

# Residential Contract of Sale of Land

**Vendor:**

Patrick Alphonsus Kavanagh and  
Mary Bernadette Kavanagh

**Property:**

1140 Princes Highway, Mount Moriac  
VIC 3240

**MILLS OAKLEY**

Level 6, 530 Collins Street  
MELBOURNE VIC 3000  
Telephone: 61 3 9670 9111  
Facsimile: 61 3 9605 0933  
[www.millsoakley.com.au](http://www.millsoakley.com.au)  
Ref: JCP/6243517

## Contract of sale of land

### IMPORTANT NOTICE TO PURCHASERS – COOLING-OFF

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

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

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

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

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

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

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

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

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

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

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

### Approval

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**WARNING TO ESTATE AGENTS**

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

**WARNING:** YOU SHOULD CONSIDER THE EFFECT (IF ANY) THAT THE WINDFALL GAINS TAX MAY HAVE ON THE SALE OF LAND UNDER THIS CONTRACT.

# Contract of sale of land

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

The terms of this contract are contained in the –

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

in that order of priority.

## SIGNING OF THIS CONTRACT

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

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

The authority of a person signing –

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

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

**SIGNED BY THE PURCHASER:** ..... on ..... / ..... /20 .....

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

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

This offer will lapse unless accepted within [            ] clear business days (3 clear business days if none specified)  
In this contract, "business day" has the same meaning as in section 30 of the *Sale of Land Act 1962*

**SIGNED BY THE VENDOR:** ..... on ..... / ..... /20 .....

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

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

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

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## Particulars of sale

### Vendor's estate agent

Name: Elders Limited

Address: 15/400 Pakington Street, Newtown VIC 3220

Email: peter.linderman@elders.com.au

Tel: 03 5225 5000..... Mob: 0418 525 609 ..... Fax: ..... Ref: Peter Linderman

### Vendor

Name: Patrick Alphonsus Kavanagh and Mary Bernadette Kavanagh

Address: 6 Augustine Drive, Highton VIC 3216

ABN/ACN: .....

Email: .....

### Vendor's legal practitioner or conveyancer

Name: Mills Oakley

Address: Level 6, 530 Collins Street, Melbourne VIC 3000

Email: ybai@millsoakley.com.au

Tel: 03 9670 9111 ..... Mob: ..... Fax: 03 9605 0933 ..... Ref: JCP6243517

### Purchaser's estate agent

Name: N/A .....

Address: .....

Email: .....

Tel: ..... Mob: ..... Fax: ..... Ref: .....

### Purchaser

Name: .....

Address: .....

ABN/ACN: .....

Email: .....

### Purchaser's legal practitioner or conveyancer

Name: .....

Address: .....

Email: .....

Tel: ..... Fax: ..... DX: ..... Ref: .....

### Land (general conditions 7 and 13)

The land is described in the table below –

Certificate of Title reference	being lot	on plan
Volume 10355 Folio 584	1	Plan of Subdivision 343457N

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

The land includes all improvements and fixtures.

### Property address

The address of the land is: 1140 Princes Highway, Mount Moriac VIC 3240

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

All fixed floor coverings, electrical light fittings, window furnishings, dishwasher and clothes line.

**Payment**

Price \$.....

Deposit \$ ..... by ..... / ..... / 20..... (of which \$ ..... has been paid)

Balance \$..... payable at settlement.

**Deposit bond**

General condition 15 applies only if the box is checked

**Bank guarantee**

General condition 16 applies only if the box is checked

**GST** (general condition 19)

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

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

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

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

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

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

**is due on**

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

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

**Lease** (general condition 5.1)

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

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

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

OR

a residential tenancy for a fixed term ending on ..... / ..... /20.....

OR

a periodic tenancy determinable by notice

**Terms contract** (general condition 30)

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

**Loan** (general condition 20)

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

Lender: .....

(or another lender chosen by the purchaser)

Loan amount: no more than \$ ..... Approval date: ..... / ..... /20.....

**Building report**

General condition 21 applies only if the box is checked

**Pest report**

General condition 22 applies only if the box is checked

## Vendor Sales Information Form

### ***GST Withholding***

This is a notice from the Vendor to the Purchaser for the purposes of section 14-250 of the Taxation Administration Act 1953 (Cth).

The Purchaser is not required to make a payment.

**OR**

The Purchaser is required to make a payment and the Vendor provides the following information required under section 14-255(1) of the Taxation Administration Act 1953 (Cth):

### **Supplier information:**

<u>ABN</u>	<u>Supplier Name</u>	<u>% held</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

**Amount to be paid by the Purchaser under section 14-250 of the Taxation Administration Act 1953 (Cth):**

**NA**

**When the amount must be paid by the purchaser:**

**NA**

**GST-inclusive market value of any non-monetary consideration which forms part of the consideration of this Contract (if applicable):**

**NA**

**Any other matters required by section 14-255(1)(v) of the Taxation Administration Act 1953 (Cth):**

**NA**



## Schedule to the Particulars of Sale

### Encumbrances -

All registered and unregistered encumbrances, easements, covenants and restrictions including:

- (a) any disclosed in the statement required to be given by the Vendor under section 32 of the *Sale of Land Act 1962* (Vic);
- (b) any apparent or implied easements;
- (c) any created by section 98 of the *Transfer of Land Act 1958* (Vic) or implied under the *Subdivision Act 1988* (Vic);
- (d) any referred to or described in the plan of subdivision;
- (e) any provided in or contemplated by the rules of any owners corporation affecting the Property;
- (f) the lot liability of the Property;
- (g) any vested in any Authority; and
- (h) any required or contemplated by this Contract.

## Special Conditions

**Instructions:** *It is recommended that when adding special conditions:*

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

### 1 General Conditions

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#### 1.1 Amendments to general conditions

- (a) In relation to the warranties in General Condition 6.4, the Vendor only has knowledge of decisions of public authorities and government departments affecting the Property which are communicated to the Vendor.
- (b) General conditions 13, 23.2(b), 31.4, 31.5 and 31.6 do not apply to this Contract.
- (c) General condition 3. At the end of the general condition, insert the words "On the Day of Sale, each director must sign the guarantee and indemnity contained in Annexure A."
- (d) General condition 20.2(c), delete the words "within 2 clear business days after" and replace with "by".
- (e) General condition 23, the expression "periodic outgoings" does not include any amounts to which section 10G of the Sale of Land Act 1962 applies.
- (f) General condition 28 does not apply to any amounts to which section 10G or 10H of the Sale of Land Act 1962 applies.
- (g) General condition 35.3, delete (a), (b) and (c) and replace with "the Purchaser must be repaid any money paid under the contract and any interest on that money and will not be able to make any other claim against the Vendor".

#### 1.2 Special conditions take precedence

The general conditions apply as amended by special condition 1.1. The special conditions take precedence over the general conditions.

### 2 Acknowledgment

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The Purchaser acknowledges receiving, before paying any money or signing any document relating to this sale:

- (a) a copy of this Contract, including the Checklist attached in Annexure B;
- (b) a Vendor's Statement (signed by the Vendor); and
- (c) if a promise has been made with respect to obtaining a loan of money for some or all of the Price, a statement in writing containing the particulars required by section 51 of the *Estate Agent's Act 1980* (Vic).

### 3 Whole Contract

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The Purchaser acknowledges that the Purchaser does not rely upon any warranty or representation made by the Vendor, any agent or other person on behalf of the Vendor except those set out in this Contract but has relied entirely upon the Purchaser's own enquiries and inspection of the Property.

### 4 Restrictions

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The Purchaser buys the Property subject to any statute, order, regulation, by-law, local law, restriction and condition affecting the Property including those restrictions imposed by the relevant planning scheme, all planning permits, all other relevant planning controls or by any authority empowered by legislation to control the use of the Property.

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**5 Condition of Property**

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**5.1 Reliance on own inspections and enquiries**

The Purchaser warrants to the Vendor that, as a result of the Purchaser's inspections and enquiries concerning the Property, the Purchaser is satisfied with the condition, quality and state of repair of the Property (including the quantity of any Goods not otherwise specified) and accepts the Property as it is and subject to any defects, need for repair or infestation.

**5.2 Compliance with laws and regulations**

The Purchaser acknowledges that:

- (a) the improvements on the Property may be subject to or require compliance with current building regulations, municipal by-laws or any other statutory provisions or regulations or any repealed laws under which the improvements were constructed;
- (b) if the Vendor has not complied with the building regulations regarding the installation of self-contained smoke alarms, the Purchaser must do so at the Purchaser's cost and expense; and
- (c) if there is a swimming pool or spa on the Property which is or may be required to be fenced by the building regulations, the Purchaser must comply, at the Purchaser's cost and expense, with the building regulations.

A failure to comply with any such regulations or laws will not constitute a defect in the Vendor's title. The Purchaser indemnifies and keeps indemnified the Vendor on or after the day of sale in respect of all orders or requirements under the building regulations.

**5.3 No representation or warranty as to contamination**

- (a) The Purchaser acknowledges that the Vendor has not made nor shall be construed as having made any representation or warranty that the Property is free of Contamination. The Purchaser acknowledges having made its own enquiries and investigations as to the environmental state of the Property and the Purchaser relies entirely on the result of its investigations and on its own judgement in entering into this Contract.
- (b) The Purchaser assumes full liability and responsibility for any Contamination and releases and discharges the Vendor from any liability for any Contamination and indemnifies and will keep indemnified from and against any damage, loss, cost or liability incurred or suffered by the Vendor as a result of any Contamination.
- (c) For the purposes of this special condition,
  - (i) Contamination means the presence in under or upon land or groundwater of a substance, gas, odour, or heat at a concentration above the concentration at which such substance, gas, odour or heat is normally present and being a presence that:
    - (A) fails to comply with any Environmental Law;
    - (B) fails to comply with any standard prescribed for that matter; or
    - (C) presents, or may present, a risk of harm to human health or the Environment.
  - (ii) Environment has the meaning given in the Environment Protection Act 2017 (VIC);
  - (iii) Environment Law means any law regulating or otherwise relating to the Environment or any Contamination including any law relating to land use, planning, pollution of air, water, soil or ground water, chemicals, waste, asbestos, dangerous goods or to any other aspect of the Environment or person or property.

**5.4 Boundaries**

Further to General Condition 7, the Vendor sells the Property with all fencing as it presently exists irrespective of whether fencing is on its correct boundary or whether there may be encroachments by or upon the Property.

**5.5 No claim or requisition**

The Purchaser will not make a claim or requisition or delay settlement of this transaction or rescind or terminate this Contract because of:

- (a) any matter that was capable of discovery by or on behalf of the Purchaser or was or should have been within the knowledge of the Purchaser as a result of the Purchaser's inspections and enquiries;
- (b) any omission or mistake in the description, measurements or area of the Property;
- (c) any encroachment by or on the Property;
- (d) any need to erect new fencing on correct boundaries or to dismantle existing fencing;
- (e) any loss, damage, need for repair relating to the Property; or
- (f) the requirements of a statutory authority made on or after the Day of Sale.

**6 Non Merger**

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The Contract and all warranties and indemnities given by each party to the other under this Contract:

- (a) will remain in full force and effect regardless of the completion of the sale of the Property; and
- (b) will not merge with any conveyance or transfer of the Property or with any registration of any conveyance or transfer of the Property.

**7 Purchaser's Warranties**

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**7.1 Warranties**

The Purchaser agrees with and warrants to the Vendor that:

- (a) any person who executes this Contract is liable for the performance and observance of this Contract notwithstanding that person may have executed the Contract for and on behalf of the Purchaser or as an authorised person on behalf of the Purchaser;
- (b) if the Purchaser is a corporation, it is a company limited by shares incorporated and registered under the *Corporations Act 2001* (Cth) (unless it is specifically stated in the Particulars of Sale that it is incorporated outside the Commonwealth of Australia) and is not under any disability;
- (c) the consent or licence of any person or body is not required prior to the Purchaser entering into this Contract;
- (d) the Purchaser is empowered to enter into this Contract and is not prohibited from entering into it by any reason including (without limitation) any trust, charge or undertaking;
- (e) if this Contract has been signed by a person on behalf of a corporation, the person signing this Contract represents and warrants to the Vendor as an additional inducement to the Vendor to enter into this Contract, that he or she has authority pursuant to the constitution of that corporation (or charter if that corporation is a foreign corporation) to bind that corporation to all of the provisions contained in this Contract;
- (f) a person executing this Contract as attorney for the Purchaser represents and warrants to the Vendor as an additional inducement to the Vendor to enter into this Contract that he or she has been validly appointed as attorney for the Purchaser and that upon execution of the Contract, the attorney will be bound as if the attorney had executed the Contract personally; and
- (g) if the Purchaser is a Foreign Person, it has obtained FIRB Approval or is not required to obtain FIRB Approval (as the case may be).

**7.2 Indemnity**

The Purchaser unconditionally indemnifies the Vendor against any loss or expense (including any consequential loss) which the Vendor suffers as a result of the Purchaser's breach of any warranty given under Special Condition 7.1.

**8 Capacity**

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If the Purchaser:

- (a) resolves to go into liquidation;
- (b) has an application for its winding up presented and not withdrawn within thirty (30) days of its presentation;
- (c) enters into any scheme of arrangement with its creditors under the relevant provisions of the Corporations Law or any similar legislation;
- (d) has a liquidator, provisional liquidator, receiver, receiver and manager or administrator appointed;
- (e) is unable to pay its debts when they fall due or commits an act of bankruptcy;
- (f) makes a statement or conducts itself in a manner from which it may be reasonably determined that the Purchaser is unable to pay its debts when they fall due; or
- (g) an event analogous to those set out in Special Conditions 8(a) to 8(f) (inclusive) occurs,

the Purchaser will be taken to have repudiated its obligations under this Contract and the Vendor may, without limiting in any way the Vendor's other rights or remedies, accept such repudiation and rescind this Contract at any time before settlement in which case the provisions of General Condition 35.4 shall apply.

**9 Restrictions on Vendor**

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**9.1 Restriction on Vendor**

In the event that the Vendor is restrained or prevented from completing this Contract by injunction, caveat or otherwise, the Vendor may at its option:

- (a) terminate this Contract by notice in writing to the Purchaser prior to settlement whereupon this Contract will end and any deposit paid by the Purchaser will be refunded to the Purchaser and the Vendor will not be liable to the Purchaser for any damages or compensation due to such termination and the Purchaser will release the Vendor from all liability under this Contract; or
- (b) extend the time for payment of the Balance for up to 60 days to enable the Vendor to remove any injunction, caveat or other restraint so that the Vendor will be able to give title to the Purchaser under the terms of this Contract. The Purchaser will not be entitled to claim and the Vendor will not be liable to the Purchaser for any damages or compensation by reason of this extension.

**9.2 Termination by Vendor**

If the Vendor is unable to give title to the Purchaser under the terms of this Contract by the extended date the Vendor may by notice in writing terminate this Contract and any deposit paid by the Purchaser will be refunded to the Purchaser and the Purchaser will not be entitled to claim and the Vendor will not be liable to the Purchaser for any damages or compensation due to termination and the Purchaser will release the Vendor from all liability under this Contract.

**9.3 No Liability**

If the Vendor extends the settlement date or terminates the Contract (or both) in accordance with this special condition 9, the Purchaser releases the Vendor from all liability under this Contract and the Purchaser will not be entitled to claim and the Vendor will not be liable to the Purchaser for any damages or compensation due to termination of the Contract or extension of the settlement date.

**10 Auction Rules**

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**10.1 Application**

If the Property is offered for sale by public auction, then this Special Condition 10 will apply.

**10.2 Offer by auction**

Subject to the Vendor's reserve price, the highest bidder whose bid is accepted by the auctioneer will be the Purchaser.

**10.3 Conduct**

The Rules for the conduct of the auction shall be set out in the *Sale of Land Regulations 2005*, or any rules prescribed by regulation which modify or replace those rules together with the additional requirements as set out in this Special Condition.

**10.4 Signing of Contract**

- (a) Within 15 minutes after the fall of the hammer the successful bidder must:
  - (i) sign this Contract;
  - (ii) pay the deposit set out in this Contract; and
  - (iii) arrange for all persons to sign the Guarantee as required under this Contract.
- (b) If the successful bidder fails to comply with Special Condition 10.4(a), the Vendor may sell the Property, either by auction or private treaty, to any other person. In that event the successful bidder will not have:
  - (i) any right of action against the Vendor or the Vendor's agent; or
  - (ii) any interest in the Property, whether legal or equitable.

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**11 Residential Tenancy agreement**

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**11.1 Sale with lease**

If the Property is leased then the Purchaser buys the Property subject to lease or leases as contained in the Vendor's Statement ("Leases").

**11.2 Leases and Goods**

- (a) The Purchaser acknowledges that it has received, read and understood the Leases and has had sufficient opportunity to seek independent advice about it.
- (b) Any goods owned by the tenant under the Leases remain the property of the tenant and are expressly excluded from this sale.

**11.3 Rights and objections**

- (a) The Purchaser acknowledges that:
  - (i) the Vendor may exercise its rights under the Leases from the Day of Sale until settlement in its absolute discretion;
  - (ii) the Vendor may not have the original Leases to hand over to the Purchaser at settlement;
  - (iii) the tenant under the Leases may be in default under that agreement at settlement; and
  - (iv) the Leases may have been terminated by settlement.
- (b) Despite anything else in this Contract and to the maximum extent permitted by law and equity, the Purchaser may not make any requisition or objection, claim compensation, bring any action, suit or proceeding, seek any order, delay completion or end this Contract as a consequence of anything in any way related to the Leases, including those matters set out in Special Condition 11.3(a).

**11.4 Rent and profits**

- (a) Rent and profits of the Property belong to the Vendor until settlement and the Purchaser after settlement.
- (b) Rent will be adjusted as follows:
  - (i) if rent or any other amounts due at settlement are paid for a period extending past settlement, the amount representing the period before and including settlement will be adjusted to the Vendor and the amount representing the period after settlement will be adjusted to the Purchaser; or
  - (ii) if rent or any other amounts due at settlement are not paid for the period before and including settlement, then the Purchaser shall adjust that amount in favour of the Vendor.
- (c) Any outgoings (including but not limited to any rates and taxes) which are payable by the Tenant under any of the Leases will not be adjusted at settlement.

**11.5 Vendor assigns interest**

After settlement the Vendor assigns to the Purchaser the benefit of all covenants, agreements and obligations under the Leases, whether or not they touch and concern the Property.

**11.6 Compliance after settlement**

The Purchaser undertakes, represents and warrants to the Vendor that the Purchaser will comply with each of its obligations as landlord under the Leases on and from settlement and indemnifies the Vendor from and against all loss for failing to comply with this special condition.

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**12 Disclosure Material**

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**12.1 Purchaser Acknowledgements**

The Purchaser acknowledges that:

- (a) the Vendor has made available to the Purchaser on or before the Day of Sale the Disclosure Material;
- (b) the Vendor makes no representation or warranty:
  - (i) as to the accuracy or otherwise of the information contained in the Disclosure Material;
  - (ii) that it has complied with any of the matters contained or referred to in the Disclosure Material;
  - (iii) that it holds any title (whether encumbered or unencumbered) to, or any rights under, any of the Disclosure Material; or
  - (iv) that it has in its possession or control all originals or counterparts of the Disclosure Material;
- (c) the Vendor has not conducted its own independent enquiries and investigations into information in the Disclosure Material prepared by third parties;
- (d) some of the information contained in the Disclosure Material will be specialised information and/or prepared on the basis of specialised knowledge and that the Vendor does not hold or purport to hold the specialised knowledge required to prepare or verify such information;
- (e) the Disclosure Material:
  - (i) may include statements, estimates and projections that reflect various assumptions which may or may not be correct;
  - (ii) does not purport to contain all the information the Purchaser may require; and
  - (iii) may not be appropriate for the Purchaser, as it is not possible for the Vendor to consider the investment objectives, financial situation, development objectives and/or particular needs of the Purchaser.

**12.2 Purchaser Warranty**

The Purchaser warrants that the Purchaser has examined and satisfied itself in relation to all matters contained in, arising from or relating to the Disclosure Material (including without limitation the accuracy or otherwise of the Disclosure Material) prior to entering into this Contract, and the Purchaser has not entered into this Contract in reliance upon the Disclosure Material or upon any matters or things referred to in the Disclosure Material.

**12.3 No objections or requisitions**

The Purchaser will not make any objection or requisition, claim any compensation, ask the Vendor to amend the title or to bear or contribute to any expense of any amendment to the title, purport to rescind or terminate this Contract, or delay Settlement because of any matter or thing referred to in or arising out of or relating to this Special Condition 12 or the Disclosure Material.

**12.4 Disclosure Material**

For the purposes of this special condition 12, Disclosure Material means all information and materials relating in any way to the Property which were at any time made available to the Purchaser, its employees, advisors, agents or solicitors including that:

- (a) set out in the Vendor's Statement; and
- (b) provided by the Vendor and/or the Vendor's employees, advisors, agents or solicitors.

**13 General provisions**

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**13.1 Waiver and variation**

A provision of or a right created under this Contract cannot be:

- (a) waived except in writing signed by the party granting the waiver; or
- (b) varied except in writing signed by or on behalf of the parties.

**13.2 Severability**

If anything in this Contract is unenforceable, illegal or void then it is severed and the rest of this Contract remains in force.

**13.3 No assignment**

The Purchaser must not assign, transfer, encumber or in any other way deal with or dispose of any interest in this Contract or, prior to settlement, the Property except with the prior written consent of the Vendor. The Vendor is not required to give consent or to justify why any consent has been withheld. This special condition does not apply to any nomination.

**13.4 Assurances**

Each party must do all things, including executing and delivering any document, and give all contracts which may be reasonably necessary or desirable to give effect to this Contract and any part of this Contract. The terms and conditions of this Contract in favour of the Vendor do not merge at settlement.

**13.5 Governing law and jurisdiction**

- (a) The law of Victoria governs this Contract.
- (b) The parties submit to the non-exclusive jurisdiction of the courts of Victoria and of the Commonwealth of Australia.

**13.6 Counterparts**

- (a) This Contract may be executed in any number of counterparts.
- (b) Each counterpart is an original and the counterparts together are one and the same contract.

**13.7 Re-calculate**

The Vendor reserves the right to re-calculate the adjustments under general condition 23 if there was an error in the adjustments at settlement. Further land tax will be adjusted on a proportional



basis (including any applicable trust) as assessed by the State Revenue Office if section 10G of the Sale of Land Act 1962 does not apply.

## General Conditions

### Contract signing

#### 1. ELECTRONIC SIGNATURE

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

#### 2. LIABILITY OF SIGNATORY

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

#### 3. GUARANTEE

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

#### 4. NOMINEE

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

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## Title

#### 5. ENCUMBRANCES

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

#### 6. VENDOR WARRANTIES

- 6.1 The vendor warrants that these general conditions 1 to 35 are identical to the general conditions 1 to 35 in the form of contract of sale of land published by the Law Institute of Victoria Limited and the Real Estate Institute of Victoria Ltd in the month and year set out at the foot of this page.
- 6.2 The warranties in general conditions 6.3 and 6.4 replace the purchaser's right to make requisitions and inquiries.
- 6.3 The vendor warrants that the vendor:
  - (a) has, or by the due date for settlement will have, the right to sell the land; and
  - (b) is under no legal disability; and
  - (c) is in possession of the land, either personally or through a tenant; and
  - (d) has not previously sold or granted any option to purchase, agreed to a lease or granted a pre-emptive right which is current over the land and which gives another party rights which have priority over the interest of the purchaser; and
  - (e) will at settlement be the holder of an unencumbered estate in fee simple in the land; and

- (f) will at settlement be the unencumbered owner of any improvements, fixtures, fittings and goods sold with the land.
- 6.4 The vendor further warrants that the vendor has no knowledge of any of the following:
- (a) public rights of way over the land;
  - (b) easements over the land;
  - (c) lease or other possessory agreement affecting the land;
  - (d) notice or order directly and currently affecting the land which will not be dealt with at settlement, other than the usual rate notices and any land tax notices;
  - (e) legal proceedings which would render the sale of the land void or voidable or capable of being set aside.
- 6.5 The warranties in general conditions 6.3 and 6.4 are subject to any contrary provisions in this contract and disclosures in the section 32 statement.
- 6.6 If sections 137B and 137C of the *Building Act 1993* apply to this contract, the vendor warrants that:
- (a) all domestic building work carried out in relation to the construction by or on behalf of the vendor of the home was carried out in a proper and workmanlike manner; and
  - (b) all materials used in that domestic building work were good and suitable for the purpose for which they were used and that, unless otherwise stated in the contract, those materials were new; and
  - (c) domestic building work was carried out in accordance with all laws and legal requirements, including, without limiting the generality of this warranty, the *Building Act 1993* and regulations made under the *Building Act 1993*.
- 6.7 Words and phrases used in general condition 6.6 which are defined in the *Building Act 1993* have the same meaning in general condition 6.6.

## **7. IDENTITY OF THE LAND**

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

## **8. SERVICES**

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

## **9. CONSENTS**

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

## **10. TRANSFER & DUTY**

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

## **11. RELEASE OF SECURITY INTEREST**

- 11.1 This general condition applies if any part of the property is subject to a security interest to which the *Personal Property Securities Act 2009 (Cth)* applies.
- 11.2 For the purposes of enabling the purchaser to search the Personal Property Securities Register for any security interests affecting any personal property for which the purchaser may be entitled to a release, statement, approval or correction in accordance with general condition 11.4, the purchaser may request the vendor to provide the vendor's date of birth to the purchaser. The vendor must comply with a request made by the purchaser under this condition if the purchaser makes the request at least 21 days before the due date for settlement.
- 11.3 If the purchaser is given the details of the vendor's date of birth under general condition 11.2, the purchaser must
- (a) only use the vendor's date of birth for the purposes specified in general condition 11.2; and

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

## **12. BUILDER WARRANTY INSURANCE**

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

## **13. GENERAL LAW LAND**

- 13.1 The vendor must complete a conversion of title in accordance with section 14 of the *Transfer of Land Act 1958* before settlement if the land is the subject of a provisional folio under section 23 of that Act.
- 13.2 The remaining provisions of this general condition 13 only apply if any part of the land is not under the operation of the *Transfer of Land Act 1958*.
- 13.3 The vendor is taken to be the holder of an unencumbered estate in fee simple in the land if there is an unbroken chain of title starting at least 30 years before the day of sale proving on the face of the documents the ownership of the entire legal and equitable estate without the aid of other evidence.
- 13.4 The purchaser is entitled to inspect the vendor's chain of title on request at such place in Victoria as the vendor nominates.
- 13.5 The purchaser is taken to have accepted the vendor's title if:
- (a) 21 days have elapsed since the day of sale; and
  - (b) the purchaser has not reasonably objected to the title or reasonably required the vendor to remedy a defect in the title.
- 13.6 The contract will be at an end if:
- (a) the vendor gives the purchaser a notice that the vendor is unable or unwilling to satisfy the purchaser's objection or requirement and that the contract will end if the objection or requirement is not withdrawn within 14 days of the giving of the notice; and
  - (b) the objection or requirement is not withdrawn in that time.
- 13.7 If the contract ends in accordance with general condition 13.6, the deposit must be returned to the purchaser and neither party has a claim against the other in damages.
- 13.8 General condition 17.1 [settlement] should be read as if the reference to 'registered proprietor' is a reference to 'owner' in respect of that part of the land which is not under the operation of the *Transfer of Land Act 1958*.

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## Money

### 14. DEPOSIT

- 14.1 The purchaser must pay the deposit:
- (a) to the vendor's licensed estate agent; or
  - (b) if there is no estate agent, to the vendor's legal practitioner or conveyancer; or
  - (c) if the vendor directs, into a special purpose account in an authorised deposit-taking institution in Victoria specified by the vendor in the joint names of the purchaser and the vendor.
- 14.2 If the land sold is a lot on an unregistered plan of subdivision, the deposit:
- (a) must not exceed 10% of the price; and
  - (b) must be paid to the vendor's estate agent, legal practitioner or conveyancer and held by the estate agent, legal practitioner or conveyancer on trust for the purchaser until the registration of the plan of subdivision.
- 14.3 The deposit must be released to the vendor if:
- (a) the vendor provides particulars, to the satisfaction of the purchaser, that either-
    - (i) there are no debts secured against the property; or
    - (ii) if there are any debts, the total amount of those debts together with any amounts to be withheld in accordance with general conditions 24 and 25 does not exceed 80% of the sale price; and
  - (b) at least 28 days have elapsed since the particulars were given to the purchaser under paragraph (a); and
  - (c) all conditions of section 27 of the *Sale of Land Act 1962* have been satisfied.
- 14.4 The stakeholder must pay the deposit and any interest to the party entitled when the deposit is released, the contract is settled, or the contract is ended.
- 14.5 The stakeholder may pay the deposit and any interest into court if it is reasonable to do so.
- 14.6 Where the purchaser is deemed by section 27(7) of the *Sale of Land Act 1962* to have given the deposit release authorisation referred to in section 27(1), the purchaser is also deemed to have accepted title in the absence of any prior express objection to title.

14.7 Payment of the deposit may be made or tendered:

- (a) in cash up to \$1,000 or 0.2% of the price, whichever is greater; or
- (b) by cheque drawn on an authorised deposit-taking institution; or
- (c) by electronic funds transfer to a recipient having the appropriate facilities for receipt.

However, unless otherwise agreed:

- (d) payment may not be made by credit card, debit card or any other financial transfer system that allows for any chargeback or funds reversal other than for fraud or mistaken payment, and
- (e) any financial transfer or similar fees or deductions from the funds transferred, other than any fees charged by the recipient's authorised deposit-taking institution, must be paid by the remitter.

14.8 Payment by electronic funds transfer is made when cleared funds are received in the recipient's bank account.

14.9 Before the funds are electronically transferred the intended recipient must be notified in writing and given sufficient particulars to readily identify the relevant transaction.

14.10 As soon as the funds have been electronically transferred the intended recipient must be provided with the relevant transaction number or reference details.

14.11 For the purpose of this general condition 'authorised deposit-taking institution' means a body corporate for which an authority under section 9(3) of the *Banking Act 1959 (Cth)* is in force.

## 15. DEPOSIT BOND

15.1 This general condition only applies if the applicable box in the particulars of sale is checked.

15.2 In this general condition "deposit bond" means an irrevocable undertaking to pay on demand an amount equal to the deposit or any unpaid part of the deposit. The issuer and the form of the deposit bond must be satisfactory to the vendor. The deposit bond must have an expiry date at least 45 days after the due date for settlement.

15.3 The purchaser may deliver a deposit bond to the vendor's estate agent, legal practitioner or conveyancer within 7 days after the day of sale.

15.4 The purchaser may at least 45 days before a current deposit bond expires deliver a replacement deposit bond on the same terms and conditions.

15.5 Where a deposit bond is delivered, the purchaser must pay the deposit to the vendor's legal practitioner or conveyancer on the first to occur of:

- (a) settlement;
- (b) the date that is 45 days before the deposit bond or any replacement deposit bond expires;
- (c) the date on which this contract ends in accordance with general condition 35.2 [default not remedied] following breach by the purchaser; and
- (d) the date on which the vendor ends this contract by accepting repudiation of it by the purchaser.

15.6 The vendor may claim on the deposit bond without prior notice if the purchaser defaults under this contract or repudiates this contract and the contract is ended. The amount paid by the issuer satisfies the obligations of the purchaser under general condition 15.5 to the extent of the payment.

15.7 Nothing in this general condition limits the rights of the vendor if the purchaser defaults under this contract or repudiates this contract, except as provided in general condition 15.6.

15.8 This general condition is subject to general condition 14.2 [deposit].

## 16. BANK GUARANTEE

16.1 This general condition only applies if the applicable box in the particulars of sale is checked.

16.2 In this general condition:

- (a) "bank guarantee" means an unconditional and irrevocable guarantee or undertaking by a bank in a form satisfactory to the vendor to pay on demand any amount under this contract agreed in writing, and
- (b) "bank" means an authorised deposit-taking institution under the *Banking Act 1959 (Cth)*.

16.3 The purchaser may deliver a bank guarantee to the vendor's legal practitioner or conveyancer.

16.4 The purchaser must pay the amount secured by the bank guarantee to the vendor's legal practitioner or conveyancer on the first to occur of:

- (a) settlement;

- (b) the date that is 45 days before the bank guarantee expires;
- (c) the date on which this contract ends in accordance with general condition 35.2 [default not remedied] following breach by the purchaser; and
- (d) the date on which the vendor ends this contract by accepting repudiation of it by the purchaser.

- 16.5 The vendor must return the bank guarantee document to the purchaser when the purchaser pays the amount secured by the bank guarantee in accordance with general condition 16.4.
- 16.6 The vendor may claim on the bank guarantee without prior notice if the purchaser defaults under this contract or repudiates this contract and the contract is ended. The amount paid by the bank satisfies the obligations of the purchaser under general condition 16.4 to the extent of the payment.
- 16.7 Nothing in this general condition limits the rights of the vendor if the purchaser defaults under this contract or repudiates this contract except as provided in general condition 16.6.
- 16.8 This general condition is subject to general condition 14.2 [deposit].

## **17. SETTLEMENT**

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

## **18. ELECTRONIC SETTLEMENT**

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

- (b) if there is no exchange of funds or value, the documents necessary to enable the purchaser to become registered proprietor of the land have been accepted for electronic lodgement.

18.7 The parties must do everything reasonably necessary to effect settlement:

- (a) electronically on the next business day, or
- (b) at the option of either party, otherwise than electronically as soon as possible –

if, after the locking of the workspace at the nominated settlement time, settlement in accordance with general condition 18.6 has not occurred by 4.00 pm, or 6.00 pm if the nominated time for settlement is after 4.00 pm.

18.8 Each party must do everything reasonably necessary to assist the other party to trace and identify the recipient of any missing or mistaken payment and to recover the missing or mistaken payment.

18.9 The vendor must before settlement:

- (a) deliver any keys, security devices and codes (“keys”) to the estate agent named in the contract,
- (b) direct the estate agent to give the keys to the purchaser or the purchaser’s nominee on notification of settlement by the vendor, the vendor’s subscriber or the electronic lodgement network operator;
- (c) deliver all other physical documents and items (other than the goods sold by the contract) to which the purchaser is entitled at settlement, and any keys if not delivered to the estate agent, to the vendor’s subscriber or, if there is no vendor’s subscriber, confirm in writing to the purchaser that the vendor holds those documents, items and keys at the vendor’s address set out in the contract, and

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

## 19. GST

19.1 The purchaser does not have to pay the vendor any amount in respect of GST in addition to the price if the particulars of sale specify that the price includes GST (if any).

19.2 The purchaser must pay to the vendor any GST payable by the vendor in respect of a taxable supply made under this contract in addition to the price if:

- (a) the particulars of sale specify that GST (if any) must be paid in addition to the price; or
- (b) GST is payable solely as a result of any action taken or intended to be taken by the purchaser after the day of sale, including a change of use; or
- (c) the particulars of sale specify that the supply made under this contract is of land on which a ‘farming business’ is carried on and the supply (or part of it) does not satisfy the requirements of section 38-480 of the GST Act; or
- (d) the particulars of sale specify that the supply made under this contract is of a going concern and the supply (or a part of it) does not satisfy the requirements of section 38-325 of the GST Act.

19.3 The purchaser is not obliged to pay any GST under this contract until a tax invoice has been given to the purchaser.

19.4 If the particulars of sale specify that the supply made under this contract is of land on which a ‘farming business’ is carried on:

- (a) the vendor warrants that the property is land on which a farming business has been carried on for the period of 5 years preceding the date of supply; and
- (b) the purchaser warrants that the purchaser intends that a farming business will be carried on after settlement on the property.

19.5 If the particulars of sale specify that the supply made under this contract is a ‘going concern’:

- (a) the parties agree that this contract is for the supply of a going concern; and
- (b) the purchaser warrants that the purchaser is, or prior to settlement will be, registered for GST; and
- (c) the vendor warrants that the vendor will carry on the going concern until the date of supply.

19.6 If the particulars of sale specify that the supply made under this contract is a ‘margin scheme’ supply, the parties agree that the margin scheme applies to this contract.

19.7 In this general condition:

- (a) ‘GST Act’ means *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*; and
- (b) ‘GST’ includes penalties and interest.

## 20. LOAN

20.1 If the particulars of sale specify that this contract is subject to a loan being approved, this contract is subject to the lender approving the loan on the security of the property by the approval date or any later date allowed by the vendor.

20.2 The purchaser may end the contract if the loan is not approved by the approval date, but only if the purchaser:



- (a) immediately applied for the loan; and
- (b) did everything reasonably required to obtain approval of the loan; and
- (c) serves written notice ending the contract, together with written evidence of rejection or non-approval of the loan, on the vendor within 2 clear business days after the approval date or any later date allowed by the vendor; and
- (d) is not in default under any other condition of this contract when the notice is given.

20.3 All money must be immediately refunded to the purchaser if the contract is ended.

## **21. BUILDING REPORT**

21.1 This general condition only applies if the applicable box in the particulars of sale is checked.

21.2 The purchaser may end this contract within 14 days from the day of sale if the purchaser:

- (a) obtains a written report from a registered building practitioner or architect which discloses a current defect in a structure on the land and designates it as a major building defect;
- (b) gives the vendor a copy of the report and a written notice ending this contract; and
- (c) is not then in default.

21.3 All money paid must be immediately refunded to the purchaser if the contract ends in accordance with this general condition.

21.4 A notice under this general condition may be served on the vendor's legal practitioner, conveyancer or estate agent even if the estate agent's authority has formally expired at the time of service.

21.5 The registered building practitioner may inspect the property at any reasonable time for the purpose of preparing the report.

## **22. PEST REPORT**

22.1 This general condition only applies if the applicable box in the particulars of sale is checked.

22.2 The purchaser may end this contract within 14 days from the day of sale if the purchaser:

- (a) obtains a written report from a pest control operator licensed under Victorian law which discloses a current pest infestation on the land and designates it as a major infestation affecting the structure of a building on the land;
- (b) gives the vendor a copy of the report and a written notice ending this contract; and
- (c) is not then in default.

22.3 All money paid must be immediately refunded to the purchaser if the contract ends in accordance with this general condition.

22.4 A notice under this general condition may be served on the vendor's legal practitioner, conveyancer or estate agent even if the estate agent's authority has formally expired at the time of service.

22.5 The pest control operator may inspect the property at any reasonable time for the purpose of preparing the report.

## **23. ADJUSTMENTS**

23.1 All periodic outgoings payable by the vendor, and any rent and other income received in respect of the property must be apportioned between the parties on the settlement date and any adjustments paid and received as appropriate.

23.2 The periodic outgoings and rent and other income must be apportioned on the following basis:

- (a) the vendor is liable for the periodic outgoings and entitled to the rent and other income up to and including the day of settlement; and
- (b) the land is treated as the only land of which the vendor is owner (as defined in the *Land Tax Act 2005*); and
- (c) the vendor is taken to own the land as a resident Australian beneficial owner; and
- (d) any personal statutory benefit available to each party is disregarded in calculating apportionment.

23.3 The purchaser must provide copies of all certificates and other information used to calculate the adjustments under general condition 23, if requested by the vendor.

## **24. FOREIGN RESIDENT CAPITAL GAINS WITHHOLDING**

24.1 Words defined or used in Subdivision 14-D of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* have the same meaning in this general condition unless the context requires otherwise.

24.2 Every vendor under this contract is a foreign resident for the purposes of this general condition unless the vendor gives the purchaser a clearance certificate issued by the Commissioner under section 14-220 (1) of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*. The specified period in the clearance certificate must include the actual date of settlement.

24.3 The remaining provisions of this general condition 24 only apply if the purchaser is required to pay the Commissioner an amount in accordance with section 14-200(3) or section 14-235 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* ("the amount") because one or more of the vendors is a foreign resident, the property has or will have a market value not

less than the amount set out in section 14-215 of the legislation just after the transaction, and the transaction is not excluded under section 14-215(1) of the legislation.

- 24.4 The amount is to be deducted from the vendor's entitlement to the contract consideration. The vendor must pay to the purchaser at settlement such part of the amount as is represented by non-monetary consideration.
- 24.5 The purchaser must:
- (a) engage a legal practitioner or conveyancer ("representative") to conduct all the legal aspects of settlement, including the performance of the purchaser's obligations under the legislation and this general condition; and
  - (b) ensure that the representative does so.
- 24.6 The terms of the representative's engagement are taken to include instructions to have regard to the vendor's interests and instructions that the representative must:
- (a) pay, or ensure payment of, the amount to the Commissioner in the manner required by the Commissioner and as soon as reasonably and practicably possible, from moneys under the control or direction of the representative in accordance with this general condition if the sale of the property settles;
  - (b) promptly provide the vendor with proof of payment; and
  - (c) otherwise comply, or ensure compliance, with this general condition;
- despite:
- (d) any contrary instructions, other than from both the purchaser and the vendor; and
  - (e) any other provision in this contract to the contrary.
- 24.7 The representative is taken to have complied with the requirements of general condition 24.6 if:
- (a) the settlement is conducted through an electronic lodgement network; and
  - (b) the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.
- 24.8 Any clearance certificate or document evidencing variation of the amount in accordance with section 14-235(2) of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* must be given to the purchaser at least 5 business days before the due date for settlement.
- 24.9 The vendor must provide the purchaser with such information as the purchaser requires to comply with the purchaser's obligation to pay the amount in accordance with section 14-200 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*. The information must be provided within 5 business days of request by the purchaser. The vendor warrants that the information the vendor provides is true and correct.
- 24.10 The purchaser is responsible for any penalties or interest payable to the Commissioner on account of late payment of the amount.

**25. GST WITHHOLDING**

- 25.1 Words and expressions defined or used in Subdivision 14-E of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* or in *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* have the same meaning in this general condition unless the context requires otherwise. Words and expressions first used in this general condition and shown in italics and marked with an asterisk are defined or described in at least one of those Acts.
- 25.2 The purchaser must notify the vendor in writing of the name of the recipient of the \*supply for the purposes of section 14-255 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* at least 21 days before the due date for settlement unless the recipient is the purchaser named in the contract.
- 25.3 The vendor must at least 14 days before the due date for settlement provide the purchaser and any person nominated by the purchaser under general condition 4 with a GST withholding notice in accordance with section 14-255 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*, and must provide all information required by the purchaser or any person so nominated to confirm the accuracy of the notice.
- 25.4 The remaining provisions of this general condition 25 apply if the purchaser is or may be required to pay the Commissioner an \*amount in accordance with section 14-250 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* because the property is \*new residential premises or \*potential residential land in either case falling within the parameters of that section, and also if the sale attracts the operation of section 14-255 of the legislation. Nothing in this general condition 25 is to be taken as relieving the vendor from compliance with section 14-255.
- 25.5 The amount is to be deducted from the vendor's entitlement to the contract \*consideration and is then taken to be paid to the vendor, whether or not the vendor provides the purchaser with a GST withholding notice in accordance with section 14-255 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*. The vendor must pay to the purchaser at settlement such part of the amount as is represented by non-monetary consideration.
- 25.6 The purchaser must:
- (a) engage a legal practitioner or conveyancer ("representative") to conduct all the legal aspects of settlement, including the performance of the purchaser's obligations under the legislation and this general condition; and
  - (b) ensure that the representative does so.

- 25.7 The terms of the representative's engagement are taken to include instructions to have regard to the vendor's interests relating to the payment of the amount to the Commissioner and instructions that the representative must:
- (a) pay, or ensure payment of, the amount to the Commissioner in the manner required by the Commissioner and as soon as reasonably and practicably possible, from moneys under the control or direction of the representative in accordance with this general condition on settlement of the sale of the property;
  - (b) promptly provide the vendor with evidence of payment, including any notification or other document provided by the purchaser to the Commissioner relating to payment; and
  - (c) otherwise comply, or ensure compliance, with this general condition;
- despite:
- (d) any contrary instructions, other than from both the purchaser and the vendor; and
  - (e) any other provision in this contract to the contrary.
- 25.8 The representative is taken to have complied with the requirements of general condition 25.7 if:
- (a) settlement is conducted through an electronic lodgement network; and
  - (b) the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.
- 25.9 The purchaser may at settlement give the vendor a bank cheque for the amount in accordance with section 16-30 (3) of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*, but only if:
- (a) so agreed by the vendor in writing; and
  - (b) the settlement is not conducted through an electronic lodgement network.
- However, if the purchaser gives the bank cheque in accordance with this general condition 25.9, the vendor must:
- (c) immediately after settlement provide the bank cheque to the Commissioner to pay the amount in relation to the supply; and
  - (d) give the purchaser a receipt for the bank cheque which identifies the transaction and includes particulars of the bank cheque, at the same time the purchaser gives the vendor the bank cheque.
- 25.10 A party must provide the other party with such information as the other party requires to:
- (a) decide if an amount is required to be paid or the quantum of it, or
  - (b) comply with the purchaser's obligation to pay the amount,
- in accordance with section 14-250 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*. The information must be provided within 5 business days of a written request. The party providing the information warrants that it is true and correct.
- 25.11 The vendor warrants that:
- (a) at settlement, the property is not new residential premises or potential residential land in either case falling within the parameters of section 14-250 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* if the vendor gives the purchaser a written notice under section 14-255 to the effect that the purchaser will not be required to make a payment under section 14-250 in respect of the supply, or fails to give a written notice as required by and within the time specified in section 14-255; and
  - (b) the amount described in a written notice given by the vendor to the purchaser under section 14-255 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* is the correct amount required to be paid under section 14-250 of the legislation.
- 25.12 The purchaser is responsible for any penalties or interest payable to the Commissioner on account of non-payment or late payment of the amount, except to the extent that:
- (a) the penalties or interest arise from any failure on the part of the vendor, including breach of a warranty in general condition 25.11; or
  - (b) the purchaser has a reasonable belief that the property is neither new residential premises nor potential residential land requiring the purchaser to pay an amount to the Commissioner in accordance with section 14-250 (1) of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*.
- The vendor is responsible for any penalties or interest payable to the Commissioner on account of non-payment or late payment of the amount if either exception applies.

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## Transactional

### 26. TIME & CO OPERATION

- 26.1 Time is of the essence of this contract.

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

**27. SERVICE**

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

**28. NOTICES**

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

**29. INSPECTION**

The purchaser and/or another person authorised by the purchaser may inspect the property at any reasonable time during the 7 days preceding and including the settlement day.

**30. TERMS CONTRACT**

- 30.1 If this is a 'terms contract' as defined in the *Sale of Land Act 1962*:
- (a) any mortgage affecting the land sold must be discharged as to that land before the purchaser becomes entitled to possession or to the receipt of rents and profits unless the vendor satisfies section 29M of the *Sale of Land Act 1962*; and
  - (b) the deposit and all other money payable under the contract (other than any money payable in excess of the amount required to so discharge the mortgage) must be paid to a legal practitioner or conveyancer or a licensed estate agent to be applied in or towards discharging the mortgage.
- 30.2 While any money remains owing each of the following applies:
- (a) the purchaser must maintain full damage and destruction insurance of the property and public risk insurance noting all parties having an insurable interest with an insurer approved in writing by the vendor;
  - (b) the purchaser must deliver copies of the signed insurance application forms, the policies and the insurance receipts to the vendor not less than 10 days before taking possession of the property or becoming entitled to receipt of the rents and profits;
  - (c) the purchaser must deliver copies of any amendments to the policies and the insurance receipts on each amendment or renewal as evidence of the status of the policies from time to time;
  - (d) the vendor may pay any renewal premiums or take out the insurance if the purchaser fails to meet these obligations;
  - (e) insurance costs paid by the vendor under paragraph (d) must be refunded by the purchaser on demand without

affecting the vendor's other rights under this contract;

- (f) the purchaser must maintain and operate the property in good repair (fair wear and tear excepted) and keep the property safe, lawful, structurally sound, weatherproof and free from contaminations and dangerous substances;
- (g) the property must not be altered in any way without the written consent of the vendor which must not be unreasonably refused or delayed;
- (h) the purchaser must observe all obligations that affect owners or occupiers of land;
- (i) the vendor and/or other person authorised by the vendor may enter the property at any reasonable time to inspect it on giving 7 days written notice, but not more than twice in a year.

### **31. LOSS OR DAMAGE BEFORE SETTLEMENT**

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

### **32. BREACH**

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

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

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## **Default**

### **33. INTEREST**

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

### **34. DEFAULT NOTICE**

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

### **35. DEFAULT NOT REMEDIED**

- 35.1 All unpaid money under the contract becomes immediately payable to the vendor if the default has been made by the purchaser and is not remedied and the costs and interest are not paid.
- 35.2 The contract immediately ends if:
  - (a) the default notice also states that unless the default is remedied and the reasonable costs and interest are paid, the contract will be ended in accordance with this general condition; and

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

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## Annexure A Guarantee and Indemnity

Deed dated

### Between

The Vendor; and  
The Guarantor.

### Introduction

- A. At the request of the Guarantor, the Vendor has agreed to enter into the Contract.
- B. Each Guarantor guarantees the Purchaser's obligations under the Contract and indemnifies the Vendor on the terms stated in this Deed.

### It is agreed

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#### 1 Definitions

Capitalised words in this guarantee and indemnity that appear in the Schedule have the meaning given to them in the Schedule.

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#### 2 Consideration and guarantee

In consideration of the Vendor having agreed, at the request of the Guarantor, to sell the land described in the annexed contract (**Contract**) to the Purchaser, the Guarantor guarantees to the Vendor:

- (a) the due and punctual payment by the Purchaser of all moneys that are or may become payable pursuant to the Contract (**Secured Moneys**). If the Purchaser fails to pay the Vendor as and when due the Secured Moneys the Guarantor will immediately on demand pay them to the Vendor; and
- (b) the due performance and observance by the Purchaser of the covenants conditions and obligations contained or implied in the Contract and on the part of the Purchaser to be performed and observed (**Purchaser's Obligations**). If the Purchaser fails to carry out or perform any of the Purchaser's Obligations the Guarantor will immediately on demand carry out and perform them.

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#### 3 Contract

The Guarantor acknowledges and declares that the Guarantor has read and understands the Contract and has access to a copy of the Contract.

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#### 4 Joint and several liability

The Guarantor is deemed to be jointly and severally liable with the Purchaser (in lieu of being merely a surety for the Purchaser) for the payment of the Secured Moneys and the performance of the Purchaser's Obligations. It will not be necessary for the Vendor to make any claim or demand on or to take any action or proceedings against the Purchaser before calling on the Guarantor to pay the Secured Moneys or to carry out and perform the Purchaser's Obligations.

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#### 5 Continuing security

This guarantee and indemnity is a continuing security and will not be released by any neglect or forbearance on the part of the Vendor in enforcing the Contract or by any extension of time or other indulgence given to the Purchaser in respect of the Contract.

**6 No merger**

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This guarantee and indemnity is in addition to and not in substitution for any other guarantee or other security given in favour of the Vendor and will not merge with or be affected by any other guarantee or other security now or in the future given or held in favour of the Vendor in respect of the Contract or the property sold by the Contract.

**7 No obligation to provide notice**

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Nothing in this guarantee and indemnity imposes an obligation on the Vendor to give notice to the Guarantor of any default by the Purchaser under the Contract or to include in any demand made under the guarantee and indemnity particulars of the Vendor's default resulting in that demand.

**8 Indemnity**

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The Guarantor indemnifies the Vendor against all loss, damage, claims, expenses and costs on a full indemnity basis howsoever arising out of the default of the Purchaser in payment of the Secured Moneys or the performance of the Purchaser's Obligations including where a liquidator or trustee in bankruptcy disclaims the Contract or this guarantee and indemnity.

**9 Matters not affecting Guarantor's liability**

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The Guarantor liability under this guarantee and indemnity is not affected by:

- (a) the granting of time, forbearance or other concession by the Vendor to the Purchaser or any Guarantor;
- (b) any delay or failure by the Vendor to take action against the Purchaser or any Guarantor;
- (c) an absolute or partial release of the Purchaser or any Guarantor or a compromise with the Purchaser or any Guarantor;
- (d) a variation, novation, renewal or assignment of the Contract by the Vendor, whether or not this increases the liability of the Purchaser or the liability of the Guarantor under this guarantee and indemnity;
- (e) the termination of the Contract;
- (f) the fact that this guarantee and indemnity or the Contract is wholly or partially void, voidable or unenforceable;
- (g) the non-execution of this guarantee and indemnity by the Vendor or any Guarantor or the unenforceability of the guarantee or indemnity against any Guarantor;
- (h) the exercise or purported exercise by the Vendor of its rights under this guarantee and indemnity or the Contract;
- (i) a problem that means:
  - (i) the Vendor has no legal right to recover any money from the Purchaser;
  - (ii) the Purchaser does not owe any money that otherwise would be payable under Contract;
  - (iii) the Vendor knew of the problem, or should have known; or
  - (iv) the Purchaser could never have been required to pay the Vendor the Secured Moneys; or
- (j) the nomination by the Purchaser of a nominee or substitute purchaser under the Contract.

**10 Assignment**

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If the Vendor assigns its rights under this guarantee and indemnity, the benefit of the guarantee and indemnity extends to the assignee and continues concurrently for the benefit of the Vendor regardless of the assignment unless the Vendor releases the Guarantor in writing.



**11 Payment later avoided**

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The Guarantor's liability is not discharged by a payment to the Vendor, which is later avoided by law. If that happens, the Vendor, the Purchaser and the Guarantor will be restored to their respective rights and obligations as if the payment had not been made.

**12 Guarantor not to prove in liquidation or bankruptcy**

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Until the Vendor has received all money payable to it by the Purchaser:

- (a) the Guarantor must not prove or claim in any liquidation, bankruptcy, composition, arrangement or assignment for the benefit of creditors of the Purchaser; and
- (b) the Guarantor must hold any claim it has and any dividend it receives on trust for the Vendor.

**13 Guarantor not to claim benefits or enforce rights**

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Until the Guarantor's liability under this guarantee and indemnity is discharged the Guarantor may not, without the consent of the Vendor:

- (a) claim the benefit or seek the transfer (in whole or in part) of any other guarantee, indemnity or security held or taken by the Vendor;
- (b) make a claim or enforce a right against the Purchaser or any other guarantor or against the estate or any of the property of any of them (except for the benefit of the Vendor); or
- (c) raise a set-off or counterclaim available to it or the Purchaser against the Vendor in reduction of its liability under this guarantee and indemnity.

**14 Costs and expenses**

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The Guarantor agrees to pay or reimburse the Vendor on demand for:

- (a) its costs, charges and expenses of making, enforcing and doing anything in connection with this guarantee and indemnity, including all costs actually payable by the Vendor to its legal representatives (whether under a costs agreement or otherwise); and
- (b) all taxes (except income tax) which are payable in connection with this guarantee and indemnity or any payment, receipt or other transaction contemplated by it.

**15 Joint and several**

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When this guarantee and indemnity is executed or intended to be executed by two or more persons:

- (a) each of those persons is not released from liability if this guarantee and indemnity ceases to bind any one or more of them as a continuing security;
- (b) if one or more persons has not signed this guarantee and indemnity, the other person or persons having executed the guarantee and indemnity will not be released from liability but will be bound by it as a continuing security;
- (c) a demand or notice given under this guarantee and indemnity if given to any one or more of those persons is deemed to have been given to all of them; and
- (d) the expression "the Guarantor" includes all of those person jointly and each of them severally.

**SCHEDULE**

**GUARANTOR (including personal representatives, successors, substitutes and assigns):**

Name: .....

Address: .....

Tel (Home):

Tel (Mobile):

Email:

Name: .....

Address: .....

Tel (Home):

Tel (Mobile):

Email:

Name: .....

Address: .....

Tel (Home):

Tel (Mobile):

Email:

**VENDOR:**

Name: .....

Address: .....

**PURCHASER:**

Name: .....

Address: .....

Tel (Home):

Tel (Mobile):

Email:

**EXECUTED as a DEED**

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 202.....

**EXECUTED** by the **GUARANTOR:** )  
)

\_\_\_\_\_  
Signature of **GUARANTOR**

In the presence of:

\_\_\_\_\_  
Witness - Signature

\_\_\_\_\_  
Witness – Print name

**EXECUTED** by the **GUARANTOR:** )  
)

\_\_\_\_\_  
Signature of **GUARANTOR**

In the presence of:

\_\_\_\_\_  
Witness - Signature

\_\_\_\_\_  
Witness – Print name

**EXECUTED** by the **GUARANTOR:** )  
)

\_\_\_\_\_  
Signature of **GUARANTOR**

In the presence of:

\_\_\_\_\_  
Witness - Signature

\_\_\_\_\_  
Witness – Print name

**EXECUTED** by the **GUARANTOR:** )  
)

\_\_\_\_\_  
Signature of **GUARANTOR**

In the presence of:

\_\_\_\_\_  
Witness - Signature

\_\_\_\_\_  
Witness – Print name

## Annexure B Checklist

### Due Diligence Checklist



What you need to know before buying a residential property

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

#### Urban living

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

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

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

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

#### Growth areas

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

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

#### Flood and fire risk

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

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

#### Rural properties

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

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

- Is the surrounding land use compatible with your lifestyle expectations? Farming can create noise or odour that may be at odds with your expectations of a rural lifestyle.
- Are you considering removing native vegetation? There are regulations which affect your ability to remove native vegetation on private property.
- Do you understand your obligations to manage weeds and pest animals?
- Can you build new dwellings?
- Does the property adjoin crown land, have a water frontage, contain a disused government road, or are there any crown licences associated with the land?

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

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

#### Soil and groundwater contamination

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

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

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



**Land boundaries*****Do you know the exact boundary of the property?***

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Buyers' rights*****Do you know your rights when buying a property?***

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

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



This document is prepared from a precedent intended solely for use by legal practitioners with the knowledge, skill and qualifications required to use the precedent to create a document suitable to meet the vendor's legal obligation to give certain statements and documents to a purchaser before the purchaser signs a contract to purchase the land. This document incorporates the requirements in section 32 of the *Sale of Land Act 1962* as at 30 October 2018.

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# Section 32 Statement

## Instructions for completing this document

Words in *italics* are generally for instruction or information only.

Where marked "+" below, the authority of a person signing under a power of attorney, as a director of a corporation or as an agent authorized in writing must be added in the vendor or purchaser's name or signature box. A corporation's ACN or ABN should also be included.

"Nil" may be written in any of the rectangular boxes if appropriate.



Additional information may be added to section 13 where there is insufficient space.

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

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

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

<b>Land</b>	1140 Princes Highway, Mount Moriac VIC 3240
-------------	---

<b>+ Vendor's name</b>	Patrick Alphonsus Kavanagh	<b>Date</b> 29/9 /2024
<b>+ Vendor's signature</b>		
<b>+ Vendor's name</b>	Mary Bernadette Kavanagh	<b>Date</b> 29/9 /2024
<b>+ Vendor's signature</b>		

<b>+ Purchaser's name</b>		<b>Date</b> / /
<b>+ Purchaser's signature</b>		
<b>+ Purchaser's name</b>		<b>Date</b> / /
<b>+ Purchaser's signature</b>		

## Important information

Legal practitioners using this document should check for any subsequent changes in the law. The Law Institute of Victoria, its contractors and agents are not liable in any way, including, without limitation, in negligence, for the use to which this document may be put, for any errors or omissions in the precedent document, or any other changes in the law or understanding of the law, arising from any legislative instruments or the decision of any court or tribunal, whether before or after this precedent was prepared, first published, sold or used.

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### 1. FINANCIAL MATTERS

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

(a) Their total does not exceed:

\$

OR

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

OR

(c) Their amounts are:

	Authority	Amount	Interest (if any)
(1)		(1) \$	(1) \$
(2)		(2) \$	(2) \$
(3)		(3) \$	(3) \$
(4)		(4) \$	(4) \$

(d) There are NO amounts for which the purchaser may become liable as a consequence of the sale of which the vendor might reasonably be expected to have knowledge<sup>1</sup>, which are not included in items 1.1(a), (b) or (c) above; other than any amounts described in this rectangular box.

\$

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

If applicable, are contained in the attached certificate.

\$ To

Other particulars (including dates and times of payments):

#### 1.3 Terms Contract

This section 1.3 only applies if this section 32 statement is in respect of a terms contract where the purchaser is obliged to make 2 or more payments (other than a deposit or final payment) to the vendor after the execution of the contract and before the purchaser is entitled to a conveyance or transfer of the land.

Attached is a Law Institute of Victoria published "Additional Section 32 Statement".

#### 1.4 Sale Subject to Mortgage

This section 1.4 only applies if this section 32 statement is in respect of a contract which provides that any mortgage (whether registered or unregistered), is NOT to be discharged before the purchaser becomes entitled to possession or receipts of rents and profits.

Attached is a Law Institute of Victoria published "Additional Section 32 Statement".

<sup>1</sup> Other than any GST payable in accordance with the contract.

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

(a) The Australian Valuation Property Classification Code (within the meaning of the CIPT Act) most recently allocated to the land is set out in the attached Municipal rates notice or property clearance certificate or is as follows	AVPCC No. 117
(b) Is the land tax reform scheme land within the meaning of the CIPT Act?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
(c) If the land is tax reform scheme land within the meaning of the CIPT Act, the entry date within the meaning of the CIPT Act is set out in the attached Municipal rates notice or property clearance certificate or is as follows	Date: OR <input checked="" type="checkbox"/> Not applicable

## 2. INSURANCE

### 2.1 Damage and Destruction

This section 2.1 only applies if this section 32 statement is in respect of a contract which does NOT provide for the land to remain at the risk of the vendor until the purchaser becomes entitled to possession or receipt of rents and profits.

- (a) Attached is a copy or extract of any policy of insurance in respect of any damage to or destruction of the land.

OR

- (b) Particulars of any such policy of insurance in respect of any damage to or destruction of the land are as follows:

Name of insurance company:	
Type of policy:	Policy no:
Expiry date:	Amount insured:

### 2.2 Owner-Builder

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

- (a) Attached is a copy or extract of any policy of insurance required under the *Building Act 1993*.

OR

- (b) Particulars of any required insurance under the Building Act 1993 are as follows:

Name of insurance company:	
Policy no:	Expiry date:

*Note: There may be additional legislative obligations in respect of the sale of land on which there is a building or on which building work has been carried out.*

## 3. LAND USE

### 3.1 Easements, Covenants or Other Similar Restrictions

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

Is in the attached copies of title document/s.

OR

Is as follows:



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

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

**3.2 Road Access**

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

**3.3 Designated Bushfire Prone Area**

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

**3.4 Planning Scheme**

Attached is a certificate with the required specified information.

OR

The required specified information is as follows:

- (a) Name of planning scheme
- (b) Name of responsible authority
- (c) Zoning of the land
- (d) Name of planning overlay


**4. NOTICES**

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

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

Are contained in the attached certificates and/or statements.

OR

Are as follows:

The Vendor has no means of knowing the particulars of all decisions, notices, orders, declarations, reports, recommendations or approved proposals of public authorities and government departments affecting the property unless they have been communicated to the Vendor at its current address and the Purchaser should make its own enquiries from the Municipal Council or any other public authority or government department considered appropriate by the Purchaser.

**4.2 Agricultural Chemicals**

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

The Vendor has no means of knowing the particulars of all decisions, notices, orders, declarations, reports, recommendations or approved proposals of public authorities and government departments affecting the property unless they have been communicated to the Vendor at its current address and the Purchaser should make its own enquiries from the Municipal Council or any other public authority or government department considered appropriate by the Purchaser.

**4.3 Compulsory Acquisition**

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

The Vendor has no means of knowing the particulars of all decisions, notices, orders, declarations, reports, recommendations or approved proposals of public authorities and government departments affecting the property unless they have been communicated to the Vendor at its current address and the Purchaser should make its own enquiries from the Municipal Council or any other public authority or government department considered appropriate by the Purchaser.

## 5. BUILDING PERMITS

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

Are contained in the attached certificate, if applicable.

OR

Are as follows:

## 6. OWNERS CORPORATION

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

6.1 Attached is a current owners corporation certificate with its required accompanying documents and statements, issued in accordance with section 151 of the *Owners Corporations Act* 2006.

OR

6.2 Attached is the information prescribed for the purposes of section 151(4)(a) of the *Owner Corporations Act* 2006 and the copy documents specified in section 151(4)(b)(i) and (iii) of that Act.

OR

6.3 The owners corporation is an inactive owner's corporation.<sup>2</sup>

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

Words and expressions in this section 7 have the same meaning as in Part 9B of the *Planning and Environment Act* 1987.

### 7.1 Work-in-Kind Agreement

This section 7.1 only applies if the land is subject to a work-in-kind agreement.

- (a) The land is NOT to be transferred under the agreement unless the square box is marked with an "X"
- (b) The land is NOT land on which works are to be carried out under the agreement (other than Crown land) unless the square box is marked with an "X"
- (c) The land is NOT land in respect of which a GAIC is imposed unless the square box is marked with an "X"

### 7.2 GAIC Recording

This section 7.2 only applies if there is a GAIC recording.

Any of the following certificates or notices must be attached if there is a GAIC recording.

The accompanying boxes marked with an "X" indicate that such a certificate or notice that is attached:

- (a) Any certificate of release from liability to pay a GAIC
- (b) Any certificate of deferral of the liability to pay the whole or part of a GAIC
- (c) Any certificate of exemption from liability to pay a GAIC
- (d) Any certificate of staged payment approval
- (e) Any certificate of no GAIC liability

<sup>2</sup> An inactive owners corporation includes one that in the previous 15 months has not held an annual general meeting, not fixed any fees and not held any insurance.

- (f) Any notice providing evidence of the grant of a reduction of the whole or part of the liability for a GAIC or an exemption from that liability
- (g) A GAIC certificate issued under Part 9B of the *Planning and Environment Act 1987* must be attached if there is no certificate or notice issued under any of sub-sections 7.2 (a) to (f) above

## 8. SERVICES

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

- Electricity supply       Gas supply       Water supply       Sewerage       Telephone services

## 9. TITLE

Attached are copies of the following documents:

9.1  (a) **Registered Title**

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

OR

(b) **General Law Title**

The last conveyance in the chain of title or other document which gives evidence of the vendor's title to the land.

- 9.2  Evidence of the vendor's right or power to sell (where the vendor is not the registered proprietor or the owner in fee simple).

## 10. SUBDIVISION

### 10.1 Unregistered Subdivision

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

- (a) Attached is a copy of the plan of subdivision certified by the relevant municipal council if the plan is not yet registered.

OR

- (b) Attached is a copy of the latest version of the plan if the plan of subdivision has not yet been certified.

### 10.2 Staged Subdivision

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

- (a) Attached is a copy of the plan for the first stage if the land is in the second or a subsequent stage.

- (b) The requirements in a statement of compliance relating to the stage in which the land is included that have not been complied with are as follows:

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

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

### 10.3 Further Plan of Subdivision

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

- (a) Attached is a copy of the plan which has been certified by the relevant municipal council (if the later plan has not been registered).

OR

- (b) Attached is a copy of the latest version of the plan (if the later plan has not yet been certified).

## 11. DISCLOSURE OF ENERGY INFORMATION

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

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

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

Are contained in the attached building energy efficiency certificate.

OR

Are as follows:

## 12. DUE DILIGENCE CHECKLIST

*(The Sale of Land Act 1962 provides that the vendor or the vendor's licensed estate agent must make a prescribed due diligence checklist available to purchasers before offering land for sale that is vacant residential land or land on which there is a residence. The due diligence checklist is NOT required to be provided with, or attached to, this section 32 statement but the checklist may be attached as a matter of convenience.)*

- Attached.

## 13. ATTACHMENTS

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

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

*(Attached is a Law Institute of Victoria published "Additional Section 32 Statement" if section 1.3 (Terms Contract) or section 1.4 (Sale Subject to Mortgage) applies)*

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

Page 1 of 1

VOLUME 10355 FOLIO 584

Security no : 124118332118L  
Produced 17/09/2024 05:06 PM

### LAND DESCRIPTION

Lot 1 on Plan of Subdivision 343457N.  
PARENT TITLE Volume 10296 Folio 986  
Created by instrument V029139M 08/10/1997

### REGISTERED PROPRIETOR

Estate Fee Simple  
Joint Proprietors  
PATRICK ALPHONSUS KAVANAGH  
MARY BERNADETTE KAVANAGH both of 6 AUGUSTINE DRIVE HIGHTON VIC 3216  
AQ137434Q 11/08/2017

### ENCUMBRANCES, CAVEATS AND NOTICES

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

### DIAGRAM LOCATION

SEE PS343457N FOR FURTHER DETAILS AND BOUNDARIES

### ACTIVITY IN THE LAST 125 DAYS

NIL

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

Street Address: 1140 PRINCES HIGHWAY MOUNT MORIAC VIC 3240

DOCUMENT END



# Imaged Document Cover Sheet

The document following this cover sheet is an imaged document supplied by LANDATA®, Secure Electronic Registries Victoria.

Document Type	<b>Plan</b>
Document Identification	<b>PS343457N</b>
Number of Pages (excluding this cover sheet)	<b>3</b>
Document Assembled	<b>17/09/2024 17:06</b>

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The document is invalid if this cover sheet is removed or altered.

<b>PLAN OF SUBDIVISION</b> Under Section 35 of the Subdivision Act 1988	STAGE NO. <hr/>	LTO use only <b>EDITION 2</b>	Plan Number <b>PS 343457N</b>
--	--------------------	----------------------------------	----------------------------------

**Location of Land**

**Parish:** Duneed  
**Township:** \_\_\_\_\_  
**Section:** A (Part)  
**Crown Allotment:** \_\_\_\_\_  
**Crown Portion:** 1  
**LTO Base Record:** Litho (2561) Sheet A  
**Title Reference:** Book 893 Memorial No. 431

**Last Plan Reference:** Litho  
**Postal Address:** Princes Highway  
(at time of subdivision) Mt. Moriac 3240

**AMG Co-ordinates** E 252 700      **ZONE: 55**  
(of approx. centre of land in plan) N 5 766 700

**Council Certification and Endorsement**

Council Name: Surf Coast Shire Council    Ref: \_\_\_\_\_

A. This is a plan under section 35 of the Subdivision Act 1988 which does not create any additional lots.  
 B. This plan is exempt from Part 3 of the Subdivision Act 1988.  
~~C. This is a plan under section 35 of the Subdivision Act 1988 which creates (an) additional lot(s).~~  
 D. It is certified under section 6 of the Subdivision Act 1988.  
~~E. It is certified under section 11(7) of the Subdivision Act 1988.~~  
 F. Date of original certification under section 6.    /    /  
 G. This is a statement of compliance under section 21 of the Subdivision Act 1988.

Council Delegate  
~~Council Seal~~

Date    29 / 9 / 1995

Re-certified under section 11(7) of the Subdivision Act 1988.

Council Delegate  
 Council Seal

Date    /    /

**Vesting of Roads and / or Reserves**

Roads marked in the council/body/person named when the appropriate vesting date is recorded or transfer registered. Only roads and reserves marked thus (%) vest upon registration of this plan.

Identifier	Council/Body/Person
ROAD R1	ROADS CORPORATION

**Notations**

**Staging**    This ~~is~~ is not a staged subdivision  
 Planning Permit No.    Not Applicable

**Depth Limitation**    Does not apply

**Land to be acquired by compulsory process:** Nil

**Land to be acquired by agreement:** Road R1

**All the land is to be acquired free from all encumbrances other than any easements specified on this plan.**

**The land being subdivided is enclosed within thick continuous lines.**

**Survey**    This plan is based on survey and is compiled from Roads Corp. SP 15192A.

This survey has been connected to permanent marks no(s). 41 & 107 in Proclaimed Survey Area No. \_\_\_\_\_

**Easement Information**

**Legend:**    E - Encumbering Easement or Condition in Crown Grant in the Nature of an Easement  
 A - Appurtenant Easement    R - Encumbering Easement (Road)

Easements marked (-) are existing easements.  
 Easements marked (+) are created upon registration of this plan.  
 Easements marked (\*) are created when the appropriate vesting date is recorded or transfer registered.  
 Easements marked (#) are removed when the appropriate vesting date is recorded or transfer registered.

Symbol	Subject Land	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
*	R1	WAY	SEE DIAG	THIS PLAN	LAND IN THIS PLAN

**LTO use only**

Statement of Compliance/  
 Exemption Statement

Received   

Date 22 / 11 / 95

**LTO use only**

PLAN REGISTERED  
 Time 1.40pm  
 Date 28 / 8 / 96

*[Signature]*  
 Assistant Registrar of Titles

Sheet 1 of 2 Sheets

**ROADS CORPORATION**

Land Information and Survey Department  
 60 Denmark Street  
 Kew 3101  
 (B. Legun: Tel. 98542083 Fax. 98533537)

LICENSED SURVEYOR ..... **BOGDAN LEGUN** .....  
(PRINT)

SIGNATURE .....      DATE 18 / 9 / 95

SR 10609  
 REF. **SP 15192A** PS1      VERSION \_\_\_\_\_

DATE 29 / 9 / 95

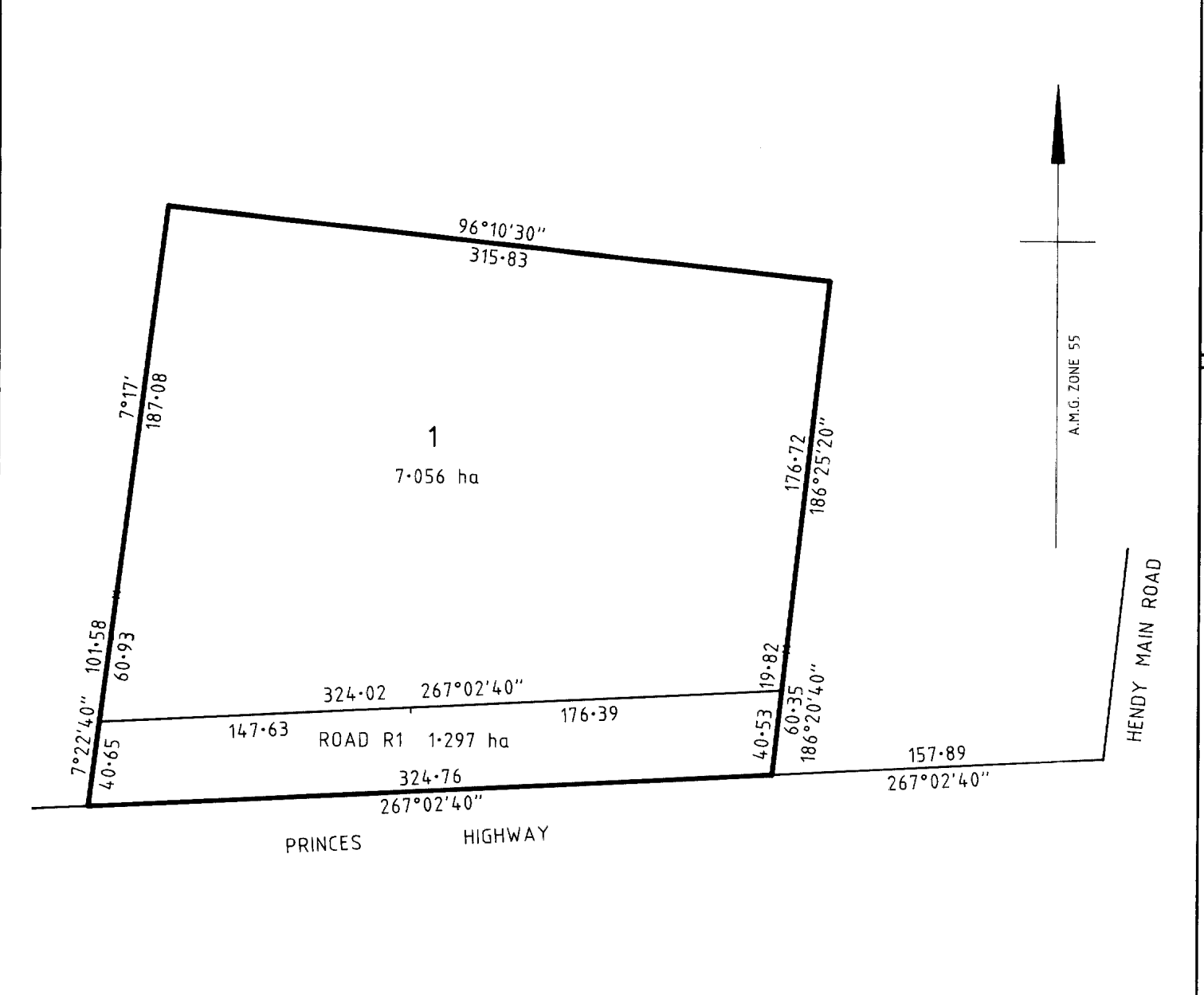
COUNCIL DELEGATE SIGNATURE

Original sheet size A3

<b>PLAN OF SUBDIVISION</b> Under section 35 of the Subdivision Act 1988	Stage No. _____	Plan Number <b>PS 343457N</b>
--	-----------------	----------------------------------

**VESTING DATES & TRANSFER REGISTRATION DATES OF ACQUIRED LAND**

Land affected	Land acquired by compulsory process				Land acquired by agreement	LTO reference	Assistant Registrar of Titles Signature
	Vesting date	Government Gazette		Date of recording of vesting date	Date of registration of transfer		
		Page	Year				
R1	_____	_____	_____	_____	8 / 10 / 97	V29139M	<i>Legun</i>



**ROADS CORPORATION**  
 Land Information and Survey Department  
 60 Denmark Street  
 Kew 3101  
 (B. Legun: Tel. 98542083 Fax. 98533537)

ORIGINAL SCALE	SHEET SIZE	SCALE
1:2000	A3	<p style="text-align: center;">LENGTHS ARE IN METRES</p>

LICENSED SURVEYOR ..... **BOGDAN LEGUN** .....  
 (PRINT)

SIGNATURE ..... DATE 18 / 9 / 95

SR 10609  
 REF. **SP 15192A** PS1 VERSION \_\_\_\_\_

Sheet 2 of 2 Sheets

DATE 29 / 9 / 95

COUNCIL DELEGATE SIGNATURE

Original sheet size A3





# PLANNING CERTIFICATE

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

## CERTIFICATE REFERENCE NUMBER

1069896

## APPLICANT'S NAME & ADDRESS

MILLS OAKLEY LAWYERS SYDNEY C/- INFOTRACK (MAJOR  
ACCOUNTS) C/- LANDATA

DOCKLANDS

## VENDOR

KAVANAGH, PATRICK ALPHONS

## PURCHASER

NOT KNOWN, NOT KNOWN

## REFERENCE

320478

This certificate is issued for:

LOT 1 PLAN PS343457 ALSO KNOWN AS 1140 PRINCES HIGHWAY MOUNT MORIAC  
SURF COAST SHIRE

The land is covered by the:

SURF COAST PLANNING SCHEME

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

The land:

- is included in a FARMING ZONE
- and abuts a TRANSPORT ZONE 2 - PRINCIPAL ROAD NETWORK
- and a PUBLIC ACQUISITION OVERLAY 3

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

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

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

17 September 2024

**Sonya Kilkenny**  
Minister for Planning

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

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

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

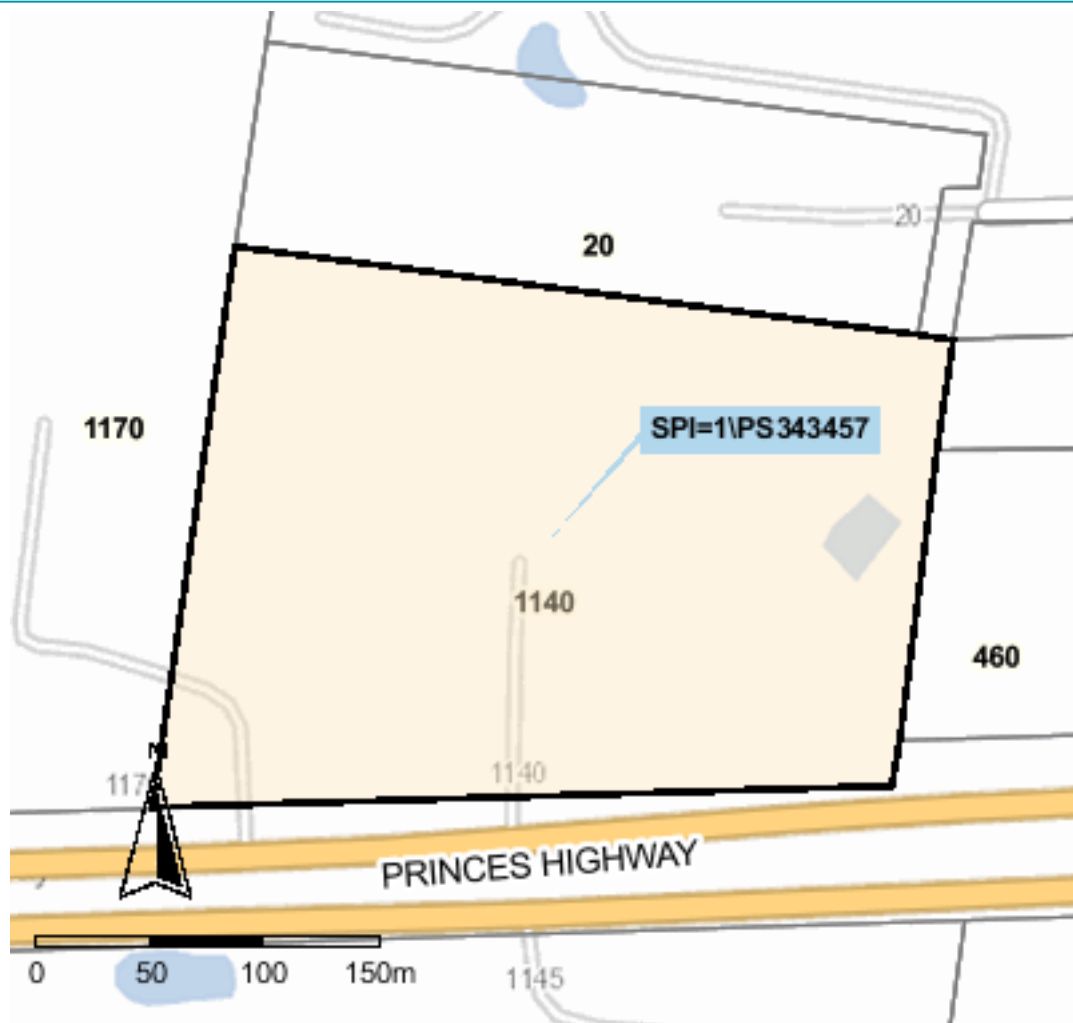
LANDATA@  
T: (03) 9102 0402  
E: [landata.enquiries@servictoria.com.au](mailto:landata.enquiries@servictoria.com.au)

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

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

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

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



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### Choose the authoritative Planning Certificate

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

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

### Privacy Statement

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

From [www.planning.vic.gov.au](http://www.planning.vic.gov.au) at 23 September 2024 01:26 PM

## PROPERTY DETAILS

Address: **1140 PRINCES HIGHWAY MOUNT MORIAC 3240**  
 Lot and Plan Number: **Lot 1 PS343457**  
 Standard Parcel Identifier (SPI): **1\PS343457**  
 Local Government Area (Council): **SURF COAST**  
 Council Property Number: **7080**  
 Planning Scheme: **Surf Coast**  
 Directory Reference: **Vicroads 93 D5**

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

[Planning Scheme - Surf Coast](#)

## UTILITIES

Rural Water Corporation: **Southern Rural Water**  
 Urban Water Corporation: **Barwon Water**  
 Melbourne Water: **Outside drainage boundary**  
 Power Distributor: **POWERCOR**

## STATE ELECTORATES

Legislative Council: **WESTERN VICTORIA**  
 Legislative Assembly: **SOUTH BARWON**

## OTHER

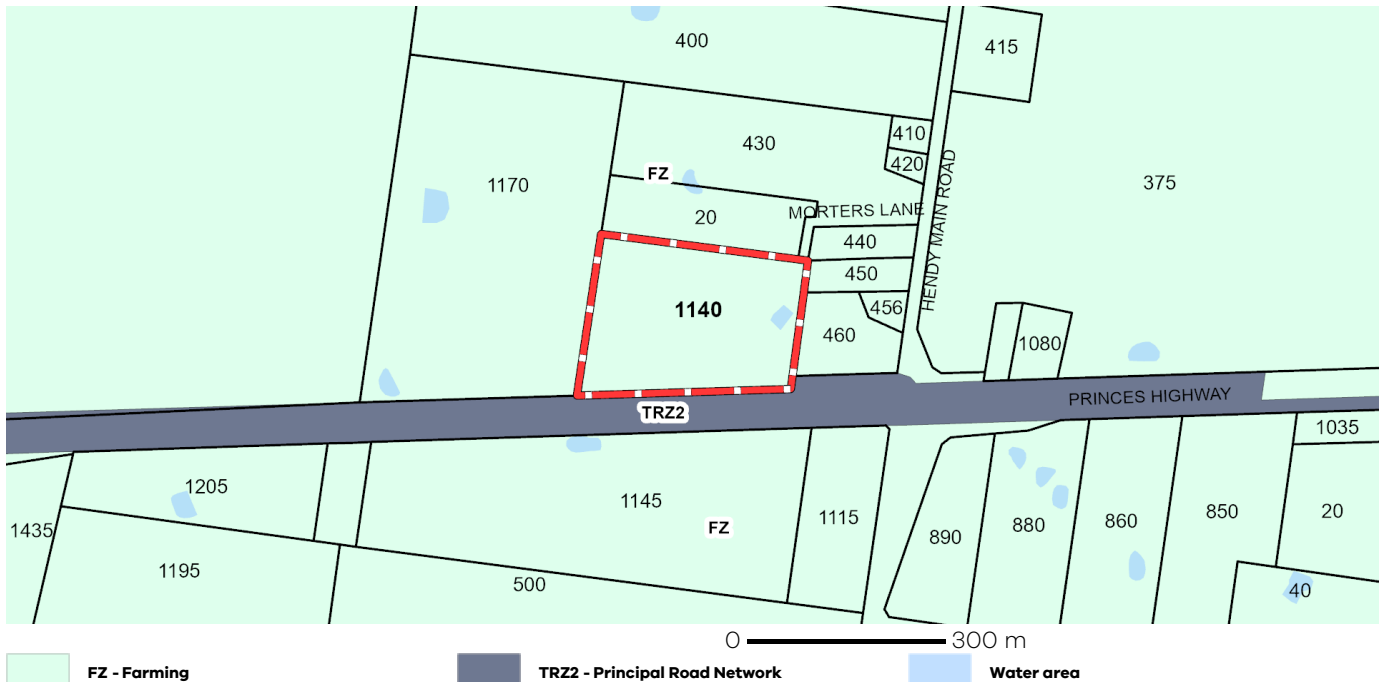
Registered Aboriginal Party: **Wadawurrung Traditional Owners  
Aboriginal Corporation**

[View location in VicPlan](#)

## Planning Zones

[FARMING ZONE \(FZ\)](#)

[SCHEDULE TO THE FARMING ZONE \(FZ\)](#)



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

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

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

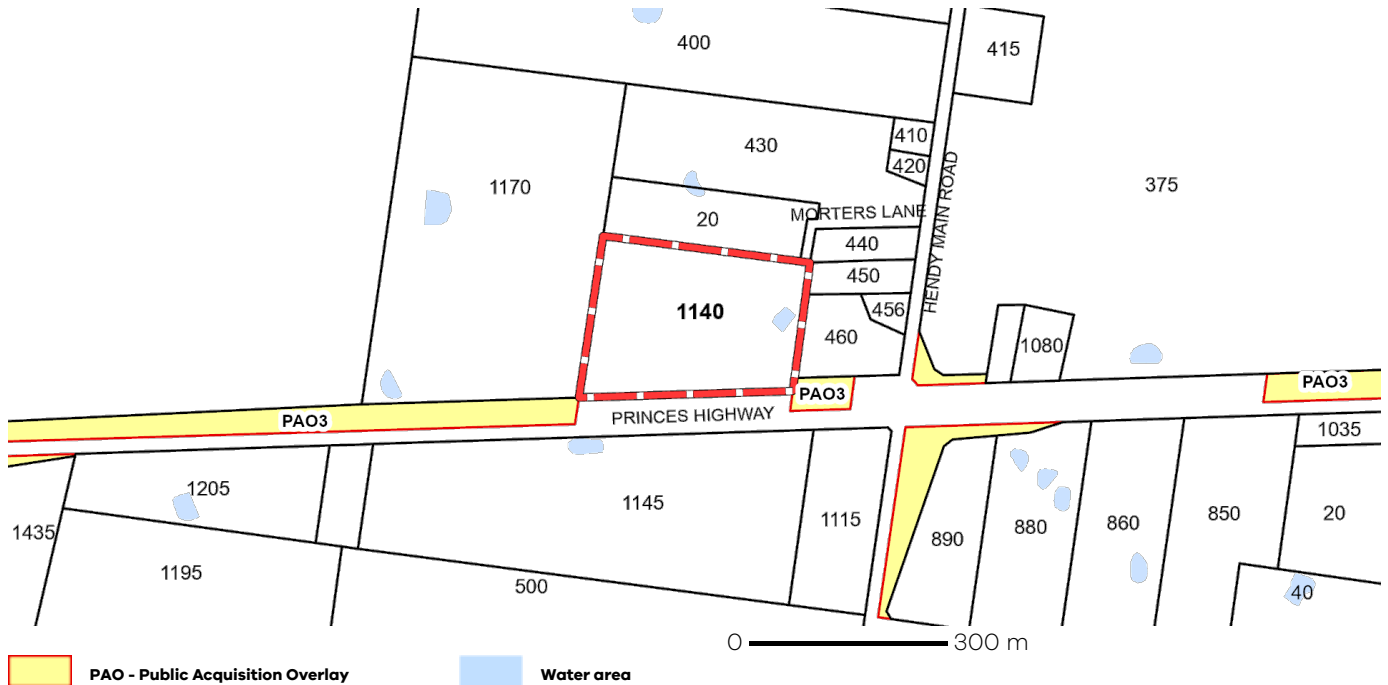
## Planning Overlay

None affecting this land - there are overlays in the vicinity

### OTHER OVERLAYS

Other overlays in the vicinity not directly affecting this land

### PUBLIC ACQUISITION OVERLAY (PAO)



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

## Further Planning Information

Planning scheme data last updated on 19 September 2024.

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

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

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

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

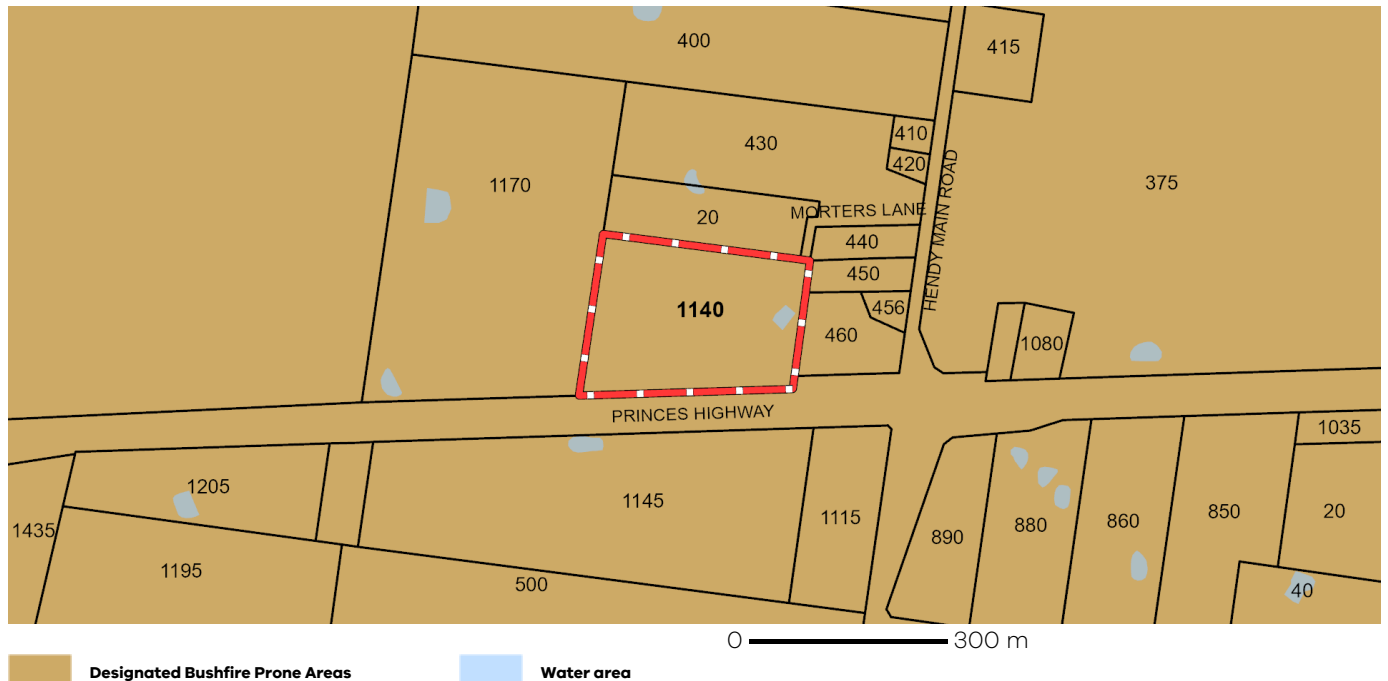
For other information about planning in Victoria visit <https://www.planning.vic.gov.au>

## Designated Bushfire Prone Areas

**This property is in a designated bushfire prone area. Special bushfire construction requirements apply to the part of the property mapped as a designated bushfire prone area (BPA). Planning provisions may apply.**

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

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



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

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

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

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

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

## Native Vegetation

Native plants that are indigenous to the region and important for biodiversity might be present on this property. This could include trees, shrubs, herbs, grasses or aquatic plants. There are a range of regulations that may apply including need to obtain a planning permit under Clause 52.17 of the local planning scheme. For more information see [Native Vegetation \(Clause 52.17\)](#) with local variations in [Native Vegetation \(Clause 52.17\) Schedule](#)

To help identify native vegetation on this property and the application of Clause 52.17 please visit the Native Vegetation Information Management system <https://nvim.delwp.vic.gov.au/> and [Native vegetation \(environment.vic.gov.au\)](http://Native%20vegetation%20(environment.vic.gov.au)) or please contact your relevant council.

You can find out more about the natural values on your property through NatureKit [NatureKit \(environment.vic.gov.au\)](http://NatureKit%20(environment.vic.gov.au))

18 September 2024

Landata

[Landata.online@servictoria.com.au](mailto:Landata.online@servictoria.com.au)

**YOUR REF: 74268438-013-8**

Dear Sir/Madam,

**LOT 1 – 1140 PRINCES HIGHWAY, MOUNT MORIAC**

I refer to your recent request for information with regard to Regulation 51(1) of the Building Regulations 2018 and advise the following in respect of the land or building:

- a) *Details of any permit or certificate of final inspection issued in the preceding 10 years:* **YES**

BP21/24312 – Machinery Shed  
Building Permit Issued 01/09/2021  
Certificate of Final Inspection 30/11/2021

- b) *Details of any current determination made under Regulation 64(1) or exemption granted under Regulation 231(2):* **NONE**
- c) *Details of any current notice or order issued by the relevant building surveyor under the Building Act:* **NONE**

**COUNCIL NOTES:**

- *Effective from 1 December 2019 Victorian legislation requires the registration of private pools and spas with Council, mandatory safety inspections and certification.*

*More information can be found at: [www.surfcoast.vic.gov.au/pools](http://www.surfcoast.vic.gov.au/pools)*

Yours faithfully,

Building Services – Surf Coast Shire Council

18 September 2024

Landata

[Landata.online@servictoria.com.au](mailto:Landata.online@servictoria.com.au)

Your Reference: **74268438-014-5**

Dear Sir/Madam,

**LOT 1 - 1140 PRINCES HIGHWAY, MOUNT MORIAC**

I refer to your recent request for information with regard to Regulation 51 (2) of the Building Regulations 2018 and advise whether the building or land is:

- a) *in an area that is liable to flooding with the meaning of Regulation 5(2) – **NO***
- b) *in an area that is designated under Regulation 150 as an area in which buildings are likely to be subject to attack by termites – **NO**; however, **treatment is recommended** by council;*
- c) *in an area for which a bush fire attack level has been specified in a planning scheme – **NO***

**Note:** This property may be in a **Bushfire Management Overlay** where a bushfire attack level (BAL) has **not** been specified. **Please contact us on 52610600** or visit:

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

This property may also be land designated by the State Government (DELWP) as being in a **Bushfire Prone Area** pursuant to the Building Regulations 2018.

- d) *in an area designated under Regulation 152 as likely to be subject to significant snowfalls – **NO***
- e) *designated land – **NO***
- f) *designated works – **NO***

**COUNCIL NOTES:**

1. A “person in charge” of a building site must adhere to the requirements under Community Amenity Local Law 2021, Part 3.8 & 3.9 – **Managing Building Sites**. Penalties may apply for non- compliance.
2. Before any building or demolition works are undertaken, or site access for such work, an **Asset Protection Permit** must be obtained under Community Amenity Local Law, Part 3.7 – Asset Protection. If a permit is not obtained and upon inspection by Council, damage to Council infrastructure is identified, the builder will be deemed responsible for the costs of rectification. Penalties may apply for non- compliance.
3. A **Works Within a Road Reserve Permit** is required for any works undertaken within the road reserve. This includes but is not limited to, construction of any new urban or rural driveway crossing, service connections and tree removal. See our website: [www.surfcoast.vic.gov.au](http://www.surfcoast.vic.gov.au) for forms and fees.

Yours faithfully,

Building Services – Surf Coast Shire Council



## BUILDING PERMIT

Building Act 1993

Building Regulations 2018 (2 June 2018 & amended 1 July 2018) Regulation 37(1) Form 2

### Property Details

(Site Address) (include title details-as & if applicable)

1140 Princes Highway Mount Moriac 3240

Lot 1 PS 343457N Volume 10355Folio 584

Municipal District

Surfcoast Shire PO Box 350 Torquay 3228

Building Work

Agricultural/Machinery Shed (Non-Domestic Building Work) Class 10a

Issued to (Building Permit Applicant)

Owner Patrick & Mary Kavanagh

ACN NA ABRN NA

Postal Address 6 Augustine Drive Highton 3216

Contact person Patrick Kavanagh ☎ 0438 833 646 E mary.kavanagh1@bigpond.com

Address for serving or giving of documents Owners Address

Ownership Details (if person issued with Building Permit is not the Owner)

Owner Patrick & Mary Kavanagh

ACN NA ABRN NA

Postal Address 6 Augustine Drive Highton 3216

Contact person Patrick Kavanagh ☎ 0438 833 646 E mary.kavanagh1@bigpond.com

### Builder

Owner (Owner Builder) Patrick & Mary Kavanagh

ACN NA ABRN NA

Postal Address 6 Augustine Drive Highton 3216

Contact person Patrick Kavanagh ☎ 0438 833 646 E mary.kavanagh1@bigpond.com

Building Practitioner Registration No. NA

(Builder) Natural person for service of Directions, Notices & Orders (if Builder is a Body Corporate) NA

This Builder is specified under Section 24B(3) Building Act for the building work to be carried out under this Building Permit

### Building Permit Information/Statistical Information (JBSS office use only)

Nature of Work (VBA Information Code) 01 New Building

Building Work Agricultural/Machinery Shed (Non-Domestic Building Work) Class 10a

Use Non-Domestic

BCA NCC/BCA Volume Two 2019

BCA Class 10a

UPI/SPI 1\PS343457

Certificate of Consent NA

Owner Builder Yes

(Flood/FFL)FHA/SBO/LSIO/LLF/S173 NA

Termite Council Designated NA

Planning Permit No & Date NA

Developer/Arch Review NA

Bushfire Prone Area Yes

BAL XMT

Fire related performance solution (frps) NA If Yes reg no. of person who prepared frps NA Fire Eng Name NA

Protection Work No

Stage of Building Permit NA

Total \$ of Project (if Staged) NA

\$ Building Permit \$ 28,000

\$ Warranty Insurance \$ NA

VBA Permit Levy \$ 35.84

Allotment area (apx) 70,560m<sup>2</sup>

Floor area (apx)(new) 162 m<sup>2</sup>

No of stories (Class 1 or 10) 1

Ownership sector P

Municipality 65

Existing dwellings 1

Dwellings demolished 0

New dwellings 0

Floor material 20 External wall cladding material 60 Roof cladding material 60 Frame (wall) material 60

Sustainability Measures (new dwellings only)

Rainwater tank NA

Solar hot water service NA

Draftsperson/Architect NA Registration NA Company NA ☎ NA

Site Address 1140 Princes Highway Mount Moriac 3240

Building Work Agricultural/Machinery Shed (Non-Domestic Building Work) Class 10a

JBSS Project Reference No 2021.158

JBSS Building Permit Reference No 1515.2021.0026.0

VBA (BAMS) Building Permit Number (BPN) 7184 154 804 337

Date of issue of Building Permit 1 September 2021

JUST BUILDING SURVEYING  
SOLUTIONS P/L

- 1 SEP 2021

Document forming part of Building Permit  
Graham Neale BSU 1515

Storeys contained (for Class 2-9 building only) **NA**

Rise in storeys (for Class 2-9 building only) **NA**

Effective height (for Class 2-9 building only) **NA**

Type of Construction (for Class 2-9 building only) **NA**

Version of BCA applicable to Building Permit **NCC/BCA Volume Two 2019**

Stage of Building Work Permitted **All NA**

Cost of building work \$ **28,000**

Total floor area of new building work in m2 **162 m2**

#### **Building Classification**

Part of Building **All**; refer **Building Permit Documents**

Class **10a Non-Domestic Building Work**

#### **Details of Domestic Building Work Insurance**

The issuer or provider of the required insurance policy is

**Not required/NA; 'Non'-Domestic Building Work; refer Section 5 & Section 6 Domestic Building Contracts Act 1995**

#### **Performance Solution**

A Performance Solution was used to determine compliance with the following performance requirements of the BCA that relate to the building to which this Building Permit applies; **NA**

#### **Building Appeals Board Determinations & Orders**

The following determinations and orders of the Building Appeals Board (BAB) relate to the building work to which this permit applies; **NA**

#### **Prescribed Reporting Authorities**

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

#### **Combined Allotment Determination**

A determination has been made under Regulation 64(1) in relation to the building work that is the subject of this Building Permit; **NA**

#### **Subdivision of Existing Building** (delete if inapplicable)

This Building Permit authorises building work that involves the subdivision of an existing building; **NA**

#### **Exemption From, or Consent to Partial Compliance with, certain requirements**

The following exemption from, or a consent to partial compliance with, certain requirements of the Building Regulations 2018 was granted or given under Regulation 229(2), 231(2), 233(3) or 234(2) of the Building Regulations 2018 in relation to the building work to which this Building Permit applies; **NA**

#### **Protection Work**

Protection work is not required in relation to the building work proposed in this Building Permit

#### **Details of relevant Planning Permit**

Surfcoast Shire advises Planning Permit not required **3 August 2021**

#### **Inspection Requirements**

##### **Construction or Alteration of Building**

##### **Regulation 167 Prescribed Mandatory Notification Stages**

The mandatory notification stages (mns) are (if & as applicable);

For the purposes of the definition of mandatory notification stage in Section 3(1) of the Act, in relation to the construction of a new building or alteration to an existing building, the following stages of building work are prescribed

- (a) 'Before placing a **footing**' (on a foundation) including; all excavations, slab on ground i.e 'preslab' or 'pre polythene', 'waffle slab' excavated/prepared 'platform' i.e pre-crushed rock/base & pre polythene, strip footings, foundations, stump-holes, post-holes, pads, piers, swimming pool or spa excavations, retaining wall piers (may also include existing elements/foundations or footings including pads/piers/slab & other if required by design or engineer &/or to be confirmed on site; may also include need to locate & expose position ie offset & depth of any relevant affecting or affected (need to establish the relevant 'angle of repose'-angle typically controlled by soil types-refer any engineering/footing design &/or BCA Volume Two 3.1.1) adjacent/nearby stormwater drains &/or sewers & other services whether in a registered easement or not or even if on an adjacent lot that may impact upon the foundations/footings design & founding depths-refer also any 'consent' to build over an easement or over or within 1.0m of any stormwater drain or sewer
- (b) 'Before pouring an **in situ reinforced concrete member** that is specified in the relevant Building Permit by the Relevant Building Surveyor' including; steel reinforcement re strip footings, pads, 'poly & steel' re slab on ground steel or waffle slab; 'suspended' concrete floor slab or swimming pool or spa

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Site Address **1140 Princes Highway Mount Moriac 3240**

Building Work **Agricultural/Machinery Shed (Non-Domestic Building Work) Class 10a**

JBSS Project Reference No **2021.158**

JBSS Building Permit Reference No **1515.2021.0026.0**

VBA (BAMS) Building Permit Number (BPN) **7184 154 804 337**

Date of issue of Building Permit **1 September 2021**

- (c) 'The completion of **framework**' including load-bearing or non-load bearing timber framing &/or steel framing including; installation of lintels in existing brickwork; prior to 'covering'-open decks/waterproof decks/floors/walls/ceilings/roofs/columns/beams i.e. prior to any floor frame decking/flooring/sheeting &/or roofing/sisalation/cladding &/or wall coverings/linings/sisalation/cladding or other being installed/positioned (may also include existing elements/framing & other if required by design or engineer &/or to be confirmed on site)
- (d) 'During the carrying out of building work specified in the relevant Building Permit by the Relevant Building Surveyor for the purposes of any inspection required by **Regulation 172**'; **NA**
- (e) '**final** on the completion of all building work'

Note that 'mandatory notification stages' may be reached & required to be called more than once in each project

**Building Practitioner or Architect engaged to prepare documents for this Building Permit**

List any Building Practitioner or Architect engaged to prepare documents forming part of the application for this Building Permit

Name **Patrick & Mary Kavanagh**

Category/Class **(Owner) Builder/Non-Registered Building Practitioner**

Registration No. **NA**

Name **George Zuev**

Category/Class **Engineer**

Registration No. **(BLA) PE 0002458**

**Occupancy or Use of Building**

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

**Commencement and Completion**

This building work must commence by **1 September 2022**; if the building work to which this Building Permit applies is not commenced by this date, this Building Permit will lapse unless an extension is applied for and granted by the Relevant Building Surveyor before this date under Regulation 59 of the Building Regulations 2018

This building work must be completed by **1 September 2023**; if the building work to which this Building Permit applies is not completed by this date this Building Permit will lapse, unless an extension is applied for and granted by the Relevant Building Surveyor before this date under Regulation 59 of the Building Regulations 2018

**Documents &/or Considerations**

This Building Permit recognises the following Documents &/or Considerations; refer Appendices;

- A.1 Design Documents Considered &/or Recognised in Building Permit
- A.2 Reference Documents Considered &/or Recognised in Building Permit
- B. Assessment Considerations

**Conditions**

This Building Permit is subject to the following Conditions (& General Advice & Notes); refer Appendices;

- B. Assessment Considerations
- C. Conditions (& General Advice & Notes)

**Appendices**

- A.1. Design Documents Considered &/or Recognised in Building Permit
- A.2. Reference Documents Considered &/or Recognised in Building Permit
- B. Assessment Considerations
- C. Conditions (& General Advice & Notes)
- D. Amendment to Building Permit &/or Building Work
- E. Completion/Certificate of Final Inspection or Occupancy Permit Requirements

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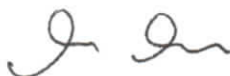
Site Address **1140 Princes Highway Mount Moriac 3240**  
 Building Work **Agricultural/Machinery Shed (Non-Domestic Building Work) Class 10a**  
 JBSS Project Reference No **2021.158**

JBSS Building Permit Reference No **1515.2021.0026.0**  
 VBA (BAMS) Building Permit Number (BPN) **7184 154 804 337**  
 Date of issue of Building Permit **1 September 2021**

**Relevant Building Surveyor**

Date of issue of Building Permit (Building Permit No & Date of issue of Building Permit; refer footer section)  
**1 September 2021**

Signature



**Graham Neale**  
**Registered Building Practitioner**  
**Building Surveyor-Unlimited (BS-U 1515)**  
**Relevant Building Surveyor**  
**Just Building Surveying Solutions Pty Ltd**

**Copy**

Owner Builder, Council & JBSS

**Appendix A.1**

**'Design' Documents 'Considered'/'Recognised' in Building Permit include;**

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Architectural/Working Drawings  
Site plan x 2

Engineering/Structural Design  
Drawings; 1-18; Established Building Designs ; refer COCPBW  
Computations; Technibuild; refer COCPBW  
Certificate of Compliance for Proposed Building Work (COCPBW); 13 August 2021; Technibuild; George Zuev

**Appendix A.2**

**'Reference' Documents 'Considered'/'Recognised' in Building Permit include;**

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Building Permit Transmittal to Council  
Refer Building Permit documents

Building Permit Cover Letter  
Refer Building Permit (informative; for general advice/information)

Building Permit  
Refer Building Permit

Graham Neale as Relevant Building Surveyor Offer/Acceptance of Appointment  
Refer Building Permit documents

Building Permit Application Form  
Refer Building Permit documents

Copy of Title/RSS/Plans/Docs  
Refer Building Permit documents

Aerial/site &/or street &/or adjacent site &/or building work photos &/or 'Google' or other  
Refer Building Permit documents

Owner Builder \$ Value Estimate Information/ Sheet & RBS Determination  
Refer Building Permit documents

VBA Registration Certificate &/or ARBV Registration Certificate &/or VBA/ARBV website registration extracts  
Engineer Civil (BLA) PE

Planning Permit/Planning Permit Plans/Secondary Consent/Planning Permit Amendment/Planning Approval  
Record of discussion/advice from Council Planning Permit not required  
Planning Scheme Mapping & Zone & Overlay & other relevant provisions  
Refer Building Permit documents

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Site Address **1140 Princes Highway Mount Moriac 3240**  
Building Work **Agricultural/Machinery Shed (Non-Domestic Building Work) Class 10a**  
JBSS Project Reference No **2021.158**

JBSS Building Permit Reference No **1515.2021.0026.0**  
VBA (BAMS) Building Permit Number (BPN) **7184 154 804 337**

Date of issue of Building Permit **1 September 2021**

Bushfire Prone Area/AS3959  
Bushfire Prone Area Mapping  
In Bushfire Prone Area; but as '... garage, carport, or similar roofed structure ...' >6.0m to Dwelling; nil BAL construction requirements apply  
Refer AS3959 Clause 3.2.3  
Refer Building Permit documents

## Appendix B 'Assessment Considerations'

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**Building Regulations 2018 (2 June 2018) & NCC/(BCA 2019) (1 May 2019)**  
**Nil Statement Section 10 Building Act 1993**  
**'Substantial progress was (not) made on design of the building' pre-BCA 2019 (1 May 2019)**  
**Building Regulations 2018 & NCC/BCA 2019 to apply**

Nil Section 10 Statement. As may generally be described (dates etc) on documents submitted; including (any preliminary) architectural plans, engineering design or other including any Planning Permit Application/Planning Permit/approvals/documentation/information the time frames &/or dates as to when 'substantial progress was (not) on made on the design of the building' has been contemplated by JBSS as to determine which (if any previous) 'Building Regulations' as may be amended &/or which year/version of the BCA (that may also include amended &/or new Australian Standards & other) (as & if applicable) is to apply for the purposes of Building Permit Application assessment & Building Permit issue & the building work; therefore & as a matter of record it is considered by Graham Neale as Relevant Building Surveyor that the provisions of the Building Regulations 2018 (as amended) & BCA 2019 (as amended) are to apply in respect of the building work recognised & authorised under this Building Permit.

**Plans/docs/information/Building Permit/Regulations 24(4) & 27 Building Regulations 2018**  
Plans/docs/information as submitted are generally considered to give adequate detail; Building Regulations 2018 Regulation 24(4) Applications for Building Permits; requires; 'An application for a Building Permit must contain sufficient information to show that the proposed building work will comply with the Act & these Regulations' ie to be of sufficient clarity/accuracy/detail/specivity & quality to evidence that the building work will comply with the relevant provisions of the Building Act 1993 &/or Building Regulations &/or BCA; inadequate &/or generic or standard notes or stating AS or BCA references is likely not sufficient; notwithstanding the above & as a matter of necessity & record the 'plans/docs/information' when approved may not show all &/or every single specific compliance matter, component, material, fitting, system &/or detail & furthermore should not be interpreted as detailing all aspects of construction &/or compliance. Furthermore it is noted that the level of specification may not be suitable/adequate in terms of contract requirements &/or expectations of Owners &/or Builders; notwithstanding the above due regard in issuance of the Building Permit has been had to Regulation 27 Exemption from application requirements for certain building work & dependent on the nature &/or scope/complexity of the proposed building work; Regulation 27 Exemption from application requirements; 'The relevant building surveyor may exempt an application for a building permit in respect of building work from any requirement under regulation 25 (construct or alter) or 26 (demolish or remove) which the relevant building surveyor considers is not required to demonstrate that the building work will comply with the Act and these Regulations'; it is noted that there is nil guidance &/or Practice Note from the VBA in applying Regulation 25.

### **Encumbrances, Caveats &/or Notices/'Restrictive' Covenants**

The lot/building work/use/development maybe be subject to a range of encumbrances, caveats &/or notices; refer title & title referenced documents; including any 'restrictive' covenants/restriction & other that may restrict or control the lot/building work/use/development whether existing or proposed including but not limited to 'design &/or material covenants' & a broad range of other matters; as a matter of record the issuance of a Building Permit cannot be refused or 'held up' under any provisions of the Building Act 1993 &/or Building Regulations 2006 if any such 'non-compliance'; notwithstanding any such matters should be fully considered (by the Owner) & if unclear as to compliance or not obtain clear written legal advice; the issuance of any Building Permit should not & cannot be taken as somehow authorizing any potential 'non-compliance'. Generally & subject to independent legal advice the party who owns the land which has the benefit of a restriction covenant/restriction has the ability to enforce it; furthermore an application may be made to the Supreme Court for an injunction &/or damages; actions may need to be taken quickly as the Court may consider that the benefitting party has acquiesced to the breach or given implied consent to the breach.

## Appendix C Conditions (& General Advice & Notes) Building Permit is subject to the following 'Conditions' (refer Section 19 Building Act 1993)

---

1. Site access permit. A 'site access permit' or equivalent consent or approval may be required from the relevant Council and a fee or security may need to be paid under a Local Law of the relevant Council.
2. Site drainage/during all stages of construction/from commencement of any site preparation or site cut or at/pre slab or strip or other foundation preparation &/or footing construction; surface drainage (including on 'reactive'/clay sites) shall be designed and constructed & maintained to avoid water ponding against or near the footing; the ground in the immediate vicinity of the perimeter footing, including the ground uphill from any slab &/or on cut-and-fill sites shall be **graded to fall 50 mm minimum away from the footing**

Site Address **1140 Princes Highway Mount Moriac 3240**  
Building Work **Agricultural/Machinery Shed (Non-Domestic Building Work) Class 10a**  
JBSS Project Reference No **2021.158**

JBSS Building Permit Reference No **1515.2021.0026.0**  
VBA (BAMS) Building Permit Number (BPN) **7184 154 804 337**  
Date of issue of Building Permit **1 September 2021**

over a distance of 1.0m and shaped to prevent ponding of water; where filling is placed adjacent to the building the filling shall be compacted and graded to ensure drainage of water away from the building; alternative drainage systems may be required re zero lot line construction.

3. Stormwater/rural lot/Shed etc. Stormwater form roof drainage system to discharge including any overflow from rainwater tanks away from the building & 'downhill' and as to not affect any other buildings or any lot in another ownership.
4. Copy of Building Permit documents/on site. Pursuant to the provisions of Regulation 41(1) Building Regulations 2018 the Builder named on the Building Permit must ensure that a copy of the Building Permit & including one set of all endorsed Building Permit plans, specifications, computations, engineering designs, soil report & any other 'approved' &/or 'considered/'recognised' &/or otherwise related to the Building Permit plans/docs/information are available for inspection at the allotment concerned while the building work to which the Building Permit applies is being carried out on the allotment. Note that a prescribed penalty of 10 penalty units applies in respect of non-compliance. The VBA advise; Where are the documents to be kept? The documents may be kept in a container, site power box, or another secure location as agreed by all parties. It is a matter for the builder to determine depending on the site and type of building work being undertaken. However, the documents must be able to be accessed even when the builder is not present, while building work is being carried out. Who are the documents available for? Documents are to be available for inspection. Therefore, the documents are for Inspectors, Surveyors, VBA Inspectors, Municipal Building Surveyors, and any other parties who have an inspection right under the Building Act 1993.
5. Sign on site/display of Building Permit information. Pursuant to the provisions of Regulation 41(2) Building Regulation 2018 the Builder named on the Building Permit must ensure that (a) the following information is displayed on the allotment to which the permit relates in a conspicuous position accessible to the public before the commencement of the building work to which the permit applies (including demolition or removal of a building on the allotment)-(i) the registration numbers and contact details of the builder and the relevant building surveyor; (ii) the building permit number and the date of issue of the permit; and (b) the information referred to in paragraph (a) continues to be displayed and remains visible and legible for the duration of the building work. Note that a prescribed penalty of 10 penalty units applies in respect of non-compliance.
6. Certificates of Electrical Safety. Certificates of Electrical Safety should be provided to JBSS at Certificate of Final Inspection/Occupancy Permit stage.
7. Certificates of Plumbing Compliance. Certificates of Plumbing Compliance must be provided to JBSS at Certificate of Final Inspection/Occupancy Permit stage including; roof plumbing including above ground stormwater drainage, sanitary, stormwater below ground, sewer, hot & cold water, gasfitting-type A & other, refrigerated air-conditioning, solar installation & rainwater tank installation.
8. Certificate of Final Inspection/completion. Advise JBSS in writing when the building work authorised by this Building Permit is complete. It is important for the Owner/Builder/Relevant Building Surveyor & others and for a number of reasons including liability provisions and time frame provisions that any required Certificate of Final Inspection is issued asap.

#### **Appendix D** **'Amendment' to Building Permit &/or Building Work**

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Request from JBSS an 'Application for Amendment-Building Permit Application/Building Permit &/or Building Work Form'

Any proposed to be amended building work or amendment to Building Permit &/or any building work requires a formal application to JBSS/Graham Neale along with JBSS Amendment Application Form & Fees (tba) & all relevant plans/documents/information lodged & to be assessed & (if) approved prior to execution of any such building work/amendment; ensure adequate time frames are provided for lodging, assessing &/or approval of any Amendment Application; allow a minimum of 7 days for JBSS assessment

An amendment (variation) to a Building Permit Application or Building Permit &/or building work may include; 'correction' of a 'slip or clerical or administrative error' by JBSS or others; alterations to Owners or Builders & others names &/or details, new or altered Builder or registered practitioner or Architect engagements, amending building work, varying building work, 'minor additional new building work', reducing or re-scoping or deleting building work; changes to methods/designs/materials/specifications, building work (part) not to be executed including building work not to be completed within Building Permit completion periods; application to extend to building work commence period &/or completion period-typically 12 months to commence & 24 months to complete domestic building work-refer Building Permit for specific provisions; if seeking JBSS approval of extending Building Permit commencement or completion periods a separate application form & fees applies

Any 'new' building work is not able to be considered as an amendment & a new Building Permit Application/new separate Building Permit & new plans/docs/information along with full new/additional Building Permit Application fees/disbursements/levies will apply; as determined by JBSS; refer & review VBA Practice Note 21 Building Permit Amendment & check with JBSS pre any submission as to what may be considered by JBSS as 'new' building work & trigger a new Building Permit Application/Building Permit; JBSS to advise upon submission

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Site Address **1140 Princes Highway Mount Moriac 3240**  
Building Work **Agricultural/Machinery Shed (Non-Domestic Building Work) Class 10a**  
JBSS Project Reference No **2021.158**

JBSS Building Permit Reference No **1515.2021.0026.0**

VBA (BAMS) Building Permit Number (BPN) **7184 154 804 337**

Date of issue of Building Permit **1 September 2021**

Amended plans/specifications/documents/forms/certification/information will only be accepted by JBSS when prepared by 'original' Author/Designer/Draftsperson or Architect/Engineer; any amended plans/specifications/documents/forms/certification/information will need to also be reflected/amended in other relevant 'affected' plans/specifications/documents/forms/certification or consents/approvals/permits

Ensure all plans/documents/information as amended to be lodged with JBSS clearly describes/lists the nature & extent of the proposed amendment on the plans/documents/information

#### **Appendix E**

#### **Completion/Certificate of Final Inspection or Occupancy Permit Requirements**

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Either a Certificate of Final Inspection or Occupancy Permit as is stated on the Building Permit must be issued prior to any use/occupancy; it is an offence to use/occupy the building/building work in conflict with the requirements of the Building Permit without the required Certificate of Final Inspection or Occupancy Permit.

A single Certificate of Final Inspection only can/will be issued in respect of all &/or any of the building work authorized by the Building Permit.

The following certificates/reports/statements &/or additional plans/documents/information may be required during construction or after Building Permit issue &/or pre any Final Inspection/Certificate of Final Inspection or Occupancy Permit (as & if applicable)

Compliance Certificates (Plumbing) (CCP); (mandatory for Occupancy Permit (OP)) that all/any relevant CCP be provided/sighted to JBSS at time of requesting Certificate of Final Inspection/Occupancy Permit; although not mandatory for all/any relevant CCP to be provided by Relevant Building Surveyor re a COFI note that all/any relevant CCP are still required to be issued but not necessarily provided/sighted by Relevant Building Surveyor; notwithstanding it is good & expected industry practice & VBA furthermore suggests that all/any relevant CCP be provided to the Relevant Building Surveyor re OP or COFI; including re; roofing (stormwater) plumbing including all sheet metal roofs/gutters/flashings & above ground stormwater drainage, sanitary, stormwater below ground, sewer, hot & cold water, gasfitting-type A & other, refrigerated air-conditioning, solar installation & rainwater tank installation; ensure Plumber provides Compliance Certificates (Plumbing) within 7 days of completion; refer Regulation 186 Building Regulations 2018. Ensure all relevant work is accurately detailed & site address/unit no. (as per Building Permit) is clearly & correctly recorded. In the absence of any CCP including if the aggregate \$ value of plumbing work including 'labour & materials' is <\$ 750.00 & including if roof &/or stormwater water plumbing to submit to JBSS evidence from VBA registered/licensed plumber the that all plumbing work executed by VBA registered/licensed plumber

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Site Address **1140 Princes Highway Mount Moriac 3240**  
Building Work **Agricultural/Machinery Shed (Non-Domestic Building Work) Class 10a**  
JBSS Project Reference No **2021.158**

JBSS Building Permit Reference No **1515.2021.0026.0**  
VBA (BAMS) Building Permit Number (BPN) **7184 154 804 337**  
Date of issue of Building Permit **1 September 2021**

**CERTIFICATE OF FINAL INSPECTION**

Building Act 1993

Building Regulations 2018 Regulation 200 Form 17

Property Details/Site Address

**1140 Princes Highway Mount Moriac 3240**

**Lot 1 PS 343457N Volume 10355 Folio 584**

Municipal District **Surfcoast Shire PO Box 350 Torquay 3228**

Copy **Patrick & Mary Kavanagh 6 Augustine Drive Highton 3216**

Copy **Surfcoast Shire PO Box 350 Torquay 3228**

**Building Permit Details**

Building Permit Number; refer 'footer section'

Version of BCA applicable to Building Permit; **BCA Volume Two 2019**

**Description of Building Work**

Part of building; **All**; refer **Building Permit plans/documents/information**

Permitted use; **Agricultural/Machinery Shed (Non-Domestic Building Work)**

BCA Class; **10a**

**Maintenance Determination**

A maintenance determination is not required to be prepared in accordance with Regulation 215 of the Building Regulations 2018

**Direction to fix building work**

All directions to fix building work under Part 4 of the Building Regulations 2018 have been complied with

**Notes/Conditions (Informative)**

Nil

**Certificate of Final Inspection (Informative)**

Pursuant to Section 38 (2) Building Act 1993 a Certificate of Final Inspection is not evidence that the building or building work concerned complies with the Building Act 1993 &/or Building Regulations.

Date of issue of Certificate of Final Inspection

**30 November 2021**

Signature



**Graham Neale**

**Relevant Building Surveyor**

**Registered Building Practitioner**

**Building Surveyor-Unlimited 1515 (BS-U 1515)**

**Just Building Surveying Solutions Pty Ltd**

☎ **0417 377 113**

E **graham@jbss.com.au**

W **www.jbss.com.au**



## SECTION 137B

On Domestic Building Work under Section 137B of the Building Act 1993 [Owner Builder Construction]

Application Number: 51122

## OWNER/BUILDER INSPECTION REPORT

This inspection report has been prepared for: Patrick & Mary Kavanagh

### Owner Details:

Name **Patrick & Mary Kavanagh**  
Telephone **0438 833 646**  
Email **mary.kavanagh1@bigpond.com**  
Address **6 Augustine Drive, Highton VIC 3216**

### Property Details:

**Site Address** 1140 Princes Highway Mount Moriac Vic 3240

### Weather condition at the time of inspection

Fine  Cloudy  Wet  Windy

**Building permit number & date of issue:** (BPN) 7184154804337 issued 1<sup>st</sup> September 2021

### Statutory inspection dates:

Footing 4/11/2021  
Frame 30/11/2021  
Final 30/11/2021

**Inspector Details:** Graham Neale BS-U1515

**Certificate of final number & date:** N2021.158 dated 30<sup>th</sup> November 2021

### General description of building work covered by this report:

Agricultural/Machinery Shed

### General summary of inspection:

Inspection of a steel framed and clad farm shed

## DETAILS OF REPORT

### LEGEND: Defect rating

✓ No visible defect	D Defect	NV Not visible
M Maintenance	NA Not applicable	NC Non-completion

### Shed

Floor	✓	Walls	✓	Roof	✓
Dampness	NA	Doors	NA	Windows	NA
Ventilation	NA	Cupboards	NA	Slab infill	✓
Electrical wiring	NA	Plumbing	✓	Frame	✓
Smoke Alarms	NA				

## SUMMARY OF DEFECTS

The items listed below are a summary of defects based on the checklist. Minor items listed are considered of an ongoing nature for a home or age and condition and should be address and rectified as and under the general maintenance for the home.

### 1.0 Defects

Nil

### 2.0 Incomplete Works

Not applicable

### 3.0 Inaccessible Areas

Not applicable

### 4.0 Second-hand Materials

Not applicable

### 5.0 Exemptions & Qualifications

This report shall not be altered or adjusted in anyway shape or form without the written authorization of the author.

The report does not include advise on termite or pest infestation or the presence of hazardous materials.

The report has been prepared for the owner of the building at the date of the report.

This Report does not cover compliance with any other Act or Regulations, including planning, heritage etc.

This report is valid for only 60 days, at the expiry of which a further inspection is required.

This inspection report is undertaken to comply with the requirements of Section 137B of the Building Act 1993.  
(Owner Builder Construction)

#### Inspector Details

Name:

**Peter Shaw**

Address:

**Level 1, 649 Bridge Road Richmond, Victoria 3121**

Email:

**peters@bsgm.com.au**



Building practitioner registration no.:

**BS-U1283**

**Date of Inspection:** 18/11/2023

**Date of Report:** 23/11/2023



## LAND INFORMATION CERTIFICATE

Section 229 Local Government Act 1989

**Assessment Number:** 7080  
**Certificate Number:** 37157  
**Issue Date:** 19/09/2024

**Property Location:** 1140 Princes Highway MOUNT MORIAC 3240

**Legal Description:** LOT: 1 PS: 343457

**Capital Improved Value:** \$1,530,000  
**Site Value:** \$1,270,000  
**Net Annual Value:** \$76,500

The level of values date is 1 January 2024 and became operative for rating purposes on 1 July 2024.

### RATES CHARGES AND OTHER MONIES:

Rates, Charges & Levies (for period 1 July 2024 to 30 June 2025)	
Rates General	\$2,111.55
Municipal Charge	\$231.00
Garbage Rural	\$461.00
Residential FSPL Fixed Charge	\$132.00
Residential FSPL Variable Charge	\$133.11
Arrears to 30/06/2024:	\$0.00
Interest to 22/07/2024:	\$0.00
Adjustments:	\$0.00
Less Pensioner Rebates:	\$0.00
Payments/Adjustments Made:	\$0.00
<b>Balance of rates and charges owed:</b>	<b><u>\$3,068.66</u></b>
<b>Additional Monies Owed:</b>	
<b>Debtor Balance Owing</b>	
<b>Special Rates and Charges:</b>	
nil	
nil	
<b>Total rates and charges/additional monies owed:</b>	<b>\$3,068.66*</b>

In accordance with section 175(1) & (2) Local Government Act 1989, a person who becomes the owner of rateable land must pay any rate or charge on the land which is current and any arrears of rates or charges (including any interest on those rates or charges) on the land, which is due and payable. OVERDUE AMOUNTS ACCRUE INTEREST ON A DAILY BASIS AT 10.00% P.A.

**Please call (03) 5261 0600 to confirm the outstanding balance prior to making any payments to avoid under/over payments.**

Rate instalments are due 30 September 2024, 30 November 2024, 28 February 2025 and 31 May 2025.

## MISCELLANEOUS INFORMATION

### Fire Services Property Levy (FSPL)

The Fire Services Property Levy is a property-based levy removed from insurance premiums from 1 July 2013 and will be collected with Council rates. All funds collected go to the Victorian State Government to support fire services. For more information refer to [www.firelevy.vic.gov.au](http://www.firelevy.vic.gov.au).

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## IMPORTANT INFORMATION

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

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

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A verbal update of information included in this Certificate will be provided for up to two (2) months after date of issue but Council accepts no responsibility whatsoever for the accuracy of the verbal information given and no employee of the Council is authorised to bind Council by the giving of such verbal information.

For settlement purposes after two (2) months a new Certificate must be applied for.

Please note the payments are subject to clearance of any cheque.

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PAY Telephone & Internet Payment Option – BPAY®

**Biller Code:** 34199

**Reference Number:** 70808

Make this payment via internet or phone banking from your cheque or savings account. Quote the **Biller Code** and **Reference Number** indicated above.

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

COORDINATOR REVENUE

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Your Reference: 74268438 012 1

Landata  
PO Box 500  
EAST MELBOURNE VIC 8002

## Information Statement Part A

In accordance with Section 158 of the Water Act 1989  
(Should be Read in Conjunction with Part B)

**INSTALLATION NUMBER:** 18302622      **APPLICATION NUMBER:** 475374      **DATE:** 17/09/2024  
**PROPERTY ADDRESS:** 1140 PRINCES HWY, MOUNT MORIAC, VIC 3240  
**YOUR REFERENCE:** 320478  
**OWNER:** P A & M B Kavanagh  
**COMMENTS:** **Comments**

The following service charges are applicable for the abovenamed property for the period 01/07/2024 to 30/09/2024. These charges are itemised separately to allow a pro-rata adjustment, and will not appear as due and payable below if they have already been paid.

		Value	GST	Price
Total Service Charge	\$	0.00	0.00	0.00

Barwon Region Water Corporation hereby certifies that the following Charges and Interest are due and payable to it in respect of the abovenamed property.

### Charges Due & Payable

		Value	GST	Price
<b>TOTAL DUE</b>	<b>\$</b>	<b>NIL</b>	<b>NIL</b>	<b>NIL</b>

### Important Information

THERE ARE NO METERS AFFIXED TO THIS PROPERTY.

The information statement will also provide details of other charges, including any unpaid amounts. In order to ensure this is accurate close to the time of settlement, you can request an Information Statement update by going to [Information statement update](#) or by visiting Properties and development – Information statement update page on our website or by calling 1300 656 007.

In accordance with Section 275 of the Water Act 1989, a person who becomes the owner of a property must pay to Barwon Water at the time the person becomes the owner of the property, any amount that is due to Barwon Water as a charge on that property.

To effect a change of ownership, details of the sale are required by Notice of Disposition or Acquisition to Barwon Water, P.O. Box 659, Geelong Vic 3220.

\* **PLEASE NOTE:** Verbal confirmation will not be given after 16/11/2024. Barwon Water will not be held responsible for information provided verbally. For settlement purposes another certificate should be obtained after 16/11/2024 and a fee will be payable.

If the property to be purchased is vacant land, any proposed building will attract connection fees and/or contribution fees. To find out more detail on these please contact Barwon Water on 1300 656 007.

Manager Customer Centre

# *Information Statement Part B*

*In accordance with Section 158 of the Water Act 1989  
(Should be Read in Conjunction with Part A)*

17-09-2024

Mills Oakley Lawyers Sydney C/- InfoTrack (Major Accounts) C/- LANDATA  
Two Melbourne Quarter, Level 13, 697 Collins Street  
Docklands

Property: 1140 PRINCES HIGHWAY MOUNT MORIAC 3240

I refer to your application received at this office on 17/09/2024. I wish to advise no encumbrances or easements related to Barwon Water works exist in respect of the above property, other than those that may be revealed by normal Title search, and no Notices or Orders presently remain outstanding relative to the connection of water supply and/or sewerage services.

Should you have any inquiries, please contact Barwon Water on 1300 656 007.

**Our Ref:** EC475374

**Your Ref:** 320478

**Agent Ref:** 74268438-020-6

Yours faithfully.

Manager Customer Centre

# Property Clearance Certificate

## Land Tax



INFOTRACK / MILLS OAKLEY LAWYERS SYDNEY

**Your Reference:** 6243517

**Certificate No:** 79951254

**Issue Date:** 17 SEP 2024

**Enquiries:** ESYSPROD

**Land Address:** 1140 PRINCES HIGHWAY MOUNT MORIAC VIC 3240

Land Id	Lot	Plan	Volume	Folio	Tax Payable
7043263	1	343457	10355	584	\$0.00

**Vendor:** MARY BERNADETTE KAVANAGH & PATRICK ALPHONS KAVANAGH

**Purchaser:** FOR INFORMATION PURPOSES

Current Land Tax	Year	Taxable Value	Proportional Tax	Penalty/Interest	Total
MR PATRICK ALPHONSUS KAVANAGH	2024	\$1,220,000	\$0.00	\$0.00	\$0.00

**Comments:** Property is exempt: LTX primary production land.

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

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

**Paul Broderick**  
Commissioner of State Revenue

CAPITAL IMPROVED VALUE: \$1,450,000

SITE VALUE: \$1,220,000

**CURRENT LAND TAX CHARGE: \$0.00**

# Notes to Certificate - Land Tax

Certificate No: 79951254

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## Power to issue Certificate

1. Pursuant to section 95AA of the *Taxation Administration Act 1997*, the Commissioner of State Revenue must issue a Property Clearance Certificate (Certificate) to an owner, mortgagee or bona fide purchaser of land who makes an application specifying the land for which the Certificate is sought and pays the application fee.

## Amount shown on Certificate

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

## Land tax is a first charge on land

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

## Information for the purchaser

4. Pursuant to section 96 of the *Land Tax Act 2005*, if a purchaser of the land described in the Certificate has applied for and obtained a certificate, the amount recoverable from the purchaser by the Commissioner cannot exceed the amount set out in the certificate, described as the "Current Land Tax Charge" overleaf. A purchaser cannot rely on a Certificate obtained by the vendor.

## Information for the vendor

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

## Apportioning or passing on land tax to a purchaser

6. A vendor is prohibited from apportioning or passing on land tax to a purchaser under a contract of sale of land entered into on or after 1 January 2024, where the purchase price is less than \$10 million (to be indexed annually from 1 January 2025, as set out on the website for Consumer Affairs Victoria).

## General information

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

## For Information Only

LAND TAX CALCULATION BASED ON SINGLE OWNERSHIP

Land Tax = \$6,630.00

Taxable Value = \$1,220,000

Calculated as \$4,650 plus ( \$1,220,000 - \$1,000,000 ) multiplied by 0.900 cents.

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## Land Tax - Payment Options

**BPAY**



Billers Code: 5249  
Ref: 79951254

**Telephone & Internet Banking - BPAY®**

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

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

**CARD**



Ref: 79951254

**Visa or Mastercard**

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

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



# Property Clearance Certificate

## Commercial and Industrial Property Tax



INFOTRACK / MILLS OAKLEY LAWYERS SYDNEY

Your Reference: 6243517

Certificate No: 79951254

Issue Date: 17 SEP 2024

Enquires: ESYSPROD

Land Address: 1140 PRINCES HIGHWAY MOUNT MORIAC VIC 3240

Land Id	Lot	Plan	Volume	Folio	Tax Payable
7043263	1	343457	10355	584	\$0.00
AVPCC	Date of entry into reform	Entry interest	Date land becomes CIPT taxable land	Comment	
117	N/A	N/A	N/A	The AVPCC allocated to the land is not a qualifying use.	

This certificate is subject to the notes found on the reverse of this page. The applicant should read these notes carefully.

**Paul Broderick**  
Commissioner of State Revenue

CAPITAL IMPROVED VALUE:	\$1,450,000
SITE VALUE:	\$1,220,000
CURRENT CIPT CHARGE:	\$0.00

# Notes to Certificate - Commercial and Industrial Property Tax

Certificate No: 79951254

## Power to issue Certificate

1. Pursuant to section 95AA of the *Taxation Administration Act 1997*, the Commissioner of State Revenue must issue a Property Clearance Certificate (Certificate) to an owner, mortgagee or bona fide purchaser of land who makes an application specifying the land for which the Certificate is sought and pays the application fee.

## Amount shown on Certificate

2. The Certificate shows any commercial and industrial property tax (including interest and penalty tax) that is due and unpaid on the land described in the Certificate at the date of issue.

## Australian Valuation Property Classification Code (AVPCC)

3. The Certificate may show one or more AVPCC in respect of land described in the Certificate. The AVPCC shown on the Certificate is the AVPCC allocated to the land in the most recent of the following valuation(s) of the land under the *Valuation of Land Act 1960*:
  - a general valuation of the land;
  - a supplementary valuation of the land returned after the general valuation.
4. The AVPCC(s) shown in respect of land described on the Certificate can be relevant to determine if the land has a qualifying use, within the meaning given by section 4 of the *Commercial and Industrial Property Tax Reform Act 2024* (CIPT Act). Section 4 of the CIPT Act Land provides that land will have a qualifying use if:
  - the land has been allocated one, or more than one, AVPCC in the latest valuation, all of which are in the range 200-499 and/or 600-699 in the Valuation Best Practice Specifications Guidelines (the requisite range);
  - the land has been allocated more than one AVPCC in the latest valuation, one or more of which are inside the requisite range and one or more of which are outside the requisite range, and the land is used solely or primarily for a use described in an AVPCC in the requisite range; or
  - the land is used solely or primarily as eligible student accommodation, within the meaning of section 3 of the CIPT Act.

## Commercial and industrial property tax information

5. If the Commissioner has identified that land described in the Certificate is tax reform scheme land within the meaning given by section 3 of the CIPT Act, the Certificate may show in respect of the land:
  - the date on which the land became tax reform scheme land;
  - whether the entry interest (within the meaning given by section 3 of the Duties Act 2000) in relation to the tax reform scheme land was a 100% interest (a whole interest) or an interest of less than 100% (a partial interest); and
  - the date on which the land will become subject to the commercial and industrial property tax.
6. A Certificate that does not show any of the above information in respect of land described in the Certificate does not mean that the land is not tax reform scheme land. It means that the Commissioner has not identified that the land is tax reform scheme land at the date of issue of the Certificate. The Commissioner may identify that the land is tax reform scheme land after the date of issue of the Certificate.

## Change of use of tax reform scheme land

7. Pursuant to section 34 of the CIPT Act, an owner of tax reform scheme land must notify the Commissioner of certain changes of use of tax reform scheme land (or part of the land) including if the actual use of the land changes to a use not described in any AVPCC in the range 200-499 and/or 600-699. The notification

must be given to the Commissioner within 30 days of the change of use.

## Commercial and industrial property tax is a first charge on land

8. Commercial and industrial property tax (including any interest and penalty tax) is a first charge on the land to which the commercial and industrial property tax is payable. This means it has priority over any other encumbrances on the land, such as a mortgage, and will continue as a charge even if ownership of the land is transferred. Therefore, a purchaser may become liable for any unpaid commercial and industrial property tax.

## Information for the purchaser

9. Pursuant to section 27 of the CIPT Act, if a bona fide purchaser for value of the land described in the Certificate applies for and obtains a Certificate in respect of the land, the maximum amount recoverable from the purchaser is the amount set out in the Certificate. A purchaser cannot rely on a Certificate obtained by the vendor.

## Information for the vendor

10. Despite the issue of a Certificate, the Commissioner may recover a commercial and industrial property tax liability from a vendor, including any amount identified on this Certificate.

## Passing on commercial and industrial property tax to a purchaser

11. A vendor is prohibited from apportioning or passing on commercial and industrial property tax to a purchaser under a contract of sale of land entered into on or after 1 July 2024 where the purchase price is less than \$10 million (to be indexed annually from 1 January 2025, as set out on the website for Consumer Affairs Victoria).

## General information

12. Land enters the tax reform scheme if there is an entry transaction, entry consolidation or entry subdivision in respect of the land (within the meaning given to those terms in the CIPT Act). Land generally enters the reform on the date on which an entry transaction occurs in respect of the land (or the first date on which land from which the subject land was derived (by consolidation or subdivision) entered the reform).
13. The Duties Act includes exemptions from duty, in certain circumstances, for an eligible transaction (such as a transfer) of tax reform scheme land that has a qualifying use on the date of the transaction. The exemptions apply differently based on whether the entry interest in relation to the land was a whole interest or a partial interest. For more information, please refer to [www.sro.vic.gov.au/CIPT](http://www.sro.vic.gov.au/CIPT).
14. A Certificate showing no liability for the land does not mean that the land is exempt from commercial and industrial property tax. It means that there is nothing to pay at the date of the Certificate.
15. An updated Certificate may be requested free of charge via our website, if:
  - the request is within 90 days of the original Certificate's issue date, and
  - there is no change to the parties involved in the transaction for which the Certificate was originally requested.

# Property Clearance Certificate

## Windfall Gains Tax



INFOTRACK / MILLS OAKLEY LAWYERS SYDNEY

Your Reference: 6243517

Certificate No: 79951254

Issue Date: 17 SEP 2024

Land Address: 1140 PRINCES HIGHWAY MOUNT MORIAC VIC 3240

Lot	Plan	Volume	Folio
1	343457	10355	584

Vendor: MARY BERNADETTE KAVANAGH & PATRICK ALPHONS KAVANAGH

Purchaser: FOR INFORMATION PURPOSES

WGT Property Id	Event ID	Windfall Gains Tax	Deferred Interest	Penalty/Interest	Total
		\$0.00	\$0.00	\$0.00	\$0.00

Comments: No windfall gains tax liability identified.

This certificate is subject to the notes that appear on the reverse. The applicant should read these notes carefully.

**CURRENT WINDFALL GAINS TAX CHARGE:**

**\$0.00**

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

**Paul Broderick**  
Commissioner of State Revenue

# Notes to Certificate - Windfall Gains Tax

Certificate No: 79951254

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## Power to issue Certificate

1. Pursuant to section 95AA of the *Taxation Administration Act 1997*, the Commissioner of State Revenue must issue a Property Clearance Certificate (Certificate) to an owner, mortgagee or bona fide purchaser of land who makes an application specifying the land for which the Certificate is sought and pays the application fee.

## Amount shown on Certificate

2. The Certificate shows in respect of the land described in the Certificate:
  - Windfall gains tax that is due and unpaid, including any penalty tax and interest
  - Windfall gains tax that is deferred, including any accrued deferral interest
  - Windfall gains tax that has been assessed but is not yet due
  - Windfall gains tax that has not yet been assessed (i.e. a WGT event has occurred that rezones the land but any windfall gains tax on the land is yet to be assessed)
  - Any other information that the Commissioner sees fit to include such as the amount of interest accruing per day in relation to any deferred windfall gains tax.

## Windfall gains tax is a first charge on land

3. Pursuant to section 42 of the *Windfall Gains Tax Act 2021*, windfall gains tax, including any accrued interest on a deferral, is a first charge on the land to which it relates. This means it has priority over any other encumbrances on the land, such as a mortgage, and will continue as a charge even if ownership of the land is transferred. Therefore, a purchaser may become liable for any unpaid windfall gains tax.

## Information for the purchaser

4. Pursuant to section 42 of the *Windfall Gains Tax Act 2021*, if a bona fide purchaser for value of land applies for and obtains a Certificate in respect of the land, the maximum amount recoverable from the purchaser by the Commissioner is the amount set out in the certificate, described as the "Current Windfall Gains Tax Charge" overleaf.
5. If the certificate states that a windfall gains tax is yet to be assessed, note 4 does not apply.
6. A purchaser cannot rely on a Certificate obtained by the vendor.

## Information for the vendor

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

## Passing on windfall gains tax to a purchaser



8. A vendor is prohibited from passing on a windfall gains tax liability to a purchaser where the liability has been assessed under a notice of assessment as at the date of the contract of sale of land or option agreement. This prohibition does not apply to a contract of sale entered into before 1 January 2024, or a contract of sale of land entered into on or after 1 January 2024 pursuant to the exercise of an option granted before 1 January 2024.

## General information

9. A Certificate showing no liability for the land does not mean that the land is exempt from windfall gains tax. It means that there is nothing to pay at the date of the Certificate.
10. An updated Certificate may be requested free of charge via our website, if:
  - The request is within 90 days of the original Certificate's issue date, and
  - There is no change to the parties involved in the transaction for which the Certificate was originally requested.
11. Where a windfall gains tax liability has been deferred, interest accrues daily on the deferred liability. The deferred interest shown overleaf is the amount of interest accrued to the date of issue of the certificate.

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## Windfall Gains Tax - Payment Options

<p><b>BPAY</b></p>  <p>Billers Code: 416073 Ref: 79951257</p> <p><b>Telephone &amp; Internet Banking - BPAY®</b></p> <p>Contact your bank or financial institution to make this payment from your cheque, savings, debit or transaction account.</p> <p><a href="http://www.bpay.com.au">www.bpay.com.au</a></p>	<p><b>CARD</b></p>  <p>Ref: 79951257</p> <p><b>Visa or Mastercard</b></p> <p>Pay via our website or phone 13 21 61. A card payment fee applies.</p> <p><a href="http://sro.vic.gov.au/payment-options">sro.vic.gov.au/payment-options</a></p>	<p><b>Important payment information</b></p> <p>Windfall gains tax payments must be made using only these specific payment references.</p> <p>Using the incorrect references for the different tax components listed on this property clearance certificate will result in misallocated payments.</p>
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## Department of Transport and Planning

GPO Box 2392  
Melbourne, VIC 3001 Australia  
[www.transport.vic.gov.au](http://www.transport.vic.gov.au)

Ref: 74268438-010-7

### REQUEST FOR PROPERTY INFORMATION

Dear Sir/Madam

**PROPERTY ADDRESS: 1140 PRINCES HIGHWAY, MOUNT MORIAC, VIC  
3240**  
**LOT NO/PLAN NO: LOT 1 PS343457N**

Please be advised that access to the subject property described may be affected by a Public Acquisition Overlay – Schedule 3 (PAO3) under the Surf Coast Planning Scheme for use and development associated with VicRoads Proposed Road - Category 1 (Princes Highway).

Yours sincerely,

**Olivia Coghill**  
Manager, Statutory Planning  
Department of Transport and Planning

25 / 09 / 2024

# Extract of EPA Priority Site Register

Page 1 of 2



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## PROPERTY INQUIRY DETAILS:

STREET ADDRESS: 1140 PRINCES HIGHWAY

SUBURB: MOUNT MORIAC

MUNICIPALITY: SURF COAST

MAP REFERENCES: Vicroads Eighth Edition, State Directory, Map 93 Reference D5

DATE OF SEARCH: 17th September 2024

## PRIORITY SITES REGISTER REPORT:

A search of the Priority Sites Register for the above map references, corresponding to the address given above, has indicated that this site is not listed on, and is not in the vicinity of a site listed on the Priority Sites Register at the above date.

## IMPORTANT INFORMATION ABOUT THE PRIORITY SITES REGISTER:

You should be aware that the Priority Sites Register lists only those sites for which:

Priority Sites are sites for which EPA has issued a:

- Clean Up Notice pursuant to section 62A) of the Environment Protection Act 1970
- Pollution Abatement Notice pursuant to section 31A or 31B (relevant to land and/or groundwater) of the Environment Protection Act 1970
- Environment Action Notice pursuant to Section 274 of the Environment Protection Act 2017
- Site Management Order (related to land and groundwater) pursuant to Section 275 of the Environment Protection Act 2017
- Improvement Notice (related to land and groundwater) pursuant to Section 271 of the Environment Protection Act 2017
- Prohibition Notices (related to land and groundwater) pursuant to Section 272 of the Environment Protection Act 2017 on the occupier or controller of the site to require active management of these sites, or where EPA believes it is in the community interest to be notified of a potential contaminated site and this cannot be communicated by any other legislative means. Sites are removed from the Priority Sites Register once all conditions of a Notice have been complied with.

The Priority Sites Register does not list all sites known to be contaminated in Victoria. A site should not be presumed to be free of contamination just because it does not appear on the Priority Sites Register. Persons intending to enter into property transactions should be aware that many properties may have been contaminated by past land uses and EPA may not be aware of the presence of contamination. EPA has published information advising of potential contaminating land uses. Council and other planning authorities hold information about previous land uses, and it is advisable that such sources of information should also be consulted.

The Environment Protection Authority does not warrant the accuracy or completeness

[Extract of Priority Sites Register] # 74268438 - 74268438165345  
'320478'



## Extract of EPA Priority Site Register

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of information in this Extract and any person using or relying upon such information does so on the basis that the Environment Protection Authority shall bear no responsibility or liability whatsoever for any errors, faults, defects or omissions in the information. Users of this site accept all risks and responsibilities for losses, damages, costs and other consequences resulting directly or indirectly from use of this site and information from it. To the maximum permitted by law, the EPA excludes all liability to any person directly or indirectly from using this site and information from it.

For sites listed on the Priority Sites Register, a copy of the relevant Notice, detailing the reasons for issue of the Notice, and management requirements, is available on request from EPA through the contact centre (details below). For more information relating to the Priority Sites Register, refer to the EPA website at: <https://www.epa.vic.gov.au/for-community/environmental-information/land-groundwater-pollution/priority-sites-register>

Environment Protection Authority Victoria  
200 Victoria Street  
Carlton VIC 3053  
1300 EPA VIC (1300 372 842)