realignment, widening or alteration of the level of any road adjoining the Land; and
 - (B) which would be likely to materially affect the Land or the use of it;
 - (3) any obligation to pay money to an Authority in respect of:
 - (A) work performed or to be performed; or
 - (B) expenses incurred or to be incurred, by an Authority in relation to the Land;
 - (4) except in relation to a Scheme Lot, any sewer, drain, pipe, cable or other installation passing through the Land to provide services to other land;
 - (5) any obligation to:
 - (A) construct or repair; or
 - (B) contribute towards the cost of construction or repair of, a dividing fence between the Land and any adjoining land whether arising under the *Dividing Fences Act 1961* or otherwise; or
 - (6) any encroachment on the Land by a building or other structure on adjoining land;
- (b) no building or other structure on the Land encroaches on adjoining land;
- (c) as far as the Seller is aware, each dividing fence and wall is on the boundary of the Land;
- (d) the Seller:
 - (1) has good title to the Property Chattels; and
 - (2) is, or will be the sole owner of the Property Chattels;
- (e) except as otherwise specified in the Contract, the Property Chattels will be free of any Encumbrance;
- (f) subject to clause 6.1(b), the Property will be in the same state and condition it was in immediately before the Contract Date; and
- (g) as far as the Seller is aware:
 - (1) no person has any right arising from adverse possession;
 - (2) no public right of way or easement has been acquired by enjoyment or use; and
 - (3) no mining lease or licence has been issued under any Act, in respect to the Land.

9.2 Contract Date

Except as otherwise disclosed in writing by the Seller to the Buyer before the Contract Date, the Seller represents and warrants to the Buyer on the Contract Date that:

- (a) the Seller:
 - (1) has not received a notice of resumption of; and
 - (2) does not know of any intention to resume, the Land by an Authority; and
- (b) the use of the Property is lawful.

9.3 Breach or non-satisfaction of warranty

If the Seller is in breach of a representation or warranty in clause 9.1, 9.2 or 10.2, then, unless the Parties otherwise agree, the Buyer has no right to terminate the Contract or defer or delay Settlement or withhold any part of the Purchase Price, however:

- (a) if the breach unreasonably affects the proposed use of the Property by the Buyer or materially affects the value of the Property, the Buyer may exercise its rights arising at law; and

- (b) this clause does not limit any rights of a Party arising at law or elsewhere in the Contract, including any rights referred to in clause 10.3(b).

10 Strata or community title

10.1 When this clause applies

This clause 10 applies if the Land is a Scheme Lot.

10.2 Representation and Warranty

Except to the extent disclosed in writing by the Seller to the Buyer before the Contract Date, or as otherwise specified in the Contract, the Seller represents and warrants to the Buyer on the Contract Date (and is taken to repeat those representations and warranties at the Possession Date) that:

- (a) the Seller has paid:
 - (1) each Scheme Contribution levied by the Scheme Corporation in respect of the Scheme Lot except for any Scheme Contribution which is to be apportioned under clause 7.2 or 10.6;
 - (2) all other money due to the Scheme Corporation in consideration of any right or privilege granted by the Scheme Corporation in respect of the Scheme Lot;
 - (3) all money due to the Scheme Corporation for:
 - (A) work carried out by the Scheme Corporation in relation to the Scheme Lot; or
 - (B) the provision by the Scheme Corporation of an amenity or service to the Scheme Lot or to the proprietor or occupier of the Scheme Lot;
 - (4) any other money due by the Seller to the Scheme Corporation; and
 - (5) all interest due to the Scheme Corporation on the money specified in subclauses (a)(1), (a)(2), (a)(3) and (a)(4);
- (b) no administrator of the Scheme Corporation has been appointed;
- (c) except for anything:
 - (1) apparent on an inspection of the Scheme Lot and the parcel of which it forms part; or
 - (2) registered or recorded on the Scheme Plan; or
 - (3) specified in the by-laws of the Strata/Community Scheme,
 the Seller does not know of anything which will materially affect the Buyer's use or enjoyment of the Scheme Lot or of the common property comprised in the Strata/Community Scheme;
- (d) the Seller does not know of any proposal or application to terminate the Strata/Community Scheme;
- (e) the Seller does not know of any current, proposed or pending proceeding or application in relation to the:
 - (1) Strata/Community Scheme;
 - (2) Scheme Corporation; or
 - (3) Scheme Lot,
 in a court or tribunal;
- (f) the Seller does not know of any judgment or order of the State Administrative Tribunal, a court, or other relevant tribunal or judicial or administrative body in respect to the:
 - (1) Scheme Corporation;
 - (2) Strata/Community Scheme; or
 - (3) Scheme Lot,
 which has not been satisfied or complied with;
- (g) other than changes recorded on the Scheme Plan, no change to the by-laws of the Strata/Community Scheme has been:
 - (1) voted on by the Scheme Corporation; or
 - (2) ordered by a court or tribunal;
- (h) no money is owing to the Scheme Corporation for work carried out by the Scheme Corporation in relation to the Scheme Lot;
- (i) the Seller does not know of any change which:
 - (1) has been made; or
 - (2) is proposed,
 to the by-laws of the Strata/Community Scheme other than changes recorded on the Scheme Plan;
- (j) the Seller does not know of any action taken or any proposal to:
 - (1) vary the schedule of unit entitlement recorded on the Scheme Plan;
 - (2) grant, vary or surrender any easement or restrictive covenant affecting the Scheme Lot or any other part of the parcel;
 - (3) transfer, lease, licence or resume any part of the Scheme Lot or the common property;
 - (4) take a lease of land outside the parcel;
 - (5) obtain, vary or surrender a lease of land outside the parcel; or
 - (6) obtain an expenditure approval under Section 102(s)(b) of the Strata Titles Act;
- (k) the Seller does not know of any proposal by the Scheme Corporation to pass any resolution which will:
 - (1) adversely affect the use and enjoyment by the Buyer of the Scheme Lot or of the common property; or
 - (2) increase any Outgoing in respect to the Scheme Lot;
- (l) the information referred to in Section 156 of the Strata Titles Act or Section 130 of the Community Titles Act and provided to the Buyer by or on behalf of the Seller is correct; and
- (m) the Seller does not know of any fact or circumstance which may result in:
 - (1) proceedings in the State Administrative Tribunal; or
 - (2) proceedings before a court,
 being instituted against the registered proprietor of the Scheme Lot in respect to any matter relating to:

- (3) the common property;
- (4) the Scheme Lot; or
- (5) any action or liability arising under, or referred to in, Section 103 of the Strata Titles Act or Section 88 of the Community Titles Act.

10.3 Indemnity by Seller and right of Buyer

- (a) Except for a matter in respect to which the Buyer has agreed in writing to be bound, the Seller indemnifies and agrees to indemnify the Buyer against any Loss the Buyer may suffer or incur as a result of a breach by the Seller of a representation or warranty in clause 10.2:
 - (1) as the registered proprietor of the Scheme Lot; and
 - (2) which arises from a fact or circumstance which occurs before the Possession Date.
- (b) The right of the Buyer to terminate the Contract under Part 10 of the Strata Titles Act or Part 10 of the Community Titles Act:
 - (1) does not affect; and
 - (2) is in addition to, every other right of the Buyer arising from the default of the Seller under the Contract.

10.4 Voting

On and from the Contract Date until the Buyer becomes registered as the proprietor of the Scheme Lot:

- (a) the Seller must:
 - (1) immediately notify the Buyer if the Seller becomes aware of any proposal for members of the Scheme Corporation to vote on a resolution in respect to the Scheme Corporation; and
 - (2) provide a copy of the proposed resolution to the Buyer;
- (b) the Seller must, if required by the Buyer by Notice, vote in the manner directed by the Buyer in respect to any resolution proposed to be passed by the members of the Scheme Corporation;
- (c) If a section 102(6)(b) Strata Notice is given to each proprietor in the Strata Titles Scheme:
 - (1) the Seller must immediately give Notice to the Buyer of:
 - (A) the Section 102(6)(b) Strata Notice;
 - (B) the date of service of the Section 102(6)(b) Strata Notice; and attach to the Notice from the Seller a copy of the Section 102(6)(b) Strata Notice;
 - (2) the Buyer may, following the service of the Notice under subclause (c)(1), serve a Notice on the Seller directing the Seller to notify the council of the Scheme Corporation that the Seller objects to the expenditure specified in the Section 102(6)(b) Strata Notice; and
 - (3) if the Buyer gives a Notice to the Seller in accordance with subclause (c)(2), the Seller must immediately notify the council of the Scheme Corporation that the Seller objects to the expenditure specified in the Section 102(6)(b) Strata Notice;
- (d) the Seller must not, and must ensure that any mortgagee of the Scheme Lot does not, without the prior approval in writing of the Buyer:
 - (1) propose; or
 - (2) vote in favour of, any resolution of the Scheme Corporation; and
- (e) the Seller must ensure that any mortgagee of the Scheme Lot does not, without the prior approval in writing of the Buyer, vote in favour of any proposed expenditure referred to in a Section 102(6)(b) Strata Notice.

10.5 Scheme Corporation application

- (a) Subject to subclause (b), the Seller authorises the Buyer and the Representative of the Buyer to make application to the Scheme Corporation in respect to the:
 - (1) information;
 - (2) documents to be inspected; and
 - (3) certificates, specified in Section 107 of the Strata Titles Act or Section 94 of the Community Titles Act.
- (b) Subject to the Scheme Corporation requiring payment, the Buyer must pay to the Scheme Corporation the fee prescribed by the Strata Regulations or the Community Regulations in connection with any application made in accordance with subclause (a).

10.6 Apportionment of Reserve Fund Contribution

- (a) This clause 10.6 applies if, on or before the Settlement Date, the Scheme Corporation has levied a Reserve Fund Contribution in respect to the Scheme Lot.
- (b) If an instalment of a Reserve Fund Contribution is payable in a Financial Year before the Financial Year in which the Settlement Date occurs, the Seller must pay that instalment.
- (c) If:
 - (1) the whole of the Reserve Fund Contribution is; or
 - (2) any instalments of the Reserve Fund Contribution are, payable in the Financial Year in which the Settlement Date occurs, then the whole of the Reserve Fund Contribution or those instalments of the Reserve Fund Contribution will be apportioned between the Seller and the Buyer as if the Reserve Fund Contribution is an Outgoing for the purposes of clauses 7.1 and 7.2 for that Financial Year.
- (d) If any instalment of the Reserve Fund Contribution is payable in a Financial Year after the Financial Year in which the Settlement Date occurs, the Buyer must pay that instalment.

- (e) if after the Settlement Date and in a Financial Year in which the Settlement Date occurs, a Reserve Fund Contribution is levied in respect of the Scheme Lot:
 - (1) there will be no adjustment of that Reserve Fund Contribution; and
 - (2) the Buyer must pay that Reserve Fund Contribution.

10.7 Property included

- (a) The Property includes:
 - (1) the share of the Seller in the common property comprised in the Scheme Plan; and
 - (2) the benefit of any lease, licence, right or special privilege in respect to the common property and which is granted to the proprietor of the Scheme Lot and which attaches to the Scheme Lot.
- (b) The Property is sold subject to every lease, licence, right or special privilege granted to a third party in respect of the common property.

10.8 Interests notified

Without affecting any other provision of this clause 10, the Seller sells the Land subject to the interests registered and notifications recorded on the Scheme Plan on the Contract Date.

11 Electricity/Underground Power

11.1 Land not connected to electricity supply

If before the Contract Date the Land has not been connected to the electricity supply the Buyer is responsible at the Buyer's expense for the connection of the Land to the electricity supply.

11.2 Electricity Scheme Agreement

- (a) This clause 11.2 applies if, on the Contract Date:
 - (1) the Property has been connected to the electricity supply under the Electricity Extension Scheme; and
 - (2) the Seller is a party to the Electricity Scheme Agreement in relation to the Property.
- (b) The Seller must, a reasonable time before the Settlement Date, arrange for Western Power to prepare and deliver to the Buyer the standard form Western Power documentation under which:
 - (1) the Seller is released from obligation under the Electricity Scheme Agreement; and
 - (2) the Buyer becomes liable for all obligations under the Electricity Scheme Agreement.
- (c) The documentation specified in subclause (b) must be executed as appropriate by the Seller and the Buyer not later than 3 Business Days before the Settlement Date.
- (d) The Seller must, before Settlement, pay to Western Power each:
 - (1) capital contribution; and
 - (2) electricity supply and other charge, payable to Western Power under the Electricity Scheme Agreement up to the Settlement Date and provide evidence to the Buyer at Settlement of compliance with this subclause (d).
- (e) The Seller, if entitled to a refund of part or all of the capital contributions paid under the Electricity Scheme Agreement waives absolutely all right to receive a refund of any capital contribution which may become payable by Western Power in the future.
- (f) If there is any refund of any capital contribution paid to Western Power under the Electricity Scheme Agreement that refund of capital contribution belongs absolutely to the Buyer.
- (g) The Seller must deliver the documentation specified in subclauses (b) and (c) to the Buyer on Settlement.
- (h) Immediately following Settlement the Buyer must lodge the documentation specified in subclauses (b) and (c) with Western Power.

11.3 Cost of Electricity Scheme Agreement documentation

The Seller must pay all legal and other costs incurred in preparing the documentation specified in clause 11.2.

11.4 Underground power

If before the Contract Date an Authority has determined that underground power will be installed or, underground power has been installed:

- (a) In the area within which the Land is situated; and
- (b) the Land is required to be, or has been connected to the underground power supply, clauses 11.5 and 11.6 apply.

11.5 Underground power rate payable by Buyer

If:

- (a) clause 11.4 applies; and
- (b) the Authority has not before the Contract Date prescribed:
 - (1) an Underground Power Rate; and
 - (2) the manner in which the Underground Power Rate must be paid, the Buyer must pay the Underground Power Rate.

11.6 Underground power rate payable by Seller

If:

- (a) clause 11.4 applies; and
- (b) the Authority has before the Contract Date prescribed:
 - (1) an Underground Power Rate; and

- (2) the manner of payment of the Underground Power Rate, the Seller must:
- (3) before Settlement pay the Underground Power Rate to the Authority and provide proof of payment before or at Settlement; or
- (4) on Settlement:
 - (A) pay the Underground Power Rate to the Buyer on the basis that the Buyer must pay the Underground Power Rate to the Authority; or
 - (B) secure payment of the Underground Power Rate in a manner acceptable to the Buyer.

12 Sewer/Septic Tank

12.1 Property connected

- (a) If on the Contract Date:
 - (1) the Land is connected to a Water Corporation sewer; but
 - (2) any amount remains unpaid or becomes payable after Settlement for that connection (whether under a Water Corporation loan agreement or otherwise),
the Seller must pay that amount:
 - (3) to the Water Corporation before Settlement and provide evidence of payment to the Buyer at Settlement; or
 - (4) to the Buyer at Settlement.
- (b) If the amount as specified in subclause (a) is paid to the Buyer at Settlement, the Buyer must pay that amount to the Water Corporation immediately following Settlement.
- (c) If the amount as specified in subclause (a) is paid to the Buyer Representative at Settlement:
 - (1) the Buyer Representative must pay that amount to the Water Corporation immediately following Settlement; and
 - (2) the Buyer irrevocably authorises and directs the Buyer Representative to pay the relevant amount to the Water Corporation in accordance with subclause (c)(1).

12.2 Land not connected

If on the Contract Date:

- (a) the Land is not connected to a Water Corporation sewer; and
- (b) whether or not the Water Corporation has issued a notice requiring the Land to be connected to a Water Corporation sewer,
the Buyer is solely responsible for the connection of the Land to a Water Corporation sewer.

12.3 Decommissioning of Septic Tank

If on the Contract Date:

- (a) there is a septic tank on the Land; and
- (b) the septic tank has not been decommissioned,
the Buyer is solely responsible for decommissioning the septic tank.

13 Subdivision

13.1 When this clause applies

- (a) Subject to subclause (b), this clause 13 applies only if the Land is not a Lot on the Contract Date.
- (b) If the Land is a Proposed Strata Lot or a Proposed Community Lot, only clauses 13.5, 13.7, 13.8 and 13.10 apply unless the Contract is also a Future Lot Contract, in which case clause 13.9 also applies.

13.2 Contract conditional

- (a) The Contract is conditional on:
 - (1) an application for the subdivision of the Subdivision Lot from the Original Land being lodged with the Planning Commission within 3 months after the Contract Date; and
 - (2) the Planning Commission granting approval for the subdivision of the Subdivision Lot from the Original Land within 6 months after the Contract Date, or any longer period as specified in:
 - (A) the Contract;
 - (B) a subsequent agreement in writing between the Parties.
- (b) Subject to clause 13.5, if the Planning Commission grants approval for subdivision subject to a condition, the Planning Commission will be treated as having granted approval for subdivision for the purposes of subclause (a)(2).
- (c) If a condition specified in subclause (a) is not satisfied, the Contract terminates:
 - (1) at midnight on the date when the relevant period in subclause (a) expires; and
 - (2) without the requirement for either Party to give to the other a Notice of Termination.

13.3 Further condition for subdivision

- (a) The Contract is also conditional on:
 - (1) the Planning Commission endorsing approval on a Subdivision Plan within 12 months after approval for subdivision by the Planning Commission; and
 - (2) the Subdivision Plan being in Order for Dealing within 3 months after the date of endorsement of approval by the Planning Commission in accordance with subclause (a)(1).

- (b) Each period specified in subclause (a) is, if applicable, extended as specified in:
 - (1) the Contract; or
 - (2) a subsequent agreement in writing between the Parties.
- (c) If the conditions specified in subclause (a) are not satisfied:
 - (1) either Party may at any time prior to the relevant condition being satisfied, elect by Notice to the other Party to terminate the Contract; and
 - (2) if Notice terminating the Contract has been given under subclause (c)(1), the Contract terminates on the date of service of the Notice.

13.4 Application and Subdivision Plan

- (a) The Seller must, if the Seller has not already done so, lodge an application with the Planning Commission for the subdivision of the Subdivision Lot from the Original Land, within 15 Business Days after the Contract Date.
- (b) Following the lodgment of the application in accordance with subclause (a), the Seller must use reasonable endeavours to:
 - (1) obtain the approval of the Planning Commission to the subdivision of the Subdivision Lot from the Original Land; and
 - (2) subject to the approval of the Planning Commission to the subdivision, arrange for preparation of a Subdivision Plan including the Subdivision Lot, and for the Subdivision Plan to be:
 - (A) lodged at Landgate; and
 - (B) endorsed as in Order for Dealing, as soon as practicable.
- (c) Following the determination of the application for subdivision by the Planning Commission, the Seller must, within 10 Business Days after:
 - (1) the approval of the Planning Commission for subdivision; or
 - (2) the refusal of the Planning Commission to grant approval for subdivision,
give Notice to the Buyer of the determination of the Planning Commission and provide a copy of the determination of the Planning Commission to the Buyer.
- (d) The Seller must also on request by the Buyer:
 - (1) advise the Buyer of progress relating to the application to the Planning Commission for subdivision; and
 - (2) provide to the Buyer a copy of the determination of the Planning Commission in respect to an application for subdivision unless the Seller has already done so.

13.5 Unacceptable condition or requirement imposed by Planning Commission

- (a) If the Planning Commission grants approval for the subdivision of the Lot from the Original Land subject to a condition or requirement which either the Seller or the Buyer, acting reasonably:
 - (1) is unwilling to comply with; or
 - (2) considers to be prejudicial,
the Party who:
 - (A) would be bound to comply with the condition or requirement; or
 - (B) is prejudiced by the condition or requirement,
may within 15 Business Days of being notified of the condition or requirement, elect by Notice to the other Party to terminate the Contract.
- (b) If Notice terminating the Contract has been given under subclause (a), the Contract terminates on the date of service of the Notice.
- (c) The reference in subclause (a) to a condition or requirement of the Planning Commission includes a condition or requirement imposed by the Planning Commission that is subject to the satisfaction of a condition or requirement of an Authority other than the Planning Commission and:
 - (1) subclause (a) applies to the condition or requirement imposed by the other Authority;
 - (2) the Seller must use reasonable endeavours to obtain the approval of the other Authority; and
 - (3) if the other Authority imposes a condition or requirement, the Seller must within 10 Business Days of being notified of the condition or requirement:
 - (A) give Notice to the Buyer of the condition or requirement of the other Authority; and
 - (B) provide a copy of the condition or requirement to the Buyer.
- (d) The Seller must on request by the Buyer:
 - (1) advise the Buyer of progress relating to the satisfaction of a condition or requirement imposed by the Planning Commission or the other Authority; and
 - (2) provide to the Buyer a copy of the condition or requirement of the Planning Commission or the other Authority unless the Seller has already done so.

13.6 Proposed Strata Lot or Proposed Community Lot

If the Subdivision Lot is a Proposed Strata Lot or a Proposed Community Lot, the Seller must use best endeavours to arrange for the Subdivision Plan, being a Scheme Plan, to be registered at Landgate within the period specified or referred to in Section 163(3)(b) of the Strata Titles Act or Section 137(3)(b) of the Community Titles Act (as applicable).

13.7 Strata Lot – obligation to construct development

If the Contract includes an obligation for the Seller to construct a building or other improvement in connection with the sale of a Proposed Strata Lot or a Proposed Community Lot to the Buyer, the Seller must as soon as practicable:

- (a) undertake the construction of the building or improvement:
 - (1) in a proper and workmanlike manner; and
 - (2) in accordance with any plans or specifications which are attached to, or incorporated in, the Contract; and
- (b) if on the Contract Date construction has not commenced:
 - (1) commence construction after the Contract Date or on any date specified in the Contract; and
 - (2) following commencement of construction, cause:
 - (A) construction to proceed; and
 - (B) the construction of the building or other improvement to be completed.

13.8 Issue of title – Settlement Date

- (a) As soon as practicable after the Subdivision Plan is in Order for Dealing, the Seller must:
 - (1) apply for, and arrange for the issue of, a separate Certificate of Title for the Subdivision Lot; and
 - (2) notify the Buyer in writing, as soon as practicable after a separate Certificate of Title has been issued for the Subdivision Lot.
 - (b) Unless otherwise provided in the Contract, the Settlement Date is the date which is:
 - (1) 15 Business Days after the Seller notifies the Buyer that a separate Certificate of Title has issued for the Subdivision Lot; or
 - (2) if:
 - (A) the Buyer is aware that a separate Certificate of Title has been issued for the Lot; and
 - (B) the Buyer has notified the Seller that the Buyer is aware that a separate Certificate of Title has issued for the Lot,
- 15 Business Days after the Buyer has so notified the Seller.

13.9 Future Lot Contract

- (a) If the Contract is a Future Lot Contract:
 - (1) the Contract is conditional on the Seller being entitled to become the proprietor of the Subdivision Lot, Proposed Strata Lot or Proposed Community Lot within the period referred to in Section 13B of the Sale of Land Act; and
 - (2) the Seller must comply with the Sale of Land Act including:
 - (A) providing the required statutory warning (Section 13C of the Sale of Land Act);
 - (B) using reasonable endeavours to obtain approvals and lodge plans, and giving information to the Buyer (Section 13G of the Sale of Land Act); and
 - (C) notifying the Buyer within 10 Business Days of the condition in clause 13.9(a)(1) being satisfied (Section 13H of the Sale of Land Act).
- (b) If the Contract is terminated by the Buyer as a result of the condition in clause 13.9(a)(1) not being satisfied or under the Sale of Land Act, clause 13.10 applies.
- (c) This clause 13.9 and the Sale of Land Act have priority over any other provision of the Contract to the extent of any inconsistency.

13.10 Consequences of termination of Contract

If the Contract terminates:

- (a) under clause 13.2(c);
 - (b) under clause 13.3(c);
 - (c) under clause 13.5(b);
 - (d) as a result of the a Scheme Plan not being registered at Landgate in accordance with clause 13.6; or
 - (e) as a result of the condition in clause 13.9(a)(1) not being satisfied or under the Sale of Land Act,
- then:
- (f) the Deposit and any other money paid by the Buyer under the Contract, must be promptly repaid to the Buyer;
 - (g) if the Deposit has been invested by the Deposit Holder in accordance with clause 1.9, the Buyer is entitled to the interest on the Deposit;
 - (h) if any other money has been paid to the Deposit Holder by the Buyer, and invested by the Deposit Holder with a Deposit Financial Institution, the Buyer is entitled to the interest on that other money; and
 - (i) subject to subclauses (f) to (h), no Party has any claim or right of action against the other arising from the termination, except in respect to any matter which arose before the termination.

14 Terms contract

14.1 When this clause applies

This clause 14 applies if the Contract is a Terms Contract but clauses 14.6 to 14.10 only apply if the Buyer is given possession of the Property before Settlement.

14.2 Right to pay Purchase Price

Subject to the Buyer giving not less than 10 Business Days prior notice in writing to the Seller, the Buyer may pay the full balance of the Purchase Price at any time earlier than the time for payment specified in the Contract.

14.3 Right to pay instalment of Purchase Price

- (a) Subject to subclauses (b) and (c), the Buyer may at any time pay to the Seller part of the Purchase Price outstanding.

- (b) Unless a payment in accordance with subclause (a) is the whole of the balance of the Purchase Price outstanding, any payment made in accordance with subclause (a), must be in the sum of \$1,000, or a multiple of \$1,000.
- (c) Any payment made in accordance with subclause (a) will:
 - (1) be treated as payment of the last instalment or instalments of the Purchase Price due under the Contract; and
 - (2) not affect the obligation of the Buyer to pay the next instalment of the Purchase Price on the due date for payment.

14.4 Obligation to pay balance of Purchase Price

- (a) If the Buyer fails:
 - (1) to pay any instalment of the Purchase Price due under the Contract, on the due date for payment; and
 - (2) to pay the instalment specified in subclause (a)(1), within the time specified in a Notice served on the Buyer under subclause (b),
- the whole of the balance of the Purchase Price, and all other money due under the Contract, is immediately due and payable by the Buyer to the Seller.
- (b) If the Buyer has failed to pay an instalment of the Purchase Price on the due date the Seller may serve Notice on the Buyer. The Notice must:
 - (1) specify particulars of the instalment of the Purchase Price which has not been paid on the due date; and
 - (2) require the Buyer to pay the instalment specified in subclause (b)(1) within the time specified in the Notice being not less than 10 Business Days after the service of the Notice.

14.5 Right to pay mortgagee

If the Land is subject to a mortgage:

- (a) subject to subclause (b), the Buyer may pay any instalment of the Purchase Price due under the Contract, to the mortgagee under the mortgage, in reduction of the amount owed under the mortgage;
- (b) the Buyer must give Notice to the Seller of any payment made by the Buyer in accordance with subclause (a);
- (c) an amount paid by the Buyer under subclause (a) is treated as payment of the instalment of the Purchase Price next due to be paid by the Buyer under the Contract;
- (d) the Seller authorises the Buyer to:
 - (1) obtain information from the mortgagee as to the amount owed under the mortgage; and
 - (2) pay any amount to the mortgagee, in reduction of the amount owing under the mortgage; and
- (e) the Seller authorises the mortgagee to:
 - (1) provide any information requested by the Buyer; and
 - (2) accept any amount paid by the Buyer in reduction of the account owing under the mortgage.

14.6 Insurance

- (a) The Buyer must from and including the Possession Date take out and maintain with an insurer authorised to operate under the Insurance Act in the names of:
 - (1) the Buyer;
 - (2) the Seller; and
 - (3) any mortgagee of the Land,

for their respective rights and interests, the insurance specified in subclause (b).
- (b) The insurance required to be taken out and maintained under subclause (a) is:
 - (1) insurance in respect to each building and other improvement on the Land for full replacement value against damage or destruction by fire, storm, tempest, earthquake and any other risk as reasonably determined by the Seller of which Notice is given to the Buyer; and
 - (2) public liability insurance in respect to:
 - (A) the death or injury of a natural person; or
 - (B) damage to or destruction of property of other persons, in respect of any one incident, in the sum of \$20 million or any greater amount reasonably required by the Seller.
- (c) The Buyer must:
 - (1) provide to the Seller a copy of each policy of insurance taken out in accordance with subclauses (a) and (b);
 - (2) not alter or vary the insurance taken out under subclauses (a) and (b), without prior written notification to the Seller and in the event of the substitution or variation of any insurance taken out, comply with subclauses (a), (b) and (c)(1); and
 - (3) provide proof to the Seller that the insurance is current.
- (d) If the Buyer fails to:
 - (1) take out insurance as required under subclauses (a) and (b); or
 - (2) provide proof to the Seller that the insurance is current,

the Seller may, without notice to the Buyer, and without being obliged to do so, take out and maintain the insurance required in accordance with subclauses (a) and (b).
- (e) If the Seller takes out and maintains insurance in accordance with subclause (d) the Buyer must pay to the Seller on demand:
 - (1) all cost incurred by the Seller in taking out and maintaining the insurance; and

- (2) interest, on that amount at the Prescribed Rate, from the date each cost was incurred, up to and including the date on which each cost, together with interest, is repaid to the Seller.
- (f) The rights of the Seller under subclause (d) do not affect the rights of the Seller arising on default, and in particular, under clause 24.

14.7 Insurance – Scheme Lot

- (a) Clause 14.6 does not apply if:
 - (1) the Property is a Scheme Lot; and
 - (2) the Buyer provides proof to the Seller that as at the Possession Date, the Scheme Corporation has taken out and is maintaining insurance in respect to each risk and for the liability specified in clause 14.6(b).
- (b) If subclause (a) applies, the Buyer must:
 - (1) If required by the Seller, immediately provide to the Seller a copy of each policy of insurance taken out by the Scheme Corporation;
 - (2) If the insurance taken out by the Scheme Corporation is altered or varied, provide to the Seller details of the altered or varied insurance. Immediately the Buyer becomes aware of the alteration or variation, and in particular, provide details of any substitute insurance taken out by the Scheme Corporation; and
 - (3) provide proof to the Seller that the Scheme Corporation Insurance is current.
- (c) The Seller may, by Notice to the Buyer, require that the Buyer take out insurance which:
 - (1) is additional to the insurance taken out by the Scheme Corporation;
 - (2) is specified in the Notice from the Seller to the Buyer; and
 - (3) provides additional insurance in respect to each risk and the liability specified in clause 14.6(b).
- (d) If the Seller gives notice to the Buyer under subclause (c):
 - (1) the Buyer must take out and maintain the additional insurance; and
 - (2) clause 14.6 applies to the additional insurance.

14.8 Application of insurance proceeds

- (a) If, arising from an incident, money becomes payable under the insurance taken out and maintained under this clause 14, subclauses (b) and (c) will apply.
- (b) The Buyer must:
 - (1) subject to any requirement of a mortgagee, if a mortgage is registered over the Land; and
 - (2) at the option of the Seller, apply insurance proceeds arising from damage or destruction of a building or improvement on the Land in:
 - (A) repair, reinstatement or replacement of that building or improvement; or
 - (B) as a payment towards, or in full payment of the Purchase Price then outstanding.
- (c) The Buyer must apply any proceeds of a claim arising from public risk insurance as required by:
 - (1) the insurer; or
 - (2) the Seller, acting reasonably.
- (d) If the Property is a Scheme Lot:
 - (1) insurance in respect to the Property is covered by insurance taken out by the Scheme Corporation; and
 - (2) arising from an incident money becomes payable under insurance taken out and maintained by the Scheme Corporation, the insurance proceeds must be applied as required by the Scheme Corporation or otherwise in accordance with the Strata Titles Act or the Community Titles Act (as applicable).

14.9 General obligation - Property and Land

From and including the Possession Date, the Buyer must:

- (a) not:
 - (1) demolish, alter or add to any building or improvement which forms part of the Property; or
 - (2) remove from or add any soil or other material to the Land, except with the prior written approval of the Seller, which approval must not be unreasonably withheld;
- (b) keep the Property in good repair, having regard to the condition of the Property at the Possession Date;
- (c) promptly pay all Outgoings;
- (d) comply with the requirements of all laws, and with:
 - (1) any lease or licence of the Land from the State; and
 - (2) in the case of a Scheme Lot – any lease, licence or agreement, and every by-law applicable to that Scheme Lot; and
- (e) if the Property is, or includes, a farm or cultivated Land:
 - (1) maintain the farm; and
 - (2) cultivate that Land, in accordance with the best practice usually followed in the district in which the Land is situated.

14.10 Default – Seller may remedy

If the Buyer is in default of an obligation under clause 14.9:

- (a) subject to subclause (b), the Seller may, without:
 - (1) being obliged to do so; and
 - (2) any obligation to give any further notice to the Buyer, remedy that default;

- (b) except in the case of an emergency when this subclause (b) will not apply, the Seller may not exercise a right under subclause (a) unless:
 - (1) the Seller has served Notice on the Buyer:
 - (A) specifying the default of the Buyer; and
 - (B) requiring the Buyer to remedy the default within the reasonable time specified in the notice being not less than 10 Business Days after the service of the notice; and
 - (2) the Buyer fails to remedy the default within the time specified in the Notice;
- (c) for the purpose of exercising the right of the Seller under subclause (a), the Seller may enter on the Land:
 - (1) at a reasonable time except in the case of an emergency when the Seller may enter at any time; and
 - (2) with or without contractors and other persons, to undertake any relevant or necessary work;
- (d) the Buyer must pay to the Seller on demand each cost incurred by the Seller to remedy a default of the Buyer together with interest on each cost at the Prescribed Rate:
 - (1) from and including the date on which payment is made by the Seller; and
 - (2) up to but excluding the date on which the relevant amount, together with interest, is paid to the Seller; and
- (e) the rights of the Seller under subclause (a):
 - (1) do not affect any other right of the Seller arising from the default of the Buyer; and
 - (2) in particular, do not affect the rights of the Seller under clause 24.

14.11 Delivery of Transfer and title

- (a) Subject to subclause (b) and clause 3.10, on payment by the Buyer of all money owing to the Seller under the Contract, including any interest, the Seller must deliver to the Buyer the documentation specified in clause 3.10(a):
 - (1) at the time specified in the Contract; or
 - (2) if no time is specified, on the day which is 15 Business Days after the Seller receives payment in full of the balance of the Purchase Price and other money due under the Contract.
- (b) The documentation specified in subclause (a) must be delivered to the Buyer at:
 - (1) the place and time agreed between the Seller and the Buyer; and
 - (2) if not agreed in accordance with subclause (b)(1), then:
 - (A) on the day which is a Business Day; and
 - (B) at the time between 9.00am and 5.00pm; and
 - (C) at the place within the Perth CBD, specified by Notice from the Buyer to the Seller given not less than 3 Business Days before the day specified in subclause (a).

15 Error or Misdescription

15.1 Meaning of error or misdescription

An error or misdescription of the Property means an error or misdescription in the Contract relating to:

- (a) a physical structure or physical feature of the Property;
- (b) a boundary of the Property; or
- (c) the area of the Land.

15.2 No termination or delay in Settlement

Subject to this clause 15, an error or misdescription of the Property in the Contract does not:

- (a) entitle the Buyer to terminate the Contract; or
- (b) result in any right for the Buyer to delay Settlement.

15.3 Claim for compensation by Buyer

If the Buyer claims:

- (a) there has been an error or misdescription of the Property in the Contract; and
- (b) to be entitled to compensation, the Buyer must give to the Seller a Notice which specifies the basis of the claim and compensation required by the Buyer not later than 10 Business Days after the Possession Date.

15.4 Claim for compensation lost

If the Buyer fails to give a Notice in accordance with clause 15.3, any right of the Buyer to claim compensation arising from an error or misdescription of the Property in the Contract ceases to apply.

15.5 Determination of claim and compensation

If the Buyer serves a Notice under clause 15.3, unless otherwise agreed in writing between the Seller and the Buyer within 15 Business Days of service of the Notice, any issue between the Seller and the Buyer as to:

- (a) whether there is an error or misdescription of the Property in the Contract; or
- (b) the amount of compensation payable by the Seller to the Buyer, must be determined by arbitration under clause 25.1.

16 No requisition on title for freehold land

If the Land is freehold land:

- (a) the Buyer is not entitled to give a requisition or objection to the Seller in respect to:
 - (1) the title of the Seller in respect to the Land; and
 - (2) the Property; and
- (b) the Seller is not obliged to provide a response to a requisition or objection by the Buyer in respect to:
 - (1) the title of the Seller in respect to the Land; and
 - (2) the Property.

17 Cost and duty**17.1 Legal and other cost**

The Parties must pay their own legal and any other cost and expense in connection with:

- (a) the Contract; and
- (b) Settlement.

17.2 Duty

The Buyer must pay Duty on the Contract and the Transfer.

17.3 Registration fee

The Buyer must pay the registration fee on the Transfer.

17.4 Default cost

- (a) A Party in default under the Contract must pay to the other Party all cost and expense incurred by the other Party arising from the default.
- (b) Cost and expense specified in subclause (a) which has been determined before Settlement must be paid on Settlement.
- (c) If some or all of the cost and expense specified in subclause (a) is not paid on Settlement that cost and expense must be paid, after Settlement, on demand by the Party entitled to payment.
- (d) A Party may not refuse to complete Settlement because:
 - (1) a Party is liable; or
 - (2) alleged to be liable,
 to pay cost and expense under this clause 17.4 does not pay that cost and expense at Settlement.

18 GST**18.1 Purchase Price does not include GST**

Unless otherwise stated in the Contract, the Buyer is not required to pay to the Seller any amount in addition to the Purchase Price for GST.

18.2 Margin Scheme

Unless otherwise stated in the Contract, the Seller must not apply the Margin Scheme in respect to the sale of the Property.

18.3 GST to be paid on Purchase Price

If the Contract provides that GST must be paid in addition to the Purchase Price, at Settlement:

- (a) the Buyer must, in addition to the Purchase Price, pay the GST on the Purchase Price and any other consideration payable under the Contract; and
- (b) the Seller must provide a Tax Invoice to the Buyer.

18.4 GST on damages

- (a) If:
 - (1) a Successful Party becomes entitled to damages as a result of default under the Contract; and
 - (2) the Successful Party is liable to pay GST on the damages,
 the Payment Party must pay to the Successful Party the GST payable by the Successful Party on the damages at the same time as the Payment Party must pay the damages to the Successful Party.
- (b) If subclause (a) applies, the Successful Party must, on payment of the damages, provide a Tax Invoice to the Payment Party.
- (c) This clause 18.4 applies whether or not GST is payable on the Purchase Price.

19 Depreciation and Capital Works Deduction**19.1 Price of Depreciating Asset in Contract**

If:

- (a) a Depreciating Asset forms part of the Property; and
 - (b) the price of that Depreciating Asset has been specified in the Contract,
- the price of the Depreciating Asset as specified in the Contract is the sale price of that Depreciating Asset for the purposes of the Income Tax Act.

19.2 Price of Depreciating Asset not specified in Contract

If:

- (a) a Depreciating Asset forms part of the Property; and
 - (b) the price of the Depreciating Asset has not been specified in the Contract,
- the sale price of that Depreciating Asset for the purposes of the Income Tax Act is the adjustable value of that Depreciating Asset for the purposes of the Income Tax Act as determined at Settlement.

19.3 Capital Works Deduction

- (a) If the Property includes capital works which give rise to a Capital Works Deduction the Seller must give the Buyer a written notification within 20 Business Days after Settlement specifying the information necessary to enable the Buyer to claim any remaining Capital Works Deduction.
- (b) The written notification under subclause (a) must comply with Section 262A (4AJA) of the Income Tax Act.

20 Registration of Transfer**20.1 Registration**

No later than 3 Business Days after Settlement, the Buyer must lodge:

- (a) the Transfer; and
 - (b) every other document required to enable the Transfer to be registered at Landgate,
- and must then use best endeavours to ensure that the Transfer is registered as soon as possible.

20.2 Seller to cooperate

- (a) The Seller must immediately do everything reasonably requested by the Buyer to enable the Transfer to be accepted and registered at Landgate.
- (b) The Seller's obligation in subclause (a) survives Settlement.

20.3 Landgate requisition

- (a) If a requisition notice is issued by Landgate relating to the registration of:
 - (1) the Transfer; or
 - (2) any other document which is lodged for registration with the Transfer,
 the Seller and the Buyer must immediately do everything reasonably necessary to satisfy the requirements of the requisition notice.
- (b) If a requisition notice is issued by Landgate in respect to a document prepared by or on behalf of the Seller, the Seller must, not later than 3 Business Days before the time for payment prescribed by Landgate:
 - (1) pay to the Buyer the fee required by Landgate in respect to that requisition notice; or
 - (2) pay direct to Landgate the fee required by Landgate in respect to that requisition notice and provide a copy of the receipt for the payment issued by Landgate to the Buyer.
- (c) If the requisition notice issued by Landgate relates to a document prepared by or on behalf of the Buyer, the Buyer must pay to Landgate the fee required by Landgate in respect to the requisition notice issued in respect to that document by Landgate not later than 3 Business Days before the time for payment prescribed by Landgate.

21 Notice**21.1 Requirements for Notice**

A notice to be given under the Contract must be:

- (a) in writing; and
- (b) in the English language; and
- (c) signed by the Party giving it or that Party's Representative.

21.2 Service generally

Subject to clauses 21.3 to 21.6, a Notice is treated as having been duly given to a Party if served:

- (a) on a Party which is not a company
 - (1) by delivering the Notice to the Party personally; or
 - (2) by posting the Notice to the Party at the Party's address specified in the Contract; and
- (b) on a Party which is a company
 - (1) by delivering the Notice to the company at its registered office;
 - (2) by posting the Notice to the company at its address specified in the Contract or at its registered office; or
 - (3) in accordance with Section 109X of the Corporations Act.

21.3 Service - Representative

If a Representative acts for a Party:

- (a) a Notice served on that Representative in accordance with this clause 21 is treated for all purposes as if the Notice had been served on that Party; and
- (b) a Notice given by that Representative in accordance with this clause 21 is treated for all purposes as if the Notice had been given by that Party.

21.4 Service by facsimile or email

- (a) If a facsimile number or email address is specified in the Contract or by a Party or a Representative as the facsimile number or email address of that Party or Representative:

- (1) a Notice to the relevant Party or the Representative may be transmitted by facsimile to the specified facsimile number or sent by email to the specified email address;
- (2) a Notice transmitted by facsimile is treated as served:
 - (A) on the day on which it is transmitted but if it is transmitted after 4.00pm or on a day which is not a Business Day it is treated as having been served on the next Business Day; and
 - (B) when the facsimile machine which transmits the Notice prints an acknowledgment that every page comprising that Notice has been transmitted to the specified facsimile number; and

- (3) a Notice sent by email is treated as served when:
 - (A) it is sent unless the sender receives a return email to the effect that the email was not transmitted successfully; and
 - (B) on the day on which it is sent but if the email is sent by the sender on a day which is not a Business Day or after 5.00 pm (addressee's time), it is treated as having been given on the next Business Day,
 and the Parties consent to a Notice being given by email.
- (b) If:
 - (1) a Party has a Representative; and
 - (2) the Representative or Party includes in correspondence to the other Party or the Representative of the other Party, details of the facsimile number or email address of that Party or Representative,
 then:
 - (3) the facsimile number or email address so specified is, subject to subclause (c), treated as the facsimile or email address for that Party or the Representative of that Party; and
 - (4) subclause (a) applies as if that facsimile number or email address is specified in the Contract, or has been specified by a Party or the Representative of that Party as the facsimile number or email address of that Party or Representative.
- (c) Subclause (b) does not apply if a Party or Representative specified in subclause (b) gives Notice to the other Party or the Representative of that other Party that the facsimile number or email address specified in the correspondence is not the facsimile number or email address of the Party or Representative.

21.5 Service when Notice posted

A Notice which has been posted is treated as served on the third Business Day after the date on which the Notice is posted.

21.6 Change of address

- (a) A Party may by Notice to each other Party change:
 - (1) the Representative of that Party;
 - (2) the address of that Party; or
 - (3) the address of that Party's Representative;
 - (4) a specified facsimile number; or
 - (5) a specified email address.
- (b) If a Notice is given under subclause (a) each subsequent Notice to the Party concerned must be served as applicable:
 - (1) on the new Representative of the Party, and
 - (2) at any new address, new specified facsimile number or new specified email address.

22 Time of Essence

Subject to clause 23, time is of the essence in relation to the Contract.

23 Default Notice

23.1 Requirement for Default Notice

Neither Party may terminate the Contract as a result of the other Party's default nor may the Seller forfeit any money paid by the Buyer or retake possession of the Property because of the default of the Buyer, unless:

- (a) the Non Default Party gives a Default Notice to the Default Party; and
- (b) the Default Party fails to remedy the default within the time required under the Default Notice.

23.2 No limit on right to issue further Notice

The giving of a Default Notice under clause 23.1 does not prevent the Non Default Party from giving a further Default Notice.

23.3 No Default Notice required for repudiation

Clause 23.1 does not apply if the Default Party repudiates the Contract.

24 Default

24.1 Buyer Default

If the Buyer:

- (a) is in default under the Contract and has failed to comply with a Default Notice; or
 - (b) repudiates the Contract,
- the Seller has each right in clause 24.2, in addition to any other right or remedy of the Seller.

24.2 Seller right on default or repudiation

If clause 24.1 applies, the Seller may:

- (a) affirm the Contract and sue the Buyer for damages for default;
- (b) affirm the Contract and sue the Buyer for:
 - (1) specific performance of the Contract; and
 - (2) damages for default in addition to or instead of specific performance;
- (c) subject to clause 23.1, retake possession of the Property;
- (d) subject to clause 23.1, terminate the Contract by Notice to the Buyer, but only if the Default Notice given under clause 23.1 includes a statement that if the default is not remedied within the time specified in the Default Notice, the Contract may be terminated; or
- (e) if the Buyer repudiates the Contract, terminate the Contract by Notice to the Buyer.

24.3 Further Seller right on termination

If the Seller terminates the Contract under clause 24.2(d) or 24.2(e), the Seller may, subject to the further provisions of this clause 24, elect to exercise any one or more of the following:

- (a) forfeit the Deposit;
- (b) sue the Buyer for damages for default;
- (c) resell the Property.

24.4 Deposit exceeds 10% of Purchase Price

If the Deposit exceeds 10% of the Purchase Price:

- (a) the Seller may under clause 24.3 forfeit only that part of the Deposit which does not exceed 10% of the Purchase Price; and
- (b) any money paid by the Buyer in excess of 10% of the Purchase Price, is to be treated as a payment of an Instalment for the purposes of this clause 24 only.

24.5 Resale

If the Seller resells the Property in accordance with clause 24.3(c), the Seller:

- (a) is not required to give notice of the resale to the Buyer; and
- (b) has the discretion, acting reasonably, to determine the manner of resale and the terms and conditions applicable to the resale.

24.6 Resale within 12 months

If:

- (a) settlement of the resale of the Property occurs within 12 months after the Seller terminates the Contract; and
 - (b) after taking into account the costs and expenses and the proceeds of the resale and the amount of the Deposit which has been forfeited,
- the amount held by the Seller:
- (c) is less than the Purchase Price, the Buyer must pay to the Seller, as liquidated damages, the difference between the amount held by the Seller and the Purchase Price; or
 - (d) exceeds the Purchase Price, the excess belongs to the Seller.

24.7 Terms Contract

If:

- (a) the Contract is a Terms Contract; and
 - (b) there is a surplus in accordance with clause 24.6(d); and
 - (c) the Buyer had possession of the Property for more than 12 months before the termination of the Contract,
- the Seller must pay the surplus to the Buyer, without interest.

24.8 Interest to Seller

Whether or not Settlement of the resale occurs within 12 months after the Seller terminates the Contract, any interest:

- (a) accrued on the Deposit; or
- (b) on any Instalment paid by the Buyer, belongs to the Seller.

24.9 Instalment

If the Seller:

- (a) terminates the Contract; and
 - (b) holds an Instalment,
- the Seller may hold the Instalment pending:
- (c) a resale of the Property; or
 - (d) determination of a claim for damages.

24.10 Sale within 12 months

If the Seller:

- (a) holds an Instalment in accordance with clause 24.9; and
- (b) resells the Property within 12 months of termination of the Contract, the Seller may apply the whole or part of the Instalment to liquidated damages determined in accordance with clause 24.6.

24.11 Payment after 12 months

Subject to clauses 24.10 and 24.12, the Seller must pay to the Buyer, without interest, any Instalment held by the Seller after 12 months following the termination of the Contract.

24.12 Finalisation of proceedings

If:

- (a) the Seller has instituted proceedings against the Buyer for damages, following termination of the Contract; and
 - (b) the action for damages has not been finalised within 12 months following the termination of the Contract,
- the Seller may hold any Instalment pending the final determination of the action for damages against the Buyer.

24.13 Payment after finalisation

After determination of the action for damages the Seller:

- (a) may apply the whole or part of the Instalment towards any judgment for damages and costs awarded by the court; but
- (b) must pay any surplus, after application of the Instalment towards the judgment and costs, to the Buyer, without interest.

24.14 Seller default

If the Seller:

- (a) is in default under the Contract and has failed to comply with a Default Notice; or
 - (b) repudiates the Contract,
- the Buyer has each right in clause 24.15, in addition to any other right and remedy of the Buyer.

24.15 Buyer right on default or repudiation

If clause 24.14 applies, the Buyer may:

- (a) affirm the Contract and sue the Seller for damages for default;
- (b) affirm the Contract and sue the Seller for:
 - (1) specific performance of the Contract; or
 - (2) damages for default in addition to or instead of specific performance;
- (c) subject to clause 23.1, terminate the Contract by Notice to the Seller, but only if the Default Notice given under clause 23.1 includes a statement that if the Default is not remedied within the time specified in the Default Notice, the Contract may be terminated; or
- (d) if the Seller repudiates the Contract, terminate the Contract by Notice to the Seller.

24.16 Further Buyer right on termination

If the Buyer terminates the Contract under clause 24.15(c) or 24.15(d):

- (a) the Deposit, and any other money paid by the Buyer under the Contract, must be promptly repaid to the Buyer;
- (b) if the Deposit and any other money paid under the Contract by the Buyer has been paid to the Seller, the Seller must promptly repay the Deposit and, if applicable, that other money to the Buyer;
- (c) if the Deposit has been invested with a Deposit Financial Institution in accordance with clause 1.9, the Buyer is entitled to the interest earned on the Deposit;
- (d) if any other money paid by the Buyer under the Contract to the Deposit Holder in addition to the Deposit has been invested by the Deposit Holder with a Deposit Financial Institution, the Buyer is entitled to the interest on that other money invested; and
- (e) except for any money paid to the Deposit Holder by the Buyer under the Contract, the Seller must, on demand, pay to the Buyer interest on any money paid by the Buyer under the Contract at the Prescribed Rate, calculated:
 - (1) from and including the date of payment by the Buyer; and
 - (2) up to, but excluding the date on which the money is repaid to the Buyer.

24.17 Legal cost on termination

If the Termination Party terminates the Contract as a result of:

- (a) the default of; or
 - (b) the repudiation by,
- the Terminated Party, the Terminated Party must pay to the Termination Party all legal cost incurred by the Termination Party in respect to the termination of the Contract arising from that default or that repudiation.

24.18 Rule in Bain v Fothergill excluded

The rule of law known as the rule in *Bain v Fothergill*, which limits the damages recoverable from a Seller incapable of making good title, does not apply to the Contract.

25 General**25.1 Arbitration**

If anything in relation to the Contract is to be determined by arbitration:

- (a) the arbitrator is to be a person jointly appointed by the Parties, or, if they cannot agree, by the President of the Real Estate Institute of Western Australia (Inc) at the request of either Party;
- (b) the Commercial Arbitration Act 1985 (WA) applies; and
- (c) a Party may be represented by a Legal Practitioner at any arbitration proceedings.

25.2 Contract takes priority

If there is a provision in the Contract which is inconsistent with a provision of this document, the provision in the Contract takes priority to the extent necessary to remove the inconsistency.

25.3 No merger

Insofar as any obligation under the Contract remains to be complied with after Settlement, that obligation and the relevant provisions relating to that obligation survive Settlement and continue to be enforceable despite Settlement having taken place.

26 Definitions and interpretation**26.1 Definitions**

In this document, unless otherwise stated:

Access Device means:

- (a) each key and security device; and
- (b) written details of each code for any security system which enables access to the Property.

Act means an act of Parliament.

Assessment means an assessment issued by State Revenue of the amount of Duty payable on the Contract.

Authority means any governmental, statutory or other public body or authority including a local government.

Bank Cheque means a cheque drawn on itself by a Financial Institution.

Business Day means any day except a Saturday, Sunday or public holiday in Western Australia.

Buyer means each person so specified in the Contract.

Capital Works Deduction means a deduction allowed under Division 43 of the Income Tax Act.

Certificate of Duty means the State Revenue Certificate of payment of Duty generated through Revenue Online.

Certificate of Title means the Certificate of Title held by Landgate.

Clearance Certificate means a current certificate issued by the Commissioner of Taxation under section 14-220 of Schedule 1 to the Tax Administration Act that applies to the Seller (and if the Seller consists of more than one person, to each person who comprises the Seller) in respect of the sale of the Property.

Commissioner of State Revenue means the Commissioner of State Revenue specified in section 6 of the *Taxation Administration Act 2002* (WA).

Commissioner has the meaning given in the Tax Administration Act.

Contaminated Sites Act means the *Contaminated Sites Act 2003* (WA).

Contract means the contract between the Seller and the Buyer in which this document is incorporated and includes this document.

Contract Date means the date on which the last Party to sign the Contract signs it.

Corporations Act means the *Corporations Act 2001* (Commonwealth).

Crown Reservation means any of:

- (a) a reservation as defined in Section 3(1) of the Land Administration Act;
- (b) a covenant registered in accordance with Section 15 of the Land Administration Act;
- (c) a limitation, interest, encumbrance or notification recorded on a transfer of crown land in fee simple in accordance with the Land Administration Act; and
- (d) a reservation or clause contained in the Crown Grant of the Land.

Default Notice means a notice which:

- (a) specifies the default of a Party under the Contract;
- (b) requires the Party in default to remedy the default:
 - (1) within 10 Business Days after the date the notice is duly given or;
 - (2) within any longer period specified in the Notice; or
 - (3) if the Contract is a Terms Contract, within the time specified in Section 6(2) of the Sale of Land Act.

Default Party means a Party who the Non Default Party contends is in default under the Contract.

Deposit means money paid or payable under the Contract, as a deposit.

Deposit Claimant means a Party who issues a Deposit Holder Notice.

Deposit Financial Institution means a Financial Institution with which, if applicable:

- (a) the Seller Agent is authorised to invest trust money in accordance with the Real Estate Act;
- (b) the Seller Representative, being a Legal Practitioner, is authorised to invest trust money in accordance with the Legal Practitioners Act; and
- (c) the Seller Representative, being a Settlement Agent, is authorised to invest trust money in accordance with the Settlement Agents Act.

Deposit Holder means as applicable:

- (a) the Seller Agent or the Seller Representative to whom the Deposit is paid; and
- (b) if clause 1.3(b) or 1.4 applies the Legal Practitioner, Real Estate Agent or Settlement Agent who holds the Deposit.

Deposit Holder Notice means a Notice from the Deposit Claimant that:

- (a) specifies the Contract has been terminated;
- (b) states the basis on which it is contended that the Contract has been terminated;
- (c) states that the Deposit Holder is required to pay the Deposit to the Deposit Claimant; and
- (d) if the Deposit Respondent disputes that:
 - (1) the Contract has been terminated; or
 - (2) the Deposit should be paid to the Deposit Claimant,
 states that the Deposit Respondent must give Notice to the Deposit Claimant and the Deposit Holder within 5 Business Days of service of the Deposit Holder Notice as specified in clause 1.2.

Deposit Respondent means the party who is not the Deposit Claimant.

Depreciating Asset means an asset as defined in the Income Tax Act, except for an asset which attracts a Capital Works Deduction.

Depreciable Item means an item which is subject to depreciation under the Income Tax Act.

Dollars and \$ means Australian dollars.

Duplicate Certificate of Title means the duplicate of the Certificate of Title issued by Landgate.

Dutiable Value has the same meaning as dutiable value in section 9 of the Duties Act.

Duties Act means the *Duties Act 2008* (WA).

Duty means duty payable under the Duties Act.

Duty Endorsed means an endorsement that:

- (a) Duty has been paid on the Contract or the Transfer; or
- (b) If applicable, the Contract and the Transfer are exempt from Duty, and in particular has the same meaning as duty endorsed as defined in the Duties Act.

Electricity Extension Scheme means the scheme established by Western Power known as the Contributory Extension Scheme under which Western Power agreed to construct an extension to the electricity supply to supply electricity to the Property.

Electricity Scheme Agreement means:

- (a) the agreement entered into with Western Power under which electricity was provided to the Property under the Electricity Extension Scheme; and
- (b) includes, if applicable, the agreement between the Seller and Western Power under which the Seller assumed the obligations of a former owner of the Property under an agreement as specified in subclause (a).

Encumbrance means a mortgage, easement, restrictive covenant, Title Restriction, caveat, Memorial and Rate Encumbrance and includes any right and interest which a person has in relation to the Property.

Financial Institution means a financial institution as defined in Section 3 of the *Cheques Act 1986* (Commonwealth).

Financial Year means each period commencing on 1 July in a year and ending on 30 June in the next succeeding year.

Future Lot Contract means a 'future lot contract' as defined in the Sale of Land Act.

Future Rate Outgoing means an Outgoing:

- (a) in respect to the Land; and
- (b) for which, as at Settlement an assessment has not been issued by an Authority in respect to the relevant Financial Year if the Outgoing is required to be adjusted at Settlement under the Contract.

GST means the goods and services tax payable under the GST Act.

GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Commonwealth).

In Order for Dealing means that the Subdivision Plan has been Initialed by an Inspector:

- (a) as being in order for dealing; and
- (b) in particular, as in order to enable the Issue of a separate Certificate of Title for the Lot.

Income Tax Act means:

- (a) the Income Tax Assessment Act 1936 (Commonwealth); and
- (b) the Income Tax Assessment Act 1997 (Commonwealth).

Inspector means an officer of Landgate authorised to sign a Subdivision Plan as being In Order for Dealing.

Instalment means any money paid by the Buyer under the Contract in excess of the Deposit.

Instituted means, in relation to court proceedings, that:

- (a) a Party has commenced proceedings in a court; and
- (b) the originating process which commences those proceedings, has been served on the other Party.

Insurance Act means the *Insurance Act 1973* (Commonwealth).

Interest Amount means the amount specified in the Interest Notice.

Interest Default Party means the party who the Interest Party claims is liable to pay interest or compensation under clause 4.1 to 4.5.

Interest Notice means a notice from the Interest Party to the Interest Default Party in which the Interest Party claims interest or compensation from the Interest Default Party under clause 4.6.

Interest Party means a party who claims to be entitled to interest or compensation under clause 4.1 to 4.5.

Land means the land which the Seller has agreed to sell to the Buyer as described in the Contract including all improvements and other fixed improvements on that land.

Land Administration Act means the *Land Administration Act 1997* (WA).

Landgate means the Western Australian Land Information Authority established under the *Land Information Authority Act 2006* (WA).

Land Tax means land tax payable under the Land Tax Act and includes, if applicable, Metropolitan Region Improvement Tax.

Land Tax Act means the *Land Tax Act 2002* (WA).

Lease means a lease or tenancy agreement in respect to the Property.

Legal Practitioner means an Australian legal practitioner or a law practice (as the context requires) as those terms are defined in the Legal Profession Act.

Legal Profession Act means the *Legal Profession Act 2008* (WA).

Loss includes a claim, judgment, order, financial loss, damages and costs.

Lot has the same meaning as the definition of lot in the Planning and Development Act.

Margin Scheme means the scheme described in Division 75 of the GST Act as the margin scheme.

Memorial means a Memorial lodged under an Act.

Metropolitan Region Improvement Tax means Metropolitan Region Improvement Tax as defined in the *Metropolitan Region Improvement Tax Act 1959* (WA).

Non Default Party means a Party who contends that another Party is in default under the Contract.

Notice means a notice as specified in clause 21.1.

Original Land means the land of which the Lot forms part.

Outgoing means:

- (a) all rates, taxes, charges (including fixed charges) and other similar expenses payable in relation to the Property (whether periodically or not); and
- (b) if the Land or any part is a Scheme Lot:
 - (1) each Scheme Contribution; and
 - (2) any money payable periodically under a lease, licence or other agreement referred to in clause 10.7,

but does not include a tax specified in the Income Tax Act, GST and Duty.

Party means, as the case requires, either the Seller or the Buyer, or both the Seller and the Buyer.

Payment Party means the Party who is liable to pay damages or other money to the Successful Party arising from default under the Contract.

Perth CBD means the area in or adjoining the City of Perth bounded by Riverside Drive, the Mitchell Freeway, Roe Street, Fitzgerald Street, Newcastle Street, Lord Street, Wellington Street and Plain Street, including both sides of each street or road.

Planning and Development Act means the *Planning and Development Act 2005* (WA).

Planning Commission means the Western Australian Planning Commission.

Possession Date means the date that is the earlier of:

- (a) the date Settlement occurs; and
- (b) the date on which the Buyer is given possession of the Property.

PPSA means the *Personal Property Security Act 2009* (Commonwealth).

PPSR PPSR means the register established and maintained pursuant to the PPSA and the PPS Regs.

PPS Regs means the *Personal Property Securities Regulations 2010* (Commonwealth).

Prescribed Rate means 9% per annum calculated daily.

Property means the Land and any Property Chattels.

Property Chattels means all items of property, except the Land and anything which forms part of the Land, which the Seller has agreed to sell to the Buyer under the Contract.

Property Condition Report means a report prepared by a Real Estate Agent or other person which records the condition of the premises the subject of a Lease:

- (a) as at the date of commencement of that Lease; or
- (b) at any time after the commencement of the Lease.

Purchase Price means the price payable for Property stipulated in the Contract.

Rate Encumbrance means a charge:

- (a) created over the Land by an Act; and
- (b) which arises from an Unpaid Rate Outgoing.

Real Estate Act means the *Real Estate and Business Agents Act 1978* (WA).

Real Estate Agent means a person who is:

- (a) defined in the Real Estate Act as a real estate agent; and
- (b) is licensed as a real estate agent under the Real Estate Act.

Remediated Site means the Land has been classified under the Contaminated Sites Act as 'remediated for restricted use' or 'contaminated - restricted use'.

Remediated Site Memorial means a Memorial lodged against the Land under the Contaminated Sites Act which classifies the Land under the Contaminated Sites Act as: 'remediated for restricted use' or 'contaminated - restricted use'.

Rent means rent and other money payable by a Tenant under a Lease.

Rent Period means each period under the Lease in respect to which the is required to pay Rent.

Representative means a person who is either a Legal Practitioner or a Settlement Agent and who has been appointed to act for a party in relation to the Contract or Settlement.

Residential Tenancies Act means the *Residential Tenancies Act 1987* (WA).

Restricted Use means the restriction on the use of the Land imposed under the Contaminated Sites Act.

Revenue Online also known as ROL means the system developed by State Revenue which enables Duty to be assessed and paid electronically.

Sale of Land Act means the Sale of Land Act 1970 (WA).

Seller means each person so specified in the Contract.

Seller Agent means a Real Estate Agent appointed to act on behalf of the Seller in respect to the sale of the Property.

Settlement means the completion of the sale and purchase of the Property in accordance with clause 3.

Settlement Agent means a person licensed as a settlement agent under the Settlement Agents Act.

Settlement Agents Act means the *Settlement Agents Act 1981* (WA).

Settlement Date means the date each Party must complete Settlement:

- (a) under clause 3.5; and
- (b) any other relevant provision of this document or of the Contract.

Specified Encumbrance means an Encumbrance specified in the Contract as subject to which the Property will be transferred.

State means the State of Western Australia.

State Administrative Tribunal means the Tribunal known as the State Administrative Tribunal established by the *State Administrative Tribunal Act 2004* (WA).

State Revenue means the office established by the Commissioner of State Revenue and known as the Office of State Revenue.

Subdivision Lot means the Land which is not a Lot, a Proposed Strata Lot or a Proposed Community Lot and which is the subject of the Contract.

Subdivision Land means the land which at the commencement of the Financial Year in which the Possession Date occurs:

(a) includes the Land; and

(b) from which, following subdivision, the Land is created as a separate Lot.

Subdivision Plan means a deposited plan which includes the Lot including if applicable, a Scheme Plan which includes the Proposed Strata Lot or the Proposed Community Lot (as applicable).

Successful Party means the party who is entitled to damages or other money from another party arising from default under the Contract.

Tax Administration Act means the *Taxation Administration Act 1953* (Commonwealth).

Tax Invoice includes any document or record treated by the Commissioner of Taxation for GST purposes:

(a) as a tax invoice; or

(b) as a document entitling a recipient to an input tax credit.

Tenant means a person who is a tenant under a Lease.

Tenant Bond means:

(a) money paid by the Tenant as a bond in respect to each obligation of the Tenant under a Lease; and

(b) any other security provided by the Tenant under a Lease.

Terminated Party means the Seller or the Buyer who is not the Termination Party.

Termination Party means the Seller or the Buyer who has terminated the Contract as a result of the default of the Terminated Party under the Contract or the repudiation by the Terminated Party of the Contract.

Terms Contract means a terms contract as defined in the Sale of Land Act.

Threshold Amount means the amount which is set out in section 14-215(1)(a) of Schedule 1 to the Tax Administration Act for the purposes of an excluded transaction under that section.

Title Notification means:

(a) any notification under Section 70A of the Transfer of Land Act; or

(b) any notification under Section 165 of the Planning and Development Act, and which applies in respect to the Land.

Title Restriction means a Crown Reservation and a Title Notification.

Transaction Summary means the summary generated through Revenue Online which specifies:

(a) the date the Contract was lodged on Revenue Online;

(b) the Dutiable Value;

(c) the date of assessment; and

(d) the Duty assessed.

Transfer means the instrument required to transfer the Land to the Buyer in a form acceptable for registration by Landgate, subject to signing by all Parties.

Transfer of Land Act means the *Transfer of Land Act 1893* (WA).

Underground Power Rate means the charge, rate or other payment required from the owner of the Property by an Authority in relation to the provision of underground power.

Unpaid Rate Outgoing means an Outgoing in respect to the Land which, as at Settlement, is:

(a) the subject of an assessment by an Authority; and

(b) unpaid,

and is required to be adjusted under the Contract in relation to the Financial Year in which Settlement takes place.

Variation Notice means a written notice issued by the Commissioner under section 14-235 of the Tax Administration Act to vary the amount otherwise payable by the Buyer under section 14-200 of the Tax Administration Act.

Water Corporation means the statutory body corporate established under the *Water Corporation Act 1995* (WA).

Western Power means the statutory body corporate known as Western Power established under the *Electricity Corporation Act 1994* (WA).

Withholding Amount means the amount which the Buyer is required by section 14-200 of Schedule 1 to the Tax Administration Act to pay to the Commissioner in respect of the purchase of the Property.

26.2 Definitions - Strata and Community Titles Schemes

In this document, unless otherwise stated:

Administrative Fund Contribution means the normal and regular contribution levied by the Scheme Corporation:

(a) if the Property is a Strata Lot or a Proposed Strata Lot - under Section 100(1) of the Strata Titles Act; or

(b) if the Property is a Community Lot or a Proposed Community Lot - under Section 85(1) of the Community Titles Act,

in respect to the registered proprietor in respect of the Scheme Lot in relation to:

(c) the control and management of the common property;

(d) the payment of any premiums of insurance; and

(e) the discharge of any other obligation of the Scheme Corporation.

Community Lot means the lot shown on a Community Scheme Plan the subject of the Contract.

Community Regulations means the Community Titles Regulations 2021 (WA).

Community Scheme Plan means a scheme plan (as defined in the Community Titles Act) if:

(a) in the case of a Community Lot, the community plan has been registered at Landgate; or

(b) in the case of a Proposed Community Lot, the community plan has not been registered at Landgate.

Community Titles Act means the Community Titles Act 2018 (WA).

Community Titles Scheme means the community titles scheme as defined in the Community Titles Act which applies in respect to the lots and common property which form part of the Community Scheme Plan.

Proposed Community Lot means a Lot shown on a Community Scheme Plan which on the Contract Date has not been registered at Landgate, the subject of the Contract

Proposed Strata Lot means a Lot shown on a Strata Scheme Plan which on the Contract Date has not been registered at Landgate, the subject of the Contract

Reserve Fund Contribution means a contribution levied by:

(a) if the Property is a Strata Lot or a Proposed Strata Lot - the Scheme Corporation under Section 100(2) of the Strata Titles Act; or

(a) if the Property is a Community Lot or a Proposed Community Lot - the Scheme Corporation under Section 85(1) of the Community Titles Act,

in respect to the registered proprietor of the Scheme Lot for a reserve fund for the purpose of accumulating funds to meet:

(c) contingent expenses other than those of a routine nature; and

(d) other major expenses of the Scheme Corporation likely to arise in the future.

Scheme Contribution means:

(a) an Administrative Fund Contribution; and

(b) a Reserve Fund Contribution.

Scheme Corporation means:

(a) if the Property is a Strata Lot or a Proposed Strata Lot - the strata company as defined in the Strata Titles Act which applies in respect to the Strata Lot or Proposed Strata Lot; or

(b) if the Property is a Community Lot or a Proposed Community Lot - the community corporation as defined in the Community Titles Act which applies in respect to the Community Lot or Proposed Community Lot.

Scheme Lot means a Strata Lot or a Community Lot (as applicable).

Scheme Plan means a Strata Scheme Plan or a Community Scheme Plan (as applicable).

Section 102(6)(b) Strata Notice means a notice concerning the purpose of and the amount of expenditure proposed for the Strata Titles Scheme as specified in Section 102(6)(b) of the Strata Titles Act.

Strata/Community Scheme means a Strata Titles Scheme or a Community Titles Scheme (as applicable).

Strata Lot means the lot shown on a Strata Scheme Plan the subject of the Contract.

Strata Regulations means the Strata Titles (General) Regulations 2019 (WA).

Strata Scheme Plan means a strata plan or survey-strata plan (as those terms are defined in the Strata Titles Act) if:

(a) in the case of a Strata Lot, the strata plan or survey-strata plan has been registered at Landgate; or

(b) in the case of a Proposed Strata Lot, the strata plan or survey-strata plan has not been registered at Landgate.

Strata Titles Act means the *Strata Titles Act 1985* (WA)

Strata Titles Scheme means the strata titles scheme as defined in the Strata Titles Act which applies in respect to the lots and common property which form part of the Strata Scheme Plan.

26.3 Strata Titles Act

Words which:

(a) are not defined in clause 26.1 or 26.2; but

(b) are defined in the Strata Titles Act, have the meaning given in the Strata Titles Act.

26.4 Community Titles Act

Words which:

(a) are not defined in clause 26.1 or 26.2; but

(b) are defined in the Community Titles Act, have the meaning given in the Community Titles Act.

26.5 GST Act

Words which:

(a) are not defined in clause 26.1; but

(b) are defined in the GST Act, have the meaning given in the GST Act.

26.6 PPSA

Words which:

(a) are not defined in clause 26.1; but

(b) are defined in the PPSA, have the meaning given in the PPSA.

26.7 Citation - 2022 General Conditions

This Joint Form of General Conditions for the Sale of Land 2022 Revision may be cited as the '2022 General Conditions'.

26.8 Interpretation

In this document and the Contract, unless the context otherwise requires:

- (a) the Seller and the Buyer must:
 - (1) comply with their respective obligations under the Contract; and
 - (2) not assign or transfer the Contract or any right under the Contract to a third party without the prior written consent of the other;
- (b) subject to subclause (a), each reference to the Seller and the Buyer includes as applicable:
 - (1) the successors of a company or corporation; and
 - (2) each legal personal representative of the Seller and the Buyer;
- (c) reference to an Authority includes a reference to:
 - (1) an officer of that Authority; and
 - (2) any other Authority and any officer of that other Authority which performs the same or a similar function to the Authority;
- (d) reference to a thing includes the whole and any part of that thing;
- (e) reference to the singular includes the plural and vice versa;
- (f) headings to clauses do not affect the interpretation of the Contract or this document;
- (g) if the Buyer or the Seller and any other person who is a Party consists of more than one person, then each of the two or more persons are liable both jointly and severally;
- (h) reference to a person includes reference to:
 - (1) a natural person;
 - (2) a company; and
 - (3) a body corporate constituted under any Act;
- (i) if something must be done by or on a day which is not a Business Day, the day by or on which that thing must be done is the next Business Day;
- (j) if a period of time is required to be calculated from or after a specific day, or from or after a day on which a specific event occurs, that day must not be included in the period;
- (k) if a period of time is expressed to expire on or continue until a specified date, that date is included in the period;
- (l) all warranties and representations continue to have effect after Settlement;
- (m) reference to being entitled to possession of the Property includes being entitled to Rent from the Property;
- (n) reference to a document being signed or to a Party being obliged to sign a document, is treated as requiring that the document be:
 - (1) executed by a company or body corporate; or
 - (2) signed by a natural person,in a manner which is:
 - (3) legally effective (including under the *Electronic Transactions Act 2011* (WA)); and
 - (4) if the document is required to be registered by Landgate, then in a manner acceptable for registration;
- (o) reference to an Act includes:
 - (1) any change to that Act or, if the Act is repealed, the Act replacing it; and
 - (2) all subsidiary legislation under that Act;
- (p) reference to a clause is a reference to a clause in this document; and
- (q) reference to a subclause is a reference to a subclause in the clause in which the reference occurs.

JOINT FORM

This form of general conditions for the sale of land has been adopted jointly by The Law Society of Western Australia (Inc) and The Real Estate Institute of Western Australia (Inc). The copyright of these Conditions is the joint property of The Law Society of Western Australia (Inc) ("the Society") and The Real Estate Institute of Western Australia (Inc) ("REIWA") and neither the form nor any part of it may be used or reproduced without the consent of the Society and REIWA.

05/22

STRATA PLAN

54963

SHEET 1 OF 10 SHEETS

PLAN OF

LOT 1001 ON DP 44786

CERTIFICATE OF TITLE

VOL 2642 FOL 897

LOCAL GOVERNMENT

CITY OF JOONDALUP

INDEX PLAN

FIELD BOOK

SCALE AS SHOWN

NAME OF SCHEME

COVE

ADDRESS OF PARCEL

2 MOLLOY PROMENADE

JOONDALUP WA 6027

MANAGEMENT STATEMENT

YES ☐ NO ☒

LODGED

DATE

12-May-11

CERTIFIED CORRECT

COR. FILE

N. Abdullah

20-May-11

SUBJECT TO

IN ORDER FOR DEALINGS

LODGE OF FORMS 7 & 26.

STATEMENT OF MANAGEMENT

FEE PAID

\$3925.00

ASSESS No.

8747143

FOR REGISTRAR OF TITLES

DATE

20-May-11

REGISTERED

L637823

APPLICATION

26/5/2011

DATE

26/5/2011

REGISTRAR OF TITLES

DATE

26/5/2011

APPROVED BY

WESTERN AUSTRALIAN PLANNING COMMISSION

W.A. Planning Commission

Certificate of Approval of WAJ2 Conditional Section 25B(2) of

State Planning Act 1985

REGISTERED SURVEYOR

5416 PLD ACT 2005

DATE

26/5/2011

SEAL

APPROVED BY

WESTERN AUSTRALIAN PLANNING COMMISSION

W.A. Planning Commission

Certificate of Approval of WAJ2 Conditional Section 25B(2) of

State Planning Act 1985

REGISTERED SURVEYOR

5416 PLD ACT 2005

DATE

26/5/2011

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AMENDMENT

Audit Requirements

AUTHORISED BY

Eric Horlin

DATE

19/05/11

LIMITED IN DEPTH TO 12.19 METRES

EASEMENT BENEFIT FOR RECREATIONAL AND ACCESS PURPOSES - SEE STRATA PLAN 54962 AND INSTRUMENT L177837.

Land Surveys

Phone 08134774477 Fax 08134774409

Unit 1, 8 Palmer Street

West Perth WA 6005

F.O. 602748 (Survey 1994)

Ref L5 50540

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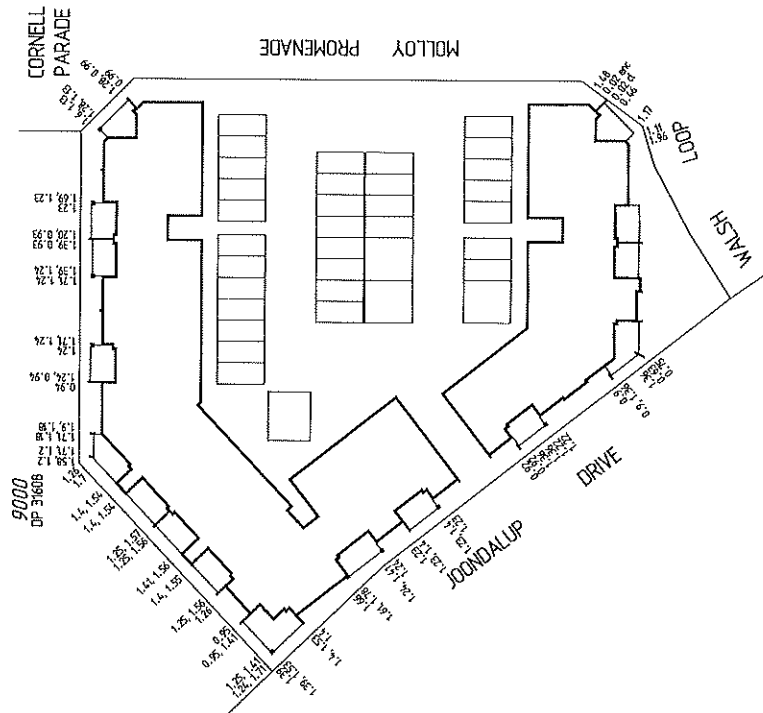
STRATA PLAN

54963

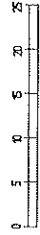
SHEET 2 OF 10 SHEETS

Land Surveys
Phone (08) 9477 4477 Fax (08) 9477 4488

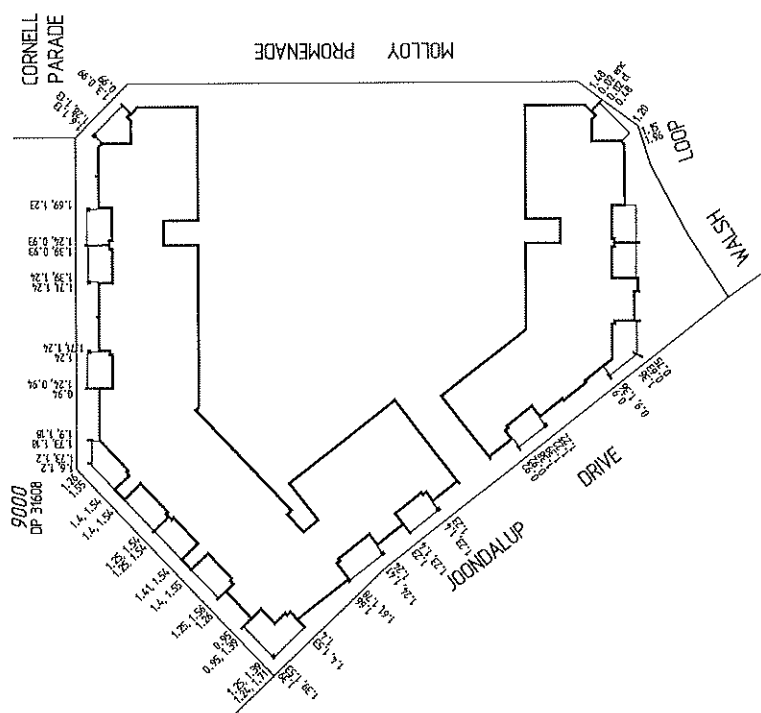
Unit 1, 4 Fisher Street
West Perth, Western Australia 6005
P.O. Box 2746, West Perth 6005



FIRST FLOOR
LOCATION PLAN
SCALE 1:500 @ A3



dwg ref : 105-1



SECOND, THIRD &
FOURTH FLOOR
LOCATION PLAN
SCALE 1:500 @ A3

15-25

class ref : 1105-1

STRATA PLAN

54963

SHEET 4 OF 10 SHEETS

1001, 1 & 2nd Floor
REGULATORY DIVISION
P.O. BOX 7000, PERTH 6000

Land Surveys
Phone (08) 9477 4477 Fax (08) 9477 4488

THE BOUNDARIES OF THE LOTS OR PARTS OF THE LOTS WHICH ARE BUILDINGS SHOWN ON THIS STRATA PLAN ARE THE INNER SURFACES OF THE WALLS, THE UPPER SURFACE OF THE FLOOR AND THE UNDER SURFACE OF THE CEILING AS PROVIDED BY SECTION 30(1)(a) OF THE STRATA TITLES ACT 1985.

THE BOUNDARIES OF THE LOTS OR PARTS OF THE LOTS WHICH ARE BUILDINGS SHOWN ON THIS STRATA PLAN ARE THE FACE OF THE WALLS, THE UPPER SURFACE OF THE FLOOR AND THE UNDER SURFACE OF THE CEILING AS PROVIDED BY SECTION 30(1)(a) OF THE STRATA TITLES ACT 1985.

THE STRATUM OF THE PART LOTS EXTERNAL TO THE BUILDING ARE THE PARTS OF THE BUILDING WHICH ARE NOT COVERED BY THE STRATUM OF THE BUILDING.

THE BOUNDARIES OF THE LOTS OR PARTS OF THE LOTS WHICH ARE COURTYARDS (CY) ARE THE FACE OF ABUTTING WALLS, AS DEFINED BY DIMENSION, AND THEY EXTEND BETWEEN THE UPPER SURFACE OF ITS FLOOR SLAB AND THE UNDER SURFACE OF THE CEILING OR PROJECTION OF THE CEILING WHERE NOT COVERED.

ALL DIMENSIONS FROM BUILDINGS ARE FROM EXTERNAL FACE OF WALLS

ANGLES TO PART LOTS OUTSIDE OF THE BUILDINGS ARE 90° OR 180° UNLESS SHOWN OTHERWISE

FOR INTERESTS AND NOTIFICATIONS TABLE SEE SHEET 1

FOR OTHER PARTS OF LOTS 1-16 SEE SHEET 9

FOR OTHER PARTS OF LOTS 18 & 20-22 SEE SHEETS 5 & 9

FOR OTHER PARTS OF LOTS 23-24, 28 & 29 SEE SHEETS 5, 9 & 10

FOR OTHER PARTS OF LOTS 33-35, 37, 46 & 47 SEE SHEETS 6 & 9

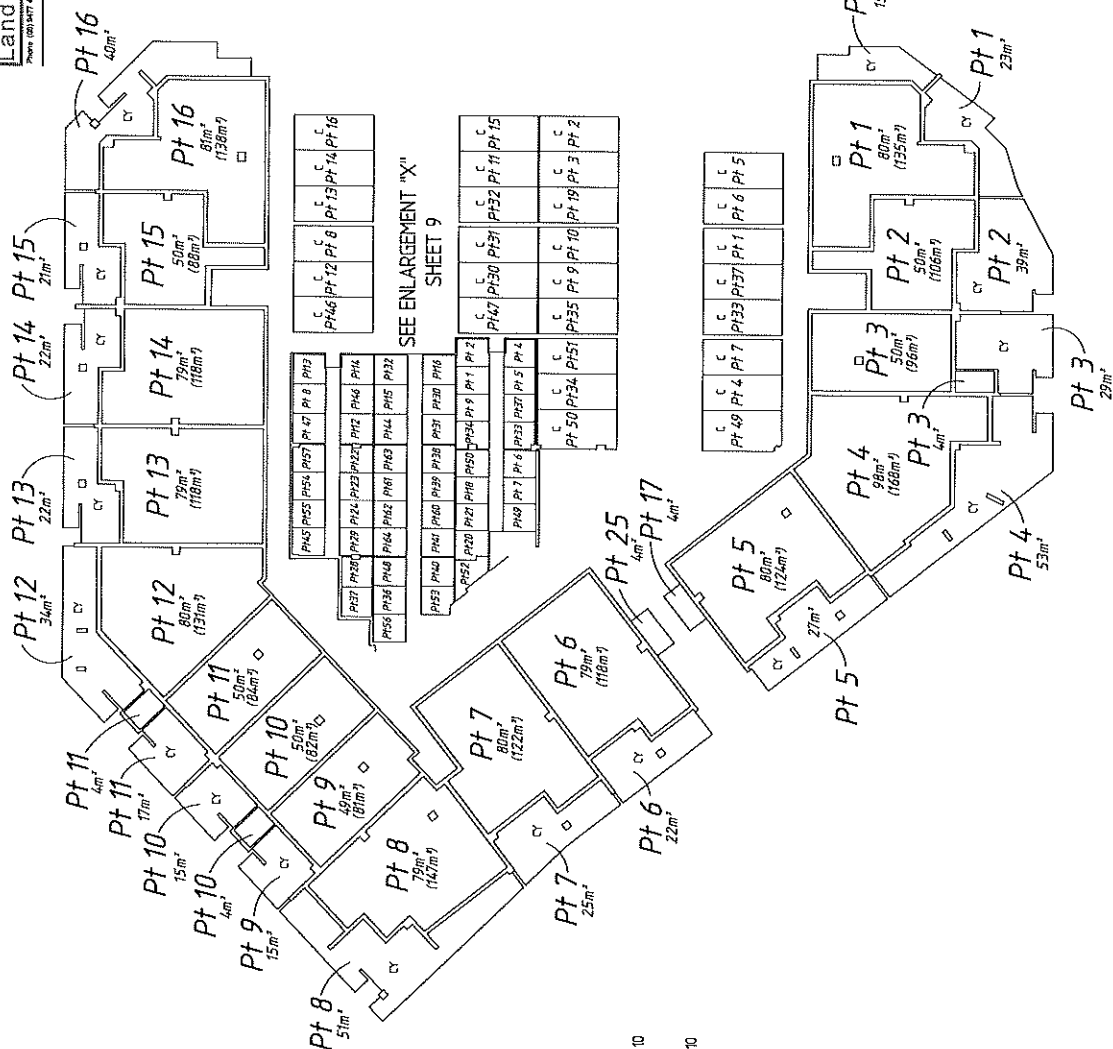
FOR OTHER PARTS OF LOTS 36, 38-41, 44, 45 & 48 SEE SHEETS 5, 6, 9 & 10

FOR OTHER PARTS OF LOT 49 SEE SHEETS 7, 8 & 9

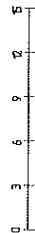
FOR OTHER PARTS OF LOTS 50 & 51 SEE SHEETS 7 & 9

FOR OTHER PARTS OF LOTS 52, 54, 55, 57 & 60-64 SEE SHEETS 5, 7, 9 & 10

FOR OTHER PARTS OF LOTS 53 & 56 SEE SHEETS 5, 7, 9 & 10



GROUND FLOOR PLAN
SCALE 1:300 @ A3



Scale ref : 105-1

STRATA PLAN

54963

SHEET 5 OF 10 SHEETS

THE BOUNDARIES OF THE LOTS OR PARTS OF THE LOTS WHICH ARE EXTERNAL TO THE STRATA PLAN ARE THE INNER SURFACES OF THE WALLS. THE UPPER SURFACE OF THE FLOOR AND THE UNDER SURFACE OF THE CEILING AS PROVIDED BY SECTION 3(2)(a) OF THE STRATA TITLES ACT 1985.

THE BOUNDARIES OF THE LOTS OR PARTS OF THE LOTS WHICH ARE EXTERNAL TO THE MAIN BUILDING ARE THE FACE OF THE BALCONY OR TERRACE AS PROVIDED BY SECTION 3(2)(a) OF THE STRATA TITLES ACT 1985. THE UPPER SURFACE OF THE FLOOR AND THE UNDER SURFACE OF THE CEILING OR PROJECTION OF THE CEILING WHERE NOT COVERED.

THE STRATUM OF THE PART LOTS EXTERNAL TO THE BUILDING (CARBAYS) = Q EXTENDS BETWEEN THE UPPER SURFACE OF THEIR FLOOR TO THE UNDER SIDE OF THEIR CEILING OR TO A HEIGHT OF 2.5 METRES.

THE BOUNDARIES OF THE BALCONIES (B) EXTENDS FROM THE UPPER SURFACE OF THE BALCONY FLOOR TO THE PROLONGATION OF THE UNDER SIDE OF THE CEILING OF THEIR RESPECTIVE ADJOINING LOT, EXCEPT WHERE COVERED.

ALL DIMENSIONS FROM BUILDINGS ARE FROM EXTERNAL FACE OF WALLS

ANGLES TO PART LOTS OUTSIDE OF THE BUILDINGS ARE 30° OR 135° UNLESS SHOWN OTHERWISE

FOR INTERESTS AND NOTIFICATIONS TABLE SEE SHEET 1

FOR OTHER PARTS OF LOT 19 & 30-32 SEE SHEETS 4 & 9

FOR OTHER PARTS OF LOTS 17 & 25 SEE SHEET 4 & 10

FOR OTHER PARTS OF LOTS 18, 20-24, 26 & 29 SEE SHEETS 4, 9 & 10

FOR OTHER PARTS OF LOTS 26 & 27 SEE SHEET 10

FOR OTHER PARTS OF LOT 36, 38-41, 44, 45 & 48 SEE SHEETS 4, 6, 9 & 10

FOR OTHER PARTS OF LOTS 42 & 43 SEE SHEETS 6 & 10

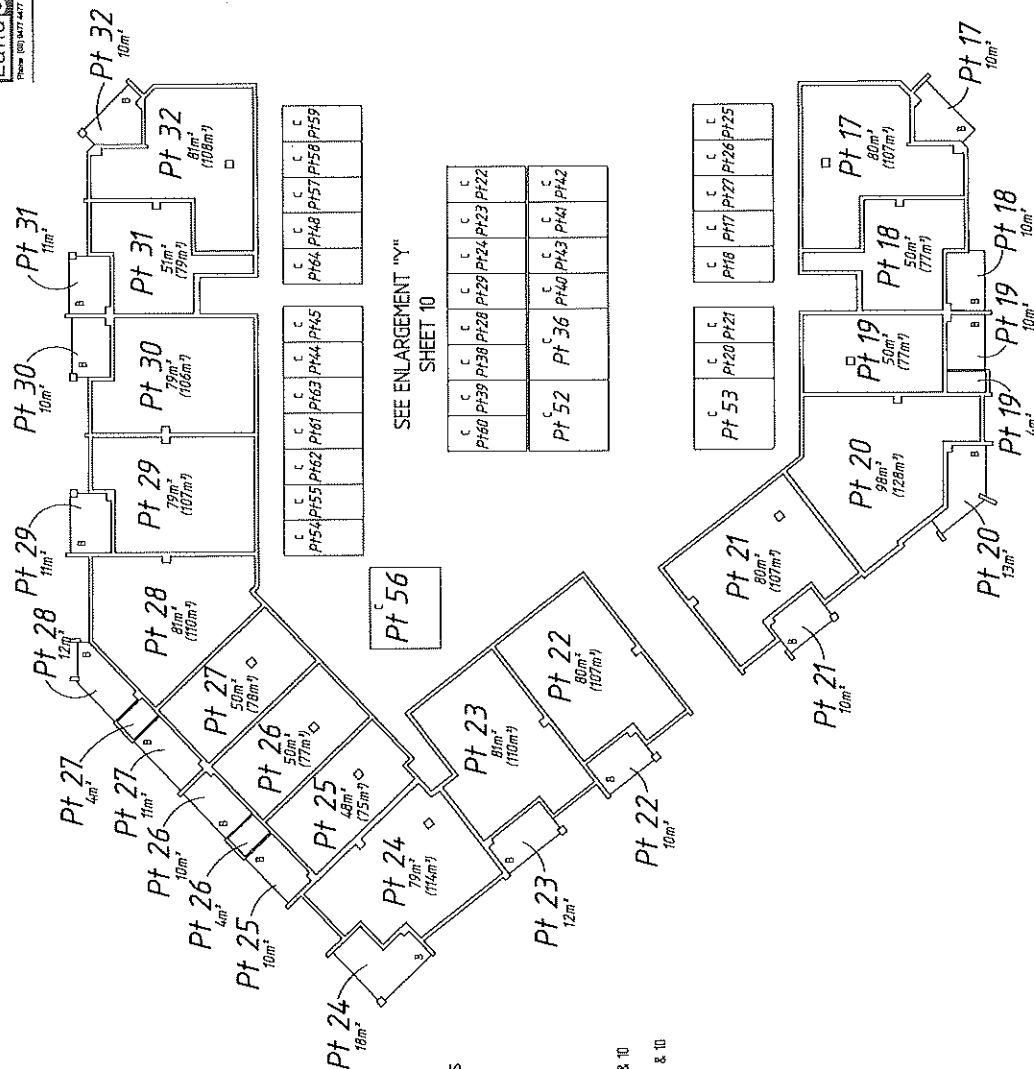
FOR OTHER PARTS OF LOTS 52, 54, 55, 57 & 60-64 SEE SHEETS 4, 7, 9 & 10

FOR OTHER PARTS OF LOTS 53 & 56 SEE SHEETS 4, 7, 9 & 10

FOR OTHER PARTS OF LOTS 58 & 59 SEE SHEETS 7 & 10

Land Surveys
Phone (08) 9477 4677 Fax (08) 9477 4680

UNIT 1, 17 Park Road
Mandurah, Western Australia 6210
PO BOX 745 Mandurah WA 6210

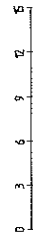


SEE ENLARGEMENT "N"

SHEET 10

Pt 52	Pt 36	Pt 40	Pt 43	Pt 44	Pt 42
Pt 53	Pt 39	Pt 38	Pt 28	Pt 24	Pt 23
Pt 54	Pt 55	Pt 62	Pt 61	Pt 63	Pt 44
Pt 64	Pt 48	Pt 57	Pt 58	Pt 59	

FIRST FLOOR PLAN
SCALE 1 : 300 @ A3



check ref : 1105-1

STRATA PLAN

54963

SHEET 6 OF 10 SHEETS

Land Surveys
Phone (08) 9477 4477 Fax (08) 9477 4488
101 Stirling Street
Perth WA 6000
P.O. BOX 100000
Perth WA 6001

THE BOUNDARIES OF THE LOTS OR PARTS OF THE LOTS WHICH ARE BUILDINGS SHOWN ON THE STRATA PLAN ARE THE INTERIOR SURFACES OF THE WALLS, THE UPPER SURFACE OF THE FLOOR AND THE UNDER SURFACE OF THE CEILING AS PROVIDED BY SECTION 32(1)(a) OF THE STRATA TITLES ACT 1985.

THE BOUNDARIES OF THE LOTS OR PARTS OF THE LOTS WHICH ARE NOT BUILDINGS ARE THE FACE OF THE BALCONY OR TERRACE, THE FACE OF THE BALCONY OR TERRACE, THE FACE OF THE BALCONY OR TERRACE, AND EXTEND BETWEEN THE UPPER SURFACE OF ITS FLOOR AND THE UNDER SURFACE OF THE CEILING OR PROJECTION OF THE CEILING WHERE NOT COVERED.

THE STRATUM OF THE PART LOTS EXTERNAL TO THE BUILDING CARPENTRY * C EXTENDS BETWEEN THE UPPER SURFACE OF THEIR FLOORS TO THE UNDER SIDE OF THEIR CEILING OR TO A HEIGHT OF 2.5 METRES.

THE BOUNDARIES OF THE BALCONIES (B) EXTENDS FROM THE UPPER SURFACE OF THE BALCONY FLOOR TO THE PROLONGATION OF THE UNDERSIDE OF THE CEILING OF THEIR RESPECTIVE ADJOINING LOT, EXCEPT WHERE COVERED.

ALL DIMENSIONS FROM BUILDINGS ARE FROM EXTERNAL FACE OF WALLS

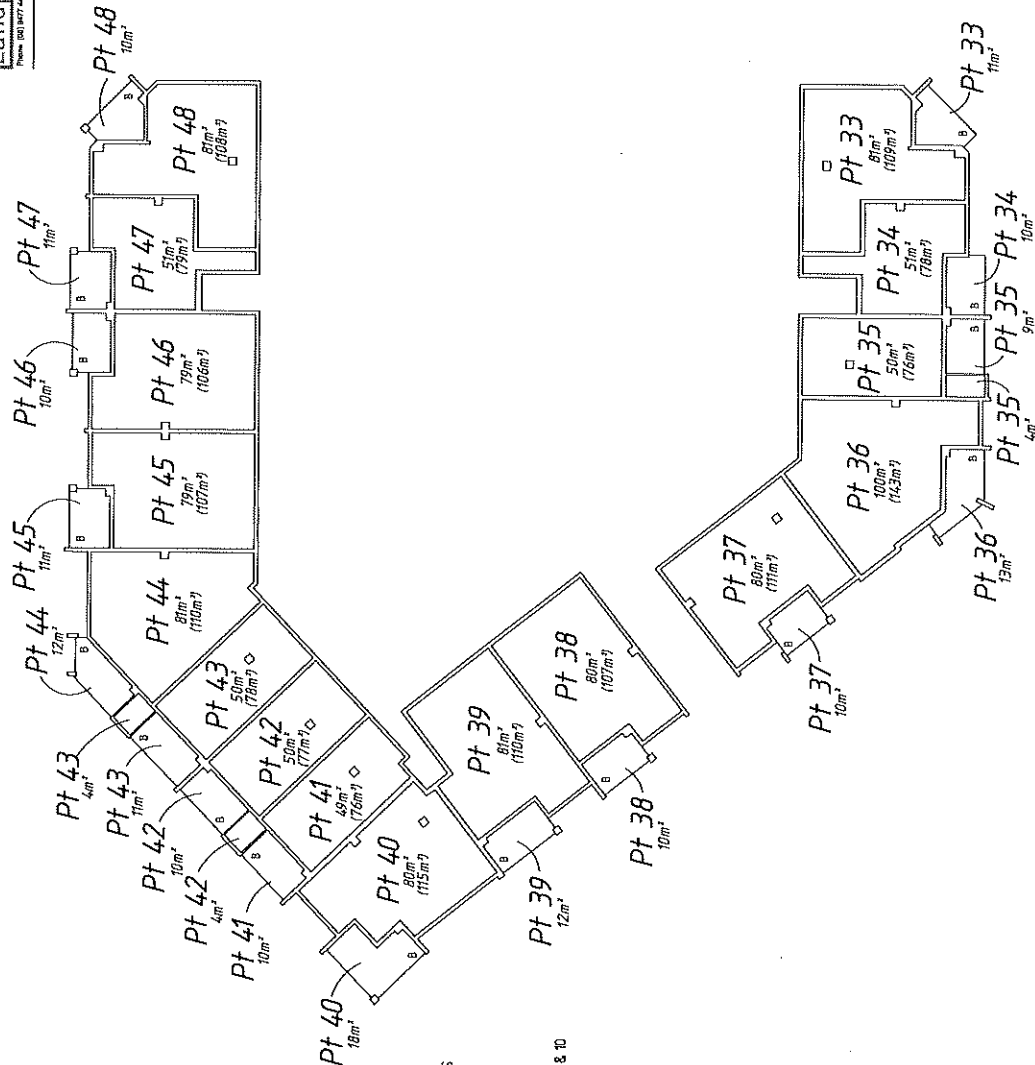
ANGLES TO PART LOTS OUTSIDE OF THE BUILDINGS ARE 90° OR 180° UNLESS SHOWN OTHERWISE

FOR INTERESTS AND NOTIFICATIONS TABLE SEE SHEET 1

FOR OTHER PARTS OF LOTS 33-36, 37, 46 & 47 SEE SHEETS 4, 8, 9

FOR OTHER PARTS OF LOTS 36, 38-41, 44, 45 & 48 SEE SHEETS 4, 5, 9 & 10

FOR OTHER PARTS OF LOTS 42 & 43 SEE SHEETS 5 & 10



SECOND FLOOR PLAN
SCALE 1:300 @ A3



clax ref : 105-1

STRATA PLAN

54963

SHEET 7 OF 10 SHEETS

THE BOUNDARIES OF THE LOTS OR PARTS OF THE LOTS WHICH ARE BUILDINGS SHOWN ON THE STRATA PLAN ARE THE INNER SURFACES OF THE WALLS, THE UPPER SURFACE OF THE FLOOR AND THE UNDER SURFACE OF THE CEILING, AS PROVIDED BY SECTION 302(a) OF THE STRATA TITLES ACT 1985.

THE BOUNDARIES OF THE BALCONIES (B) EXTENDS FROM THE UPPER SURFACE OF THE BALCONY FLOOR TO THE PROLONGATION OF THE UNDERSIDE OF THE CEILINGS OF THEIR RESPECTIVE ADJOINING LOT, EXCEPT WHERE COVERED.

ALL DIMENSIONS FROM BUILDINGS ARE FROM EXTERNAL FACE OF WALLS

ANGLES TO PART LOTS OUTSIDE OF THE BUILDINGS
ARE 90° OR 135° UNLESS SHOWN OTHERWISE

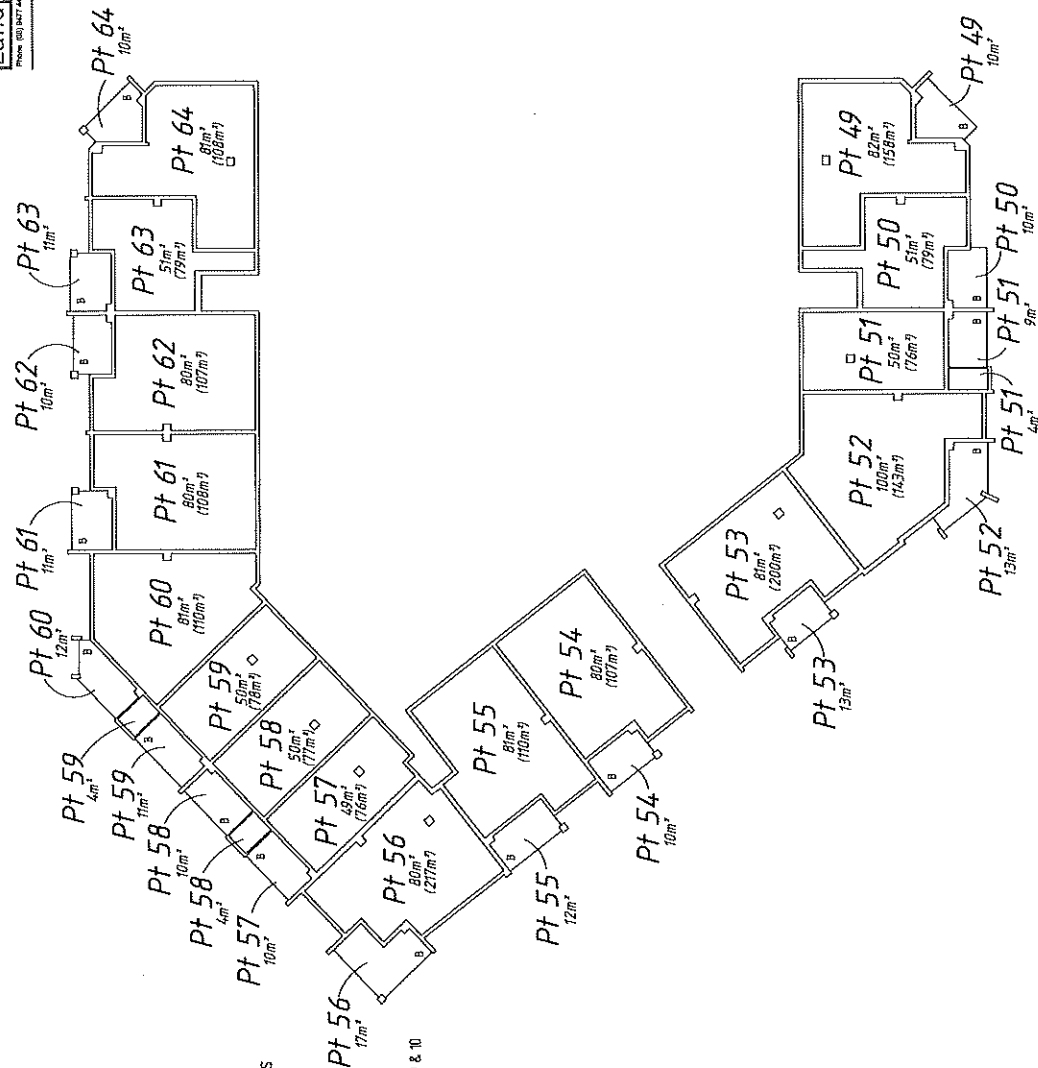
FOR INTERESTS AND NOTIFICATIONS TABLE SEE SHEET 1

FOR OTHER PARTS OF LOT 49 SEE SHEETS 4, 8 & 9

FOR OTHER PARTS OF LOTS 50 & 51 SEE SHEETS 4 & 9

FOR OTHER PARTS OF LOTS 52, 54, 55, 57 & 60-64 SEE SHEETS 4, 5, 6, 9 & 10

FOR OTHER PARTS OF LOTS 58 & 59 SEE SHEETS 5 & 10



THIRD FLOOR PLAN
SCALE 1:300 @ A3



doxf ref : 1105-1

STRATA PLAN

54963

SHEET 8 OF 10 SHEETS

Land Surveys
Phone 08 9477 4477 Fax 08 9477 4489
10/11/2021
10/11/2021
10/11/2021

THE BOUNDARIES OF THE LOTS OR PARTS OF THE LOTS SHOWN ON THE STRATA PLAN ARE THE BOUNDARIES OF THE LOTS OR PARTS OF THE LOTS AS SHOWN ON THE STRATA PLAN. THE BOUNDARIES OF THE LOTS OR PARTS OF THE LOTS AS SHOWN ON THE STRATA PLAN ARE THE BOUNDARIES OF THE LOTS OR PARTS OF THE LOTS AS SHOWN ON THE STRATA PLAN.

THE BOUNDARIES OF THE BALCONIES (B) EXTENDS FROM THE UPPER SURFACE OF THE BALCONY FLOOR TO THE PROLONGATION OF THE UNDERSIDE OF THE CEILING OF THEIR RESPECTIVE ADJOINING LOT, EXCEPT WHERE COVERED.

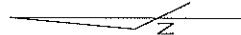
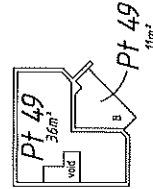
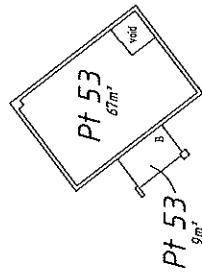
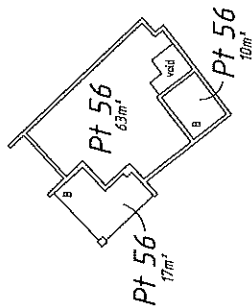
ALL DIMENSIONS FROM BUILDINGS ARE FROM EXTERNAL FACE OF WALLS

ANGLES TO PART LOTS OUTSIDE OF THE BUILDINGS ARE 90° OR 135° UNLESS SHOWN OTHERWISE

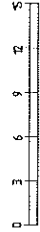
FOR INTERESTS AND NOTIFICATIONS TABLE SEE SHEET 1

FOR OTHER PARTS OF LOT 49, SEE SHEETS 4, 7 & 9

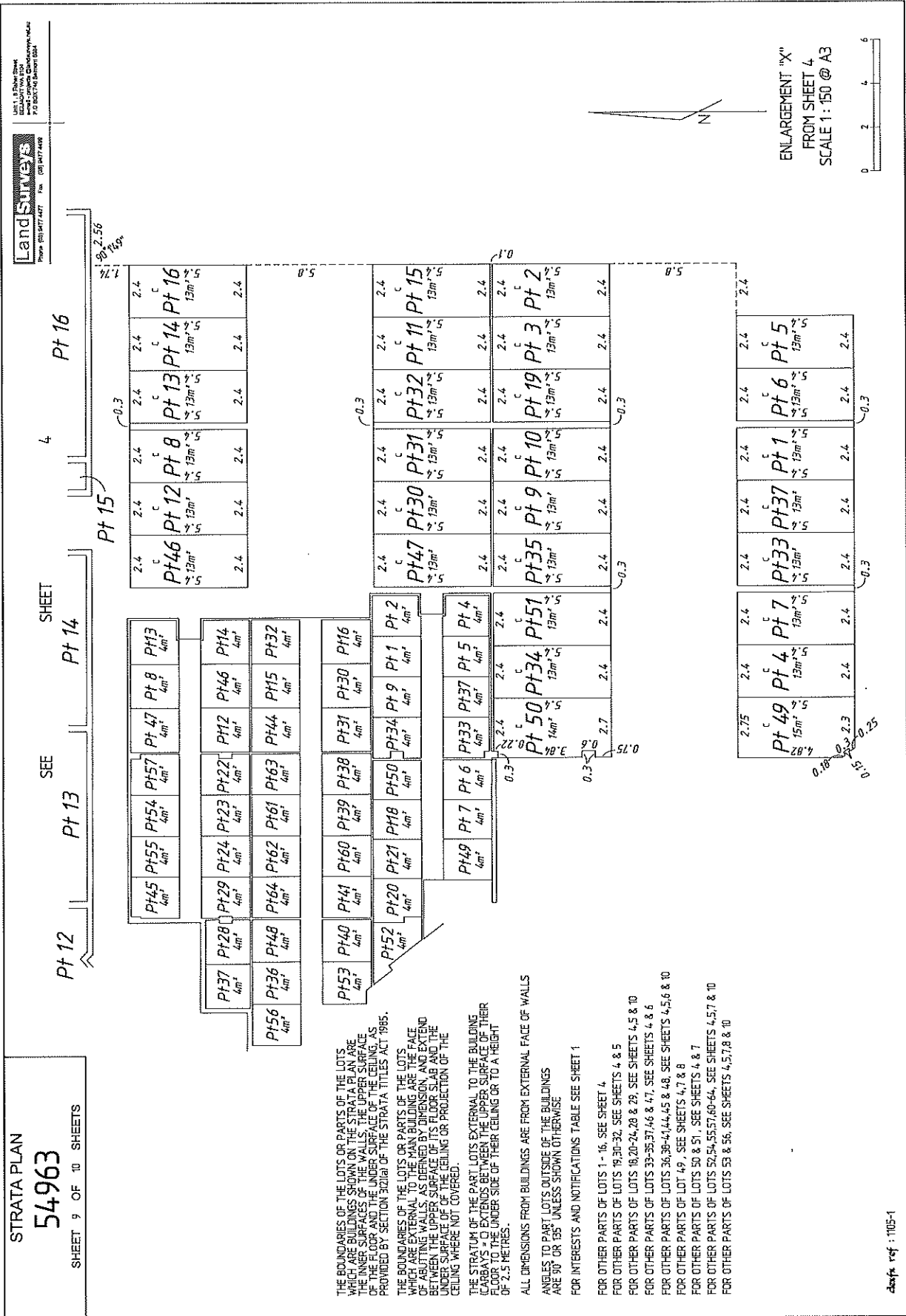
FOR OTHER PARTS OF LOTS 53 & 56, SEE SHEETS 4, 5, 7, 9 & 10



FOURTH FLOOR PLAN
SCALE 1:300 @ A3



draft ref : 1105-1



FORM 3

page 1 of 2

STRATA PLAN No.				54963			
Schedule of Unit Entitlement		Office Use Only		Schedule of Unit Entitlement		Office Use Only	
		Current Cs of Title				Current Cs of Title	
Lot No,	Unit Entitlement	Vol.	Fol.	Lot No,	Unit Entitlement	Vol.	Fol.
1	16	2770-401		28	17	2770-428	
2	12	2770-402		29	17	2770-429	
3	11	2770-403		30	17	2770-430	
4	18	2770-404		31	12	2770-431	
5	15	2770-405		32	17	2770-432	
6	16	2770-406		33	18	2770-433	
7	16	2770-407		34	14	2770-434	
8	16	2770-408		35	13	2770-435	
9	11	2770-409		36	20	2770-436	
10	11	2770-410		37	17	2770-437	
11	11	2770-411		38	17	2770-438	
12	16	2770-412		39	17	2770-439	
13	16	2770-413		40	17	2770-440	
14	16	2770-414		41	13	2770-441	
15	11	2770-415		42	13	2770-442	
16	16	2770-416		43	13	2770-443	
17	17	2770-417		44	18	2770-444	
18	13	2770-418		45	18	2770-445	
19	12	2770-419		46	18	2770-446	
20	19	2770-420		47	13	2770-447	
21	17	2770-421		48	18	2770-448	
22	17	2770-422		49	19	2770-449	
23	17	2770-423		50	15	2770-450	
24	17	2770-424		51	14	2770-451	
25	12	2770-425		52	21	2770-452	
26	12	2770-426		53	19	2770-453	
27	12	2770-427		54	18	2770-454	

Continued Overleaf



FORM 3

STRATA PLAN No. 54963							
Schedule of Unit Entitlement		Office Use Only	Schedule of Unit Entitlement		Office Use Only		
		Current Cs of Title			Current Cs of Title		
Lot No,	Unit Entitlement	Vol.	Fol.	Lot No,	Unit Entitlement	Vol.	Fol.
55	18	2770-455					
56	20	2770-456					
57	13	2770-457					
58	13	2770-458					
59	13	2770-459					
60	19	2770-460					
61	18	2770-461					
62	18	2770-462					
63	14	2770-463					
64	18	2770-464					
				Aggregate	1,000		

DESCRIPTION OF PARCEL AND BUILDING

Lot 1001 on Deposited Plan 44786.
Sixty Four residential units of brick and iron construction having the address of
2 Molloy Promenade, Joondalup 6027.

CERTIFICATE OF LICENSED VALUER
STRATA

I, **Kevin Sydney Johnson**, being a Licensed Valuer licensed under the *Land Valuers Licensing Act 1978* certify that the unit entitlement of each lot (in this certificate, excluding any common property lots), as stated in the schedule bears in relation to the aggregate unit entitlement of all lots delineated on the plan a proportion not greater than 5% more or 5% less than the proportion that the value (as that term is defined in section 14 (2a) of the *Strata Titles Act 1985*) of that lot bears to the aggregate value of all the lots delineated on the plan.

05-May-2011

Date



Digitally signed by Kevin S Johnson
DN: cn=Kevin S Johnson, o=AU,
o=K S Johnson and Associates,
email=kevin@ksjohnson
Date: 2011.05.11 16:48:34 +08'00'

Signed

FORM 5

Strata Titles Act 1985

Sections 5B(1), 8A, 22(1)

STRATA PLAN No. 54963

DESCRIPTION OF PARCEL & BUILDING

Parcel: Lot 1001 on DP 44786

Known as: Cove & Having the address of: 2 Molloy Promenade, Joondalup WA 6027

Building: Sixty four residential units of brick, concrete & iron construction

CERTIFICATE OF LICENSED SURVEYOR

I, Eric Horlin, being a licensed surveyor registered under the *Licensed Surveyors Act 1909* certify that in respect of the strata plan which relates to the parcel and building described above (in this certificate called "the plan"): —

- (a) each lot that is not wholly within a building shown on the plan is within the external surface boundaries of the parcel; and either
- *(b) each building shown on the plan is within the external surface boundaries of the parcel; or
- *(c) in a case where a part of a wall or building, or material attached to a wall or building, encroaches beyond the external surface boundaries of the parcel —
 - (i) all lots shown on the plan are within the external surface boundaries of the parcel;
 - (ii) the plan clearly indicates the existence of the encroachment and its nature and extent; and
 - (iii) where the encroachment is not on to a public road, street or way, that an appropriate easement has been granted and will be lodged with the Registrar of Titles to enable it to be registered as an appurtenance of the parcel; and
- ~~*(d) if the plan is a plan of re-subdivision, it complies with Schedule 1 by-law(s) no(s) on Strata Plan No. registered in respect of (name of scheme) or sufficiently complies with that/those by-law(s) in a way that is allowed by regulation 36 of the Strata Titles General Regulations 1996.~~



Eric Horlin

2011.05.19 15:28:31 +08'00'

.....
Licensed Surveyor

.....
Date

*Delete if inapplicable

FORM 7

Strata Titles Act 1985
Section 5B(2), 8A(f), 23(1)

STRATA PLAN No. **54963**

DESCRIPTION OF PARCEL & BUILDING

Parcel: Lot 1001 on DP 44786
Known as: Cove & Having the address of:
2 Molloy Promenade, Joondalup WA 6027
Building: Sixty four residential units of brick, concrete and iron construction.

CERTIFICATE OF LOCAL GOVERNMENT

City of Joondalup
....., the local government hereby
certifies that in respect of the strata plan which relates to the parcel and
building described above (in this certificate called "the plan"):-

- (1) *(a) the building and the parcel shown on the plan have been inspected
and that it is consistent with the approved building plans and
specifications in respect of the building; or

~~*(b) the building has been inspected and the modification is consistent
with the approved building plans and specifications relating to the
modification;~~
- (2) the building, in the opinion of the local government, is of sufficient
standard to be brought under the *Strata Titles Act 1985*;
- (3) ~~where a part of a wall or building or material attached to a wall or~~
building, encroaches beyond the external surface boundaries of the
parcel on to a public road, street or way the local government is of the
opinion that retention of the encroachment in its existing state will not
endanger public safety or unreasonably interfere with the amenity of
the neighbourhood and the local government does not object to the
~~encroachment; and~~
- (4) *(a) any conditions imposed by the Western Australian Planning
Commission have been complied with; or

~~*(b) the within strata scheme is exempt from the requirement of approval
by the Western Australian Planning Commission;~~

26 MAY 2011
.....
Date

*Delete if Inapplicable

Gary Briggs-Bradford
.....
~~Chief Executive Officer~~
DELEGATED OFFICER

Local Government Ref.

FORM 26

WAPC Ref. 88536

STRATA PLAN NO 54963

Strata Titles Act 1985

Sections 25(1), 25(4)

**CERTIFICATE OF GRANT OF APPROVAL BY WESTERN AUSTRALIAN PLANNING
COMMISSION TO STRATA PLAN**

It is hereby certified that the approval of the Western Australian Planning Commission has been granted pursuant to section 25(1) of the *Strata Titles Act 1985* to —

~~*(i) the *Strata Plan/plan of re-subdivision/plan of consolidation submitted on~~
~~11-May-11 and relating to the property~~
~~described below;~~

~~*(ii) the sketch submitted on of the~~
~~proposed *subdivision of the property described below into lots on a Strata~~
~~Plan/re-subdivision / consolidation of the lots on the Strata Plan specified below;~~
~~subject to the following conditions —~~

Property Description: Lot (or Strata Plan) No. Lot 1001
.
Location 2 Molloy Promenade
.
Locality Joondalup
.
Local Government City of Joondalup

Lodged by: Land Surveys NPJS Pty Ltd

Date: 11-May-11



For Chairman, Western Australian
Planning Commission

25 MAY 2011
Date

(*To be deleted as appropriate.)

Delegated Under Section 16(3)(e)
Planning & Development Act 2005



FORM 8

[illegible]

Note: Entries may be affected by subsequent endorsements.

[illegible]

Note: Entries may be affected by subsequent endorsements.

INSTRUCTIONS

1. This form may be used only when a "Box Type" form is not provided or is unsuitable. It may be completed in narrative style.
2. If insufficient space hereon Additional Sheet Form B1 should be used.
3. Additional Sheets shall be numbered consecutively and bound to this document by staples along the left margin prior to execution by the parties.
4. No alteration should be made by erasure. The words rejected should be scored through and those substituted typed or written above them, the alteration being initialled by the persons signing this document and their witnesses.

NOTES

1. Insert document type.
2. A separate attestation is required for every person signing this document. Each signature should be separately witnessed by an Adult Person stated.

EXAMINED

L637622 SM

28 May 2011 16:17:43 Perth



REG \$ 135.00

LODGED BY:

ADDRESS:

Chalmers Legal Studio
Post Office Box 7481
Cloisters Square
PERTH WA 6850

PHONE NO:

FAX NO:

REFERENCE NO:

999

PREPARED BY :Chalmers Legal Studio

ADDRESS: Studio 7, The Wills Building
82-84 King Street
PERTH WA 6000
Our Ref: LC:33930D/37094P:dm-01
Cove
Revised 15/04/2011 7:45 AM
PHONE NO: (08) 9360 4100 FAX NO: (08) 9360 4199

INSTRUCT IF ANY DOCUMENTS ARE TO ISSUE TO OTHER THAN LODGING PARTY

TITLES, LEASES, DECLARATIONS ETC. LODGED HEREWITH

- | | | |
|----|--------------------|--------------------------|
| 1. | <u>Consent x 2</u> | Received Items |
| 2. | <u>Form 26</u> | Nos. <u>2</u> |
| 3. | <u>Form 7</u> | Nos. <u>1</u> |
| 4. | _____ | |
| 5. | _____ | |
| 6. | _____ | Receiving Clerk <u>A</u> |

Registered pursuant to the provisions of the TRANSFER OF LAND ACT 1893 as amended on the day and time shown above and particulars entered in the Register.



- 50.7 The original proprietor is granted exclusive use of all those parts of the common property which are within a stage yet to be completed until the stage is completed.
- 50.8 This Bylaw will have no more force and effect when the last stage is completed.

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"Visitor Parking Bay" means those car parking bays situate within the common property of the scheme and identified as for visitor parking.

48.2 The Visitor Parking Bays must only be used by visitors for temporary parking purposes while visiting the scheme.

48.3 No proprietor may use the Visitor Parking Bays for parking at any time.

49. Disabled Parking

49.1 In this Bylaw:

"Disabled Parking Bay" means those car parking bays situate within the common property of the scheme and identified as for disabled parking.

49.2 The Disabled Parking Bays must only be used by disabled visitors for temporary parking purposes while visiting the scheme.

49.3 No proprietor may use the Disabled Parking Bays for parking at any time

50. Access

50.1 In this Bylaw:

"Cove" means all the buildings within the parcel;

"stage" means a stage in the construction of the building whereby all the floors of the building will be constructed but only some of the lots will be sufficiently completed to be ready for occupation.

50.2 When the strata plan is registered the original proprietor may not have completed the construction of Cove. The original proprietor intends to complete Cove in stages.

50.3 For health and safety reasons only the original proprietor and its workmen, contractors and consultants will have access to any stage which is not completed. Proprietors will only be granted access to each portion of the scheme when a stage is completed.

50.4 The original proprietor will be permitted to conduct works at all times permitted by its building licence in respect of an uncompleted stage.

50.5 Proprietors and occupiers will observe any reasonable rules or directions issued by the original proprietor, from time to time, in respect of the use of any portion of Cove (other than their respective lots) necessary to ensure the health and safety of Proprietors and occupiers.

50.6 The original proprietor together with its workmen, contractors and consultants will be entitled to:

50.6.1 restrict access by any other proprietor or occupier to any portions of the common property of the scheme which is within a stage yet to be completed; and

50.6.2 have access to all parts of the common property at all times and for all purposes reasonably necessary to complete all stages.

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- 45.6 A proprietor or resident of a lot must immediately notify the Strata Manager if any security device is lost or destroyed.
- 45.7 A proprietor or proprietor's invitee shall not:
- 45.7.1 interfere with any safety equipment;
 - 45.7.2 obstruct any fire escape or fire stair well; or
 - 45.7.3 use any fire safety equipment except in the case of an emergency and then in accordance with the purpose for which the fire safety equipment is designed.
46. **Smoking**
- 46.1 No proprietor or proprietor's invitee shall smoke in any portion of the Building comprising common property.
- 46.2 Any proprietor who breaches this bylaw or permits a breach of that bylaw will indemnify the Strata Company from any claim by any authority or the fire brigade arising from the smoke detectors fitted to the Building being activated by reason of the breach of this bylaw.
47. **Power of Strata Company Regarding Sub-meters**
- 47.1 Where the supply of gas or electricity to a lot is regulated by means of a sub-meter, the strata company may require the proprietor or other occupier of the lot to pay the strata company by way of security for the payment of charges arising through the sub-meter an amount, determined by the Council from time to time, and, if any amount so paid is applied by the strata company under bylaw 47.2 of the Schedule 1 Bylaws, to pay such further amount or amounts by way of such security as may be necessary to maintain the amount of the security as subject to this Bylaw, the strata company may require.
- 47.2 The strata company shall lodge every sum received under this Bylaw to the credit of an interest bearing account with a savings bank or building society and all interest accruing in respect of amounts so received shall, subject to this Bylaw, be held on trust for the proprietor or occupier who made the payment.
- 47.3 If the proprietor or other occupier of a lot in respect of which a sub-meter is used for the supply of gas or electricity refuses or fails to pay any charges due for the supply of gas or electricity to that lot, the strata company may apply in payment of those charges all, or such part as is necessary, of any amount paid to the strata company by that proprietor or occupier under this Bylaw, including any interest that may have accrued in respect of that amount.
- 47.4 Where a person who has paid an amount under this Bylaw to a strata company satisfied the strata company that he is no longer the proprietor or occupier of a lot and that the strata company no longer has any liability or contingent liability for the supply of gas or electricity to that lot during the period when that person was a proprietor or occupier of the lot, the strata company shall refund to that person the amount then held on his behalf under this Bylaw.
48. **Visitor Parking**
- 48.1 In this Bylaw:

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- 44.3 The quantum of legal costs incurred in taking action to recover due levies, shall be the costs payable by the strata company to its solicitors. The strata company shall within three days of receiving an invoice for legal fees forward by pre-paid post to the proprietor in respect of whom the legal fees have been incurred a copy of that invoice. Upon receipt of that or upon the date when the invoice would have been received in the normal course of mail the proprietor shall forthwith make payment thereof to the strata company.
- 44.4 A certificate from the solicitors retained by the strata company, stating the amount of costs incurred in prosecuting an action to recover due levies from a proprietor, shall be conclusive evidence of the amount due and payable by the proprietor for which amount judgment may be entered against the proprietor in any Court of competent jurisdiction.
- 44.5 Simple interest at the prescribed rate shall be payable by the proprietor to the strata company on costs incurred by the strata company in taking action (including proceedings in any Court of competent jurisdiction) to recover due levies. Such interest shall commence and be payable from the date a copy of the invoice would have been received in the mail as required by this bylaw and shall cease to be payable upon payment of all costs and interest accrued thereon. Interest upon interest shall not be charged or accrue.
- 44.6 In the event that the strata company does not receive payment of costs incurred when payment of due levies is received from a proprietor and judgment for those costs has not been obtained from a Court of competent jurisdiction then those costs and simple interest thereon at the prescribed rate, being an administrative expense of the strata company shall be levied in accordance with section 36(1)(c)(ii) of the Act on the proprietor in respect of whom the cost was incurred, and if unpaid shall be recoverable as an unpaid levy in accordance with this bylaw.
- 45. Security and Fire Safety**
- 45.1 A proprietor must not do or permit anything to be done which may prejudice the security or safety of the Building or the common property and, in particular, must ensure that all fire and security doors are kept locked or secure or in an operational state when not in immediate use.
- 45.2 The Strata Company may restrict access to:
- 45.2.1 the car parking areas by means of a proximity card reader system; and
- 45.2.2 parts of the Building by means of a proximity card reader system or security key,
- for the purposes of securing the Building and the common property from intruders and to preserve the safety of the Building from fire or other hazards.
- 45.3 The Strata Company will provide to each proprietor two proximity cards and one security key and any further keys as the Strata Company determines to enable a proprietor to operate the security access devices referred to in bylaw 47.2 of the Schedule 1 Bylaws.
- 45.4 A proprietor is responsible in making available security access devices to any other person and must take all reasonable steps to ensure that any person provided with security access complies with this Bylaw.
- 45.5 No proprietor or person in possession of security devices may duplicate or permit the duplication of such devices and will take all reasonable steps to prevent their loss or transfer.

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behalf of the strata company;

- 42.3.16 to attend on behalf of the strata company and to the extent permitted by law to represent the strata company at any hearing conducted by a State Administrative Tribunal or any tribunal or court;
- 42.3.17 to instruct Solicitors, attend conferences and generally supervise legal proceedings involving the strata company;
- 42.3.18 to arrange other than normal day to day maintenance, repair and replacement of the property vested in the strata company;
- 42.3.19 to liaise with architects, engineers, surveyors, builders and the like in relation to any work carried out on the land;
- 42.3.20 on behalf of the council the power and authority to approve suitable signs that shall be in keeping and harmonious with the scheme.

43. Insurance Rates

- 43.1 Nothing shall be done or kept on a lot or within the scheme which will increase the rate of insurance on any property insured by the strata company without the approval of the council nor shall anything be done or kept on a lot or within the scheme which would result in the cancellation of insurance on any property insured by the strata company or which would be in violation of any law.
- 43.2 If by reason of any machine, appliance or other thing brought upon or installed upon a lot or the scheme by any proprietor the amount of any insurance premium is increased then the amount of such increase shall be paid by and apportioned between those proprietors having possession or control or the use or benefit of any such machines appliances or things.

44. Recovery of Costs by Strata Company

- 44.1 If the proprietor of a lot refuses or fails to pay to the strata company any amount due for levies (whether under section 36(1) or section 36(2) of the Act) or any other amount due, the strata company may take such lawful action as it deems necessary to recover that amount from the proprietor (including proceedings in any Court of competent jurisdiction). All costs incurred in taking such action including, but not limited to:
 - 44.1.1 strata company manager's costs, pursuant to the strata management contract or as otherwise determined by the strata company;
 - 44.1.2 legal costs on an indemnity basis; and
 - 44.1.3 debt recovery agency's costs,are an administrative expense of the strata company and become a debt due and payable by the proprietor to the strata company, and shall be recoverable by the strata company when recovering due levies.
- 44.2 It shall be competent for the strata company in proceedings commenced in any Court of competent jurisdiction to recover due levies, to claim in such proceedings all costs incurred in taking such action including costs incurred up to entry of judgment.

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- 42.3 The strata company manager shall have the following powers, authorities, duties and functions, in addition to those conferred at a General Meeting of the strata company:
- 42.3.1 to arrange as required by the strata company normal day to day maintenance, repair and replacement of any personal property vested in the strata company, but excluding any special attendance at the land and common property for this purpose;
 - 42.3.2 to view the improvements within the scheme on at least 1 occasion in each year;
 - 42.3.3 arrange and attend the annual general meeting during any yearly period;
 - 42.3.4 act upon request by, or in the absence of, the chairman:
 - 42.3.4.1 as Chairman of any meeting of the strata company; or
 - 42.3.4.2 as Chairman of any meeting of the council if so agreed by all the members of the council present at the meeting;
 - 42.3.4.3 to ensure that insurances are effected and promptly renewed in accordance with the Act and make all necessary insurance claims;
 - 42.3.5 as agent for the strata company to engage or employ contractors the caretaker and any employees authorised by the strata company to be employed, and to keep any wage, income tax or other records required by any law from time to time in respect of any caretaker, employees or contractors of the strata company and complete and submit any returns in respect thereof;
 - 42.3.6 to arrange for the preparation and submission of income tax returns on behalf of the strata company and accept appointment as the public officer of the strata company;
 - 42.3.7 to disburse monies in accordance with the Act and the terms of the bylaws;
 - 42.3.8 to maintain the records of the strata company required by law;
 - 42.3.9 to prepare as necessary budgets and reports and keep all records necessary to facilitate such preparation;
 - 42.3.10 to provide, so far as is reasonable, any assistance to the strata company and the members of its council;
 - 42.3.11 to take possession of and care for the records and documents of the strata company;
 - 42.3.12 implement credit control procedures in respect of maintenance contributions and advise regarding recovery;
 - 42.3.13 have custody of the common seal and attest its affixation for the purpose of exercising or performing any of the powers, authorities, duties or functions conferred or imposed by the Schedule 1 Bylaws;
 - 42.3.14 generally implement the decisions of the strata company and its council;
 - 42.3.15 to make applications and submissions to the State Administrative Tribunal and the local authority on

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stress or floor loading to any part of a lot or the premises.

39. Use of Car Bays

39.1 A proprietor shall not:

39.1.1 erect any form of structure within or on the boundary of any part of his lot intended for use as a car bay which may prevent access to contiguous car bays;

39.1.2 grant any lease, licence or other occupancy right to any person who is not a lot proprietor in respect of any portion of his or her lot used as a car bay or storage area.

40. Rules

40.1 The strata company may from time to time make, withdraw or amend rules for the use and management of the common property including but not limited to the management or control of:

40.1.1 the affixing of external aerials;

40.1.2 visitors' vehicle parking;

40.1.3 security;

40.1.4 use of stairways and passageways;

40.1.5 approval for keeping pets;

40.1.6 rubbish collection;

40.1.7 advertising and signs;

40.1.8 charges relating to the security system and security keys;

40.1.9 use of the Facilities.

40.2 A proprietor and a proprietor's invitees will comply at all times with the rules.

41. Penalty for Breach of Bylaws

Any person who breaches Schedule 1 By-Laws is, subject to section 42A(2) of the Act, liable to pay a penalty of \$400.00 or such other amount as is prescribed by the Act from time to time.

42. Strata Company Management

42.1 The strata company may appoint from time to time a strata company manager upon such terms and conditions as are usual for such appointment.

42.2 Unless otherwise provided in the bylaws the strata company may delegate (other than the power of delegation) all of the strata company's power, authorities, duties and functions to the strata company manager (to the extent that the same are capable of being delegated).

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in which event the council may enter the lot within which the animal is kept and remove the same if the animal has not already been removed.

32. Temporary Building

- 32.1 No temporary outbuilding, shed or other building or improvement of any kind shall be placed upon any part of the scheme, except with the prior written approval of the strata company.
- 32.2 No garage, trailer, camper, motor home or recreational vehicle shall be used as a temporary or permanent residence within the scheme.

33. Moving Furniture

Neither a proprietor nor a proprietor's invitees shall move any furniture or large object through or within the scheme unless he has first given to the strata company sufficient notice of his intention to do so in order to enable the caretaker or in the absence of the caretaker the strata company manager to be present at the time to ensure that no damage is caused to the common property.

34. Floor Coverings

A proprietor shall ensure that all floor space within the lot (other than that comprising kitchen, laundry, lavatory or bathroom) is covered or otherwise treated to an extent sufficient to prevent the transmission therefrom of noise likely to disturb the peaceful enjoyment of the proprietors of other lots.

35. Windows

- 35.1 A proprietor shall keep clean all glass in windows and doors (both internally and externally) on the boundary of the lot and all roof and skylight windows (if applicable) including so much thereof as is common property which may be cleaned safely and without risk of injury to the proprietor.
- 35.2 If a proprietor installs curtains then the back of the curtain must be coloured white.

36. Drying

Neither a proprietor nor a proprietor's invitee shall, except with the prior written consent of the strata company hang any washing, bedding, clothing or other article on any part of a lot or the premises in such a way as to be visible outside the lot or the premises.

37. Storage of Inflammable liquids

Neither a proprietor nor a proprietor's invitee shall, except with the approval in writing of the strata company, use or store upon the lot or the premises or the common property any inflammable chemical, liquid or gas or other inflammable material, other than chemicals, liquids, gases or other materials used or intended to be used for domestic purposes, or any such chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine.

38. Floor Loading

Neither a proprietor nor a proprietor's invitee shall do any act or thing which may result in excessive

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- 31.3.2 must ensure that the animal is not at any time within the common property except for the purpose of access to and from the proprietor's or occupier's Residential Lot;
- 31.3.3 must ensure that, when in or on any part of the common property, the animal is at all times held by the proprietor or occupier;
- 31.3.4 is liable to the proprietors and occupiers and each other person lawfully in the Building or in or about the common property for:
 - 31.3.4.1 any noise which is disturbing to an extent which is unreasonable;
 - 31.3.4.2 for damage to or loss of property or injury to any person caused by the animal; and
 - 31.3.4.3 is responsible for cleaning up after the animal has used any part of the common property.
- 31.4 This Bylaw:
 - 31.4.1 applies to any person in a lot or on common property with the express or implied consent of the proprietor or occupier of that lot; and
 - 31.4.2 does not prevent the keeping of a dog used as a guide dog or hearing dog.
- 31.5 Without affecting the strata company's rights under the Act, the strata company may issue a notice cautioning the proprietor or occupier of a Residential Lot in respect of a breach of any of the provisions of this Bylaw including (without limitation) where a proprietor's or occupier's animal causes or is causing:
 - 31.5.1 any noise which is disturbing to an extent which is unreasonable; or
 - 31.5.2 damage to or loss of property or injury to any person.
- 31.6 A further breach under this Bylaw after a notice has been served on a proprietor or occupier of a Residential Lot under its bylaw will entitle the strata company to require the immediate removal of the animal from the Building.
- 31.7 The proprietor will:
 - 31.7.1 be responsible for the health, hygiene, control and supervision of any animal in his care;
 - 31.7.2 prevent any animal from consistently making a noise or behaving in a manner which disturbs the proprietors or occupiers of any other lot and will take every action reasonably necessary to remedy such behaviour within fourteen (14) days after written notice is served on the proprietor or the proprietor's invitee by the council;
 - 31.7.3 not keep any animal on his lot if:
 - 31.7.3.1 the keeping of the animal breaches any regulation or bylaw of the local authority;
 - 31.7.3.2 he has failed to comply with a notice given by the council pursuant to its bylaw;
 - 31.7.3.3 he has within a twelve (12) month period received three notices issued under its bylaw,

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31. Pets

In this Bylaw:

"Building" means the building the subject of the strata plan;

"Excluded Dog" means:

- (a) a pit bull terrier;
- (b) an American pit bull terrier;
- (c) a dogo argentino;
- (d) a fini brasileiro;
- (e) a Japanese tosa;
- (f) any other outcross;
- (g) any dog prohibited from importation into Australia by the Commonwealth Government; and
- (h) an unregistered or dangerous dog under the *Dog Act 1976*;

"Small Dog" means any breed of dog which:

- (a) at its full grown size does not exceed 10 kilos; and
- (b) is not an Excluded Dog.

31.1 A proprietor or occupier of a Residential Lot may keep, without the consent of the strata company:

- 31.1.1 fish, in an enclosed aquarium;
- 31.1.2 one (1) caged bird;
- 31.1.3 one (1) Small Dog;
- 31.1.4 one (1) cat;

31.2 A proprietor or occupier of a Residential Lot must obtain the prior written consent of the council of the strata company before that proprietor or occupier keeps;

- 31.2.1 any other type of animal including a dog which is not a Small Dog;
- 31.2.2 more than one (1) dog, cat, caged bird or combination thereof at the same time;

31.3 If a proprietor or occupier of a Residential Lot keeps an animal then the proprietor or occupier:

- 31.3.1 must ensure that the animal is at all times kept under control and within the confines of that proprietor's or occupier's Residential Lot;

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contractors, having regard to the urgency involved, to carry out such repairs or renovations to common property as may be necessary.

26. Damage to Common Property

Should any damage be caused to any part of the common property by any proprietor or proprietor's invitees then the proprietor shall be responsible for the cost to the strata company of making good such damage.

27. Instructing Contractors by Proprietors

27.1 Neither a proprietor nor a proprietor's invitee shall instruct any contractor or workmen employed by the strata company unless authorised to do so by the caretaker or in the absence of the caretaker the strata company manager.

27.2 If a proprietor or proprietor's invitees instructs a contractor or workmen without authorisation the proprietor shall be responsible for the payment to the strata company of any additional cost or expense to the strata company arising from that instruction and shall be further responsible for the cost of removing or altering any work performed by the contractor or workmen pursuant to that instruction.

28. Garbage Disposal

28.1 A proprietor shall:

28.1.1 maintain on his lot or on such part of the common property as may be designated by the strata company for that purpose, in a clean and dry condition and adequately covered, a receptacle for garbage;

28.1.2 ensure that before garbage is placed in the receptacle that it is securely wrapped or in the case of tins, bottles and other containers is completely drained;

28.1.3 comply with all local authority bylaws, regulations and ordinances relating to the disposal of garbage;

28.1.4 ensure that the health, hygiene and comfort of other proprietors is not adversely affected by the disposal of his garbage.

29. Signs

29.1 No sign or billboard of any kind shall be displayed within public view on any portion of a residential lot without the prior written consent of the council which consent may be granted or withheld at the absolute discretion of the council and otherwise on such terms and conditions as the council determines (if any). Nothing in this bylaw shall prevent the original proprietor from displaying "For Sale" signs within the scheme so long as the original proprietor is the proprietor of a lot within the scheme.

29.2 Any sign permitted by the council is subject to and conditional upon the granting of all necessary approvals and permits by the local authority.

30. Antenna

All television, radio other electronic antenna or devices of similar type shall only be erected, constructed, placed or permitted to remain within the lot.

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22. Vehicles

22.1 Neither a proprietor nor a proprietor's invitee shall:

- 22.1.1 drive or control any vehicle at a speed in excess of ten (10) kilometres per hour within the Scheme;
- 22.1.2 conduct repairs on or restoration to any vehicle, on any portion of the common property or premises or on any lot;
- 22.1.3 use a designated parking bay for any purpose other than parking one motor vehicle;
- 22.1.4 park or stand any vehicle upon those portions of the common property not allocated for that purpose, except with the prior written approval of the strata company;
- 22.1.5 use any part of the common property for the parking or standing of a caravan, camper van, trailer, marine craft or commercial vehicle;
- 22.1.6 park or leave any vehicle in such a position where it is likely to be a nuisance or obstruct access or egress to any car parking area, or any part of the common property.

23. Responsibility for Proprietor's Invitees

23.1 A proprietor shall:

- 23.1.1 take reasonable steps to ensure that the proprietor's invitees observe and comply with the bylaws and the rules and if the proprietor is unable to ensure such compliance then the proprietor upon written notice from the strata company must take reasonable steps to have the proprietor's invitees leave the scheme;
- 23.1.2 compensate the strata company for any damage, loss, expense or claim occasioned by the strata company and caused or contributed to by the proprietor's invitees.

24. Blockage of Drainage Pipes

- 24.1 The toilets and other water apparatus including waste pipes and drains shall not be used for any purpose other than those for which they were constructed and no sweepings or rubbish or other unsuitable substance shall be deposited therein.
- 24.2 Any cost incurred by the strata company in repairing any damage or blockage resulting to such toilets, water apparatus, waste pipes and drains caused by a breach of bylaw 24.1 of the Schedule 1 Bylaws shall be borne by the proprietor whether the same is caused by his own actions or those of the proprietor's invitees.

25. Proprietor to advise of Defects

- 25.1 A proprietor shall give the caretaker or, in the absence of the caretaker, the strata company manager prompt notice of any accident to or defect in or want of repair in respect to the supply of sewer, water, gas, electricity, telephone or any other service situated within his lot or premises or the common property which comes to his knowledge.
- 25.2 The strata company shall have authority to enter upon any premises at all reasonable times, by its agents or

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20.3.2 fail to remove the air conditioning system after receiving written notice from the strata company pursuant to bylaw 19.3 of the Schedule 1 Bylaws,

then the strata company may enter the proprietor's lot or his premises and:

20.3.3 repair and maintain the air conditioning system at the cost of the proprietor; or

20.3.4 remove the air conditioning system and reinstate and restore the common property at the cost of the proprietor and withdraw the exclusive use rights granted to a proprietor over that portion of the common property required for the air conditioning system granted pursuant to this bylaw 20 of the Schedule 1 Bylaws.

21. Behaviour

21.1 A proprietor shall not:

21.1.1 use his premises or any part of the common property for any purpose which may be a breach of the bylaws, the regulations or bylaws of the local authority or any other governmental regulation or law;

21.1.2 use his premises for any purpose that may be illegal or immoral or injure the reputation of the scheme as a luxury residential complex;

21.1.3 obstruct the lawful use of the common property (other than his exclusive use property) by any person or permit to be done anything whereby any obstruction, restriction or hindrance may be caused to the entrances, exits, access roads, pathways, of any lot or any part of the common property (other than his exclusive use property) to any person lawfully using the same;

21.1.4 deposit or throw upon the common property any rubbish, dirt, dust or other material likely to interfere with the peaceful enjoyment of any other person lawfully using the common property;

21.1.5 make undue noise in or about his premises or the common property that disturbs any other person or that contravenes the regulations, or bylaws of the local authority or any other governmental regulation or law;

21.1.6 permit any child of whom he has control to play upon common property or use the facilities unless accompanied by an adult person exercising effective control;

21.1.7 use language or behave in a manner likely to cause offence or embarrassment to any person lawfully using common property;

21.1.8 be inadequately or inappropriately clothed when upon common property;

21.1.9 ride bicycles, skateboards or rollerblades or like equipment on any portion of the common property;

21.1.10 without the written consent of the strata company, maintain within his premises anything visible from outside his premises which is not in keeping with the amenity or reputation of the scheme as a residential complex;

21.1.11 allow the escape of water from the proprietors' garden or balconies in or on any adjacent lot.

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and other materials from the lot.

19. Exclusive Use

19.1 In this Bylaw "exclusive use property" means every portion of common property comprising:

19.1.1 decorative fixtures and fittings including but not limited to wall tiles, floor tiles, doors, door handles and locks, light fittings, windows and plate glass and screens which are appurtenant to a proprietor's lot; and

19.1.2 that portion of the common property required for an air conditioning system approved by the strata company in accordance with bylaw 20 of the Schedule 1 Bylaws.

19.2 The strata company grants to each proprietor who signs a written consent in a form reasonably required by the strata company exclusive use of the exclusive use property relevant to the proprietor's lot.

19.3 The strata company may withdraw the exclusive use rights or any part thereof described in this bylaw 19 of the Schedule 1 Bylaws if 7 days after service of a written notice from the strata company a proprietor fails to maintain and repair or replace the exclusive use property in accordance with bylaw 17 of this Schedule 1 Bylaws or fails to remove an air conditioning system in accordance with bylaw 20 of this Schedule 1 Bylaws.

19.4 Should a proprietor fail to comply with a notice served by the strata company pursuant to bylaw 19.3 of this Schedule 1 Bylaws then the strata company may at the proprietor's cost enter the proprietor's lot or his premises for the purpose of maintaining and repairing or replacing the proprietor's exclusive use property.

20. Individual Air Conditioning Systems

20.1 No proprietor shall affix any air conditioning system without the prior written approval of the Council which approval can be withheld if, in the sole opinion of the Council, the proposed air conditioning system is or is likely to be either:-

20.1.1 so noisy as to cause a disturbance to adjoining proprietors; or

20.1.2 of such a size and colour as not to be in harmony with the external appearance of the Scheme.

20.2 Without prejudice to the generality of bylaw 20.1 in the Schedule 1 Bylaws in the event of the air conditioning system or any part thereof becoming unsafe or deteriorating, the proprietor shall within 7 days of service of a written notice from the strata company either:

20.2.1 remove the air conditioning system and reinstate and restore any common property to the same state and condition as existed at the time the air conditioning system was installed; or

20.2.2 subject to complying with bylaws 19 and 20 of the Schedule 1 Bylaws replace the air conditioning system.

20.3 Should a proprietor:

20.3.1 fail to repair and maintain the air conditioning system pursuant to bylaw 17 of the Schedule 1 Bylaws; or

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- 17.1.3 replace in a timely fashion all those parts of his premises which are beyond repair or which may become a nuisance or a hazard.

18. Alterations to Lot

- 18.1 A proprietor shall not commence any structural alterations building or associated works of any kind to his lot before he has:

- 18.1.1 obtained all the necessary approvals and permits of the local authority;
- 18.1.2 obtained the consent of the strata company if the structural alterations are prescribed improvements within the meaning of section 7 of the Act;
- 18.1.3 given to the strata company at least 14 days written notice of the proposed structural alterations and the date that work is to commence and true and complete copies of all relevant plans and specifications in respect thereto and the approvals and permits obtained from the local authority pursuant to bylaw 18.1.1 of the Schedule 1 Bylaws;
- 18.1.4 indemnified the strata company in respect of any cost, expense or liability that may be incurred by the strata company consequent upon the proprietor undertaking the structural alterations, building or associated works which indemnity shall be in writing in a form reasonably required by the strata company and prepared and stamped at the cost of the proprietor.

- 18.2 In causing or allowing any structural alterations building or associated works of any kind to be carried out on his lot, a proprietor shall ensure:

- 18.2.1 that all tradesman's vehicles are parked, stored or kept within that part of the proprietor's lot intended for use as a car parking bay;
- 18.2.2 that no refuse, rubbish, trash or building materials are stored on or within any part of the common property;
- 18.2.3 that no security door or gate within the scheme remains open while the works are carried out;
- 18.2.4 that any common property damaged as a result of conducting the works is cleaned and restored to the same state and condition as it was prior to the works commencing;
- 18.2.5 that access to or egress from the proprietor's lot by all tradesmen bringing materials to the lot for the purpose of carrying out the works is pre-arranged with the caretaker or, in the absence of the caretaker, the strata company manager;
- 18.2.6 that no noxious or offensive activity shall be carried on upon his lot between the hours of 5:00 p.m. and 8:30 a.m. or at any time on a Saturday or Sunday nor shall anything be done thereon which may be or may become an annoyance or nuisance to the proprietor's of other lots or which shall in any way interfere with the quiet enjoyment of other proprietors and without limiting the generality of the foregoing no mechanical or pneumatic tools shall be used in the performance of the works during the hours hereinbefore defined in this bylaw;
- 18.2.7 that all works are carried out in an enclosed environment so as to prevent the escape of dust, debris

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given and in the presence of the members of the council or at least 2 members of the council, who shall sign every instrument to which the seal is affixed, but where there is only one member of the strata company his signature shall be sufficient for the purpose of the Schedule 1 Bylaws.

15.2 The council shall make provision for the safe custody of the common seal.

16. Use of Premises

16.1 Subject to this bylaw 16 of the Schedule 1 Bylaws a proprietor of a residential lot may only use his lot as a residence.

16.2 Notwithstanding the Schedule 1 Bylaw 16.1 a proprietor of a residential lot may:

16.2.1 grant occupancy rights in respect of his lot to residential tenants;

16.2.2 conduct business from his lot so long as:

16.2.2.1 the proprietor does not invite customers of the business to visit the lot for the purpose of conducting the business;

16.2.2.2 the conduct of the business from the lot does not breach any local authority bylaw or regulation;

16.2.2.3 the conduct of the business does not cause any inconvenience to the proprietors of other lots;

16.2.2.4 the business does not involve the manufacture, storage or vending of goods.

16.3 Notwithstanding bylaw 16.1 of the Schedule 1 Bylaws the original proprietor of the land may use any lot owned by the original proprietor for the purposes of display to prospective purchasers or tenants of that or other lots within the scheme.

16.4 If a proprietor grants occupancy rights in respect of his lot he shall:

16.4.1 promptly provide the council with the full name of each occupier;

16.4.2 give each occupier a copy of the bylaws and the rules (if any) at the commencement of the occupation; and

16.4.3 procure that the occupancy agreement contains a provision to the effect that the occupier will comply with the bylaws and the rules and that any breach thereof will constitute a breach of the occupancy agreement which will entitle the proprietor to terminate the occupancy agreement with the occupier.

17. Repair and Maintenance of Premises

17.1 A proprietor shall at the proprietor's cost:

17.1.1 maintain his premises in a good state of repair and condition;

17.1.2 maintain his premises in a clean condition free from all vermin and insects;

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- 11.9 At any general meeting a resolution by the vote of the meeting shall be decided on a show of hands unless a poll is demanded by any proprietor present in person or by proxy.
- 11.10 Unless a poll be so demanded a declaration by the chairman that a resolution has on the show of hands been carried is conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of or against such resolution.
- 11.11 A demand for a poll may be withdrawn.
- 11.12 A poll if demanded shall be taken in such manner as the chairman thinks fit and the result of the poll shall be deemed to be the resolution of the meeting at which such poll was demanded.
- 11.13 In the case of equality in the votes whether on a show of hands or on a poll, the question is determined in the negative.
- 12. Restriction on moving motion or nominating candidate**
- A person is not entitled to move a motion at a general meeting or to nominate a candidate for election as a member of the council unless the person is entitled to vote on the motion or at the election.
- 13. Votes of Proprietors**
- 13.1 On a show of hands each proprietor has one vote.
- 13.2 On a poll the proprietors have the same number of votes as the unit entitlements of their respective lots.
- 13.3 On a show of hands or on a poll votes may be given either personally or by duly appointed proxy.
- 13.4 An instrument appointing a proxy shall be in writing under the hand of the appointee or his attorney and may be either general or for a particular meeting.
- 14. A proxy need not be a Proprietor.**
- 14.1 Except in cases where by or under the Act a unanimous resolution or resolution without dissent is required, no proprietor is entitled to vote at any general meeting unless all contributions payable in respect of his lot have been duly paid and any other moneys recoverable under the Act by the strata company from him at the date of the notice given to proprietors of the meeting have been duly paid before the commencement of the meeting.
- 14.2 Co-proprietors may vote by proxy jointly appointed by them and in the absence of such a proxy are not entitled to vote on a show of hands, except when the unanimous resolution of proprietors is required by the Act.
- 14.3 On any poll each co-proprietor is entitled to such part of the vote applicable to a lot as is proportionate to his interest in the lot.
- 14.4 The joint proxy (if any) on a poll has a vote proportionate to the interests in the lot of such of the joint proprietors as do not vote personally or by individual proxy.
- 15. Common seal**
- 15.1 The common seal of the strata company shall at no time be used except by authority of the council previously

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- 10.3 The council may whenever it thinks fit and shall upon a requisition in writing made by proprietors entitled to a quarter or more of the aggregate unit entitlement of the lots convene an extraordinary general meeting.
- 10.4 If the council does not within 21 days after the date of the making of a requisition under the bylaw 10.3 of the Schedule 1 Bylaws proceed to convene an extraordinary general meeting, the requisitionists, or any of them representing more than one-quarter of the aggregate unit entitlement of all of them, may themselves, in the same manner as nearly as possible as that in which meetings are to be convened by the council, convene an extraordinary general meeting, but any meeting so convened shall not be held after the expiration of 3 months from the date on which the requisition was made.
- 10.5 Not less than 14 days' notice of every general meeting specifying the place, the date and the hour of meeting and in case of special business the general nature of that business, shall be given to all proprietors and registered first mortgagees who have notified their interests to the strata company, but accidental omission to give the notice to any proprietor or to any registered first mortgagee or non-receipt of the notice by any proprietor or by any registered first mortgagee does not invalidate any proceedings at any such meeting.
- 10.6 If a proprietor gives notice in writing to the secretary of an item of business that the proprietor requires to be included on the agenda for the next general meeting of the strata company, the secretary shall include that item on the agenda accordingly and shall give notice of that item as an item of special business in accordance with bylaw 10.5 of the Schedule 1 Bylaws.
- 11. Proceedings at general meetings**
- 11.1 All business shall be deemed special that is transacted at an annual general meeting, with the exception of the consideration of accounts and election of members to the council, or at an extraordinary general meeting.
- 11.2 Except as otherwise provided in these bylaws, no business may be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business.
- 11.3 One-half of the persons entitled to vote present in person or by duly appointed proxy constitutes a quorum.
- 11.4 If within half an hour from the time appointed for a general meeting a quorum is not present, the meeting, if convened upon the requisition of proprietors, shall be dissolved and in any other case it shall stand adjourned to the same day in the next week at the same place and time and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the persons entitled to vote and present constitute a quorum.
- 11.5 Bylaws 11.3 and 11.4 of the Schedule 1 Bylaws do not apply to a general meeting of a strata company referred to in Section 50B.
- 11.6 The chairman, may with the consent of the meeting, adjourn any general meeting from time to time and from place to place but no business may be transacted at an adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 11.7 All resolutions must be proposed by a proprietor or his or her duly appointed proxy and seconded by another proprietor or his or her duly appointed proxy.
- 11.8 Except where otherwise required by or under the Act, resolutions may be passed at a general meeting by a simple majority vote.

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- 7.4 A proprietor or individual may be appointed under bylaw 7.3 of the Schedule 1 Bylaws whether or not he is a member of the council.
- 7.5 If a person appointed under bylaw 7.3 of the Schedule 1 Bylaws is a member of the council he may, at any meeting of the council, separately vote in his capacity as a member and on behalf of the member in whose place he has been appointed to act.
- 7.6 The council shall keep minutes of its proceedings.
- 8. Powers and duties of secretary of strata company**
- 8.1 The powers and duties of the secretary of a strata company include:
- 8.1.1 the preparation and distribution of minutes of meetings of the strata company and the submission of a motion for confirmation of the minutes of any meeting of the strata company at the next such meeting;
 - 8.1.2 the giving on behalf of the strata company and of the council of the notices required to be given under the Act;
 - 8.1.3 the supply of information on behalf of the strata company in accordance with section 43 (1)(a) and (b) of the Act;
 - 8.1.4 the answering of communications addressed to the strata company;
 - 8.1.5 the calling of nominations of candidates for election as members of the council; and
 - 8.1.6 subject to sections 49 and 103 of the Act the convening of meetings of the strata company and of the council.
- 9. Powers and duties of treasurer of strata company**
- 9.1 The powers and duties of the treasurer of a strata company include:
- 9.1.1 the notifying of proprietors of any contributions levied pursuant to the Act;
 - 9.1.2 the receipt, acknowledgment and banking of and the accounting for any money paid to the strata company;
 - 9.1.3 the preparation of any certificate applied for under section 43 of the Act; and
 - 9.1.4 the keeping of the books of account referred to in section 35(1) (f) of the Act and the preparation of the statement of accounts referred to in section 35 (1) (g) of the Act.
- 10. General meetings of strata company**
- 10.1 General meetings of the strata company shall be held once in each year and so that not more than 15 months shall elapse between the date of one annual general meeting and that of the next.
- 10.2 All general meetings other than the annual general meeting shall be called extraordinary general meetings.

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- 5.2 A person:
- 5.2.1 shall not be appointed to an office referred to in bylaw 5.1 of the Schedule 1 Bylaws unless he is a member of the council; and
 - 5.2.2 may be appointed to one or more of those offices.
- 5.3 A person appointed to an office referred to in bylaw 5.1 of the Schedule 1 Bylaws shall hold office until:
- 5.3.1 he ceases to be a member of the council;
 - 5.3.2 receipt by the strata company of notice in writing of his resignation from that office; or
 - 5.3.3 another person is appointed by the council to hold that office,
- whichever first happens.
- 5.4 The chairman shall preside at all meetings of the council at which he is present and, if he is absent from any meeting, the members of the council present at that meeting shall appoint one of their number to preside at that meeting during the absence of the chairman.
- 6. Chairman, secretary and treasurer of strata company**
- 6.1 Subject to bylaw 6.2 of the Schedule 1 Bylaws the chairman, secretary and treasurer of the council are also respectively the chairman, secretary and treasurer of the strata company.
- 6.2 A strata company may at a general meeting authorise a person who is not a proprietor to act as the chairman of the strata company for the purposes of that meeting.
- 6.3 A person appointed under bylaw 6.2 of the Schedule 1 Bylaws may act until the end of the meeting for which he was appointed to act.
- 7. Meetings of council**
- 7.1 At meetings of the council, all matters shall be determined by a simple majority vote.
- 7.2 The council may meet together for the conduct of business and adjourn and:
- 7.2.1 otherwise regulate its meetings as it thinks fit, but the council shall meet when any member of the council gives to the other members not less than 7 days' notice of a meeting proposed by him, specifying in the notice the reason for calling the meeting;
 - 7.2.2 subject to any restriction imposed or direction given at a general meeting of the strata company, delegate to one or more of its members such of its powers and duties as it thinks fit, and at any time revoke the delegation.
- 7.3 A member of a council may appoint a proprietor, or an individual authorised under section 45 of the Act by a corporation which is a proprietor, to act in his place as a member of the council at any meeting of the council and any proprietor or individual so appointed shall, when so acting, be deemed to be a member of the council.

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- 4.2.2 orally by nominee who is present at the meeting.
- 4.3 When no further nominations are forthcoming, the chairman:
 - 4.3.1 where the number of candidates equals the number of members of the council determined in accordance with the requirements of bylaw 3.3 of the Schedule 1 Bylaws, shall declare those candidates to be elected as members of the council;
 - 4.3.2 where the number of candidates exceeds the number of members of the council as so determined, shall direct that a ballot be held.
- 4.4 If a ballot is to be held, the chairman shall:
 - 4.4.1 announce the names of the candidates; and
 - 4.4.2 cause to be furnished to each person present and entitled to vote a blank paper in respect of each lot in respect of which he is entitled to vote for use as a ballot-paper.
- 4.5 A person who is entitled to vote shall complete a valid ballot paper by:
 - 4.5.1 writing thereon the names of candidates, equal in number to the number of members of the council so that no name is repeated;
 - 4.5.2 indicating thereon the number of each lot in respect of which his vote is cast and whether he so votes as proprietor or first mortgagee of each such lot or as proxy of the proprietor or first mortgagee;
 - 4.5.3 signing the ballot-paper; and
 - 4.5.4 returning it to the chairman.
- 4.6 The chairman, or a person appointed by him, shall count the votes recorded on valid ballot-papers in favour of each candidate.
- 4.7 Subject to bylaw 4.8 of Schedule 1, candidates, being equal in number to the number of members of the council determined in accordance with bylaw 3.3 of the Schedule 1 Bylaws, who receive the highest numbers of votes shall be declared elected to the council.
- 4.8 Where the number of votes recorded in favour of any candidate is the lowest of the numbers of votes referred to in bylaw 4.7 of the Schedule 1 Bylaws:
 - 4.8.1 that number equals the number of votes recorded in favour of any other candidate; and
 - 4.8.2 if each of those candidates were to be declared elected the number of persons elected would exceed the number of persons required to be elected, as between those candidates, the election shall be decided by a show of hands of those present and entitled to vote.
- 5. **Chairman, secretary and treasurer of council**
- 5.1 The members of a council shall, at the first meeting of the council after they assume office as such members, appoint a chairman, a secretary and a treasurer of the council.

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appears first in the certificate of title for the lot shall be the nominee.

- 3.7 On an election of members of the council, a proprietor shall have one vote in respect of each lot owned by him.
- 3.8 The strata company may by special resolution remove any member of the council before the expiration of his term of office.
- 3.9 A member of the council vacates his office as a member of the council:
- 3.9.1 if he dies or ceases to be a proprietor or a co-proprietor of a lot;
 - 3.9.2 upon receipt by the strata company of notice in writing of his resignation from the office of member;
 - 3.9.3 at the conclusion of an annual general meeting of the strata company at which an election of members of the council takes place and at which he is not elected or re-elected; or
 - 3.9.4 where he is removed from office under bylaw 3.8 of the Schedule 1 Bylaws.
- 3.10 Any casual vacancy on the council may be filled by the remaining members of the council, except that, in a case where a casual vacancy arises because of the removal from office of a member under bylaw 3.8 of the Schedule 1 Bylaws, the strata company may resolve that the casual vacancy shall be filled by the strata company at a general meeting.
- 3.11 Except where the original proprietor constitutes the council, a quorum of the council shall be 2 where the council consists of 3 or 4 members 3, where it consists of 5 or 6 members and 4, where it consists of 7 members.
- 3.12 The continuing members of the council may act notwithstanding any vacancy in the council, but so long as the number of members is reduced below the number fixed by these bylaws as the quorum of the council, the continuing members or member of the council may act for the purpose of increasing the number of members of the council or convening a general meeting of the strata company, but for no other purpose.
- 3.13 All acts done in good faith by the council shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment or continuance in office of any member of the council, be as valid as if that member had been duly appointed or had duly continued in office.

4. Election of council

- 4.1 The procedure for nomination and election of members of a council shall be in accordance with the following rules:
- 4.1.1 the meeting shall determine, in accordance with the requirements of bylaw 3.3 of the Schedule 1 Bylaws the number of persons of whom the council shall consist;
 - 4.1.2 the chairman shall call upon those persons entitled to nominate candidates to nominate candidates for election to the council.
- 4.2 A nomination is ineffective unless supported by the consent of the nominee to his nomination, given:
- 4.2.1 in writing, and furnished to the chairman at the meeting;

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2.2 A proprietor shall:

- 2.2.1 notify the strata company forthwith upon any change of ownership, including in the notice an address of the proprietor for service of notices and other documents under the Act; and
- 2.2.2 if required in writing by the strata company, notify the strata company of any mortgage or other dealing in connection with his lot, including in the case of a lease of a lot, the name of the lessee and the term of the lease.

2.3 A proprietor, occupier or other resident of a lot shall:

- 2.3.1 use and enjoy the common property in such a manner as not unreasonably to interfere with the use and enjoyment thereof by other proprietors, occupiers or residents, or of their visitors; and
- 2.3.2 not use the lot or permit it to be used in such manner or for such purpose as causes a nuisance to any occupier of another lot (whether a proprietor or not) or the family of such an occupier;
- 2.3.3 take all reasonable steps to ensure that his visitors do not behave in a manner likely to interfere with the peaceful enjoyment of the proprietor, occupier or other resident of another lot or of any person lawfully using common property; and
- 2.3.4 take all reasonable steps to ensure that his visitors comply with the bylaws of the strata company relating to the parking of motor vehicles.

3. **Constitution of the Council**

- 3.1 The powers and duties of the strata company shall, subject to any restriction imposed or direction given at a general meeting, be exercised and performed by the council of the strata company and a meeting of the council at which a quorum is present shall be competent to exercise all or any of the authorities, functions or powers of the council.
- 3.2 Until the inaugural meeting of the strata company, the original proprietor of all the lots shall constitute the council. So long as the original proprietor is the proprietor of a lot it may nominate one person to be a member of the Council without the necessity of the nominee requiring to nominate for election each year. When the original proprietor no longer is the proprietor of a lot its nominee shall resign and this bylaw shall no longer apply.
- 3.3 The council shall consist of not less than 3 nor more than 7 proprietors as is determined by the strata company.
- 3.4 The members of the council shall be elected at each annual general meeting of the strata company.
- 3.5 In determining the number of proprietors for the purposes of this bylaw, co-proprietors of a lot or more than one lot shall be deemed to be one proprietor and a person who owns more than one lot shall also be deemed to be one proprietor.
- 3.6 If there are co-proprietors of a lot, one only of the co-proprietors shall be eligible to be, or to be elected, a member of the council and the co-proprietor who is so eligible shall be nominated by his co-proprietors, but, if the co-proprietors fail to agree on a nominee, the co-proprietor who owns the largest share of the lot shall be the nominee or if there is no co-proprietor who owns the largest share of the lot, the co-proprietor whose name

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"Strata Company Manager" means the person who is appointed from time to time as strata company manager pursuant to bylaw 42 of the Schedule 1 Bylaws;

"Strata Plan" means the strata plan and any subdivision thereof registered from time to time in respect of the land.

1.2 Interpretation

In the Schedule 1 Bylaws:

1.2.1 Reference to any statute or statutory provision includes a reference to:

1.2.1.1 that statute or statutory provision as from time to time amended, extended, re-enacted or consolidated; and

1.2.1.2 all statutory instruments or orders made pursuant to it.

1.2.2 Words denoting the singular number shall include the plural and vice versa.

1.2.3 Words denoting any gender include all genders and words denoting persons shall include firms and corporations and vice versa.

1.2.4 Headings are inserted for convenience only and shall not affect the construction or interpretation of the Schedule 1 Bylaws.

1.3 Severability

If any Schedule 1 Bylaw is invalid or unenforceable, then the remaining Schedule 1 Bylaws shall be valid and enforceable.

1.4 Application

The Schedule 1 Bylaws:

1.4.1 apply in respect of the common property and all lots; and

1.4.2 bind a proprietor's invitees.

2. Duties of Proprietor, occupiers, etc.

2.1 A proprietor shall:

2.1.1 forthwith carry out all work that may be ordered by any competent public authority or local government in respect of his lot other than such work as may be for the benefit of the building generally and pay all rates, taxes, charges, outgoings and assessments that may be payable in respect of his lot;

2.1.2 repair and maintain his lot, and keep it in a state of good repair, reasonable wear and tear, and damage by fire, storm, tempest or act of God excepted.

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SCHEDULE 1

BY-LAWS

1. Definitions

1.1 The following words have these meanings in the Schedule 1 Bylaws whether appearing in capitals or not unless the contrary intention appears;

"Act" means *Strata Titles Act 1985* as amended;

"Bylaws" means the bylaws adopted by the strata company from time to time;

"Common Property" has the same meaning as in the Act;

"Council" means the Council of the strata company established pursuant to the bylaws;

"Fixtures and Fittings" means any fixtures and fittings in or about a lot;

"Insured Risk" means fire, lightning, explosion, aircraft (including articles dropped from aircraft), riots, civil commotion, malicious persons, earthquakes, storm, tempest, flood, bursting and overflowing of water pipes, tanks and other apparatus and impact by road vehicles and such other risks as the strata company may from time to time insure against;

"Land" means all the land comprised in the strata plan;

"Local Authority" means the local authority as may from time to time have jurisdiction over the scheme;

"Lot" or "lot" means a strata lot formed upon registration of the strata plan;

"Original Proprietor" means the registered proprietor of the land before the scheme was constituted by registration of the strata plan;

"Proprietor" means the proprietor from time to time of a lot and the proprietor's successors in title, personal representatives, permitted assigns and transferees or registered mortgagee in possession;

"Proprietor's Invitee" means each of the proprietor's agents, contractors, tenants, lessees, licensees, invitees and those persons who at any time are under the control of and in or upon a lot or the common property with the consent (express or implied) of a proprietor;

"Premises" means the proprietor's lot together with the fixtures and fittings and that portion of the common property which is exclusive use property;

"Residential Lot" means a lot which is intended for use as a residence;

"Rules" means the rules adopted by the strata company from time to time pursuant to bylaw 40 of the Schedule 1 Bylaws;

"Schedule 1 Bylaws" means these Schedule 1 Bylaws;

"Scheme" means the strata scheme constituted upon registration of the strata plan;

"Strata Company" means the strata company constituted by the registration of the strata plan;

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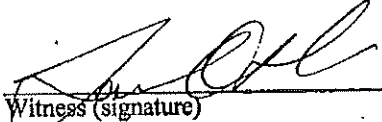
ENCUMBRANCE

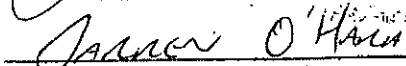
Mortgage L502779 to Westpac Banking Corporation

We, Westpac Banking Corporation, being the Mortgagee under Mortgage Number L502779 registered as an encumbrance against the Land hereby consent to this Deed.

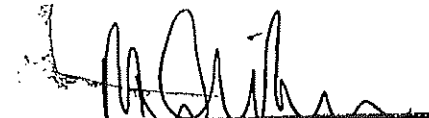
[Insert appropriate sealing clause]

SIGNED on behalf of
WESTPAC BANKING CORPORATION
by its attorney(s) under power of attorney
dated 17 January 2001 registered book
H663334 in the presence of:


Witness (signature)


Name of Witness (print name)

By executing this document the attorney
states that they have received no notice of
revocation of the power of attorney


Attorney (signature)

Name and Tier of Attorney (print)

Michael Di Russo
Relationship Manager

TIER 3

FORM B2

(Note 1)

Form Approval No. B1331

WESTERN AUSTRALIA
TRANSFER OF LAND ACT 1893 AS AMENDED

BLANK INSTRUMENT FORM

MANAGEMENT STATEMENT

FORM 25

STRATA TITLES ACT 1985

SECTION 5C(1)

THE OWNERS OF COVE

STRATA PLAN NO. 54963

MANAGEMENT STATEMENT

(Name of original proprietors of land the subject of the plan)
PROVEN JOONDALUP PTY LTD (ACN 100 304 318).

(Description of parcel the subject of the Plan)

Lot 1001 on Deposited Plan 44786 the whole of the land in Certificate of Title Volume 2642 Folio 897

This Management Statement lodged or to be lodged with a strata plan in respect of the above land sets out the bylaws of the strata company or amendments to the bylaws contained in schedule 1 and schedule 2 of the Strata Titles Act 1985 that are to have effect upon registration of the strata plan.

1. The Schedule 1 Bylaws are amended and repealed or added to as follows:
The bylaws in Schedule 1 to the Act and numbered 1 to 15 inclusive, as they apply to the scheme referred to in the strata plan are repealed and the Schedule 1 Bylaws numbered 1 to 50 inclusive as appears in the Schedule hereto are adopted.
2. The Schedule 2 Bylaws are amended, repealed or added to as follows:
The Bylaws in Schedule 2 to the Act are repealed.

Dated this 26 day of May 2011.

EXECUTED by PROVEN JOONDALUP)
PTY LTD (ACN 100 304 318) pursuant to)
section 127 of the Corporations Act 2001:)

Director
~~Sole~~ Director and Sole Secretary

NICOLA DOMENICO DI LATTE

Full Name (Please Print)
* Delete if Inapplicable

Director/Secretary *

SIMON ANDREW OATEN

Full Name (Please Print)

PLEASE REFER NEXT PAGE



Property Interest Report

Unit 24, 2 Molloy Promenade, Joondalup 6027

landgate.wa.gov.au

1. Property information

This section includes an aerial photograph and details of this property.

2. Summary of interests that AFFECT this property

This section helps you to see at a glance interests pertaining to this property.

3. Summary of interests that DO NOT AFFECT this property

This section helps you to see at a glance interests that do not affect this property.

4. Details of interests that AFFECT this property

This section provides details of how an interest specifically relates to this property.

What is a property interest?

A property interest gives rights to a land owner but also, could imply restrictions or impose responsibilities which may impact on their use or enjoyment of the land. Most interests are created by government legislation, policies and guidelines.

Where does property interest information come from?

This service gathers interest information from multiple government bodies and private organisations in Western Australia and consolidates that information into the Property Interest Report. This report will show interests that do and do not affect the property.

Does this report include all interests?

This Property Interest Report only serves as a guide to interests that relate to this property not recorded on the Certificate of Title. Landgate does not have access to all interest information that affects property in Western Australia. There may be other interests that relate to the property, where that information is currently not available to Landgate. For information on other known interests not in this report, see www0.landgate.wa.gov.au/interestdictionary.

Are interests on the Certificate of Title in this report?

No, this report does not include interest information registered on the Certificate of Title. Limitations, Interests, Encumbrances and Notifications may be registered on the Certificate of Title under Second Schedule Endorsements.

It is recommended that a copy of the Certificate of Title is obtained to identify any registered interests and/or information. Visit landgate.wa.gov.au to order a copy of the Certificate of Title.

How do I find out more information?

For further information about interests including information, contact details and relevant legislation on any interests in this report, see www0.landgate.wa.gov.au/interestdictionary.

If you have any queries or concerns, please contact the responsible agency of the interest in question, contact details can be found in this report or the interest dictionary.

Notice

This Property Interest Report has been produced by Landgate on behalf of the State of Western Australia. This report has direct access to property interest information held by multiple government bodies and private organisations in Western Australia.

This report is believed to be accurate and current at the time it was generated. However, circumstances and interests may change and can differ from the contents of this report. You must make your own assessment of it and rely on it at your own risk. Please see the full Disclaimer at the end of this report for further details.

Please note: Where risk has been identified to a property within this report and construction has occurred on the land, contact your relevant Local Government Authority for management remediation plans relevant to your property, or for properties being purchased off the plan, contact your developer.

1. Property information

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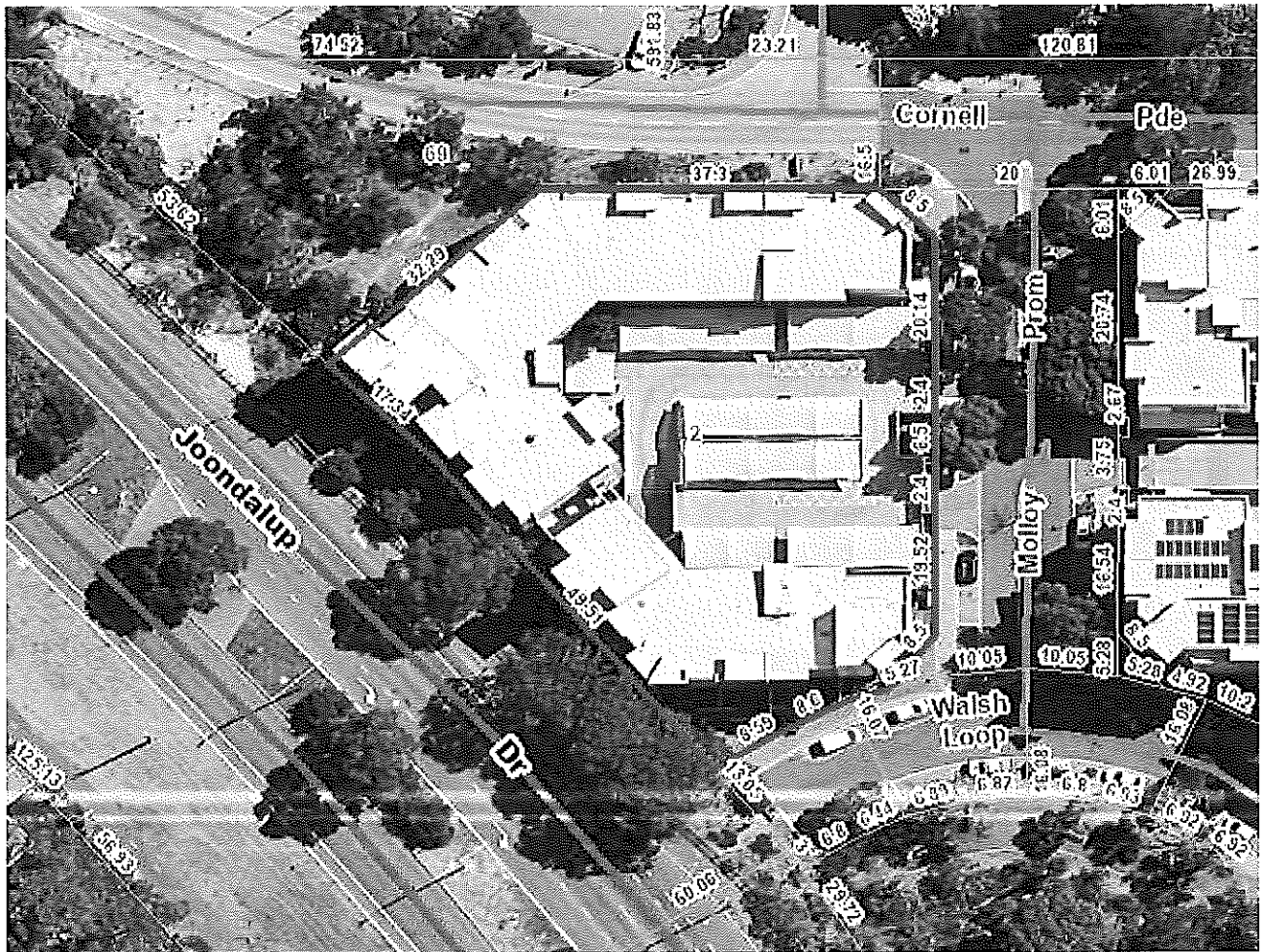
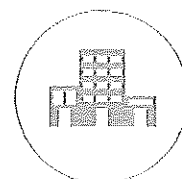


Image captured October 2022



Unit 24, 2 Molloy Promenade, Joondalup 6027

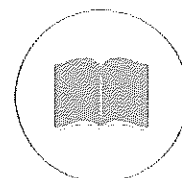
Year built	2011
Building area	79 m ²
Type of property	Apartment House
Property use	Residential
Wall/Roof type	Brick Walls/Iron Roof
Local Government Authority	Joondalup
Zoning	Miscellaneous (J.C.C-L.I)
Land area	114 m ²
Land ID	Lot 24 On Strata Plan 54963
Certificate of title number	2770/424
Number of interests that impact this property	22



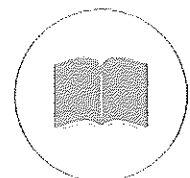
Perth CBD
23.8km



Beach
4.2km



Primary School
1.1km



Secondary School
895m

2. Summary of interests that AFFECT this property

4

Interests below specifically affect this property but do not appear on the Certificate of Title. For information and details on how the below interests may impact your property, please see section four of this report.

- ATCO Gas Australia Infrastructure
- Building and Construction Industry Training Levy
- Building Permit
- Dial Before You Dig
- Emergency Services Levy
- European House Borer
- Garden Bore Suitability
- Groundwater Salinity
- Iron Staining Risk
- Land Tax
- Local Government Rates
- Local Planning Schemes
- Metropolitan Region Improvement Tax
- Mosquito-borne Disease Risk
- Native Title and Indigenous Land Use Agreements
- Proclaimed Groundwater Areas
- Public Drinking Water Source Areas
- Sprinkler Restrictions & Bans
- State Planning Policy 5.4 - Road and Rail Noise
- Water Corporation Infrastructure (above and below ground)
- Water Corporation Non-Standard Services (Private Fire Service)
- Western Power Infrastructure

3. Summary of interests that DO NOT AFFECT this property

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Information currently available to Landgate suggests that these interests do not affect this property. For further information and contact details on these interests, please see the interest dictionary www0.landgate.wa.gov.au/interestdictionary.

- 1 in 100 AEP Floodplain Development Control Area
- Aboriginal Heritage Places
- Aboriginal Lands Trust Estate
- Acid Sulfate Soil (ASS) Risk
- APA Group Owned/Operated Gas Transmission Pipeline
- Australian Natural, Indigenous and Historic Heritage
- Bush Fire Prone Areas
- Bush Forever Areas
- Clearing Control Catchments
- Commercial Building Disclosure
- Contaminated Sites (Contaminated Sites Database)
- Control of Access on State Roads
- Dampier to Bunbury Natural Gas Pipeline Development Setback Area
- Development Control Area (Swan and Canning Rivers)
- Environmentally Sensitive Areas
- Environmental Protection Policies
- Former Military Training Area (Unexploded Ordnance)
- Future State Roads
- Harvey Water Infrastructure
- Heritage Council - Agreement
- Heritage Council - Assessment Program
- Heritage Council - Protection Orders
- Heritage Council - State Register of Heritage Places
- Intensive Agricultural Industries
- Jandakot Airport - Aircraft Noise
- Jandakot Airport - Land Use Planning
- Lands owned or managed by the Department of Biodiversity, Conservation and Attractions
- Liquor Restrictions
- Local Heritage Surveys
- Marine Harbours Act Areas
- Marine Navigation Aids
- Mining Titles
- National Park, Conservation Park and Nature Reserve
- Native Vegetation
- Navigable Water Regulations
- Notices on Properties under the Biosecurity and Agriculture Management Act 2007
- Notices on Properties under the Soil and Land Conservation Act 1945
- Perth Airport - Aircraft Noise
- Perth Airport - Land Use Planning
- Perth Parking Policy
- Petroleum Tenure
- Possible Road Widening
- Proclaimed Surfacewater Areas
- Protected Areas - Collaborative Australian Protected Area Database
- Ramsar Wetlands
- Region Schemes
- Residual Current Device
- Residue Management Notice
- Shipping and Pilotage Port Areas
- Smoke Alarm
- State Forest and Timber Reserve
- State Underground Power Program
- Threatened Ecological Communities
- Threatened Fauna
- Threatened Flora
- Titanium - Zircon Mineralization Areas
- Water Corporation Beneficiary Lot Water and/or Sewer
- Water Corporation Brighton Non-Drinking Water
- Water Corporation Effluent Discharge Scheme
- Water Corporation Farmlands Service Conditions
- Water Corporation Infrastructure Buffer Zones
- Water Corporation Infrastructure Contribution - Water, Sewer and/or Drainage
- Water Corporation Pressure Exempt
- Water Corporation Private Pressure Sewer System
- Water Corporation Reserve Sewer, Water and Drainage Infrastructure Contribution Charge
- Water Corporation Saline Water
- Water Corporation Sewer System
- Water Corporation Special Agreement - Nitrate Water Condition

3. Summary of interests that **DO NOT AFFECT** this property 6

- Water Corporation Special Agreement - Non-Potable
- Water Corporation Water service is supplied by an Agreement
- Water Resource License
- Waterways Conservation Act Management Areas
- Wetlands

4. Details of interests that AFFECT this property

7

Interests below in alphabetical order specifically affect this property but do not appear on the Certificate of Title. For further information and Legislation details, see www0.landgate.wa.gov.au/interestdictionary.

ATCO Gas Australia Infrastructure

Responsible agency:
ATCO Gas Australia

Definition of Interest:

ATCO Gas Australia is a private company delivering safe, reliable, cost-effective natural gas to West Australians. As a gas distribution company, ATCO Gas builds, owns and maintains an underground network of pipelines that bring natural gas to more than 700,000 consumers. Along with building and maintaining the network, we also perform the work to connect your homes and businesses to gas and read your meter.

Affect of Interest:

The selected property is **within the vicinity** of ATCO Gas Australia Infrastructure. Land use, building, demolition and access constraints may apply.

Details are available below:

ATCO Gas Australia Infrastructure:

Infrastructure Type - Gas Distribution Network

Depending on the infrastructure type as indicated above, the following advice will apply:

Gas Distribution Network

If the search area is identified as being within the Gas Distribution Network area, a gas connection might exist or be available for the property. See www.atcogas.com.au for more information about the gas connection process or contact ATCO Gas Australia on 13 13 56.

To view ATCO Gas distribution network maps see: www.atcogas.com.au/About-Us/Coverage-Maps.

Note: A gas connection may not always be available for properties within the Gas Distribution Network Area. If the property is not abutting a suitable existing gas distribution main, a pipeline extension may be required. However, buried pipework may still exist on your property. Visit Dial Before You Dig www.1100.com.au to determine the location of gas mains.

High Pressure Gas Pipeline

No work is permitted within 15 metres of a High Pressure pipeline without prior approval from ATCO Gas Australia. Land use, building, demolition and access constraints may apply.

Construction, excavation and other activities may be restricted in this zone. No pavements (including crossovers) are to be constructed over the pipeline without prior consent from ATCO Gas Australia. Various pipeline safety tests may apply.

For more information contact our office on 1300 926 755, or email hpenquiries@atcogas.com.au.

PLEASE NOTE:

4. Details of interests that AFFECT this property

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This report is not an alternative to Dial Before You Dig. Information about underground cable and pipe networks is available by requesting the utility maps through the Dial Before You Dig web site, www.1100.com.au or contact their call centre on 1100 during business hours, to find out about the location of underground infrastructure prior to commencing any excavation works on a property.

Legislation governing the interest:

Energy Coordination Act 1994

Energy Operators (Powers) Act 1979

Gas Standards Act 1972

Gas Standards (Gas Supply and System Safety) Regulations 2000

Gas Standards (Gasfitting and Consumer Gas Installations) Regulations 1999

Building and Construction Industry Training Levy

Responsible agency:

Construction Training Fund Board

Definition of Interest:

The Building and Construction Industry Training Levy is used to support training for people working within the building and construction industry, and is payable prior to the commencement of a project or upon application for a building license.

Affect of Interest:

The levy of 0.2% on the contract price is **applied to all** residential, commercial and civil engineering projects undertaken in Western Australia where the total value of construction is over \$20,000. The project owner pays the levy when an application for a building permit is made to the Local Government Authority.

For more information contact our office on (08) 9244 0100 or see www.bcitf.org.

Legislation governing the interest:

Building and Construction Industry Training Fund and Levy Collection Act 1990

Building and Construction Industry Training Levy Act 1990

Building Permit

Responsible agency:

Department of Mines, Industry Regulation and Safety

Definition of Interest:

All new buildings and incidental structure alterations to existing buildings and incidental structures are to be approved by the grant of a building permit by the relevant Permit Authority, in most instances this will be the Local Government Authority.

Affect of Interest:

All new buildings and alterations to existing buildings **are to be approved** by the issuing of a building permit.

For more information contact our office on 1300 489 099, or email bcinfo@commerce.wa.gov.au, or see www.buildingcommission.wa.gov.au.

Legislation governing the interest:

Building Act 2011

Building Regulations 2012

Dial Before You Dig

Responsible agency:

Dial Before You Dig

Definition of Interest:

Dial Before You Dig is a referral service for information on locating underground utilities anywhere in Western Australia. Australia's national referral service for information on underground pipes and cables.

Affect of Interest:

4. Details of interests that AFFECT this property

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This will affect the property when ground disturbance works are planned, for further information or plans on location of underground utilities see www.1100.com.au or contact our office on 1100.

Legislation governing the interest:

Occupational Health, Safety and Welfare Act 1984

Occupational Safety and Health Regulations 1996

Emergency Services Levy

Responsible agency:

Department of Fire and
Emergency Services

Definition of Interest:

The Emergency Service Levy (ESL) category classification of a property (declared by the Minister for Emergency Services) determines the ESL assessment rate that will be applied to the Gross Rental Value (GRV) of a property to calculate the ESL charge each year (subject to minimum and maximum ESL charge declarations). ESL category classification boundaries are managed by the DFES based upon cadastral information.

Affect of Interest:

The selected property currently has the following Emergency Services Levy category classification:

Emergency Service Levy Boundaries:

ESL Category - 1

ESL Boundary - Metropolitan

ESL Calculation - In 2022-23 Category 1 properties pay \$0.016213 x the Gross Rental Value (GRV) subject to a minimum \$93 charge & a maximum charge of \$468 for vacant, residential & farming usages; and \$267,000 for commercial, industrial & miscellaneous usages

The ESL category classifications:

Category 1: Availability of a network of career Fire & Rescue Service stations and the State Emergency Service (SES).

Applies in the Perth metropolitan area.

Category 2: Availability of a career Fire & Rescue station and a volunteer Fire & Rescue Service brigade and the SES.

Applies in the city centres of Albany, Bunbury, Greater-Geraldton, Kalgoorlie-Boulder and Mandurah.

Category 3: Availability of a Volunteer Fire & Rescue Service brigade or bush fire brigade with frequent support from the metropolitan network of career Fire & Rescue Service stations and the SES.

Applies in the periphery of the metropolitan area.

Category 4: Availability of a Volunteer Fire & Rescue Service brigade or a Volunteer Emergency Service Unit or a breathing apparatus equipped bush fire brigade and the SES.

Applies in approximately 90 country townships.

Category 5: Availability of a bush fire brigade and the SES.

Applies in all other areas of the State except Indian Ocean Territories.

Please note the following properties are exempt from ESL (by Regulation):

4. Details of interests that AFFECT this property

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- Vacant land owned by Local Governments;
- Certain Mining Tenements granted for prospecting/exploratory activities only; and
- The Wittenoom town site (a contaminated site);

Use the Emergency Services Levy calculator below to work out how much ESL you are likely to pay on a property, see www.dfes.wa.gov.au/emergencyserviceslevy/pages/eslcalculator.aspx.

For more information contact our office on (08) 9395 9485, or see www.dfes.wa.gov.au.

Legislation governing the interest:

Fire and Emergency Services Act 1998

Fire and Emergency Services Regulations 1998

European House Borer

Responsible agency:

Department of Primary Industries and Regional Development

Definition of Interest:

The European House Borer (EHB) is a destructive pest of untreated dry (seasoned) pinewood and other softwood timbers. This impacts on the movement, storage, treatment and disposal of untreated pinewood located within a Restricted Movement Zone.

Affect of Interest:

The selected property falls within a suburb where EHB has been found. Restricted movement of pinewood may apply within all or part of this suburb. Refer to www.agric.wa.gov.au/biosecurity-biosecurity-quarantineeuropean-house-borer for up to date specific information on EHB Restricted Movement Zones and requirements.

The regulations restrict the movement, storage, treatment and disposal of untreated pinewood within EHB affected areas, known as Restricted Movement Zones (RMZ). Penalties of up to \$2000 apply for any regulation breaches. Assistance from individuals and businesses in complying with these regulations has played a large role in reducing the spread and infestation of EHB.

Details are as follows:

European House Borer - Restricted Movement Zone Localities:

Suburb - CONNELLY

For more information call us on 1800 084 881 or see our web site www.agric.wa.gov.au/biosecurity-biosecurity-quarantineeuropean-house-borer or email info@agric.wa.gov.au.

Legislation governing the interest:

Agriculture and Related Resources Protection (European House Borer) Regulations 2006

Garden Bore Suitability

Responsible agency:

Department of Water and Environmental Regulation

Definition of Interest:

As part of new water efficiency measures, the Department of Water and Environmental Regulation (DWER) has prepared a Perth groundwater area map showing where additional garden bores are suitable/unsuitable based on available hydrogeological information.

Affect of Interest:

The property is within an area where additional garden bores are:

Garden Bore Suitability:

Suitability - Suitable

The hydrogeological conditions beneath the property are listed above for the installation of a garden bore.

For more information please contact Water Information at the Department of Water and

4. Details of interests that AFFECT this property

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Environmental Regulation (DWER) on (08) 6364 7600 or waterinfo@water.wa.gov.au, or see www.water.wa.gov.au/urban-water/bores.

Legislation governing the interest:

Rights in Water and Irrigation Act 1914

Rights in Water and Irrigation Exemption (Section 26C) order 2010

Groundwater Salinity

Responsible agency:

Department of Water and
Environmental Regulation

Definition of Interest:

The salinity in groundwater varies greatly in Western Australia. This depends on many factors such as geology, topography, climate and coastal seawater intrusion. The Department of Water and Environmental Regulation (DWER) categorises the groundwater salinity according to the salt content and its application for public drinking, irrigation, stock water etc.

Affect of Interest:

The salinity in groundwater in Western Australia varies considerably. This depends on many factors such as geology, topography, climate and coastal seawater intrusion.

Due to the fluid nature of ground conditions it is only possible to report on a indicative reading for the groundwater salinity that exists at this location.

If the groundwater salinity at this location is important then you should contact the closest regional office for advice on this subject.

Groundwater Salinity:

TDS per milligram per litre - 500-1000

Salinity is the measure of total dissolved solids (TDS) or salts in water and is reported as milligrams per litre (mg/L).

The range of salinity of natural water is:

Category	Salinity range
Fresh	0-500 mg/L TDS (suitable for selected agricultural use)
Marginal	500-1000 mg/L TDS (suitable for selected agricultural use)
Brackish	1000-3000 mg/L TDS (used for parkland irrigation)
Saline	3000-35,000 mg/L TDS (industrial use and stock watering up to 10,000mg/L)
Hypersaline	

To verify the groundwater salinity at a particular location contact our office on (08) 6364 7600 or waterinfo@water.wa.gov.au, or see www.water.wa.gov.au/water-topics/groundwater.

Legislation governing the interest:

The Department of Water advises against drilling garden bores in areas underlain by the saltwater interface. There is no legislative basis or implications for this advice.

Iron Staining Risk

Responsible agency:

Department of Water and
Environmental Regulation

Definition of Interest:

Groundwater in many areas in Western Australia contains dissolved iron. When the water is exposed to air, the iron is oxidised and forms a rust-coloured coating on walls and paving's.

Affect of Interest:

The property is in an area where there is an elevated iron / manganese staining risk according to data available at the time of publication.

Iron Staining Risk:

Risk - Low risk

If you wish to verify whether your proposed garden bore is located in an area of high risk of iron staining, please contact Water Information at the Department of Water and Environmental Regulation (DWER) on (08) 6364 7600 or waterinfo@water.wa.gov.au, or see www.water.wa.gov.au/home.

4. Details of interests that AFFECT this property

12

Legislation governing the interest:

There is no legislation directly related to this Interest.

Land Tax

Responsible agency:

Department of Finance

Definition of Interest:

Land tax is an annual tax based on the ownership and usage of land at midnight on 30 June and is levied in respect of the financial year following that date. Various exemptions or concessions may apply. Until land tax is paid it remains a first charge on the land.

Affect of Interest:

Land tax is an annual tax based on the ownership and usage of land at midnight on 30 June and is levied in respect of the financial year following that date. Various exemptions or concessions may apply; for example, primary residences.

For more information contact our office on (08) 9262 1200 or see www.finance.wa.gov.au/landtax.

Legislation governing the interest:

Taxation Administration Act 2003

Land Tax Assessment Act 2002

Land Tax Act 2002

Local Government Rates

Responsible agency:

Department of Local Government, Sport and Cultural Industries

Definition of Interest:

A Local Government Authority can levy rates on any rateable land within its district in accordance with the provisions of the *Local Government Act 1995* and its associated regulations.

Affect of Interest:

Local Government Authorities can levy rates on any rateable land within its district in accordance with the provisions of the *Local Government Act 1995* and its associated regulations.

For more information contact your Local Government Authority.

Legislation governing the interest:

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

Local Planning Schemes

Responsible agency:

Department of Planning, Lands and Heritage

Definition of Interest:

Local Planning Schemes set out the way land is to be used and developed, classify areas for land use and include provisions to coordinate infrastructure and development in a locality.

Affect of Interest:

The selected area of land has the following zoning(s) and/or land-use class(es):

Local Government Authority:

Description - LGA Boundary

Name - JOONDALUP, CITY OF

Local Area Zoning:

Scheme Name - JOONDALUP

Zoning - Centre

Label -

Label Description -

Gazettal Date - 23/10/2018

Scheme Number - 3

4. Details of interests that AFFECT this property

13

For more information see www.planning.wa.gov.au/Local-planning-schemes.aspx.
Or contact your Local Government Authority for more information.

Legislation governing the interest:

Planning and Development Act 2005

Planning and Development (Consequential and Transitional Provisions) Act 2005

State Planning Policy 3.1 - Residential Design Codes

Model Scheme Text

Metropolitan Region Improvement Tax

Responsible agency:

Department of Finance
and Department of
Planning, Lands and
Heritage

Definition of Interest:

Metropolitan Region Improvement Tax (MRIT) is an annual tax on land in the metropolitan region that is also liable for land tax. Unpaid MRIT remains a first charge on the land.

Affect of Interest:

The selected property ~~may be~~ subject to Metropolitan Region Improvement Tax (MRIT). MRIT is an annual tax on land in the metropolitan region that is also subject to land tax.

Your property falls within the Local Government Authority (LGA) below:

Local Government Authority - JOONDALUP, CITY OF

For more information contact our office on (08) 6551 1000, or see www.finance.wa.gov.au/landtax.

Legislation governing the interest:

Metropolitan Region Improvement Tax Act 1959

Land Tax Assessment Act 2002

Taxation Administration Act 2003

Planning and Development Act 2005

Mosquito-borne Disease Risk

Responsible agency:

Department of Health

Definition of Interest:

Mosquitoes can be a serious nuisance in certain regions of Western Australia and can spread disease-causing viruses such as Ross River, Barmah Forest, Kunjin and Murray Valley encephalitis viruses.

Affect of Interest:

The selected area is impacted by the risk of mosquito-borne diseases.

Details are as follows:

Mosquito-borne Disease Risk:

Risk Level - Low or unknown risk

Frequent high risk

The selected area is in a region that frequently experiences problems with nuisance and disease carrying mosquitoes.

Occasional very high risk

The selected area is in a region that experiences severe problems with nuisance and disease carrying mosquitoes in some years, depending on environmental conditions.

Frequent high and occasional very high risk

The selected area is in a region that frequently experiences problems with nuisance and disease carrying mosquitoes, and severe issues are also experienced in some years depending on environmental conditions.

Low or unknown risk

This location has not experienced high rates of mosquito-borne disease in the past. However, the sporadic nature of mosquito-borne disease outbreaks means that this not necessarily a precise indicator of future risk. Furthermore, regions with low or no

4. Details of interests that AFFECT this property

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resident human population may also be classified as low risk even though there may be an undocumented high risk in the area. Finally, significant mosquito nuisance issues may still be experienced, despite a low health risk.

Residents are advised to avoid exposure to mosquitoes and minimise mosquito breeding around the home as appropriate, particularly following extreme weather events such as heavy rainfall, high tides (in coastal areas) or localised flooding that may create abnormally large areas of mosquito breeding habitat.

For information on mosquito control in your local area or to report a mosquito problem please contact your Local Government Environmental Health Officer.

For more information about mosquito management, contact the Environmental Health Directorate on (08) 9388 4999 or email medical.entomology@health.wa.gov.au or see http://www2.health.wa.gov.au/Articles/J_M/Mosquito-management.

Legislation governing the interest:

Health Act 1911

Native Title and Indigenous Land Use Agreements

Responsible agency:

National Native Title
Tribunal

Definition of Interest:

Native title is the recognition in Australian law that some Indigenous people continue to hold rights to lands and waters. An Indigenous Land Use Agreement (ILUA) is an agreement about native title made between one or more native title groups and other people.

Affect of Interest:

Your area of interest is within the geographic extent(s) of the following Native Title Applications, Determinations or Indigenous Land Use Agreements (ILUAs):

IMPORTANT INFORMATION: PLEASE NOTE

WHILE NATIVE TITLE INTERESTS MAY HAVE BEEN IDENTIFIED OVER THE AREA OF YOUR SEARCH, IT MUST BE NOTED THAT:

Native Title cannot generally exist over the following types of tenure:

- residential freehold;
- farms held in freehold or;
- pastoral or agricultural leases that grant exclusive possession;
- residential, commercial or community purpose leases, or
- public works like roads, schools or hospitals.

Native Title can generally only exist over the following types of tenure:

- vacant (unallocated) crown land;
- some state forests, national parks and public reserves depending on the effect of state or territory legislation establishing those parks and reserves;
- oceans, seas, reefs, lakes and inland waters;
- some leases, such as non-exclusive pastoral and agricultural leases, depending on the state or territory legislation they were issued under, or
- some land held by or for Aboriginal people or Torres Strait Islanders.

The status of a Native Title Application will determine the rights and restrictions within the boundary of that Application.

Applications as Determined by the Federal Court:

native_title_determined_number - 6117

nnnt_no - WC1996/041, WC1996/109, WC1997/071, WC1998/058

federal_court_reference - WAD6085/1998

determination_name - SOUTH WEST SETTLEMENT

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registered_nt_body_corp - N/A
data_source - Spatial : Graphic Services, Landgate. Aspatial : Federal Court and NNTT.
comments -
area_sq_km - 195128.35
determination_method - Consent
determined_in_full - Yes
determined_outcome - Extinguished
design_file -
design_level -
last_updated - 25/02/2022
registration_date - 03/12/2021
determination_date - 01/12/2021
determination_reference - WCD2021/010
Indigenous Land Use Agreements:
native_title_ilua_number - 3130
NNTT Number - WI2017/015
Agreement Name - WHADJUK PEOPLE INDIGENOUS LAND USE AGREEMENT
Status - Registered
Agreement Type - Area
Applicant Name - State of Western Australia
Date Registered (dd/mm/yyyy) - 17/10/2018

Please refer to the Interest Dictionary
(<https://www0.landgate.wa.gov.au/interestdictionary>) for terms used in this report.

For more information contact our office on 1800 640 501 or see www.nntt.gov.au.

Legislation governing the interest:
Native Title Act 1993 (Commonwealth)

Proclaimed Groundwater Areas

Responsible agency:
Department of Water and
Environmental Regulation

Definition of Interest:

Access to groundwater is regulated under the *Rights in Water and Irrigation Act 1914* in order to manage water resources.

Affect of Interest:

The selected area of land falls within a groundwater area that is proclaimed under the *Rights in Water and Irrigation Act 1914*.

Details of the proclaimed area(s) are provided below:

Proclaimed Groundwater Areas:

Groundwater Area Name - Perth
Proclaimed Status - Proclaimed
Relevant Act - RIWI Act 1914
Relevant Act Section - Section 26B (1)
Gazetted (Legal) Name - Perth Groundwater Area
Date Published in Gazette (dd/mm/yyyy) - 20/03/1998
Gazetted Type - Variation
Page in Gazette - 1517
Gazetted Plan Number - WRC3824-1-1
Comments -

You may need a licence or permit from the Department of Water and Environmental Regulation (DWER) if you propose to construct a bore or take groundwater from the shallow (superficial) aquifer or deeper aquifers.

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There are exemptions from licensing requirements for certain purposes. For example the majority of garden bores may not require a licence if accessing a shallow (superficial) aquifer only.

To confirm whether you need a licence, go to the water licensing website page or contact your local DWER office.

For more information contact our office on (08) 6364 7600, or see www.water.wa.gov.au.

Legislation governing the interest:

Rights in Water and Irrigation Act 1914

Rights in Water and Irrigation Regulations 2000

Public Drinking Water Source Areas

Responsible agency:

Department of Water and Environmental Regulation

Definition of Interest:

Public Drinking Water Source Areas (PDWSAs) include all proposed and proclaimed underground water pollution control areas, catchment areas and water reserves constituted and are used to supply drinking water to the community.

Affect of Interest:

The selected area of land is situated within a Public Drinking Water Source Area (PDWSA) used for the supply of drinking water to consumers.

The details are as follows:

- Catchment area
- Priority area

Public Drinking Water Source Area:

Public Drinking Water Area Name - Perth Coastal and Gwelup Underground Water Pollution Control Area

Proclaimed Status - Final

Relevant Act - MWSSD

Gazetted (Legal) Name - Perth Coastal and Gwelup Underground Water Pollution Control Area drinking water source protection review, November 2012

Gazetted Plan Number - WRP 136

The property is situated within a PDWSA and land use compatibility may be considered (refer Water quality protection note no. 25 Land use compatibility in PDWSAs)

The protection zones (wellhead protection and reservoir protection) are not covered in this report. This information is provided in the relevant drinking water source protection reports (DWSPRs) for your area (see drinkingwater.water.wa.gov.au). If a DWSPR has yet to be developed for the PDWSA please contact Department of Water and Environmental Regulation (DWER).

For more information contact our office on (08) 6364 7600, or email drinkingwater@water.wa.gov.au, or see www.water.wa.gov.au.

Legislation governing the interest:

Water Agencies (Powers) Act 1984

Water Resources Legislation Amendment Act 2007

Country Areas Water Supply Act 1947

Metropolitan Water Supply Sewerage and Drainage Act 1909

Rights in Water and Irrigation Act 1914

4. Details of interests that AFFECT this property

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Sprinkler Restrictions & Bans

Responsible agency:

Department of Water and Environmental Regulation

Definition of Interest:

Sprinkler restrictions and/or bans apply throughout Western Australia for scheme water users and domestic garden bores.

Affect of Interest:

The selected property is identified as being fully or partially within in an area designated to have sprinkler restrictions.

Details are as follows:

Sprinkler Restrictions:

Region - Perth/Mandurah

Winter Restrictions - Stage 6

Summer Restrictions - Stage 4

Sprinkler restrictions and or bans apply to this area. Due to the drying climate, the State Government introduced water efficiency measures, including the introduction of restrictions on domestic sprinklers.

These restrictions include permanent efficiency measures, an annual winter sprinkler ban that applies to domestic sprinkler use and some non-domestic use, and can also include extra efficiency measures and restrictions from time to time such as extensions of the winter sprinkler ban period or other restrictions.

Restriction stages are detailed in the Water Agencies (Water Use) By-laws 2010.

www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_11731_homepage.html

Additional restrictions may also apply to specific locations. Please refer to your water service provider for more information relating to your area.

For more information please see www.water.wa.gov.au/urban-water/water-restrictions/garden-bores.

For more information contact our office on 13 10 39 or see www.water.wa.gov.au and go to the Domestic Garden Bore website page.

Legislation governing the interest:

Water Agencies (Powers) Act 1984

Water Agencies (Water Use) By-laws 2010

State Planning Policy 5.4 - Road and Rail Noise

Responsible agency:

Department of Planning, Lands and Heritage

Definition of Interest:

Land within the vicinity of the States freight and major traffic routes may be exposed to excessive levels of noise which can affect the health and amenity of nearby communities.

Affect of Interest:

The selected land is within the trigger distance of freight and or major traffic route and maybe be exposed to excessive noise. Restrictions on development, may apply to this property. You are required to refer to State Planning Policy 5.4 Road and rail noise to determine if the land is affected and to what extent.

SPP5.4

Policy Title - SPP 5.4 Road and Rail Noise

Description - Other significant freight/traffic route

State Planning Policy (SPP) 5.4 - Road and Rail Noise (2019)

<https://www.dplh.wa.gov.au/draftspp5-4>

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A key objective of SPP 5.4 is to minimise the adverse impact of road and rail noise on noise-sensitive land-use within the specified trigger distance of transport routes, whilst protecting future freight operations of these transport corridors.

Where any part of the lot is within the specified trigger distance, an assessment against the policy is required to determine the likely level of transport noise and management/ mitigation required. An initial screening assessment will determine if the lot is affected and to what extent. Refer to table 2 of the Guidelines.

Note: the mapped trigger distance includes a margin of error to account for the distance measured from within the carriageway as opposed to the carriageway edge as stipulated in the policy.

Legislation governing the interest:

Planning and Development Act 2005

State Planning Policy 5.4 Road and Rail Noise

Water Corporation Infrastructure (above and below ground)

Responsible agency:

Water Corporation

Definition of Interest:

The Water Corporation operates vast water, sewerage and drainage pipe networks throughout WA. At any given location there may be various infrastructure in the ground of different sizes, depths, alignments and materials belonging to the Water Corporation.

Affect of Interest:

The selected property is impacted by Water Corporation pipes or access chambers. No construction is permitted in the proximity of this infrastructure without the consent of the Water Corporation and it should be noted that 24 hour access may be required for maintenance purposes in certain circumstances.

Sewer Infrastructure:

Infrastructure Type - Sewer Connection Point

Water Infrastructure:

Infrastructure Type - Water Meter

Water and sewer services located outside the property boundaries (road reserves) are not included in this report, as this report only includes interests inside the property boundaries. However they can be viewed here, mywater.com.au/css-web-external/pub/propertySearch.

Please be aware that it is a legislative requirement to notify the Water Corporation of any proposed construction, alteration or demolition of a building in areas where the Corporation is the licensed provider of water, wastewater or drainage services. A person is not permitted to construct, alter or demolish a building without the prior authorisation of the Water Corporation.

For more information contact our office on 13 13 95, or see www.watercorporation.com.au/Developing-and-building.

PLEASE NOTE:

This report and the Water Corporation online property search tool is not an alternative to Dial Before You Dig.

4. Details of interests that AFFECT this property

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Information about underground cable and pipe networks is available by requesting the utility maps through the Dial Before You Dig web site, www.byda.com.au or contact their call centre on 1100 during business hours, to find out about the location of underground infrastructure prior to commencing any excavation works on a property.

Legislation governing the interest:

Water Services Act 2012

Water Corporation Non-Standard Services (Private Fire Service)

Responsible agency:
Water Corporation

Definition of Interest:

The majority of water, sewerage and drainage services provided by the Water Corporation throughout WA are standard services and are subject to standard service conditions. However, there are some non-standard services that the Water Corporation provides. A Private Fire Service is one type of non-standard service, and additional charges and/or conditions may apply to the provision of this service.

Affect of Interest:

According to Water Corporation records, **the selected property has a Water Corporation Non-Standard Service (Private Fire Service)** associated with the property.

Details are as follows:

Water Corporation Non-Standard Services:

Private Fire Service - AVAILABLE

It is important to note that the provision of a Private Fire Service by the Water Corporation is subject to terms and conditions, which amongst other things, require owners of properties with a Private Fire Service to maintain the Private Fire Service and undertake repairs (where necessary), up to the Property Connection Point. Owners are also liable for other costs and have other obligations in relation to the service.

For full details of the owner's responsibilities and obligations in relation to a Private Fire Service as well as the restrictions on the use of Private Fire Services see, www.watercorporation.com.au/home/builders-and-developers/building/new-water-services/fire-services.

In some instances these services have been removed without the knowledge of the Water Corporation. You are therefore advised to confirm that a Private Fire Service is available and adequate for the building by inspecting the property and contacting your Local Authority.

For more information, contact the Water Corporation on 13 13 95, or see www.watercorporation.com.au.

Legislation governing the interest:

Water Services Act 2012

Western Power Infrastructure

Responsible agency:
Western Power

Definition of Interest:

Western Power is a Western Australian State Government owned corporation which builds, maintains and operates the electricity network in the south west corner of Western Australia. The Western Power Network forms the vast majority of the South West Interconnected Network (SWIN), which together with all of the electricity generators comprises the South West Interconnected System (SWIS).

Affect of Interest:

The selected property **is impacted** by Western Power Infrastructure. Land use, Building, Demolition and access constraints may apply.

Details are available below:

4. Details of interests that AFFECT this property

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Infrastructure Type and ID:

Distribution Underground Cable ID - C1206772

Distribution Underground Cable ID - C2450007

Distribution Underground Cable ID - C2449992

Distribution Underground Cable ID - C1206771

Distribution Underground Cable ID - C2624033

Distribution Underground Cable ID - C1207162

Transformer ID - N3127010

Enclosure ID - S1265378

Enclosure ID - S1313092

Power services located outside the property boundaries (road reserves) are not included in this report, as this report only includes interests inside the property boundaries.

Based on information provided with the permission of WESTERN POWER, (03/2015).

For more information on our network please refer to our website, www.westernpower.com.au, or contact us on 13 10 87.

PLEASE NOTE:

This report is not an alternative to Dial Before You Dig.

Information about underground cable and pipe networks is available by requesting the utility maps through the Dial Before You Dig web site, www.1100.com.au or contact their call centre on 1100 during business hours, to find out about the location of underground infrastructure prior to commencing any excavation works on a property.

Legislation governing the interest:

Electricity Industry Act 2004

Electricity Corporations Act 2005

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