

# Ashford

RESIDENCES



Artist's impression. Indicative only and subject to change.

## CONTRACT OF SALE

### STAGE 1- NON CTS



# Contract for Houses and Residential Land

Sixteenth Edition

*This document has been approved by The Real Estate Institute of Queensland Limited and the Queensland Law Society Incorporated as being suitable for the sale and purchase of houses and residential land in Queensland except for new residential property in which case the issue of GST liability must be dealt with by special condition.*

**The Seller and Buyer agree to sell and buy the Property under this contract.**

## REFERENCE SCHEDULE

Contract Date: \_\_\_\_\_

### SELLER'S AGENT

NAME:	<b>Mirvac Real Estate Pty Ltd</b>		
ABN:	65 003 342 452	LICENCE NO:	1800787
ADDRESS:	Level 17, 123 Eagle Street		
SUBURB:	Brisbane	STATE:	QLD POSTCODE: 4000
PHONE:	MOBILE:	FAX:	EMAIL:
07 3859 5888		07 3859 5975	

### SELLER

NAME:	<b>Mirvac Queensland Pty Ltd A.C.N. 060 411 207</b>		ABN:	<b>24 060 411 207</b>
ADDRESS:	Level 17, 123 Eagle Street			
SUBURB:	Brisbane	STATE:	QLD	POSTCODE: 4000
PHONE:	MOBILE:	FAX:	EMAIL:	
07 3859 5888		07 3859 5975	jacob.foran@mirvac.com and gabriel.reggi@mirvac.com	

NAME:			ABN:	
ADDRESS:				
SUBURB:		STATE:		POSTCODE:
PHONE:	MOBILE:	FAX:	EMAIL:	

### SELLER'S SOLICITOR

■ or any other solicitor notified to the Buyer

NAME:	HWL Ebsworth Lawyers		
REF:	JDW:656746	CONTACT:	Linda Margetts
ADDRESS:	Level 19, 480 Queen Street		
	GPO Box 2033		
SUBURB:	Brisbane	STATE:	QLD POSTCODE: 4001
PHONE:	MOBILE:	FAX:	EMAIL:
07 3169 4700		1300 368 717	lmargetts@hwle.com.au

**BUYER**

NAME:				ABN:		
ADDRESS:					ACN:	
SUBURB:			STATE:	POSTCODE:		
PHONE:	MOBILE:	FAX:	EMAIL:			

NAME:				ABN:		
ADDRESS:					ACN:	
SUBURB:			STATE:	POSTCODE:		
PHONE:	MOBILE:	FAX:	EMAIL:			

**BUYER'S AGENT** *(if applicable)*

NAME:				ABN:	
ABN:		LICENCE NO.:			
ADDRESS:					
SUBURB:			STATE:	POSTCODE:	
PHONE:	MOBILE:	FAX:	EMAIL:		

**BUYER'S SOLICITOR**■ *or any other solicitor notified to the Seller*

NAME:				REF:	CONTACT:	
ADDRESS:						
SUBURB:			STATE:	POSTCODE:		
PHONE:	MOBILE:	FAX:	EMAIL:			

**PROPERTY**

<b>Land:</b>	ADDRESS:	Proposed Lot _____, Ashmore Street			
	SUBURB:	Everton Park	STATE:	QLD	POSTCODE: 4053
		<input type="checkbox"/> Built On	<input checked="" type="checkbox"/> Vacant		
Description:	Lot: Proposed Lot _____ as identified on the Disclosure Plan and Draft Survey Plan				
Title Reference:	On:				
Area:	As shown on Disclosure Plan ■ <i>more or less</i>		Land sold as:	<input checked="" type="checkbox"/> Freehold	<input type="checkbox"/> Leasehold
<b>Present Use:</b>	Vacant residential land				
<b>Local Government</b>	Brisbane City Council				
<b>Excluded Fixtures:</b>	Nil				
<b>Included Chattels:</b>	Nil				

**PRICE**

Deposit Holder: **HWL Ebsworth Lawyers**

Deposit Holder's Trust Account: **HWL Ebsworth Lawyers Law Practice Trust Account**

Bank: **Westpac Banking Corporation**

BSB: **034-003** Account No: **246634**

Purchase Price: \$ ■ Unless otherwise specified in this contract, the Purchase Price includes any GST payable on the supply of the Property to the Buyer.

Deposit: \$ Initial Deposit payable on the day the Buyer signs this contract unless another time is specified below.

\$ Balance Deposit (if any) payable on: or before the date the Buyer gives notice of satisfaction or waiver of the Finance Condition or if not subject to the Finance Condition then on date 14 days after the Contract Date

Default Interest Rate: 12% ■ If no figure is inserted, the Contract Rate applying at the Contract Date published by the Queensland Law Society Inc will apply.

**FINANCE**

Finance Amount: \$Sufficient to complete ■ Unless all of "Finance Amount", "Financier" and "Finance Date" are completed, this contract is not subject to finance and clause 3 does not apply.

Financier: Any Bank or Financial Institution of the Buyer's Choice

Finance Date:

**BUILDING AND/OR PEST INSPECTION DATE**

Inspection Date:      ■ If "Inspection Date" is not completed, the contract is not subject to an inspection report and clause 4.1 does not apply.

**MATTERS AFFECTING PROPERTY**

**Title Encumbrances:**

Is the Property sold subject to any Encumbrances?  No  Yes, listed below:

- Refer to:
1. Special conditions;
  2. Easement Schedule;
  3. Disclosure Plan; and
  4. Draft Survey Plan.

■ **WARNING TO SELLER:** You are required to disclose all Title Encumbrances which will remain after settlement (for example, easements on your title and statutory easements for sewerage and drainage which may not appear on a title search). Failure to disclose these may entitle the Buyer to terminate the contract or to compensation. It is NOT sufficient to state "refer to title", "search will reveal", or similar.

**Tenancies:**

TENANTS NAME: Not applicable

■ If the property is sold with vacant possession from settlement, insert 'Nil'. Otherwise complete details from Residential Tenancy Agreement.

TERM AND OPTIONS:     

STARTING DATE OF TERM:     

ENDING DATE OF TERM:     

RENT:     

BOND:     

\$     

\$     

**Managing Agent:**

AGENCY NAME: Not applicable

PROPERTY MANAGER: _____			
ADDRESS:—	_____		
	_____		
SUBURB: _____	STATE: _____	POSTCODE: _____	_____
PHONE: _____	FAX: _____	MOBILE: _____	EMAIL: _____

#### POOL SAFETY

**Q1.** Is there a pool on the Land or on an adjacent land used in association with the Land?

- Yes  
 No Clause 4.2 of this contract does not apply

■ **WARNING TO SELLER:** Failure to comply with the Pool Safety Requirements is an offence with substantial penalties.

**Q2.** If the answer to Q1 is Yes, is there a Compliance or Exemption Certificate for the pool at the time of contract?

- Yes Clause 5.3(1)(f) applies  
 No Clause 4.2 applies (except for auction and some other excluded sales)

■ **WARNING TO BUYER:** If there is no Compliance or Exemption Certificate at settlement, the Buyer becomes responsible at its cost to obtain a Pool Safety Certificate within 90 days after settlement. The Buyer can also become liable to pay any costs of rectification necessary to comply with the Pool Safety Requirements to obtain a Pool Safety Certificate. The Buyer commits an offence and can be liable to substantial penalties if the Buyer fails to comply with this requirement.

**Q3.** If the answer to Q2 is No, has a Notice of no pool safety certificate been given prior to contract?

- Yes  
 No

■ If there is a pool on the Land and Q2 is not completed then clause 4.2 applies.

■ Note: This is an obligation of the Seller under Section 16 of the Building Regulation 2006.

#### POOL SAFETY INSPECTOR

**Pool Safety Inspector:**

Not applicable

■ The Pool Safety Inspector must be licensed under the Building Act 1975 and Building Regulation 2006.

**Pool Safety Inspection Date:**

Not applicable

■ Clause 4.2(2) applies except where this contract is formed on a sale by auction and some other excluded sales.

#### ELECTRICAL SAFETY SWITCH AND SMOKE ALARM

*This section must be completed unless the Land is vacant.*

The Seller gives notice to the Buyer that an Approved Safety Switch for the General Purpose Socket Outlets is:  
*(select whichever is applicable)*

- Installed in the residence \_\_\_\_\_  
 Not installed in the residence \_\_\_\_\_

■ **WARNING:** By giving false or misleading information in this section, the Seller may incur a penalty. The Seller should seek expert and qualified advice about completing this section and not rely on the Seller's Agent to complete this section.

The Seller gives notice to the Buyer that a Compliant Smoke Alarm(s) is/are:  
*(select whichever is applicable)*

- Installed in the residence \_\_\_\_\_  
 Not installed in the residence \_\_\_\_\_

■ **WARNING:** Failure to install a Compliant Smoke Alarm is an offence under the Fire and Emergency Services Act 1990.

The Seller gives notice to the Buyer in accordance with Section 83 of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011* that the Land: *(select whichever is applicable)*

- is not affected by any application to, or an order made by, the Queensland Civil and Administrative Tribunal (QCAT) in relation to a tree on the Land or
- is affected by an application to, or an order made by, QCAT in relation to a tree on the Land, a copy of which has been given to the Buyer prior to the Buyer signing the contract.

■ **WARNING:** Failure to comply with s83 *Neighbourhood Disputes (Dividing Fences and Trees Act) 2011* by giving a copy of an order or application to the Buyer (where applicable) prior to Buyer signing the contract will entitle the Buyer to terminate the contract prior to Settlement.

GST WITHHOLDING OBLIGATIONS

**See special Conditions re GST withholding Obligations**

Is the Buyer registered for GST and acquiring the Land for a creditable purpose? *(select whichever is applicable)*

Yes \_\_\_\_\_

No \_\_\_\_\_

*[Note: An example of an acquisition for a creditable purpose would be the purchase of the Land by a building contractor, who is registered for GST, for the purposes of building a house on the Land and selling it in the ordinary course of its business.]*

The Seller gives notice to the Buyer in accordance with section 14-255(1)(a) of the Withholding Law that: *(select whichever is applicable)*

<input type="checkbox"/>	the Buyer <i>is not</i> required to make a payment under section 14-250 of the Withholding Law in relation to the supply of the Property
<input type="checkbox"/>	the Buyer <i>is</i> required to make a payment under section 14-250 of the Withholding Law in relation to the supply of the Property. Under section 14-255(1) of the Withholding Law, the Seller is required to give further details prior to settlement.

■ **WARNING:** the Buyer warrants in clause 2.5(6) that this information is true and correct.

■ **WARNING:** All sellers of residential premises or potential residential land are required to complete this notice. Section 14-250 of the Withholding Law applies to the sale of 'new residential premises' or 'potential residential land' (subject to some exceptions) and requires an amount to be withheld from the Purchase Price and paid to the ATO. The Seller should seek legal advice if unsure about completing this section.

**SPECIAL CONDITIONS**

The Seller and Buyer acknowledge and agree that the following Annexures form part of this contract:

1. Annexure A – Pre-Contract Representations - Important Notice;
2. Annexure B – Special Conditions;
3. Annexure C – Deed Poll;
4. Annexure D - Housing Covenants;
5. Annexure E – Easement Schedule;
6. Annexure F – Development Approval Conditions requiring Specific Disclosure;
7. Annexure G – Services and Other Features Plans;
8. Annexure H – Additional Special Conditions; and
9. Accompanying instrument - Guarantee and Indemnity.

Foreign Person	Yes / No	Nationality	[Complete as either Yes or No. If not completed, Buyers are assumed not a Foreign Person.]
Buyer 1			
Buyer 2			
Buyer 3			
Property being acquired for owner occupier purposes (Personal Use) or investment purposes (Non Personal Use)			[Complete as either Occupier or Investment. If not completed, assumed Property being acquired for investment purposes.]

**SETTLEMENT**

SETTLEMENT DATE:	See Special Conditions	■ or the next Business Day if that is not a Business Day in the Place for Settlement.
PLACE FOR SETTLEMENT:	Brisbane CBD	■ If Brisbane is inserted, this is a reference to Brisbane CBD.

**SIGNATURES**

The contract may be subject to a 5 business day statutory cooling-off period. A termination penalty of 0.25% of the purchase price applies if the Buyer terminates the contract during the statutory cooling-off period.

It is recommended the Buyer obtain an independent property valuation and independent legal advice about the contract and his or her cooling-off rights, before signing.

BUYER: \_\_\_\_\_ WITNESS: \_\_\_\_\_

BUYER: \_\_\_\_\_ WITNESS: \_\_\_\_\_

BUYER: \_\_\_\_\_ WITNESS: \_\_\_\_\_

By placing my signature above I warrant that I am the Buyer named in the Reference Schedule or authorised by the Buyer to sign and if an officer of a company, the comply duly resolved to enter into and sign this Contract. [Note: No witness is required if the Buyer signs using an Electronic Signature]

**Mirvac Queensland Pty Ltd A.C.N. 060 411 207 by its duly authorised attorneys or signatories**

SELLER: \_\_\_\_\_ WITNESS: \_\_\_\_\_

SELLER: \_\_\_\_\_ WITNESS: \_\_\_\_\_

By placing my signature above I warrant that I am the Seller named in the Reference Schedule or authorised by the Seller to sign. [Note: No witness is required if the Seller signs using an Electronic Signature]

DEPOSIT HOLDER: \_\_\_\_\_ ■ Who acknowledges having received the Initial Deposit and agrees to hold that amount and any Balance Deposit when received as Deposit Holder for the parties as provided in the Contract.

# TERMS OF CONTRACT

## FOR HOUSES AND RESIDENTIAL LAND

### 1. DEFINITIONS

#### 1.1 In this contract:

- (1) terms in **bold** in the Reference Schedule have the meanings shown opposite them; and
- (2) unless the context otherwise indicates:
  - (a) **“Approved Safety Switch”** means a residual current device as defined in the *Electrical Safety Regulation 2013*;
  - (b) **“ATO”** means the Australian Taxation Office;
  - (c) **“ATO Clearance Certificate”** means a certificate issued under s14-220(1) of the Withholding Law which is current on the date it is given to the Buyer;
  - (d) **“Balance Purchase Price”** means the Purchase Price, less the Deposit paid by the Buyer, adjusted under clause 2.6;
  - (e) **“Bank”** means an authorised deposit-taking institution within the meaning of the *Banking Act 1959 (Cth)*;
  - (f) **“Bond”** means a bond under the Residential Tenancies and Rooming Accommodation Act 2008;
  - (g) **“Building Inspector”** means a person licensed to carry out completed residential building inspections under the *Queensland Building and Construction Commission Regulations 2003*;
  - (h) **“Business Day”** means a day other than:
    - (i) a Saturday or Sunday;
    - (ii) a public holiday in the Place for Settlement; and
    - (iii) a day in the period 27 to 31 December (inclusive);
  - (i) **“CGT Withholding Amount”** means the amount determined under section 14-200(3)(a) of the Withholding Law or, if a copy is provided to the Buyer prior to settlement, a lesser amount specified in a variation notice under section 14-235;
  - (j) **“Compliance or Exemption Certificate”** means:
    - (i) a Pool Safety Certificate; or
    - (ii) a building certificate that may be used instead of a Pool Safety Certificate under section 246AN(2) of the *Building Act 1975*; or
    - (iii) an exemption from compliance on the grounds of impracticality under section 245B of the *Building Act 1975*;
  - (k) **“Compliant Smoke Alarm”** means a smoke alarm complying with the requirements for smoke alarms in domestic dwellings under the *Fire and Emergency Services Act 1990*;
  - (l) **“Contract Date”** or **“Date of Contract”** means the date inserted in the Reference Schedule;
  - (m) **“Court”** includes any tribunal established under statute.
  - (n) **“Electronic Signature”** means an electronic method of signing that identifies the person and indicates their intention to sign the contract;
  - (o) **“Encumbrances”** includes:
    - (i) unregistered encumbrances;
    - (ii) statutory encumbrances; and
    - (iii) Security Interests.
  - (p) **“Essential Term”** includes, in the case of breach by:
    - (i) the Buyer: clauses 2.2, 2.5(1), 2.5(5), 5.1 and 6.1; and
    - (ii) the Seller: clauses 2.5(5), 5.1, 5.3(1)(a)-(d), 5.3(1)(e)(ii) & (iii), 5.3(1)(f), 5.5 and 6.1;
 but nothing in this definition precludes a Court from finding other terms to be essential.
  - (q) **“Financial Institution”** means a Bank, building society or credit union;
  - (r) **“General Purpose Socket Outlet”** means an electrical socket outlet as defined in the *Electrical Safety Regulations 2013*;
  - (s) **“GST”** means the goods and services tax under the GST Act;
  - (t) **“GST Act”** means *A New Tax System (Goods and Services Tax) Act* and includes other GST related legislation;
  - (u) **“GST Withholding Amount”** means the amount (if any) determined under section 14-250 of the Withholding Law required to be paid to the Commissioner of Taxation.
  - (v) **“Improvements”** means fixed structures on the Land and includes all items fixed to them (such as stoves, hot water systems, fixed carpets, curtains, blinds and their fittings, clothes lines, fixed satellite dishes and television antennae, in-ground plants) but does not include the Reserved Items;
  - (w) **“Keys”** means keys, codes or devices in the Seller’s possession or control for all locks or security systems on the Property or necessary to access the Property;
  - (x) **“Notice of no pool safety certificate”** means the Form 36 under the *Building Regulation 2006* to the effect that there is no Pool Safety Certificate issued for the Land;
  - (y) **“Notice of nonconformity”** means a Form 26 under the *Building Regulation 2006* advising how the pool does not comply with the relevant pool safety standard;
  - (z) **“Outgoings”** means rates or charges on the Land by any competent authority (for example, council rates, water rates, fire service levies) but excludes land tax;
  - (aa) **“Pest Inspector”** means a person licensed to undertake termite inspections on completed buildings under the *Queensland Building and Construction Commission Regulations 2003*;
  - (bb) **“Pool Safety Certificate”** has the meaning in section 231C(a) of the *Building Act 1975*;
  - (cc) **“Pool Safety Inspection Date”** means the Pool Safety Inspection Date inserted in the Reference Schedule. If no date is inserted in the Reference Schedule, the Pool Safety Inspection Date is taken to be the earlier of the following:
    - (i) the Inspection Date for the Building and/or Pest Inspection; or
    - (ii) 2 Business Days before the Settlement Date
  - (dd) **“Pool Safety Requirements”** means the requirements for pool safety contained in the *Building Act 1975* and *Building Regulation 2006*;
  - (ee) **“Pool Safety Inspector”** means a person authorised to give a Pool Safety Certificate;
  - (ff) **“PPSR”** means the Personal Property Securities Register established under *Personal Property Securities Act 2009 (Cth)*;
  - (gg) **“Property”** means:
    - (i) the Land;
    - (ii) the Improvements; and
    - (iii) the Included Chattels;
  - (hh) **“Rent”** means any periodic amount payable under the Tenancies;
  - (ii) **“Reserved Items”** means the Excluded Fixtures and all chattels on the Land other than the Included Chattels;
  - (jj) **“Security Interests”** means all security interests registered on the PPSR over Included Chattels and Improvements;
  - (kk) **“Transfer Documents”** means:



- (i) the form of transfer under the *Land Title Act 1994* required to transfer title in the Land to the Buyer; and
- (ii) any other document to be signed by the Seller necessary for stamping or registering the transfer;
- (ll) **“Transport Infrastructure”** has the meaning defined in the *Transport Infrastructure Act 1994*; and
- (mm) **“Withholding Law”** means Schedule 1 to the *Taxation Administration Act 1953 (Cth)*.

## 2. PURCHASE PRICE

### 2.1 GST

- (1) Unless otherwise specified in this contract, the Purchase Price includes any GST payable on the supply of the Property to the Buyer.
- (2) If a party is required to make any other payment or reimbursement under this contract, that payment or reimbursement will be reduced by the amount of any input tax credits to which the other party (or the representative member for a GST group of which it is a member) is entitled.

### 2.2 Deposit

- (1) The Buyer must pay the Deposit to the Deposit Holder at the times shown in the Reference Schedule. The Deposit Holder will hold the Deposit until a party becomes entitled to it.
- (2) The Buyer will be in default if it:
  - (a) does not pay the Deposit when required;
  - (b) pays the Deposit by a post-dated cheque; or
  - (c) pays the Deposit by cheque which is dishonoured on presentation.
- (3) The Seller may recover from the Buyer as a liquidated debt any part of the Deposit which is not paid when required.

### 2.3 Investment of Deposit

- If:
- (1) the Deposit Holder is instructed by either the Seller or the Buyer; and
  - (2) it is lawful to do so;
- the Deposit Holder must:
- (3) invest as much of the Deposit as has been paid with any Financial Institution in an interest-bearing account in the names of the parties; and
  - (4) provide the parties' tax file numbers to the Financial Institution (if they have been supplied).

### 2.4 Entitlement to Deposit and Interest

- (1) The party entitled to receive the Deposit is:
  - (a) if this contract settles, the Seller;
  - (b) if this contract is terminated without default by the Buyer, the Buyer; and
  - (c) if this contract is terminated owing to the Buyer's default, the Seller.
- (2) The interest on the Deposit must be paid to the person who is entitled to the Deposit.
- (3) If this contract is terminated, the Buyer has no further claim once it receives the Deposit and interest, unless the termination is due to the Seller's default or breach of warranty.
- (4) The Deposit is invested at the risk of the party who is ultimately entitled to it.

### 2.5 Payment of Balance Purchase Price

- (1) On the Settlement Date, the Buyer must pay the Balance Purchase Price by bank cheque as the Seller or the Seller's Solicitor directs.
- (2) Despite any other provision of this contract, a reference to a "bank cheque" in clause 2.5:
  - (a) includes a cheque drawn by a building society or credit union on itself;
  - (b) does not include a cheque drawn by a building society or credit union on a Bank;

and the Seller is not obliged to accept a cheque referred to in clause 2.5(2)(b) on the Settlement Date.
- (3) If both the following apply:
  - (a) the sale is not an excluded transaction under s14-215 of the Withholding Law; and
  - (b) the Seller has not given the Buyer on or before settlement for each person comprising the Seller either:
    - (i) an ATO Clearance Certificate; or

- (ii) a variation notice under s14-235 of the Withholding Law which remains current at the Settlement Date varying the CGT Withholding Amount to nil,

then:

- (c) for clause 2.5(1), the Seller irrevocably directs the Buyer to draw a bank cheque for the CGT Withholding Amount in favour of the Commissioner of Taxation or, if the Buyer's Solicitor requests, the Buyer's Solicitor's Trust Account;
- (d) the Buyer must lodge a Foreign Resident Capital Gains Withholding Purchaser Notification Form with the ATO for each person comprising the Buyer and give copies to the Seller with the payment reference numbers (PRN) on or before settlement;
- (e) the Seller must return the bank cheque in paragraph (c) to the Buyer's Solicitor (or if there is no Buyer's Solicitor, the Buyer) at settlement; and
- (f) the Buyer must pay the CGT Withholding Amount to the ATO in accordance with section 14-200 of the Withholding Law and give the Seller evidence that it has done so within 2 Business Days of settlement occurring.
- (4) For clause 2.5(3) and section 14-215 of the Withholding Law, the market value of the CGT asset is taken to be the Purchase Price less any GST included in the Purchase Price for which the Buyer is entitled to an input tax credit unless:
  - (a) the Property includes items in addition to the Land and Improvements; and
  - (b) no later than 2 Business Days prior to the Settlement Date, the Seller gives the Buyer a valuation of the Land and Improvements prepared by a registered valuer, in which case the market value of the Land and Improvements will be as stated in the valuation.
- (5) If the Buyer is required to pay the GST Withholding Amount to the Commissioner of Taxation at settlement pursuant to section 14-250 of the Withholding Law:
  - (a) the Seller must give the Buyer a notice in accordance with section 14-255(1) of the Withholding Law;
  - (b) prior to settlement the Buyer must lodge with the ATO:
    - (i) a *GST Property Settlement Withholding Notification* form ("Form 1"); and
    - (ii) a *GST Property Settlement Date Confirmation* form ("Form 2");
  - (c) on or before settlement, the Buyer must give the Seller copies of:
    - (i) the Form 1;
    - (ii) confirmation from the ATO that the Form 1 has been lodged specifying the Buyer's lodgement reference number and payment reference number;
    - (iii) confirmation from the ATO that the Form 2 has been lodged; and
    - (iv) a completed ATO payment slip for the Withholding Amount;
  - (d) the Seller irrevocably directs the Buyer to draw a bank cheque for the GST Withholding Amount in favour of the Commissioner of Taxation and deliver it to the Seller at settlement; and
  - (e) the Seller must pay the GST Withholding Amount to the ATO in compliance with section 14-250 of the Withholding Law promptly after settlement.
- (6) The Buyer warrants that the statements made by the Buyer in the Reference Schedule under GST Withholding Obligations are true and correct.

### 2.6 Adjustments to Balance Purchase Price

- (1) The Seller is liable for Outgoings and is entitled to Rent up to and including the Settlement Date. The Buyer is liable for Outgoings and is entitled to Rent after the Settlement Date.
- (2) Subject to clauses 2.6(3), 2.6(5) and 2.6(14), Outgoings for periods including the Settlement Date must be adjusted:
  - (a) for those paid, on the amount paid;
  - (b) for those assessed but unpaid, on the amount payable (excluding any discount); and

- (c) for those not assessed:
- (i) on the amount the relevant authority advises will be assessed (excluding any discount); or
  - (ii) if no advice on the assessment to be made is available, on the amount of the latest separate assessment (excluding any discount).
- (3) If there is no separate assessment of rates for the Land at the Settlement Date and the Local Government informs the Buyer that it will not apportion rates between the Buyer and the Seller, then:
- (a) the amount of rates to be adjusted is that proportion of the assessment equal to the ratio of the area of the Land to the area of the parcel in the assessment; and
  - (b) if an assessment of rates includes charges imposed on a "per lot" basis, then the portion of those charges to be adjusted is the amount assessed divided by the number of lots in that assessment.
- (4) The Seller is liable for land tax assessed on the Land for the financial year current at the Settlement Date. If land tax is unpaid at the Settlement Date and the Office of State Revenue advises that it will issue a final clearance for the Land on payment of a specified amount, then the Buyer may deduct the specified amount from the Balance Purchase Price at settlement and must pay it promptly to the Office of State Revenue.
- (5) Any Outgoings assessable on the amount of water used must be adjusted on the charges that would be assessed on the total water usage for the assessment period, determined by assuming that the actual rate of usage shown by the meter reading made before settlement continues throughout the assessment period. The Buyer must obtain and pay for the meter reading.
- (6) If any Outgoings are assessed but unpaid at the Settlement Date, then the Buyer may deduct the amount payable from the Balance Purchase Price at settlement and pay it promptly to the relevant authority. If an amount is deducted under this clause, the relevant Outgoing will be treated as paid at the Settlement Date for the purposes of clause 2.6(2).
- (7) Arrears of Rent for any rental period ending on or before the Settlement Date belong to the Seller and are not adjusted at settlement.
- (8) Unpaid Rent for the rental period including both the Settlement Date and the following day ("Current Period") is not adjusted until it is paid.
- (9) Rent already paid for the Current Period or beyond must be adjusted at settlement.
- (10) If Rent payments are reassessed after the Settlement Date for periods including the Settlement Date, any additional Rent payment from a Tenant or refund due to a Tenant must be apportioned under clauses 2.6(7), 2.6(8) and 2.6(9).
- (11) Payments under clause 2.6(10) must be made within 14 days after notification by one party to the other but only after any additional payment from a Tenant has been received.
- (12) The cost of Bank cheques payable at settlement:
- (a) to the Seller or its mortgagee are the responsibility of the Buyer; and
  - (b) to parties other than the Seller or its mortgagee are the responsibility of the Seller.
- (13) The Seller is not entitled to require payment of the Balance Purchase Price by means other than Bank cheque without the consent of the Buyer.
- (14) Upon written request by the Buyer, the Seller will, prior to Settlement, give the Buyer a written statement, supported by reasonable evidence, of –
- (a) all Outgoings and all Rent for the Property to the extent they are not capable of discovery by search or enquiry at any office of public record or pursuant to the provisions of any statute; and
  - (b) any other information which the Buyer may reasonably require for the purpose of calculating or apportioning any Outgoings or Rent under this clause 2.6.

If the Seller becomes aware of a change to the information provided the Seller will as soon as practicably provide the updated information to the Buyer.

### 3. FINANCE

- 3.1 This contract is conditional on the Buyer obtaining approval of a loan for the Finance Amount from the Financier by the Finance Date on terms satisfactory to the Buyer. The Buyer must take all reasonable steps to obtain approval.
- 3.2 The Buyer must give notice to the Seller that:
- (1) approval has not been obtained by the Finance Date and the Buyer terminates this contract; or
  - (2) the finance condition has been either satisfied or waived by the Buyer.
- 3.3 The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 3.2 by 5pm on the Finance Date. This is the Seller's only remedy for the Buyer's failure to give notice.
- 3.4 The Seller's right under clause 3.3 is subject to the Buyer's continuing right to give written notice to the Seller of satisfaction, termination or waiver pursuant to clause 3.2.

### 4. BUILDING AND PEST INSPECTION REPORTS AND POOL SAFETY

#### 4.1 Building and Pest Inspection

- (1) This contract is conditional upon the Buyer obtaining a written building report from a Building Inspector and a written pest report from a Pest Inspector (which may be a single report) on the Property by the Inspection Date on terms satisfactory to the Buyer. The Buyer must take all reasonable steps to obtain the reports (subject to the right of the Buyer to elect to obtain only one of the reports).
- (2) The Buyer must give notice to the Seller that:
  - (a) a satisfactory Inspector's report under clause 4.1(1) has not been obtained by the Inspection Date and the Buyer terminates this contract. The Buyer must act reasonably; or
  - (b) clause 4.1(1) has been either satisfied or waived by the Buyer.
- (3) If the Buyer terminates this contract and the Seller asks the Buyer for a copy of the building and pest reports, the Buyer must give a copy of each report to the Seller without delay.
- (4) The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 4.1(2) by 5pm on the Inspection Date. This is the Seller's only remedy for the Buyer's failure to give notice.
- (5) The Seller's right under clause 4.1(4) is subject to the Buyer's continuing right to give written notice to the Seller of satisfaction, termination or waiver pursuant to clause 4.1(2).

#### 4.2 Pool Safety

- (1) This clause 4.2 applies if:
  - (a) the answer to Q2 of the Reference Schedule is No or Q2 is not completed; and
  - (b) this contract is not a contract of a type referred to in section 160(1)(b) of the *Property Occupations Act 2014*.
- (2) This contract is conditional upon:
  - (a) the issue of a Pool Safety Certificate; or
  - (b) a Pool Safety Inspector issuing a Notice of nonconformity stating the works required before a Pool Safety Certificate can be issued, by the Pool Safety Inspection Date.
- (3) The Buyer is responsible for arranging an inspection by a Pool Safety Inspector at the Buyer's cost. The Seller authorises:
  - (a) the Buyer to arrange the inspection; and
  - (b) the Pool Safety Inspector to advise the Buyer of the results of the inspection and to give the Buyer a copy of any notice issued.
- (4) If a Pool Safety Certificate has not issued by the Pool Safety Inspection Date, the Buyer may give notice to the Seller that the Buyer:
  - (a) terminates this contract; or
  - (b) waives the benefit of this clause 4.2; The Buyer must act reasonably.
- (5) The Seller may terminate this contract by notice to the Buyer if notice is not given under clause 4.2(4) by 5pm on the Pool Safety Inspection Date.
- (6) The Seller's right under clause 4.2(5) is subject to the Buyer's continuing right to give written notice to the Seller of termination or waiver pursuant to clause 4.2(4).

- (7) The right of a party to terminate under this clause 4.2, ceases upon receipt by that party of a copy of a current Pool Safety Certificate.
- (8) If the Buyer terminates this contract under clause 4.2(4)(a), and the Seller has not obtained a copy of the Notice of nonconformity issued by the Pool Safety Inspector, the Seller may request a copy and the Buyer must provide this to the Seller without delay.

## 5. SETTLEMENT

### 5.1 Time and Date

- (1) Settlement must occur between 9am and 4pm AEST on the Settlement Date.
- (2) If the parties do not agree on where settlement is to occur, it must take place in the Place for Settlement at the office of a solicitor or Financial Institution nominated by the Seller, or, if the Seller does not make a nomination, at the land registry office in or nearest to the Place for Settlement.

### 5.2 Transfer Documents

- (1) The Transfer Documents must be prepared by the Buyer's Solicitor and delivered to the Seller a reasonable time before the Settlement Date.
- (2) If the Buyer pays the Seller's reasonable expenses, it may require the Seller to produce the Transfer Documents at the Office of State Revenue nearest the Place for Settlement for stamping before settlement.

### 5.3 Documents and Keys at Settlement

- (1) In exchange for payment of the Balance Purchase Price, the Seller must deliver to the Buyer at settlement:
  - (a) any instrument of title for the Land required to register the transfer to the Buyer; and
  - (b) unstamped Transfer Documents capable of immediate registration after stamping; and
  - (c) any instrument necessary to release any Encumbrance over the Property in compliance with the Seller's obligation in clause 7.2; and
  - (d) if requested by the Buyer not less than 2 clear Business Days before the Settlement Date, the Keys; and
  - (e) if there are Tenancies:
    - (i) the Seller's copy of any Tenancy agreements;
    - (ii) a notice to each tenant advising of the sale in the form required by law; and
    - (iii) any notice required by law to transfer to the Buyer the Seller's interest in any Bond; and
  - (f) if the answer to Q2 in the Reference Schedule is Yes, a copy of a current Compliance or Exemption Certificate, if not already provided to the Buyer.
- (2) If the instrument of title for the Land also relates to other land, the Seller need not deliver it to the Buyer, but the Seller must make arrangements satisfactory to the Buyer to produce it for registration of the transfer.
- (3) If the Keys are not delivered at Settlement under clause 5.3(1)(d), the Seller must deliver the Keys to the Buyer. The Seller may discharge its obligation under this provision by authorising the Seller's Agent to release the Keys to the Buyer.

### 5.4 Assignment of Covenants and Warranties

At settlement, the Seller assigns to the Buyer the benefit of all:

- (1) covenants by the tenants under the Tenancies;
  - (2) guarantees and Bonds (subject to the requirements of the *Residential Tenancies and Rooming Accommodation Act 2008*) supporting the Tenancies;
  - (3) manufacturers' warranties regarding the Included Chattels; and
  - (4) builders' warranties on the Improvements;
- to the extent they are assignable. However, the right to recover arrears of Rent is not assigned to the Buyer and section 117 of the *Property Law Act 1974* does not apply.

### 5.5 Possession of Property and Title to Included Chattels

On the Settlement Date, in exchange for the Balance Purchase Price, the Seller must give the Buyer vacant possession of the Land and the Improvements except for the Tenancies. Title to the Included Chattels passes at settlement.

### 5.6 Reservations

- (1) The Seller must remove the Reserved Items from the Property before settlement.

- (2) The Seller must repair at its expense any damage done to the Property in removing the Reserved Items. If the Seller fails to do so, the Buyer may repair that damage.
- (3) Any Reserved Items not removed before settlement will be considered abandoned and the Buyer may, without limiting its other rights, complete this contract and appropriate those Reserved Items or dispose of them in any way.
- (4) The Seller indemnifies the Buyer against any damages and expenses resulting from the Buyer's actions under clauses 5.6(2) or 5.6(3).

### 5.7 Consent to Transfer

- (1) If the Land sold is leasehold, this contract is subject to any necessary consent to the transfer of the lease to the Buyer being obtained by the Settlement Date.
- (2) The Seller must apply for the consent required as soon as possible.
- (3) The Buyer must do everything reasonably required to help obtain this consent.

## 6. TIME

### 6.1 Time of the Essence

Time is of the essence of this contract, except regarding any agreement between the parties on a time of day for settlement.

### 6.2 Suspension of Time

- (1) This clause 6.2 applies if a party is unable to perform a Settlement Obligation solely as a consequence of a Delay Event but does not apply where the inability is attributable to:
  - (a) damage to, destruction of or diminution in value of the Property or other property of the Seller or Buyer; or
  - (b) termination or variation of any agreement between a party and another person whether relating to the provision of finance, the release of an Encumbrance, the sale or purchase of another property or otherwise.
- (2) Time for the performance of the parties' Settlement Obligations is suspended and ceases to be of the essence of the contract and the parties are deemed not to be in breach of their Settlement Obligations.
- (3) An Affected Party must take reasonable steps to minimise the effect of the Delay Event on its ability to perform its Settlement Obligations.
- (4) When an Affected Party is no longer prevented from performing its Settlement Obligations due to the Delay Event, the Affected Party must give the other party a notice of that fact, promptly.
- (5) When the Suspension Period ends, whether notice under clause 6.2(4) has been given or not, either party may give the other party a Notice to Settle.
- (6) A Notice to Settle must be in writing and state:
  - (a) that the Suspension Period has ended;
  - (b) a date, being not less than 5 nor more than 10 Business Days after the date the Notice to Settle is given, which shall become the Settlement Date; and
  - (c) that time is of the essence.
- (7) When Notice to Settle is given, time is again of the essence of the contract.
- (8) In this clause 6.2:
  - (a) **"Affected Party"** means a party referred to in clause 6.2(1);
  - (b) **"Delay Event"** means:
    - (i) a tsunami, flood, cyclone, earthquake, bushfire or other act of nature;
    - (ii) riot, civil commotion, war, invasion or a terrorist act;
    - (iii) an imminent threat of an event in paragraphs (i) or (ii); or
    - (iv) compliance with any lawful direction or order by a Government Agency;
  - (c) **"Government Agency"** means the government of the Commonwealth of Australia or an Australian State, Territory or local government and includes their authorities, agencies, government owned corporations and authorised officers, courts and tribunals;
  - (d) **"Settlement Obligations"** means, in the case of the Buyer, its obligations under clauses 2.5(1) and 5.1(1) and, in the case of the Seller, its obligations under clauses 5.1(1), 5.3(1)(a) – (e) and 5.5;

- (e) “**Suspension Period**” means the period during which the Affected Party (or if both the Buyer and Seller are Affected Parties, either of them) remains unable to perform a Settlement Obligation solely as a consequence of a Delay Event.

## 7. MATTERS AFFECTING THE PROPERTY

### 7.1 Title

The Land is sold subject to:

- (1) any reservations or conditions on the title or the original Deed of Grant (if freehold); or
- (2) the Conditions of the Crown Lease (if leasehold).

### 7.2 Encumbrances

The Property is sold free of all Encumbrances other than the Title Encumbrances and Tenancies.

### 7.3 Requisitions

The Buyer may not deliver any requisitions or enquiries on title.

### 7.4 Seller's Warranties

- (1) The Seller warrants that, except as disclosed in this contract at settlement:
  - (a) if the Land is freehold: it will be the registered owner of an estate in fee simple in the Land and will own the rest of the Property;
  - (b) if the Land is leasehold: it will be the registered lessee, the lease is not liable to forfeiture because of default under the lease, and it will own the rest of the Property;
  - (c) it will be capable of completing this contract (unless the Seller dies or becomes mentally incapable after the Contract Date); and
  - (d) there will be no unsatisfied judgment, order (except for an order referred to in clause 7.6(1)(b)) or writ affecting the Property.
- (2) The Seller warrants that, except as disclosed in this contract at the Contract Date and at settlement there are no current or threatened claims, notices or proceedings that may lead to a judgment, order or writ affecting the Property.
- (3)(a) The Seller warrants that, except as disclosed in this contract or a notice given by the Seller to the Buyer under the *Environmental Protection Act 1994* (“EPA”), at the Contract Date:
  - (i) there is no outstanding obligation on the Seller to give notice to the administering authority under EPA of notifiable activity being conducted on the Land; and
  - (ii) the Seller is not aware of any facts or circumstances that may lead to the Land being classified as contaminated land within the meaning of EPA.
- (b) If the Seller breaches a warranty in clause 7.4(3), the Buyer may:
  - (i) terminate this contract by notice in writing to the Seller given within 2 Business Days before the Settlement Date; or
  - (ii) complete this contract and claim compensation, but only if the Buyer claims it in writing before the Settlement Date.
- (4) If the Seller breaches a warranty in clause 7.4(1) or clause 7.4(2), the Buyer may terminate this contract by notice to the Seller.
- (5) The Seller does not warrant that the Present Use is lawful.

### 7.5 Survey and Mistake

- (1) The Buyer may survey the Land.
- (2) If there is:
  - (a) an error in the boundaries or area of the Land;
  - (b) an encroachment by structures onto or from the Land; or
  - (c) a mistake or omission in describing the Property or the Seller's title to it;
 which is:
  - (d) immaterial; or
  - (e) material, but the Buyer elects to complete this contract; the Buyer's only remedy against the Seller is for compensation, but only if claimed by the Buyer in writing on or before settlement.

- (3) The Buyer may not delay settlement or withhold any part of the Balance Purchase Price because of any compensation claim under clause 7.5(2).
- (4) If there is a material error, encroachment or mistake, the Buyer may terminate this contract before settlement.

### 7.6 Requirements of Authorities

- (1) Subject to clause 7.6(5), any valid notice or order by any competent authority or Court requiring work to be done or money spent in relation to the Property (“Work or Expenditure”) must be fully complied with:
  - (a) if issued before the Contract Date, by the Seller before the Settlement Date;
  - (b) if issued on or after the Contract Date, by the Buyer.
- (2) If any Work or Expenditure that is the Seller's responsibility under clause 7.6(1)(a) is not done before the Settlement Date, the Buyer is entitled to claim the reasonable cost of work done by the Buyer in accordance with the notice or order referred to in clause 7.6(1) from the Seller after settlement as a debt.
- (3) Any Work or Expenditure that is the Buyer's responsibility under clause 7.6(1)(b), which is required to be done before the Settlement Date, must be done by the Seller unless the Buyer directs the Seller not to and indemnifies the Seller against any liability for not carrying out the work. If the Seller does the work, or spends the money, the reasonable cost of that Work or Expenditure must be added to the Balance Purchase Price.
- (4) The Buyer may terminate this contract by notice to the Seller if there is an outstanding notice at the Contract Date under sections 246AG, 247 or 248 of the *Building Act 1975* or sections 167 or 168 of the *Planning Act 2016* that affects the Property.
- (5) Clause 7.6(1) does not apply to orders disclosed under section 83 of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*.

### 7.7 Property Adversely Affected

- (1) If at the Contract Date:
  - (a) the Present Use is not lawful under the relevant town planning scheme;
  - (b) the Land is affected by a proposal of any competent authority to alter the dimensions of any Transport Infrastructure or locate Transport Infrastructure on the Land;
  - (c) access or any service to the Land passes unlawfully through other land;
  - (d) any competent authority has issued a current notice to treat, or notice of intention to resume, regarding any part of the Land;
  - (e) there is an outstanding condition of a development approval attaching to the Land under section 73 of the *Planning Act 2016* or section 96 of the *Economic Development Queensland Act 2012* which, if complied with, would constitute a material mistake or omission in the Seller's title under clause 7.5(2)(c);
  - (f) the Property is affected by the *Queensland Heritage Act 1992* or is included in the World Heritage List;
  - (g) the Property is declared acquisition land under the *Queensland Reconstruction Authority Act 2011*;
  - (h) there is a charge against the Land under s104 of the *Foreign Acquisitions and Takeovers Act 1975*, and that has not been disclosed in this contract, the Buyer may terminate this contract by notice to the Seller given on or before settlement.
- (2) If no notice is given under clause 7.7(1), the Buyer will be treated as having accepted the Property subject to all of the matters referred to in that clause.
- (3) The Seller authorises the Buyer to inspect records held by any authority, including Security Interests on the PPSR relating to the Property.

### 7.8 Dividing Fences

Notwithstanding any provision in the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*, the Seller need not contribute to the cost of building any dividing fence between the Land and any adjoining land owned by it. The Buyer waives any right to claim contribution from the Seller.

## 8. RIGHTS AND OBLIGATIONS UNTIL SETTLEMENT

### 8.1 Risk

The Property is at the Buyer's risk from 5pm on the first Business Day after the Contract Date.

### 8.2 Access

After reasonable notice to the Seller, the Buyer and its consultants may enter the Property:

- (1) once to read any meter;
- (2) for inspections under clause 4;
- (3) once to inspect the Property before settlement; and
- (4) once to value the Property before settlement.

### 8.3 Seller's Obligations After Contract Date

- (1) The Seller must use the Property reasonably until settlement. The Seller must not do anything regarding the Property or Tenancies that may significantly alter them or result in later expense for the Buyer.
- (2) The Seller must promptly upon receiving any notice, proceeding or order that affects the Property or requires work on the Property, give a copy to the Buyer.
- (3) Without limiting clause 8.3(1), the Seller must not without the prior written consent of the Buyer, give any notice or seek or consent to any order that affects the Property or make any agreement affecting the Property that binds the Buyer to perform.

### 8.4 Information Regarding the Property

Upon written request of the Buyer but in any event before settlement, the Seller must give the Buyer:

- (1) copies of all documents relating to any unregistered interests in the Property;
- (2) full details of the Tenancies to allow the Buyer to properly manage the Property after settlement;
- (3) sufficient details (including the date of birth of each Seller who is an individual) to enable the Buyer to undertake a search of the PPSR; and
- (4) further copies or details if those previously given cease to be complete and accurate.

### 8.5 Possession Before Settlement

If possession is given before settlement:

- (1) the Buyer must maintain the Property in substantially its condition at the date of possession, fair wear and tear excepted;
- (2) entry into possession is under a licence personal to the Buyer revocable at any time and does not:
  - (a) create a relationship of landlord and tenant; or
  - (b) waive the Buyer's rights under this contract;
- (3) the Buyer must insure the Property to the Seller's satisfaction; and
- (4) the Buyer indemnifies the Seller against any expense or damages incurred by the Seller as a result of the Buyer's possession of the Property.

## 9. PARTIES' DEFAULT

### 9.1 Seller and Buyer May Affirm or Terminate

Without limiting any other right or remedy of the parties including those under this contract or any right at law or in equity, if the Seller or Buyer, as the case may be, fails to comply with an Essential Term, or makes a fundamental breach of an intermediate term, the Seller (in the case of the Buyer's default) or the Buyer (in the case of the Seller's default) may affirm or terminate this contract.

### 9.2 If Seller Affirms

If the Seller affirms this contract under clause 9.1, it may sue the Buyer for:

- (1) damages;
- (2) specific performance; or
- (3) damages and specific performance.

### 9.3 If Buyer Affirms

If the Buyer affirms this contract under clause 9.1, it may sue the Seller for:

- (1) damages;
- (2) specific performance; or
- (3) damages and specific performance.

### 9.4 If Seller Terminates

If the Seller terminates this contract under clause 9.1, it may do all or any of the following:

- (1) resume possession of the Property;
- (2) forfeit the Deposit and any interest earned;
- (3) sue the Buyer for damages;
- (4) resell the Property.

### 9.5 If Buyer Terminates

If the Buyer terminates this contract under clause 9.1, it may do all or any of the following:

- (1) recover the Deposit and any interest earned;
- (2) sue the Seller for damages.

### 9.6 Seller's Resale

- (1) If the Seller terminates this contract and resells the Property, the Seller may recover from the Buyer as liquidated damages:
  - (a) any deficiency in price on a resale; and
  - (b) its expenses connected with any repossession, any failed attempt to resell, and the resale;provided the resale settles within 2 years of termination of this contract.
- (2) Any profit on a resale belongs to the Seller.

### 9.7 Seller's Damages

The Seller may claim damages for any loss it suffers as a result of the Buyer's default, including its legal costs on an indemnity basis and the cost of any Work or Expenditure under clause 7.6(3).

### 9.8 Buyer's Damages

The Buyer may claim damages for any loss it suffers as a result of the Seller's default, including its legal costs on an indemnity basis.

### 9.9 Interest on Late Payments

- (1) The Buyer must pay interest at the Default Rate:
  - (a) on any amount payable under this contract which is not paid when due; and
  - (b) on any judgement for money payable under this contract.
- (2) Interest continues to accrue:
  - (a) under clause 9.9(1)(a), from the date it is due until paid; and
  - (b) under clause 9.9(1)(b), from the date of judgement until paid.
- (3) Any amount payable under clause 9.9(1)(a) in respect of a period prior to settlement must be paid by the Buyer at settlement. If this contract is terminated or if any amount remains unpaid after settlement, interest continues to accrue.
- (4) Nothing in this clause affects any other rights of the Seller under this contract or at law.

## 10. GENERAL

### 10.1 Seller's Agent

The Seller's Agent is appointed as the Seller's agent to introduce a buyer.

### 10.2 Foreign Buyer Approval

The Buyer warrants that either:

- (1) the Buyer's purchase of the Property is not a notifiable action; or
- (2) the Buyer has received a no objection notification, under the *Foreign Acquisitions and Takeovers Act 1975*.

### 10.3 Duty

The Buyer must pay all duty on this contract.

### 10.4 Notices

- (1) Notices under this contract must be in writing.
- (2) Notices under this contract or notices required to be given by law may be given and received by the party's solicitor.
- (3) Notices under this contract or required to be given by law may be given by:
  - (a) delivering or posting to the other party or its solicitor; or
  - (b) sending it to the facsimile number of the other party or its solicitor stated in the Reference Schedule (or another facsimile number notified by the recipient to the sender); or
  - (c) sending it to the email address of the other party or its solicitor stated in the Reference Schedule (or another email address notified by the recipient to the sender).
- (4) Subject to clause 10.4(5), a notice given after this contract is entered into in accordance with clause 10.4(3) will be treated as given:
  - (a) 5 Business Days after posting;
  - (b) if sent by facsimile, at the time indicated on a clear transmission report; and
  - (c) if sent by email, at the time it is sent.
- (5) Notices given by facsimile, by personal delivery or by email between 5pm on a Business Day (the "first Business Day") and 9am on the next Business Day (the "second Business

Day”) will be treated as given or delivered at 9am on the second Business Day.

- (6) If two or more notices are treated as given at the same time under clause 10.4(5), they will be treated as given in the order in which they were sent or delivered.
- (7) Notices or other written communications by a party’s solicitor (for example, varying the Inspection Date, Finance Date or Settlement Date) will be treated as given with that party’s authority.
- (8) For the purposes of clause 10.4(3)(c) and clause 12.2 the notice or information may be contained within an email, as an attachment to an email or located in an electronic repository accessible by the recipient by clicking a link in an email.

#### 10.5 Business Days

- (1) If anything is required to be done on a day that is not a Business Day, it must be done instead on the next Business Day.
- (2) If the Finance Date or Inspection Date fall on a day that is not a Business Day, then it falls on the next Business Day.

#### 10.6 Rights After Settlement

Despite settlement and registration of the transfer, any term of this contract that can take effect after settlement or registration remains in force.

#### 10.7 Further Acts

If requested by the other party, each party must, at its own expense, do everything reasonably necessary to give effect to this contract.

#### 10.8 Severance

If any term or part of a term of this contract is or becomes legally ineffective, invalid or unenforceable in any jurisdiction it will be severed and the effectiveness, validity or enforceability of the remainder will not be affected.

#### 10.9 Interpretation

##### (1) Plurals and Genders

Reference to:

- (a) the singular includes the plural and the plural includes the singular;
- (b) one gender includes each other gender;
- (c) a person includes a body corporate; and
- (d) a party includes the party’s executors, administrators, successors and permitted assigns.

##### (2) Parties

- (a) If a party consists of more than one person, this contract binds them jointly and each of them individually.
- (b) A party that is a trustee is bound both personally and in its capacity as a trustee.

##### (3) Statutes and Regulations

Reference to statutes includes all statutes amending, consolidating or replacing them.

##### (4) Inconsistencies

If there is any inconsistency between any provision added to this contract and the printed provisions, the added provision prevails.

##### (5) Headings

Headings are for convenience only and do not form part of this contract or affect its interpretation.

#### 10.10 Counterparts

- (1) This contract may be executed in two or more counterparts, all of which will together be deemed to constitute one and the same contract.
- (2) A counterpart may be electronic and signed using an Electronic Signature.

### 11. ELECTRONIC SETTLEMENT

#### 11.1 Application of Clause

- (1) Clause 11 applies if the Buyer, Seller and each Financial Institution involved in the transaction agree to an Electronic Settlement using the same ELNO System and overrides any other provision of this contract to the extent of any inconsistency.
- (2) Acceptance of an invitation to an Electronic Workspace is taken to be an agreement for clause 11.1(1).
- (3) Clause 11 (except clause 11.5(3)) ceases to apply if either party gives notice under clause 11.5 that settlement will not be an Electronic Settlement.

#### 11.2 Completion of Electronic Workspace

- (1) The parties must:

- (a) ensure that the Electronic Workspace is completed and all Electronic Conveyancing Documents and the Financial Settlement Schedule are Digitally Signed prior to settlement; and
  - (b) do everything else required in the Electronic Workspace or otherwise to enable settlement to occur on the Settlement Date.
- (2) If the parties cannot agree on a time for settlement, the time to be nominated in the Workspace is 4pm AEST.
  - (3) If any part of the Purchase Price is to be paid to discharge an Outgoing:
    - (a) the Buyer may, by notice in writing to the Seller, require that the amount is paid to the Buyer’s Solicitor’s trust account and the Buyer is responsible for paying the amount to the relevant authority;
    - (b) for amounts to be paid to destination accounts other than the Buyer’s Solicitor’s trust account, the Seller must give the Buyer a copy of the current account for the Outgoing to enable the Buyer to verify the destination account details in the Financial Settlement Schedule.
  - (4) If the Deposit is required to discharge any Encumbrance or pay an Outgoing at settlement:
    - (a) the Deposit Holder must, if directed by the Seller at least 2 Business Days prior to Settlement, pay the Deposit (and any interest accrued on investment of the Deposit) less commission as clear funds to the Seller’s Solicitor;
    - (b) the Buyer and the Seller authorise the Deposit Holder to make the payment in clause 11.2(4)(a);
    - (c) the Seller’s Solicitor will hold the money as Deposit Holder under the Contract;
    - (d) the Seller and Buyer authorise the Seller’s Solicitor to pay the money as directed by the Seller in accordance with the Financial Settlement Schedule.

#### 11.3 Electronic Settlement

- (1) Clauses 5.1(2) and 5.2 do not apply.
- (2) Payment of the Balance Purchase Price electronically as directed by the Seller’s Solicitor in the Financial Settlement Schedule satisfies the Buyer’s obligation in clause 2.5(1).
- (3) The Seller and Buyer will be taken to have complied with:
  - (a) clause 2.5(3)(c), (e) and (f); and
  - (b) clause 2.5(5)(d) and (e),(as applicable) if at settlement the Financial Settlement Schedule specifies payment of the relevant amount to the account nominated by the Commissioner of Taxation.
- (4) The Seller will be taken to have complied with clause 5.3(1)(b), (c), (d), (e) and (f) if:
  - (a) in relation to documents which are suitable for Electronic Lodgement in the Land Registry at settlement, the documents are Digitally Signed within the Electronic Workspace; and
  - (b) in relation to any other document or thing, the Seller’s Solicitor:
    - (i) confirms in writing prior to settlement that it holds all relevant documents which are not suitable for Electronic Lodgement and all Keys (if requested under clause 5.3(1)(d)) in escrow on the terms contained in the QLS E-Conveyancing Guidelines; and
    - (ii) gives a written undertaking to send the documents and Keys (if applicable) to the Buyer or Buyer’s Solicitor no later than the Business Day after settlement; and
    - (iii) if requested by the Buyer, provides copies of documents in the Seller’s Solicitors possession.
- (5) A party is not in default to the extent it is prevented from complying with an obligation because the other party or the other party’s Financial Institution has not done something in the Electronic Workspace.
- (6) Any rights under the contract or at law to terminate the contract may not be exercised during the time the Electronic Workspace is locked for Electronic Settlement.

- (7) Electronic Settlement is taken to occur when Financial Settlement is effected, whether or not Electronic Lodgement has occurred.

#### 11.4 Computer System Unavailable

If settlement fails and cannot occur by 4pm AEST on the Settlement Date because a computer system operated by the Land Registry, Office of State Revenue, Reserve Bank, a Financial Institution or the relevant ELNO System is inoperative, neither party is in default and the Settlement Date is deemed to be the next Business Day. Time remains of the essence.

#### 11.5 Withdrawal from Electronic Settlement

- (1) Either party may elect not to proceed with an Electronic Settlement by giving written notice to the other party.
- (2) A notice under clause 11.5(1) may not be given later than 5 Business Days before the Settlement Date unless an Electronic Settlement cannot be effected because:
  - (a) the transaction is not a Qualifying Conveyancing Transaction; or
  - (b) a party's solicitor is unable to complete the transaction due to death, a loss of legal capacity or appointment of a receiver or administrator (or similar) to their legal practice or suspension of their access to the ELNO System; or
  - (c) the Buyer's or Seller's Financial Institution is unable to use the relevant ELNO System to effect Electronic Settlement.
- (3) If clause 11.5(2) applies:
  - (a) the party giving the notice must provide satisfactory evidence of the reason for the withdrawal; and
  - (b) the Settlement Date will be extended to the date 5 Business Days after the Settlement Date.

#### 11.6 Costs

Each party must pay its own fees and charges of using the relevant ELNO System for Electronic Settlement.

#### 11.7 Definitions for clause 11

In clause 11:

“**Digitally Sign**” and “**Digital Signature**” have the meaning in the ECNL.

“**ECNL**” means the Electronic Conveyancing National Law (Queensland).

“**Electronic Conveyancing Documents**” has the meaning in the *Land Title Act 1994*.

“**Electronic Lodgement**” means lodgement of a document in the Land Registry in accordance with the ECNL.

“**Electronic Settlement**” means settlement facilitated by an ELNO System.

“**Electronic Workspace**” means a shared electronic workspace within an ELNO System that allows the Buyer and Seller to effect Electronic Lodgement and Financial Settlement.

“**ELNO**” has the meaning in the ECNL.

“**ELNO System**” means a system provided by the ELNO for facilitating Financial Settlement and Electronic Lodgement.

“**Financial Settlement**” means the exchange of value between Financial Institutions facilitated by an ELNO System in accordance with the Financial Settlement Schedule.

“**Financial Settlement Schedule**” means the electronic settlement schedule within the Electronic Workspace listing the source accounts and destination accounts.

“**Qualifying Conveyancing Transaction**” means a transaction that is not excluded for Electronic Settlement by the rules issued by the relevant ELNO, Office of State Revenue, Land Registry, or a Financial Institution involved in the transaction.

## 12. ELECTRONIC CONTRACT AND DISCLOSURE

### 12.1 Electronic Signing

If this contract is signed by any person using an Electronic Signature, the Buyer and the Seller:

- (a) agree to enter into this contract in electronic form; and
- (b) consent to either or both parties signing the contract using an Electronic Signature.

### 12.2 Pre-contract Disclosure

The Buyer consents to the Seller's use of electronic communication to give any notice or information required by law to be given to the Buyer and which was given before the Buyer signed this contract.

**ANNEXURE A  
NO PRE-CONTRACT REPRESENTATIONS – IMPORTANT NOTICE**

No sales or marketing agent has authority from the Seller or any related company to make promises, representations or give any warranties or assurances about the Property other than promises, representations, warranties and assurances which are contained in this contract.

Buying a property is an important investment. If the Buyer has been induced to buy the Property by, or in buying the Property has relied on anything the Buyer has been told or any assurance the Buyer has been given other than what is in this contract, it is important these promises, representations, warranties or assurances are identified so they can be disclaimed, confirmed, qualified or clarified before the Buyer commits to buy the Property.

The Buyer should set out below any promises, representations, warranties or assurances that have been made to the Buyer by the Seller or any sales or marketing agent of the Seller that have, to any extent, induced the Buyer to buy the Property or on which the Buyer has to any extent relied, in its decision to buy the Property, but which are not included in this contract:

Promise, representation, warranty or assurance allegedly made	Person who is alleged to have said it	Date made

**Buyer’s Acknowledgment about Seller’s Representations**

1. The Buyer acknowledges that no sales or marketing agent has authority from the Seller to make promises or representations or to give warranties or assurances on behalf of the Seller, other than those contained in this contract.
2. The Buyer confirms and represents to the Seller that the Buyer has not been induced to enter into this contract by, and has not relied on, any promises, representations, warranties or assurances other than those which are contained in this contract or which are hand written above.
3. The Buyer understands that:
  - (a) if it leaves the table above blank, it is representing and warranting to the Seller that it has not been induced by and has not relied on anything said or done by or on behalf of the Seller to enter into this contract, other than what is contained in this contract;
  - (b) except for this representation and acknowledgement, the Seller would not have entered into this contract; and
  - (c) by the acknowledgment, confirmation and representation given in paragraphs 1, 2 and 3 above, it is likely that the Buyer will not be able to sue the Seller in respect of any promise, representation, warranty or assurance other than those set out above or which are set out elsewhere in this contract.

**Buyer 1 Sign**

**Buyer 2 Sign**

**Buyer 3 Sign**



**ANNEXURE B  
SPECIAL CONDITIONS**

**PART A. TERMS OF CONTRACT**

**1. Modification to Terms of Contract**

The Terms of Contract are deleted, amended or added to in accordance with the table below:

<b>Clause No</b>	<b>Deletion, Amendment or Addition</b>
1.1(2)(h)	Delete sub-clause (iii).
1.1(2)(p)	After the words "Essential Term includes" insert the following words:  <i>"any term specified in the Special Conditions to be an Essential Term and also includes."</i>
1.1(2)(jj)  (definition of " <b>Security Interests</b> ")	Delete sub-clause.
1.1(2)(o)  (definition of " <b>Encumbrances</b> ")	Delete sub-clause.
2.1  ("GST")	Delete clause.
2.3  ("Investment of Deposit")	Delete clause.
2.5(5)  (Concerning GST Withholding Amount)	Delete sub-clause.
2.6	Delete sub-clauses (2)(c), (3), (5) and (14).
2.6(12)	Delete clause and replace with the following:  <i>"The cost of all Bank cheques payable at Settlement are the responsibility of the Buyer".</i>
5.1  ("Time and Date")	Delete clause.
5.2  ("Transfer Documents")	Delete clause.
5.3(1)(b)	Insert the following words after the words "after stamping":  <i>"and after registration of release or withdrawal of any Encumbrances which are required by this contract to be provided by the Seller to the Buyer at Settlement".</i>

5.3	Delete sub-clauses (1)(d), (e) and (f), (2) and (3).
5.4 ("Assignment of Covenants and Warranties")	Delete clause.
5.6 ("Reservations")	Delete clause.
7.4(3)(b)	Amend by inserting the words "and the Buyer is materially adversely affected by the breach" after the words "a warranty in clause 7.4(3)".
7.4(4)	Amend by inserting the words "and the Buyer is materially adversely affected by the breach" after the words "If the Seller breaches a warranty in clause 7.4 (1) or clause 7.4 (2)....".
7.5(1)	Delete sub-clause.
7.7(1)	Delete the words "Contract Date" and replace with the words "Settlement Date".
7.8	Insert the words "or to the cost of relocating any fence" at the end of the first sentence and following sentence at the end of the clause:  "The Parties acknowledge that this clause is an agreement made between adjoining owners about a dividing fence for the purposes of section 10 of the Neighbourhood Disputes Resolution Act 2011 (Qld) and does not merge on Settlement."
8.1	Delete clause and replace with the following:  "The Property remains at the Seller's risk until Settlement at which time risk passes to the Buyer."
8.3	Delete the second sentence of sub-clause (1).  Delete sub-clauses (2) and (3).
8.4 ("Information Regarding the Property")	Delete clause.
9.6(1)	Delete the following words: "provided the resale settles within 2 years of the termination of this contract."
10.2 ("Foreign Buyer Approval")	Delete clause.
10.4 ("Notices")	Delete clause.
10.9	Insert new sub-clauses (6), (7) and (8) and (9) as follows:  <b>(6) Use of the word "including"</b>

	<p><b>Including</b> and any similar expressions are not words of limitation.</p>
	<p>(7) <b>Use of the word "or"</b></p> <p>In any combination or list of options, the use of the word <b>OR</b> is not used as a word of limitation.</p>
	<p>(8) <b>Things to be done by Buyer by 5.00pm</b></p> <p>If this contract provides for something to be done by a certain date, the Buyer must do so by 5.00 pm, Brisbane time, on that date.</p>
	<p>(9) <b>Reference to "relevant lot particulars"</b></p> <p>A reference to <b>relevant lot particulars</b> means the relevant lot particulars for the purposes of the LSA;</p>

**2. Application of Terms of Contract**

- 2.1 The Terms of Contract apply to this contract unless excluded expressly or by implication. (iii) is issued in favour of the Deposit Holder as "*Favouree*" (as opposed to specifying the Seller as *Favouree*);
- 2.2 The Parties acknowledge receipt of a copy of the Terms of Contract before signing this contract. (iv) specifies that the Seller has agreed to accept the guarantee or undertaking instead of payment of a cash deposit;

**3. Additional Definitions**

- 3.1 The following additional definitions apply to this contract:
- (a) **Authority** means any body (including any judicial body), government, person or otherwise having or exercising control over the approval of, carrying out of, use or operation of the Property including any services to be provided to them. (v) requires the bank to pay the Deposit Holder the Deposit amount immediately on presentation of the guarantee or undertaking without first checking with the Buyer or any other person;
- (b) **Approvals** means the necessary permits or approvals for the carrying out of the development of the Lot. (vi) has no expiry date and is expressed to be unconditional and irrevocable;
- (c) **Builder** means a builder who has been advertised through the Seller's current marketing campaign. (vii) contains the names of the Seller and the Buyer (and no other third party) and makes reference to this contract and the sale made under it, eg:
- (d) **Building Contract** means a contract with a Builder to build a Dwelling on the Land. **Mirvac Queensland Pty Ltd ACN 060 411 207sale of Lot ## Ashmore Street, Everton Park Qld 4053 to [Buyer's Name]; and**
- (e) **Claim** includes any claim, cause of action, proceeding, right, entitlement, damages, costs, losses, liability or demand however it arises and whether it is past, present or future, fixed or unascertained, actual, potential or contingent. (viii) is otherwise on terms and conditions and in a form satisfactory to the Seller and any Seller's financier.
- (f) **Compliant Bank Guarantee** means a guarantee or undertaking by a Bank acceptable to the Seller, which:
- (i) is issued by an Australian Bank;
- (ii) is for the amount of the Deposit;
- (g) **Condition Subsequent** means the condition set out in the Special Condition titled **Condition Subsequent**.
- (h) **DA Conditions Annexure** means the conditions extracted from the Development **Approval accompanying this contract**.
- (i) **Deed Poll** means the Deed Poll in the schedule attached to this contract.

- (j) **Deposit Bond** means a bond or other surety (howsoever categorised) that is:
- (i) from an insurance company or other institution acceptable to the Seller (at the Contract Date being only QBE as the insurer or underwriter);
  - (ii) in a form acceptable to the Seller in its discretion;
  - (iii) for an amount equal to the Deposit; and
  - (iv) payable on demand.
- (k) **Development Approval** means the development approval permitting, amongst other matter the creation of the Lot, a copy of which may be obtained from the Seller upon request.
- (l) **Disclosure Statement and Plan** means a disclosure statement and plan in compliance with the requirements of the LSA.
- (m) **Display Home** has the meaning given to that term in the *Domestic Building Contracts Act 2000 (Qld)*.
- (n) **Dwelling** means the residential detached dwelling constructed or to be constructed on the Land in accordance with the Housing Covenants.
- (o) **Easement Schedule** means the schedule attached to this contract which sets out the easements affecting or proposed to affect the Land (and possibly other land or lots).
- (p) **Encumbrances** means all encumbrances, whether registered or not or statutory or not including:
- (i) any matter endorsed upon the survey plan which created the Title;
  - (ii) any rights and interests reserved to the Crown and any reservations or conditions endorsed on the Title;
  - (iii) any easements, notifications, covenants, restrictions, administrative advices or similar dealings including any easements in the Easements Schedule;
  - (iv) the conditions of any Approval; and
  - (v) the existence or passage through the Land of utilities or utility infrastructure or other systems or services and all statutory rights relating to services.
- (q) **FATA** means the *Foreign Acquisitions and Takeovers Act 1975 (Cth)*.
- (r) **Finance Condition** means the condition in relation to approval of a loan contained in clause 3.1 of the Terms of Contract.
- (s) **Foreign Person** means any person within the definition of "*foreign person*" in FATA.
- (t) **Further Statement** means a further statement for the purposes of Section 13 of the LSA.
- (u) **GST** means goods and services tax payable under the GST Law.
- (v) **GST Law** means the A New Tax System (Goods and Services Tax) Act 1999 (Cth).
- (w) **Guarantee** means the Deed of Guarantee and Indemnity accompanying this contract document.
- (x) **Guarantor** means the guarantor or guarantors required by the terms of this contract to guarantee the performance of the Buyer.
- (y) **Housing Covenants** means any building covenants attached to or accompanying this contract regulating the design and building of improvements and landscaping on the Land as varied by the Seller from time to time.
- (z) **Interest** means any interest earned on the investment of a cash Deposit. In the Terms of Contract, Interest may be referred to as **interest**.
- (aa) **Lot** means the lot or proposed lot referred to in the Reference Schedule.
- (bb) **LSA** means the *Land Sales Act 1984 (Qld)*.
- (cc) **NBN Co** means NBN Co Limited ABN 86 136 533 741.
- (dd) **NBN Co Building Ready Specifications** means the specifications concerning the building requirements for connection of the Land to the Network Infrastructure as provided by NBN Co or as otherwise available on NBN Co's website, as varied by NBN Co from time to time including the NBN Co Residential preparation and installation guide for SDUs and MDUs.
- (ee) **Network Infrastructure** means the physical infrastructure of the high speed broadband fibre optic network (or other technology selected by NBN Co) which may be installed by NBN Co:
- (i) including all fibre, cables, electronic devices and equipment, ducts, poles, towers, cabinets, housing and any

- other active and passive equipment and distribution infrastructure;
- (ii) not including the Pit and Pipe Works, any existing pit and pipe infrastructure, lead-in conduit, the network termination unit or the power supply unit and related cable at the Land.
- (ff) **Non-Compliant Guarantee** means a:
- (i) Deposit Bond; or
- (ii) a guarantee or undertaking by a Bank that is not a Compliant Bank Guarantee.
- (gg) **Notice** means:
- (i) any notice, request, direction or other communication to be given under or in relation to this contract; or
- (ii) any statement, notice or disclosure required by any law to be given in relation to this contract or the transactions evidenced by it (including statements under the LSA); and
- (iii) in the Terms of Contract, Notice may be referred to as **notice**.
- (hh) **Object** means to object generally and includes to:
- (i) object to a change, variation, substitution, reduction or omission;
- (ii) object to Title;
- (iii) avoid or attempt to avoid this contract;
- (iv) refuse to effect Settlement;
- (v) delay Settlement;
- (vi) make any Claim, whether before or after Settlement, including a claim for damages or compensation or any reduction in the Purchase Price;
- (vii) retain any part of the Purchase Price;
- (viii) require the Seller to carry out any works;
- (ix) withhold a consent; or
- (x) seek an injunction.
- (ii) **Other Features** means street trees, street lights, bin pads, footpaths, driveways and fencing
- (intended to be constructed or that has been constructed by or on behalf of the Seller).
- (jj) **Parties** means the Seller and the Buyer. In the Terms of Contract, Parties may be referred to as **parties**.
- (kk) **Party** means the Seller or the Buyer as the context requires. In the Terms of Contract, Party may be referred to as **party**.
- (ll) **Permitted Variation** means a Variation which, viewed objectively, does not have a material adverse effect on the use or value of the Property and which does not result in the Lot, once titled, being substantially different to that described in this contract or as shown in the Disclosure Statement and Plan and, without limitation, includes a variation of:
- (i) up to 5% in area;
- (ii) up to 2% in linear dimensions for bearings and distances;
- (iii) up to 500mm in height in surface contours or fill levels;
- (iv) up to 500mm in height of retaining walls;
- (v) up to 500mm in location of retaining walls; and
- (vi) for any other Variation, a difference of up to 5% in any one or more of the *relevant lot particulars* between the Lot once titled and the *relevant lot particulars* for the Lot set out in the Disclosure Statement and Plan.
- (mm) **Pit and Pipe Works** means the physical infrastructure, including all pits, pipes, conduits and any other materials to be designed and constructed on behalf of the Seller under the Seller's agreement with NBN Co (if any) necessary to properly service the Land and possibly other land.
- (nn) **Proposed Lot** has that meaning given to the term **proposed lot** in the LSA;
- (oo) **PPSA** means the *Personal Property Securities Act 2009* (Cth).
- (pp) **PPS Release** means a document or a copy of a document (which may be a letter) signed by a Secured Party giving a release of its Security Interest for the Property.
- (qq) **PPSR** means the register kept pursuant to the PPSA.

- (rr) **Promotional Materials** means all marketing materials (including websites), models, artists impressions, display boards and similar and any representation or depiction contained in any display in relation to the Property or the development being carried out by the Seller.
- (ss) **Release Encumbrance** means any:
- (i) mortgage;
  - (ii) caveat of a third party;;
  - (iii) Security Interest;
  - (iv) statutory charge; or
  - (v) writ or warrant of execution.
- (tt) **Secured Party** means the holder of a Security Interest.
- (uu) **Security Interest** has the meaning given in the PPSA.
- (vv) **Services** means services including water supply, electricity (including street lighting), sewerage, stormwater, roofwater, telephony services and reticulated gas (if any).
- (ww) **Services and Other Features Plans** means the plans contained in Annexure G.
- (xx) **Settlement** means the event of settlement of this contract. In the Terms of Contract, Settlement may be referred to as **settlement**.
- (yy) **Settlement Materials** means all things which the Seller is required to provide or deliver to the Buyer at or following Settlement including any releases, withdrawals, documents, certificates, declarations, Notices, instruments, materials or letters or similar.
- (zz) **Settlement Statement** means a statement which outlines or lists:
- (i) the calculation of the Balance Purchase Price payable at Settlement (including details of adjustments to the Purchase Price for the Deposit paid, Outgoings and other amounts payable by the Parties under this contract);
  - (ii) directions as to payment of the Balance Purchase Price by Bank cheques;
  - (iii) Settlement Materials; and
  - (iv) any other particulars the Seller considers appropriate.
- (aaa) **Special Conditions** means these Special Conditions.
- (bbb) **Sunset Date** means the date **18 months** after the date the Buyer enters into this contract.
- (ccc) **Terms of Contract** means the accompanying Terms of Contract for Houses and Residential Land (Sixteenth Edition).
- (ddd) **Title** means title to the Land.
- (eee) **Transfer Documents** means:
- (i) A Form 1 Transfer under the *Land Title Act 1994* (Qld); and
  - (ii) A Form 24 Property Transfer Information (Part B – Transferor to complete) form.
- (If before Settlement the Queensland Titles Registry changes their requirements of or the form of the Transfer Documents, then the definition of Transfer Documents will be deemed to be amended to give effect to the intent of this contract so that to provide for the then equivalent forms and documents as determined by the Seller's Solicitors, acting reasonably).
- (fff) **Variations** means changes, variations, reductions, omissions, substitutions or additions to (as the context requires) the Lot including changes, variations, reductions, omissions, substitutions or additions to the Lot which are in respect of the:
- (i) titling arrangements;
  - (ii) utility infrastructure and supply arrangements and services including easements;
  - (iii) method of carrying out civil works or construction;
  - (iv) construction materials;
  - (v) access arrangements;
  - (vi) landscaping;
  - (vii) composition;
  - (viii) design;
  - (ix) levels;
  - (x) topography;
  - (xi) layout;

- (xii) size;
- (xiii) dimensions;
- (xiv) area;
- (xv) descriptions or identification numbers of the Lot and any plans; and
- (xvi) addresses – street names and numbers; and
- (xvii) number, location, extent and existence of retaining and revetment walls and the manner the retaining and revetment walls are constructed (eg. battering, etc) and the materials the retaining walls are constructed of.

(ggg) **Withholding Law** means Schedule 1 to the Taxation Administration Act 1953 (Cth).

## PART B. CONDITION SUBSEQUENT

### 4. Application of Part

This part titled **Condition Subsequent** only applies if the Lot is a Proposed Lot on formation of this contract.

### 5. Condition Subsequent

This contract is conditional on the Seller causing a survey plan to be registered with the Queensland Titles Registry which creates indefeasible Title on or before the Sunset Date (**Condition Subsequent**).

### 6. Sunset Date

6.1 If the Condition Subsequent is not satisfied by 6.00pm on the Sunset Date then, subject to sub-clause 2, either Party may terminate this contract by Notice to the other. If this happens:

- (a) the Deposit and any Interest must be released to the Buyer; and
- (b) the Buyer has no further Claim against the Seller.

6.2 The Buyer may only terminate this contract (after the Sunset Date) under sub-clause 1 until the Seller has notified the Buyer that the Condition Subsequent has been satisfied.

### 7. Notification of Satisfaction of Condition Subsequent

If the Condition Subsequent is satisfied, the Seller must give the Buyer Notice of satisfaction not later than 90 days after the date that the Condition Subsequent is satisfied and in any event no later than 6.00pm on the Sunset Date.

## 8. Unreasonable Conditions

8.1 This clause applies if an Authority:

- (a) refuses to grant or revokes an Approval;
- (b) grants an Approval containing conditions with which the Seller is unable or, acting reasonably, not willing to comply;
- (c) refuses to seal the relevant survey plan; or
- (d) agrees to seal relevant survey plan on conditions with which the Seller is unable or, acting reasonably, not willing to comply.

8.2 If this clause applies, the Seller may terminate this contract by Notice to the Buyer. If this happens:

- (a) the Deposit and any Interest must be released to the Buyer; and
- (b) the Buyer has no further Claim against the Seller.

8.3 For the purpose of this clause, the Buyer acknowledges and agrees that:

- (a) at the time of entering into this contract, the Seller may not know all of the conditions to which the:
  - (i) Approvals may be subject; and
  - (ii) sealing of the relevant survey plan may be subject;
- (b) there may be a variety of reasons why the Seller may be unable or unwilling to comply with particular conditions to which an Approval or to which the sealing of the relevant survey plan may be subject, including that such conditions make the carrying out of the development of the Lot commercially or financially undesirable or unviable or unacceptably risky for the Seller; and
- (c) as long as the Seller is acting in good faith, it will not be unreasonable for the Seller to refuse to accept conditions to which an Approval or to which the sealing of the relevant survey plan is subject, if the Seller makes a judgement that such conditions make the carrying out of the development of the Lot commercially or financially undesirable or unviable or unacceptably risky for the Seller.

## PART D. LAND SALES ACT PROVISIONS

### 9. Application of Part

This part titled **Land Sales Act Provisions** only applies if the Lot is a Proposed Lot on formation of this contract.

**10. Disclosure Statement and Plan**

10.1 The Buyer warrants and represents to the Seller that, before the Buyer signed this contract, the Buyer:

- (a) received the Disclosure Statement and Plan which was signed by or on behalf of the Seller; and
- (b) reviewed the content of the Disclosure Statement and Plan and took all legal and other advice about them the Buyer considered necessary.

10.2 The Buyer acknowledges and agrees that the Disclosure Statement and Plan states or includes all the relevant lot particulars required by Sections 10, 11 & 12 of the LSA.

**11. Authority for Disclosure Statement and Plan**

If the Seller has not itself:

- (a) signed the Disclosure Statement and Plan; and
- (b) given the Disclosure Statement and Plan to the Buyer,

the Seller confirms that the person who did so was duly authorised to do so for the Seller.

**PART E. VARIATIONS TO LAND & OTHER MATTERS CONCERNING LAND**

**12. Variations to Land**

12.1 This Special Condition only applies if Lot is a Proposed Lot on formation of this contract.

12.2 The Buyer agrees that:

- (a) as the Lot is sold "off the plan", there are likely to be discrepancies between the Proposed Lot as described in this contract, the Promotional Materials and the Disclosure Statement and Plan as compared to the Lot when it is completed and titled; and
- (b) no party has made any promise or representation to the Buyer that the Lot as completed and titled will be exactly the same as the Proposed Lot as described in this contract, the Promotional Materials or the Disclosure Statement and Plan.

12.3 The Seller is entitled to make Variations to the Lot.

12.4 The Buyer must not Object to a Variation to the Lot:

- (a) provided the Variation is a Permitted Variation; or
- (b) if the Seller has given the Buyer a Further Statement concerning the Variation and a period

of 21 days has elapsed after the Seller has given the Buyer the Further Statement.

12.5 Each Variation to the Lot is to be considered separately in determining if the Variation is a Permitted Variation.

12.6 The Parties agree that regard will not be had to the aggregate effect of more than one Variation in making a determination as to whether a Variation is or is not a Permitted Variation.

12.7 The Buyer agrees that it is not materially prejudiced under this contract or the LSA if the Lot is affected by a Permitted Variation.

12.8 If the Buyer is entitled to Object due to a Variation, the Buyer's sole right is to terminate this contract. If this happens:

- (a) the Deposit and any Interest must be released to the Buyer; and
- (b) the Buyer has no further Claim against the Seller.

**13. Buyer must not Object**

13.1 Without limitation to the Seller's rights elsewhere in this contract, the Buyer must not Object as a result of:

- (a) any nuisance or interference to occupiers which results from the ongoing development of nearby land by the Seller;
- (b) a boundary of the Land not being fenced, or any boundary, fence or wall not being upon or within the boundary of the Land; or
- (c) the existence of any minor encroachment onto or from the Land.

**14. Services and Amenities**

14.1 Clause 7.6(1) of the Terms of Contract is amended by inserting the words "*Subject to the Special Condition titled **Services and Amenities** and*" at the beginning of that standard condition.

14.2 The Buyer acknowledges that under the Approvals, various Authorities (or possibly the Seller under arrangements the Seller has with those Authorities) are to provide or make available services and amenities for the Property.

14.3 The Seller must use reasonable endeavours to procure that the services and amenities are provided by Settlement, but if the services and amenities are not provided by Settlement;

- (a) the Buyer must not Object; and



- (b) the Seller must cause the services and amenities to be provided as soon as reasonably practicable after Settlement.

Parties acknowledge this may require or include the use of a waffle pods slab on ground type construction.

**15. NBN**

15.1 The Seller has entered into or may enter into an agreement with NBN Co for the installation of *Pit and Pipe Works and Network Infrastructure*.

15.2 The Seller discloses to the Buyer and the Buyer acknowledges and agrees that:

- (a) the NBN Co Building Ready Specifications must be complied with by the Buyer to enable connection of the Land to the *Network Infrastructure*;
- (b) the Buyer must adopt and carry out the NBN Co *Building Ready Specifications*;
- (c) if the Buyer fails to comply with the NBN Co *Building Ready Specifications*, the improvements on the Land will not be able to be connected to the Network Infrastructure or will require the Buyer to incur additional costs in order to connect to the *Network Infrastructure* after Settlement.

15.3 The Buyer acknowledges that:

- (a) the Seller is not responsible for the connection of telecommunications services to the Land other than the installation the *Pit and Pipe Works* to the boundary of the Land;
- (b) the Seller has no control over the timing of the connection of telecommunications services to the Land, those being solely the responsibility of NBN Co or such other provider as may be prescribed by a relevant Authority;
- (c) if NBN Co has not connected or made available telecommunication services to the Land when such services are required by Telstra Corporation Limited or such other provider as may be declared by a relevant Authority, NBN Co is required to do so in accordance with the *universal service obligation*; and
- (d) the Seller has no control over the type of telecommunications service provided in accordance with the *universal service obligation*.

15.4 The Buyer must not Object to or as a result of any matter referred to in this Special Condition

**16. Slab and Footings Construction**

16.1 The Buyer must cause the foundation of any improvements constructed on the Lot to be fit for purpose, as certified by a registered professional engineer, having regard to the soil conditions and site conditions. The

**PART F. TITLE & ENCUMBRANCES**

**17. Title**

17.1 Title is under the *Land Title Act 1994* (Qld). The Buyer accepts Title subject to the provisions and requirements of that Act.

**18. Encumbrances**

18.1 The Property and Title is sold:

- (a) free of any Release Encumbrances; and
- (b) but subject to all other Encumbrances (whether or not they have been disclosed to the Buyer).

18.2 If the Property is subject to a Release Encumbrance, then the Buyer must accept, on Settlement:

- (a) an unstamped but signed instrument of release or withdrawal, surrender, removal or revocation of the Release Encumbrance by the relevant means permitted depending on the nature of the Release Encumbrance; and
- (b) any other documents or declarations necessary to procure stamping and registration of the release or withdrawal, surrender, removal or revocation of the Release Encumbrance.

18.3 The Buyer will only be entitled to receive a PPS Release from a Secured Party for a Security Interest registered on the PPSR where the Property is specifically described (in whole or part) under that Security Interest. The onus of demonstrating that the Property is specifically described (in whole or part) under a Security Interest is on the Buyer and is to be demonstrated to the Seller on or before 7 days before the Settlement Date. The Seller is not required to provide the Buyer with a PPS Release from a Secured Party in respect of any Security Interest over "*all present and after acquired property*" (or similar) of the Seller

No paper certificate of title for the Title will be provided at Settlement.

**PART G. DEPOSIT**

**19. Investment of Deposit**

19.1 The Parties authorise and direct the Deposit Holder to invest the Deposit. The Deposit Holder may invest the Deposit with a Bank selected by the Deposit Holder on terms and at an interest rate determined by the Deposit Holder in its discretion.

- 19.2 The Deposit Holder is not required to invest the Deposit:
- (a) until the Buyer gives the Deposit Holder its tax file number (unless the Buyer is foreign);
  - (b) unless the Deposit paid in cash equals at least 10% of the Purchase Price;
  - (c) until the whole of the Deposit is paid;
  - (d) if the Settlement Date is anticipated to be within 90 days after the Contract Date; or
  - (e) if the Buyer has notified the Seller that it intends to substitute a cash payment of the Deposit with a Compliant Bank Guarantee.
- 19.3 The Deposit Holder is not liable to either Party for any loss occasioned by any:
- (a) delay or failure in investing the Deposit; or
  - (b) break costs or other fees being levied on or deducted from the Interest.
- 19.4 The Parties acknowledge that as a condition of funding for the development of the Land, the financier may require that the Deposit be invested with that financier at an interest rate determined by the financier. The Parties authorise and direct the Deposit Holder to comply with any such requirement and must not Object if this occurs.
- 19.5 The Deposit Holder may at any time, for bona fide purposes, including after a request by the Seller, terminate the investment of the Deposit and re-invest the Deposit and Interest accrued to that time with an alternate Bank or other financial institution selected by the Deposit Holder on terms and at an interest rate determined by the Deposit Holder in its discretion.
- 19.6 The Parties may provide the Deposit Holder with their tax file number (if any) and must provide any other information or assistance necessary for the purpose of the investment. The Buyer acknowledges that if it does not provide its tax file number to the Deposit Holder, any Interest may be subject to withholding tax. The Party entitled to the Interest must pay any tax on the Party's entitlement.
- 19.7 The Parties indemnify the Deposit Holder for the costs of preparing and lodging any income tax return required in respect of the investment of the Deposit and authorise the Deposit Holder to deduct those costs from the Interest.
- 19.8 The Deposit Holder is authorised to terminate the investment of the Deposit at a reasonable time before the Settlement Date so that the Deposit and Interest will be available at Settlement.
- 19.9 The Deposit is invested at the risk of the Party who is ultimately entitled to it. The Deposit Holder is not liable for any loss or if diminution occurs in value arising out of the investment of the Deposit. All persons claiming any beneficial interest in or over the Deposit are deemed to
- take with notice of and subject to the protection conferred by this clause upon the Deposit Holder.
- 19.10 Any Interest held by the Deposit Holder is held in trust until a Party is entitled to it under this contract or at law. The Interest is not held by the Deposit Holder by way of Deposit but under an unrelated trust and under no circumstances is the Seller entitled to receive any of the Interest before this contract is settled or terminated.
- 19.11 The Parties agree that the Deposit Holder will have no liability to either Party arising out of any withholding tax, fees or charges (including break fees or early redemption charges) being withheld or charged in respect of interest earned on the Deposit, even if the Buyer notified the Deposit Holder of its tax file number.
- 19.12 The Party who is entitled to the Interest (and if more than one, in proportion to the entitlement) authorises the Deposit Holder to retain from the amount of the Interest, the sum of \$220.00 (including GST) in payment to the Deposit Holder for attendances associated with the investment of the Deposit. The retention amount is to be released to the Deposit Holder for its absolute benefit after (and not before) Settlement and the payment is conditional upon Settlement taking place.
- 20. Bank Guarantee**
- 20.1 Instead of paying the Deposit as a cash payment, the Buyer may lodge with the Seller's Solicitor a Compliant Bank Guarantee.
- 20.2 If the Buyer has already paid cash Deposit, the Buyer may at any time elect to replace that cash Deposit with a Compliant Bank Guarantee.
- NOTE: The requirements for a Compliant Bank Guarantee must be strictly met.**
- 21. Non-Compliant Guarantee**
- 21.1 The Seller may, in its discretion accept from the Buyer as security for payment of the Deposit a Non-Compliant Guarantee to be lodged with the Seller's Solicitor. If that happens:
- (a) the Seller may at any time direct the Buyer to replace the Non-Compliant Guarantee with a Compliant Bank Guarantee or cash Deposit; and
  - (b) the Buyer must, as an Essential Term, comply with the direction within 10 Business Days after the date the direction is made, failing which, in addition to the exercise of any other rights, the Seller may direct the Seller's Solicitor to call on the Non-Compliant Guarantee (if the terms of the Non-Compliant Guarantee permit a call to be made without termination).

**22. Calling on Deposit Guarantee**

22.1 The Seller or the Deposit Holder is not required to notify the Buyer that:

- (a) a Compliant Bank Guarantee or Non-Compliant Guarantee is due to expire and must be replaced; or
- (b) a call is to be made on a Compliant Bank Guarantee or Non-Compliant Guarantee,

as a pre-condition to a call being made.

22.2 If the Deposit Holder calls upon a Compliant Bank Guarantee or Non-Compliant Guarantee, the proceeds received must be dealt with as the Deposit in accordance with the relevant provisions of the PO Act and the terms of this contract.

22.3 The Seller's Solicitor is not liable for the loss of a Compliant Bank Guarantee or Non-Compliant Guarantee or for making any call on or demand under a Compliant Bank Guarantee or Non-Compliant Guarantee unless that action occurs as a result of or in consequence of an act committed or omitted in personal, conscious or fraudulent bad faith by the Seller's Solicitor. All persons claiming any beneficial interest in or over such an instrument are deemed to take with notice of and be subject to the protection conferred by this Special Condition upon the Seller's Solicitor.

22.4 The Buyer must not do anything which may cause a Compliant Bank Guarantee or Non-Compliant Guarantee to be withdrawn, revoked, compromised, terminated or limited in any way. This is an Essential Term.

**23. Deposit Holder Authority, Release and Indemnity**

23.1 The Parties agree that:

- (a) this contract constitutes a written instruction from the Parties to the Deposit Holder to hold the Deposit on the terms described in this contract; and
- (b) the Deposit Holder holds the Deposit and any Interest as stakeholder, with authority to pay the Deposit and any Interest to the Party that the Deposit Holder reasonably believes is entitled to the Deposit and any Interest under the terms of this contract.

23.2 Provided that the Deposit Holder has acted honestly and in good faith, the Buyer releases the Deposit Holder from and separately indemnifies the Deposit Holder in respect of any liability for any loss or damage suffered or incurred by the Buyer as a direct or indirect consequence of or in connection with any act or omission on the part of the Deposit Holder related to its duties as stakeholder, including, without limitation, where the Deposit Holder pays the Deposit (and any Interest) to a Party and it is subsequently determined that the payee was not entitled to the Deposit.

23.3 The Parties acknowledge and agree that:

- (a) the Deposit Holder is a third party intended to take the benefit of this clause within the meaning of section 55 of the PLA;
- (b) that the Deposit Holder's acceptance of the Deposit is taken to be acceptance of the benefit of this special condition; and
- (c) the Deposit Holder is entitled to rely on the release and indemnity contained in this Special Condition, notwithstanding that it is not a party to the contract.

**PART H. SETTLEMENT**

**24. Settlement Date**

24.1 If the Lot is a Proposed Lot when this contract was entered into, the Settlement Date is a date that the Seller appoints in a Notice to the Buyer but it must:

- (a) not be earlier than at least 14 days after the date on which the Seller gives to the Buyer the registered plan and statement referred to in section 14(3) of the LSA;
- (b) be at least 7 days after the date on which the Seller gives the Notice appointing the Settlement Date;
- (c) if at the time the Notice is given this Contract is subject to the Buyer obtaining finance approval (clause 3 or other included finance condition), be at least 14 days after the date the Buyer notifies the Seller that the Finance Condition is satisfied or waived; and
- (d) be at least 30 days after the Contract Date.

24.2 If Title to the Lot existed when this contract was entered into, the Settlement Date is the date that is 30 days after the Contract Date.

**25. Time and Place for Settlement**

25.1 This is an Essential Term. Settlement must take place on the Settlement Date:

- (a) in Brisbane;
- (b) at a time nominated by the Seller, and if no time is nominated, at 3.00pm;
- (c) at a place nominated by the Seller, and if no place is nominated, at the offices of the Seller's Solicitor in Brisbane; and
- (d) between the hours of 9.00 am and 5.00 pm.

25.2 The Seller may, at any time before Settlement, by Notice to the Buyer extend, on any number of occasions, the

Settlement Date by up to an aggregate period of 90 days. If this happens, time remains of the essence of this contract notwithstanding the extension(s).

**26. Extensions of Finance Date & Settlement Date**

26.1 Nothing in this clause:

- (a) is a representation by the Seller that it will agree to an extension of the Finance Date or the Settlement Date;
- (b) creates any entitlement for the Buyer to an extension of the Finance Date or the Settlement Date; or
- (c) alters time being of the essence of this contract.

26.2 If the Buyer requests an extension of the Finance Date or the Settlement Date, the Seller may agree to the extension in the Seller's total discretion. If the Seller agrees to the extension:

- (a) the Seller may elect to charge the Buyer \$66.00 for each extension of the Finance Date granted after the first extension to reimburse the Seller its legal costs of the extension(s);
- (b) the Seller may elect to charge the Buyer \$220.00 (for each extension of the Settlement Date granted) to reimburse the Seller its legal costs of the extension; and
- (c) the Buyer must pay any amounts payable under this sub-clause as directed by the Seller at, and conditional upon, Settlement.

26.3 Notwithstanding any other term of this contract, if the Finance Date or the Settlement Date is extended:

- (a) by agreement between the Parties;
- (b) by a Party exercising a right to extend the Finance Date or the Settlement Date; or
- (c) by operation of a provision of this contract which extends the Finance Date or the Settlement Date,

time is of the essence in respect to the extended Finance Date or Settlement Date as the case may be.

**PART I. GST**

**27. GST**

**27.1 Interpretation**

In this Special Condition:

- (a) unless expressly stated otherwise, words or expressions which are not defined, but which

have a defined meaning in GST Law, have the same meaning as in the GST Law.

(b) **Buyer's ATO Settlement Confirmation** means the confirmation to be given by the Buyer to the Commissioner in the approved form of the actual Settlement Date.

(c) **Buyer's ATO Withholding Notice** means the notification to be given by the Buyer to the Commissioner in the approved form of the GST Withholding Amount.

(d) **GST Withholding Amount** means the amount that the Buyer is required to withhold on account of GST from the Price and pay to the Commissioner as notified by the Seller in the GST Withholding Notice.

(e) **Potential Residential Land** means land that is permissible to be used for residential purposes but does not contain any buildings that are residential premises or that are in use for commercial purposes.

(f) **Seller's GST Withholding Notice** means the notification to be made by the Seller under section 14-255 of Schedule 1 to the TA Act which states whether or not the Buyer is required to make a payment of a GST Withholding Amount.

(g) **TA Act** means the *Taxation Administration Act 1953 (Cth)*.

**27.2 Amounts for payment expressed inclusive of GST**

Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under or in accordance with this Contract are inclusive of GST.

**27.3 Margin scheme**

The Parties agree that the margin scheme is to apply in working out the amount of GST on the supply of the real property under this Contract.

**27.4 Potential Residential Land**

If the supply under this contract is of Potential Residential Land, and the Buyer is:

- (a) registered for GST; and
- (b) acquiring the Potential Residential Land for a creditable purpose to any extent,

the Buyer must serve a statement to that effect by no later than 10 Business Days before the Settlement Date and if the statement is provided the Buyer will not be required to make a payment of the GST Withholding Amount pursuant to Special Condition 27.5 and Special Condition 27.7 does not apply.

**27.5 GST Withholding**

If a GST Withholding Amount is required to be paid in respect of the supply of the Property under this Contract:

- (a) the Seller must serve a Seller's GST Withholding Notice, as may be amended or updated from time to time, not later than 10 Business Days prior to the Settlement Date;
- (b) the Buyer or the Buyer's agent must, as an Essential Term, complete and lodge the Buyer's ATO Withholding Notice and serve evidence of having done so to the Seller and to the Seller's Solicitor by no later than 5 Business Days prior to the Settlement Date;
- (c) the Buyer or the Buyer's agent must, as an Essential Term, serve a Notice with:
  - (i) the Buyer's Lodgement Reference Number and Payment Reference Number (or other relevant identification number) issued by the Commissioner upon lodgement of the relevant form or notification; and
  - (ii) the Settlement Date,
 on and as a condition of Settlement; and
- (d) the Seller, for the purposes of clause 2.2(1) of the Terms of Contract directs the Buyer to pay to the Seller on Settlement a Bank Cheque in favour of the Commissioner for the GST Withholding Amount.

**27.6 Parties co-operation**

The Parties must co-operate with each other and take all reasonable steps to comply with their respective obligations under Subdivision 14-E of Schedule 1 to the TA Act including:

- (a) provision of any information reasonably requested by the other Party for the purposes of determining whether a GST Withholding Amount will be payable or for completing any form or making any notification to the Commissioner; and
- (b) making any necessary additions or amendments to this Contract to address any requirement under the GST law or TA Act.

**27.7 Buyer's ATO Settlement Confirmation**

- (a) The Buyer authorises the Seller's Solicitor to act as the Buyer's agent (and in doing so the Seller's Solicitor is not the agent of the Seller) to give the Buyer's ATO Settlement Confirmation to the Commissioner or registrar.

- (b) The Buyer declares that the information contained in the documents provided to the Seller's Solicitor under Special Conditions 27.5(b) and 27.5(c) is true and correct and authorises the Seller's Solicitor to submit this information to the Commission in the Buyer's ATO Settlement Confirmation.

**27.8 Electronic Settlement**

If Settlement is to be conducted by way of Electronic Settlement, the Seller and the Buyer will be taken to have complied with Special Condition 27.5(d) if the Financial Settlement Schedule within the Electronic Workspace specifies payment of the GST Withholding Amount to the account nominated by the Commissioner.

**27.9 Effect on other rights and obligations**

Except as expressly set out in this clause, the rights and obligations of the Parties under this Contract are unchanged.

**27.10 Other GST Provisions**

- (a) This Special Condition 27 does not merge on Settlement or termination of this Contract.
- (b) This clause Special Condition 27 binds any other entity which is or becomes the supplier or recipient of the supply of the Property or any other supply under or by reason of this Contract.
- (c) If this Contract requires a Party to pay for, reimburse, contribute to, or pay any expense or liability incurred by the other Party, the amount the payer must pay will be the amount of the expense or liability plus the amount of GST payable in respect of that payment, but reduced by the amount of any input tax credit which the other party is entitled to in respect of the expense or liability.

**PART J. ADJUSTMENTS**

**28. Adjustments**

28.1 If there is no separate assessment of Outgoings for the Land at the Settlement Date, then Outgoings are to be adjusted on the amount that the Seller's Solicitor, acting reasonably, determines as the basis on which the adjustment will be made.

28.2 If land tax is unpaid at the Settlement Date and the Office of State Revenue advises that it will issue a final clearance for the Land on payment of a specified amount (**Specified Amount**), then, the election of the Seller, the following will apply:

- (a) at the election of the Seller, land tax will be apportioned between the Parties utilising the higher of the amount calculated under clause 2.6(4) and the Specified Amount;

- (b) the Buyer must accept the Seller's undertaking (which is hereby given) that it will pay the land tax owing on the Land by the due date;
- (c) the Buyer will not be entitled to any retention from the Balance Purchase Price;
- (d) the Buyer cannot require payment of any outstanding land tax on or before the Settlement Date;
- (e) and tax will be treated as paid at Settlement; and
- (f) no cheque will be provided at Settlement in respect of the Specified Amount.
- 28.3 At Settlement:
- (a) there is to be a deduction adjustment to the Purchase Price equal to the Queensland Titles Registry registration fee for any Release Encumbrance registered over the Title which is being released at Settlement;
- (b) no adjustment is to be made for registration fees for any releases, withdrawals or similar of Security Interests in respect to the Property given to the Buyer at Settlement; and
- (c) no adjustment is to be made in respect of water usage.
- 28.4 The Buyer agrees that the provisions contained in this Special Condition are balanced, fair and reasonable and are aimed to facilitate an uncomplicated process to effect Settlement.
- 28.5 If Settlement does not occur on the Settlement Date due to the Buyer's default, or the Settlement Date is extended by agreement between the Parties following a request for an extension by the Buyer, then Outgoings, at the Seller's election, may be adjusted as if Settlement took place on the original Settlement Date determined under this contract.
- 29. Settlement Statement**
- 29.1 Prior to Settlement, the Seller may give to the Buyer a Settlement Statement.
- 29.2 If the Buyer considers that there is an error or omission in respect of anything contained in the Settlement Statement, the Buyer must, within 3 Business Days after receipt of the Settlement Statement, and in any event at least 2 hours before the time nominated by the Seller for Settlement on the Settlement Date, give to the Seller a Notice which clearly specifies the error or omission.
- 29.3 If the Buyer does not comply with the requirements of Special Condition 29.2:
- (a) the Settlement Statement is taken to be correct and to list all the Settlement Materials; and
- (b) the Buyer cannot later Object or assert that the Seller was not ready, willing or able to effect Settlement because of an error or omission in the Settlement Statement.
- 29.4 The purpose of this clause is to require the Buyer to notify the Seller well before the time for Settlement if the Buyer considers that there has been an error in the calculation of Settlement adjustments and figures or an omission in the list of Settlement Materials and to prevent the Buyer from Objecting at Settlement on the basis of an error or omission that could have been drawn to the Seller's attention earlier.
- 29.5 The Seller may, at any time before Settlement, give the Buyer an updated or amended Settlement Statement and the provisions of this clause apply to that updated Settlement Statement.
- 29.6 Nothing in this clause prevents:
- (a) the Seller from recovering any shortfall in payment of the Purchase Price after Settlement;
- (b) the Buyer from recovering any over payment of the Purchase Price after Settlement; or
- (c) a Party from requiring any adjustment to be made between the Parties after Settlement in relation to Outgoings if it is discovered that Outgoings were not apportioned in accordance with this contract.
- PART K. THE BUYER**
- 30. Proof of identity**
- 30.1 If directed to do so by the Seller, the Buyer must, within 5 Business Days after direction, give to the Seller a copy of the Buyer's passport (if any), and if the Buyer is a company, a copy of the passport of each of the directors and shareholders of the Buyer or such other evidence of the identity of the Buyer as the Seller may reasonably require.
- 31. Foreign Person**
- 31.1 The Buyer warrants and represents to the Seller that its status as a Foreign Person as shown in the Reference Schedule is correct. The Buyer acknowledges that the Seller has relied on and been induced by the Buyer's warranty and representation in electing to enter into this contract. If the Buyer's warranty and representation is not correct, the Buyer will be taken to have breached an Essential Term and the Seller may take whatever actions are available to the Seller under this contract or at law.
- 31.2 If the Buyer does not declare in the Reference Schedule that the Buyer is a Foreign Person then the Buyer warrants that either:
- (a) the Buyer's purchase of the Property is not a notifiable action; or

- (b) the Buyer has received a no objection notification,  
under FATA.
- 31.3 If the Buyer is shown in the Reference Schedule as a Foreign Person then:
- (a) nothing in this contract constitutes or is otherwise intended to give rise to a binding agreement for the sale and purchase of the Property until the Buyer has received FIRB Approval. The parties acknowledge and agree that:
- (i) despite any provision to the contrary, the Buyer is not intended to acquire any rights in relation to the Property until the Buyer has received FIRB Approval;
- (ii) despite any provision to the contrary, no obligation on the Seller to sell, or right of the Buyer to buy the Property is of any force or effect until FIRB Approval has been obtained; and
- (iii) all other provisions of this contract (other than those described in sub-clauses 31.3(a)(i) and 31.3(a)(ii)) are binding on the parties as at the Contract Date, including this Special Condition.
- (b) this contract is subject to the Treasurer of the government of the Commonwealth of Australia (**Treasurer**) or his delegate consenting to or providing a notice that the Treasurer has no objections (or similar) to the Buyer's purchase of the Property under FATA (**FIRB Approval**) within 90 days after the Contract Date (**Approval Date**);
- (c) the Buyer must make an application for the FIRB Approval and pay all relevant fees and taxes associated with the application and FIRB Approval within 5 Business Days after the Contract Date (**Application Date**) and must diligently pursue that application. This sub-clause is an Essential Term;
- (d) the Buyer must give the Seller a copy of the application and sufficient substantiation that all necessary payments of fees and taxes have been made within 2 Business Days after making the application and payments. This is an Essential Term;
- (e) the Buyer must keep the Seller informed of the progress of the application for FIRB Approval and correspondence between the Buyer and the Treasurer or his delegate concerning the application. The Buyer will immediately upon receipt or dispatch deliver to the Seller copies of correspondence between the Buyer or its solicitors or consultants and the Treasurer or his delegate and advise in writing of the context of any telephone discussions with the Treasurer or his delegate. Upon request by the Seller, the Buyer must inform the Seller of the progress of the application for FIRB Approval;
- (f) the Buyer must give Notice to the Seller of the outcome of the application for FIRB Approval within 2 Business Days of determination by the Treasurer and in any event by the Approval Date, indicating that the:
- (i) FIRB Approval has been obtained and on giving of that Notice the condition in this Special Condition is satisfied; or
- (ii) FIRB Approval has not been obtained and that this contract is terminated (in which case the Deposit and any Interest is to be released to the Buyer and neither Party has any Claim against the other);
- (g) the Buyer acknowledges that where vacant land is being purchased, FIRB Approval will likely be subject to conditions including but not limited to a condition that the Buyer undertakes to construct a dwelling upon the Land within a specified period after the Settlement Date. The Buyer agrees that if such a condition (or similar conditions) are imposed on the Buyer as a term of receiving FIRB Approval, then such conditions are satisfactory to the Buyer for the purpose of this clause and will not entitle the Buyer to terminate this Contract if FIRB Approval is otherwise obtained by the Buyer;
- (h) the Buyer is not required to comply with the above requirements in this Special Condition if, within 5 Business Days of the Contract Date, the Buyer provides evidence to the satisfaction of the Seller, in the Seller's absolute discretion, that the Buyer does not require FIRB Approval. The Buyer must pay the Seller's solicitor reasonable legal costs of reviewing that evidence;
- (i) the Seller may, in its absolute discretion, extend the Approval Date, by notice to the Buyer given at any time before the Buyer terminates under Special Condition 31.3(f)(ii), by any number of days specified in that notice. For the avoidance of doubt, the Seller may give this notice on any number of occasions; and
- (j) this Special Condition cannot be waived by the Buyer or Seller and must be satisfied by the Buyer.
- 31.4 If the Buyer has not made the application for FIRB Approval by the Application Date, and without limitation to the Seller's rights arising out of that failure, the Seller may, but is not required to, give Notice to the Buyer that the

Seller will make the application for FIRB Approval. If this happens, the following will apply:

- (a) the Buyer appoints the Seller as its agent to make and administer the application for FIRB Approval;
- (b) within 5 Business Days after request by the Seller, the Buyer must give all information (including a copy of the Buyer's passport), sign all documents and do all things required by the Seller in order to facilitate any application for FIRB Approval. If the Buyer fails to do this, the Buyer will be in default of an Essential Term;
- (c) the Seller will be taken to have obtained the FIRB Approval if the Seller obtains an exemption certificate or similar from the Treasurer under which the acquisition of the Property by the Buyer is approved or consented to for the purposes of FATA;
- (d) the Buyer must, as an Essential Term, within 5 Business Days of direction by the Seller, pay to the relevant authority (Australian Taxation Office) all relevant fees and taxes associated with the application and FIRB Approval and provide the Seller with a receipt or other sufficient substantiation confirming the payment;
- (e) the Buyer must, at Settlement, pay the Seller's costs incurred in making the application or obtaining the FIRB Approval (so far as the costs relate to approval of the Buyer's purchase of the Property) in addition to the Purchase Price, including any fee or tax paid by the Seller (which the Seller may, but is not required to pay) and the Seller's legal costs which legal costs are agreed to be \$500 plus GST;
- (f) the Seller must give Notice to the Buyer that the:
  - (i) FIRB Approval has been obtained and on giving of that Notice the condition in this clause is satisfied; or
  - (ii) FIRB Approval has not been obtained and that this contract is terminated (in which case the Deposit and any Interest is to be released to the Buyer and neither Party has any Claim against the other); and
  - (iii) if the Seller does not give notice in accordance with sub clause (f) by 6.00 pm on the Approval Date, the Buyer may by Notice to the Seller terminate this contract (but only before notice is given by the Seller to the Buyer that the FIRB Approval has been obtained).

31.5 The Buyer consents to any information given by the Buyer under this contract being included in any reports that must

be given by the Seller as a condition of any approval given to the Seller under FATA.

**32. Personal Guarantee**

32.1 This Special Condition is an Essential Term and applies if the Buyer:

- (a) is a company; or
- (b) is a company trustee of a trust.

32.2 If this Special Condition applies, the Buyer must arrange that its performance under this contract is guaranteed, in the form of the Guarantee, by:

- (a) in the case of the Buyer being a company, the directors of the company, and if required by the Seller, the shareholders of the company; and
- (b) in the case of the Buyer being a company and a trustee of a trust, the directors of the company, and if required by the Seller, the shareholders of the company and the principal beneficiaries and unitholders (if any) of the trust.

32.3 The Buyer must procure the Guarantee to be signed by the Guarantors before the Seller signs this contract.

32.4 If, despite the failure by the Buyer to comply with the requirements of this Special Condition, the Seller signs this contract, the Seller's action in signing this contract is not taken as a waiver of the Buyer's obligation under this Special Condition and the Seller may, in its total discretion, exercise any of its rights arising out of a default of an Essential Term.

**33. Buyer a Trustee**

33.1 Unless otherwise disclosed in the Reference Schedule, the Buyer warrants and represents to the Seller that the Buyer is not buying the Property as trustee of any trust.

33.2 If the Buyer is described in the Reference Schedule as being a trustee of a trust, each warranty and representation made by the Buyer in this contract is true on the basis that each such warranty or representation is made by the Buyer personally and as trustee for the relevant trust.

33.3 If the Buyer is described in the Reference Schedule as being trustee of a trust, then the Buyer warrants and represents to the Seller that:

- (a) the Buyer is the sole trustee of the trust;
- (b) the Buyer enters into this contract as part of the due administration of the relevant trust and that this contract is for the benefit of the relevant trust and its beneficiaries;
- (c) the Buyer is empowered by the trust instrument for the relevant trust to enter into and perform



this contract in its capacity as trustee of the trust (there being no restriction on or condition of it doing so);

- (d) all necessary resolutions have been duly passed and all consents, approvals and other procedural matters have been obtained or attended to as required by the trust instrument for the relevant trust for it to enter into and perform this contract;
- (e) no property of the relevant trust has been re-settled or set aside to any other trust;
- (f) the relevant trust has not been terminated and no event for the vesting of the assets of the trust has occurred;
- (g) the trust instrument for the relevant trust complies with all applicable laws;
- (h) the Buyer has complied with its obligations and duties under the trust instrument for the relevant trust and at law;
- (i) the Buyer has taken all steps necessary to entitle it to be indemnified from the assets of the trust against any liability undertaken under to this contract; and
- (j) the Buyer will, upon request, deliver to the Seller copies of all documents establishing or amending the trust or making appointments under the trust.

**34. Age of Majority**

The Buyer, if a natural person, whether buying as a trustee of a trust or for its own benefit, warrants and represents to the Seller that the Buyer is at least 18 years of age at the Contract Date.

**35. Insolvency or Death of Buyer**

35.1 The Buyer is in default of an Essential Term of this contract, if, before Settlement, the Buyer:

- (a) being a company:
  - (i) resolves to go into liquidation;
  - (ii) enters into a scheme of arrangement for the benefit of its creditors;
  - (iii) is ordered to be wound up or is placed in provisional liquidation; or
  - (iv) is put into the control of a receiver and manager, official manager or administrator; or
- (b) being a natural person enters into a scheme of arrangement, composition or assignment with or in favour of its creditors or becomes bankrupt.

35.2 If before Settlement the Buyer dies then the Seller may terminate this Contract. If this happens:

- (a) the Deposit and Interest must be released to the Buyer's estate or trustee as the case may be; and
- (b) neither Party has any further Claim against the other Party.

35.3 For the purposes of this Special Condition "Buyer" includes any of the parties that comprise the Buyer.

**PART L. HOUSING COVENANTS**

**36. Housing Covenants**

36.1 The Buyer acknowledges that:

- (a) the Land forms part of a development by the Seller which is a quality residential community (**Estate**);
- (b) unsold lots in the Estate are a valuable asset in the hands of the Seller the value of which depends in part on the Estate continuing to be and being seen to be a high quality residential community;
- (c) the Seller has a legitimate business interest in ensuring that the Estate remains a high quality residential community;
- (d) the value of other lots in the Estate already sold to other owners depends in part on the Estate continuing to be and being seen to be a high quality residential community; and
- (e) maintain the value and amenity of unsold lots in the Estate for the benefit of the Seller and to maintain the value and amenity of lots in the Estate already sold to other owners for the benefit of those other owners, for the Seller to exercise supervision and reasonable control to ensure a high standard of quality and appearance in respect of the design and construction standard of dwellings, other improvements and landscaping within the Estate and other matters generally.

36.2 In consideration for the Seller entering into this contract, the Buyer agrees to comply with and abide by the terms of the Housing Covenants. At Settlement, the Buyer must give to the Seller a copy of the Housing Covenants duly sign by the Buyer if the buyer has not already done so before Settlement. This is an Essential Term of this contract.

36.3 The Buyer must not sell, transfer, dispose of, lease or in any other way part with possession of the Land without first obtaining a covenant, in the form of the Deed Poll, from any disponent in favour of the Seller agreeing to be bound by the Housing Covenants.

36.4 The Buyer must not lease, licence or part with possession of the Land without first delivering to the tenant, licensee or occupier a copy of the Housing Covenants.

36.5 The Buyer indemnifies the Seller and must keep the Seller indemnified against any Claim suffered or incurred by the Seller as a result or indirect result of the Buyer's failure to comply with the obligations contained in Special Conditions 36.2, 36.3 and 36.4.

36.6 The Buyer acknowledges the Seller may seek an injunction from a court to prevent the Buyer breaching its obligations under this Special Condition 36.

36.7 The Buyer acknowledges that the Seller has and reserves the right to:

- (a) vary the Housing Covenants from time to time;
- (b) exclude or elect not to enforce all or any part of the Housing Covenants; and
- (c) interpret and apply the Housing Covenants and the intent of the Housing Covenants as it considers appropriate, having regard the objectives of them,

in respect of any land within the Estate in any way it determines in its total discretion.

36.8 The Buyer must not Object to the Seller exercising any of its rights under Special Condition 36.7. The Buyer releases the Seller from any Claim resulting from the Seller exercising those rights provided that the exercise of such rights does not:

- (a) cause a material detraction from the character or standard of the Estate; or
- (b) have a direct material adverse effect on the use or value of the Land.

36.9 The Parties agree that all of the covenants and agreements in the Housing Covenants remain in full force and effect against the Buyer and the Buyer's successors, administrators and assigns in favour of the Seller and its successors, administrators and assigns notwithstanding settlement of this contract and the registration of a transfer of the Land in favour of the Buyer.

#### PART M. DEVELOPMENT APPROVAL

##### 37. Development Approval

37.1 The Buyer acknowledges:

- (a) the Development Approval and any other approvals which apply to the Land (**Conditions of Subdivision**) may include conditions affecting the construction of a dwelling and other improvements and landscaping on the Land;

(b) that the Buyer read or had the opportunity to read the Development Approval including the Conditions of Subdivision before entering into this contract;

(c) that the Buyer is bound by the Conditions of Subdivision; and

(d) any Conditions of Subdivision where the time for satisfaction of the condition is prior to the "*commencement of use*" (or similar) will need to be satisfied by the Buyer at the cost of the Buyer if they have not been satisfied by the Seller prior to Settlement.

37.2 The Seller directs the Buyer's attention to the conditions of the Development Approval in the DA Conditions Annexure.

37.3 The Buyer must Object to:

- (a) any of Conditions of Subdivision;
- (b) any matter or condition included in the Development Approval; or
- (c) the matters set out in this Special Condition.

#### PART N. EASEMENTS

##### 38. Easements

38.1 The Buyer acknowledges that, without limiting the effect of the Special Condition entitled "*Encumbrances*", the Seller may, in its total discretion:

- (a) make changes to any of:
  - (i) the easements set out in the Easement Schedule;
  - (ii) the terms of any easement disclosed in this contract;
- (b) procure any additional easements which may benefit or burden the Land,

and the Buyer must not Object due to the Seller exercising any such right.

38.2 If there is an easement burdening the Lot that is not permitted by this contract, then the Buyer's only right is to terminate this contract and obtain a refund of the Deposit and any Interest.

38.3 If the Seller elects, for any reason in the Seller's absolute discretion, not to register any easement(s) or encumbrance(s) disclosed to the Buyer:

- (a) that burdens the Lot, the Buyer agrees to accept the Lot without the burden of the easement(s) or encumbrance(s) and will not Object; or

- (b) that benefits the Lot and has a material adverse effect on the use or value of the Lot, the Buyer may terminate this contract by notice to the Seller in which case this contract will be at an end and the Seller must refund the Deposit and any Interest to the Buyer and the Buyer must not make any Claim. This is the Buyer's only remedy.

38.4 If the Seller elects for any reason (in the Seller's absolute discretion), to register an easement(s) or encumbrance(s) after settlement of this contract, the Buyer must sign and return all documents necessary to register the easement(s) or encumbrance(s) within 5 Business Days after the Seller sends them to the Buyer and will cause its mortgagee (if any) to consent to such easement if the easement is a burdening easement. The Buyer irrevocably appoints the Seller and the Seller's directors and attorneys, severally, to be the Buyer's attorney for the purpose of signing an easement(s) or encumbrance(s) the Buyer does not sign. The Buyer agrees that the power of attorney given under this Special Condition is a "power of attorney given as security" in terms of section 10 of the *Powers of Attorney Act 1998* (Qld) and may:

- (a) not be revoked by the Buyer without the consent of the Seller; and
- (b) be exercised even if such exercise involves a conflict of duty or the attorney has a personal interest in doing so.

38.5 The Buyer acknowledges and agrees that:

- (a) the Buyer indemnifies the Seller from any cost, loss, expense or damage the Seller may suffer or incur as a result of the Buyer not complying with this Special Condition;
- (b) the Buyer agrees not to Object, make any Claim or lodge any submissions in relation to the operation or effect of this Special Condition; and
- (c) for clarity, this Special Condition still applies if the Lot is registered at the Contract Date and will not merge on settlement of this contract.

**PART O. PROMISES**

**39. Status of Promises**

Where in these Special Conditions a promise has been made by a Party:

- (a) the promise amounts to a representation, warranty and assurance made by the Party to the other Party;
- (b) the Party to whom the promise is made is entitled to rely on that promise; and
- (c) the Buyer acknowledges that it has made the promise as an inducement outside of this

contract to the Seller to enter into this contract to sell the Property.

**PART P. GENERAL AND OTHER MATTERS**

**40. Contract Execution, Counterparts & Exchange**

40.1 This contract is considered to be executed by a Party if affixed with a manuscript signature or initials or a typed name of the Party or a person, firm or company holding the requisite authority to bind the relevant Party.

40.2 This contract may be executed in any number of counterparts. All counterparts taken together constitute one and the same instrument.

40.3 This contract, including counterparts of it, may be exchanged by any means, including electronically.

40.4 If the Buyer or any agent of the Buyer received this contract or any disclosure materials (either for signing or as a signed instrument) from the Seller or any agent of the Seller electronically, the Buyer promises the Seller that the Buyer consented to the giving of the documentation and any other materials by way of electronic means before receiving the documentation and materials.

40.5 Each person who signs this contract as attorney for a Party warrants and represents to the other Party that at the date the person executed this contract they had not received any notice or information of the revocation of the power of attorney appointing them.

40.6 Each person who signs this Contract for a Party, by placing their signatures, warrants and represents to the other Party that, at the date the person signed this Contract;

- (a) they are a Party to this Contract; or
- (b) they are duly authorised by the relevant Party to sign this Contract; and
- (c) if an officer of a company, the company duly resolved to enter into and sign this Contract.

**41. Notices**

41.1 Notices under this contract must be in writing and must be signed by or on behalf of a Party.

41.2 Unless stipulated otherwise under this contract, Notices given by a Party's solicitor will be treated as given with that Party's authority.

41.3 Notices are considered to be signed if affixed with a manuscript mark, signature or initials or a typed name of a person, firm or company whether conveyed electronically, digitally or otherwise.

- 41.4 In the case of the Buyer, Notices are effectively given if:
- (a) delivered or posted to the address of the Seller's Solicitor;
  - (b) sent to the facsimile number of the Seller's Solicitor;
  - (c) sent by electronic facsimile or similar method to the facsimile number of the Seller's Solicitor; or
  - (d) sent by email or other digital means to the relevant email or other digital address of the Seller's Solicitor,
- which are set out in the Reference Schedule as updated from time to time.
- 41.5 In the case of the Seller, Notices are effectively given if:
- (a) delivered or posted to the address of the Buyer or the Buyer's Solicitor;
  - (b) sent to the facsimile number of the Buyer or the Buyer's Solicitor;
  - (c) sent by electronic facsimile or similar method to the facsimile number of the Buyer or the Buyer's Solicitor; or
  - (d) sent by email or other digital means to the relevant email or other digital address of the Buyer or the Buyer's Solicitor,
- which, subject to sub-clause 6, are set out in the Reference Schedule as updated from time to time.
- 41.6 In the case of a Notice to the Buyer's Solicitor, an email address includes any email address that the Buyer's Solicitor or any employee of the Buyer's Solicitor has used for sending emails to the Seller's Solicitor concerning the Contract.
- 41.7 Posted Notices will be treated as given 3 Business Days after posting.
- 41.8 Notices sent by facsimile including electronic facsimile or similar method will be treated as given when the sender obtains a clear transmission report or other confirmation of delivery.
- 41.9 Notices sent by email are taken to be given 1 hour after they are sent, unless the sender receives notification that the email failed to be delivered to the recipient. If asked by the sender of an email to confirm receipt, the recipient must confirm receipt within a reasonable period of request.
- 41.10 For the purposes of Section 11 and 12 of the *Electronic Transactions Act (Queensland) 2001* (Qld) and the *Electronic Transactions Act 1999* (Cth), the Parties consent to Notices and any other information being given by electronic communication.
- 41.11 If the Buyer is no longer represented by a solicitor and has no current known contact particulars for the giving of a Notice, the Seller may give Notice to the Buyer's last known contact particulars even if it is known to the Seller that the Buyer may not receive the Notice. The Parties' intention is that the onus is on the Buyer to ensure that the Seller at all times has current particulars of the Buyer in order to enable the Seller to give Notice.
- 42. Variation of Contract**
- 42.1 An amendment or variation of this contract is not effective unless it is in the form of a Notice in writing and signed by or on behalf of the Parties by a person holding the requisite authority to bind the relevant Party.
- 42.2 Only a partner of the Seller's Solicitors' firm, the Seller itself if a natural person or a director, executive or manager of the Seller has authority to bind the Seller to an amendment or variation of this contract.
- 42.3 The Buyer itself or any partner or employee of the Buyer's Solicitors' firm has authority to bind the Buyer to an amendment or variation of this contract.
- 43. Waiver**
- 43.1 No waiver of any right under this contract takes effect unless in the form of a Notice in writing, signed by or on behalf of the Party bound, by a person holding the requisite authority to bind the relevant Party. The provisions of the clause titled "*Variation of Contract*" above will apply to any question of authority under this Special Condition.
- 43.2 In the absence of an effective waiver, no failure or forbearance by a Party to insist upon any right to performance of a condition or obligation of the other Party can amount to, under any circumstances, a waiver, an election between existing rights, a representation sufficient to ground an estoppel or a variation whereby that other Party is relieved or excused from performance of such condition or obligation.
- 43.3 A waiver is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given.
- 44. Severance**
- 44.1 Subject to sub-clause 2, the provisions of this contract, so far as possible, must be construed so as not to be invalid, illegal, inoperative or unenforceable in any respect.
- 44.2 If it is held by a Court that:
- (a) any part, clause or part of a clause of this contract is void, voidable, illegal, unenforceable or a penalty; or
  - (b) this contract is void, voidable, illegal or unenforceable unless any part, clause or part of a clause of this contract is severed from this contract,

that part, clause or part of the clause will be severed from this contract and the balance of this contract given effect to, unless to do so would change the underlying principal commercial purposes of this contract.

Queensland Titles Registry and the Queensland Office of State Revenue.

**45. Transfer Documents**

- 45.1 The Seller must prepare the Transfer Documents.
- 45.2 If the Buyer is not legally represented and if the Buyer pays the Seller's reasonable expenses, it may require the Seller to produce the Transfer Documents at the Office of State Revenue in Brisbane, for stamping prior to Settlement.
- 45.3 If the Seller's Solicitor has received an undertaking from the Buyer's Solicitor that the Transfer Documents will be used for stamping purposes only pending Settlement, the Seller will, at the relevant time, lend the Transfer Documents to the Buyer's Solicitor without charge for stamping prior to Settlement if the Seller sees fit to do so.
- 45.4 Each Party authorises the other Party and their solicitor to make any necessary amendments to the Transfer Documents so as to rectify any inaccuracies or complete any omissions.
- 45.5 The Buyer must, within 10 Business Days after engaging any solicitor to act on its behalf in relation to this contract and the conveyance of the Property pursuant to it, cause that solicitor to give to the Seller's Solicitor an undertaking that the Transfer Documents will be used for stamping purposes only pending Settlement so that, at the relevant time, the Seller can lend the Transfer Documents to that solicitor without charge for stamping prior to Settlement.

**46. Buyer's Obligation to Disclose Rebates etc.**

- 46.1 If the Buyer receives or takes from the Seller the benefit of any form of rebate of a portion of the Purchase Price or other concession or valuable consideration (such as a contribution towards payment of transfer duty, Outgoings, legal fees or the like) or other advantage under this contract, the Buyer promises the Seller that the Buyer will fully disclose that fact to all parties who may have an interest in knowing about it, including the Buyer's financier and any party who buys the Property from the Buyer.
- 46.2 The Buyer:
- (a) promises the Seller that it will not make any false declaration in respect of this contract and the conveyance of the Property made pursuant to it; and
  - (b) consents to the Seller disclosing any such rebate, concession or valuable consideration to any Buyer's financier or any other interested party; and
  - (c) will not Object to the Transfer Documents being prepared by the Seller in accordance with all relevant practice notes, directions and the like issued by the Queensland Law Society, the

**47. Further Acts**

- 47.1 Without limiting clause 10.7 of the Terms of Contract, if requested to do so by the Seller, the Buyer must, at its own expense and within a reasonable period of time (and, in any event, before Settlement):
- (a) do all things necessary in order to complete any omission, rectify any error, waive any statutory right (so far as it is possible and lawful to do so) or resolve any ambiguity in this contract so as to facilitate this contract being given effect to and being operative and enforceable as between the Parties; and
  - (b) do all things, sign all documents, give all necessary consents, enter into all necessary agreements or deeds as requested by the Seller in order to enable to the Seller to perform its obligations under this contract (**Additional Obligations**) and in order to enable Settlement even if Additional Obligations are imposed on the Buyer providing that the rights of the Buyer under this contract are not significantly diminished.
- 47.2 If the rights of the Buyer under this contract are significantly diminished as a result of a request by the Seller pursuant to sub-clause 1, the Buyer must carry out the requested action if:
- (a) the Buyer became aware or ought to have become aware of the possible diminution of rights as part of any reasonable enquiries carried out before the Contract Date; or
  - (b) the Buyer became aware or ought to have become aware of the possible diminution of rights as part of any reasonable enquiries carried out after the Contract Date; or
  - (c) the Seller offers to provide reasonable compensation to the Buyer to offset the diminution of rights.
- 47.3 Without limiting clause 10.7 of the Terms of Contract, if requested to do so by the Seller, the Buyer must, at its own expense, do all things necessary in order to complete any omission, rectify any error, waive any statutory right (so far as it is lawful to do so) or resolve any ambiguity in this contract so as to facilitate this contract being considered by any financier of the Seller as a presale for construction funding purposes.
- 47.4 If this contract has been exchanged electronically, the Seller may require that this contract is again exchanged in hard (physical paper copy) copy. If that happens, the Buyer agrees to exchange hard a copy of this contract when directed to do by the Seller. This may be required, for example, in order that a funder of the Seller agrees to accept the sale made under this contract to be a qualifying pre-sale for funding qualification purposes.

**48. Measurement of Time**

In relation to measurement of time:

- (a) where a period of time runs from a given day or the day of an act or event, it must be calculated exclusive of that day;
- (b) a day is the period of time commencing at midnight and ending 24 hours later; and
- (c) any calculation of time is referenced to time in Brisbane.

**49. Legislative Termination Rights**

49.1 This Special Condition applies if:

- (a) the Seller reasonably forms a view that the Buyer is or has become entitled to cancel, withdraw from or terminate this contract or declare itself not bound by this contract under any legislative provision (**Legislative Termination Right**); and
- (b) the Legislative Termination Right has not expired and will not expire within a period less than 21 days after the date that the right arose.

49.2 If this Special Condition applies, then:

- (a) the Seller may send the Buyer a new contract that is on the same terms as this contract, except for only those changes to the form of contract or to related documents that are required so that the Legislative Termination Right will not apply to the new contract (**New Contract**); and
- (b) if the Buyer does not sign and return the New Contract to the Seller with 15 Business Days from when it is sent to the Buyer, then the Seller may by Notice to the Buyer terminate this contract and the Deposit and any Interest must then be refunded to the Buyer and neither Party will have any Claim further against the other Party with respect to this contract or its termination.

To be clear, the Buyer is not obliged to enter into a proposed New Contract.

49.3 A termination right under sub-clause 2(b) may be exercised by the Seller at any time until either:

- (a) a New Contract is formed; or
- (b) the Legislative Terminate Right may no longer be exercised; or
- (c) this contract is completed.

49.4 If a New Contract is formed, then this contract is terminated and the Deposit and any Interest must be held

as if it had been paid and earned under the New Contract and the Parties so instruct the Deposit Holder.

**50. Transfer Notice**

The Buyer may lodge a **Priority Notice** or similar over the Title with the Queensland Titles Registry but not before the date which is 5 Business Days prior to the date fixed as the Settlement Date.

**51. Instalment Contracts**

51.1 In this clause, the following additional definitions apply:

**Instalment Contract** has the meaning given to it under Section 71 of the PLA Act.

**PLA Act** means the *Property Law Act 1974* (Qld).

**Prescribed Deposit** has the meaning given to the word deposit in the PLA Act.

51.2 Sub-clause 3 applies if:

- (a) this contract is an Instalment Contract;
- (b) any interpretation of any annexure or Special Condition causes this contract to be or become an Instalment Contract; or
- (c) any negotiation or agreement reached between the Seller and the Buyer following formation of this contract causes this contract to be or become an Instalment Contract.

51.3 If this sub-clause applies, then:

- (a) the Buyer consents, for the purposes of Section 73(1) of the PLA Act, to the Seller:
  - (i) mortgaging or charging the Property or any land form which the Property is created on terms and conditions the Seller in its discretion determines; and
  - (ii) selling parts of the land form which the property is created (but not the Property) to other buyers; and
- (b) the Buyer consents, for the purposes of Section 74(2)(a) of the PLA Act, to the removal of the caveat by the Seller.

51.4 Despite any contrary provision in this contract, the Buyer is not bound to make a payment or payments of amounts which total in excess of the Prescribed Deposit without becoming entitled to receive a conveyance in exchange for the payment or payments.

51.5 Nothing in this contract permits the Buyer to elect that this contract be performed in a manner which would constitute it as an Instalment Contract.

51.6 The provisions of this clause are mandatory overriding provisions and override any other provision of this contract including the Special Conditions.

**52. Contract Date**

52.1 This Special Condition applies if following exchange of this contract, the Contract Date in the Reference Schedule has not been completed.

52.2 If this Special Condition applies;

- (a) the Contract Date will be taken to be the date that the last Party to sign this contract has communicated to the other Party that this contract has been signed; and
- (b) each Party authorises the other Party to complete the Contract Date in the Reference Schedule if required.

**53. Performance of Contract**

The Seller is entitled to perform this contract in a manner which is most beneficial to it.

**54. Privacy**

54.1 The Buyer consents to:

- (a) the collection of the Personal Information;
- (b) the use and disclosure by the Seller of the Personal Information for the purposes of enabling the Seller to comply with its obligations under, associated with and arising in connection with this contract, including any obligations to any third parties, such as the Seller's financiers, manager providing caretaking and letting services and utility providers;
- (c) the Buyer's details becoming part of the "Mirvac database";
- (d) the disclosure to, and use by, third party contractors and service providers (any of whom may be located outside Australia) engaged by the Seller of the Personal Information for the purpose of:
  - (i) enabling the Seller to comply with and fulfil its obligations under or arising pursuant to or in connection with this contract;
  - (ii) procuring the provision to the Buyer of products and services contemplated by this contract;
  - (iii) providing the Buyer with information relating to future activities of the Seller;

(iv) undertaking research in connection with this contract and future activities of the Seller (including to request feedback on the products and services provided by Mirvac); and

(v) the use and disclosure by the Seller of the Personal Information to neighbouring lot owners to the Lot for the purposes of boundary fencing and other similar matters; and

(e) the use and disclosure by the Seller of the Personal Information for the purposes of enabling the Seller to enforce its rights under this contract.

54.2 By signing this contract, the Buyer agrees to Mirvac using its personal information to promote its products and services. If the Buyer no longer wishes to receive promotional information from Mirvac, the Buyer may advise Mirvac of its wish. The Mirvac Group Privacy Policy (available on [www.mirvac.com](http://www.mirvac.com)) contains information about how you may send your request to Mirvac.

54.3 The Buyer acknowledges that:

- (a) the Personal Information is held by the Seller subject to the requirements of the Privacy Act;
- (b) in accordance with the requirements of the Privacy Act, the Buyer may request access to the Personal Information and request that it be corrected at any time; and
- (c) the Buyer may request access to the Personal Information or request that it be corrected by contacting the Privacy Officer.

54.4 In this Special Condition 54, the following words have the following meanings:

- (a) **Personal Information:** means all personal information (as defined in the Privacy Act relating to the Buyer, including all personal information set out in this contract and otherwise disclosed by the Buyer to the Seller whether prior to or after the date of this contract.
- (b) **Privacy Act:** means the Privacy Act 1988 (Cth) and any regulations, ancillary rules, guidelines, orders, directions, directives, codes of conduct or other instrument made or issued under that Act, as amended from time to time.
- (c) **Privacy Officer:** means "Privacy Officer", the Mirvac Group, Level 26, 60 Margaret Street, Sydney NSW 2000, Ph: (02) 9080 8000, Email: [privacy@mirvac.com](mailto:privacy@mirvac.com)

- 55. Assignment**
- 55.1 Subject to the Seller complying with sub-clause 2(a):
- (a) the Seller may transfer or assign its interest or a part of its interest in the Property or any land from which the Land is to be created (or any part of it) to another person (**Dealing**); and
  - (b) the Buyer consents to any Dealing, including for the purpose of any consent required under the *Property Law Act 1974 (Qld)*.
- 55.2 If the Seller proposes to effect a Dealing:
- (a) before the Dealing is completed, the Seller must procure the Third Party to execute a Novation Deed; and
  - (b) the Buyer waives any cooling off period applicable as a result of the Dealing and the Buyer must, if requested by the Seller or Third Party, execute any document to confirm such waiver.
- 55.3 If the Seller requires, the Buyer and any Guarantor must be parties to the Novation Deed to covenant in favour of the Third Party to perform their respective obligations under this contract and the Guarantor. The Buyer must execute, and must procure the Guarantor to execute, the Novation Deed before the Dealing is completed.
- 55.4 If:
- (a) under a Dealing, the Seller transfers or assigns its interest in the Property or any parcel of land from which the Land is to be created; and
  - (b) the Seller complies with sub-clause 2(a) in relation to that Dealing,
- on completion of that Dealing, the Seller is released from any further obligations under this contract.
- 55.5 On completion of a Dealing;
- (a) the Seller may transfer to the Third Party's nominated deposit holder the Deposit (and the Seller and the Buyer irrevocably authorise the Deposit Holder to facilitate such transfer); or
  - (b) if the payment of the Deposit has been secured by the provision of a Compliant Bank Guarantee or Non-Compliant Guarantee which is not assignable, the Seller may require the Buyer to provide to the Third Party's nominated deposit holder a replacement Compliant Bank Guarantee or cash Deposit within 10 Business Days of the Seller asking for it.
- 55.6 In this Special Condition:
- Dealing** has the meaning given in subclause 1(a).
- Novation Deed** means a deed (in a form reasonably required by the Seller) to be made in relation to a Dealing and under which, on and from completion of the Dealing, the Third Party covenants in favour of the Buyer to be bound by the obligations of the Seller under this contract.
- Third Party** means the person in whose favour the Seller effects a Dealing.
- 55.7 The Buyer may not assign or transfer or attempt to assign or transfer the Buyer's interest under this contract without the prior written consent of the Seller. This is an Essential Term.
- 55.8 The Seller may:
- (a) mortgage or charge its interest in the in the Property or any parcel of land from which the Land is to be created;
  - (b) obtain further advances on the security of the Property or any parcel of land from which the Lot is to be created; and
  - (c) enter into joint ventures or other agreements in connection with the development of the Property or any parcel of land from which the Land is to be created.
- The Buyer consents to the Seller doing any of the things mentioned in this subclause including for the purpose of any consent required under section 73 of the *Property Law Act 1974 (Qld)*.
- 56. Entire Agreement**
- This contract contains the entire terms agreed between the Seller and the Buyer in relation to the sale and purchase of the Property and supersedes all prior negotiations.
- 57. Reticulated Natural Gas**
- 57.1 The Seller may enter into an agreement with APA Group (**APA**) for the installation of natural gas infrastructure (**APA Agreement**). The Buyer acknowledges that the APA Agreement may not be entered into or may terminate at any time and that natural gas infrastructure will only be installed if the APA Agreement remains on foot. The Seller makes no warranty or representation that it will maintain or enter into an APA Agreement. The Buyer must not Object if the Seller does not maintain or enter into an APA Agreement.
- 57.2 If the Seller enters into and maintains an APA Agreement then the balance of this Special Condition applies.
- 57.3 The Buyer agrees that it must and must ensure that its agents, consultants, builders, contractors, invitees and



other third parties not related to the Seller or APA cause no other utility assets or any other structure to be constructed directly above and in parallel to any gas main with a horizontal clearance of less than 250 mm. Where other utility assets (not installed by the Seller or APA) are found directly above the gas main, or with inadequate horizontal clearance, the Buyer is responsible for removing the other utility and any rectification costs. The Seller and APA will not be responsible for any costs associated with remediation. The Buyer acknowledges that APA reserves the right to withhold gas supply until the clearance is rectified or if it believes there is a risk to gas assets. The offset of the gas main should meet the following conditions, note that the standard offset is 2.1 metres:

- (a) horizontal clearance of 250 mm from any other asset; and
- (b) vertical clearance of 150 mm when crossing any other assets.

57.4 The following minimum depths of cover will need to be maintained above the gas mains unless greater depth is stipulated by the relevant authority:

- (a) 750 mm final cover in new estates (600 mm is before installation of top soil to site);
- (b) 800 mm final cover in established areas; and
- (c) 1,200 mm final cover under nominated roads.

57.5 Prior to the Buyer being able to utilise natural gas, the Buyer will need to arrange a gas supply agreement with a natural gas retailer.

57.6 The Buyer acknowledges and agrees that any:

- (a) breach of Special Conditions 57.3 and 57.4 may prevent connection of the Land to the gas infrastructure or may require the Buyer to incur additional costs in order to connect the Land to the gas infrastructure following Settlement.
- (b) additional costs payable as a consequence of a breach of Special Conditions 57.3 and 57.4 will be at the cost of the Buyer and the Buyer releases and indemnifies the Seller in this respect.

57.7 APA will determine the best design and use reasonable endeavours to supply the lot to enable prospective residents to connect to natural gas in accordance with the following:

- (a) lots with frontages less than 12.5m - to be provided with a minimum of 1 connection access point, ie, one road crossing to one shared property boundary (if main not installed on the same side of the road);
- (b) lots with frontages greater than 12.5m wide (including all corner blocks and duplex sites) - to

be provided with 2 x connection access points - one at each shared property boundary (if main not installed on the same side of the road along the entire lot frontage);

- (c) 'battle-axe' lots - to be provided with one connection access point from the Local Government verge along the lot frontage. APA cannot install gas mains in private properties without owner's consent/easement acquisitions; and
- (d) Laneways - 'drive through lots' with two frontages - to be provided with one connection access point to one shared property boundary. APA to determine design based on clearances, overall design of reticulation and best accessibility to gas mains. Note: for laneways with reduced verge widths - gas mains cannot be installed in a 'common trench' where the verge is less than 700mm.

57.8 Where easements are required to install gas mains, the Land will be subject to such easement/s and the Buyer will not Object.

57.9 If the Seller maintains an APA Agreement, the Seller discloses to the Buyer and the Buyer acknowledges and accepts that:

- (a) the infrastructure will be located in the street and the Buyer must make all connections of the Land to the infrastructure in the street at its own cost;
- (b) the Buyer may elect to or elect not to connect the Land to the gas infrastructure;
- (c) the Buyer must comply with all directions of APA in relation to access to and construction of structures to and near its infrastructure including sufficient horizontal and vertical clearances and depths; and
- (d) prior to the Buyer being able to utilise natural gas, the Buyer will need to arrange a gas supply agreement with a natural gas retailer.

## 58. Retaining Walls

58.1 The Seller discloses and the Buyer acknowledges that the Condition of Subdivision requires that:

- (a) all retaining walls including the footings are to be located wholly within the property boundary of a lot;
- (b) retaining walls to stabilise excavation must be set back from the property boundaries to accommodate subsoil drainage without encroaching into the neighbouring lot;
- (c) retaining walls that are greater than 1.0m in height must be vertically and horizontally tiered

- by a ratio of 1:1 unless an alternative has been approved by the development services; and
- (d) retaining walls facing onto Local Government property (including road reserve and parkland) must not be constructed from timber.
- 58.2 Accordingly:
- (a) the Land may contain a retaining wall which also affects the lot adjoining the Land by providing support; or
- (b) the lot adjoining the Land may contain a retaining wall that also affects the Land by providing support.
- 58.3 From Settlement, (if the Land contains a retaining wall), the Buyer agrees that it is the Buyer's responsibility to (and the Buyer agrees that it will) have a relevantly qualified professional inspect and maintain all retaining walls affecting the Land at regular intervals.
- 58.4 The Buyer agrees that it must not change or alter any retaining walls that have been installed by or on behalf of the Seller unless a relevantly qualified professional determines that they have come to the end of their useful life and need replacement.
- 58.5 The Buyer acknowledges that structural advice regarding the retaining walls should be obtained by the Buyer from a relevantly qualified professional in the event that any dwellings or other structures are proposed to be constructed on the Land in a location adjacent to or near retaining walls installed by or on behalf of the Seller.
- 58.6 The Buyer acknowledges and agrees that the promises contained in this Special Condition are made for the benefit of owners for the time being of lots adjoining the Land, which are affected by a retaining wall on the Land and are enforceable by such owners pursuant to section 55 of the PLA Act.
- 59. Seller's Access Licence after Settlement**
- 59.1 To facilitate the progressive development being carried out by the Seller (**Estate**), with effect from Settlement, the Buyer irrevocably grants to:
- (a) the Seller; and
- (b) any nominees of the Seller (**Nominee**),
- a licence to enter and remain on the Land as is reasonably required to undertake works of any kind (**License**).
- 59.2 Examples of works that may be performed under the License include;
- (a) installation or establishment of utility infrastructure and utility services and connections thereto;
- (b) completion or rectification of any works required by approvals granted to the Seller for development;
- (c) the installation of pit and pipe works and network infrastructure;
- (d) civil, excavation and general earthworks;
- (e) the construction of common areas, including roads;
- (f) the construction of improvements and facilities as may be considered necessary by the Seller to establish utility services and connections thereto; and
- (g) the construction of services infrastructure whether public or private including connections for sewerage, gas, electricity, communications, water or any other lawful service available to the public,
- all of which are collectively called the **Infrastructure Works**.
- 59.3 In consideration for the grant of the License, the Seller must pay the Buyer \$1.00 within 10 Business Days after demand for payment by the Buyer.
- 59.4 The Seller or its Nominee may bring onto the Estate and the Land any machinery, tools, equipment, vehicles and workmen to facilitate the carrying out of the Infrastructure Works.
- 59.5 The benefit of the License in favour of any Nominee is a covenant for the benefit of the Nominee pursuant to section 55 of the *Property Law Act 1974* in consideration of the Seller agreeing to sell the Property to the Buyer.
- 59.6 The Buyer must not Object if the Seller or a Nominee exercises their rights under this Special Condition.
- 59.7 The Seller must:
- (a) so far as reasonably possible cause minimal disturbance to any occupant of the Property; and
- (b) repair any damage caused to the Property,
- as a result of the Seller or its Nominee exercising its rights under this Special Condition.
- 59.8 The Buyer must not Object to the continuation of civil or construction works within the Estate after Settlement which may disrupt or inconvenience the Buyer or an occupier of dwelling on the Land.
- 59.9 The Buyer must not sell, transfer, assign or otherwise dispose of the Land without first delivering to the Seller a deed poll executed by the future buyer, transferee, assignee or disponee in favour of the Seller containing covenants in the same terms (*mutatis mutandis*) as this

Special Condition including an obligation for each further buyer, transferee, assignee or disponee to obtain a further deed poll from any subsequent buyer, transferee, assignee or disponee. The covenant to be obtained is to be in the form of the Deed Poll.

59.10 This Special Condition does not merge on Settlement.

**60. Indemnity**

60.1 The Buyer indemnifies the Seller against all loss, costs and damage arising from any Claims, Objections or actions against the Seller in connection with anything the Buyer, or anyone authorised by it, does or fails to do on the Property or due to a breach of this contract by the Buyer. This indemnity does not merge on Settlement of this contract.

**61. Display Homes**

61.1 The Seller may:

- (a) use any lots (other than the Land) in the Estate which are owned by the Seller for a Display Home; and
- (b) allow any lots (other than the Land) in the Estate to be used for a Display Home.

61.2 The Buyer must not, without the prior written consent of the Seller, use, promote, advertise or permit any structure erected on the Land to be used, promoted or advertised in any way as a Display Home.

61.3 The Buyer will not make any Claim against the Seller or Object because of this Special Condition 61.

**62. Notice of Default by Buyer before termination**

62.1 Notwithstanding any other provision of this contract, if the Seller is in default of this contract and such default entitles the Buyer to terminate this contract or exercise any other right, the Buyer must not terminate or purport to terminate this contract or exercise a right or purport to exercise a right without first giving the Seller a notice which requires the Seller to remedy the default (or in respect of a breach that is incapable of rectification compensates the Buyer for the breach) within a period of not less than 10 Business Days after the notice is received by the Seller. Only if the 10 Business Day period has expired and the Seller has not remedied the default (or in respect of a breach that is incapable of rectification compensates the Buyer for the breach) is the Buyer entitled to terminate this contract or exercise any other right.

**63. Lodgement of transfer**

63.1 The Buyer must lodge the Transfer Documents at the Queensland Titles Registry on or before 60 days after Settlement. This Special Condition is an Essential Term and does not merge on Settlement.

**64. Packaged Pricing**

64.1 This Special Condition applies if the Buyer has entered into, or intends to enter into a Building Contract with a Builder. The intention of this Special Condition is to show that other than marketing, the relationship between the Seller, the Builder and the Buyer is the same as if the Buyer had engaged a builder who was not advertised through a current marketing campaign of the Seller.

64.2 The Buyer acknowledges that:

- (a) the Seller is responsible for the sale of the Land only;
- (b) the Buyer will be required to enter into a separate Building Contract with the Builder or a separate building contract with an alternative builder at the Buyer's election as the Seller is not providing any improvements to the Buyer;
- (c) the Buyer may select an alternative builder at its discretion and is not required to select the Builder;
- (d) the relationship between the Seller and the Builder is limited to marketing and advertising activities only;
- (e) the Builder is not a subsidiary or related entity of the Seller;
- (f) the Seller and the Builder are separate entities and no liability or responsibility is shared by these parties; and
- (g) the Seller is not a party to the Building Contract and the Builder is not a party to this contract.

64.3 The Buyer acknowledges that the Seller makes no representations and gives no warranties about the Builder's ability to enter into and perform the Building Contract. The Seller will not be liable for:

- (a) any failure by the Builder to enter into or perform the Building Contract;
- (b) any delays in construction;
- (c) any representations made by the Builder;
- (d) any acts or omissions on the part of the Builder; or
- (e) any loss suffered by the Buyer or any person in any way arising out of or relating to the Building Contract.

64.4 Any incentives or concessions advertised or offered by the Builder are offered by the Builder alone and the Seller accepts no liability or responsibility with regard to them.

- 64.5 The Seller does not make any undertaking on behalf of the Builder. The Buyer is to make their own investigations relating to the Builder's licences, insurances, warranties and other requirements.
- 64.6 The Seller makes no warranty as to the foundation requirements for the proposed Dwelling and is not responsible for the soil testing or design or construction of the foundations.
- 64.7 The Seller is not liable for any workplace health and safety requirements relating to the construction of the proposed Dwelling.
- 64.8 The Buyer is responsible for any damage caused by the Builder to the civil infrastructure, retaining walls, concrete kerbs, concrete footpaths and crossovers, adjoining properties and other features.
- 64.9 The Buyer is required to obtain covenant approval for the proposed Dwelling and associated works in accordance with the Housing Covenants.
- 64.10 Alterations may be required to the proposed Dwelling to ensure the Dwelling and associated works complies with the Housing Covenants as well as any statutory requirements.
- 64.11 The Buyer is responsible for satisfying itself as to the compatibility of the Dwelling with the Housing Covenants.
- 64.12 The location of the proposed Dwelling shown on any marketing material has been determined by the Builder. The location of the Dwelling may not comply with statutory requirements or the Housing Covenants. The Buyer is to confirm the proposed location of the Dwelling with the Builder and its compliance with statutory requirements and the Housing Covenants.
- 64.13 This contract is not conditional on the Buyer entering into the Building Contract or any other building contract and is not conditional on any part of the Building Contract or any other building contract.
- 65. Fencing**
- 65.1 If the Seller has installed any fencing or entry feature on the Land then the Buyer covenants with the Seller that the Buyer will maintain in a good condition such fence or entry feature.
- 65.2 The Buyer must not sell, transfer, assign or otherwise dispose of the Land without first delivering to the Seller a deed poll executed by the future buyer, transferee, assignee or dispone in favour of the Seller containing covenants in the same terms (mutatis mutandis) as this Special Condition and clause 7.8 of the Terms of Contract (as amended) including an obligation for each further buyer, transferee, assignee or dispone to obtain a further deed poll from any subsequent buyer, transferee, assignee or dispone. The covenant to be obtained is to be in the form of the Deed Poll.
- 66. Buyer's Acknowledgements – Services and Other Features**
- 66.1 The Services and Other Features Plans show the general location of the Services and the Other Features within the stage that contains the Land. The Buyer acknowledges that the Services and Other Features Plans may be design, preliminary or as constructed drawings and may be revised in the future. Revised drawings (if available) can be obtained by contacting the Seller.
- 66.2 The Buyer acknowledges that:
- (a) the Services and Other Features Plans have been provided for the sole purpose of showing the general location of the Services and Other Features on or immediately adjacent to the Land and any ancillary information shown on the Services and Other Features Plans is to be disregarded by the Buyer;
  - (b) the Seller provides the Services and Other Features Plans in good faith so that the Buyer is aware of the likely locations and alignments of the Services and Other Features;
  - (c) the Seller cannot warrant the ultimate location and alignment of the Services and Other Features given that such locations and alignments are subject to external influences beyond the Seller's control (including third party requirements and construction constraints);
  - (d) temporary services and redundant services may not be shown on the Services and Other Features Plans;
  - (e) redundant services may be abandoned and left in situ; and
  - (f) the alignments and locations of the Services and Other Features are subject to change.
- 66.3 The Buyer must not lodge a caveat or make any Claim against the Seller or Object if:
- (a) the Seller does not construct the Services or Other Features by the Settlement Date;
  - (b) the Services and Other Features Plans show that sewer, stormwater or roofwater services will be located on the Land;
  - (c) any of the Services are constructed inside the boundaries of the Property;
  - (d) any redundant Services traverse the Land;
  - (e) the alignment or location of the Services or Other Features change from that shown on the Services and Other Features Plans; or

- (f) the Seller does not complete construction of any other land included in the Estate or does not continue to develop any of the land owned by the Seller.

**ANNEXURE C**

**DEED POLL**

**DEED POLL - ASHFORD RESIDENCES**

TO: **Mirvac Queensland Pty Limited ACN 060 411 207** (“Developer”)

FROM: \_\_\_\_\_  
 [insert New Owner’s name]  
 \_\_\_\_\_  
 [insert New Owner’s name]  
 \_\_\_\_\_  
 [insert New Owner’s address]  
 \_\_\_\_\_  
 [insert New Owner’s address]  
 (“New Owner”)

LAND: Lot **Ashford Residences**, Ashmore Street,  
 \_\_\_\_\_  
 Everton Park QLD 4053

**BACKGROUND**

- A. The New Owner is buying or has agreed to buy the Land.
- B. The Land forms part of a quality residential community being developed or being developed by the Developer known collectively as **Ashford Residences** (the **Estate**). Accordingly, it is necessary and in the interest of all owners of land in the Estate that the Developer exercises supervision and control so as to ensure quality in respect of the design and construction standard of dwellings, other improvements and landscaping in the Estate and other matters generally.
- C. The New Owner is required by the terms of the contract that the New Owner has entered into to buy the Land, to enter into this Deed Poll.

**OPERATIVE PART**

- 1.2 The New Owner represents to and warrants in favour of the Developer as follows:
  - (i) the New Owner agrees to abide by the terms of the Housing Covenants **attached (Housing Covenants)** as though the New Owner was the “Buyer” and the Developer was the “Seller” referred to in the Housing Covenants; and
  - (ii) the New Owner agrees not to sell, transfer, dispose of, lease or in any other way part with possession of the Land without first obtaining a covenant from any disponent in favour of the Developer on the same terms of this Deed Poll.
- 1.3 The New Owner acknowledges that it is bound by the terms of the Housing Covenants and is responsible for all costs incurred by the Developer in the enforcement or attempted enforcement of the Housing Covenants and that it will be subject to legal action for rectification costs, damages, legal costs (on a solicitor and own client basis) for any breach of the Housing Covenants.
- 1.4 The New Owner acknowledges that the Developer, in its total discretion, has and reserves the right to vary, exclude or elect not to enforce any of the Housing Covenants and/or interpret the Housing Covenants and the intent of the Housing Covenants for any land in the Estate.
- 1.5 The New Owner acknowledges that:
  - (i) the Estate may be developed progressively by the Developer; and
  - (ii) this involves or will involve (amongst other things) the progressive carrying out of various works and the making of town planning and building applications of various types to Authorities (**Applications**).
- 1.6 The New Owner must not:
  - (i) make or maintain any Objection either alone or jointly with others against or do anything which may adversely affect any of the Applications;

- (ii) Object in relation to any dust, noise or traffic interference which results from the carrying out of and works within the Estate;
  - (iii) do or omit anything which would prevent the Developer from completing the Estate or selling allotments in the Estate; and
  - (iv) Object if the Developer does not complete construction of any other land included in the Estate or does not continue to develop any of the land owned by the Developer.
- 1.7 To facilitate the progressive development of the Estate, the New Owner irrevocably grants the Developer and any nominees of the Developer including any Authority and NBN Co and any supplies for NBN Co (**Nominee**) (including any employee, contractor, consultant or agent of the Developer) a licence to enter and remain on the Land as is reasonably required by the Developer or its Nominee to undertake works of any kind necessary or incidental to install or establish utility infrastructure and utility services and connections, thereto, including the following works:
- (i) to complete and/or rectify any works required by the approvals granted to the Developer for the development for the Estate (of which the Land forms part) including but not limited to civil works and the connection of services to the Land;
  - (ii) the installation of pit and pipe works and network infrastructure;
  - (iii) excavation and general earthworks;
  - (iv) the construction of common areas, including roads;
  - (v) the construction of such improvements and facilities as may be considered necessary by the Developer to establish utility services and connections thereto; and
  - (vi) the construction of services infrastructure whether public or private including without limitation, connections for sewerage, gas, electricity, communications, water or any other lawful service available to the public,
- all of which are collectively called the **Utility Infrastructure Works**.
- 1.8 The licence fee is \$1.00 payable by the Developer to the New Owner if demanded by the New Owner.
- 1.9 The Developer or its Nominee may bring onto the Estate (including the Land) any machinery, tools, equipment, vehicles and workmen to facilitate the carrying out of the Utility Infrastructure Works, provided that the Developer does not unreasonably interfere with the New Owner's enjoyment of the Land.
- 1.10 The covenants and acknowledgements in this Deed Poll given by the New Owner to any Nominee are made and given for the benefit of the Nominee pursuant to section 55 of the *Property Law Act 1974* in consideration of the Developer consenting to the sale of the Land to the New Owner.
- 1.11 The New Owner acknowledges that it has no right to Object if the Developer or a Nominee exercise their rights or have a right to exercise their rights pursuant to this Deed Poll.
- 1.12 The Developer must:
- (i) so far as reasonably possible cause minimal disturbance to any occupant of the Land; and
  - (ii) repair any damage caused to the Land,
- as a result of the Developer or its Nominee (excluding NBN Co whom the Developer has no control over) exercising its rights under this Deed Poll.
- 1.13 The New Owner must not Object to the continuation of civil or construction works within the Estate which may disrupt or inconvenience the New Owner or an occupier of dwelling on the Land.
- 1.14 If the Developer has installed any fencing or entry feature on the Land then the New Owner covenants with the Developer that the New Owner will maintain in a good condition such fence or entry feature.
- 1.15 Notwithstanding any provision in the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*, the Developer need not contribute to the cost of building any dividing fence between the Land and any adjoining land owned by the Developer or to the cost of relocating any fence. The New Owner waives any right to claim contribution from the Developer. The New Owner acknowledge that this clause is an agreement made between adjoining owners about a dividing fence for the purposes of section 10 of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011 (Qld)*.

- 1.16 The New Owner must not sell, transfer, assign or otherwise dispose of the Land without first delivering to the Developer a deed poll executed by the future buyer, transferee, assignee or disponent in favour of the Developer containing covenants in the same terms (mutatis mutandis) as this Deed Poll including an obligation for each further buyer, transferee, assignee or disponent to obtain a further deed poll from any subsequent buyer, transferee, assignee or disponent.
- 1.17 The New Owner indemnifies the Developer for any costs or damages the Developer suffers or may suffer as a result of any future buyer, transferee, assignee or disponent not being bound to the terms of this Deed Poll due a breach of the New Owner of this Deed Poll.
- 1.18 For the purposes of this Deed Poll:
- (g) **Authority** means any body, government, person or otherwise having or exercising control over the approval of, carrying out of, use or operation of the Land or the Estate or any services to be provided to the Land or the Estate, including, but not limited to, the Local Government and the department of Economic Development Queensland.
- (h) **Object** or **Objection** means to object generally and includes:
- (i) object to a variation, change or substitution;
  - (ii) claim compensation;
  - (iii) require the Developer to carry out any works to the Land;
  - (iv) withhold a consent;
  - (v) make any claim, demand, appeal or suit of any nature; or
  - (vi) seek an injunction.
- 1.19 Queensland Law applies to this Deed Poll. The New Owner submits to the jurisdiction of the courts of Queensland.
- 1.20 This Deed Poll takes effect from the date the New Owner has effected settlement of the contract to buy the Land.
- 1.21 The New Owner must give to the Developer a copy of this signed and witnessed Deed Poll.

DATED THIS \_\_\_\_\_ 20 \_\_\_\_.

**SIGNED AS A DEED POLL**

**SIGNED, SEALED AND DELIVERED** by the )  
New Owner in the presence of: )

\_\_\_\_\_  
New Owner's Signature

\_\_\_\_\_  
Witness

**THE NEW OWNER'S SIGNATURE MUST BE  
WITNESSED**

**SIGNED, SEALED AND DELIVERED** by the )  
New Owner in the presence of: )

\_\_\_\_\_  
New Owner's Signature

\_\_\_\_\_  
Witness

**THE NEW OWNER'S SIGNATURE MUST BE  
WITNESSED**



DEED POLL  
ANNEXURE "A" – HOUSING COVENANTS

*(Follows this page)*

**[NOTE: Insert Housing Covenants AND Residential Design Standards and Guidelines behind this page when on-selling and preparing this Deed Poll for signing]**

**ANNEXURE D**  
**HOUSING COVENANTS**

(follows this page)

**BETWEEN: MIRVAC QUEENSLAND PTY LIMITED ACN 060 411 207 (Seller)**

**AND: THE PERSON NAMED AS "BUYER" IN THE REFERENCE SCHEDULE (Buyer)**

**1. ACKNOWLEDGMENT BY BUYER**

- 1.1 The Buyer acknowledges that the Land is part of a residential subdivision known as **Ashford Land** being part of **Ashford Residences (Estate)**. The Buyer covenants that it is desirable and in the interest of all owners of lots in the Estate that the Seller exercises supervision and control to ensure that:
- (a) the Land and other relevant lots in the Estate are properly maintained prior to the commencement of construction of a Dwelling thereon;
  - (b) a high standard of design and construction of dwellings, Improvements, Outbuildings and Extensions in the Estate are maintained; and
  - (c) owners conform with agreed standards in relation to the use of their lots and any Extensions and Improvements erected thereon.
- 1.2 The Buyer acknowledges that further construction and development works may be carried out at the Estate after the settlement of the Contract. The Buyer agrees not to Object or seek to make a Claim in respect of any future construction or associated development or other works in connection with the Estate.
- 1.3 The Buyer consents to and agrees not to raise any Objection or lodge any submissions in respect of any Development Application or amendments to any Development Approvals in respect of the Estate or any adjoining or nearby land owned by the Seller.

**2. OCCUPATION AND USE**

- 2.1 The Buyer must not:
- (a) use or permit the Dwelling to be used for any other purpose than a single family house or a long term residential rental dwelling;
  - (b) reside in the Dwelling until curtain rails and functional curtains, shutters and blinds are installed to all clear glazed windows of the Dwelling visible from any street. The Buyer must not install any sheets or other materials as a temporary measure;
  - (c) commence any Building Work, Improvements to the Dwelling or Land or excavation on the Land unless plans and designs for those Building Works and Improvements have been approved by the Seller or its representative and a building permit has been issued by the Local Government or a private certifier; or
  - (d) except for a fireplace within the Dwelling, erect or install on the Land any incinerators or burners and the Buyer must not burn off any material or rubbish on, in or about the Land.

**3. USE AND RESIDENCY CONDITIONS**

- 3.1 After completion of the Dwelling on the Land, the Buyer must keep and maintain the Dwelling and all landscaping, trees, shrubs, lawns and gardens on the Land, as well as the lawn between the Land boundary and the road kerb in good order and condition acceptable to the Seller or its representative. Such order and condition will minimally require the adequate watering of all garden and lawn areas (within current Local Government guidelines), the frequent mowing of lawns and trimming of lawn edges and the regular maintenance of plants and trees.
- 3.2 The Buyer must not park or place either on the footpath or within the area of the required setback of the Dwelling from the street boundary of the Land, nor permit to be placed there, any trailer, caravan, boat or other vehicle or object which in the Seller's or its representative's opinion will cause nuisance or annoyance or detract from the amenity of the area. The Buyer must not park or allow to be parked within the Estate's

private or public land or upon its streets either overnight or regularly on weekends for periods considered by the Seller or its representative to be excessive, any commercial vehicle other than a light utility vehicle.

- 3.3 The Buyer must not store or leave on the Land any materials or equipment (other than during the period of construction of the Dwelling and any Outbuildings, Improvements or Extensions) on the Land, nor carry out on the Land, repairs to or maintenance of any vehicle or equipment in such a way as, in the Seller's or its representative's opinion, to cause nuisance or annoyance or detract from the amenity of the area.
- 3.4 Refuse bins must be kept to the side of the Dwelling built on the Land and behind any fence or screen constructed between the Dwelling and a side boundary. Refuse bins must not be kept in front of the Dwelling or within the area of its setback from the street or otherwise unnecessarily in public view. Refuse bins are not to be placed on the street for a period greater than 48 hours every 7 days.
- 3.5 The Buyer must not without the Seller's or its representative's prior written consent display or permit to be displayed to the public the Dwelling erected on the Land (such as for a Display Home) except when such display is with the sole and immediate object of selling such Dwelling. Such period of public display is limited to 2 x 1 hour sessions weekly.
- 3.6 The Buyer must not without the express prior written consent of the Seller or its representative use the Dwelling, garage or outbuilding as a showroom, shop or Display Home. The Buyer consents to the Seller using (or permitting to be used) other dwellings at the Estate as either a showroom or a Display Home if the Seller wishes to do so.

#### 4. BUILDING OPERATION REQUIREMENTS

- 4.1 The Seller has produced Residential Design Guidelines (**Design Guidelines**) which set out architectural controls for houses and other improvements being built on relevant land in the Estate.
- 4.2 The Buyer agrees to be bound by the Design Guidelines which form a part of these Housing Covenants. If there is any conflict between the Design Guidelines and these Housing Covenants, then the Design Guidelines will prevail.
- 4.3 Only a single Dwelling for residential purposes may be erected on the Land, together with a lock-up garage, which must be suitably fitted with a vehicular access door and form an integral part of the design of the Dwelling.
- 4.4 The design, appearance and external colours and building materials of all Outbuildings must comply with these Housing Covenants and the Design Guidelines and be integrated with the design of the Dwelling.
- 4.5 The Buyer can erect or permit to remain upon the Land part of any Building Works or structure only if it fully complies with the requirements of the Local Government.
- 4.6 No Temporary Dwelling or sub-standard Dwelling can be brought onto the Land except for the purpose of building the Dwelling and for the purpose of building such other permanent structure on the Land as may be permitted by the Seller or its representative.
- 4.7 No person can reside in any portion of the Dwelling prior to Practical Completion of the Dwelling and no person can reside in any workshop or garden shed at any time.
- 4.8 The Buyer is responsible for the establishment and maintenance in a proper manner all landscaping on their Land and must not remove any pre-existing trees without the consent of the Seller or its representative.
- 4.9 The Buyer must complete all driveways and landscaping of the Land including fencing on or before Practical Completion of the Dwelling.
- 4.10 Additions and Extensions to the Dwelling, Outbuildings and other structures on the Land, including new verandas, pergolas, Outbuildings, sheds, swimming pools and garden structures are subject to the same covenant requirements as the Dwelling and application for approval must be made to the Seller or its representative in the same manner as the original Dwelling building applications.
- 4.11 Street landscaping along each frontage of the Land must be protected by the Buyer during the construction of the Dwelling, Outbuildings, Improvements and Extensions. The Buyer agrees to reimburse the Seller,

upon demand, for expenses incurred by the Seller on the Buyer's behalf in maintaining or repairing the landscaping along each frontage of the Land which have been damaged by the activities on the Land.

- 4.12 The Seller or its representative, in its absolute discretion, may approve or reject any application for approval of the Dwelling or grant approval subject to such conditions as it may reasonably require unless such application complies with the Housing Covenants

## **5. CONSTRUCTION AND PUBLIC SAFETY**

- 5.1 The Land must be clean and safe at all times. This is the responsibility of the Buyer and the Buyer's builder.
- 5.2 Prior to construction of the Dwelling and Outbuildings, the Land must be cleared of all weeds, building debris and general waste.
- 5.3 During construction of any improvements, a suitable bin must be provided for adequate disposal of waste goods and materials.
- 5.4 Debris, bins and site facilities should be clear of all neighbouring properties, roads, footpaths, reserves and all other public places at all times.
- 5.5 The Buyer must disclose these Housing Covenants to its builder and ensure that the builder complies strictly with those covenants that are within the builder's control.

## **6. MAINTENANCE OF THE LAND**

- 6.1 The Buyer must not allow weeds or grass on the Land to exceed more than 150mm in height, nor bring onto or allow on the Land or adjoining lots or footpaths any rubbish, spoil or unsightly materials. In the case that the Land is tenanted, it is the Buyer's responsibility to ensure that tenants comply with this requirement.
- 6.2 The Buyer hereby authorises the Seller or its representative, and the Seller or its representative may elect, to maintain the Land (should the Buyer not do so to the standard required by these Housing Covenants as determined by the Seller or its representative) and grants access to the Land for this purpose and agrees that such entry and access will not constitute trespass. The Buyer agrees to reimburse the Seller or its representative, upon demand, for expenses incurred by the Seller or its representative in maintaining the Land on the Buyer's behalf.

## **7. ANIMALS**

- 7.1 Animals may only be kept in accordance with Local Government by-laws and regulations.

## **8. SIGNS**

- 8.1 The Buyer must not without the Seller's or its representative's prior written consent erect on the Land or adjoining footpath or fix to any building or fence on the Land or permit to be erected or fixed, any signs, hoardings or advertisements of any kind except a sign, of no more than 1.08 square metre (900mm x 1200mm) in area, of a contractor actively carrying out work on the Land (together with such other signs as workplace health and safety or planning regulations require) and a maximum of 1 sign no more than 1.08 square metre (900mm x 1200mm) in area advertising the Land for sale. The Buyer hereby authorises the Seller or its representative to enter upon the Land to remove any signs or advertising not complying with these provisions and agrees that such entry and access will not constitute trespass.

## **9. APPROVAL OF PLANS FOR BUILDING WORK, EXTENSIONS AND IMPROVEMENTS**

- 9.1 If the Buyer's Extensions or Improvements are being constructed by the Seller or a related entity of the Seller then this Clause 9 does not apply.
- 9.2 Prior to the Buyer commencing any Building Work, Extension or Improvement or making any application for the approval of building plans (including plans for the Buyer's proposed Dwelling unless the Dwelling has already been approved by the Seller at the time of the application) by the Local Government, the Buyer

must first submit the plans for any Building Work, Extension or Improvement to the Seller or its representative showing, in addition to the requirements of Local Government:

- (a) the material and finish of all external walls and gables and of the roof and the pitch of the roof;
- (b) the position on the Land and the description of any retaining walls and fences;
- (c) any other information, matter or thing required by the Design Guidelines; and
- (d) obtain the Seller's or its representative's written approval.

9.3 The Seller or its representative, in its absolute discretion, may approve or reject any application for Building Works, an Extension or Improvement or grant approval subject to such conditions as it may reasonably require unless such application complies with the Housing Covenants.

9.4 The Buyer acknowledges that any approval granted by the Seller or its representative is in addition to, and not in place of, any approvals required to be given by Local Government and any competent authority. The Buyer agrees not to place any reliance on the Seller's or its representative's approval and acknowledges that the Seller's or its representative's approval will not constitute any representation as to the adequacy, suitability or fitness of any building plan, Building Work, Extension or Improvement.

9.5 The Buyer acknowledges and agrees that the Land may have been filled. The Buyer must make its own investigations to satisfy itself concerning any proposed Building Work as to the suitability of any footing, foundations or proposed construction given the nature of the Land and as to any requirements of the Local Government.

## 10. REQUIREMENTS OF THE EXTENSIONS AND IMPROVEMENTS

10.1 If the Buyer's Extensions or Improvements are being constructed by the Seller or a related entity then this Clause 10 does not apply.

10.2 The Buyer must carry out all Building Works in respect of any Extensions or Improvements strictly in accordance with the plans, details and conditions approved by the Seller and will obtain the Seller's or its representative's prior written approval of any variation in relation to the approved plans, details and conditions which the Buyer wishes to implement and which affects in any way the outside of the Dwelling or the development of the Land.

10.3 The Extensions or Improvements of the Dwelling or the Land must proceed continuously after commencement and without undue interruptions until the Extensions or Improvements are in all practical respects Practically Completed. Any subsequent construction of fences, walls, a driveway or pool and the like, whether undertaken by the Buyer or by others on the Buyer's behalf, must be carried on to completion in all respects without undue interruption or delay.

10.4 The aesthetic quality of the Extensions and Improvements in general and its appearance from the adjoining street in particular, in the Seller's or its representative's opinion, will be such as to contribute to or not detract from, the amenity of the area. The Buyer acknowledges that the following requirements in pursuit of this objective are reasonable and agrees to comply with them:

- (a) the aesthetic quality of the Extensions and Improvements will be determined by the Seller or its representative in terms of the style, colour and appearance of the Extensions and Improvements in its own right and in relation to that of the Dwelling and existing other dwellings in proximity to the Land and/or the appearance or style which the Seller intends future dwellings in proximity to the Land to have;
- (b) the Extensions and Improvements will not incorporate any second-hand or substandard materials;
- (c) no Temporary Dwelling, caravan, privy, tent or substandard Dwelling can be brought onto the Land prior to completion of the Extensions and Improvements and the Buyer must not live in any part of the Extension or Improvement prior to Practical Completion of the Extension or Improvement; and
- (d) the aesthetic quality of landscape works between the Dwelling and the street kerb, together with other areas of the Land within public view, will be determined by the Seller or its representative

in terms of the style and appearance of the landscape works on the Land in its own right and in relation to that of existing other landscape works in proximity to the Land or the appearance or style which the Seller intends future landscape works in proximity to the Land to have.

10.5 All Building Works constructed upon the Land must be constructed by a registered and licensed builder.

## 11. FENCING

11.1 The Buyer is not permitted to replace any pre-existing fence on the Land that has been constructed by or on behalf of the Seller unless:

(a) the materials are the same standard, design, and quality as the fence which was constructed at the time the Dwelling was constructed; and

(b) the replacement fence is constructed in the same location as the original fence was constructed.

11.2 The Buyer is not permitted to construct any new fence on the Land without the prior written approval of the Seller or its representative.

11.3 The Buyer should refer to the Design Guidelines for design requirements for fencing on the Land.

11.4 Notwithstanding any provisions of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011(Qld)* to the contrary, the Seller will not be liable or be required, at any time, to join in or contribute to the cost of erecting or maintaining any fence erected or to be erected on the Land or on the boundaries of the Land or on any dividing line between the Land and any lots unsold or held by the Seller.

## 12. EARTHWORKS

Any earthworks to be constructed by the Buyer are to be strictly in accordance with the Design Guidelines.

## 13. SERVICES

13.1 The Buyer and Seller acknowledge and agree that if a water supply pipeline or sewerage pipeline, an underground electricity supply cable, an underground telephone service cable, a stormwater or other drainage pipeline or any other similar pipelines or services traverse the Land (whether on, above or below the surface of the Land), then the Buyer accepts title to the Land subject to any rights of the local authority, government department or person or company or in respect of such pipelines and cables and will not make any requisition or Objection in respect of the same.

## 14. DISCLAIMER

14.1 The Seller, at its discretion, has the authority to approve on its merits any innovative or diverse designs that do not meet the requirements of these Housing Covenants.

14.2 The Buyer acknowledges that the Seller or its representative has the right to vary, exclude or elect not to enforce any of the Housing Covenants on owners of other relevant land in the Estate. The Buyer must not Object against the Seller and its representatives and specifically absolves the Seller and its representatives from any liability of any nature for any action taken in varying, excluding and electing not to enforce any Housing Covenants on other owners of other land in the Estate.

## 15. NO MERGER

15.1 The Buyer and the Seller agree that all of the covenants and agreements in the Housing Covenants remain in full force and effect against the Buyer and the Buyer's successors, administrators and assigns in favour of the Seller and its successors, administrators and assigns notwithstanding the completion of the sale and purchase of the Land and the registration of a transfer of the Land in favour of the Buyer.

## 16. SALE OR LEASE BY THE BUYER

16.1 The Buyer must not sell, transfer or otherwise dispose of the Land without first delivering to the Seller a Deed Poll executed by the future buyer, transferee or donee in favour of the Seller containing covenants

in the same terms (mutatis mutandis) as set forth in the Housing Covenants and including an obligation for each further purchaser, transferee or disponee to obtain a further Deed Poll from any subsequent purchaser, transferee or disponee.

16.2 The Buyer must not lease, licence or part with possession of the Land without first delivering to the tenant, licensee or occupier a copy of the Housing Covenants.

16.3 The Buyer hereby indemnifies the Seller and agrees to keep the Seller indemnified against all loss and damage incurred by the Seller as a direct or indirect result of the Buyer's failure to comply with the obligation contained in Clauses 16.1 and 16.2.

#### **17. ENTRY ONTO THE LAND BY THE SELLER**

17.1 The Buyer and Seller agree that if and whenever the Buyer or any successors in title make any default under these Housing Covenants, the Seller or its representative, without prejudice to its other rights, remedies and powers, will be at liberty to enter upon the Land to perform such work as may be necessary to comply with these Housing Covenants and the Seller or its representative will be entitled to recover the cost of the work from the Buyer or any successors in title.

17.2 The Buyer agrees that access or entry onto the Land by the Seller or its representative pursuant to Clause 17.1 is irrevocable and does not constitute trespass.

#### **18. SELLER'S DISCRETION**

18.1 The Buyer may apply to the Seller or its representative for consent to complete works on the Land and other buyers of lots in the Estate may apply to the Seller or its representative for consent to complete works on those lots which do not comply with these Housing Covenants. The Seller or its representative may grant or refuse such applications in its absolute discretion.

18.2 The Seller or its representative reserves the right to vary the Housing Covenants for future relevant lots at the Estate.

#### **19. CONSTRUCTION**

19.1 The Buyer must:

- (a) commence construction of the Dwelling on the Land (in accordance with these Housing Covenants) by the date 12 months after settlement of the Contract;
- (b) not have the building of the Dwelling left at any time without substantial work being carried out for more than one month; and
- (c) complete construction of the Dwelling, fencing, driveway and landscaping on the Land by the date 12 months after the date the Buyer commenced construction of the Dwelling,

as determined by the Seller acting reasonably.

#### **20. BOND**

20.1 The Buyer must pay the Bond to the Deposit Holder prior to the Seller issuing approval to the Buyer in accordance with these Housing Covenants.

20.2 The Bond will be held by the Deposit Holder as security for:

- (a) the Buyer strictly complying with the terms of these Housing Covenants and the terms of the Seller's approval pursuant to these Housing Covenants; and
- (b) damage to any land or improvements within the Estate including but not limited to damage to footpaths, roads, street trees, turfing and gutters which in the Seller's opinion has been caused or contributed to by the Buyer and/or its employees, agents, invitees, contractors and builders.



- 20.3 The Seller is free to use the Bond to effect, carry out or rectify:
- (a) any works required to be done by the Buyer pursuant to these Housing Covenants or the Seller's approval pursuant to these Housing Covenants but which have not been done by the Buyer; and
  - (b) any and all damage to any land or improvements within the Estate including but not limited to damage to footpaths, roads, street trees, turfing, and gutters which in the Seller's opinion has been caused or contributed to by the Buyer and/or its employees, agents, invitees, contractors and builders.
- 20.4 The Buyer and the Seller irrevocably authorise and direct the Deposit Holder to release to the Seller the Bond for any of the purposes set out in Clause 20.3 on receiving a request from the Seller.
- 20.5 On Practical Completion of the Dwelling, landscaping, fencing and driveway (in accordance with these Housing Covenants and the Seller's approval pursuant to these Housing Covenants) to the Seller's satisfaction, the Deposit Holder will return any unused portion of the Bond to the Buyer on receiving a request from the Seller.

## 21. COMPLIANCE WITH HOUSING COVENANTS

### 21.1 Compliance with Housing Covenants Generally

- (a) The Buyer:
  - (i) acknowledges that the Seller has a significant investment in the Estate, and has an interest in maintaining the value and desirability of lots within the Estate;
  - (ii) acknowledges that a failure by the Buyer to strictly comply with the Housing Covenants will diminish the value of the Seller's significant investment in the Estate;
  - (iii) acknowledges that a failure by the Buyer to strictly comply with the Housing Covenants will diminish the value and desirability of:
    - (A) unsold lots in the Estate in the hands of the Seller; and
    - (B) lots sold by the Seller to other owners within the Estate.
  - (iv) agrees that in the event that the Buyer does not strictly comply with the Housing Covenants, the Seller will have legally enforceable rights against the Buyer, including the right to seek orders from the Courts compelling compliance by the Buyer, the right to enter onto the Land to undertake works to remedy a non-compliance and/or the right to seek damages against the Buyer and the right to call on and use the Bond; and
  - (v) hereby irrevocably grants to the Seller or the Seller's representative or agent, a licence to enter onto the Land to undertake work reasonably necessary to rectify any non-compliance with the Housing Covenants, such right not to be exercised until after notice has been given by the Seller to the Buyer to rectify the breach and that breach has not been rectified within the period provided for in the notice.
- (b) The Buyer warrants and represents to the Seller that the Buyer will comply strictly with the terms of the Housing Covenants and that it has the capacity to do so and the Buyer acknowledges that the Seller has relied on and been induced by those warranties and representations, to enter into the Contract with the Buyer to sell the Land.

### 21.2 Indemnities

- (a) In further consideration of the Seller entering into the Contract with the Buyer to sell the Land, the Buyer hereby indemnifies the Seller in relation to all Claims and liabilities whatsoever, which are made or may be made by any other person against the Seller, its agents, employees, directors or contractors, arising directly or indirectly out of or in connection with any failure by the Buyer to strictly comply with the terms of the Housing Covenants, including all Claims for damages and costs (on a full indemnity basis); and

- (b) indemnifies the Seller in connection with all legal costs and outlays incurred by the Seller in enforcing or attempting to enforce the Housing Covenants, on a full indemnity basis.

21.3 Restrictions to Cease

The restrictions specified in the above clauses will cease to burden the Land with effect from 31 December 2025.

21.4 Joint and Several

The Buyer (if more than one person) agrees that they are jointly and severally liable in relation to the obligations pursuant to these Housing Covenants.

21.5 Inconsistencies with By-laws

To the extent of any inconsistency between these Housing Covenants and any By-law of a community titles scheme within which the land is included, the terms of the By-laws prevail.

22. DEFINITIONS

<b>Bond</b>	means the amount of \$3,500.00.
<b>Building Works</b>	means any works carried out on the Land in the nature of the construction, alteration, renovation or repair of the Dwelling or other building, fence, retaining wall, external sign or hoarding, driveway, external floodlights or spotlights or external fittings.
<b>Buyer</b>	means the buyer as detailed in the Reference Schedule of the Contract and any subsequent buyer of the Land.
<b>Contract</b>	means the contract of sale by which the Buyer became the owner of the Land whether the Seller or a third party was the seller of the Land to the Buyer.
<b>Claim</b>	means any cost, claim, demand, obligation, remedy, damage, loss, action, proceeding, claim for compensation, requisition or objection, whichever is applicable.
<b>Development Application</b>	means an application for Development Approval.
<b>Deposit Holder</b>	means HWL Ebsworth Lawyers (HWL Ebsworth Lawyers Law Practice Trust Account).
<b>Development Approval(s)</b>	means a development approval made by or on behalf of the Seller or third party pursuant to the <i>Planning Act 2016 (Qld)</i> and/or the <i>Sustainable Planning Act 2009 (Qld)</i> as applicable in relation to the Land and/or the Estate.
<b>Display Home</b>	means a dwelling used as a 'Display Home' as that term is defined in the <i>Domestic Building Contracts Act 2000 (Qld)</i> .
<b>Dwelling</b>	means the residential detached Dwelling constructed or to be constructed on the Land.
<b>Extension</b>	means addition, renovation, or alteration to an existing Dwelling.
<b>Housing Covenants</b>	means these Housing Covenants including the Residential Design Guidelines annexed to these Housing Covenants.
<b>Improvements</b>	means any of the following but is not limited to: new Dwelling, transmitting and receiving devices, security systems, air conditioning units, fences, retaining walls, letterboxes, landscaping within public view, garden sheds, clothes lines, external floodlights or spotlights, driveway, external fittings, pergolas and hot water systems.
<b>Land</b>	has the same meaning as detailed in the Reference Schedule of the Contract which is owned or under contract by the Buyer and is located in the Estate.
<b>Local Government</b>	means the Brisbane City Council.

<b>Object or Objections</b>	means to object generally and includes: <ul style="list-style-type: none"> <li>(a) object to a variation, change or substitution;</li> <li>(b) object to title to the Land;</li> <li>(c) avoid or attempt to avoid the Housing Covenants or Contract;</li> <li>(d) require the Seller to carry out any works to the Land;</li> <li>(e) withhold a consent;</li> <li>(f) make any claim, demand, appeal or suit of any nature; or</li> <li>(g) seek an injunction.</li> </ul>
<b>Outbuilding</b>	means, for example, garage, veranda, pergola, shed whether attached or detached from the Dwelling.
<b>Practical Completion</b>	means when the relevant Building Works, Dwelling, Improvement, Extension or Outbuilding have reached practical completion and they have been approved by a building certifier (if applicable) that they are fit for use and occupation.
<b>Residential Design Guidelines (Design Guidelines)</b>	means the attached Residential Design Guidelines which form part of the Housing Covenants.
<b>Seller</b>	means Mirvac Queensland Pty Limited ACN 060 411 207 and its executors, administrators, successors, substitutes and permitted assigns.
<b>Temporary Dwelling</b>	means, for example, caravan, tent or any Dwelling temporarily erected to assist in any Building Works.

**Buyer's Signature**

**SIGNED** by the Buyer in the presence of (and if a company, in accordance with Sections 126 or 127 of the *Corporations Act 2001 (Cth)* or by its duly authorised signatory):

) \_\_\_\_\_  
 ) Buyer (or Director/Secretary of Buyer or authorised signatory, if company)

.....  
**Witness**  
**(witness not required if signed electronically)**

) \_\_\_\_\_  
 ) Buyer (or Director/Secretary of Buyer or authorised signatory, if company)

) \_\_\_\_\_  
 ) Buyer (or Director/Secretary of Buyer or authorised signatory, if company)

**The signatories, by placing their signatures above, warrant that:**

- (a) they are the Buyer or they are authorised by the Buyer to sign; and**
- (b) if an officer of a company, the company duly resolved to enter into and sign this Contract.**

**Seller's Signature**

**SIGNED ON BEHALF** of **MIRVAC QUEENSLAND PTY LTD ACN 060 411 207** by its duly authorised signatory:

) \_\_\_\_\_  
 ) \_\_\_\_\_  
 ) \_\_\_\_\_

.....

# Ashford

RESIDENCES

*Design Guidelines*

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# DESIGN GUIDELINES OVERVIEW

The Ashford Design Guidelines have been prepared to assist Ashford purchasers (and their builders/designers) to construct well designed, high quality homes to create a premium Mirvac community with a consistent vision. Each house within Ashford must be constructed in accordance with the guidelines which will be managed by the Design Committee.

A great design will help you add value to your home, increase sustainability, improve your quality of life and foster an image for Ashford. These guidelines are not intended to limit design however have instead been included to ensure that Ashford presents as an attractive development with harmonious streetscapes making it a highly desirable place in which you will be proud to live.

The document will cover the following particulars:

## Covenant Approval Process

This section provides you with easy to follow steps on the approval process managed by the Design Committee. Following these steps will ensure your house design meets all of Ashford's design guidelines.

## Section 1 - Home Size & Siting

The size of your home is a personal choice and at Ashford it is not a requirement to have a bigger or smaller house than you desire. However, it is required that the size of your house suits the lot you have chosen.

## Section 2 - Built Form

The built form design of each home in Ashford will contribute to the overall aesthetic of the development. Owners are required to build quality and innovative house designs to ensure a cohesive and premium residential image for Ashford.

## Section 3 - Landscaping

A great way to compliment your built form design is through high quality landscaping. We ask that you include attractive low maintenance and water sensitive landscaping and that the design of your front yard compliments the streetscapes of Ashford.

## Section 4 - Fencing

Fences are an important part of the streetscape and define the lot boundary of your home. To ensure the architecture of your home is complimented by fencing we require you to include quality fencing materials and design measures.

## Section 5 - Construction Obligations

Maintaining appealing streetscapes is integral to Ashford even during construction. We ask that you follow specific guidelines to ensure that the development always presents highly.

## Section 6 - Sustainable Living Recommendations

Mirvac considers sustainability and innovation to be key components in delivering cohesive communities that are safe, encourage healthy and active lifestyles and result in lower household expenses. The guidelines provided will guide you on sustainable measures you can implement.

# COVENANT APPROVAL PROCESS

## Step 1 - Design

Your builder will work with you to design your home to meet the mandatory design guidelines. It is important that your builder has access to the Ashford Design Guidelines as well as the Ashford Building Envelope Guide. During the design phase should you or your builder wish to raise any questions with Mirvac please submit your query to [ashfordmpc@mirvac.com](mailto:ashfordmpc@mirvac.com)

## Step 2 - Submission

Once your design is finalised, please submit your Covenant Application on our on online Application Portal - [ashford.mirvac.com/portal](http://ashford.mirvac.com/portal) and track your covenant journey.

## Step 3 - Covenant Bond Payment

A Covenant Bond of \$3,500 is required to be paid to the following:

HWL Ebsworth Lawyers Law Practice Trust Account

Account Number: 24 66 34

BSB: 034 003

Description: "Surname" Ashford "Lot Number" - Covenant Bond

Be sure to include the proof of bond payment as part of your covenant application to avoid a delay in the assessment and approval process. This amount is held in trust and is fully refundable upon completion of your home and landscaping in accordance with these Design Guidelines.

## Step 4 - Assessment

The Design Committee will assess your plans for compliance with the Design Guidelines. This process will generally take 2 weeks, assuming all information is provided. Any items requiring amendment will be raised with you and your builder, and plans will need to be amended and resubmitted prior to approval being granted.

## Step 5 - Covenant Approval

Covenant Approval will be issued when the submission has been assessed by the Design Committee and complies with the Design Guidelines. Please take care to note any comment(s) on your approved plans to ensure that all conditions of the Covenant Approval are addressed.

## Step 6 - Building Approval

Once Covenant Approval has been issued, an application can then be made to your accredited building certifier/Council for the statutory Building Approval.

## Step 7 - Construction

Please ensure that your lot is properly maintained to be free of excessive weeds, rubbish or garbage prior to and during the construction phase of your home. This will ensure that your land is clean and safe at all times. You must commence construction of your home prior to 12 months after settlement of your land and complete your home and achieve Final Compliance Approval within 12 months from construction commencement.

## Step 8 - Final Inspection

Once your House & Landscaping are complete, please request your Final Inspection via the Application Portal. The Final Inspection will be carried out by the Design Committee and assessed against your previously issued Covenant Approval. This process will generally take 2 weeks.

## Step 9 - Final Compliance Approval

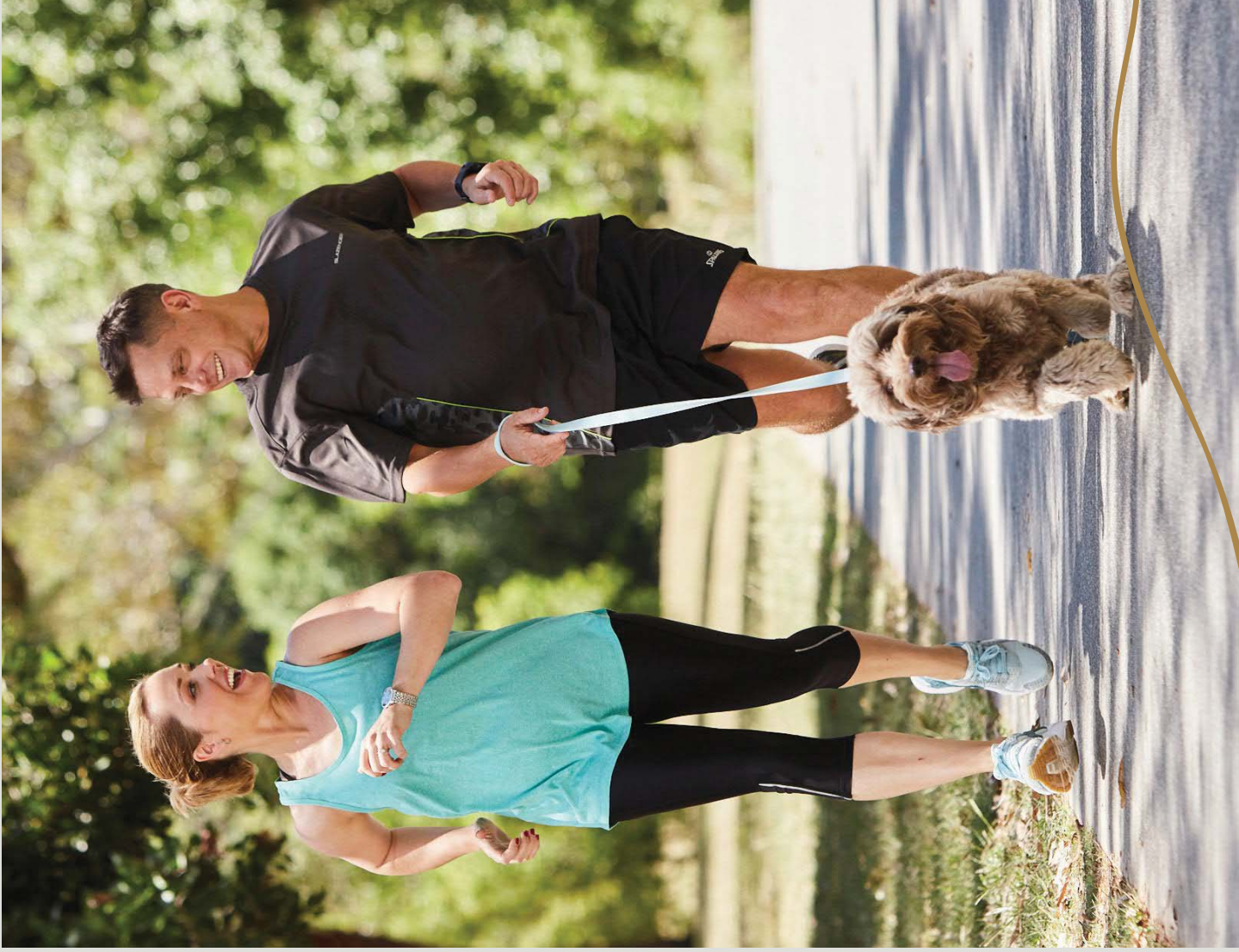
If your home has complied, the Design Committee will issue a Final Compliance Approval. Should your home not be in accordance with the previously issued Covenant Approval the Design Committee will notify on items to remedy prior to issuing a Final Compliance Approval.

## Step 10 - Refund of Covenant Bond

The Covenant Bond will be refunded to your bank account once Final Compliance Approval is issued. This process will generally take 2 weeks.

## Step 11 - Living at Ashford

The best part! Move into your new home and enjoy the beautiful community that is Ashford.



## SECTION 1 - HOME SIZE AND SITING

To assist you in determining if your desired home will fit on a particular lot Mirvac has created the Ashford Building Envelope Guide. This guide is a separate document and can be found at [ashford.mirvac.com/portal](http://ashford.mirvac.com/portal)

This document will detail relevant home size and siting constraints that will help you determine how your desired home may fit on a particular lot including but not limited to:

- Front Setbacks
- Side Setbacks
- Rear Setbacks
- Site Coverage

**DISCLAIMER:** it is important to note that this is not an approved document from a local authority such as the Brisbane City Council or other legislative body and is intended to be used as a guide only. Mirvac recommends you liaise with a professional building certifier to determine if you can construct your desired home on a particular lot.



## SECTION 2 - BUILT FORM

Your built form design is essential to ensuring a consistent high standard of quality throughout Ashford. Facade design, materials, colours, screening, service locations, roof design and well thought out designs allowing privacy and reducing cross viewing are all important factors in delivering a home to be proud of.

Following these guidelines will give you and your neighbours comfort in what you can expect to be built throughout the estate.

### Minimum Building Size

- For Standard Lots the minimum width of your home is 75% of the Primary Street frontage width, measured to the outside of walls.
- For Corner Lots the minimum width and length is 65% of the respective frontage.

### Facade Design

#### Primary Street Facade Design

- The residential character of your home must be of a contemporary sub-tropical aesthetic or modern design. Please see examples in Figure 1.
- The Facade must have one substantial projecting feature element such as a portico, balcony, verandah or feature wall.
- Excluding eave overhangs, steps & entry paths, any entrance portico is required to be a minimum of 4m<sup>2</sup> and 1.5m deep. It must also be open and not enclosed.
- The Primary Street frontage should also include one or more of the following:
  - Windows recessed into the Facade.
  - Window hoods.

- Shadow lines created on the building through minor changes in the Facade (100mm minimum).
- At least 1 habitable room should address the Primary Street frontage.
- The use of architecturally styled and arranged windows/glazing is required.
- Obscure windows or windows to toilets and bathrooms should not front the Primary Street. If they do they must be aesthetically screened.
- Walls over 9m in length without windows or articulation are not permitted.
- No garden sheds, air conditioning condensers, clothes lines or other utilities/services can be located between the Primary Street Facade and street verge.
- Similar homes with similar Facades are not allowed on adjoining lots.

### Corner Lot Facade Design

This section is only applicable to Corner Lots.

- Your home must be designed to address all streets frontages, refer to Figure 2 for reference.
- It must have variation in the Secondary Street Facade with at least one substantial projecting feature element

- such as a portico, verandah or feature wall and a variation in colour or materials.
- Walls over 9m in length without windows or articulation are not permitted.
- At least 1 habitable room should address the Secondary Street frontage.
- No garden sheds, air conditioning condensers, clothes lines or other utilities can be located between the Secondary Street Facade and boundary unless they are screened from view from a Public Area by approved screens or fences.

Figure 2 - Corner Lot Facade Design

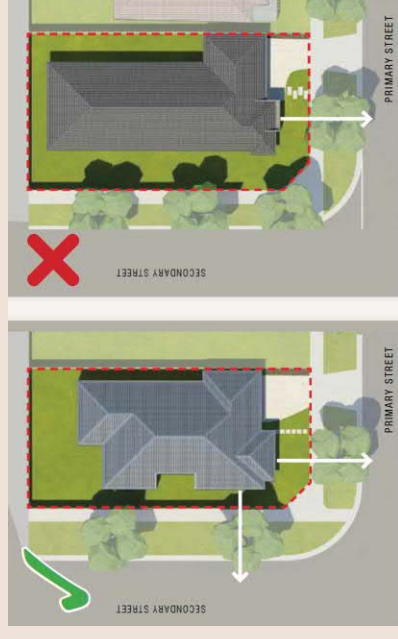


Figure 1 – Facade Character Examples



Image courtesy of Stylemaster



Image courtesy of Stylemaster



Image courtesy of Stylemaster



Image courtesy of Stylemaster



Image courtesy of Metricon



Image courtesy of Metricon



Image courtesy of Metricon



Image courtesy of Metricon



Image courtesy of Kalka



Image courtesy of Kalka



Image courtesy of Kalka



Image courtesy of Kalka

\*Please note that images above are not intended to represent a completely compliant design in line with the Design Guidelines, however instead should be used as a guide on the character designs that are generally acceptable\*.

# SECTION 2 - BUILT FORM

## Glazing

- All Facades (excluding the garage door) are to include glazing for a minimum 10% of the Facade area to provide surveillance, interest and variation.
- Sliding windows under 1200mm width are not permitted.
- Reflective glass is not permitted.
- Temporary window treatments or vertical blinds are not permitted.

## External Wall Materials & Colours

To give a sense of variety and interest, a mix of selected materials or colours must be used to all external walls of your home facing a street frontage. For your convenience Mirvac has created a schedule of pre-approved colours and materials. Please refer to Schedule 1 & 2. Other colour and material schedules will be accepted on merit by the Design Committee.

## External Wall Colours

- Your colour scheme must primarily consist of muted tones. Pre-approved external colour schemes are included within Schedule 1. Other colour schemes can be assessed and approved on merit. This decision will be at the discretion of the Design Committee.
- Limited use of feature highlight colours may be approved on merit if they compliment the colour palette of your home and achieve a positive addition to your facade. This decision will be at the discretion of the Design Committee.
- Each covenant application must be accompanied by an external colour schedule clearly nominating the location and extent of colours on the proposed dwelling.

## External Wall Materials

- Solid render is required to all external walls of a house excluding feature walls.
- External walls facing Primary and Secondary Street (applicable to corner lots) must incorporate a feature material such as stained timber, stone, metal, tile, brick, profiled wall cladding. Windows, doors and garage doors are not included as a feature material. Pre-approved external materials are included within Schedule 2. Other material selections can be assessed and be approved on merit. This decision will be at the discretion of the Design Committee.
- Bag and painting is not permitted at all on any external wall of a house.
- Face brickwork or split-face block work is not permitted on any external walls of a house except as a feature only, this must be limited to 25% of total Facade.
- Double or 1.5 height face brick is not permitted at all on any external wall of a house.
- Each covenant application must be accompanied by an external materials schedule clearly nominating the location and extent of materials on the proposed dwelling.

## Roofs

- 40 degrees is the maximum pitch for traditional hip and gable roofs.
- Eaves and/or similar architectural shading devices are required to provide shading of walls and windows.
- Eaves must be minimum 450mm wide except where no eave is permitted on walls on zero lot boundaries (if applicable).
- Contemporary house designs with no eaves may be approved on merit if they achieve a positive addition to the Facade of your home.
- Your roof materials must compliment the colour of your home and are limited to corrugated pre-finished metal sheets (e.g. Colorbond). Any alternate material must be approved by the Design Committee.
- Galvanised steel and similar reflective roofs are not permitted.

# Schedule 1 – Pre-approved External Colour Schemes

## Pre-approved Colour Scheme 1 Example



### 1. Primary Colour - Option 1

Dulux Lexicon SW1E3

### 2. Primary Colour - Option 2

Dulux Grey Pail SG6G1

### 3. Feature Colour - Option 1

Dulux Simone Weil SG6G4

### 4. Feature Colour - Option 2

Dulux Domino SG6G8

### 5. Roof/Fascia/Gutter Colour Option 1

Colourbond Monument

### 6. Roof/Fascia/Gutter Colour Option 2

Colourbond Basalt

### 7. Window Frame Colour

Matt Black

This image is an Example only to demonstrate indicative colour selection and placement.

Scheme 1

BRICK - OPTION 1 URBAN ONE CHIFFIN	BRICK - OPTION 2 AUSTRAL BRICKS URBAN ONE SILVER	FEATURE COLOUR DULUX SIMONE WEIL SG6G4	FEATURE COLOUR DULUX DOMINO SG6G8	PRIMARY COLOUR - OPTION 1 DULUX LEXICON SW1E3	PRIMARY COLOUR - OPTION 2 DULUX GREY PAIL SG6G1	ROOF / FASCIA/ GUTTER OPTION 1 COLOURBOND MONUMENT	ROOF / FASCIA/ GUTTER OPTION 2 COLOURBOND BASALT	WINDOW FRAME COLOUR MATE BLACK
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Scheme 2

BRICK - OPTION 1 URBAN ONE CHIFFIN	BRICK - OPTION 2 AUSTRAL BRICKS URBAN ONE SILVER	FEATURE COLOUR DULUX RECTLESS GREY SG6H5	FEATURE COLOUR DULUX GREY CABIN SG6A7	PRIMARY COLOUR - OPTION 1 DULUX WHITE MYSTERY S14-D1	PRIMARY COLOUR - OPTION 2 DULUX WINTER GREY S14-D2	ROOF / FASCIA/ GUTTER OPTION 1 COLOURBOND MONUMENT	ROOF / FASCIA/ GUTTER OPTION 2 COLOURBOND PLATE GREY	WINDOW FRAME COLOUR MATE BLACK
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Scheme 3

BRICK - OPTION 1 URBAN ONE PEPPER	BRICK - OPTION 2 AUSTRAL BRICKS URBAN ONE SILVER	FEATURE COLOUR DULUX TRISTAN S14-F5	FEATURE COLOUR DULUX BAKU S14-H7	PRIMARY COLOUR - OPTION 1 DULUX DISKAU S14-H1	PRIMARY COLOUR - OPTION 2 DULUX FLOODED SILCWOEST S14-H2	ROOF / FASCIA/ GUTTER OPTION 1 COLOURBOND WOODLAND GREY	ROOF / FASCIA/ GUTTER OPTION 2 COLOURBOND SURMIST	WINDOW FRAME COLOUR WOODLAND GREY
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Scheme 4

BRICK - OPTION 1 URBAN ONE GREY/AL GOLD	BRICK - OPTION 2 AUSTRAL BRICKS URBAN ONE PEPPER	FEATURE COLOUR DULUX RECTLESS GREY SG6H5	FEATURE COLOUR DULUX WHITE MYSTERY S14-D1	PRIMARY COLOUR - OPTION 1 DULUX WHITE MYSTERY S14-D1	PRIMARY COLOUR - OPTION 2 MY CHINCILLA SG6H2	ROOF / FASCIA/ GUTTER OPTION 1 COLOURBOND WOODLAND GREY	ROOF / FASCIA/ GUTTER OPTION 2 COLOURBOND SURMIST	WINDOW FRAME COLOUR WOODLAND GREY
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# SECTION 2 - BUILT FORM

## Garages

- Garages must be integrated into the main built form and are to be setback a minimum of 1m behind the main building front wall (excluding portico).
- Garage doors must be of a modern contemporary style. No glazing permitted.
- Maximum width of your garage is nominally 6m.
- Minimum internal garage dimensions are 5.7m deep and 5.7m wide.
- Minimum two car internal garage and minimum two off road visitor car space (in driveway and wholly within the lot boundary).
- Triple garages are not encouraged and will only be permitted on a case by case basis on merit by the Design Committee.
- Carports or shade-sails are not permitted.
- The side parking of boats/caravan must be screened and not highly visible from the Primary Street. Each case will be assessed on merit by the Design Committee.

## Front Entry Door

- Your home's front door must be well defined and/or visible from the Primary Street.
- Your entry door must be nominal 1200mm wide with minimum 20% glazing, or:
- Nominal 1000mm wide door combined with a minimum 200mm wide sidelight.

## Privacy & Cross Viewing

It is important to take into consideration privacy for both you and your neighbour when designing your home. This is achieved by one or more of the following measures:

- Obscure glazing to all bathrooms and toilets.
- 1.7m high sill levels above floor level.
- External screens.
- 1.8m high dividing fence for ground floor windows.
- Where a direct view from a verandah or deck exists into the private open space of an adjoining home, the outlook must be screened by privacy screens that have openings that make it not more than 25% transparent.

This is applicable to facades adjoining other lot boundaries. This is not applicable to any facade facing the primary street and/or secondary street (for corner lots).

- Other combinations may be approved on merit if they achieve a positive addition to the Facade of your home.

## Security & Insect Screens

- The style of any screen visible from a Public Area must be of a simple profile. Hexagonal or ornate historical styles are not permitted.
- Frames and screens must match the colour of the door or window frames or be dark grey or black in order to reduce their visual impact.
- Security shutters or security blinds over windows are not permitted if visible from a Public Area.

## External Services & Waste Recycling

- If you have a rainwater tank it must be located away from or screened from view from all Public Areas.
- Meter boxes must be painted to match the external wall colour to which they are attached.
- TV aerials are to be installed inside the roof cavity or designed and located so that they are not visible from Public Areas.
- Radio masts or satellite dishes are to be designed and located so that they are not visible from Public Areas.
- Storage tanks for solar hot water systems, roof and wall mounted air conditioning units, air conditioning condensers, clothes drying facilities, garbage bins and service yards are not to be visible from Public Areas.
- Garbage bin pads are mandatory and are to be located so that they are not visible from Public Areas.

# Schedule 2 - Pre-approved External Materials

Render



Scyon™ Axon™ cladding  
James Hardie



Scyon™ Stria™ cladding  
James Hardie



Scyon™ Matrix™ cladding  
James Hardie



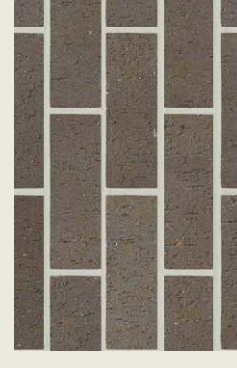
Bricks  
Austral Bricks



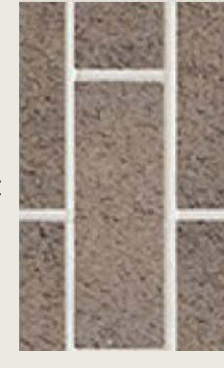
Urban One - Chiffon



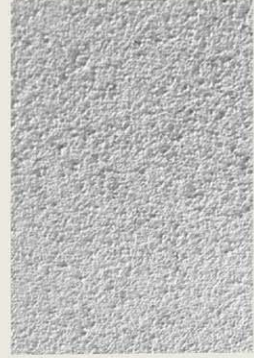
Urban One - Silver



Urban One - Pepper



Urban One - Grecian Gold



Feature Timber Cladding

## SECTION 3 - LANDSCAPING

High quality landscaping softens the Facade of your home and is essential to increasing the overall aesthetic of the streetscape. A lush and well-maintained streetscape will ensure that Ashford has a consistent premium look and feel throughout the development.

### Landscape (Planting)

All landscaping to areas of your lot visible from Public Areas must be approved by the Design Committee. You must submit a detailed landscaping plan as part of your covenant approval.

- In the Queensland climate, water can be a precious commodity. To conserve water and ensure that your landscaping looks healthy all year round we encourage the use of drought tolerant plant species. Example planting selections can be seen in Schedule 3.
- To ensure Ashford streetscapes are presented as best as possible Mirvac has included three Pre-Approved Landscaping Designs to assist you. Please refer to Figure 9, 10, 11 & 12 on pages 21, 22, 23 & 24. Should you wish to implement an alternate design this will be assessed on merit by the Design Committee.

- Your landscaping design must incorporate a mix of trees, shrubs/hedging, ground covers and high quality turf.
- The planting theme to be adopted is generally of a native, sub-tropical, contemporary or architectural character. All trees, shrubs, and ground covers must be selected for their appropriateness according to their proposed location.
- Planted gardens beds must be provided to a minimum of 40% of the available landscaping area on the Primary Street frontage.

- Garden beds should be planted with an appropriate number of shrubs/hedging and groundcovers that present highly at the time of planting.
- Your landscaping must include one advanced tree min 100L/1.8m at the time of planting, located on the primary street frontage.
- Garden beds should be edged with concrete, smooth face galvanised steel, masonry, hardwood but not round timber or logs. Edging must be dug to be in line with turf level.
- High quality mulch must be used with a minimum depth of 75mm.
- High quality turf must be used to the remainder of the soft landscaping area.
- Artificial turf is not permitted.
- Your landscaping must be completed as part of the construction of your home. Completing your landscaping in a timely manner ensures that the appearance of the development is maintained.

### Landscaping (Materials)

- Landscape materials should be robust, easily maintained and present well to Public Areas.
- Colours of the materials should compliment the external colours and materials of your home.
- Example landscaping materials and finishes can be seen in Schedule 4.



# Schedule 3 - Example Planting Palette Selections - Trees



01



02



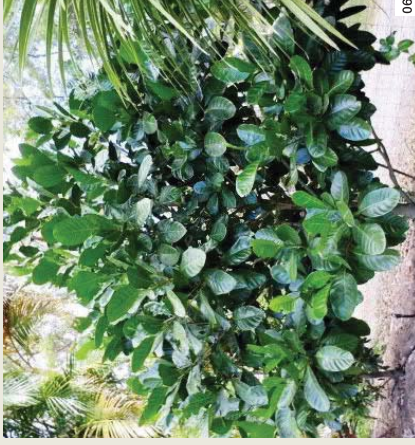
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04



05



06



08



09



10



07



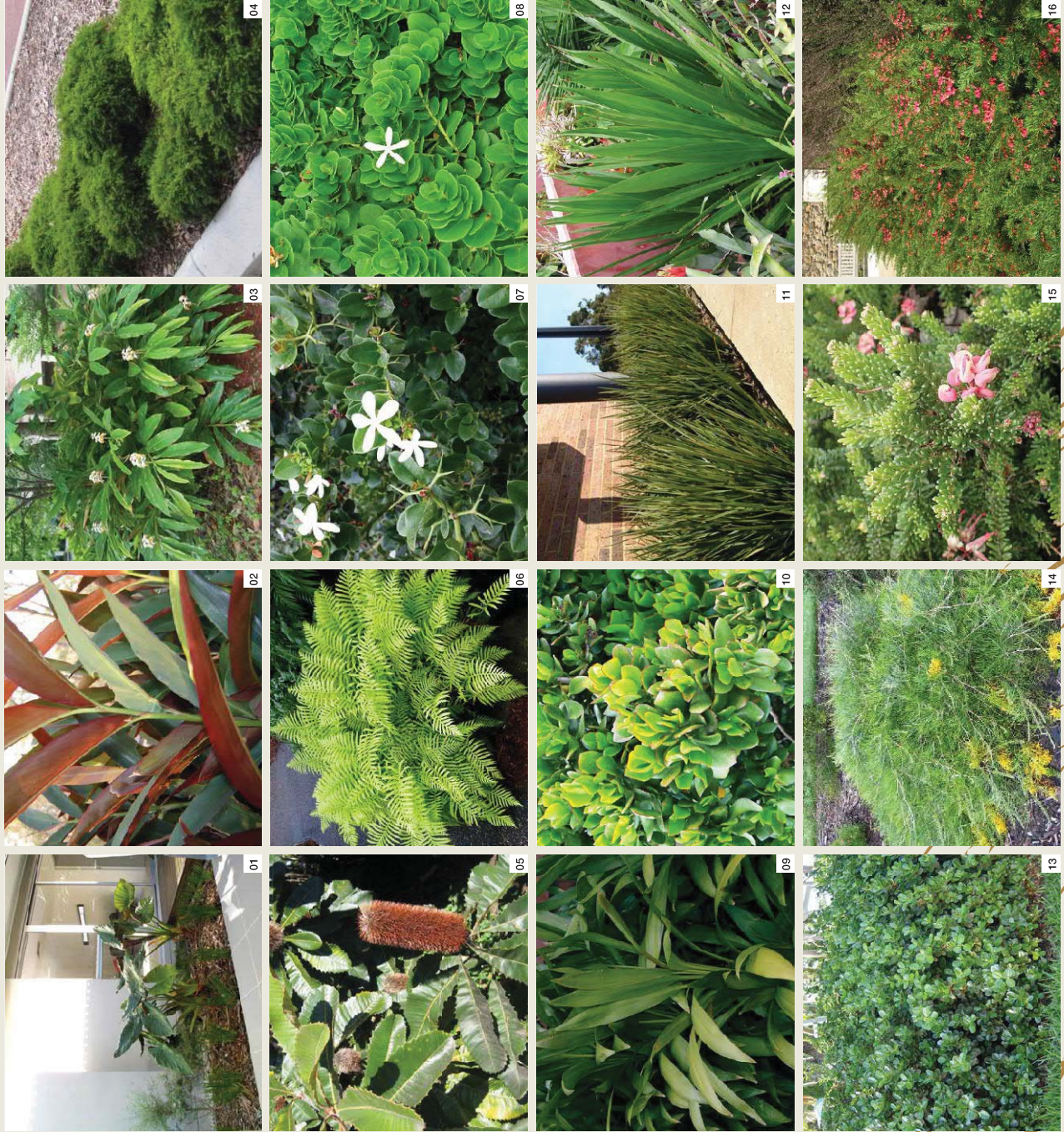
11

## TREES

Code	Scientific name	Common Name
01	<i>Cyathea cooperi</i>	Australian Tree Fern
02	<i>Elaeocarpus eumundi</i>	Smooth-leaved Quandong
03	<i>Elaeocarpus reticulatus</i>	Blueberry Ash
04	<i>Flindersia australis</i>	Crows Ash
05	<i>Livistona australis</i>	Fan Palm
06	<i>Randia fitzalanii</i>	Native Gardenia
07	<i>Syzygium tierneyanum</i>	Lilly Pilly
08	<i>Tristaniopsis 'Luscious'</i>	Water Gum
09	<i>Waterhousia floribunda</i>	Weeping Lilly Pilly
10	<i>Herpulia pendula</i>	Tulipwood
11	<i>Cupaniopsis</i>	Tuckeroo



# Schedule 3 - Example Planting Palette Selections - Shrubs

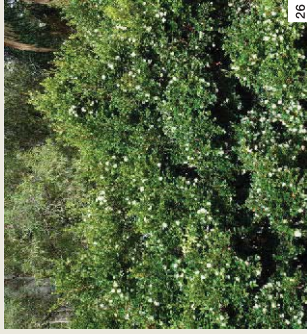
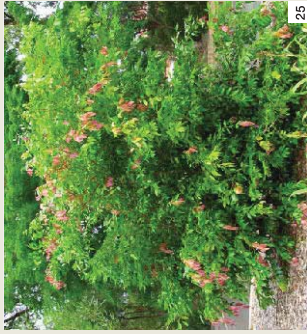
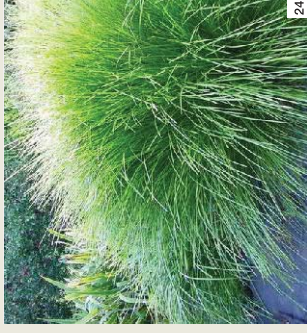


## SHRUBS

Code	Scientific name	Common Name
01	<i>Alocasia brisbanensis</i>	Cunjevoi
02	<i>Alpinia caerulea</i> 'Redback'	Native Ginger
03	<i>Alpinia nutans</i>	Dwarf Cardamom
04	<i>Baeckea virgata</i> 'La Petite'	La Pettit
05	<i>Banksia robur</i>	Swamp Banksia
06	<i>Blechnum cartilagineum</i>	Soft Water Fern
07	<i>Carissa grandiflora</i>	Natal Plum
08	<i>Carissa macrocarpa</i>	Desert Star
09	<i>Cordylina stricta</i>	Native Cordyline
10	<i>Crassula ovata</i>	Jade Plant
11	<i>Dianella revoluta</i> 'Little Revoluta'	Little Rev
12	<i>Doryanthes palmeri</i>	Giant Spear Lily
13	<i>Ficus microcarpa</i> 'Green Island'	Green Island Fig
14	<i>Grevillea</i> 'Cooroora Cascade'	Cooroora Cascade
15	<i>Grevillea lanigera</i> 'Mt Tamboritha'	Mt Tamboritha Grevillea
16	<i>Grevillea rosmarinifolia</i>	Rosemary Grevillea

## Schedule 3 - Example Planting Palette Selections - Shrubs

SHRUBS		
Code	Scientific name	Common Name
17	<i>Isolepis cernua</i>	Low Bulrush
18	<i>Isolepis nodosa</i>	Knobby Club Rush
19	<i>Leptospermum 'Pink Cascade'</i>	Pink Cascade
20	<i>Liriope muscari 'Evergreen Giant'</i>	Lilyturf
21	<i>Liriope muscari 'Stripey White'</i>	Variegated Lilyturf
22	<i>Lomandra confertifolia 'Crackerjack'</i>	Lomandra Crackerjack
23	<i>Lomandra hystrix</i>	Slender Mat Rush
24	<i>Lomandra confertifolia 'Tilga'</i>	Lomandra Tilga
25	<i>Syzygium cascade</i>	Cascade
26	<i>Syzygium australe 'Resilience'</i>	Resilience Lilly Pilly
27	<i>Westringia fruticosa 'Jervis Gem'</i>	Coastal Rosemary



## Schedule 3 - Example Planting Palette Selections - Groundcovers

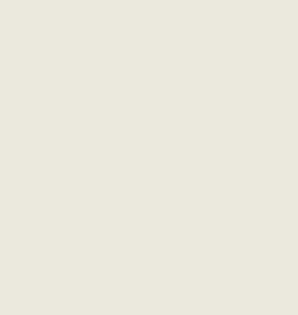
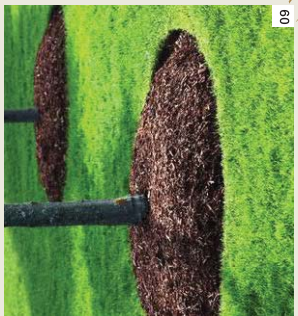
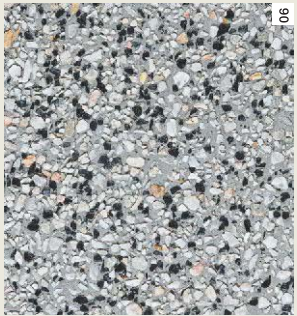
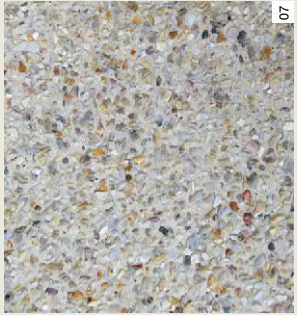
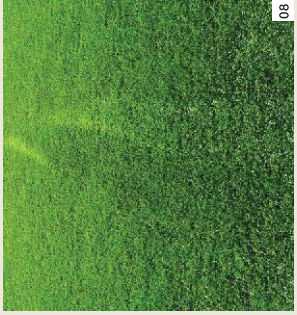
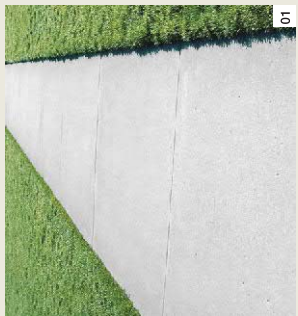
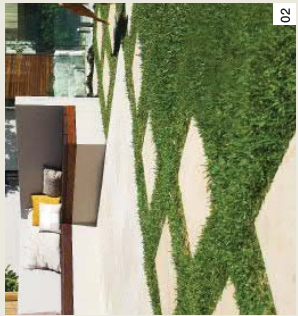


### GROUNDCOVERS

Code	Scientific name	Common Name
01	<i>Acacia cognata dwarf</i>	Green Mist Wattle
02	<i>Casuarina glauca 'Cousin It'</i>	Cousin It
03	<i>Cissus antarctica</i>	Kangaroo Vine
04	<i>Cissus alata 'Ellen Danica'</i>	Oak Leaf Ivy
05	<i>Ficus pumila</i>	Climbing Fig
06	<i>Goodenia ovata</i>	Hop goodenia
07	<i>Myoporum parvifolium</i>	Creeping Boobialla
08	<i>Pandorea jasminoides</i>	Bower Vine
09	<i>Phyllanthus minutiflora</i>	Phyllanthus
10	<i>Plectranthus australis</i>	Swedish Ivy
11	<i>Viola hederacea</i>	Native Violet
12	<i>Zoysia tenuifolia</i>	Korean Carpet Grass

# Schedule 4 - Landscaping Materials and Finishes

HARD SURFACE FINISHES	
01	Paving Finish 1 Concrete Broom Finish Neutral Colours
02	Paving Finish 2 Tiles Large Module
03	Paving Finish 3 (side yard access) Concrete Steppers 600mm x 600mm Square Stepper
04	Cobblestone Finish (accent only) Cobblestones between paving finishes Cobble Setts
05	Gravel Finish (side yard access) Decorative Gravel 20-40mm River Pebble Stones
06	Driveway Finish 1 Exposed Aggregate Concrete Neilson Eclipse Finish or similar
07	Driveway Finish 2 Exposed Aggregate Concrete Neilson Manning Finish or similar
SOFT SURFACE FINISHES	
08	Turf Type "Wintergreen" Green Couch Where it connects with Road Verge
09	Mulch Type Cypress Mulch Brown or Black only
10	Edge Finish Timber Edge 25mm (min width) Natural Treated Timber
FURNITURE	
11	Letterbox Modern Architectural Design
12	Letterbox Masonry Built-in
13	Arbour Timber Arbour Natural Timber, Charcoal or Black Finish



# Schedule 4 - Landscaping Materials and Finishes

## ENTRANCE PATH

Accepted



- Plain or neutral toned brushed concrete finish.
- Uniform colour.

Not Accepted



- Extensive concrete or multi-coloured concrete on entry paths or driveways.

## OTHER FINISHES

Accepted



- Small hedging or planting in front yard.

Not Accepted



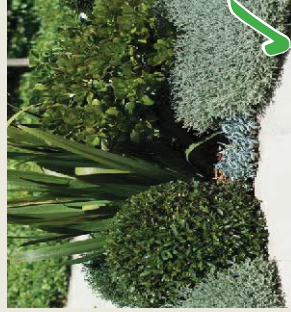
- Fencing to the extent of lot boundary



- Cobblestone banding around finished concrete, paver or tile.



- Irregular sized paving and / or tiling in gravel surface.



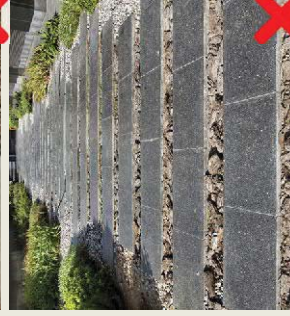
- Soft-planting to the extent of lot boundary



- Edging to the extent of lot boundary



- Approved tile or paver finish and size



- Irregular banding and material choices between hard surface.
- Inconsistent or non-uniform width of hard surface path.



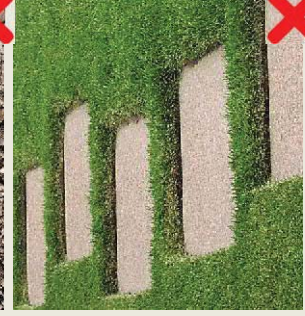
- Approved turf



- Grass species other than specified by Landscape Architect



- Approved groundcover planting between finished hard surface.



- Irregular or non-uniform offset of hard surface path.
- Overgrown groundcover planting which grows or settles above hard surface finish.

## SECTION 3 - LANDSCAPING

### Retaining Walls

- A Retaining Wall is defined as any retaining structure higher than 200mm.
- All Retaining Walls must be constructed as part of the construction of your home.
- Retaining Walls must be constructed in accordance with the below:
  - Pre-approved Retaining Wall materials are referenced in Figure 3 and Figure 4.
  - Concrete sleeper and treated pine is not permitted in any location visible from any Public Area. It may be used for inter-lot retaining, however must not be visible from any Public Area. Refer to Figure 5 & 6.
  - Retaining Walls may need to be certified by a Registered Professional Engineer. You are required to meet the Local Authorities requirements with regard to this matter.
  - Retaining Wall construction must include a suitable drainage system to deliver sub-surface water below the wall to the local storm water system.
  - Retaining Wall heights must not exceed 1.5m without constructing a horizontal offset including a minimum 1m planting zone between each section of the retaining wall to soften the visual impact.
  - Retaining Walls constructed by Mirvac on any lots cannot be removed or altered without written permission from Mirvac. Any damage to these fences must be repaired to the original standard by the land owner(s).

Figure 3 - Painted rendered block wall: Colour must compliment your house design



Figure 5 - Concrete Sleeper Retaining Wall



Figure 6 - Treated Pine Retaining Wall

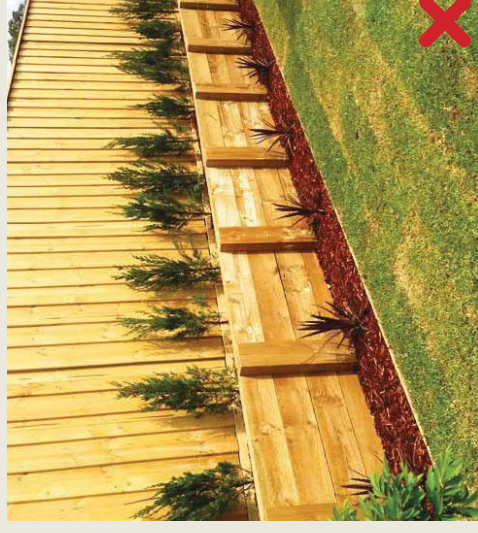


Figure 4 - Charcoal coloured smooth faced masonry block



# SECTION 3 - LANDSCAPING

## Letterboxes

- Letter boxes are a repeating element in the streetscape that with consistent detailing and careful selection will help to visually link the individual homes on a street to provide a coherent streetscape character.
- The letter box must be clearly in view at the front of the property, positioned adjacent to the street boundary next to the driveway or similar. The property number must clearly be displayed on the letter box which must be located within your property.
- Letter boxes must be contemporary in style keeping within modern aesthetic and constructed from masonry or timber. Letter boxes can also be incorporated as part of your front masonry fence. See Figure 7 below.
- Please ensure details of your letterbox as outlined above are included within your covenant application. This will form part of your covenant approval.

Figure 7 - Letterbox Design



## Driveways & Entry Paths

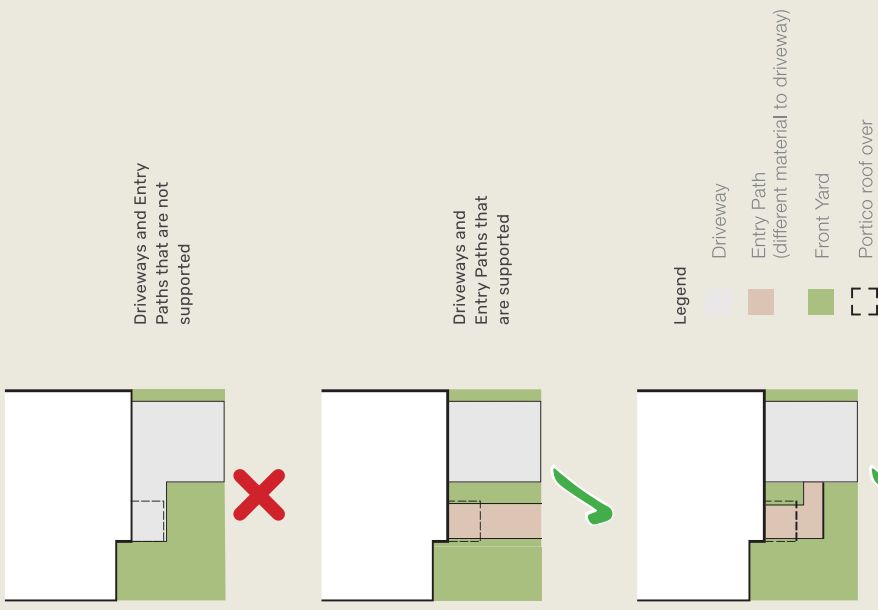
Well thought out driveway and entry path design is essential to increasing the overall aesthetic of your home and the general streetscape. To ensure this is achieved the following guidelines must be followed:

- Only one driveway is permitted per lot.
- Acceptable materials include coloured concrete or exposed aggregate concrete which must compliment the external colour scheme of your home. This must be provided and approved as part of your covenant application.
- The main pedestrian entry path to your home must be constructed from a permanent hard surface such as hardwood timber, stone, tiles etc that is a different material to your driveway. Please refer to Figure 8 opposite for pre-approved driveway and entry path designs.
- It is essential that your builder complies with Council's approval requirements for your driveway. If your driveway is not constructed correctly Council may require you to remove it and reconstruct it.

## Sheds

- Sheds should not be visible from any public roads or Public Areas.
- Sheds must be painted to suit the colour scheme of the home.
- Reflective materials are not permitted on your shed.
- Sheds must be less than 12m<sup>2</sup>.
- Sheds must be less than 2.1m in height.

Figure 8 - Driveways & Entry Paths



# SECTION 3 - LANDSCAPING

Option A (Enclosed Yard)  
Figure 9



**Legend**

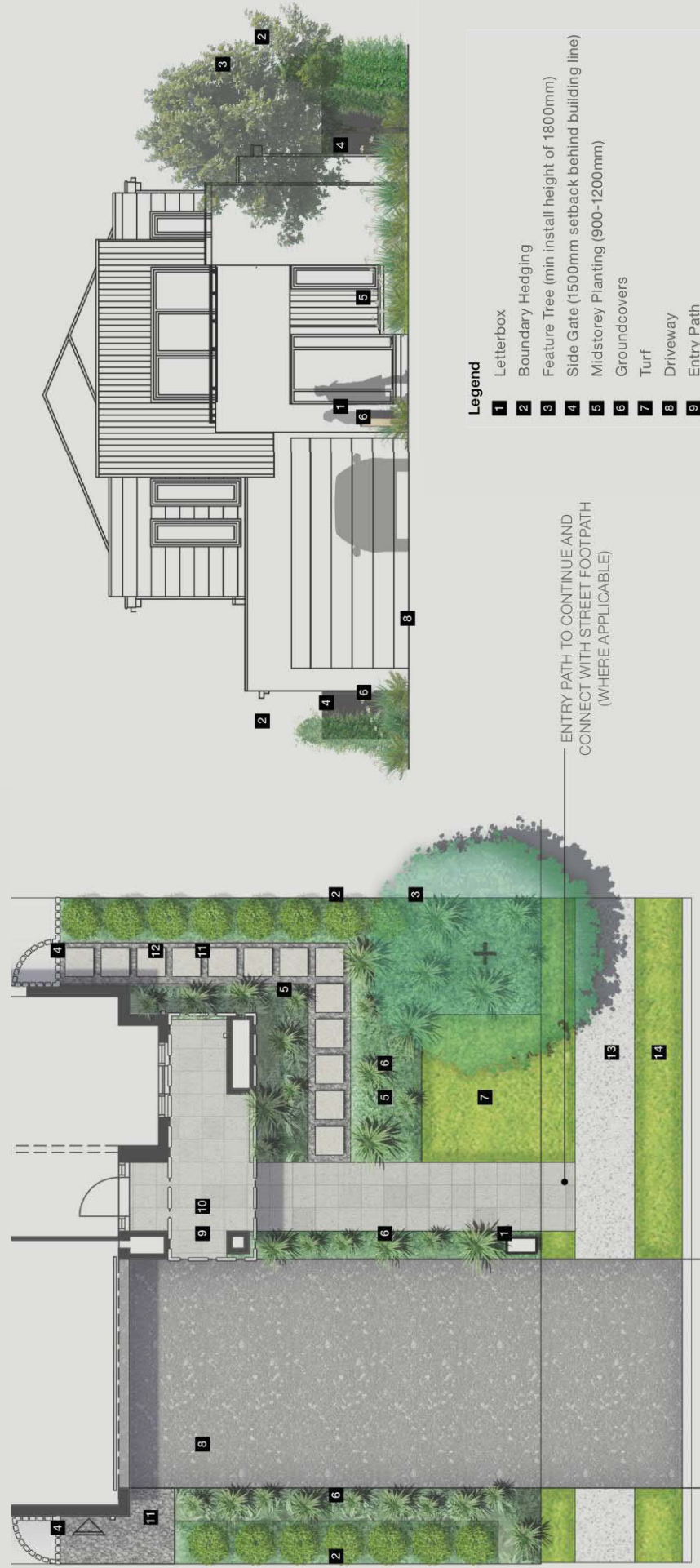
- 1** Letterbox
- 2** Boundary Hedging
- 3** Feature Tree (min install height of 1800mm)
- 4** Side Gate (1500mm setback behind building line)
- 5** Midstorey Planting (900-1200mm)
- 6** Groundcovers
- 7** Turf
- 8** Driveway
- 9** Entry Path
- 10** Porch
- 11** Gravel
- 12** Footpath (Where applicable)
- 13** Verge (Where applicable)



# SECTION 3 - LANDSCAPING

Option B (Open Yard)

Figure 10



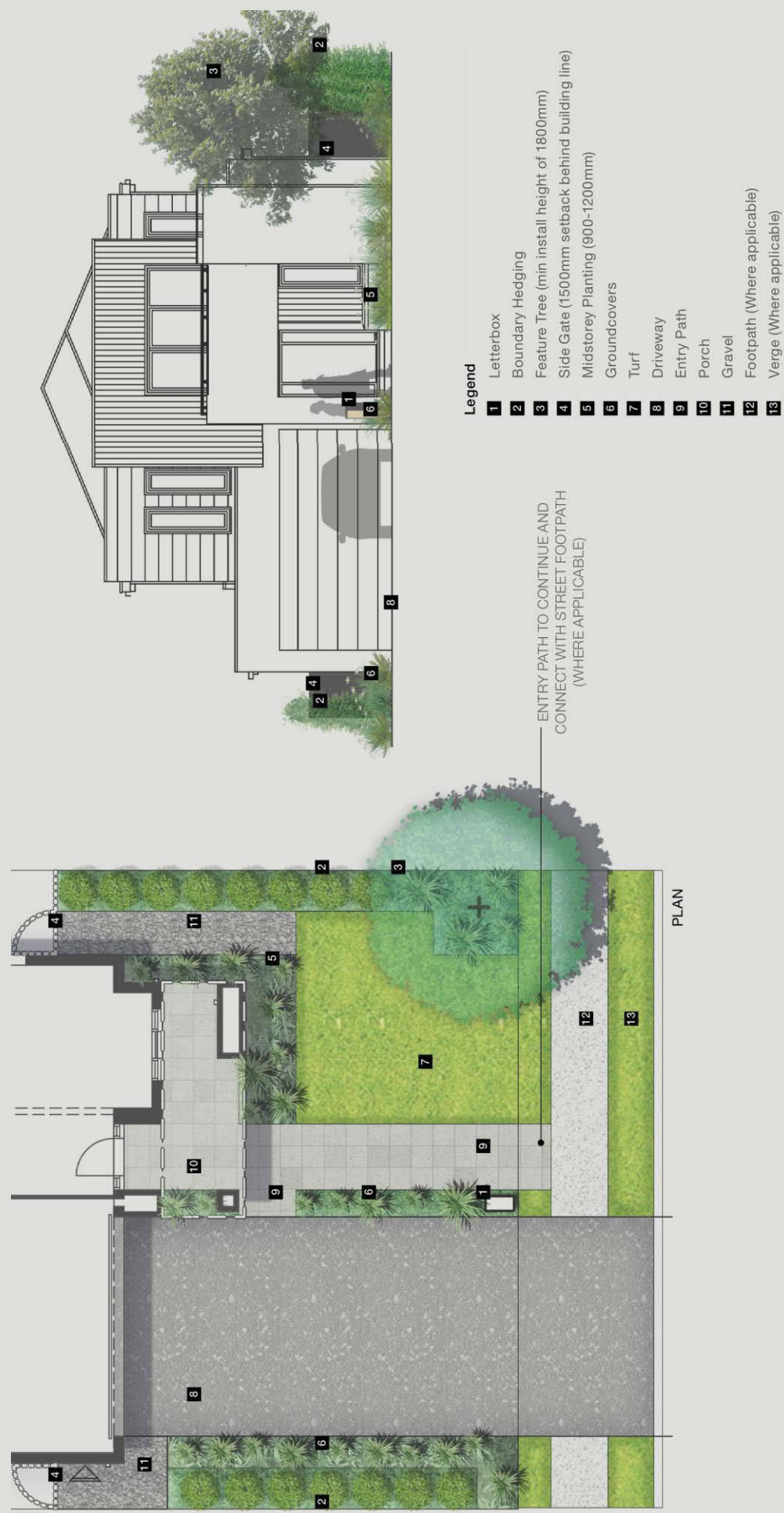
ENTRY PATH TO CONTINUE AND  
CONNECT WITH STREET FOOTPATH  
(WHERE APPLICABLE)

**Legend**

- 1** Letterbox
- 2** Boundary Hedging
- 3** Feature Tree (min install height of 1800mm)
- 4** Side Gate (1500mm setback behind building line)
- 5** Midstorey Planting (900-1200mm)
- 6** Groundcovers
- 7** Turf
- 8** Driveway
- 9** Entry Path
- 10** Porch
- 11** Gravel
- 12** Steppers
- 13** Footpath (Where applicable)
- 14** Verge (Where applicable)

# SECTION 3 - LANDSCAPING

Option C (Open Yard Large)  
Figure 11



# SECTION 3 - LANDSCAPING

Option D (Enclosed Entrance with Open Yard)

Figure 12



PLAN



## Legend

- 1 Letterbox
- 2 Boundary Hedging
- 3 Feature Tree (min install height of 1800mm)
- 4 Side Gate (1500mm setback behind building line)
- 5 Midstorey Planting (900-1200mm)
- 6 Groundcovers
- 7 Turf
- 8 Driveway
- 9 Entry Path
- 10 Porch
- 11 Gravel
- 12 Steppers
- 13 Footpath (Where applicable)
- 14 Verge (Where applicable)

# SECTION 3 - LANDSCAPING

## Indicative Landscaping Plan

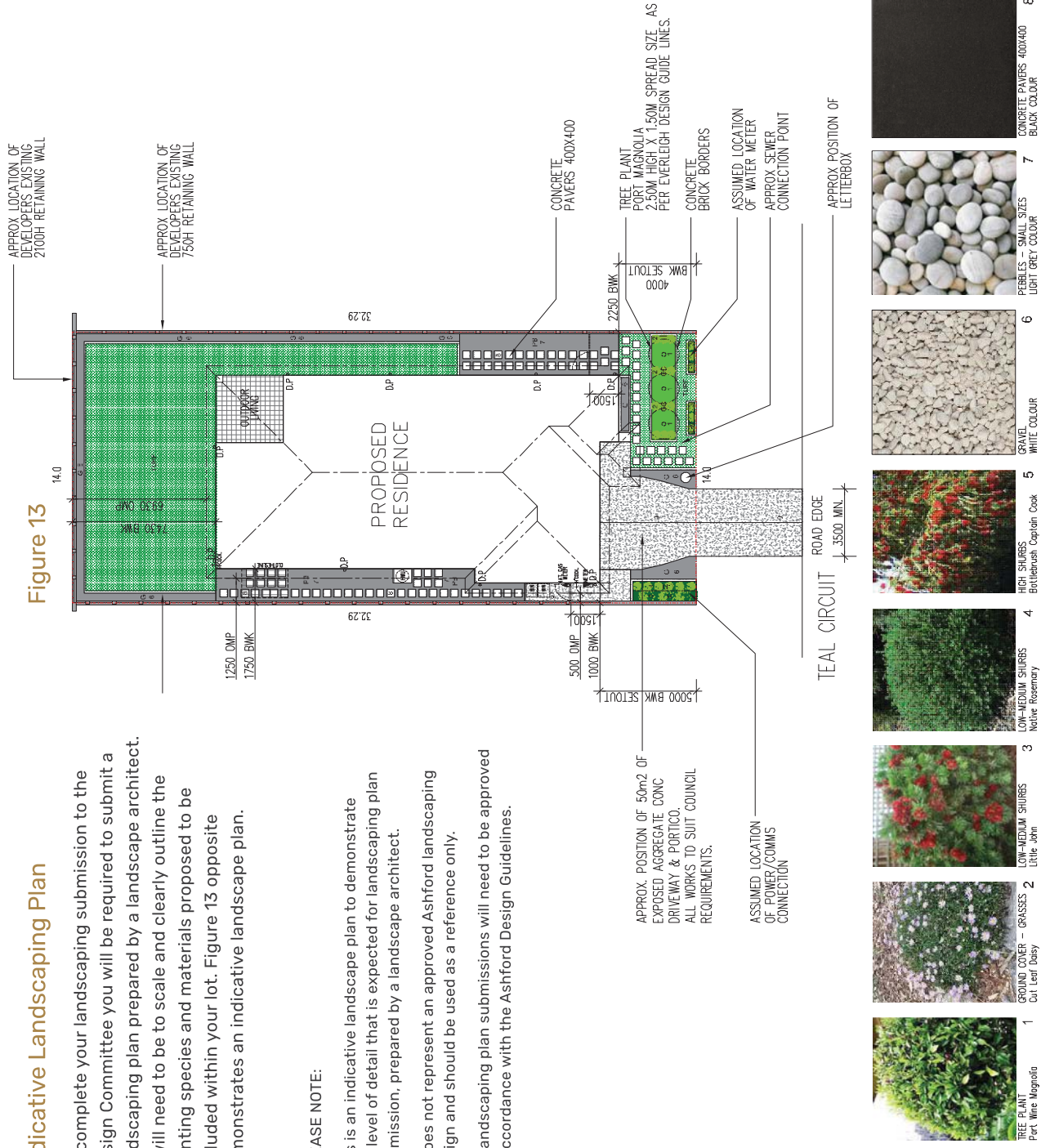
To complete your landscaping submission to the Design Committee you will be required to submit a landscaping plan prepared by a landscape architect. It will need to be to scale and clearly outline the planting species and materials proposed to be included within your lot. Figure 13 opposite demonstrates an indicative landscape plan.

### PLEASE NOTE:

This is an indicative landscape plan to demonstrate the level of detail that is expected for landscaping plan submission, prepared by a landscape architect.

It does not represent an approved Ashford landscaping design and should be used as a reference only.

All landscaping plan submissions will need to be approved in accordance with the Ashford Design Guidelines.



## SECTION 4 - FENCING

Fencing is an important part of forming the streetscape at Ashford. Any fences that are visible from the street or Public Area contribute towards the overall aesthetic of the development. Ashford residents are required to choose a quality fence design that compliments the innovative architecture of your home.

### Fences General

- Only approved fences of the types and materials shown in Fencing Types on pages 28-29 are permitted. Any other proposed materials will be assessed on merit by the Design Committee.
- It is important that fencing takes into consideration public safety through passive surveillance. This can be achieved through ensuring that Public Areas such as streets and walkways can be overlooked from your house.
- Fences constructed by Mirvac on any lots cannot be removed or altered without written permission from Mirvac. Any damage to these fences must be repaired to the original standard by the land owner(s).
- Fences visible from Public Areas must be maintained on an ongoing basis in accordance with the recommended maintenance instructions provided by the timber treatment supplier.
- All lots are required to have side and back boundary fences.
- All fences to your lot must be approved by the Design Committee.

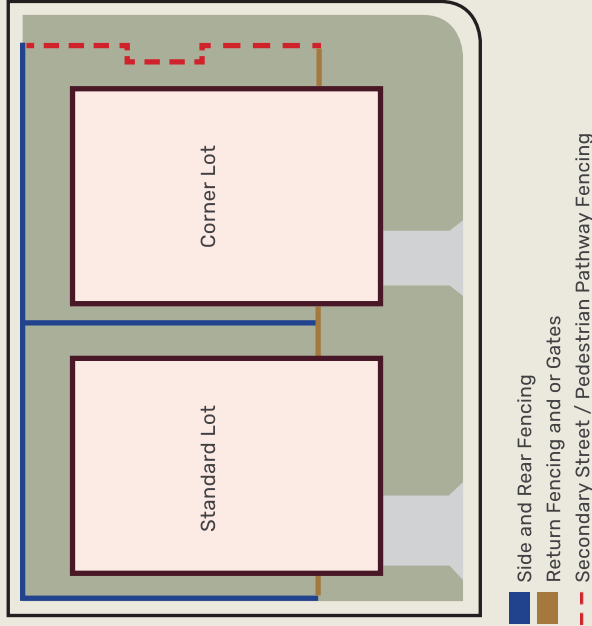


# SECTION 4 - FENCING

## Fencing Locations

To assist you in understanding the specified fencing locations the diagram below has been prepared. Refer Figure 14 below.

Figure 14 Fencing Locations



### Return Fencing

- Must be Fence Type 2 or 3 and a maximum of 1.8m in height or
- Must be positioned at least 1m behind the front building alignment of the Primary Street frontage.

### Side and Rear Fencing

- Must be Fence Type 1 and 1.8m in height.
- Must be a high quality built fence with no spacing between palings to ensure privacy between lots.

### Fencing Facing Secondary or Pedestrian Pathway

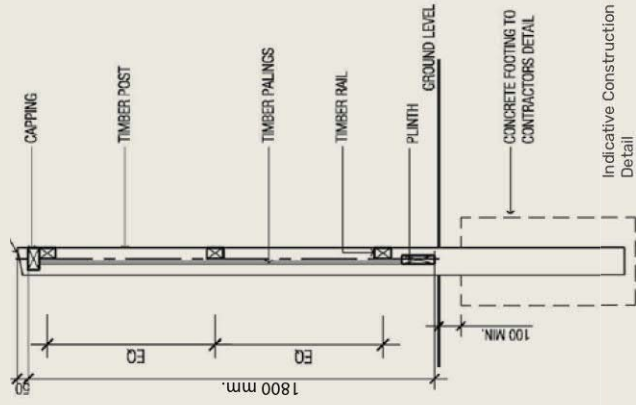
Unless constructed by Mirvac, the fencing must adhere to the following:

- Must be Fence Type 2.
- Must not extend past the front building alignment of the Primary Street frontage.
- Fences more than 10m in length must be offset further from the boundary to allow for planting alcove(s) by a minimum 0.3m alignment variation over a minimum length of 3m. Appropriate landscaping must be included within this alcove area.

# SECTION 4 - FENCING

## Fencing Types

### Type 1 - Timber Paling Fence



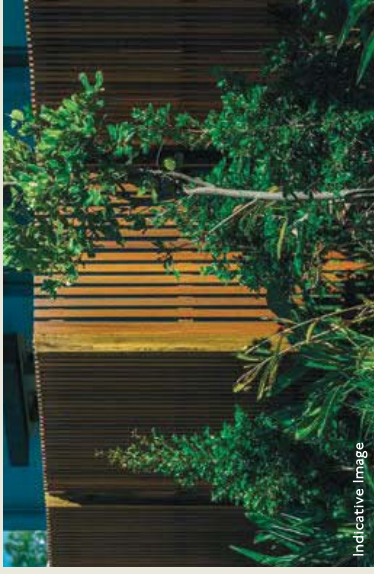
Indicative Construction Detail



Indicative Image

### Type 2 - Dressed Hardwood Vertical Battens

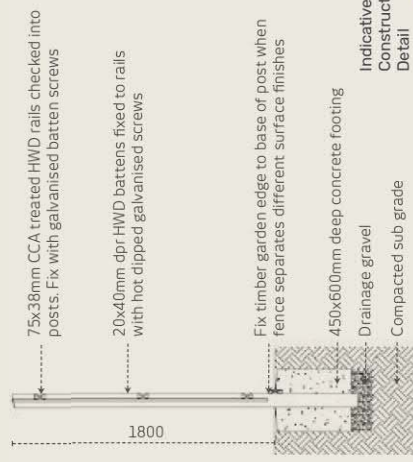
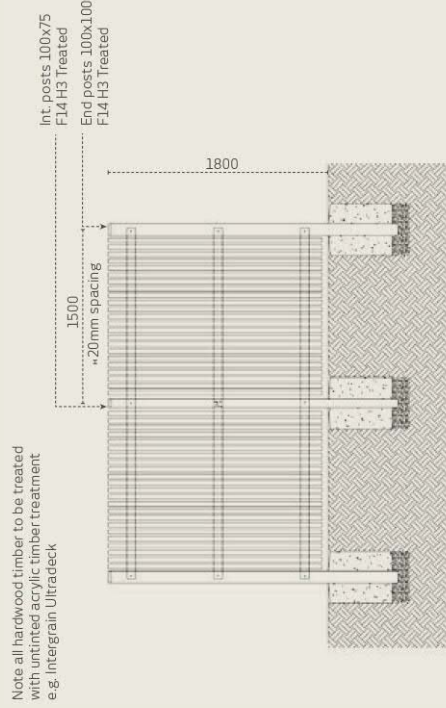
Must be treated with untinted acrylic timber treatment eg. Intergrain Ultradeck. This is to be regularly maintained in accordance with product guidelines. Please note fencing cannot be painted.



Indicative Image



Indicative Image

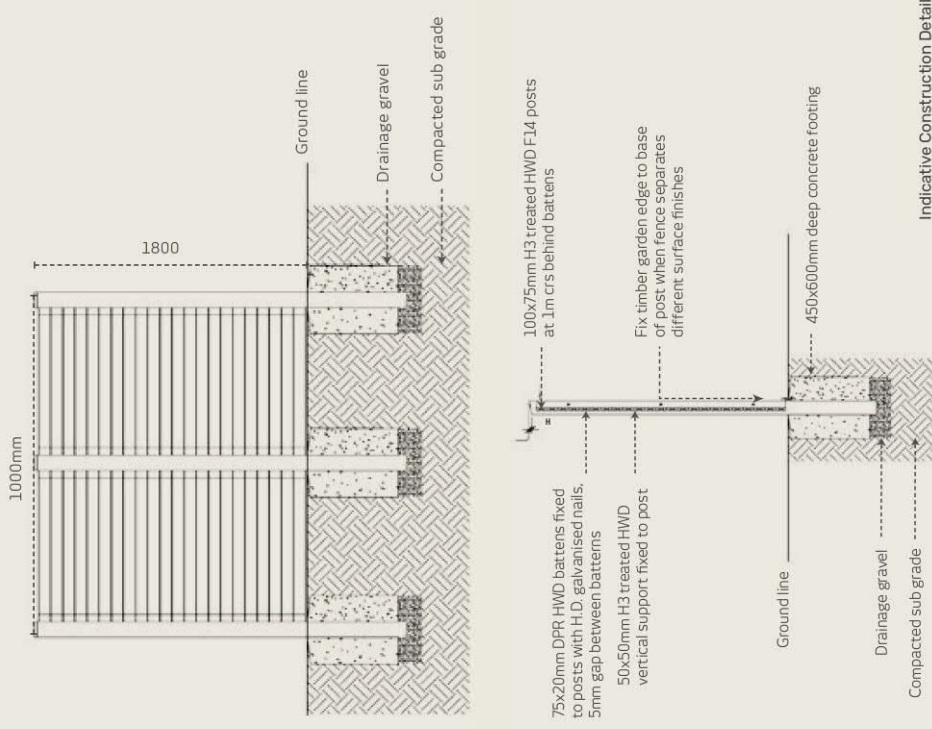


Indicative Construction Detail

# SECTION 4 - FENCING

## Type 3 - Dressed Hardwood Horizontal Battens

Must be treated with untinted acrylic timber treatment eg. Intergrain UltraDeck. This is to be regularly maintained in accordance with product guidelines. Please note fencing cannot be painted.





## SECTION 5 - CONSTRUCTION OBLIGATIONS

- Your building site must be clean and safe at all times.
- You are responsible for maintaining your site prior to construction commencing – including mowing, slashing all grass and trimming all grass edges. Your grass must not exceed 150mm in height. Please note that sites that are yet to be constructed on must be grassed (i.e. you cannot leave your building pad stripped for long periods.
- Your builder must provide a skip bin or enclosure on site to contain rubbish for the duration of the construction period. Leaving rubbish on any lot visible from Public Areas is not permitted.
- Bins and site facilities should be clear of all neighbouring properties, roads, footpaths, reserves and all other Public Areas at all times.
- The road and verge in front of your lot including the concrete footpath, kerb, street trees and services such as water meters, telecommunication boxes and electrical pillars are assets owned by Council or service authorities. They have been constructed to the required standards and Council and other service authorities have recorded them as correctly constructed prior to your house building commencing. These assets cannot be altered, including changing the ground levels, without the correct approval from Council. Mirvac and Council inspects these assets at completion of your home to ensure no damage or alteration has occurred. Please ensure you make your builder aware that they will need to rectify any damage to these assets as Mirvac is unable to return your Covenant Bond until we have received clearance to do so from Council or relevant authority.
- Where Mirvac has constructed a fence, entry statement or retaining wall, it is to be maintained by the owner to the standard to which it was constructed.



# SECTION 6 - SUSTAINABLE LIVING RECOMMENDATIONS

Mirvac considers sustainability and innovation to be key components in delivering cohesive communities that are safe, encourage healthy and active lifestyles and result in lower household expenses.

Please note the following items within Section 6 are not mandatory and are intended to be used as a guide only.

## Energy Consumption and Greenhouse Gas-Emission Reduction

- Mirvac encourages all homes to achieve a 7 Star NatHERS rating. This may be achieved through incorporation of the following elements where necessary:
  - Maximising opportunities for cross ventilation and provide high level operable windows in multi-level homes to allow for heat removal.
  - Shading designed to restrict solar access to the living spaces in summer, whilst allowing beneficial solar access in winter.
  - Increased rating of the wall and ceiling insulation to the required specification.
  - Treated glazing or double glazing where necessary.
  - Draft sealing (weather seals on external doors etc.) where necessary.
  - Sealed exhaust fans where necessary.

In addition to achieving a 6 Star rating on the building fabric, Mirvac encourage house designs to include the following energy saving features:

- Gas boosted solar hot water or electric heat pump hot water systems.
- Gas or induction cook tops.
- LED light fittings throughout the home.
- Exterior lighting fitted with motion sensors.
- Low energy use appliances (aim for energy ratings greater than 4 star).
- Energy efficient air conditioning systems (aim for a COP greater than 3).

- Standby 'Green Switch' or Smart home automation to reduce energy whilst the home is unoccupied.
- Solar photovoltaic electricity systems with battery storage.

## Water Conservation and Reuse

- To assist in achieving an overall reduction in household water usage, Mirvac recommends that homes incorporate the following measures:
  - Rainwater tanks for toilet flushing and irrigation.
  - Dishwasher and washing machines with a 4 Star or greater WELS rating.
  - Tapware and toilets with a 4 Star or greater WELS rating.
  - Showers with a 3 Star WELS rating.
  - Purchasers are encouraged to consider water efficient landscape design, soil mix, and plant selections, with a target of a minimum of 70% of planted species to be drought tolerant.

# SECTION 6 - SUSTAINABLE LIVING RECOMMENDATIONS

## Materials and Waste

- Maximise the use of standard sizes of materials wherever possible to minimise wastage.
- Mirvac recommends the use of low-impact construction materials;
- For masonry consider low impact options, such as recycled or carbon neutral bricks.
- For lightweight construction, consider the use of natural or innovative materials such as timber, structural insulated panels or Hebel for a reduced environmental impact and good thermal performance qualities.
- Internal Finishes;
  - Consider the use of flooring, joinery and plasterboard that is environmentally certified by independent certification schemes such as GECA, EcoSpecifier or the Carpet Institute of Australia.
  - Select high quality, durable finishes with long warranty periods.
- To reduce the airborne chemicals within your home consider the following products;
  - Engineered wood products, such as kitchen cabinetry and wardrobes, with low or zero formaldehyde (rated as E1 or E0).
  - Paints, adhesives and carpets rated to have low levels of volatile organic compounds (VOCs).
- To reduce waste to landfill during the operation of your home, consider;

- Installing a dual bin in the kitchen joinery to make recycling as easy as disposing of general waste.
- The use of a worm farm or composting bin to reduce food waste and provide fertiliser for your gardens.

## Landscaping

- The use of permeable surfaces is encouraged to maximise opportunities for natural infiltration and groundwater recharge.
- The use of waterwise plant species, waterwise irrigation and mulching of garden beds is encouraged to reduce water use.
- The planting of trees offering shade for the house and outdoor living areas and contributing to bird habitat is encouraged.
- The use of locally native plant species is encouraged to increase biodiversity.
- Consider the use of herbs, vegetables and fruit trees to create a productive garden. Please note this is to be located in areas not visible from Public Areas.

## Smart Technology

- Smart monitoring.
  - Consider the use of smart meters to help track your energy consumption and reduce your bills even further.
  - Smart home automation.
- Consider the use of smart home automation to make your life easier and future proof your home. Systems available include:
    - Smart Security systems.
    - Smart intercom and access controls.
    - Smart controls of lighting, blinds, air conditioning and appliances.
    - Audio Visual systems.

# DEFINITIONS

Building Approval	Building approval, also called 'certification' is required for development that involves carrying out building work under the Planning Act 2016 (PA), as well as under specific building legislation.
Corner Lots	Lots bordering two streets.
Covenant Bond	A Covenant Bond of \$3,500 has been incorporated into the sales contract for all properties within Ashford. The fully refundable Covenant Bond serves to ensure that well designed, quality homes are brought to life to make this an attractive community to be proud of.
Covenant Application	Your application to Mirvac in accordance with the Ashford Design Guidelines.
Facade	Elevation of a building visible from a Public Area.
Design Committee	The committee appointed by Mirvac as authorised to assess Covenant Applications under these Ashford Design Guidelines.
Ashford Building Envelope Guide	A guide compiled by Mirvac to assist you in determining if your desired home can fit on a specific individual lot. This can be found on the Ashford Information Portal at <a href="http://ashford.mirvac.com/portal">ashford.mirvac.com/portal</a> .
Ashford Design Guidelines	This document.
Primary Facade	The primary Facade is the elevation facing the Primary Street.
Primary Street	The street fronting your lot where the lot has only one street frontage; or for lots with two or more street frontages the street which your home's front door faces.
Public Area	Any land vested to, or under the control of the Brisbane City Council. E.g. roads, verges /nature strips, parks, public access ways, etc. This also includes the Kedron Brook.
Retaining Wall	Any retaining structure higher than 200mm.
Secondary Street	Applies to lots with more than one street frontage and is the street(s) which is not the Primary Street.
Standard Lots	Lots that have one street frontage.

# Ashford

RESIDENCES

Sales Suite  
50 Ashmore Street  
Everton Park 4053

Find out more  
[ashford.mirvac.com](http://ashford.mirvac.com)  
(07) 3859 5880



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**ANNEXURE E**  
**EASEMENT SCHEDULE**

<b>Easement description</b>	<b>Burdened Lot (Final Tenure)</b>	<b>Purpose</b>	<b>Party Benefited</b>
D	Lot 25	Underground Drainage	Brisbane City Council
E	Lot 26	Underground Drainage	Brisbane City Council
F	Lot 27	Underground Drainage	Brisbane City Council
G	Lot 28	Underground Drainage	Brisbane City Council
H	Lot 29	Underground Drainage	Brisbane City Council
I	Lot 30	Underground Drainage	Brisbane City Council
J	Lot 31	Underground Drainage	Brisbane City Council
K	Lot 25	Sewerage	Queensland Urban Utilities
L	Lot 26	Sewerage	Queensland Urban Utilities
M	Lot 31	Sewerage	Queensland Urban Utilities
N	Lot 32	Sewerage	Queensland Urban Utilities
S	Common Property of the Ashford Residences community titles scheme (final tenure)	Access	Lot 32

The terms of the easements in favour of the Brisbane City Council and Queensland urban Utilities will be as determined by those instrumentalities.

The terms of Easement S in favour of Lot 31 will be determined by the Seller in its discretion and the Buyer of that Lot must not Object.

.....  
**Buyer 1 Sign**

.....  
**Buyer 3 Sign**

.....  
**Buyer 2 Sign**

.....  
**Seller Sign**

**ANNEXURE F**

**DEVELOPMENT APPROVAL CONDITIONS REQUIRING SPECIFIC DISCLOSURE**

(follows this page)

CONDITION	
1	<p><b>General Compliance Requirements</b></p> <p>Development of the subject site must comply with the following;</p> <ul style="list-style-type: none"> <li>• the approved drawings</li> <li>• the conditions of the preliminary approval</li> </ul> <p>subsequent Material Change of Use and Reconfiguring a Lot of the subject site including other plans and documents approved by subsequent development approvals.</p> <p>Timing: At all times</p> <p>NOTE: As defined under the <i>Planning Act 2016</i> a variation request means part of a development application for a preliminary approval for premises that seeks to vary the effect of any local planning instrument in effect for the premises.</p>
2	<p><b>Prescribed Period for Preliminary Approval</b></p> <p>The prescribed period for the preliminary approval is 84 months from when the approval takes effect.</p> <p>Note: If development or an aspect of development relating to this preliminary approval is not completed within the prescribed period, the approval lapses.</p>
3	<p><b>Limitation to Commencement of Use</b></p> <p>No Material Change of Use shall commence until the plan of subdivision necessary to create a separate lot for the Material Change of Use has been registered with the relevant State Government Authority.</p>
9	<p><b>Material Change of Use: Dwelling House (not on a small lot)</b></p> <p>The extent to which this preliminary approval varies the effect of the planning scheme for Brisbane, is limited to a Material Change of Use for the purpose of a new Dwelling house (not on a small lot) where that development is on proposed lots 1, 2, 3, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 25, 26, 27, 28, 30, 31, 32, 33, 34, 35, 36, 37, 38 and 44 only as shown on the APPROVED DRAWING 135143-7 Rev B received 19 October 2018 is limited to the circumstances detailed below.</p> <p>Notwithstanding the contents of the categories of assessment tables in the planning scheme, development for the purpose of a new Dwelling house (not on a small lot), pursuant to this preliminary approval, where that development is compliant with the conditions of this preliminary approval and where:</p> <ul style="list-style-type: none"> <li>a) Complying with all the acceptable outcomes of the Dwelling house code shall be accepted development; or</li> <li>b) Not complying with the acceptable outcomes of the Dwelling house code, shall be subject to Code assessment against the Dwelling house code.</li> </ul>



<b>CONDITION</b>	
	<p>The definitions and codes mentioned in this condition refer to definitions and codes contained in the <i>Brisbane City Plan 2014</i>.</p> <p>Where there is conflict between the codes and the conditions contained herein, the conditions shall prevail.</p>
10	<p><b>Material Change of Use: Sales Office</b></p> <p>The extent, to which this preliminary approval varies the effect of the planning scheme for Brisbane, is limited to a Material Change of Use and associated required Building Work for the purpose of Sales office where that development is on land shown as proposed lot 32 as shown on APPROVED DRAWING No. 135143-5 Rev L received 19 October 2018 and is limited to the circumstances detailed below.</p> <p>Notwithstanding the contents of the categories of assessment tables in the planning schemes, development for the purpose of Sales office, pursuant to this preliminary approval where that development is compliant with the conditions of this preliminary approval and where for no more than six (6) years and where within an existing building or temporary building constructed pursuant to this preliminary approval, shall be accepted development.</p> <p>A Sales office in the form of a Dwelling house constructed on a small lot must meet the requirements of this preliminary approval for a dwelling house on a small lot.</p> <p>The definitions and codes mentioned in this condition refer to definitions and codes contained in the Brisbane City Plan 2014.</p> <p>Where there is conflict between the codes and the conditions contained herein, the conditions shall prevail.</p>
24	<p><b>Retaining Walls</b></p> <p>Design and construct all retaining walls and associated fences, in accordance with Filling &amp; Excavation Code and relevant Brisbane Planning Scheme Policies, and including the following:</p> <ul style="list-style-type: none"> <li>- All retaining walls including the footings, must be located wholly within the property boundary of the site where works are occurring.</li> <li>- Retaining walls to stabilise excavation must be set back off property boundaries to accommodate subsoil drainage without encroachment into the neighbouring property. This set back may vary depending on the height, structure and design of the retaining wall, including loadings from neighbouring properties.</li> <li>- Retaining walls that are greater than 1.0 metre in height must be vertically and horizontally tiered by a ratio of 1:1, and the terraced area vegetated, to minimise visual impact, unless an alternative has been approved by Development Services.</li> <li>- Runoff from surface drains and subsoil drainage associated with the retaining wall must be collected and conveyed to a lawful point of discharge and must not cause any ponding, nuisance or disturbance to adjacent property owners.</li> </ul>

CONDITION	
-	In cases where the ground levels are profiled towards a retaining wall, construct a surface V-drain at the back and along the top of the retaining wall. For a permeable retaining wall, eg. boulder or sleeper wall, a waterproofing membrane is to be laid to the back of the wall to contain and direct the seepage to the subsoil drainage system to prevent runoff draining through the gaps onto adjacent properties.
-	Retaining walls in excess of 1.0m in height must be designed and certified by a Registered Professional Engineer Queensland.
-	Retaining walls facing onto Council property (including the road reserve and parkland) must not be constructed from timber.

**ANNEXURE G**  
**SERVICES AND OTHER FEATURES PLANS**

(follows this page)

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**Buyer 1 Sign**

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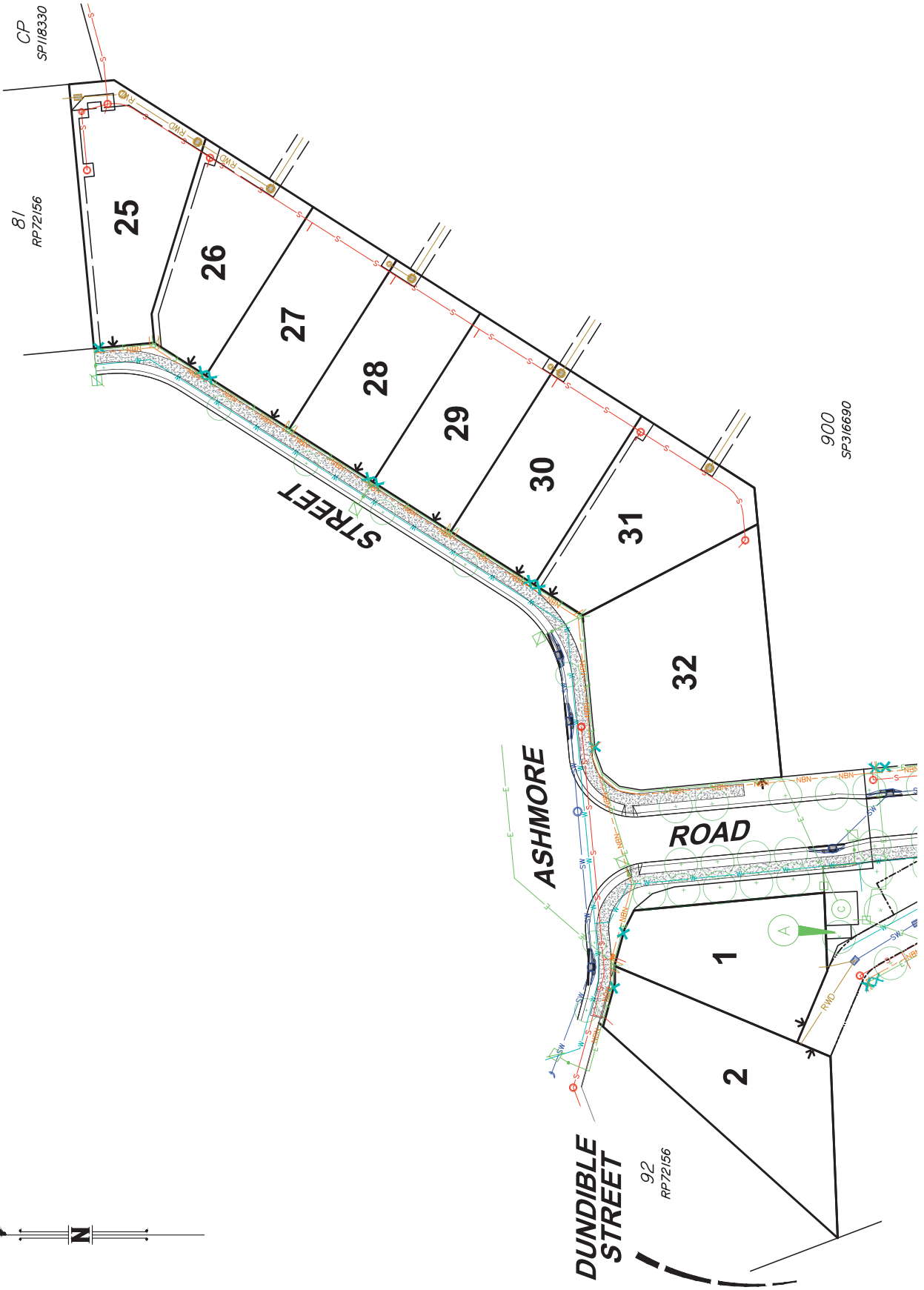
**Buyer 3 Sign**

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**Buyer 2 Sign**

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**Seller Sign**



**LEGEND:**

- Sewer Line & Manhole
- Water Main
- Underground Telecommunications Line
- Underground Power Line & Pillar
- NBN Line & Pit
- Stormwater Line, Gully, Pli & Manhole
- Road Water Line, Grate & Manhole
- Driveway Location
- Water Meter
- Street Light
- Pad Mount Transformer
- Main Electrical Switchboard
- Proposed Street Tree

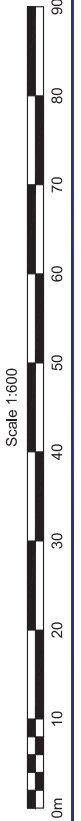
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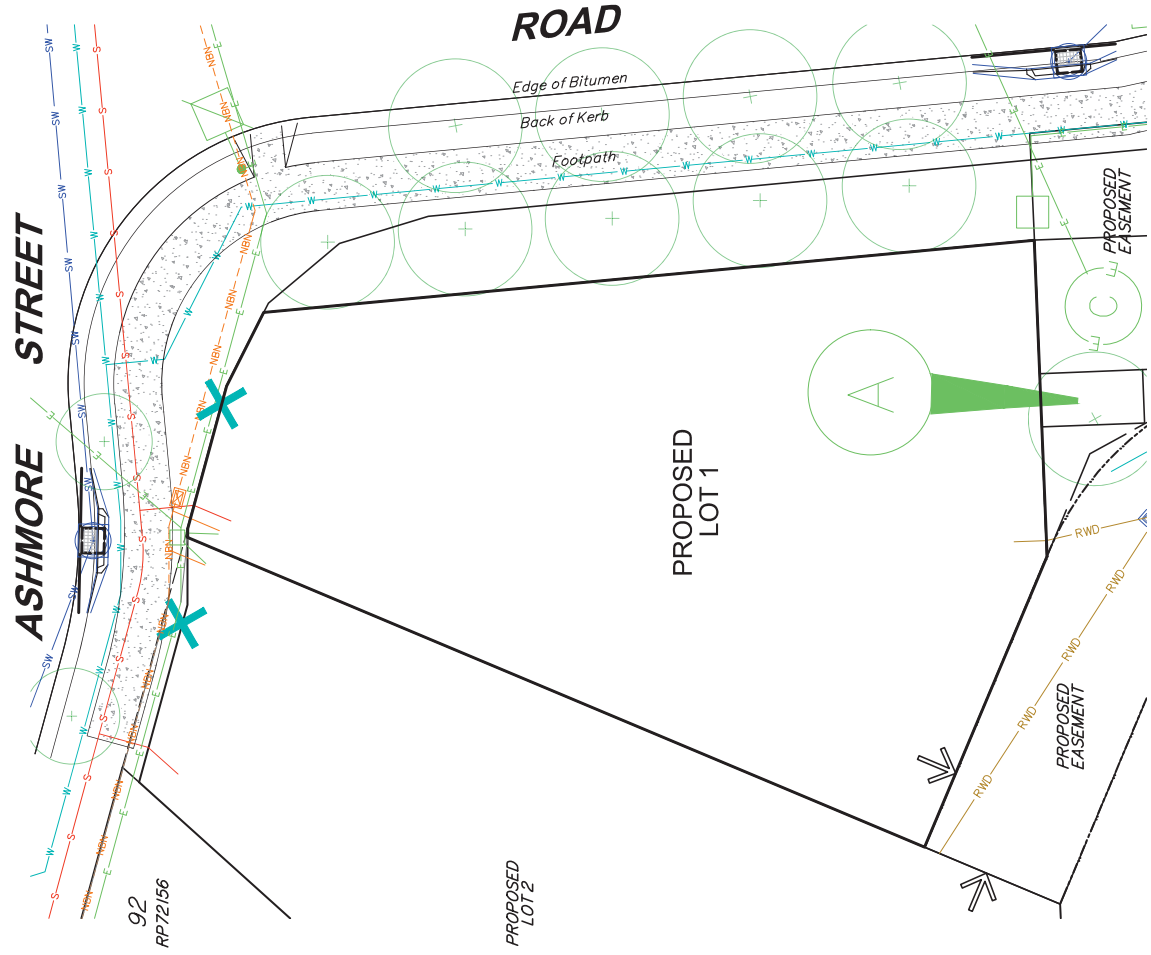
1. Drawn to scale on an A3 sheet.
2. This plan is for informational purposes and exclusive use of MIRVAC QUEENSLAND PTY. LTD and is not to be used for any other purpose or by any other person or corporation. Bennett and Bennett Group accepts no responsibility for any loss or damage suffered however arising to any person or corporation who may use or rely on this plan in contravention of these terms.
3. "Ashford Residences" Stage 1 only and does not include other site characteristics such as contours or retaining walls. Location of services are indicative only and subject to construction and final council approval.
4. Services information was received from Premises Engineers on 22/10/2019.
5. The approximate number of lots, size and location of improvements are approximate only and may vary.
6. This plan can not be copied unless these notes are included.

Issue	Original Issue	Revision	Int.	Date
A	SDS 227102019			

**Services Coordination Plan  
 for Stage 1  
 "Ashford Residences"**

<b>Client:</b>	THE MIRVAC GROUP
<b>Locality:</b>	EVERTON PARK
<b>Local Gov:</b>	BCC
<b>Prepared By:</b>	SDS
<b>Surveyed By:</b>	BM
<b>Approved:</b>	
<b>Date Created:</b>	22/10/2019
<b>Scale:</b>	1:600
<b>Comp File:</b>	191518_12d
<b>Plan No:</b>	191518_011_MIS





- LEGEND:**
- Sewer Line & Manhole
  - Water Main
  - Underground Telecommunications Line
  - Underground Power Line & Filler
  - NBN Line & Pit
  - Stormwater Line, Gully, Pli & Manhole
  - Road Water Line, Grate & Manhole
  - Driveway Location
  - Water Meter
  - Street Light
  - Pad Mount Transformer
  - Main Electrical Switchboard
  - Proposed Street Tree

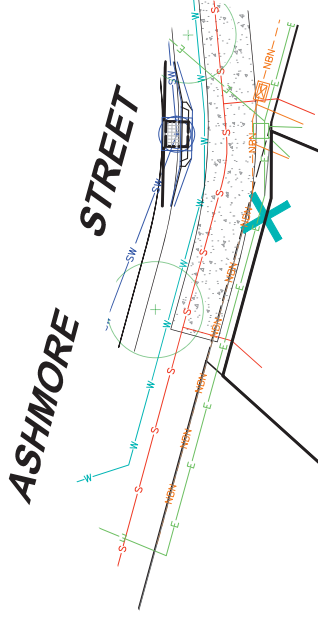
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6. This plan can not be copied unless these notes are included.

Issue	Original Issue	SDS	22/10/2019	Title	Date
A					

**Services Coordination Plan**  
**for Stage 1**  
 "Ashford Residences"

<b>Client:</b>	<b>THE MIRVAC GROUP</b>
<b>Locality:</b>	EVERTON PARK
<b>Local Gov:</b>	BCC
<b>Prepared By:</b>	SDS
<b>Surveyed By:</b>	BM
<b>Approved:</b>	
<b>Date Created:</b>	22/10/2019
<b>Scale:</b>	1:200
<b>Comp File:</b>	191518_1.2d
<b>Plan No:</b>	<b>191518_011_MIS</b>



**LEGEND:**

- Sewer Line & Manhole
- Water Main
- Underground Telecommunications Line
- Underground Power Line & Piller
- NBN Line & Pit
- Stormwater Line, Gully, Pli & Manhole
- Road Water Line, Grate & Manhole
- Driveway Location
- Water Meter
- Street Light
- Pad Mount Transformer
- Main Electrical Switchboard
- Proposed Street Tree

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**Services Coordination Plan**  
**for Stage 1**  
 "Ashford Residences"

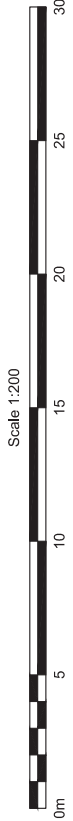
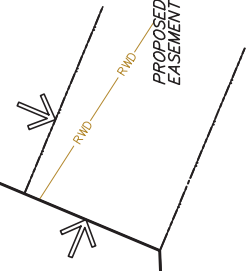
<b>Client:</b>	THE MIRVAC GROUP
<b>Locality:</b>	EVERTON PARK
<b>Local Gov:</b>	BCC
<b>Prepared By:</b>	SDS
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<b>Approved:</b>	Scale: 1:200
<b>Comp File:</b>	191518_12d
<b>Plan No:</b>	191518_011_MIS

PROPOSED LOT 1

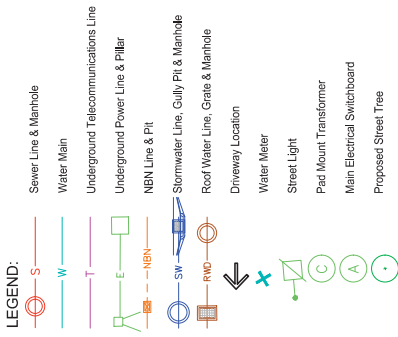
PROPOSED LOT 2

92  
 RF72156

900  
 SP316690  
 (Future Development)

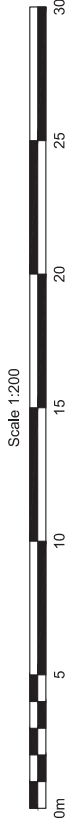
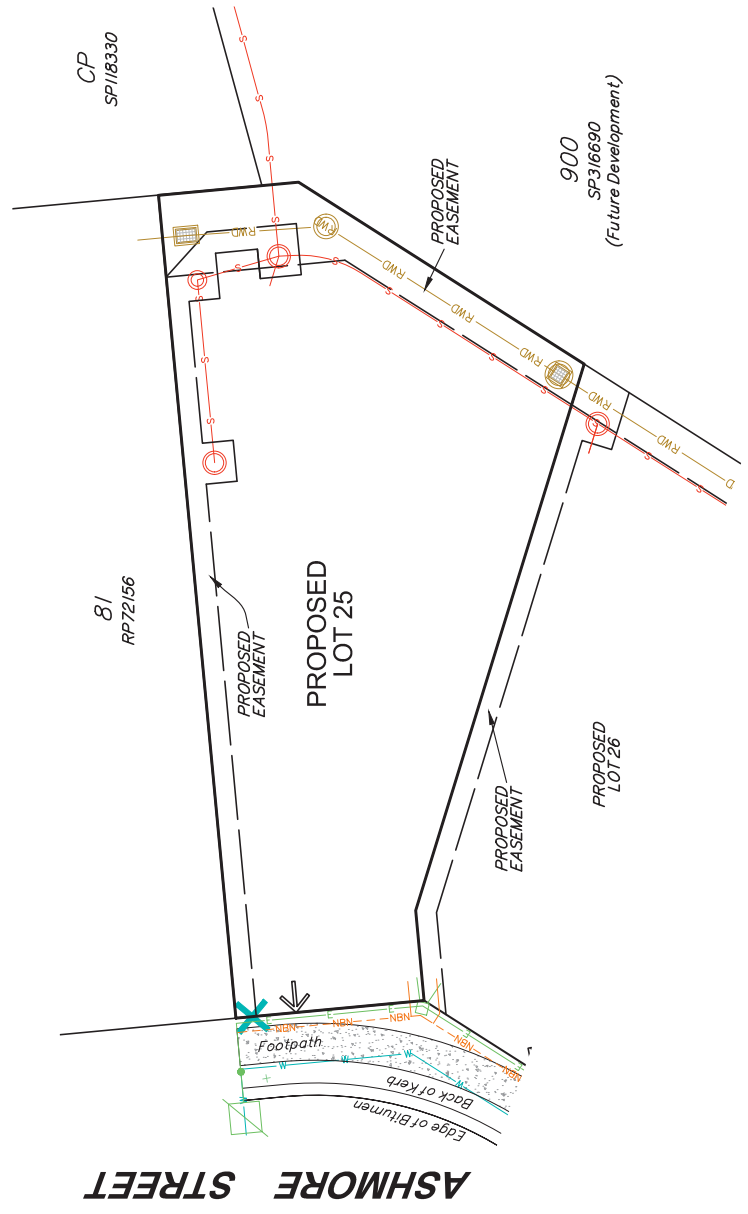


**DUNDBLE STREET**



**NOTES:**

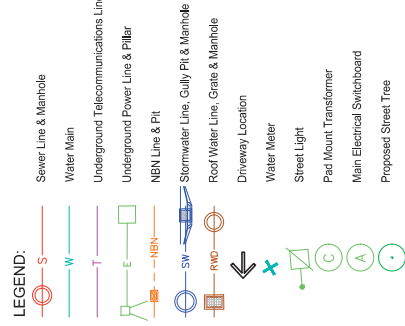
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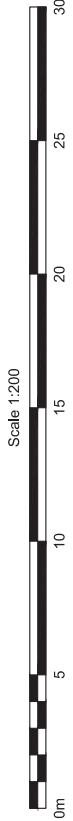
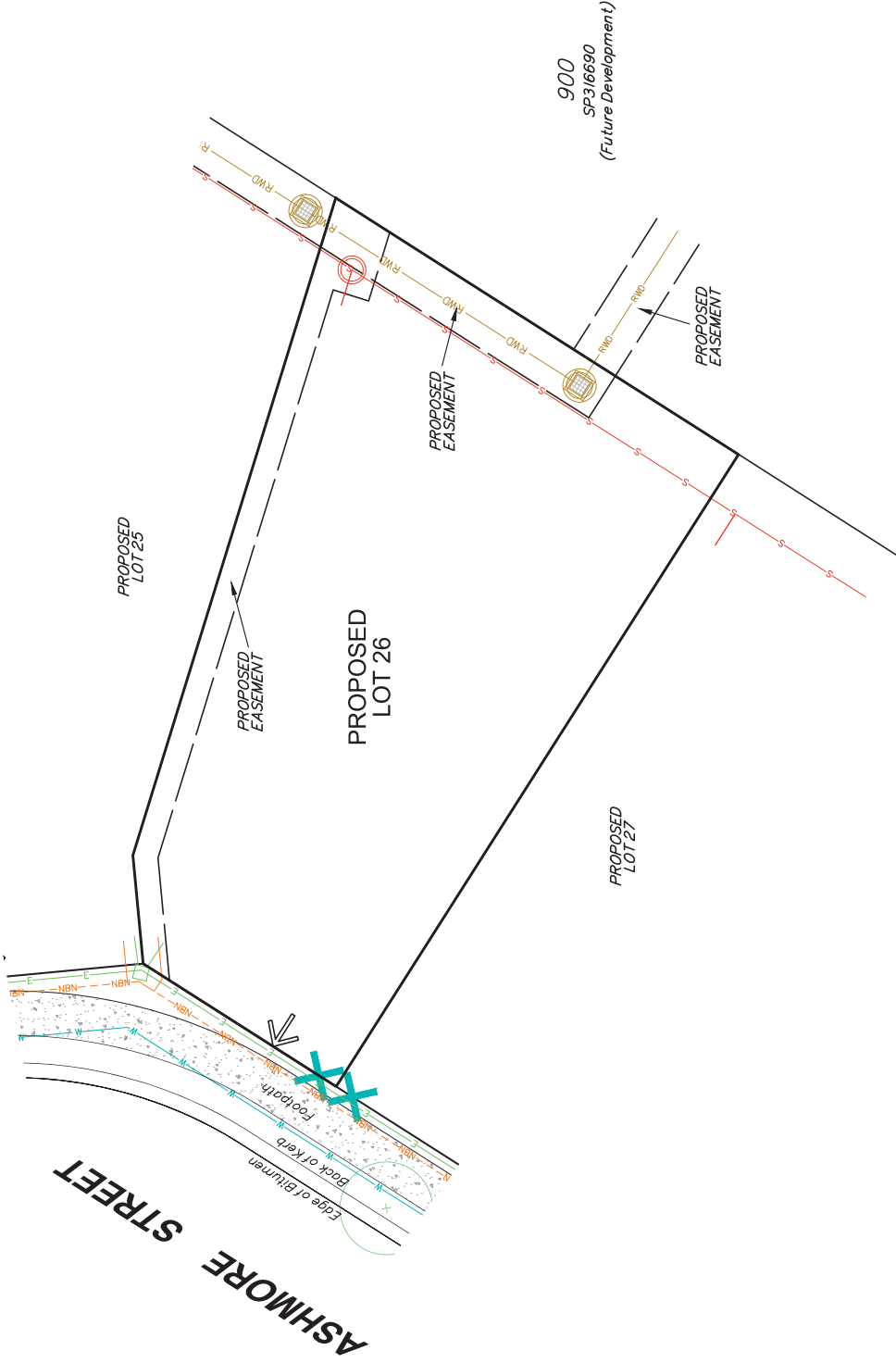
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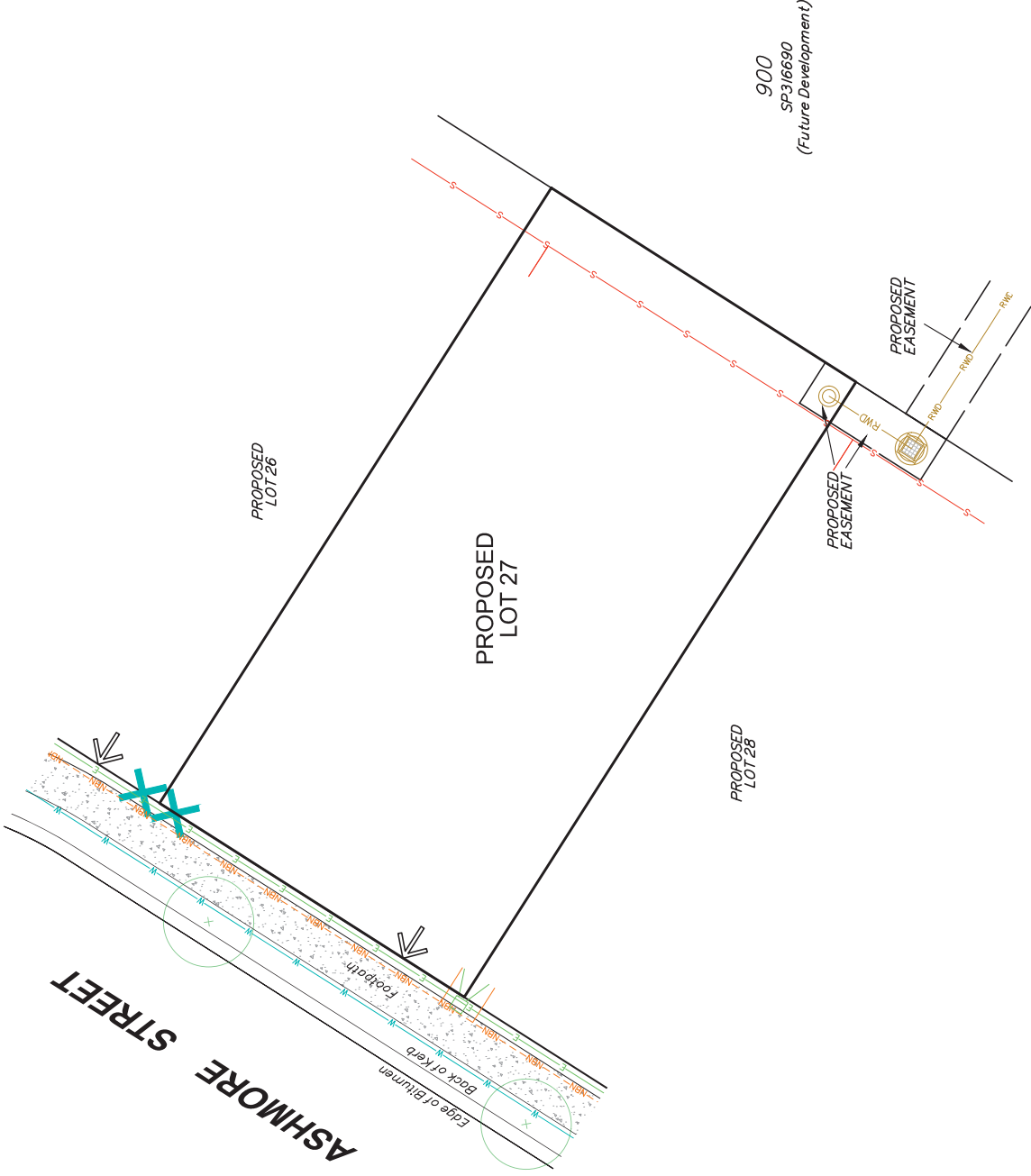
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	Sewer Line & Manhole
	Water Main
	Underground Telecommunications Line
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	Water Meter
	Street Light
	Pad Mount Transformer
	Main Electrical Switchboard
	Proposed Street Tree

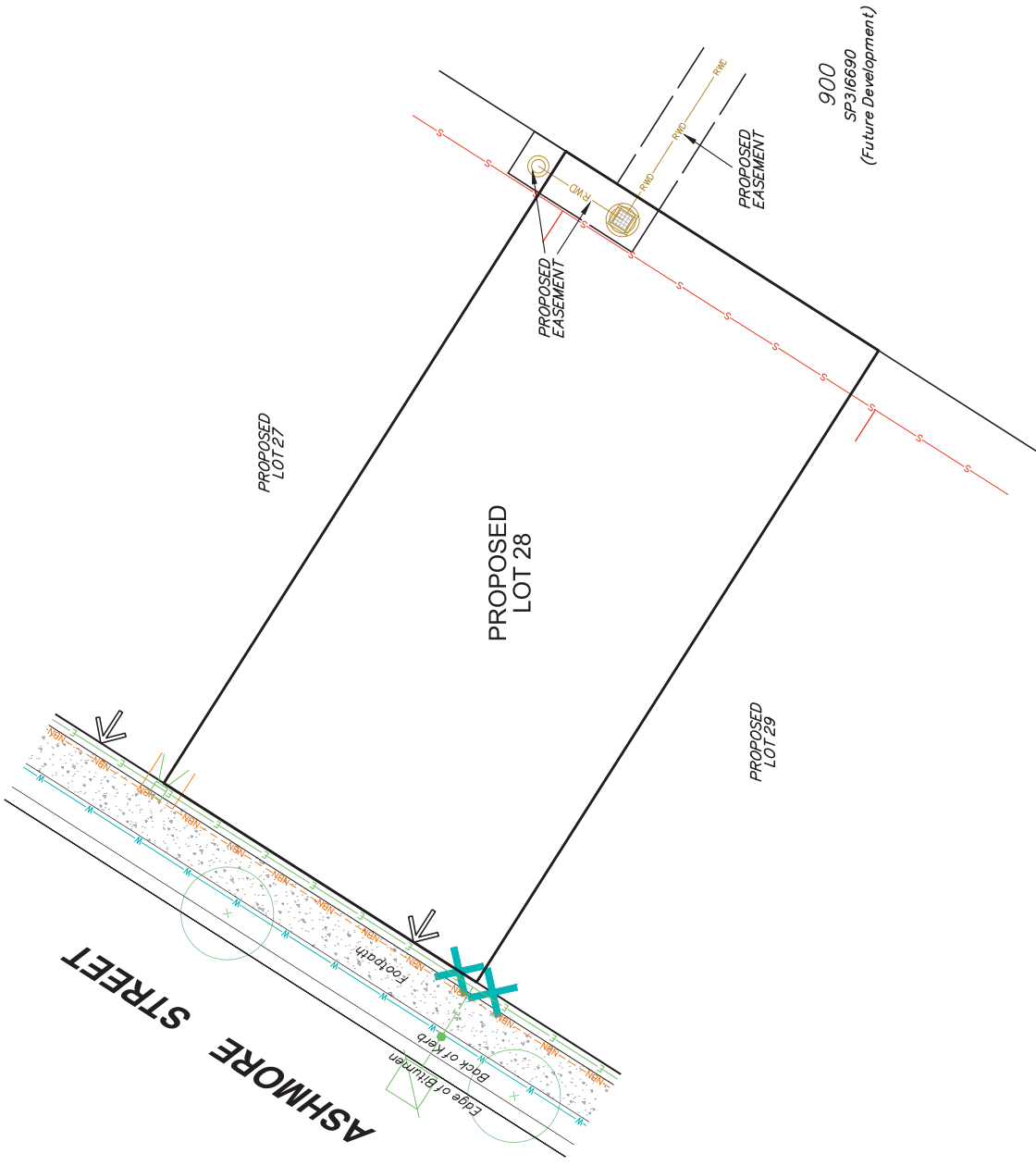
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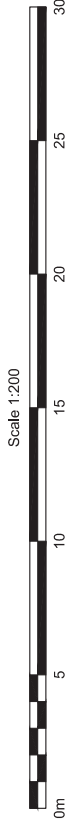
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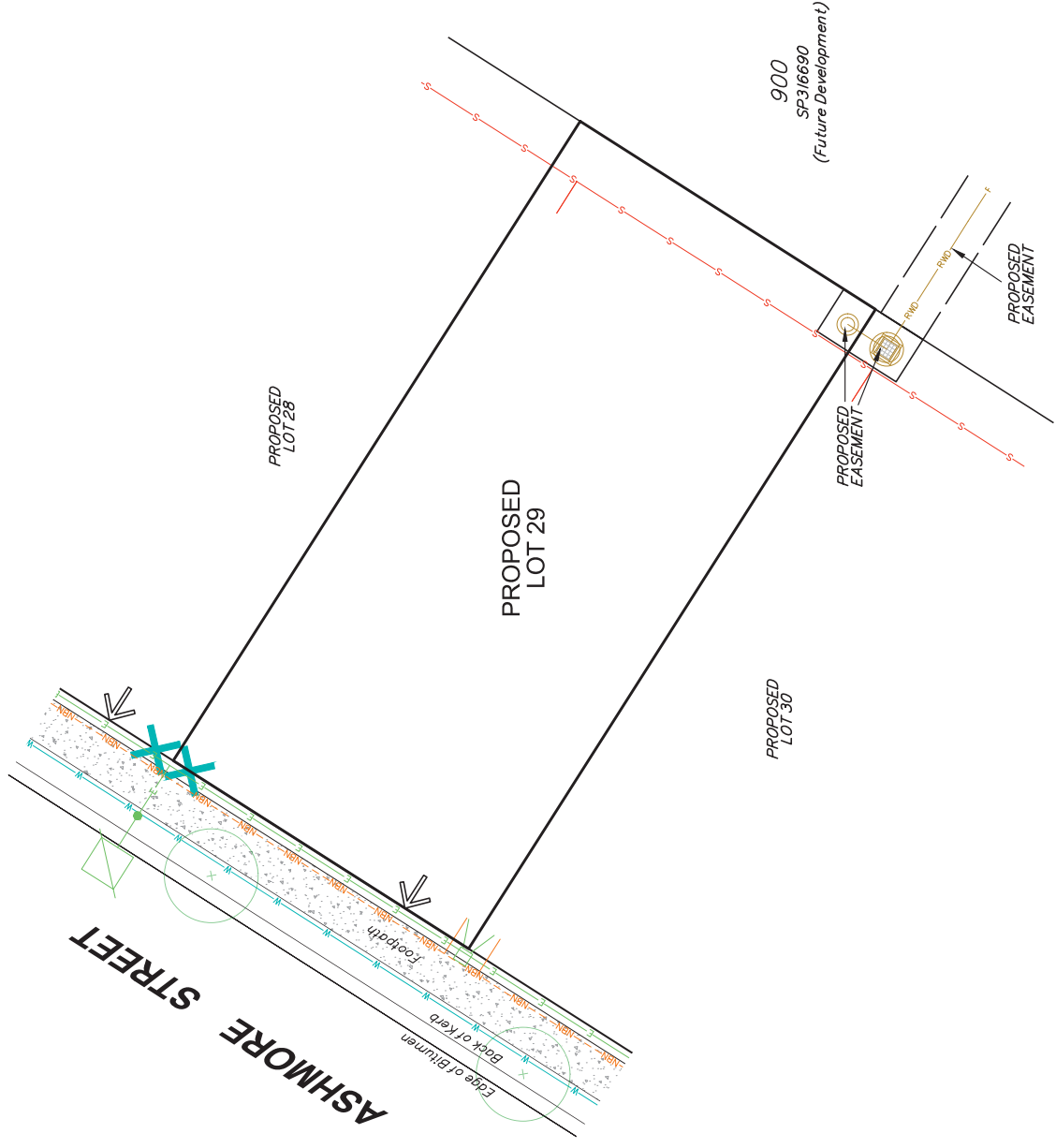
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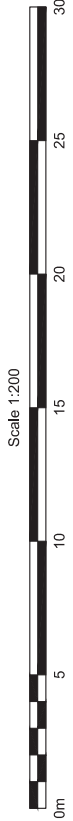
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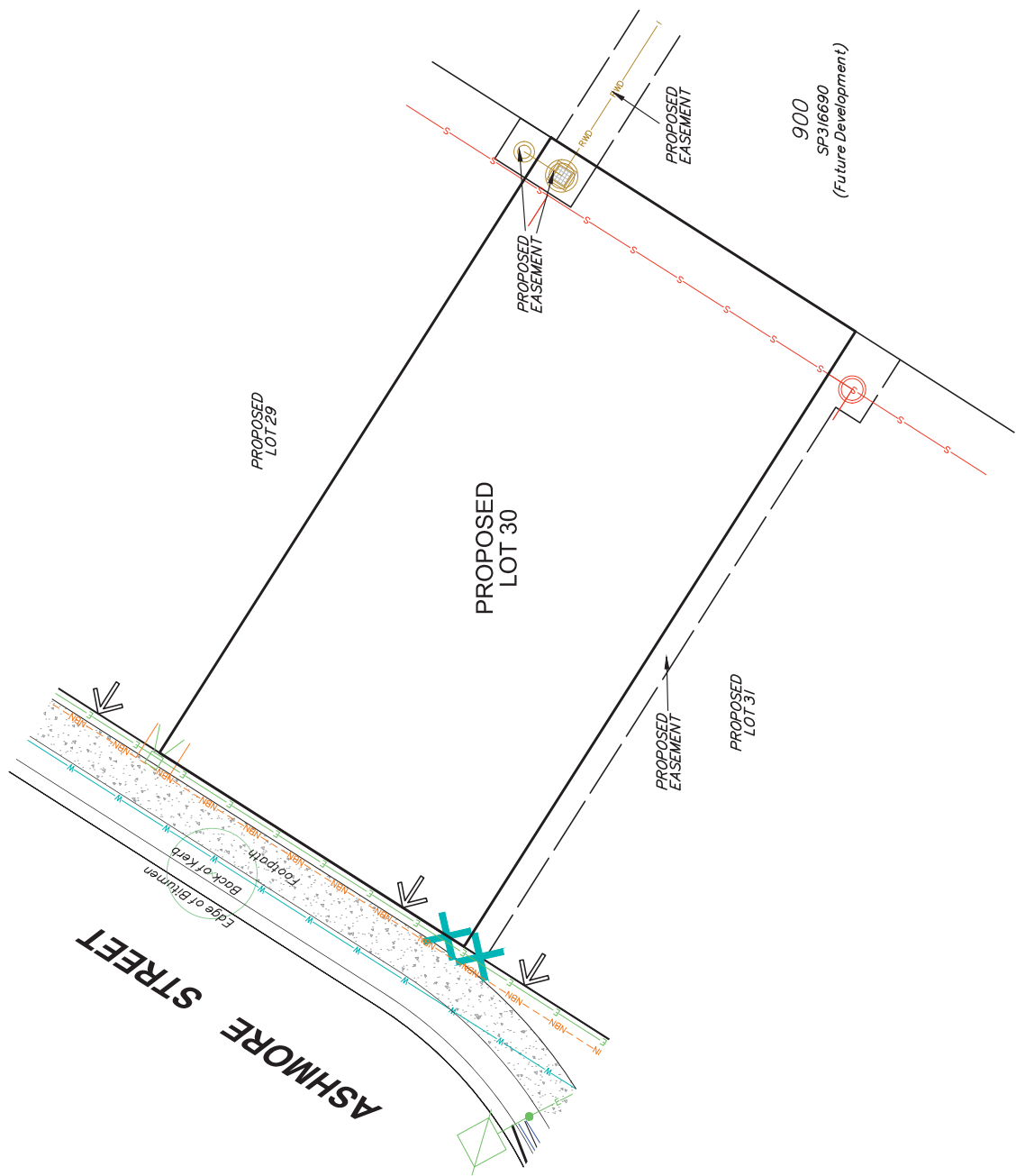
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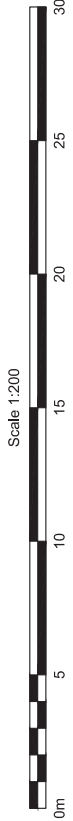
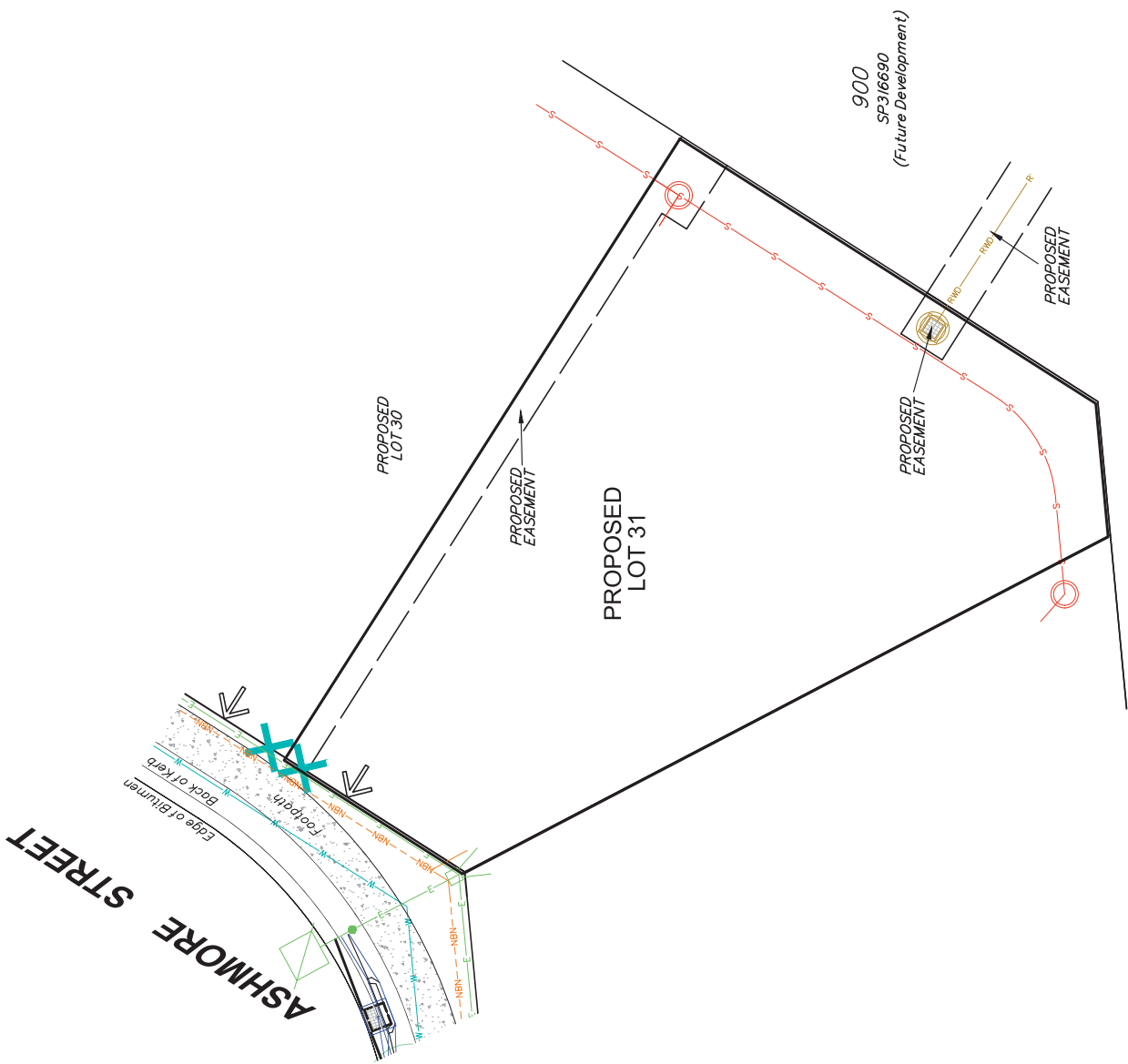
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## DEED OF GUARANTEE AND INDEMNITY

### Parties:

*Seller's Name* MIRVAC QUEENSLAND PTY LTD ACN 060 411 207 (Seller)

*Guarantor 1 Name* \_\_\_\_\_

*Guarantor 1 Address* \_\_\_\_\_

*Guarantor 2 Name* \_\_\_\_\_

*Guarantor 2 Address* \_\_\_\_\_

*Guarantor 3 Name* \_\_\_\_\_

*Guarantor 3 Address* \_\_\_\_\_ (Guarantor)

**Regarding - Contract for the sale and purchase of the Property to be made between the Seller and the Buyer named in the Reference Schedule (in the Contract)** (Contract)

It is agreed:

1. The Guarantor:
  - 1.1 has requested that the Seller enter into the Contract;
  - 1.2 enters into this Guarantee and Indemnity in consideration for the Seller agreeing to:
    - (a) enter into the Contract at the request of the Guarantor; and
    - (b) pay the Guarantor \$1.00 within 10 Business Days after written demand by the Guarantor to the Seller; and
  - 1.3 acknowledges the receipt of valuable consideration from the Seller for the Guarantor incurring obligations under this Guarantee and Indemnity.
2. The Seller agrees to enter into the Contract at the request of the Guarantor.
3. The Guarantor acknowledges that, under the Contract:
  - 3.1 the Seller may effect a Dealing in favour of another person (Third Party); and
  - 3.2 if the Seller effects a Dealing, and the Contract is novated or assigned to the Third Party, the Buyer will be bound to perform the Buyer's obligations under the Contract in favour of the Third Party.
4. The Guarantor unconditionally and irrevocably guarantees:
  - 4.1 to the Seller the due and punctual performance by the Buyer of all of its obligations under the Contract (irrespective of when they are to be performed); and
  - 4.2 if the Contract is novated to the Third Party, the due and punctual performance by the Buyer of all of its obligations under any substitute contract for the sale and purchase of the Property that comes in effect as a result of a Dealing and novation (Substitute Contract) (irrespective of when they are to be performed); and
  - 4.3 if the Contract is assigned to the Third Party, the due and punctual performance by the Buyer of all of its obligations under the Contract (irrespective of when they are to be performed).
5. The Guarantor, as a separate undertaking, unconditionally and irrevocably indemnifies the Seller and any Third Party against all liability, damages, costs, expenses and losses of any kind and however arising

(including penalties, fines, interest, duties, fees, taxes or legal fees on a full indemnity basis) which the Seller or any Third Party may suffer as a result of or arising directly or indirectly out of:

- 5.1 any default, breach or non-compliance by the Buyer of the Contract or a Substitute Contract (Relevant Contract);
  - 5.2 a breach by the Buyer of any acknowledgement, promise, representation, warranty or the like by the Buyer in a Relevant Contract or otherwise, including any promise, representation, warranty or the like which was incorrect or misleading when made;
  - 5.3 the Buyer having no obligations or being relieved of any obligations or any obligations of the Buyer becoming unenforceable under a Relevant Contract; or
  - 5.4 making, enforcing and doing anything in connection with this Guarantee and Indemnity.
6. The Guarantor agrees that the Guarantor's liability and obligations under this Guarantee and Indemnity are not affected by any:
- 6.1 termination of a Relevant Contract as a result of any default or breach by the Buyer;
  - 6.2 insolvency, bankruptcy, death, incompetency or winding up of the Buyer or of any Guarantor;
  - 6.3 assignment or novation of a Relevant Contract by the Buyer or the Seller or a Third Party;
  - 6.4 grant of time or other concession to the Buyer by the Seller or a Third Party or to the Seller or a Third Party by the Buyer;
  - 6.5 compromise, waiver, variation or novation of any of the rights of the Seller or a Third Party against the Buyer under a Relevant Contract;
  - 6.6 delay by the Seller or a Third Party in exercising its rights or if the Seller or a Third Party does not sue the Buyer;
  - 6.7 acquiescence, acts, omissions or mistakes on the part of the Seller or a Third Party;
  - 6.8 purported rights of the Seller or a Third Party against the Buyer under a Relevant Contract being invalid, void or unenforceable for any reason including by operation of law or statute;
  - 6.9 future variations or alterations to a Relevant Contract agreed between the parties to it, regardless of whether or not the Guarantor has first consented to the variation or alteration and regardless of any prejudice to the Guarantor arising from that variation or alteration;
  - 6.10 other person who was named, intended or required to enter into this Guarantee and Indemnity not having done so or not having done so effectively;
  - 6.11 waiver or other indulgence or the discharge or release of a Buyer or any other person from any obligation;
  - 6.12 guarantee and indemnity from any other person who has entered into this Guarantee and Indemnity not being, for any reason whatsoever, enforceable; or
  - 6.13 other acts, omission, thing or matter whatsoever which, but for this provision, might in any way operate to release or otherwise exonerate or discharge the Guarantor from any of its obligations as surety.
7. This Guarantee and Indemnity:
- 7.1 extends to cover the Buyer's obligations under a Relevant Contract:
    - (a) regardless of any compromise, waiver or variation of any rights against the Buyer under the Relevant Contract; and

- (b) as amended, varied or replaced, whether with or without the consent of the Guarantor, even if the amendment, variation or replacement imposes additional obligations on the Buyer, beyond those presently in the Relevant Contract; and

- 7.2 is a continuing guarantee and indemnity and, despite Settlement, remains in full force and effect for as long as the Buyer has any liability or obligation under the Relevant Contract and until all of those liabilities or obligations have been fully discharged.
8. The Guarantor represents to the Seller (and for the benefit of any Third Party) that before the Guarantor entered into this Guarantee and Indemnity the Guarantor read and understood this Guarantee and Indemnity, the Contract and any other associated documents and had taken or been given the opportunity to take legal and other advice the Guarantor considered necessary.
9. If the Seller or a Third Party novates, transfers or assigns its interest in a Relevant Contract in favour of any person or entity (Assignee), the benefit of the Guarantor's obligations and indemnities under this Guarantee and Indemnity are assigned to the Assignee and the Guarantor must enter into any document that the Seller or a Third Party or Assignee may reasonably require to confirm the assignment. The Seller or a Third Party may assign the benefit of the Guarantor's obligations and indemnities under this Guarantee and Indemnity without affecting or discharging the Guarantor's liability as surety in any way.
10. The Seller or a Third Party does not have to sue the Buyer or enforce any rights against any person before claiming under this Guarantee and Indemnity.
11. This Guarantee and Indemnity binds each Guarantor individually and all of them jointly.
12. This Guarantee and Indemnity is a separate, collateral instrument to the Relevant Contracts.
13. The liability of the Guarantor is not discharged by payment to the Seller or a Third Party which is later avoided by law. If that occurs, the respective rights and obligations of the Seller or a Third Party and the Guarantor will be restored as if the payment had not been made.
14. Money paid to the Seller or a Third Party by the Guarantor must be applied first against payment of costs, charges and expenses under clause 4, then against other obligations under this Guarantee and Indemnity.
15. If there is any ambiguity in this Guarantee and Indemnity, it is to be interpreted in favour of the Seller or a Third Party. Any void, voidable or illegal term of this Guarantee and Indemnity is to be read down or severed leaving the balance operable.
16. The Guarantor acknowledges and agrees that this Guarantee and Indemnity was signed by the Guarantor before the Seller signed the Contract.
17. This Guarantee and Indemnity may be executed, exchanged and delivered in any manner permitted under the Contract for the execution and exchange of that document (including electronically).
18. **This Guarantee and Indemnity takes effect, is signed and delivered as a deed. The validity of this Guarantee and Indemnity as an agreement between the Seller and the Guarantor is not affected in any way if this Guarantee and Indemnity does not take effect as a deed.**

**WARNING: The Guarantor is agreeing to be legally liable for the performance of the Buyer under the Relevant Contracts.**



**SIGNED SEALED AND DELIVERED AS A DEED** )  
by Guarantor 1 named in the Reference Schedule in )  
the presence of: )

.....  
Witness  
(witness required unless signed electronically)

.....  
**SIGNATURE – GUARANTOR 1**  
By placing my signature above, I warrant that I am  
in the Guarantor named in the Reference schedule.

**SIGNED SEALED AND DELIVERED AS A DEED** )  
by Guarantor 2 named in the Reference Schedule in )  
the presence of: )

.....  
Witness  
(witness required unless signed electronically)

.....  
**SIGNATURE – GUARANTOR 2**  
By placing my signature above, I warrant that I am  
in the Guarantor named in the Reference schedule.

**SIGNED SEALED AND DELIVERED AS A DEED** )  
by Guarantor 3 named in the Reference Schedule in )  
the presence of: )

.....  
Witness  
(witness required unless signed electronically)

.....  
**SIGNATURE – GUARANTOR 3**  
By placing my signature above, I warrant that I am  
in the Guarantor named in the Reference schedule.

**SIGNED SEALED AND DELIVERED AS A DEED** )  
by a duly authorised attorney of **MIRVAC** )  
**QUEENSLAND PTY LTD ACN 060 411 207** in the )  
presence of: )

.....  
Witness  
(witness required unless signed electronically)

.....  
**SIGNATURE – ATTORNEY OF SELLER**

.....  
**SIGNATURE – ATTORNEY OF SELLER**

**ANNEXURE H**

**ADDITIONAL SPECIAL CONDITIONS**

**PROPERTY NOT PART OF ASHFORD PRINCIPAL COMMUNITY TITLES SCHEME**

The Buyer acknowledges that the Property is a "standard alone" lot and is not part of the adjacent or nearby Ashford Principal Community Titles Scheme. Accordingly, the Buyer will not have any entitlement to use the facilities of the Ashford Principal Community Titles Scheme (such as any club facilities or wetland areas) which may be depicted in any Promotional Materials and the Buyer is not in any way required to contribute towards the maintenance and upkeep of those facilities.

---

**Buyer 1 Sign**

---

**Buyer 3 Sign**

---

**Buyer 2 Sign**

---

**Seller Sign**