

# *Bendigo Vineyard*

## Estate & Resort

### **LOT RESERVATION AGREEMENT**

**SCHEDULE**

**DEVELOPER'S SOLICITOR**

**SELF**

**LOT HOLDER'S SOLICITOR**

**ADDRESS**

**DEVELOPER**

**BENDIGO VINEYARD ESTATE PTY LTD**

(ACN 600 088 211)

**ADDRESS**

L8, 100 ALBERT ROAD  
SOUTH MELBOURNE,  
VICTORIA, 3205

**LOT HOLDER**

**ADDRESS**

**PROPERTY**

**Lot \_\_\_\_\_** on the Concept Plans annexed hereto and  
marked "Annexure B", being part of the land more  
particularly described in Certificate of Title  
Volume **(9485)** Folio **(600)**

**PRICE**

**\$ \_\_\_\_\_ ("the Price")** inclusive of GST

**PROPERTY**

**ADDRESS**

**Lot \_\_\_\_\_ 51 Andrews Road, Maiden Gully VIC 3551**

**RESERVATION FEE**

**\$ \_\_\_\_\_** inclusive of GST and payable as  
follows:

**\$1,000.00** on signing hereof

**\$ \_\_\_\_\_** by / /

**START DATE**

is the date of this Agreement, namely

**the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_**

**THIS LOT RESERVATION AGREEMENT** is made on the                      day of                      20

**BETWEEN:**

**BENDIGO VINEYARD ESTATE PTY LTD (ACN 600 088 211)**

A company duly incorporated in accordance with the Corporations Act of Level 8,  
100 Albert Road, South Melbourne, VIC, 3205

("Developer")

**AND**

**The party named as the Lot Holder in the Schedule**

("Lot Holder")

## **RECITALS**

- A. The Developer has acquired an interest in the Land for the purposes of residential development largely in accordance with the Concept Plan.
- B. The Lot Holder has agreed to pay the Reservation Fee in respect of the Property in consideration for the Developer reserving the Property for the Lot Holder and agreeing to grant an Option to the Lot Holder to purchase the Property for the Price.
- C. The Developer will develop the Property for commercial gain.
- D. The parties have agreed to execute this Agreement so as to record and govern the respective rights and obligations of the parties in respect of the Reservation.

**THE PARTIES AGREE** as follows:

## **1. DEFINITION**

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### **1.1 Definitions**

In this Agreement, unless the context otherwise requires, the following terms shall have the following meanings:

**"Agreement"** means this Agreement, including the Special Conditions and the schedules, as amended from time to time, save that in the event of inconsistency between the body of this Agreement and the Special Conditions, the Special Conditions shall prevail;

**"Start Date"** means the date of this Agreement or such other date as agreed to by the parties;

**"Concept Plan"** means the unregistered Plan of Subdivision PS628432T annexed hereto and marked "Annexure B" based on which the works associated with the Project are proposed to be constructed or carried out;

**"Development Approvals"** means all, authorisations', permits, approvals, leases, certifications, licenses, and consents of and from any Government Agency, which are desirable or necessary to enable the Project to be carried out in accordance with the Concept Plan;

**"Encumber"** means to assign, mortgage, charge or pledge, by way of security or otherwise encumber;

**"Expenditure"** means all costs and expenses, direct or indirect incurred by the Developer;

**"Force Majeure"** means any act, event or cause (other than lack of funds) which is beyond the reasonable control of the Party concerned, including:

- (a) act of God, peril of the sea, accident of navigation, war, sabotage, riot, insurrection, civil commotion, national emergency (whether in fact of law), marital law, fire, lightning, flood, cyclone, earthquake, and slide, storm or other adverse weather conditions, explosion, power shortage, strike or other labour difficulty whether or not involving employees of the party concerned), epidemic, quarantine, radiation or radioactive contamination;
- (b) action or inaction of any government or governmental or other competent authority (including any court of competent jurisdiction), including expropriation, restraint, prohibition, intervention, requisition, requirement, direction or embargo by legislation, regulation, decree or other legally enforceable order; and
- (c) breakdown of plant, machinery or equipment or shortage of labour, transportation, fuel, power or plant, machinery, equipment or material;

**"Governmental Agency"** means any government or governmental, semi-government, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity;

**"Lot Holder"** means the person or entity whose details are contained in the Schedule and who has reserved a lot in the development by way of executing the Lot Reservation Agreement and paid the Lot Reservation Fee in full;

**"Option"** means the option to purchase to be granted by the Developer to the Lot Holder upon receipt of Development Approval of the Plan of Subdivision by the responsible Governmental Agency, which option will require the Developer to sell the Property to the Lot Holder at the Price;

**"Option Contract"** means the form of contract of sale of real estate in respect of the Property annexed hereto and marked "Annexure C" or a substantially similar form to the contract attached with any amendments as required by law or otherwise;

**"Plan of Subdivision"** means the unregistered Plan of Subdivision in respect of the Land proposed to be registered by the Developer in a form substantially in accordance with the Concept Plans;

**"Price"** means the sum specified as the price in the Schedule;

**"Project"** means the development of the Property by the Developer for commercial gain largely in accordance with the Concept Plan;

**"Project Agreements"** means this Agreement and all other agreements or instruments entered into by the Developer in connection with the Project, all as amended from time to time;

**"Project Expenses"** means the Expenditure and all capital and operating costs, charges, expenses, fees, taxes (other than income or capital gains taxes) and other payments and expenditures of and incidental to the conduct of the Project;

**"Property"** means the property identified in the Schedule;

**"Reservation"** means the removal of the Property from the Developer's offering of available Lots and reservation of the Property for the Lot Holder pursuant to this Agreement;

**"Reservation Fee"** means the amount specified as the reservation fee in the Schedule;

**"Rules"** means the provisions of the Arbitration Act 1906 or any statutory modifications for the time being in force;

**"Schedule/s"** means the schedule annexed to this Agreement and marked as such;

**"State"** means the State of Victoria;

**"Termination Date"** means the date of termination of the Agreement pursuant to Clause 3; and

**"Transfer"** means to sell, assign, transfer, convey or otherwise dispose of;

**"20 Year Period"** the period of time measured from the Start Date, advancing 20 years.

## **2. RELATIONSHIP**

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- 2.1 Each party covenants and agrees with the other party:
- (a) to observe and perform its commitments and obligations, diligently, in respect of the Reservation and pursuant to this Agreement;
  - (b) not to engage (whether alone or in association with others) in any activity in respect of the Project except as authorised or provided by this Agreement or as agreed by the Developer in writing;
  - (c) not to do, or permit or cause to be done any act, matter or thing whereby Development Approvals might be rendered liable to be cancelled, forfeited, not issued, not renewed or not extended, or jeopardised;
- 2.2 The Developer agrees to indemnify the Lot Holder in respect of:
- (a) the Expenditure;
  - (b) the Project Expenses; and
  - (c) any other costs associated with the Project that are the responsibility of the Developer pursuant to this Agreement.

## **3. RESERVATION**

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- 3.1 The Developer hereby agrees to forthwith implement:
- (a) the Option;
  - (b) the Reservation;
  - (c) the Project
- and any other activities contemplated by this Agreement on and from the Start Date.
- 3.2 In consideration for the Reservation, the Option and the covenants and obligations of the Developer pursuant to this Agreement, the Lot Holder agrees to do the following:
- (a) pay the Reservation Fee, including meeting all payments on time if a payment agreement is approved by the Developer;
  - (b) do all things and sign all documents as may be reasonably required of it by the Developer to carry out the Project.
- 3.3 In consideration for the Lot Holder paying the Reservation Fee and agreeing to the covenants and obligations contained in this Agreement, the Developer agrees to do the following:
- (a) use its best efforts and endeavors to develop the Property in accordance with the Concept Plan;
  - (b) incur the Project Expenses associated with the Project;
  - (c) carry out any other act, or thing reasonably required to carry out the Project; and
  - (d) grant the Option to purchase the Property to the Lot Holder.
- 3.4 The Developer shall use its best efforts and do all acts necessary and execute all such documentation to:
- (a) obtain all necessary Planning and Development Approvals as soon as is feasible following the Start Date.

- 3.5 The parties acknowledge and agree that if any Development Approvals are granted or refused, on terms and conditions not reasonably acceptable to the Developer the Developer may, in its absolute discretion:
- (a) make application to the Victorian Civil and Administrative Tribunal (Planning List of the Administrative Division) against such refusal or unacceptable conditions and use its best efforts in pursuing such application;
  - (b) make such variations to the Concept Plan or any other relevant documentation so as to obtain the necessary Development and Planning Approvals;
  - (c) terminate this Agreement in accordance with Clause 6.
- 3.6 The parties acknowledge and agree that if the Developer is yet to settle on the property and despite all reasonable efforts to complete settlement is unable to do so then the Developer may, in its absolute discretion:
- (a) terminate this Agreement in accordance with Clause 6.

#### **4. AMENDMENT TO PLAN**

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- 4.1 The Lot Holder acknowledges that the Developer may amend the Concept Plan from time to time in the Developer's absolute discretion in order to further the Project and that the Plan of Subdivision may not accord with the Concept Plan.
- 4.2 In the event that an amendment to the Concept Plan or Plan of Subdivision materially affects the Property, the parties hereto agree to an adjustment of the Price in accordance with this clause, whereby:
- (a) if the amendment results in an increase in the overall area of the Property of 5% or more, then the Price shall be increased proportionately.
  - (b) if the amendment results in a reduction in the overall area of the Property of 5% or more, then the Price shall be reduced proportionately.
- 4.3 The parties agree that any adjustment of the Price in accordance with this clause will not affect the Reservation Fee paid or payable under this Agreement.
- 4.4 The Lot Holder shall not be entitled to make any requisition, or objection, or claim any compensation, or to rescind or determine this Agreement by virtue of any amendment to the Concept Plan or Plan of Subdivision, or on the grounds that the Plan of Subdivision does not accord with the Concept Plan provided that the overall area of the Property does not vary by more than 20% without the Lot Holder's consent.

#### **5. PROJECT ADMINISTRATION**

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- 5.1 The Developer will do all the things essential for the resourceful and commercial conduct of the Project and, in particular, the Developer will as and when necessary:
- (a) enter into contracts for the development of the Project;
  - (b) administer the Project Agreements;
  - (c) ensure that all necessary Planning and Development Approvals are applied for, obtained and maintained;
  - (d) ensure compliance with all laws and regulations and lawful directions of any governmental authority having jurisdiction over the Project;

- 5.2 The Developer agrees that it will carry out its duties and obligations under this Agreement in accordance with:
- (a) the Project Agreements;
  - (b) The planning and Development Approvals;
  - (c) Effective management practices, with due skill and diligence using sufficient services.
- 5.3 The Lot Holder shall have no further liability to pay any money under this Agreement other than the payment of the Reservation Fee, in full, except to complete the contract if the option contract is exercised.
- 5.4 The Developer agrees not to reserve by way of selling a Reservation and Option on more than 45% of the available Lots within the development.

## **6. TERM AND TERMINATION**

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- 6.1 The Reservation shall commence on the Start Date and terminate on the date on which the Option Contract is settled, or otherwise on the date that all the parties agree to terminate the Reservation, unless the Reservation is otherwise terminated prior in accordance with this Agreement; or unless Development Approval is not obtained within 20 years from the Start Date subject to the following terms:
- (a) if Development Approval is not obtained within 20 years from the Start Date, the Lot Holder must submit to the Developer a notice in writing of their desire for a refund of the Lot Reservation Fee within 45 days from the end of the 20 Year Period;
  - (b) if the Lot Holder fails to meet the obligation contained in clause 6.1(a) this agreement will therefore extend another 5 years from the end of the 20 Year Period;
  - (c) At the end of the extended 5 year period if the property has not received Development Approval this agreement will terminate and no monies will be refundable whatsoever.
  - (d) The refund option/s at 6.1 (a-c) are only available to the Lot Holder if the Lot Holder selects this option, places their signature and pays the refund option fee (if applicable), on the relevant page marked Refund Option, at the end of this agreement.
- 6.2 Notwithstanding Clause 6.1, if the Developer elects to terminate the Reservation pursuant to Clause 3.5(c) and 3.6(a):
- (a) the Developer shall provide written notice of its intention to terminate this Agreement to the Lot Holder; and
  - (b) all monies paid by the Lot Holder shall be refunded by the Developer on demand; and
  - (c) upon payment of the refund contemplated by Clause 6.2(b), the Lot Holder shall make no claim, demand or requisition of the Developer whatsoever.
- 6.3 Notwithstanding Clause 6.1 and 6.2 The Developer may terminate this Agreement if there is any breach of this Agreement by the Lot Holder and it is not rectified within 14 days of a written notice being provided to the Lot Holder of such breach.
- (a) This clause 6.3 especially applies but is not limited to clause 3.2 (a) & (b);
  - (b) In the case of an unremedied breach by the Lot Holder and this Lot Reservation Agreement is subsequently terminated pursuant to clause 6.3, no monies already paid by the Lot Holder will be refundable or refunded whatsoever, and the Lot Holder warrants that it cannot seek monies already paid to the Developer, nor hold the Developer out to be liable to refund such monies in any way whatsoever.



6.4 Notwithstanding clauses 6.1 – 6.3 the Lot Holder may, before termination of this agreement, place a request in writing to the Developer for their Lot Reservation to be transferred to a different development on the following terms;

- (a) the Developer has sole discretion whether or not to execute such request;
- (b) the new lot must be the same option price as the current lot reserved otherwise the Lot Holder will be liable for the greater difference in price;
- (c) if the Lot Holder elects a lot with a lesser option price then no difference will be refunded; and
- (d) the Lot Holder will be required to execute a new Lot Reservation Agreement with the developer and once executed this Lot Reservation Agreement will be unreservedly terminated.

## **7. OPTION TO PURCHASE**

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7.1 In respect of the Lot Holder entering into this Agreement and paying the Reservation Fee, the Developer agrees to grant to the Lot Holder the Option, subject to the following terms and conditions:

- (a) the Option can only be exercised upon receipt of development approval of the Plan of Subdivision by the responsible Governmental Agency;
- (b) the Option may only be exercised by the Lot Holder delivering to the Developer written notice of the exercise of the Option within one hundred and twenty (120) days of the Lot Holder receiving written notice of the receipt of development approval of the Plan of Subdivision ("Option Period");
- (c) simultaneously with delivery of the notice referred to in clause 7.1(a) the Lot Holder must execute the Option Contract; and
- (d) a valid exercise of the Option and execution of the Option Contract, the parties obligations under this Agreement will be deemed fulfilled and this Agreement shall be terminated.

## **8. VENDOR'S STATEMENT**

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The Lot Holder acknowledges receipt of a Vendor's Statement from the Developer in accordance with Section 32 of the Sale of Land Act 1962 before signing this Agreement.

8.1 The Vendor Statement forming part of the Option Contract attached hereto at Annexure C is in relation to the Lot that the Lot Holder has reserved by way of this Lot Reservation Agreement. The Sale of Land Contract and Vendor Statement which form the Option Contract may be amended as required by law or otherwise prior to the execution of the option.

## **9. TRANSFERS**

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9.1 Except as otherwise provided in this Agreement, the Developer shall not Transfer the whole or any portion of the Property without the prior written consent of the Lot Holder, which consent shall not be unreasonably withheld.

9.2 In the event that the Developer intends to Transfer the whole or any portion of the Property, the Developer shall ensure that any Transfer is subject to the transferee assuming the Developer's obligations pursuant to this Agreement and in particular in respect of the Option to be granted to the Lot Holder hereunder.

## **10. ENCUMBRANCES**

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Except as provided for in this Agreement, the Lot Holder shall not encumber the whole or any part of the Property at any time during the operation of this Agreement.

## **11. EFFECT OF AGREEMENT**

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11.1 This Agreement:

- (a) comprises the entire Agreement between the parties and no earlier representation or agreement, whether oral or in writing, or in relation to any matter dealt within this Agreement shall have any effect from the date of this Agreement; and
- (b) shall not be varied in any way except with the written agreement of the parties.

11.2 Each party shall do or cause to be done or refrain doing all such acts or things necessary to give effect to this Agreement.

11.3 None of the terms or conditions of this Agreement, or any act, matter or 'thing' done under or, by virtue of this Agreement or any other agreement, instrument or document, or judgement or order of any court or judicial proceeding, shall operate as a merger of any of the rights and remedies of the parties under this Agreement, and those rights and remedies shall at all times continue in force.

11.4 This Agreement may be executed in any number of counterparts and all such counterparts when executed and taken together shall constitute this Agreement.

11.5 If any provision of this Agreement is void or voidable or unenforceable in accordance with its terms, but would not be void, voidable, unenforceable or illegal if it were read down and, it is capable of being read down, such provision shall be read down accordingly.

11.6 If, notwithstanding Clause 11.5 a provision is still void, voidable, unenforceable or illegal:

- (a) and if the provision would not be void, voidable, unenforceable or illegal if a word or words were omitted, that word or those words are hereby severed; and
- (b) in any other case, the whole provision is hereby severed, and the remainder of this Agreement shall be of full force and effect.

## **12. CONFIDENTIALITY**

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12.1 All information and data acquired by a party under or by virtue of the Project Agreements shall be treated as confidential by that party and shall not be divulged by that Party in whole or in part to third persons (not being and employee) without the prior written consent of the other party, except:

- (a) a party may divulge such terms to a Related Corporation of that party or to a bank or other lending agency to the extent necessary for a party arranging financing of its obligations hereunder;
- (b) to the extent necessary to ensure the efficient operation of the Project Agreements;
- (c) to the extent required to be disclosed by the law (inducing any timely disclosure law) applicable to that party or by any authority or regulatory body having jurisdiction over that party (including any stock exchange);
- (d) to the extent that such information or data lawfully is or becomes within the public domain; or
- (e) as is properly and reasonably required for the purpose of review by any adviser, consultant, expert, contractor or subcontractor employed or retained by the party.

- 12.2 Each party shall take all steps reasonably necessary to ensure that the information and data referred to in Clause 12.1 shall be known only to such persons (including any employees of that party) as may reasonably require knowledge thereof in the course of their duties or functions. Notwithstanding the provisions of Clause 12.1 each party shall, to the extent permitted by law, require any person to whom it intends to disclose such information or data (who is not under a statutory professional or contractual duty to keep such information or data confidential) to give a written undertaking to keep such information or data confidential in accordance with Clause 12.1.

### **13. ARBITRATION**

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- 13.1 Where a dispute arises in relation to this Agreement the complainant must set out in writing the nature of the dispute and give a notice of the dispute to the other parties.
- 13.2 Upon a receipt of a notice of dispute given under Clause 13.1 the parties must make every reasonable effort to resolve the dispute by mutual negotiation.
- 13.3 If the parties are unable to reach a resolution of the dispute within (7) days after the giving of the notice of dispute under Clause 13.1 either party may by notice in writing advise the other parties that it seeks to have the dispute resolved by arbitration.
- 13.4 If within twenty-one (21) days after the date of the notice referred to in Clause 13.1 (or such other period as is agreed by the parties in writing) the dispute is not settled, the dispute must be submitted to arbitration administered by and subject to the provisions of the Rules.
- 13.5 If within seven (7) days after the submission to arbitration the parties do not agree on an arbitrator, the President of the Australian Institute of Chartered Accountants will appoint the arbitrator ("Arbitrator") of the dispute.
- 13.6 The Arbitrator should be expert in the field relevant to the matter in dispute.
- 13.7 Subject to the Rules:
- (a) proceedings of the Arbitrator must be as informal as is consistent with the proper hearing of the dispute;
  - (b) each party to the dispute must be given the opportunity to adequately state a case and correct or contradict any relevant statement prejudicial to such case;
  - (c) the parties to the dispute must report back to the Arbitrator, within fourteen (14) days, on actions taken based on the Arbitrator's recommendations;
  - (d) the Arbitrator must deal with any matter as expeditiously as possible but not later than fourteen (14) days after referral;
  - (e) the parties to the dispute must bear the arbitration costs on an equal basis.
- 13.8 Until a party has complied with the preceding provisions of this Clause 13 that party may not commence court proceedings relating to the dispute except that nothing in this clause denies either party the right to seek injunctive relief from an appropriate court where failure to obtain that relief would cause irreparable damage to the party concerned.

### **14. GST**

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- 14.1 Definitions and interpretation

In this Clause:

**"GST"** means the goods and services tax payable on the supply of goods and services as defined in the GST Act; and

**"GST Act"** means *A New Tax System (Goods and Services Tax) Act 1999* as amended from time to time or any replacement or other relevant legislation and regulations; and an expression or word used in this Special Condition which has a particular meaning in the "GST law" (as defined in the GST Act), or in any applicable legislative determinations, has the same meaning, unless the context otherwise requires; and

a reference to GST payable by a party includes any corresponding GST payable by the representative member of any GST group of which that party is a member, and a reference to an input tax credit entitlement of a party includes any corresponding input tax credit entitlement of the representative member of any GST group of which that party is a member.

14.2 Except where this Agreement states otherwise, each amount payable by a party under this Agreement in respect of a taxable supply by the other party is expressed as a GST exclusive amount and the recipient of the supply must, in addition to that amount and at the same time, pay to the supplier the GST payable in respect of the supply.

14.3 A party is not obliged, under Clause 14.2 to pay the GST on a taxable supply to it under this Agreement, until given a valid tax invoice for the supply.

## **15. NOMINATION**

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15.1 The Lot Holder may, at any time prior to the exercise of the Option, nominate an additional or substituted Lot Holder provided that the Lot Holder provides the Developer with written notice of any such nomination within fourteen (14) days of the nomination, which notice must be in the form annexed hereto and marked "Annexure A".

15.2 Upon receipt of written notice of the nomination pursuant to Clause 15.1, the Developer shall confirm the nomination in writing with the additional or substituted Lot Holder.

15.3 The Lot Holder acknowledges that, in the event of and despite a nomination being effected pursuant to this Clause 15, the Lot Holder will remain jointly and severally liable to the Developer for the due performance of the obligations of the Lot Holder under this Agreement and payment of any expense resulting from the nomination.

## **16. NOTICES**

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16.1 Any notice, consent, request or other communication ("communication") to be given by a party under this Agreement shall be in writing addressed in accordance with the particulars for that party given in the Schedule to this Agreement or to such other address for a party as may be notified in writing by that Party to the other party.

16.2 Each communication shall be delivered by hand or pre-paid post, or sent by email or facsimile provided that a communication sent by email or facsimile shall be immediately confirmed 'in writing' by the sending party by hand delivery or prepaid post.

16.3 A communication shall be deemed to be received:

- (a) if hand delivered, on the next following business day;
- (b) if posted, on the second business day after posting;
- (c) if sent by facsimile, on the next following business day provided that a correct and complete transmission report is received by the sender of the transmission, unless the receiving party has requested re transmission before the end of that business day; and
- (d) if sent by email, on the next following business day after the day the machine on which the email is sent receives the answer back code of the receiving party unless re-transmission is requested by the receiving party before the end of that business day.

## **17. WAIVER**

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- 17.1 The failure, delay or omission by a party to exercise any power or right conferred upon such party by this Agreement shall not operate as a waiver of such power or right, nor shall any single exercise of any such power or right preclude any other or future exercise of the power, or the exercise of any other power or right under this Agreement.
- 17.2 A waiver of any provision of this Agreement, or consent to any departure by a Party from any provision of this Agreement, must be in writing and signed by all parties and is effective only to the extent for which it is given.

## **18. CHARGE**

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- 18.1 In consideration of the Lot Holder entering into this Agreement and paying the Reservation Fee payable hereunder, the Developer HEREBY CHARGES to the Lot Holder all of its right, title and interest in the Property, the assets of the Developer and the goodwill of the Developer as security for all moneys that may become now and hereafter due and payable to the Lot Holder by the Developer under this Agreement AND the Developer EXPRESSLY ACKNOWLEDGES and DECLARES that this Charge is given upon and with the benefit of the following terms and provisions and conditions:
- (a) the Charge shall be a continuing equitable charge for so long as the Developer is not in default under this Agreement;
  - (b) the Lot Holder shall not register or seek to enforce the said charge against the Developer unless in accordance with this Clause 18;
  - (c) in the event of a default by the Developer this Charge will immediately become registrable and enforceable at the option of the Lot Holder.
- 18.2 For the purposes of this Clause 18, an event of default will be deemed to have occurred if:
- (a) default is made by the Developer in the due and punctual payment of all or any part of any monies at any time due and payable by the Developer to the Lot Holder;
  - (b) an Administrator is appointed to the Developer in accordance with the Corporations Law;
  - (c) the Developer enters into a Deed of Company Arrangement; or
  - (d) a petition or application is presented or an order made or a resolution is proposed or passed for the winding-up or liquidation of the Developer or for the reduction of its capital or if notice of intention to propose such resolution is given.
- 18.3 This Charge shall endure for the benefit of the Lot Holder and its successors and transferees.

**EXECUTED AS AN AGREEMENT**

**EXECUTED** by )  
**Bendigo Vineyard Estate Pty Ltd** )  
(ACN 600 088 211) )  
in accordance with section 127 of the )  
*Corporations Act 2001:*

\_\_\_\_\_  
Signature of Director

\_\_\_\_\_  
Signature of Director

\_\_\_\_\_  
Name of Director  
(BLOCK LETTERS)

\_\_\_\_\_  
Name of Director  
(BLOCK LETTERS)

**EXECUTED** by )  
 )  
 )  
in accordance with section 127 of the )  
*Corporations Act 2001:*

\_\_\_\_\_  
Signature of Director

\_\_\_\_\_  
Signature of Director

\_\_\_\_\_  
Name of Director  
(BLOCK LETTERS)

\_\_\_\_\_  
Name of Director  
(BLOCK LETTERS)

**SIGNED SEALED AND DELIVERED** )  
 )  
by \_\_\_\_\_ )  
in the presence of )

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Name of Witness

**SIGNED SEALED AND DELIVERED** )  
 )  
by \_\_\_\_\_ )  
in the presence of )

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Name of Witness

*\* Delete as applicable*

**REFUND OPTION**

Regarding a Lot Reservation Agreement, specifics of which are as follows:-

☐ I hereby understand the Refund Options available to me and select this option in accordance with clause 6 of this Lot Reservation Agreement.

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PRINT NAME

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SIGNATURE

**ANNEXURE A**

**NOMINATION FORM**

Regarding a Lot Reservation Agreement, specifics of which are as follows:-

**DEVELOPER:** **BENDIGO VINEYARD ESTATE PTY LTD (ACN 600 088 211)**

**LOT HOLDER:** \_\_\_\_\_

**PROPERTY:** LOT \_\_\_\_\_ on the Concept Plans annexed hereto and marked "Annexure B",  
being part of the Land more particularly described in Certificate of Title  
Volume **(9485)** Folio **(600)**

**NOMINEE:** \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Pursuant to the conditions of the Lot Reservation Agreement the Lot Holder hereby exercises the right contained in the above Agreement to nominate the Nominee as substituted Lot Holder under the Agreement in lieu of the Lot Holder.

The Lot Holder and the Nominee acknowledge that they will be jointly and severally liable to the Developer for the due performance of the obligations of the Lot Holder under the Agreement and payment of any expense resulting from this nomination (including any Stamp Duty).

**DATED** the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

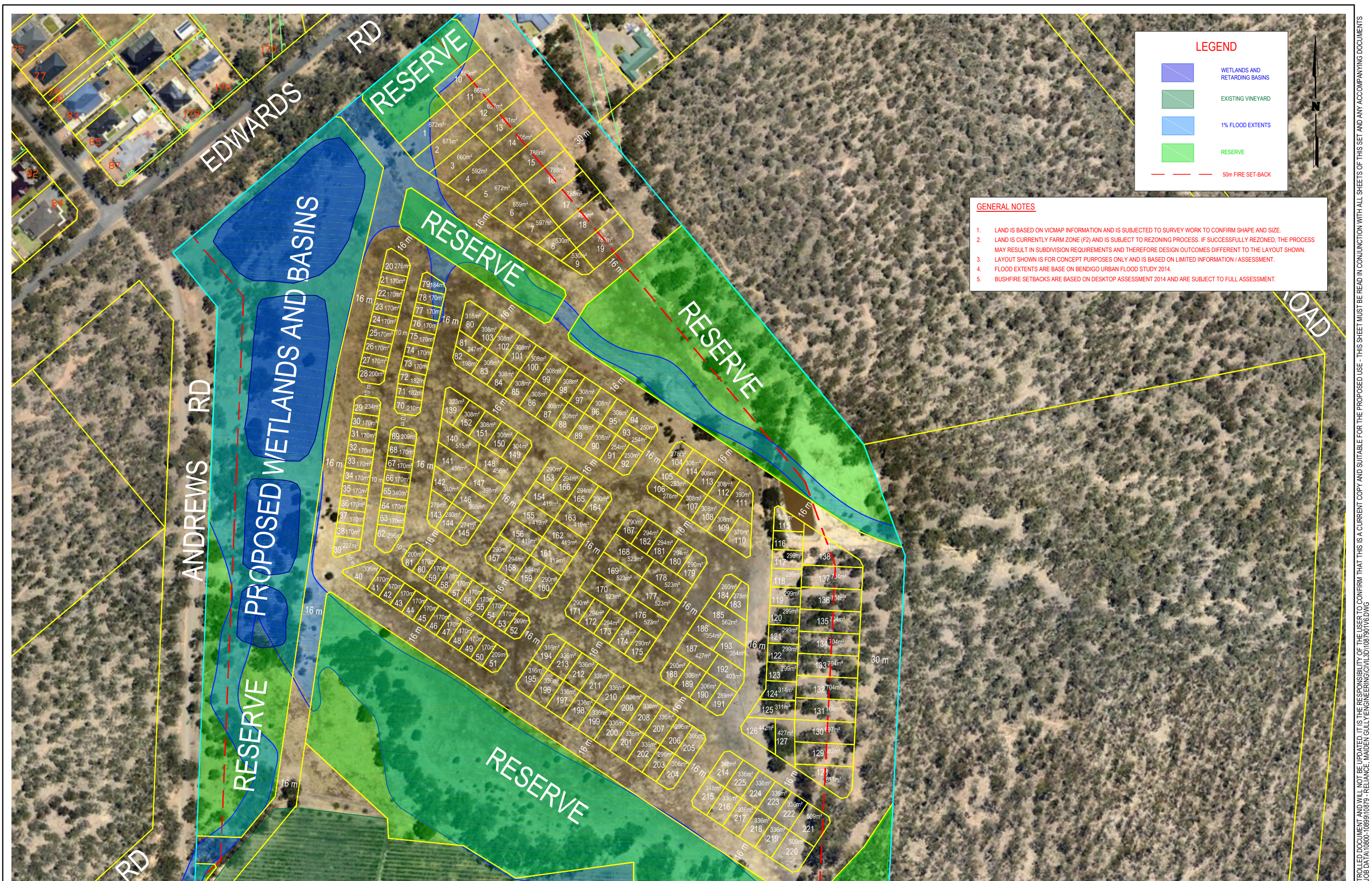
..... Signed for  
and on behalf Lot Holder

..... Signed for and  
on behalf of the Nominee



**ANNEXURE B**  
**CONCEPT PLANS**





CONCEPT PLAN

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REV	A	09/07/12
DES	DWG	CHK
DATE		

omkinsonGroup

PROJECT MANAGERS  
LICENSED SURVEYORS  
FREECALL: 1800 810 170  
PO BOX 421, BENDIGO 3552  
WEB: www.tomkinson.com

DEVELOPMENT PLANNERS  
CIVIL ENGINEERS  
TEL: (03) 5445 8700 FAX: (03) 5441 3648  
57 MYERS STREET, BENDIGO 3550  
EMAIL: bendigo@tomkinson.com

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FS520488

Principal RELIANCE REAL ESTATE

PROPOSED SUBDIVISION  
51 ANDREWS ROAD, MAIDEN GULLY  
SHEET DESCRIPTION

SCALE 1:2,500 (A3)  
LENGTHS ARE IN METRES

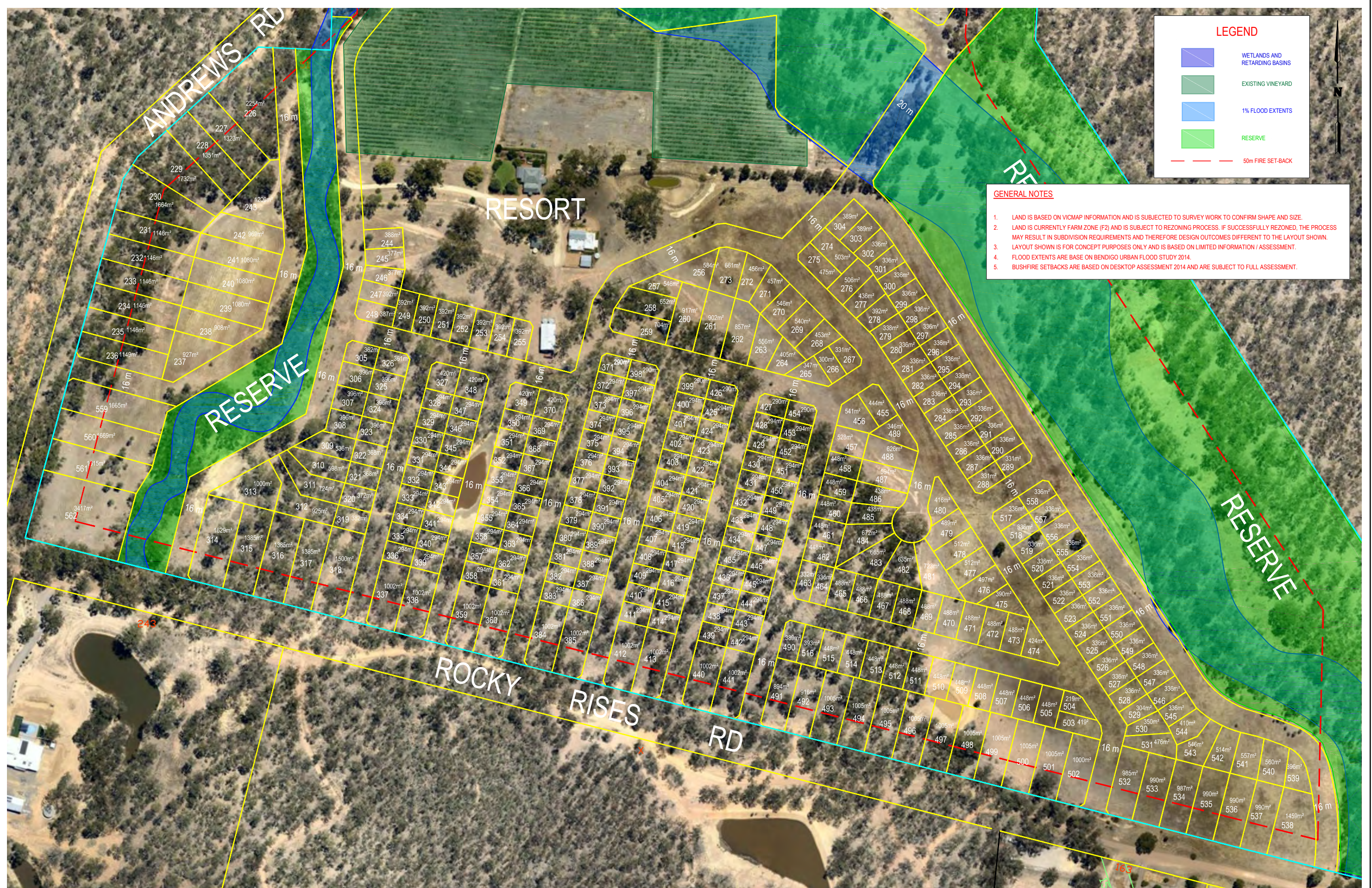
Municipality & Ref:  
CITY OF GREATER BENDIGO  
ME - TBA

SHT 1 of 2 REV B

Drawing No.  
1087901

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PLOT DATE: 10/07/2014 FILE: F:\JOB DATA\10880-10899\10879 - RELIANCE - MAIDEN GULLY\ENGINEERING\1087901V6.DWG





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PLAN

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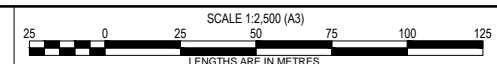
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**tomkinson Group**  
PROJECT MANAGERS  
LICENSED SURVEYORS  
FREECALL: 1800 810 170  
PO BOX 421, BENDIGO 3552  
WEB: www.tomkinson.com

DEVELOPMENT PLANNERS  
CIVIL ENGINEERS  
TEL: (03) 5445 8700 FAX: (03) 5441 3648  
57 MYERS STREET, BENDIGO 3550  
EMAIL: bendigo@tomkinson.com

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Principal RELIANCE REAL ESTATE



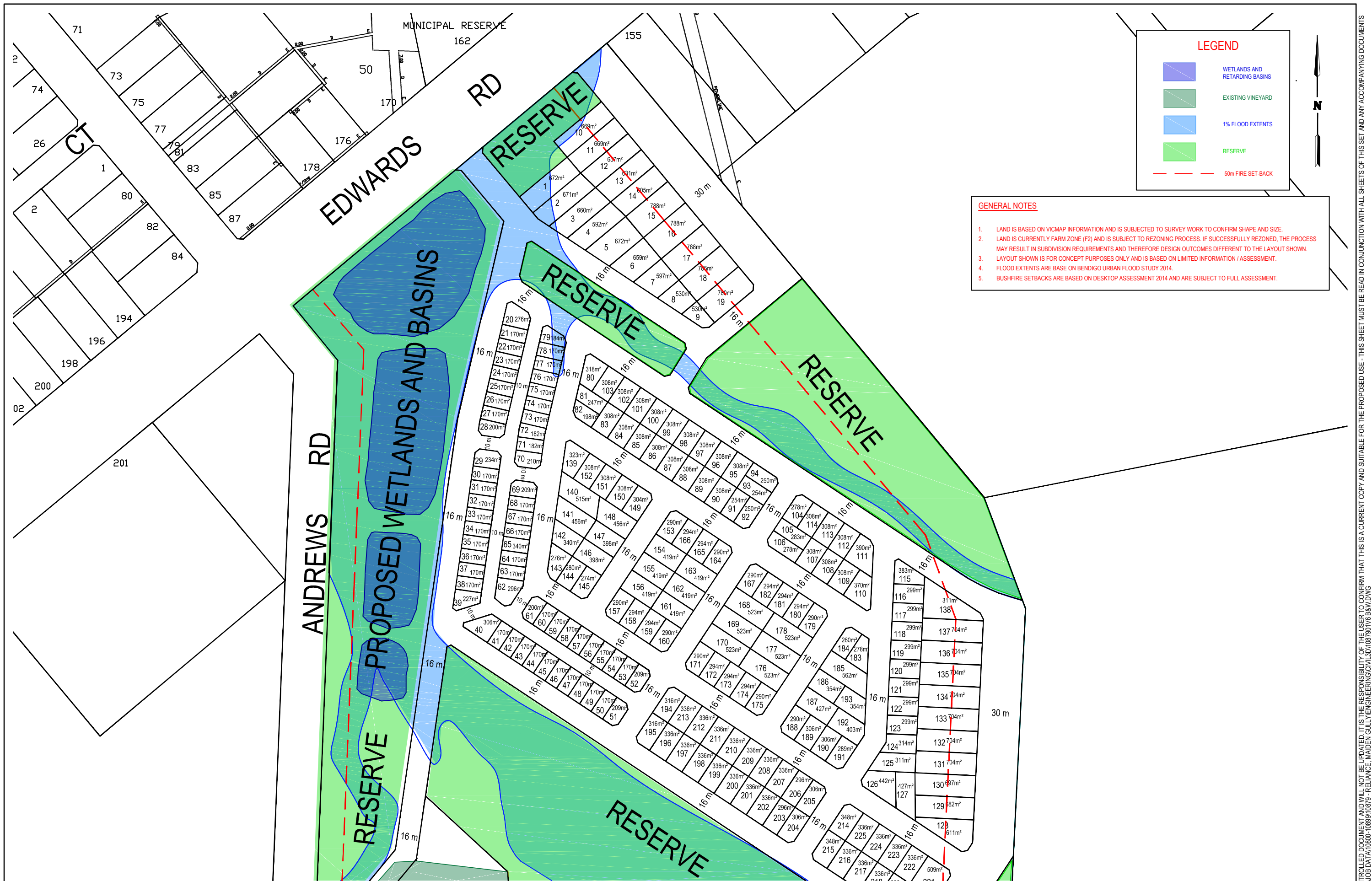
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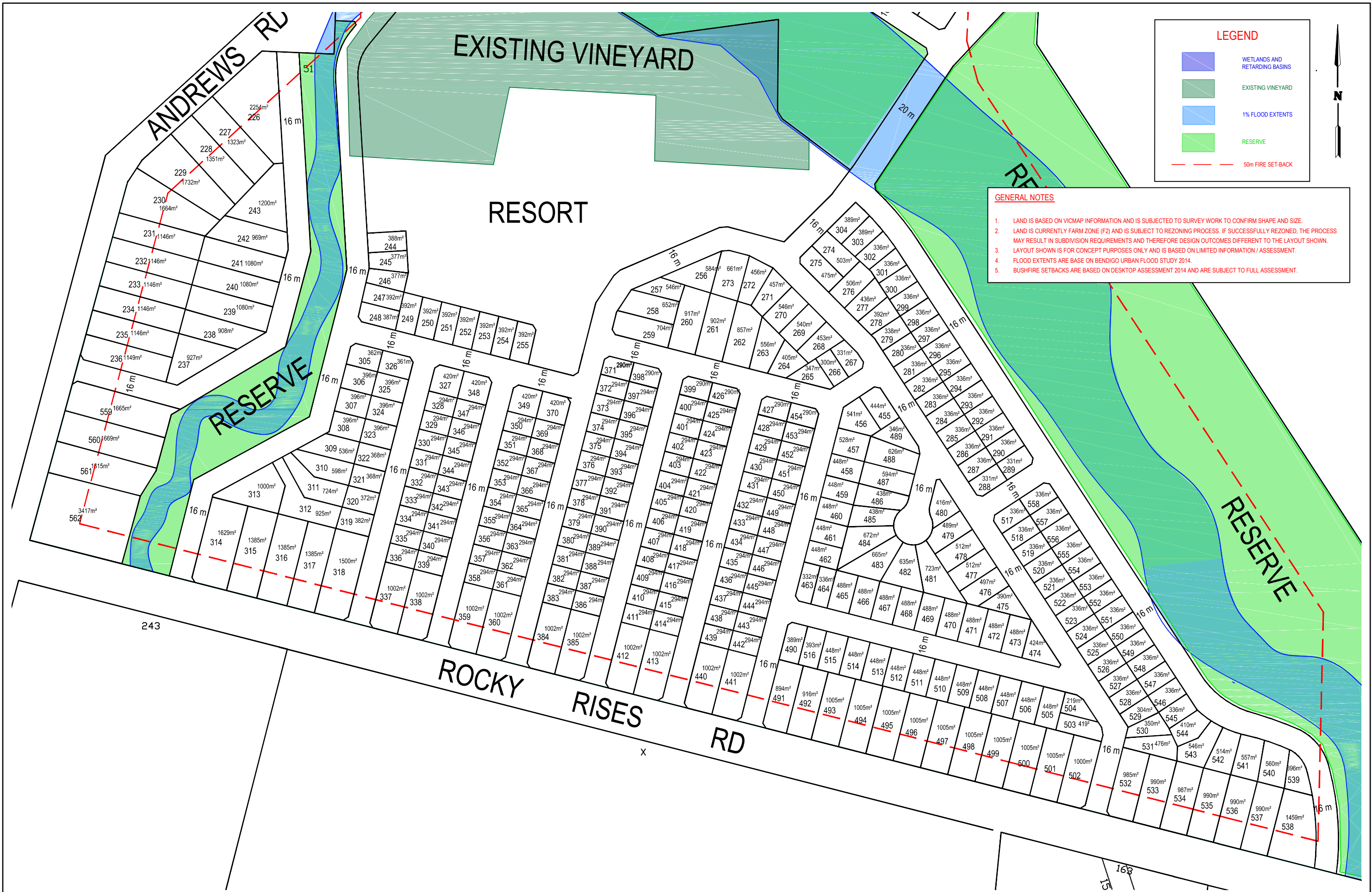
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LENGTHS ARE IN METRES

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SHT 1 of 2 REV B

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 LICENSED SURVEYORS CIVIL ENGINEERS FS  
 FREECALL: 1800 810 170 TEL: (03) 5445 8700 FAX: (03) 5441 3648  
 PO BOX 421, BENDIGO 3552 57 MYERS STREET, BENDIGO 3550  
 WEB: [www.tomkinson.com](http://www.tomkinson.com) EMAIL: [bendigo@tomkinson.com](mailto:bendigo@tomkinson.com)

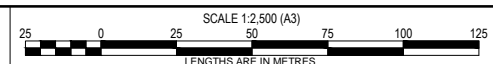


Principal RELIANCE REAL ESTATE

PROPOSED SUBDIVISION

51 ANDREWS ROAD, MAIDEN GULLY

## SHEET DESCRIPTION



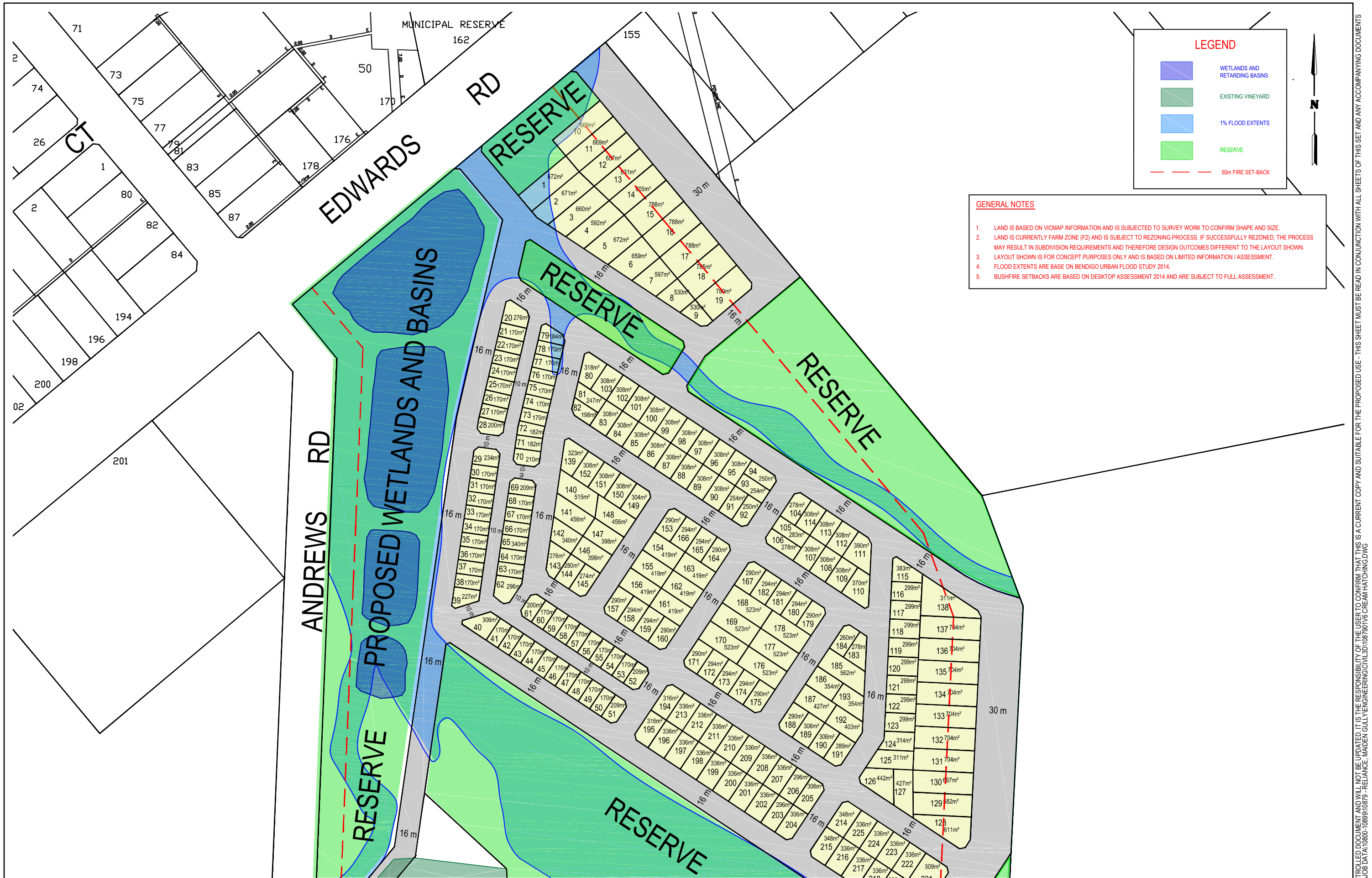
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**LEGEND**

- WETLANDS AND RETARDING BASINS
- EXISTING VINEYARD
- 1% FLOOD EXTENTS
- RESERVE
- 50m FIRE SET-BACK

- GENERAL NOTES**
- LAND IS BASED ON VICMAP INFORMATION AND IS SUBJECT TO SURVEY WORK TO CONFIRM SHAPE AND SIZE.
  - LAND IS CURRENTLY FARM ZONE (F2) AND IS SUBJECT TO REZONING PROCESS. IF SUCCESSFULLY REZONED, THE PROCESS MAY RESULT IN SUBDIVISION REQUIREMENTS AND THEREFORE DESIGN OUTCOMES DIFFERENT TO THE LAYOUT SHOWN.
  - LAYOUT SHOWN IS FOR CONCEPT PURPOSES ONLY AND IS BASED ON LIMITED INFORMATION / ASSESSMENT.
  - FLOOD EXTENTS ARE BASED ON BENDIGO URBAN FLOOD STUDY 2014.
  - BUSHFIRE SETBACKS ARE BASED ON DESKTOP ASSESSMENT 2014 AND ARE SUBJECT TO FULL ASSESSMENT.

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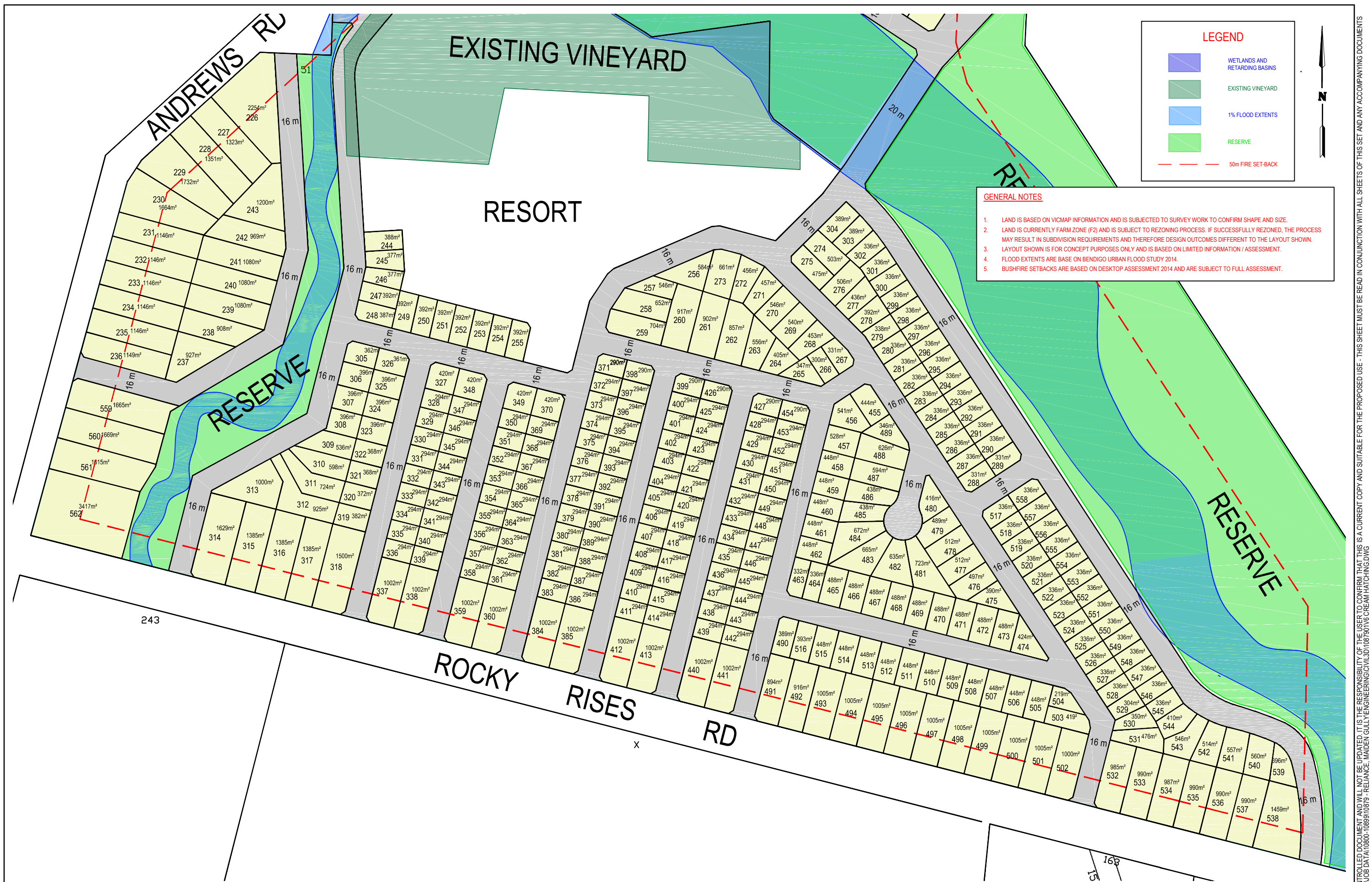
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SHT 1 of 2 REV B

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SHT 2 of 2 REV B

Drawing No.  
**1087901**

## CONTRACT OF SALE OF REAL ESTATE

Part 1 of the standard form of contract prescribed by the Estate Agents (Contracts) Regulations 2008

The Vendor sells and the purchaser buys the property, being the land and the goods, for the price and on the conditions set out in this contract.

The terms of this contract are contained in the:

- \* Particulars of sale;
- \* Special conditions, if any;
- \* General conditions; and
- \* Vendor's Statement

and in that order of priority.

The Vendor's Statement required by section 32(1) of the Sale of Land Act 1962 is attached to and forms part of this contract.

The parties should ensure that when they sign the contract they receive a copy of the Vendor's Statement, the general conditions and any special conditions.

### SIGNING OF THIS CONTRACT

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

Purchasers should ensure that, prior to signing this contract, they have received a copy of the full terms of this contract.

The authority of a person signing:

- { FORMCHECKBOX } under power of attorney; or
- { FORMCHECKBOX } as director of a corporation; or
- { FORMCHECKBOX } 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 this contract comprising:

- { FORMCHECKBOX } Form 1 (Contract of Sale of Real Estate—Particulars of Sale);
- { FORMCHECKBOX } Special Conditions, if any;
- { FORMCHECKBOX } Form 2 (Contract of Sale of Real Estate—General Conditions); and
- { FORMCHECKBOX } Vendor's Statement.

SIGNED BY THE PURCHASER .....on ..... / ..... / .....

Print name of person signing: .....

State nature of authority if applicable (e.g. 'director', 'attorney under power of attorney') .....

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

SIGNED BY THE VENDOR.....on ..... / ..... / .....

Print name of person signing: .....

State nature of authority if applicable (e.g. 'director', 'attorney under power of attorney') .....

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

### IMPORTANT NOTICE TO PURCHASERS

Off the Plan Purchases

- Subject to the limit set by section 9AA(1)(b) of the Sale of Land Act 1962 (Vic.), the Purchaser may negotiate with the Vendor about the amount of deposit moneys payable under the contract.
- A substantial period of time may elapse between the date on which the Purchaser signs the contract for sale and the day on which the Purchaser becomes the registered proprietor of the lot.
- The value of the lot may change between the date on which the Purchaser signs the contract for sale of the lot and the day on which the Purchaser becomes the registered proprietor.

Cooling-off period (Section 31 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 or within 3 clear business days before or after a publicly advertised auction;
- ☐ the property is used mainly for industrial or commercial purposes;
- ☐ the property is more than 20 hectares in size and is used mainly for farming;
- ☐ you and the vendor previously signed a similar contract for the same property; or
- ☐ you are an estate agent or a corporate body.



Estate Agents (Contracts) Regulations 2008

## PARTICULARS OF SALE

### VENDOR'S AGENT

Tel: Fax: Ref:

### VENDOR

**Bendigo Vineyard Estate Pty Ltd**  
(ACN 600 088 211)  
of Level 8, 100 Albert Road, South Melbourne, VIC, 3205

### VENDOR'S SOLICITOR PURCHASER

and/or Nominee/s

### PURCHASER'S SOLICITOR / CONVEYANCER

Tel: Fax: Ref:

### PROPERTY ADDRESS

**LOT\_\_\_\_\_51 Andrews Road, Maiden Gully, VIC 3551**

### LAND

The land is described in the attached copy title(s) and plan(s)  
as: -  
Lot\_\_\_\_\_on **proposed** Plan of Subdivision **annexed hereto**  
being **part** of the land more particularly described in Certificate of  
Title Volume **9485** Folio **600**

### GOODS

See the annexure titled Plans and Specifications annexed to the Vendor's  
Statement (if applicable)

### PAYMENT

Price \$

Deposit **\$0.00**

Balance \$ payable at settlement

### GST

(refer to General Condition 13)

The price includes GST (if any) unless the word 'plus  
GST' appears here:

If this is a sale of a 'farming business' or  
'going concern' then add the words  
'**farming business**' or '**going concern**' here:

If the margin scheme will be used to calculate GST then  
add the words '**margin scheme**' here:

**Margin  
Scheme**

**SETTLEMENT**

At the expiration of: -

- (a) 14 days from the date on which the Vendor's solicitor notifies the Purchaser or their solicitor that the Plan of Subdivision has registered at Land Victoria; or
- (b) 14 days from the date of issue of the Occupancy Permit

Whichever is **later**.

At settlement the purchaser is entitled to vacant possession of the property unless the word **'subject to lease'** appear here: **NOT APPLICABLE**

If **'subject to lease'** then particulars of the lease are: **NOT APPLICABLE**

**TERMS CONTRACT**

If this contract is intended to be a terms contract within the meaning of the Sale of Land Act 1962 then add the words **"terms contract"** here:

and refer to General Condition 23 and add any further provisions by way of Special Conditions. **NOT APPLICABLE**

**ENCUMBRANCES**

This sale is NOT subject to an existing mortgage unless the words **'subject to existing mortgage'** appear here: **NOT APPLICABLE**

If the sale is **'subject to existing mortgage'** then full particulars of the mortgage are:

**SPECIAL CONDITIONS**

This contract does not include any special conditions unless the words **'special conditions'** appear here: **SPECIAL CONDITIONS**

**LOAN**

(refer to General Condition 14)

The following details apply if this contract is subject to a loan being approved:

Lender: .....

Loan amount: .....

Approval date: ..... / ..... / 20.....

**CONTRACT OF SALE OF REAL ESTATE –  
GENERAL CONDITIONS**

Part 2 of the standard form of contract prescribed by the Estate Agents (Contracts) Regulations 2008

**TITLE**

**1. Encumbrances**

- 1.1 The purchaser buys the property subject to:
- (a) any encumbrance shown in the Vendor's Statement other than mortgages or caveats; and
  - (b) any reservations in the crown grant; and
  - (c) any lease referred to in the particulars of sale.
- 1.2 The purchaser indemnifies the vendor against all obligations under any lease that are to be performed by the landlord after settlement.

**2. Vendor warranties**

- 2.1 The vendor warrants that these general conditions 1 to 28 are identical to the general conditions 1 to 28 in the standard form of contract of sale of real estate prescribed by the Estate Agents (Contracts) Regulations 2008 for the purposes of section 53A of the Estate Agents Act 1980.
- 2.2 The warranties in general conditions 2.3 and 2.4 replace the purchaser's right to make requisitions and inquiries.
- 2.3 The vendor warrants that the vendor:
- (a) has, or by the due date for settlement will have, the right to sell the land; and
  - (b) is under no legal disability; and
  - (c) is in possession of the land, either personally or through a tenant; and
  - (d) has not previously sold or granted any option to purchase, agreed to lease or granted a pre-emptive right which is current over the land and which gives another party rights which have priority over the interest of the purchaser; and
  - (e) will at settlement be the holder of an unencumbered estate in fee simple in the land; and
  - (f) will at settlement be the unencumbered owner of any improvements, fixtures, fittings and goods sold with the land.
- 2.4 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 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.
- 2.5 The warranties in general conditions 2.3 and 2.4 are subject to any contrary provisions in this contract and disclosures in the Vendor's Statement.
- 2.6 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.
- 2.7 Words and phrases used in general condition 2.6 which are defined in the Building Act 1993 have the same meaning in general condition 2.6.

### **3. Identity of the land**

- 3.1 An omission or mistake in the description of the property or any deficiency in the area, description or measurement of the land does not invalidate the sale.
- 3.2 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.

### **4. Services**

- 4.1 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.
- 4.2 The purchaser is responsible for the connection of all services to the property after settlement and the payment of any associated cost.

### **5. Consents**

The vendor must obtain any necessary consent or license required for the sale. 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.

### **6. Transfer**

The transfer of land document must be prepared by the purchaser and delivered to the vendor at least 10 days before settlement. The delivery of the transfer of land document is not acceptance of title. The vendor must prepare any document required for assessment of duty on this transaction relating to matters that are or should be within the knowledge of the vendor and, if requested by the purchaser, must provide a copy of that document at least 3 days before settlement.

### **7. Release of security interest**

- 7.1 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.
- 7.2 Subject to general conditions 7.3 and 7.4, the vendor must ensure that at or before settlement, the purchaser receives—
  - (a) a release from the secured party releasing the security interest in respect of the property; 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 the due date for 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 the due date for settlement, the personal property included in the contract is not or will not be property in which the security interest is granted if the security interest is registered in the Personal Property Securities Register.

- 7.3 The vendor is not obliged to ensure that the purchaser receives a release, statement, approval or correction in respect of any personal property that is sold in the ordinary course of the vendor's business of selling personal property of that kind unless, in the case of goods that may or must be described by serial number in the Personal Property Securities Register, the purchaser advises the vendor at least 21 days before the due date for settlement that the goods are to be held as inventory.
- 7.4 The vendor is not obliged to ensure that the purchaser receives a release, statement, approval or correction in respect of any personal property that—
- (a) is not described by serial number in the Personal Property Securities Register; and
  - (b) is predominantly used for personal, domestic or household purposes; and
  - (c) 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.
- 7.5 A release for the purposes of general condition 7.2(a) must be in writing and in a form published by the Law Institute of Victoria, Law Council of Australia or the Australian Bankers Association.
- 7.6 If the purchaser receives a release under general condition 7.2(a), the purchaser must provide the vendor with a copy of the release at or as soon as practicable after settlement.
- 7.7 In addition to ensuring a release is received under general condition 7.2(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.
- 7.8 The purchaser must advise the vendor of any security interest that the purchaser reasonably requires to be released at least 21 days before the due date for settlement.
- 7.9 If the purchaser does not provide an advice under general condition 7.8, 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.
- 7.10 If settlement is delayed under general condition 7.9, 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.
- 7.11 Words and phrases used in general condition 7 which are defined in the Personal Property Securities Act 2009 (Cth) have the same meaning in general condition 7.

## **8. Builder warranty insurance**

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

## **9. General law land**

- 9.1 This condition only applies if any part of the land is not under the operation of the Transfer of Land Act 1958.
- 9.2 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.

- 9.3 The purchaser is entitled to inspect the vendor's chain of title on request at such place in Victoria as the vendor nominates.
- 9.4 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.
- 9.5 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.
- 9.6 If the contract ends in accordance with general condition 9.5, the deposit must be returned to the purchaser and neither party has a claim against the other in damages.
- 9.7 General condition 10.1 should be read, in respect of that part of the land which is not under the operation of the Transfer of Land Act 1958, as if the reference to 'registered proprietor' is a reference to 'owner'.

## **MONEY**

### **10. Settlement**

- 10.1 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.
- 10.2 The vendor's obligations under this general condition continue after settlement.
- 10.3 Settlement must be conducted between the hours of 10.00 a.m. and 4.00 p.m. unless the parties agree otherwise.

### **11. Payment**

- 11.1 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.
- 11.2 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 licensed estate agent or 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;
- 11.3 The purchaser must pay all money other than the deposit:
- (a) to the vendor, or the vendor's legal practitioner or conveyancer; or
  - (b) in accordance with a written direction of the vendor or the vendor's legal practitioner or conveyancer.
- 11.4 At settlement, payments may be made or tendered:
- (a) in cash; or
  - (b) by draft or cheque drawn on an authorised deposit-taking institution; or
  - (c) if the parties agree, by electronically transferring the payment in the form of cleared funds.

- 11.5 For the purpose of this general condition 'authorised deposit-taking institution' means a body corporate in relation to which an authority under subsection 9(3) of the Banking Act 1959 (Cth) is in force.
- 11.6 At settlement, the purchaser must pay the fees on up to three cheques drawn on an authorised deposit taking institution. If the vendor requested that any additional cheques be drawn on an authorised deposit taking institution, the vendor must reimburse the purchaser for the fees incurred

## **12. Stakeholding**

- 12.1 The deposit must be released to the vendor if:
- (a) the vendor provides particulars, to the reasonable 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 do 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 the Sale of Land Act 1962 have been satisfied.
- 12.2 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.
- 12.3 The stakeholder may pay the deposit and any interest into court if it is reasonable to do so.

## **13. GST**

- 13.1 The purchaser does not have to pay the vendor any GST payable by the vendor in respect of a taxable supply made under this contract in addition to the price unless the particulars of sale specify that the price is 'plus GST'. However the purchaser must pay to the vendor any GST payable by the vendor:
- (a) 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
  - (b) if the particulars of sale specify that the supply made under this contract is a farming business and the supply does not satisfy the requirements of section 38-480 of the GST Act; or
  - (c) if the particulars of sale specify that the supply made under this contract is a going concern and the supply does not satisfy the requirements of section 38-325 of the GST Act.
- 13.2 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 the particulars of sale specify that the price is 'plus GST'.
- 13.3 If the purchaser is liable to pay GST, the purchaser is not required to make payment until provided with a tax invoice, unless the margin scheme applies.
- 13.4 If the particulars of sale specify that the supply made under this contract is a 'farming business':
- (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.
- 13.5 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.

- 13.6 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.
- 13.7 This general condition will not merge on either settlement or registration.
- 13.8 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.

**14. Loan**

- 14.1 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.
- 14.2 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 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.
- 14.3 All money must be immediately refunded to the purchaser if the contract is ended.

**15. Adjustments**

- 15.1 All periodic outgoings payable by the vendor, and any rent and other income received in respect of the property must be apportioned between the parties on the settlement date and any adjustment paid and received as appropriate.
- 15.2 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.

**TRANSACTIONAL**

**16. Time**

- 16.1 Time is of the essence of this contract.
- 16.2 Time is extended until the next business day if the time for performing any action falls on a Saturday, Sunday or bank holiday.

**17. Service**

- 17.1 Any document sent by post is taken to have been served on the next business day after posting, unless proved otherwise.
- 17.2 Any demand, notice, or document required to be served by or on any party may be served by or on the legal practitioner or conveyancer for that party. It is sufficiently served if served on the party or on the legal practitioner or conveyancer:
- (a) personally; or
  - (b) by pre-paid post; or
  - (c) in any manner authorised by law or the Supreme Court for service of documents, including any manner authorised for service on or by a legal practitioner



**18. Nominee**

The purchaser may nominate a substitute or additional purchaser, but the named purchaser remains personally liable for the due performance of all the purchaser's obligations under this contract.

**19. 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.

**20. 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.

**21. Notices**

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

**22. 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.

**23. Terms contract**

23.1 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.

23.2 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.

**24. Loss or damage before settlement**

- 24.1 The vendor carries the risk of loss or damage to the property until settlement.
- 24.2 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.
- 24.3 The purchaser must not delay settlement because one or more of the goods is not in the condition required by general condition 24.2, but may claim compensation from the vendor after settlement.
- 24.4 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 24.2 at settlement.
- 24.5 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.
- 24.6 The stakeholder must pay the amounts referred to in general condition 24.5 in accordance with the determination of the dispute, including any order for payment of the costs of the resolution of the dispute.

**25. 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 result of the breach.

**DEFAULT**

**26. 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 on any money owing under the contract during the period of default, without affecting any other rights of the offended party.

**27. Default notice**

- 27.1 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.
- 27.2 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 service of the notice-
    - (i) the default is remedied; and
    - (ii) the reasonable costs incurred as a result of the default and any interest payable are paid.

**28. Default not remedied**

- 28.1 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.
- 28.2 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.
- 28.3 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.
- 28.4 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.
- 28.5 The ending of the contract does not affect the rights of the offended party as a consequence of the default.

## 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 this page; and
- attach additional pages if there is not enough space and number pages accordingly (eg. 5a, 5b, 5c etc.)

### Special condition 1 – Security interest

General condition 7 is deleted and replaced by the following:

#### 7. RELEASE OF SECURITY INTEREST

7.1 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.

7.2 The vendor must advise the purchaser of the vendor's date of birth solely for the purpose of enabling the purchaser to search the Personal Property Securities Register for any security interests affecting any personal property for which the purchaser is entitled to a release, statement, approval or correction in accordance with general condition 7.3. However, the vendor is only required to so advise if the purchaser makes the request at least 21 days before the due date for settlement. The purchaser must keep the vendor's date of birth secure and confidential.

7.3 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.

7.4 The vendor is not obliged to ensure that the purchaser receives a release, statement, approval or correction in respect of any personal property that –

- (a) (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 prescribed for the purposes of section 47(1) of the *Personal Property Securities Act* 2009 (Cth), not more than that prescribed amount; or
- (b) is sold in the ordinary course of the vendor's business of selling personal property of that kind; unless:
- (c) the personal property is of a kind that the regulations provide may or must be described by serial number in the Personal Property Securities Register; or
- (d) the purchaser has actual or constructive knowledge that the sale constitutes a breach of the security agreement that provides for the security interest.

7.5 A release for the purposes of general condition 7.3(a) must be in writing. The release 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.

7.6 The purchaser must provide the vendor with a copy of the release under general condition 7.3(a) at or as soon as practicable after settlement.

7.7 The vendor must also 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 in addition to ensuring a release is received under general condition 7.3(a) if the property being released includes goods of a kind that are described by serial number in the Personal Property Securities Register.

7.8 The purchaser must advise the vendor of any security interest that is registered on or before the date of sale on the Personal Property Securities Register, which the purchaser



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reasonably requires to be released at least 21 days before the due date for settlement.

- 7.9 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 7.8.
- 7.10 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; and
  - (c) as though the purchaser was in default – if settlement is delayed under general condition 7.9.
- 7.11 The vendor is not required to ensure that the purchaser receives a release in respect of the land. This general condition 7.11 applies despite general condition 7.1.
- 7.12 Words and phrases which are defined in the *Personal Property Securities Act 2009* (Cth) have the same meaning in general condition 7 unless the context requires otherwise.



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## Special Conditions Continued

### Special condition 2.1 – GST farming business

General condition 13.1(b) is deleted and replaced by the following:

if 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 a part of it) does not satisfy the requirements of section 38-480 of the GST Act; or

### Special condition 2.2 – GST farming business

General condition 13.4 is deleted and replaced by the following:

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.

### Special condition 3.1 – Service

General condition 17.1 is deleted and replaced by the following:

Any document sent by –

- (a) post is taken to have been served on the next business day after posting, unless proved otherwise;
- (b) email is taken to have been served at the time of receipt as provided in section 13A of the *Electronic Transactions (Victoria) Act 2000*.

### Special condition 3.2 – Service

General condition 17.2 is deleted and replaced by the following:

Any demand, notice or document required to be served by or on any party may be served by or on the legal practitioner or conveyancer for that party. It is sufficiently served if served on the party or on the legal practitioner or conveyancer.

(a) personally; or

(b) by pre-paid post; or

c) in any manner authorised by law or the Supreme Court for service of documents, including any manner authorised for service on or by a legal practitioner; or

(d) by email.

### Special condition 4 – Nomination

General condition 18 is deleted and replaced by the following:

The purchaser may nominate a substitute or additional transferee, but the named purchaser remains personally liable for the due performance of all the purchaser's obligations under this contract.

### Special condition 5 – Acceptance of title

General condition 12.4 is added:

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.

## CONTRACT OF SALE OF REAL ESTATE – SPECIAL CONDITIONS

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### 1 DEFINITIONS

#### 1.1 Definitions

In this Contract:

**Act** means the Sale of Land Act 1962

**Authority** means any municipality, authority or person exercising any powers or functions under any applicable laws or legal requirements, including the Council;

**Business Day** means any day on which banks are open for business in Melbourne, Victoria;

**Contract** means these Special Conditions, together with the General Conditions (as amended) and the Annexures, Schedules and Attachments to this contract;

**Council** means the Greater Shepparton City Council;

**General Conditions** means the general conditions attached to this Contract;

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

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

**Guarantee** means a deed of guarantee and indemnity in the form contained in Annexure A;

**Lot** means a lot on the Plan of Subdivision;

**Lot Reservation Agreement** means the agreement so named between the Vendor and the Purchaser in respect of the Property

**Plan of Subdivision** means the unregistered, draft Plan of Subdivision number PS\_628432T a copy of which is contained in Annexure B of The Lot Reservation Agreement;

**Planning Permit** means any planning or other permit issued by the Council with respect to the Property (if any), as amended or replaced from time to time;

**Plans and Specifications** means the plans and specifications (if applicable) in respect of the Property as identified in the annexure to the Vendor's Statement;

**Property** means the Land set out in the Particulars of Sale.

**Registration Date** means the latest date for registration of the Plan of Subdivision being not less than twenty-four (24) months from the date of the Contract of Sale;

**Reservation Fee** means the fee stated in the schedule to the Lot Reservation Agreement

**Service** includes any communication, drainage, garbage, electricity, gas, sewerage, telephone or water service;

**Vendor's Statement** means the statement made by the Vendor under Section 32 of the Sale of Land Act 1962, a copy of which is attached to this Contract.

1.2 Terms Used in the Particulars of Sale

Words and phrases defined in the Particulars of Sale have the same meaning in these Special Conditions.

**2 ACKNOWLEDGMENT OF DOCUMENTS**

The Purchaser acknowledges that, prior to paying the deposit or signing this Contract or any agreement or document in respect of the sale hereby effected which is or is intended to be legally binding upon the Purchaser, the Purchaser was given:

- (a) a copy of this Contract pursuant to section 53 of the Estate Agents Act 1980 (as amended); and
- (b) a Vendor's Statement as required by section 32 of the Sale of Land Act 1962 (as amended) ("the Vendor's Statement") signed by or on behalf of the Vendor and complying with the provisions of the said section.

**3 IDENTITY AND MEASUREMENTS**

The Purchaser acknowledges that the land as offered for sale and inspected by the Purchaser is identical with that described in the particulars of sale and in the Vendor's Statement. The Purchaser may not make any requisition or claim any compensation for any actual or alleged misdescription of the Property or deficiency in its area or measurements and may not call upon the Vendor to amend title or to bear all or any part of the cost of so doing.

**4 CORPORATE PURCHASER**

Where the Purchaser is a corporation, the person signing this Contract on behalf of the Purchaser hereby warrants to the vendor, as a separate collateral warranty, that such person is duly authorised and empowered by the Purchaser so to do.

**5 ENTIRE AGREEMENT**

The Purchaser acknowledges that the Lot Reservation Agreement, this Contract and the Vendor's Statement contains the entire understanding and the whole agreement between the parties relating to the sale of the Property and the parties expressly agree and declare that:

- (a) no other conditions, obligations, stipulations, terms, agreements or provisions whether in respect of the Property or otherwise shall be implied or be deemed to be implied in this Contract or to arise between the parties by way of collateral or other agreement and all previous negotiations, information, representations, warranties, arrangements and statements (if any) express or implied (including any collateral agreement or warranty) with reference to the subject matter of this Contract or the intentions of either party are merged in this Contract and they are hereby expressly excluded and cancelled;



- (b) the Vendor's agents, solicitors, servants and employees have no authority to make or communicate any representation, forecast, prediction, warranty, arrangement, indication, condition or statement binding on the Vendor which is not embodied in this Contract;
- (c) in entering into this Contract, the Purchaser has made its own inquiries and investigations and relies entirely upon its own judgement.

## **6 DEPOSIT**

- 6.1 The Deposit payable under this Contract is to be paid to the Vendor's solicitors or agent, to be held on trust for the Purchaser until the Settlement Date.
- 6.2 The parties authorize the Vendor's solicitors or agent to invest the Deposit in an interest bearing trust account with an Australian bank nominated by the Vendor's solicitors or agent.
- 6.3 The parties further authorize all interest accruing on the Deposit to be credited to the Vendor on the Settlement date unless the Vendor defaults under the Contract in which case the Deposit and all accrued interest less any bank or government charges, taxes or fees shall be paid to the Purchaser.
- 6.4 The Purchaser shall, if requested, give the Vendor's solicitors details of its tax file number as soon as possible.

## **7 RESTRICTIONS ON USE AND DEVELOPMENT**

- 7.1 The Purchaser buys the Property subject to any legislation, order, regulation, by-law, local law, restriction or condition imposed on the Property by or with the authority of any government or governmental or semi-governmental or judicial entity or authority including any town planning legislation, scheme or authority which affects or restricts the use of the Property.
- 7.2 The Purchaser will take title subject to all the restrictions and conditions described in Special Condition 7.1 and will not make any requisition or objection or claim on those grounds any compensation with respect to them or in respect of any proposed amendment to any planning control now or later applicable to the Property.

## **8 SUBJECT TO PLANNING PERMIT & PLAN OF SUBDIVISION**

- 8.1 Planning Permit:
  - (a) This Contract is conditional upon the Vendor obtaining a Planning Permit from Council for the development of the land in accordance with the Plan of Subdivision.
  - (b) If a Planning Permit has not been issued by Council by the Registration Date, the Vendor or the Purchaser may, so long as a Planning Permit has not been issued, avoid this Contract by notice in writing, in which case the Deposit and all accrued interest (less any bank or government charges taxes or fees) shall be paid to the Purchaser.
  - (c) The Vendor shall cause to be carried out all works necessary to comply with the conditions made by the relevant authorities in order to have Planning Permit issued by Council.

8.2 Plan of Subdivision:

- (a) This Contract is conditional upon the registration of the Plan of Subdivision by the Registration Date. The Vendor shall without delay and at its own expense use its best endeavours to have the Plan of Subdivision registered by the Registrar of Titles by the Registration Date.
- (b) In the event that the Registrar of Titles fails or refuses to register the Plan of Subdivision by the Registration Date, the Vendor or the Purchaser may, so long as the Plan of Subdivision has not been registered, avoid this Contract by notice in writing, in which case the Deposit and all accrued interest (less any bank or government charges, taxes or fees) shall be paid to the Purchaser.
- (c) The Vendor shall cause to be carried out all works necessary to comply with the conditions made by the relevant authorities in order to have the Plan of Subdivision certified by the Council and registered by the Registrar of Titles.
- (d) The Vendor reserves the right to vary, amend, alter or substitute the Plan of Subdivision if necessary to procure the registration of the Plan of Subdivision.
- (e) The Vendor shall, within fourteen (14) days after the receipt of any requirement of the Council or the Registrar of Titles to amend the Plan of Subdivision, notify the Purchaser in writing of the proposed amendment.
- (f) The Purchaser shall not be entitled to make any objection or requisition or claim any compensation or to rescind or determine this Contract on the grounds that the Plan of Subdivision as registered does not accord with the proposed Plan of Subdivision unless the amendment materially affects the Property hereby sold in which case the Purchaser may rescind this Contract within fourteen (14) days after being advised by the Vendor of that material amendment.
- (g) Should there be a change to the area of the Land of more than 5%, then the Purchaser may not rescind the Contract, but instead if the area of the Land decreases by more than 5%, then the purchase Price for the Land will be reduced as follows:

$$AP = \frac{A}{I} \times P$$

Where:

AP is the adjusted Price

A is the actual area of the Land

I is the proposed area of the Land as at the Day of Sale; and

P is the Price set out in this Contract

8.3 Staging Acknowledgement

- (a) The Purchaser acknowledges and agrees that:
  - (i) the development may be subdivided and developed in stages; and
  - (ii) the Vendor may develop further stages of the Plan of Subdivision for any purpose permitted by the relevant authorities.
- (b) The Purchaser must not make any requisition or claim any compensation or purport to rescind this Contract or to avoid any of its obligations under this Contract as a result of the staging of the development by the Vendor.

- 8.4 Notwithstanding Special Conditions 8.1(c) and 8.2(c), the Vendor shall not be obliged to carry out any requirements of the Council, the Registrar of Titles, or any other Authority to enable the issue of a Planning Permit or registration of the Plan of Subdivision if those requirements are unusual or, in the Vendor's opinion, onerous.
- 8.5 In the event that this Contract is terminated other than for default by the Purchaser, then any Reservation Fee paid by the Purchaser to the Vendor under the Lot Reservation Agreement entered into between the parties, shall be refunded to the Purchaser in full.

## **9 OUTGOINGS**

- 9.1 Except as provided for in Special Condition 9.2 below, all rates, taxes, assessments and other outgoings in respect of the Property shall be adjusted as at the Settlement Date.
- 9.2 Adjustment of outgoings
- (a) Where separate assessments have not been made for the Property as at the Settlement Date the Vendor may elect to pay the present assessments and the Purchaser shall allow to the Vendor such fair and reasonable proportion thereof as the Vendor shall nominate.
  - (b) Where no assessment has been made in respect to the current period then in the case of rates the Purchaser shall allow to the Vendor such fair and reasonable estimated amount as the Vendor shall nominate having regard to the previous year's rates increased by a factor of eight per cent (8%) (with a final adjustment to be made between the parties when an assessment issues).
  - (c) In the case of land tax the Vendor may pay any assessment for the current year or for any previous years for which no assessment may yet have issued forthwith upon the issue of any such assessments and the Purchaser shall allow such fair and reasonable proportion thereof as shall be notified by the Vendor to the Purchaser and any such adjustment of land tax shall be effected on the basis that such tax will be paid by the Vendor in accordance with the undertaking given and no deduction shall be made by the Purchaser.
  - (d) the Vendor is Trustee of a trust, and may be subject to a levy which shall be included in calculating any adjustment of land tax.

## **10 SUBDIVISION WORKS**

- 10.1 The Purchaser acknowledges that the Property has been, is or will be in the course of subdivisional works, including any road works and allotment grading, and may be filled, raised, levelled, packed or cut.
- 10.2 The Purchaser will not make any requisition or claim any compensation from, or raise any set off against, the Vendor in respect of any subdivisional works.
- 10.3 The Vendor may at any time after the Day of Sale carry out Surface Works that are:
- (a) required by a relevant authority;
  - (b) desirable to enhance the appearance of the Property and the Subdivision but which are generally in keeping with the Plan for the Subdivision.

- (c) Subject to the Vendor's compliance with the Act, the Purchaser must not make any requisition, objection or claim or take any action against the Vendor relating to any change to, or any alteration or modification of the quality or condition of the Subdivision, the Property or the Land occurring between the Day of Sale and the Settlement.

## **11 CREATION OF FURTHER ENCUMBRANCES AND RESTRICTIONS**

### **11.1 Purchaser's acknowledgement**

The Purchaser is aware that at the date of this Contract:

- (a) not all the easements, restrictions on use and positive covenants have been created;
- (b) not all the leases, agreement and arrangements have been made; and
- (c) not all the rights and privileges have been granted, which it may be considered necessary or desirable for the Vendor to create, enter into or grant.

### **11.2 Creation**

The Purchaser acknowledges that the Vendor may be required to:

- (a) create easements, enter covenants and grant other like restrictions which affect the Property, including positive covenants in any Section 173 Agreement to allow either or both certification and registration of the Plan of Subdivision; and

### **11.3 The Purchaser specifically consents to the Vendor executing any Section 173 Agreement required by any Authority with control over the Property.**

### **11.4 Subject to the Purchaser's rights under the Act, the Purchaser cannot object to, make any requisition or claim, claim any compensation, rescind or determine this Contract or delay Settlement or delay payment of the Balance because of any of the matters included in Special Condition 11.2 unless such matter(s):**

- (a) materially restricts or limits the use of the Property; and
- (b) was not made as a result of a requirement or recommendation of an Authority.

### **11.5 Termination**

Subject to special condition 11.6, if any creation, entering into, grant or dedication made by the Vendor in accordance with special condition 11.2 materially affects or limits the use of the Property then, unless the creation, entering into, grant or dedication has been made as a result of a requirement or recommendation of an Authority, the Purchaser may terminate the Contract by providing written notice to the Vendor within 10 Business Days of receiving notice from the Vendor, whereupon the Deposit must be refunded to the Purchaser and neither party will have any further liability to the other under this Contract.

### **11.6 Special Condition 11.5 and Section 10(1) of the Act do not apply in respect of any amendment, which records the final location of any easement shown on the certified Plan of Subdivision.**

### **11.7 No merger**

This Special Condition 11 does not merge on Settlement and continues with full force and effect after Settlement.

## **12 SERVICES**

- 12.1 The Purchaser acknowledges that the services referred to in the Vendor's Statement will be available to the Property upon settlement but the Purchaser agrees that it shall be responsible for payment of any statutory or utility fees in connecting such services to the Property.
- 12.2 If the Vendor elects to connect a service and incurs a connection fee from the relevant supplier, the fee shall be paid in full by the Purchaser to the Vendor as an adjustable item under condition 9 of Table A.

## **13 ACCESS TO PROPERTY**

- 13.1 The Purchaser must provide the Vendor, their contractors, consultants and other invitees with access to the Property (on such days and times as the Vendor nominates) after the Settlement date to carry out any works, repair works or ongoing works.
- 13.2 If the Purchaser does not provide access to the Property, pursuant to special condition 14.2, the repair works and ongoing works do not have to be carried out, and the Purchaser shall make no claim against the Vendor as a result of any incomplete works.

## **14 MARKETING**

- 14.1 The Purchaser acknowledges that both before and after the Settlement Date the Vendor and persons authorised by the Vendor are entitled to and may conduct marketing activities in or about the Property generally for the marketing of unsold Lots involving, among other things, placing signs and other marketing material on Lots (except the Lot sold under this Contract) and using Lots for display purposes ("Marketing Activities").
- 14.2 The Purchaser will not make any objection or requisition or bring any claim against either the Vendor or the Builder as a consequence of anything relating to:
- (a) any access rights exercised by the Vendor;
  - (b) any inconvenience, nuisance, noise, dust, vibration or loss of amenity that may result from the access rights;
  - (c) the Marketing Activities and any inconvenience that may result from them.

## **15 CAVEAT PROHIBITED**

- 15.1 The Purchaser must not lodge or caused to be lodged a caveat on the title to the Property at any time prior to the Settlement Date and the Purchaser indemnifies the Vendor against any loss, damage, costs or expenses on a full indemnity basis which the Vendor may suffer as a consequence of a breach by the Purchaser of this Special Condition.
- 15.2 The Purchaser unconditionally empowers and authorizes the Vendor to remove any caveat which has been lodged on the title to the Property by the Purchaser in contravention of Special Condition 16.1.

## **16 EXECUTION OF NECESSARY DOCUMENTS**

- 16.1 Each party to this Contract will execute and deliver all such documents, instruments and writings and will do or procure to be done all such acts and things necessary or desirable or reasonable to give effect to this Contract.

## **17 SETTLEMENT AND TIME FOR PAYMENTS**

- 17.1 Settlement must take place no later than 3.00pm on the Settlement Date.
- 17.2 Settlement will take place at the offices of the Vendor's solicitor or at such other place as the Vendor directs.
- 17.3 **All payments due to the Vendor under this Contract must be made no later than 3.00 p.m. on the due date. The Vendor may treat any payment received after 3.00 p.m. as having been received on the next business day in Melbourne.**

## **18 TIME**

In this Contract time is of the essence.

## **19 PURCHASER' S DEFAULT**

- 19.1 Without limiting any other rights of the Vendor in relation to termination of this Contract, the Purchaser will be in default under this Contract upon the happening of any of the following events:
- (a) an order is made or a resolution is passed for the winding up of the Purchaser;
  - (b) the Purchaser goes into liquidation or becomes unable to pay its debts as and when they become due and payable;
  - (c) an administrator or trustee in bankruptcy is appointed to the Purchaser or a receiver of any of its assets is appointed;
  - (d) execution is levied against the Purchaser and is not satisfied within thirty (30) days;
  - (e) except with the Vendor's consent, if there is a change in the beneficial ownership of the majority of shares with voting rights in the Purchaser;
  - (f) a guarantor who is a natural person:
    - (i) becomes bankrupt;
    - (ii) takes or tries to take advantage of Part X of the *Bankruptcy Act* 1966;
    - (iii) makes an assignment for the benefit of their creditors; or
    - (iv) enters into a composition or arrangement with their creditors.
- 19.2 If the Vendor gives to the Purchaser a notice of default under this Contract, the default will not be remedied until all the following have occurred:
- (a) the remedy by the Purchaser of the relevant default;
  - (b) the payment by the Purchaser of all reasonable expenses incurred by the Vendor as a result of the default including without limitation the expenses outlined in Special Condition 21.3; and
  - (c) payment of the Vendor's solicitor's legal costs (on a solicitor client basis) and disbursements incurred in connection with the preparation and service of the notice of default and any necessary advice.

19.3 The Vendor gives notice to the Purchaser that, in the event that the Purchaser fails to perform any fundamental term of the Contract for the purchase of the Property being sold including but not limited to the completion of the purchase of the Property on the due date under the Contract, the Vendor will or may suffer the following losses and expenses which the Purchaser would be required to pay, in addition to the interest chargeable on the balance of purchase monies, in accordance with the terms of the Contract:-

- (d) The cost of obtaining bridging finance to complete the Vendor's purchase of another property and interest charged on such bridging finance.
- (e) Interest payable to the Vendor under any existing mortgage over the Property calculated from the due date for settlement.
- (f) Legal costs and expenses as between the Vendor and his/her/its Solicitor.
- (g) Penalties payable by the Vendor through any delay in completion of the Vendor's purchase of another property.
- (h) Accommodation and removalist expenses that are additionally incurred as a result of the purchasers delay with settlement.

## **20 INTEREST ON DEFAULT**

If the Purchaser defaults in payment of any money under this Contract, the Purchaser must without prejudice to any other rights of the Vendor, pay to the Vendor interest at the rate of 5% more than the amount specified as the penalty rate for the time being fixed under section 2 of the Penalty Interest Rates Act 1983 on the amount in default from the time it fell due until the default ceases.

## **21 FOREIGN ACQUISITIONS AND TAKEOVERS ACT 1975**

21.1 If the Purchaser is a foreign resident or a non-resident of Australia or is otherwise required to obtain approval or an indication of non-objection under the *Foreign Acquisitions & Takeovers Act* 1975 or any real estate policy guidelines of the Commonwealth Government and/or the approval or certification of the Treasurer under the Foreign Acquisitions & Takeovers Regulations to enter into this Contract, the Purchaser warrants that it has obtained the approval or certification of the Treasurer or has received a statement of non-objection.

21.2 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 the warranty given under Special Condition 23.1.

## **22 GOODS & SERVICES TAX**

The Price is expressed to be inclusive of GST. The Vendor and the Purchaser agree that the Vendor may be applying the Margin Scheme to calculate any GST liability payable by the Vendor as a consequence of the taxable supply made pursuant to this Contract.

## **23 GUARANTEE**

If the Purchaser is or includes a company or a corporation (as those words are defined in the *Corporations Act 2001*) not included in an official list of the Australian Stock Exchange Ltd, the Purchaser must:

- (a) immediately upon execution of this Contract, procure the execution of the Guarantee by a director who has a beneficial interest in the company or by a shareholder of the company; and

- (b) within seven days after being requested to do so by the Vendor, procure the execution by all directors of the Purchaser (or if the Vendor requires, by the shareholders) of a guarantee and indemnity to be prepared by the Vendor's solicitors and to be in substantially the same form as the Guarantee annexed to this Contract and marked "Annexure A" but with the necessary changes being made.

## **24 ASSIGNMENT**

- 24.1 Until the Plan of Subdivision is registered, the Purchaser must not without the consent of the Vendor, sell, transfer, assign, mortgage or otherwise encumber or in any other way deal with the Property or any part thereof or the Purchaser's interest in or under this Contract.

The Vendor shall at any time prior to settlement and from time to time have the power to mortgage and/or charge the Property and/or assign the benefit of this Contract and following such power will be entitled to execute any mortgage, charge, assignment and further to execute such other documents as may be required by its mortgagee, chargee or assignee for the purposes of obtaining moneys for the benefit of the Vendor.

## **25 INDEMNITY**

- 25.1 The Purchaser indemnifies the Vendor against all claims which may be suffered by the Vendor as a result of any breach by the Purchaser of the terms of this Contract or as a result of any, neglect or default of the Purchaser arising during the performance (or failure to perform) by the Purchaser of its duties under this Contract.
- 25.2 The indemnity in this Special Condition cannot be revoked, and is binding and enforceable against the purchaser notwithstanding any neglect delay or forbearance on the part of the Vendor to exercise its right of indemnity.

## **26 INTERPRETATION AND CONSTRUCTION**

In this Contract, unless the context otherwise requires, the following rules of interpretation and construction shall apply:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing a gender include all other genders and vice versa;
- (c) expressions importing a natural person include a corporation and vice versa;
- (d) a covenant, agreement, warranty, obligation, liability or similar on the part of two or more persons binds each of them jointly and severally;
- (e) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this Contract or part of it;
- (f) this Contract binds and enures for the benefit of successors and permitted transferees or assigns of the parties;
- (g) headings or margin notes in this document are for ease of reference only and do not affect the meaning or interpretation of this Contract;
- (h) a reference to any statutory enactment or any law includes that statutory enactment or law as amended, re-enacted or replaced from time to time and all rules regulations or other subordinate legislation made under that statute;
- (i) if the day on or by which anything is to be done is not a Business Day then that thing must be done on or by the next Business Day;



- (j) where any time period is to be calculated from a specified date, that date must be included in the calculation;
- (k) it is not necessary for the Vendor to incur any expense or make any payment before enforcing a right of indemnity;

the provisions of this Contract cannot be varied except by a subsequent document executed by the parties or their solicitors expressed to vary or be made in substitution for this Contract.

## **27 FENCES**

### **27.1 Costs**

The Purchaser undertakes not to seek contribution from and to indemnify and keep indemnified the Vendor in respect of payment for any claim for contribution to the cost of the construction of any fence or wall on any adjacent property of which the Vendor is the proprietor.

### **27.2 On sale**

The Purchaser covenants with the Vendor not to sell or transfer or purport to sell or transfer the Property to any other person without requiring that person to be bound by the obligations placed upon the Purchaser by this Special Condition.

### **27.3 Special conditions to continue**

This Special Condition shall continue for the benefit of the Vendor and shall remain binding upon the Purchaser notwithstanding settlement.

## **28 RELEASE OF CHARGES**

- (a) This Special Condition applies if any Release of security interest to which the *Personal Property Securities Act 2009 (Cth)* applies.
- (b) The Vendor shall not be required to give an amendment demand to any secured party in relation to a security interest in the Land.
- (c) Notwithstanding anything else contained in General Condition 7, a release, a statement in writing or written approval or correction setting out the amount or obligation that is secured is nil at the due date for Settlement, will not be provided at Settlement in respect of any security interests which do not affect the Property, or where a mortgagee holds a security interest in addition to its mortgage.
- (d) Words and phrases used in this Special Condition which are defined in the *Personal Property Securities Act 2009 (Cth)* have the same meaning in this Special Condition.

## **29 SUBSTITUTION**

- (a) If the Property is expressed to be sold to a named Purchaser "and/or nominee" (or similar words) and if the Purchaser is not in default under this Contract, and the Plan of Subdivision is registered, then the Purchaser may nominate a substitute or additional Purchaser(s) to assume its obligations under the Contract, provided such nomination is made at least 21 days prior to Settlement to the Vendor's satisfaction and at the cost and expense, including the Vendor's legal costs in the sum of \$150.00, of both the named Purchaser and the substituted or additional Purchaser.
- (b) Notwithstanding any nomination or substitution, the Purchaser shall remain personally liable for the due performance of all the Purchaser's obligations under this Contract until the Balance of the Price is paid in full.

- (c) If the Purchaser nominates or substitutes an additional Purchaser in accordance with Special Condition 17, the nominated or substituted Purchaser must provide to the Vendor's Legal Practitioner:
  - (i) An executed copy of any Statutory Declaration or other documents required by the Victorian State Revenue Office in relation to the nomination or substitution;
  - (ii) Where applicable, the Guarantee and Indemnity executed in accordance with Special Condition 26; and
  - (iii) Where applicable, the certified company search in accordance with Special Condition 26.
- (d) If this Contract is conditional upon anything being done by the Purchaser, then the Purchaser shall not be entitled to nominate or substitute an additional purchaser unless the Purchaser can prove to the Vendor's satisfaction that the additional purchaser is as capable of fulfilling the Contract as the Purchaser.
- (e) The Purchaser acknowledges it shall be liable for any additional stamp duty which may be incurred as a result of any substitution or nomination.
- (f) If the Purchaser nominates a substitute Purchaser, the Purchaser must procure the substituted Purchaser to provide a bank guarantee in the same amount and form as the original bank guarantee and always complying with this Contract. The original Bank Guarantee remains in effect unless and until the substituted Purchaser provides a replacement Bank Guarantee or Deposit upon which the original Bank Guarantee provided by the named Purchaser shall be returned.
- (g) If the Purchaser is an Australian Resident it must not without the Vendor's consent nominate a Foreign Person as a substitute or additional Purchaser.

### **30 NO MERGER**

Obligations under this Contract which have not been satisfied at the settlement date remain in full force and effect irrespective of settlement and do not merge on the transfer of the Property.

### **31 APPLICABLE LAW**

This document shall be governed by Victorian law. The parties irrevocably submit to the non-exclusive jurisdiction of the Courts of Victoria and the Courts of Appeal from them. Each party waives any right it has to object to an action being brought in those courts including, without limitation, by claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.

### **32 STAMP DUTY WHERE PURCHASERS BUYING UNEQUAL INTERESTS**

- 32.1 If there is more than one purchaser, it is the purchasers' responsibility to ensure the Contract correctly records at the date of sale the proportions in which they are buying the Property (the proportions).
- 32.2 If the proportions recorded in the transfer differ from those recorded in the Contract, it is the purchasers' responsibility to pay any additional duty which may be assessed as a result of the variation.

- 32.3 The purchasers fully indemnify the vendor, the vendor's agent and the vendor's legal practitioner against any claims or demands which may be made against any or all of them in relation to any additional duty payable as a result of the proportions in the transfer differing from those in the contract.
- 32.4 This Special Condition will not merge on completion of any Contract entered into for the sale of the Property.

**33 STAMP DUTY FOR OFF THE PLAN PURCHASES**

- 33.1 The Vendor and the Purchaser acknowledge and agree that for the purpose of Section 21 of the *Duties Act 2000* as at the Day of Sale the estimated off the plan value of the Property shall be such amount as is determined by the Vendor's quantity surveyor).
- 33.2 The Purchaser further acknowledges and agrees that:
- (a) neither the Vendor nor anyone on its behalf shall be deemed to have made any warranty to the Purchaser as to the stamp duty payable by the Purchaser in connection with the sale and transfer of the Land;
  - (b) the Purchaser has made its own enquiries and investigations as to the stamp duty payable and relies on the results and on its own judgement; and
  - (c) the Purchaser will be liable to pay all stamp duty assessed on the transfer of land and will not make any claims, objections or requisitions nor rescind or terminate the Contract if, for any other reason whatsoever, the stamp duty assessed on the transfer instrument differs from the amount estimated by the Purchaser as at the Day of Sale.

"ANNEXURE A"

**Guarantee**

I/We, \_\_\_\_\_ of \_\_\_\_\_

And \_\_\_\_\_ of \_\_\_\_\_

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

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

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

day of \_\_\_\_\_ 20\_\_\_\_

**SIGNED SEALED AND DELIVERED** by the said \_\_\_\_\_ )  
in the presence of: \_\_\_\_\_ )

\_\_\_\_\_ Witness

**SIGNED SEALED AND DELIVERED** by the said \_\_\_\_\_ )  
in the presence of: \_\_\_\_\_ )

\_\_\_\_\_ Witness

## **BENDIGO VINEYARD ESTATE PTY LTD**

### **STATEMENT PURSUANT TO SECTION 32 OF THE SALE OF LAND ACT 1962**

---

VENDOR: BENDIGO VINEYARD ESTATE PTY LTD

PROPERTY: 51 Andrews Road, Maiden Gully VIC 3551

#### **IMPORTANT NOTICE TO PURCHASERS**

The use to which you propose to put the property may be prohibited by planning or building controls applying to the locality or may require the consent or permit of the municipal council or other responsible authority. It is in your interest to undertake a proper investigation of permitted land use before you commit yourself to buy. You should check with the appropriate authorities as to the availability (and cost) of providing any essential services not connected to the property.

The property may be located in an area where commercial agricultural production activity may affect your enjoyment of the property. It is therefore in your interest to undertake an investigation of the possible amenity and other impacts from nearby properties and the agricultural practices and processes conducted there.

**1. RESTRICTIONS**

Full particulars of any easement, covenant or other similar restriction (including any caveat) affecting the property are set out in the attached copy of title. There is no existing failure to comply with their terms.

**2. PLANNING**

Information concerning any planning instrument is as follows:

- 2.1 Name: Greater Bendigo Planning Scheme
- 2.2 Name of Responsible Authority: Greater Bendigo City Council
- 2.3 Zoning: Farming
- 2.4 The property is located in a designated bushfire prone area pursuant to the *Building Regulations 2006 (Vic)*. A bushfire-prone area report is attached.

The property is accessible by Road.

**3. SERVICES**

Information concerning the supply of services is as follows:

Service	Connected	Name of Authority
Electricity	Yes	
Gas	No	
Water	No	
Sewerage	No	
Telephone	Yes	

**4. OUTGOINGS & STATUTORY CHARGES**

Information regarding any rates, taxes, charges or other similar outgoings (excluding any owner corporation charges) AND any interest payable on any of them –

**4.1** Their amounts are as follows:

<b>Authority</b>	<b>Amount</b>	<b>Interest (if any)</b>
1) Greater Bendigo City Council	\$3,328.60	
2) Coliban Water (estimated)	\$1,973.00	

**5. BUILDING APPROVALS**

No building approval has been given in the last seven (7) years.

**6. NOTICES**

Particulars of any notice, order (including particulars of any current land use restriction notice given in relation to the land under the Agricultural and Veterinarian Chemicals (Control Of Use) Act), declaration, report or recommendation of a public authority or government department or approved proposal affecting the property (including any notice under section 6 of the Land Acquisition & Compensation Act 1986) are as follows:

There are none to the vendor's knowledge, but the vendor has no means of knowing of all decisions of public authorities or government departments affecting the property unless communicated to the vendor.

**7. TITLE DOCUMENTS**

Attached are copies of the following documents concerning the title:

1. Certificate of Title Volume 9485 folio 600.
2. Plan of Subdivision - LP140380.
3. Property Report
4. Bushfire Prone Area Report
5. Planning Property Report
6. Search for Mine Hazard Form
7. See Appendix B of the Lot Reservation Agreement – Concept Plan. (Unregistered plan of subdivision)

DATE OF THIS STATEMENT: the \_\_\_\_\_ day of \_\_\_\_\_

Signature of vendor: \_\_\_\_\_

Bendigo Vineyard Estate Pty Ltd

The purchaser acknowledges being given a duplicate of this statement by the vendor before the purchaser signed any contract.

**Register Search Statement - Volume 9485 Folio 600**

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

VOLUME 09485 FOLIO 600

Security no : 124050901106P  
Produced 10/06/2014 03:06 pm

LAND DESCRIPTION

Lot 3 on Plan of Subdivision 140380.

PARENT TITLES :

Volume 07853 Folio 049      Volume 08141 Folio 669      Volume 09388 Folio 037  
Created by instrument LP140380 05/10/1982

REGISTERED PROPRIETOR

Estate Fee Simple

Sole Proprietor

PATRICIA ANN ANDREW of 7 EDWARDS RD MAIDEN GULLY 3551  
V395512T 30/04/1998

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE V404513G 06/05/1998  
BENDIGO BANK LTD

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

DIAGRAM LOCATION

SEE LP140380 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: 51 ANDREWS ROAD MAIDEN GULLY VIC 3551

DOCUMENT END

**Delivered from the Landata ® System by SAI Global Property Division Pty Ltd  
Delivered at 10/06/2014, for Order Number 21794061. Your reference: TAR 20111726 Andrew.**

Delivered by LANDATA®. Land Victoria timestamp 10/06/2014 15:10 Page 1 of 4

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<p>PLAN OF SUBDIVISION OF CROWN ALLOTMENTS 15, 29, 30, 31, 40, 40<sup>A</sup>, 41, 42, 51, 56, 59, 63, 70, 71, 115, 116, 117 AND 117<sup>A</sup> PARISH OF MARONG COUNTY OF BENDIGO LENGTHS ARE IN METRES</p>	APPROPRIATIONS	NOTATIONS
	(SEE SHEET 3)	ROAD WIDTHS ARE NOT TO SCALE FOR REFERENCE MARKS SEE FIELDNOTES.

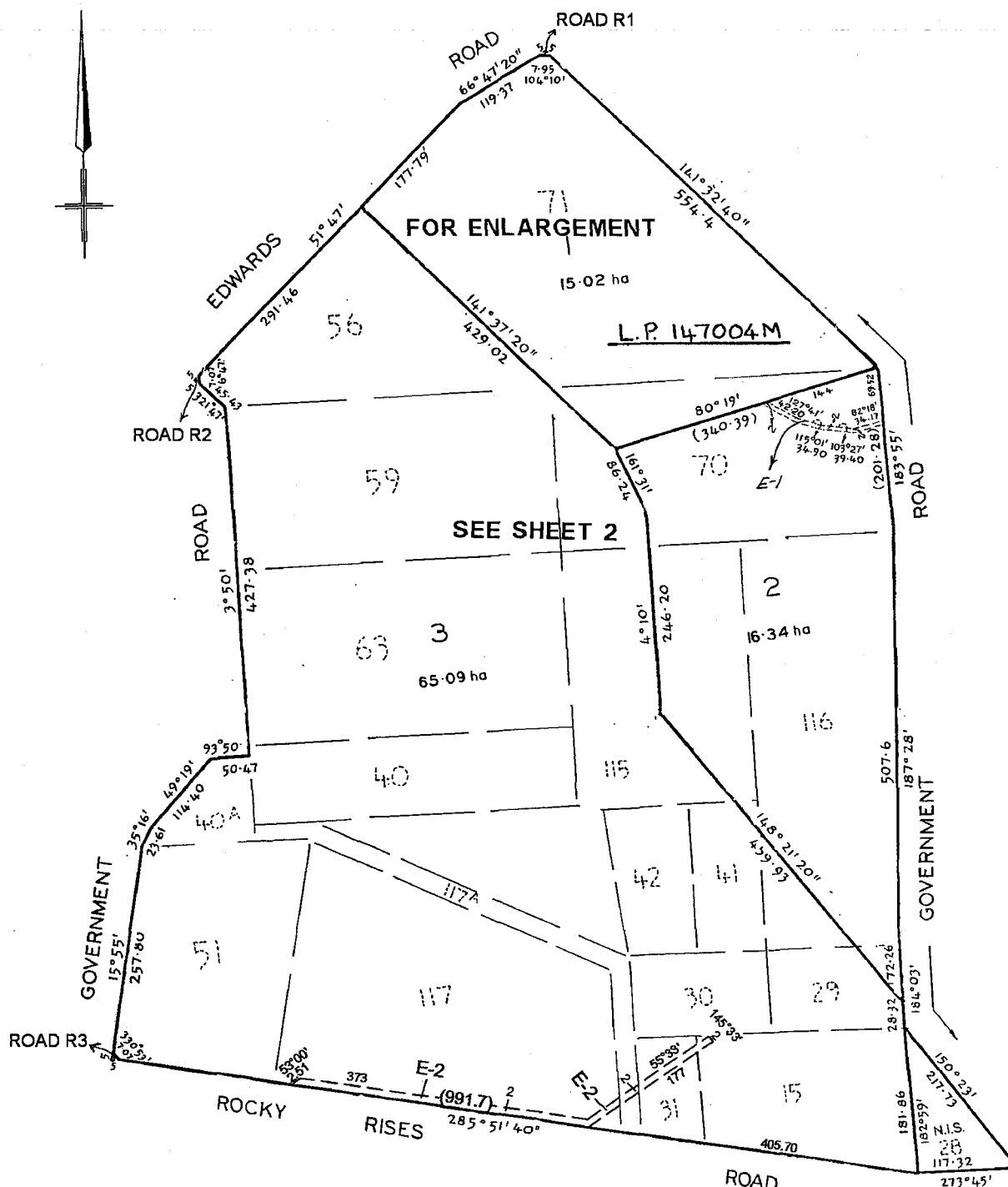
**LP140380**  
**EDITION 2**  
APPROVED 2/9/82

**3 SHEETS**  
**SHEET 1.**

V. 7853 F. 049  
V. 8141 F. 669  
V. 9388 F. 037

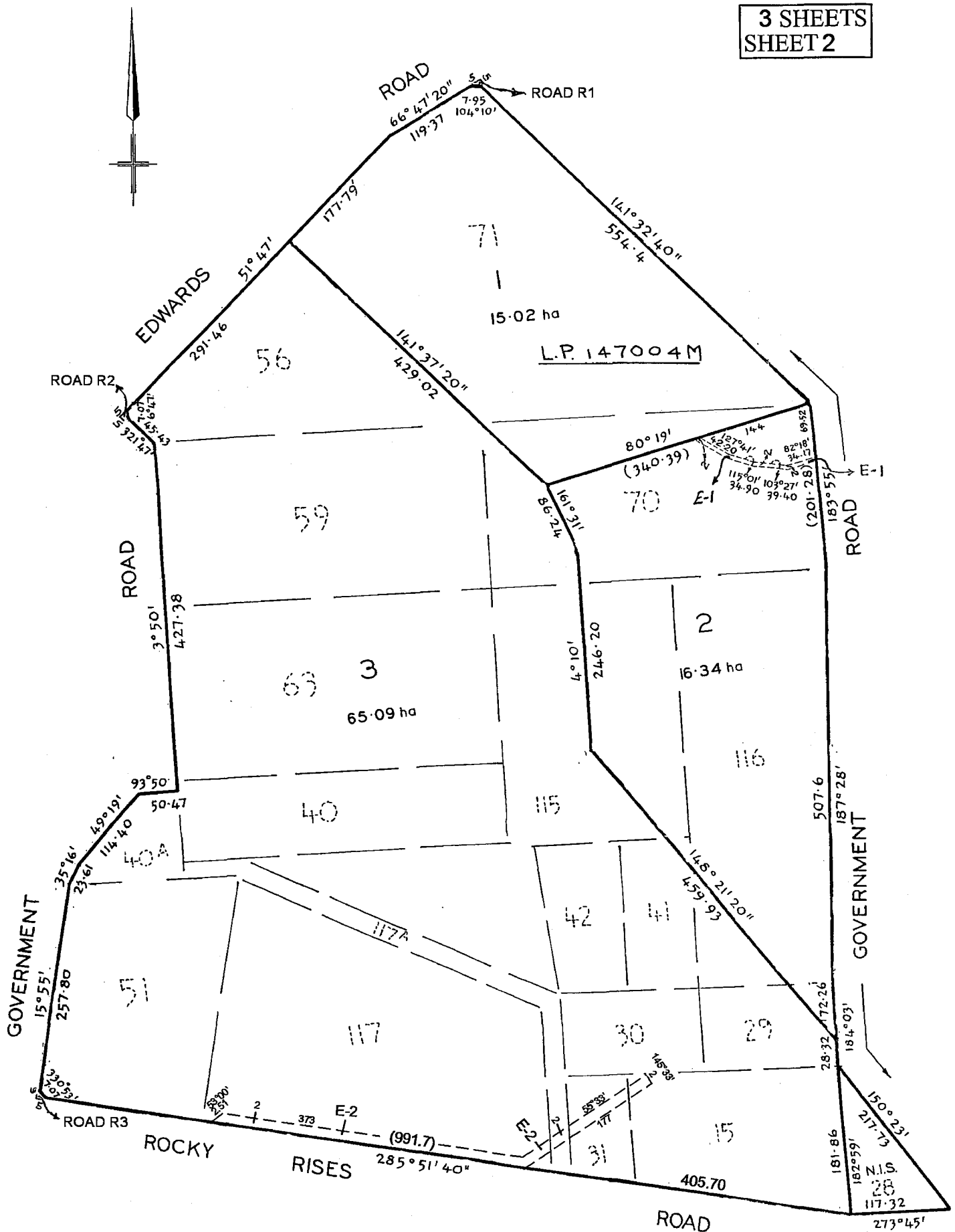
**COLOUR CODE**  
E-1 = BLUE  
R1, R2 & R3 = BROWN

DEPTH LIMITATION: 15.24m (CA 117A)  
DEPTH LIMITATION: 15m (CA 40A)





3 SHEETS  
SHEET 2



## EASEMENT INFORMATION

Easement Reference	Purpose	Width (Metres)	Origin	Land Benefitted / In Favour Of
--------------------	---------	----------------	--------	--------------------------------

**SHEET 3 OF 3 SHEETS**

### RECORD OF ALL ADDITIONS OR CHANGES TO THE PLAN

**LP140380**

[illegible]

## Property Report from [www.land.vic.gov.au](http://www.land.vic.gov.au) on 10 June 2014 02:53 PM

**Address:** 51 ANDREWS ROAD MAIDEN GULLY 3551

**Lot / Plan:** Lot 3 LP140380

**SPI (Standard Parcel Identifier):** 3\LP140380

**Local Government (Council):** GREATER BENDIGO **Council Property Number:** 198946

**Directory Reference:** VicRoads 606 D7

**This property is in a designated bushfire prone area.**

**Special bushfire construction requirements apply. Planning provisions may apply.**

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

### Parcel Details

Lot/Plan or Crown Description	SPI
Lot 3 LP140380	3\LP140380

### State Electorates

**Legislative Council:** NORTHERN VICTORIA (2005)

**Legislative Assembly:** BENDIGO WEST (2001)

The following electorates using the 2013 boundaries will not apply until the election in November 2014

**Legislative Council (2013):** NORTHERN VICTORIA (2013)

**Legislative Assembly (2013):** BENDIGO WEST (2013)

### Utilities

**Regional Urban Water Business:** Coliban Region Water

**Rural Water Business:** Goulburn-Murray Water

**Melbourne Water:** outside drainage boundary

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

### Planning Zone Summary

**Planning Zone:**

FARMING ZONE (FZ)

SCHEDULE TO THE FARMING ZONE

**Planning Overlays:**

BUSHFIRE MANAGEMENT OVERLAY (BMO OR WMO)

ENVIRONMENTAL SIGNIFICANCE OVERLAY (ESO)

ENVIRONMENTAL SIGNIFICANCE OVERLAY - SCHEDULE 1 (ESO1)

ENVIRONMENTAL SIGNIFICANCE OVERLAY - SCHEDULE 2 (ESO2)

HERITAGE OVERLAY (HO)

HERITAGE OVERLAY SCHEDULE (HO549)

VEGETATION PROTECTION OVERLAY (VPO)

VEGETATION PROTECTION OVERLAY - SCHEDULE 2 (VPO2)

**Areas of Aboriginal Cultural Heritage Sensitivity:** This property is within, or affected by, one or more areas of cultural heritage sensitivity

### Further Planning Information

Planning scheme data last updated on 5 June 2014.

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, local, particular and general provisions of the local planning scheme that may affect the use of the land can be obtained by contacting the local council or by visiting [Planning Schemes Online](#)

This report is NOT a **Planning Certificate** issued pursuant to Section 199 of the Planning & Environment Act 1987. It does not include information about exhibited planning scheme amendments, or zonings that may affect the land. To obtain a **Planning Certificate** go to [Titles and Property Certificates](#)

The Planning Property Report includes separate maps of zones and overlays

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

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

For other information about planning in Victoria visit [www.dpcd.vic.gov.au/planning](http://www.dpcd.vic.gov.au/planning)

## Areas of Aboriginal Cultural Heritage Sensitivity

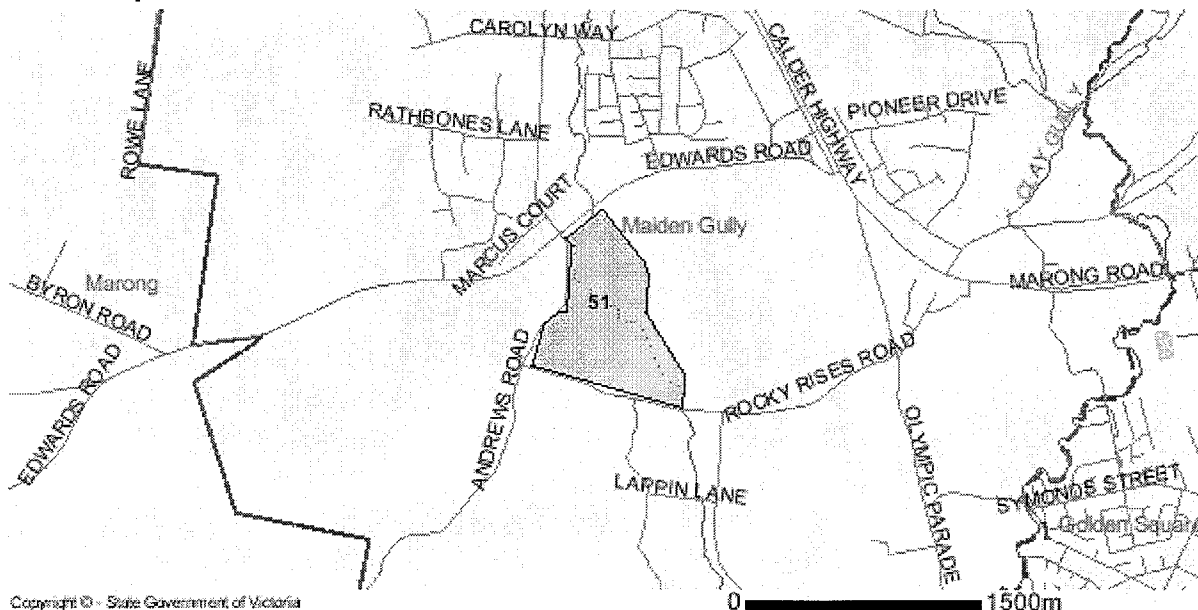
The data provides indicative information about the location and extent of areas of Aboriginal cultural heritage sensitivity and is provided to assist with the decisions about the potential need to prepare a Cultural Heritage Management Plan in relation to proposed activities on this property.

For further information about whether a Cultural Heritage Management Plan is required go to [Aboriginal Heritage Planning Tool](#)

To find out if your property has any recorded Aboriginal cultural heritage places, such as scarred trees, occupation sites or places of burial, you can request information from the Victorian Aboriginal Heritage Register.

Find out more about the [Victorian Aboriginal Heritage Register](#)

## Area Map



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## Bushfire Prone Area Report

From [www.dpcd.vic.gov.au/planning](http://www.dpcd.vic.gov.au/planning) on 10 June 2014 02:50 PM

**Address:** 51 ANDREWS ROAD MAIDEN GULLY 3551

**Lot / Plan:** Lot 3 LP140380

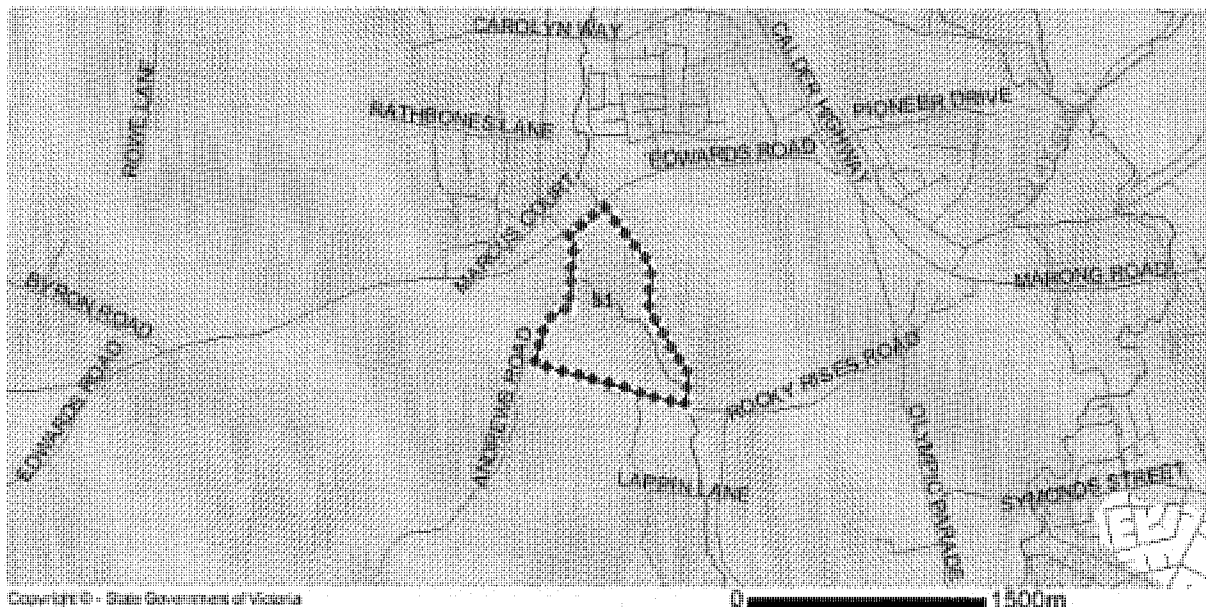
**Local Government (Council):** GREATER BENDIGO **Council Property Number:** 198946

**Directory Reference:** VicRoads 606 D7



**This property is in a designated bushfire prone area.**

**Special bushfire construction requirements apply. Planning provisions may apply.**

### Bushfire Prone Area Map



#### Bushfire Prone Area Legend

 Bushfire Prone Area  Selected Land

Designated bushfire prone areas as determined by the Minister for Planning are in effect from 8 September 2011, as amended by gazette notices on 25 October 2012, 8 August 2013, 30 December 2013 and 3 June 2014.

The Building Regulations 2006 through application of the Building Code of Australia, apply bushfire protection standards for building works in designated bushfire prone areas.

Designated bushfire prone areas maps can be viewed via the Bushfire Prone Areas Map Service at [services.land.vic.gov.au/maps/bushfire.jsp](http://services.land.vic.gov.au/maps/bushfire.jsp) or at the relevant local council.

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

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

Copies of the Building Act and Building Regulations are available from [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au)

For Planning Scheme Provisions in bushfire areas in Victoria visit [Planning Schemes Online](#)

For Planning Scheme provisions for this property return to the GetReports list and select the Planning Property Report

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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 32(2)(dc) of the Sale of Land 1962 (Vic).



## Planning Property Report

From [www.dpcd.vic.gov.au/planning](http://www.dpcd.vic.gov.au/planning) on 10 June 2014 02:54 PM

**Address:** 51 ANDREWS ROAD MAIDEN GULLY 3551

**Lot / Plan:** Lot 3 LP140380

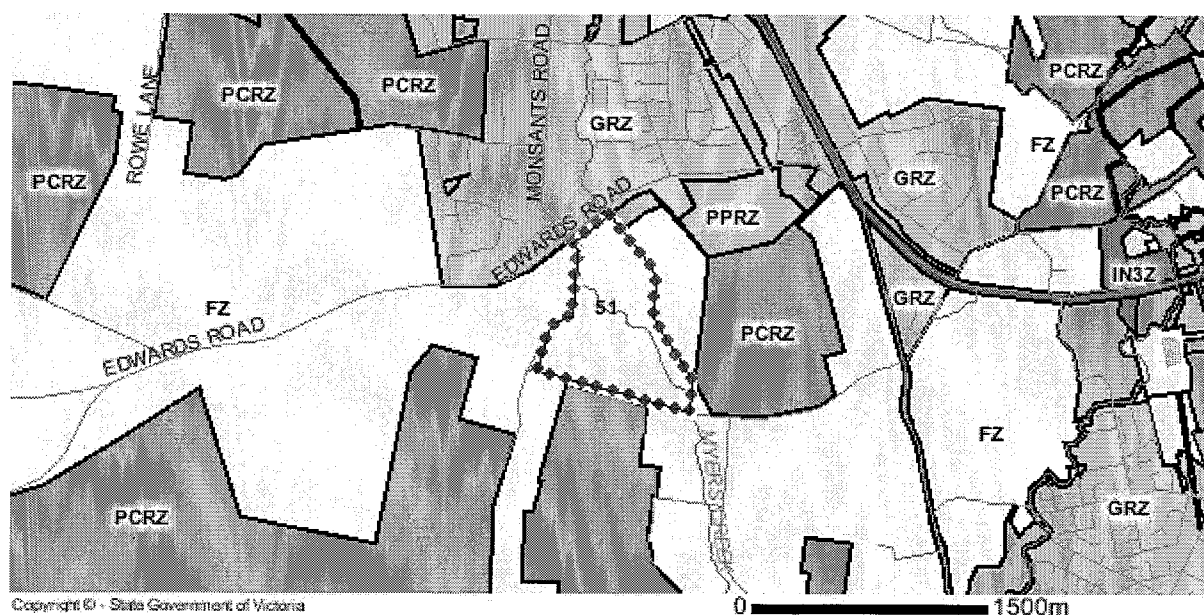
**Local Government (Council):** GREATER BENDIGO **Council Property Number:** 198946

**Directory Reference:** VicRoads 606 D7

## Planning Zone

FARMING ZONE (FZ)

SCHEDULE TO THE FARMING ZONE



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

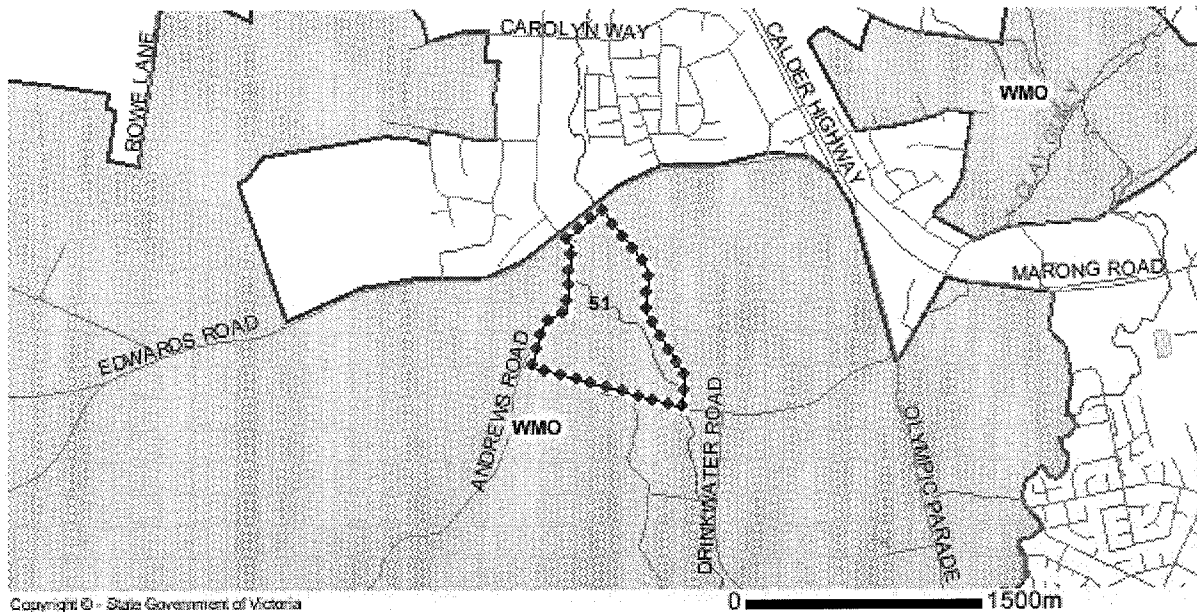
### Zones Legend

ACZ - Activity Centre	IN1Z - Industrial 1	R1Z - Residential 1
B1Z - Commercial 1	IN2Z - Industrial 2	R2Z - Residential 2
B2Z - Commercial 1	IN3Z - Industrial 3	R3Z - Residential 3
B3Z - Commercial 2	LDRZ - Low Density Residential	RAZ - Rural Activity
B4Z - Commercial 2	MUZ - Mixed Use	RCZ - Rural Conservation
B5Z - Commercial 1	NRZ - Neighbourhood Residential	RDZ1 - Road - Category 1
C1Z - Commercial 1	PCRZ - Public Conservation & Resource	RDZ2 - Road - Category 2
C2Z - Commercial 2	PDZ - Priority Development	RGZ - Residential Growth
CA - Commonwealth Land	PPRZ - Public Park & Recreation	RLZ - Rural Living
CCZ - Capital City	PUZ1 - Public Use - Service & Utility	RUZ - Rural
CDZ - Comprehensive Development	PUZ2 - Public Use - Education	SUZ - Special Use
DZ - Dockland	PUZ3 - Public Use - Health Community	TZ - Township
ERZ - Environmental Rural	PUZ4 - Public Use - Transport	UFZ - Urban Floodway
FZ - Farming	PUZ5 - Public Use - Cemetery/Crematorium	UGZ - Urban Growth
GRZ - General Residential	PUZ6 - Public Use - Local Government	
GWAZ - Green Wedge A	PUZ7 - Public Use - Other Public Use	
GWZ - Green Wedge		-- Urban Growth Boundary



## Planning Overlays

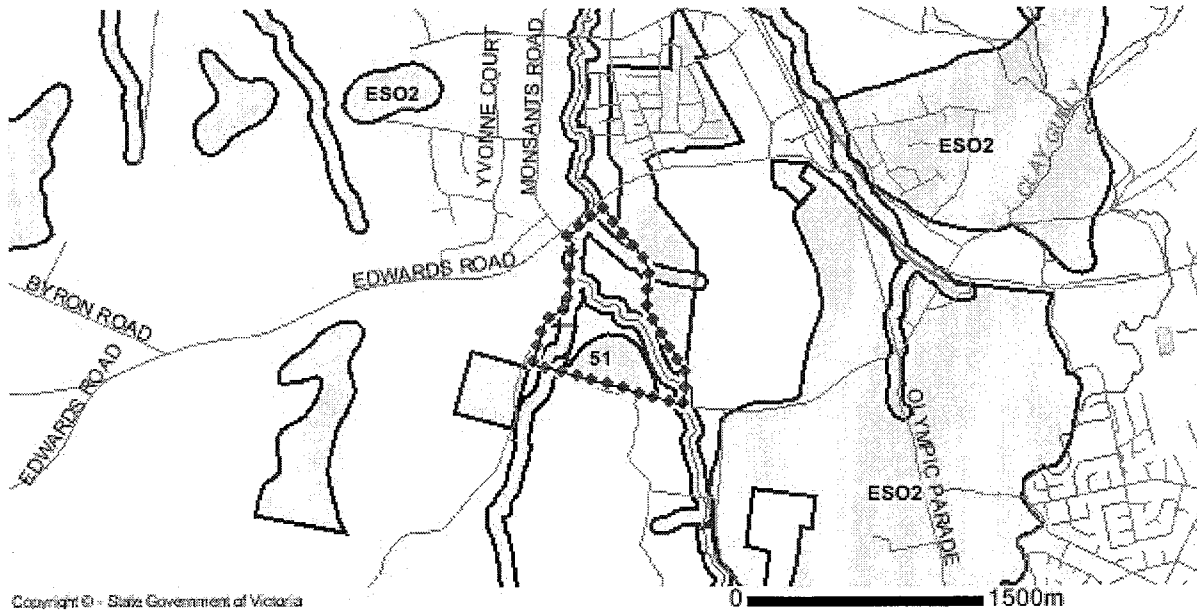
### BUSHFIRE MANAGEMENT OVERLAY (BMO OR WMO)



### ENVIRONMENTAL SIGNIFICANCE OVERLAY (ESO)

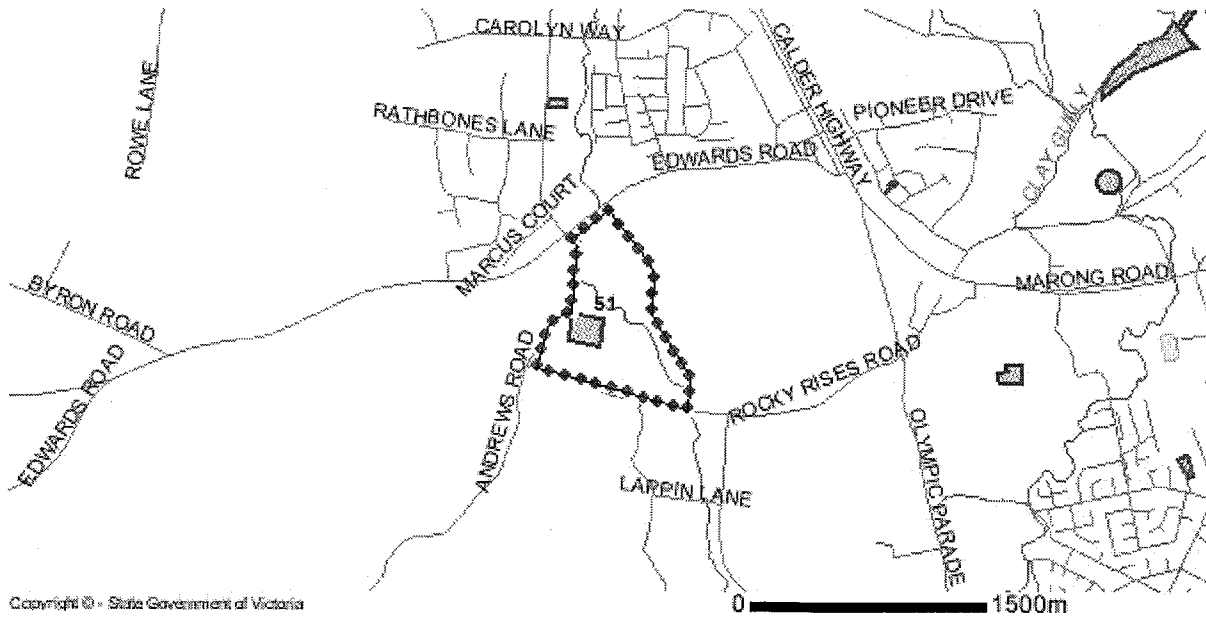
#### ENVIRONMENTAL SIGNIFICANCE OVERLAY - SCHEDULE 1 (ESO1)

#### ENVIRONMENTAL SIGNIFICANCE OVERLAY - SCHEDULE 2 (ESO2)



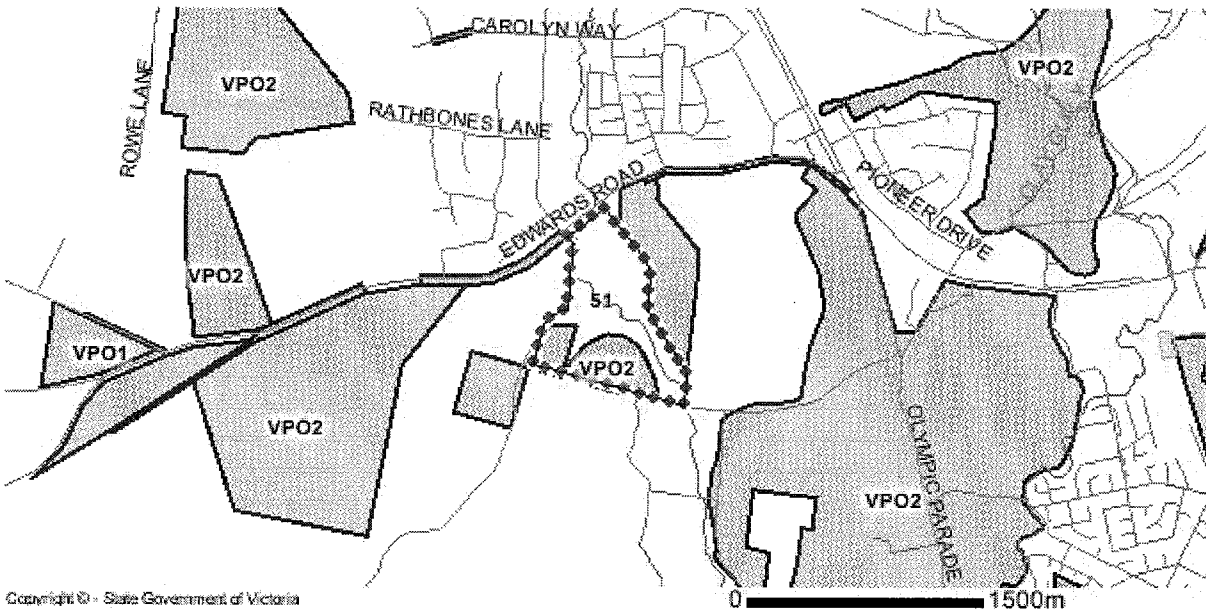
### HERITAGE OVERLAY (HO)

#### HERITAGE OVERLAY SCHEDULE (HO549)



VEGETATION PROTECTION OVERLAY (VPO)

VEGETATION PROTECTION OVERLAY - SCHEDULE 2 (VPO2)

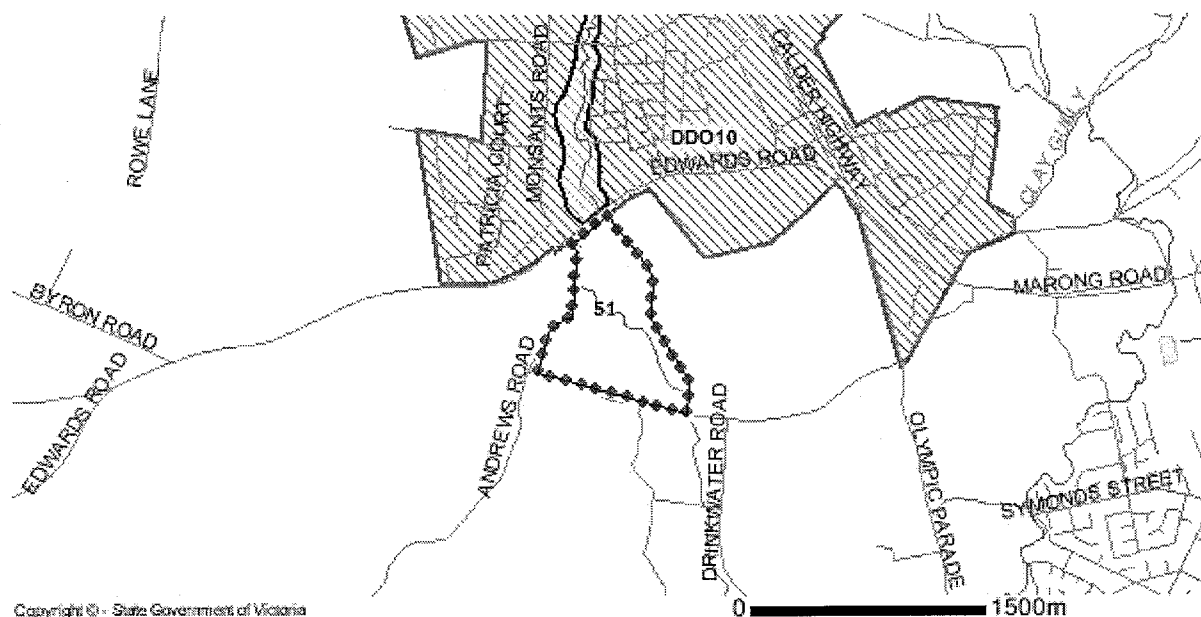


OTHER OVERLAYS

Other overlays in the vicinity not directly affecting this land

DESIGN AND DEVELOPMENT OVERLAY (DDO)

LAND SUBJECT TO INUNDATION OVERLAY (LSIO)



#### Overlays Legend

	AEO - Airport Environs		LSIO - Land Subject to Inundation
	BMO - Bushfire Management (also WMO)		MAEO1 - Melbourne Airport Environs 1
	CLPO - City Link Project		MAEO2 - Melbourne Airport Environs 2
	DCPO - Development Contributions Plan		NCO - Neighbourhood Character
	DDO - Design & Development		PO - Parking
	DDOPT - Design & Development Part		PAO - Public Acquisition
	DPO - Development Plan		RO - Restructure
	EAO - Environmental Audit		RCO - Road Closure
	EMO - Erosion Management		SBO - Special Building
	ESO - Environmental Significance		SLO - Significant Landscape
	FO - Floodway		SMO - Salinity Management
	HO - Heritage		SRO - State Resource
	IPO - Incorporated Plan		VPO - Vegetation Protection

Note: due to overlaps some colours may not match those in the legend.

## Further Planning Information

Planning scheme data last updated on 5 June 2014.

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, local, particular and general provisions of the local planning scheme that may affect the use of the land can be obtained by contacting the local council or by visiting [Planning Schemes Online](#)

This report is NOT a **Planning Certificate** issued pursuant to Section 199 of the Planning & Environment Act 1987. It does not include information about exhibited planning scheme amendments, or zonings that may affect the land. To obtain a **Planning Certificate** go to [Titles and Property Certificates](#)

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## Areas of Aboriginal Cultural Heritage Sensitivity

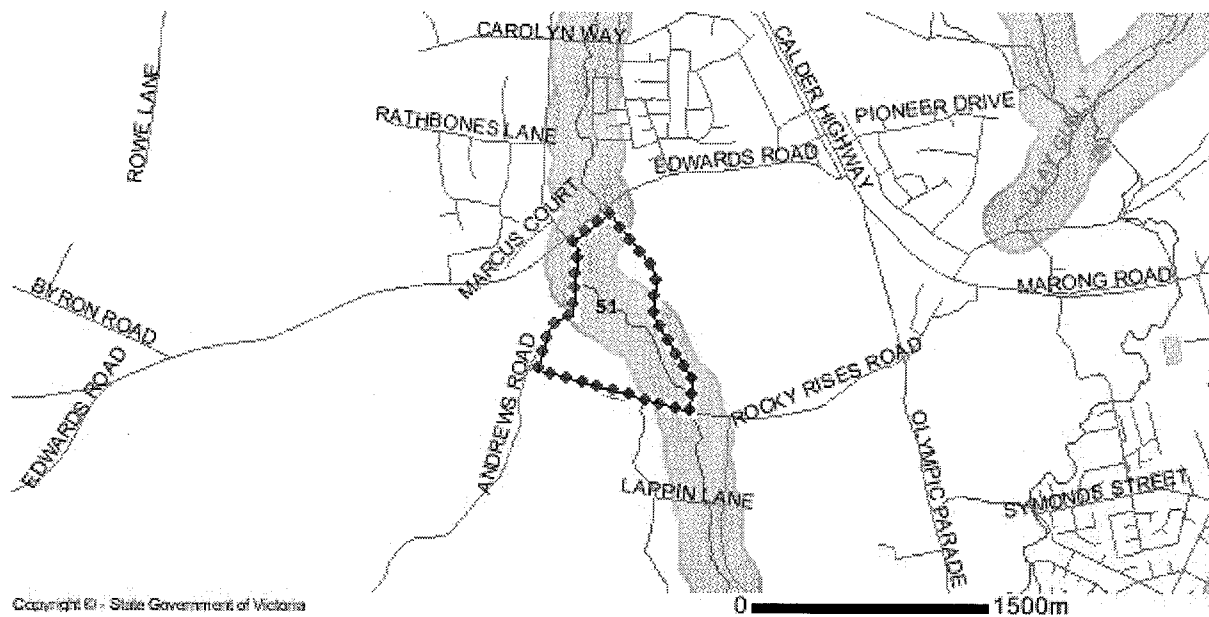
This property is within, or affected by, one or more areas of cultural heritage sensitivity as described in the Aboriginal Heritage Regulations 2007.

The data provides indicative information about the location and extent of areas of Aboriginal cultural heritage sensitivity and is provided to assist with the decisions about the potential need to prepare a Cultural Heritage Management Plan in relation to proposed activities on this property.

For further information about whether a Cultural Heritage Management Plan is required go to [Aboriginal Heritage Planning Tool](#)

To find out if your property has any recorded Aboriginal cultural heritage places, such as scarred trees, occupation sites or places of burial, you can request information from the Victorian Aboriginal Heritage Register.

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**Aboriginal Cultural Heritage Sensitivity** Aboriginal Cultural Heritage Sensitivity Selected Land

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## SEARCH FOR MINE HAZARD Form No. 692

10 Jun 2014

Selection:

Lot No: 3  
Plan No: LP140380  
Parish: No match for in parish\_polygon.parish-code

It is advised that:

Our records do not show the presence of any mine workings on this site, and it lies outside any known mined area.

Contact Department of Primary Industries for information:

GIS Officer  
Minerals & Petroleum Business Centre  
Phone: 9658 4456  
Fax: 9658 4460  
E-mail: [mbc.info@dpi.vic.gov.au](mailto:mbc.info@dpi.vic.gov.au)

NOTE: Although mine subsidence hazard advice is given as accurately as our plans and records permit, these records are often incomplete, and it is not possible to guarantee that no subsidence hazard exists for properties which are the subject of this report. Our plans and records are updated whenever new information becomes available.

The information acquired by the user is as accurate as our records permit, however, no warranty or guarantee is given, and no responsibility arising therefrom is accepted by the State of Victoria or the Department, its officers, agents or delegates. The Department makes no representation as to the hazards on the land.

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Mine Overlaps:

Current Tenement Overlaps:

Expired Tenement Overlaps: