



COMMERCIAL CLUSTER 1, WITCHCLIFFE ECOVILLAGE

LOT _____
CONTRACT OF SALE BY OFFER AND ACCEPTANCE



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REF 200062

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CONTRACT FOR SALE OF STRATA TITLE PROPERTY BY OFFER & ACCEPTANCE WHICH CONTAINS:

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The Buyer acknowledges having received a copy of each of the annexures and attachments referred to above and that each form part of the Contract and bind the Buyer and the Seller.

Signature(s) of Buyer

Date:

Signature(s) of Buyer

Date:

**CONTRACT FOR SALE OF STRATA TITLE PROPERTY BY OFFER AND ACCEPTANCE
REFERENCE SCHEDULE**

ITEM 1. BUYER DETAILS

Name/s _____

Address _____

Phone(s) _____ Email(s) _____

Tenancy: ☐ Joint Tenants ☐ Tenants in Common in following shares _____

ITEM 2. SELLER DETAILS

Name Perron Developments Pty Ltd (ACN 000 230 446) & Sustainable Settlements Pty Ltd (ACN 169 286 337)

Address 10437 Bussell Highway, Witchcliffe, Western Australia

Phone: +61 8 9757 6688

Email: sales@ecovillage.net.au

ABN 34 240 529 823

ITEM 3. PROPERTY

Strata Lot Proposed Lot _____ on Survey Strata Plan 84745

Address _____ Commercial Cluster 1, Witchcliffe Ecovillage Witchcliffe, WA

ITEM 4. PURCHASE PRICE AND GST

Purchase Price \$ _____ (excluding GST)

ITEM 5. DEPOSIT

Amount \$ 10,000.00

Payment Terms \$ 10,000.00 payable within 7 days of the Contract Date.

Deposit Holder Vicki Philipoff Settlements (Trust Account)

Bank: BankWest BSB: 306 053 Account Number: 0151971

ITEM 6. FINANCE CONDITION

☐ Finance Condition Applicable ☐ Finance Condition Not Applicable

Latest Time _____

Lender _____

Amount of Loan \$ _____

Buyer/s Sign _____

ITEM 7. SETTLEMENT DATE

The date that is the later of:

- (a) 30 September 2022;
- (b) the date 21 days after the Contract Date (being the date of acceptance of the Buyer's offer);
- (c) 21 days after the issue of a separate Certificate of Title for the Property; and
- (d) where the Finance Condition is noted as applicable in Item 6 of the Reference Schedule, the date 21 days after the Buyer receives Finance Approval or waives that condition.

ITEM 8. SELLER'S REPRESENTATIVE / SETTLEMENT AGENT

Name	Vicki Philipoff Settlements		
Address	PO Box 1800 West Perth WA 6872		
Phone	+61 8 6311 4888	Email	info@vickiphilipoff.com.au

ITEM 9. BUYER'S REPRESENTATIVE / SETTLEMENT AGENT

Name _____

Contact _____

Address _____

Phone _____ Email _____

ITEM 10. ADDITIONAL CONDITIONS

If there is any inconsistency between the Additional Conditions and any provision of the Special Conditions, the Additional Conditions shall prevail to the extent of that inconsistency

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

**CONTRACT FOR SALE OF STRATA TITLE PROPERTY BY OFFER AND ACCEPTANCE
OFFER AND ACCEPTANCE**

1. The Buyer (and where more than one person comprises the Buyer, all of those persons as joint tenants or tenants in common as specified in Item 1 of the Reference Schedule) hereby offers to Purchase the Property free of Encumbrances, except the Specified Encumbrances, and including all improvements with vacant possession at the Purchase Price and on the terms set out in the Contract including the Special Conditions and other Annexures hereto.
2. The Buyer shall pay the Deposit to the Deposit Holder on or before the Deposit Due Date. The balance of the Purchase Price shall be paid at Settlement.
3. Acceptance of this offer will be sufficiently communicated to the Buyer if verbal or written notification is given by the Seller or the Seller's Representative to the Buyer that this Offer and Acceptance has been signed as accepted by the Seller.
4. Settlement of the sale and purchase of the Property shall occur on the Settlement Date.
5. The Buyer acknowledges that before signing this offer it has received a true copy of and has read and understood the Contract including Annexure A - Annexure D and the Attachments thereto (all of which form part of this Contract).
6. The Special Conditions comprising Annexure A form part of this offer and, subject to the Additional Conditions, prevail to the extent of any inconsistency with any other term of the Contract including the General Conditions.

EXECUTION:

EXECUTION FOR INDIVIDUAL BUYER(S)

Signature of Buyer

Signature of Buyer

Full Name

Full Name

Date

Date

EXECUTION FOR CORPORATE BUYER(S)

Signed for and on behalf of _____ Pty Ltd

A.C.N. _____ by its authorised signatory

Signature

Full Name

Position

Date

EXECUTION FOR SELLER (being acceptance of the Buyer's offer)

Signed for and on behalf of Sustainable Settlements Pty Ltd (ACN 169 286 337) by its authorised signatory:

Signature

Full Name

Position

Date

Signed for and on behalf of Perron Developments Pty Ltd (ACN 000 230 446) by its authorised signatory:

Signature

Full Name

Position

Date

ANNEXURE A – SPECIAL CONDITIONS

1 BUYER'S ACKNOWLEDGMENTS

- 1.1 Without limiting the generality of the Contract, the Buyer expressly acknowledges and agrees as follows:
- (a) these are the Special Conditions referred to in the Offer and Acceptance and forming part of the Contract;
 - (b) the Annexures and Attachments, including these Special Conditions and the Disclosure Statement and its Attachments, form part of the Contract;
 - (c) it has received all of the notifiable information for the purposes of section 156 of the *Strata Titles Act*; and
 - (d) it has read and understood the Contract including the Offer and Acceptance, Special Conditions, the Annexures and the Attachments.

2 FINANCE CONDITION

- 2.1 This Special Condition applies only if the Buyer has selected that the Finance Condition is applicable in Item 6 of the Reference Schedule. If the Buyer has not selected that the Finance Condition is applicable in Item 6 of the Reference Schedule this Special Condition does not apply and the Contract is not subject to the Buyer obtaining any form of finance for the purchase of the Property.
- 2.2 If this Special Condition applies the Contract is subject to and conditional upon the Buyer obtaining Finance Approval or waiving that requirement on or before the Latest Time as set out in this Special Condition; and
- 2.3 The Buyer must immediately give to the Seller or Seller Agent notice if:
- (a) it obtains Finance Approval or waives the requirement to obtain Finance Approval (**Approval Notice**); or
 - (b) the application for Finance Approval is rejected (**Non-Approval Notice**).
- 2.4 If by the Latest Time the Buyer has not obtained Finance Approval, the Buyer may terminate this Contract by notice in writing to the Seller or the Seller's Agent.
- 2.5 If by the Latest Time the Buyer has not given an Approval Notice or written notice of a waiver of this condition to the Seller or Seller Agent then, at any time until an Approval Notice or written notice of a waiver is given, the Seller may terminate this Contract by written notice to the Buyer.
- 2.6 The Buyer acknowledges and agrees that upon providing an Approval Notice or waiving this condition in writing to the Seller:
- (a) the Contract ceases to be subject to the Finance Condition and this Special Condition (becoming unconditional concerning any requirement for the Buyer to obtain any form of finance to purchase the Property); and
 - (b) the Contract will not be affected by, and the Buyer will be required to complete the Contract and purchase the Property notwithstanding, any subsequent withdrawal, expiry, variation or termination of any finance the Buyer may have received approval for (even where this risk or likelihood is noted on or advised as part of the Approval Notice).
- 2.7 If the Buyer gives a Non-Approval Notice, this Contract shall automatically terminate.
- 2.8 If a Party has the right to terminate under this Special Condition 2, then:
- (a) clauses 23 and 24 of the General Conditions do not apply to the right to terminate;
 - (b) upon termination:
 - (i) the Deposit and any other monies paid by the Buyer must be repaid to the Buyer; and
 - (ii) neither Party will have any action or claim against the other for breach of this Contract.
- 2.9 In this Special Condition 2 the following terms have the following meaning:
- Amount of Loan** means either:
- (a) the amount referred to in Item 6 of the Reference Schedule or any lesser amount of finance referred to in the Finance Application; or
 - (b) if no amount is referred to in Item 6 of the Reference Schedule, an amount equivalent to the Purchase Price;
- Finance Application** means an application made by or on behalf of the Buyer to the Lender to lend any monies payable under the Contract;
- Finance Approval** means:
- (a) a written approval by the Lender of the Finance Application or a written offer to lend or a written notification of an intention to offer to lend made by the Lender; and
 - (b) for the Amount of the Loan; and

- (c) which is unconditional or subject to terms and conditions:
 - (i) which are the Lender's usual terms and conditions for finance of a nature similar to that applied for by the Buyer; or
 - (ii) which the Buyer has accepted by written communication to the Lender, but a condition which is the sole control of the Buyer to satisfy will be treated as having been accepted for the purposes of this definition; or
 - (iii) which, if the condition is other than those referred to in subparagraphs i and ii. above, includes:
 - (A) an acceptable valuation of any property;
 - (B) attaining a particular loan to value ratio;
 - (C) the sale of another property; or
 - (D) the obtaining of mortgage insurance;and has in fact been satisfied.

Latest Time means 4:00PM on the day specified as the Latest Time in Item 6 of the Reference Schedule or where there is no such day is specified, the day that is 15 Business Days after the Contract Date;

Lender means:

- (a) the lender or mortgage broker nominated in Item 6 of the Reference Schedule; or
- (b) if the Buyer makes a Finance Application to, or if no lender is nominated in Item 6 of the Reference Schedule then, any bank, building society, credit union or other institution which makes loans and in each case is carrying on business in Western Australia or a mortgage broker carrying on business in Western Australia;

3 VARIATIONS BY SELLER

- 3.1 The Buyer acknowledges and agrees that the Proposed Strata Plan and Detailed Plans may be amended by the Seller.
- 3.2 Without limiting Special Condition 3.1 the Seller may alter (whether being a modification, addition, deletion or otherwise) any one or more of the following in the circumstances referred to in Special Condition 3.3:
 - (a) the lot or street number or address allocated to any Strata Lot;
 - (b) the number of the Strata Lots (and with this their dimensions) by:
 - (i) amalgamating two or more Strata Lots;
 - (ii) dividing what is intended to be Strata Lot 1 into three Strata Lots;
 - (c) the Initial By-Laws, easements and any agreement between the Strata Company and another (including agreements for the provision of services and utilities, whether or not those agreements are with Ecovillage Commons Ltd) and/or any other information, document, agreement, notice or material forming part of the Contract.
- 3.3 The Seller may alter any one or more of the matters referred to in Special Condition 3.2 after the Contract Date if:
 - (a) arising from any condition imposed by an Authority;
 - (b) for environmental sustainability purposes;
 - (c) in accordance with any recommendation of the Seller's civil engineer, structural engineer, mechanical engineer, electrical engineer, environmental consultants, solicitor, town planner or other professional advisor and not materially and adversely affecting the Buyer's use and enjoyment of the Property;
 - (d) due to any change in any law, regulation, by-law, ordinance, Australian Standard or the like;
 - (e) due to matters that arise which the Seller could not have reasonably foreseen;
 - (f) in the case of an amalgamation or dividing of any Strata Lots, to satisfy the demand of prospective purchasers of those Strata Lots; or
 - (g) where the Seller believes the changes will enhance the Ecovillage, Development or Property.
- 3.4 If the Seller makes any variation in accordance with this Special Condition 3 then it will, so far as reasonably practicable, ensure that the variation will not materially alter or affect the use and enjoyment of the Property by the Buyer or substantially diminish its value.

- 3.5 The Seller will communicate any such changes with the Buyer but is not obliged to enter into any supplementary agreement with the Buyer if the Seller makes any variation permitted under the Contract including this Special Condition 3.
- 3.6 Where a variation in accordance with the Contract including this Special Condition 3 varies any part of the Development, not comprising the Property (**External Variation**) the Buyer is not entitled to make any Objection to the External Variation unless, viewed objectively, the External Variation materially adversely affects the use of the Property or reduces the market value of the Property by greater than 5%.
- 3.7 The Buyer may not make any Objection to any variation to the Property or Development permitted under this Contract including this Special Condition 3 unless the variation is an External Variation to which an Objection is permitted under Special Condition 3.6.

4 TITLE AND ENCUMBRANCES

- 4.1 The Property is sold and the Buyer shall take title to the Property subject to the relevant matters referred to in the General Conditions and in particular, and without prejudice to the generality of the foregoing, subject to the following matters (each a Specified Encumbrance for the purpose of the General Conditions):
- (a) the provisions of the *Strata Titles Act*, the *Transfer of Land Act 1893* (WA) and all other laws affecting the Property;
 - (b) the Unit Entitlement and all other matters contained in or endorsed upon or annexed to the Strata Plan;
 - (c) the easements and restrictions and/or all ancillary rights and all burdens and obligations of the proprietor of a Strata Lot shown on the Strata Plan or expressed or implied by virtue of the *Strata Titles Act* or the *Planning and Development Act 2005*;
 - (d) the By-laws, including any substitution or variation of these;
 - (e) a notification, such as pursuant to Section 70A of the *Transfer of Land Act 1893* or Section 165 of the *Planning and Development Act 2005*, providing notice to the effect of any or all of the following:
 - i. 'a mains potable water supply is not available to the lot';
 - ii. 'The lot may be subject to bylaws and covenants that relate to the management of land in accordance with the Witchcliffe Ecovillage Structure Plan and Shire of Augusta Margaret River Local Planning Scheme 1';
 - iii. 'The lot is situated in the vicinity of a transport corridor and is currently affected or may in the future be affected by transport noise';
 - (f) a notification on any lot rated 12.5 BAL and above in the Bushfire Management Plan stating: 'This land is within a bushfire prone area as designated by an Order made by the Fire and Emergency Services Commissioner and may be subject to a Bushfire Management Plan. Additional planning and building requirements may apply to development on this land';
 - (g) any transfer, lease, easement, encroachment, restriction, covenant (whether positive or negative) or other obligation arising from the requirement of any Authority whenever and howsoever arising;
 - (h) any memorial or notification required by any Authority (including any required concerning matters associated with the Ecovillage, neighbourhood in which the Development is located or factors effecting the Original Land);
 - (i) any agreement (including lease or licence) right or special privilege granted to a third party (including right to exclusive use) in respect of the Common Property;
 - (j) the Disclosure Statement and all matters referred to therein;
 - (k) all defects (if any) whether or not those defects could or should have been recognisable upon the Buyer's inspection of the Property; and
 - (l) the obligations contained in the Contract;
- but otherwise free from Encumbrances.

5 CAVEAT

- 5.1 The Buyer must not before the issue of a separate Certificate of Title for the Property, lodge any caveat against the Certificate of Title of the Original Land or any part of the Original Land to protect the Buyer's interest under the Contract.
- 5.2 To secure the performance by the Buyer of the Buyer's obligations set out in the Contract (including but not limited to Special Conditions 8, 14 and 18.2) the Buyer charges all of its right title and interest in the Property for the benefit of the Seller and authorises the Seller to lodge an absolute or subject to claim caveat (the form being at the discretion of the Seller) against the certificate of title to the Property.

6 DETAILED PLANS, LOCAL DEVELOPMENT PLAN, BUILDING DESIGN GUIDELINES AND CONSTRUCTION OF BUILDINGS

- 6.1 The Seller notifies the Buyer that the Development is subject to the Local Development Plan and Building Design Guidelines (both the commercial and, where the Property may be developed for mixed commercial and residential use, residential Building Design Guidelines).
- 6.2 The Buyer acknowledges that:
- (a) it has been given the opportunity to review the Local Development Plan and Building Design Guidelines and enters into the Contract with a full understanding of the Local Development Plan and Building Design Guidelines (including the restrictions, ancillary rights and burdens and obligations created thereunder);
 - (b) it has had an opportunity to inspect the Detailed Plans before entering into the Contract (which are available for inspection at the office of the Seller or the Seller's Agent during normal business hours) and online at <https://www.ecovillage.net.au/library/document-library/> under the heading "Civil Engineering" and accordingly the Buyer is deemed to be fully aware of the exact nature, extent and details of the Detailed Plans;
 - (c) the Building Design Guidelines may be amended prior to Settlement;
 - (d) the Local Development Plan may be amended with the consent of the Local Authority; and
 - (e) any building constructed upon the Property must satisfy the requirements of the Local Development Plan and Building Design Guidelines.
- 6.3 The Buyer further acknowledges and agrees that it may only construct a building upon the Property in compliance with Governance By-law 16 of the Initial By-laws (**Building By-law**), which amongst other matters requires the plans for such building to be approved by the Seller, as agent of the Strata Company.
- 6.4 The Buyer may not make any Objection concerning any costs that the Buyer may incur (including design costs or additional construction costs) or construction delays associated with the Buyer:
- (a) only being permitted to construct a building that satisfies the Local Development Plan and Building Design Guidelines; and
 - (b) having to comply with the Building By-law.

7 COMMERCIAL USE

- 7.1 The Buyer acknowledges that:
- (a) the Property and other Strata Lots comprising this Cluster:
 - (i) are intended to be a sustainable mixed-use commercial plus incidental residential development (being zoned for mixed use); and
 - (ii) are subject to Governance By-law 12, which requires each Strata Lot in the Cluster be developed for one or more commercial uses. A Strata Lot in the Cluster may not be developed solely for residential use, any residential use to be incidental to commercial use of the Strata Lot (such as with a residence being situated at the rear or on the top floor of a commercial premises constructed on the Strata Lot);
 - (b) the commercial use of the Property (and each other Strata Lot comprising this Cluster) must be in accordance with:
 - (i) its classified/permitted commercial use under the town planning scheme of the Local Authority; and
 - (ii) the sustainability objectives set out in the By-laws;
 - (c) the classified/permitted commercial use for a Strata Lot may be changed from time to time in accordance with the policy and procedures of the Local Authority;
 - (d) the sustainability objectives set out in the By-laws (including Governance By-law 12) mean that:
 - (i) a Strata Lot may not be used, or otherwise licensed (for the purpose of liquor licence regulations), as a tavern or hotel (it may however be licensed for other uses such as a restaurant or small bar);
 - (ii) any business conducted from the Cluster must implement the following sustainability, ethical and cultural principals:
 - (A) rubbish and waste from the business is to be, as far as reasonably and commercially practical, minimised;
 - (B) packaging of goods must, where reasonably and commercially practical be:
 - (I) minimised;
 - (II) bio-degradable and/or made from recycled products; and

- (III) sourced/produced from sustainable resources;
 - (C) the carbon footprint of the business is to be minimised, with owners and occupiers to use reasonable endeavours to operate in a carbon neutral manner;
 - (D) where reasonably and commercially practical:
 - (I) produce must be sourced from organic and sustainable sources;
 - (II) efforts should be made to source goods and services from geographical areas in the following order of priority:
 - the Augusta-Margaret River Area;
 - south west Western Australia;
 - West Australia;
 - Australia; and
 - Internationally;
 - (III) efforts should be made to source goods and services from ethical sources respecting the principles of the United Nation's Universal Declaration of Human Rights and the International Labour Organisation's Declaration on Fundamental Principles, including but not limited to:
 - the right not to be subject to forced labour;
 - the abolition of child labour;
 - the elimination of discrimination in respect of employment and occupations; and
 - the freedom of association and right to collectively bargain; and
 - (IV) indigenous and inclusive employment should be promoted.
 - (e) non-potable water will not be supplied by Ecovillage Commons Limited to this Cluster and its Strata Lots; and
 - (f) the Buyer (as must each owner or occupier of a Strata Lot in this Cluster) must comply with the car parking requirements of the Local Authority.
- 7.2 The Buyer further acknowledges that the Property may be impacted by factors associated with the commercial activities undertaken on the Strata Lots in this Cluster and the surrounding area (including noise and traffic).
- 7.3 The Buyer may not make or cause any Objection concerning any commercial activities undertaken on any Strata Lot in this Cluster or in the surrounding area (including due to any noise or traffic associated with such activities) provided that such activities are undertaken in accordance with the relevant requirements of the applicable Authorities and the sustainability objectives of the Ecovillage.
- 7.4 The Buyer agrees that they will support and will not raise (or cause to be raised) any Objection to any application to:
- (a) approve any particular commercial use; or
 - (b) change the permitted commercial use;
- for a Strata Lot should such application have the support of the Seller and not be inconsistent with the sustainability aims of the Ecovillage.

8 LOT 1 RE-SUBDIVISION

- 8.1 For the purpose of this Special Condition, the term "Seller" includes the Seller's successor in title to Lot 1.
- 8.2 The Buyer acknowledges and agrees that:
- (a) Lot 1 may be re-subdivided into two or more Strata Lots, the form of any such re-subdivision being at the discretion of the Seller and subject to the requirements of all relevant Authorities (**Lot 1 Re-subdivision**);
 - (b) at the date of this Contract, the intended form for any Lot 1 Re-subdivision is as set out in Annexure E of the Initial By-laws;
 - (c) the Seller is under no obligation to undertake any Lot 1 Re-subdivision;
 - (d) the timing and final form of any Lot 1 Re-subdivision is at the Seller's discretion;
 - (e) the Seller provides no representations nor any warranties as to if or when any Lot 1 Re-subdivision may occur or the final design and form that any Lot 1 Re-subdivision may take; and
 - (f) a Lot 1 Re-subdivision will require various resolutions to be passed by the Strata Company (**Re-subdivision Resolutions**) including:

- (i) facilitating the re-subdivision of the Strata Plan by the re-subdivision of Lot 1 and with this the Strata Plan in accordance with the Act; and
- (ii) altering and reallocating the unit entitlement of each Strata Lot, such alteration or reallocation to be determined by a licensed valuer in accordance with the Act.

8.3 The Seller expressly reserves the right to undertake the Lot 1 Re-subdivision.

8.4 As a condition of the Seller entering into this Contract the Buyer:

- (a) expressly and irrevocably consents to the Seller being permitted to undertake the Lot 1 Re-subdivision, subject to the Seller complying with all relevant requirements of the Authorities;
- (b) must:
 - (i) vote in favour of; and
 - (ii) do all things necessary to give effect to, any Re-subdivision Resolution proposed by the Seller;
- (c) must, within 28 days of being requested by the Seller in writing to do so, cause:
 - (i) each person or corporation with a registered interest in the Property (including any mortgagee) to provide its written consent to the Lot 1 Re-subdivision including the associated amendment of the Unit Entitlement, re-subdivision of the Strata Plan and Re-subdivision Resolutions; and
 - (ii) the certificate of title for the Property to be produced at Landgate, if production is required to enable registration of the Lot 1 Re-subdivision;
- (d) irrevocably appoints the Seller and each of its directors and secretary jointly and severally, to be the Buyer's true and lawful attorney and where applicable proxy from the Settlement Date until such time that the Strata Company is dissolved and wound up to attend and vote at each and every meeting of the Strata Company for the purposes of passing any Re-subdivision Resolution or taking any other action to give effect to any matter required by or disclosed in this Contract or which the Seller reasonably believes is desirable for completion of any Lot 1 Re-subdivision; and
- (e) the Buyer must not make any Objection to any Lot 1 Re-subdivision (where undertaken in accordance with the relevant requirements of the Authorities), Re-subdivision Resolution or any activities that these may involve.

9 ECOVILLAGE

9.1 The Buyer acknowledges and agrees that:

- (a) the Development forms one cluster of the broader Ecovillage (**Cluster**);
- (b) the objectives of the Ecovillage are to be 100% self-sufficient in renewable energy and water, provide infrastructure to grow fresh food on site in community gardens, build carbon negative dwellings and function as a highly sustainable, self-reliant, socially and culturally diverse community in a regional setting;
- (c) details of the intended design of the Ecovillage and uses it may comprise are set out in the Structure Plan and Concept Plan and subject to change;
- (d) the Ecovillage is being constructed in a number of Clusters/stages and these may be constructed separately or concurrently in the Seller's absolute discretion;
- (e) the Ecovillage includes the Ecovillage Commons a large area of land (presently intended to be approximately 39.63ha) owned by Ecovillage Commons Ltd and used for communal purposes, agricultural and/or agroforestry, conservation areas, water resources, recreational and community facilities;
- (f) the facilities and infrastructure comprising the Ecovillage Village Common is being constructed in a number of stages and these may be constructed separately or concurrently with any other part of the Ecovillage in the Seller's absolute discretion;
- (g) the initial stage of the Ecovillage Commons includes the 3 Ecovillage dams and associated pumping infrastructure, and the Ecovillage wastewater treatment facility, storage dam and irrigation area located on Ecovillage Commons land;
- (h) the ultimate size, design, configuration and facilities that the Ecovillage Commons may comprise is subject to change in the Seller's absolute discretion but will generally reflect the Concept Plan;
- (i) the Ecovillage will involve the granting of various rights and the creation of various obligations between its parts including the Development and Ecovillage Commons Ltd. Such rights and obligations may include but are not limited to:
 - (i) access to and use of pathways; and
 - (ii) access to and use of drainage and stormwater; and

- (j) the Seller retains absolute control over determining the design, final mix of uses, configuration, number of lots, timing and the number of stages/Clusters that the Ecovillage or any part of it may involve.

9.2 The Buyer further acknowledges and agrees that:

- (a) the Seller and its agents may undertake works in the vicinity of the Property as part of the construction of the Ecovillage;
- (b) works undertaken in the vicinity of the Property may generate noise, vibration, dust and other disturbance; and
- (c) the Buyer enters into the Contract in reliance of its own inquiries concerning the Ecovillage.

9.3 The Buyer may not make any Objection to:

- (a) the matters referred to in Special Conditions 9.1 (including any part of the Ecovillage being delayed, varied or not undertaken); or
- (b) provided that such works are undertaken in accordance with any applicable requirements of the relevant Authorities, the matters referred to in Special Condition 9.2.

10 ECOVILLAGE COMMON LTD

10.1 The Buyer acknowledges that:

- (a) as part of the Ecovillage, Ecovillage Commons Ltd has been incorporated under the *Corporations Act 2001 (Cth)* as a company limited by guarantee;
- (b) Ecovillage Commons Ltd is a not for profit organisation for the purposes of the *Australian Charities and Not-for-profits Commission Act 2012 (Cth)* with the objective of facilitating sustainable environment, social and amenity outcomes in the Ecovillage;
- (c) Ecovillage Commons Ltd:
 - (i) owns the Ecovillage Commons and is responsible for their maintenance, upkeep and operation (including the improvements and facilities situated on or provided by the Ecovillage Commons);
 - (ii) provides, or procures to be provided, services to the Ecovillage including stormwater collection and dispersal;
 - (iii) is not intended to supply non-potable water to this Strata Plan (though does supply non-potable water to various Clusters in the Ecovillage);
 - (iv) provides a representative forum for the strata companies (and their owners) comprising the Ecovillage;
 - (v) will undertake community and social events and initiatives for the Ecovillage; and
 - (vi) will monitor the sustainability objectives and compliance with the applicable by-laws and covenants of the Ecovillage;
- (d) Ecovillage Commons Ltd will charge the strata companies comprising the Ecovillage (who will on charge to their owners) for any utilities, such as non-potable water (to the Clusters non-potable water is supplied), and goods and services it provides. Such charges are to be reasonable commercial charges based on the current and anticipated future costs and expenses of Ecovillage Commons Ltd.
- (e) the Seller will be the initial members of Ecovillage Commons Ltd, having a special class of membership (**Founder's Membership**). The Founder's Membership will:
 - (i) be valid for a period commencing on the incorporation of the company and ending on the date that is 12 months after the last strata plan for the Ecovillage is registered (**Cancellation Date**), at which time it shall automatically be cancelled; and
 - (ii) for the period commencing on incorporation of the Company and ending on the Cancellation Date:
 - (A) require the Seller to meet the costs of Ecovillage Common Ltd, both its establishment costs and ongoing operational costs, to the extent that the income of this company is not sufficient to meet those ongoing costs;
 - (B) entitle the Seller to appoint the board of the company (which shall only be 3 at this time); and
 - (C) provide the Seller with the sole voting rights at any meeting of the company; and
- (f) following the Cancellation Date, a representative board will be appointed for Ecovillage Commons Ltd. This board will comprise of 6 owners of different types of lots in the Ecovillage who will be appointed as specified in the Constitution of Ecovillage Commons Pty Ltd (provided that whilst the Seller continues to be an owner of any lot it may additionally be a member of the board):

- (i) 3 being owners of residential lots;
- (ii) 1 being an owner of an agricultural lot;
- (iii) 1 being an owner of a commercial lot; and
- (iv) 1 being an owner of a short stay/tourism lot.

10.2 The Buyer further acknowledges that on and from the Cancellation Date, Ecovillage Commons Ltd will operate financially independent of the Seller. Should the income generated from the activities of the company be insufficient to meet its expenses (including future expenses such as for any additional community facilities the members of Ecovillage Commons Ltd resolve to undertake) Ecovillage Commons Ltd may levy the strata companies in the Ecovillage for a proportionate amount of those additional expenses.

10.3 A copy of the constitution of Ecovillage Commons Ltd is available at the office of the Seller during business hours, or upon request can be emailed to the Buyer. In entering into the Contract, the Buyer acknowledges and agrees that:

- (a) it has been provided the opportunity to read and review the constitution and is deemed to have done so; and
- (b) the Seller (by reason of its Founder's Membership) reserves the right to amend the constitution prior to the Cancellation Date provided it is in keeping with the overall objectives of the Ecovillage and the Buyer may not make any Objection concerning any such amendment.

11 ELECTRICITY MICROGRID

11.1 The Buyer acknowledges and agrees that, in accordance with the sustainability theme of the Cluster, the Cluster is to be serviced by an electricity microgrid which includes:

- (a) a separate conduit to each Strata Lot laid within an energy easement between the Common Property and the Property to enable the connection of the Property to microgrid;
- (b) a Switchboard located on the Common Property; and
- (c) an NMI meter for each Strata Lot located in the Switchboard to enable accurate metering of energy to the Lot.

11.2 The strata company must:

- (a) provide access to the microgrid to all lots;
- (b) manage and administer the microgrid, including regular and accurate readings of meters;
- (c) maintain the microgrid including the Western Power single point connection and infrastructure to allow the trading of energy between owners and the Western Power grid.

11.3 The Strata Company may appoint a third party to manage and administer the microgrid and its operation and maintenance including reading of meters.

11.4 The Buyer and any other owner or occupier of the Property must not disconnect any building on the Property from the microgrid.

11.5 The Buyer must adhere to all energy requirements of the Scheme Bylaws and Commercial Precinct Building Design Guidelines, including installing and maintaining an internet connection and modem, compliant solar panels, inverter, and SwitchDin Droplet device at the time of construction to enable energy generation, trading and billing to occur.

11.6 The Buyer will provide a cable connection between the Property and the Switchboard at the Buyer's cost and the strata company will provide access to the Switchboard on the request from the Buyer's certified electrician when connection is required.

11.7 All Switchboard connections and PV/inverter/Droplet systems are to be installed by an electrician approved by Seller or Strata Company to ensure compatibility with microgrid.

12 FENCING

12.1 Unless the Seller has expressly agreed in writing otherwise:

- (a) the Seller has no responsibility or liability for the cost of any fencing for the Property, even should the Seller be the owner of any adjoining land; and
- (b) the Buyer must not claim against the Seller under the *Dividing Fences Act 1961 (WA)* for any contribution towards the cost of installing or constructing any boundary fence (any right to make such a claim being expressly released and waived).
- (c) the Buyer must construct fencing with regard to the requirements set out in the Building Design Guidelines.

13 MAINTENANCE OF LOT

- 13.1 The Buyer acknowledges and agrees that until the Property is developed and buildings constructed, the Property must be maintained and kept in a neat and tidy manner, so as not to have a visually detrimental impact on neighbours in the Cluster or to owners, residents and visitors to the wider Ecovillage.

14 INITIAL BY-LAWS

- 14.1 The Buyer acknowledges and agrees that the Initial By-laws are provisional and those intended to be registered with the Strata Plan.
- 14.2 The Seller reserves the right to amend the Initial By-laws in any manner prior to registration of the Strata Plan, provided it is in keeping with the overall objectives of the Ecovillage.
- 14.3 Except as provided for in the *Strata Titles Act*, the Buyer may not make any Objection to any amendment of the Initial By-laws by the Seller that is in accordance with the Contract including this Special Condition.
- 14.4 The Buyer must promptly following request by the Seller, procure any third party consents required to give effect to an amendment of the Initial By-Laws that is in accordance with the Contract.

15 STRATA COMPANY DRAFT BUDGET

- 15.1 The Strata Company Draft Budget is an estimate of the income and expenses of the Strata Company for the first year after its registration and may be varied by the Seller from time to time.
- 15.2 The Seller has used reasonable endeavours to ensure that so far as is possible the Strata Company Draft Budget is sufficient for the control and management of the Common Property, for the payment of any premiums of insurance, depreciation of infrastructure, and the discharge of any other obligations of the Strata Company but if the Strata Company Draft Budget for any reason is found not to be adequate and the Strata Company subsequently levies the proprietors (including the Buyer) for further contributions to make up any deficiency then the Buyer shall not make any Objection or claim on the Seller to meet that further contribution (provided it is reasonable).
- 15.3 If the Seller pays any expense of the Strata Company, including but not limited to premiums in respect of any insurance the Strata Company is required to effect, to the extent that such amount has not been reimbursed by the Strata Company to the Seller, there shall be an adjustment between the Seller and the Buyer at Settlement of that part of such expense which bears the same proportion of the total expense as the Unit Entitlement of the Property bears to the total entitlement of all Strata Lots on the basis that they shall be paid by the Seller up to and including the Settlement Date from which date they shall be paid by the Buyer.

16 FIRST MEETING OF STRATA COMPANY

- 16.1 The Buyer acknowledges and agrees that:
- (a) the Seller will convene and hold the first annual general meeting of the Strata Company and this meeting is intended to occur prior to the Settlement Date; and
 - (b) subject to any provision of any Act, including the *Strata Titles Act*, to the contrary that cannot be excluded:
 - (i) the Buyer shall not receive notice of or be entitled to personally vote at that meeting; and
 - (ii) should the Buyer for any reason be entitled to attend, they irrevocably appoint the Seller as their proxy to attend and vote at such meeting to the Buyer's exclusion.
- 16.2 The Buyer further acknowledges and agrees that matters the Seller may address at the first annual general meeting include but are not limited to:
- (a) repealing, varying or adding to the By-laws as may be permitted by this Contract;
 - (b) accepting the Strata Company Draft Budget (as amended from time to time) and approving the Strata Company levies and contributions;
 - (c) entering into or varying any agreement for:
 - (i) the cleaning, maintenance, repair or administration of the Common Property or Strata Company; or
 - (ii) the supply of goods or services (including utilities) to the Strata Company or by the Strata Company and whether or not involving owners or occupiers of Strata Lots, Ecovillage Commons Ltd or neighbouring parts of the Ecovillage;
 - (d) granting a party rights of access or use (including exclusive use), special privilege or otherwise in respect of Common Property;
 - (e) imposing, amending or repealing any of the following:
 - (i) any building, design or planning guidelines or framework concerning the Ecovillage; and
 - (ii) any covenants, easements or the like concerning the Ecovillage,for any of the following purposes:

- (iii) regulating any specific uses and activities within the Ecovillage;
- (iv) developing, operating and maintaining the Ecovillage Commons;
- (v) facilitating and regulating the provision of services or utilities within the Ecovillage (whether or not by Ecovillage Commons Ltd or involving the Ecovillage Commons); and
- (vi) facilitating the development of the Ecovillage.

17 ADVERTISING AND MARKETING

17.1 The Buyer acknowledges and agrees that the Seller may, following Settlement:

- (a) use one or more Strata Lots as displays; and
- (b) use part of the Common Property for the purpose of advertising and marketing the Ecovillage.

17.2 The Buyer may not make any Objection to any of the methods used by the Seller, its servants, agents or contractors in their efforts to sell or market any Strata Lot (other than the Property), including but not limited to the use of any signs, any public auction or any use of the Common Property and provided that the Seller shall endeavour not to cause any unreasonable inconvenience to the Buyer.

18 DEALINGS WITH THE PROPERTY PRIOR TO SETTLEMENT

18.1 As a condition of the Seller entering into the Contract and agreeing to sell the Property to the Buyer the Buyer may not sell, transfer, assign or otherwise dispose of its interest in this Contract or the Property before Settlement without the prior written consent of the Seller, which the Seller shall not unreasonably withhold.

18.2 Without limiting Special Condition 18.1, the Buyer must not dispose of or grant any interest in the Property prior to construction of a commercial building unless the transferee or party taking an interest in the Property (**Transferee**) executes a deed in favour of the Seller on terms prepared by the Seller at the Buyer's cost under which the Transferee:

- (a) agrees to be bound by and perform the then subsisting provisions of this Contract (including the Repurchase Option if applicable); and
- (b) covenants to obtain the same covenant as contained in this Special Condition 18.2 from any further purchaser, transferee or assignee in a way that is satisfactory to the Seller.

19 TERMINATION FOR INSOLVENCY OR IMPRISONMENT

Without prejudice to any other rights the Seller may have, if the Buyer:

- (a) suffers an Insolvency Event; or
- (b) being a natural person becomes sentenced to imprisonment,

the Seller will be entitled to terminate the Contract by written notice, without any requirement to comply with Clauses 1, 23 and 24 of the General Conditions, and the Buyer shall forfeit the Deposit to the Seller.

20 GOODS AND SERVICES TAX

20.1 The Parties acknowledge and agree that:

- (a) the Property is vacant land that is zoned for commercial and/or residential use;
- (b) the Buyer has represented to the Seller that the Buyer is:
 - (i) purchasing the Property to develop and use for commercial purposes (this being a requirement of the Initial By-laws); and
 - (ii) is or will at settlement be registered for GST;
- (c) by reason of paragraphs (a) to (b) above:
 - (i) the Property it is not "new residential premises" or "potential residential land" to which any GST withholding applies for the purposes of the GST Act;
 - (ii) the Purchase Price is stated exclusive of GST;
 - (iii) an amount equal to the GST payable on the Purchase Price is payable by the Buyer in addition to the Purchase Price at Settlement; and
 - (iv) the Seller will provide the Buyer with a tax invoice for the amount of the GST payable by the Buyer at Settlement.

21 SEVERABILITY

21.1 If any part of the Contract can be read in a way that makes it illegal, unenforceable or invalid (such as by reason of the change of any Law), but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way.

21.2 If any part of the Contract is illegal, unenforceable or invalid:

- (a) that part is to be treated as removed from the Contract, but the rest of the Contract is not affected; and

- (b) if the removal of that part materially alters the commercial allocation of benefit and risk (or management of risk) in the Contract, the Parties agree to negotiate in good faith to amend or modify the terms of the Contract as may be necessary or desirable having regard to the original terms of the bargain and the prevailing circumstances.

22 ENTIRE AGREEMENT

- 22.1 The Contract constitutes the entire agreement between the Seller and the Buyer with respect to its subject matter. There are no prior or other agreements which shall have any effect on the Contract nor shall any correspondence or documents which may have passed between the Seller and the Buyer before execution have any effect whatsoever on the Contract.
- 22.2 Each Party acknowledges that it has not relied on any oral statement, representation, undertaking, covenant or agreement made before the date of the Contract relating to the subject matter of the Contract and not contained in the Contract.

23 NOTICES BY EMAIL AND TO REPRESENTATIVES

- 23.1 The Parties consent to Notice being given by email unless a Party gives written Notice to the other Party or the Representative of that other Party that they do not consent to Notices being by email.
- 23.2 The Parties acknowledge and agree that any notice required under the Contract or required by any law relating to the Contract or the Property (including but not limited to the *Strata Titles Act*), shall be validly served if it is served on the Representative of a Party and otherwise in accordance with Clause 21 of the General Conditions.

24 COUNTERPARTS

- 24.1 The Contract is properly executed if each Party executes either the Contract or an identical Contract, in which case the Contract takes effect when the separately executed Contracts are exchanged (which may be by email or facsimile) between the Parties.

25 FURTHER ACTS

- 25.1 The Buyer and Seller will promptly do and perform all acts and things and execute all documents as may from time to time be required, and at all times will act in good faith, for the purposes of or to give effect to the Contract.

26 INTERPRETATION

- 26.1 In these Special Conditions, unless the context requires otherwise:
- (a) clause 26 (Definitions and Interpretations) of the General Conditions shall apply to the interpretation of this Contract as if a reference to "document" was a reference to these Special Conditions and a reference to a "clause" was a reference to a Special Condition;
 - (b) a word defined in the General Conditions and not defined in Special Condition 29.1 shall have the meaning given to that term in the General Conditions;
 - (c) a reference to any agreement or document is to that agreement or document as amended, novated, supplemented or replaced from time to time;
 - (d) grammatical derivations of a defined term have a corresponding meaning;
 - (e) a reference to any item, matter or thing including Common Property, Development, Ecovillage, Ecovillage Commons, Land, Property, Strata Lot or Strata Plan shall, where the context permits, include a reference to any part of that item, matter or thing; and
 - (f) words of inclusion are not words of limitation.
- 26.2 During any period that the *Strata Titles Act* or *Sale of Land Act* applies to the Contract, if a provision of the Contract conflicts with a provision of either of those Acts that under either of those Acts is to prevail or otherwise renders the Contract voidable or unenforceable by the Seller, that conflicting provision of the Contract is deemed to be amended or deleted to the extent necessary to enable the Contract to comply with those Acts and be valid and enforceable by the Seller.
- 26.3 The Parties agree the Contract is governed by the laws in force in Western Australia and each Party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of Western Australia.

27 GENERAL CONDITIONS

- 27.1 The Parties acknowledge that the General Conditions, as modified by these Special Conditions, are incorporated in and form part of the Contract.
- 27.2 Clauses 3.8, 3.10(c), 9, 10.2 - 10.4, 10.6, 11, 12, 13, 16 and 24.4 of the General Conditions do not apply to the Contract.
- 27.3 Where there is any inconsistency between the General Conditions and any Special Conditions, the Special Conditions shall prevail to the extent of the inconsistency.

28 ADDITIONAL CONDITIONS

- 28.1 The Additional Conditions (if any) shall form part of the Contract and apply as if they were set out in this Special Condition 28.
- 28.2 If there is any inconsistency between the Additional Conditions and any other provision of these Special Conditions, the Additional Conditions shall prevail to the extent of that inconsistency.

29 DEFINITIONS

- 29.1 In these Special Conditions and the Contract unless the context otherwise requires:

Additional Conditions means the conditions (if any) stated in Item 10 of the Reference Schedule;

Annexure means an annexure to the Contract;

Attachment means an attachment to the Contract (including to any Annexure);

Building Design Guidelines means the building design guidelines applicable for the Development a copy of which is available at <http://www.ecovillage.net.au/library/document-library>;

Bushfire Management Plan means the bushfire management plan submitted to the Local Authority and Department of Fire and Emergency Services and applicable for the Development, which at the date of preparation of this Contract is the Bushfire Management Plan for Lots 2807 and 2812 Bussell Highway Witchcliffe prepared by RUIC Fire (Rural Fire Risk Consultancy Pty Ltd) and dated January 2016 and amended by Ecosystems Solutions in 2019, a copy of which is available at <http://www.ecovillage.net.au/library/document-library>;

Buyer means the person/s specified in Item 1 of the Reference Schedule;

By-laws means the by-laws of the Strata Company;

Common Property means so much of the land comprised in the Strata Plan that does not comprise a Strata Lot, including any land noted as a "CP Lot";

Concept Plan means the concept plan for the Ecovillage, the current copy of which is available at <https://www.ecovillage.net.au/download/10516>;

Contract means the Offer and Acceptance (including Reference Schedule), these Special Conditions and includes all Annexures and Attachments;

Deposit means the deposit specified in Item 5 of the Reference Schedule;

Deposit Holder means the person referred to as the "Deposit Holder" in Item 5 of the Reference Schedule;

Detailed Plans mean the detailed plans and drawings for the Development available for inspection at the Seller's office;

Development means the improvements which are to be, are in the course of being or are erected (as the case may be) on the Original Land to create the Strata Plan and Strata Lots, including Property, and Common Property it is to comprise;

Disclosure Statement means the Precontractual Disclosure Statement to the Buyer forming Annexure B, including all Attachments, and provided in accordance with section 156 of the *Strata Titles Act*;

Ecovillage means the master plan development intended by the Seller to be undertaken on the Original Land in accordance with the Concept Plan, Structure Plan and Local Planning Scheme provisions and commonly referred to as Witchcliffe Ecovillage;

Ecovillage Commons means that part of the Ecovillage to be owned by Ecovillage Commons Ltd and intended to provide infrastructure, facilities and services to the Ecovillage at large and which is intended to include conservation areas, recreational areas and water storage (dams) and may include wastewater treatment;

Ecovillage Commons Ltd means Ecovillage Commons Limited ACN 646 707 486, a company limited by guarantee and whose members will be each strata company of the strata plans/Clusters comprising the Ecovillage;

General Conditions means the Joint Form of General Conditions for the Sale of Land (2022 Revision) a copy of which forms Annexure D;

Initial By-laws means the initial By-laws intended for the Strata Plan and Strata Company and which shall be substantially in the form set out in Attachment 3 of the Disclosure Statement with such variations as the Seller reasonably requires and are notified to the Buyer;

Insolvency Event means the happening of any of the following events in relation to the Buyer:

- (a) an application is made to a court that it be wound up or that a provisional liquidator be appointed or it is wound up voluntarily or by the court or a provisional liquidator or official manager is appointed;

- (b) it proposes to enter into or enters into any form of arrangement (formal or informal) with its creditors or any of them and this is entered into due to an inability to pay those creditors in full as and when its debts fall due;
- (c) a receiver or receiver and manager is appointed to any of its assets;
- (d) it is taken to be unable to pay its debts within the meaning of the *Corporations Act*;
- (e) it becomes an insolvent under administration as defined in section 9 of the *Corporations Act*;
- (f) it becomes bankrupt, commits an act of bankruptcy, becomes subject to an arrangement under the *Bankruptcy Act 1966*;
- (g) the holder of a mortgage or charge over any asset of the Buyer enforces or attempts to enforce any right under that mortgage or charge;
- (h) any creditor levies or attempts to levy any distress or execution against any asset or obtains a garnishee order in respect of any debt of the Buyer; or
- (i) anything analogous or having a substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction;

Local Authority means the Augusta Margaret River Shire;

Local Development Plan means the local development plan approved by the Planning Commission for the Development, the most recent copy of which is available at <http://www.ecovillage.net.au/library/document-library>;

Objection means any objection, requisition, claim for compensation loss or damage, delay in completing Settlement, withholding of part of the Purchase Price or any other monies payable under the Contract or termination of the Contract;

Offer and Acceptance means the Offer and Acceptance which appears immediately before these Special Conditions;

Original Land means the land known or formerly known as Lot 1500 on Deposited Plan 416913 and being the whole of the land comprised in Certificate of Title Volume 2976 Folio 628 and commonly referred to as 10437 and 10347 Bussell Highway, Witchcliffe, Western Australia;

Property means the property being purchased by the Buyer as described in Item 3 of the Reference Schedule which comprises:

- (a) the Strata Lot specified in the Item 3 of the Reference Schedule; and
- (b) that undivided interest in the Common Property applicable to that Strata Lot;

Proposed Strata Plan means the plan or plans forming Attachment 2 of the Disclosure Statement, as amended, varied or supplemented from time to time;

Purchase Price means the purchase price specified in Item 4 of the Reference Schedule;

Reference Schedule means the "Reference Schedule" attached to and forming part of the Contract;

Sale of Land Act means the *Sale of Land Act 1970* of Western Australia;

Schedule of Unit Entitlements means the proposed schedule of Unit Entitlements shown in Attachment 4 of the Disclosure Statement as may be amended, varied or supplemented from time to time;

Seller means the person/s specified in Item 2 of the Reference Schedule;

Seller's Representative means the person specified in Item 8 of the Reference Schedule or such other person the Seller nominates in writing to the Buyer to be the Seller's Representative;

Settlement Date means the date specified in Item 7 of the Reference Schedule;

Strata Company means the Strata Company referred to in section 14 of the *Strata Titles Act* created upon registration of the Strata Plan;

Strata Company Draft Budget means the draft annual budget for the Strata Company contained in Attachment 6 of the Disclosure Statement as may be varied in accordance with the Contract;

Strata Council means the council of owners of the Strata Company;

Strata Lot means a strata lot on the Strata Plan;

Strata Plan means the Proposed Strata Plan in the form it is registered at Landgate, as amended varied or supplemented from time to time;

Structure Plan means the structure plan approved by the Planning Commission applicable to the Ecovillage a copy of which is available at <https://www.dplh.wa.gov.au/getmedia/230fd954-8b71-407b-b431-78c61438c359/SPL-AugustaMR-Witchcliff-Eco-Village-Structure-Plan-WAPC-ref-SPN-2083>; and

Unit Entitlement means the unit entitlement or proposed unit entitlement (as the case may be) of each Strata Lot, as amended, varied or supplemented from time to time.

ANNEXURE B – PRECONTRACTUAL DISCLOSURE STATEMENT TO THE BUYER



Approved Form 2022-938
Effective for use from: 07/01/2022

Perron Developments Pty Ltd ACN 000 230 446

Precontractual Disclosure Statement to the Buyer

Part A | General Information about strata titles schemes

What you need to know

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

Instruction for the seller

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

Information for the buyer

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

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

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

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

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

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



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

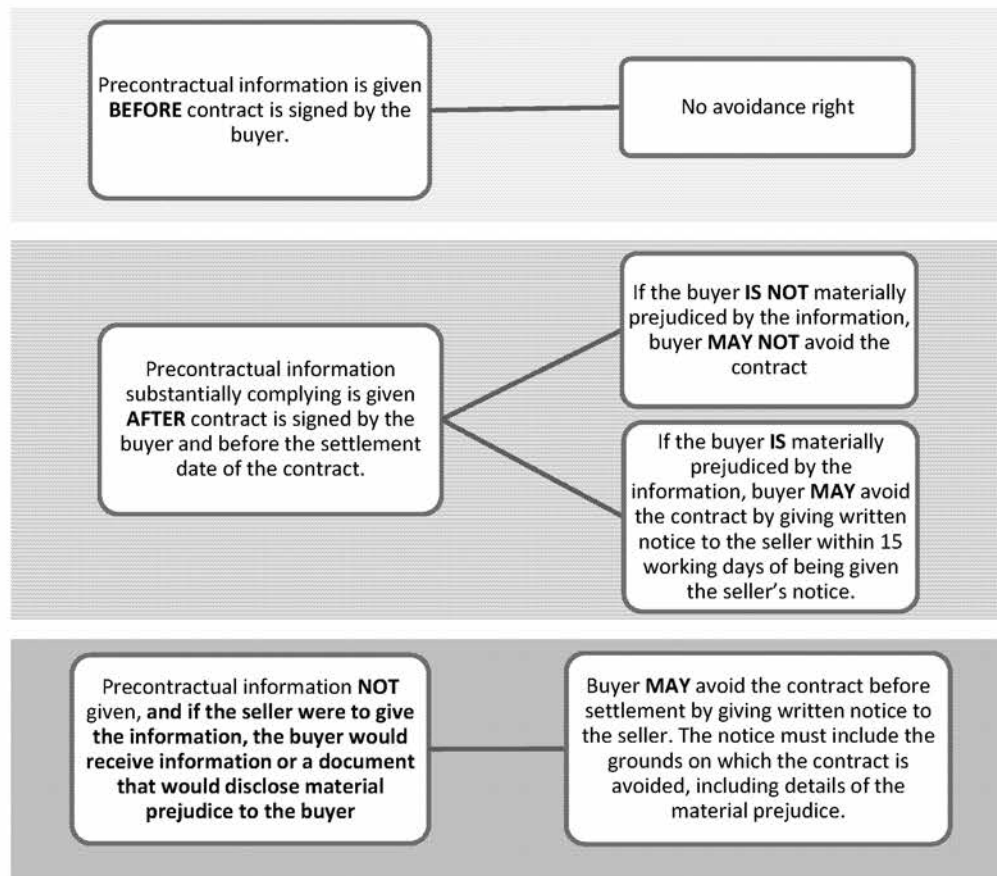
A buyer may consider seeking more information about the lot, the strata company and the strata / survey-strata scheme by asking the seller to provide it, or by making an application to the strata company for more information under section 107 of the Act.

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

Buyer's avoidance rights

Avoidance rights for failure to give precontractual information to the buyer

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





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Avoidance rights for notifiable variations

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

Type 1 and Type 2 notifiable variations are as follows:

Type 1 Notifiable Variation	Type 2 Notifiable Variation
• The area or size of the lot/proposed lot is reduced by 5% or more from the area or size notified to the buyer before the buyer entered into the contract. • The proportion that the unit entitlement, or a reasonable estimate of the unit entitlement of the lot bears to the sum of the unit entitlements of all the lots is increased/decreased by 5% or more in comparison to that which was notified to the buyer before the buyer entered into the contract. • Anything relating to a proposal for the termination of the strata titles scheme is served on the seller by the strata company. • Any other event classified by the regulations as a type 1 notifiable variation.	• The current/proposed scheme plan or amendment of the scheme plan for the scheme is modified in a way that affects the lot or the common property (that is not a type 1 notifiable variation). • The current/proposed schedule of unit entitlements or amendment of the schedule of unit entitlements for the scheme is modified in a way that affects the lot (that is not a type 1 variation). • The strata company or a scheme developer- (i) enters into a contract for the provision of services or amenities to the strata company or to members of the strata company or a contract that is otherwise likely to affect the rights of the buyer; OR (ii) varies an existing contract of that kind in a way that is likely to affect the rights of the buyer • The current/proposed scheme by-laws are modified. • A lease, licence, right or privilege over the common property in the strata titles scheme is granted or varied. • Any other event classified by the regulations as a type 2 notifiable variation.

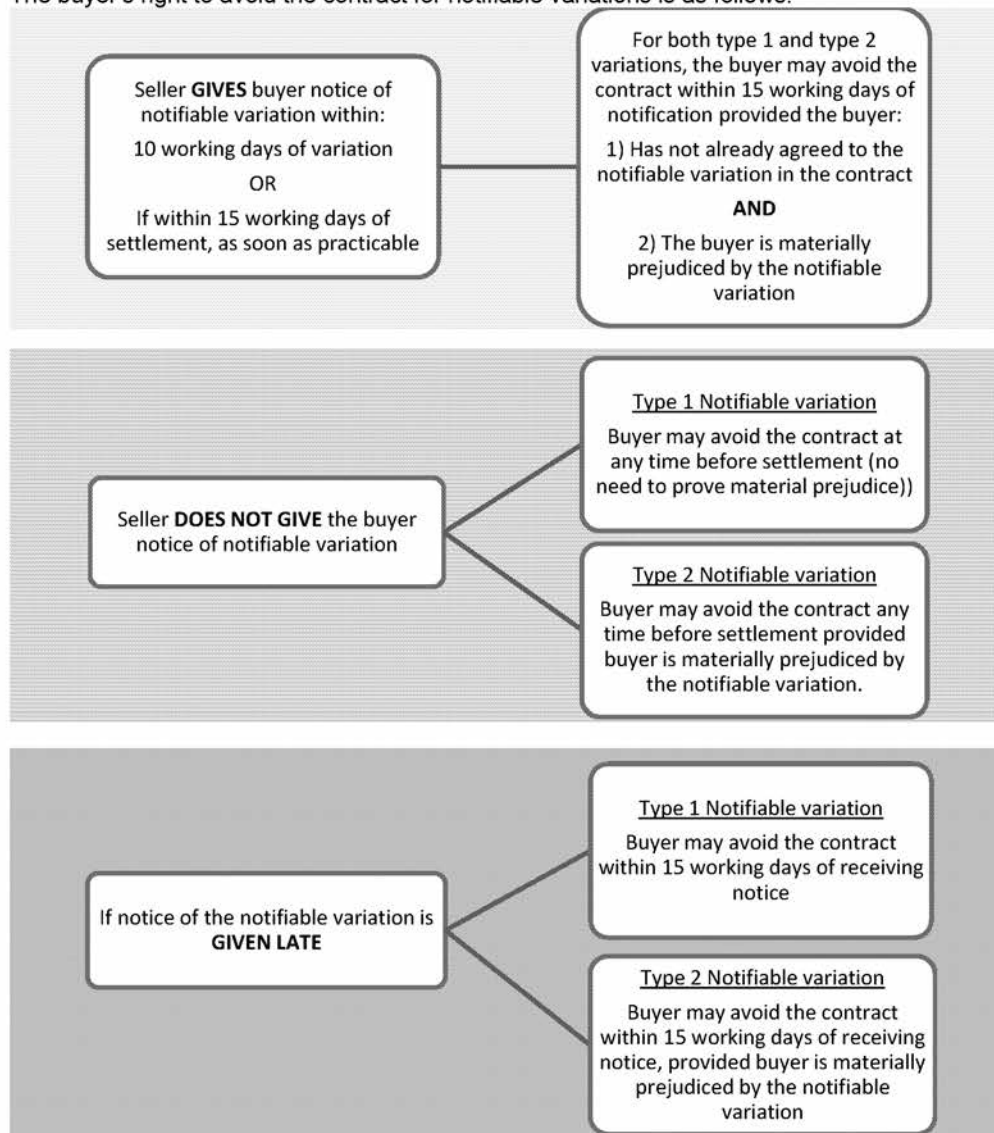
See section 161 and 162 of the Act for further details.

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



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



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

Buyer's right to postpone settlement

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



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Disputes to be heard in the State Administrative Tribunal

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



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Precontractual Disclosure Statement to the Buyer

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

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

Personal information

The seller(s)

Name Perron Developments Pty Ltd ACN 000 230 446

Address 4 Plain St, East Perth, 6004

Telephone/mobile 08 9221 1555

Email perron@perrongroup.com.au

Name Sustainable Settlements Pty Ltd ACN 169 286 337

Address 10437 Bussell Highway, Witchcliffe WA 6286

Telephone/mobile 08 9757 6688

Email sales@ecovillage.net.au

Scheme Information The term 'scheme' includes strata and survey-strata scheme

Scheme Details

Scheme name Commercial Cluster 1, Witchcliffe Ecovillage

Name of the strata company The Owners of Commercial Cluster 1 Witchcliffe
Ecovillage; Survey-Strata Scheme 84745

Address for service of the strata
company (taken from scheme notice) 10437 Bussell Highway, Witchcliffe WA 6286

Name of Strata Manager N/A (self managed)

Address of Strata Manager _____

Telephone / Mobile _____

Email _____

The status of the scheme is:

☒ proposed

☐ registered

The scheme type is:

☐ strata

☒ survey-strata

The tenure type is

☒ freehold

☐ leasehold



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For leasehold only:

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

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

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

Att.

Scheme Documents (must be attached)

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

1

2

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

3

A copy of the scheme by-laws

3

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

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

3

☐ If yes, they are included with this form

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

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

4

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

Additional comments: _____

Minutes (choose one option)

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

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

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

5

Additional comments: **The scheme is not yet registered and therefore there has been no meetings**

Statement of accounts (choose one option)

☐ The statement of accounts last prepared by the strata company

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

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

5

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

Additional comments: **The scheme is not yet registered and therefore there is no statement of accounts. Refer to Attachment 6 for the estimate of income and expenses for the first year.**



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Termination proposal

Has the seller received a copy of any notice from the strata company in relation to any current termination proposal for the scheme? ☒ no ☐ yes

If yes, attach a copy.

Lot information (choose all that apply)

☐ This lot is on a registered scheme plan

☒ This lot has not yet been created

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

Street address of the lot (if known)

Att.

Lot ____ on scheme plan no. Survey-Strata Plan 84745

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

Voting right restrictions

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

☐ no ☒ yes

If yes, describe the restriction See Special Conditions 8 & 16 of Contract of Sale

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

Exclusive use by-laws

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

☒ no ☐ yes

If yes, please give details _____

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

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

☐ Contributions that have been determined within the previous 12 months

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

Actual (\$)

OR

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

Administrative fund: _____

See Attachment 6

Reserve fund: _____

See Attachment 6

Other levy
(attach details) _____

See Attachment 6

6

☐ Actual ☒ Estimated total contribution for the lot \$ See Attachment 6

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

Due dates TBA on ____/____/____ TBA on ____/____/____

TBA on ____/____/____ TBA on ____/____/____

Strata levy/contributions/other debts owing

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

\$ Nil

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

\$ Nil



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

Additional comments: _____

Scheme developer specific information

Information specific to the sale of a strata lot – only to be
completed if the seller of the lot is a scheme developer

Att.

The scheme developer is defined as:

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

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

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

Statement of estimated income and expenditure

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

7

Additional comments: _____

Agreements for amenity or service

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

☐ no ☒ yes

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

8

Additional comments: _____

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

Are there any current or proposed leases, licences, right of exclusive use and enjoyment, restricted right of use and enjoyment, or special privilege over common property? If yes, attach details including terms and conditions.

☒ no ☐ yes

Additional comments: _____

Section 79 Disclosure of remuneration and other benefits

Has the scheme developer and/or their associate received or reasonably expects to receive remuneration or other benefit arising out of a contract for

☒ no ☐ yes



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the provision of services or amenities described above, any other contract that binds the strata company or a lease or licence of the common property in the strata titles scheme?

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

☒ no ☐ yes

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

Additional comments: _____

Acknowledgement by seller and buyer

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

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

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

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

Signature _____

Name _____

Date ____/____/____

Signature _____

Name _____

Date ____/____/____

¹ Select one.



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

☐ I / ☐ We¹, the buyer/s, acknowledge that ☐ I / ☐ we¹ received Part A and Part B of the required precontractual disclosures before ☐ I / ☐ We¹ signed the contract of sale.
☐ I / ☐ We¹ understand that the disclosures given by the seller(s) or by the seller's representative are not an offer or a contract to purchase a lot (though they may be included in such contract) but only provide information to ☐ me / ☐ us¹.

Signature

Name

Date

____/____/____

Signature

Name

Date

____/____/____

ANNEXURE B
Attachment 1 – Scheme Notice



Approved Form 2019-74762



Scheme Notice

Strata Titles Act 1985
Section 29

Scheme Number: **Survey Strata Plan 84745**

Certificate of Title Volume/Folio Number: **TBA/TBA (Lot 5 on DP 421739)**

Scheme Name: **Commercial Cluster Witchcliffe Ecovillage**

Address for Service of the Strata Company: **10437 Bussell Highway, Witchcliffe WA 6286**

Email address for Strata Company¹: **sales@ecovillage.net.au**

Is this a Leasehold Scheme? ☐ Yes / ☒ No

Leasehold Scheme Term²: _____ year(s) / _____ month(s) / _____ day(s)
commencing on registration of the scheme.

¹ Optional.

² Not required unless this is a Leasehold Scheme and must be stated in years, months and days.



Approved Form 2019-74762

EXECUTION³

Date of Execution: _____

Signed for and on behalf of Sustainable Settlements Pty Ltd (ACN 169 286 337) by the authority of its directors in accordance with section 127 of the Corporations Act 2001 (Cth)

Signature of Owner⁴

**Michael James Hulme (Sole Director and
Sole Secretary)**

Full Name

Signed for and on behalf of Perron Developments Pty Ltd (ACN 000 230 446)

³ See Land Titles Policy & Procedure Guide "SIG-01 Signing of Documents" (and associated guides) in relation to execution requirements.

⁴ To be signed by owner of the land described in the above-mentioned Certificate of Title.



Scheme Notice

OFFICE USE ONLY

Lodged by:⁵ _____
Address: _____
Phone Number: _____
Fax Number: _____
Reference Number: _____
Issuing Box Number: _____

Instruct if any documents are to issue
to other than Lodging Party

Prepared by: Torrens Legal
Address: PO Box 7320
Cloisters Square PO WA 6850
Phone Number: 08 9235 3500
Fax Number: 08 9235 3501
Reference Number: 190213

Titles, Leases, Evidence, Declarations etc. lodged herewith

1. _____
2. _____
3. _____
4. _____
5. _____

OFFICE USE ONLY

Landgate Officer

Number of Items Received: _____

Landgate Officer Initial: _____

⁵ Lodging Party Name may differ from Applicant Name.

ANNEXURE B
Attachment 2 – Proposed Strata Plan

Plan Information <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Tenure Type</td> <td>Freehold</td> </tr> <tr> <td>Plan Type</td> <td>Survey-Strata Plan</td> </tr> <tr> <td>Plan Purpose</td> <td>Subdivision</td> </tr> </table>	Tenure Type	Freehold	Plan Type	Survey-Strata Plan	Plan Purpose	Subdivision	Survey Details <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Field Records</td> <td>1569337</td> </tr> <tr> <td>Declared as Special Survey Area</td> <td>Yes</td> </tr> </table>	Field Records	1569337	Declared as Special Survey Area	Yes						
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ANNEXURE B
Attachment 3 – Scheme By-laws



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SB

Scheme By-laws – New Scheme

Strata Titles Act 1985
Part 4 Division 4

Scheme Number: **84745**

☐ I / ☒ **We**¹ the owner(s)² **Perron Developments Pty Ltd (ACN 000 230 446) and Sustainable Settlements Pty Ltd (ACN 169 286 337)** of land the subject of the plan described as³ **Lot 5 on Deposited Plan 421739** apply to the Registrar of Titles to have the scheme by-laws as set out below registered with ☐ **my** / ☒ **our**¹ Application to Register Strata Titles Scheme in respect of the above land.

Part 1 – Consolidated by-laws

In this part provide the full text of the scheme by-laws classified as governance or conduct and with the relevant by-law number.

Governance By-Laws

1. DUTIES OF OWNER

- (1) The owner of a lot must:
 - (a) immediately carry out all work that may be ordered under a written law in respect of the lot and pay all rates, taxes, charges, outgoing and assessments that may be payable in respect of the lot; and
 - (b) maintain and repair the lot, and keep it in a state of good condition, reasonable wear and tear, and damage by fire, storm, tempest or act of God excepted.
- (2) The owner of a lot must:
 - (a) notify the strata company in writing immediately on becoming the owner of the lot, including in the notice the owner's address for service for the purposes of this Act; and
 - (b) if required in writing by the strata company, notify the strata company of any mortgage or other dealing in connection with the lot, including in the case of a lease of a lot, the name of the lessee and the term of the lease.

2. POWER OF STRATA COMPANY REGARDING SUBMETERS

- (1) If the supply of electricity or any other utility to a lot is regulated by means of a submeter, the strata company may require the owner or occupier of the lot to pay the strata company by way of security for the payment of charges arising through the submeter an amount not exceeding \$200 and, if any amount so paid is applied by the strata company under sub-by-law (2), to pay such further amount or amounts by way of such security as may be necessary to maintain the amount of the security as, subject to this sub-by-law, the strata company may require.

¹ Select one.

² Insert the name(s) of the owners of land the subject of the plan.

³ Insert the description of parcel, e.g. Lot 1 on Deposited Plan 12345.



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- (2) The strata company must lodge every sum received under this by-law to the credit of an interest-bearing ADI account and all interest accruing in respect of amounts so received must, subject to this by-law, be held on trust for the owner or occupier who made the payment.
- (3) If the owner or occupier of a lot in respect of which a submeter is used for the supply of electricity or any other utility refuses or fails to pay any charges due for the supply of that utility to that lot, the strata company may apply in payment of those charges all, or such part as is necessary, of any amount paid to the strata company by that owner or occupier under this by-law, including any interest that may have accrued in respect of that amount.
- (4) If a person who has paid an amount under this by-law to a strata company satisfies the strata company that the person is no longer the owner or occupier of a lot and that the strata company no longer has any liability or contingent liability for the electricity or other utility to that lot during the period when that person was an owner or occupier of the lot, the strata company must refund to that person the amount then held on the person's behalf under this by-law.

3. CONSTITUTION OF COUNCIL

- (1) The powers and duties of the strata company must, subject to any restriction imposed or direction given at a general meeting, be exercised and performed by the council of the strata company and a meeting of the council at which a quorum is present is competent to exercise all or any of the authorities, functions or powers of the council.
- (2) Until the first annual general meeting of the strata company, the owners of all the lots constitute the council.
- (3) The council consists of not less than 3 nor more than 7 of the owners of the lots, as is determined by the strata company.
- (4) If there are more than 3 lots in the scheme, subject to by-law 5, the members of the council must be elected at each annual general meeting of the strata company or, if the number of lots in the scheme increases to more than 3, at an extraordinary general meeting convened for the purpose.
- (5) If there are co-owners of a lot, 1 only of the co-owners is eligible to be, or to be elected to be, a member of the council and the co-owner who is so eligible must be nominated by the co-owners, but, if the co-owners fail to agree on a nominee, the co-owner who owns the largest share of the lot is the nominee or, if there is no co-owner who owns the largest share of the lot, the co-owner whose name appears first in the certificate of title for the lot is the nominee.
- (6) Except if the council consists of all the owners of lots in the scheme, excluding any member of the council appointed under by-law 5, the strata company may by special resolution remove any member of the council before the expiration of the member's term of office.
- (7) A member of the council vacates office as a member of the council:
 - (a) if the member dies or ceases to be an owner or co-owner of a lot;
 - (b) on receipt by the strata company of a written notice of the member's resignation from the office of member;
 - (c) at the conclusion of an annual general meeting of the strata company at which an election of members of the council takes place and at which the member is not elected or re-elected;
 - (d) in a case where the member is a member of the council by reason of there being not more than 3 owners of lots in the scheme, on an election of members of the council (as a result of there being an increase in the number of owners to more than 3) at which the member is not elected;
 - (e) if the member is removed from office under sub-by-law (6); or
 - (f) if the Tribunal orders that the member's appointment is revoked, and the member is removed from office.

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- (g) The remaining members of the council may appoint a person eligible for election to the council to fill a vacancy in the office of a member of the council, other than a vacancy arising under sub-by-law (7)(c) or (d), and any person so appointed holds office, subject to this by-law, for the balance of the predecessor's term of office.
- (8) Except if 1 person is the owner of all of the lots in the scheme, a quorum of the council is 2 if the council consists of 3 or 4 members; 3, if it consists of 5 or 6 members; and 4, if it consists of 7 members.
- (9) The continuing members of the council may act even if there is a vacancy in the council, but so long as the number of members is reduced below the number fixed by these by-laws as the quorum of the council, the continuing members or member of the council may act for the purpose of increasing the number of members of the council or convening a general meeting of the strata company, but for no other purpose.
- (10) All acts done in good faith by the council, even if it is afterwards discovered that there was some defect in the appointment or continuance in office of any member of the council, are as valid as if that member had been duly appointed or had duly continued in office.

4. ELECTION OF COUNCIL AT GENERAL MEETING

The procedure for nomination and election of members of a council must be in accordance with the following rules:

- (1) The meeting must determine, in accordance with the requirements of by-law 3(3) the number of persons of whom the council is to consist.
- (2) The chairperson must call on those persons who are present at the meeting in person or by proxy and entitled to nominate candidates to nominate candidates for election to the council.
- (3) A nomination is ineffective unless supported by the consent of the nominee to the nomination, given:
 - (a) in writing, and furnished to the chairperson at the meeting; or
 - (b) orally by a nominee who is present at the meeting in person or by proxy.
- (4) When no further nominations are forthcoming, the chairperson:
 - (a) if the number of candidates equals the number of members of the council determined in accordance with the requirements of by-law 3(3), must declare those candidates to be elected as members of the council; and
 - (b) if the number of candidates exceeds the number of members of the council as so determined, must direct that a ballot be held.
- (5) If a ballot is to be held, the chairperson must:
 - (a) announce the names of the candidates; and
 - (b) cause to be furnished to each person entitled to vote and present in person or by proxy, a blank form in respect of each lot in respect of which the person is entitled to vote for use as a ballot form.
- (6) A person who is entitled to vote must complete a valid ballot form by:
 - (a) writing on the form the names of candidates, equal in number to the number of members of the council so that no name is repeated;
 - (b) indicating on the form the number of each lot in respect of which the person's vote is cast and whether the person so votes as owner or first mortgagee of each such lot or as proxy of the owner or first mortgagee;
 - (c) signing the ballot form; and
 - (d) returning it to the chairperson.
- (7) The chairperson, or a person appointed by the chairperson, must count the votes recorded on valid ballot forms in favour of each candidate.

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- (8) Subject to sub-by-law (9) and by-law 5, candidates, being equal in number to the number of members of the council determined in accordance with by-law 3(3), who receive the highest numbers (in terms of lots or unit entitlements as required under the Strata Titles Act 1985 section 122) of votes are to be declared elected to the council.
- (9) If the number (in terms of lots or unit entitlements as required under the Strata Titles Act 1985 section 122) of votes recorded in favour of any candidate is the lowest of the numbers of votes referred to in sub-by-law (8) and:
 - (a) that number equals the number of votes recorded in favour of any other candidate; and
 - (b) if each of those candidates were to be declared elected the number of persons elected would exceed the number of persons required to be elected, as between those candidates, the election must be decided by a show of hands of those entitled to vote and present in person or by proxy.

5. ORIGINAL PROPRIETOR ENTITLED TO BE MEMBER OF COUNCIL

Notwithstanding the provisions of any other by-law (including by-law 4) and the requirements for a ballot for the election of the members of council, where the original proprietor or any related person or company (within the meaning of the Corporations Act 2001) remains the owner of any lot, that person or company or its nominee shall be entitled to be a member of the council without the requirement to participate in any election of the council provided that that person or company properly nominates for such election of the council as prescribed in the by-law 4(3).

6. CHAIRPERSON, SECRETARY AND TREASURER OF COUNCIL

- (1) The members of a council must, at the first meeting of the council after they assume office as such members, appoint a chairperson, a secretary and a treasurer of the council.
- (2) A person:
 - (a) must not be appointed to an office referred to in sub-by-law (1) unless the person is a member of the council; and
 - (b) may be appointed to 1 or more of those offices.
- (3) A person appointed to an office referred to in sub-by-law (1) holds office until the first of the following events happens:
 - (a) the person ceases to be a member of the council under by-law 3(7);
 - (b) receipt by the strata company of a written notice of the person's resignation from that office; and
 - (c) another person is appointed by the council to hold that office.
- (4) The remaining members of the council must appoint a member of the council to fill a vacancy in an office referred to in sub-by-law (2), other than a vacancy arising under by-law 3(7)(c) or 3(7)(d), and any person so appointed holds office, subject to this by-law, for the balance of the predecessor's term of office.
- (5) The chairperson is to preside at all meetings of the council but, if the chairperson is absent from, or is unwilling or unable to preside at, a meeting, the members of the council present at that meeting can appoint 1 of their number to preside at that meeting during the absence of the chairperson.

7. CHAIRPERSON, SECRETARY AND TREASURER OF STRATA COMPANY

- (1) Subject to sub-by-law (2), the chairperson, secretary and treasurer of the council are also respectively the chairperson, secretary and treasurer of the strata company.
- (2) A strata company may at a general meeting authorise a person who is not an owner of a lot to act as the chairperson of the strata company for the purposes of that meeting.
- (3) A person appointed under sub-by-law (2) may act until the end of the meeting for which the person was appointed to act.

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8. MEETINGS OF COUNCIL

- (1) At meetings of the council, all matters must be determined by a simple majority vote.
- (2) The council may:
 - (a) meet together for the conduct of business and adjourn and otherwise regulate its meetings as it thinks fit, but the council must meet when any member of the council gives to the other members not less than 7 days' notice of a meeting proposed by the member specifying in the notice the reason for calling the meeting;
 - (b) employ or engage, on behalf of the strata company, any person as it thinks is necessary to provide any goods, amenity or service to the strata company; or
 - (c) subject to any restriction imposed or direction given at a general meeting of the strata company, delegate to 1 or more of its members such of its powers and duties as it thinks fit, and at any time revoke the delegation.
- (3) A member of a council may appoint an owner of a lot, or an individual authorised under the Strata Titles Act 1985 section 136 by a corporation which is an owner of a lot, to act in the member's place as a member of the council at any meeting of the council.
- (4) An owner of a lot or individual may be appointed under sub-bylaw (3) whether or not that person is a member of the council.
- (5) If a person appointed under sub-bylaw (3) is a member of the council the person may, at any meeting of the council, separately vote in the person's capacity as a member and on behalf of the member in whose place the person has been appointed to act.

9. POWERS AND DUTIES OF SECRETARY OF STRATA COMPANY

The powers and duties of the secretary of a strata company include:

- (a) the preparation and distribution of minutes of meetings of the strata company and the submission of a motion for confirmation of the minutes of any meeting of the strata company at the next such meeting;
- (b) the giving on behalf of the strata company and of the council of the notices required to be given under the Act;
- (c) the supply of information on behalf of the strata company in accordance with the Strata Titles Act 1985 sections 108 and 109;
- (d) the answering of communications addressed to the strata company;
- (e) the calling of nominations of candidates for election as members of the council; and
- (f) subject to the Strata Titles Act 1985 sections 127, 128, 129, 200(2)(f) and (g) the convening of meetings of the strata company and of the council.

10. POWERS AND DUTIES OF TREASURER OF STRATA COMPANY

The powers and duties of the treasurer of a strata company include:

- (a) the notifying of owners of lots of any contributions levied under the Strata Titles Act 1985;
- (b) the receipt, acknowledgment and banking of and the accounting for any money paid to the strata company;
- (c) the preparation of any certificate applied for under the Strata Titles Act 1985 section 110; and
- (d) the keeping of the records of account referred to in the Strata Titles Act 1985 section 101 and the preparation of the statement of accounts referred to in the Strata Titles Act 1985 section 101.

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11. COUNCIL CODE OF CONDUCT

- (1) A code of conduct for the council (**Council Code of Conduct**) shall be adopted for the scheme, with the initial Council Code of Conduct forming Annexure A.
- (2) The Council Code of Conduct may only be amended by special resolution of the strata company.
- (3) The strata company must, within 4 weeks of a person being elected to the council, provide that person with an induction concerning their role as a member of the council and provide them with an induction package which shall include (but is not limited to):
 - (a) a copy of the by-laws of the scheme;
 - (b) a copy of the Council Code of Conduct;
 - (c) a document providing a clear description of the council's preferred models of positive communication and collaborative decision-making processes and conflict resolution procedures; and
 - (d) a description of the council's roles and responsibilities.
- (4) All council members must undertake the induction and sign and abide by the Council Code of Conduct at all times.

12. THEME OF DEVELOPMENT

- (1) The scheme is intended to be a sustainable mixed-use commercial plus incidental residential development forming one of a number of schemes (**Clusters**) in what is commonly referred to as Witchcliffe Ecovillage (**Ecovillage**). The Ecovillage is a master plan development of what was Lot 1500 on Deposited Plan 416913 (**Original Land**) in accordance with the structure plan approved by the Planning Commission for this land.
- (2) Each lot in the scheme must be developed so that it includes one or more commercial premises/tenancies. A lot may not be development solely for residential use, any residential use to be incidental to commercial use of the lot.
- (3) It is intended that the Ecovillage operate as a highly sustainable, self-reliant community in a regional village setting, incorporating modern technology and human settlement design to enable it's community to:
 - (a) produce as much energy as it consumes;
 - (b) be self-sufficient in water;
 - (c) produce organic fresh food produce;
 - (d) create less waste;
 - (e) care for and regenerate the local environment;
 - (f) provide a high level of pedestrian, wheelchair and bicycle access throughout the Ecovillage;
 - (g) be socially diverse, inclusive, cooperative and resilient; and
 - (h) respect the culture and traditions of the Wadandi people, the traditional owners of the land.
- (4) The scheme must operate in a manner consistent with, and must promote, the objectives of the Ecovillage referred to in sub-by-law (3) of this by-law.
- (5) In accordance with the theme for the scheme and broader Ecovillage:
 - (a) a lot in the scheme may not be used, or otherwise licensed (for the purpose of liquor licence regulations), as a tavern or hotel;
 - (b) any business conducted from the scheme must implement the following sustainability, ethical and cultural principals:

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- (i) rubbish and waste from the business is to be, as far as reasonably and commercially practical, minimised;
- (ii) packaging of goods must, where reasonably and commercially practical be:
 - A. minimised;
 - B. bio-degradable and/or made from recycled products; and
 - C. sourced/produced from sustainable resources;
- (iii) the carbon footprint of the business is to be minimised, with owners and occupiers to use reasonable endeavours to operate in a carbon neutral manner;
- (iv) where reasonably and commercially practical:
 - A. produce must be sourced from organic and sustainable sources;
 - B. efforts should be made to source goods and services from geographical areas in the following order of priority:
 - (I) the Augusta-Margaret River Area;
 - (II) south west Western Australia;
 - (III) West Australia;
 - (IV) Australia; and
 - (V) Internationally;
 - C. efforts should be made to source goods and services from ethical sources respecting the principles of the United Nation's Universal Declaration of Human Rights and the International Labour Organisation's Declaration on Fundamental Principles, including but not limited to:
 - (I) the right not to be subject to forced labour;
 - (II) the abolition of child labour;
 - (III) the elimination of discrimination in respect of employment and occupations; and
 - (IV) the freedom of association and right to collectively bargain; and
 - D. indigenous and inclusive employment should be promoted.
- (6) The Ecovillage includes common land (**Ecovillage Commons**) intended to:
 - (a) provide infrastructure, facilities and services to the Ecovillage at large; and
 - (b) include conservation areas, recreational areas, water storage (dams) and wastewater treatment facilities and infrastructure for the Ecovillage.
- (7) The Ecovillage Commons is to be owned and administered by Ecovillage Commons Ltd ACN 646 707 486 (**ECL**) a not for profit company limited by guarantee whose ordinary members will be the strata companies for the Clusters in accordance with the planning approval for the Ecovillage.
- (8) The Ecovillage:
 - (a) is intended to be constructed in a number of Clusters over a period of time (**Development Period**);
 - (b) will involve construction works during the Development Period that may generate noise, vibration, dust and other disturbance;
 - (c) is intended to involve a number of land uses and these land uses may involve noise and other disturbance (such as those common with commercial, tourism, agricultural and viticultural business); and

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- (d) will involve the granting of various rights and the creation of various obligations between the Clusters (including the scheme) and their members. Such rights and obligations may include but are not limited to access to and use of stormwater drainage and dam storage.
- (9) Each owner and occupier consents to, and must not make any objection or claim concerning, the matters referred to in sub-bylaw (8) provided they are undertaken in accordance with the requirements of any applicable government authority.

13. ECOVILLAGE COMMONS LTD (ECL)

- (1) ECL is a company limited by guarantee:
 - (a) whose Ordinary Members are to be the strata companies of each Cluster, who are to:
 - (i) each have a number of votes corresponding with the number of lots in that Cluster (excluding common property lots); and
 - (ii) provide representation at General Meetings of ECL as specified in the ECL constitution;
 - (b) who the original proprietors are the Founding Members (a different form of membership that will apply during the Development Period);
 - (c) who may have other classes of members as established pursuant to the constitution of ECL;
 - (d) whose Directors are to be appointed by the original proprietors during the Development Period (pursuant to the rights as Founding Members) and will thereafter be appointed by the Ordinary Members (and possibly any other class of membership should any be established) as specified in the constitution of ECL; and
 - (e) which is intended to be a not for profit organisation for the purposes of the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) with the objective of facilitating sustainable environment, social and amenity outcomes in the Ecovillage.
- (2) ECL will:
 - (a) own the Ecovillage Commons and be responsible for its maintenance, upkeep and operation;
 - (b) provide a representative forum for each Cluster (and their owners); and
 - (c) provide a non-potable water supply to each Cluster using the Stormwater Infrastructure.
- (3) ECL will charge its members, being the strata companies of the Clusters (subject to any other persons that may be admitted as members pursuant to the constitution of ECL), for any utilities, such as non-potable water, and goods and services it provides. Such charges are to be reasonable commercial charges based on:
 - (a) the current and anticipated future costs and expenses of ECL; and
 - (b) the consumption of those utilities or goods and services by each respective Cluster.
- (4) Following expiry of the Development Period, ECL will charge its members, being the strata companies of the Clusters (subject to any other persons that may be admitted as members pursuant to the constitution of ECL), proportionately for its costs and expenses (including those for maintenance and repair of the Ecovillage Commons) to the extent that the income received by ECL from its activities (such as non-potable water supply charges) are insufficient to do so. During the Development Period the original proprietor shall pay any such shortfall.

14. ELECTRICITY MICROGRID

- (1) In accordance with the sustainability theme of the scheme, the scheme is serviced by an electricity microgrid.
- (2) The strata company must:
 - (a) provide access to the microgrid to all lots;
 - (b) manage and administer the microgrid including regular and accurate reading of meters; and

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- (c) maintain the switchboard including the Western Power single point connection and infrastructure to allow the trading of electricity between owners and the Western Power grid.
- (3) The strata company may appoint a third party to manage and administer the switchboard and its operation and maintenance including reading of meters.
- (4) The owner must adhere to all energy requirements of the Building Design Guidelines, including:
 - (a) installing and maintaining compliant solar panels, inverter/s, SwitchDin droplet hardware, modem, and optional battery storage;
 - (b) connecting the lot to the strata microgrid and the provided National Metering Identifier (NMI) certified meter (located in the strata switchboard) at the time of construction to enable energy trading and billing to occur.
- (5) An owner or occupier must not disconnect any dwelling on their lot from the switchboard, unless for the purposes of servicing or replacement of energy infrastructure associated with their lot.
- (6) To the extent that there is any inconsistency with this by-law and by-law 2, this by-law shall prevail.

15. WATER MANAGEMENT

- (1) The Ecovillage Commons includes stormwater collection, treatment and management infrastructure and facilities (**Stormwater Infrastructure**). The lots are to be provided with a deep sewerage service by a wastewater provider licensed by the Economic Regulation Authority of Western Australia.
- (2) In accordance with the sustainability theme of the scheme and planning approvals of the Ecovillage the Stormwater Infrastructure is intended to provide a non-potable water source for irrigation for agricultural and landscaping purposes within the Ecovillage.
- (3) An owner or occupier must not:
 - (a) obstruct or interfere with any Stormwater Infrastructure;
 - (b) discharge stormwater from their lot in a manner so as to cause erosion or damage;
 - (c) disconnect any building on their lot from the Ecovillage wastewater connection; or
 - (d) provide a greywater system which is not compliant with the standards of the Health Department of West Australia.
- (4) It is not intended that the Stormwater Infrastructure will supply non-potable water to lots within the Scheme, but rather supply non-potable water to other Clusters in the Ecovillage.
- (5) This by-law may not be added to amended or repealed without the consent of the Shire of Augusta Margaret River.

16. DEVELOPMENT OF LOT

- (1) The scheme is subject to:
 - (a) a local development plan approved by the local government (**Local Development Plan**); and
 - (b) building design guidelines a copy of which, at the date of registration of these by-laws, forms Annexure B (**Building Design Guidelines**).
- (2) The Local Development Plan may be amended with the consent of the local government.
- (3) The Building Design Guidelines may be amended from time to time by the council to adapt to changes to government policies, building code requirements, availability of materials, sustainable technology innovations and the like.
- (4) An owner must not construct, erect or install, or permit to be constructed or erected or installed on their lot any building or building addition unless:
 - (a) it is compliant with the Local Development Plan and Building Design Guidelines;
 - (b) it is consistent with the requirements of by-law12(2).

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- (c) they have first:
 - (i) submitted the building plans (including front elevation and external colours and materials) to the council;
 - (ii) the council has approved such plans; and
 - (iii) the building is constructed strictly in accordance with those approved plans. For the avoidance of doubt an owner must not vary any building or building addition from its approved plans without the variations themselves being approved under this by-law;
 - (d) those works are approved by the strata company pursuant to sections 88 and 89 of the Act (if applicable); and
 - (e) those works are undertaken in accordance with a valid building licence issued by the local government.
- (5) The council may not unreasonably withhold, delay or condition its approval pursuant to by-law 16(4)(c) where the building plans comply with the Local Development Plan and Building Design Guidelines.
 - (6) The council may employ an appropriately qualified consultant to assist in the assessment of any building plans pursuant to this by-law and may levy the reasonable costs of such consultant to the owner of that lot (which shall be treated as a levy raised in accordance with the Act against that owner and be payable within 14 days of demand).
 - (7) All requests to the council for assessment and approval of building plans must be processed by the council within 45 days of receipt in writing.
 - (8) An owner must and must ensure that their selected builder and subcontractors do:
 - (a) manage construction waste so as to minimise such waste and undertake to re-use and recycle construction waste wherever possible;
 - (b) provide a waste management plan to the strata company in accordance with the WA Master Builders' Smart Waste Guide; and
 - (c) minimise (in accordance with normal building practice and the requirements of the local government) any nuisance that construction of that dwelling may cause to neighbouring land owners, including but not limited to nuisance by reason of noise and dust.
 - (9) An owner must do all things reasonably necessary to ensure minimal damage to roads, paths and landscaping of verges occurs as a result of the development of their lot and must on demand reimburse the strata company for any associated repair or replacement costs in this regard.
 - (10) An owner or occupier must not remove, disable or allow to become dysfunctional any sustainability infrastructure required by the Building Design Guidelines unless the council provides prior written approval to replace such infrastructure with equivalent infrastructure without compromise of the original sustainability objective.
 - (11) For a period of 36 months following registration of the scheme, the strata company and council irrevocably appoint the original proprietor as their agent for the purpose of this by-law, including approving building plans.

17. FENCING

- (1) The fencing for a lot must comply with the relevant requirements of the Local Development Plan and Building Design Guidelines.
- (2) An owner must maintain any boundary fencing in an attractive and functional state.

18. LOT 1 RE-SUBDIVISION

- (1) The owner of lot 1 may, at their discretion and cost and subject to satisfying the requirements of all relevant authorities, re-subdivide lot 1 into 3 lots in accordance with the Act (including section 58) substantially in accordance with the following Annexures (**Lot 1 Re-subdivision**):

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- (a) **Annexure E** proposed survey-strata plan of subdivision of Lot 1; and
- (b) **Annexure F** proposed schedule of unit entitlement resulting from the proposed survey-strata plan of subdivision of Lot 1.
- (2) The owner of lot 1 is under no obligation to undertake any Lot 1 Re-subdivision.
- (3) A Lot 1 Re-subdivision will require various resolutions to be passed by the Strata Company (**Re-subdivision Resolutions**) including:
 - (a) facilitating the re-subdivision of the strata plan by the re-subdivision of lot 1 and with this the strata plan in accordance with the Act; and
 - (b) altering and reallocating the unit entitlement of each strata lot, such alteration or reallocation to be determined by a licensed valuer in accordance with the Act.
- (4) Each owner:
 - (a) consents to the owner of lot 1 undertaking the Lot 1 Re-subdivision, subject to the owner of lot 1 complying with all requirements of the relevant authorities;
 - (b) must do all things reasonably requested of them by the owner of lot 1 to enable the Lot 1 Re-subdivision to be completed and registered including:
 - (i) voting in favour of any Re-subdivision Resolution proposed by the owner of lot 1;
 - (ii) attending to any matter required of them under the Act such as pursuant to section 58;
 - (iii) signing as members of the council and of the strata company the application and any other documents required to give effect to, and register, the Lot 1 Re-subdivision.
 - (c) irrevocably appoints the original proprietor and each of its directors and secretary jointly and severally, to be that owners true and lawful attorney and where applicable proxy for the period commencing on the date of registration of the strata scheme and ending 24 months thereafter to:
 - (i) convene, attend and vote at meetings of the strata company for the purposes of passing any Re-subdivision Resolution; and
 - (ii) take any other action reasonable required to enable the Lot 1 Re-subdivision to be completed and registered.
- (5) The proposal for the Lot 1 Re-subdivision in this by-law is not binding on the Western Australian Planning Commission, Shire of Augusta Margaret River or any other authority. Any of these authorities may not approve, or may require changes before approving, any Lot 1 Re-subdivision.

19. BUSHFIRE MANAGEMENT PLAN

- (1) The Original Land is subject to:
 - (a) the bushfire management plan submitted to the Local Authority and Department of Fire and Emergency Services and applicable for the Ecovillage, which at the date of preparation of this Contract is the Bushfire Management Plan for Lots 2807 and 2812 Bussell Highway Witchcliffe prepared by RUIC Fire (Rural Fire Risk Consultancy Pty Ltd) and dated January 2016 and as amended by Ecosystems Solutions in 2019. (**Bushfire Management Plan**); and
 - (b) a Bushfire Landscape Management Plan which has been developed by the original proprietors and is reflective of the requirements of the local authority setting out the management responsibilities of ECL, the strata companies for each of the Clusters (including this scheme) and the lot owners for each of the Clusters (including this scheme).
- (2) The Bushfire Landscape Management Plan may only be amended by resolution of the Directors of ECL and where the amendment is consistent with the relevant requirements of the local authority.
- (3) The strata company must retain a copy of the Bushfire Management Plan and Bushfire Landscape Management Plan.

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- (4) The strata company and all owners and occupiers must comply with the requirements of the Bushfire Management Plan and Bushfire Landscape Management Plan to the extent that they are applicable to the scheme and their lot, the terms of which the strata company may enforce against an owner or occupier as if they are a by-law and set out in this by-law itself.

20. LEVYING OF COSTS AND EXPENSES OTHER THAN ON A PROPORTIONATE UNIT ENTITLEMENT BASIS

- (1) Where the amount of any cost or expense incurred by the strata company is calculated by reference to the number of lots comprising the scheme (such as connection or service fees charged for utilities), such cost or expense shall be levied to the owner of each lot equally and not in proportion to the unit entitlements of the respective lots.
- (2) Where any cost or expense charged to or incurred by the strata company relates solely to one or more lots (**Specified Lots**), but does not relate to all lots in the scheme, the strata company may levy such cost or expense solely on those Specified Lots and may do so in proportion to the amount that the strata company, acting reasonably, determines each Specified Lot has contributed to that cost or expense and not in proportion to the unit entitlements of those Specified Lots.

21. OCCUPIERS TO BE BOUND BY THESE BY-LAWS

- (1) An occupier, including without limiting the generality of the term, any lessee or licensee of the owner or occupier shall be bound by these by-laws.
- (2) An owner or occupier must ensure that their invitees comply with these by-laws whilst upon the scheme.

22. STRATA COMPANY APPROVAL

When in these by-laws the consent of the strata company or the council is required, such consent:

- (a) may be withheld;
- (b) may be given on conditions including payment of a fee or insurance premium; and
- (c) may be withdrawn,

as the strata company or council, as the case may be, shall reasonably determine.

23. RECOVERY OF MONEY BY THE STRATA COMPANY

- (1) An owner must pay on demand to the strata company on a full indemnity basis all costs and expenses which the strata company pays, incurs or expends in consequence of:
- (a) any breach of the Act;
 - (b) any default in the performance or observance of any by-laws; and/or by the owner or occupier of that lot (including the making good of any damage caused by any such default or breach) including, but not limited to, recovery of strata company levies or contributions; and/or
 - (c) the pursuit and recovery of monies owing by an owner, including interest chargeable in accordance with the Act and the Regulations.

Such costs shall include the cost of engaging any strata manager (including any justifiable expenses of the strata manager outside of their normal duties as detailed in its agreement with the strata company), any solicitor and/or any debt collector.

- (2) If the strata company expends money to make good damage caused by a breach of the Act or the by-laws by any owner or occupier or their servants, agents, contractors, invitees or licensees, or incurs any other costs, expense or claim, the strata company shall, where permitted by law:
- (a) be entitled to recover that amount (and the costs of recovery) from the person who was the owner at the time when the breach occurred, whether or not they were the person who caused such expense; and
 - (b) if necessary, be recoverable as a debt in a Court of competent jurisdiction.

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- (3) Any cost and expense payable by an owner pursuant to this by-law shall be levied on the owner as if levied in accordance with the Act and be payable within 14 days of demand.

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Conduct By-Laws

1. VEHICLE OBLIGATIONS

- (1) An owner or occupier must:
 - (a) not at any time, park or stand a motor vehicle or other vehicle on:
 - (i) the verge that forms part of the road reserve; or
 - (ii) any part of the common property;
 - (iii) another lot within the scheme without permission of the lot's owner; and
 - (b) take all reasonable steps to ensure that the owner's or occupier's visitors comply with the scheme by-laws relating to the parking of motor vehicles.
- (2) To ensure reasonable peace and enjoyment of the scheme an owner or occupier shall not be permitted to park a motor vehicle or other vehicle within the parcel boundaries whose exhaust noise emissions do not comply with noise decibel limits imposed by the Road Traffic (Vehicle Standards) Rules 2002 – Reg 144 or any replacement of those rules.
- (3) For the purposes of this by-law "other vehicle" means, trailers, caravans, camper vans, boats on trailers, motor vehicles used for commercial purposes, motorcycles and any other related type of vehicle.

2. STRATA COMPANY RESPONSIBILITY

- (1) The strata company will maintain:
 - (a) the microgrid and energy switchboard; and
 - (b) any other common property within the scheme.
- (2) Notwithstanding the above, to the extent that fittings, fixtures and systems are connected to the common property for the use of all, the strata company will be responsible for maintenance of the fittings, fixtures and systems and the running costs thereof proportionate to the extent of their use for such purposes.

3. USE OF LOT AND COMMON PROPERTY

An owner or occupier of a lot must:

- (a) not obstruct lawful use of common property by any person;
- (b) not store any items in or upon the common property (without the consent of the strata company);
- (c) not use the lot or permit it to be used in such manner or for such purpose as causes a nuisance to an occupier of another lot (whether an owner or not) or the family of such an occupier;
- (d) not make undue noise in or about any lot or common property;
- (e) take all reasonable steps to ensure that the owner's or occupier's visitors do not behave in a manner likely to interfere with the peaceful enjoyment of an owner or occupier of another lot or of a person lawfully using common property;
- (f) not carry out any activities (including using common property) that:
 - (i) is illegal, injurious to the reputation of the strata company or contravenes any regulation, by-law, or statute of the local government or any other government or regulating authority;
 - (ii) causes noise or inconvenience to the occupiers of any neighbouring properties; and
 - (iii) allows any undue noise, odours or other matters which would unreasonably cause damage, nuisance or disturbance to other owners or occupants;
- (g) not use any part of the common property for their own purposes to the exclusion of others; and

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- (h) notwithstanding any other provision of this by-law, give at least 7 days' notice to the council and neighbours if planning to hold an event (such as a party) which might create additional noise or disturbance.

4. INTERFERENCE WITH COMMON PROPERTY

- (1) An owner or occupier must not:
 - (a) damage common property, except for reasonable wear and tear during its use for the purposes for which it is intended for use; or
 - (b) without the written authority of the strata company:
 - (i) interfere with the operation of any plant and equipment comprising common property; or
 - (ii) remove any article from the common property placed there by direction or authority of the strata company and must use all reasonable endeavours to ensure that those articles are used only for their intended use and not damaged.
- (2) An owner or occupier must not do anything which may prejudice the security or safety of the common property.

5. DAMAGE TO COMMON PROPERTY

- (1) An owner or occupier will be responsible for any damage to any part of the common property through misuse by the owner or occupier or their employees, agents and other invitees and shall be levied for the cost and expense of any repairs to make good the damage (which shall be treated as a levy raised in accordance with the Act and be payable within 14 days of demand).
- (2) An owner or occupier must immediately notify the strata company on becoming aware of any damage to or defect in the common property (which includes all services and equipment).

6. DEPOSITING OF RUBBISH

An owner or occupier must not (and must ensure that their servants, agents, contractors, invitees or licensees do not) deposit or throw upon that lot or any other lot or the common property any rubbish or other material likely to interfere with the peaceful enjoyment of another owner or occupier or guest or any other person lawfully using the common property, unless it is confined to an area designated for compost making, food production or recycling and waste management and the rubbish or material is suitable for that purpose.

7. ADDITIONAL DUTIES OF OWNERS/OCCUPIERS

An owner or occupier must:

- (a) ensure that their servants, agents, contractors, invitees or licensees comply with the provisions of the by-laws and shall do all such things as reasonably necessary to ensure that any servant, agent, invitee or licensee who fails to comply with any by-law vacates the parcel as soon as possible;
- (b) not use chemical pesticides, herbicides, and/or fertilisers within a lot unless the products are allowed by the Witchcliffe Ecovillage Resident's Handbook a copy of which will be retained by the strata company and may be amended from time to time by the council in order to accommodate future changes to organic practices and product availability;
- (c) not allow any vegetation on their lot to obstruct the solar access of approved buildings or the photovoltaic (PV) panels of any other lot.

8. NOTICE OF ALTERATION TO LOT

An owner of a lot must not alter or permit the alteration of the structure of the lot except as may be permitted and provided for under the Act and the by-laws and in any event must not alter the structure of the lot without giving to the strata company, not later than 14 days before commencement of the alteration, a written notice describing the proposed alteration.

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9. GARDENS AND LANDSCAPING WITHIN A LOT

An owner or occupier must maintain the gardens and landscaping of that lot to a reasonable standard in keeping with the appearance of the scheme and the Ecovillage Sustainability Objectives including, without limitation, ensuring that:

- (a) all plants are cared for in accordance with organic principles; and
- (b) vegetation does not obstruct the winter solar access of approved buildings and solar panels on any other lot.

10. VERMIN, PESTS AND INSECT INFESTATION

- (1) An owner or occupier must keep their lot clean and reasonably free from infestation from vermin, pests and insects.
- (2) An owner or occupier must not use poison baits or non-organic chemicals / sprays for the management of pests, vermin and insects on their lot unless:
 - (a) the poison is formulated to have a reduced risk to non-target species, and is contained within a bait station; or
 - (b) the poison or non-organic chemical is an allowable input as scheduled in the Witchcliffe Ecovillage Garden Handbook.

11. SAFETY AND SECURITY

An owner or occupier must:

- (a) take all reasonable steps to maintain the safety and security of the parcel;
- (b) notify the council immediately if they become aware of any threat to the scheme;
- (c) comply with all directions of the council concerning the safety and security of the scheme;
- (d) not interfere with any security or safety equipment and use such equipment only in the manner it is intended when appropriate to do so; and
- (e) ensure compliance with all statutory and other requirements relating to fire safety in respect of the lot, including maintenance of smoke detectors in any building.

12. LIMITING ACCESS TO PARTS OF COMMON PROPERTY

The strata company may take measures to ensure the security and to preserve the safety of the common property and the lots from damage, fire or other hazards and, without limitation, may in respect of any part of the common property not required for access to a lot, close off on either a temporary or permanent basis, or otherwise restrict the access to, or use by, the owners or occupiers.

13. STORAGE AND USE OF DANGEROUS GOODS

- (1) An owner or occupier shall not be permitted to use or store upon any part of a lot or common property any Dangerous Good (as defined under the Dangerous Goods Safety Act 2004 in the Dangerous Goods Regulations 2007) including flammable gases, liquids, chemicals.
- (2) This by-law does not apply to chemicals, liquids, gases or other material:
 - (a) used or intended to be used for domestic purposes;
 - (b) in a fuel tank of a motor vehicle or internal combustion engine; and
 - (c) used or intended to be used for commercial purposes associated with a business lawfully conducted from the lot of the owner or occupier and where the owner or occupier of that lot, at their cost:
 - (i) obtains all necessary approvals for that storage and/or use and complies with the terms of the same; and

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- (ii) stores and/or uses such chemicals, liquids, gases or other material in accordance with any applicable regulatory requirements.

14. WASTE MANAGEMENT

An owner or occupier must:

- (a) maintain within their lot in clean and dry condition and adequately covered, receptacles for the responsible management of household/business (according to the use of the lot) waste including recyclables, reusables and organic waste;
- (b) comply with all local laws relating to the disposal of waste; and
- (c) ensure that the health, hygiene and comfort of the owner or occupier or guest of any other lot is not adversely affected by their waste management.

15. SUSTAINABILITY COMMITMENT AND CODE OF CONDUCT

- (1) The scheme must adopt and implement a commitment and code of conduct concerning sustainable living (**Sustainability Commitment and Code of Conduct**).
- (2) The initial Sustainability Commitment and Code of Conduct forms **Annexure C** and may only be amended by special resolution of the strata company.
- (3) All owners and occupiers must comply with the Sustainability Commitment and Code of Conduct, the terms of which the strata company may enforce as if they are a by-law and set out in this by-law itself.

16. INSTRUCTING OF CONTRACTORS BY OWNERS

- (1) An owner or occupier shall not directly instruct any contractors or workmen employed by the strata company unless authorised by the strata company.
- (2) Any owner or occupier instructing any contractor or workmen without authorisation from the strata company shall:
 - (a) be responsible personally for the payment of such contractor or workmen and for the cost of removing or altering any such work which the strata company deems unsatisfactory; and
 - (b) indemnify the strata company against any costs, claims or liabilities arising from the improper instructions given to contractors or workmen,

and the strata company may levy the owner for all such amounts (which shall be treated as a levy raised in accordance with the Act and be payable within 14 days of demand).

17. HOUSE RULES

- (1) The council may make rules from time to time in respect of the management, order, standards and operation of the common property (**House Rules**).
- (2) The strata company shall ensure that any House Rules are displayed in a prominent position on areas to which they apply and that a copy is given to all owners.

18. SHORT STAY USE

An owner must not lease or licence a dwelling located on their lot as short stay accommodation unless the owner or other manager of that accommodation:

- (a) is a permanent resident of another lot in the scheme or the Ecovillage, or the manager of a tourism accommodation management company lawfully operating from a premises in the Ecovillage, or a manager of a tourism accommodation management company lawfully operating from premises within the Augusta Margaret River Shire;
- (b) provides at all times to the council the current 24-hour accessible contact details of the owner or any other manager of that accommodation;

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- (c) maintains approval for short stay accommodation from the local government in accordance with all applicable policies and regulations;
 - (d) maintains an appropriate level of insurance required for short stay accommodation;
 - (e) ensures all health and safety requirements pertaining to short stay accommodation are complied with;
 - (f) takes all reasonable steps to ensure that all tenants are informed of and observe the strata company by-laws;
 - (g) takes all reasonable steps to ensure that all tenants do not behave in a manner likely to interfere with the peaceful enjoyment of any owner or occupier of any other lot or any person lawfully using the common property; and
 - (h) manages and advertises the short-stay accommodation as environmentally friendly sustainable accommodation in line with the overarching theme and vision of the Ecovillage.
- (2) For the purposes of this by-law short stay occupation means a period of occupation of less than 90 days or as otherwise defined by planning policies of the local government.

19. LEASING OF LOTS

Prior to the leasing of a lot the owner shall before the commencement date of such lease:

- (a) inform the strata company of the name of the owner's managing agent for the lot (if any) and, excluding a lease for a period of less than 30 days, the name of the lessee. This information shall be recorded on the strata company roll;
- (b) provide the lessee with a copy of the by-laws, Sustainability Commitment and Code of Conduct, Witchcliffe Ecovillage Sustainability Infrastructure Disclosure Form and any House Rules; and
- (c) provide to the strata company a copy of an executed lease (unless the lease is for a period of less than 30 days) and ensure that such lease states that any non-compliance with the by-laws of the strata company shall be a default under the terms of such lease.

20. RESALE OF LOTS

- (1) The council must maintain a disclosure form concerning the sustainability infrastructure of the scheme and Ecovillage (**Witchcliffe Ecovillage Sustainability Infrastructure Disclosure Form**).
- (2) The initial Witchcliffe Ecovillage Sustainability Infrastructure Disclosure Form comprises **Annexure D**
- (3) Any owner who intends to sell or otherwise dispose of their lot must prior to entering into any contract of sale or other agreement concerning the same provide to any prospective buyer/transferee:
 - (a) a completed Witchcliffe Ecovillage Sustainability Infrastructure Disclosure Form;
 - (b) a copy of the Sustainability Commitment and Code of Conduct; and
 - (c) a copy of the Local Development Plan and Building Design Guidelines.

21. KEEPING OF PETS

- (1) In this by-law Excluded Dog means:
 - (a) a pit bull terrier;
 - (b) an American pit bull terrier;
 - (c) any other outcross;
 - (d) any dog prohibited from importation into Australia by the Commonwealth government; and
 - (e) an unregistered or dangerous dog under the Dog Act 1976.
- (2) An owner or occupier may keep within their lot without the consent of the strata company any breed of dog which:

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- (a) is not an Excluded Dog; and
 - (b) is licensed and microchipped;
- (3) An owner or occupier must not keep any cat on or within their lot.
- (4) If an owner or occupier keeps in their lot an animal permitted under these by-laws, then they must ensure that:
 - (a) the animal is at all times kept under control and within the confines of their lot;
 - (b) dogs must be housed inside a building on the lot between the hours of 7:00pm and 6:00am to protect nocturnal wildlife and reduce risk of nuisance barking; and
 - (c) the animal is effectively managed to ensure no nuisance (including by reason of barking).
- (5) This by-law:
 - (a) applies to any person in a lot with the express or implied consent of that owner or occupier; and
 - (b) does not prevent the keeping of an assistance animal by a person with a disability.
- (6) Where an owner or occupier is in breach of this by-law, including where an owner or occupier keeps a cat on their lot, the strata company will be entitled to require the immediate removal of the animal from the scheme, provided that the strata company may not require the removal of any permitted animal by reason of a breach of sub-by-law (4) unless:
 - (a) the strata company has provided a written notice of the breach to the owner or occupier warning of the removal should the breach not be remedied within not less than 7 days and that breach is not remedied within that period; or
 - (b) there are more than 5 breaches for which notice is provided to the owner or occupier concerning that dog in any 12 month period.

22. DISPUTE RESOLUTION PROCEDURE

- (1) The council must determine, maintain and amend from time to time a grievance procedure and decision making or communication model that is acceptable to a majority of the council.
- (2) In the event that an owner bound by the terms of these by-laws is in dispute with another owner or the strata company and such parties cannot resolve such a dispute through the council's agreed upon decision making procedures and communication models then it shall be determined by an independent expert as follows:
 - (a) if the dispute relates to legal issues, the dispute will be referred to a suitably qualified legal practitioner or mediator;
 - (b) if the dispute relates to monetary or financial issues, the dispute will be referred to a suitably qualified accountant; and
 - (c) if the dispute relates to the design of improvements or structural matters, the dispute will be referred to a suitably qualified architect or engineer.
- (3) If the parties cannot agree on the appropriate expert to whom the dispute is to be referred within 14 days of the dispute arising, the expert will be appointed by the President of the Law Society of Western Australia.
- (4) The parties and strata company may each submit to the expert written submissions within twenty one (21) days of the expert's appointment but may not make oral submissions or adduce any evidence. A copy of all submissions to the expert shall be provided contemporaneously to the other party and strata company. Within twenty eight (28) days of the expert's appointment the parties and strata company may each forward to the expert written comments on the other party's written submissions. For the purposes of this by-law time shall be of the essence.
- (5) The expert shall take into consideration any written submissions received within those periods but is not fettered by them and shall determine the dispute in accordance with their own judgment.

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- (6) The decision of the expert will be final and binding on the parties to the dispute and the parties to the dispute will pay the costs of the expert equally.

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ANNEXURE A - COUNCIL CODE OF CONDUCT

As an elected member of the Witchcliffe Ecovillage Commercial Cluster 1 Council, I
agree that at all times I will:

1. Be committed to acquiring an understanding of the *Strata Title Act WA 1985* (or other relevant legislation as amended or superseded), this strata scheme, and all by-laws concerning this strata scheme.
2. Act honestly and fairly and not unreasonably disclose information held by the Strata Council, including information about a proprietor or occupier.
3. Act in the best interests of the Strata Council unless it is unlawful to do so.
4. Not cause a nuisance or otherwise behave in a way to bring disrepute or diminish the good reputation of this Strata Council.
5. Respect fellow members' opinions and differences and foster a spirit of teamwork and co-operation.
6. Be committed to attending all meetings of the Strata Council other than in exceptional circumstances.
7. Comply with Strata Council processes and procedure as determined by the Strata Council from time to time, including using agreed upon decision making and communication models.
8. Disclose to the Strata Council any conflict of interest I may have in a matter before the Strata Council and not vote on such matters.
9. Resolve conflicts or disagreements in a timely and respectful manner, with recourse to Strata Council endorsed methods/models of decision making / positive communication where necessary.

Signed:

Date:

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ANNEXURE B - BUILDING DESIGN GUIDELINES



COMMERCIAL PRECINCT

BUILDING DESIGN GUIDELINES



WITCHCLIFFE
ECOVILLAGE

Version 1, August 2022

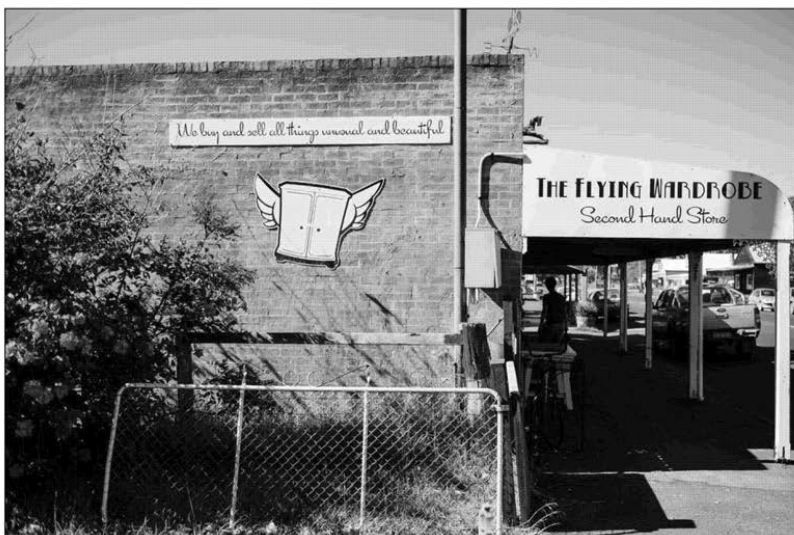
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The Witchcliffe townsite has a unique character that will set the tone for new commercial developments within the precinct

Introduction

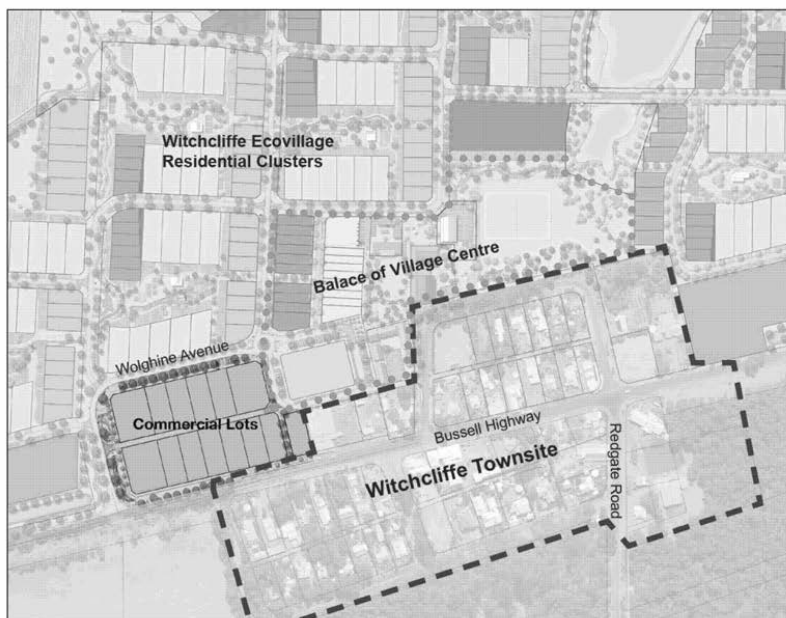
The guidelines are to be read in conjunction with the endorsed Local Development Plan, the Residential Design Codes (SPP7.3), the Local Planning Scheme 1 (all as may be amended from time to time by WAPC), and the relevant scheme bylaws. Together these documents control development within the precinct.

The Commercial Building Guidelines have been framed to provide a concise outline of requirements for development within the precinct. Because residential is also allowed in the precinct as a secondary use, some elements of the Witchcliffe Ecovillage Sustainable Building Design Guidelines apply (text in Appendix A).

We recommend reference to the whole document for a broader background into the sustainability and aesthetic principals established for the Witchcliffe Ecovillage, as these apply to commercial and residential development. In particular, please refer to Sections 4.1-4.3 on passive solar design and Section 2.3 architectural character, both of which should influence design outcomes within this precinct.



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The Commercial Precinct is an extension of the Witchcliffe townsite, sitting between Bussell Highway and Wolghine Avenue

Background

The Commercial Precinct comprises 11 lots (1.9ha in area) that sit between Bussell Highway and the residential areas of the Witchcliffe Ecovillage. This precinct acts as the primary interface between the established Witchcliffe townsite and the village, with half the lots facing inward toward the village and half toward Bussell Highway.

The precinct includes two separate survey strata schemes, as well as one single green title lot (Lot 6) on Bussell Hwy. Commercial Cluster 1 and Commercial Cluster 2 strata schemes both incorporate a small Common Property lot in each scheme to accommodate a shared energy switchboard and single point

connection to the Western Power grid, but have no other property in common. The strata bylaws ensure that uses compatible with the ethos and vision of the Ecovillage are supported and promoted within the Commercial precinct.

All lots in the precinct are zoned Village Centre under the AMR Shire LPS 1, with a variety of permitted and applicable uses according to the LPS 1 zoning table and the scheme bylaws.

The Village Centre zoning provides for "the expansion and consolidation of accessible, small-scale community and retail focal points which serve the immediate needs of a local population catchment in a manner that will preserve the individual character and ambience of each settlement."

Commercial Precinct Building Design Guidelines

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The Witchcliffe Ecovillage Commercial Precinct, bridging the gap between the townsite and the residential clusters

The ideal land uses for these lots varies across the site, depending largely on level of visibility to passing traffic, proximity to car parking, ease of on-site access, and adjacent land use interface. As such, we envision a diverse range of commercial, retail, and mixed-use opportunities within the precinct that will meet the needs of Witchcliffe residents, but also those of the broader region and tourists from further afield.

The west-facing lots of the precinct present to Bussell Highway and capitalise on the locational visibility and passing trade associated with a major arterial road. The end lots also present northwards to Wolghine Avenue, a main entry point to the Witchcliffe Ecovillage.

The east-facing lots along Wolghine Avenue interface with residential development across the street. Development on these lots must be sensitive to the adjacent residential scale

and land use. The opportunity here is for smaller scale, more pedestrian-oriented uses, with plentiful on-street parking directly adjacent along a slow-speed street landscaped to provide future tree canopy.

The precinct is bisected north-south by Willerin Lane, which provides vehicular access to the rear of the commercial lots within the precinct. There is also a Pedestrian Access Way, which provides a valuable pedestrian connection between Bussell Highway and Kulbardi Way and the Village Centre.

Typical lots in the precinct are approximately 1000m² (20m x 50m), with a couple of larger lots at the ends.



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The precinct plans to build on the Witchcliffe townsite's range of quirky offerings that define its character, which include vintage clothing, vinyl records, handmade crafts, a relaxed cafe, e-bike sales, and an award winning bottle shop

Vision

The vision for the precinct is that it becomes a vibrant commercial hub that services the needs of the residents of the Ecovillage as well as those of the broader region. Ideally it includes a diverse range of commercial building typologies including traditional shopfronts, mixed-use buildings, showrooms, workshops, office buildings, short-stay accommodation, and appropriately located residential buildings.

The built form is to be modest in scale and articulated into a series of smaller elements that maintains a rural village character, with architectural references to the typical structures of the region. The building materials are to be naturalistic and where possible locally-sourced, embodying simple sustainability at every opportunity.

The precinct layout and design of the building interfaces will ensure an active public realm. The design requirements will ensure legible business entries, safety at night, and shady car parking. Visually interesting shopfronts and al fresco spaces along with weather-protective awnings and screens will entice locals and visitors to linger longer than they had planned. Together this will lead to thriving businesses within the precinct, and significant employment opportunities for local residents.

Potential businesses that would be a good fit in the precinct include:

- café / restaurant
- yoga / pilates studio / gym
- medical centre / physio / dentist / integrated pharmacy
- holistic wellness centre
- bakery / butcher / health food store / general store
- village scale childcare centre
- recording studio / music school
- offices / consultants
- permaculture / alternative technology centre
- hardware store / garden centre / pet supply / vet surgery
- homewares / craft supplies / eco-clothing store
- artisan store / gallery



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Restaurant / pub typology with active street interface

Building Typologies

The following land use / building typologies are envisioned as appropriate for the Witchcliffe Ecovillage commercial precinct. Allowable land uses are dictated by the 'Village Centre' zone within the Shire of Augusta-Margaret River Local Planning Scheme 1, which are then further limited by the Strata bylaws.

These typologies are general in nature, but provide an indication of the type of development that is likely to fit within the design requirements and meet the needs of the broader Witchcliffe community.

The strata bylaws require at least some commercial component to any proposed development.

Business Services

- Main entrance from the street
- Building at front of lot with active frontage
- On-site staff and customer parking

Maker Space / Logistics / Workshop

- Larger footprint with limited built form
- Built form to have direct relationship with street
- On-site staff and limited customer parking
- Designed for truck movements

Mixed-Use Business

- Clean commercial uses at the front / residential at rear
- Residential above commercial use at the front
- Separated entry for business and residential uses
- Resident and staff parking on site

Other/Hybrid

- Multi-use commercial, workshop, residential
- Residential apartments or staff accommodation over commercial
- Commercial use with permanent or seasonal accommodation
- Education or training institution



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An artists impression of Wolghine Square, the focal point of the expanded commercial precinct in Witchcliffe

Principles

The following are the key principles that will guide the development of the precinct:

1. Expand the Witchcliffe Village Centre in a manner that maintains and celebrates the rural village character of the townsite while meeting the commercial needs of new businesses.
2. Design the public built interface to create a cohesive streetscape environment that is visually interesting and engaging for pedestrians, with an emphasis on natural and recycled materials and creative, artistic elements.
3. Design street frontages to increase pedestrian safety through natural surveillance.
4. Building materials to be locally-sourced, naturalistic, and low in embodied energy / carbon
5. Buildings to be designed to minimise the need for artificial lighting, heating, and cooling
6. Incorporate native and productive landscaping to provide shade, interest and beauty



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Objectives, Guidance, Requirements

The following section sets out the development requirements for the Commercial Precinct of the Witchcliffe Ecovillage, as outlined in the map on page 3. These are separated into three sections covering urban design, buildings, and resources. Together these provisions aim to guide the delivery of the intended built form outcome for the precinct.

Each provision is separated into three components: objective, guidance, and requirements. The 'objective' states the intended outcome; the 'guidance' provides context, suggestions, or definitions; and the 'requirements' state the specific, measurable outcome that the design must achieve.

Many of the provisions in this document are duplicated in the approved Local Development Plan (LDP), variation of which would require the approval of the Shire. On other requirements not covered in the LDP, the developer may exercise discretion if the proponent can make a strong case of achieving the relevant 'objective' in an alternative manner to what is set out in the specific requirements.

Urban Design

1. Urban Form

Objectives

- Building setbacks and heights to create an appropriate street-interface and general building massing that is compatible with the existing buildings within the Witchcliffe townsite.
- Frame streets and other adjacent public spaces with built elements in a manner that creates cohesive and human-scaled 'outdoor rooms' and a relatively consistent street edge

Guidance

- Primary Streets - Wolghine Avenue and Bussell Highway
- Potential Frontage - width of the lot facing a Primary Street after subtracting the required side boundary setbacks
- Frontage build-out % - extent of building located within 250mm of the minimum street setback line as a percentage of the Potential Frontage

Requirements

- Required lot boundary setbacks - as per Figures 1 and 2 of approved Local Development Plan
- Build-out percentage of Potential Frontage as per LDP (Figure 1 and provision 3.3)

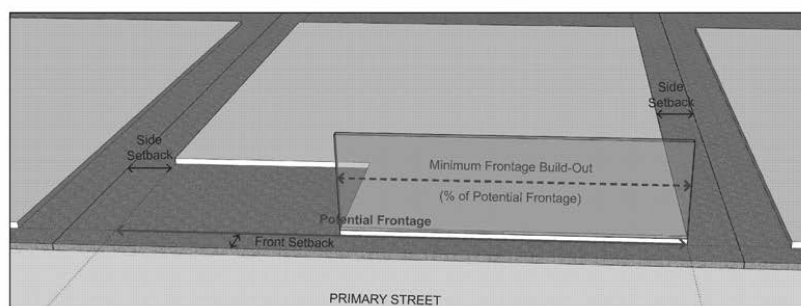


Diagram showing how to measure the Potential Frontage and the Minimum Frontage Build Out requirements

Commercial Precinct Building Design Guidelines

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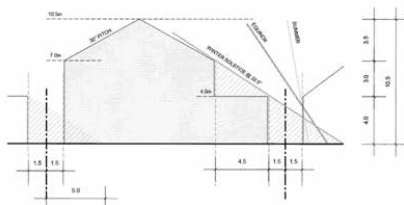
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Height and side setback provisions from LDP (Fig.3)

- The maximum building wall height shall be 7.0m
 - Southern building walls above 4m to be setback as per Figure 3 and provision 3.3b of the approved LDP
 - The maximum pitched roof ridge height shall be 10.5m
- Minimum ground floor height (floor to floor) of buildings providing frontage to a Primary Street is 3.0m

2. Activation

Objectives

- To support local businesses viability, ensure sufficient clear glazing in appropriate locations facing streets, public access ways and lanes.

Guidance

- Frontage – portion of the building on or near the lot boundary that is parallel to the adjacent street or PAW
- Ground Floor Glazing % - area of clear glazing as a percentage of the total façade area of a particular Frontage (up to 3m in height).

Requirements

- Facades of buildings with Frontage to Bussell Highway on Lots 4-6 (SP 84745) and Lot 6 Bussell Highway shall consist of 60% minimum clear glazing.
- Facades of buildings with Frontage to the PAW between Bussell Highway and Kulbardi Way on Lot 6 (SP 84745) and Lot 6 Bussell Highway shall consist of 40% minimum clear glazing.
- Facades of buildings with Frontage to Wolghine Avenue and Kulbardi Way on Lots 1-7 (SP 84744) shall consist of 50% minimum clear glazing.

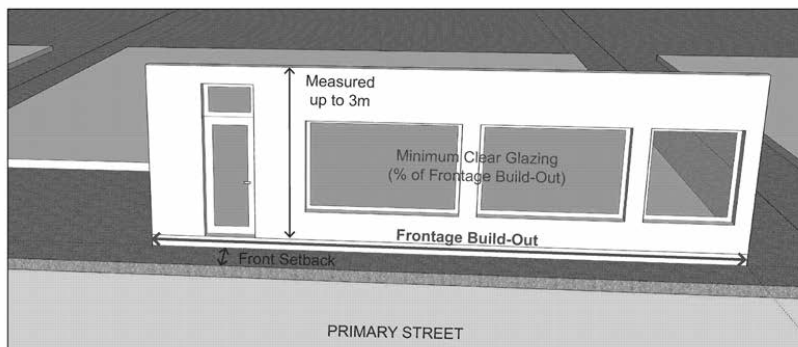


Diagram showing how to measure the Minimum Clear Glazing requirement



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Deep verandahs, inset entries, and covered exterior seating encourage pedestrians to spend time browsing shops even in inclement weather

3. Placemaking

Objectives

- Design buildings on visually-prominent street corners with a thoughtful architectural response that meaningfully marks or celebrates the importance of the location.

Guidance

- Architectural Response Required – locations where special treatment of the building corner is required as per LDP (Figure 1)

Requirements

- Where nominated as an 'Architectural Response' (A) on the LDP plan, development shall be articulated to respond to the corner location. Articulation may include a taller building element, a bay window, a change in cladding material, or an otherwise distinctive architectural element that provides legibility and visual interest to the streetscape.

4. Shelter

Objectives

- To encourage pedestrian activity within the precinct throughout the year, provide sufficient opportunities for shelter from rain, sun and wind.

Requirements

- Development on Lots 4-6 (SP 84745) and Lot 6 Bussell Highway shall include a continuous awning over the adjacent footpath within the public road reserve running the full extent of the Frontage.
- Verandahs, pergolas, and awnings on Lots 1-7 (SP 84744) may extend to the Wolghine Avenue boundary.
- Verandahs, pergolas, and awnings on Lot 6 (SP 84745) and Lot 6 Bussell Highway may extend to the boundaries along the PAW.
- For the awnings extending into the Bussell Highway reserve, the minimum width shall be 3m with a minimum clearance height of 3.0m over the primary footpath thoroughfare. Awning height may reduce at the footpath



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edge for certain styles (eg. bullnose veranda) but in no case shall it be lower than 2.4m.

- For Lots 4-6 (SP 84745) and Lot 6 Bussell Highway, timber posts are required to support the western edge of the awnings (in line with the prevailing character of the Witchcliffe townsite).

5. Streetscape - Bussell Highway Interface

Objectives

- The southern Bussell Highway streetscape shall be similar to the prevailing built form pattern prevalent within the Witchcliffe townsite.

Guidance

- This interface includes a significant proportion of the building at the minimum street setback, extensive ground floor glazing, and a consistent pattern of verandahs that extend from the building edge to cover the adjacent public footpath.

Requirements

- Development on Lots 4-6 (SP 84745) and Lot 6 Bussell Highway shall present to the Bussell Highway Frontage a built form comprising gable roofs or traditional commercial parapet walls, and exterior materials that are compatible with the architectural character of the Witchcliffe townsite buildings.



Example of a glazed shopfront building that creates a consistent street-edge, with a verandah extending over the public footpath creating enclosure and shelter



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The buildings facing north to Wolghine Avenue have larger street setbacks and are to be set within a landscaped environment

6. Streetscape - North Wolghine Avenue

Objectives

- The northern Wolghine Avenue streetscape (adjacent to the Ecovillage main entrance) and the northern Bussell Highway streetscape shall create a more landscape-oriented interface with the street.

Guidance

- This interface includes larger street setbacks, more soft landscaping between the buildings and the footpath, lower glazing requirements, and a more informal arrangement of buildings.

Requirements

- Development on Lots 1-3 (SP 84745) and the north edge of Lot 7 (SP 84744) shall present to the Bussell Highway and Wolghine Avenue Frontages a built form comprising gable roofs or traditional commercial parapet walls, and

exterior materials that are compatible with the architectural character of the Witchcliffe townscape buildings.

- The entire front setback areas to the north and west of Lot 1 (SP84745), except for any functional area such as a pedestrian path to a door, shall be densely planted soft landscape in beds with low height planting next to the footpath. Areas of mulch or turf only are unacceptable.

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The internal Wolghine Avenue streetscape is intended to be intimate and pedestrian-scaled, with variation in street setbacks and built form references that relate to the residential buildings across the street

7. Streetscape - Wolghine Avenue

Objectives

▪ The internal Wolghine Avenue streetscape (facing the Ecovillage residences across the street) shall include built form that has less formal and consistent street setbacks, and pitched roof forms that reflect the finer grain and individual nature of the adjacent residential development.

Guidance

▪ This interface includes a richly varied interface at the street level, with buildings highly articulated, a variety of pitched roofs and street facing verandahs, and a moderate amount of street facing glazing.

Requirements

▪ Development on Lots 1-7 (SP 84744) shall present to the primary frontage a built form comprising predominantly gable roof forms and single slope verandahs in response to the prevailing scale and architectural character of the adjacent residential area.



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Example of a shopfront with an easily identifiable and accessible main entry

8. Building Entries and Floor Levels

Objectives

- Primary entrances to businesses and residences to be easily identified from the adjacent street or public accessway.
- Commercial ground floor levels to be set to enable efficient and direct universal access from the adjacent public footpath to the premises.
- Ground floor levels to be set high enough to ensure no ingress of stormwater in a large flooding event.

Guidance

- All commercial premises to comply with the Disability (Access to Premises-Buildings) Standards 2010 and the associated elements of the National Construction Code (Vol 1+2 Building Code of Australia)
- A general recommendation to reduce the risk of a flood event: set finished floor level

(FFL) at least 300mm above the low edge of the adjacent road pavement.

Requirements

- Commercial development shall address the adjacent street (or PAW) with the main pedestrian entrance, which shall remain unlocked during normal business hours.
- Commercial development shall provide access to the premises from the public footpath and on-site parking areas in accordance with the relevant universal access legislation.
- Any residential dwelling or ancillary development constructed at the rear of Lots 1-7 (SP 84744) and Lots 1-6 (SP 84745) shall have a clear connection between Willerin Lane and the main pedestrian entrance, either through direct visual / physical connection or via appropriate landscape treatment.
- Where on-site customer parking is provided, convenient and direct pedestrian access shall be provided to the primary pedestrian



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entrance at the Primary Street, either by means of an external pathway or through the building via a secondary entrance.

- A civil engineer must review and sign-off on the proposed site levels and finished floor levels to ensure sufficient clearance for future flood events and reasonable water flow pathways around the building.

9. Safety

Objectives

- Use principles of passive surveillance to support safety in the public realm.

Guidance

- Passive surveillance can help to reduce anti-social behaviour and crime.
- R Codes Definition (5.2.3): Buildings designed to provide for surveillance (actual or perceived) between individual dwellings and the street and between common areas and the street, which minimise opportunities for concealment and entrapment.
- Key elements include the careful placement of windows, control of fencing height and

opacity, installation of external lighting, night-time activation of public space, and the careful pruning of landscaping

- Major Opening - A window, door or other opening in the exterior wall of a habitable room that provides external means of light or view that is at least 1m² in area, glazed in clear material, and has a sill height lower than 1.6m above floor level.

Requirements

- Development shall provide passive surveillance as indicated on the LDP Plan (Figures 1 and 2). Minimum requirement is provision of at least one Major Opening from a habitable room that faces the street or pedestrian accessway.
- Where a building is located within 6.0m of Willerin Lane, passive surveillance shall be provided on the Willerin Lane Frontage.
- Fencing / walls along Willerin Lane shall be limited to 1.2m in height along 50% of the frontage.



The Margaret River Night Markets are a good example of well-lit, safe public space



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Landscape to be incorporated into designs at an early stage and should play an integral role in defining the character of each development

10. Landscape

Objectives

- Contribute to the landscape qualities of the place by choosing appropriate landscape species and placement to extend existing / intended patterns.
- Consider environmental aspects of the place when locating and designing al fresco seating areas such as access to winter sun, screening winter wind, and mitigating street noise.

Guidance

- For retaining, boundary, or feature walls, natural limestone or granite from local sources is encouraged.

Requirements

- A minimum of 15% of the lot shall consist of vegetated landscape.
- Except where street setbacks contain verandahs, al-fresco structures or other functional paved areas, the setback area shall consist only of densely planted soft landscape in beds with low height (<1200mm) planting next to the footpath. Areas of mulch or turf only are unacceptable.
- Car parking areas shall provide shade trees at a rate of 1 tree per 4 bays
- Carpark trees shall be of the deciduous variety and to a maximum mature height of 4.0m
- Fences shall be timber, stained, sealed or painted or left unsealed to weather naturally. Colorbond fencing is not permitted.



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11. Parking and Vehicle Access

Objectives

- Minimise the visual impact of on-site parking on streets and pedestrian accessways
- Consolidate vehicle access points to reduce the extent of impervious surface and allow for more soft landscaping

Guidance

- Primary Streets - Wolghine Avenue and Bussell Highway
- Parking ratios to be based on those used for the Margaret River townsite in LPS1.

Requirements

- All on-site parking shall be located at least 12m from the Primary Street boundary and screened from the view from the Primary Street.
- Any parking located adjacent to the pedestrian accessway to be set back min. 2m

from boundary, with the setback zone heavily landscaped.

- No direct access to residential garage parking is permitted from Willerin Lane.
- Garage doors where visible from a street shall be timber panel lift.
- Parking bays within the adjacent public street reserve are credited to specific lots (noted on the LDP map in Figure 1), and can be counted toward meeting the Shire's parking requirements.
- Parking requirements vary by land use. Required ratios to be based on those applied to the Margaret River townsite by the Shire of Augusta Margaret River in LPS1.
- Cross-overs to be generally located as indicated in the Local Development Plan map (Fig. 1).
- Cross-over dimensions to be minimised, with widths not larger than 6m and kerb radii not larger than 3m.



Parking to be heavily landscaped and ideally screened from pedestrian areas by vegetation, low walls or buildings



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12. Services

Objectives

- Design buildings to provide easy access to on-site sewer and power infrastructure.

Guidance

- Contact Western Power directly to confirm their requirements regarding setbacks to the electrical transformer along Bussell Highway.
- Designs should carefully integrate solar panels, services, rainwater tanks and utilities into the building concept to ensure that they do not detract from the overall aesthetic quality.

Requirements

- No buildings to be placed within nominated electrical easements along Wolghine Avenue or Bussell Highway aside from verandahs and awnings.
- No buildings to be placed within nominated sewer easement on Commercial Cluster 2, Lot 4 (Strata 84744) Wolghine Avenue aside from verandahs and awnings.
- Buildings to be set back as nominated on the Local Development Plan from the electrical transformer between Commercial Cluster 1, Lots 1 and 2 (Strata 84745) in accordance with Western Power policies.



Buildings

13. Solar Access

Objectives

- Development of each lot shall take advantage of the solar access zone created to maximise passive solar performance.

Guidance

- North facing walls to have appropriately sized windows to maximise passive winter heating and natural lighting all year round
 - Developments to be designed so habitable rooms are primarily located on the north building edge to facilitate passive solar outcomes
- Design in appropriate attachments for solar protection of openings and climate protection for pedestrians.

Requirements

- All buildings shall comply with the setback and height provisions of the Local Development Plan (refer to Figure 3).
- Residential and tourism units must achieve a minimum NatHERS rating of 8 stars.

14. Massing

Objectives

- New buildings should be of a scale that is appropriate to their context and positively contribute to the Witchcliffe townscape.

Guidance

- Architecturally the commercial buildings in the precinct shall reflect the local aesthetic characteristics of a southwest rural village, such as:
 - Simple geometric building volumes
 - Regular, rectilinear plan layouts
 - Generally vertical proportions
 - Lightweight structures attached to the exterior (awnings, verandahs, pergolas) to create articulation and facilitate outdoor living



Eave overhangs, balconies, and verandahs to be used to create articulation and visual interest along the street

- Buildings to be visually interesting with well-composed facades, but of a consistent architectural language that allows them to be aesthetically compatible with neighbouring buildings.

Requirements

- Attachments such as verandahs, awnings, shade structures and pergolas shall be constructed from timber.
- Verandah or pergola posts to have cross-sections of min. 120x120mm.

15. Walls

Objectives

- Walls should be an expression of local, natural and sustainable materials

Guidance

- Outbuilding – an enclosed, non-habitable building that is detached from any dwelling.
- Rammed earth can be used for internal walls as thermal mass, but is not a good insulator so is not recommended for perimeter walls.

Requirements

- Timber frame walls are preferred. Must be FSC certified timber, verified or certified plantation timber, recycled or reclaimed timber.



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- Recycled steel frame construction can also be considered (but not virgin steel for framing).
- Any masonry wall must either be used internally for thermal mass or be built of recycled blocks if used externally.
- Hempcrete and strawbale walls must be rendered externally with natural lime render.
- External stonework must be min. 100mm thick (no stone veneers)
- Cladding options include:
 - Solid timber (either FSC Certified, verified / certified plantation, recycled, or locally milled from paddock fallen / verge trees)
 - Modified wood including: Shadowclad, Vulcan, Accoya, Vacoa, or NewTechWood
 - Approved fibre cement (currently James Hardie Linea Smooth 150 or 180, Axon Smooth 133 or 400). Must be painted.
 - Zinalume for Outbuildings only.
- Tilt-up concrete wall panels are not permitted.
- Generally, wall colours shall be light or mid-tone. Darker tones, including dark stained timbers, in conjunction with lighter or natural timber tones, are acceptable.

16. Roofs

Objectives

- Create a roofscape that is compatible with the existing rural village character of Witchcliffe.

Guidance

- The roofscape should comprise a mixture of well-proportioned, steeply pitched gable roofs and appropriately pitched skillion roofs, both with overhanging with eaves
- In combination with pitched roofs, concealed roofs behind parapets are acceptable along Bussell Highway
- Colorbond roof sheeting is not a permitted substitute for zinalume.
- Any flat roofs must be a minor design element
- Structural steel beams can be used where required if spans are beyond the capability of laminated timber (preferred).

Requirements

- Gable roofs to be min. 30 degree slope and generally symmetrical
- No hip roofs visible from a street or public accessway



Steep pitched roofs are encouraged within the precinct

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- Eaves required on pitched roofs (minimum 300mm)
- Roofing material to be custom orb or standing seam Zincalume sheeting
- Compressed fibre cement sheeting is permitted for linings to eaves.
- All rainwater furniture, flashings, barges, fascias, gutters, downpipes and miscellaneous trim shall be Zincalume.

17. Windows

Objectives

- Windows to have high insulation values and be constructed from durable materials
- Window proportions and configurations to be compatible with the vernacular architecture of the region

Guidance

- Individual 'punched' windows in a solid wall to be generally vertical in proportion and aligned with other similar windows to create a consistent rhythm in the wall
- Shopfronts may include large windows at ground level that can be horizontal in proportion
- Windows in framed walls to use appropriate trim surrounds / detailing to hide cladding edges.
- Expressed lintels and sills are encouraged

Requirements

- Overall U_w maximum 3.0 for all windows (frames plus glazing)
- Window frames to be made from sustainably sourced timber, lead-free uPVC or aluminium.
- Glazing to shopfronts must be clear glass



Well-proportioned, repetitive vertical windows sets up a pleasing rhythm along the street



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18. Accommodation

Objectives

- Maintain high standards of design and construction for residential and tourism uses within the precinct.
- Ensure that residential and tourism accommodation is appropriately protected from highway noise.

Requirements

- Residential or short stay accommodation within the precinct must comply with relevant sections of the Witchcliffe Ecovillage Building Design Guidelines (Residential) which are: 2.3, 3.1-3.7, 4.1-4.5, 5.1-5.5, 6.1-6.10, 7.1-7.6, 8.1-8.8. Please see full provisions in Appendix A.
- Any development of residential or tourism accommodation within the LDP area must demonstrate compliance with 'quiet house' design principles to attenuate highway noise, as outlined in SPP 5.4 Road and Rail Noise Guidelines, Sept 2019 (Section 4.4).

19. Signage

Objectives

- Ensure that any business signage is well-integrated with the building and appropriate for the scale of the townsite

Guidance

- Creative, playful signage made from natural or recycled materials is encouraged.

Requirements

- Augusta-Margaret River LPP26 – Signage applies to this precinct, with the following modifications:
 - The following signs will not be supported in the LDP area: C1-C7, H3, I1, J1, K1, L1, M1, M2, N1, O1
 - D2 type signs are further limited to maximum letter height of 500mm and to a horizontal format



Residential and tourism uses can be creatively integrated with commercial developments, either above or behind non-residential uses.



Signage should generally be attached directly to the building or associated awning / verandah

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Sustainable Resources

20. Water Supply

Objectives

- Ensure adequate potable water supply for the intended use

Guidance

- Provide adequate rainwater collection and storage to meet the operational requirements for water for the proposed land use and scale.
- Residential / tourism accommodation uses shall provide rainwater collection and storage in accordance with Section 8.2 of the Witchcliffe Ecovillage Building Design Guidelines (Residential).

Requirements

- Rainwater tanks, where constructed above ground, shall be located at least 12m behind the Primary Street boundary
- Rainwater tanks shall be set back a minimum of 500mm from any lot boundary.
- Rainwater tanks, if visible from the street or PAW, to be constructed of Zinalume.

21. Power Supply

Objectives

- Install sufficient solar panels to meet the power needs of the intended development and land use

Guidance

- Design building roofs with consideration of solar panel efficiency.
- Consider installing an individual battery on the premises to store excess solar energy.
- Larger system capacity can be accommodated and is encouraged, please discuss system capacity during the Approval Process.



Solar panels are less conspicuous when they sit flat on a roof or are hidden behind a parapet wall

Requirements

- A minimum of 6kW of solar panels and a 5kW inverter shall be installed for each development on the lot. Any residential dwellings will require additional panels and associated inverter with the same requirements.
- Each development is required to connect to the strata switchboard and provide an internet connection with modem and SwitchDin droplet hardware to facilitate microgrid communication and metering.

22. Energy Efficiency

Objectives

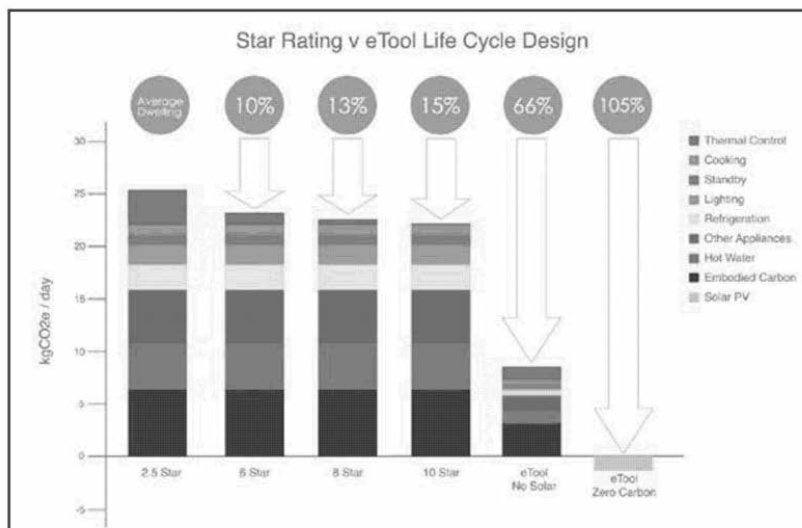
- Design buildings to minimise the need for artificial heating and cooling.

Requirements

- Commercial development must demonstrate compliance with Section J of the National Construction Code, Volume 1, Amendment 1.
- Class 1, Class 2 or Class 4 Sole Occupancy Units must achieve a NatHERS thermal rating of 8 stars.



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Residential NatHERS Star Rating vs Life Cycle Design (courtesy eTool <https://etoolglobal.com/>)

23. Lifecycle

Objectives

- Achieve low carbon buildings as demonstrated by a lifecycle analysis of each development.

Guidance

- Development within the commercial precinct is to achieve low carbon buildings, consistent with the high standards established for the Witchcliffe Ecovillage.
- Lifecycle analysis considers the embodied energy / carbon from two areas: operational use and building materials.
- Operational use. This is any function that requires external energy such as heating, cooling, lighting, hot water heating etc
- Building materials. This includes the energy required to source the raw resource, refine the resource, transport it to site, and install.
- Passive solar design strategies and selecting energy-efficient appliances / machinery can be effective in reducing the operational energy required for the development.

- Sourcing local, natural, and less-refined construction materials can help to reduce the embodied energy in the development.
- eTool, a Perth-based software company, has agreed to perform customised LCA analysis for each design proposal. This process will include modelling a typical base case for the proposed business, setting a carbon emissions target specific to that business, and working with the purchaser's design team in materials selection, solar system capacity and design approach to achieve the required reduction. The cost for this LCA analysis (approx. \$2000.00) is included in the lot price. eTool's service includes provision of recognised certification that can be used in business marketing.

Requirements

- Development must meet Life Cycle Assessment Minimum Carbon Emission target of -90% carbon emission compared to OECD average (eTool's 'Platinum' medal).
- Submit LCA report from eTool verifying compliance with the carbon emissions target as part of the design review process.



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Design Review Process

Concept Design Review

Conceptual designs are to be submitted to the Witchcliffe Ecovillage design team for review to establish that the key principals are being met and the proposed design is consistent with provisions of the Local Development Plan and the objectives of the Witchcliffe Ecovillage Commercial Precinct Building Design Guidelines. This review process needs to be completed prior to submitting any plans to the Shire.

Prior to starting the design process, we recommend a thorough review of the relevant documents, example plans, and checklists. Please ask any clarification questions before committing to any particular design outcome, as this saves everyone time and energy.

Conceptual design submission requirements:

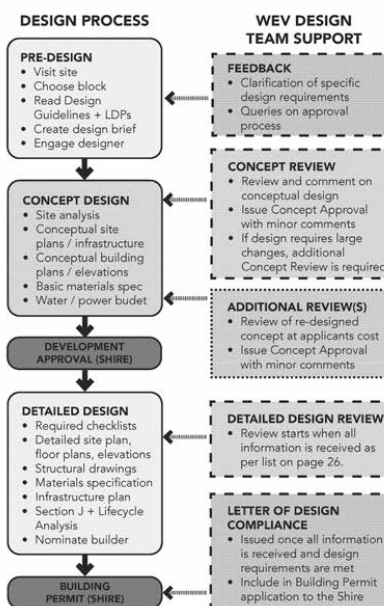
- Site analysis
- Sketch site plans
- Sketch building plans, cross-sections and elevations
- Proposed power systems
- Location of tanks
- Carparking location
- Exterior material selection
- Landscaping and fencing concept plans

The WEV Design Team will undertake one concept review once all of the required drawings and information are provided. We will respond with a detailed email response identifying any design suggestions or areas of concern. If the proposal is substantially consistent with the design intention for the site (as outlined in the applicable provisions), we will issue a Concept Approval email along

with any minor comments to incorporate into your Detailed Documentation. This Concept Approval should be submitted to the Shire with your Development Approval drawings and information.

If the conceptual design requires substantial modification due to non-compliance with the LDP's or BDG's, it will need to be revised accordingly and then reassessed by the WEV Design Team before the Concept Approval letter can be issued. As the developer has only allowed for one iteration of this process, additional concept reviews (if required) will cost the applicant \$500 per review.

Please note, the WEV Design Team will not provide advice or be deemed to be providing approval for land uses, as that is a Shire responsibility and will be dealt with at Development Approval stage.





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Development Approval (Shire)

All development proposals are required to obtain Development Approval (DA) from the Shire of Augusta Margaret River. This process will assess the proposed built form as well as the intended land use against the provisions of the Scheme, the R Codes (for any accommodation component), and the Local Development Plan. Support for the proposed design from the Witchcliffe Ecovillage is required prior to submission to the Shire for DA approval. Any material variation between the DA submission and the concept design approved by the WEV design team may delay issue of our Detailed Design approval at the next stage. For DA submission requirements, please see the Shire's website.

Please also refer to your Strata Scheme's bylaws prior to submitting a DA to ensure that proposed land use is also consistent with the Scheme's Bylaws.

Detailed Design Review + Approval

Following the Development Approval, the proponent will refine the design and prepare construction documentation and detailed materials specifications. Once these are completed, there is a design review process with the Witchcliffe Ecovillage design team to verify compliance with some of the more detailed requirements of the Design Guidelines. This is a checklist assessment process, the onus is on the proponent to provide all details required and demonstrate compliance with the BDG's.

Detailed Design submissions shall comprise:

- Evidence of Development Approval from the Shire, including stamped plans
- Building Design Guidelines compliance schedule/checklist
- Detailed site and infrastructure plan, including finished floor levels and key site levels to explain the site drainage strategy
- Detail building floor plans, roof plan, elevations & sections
- Carparking plans & specification
- Landscape plans & specification, including fencing
- Services including water storage & location, photovoltaic system and location
- Structural engineering drawings
- Building materials specifications
- Fixtures and fittings schedule
- Schedule of external materials and colours
- Section J Thermal Assessment Certificate
- Life Cycle Assessment Summary & Certificate
- Builders' Waste Management Plan
- Executed Construction Management Agreement and payment of Security Bond

Once the WEV design team deem the application compliant with our requirements, a formal letter of Design Compliance will be issued to the proponent. This letter should be submitted to the Shire with the other documentation required for Building Permit.

Building Permit (Shire)

A Building Permit is required for all structures (residential, commercial or industrial) including but not limited to new works, alterations, additions, swimming pools, spas (below and above ground), pool safety barriers / fence for pools & spas, patios, retaining walls and sheds.

Building Permits must be obtained prior to the commencement of any building work. To



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obtain a Building Permit, an application form (BA01 or BA02, see below) together with one copy of all plans and specifications must be submitted to Augusta-Margaret River Shire Building Services.

Submission requirements can be found on the Department of Commerce website <http://www.commerce.wa.gov.au/building-commission/building-approval-forms-0>.

To speed up the approval process, applicants can engage a private building surveyor to certify plans prior to lodging with the Shire for approval.

- Certified applications - BA01 - approval timeframe 10 business days
- Uncertified applications - BA02 - approval timeframe 25 business days



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Standards During Construction

In order to ensure a quality build, an orderly construction process and to reduce impact on neighbours, the following requirements must be met during construction:

- Construction works must comply with all Shire policies, regulations, and strata bylaws.
- Ensure all trades and contractors are aware of sustainability infrastructure requirements, e.g., correct installation of insulation, correct location of rainwater tank inlet, correct placement of PV array, etc.
- The site must be kept clean at all times during construction to minimise impact on neighbours. All rubbish must be disposed of off-site.
- The lot must be maintained prior and during construction, with grass cut, weeds and rubbish removed.
- Earthworks are to be managed carefully, and dust is to be controlled.
- Storage of all plant and materials to be on the subject lot only (not on adjoining lots, open space or common property even if unoccupied).
- Vehicle parking is not permitted on other lots, open space, median strips or other landscaped areas.
- Vehicle, machinery and worker access to the lot is strictly via Willerin Lane only, not via Wolghine Avenue, Bussell Hwy, Kulbardi Way or the pedestrian access way.
- Existing vegetation is to be protected with tree protection barriers.
- Stormwater is to be appropriately managed (sediment to be controlled and managed so it does not impact downstream swales).
- Swales along road verges must be maintained and not obstructed or filled in, and cross-overs / culverts over swales must not be damaged.

Prior to submitting documentation to the Shire for Building Permit (and before commencing construction), lot purchasers and their selected builders will be required to sign a Construction Management Agreement. This will acknowledge that the purchaser and builder are aware of the requirements for building in the Ecovillage, and that the builder and all trades will comply in an orderly and courteous way.

Owners of lots must also commit to making every effort to ensure minimum damage to roads, paths, landscaping on verges and in community gardens during construction. To this end, WEV will require a security bond of \$1,000 to be held in escrow during the construction process. Owners will be liable for replacement and repair costs of any damage (enforced via each cluster's strata bylaws).



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Appendix A - Relevant Portions of Sustainable Residential Building Design Guidelines
2.3 Architectural Character Objective: Witchcliffe Ecovillage buildings should generally reflect the rustic aesthetic of a small South West village, without needing to replicate or mimic existing building forms. Attention should be given to simplicity of form, expression of natural materials, harmonious proportions, and careful rendering of details and finishes on building facades. Guidance: • Simple geometric volumes and vertical elements • A mixture of natural earth rendered and timber wall external elements • Use of local, natural and sustainable materials wherever possible in construction and landscaping, such as plantation and recycled timber, straw bale and render, rammed earth, hempcrete, clay, recycled bricks, limestone and granite • Zincolume metal sheeting for roofs and rainwater tanks • Creative and artistic use of recycled and sustainable materials • Predominantly steep (30-45 degree) double pitch roofs with overhanging eaves at gable ends • Skillion roofs with lower pitches, lean to elements and clerestory windows • Loft spaces and dormer windows • Deep overhangs of roof structures • Larger building volumes broken up into parts using design elements • Small punctured openings and double volume openings • Recessed window and doors with proportionate frames • Windows typically vertical or square rather than horizontal • Balconies and verandahs to provide shade, shelter and legible entry statements • Shutters, awnings, solar pergolas, and other seasonally adaptable shade elements • Creative use of garden fencing, stone / rammed earth walls, and landscape features to complement buildings, gardens and streetscapes • Attention to detail in materials, finishes and transitions • Integration of sustainability features into building design, e.g., solar panels • Consideration given to the presentation of all elevations of the home, not just the street façade • Avoid overtly expressed period or regional styles (e.g., Federation, Balinese, Nordic) as these are not considered consistent with the Ecovillage aesthetic or rural character of the region. Required: • Comply with requirements in Sections 5.1-5.5 and 6.1-6.10 3.1 Site Analysis Objective: Undertake a detailed analysis of the site prior to beginning the design process to provide a solid basis for design. Guidance: • Key background information would include review of climate data such as prevailing winds, sun angles, rainfall amounts, and soil quality • Important drawings would include a site feature survey of your block showing: ○ the extent and location of slope;

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- o cadastral boundaries; - o relevant Local Development Plan requirements, (e.g., nominated crossover location and building setbacks); - o access to services (NBN, electricity microgrid, stormwater drainage) and - o interface with the concept designs for the neighbouring lots (if available).
Required: • Compile and review relevant background information and drawings prior to attending your Concept Review meeting with the Design Team.
3.2 Setbacks
Objectives: Setbacks ensure that buildings are appropriately spaced apart to guarantee access to sunlight, ventilation, privacy and to create landscaped streets.
Guidance: • Carefully review the applicable Local Development Plan to understand the specific setbacks for your block. • Carports and rainwater tanks are subject to the overall building envelope as outlined in the Local Development Plan.
Required: • Adhere to all setbacks specified by the Local Development Plan for your lot.
3.4 Orientation
Guidance: To achieve effective solar orientation of the house on site, with internal and external living spaces generally located to face north, and service areas to the south.
Objectives: • The Commercial Lots are positioned on an east/west axis, with setbacks provided on each lot to ensure winter solar access is guaranteed to the north edge of every building. • The most effective building footprint on east/west lots maximises the northern facade, with the north and south-facing facades 1.5 to 2.0 times the length of the east and west facades.
Required: • Building floorplans must demonstrate effective solar passive building orientation.
3.5 Outdoor Spaces
Objectives: Encourage indoor-outdoor living that takes advantage of solar orientation, promotes social interaction, and integrates exterior spaces into the overall design concept of the dwelling.
Guidance • Maximise northern exposure into principal outdoor spaces. • Consider function and best time of day/season, e.g., east facing breakfast courtyard, south facing verandah to provide a cool summer space, deck to north with clear sheeting for winter protection and solar pergola for summer shade, etc.). • Plant deciduous trees north of the principle courtyard to provide summer shade. • Ensure landscaping doesn't impact on your or your neighbour's solar access. • Design landscaping to provide wind protection. • AMR Shire provides households with three wheelie bins for general, compostable and recyclable waste streams. Provide a convenient and discreet area to enable efficient waste management.

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Required: • At least one usable open space (minimum dimension 4m) must have direct northern exposure and be located adjacent to an indoor living area for ground floor dwellings. • Shade structures over outdoor spaces to be designed and located to maximise winter sun access to the dwelling (see section 5.4, Shade Elements). • Locate clothes drying in an area that is screened from street.
3.7 Service Infrastructure
Objective: To ensure an efficient layout of service infrastructure that will minimise visual impact on the streetscape.
Guidance: • Configure optimal locations for essential service infrastructure including solar panels, inverter, rainwater tanks, monitoring interfaces, reticulation controller, bin storage, etc. Consider access, setbacks, visual amenity and functionality. • Locate solar panels to optimise solar collection (see section 8.1, Energy, and section 5.3, Roof Forms). Calculate the water demand of your household and size your rainwater tanks accordingly (see Section 8.2, Water). • If you plan to provide household batteries, they must be located to comply with safety regulations and provide practical access (see Section 8.1, Energy). • Make provision for stormwater flows and rainwater tank overflows.
Required: • Provide location and specifications for all service infrastructure on detailed Infrastructure Plan. • Aside from solar panels, solar hot water systems and unpainted metal rainwater tanks, all external fixtures must be screened from the street and pedestrian walkways. • Locate your rainwater tanks in a suitable location that addresses LDP setback requirements and doesn't interfere with solar gain to indoor and outdoor living spaces. • Situate rainwater tank to facilitate overflow to stormwater drainage.
4.1 Passive Solar Heating
Objective: • Design your house to take advantage of renewable solar energy from the sun to heat your house in winter without overheating in summer.
Guidance: <u>SOLAR GAIN</u> • The maximum sun angle at Witchcliffe is 80° on December 22nd (summer solstice) and 32° on June 21st (winter solstice). Design windows to maximise sun exposure for one month on either side of the winter solstice, and to minimise direct sun exposure for one month on either side of the summer solstice. • Solar gain during hot weather in the morning (east) and evening (west) must be carefully controlled because of the low angle of the sun. Consider vertical louvers, deciduous vines, adjustable external shades / shutters or deep verandahs. • Efficient solar passive houses are generally no more than 2 rooms deep to allow warmth to penetrate to rooms on the south, and approximately 1.5 times longer on the east west axis



THERMAL MASS

- The key characteristics of thermal mass materials are: high density, thermal conduction, appropriate thermal lag, low reflectivity, and high-volume heat capacity.
- Thermal mass materials have poor insulation (R) values, so are not recommended for external walls. Incorporate thermal mass materials in the interior of homes to provide temperature moderating benefits by absorbing heat from the sun (via solar access) during the day and then releasing it at night as temperatures cool.
- Materials that are considered good thermal mass include concrete, stone, rammed earth, brick, adobe, and water.
- Newer phase-change materials (PCMs) provide thermal mass that may be useful in light-weight construction. While currently more expensive, they take up less room and are lighter so less costly to support on an upper level. These materials include paraffin wax and a range of benign salts, with new products emerging every year.
- The WEV Life Cycle Assessment recommended the use of thermal mass wall elements for all internal walls (e.g., single brick, recycled brick, mud brick, stone, rammed earth, light earth construction, etc.) to maximise thermal performance.

Required:

- Living spaces must generally be located on the northern side of buildings.
- Provide sufficient and appropriately located thermal mass to capture and store winter heat (e.g., thermal mass floor in northern living areas, internal rammed earth wall placed to absorb winter sunshine through glazing, single leaf internal brick walls).
- Thermal mass materials can only be used as part of an external wall (e.g., rammed earth) if insulated to Ecovillage R- value standards, see Section 6.7, Insulation.

4.2 Passive Cooling

Objective:

- To utilise the breeze and the dynamics of heat rising to naturally cool your house in summer and to provide fresh air to internal rooms.

Guidance:

- See YourHome, "Passive Cooling" (p.135-48), for advice regarding air movement and cross ventilation, including best window and overhang designs for directing air flow.
- Provide appropriate shading to external walls and glazing, see Section 5.4, Eaves and Shade Elements.
- Provide reflective and bulk insulation in roof space as per Section 6.7, Insulation.
- The prevailing summer winds at Witchcliffe are from the SE in the morning and SW in afternoon.
- To achieve effective cross-ventilation, houses should ideally be no more than two rooms deep, with an opening (window or door) allowing air into each room and another on an opposite wall to allow it to exit.
- To create higher velocity, the 'upwind' opening (south) should be smaller than the 'downwind' opening (north).
- Choose window types with large effective openings such as double-hung, sliding, casement or louvers (high-efficiency well-sealed louver units only).
- South facing windows should be thermally efficient and minimised in area to what is necessary to provide cross ventilation and satisfy National Construction Code requirements, in order to avoid heat loss in winter.
- Windows / doors located for cross ventilation should also provide insect screens..



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- We recommend that all living areas and bedrooms should be provided with ceiling fans to provide supplementary air flow when required, see Section 8.6, Heating and Cooling. - Provide thermal mass (e.g., concrete floor, single leaf brick walls, rammed earth feature wall) located internally to lose heat via breezes, ceiling fans or night venting in summer. - Shade thermal mass from direct sun in summer (e.g., eaves, solar pergola, deciduous trees, etc.).
Required: - House designs must demonstrate adequate cross ventilation through primary living spaces and bedrooms with flow- path diagrams and appropriately located thermal mass. - Two storey or homes with vaulted ceilings must provide a mechanism to vent heat in summer via 'stack ventilation' (e.g., clerestory windows, roof ventilators).
4.3 Natural Lighting
Objective: Internal room layout allows for effective solar passive design outcomes
Guidance: - To enable sufficient natural lighting, the extent of glazing should be proportional to room size and volume. The general rule of thumb is that the glazing should be at least 10% of floor area of the room. - Aim to provide light sources from at least two sides in all living spaces to create a balance of dispersed light in the space. - Consider placing rooms on the east and west that would benefit from either morning or afternoon light. - Windows placed higher on the wall allow for deeper light penetration into a room. - Keep building footprint 'skinny' to allow sufficient light to access centre of home from the north. - Regular skylights should be used sparingly, as they cannot be easily shaded in summer, and allow heat loss in winter. Consider a dormer window or thermally efficient skylight instead. - Lighter floor colours naturally bounce light around a room.
Required: Appropriate glazing is provided so that tasks can be comfortably undertaken during the day without artificial lighting.
4.4 Room Layout
Objective: To achieve internal room layouts that are thermally efficient, comfortable, and functional.
Guidance: - Design floor plan to maximise thermal efficiency (see Section 3.2, Orientation, 4.1 Solar Passive Heating and 4.2 Passive Cooling). - Design floorplan with external expression in mind to create attractive and balanced elevations (see Section 5, Building Form). - Begin with a simple rectangular shape and simple roof form, (see Section 5.3, Roof Forms) and be aware of the impact of any extruding rooms on roof form. - In open plan and/or double storey houses, make provision for areas to be thermally isolated so that heating/cooling energy can be focused only on areas being used. - Consider providing airlocks/mudrooms at commonly used entrances to help maintain a comfortable internal air temperature. These have the added benefit of helping to reduce clutter and keep the house clean. - Consider layouts of existing or proposed furniture to provide functional flow.

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• Design 'wet areas' (rooms with plumbing) so that they are clustered together and close to the location of the hot water system. Shared plumbing walls will help to minimise pipe runs, saving money and reducing heat loss for hot water. • Consider reducing the number of bathrooms, and conveniently locate at least 1 bathroom with a separate toilet to avoid requiring an additional powder room. • In small homes, consider combining a bathroom and concealed laundry to minimise wet areas. • Locate kitchens and laundries close to each other and provide a convenient doorway to an outdoor service area to provide easy access to carport/garage/store, bin storage and washing line. • Locate built in storage/book cases in hallways to make use of an otherwise redundant space. • Bedrooms are generally the least actively used rooms in a house, used mainly for dressing and sleeping. Consider reducing their size, or incorporating other elements, such as storage, craft or study spaces. • Design guest bedrooms as multi-purpose spaces—yoga room, craft room, study, etc.
Required: • Internal room layout must allow for effective solar passive design outcomes
4.5 Accessibility
Objective: To design your house to suit your current needs while also allowing the flexibility to provide accessibility to all visitors and accommodate future needs.
Guidance: • As part of the design process, consider accessibility and changing spatial needs, which may include children, grandchildren or elderly parents, or relate to the mobility requirements of yourself or visitors. • The Livable Housing Design Guidelines (4th Ed.) provide dimensions and spatial requirements for three categories of accessibility (Silver, Gold and Platinum), which vary by the degree to which they accommodate those with mobility challenges. (For more dimensions and specifications, visit http://www.livablehousingaustralia.org.au/.) • To achieve full Universal Access compliance inside and outside of the home, use the standards set out in AS1428.1.
Required: • Design to the requirements of Livable Housing Design Guidelines Silver Category for any detached dwellings on the lot to provide future flexibility and ensure the basic accessibility of your home to visitors with differing mobility needs: 1. A safe and continuous and step free path of travel from the street entrance and/or parking area to a dwelling entrance that is level. 2. At least one level step-free entrance into the dwelling. 3. Internal doors and corridors that facilitate comfortable and unimpeded movement between spaces. 4. A toilet on the ground or entry level that provides easy access. 5. A bathroom on ground or entry level that contains a hobless shower recess. 6. Reinforced walls around the toilet, shower and bath to support the safe installation of grabrails at a later date. 7. Stairways designed to reduce the likelihood of injury and also enable future adaptation.

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5.1 Building Facades

Objectives:

To ensure that building facades visible from the street or pathways are well-composed, expressive, and balanced, with appropriate scaling, legibility, and use of compatible materials.

Guidance:

- Design facades according to the principles set out in Section 2.3 Architectural Character. Design the internal layout of the building with the external expression in mind (see Section 4.5, Room Layout).
- Harmonious proportions and the use of natural external materials are key considerations.
- Keep the main building volume simple and attach external elements to break up long walls or add shadowlines, such as verandas, balconies, louvres, shade structures, awnings, and bay or dormer windows.
- Arrange windows and doors to achieve a visually balanced composition (symmetrical or asymmetrical.)
- Windows should generally be rectangular with a vertical proportion.
- A separate window surrounded by solid wall tends to be more attractive in a vertical proportion (window panes with a minimum 1:1 height to width ratio) as it relates to human scale and proportion.
- Windows ganged together allow for greater flexibility in terms of shape/proportion where a 'window wall' is intended. These are often combined with sliding glass or French doors.
- "Punched" or recessed openings (to create external overhangs and window sills) are preferred to flush openings and can create visually interesting facades without adding cost.
- Avoid long blank walls (>5m) without openings facing the street or community garden. If unavoidable (for example, a west facing wall) explore the use of texture and pattern expressed in natural materials or features such as fences / walls, landscaping, shade structures, etc., to provide visual interest.
- Use landscaping features (walls, fences, shrubs) where possible to soften the visual impact of rainwater tanks and carports / garages on the streetscape.
- Design simple, high quality and well executed external finishes and details, including gable ends, use of colour, material transitions, etc., (see Section 7, Finishes and Details).
- Avoid overtly expressed period or regional styles (e.g., Federation, Tuscan, etc.,) as these are not considered consistent with the Ecovillage aesthetic or rural character of the region.
- Double storey porticos are not allowed.

Required:

- Building form and facades must generally accord with the Ecovillage's adapted aesthetic principles, see Section 2.3, Architectural Character.
- Create a comfortable entry experience from the public street, including a separate pedestrian pathway, adequate lighting, and a clearly visible entry door.
- Ensure that building facades address and appear attractive from the streets and pedestrian walkways (where applicable).

5.2 Building Height and Bulk

Objective:

To ensure that the height and bulk of buildings is compatible with the intended village scale and does not negatively impact the solar access opportunities on neighbouring lots.



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Guidance:

- On larger lots, buildings can be designed as a collection of smaller segments rather than one large mass. These segments can be used to effectively shape exterior space and create micro-climates. Typical configurations include footprints shaped like a U, T, or L.
- Overly complex shapes and rooflines will add cost to the build, and potentially increase the operational cost of heating or cooling your home.
- Ridge height is generous (see applicable LDPs), slightly higher than the AMR Shire standard but takes into account the Ecovillage requirement for steeper pitches on gabled roofs.

Required:

- Building walls are limited in height to 2 storeys (maximum 7m plate height).
- Ridge height maximum 10.5m.
- Above 4m in height on south buildin edge, the building must be set back 6m from the southern boundary (see Figure 3 in Local Development Plan).

5.3 Roof Forms

Objective:

To ensure that buildings have roof types and configurations that fit with the intended character of the Ecovillage and provide for efficient placement of solar panel arrays.

Guidance:

ECOVILLAGE CHARACTER

- Keep roof forms clear and simple, with one roof type / form clearly dominant and all others minor.
- Hip roofs are not consistent with Ecovillage architectural character.
- The preferred and recommended Ecovillage roof forms for residential are:
- Steep (30°- 45°) symmetrical, double pitch gable roofs with overhanging eaves at gable ends;
- Skillion (10°-15°) with overhanging eaves; and
- Skillion (20°-25°) with lean to or split gable with overhanging eaves.
- Gable roofs take their cue predominantly from steeper pitched roofs as found in barns, using their form to create opportunities for useable loft spaces.
- A steep gable can look disproportionate in > 8m width at the gable end. Consider reducing building width, increasing plate height, adding loft or bay windows, verandahs / pergolas, or providing feature material transitions to achieve balance. A split gable may also be a solution over a wider span.
- For skillion roofs, ensure roof pitch and sheeting span are sufficient to provide adequate rainwater run-off, as well as achieve aesthetic outcomes. Skillion roofs can look disproportionate if the span is too short and steep, or if the span is too long.
- Butterfly, saw tooth, flat roof forms and other configurations with box gutters over internal spaces are not recommended due to the risk of leakage during heavy rain events.
- See also Section 5.4, Shade Elements, regarding eave requirements.

SOLAR PANELS

- Design your roof to accommodate your required solar panel array. The minimum 6.0 kW array will occupy approximately 40m² roof area.
- Solar panels are most effective when positioned to face north at a 32° angle (Witchcliffe latitude) to maximise winter solar access, however, efficiency is adequate between approx. 15° and 45°.
- North facing roof space for PV array can be located on carport if adequately sized and located if your home doesn't provide sufficient north facing roof surface.

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East and west facing placement of PVs will lead to an approximate 15-20% reduction in PV performance (depending on roof angle) and is generally not recommended.
Required: - No hip roofs. - Gable roofs must be min. 30° pitch (recommend 30°-45° for spans up to 8m wide, 30° for 9-12m wide) and generally symmetrical. - Skillion roofs are to be no steeper than 25° with max. 10m spans. - Flat roofs or sections of flat roof will be considered only if house design can demonstrate that: the design principles of Section 2.3, Ecovillage Architectural Character, have been addressed through built form and material selection; - all windows are provided with appropriate external shade elements; and - roof has sufficient slope / waterproofing to facilitate rainwater run-off and avoid leakage. - Gable dormers to loft spaces must have eaves and same slope roof as primary roof. - Flat and skillion roofs must demonstrate aesthetic and functional accommodation of PVs and gutters for rainwater collection. - Any box gutter over internal rooms must be sized to accommodate one in 50-year rain events.
5.4 Eaves and Shade Elements
Objective: To design visually integrated shading that allows solar gain in winter but protects walls and glazing from summer heat transfer.
Guidance: <u>EAVES</u> - North-facing gable eaves should be sized so they allow maximum solar penetration for one month on either side of the winter solstice, and are fully shaded for one month on either side of the summer solstice. - All other gable eaves to be minimum of 300mm (see Section 7.4, Gable Ends and Eaves). Ideally eaves will be symmetrical and balanced across building elevations visible to the street or community garden, as well as sized to provide shading to walls and glazing as required. - Skillion roofs facing north and clerestory windows to north will require case by case assessment of windows and eaves to achieve effective winter solar access and summer shade, and may require additional shade structures (e.g., solar pergola). <u>WINDOW SHADING</u> - North-facing windows should maximise winter solar access, using external shading (eaves, solar pergola, deciduous trees) to minimise heat gain in summer. - West facing windows require deep eaves, verandahs or additional shade structures to diminish late afternoon sun in summer. - East facing windows are a valued source of morning sunshine to living areas in winter, and are best protected with seasonally adaptable external shading (awnings, fins, deciduous plantings, etc.) - Ensure that fixed shading structures over west and east facing windows still allow lower angled winter sun penetration to living rooms. <u>EXTERNAL SHADE STRUCTURES</u> - Individual external window shades can augment eaves in protecting key windows (gable end to west or flat roof).



- Balconies, porches and verandahs should be designed as integral parts of the façade, complement the style and construction materials of the building, and only provide beneficial shading impacts on rooms below. - Balconies and verandahs may project into boundary setbacks areas as identified in the applicable LDP.
Required: - Adequate roof eaves/overhangs (responsive to orientation) must be provided over all external walls of the dwelling (unless a parapet wall and flat roof is specified, in which case all glazing must be separately and adequately shaded.) - All other gable overhangs and eaves to be minimum of 300mm. - Verandahs, pergolas, patios and other external shade structures over outdoor spaces on the north must not exclude winter solar access to northern glazing. - Balconies and verandahs must be supported by posts or columns of at least 120mm x 120mm (or ground floor of house). - Balconies may cantilever no more than 750mm without visible support structures such as brackets. - Balconies and verandahs are to be no less than 1.8m deep to provide a functional sitting area.
5.5 Carports and Garages
Objectives: Minimise the impact of vehicle parking on the streetscape and encourage social interaction.
Guidance: - Consult the applicable LDP for your lot for crossover locations and garage and carport setbacks. - Free standing carports (steep gable or skillion roofed) are the preferred design outcome as they have less visual impact from the street than an attached garage with double doors, and the open design encourages neighbourly interaction as residents come and go. - The design of the carport should complement the main structure either by mimicking the roof configuration (same roof slope and type) or by 'deferring' to the primary building by keeping the profile low to minimising visual impact. In both cases, streetscape impact is the primary consideration. - Gabled carports can easily incorporate a loft storage space for surfboards, etc., and lockable storage at ground level. - If carport gable is to be filled in, keep finish and detail simple. - Garages can incorporate an upper floor studio (with window to the street frontage) or covered outdoor living area to maximise space and (where applicable) take advantage of views. - Preferred garage doors are sectional or tilt doors in timber.
Required: - Carports and garages must meet all setback requirements of the applicable LDP. - Garage and carport construction and roofing materials to reflect and / or complement main building. - Gable roofs to carports must reflect the pitch of the main house (if main house has gable roof). - Carports are required to have min. 300mm eaves.
6.1 Sustainable Materials
Objectives: To minimise the carbon emissions and environmental impacts associated with the construction and life cycle of buildings in the Ecovillage.



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Guidance: Choose materials that will assist you to achieve the thermal performance and carbon negative objectives required by Sections 13 (Solar Access) and 23 (Life Cycle Analysis).
Required: - Provide a detailed schedule of all construction materials and finishes with detailed design application. - All timber must be Australian certified plantation, FSC certified, locally milled from fallen paddock or verge trees, or recycled timber. - Wall framing to be constructed from timber or recycled steel. - Walls must be constructed of locally sourced, low carbon, and/or renewable materials wherever possible.
6.2 Unconventional Construction Materials
Objectives: To ensure non-standard construction methods comply with building standards and conform with Ecovillage sustainable design requirements.
Guidance: - Innovative sustainable construction methods will be considered by the Design Team; however, house plans will need to comply with National Construction Code (NCC) requirements in order to gain Augusta Margaret River Shire development approval. - If you are considering using a non-conventional building method, it is recommended that you check with the AMR Shire Planning Department prior to beginning design work. - Tiny houses on wheels, shipping container buildings, and earth ships, etc., would fall into this category.
Required: Comply with the requirements of the NCC and general sustainability requirements of 6.1, Sustainable materials.
6.3 Walls
Objectives: To use sustainable wall construction materials which provide excellent insulation values and provide internal thermal mass.
Guidance: "Slab on ground" is the most common approach to housing foundations in a cool climate. This is a cost-effective way to achieve thermal mass inside a building and can even serve as the internal floor surface (with appropriate treatment). Production of concrete is responsible for significant greenhouse gas emissions, so it is important to minimise your building footprint as much as you can by eliminating wasted spaces. - The WEV LCA Report recommended the inclusion of local supplementary cementitious materials in the slab foundations (e.g., Boral fly ash) to reduce the GWP of the slab. This is available locally and is no more expensive than normal cement mixes. It has slightly different qualities to conventional cement (e.g., slower curing time) but has many overall benefits. Recommend incorporation of up to 30-40% fly ash into concrete mix if covering building slab with additional floor cover such as timber. Not recommended for concrete floor slabs that will be cut and polished. - Other "green cement" products will be considered and approved as alternative materials become available in WA.

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• Rammed earth flooring is also an option for home builders and provides a small saving in greenhouse warming potential (GWP) but does require additional concrete wall footings. • Most Ecovillage lots will provide a level building site, however, on sloping sites, building 'on stilts' with columns and footings is an approach that allows the building to float above the ground. This is not recommended without the provision of either: ◦ a suspended slab; or ◦ timber floor with the addition of underfloor insulation (e.g., R-2.0 underfloor batts) to prevent heat loss; and ◦ either appropriately located thermal mass internal walls, or new generation "phase change materials" to buffer temperature changes. • For more information on phase change materials, see https://renew.org.au/sanctuary-magazine/building-materials/changing-phase-are-pcms-living-up-to-their-promise/. • Insulation is required below a suspended slab with no habitable rooms below (e.g., above a garage), however, slab edges on ground do not require insulation. See Section 6.7, Insulation.
Required: • House designs without a concrete slab must demonstrate equivalent thermal performance outcomes through the incorporation of thermal mass materials.
6.5 Spanning Elements
Objectives: To select spanning elements which are structurally appropriate and environmentally responsible.
Guidance: • The two most common spanning materials in a house are steel and timber. Concrete is occasionally used (e.g., suspended slabs) but these are always reinforced with steel to handle the tension load. • Structural steel beams allow for long single spans and portal frames. However, steel is a high embodied energy material and expensive. Cold formed steel is often used in construction for smaller structural members, but it is difficult to recycle. As such, timber should be substituted wherever possible (timber laminated beams or trusses should be able to achieve the required spans in most cases). • To minimise structural costs, consider the maximum spans of standard timber beams and design accordingly. • Suspended slab for second storey is permitted if thermal mass and noise attenuation qualities are required. Alternative load bearing cementitious flooring systems will also be considered.
Required: • Timber is to be used as the primary spanning material unless it cannot reasonably be used to meet the structural needs of the design.
6.6 Roofing Materials
Objectives: To ensure that roofing within the Ecovillage reflects excess summer heat from the building and provides a consistent aesthetic.
Guidance: • Light coloured and reflective roofing materials such as zinalume or steel sheeting reduce heat gain in summer. Dark coloured steel sheeting or tiles (concrete, slate, or clay) absorb heat and increase heat gain in summer. • Zinalume steel provides up to four times the serviceable lifespan of galvanised steel sheeting.



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- Roofing materials that incorporate solar electricity generation can be approved as a variation if they provide an environmental advantage over standard roofing material and PVs. 'Green' roofs planted out with vegetation or grasses are allowed, provided there is still sufficient impermeable roof space for rainwater requirements (see Section 8.2, Water). Green roof proposals must include a management plan and safe access considerations and be National Construction Code, Vol. 2 compliant.
Required: - Roofing material must be zincalume sheeting (not galvanised or Colorbond). - Allowable metal profiles are corrugated or standing seam. Other profiles can be considered with approval from the WEV Design Team.
6.7 Insulation
Objectives: To optimise the amount of insulation within the building envelope in order to minimise the requirement for heating and cooling.
Guidance: - Choose add-on insulation products which are non-toxic, durable, and resistant to fire, water, and vermin. - Reflective foil barriers combined with a layer of air provide directional resistance to thermal flows in walls and ceilings, ensure it is installed correctly to achieve desired effect and avoid condensation issues. - Ensure that wall wraps for timber framed weatherboard walls are vapour permeable to prevent condensation / air quality issues. - Vapour permeable sarking (rather than reflective foil) is recommended for use in roofs with higher levels of ceiling insulation in our cold winter, warm summer climate zone. - Avoid cellulose blow-in insulation (e.g., recycled newspaper) as this may be flammable and can promote pests and mould. - Avoid wool insulation as it has a high carbon footprint and may be flammable. - Ensure that corners of walls, ceilings and floors are properly insulated as this is where most thermal gaps occur. - The WEV LCA indicated that slab edge insulation is not required in our climate (see Section 6.4). In addition, it does not facilitate visual inspection for termites.
Required: - All house roofs, walls and non-slab floors (open to the exterior) assemblies must achieve minimum R-Values as follows: - Roof / ceiling: R5 - Walls: R2.8 - Non-slab floor exterior exposure: R2.7 - Add-on insulation materials must be installed correctly, with attention to detail to ensure even distribution and no gaps. - Any thermal mass material forming part of the external walls must be paired with an additional component that provides a layer of insulation sufficient that entire wall assembly complies with minimum R value.

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6.8 Window Frames and Glazing
Objectives: To design and locate efficient windows that maximise winter solar gain, natural light, and cross-ventilation, while minimising conductive heat transfer through the building envelope.
Guidance: <u>GLAZING</u> - Given the cool climate in Witchcliffe, winter heating is the priority. As such, the design requirement for windows is low thermal transmittance (U-values) for all windows and high solar penetration (SHGC) for windows facing north. - The SHGC difference between awning and fixed frame windows is caused by the relatively larger frame to glass ratio in an awning window; therefore awning windows to north should be slightly larger than fixed/sliding windows to achieve an equivalent SHGC. <u>FRAMES</u> - Conventional steel and aluminium frames are generally considered to be thermally inefficient and require expensive “thermal breaks” to avoid compromising your home’s thermal performance. However, the WEV LCA Report found no benefit from thermally broken frames in our mild temperate climate. - Aluminium window frames were assessed by the WEV LCA to have a higher GWP than plantation timber or lead free UPVC frames, but they have been included as an option to provide a wider design choice. - Choose operable window types (casement, sliding, etc.) that provide adequate cross flow ventilation while also sealing effectively to avoid heat loss in winter. - Lead free uPVC frames provide a lower cost and maintenance free alternative to timber frames and are available as efficiently sealed double and triple glazed units, however uPVC frames may have a shorter life span than timber or aluminium. - Louvre type windows are not recommended unless they are thermally efficient, tight sealing units. - A high Solar Heat Gain Coefficient (above 0.45) is recommended on north-facing windows for passive heating
Required: - House design plans must specify window frames / glazing type and must meet the following requirements: - Overall Uw maximum 3.0 for all windows (frames plus glazing) - Window frames are made from sustainably sourced timber, lead-free uPVC or aluminium.
6.9 Sealing and Ventilation
Objectives: To avoid creating air gaps in the building envelope that can transfer heat / coolness in or out of a building, and to avoid creating air quality issues through lack of ventilation.
Guidance: <u>SEALING</u> - Minimise the number of penetrations in the insulation layer of the building (e.g., select light fixtures that do not project into the roof space). Where it cannot be avoided, ensure an air seal around the penetration, and where possible add insulation to compensate. - Pay attention to common leakage points. Consider draught proofing. - Design airlocks at frequently used external door openings.



- Choose external doors and windows with airtight seals and ensure gaps between window frames, door frames, skirting boards and walls are effectively sealed. VENTILATION - Blower-door testing measures the air tightness of a building in "air changes per hour at 50 pascals" or ACH@50Pa. The average Australian home gets an airtightness score of a breezy 15 ACH@50Pa and is generally draughty and expensive to heat and cool. Your house designer / builder can advise you of the expected airtightness score of your new home. - A sustainable home built with attention to detail to sealing common gaps and penetrations should score between 3 and 7, and will maintain excellent air quality as long as there are operable windows, exhaust fans and no indoor pollutants in winter time when windows are closed for long periods (e.g., gas cookers, wood fires). - A very airtight home, with a score of 1-3 may require a small mechanical ventilation with heat recovery (MVHR) unit to avoid condensation and air quality issues in winter. - An extremely well-sealed house, e.g., to Passivhaus standards with a score less than 1, will require a centralised MVHR system. - Choose external doors and windows with airtight seals and ensure gaps between window frames, door frames, skirting boards and walls are effectively sealed. - Roof spaces should be provided with adjustable ventilation to vent summer heat and avoid winter heat loss.
Required: - Avoid unsealed recessed down lighting. - If using ventilated skylights, refrigerator floor vents, wall vents etc., ensure that they can be made airtight in winter. - Ensure exhaust fans are ducted and have non-return bales. - Houses built to Passivhaus or similarly airtight standards (>1 ACH@50Pa) will require a MVHR system.
6.10 Termite, Vermin and Wildlife Proofing
Objectives: Design new buildings to exclude termites, wildlife and vermin.
Required: - All houses must be constructed with roof spaces and wall cavities sealed to exclude animals. - Sub-soil chemical termite treatment is not permitted; provide physical termite barriers placed under slab in accordance with AS3660.1-2000. - Houses using straw bale construction or panels must use wire or fibreglass exclusion mesh between straw and render, or other method of vermin proofing.
7.1 Exterior Wall Finish
Objectives: To ensure that the exterior wall finish is compatible with the intended architectural character and sustainability objectives.
Guidance: The Witchcliffe Ecovillage will achieve a cohesive architectural sense of place through the use of an external palette of natural building materials and finishes, prioritising local, renewable, durable and low-embodied energy materials, (e.g., timber weatherboards, hemp render, lime and clay / earth renders, recycled or mud brick).



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- Artificial and composite cladding products are not encouraged, unless they are products that can demonstrate a sustainability / embodied energy advantage and still adhere to the aesthetics of the materials palette. - A homeowner wishing to use an alternative cladding or render finish must submit a detailed case to the WEV Design Team including the product source, specifications and life cycle assessment information.
Required: - All external building finishes to be in accordance with Ecovillage aesthetic principles and materials palette as described in Section 2.3 Architectural Character. - Stonework must be a minimum of 100mm thick (no stone veneers). - Metal sheeting for cladding is only permitted on sheds / outbuildings (not Ancillary Dwelling) and if selected must be Zinclalume - Any external brick walls must use recycled or mud brick. - The following cladding materials are permitted: TIMBER CLADDING Any solid timber cladding is allowed that can be verified as one of the following: - FSC Certified (Forest Stewardship Council) - Plantation Timber (with a chain of custody document or Statutory Declaration) - Recycled Timber - Locally milled timber sourced from fallen paddock / verge trees (a Statutory Declaration required from miller)
7.2 External Transition Materials
Objectives: To ensure that material transitions occur in locations that maintain the integrity of the design and the cladding material
Guidance: - External elevations should generally be made up of no more than two primary cladding or visible materials (e.g. timber weatherboards and rendered straw bale / hemp.) - Ensure that attention to material choice and details are applied to the whole house, not just the façade. - Lighter-appearing materials should generally be located above heavier-appearing materials on the building facade.
Required: - Joints between cladding materials in the same plane must be formed using a transition element such as a 'negative detail' (notch) or overlapping trim. - No exterior material changes on an outside corner (inside corner only).
7.3 Application of Colour
Objectives: To encourage an overall approach to colours within the Ecovillage that is consistent with the intended rural village aesthetic.
Guidance: - If painted, external walls should be predominately light or mid-tone with some allowance for feature elements of brighter colour or darker tone. - Contrasting colours are allowed on trim and elements such as fascia boards, downpipes, window frames, architraves, balustrades, etc.

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Dark timber finishes are permitted, as are untreated hardwood weatherboards.
Required: Avoid larger areas of bright, stark, or incongruous colours that do not suit the overall naturalistic palette of the Ecovillage.
7.4 Gable Ends and Eaves
Objectives: To ensure that gable ends and eaves are well-detailed, transitioning between materials at the appropriate locations.
Guidance: - Pay attention to the finish of all roof eaves as this seemingly minor detail will have a substantial impact on the visual presentation of your house. - Raked eaves may be left open with rafters/trusses exposed as long as the attic space is sealed. - Raked eaves closed with an angled soffit are consistent with the Ecovillage architectural aesthetic. "Boxed" eaves should be avoided, or closed with a flat soffit with raised heel.
Required: - Gable ends should be of a consistent exterior material, or if a material change occurs horizontally it should be at plate height; in line with the horizontal eaves; at upper floor height; or at the bottom of primary windows. - Transitions between gable ends and hip roofs need to be carefully detailed using one of two approaches: - Line entire eave on the rake, and lining follows rafter angle around the corner on the hip roof; or - if horizontal eave lining is desired for hip roof, gable end must feature material change / moulding at the lower edge of the lined eave to create a regular triangle of one consistent material at the top of the gable end.
7.5 Flooring
Objectives: Choose flooring surfaces that are low global warming potential (GWP) and suit your lifestyle and personal sensitivities.
Guidance: - The type of flooring you use in your home makes very little difference to its thermal performance, as long as you have a concrete slab providing thermal mass. However, there is significant variation between the global warming potential (GWP) of some commonly used flooring materials. - Wool carpet, in particular, was assessed as having a high carbon footprint, while sustainably harvested timber and linoleum were the materials with the lowest footprints. For people who are sensitive to dust mites and allergens, suggest avoiding carpet altogether, and if it is chosen, please choose carpet that is free from PFAS and PVC. Whatever flooring materials you choose, make sure that all glues, sealants, backings, underlays, etc., used to install them have little or no VOC (see Section 7.6, Internal Air Quality). - Whatever flooring materials you choose, make sure that all glues, sealants, backings, underlays, etc., used to install them have little or no VOC (see Section 7.6, Internal Air Quality).

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7.6 Non-Toxic Materials and Finishes
Objectives: To ensure excellent indoor air quality in all new homes to promote a healthy environment for residents, and to prevent off site pollution and health impacts caused by the manufacturing of materials and finishes.
Guidance: • When purchasing new furniture, ensure materials and finishes have low toxicity and do not contain PFAS, a potentially toxic fire-retardant chemical. • Many standard construction materials / finishes (e.g., chipboard / plywood, resin and laminate countertops, vinyl, paint) may contain high Volatile Organic Compounds (VOC) levels and are not permitted. • Fibre cement board is allowed to be used internally in wet areas and as lining for eaves / outdoor ceilings.
Required: • All materials chosen in the construction and finishing of your home must be below the CETEC VOC emission benchmark (0.5mg/m²/hour over 24 hours or 7 days, depending on the material). • All internal glues must be low-VOC, and paints and stains must emit zero VOCs. • Ensure installation of composite stone benchtops adhere to all safety standards for workers' lung health.
8.1 Energy
Objectives: To ensure a self-sufficient, resilient, renewable electricity power supply to meet the needs of all Ecovillage households.
Guidance: • Solar panels are to be considered as an integrated design element of the building. The permitted roof angles (see Section 5.3, Roof Forms) are designed to allow optimal solar energy production (between 90-100% if facing north) and present an aesthetically pleasing streetscape. • The minimum PV requirements have been designed to cater for the average Ecovillage household's energy requirements and provide renewable energy self-sufficiency. If your household has higher energy needs (e.g., greater use of appliances, higher than average heating or cooling requirements) or would like to generate additional energy for sale back to the grid, there is no restriction on households installing additional PV's and batteries. • As electric vehicles grow in popularity and accessibility and reduce in price, it will be important to ensure that all houses in the Ecovillage can provide a convenient outlet for slow charging of electric vehicles in their carports (10Amp is sufficient). • As of 2019, all solar PV systems, inverters, and storage batteries installed in Australia must comply with the following Australian Standards: ○ AS - 477 Grid-connections of energy systems via inverters. AS/NZS - 3000 Electrical wiring rules. ○ AS - 1768 Lightning protection. AS/NZS - 1170.2 Wind loads. ○ AS/NZS - 5033 Installation of photovoltaic (PV) arrays. ○ AS IEC - 62619:2017 Secondary cells and batteries containing alkaline or other non-acid electrolytes / Safety requirements for secondary lithium cells and batteries, for use in industrial applications.
Required: • Submitted plans must include an Energy Budget and Infrastructure Plan.



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- Each dwelling must meet minimum 6.0 kW PV and comply with all relevant Australian Standards. - All lots must supply and maintain a connection to the strata owned microgrid. - All homes must be fitted with a SwitchDin Droplet and internet connection to enable integration with the strata microgrid. - The use of bottled gas for heating, water heating and indoor cooking is not permitted.
8.2 Water
Objectives: To ensure sufficient potable water supply to meet your household's water needs.
Guidance: - Recommended minimums are 50m² of roof and 18,750L of tank storage per person. - Seek expert advice from a licensed plumber to ensure an appropriately sized pump is fitted to the rainwater tank. - It is recommended that houses are fitted with integrated "smart" water monitoring systems. - Additional information is available regarding the management and use of rainwater tanks in the Australian Dept of Health's "Guidance on Use of Rainwater Tanks." - Ensure efficient use of water within the home by installing high efficiency WELS rated fixtures and appliances. - Overland flow paths for stormwater runoff and rainwater tank overflow from private lots through community gardens to the stormwater system located within their community garden must be maintained. - Pre-tank filtration can provide a very high standard of water quality, depending on filtration system. - UV treatment systems may be installed post-tank but do add an energy consumption factor to household energy budget. UV treatment systems are covered by Australian standards, see https://www2.health.wa.gov.au/Articles/U_Z/Ultraviolet-disinfection-of-drinking-water.
Required: - Submitted plans must include a Water Budget and Infrastructure Plan, demonstrating that 100% of water requirements can be met by onsite water collection and storage. - Tanks to be fitted with an external tank level gauge and/or integrated flow monitoring device to assist in monitoring usage and detecting water leaks. - Rainwater filtration systems (pre- and / or post- tank) must be installed to guarantee water quality and safety and reduce tank maintenance. - Any roof discharge points not connected to rainwater tanks and rainwater tank overflows must be managed by connection to a rain barrel or rain garden and directed to vegetated areas that will spread and slow down water flows.
8.3 Wastewater
Objectives: To provide sustainable wastewater treatment that retains and reuses grey and black wastewater on site.
Guidance: - Installation of a household greywater system is recommended to supply additional water for gardens. - Composting toilets are not allowed by WA Health Department regulations on any residential lot that has a sewer connection.
Required: - All houses must be connected to the Witchcliffe Ecovillage wastewater treatment system. - All houses in Witchcliffe Ecovillage must install dual plumbing to allow for greywater separation for water recycling. Connections are required only from the bathroom(s). Connections to the laundry are optional and

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need to be carefully considered as water can become quite alkaline, which is inappropriate for some landscaping. • A grey water 'Builder's Kit' is to be installed during construction to facilitate connection of the grey water system and to avoid costly retrofitting if the system is not commissioned at completion of construction. • All greywater recycling must be via WA Health Dept. approved systems.
8.4 Internet / NBN
Objectives: To provide high-speed fibre internet connections to every dwelling and commercial building.
Guidance: • National Broadband Network (NBN) fibre is available to the premises (FTTP) via the common service trench to all lots to facilitate telephone and high-speed data services for every building in the development. • FTTP is the highest level of NBN service provision available and will ensure households and businesses will enjoy a higher level of NBN service and capacity than is available with the fibre to the node connections or satellite services generally provided in rural areas.
Required: • NBN connection is required to every home to enable energy monitoring and metering networks.
8.5 Hot Water Systems
Objectives: To ensure that hot water systems are well-insulated and high-efficiency to minimise energy use.
Guidance: • Hot water systems should be chosen to fit within the overall electricity budget of the house and sized to suit the living requirements of the household. • Heat pump hot water systems are highly efficient (up to 80% energy savings) and are more efficient in our colder climate than solar hot water systems, but can be variable in quality and carbon emission performance. Preferred heat pump hot water systems use low greenhouse warming potential (GWP) refrigerant gas (e.g., CO2 or R32) and must be higher quality, leak free units. We are able to offer excellent discounts on Reclaim, which are high quality units that meet these standards. • Solar thermal panels for solar hot water systems only have one function - to produce hot water. Once the tank is hot, the panels are idle. In contrast, solar PV panels can produce hot water via a heat pump, as well as run other appliances inside the house, charge the batteries, or an electric car, etc., so it is more effective to use the space on your roof for PVs rather than a solar hot water system. • For more information, see the extensive analysis of electric-based systems in this review: https://renew.org.au/renew-magazine/buyers-guides/hot-water-buyers-guide/.
Required: • All hot water systems must be electrically powered or boosted, no LPG gas. • Heat pump systems must demonstrate that refrigerant used has low greenhouse warming potential. • Include nominated system in Energy and Water Budget and Infrastructure Plan.
8.6 Heating and Cooling
Objectives: To ensure energy efficient heating and cooling of homes and avoid local air pollution.

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Guidance:

- Ceiling fans provide a very efficient and low energy approach to summer cooling and are recommended in all living spaces. Locate fans above main occupation areas (dining tables, lounge suites, beds, etc.). While fans do not actually cool the air in rooms, the air movement they create cools people very effectively.
- Choose a fan which has reverse or "winter" mode, to assist circulation of warm air around living spaces in cold weather, particularly in living areas with raked ceilings.
- Reverse cycle air conditioning units powered by renewable energy are a relatively efficient, convenient and inexpensive way to provide occasional heating / cooling capacity. Make sure you choose a system which:
 - has the most energyrating stars for COLD climate zone you can afford (aim for >3.5 star cooling and >4 star heating);
 - is suitably sized for your living space's area/insulation/glazing/shading (use an online calculator);
 - has an "eco" mode and an automated timer; and
 - provides air filtration.
- The new Zoned Energy Rating Label for air conditioners is explained here:
[http://energyrating.gov.au/sites/new.energyrating/files/documents/Factsheet How To Read The ZERL For Air Conditioners.pdf](http://energyrating.gov.au/sites/new.energyrating/files/documents/Factsheet%20How%20To%20Read%20The%20ZERL%20For%20Air%20Conditioners.pdf)
[http://energyrating.gov.au/sites/new.energyrating/files/documents/Factsheet How To Read The ZERL For Air Conditioners.pdf](http://energyrating.gov.au/sites/new.energyrating/files/documents/Factsheet%20How%20To%20Read%20The%20ZERL%20For%20Air%20Conditioners.pdf).
- The smaller the area you are heating or cooling, the more efficient the air-conditioning system, so try to design spaces which can be shut off with doors to create zones, so you are not heating or cooling unused space.
- Another heating system to consider is hydronic heating (radiator or in-slab) powered by heat pump hot water systems. Be aware of the variable quality and Greenhouse Warming Potential (GWP) of different heat pump models (see Section 8.5, Water Heating) and overall energy consumption.
- Underfloor hydronic systems may also assist in cooling the house in summer.
- Gas space heating contributes to carbon emissions, gives off fumes inside your home, and is only available in expensive and inconvenient LPG bottles in the Margaret River area.
- Wood burning stoves and heaters are not recommended for everyday use in built up areas as they are inefficient converters of fuel to heat, contribute to carbon emissions, cause local air pollution to neighbours and residents with breathing difficulties, and are generally fuelled by unsustainably harvested forest hardwoods. They are not recommended in well-sealed houses, as they burn oxygen inside the home and require ventilation. In poorly sealed homes, they pull in cold air from outside. Outdoor fire pits are allowed.
- We recommend pellet heaters over solid fuel combustion heaters due to their efficiency and low particulate emissions (dependant on make and model), use of plantation softwoods, convenience, and ability to regulate temperature via thermostat control and timers.
- For more information see <https://www.energy.gov.au/households/heating-and-cooling>, and the YourHome and Renew websites.

Required:

- Space heating and cooling provision and specifications (including Zoned Energy Rating Certificate) are to be included in Infrastructure Plan and Energy and Water Budget.
- Gas or wood fired space heating is not permitted.

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• Air conditioner energy rating certificate must demonstrate the appliance suitability for area to be heated/cooled, and demonstrate a minimum 3.5 star (cooling) and 4 star (heating) rating for COLD climate zone. • Any selected pellet stove must not exceed 0.8g/kg particulate emissions (Australian Certified). See list of units on the Australian Home Heating Association website. https://www.homeheat.com.au/wood-heaters/certified-wood-heaters/ • Underfloor hydronic system must specify low GWP heat pump system.
8.7 Lighting
Objectives: To ensure that lighting design is fit-for-purpose and energy efficient.
Guidance: • Avoid applying a generic "lights per m2" lighting approach, and instead design a specific lighting plan for each room. Focus direct lighting (downlights) over task areas such as benchtops and work areas and use indirect light (uplights, wall brackets) for general ambient lighting. Use lamps to provide additional locational lighting related to furniture configurations. • Create lighting zones on separate switches, rather than one large bank of lights controlled by one switch. • Consider the colour temperature that is appropriate for each room and use. Colour temperature in lighting ranges from warm white (2700-3500K) to natural white (3500-4500K) to daylight white (5000-6000K). Higher colour temperatures become more blue and less yellow, are less cosy and are better for detailed tasks. Choose warm spectrum lights for bedrooms and night-time living spaces, as blue spectrum light disrupts melatonin production and can impact on sleep cycles if used at night. • We recommend LED lighting for efficiency and to avoid any lighting higher than 4500K. • Keep external lighting to a minimum and face away from neighbours to avoid light pollution. • Use low bollard-type or at-ground lighting outside rather than taller pole lights.
Required: • Submit a lighting plan with house plans. • All lighting for dwellings (interior and external) must be high-efficiency. • All external lighting must be directed away from neighbours.
8.8 Freestanding Appliances
Objectives: To assist households in choosing appliances that are energy and water efficient.
Guidance: • Use the highest rated water efficient appliances possible (4-6 WELS star rating). • Use the highest rated energy efficient appliances possible (4-10 Energy Rating stars). • Carefully select refrigerators and freezers that suit your family size and requirements, and ensure seals and motors are well maintained. • To ensure efficient operation of appliances, provide ducting/minimum clearances as per appliance specifications. • If using a tumble dryer, choose one with a heat pump to increase efficiency. • Consider appliances that do not require standby power, or install smart management devices.
Required: • Include indicative freestanding appliance specifications, including star ratings, in Energy and Water budgets.

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ANNEXURE C – SUSTAINABILITY COMMITMENT AND CODE OF CONDUCT

As a resident and/or member of Witchcliffe Ecovillage Commercial Cluster 1, I have read and understood the Witchcliffe Ecovillage Commercial Cluster 1 by-laws, and hereby agree to abide by the by-laws and uphold the Witchcliffe Ecovillage principles of sustainability, inclusivity, responsibility, and respect in all of my actions and relationships with others.

I will follow all grievance, decision making and/or conflict resolution procedures endorsed by the Commercial Cluster 1 Strata Company to the best of my ability to resolve any disputes with fellow members, residents and the strata company.

Signed:

Date:

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ANNEXURE D – WITCHCLIFFE ECOVILLAGE SUSTAINABILITY INFRASTRUCTURE DISCLOSURE FORM

Please provide this completed form to your selling agent or potential purchasers of your Ecovillage home. Where possible, please provide copies of manuals, warranties, servicing history, etc.

1. Property details	
Address	
Owner	
Builder	
Completion date	
1. Business Details	
Floor area:	
Current land use:	
Parking bays:	
2. Residential Accommodation details (if any)	
Bedrooms	bedrooms
Standard* occupants	occupants
3. Energy production	Purchase date / warranty (years)
Solar PV brand / type	
Total kW	kW
Orientation and angle of panels	
North	kW @ _____°
West	kW @ _____°
East	kW @ _____°
Inverter brand	
Purchase date	
Warranty	
kW capacity	kW
NMI Smart Meter brand / type	
Purchase date	
Warranty	

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4. Electrical Fixtures	Brand / Type	Star rating / capacity / specifications
Hot water system Purchase date Warranty		
Air conditioner		
Underfloor heating		
Wood pellet heater		Efficiency: Particulates:
Stove top		
Oven		
Lights		
5. Water supply	Brand / Type	Size / capacity
Roof area connected to tanks		m2
Rainwater Tank* Provided tank size		L
Greywater system Purchase date Warranty		
Pump Purchase date Warranty		
6. Water consumption	Star rating / capacity / specifications	
Taps		
Showers		
Toilets		

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7. Other	Brand / Type	Star rating / capacity / specifications
Wood fuel heater:		Particulates: Emissions:

*** Note: Commercial buildings must provide sufficient water for approved business use as determined by lot owner.**

Residential water storage is provided as per Water Capacity table below

Bedrooms	Standard Occupancy	Recommended minimum rainwater storage volume provided	Minimum rainwater storage volume (undeveloped area for tanks)	Minimum connected roof area to be provided
1	2	18, 750 L	37, 500 L	100 m2
2	3	37, 500 L	56, 250 L	150 m2
3	3	37, 500 L	56, 250 L	150 m2
4	4	56, 250 L	75, 000 L	200 m2
5	5	75, 000 L	93, 750 L	250 m2

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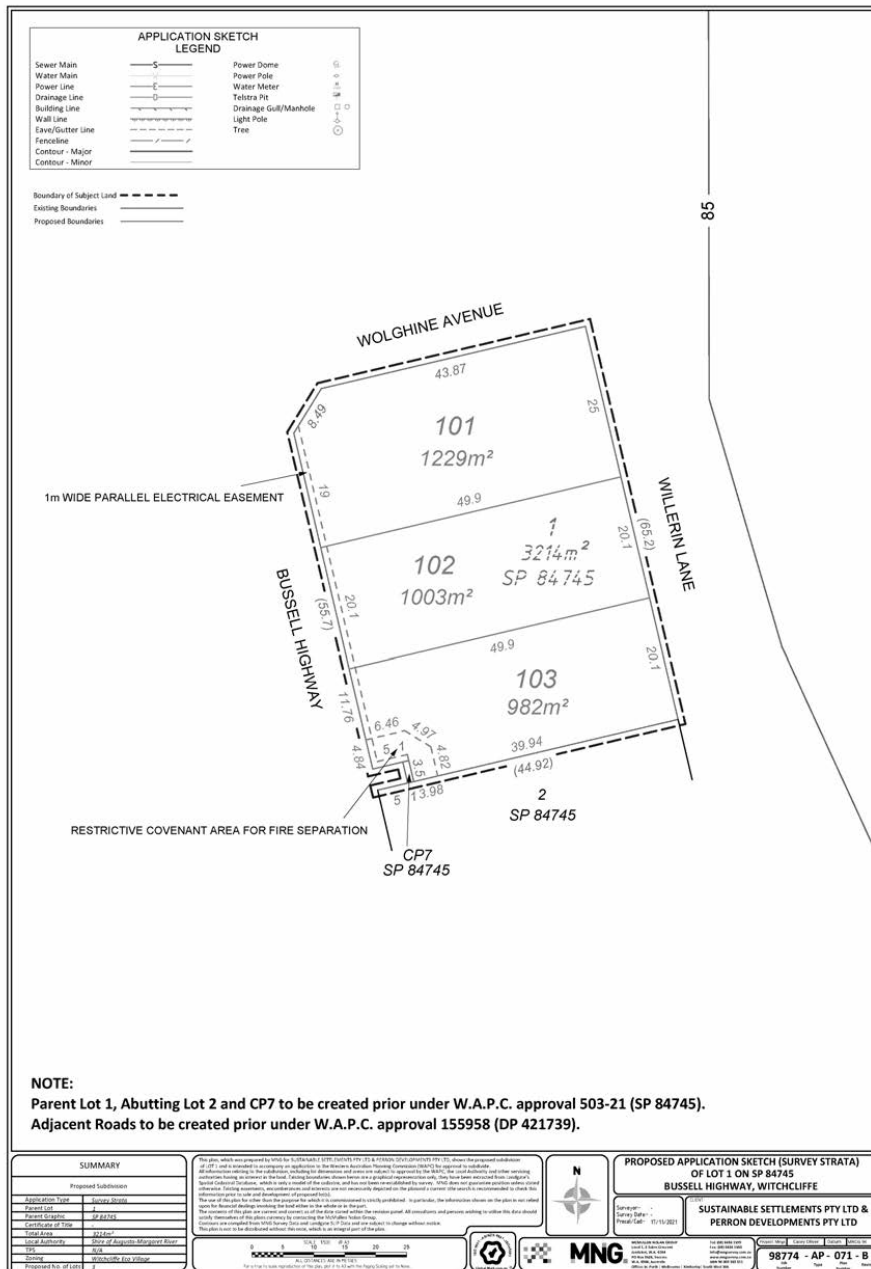
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ANNEXURE E – LOT 1 RE-SUBDIVISION PLAN



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ANNEXURE F- LOT 1 RE-SUBDIVISION UNIT ENTITLEMENTS



Approved Form 2020-90740
Effective for Use from 1 - 01/02/2021

Schedule of Unit Entitlements

Strata Titles Act 1985

Section 37, Schedule 2A cl. 21T(1)(d) & Schedule 2A cl. 31E(1)(c)

Scheme Number: 84745

Scheme Address: Commercial Cluster 1, Witchcliffe Ecovillage

Lot Number	Unit Entitlement	Lot Number	Unit Entitlement	Lot Number	Unit Entitlement	Lot Number	Unit Entitlement	Lot Number	Unit Entitlement
1	Re-Subdivided	5	13	103	11				
2	12	6	14	CP7	Common Property				
3	12	101	13						
4	13	102	12						

Sum of the unit entitlements of all lots in the strata titles scheme: 100

CERTIFICATE OF LICENSED VALUER

I, Ray Codalonga, being a Licensed Valuer under the *Land Valuers Licensing Act 1978* certify that the proportion that the unit entitlement of a lot as stated in the Schedule of Unit Entitlements above bears to the sum of the unit entitlements of all lots in the strata titles scheme is not greater than 5% more or 5% less than the proportion that the value (as that term is defined in section 37(3) of the *Strata Titles Act 1985*) of that lot bears to the sum of the value of all the lots in the strata titles scheme.

Complete for staged subdivision only:

I have determined that in the Schedule of Unit Entitlements above there ☐ is / ☐ is not¹ a significant variation of the kind described in Regulation 49(1)(a) of the *Strata Titles (General) Regulations 2019* to the proposed Schedule of Unit Entitlements in stage _____ of _____ as outlined in the staged subdivision by-laws number(s) _____ registered on _____.

8th July 2022

Date

R.Codalonga AAPI
Licensed Valuer
No.44028

Digitally signed by R.Codalonga
AAPI Licensed Valuer No.44028
Date: 2022.07.15 10:15:35
+08'00'

Licensed Valuer Signature

¹ Select one



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Part 2 – By-laws of Significance

☐ I / ☒ We⁴ acknowledge that the following Governance by-laws need consent from a party other than the strata company if they are to be amended or repealed. For more information about who these parties are, refer to the *Strata Titles Act 1985* and the *Strata Titles (General) Regulations 2019*:

By-law number(s)

Staged subdivision by-laws⁵: **18**

**By-law under planning
(scheme by-laws) condition⁶:** **15**

Exclusive use by-laws⁷: **N/A**

Western Australian Planning
Commission approval number
(if applicable)⁸:

Leasehold by-laws⁹: **N/A**

⁴ Select one.

⁵ Refer *Strata Titles Act 1985* section 42.

⁶ Refer *Strata Titles Act 1985* section 22.

⁷ Refer *Strata Titles Act 1985* section 43.

⁸ Refer *Strata Titles Act 1985* section 20.

⁹ Refer *Strata Titles Act 1985* section 40.

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Part 3 – Accompanying documents

- ☐ **Consent Statement**, if applicable
- ☐ **Consent of the Owner of the Leasehold Scheme¹⁰** to leasehold by-laws or staged subdivision by-laws

Part 4 – Execution

Date of Execution:

(To be signed by each Applicant)

Signed for and on behalf of Sustainable Settlements Pty Ltd (ACN 169 286 337) by the authority of its directors in accordance with section 127 of the Corporations Act 2001 (Cth)

Signature of Owner¹¹

**Michael James Hulme (Sole Director and
Sole Secretary)**

Full Name

Signed for and on behalf of Perron Developments Pty Ltd (ACN 000 230 446) in accordance with section 127 of the Corporations Act 2001 (Cth)

Signature of Director

Signature of Director/Secretary

Full Name

Full Name

¹⁰ Owner of the leasehold scheme has the meaning in section 3(1) of the Act.

¹¹ To be signed by owner of the land described in the above-mentioned Certificate of Title.



OFFICE USE ONLY

SB Scheme By-laws – New Scheme

Lodged by:¹²

Address:

Phone Number:

Fax Number:

Reference Number:

Issuing Box Number:

Instruct if any documents are to
issue to other than Lodging Party

Prepared by: **Torrens Legal**

Address: **PO Box 7320**
Cloisters Square WA 6850

Phone Number: **08 9235 3500**

Fax Number: **08 9235 3501**

Reference Number: **200064; Commercial Cluster 1**

Titles, Leases, Evidence, Declarations etc. lodged
herewith

- 1.
- 2.
- 3.
- 4.
- 5.

OFFICE USE ONLY

Landgate Officer

Number of Items Received: _____

Landgate Officer Initial: _____

¹² Lodging Party Name may differ from Applicant Name.

ANNEXURE B
Attachment 4 – Proposed Unit Entitlement



Approved Form 2020-90740
Effective for Use from 1 - 01/02/2021

Schedule of Unit Entitlements

Strata Titles Act 1985

Section 37, Schedule 2A cl. 21T(1)(d) & Schedule 2A cl. 31E(1)(c)

Scheme Number: 84745

Scheme Address: Commercial Cluster 1, Witchcliffe Ecovillage

Lot Number	Unit Entitlement	Lot Number	Unit Entitlement	Lot Number	Unit Entitlement	Lot Number	Unit Entitlement	Lot Number	Unit Entitlement
1	32	5	14						
2	12	6	15						
3	13	CP7	Common Property						
4	14								

Sum of the unit entitlements of all lots in the strata titles scheme: 100

CERTIFICATE OF LICENSED VALUER

I, Raymond Codalonga, being a Licensed Valuer under the *Land Valuers Licensing Act 1978* certify that the proportion that the unit entitlement of a lot as stated in the Schedule of Unit Entitlements above bears to the sum of the unit entitlements of all lots in the strata titles scheme is not greater than 5% more or 5% less than the proportion that the value (as that term is defined in section 37(3) of the *Strata Titles Act 1985*) of that lot bears to the sum of the value of all the lots in the strata titles scheme.

Complete for staged subdivision only:

I have determined that in the Schedule of Unit Entitlements above there ☐ is / ☒ is not¹ a significant variation of the kind described in Regulation 49(1)(a) of the *Strata Titles (General) Regulations 2019* to the proposed Schedule of Unit Entitlements in stage of as outlined in the staged subdivision by-laws number(s) registered on .

06-Sep-2022

Date

R.Codalonga AAPI
Licenced Valuer No.44028

Digitally signed by R.Codalonga
AAPI Licenced Valuer No.44028
Date: 2022.09.06 14:28:36 +08'00'

Licensed Valuer Signature

¹ Select one

ANNEXURE B - PRECONTRACTUAL DISCLOSURE STATEMENT TO THE BUYER

Attachment 5 – Statement concerning Strata Disclosure Matters

Reason for no minutes or statement of accounts

The Strata Scheme has not yet been registered. For this reason:

1. there has been no annual general meetings or extraordinary general meetings and are therefore no minutes for any such meetings; and
2. no statement of accounts has been prepared for the Strata Company, only the Strata Company Draft Budget.

ANNEXURE B
Attachment 6 – Indicative Strata Company Levies/Contributions

Witchcliffe Ecovillage Commercial Cluster 1, Indicative Strata Company Levies/Contributions									
Lot Details		Quarterly				Annual			
No	UE	Admin	ECL Levy	Reserve	Total	Admin	ECL Levy	Reserve	Total
1	32	\$ 354.00	\$ 50.00	\$ 20.83	\$ 424.83	\$1,416.00	\$ 200.00	\$ 83.33	\$1,699.33
2	12	\$ 132.75	\$ 50.00	\$ 20.83	\$ 203.58	\$ 531.00	\$ 200.00	\$ 83.33	\$ 814.33
3	13	\$ 143.81	\$ 50.00	\$ 20.83	\$ 214.65	\$ 575.25	\$ 200.00	\$ 83.33	\$ 858.58
4	14	\$ 154.88	\$ 50.00	\$ 20.83	\$ 225.71	\$ 619.50	\$ 200.00	\$ 83.33	\$ 902.83
5	14	\$ 154.88	\$ 50.00	\$ 20.83	\$ 225.71	\$ 619.50	\$ 200.00	\$ 83.33	\$ 902.83
6	15	\$ 165.94	\$ 50.00	\$ 20.83	\$ 236.77	\$ 663.75	\$ 200.00	\$ 83.33	\$ 947.08
Total	100	1,106.25	\$ 300.00	\$ 125.00	\$1,531.25	\$4,425.00	\$1,200.00	\$ 500.00	\$6,125.00

ANNEXURE B

Attachment 7 – Statement of Estimated Income and Expenditure (Strata Company Draft Budget)

Income	Notes	Total
Operational fund levies		\$ 3,800.00
Reserve fund levies		\$ 500.00
Depreciation levies		\$ 625.00
Ecovillage Commons Fee	\$200/Lot/Pa	\$ 1,200.00
Total Income		\$ 6,125.00
Expenditure		
Admin		
- Accounting	Xero	\$ (650.00)
- Audit	No requirement	\$ -
- Bank Fees	Nil	\$ -
- Insurance	Public liability \$10m + \$25k asset	\$ (3,000.00)
- Strata management fees	Voluntary	\$ -
Utilities		
- Ecovillage Commons Fee	\$200/Lot/Pa	\$ (1,200.00)
Maintenance		
- Electrical	Switchboard safety check	\$ (150.00)
Depreciation		
- Fixed assets	Switchboard	\$ (625.00)
Total Expenditure		\$ (5,625.00)

ANNEXURE B

Attachment 8 – Details of Proposed Contracts for the Provision of Amenity or Service

1. Ecovillage Common land maintenance agreement

Ecovillage Commons Ltd (**ECL**) will provide a management service to maintain land and infrastructure on the land comprising the Ecovillage Commons, with particular regard to Shire fire risk management requirements.

The Land Management Agreement term will have no end date.

Under the agreement ECL will:

- (a) manage bushfire risks concerning the Ecovillage Commons to Shire requirements; and
- (b) operate and maintain the dams, pumps and irrigation mains of the Ecovillage Commons.

2. Supply of renewable energy

Each Cluster of the Ecovillage is large enough to be considered a 'Contestable' connection to the Western Power grid, and, as such, the Strata Company will be able to make supply and export agreements with private energy retailers other than Synergy. A connection to the grid via a retailer allows the strata and its lot owners to maximise the return on the energy generated by household PV systems.

The Seller has negotiated favourable energy service agreements for the Witchcliffe Ecovillage Stage 1 and 2 Clusters and will enter into similar 12-month contracts with Delorean Corporation (formerly CleanTech Energy), and SwitchDin-on the strata companies' behalf once the microgrid is energised to provide the cluster with 100% renewable energy from the grid when required.

Delorean Corporation will be the strata's energy retailer and provide 100% renewable energy from the grid when required and purchase excess renewable energy from the strata. Delorean's current supply cost is \$5.50/day/strata plus 22.8c/kWh for 100% renewable energy, which compares very well to Synergy's current A1 rate of 29.33c/kWh for non-renewable (mix of coal/gas/wind/solar) supply, or green energy supply at 33.21c/kWh.

The combination of these services providers enables a level of internal micro-grid management, trading and analysis that isn't available via energy retailers alone and will enable analysis and management that will significantly increase each household's ability to earn as much as possible from its excess renewable energy.

COMMERCIAL CLUSTER 1 - WITCHCLIFFE ECOVILLAGE
CONTRACT FOR SALE OF STRATA TITLE PROPERTY BY OFFER AND ACCEPTANCE
ANNEXURE C – COVID 19 ANNEXURE

COVID-19



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ANNEXURE C

This annexure forms part of the Contract for the Sale of Land or Strata Title for the Property at

Commercial Cluster 1, Witchcliffe Ecovillage

Annexure

1. The Seller and Buyer agree that, if prior to the Settlement Date, either party (including that party's company directors or secretary where the context permits):
 - 1.1 contracts or suffers the Covid-19 Virus;
 - 1.2 is placed in Quarantine or directed to Quarantine by an Authority;
 - 1.3 is placed in Self-Isolation or directed to Self-Isolate by an Authority;
 - 1.4 needs to care for an immediate member of their household or family who is directly affected by special conditions 1.1 to 1.3 above; or
 - 1.5 (in the case of the Seller) needs to remain on the Property for any reason related to special conditions 1.1 to 1.4 above;(collectively and each being a "Covid-19 Event") and such Covid-19 Event impacts the Seller's or the Buyer's ability to settle under this Contract by the Settlement Date, then that party may, subject to compliance with the terms of special condition 2, extend the Settlement Date by a reasonable period equal to the delay caused (or expected to be caused) by the Covid-19 Event, but being not more than ten (10) Business Days, upon giving written notice to the other party.
2. The rights of the Seller and Buyer to extend the Settlement Date in accordance with special condition 1 are subject to the following conditions:
 - 2.1 the affected party must notify the other party by notice in writing as soon as reasonably practicable upon becoming aware of the Covid-19 Event, and in any event before the Settlement Date;
 - 2.2 the affected party must provide reasonable evidence of the Covid-19 Event to the other party.

Time Extensions

3. The Seller and Buyer agree that for so long as the Covid-19 Virus has known cases in West Australia, then any time/period set out in the 2018 General Conditions is doubled in length.

Defined Terms

4. In these Special Conditions:
 - 4.1 "Covid-19 Virus" means the strain of virus more fully described as coronavirus disease 2019 as declared by the World Health Organisation.
 - 4.2 "Quarantine" means the isolation of an individual from other members of the public due to or related to the restriction on the movement of people in order to stop or prevent the spread of Covid-19 Virus.
 - 4.3 "Self-Isolate" or "Self-Isolation" means the isolation of an individual from other members of the public due to:
 - a) having a confirmed case of Covid-19 Virus;
 - b) being in close contact with a person with a confirmed case of Covid-19 Virus; or
 - c) arriving in Australia after midnight on 15 March 2020.

BUYER SIGNATURE

BUYER SIGNATURE

BUYER SIGNATURE

BUYER SIGNATURE

SELLER SIGNATURE

SELLER SIGNATURE

SELLER SIGNATURE

SELLER SIGNATURE

2022 General Conditions

JOINT FORM OF GENERAL CONDITIONS FOR THE SALE OF LAND

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1 Deposit

1.1 Payment

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

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

1.2 Deposit Holder - Stakeholder

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

1.3 Deposit - Proposed Scheme Lot

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

1.4 Deposit - Future Lot Contract

If the Contract is a Future Lot Contract:

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

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

1.5 Notice of non-payment

If the Buyer:

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

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

1.6 Termination for non-payment

- (a) If a Notice under clause 1.5 is not complied with:

- (1) the Buyer is in default; and
- (2) the Seller may terminate the Contract by giving notice of termination to the Buyer.

- (b) Clause 23.1 does not apply if clause 1.5 and this clause 1.6 apply.

1.7 Terms Contract and other right

Clauses 1.5 and 1.6 do not:

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

1.8 Direction to Deposit Holder

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

1.9 Investment of Deposit

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

1.10 Interest on Deposit

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

1.11 Payment of Deposit on Settlement

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

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

1.12 Deduction from Deposit

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

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

2 Encumbrance

2.1 Noted Encumbrance

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

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

2.2 Benefit of right over Land

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

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

2.3 Rate Encumbrance - Unpaid Rate Outgoing

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

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

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

2.4 Land sold subject to easement or restrictive covenant

If on the Contract Date:

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

2.5 Land sold subject to Title Restriction

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

2.6 Land sold subject to Remediated Site Memorial

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

2.7 Buyer right to terminate

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

2.8 Security Interest

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

3 Settlement

3.1 Preparation of Transfer

The Buyer must arrange for the Transfer to be prepared.

3.2 Delivery to Seller

The Buyer must:

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

3.3 Duty

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

3.4 Place for Settlement

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

3.5 Completion of Settlement

Each Party must complete Settlement on:

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

3.6 Balance of purchase price

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

3.7 Foreign Resident Withholding

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

3.8 More than 3 Bank Cheques

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

3.9 Settlement Cheque dishonoured

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

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

3.10 Seller obligation on Settlement

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

3.11 No duplicate Certificate of Title

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

3.12 Electronic conveyancing

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

- (i) If the Buyer or the Buyer Representative fails to comply with subclause (h) within 10 Business Days before the Settlement Date, the Seller or the Seller Representative may:
 - (1) create a Workspace;
 - (2) invite the Buyer or the Buyer Representative and the relevant Financial Institutions to join the Workspace; and
 - (3) set the time for Settlement on the Settlement Date.
- (j) The Parties consent to written communications for the purposes of preparing for and facilitating Electronic Settlement being given and received electronically within the Workspace but not to any Notice being given in that manner.
- (k) Settlement occurs when the Workspace records that the exchange of funds or value (if any) between the Financial Institutions in accordance with the instructions of the Parties has occurred and the definition of 'Settlement' in clause 26.1 is amended accordingly.
- (l) Each Party must do everything reasonably necessary to:
 - (1) progress the transaction in the Workspace to Electronic Settlement on the Settlement Date at the time specified in the Workspace; and
 - (2) assist the other Party to trace and identify the recipient of any mistaken payment made under the Electronic Settlement and to recover the mistaken payment.
- (m) If Settlement in accordance with subclause (k) has not occurred by the Closing Time, the Parties must do everything reasonably necessary to effect Settlement:
 - (1) as an Electronic Settlement; or
 - (2) at the option of either Party, exercised by giving Notice to the other Party to that effect, otherwise than as an Electronic Settlement, on the next Business Day and time remains of the essence.
- (n) A Party is not in default under the Contract if:
 - (1) that Party is prevented from complying with an obligation because the other Party or the other Party's Financial Institution has not done something in the Workspace; or
 - (2) Electronic Settlement fails and does not occur by the Closing Time because a computer system of Landgate, the Office of State Revenue, the ELNO or the Reserve Bank of Australia is inoperative for any reason, but that Party must comply with that Party's obligations as soon as the event referred to in subclause (n)(1) or (n)(2) ceases to apply.
- (o) No Party may exercise any rights under the Contract or at law to terminate the Contract during the time that the Workspace is locked for Electronic Settlement.
- (p) Subject to subclause (m), nothing in this clause 3.12 affects the rights of a Party under the Contract if Settlement does not occur on or before the Settlement Date due to the delay or default by the other Party.
- (q) Each Party must pay that Party's own fees and charges for using the ELNO for Electronic Settlement.
- (r) In this clause 3.12:
 - (1) **Business Day** means any day except:
 - (A) a Saturday, Sunday or public holiday in Western Australia; or
 - (B) a public holiday on the same day in both of Victoria and New South Wales.
 - (2) **ECNL** means the Electronic Conveyancing National Law as adopted in Western Australia by the *Electronic Conveyancing Act 2014 (WA)*;
 - (3) **Electronic Settlement** means Settlement and the lodgment of the documents necessary to record the Buyer as registered proprietor of the Land facilitated by the ELNO;
 - (4) **ELNO** has the meaning set out in the ECNL;
 - (5) **Closing Time** means the time the ELNO usually closes for settlement transactions in Western Australia on the Settlement Date;
 - (6) **Subscriber** means a subscriber under the ECNL;
 - (7) **Withdrawal Notice** means a Notice given under clause 3.12(e); and
 - (8) **Workspace** means an 'Electronic Workspace' as defined in the participation rules made under the ECNL for the transaction within the ELNO.

4 Delay in Settlement

4.1 Buyer delay

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

4.2 Seller delay

- If for any reason attributable to the Seller, Settlement is not completed within 3 Business Days after the Settlement Date, the Seller must allow to the Buyer at Settlement, as a deduction from the Purchase Price, compensation equal to interest on:
- (a) the balance of the Purchase Price; and
 - (b) any other money payable at Settlement.

4.3 Interest or compensation

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

- (a) at the Prescribed Rate; and
- (b) from and including the Settlement Date to but excluding the date on which Settlement occurs,

and is treated as being in full satisfaction of any claim the Party claiming interest or compensation has against the other Party as a result of the delay in Settlement.

4.4 Seller ready, willing and able

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

4.5 Buyer ready, willing and able

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

4.6 Dispute – interest or compensation

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

- (g) Each Party authorises a Representative who holds the Interest Amount under this clause to:

- (1) pay; and
 - (2) otherwise deal with,
- the Interest Amount as specified in this clause.

- (h) This clause 4.6 does not affect the right of the Interest Party after Settlement to claim and, if appropriate, institute proceedings against the Buyer to recover, an amount of interest or compensation as specified in clauses 4.1 to 4.5.

4.7 Restriction on right in case of court proceeding

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

4.8 Right not affected

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

5 Inspection

5.1 Right to inspect

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

5.2 Time for inspection

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

6 Possession and Rent

6.1 Entitlement to possession

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

6.2 Early possession

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

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

6.3 Principal residence – limited occupation right

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

6.4 Damage to Property

If clause 6.3 applies:

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

6.5 Keys and security devices

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

6.6 Lease Provisions apply

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

6.7 Rent

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

6.8 Rent paid before Settlement

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

6.9 Rent received after Settlement

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

6.10 General provisions where property leased

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

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

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

7 Outgoing

7.1 Seller and Buyer obligation

Subject to this clause 7:

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

7.2 Apportionment

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

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

7.3 Buyer not liable for Land Tax

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

7.4 Settlement Date 30 June

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

- (4) Settlement does not occur before 5:00pm on 30 June for a reason attributable to the Buyer.
- the Buyer must pay to the Seller at Settlement the Land Tax assessed in respect to the Land for the Financial Year which commences on 1 July following the date specified in subclause (b)(1).
- (c) Subject to subclause (d):
- (1) the Notice as specified in subclause (b)(3) may, subject to the Contract Date being before 1 June, be incorporated in the Contract; and
- (2) if the Notice is incorporated in the Contract in accordance with subclause (c)(1), that Notice is treated as having been given in accordance with subclause (b)(3).
- (d) Subclause (c) does not apply unless before 1 June:
- (1) a separate Certificate of Title for the Land has issued; and
- (2) the Buyer has been given Notice by the Seller of the issue of that separate Certificate of Title for the Land.

7.5 Land Tax - Subdivided Land

- (a) If on the Possession Date:
- (1) the Property is not a residence as described in clause 7.3; and
- (2) the Land is the subject of a subdivision after the commencement of the Financial Year in which the Possession Date occurs,
- Land Tax will be apportioned as specified in subclause (b).
- (b) If subclause (a) applies, Land Tax is apportioned and payable as an Outgoing in accordance with clauses 7.1 and 7.2 on the basis that the Land Tax payable in respect to the Land is:
- (1) the same proportion as the area of the Land bears to the total area of the Subdivision Land; and
- (2) the Subdivision Land is the only land owned by the Seller.

7.6 Land Tax general

- (a) If clause 7.3 applies, the Seller must pay all Land Tax assessed in respect to the Property.
- (b) Except as provided in clause 7.3, and subject to clauses 7.4 and 7.5, Land Tax must be apportioned:
- (1) as an Outgoing and paid as provided in clauses 7.1 and 7.2; and
- (2) otherwise on the basis that the Land is the only land owned by the Seller.

7.7 Future Rate Outgoing

- (a) If at Settlement the Land will be subject to a Future Rate Outgoing:
- (1) the Seller must procure the Seller Representative to, not later than 3 Business Days before the Settlement Date, provide a written undertaking to the Buyer Representative that at Settlement, the Seller Representative will:
- (A) hold in trust an amount, which must be specified in that undertaking, sufficient to pay the proportion of the Future Rate Outgoing which is payable by the Seller; and
- (B) immediately after the assessment of the Future Rate Outgoing, pay the Seller's proportion of the Future Rate Outgoing to the relevant Authority; and
- (2) the Buyer must procure the Buyer Representative to, not later than 3 Business Days before the Settlement Date, provide a written undertaking to the Seller Representative that at Settlement, the Buyer Representative will:
- (A) hold in trust an amount specified by the Buyer Representative in that undertaking, which is sufficient to pay the proportion of the Future Rate Outgoing payable by the Buyer; and
- (B) immediately after the assessment of the Future Rate Outgoing, pay the Buyer's proportion of the Future Rate Outgoing to the relevant Authority.
- (b) If there is a dispute as to the amount to be held by the Seller Representative and the Buyer Representative in accordance with subclause (a), that dispute must be determined by the Seller Agent.
- (c) If there is no Seller Agent, the amount to be held by the Seller Representative and the Buyer Representative must be determined by a Real Estate Agent appointed by the Buyer.
- (d) If the dispute is determined by the Seller Agent or a Real Estate Agent:
- (1) the Seller Agent or the Real Estate Agent must act as an expert and not as an arbitrator;
- (2) the determination of the Seller Agent or the Real Estate Agent is final and binding on the Seller and the Buyer; and
- (3) if any cost is payable to the Seller Agent or a Real Estate Agent for determining a dispute, as specified in subclause (b) and (c), that cost must be paid by the Buyer and the Seller in equal shares.
- (e) If subclause (a)(1) applies, the Seller is treated as having given to the Seller Representative an irrevocable authority and direction to hold and apply the relevant money in the manner specified in subclause (a)(1).
- (f) If subclause (a)(2) applies, the Buyer is treated as having given to the Buyer Representative an irrevocable authority and direction to hold and apply the relevant money in the manner specified in subclause (a)(2).

8 Risk

8.1 Passing of risk

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

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

8.2 Damage or destruction

- (a) If the Property includes a building or other improvement which is:
- (1) destroyed; or
- (2) partially damaged,
- before Settlement, subclause (b) applies.
- (b) If:
- (1) the building is a residence and is made substantially uninhabitable; or
- (2) in any other case, a building or other improvement is made substantially unusable for the current use as at the Contract Date;
- clauses 8.3 to 8.7 apply.

8.3 Notice of damage or destruction

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

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

8.4 Right of Buyer to terminate

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

8.5 Right of Seller to terminate

If:

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

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

8.6 Termination

If:

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

8.7 Right of Buyer to proceed

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

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

8.8 Reduction of Purchase Price

If clause 8.7 applies:

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

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

8.9 Variation of Settlement Date

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

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

9 Seller Representation and Warranty

9.1 As at Contract Date and Possession Date

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

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

9.2 Contract Date

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

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

9.3 Breach or non-satisfaction of warranty

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

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

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

10 Strata or community title

10.1 When this clause applies

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

10.2 Representation and Warranty

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

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

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

10.3 Indemnity by Seller and right of Buyer

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

10.4 Voting

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

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

10.5 Scheme Corporation application

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

10.6 Apportionment of Reserve Fund Contribution

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

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

10.7 Property included

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

10.8 Interests notified

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

11 Electricity/Underground Power

11.1 Land not connected to electricity supply

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

11.2 Electricity Scheme Agreement

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

11.3 Cost of Electricity Scheme Agreement documentation

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

11.4 Underground power

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

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

11.5 Underground power rate payable by Buyer

If:

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

11.6 Underground power rate payable by Seller

If:

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

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

12 Sewer/Septic Tank

12.1 Property connected

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

12.2 Land not connected

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

12.3 Decommissioning of Septic Tank

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

13 Subdivision

13.1 When this clause applies

- (a) Subject to subclause (b), this clause 13 applies only if the Land is not a Lot on the Contract Date.
- (b) If the Land is a Proposed Strata Lot or a Proposed Community Lot, only clauses 13.6, 13.7, 13.8 and 13.10 apply unless the Contract is also a Future Lot Contract, in which case clause 13.9 also applies.

13.2 Contract conditional

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

13.3 Further condition for subdivision

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

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

13.4 Application and Subdivision Plan

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

13.5 Unacceptable condition or requirement imposed by Planning Commission

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

13.6 Proposed Strata Lot or Proposed Community Lot

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

13.7 Strata Lot – obligation to construct development

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

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

13.8 Issue of title – Settlement Date

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

13.9 Future Lot Contract

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

13.10 Consequences of termination of Contract

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

14 Terms contract

14.1 When this clause applies

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

14.2 Right to pay Purchase Price

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

14.3 Right to pay instalment of Purchase Price

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

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

14.4 Obligation to pay balance of Purchase Price

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

14.5 Right to pay mortgagee

If the Land is subject to a mortgage:

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

14.6 Insurance

- (a) The Buyer must from and including the Possession Date take out and maintain with an insurer authorised to operate under the Insurance Act in the names of:
 - (1) the Buyer;
 - (2) the Seller; and
 - (3) any mortgagee of the Land,for their respective rights and interests, the insurance specified in subclause (b).
- (b) The insurance required to be taken out and maintained under subclause (a) is:
 - (1) insurance in respect to each building and other improvement on the Land for full replacement value against damage or destruction by fire, storm, tempest, earthquake and any other risk as reasonably determined by the Seller of which Notice is given to the Buyer; and
 - (2) public liability insurance in respect to:
 - (A) the death or injury of a natural person; or
 - (B) damage to or destruction of property of other persons, in respect of any one incident, in the sum of \$20 million or any greater amount reasonably required by the Seller.
- (c) The Buyer must:
 - (1) provide to the Seller a copy of each policy of insurance taken out in accordance with subclauses (a) and (b);
 - (2) not alter or vary the insurance taken out under subclauses (a) and (b), without prior written notification to the Seller and in the event of the substitution or variation of any insurance taken out, comply with subclauses (a), (b) and (c)(1); and
 - (3) provide proof to the Seller that the insurance is current.
- (d) If the Buyer fails to:
 - (1) take out insurance as required under subclauses (a) and (b); or
 - (2) provide proof to the Seller that the insurance is current,the Seller may, without notice to the Buyer, and without being obliged to do so, take out and maintain the insurance required in accordance with subclauses (a) and (b).
- (e) If the Seller takes out and maintains insurance in accordance with subclause (d) the Buyer must pay to the Seller on demand:
 - (1) all cost incurred by the Seller in taking out and maintaining the insurance; and

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

14.7 Insurance – Scheme Lot

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

14.8 Application of insurance proceeds

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

14.9 General obligation - Property and Land

From and including the Possession Date, the Buyer must:

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

14.10 Default – Seller may remedy

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

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

- (b) except in the case of an emergency when this subclause (b) will not apply, the Seller may not exercise a right under subclause (a) unless:

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

14.11 Delivery of Transfer and title

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

15 Error or Misdescription

15.1 Meaning of error or misdescription

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

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

15.2 No termination or delay in Settlement

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

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

15.3 Claim for compensation by Buyer

If the Buyer claims:

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

15.4 Claim for compensation lost

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

15.5 Determination of claim and compensation

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

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

16 No requisition on title for freehold land

If the Land is freehold land:

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

17 Cost and duty

17.1 Legal and other cost

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

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

17.2 Duty

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

17.3 Registration fee

The Buyer must pay the registration fee on the Transfer.

17.4 Default cost

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

18 GST

18.1 Purchase Price does not include GST

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

18.2 Margin Scheme

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

18.3 GST to be paid on Purchase Price

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

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

18.4 GST on damages

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

19 Depreciation and Capital Works Deduction

19.1 Price of Depreciating Asset in Contract

If:

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

19.2 Price of Depreciating Asset not specified in Contract

If:

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

19.3 Capital Works Deduction

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

20 Registration of Transfer

20.1 Registration

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

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

20.2 Seller to cooperate

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

20.3 Landgate requisition

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

21 Notice

21.1 Requirements for Notice

A notice to be given under the Contract must be:

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

21.2 Service generally

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

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

21.3 Service - Representative

If a Representative acts for a Party:

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

21.4 Service by facsimile or email

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

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

21.5 Service when Notice posted

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

21.6 Change of address

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

22 Time of Essence

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

23 Default Notice

23.1 Requirement for Default Notice

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

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

23.2 No limit on right to issue further Notice

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

23.3 No Default Notice required for repudiation

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

24 Default

24.1 Buyer Default

If the Buyer:

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

24.2 Seller right on default or repudiation

If clause 24.1 applies, the Seller may:

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

24.3 Further Seller right on termination

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

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

24.4 Deposit exceeds 10% of Purchase Price

If the Deposit exceeds 10% of the Purchase Price:

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

24.5 Resale

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

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

24.6 Resale within 12 months

If:

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

24.7 Terms Contract

If:

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

24.8 Interest to Seller

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

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

24.9 Instalment

If the Seller:

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

24.10 Sale within 12 months

If the Seller:

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

24.11 Payment after 12 months

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

24.12 Finalisation of proceedings

If:

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

24.13 Payment after finalisation

After determination of the action for damages the Seller:

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

24.14 Seller default

If the Seller:

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

24.15 Buyer right on default or repudiation

If clause 24.14 applies, the Buyer may:

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

24.16 Further Buyer right on termination

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

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

24.17 Legal cost on termination

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

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

24.18 Rule in *Bain v Fothergill* excluded

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

25 General

25.1 Arbitration

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

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

25.2 Contract takes priority

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

25.3 No merger

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

26 Definitions and interpretation

26.1 Definitions

In this document, unless otherwise stated:

Access Device means:

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

Act means an act of Parliament.

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

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

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

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

Buyer means each person so specified in the Contract.

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

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

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

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

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

Commissioner has the meaning given in the Tax Administration Act.

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

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

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

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

Crown Reservation means any of:

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

Default Notice means a notice which:

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

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

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

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

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

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

Deposit Holder means as applicable:

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

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

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

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

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

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

Dollars and **\$** means Australian dollars.

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

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

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

Duty means duty payable under the Duties Act.

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Duty Endorsed means an endorsement that:

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

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

Electricity Scheme Agreement means:

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

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

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

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

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

Future Rate Outgoing means an Outgoing:

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

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

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

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

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

Income Tax Act means:

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

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

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

Instituted means, in relation to court proceedings, that:

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

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

Interest Amount means the amount specified in the Interest Notice.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Memorial means a Memorial lodged under an Act.

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

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

Notice means a notice as specified in clause 21.1.

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

Outgoing means:

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

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

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

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

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

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

Planning Commission means the Western Australian Planning Commission.

Possession Date means the date that is the earlier of:

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

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

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

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

Prescribed Rate means 9% per annum calculated daily.

Property means the Land and any Property Chattels.

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

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

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

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

Rate Encumbrance means a charge:

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

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

Real Estate Agent means a person who is:

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

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

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

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

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

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

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

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

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

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

Seller means each person so specified in the Contract.

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

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

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

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

Settlement Date means the date each Party must complete Settlement:

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

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

State means the State of Western Australia.

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

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

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

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

- (a) includes the Land; and
 - (b) from which, following subdivision, the Land is created as a separate Lot.
- Subdivision Plan** means a deposited plan which includes the Lot including if applicable, a Scheme Plan which includes the Proposed Strata Lot or the Proposed Community Lot (as applicable).

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

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

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

- (a) as a tax invoice; or
- (b) as a document entitling a recipient to an input tax credit.

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

Tenant Bond means:

- (a) money paid by the Tenant as a bond in respect to each obligation of the Tenant under a Lease; and
- (b) any other security provided by the Tenant under a Lease.

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

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

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

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

Title Notification means:

- (a) any notification under Section 70A of the Transfer of Land Act; or
- (b) any notification under Section 165 of the Planning and Development Act, and which applies in respect to the Land.

Title Restriction means a Crown Reservation and a Title Notification.

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

- (a) the date the Contract was lodged on Revenue Online;
- (b) the Dutiable Value;
- (c) the date of assessment; and
- (d) the Duty assessed.

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

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

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

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

- (a) the subject of an assessment by an Authority; and
- (b) unpaid,

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

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

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

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

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

26.2 Definitions - Strata and Community Titles Schemes

In this document, unless otherwise stated:

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

- (a) if the Property is a Strata Lot or a Proposed Strata Lot - under Section 100(1) of the Strata Titles Act; or
- (b) if the Property is a Community Lot or a Proposed Community Lot - under Section 85(1) of the Community Titles Act,

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

- (c) the control and management of the common property;
- (d) the payment of any premiums of insurance; and
- (e) the discharge of any other obligation of the Scheme Corporation.

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

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

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

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

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

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

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

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

Reserve Fund Contribution means a contribution levied by:

- (a) if the Property is a Strata Lot or a Proposed Strata Lot - the Scheme Corporation under Section 100(2) of the Strata Titles Act; or
- (a) if the Property is a Community Lot or a Proposed Community Lot - the Scheme Corporation under Section 85(1) of the Community Titles Act,

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

- (c) contingent expenses other than those of a routine nature; and
- (d) other major expenses of the Scheme Corporation likely to arise in the future.

Scheme Contribution means:

- (a) an Administrative Fund Contribution; and
- (b) a Reserve Fund Contribution.

Scheme Corporation means:

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

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

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

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

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

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

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

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

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

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

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

26.3 Strata Titles Act

Words which:

- (a) are not defined in clause 26.1 or 26.2; but
 - (b) are defined in the Strata Titles Act,
- have the meaning given in the Strata Titles Act.

26.4 Community Titles Act

Words which:

- (a) are not defined in clause 26.1 or 26.2; but
 - (b) are defined in the Community Titles Act,
- have the meaning given in the Community Titles Act.

26.5 GST Act

Words which:

- (a) are not defined in clause 26.1; but
 - (b) are defined in the GST Act,
- have the meaning given in the GST Act.

26.6 PPSA

Words which:

- (a) are not defined in clause 26.1; but
 - (b) are defined in the PPSA,
- have the meaning given in the PPSA.

26.7 Citation – 2022 General Conditions

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

26.8 Interpretation

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

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

JOINT FORM

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04/22