

# MOYNE SHIRE COUNCIL

## NOTICE OF AN APPLICATION FOR PLANNING PERMIT

|                                                                                                                            |                                                                                                                                                                                                                                            |
|----------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The land affected by the application is located at:                                                                        | 5 Bowker Court PORT FAIRY<br>5 PS 614167P                                                                                                                                                                                                  |
| The application is for a Permit to:                                                                                        | Construct a building or construct or carry out works for a dwelling.                                                                                                                                                                       |
| The applicant for the Permit is:                                                                                           | Lifestyle Town Planning and Services                                                                                                                                                                                                       |
| The application reference number is:                                                                                       | PL26/164                                                                                                                                                                                                                                   |
| You may look at the application and any documents that support the application at the office of the Responsible Authority: | Moyne Shire Council – Port Fairy Office<br>Planning Department,<br>Princes Street,<br>PORT FAIRY, 3284.<br>OR – View proposed plans here<br><a href="http://www.moyne.vic.gov.au/planningnotices">www.moyne.vic.gov.au/planningnotices</a> |

This can be done during office hours and is free of charge.

Any person who may be affected by the granting of the Permit may object or make other submissions to the Responsible Authority.

An objection must:

- be sent to the Responsible Authority in writing,
- include the reasons for the objection, and
- state how the objector would be affected.

The responsible authority must make a copy of every objection available at its office for any person to inspect during office hours free of charge until the end of the period during which an application may be made for review of a decision on the application.

|                                                                      |                               |
|----------------------------------------------------------------------|-------------------------------|
| The Responsible Authority will not decide on the application before: | <b>Monday 19 October 2026</b> |
|----------------------------------------------------------------------|-------------------------------|

If you object, the Responsible Authority will tell you its decision.



Town Planning & Services

Planning Report – Lot 5 PS  
614167P – 5 Bowker Court Port  
Fairy, Vic. 3284.

Construction of a dwelling.

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## DISCLAIMER

Although Lifestyle Town Planning and Services have taken all reasonable steps to ensure that an accurate document has been prepared, the company accepts no liability for any damages or loss incurred as a result of reliance placed upon the report and its contents.

## DOCUMENT CONTROL

This document has been prepared to aid the submission of a planning permit application at 5 Bowker Court, Port Fairy, Vic. 3284.

## 1. PROPOSAL

It is proposed to construct a bespoke architecturally designed 4 bedroom home to suit its 726 sqm beachside location site and planning controls in Port Fairy's South Beach.

The dwelling has been designed to incorporate views of the ocean, view sharing, and sheltered areas in consideration of its spectacular but exposed to the elements location.

The dwelling will be finished in a mix of vertical and horizontal durable timber cladding of Swedish Oak and Charred Cedar, with dark brickwork, double glazed aluminium windows under a Colorbond Trimdeck roof covering.

The dwelling has a maximum height of 7.158m and a floor area of 252.54 sqm including garage which represents a 34.76% site coverage leaving 358.59 sqm (49.35% of the site) for permeable garden and open space.

The garage which incorporates internal storage to avoid outbuildings and maximise garden space has been set back from the frontage behind an entry portico to provide an architectural feature and to reduce its prominence.

The accommodation is on two levels with 3 bedrooms, 2 bathrooms, laundry, rumpus room and garage on the ground floor, together with kitchen/living/dining room and master bedroom suite, and separate w/c on the first floor.

There is a first floor ocean view deck along the rear southern side, a north facing first floor deck, and a sheltered north and west facing outdoor living area on the ground floor.



**SOUTH VIEW**

## MATERIAL PALETTE



Charred Cedar  
vertical cladding



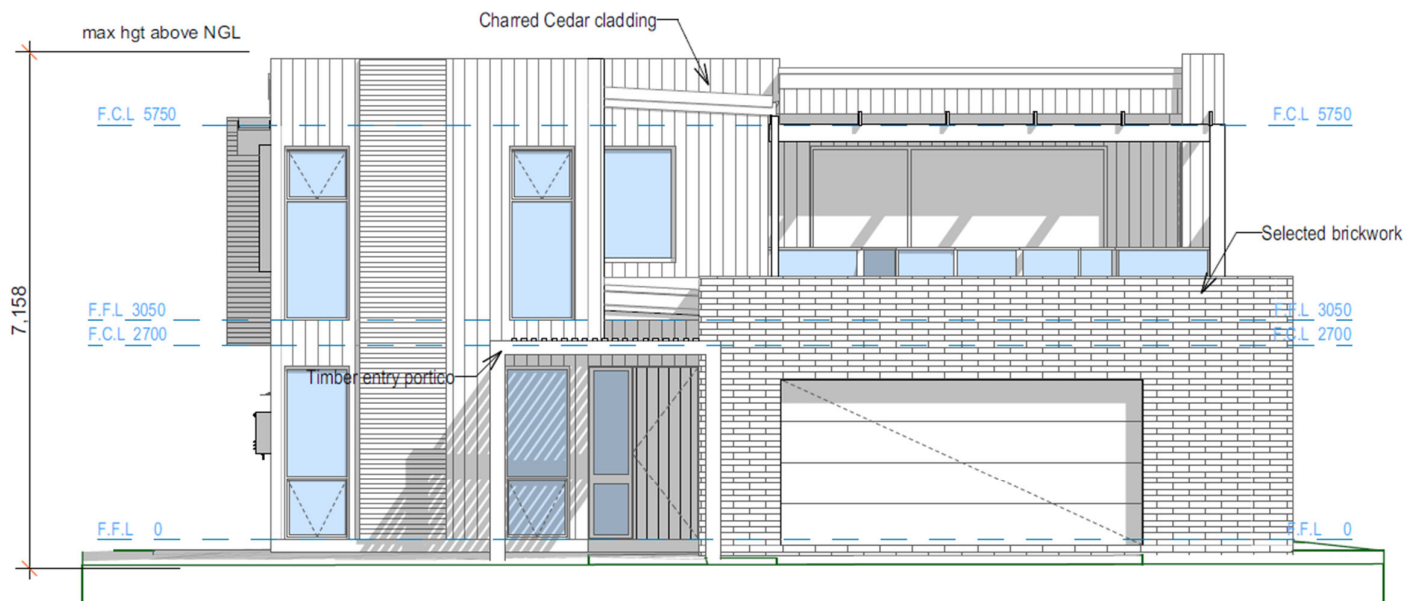
Swedish Oak  
horizontal cladding



Black Bricks &  
exposed agg driveway



NORTH VIEW



## NORTH ELEVATION

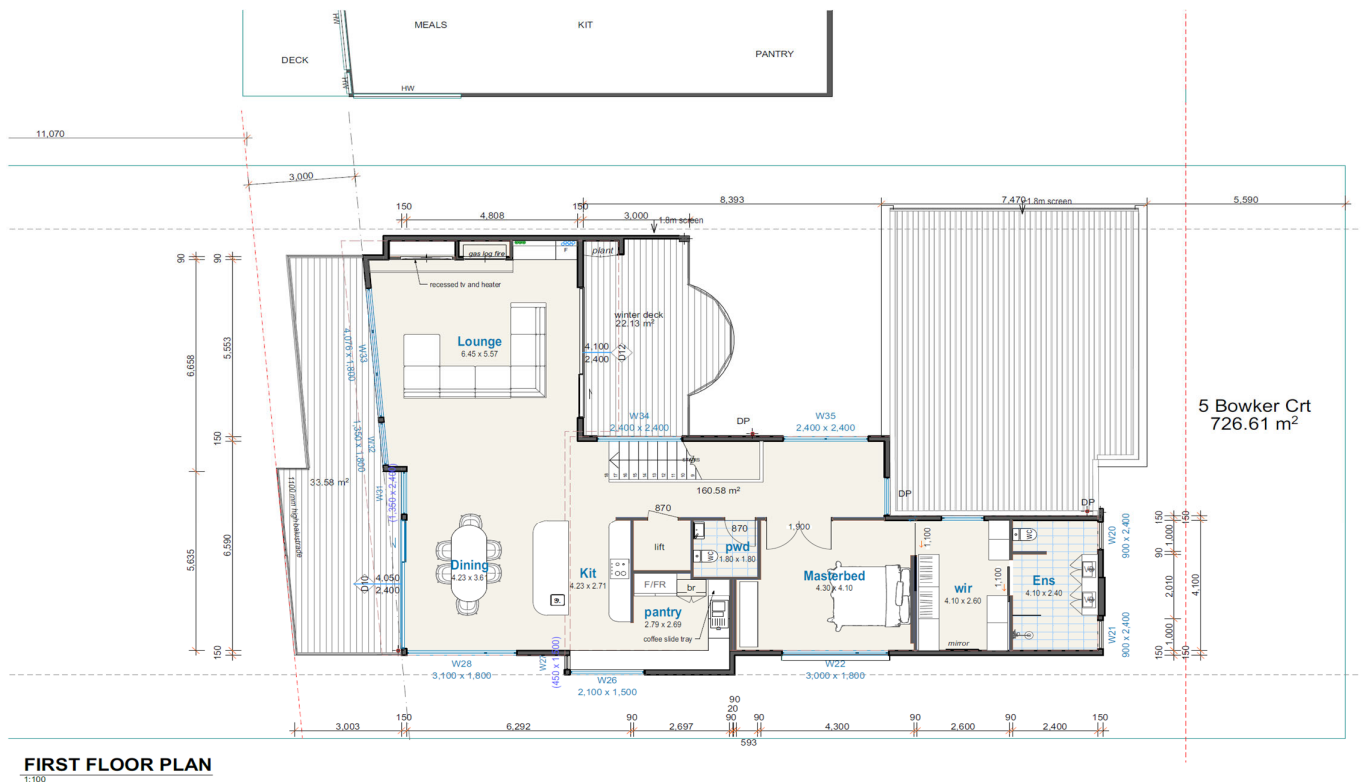
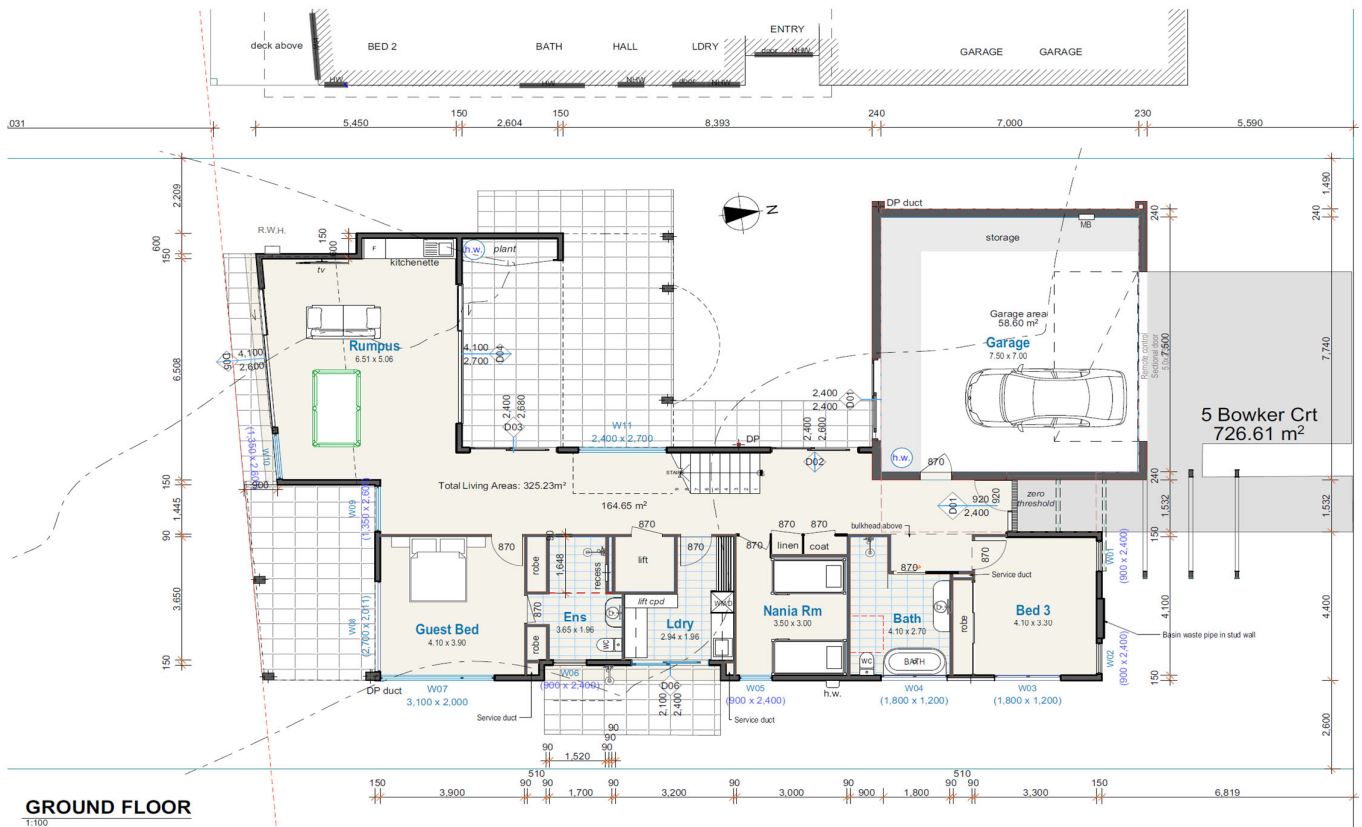
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## EAST ELEVATION

1:100



## 2. SITE ANALYSIS

The site is situated to the west of the Port Fairy town centre within a recently constructed residential subdivision overlooking the coastal reserve and “mad mans” beach and an informal car park at the rear. The site is generally flat with an overall area of 727 sqm and is currently vacant without trees or significant vegetation.

The site has mains water, electricity and gas available and a concrete footpath running along the frontage with kerb and channel drainage on the roadside. There is a 3m wide sewerage easement along the frontage with Bowker Court.

The prevailing character of the subdivision has a mix of single and double storied residential development on conventional densified allotments together with around 50% of the surrounding allotments currently undeveloped.

The abutting allotment is developed with a two storey dwelling with land to the south and east undeveloped.



**Subject site looking south from Bowker Court**



**Looking southeast**



Looking southwest from Bowker Court



Looking west along Bowker Court



### 3. PLANNING CONTROLS

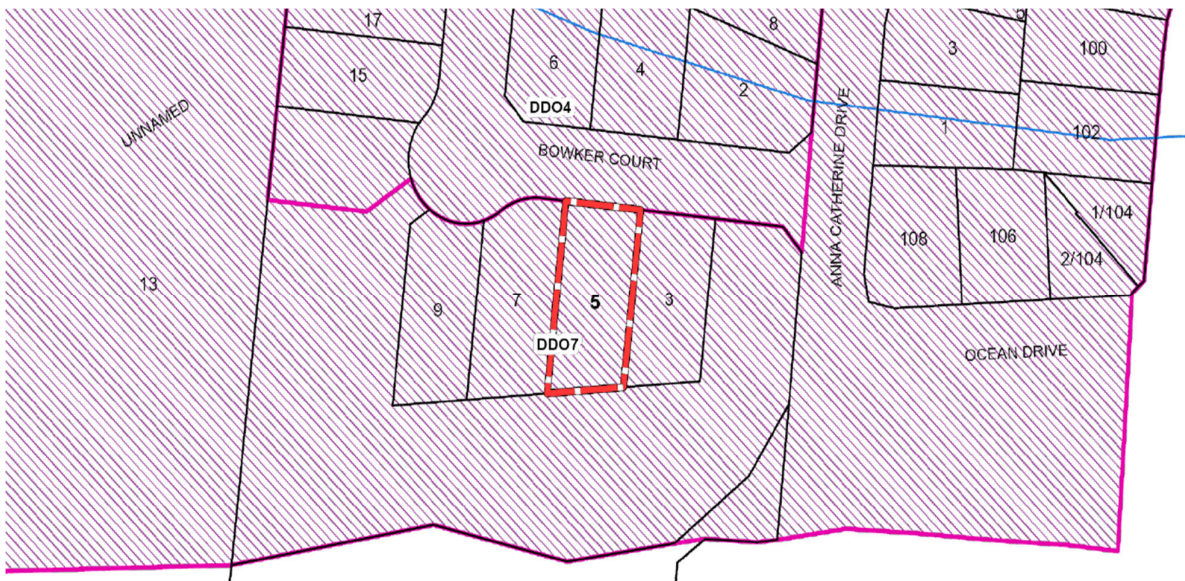
#### Zone

The site is located in the Neighbourhood Residential Zone Schedule 1 (NRZ1).



#### Overlays

Design Development Overlay Schedule 7 (DDO7)



The map shows a residential layout with the following details:

- Lot Numbers:** 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 100, 102, 104, 106, 108.
- Streets:** ROWKER COURT, ANNA CATHERINE DRIVE, OCEAN DRIVE.
- Shaded Areas:** A large green area on the left is labeled 'UNNAMED'. A green area at the bottom is labeled 'ES01'.
- Highlighted Lot:** Lot 5 is outlined with a red dashed border.
- Scale:** A scale bar at the bottom indicates 0 to 100 feet.

UNNAMED

13

17

15

6

4

8

2

3

100

102

108

106

1/104

2/104

BOWKER COURT

LS104

ANNA CATHERINE DRIVE

OCEAN DRIVE

9

7

5

3

The site is designated as being within an area of Aboriginal Cultural Heritage Significance.

## Permit requirements

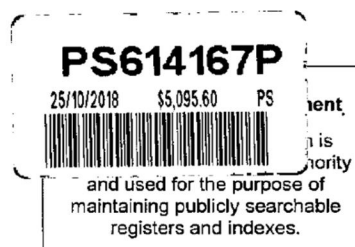
- A permit is not required for proposed works in the NRZ1 as the site exceeds 300 sqm.
- A permit is required for buildings and works under ESO1 pursuant to **Clause 42.01-2.**
- A permit is required for buildings and works under DDO7 pursuant to **Clause 43.02-2.**
- A permit is required for buildings and works under the LSIO4 pursuant to **Clause 44.04-2.**

A cultural heritage management plan is not required as a single dwelling (works associated with) is an exempt activity under the Aboriginal Heritage Regulations 2018.

## 4. RESTRICTIONS ON TITLE

- **Covenant PS 614167P**

**Subdivision or consolidation**  
Section 22 Subdivision Act 1988



### Certifications

- 1.The Certifier has taken reasonable steps to verify the identity of the applicant.
- 2.The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
- 3.The Certifier has retained the evidence supporting this Registry Instrument or Document.
- 4.The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Executed on behalf of [REDACTED]

Signer Name [REDACTED]

Signer Organisation [REDACTED]

Signer Role [REDACTED]

Signature [REDACTED]

Execution Date

18<sup>th</sup> October 2018

## ASSESSMENT

The document certifies the subdivision and does not affect the proposal as it relates to the earlier subdivision stage.

- **Covenant AV145287V**



## Department of Transport and Planning

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### Electronic Instrument Statement

|             |                      |
|-------------|----------------------|
| Street Type | ██████████           |
| Locality    | ████████████████████ |
| State       | ██████████           |
| Postcode    | ██████████           |

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#### Covenants

The registered proprietors of the burdened land covenant with the registered proprietors of the benefited land as set out in the restrictive covenant with the intent that the burden of the restrictive covenant runs with and binds the burdened land and the benefit of the restrictive covenant is annexed to and runs with the benefited land.

|                      |             |
|----------------------|-------------|
| Burdened land        | the Land    |
| Benefited land       | MCP: AA4644 |
| Restrictive covenant | MCP: AA4644 |
| Expiry Date          |             |

---

### ASSESSMENT

This covenant registers Memorandum of Common Provisions (MCP) AA4644 on title. Refer to assessment of MCP obligations on the following page.

- **MCP AA4644**

2. The transferee will not erect or construct or cause to be erected or constructed on the Land:-
  - (a) More than one dwelling on the said land and for the purpose of this covenant dwelling includes a single unit whether it is detached, semi-detached or part of a complex;
  - (b) A separate toilet facility or water closet in a separate structure unless the same is attached to or incorporated in a building or other structure used for other purposes on the said land;
  - (c) A main dwelling having floor area of less than 140 square metres excluding garage;
  - (d) The external wall any building or dwelling from any material other than any compressed fibre cement products, concrete, manufactured composite timber or wood fibre products, reconstituted stone products, reconstituted masonry products, colorbond, zinc, alloy or stainless steel, corten steel, stone, ground-stone, flush-jointed face brickwork, concrete masonry blockwork pigmented or natural, painted or coloured aluminium, painted, stained or untreated natural timber or glass or a combination of any of the before-mentioned materials, PROVIDED THAT should colorbond, zinc, alloy or stainless steel, painted or coloured aluminium be used then this material shall not exceed 25% of the external wall area of the dwelling excluding the window area.

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1. The provisions are to be numbered consecutively from number 1.
2. Further pages may be added but each page should be consecutively numbered.
3. To be used for the inclusion of provisions in instruments and plans.

91ATLA

Page 1 of 3

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**Memorandum of common provisions**  
**Section 91A Transfer of Land Act 1958**



- (e) A roof of any building or dwelling from any material other than concrete or cement sheeting, colourbond, zinc, copper, alloy, polycarb, stainless steel, plywood resin, magnaflow, fibreglass fibro, fibro materials or composite fibro material.
  - (f) Any outbuildings within 10 metres of any boundary contiguous with the land marked "R1 Bowker Court" on PS 614167P.
3. The transferee will not erect or cause or permit to be erected upon the Land any advertisement, hoarding or similar structure and shall not permit the Land or any building erected thereon to be used for the display of any advertisement or notice excepting such as may relate solely to the selling and/or letting of the Land or any part thereof or any buildings erected thereon and excepting any plaque of modest size showing the profession, occupation, trade or calling of the occupants of the Land such signage to be only one single sign measuring no greater than 1.0 m2 and such signage to be contained within the Land.

3. The transferee will not erect or cause or permit to be erected upon the Land any advertisement, hoarding or similar structure and shall not permit the Land or any building erected thereon to be used for the display of any advertisement or notice excepting such as may relate solely to the selling and/or letting of the Land or any part thereof or any buildings erected thereon and excepting any plaque of modest size showing the profession, occupation, trade or calling of the occupants of the Land such signage to be only one single sign measuring no greater than 1.0 m2 and such signage to be contained within the Land.
4. The transferee will not erect on the Land a fence on any boundary contiguous with the land marked "R1 Bowker Court" on PS 614167P or nearer that boundary than the line of the building closest to the boundary unless it is a fence not exceeding 120 centimetres and is not constructed of wire, wire or steel mesh, fibro material, composite fibro material or corrugated or flat iron, tin or steel and in the interpretation hereof "corrugated or flat iron, tin or steel" shall not be deemed to include "colorbond" or other similar products, materials or brands. All other fencing along any common boundary or in the vicinity of the common boundary shall not exceed 180 centimetres and shall not be constructed of the materials aforementioned herein. The restriction on "all other fencing" shall not apply to any arboreal boundary fence.
5. The transferee will not move or construct or erect or cause to be moved constructed or moved or shifted on or onto the Land any building already constructed or partly constructed or occupied for human habitation.
6. The transferee will not object to any future developments on the land comprised in Lot L on Plan of Subdivision PS 614167P by [REDACTED] Pty Ltd or its successors and transferees so long as such developments comply with the provisions of the Design and Development Overlay contained within the Moyne Planning Scheme and the Port Fairy Design Guidelines for the Character Area at South Beach behind the foreshore.
7. The transferee will not allow any of Lots 8 to 14 (both inclusive) on PS 614167P to be used as a pedestrian or vehicular thoroughfare from Bowker Court to the road contiguous with the western boundary of any of those Lots. This clause does not apply to easements or roadways created by PS 614167P.
8. The transferee will not call upon or demand that the transferor contribute to any part of the cost of erection of a dividing fence between any Lot on the plan and any land remaining in the possession of the transferor and the transferee hereby indemnifies the transferor against any liability to contribute to the cost thereof.

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Page 2 of 3

**THE BACK OF THIS FORM MUST NOT BE USED**

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**Memorandum of common provisions  
Section 91A Transfer of Land Act 1958**

9. The transferee will not further subdivide the land



**ASSESSMENT**

None of the above restrictions are breached by the proposal.

- Agreement AF708349U

**AF708349U**



### 3. AGREEMENT

The Owner has agreed to ensure that the remnant vegetation on the site is protected and enhanced for the future and to manage Reserve No 1 ('the land') as a properly protected environment for flora and fauna.

The Owner has also agreed to protect the foreshore midden (AAV7321-410) from inadvertent damage through the development of good heritage conservation management practices and strategies, in consultation with the traditional Aboriginal custodians and local indigenous community in general.

Accordingly the Owner agrees to the following controls:

#### 3.1 DEVELOPMENT

- 3.1.1 The land is not allowed to be subdivided.
- 3.1.2 No structure will be able to be erected on the site without the approval of the Council with the exception of an interpretive information sign of not more than one (1) square metre in area which may only be erected in the north eastern corner of the land.
- 3.1.3 No structure will be able to be erected on the site without the approval of the Council.
- 3.1.4 No occupiable dwelling or any other building or structure will be constructed or erected on the land.
- 3.1.5 No overhead powerlines will be constructed on the land (unless required by law).
- 3.1.6 No vehicular access tracks or other development will be constructed on the land without the approval in writing of the Council.

#### 3.2 CONSTRUCTION OF BOARDWALK

- 3.2.1 The owner will allow the Council or its agents to gain access to the land as required for the purpose of constructing and maintaining the boardwalk which is to be erected on the land along the northern boundary of the land.
- 3.2.2 The owner will not in any way obstruct pedestrians from accessing the western beach areas via the boardwalk when erected.
- 3.2.3 The boardwalk must be constructed low enough to the ground natural surface to ensure that safety fencing is not required to be erected on either side of the boardwalk.

#### 3.3 FENCING

- 3.3.1 The owner shall not commence the erection of any fencing along the boundaries of or anywhere else on the land without approval in writing from the Council.

#### 3.4 FLORA AND FAUNA

- 3.4.1 The owner shall not permit on the land:
  - 3.4.1.1 the destruction or removal of any local indigenous trees, plants or grasses, nor plant any trees, grass or plants other than local indigenous flora;
  - 3.4.1.2 any act or omission which may adversely affect any local indigenous flora or any indigenous fauna or their associated habitats;
  - 3.4.1.3 the introduction of any non-indigenous flora or categorised weed species.
- 3.4.2 The owner as far as practicable shall make reasonable efforts to remove pests and weeds from the land to prevent their future invasion.

#### 3.5 PUBLIC ACCESS

- 3.5.1 The owner shall not prevent any member of the public from gaining access to the beach areas west of the land via the boardwalk which is to be erected by the Council on the land along the northern boundary of the land.

**AF708349U**

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**3.6 EMERGENCY ACCESS**

- 3.6.1 The owner shall not obstruct the use of the land by emergency vehicles in the event of any emergency situation.

**3.7**

**3.8 OTHER PROHIBITED USES**

- 3.7.1 The owner shall not permit on the land:
- 3.8.1.1 the lighting of any fires;
  - 3.8.1.2 the recreational use of trail bikes or four wheel drive motor vehicles, the storage of rubbish or materials, or any other activities not consistent with the objectives of this agreement;
  - 3.8.1.3 the entry of any livestock;
  - 3.8.1.4 the introduction of any non-indigenous fauna or any cat, dog or other domestic animals;
  - 3.8.1.5 any exploration or mining extraction or production of gas, petroleum, minerals or other substances;
  - 3.8.1.6 the removal, introduction or disturbance of any soil, rocks or other minerals;
  - 3.8.1.7 the operation of any non-agricultural trade, industry or business, the storage of any materials other than materials being used or intended to be used by the Owner on the Land or any other activities not consistent with the objectives of this Agreement;
  - 3.8.1.8 the removal of any timber including fallen timber;
  - 3.8.1.9 the erection or display of any notice, boarding or advertising matter save for identification signs, interpretive and safety signs.

**ASSESSMENT**

This agreement relates to the earlier subdivision stage. The proposed dwelling and associated works do not breach the restrictions.

- **Agreement AR275509D**

### 3. AGREEMENT

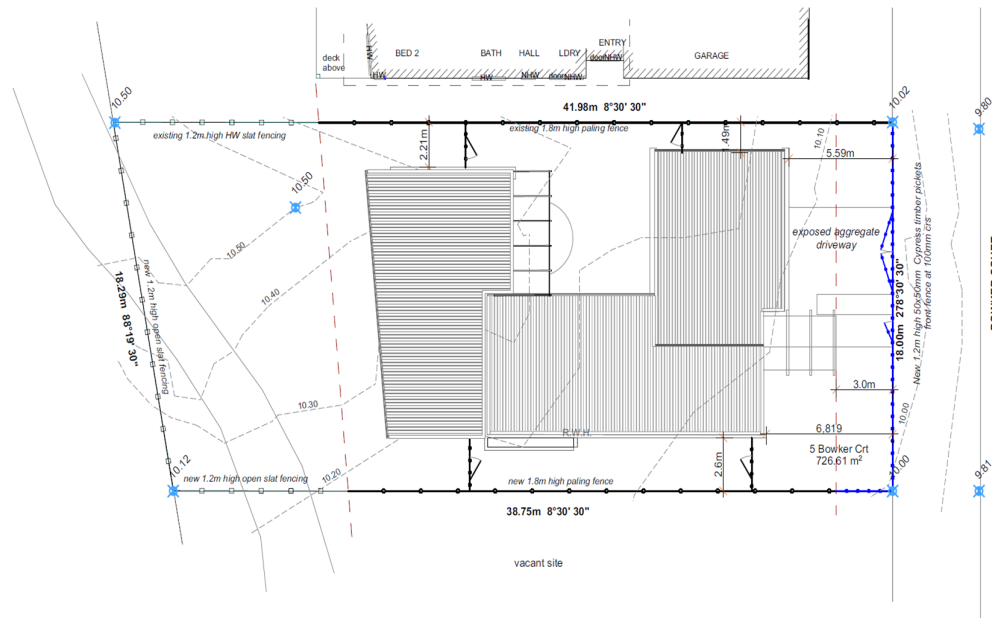
The Owner covenants and agrees with the Responsible Authority that:

- Fencing**  
The side and rear boundary fences on Lots 3-8 inclusive on the Allotment Plan must not exceed a height of 1.5 metres above natural ground level where such fencing is located within the hatched area shown on Sheet 4 of the Allotment Plan.
- Building Location**  
Any part of any buildings constructed on Lots 3-8 inclusive on the Allotment Plan must not extend into the hatched area shown on Sheet 4 of the Allotment Plan.
- First Floor Façade**  
The south facing first floor façade of any dwelling constructed on Lots 3-8 inclusive shown on the Allotment Plan must be set back at least 3 metres north of the hatched area shown on Sheet 4 of the Allotment Plan.
- Building Height**  
The height of any dwelling or building constructed on Lot 8 on the Allotment Plan must not exceed the height of the dwelling which was constructed (at the time the Permit was issued) on the allotment which immediately abuts the western boundary of Lot 8.

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## ASSESSMENT

The allotment plan shown overleaf sets out the restrictions for fencing and south facing façade setbacks which are met by the proposal with fence heights not exceeding 1.5m in the hatched area.



**SITE PLAN**  
1:200

### ALLOTMENT PLAN

## SCHEDULE

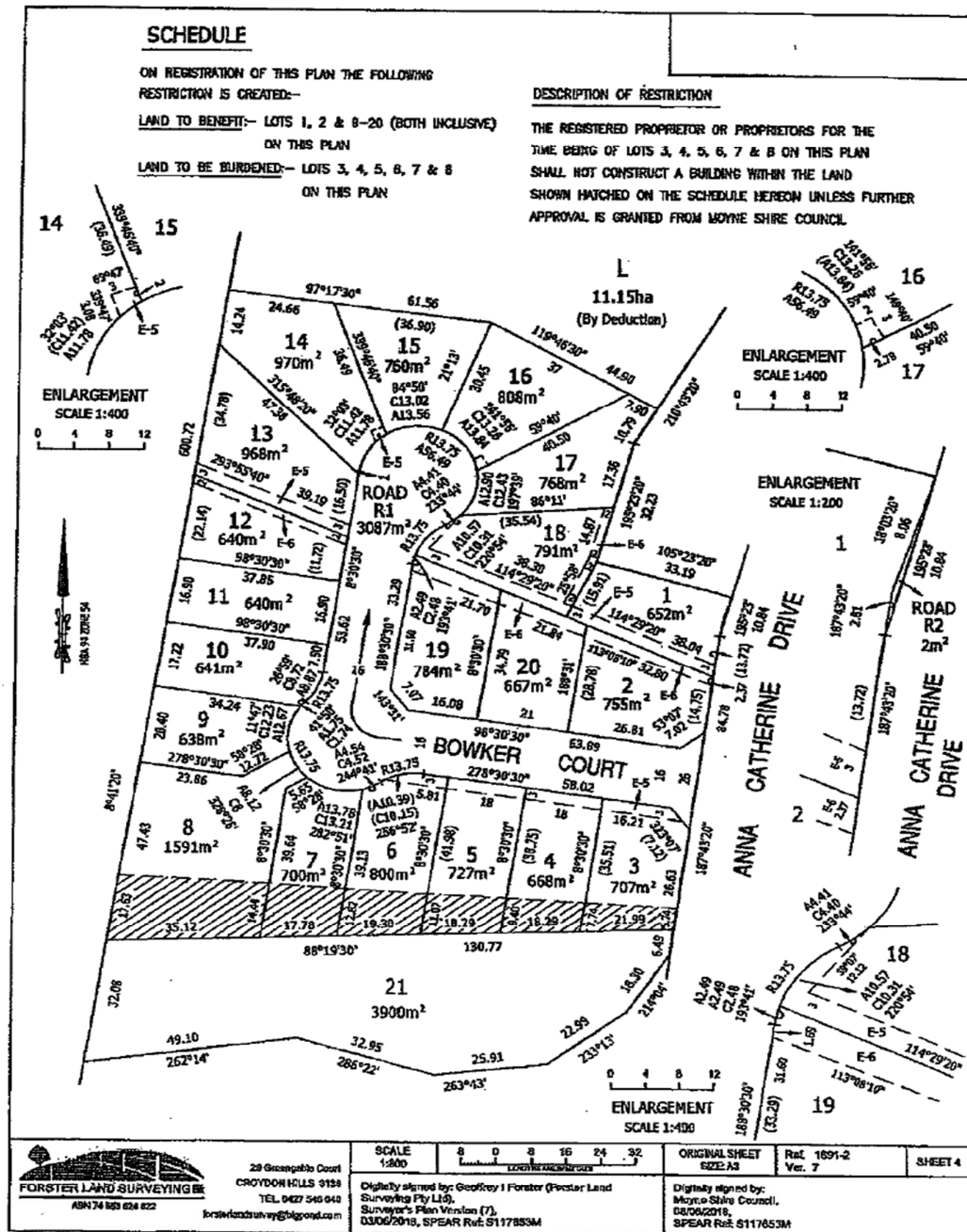
ON REGISTRATION OF THIS PLAN THE FOLLOWING  
RESTRICTION IS CREATED:-

**LAND TO BENEFIT:-** LOTS 1, 2 & 8-20 (BOTH INCLUSIVE)  
ON THIS PLAN

LAND TO BE BURDENED:- LOTS 3, 4, 5, 8, 7 & 8  
ON THIS PLAN

### DESCRIPTION OF RESTRICTION

THE REGISTERED PROPRIETOR OR PROPRIETORS FOR THE TIME BEING OF LOTS 3, 4, 5, 6, 7 & 8 ON THIS PLAN SHALL NOT CONSTRUCT A BUILDING WITHIN THE LAND SHOWN HATCHED ON THE SCHEDULE HEREON UNLESS FURTHER APPROVAL IS GRANTED FROM MOYNE SHIRE COUNCIL.



WARNING - This document is a working document in the SPEAR approval process. It is subject to revision and change and information should not be relied on. If you have any questions about this document, please contact the person from Foster Land Surveying Pty Ltd who gave you access to SPEAR. (this document: SPEAR Ref: 91176533, COM020216, 01x01) (en)

**AR275509D**

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## 5. PLANNING ASSESSMENT

### Clause 43.02

#### DESIGN AND DEVELOPMENT OVERLAY

##### Purpose

*To implement the Municipal Planning Strategy and the Planning Policy Framework.*

*To identify areas which are affected by specific requirements relating to the design and built form of new development.*

### Clause 43.02-2

**20/04/2026**

**VC307**

#### Buildings and works

##### Permit requirement

*A permit is required to:*

- *Construct a building or construct or carry out works. This does not apply:*
  - *If a schedule to this overlay specifically states that a permit is not required.*
  - *To the construction of an outdoor swimming pool associated with a dwelling unless a specific requirement for this matter is specified in a schedule to this overlay.*
  - *To the construction of a building or construction or carrying out of works for a small second dwelling if all the following requirements are met:*
    - *The building height must not exceed 5 metres.*
    - *The building must be finished using muted tones and colours.*
- *Construct a fence if specified in a schedule to this overlay.*

*Buildings and works must be constructed in accordance with any requirements in a schedule to this overlay. A schedule may include requirements relating to:*

- *Building setbacks.*
- *Building height.*
- *Plot ratio.*
- *Landscaping.*
- *Any other requirements relating to the design or built form of new development.*

*A permit may be granted to construct a building or construct or carry out works which are not in accordance with any requirement in a schedule to this overlay, unless the schedule specifies otherwise.*

#### **Clause 43.02-6**

##### **Decision guidelines**

*Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:*

- The Municipal Planning Strategy and the Planning Policy Framework.*
- The design objectives of the relevant schedule to this overlay.*
- The provisions of any relevant policies and urban design guidelines.*
- Whether the bulk, location and appearance of any proposed buildings and works will be in keeping with the character and appearance of adjacent buildings, the streetscape or the area.*
- Whether the design, form, layout, proportion and scale of any proposed buildings and works is compatible with the period, style, form, proportion, and scale of any identified heritage places surrounding the site.*
- Whether any proposed landscaping or removal of vegetation will be in keeping with the character and appearance of adjacent buildings, the streetscape or the area.*
- The layout and appearance of areas set aside for car parking, access and egress, loading and unloading and the location of any proposed off street car parking*
- Whether subdivision will result in development which is not in keeping with the character and appearance of adjacent buildings, the streetscape or the area.*
- Any other matters specified in a schedule to this overlay.*

#### **SCHEDULE 7**

**03/10/2024**

**C69moyn**

#### **SCHEDULE 7 TO CLAUSE 43.02 DESIGN AND DEVELOPMENT OVERLAY**

#### **PORT FAIRY SOUTH COAST PRECINCT**

##### **Buildings and works**

*A permit is required to construct a fence unless:*

- *The fence is forward of the front façade of the building and does not exceed 1.2 metres in height and is at least 50 per cent permeable, provided this fence is not fronting the beach.*
- *The fence is behind the front façade of the building and does not exceed 2 metres in height.*

*The following buildings and works requirements apply to an application to construct a building or construct or carry out works:*

*A permit cannot be granted to construct a building or construct or carry out works which are not in accordance with any built form requirements expressed with the term 'must'.*

*A permit may be granted to vary a built form requirement expressed with the term 'should'.*

### **Site Coverage and Permeability**

*The site area covered by buildings should not exceed 40 per cent in a residential zone or 35 per cent in a rural zone.*

*The site area covered by permeable surfaces should be at least 50 per cent in a residential zone or 60 per cent in a rural zone.*

### **ASSESSMENT**

Site coverage is 34.76%.

### **Building Massing**

*Buildings should be articulated so that the overall bulk and mass of the buildings does not dominate the beachfront or dune setting.*

*Buildings should be sited so that the bulk and mass of the buildings does not dominate the skyline when viewed from South Beach, Ocean Drive or the Princes Highway.*

*Building height and siting should allow an equitable sharing of ocean and/or beachfront views with adjacent properties.*

### **ASSESSMENT**

The restrictions on title are intended to allow view sharing which has been achieved by adherence to the restrictions and a stepped frontage and rear presentation. The first floor has been made smaller than the ground floor to allow views "through" the site. When combined with the modest height and site coverage, the objective is considered to be met.

### **Building Height**

*The dune system must not be excavated or filled to accommodate additional building height.*

*Building height should not exceed 7 metres.*

*A building may exceed the maximum building height by up to 1 metre if the slope of the natural ground level, measured at any cross section of the site of the building wider than 8 metres, is greater than 2.5 degrees.*

*If the land is in a Floodway Overlay, Land Subject to Inundation Overlay or is liable to inundation, the maximum building height specified in this schedule is the vertical distance from the minimum floor level determined by the relevant drainage authority or floodplain management authority to the roof or parapet at any point.*

## **ASSESSMENT**

The building height only slightly exceeds the preferred height of 7m and is well under the maximum height of 8m on a sloping site. The slightly increased height is required to achieve a balance between form and function of the building and is not considered excessive and is comparative to the abutting dwelling.

### **Building Setbacks**

*Any part of a new building or extension should be set back:*

- *At least 4.5 metres from a street boundary.*
- *At least 2 metres from a side boundary in a residential zone or 5 metres in a rural zone.*

## **ASSESSMENT**

The front setback to Bowker Court is 5.59m with side setbacks of 2m with the exception of the garage wall which is 1.49m. In this instance the slightly reduced side setback is “garage to garage” and does not impact amenity nor does the wall run for the full extent of the boundary. The design outcome still allows for visual permeability along both sides of the building.

### **Outbuildings and Car Parking**

*Driveways should be constructed of a permeable material.*

*Garages and outbuildings should have a maximum external width of 6.5 metres.*

*Garages should be sited at least 1 metre behind the front wall of a building (excluding porticos and projecting windows).*

*Where double garages are provided, these should be accessed by a single width crossover.*

## **ASSESSMENT**

Minor variations are sought in this area. The driveway is intended to be washed aggregate which provides a more polished appearance to the dwelling and durability. The intent of the

permeable surface objective is to “soften” the appearance of hard landscaping and to allow sufficient permeability for drainage purposes. In this instance the natural look of washed aggregate achieves the natural look when combined with the overall proposed permeability of 49% this is considered appropriate.

The garage width slightly exceeds the preferred width (7.5m rather than 6.5m) however this is proportionate to the dwelling, and allows internal storage rather than the clutter of a garden shed or outbuildings to maintain the clean lines and aesthetics of the dwelling.

The garage is slightly proud of the front of the building however this is to create a useable sheltered space behind the garage. The prominence of the garage is reduced by the architectural portico which allows for the focus to be on the dwelling frontage and not the garage.

### **Design Detailing**

*When constructing new buildings or extensions or carrying out works:*

- *Natural materials such as timber or stone should be used.*
- *Unrendered brickwork or blockwork should be avoided.*
- *Reflective materials should be avoided.*
- *Non-reflective materials should be used for roofs.*

## **ASSESSMENT**

No reflective materials are proposed with natural timber finishes contrasted with small areas of fair faced brickwork to achieve an attractive coastal design.

### **Landscaping and Fencing**

*Fencing should not be provided forward of the front façade along the beachfront.*

*Fences forward of the front façade or parallel to the street frontage must be at least 50 per cent visually permeable.*

*Landscaping must be provided between dwellings and within the street frontages to soften built form.*

*Landscaping should utilise predominantly indigenous species wherever possible.*

*Service boxes and storage areas should be located where they are not visible from the street or visually screened using quality materials or landscaping.*

## **ASSESSMENT**

Fencing is 1.2m high in the restricted area and 1.8m elsewhere. There is no front fence.

A landscape plan is currently being prepared and will be submitted to Council when completed.

#### **Clause 42.01**

#### **ENVIRONMENTAL SIGNIFICANCE OVERLAY**

##### **Purpose**

*To implement the Municipal Planning Strategy and the Planning Policy Framework.*

*To identify areas where the development of land may be affected by environmental constraints.*

*To ensure that development is compatible with identified environmental values.*

#### **Clause 42.01-5**

##### **Decision guidelines**

*Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:*

- *The Municipal Planning Strategy and Planning Policy Framework.*
- *The statement of environmental significance and the environmental objective contained in a schedule to this overlay.*
- *The need to remove, destroy or lop vegetation to create a defensible space to reduce the risk of bushfire to life and property.*
- *Any other matters specified in a schedule to this overlay.*

#### **SCHEDULE 1 TO CLAUSE 42.01 ENVIRONMENTAL SIGNIFICANCE OVERLAY**

#### **COASTAL AREAS AND ESTUARIES**

**28/04/2026**

#### **VC232**

##### **Decision guidelines**

*The following decision guidelines apply to an application for a permit under Clause 42.01, in addition to those specified in Clause 42.01 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:*

- *The impact of the development on neighbouring properties.*
- *Existing use of land and the reason for the development in relation to that use and the degree of dependence of the development on the coastal environment.*

- *The availability of alternative land suitable for the proposed development away from the coast, estuary or wetland area.*
- *The soil stability of the land and whether the proposal minimises ground surface disturbance and included adequate measures to prevent and control soil erosion and sedimentation during construction works and/or associated with the proposed use.*
- *Whether the proposal minimises the impact of construction (including construction of roads) within prominent areas such as hillsides, promontories, ridgelines and headlands.*
- *Whether the proposal avoids the construction (including construction of roads) and works in fragile, unstable areas or hazardous soils, including land subject to inundation and land adjoining coastal or lake foreshore boundaries where acid sulphate soils may occur.*
- *How it is proposed to manage potential acid sulphate soils and satisfy the requirements of the EPA's Industrial Waste Management Policy (Waste Acid Sulphate Soils), 1999.*
- *Potential threats to the quality, life cycle processes or functioning of aquatic and terrestrial ecosystems or native plant and animal species.*
- *Whether development avoids impacts on an estuary and wetlands from any drainage, excavation, filling and reclamation works or supports the ecology of the wetland.*
- *Whether the proposal protects and avoids the loss of indigenous native vegetation particularly sensitive coastal and foreshore vegetation, in particular heathlands, dune vegetation, saltmarshes and sedges from clearing, pollution, grazing, and trampling.*
- *Whether the proposal emphasises the use of indigenous species in revegetation programs particularly for riparian buffers along waterways, gullies, ridgelines, property boundaries and recharge areas, as well as site management measures to minimise the occurrence of salinity, erosion, groundwater and surface water problems.*
- *The need for an agreement or a covenant on title to protect significant habitat and whether this should be a condition of any permit.*
- *Whether the proposal takes into account possible sea and water level rises or other coastal hazards when planning the siting and design of buildings and works.*
- *Whether the proposal avoids development with any associated wastewater within 100 metres of a waterway, wetland or coastal foreshore boundary.*
- *Whether the proposal incorporates stormwater systems, which prevent high nutrient and sediment concentration entering waterways, wetlands and groundwater.*

- *Potential effects of the proposal on quality and quantity of water, the flow of floodwaters and on flood control measures.*
- *The necessity of retaining a buffer zone from either the high water mark of the coast adequate to avoid coastal erosion hazard and coastal shoreline retreat or up to 100 metres from high water mark from an estuary or wetland for landward migration of wetland vegetation due to sea level rise including the benefit of implementing the buffer through an appropriate permit condition and requiring any such buffer to be fenced to exclude stock or vermin.*
- *Control of noxious and environmental weeds and pest animals, including the need to minimise the spread of weeds and soil pathogens.*
- *The Siting and Design Guidelines for Structures on the Victorian Coast (Department of Environment, Land, Water and Planning, 2020) and the Landscape Setting Types for the Victorian Coast (Victorian Coastal Council, May 1998).*
- *The impact of the siting, size, height, use of materials, colours and external finishes of any proposed buildings and/or extensions of works on the visual amenity of the coastal and estuarine environment with the intent of minimising any visual impact, including visual impact including views from the water or ocean.*
- *For an application to subdivide land, consider the intended development and use of the land and its likely effects on the coastal location, estuary and/or wetland and if acceptable, the need to impose conditions on lot sizes, lot boundaries, road network, open space, building envelopes or effluent disposal sites to ensure better protection of the coastal location, estuary and/or wetland.*
- *Any comments of the Secretary to the Department of Environment Land Water and Planning (as constituted under Part 2 of the Conservation, Forests and Lands Act 1987), Catchment Management Authorities or Council Environment sections.*
- *Any approved management plan and coastal action plan.*

## **ASSESSMENT**

The site is within a fully serviced subdivision designed for residential development to minimise environmental impacts. The external colours are intended to match the vernacular landscape and are reflective of high quality coastal design. There is no loss of native vegetation.

### **Clause 44.04**

#### **LAND SUBJECT TO INUNDATION OVERLAY**

##### **Purpose**

*To implement the Municipal Planning Strategy and the Planning Policy Framework.*

*To identify flood prone land in a riverine or coastal area affected by the 1 in 100 (1 per cent Annual Exceedance Probability) year flood or any other area determined by the floodplain management authority.*

*To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, responds to the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.*

*To minimise the potential flood risk to life, health and safety associated with development.*

*To reflect a declaration under Division 4 of Part 10 of the Water Act, 1989.*

*To protect water quality and waterways as natural resources by managing urban stormwater, protecting water supply catchment areas, and managing saline discharges to minimise the risks to the environmental quality of water and groundwater.*

*To ensure that development maintains or improves river, marine, coastal and wetland health, waterway protection and floodplain health.*

#### **SCHEDULE 4 TO CLAUSE 44.04 LAND SUBJECT TO INUNDATION OVERLAY**

##### **PORT FAIRY RIVERINE AND COASTAL INFLUENCED INUNDATION AREAS**

##### **Decision guidelines**

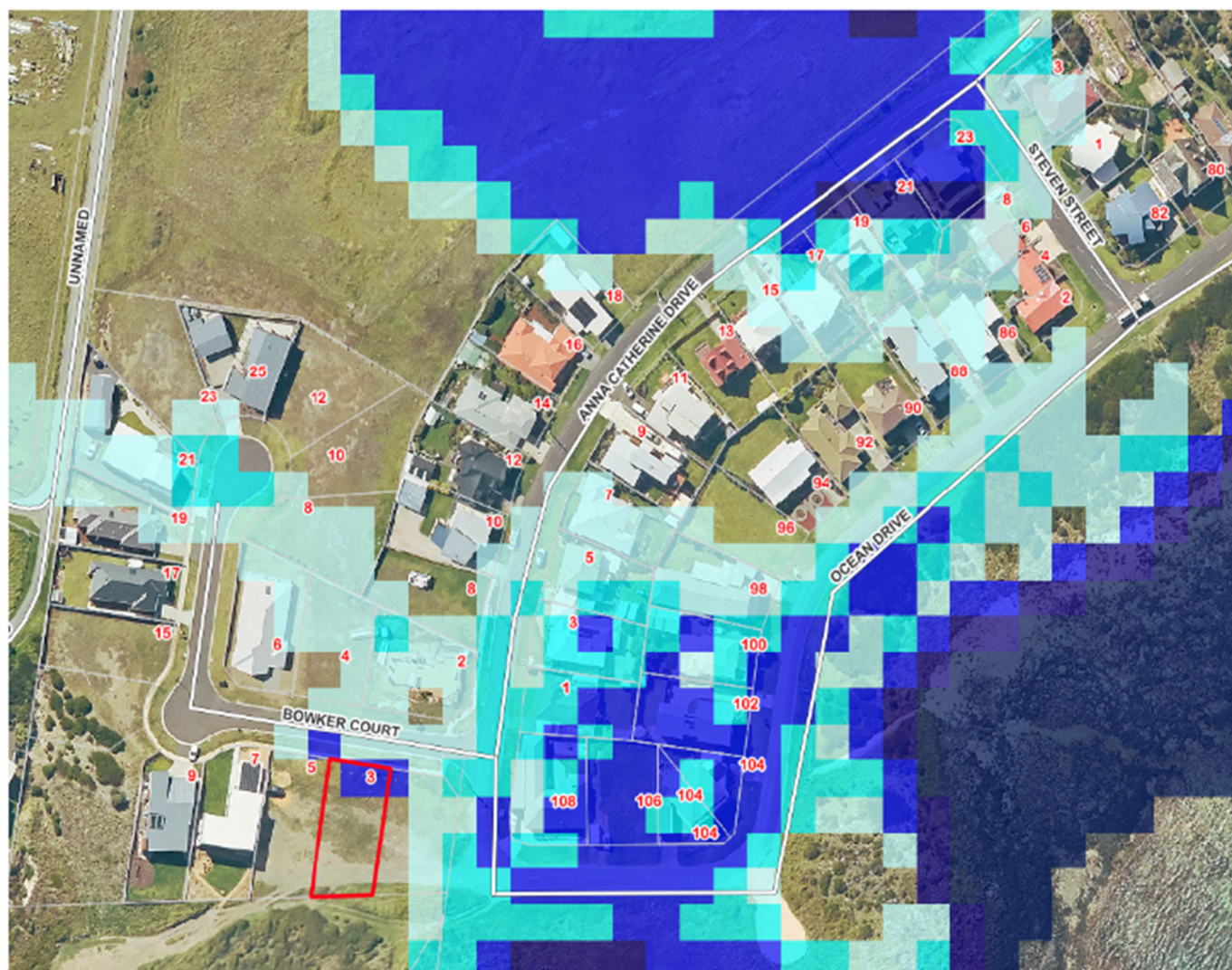
*The following decision guidelines apply to an application for a permit under Clause 44.04, in addition to those specified in Clause 44.04 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:*

- *The contents of the Port Fairy Local Floodplain Development Plan 2023 Incorporated Document.*
- *The integration of innovative building or landscape measures to manage or reduce the impacts of flooding.*
- *The context of the proposed development having regard to the longer term impacts of riverine and coastal inundation.*

#### **ASSESSMENT**

The application was referred to the GHCMa pre application when the applicants were interested in the abutting site to the east no. 3 Bowker Court. There is no significant flooding on the subject land. Refer overleaf. It is not anticipated that the CMA will object to the proposal or require a raised floor level.

Figure 2: Property location showing flooding on access.



20 April 2026



Dear [Redacted]

**CMA Reference:** GHCMA-F-2026-00133  
**Property Address:** 3 Bowker Court Port Fairy 3284  
**Cadastral:** Lot 4 PS614167, Parish of Belfast  
**Zone(s):** Neighbourhood Residential Zone - Schedule 1  
**Overlay(s):** Design And Development Overlay - Schedule 4  
Design And Development Overlay - Schedule 7  
Environmental Significance Overlay - Schedule 1  
Land Subject To Inundation Overlay - Schedule 4

Thank you for your application which we received on 26 March 2026. The CMA understands that you seek advice regarding flood advice for the construction of a dwelling.

**Please note that information in this report must be read in conjunction with the information provided in the Definitions and Disclaimers section on the final page.**

The following table summarises flood information relevant to the application. Unless stated otherwise, the 1% AEP flood level, depth and hazard information accounts for the effects of climate change according to the best available information - consistent with local and state planning policy.

#### Flood Information Summary

| Item                                         | Best Available Information |
|----------------------------------------------|----------------------------|
| 1% AEP flood level                           | 3.58 m AHD                 |
| Nominal Flood Protection Level               | 3.88 m AHD                 |
| Minimum depth of flooding on site - 1% AEP   | 0.00m                      |
| Maximum depth of flooding on site - 1% AEP   | 0.52m                      |
| Property Hazard category - 1% AEP            | Low                        |
| Maximum depth of flooding on access - 1% AEP | 0.67m                      |
| Access Hazard category - 1% AEP              | Medium                     |

Modelling indicates this location is flood prone in storm tide events. The CMA's estimate of the 1% AEP flood level for this property is 3.58 metres AHD. This level comes from the Moyne Planning Scheme Amendment C69 Flood Risk Mapping (2021). During 1% AEP floods a small portion of the property would be subject to inundation as indicated by the blue shading in Figure 1.

The proposed development could be supported subject, but not limited, to the following conditions:

1. The floor level of a dwelling shall be finished at or above the nominal flood protection level of 3.88m AHD.

## **MUNICIPAL PLANNING STRATEGY**

### **Clause 02.03-2**

#### **Environmental and landscape values**

##### **Biodiversity**

*The majority of land in the Shire is used for agriculture, while other land is used for urban settlement, industrial activity and extractive industry. The protection and management of remnant bushland reserves is important to provide a diversity of flora and wildlife refuge areas and habitat. Remnant vegetation on freehold land is an ecological resource that contributes to the balance and function of important ecosystems.*

*The Shire contains significant areas of public land, including parks and reserves, roadsides and land along the coastline. Roadside vegetation is important in maintaining and restoring connectivity to the fragmented parcels of public land.*

##### **Coastal areas**

*The coastal areas of the municipality are an important biodiversity, recreation and economic asset. There is a need to protect and manage the coast in an environmentally sustainable manner. This includes ensuring that development on the coast recognises the sensitive nature of these assets.*

##### **Significant environments and landscapes**

*The natural landscape of the municipality is an important asset that requires protection from inappropriate use and development. The visual and environmental implications of development on the municipality's natural features can destroy the attractiveness and environmental qualities of the area.*

*Volcanic eruptions formed a series of craters in the region, including the volcanic crater in the Tower Hill State Game Reserve, the volcanic crater and lava landscapes in the Budj Bim National Park, Mount Shadwell and the Peak volcanic crater. The Tower Hill volcanic crater and environs are major natural features of geological, ecological and landscape significance.*

*The World Heritage listed Budj Bim Cultural Landscape contains one of the world's most extensive and oldest aquaculture systems, developed by the Gunditjmara people. The Budj Bim lava flows provide the basis for this complex aquaculture system, based on deliberate redirection, modification and management of waterways and wetlands.*

*Other significant natural features include the hilltops and ridgelines, areas of native forest, and various water bodies, wetlands and grasslands.*

*Development pressures affecting the landscape include wind farms, natural gas pipelines and processing plants, and telecommunication and electricity towers.*

*Rural residential and small lot development beyond settlements and close to scenic locations such as Tower Hill is causing impacts on landscape quality.*

### **Strategic directions**

- *Protect significant landscapes and natural environments, including the World Heritage listed Budj Bim Cultural Landscape.*
- *Protect areas of remnant native vegetation, particularly along roadsides and on freehold land, recognising the ecological and economic value.*
- *Facilitate effective open space and habitat corridors along river and coastal areas.*
- *Protect and enhance land that supports ecological communities hosting native flora and fauna.*
- *Promote greater revegetation and the management of pest plants and animals to address areas of degraded land.*
- *Manage land use and development to minimise impacts on coastal and river environments.*
- *Protect and enhance the environmental qualities and character of the Budj Bim National Park and Tower Hill State Game Reserve.*
- *Protect volcanic features, prominent hilltops and ridgelines from inappropriate development.*
- *Protect and enhance significant environmental values, remnant vegetation and riparian corridors within settlements.*

### **ASSESSMENT**

The proposal has no impact on the dune system as it works within an already disturbed prepared dwelling site devoid of vegetation.

The design response is that of contemporary coastal architecture of modest height using darker colours to blend with the basalt coastline.

### **Clause 02.03-3**

#### **Environmental risks and amenity**

##### **Climate change impacts**

*The coast is under threat from the effects of climate change, including sea level rise and increased storm surges. East Beach, the Griffiths Street and Wharf Precincts, and the areas around Belfast Lough in Port Fairy are severely impacted by flooding and coastal hazards.*

*Rising sea levels may threaten land use and development due to eroding shorelines, increased cliff instability and landward penetration of saline water within estuaries. Development and infrastructure close to coastal and estuarine areas, including sea walls and*

*other protective structures, may threaten the capacity of the environment to adapt to rising sea levels and increased tidal penetration.*

### **Floodplains**

*The catchments within the municipality include areas of land prone to natural flooding. The inherent function of the floodplains to convey and store floodwater should be preserved to minimise the deterioration of environmental values, and manage flood risks to assets and communities.*

### **Soil degradation**

*Estuarine and wetland areas often have potential acid sulphate soils that can generate significant environmental and development asset impacts if disturbed or uncovered by development.*

*Certain areas of Moyne are susceptible to erosion, mass movement or landslip, necessitating development to be responsive to this constraint.*

### **Amenity**

*The historical development of the urban centres has resulted in the scattered distribution of industrial and residential areas. There is a need to ensure adequate buffers are present between dwellings and uses with potential adverse off-site impacts, such as industrial activity and sewerage and water treatment plants. Some existing businesses are located in proximity to sensitive uses and their continued operation or future expansion needs to be balanced with potential amenity conflicts.*

### **Strategic directions**

- *Avoid development in coastal locations that may be affected by climate change impacts.*
- *Ensure land use and development responds to fire risk.*
- *Protect the function of existing flood ways.*
- *Minimise the potential for damage and risks to public safety and property from flooding.*
- *Protect areas prone to erosion and landslip by minimising land disturbance and vegetation loss.*
- *Ensure development does not contribute to the exposure of acid sulphate soils.*
- *Protect the amenity of residential areas adjacent to uses with potential adverse off-site impacts.*

## ASSESSMENT

As discussed throughout this report, the dwelling adds a modest building footprint in a location which is supported by the CMA. There is no significant vegetation affected or likely acid sulphate soil implications.

### Clause 12.02-1S

*Protection of the marine and coastal environment*

#### Objective

*To protect and enhance the marine and coastal environment.*

#### Strategies

*Manage privately-owned foreshore consistently with the adjoining public land.*

*Protect coastal and foreshore environments and improve public access and recreation facilities around Port Phillip Bay and Western Port by focusing development in areas already developed or in areas that can tolerate more intensive use.*

*Enhance the ecological values of the ecosystems in the marine and coastal environment.*

*Protect and enhance the overall extent and condition of native habitats and species diversity distributions across public and private land in the marine and coastal environment.*

*Encourage revegetation of cleared land abutting coastal reserves.*

*Minimise direct, cumulative and synergistic effects on ecosystems and habitats.*

*Maintain the natural drainage patterns, water quality and biodiversity in and adjacent to coastal estuaries, wetlands and waterways.*

*Maintain and enhance water and soil quality by minimising disturbance of sediments.*

*Avoid disturbance of coastal acid sulfate soils.*

*Protect and enhance natural features, landscapes, seascapes and public visual corridors.*

*Plan for marine development and infrastructure to be sensitive to marine national parks and environmental assets.*

*Protect the heritage values, the aesthetic quality of locations, cultural links with maritime activities, sea country and sense of place.*

## ASSESSMENT

The subject site is a previously disturbed site outside of the flood extent. The dwelling is contemporary, modest and does not dominate views or vistas.

## **Clause 65.01**

### **APPROVAL OF AN APPLICATION OR PLAN**

*Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:*

- *The matters set out in section 60 of the Act.*
- *Any significant effects the environment, including the contamination of land, may have on the use or development.*
- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The purpose of the zone, overlay or other provision.*
- *Any matter required to be considered in the zone, overlay or other provision.*
- *The orderly planning of the area.*
- *The effect on the environment, human health and amenity of the area.*
- *The proximity of the land to any public land.*
- *Factors likely to cause or contribute to land degradation, salinity or reduce water quality.*
- *Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.*
- *The extent and character of native vegetation and the likelihood of its destruction.*
- *Whether native vegetation is to be or can be protected, planted or allowed to regenerate.*
- *The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.*
- *The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.*
- *The impact the use or development will have on the current and future development and operation of the transport system.*

*This clause does not apply to a VicSmart application.*

### **ASSESSMENT**

The proposal meets the decision guidelines of Clause 65 in that it is a low height two storey dwelling designed to fit with the prevailing character, planning controls and site constraints. There is no vegetation for removal and existing infrastructure in place. The existing

transport infrastructure is not adversely affected with the proposal representing orderly planning.

## **6. CONCLUSION**

In summary, the proposed dwelling is an individual high quality building designed to suit its exposed beachfront location and to be durable and functional in the best and worst of frontline coastal weather.

The design uses darker toned external materials of glass, small sections of darker brick, and natural timbers to suit the look and feel of the coast and the surrounding basalt landscape.

Care has been shown in the design of the dwelling to allow view sharing and to have minimal excavation or impact on ground conditions, dune system and vegetation removal.

The building height and bulk allow for plenty of space around the dwelling for landscaping and views through the site.

It is hoped that the proposal is therefore supported by Council.

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| Document Type                                   | <b>Plan</b>             |
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| Number of Pages<br>(excluding this cover sheet) | <b>4</b>                |
| Document Assembled                              | <b>29/08/2026 10:13</b> |

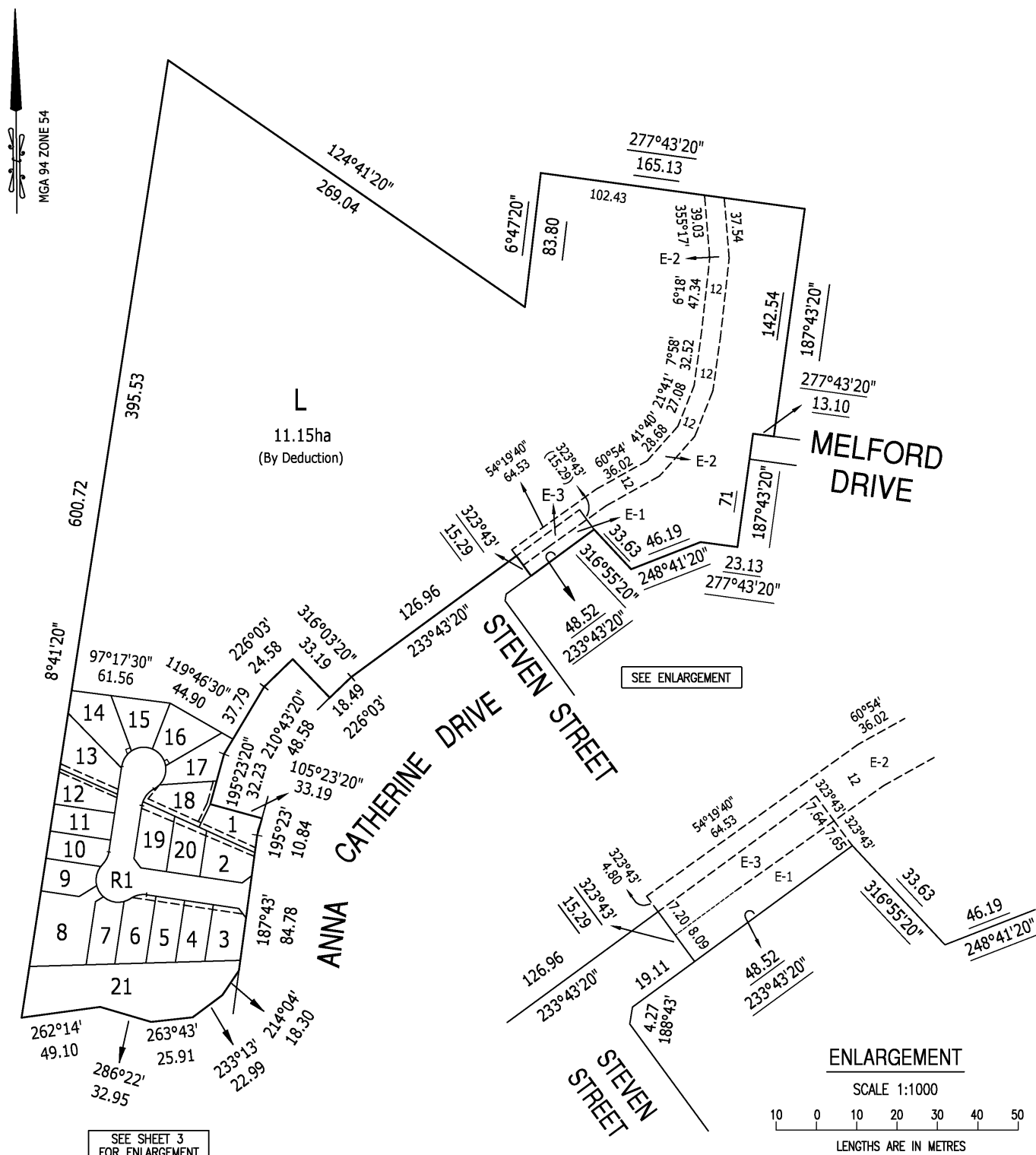
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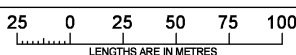
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|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>PLAN OF SUBDIVISION</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                            |                       | <b>EDITION 1</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>PS 614167P</b>                                                                                                                               |
| <b>LOCATION OF LAND</b><br><br>PARISH: BELFAST<br>TOWNSHIP: -<br>SECTION: -<br>PART OF ATKINSONS CROWN SPECIAL SURVEY<br>CROWN ALLOTMENT: -<br>CROWN PORTION: -<br>TITLE REFERENCE: VOL 11371 FOL 670<br><br>LAST PLAN REFERENCE: PS 629298P (LOT K)<br>POSTAL ADDRESS: ANNA CATHERINE DRIVE<br>(at time of subdivision) PORT FAIRY 3284<br><br>MGA CO-ORDINATES: E: 606 350                      ZONE: 54<br>(of approx centre of land                      GDA 94<br>in plan)                      N:5 750 100 |                                            |                       | Council Name: Moyne Shire Council<br><br>Council Reference Number: SUB18/0004<br>Planning Permit Reference: PL03/209<br>SPEAR Reference Number: S117653M<br><br>Certification<br><br>This plan is certified under section 6 of the Subdivision Act 1988<br><br>Public Open Space<br><br>A requirement for public open space under section 18 of the Subdivision Act 1988 has not been made<br><br>Digitally signed by: Roslyn Snauw for Moyne Shire Council on 08/06/2018<br><br>Statement Of Compliance issued: 10/10/2018 |                                                                                                                                                 |
| <b>VESTING OF ROADS AND/OR RESERVES</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                            |                       | <b>NOTATIONS</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                 |
| <b>IDENTIFIER</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>COUNCIL/BODY/PERSON</b>                 |                       | BEARINGS AND DIMENSIONS SHOWN UNDERLINED ARE NOT THE RESULT OF THIS SURVEY.<br><br>LOTS A-J (both inclusive) have been omitted from this plan.<br><br><br>OTHER PURPOSE OF PLAN<br><br>DRAINAGE EASEMENT E-4 ON PS614166R HAS BEEN REMOVED FROM THIS PLAN BY A DIRECTIVE IN MOYNE SHIRE COUNCIL PLANNING PERMIT No. PL17/053<br><br><br>THIS PLAN INCLUDES THE CREATION OF A RESTRICTION SEE SHEET 4 FOR DETAIL                                                                                                             |                                                                                                                                                 |
| ROAD R1<br>ROAD R2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | MOYNE SHIRE COUNCIL<br>MOYNE SHIRE COUNCIL |                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                 |
| <b>NOTATIONS</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                            |                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                 |
| DEPTH LIMITATION: DOES NOT APPLY<br><br><b>SURVEY:</b><br>This plan is based on partial survey.<br><br><b>STAGING:</b><br>This is not a staged subdivision.<br>Planning Permit No. PL 03/209<br><br>This survey has been connected to permanent marks No.(s) 87<br><br>In Proclaimed Survey Area No.                                                                                                                                                                                                             |                                            |                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                 |
| <b>EASEMENT INFORMATION</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                            |                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                 |
| <b>LEGEND:</b> A - Appurtenant Easement    E - Encumbering Easement    R - Encumbering Easement (Road)                                                                                                                                                                                                                                                                                                                                                                                                           |                                            |                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                 |
| <b>Easement Reference</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <b>Purpose</b>                             | <b>Width (Metres)</b> | <b>Origin</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <b>Land Benefitted/In Favour Of</b>                                                                                                             |
| E-1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | DRAINAGE & CARRIAGEWAY                     | VARIES SEE DIAG       | PS 345103Q                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | LOTS 45 46 & 47 ON PS345103Q                                                                                                                    |
| E-2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | POWER SUPPLY                               | VARIES SEE DIAG       | PS 522055N - SECTION 88 OF THE ELECTRICITY INDUSTRY ACT 2000 APPLIES                                                                                                                                                                                                                                                                                                                                                                                                                                                        | POWERCOR AUSTRALIA LIMITED                                                                                                                      |
| E-3                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | DRAINAGE & CARRIAGEWAY                     | VARIES SEE DIAG       | PS 345103Q                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | LOTS 45 46 & 47 ON PS345103Q                                                                                                                    |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | POWER SUPPLY                               |                       | PS 522055N - SECTION 88 OF THE ELECTRICITY INDUSTRY ACT 2000 APPLIES                                                                                                                                                                                                                                                                                                                                                                                                                                                        | POWERCOR AUSTRALIA LIMITED                                                                                                                      |
| E-4                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | OMITTED FROM THIS PLAN                     |                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                 |
| E-5                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | SEWERAGE                                   | VARIES SEE DIAG       | THIS PLAN                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | WANNON REGION WATER CORPORATION                                                                                                                 |
| E-6                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | DRAINAGE                                   | VARIES SEE DIAG       | THIS PLAN                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | MOYNE SHIRE COUNCIL                                                                                                                             |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                            |                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                 |
| 29 GREENGABLE COURT<br>CROYDON HILLS 3136<br>MOBILE 0427 546 040<br>ABN 74 553 624 822      forsterlandsurvey@bigpond.com                                                                                                                                                                                                                                                                                                                                                                                        |                                            |                       | FILE REF: 1691-2      VERSION: 7<br><br>Digitally signed by: Geoffrey I Forster (Forster Land Surveying Pty Ltd),<br>Surveyor's Plan Version (7),<br>03/06/2018, SPEAR Ref: S117653M                                                                                                                                                                                                                                                                                                                                        | ORIGINAL SHEET SIZE: A3      SHEET 1 OF 4<br><br>PLAN REGISTERED<br>TIME: 10.27am    DATE: 31/10/18<br><br>Assistant Registrar of Titles    KRB |

PS 614167P



29 Greengable Court  
CROYDON HILLS 3136  
TEL. 0427 546 040  
forsterlandsurvey@bigpond.com

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Surveyor's Plan Version (7),  
03/06/2018, SPEAR Ref: S117653M

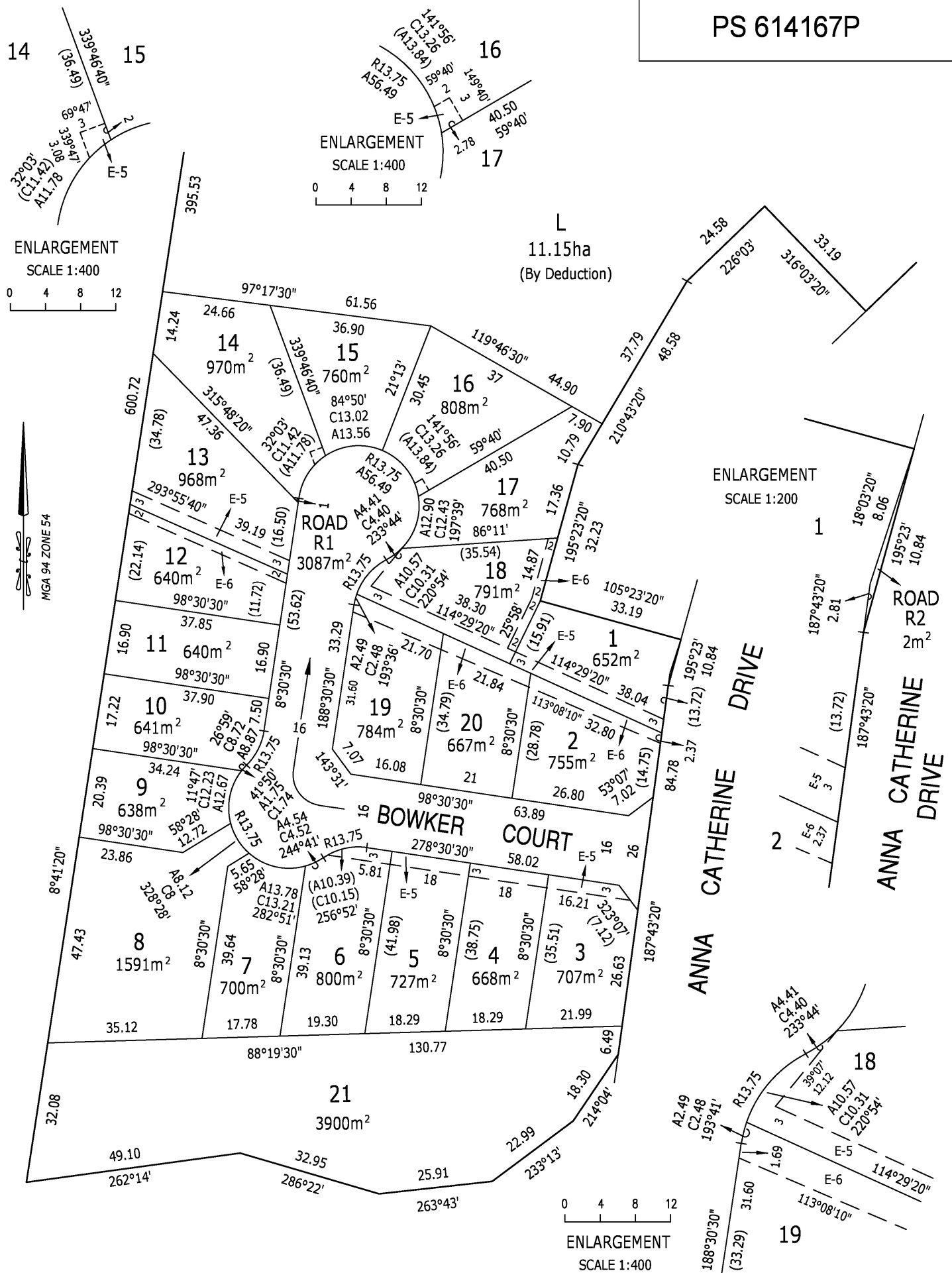
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Ref. 1691-2  
Ver. 7

SHEET 2

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PS 614167P



# SCHEDULE

PS 614167P

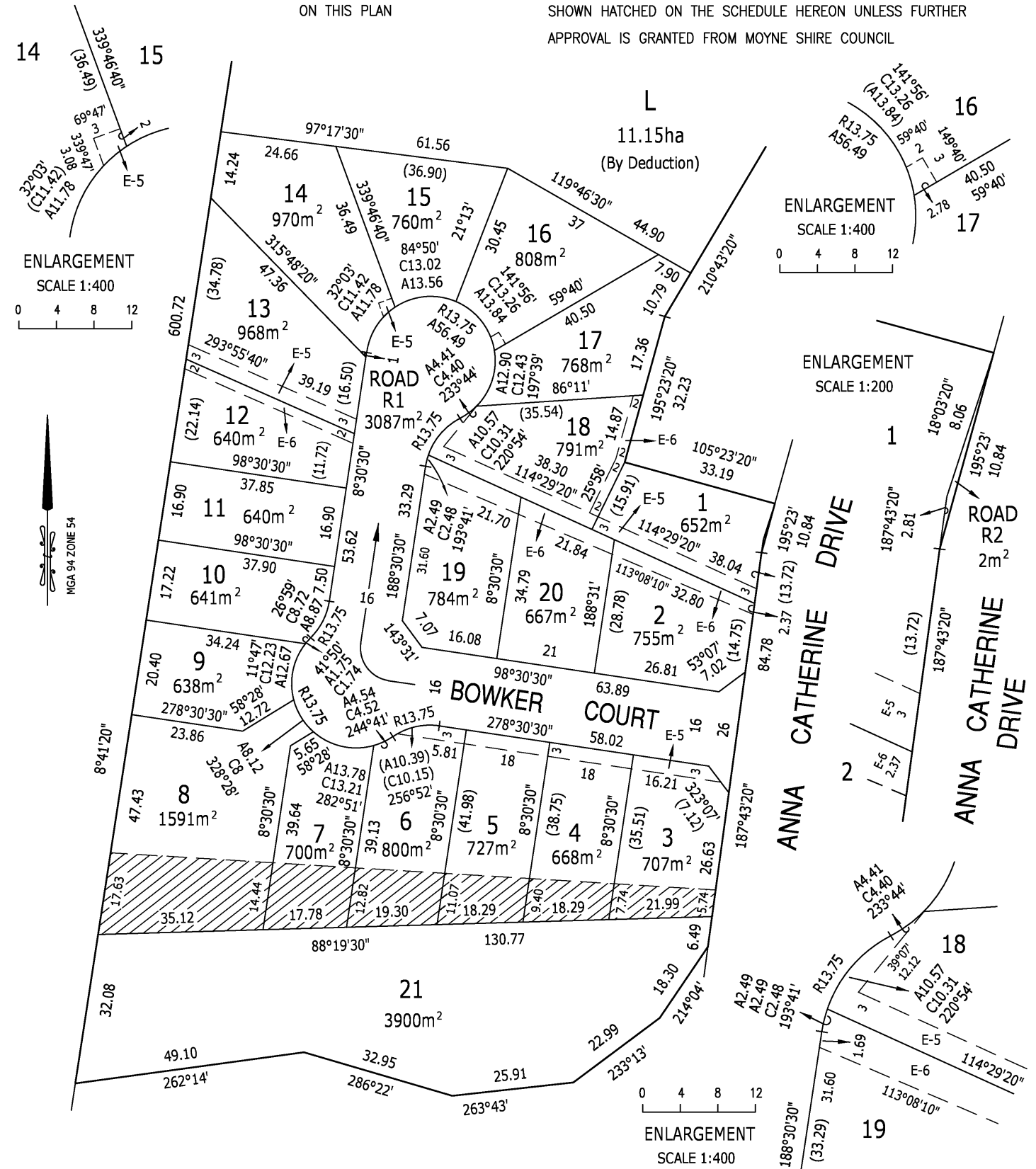
ON REGISTRATION OF THIS PLAN THE FOLLOWING  
RESTRICTION IS CREATED:-

LAND TO BENEFIT:- LOTS 1, 2 & 9-20 (BOTH INCLUSIVE)  
ON THIS PLAN

LAND TO BE BURDENED:- LOTS 3, 4, 5, 6, 7 & 8  
ON THIS PLAN

## DESCRIPTION OF RESTRICTION

THE REGISTERED PROPRIETOR OR PROPRIETORS FOR THE  
TIME BEING OF LOTS 3, 4, 5, 6, 7 & 8 ON THIS PLAN  
SHALL NOT CONSTRUCT A BUILDING WITHIN THE LAND  
SHOWN HATCHED ON THE SCHEDULE HEREON UNLESS FURTHER  
APPROVAL IS GRANTED FROM MOYNE SHIRE COUNCIL



29 Greengable Court  
CROYDON HILLS 3136  
TEL. 0427 546 040  
forsterlandsurvey@bigpond.com

SCALE 1:800  
8 0 8 16 24 32  
LENGTHS ARE IN METRES

Digitally signed by: Geoffrey I Forster (Forster Land Surveying Pty Ltd),  
Surveyor's Plan Version (7),  
03/06/2018, SPEAR Ref: S117653M

ORIGINAL SHEET  
SIZE: A3

Digitally signed by:  
Moynes Shire Council,  
08/06/2018,  
SPEAR Ref: S117653M

Ref. 1691-2  
Ver. 7

SHEET 4



# Department of Transport and Planning

## Electronic Instrument Statement

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

Produced 29/08/2026 11:20:52 AM

|                      |                        |                |           |
|----------------------|------------------------|----------------|-----------|
| Status               | Registered             | Dealing Number | AU145287V |
| Date and Time Lodged | 17/03/2021 12:16:06 PM |                |           |

### Lodger Details

|             |            |
|-------------|------------|
| Lodger Code | 21479V     |
| Name        | [REDACTED] |
| Address     | [REDACTED] |
| Lodger Box  |            |
| Phone       |            |
| Email       |            |
| Reference   |            |

## TRANSFER

|              |          |
|--------------|----------|
| Jurisdiction | VICTORIA |
|--------------|----------|

### Privacy Collection Statement

The information in this form is collected under statutory authority and used for the purpose of maintaining publicly searchable registers and indexes.

### Land Title Reference

12029/417

### Transferor(s)

|      |            |
|------|------------|
| Name | [REDACTED] |
| ACN  | [REDACTED] |

### Estate and/or Interest being transferred

Fee Simple

### Consideration

\$AUD 676000.00

### Transferee(s)

|                      |            |
|----------------------|------------|
| Tenancy (inc. share) | [REDACTED] |
| Given Name(s)        | [REDACTED] |
| Family Name          | [REDACTED] |
| Address              |            |
| Street Number        | [REDACTED] |
| Street Name          | [REDACTED] |



# Department of Transport and Planning

## Electronic Instrument Statement

Street Type [REDACTED]  
Locality [REDACTED]  
State VIC  
Postcode [REDACTED]

### Covenants

The registered proprietors of the burdened land covenant with the registered proprietors of the benefited land as set out in the restrictive covenant with the intent that the burden of the restrictive covenant runs with and binds the burdened land and the benefit of the restrictive covenant is annexed to and runs with the benefited land.

|                      |             |
|----------------------|-------------|
| Burdened land        | the Land    |
| Benefited land       | MCP: AA4644 |
| Restrictive covenant | MCP: AA4644 |
| Expiry Date          |             |

**Duty Transaction ID**  
5049571

The transferor transfers to the transferee their estate and/or interest in the land specified for the consideration, subject to any restrictive covenant set out or referred to in this transfer.

### Execution

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

|                       |               |
|-----------------------|---------------|
| Executed on behalf of | [REDACTED]    |
| Signer Name           | [REDACTED]    |
| Signer Organisation   | [REDACTED]    |
| Signer Role           | [REDACTED]    |
| Execution Date        | 17 MARCH 2021 |

### Execution

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

|                       |               |
|-----------------------|---------------|
| Executed on behalf of | [REDACTED]    |
| Signer Name           | [REDACTED]    |
| Signer Organisation   | [REDACTED]    |
| Signer Role           | [REDACTED]    |
| Execution Date        | 17 MARCH 2021 |

**File Notes:**  
NIL

This is a representation of the digitally signed Electronic Instrument or Document certified by Land Use Victoria.

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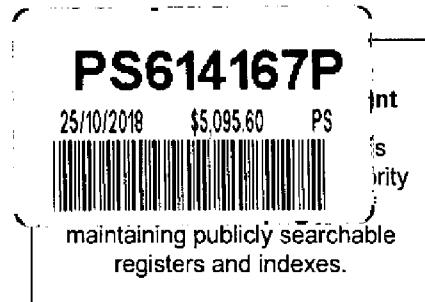
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| Document Type                                   | <b>Instrument</b>       |
| Document Identification                         | <b>PS614167P</b>        |
| Number of Pages<br>(excluding this cover sheet) | <b>2</b>                |
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**Subdivision or consolidation**  
**Section 22 Subdivision Act 1988**



**Lodged by**

Name: TAIT'S LEGAL

Phone: [REDACTED]

Address: [REDACTED]

Reference: [REDACTED]

Customer code: 1638Q

The applicant applies for registration of the plan.

Land: (volume and folio)

VOLUME 11371 FOLIO 670

Applicant: (full name and address, including postcode)

[REDACTED]

Plan no.: PS614167P      SPEAR no.: (if applicable) S117653M      Stage no.: (if applicable)

Council in which land is located: MOYNE SHIRE COUNCIL

Signing:

35271702A

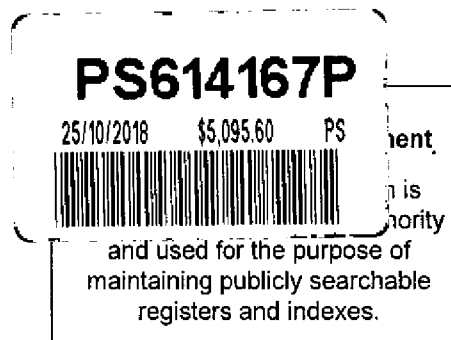
22SA

Page 1 of 2

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**Subdivision or consolidation**  
**Section 22 Subdivision Act 1988**



**Certifications**

1. The Certifier has taken reasonable steps to verify the identity of the applicant.
2. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
3. The Certifier has retained the evidence supporting this Registry Instrument or Document.
4. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Executed on behalf of [REDACTED]

Signer Name [REDACTED]

Signer Organisation [REDACTED]

Signer Role [REDACTED]

Signature [REDACTED]

Execution Date

*15<sup>th</sup> October 2018*

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22SA

Page 2 of 2

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| Document Identification                         | <b>AA4644</b>           |
| Number of Pages<br>(excluding this cover sheet) | <b>3</b>                |
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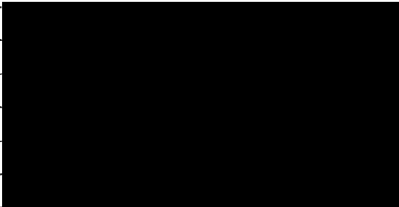
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## Memorandum of common provisions

### Section 91A Transfer of Land Act 1958

|                |                                                                                     |         |     |
|----------------|-------------------------------------------------------------------------------------|---------|-----|
| P <sub>r</sub> | <b>AA4644</b>                                                                       |         |     |
| coll           | 16/11/2018                                                                          | \$96.10 | MCP |
| a              |  |         |     |
| m <sub>i</sub> |                                                                                     |         |     |

|                |                                                                                   |
|----------------|-----------------------------------------------------------------------------------|
| Lodged by      |  |
| Name:          |                                                                                   |
| Phone:         |                                                                                   |
| Address:       |                                                                                   |
| Reference:     |                                                                                   |
| Customer code: |                                                                                   |

This memorandum contains provisions which are intended for inclusion in instruments and plans to be subsequently lodged for registration.

#### Provisions:

#### 1. DEFINITIONS

In this covenant except where a contrary intention appear the following terms are defined as follows:

**Land:** is the land identified as the Land and/or as the Burdened Land and transferred in the Transfer of Land creating a covenant and referring to this Memorandum of Common Provisions;

**Benefited Land:** the land comprised in Plan of Subdivision No. PS 614167P(other than the Land);

**transferee:** is the Transferee/s named in the Transfer of Land creating a covenant and referring to this Memorandum of Common Provisions; and

**transferor:** is the Transferor/s named in the Transfer of Land creating a covenant and referring to this Memorandum of Common Provisions.

#### 2. The transferee will not erect or construct or cause to be erected or constructed on the Land:-

- (a) More than one dwelling on the said land and for the purpose of this covenant dwelling includes a single unit whether it is detached, semi-detached or part of a complex;
- (b) A separate toilet facility or water closet in a separate structure unless the same is attached to or incorporated in a building or other structure used for other purposes on the said land;
- (c) A main dwelling having floor area of less than 140 square metres excluding garage;
- (d) The external wall any building or dwelling from any material other than any compressed fibre cement products, concrete, manufactured composite timber or wood fibre products, reconstituted stone products, reconstituted masonry products, colorbond, zinc, alloy or stainless steel, corten steel, stone, ground-stone, flush-jointed face brickwork, concrete masonry blockwork pigmented or natural, painted or coloured aluminium, painted, stained or untreated natural timber or glass or a combination of any of the before-mentioned materials, PROVIDED THAT should colorbond, zinc, alloy or stainless steel, painted or coloured aluminium be used then this material shall not exceed 25% of the external wall area of the dwelling excluding the window area.

35271702A

V3

1. The provisions are to be numbered consecutively from number 1.
2. Further pages may be added but each page should be consecutively numbered.
3. To be used for the inclusion of provisions in instruments and plans.

91ATLA

Page 1 of 3

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# Memorandum of common provisions

## Section 91A Transfer of Land Act 1958

**AA4644**

16/11/2018

\$96.10

MCP



- (e) A roof of any building or dwelling from any material other than concrete or cement sheeting, colourbond, zinc, copper, alloy, polycarb, stainless steel, plywood resin, magnaflow, fibreglass fibro, fibro materials or composite fibro material,
  - (f) Any outbuildings within 10 metres of any boundary contiguous with the land marked "R1 Bowker Court" on PS 614167P.
- 
3. The transferee will not erect or cause or permit to be erected upon the Land any advertisement, hoarding or similar structure and shall not permit the Land or any building erected thereon to be used for the display of any advertisement or notice excepting such as may relate solely to the selling and/or letting of the Land or any part thereof or any buildings erected thereon and excepting any plaque of modest size showing the profession, occupation, trade or calling of the occupants of the Land such signage to be only one single sign measuring no greater than 1.0 m2 and such signage to be contained within the Land.
  4. The transferee will not erect on the Land a fence on any boundary contiguous with the land marked "R1 Bowker Court" on PS 614167P or nearer that boundary than the line of the building closest to the boundary unless it is a fence not exceeding 120 centimetres and is not constructed of wire, wire or steel mesh, fibro material, composite fibro material or corrugated or flat iron, tin or steel and in the interpretation hereof "corrugated or flat iron, tin or steel" shall not be deemed to include "colorbond" or other similar products, materials or brands. All other fencing along any common boundary or in the vicinity of the common boundary shall not exceed 180 centimetres and shall not be constructed of the materials aforementioned herein. The restriction on "all other fencing" shall not apply to any arboreal boundary fence.
  5. The transferee will not move or construct or erect or cause to be moved constructed or moved or shifted on or onto the Land any building already constructed or partly constructed or occupied for human habitation.
  6. The transferee will not object to any future developments on the land comprised in Lot L on Plan of Subdivision PS 614167P by [REDACTED] or its successors and transferees so long as such developments comply with the provisions of the Design and Development Overlay contained within the Moyne Planning Scheme and the Port Fairy Design Guidelines for the Character Area at South Beach behind the foreshore.
  7. The transferee will not allow any of Lots 8 to 14 (both inclusive) on PS 614167P to be used as a pedestrian or vehicular thoroughfare from Bowker Court to the road contiguous with the western boundary of any of those Lots. This clause does not apply to easements or roadways created by PS 614167P.
  8. The transferee will not call upon or demand that the transferor contribute to any part of the cost of erection of a dividing fence between any Lot on the plan and any land remaining in the possession of the transferor and the transferee hereby indemnifies the transferor against any liability to contribute to the cost thereof.

91ATLA

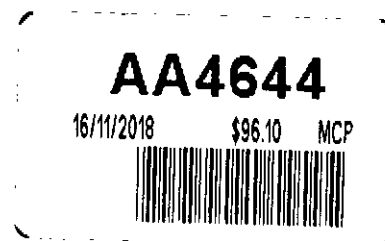
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Page 2 of 3

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**Memorandum of common provisions**  
**Section 91A Transfer of Land Act 1958**



9. The transferee will not further subdivide the land

If any covenant or part of a covenant contained in this Memorandum of Common Provisions is or becomes unenforceable or invalid or its operation is or becomes excluded by operation of law or otherwise, then that covenant or the part of it shall be severed from this Memorandum of Common Provisions and the remaining covenants contained in this Memorandum of Common Provisions will not be affected but will remain in full force and effect and will be valid and enforceable to the fullest extent permitted by law.

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91ATLA

V3

Page 3 of 3

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**AF708349U**

11/03/2008 \$97 173



# APPLICATION BY A RESPONSIBLE AUTHORITY

**Section 181 Planning and Environment Act  
1987 for ENTRY OF A MEMORANDUM OF  
AGREEMENT under Section 173 of the Act**

Form 9.1

Lodged by:

Name:

Phone:

Address:

Ref:

Customer Code:

MADE AVAILABLE/CHANGE CONTROL

Land Titles Office Use Only

The Responsible Authority under the Planning Scheme having entered into an agreement with the parties named for the land described requires that a memorandum of the agreement be entered on the title to the land.

## LAND

Certificate of Title Volume 10856 Folio 062

## ADDRESS OF THE LAND

Anna Catherine Drive, Port Fairy 3284

## RESPONSIBLE AUTHORITY

MOYNE SHIRE COUNCIL of Princes Street Port Fairy 3284

## PLANNING SCHEME

Moyne Planning Scheme

AGREEMENT DATE 18-2-2008

AGREEMENT WITH

A copy of the agreement is attached to this application

Dated: 18 / 2 / 2008

2008

Signed by the Authority

**AF708349U**

11/03/2008 \$97

173



**RESPONSIBLE AUTHORITY**

**MOYNE SHIRE COUNCIL**

**THE OWNER**



**LAND AFFECTED**

**ANNA CATHERINE DRIVE  
PORT FAIRY**

**DATED**

18th February 2008

---

**AGREEMENT PURSUANT TO SECTION 173  
PLANNING & ENVIRONMENT ACT**

---

**REGISTRATION PARTICULARS**

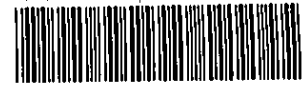
A Memorandum of this agreement was lodged in the Office of Titles pursuant to Section 181 of the Planning & Environment Act 1987 on \_\_\_\_/\_\_\_\_/2007

DEALING NO. ....

**AF708349U**

11/03/2008 \$97

173



**MOYNE SHIRE COUNCIL**

**PLANNING & ENVIRONMENT ACT**

- and -

**AGREEMENT PURSUANT TO SECTION 173**

**PENDRAGON CORPORATION PTY LTD**

**THE LAND TO WHICH THE:  
AGREEMENT APPLIES:**

Anna Catherine Drive, Port Fairy 3284

Reserve No 1 on Plan of Subdivision PS614166R Parish of Belfast being  
the land described in Certificate of title Volume 10856 Folio 062

**THIS AGREEMENT** is made on the 18th day of February 2008

**BETWEEN:**

The Responsible Authority:

**MOYNE SHIRE COUNCIL** ("the Council")

The Owner:

**PENDRAGON CORPORATION PTY LTD**

**WHEREAS**

1. The owner is the registered proprietor of the lands described in Certificate of Title Volume 10856 Folio 062, being the land comprised in Reserve No 1 on Plan of Subdivision PS614166R ("the land").
2. The land is affected by the provisions of the Moyne Planning Scheme ("the Scheme").
3. The Council is the responsible authority under the Planning & Environment Act 1987 ("the Act") for the purposes of the Scheme.
4. Pursuant to Planning Permit No. PL07/291 (a copy of which is annexed hereto) the Council has allowed the owner to create Reserve No 1 through the subdivision of a larger parcel of land.
5. The owner has agreed to ensure the remnant vegetation on Reserve No 1 is protected and enhanced for the future and to manage Reserve No 1 as a properly protected environment for flora and fauna.
6. The owner has also agreed to protect the foreshore midden (AAV7321-410) from inadvertent damage through the development of good heritage conservation management practices and strategies, in consultation with the traditional Aboriginal custodians and the local indigenous community in general.
7. Condition 5 of the Planning Permit requires the Owner to enter into an agreement with Council pursuant to Section 173 of the Act and for this agreement to be registered at the Titles Office pursuant to Section 181 of the Act.
8. The land will be transferred to the Council as a Council public reserve through the subdivision process.

**BY THIS AGREEMENT IT IS AGREED AND COVENANTED:**

**AF708349U**

11/03/2008 \$97 173



**1. OPERATION**

- 1.1. This agreement is made pursuant to Section 173 of the Act.
- 1.2. This agreement shall come into force on execution by both parties.
- 1.3. The covenants of this agreement shall run with the land.

**2. INTERPRETATION**

**2.1. OWNER**

In this agreement the word "Owner" unless the contrary intention appears shall be deemed to include [REDACTED] their successors assigns and transferees and the obligations imposed on and assumed by [REDACTED] shall be binding on the successors transferees purchasers mortgagees assigns of [REDACTED] and any person obtaining possession of the whole or part of the land as if each of those successors separately executed this agreement; and

If the Owner holds the land in a trust capacity, "Owner" shall include the beneficiaries of the trust in relation to which it holds such land. Where such trust relationship exists the Owner in executing this agreement does so intending to assume not only personal liability, but also to bind the trust for which it acts as trustee.

If the Owner is constituted by more than one person any obligation imposed by this agreement on the Owner shall be imposed on those persons jointly and severally.

**2.2. COUNCIL**

In this agreement the word "Council" shall include the Shire's successors and its successors as responsible authority for town planning control in the area in which the land is situate.

**2.3. In this agreement, unless the context otherwise requires:**

- 2.3.1. Words denoting the singular number shall include the plural and vice versa.
- 2.3.2. Words denoting any gender shall include all genders.
- 2.3.3. Where a word or phrase is defined, other parts of speech and grammatical forms of that words or phrase shall have corresponding meanings.
- 2.3.4. Words denoting natural persons shall include corporations and vice versa.
- 2.3.5. References to clauses and schedules are to clauses of and schedules to this agreement.
- 2.3.6. Headings are for convenience only and do not effect interpretation.
- 2.3.7. References to any party to this agreement or any other agreement or instrument shall include the party's successors and permitted assigns.
- 2.3.8. Reference to any agreement or instrument shall be also to such agreement or instrument as amended, novated, supplemented, varied or replaced from time to time.
- 2.3.9. References to any legislation or to any provision of any legislation shall include any modification or re-enactment of that legislation and any legislative provision substituted for, and all regulations and statutory instruments issued under such legislation or provision.
- 2.3.10. As the case may be, a reference to a right or obligation of any two or more persons confers that right, or imposes that obligation, jointly and severally.

**AF708349U**

11/03/2008 \$97

173



### 3. AGREEMENT

The Owner has agreed to ensure that the remnant vegetation on the site is protected and enhanced for the future and to manage Reserve No 1 ('the land') as a properly protected environment for flora and fauna.

The Owner has also agreed to protect the foreshore midden (AAV7321-410) from inadvertent damage through the development of good heritage conservation management practices and strategies, in consultation with the traditional Aboriginal custodians and local indigenous community in general.

Accordingly the Owner agrees to the following controls:

#### 3.1 DEVELOPMENT

- 3.1.1 The land is not allowed to be subdivided.
- 3.1.2 No structure will be able to be erected on the site without the approval of the Council with the exception of an interpretive information sign of not more than one (1) square metre in area which may only be erected in the north eastern corner of the land.
- 3.1.3 No structure will be able to be erected on the site without the approval of the Council.
- 3.1.4 No occupiable dwelling or any other building or structure will be constructed or erected on the land.
- 3.1.5 No overhead powerlines will be constructed on the land (unless required by law).
- 3.1.6 No vehicular access tracks or other development will be constructed on the land without the approval in writing of the Council.

#### 3.2 CONSTRUCTION OF BOARDWALK

- 3.2.1 The owner will allow the Council or its agents to gain access to the land as required for the purpose of constructing and maintaining the boardwalk which is to be erected on the land along the northern boundary of the land.
- 3.2.2 The owner will not in any way obstruct pedestrians from accessing the western beach areas via the boardwalk when erected.
- 3.2.3 The boardwalk must be constructed low enough to the ground natural surface to ensure that safety fencing is not required to be erected on either side of the boardwalk.

#### 3.3 FENCING

- 3.3.1 The owner shall not commence the erection of any fencing along the boundaries of or anywhere else on the land without approval in writing from the Council.

#### 3.4 FLORA AND FAUNA

- 3.4.1 The owner shall not permit on the land:
  - 3.4.1.1 the destruction or removal of any local indigenous trees, plants or grasses, nor plant any trees, grass or plants other than local indigenous flora;
  - 3.4.1.2 any act or omission which may adversely affect any local indigenous flora or any indigenous fauna or their associated habitats;
  - 3.4.1.3 the introduction of any non-indigenous flora or categorised weed species.
- 3.4.2 The owner as far as practicable shall make reasonable efforts to remove pests and weeds from the land to prevent their future invasion.

#### 3.5 PUBLIC ACCESS

- 3.5.1 The owner shall not prevent any member of the public from gaining access to the beach areas west of the land via the boardwalk which is to be erected by the Council on the land along the northern boundary of the land.

**AF708349U**

11/03/2008 \$97

173



### **3.6 EMERGENCY ACCESS**

- 3.6.1 The owner shall not obstruct the use of the land by emergency vehicles in the event of any emergency situation.

### **3.8 OTHER PROHIBITED USES**

- 3.7.1 The owner shall not permit on the land:

- 3.8.1.1 the lighting of any fires;
- 3.8.1.2 the recreational use of trail bikes or four wheel drive motor vehicles, the storage of rubbish or materials, or any other activities not consistent with the objectives of this agreement;
- 3.8.1.3 the entry of any livestock;
- 3.8.1.4 the introduction of any non-indigenous fauna or any cat, dog or other domestic animals;
- 3.8.1.5 any exploration or mining extraction or production of gas, petroleum, minerals or other substances;
- 3.8.1.6 the removal, introduction or disturbance of any soil, rocks or other minerals;
- 3.8.1.7 the operation of any non-agricultural trade, industry or business, the storage of any materials other than materials being used or intended to be used by the Owner on the Land or any other activities not consistent with the objectives of this Agreement;
- 3.8.1.8 the removal of any timber including fallen timber;
- 3.8.1.9 the erection or display of any notice, boarding or advertising matter save for identification signs, interpretive and safety signs.

## **4. ACKNOWLEDGEMENTS BY THE COUNCIL**

- 4.1 Council acknowledges that compliance with the prohibitions and restrictions may be treated as waived to the extent for:

- 4.1.1. Reasonable fire protection, weed and pest control.
- 4.1.2 Maintenance of fences, culverts, dams, bridges, watercourses, tracks and paths.
- 4.1.3 The proper management of the land as a protected environment for indigenous flora and fauna.

- 4.2 The Council further acknowledges that compliance with the prohibitions and restrictions may be treated as waived where the Owner is prevented from complying with this Agreement due to:

- 4.2.1 Acts of God or the Queen's enemies.
- 4.2.2 War, riot insurrection, vandalism or sabotage.
- 4.2.3 Law, rule or regulation of any government or governmental agency, and executive or administrative order or act of general or particular application.
- 4.2.4 Fire.
- 4.2.5 Lightning.
- 4.2.6 Floods.
- 4.2.7 Tidal incursions

which is unforeseen by the Owner and beyond control of the Owner.

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**5. REGISTRATION**

The parties shall do all things necessary to enable the Council to register this agreement pursuant to Section 181 of the Act.

**6. DISCLOSURE**

The owner shall not sell mortgage or part with possession of the land or any part of it without first disclosing to its successors the existence and the nature of this agreement.

**7. COSTS OF AGREEMENT**

The costs and expenses associated with the preparation of this agreement and registration of the agreement pursuant to Section 181 of the Act shall be borne by the Council.

**8. DEFAULT**

If the owner fails to comply with this agreement the Council may serve on the owner or on the owner of that part of the land in respect of which there has been failure of compliance a notice in writing specifying the works, matters and things ("the Remedial Works") in respect of which the relevant owner is in default. If such default continues for thirty days after the service of such notice the Council by its employees or contractors may enter upon the land and cause the Remedial Works to be done.

A notice served on the owner pursuant to this clause may set out the costs (as estimated by the Council) of carrying out the Remedial Works. If the owner does not comply with the notice within thirty days the Council may serve on the owner a demand in writing for the amount of the estimated costs. The amount then shall become a debt due and payable by the relevant owner to the Council.

As soon as practicable after the completion of the Remedial Works the Council shall certify the actual costs of the Remedial Works. The difference between a sum paid to the Council as the estimated costs, and the actual costs, shall be paid by the relevant owner to the Council or if there is excess, repaid by the Council to the relevant owner.

**9. NOTICES**

Any notice required under this agreement may be served by delivering it to the owner at its last known address within the rating records of the Council. Any notice posted shall be deemed to have been served at the expiration of twenty-four hours from the time of posting.

**10. SUCCESSORS BOUND**

Without limiting the operation or effect which this agreement has apart from this sub-clause, the owner shall ensure that its successors:-

10.1 Give effect to and do all acts and sign all documents which are required of them to give effect to this agreement; and

10.2 Execute under seal a deed agreeing to be bound by the terms of this agreement.

The obligation imposed on the owner by sub-clause 1 of this clause shall cease for such time as there appears in the register book at the office of the Registrar of Titles a memorandum of this agreement.



EXECUTED AS A DEED.

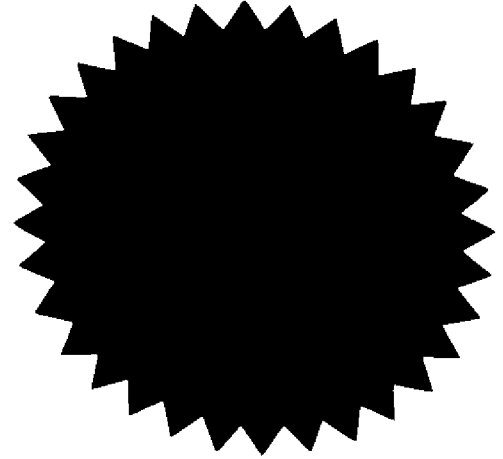
THE COMMON SEAL of MOYNE SHIRE COUNCIL)  
was hereunto affixed in the presence of: )

[Redacted signature]

Chief Executive Officer

[Redacted signature]

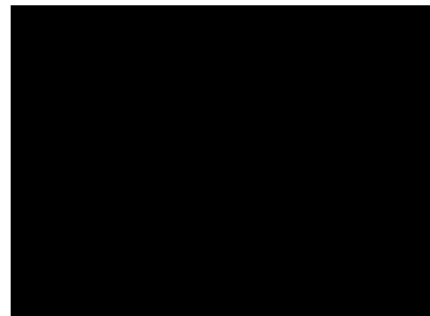
Councillor



[Redacted signature] )  
[Redacted signature] )  
[Redacted signature] was hereunto affixed )  
by the authority of the Board in the )  
presence of:- )

[Redacted signature] President

[Redacted signature] Secretary



|                 |                        |                     |
|-----------------|------------------------|---------------------|
| <b>PLANNING</b> | Permit No:             | <b>PL07/291</b>     |
| <b>PERMIT</b>   | Planning Scheme:       | Moyne               |
|                 | Responsible Authority: | Moyne Shire Council |

**ADDRESS OF THE LAND:**

Ocean Drive PORT FAIRY VIC 3284  
(Lot H PS 522055N Parish of Belfast)

**THE PERMIT ALLOWS:**

**A Two (2) Lot Subdivision of Land for the Creation of Council Reserve and the Creation of a Drainage Easement.**

**THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:** (Six Conditions)

1. The layout of the subdivision as shown on the endorsed plan must not be altered or modified without the prior written consent of the Responsible Authority.
2. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage sewerage facilities, electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with that authority's requirements and relevant legislation at the time.
3. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.
4. The plan of subdivision submitted for certification under the subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.
5. Prior to the issue of a Statement of Compliance, the owner of the land must enter into and execute an agreement with the Responsible Authority, pursuant to Section 173 of the Planning and Environment Act 1987. This agreement must provide for:
  - a) The land shown as the reserve on the plan of subdivision to be managed as a properly protected environment for flora and fauna.
  - b) The protection of remnant vegetation on said reserve.
  - c) The protection of the foreshore midden (AAV 7321-410) on said reserve from inadvertent damage through the development of good heritage conservation management practices and strategies.

**DATE ISSUED:** 4/09/2007

Planning and Environment Regulations 1988 Form 4.4

**SIGNATURE FOR THE  
RESPONSIBLE AUTHORITY**



Scott Elliott  
Statutory Planning Coordinator

**AF708349U**

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It is further required that this agreement must be registered at the Office of Titles pursuant to Section 181 of the Planning and Environment Act 1987. This agreement must be prepared and executed at the owner's expense

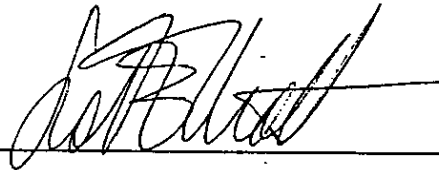
6. Unless the subdivision approved by this permit is commenced within two (2) years of the date of this permit, and completed within five (5) years from certification of the plan, then this permit will lapse.

---

**Note:** This permit was amended on the 11<sup>th</sup> December 2007 pursuant to Section 73 of the Planning & Environment Act 1987, to the extent that an additional condition was included on the permit requesting a Section 173 Agreement be placed on the land as it was inadvertently left off the original planning permit.

Planning and Environment Regulations 1988 Form 4.4

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.



Scott Elliott  
Statutory Planning Coordinator

DATE ISSUED: 4/09/2007

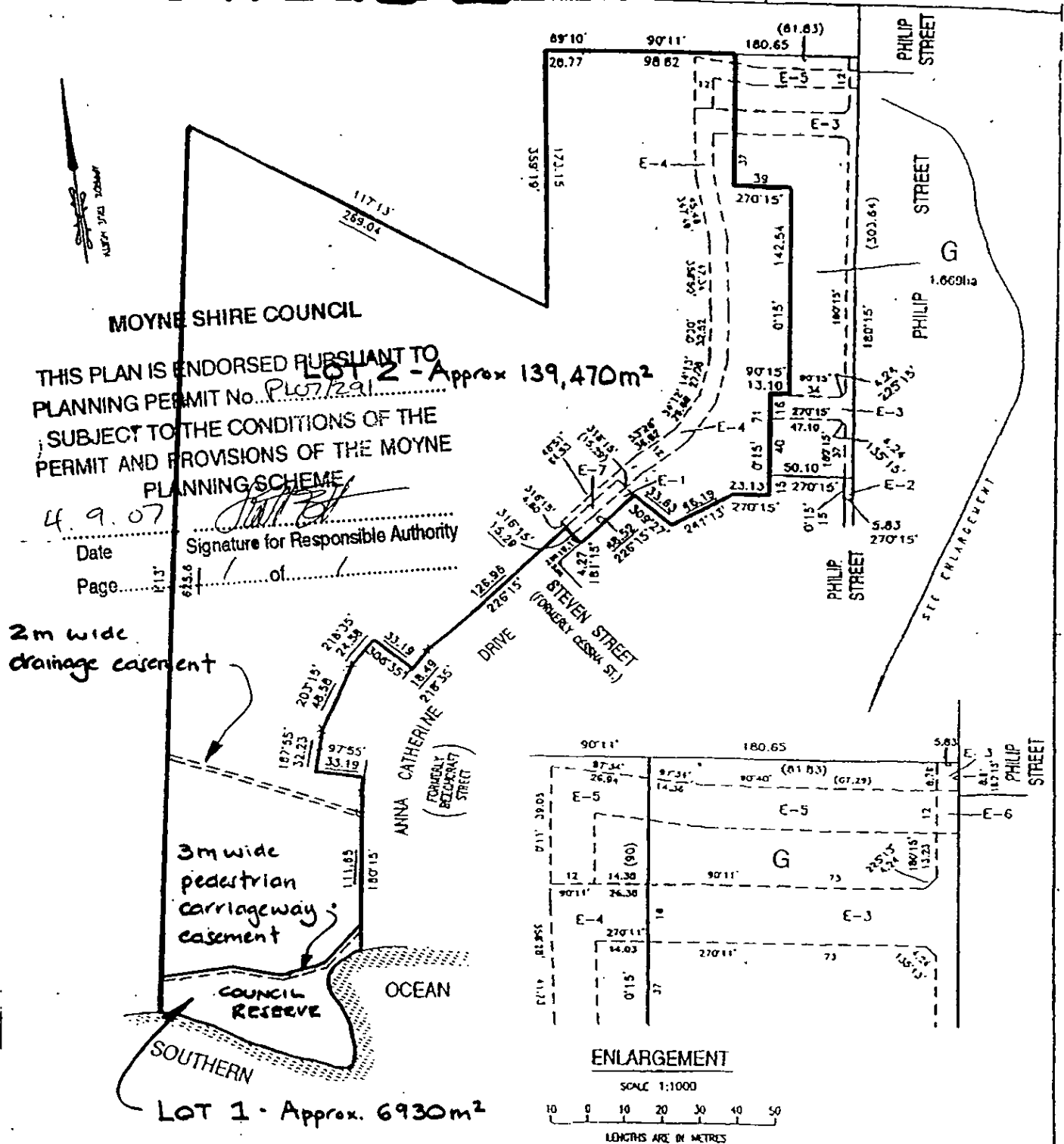
SIGNATURE FOR THE  
RESPONSIBLE AUTHORITY



# STAGE 1

Stage No.

Plan Number



|          |         |                                   |  |                           |  |                        |  |
|----------|---------|-----------------------------------|--|---------------------------|--|------------------------|--|
| ORIGINAL |         | SCALE                             |  | LICENSED SURVEYOR (PRINT) |  | Sheet 2 of 2 sheets    |  |
| SCALE    | SHEET   | 25 0 25 50 75 100 125             |  | SIGNATURE                 |  | Original sheet size A3 |  |
| 1:2500   | SIZE A3 | LENGTHS ARE IN METRES             |  | REF                       |  |                        |  |
|          |         |                                   |  | VERSION                   |  |                        |  |
|          |         | 10 20 30 40 50 60 70 80 90 100 mm |  |                           |  |                        |  |
|          |         |                                   |  |                           |  | 16730252.dwg           |  |

## PROPOSED TWO LOT SUBDIVISION OCEAN DRIVE PORT FAIRY

AF708349U

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# Imaged Document Cover Sheet

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|-------------------------------------------------|-------------------------|
| Document Type                                   | <b>Instrument</b>       |
| Document Identification                         | <b>AR275509D</b>        |
| Number of Pages<br>(excluding this cover sheet) | <b>15</b>               |
| Document Assembled                              | <b>29/08/2026 11:21</b> |

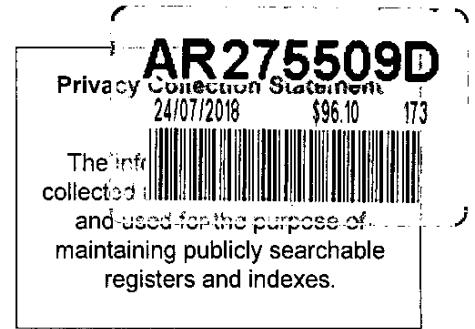
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The document is invalid if this cover sheet is removed or altered.

**Application by a responsible authority for the making of a recording of an agreement**

**Section 181 Planning and Environment Act 1987**



Lodged by

Name: TAIT'S LEGAL

Phone: 0355602100

Address: 121 KEPLER STREET WARRNAMBOOL

Reference: AMM90113

Customer code: 46380 6644

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

Land:(volume and folio)

VOLUME 11371 FOLIO 670

Responsible authority:(full name and address, including postcode)

MOYNE SHIRE COUNCIL OF PRINCES STREET, PORT FAIRY VICTORIA 3284

Section and act under which agreement is made:

SECTION 181 PLANNING AND ENVIRONMENT ACT 1987

A copy of the agreement is attached to this application:

YES

Signing:

35271702A

181PEA

Page 1 of 2

**THE BACK OF THIS FORM MUST NOT BE USED**

Land Use Victoria contact details: see [www.delwp.vic.gov.au/property](http://www.delwp.vic.gov.au/property)>Contact us

**Application by a responsible authority for the  
making of a recording of an agreement  
Section 181 Planning and Environment Act 1987**

**Privacy Collection Statement**

The information in this form is collected under statutory authority and used for the purpose of maintaining publicly searchable registers and indexes.

Executed on behalf of **MOYNE SHIRE COUNCIL**

Signer Name

Signature

Execution Date

Full Name of Witness

Witness Signature

**AR275509D**

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181PEA

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Land Use Victoria contact details: see [www.delwp.vic.gov.au/property](http://www.delwp.vic.gov.au/property)>Contact us

**TaitsLegal**

**AGREEMENT PURSUANT  
TO SECTION 173  
PLANNING & ENVIRONMENT ACT**

**RESPONSIBLE AUTHORITY**  
MOYNE SHIRE COUNCIL

**THE OWNER**

(ACN 065 058 826)

**LAND AFFECTED**

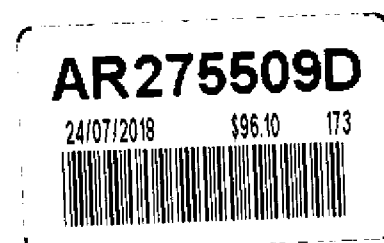
Certificate of Title Volume 11371 Folio 670  
Lot K Plan of Subdivision 629298P

**DATED**

**REGISTRATION PARTICULARS**

A Memorandum of this agreement was lodged in the Office of Titles pursuant to  
Section 181 of the Planning & Environment Act 1987 on \_\_\_\_/\_\_\_\_/2018

DEALING NO. ....



## PLANNING & ENVIRONMENT ACT

### AGREEMENT PURSUANT TO SECTION 173

#### AFFECTED LAND:

The land described as Lot K on Plan of Subdivision 629298P being part of the land described in Certificate of Title Volume 11371 Folio 670.

THIS AGREEMENT is made on the \_\_\_\_\_ day of \_\_\_\_\_ 2018

#### BETWEEN:

The Responsible Authority: Moyne Shire Council ("the Council")  
of Princes Street Port Fairy 3284.

The Owner: [REDACTED]  
[REDACTED]

#### RECITALS

1. The Owner is the registered proprietor of the land described in Certificate of Title Volume 11371 Folio 670, situate at Anna Catherine Drive Port Fairy 3284 ("the Land").
2. The Land is affected by the provisions of the Moyne Planning Scheme ("the Scheme").
3. The Council is the responsible authority under the Planning & Environment Act 1987 ("the Act") for the purposes of the administration and enforcement of the Scheme.
4. The Council on 20 October 2004 issued planning permit No. PL03/209 ("the Permit") allowing the Owner to subdivide the land.
5. Condition 4 and 5 of the Permit include the following:
  4. *"...the owner of the land must enter into and execute an agreement with the Responsible Authority, pursuant to Section 173 of the Planning and Environment Act 1987. It is further required that this agreement must be registered at the Office of Titles pursuant to section 181 of the Planning and Environment Act 1987. This agreement must be prepared and executed at the owner's expense.*  
*The agreement must provide for:*
    - a) *the incorporation of the plan as submitted to the Planning Committee on 14 September 2004;*
    - b) *the transfer of the proposed Lot 22 to Council as Council Reserve;*
    - c) *the side and rear boundary fences on Lots 3-8 inclusive shall have a maximum height of 1.5 metres above the ground where such fencing is south of the southern extremity of the building line for each of these lots;*
    - d) *no southerly projection of any buildings on Lots 3-8 inclusive, beyond the line shown on the endorsed plan as "southerly extremity of buildings";*
    - e) *the maximum height of any dwelling proposed on Lot 8 is to be no higher than the roofline of the adjacent existing dwelling, on separate title, to the west;*

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- f) *the south facing first floor façade of any dwelling constructed on Lots 3-8 inclusive must be set back at least three (3) metres north from the line shown on the endorsed planning permit plan as 'southern extremity of buildings';*

*and*

5. ...

- (ii) *if Trust for Nature decides not to proceed with a Deed of Covenant for the conservation of lot 21, then the Section 173 Agreement referred to in condition 4 (of the permit) above, must also provide for the environmental and conservation issues associated with lot 21, and which would have been incorporated into the Deed of Covenant being:*

- access from Lots 3-8 and through the land parcels immediately to the south of those lots;*
- the type of construction of and location of the proposed boardwalk;*
- the identification and relocation of significant vegetation which may potentially be affected by the proposed boardwalk;*
- revegetation as required of the existing track on lot 21;*
- any proposed fencing on lot 21; and*
- prevention of any further development on lot 21.*

6. Trust for Nature decided not to proceed with a Deed of Covenant for the conservation of Lot 21.
7. The parties enter this Agreement in order to satisfy condition the requirements of conditions 4 and 5(ii) of the Permit and to advance and achieve the objectives of planning in Victoria.
8. The Land is subject to registered mortgages number AJ069033X and AQ319386L in favour of the Bendigo and Adelaide Bank Ltd, which mortgagee, as evidenced by its consent on the attestation pages, consents to this Agreement.

**BY THIS AGREEMENT IT IS AGREED AND COVENANTED:**

**1. OPERATION**

- a) This Agreement is made pursuant to Section 173 of the Act.
- b) This Agreement shall come into force on execution by both parties.
- c) This Agreement may be ended in accordance with the provisions of the Act.
- d) The covenants of this Agreement shall run with the Land.

**2. INTERPRETATION**

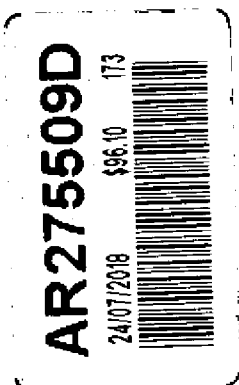
a) **LOT**

In this Agreement "lot" means any and each lot shown on the subdivision plan.

b) **OWNER**

In this Agreement the word "Owner" unless the contrary intention appears shall be deemed to include [REDACTED] its successors assigns and transferees and the obligations imposed on and assumed by [REDACTED] [REDACTED] shall be binding on the successors transferees purchasers mortgagees assigns of [REDACTED] and any person obtaining possession of the whole or part of the land as if each of those successors separately executed this agreement; and

If the Owner holds the Land in a trust capacity, "Owner" shall include the beneficiaries of the trust in relation to which it holds such land. Where such trust relationship exists the Owner in executing this agreement does so intending to assume not only personal liability, but also to bind the trust for which it acts as trustee.



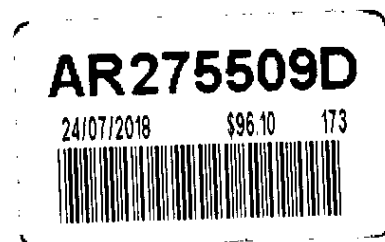
If the Owner is constituted by more than one person any obligation imposed by this agreement on the Owner shall be imposed on those persons jointly and severally.

c) **COUNCIL**

In this Agreement the word "Council" shall include the Council's successors and its successors as responsible authority for the Scheme in the area in which the Land is situate and includes its agents, officers, employees, servants, workers and contractors and any subsequent person or body which is the responsible authority or municipal council.

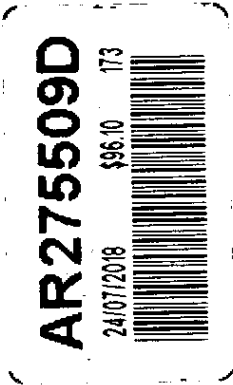
d) In this Agreement, unless the context otherwise requires:

- 2.d.1. Words denoting the singular number shall include the plural and vice versa.
- 2.d.2. Words denoting any gender shall include all genders.
- 2.d.3. Where a word or phrase is defined, other parts of speech and grammatical forms of that word or phrase shall have corresponding meanings.
- 2.d.4. Words denoting natural persons shall include corporations and vice versa.
- 2.d.5. References to clauses, recitals and schedules are to clauses and recitals of and schedules to this Agreement.
- 2.d.6. The recitals to this Agreement are and will be deemed to form part of this Agreement including any terms defined within the recitals.
- 2.d.7. Headings are for convenience only and do not affect interpretation.
- 2.d.8. References to any party to this Agreement or any other agreement or instrument shall include the party's successors and permitted assigns.
- 2.d.9. Reference to any agreement or instrument shall be also to such agreement or instrument as amended, novated, supplemented, varied or replaced from time to time.
- 2.d.10. References to any legislation or to any provision of any legislation shall include any modification or re-enactment of that legislation and any legislative provision substituted for, and all regulations and statutory instruments issued under such legislation or provision.
- 2.d.11. References to dollars and "\$" shall be taken as referring to amounts in Australian currency.
- 2.d.12. As the case may be, a reference to a right or obligation of any two or more persons confers that right, or imposes that obligation, jointly and severally.
- 2.d.13. Where a word or phrase is not defined in this Agreement, it has the meaning as defined in the Act, or, if it is not defined in the Act, it has its ordinary meaning.



e) **OTHER DEFINITIONS**

- 2.e.1. **Act** means the *Planning and Environment Act 1987* (Vic).
- 2.e.2. **Agreement** means this agreement and any agreement executed by the parties varying or expressed to be supplemental to this Agreement.
- 2.e.3. **Allotment Plan** means the Plan of Subdivision PS614167P prepared by Forster Land Surveying dated 30 October 2017.
- 2.e.4. **Current Address for Service**
- 2.e.4.1.for Council means the address shown under the heading "BETWEEN" in this Agreement, or any other principal office address listed on Council's website; and
- 2.e.4.2.for the Owner means the address shown under the heading "BETWEEN" this Agreement or any other address provided by the Owner to Council for any purpose or purposes relating to the Land.
- 2.e.5. **Current Email Address for Service**
- 2.e.5.1.for Council means moyne@moyne.vic.gov.au, or any other email address listed on Council's website; and
- 2.e.5.2.for the Owner means any email address provided by the Owner to Council for the express purpose of electronic communication regarding this Agreement.
- 2.e.6. **Dwelling** has the same meaning as in the Scheme.
- 2.e.7. **Land** means the land described in Recital 1 and any reference to the Land includes any lot created by the subdivision of the Land or any part of it.
- 2.e.8. **Mortgagee** means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as Mortgagee of the Land or any part of it.
- 2.e.9. **party** or **parties** means the Owner and Council under this Agreement as appropriate.
- 2.e.10. **Permit** means the planning permit issued by Council described in Recital 4 including the plans endorsed under it and as amended from time to time.



**3. AGREEMENT**

The Owner covenants and agrees with the Responsible Authority that:

- a) **Fencing**
- The side and rear boundary fences on Lots 3-8 inclusive on the Allotment Plan must not exceed a height of 1.5 metres above natural ground level where such fencing is located within the hatched area shown on Sheet 4 of the Allotment Plan.
- b) **Building Location**
- Any part of any buildings constructed on Lots 3-8 inclusive on the Allotment Plan must not extend into the hatched area shown on Sheet 4 of the Allotment Plan.
- c) **First Floor Façade**
- The south facing first floor façade of any dwelling constructed on Lots 3-8 inclusive shown on the Allotment Plan must be set back at least 3 metres north of the hatched area shown on Sheet 4 of the Allotment Plan.
- d) **Building Height**
- The height of any dwelling or building constructed on Lot 8 on the Allotment Plan must not exceed the height of the dwelling which was constructed (at the time the Permit was issued) on the allotment which immediately abuts the western boundary of Lot 8.

**For Lot 21 shown on the Allotment Plan:**

- e) The Owner will allow the Council and its agents to access Lot 21 as required for the purpose of constructing and maintaining the boardwalk (including the identification and removal of vegetation at Council's discretion) to be erected on and along the northern boundary of the Council reserve which abuts the southern boundary of lot 21.
- f) Any fence constructed on the southern boundary of Lot 21 must not exceed a height of 1.5 metres above natural ground level and be constructed in a way that allows for the free movement indigenous fauna to and from Lot 21.
- g) Further subdivision and any works are prohibited on Lot 21 unless agreed by Council in writing or required by law.
- h) The Owner must not without the written consent of the Council:
  - 3.h.1. remove or destroy indigenous flora;
  - 3.h.2. plant any flora that is not indigenous to the area;
  - 3.h.3. commit any act that would adversely affect indigenous flora or fauna;
  - 3.h.4. introduce any non-indigenous flora or categorised weed species.
- i) Following construction of the proposed boardwalk in accordance with clause 3(e), the Owner, if requested by Council, must revegetate the existing track on Lot 21 in consultation with and to the satisfaction of Council.
- j) The owners of Lots 3-8 inclusive shown on the Allotment Plan must have unhindered and direct access to and from Lot 21 from their respective lots for the use as a thoroughfare to the Council reserve south of Lot 21.

**4. REGISTRATION**

The parties shall do all things necessary to enable the Council to register this Agreement pursuant to Section 181 of the Act.

**5. DISCLOSURE**

The Owner agrees with Council that:

- a) the Owner shall not sell mortgage or part with possession of the Land or any part of it without first disclosing to its successors the existence and the nature of this agreement;
- b) save as shown in the certificate of title to the Land, there are no mortgages, liens, charges, easements or other encumbrances or any rights inherent in any person affecting the Land or any part of it and not disclosed by the usual searches;
- c) neither the Land nor any part of it is subject to any right obtained by adverse possession or subject to any easements, rights or encumbrances mentioned in section 42 of the *Transfer of Land Act 1958* (Vic).

**6. COSTS OF AGREEMENT**

The Owner forthwith on demand shall pay to the Council the Council's costs and expenses (as between the solicitor and own client) of and incidental to the negotiation, preparation, execution and recording of this agreement and of anything consequent on it or in furtherance of it or any amendment to it.

**7. NOTICES**

Any notice required under this Agreement may be served by by prepaid mail, by hand delivery or by email to the Current Addresses for Service or Current Email Address for Service of the parties, and may be sent by an agent of the party sending the notice. Each notice or communication will be deemed to have been duly received:



- a) not later than two business days after being deposited in the mail with postage prepaid;
- b) when delivered by hand;
- c) if sent by email, at the time of receipt in accordance with the Electronic Transactions (Victoria) Act 2000 (Vic).

## 8. SUCCESSORS BOUND

Without limiting the operation or effect which this Agreement has apart from this sub-clause, the Owner shall ensure that its successors:-

- a) Give effect to and do all acts and sign all documents which are required of them to give effect to this Agreement; and
- b) Execute under seal a deed agreeing to be bound by the terms of this Agreement.

The obligation imposed on the Owner by sub-clause 1 of this clause shall cease for such time as there appears in the register book at the office of the Registrar of Titles a memorandum of this Agreement.

## 9. DEFAULT

If the Owner fails to comply with this agreement the Council may serve on the Owner or on the owner of a lot in respect of which there has been failure of compliance a notice in writing specifying the works, matters and things ("the Remedial Works") in respect of which the relevant owner is in default. If such default continues for thirty days after the service of such notice the Council by its employees or contractors may enter upon the land and cause the Remedial Works to be done.

A notice served on the Owner pursuant to this clause may set out the costs (as estimated by the Council) of carrying out the Remedial Works. If the Owner does not comply with the notice within thirty days the Council may serve on the Owner a demand in writing for the amount of the estimated costs. The amount then shall become a debt due and payable by the relevant owner to the Council.

As soon as practicable after the completion of the Remedial Works the Council shall certify the actual costs of the Remedial Works. The difference between a sum paid to the Council as the estimated costs, and the actual costs, shall be paid by the relevant owner to the Council or if there is excess, repaid by the Council to the relevant owner.

## 10. ENFORCEMENT

- a) The operation of this clause is suspended until and unless the Council has served a notice under the "Default" clause.
- b) The Owner forthwith on demand shall pay to the Council the cost and expenses, including building costs, of and incidental to the Council exercising its powers under this agreement.
- c) The Owner licenses the Council through its employees and contractors at any reasonable time by appointment to enter upon any part of the land for the purposes of giving effect to this agreement.

## 11. RELEASE

On a person ceasing to own any part of the Land that person shall be released from the obligations of that person as an owner under this Agreement, save to the extent that any right has arisen against such owner prior to such cessation.

## 12. FURTHER DOCUMENTATION AND ACTION

Each of the parties shall sign and execute all such further documents and deeds and do all acts and things as the other party reasonably shall require for giving effect to this Agreement and for this document to be registered on title.

## 13. DISPUTE



If any dispute or difference arises between the parties with respect to the interpretation of this Agreement, or its application, such dispute or difference shall be determined by a person appointed by the parties by agreement, or failing agreement, by a person qualified in the area of the dispute or difference and appointed by the Secretary as defined in the Act.

**14. AMENDMENT**

This Agreement may be amended only in accordance with the requirements of the Act.

**15. NO WAIVER**

No waiver by any party of any default in the strict and literal performance of or compliance with any provision, condition or requirement in this Agreement will be deemed to be a waiver of strict and literal performance of and compliance with any other provision, condition or requirement of this Agreement nor to be a waiver of or in any way release any party from compliance with any provision, condition or requirement in the future nor will any delay or omission of any party to exercise any right under this Agreement in any manner impair the exercise of such right accruing to it thereafter.

**16. NO FETTERING OF POWERS OF COUNCIL**

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

**17. INVALIDITY OF ANY CLAUSE**

Notwithstanding anything to the contrary in this Agreement, if any provision of this Agreement will be invalid and not enforceable in accordance with its terms, all other provisions which are self-sustaining and capable of separate enforcement without regard to the invalid provisions will be and continue to be valid and enforceable in accordance with those terms.

**18. AGREEMENT BINDING ON SUCCESSORS OF OWNERS**

This Agreement will extend to and bind the Owner's successors, assigns, administrators, transferees and legal personal representatives and the obligations imposed upon them will also be binding on their successors, transferees, purchasers, mortgagees and assigns as if each of them had separately executed this Agreement.

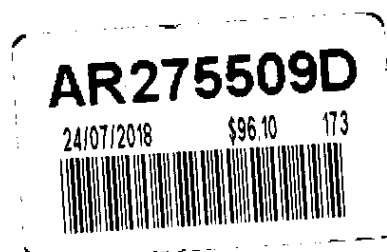
**19. ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous agreements or understandings between the parties in connection with its subject matter.

**20. ENDING OF AGREEMENT**

Upon the Council issuing a statement of compliance for the Permit this Agreement ceases to apply to the Lot marked L and 1, 2, 9 – 20 inclusive on the Allotment Plan. Council will, at the Owner's written request and at the Owner's cost, apply to the Registrar of Titles under section 183(1) of the Act to cancel the record of this Agreement to the abovenamed lot.

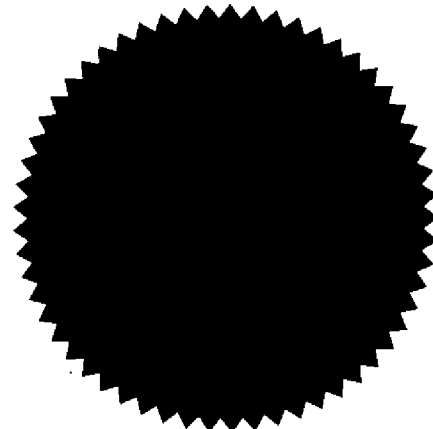
**EXECUTED AS A DEED.**



**EXECUTED AS A DEED.**

THE Common Seal of the **MOYNE SHIRE COUNCIL** )  
was hereunto affixed this sixteenth day )  
of July 2018 in the presence of: )

[REDACTED]  
Councillor [REDACTED]  
[REDACTED]  
Chief Executive Officer



EXECUTED by [REDACTED] )  
[REDACTED] by being signed )  
by those persons who are authorised to sign for the )  
company. )

Director: [REDACTED]

Full name: [REDACTED]

Usual Address: [REDACTED]

Director/Secretary: [REDACTED]

Full name: [REDACTED]

Usual Address: [REDACTED]  
[REDACTED]

**AR275509D**

24/07/2018 \$96.10 173



# ALLOTMENT PLAN

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                      |                                    |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------|------------------------------------|
| <b>PLAN OF SUBDIVISION</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                            | <b>EDITION 1</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                      |                                    |
| <b>LOCATION OF LAND</b><br><b>PARISH:</b> BELFAST<br><b>TOWNSHIP:</b> -<br><b>SECTION:</b> -<br><b>PART OF ATKINSONS CROWN SPECIAL SURVEY</b><br><b>CROWN ALLOTMENT:</b> -<br><b>CROWN PORTION:</b> -<br><b>TITLE REFERENCE:</b> VOL 11371 FOL 670<br><b>LAST PLAN REFERENCE:</b> PS 629288P (LOT K)<br><b>POSTAL ADDRESS:</b> ANNA CATHERINE DRIVE<br><small>(at time of subdivision)</small> PORT FAIRY 3284<br><b>MGA CO-ORDINATES:</b> E: 609 360 <b>ZONE:</b> 54<br><small>(of approx centre of land in plan)</small> N: 5 750 100 <b>GDA</b> 94 |                                            | <b>Council Name:</b> Moyne Shire Council<br><b>Council Reference Number:</b> SUB18/0004<br><b>Planning Permit Reference:</b> PL03/209<br><b>SPEAR Reference Number:</b> S117853M<br><b>Certification</b><br>This plan is certified under section 8 of the Subdivision Act 1988<br><b>Public Open Space</b><br>A requirement for public open space under section 18 of the Subdivision Act 1988 has not been made<br>Digitally signed by: Roslyn Snecover for Moyne Shire Council on 08/08/2015 |                                                                      |                                    |
| <b>VESTING OF ROADS AND/OR RESERVES</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                            | <b>NOTATIONS</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                      |                                    |
| <b>IDENTIFIER</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <b>COUNCIL/BODY/PERSON</b>                 | <b>BEARINGS AND DIMENSIONS SHOWN UNDERLINED ARE NOT THE RESULT OF THIS SURVEY.</b><br>LOTS A-J (both inclusive) have been omitted from this plan.<br><br><b>OTHER PURPOSE OF PLAN</b><br>DRAINAGE EASEMENT E-4 ON PS614166R HAS BEEN REMOVED FROM THIS PLAN BY A DIRECTIVE IN MOYNE SHIRE COUNCIL PLANNING PERMIT No. PL17/053<br><br><b>THIS PLAN INCLUDES THE CREATION OF A RESTRICTION SEE SHEET 4 FOR DETAIL.</b>                                                                          |                                                                      |                                    |
| ROAD R1<br>ROAD R2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | MOYNE SHIRE COUNCIL<br>MOYNE SHIRE COUNCIL |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                      |                                    |
| <b>NOTATIONS</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                      |                                    |
| <b>DEPTH LIMITATION:</b> DOES NOT APPLY                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                      |                                    |
| <b>SURVEY:</b><br>This plan is based on partial survey.<br><b>STAGING:</b><br>This is not a staged subdivision.<br>Planning Permit No. PL 03/209<br>This survey has been connected to permanent marks No.(s) 87<br>In Proclaimed Survey Area No.                                                                                                                                                                                                                                                                                                      |                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                      |                                    |
| <b>EASEMENT INFORMATION</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                      |                                    |
| <b>LEGEND:</b> A - Appurtenant Easement    E - Encumbering Easement    R - Encumbering Easement (Road)                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                      |                                    |
| <b>Easement Reference</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <b>Purpose</b>                             | <b>Width (Metres)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <b>Origin</b>                                                        | <b>Land Benefited/in Favour Of</b> |
| E-1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | DRAINAGE & CARRIAGEWAY                     | VARIES<br>SEE DIAG                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | PS 345103Q                                                           | LOTS 45 46 & 47 ON PS345103Q       |
| E-2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | POWER SUPPLY                               | VARIES<br>SEE DIAG                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | PS 622065M - SECTION 68 OF THE ELECTRICITY INDUSTRY ACT 2000 APPLIES | POWERCOR AUSTRALIA LIMITED         |
| E-3                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | DRAINAGE & CARRIAGEWAY                     | VARIES<br>SEE DIAG                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | PS 345103Q                                                           | LOTS 45 46 & 47 ON PS345103Q       |
| E-3                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | POWER SUPPLY                               | VARIES<br>SEE DIAG                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | PS 622065M - SECTION 68 OF THE ELECTRICITY INDUSTRY ACT 2000 APPLIES | POWERCOR AUSTRALIA LIMITED         |
| E-4                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | OMITTED FROM THIS PLAN                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                      |                                    |
| E-5                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | SEWERAGE                                   | VARIES<br>SEE DIAG                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | THIS PLAN                                                            | WYNNON REGION WATER CORPORATION    |
| E-6                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | DRAINAGE                                   | VARIES<br>SEE DIAG                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | THIS PLAN                                                            | MOYNE SHIRE COUNCIL                |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                      |                                    |
|  <b>25 GREENGABLE COURT</b><br><b>GROYDON HILLS 3186</b><br><b>MOBILE 0427 548 040</b><br><small>forsterlandsurveying@bigpond.com</small>                                                                                                                                                                                                                                                                                                                          |                                            | <b>FILE REF:</b> 1691-2 <b>VERSION:</b> 7<br>Digitally signed by: Geoffrey I Forster (Forster Land Surveying Pty Ltd),<br>Surveyor's Plan Version (7),<br>03/06/2015, SPEAR Ref: S117853M                                                                                                                                                                                                                                                                                                      | <b>ORIGINAL SHEET</b><br><b>SIZE:</b> A3<br><b>SHEET 1 OF 4</b>      |                                    |

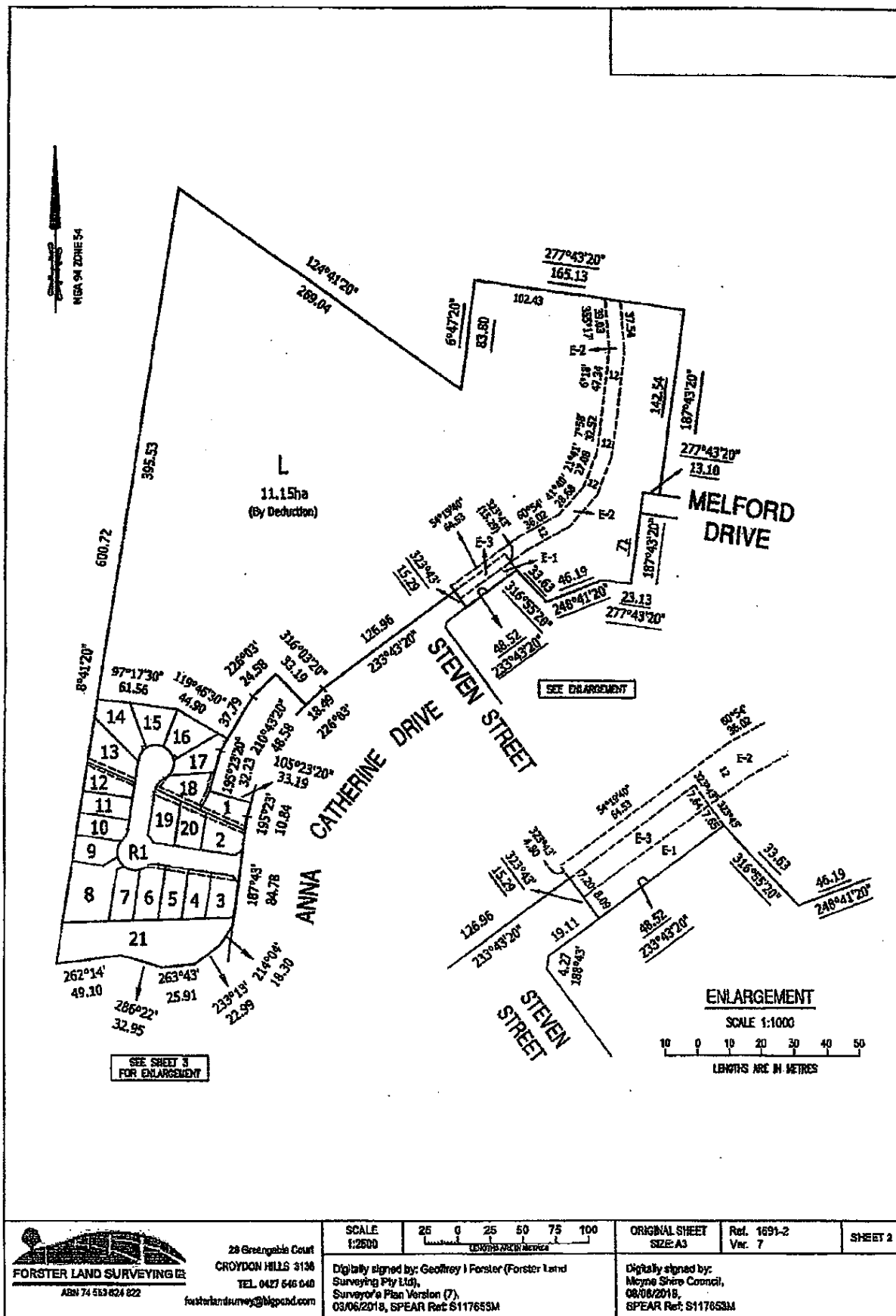
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## AR275509D

24/07/2018      \$96.10      173



# ALLOTMENT PLAN

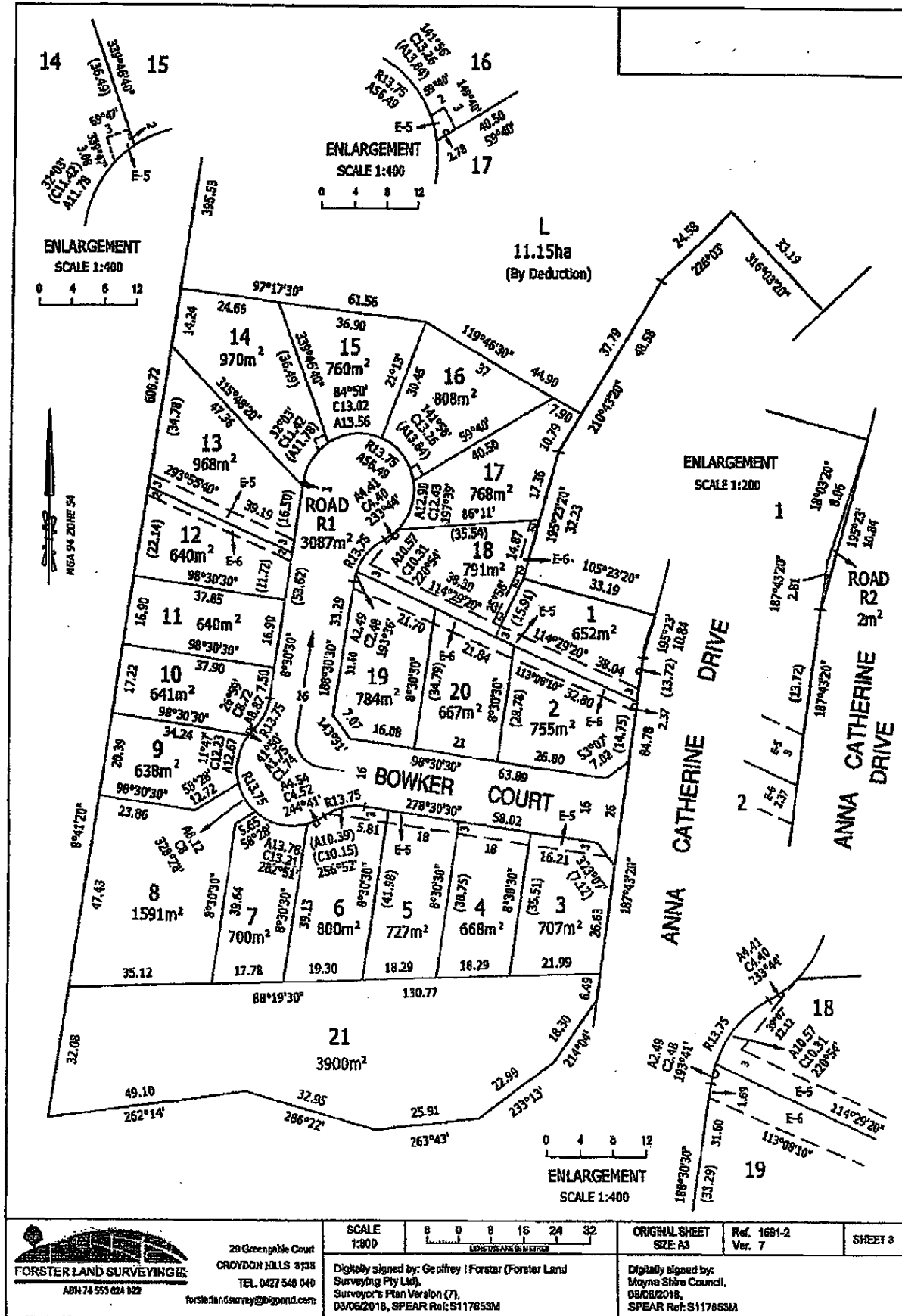


AR275509D

24/07/2018 \$96.10 173



## ALLOTMENT PLAN



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**AR275509D**

|            |         |     |
|------------|---------|-----|
| 24/07/2018 | \$96.10 | 173 |
|------------|---------|-----|



# ALLOTMENT PLAN

## SCHEDULE

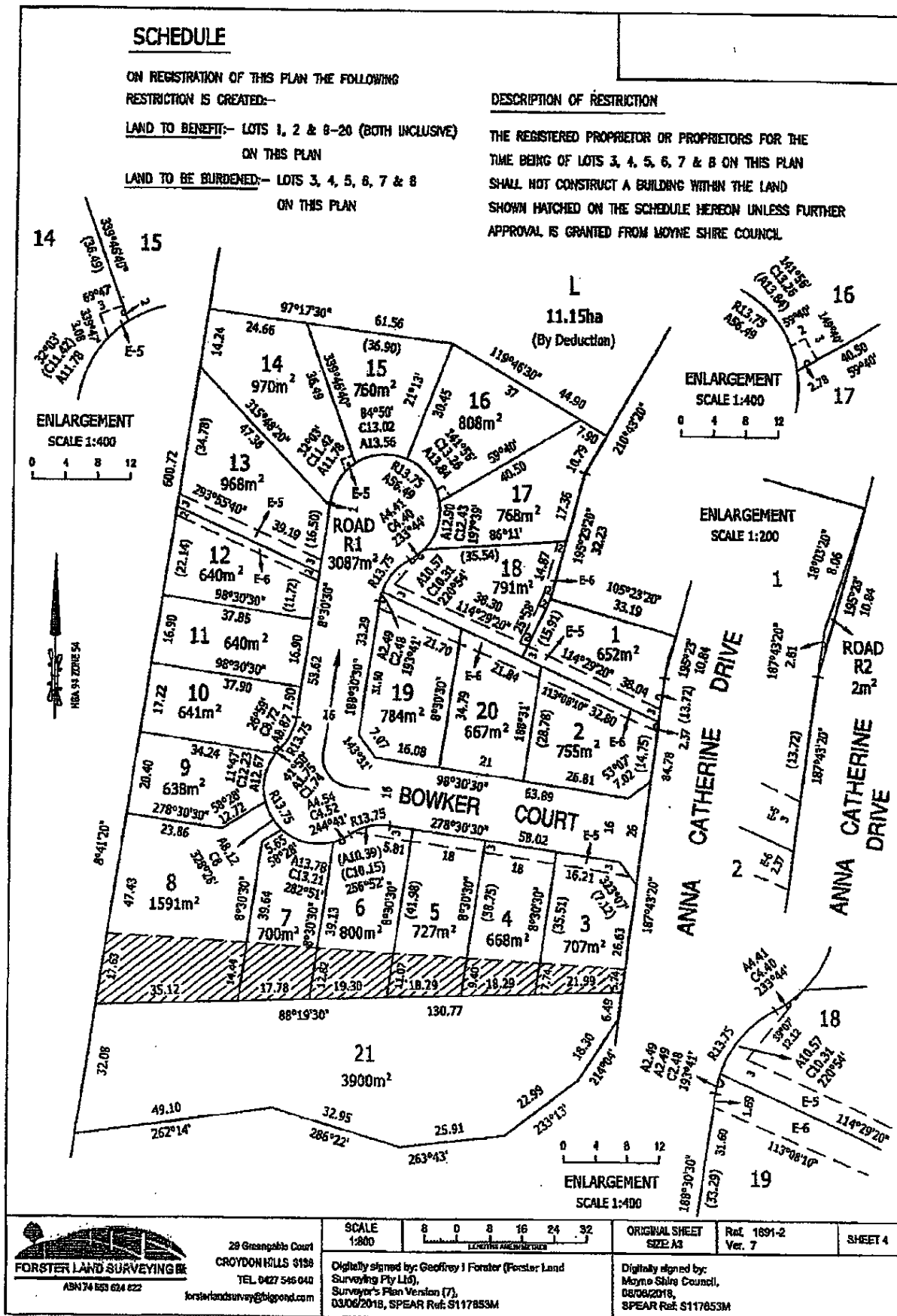
ON REGISTRATION OF THIS PLAN THE FOLLOWING  
RESTRICTION IS CREATED:-

LAND TO BENEFIT:- LOTS 1, 2 & 8-20 (BOTH INCLUSIVE)  
ON THIS PLAN

LAND TO BE BURDENED:- LOTS 3, 4, 5, 6, 7 & 8  
ON THIS PLAN

## DESCRIPTION OF RESTRICTION

THE REGISTERED PROPRIETOR OR PROPRIETORS FOR THE  
TIME BEING OF LOTS 3, 4, 5, 6, 7 & 8 ON THIS PLAN  
SHALL NOT CONSTRUCT A BUILDING WITHIN THE LAND  
SHOWN HATCHED ON THE SCHEDULE HEREON UNLESS FURTHER  
APPROVAL IS GRANTED FROM MOYNE SHIRE COUNCIL



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**FORSTER LAND SURVEYING**  
29 Greenpods Court  
CROYDON HILLS 3198  
TEL 0427 546 040  
forsterlandsurvey@bigpond.com

SCALE 1:800  
Digitally signed by: Geoffrey I Forster (Forster Land Surveying Pty Ltd),  
Surveyor's Plan Version (7),  
03/08/2018, SPEAR Ref: S117653M

ORIGINAL SHEET  
SIZE A3  
Rel: 1891-2  
Ver: 7  
Digitally signed by:  
Moynie Shire Council,  
08/08/2018,  
SPEAR Ref: S117653M

SHEET 4

**AR275509D**

24/07/2018 \$96.10 173





Office Use Only

VicSmart?

☐ YES☐ NO

Specify class of VicSmart application:

Application No.:Date Lodged: / /

Application for a Planning Permit

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

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

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

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

Click for further information.

Application Type

Is this a VicSmart application?\*

☒ No☐ Yes

If yes, please specify which VicSmart class or classes:.....

Classes of VicSmart application are listed in zones, overlays , particular provisions and the schedule to Clause 59.15

Pre-application Meeting

Has there been a pre-application meeting with a Council planning officer?

☐ No☒ Yes

If 'Yes', with whom?: Emma Leech/Sophie Pritchard

Date: August 2026

day / month / year

The Land

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

Street Address \*

Unit No.:

St. No.: 5

St. Name: Bowker Court

Suburb/Locality: Port Fairy

Postcode: 3284

Formal Land Description \*

Complete either A or B.

This information can be found on the certificate of title.

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

A

Lot No.: 5

☐ Lodged Plan☐ Title Plan☒ Plan of Subdivision

No.: 614167P

OR

B

Crown Allotment No.:

Section No.:

Parish/Township Name:

## The Proposal

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

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

Buildings and works to construct a dwelling.

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

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

Cost \$ 1.5m

You may be required to verify this estimate. Insert '0' if no development is proposed.

If the application is for land within **metropolitan Melbourne** (as defined in section 3 of the *Planning and Environment Act 1987*) and the estimated cost of the development exceeds \$1 million (adjusted annually by CPI) the Metropolitan Planning Levy **must** be paid to the State Revenue Office and a current levy certificate **must** be submitted with the application. Visit [www.sro.vic.gov.au](http://www.sro.vic.gov.au) for information.

## Existing Conditions

**Describe how the land is used and developed now \***

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

Vacant

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

## Title Information

**Encumbrances on title \***

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

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

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

## Applicant and Owner Details

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

### Applicant \*

The person who wants the permit.

Please provide at least one contact phone number \*

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

### Owner \*

The person or organisation who owns the land

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

|                                                                                 |                                              |                                            |
|---------------------------------------------------------------------------------|----------------------------------------------|--------------------------------------------|
| Name:                                                                           |                                              |                                            |
| Title: Mr                                                                       |                                              |                                            |
| Organisation (if applicable): Lifestyle Town Planning                           |                                              |                                            |
| Postal Address:                                                                 | If it is a P.O. Box, enter the details here: |                                            |
| Unit No.:                                                                       |                                              |                                            |
|                                                                                 |                                              |                                            |
| Contact information for applicant OR contact person below                       |                                              |                                            |
| Business phone:                                                                 |                                              |                                            |
|                                                                                 | Fax:                                         |                                            |
| Contact person's details* Same as applicant <input checked="" type="checkbox"/> |                                              |                                            |
| Name:                                                                           |                                              |                                            |
| Title:                                                                          | First Name:                                  | Surname:                                   |
| Organisation (if applicable):                                                   |                                              |                                            |
| Postal Address:                                                                 | If it is a P.O. Box, enter the details here: |                                            |
| Unit No.:                                                                       | St. No.:                                     | St. Name:                                  |
| Suburb/Locality:                                                                | State:                                       | Postcode:                                  |
| Name:                                                                           |                                              | Same as applicant <input type="checkbox"/> |
| Title:                                                                          |                                              |                                            |
| Organisation (if applicable):                                                   |                                              |                                            |
| Postal Address:                                                                 | If it is a P.O. Box, enter the details here: |                                            |
| Unit No.:                                                                       |                                              |                                            |
|                                                                                 |                                              |                                            |
| Owner's Signature (Optional):                                                   | Date: 17/09/26<br>day / month / year         |                                            |

## Information requirements

Is the required information provided?

Contact Council's planning department to discuss the specific requirements for this application and obtain a planning permit checklist.

☒ Yes ☐ No

## Declaration

This form must be signed by the applicant \*

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

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

Date: 17/09/26

day / month / year



**SOUTH VIEW**



**NORTH VIEW**



**NORTH VIEW**

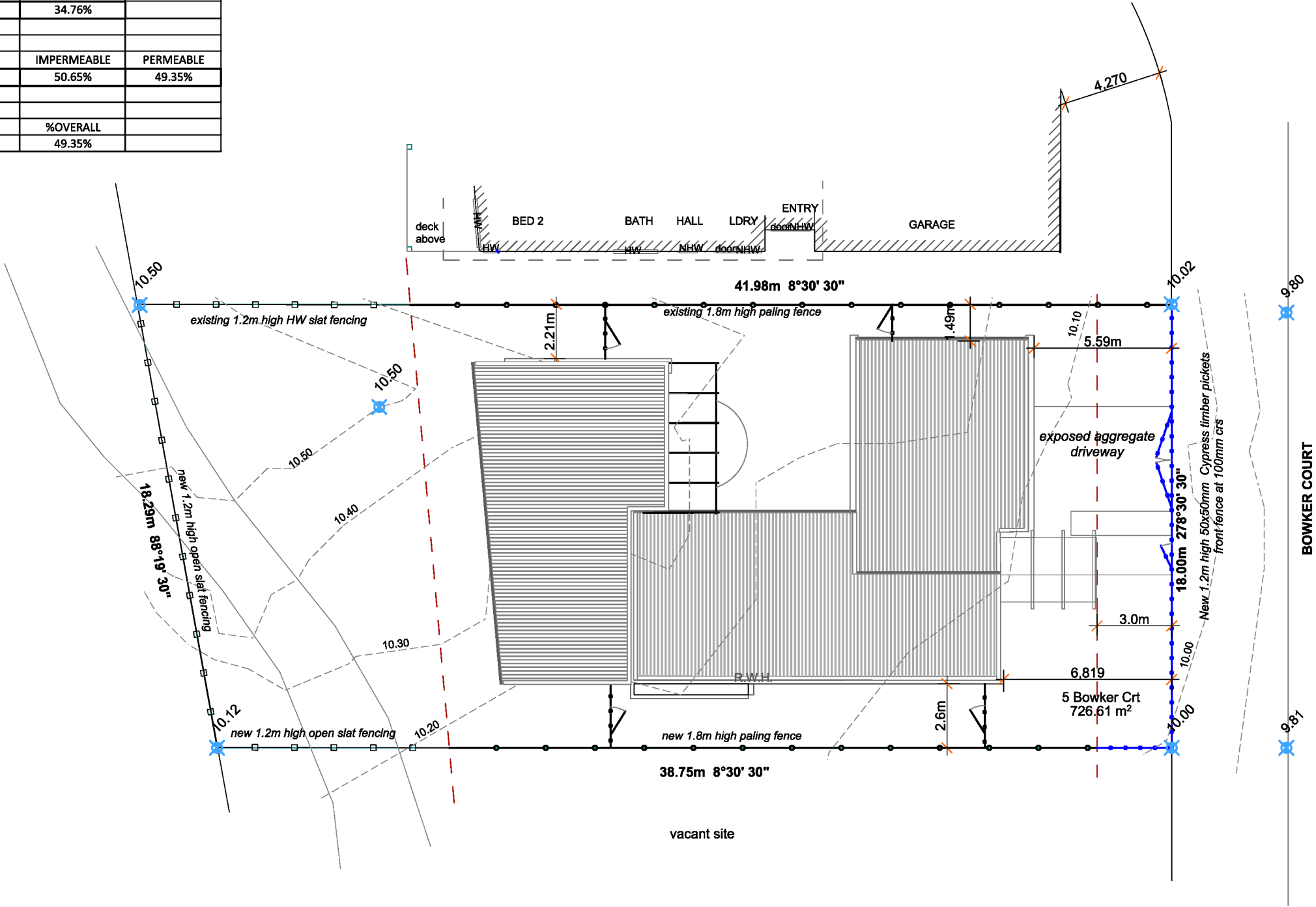
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Document Set ID: 1820677  
Version: 1, Version Date: 23/09/2026

|              |                                 |            |                       |
|--------------|---------------------------------|------------|-----------------------|
| Project Name |                                 | PLANNING   | 0                     |
| Site Address | 5 Bowker Crt<br>Port Fairy 3284 | COVER PAGE | 000000                |
|              |                                 |            | Plot Date: 19/09/2026 |



|             | AREA              | M²     | TOTALS | %             |           |
|-------------|-------------------|--------|--------|---------------|-----------|
| SITE        | SITE AREA         | 726.61 |        |               |           |
|             |                   |        | Sqs    |               |           |
|             | GROUND FLOOR AREA | 164.65 | 17.72  |               |           |
|             | FIRST FLOOR AREA  | 160.58 | 17.28  |               |           |
|             | GARAGE            | 58.6   |        |               |           |
| BUILDING    | ROOFED AREA       | 252.54 |        |               |           |
|             |                   |        |        |               |           |
|             |                   |        |        |               |           |
|             |                   |        |        | SITE COVERAGE |           |
|             | TOTAL ROOFED AREA |        | 252.54 | 34.76%        |           |
| DRIVEWAYS   | DRIVEWAY          | 38.67  |        |               |           |
|             | PAVING            | 76.81  |        | IMPERMEABLE   | PERMEABLE |
|             | TOTAL PAVED AREA  |        | 115.48 | 50.65%        | 49.35%    |
|             |                   |        |        |               |           |
| GARDEN AREA | GARDEN AREA       | 358.59 |        |               |           |
|             |                   |        |        | %OVERALL      |           |
|             |                   |        |        | 49.35%        |           |



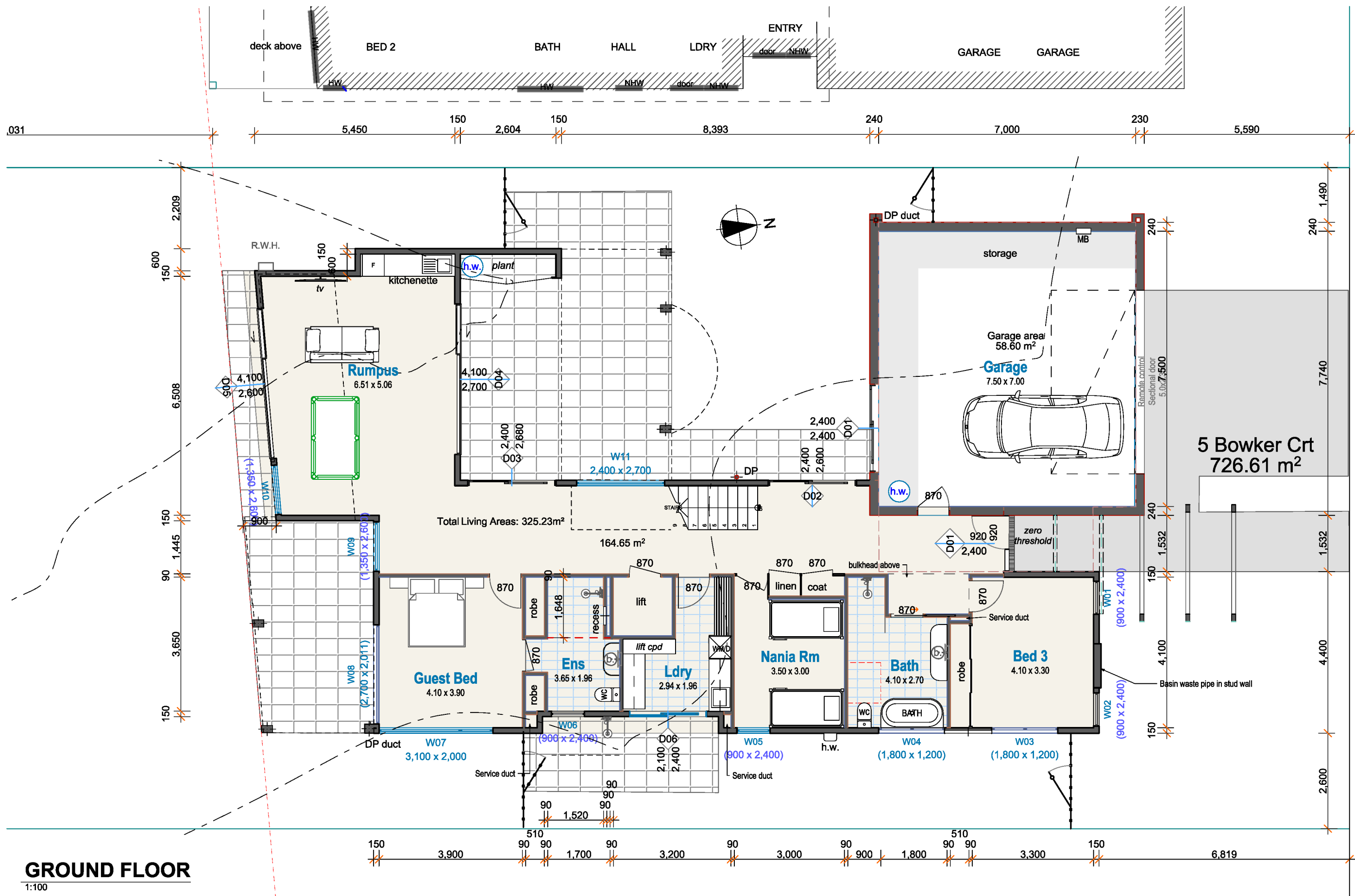
SITE PLAN  
1:200

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Project Name [REDACTED]  
Site Address 5 Bowker Crt  
Port Fairy 3284

PLANNING  
SITE PLAN  
1  
000000  
Plot Date: 19/09/2026





## GROUND FLOOR

1:100

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Project Name [REDACTED]

Site Address  
**5 Bowker Crt  
Port Fairy 3284**

PLANNING

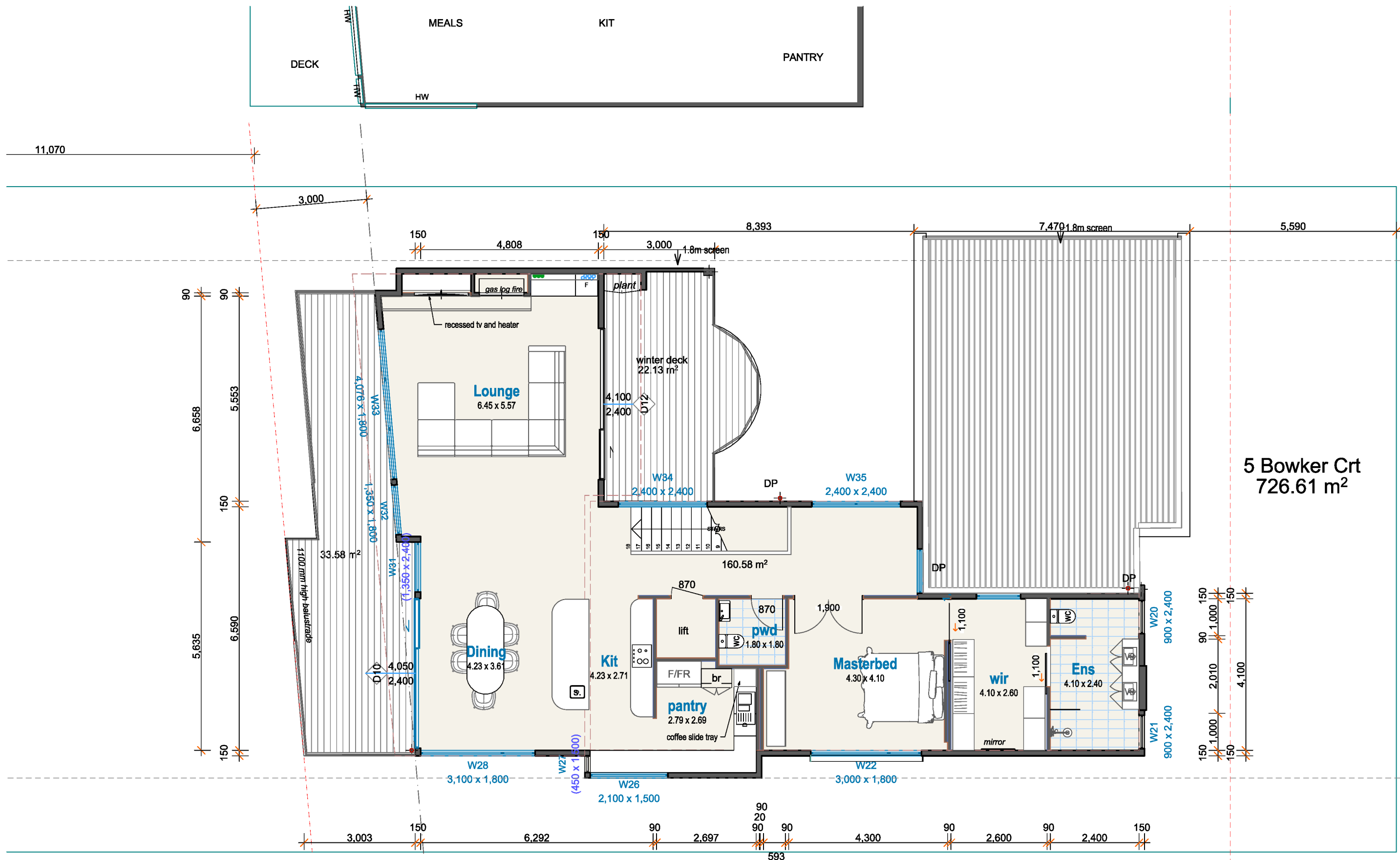
GROUND FLOOR

2

000000

Plot Date: 19/09/2026

**J3Design**  
**Warren Hobbs**  
Architect  
mail@j3design.com.au



5 Bowker Crt  
726.61 m<sup>2</sup>

# FIRST FLOOR PLAN

1:100

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Project Name

Site Address  
**5 Bowker Crt  
Port Fairy 3284**

PLANNING

FIRST FLOOR PLAN

3

000000

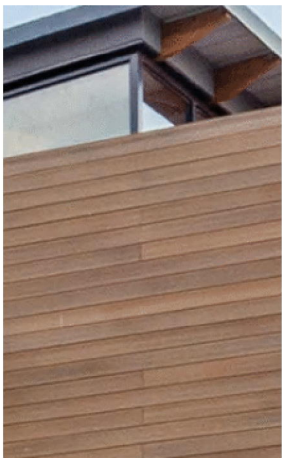
Plot Date: 19/09/2026



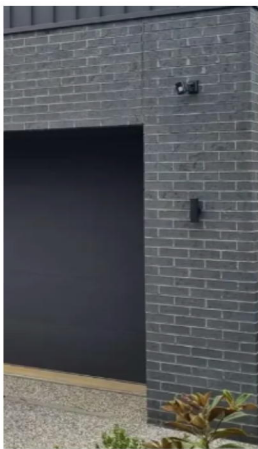
MATERIAL PALETTE



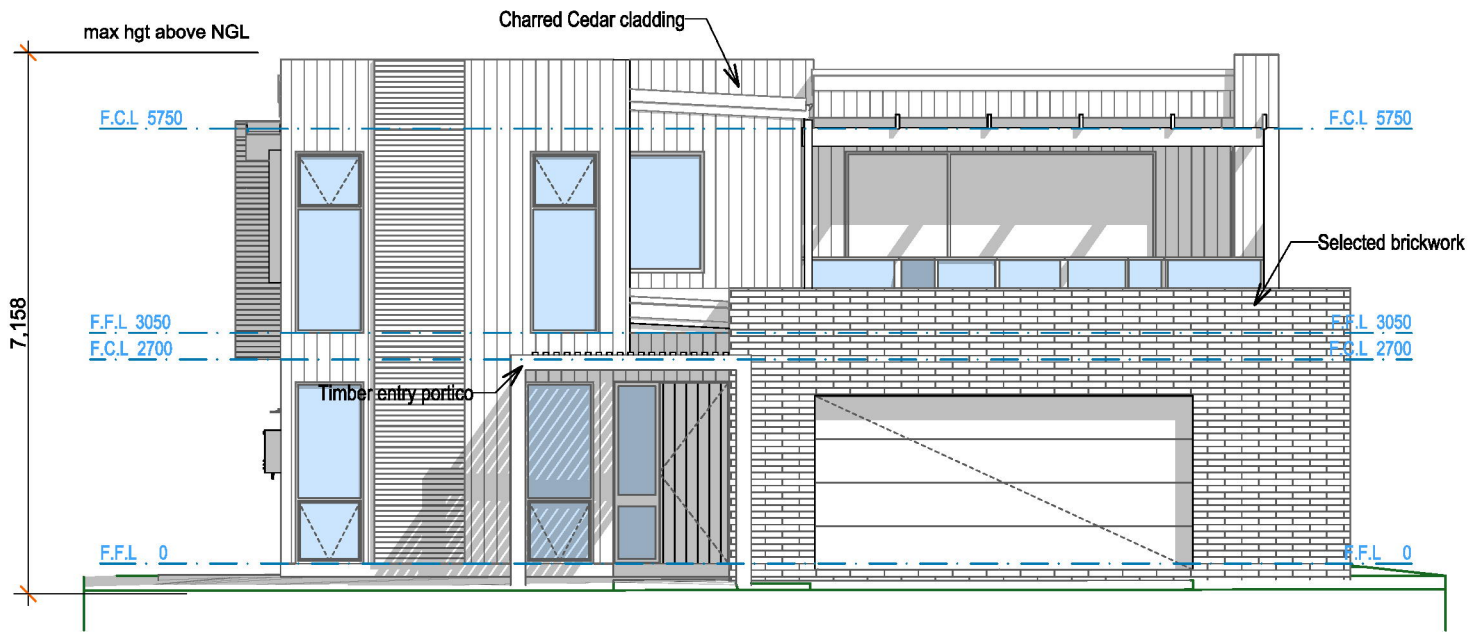
Charred Cedar vertical cladding



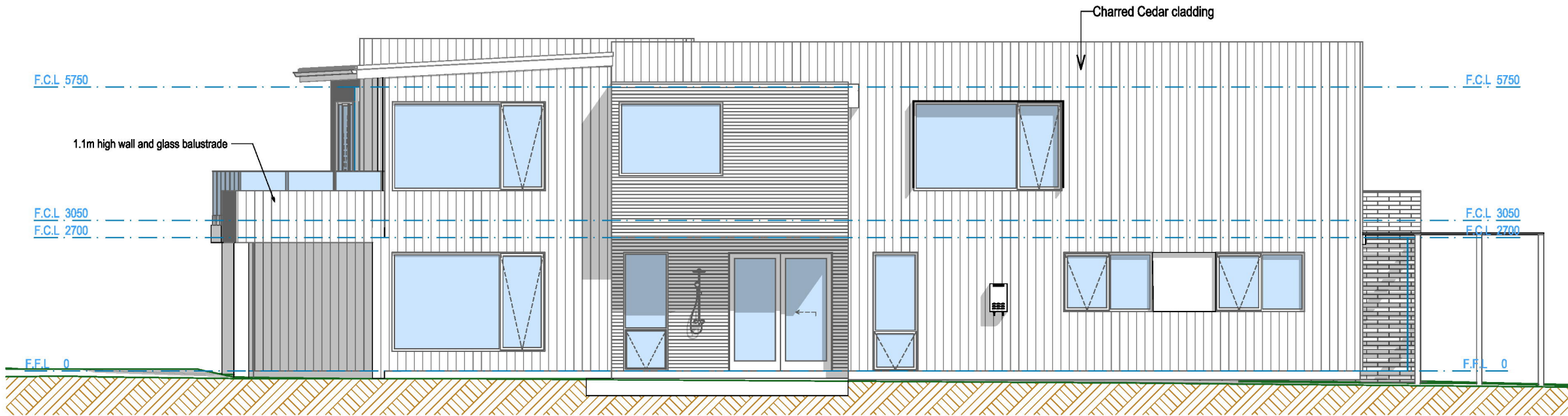
Sweedish Oak horizontal cladding



Black Bricks & exposed agg driveway



NORTH ELEVATION  
1:100



EAST ELEVATION  
1:100

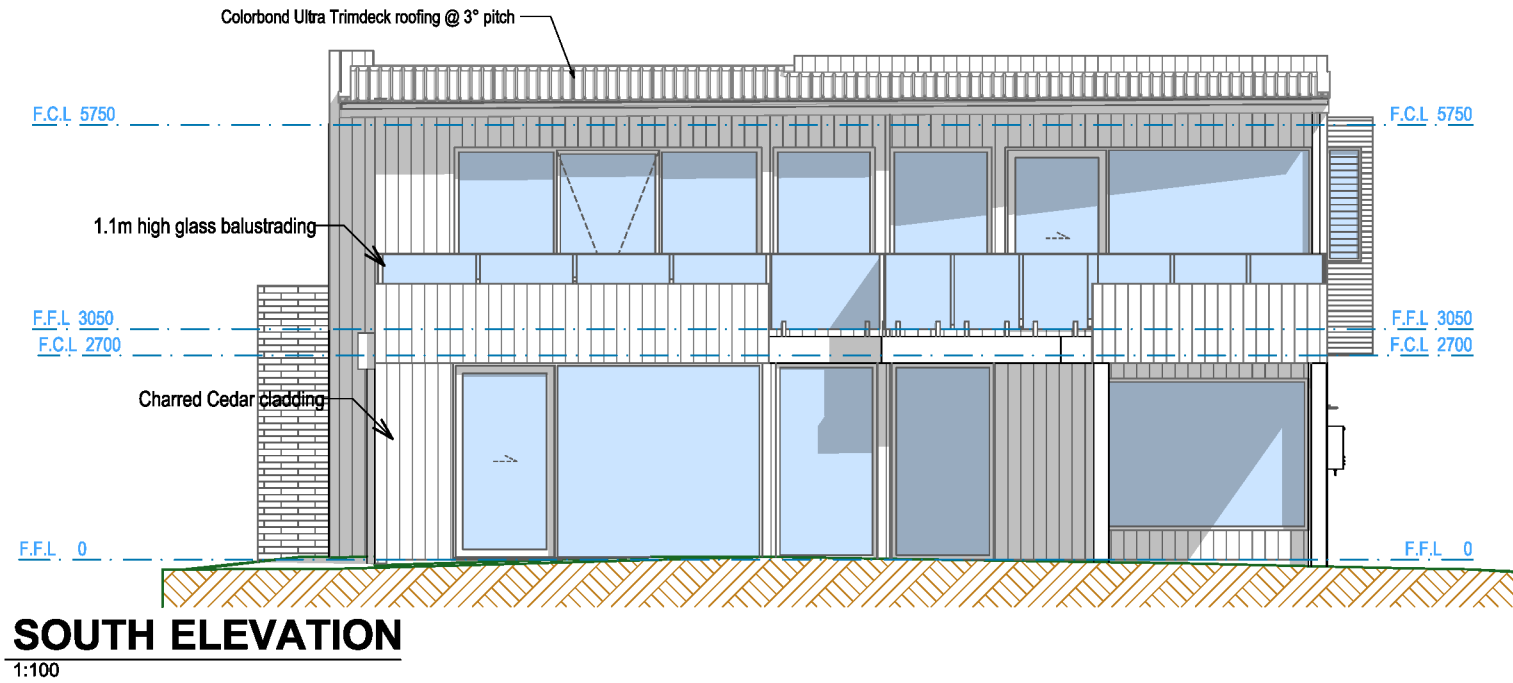
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Project Name [Redacted]  
Site Address 5 Bowker Crt  
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PLANNING  
ELEVATIONS

4  
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Plot Date: 19/09/2026





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Project Name

Site Address  
**5 Bowker Crt  
Port Fairy 3284**

**PLANNING**

**ELEVATIONS**

**5**

**000000**

Plot Date: 19/09/2026

**J3Design**  
**Warren Hobbs**  
Architect  
mail@j3design.com.au