

Application for a Planning Permit

If you need help to complete this form, read MORE INFORMATION at the end of this form.

⚠ Any material submitted with this application, including plans and personal information, will be made available for public viewing, including electronically, and copies may be made for interested parties for the purpose of enabling consideration and review as part of a planning process under the Planning and Environment Act 1987. If you have any questions, please contact Council planning department.

⚠ Questions marked with an asterisk (*) must be completed.

⚠ If the space provided on the form is insufficient, attach a separate sheet

i Click for further information.

CITY OF MARIBYRNONG
RECEIVED
22/04/2025
URBAN PLANNING

The Land **i**

Address of the land. Complete the Street Address and one of the Formal Land Descriptions.

Street Address *

Unit No:	St. No.: 15	St. Name: Allara Avenue
Suburb/Locality: MARIBYRNONG		Post Code: 3032

Formal Land Description *

Complete either A or B.

⚠ This information can be found on the certificate of title

If this application relates to more than one address, attach a separate sheet setting out any additional property details.

A	Vol.: 10899	Folio.: 736	Suburb.: Maribyrnong
OR	Lot No.:	Type.: Lot/Plan of Subdivision	
B	Crown Allotment No.:	Section No.:	
	Parish/Township Name:		

The Proposal

⚠ You must give full details of your proposal and attach the information required to assess the application. Insufficient or unclear information will delay your application

i For what use, development or other matter do you require a permit? *

Addition of a open and close verandah louvre roof

📎 Provide additional information about the proposal, including: plans and elevations; any information required by the planning scheme, requested by Council or outlined in a Council planning permit checklist; and if required, a description of the likely effect of the proposal.

i Estimated cost of any development for which the permit is required *


41560.00	⚠ You may be required to verify this estimate. Insert '0' if no development is proposed.
If the application is for land within metropolitan Melbourne (as defined in section 3 of the Planning and Environment Act 1987) and the estimated cost of the development exceeds \$1.093 million (adjusted annually by CPI) the Metropolitan Planning Levy must be paid to the State Revenue Office and a current levy certificate must be submitted with the application. Visit www.sro.vic.gov.au for information.	

Existing Conditions

Describe how the land is used and developed now *

For example, vacant, three dwellings, medical centre with two practitioners, licensed restaurant with 80 seats, grazing.

Single Dwelling


 Provide a plan of the existing conditions. Photos are also helpful.

Title Information

Encumbrances on title *

Does the proposal breach, in any way, an encumbrance on title such as a restrictive covenant, section 173 agreement or other obligation such as an easement or building envelope?

- ☐ Yes (If 'yes' contact Council for advice on how to proceed before continuing with this application.)
- ☐ No
- ☐ Not applicable (no such encumbrance applies).
- ☐ Not Sure

 Provide a full, current copy of the title for each individual parcel of land forming the subject site. The title includes: the covering 'register search statement', the title diagram and the associated title documents, known as 'instruments', for example, restrictive covenants.

Applicant and Owner Details

Provide details of the applicant and the owner of the land.

Applicant *

The person who wants the permit.

Name:

Title: MS First Name: Vrushali Surname: Kulkarni

Organization (if applicable):

Unit No: St. No: 9 St. Name: Central Boulevard

Suburb: PORT MELBOURNE State: VIC Postcode: 3207

Business phone: Email: drafting@1800louvre.com.au

Mobile phone: Home:

Where the preferred contact person for the application is different from the applicant, provide the details of that person.

Contact person's details*

Name:

Same as applicant ☒

Title: MS First Name: Vrushali Surname: Kulkarni

Organization (if applicable):

Unit No: St. No: 9 St. Name: Central Boulevard

Suburb: PORT MELBOURNE State: VIC Postcode: 3207

Business phone: Email: drafting@1800louvre.com.au

Mobile phone: Home:

Owner *

The person or organisation who owns the land

Where the owner is different from the applicant, provide the details of that person or organization.

Name:

Same as applicant ☐

Title: MR First Name: Robert Surname: Heslop

Organization (if applicable):

Postal Address: If it is a P.O. Box, enter the details here:

Unit No: St. No: 15 St. Name: Allara Avenue


Suburb: MARIBYRNONG State: VIC Postcode: 3032

Business Phone: Email: robert.heslop@bigpond.com

Mobile phone: 0404854779 Home:

Declaration

This form must be signed by the applicant *

 Remember it is against the law to provide false or misleading information, which could result in a heavy fine and cancellation of the permit.

I declare that I am the applicant; and that all the information in this application is true and correct; and the owner (if not myself) has been notified of the permit application.

Signature:

Vanshali Kulkarni

Date

22 / 04 / 2025

day / month / year

Need help with the Application?

General information about the planning process is available at planning.vic.gov.au

Contact Council's planning department to discuss the specific requirements for his application and obtain a planning permit checklist. Insufficient or unclear information may delay your application

Has there been a pre-application meeting with a council planning officer

☒ No ☐ Yes

Officer Name:

Date:

day / month / year

Checklist

Have you:



Filled in the form completely?



Paid or included the application fee?



Most applications require a fee to be paid. Contact Council to determine the appropriate fee.



Provided all necessary supporting information and documents?



A full, current copy of title information for each individual parcel of land forming the subject site



A plan of existing conditions.



Plans showing the layout and details of the proposal.



Any information required by the planning scheme, requested by council or outlined in a council planning permit checklist.



If required, a description of the likely effect of the proposal (for example, traffic, noise, environmental impacts)



If applicable, a current Metropolitan Planning Levy certificate (a levy certificate expires 90 days after the day on which it is issued by the State Revenue Office and then cannot be used). Failure to comply means the application is void



Completed the relevant council planning permit checklist?



Signed the declaration?

Lodgement

Lodge the completed and signed form, the fee and all documents with:

Maribyrnong City Council
PO Box 58
Footscray VIC 3011
Cnr Napier and Hyde Streets
Footscray VIC 3011

Contact information:

Phone: (03) 9688 0200
Email: email@maribyrnong.vic.gov.au
DX: 81112

Deliver application in person, by post or by electronic lodgement.

MORE INFORMATION

The Land

Planning permits relate to the use and development of the land. It is important that accurate, clear and concise details of the land are provided with the application.

How is land identified


Land is commonly identified by a street address, but sometimes this alone does not provide an accurate identification of the relevant parcel of land relating to an application. Make sure you also provide the formal land description - the lot and plan number or the crown, section and parish/township details (as applicable) for the subject site. This information is shown on the title.

See **Example 1**.

The Proposal

Why is it important to describe the proposal correctly?


The application requires a description of what you want to do with the land. You must describe how the land will be used or developed as a result of the proposal. It is important that you understand the reasons why you need a permit in order to suitably describe the proposal. By providing an accurate description of the proposal, you will avoid unnecessary delays associated with amending the description at a later date.

 Planning schemes use specific definitions for different types of use and development. Contact the Council planning office at an early stage in preparing your application to ensure that you use the appropriate terminology and provide the required details.

How do planning schemes affect proposals?

A planning scheme sets out policies and requirements for the use, development and protection of land. There is a planning scheme for every municipality in Victoria. Development of land includes the construction of a building, carrying out works, subdividing land or buildings and displaying signs.

Proposals must comply with the planning scheme provisions in accordance with Clause 61.05 of the planning scheme. Provisions may relate to the State Planning Policy Framework, the Local Planning Policy Framework, zones, overlays, particular and general provisions. You can access the planning scheme by either contacting Council's planning department or by visiting Planning Schemes Online at planning-schemes.delwp.vic.gov.au

 You can obtain a planning certificate to establish planning scheme details about your property. A planning certificate identifies the zones and overlays that apply to the land, but it does not identify all of the provisions of the planning scheme that may be relevant to your application. Planning certificates for land in metropolitan areas and most rural areas can be obtained by visiting www.landata.vic.gov.au Contact your local Council to obtain a planning certificate in Central Goldfields, Corangamite, Macedon Ranges and Greater Geelong. You can also use the free Planning Property Report to obtain the same information.

See **Example 2**.


Estimated cost of development

In most instances an application fee will be required. This fee must be paid when you lodge the application. The fee is set down by government regulations.

To help Council calculate the application fee, you must provide an accurate cost estimate of the proposed development. This cost does not include the costs of development that you could undertake without a permit or that are separate from the permit process. Development costs should be calculated at a normal industry rate for the type of construction you propose.

Council may ask you to justify your cost estimates. Costs are required solely to allow Council to calculate the permit application fee. Fees are exempt from GST.

 Costs for different types of development can be obtained from specialist publications such as Cordell Housing: Building Cost Guide or Rawlinsons: Australian Construction Handbook

 Contact the Council to determine the appropriate fee. Go to planning.vic.gov.au to view a summary of fees in the Planning and Environment (Fees) Regulations.

Metropolitan Planning Levy refer Division 5A of Part 4 of the Planning and Environment Act 1987 (the Act). A planning permit application under section 47 or 96A of the Act for a development of land in metropolitan Melbourne as defined in section 3 of the Act may be a leviable application. If the cost of the development exceeds the threshold of \$1 million (adjusted annually by consumer price index) a levy certificate must be obtained from the State Revenue Office after payment of the levy. A valid levy certificate must be submitted to the responsible planning authority (usually council) with a leviable planning permit application. Refer to the State Revenue Office website at www.sro.vic.gov.au for more information. A leviable application submitted without a levy certificate is void

Existing Conditions

How should land be described?

You need to describe, in general terms, the way the land is used now, including the activities, buildings, structures and works that exist (e.g. single dwelling, 24 dwellings in a three-storey building, medical centre with three practitioners and 8 car parking spaces, vacant building, vacant land, grazing land, bush block)

Please attach to your application a plan of the existing conditions of the land. Check with the local Council for the quantity, scale and level of detail required. It is also helpful to include photographs of the existing conditions.

See **Example 3**.

Title Information

What is an encumbrance?

An encumbrance is a formal obligation on the land, with the most common type being a mortgage. Other common examples of encumbrances include:

- **Restrictive Covenants:** A restrictive covenant is a written agreement between owners of land restricting the use or development of the land for the benefit of others, (eg. a limit of one dwelling or limits on types of building materials to be used).
- **Section 173 Agreements:** A section 173 agreement is a contract between an owner of the land and the Council which sets out limitations on the use or development of the land.
- **Easements:** An easement gives rights to other parties to use the land or provide for services or access on, under or above the surface of the land.
- **Building Envelopes:** A building envelope defines the development boundaries for the land.
- signed the declaration on the last page of the application form

Aside from mortgages, the above encumbrances can potentially limit or even prevent certain types of proposals.

What documents should I check to find encumbrances

Encumbrances are identified on the title (register search statement) under the header encumbrances, caveats and notices. The actual details of an encumbrance are usually provided in a separate document (instrument) associated with the title. Sometimes encumbrances are also marked on the title diagram or plan, such as easements or building envelopes.

What about caveats and notices?

A caveat is a record of a claim from a party to an interest in the land. Caveats are not normally relevant to planning applications as they typically relate to a purchaser, mortgagee or chargee claim, but can sometimes include claims to a covenant or easement on the land. These types of caveats may affect your proposal.

Other less common types of obligations may also be specified on title in the form of notices. These may have an effect on your proposal, such as a notice that the building on the land is listed on the Heritage Register.

What happens if the proposal contravenes an encumbrance on title?

Encumbrances may affect or limit your proposal or prevent it from proceeding. Section 61(4) of the *Planning and Environment Act 1987* for example, prevents a Council from granting a permit if it would result in a breach of a registered restrictive covenant. If the proposal contravenes any encumbrance, contact the Council for advice on how to proceed.

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CITY OF MARIBYRNONG
RECEIVED
22/04/2025
URBAN PLANNING

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

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

VOLUME 10899 FOLIO 736

Security no : 124123202585A
Produced 27/03/2025 02:35 PM

LAND DESCRIPTION

Lot 8 on Plan of Subdivision 510170F.
PARENT TITLE Volume 10760 Folio 735
Created by instrument PS510170F 13/09/2005

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
ROBERT WILLIAM HESLOP of 15 ALLARA AVENUE MARIBYRNONG VIC 3032
AM538809V 08/02/2016

ENCUMBRANCES, CAVEATS AND NOTICES

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

AGREEMENT Section 173 Planning and Environment Act 1987
AD315361N 16/12/2004

AGREEMENT Section 173 Planning and Environment Act 1987
AD745404W 13/07/2005

DIAGRAM LOCATION

SEE PS510170F FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

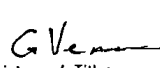

-----END OF REGISTER SEARCH STATEMENT-----

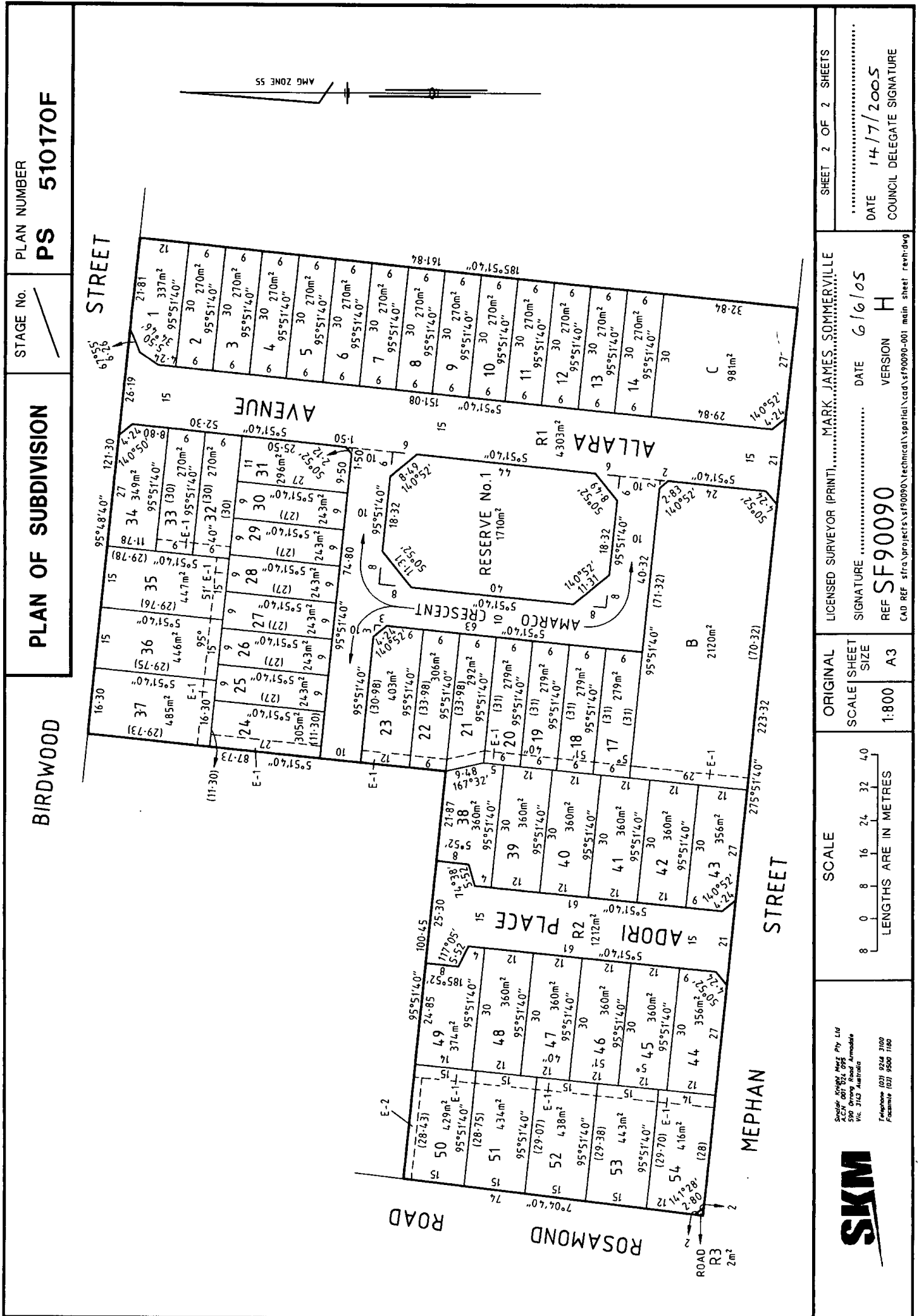
Additional information: (not part of the Register Search Statement)

Street Address: 15 ALLARA AVENUE MARIBYRNONG VIC 3032

DOCUMENT END

Delivered from the LANDATA® System by Dye & Durham Solutions Pty Ltd

PLAN OF SUBDIVISION		STAGE No. /	LR USE ONLY EDITION 1	PLAN NUMBER PS 510170F			
LOCATION OF LAND PARISH: CUT PAW PAW TOWNSHIP: SECTION: 15 CROWN ALLOTMENT: 5 (PART) CROWN PORTION: TITLE REFERENCES: VOL 10760 FOL 735 LAST PLAN REFERENCE/S: LOT B ON PS 518568F POSTAL ADDRESS: ROSAMOND ROAD (At time of subdivision) MARIBYRNONG 3032 AMG Co-ordinates E 313 650 (of approx centre of N 5 815 670 land in plan) ZONE 55		COUNCIL CERTIFICATION AND ENDORSEMENT COUNCIL NAME: CITY OF MARIBYRNONG REF: TP04/0638 1 This plan is certified under Section 6 of the Subdivision Act 1988 2 This plan is certified under Section 11(7) of the Subdivision Act 1988. Date of original certification under Section 6. 3. This is a statement of compliance issued under Section 21 of the Subdivision Act 1988. OPEN SPACE (i) A requirement for public open space under Section 18 of the Subdivision Act 1988 has has not been made. (ii) The requirement has been satisfied. (iii) The requirement is to be satisfied in Stage Council Delegate Council Seal Date 14/7/2005 Re-certified under Section 11(7) of the Subdivision Act 1988. Council Delegate Council Seal Date					
VESTING OF ROADS AND/OR RESERVES		NOTATIONS					
IDENTIFIER	COUNCIL/BODY/PERSON	STAGING This is is not a staged subdivision Planning permit No. TP03/0722					
ROAD R1 ROAD R2 ROAD R3 RESERVE No 1	CITY OF MARIBYRNONG CITY OF MARIBYRNONG CITY OF MARIBYRNONG CITY OF MARIBYRNONG	DEPTH LIMITATION DOES NOT APPLY LOTS 15 & 16 HAVE BEEN OMITTED FROM THIS PLAN OTHER PURPOSE OF THIS PLAN: REMOVAL OF DRAINAGE EASEMENT E-1 CREATED ON PS 518568F GROUND FOR REMOVAL: DIRECTION IN CITY OF MARIBYRNONG PLANNING PERMIT No TP 03/0722					
ALLARA 54 LOTS 2.712ha		SURVEY. THIS PLAN IS AS NOT BASED ON SURVEY. THIS SURVEY HAS BEEN CONNECTED TO PERMANENT MARKS No (s) IN PROCLAIMED SURVEY AREA No.					
EASEMENT INFORMATION				LR USE ONLY			
LEGEND A-Appurtenant Easement E-Encumbering Easement R-Encumbering Easement (Road)				STATEMENT OF COMPLIANCE/ EXEMPTION STATEMENT			
IMPLIED EASEMENTS UNDER SECTION 12(2) OF THE SUBDIVISION ACT 1988 APPLY TO THE WHOLE OF THE LAND				RECEIVED <input checked="" type="checkbox"/> DATE 7-9-05			
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of			
E-1	DRAINAGE SEWERAGE	3 3	THIS PLAN THIS PLAN	CITY OF MARIBYRNONG CITY WEST WATER LTD			
E-2	DRAINAGE	2	THIS PLAN	CITY OF MARIBYRNONG			
				LR USE ONLY PLAN REGISTERED TIME 4.03pm. DATE 13/09/2005  Assistant Registrar of Titles SHEET 1 OF 2 SHEETS			
				DATE 14/7/2005 COUNCIL DELEGATE SIGNATURE			
				ORIGINAL SHEET SIZE A3			
 <small>Sinclair Knight Merz Pty Ltd ACN 001 024 095 590 Orrong Road Armadale Vic. 3143 Australia Telephone (03) 9248 3100 Facsimile (03) 9500 1180</small>		LICENSED SURVEYOR (PRINT) MARK JAMES SOMMERVILLE SIGNATURE DATE 6/6/05 REF SF90090 VERSION H <small>CAD REF s:\ra\projects\sf90090\technical\spatial\cad\sf90090-001 face sheet revh.dwg</small>			DATE 14/7/2005 COUNCIL DELEGATE SIGNATURE		





Form 13

AD745404W

13/07/2005 \$92.30 173



Section 181

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

Planning and Environment Act 1987

CITY OF MARIBYRNONG

RECEIVED

8/5/2025

URBAN PLANNING

Lodged at the Land Titles Office by:

Name: Maddocks

Phone: 9288 0555

Address: 140 William Street, Melbourne 3000 or DX 259 Melbourne

Ref: TGM:JYM:LGC:5127197

Customer Code: 1167E

The Authority having made an agreement referred to in section 181(1) of the *Planning and Environment Act 1987* requires a recording to be made in the Register for the land.

Land: Volume 10760 Folio 735

Authority: Maribyrnong City Council of cnr. Napier & Hyde Streets, Footscray

Section and Act under which agreement made: Section 173 of the *Planning and Environment Act 1987*.

A copy of the agreement is attached to this application



AD745404W-1-0

Signature for the Authority:

Name of officer:

Office held:

Date:

[5127197: 4289617v1]

Carat AD731463H
remains in plot

13/9/05



Maddocks

Date 7 / 07 / 2005

Lawyers
140 William Street
Melbourne Victoria 3000 Australia
Telephone 61 3 9288 0555
Facsimile 61 3 9288 0666
Email info@maddocks.com.au
www.maddocks.com.au
DX 259 Melbourne

**Agreement under Section 173
of the Planning and Environment Act 1987**
Subject Land: 20 Rosamond Road, Maribyrnong

Maribyrnong City Council
and

Eutopia Property Pty Ltd
ACN 112 073 266



DD745404W-2-8

AD745404W



Interstate office
Sydney
Affiliated offices*
Adelaide, Beijing, Brisbane, Colombo,
Dubai, Hong Kong, Jakarta, Kuala Lumpur,
Manila, Mumbai, New Delhi, Perth,
Singapore, Tianjin

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AD745404W

13/07/2005 \$92.30

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Agreement under Section 173 of the Planning and Environment Act 1987

DATE 7 / 07 / 2005

BETWEEN



DAD745404W-4-4

MARIBYRNONG CITY COUNCIL
of cnr. Napier & Hyde Streets, Footscray

(Council)

AND

EUTOPIA PROPERTY PTY LTD ACN 112 073 266
of 96 Kensington Road, Kensington

(Owner)

RECITALS

- A. Council is the Responsible Authority pursuant to the Act for the Planning Scheme.
- B. The Owner is or is entitled to be the registered proprietor of the Subject Land.
- C. On 11 November 2004 Council issued Planning Permit No. TP03/0722 (**Planning Permit**) allowing the Subject Land to be subdivided into 54 lots in accordance with a plan to be endorsed under condition 1 of the Planning Permit. Condition 6 of the Planning Permit requires the Owner to enter into this Agreement to provide for the matters set out in that condition.
- D. Condition 6 of the Planning Permit requires that:

"Prior to the certification of the plan of subdivision the owner of the land must enter into an agreement under Section 173 Agreement of the Planning and Environment Act 1987 with the responsible authority. All costs associated with the preparation and registration of the agreement shall be borne by the applicant.

The matters of the agreement must include:

- Any new dwelling on the land shall comply with the attached endorsed Urban Design & Siting Guidelines and the associated building envelope plan and the development plan.
- Prior to the issue of the building permit for any new dwelling on the land a payment of \$450 per net new dwelling shall be paid to the Maribyrnong City Council. This payment is in accordance with the Development Contribution Plan Schedule 2.
- Any future development on the site must strictly comply with the directions and conditions of the Environment Protection Act 1970 Part IXD statement of environmental audit issued for the land. A copy of the Statement of Environmental Audit for the site shall be attached to the agreement."

AD745404W

13/07/2005 \$92.30

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- E. As at the date of this Agreement, the Subject Land is encumbered by Mortgage Nos. AD332285F and AD332286D in favour of the Mortgagee. The Mortgagee has consented to the Owner entering into this Agreement with respect to the Subject Land.
- F. The parties enter into this Agreement:
- F.1 to give effect to the requirements of the Planning Permit; and
- F.2 to achieve and advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Subject Land.

THE PARTIES AGREE

1. DEFINITIONS



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

Act means the *Planning and Environment Act 1987*.

Agreement means this agreement and any agreement executed by the parties expressed to be supplemental to this agreement.

Building has the same meaning as in the Act.

Building Envelope Plan means the plan prepared by Tract Consultants Pty Ltd and titled 'Building Envelope Plan' and endorsed by Council. A copy of the Building Envelope Plan is available for inspection at Council offices during normal business hours and on Council's website at www.maribyrnong.vic.gov.au.

Development Plan means the plan prepared by Tract Consultants Pty Ltd and titled 'Development Plan' and endorsed by Council. A copy of the Development Plan is available for inspection at Council offices during normal business hours and on Council's website at www.maribyrnong.vic.gov.au.

Dwelling has the same meaning as in the Planning Scheme and includes outbuildings normal to a Dwelling.

Endorsed Plan means the plan endorsed with the stamp of Council from time to time as the plan which forms part of the Planning Permit. A copy of the Endorsed Plan is available for inspection at Council offices during normal business hours.

lot means a lot on the Endorsed Plan.

Mortgagee means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as Mortgagee of the Subject Land or any part of it.

Owner means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as proprietor or proprietors of an estate in fee simple of the Subject Land or any part of it and includes a Mortgagee-in-possession.

party or parties means the Owner and Council under this Agreement as appropriate.

Planning Scheme means the Maribyrnong Planning Scheme and any other planning scheme that applies to the Subject Land.



Section 32 Statement means the statement which a vendor of land must provide to a prospective purchaser pursuant to section 32 of the *Sale of Land Act 1962*.

Statement of Compliance has the same meaning as in the *Subdivision Act 1988*.

Statement of Environmental Audit means the statement which forms part of the environmental audit report prepared in relation to the Subject Land under section 57AA of the *Environment Protection Act 1970* by Jonathan Crockett, Environmental Auditor, of GHD Pty Ltd, dated 18 September 2003. A copy of the Statement of Environmental Audit is attached to this Agreement and marked with the letter 'A'.

Subject Land means the land situated at 20 Rosamond Road, Maribyrnong being the land referred to in Certificate of Title Volume 10760 Folio 735 and any reference to the Subject Land in this Agreement includes any lot created by the subdivision of the Subject Land or any part of it.

Urban Design & Siting Guidelines means the Urban Design & Siting Guidelines prepared by Tract Consultants Pty Ltd dated March 2004 and approved by Council for the Subject Land.

2. INTERPRETATION

In this Agreement unless the context admits otherwise:



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

3. SPECIFIC OBLIGATIONS OF THE OWNER

The Owner covenants and agrees that:





3.1 Urban Design Guidelines

- 3.1.1 the Owner must ensure that any Building to be erected on the Subject Land accords with all specifications and requirements of the Urban Design & Siting Guidelines, the Building Envelope Plan and the Development Plan, except with Council's written consent pursuant to this clause;
- 3.1.2 until such time as a lot contains a fully constructed Dwelling, the Owner must ensure that a copy of the Urban Design & Siting Guidelines is attached to every Section 32 Statement which is prepared in relation to the Subject Land (including any lot);

3.2 Community Infrastructure Contribution

- 3.2.1 the Owner of each lot must pay to Council a sum in the amount of \$450.00 as a contribution in respect of such lot, prior to the issue of a permit under the *Building Act* 1993 for a Dwelling on such lot, in accordance with the requirements in Schedule 2 to the Development Contributions Plan Overlay in the Planning Scheme; and
- 3.2.2 the amount of the contribution set out in clause 3.2.1 above is exclusive of any Goods and Services Tax (GST) payable on the amount, for which the Owner will be liable if such GST is payable;

3.3 Statement of Environmental Audit

the Subject Land is subject to the Statement of Environmental Audit, and agrees to comply with and give effect to the requirements of the Statement of Environmental Audit in relation to the use and development of the Subject Land, to the satisfaction of Council.

3.4 Verification

prior to the issue of an Occupancy Permit pursuant to the *Building Act* 1993, or the issue of a statement of compliance under the *Subdivision Act* 1988 in relation to the Subject Land (whichever is the earlier), the Owner must submit to Council a statement from an environmental auditor appointed under the provisions of the *Environment Protection Act* 1970, to the satisfaction of Council, that the conditions of the Statement of Environmental Audit have been complied with in relation to the Subject Land.

4. FURTHER OBLIGATIONS OF THE OWNER

4.1 Notice and Registration

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

4.2 Further actions

The Owner further covenants and agrees that:

- 4.2.1 the Owner will do all things necessary to give effect to this Agreement;





- 4.2.2 the Owner will consent to Council making application to the Registrar of Titles to make a recording of this Agreement in the Register on the Certificate of Title of the Subject Land in accordance with Section 181 of the Act and do all things necessary to enable Council to do so including signing any further agreement, acknowledgment or document or procuring the consent to this Agreement of any mortgagee or caveator to enable the recording to be made in the Register under that section.

4.3 Council's Costs to be Paid

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

5. AGREEMENT UNDER SECTION 173 OF THE ACT

Council and the Owner agree that without limiting or restricting the respective powers to enter into this Agreement and, insofar as it can be so treated, this Agreement is made as a Deed pursuant to Section 173 of the Act, and the obligations of the Owner under this Agreement are obligations to be performed by the Owner as conditions subject to which the Subject Land may be used and developed pursuant to the Planning Permit.

6. OWNER'S WARRANTIES

Without limiting the operation or effect which this Agreement has, the Owner warrants that apart from the Owner and any other person who has consented in writing to this Agreement, no other person has any interest, either legal or equitable, in the Subject Land which may be affected by this Agreement.

7. SUCCESSORS IN TITLE

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

- 7.1 give effect to and do all acts and sign all documents which will require those successors to give effect to this Agreement; and
- 7.2 execute a deed agreeing to be bound by the terms of this Agreement.

8. GENERAL MATTERS

8.1 Notices

A notice or other communication required or permitted to be served by a party on another party must be in writing and may be served:

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



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

8.2 Service of Notice

A notice or other communication is deemed served:

- 8.2.1 if delivered, on the next following business day;
- 8.2.2 if posted, on the expiration of 7 business days after the date of posting; or
- 8.2.3 if sent by facsimile, on the next following business day unless the receiving party has requested retransmission before the end of that business day.

8.3 No Waiver

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

8.4 Severability

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

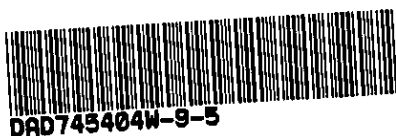
8.5 No Fettering of Council's Powers

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

9. COMMENCEMENT OF AGREEMENT

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

SIGNED, SEALED AND DELIVERED as a Deed by the parties on the date set out at the commencement of this Agreement.



THE COMMON SEAL of the CITY OF
MARIBYRNONG was hereunto affixed in
the presence of Nicholas Foa, General
Manager, Corporate Services, Council
Delegate:

Nicholas Foa



THE COMMON SEAL of EUTOPIA
PROPERTY PTY LTD ACN 112 073 266
was affixed in the presence of the authorised
person:

Anne My Tran
ANNE MY TRAN
96 KENDINGWOOD, KENSINGTON.



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Sole Director and Sole Company Secretary

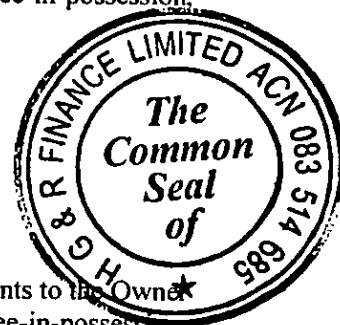
Full name

Usual address

Mortgagees' Consents

H G & R Finance Limited as Mortgagee of registered mortgage No. AD332285F consents to the Owner entering into this Agreement and in the event that the Mortgagee becomes Mortgagee-in-possession, agrees to be bound by the covenants and conditions of this Agreement.

David Morton Geek
DAVID MORTON GEEK
DIRECTOR



H G & R Securities Pty Ltd as Mortgagee of registered mortgage No. AD332286D consents to the Owner entering into this Agreement and in the event that the Mortgagee becomes Mortgagee-in-possession, agrees to be bound by the covenants and conditions of this Agreement.

David Morton Geek
DAVID MORTON GEEK
DIRECTOR



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ENVIRONMENT PROTECTION ACT 1970

Statement of Environmental Audit

I, Jonathan Ashton Crockett of GHD Pty Ltd 380 Lonsdale Street Melbourne, a person appointed by the Environment Protection Authority ('the Authority') under the Environment Protection Act 1970 ('the Act') as an environmental auditor for the purposes of the Act, having:

1. been requested by Jin Chegne of Victoria Investments & Properties Pty Ltd, acting on behalf of the site owners, Rosamond Street Pty Ltd, to issue a certificate of environmental audit in relation to the site located at 20 Rosamond Road, MARIBYRNONG, located in the City of Maribyrnong, comprising the land defined by proposed Plan of Subdivision PS 510170F, parent title Volume 9837 Folio 212, owned by Rosamond Street Pty Ltd and currently vacant.
2. had regard to, amongst other things,
 - i. guidelines issued by the Authority for the purposes of Part IXD of the Act,
 - ii. the beneficial uses that may be made of the site, and
 - iii. relevant State Environment Protection Policies/Industrial Waste Management Policies, namely: State Environment Protection Policy (Prevention and Management of Contamination of Land) 2002, State Environment Protection Policy (Groundwaters of Victoria) 1997, State Environment Protection Policy (Waters of Victoria) 2003, Industrial Waste Management Policy (Prescribed Industrial Waste) 2000, State Environment Protection Policy (Air Quality Management) 2001 and State Environment Protection Policy (Ambient Air Quality) 1999.

in making a total assessment of the nature and extent of any harm or detriment caused to, or the risk of any possible harm or detriment which may be caused to, any beneficial use made of the site by any industrial processes or activity, waste or substance (including any chemical substance), and

3. completed an environmental audit report in accordance with section 53X of the Act, a copy of which has been sent to the Authority and the relevant planning and responsible authority.

HEREBY STATE that I am of the opinion that:

The site is suitable for the beneficial uses associated with Sensitive use (including residential at "Other" density including medium density residential use) of the land subject to the following conditions attached thereto:

Condition 1 Around the edge of the site where contaminated fill and fill containing rubble is present or likely to be present within a distance of one metre outside the site boundary, a geotextile serving as an indicator and physical barrier layer shall be placed and maintained to prevent contact by occupiers with contaminated fill. This fill exists adjacent to and up to one metre into the site. The geotextile shall indicate the presence of potentially contaminated fill beyond the barrier. This geotextile indicator/barrier layer shall, where possible, be fixed to a structure, concrete strip or existing pavement on the boundary at the level of the surrounding ground or paving and shall extend down the face to a point where it is at least 500 mm beneath the finished site level or to the base of visible fill whichever is the greater. Where penetrations in the geotextile indicator/barrier layer are made for posts, foundations or services the geotextile shall be reinstated to remain as a continuous geotextile indicator/barrier layer, particularly along the boundary of future private residential property and no fill from this zone must in any circumstances be reintroduced onto the site.

Condition 2 The stormwater drain present along the west boundary inside the site shall be removed together with any fill around this pipe.

Condition 3 Groundwater from beneath the site should not be used for any purpose.

The condition of the site is detrimental or potentially detrimental to any (one or more) beneficial uses of the site. Accordingly, I have not issued a Certificate of Environmental audit for the site in its current

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condition, the reasons for which are presented in the environmental audit report. The terms and conditions that need to be complied with before a Certificate of Environmental audit may be issued are set out as follows:

Clearance of fill adjacent to the site	Known contaminated fill all around and adjacent to the edge of the site would need to be removed to a distance at least one metre outside the site boundary down to natural soil.
Removal of residual rubble and other demolition waste	Small quantities of residual building demolition rubble, cinder, coal, sub-surface concrete and cast iron pipes would need to be removed to protect the aesthetics of the site.
Removal of residual fill remaining on the site containing traces of metals and organic contaminants	Small quantities of residual fill not meeting National Environment Protection Measure Ecological Investigation Levels for metals and traces of fill containing polycyclic aromatic hydrocarbons and petroleum hydrocarbons would need to be removed.

Other related information:

Fill on the site prior to remediation contained contaminants at concentrations above guidelines for sensitive use. With the exception of some fill around the edges of the site (which may, in places, extend up to 1 m within the site boundary and is present off site down to a depth of between 0.3 to 1 m) and some fill and demolition rubble that is generally at least 0.5 m below the surface, contaminated fill has been removed from the site making it suitable for sensitive use subject to conditions. At the time of completion of the audit, the southern two thirds of the site and all excavated pits had been filled with imported yellow-orange clay. Such fill that remains buried is not of a type or in quantities that will impact on beneficial uses associated with sensitive use of the site. Final development of the site, as planned at the date of this Statement, will introduce an additional 0.2 to 0.7 m of fill over most of the southern portion of the site, some of which will come from the northern portion.

To the east of the site is industrial land and odour, litter and noise from the factory on this land were noted during this audit at levels that may be objectionable to some people.

Groundwater is present at approximately 30 m below the surface and has a total dissolved solids concentration of around 6 100 mg/L making it unsuitable for irrigation or potable use. The site has not been a source of groundwater contamination. Groundwater was found to contain boron (which may be of natural or man-made origin) at concentrations substantially in excess of published guidelines for protection of ecosystems and for recreation, sulphate in excess of drinking water aesthetic guidelines as well as traces of the common chlorinated solvent trichloroethene.

Fill and soil imported during development of the site must meet EPA requirements for clean fill and should be selected and tested to be of a quality that is suitable for residential use and should be visually free of rubble and other waste.

Any future removal or fill from around the edge of the site, including fill removed from trenches or postholes, must meet the requirements of the EPA.

This Statement forms part of Environmental audit Report: GHD Pty Ltd, titled "Victoria Investments & Properties Pty Ltd on behalf of Rosamond Street Pty Ltd, "Allara", 20 Rosamond Road, MARIBYRNONG, Environmental audit Report, September 2003". Further details regarding the condition of the site may be found in the Environmental audit Report.

DATED: 18 September 2003

SIGNED: Jonathan Crockett
JONATHAN CROCKETT
ENVIRONMENTAL AUDITOR
(Appointed Pursuant to the Environment Protection Act 1970)

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Form 13

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Section 181

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

Planning and Environment Act 1987

CITY OF MARIBYRNONG

RECEIVED

8/5/2025

URBAN PLANNING

Lodged at the Land Titles Office by:

Name: Maddocks

Phone: 9288 0555

Address: 140 William Street, Melbourne 3000 or DX 259 Melbourne

Ref: TGM:YAM:LGC:906045



Customer Code: 1167E

The Authority having made an agreement referred to in section 181(1) of the *Planning and Environment Act 1987* requires a recording to be made in the Register for the land.

Land: Volume 10760 Folio 735



DAD315361N-1-2

Authority: Maribyrnong City Council of Napier Street, Footscray

Section and Act under which agreement made: Section 173 of the *Planning and Environment Act 1987*.

A copy of the agreement is attached to this application

Signature for the Authority:

ADU Lefelt

Name of officer:

ADRIAN V. HAVRYLUK

Office held:

Planning + Development Manager

Date:

8/10/2004

[906045/YAM/M0326456:1]

17/12/04

SECTION 173 AGREEMENT



DAD315361N-2-1

**20 ROSAMOND ROAD
MARIBYRNONG, VICTORIA**

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Date: 8 OCTOBER 2004

Parties:

1. **MARIBYRNONG CITY COUNCIL** of Napier Street, Footscray, Victoria 3011 ("the Council"); and
2. **ROSAMOND STREET PTY LTD A.C.N. 069 254 771** of Level 7, 278 Collins Street, Melbourne, Victoria 3000 ("the Owner").

RECITALS:

- A. The Owner is the registered proprietor of the Land.
- B. The Council is the responsible authority pursuant to the Act for the administration and enforcement of the Scheme.
- C. On or about 18 July 2002, the Minister for Planning approved the Amendment.
- D. The Amendment brings into operation the following:
 - i) Rezoning of the Land from an Industrial 3 Zone to a Residential 1 Zone;
 - ii) Introducing an Environmental Audit Overlay over the Land;
 - iii) Introducing a Development Plan Overlay over the Land;
 - iv) Introducing Schedule 4 to the Development Plan Overlay; and
 - v) Introducing Map 4DPO to the Scheme.
- E. The Owner is required to enter into an agreement under Section 173 of the Act with the Council pursuant to clause 2.1 of the Schedule 4 to the Development Plan Overlay of the Scheme. The parties enter into this Agreement to achieve and advance the objectives of planning in Victoria and the objectives of the Scheme in respect of the Land.
- F. The parties agree to record their agreement on the terms set out in this Agreement.



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OPERATIVE PROVISIONS:

1. INTERPRETATION

1.1 Definitions



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

"Act" means the Planning and Environment Act 1987.

"Acoustic Fence Design Plan" means the plan showing the design and location of the acoustic fence to be erected on the Land which has been approved in writing by Council (which approval must not be unreasonably withheld or delayed) and which is attached to Annexure C of this Agreement.

"Agreement" means this agreement and any agreement executed by the parties expressed to be supplemental to this agreement.

"Amendment" means the Amendment C9 to the Scheme.

"Commencement Date" means the date this Agreement is duly executed by the council and the Owner.

"Completion Notice" means the written notice given by the Owner to the Council confirming the completion of the Works.

"Concept Plan" means the 20 Rosamond Road Concept Plan, February 2002, identified in Annexure A of this Agreement including such amendments as may be agreed between the relevant parties from time to time.

"Council" means the Maribymong City Council and includes its successor(s) as responsible authority for the Scheme in which case any reference to the holder of an office with the Council will be deemed to be a reference to such office of the successor responsible authority as that responsible authority may designate.

"Default Notice" means a written notice served on the Owner by the Council specifying the works in respect of which the Owner is in default under this Agreement.

"Eastern Boundary Lots" means the lots marked red on the Eastern Boundary Lots Plan attached to Annexure B.

"Land" means the land situated at 20 Rosamond Road, Maribymong being the land referred to in Certificate of Title volume 10760 Folio 735 and affected by Schedule 4 to the Development Plan Overlay, and any reference to the Land in this Agreement includes any lot created by the subdivision of the Land or any part of it.

"Landscape Plan" means the plan identifying vegetation to be retained, removed and planted on the Subject Land which has been approved by the Council (which approval must not be unreasonably withheld or delayed).



"Law" includes any Act, regulation, rule, ordinance, by-law and any other delegated legislation.

"Mortgagee" means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as Mortgagee of the Land or any part of it.

"Owner" means the person or persons entitled from time to time to be registered by the Registrar of Titles as proprietor or proprietors of an estate in fee simple in the Land or any part of it.

"party or parties" means the Owner and the Responsible Authority under this Agreement as appropriate.

"Plans" means the Acoustic Fence Design Plan and Tree Identification Plan and all plans, drawings or concepts prepared by the Owner and or the Owner's agents, consultants, employees or representatives for the Works including such variations or amendments as may be required from time to time.

"Rectification Costs" means the actual costs of the Rectification Works certified by the Council's Representative.

"Rectification Works" means the works which the Owner must carry out to rectify any default as specified in the Default Notice.

"Scheme" means the Maribymong Planning Scheme including any planning control in the form of or similar to a planning scheme and being a successor to the Maribymong Planning Scheme.

"Termination Date" means the date when the Owner completes the Works to the Council's reasonable satisfaction and evidenced by notice issued by the Council as soon as practicable.

"Tree Identification Plan" means the plan identifying vegetation to be retained on the Land and on the adjoining street reservations, a copy of which is attached as Annexure D of this Agreement.

"Tree to be Retained" means any tree identified as a "tree to be retained" on the Tree Identification Plan.

"Tribunal" means the Victorian Civil and Administrative Tribunal.

"Variations" means any variations to the Plans or the Works as may be necessary for the development of the Land from time to time.

"Works" means the landscaping works, open space contribution and the constructions of the acoustic fence in accordance with Clauses 4(b), (c) and (d) of this Agreement.



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1.2 Construction

These rules apply unless they are inconsistent with the context.

- (a) Paragraph headings have been included for ease of reference and the Agreement is not to be construed or interpreted by reference to them.
- (b) Any references to:
 - (i) the Land includes references to part of the Land;
 - (ii) corporations include natural persons and vice versa;
 - (iii) any professional body, association or institute includes any successor body having similar objects;
 - (iv) any gender includes any other gender;
 - (v) any Law includes:
 - (A) amendments, consolidations or replacements of it; and
 - (B) proclamations, rules, regulations, orders and notices issued under any Law.
- (c) The singular includes the plural and vice versa.
- (d) If the Owner or the Council comprises more than one person, their respective liabilities under the Agreement are joint and several.
- (e) If any provision of this Agreement is or becomes invalid, illegal or unenforceable, that provision will be read down to the extent necessary to make it valid, legal or enforceable and if it cannot be read down, will be severed and the other provisions of this Agreement will remain unaffected.
- (f) A term used in this Agreement has its ordinary meaning unless as defined in clause 1.1.



1.3 Governing Law

- (a) This Agreement is governed and construed in accordance with the Laws of Victoria.
- (b) The parties submit to the non-exclusive jurisdiction of the courts of Victoria with respect to any legal proceedings in connection with or relating to the Agreement.

1.4 Entire Agreement

This Agreement which includes the Recitals in this Agreement contains the whole of the agreement between the Owner and the Council in relation to the Land.

2. AGREEMENT UNDER SECTION 173 OF THE ACT

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

3. EFFECT OF AGREEMENT

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

The obligations of the Owner under this Agreement, will take effect as separate and several covenants which are annexed to and run at law and equity with the Land provided that if the Land is subdivided, this Agreement must be read and applied so that each subsequent owner of a lot is only responsible for those covenants and obligations which relate to that owner's lot.

4. COVENANTS OF OWNER

The Owner covenants and agrees to the following:



- (a) The Owner will ensure that no Tree to be Retained is destroyed, felled, lopped, ringbarked or uprooted without the prior written consent of the Council, which consent must not be unreasonably withheld or delayed.
- (b) Prior to the grant of a planning permit to allow the Land to be subdivided, the Owner must receive Council's written approval (which approval must not be unreasonably withheld or delayed) for a Landscape Plan for the whole of the Land, pursuant to this clause. The Landscape Plan must meet the following requirements:
 - (i) to be drawn at a scale of 1:200;
 - (ii) to clearly mark the locations and species of all trees which are proposed for removal, retention or planting;
 - (iii) to show canopy trees to be planted along the eastern boundary of the Land, so as to form a green visual buffer between the buildings on the Land and the adjoining property to the east of the Land;
 - (iv) to indicate key aspects of the design proposal for all areas proposed for public open space, including design objectives, proposed future activities for those areas and water-sensitive urban design; and
 - (v) to show details of preparation of nature strips and planting of street trees.
- (c) Upon the registration of any plan of subdivision of the Land, the Owner must ensure that the part of the Land which is shown as "POS" on the Concept Plan vests in Council as a reserve or the like. The Council

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agrees to allow the Owner to enter the reserve or the like for the purpose of carrying out and completing the Works to any part of the Land as and when required. The Council agrees to provide the Owner with its reasonable co-operation to enable the Owner to carry out and complete such Works.

- (d) Prior to the issue of any occupancy permit for any dwelling on the Land, the Owner must erect an acoustic fence which accords with the designs and specifications of the Acoustic Fence Design Plan.
- (e) On completion of the construction of the acoustic fence in Clause 4(d), to procure a report demonstrating compliance of the acoustic fence with SEPP Noise N1 from an acoustic engineer selected by the Owner who must be a member of the Institute of Engineers Australia prior to the issuance of any occupancy permit for any dwelling on the Land.
- (f) The Owner of each lot where any part of the acoustic fence is to be located must at all times maintain that part of the acoustic fence which is located on that Owner's lot, and ensure that that part of the acoustic fence continues to comply with SEPP Noise N1, to the reasonable satisfaction of Council. These obligations must require the Owner to replace the acoustic fence, or part thereof, if it becomes beyond repair.

The Owner of each lot where any part of the acoustic fence is to be located must ensure that that Owner's lot is landscaped in accordance with the Landscape Plan, and that canopy trees are planted in the rear yard of that Owner's lot in accordance with the Landscape Plan, and are properly encouraged and maintained thereafter, to the reasonable satisfaction of Council.

- (g) Prior to the commencement of any Works on the Land, the Owner must receive Council's written approval (which approval must not be unreasonably withheld or delayed) for detailed designed plans, which plans must be in accordance with the approved Landscape Plan, and, once approved, will form part of the Landscape Plan. These detailed design plans must meet the following requirements:

- (i) to be drawn at a scale of 1:200;
- (ii) to show details of all surfaces;
- (iii) to show all details of all proposed finished ground levels and contours;
- (iv) to show details of all drainage including all surface and sub-surface, indicating agricultural and storm water drains and their connections to existing drains;
- (v) to show (if any) locations and details of all outdoor furniture proposed for the Land, including lighting, paving, fencing, metalwork, play structures, shelters, edging, seating, rubbish bins,

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bollard or other devices to prevent motor vehicles from parking on any areas proposed for public open space; and

- (vi) technical specifications as required.
- (h) Prior to the grant of a statement of compliance for any subdivision of the Land, the Owner must either:
 - (i) ensure that the landscaping of the Land is completed in accordance with the Landscape Plan, to the reasonable satisfaction of Council; or
 - (ii) provide to Council a bank guarantee or other suitable security for the estimated cost of completing the necessary landscaping works, which may be held by and for the benefit of Council until such time as the landscaping has been completed to the written and reasonable satisfaction of Council. Council must return the bank guarantee or other suitable security to the Owner immediately upon completion of the landscaping works.
- (i) The Owner of the Land as at the date of the grant of a statement of compliance for any subdivision of the Land must:
 - (i) ensure that the landscaping of the Land is maintained for a period of twelve months after the completion of the required landscaping works; and
 - (ii) provide to Council a bank guarantee or other suitable security equal to 25% of the estimated cost of completing the necessary landscaping works, which may be held by and for the benefit of Council until such time as the landscaping has been completed and maintained for a period of 12 months thereafter to the written and reasonable satisfaction of Council. Council must return the bank guarantee or other suitable security to the Owner immediately after the landscaping works have been completed and maintained for a period of 12 months thereafter;

and the Owner and the Council acknowledges that the obligations of this sub-clause are not obligations which run with the title to the Land, but rather are obligations which will remain obligations of the Owner of the Land as at the date of the grant of a statement of compliance for any subdivision of the Land.

- (j) Without limiting the operation or effect which this Agreement has, the Owner warrants that save as may be discovered by a prudent person through the usual searches of the Land, apart from the Owner and the purchasers who have purchased any part of the Land (which is subject to the registrations of a proposed plan of subdivision) from the Owner pursuant to various Contracts of Sale, no other person has any interest,



either legal or equitable, in the Land which may be affected by this Agreement; and

- (k) It will do all things reasonably necessary to give effect to this Agreement.
- (l) It will consent to the Council making application to the Registrar of Titles to make a recording of this Agreement in the Register of the Certificate of Title of the Land in accordance with Section 181 of the Act and do all things reasonably necessary to enable the Council to do so including signing any further agreement, acknowledgement or document or procuring the consent to this Agreement of any mortgagee or caveator to enable the recording to be made in the Register under that section.
- (m) It will immediately pay to the Council, the Council's reasonable costs and expenses (including reasonable legal expenses) of and incidental to the preparation, drafting, finalization engrossment, execution, registration and enforcement of this Agreement which are and until paid will remain a debt due to the Council by the Owner.

5. PARTIES ACKNOWLEDGMENTS

The parties acknowledge and agree that:



- (a) It may be necessary for the Owner to request for the Variations to be made for the development on the Land. The Variations may be made provided that any material Variations must be made with the mutual consent of the parties (both parties acting reasonably and in good faith); and
- (b) Where the Variations are sought by the Council, such Variations must be reasonable and must be made with the mutual consent of the parties.

6. COMPLETION OF WORKS

Upon the completion of the Works, the Owner will as soon as practicable provide the Council's Manager of Urban Planning with the Completion Notice. Council must give written notice to the Owner, within 14 days of the receipt of the Completion Notice, either:

- (a) that the Completion Notice is accepted; or
- (b) that the Completion Notice is not accepted for certain reasons (which must be specified by Council in writing);

and the Council must not unreasonably refuse to accept the Completion Notice.

7. COVENANTS OF COUNCIL

The Council covenants and agrees that it will:

- (a) not impose additional requirements or conditions on the Owner with regards to the Works including the timing of the commencement and

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completion of those Works, which will create additional burden, costs or be too onerous for the Owner or delay the development Works;

- (b) use its reasonable endeavors to promptly issue such approval, certification or permit as may be required to evidence the completion of the Works;
- (c) act reasonably and without delay in matters which remain the Council's responsibility including the carrying out of any inspections, the execution of documents and provision of written consent or approval where required; and
- (d) engage in regular consultation with the Owner and provide its reasonable assistance or co-operation with respect to matters arising from this Agreement.

7A. SUCCESSORS IN TITLE

- (a) Without limiting the operation or effect that this Agreement has, the Owner must ensure that, until such time as a memorandum of this Agreement is registered on the title to the Land, successors in title shall be required to:
 - (i) give effect to and do all reasonable acts and sign all reasonable documents which will require those successors to give effect to this Agreement; and
 - (ii) execute a deed agreeing to be bound by the terms of this Agreement.

8. DEFAULT OF OWNER

8.1 If the Owner is in default or fails to perform any of the Owner's obligations under this Agreement:

- (a) the Council must serve on the Owner a Default Notice. The Default Notice may set out the reasonable costs as estimated by the Council of carrying out of the Rectification Works;
- (b) if the Owner fails to complete the Rectification Works within 21 days (or such other reasonable period having regard to the nature of the default) after service of the Default Notice, the Council may enter upon the Land and cause the Rectification Works to be constructed or completed; and
- (c) upon completion of the Rectification Works, the Council's representative must issue a certificate certifying the Rectification Costs.

8.2 Subject to Clause 8.3, the Owner agrees to pay the Rectification Costs within 14 days of receipt of a notice from Council specifying the Rectification Costs.

8.3 If the Owner disputes the Rectification Costs, the Owner is entitled to:



- (a) engage its own consultant to verify the Rectification Costs within 14 days of receipt of the notice from the Council specifying the Rectification Costs; and
- (b) provide the Council with written notice of those costs certified by the Owner's consultant.

If within 21 days from the Council's certification the Rectification Costs the parties are unable to agree on the actual Rectification costs to be paid by the Owner, Clause 9 will apply.

9. DISPUTE RESOLUTION

- 9.1 In the event of any dispute between the parties concerning the interpretation or implementation of this Agreement, such a dispute shall be referred to the Tribunal for resolution to the extent permitted by the Act. In the event of a dispute concerning any matter which is not referable to the Tribunal pursuant to the Act, such matters shall be referred to arbitration for an Arbitrator agreed upon in writing by the parties or, in the absence of such agreement, the Chairman of the Victorian Chapter of the Institute of Arbitrators, Australia or his nominate, for arbitration.
- 9.2 Where provision is made in this Agreement that any matter shall be done to the reasonable satisfaction of the Council or any of its officers, and a dispute arises in relation thereto, such disputes shall be referred to the Tribunal in accordance with Section 149(1)(b) of the Act.
- 9.3 The parties shall be entitled to legal representation for the purposes of any arbitration or referral referred to in clauses 11 and 12 and, unless the Arbitrator, Chairman, nominee or the Tribunal shall otherwise direct, each party must bear its own costs.

10. MISCELLANEOUS

- (a) It is acknowledged and agreed that this Agreement does not fetter or restrict the power or discretion of the Council to make any decision or impose any requirements or conditions in connection with the granting of any planning approval or certification of any plans of subdivision applicable to the Land or relating to any use or development of the Land.
- (b) Any time or other indulgence granted by the Council to the Owner or by the Owners to the Council of any variation of the terms and conditions of this Agreement or any judgement or order obtained by the Council against the Owner or by the Owner against the Council, will not in any way amount to a waiver of any of the rights or remedies of the Council or the Owner (as the case may be) in relation to the terms of this Agreement.



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11. NOTICES

11.1 Any notice required to be given by a party under this Agreement will be treated as given to and received by the other party:

- (a) by delivering it personally to that party;
- (b) by sending it by prepaid post addressed to that party at the address set out in this Agreement or subsequently notified to each party from time to time; or
- (c) by sending it by facsimile provided that a communication sent by facsimile shall be confirmed immediately in writing by the sending party by hand delivery or prepaid post.

11.2 A notice or other communication is deemed and served:

- (a) if delivered, on the next following business day;
- (b) if posted, on the expiration of two business days after the date of posting; or
- (c) if sent by facsimile, on the next following business day unless the receiving party has requested retransmission before the end of that business day.

12. ENDING OF AGREEMENT

12.1 So far as this Agreement relates to any lot of the Land except for the Eastern Boundary Lots, this Agreement will cease to operate on the Termination Date. As soon as practicable after this Agreement has ended as to such part of the Land which exclude the Eastern Boundary Lots, the Council must, at the reasonable cost and written request of the Owner, promptly make an application to the Registrar of Titles under Section 183 of the Act to cancel the recording of this Agreement on the register as such part of the Land which exclude the Eastern Boundary Lots.

12.2 So far as this Agreement relates to the Eastern Boundary Lots, this Agreement continues to operate to ensure compliance with those obligations of this Agreement which relate specifically to the Eastern Boundary Lots.

13. CONSENT OF MORTGAGEE

Perpetual Nominees Limited as Mortgagee of registered mortgage No. AB844718M consents to the Owner entering into this Agreement and in the event that the mortgagee becomes Mortgagee in possession, agrees to be bound by the covenants and conditions of this Agreement.



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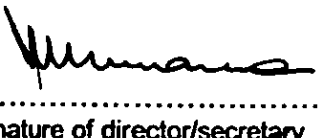
173

IN CONFIRMATION of their agreement the parties have executed this Agreement on the date set out at the commencement of the Agreement.

THE COMMON SEAL OF
ROSAMOND STREET PTY LTD
was affixed in accordance with its articles
of association in the presence of:

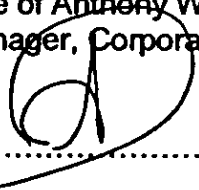

.....
Signature of director

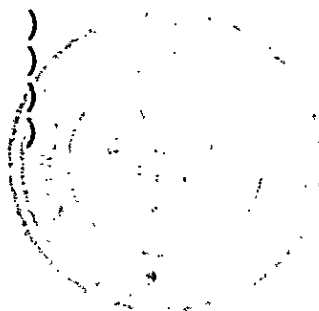
PENG HONG WONG
.....
Name of director – please print


.....
Signature of director/secretary

KIAN THIAM LIM
.....
Name of director/secretary – please print

THE COMMON SEAL of the CITY OF
MARIBYRNONG as hereunto affixed in
the presence of Anthony William Smith,
General Manager, Corporate Services,


.....



EXECUTED by PERPETUAL NOMINEES
LIMITED in the presence of:

.....
Print name:
Capacity:

Signed in my presence for and on behalf of Perpetual Nominees Limited
(A.C.N. 200735705) by its Attorneys

.....
Witness Signature ASSISTANT MANAGER KYLIE A. SMITH
and JOHN BOWEN MANAGER
who are personally known to me and each of whom declares that
he/she has been duly appointed by the Board of Directors of that
company as an Attorney of the company for the purposes of the
Power of Attorney dated: 16/12/2004 a certified copy of which is filed
Witness Name (Please print) in Permanent Order Book No. 277 Page 218 and that
he/she has no notice of the revocation of his/her powers.

.....
Witness address Signature of Witness Signature of the
YVONNE NEROUTSOS Signature
Full Name of Witness

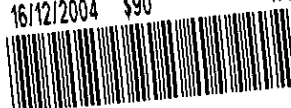


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CONSENT TO SECTION 173 AGREEMENT

PERPETUAL NOMINEES LIMITED ACN 000 733 700 being the Mortgagee in Mortgage Number AB844718M in respect of the property described in Certificate of Title Volume 10760 Folio 735 and known as 20 Rosamund Road, Maribymong, Victoria.

HEREBY CONSENTS to registration of the **Section 173 Agreement** between **Maribyrnong City Council** and **Rosamund Street Pty Ltd ACN 069 254 771**.

Dated:

Signed in my presence for and on behalf of **Perpetual Nominees Limited**
(A.C.N. 000 733 700) by its Attorneys **KYLIE ARTHUR**

..... **JOHN BOWEN** **MANAGER**
and **ASSISTANT MANAGER**
who are personally known to me and each of whom declares that
he/she has been duly appointed by the Board of Directors of that
company as an Attorney of the company for the purposes of the
Power of Attorney dated 12/11/2004 a certified copy of which is filed
in Permanent Order Book No. 272 Page 3 and that
he/she has no notice of the revocation of his/her powers.

.....
Signature of Witness
IVONNE NEROUTSOY

.....
Full Name of Witness

.....
Signature of Attorney

.....
Signature of Attorney



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ANNEXURE A
(CONCEPT PLAN)



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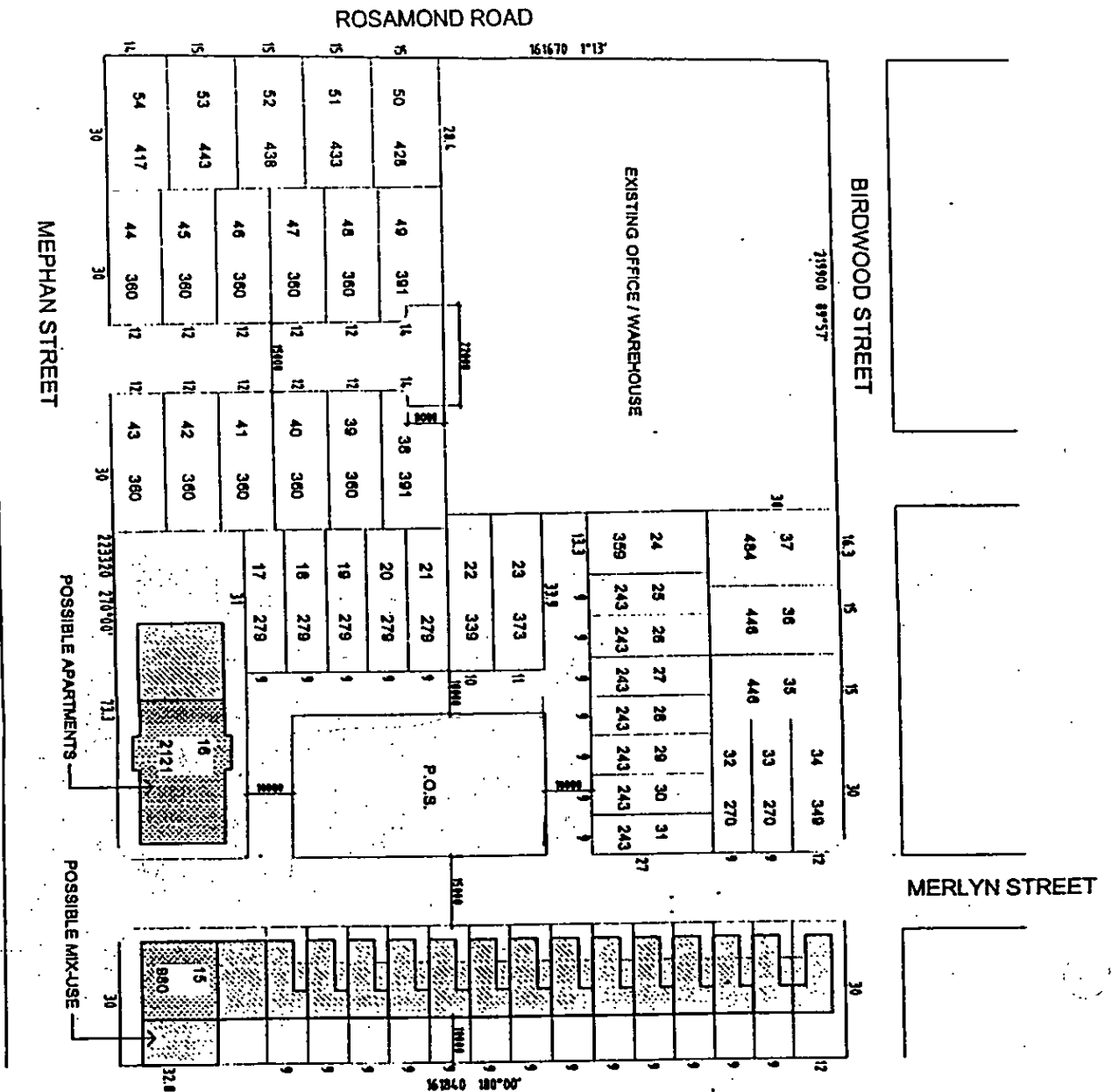
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AD315361N-17-1

BUILDING ENVELOPE
SCHEDULE

9m BUILDING HEIGHT
12m BUILDING HEIGHT

ROSAMOND ROAD, MARIBYRNONG
CONCEPT PLAN

Scale
1:1000

February 2002

melbourne group architects



ANNEXURE B
(EASTERN BOUNDARY LOTS PLAN)



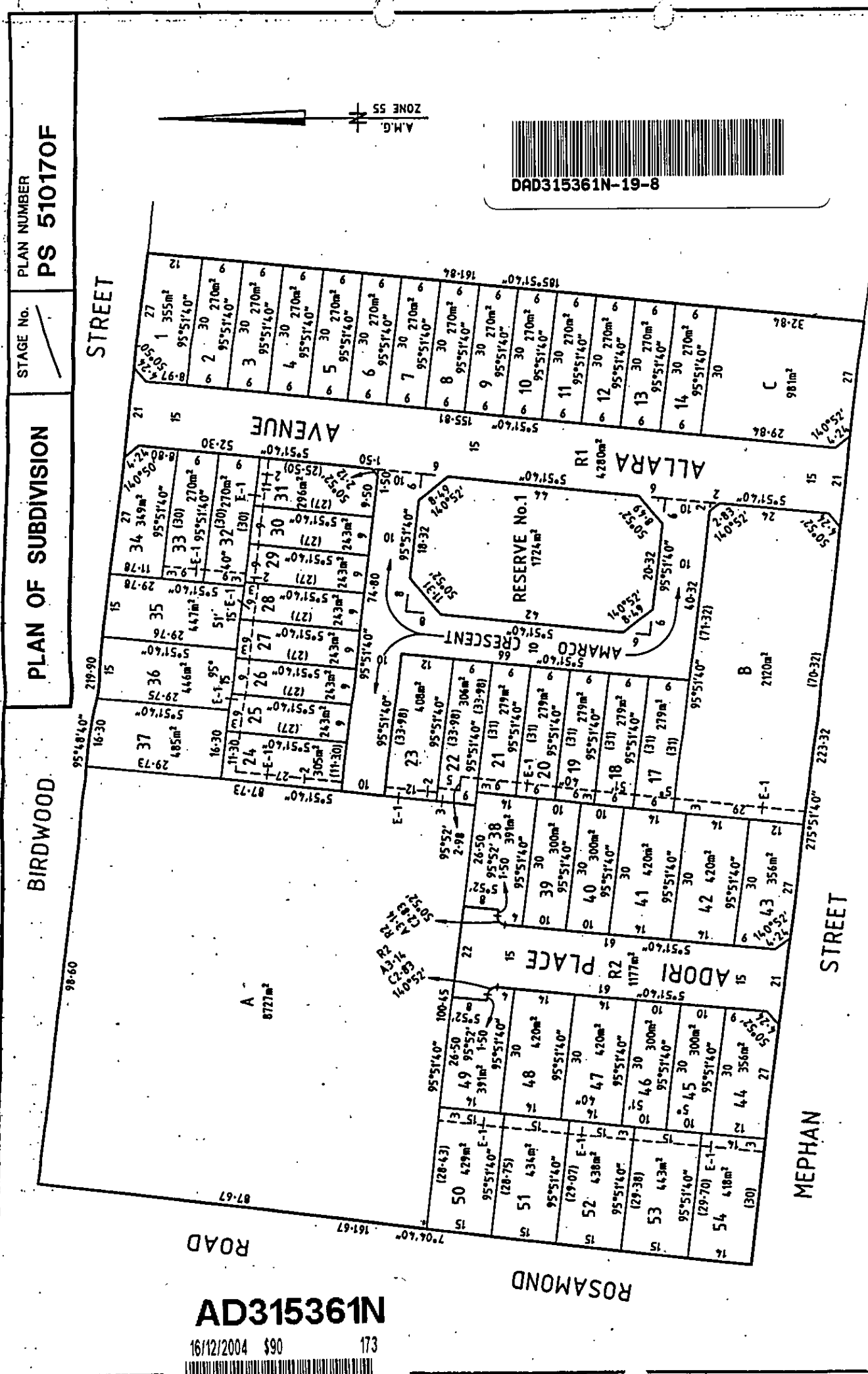
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EARTHTECH Survey & Spatial Solutions-Melbourne Tel 8517 9213 Fax 8517 9477		SCALE 0 8 16 24 32 40 LENGTHS ARE IN METRES		ORIGINAL SCALE 1:800 SHEET SIZE A3		LICENSED SURVEYOR (PRINT) ALAN EDWARD ROLLEY SIGNATURE DATE REF 0402078		SHEET 2 OF 2 SHEETS DATE COUNCIL DELEGATE SIGNATURE	
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ANNEXURE C
(ACOUSTIC FENCE DESIGN PLAN)



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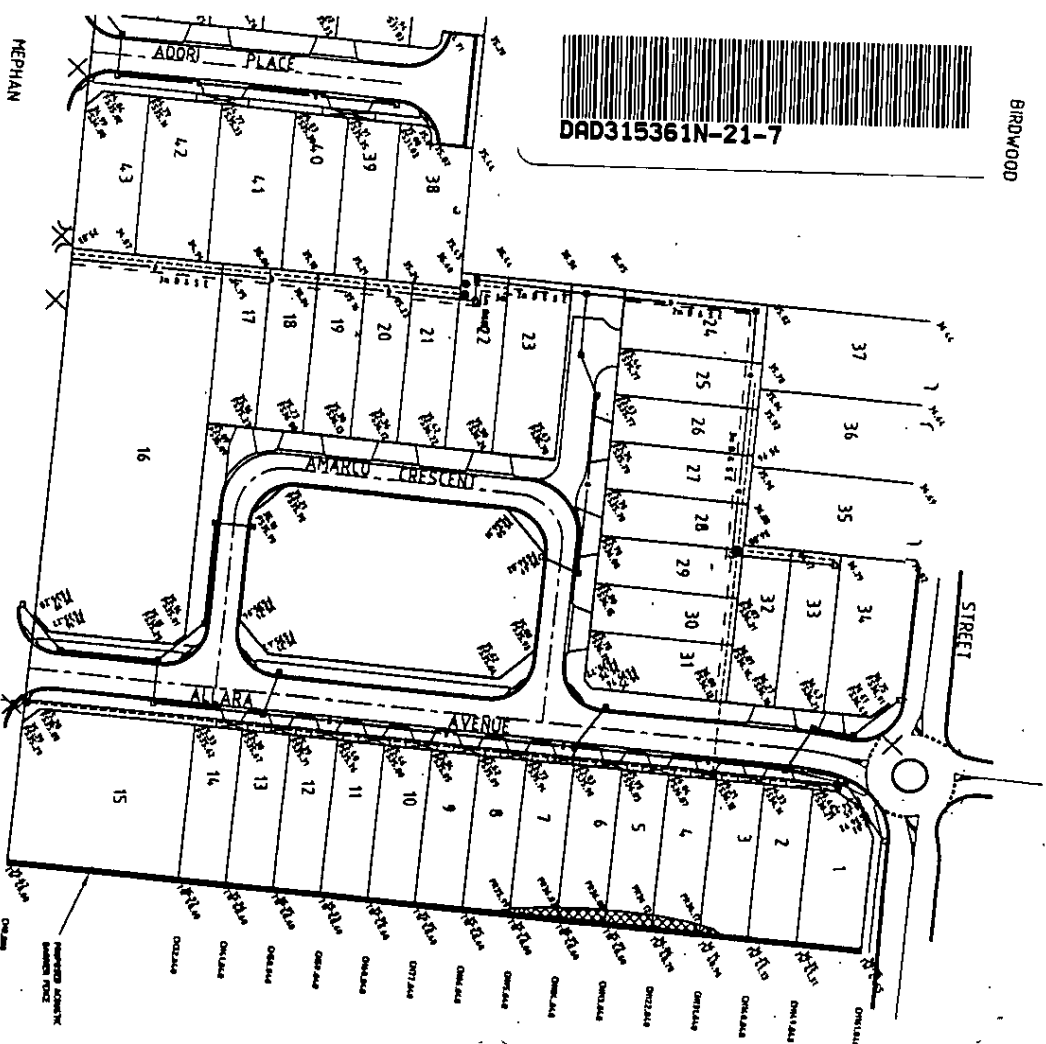
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BIRDWOOD

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AD315361N

16/12/2004 \$90

Agreement under S 173 of the Planning and Environment Act 1987

Between
Marbymiong City Council

And
Rosamond Street Pty Ltd

This plan is the Acoustic Fence Design Plan that is hereby approved. It has been approved on the basis of the proposed effect specified by Watson Growcott Acoustics Pty Ltd as attached and the undertaking of RMAX the owners/occupiers of 2-4 Mephan St, Marbymiong as also attached.

John Upthorpe
General Manager
Sustainable Development
Marbymiong City Council

13 September 2004

Sheet 1 of 2

WARNING

BEWARE OF UNDERGROUND SERVICES
The location of underground services and structures is shown on this plan. It is the responsibility of the user to ensure that all existing services and structures are protected.

1. THE OWNER SHALL BE RESPONSIBLE FOR THE COST OF ALL SERVICES AND STRUCTURES SHOWN ON THIS PLAN.
2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE COST OF ALL SERVICES AND STRUCTURES SHOWN ON THIS PLAN.
3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE COST OF ALL SERVICES AND STRUCTURES SHOWN ON THIS PLAN.
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20. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE COST OF ALL SERVICES AND STRUCTURES SHOWN ON THIS PLAN.

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2	REVISION		
3	REVISION		
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10	REVISION		

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9	REVISION		
10	REVISION		



WATSON MOSS GROWCOTT acoustics pty ltd

A.C.N. 005 446 579
ABN 44 445 257 249

CONSULTANTS: ACOUSTICS, NOISE AND VIBRATION CONTROL

SUITE 7, 696 HIGH STREET, EAST KEW
VICTORIA, AUSTRALIA 3102
TELEPHONE: (03) 9859 9447
FACSIMILE: (03) 9859 5552
EMAIL: wmg@wmgacoustics.com.au



DAD315361N-23-4

EMAIL TRANSMISSION

DATE: 2 September, 2004 **REFERENCE No.** DKG8642-12.doc
ORIGINATOR: Douglas Growcott
ADDRESSED TO: Victoria Investments and Properties **EMAIL:** phwong@vicinvest.com.au
ATTENTION: Peng Hong Wong
PROJECT: Allara, 20 Rosamond Road, Maribyrnong- Residential Development
SUBJECT: Noise Emissions from R-max Factory
Compliance with SEPP N-1
COPY TO:

Peng,

1. INTRODUCTION

Noise emissions from the R-max factory at 2-4 Mephan Street, Maribyrnong require reducing to allow compliance with State Environment Protection Policy No. N-1 "Control of Noise from Commerce, Industry and Trade" (N-1) at existing houses to the north and east of the site and future houses to be built on the abutting Allara residential land to the west.

The factory noise reduction treatments proposed have been described in Burton Acoustic Report "Noise Reduction Requirements 2-4 Mephan Street, Maribyrnong", 9th April 2003, Ref. 176/02 (see attached copy). Some of the noise control treatments described in this report will control noise emissions propagated to the Allara residential land west of the R-max site western boundary.

2. REQUIREMENTS TO CONTROL NOISE TO ACHIEVE SEPP N-1 COMPLIANCE AT HOUSES ON THE ALLARA LAND

A combination of building works and processes will contribute to compliance with SEPP N-1.

The building works and processes will include the following:

- (1) The implementation of the treatments described in the Burton Acoustic Group Report dated 9th April 2003, Ref. 176/02.

Note that some possible additional treatments have been foreshadowed and include control of several roof-mounted fans and lagging and sheathing of piping.

- (2) The construction of a 4.6³ metre high acoustic fence along the separating boundary between the Allara land and the R-max site.

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AAAC

MEMBER FIRM OF THE ASSOCIATION OF
AUSTRALIAN ACOUSTICAL CONSULTANTS



The acoustic fence has been detailed on Earth Tech drawing No. 012073.01/91. However, in principle, the acoustic fence will have the following attributes:

- (i) be constructed of materials with surface weights of 12kg/m² and without gaps, eg. cement sheet, brick, timber, glass or a combination.
- (ii) be partially buried in the ground or sealed to a concrete or bitumen surface with timber, steel or rubber flashing.
- (iii) have sufficient strength and integrity to withstand wind loads and not to develop gaps over the life of the panel materials.

The most experienced constructor of acoustic fencing of the proposed height would be as follows:

RJM Enterprises
1B/991 Whitehorse Road
Box Hill, 3128
Phone: 9890 1930, Fax: 9890 1932

Advice from RJM Enterprises provides guidelines for the structure necessary for a 4.6 metre high acoustic fence:

Support posts:	Galvanised steel universal beams UB18
Depth in ground:	Nominally 2.0 metres.
Diameter of concrete support footing:	450 diameter.
Panel material:	Plywood in panels 2.7 metres wide.
Arrangement options:	Panels on one side of steel posts or panels staggered on each side of steel posts.

- (3) An operational procedure adopted by R-max, which requires them not to load product onto distribution vehicles or move the vehicles on site during the night period 10.00pm to 7.00am.
- (4) Construction requirements more extensive than conventional construction to the first floor level eastern facing habitable rooms for those houses built adjacent to the Allara eastern boundary.

These treatments will include:

- 13mm plywood or plasterboard installed below the roofing material
- 2 x 13mm plasterboard unpenetrated ceilings
- 1 x 100mm x 14 kg/m³ polyester cavity fill
- Double brick or precast panel walls
- Double glazing consisting of 6mm glass and 10mm glass with 75mm cavity between.
- Ventilation not provided from openings on the eastern facade

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Watson Moss Growcott acoustics pty ltd

A.C.N. 005 446 379
A.B.N. 44 445 257 249

CONSULTANTS, ACOUSTICS, NOISE AND VIBRATION CONTROL

Page 3

DKG8642-12.doc

3. OVERVIEW

Compliance with State Environment Protection Policy No. N-1 "*Control of Noise from Commerce, Industry and Trade*" (SEPP N-1) will be necessary for residual noise from the R-max facility when assessed at the Allara land once occupation of houses has occurred.

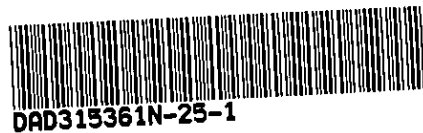
Compliance will be achieved by a combination of treatments to plant items and houses and processes. The treatments and processes have been described in the body of this report.

The treatments will include the silencing of cooling towers, compressors and ventilation openings, construction of an acoustic fencing along the separating boundary between the residential and industrial land and additional extensive treatment to the upper levels of the new houses.

The processes will include loading and transporting product from the factory at times other than during the night period (10.00pm to 7.00am).

Regards,

DOUGLAS GROWCOTT
WATSON MOSS GROWCOTT
acoustics pty ltd



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A division of Huntsman Chemical Company
Australia Pty Limited ABN 48 004 146 338

www.rmax.com.au

2 September 2004

Mr Robin Dunstone
Strategic Planner
Maribyrnong City Council
PO Box 58
FOOTSCRAY VIC 3011



Dear Mr Dunstone

Further to our discussion on 1st September 2004, I am writing to confirm our agreement in principle that RMAX are prepared to commit to a noise control program relating to truck-generated noise at 2-4 Mephan Street, Maribyrnong.

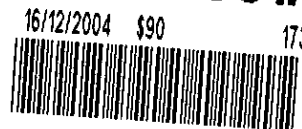
RMAX will commit to limiting noise generation from truck engine start up prior to 7.00a.m. by either:

- a) Demonstration by analysis and noise monitoring that the required noise level standards are not exceeded during engine start up within the premises, or
- b) Arranging for truck engine start up outside of the 2-4 Mephan Street premises.

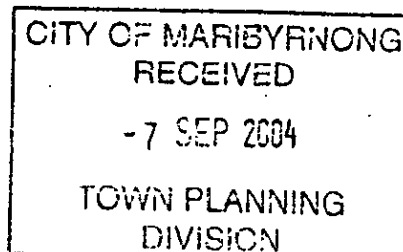
Yours sincerely

Graham Attwood
General Manager

AD315361N



Copy: Mr Peng Hong Wong
Victorian Investments & Properties Pty Ltd



- **HEAD OFFICE /VIC**
2-4 Mephan Street,
Maribyrnong, VIC 3032
P.O. BOX 51
West Footscray, VIC 3012
Tel: +61 3 9318 4422
Fax: +61 3 9317 7888
- **WA**
5 Baldwin Street,
Kewdale, WA 6105
P.O. BOX 78
Welshpool, WA 6986
Tel: +61 8 9353 1000
Fax: +61 8 9353 2002
- **SA**
Peachey Road,
Elizabeth West, SA 5113
P.O. BOX 195
Elizabeth, SA 5112
Tel: +61 8 8255 8022
Fax: +61 8 8255 7939
- **TAS**
22 Merino Street,
Kings Meadows, TAS 7249
P.O. BOX 371
Kings Meadows, TAS 7249
Tel: +61 3 6344 5644
Fax: +61 3 6344 2913
- **NSW**
27 Chifley Street,
Smithfield, NSW 2164
P.O. BOX 6519
Wetherill Park, NSW 2164
Tel: +61 2 9609 6088
Fax: +61 2 9604 5705
- **QLD**
236 Musgrave Road,
Coopers Plains, QLD 4108
Tel: +61 7 3277 4522
Fax: +61 7 3277 7761
- Steptoe Street,
Bundaberg, QLD 4670
P.O. BOX 1671
Bundaberg, QLD 4670
Tel: +61 7 4152 6866
Fax: +61 7 4152 6796
- Cnr. Collinsville Road
& Bruce Highway
Bowen, QLD 4805
P.O. BOX 168
Bowen, QLD 4805
Tel: +61 7 4785 2488
Fax: +61 7 4785 2424
- **NEW ZEALAND**
Barnes Plastics,
368 Church Street,
Penrose, Auckland 6
P.O. BOX 12014
Penrose, Auckland 6
Tel: +64 9 579 9725
Fax: +64 9 579 0472

ANNEXURE D
(TREE IDENTIFICATION PLAN)

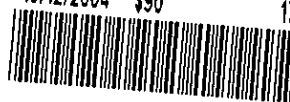


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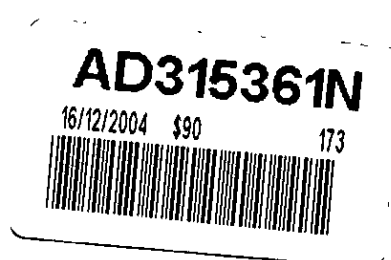
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CUSTODIAN'S LIMITATION OF LIABILITY CLAUSE

1. The Custodian enters into this only as agent of Colonial First State Investment Manager (Australia) Limited ("Responsible Entity"). The Custodian can only act in accordance with the terms of the agreement under which it is appointed as the Responsible Entity's agent and is not liable under any circumstances to any party under this Agreement. This limitation of the Custodian's liability applies despite any other provision of this Agreement and extends to all liabilities and obligations of the Custodian in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Agreement.
2. The Custodian is not obliged to do or refrain from doing anything under this Agreement (including, without limitation, incur any liability) unless the Custodian's liability is limited in the same manner as set out in clause 1.
3. No attorney, agent, receiver or receiver and manager appointed in accordance with this Agreement has authority to act on behalf of the Custodian in a way which exposes the Custodian to any liability.



URBAN DESIGN ASSESSMENT

15 Allara Avenue, Maribyrnong 3032

The following assessment is towards the the proposed verandah for 15 Allara Avenue, Maribyrnong, with reference to the Urban Design Guidelines established under Section 173 Agreement AD745404W for the Allara Estate.

The proposal involves the construction of a verandah at the front of the existing dwelling. The structure is to be 4.1m wide by 5.4m deep, constructed using aluminium.

The assessment is referred to only the relevant guidelines points, any other guidelines that are not applicable such as fencing are not assessed.

2.0 BUILDING SITING & HEIGHT

LOTS 1-14	Met?	Comments
2.1 The use of each lot must be residential and only one dwelling will be erected and used on each allotment shown on the Building Control Plan.	Yes	No changes
2.2 The minimum area of a dwelling for any lot must be 120 so metres excluding the garage/carport or verandah.	Yes	No changes, proposed verandah is on top of existing balcony
2.3 For each allotment on the Building Envelope Plan: dwellings must be located within the nominated envelope and set back at least the minimum distance from the frontage. garages must be setback at least 5.5 metres from the front boundary and must not be forward of the dwelling setback. shared walls are encouraged on side boundaries, forming a terrace house effect. For side setbacks refer to Rescode Provisions, the Building Code of Australia and Building Regulations or any other superseding design code.	Yes	No changes

URBAN DESIGN ASSESSMENT

15 Allara Avenue, Maribyrnong 3032

2.4 Architectural features such as fins, blades and light well projections may extend above the second storey roofline provided that any space created is not used for habitation.	Yes	No changes, proposed verandah does not exceed existing height
2.5 Prefabricated, reconstructed or transportable dwellings cannot be erected. (Note: For specific controls on garages refer to section 6 of these guidelines)	Yes	No changes
2.6 The following structures attached to the house are allowed to extend beyond the building envelope: Verandahs, porches, balconies, bay windows, oriels and other forms of articulation provided they do not encroach more than 1 metre into the front setback. Pergolas and decks provided they are situated on the side and/or rear of the dwelling. Non-habitable outbuildings, subject to siting requirements (see section 5 of these guidelines).	Yes	No changes, proposed verandah does no change front setback
2.7 Lots 1-14 must not exceed a height of 9 metres, and vary between 5.5 - 9 metres.	Yes	No changes to existing height
2.8 The maximum height of buildings on Lots 17-54 shall be 9 metres.	Yes	
2.9 Acoustic measures for Lots 1-14, shall comprise those attenuation matters detailed in Section 10.2 of these guidelines	Yes	No changes

URBAN DESIGN ASSESSMENT

15 Allara Avenue, Maribyrnong 3032

3.0 ARCHITECTURAL DESIGN REQUIREMENTS		
	Met?	Comments
3.1 Dwelling entrances should be clearly visible from the street.	Yes	No changes
3.2 Exposed plumbing, except for roof plumbing, must not face the street.	Yes	No changes, we are proposing to drain to existing drainage on site.
3.3 Articulation of front and side elevations visible from the street.	Yes	No changes, articulations still present
3.4 Contemporary and modern forms will be encouraged whilst mock historical reproduction styles are not permitted, as shown above.	Yes	Contemporary and modern form verandah
3.5 it is essential that corner buildings in particular demonstrate articulation and movement. Corner buildings require distribution of various building elements to create attractive forms.	Yes	No changes
3.6 External house colours are to be predominantly selected from the neutral range in muted tones Le, creams, greys, browns. Limited use of vivid colours for highlighting individual elements is permitted.	Yes	Proposed colours to compliment existing house colours and are from neutral muted tones.
3.7 Materials and colours used on carports, fences, gates, garages, verandas and roofs must compliment those of the dwelling.	Yes	Proposed material compliment the dwelling

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<p>3.8 The style that will be encouraged is one which provides for contemporary or modern buildings that will allow for the optimal use of modern materials in a manner that creates variety and interest in the space created between the facades of buildings. In order to modulate the elevations as viewed from a road or open space, materials should reinforce the articulation of front and side elevations. Materials should be a combination of but not limited to:</p> <p>Face brickwork; Rendered or bagged with a painted surface; Face painted; Painted weatherboards - this material should be generally used above ground level; Natural stone, timber or tiles.</p> <p>A combination of brick and rendered finish may be considered, however the use of external wall materials will need to be considered on the basis of architectural merit.</p> <p>The quality of the brick work / external cladding used is important, and a palette must be provided to Council with the verification notice. The use of "reproduction styles" is not permitted.</p>	Yes	No changes, small aluminium verandah provides modern use of materials and a contemporary form.
<p>3.9 Predominant roof styles are to be hipped or gable. Roof pitch should be between the angles of 22 degrees and 35 degrees. As the roof pitch increases the eaves width can be reduced.</p>	Yes	No changes, verandah follows existing roof design of parapet wall to create a 'box' look
<p>3.10 Solar water heaters are to be located on roof pitches that minimise their visibility from public areas.</p>	Yes	No changes
<p>3.11 Varying roof forms are not discouraged but all designs, including those of contemporary architecture must offer high quality presentation and articulation to the streetscape.</p>	Yes	No changes
<p>3.12 Roof finishes must be in either colourbond metal roofing, cement, low profile terracotta or slate tiles.</p>	Yes	No changes, material to be colourbond aluminium

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8.0 ENERGY EFFICIENT DESIGN		
	Met?	Comments
8.1 All dwelling plans must achieve at least a 4 star rating by First Rate or an equivalent home energy rating scheme. Additionally, 5 star ratings will be encouraged.	Yes	No changes
8.2 Dwellings should be sited and designed to achieve the following; - oriented to make appropriate use of solar energy. - sited and designed to ensure that the energy efficiency of existing dwellings on adjoining lots is not unreasonably reduced, - designed with living areas and private open spaces located on the north side of the dwelling. For south facing lots, dwellings are to be designed so that solar access to north facing windows is maximised. internal room planning to maximise sunlight access through the dwelling. windows which are orientated for sun access in winter and cross-ventilation for summer, encourage landscape design that assists in facilitating entry of sunlight into the living areas of the dwelling, particularly in winter.	Yes	No changes, verandah will be operable to allow openable and closing louvres depending on weather.

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<p>8.3 Sustainable Building Philosophy.</p> <p>Elements that should be considered in the design of your house should include:</p> <p>Use of energy efficient appliances and gas appliances.</p> <p>Solar heating/hot water systems.</p> <p>Insulation in walls, ceilings and floors.</p> <p>Cross ventilation & appropriately located windows.</p> <p>Energy smart lighting.</p> <p>Thermal mass in building structures to control temperature.</p> <p>Collection and re-use of rainwater.</p> <p>Permeable surfaces in backyards.</p> <p>Incorporation of vegetation at high levels on roof gardens and walls, and use of deciduous trees to the north.</p>	<p>Yes</p>	<p>No changes, natural light to still allow penetration.</p> <p>Stormwater will be collected and re-use as per buildings existing design.</p>
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54.02 NEIGHBOURHOOD CHARACTER

54.02-1 Neighbourhood Character Objectives	Met?	Standard A1	Met?	Comments
<p>To ensure that the design respects the existing neighbourhood character or contributes to a preferred neighbourhood character.</p> <p>To ensure that development responds to the features of the site and the surrounding area</p>	Yes	<p>The design response must be appropriate to the neighbourhood and the site. The proposed design must respect the existing or preferred neighbourhood character and respond to the features of the site.</p>	Yes	<p>The design respects the existing neighbourhood character with its modern minimal form.</p> <p>Several dwellings on the road also consist of balcony's enclosed.</p>
54.02-2 Integration With The Street Objective	Met?	Standard A2	Met?	Comments
To integrate the layout of development with the street	Yes	Development should be oriented to front existing and proposed streets	Yes	Proposed verandah towards the front and integrates with the development
		High fencing in front of dwellings should be avoided if practicable	NA	No changes
		Dwellings should be designed to promote the observation of abutting streets and any abutting public open spaces	NA	No changes

54.03 SITE LAYOUT AND BUILDING MASSING

54.03-1 Street Setback Objective	Met?	Standard A3	Met?	Comments
To ensure that the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site	Yes	<p>Walls of buildings should be set back from streets the distance specified below:</p> <p>There is an existing building on both the abutting allotments facing the same street, and the site is not on a corner.</p> <p>The average distance of the setbacks of the front walls of the existing buildings on the abutting allotments facing the front street or 9 metres, whichever is the lesser.</p> <p>There is an existing building on one abutting allotment facing the same street and no existing building on the other abutting allotment facing the</p>	Yes	The proposed verandah does not change the existing setback, therefor compliant.

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		<p>same street, and the site is not on a corner:</p> <ul style="list-style-type: none"> The same distance as the setback of the front wall of the existing building on the abutting allotment facing the front street or 9 metres, whichever is the lesser. <p>There is no existing building on either of the abutting allotments facing the same street, and the site is not on a corner.</p> <p>6 metres for streets in a Road Zone, Category 1, and 4 metres for other streets.</p> <p>The site is on a corner.</p> <p>Min front setback if there is a building on the abutting allotment facing the front street, the same distance as the setback of the front wall of the existing building on the abutting allotment facing the front street or 9 metres, whichever is the lesser.</p> <p>Min front setback if there is no building on the abutting allotment facing the front street, 6 metres for streets in a Road Zone, Category 1, and 4 metres for other streets.</p> <p>Min side street setback - The same distance as the setback of the front wall of any existing building on the abutting allotment facing the side street or 2 metres, whichever is the lesser.</p>		
		<p>Porches, pergolas and verandahs that are < 3.6m high and eaves may encroach £ 2.5m into the setbacks of this standard</p>	Yes	<p>The louvre roof verandah height is smaller than the original height of the dwelling.</p>
54.03-2 Building Height Objective	Met?	Standard A4	Met?	Comments
<p>To ensure that the height of buildings respects the existing or preferred neighbourhood character</p>	<p>Yes</p>	<p>The maximum building height should not exceed 9 metres, unless the slope of the natural ground level at any cross section wider than 8 metres of the site of the building is 2.5 degrees or more, in which case the maximum building height should not exceed 10 metres.</p>	<p>Yes</p>	<p>There are no changes to the overall building height.</p>

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		<i>Changes of building height between existing buildings and new buildings should be graduated</i>	Yes	
54.03-3 Site Coverage Objective	Met?	Standard A5	Met?	Comments
<i>To ensure that the site coverage respects the existing or preferred neighbourhood character and responds to the features of the site</i>	Yes	<i>The site area covered by buildings should not exceed 60 per cent</i>	Yes	The existing site coverage is already more than 60% of a small site area of 270m ² . The proposed verandah does not increase the site coverage due to being on top of an existing balcony.
54.03-4 Permeability Objectives	Met?	Standard A6	Met?	Comments
<i>To reduce the impact of increased stormwater run-off on the drainage system</i> <i>To facilitate on-site stormwater infiltration</i>	Yes	<i>The site area covered by pervious surfaces should be at least 20% of the site.</i>	Yes	Complaint, no changes to permeability
54.03-5 Energy Efficiency Protection Objectives	Met?	Standard A7	Met?	Comments
<i>To achieve and protect energy efficient dwellings</i> <i>To ensure the orientation and layout of development reduce fossil fuel energy use and make appropriate use of daylight and solar energy</i>	Yes	<i>Buildings should be:</i> <ul style="list-style-type: none">• Orientated to make appropriate use of solar energy• Sited and designed to ensure that the energy efficiency of existing dwellings is maximised	Yes	No changes
		<i>Living areas and private open space should be located on the north side of the development if practicable</i>	Yes	No changes
		<i>Dwellings should be designed so that solar access to north facing windows is maximised.</i>	Yes	No Changes
		<i>Sited and designed to ensure that the performance of existing rooftop solar energy facilities on dwellings on adjoining lots in a General Residential Zone, Neighbourhood Residential Zone or Township Zone are not unreasonably reduced. The</i>	Yes	No changes. Louvre roofs are operable roofs that open for solar access.

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		existing rooftop solar energy facility must exist at the date the application is lodged.		
54.03-6 Significant Trees Objectives	Met?	Standard A8	Met?	Comments
<p>To encourage development that respects the landscape character of the neighbourhood</p> <p>To encourage the retention of significant trees on the site.</p>	Yes	<p>Development should provide for the retention or planting of trees</p> <p>Replace any significant trees that have been removed in the 12 months prior to the application being made</p>	Yes	No Changes

54.04 AMENITY IMPACTS				
54.04-1 Side and Rear Setback Objective	Met?	Standard A10	Met?	Comments
To ensure that the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.	Yes	A new building not on or within 200mm of a boundary should be set back from side or rear boundaries 1 metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres.	Yes	Set within 200mm from boundary
		Sunblinds, verandahs, porches, eaves, fascias, gutters, masonry chimneys, flues, pipes, domestic fuel or water tanks, and heating or cooling equipment or other services may encroach not more than 0.5 metres into the setbacks of this standard.	Yes	
		Landings having an area of not more than 2 square metres and less than 1 metre high, stairways, ramps, pergolas, shade sails and carports may encroach into the setbacks of this standard.	Yes	
54.04-2 Wall On Boundaries Objective	Met?	Standard A11	Met?	Comments
To ensure that the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood	Yes	A new wall constructed on or within 200mm of a side or rear boundary of a lot or a carport constructed on or within 1 metre of a side or rear boundary of a lot should not abut the boundary for a length of more than: 10 metres plus 25 per cent of the	Yes	Verandah is set within 200mm of the boundary, the length and height of wall are consistent within the existing wall on boundary set by the neighbour.

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character and limits the impact on the amenity of existing dwellings		<p>remaining length of the boundary of an adjoining lot, or</p> <p>Where there are existing or simultaneously constructed walls or carports abutting the boundary on an abutting lot, the length of the existing or simultaneously constructed walls or carports, whichever is the greater.</p>		
		<p>A new wall or carport may fully abut a side or rear boundary where the slope and retaining walls or fences would result in the effective height of the wall or carport being less than 2 metres on the abutting property boundary.</p> <p>A building on a boundary includes a building set back up to 200mm from a boundary.</p> <p>The height of a new wall constructed on or within 200mm of a side or rear boundary or a carport constructed on or within 1 metre of a side or rear boundary should not exceed an average of 3.2 metres with no part higher than 3.6 metres unless abutting a higher existing or simultaneously constructed wall.</p>	Yes	
54.04-3 Daylight To Existing Windows Objective	Met?	Standard A12	Met?	Comments
To allow adequate daylight into existing habitable room windows	Yes	Buildings opposite an existing habitable room window should provide for a light court to the existing window that has a minimum area of 3sqm and minimum dimensions of 1m clear to the sky. The calculation of the area may include land on the abutting lot	Yes	The verandah is operable which allows the louvres to open and provide sunlight

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		Walls or carports more than 3m in height opposite an existing habitable room window should be set back from the window at least 50% of the height of the new wall if the wall is within a 55° arc from the centre of the existing window. The arc may be swung to within 35° of the plane of the wall containing the existing window Where the existing window is above ground floor level, the wall height is measured from the floor level of the room containing the window Refer to diagram A2	Yes	As above
54.04-4 North Facing Windows Objective	Met?	Standard A13	Met?	Comments
To allow adequate solar access to existing north-facing habitable room windows	Yes	If a north-facing habitable window of an existing dwelling is within 3m of a boundary on an abutting lot, a building should be setback from the boundary 1m, plus 0.6m for every metre of height over 3.6m up to 6.9m, plus 1m for every metre of height over 6.9m, for a distance of 3m from the edge of each side of the window Refer to Diagram A3	Yes	No changes. There is no habitable room window for the neighbours near the verandah.
54.04-5 Overshadow Open Space Objective	Met?	Standard A14	Met?	Comments
To ensure buildings do not significantly overshadow existing secluded private open space	Yes	Where sunlight to secluded private open space of an existing dwelling is reduced, at least 75%, or 40sqm with minimum dimension of 3m, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9am and 3pm on 22 September	Yes	Balcony already overshadowed by neighbour building. The proposed site has secluded private open space with recommended sunlight. No effects to neighbouring properties.
		If existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced	Yes	No changes
54.04-6 Overlooking Objective	Met?	Standard A15	Met?	Comments
To limit views into existing secluded private open space	Yes	A habitable room window, balcony, terrace, deck or patio should be located and designed	Yes	No overlooking issues.

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and habitable room windows		to avoid direct views into the secluded private open space of an existing dwelling within a horizontal distance of 9m (measured at ground level) of the window, balcony, terrace, deck or patio. Views should be measured within a 45° angle from the plane of the window or perimeter of the balcony, terrace, deck or patio, and from a height of 1.7m above the floor level		
		A habitable room window, balcony, terrace, deck or patio with a direct view into a habitable room window of an existing dwelling within a horizontal distance of 9m (measured at ground level) of the window, balcony, terrace, deck or patio should be either: <ul style="list-style-type: none"> • offset a minimum of 1.5m from the edge of one window to the edge of the other, or • have sill heights of at least 1.7m above floor level, or • have obscure glazing in any part of the window below 1.7m above floor level, or • have permanently fixed external screens to at least 1.7m above floor level and be no more than 25% transparent 	Yes	
		Obscure glazing in any part of the window below 1.7m above floor level may be openable provided that there are no direct views as specified in this standard	Yes	
		Screens used to obscure a view should be: <ul style="list-style-type: none"> • perforated panels or trellis with a maximum of 25% openings or solid translucent panels • permanent, fixed and durable • designed and coloured to blend with the development 	Yes	
		This standard does not apply to a new habitable room window, balcony, terrace, deck or patio which faces a property boundary where there is a visual barrier at least 1.8m high and the floor level of the habitable room, balcony, terrace, deck or patio is less than 0.8m above ground level at the	Yes	

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		boundary Refer to Diagram A4		
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54.05 ON-SITE AMENITY AND FACILITIES				
54.05-1 Daylight To New Windows Objective	Met?	Standard A16	Met?	Comments
To allow adequate daylight into new habitable room windows	Yes	<p>A window in a habitable room should be located to face:</p> <ul style="list-style-type: none"> an outdoor space clear to the sky or a light court with min. area of 3sqm and min. dimension of 1m clear to the sky, not including land on an abutting lot, or a verandah provided it is open for at least one third its perimeter, or a carport provided it has two or more open sides and is open for at least one third of its perimeter 	Yes	No changes, plus the proposed verandah has operable louvers which can open to allow sunlight.
54.05-2 Private Open Space Objective	Met?	Standard A17	Met?	Comments
To provide adequate private open space for the reasonable recreation and service needs of residents	Yes	<p>Dwelling should have private open space:</p> <ul style="list-style-type: none"> of 80sqm or 20% of the lot area, whichever is the lesser but not less than 40sqm at least one part of the POS should consist of 25sqm secluded POS with a min. width of 3m at the side or rear with convenient access from a living room 	Yes	No changes
54.05-3 Solar Access To Open Space Objective	Met?	Standard A18	Met?	Comments
To allow solar access into the secluded private open space of a new dwelling	Yes	The private open space should be located on the north side of the dwelling, if practicable	Yes	No changes
		The southern boundary of secluded private open space should be set back from any wall on the north of the space at least $(2 + 0.9h)$ metres, where h is the height of the wall Refer to Diagram A5	Yes	No changes

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54.06 DETAILED DESIGN				
54.06-1 Design Detail Objective	Met?	Standard A19	Met?	Comments
To encourage design detail that respects the existing or preferred neighbourhood character	Yes	<p>The design of buildings, including:</p> <ul style="list-style-type: none"> • Facade articulation and detailing, • Window and door proportions, • Roof form, and • Verandahs, eaves and parapets, <p>should respect the existing or preferred neighbourhood character.</p> <p>Garages and carports should be visually compatible with the development and the existing or preferred neighbourhood character.</p>	Yes	No changes
54.06-2 Front Fences Objective	Met?	Standard A20	Met?	Comments
To encourage front fence design that respects the existing or preferred neighbourhood character	Yes	The design of front fences should complement the design of the dwelling and any front fences on adjoining properties	Yes	No changes
		<p>A front fence within 3m of a street should not exceed:</p> <ul style="list-style-type: none"> • Streets in a Road Zone – 2m • Other Streets – 1.5m 	Yes	No changes