

Standard conditions for conduct of public auctions of residential property

- *1 No bids may be made for the seller of the property.
- OR
- *1 The auctioneer may make 1 bid for the seller of the property at any time during the auction.
- [*One of these alternatives must be deleted]
- 2 Each person bidding must be entered on the bidders record.
- 3 The auctioneer may refuse any bid.
- 4 The auctioneer may decide the amount by which the bidding is to be advanced.
- 5 The auctioneer may withdraw the property from sale at any time.
- 6 The auctioneer may refer a bid to the seller at any time before the end of the auction.
- 7 If there is a dispute about a bid, the auctioneer may resubmit the property for sale at the last undisputed bid or start the bidding again.
- 8 If there is a dispute about a bid, the auctioneer is the sole arbiter and the auctioneer's decision is final.
- 9 The sale is subject to a reserve price unless the auctioneer announces otherwise.
- 10 The highest recorded bidder will be the buyer, subject to any reserve price.
- 11 If a reserve price has been set for the property and the property is passed in below the reserve price, the seller must first negotiate with the highest bidder for the purchase of the property.
- 12 The buyer must sign the contract and pay the deposit immediately after the fall of the hammer.

Schedule

Land	The unexpired term of the Lease	Unit	UP No.	Block	Section	Division/District
				5	83	Denman Prospect
		and known as 16 Romano Street, Denman Prospect ACT 2611				
Seller	Full name	Mellross Homes Pty Ltd				
	ACN/ABN	666 953 386				
	Address	4/326 Boorowa Street, Young, NSW 2594				
Seller Solicitor	Firm	Elevated Legal Advisory				
	Email	jonathon@elevatedlegal.com.au				
	Phone	0437 693 862	Ref: Jonathon Bellato			
	DX/Address	PO Box 5327, Braddon ACT 2612				
Stakeholder	Name	Hive Property (act) Pty Ltd				
Seller Agent	Firm	HIVE Property				
	Email	michaelp@hiveproperty.co				
	Phone	0431 937 684	Ref: Michael Pead			
	DX/Address	Level 1/4 Campion Street, Deakin, ACT 2600				
Restriction on Transfer	Mark as applicable	<input checked="" type="checkbox"/> Nil <input type="checkbox"/> section 370 <input type="checkbox"/> section 280 <input type="checkbox"/> section 306 <input type="checkbox"/> section 351				
Land Rent	Mark one	<input checked="" type="checkbox"/> Non-Land Rent Lease <input type="checkbox"/> Land Rent Lease				
Occupancy	Mark one	<input type="checkbox"/> Vacant possession <input checked="" type="checkbox"/> Subject to tenancy				
Breach of covenant or unit articles	Description (Insert other breaches)	As disclosed in the Contract				
Goods	Description	Fixed floor coverings and light fittings as inspected				
Date for Registration of Units Plan	Not applicable					
Date for Completion	On or before 30 days from the Date of this Contract					
Electronic Transaction?	<input type="checkbox"/> No		<input checked="" type="checkbox"/> Yes, using Nominated ELN: PEXA			
Land Tax to be adjusted?	<input type="checkbox"/> No		<input checked="" type="checkbox"/> Yes			
Residential Withholding Tax	New residential premises?			<input type="checkbox"/> No		<input checked="" type="checkbox"/> Yes
	Potential residential land?			<input checked="" type="checkbox"/> No		<input type="checkbox"/> Yes
	Buyer required to make a withholding payment?			<input type="checkbox"/> No		<input checked="" type="checkbox"/> Yes (insert details on p.3)
Foreign Resident Withholding Tax	Relevant Price more than \$750,000.00?			<input type="checkbox"/> No		<input type="checkbox"/> Yes
	Clearance Certificates attached for all the Sellers?			<input type="checkbox"/> No		<input type="checkbox"/> Yes

An agent may only complete the details in this black box and exchange this contract. See page 3 for more information.

Buyer	Full name					
	ACN/ABN					
	Address					
Buyer Solicitor	Firm					
	Email					
	Phone		Ref			
	DX/Address					
Price	Price	(GST inclusive unless otherwise specified)				
	Less deposit	(10% of Price)			<input type="checkbox"/> Deposit by Instalments (clause 52 applies)	
	Balance					
Date of this Contract						

Co-Ownership	Mark one (show shares)	<input type="checkbox"/> Joint tenants	<input type="checkbox"/> Tenants in common in the following shares:
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Read This Before Signing: Before signing this Contract you should ensure that you understand your rights and obligations. You should read the important notes on page 3. You should get advice from your solicitor.

Seller signature	Buyer signature
Seller witness name and signature	Buyer witness name and signature

Seller Disclosure Documents

The following marked documents are attached and form part of this Contract. The Buyer acknowledges that by execution of this Contract the Buyer certifies in writing that the Buyer received the marked documents prior to entering into this Contract.

- Crown lease of the Land (including variations)
- Current certified extract from the land titles register showing all registered interests affecting the Property
- Deposited Plan for the Land
- Energy Efficiency Rating Statement
- Encumbrances shown on the land titles register (excluding any mortgage or other encumbrance to be discharged)
- If there is an encumbrance not shown on the land titles register — a statement about the encumbrance complying with the Civil Law (Sale of Residential Property) Regulations
- Lease Conveyancing Inquiry Documents for the Property
- Building Conveyancing Inquiry Document (except if:
 - the Property is a Class A Unit
 - the residence on the Property has not previously been occupied or sold as a dwelling; or
 - this Contract is an “off-the-plan purchase”)
- Building and Compliance Inspection Report(s) (except if section 9(2)(a)(ii) or section 9(2)(a)(iii) of the Sale of Residential Property Act applies).
- Pest information (except if the property is a Class A Unit or is a residence that has never been occupied): Pest Inspection Report(s).
- Regulated Swimming Pool documentation required under section 9 (1)(ja) of the Sale of Residential Property Act (on and from 1 May 2024).

If the Property is off-the-plan:

- Proposed plan
- Inclusions list

If the Property is a Unit where the Units Plan is not registered:

- Inclusions list
- Disclosure Statement

If the Property is a Unit where the Units Plan is registered:

- Units Plan concerning the Property
- Current certified extract from the land titles register showing all registered interests affecting the Common Property
- Unit Title Certificate
- Registered variations to rules of the Owners Corporation
- (If the Unit is an Adaptable Housing Dwelling) drawings and plans demonstrating compliance with Australian Standard AS 4299-1995 (Adaptable Housing) as in force from time to time
- (If the Owners Corporation is a party to a Building Management Statement) Building Management Statement

If the Property is a Lot that is part of a Community Title Scheme:

- Section 67 Statement, as first or top sheet
- Community Title Master Plan
- Community Title Management Statement

If the Property is a Lot that will form part of a Community Title Scheme:

- Proposed Community Title Master Plan or sketch plan
- Proposed Community Title Management Statement

GST

- Not applicable
- Input taxed supply of residential premises
- Taxable supply (including new residential premises)
- GST-free supply of going concern
- Margin scheme applies

Tenancy

- Tenancy Agreement
- No written Tenancy Agreement exists

Invoices

- Building and Compliance Inspection Report
- Pest Inspection Report

Asbestos

- Asbestos Advice
- Current Asbestos Assessment Report

Damages for delay in Completion – applicable interest rate and legal costs and disbursements amount (see clause 22)

Interest rate if the defaulting party is the Seller	% per annum
Interest rate if the defaulting party is the Buyer	10% per annum
Amount to be applied towards legal costs and disbursements incurred by the party not at fault	\$550 (GST inclusive)

Tenancy Summary

Premises		Expiry date	
Tenant name		Rent	
Commencement date		Rent review date	
Term		Rent review mechanism	

Managing Agent Details for Owners Corporation or Community Title Scheme (if no managing agent, secretary)

Name		Phone	
Address			

RW Amount

(residential withholding payment) — further details

The supplier will frequently be the Seller. However, sometimes further information will be required as to which entity is liable for GST (eg if the Seller is part of a GST group, where the GST representative has the GST liability). If more than one supplier, provide details for each supplier.

Supplier	Name			
	ABN		Phone	
	Business address			
	Email			
Residential Withholding Tax	Supplier's portion of the RW Amount:		\$	
	RW Percentage:			%
	RW Amount (ie the amount that the Buyer is required to pay to the ATO):		\$	
	Is any of the consideration not expressed as an amount in money?	<input type="checkbox"/> No	<input type="checkbox"/> Yes	
	If 'Yes', the GST inclusive market value of the non-monetary consideration:		\$	
	Other details (including those required by regulation or the ATO forms):			

Cooling Off Period

(for residential property only)

- 1 The Buyer may rescind this Contract at any time before 5pm on the 5th Business Day after the day this Contract is made except if any circumstance in paragraph 2 applies.
- 2 There is no cooling off period if:
 - the Buyer is a corporation; or
 - the Property is sold by tender; or
 - the Property is sold by auction; or
 - before signing this Contract, the Buyer gives the Seller a certificate in the form required by the Sale of Residential Property Act signed by the Buyer Solicitor; or
 - this Contract is made on the same day the Property was offered for sale by auction but passed in and the Buyer was recorded in the bidders record as a bidder or a person for whom a bidder was bidding.
- 3 A Buyer exercising the cooling off right by rescinding this Contract forfeits 0.25% of the Price. The Seller is entitled to recover the amount forfeited from the Deposit and the Buyer is entitled to a refund of any balance.

Warnings

- 1 The Lease may be affected by the *Residential Tenancies Act 1997 (ACT)* or the *Leases (Commercial & Retail) Act 2001 (ACT)*.
- 2 If a consent to transfer is required by law, see clause 4 as to the obligations of the parties.
- 3 As some risks associated with the Property pass from the Seller to Buyer on the Date of this Contract, (except if the Property is a Unit) the Buyer should take out insurance on the Property on the Date of this Contract.
- 4 The Buyer will usually have to pay stamp duty on the purchase of the Land. The Buyer may incur penalties if the Buyer does not pay the stamp duty within the required time.
- 5 There are serious risks to a Buyer releasing the Deposit before Completion. The Buyer should take legal advice before agreeing to release the Deposit.
- 6 The Buyer should consider the application of the Territory Plan and other planning and heritage issues before signing this Contract.
- 7 If the Lease is a concessional lease then restrictions on transfer and other dealings may apply.

Disputes

If there is a dispute, the Law Society encourages the use of informal procedures such as negotiation, independent expert appraisal or mediation to resolve the dispute.

Exchange of Contract

- 1 An Agent, authorised by the Seller, may:
 - insert:
 - the name and address of, and contact details for, the Buyer;
 - the name and address of, and contact details for, the Buyer Solicitor;
 - the Price;
 - the Date of this Contract,
 - insert in, or delete from, the Goods; and
 - exchange this Contract.
- 2 An Agent must not otherwise insert, delete or amend this Contract.
- 3 **The Agent must not exchange this Contract unless expressly authorised by the Seller or (if a solicitor is acting for the Seller) by the Seller or the Seller Solicitor.**

The Seller agrees to sell and the Buyer agrees to buy the Property for the Price on these terms:

1. Definitions and interpretation

- 1.1 Definitions appear in the Schedule and as follows:

Affecting Interests means any mortgage, encumbrance, lease, lien, charge, notice, order, caveat, writ, or other interest;

Adaptable Housing Dwelling has the meaning in the Sale of Residential Property Act;

Agent has the meaning in the Sale of Residential Property Act;

ATO means the Australian Taxation Office, and includes the Commissioner for Taxation;

Balance of the Price means the Price less the Deposit;

Breach of Covenant means:

- a Development not approved under the Planning Act including a development for which design and siting approval has not been obtained;
- a breach of the Building and Development Provision;

- a breach of any obligation of the Seller in a registered restrictive covenant affecting the Lease;
- a breach of any other term of the Lease;
- a breach of the articles of the Owners Corporation (if the Property is a Unit); or
- an Unapproved Structure;

Building Act means the *Building Act 2004* (ACT);

Building and Development Provision has the meaning in the Planning Act;

Building Conveyancing Inquiry Document has the meaning in the Sale of Residential Property Act;

Building and Compliance Inspection Report has the meaning in the Sale of Residential Property Act;

Building Management Statement has the meaning in the Land Titles Act;

Business Day means any day other than a Saturday, Sunday, public holiday or bank holiday in the Australian Capital Territory;

Class A Unit has the meaning in the Sale of Residential Property Act;

Common Property for a Unit has the meaning in the Unit Titles Act;

Common Property for a Lot that forms part of a Community Title Scheme has the meaning in the Community Title Act;

Community Title Act means the *Community Title Act 2001* (ACT);

Community Title Body Corporate means the entity referred to as such in the Community Title Act;

Community Title Management Statement has the meaning in the Community Title Act;

Community Title Master Plan has the meaning in the Community Title Act;

Community Title Scheme has the meaning in the Community Title Act;

Completion means the time at which this Contract is completed and **Completed** has a corresponding meaning;

Compliance Certificate means a certificate issued for the Lease under section 296 of the *Planning and Development Act 2007*, Division 10.12.2 of the Planning Act or under section 28 of the *City Area Leases Act 1936* or under section 180 of the Land Act;

Covenant includes a restrictive covenant;

Default Notice means a notice in accordance with clause 18.5 and clause 18.6

Default Rules has the meaning in the Unit Titles Management Act;

Deposit means the deposit forming part of the Price;

Developer in respect of a Lot has the meaning in the Community Title Act;

Developer Control Period has the meaning in the Unit Titles Management Act;

Development has the meaning in the Planning Act;

Development Statement has the meaning in the Unit Titles Act;

Disclosure Statement has the meaning in the Property Act;

Disclosure Update Notice has the meaning in section 260(2) of the Property Act;

Encumbrance has the meaning in the Sale of Residential Property Act but excludes a mortgage;

Energy Efficiency Rating Statement has the meaning in the Sale of Residential Property Act;

Excluded Change has the meaning in section 259A(4) of the Property Act;

General Fund Contribution has the meaning in section 78(1) of the Unit Titles Management Act;

GST has the meaning in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

GST Rate means the prevailing rate of GST specified as a percentage;

Improvements means the buildings, structures and fixtures erected on and forming part of the Land;

Income includes the rents and profits derived from the Property;

Land Act means the *Land (Planning & Environment) Act 1991* (ACT);

Land Charges means rates, land rent, land tax and other taxes and outgoings of a periodic nature in respect of the Property;

Land Rent Act means the *Land Rent Act 2008* (ACT);

Land Rent Lease means a Lease that is subject to the Land Rent Act;

Land Titles Act means the *Land Titles Act 1925* (ACT);

Lease means the lease of the Land having the meaning in the Planning Act;

Lease Conveyancing Inquiry Document has the meaning in the Sale of Residential Property Act;

Legislation Act means the *Legislation Act 2001*;

Liability of the Owners Corporation means any actual or contingent liability of the Owners Corporation attributable to the Unit on a Unit Entitlement basis (other than normal operating expenses) or expenditure to be made by the Owners Corporation to fulfil its obligations under the Unit Titles Management Act;

Lot has the meaning in the Community Title Act;

Non-Land Rent Lease means a Lease that is not subject to the Land Rent Act;

Notice to Complete means a notice in accordance with clause 18.1 and clause 18.2 requiring a party to complete;

Owners Corporation means the Owners Corporation for the Unit constituted or to be constituted under the Unit Titles Management Act following registration of the Units Plan;

Pest Inspection Report has the meaning in the Sale of Residential Property Act;

Pest Treatment Certificate has the meaning in the Sale of Residential Property Act;

Planning Act means the *Planning Act 2023* (ACT);

Planning and Land Authority has the meaning in the Legislation Act;

Prescribed Building has the meaning in the Building Act;

Prescribed Terms has the meaning in the Residential Tenancies Act;

Property means the unexpired term of the Lease, the Improvements and the Goods, or (if the Land is a Unit) the unexpired term of the Unit Lease, the Improvements and the Goods;

Property Act means the *Civil Law (Property) Act 2006* (ACT);

Required Documents has the meaning in the Sale of Residential Property Act and includes a Unit Title Certificate but excludes a copy of this Contract;

Rescission Notice has the meaning in the Sale of Residential Property Act;

Residential Tenancies Act means the *Residential Tenancies Act 1997* (ACT);

Sale of Residential Property Act means the *Civil Law (Sale of Residential Property) Act 2003* (ACT);

Section 56 Certificate means a certificate for a Lot issued under section 56 of the Community Title Act;

Section 67 Statement means a statement for a Lot complying with section 67(2)-(4) of the Community Title Act;

Service includes air, communication, drainage, electricity, garbage, gas, oil, radio, sewerage, telephone, television, or water service;

Staged Development has the meaning given by section 17(4) of the Unit Titles Act;

Tenancy Agreement includes a lease for any term and whether for residential purposes or otherwise;

Unapproved Structure has the meaning in the Sale of Residential Property Act;

Unit means the Unit referred to in the Schedule and which has the meaning in the Unit Titles Act;

Unit Entitlement for the Unit has the meaning in the Unit Titles Act;

Unit Title is the Lease together with the rights of the registered lessee of the Unit;

Unit Title Certificate means a certificate for the Unit issued under section 119 of the Unit Titles Management Act;

Unit Titles Act means the *Unit Titles Act 2001* (ACT);

Unit Titles Management Act means the *Unit Titles (Management) Act 2011* (ACT);

Units Plan means all the documents relating to the subdivision of the Land registered as the Units Plan for the Unit under the *Land Titles (Unit Titles) Act 1970*; and

Withholding Law means Subdivision 14 of Schedule 1 of the *Taxation Administration Act 1953* (Cth) and associated provisions.

1.2 In this Contract:

- a reference to the Seller or to the Buyer includes the executors, administrators and permitted assigns of any of them, if an individual, and the successors or permitted assigns of any of them, if a corporation;
- the singular includes the plural, and the plural includes the singular;
- a reference to a person includes a body corporate;
- a term not otherwise defined has the meaning in the Legislation Act; and
- a reference to an Act includes a reference to any subordinate legislation made under it or any Act which replaces it.

1.3 Headings are inserted for convenience only and are not part of this Contract.

1.4 If the time for something to be done or to happen is not a Business Day, the time is extended to the next Business Day, except in the case of clause 2.1.

1.5 A reference to “this Contract” extends to the Schedule, any annexure, additional clauses and attachments forming part of this Contract.

1.6 If there is more than one buyer or more than one seller the obligations which they undertake bind them jointly and individually.

1.7 Where the Buyer consists of more than one person, as between themselves, they agree to buy the Property in the specified manner of Co-ownership or if one alternative is not marked, as joint tenants.

1.8 Without limiting clause 13, the parties agree that for the purposes of the *Electronic Transactions Act 2001* (ACT) and the *Electronic Transactions Act 1999* (Cth), this Contract may be signed and/or exchanged electronically.

2. Terms of payment

2.1 The Buyer must pay the Deposit on the Date of this Contract, to the Stakeholder or, if no Stakeholder is named, then to the Seller.

2.2 The Deposit becomes the Seller’s property on Completion.

2.3 The Deposit may be paid by cheque or in cash (up to \$3,000.00) but if it is not paid on time or, if it is paid by cheque which is not honoured on first presentation, the Buyer is in default.

2.4 If the Buyer is in default under clause 2.3, then immediately and without the notice otherwise necessary under clause 18, clause 19 applies.

2.5 On Completion the Buyer must give the Seller an authority directing the Stakeholder to account to the Seller for the Deposit.

2.6 On Completion the Buyer must pay to the Seller in Canberra the Balance of the Price by unendorsed bank cheque, or in cash (up to \$200.00).

2.7 Any money payable to the Seller by the Buyer or the Stakeholder must be paid to the Seller or as the Seller Solicitor directs in writing and payment in accordance with that direction will be sufficient discharge to the person paying.

2.8 Completion must take place on the Date for Completion or as otherwise determined by this Contract and if not specified or determined, within a reasonable time.

3. Title to the Lease

- 3.1 The Lease is or will before Completion be granted under the Planning Act.
- 3.2 The Lease is transferred subject to its provisions.
- 3.3 The title to the Lease is or will before Completion be registered under the Land Titles Act.
- 3.4 The title to the Lease must be transferred free from all Affecting Interests except as otherwise provided.
- 3.5 The Buyer cannot insist on any Affecting Interests being removed from the title to the Lease before Completion provided, on Completion, the Seller gives the Buyer any documents and registration fees necessary to remove the Affecting Interests.

4. Restrictions on transfer

- 4.1 The Lease is not subject to any restrictions on transfer other than any Restriction on Transfer.
- 4.2 If the Lease is subject to a Restriction on Transfer under the Planning Act due to non-compliance with the Building and Development Provision then this Contract is subject to the grant of the approval referred to in section 370 of the Planning Act. A Restriction on Transfer referring to “section 370” refers to this restriction.
- 4.3 If the Lease is a lease of the type referred to in section 279 of the Planning Act then this Contract is subject to the approval in accordance with the Planning Act. A Restriction on Transfer referring to “section 280” refers to this restriction.
- 4.3A If the Lease is subject to a Restriction on Transfer under section 306 of the Planning Act, then this Contract is subject to the grant of the approval mentioned in sections 306 and 307 of the Planning Act. A Restriction on Transfer referring to “section 306” refers to this restriction.
- 4.3B If the Lease is subject to a Restriction on Transfer under section 351 of the Planning Act, then this Contract is subject to the grant of the approval mentioned in section 351 of the Planning Act. A Restriction on Transfer referring to “section 351” refers to this restriction. Immediately after the Date of this Contract the Seller must do everything reasonably necessary to remove the restriction or obtain the consent required. If requested in writing, the Buyer must join in any application of the Seller and must do everything reasonably necessary to enable the Seller to obtain the consent. The Seller must pay all associated fees in connection with the application.

- 4.4 If the consent referred to in clauses 4.2, 4.3, 4.3A or 4.3B is not granted by the Date for Completion then either party may rescind this Contract (provided that the party seeking to rescind is not then in default) and clause 21 applies.

5. Particulars of title and submission of transfer

- 5.1 Unless clause 5.3 applies the Seller need not provide particulars of title.
- 5.2 No later than 7 days before the Date for Completion, the Buyer must give the Seller a transfer of the Lease in the form prescribed by the Land Titles Act, to be returned by the Seller to the Buyer on Completion in registrable form.
- 5.3 If the Seller is not the registered proprietor of the Lease at the Date of this Contract, the Seller must give to the Buyer no later than 14 days before the Date for Completion a copy of the instrument and any other documents necessary to enable the Seller to be registered as proprietor.

6. Buyer rights and limitations

- 6.1 If the Buyer establishes before Completion that except as disclosed in this Contract there is any Unapproved Structure on the Property, then the Buyer may:
 - 6.1.1 require the Seller to arrange for the Unapproved Structure to be approved before Completion; and
 - 6.1.2 if the Unapproved Structure is not approved before Completion, rescind or complete and sue the Seller for damages.
- 6.2 If the Buyer establishes, immediately before Completion, that, except as disclosed in this Contract:
 - 6.2.1 the Property is subject to an encumbrance other than the encumbrances shown on the title to the Lease; or
 - 6.2.2 the Buyer is not entitled to vacant possession, then the Buyer may either:
 - 6.2.3 rescind; or
 - 6.2.4 complete and sue the Seller for damages.
- 6.3 The Buyer is not entitled to make any requisitions on the title to the Property.
- 6.4 The Buyer cannot make a claim or objection or rescind or terminate in respect of:
 - 6.4.1 a Service for the Property being a joint service or passing through another property, or any Service for another property passing through the Property;
 - 6.4.2 a wall being or not being a party wall or the Property being affected by an

easement for support or not having the benefit of an easement for support;

- 6.4.3 any change in the Property due to fair wear and tear before Completion;
- 6.4.4 a promise, representation or statement about this Contract, the Property or the Lease, not made in this Contract;
- 6.4.5 any Breach of Covenant described in the Schedule or disclosed elsewhere in this Contract;
- 6.4.6 the ownership or location of any dividing fence;
- 6.4.7 the ownership of any fuel storage tank; and
- 6.4.8 anything disclosed in this Contract (except an Affecting Interest).

7. Seller warranties

7.1 The Seller warrants that at the Date of this Contract:

- 7.1.1 the Seller will be able to complete at Completion;
- 7.1.2 the Seller has no knowledge of any unsatisfied judgment, order or writ affecting the Property;
- 7.1.3 the Seller has no knowledge of any current or threatened claims, notices or proceedings that may lead to a judgment, order or writ affecting the Property; and
- 7.1.4 the Seller is not aware of any material change in the matters disclosed in the Required Documents.

7.2 The Seller warrants that on Completion:

- 7.2.1 the Seller will be or will be able to be the registered proprietor of the Lease and will own the rest of the Property free from any Affecting Interests;
- 7.2.2 the Seller will have the capacity to complete;
- 7.2.3 there will be no unsatisfied judgment, order or writ affecting the Property;
- 7.2.4 the Seller has no knowledge of any current or threatened claims, notices or proceedings that may lead to a judgment, order or writ affecting the Property;
- 7.2.5 the Seller is not aware of any encroachments by or upon the Property except as disclosed. This warranty does not extend to the location of any dividing fence;
- 7.2.6 there will be no Breach of Covenant except as disclosed in this Contract; and
- 7.2.7 unless disclosed in the Schedule or elsewhere in this Contract, the Lease is a

Non-Land Rent Lease and not a Land Rent Lease.

- 7.3 The Seller gives no warranties as to the present state of repair of any of the Improvements or condition of the Land, except as required by law.

8. Adjustments

- 8.1 The Seller is entitled to the Income and is liable for all Land Charges up to and including Completion after which the Buyer will be entitled to the Income and liable for the Land Charges, provided the Seller will be liable for all land tax in respect of the Property if the 'Land Tax to be adjusted?' option on the Schedule is marked 'No'.
- 8.2 The parties must pay any adjustment of the Income and Land Charges calculated under clause 8.1 on Completion.
- 8.3 Any concessional Land Charges must be adjusted on the concessional amount of those Land Charges.
- 8.4 If any of the Land Charges have not been assessed on Completion, the Buyer will be entitled to retain in the Buyer Solicitor trust account from the Balance of the Price an amount sufficient to pay the Seller's proportion of those Land Charges.
- 8.5 Attached are copies of the relevant invoices for the cost of obtaining the Building and Compliance Inspection Report and Pest Inspection Report. The Buyer must pay to the Seller the cost of obtaining the Building and Compliance Inspection Report and the Pest Inspection Report as required by section 18 of the Sale of Residential Property Act on Completion.

9. Terms of possession

- 9.1 The Seller must give the Buyer vacant possession of the Property on Completion unless otherwise marked in the Schedule.
- 9.2 If the Property is sold subject to a tenancy, the Seller has:
 - 9.2.1 attached to this Contract a copy of the signed Tenancy Agreement; or
 - 9.2.2 completed the tenancy summary on page 2 of this Contract.
- 9.3 If the Property is sold subject to a tenancy:
 - 9.3.1 the Seller warrants that except as disclosed in this Contract:
 - (a) if applicable, the rental bond has been provided in accordance with the Residential Tenancies Act;
 - (b) if applicable, the Seller has complied with the Residential Tenancies Act;

- (c) if applicable, the Seller has no notice of any application by the tenant for the release of the rental bond;
- (d) no notices relating to the tenancy have been served on the Seller or any agent of the Seller or on the tenant other than as disclosed in this Contract and there are no outstanding claims or disputes with the tenant;
- (e) there is no unremedied breach of the Tenancy Agreement by the tenant or the Seller; and
- (f) if applicable, the Tenancy Agreement incorporates:
 - (i) the Prescribed Terms; and
 - (ii) any other terms approved by the Residential Tenancies Tribunal.

9.3.2 The Seller must hand to the Buyer on Completion:

- (a) any written Tenancy Agreement to which this Contract is subject;
- (b) a notice of attornment;
- (c) if applicable, any notice required to be signed by the Seller to transfer the rental bond by the Office of Rental Bonds to the Buyer; and
- (d) if applicable, any other notice required to be signed by the Seller under the Residential Tenancies Act.

9.3.3 The Buyer indemnifies the Seller in relation to any liability which the Seller incurs or to which the Seller is subject under the tenancy because of matters occurring after Completion.

10. Inspection and condition of Property

- 10.1 The Buyer may on reasonable notice to the Seller and at reasonable times inspect the Property before Completion.
- 10.2 The Seller must leave the Property clean and tidy on Completion.

11. Inspection of building file

- 11.1 The Seller must, if requested by the Buyer, give to the Buyer all authorities necessary to enable the Buyer (or Buyer's nominee) to inspect and obtain at the Buyer's expense, copies of:
 - 11.1.1 any document in relation to the Land and Improvements held by any government or statutory authority; and

- 11.1.2 any notices issued by any authority in relation to the Land and Improvements.

12. Additional Seller obligations

- 12.1 Except for any Breach of Covenant disclosed in this Contract, the Seller must before Completion:
 - 12.1.1 comply with any notice issued by any authority before the Date of this Contract which requires work to be done or money to be spent on or in relation to the Property or the Lease;
 - 12.1.2 obtain approval for any Development conducted on the Land;
 - 12.1.3 comply with the Lease to the extent to which the Seller is required to comply up to Completion;
 - 12.1.4 comply with any obligations on the Seller in a registered restrictive covenant affecting the Lease; and
 - 12.1.5 give the Buyer notice of any material change (other than fair wear and tear) the Seller becomes aware of in the matters disclosed in the Required Documents, since the date of each of the relevant Required Documents.

13. Electronic transaction

- 13.1 In this clause 13, the following words mean:

Adjustment Figures mean details of the adjustments to be made to the Price under this Contract;

Completion Time means the time of day on the Date for Completion when the Electronic Transaction is to be Completed;

Conveyancing Transaction has the meaning given in the Participation Rules;

Digitally Signed has the meaning given in the Participation Rules and **Digitally Sign** has a corresponding meaning;

Discharging Mortgagee means any discharging mortgagee, chargee, covenant chargee or caveator whose provision of a Digitally Signed discharge of mortgage, discharge of charge or withdrawal of caveat is required in order for unencumbered title to the Lease to be transferred to the Buyer;

ECNL means the *Electronic Conveyancing National Law (ACT) Act 2020 (ACT)*;

Effective Date means the date on which the Conveyancing Transaction is agreed to be an Electronic Transaction under clause 13.2.2 or, if clause 13.2.1 applies, the Date of this Contract;

Electronic Document means a caveat, a Crown lease or an instrument as defined in the Land Titles Act which may be created and Digitally Signed in an Electronic Workspace;

Electronic Transaction means a Conveyancing Transaction to be conducted for the parties by their legal representatives as Subscribers using an ELN and in accordance with the ECNL and the Participation Rules;

Electronic Transfer means a transfer of the Lease under the Land Titles Act to be prepared and Digitally Signed in the Electronic Workspace established for the purposes of the parties' Conveyancing Transaction;

Electronic Workspace has the meaning given in the Participation Rules;

Electronically Tradeable means a land title dealing that can be lodged electronically;

ELN has the meaning given in the Participation Rules;

FRCGW Remittance means a remittance which the Buyer must make in accordance with the Withholding Law and clauses 51.4 to 51.8;

GSTRW Payment means a payment which the Buyer must make in accordance with the Withholding Law and clauses 53.5 to 53.9;

Incoming Mortgagee means any mortgagee who is to provide finance to the Buyer on the security of the Lease and to enable the Buyer to pay the whole or part of the price;

Land Registry has the meaning given in the Participation Rules;

Lodgment Case has the meaning given in the Participation Rules;

Mortgagee Details mean the details which a party to the Electronic Transaction must provide about any Discharging Mortgagee of the Land as at Completion;

Nominated ELN means the ELN specified in the Schedule;

Participation Rules mean the participation rules as determined by the ECNL;

Populate means to complete data fields in the Electronic Workspace;

Prescribed Requirement has the meaning given in the Participation Rules;

Subscribers has the meaning given in the Participation Rules; and

Title Data means the details of the title to the Lease made available to the Electronic Workspace by the Land Registry.

- 13.2 This Conveyancing Transaction is to be conducted as an Electronic Transaction and this Contract is amended as required if:
- 13.2.1 this Contract says that it is an Electronic Transaction; or
 - 13.2.2 the parties otherwise agree that it is to be conducted as an Electronic Transaction.
- 13.3 However, this Conveyancing Transaction is not to be conducted as an Electronic Transaction:
- 13.3.1 if the title to the Lease is not Electronically Tradeable or the transfer of the Lease is not eligible to be lodged electronically; or
 - 13.3.2 if, at any time after the Effective Date, but at least 14 days before the Date for Completion, a party serves a notice on the other party stating a valid reason why it cannot be conducted as an Electronic Transaction.
- 13.4 If, because of clause 13.3.2, this Conveyancing Transaction is not to be conducted as an Electronic Transaction:
- 13.4.1 each party must:
 - (a) bear equally any disbursements or fees; and
 - (b) otherwise bear that party's own costs; incurred because this Conveyancing Transaction was to be conducted as an Electronic Transaction; and
 - 13.4.2 if a party has paid all of a disbursement or fee which by reason of this clause, is to be borne equally by the parties, that amount must be adjusted on Completion.
- 13.5 If this Conveyancing Transaction is to be conducted as an Electronic Transaction:
- 13.5.1 to the extent that any other provision of this Contract is inconsistent with this clause, the provisions of this clause prevail and this Contract is amended to give full effect to the Electronic Transaction;
 - 13.5.2 without limiting clause 13.5.1, clause 5.2 does not apply;
 - 13.5.3 the parties must conduct the Electronic Transaction:
 - (a) in accordance with the Participation Rules and the ECNL; and
 - (b) using the Nominated ELN, unless the parties otherwise agree;
 - 13.5.4 a party must pay the fees and charges payable by that party to the ELN and the

- Land Registry as a result of this transaction being an Electronic Transaction; and
- 13.5.5 a document which is an Electronic Document is served as soon as it is first Digitally Signed in the Electronic Workspace on behalf of the party required to serve it.
- 13.6 The Seller must within 7 days of the Effective Date:
- 13.6.1 create an Electronic Workspace;
- 13.6.2 Populate the Electronic Workspace with Title Data, the Date for Completion and, if applicable, Mortgagee Details; and
- 13.6.3 invite the Buyer and any Discharging Mortgagee to the Electronic Workspace.
- 13.7 If the Seller has not created an Electronic Workspace in accordance with clause 13.6, the Buyer may create an Electronic Workspace. If the Buyer creates the Electronic Workspace the Buyer must:
- 13.7.1 Populate the Electronic Workspace with Title Data;
- 13.7.2 create and Populate the Electronic Transfer;
- 13.7.3 Populate the Electronic Workspace with the Date for Completion and a nominated Completion Time; and
- 13.7.4 invite the Seller and any Incoming Mortgagee to join the Electronic Workspace.
- 13.8 Within 7 days of receiving an invitation from the Seller to join the Electronic Workspace, the Buyer must:
- 13.8.1 join the Electronic Workspace;
- 13.8.2 create and Populate the Electronic Transfer;
- 13.8.3 invite any Incoming Mortgagee to join the Electronic Workspace; and
- 13.8.4 Populate the Electronic Workspace with a nominated Completion Time.
- 13.9 If the Buyer has created the Electronic Workspace the Seller must within 7 days of being invited to the Electronic Workspace:
- 13.9.1 join the Electronic Workspace;
- 13.9.2 Populate the Electronic Workspace with Mortgagee Details, if applicable; and
- 13.9.3 invite any Discharging Mortgagee to join the Electronic Workspace.
- 13.10 To complete the financial settlement schedule in the Electronic Workspace:
- 13.10.1 the Seller must provide the Buyer with Adjustment Figures at least 2 Business Days before the Date for Completion;
- 13.10.2 the Buyer must confirm the Adjustment Figures at least 1 Business Day before the Date for Completion; and
- 13.10.3 if the Buyer must make a GSTRW Payment and / or an FRCGW Remittance, the Buyer must Populate the Electronic Workspace with the payment details for the GSTRW Payment or FRCGW Remittance payable to the ATO at least 2 Business Days before the Date for Completion.
- 13.11 Before Completion, the parties must ensure that:
- 13.11.1 all Electronic Documents which a party must Digitally Sign to complete the Electronic Transaction are Populated and Digitally Signed;
- 13.11.2 all certifications required by the ECNL are properly given; and
- 13.11.3 they do everything else in the Electronic Workspace which that party must do to enable the Electronic Transaction to proceed to Completion.
- 13.12 If Completion takes place in the Electronic Workspace:
- 13.12.1 payment electronically on Completion of the Balance of the Price in accordance with clause 2.6 is taken to be payment by a single unendorsed bank cheque; and
- 13.12.2 clauses 51.4.3, 51.4.4, 53.8 and 53.9 do not apply.
- 13.13 If the computer systems of any of the Land Registry, the ELN, the ATO or the Reserve Bank of Australia are inoperative for any reason at the Completion Time agreed by the parties, a failure to complete this Contract for that reason is not a default under this Contract on the part of either party.
- 13.14 If the computer systems of the Land Registry are inoperative for any reason at the Completion Time agreed by the parties, and the parties agree that financial settlement is to occur despite this, then on financial settlement occurring:
- 13.14.1 all Electronic Documents Digitally Signed by the Seller, any discharge of mortgage, withdrawal of caveat or other Electronic Document forming part of the Lodgment Case for the Electronic Transaction shall be taken to have been unconditionally and irrevocably delivered to the Buyer or

the Buyer's mortgagee at the time of financial settlement; and

13.14.2 the Seller shall be taken to have no legal or equitable interest in the Property.

13.15 If the parties do not agree about the delivery before Completion of one or more documents or things that cannot be delivered through the Electronic Workspace, the party required to deliver the documents or things:

13.15.1 holds them on Completion in escrow for the benefit of the other party; and

13.15.2 must immediately after Completion deliver the documents or things to, or as directed by the party entitled to them.

14. Off the plan purchase and Compliance Certificate

14.1 If the Lease contains a Building and Development Provision which has not been complied with at the Date of this Contract, and clause 4.2 does not apply:

14.1.1 where the Seller is obliged to construct Improvements by Completion, before the Date for Completion, the Seller must at the Seller's expense complete the construction of the Improvements promptly and in a good and workmanlike manner substantially in accordance with the proposed plan, specifications and inclusions list attached; and

14.1.2 on or before Completion, the Seller must at the Seller's expense give to the Buyer evidence that a Compliance Certificate has been obtained.

15. Goods

15.1 The Seller gives no warranties as to the present state of repair of any of the Goods except as required by law.

15.2 The Goods are included in the Price.

15.3 The Seller warrants that the Goods are unencumbered and that the Seller has the right to sell them.

15.4 The Goods become the Buyer's property on Completion.

15.5 Except for fair wear and tear, the Seller must give the Goods to the Buyer on Completion in the same state of repair they are in at the Date of this Contract.

16. Errors and misdescriptions

16.1 If, before Completion, the Buyer becomes aware of an error in the description of the Property the Buyer may:

16.1.1 identify whether the error is material or not material, and ask the Seller to arrange for the error to be corrected before Completion; and

16.1.2 if the error is not corrected before Completion:

(a) for an error that is material — rescind this Contract, or complete this Contract and make a claim for compensation; and

(b) for an error that is not material — complete this Contract and make a claim for compensation.

16.2 This clause applies even if the Buyer did not take notice of or rely on anything in this Contract containing or giving rise to the error or misdescription.

16.3 The Buyer is not entitled to compensation to the extent the Buyer knew the true position before the Date of this Contract.

17. Compensation claims by Buyer

17.1 To make a claim for compensation (including a claim under clause 16) the Buyer must give notice to the Seller before Completion specifying the amount claimed and:

17.1.1 the Seller can rescind if in the case of a claim that is not a claim for delay:

(a) the total amount claimed exceeds 5% of the Price;

(b) the Seller gives notice to the Buyer of an intention to rescind; and

(c) the Buyer does not give notice to the Seller waiving the claim within 14 days after receiving the notice; and

17.1.2 if the Seller does not rescind under clause 17.1.1, the parties must complete and:

(a) the lesser of the total amount claimed and 5% of the Price must be paid out of the Price to, and held by, the Stakeholder until the claim is finalised or lapses;

(b) the amount held is to be invested by the Stakeholder (at the risk of the party who becomes entitled to it) with an Australian bank in an interest-bearing account at call in the name of

- the Stakeholder in trust for the Seller and the Buyer;
 - (c) the claim must be finalised by an arbitrator appointed by the parties or, if an appointment is not made within 28 days of Completion, by an arbitrator appointed by the President of the Law Society of the Australian Capital Territory at the request of a party;
 - (d) the decision of the arbitrator is final and binding;
 - (e) the costs of the arbitration must be shared equally by the parties unless otherwise determined by the arbitrator. For clarity, the arbitrator has the power to award indemnity costs on a legal basis against either party;
 - (f) the Buyer is not entitled, in respect of the claim, to more than the total amount claimed and the costs of the Buyer;
 - (g) interest on the amount held, after deduction of all taxes and bank charges, Stakeholder administration fee and other similar charges and expenses, must be paid to the parties equally or as otherwise determined by the arbitrator; and
 - (h) the claim lapses if the parties do not appoint an arbitrator and neither party asks the President of the Law Society of the Australian Capital Territory to appoint an arbitrator within 90 days after Completion and the amount held by the Stakeholder must be paid immediately to the Seller without any further authority being necessary.
- 18.3.2 be ready willing and able to complete but for some default or omission of the other party.
- 18.4 Completion at the time date and place specified in the Notice to Complete is an essential term.
- 18.5 Where one party is in default (other than failing to complete) the other party may at any time after the default serve the party in default a Default Notice.
- 18.6 A Default Notice:
- 18.6.1 must specify the default;
 - 18.6.2 must require the party served with the Default Notice to rectify the default within 7* days after service of the Default Notice (excluding the date of service), except in the case of a Default Notice for the purposes of clause 52.6, in which case the period specified in clause 52.6 will apply; and
 - 18.6.3 cannot be used to require a party to complete this Contract.
- 18.7 At the time the Default Notice is served, the party serving the Default Notice must not be in default.
- 18.8 The time specified in a Default Notice to rectify the specified default is an essential term.
- 18.9 Clauses 19 or 20 will apply as appropriate where the party served does not comply with the Notice to Complete or the Default Notice which complies with this clause.
- 18.10 If the party serving a notice under this clause varies the time referred to in the notice at the request of the other party, the time agreed to in the variation remains an essential term. The consent to the variation must be in writing and be served on the other party.
- 18.11 The parties agree that the time referred to in clauses 18.2 and 18.6.2 is fair and reasonable.

18. Notice to Complete and Default Notice

- 18.1 If Completion does not take place in accordance with clause 2.8, either party may, at any time after the Date for Completion, serve the other party a Notice to Complete.
- 18.2 A Notice to Complete must appoint a time during business hours and a date being not less than 14* days after service of the Notice to Complete (excluding the date of service) by which and a place in Canberra at which to complete this Contract.
- 18.3 At the time the Notice to Complete is served the party serving the Notice to Complete must:
- 18.3.1 not be in default; and

19. Termination — Buyer default

- 19.1 If the Buyer does not comply with a Notice to Complete or a Default Notice or is otherwise in breach of an essential term then the Seller may by notice served on the Buyer terminate and may then keep, or recover and keep, the Deposit (except so much of it as exceeds 10% of the Price) and either:
- 19.1.1 sue the Buyer for breach; or
 - 19.1.2 resell the Property and any deficiency arising on the resale and all expenses of and incidental to the resale or attempted resale and the Buyer's default are

* Alter as necessary

recoverable by the Seller from the Buyer as liquidated damages provided the Seller has entered into a contract for the resale of the Property within 12 months of termination.

- 19.2 In addition to any money kept or recovered under clause 19.1, the Seller may retain on termination any other money paid by the Buyer as security for any damages awarded to the Seller arising from the Buyer's default provided that proceedings for the recovery of damages are commenced within 12 months of termination.

20. Termination – Seller default

- 20.1 If the Seller does not comply with a Notice to Complete or a Default Notice or is otherwise in breach of an essential term the Buyer may by notice served on the Seller either:

- 20.1.1 terminate and seek damages; or
- 20.1.2 enforce without further notice any other rights and remedies available to the Buyer.

- 20.2 If the Buyer terminates, the Stakeholder is authorised to refund to the Buyer immediately any money paid on account of the Price.

21. Rescission

- 21.1 Unless section 15 of the Sale of Residential Property Act applies, if this Contract is rescinded, it is rescinded from the beginning, and unless the parties otherwise agree:

- 21.1.1 the Deposit and all other money paid by the Buyer must be refunded to the Buyer immediately without any further authority being necessary; and
- 21.1.2 neither party is liable to pay the other any amount for damages, costs or expenses.

22. Damages for delay in Completion

- 22.1 If Completion does not occur by the Date for Completion, due to the default of either party, the party who is at fault must pay the other party as liquidated damages on Completion:

- 22.1.1 if the defaulting party is the Seller, interest on the Price at the rate this Contract says on page 2, calculated on a daily basis from the date 7 days after the Date for Completion to Completion;
- 22.1.2 if the defaulting party is the Buyer, interest on the Price at the rate this Contract says on page 2, calculated on a daily basis from the date 7 days after the Date for Completion to Completion; and
- 22.1.3 the amount this Contract says on page 2 to be applied towards any legal costs and disbursements incurred by the party not

at fault if Completion occurs later than 7 days after the Date for Completion.

- 22.2 Whether or not percentages are inserted in clauses 22.1.1 or 22.1.2 the party at fault must pay the amount specified in clause 22.1.3 in addition to any other damages to which the party not at fault is entitled both at law and under this Contract.

- 22.3 The parties agree that:

- 22.3.1 the amount of any damages payable under clause 22.1.1 or clause 22.1.2 to the party not in default is a genuine and honest pre-estimate of loss to that party for the delay in Completion, and
- 22.3.2 the damages must be paid on Completion.

23. Foreign Buyer

- 23.1 The Buyer warrants the Commonwealth Treasurer cannot prohibit and has not prohibited the transfer of the Lease under the *Foreign Acquisitions and Takeovers Act 1975* (Cth).

- 23.2 This clause is an essential term.

24. GST

- 24.1 If a party must pay the Price or provide any other consideration to another party under this Contract, GST is not to be added to the Price or amount, unless this Contract provides otherwise.

- 24.2 If the Price is stated in the Schedule to exclude GST and the sale of the Property is a taxable supply, the Buyer must pay to the Seller on Completion an amount equal to the GST payable by the Seller in relation to the supply.

- 24.3 If under this Contract a party (Relevant Party) must make an adjustment, pay an amount to another party (excluding the Price but including the Deposit if it is released or forfeited to the Seller) or pay an amount payable by or to a third party:

- 24.3.1 the Relevant Party must adjust or pay at that time any GST added to or included in the amount; but
- 24.3.2 if this Contract says this sale is a taxable supply, and payment would entitle the Relevant Party to claim an input tax credit, the adjustment or payment is to be worked out by deducting any input tax credit to which the party receiving the adjustment or payment is or was entitled multiplied by the GST Rate.

- 24.4 If this Contract says this sale is the supply of a going concern:

- 24.4.1 the parties agree the supply of the Property is the supply of a going concern;
- 24.4.2 the Seller must on Completion supply to the Buyer all of the things that are necessary for the continued operation of the enterprise;
- 24.4.3 the Seller must carry on the enterprise until Completion;
- 24.4.4 the Buyer warrants to the Seller that on Completion the Buyer will be registered or required to be registered; and
- 24.4.5 if for any reason (and despite clauses 24.1 and 24.4.1) the sale of the Property is not the supply of a going concern but is a taxable supply:
 - (a) the Buyer must pay to the Seller on demand the amount of any GST payable by the Seller in respect of the sale of the Property; and
 - (b) the Buyer indemnifies the Seller against any loss or expense incurred by the Seller in respect of that GST and any breach of clause 24.4.5(a).
- 24.5 If this Contract says the margin scheme applies:
 - 24.5.1 the Seller warrants that it can use the margin scheme; and
 - 24.5.2 the Buyer and Seller agree that the margin scheme is to apply, in respect of the sale of the Property.
- 24.6 If this Contract says the sale is a taxable supply, does not say the margin scheme applies to the sale of the Property, and the sale is in fact not a taxable supply, then the Seller must pay the Buyer on Completion an amount of one-eleventh of the Price.
- 24.7 Unless the margin scheme applies the Seller must, on Completion, give the Buyer a tax invoice for any taxable supply by the Seller by or under this Contract.

25. Power of attorney

- 25.1 Any party who signs this Contract or any document in connection with it under a power of attorney must, on request and without cost, provide the other party with a true copy of the registered power of attorney.

26. Notices claims and authorities

- 26.1 Notices, claims and authorities required or authorised by this Contract must be in writing.
- 26.2 To serve a notice a party must:
 - 26.2.1 leave it at; or

- 26.2.2 send it by a method of post requiring acknowledgment of receipt by the addressee to,
 - the address of the person to be served as stated in the Schedule or as notified by that person to the other as that person's address for service under this Contract; or
- 26.2.3 serve it on that party's solicitor in any of the above ways; or
- 26.2.4 deliver it to an appropriate place in the facilities of a document exchange system in which the recipient solicitor has receiving facilities (and in the latter case service is deemed effected on the Business Day following delivery); or
- 26.2.5 transmit it by email to a party's solicitor to the email address for that solicitor as stated in the Schedule or as notified by that solicitor to the other solicitor as the email address for service under this Contract.
- 26.3 A party's solicitor may give a notice, claim or authority on behalf of that party.

27. Unit title

- 27.1 The following clauses 28 to 39 inclusive apply if the Property is a Unit.

28. Definitions and interpretation

- 28.1 A reference in these clauses 28 to 39 inclusive to a section or Part is a reference to a section or Part of the Unit Titles Management Act.
- 28.2 For the purposes of a claim for compensation pursuant to clause 39, the provisions of clause 17 will apply provided that clause 17.1.1(c) is amended to read "the Buyer does not give notice to the Seller waiving the claim, or so much of it as exceeds 5% of the Price within 14 days after receiving the notice".

29. Title to the Unit

- 29.1 Clauses 3.1, 3.2 and 3.3 do not apply.
- 29.2 The Unit Title is or will before Completion be granted under the Planning Act and is or will before Completion be registered under the *Land Titles (Unit Titles) Act 1970 (ACT)*.
- 29.3 The Unit Title is transferred subject to the Units Plan under which the lease to the Unit is held.

30. Buyer rights limited

- 30.1 In addition to clause 6, the Buyer cannot make any requisition on title or make a claim for compensation in respect of any Breach of Covenant of the Unit Title, any breach of the

lease of the Common Property or breach of rules of the Owners Corporation disclosed in this Contract.

31. Adjustment of contribution

31.1 Any adjustment under clause 8 must include an adjustment of the contributions to the Owners Corporation under section 78 and section 89 of the Unit Titles Management Act.

32. Inspection of Unit

32.1 For the purposes of clause 10.1 Property includes the Common Property.

33. Seller warranties

33.1 The Seller warrants that at the Date of this Contract:

33.1.1 to the Seller's knowledge, there are no unfunded latent or patent defects in the Common Property or Owners Corporation assets, other than the following:

- (a) defects arising through fair wear and tear; and
- (b) defects disclosed in this Contract;

33.1.2 the Owners Corporation records do not disclose any defects to which the warranty in clause 33.1.1 applies;

33.1.3 to the Seller's knowledge, there are no actual, contingent or expected unfunded liabilities of the Owners Corporation that are not part of the Owners Corporation's normal operating expenses, other than liabilities disclosed in this Contract;

33.1.4 the Owners Corporation records do not disclose any liabilities of the Owners Corporation to which the warranty in clause 33.1.3 applies;

33.1.5 the Seller or any occupier of the Unit has not committed any act or omission which may cause the Owners Corporation to incur any costs or perform any repairs;

33.1.6 there is no amount payable to the Owners Corporation by the Seller other than a contribution due under section 78 and section 89 of the Unit Titles Management Act; and

33.1.7 except for an unregistered Units Plan, the rules of the Owners Corporation are, as appropriate:

- (a) as set out in Schedule 4 to the Unit Titles Management Act; or

(b) in respect of a corporation established under the *Unit Titles Act 1970* (*repealed*) and that was in existence immediately prior to 30 March 2012, the articles in force immediately prior to 30 March 2012; or

(c) in respect of a corporation established under the Unit Titles Act and that was in existence immediately prior to 30 March 2012, the articles in force immediately prior to 30 March 2012;

except for any alterations to those rules registered under section 108.

33.2 For clauses 33.1.1 to 33.1.4 inclusive, a Seller is taken to have knowledge of a thing if the Seller has actual knowledge, or ought reasonably to have knowledge, of that thing.

33.3 The Seller warrants that at Completion to the Seller's knowledge, there are no circumstances (other than circumstances disclosed in this Contract) in relation to the affairs of the Owners Corporation likely to significantly prejudice the Buyer.

33.4 For the purposes of clause 7, Property includes the Common Property.

33.5 These warranties are in addition to those given in clause 7.

34. Damage or destruction before Completion

34.1 If the Unit is destroyed or substantially damaged before Completion not due to the fault of either party then either party may by notice to the other rescind and clause 21 applies.

34.2 For the purposes of clause 34.1, the Unit is deemed to be substantially damaged if though not destroyed is unfit for the use to which it was being put at the Date of this Contract or, if not being used at that time, for the purpose permitted by the Unit Title.

35. Notice to Owners Corporation

35.1 The parties must comply with the rules of the Owners Corporation in relation to notification of the sale and purchase of the Unit.

36. Unit Title Certificate

36.1 On Completion the Buyer must pay to the Seller the fee as determined by the Minister pursuant to section 119(7) of the Units Title Management Act for the Unit Title Certificate attached.

37. Unregistered Units Plan

Warning: The following clauses 37, 38 and 39 do not encompass all obligations, rights and remedies under Part 2.9 of the Property Act for off the plan contracts.

- 37.1 This clause 37 applies if at the Date of this Contract, the Units Plan has not been registered.
- 37.2 The Seller must attach a copy of the proposed Units Plan or a sketch plan showing the location and dimensions of the Unit sufficient to enable the Buyer to determine the location and dimensions of the Unit in relation to other units and the Common Property in the proposed development.
- 37.3 If the Units Plan is not registered by the date specified in the Schedule, or elsewhere in this Contract, the Buyer may at any time after that date by notice served on the Seller require that the Units Plan be registered within 14 days of the service of the notice. If the Units Plan is not registered within the time limited by the notice the Buyer may at any time after expiry of the time in the notice rescind and clause 21 will apply.
- 37.4 If the Seller notifies the Buyer that the Units Plan is registered before rescission under this clause, the Buyer will not be entitled to rescind under this clause.
- 37.5 The Buyer cannot make any objection or requisition on title or claim for compensation in respect of:
- 37.5.1 any minor variations to the Unit between the plan attached, and the Units Plan registered by the Registrar General; or
- 37.5.2 any minor alterations required by an authority or the Registrar General in the number, size, location or Unit Entitlement of any other unit in the Units Plan or in or to the Common Property provided the proportion of the Unit Entitlement of the Unit to the other units in the Units Plan is not varied.
- In this clause, a minor variation is any variation less than 5% to either the size or value of the Unit described in the plan attached.
- 37.6 After the Owners Corporation has been constituted under section 8, the Seller must cause the Owners Corporation to comply with the rules of the Owners Corporation and with Parts 2, 3, 4, 5 and 7 to the extent to which the Owners Corporation is required by law to comply with those provisions up to the Date for Completion.
- 37.7 The Seller must not permit the Owners Corporation to vary the rules of the Owners

Corporation from those set out in Schedule 4 of the Unit Title Management Act.

- 37.8 If clause 37.1 applies, the Seller must give to the Buyer a Unit Title Certificate at the Buyer's expense at least 7 days before Completion.
- 37.9 The parties acknowledge that the following must form part of the Contract:
- 37.9.1 a Disclosure Statement for the Unit that complies with the requirements of section 260 of the Property Act; and
- 37.9.2 if a right to approve the keeping of animals during the Developer Control Period is reserved — details of the reservation, including the kind and number of animals.
- 37.10 The Seller warrants that the information disclosed in the Disclosure Statement, including information in any Disclosure Update Notice, is accurate.

38. Rescission of Contract

- 38.1 The Buyer may, by written notice given to the Seller, rescind this Contract if:
- 38.1.1 there would be a breach of a warranty provided in any of clauses 33.1.1, 33.1.2, 33.1.3, 33.1.4 or 33.3, were this Contract completed at the time it is rescinded; or
- 38.1.2 there would be a breach of a warranty provided in clause 37.10:
- (a) were this Contract completed at the time it is rescinded; and
- (b) the Buyer is significantly prejudiced by the breach,
- and the breach does not relate to an amendment to the Development Statement that is an Excluded Change.
- 38.2 A notice must be given:
- 38.2.1 under clause 38.1.1:
- (a) if this Contract is entered before the Units Plan for the Unit is registered — not later than 3 days before the Buyer is required to complete this Contract; or
- (b) in any other case — not later than 14 days after the later of the following happens:
- (i) the Date of this Contract; and
- (ii) another period agreed between the Buyer and Seller ends; or

38.2.2 under clause 38.1.2 – at any time before the Buyer is required to complete this Contract.

38.3 If the Buyer rescinds this Contract, the Seller must repay any amount paid to the Seller towards the purchase of the Unit and otherwise the provisions of clause 21 will apply.

39. Claims for compensation

39.1 This clause 39 applies if, before Completion, the Buyer reasonably believes that, except as disclosed in this Contract, there would be a breach of a warranty established under any of clauses 33.1.1, 33.1.2, 33.1.3, 33.1.4, 33.3 or 37.10 were this Contract to be completed.

39.2 The Buyer may, by written notice given to the Seller:

39.2.1 tell the Seller:

- (a) about the breach; and
- (b) that the Buyer will complete this Contract; and

39.2.2 claim compensation for the breach.

39.3 A notice under clause 39.2 must be given:

- 39.3.1 if this Contract is entered before the Units Plan for the Unit is registered – not later than 3 days before the Buyer is required to complete this Contract; or
- 39.3.2 in any other case – not later than 14 days after the later of the following happens:
 - (a) the Buyer's copy of the Contract is received by the Buyer;
 - (b) another period agreed between the Buyer and Seller ends.

39.4 The Buyer may not claim compensation under this clause 39 only because of the breach of a warranty related to an amendment to the Development Statement that is an Excluded Change.

40. Community title

40.1 The following clauses 41 to 50 inclusive apply if the Property is, or will on Completion form, a Lot within a Community Title Scheme.

41. Definitions and interpretation

41.1 A reference in these clauses 40 to 50 inclusive to a section or Part is a reference to a section or Part of the Community Title Act.

42. Buyer rights limited

42.1 In addition to clause 6, the Buyer cannot make any requisition on title or make a claim for

compensation in respect of any breach of the lease of the Common Property or breach of rules or by-laws of the Community Title Body Corporate disclosed in this Contract.

43. Adjustment of contribution

43.1 Any adjustment under clause 8 must include an adjustment of the contributions to the fund under section 45.

44. Inspection of property

44.1 For the purposes of clause 10.1 Property includes the Common Property.

45. Unregistered Community Title Scheme

45.1 This clause 45 applies if at the Date of this Contract, the Community Title Scheme has not registered.

45.2 The Seller must attach a copy of the proposed Community Title Master Plan, or a sketch plan showing the location and dimensions of the Lot sufficient to enable the Buyer to determine the location and dimensions of the Lot in relation to other lots and the Common Property in the proposed scheme.

45.3 The Seller must attach a copy of the proposed Community Title Management Statement.

45.4 The Buyer cannot make any objection or requisition on title or claim for compensation in respect of:

45.4.1 any minor variations to the Lot between the plan attached, and the registered Community Title Master Plan; or

45.4.2 any minor alterations required by an authority or the Registrar General in the number, size, location or entitlement of any other Lot in the Community Title Scheme or in or to the Common Property provided the proportion of the entitlement of the Lot to the other lots in the Community Title Scheme is not varied; or

45.4.3 any minor variations between the proposed Community Title Management Statement and the registered Community Title Management Statement.

In this clause, a minor variation is any variation less than 5% to either the size or value of the Lot described in the plan attached and referred to in the proposed Community Title Management Statement.

45.5 The Seller must not permit the Community Title Body Corporate to vary the by-laws of the

Community Title Scheme from those set out in Schedule 1 of the Community Title Act, unless otherwise disclosed in this Contract.

- 45.6 After the Community Title Body Corporate has been constituted under section 30, the Seller must cause the Community Title Body Corporate to comply with Part 8 to the extent to which the Community Title Body Corporate is required by law to comply with those provisions up to the Date for Completion.

46. Incomplete development of Community Title Scheme

- 46.1 This clause 46 applies if at the Date of this Contract, development of the Community Title Scheme has not completed.
- 46.2 Until the development of a Community Title Scheme is finished, the Developer warrants to the Buyer that the development will be carried out in accordance with the scheme.
- 46.3 Without limiting the damages recoverable for breach of the warranty in clause 46.2, the Buyer may recover damages for the loss of a reasonably expected capital appreciation of the Lot that would have resulted from completion of the development in accordance with the terms of the Community Title Scheme.

47. Incomplete development of Lot

- 47.1 This clause 47 applies if at the Date of this Contract, the Lot is to be developed or further developed in accordance with the Community Title Scheme. For clarity, this clause does not apply if an unconditional Compliance Certificate has issued before the Date of this Contract and the Seller gives to the Buyer evidence acceptable to the Registrar General that an unconditional Compliance Certificate has issued for the Lot, or if the Seller gives an unconditional Compliance Certificate to the Buyer on Completion.
- 47.2 The Buyer becomes bound to develop the Lot in accordance with the Community Title Scheme.
- 47.3 The Seller must give written notice of the proposed sale of the Lot to the Planning and Land Authority.
- 47.4 The Buyer must:
- 47.4.1 give to the Planning and Land Authority a written undertaking to develop the Lot in accordance with the Community Title Scheme (if a form is approved for an undertaking, the form must be used); and
- 47.4.2 give the Planning and Land Authority any security required by the Planning and Land Authority, within 28 days after notice of the transaction was given to the

Planning and Land Authority, for the development of the Lot in accordance with the Community Title Scheme.

48. Required first or top sheet

- 48.1 The Seller must give to the Buyer, before the Buyer enters into this Contract, a Section 67 Statement.
- 48.2 The Section 67 Statement must:
- 48.2.1 state that the Lot is included in a Community Title Scheme that imposes obligations on the owner of the Lot;
- 48.2.2 state the name and address of:
- (a) the body corporate of the scheme; or
- (b) if it is the duty of the Community Title Body Corporate manager to act for the Community Title Body Corporate in supplying Section 56 Certificates – the manager;
- 48.2.3 state the amount of annual contributions currently fixed by the Community Title Body Corporate as payable by the owner of the Lot;
- 48.2.4 identify improvements on common property of the scheme for which the owner of the Lot is responsible;
- 48.2.5 be signed by the Seller or a person authorised by the Seller; and
- 48.2.6 be substantially complete.
- 48.3 The Seller must attach to this Contract, as a first or top sheet, a copy of the Section 67 Statement given to the Buyer under clause 48.1.
- 48.4 The Buyer may rescind this Contract if:
- 48.4.1 the Seller has not complied with clauses 48.1 and 48.3; and
- 48.4.2 Completion has not taken place.

49. Notice to Community Title Body Corporate

- 49.1 The parties must comply with the rules and by-laws of the Community Title Body Corporate in relation to notification of the sale and purchase of the Lot.

50. Section 56 Certificate

- 50.1 The Seller must give to the Buyer a Section 56 Certificate at least 7 days before Completion.
- 50.2 On Completion, the Buyer must pay to the Seller the fee charged for the Section 56 Certificate.

51. Foreign Resident Withholding Tax

Warning: The questions in the Schedule regarding the Relevant Price and the Clearance Certificates are not binding, and are included to remind the parties of their obligations under the Withholding Law.

Warning: The following clauses 51.1 to 51.8 are subject to the Withholding Law, and do not encompass all obligations under the Withholding Law.

51.1 In this clause 51 the following words have the following meanings:

CGT Asset has the meaning in the *Income Tax Assessment Act 1997*;

Clearance Certificate means a certificate issued under section 14-220 of the Withholding Law that covers the date of Completion;

Relevant Percentage means the percentage amount stated in section 14-200(3)(a) and 14-205(4)(a) of the Withholding Law;

Relevant Price means the higher of:

- the Price (including GST); and
- the market value of the CGT Assets sold under this Contract;

as at the Date of this Contract;

Variation Certificate means a certificate issued under section 14-235 of the Withholding Law that covers the date of Completion;

Withholding Amount means, subject to clauses 51.6 and 51.7, the Relevant Percentage of the first element of the CGT Asset's cost base (for all CGT Assets sold under this Contract) as at the Date of this Contract; and

Withholding Law means Subdivision 14-D of Schedule 1 of the *Taxation Administration Act 1953* and associated provisions.

51.2 If the Relevant Price is less than the dollar amount stated in section 14-215(1)(a) of the Withholding Law as at the Date of this Contract, the parties acknowledge that there are no obligations under the Withholding Law.

51.3 If Clearance Certificates for all the Sellers are provided to the Buyer prior to Completion, the parties acknowledge that there are no obligations under the Withholding Law.

51.4 If neither clauses 51.2 or 51.3 apply, then:

51.4.1 the Seller must provide to the Buyer any information required to enable the Buyer to comply with clause 51.4.2(a), within 5 days of written request from the Buyer;

51.4.2 the Buyer must:

(a) lodge a purchaser payment notification form with the ATO; and

(b) give evidence of compliance with clause 51.4.2(a) to the Seller;

no later than 5 days before the Date for Completion;

51.4.3 the Seller irrevocably instructs the Buyer to draw as part of the Price, and the Buyer must draw and retain on Completion, an unendorsed bank cheque payable to the ATO for the Withholding Amount; and

51.4.4 the parties must both, on the date of Completion, attend the offices of an authorised collection agent of the ATO to deposit the bank cheque referred to in clause 51.4.3 in payment of the Withholding Amount following Completion.

51.5 If clause 51.4 applies and the parties do not comply with clause 51.4.4:

51.5.1 the Buyer indemnifies the Seller for any loss or damage resulting from the Buyer's delay in remitting and/or failure to remit the Withholding Amount to the ATO; and

51.5.2 the Buyer charges the Property (for the benefit of the Seller) with the Buyer's obligations under this clause 51.5.

51.6 Where the Seller gives the Buyer a Variation Certificate prior to Completion, the Withholding Amount is the amount stated in the Variation Certificate.

51.7 Where Clearance Certificates for some but not all of the Sellers are provided to the Buyer prior to Completion, then the Withholding Amount is reduced by the same percentage as the percentage ownership of the Property of the Sellers that are subject to a Clearance Certificate.

51.8 Where a Clearance Certificate is provided by a Seller to the Buyer, the Seller warrants to the Buyer that that Seller is the entity referred to in the Clearance Certificate and is the relevant taxpayer for capital gains tax payable on the sale of the CGT Assets sold under this Contract.

52. Deposit by Instalments

52.1 The following clauses 52.2 to 52.8 inclusive only apply if the 'Deposit by Instalments' option on the Schedule is selected.

52.2 Clauses 2.1, 2.2, 2.3 and 2.4 are deleted.

52.3 The Buyer must pay the Deposit to the Stakeholder. The Seller agrees to accept the payment of the Deposit in two instalments as follows:

52.3.1 5% of the Price by cheque on the Date of this Contract (**First Instalment**); and

52.3.2 the balance of the Deposit (if it has not already been paid) by unendorsed bank cheque on the Date for Completion (**Second Instalment**);

and in every respect time is of the essence for payment of the First Instalment in this clause 52.3.1.

52.4 The Deposit becomes the Seller's property on Completion or on the earlier termination of this Contract by the Seller for the Buyer's default.

52.5 If the First Instalment of the Deposit is:

52.5.1 not paid on time and in accordance with clause 52.3; or

52.5.2 paid by cheque and the cheque is not honoured on first presentation,

the Buyer is in default and the Seller may terminate this Contract immediately by written notice to the Buyer (without the notice otherwise necessary under clause 18) and clause 19 applies. If the Seller does not terminate this Contract in accordance with this clause 52.5, then this Contract remains on foot, subject to this clause 52.5, until either the Seller terminates the Contract pursuant to this clause 52.5, or waives the benefit of this clause 52.5 pursuant to clause 52.8.

52.6 If the Second Instalment of the Deposit is not paid on time in accordance with clause 52.3, then the Seller cannot immediately terminate the Contract for the Buyer's breach of an essential condition. The Seller must make timing of the payment of the Second Instalment an essential condition of the Contract by serving on the Buyer a Default Notice requiring the Buyer to pay the Second Instalment within 14* days after service of the Default Notice (excluding the date of service).

52.7 For clarity, the Buyer must pay the full Price to the Seller, on or before Completion.

52.8 These clauses 52.2 to 52.8 inclusive are for the benefit of the Seller. The Seller may at any time before this Contract is terminated notify the Buyer in writing that the benefit of these clauses 52.2 to 52.8 inclusive is waived.

53. Residential Withholding Tax

Warning: The following clauses 53.1 to 53.9 are subject to the Withholding Law, and do not encompass all obligations under the Withholding Law.

53.1 In this clause 53 the following words have the following meanings:

RW Amount means the amount which the Buyer must pay under section 14-250 of the Withholding Law;

RW Amount Information means the completed RW Amount details referred to on page 3 of this Contract; and

RW Percentage means the percentage amount stated in section 14-250(6), (8) and (9) of the Withholding Law, as applicable to the supply of the Property from the Seller to the Buyer.

53.2 The Seller must provide the Buyer with the RW Amount Information no later than 7 days after the Date of this Contract.

53.3 If the 'Buyer required to make a withholding payment?' option on the Schedule is selected 'no' or if no selection is made, the Seller warrants to the Buyer that the Buyer is not required to make a payment under section 14-250 in relation to the supply of the Property from the Seller to the Buyer.

53.4 The following clauses 53.5 to 53.9 inclusive only apply if the 'Buyer required to make a withholding payment?' option on the Schedule is selected 'yes'.

53.5 Subject to any adjustments to the Price that may arise after the date that the RW Amount Information is provided in accordance with clause 53.2 and which affect the RW Amount, the Seller warrants to the Buyer on the date that the RW Amount Information is provided to the Buyer that the Seller has provided the Buyer with the information required under section 14 255 of the Withholding Law in relation to the supply of the Property from the Seller to the Buyer, and that this information is true and correct to the Seller's knowledge.

53.6 The Buyer must provide the Seller with a copy of the 'GST property settlement withholding notification online form' confirmation email (or emails, if applicable) issued to the Buyer by the ATO no later than:

53.6.1 21 days after a written request from the Seller; or

53.6.2 7 days prior to the Date for Completion, whichever is the earlier.

53.7 The Buyer must provide the Seller with evidence of submission by the Buyer to the ATO of the 'GST property settlement date confirmation online form', with such evidence to be provided prior to or on Completion.

* Alter as necessary

- 53.8 The Seller irrevocably instructs the Buyer to draw as part of the Price, and the Buyer must draw and retain on Completion, an unendorsed bank cheque payable to the ATO for the RW Amount.
- 53.9 In relation to the unendorsed bank cheque required by clause 53.8, the Buyer must:
- 53.9.1 forward the unendorsed bank cheque to the ATO immediately after Completion; and
 - 53.9.2 provide the Seller with evidence of payment of the RW Amount to the ATO.

Block 5 Section 83 Denman Prospect
16 Romano Street, Denman Prospect
ACT 2611

SPECIAL CONDITIONS

54. DEFINITIONS

In this contract:

- (a) **Contract** means this Contract including the General Conditions, these Special Conditions and any Schedule, Appendix or Annexure;
- (b) **FATA** means *Foreign Acquisitions and Takeovers Act 1975* (Cth)
- (c) **Foreign Person** means:
 - i. a "foreign person" as defined in section 21A as the meaning is extended by section 4(6) of the FATA; or
 - ii. a "person to whom this section applies" within the meaning of section 26A as section 26A is affected by section 5A of the FATA.
- (d) **General Conditions** General Conditions means the ACT Law Society Contract for Sale CS10-2024 or as updated by the Law Society from time to time.
- (e) **Loss** includes any cost, liability, loss, fine, penalty, suit, claim, damage or proceeding.
- (f) **Raise Issue** means any of (and any combination of) the following:
 - i. make any claim (for damages or otherwise);
 - ii. make any requisition;
 - iii. object;
 - iv. deduct, or seek to deduct, from any monies otherwise payable to the Seller;
 - v. retain, or seek to retain, any monies otherwise payable to the Seller;
 - vi. rescind this Contract;
 - vii. terminate this Contract;
 - viii. require works to be undertaken to the Building or Land;
 - ix. require any documents, certificates, approvals or similar; or
 - x. delay Completion.

55. GENERAL

- (a) This Contract cannot be varied, except in in writing, which must be agreed to and executed by all parties.
- (b) A right created by this Contract cannot be waived except in writing signed by the party entitled to that right. Delay by a party in exercising a right does not constitute a waiver of that right, nor will a waiver (either wholly or in part) by a party of a right operate as a subsequent waiver of the same right or any other right of that party.

- (c) Each party must promptly execute all documents and do all things necessary or desirable to give full effect to the arrangements contained in this Contract.
- (d) The laws applicable in the Australian Capital Territory govern this Contract, and the parties submit to the non-exclusive jurisdiction of the courts of the State or Territory and any courts competent to hear appeals from those courts.
- (e) If a clause or part of a clause is unenforceable, voidable, invalid or illegal, it must be read down so as to be enforceable, valid and legal. If this is not possible, the clause (or where possible, the offending part) is taken to be severed from this Contract without affecting the enforceability, validity or legality of the remaining clauses (or parts of the clauses) which will continue in full force and effect. This clause has no effect if the severance alters the basic nature of this Contract or is contrary to public policy.
- (f) A right or obligation of a party that can operate or have effect on or after the completion, expiration, termination or rescission of this Contract will not merge on the occurrence of that event but will remain in full force and effect.
- (g) This Contract is properly executed if each party executes either this document or an identical document. In the latter case, this Contract takes effect when the separately executed documents are exchanged between the parties.
- (h) To the extent that General Conditions are inconsistent with these special conditions, these special conditions override the General Conditions.

56. GENERAL CONDITION AMENDMENTS

To the extent as permitted by law the General Conditions are amended as follows:

- (a) clause 22.1.1 is amended by inserting '0' before the '%' symbol;
- (b) clause 22.1.2 is amended by inserting '10' before the '%' symbol;
- (c) clause 26.2 is deleted and replaced with the following:
 - i. 26.2 To serve a notice a party must:
 - 1. 26.2.1 leave it at; or
 - 2. 26.2.2 send it by a method of post requiring acknowledgement of receipt by the addressee; or
 - 3. 26.2.3 send it by electronic mail; or
 - 4. 26.2.4 by delivering to an appropriate place in the facilities of a document exchange system,

to the address of the person to be served as stated in the Schedule, or as notified by that person to the other as that person's address for service under this Contract, or to that party's solicitor.

- (d) insert additional clause 26.4 as follows:
- i. 26.4 A notice is given:
 1. 26.4.1 if hand delivered, on the date of delivery;
 2. 26.4.2 if sent by facsimile transmission, on the date that the sender's facsimile machine records that the facsimile has been successfully transmitted in its entirety;
 3. 26.4.3 if sent by electronic mail, on the date the sender's electronic mail delivery system records that the electronic mail has been successfully transmitted in its entirety;
 4. 26.4.4 sent by prepaid ordinary mail within Australia, on the date being 2 Business Days after the date of posting; or
 5. 26.4.5 sent by prepaid express post International airmail between countries, on the date that is 7 Business Days after the date of posting.

57. CONDITION OF PROPERTY

- (a) The Buyer warrants to the Seller that the Buyer is satisfied with the condition of the Property at the Date of this Contract including any legal and physical defects (latent or patent), infestations and dilapidation.
- (b) The Buyer acknowledges that the Seller has disclosed any Unapproved Structures on the Land and that, unless otherwise provided in this Contract. The Buyer must not Raise Issue or require the Seller to obtain the relevant approvals for the Unapproved Structures.
- (c) The Buyer acknowledges that the Seller makes no warranty as to the status of any contamination that may or may not be present on the Property including the soil, ground water or substrata. The Buyer relies on its own enquiries with regard to any contamination on the Property. The Buyer must not Raise Issue with regard to any contamination which may or may not be present on the Property.
- (d) The Buyer must not Raise Issue due to any matter in relation to the Seller or the Property which was disclosed to the Buyer, or was reasonably capable of being found or discovered by the Buyer had the Buyer undertaken the usual enquiries, investigations and searches about the Property as would reasonably be expected of a prudent Buyer, in a proper and diligent manner.
- (e) Notwithstanding any matter in clause 57(d) the Buyer may not Raise Issue in relation to any of the following matters:
 - i. any encroachment by or on the Property;
 - ii. any dispute regarding any dividing fence;
 - iii. requirements of an authority in relation to the Property;
 - iv. non-compliance of the Property with any law;

- v. the existence or non-existence of any services or utilities to or through the Property.

58. KEYS

The Seller will provide the Buyer with keys necessary to gain access to the dwelling on the Land, as well as any other keys in possession of the Seller on Completion. The Buyer must not Raise Issue regarding any keys provided, or not provided, by the Seller on Completion.

59. ADJUSTMENTS

- (a) If Completion does not occur on the Date for Completion due to the default of the Buyer, the Buyer acknowledges that Land Charges under General Condition 8.1 will be adjusted from the Date for Completion.
- (b) The Buyer acknowledges that notwithstanding clause 59(a), the Seller will remain entitled to the Income up to the date of Completion.

60. SELLER AGENT

- (a) The Buyer warrants that it was not introduced directly or indirectly to the Seller, or the Property, by any person other than the Seller Agent, or in circumstances that would give rise to any claim for commission or remuneration with respect to the sale of the Property by any other person.
- (b) The Buyer indemnifies the Seller against any Loss arising from a breach of the warranty in clause 60(a).

61. ENTIRE AGREEMENT

The Buyer agrees that this Contract sets out the entire understanding between the parties concerning the subject matter of this Contract and that it supersedes any prior arrangement, contract or other agreement in relation to the subject matter of this Contract.

62. RELIANCE AND REPRESENTATIONS

The Buyer warrants to the Seller that it has entered into this Contract entirely on its own investigations and enquiries and does not rely on any representation by the Seller, Seller Solicitor or Seller Agent in relation to any matter in relation to the Property or this Contract.

63. FIRB APPROVAL

- (a) The Buyer warrants to the Seller that it does not require any approvals under the Australian Government's foreign investment policy to acquire the Property ("**FIRB Approval**") and that the Treasurer cannot make an order under Part II of the FATA regarding the acquisition of the Property by the Buyer.
- (b) The Buyer indemnifies the Seller against all liability or loss suffered or incurred by the Seller which arises directly or indirectly from a breach of any of the obligations of the Buyer under this clause 63.

64. DIRECTOR GUARANTEE AND INDEMNITY

If the Buyer is a corporation that is not listed on the Australian Stock Exchange or is a company limited by guarantee under the *Corporations Act 2001* (Cth), the Buyer acknowledges and confirms the following:

- (a) each director of the Buyer must and will provide a signed personal guarantee in the form of the Guarantee and Indemnity attached as Annexure A on the Date of this Contract ('Guarantee'); and
- (b) that each director of the Buyer has, on the Date of this Contract, properly executed the Guarantee attached to this Contract and agree to guarantee that corporation's performance of its obligations under this Contract.
- (c) The Buyer acknowledges and agrees that this Clause 64 is an essential term of this Contract.

65. INSOLVENCY AND INCAPACITY

- (a) If the Buyer is a corporation and:
 - i. petition is presented for the winding up of the Buyer and is not stayed, withdrawn or discharged within 21 days or a resolution is passed by the Buyer for its winding up;
 - ii. an administrator or controller (as defined in section 9 of the *Corporations Act 2001* (Cth)) is appointed over the whole or any part of the assets or undertakings of the Buyer;
 - iii. a liquidator is appointed in respect of the undertakings of the Buyer;
 - iv. becomes insolvent (as defined in section 9 of the *Corporations Act 2001* (Cth));
 - v. the Buyer enters any arrangement with its creditors in relation to the affairs of the Buyer,

then the Buyer will be deemed to be in default of this Contract and the Seller may terminate this Contract and General Condition 19 will apply.

- (b) A notice of termination under this clause 65 will not take effect during any stay period, as the term is defined in Section 451(E)(2) of the *Corporations Act 2001* (Cth)
- (c) If the Buyer is an individual and:
 - i. dies; or
 - ii. becomes incapable to manage their affairs due to unsoundness of mind,

then either party may rescind this Contract and General Condition 21 will apply.

66. DISPLAY HOME

- (a) Terms used in this clause 66 which are not otherwise defined, take their definition given to them in the Display Deed.
- (b) The Seller discloses and Buyer acknowledges that the Seller entered into the Denman Prospect Village Display Deed with Capital Estate Developments Pty Limited to build and operate a builder's display home on the Land, a copy of which is annexed to this Contract at Annexure B ('Display Deed').
- (c) As a condition of any sale during the Display Period, the Seller is required to enter into, and is required to have the buyer enter into, a Resale Deed, a copy of which is annexed to this Contract at Annexure C ('Resale Deed').
- (d) The Buyer warrants to the Seller that they have reviewed and satisfied themselves as to the terms and conditions of the Resale Deed and Display Deed and must not Raise Issue in relation to any of the terms of the respective documents.
- (e) The Buyer must sign and return the Resale Deed to the Seller no later than 7 days prior to the Date for Completion.
- (f) The Seller will provide the Buyer a fully executed copy of the Resale Deed, or any number of signed counterparts to form a fully executed copy, by Completion.
- (g) But for the Seller's obligation to pay the costs of the Developer, the Seller and Buyer will each pay their own costs in relation to the Resale Deed.

67. LICENCE

- (a) The Seller and Buyer agree to enter into a licence for the Seller to continue to operate a display home from the Property from Completion, a copy of the proposed licence is annexed to this Contract at Annexure D ('Occupation Licence').
- (b) The Buyer must sign and return the Occupation Licence to the Seller no later than 7 days prior to the Date for Completion.
- (c) The Seller will provide the Buyer a fully executed copy of the Occupation, or any number of signed counterparts to form a fully executed copy, by Completion.
- (d) The Seller and Buyer will each pay their own costs in relation to the entering into and operation of the Occupation Licence.

EXECUTION PAGE**SELLER EXECUTION**

SIGNED by **Mellross Homes Pty Ltd ACN 666 953 386** in accordance with section 127 of the Corporations Act 2001 (Cth):

Signature of Director

Tracey Lee Mellross

Name of Director/Secretary

Signature of Director

Darren John Mellross

Name of Director

ANNEXURE A: GUARANTEE AND INDEMNITY

In this Guarantee & Indemnity:

- (a) Guarantor means each director of the Buyer as at the Date of this Contract.
- (b) Any capitalised terms used in this Guarantee & Indemnity which are not defined have the corresponding meaning given to them in the Contract which this Guarantee & Indemnity forms an Annexure to.
- (c) In consideration of the Seller entering the Contract with the Buyer at the request of each Guarantor, each Guarantor guarantees to the Seller the payment of all money payable by the Buyer under the Contract and the performance of all other obligations imposed on the Buyer under the Contract.
- (d) Each Guarantor indemnifies the Seller against any Loss incurred by the Seller in connection with or arising from any breach or default by the Buyer of its obligations under the Contract.
- (e) Each Guarantor must pay on demand any money due to the Seller under the Guarantee & Indemnity.
- (f) Each Guarantor is jointly and severally liable with the Buyer to the Seller for the performance of the Buyer's obligations under the Contract and any damage incurred by the Seller due to the Buyer's failure to perform its obligations under the Contract.
- (g) Each and every guarantee and indemnity provided under the terms of this Guarantee & Indemnity are continuing and binds each Guarantor despite:
 - i. the death, bankruptcy or liquidation of any Guarantor;
 - ii. the resignation of any Guarantor as a director of the Buyer;
 - iii. any waiver or extension of time granted from the Seller to the Buyer;
 - iv. the Contract being held invalid or incomplete for any reason;
 - v. Completion of the Contract; or
 - vi. improper execution by the Buyer to the Contract.
- (h) Each Guarantor warrants that:
 - i. their obligations under this Guarantee & Indemnity are valid and binding;
 - ii. they are entering this Guarantee & Indemnity as an adult above the age of 18;
 - iii. are not acting in any capacity as a trustee; and

- iv. have been given an opportunity to seek independent legal and financial advice before entering this Guarantee & Indemnity.

Executed by in the presence of:

.....
Signature

.....
Signature of Witness

.....
Name of Guarantor
(Please print)

.....
Name of Witness
(Please print)

ANNEXURE B: DISPLAY DEED

Denman Prospect Display Village Deed Block 5 Section 83 Denman Prospect

Capital Estate Developments Pty Limited
Developer

Mellross Homes Pty Ltd
Builder

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Denman Prospect Display Village Deed

Date *3 May 2023*

Parties **Capital Estate Developments Pty Limited ACN 137 573 623** as trustee for the Capital Estate Developments Trust ABN 22 117 906 634 of Level 4, Plaza Offices - West, 21 Terminal Avenue, Canberra Airport ACT 2609 (**Developer**)

Mellross Homes Pty Ltd ACN 666 953 386 of Unit 4, 326 Boorowa Street, Young NSW 2594 (**Builder**)

Background

- A. The Developer is developing Denman Prospect and managing the sales and marketing.
- B. The Developer proposes to develop and sell the Block for residential purposes.
- C. The Developer intends to establish a Denman Prospect Display Village in which the Participating Builders will be able to construct and display homes for marketing within Denman Prospect.
- D. The Builder has agreed to participate in the Denman Prospect Display Village.
- E. The Developer wishes to maintain high and uniform standards of development within Denman Prospect which are in accordance with the planning approvals for Denman Prospect.
- F. The Builder agrees to build a Display Home which will form part of the Denman Prospect Display Village, subject to the Developer retaining the rights and interests which are the subject of this deed in order to ensure maintenance of development standards and to regulate the terms for the Builder's participation in the Denman Prospect Display Village.

Objectives

- A. To develop lasting and mutually beneficial partnerships with like-minded builders who will contribute positively to the community of Denman Prospect over a long period.
- B. To reinforce the vision of Denman Prospect by delivering a diversity of innovative homes that demonstrate quality, sustainability and genuine value for money.

Operative provisions

1. **Definitions and Interpretation**

1.1 In this deed and in addition to the definitions in the Further Conditions, the following words have the meanings given:

ACT means the Australian Capital Territory.

Amount of the Consideration means:

- (a) the amount of any payment in connection with a supply; and

- (b) in relation to non-monetary consideration in connection with a supply, the GST exclusive market value of that consideration as reasonably determined by the supplier.

ASIC means the Australian Securities and Investment Commission.

Approval Authority means either EPSDD or a Private Certifier, in accordance with the requirements of the Planning and Development Act.

Block means Block 5 Section 83 Denman Prospect which will form part of the Denman Prospect Display Village.

Block Plans means the plans that include the Block and that are annexed to the Contract.

Builder Participation Criteria means the criteria set out at Annexure D.

Building Act means the *Building Act 2004* (ACT).

Building and Siting Guidelines means the Denman Prospect building and siting guidelines annexed to the Contract.

Buyer means a third party to whom the Builder sells or otherwise disposes of the Block in accordance with clause 13.

Consent means the development approval from EPSDD and building approval as referred to in clause 4 which permits the use of the Block and any improvements for the operation of a display home.

Consent Date means the date upon which the EPSDD grants the Consent (after allowance is made for any ACAT appeal periods).

Consent Lodgement Date means the date set out at Item 7 of the Reference Schedule by which the Builder must lodge documents for Consent with EPSDD.

Construction Commencement Target Date means the date set out at Item 8 of the Reference Schedule as extended in accordance with clause 4.4.

Contract means the contract for sale (to be entered into within 4 weeks of the date of this deed) between the Developer and the Builder, which has an anticipated latest settlement date of 30 November 2022, pursuant to which the Developer agrees to procure the grant of the Crown Lease and transfer it to the Builder.

Copyright means the copyright in the plans, specifications, drawings, diagrams, engineering and designs, including all artistic and literary works and moral rights, in respect of the Display Home.

Covenants means the restrictions on the use of land which includes the Building and Siting Guidelines.

Crown Lease means a Crown lease of the Block issued or to be issued pursuant to the *Planning and Development Act 2007* (ACT).

Date of Practical Completion means the date the Display Home achieves Practical Completion.

Delay Event means:

- (a) an act of God, fire, explosion, earthquake or civil commotion;

- (b) adverse weather conditions (including where the maximum temperature at the weather station closest to the Block is recorded at 40 degrees Celsius or higher);
- (c) actions or inactions of the Developer;
- (d) a dispute with adjoining or neighbouring residents or owners that requires construction on the Block to be stopped;
- (e) significant delays in getting any approvals provided that the Builder has not caused the delay and the Builder has endeavoured to mitigate the delay;
- (f) a significant delay in the supply of materials;
- (g) significant delays attributed to labour shortage; and
- (h) any restrictions imposed by the ACT or Commonwealth Government that affects the construction industry due to COVID-19, or any other pandemic or state of emergency.

Denman Prospect means the suburb within which the Block is located.

Denman Prospect Display Village means the Denman Prospect Display Village located within stage 1 of Denman Prospect (North).

Denman Prospect Display Village Committee means the committee established under clause 17.

Denman Prospect Display Village Operational Requirements means the operational requirements to be undertaken by the Builder set out at Annexure B as may be amended from time to time by the Developer.

Developer means the entity set out at Item 1 of the Reference Schedule.

Developer Approval Date means the date that is 14 days after the Plan Lodgement Date, unless clause 4.4 of this deed applies in which case it shall be the date that is 7 days after the date the Developer has received the re-submitted Plans and Drawings from the Builder.

Development means the proposed development of the Block

Display Home means a dwelling or dwellings and other improvements on the Block, including, but not limited to, driveways, garages, fencing, landscaping, paving, paths and cross overs constructed on the Block in accordance with plans approved by the Developer and otherwise in accordance with the Obligations to be constructed as an example of the type of dwelling house the Builder wishes to market to prospective purchasers of residential blocks in Denman Prospect.

Display Home Hours means the hours agreed by the Denman Prospect Display Village Committee from time to time (the current ones being set out in the Denman Prospect Display Village Operational Requirements and specified in Item 11 of the Reference Schedule) that the Denman Prospect Display Village will be open, and for the purposes of clause 12.2 means the hours as agreed at the time of the Builder non-compliance.

Display Home Lease means the lease between the Buyer and the Builder as referred to in clause 14.

Display Period means a period of 24 months commencing from the Opening Date, as may be extended in accordance with clause 12.6.

Dispute Notice means the notice provided by the party claiming the dispute under clause 23.1 to the other party which specifies the nature of the dispute.

EPSDD means the ACT Environment, Planning and Sustainable Development Directorate.

Further Conditions means the conditions included in the Contract.

GST has the same meaning it has in the GST Act and associated imposition Acts.

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

Insurance Amount means the amount set out at Item 5 of the Reference Schedule.

Lock Up Stage means the stage when the Display Home's external wall cladding and roof covering is fixed, the flooring is laid (but not extending to floor finishes such as carpet and tiles) and external doors and external windows are fixed (even if those doors or windows are only temporary).

Mediation Period means the period of 21 days from the date of service of a Dispute Notice.

Milestone (Lock Up Date) means the date set out at Item 9 of the Reference Schedule by which the Display Home must have reached Lock Up Stage, as may be extended in accordance with clause 4.4.

Naturestrip means the area between the Block frontage (including secondary frontage on corner blocks) and the road kerb and includes footpaths, driveways, street trees, street lighting, turf, verge planting and any other landscape feature.

Obligations means all of the obligations of the Builder as the case may be relating to the design and construction of the Display Home as contained in the Contract, the Covenants, the Building and Siting Guidelines, and this deed and includes the Denman Prospect Display Village Operational Requirements and also includes where the context permits the Work Health and Safety Requirements.

Opening Date means the date set out at Item 10 of the Reference Schedule by which the Display Home must be open to the general public for inspection, subject to variation pursuant to clauses 4.5 and 6.2.

Operating Fund means the operational and marketing fund established for the purpose of funding the costs of:

- (a) repair and maintenance to the common areas of the Denman Prospect Display Village;
- (b) holding special events at the Denman Prospect Display Village from time to time, advertising and otherwise marketing and promoting the Denman Prospect Display Village; and
- (c) any other activity deemed appropriate by the Denman Prospect Display Village Committee.

Operating Fund Contribution means the contribution payable by the Builder to the Operating Fund being:

- (a) \$5,000 (plus GST) on the date of this deed, pursuant to clause 15.2(a); and
- (b) any amount nominated by the Denman Prospect Display Village Committee from time to time and payable pursuant to clauses 15.2(b) and 15.3.

Participating Builder means a builder who:

- (a) has entered into or completed a Contract for a Block;

- (b) has agreed to comply with the Builder Participation Criteria;
- (c) will or (shortly will) enter into a deed in substantially the same form as this deed;
and
- (d) will be participating in the Denman Prospect Display Village.

Performance Bond means the compliance bond, in the amount set out at Item 4 of the Reference Schedule provided by the Builder to ensure the Builder's adherence to the Denman Prospect Display Village Operational Requirements.

Personal Information has the meaning given to it in the Privacy Act.

Plans and Drawings means the plans, drawings and or specifications required by the Developer to approve the Display Home including all development application plans and drawings required by EPSDD in order to grant the Consent.

Plan Lodgement Date means the date set out in Item 6 of the Reference Schedule by which the Builder must lodge Plans and Drawings for endorsement by the Developer.

Practical Completion means completion of the Display Home to a stage where the Display Home is suitable for use as a Display Home and has been fitted out and furnished, and the landscaping and fencing has been completed, all to the reasonable satisfaction of the Developer.

Privacy Act means the *Privacy Act 1988* (Cth) and any ancillary rules, regulations, guidelines, orders, directions, directives, codes of conduct or practice or other instrument made or issued thereunder, including:

- (a) any consolidation, amendment, re-enactment or replacement of any of them or the Privacy Act; and
- (b) the Australian Privacy Principles under the Privacy Act.

Resale Deed means the draft deed between the Buyer, the Builder and Developer provided for in clause 13.2 and in the form incorporated at Annexure C, as amended from time to time.

Signage Guidelines means the Denman Prospect Display Village signage guidelines to be prepared by the Developer and adhered to by the Builder, as amended from time to time, a copy of which will be provided to the Builder in due course.

Work Health and Safety Requirements means the *Work Health and Safety Act 2011* (ACT) and any applicable subordinate regulations, codes of practice, guidelines or standards.

1.2 In this deed unless the contrary intention appears:

- (a) the singular includes the plural and vice versa and words importing a gender include other genders;
- (b) a reference to a clause, paragraph, schedule or annexure is a reference to a clause or paragraph of or schedule or annexure to this deed and references to this deed include any schedules and annexures;
- (c) a reference to a party to this deed including its successors and permitted assigns;
- (d) a reference to a document or agreement, including this deed, includes a reference to that document or agreement as novated, altered or replaced from time to time;
- (e) if two or more persons are a party to this deed, then this deed is binding upon those persons jointly and each of them severally; and

(f) headings are used for reference only.

2. **Builder Participation Criteria**

2.1 The Builder agrees to comply with the Builder Participation Criteria during the term of this deed.

3. **Use of Block**

3.1 The Builder acknowledges and agrees that the Developer has:

- (a) provided the Contract to the Builder; and
- (b) identified the Block as a block intended to be used for the purpose of a Display Home.

3.2 The Developer makes no warranties or representations that the Block may be used for the purposes of a Display Home without development approval.

4. **Planning Approval**

4.1 Following the receipt of the Developer's approval to the Plans and Drawings under clause 5, and no later than the Consent Lodgement Date, the Builder must at its expense prepare all necessary documentation required to apply for Consent to construct the Display Home on the Block and for the use of the Block and all improvements as a Display Home during the Display Period (**Consent Application**).

4.2 The Builder shall arrange to lodge the Consent Application with EPSDD no later than the Consent Lodgement Date.

4.3 The Builder shall procure the Consent as soon as practicable after the Consent Lodgement Date, and in any event prior to the Construction Commencement Target Date to enable the Builder to commence construction of the Display Home by the Construction Commencement Target Date.

4.4 If the Builder is delayed in seeking the Consent because of delays by the Developer or proven action or inaction from EPSDD then the Construction Commencement Target Date and the Milestone (Lock Up Date) will be extended by the period of the delay.

4.5 If delays by the Developer or EPSDD result in there being less than 26 weeks from the Construction Commencement Target Date to the Opening Date then the Opening Date will be extended so that there are 10 months between the Construction Commencement Target Date and the Opening Date.

4.6 In preparing the Consent Application the Builder shall use only the Plans and Drawings approved by the Developer under clause 5, and shall not seek any variation of the Consent Application, or the Consent once granted, without the prior written approval of the Developer.

5. **Plans and Drawings**

5.1 The Builder shall submit to the Developer for its approval by the Plan Lodgement Date the Plans and Drawings.

5.2 The Developer must review, and unless it requires any changes to the Plans and Drawings provide its approval to the Plans and Drawings no later than the Developer Approval Date.

5.3 If the Developer requires changes to the Plans and Drawings which are agreed to by the Builder, the Builder must attend to the changes and re-submit the Plans and Drawings to the

Developer for its approval. Clause 5.2 of this deed shall apply in respect of the re-submitted Plans and Drawings.

- 5.4 If the parties are unable to agree on the Developer's requested changes within 14 days from the Developer Approval Date, clause 23 of this deed shall apply.

6. Construction and operation of Display Home

6.1 The Builder must:

- (a) not commence construction of the Display Home until after the Consent Date;
- (b) subject to clause 4.4, commence construction of the Display Home by the date that is the later of:
 - (i) 14 days after the Consent Date; and
 - (ii) the Construction Commencement Target Date;
- (c) obtain all necessary consents, permits and approvals from EPSDD or any other competent authority;
- (d) comply with or ensure that there is compliance with the Consent and all other permits and approvals;
- (e) provide to the Developer on request a copy of its builder licence promptly when requested;
- (f) procure that the Display Home is wholly constructed within that part of the Block in accordance with the Building and Siting Guidelines;
- (g) in constructing the Display Home:
 - (i) comply with and observe all restrictions on the use of the Block which are contained in the Covenants as though such restrictions were annexed to this deed;
 - (ii) comply with the Obligations;
 - (iii) comply with the Building and Siting Guidelines;
 - (iv) ensure that all relevant environment protection policies, codes of practices and Work Health and Safety Requirements which are in force prior to and during construction are complied with;
- (h) ensure a minimum budget of \$20,000 spent on landscaping the Display Home which doesn't include driveway, fencing or retaining walls;
- (i) ensure that the verges adjoining the Block are protected and maintained;
- (j) ensure that the Block is kept clean and free of rubbish or any hazardous materials at all times;
- (k) repair promptly any damage to services, the Display Home or Block (including any landscaping), any Denman Prospect Display Village common areas, and the verges or the Naturestrip caused or contributed to by the Builder or its subcontractors, to the satisfaction of the Developer, acting reasonably;
- (l) clean up the Block to the Developer's reasonable satisfaction within 5 days of receiving written notice from the Developer. If the Builder fails to comply with the

notice given under this clause, the Developer may arrange for the clean-up at the Builder's cost;

- (m) allow the Developer and its authorised employees and contractors to enter on the Block at all reasonable times to view the state of the Display Home;
- (n) achieve Practical Completion by the Opening Date;
- (o) ensure any or all sub-contractors comply with the requirements of this clause and this deed generally where applicable;
- (p) fence the Block in accordance with the requirements set out in the Denman Prospect Display Village Operational Requirements;
- (q) implement a waste management program that promotes recycling and ensures Denman Prospect is clean and tidy (to the satisfaction of the Developer).
- (r) prepare and exhibit sales brochures;
- (s) in conjunction with the Developer devise and promote safety procedures that are relevant and best practise for the domestic construction industry;
- (t) comply with the Obligations and with any other requirements of this deed; and
- (u) keep and maintain the Display Home in good repair and condition.

6.2 If in carrying out the construction of the Display Home the Builder is substantially delayed by a Delay Event, the Opening Date may be extended to a later date as reasonably determined by the Developer having regard to the building time lost due to those circumstances.

6.3 If the Display Home has not reached Practical Completion by the Opening Date, the Builder must pay liquidated damages to the Developer of \$1,500 for each week or part of a week from the Opening Date until the Date of Practical Completion.

7. Landscape Plans and Landscape Maintenance

7.1 The Builder acknowledges that the landscape plans for the Block form part of the Display Home plans which must be submitted to the Developer for approval in accordance with clause 5.1.

7.2 The Builder will prepare landscape plans which outline, amongst other things, the landscape features which provide details of ground treatment, planting species and densities with specific reference to the style or theme of the landscape proposed for the Block by the Builder.

7.3 The Builder will, as well as complying with the landscape requirements contained with the Building and Siting Guidelines, ensure that the following minimum landscape densities are complied with:

Plants / Grass / Walkways	Requirement
Ground Cover Plants	Minimum 300mm container size and planted on a grid at spacing that will achieve an overlapping of plant material when mature.
Shrubs under 1m in height	Minimum container size of 400mm, and planted equidistantly in minimum groupings of 3. Number of species palettes are to comprise a maximum of 5 within the front yard.

Shrubs over 1m in height	Minimum container size of 400mm, and planted equidistantly in minimum groupings of 3. Number of species palettes are to comprise a maximum of 5 within the front yard.
Shade Trees with a mature height of over 5 metres high	To be planted in an appropriate spot in order to maximise solar access/ shelter, and comply with the requirements and guidelines of EPSDD and any other relevant ACT authority including with respect to clearances from buildings, and services. Trees are to be planted with appropriate root control barriers where they are adjacent to hard surfaces and buildings.
Boundary planting	To comply with the requirements and guidelines of EPSDD and any other relevant ACT authority for safety, clearances and sightlines. Hedge planting is to be a minimum container size of 300mm and planted equidistantly to allow for overlapping of plant material
Mulching	Sustainable mulch but not scoria or pebbles, except in minimal amounts
Minimum softscape	60% of front yard
Walkway	Temporary walkways between adjoining display homes must be integrated into the landscape which must be fully contained within the Block boundaries. Disabled access must also be available throughout the Denman Prospect Display Village.

- 7.4 The Builder must implement and maintain a comprehensive maintenance program for the landscaping on the Block or the duration of the Display Home Period. The program must include, but is not limited to, regular mowing, trimming, weeding, watering, fertilising and care of hard scape elements.
- 7.5 The Builder must comply with the Developer's reasonable directions throughout the Display Period with respect to maintenance and required works to the landscape on the Block which the Developer deems necessary to ensure that the display homes in the Denman Prospect Display Village are in conformity with each other and the presentation of the Display Home is always kept to a high standard.

8. Delays in Completion of Display Home

- 8.1 The Builder agrees that:
- (a) it is important to the Developer and other Participating Builders that all Display Homes in the Denman Prospect Display Village are open to the general public by the Opening Date;
 - (b) if the Builder defaults, the Developer has rights which include but are not limited to the Developer's step in rights set out in clause 11;
 - (c) if the Display Home does not achieve Lock Up Stage by the Milestone (Lock Up Date) the Developer will suffer economic loss as the ability of the Developer and other Participating Builders to market Denman Prospect will be reduced;
 - (d) if the Display Home is not opened by the Opening Date the Developer will suffer economic loss as the ability of the Developer and other Participating Builders to

effectively market their products and provide potential buyers with a good experience when visiting Denman Prospect will be reduced; and

- (e) the liquidated damages nominated in clauses 6.3 and 12.2:
 - (i) represent a reasonable endeavour to estimate a fair compensation for the damages that may result; and
 - (ii) do not represent a penalty.

8.2 If the Display Home has not reached Practical Completion by the Opening Date, clause 6.3 of this deed applies.

9. Default

9.1 If the Builder:

- (a) fails to comply with any of the Obligations;
- (b) being a natural person dies or becomes mentally ill or becomes bankrupt;
- (c) being a corporation:
 - (i) becomes subject to any Court order that it be wound up or to any resolution for the commencement of a members' or creditors' voluntary winding up;
 - (ii) enters into any agreement or composition with its creditors;
 - (iii) is placed under administration;
 - (iv) has a liquidator, receiver or manager appointed; or
 - (v) is unable to pay its debts as they fall due, lodges an application for its voluntary deregistration with ASIC or is subject to any actions by ASIC to initiate the deregistration of the Builder;
- (d) suspends the carrying out of the construction of the Display Home without reasonable cause;
- (e) fails to proceed with the construction of the Display Home in a manner and to the standard of an experienced and reasonably competent builder;
- (f) has its registration as a licensed builder cancelled or suspended;
- (g) fails to complete the Display Home by the Opening Date;
- (h) fails substantially to commence construction of the Display Home by the Construction Commencement Target Date; or
- (i) fails to proceed expeditiously with the construction of the Display Home as determined by the Developer in its absolute discretion and the Builder fails to provide the Developer with written evidence of its attempts to progress the construction of the Display Home,

then the Builder is in default provided that the Developer has given the Builder at least 14 days' notice in writing of the default and the default has not been remedied by the Builder within that period.

9.2 If:

- (a) the Builder is in default in accordance with clause 9.1 prior to completion of the Contract, the Developer may terminate the Contract and/or this deed; or
 - (b) if the Contract is lawfully terminated, the Developer may terminate this deed by notice in writing to the Builder.
- 9.3 Upon the Developer giving written notice under clause 9.2:
- (a) the Builder must deliver any plans, specifications or drawings for the carrying out of the construction of the Display Home (including the Plans and Drawings) to the Developer or the Developer's nominee without charge; and
 - (b) The Developer can use the plans, specifications or drawings to carry out the construction of the Display Home on the Block until Practical Completion of the Display Home is obtained.
- 9.4 If the Builder as the case may be is in default in accordance with clause 9.1 after completion of the Contract, then the Developer may exercise the rights set out in clause 10.
- 9.5 If the Developer exercises any rights under clause 10.1, title to the Display Home, any "on-site" materials and all chattels in the Display Home will immediately vest in the Developer.
- 9.6 The Builder indemnifies the Developer against:
- (a) conversion or breach of Copyright; and
 - (b) all actions, claims, losses, damages, costs and expenses sustained, suffered, recovered or made against the Developer by any person,
- arising from the Developer or the Developer's nominee's use of the Copyright.
- 9.7 The Developer's rights under this clause 9 are in addition to the other rights and remedies of the Developer under the Contract and this deed or in law.
- 9.8 The parties agree that any payments to be made by the Builder provided for in this deed (being for the Builder's non-compliance or default) shall be payable into the Operating Fund.

10. Developer's rights

- 10.1 Following completion of the Contract, if the Builder defaults in accordance with clause 9.1, the Developer may (but without being under any obligation to do so) by notice in writing to the Builder either:
- (a) require the Block to be transferred as provided for in clause 10.2;
 - (b) exercise the step in rights as provided for in clause 11; or
 - (c) seek to obtain an order for specific performance against the Builder, the Builder acknowledging that damages may be an inadequate remedy for any breach of the Obligations.
- 10.2 If the Developer exercises its rights under clause 10.1(a), the Builder must, within two months from the date of the Developer's notice under clause 10.1, transfer the Block to the Developer for the following consideration:
- (a) where no construction works for the Display Home have substantially commenced, for an amount which is equal to 90% of the price paid by the Builder under the Contract; or

- (b) where construction of the Display Home has substantially commenced, for an amount which is equal to 90% of the price paid by the Builder under the Contract for the Block together with 90% of the value of the site improvements calculated as the average value as assessed by three independent valuers,

less:

- (c) any legal costs, stamp duties, registration fees and other expenses incurred by the Developer or its nominee in effecting the transfer;
- (d) any rates or taxes owing by the Builder to any statutory authority in respect of the Block to the date of transfer which outgoings should be adjusted in the usual way;
- (e) interest on any money spent by the Developer on or in connection with the Block or Display Home from the date it was spent until the date of payment calculated at the annual rate being the rate provided for in clause 26; and
- (f) any other costs and disbursements incurred by the Developer in having the Block transferred from the Builder to the Developer in accordance with the provisions of this clause.

- 10.3 If the Builder fails to effect a transfer of the Block in accordance with clause 10.2 within 21 days of a written demand from the Developer so to do, then the Developer shall be entitled to make an application to the Supreme Court of the ACT for an order that the Block be transferred to the Developer or as it requires for the consideration specified in clause 10.2.
- 10.4 Prior to any transfer being effected by the Builder pursuant to clauses 10.2 or 10.3, the Builder shall discharge and repay any mortgage, charge or other encumbrance over the Block and shall ensure that the Block is transferred free of any such mortgage, charge or other encumbrance whatsoever.
- 10.5 The Developer shall pay the consideration for the Block by bank cheque to the Builder or as the Builder directs upon delivery to the Developer of a transfer of the Block in registrable form together with the certificate of title relating to the Block and any other documents necessary to effect registration of the Developer or its nominee as registered proprietor of the Block and discharge of any mortgage or other encumbrance together with any necessary registration fees for the transfer and any discharges.
- 10.6 The Builder is deemed to have granted a fee free licence to the Developer or the Developer's nominee, which ceases on Practical Completion, to use the Copyright to complete the Display Home on the Block.

11. Step In Rights

- 11.1 This clause 11 shall apply where the Developer exercises the step in rights referred to in clause 10.1(b).
- 11.2 The Developer may enter upon the Block and take all such action as may be necessary or desirable to undertake or complete as appropriate all or part of the Display Home.
- 11.3 All moneys expended by the Developer in completing all or part of the Display Home in accordance with clause 11.2 will be a debt due and owing by the Builder to the Developer and will be secured by a caveat as referred to in clause 22.
- 11.4 The Builder acknowledges that if any debt owing by the Builder to the Developer under clause 11.2 remains unpaid for more than 30 days from demand, then the Developer will be immediately entitled to seek an order from the appropriate Court to recover this debt from the Builder and claim interest as per clause 26.

12. Display Period

- 12.1 During the Display Period, the Builder must comply with the Denman Prospect Display Village Operational Requirements which includes the requirement that the Builder must keep the Display Home open during the Display Home Hours.
- 12.2 Without limiting any other remedy of the Developer under this deed, if the Builder fails to comply with the Denman Prospect Display Village Operational Requirements then:
- (a) where the Builder non-compliance is with respect to keeping the Display Home open during the Display Home Hours, the Developer shall be entitled to liquidated damages in an amount of \$1000 per week or part thereof which may be claimed from the Performance Bond with respect to each week; or
 - (b) in any other cases of non-compliance, the Performance Bond payable by the Builder shall be retained by the Developer who may use the Performance Bond to remedy the Builder's default or as a contribution to the Operating Fund, in the absolute discretion of the Developer.
- 12.3 Prior to the exercise of any rights under clause 9, the Developer must have:
- (a) first provided written notice to the Builder of its non-compliance with a Denman Prospect Display Village Operational Requirement (**Notice**) and a reasonable opportunity to remedy the non-compliance in accordance with the time period set out in the Notice; and
 - (b) provided the Notice in respect of a Denman Prospect Display Village Operational Requirement to the Builder on no less than three (3) occasions.
- 12.4 For the avoidance of doubt, the non-compliance referred to in clause 12.2 refers to non-compliance of any Denman Prospect Display Village Operational Requirement, so that the requirement for the Notice to be issued to the Builder on three (3) occasions does not have to be a Notice in respect of non-compliance of the same Denman Prospect Display Village Operational Requirement.
- 12.5 During the Display Period, the Developer may access or open the Display Home:
- (a) during the Display Home Hours at the cost of the Builder, where the Display Home is not open for operation;
 - (b) outside the Display Home Hours at the cost of the Developer but provided that notice has first been provided to the Builder; and
 - (c) without notice to the Builder in cases of an emergency.
- 12.6 The Denman Prospect Display Village Committee may agree to extend the Display Period by an additional period(s) of 6 months provided that the maximum Display Period will be 4 years from the Opening Date.

13. No Sale

- 13.1 The Builder must not sell or otherwise dispose of the Block to a Buyer:
- (a) until the Display Home has reached Practical Completion and is open for business; or
 - (b) prior to the expiry of the Display Period, without the Developer's prior written consent. The Developer may refuse that consent in its absolute discretion at any time prior to the end of the Display Village Period.

- 13.2 If the Developer agrees to give its consent to a proposed transfer, the Developer shall be entitled to impose such conditions of consent as the Developer may deem necessary in order to ensure that the rights granted to the Developer under this deed are protected and the Display Home remains open during the Display Period. The Builder acknowledges that the conditions imposed by the Developer will include requiring the Buyer to enter into the Resale deed, the effect of which is that the Buyer agrees to be bound by the provisions of this deed, including this clause 13.
- 13.3 The Resale Deed shall be prepared by the Developer's solicitor and the Builder is responsible for the Developer's reasonable legal costs associated in preparing, negotiating and execution of the Resale Deed.
- 13.4 The Resale Deed will include a requirement that the Buyer leases back to the Builder the Block (which will have erected upon it a completed Display Home) for a term ending on the last day of the Display Period and on terms otherwise in accordance with clause 14.
- 13.5 Entry into the Resale Deed by the Developer does not relieve the Builder of any of the Obligations to comply with the requirements of this deed.

14. Display Home Lease

- 14.1 The Buyer and the Builder agree that the Display Home Lease will:
- (a) be entered into with the Buyer as the landlord and the Builder as the tenant;
 - (b) be for a term which is equal to the duration of the Display Period (including any extension of that period);
 - (c) provide that if the Builder is in breach of the Display Home Lease:
 - (i) the Buyer must at its own expense and at the request of the Developer, take all necessary steps to terminate the Display Home Lease and recover vacant possession of the Block; and
 - (ii) at the option of the Developer, the Buyer must grant a lease of the Block to the Developer or its nominee for the duration of the Display Period on the same terms and conditions as the Display Home Lease; and
 - (d) be in such form and substance as is reasonably acceptable to the Developer.
- 14.2 The Buyer must deliver a duly executed copy of the Display Home Lease to the Developer on or before completion of the sale of the Block.
- 14.3 If the Builder is in breach of the Display Home Lease, the Builder will indemnify the Developer against all loss or damage, costs or expenses incurred or suffered by the Developer resulting from the Builder's breach, including the requirement to:
- (a) pay all rent and other monies; and
 - (b) comply with all of the Builder's Obligations,
- under the Display Home Lease.

15. Operating Contribution

- 15.1 The Builder acknowledges that the Developer:
- (a) has established an Operating Fund; and
 - (b) will contribute \$50,000 (GST exclusive) to the Operating Fund.
- 15.2 The Builder will pay to the Developer:
- (a) the sum of \$5,000 plus GST on the date of this deed; and
 - (b) upon request additional amounts as a contribution to the Operating Fund no later than 14 days from the date of the notice specified in clause 15.3.
- 15.3 The Developer will by notice in writing to the Builder indicate the amount of the Operating Fund Contribution required by the Denman Prospect Display Village Committee with respect to the cost of the Operating Fund from time to time.
- 15.4 The cost of the Operating Fund will be divided equally among the number of Participating Builders so that a Builder's Operating Fund Contribution will be a proportionate share of the total cost of the Operating Fund.
- 15.5 If there is any issue or dispute with respect to a Builder's Operating Fund Contribution or the Operating Fund, these will be dealt with by the Denman Prospect Display Village Committee under clause 23.
- 15.6 If the Builder is in default and this deed is terminated, the Developer shall be entitled to retain the Operating Fund Contribution.
- 15.7 The Developer may, in its discretion seek, review and enter into any partnering opportunities or other arrangements with third parties with respect to the promotion of the Denman Prospect Display Village.

16. Insurance

- 16.1 The Builder must effect and maintain insurance in the form reasonably required by the Developer which covers the construction of the Display Home and any items for the Display Home stored on or adjacent to the Block or that is under the control of the Builder, in respect of theft, loss, destruction or damage of or to the property insured for the full reinstatement and replacement cost, and the sum insured must take into account (but is not to be limited by):
- (a) the full replacement and installation costs of any Display Home items in the Display Home, on the Block or stored at other premises under the control of the Builder;
 - (b) the full amount of the cost to the Builder to construct the Display Home (Building Cost);
 - (c) an amount reasonably providing for additional costs of demolition and of removal of debris (to be not less than 10% of the Building Cost); and
 - (d) an amount providing for escalation costs incurred including those costs as may be incurred (during any period of reinstatement or replacement),
- during the period up to Practical Completion.
- 16.2 The Builder must effect public liability insurance for an amount not less than the Insurance Amount (in the aggregate and for any single event) in respect of personal injury to or death of

any person and in respect of any injury or damage to, or loss of, property, real or personal during the period up to Practical Completion, including:

- (a) property belonging to the Developer, or in which the Developer is interested and which is adjacent to or in the vicinity of the Block;
- (b) property of any person adjacent to, or in the vicinity of, the Block; and
- (c) where the accident arises out of or is caused by the construction of the Display Home (including the landscape works for the Display Home).

- 16.3 The Builder must have professional indemnity insurance that will cover any liability to the Developer caused by a failure of the Builder (including its employees, agents and consultants) to exercise due care and skill and must be in a form approved by the Developer, whose approval will not be unreasonably withheld, for an amount not less than \$10 million.
- 16.4 The Builder must insure against any liability, loss, claim or proceeding whether arising by virtue of any laws and Approvals relating to workers' compensation or employers' liability or at common law by any person employed by the Builder in or about the construction of the Display Home.
- 16.5 The Builder must take out a reinstatement and replacement insurance policy for the Display Home (including the contents of the Display Home) from Practical Completion to the end of the Display Period that includes cover against:
- (a) fire, storm and tempest;
 - (b) such other risks as may reasonably be required by the Developer.
- 16.6 The Builder must give the Developer evidence of currency of:
- (a) all insurances required to be taken out by it under this clause 16 (except insurance required under clause 16.5) before the Builder commences construction of the Display Home; and
 - (b) insurance required under clause 16.5 by the date of Practical Completion.
- 16.7 The Builder must as soon as practicable, inform the Developer in writing of any occurrence that may give rise to a claim under a policy of insurance required by this clause 16 and must keep the Developer informed of subsequent developments concerning the claim.
- 16.8 If after being requested by the Developer, the Builder fails to produce evidence of compliance with its insurance obligations under this clause to the satisfaction of the Developer, the Developer may (without otherwise affecting any other right the Developer has) effect and maintain the insurance required to be effected according to this clause, provided that the Developer gives at least 10 Business Days' notice in writing to the Builder of its intention to do so and the amount by the Developer will be a debt due from the Builder to the Developer payable on demand.

17. Denman Prospect Display Village Committee

- 17.1 The Denman Prospect Display Village Committee will be established and will be structured and will operate in accordance with this clause 17.
- 17.2 The Denman Prospect Display Village Committee will be the management committee for the Denman Prospect Display Village in that decisions in relation to the Denman Prospect Display Village will be made through the Denman Prospect Display Village Committee.
- 17.3 The Denman Prospect Display Village Committee will consist of the Developer and the Participating Builders.

- 17.4 Unless agreed otherwise between the Developer and the participating Builders, the Denman Prospect Display Village Committee will meet at least once every 3 months with all decisions requiring the approval of:
- (a) the Developer; and
 - (b) a majority of the Participating Builders in attendance at the meeting, as long as there are at least three Participating Builders present.

18. Performance Bond

- 18.1 The Builder must provide the Performance Bond to the Developer on the date of this deed.
- 18.2 The Developer will hold the Performance Bond until it is dealt with in accordance with this deed. No interest shall accrue on the Performance Bond.
- 18.3 On expiry of the Display Period, subject to the Builder having complied with clause 6 and satisfied the conditions in clause 18.4, upon the Builder achieving Practical Completion of the Display Home in compliance with the Denman Prospect Display Village Operational Requirements to the satisfaction of the Developer, the Developer will refund the Performance Bond to the Builder.
- 18.4 The Builder agrees that, in accordance with the Denman Prospect Display Village Operational Requirements, the return of the Performance Bond by the Developer is subject to conditions including but not limited to:
- (a) the Builder achieving Practical Completion of the Display Home in compliance with the Denman Prospect Display Village Operational Requirements;
 - (b) the Builder otherwise complying with the Denman Prospect Display Village Operational Requirements;
 - (c) that no variations have occurred on the exterior of the Display Home that have not been approved by the Developer;
 - (d) any damage to surrounding public areas caused by construction of the Display Home has been rectified;
 - (e) all site management requirements in accordance with the Building and Siting Guidelines have been carried out;
 - (f) completion of the Display Home has taken place within all relevant time restraints in the Obligations unless otherwise agreed by the Developer;
 - (g) landscaping has been completed in compliance with landscape design criteria and within the required time;
 - (h) payment of any outstanding monies due and payable to the Developer;
 - (i) any signage is in accordance with the Signage Guidelines;
 - (j) payment of the Operating Fund Contribution, so that where any Operating Fund Contribution has not been paid by a Builder, the Developer may deduct the amount of the Operating Fund Contribution due and payable by the Builder from the Performance Bond; and
 - (k) the Builder's compliance with any other term of this deed,
- to the satisfaction of the Developer, acting reasonably.

- 18.5 If the Builder breaches any of the Obligations, then the Developer is entitled immediately to call on the Performance Bond and the amount called on will be applied against the damages suffered by the Developer by virtue of the breach.
- 18.6 Any part of the Performance Bond called on under clause 18.5 must be reinstated by the Builder with new security, reasonably acceptable to the Developer, within 7 days of demand.
- 18.7 The Builder acknowledges that:
- (a) the Developer calling on the Performance Bond will not release the Builder from liability for the Builder's breach of the Obligations;
 - (b) the Developer will be entitled to seek further damages from the Builder for such breach; and
 - (c) damages may be an inadequate remedy for a breach of the Obligations and the Developer will be entitled to seek an order for specific performance relating to any breach.

19. Privacy

- 19.1 The Builder consents to the collection, use and disclosure of the Personal Information of the Builder by the Developer:
- (a) for entering into, administering and completing this deed and any development by the Developer referred to in it;
 - (b) for planning and product development by the Developer;
 - (c) to comply with the Developer's obligations or to enforce its rights under this deed;
 - (d) to owners of adjoining land to enable them to deal with the Builder, concerning any development or other work which they wish to undertake on their land (including disclosure of personal information to contractors to assist adjoining land owners to comply with their obligations and to enforce their rights in relation to fencing);
 - (e) to surveyors, engineers and other parties who are engaged by the Developer to carry out works which may affect the Block;
 - (f) to service providers engaged by the Developer, such as legal advisers, financial advisers, market research organisations, mail houses and delivery companies;
 - (g) to any third party who has a right or entitlement to share in the monies paid or payable to the Developer under the Contract or this deed; and
 - (h) in other circumstances where the Developer is legally entitled, obliged or required to do so, including any disclosure which is permitted or authorised under the Privacy Act.

20. Developer Obligations

- 20.1 The Developer will prepare a marketing strategy for the Denman Prospect Display Village at its cost.
- 20.2 The Developer will, subject to obtaining the relevant approvals:
- (a) construct and maintain:
 - (i) the car park that will service the Denman Prospect Display Village;

- (ii) the parkland between Denman Village Shops and to the Denman Prospect Display Village;
 - (iii) landscaping and Denman Prospect Display Village signage at or adjacent to the intersection of John Gorton Drive and Holborrow Avenue, Denman Prospect; and
- (b) install and maintain public art in the park between Denman Prospect Village Shops and Denman Prospect Display Village,
- at a minimum cost to the Developer of \$750,000 (GST exclusive).

21. Rights of Developer

21.1 The Builder acknowledges that the rights of the Developer as set out in this deed:

- (a) rest both in contract arising from the Contract and as covenants contained in this deed and do not amount to a restraint or alienation in respect of the interests of the Builder in the Block; and
- (b) are appropriate obligations having regard to the legitimate commercial interests of the Developer in respect of blocks in Denman Prospect managed by the Developer and which are yet to be sold and which adjoin or are in the vicinity of the Block, and in order to maintain the quality of Denman Prospect for the benefit of present and future registered proprietors of blocks in Denman Prospect.

22. Caveat

22.1 The Builder hereby charges its interest in the Block in favour of the Developer to secure the performance of the Obligations. The Builder acknowledges by granting this charge it has granted to the Developer a caveatable interest over the Block.

22.2 The Developer may (but is not obliged to) lodge a caveat against the Block in order to protect its rights in the Block as contained in this deed upon completion of the Contract. If a caveat is lodged by the Developer then the Developer will provide to the Builder a withdrawal of caveat within 7 days of the later of the return of the Performance Bond in accordance with clause 18.3. *The Developer may only lodge a caveat under this Clause 22.2 after an event of default of the Builder.*

22.3 The Builder acknowledges that in addition to the rights of the Developer under clause 22.2 in respect of lodging a caveat over the Block, on any proposed transfer of the Block by the Builder, clause 10.2 of this deed shall apply.

23. Disputes

23.1 If there is any dispute between the parties arising out of this deed any party may provide a Dispute Notice to the other parties. The parties agree to endeavour in good faith to settle the dispute by mediation before any recourse to expert determination.

23.2 The parties to the dispute must seek to resolve the dispute within the Mediation Period.

23.3 If the parties cannot resolve the dispute by mediation within the Mediation Period, and if the dispute does not relate to the exercise by the Developer of any of its rights under clauses 9.2, 10.1(a), (b), or (c) or 18.7(b) or (c), the dispute shall be referred for determination by an expert in the field appointed by the parties by agreement. If the parties cannot agree on the expert in the field within 14 days after the expiry of the Mediation Period, the expert shall be appointed at the request of either party by the President for the time being of the Law Society of the ACT (or any body which succeeds that Society).

- 23.4 The parties must instruct the expert to:
- (a) seek any information and conduct investigations as the expert thinks fit;
 - (b) act as an expert and not an arbitrator;
 - (c) determine the dispute, including liability to pay the expert's costs, as the expert thinks fit; and
 - (d) advise the parties in writing of the determination.
- 23.5 The parties agree that the expert's decision shall be final and binding upon the parties and that the parties must pay the expert's costs and expenses equally, unless the expert determines otherwise.

24. Miscellaneous

- 24.1 Each party will bear their own costs of the preparation and entering into the provisions of this deed and the Builder shall bear any stamp duty (if any) associated with this deed.
- 24.2 The parties acknowledge that this deed and all matters arising under and pursuant to the provisions of this deed will be governed by and construed in accordance with the laws of the ACT.
- 24.3 This deed is binding upon and enforceable against the Builder when executed by the Builder and delivered to solicitors acting for the Developer even though counterpart copies of this deed may not have been executed by the Developer.

25. GST

- 25.1 In this clause 25:
- (a) words and expressions which are not defined in this contract but which have a defined meaning in GST Act have the same meaning as in the GST Act; and
 - (b) if a party is a member of a GST group, references to GST for which the party is liable and to input tax credits to which the party is entitled include GST for which the representative member of the GST group is liable and input tax credits to which the representative member is entitled
- 25.2 Except where otherwise provided, the payments under this deed do not include GST.
- 25.3 If a supply under this deed is subject to GST the recipient agrees to pay the supplier an additional amount equal to the Amount of the Consideration multiplied by the prevailing GST rate.
- 25.4 The additional amount is payable at the same time and in the same manner as the consideration for the supply to which the additional amount relates.
- 25.5 The supplier must deliver a tax invoice or an adjustment note to the recipient before the supplier is entitled to payment of an amount under clause 25.3. The recipient can withhold payment of the amount until the supplier provides a tax invoice or an adjustment note, as appropriate.
- 25.6 If an adjustment event arises in respect of a taxable supply made by a supplier under this deed, the amount payable by the recipient under clause 25.3 will be recalculated to reflect the adjustment event and a payment will be made by the recipient to the supplier or by the supplier to the recipient as the case requires.

- 25.7 Where a party is required under this contract to pay or reimburse an expense or outgoing of another party, the amount to be paid or reimbursed by the first party will be the sum of:
- (a) the amount of the expense or outgoing less any input tax credits in respect of the expense or outgoing to which the other party, or to which the representative member for a GST group of which the other party is a member, is entitled; and
 - (b) if the payment or reimbursement is subject to GST, an amount equal to that GST.
- 25.8 If a party is required to remit any GST to the Tax Office in respect of any payment under this deed, the party making the payment will in addition pay the amount of the GST, and the recipient shall provide a tax invoice.

26. Interest

- 26.1 Interest shall accrue on all moneys owing by the Builder to the Developer under this deed at the rate of 10% per annum from the date such moneys become due and owing until the date of payment by the Builder to the Developer.

27. Notices

- 27.1 The address for service of notices under this deed is as follows:

The Developer's solicitor:

Clayton Utz
Attention: Danielle Mildren
Phone: (02) 6279 4000
Email: conveyancing@claytonutz.com

The Builder's solicitor:

Mills Oakley
Attention: Ben Gulan
Phone: (02) 6196 5238
Email: bgulan@millsOakley.com.au

- 27.2 Any notice may be served by serving it on that party's solicitor:
- (a) by leaving it at or sending it by a method of post requiring acknowledgment of receipt to the address of the party's solicitor as stated in clause 27.1;
 - (b) by facsimile unless it is not received (a notice is taken to have been received at the time shown in the transmission report confirming that the whole facsimile was sent); or
 - (c) by email unless it is not received or the receiving party indicated by immediate automatic response that the email address is unattended (a notice is taken to have been received at the time it was sent).
- 27.3 A party's solicitor may give a notice, claim or authority on behalf of that party.
- 27.4 Any notice required to be given to a party is deemed to have been duly served upon that party if it is addressed to that party and delivered to the address of the party as shown in this deed.

28. Work Health and Safety

- 28.1 The Builder must carry out the Work Health and Safety Requirements safely and so as to protect persons and property.

- 28.2 The Builder:
- (a) must comply with the Work Health and Safety Requirements;
 - (b) must ensure that it satisfies all of its obligations under the Work Health and Safety Requirements as they apply to other persons (eg subcontractors or employees);
 - (c) must immediately comply with any directions on safety issued by any relevant authority or the Developer; and
 - (d) agrees that to the extent permitted by law, it will indemnify the Developer against any loss, expense, liability or damage suffered or incurred by the Developer which may arise as a result of any breach by the Builder of the Work Health and Safety Requirements.
- 28.3 To the extent permitted by law, the Developer does not assume or owe any duty of care to the Builder to monitor or review the Builder's obligations to ensure compliance with the Work Health and Safety Requirements.

29. Confidentiality

- 29.1 Subject to clause 19, the parties agree not to disclose information provided by the other party that is not publicly available except:
- (a) to any person in connection with an exercise of rights or a dealing with rights or obligations under this deed; or
 - (b) to financiers, officers, employees, legal and other advisers and auditors of any party; or
 - (c) with the consent of that party; or
 - (d) as allowed by any law or stock exchange.

EXECUTED as a deed.

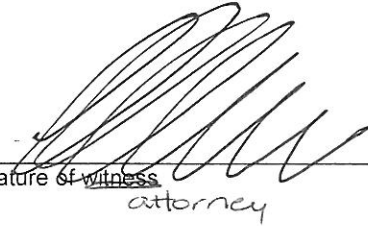
Signed for and on behalf of **Capital Estate Developments Pty Limited** as trustee for the **Capital Estate Developments Trust ABN 22 117 906 634** by its attorney in the presence of:



Signature of ~~attorney~~ *witness*

Carol Axiotis

Full name of ~~attorney~~ *witness*



Signature of ~~witness~~

attorney

Danielle Louise Mildren

Full name of ~~witness~~ *attorney*

Executed by **Mellross Homes Pty Ltd ACN 666 953 386** in accordance with section 127 of the Corporations Act 2001 (Cth):

Signature of director

Full name of director

Signature of company secretary/director

Full name of company secretary/director

Reference Schedule

1.	Developer	Capital Estate Developments Pty Limited ACN 137 573 623 as trustee for the Capital Estate Developments Trust ABN 22 117 906 634
2.	Builder	Mellross Homes Pty Ltd ACN 666 953 386
4.	Performance Bond	\$10,000
5.	Insurance Amount	\$20,000,000
6.	Plan Lodgement Date	30 April 2023 31 May 2023
7.	Consent Lodgement Date	31 May 2023 30 June 2023
8.	Construction Commencement Target Date	1 June 2023 1 September 2023
9.	Milestone (Lock Up Date)	1 February 2024
10.	Opening Date	17 October 2024
11.	Display Home Hours	<p>Unless agreed otherwise by the Denman Prospect Display Village Committee, Thursdays to Mondays (inclusive) during the Display Period for the following hours:</p> <ul style="list-style-type: none"> • 10am - 6pm when Australian Eastern Daylight Saving Time is in effect in the ACT. • 10am - 4pm when Australian Eastern Standard Time is in effect in the ACT.

Annexure A - Denman Prospect Display Village Operational Requirements

The Builder must:

- (a) only use the Block and the Display Home as a display home within the Denman Prospect Display Village;
- (b) have the Display Home open to the public during the Display Home Hours, or at such other times as the Developer and the Denman Prospect Display Village Committee may agree;
- (c) have the Display Home closed:
 - (i) from Good Friday to Easter Monday inclusive;
 - (ii) on ANZAC Day; and
 - (iii) from the Monday before Christmas Day, reopening on the 1st Saturday in January each yearduring the Display Period;
- (d) have professional sales personnel or a trained representative of the Builder in attendance at the Display Home when it is open to the public;
- (e) comply with all requirements of any applicable development consent;
- (f) fit out, furnish and equip the Display Home in a way to the reasonable satisfaction of the Developer, including but not limited to adopting an appropriate colour scheme and the installation of appropriate:
 - (i) floor coverings;
 - (ii) window furnishings;
 - (iii) light fittings; and
 - (iv) furniture;
- (g) keep the Display Home clean and in a presentable state and condition to the reasonable satisfaction of the Developer;
- (h) maintain the landscaping on the Block to a standard approved by the Developer;
- (i) ensure that the Display Home is lit by external lighting from sunset to midnight every day (taking into consideration the lighting requirements in the Building and Siting Guidelines attached to the Contract);
- (j) provide a weekly enquiry count to the Developer every Tuesday by 5pm;
- (k) ensure all signage is in a form that complies with the Signage Guidelines;
- (l) at its expense install:
 - (i) fencing around the Block in accordance with the terms of the Contract, the Building and Siting Guidelines and the requirements of EPSDD prior to the Date of Practical Completion; and
 - (ii) temporary fencing to manage visitors. The location of the temporary fencing must firstly be approved by the Developer. The temporary fencing is to be constructed with black powder coated pool-type fencing to a maximum height of 1200mm and procured through a supplier nominated by the Developer at least 12 weeks prior to the Opening Date.

Annexure B - Resale Deed

Resale Deed

Buyer

Mellross Homes Pty Ltd ACN 666 953 386
Builder/Seller

Capital Estate Developments Pty Limited
Developer

Clayton Utz
Lawyers
Level 10, NewActon Nishi
2 Phillip Law Street
Canberra ACT 2601
GPO Box 9806
Canberra ACT 2601
Tel +61 2 6279 4000
Fax +61 2 6279 4099
www.claytonutz.com

Our reference 15610/80171142

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Resale Deed

Date

Parties _____ of _____
(Buyer)

Mellross Homes Pty Ltd ACN 666 953 386 of Unit 4, 326 Boorowa Street, Young
NSW 2594 (Builder)

(Builder/Seller)

Capital Estate Developments Pty Limited ACN 137 573 623 as trustee for the
Capital Estate Developments Trust ABN 22 117 906 634 of Level 4, Plaza Offices -
West, 21 Terminal Avenue, Canberra Airport ACT 2609

(Developer)

Background

- C. The Builder/Seller and the Buyer have exchanged contracts for the sale of the Property by the Builder/Seller to the Buyer.
- D. The Developer and the Builder/Seller entered into a deed setting out the Builder/Seller's obligations in terms of constructing the Property on the Land and the display of the Property generally.
- E. The Buyer has agreed to execute this document so that the Buyer will be bound, and the Builder/Seller and Developer will continue to be bound, by their respective obligations under the Deed.

Operative provisions

2. Definitions and interpretations

2.1 Definitions

In this document:

Date of Completion means the date on which completion of the sale and purchase of the Property takes place.

Deed means the display village deed entered into between the Builder/Seller and the Developer dated _____ setting out the parties' obligations in relation to the Land.

Effective Date means the Date of Completion.

Land means the land at Block 5 Section 83 Division of Denman Prospect in the Australian Capital Territory and the improvements on it.

Property means all improvements that have been, or will be, constructed on the Land.

2.2 Interpretation

Unless expressed to the contrary, in this document:

- (a) words in the singular include the plural and vice versa;
- (b) any gender includes the other genders;
- (c) if a word or phrase is defined its other grammatical forms have corresponding meanings;
- (d) "includes" means without limitation;
- (e) no rule of construction will apply to a clause to the disadvantage of a party merely because that party put forward the clause or would otherwise benefit from it;
- (f) a reference to:
 - (i) a person includes a partnership, joint venture, unincorporated association, corporation and a government or statutory body or authority;
 - (ii) a person includes the person's legal personal representatives, successors, assigns and persons substituted by novation;
 - (iii) an obligation includes a warranty or representation and a reference to a failure to comply with an obligation includes a breach of warranty or representation;
 - (iv) a right includes a benefit, remedy, discretion or power;
 - (v) this or any other document includes the document as novated, varied or replaced and despite any change in the identity of the parties; and
 - (vi) this document includes all schedules and annexures to it.

2.3 Headings

Headings do not affect the interpretation of this document.

3. Buyer to comply with the Deed

The Buyer covenants in favour of the Developer that on and from the Effective Date the Buyer will comply with the requirements of the Deed, in so far as they are applicable to the Buyer.

4. Transfer of Property by Buyer

If the Buyer transfers all or any part of the Land to a third party during the term of the Deed, the Buyer must procure such third party to enter into a deed in favour of the Builder/Seller and the Developer in terms substantially the same as this document.

5. Buyer to indemnify

The Buyer indemnifies and keeps indemnified the Builder/Seller and the Developer against all liability loss and damage which the Builder/Seller or the Developer (as the case may be) may suffer as a direct or indirect result of the Buyer failing to comply with clause 3 or clause 4.

6. Builder/Seller's covenant

The Builder/Seller covenants in favour of the Buyer that on and from the Effective Date the Builder/Seller will comply with all of the Builder/Seller's covenants and obligations contained in the Deed.

7. Builder/Seller to indemnify

The Builder/Seller indemnifies and keeps indemnified the Developer and the Buyer against all liability, loss or damage which the Developer or the Buyer (as the case may be) may suffer as a direct or indirect result of the Builder/Seller failing to comply with clause 6.

8. General

8.1 Legal costs

Subject to the terms of the Deed which may provide otherwise, each party must pay its own legal and other costs and expenses of negotiating, executing and performing its obligations under this document.

8.2 Stamp duty

The Builder/Seller must pay all stamp duty (including penalties and interest) assessed or payable in respect of this document, and the Builder/Seller indemnifies the Developer in this regard.

8.3 Further steps

The Buyer must promptly do whatever the Developer or the Builder/Seller reasonably require of it to give effect to this document and to perform its obligations under it.

8.4 Governing law and jurisdiction

This document is governed by and is to be construed in accordance with the laws applicable in the Australian Capital Territory.

8.5 Survival

Clauses 3, 4, 5, 6 and 7 survive the completion or termination of this document.

8.6 Liability

An obligation of two or more persons binds them separately and together.

8.7 Counterparts

This document may consist of counterparts and, if so, the counterparts taken together constitute one document.

9. GST

- (a) Words and expressions used in this clause 9 which have a defined meaning in the A New Tax System (Goods and Services Tax) Act 1999 (**GST Act**) have the same meaning in this clause as in the GST Act.
- (b) Unless expressly stated otherwise, all consideration to be provided under this document is expressed exclusive of GST.

- (c) If GST is payable by a supplier on any supply made under this document the recipient will, upon receiving a tax invoice from the supplier, pay to the supplier an amount equal to the GST payable on the supply.

Executed as a deed.

Signed sealed and delivered by the Buyer in the presence of:

Signature

Signature of Witness

Signature

Name of Witness in full

Executed by Mellross Homes Pty Ltd ACN 666 953 386 in accordance with section 127 of the Corporations Act 2001 (Cth):

Signature of director

Signature of company secretary/director

Full name of director

Full name of company secretary/director

Capital Estate Developments Pty Limited by its Attorney pursuant to Power of Attorney ACT Registration No. 0143707:

Signature of Attorney

Signature of Witness

Name of Attorney in full

Name of Witness in full

ANNEXURE C: RESALE DEED

Resale Deed

Buyer

Mellross Homes Pty Ltd ACN 666 953 386
Builder/Seller

Capital Estate Developments Pty Limited
Developer

Clayton Utz
Lawyers
Level 10, NewActon Nishi
2 Phillip Law Street
Canberra ACT 2601
GPO Box 9806
Canberra ACT 2601
Tel +61 2 6279 4000
Fax +61 2 6279 4099
www.claytonutz.com

Our reference 15610/80171142

Contents

- 1. **Definitions and interpretations** 1
 - 1.1 Definitions 1
 - 1.2 Interpretation 2
 - 1.3 Headings 2
- 2. **Buyer to comply with the Deed** 2
- 3. **Transfer of Property by Buyer** 2
- 4. **Buyer to indemnify** 2
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 - 7.3 Further steps 3
 - 7.4 Governing law and jurisdiction 3
 - 7.5 Survival 3
 - 7.6 Liability 3
 - 7.7 Counterparts 3
- 8. **GST** 3

Resale Deed

Date

Parties _____ of _____
(Buyer)

Mellross Homes Pty Ltd ACN 666 953 386 of Unit 4, 326 Boorowa Street, Young
NSW 2594 (Builder)

(Builder/Seller)

Capital Estate Developments Pty Limited ACN 137 573 623 as trustee for the
Capital Estate Developments Trust ABN 22 117 906 634 of Level 4, Plaza Offices -
West, 21 Terminal Avenue, Canberra Airport ACT 2609

(Developer)

Background

- C. The Builder/Seller and the Buyer have exchanged contracts for the sale of the Property by the Builder/Seller to the Buyer.
- D. The Developer and the Builder/Seller entered into a deed setting out the Builder/Seller's obligations in terms of constructing the Property on the Land and the display of the Property generally.
- E. The Buyer has agreed to execute this document so that the Buyer will be bound, and the Builder/Seller and Developer will continue to be bound, by their respective obligations under the Deed.

Operative provisions

2. Definitions and interpretations

2.1 Definitions

In this document:

Date of Completion means the date on which completion of the sale and purchase of the Property takes place.

Deed means the display village deed entered into between the Builder/Seller and the Developer dated _____ setting out the parties' obligations in relation to the Land.

Effective Date means the Date of Completion.

Land means the land at Block 5 Section 83 Division of Denman Prospect in the Australian Capital Territory and the improvements on it.

Property means all improvements that have been, or will be, constructed on the Land.

2.2 Interpretation

Unless expressed to the contrary, in this document:

- (a) words in the singular include the plural and vice versa;
- (b) any gender includes the other genders;
- (c) if a word or phrase is defined its other grammatical forms have corresponding meanings;
- (d) "includes" means without limitation;
- (e) no rule of construction will apply to a clause to the disadvantage of a party merely because that party put forward the clause or would otherwise benefit from it;
- (f) a reference to:
 - (i) a person includes a partnership, joint venture, unincorporated association, corporation and a government or statutory body or authority;
 - (ii) a person includes the person's legal personal representatives, successors, assigns and persons substituted by novation;
 - (iii) an obligation includes a warranty or representation and a reference to a failure to comply with an obligation includes a breach of warranty or representation;
 - (iv) a right includes a benefit, remedy, discretion or power;
 - (v) this or any other document includes the document as novated, varied or replaced and despite any change in the identity of the parties; and
 - (vi) this document includes all schedules and annexures to it.

2.3 Headings

Headings do not affect the interpretation of this document.

3. Buyer to comply with the Deed

The Buyer covenants in favour of the Developer that on and from the Effective Date the Buyer will comply with the requirements of the Deed, in so far as they are applicable to the Buyer.

4. Transfer of Property by Buyer

If the Buyer transfers all or any part of the Land to a third party during the term of the Deed, the Buyer must procure such third party to enter into a deed in favour of the Builder/Seller and the Developer in terms substantially the same as this document.

5. Buyer to indemnify

The Buyer indemnifies and keeps indemnified the Builder/Seller and the Developer against all liability loss and damage which the Builder/Seller or the Developer (as the case may be) may suffer as a direct or indirect result of the Buyer failing to comply with clause 3 or clause 4.

6. Builder/Seller's covenant

The Builder/Seller covenants in favour of the Buyer that on and from the Effective Date the Builder/Seller will comply with all of the Builder/Seller's covenants and obligations contained in the Deed.

7. Builder/Seller to indemnify

The Builder/Seller indemnifies and keeps indemnified the Developer and the Buyer against all liability, loss or damage which the Developer or the Buyer (as the case may be) may suffer as a direct or indirect result of the Builder/Seller failing to comply with clause 6.

8. General

8.1 Legal costs

Subject to the terms of the Deed which may provide otherwise, each party must pay its own legal and other costs and expenses of negotiating, executing and performing its obligations under this document.

8.2 Stamp duty

The Builder/Seller must pay all stamp duty (including penalties and interest) assessed or payable in respect of this document, and the Builder/Seller indemnifies the Developer in this regard.

8.3 Further steps

The Buyer must promptly do whatever the Developer or the Builder/Seller reasonably require of it to give effect to this document and to perform its obligations under it.

8.4 Governing law and jurisdiction

This document is governed by and is to be construed in accordance with the laws applicable in the Australian Capital Territory.

8.5 Survival

Clauses 3, 4, 5, 6 and 7 survive the completion or termination of this document.

8.6 Liability

An obligation of two or more persons binds them separately and together.

8.7 Counterparts

This document may consist of counterparts and, if so, the counterparts taken together constitute one document.

9. GST

- (a) Words and expressions used in this clause 9 which have a defined meaning in the A New Tax System (Goods and Services Tax) Act 1999 (**GST Act**) have the same meaning in this clause as in the GST Act.
- (b) Unless expressly stated otherwise, all consideration to be provided under this document is expressed exclusive of GST.

- (c) If GST is payable by a supplier on any supply made under this document the recipient will, upon receiving a tax invoice from the supplier, pay to the supplier an amount equal to the GST payable on the supply.

Executed as a deed.

Signed sealed and delivered by the Buyer in the presence of:

Signature

Signature of Witness

Signature

Name of Witness in full

Executed by Mellross Homes Pty Ltd ACN 666 953 386 in accordance with section 127 of the Corporations Act 2001 (Cth):

Signature of director

Signature of company secretary/director

Full name of director

Full name of company secretary/director

Capital Estate Developments Pty Limited by its Attorney pursuant to Power of Attorney ACT Registration No. 0143707:

Signature of Attorney

Signature of Witness

Name of Attorney in full

Name of Witness in full

ANNEXURE D: OCCUPATION LICENCE

AUSTRALIAN CAPITAL TERRITORY
TITLE SEARCH

LAND

Denman Prospect Section 83 Block 5 on Deposited Plan 15994

Lease commenced on 21/08/2023, granted on 21/08/2023, terminating on 20/08/2122

Area is 460 square metres or thereabouts

Proprietor

MELLROSS HOMES PTY LTD

4/326 BOOROWA STREET, YOUNG NSW 2594

REGISTERED ENCUMBRANCES AND INTERESTS

Original title is **Volume 3018 Folio 97**

Restrictions

Market Value Lease: Applies For Term Of Lease

Memorandum of Provisions applies: Refer MOP 2000049

Purpose Clause: Refer Crown Lease

S.298 Planning and Development Act 2007: Current

Restrictive Covenant: Created By T 3278848

Easements

Subject To Easement In Crown Lease

Registered Date	Dealing Number	Description
19/09/2023	3269957	Caveat by Homes for Homes Limited (ACN: 143 151 544)
14/11/2023	3278849	Mortgage to National Australia Bank Limited (ACN: 004 044 937)

End of interests




Access Canberra

T\$3278848 30/10/2023 11:25:58 Bui H

3278848

Form 052 - T

Land Titles Act 1925

LODGING PAI			E: canberra@dyedurham.com		
Nar			PH: 02 9210 0995	Customer Reference Number	Contact Telephone Number
			CRN: 90857345		

TITLE AND LAND DETAILS				
Volume & Folio	District/Division	Section	Block	Unit
3018:97	Denman Prospect	83	5	


TRANSFEROR/S – SELLER/S (Surname Last) (ACN required for all companies)	THE SELLER VERIFICATION DECLARATION HAS BEEN SUBMITTED (must be completed prior to lodgement of this document)
CAPITAL ESTATE DEVELOPMENTS PTY LIMITED ACN 137 573 623	Submission Date: 18/10/2023 Reference Code: RAJP4R
	Submission Date: Reference Code:

PERCENTAGE OF INTEREST OWNED (whole or state share)	PERCENTAGE OF INTEREST BEING TRANSFERRED (whole or state share)
Whole	Whole

CERTIFICATION *Delete the inapplicable

Transferor(s)

- *The Certifier has taken reasonable steps to verify the identity of the Transferor or his, her or its administrator or attorney.
- *The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
- *The Certifier has retained the evidence to support this Registry Instrument or Document.
- *The Certifier has taken reasonable steps to ensure that the Registry Instrument or Document is correct and compliant with relevant law and any Prescribed Requirement.

Signed By: 

Alfonso del Rio
Legal Practitioner
for: Clayton Utz
on behalf of the Transferor

DEVELOPMENT STATUS (Tick the appropriate box – one box must be completed)	LAND USE (Tick the appropriate box – one box must be completed)
<input checked="" type="checkbox"/> Land Only <input type="checkbox"/> Incomplete Building <input type="checkbox"/> Building Completed	<input checked="" type="checkbox"/> Residential <input type="checkbox"/> Rural <input type="checkbox"/> Commercial

BETWEEN

//insert//

AND

Mellross Homes Pty Ltd

OCCUPATION LICENCE

THIS AGREEMENT is made on the _____ day of _____

PARTIES

1. **//insert//** of **//insert//**;
(the **Licensor**)
2. **Mellross Homes Pty Ltd ACN 666 953 386** of Unti 4/326 Boorowa Street Young NSW 2594;
(the **Licensee**)

BACKGROUND

- A. By the contract for sale dated **//insert//** the Licensee agreed to sell, and the Licensor agreed to purchase, the property being Block 5 Section 83 Denman Prospect, also known as 16 Romano Street, Denman Prospect ACT 2611 (**Contract for Sale**).
- B. When acquiring the Property, the Licensee entered into a display deed with Capital Estate Developments Pty Limited to operate a display home from the Property (**Display Deed**).
- C. The Licensor has agreed to grant the Licensee a licence to occupy the Property from completion of the Contract for Sale to enable the Licensee to maintain their obligations under the Display Deed (**Licence**).

OPERATIVE PROVISIONS

1. DEFINITIONS

The following terms have the following definitions in this Agreement unless the context provides otherwise:

Agreement means this licence to occupy between the Licensor and the Licensee.

Commencement Date means the date which completion of the Contract for Sale occurs.

Contract means the Contract for Sale between the Licensor as seller and the Licensee as buyer for the Property.

Display Deed means the Denman Prospect Village Display Deed between Capital Estate Developments Pty Limited as developer and Licensee as builder in relation to the erection and operation of a display home on the Property, dated 3 May 2023.

Licence Expiry means the date which the Licensee ceases to be obliged to operate the display home from the Land as provided for in the Display Deed, and in any event no later than 17 October 2028.

Licence Fee means \$1,250 (inclusive of GST) per week.

Performance Bond has the same meaning given to the term as in the Display Deed.

Property means Block 5 Section 83 Denman Prospect, also known as 16 Romano Street, Denman Prospect ACT 2611.

2. LICENCE TERM

Subject to the terms of this Agreement, the Licence:

- (a) commences on the Commencement Date; and
- (b) terminates on the Licence Expiry.

3. LICENCE FEE

- (a) The Licensee must pay the Licensor the Licence Fee (calculated on a daily pro rata basis) for the period from the Commencement Date until the Licence Expiry.
- (b) The Licence Fee is due and payable weekly in advance to an account nominated by the Licensor from time to time.

4. TERMS OF OCCUPATION

- (a) The risk of the Property remains with the Licensor through the duration of the Licence, however, the Licensee remains responsible for any, and indemnifies, the Licensor from all claims, costs, losses and damages suffered by the Licensor as a result of any negligence act or omission of the Licensee
- (b) The Licensee must, upon request, produce evidence of insurance for public liability, workers compensation and professional indemnity for the Licensee.
- (c) On the date of Licence Expiry, the Licensee must vacate the Property, leaving it clean and tidy and in good repair in consideration of the condition it was in on the Commencement Date.
- (d) Notwithstanding the Licensee's obligation in clause 4(c), on the date of Licence Expiry the Licensee must:
 - I. have the carpets professionally steam cleaned;
 - II. remove glass fencing from the driveway and make good any damage caused by its removal; and
 - III. reinstate garage door to the garage.
- (e) The Licensee must not make any additions or alterations to the Property without the Licensor's prior approval in writing.
- (f) The Licensee must punctually pay all charges for electricity, gas, oil, telephone and other services provided to the Property.
- (g) The Licensee must permit the Licensor or the Licensor's agent at all reasonable times to enter and view the state of repair of the Property
- (h) The Licensee acknowledges that no tenancy is created and that the Licensee occupies the Property on Licence only and it is acknowledged that the relationship of landlord and tenant does not and will not arise.
- (i) The Licensor acknowledges that Licensee is required to comply with their obligations as builder in the Display Deed and the Licensor must not prevent, restrict or interfere with the Licensee exercising their obligations under the Display Deed.

- (j) The Licensor must do all things reasonably necessary to assist the Licensee to have the Performance Bond returned to them after the Licence Expiry.

5. DEFAULT AND TERMINATION

- (a) Subject to the terms of the Display Deed which supersede this Agreement, if the Licensor is in default of any obligations in this Agreement, where such default can be remedied in a reasonable timeframe, the Licensor must remedy the default.
- (b) Where such a default cannot be remedied, or is not remedied within a reasonable time, the Licensee may:
 - I. terminate this agreement; and/or
 - II. pursue the Licensor for damages arising from the default.
- (c) Subject to the terms of the Display Deed which supersede this Agreement, if the Licensee is in default of any obligations in this Agreement, where such default can be remedied in a reasonable timeframe, the Licensee must remedy the default.
- (d) Where such a default cannot be remedied, or is not remedied within a reasonable time, the Licensor may:
 - I. terminate this agreement; and/or
 - II. pursue the Licensor for damages arising from the default.
- (e) The parties acknowledge the rights of the developer in the Display Deed in assessing and determining the loss of the respective parties which could arise in the event of default.

6. INDEMNITIES

- (a) The Licensee indemnifies, and will keep indemnified, the Licensor from any loss, cost or damages arising from the Licensee's use of the Property, and any breach of their obligations under this Agreement or the Display Deed.
- (b) The Licensor indemnifies, and will keep indemnified, the Licensee from any loss, cost or damages arising from the Licensor's breach of their obligations under this Agreement or the Display Deed.

7. GENERAL

- (a) Each party is responsible for their own costs in relation to the entering into and operation of the matters set out in this Agreement.
- (b) This Agreement cannot be varied, except in writing, which must be agreed to and executed by all parties.
- (c) Delay by a party in exercising a right does not constitute a waiver of that right, nor will a waiver (either wholly or in part) by a party of a right operate as a subsequent waiver of the same right or any other right of that party.
- (d) This Agreement sets out the entire agreement of the parties concerning the subject matter of this Agreement.
- (e) The parties rely on their own investigations and enquiries in entering into this Agreement and do not rely on the representations of the other party, or any third party representing that party.
- (f) Each party must promptly execute all documents and do all things necessary or desirable to give full effect to the arrangements contained in this Agreement.

- (g) The laws applicable in the Australian Capital Territory govern this Agreement, and the parties submit to the non-exclusive jurisdiction of the courts of the State or Territory and any courts competent to hear appeals from those courts.
- (h) If a clause or part of a clause is unenforceable, voidable, invalid or illegal, it must be read down so as to be enforceable, valid and legal. If this is not possible, the clause (or where possible, the offending part) is taken to be severed from this Agreement without affecting the enforceability, validity or legality of the remaining clauses (or parts of the clauses) which will continue in full force and effect. This clause has no effect if the severance alters the basic nature of this Agreement or is contrary to public policy.
- (i) A right or obligation of a party that can operate or have effect on or after the completion, expiration, termination or rescission of this Agreement will not merge on the occurrence of that event but will remain in full force and effect.
- (j) This Agreement is properly executed if each party executes either this document or an identical document. In the latter case, this Agreement takes effect when the separately executed documents are exchanged between the parties.
- (k) Where notice is required to be given under this Agreement, it must be given in writing to the other party to the last known address (or email address if being electronically notified) of that party.

EXECUTED AS AN AGREEMENT

Licensors

Executed by **//insert//** in the presence of:)
)
)
)
)

Name: **//insert//**

Signature of Witness

Name of Witness in full

Executed by **//insert//** in the presence of:)
)
)
)
)

Name: **//insert//**

Signature of Witness

Name of Witness in full

Licensee

SIGNED by **Mellross Homes Pty Ltd ACN 666 953 386** in accordance with section 127 of the Corporations Act 2001 (Cth):

Signature of Director

Tracey Lee Mellross

Name of Director

Signature of Director

Darren John Mellross

Name of Director

TRANSFeree/S – BUYER/S (Surname Last) (ACN required for all companies)	THE BUYER VERIFICATION DECLARATION HAS BEEN SUBMITTED (must be completed prior to lodgement of this document)
MELLROSS HOMES PTY LTD ACN 666 953 386	Submission Date: <u>30/6/23</u> Reference Code: <u>6RVNUX</u>
	Submission Date: Reference Code:

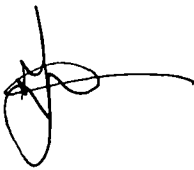
FORM OF TENANCY

Joint Tenants Tenants in Common in (the following shares) - (Please state proprietors name and shares out in full)

CERTIFICATION *Delete the inapplicable
Transferee(s)

*The Certifier has taken reasonable steps to verify the identity of the Transferee or his, her or its administrator or attorney.
 *The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
 *The Certifier has retained the evidence to support this Registry Instrument or Document.
 *The Certifier has taken reasonable steps to ensure that the Registry Instrument or Document is correct and compliant with relevant law and any Prescribed Requirement.

Signed By:

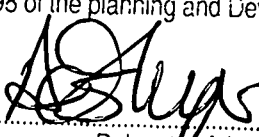


BEN GULAN
Level 1, 121 Marcus Clarke Street Canberra
Barrister & Solicitor of the Supreme Court
Of the Australian Capital Territory

for: Mills Oakley
on behalf of the Transferee

CONSIDERATION (Higher of market value or consideration)	GST PAYABLE (See guidance notes)
\$675,000.00	\$

AGREEMENT / CONTRACT FOR SALE DATE	SETTLEMENT DATE (the date the buyer is liable for rates)
3/05/2023	18 - 10 - 2023

COMMUNITY TITLE (if Transfer relates to a Community Title Scheme the following should be attached)	ACT PLANNING AND LAND AUTHORITY – MINISTER'S / DELEGATE'S CONSENT
<input type="checkbox"/> Statutory Declaration AND <input type="checkbox"/> Certified Copy of Undertaking submitted to ACTPLA	I consent to the transfer pursuant to Section 298 of the planning and Development ACT 2007  Aaron Oshyer Delegate of the Authority

OFFICE USE ONLY

Lodged by		Registered date / by	AS 14/11/2023
Data entered by		Attachments/Annexures	Annexure, Consent



ANNEXURE

Form 029 - ANN

Land Titles Act 1925

TITLE AND LAND DETAILS					
Volume & Folio	District/Division	Section	Block	Unit	Consideration <small>(Only complete is if requesting transactions not be aggregated)</small>
3018:97	Denman Prospect	83	5		

ANNEXURE TO <small>(insert dealing type)</small>	TOTAL NUMBER OF PAGES IN ANNEXURE
Transfer	2

PARTIES TO DOCUMENT <small>(Please state all parties this annexure relates to/supports)</small>
CAPITAL ESTATE DEVELOPMENTS PTY LIMITED ACN 137 573 623 AS TRANSFEROR and MELLROSS HOMES PTY LTD ACN 666 953 386 AS TRANSFEREE

Restrictive Covenant - Denman Prospect Stages 1 & 2

The Transferee covenants with the Transferor as follows:

1. In these restrictions on user:
 - Building and Siting Guidelines** means the guidelines referred to in the Contract for Sale.
 - Contract for Sale** means the contract for sale entered into between the Transferor and the Transferee for the Land.
 - Crown Lease** means the Crown lease of the Land.
 - Land** means the land the subject of this transfer.
 - Transferee** means the Buyer, its executors, administrators, successors and assigns.
 - Transferor** means the Seller, its successors, nominees or assigns.
2. No building or improvements are to be erected on the Land without the consent in writing of the Transferor and the approval and consent of all relevant authorities.
3. The Transferor must not unreasonably withhold its consent to the erection of any building or improvements where it is in accordance with the Crown Lease and the Building and Siting Guidelines.
4. The Transferor has the power by deed to waive, vary or release any of these covenants.
5. Any waiver, variation or release of these covenants must be done at the cost of the Transferee.
6. The land affected by these covenants is the Land and all blocks located in Sections 81, 82, 83 & 84 Division of Denman Prospect.
7. The land burdened by these covenants is the Land.
8. The parcels of land benefited by these covenants are the blocks referred to in clause 6 other than the Land.

9. These restrictions on user shall be released on the date that a Certificate of Occupancy for all improvements made to the Land has been issued by the relevant authority and a copy provided to the Transferor.

TRANSFEROR

Signed for and on behalf of the Transferor by its Attorney under Power of Attorney dated 24 June 2016 registered No. 0143707 in the presence of:



Signature of Witness

Carol Axiotis

Full Name of Witness



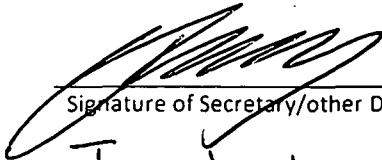
Signature of Attorney who declares that the Attorney has not received any notice of the revocation of the power of attorney

Alfonso del Rio - Partner Clayton Utz

Full name of Attorney

TRANSFeree

Executed by MELLROSS HOMES PTY LTD ACN 666 953 386 in accordance with section 127 of the Corporations Act by or in the presence of:



Signature of Secretary/other Director

Jacob Lex Manning

Full Name of Secretary/other Director



Signature of Director or Sole Director/Secretary

Tracey Lee Mellross

Full Name of Director or Sole Director/Secretary

18 September 2023

The Registrar
Access Canberra
GPO Box 158
CANBERRA ACT 2601

To whom it may concern

Homes for Homes Limited Caveat - Consent to transfer & mortgage

Land: Denman Prospect Section 83 Block 5

Buyers: MELLROSS HOMES PTY LTD T/A MELLROSS HOMES

Homes for Homes Limited is the caveator with respect to the Caveat lodged over Volume 3018 Folio 97, being Division of Denman Prospect Section 83 Block 5.

Homes for Homes Limited consents to:

- the transfer of the Land to the Buyer/s; and
- registration of any mortgage entered into by the Buyer/s with respect to the Land.

Yours sincerely



Jon Whitehead
CFO – Homes for Homes Limited

This is a market value lease –
s238 (2) (a) (ii) Planning
and Development Act 2007



AUSTRALIAN CAPITAL
TERRITORY
CROWN LEASE

3018

Volume

97

Folio

2,000,049

MOP No.

YES

Annexure

PLANNING AND DEVELOPMENT Act 2007

AUSTRALIAN CAPITAL TERRITORY (PLANNING AND LAND MANAGEMENT) Act 1998 (Cth) ss. 29, 30 & 31

THE PLANNING AND LAND AUTHORITY ON BEHALF OF THE COMMONWEALTH OF AUSTRALIA IN EXERCISING ITS FUNCTIONS GRANTS TO THE LESSEE A LEASE OF THE LAND UNDER THE PLANNING AND DEVELOPMENT ACT 2007 FOR THE TERM AND SUBJECT TO THE PROVISIONS SET OUT BELOW.

THE MEMORANDUM OF PROVISIONS (MOP) No 2,000,049 REGISTERED IN THE REGISTRAR-GENERAL'S OFFICE AND/OR ANY PROVISIONS SET OUT IN ANY ANNEXURE ARE PART OF THIS LEASE.

1. LAND

DISTRICT/DIVISION	SECTION	BLOCK	DEPOSITED PLAN	APPROXIMATE AREA
DENMAN PROSPECT	83	5	15994	460 square metres

2. LESSEE'S NAME AND ADDRESS

CAPITAL ESTATE DEVELOPMENTS PTY LIMITED A.C.N. 137 573 623 having its registered office at Level 4, Plaza Offices – West, Terminal Avenue Canberra Airport ACT

3. FORM OF TENANCY

SOLE PROPRIETOR

4. TERM

GRANT DATE: 21 AUG 2023 TERM IN YEARS: 99 FROM THE COMMENCEMENT DATE
COMMENCEMENT DATE: 21 AUG 2023 EXPIRY DATE: 20 AUG 2122

5. PURPOSE

SINGLE DWELLING HOUSING.

6. RESERVATIONS AND STATUTORY RESTRICTIONS

THE STATUTORY RESTRICTION(S) IS/ARE:
SECTION 298 OF THE PLANNING AND DEVELOPMENT ACT 2007.
RESERVATION – Please see attached Annexure

7. VARIATIONS TO MEMORANDUM OF PROVISIONS

Not Applicable

8. EXECUTION

SIGNED BY

**Capital Estate Developments Pty
Limited** by its attorney **Alfonso del Rio**
Partner Clayton Utz pursuant to Power of
Attorney ACT Registration No. 0143707



Signature of Attorney

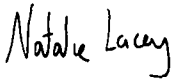


Signature of Witness

Carol Axiotis

Name of Witness in full

SIGNED BY A DELEGATE AUTHORISED TO EXECUTE THIS LEASE ON BEHALF OF THE COMMONWEALTH:



SIGNATURE

Natalie Maree Lacey

NAME OF SIGNATORY (BLOCK LETTERS)



SIGNATURE OF WITNESS

Jaeyoung Park

OFFICE USE ONLY

EXAMINED
VOLUME: FOLIO 3018:97
REGISTERED: LMT

DATE: 18/09/2023



**Access
Canberra.**

LAND TITLES
ACCESS CANBERRA
Chief Minister, Treasury and Economic Development Directorate

ANNEXURE

Form 029 - ANN

Land Titles Act 1925

TITLE AND LAND DETAILS					
Volume & Folio	District/Division	Section	Block	Unit	Consideration (Only complete is if requesting transactions not be aggregated)
3018:97	DENMAN PROSPECT	83	5		

ANNEXURE TO (insert dealing type)	TOTAL NUMBER OF PAGES IN ANNEXURE
Crown Lease	2

1. The Authority, on behalf of the Commonwealth, grants over that part of the land ("Land") identified as a 'proposed services easement' on the Deposited Plan, a reservation ("Reservation") in favour of the relevant provider (referred to as the "service provider");
2. The service provider may:
 - (1) provide, maintain and replace services supplied by that service provider through the Land within the site of the Reservation; and
 - (2) do anything reasonably necessary for that purpose, including without limitation:
 - (a) entering or passing through the Land;
 - (b) taking anything on to the Land; and
 - (c) carrying out work, including without limitation, constructing, placing, repairing or maintaining pipes, poles, wires, cables, conduits, structures and equipment.
3. In exercising the powers in paragraph 2, the service provider must take all reasonable steps to:
 - (1) ensure that the work carried out on the Land causes as little disruption, inconvenience and damage as is practicable; and
 - (2) ensure that the Land is restored as soon as practicable to a condition that is similar to its condition before the work was carried out.
4. Paragraph 3(2), does not require the service provider to restore:
 - (1) the Land to a condition that would result in:
 - (a) an interference with:
 - (i) any service on or through the Land; or
 - (ii) access to any service on or through the Land; or
 - (b) a contravention of a law of the Territory; or

(2) any building or structure placed or constructed on any part of the Land comprising the Reservation;

5. The Lessee must not place or construct, nor permit to be placed or constructed, a building or structure or any part of a building or structure on any part of the Land comprising the Reservation UNLESS written advice from the service provider is obtained;
6. For the purposes of the Reservation, "services", includes, without limitation, communication services, the supply of water, gas, electricity and discharge or drainage of water, stormwater and sewage.
7. Nothing in this clause diminishes or affects any rights or powers of a service provider conferred under any statute, regulation or law.

MOP

2000049



ACT
Government

Justice and Community Safety

OFFICE OF REG
ACT Justice and Community

MEMORANDUM OF PROVISIONS

Form 049 - MOP

Land Titles Act 1925



This memorandum contains provisions that are intended for inclusion in instruments to be lodged for registration by:

LODGING PARTY DETAILS		
Name	Postal Address	Contact Telephone Number
Monica Saad	Environment and Sustainable Development Directorate, 16 Challis Street, Dickson ACT 2602	6207 2112

NAME OF ORGANISATION WHO DEVELOPED THE MOP (Applicant)
ENVIRONMENT AND SUSTAINABLE DEVELOPMENT DIRECTORATE

NATURE OF INSTRUMENT TYPE (For Example – Memorandum of Sublease)
MEMORANDUM OF PROVISIONS

PROVISIONS (Please state provisions in full. If not enough space provided, please use Form 029 – ANN - Annexure)
I, Monica Saad, being a delegate of the Environment and Sustainable Development Directorate (ESDD) in exercising its functions, APPLY to you to register the attached Memorandum of Provisions. I certify that this memorandum (comprising five (5) pages) is lodged on behalf of ESDD and contains provisions that are to be incorporated by reference in such Crown leases as referred to this memorandum.
Memorandum of Provisions No. 2,000,049 is submitted herewith in accordance with section 103A of the Land Titles Act 1925.

EXECUTION	
Print full name of Applicant/Applicant's Solicitor MONICA SAAD  Signature or common seal of applicant Dated - 17 April 2014	Print full name and address of witness Environment & Sustainable Development Directorate Dame Pattie Menzies House 16 Challis Street DICKSON ACT 2602 Signature of witness  Dated - 17 - April - 2014

OFFICE USE ONLY			
Lodged by		Attachments / Annexures	
Data entered by			
			APP 2011

**AUSTRALIAN CAPITAL TERRITORY
LAND TITLES ACT 1925
Section 103A**

Memorandum Of Provisions

Memorandum of Provisions No.2,000,049

1. INTERPRETATION

IN THIS LEASE, unless the contrary intention appears, the following terms mean:

- 1.1 'Act' - the Planning and Development Act 2007;
- 1.2 'Authority' – the Planning and Land Authority established by section 10 of the Planning and Development Act 2007;
- 1.3 'Building' - any building, structure or improvement on or under the Land;
- 1.4 'Class' - for a building or structure, means the class of building or structure under the building code as defined in the Building Act 2004;
- 1.5 'Commencement Date' - the Commencement Date specified in item 4;
- 1.6 'Commonwealth' – the Commonwealth of Australia;
- 1.7 'Dwelling' -
- (a) means a Class 1 building, or a self-contained part of a Class 2 building, that:
 - (i) includes the following that are accessible from within the building, or the self-contained part of the building:
 - (1) not more than 2 kitchens;
 - (2) at least 1 bath or shower;
 - (3) at least 1 toilet pan; and
 - (ii) does not have access from another building that is either a Class 1 building or the self-contained part of a Class 2 building; and
 - (b) includes any ancillary parts of the building and any Class 10a buildings associated with the building;
- 1.8 'Land' - the Land specified in item 1;

- 1.9 'Lease' - the Crown lease incorporating these provisions;
- 1.10 'Lessee' includes:
- (a) where the Lessee is or includes a person, the executors, administrators and assigns of that person; and
 - (b) where the Lessee is or includes a corporation, the successors and assigns of that corporation;
- 1.11 'Multi-unit housing' means the use of land for more than one dwelling and includes but is not limited to dual occupancy housing;
- 1.12 'Premises' - the Land and any Building at any time on the Land;
- 1.13 'Purpose' - the purpose specified in item 5;
- 1.14 'Single dwelling housing' means the use of land for residential purposes for a single dwelling only;
- 1.15 'Territory':
- (a) when used in a geographical sense, the Australian Capital Territory; and
 - (b) when used in any other sense the body politic established by section 7 of the Australian Capital Territory (Self-Government) Act 1988 (C'th);
- 1.16 Where the Lessee comprises two or more persons or corporations, an agreement by the Lessee binds them jointly and individually;
- 1.17 The singular includes the plural and vice versa;
- 1.18 A reference to one gender includes the other genders;
- 1.19 A reference in this lease to any statute or statutory provision shall include a reference to any statute or statutory provision that amends, extends, consolidates or replaces the statute or statutory provision and to any other regulation, instrument or other subordinate legislation made under the statute;
- 1.20 A reference to an item is a reference to the corresponding item in the Lease.

2. LESSEE'S OBLIGATIONS

The Lessee must:

RENT

- 2.1 pay to the Authority the rent of 5 cents per annum if and when demanded;

BUILDING SUBJECT TO APPROVAL

- 2.2 not, without the prior written approval of the Authority, except where exempt by law, construct any Building, or make any structural alterations in or to any Building;

COMPLETE CONSTRUCTION

- 2.3 within twenty-four (24) months from the Commencement Date or within such further time as may be approved in writing by the Authority, complete construction of an approved development on the Land as approved by the Authority at a cost of not less than one hundred and eighty thousand dollars (\$180,000) per Dwelling;

UNDERGROUND FACILITIES

- 2.4 ensure that facilities for electrical and telephone cables are installed underground to a standard acceptable to the Authority;

PURPOSE

- 2.5 use the Land for the Purpose;

PRESERVATION OF TREES

- 2.6 during the period allowed for construction, not damage or remove trees identified in a development approval for retention or to which the Tree Protection Act 2005 applies, without the prior written approval of the Territory;

SOLID FUEL HEATING SYSTEM

- 2.7 not install or use a solid fuel heating system on the Premises without the prior written approval of the Authority;

REPAIR AND MAINTAIN

- 2.8 repair and maintain the Premises to the satisfaction of the Authority;

RIGHT OF INSPECTION

- 2.9 subject to the Act, permit anyone authorised by the Authority to enter and inspect the Premises at all reasonable times and in any reasonable manner;

RATES AND CHARGES

- 2.10 pay all rates, taxes, charges and other statutory outgoings, which become payable on or in respect of the Land, as they fall due;

CLEAN AND TIDY

- 2.11 at all times, keep the Premises clean, tidy and free from rubbish and other unsightly or offensive matter PROVIDED ALWAYS THAT should the Lessee fail to do so the Authority may, at the cost of the Lessee, cause any matter or thing to be removed from the Premises and restore the Premises to a clean and tidy condition.

3. MUTUAL OBLIGATIONS

The parties agree that:

OWNERSHIP OF MINERALS AND WATER

- 3.1 all minerals on or in the Land and the right to the use, flow and control of ground water under the surface of the Land are reserved to the Territory;

FAILURE TO REPAIR AND MAINTAIN

- 3.2 if the Lessee fails to repair and maintain the Premises in accordance with clause 2.8, the Authority may, by written notice to the Lessee, require the Lessee to carry out the repairs and maintenance within a specified period of not less than one month;
- 3.3 if the Authority believes that any Building is beyond repair, the Authority may, by written notice to the Lessee, require the Lessee to:
- (a) remove the Building; and
 - (b) construct a new Building to a standard acceptable to the Authority according to approved plans;

within a specified period of not less than one month;

- 3.4 if the Lessee fails to comply with a notice given under clause 3.2 or 3.3, the Authority may enter the Premises, with anyone else and with any necessary equipment, and carry out the work which the Lessee should have carried out. The Lessee must pay to the Authority, on demand, the costs and expenses of that work;

TERMINATION

- 3.5 if:
- (a) the Lessee at any time does not use the Land for a period of one year for the Purpose; or
 - (b) the Lessee fails to do any of the things which the Lessee has agreed to do in this Lease and that failure continues for three months (or such longer period as may be specified by the Authority) after the date of service on the

Lessee of a written notice from the Authority specifying the nature of the failure;

THEN the Authority on behalf of the Commonwealth may terminate the Lease by giving a written notice of termination to the Lessee. That termination will not adversely affect any other right or remedy which the Authority or the Commonwealth may have against the Lessee for the Lessee's failure;

- 3.6 the power of the Authority on behalf of the Commonwealth to terminate the Lease under clause 3.5 shall not be affected by:
- (a) the acceptance of rent or other money by the Authority during or after the notice has been given; or
 - (b) any delay in exercising any right, power or remedy under the Lease;

FURTHER LEASE

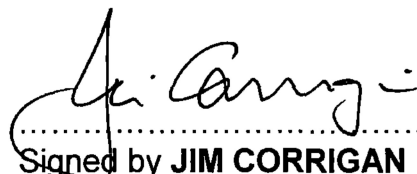
- 3.7 the Lessee will be entitled to a further Lease of the Land on such terms as the Act provides;

NOTICES

- 3.8 any written communication to the Lessee is given if signed on behalf of the Authority and delivered to or sent in a prepaid letter addressed to the Lessee at the Land or at the last-known address of the Lessee or affixed in a conspicuous position on the Premises;

EXERCISE OF POWERS

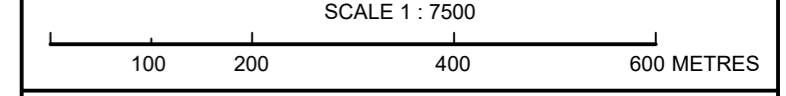
- 3.9 Any and every right, power or remedy conferred on the Commonwealth or Territory in this Lease, by law or implied by law may be exercised on behalf of the Commonwealth or the Territory or as the case may be by:
- (a) the Authority;
 - (b) an authority or person for the time being authorised by the Authority or by law to exercise those powers or functions of the Commonwealth or Territory; or
 - (c) an authority or person to whom the Authority has delegated all its powers or functions under the Planning and Development Act 2007.



.....
Signed by **JIM CORRIGAN**)
a delegate authorised to execute this)
Memorandum of Provisions on behalf)
of the Commonwealth)

TITLE INFORMATION
AMENDS DP11553
X PLAN X22664

PLAN OF
BLOCKS 33 & 35 SECTION 1
BLOCKS 1-6 SECTION 81
BLOCK 1 SECTION 82
BLOCKS 1-14 SECTION 83
BLOCKS 1-9 SECTION 84
BLOCK 4 SECTION 85
BEING A SUBDIVISION OF
BLOCKS 11 & 13 SECTION 1
DIVISION : DENMAN PROSPECT
DISTRICT : MOLONGLO VALLEY
AUSTRALIAN CAPITAL TERRITORY



I, Matthew Dean Stevenson of Lonergan Surveying Pty Ltd a surveyor registered under the Surveyors Act 2007 hereby certify that the survey represented on this plan is accurate and has been made in accordance with the Surveyors Practice Directions and was completed on 25/05/2023

SURVEYORS REFERENCE 22312_S1 Date 18/07/23

I certify that this plan has been examined in accordance with the Districts Act 2002

19/7/2023
Date
Surveyor-General of the ACT

LEGEND AND NOTES
Subject Boundary
Adjoining Boundary
Easement
District Boundary

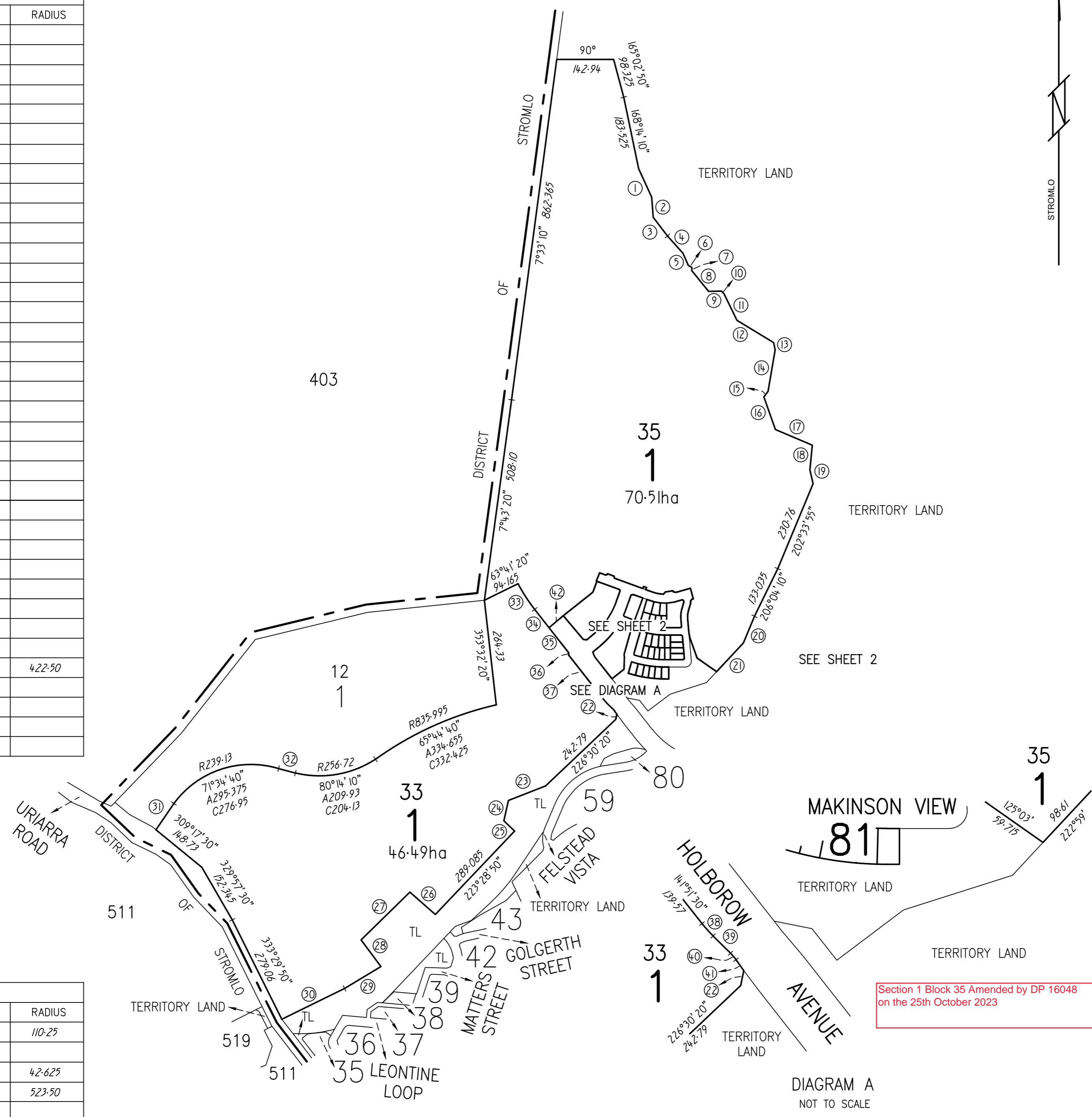
THIS PLAN IS PARTLY COMPILED FROM DP11553
S&D PROPOSED DRAINAGE AND SEWERAGE SERVICE EASEMENT 3.5 WIDE
S&D* PROPOSED DRAINAGE AND SEWERAGE EASEMENT 3.5 WIDE
S PROPOSED SEWERAGE EASEMENT VAR WIDTH
All Easements are 2.5 metres wide (except as otherwise shown)

Deposited in the office of the Registrar of Titles at Canberra
In the Australian Capital Territory at
10:54 am, 14/09/2023

Approved
David Pryce
Registrar-General
Registrar of Titles

LINE	BEARING	DISTANCE	ARC	RADIUS
1	155°20'50"	78.38		
2	175°57'40"	50.705		
3	142°31'40"	58.895		
4	138°01'20"	58.255		
5	156°30'	33.46		
6	121°10'20"	10.68		
7	181°19'40"	7.635		
8	141°08'40"	67.165		
9	88°50'20"	32.32		
10	136°17'20"	9.235		
11	154°10'20"	74.025		
12	121°10'20"	108.08		
13	169°40'10"	18.885		
14	189°41'20"	105.225		
15	217°15'	17.475		
16	160°27'10"	87.055		
17	113°02'	100.705		
18	185°37'30"	62.205		
19	167°16'20"	35.85		
20	202°32'50"	72.655		
21	222°59'	98.61		
22	191°27'40"	12.765		
23	248°41'30"	100.25		
24	192°32'10"	52.48		
25	133°44'20"	37.05		
26	311°27'30"	85.11		
27	225°33'10"	171.51		
28	143°19'50"	83.405		
29	238°54'	106.54		
30	243°51'	175.565		
31	34°10'40"	80.01		
32	104°44'	43.53		
33	147°06'10"	77.12	77.225	422.50
34	141°52'	58.195		
35	141°52'	80.30		
36	184°53'30"	5.54		
37	141°51'30"	139.57		

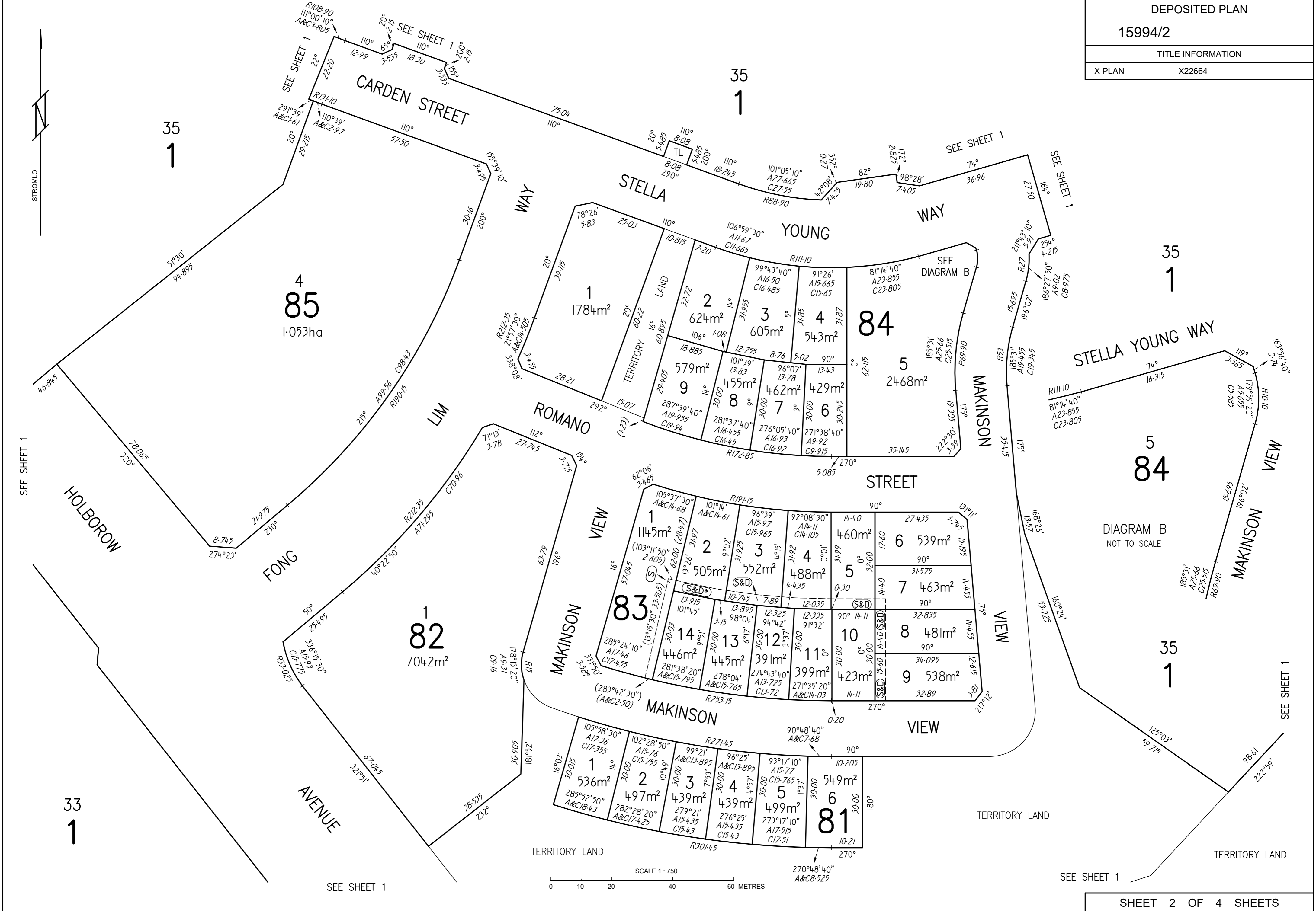
LINE	BEARING	DISTANCE	ARC	RADIUS
38	138°15'40"	13.83	13.84	110.25
39	134°40'	20.555		
40	139°35'40"	7.07	7.08	42.625
41	144°44'10"	11.225	11.225	523.50
42	230°	46.845		

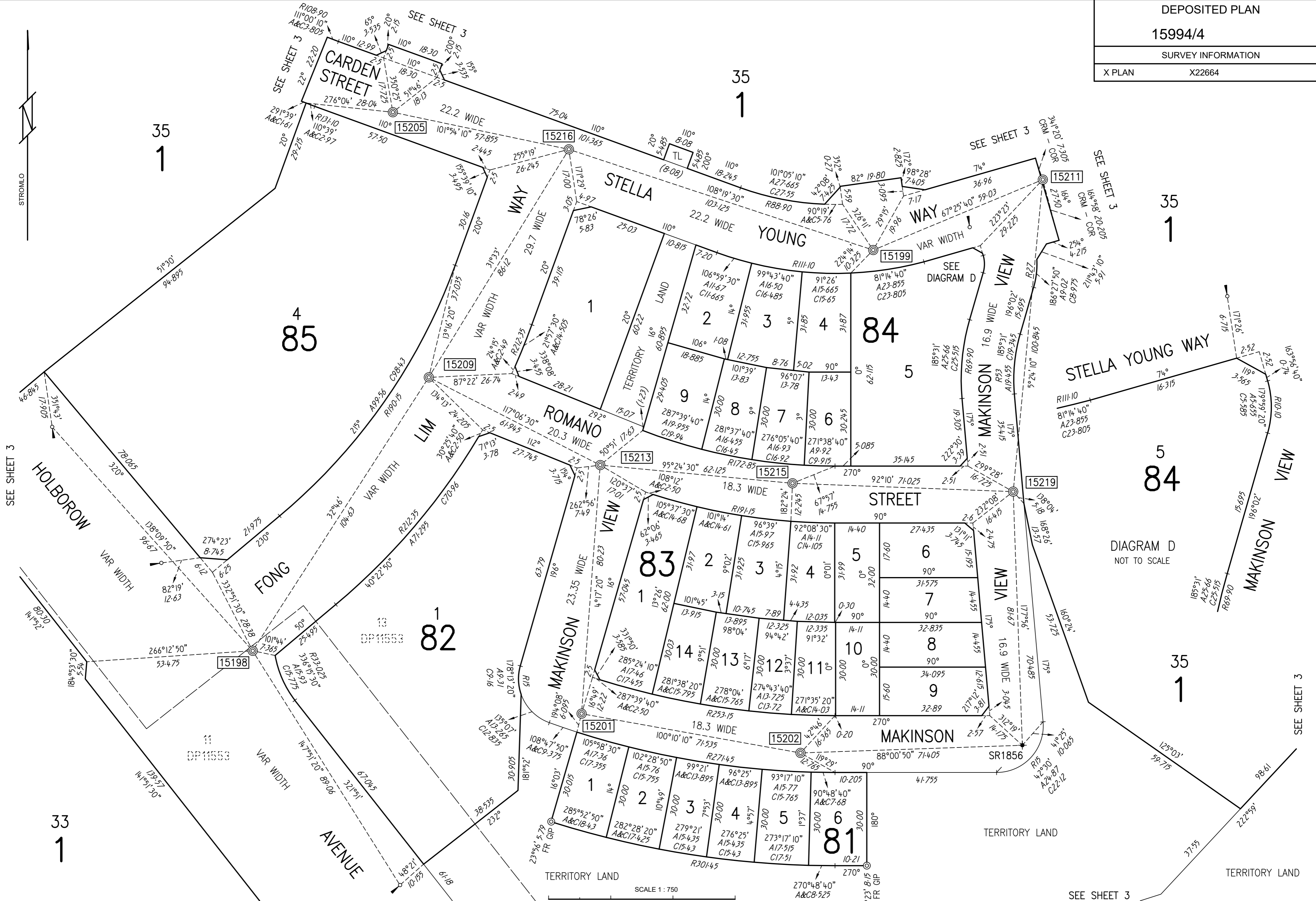


Section 1 Block 35 Amended by DP 16048 on the 25th October 2023

DIAGRAM A
NOT TO SCALE

DEPOSITED PLAN	
15994/2	
TITLE INFORMATION	
X PLAN	X22664







LEASE CONVEYANCING ENQUIRY

Your response is sought to the following questions in relation to:

LAND: Please provide details of the land you are enquiring about.

Unit	0	Block	5	Section	83	Suburb	DENMAN PROSPECT
-------------	----------	--------------	----------	----------------	-----------	---------------	------------------------

Leased by the Australian Capital Territory on behalf of the Commonwealth under the Land (Planning and Environment) Act 1991, Planning & Development Act 2007 and Planning Act 2023.

- | | No | Yes |
|--|-----------|--------------|
| 1. Have any notices been issued relating to the Crown Lease? | (X) | () |
| 2. Is the Lessor aware of any notice of a breach of the Crown Lease? | (X) | () |
| 3. Has a Certificate of Compliance been issued? (N/A ex-Government House) <input type="checkbox"/> | (X) | () |
| Certificate Number: Dated: | | |
| 4. Has an application for Subdivision been received under the Unit Titles Act? | | (see report) |
| 5. Has the Property been nominated for provisional registration, provisionally registered or registered in accordance with provisions of the Heritage Act 2004? | | (see report) |
| 6. If an application has been determined, is the land subject to an Environmental Impact Statement under Chapter 8 of the Planning & Development Act 2007, or part 6.3 of the Planning Act 2023? | | (see report) |
| 7. Has a development application been received, or approval (applications lodged prior to 2 April 1992 will not be included)? | | (see report) |
| 8. Has an application been received or approved for Dual Occupancy? (applications lodged prior to 2 April 1992 will not be included) | | (see report) |
| 9. Has an Order been made in respect of the Land pursuant to Part 11.3 of the Planning & Development Act 2007 or Part 12.3 of the Planning Act 2023? | | (see report) |
| 10 Contaminated Land Search - Is there information recorded by Environment ACT regarding the contamination status of the land? | | (see report) |

Applicant's Name : Info Track
 E-mail Address : actenquiries@infotrack.com.au
 Client Reference : 20260082 - 185298503

Date: 05-FEB-26 12:01:02



ACCESS CANBERRA
LAND, PLANNING & BUILDING SERVICES
8 Darling Street
MITCHELL ACT 2911

05-FEB-2026 12:01

PLANNING AND LEASE MANAGER (PaLM)
LEASE CONVEYANCING ENQUIRY REPORT

Page 1 of 2

INFORMATION ABOUT THE PROPERTY

DENMAN PROSPECT Section 83/Block 5

Area(m2): 460.8

Unimproved Value: \$669,000

Year: 2025

Subdivision Status: Application not received under the Unit Titles Act.

Heritage Status: Nil.

Environment Assessment: The Land is not subject to an Environmental Impact Statement under Chapter 8 of the Planning & Development ACT 2007, or part 6.3a of the Planning Act 2023.

DEVELOPMENT APPLICATIONS ON THE PROPERTY (SINCE APRIL 1992)

No Applications Found.

DEVELOPMENT APPLICATIONS ON THE ADJACENT PROPERTIES (LAST 2 YEARS ONLY)

The information on development applications on adjacent blocks is to assist purchasers to be aware of possible nearby development activity. Please note however, it doesn't cover all development activity. Exempt activities can include but are not limited to, new residences, additions to residences, certain sheds, carports and pergolas etc. Information on exempt developments can be found at <https://www.planning.act.gov.au/applications-and-assessments/development-applications/check-if-you-need-a-da>

<u>Sect</u>	<u>Blk</u>	<u>DA No.</u>	<u>Description</u>	<u>Overlay Policy</u>	<u>Status</u>
83	2	202443392	PLANNING ACT 2023 - PROPOSAL FOR TEMPORARY USE - Temporary use of the single dwelling as a display home with sales office, signage and associated works.	Approval Conditional	24-APR-25
83	2	202544477	PLANNING ACT 2023 - PROPOSAL FOR LEASE VARIATION and EXTENSIONS OF SEWER AND STORMWATER - Subdivide block 1 section 83 Denman Prospect into two (2) separated blocks and proposal for installation of water tie and a driveway for block 1 section 83 and extensions of the sewer and stormwater easement to service the subdivided block.	Active	



ACCESS CANBERRA
LAND, PLANNING & BUILDING SERVICES
8 Darling Street
MITCHELL ACT 2911

05-FEB-2026 12:01

**PLANNING AND LEASE MANAGER (PaLM)
LEASE CONVEYANCING ENQUIRY REPORT**

Page 2 of 2

LAND USE POLICIES

To check the current land use policy in the suburb that you are buying a property in, please check the Territory Plan online at <https://www.legislation.act.gov.au/ni/2023-540/>

CONTAMINATED LAND SEARCH

Information is not recorded by the Environment Protection Authority regarding the contamination status of this land. However, this does not absolutely rule out the possibility of contamination and should not be interpreted as a warranty that there is no contamination. To be completely sure, independent tests should be arranged.

ASBESTOS SEARCH

ACT Government records indicate that asbestos (loose fill or otherwise) is not present on this land. However, the accuracy of this information is not guaranteed. If the property was built prior to 1 January 2004, you should make your own enquiries and obtain reports (from a licensed Asbestos Assessor) in relation to the presence of loose-fill asbestos insulation (and other forms of asbestos e.g. bonded asbestos) on the premises.

CAT CONTAINMENT AREAS

Cat containment has been extended across the ACT for cats born on or after 1 July 2022. Containment means keeping your cat on your premise 24 hours a day. This can include your house or apartment, enclosed area in a backyard or courtyard, a cat crate or leash.


Cats born before 1 July 2022 do not have to be contained unless they live in one of the 17 currently declared cat containment suburbs. All cats (regardless of age) located in the following suburbs must be contained to their premise 24 hours a day. However, cats can be walked on a leash and harness under effective control in all containment suburbs: BONNER, COOMBS, CRACE, DENMAN PROSPECT, FORDE, JACKA, LAWSON, MOLONGLO, MONCRIEFF, STRATHNAIRN, THE FAIR in north WATSON, THROSBY, WRIGHT, GUNGAHLIN TOWN CENTRE, MACNAMARA, TAYLOR and WHITLAM. More information on cat containment is available at <https://www.cityservices.act.gov.au/pets-and-wildlife/domestic-animals/cats/cat-containment> or by phoning Access Canberra on 13 22 81.

URBAN FOREST ACT 2023

The Urban Forest Act 2023 (or Tree Protection Act 2005 where applicable) protects individual trees of importance and urban forest areas that require particular protection. A Tree Register has been established and can be found on the Transport Canberra and City Services website https://www.cityservices.act.gov.au/trees-and-nature/trees/act_tree_register or for further information please call Access Canberra on 132281.

----- END OF REPORT -----

ORIGINAL

 ACT Government	Australian Capital Territory Planning Act 2023, Section 368 CERTIFICATE OF COMPLIANCE			NUMBER 88813
	Division DENMAN PROSPECT	Section 83	Block/s 5	Unit/s
<p>PURSUANT TO SECTION 368 OF THE Planning Act 2023, I CERTIFY THAT I AM SATISFIED THAT THE BUILDING AND DEVELOPMENT COVENANTS CONTAINED IN THE CROWN LEASE</p> <p>REGISTERED VOLUME 3018 FOLIO 0097</p> <p>HAVE BEEN COMPLIED WITH</p> <p>DATED THIS 3rd DAY OF March 2026</p> <p>Jyoti Bhatia (Delegate of the Australian Capital Territory Planning Authority.)</p>				

This is an original certificate issued under the *Planning Act 2023*.
Compliance Certificates are now issued electronically (October 2015).

If a home was built before 1990 it may contain dangerous asbestos material

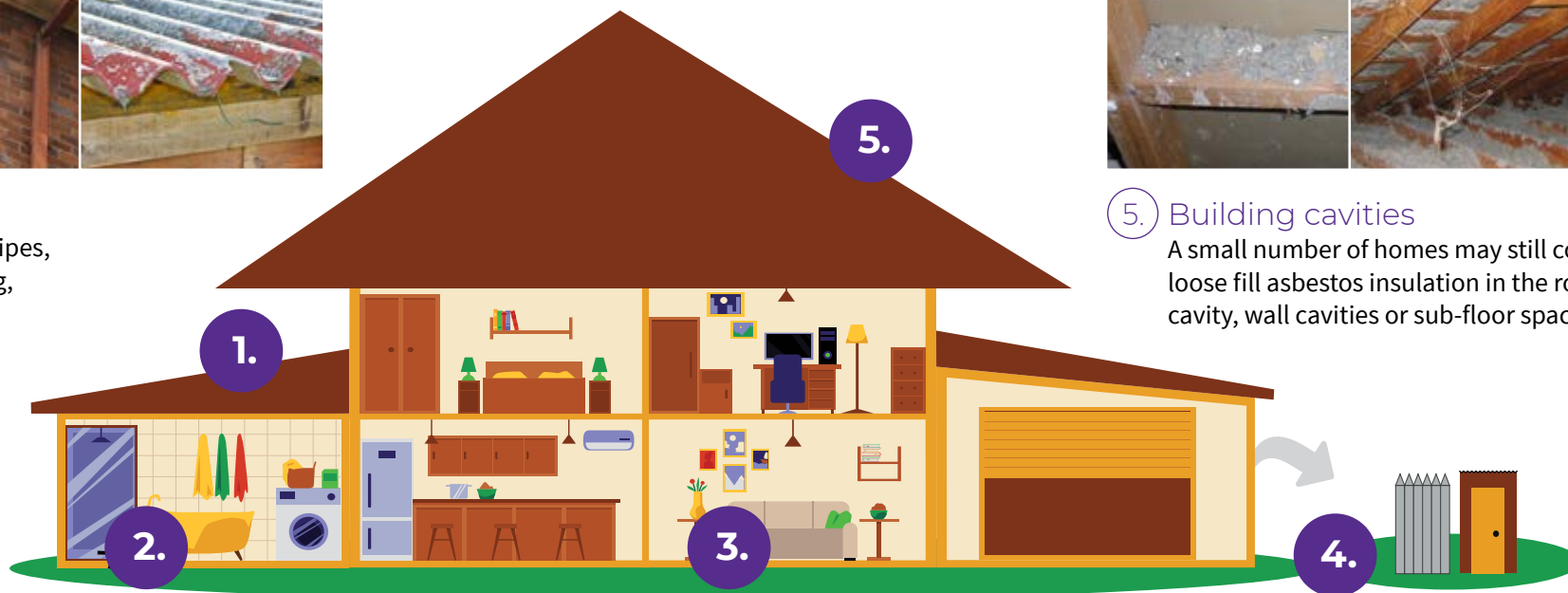
Identify where asbestos materials might be. Five common places are:



1. Exterior
roof sheeting, gutters, downpipes,
ridge capping, eaves, cladding,
electrical switchboards



5. Building cavities
A small number of homes may still contain
loose fill asbestos insulation in the roof
cavity, wall cavities or sub-floor space



2. Wet areas - bathroom, laundry and kitchen
wall and ceiling panels, vinyl floor tiles, backing for wall tiles
and splashbacks, hot water pipe insulation



3. Internal areas
wall and ceiling panels, carpet underlay,
textured paints, insulation in domestic
heaters



4. Backyard
fences, sheds, garages, carports, dog kennels, buried or
dumped waste, letterboxes, swimming pools

If a home was built before 1990 it may contain dangerous asbestos material

Assess the risk

A licensed asbestos assessor can help identify asbestos in your home and its condition.

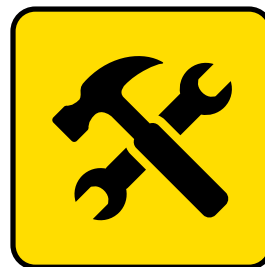
Asbestos materials become dangerous when:



Broken or in poor
condition



Damaged
accidentally



Disturbed during
renovation or repairs



Loose fill asbestos
insulation



Manage asbestos safely

- Monitor the condition of asbestos in your home
- Inform tradespeople of locations of asbestos in your home
- Avoid disturbing or damaging asbestos if working on your home
- Engage a licensed asbestos removalist to remove asbestos

If you suspect your home contains loose fill asbestos insulation, contact Access Canberra.