

# Contract of Sale

Blue Sky Kallangur  
Stage 1

---

# Contract for Sale – “Blue Sky Kallangur” – Stage 1

**Dated** \_\_\_\_\_

## PARTICULARS OF SALE

**A. Seller** Blue Water (D Bay) Pty Ltd ACN 117 453 040 as trustee for the Blue Water (Kallangur) Unit Trust

ABN \_\_\_\_\_

Address PO Box 746, Elsternwick VIC 3124

Telephone: \_\_\_\_\_ Facsimile: \_\_\_\_\_

Email: \_\_\_\_\_

**B. Seller's Agent** \_\_\_\_\_

ABN \_\_\_\_\_

Licence Number \_\_\_\_\_

Address \_\_\_\_\_

Telephone: \_\_\_\_\_ Facsimile: \_\_\_\_\_

Mobile: \_\_\_\_\_ Email: \_\_\_\_\_

**C. Buyer** \_\_\_\_\_

ABN \_\_\_\_\_

Address \_\_\_\_\_

Telephone: +61 \_\_\_\_\_ Facsimile: +61 \_\_\_\_\_

Mobile: +61 \_\_\_\_\_ Email: \_\_\_\_\_

Tax File Number \_\_\_\_\_

**D. Lot sold**

Proposed Lot No. \_\_\_\_\_ in “Blue Sky Kallangur” Community Titles Scheme as highlighted in the plan in Schedule 2. The Plans incorporated in this Contract are for identification purpose only.

**E. Exclusive Use:**

Courtyard No. \_\_\_\_\_ and Car Park No. \_\_\_\_\_ as depicted in the plan in Annexure H of the Disclosure Statement. This nomination is subject to clause 39.

**F. Purchase Price**

\$ \_\_\_\_\_

**G. Deposit** (a) \$\_\_\_\_\_ payable when the Buyer signs this Contract

(b) \$\_\_\_\_\_ payable by \_\_\_\_\_

**H. Deposit Holder** RiverLegal

**I. Settlement Date** (a) If the title to the Lot has not been created at the date of this Contract, see clause 4; or

(b) If the title to the Lot has been created at the date of this Contract, the date written below.

DATE: \_\_\_\_\_

**J. Seller's Solicitor** RiverLegal

Address 3A John Street

Beenleigh QLD 4207

PO Box 48 Beenleigh QLD 4207

Telephone: +61 7 3807 0777 Facsimile: +61 7 3287

4663 Email: williamboyd@riverlegal.com

Reference:

**K. Buyer's Solicitor** \_\_\_\_\_

Address

Telephone: +61 \_\_\_\_\_ Facsimile: +61 \_\_\_\_\_

Mobile: +61 \_\_\_\_\_ Email: \_\_\_\_\_

Ref: \_\_\_\_\_

**L. Guarantor**

## **CONDITIONS OF SALE**

You agree to buy, and we agree to sell you, the Lot on the terms set out in this Contract.

### **1. Background**

- (a) We own the Parcel.
- (b) Blue Sky Kallangur is a staged residential development intended to be developed on the Parcel.
- (c) You agree to buy the Lot on the terms outlined in this Contract.

### **2. Meaning of words and phrases**

#### **2.1 Definitions**

In this Contract:

- **You** means the person named as the Buyer in Item C;
- **We or us** means the person named as the Seller in Item A;
- **Your** means things pertaining to or belonging to you; and
- **Our** means things pertaining to or belonging to us.

In addition, words and phrases used in this Contract have the meaning set out below:

- (a) **Act** means the *Land Title Act 1994* (Qld);
- (b) **Approved ADI** has the meaning given to that term in the LPA;
- (c) **Balance Deposit** means that part of the Deposit in Item G(b);
- (d) **BCCM Act** means the *Body Corporate and Community Management Act 1997* (Qld);
- (e) **Body Corporate** means the body corporate for the Scheme;
- (f) **Business Day** means a day on which banks are open for business on the Gold Coast, excluding Saturdays, Sundays and public holidays;
- (g) **Business Hours** means 9am to 5pm on a Business Day;
- (h) **Chattels** means those chattels listed in the Finishings Fittings & Chattels intended for inclusion in the Lot or any alternative chattels substituted in accordance with this Contract;
- (i) **Claim** means any claim and includes all actions, claims, demands and liabilities, including claims for declarations, specific performance, interest, damages and costs;
- (j) **CMS** means the community management statement for the Scheme and includes the first community management statement contained in the Disclosure Statement and any new community management statement;
- (k) **Contract** means this contract including the Particulars of Sale, all schedules and any other agreement expressed to be supplemental to this contract and all amendments to any of those documents;
- (l) **Controlled Money** has the meaning given to that term in the LPA;

- (m) **Controlled Money Account** has the meaning given to that term in the LPA;
- (n) **Council** means the Moreton Bay Regional Council;
- (o) **Deposit Holder** means the party named in Item H of the Particulars of Sale;
- (p) **Development** means all work required to develop the Parcel identified in the Disclosure Statement and described in the CMS including but not limited to:
  - (i) the establishment of the Scheme;
  - (ii) the physical construction of the improvements that are proposed to be constructed on the Scheme land; and
  - (iii) all other matters which are required to provide for the lawful occupation of the Lot;
- (q) **Development Approval** means the decision notice dated 29 September 2014 received from the Council;
- (r) **Disclosure Statement** means the separate document entitled "Disclosure Statement" which we or our agent provided to you before you signed this Contract;
- (s) **Finishings Fittings & Chattels** means the material described in Schedule 4 to be installed in or upon the Scheme and/or the Lot;
- (t) **GST** means any value added, consumption, turnover or similar tax impost or duty on goods and/or services introduced by the Commonwealth or any state or territory at any time;
- (u) **GST Act** means *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and includes any other GST related legislation;
- (v) **Guarantee** means a guarantee and indemnity in the form of the guarantee and indemnity in Schedule 3;
- (w) **Initial Deposit** means that part of the Deposit in Item F(a);
- (x) **Item** means a corresponding item in the Particulars of Sale at the front of this Contract;
- (y) **Lot** means the proposed lot described in Item D, title to which will be created when we register the Subdivision Plan at the Department of Natural Resources and Mines, together with the CMS;
- (z) **LPA** means the *Legal Profession Act 2007* (Qld);
- (aa) **Object** means make any Claim, objection, requisition, delay Settlement, withhold any part of the Purchase Price, claim compensation or terminate the Contract;
- (bb) **Outgoings** include rates, taxes (including land tax) and other assessments on the Parcel or the Lot that we have paid or are under an obligation to pay;
- (cc) **Parcel** means Lot 4 on RP 204524 (Title Reference 17186027);
- (dd) **Parcel Plan** means the plan of the Parcel contained in Schedule 1;
- (ee) **Particulars of Sale** means the part of this Contract described as "Particulars of Sale";
- (ff) **PLA** means the *Property Law Act 1974* (Qld);

- (gg) **POA** means the *Property Occupations Act 2014* (Qld);
- (hh) Intentionally deleted.
- (ii) Intentionally deleted.
- (jj) Intentionally deleted.
- (kk) **Regulation Module** means the *Body Corporate and Community Management (Accommodation Module) Regulation 2008* (Qld);
- (ll) **Scheme** means the community titles scheme to be known as “Blue Sky Kallangur”, established in respect of the Parcel upon registration of the Subdivision Plan under the Act and recording of the first CMS under the BCCM Act;
- (mm) **Security Interest** has the meaning given to it by the *Personal Property Securities Act 2009* (Cth);
- (nn) **Settlement** means the performance by each of us of our respective obligations under this Contract;
- (oo) **Settlement Date** means the date in Item I;
- (pp) **Stage** means the stage of the Development that contains the Lot;
- (qq) **Statutes** means BCCM Act and POA;
- (rr) **Subdivision Plan** means proposed SP238639 substantially in the form contained in Schedule 2 which will subdivide the Parcel and create title to the Lot;
- (ss) **Sunset Date** means the date which is 5.5 years from the date of this Contract; and
- (tt) **Transfer Document** means the form of transfer under the Act required to transfer title in the Lot to you and any other document to be signed by us necessary for stamping or registering the transfer document.
- (uu) **Treasurer** means the Treasurer of the Commonwealth of Australia.

## 2.2 Interpretation

In interpreting this Contract:

- (a) this Contract includes the Disclosure Statement;
- (b) terms in the Particulars of Sale have the meanings shown opposite them unless the context requires otherwise;
- (c) words or expressions used in the Act, the BCCM Act or the GST Act have the same meanings when used in this Contract unless the contrary intention applies;
- (d) the singular includes the plural and vice versa and words referring to a gender include all genders;
- (e) a reference to an act of Parliament, code or law or section or schedule of that act, code or law includes any amendment to it and includes all statutory instruments issued from time to time under it;
- (f) references to an authority or body include any authority or body succeeding or

- replacing it;
- (g) grammatical forms of defined words have corresponding meanings;
  - (h) a reference to this Contract includes amending or replacement agreements;
  - (i) where you comprise two or more persons, your obligations must be performed by each of you jointly and all of you severally;
  - (j) clause headings are for information only and do not affect the construction of this Contract;
  - (k) references to "dollar" and "\$" are references to Australian currency;
  - (l) where either you or we must do something on a day which is not a Business Day, it must be done by the next Business Day;
  - (m) references to a time, are references to a time in the Gold Coast;
  - (n) references to a person includes a reference to the person's executors, administrators, successors, permitted substitutes and assigns;
  - (o) any provision or any part of any provision in this Contract which is or becomes legally ineffective, invalid or unenforceable is to be severed from this Contract to the extent of the invalidity or unenforceability without affecting the validity or enforceability of the remaining provisions or parts of provisions of this Contract and
  - (p) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this Contract or any part of it.

### **3. Deposit**

#### **3.1 Payment**

- (a) You will pay the Deposit to the Deposit Holder at the time or times required by Item G.
- (b) You are in default if you:
  - (i) do not pay the Deposit when required and in the form required by us as set out in this Contract;
  - (ii) pay the Deposit by post dated cheque; or
  - (iii) pay the Deposit by cheque which is dishonoured on presentation.

#### **3.2 Controlled Money**

You and we acknowledge that:

- (a) the Deposit is Controlled Money for the purposes of the LPA; and
- (b) under the LPA, the Deposit Holder must hold the Deposit in a Controlled Money Account.

#### **3.3 Controlled Money Account**

This Contract constitutes a written direction by you and us to the Deposit Holder for the purposes of section 251 of the LPA, for the Deposit Holder to:

- (a) hold the Deposit in a Controlled Money Account with an Approved ADI nominated by the Deposit Holder; and
- (b) disburse the Deposit and any interest on the Deposit from the Controlled Money

Account in accordance with the provisions of this Contract.

### **3.4 Payment of Deposit**

- (a) The Deposit Holder will hold the Deposit as trustee in accordance with the requirements of the BCCM Act and the LPA.
- (b) You authorise the Deposit Holder to release the Deposit to us upon:
  - (i) registration of the Subdivision Plan; and
  - (ii) a written request sent by us to the Deposit Holder.

### **3.5 Investment**

- (a) The Deposit Holder may invest the Deposit in an interest bearing account with an Approved ADI nominated by the Deposit Holder, in the names of you and us. The Deposit is invested at the risk of the party ultimately entitled to it.
- (b) If your tax file number is not specified in Item C of the Particulars of Sale, you must provide it to the Deposit Holder within 2 Business Days after the date of this Contract.
- (c) The Deposit Holder is authorised to release your and our tax file numbers to the Approved ADI.
- (d) The Deposit Holder is not liable for any loss suffered by the parties as a consequence of:
  - (i) the Deposit being invested according to this clause;
  - (ii) any delay in investing the Deposit; or
  - (iii) the rate of interest earned on any invested Deposit.
- (e) If you do not provide your tax file number, you accept that the Approved ADI with whom the Deposit is invested may deduct tax from the interest earned at the highest marginal rate.
- (f) The Deposit Holder is authorised by the parties to prepare and lodge any taxation return necessary in respect of the Deposit and the interest earned on the Deposit and to pay any tax assessed, and the cost of preparing the returns, out of the interest earned on the Deposit.
- (g) The parties agree to indemnify, and to keep indemnified, the Deposit Holder against any costs incurred by the Deposit Holder in respect of the investment of the Deposit, including in respect of any tax assessment.
- (h) You and we agree that the interest earned on the deposit is payable to you.
- (i) On Settlement, or if we become entitled earlier, we will receive the deposit and you will receive the interest. This clause gives the Deposit Holder sufficient authority to make that payment to us.
- (j) If Settlement does not occur through your default, all interest accrued on the deposit will be paid to us. This clause is sufficient authority to the Deposit Holder to make that payment.
- (k) You and we acknowledge that for the purposes of section 55 of the PLA, clauses 3.5(d), 3.5(f) and 3.5(g) of this Contract contain promises for valuable consideration made for the benefit of the Deposit Holder ("Third Party Provisions"). From the date the Deposit Holder signs this Contract to

- acknowledge receipt of the Initial Deposit, the Stakeholder:
- (i) is taken to have accepted the benefit of the Third Party Provisions; and
  - (ii) may enforce the Third Party Provisions directly against you or us, as the case may be.

## 4. Settlement

### 4.1 Settlement Date

- (a) Settlement must not take place earlier than 14 days after the Seller (we) gives advice to the Buyer (you) that the Scheme has been established or changed.
- (b) If separate title to the Lot has not been registered at the time of this Contract, the Settlement Date is 14 days after we notify you that:
  - (i) the Subdivision Plan has been registered at the Department of Natural Resources and Mines; and
  - (ii) the Scheme has been established.
- (c) If title to the Lot has been created at the date of this Contract the Settlement Date is the date specified in Item I(b).
- (d) Subject to clause 24, if Settlement has not been effected by the Sunset Date either you or we may terminate this Contract by written notice given under this clause. Upon that termination, you are entitled to a refund of the Deposit and any interest accrued, less any deductions properly made.
- (e) Despite any other provision in this Contract, if we give you or your solicitors a further statement under section 214 of the BCCM Act, the Settlement Date must be the later of:
  - (i) the date which is 14 days after we give you notice that the Subdivision Plan has been registered at the Department of Natural Resources and Mines; and
  - (ii) the date which is 22 days after the receipt by you or your solicitors of our further statement.

### 4.2 Settlement location and time

Settlement must be at the time during Business Hours nominated in writing by us or our solicitors at:

- (a) the office of our solicitors; or
- (b) another address as we may nominate by notice in writing given to you on or before the Settlement Date.

### 4.3 Obligations at Settlement

- (a) At Settlement you must:
  - (i) pay the balance of the Purchase Price (after taking into account adjustments as required by clause 6 and the Deposit) to us (or as we otherwise direct) on the Settlement Date by bank cheque or another reasonable method directed by us or our solicitors;
  - (ii) pay any other money owing under the Contract;
  - (iii) provide us with a copy of the notice to the Body Corporate under section 191 of the Regulation Module regarding the transfer as required by the

BCCM Act;

- (iv) give us a letter addressed to the Deposit Holder, if required, authorising the payment of the deposit to us; and
  - (v) if clause 48(b) applies, give us an executed Reallocation Agreement.
- (b) In exchange for the items in clause 4.3(a), we must give you:
- (i) a signed Transfer Document, capable of immediate registration (after stamping) in the Department of Natural Resources and Mines free from encumbrances except as provided for or disclosed in this Contract;
  - (ii) any instrument of title for the Lot required to register the Transfer Document;
  - (iii) a duly executed partial release of any mortgage on the Lot in registrable form;
  - (iv) all keys, access devices and codes applicable to the Lot; and
  - (v) vacant possession of the Lot, unless otherwise agreed with you to install a tenant in the Lot prior to Settlement.
- (c) If on the Settlement Date the Lot is subject to any registered mortgage, writ or caveat, you must accept on Settlement a duly executed release, partial release or withdrawal (stamped if required for it to register in the Department of Natural Resources and Mines).

#### **4.4 Application of the purchase price**

If on Settlement the Lot is subject to any mortgage or charge then we may apply all or any of the money payable by you under this Contract to obtain a release of that mortgage or charge.

#### **4.5 No release on Settlement**

We are not required to provide a release or partial release of any Security Interest in respect of the Parcel or the Lot except for the releases required to be delivered on Settlement, under clause 4.3(b)(iii).

#### **4.6 Title to Chattels**

- (a) The sale includes the Chattels. On Settlement, ownership of those Chattels passes to you free from all encumbrances except as provided for or disclosed in this Contract.
- (b) We assign to you from the Settlement Date the benefit of any manufacturers' warranties given in favour of the Seller with respect to the Chattels, subject to the terms of those warranties and any statute or rule of law which may prohibit or limit our right of assignment. Any acts necessary to perfect the assignment must be undertaken by you at your expense.

### **5. Transfer Document**

- (a) Within a reasonable time before the Settlement Date, you or your solicitors must prepare the Transfer Document and deliver it to our solicitors to allow us to sign it.
- (b) We may elect to prepare the Transfer Document and you may not Object if we elect to do so. Our solicitors will notify you or your solicitors prior to Settlement if we have made that election.

## **6. Adjustments**

### **6.1 Liability for Outgoings**

- (a) If the Subdivision Plan is not registered at the date of this Contract, we will pay all Outgoings up to and including the later of:
  - (i) the date this Contract; or
  - (ii) the date the Subdivision Plan is registered at the Department of Natural Resources and Mines.

You will be responsible for any Outgoings after that date.

- (b) If the Subdivision Plan is registered at the date of the Contract, we will pay all Outgoings up to and including the date of this Contract. You will be responsible for any Outgoings after that date.

### **6.2 Apportionment**

- (a) Any Outgoings will, if necessary, be apportioned between you and us on Settlement.
- (b) If a separate assessment of Outgoings is available for the Lot, we may apportion the Outgoings on that basis.
- (c) If no separate assessment has issued for the Lot, we may apportion the Outgoings attributable to the Lot in that proportion which the contribution schedule entitlement of the Lot bears to the total contribution schedule entitlements for the Scheme.

### **6.3 Land tax adjustment**

- (a) Land tax must be adjusted on the assessment (assuming it has been paid, whether it has actually been paid or not) which would issue for the land tax year current at the Settlement Date. The land tax payable in respect of the Lot will be the land tax which would be payable if the land tax the subject of the land tax assessment was the only land owned by us calculated as follows:

$$\text{Land tax} = \text{land tax for A} \times \frac{\text{B}}{\text{C}} \times \frac{\text{LE}}{\text{SSLE}}$$

for  
the  
Lot

Where:

- A = the land the subject of the current land tax assessment, which land includes the land in the current Stage
- B = the area of the Stage (estimated, if necessary, by us taking into account all the land proposed to be in the Stage when it is finally developed)
- C = the area of the land the subject of the current land tax assessment
- SSLE = the total interest schedule lot entitlement for the Stage
- LE = the interest schedule lot entitlement for the Lot

- (b) If for any reason, land tax cannot be adjusted in accordance with clause 6.3(a), it will be adjusted on such basis as we reasonably decide.

#### **6.4 No separate clearance**

If any relevant authority does not issue a clearance to you before Settlement for Outgoings over the Lot, you cannot refuse to settle or withhold any part of the outstanding purchase price. You must accept our undertaking, which we now give, that we will:

- (a) pay all Outgoings assessed on the Lot or the Parcel up to and including the date for which we are liable for Outgoings under clause 6.1; and
- (b) pay land tax to the end of the financial year in which Settlement takes place.

#### **6.5 Insurance**

You must pay a proportion of any amount we pay under section 191 of the BCCM Act. The proportion will equal the proportion that the interest schedule lot entitlement of the Lot bears to the total interest schedule lot entitlement for all lots in the Scheme.

### **7. Easements**

- (a) You acknowledge that at, prior to or subsequent to the registration of the Subdivision Plan, we may, in our reasonable opinion, grant or procure the grant of burden and/or benefit easements or other rights affecting the Parcel or the Scheme in favour of public authorities (including the Council) or adjoining land owners or owners of land adjoining or in the vicinity of the Parcel and for the purposes of access, services for the Development or for other purposes specified in any Development Approval obtained in connection with the development of the Scheme or for any other purpose decided by us.
- (b) You shall take title to the Lot, subject to this clause and shall not Object or make any Claim in respect of any such easement or similar rights.

### **8. Approved safety switch**

We give you notice that an approved safety switch for the general purpose socket outlet will be installed in the Lot by the Settlement Date.

## **9. Approved smoke alarm**

We give you notice that a compliant smoke alarm will be installed in the Lot by the Settlement Date.

## **10. Intentionally Deleted.**

## **11. Title**

Title to the Lot will be subject to:

- (a) the provisions of the Act;
- (b) the provisions of the BCCM Act and the easements for support, shelter and services that expressly or impliedly relate to the Lot;
- (c) all matters (except any mortgage) noted on the title particulars for the Lot or the Parcel or provided for in this Contract, which will or may be noted on the title for the Lot;
- (d) the CMS; and
- (e) any transfer, lease, easement or other right given to the Council or any other relevant authority, or to the owner of any other part of the Parcel or adjoining land.

## **12. Trustee**

- (a) If you are a trustee (whether or not that is disclosed in this Contract) you are bound under this Contract both personally and in your capacity as trustee.
- (b) You warrant to us that:
  - (i) the relevant trust is created validly and is in existence;
  - (ii) you are the sole trustee under the relevant trust and have been validly appointed;
  - (iii) you possess unqualified power under the trust to enter into this Contract, to perform all the obligations imposed upon you under this Contract and to complete the purchase of the Lot; and
  - (iv) this Contract has been duly authorised, executed and delivered by you and constitutes and shall constitute a valid legal and binding instrument and that any consent, approval or resolution necessary to enable you to enter into and discharge your obligations under this Contract has been obtained or passed.
- (c) You must not without our consent:
  - (i) do anything to prejudice or diminish any right of indemnity you have under the trust;
  - (ii) allow the amendment, revocation, winding up or termination of the trust;
  - (iii) resign or retire or do anything to allow the removal of you as the trustee of the trust;
  - (iv) appoint a new or additional trustee of the trust; or
  - (v) accelerate the vesting date of the trust.

- (d) In this clause 12, you includes any of the persons comprising the Buyer.

### 13. Caveat by you as Buyer

- (a) You must not lodge a caveat affecting the Parcel or the Lot.
- (b) You irrevocably appoint us and each of our directors and secretary, severally, to be your attorney for the purposes of signing any document (including a withdrawal of caveat) and doing anything to procure the withdrawal of any caveat lodged or registered by you.
- (c) You agree that the power of attorney given under clause 13(b) is a 'power of attorney given as security' in accordance with section 10 of the *Powers of Attorney Act 1998* (Qld) and may not be revoked by you without our consent and may be exercised even where it would involve a conflict of duty if the attorney has a personal interest in doing so.
- (d) You may lodge a settlement notice with the Department of Natural Resources and Mines no more than 7 days prior to the Settlement Date.

### 14. Defects in the Lot

- (a) We will use our best endeavours to ensure the Lot is constructed in a proper and workmanlike way, and that the Lot is equipped with Finishings, Fittings & Chattels, substantially in accordance with Schedule 4 by the Settlement Date.
- (b) We will rectify and make good at our cost within a reasonable time any defects, shrinkage or other faults due to faulty materials or workmanship which may appear and be notified in writing to us by you within 90 days after Settlement.
- (c) Subject to this Contract, you are entitled to the completed Lot substantially in accordance with the Subdivision Plan, and fitted out with the Finishings, Fittings & Chattels.
- (d) Our obligation to rectify under clause 14(b) will be limited to the extent that you have not contributed to the defect through carrying out your own work to the Lot.
- (e) Provided that you give notice of an alleged defect under clause 14(b), you must, within a reasonable time, allow us access to the Lot to inspect the Lot and to carry out rectification of any defect.
- (f) After we have inspected the Lot, we must, within a reasonable time, either:
  - (i) notify you in writing if we consider there is no defect or where there is a defect, the extent of any contribution to that defect caused by your own work; or
  - (ii) access the Lot and rectify the defect.
- (g) If we notify you that we do not consider there to be any defect to the Lot, you will have 7 days to respond in writing to us.
- (h) If you accept our determination or do not respond within the 7 day period:
  - (i) we will not be under any obligation to rectify under this clause; and
  - (ii) you must not make any Claims or take any other action against us as a result of the alleged defect.

- (i) If you respond to us within the 7 day period on the basis you do not accept our determination, you and us must use reasonable endeavours to resolve the issue within 14 days.
- (j) You and us must give effect to any resolution reached under clause 14(i).
- (k) If you and us are unable to resolve the issue within the 14 day period, you may give us a notice requiring the issue to be determined by an expert.
- (l) We will only be required to rectify any defect to the Lot to the extent that we agree there is a defect (and you are not responsible for that defect), or to the extent that an expert determines us to have caused the defect.

## 15. Title warranties

- (a) You will not deliver requisitions or enquiries on title to us.
- (b) Subject to the warranties contained in clause 15(c), you accept our title to the Lot.
- (c) We warrant that:
  - (i) We have legal capacity to enter into this Contract and to complete the sale;
  - (ii) at Settlement, we will be the owner of the Lot;
  - (iii) at Settlement, the Lot will be free from all encumbrances and adverse interests except any disclosed or provided for in this Contract;
  - (iv) no step has been taken by or against us nor, to our knowledge, do circumstances exist which could lead to our winding-up or to the appointment of an official manager, receiver, receiver and manager or liquidator;
  - (v) there are not any unsatisfied judgments, orders, decrees or other process against us;
  - (vi) except as we have disclosed or provided for in this Contract, we are not aware of any latent defect in the Lot or any actual or proposed resumption or road alignment affecting the Lot; and
  - (vii) except as we have disclosed or provided for in this Contract or by law, we are not aware of any prohibition or restriction on the use or enjoyment of the Lot, any encroachment or Claim affecting the Parcel or the Lot recoverable from you, or of any circumstance that might give rise to any such thing.
- (d) We warrant that at the Settlement Date other than as disclosed in this Contract and the Disclosure Statement:
  - (i) the Body Corporate will not have any actual, contingent or expected liabilities other than for:
    - (A) its normal operating expenses;
    - (B) the insurance required under the BCCM Act; and
    - (C) purposes disclosed or provided for by this Contract and the Disclosure Statement;
  - (ii) we will be shown as the owner of the Lot in the records of the Body Corporate;

- (iii) we will have caused the lots and common property of the Scheme to be insured as provided in the BCCM Act;
  - (iv) the Body Corporate will not have mortgaged or charged any Body Corporate assets other than to the extent permitted by the Regulation Module; and
  - (v) there will not be any unsatisfied judgments against the Body Corporate.
- (e) If we breach any of the warranties in clauses 15(a) - d):
- (i) you are not entitled to terminate this Contract, delay Settlement or retain any part of the Purchase Price; and
  - (ii) you are only entitled to damages for the loss suffered (excluding consequential loss).

## 16. Acceptance by you

Subject to Chapter 5 of the BCCM Act, you acknowledge that you are not materially prejudiced by, and may not Object to:

- (a) any defect, shrinkage or fault in the Lot, whether due to defective materials, workmanship or any other cause;
- (b) any variation to the Lot (including subdividing or amalgamating any lots on the Development excluding the Lot or any changes to the location of any walls, hallways or the layout of the Development) which are made because of a requirement or direction of the Council or any other relevant authority or because of the practical necessities of construction including requirements of good building practice or the availability of materials;
- (c) any variation to the Finishings, Fittings & Chattels which are made because of any reason including the availability of materials or any chattel provided any substitutes comply with relevant building codes and approvals;
- (d) minor variations in location, dimensions or area of the Lot as shown in the Subdivision Plan compared with the Subdivision Plan as ultimately registered. For the purpose of this clause, the parties agree that any increase in the area or reduction in the area of 5% or less is a minor variation;
- (e) the Lot or any other lot or floor being allotted a different number in the Subdivision Plan to that which is shown in this Contract;
- (f) any service to the Lot or the Parcel being either a joint service or a service passing through or over the Lot, the Parcel or any part of the Parcel;
- (g) whether any boundary of the Lot or the Parcel is fenced or not or whether any fence is not on the boundary of the Lot;
- (h) any encroachment on the Lot or the Parcel by improvements on adjoining land or vice versa;
- (i) any variation to the plans or specifications of the Lot which becomes necessary because of anything beyond our control;
- (j) any change to the material disclosed in the Disclosure Statement;
- (k) the creation of agreements or arrangement on terms that are different to those disclosed in the Contract or Disclosure Statement;

- (l) occupation authorities or exclusive use areas that are granted over parts of the common property of the Scheme;
- (m) any notice, order, requisition, or requirement issued by the Council relating to the Lot;
- (n) the name "Blue Sky Kallangur" not forming part of the Scheme;
- (o) the Regulation Module applicable to the Scheme changing prior to the recording of the first CMS;
- (p) any change in the number of lots (including without limitation the increase or decrease in number of lots in the Development) in the Scheme or the size, location, contribution schedule lot entitlement or interest schedule lot entitlement of any lot in the Scheme (including the Lot), or the common property or any amalgamation of lots provided the anticipated contributions do not vary substantially;
- (q) any resumption, road widening or provision of infrastructure of any kind on or about the Parcel (provided that the size and features of the Lot are not changed in any material way);
- (r) any proposal to add additional land or facilities to the Scheme (whether as a lot or common property);
- (s) any transfer of any land out of the Scheme (whether a lot or part of the common property);
- (t) disclosure of your details (as shown in the Contract) to a proposed letting agent for the Scheme;
- (u) any easement, covenant or other right required by law to be given to any relevant authority or the owner of any neighbouring land or any other buyer of a lot in the Development;
- (v) any passage through the Parcel, Lot or any adjoining property of main, pipes, wires or connections of any water, sewerage, drainage, gas, electricity, telephone or other system of service, or the overhang of eaves or drains or gutters of any other lot, or any easements or other rights for those purposes;
- (w) the proposed by-laws set out in the CMS in the Disclosure Statement changing including, without limitation, granting rights of exclusive use over an area or areas of the common property of the Scheme to a lot in the Scheme for any purposes;
- (x) the committee of the body corporate holding meetings to attend to unrestricted issues for the committee, including providing consent to a new CMS for the Scheme;
- (y) the Body Corporate:
  - (i) approving improvements on common property for the benefit of the Lot or another lot and imposing conditions on the relevant owner of the benefited lot to be responsible for the maintenance, repair and running costs of the improvement on the common property;
  - (ii) granting or accepting easements over any part of the common property for the benefit of the Scheme;
  - (iii) granting a lease or licence to any person over any part of the common

- property or any property for any purpose; or
- (iv) consenting to a new CMS to amalgamate or subdivide lots in the Development;
- (z) any services or facilities proposed to be located on the common property of the Scheme not being constructed or completed by the Settlement Date;
- (aa) us being a trustee of a trust which is not disclosed on the title to the Lot or in the Particulars of Sale in the Contract; or
- (bb) any other variation made by us which does not materially disadvantage you.

## 17. Development Approval

- (a) You acknowledge that we may apply to amend or replace the Development Approval.
- (b) You must not Object, or assist in or encourage any objection, to any application by or on behalf of the Seller for an amendment to the Development.

## 18. Your right to terminate

- (a) If at the date of registration of the Subdivision Plan:
- (i) the proposed residential use of the Lot is not lawful under the relevant town planning scheme;
- (ii) any competent authority has issued a current notice to treat or notice of intention to resume regarding any part of the Lot; or
- (iii) the Lot is classified as contaminated land within the meaning of the *Environmental Protection Act 1994* (Qld),
- and the circumstances under or by which that will occur are not disclosed in this Contract, you may terminate this Contract by notice to us given 5 Business Days before the Settlement Date.
- (b) If you do not give notice under clause 18(a), you will be treated as having accepted the Lot subject to all of the matters referred to in that clause.

## 19. Mistake

- (a) If this Contract contains a mistake in the description of the Parcel or the Lot or any other error appears in the Particulars of Sale, that mistake will not annul the sale but, unless your remedies are limited or excluded by this Contract, you may be given compensation as the case requires.
- (b) Any claim for compensation must be made in writing prior to the Settlement Date. You are not entitled to delay Settlement or withhold any part of the Purchase Price by reason of a claim for compensation.
- (c) If you give notice of an intention to claim compensation, we are entitled at our discretion to remedy the matter which is the subject of the claim at our cost. If there is a dispute between you and us as to whether we have adequately remedied the matter an independent expert appointed by you and us ("Expert") must determine whether the matter has been properly remedied. In making its determination the Expert will act as an expert and not as an arbitrator and the Expert's decision will be final and binding on the parties.

- (d) If you and we are unable to reach agreement as to the appointment of the Expert, the Expert will be appointed by the Property Council of Australia (Queensland Division).

## 20. Risk

- (a) The Lot and the Chattels are at our risk until the Settlement Date.
- (b) We are not obliged to insure the Lot and section 63 of the PLA does not apply.
- (c) The Lot and the Chattels are at your risk from the Settlement Date.

## 21. Time

- (a) Time is of the essence of this Contract.
- (b) If you do not do anything which is required to be done under this Contract by the required time, we will be entitled to exercise the rights given to us under clause 22.

## 22. Default

- (a) If you breach any term of this Contract then in addition to any other remedy available to us at law or in equity we may:
  - (i) terminate this Contract, and do all or any of the following:
    - (A) resume possession of the Lot;
    - (B) forfeit the Deposit;
    - (C) sue you for damages; and
    - (D) resell the Lot.
  - (ii) affirm this Contract and sue you for damages or specific performance or both.
- (b) If we resell the Lot then :
  - (i) we may vary or cancel any contract of sale and buy in at any auction; and
  - (ii) we may recover from you as liquidated damages any deficiency in price and our expenses connected with:
    - (A) repossessing the Lot;
    - (B) the terminated sale to you including all commissions paid by us to our agent;
    - (C) the resale including the preparation of a new contract and disclosure statement;
    - (D) our attempts to resell (including failed attempts at resale; and
    - (E) the rates, land tax and other Outgoings that would have been payable by you if this Contract had been settled.
- (c) Any profits arising from a resale belong to us.
- (d) You must indemnify us against any legal costs on a full indemnity basis, that we suffer, incur or are liable for in connection with exercising any of our rights under this clause 22.

- (e) Our remedies in this clause 22 are concurrent and not alternative.
- (f) It is not necessary for us to tender a transfer of the Lot to you before exercising the powers conferred by this clause 22.

## 23. Interest on late payments

- (a) You must pay us interest if:
  - (i) you do not pay an amount under this Contract when it is due; or
  - (ii) we agree to give you an extension of the Settlement Date.
- (b) Interest under clause 22(a) is payable at the "standard contract default rate" published by the Queensland Law Society from time to time, simple interest.  
The interest:
  - (i) becomes payable from the day after the due date or the original Settlement Date to the day the payment is made; and
  - (ii) must be paid at the same time as the amount on which it is calculated.

## 24. Our right to terminate

- (a) We may terminate this Contract by written notice to you if:
  - (i) you, being a natural person, die, become bankrupt, are sentenced to imprisonment or are committed to a psychiatric institution;
  - (ii) you, being a company, have a petition presented, or an order made for your winding up, or become an externally-administered body corporate within the meaning of the *Corporations Act 2001* (Cth); or
  - (iii) a relevant authority:
    - (A) does not grant to us a permit, approval or certificate necessary to complete any part of the Development;
    - (B) revokes or amends any permit, approval or certificate necessary to complete any part of the Development (even if that amendment is at our request);
    - (C) refuses to seal the Subdivision Plan; or
    - (D) imposes conditions on the grant of any permit, approval or certificate or sealing of the Subdivision Plan with which we are unable or unwilling to comply.
- (b) We may also terminate this Contract:
  - (i) if you are a company and any of your directors or if your parent company is listed on a public stock exchange, that parent company; or
  - (ii) if you are entering into this Contract in your capacity as trustee and you in your personal capacity,  
refuses or fails to sign and deliver to us the Guarantee before we sign this Contract.
- (c) If we exercise our right under clauses 24(a)(i), 24(a)(ii) or 24(b), clause 22 will apply.
- (d) We may also elect not to proceed with the Development and terminate this

Contract if we, reasonably determine:

- (i) that building cost increases have rendered the project unviable;
  - (ii) that there have been insufficient pre-sales to satisfy any financier's requirements; or
  - (iii) that financing for the project is unavailable on reasonable terms,
- in any of these events, we may terminate this Contract by written notice to you.
- (d) If we terminate this Contract under clause 24(a)(ii) we will direct the Deposit Holder to refund the Deposit paid by you, together with interest accrued on investment of that Deposit (if any).

## 25. Staged Development

- (a) You acknowledge that:
  - (i) the Lot is part of the proposed Development and that further construction will be carried out in respect of the Development after you have taken possession, and Settlement of the sale and purchase of the Lot;
  - (ii) the staging of the Development may vary from that disclosed in this Contract or the Disclosure Statement; and
  - (iii) we may at our discretion elect:
    - (A) not to stage the Development, in which case the whole of the Development will be undertaken as a single stage; or
    - (B) to vary or change the order of the Development.
- (b) You cannot Object or institute or prosecute an action or proceedings for an injunction or damages arising out of or consequent upon:
  - (i) the Development being staged;
  - (ii) us or any of our employees or subcontractors undertaking any earthmoving or building work during the Development causing or creating any noise, dust, traffic or nuisance;
  - (iii) the passage and repassage of cars, trucks, machinery and equipment across the common property of the Scheme in connection with the Development; or
  - (iv) us failing to proceed with any part of the Development.
- (c) You agree not to Object in respect of any future construction and associated works in connection with any part of the Development.

## 26. Sales of lots generally

You will not Object to the marketing approach we adopt to sell other lots in the Scheme, including:

- (a) erection and placement of signs on the Parcel;
- (b) the utilisation of a display unit within the Scheme;

- (c) the utilisation of the common property of the Scheme; and
- (d) uninterrupted access to the Parcel between 9.00am and 5.00pm every day, provided that we do not cause unreasonable interference to your rights of use of the Lot.

## 27. Our right to mortgage

- (a) You acknowledge that:
  - (i) in the course of the Development of the Lot and the Parcel, we or an associated corporation have borrowed or may need to borrow money; and
  - (ii) Section 73 of the PLA provides that in certain circumstances this Contract is voidable by you if any part of the Parcel or the Lot is mortgaged without your consent.
- (b) You consent to us, either before or at any time after the date of this Contract:
  - (i) giving a mortgage, charge or encumbrance over any part of the Parcel or the Lot to secure any existing or new borrowing; or
  - (ii) permitting any existing mortgage, charge or encumbrance to become collateral security for any of our (or any associated corporations) present or future obligations.
- (c) This clause does not mean that we will necessarily grant any mortgage, charge or encumbrance, however if we do we must provide a release of any such mortgage, charge or encumbrance over the Lot to you at Settlement.

## 28. Foreign Investment Review Board

You warrant that either:

- (a) the Treasurer has consented under the *Foreign Acquisitions and Takeovers Act 1975 (Cth)* to your purchase of the Lot; or
- (b) the Treasurer's consent is not required to your purchase of the Lot.

## 29. Notices

- (a) A notice under this Contract must be written and will be effective if given by our solicitors or your solicitors.
- (b) Notices must be faxed, emailed, posted or delivered to the address of the receiving party.
- (c) A notice is taken to be received:
  - (i) if hand delivered, on delivery;
  - (ii) if sent by prepaid post, 2 Business Days after the date of posting;
  - (iii) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the total number of pages of the notice unless, within 1 Business Day after that transmission, the recipient informs the sender that it has not received the entire notice; or

- (iv) if sent by email, on that day and time indicated in the sender's computer, provided that the sender does not receive a message indicating that the email was not received.
- (d) The parties' addresses and facsimile numbers are those set out in the Particulars of Sale unless otherwise notified to the other party or their solicitor.

### **30. Costs and stamp duty**

- (a) We and you will each pay our own legal and other costs relating to this transaction.
- (b) You must pay all stamp duty on this Contract and on any Guarantee or other document executed in accordance with the terms of this Contract and any registration fees relating to the Transfer Document will be paid. You indemnify us in respect of all such stamp duty and registration fees. If you do not pay the stamp duty, and we are required to pay it by the Office of State Revenue, we may pay it and recover it from you as a liquidated debt.
- (c) If you request us to, and pay to us all costs of doing so, we will produce the Transfer Document to the Office of State Revenue, Brisbane for stamping. If you have solicitors acting on your behalf, we agree to direct our solicitors to send the signed Transfer Document to you, provided that your solicitors have first provided an undertaking to deal with those documents for stamp duty purposes only, in terms acceptable to our solicitors.

### **31. No merger**

If any term of this Contract remains unfulfilled after Settlement, it shall remain in full force and effect so far as it is capable of doing so and either you or we, as the case requires, must perform it after Settlement.

### **32. Entire agreement**

- (a) This Contract contains all the terms of the agreement between you and us. It cancels all prior arrangements, understandings and negotiations that have taken place between you and us in connection with it.
- (b) You acknowledge that:
  - (i) you have entered into this Contract after satisfactory inspection and/or investigation (to the extent possible) of the Lot and the Parcel;
  - (ii) you have not relied on any representations made by us, or any other person acting or purporting to act on our behalf; and
  - (iii) neither we nor any person purporting to act on our behalf has made any representations or warranties regarding any of the subject matter of this Contract except as set out in this Contract.

### **33. Governing law**

The laws of Queensland govern this Contract. If there is any dispute or disagreement, both you and we agree that it must be resolved under Queensland law and, where necessary, by Queensland courts and all courts having appellate jurisdiction from those courts.

## **34. Alterations to Contract**

Amendments to this Contract must be made in writing and be signed by or on behalf of you or us or by your solicitors or our solicitors. If a solicitor signs a document, it is deemed to have been made with the authority of the person for whom that solicitor represents and will bind that person.

## **35. Indemnities**

Each indemnity in this Contract is a continuing obligation, separate and independent from the other obligations of the parties and survives termination, Completion or expiration of this Contract. It is not necessary for a party to incur expense or make any payment before enforcing a right of indemnity conferred by this Contract.

## **36. Waiver**

- (a) If either you or we fail to or agree not to:
  - (i) insist on the performance of any of the terms of this Contract; or
  - (ii) exercise any right given under the Contract,that will not be construed as a waiver of the performance of a term or exercise of a right in the future.
- (b) Any agreement under clause 36(a) must be in writing.

## **37. Other statements**

- (a) You acknowledge that before entering into this Contract we or our agent gave to you:
  - (i) a Form 8 disclosure to prospective buyer, as required under POA;
  - (ii) the signed Disclosure Statement which complied in all respects with the requirements of section 213 of the BCCM Act; and
  - (iii) a disclosure statement in relation to the power of attorney set out in clause 41, and that the Disclosure Statement forms part of this contract.
- (b) You are deemed to have read this Contract and the Disclosure Statement before you signed this Contract and any information disclosed in this Contract and the Disclosure Statement is deemed to be disclosed to you before you enter into this Contract.

## **38. GST**

- (a) Unless a contrary intention appears, the Purchase Price includes any GST application to the sale of the Lot to you.
- (b) If we give you notice under this clause that we will apply the margin scheme to any of the supplies made under this Contract, you agree that we are applying the margin scheme and you will not Object.
- (c) If we do not provide you with notice under clause 38(a), or we notify you that we will not apply the margin scheme, you agree that we will not apply the margin scheme and you will not Object.

- (d) Whether or not we supply you with a tax invoice on Settlement, you acknowledge that if we have applied the margin scheme you are not able to claim an input tax credit on any portion of the purchase price paid by you because of the operation of the GST Act.

**39. Intentionally deleted.**

**40. *Privacy Act 1988*(Cth)**

- (a) You acknowledge that we can use your information in our absolute discretion and that in providing your consent to the disclosure and use of your personal information that such information may be utilised for other authorised purposes under Part IIIA of the *Privacy Act 1988* (Cth).
- (b) We may need to disclose this information to third parties for the purposes of the Development and provision of services to you related to the Scheme.
- (c) You consent to the use and disclosure of the personal information as outlined in clause 40(a) including, without limitation, the disclosure of personal information:
- (i) to any proposed letting agent for the Scheme;
  - (ii) to any proposed caretaker;
  - (iii) to any service provider that will, or may, provide services to the Scheme;
  - (iv) to, or by our financier (or its authorised representatives);
  - (v) to, or by our solicitor (or its authorised representatives); and
  - (vi) to any proposed acquirer of our contractual rights.

**41. Power of attorney**

**41.1 Appointment**

- (a) You appoint us (including each director, secretary and attorney jointly and severally) as your attorney for the purposes stated in this clause (and for no other purpose).
- (b) The power of attorney in this clause is for the following purposes:
- (i) complete any necessary details (including signing) to give effect to a Reallocation Agreement;
  - (ii) attend and vote (or do either) in your name at all or any meetings of the Body Corporate or of the Committee of the Body Corporate;
  - (iii) complete, sign and lodge any voting paper (or any other document including corporate owner nominee notification form or owner's representative notification form) and any notice under the Regulation Module to allow the attorney to vote in your name at all or any meetings of the Body Corporate or of the committee of the Body Corporate in respect of any motion or resolution for or relating to any one or more of the following:

- (A) consent to any new CMS to be recorded to facilitate the development identified in the CMS, which development necessitates the lodgment of new CMSs to reflect the matters identified in the CMS or to more effectively regulate the Development;
- (B) consent to any new CMS to record a by-law required to rectify any inaccuracy, defect, error or omission in any by-law contained in schedule C of the CMS, or to procure the grant of exclusive use by-laws by the Body Corporate to enable us to effectively market and undertake the Development, or to sign a Reallocation Agreement in respect of any exclusive use area to give effect to any agreement or to allow compliance with relevant laws;
- (C) consent to any new CMS to record allocations under any exclusive use by-laws contained in schedule C of the CMS or to record any deletion of any exclusive use by-law or any additional or replacement exclusive use by-law to facilitate the identification and/or allocation of exclusive use areas in the Scheme;
- (D) consent to any new CMS to record allocations under any additional or replacement exclusive use by-law referred to above;
- (E) consent to any new CMS to record a by-law required to rectify an inaccuracy, defect, error or omission in any by-law contained in schedule C of the CMS;
- (F) consent to any arrangements required for maintenance by the body corporate;
- (G) consent to affix the seal of the Body Corporate of the Scheme to a Form 14 General Request to record any new CMS in the Department of Natural Resources and Mines;
- (H) the granting of consent to any appeal to be lodged in the Planning and Environment Court under the *Sustainable Planning Act 2009* (Qld) pursuant to section 60(7) of the BCCM Act consequent upon the Council failing or refusing to endorse a community management statement notation within 40 days after the CMS or any new CMS (referred to above) is submitted to the Council for endorsement;
- (I) approve the keeping of a pet within the Development in accordance with the CMS;
- (J) approve the engagement of a person (including as a service contractor) on commercial terms that are for the benefit of the Body Corporate (as determined by us);
- (K) consent to the assignment of an agreement entered into between the Body Corporate and a service contractor with or without a transfer fee being imposed under section 120 of the Regulation Module;
- (L) a proposal that there shall be no prohibition or restriction on the use of proxies by us;
- (M) authorise the owner of a lot (including us) to make an

- (N) improvement under section 169 of the Regulation Module;
  - (O) authorise the owner of a lot (including us) to make an improvement under section 161 of the Regulation Module;
  - (P) to exercise, authorise, ratify or give effect to any right under this Contract;
  - (P) authorise any proposal by the Body Corporate to take action or steps permitted under sections 159, 160, 161, 162, 164, 165, 166, 167 or 169 of the Regulation Module including the Body Corporate entering into and affixing its seal to an easement or licence with neighbouring property owners;
  - (Q) the issue of a continuing contravention notice under section 182(2) of the BCCM Act or the issue of a future contravention notice under section 183(2) of the BCCM Act;
  - (R) the issue of a notice under sections 203(1) or (2) of the BCCM Act;
  - (S) any expenditure contemplated under sections 149, 150 and 151 of the Regulation Module;
  - (T) the issue of an authorisation to the owner of a lot (including us) to make an improvement contemplated under section 172 of the Regulation Module;
  - (U) an application to be made for an order of an adjudicator under Chapter 6, Part 4 of the BCCM Act;
  - (V) an appeal to be lodged under section 289(2) of the BCCM Act or an application for or review of a decision under section 304 of the BCCM Act;
  - (W) the commencement of a proceeding under section 312(1) of the BCCM Act;
  - (X) the adoption of administrative and sinking fund budgets for the Body Corporate;
  - (Y) the composition and/or election of the members of the committee of the Body Corporate;
  - (Z) any proposal involving spending above the limit for Body Corporate committee spending;
  - (AA) obtain authority/necessary consents from the Body Corporate to enable us to fix any building defects;
  - (BB) prevent the Body Corporate from interfering with any building work we need to undertake after registration of the Subdivision Plan to complete the Development;
  - (CC) to procure the Body Corporate to authorise or ratify a transfer, lease, easement (or release or variation of), licence, or other dealing involving the common property;
  - (DD) the convening of a general meeting of the Body Corporate or a Body Corporate committee meeting to consider any one or more of the matters referred to above;
  - (EE) affixing the seal of the Body Corporate to any document to facilitate

one or more of the matters referred to above;

- (c) complete, sign and lodge any written consent pursuant to the BCCM Act or the Regulation Module as may be required to facilitate and perfect the passing of any exclusive use allocations contained in Schedule E of the CMS or any additional or replacement exclusive use by-laws for the identification and/or allocation of exclusive areas in the Scheme consequent upon the Scheme land being progressively developed; and
- (d) appoint a representative, proxy or company nominee so that we may exercise your vote at a meeting of the Body Corporate for any of the above purposes.

#### **41.2 Duration of power of attorney**

The power of attorney contained in this clause is irrevocable, and commences upon Settlement and expires the earlier of:

- (a) where the Lot is created, 12 months from the Settlement Date or where the Lot is not created, 12 months from the establishment of the Scheme;
- (b) as provided by the BCCM Act from time to time; and
- (c) the date the Seller (we) gives written notice to the Body Corporate of its resignation as attorney.

#### **41.3 Delivery of signed power of attorney**

If requested by us, you must deliver to us a duly executed and completed power of attorney in registrable form on the same terms as outlined in this clause.

#### **41.4 Scope of power of attorney**

- (a) You agree to ratify and confirm all the acts, deeds and things done or performed under this power of attorney.
- (b) You will not grant a mortgage of the Lot without first providing a copy of this Contract to the mortgagee and procuring the mortgagee's agreement to be bound by the provisions of this clause 41.

#### **41.5 Exclusion**

In so far as it is lawful, our rights as attorney can be exercised to your exclusion.

#### **41.6 New power of attorney**

While the power of attorney remains in force, you must not transfer the Lot (or any share in the Lot) except to a person who has first signed a power of attorney on the same terms as that given pursuant to this clause. If you do not comply with this provision, you indemnify us against all loss and damage incurred by us as a result.

### **42. Appointment of Proxy**

- (a) You appoint us (including our company nominee) as your proxy to vote at a general meeting of the Body Corporate on the following matters:
  - (i) the engagement of a person as a body corporate manager or service contractor or authorising a person a letting agent if the details of the engagement or authorisation were disclosed to you before you entered into this Contract;
  - (ii) authorising a service contractor or letting agent to a part of the common property of the Scheme if the details were disclosed to you before you entered into this Contract; and

- (iii) consenting to the recording of a new CMS to include a by-law the details of which were disclosed to you before you entered into this Contract.
- (b) This proxy is irrevocable for a period of one year after the Scheme is established.
- (c) You agree to ratify and confirm any action taken by us to vote at meetings of the Body Corporate using this proxy.
- (d) While this proxy remains in force you must not transfer or assign the Lot other than to a transferee or assignee who has first agreed to be bound by the provisions of this clause 42 and who has executed a proxy in favour of us in the same terms as this clause 42.

### 43. First Meeting

- (a) Upon recording of the first CMS we may cause the body corporate to do any or all of the following:
  - (i) hold its first general meeting and appoint a chairperson, secretary and treasurer at that meeting;
  - (ii) engage a body corporate manager for the Scheme and enter into an agreement with any person on terms the same as or similar to the proposed administration agreement in the Disclosure Statement;
  - (iii) engage a service contractor and enter into a caretaking agreement with any person on terms the same as or similar to the proposed caretaking agreement in the Disclosure Statement or any other agreement that we consider necessary;
  - (iv) enter into a letting agreement with any person on terms the same as or similar to the proposed letting agreement in the Disclosure Statement;
  - (v) enter into an agreement with a supplier or manager of utility services to the Scheme or Body Corporate;
  - (vi) enter into a deed in compliance with section 116 of the BCCM Act;
  - (vii) enter into an arrangement to hire purchase and/or lease (or any similar type of arrangements) assets of the Body Corporate; and
  - (viii) do anything else that we are permitted to cause the Body Corporate to do under the Contract.
- (b) To remove any doubt, we are not obliged to do any of the things in clause 43(a), and if we do not, you cannot Object.
- (c) You acknowledge that the agreements described in clause 43(a), which are contained or more fully described in the Disclosure Statement, are appropriate for the Scheme and are on terms which are fair and reasonable.
- (d) You must do all things necessary to enable us to exercise our powers under this clause 43 and must vote against any motion to the Body Corporate intended to stop or delay the implementation of the agreements or arrangements referred to in clause 43(a).
- (e) We have estimated the costs to the proprietor of each lot in the Scheme in respect of the administration fund levy and sinking fund levy payable for the first year of operation of the Body Corporate. The estimate is set out in the proposed budgets contained in Annexure A of Document 1 of the Disclosure

Statement. We do not warrant that the proposed budgets are accurate and are not liable to you if the Body Corporate adopts budgets different from those we proposed.

#### 44. Compliance with Statutes

- (a) The parties acknowledge that the Statutes impose obligations on sellers and sellers' agents in relation to the sale of lots.
- (b) You agree that if it becomes apparent that the provisions of the Statutes have not been complied with, entitling you to terminate the Contract, we also have the right to terminate this Contract pursuant to this clause.
- (c) If either we or you terminate the Contract pursuant to clause 44(b), you are entitled to a refund of the Deposit and any interest accrued, less any deductions properly made.

#### 45. *Electronic Transactions (Queensland) Act 2001 (Qld)*

- (a) You and we acknowledge that your solicitors and our solicitors may communicate using electronic communication. To the extent allowable, by signing this Contract you confirm your instructions to your solicitor (if any) to communicate with our solicitors electronically.
- (b) You and we acknowledge that Chapter 2 Parts 2 and 3 of the *Electronic Transactions (Queensland) Act 2001 (Qld)* apply to this transaction.
- (c) You and we consent to communicating electronically.

#### 46. Special conditions

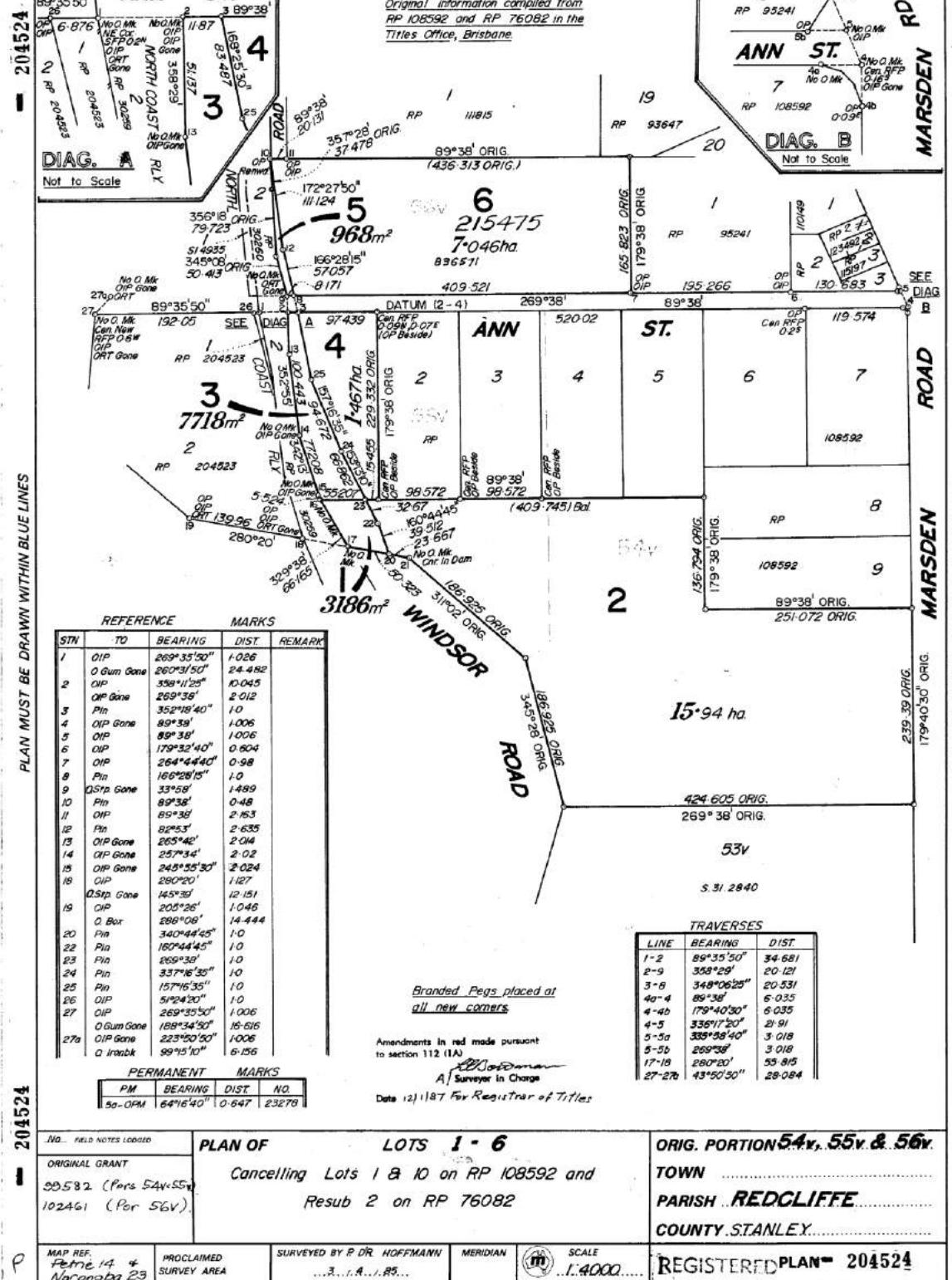
- (a) This Contract is subject to any applicable special conditions contained in Schedule 6.
- (b) To the extent there is an inconsistency between the terms of this Contract and the special conditions, the inconsistency will be resolved in favour of the special condition.

#### 47. Assignment

- (a) You may on-sell the Lot to another entity but you cannot assign your obligations under this Contract. If, prior to the Settlement Date, you enter into a contract, option agreement or some other agreement to sell the Lot, you must immediately give us the following details under any such agreement:
  - (i) the sale price;
  - (ii) the identity of the new buyer;
  - (iii) the contact details of the new buyer; and
  - (iv) any other information we reasonably request.
- (b) We may without your consent, assign our interest or part of our interest in the Contract and the Parcel to an assignee who signs a written agreement in your favour to be bound by the Contract in our place, and if we assign all of our interest we will then be released from any further obligations under the Contract.

- (c) You agree in favour of the assignee to observe the Contract as if the assignee was the party originally named in this Contract as the seller and you must do anything that we or the assignee reasonably require to secure the assignee's rights under this Contract including:
  - (i) signing any documentation evidencing such assignment which we consider necessary within 30 days of written notice of our intended assignment;
  - (ii) giving notice to the Deposit Holder that the Deposit is held for the benefit of the assignee; and
  - (iii) signing a new power of attorney or proxy form in favour of the assignee.
- (d) If we are acting as a trustee under the Contract we may retire as trustee of the trust provided a new trustee is appointed and signs a written agreement in your favour to be bound by the Contract as the new trustee of the trust.

## Schedule 1 – Parcel Plan

85K/009 WARNING - FOLDING OR MUTILATING WILL LEAD TO REJECTION - PLAN MAY BE ROLLED ~~46/10, 11, 15 (Reg. S/1534)~~

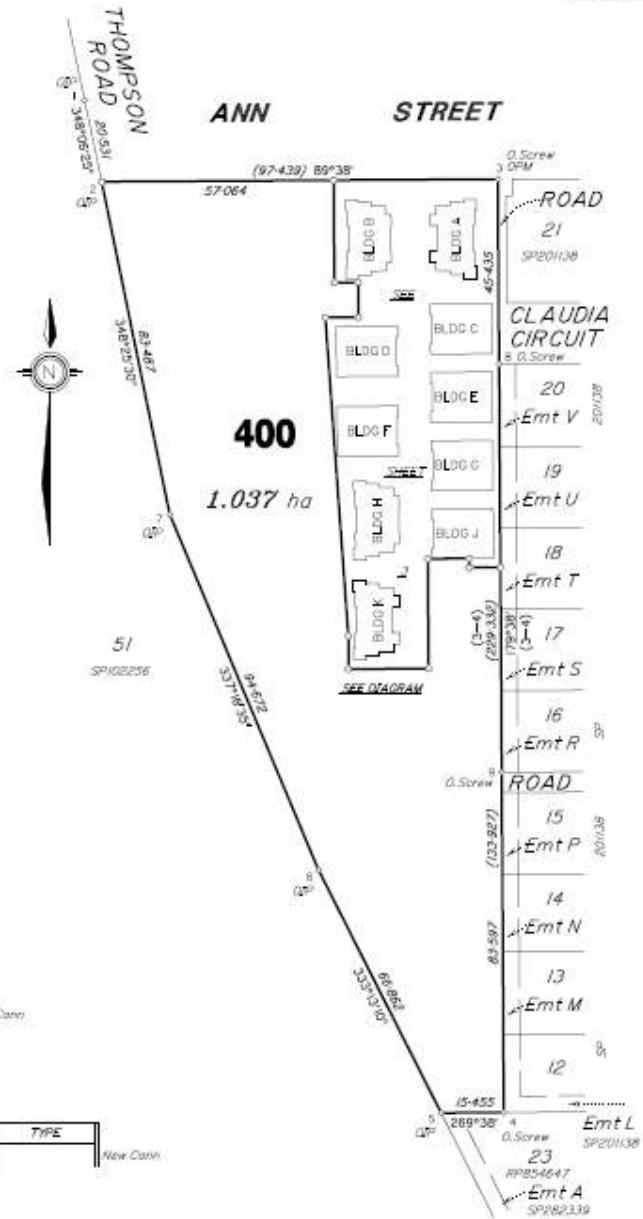
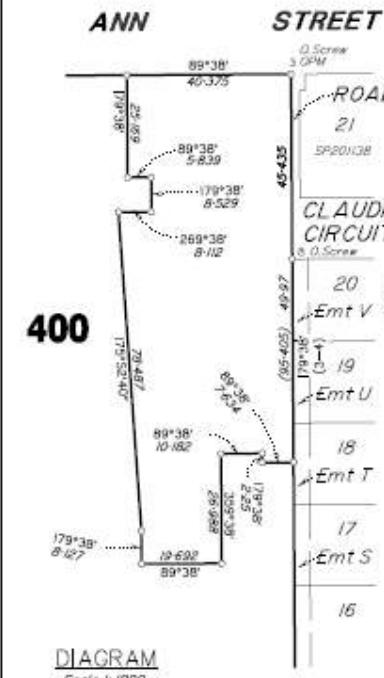
**WARNING - FOLDING OR MUTILATING WILL LEAD TO REJECTION - PLAN MAY BE ROLLED**

0.0 5/195

REGISTERED PLAN - 204524

## Schedule 2 – Subdivision Plan

The Lot is highlighted on the **attached** plan.



REFERENCE MARKS				
STN	TO	ORIGIN	BEARING	DIST
1	CP	8/RP204524	166°28'15"	1.0
2	CP	7/RP201138	353°49'	0.997
3	O.Screw in Rb	3/RP201138	33°49'	5.245
4	O.Screw in SW Pt	1/RP201138	46°55'	3.833
5	CP leaning	2/RP201138	268°47'	1.04
6	CP	24/RP204524	337°16'35"	1.0
7	CP	25/RP204524	157°16'35"	1.0
8	O.Screw in Chnl	30a/RP201138	23°23'40"	5.996
9	O.Screw in Conc Poth	33/RP201138	94°13'25"	33.308

New Comm

PERMANENT MARKS					
PM	ORIGIN	BEARING	DIST	NO	TYPE
3-GPM	7/RP186352	80°13'15"	121.283	(3948)	New Comm

Lot 400 is a Standard Format lot.  
Pins placed at all subject lot corners  
unless stated otherwise.

BASE PARCEL AREA 1291 m<sup>2</sup>

Scale 1:1000 - Lengths are in Metres.

10 0 10 20 30 40 50 60 70 80 90 100 110 120 130 140

Plan of Lots 1-20, 400 & Common Property

Scale: 1:1000

Format: BUILDING

SP238639  
DISCLOSURE

Tax Status:

TOHEY SURVEY PTY. LTD. ACN 088 495 354, CADASTRAL SURVEYOR, HEREBY CERTIFY THAT THIS IS A PRELIMINARY PLAN. THE LOT AND PARCEL AREAS AND ANGLES DETERMINED AND APPROXIMATE AND HAVE BEEN DETERMINED FROM ARCHITECTURAL DRAWINGS, BA ISSUE, REV C, PROVIDED ON 23/03/2016. THE BUILDING HAS NOT BEEN FULLY CONSTRUCTED AND TOHEY SURVEY PTY LTD ACCEPTS NO RESPONSIBILITY FOR ANY AMENDMENTS TO LOT SHAPE AND AREA THAT MAY OCCUR DURING CONSTRUCTION. THIS NOTE IS AN INTEGRAL PART OF THIS PLAN.

Soe Director

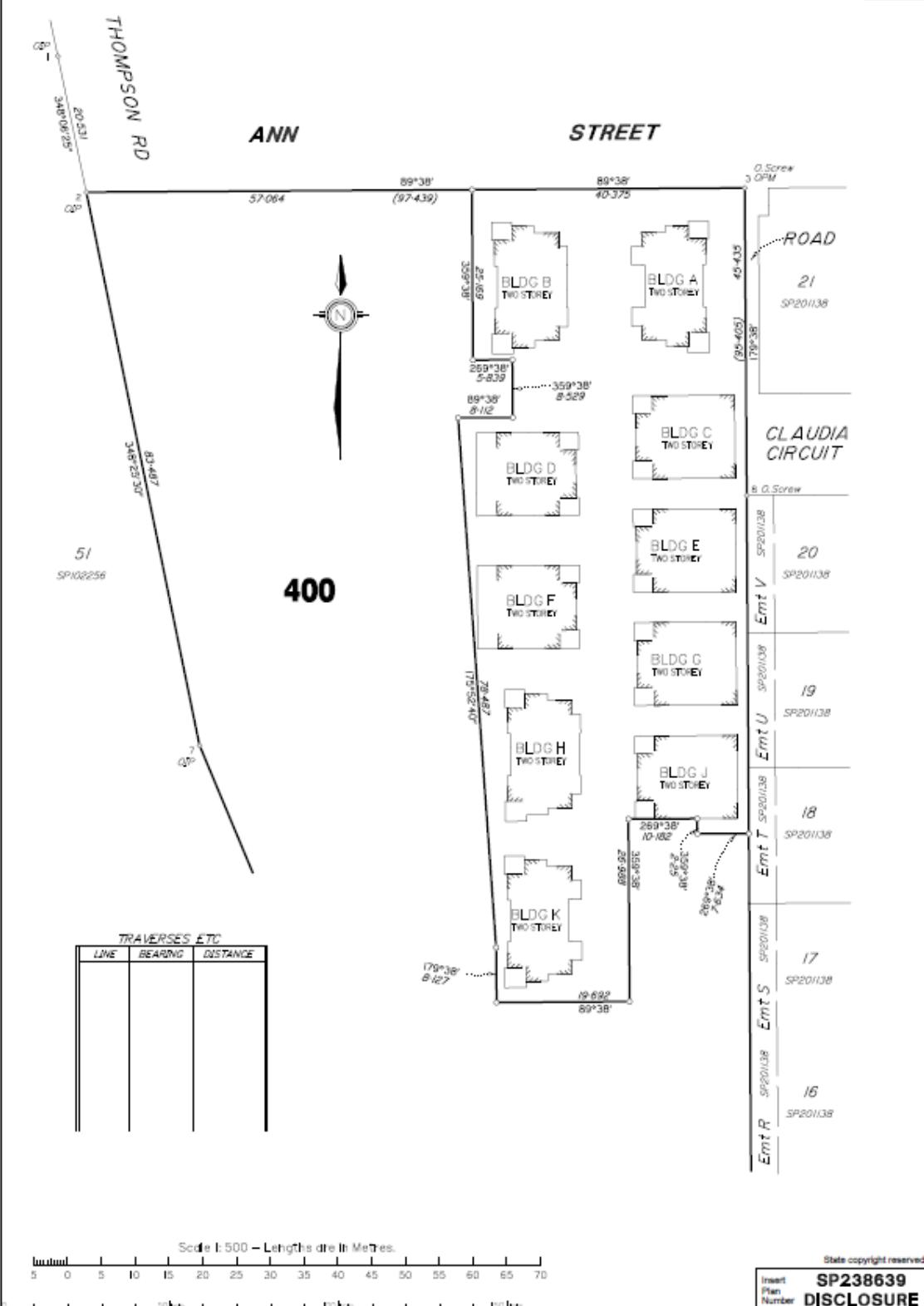
Date 12/05/16

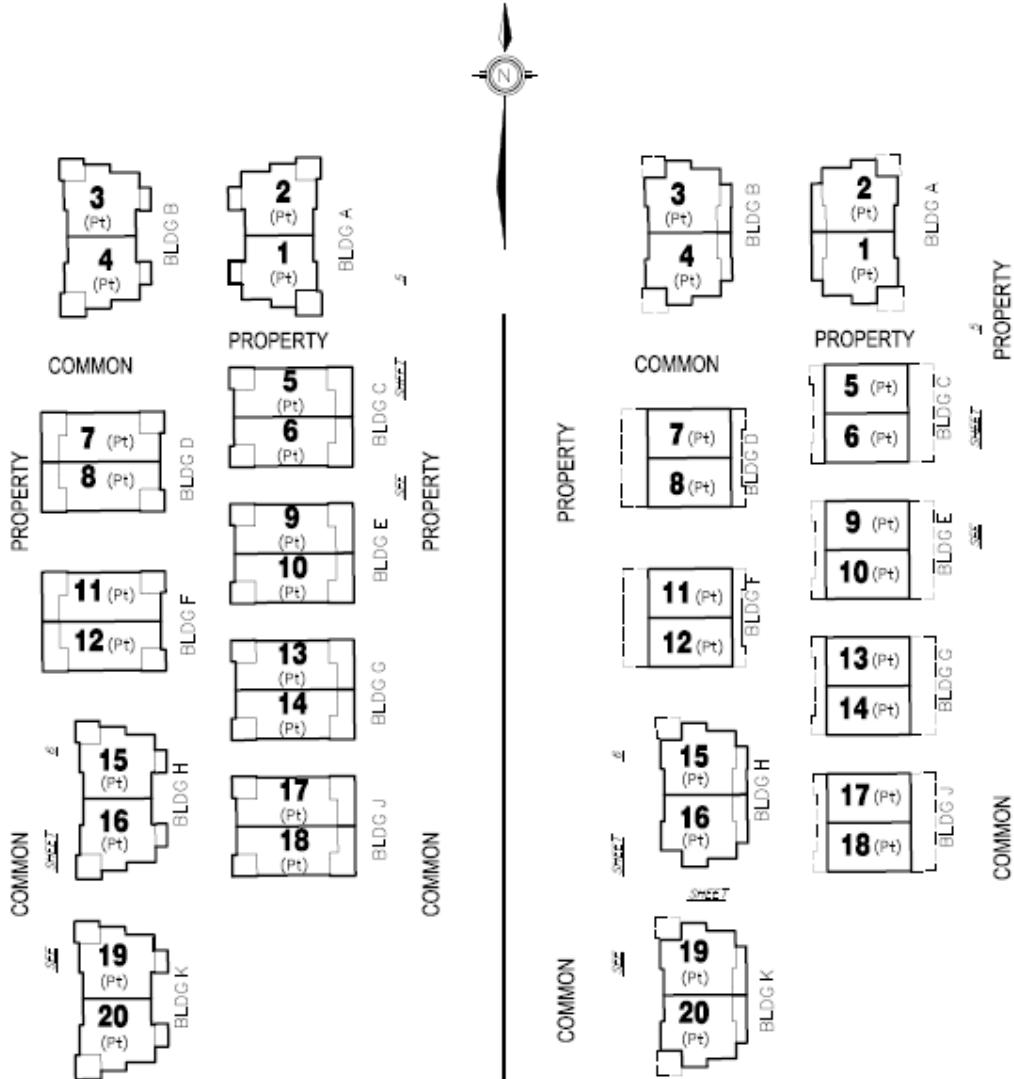
LOCAL GOVERNMENT: MORETON BAY REGIONAL  
Municipal Ref: RP204524

LOCALITY: KALLANGUR

F/N: No

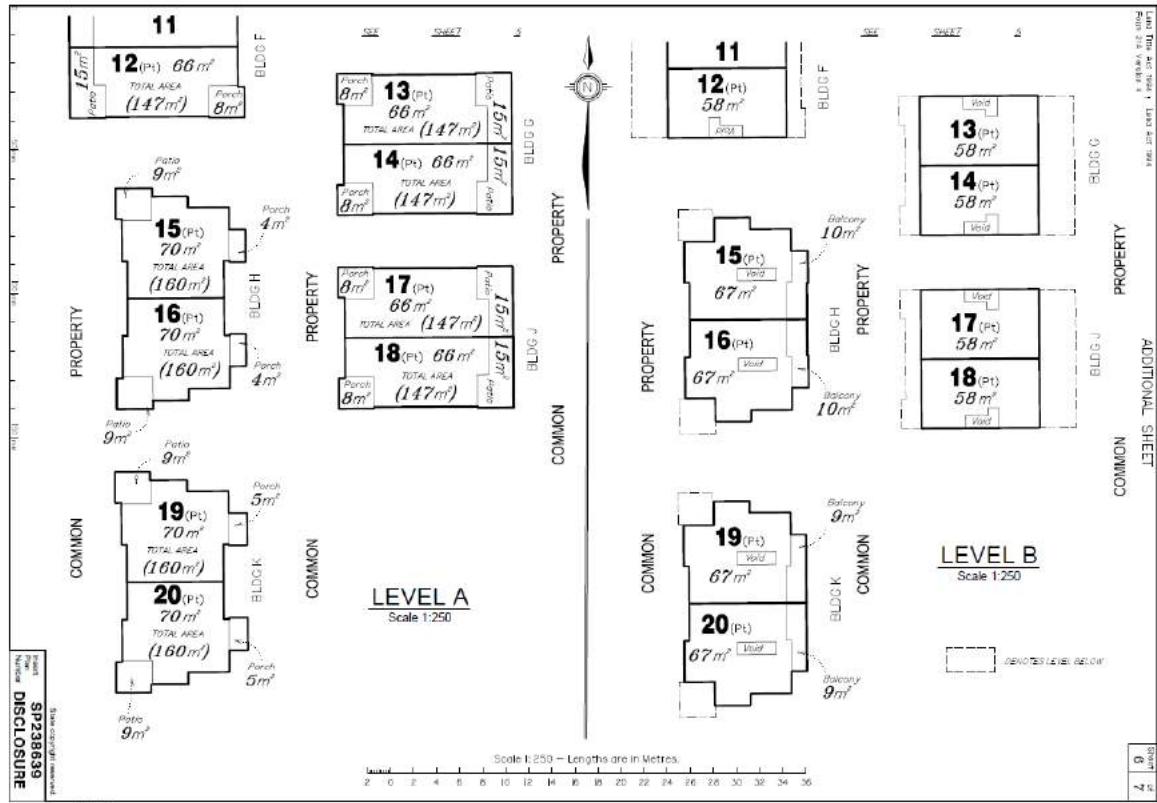
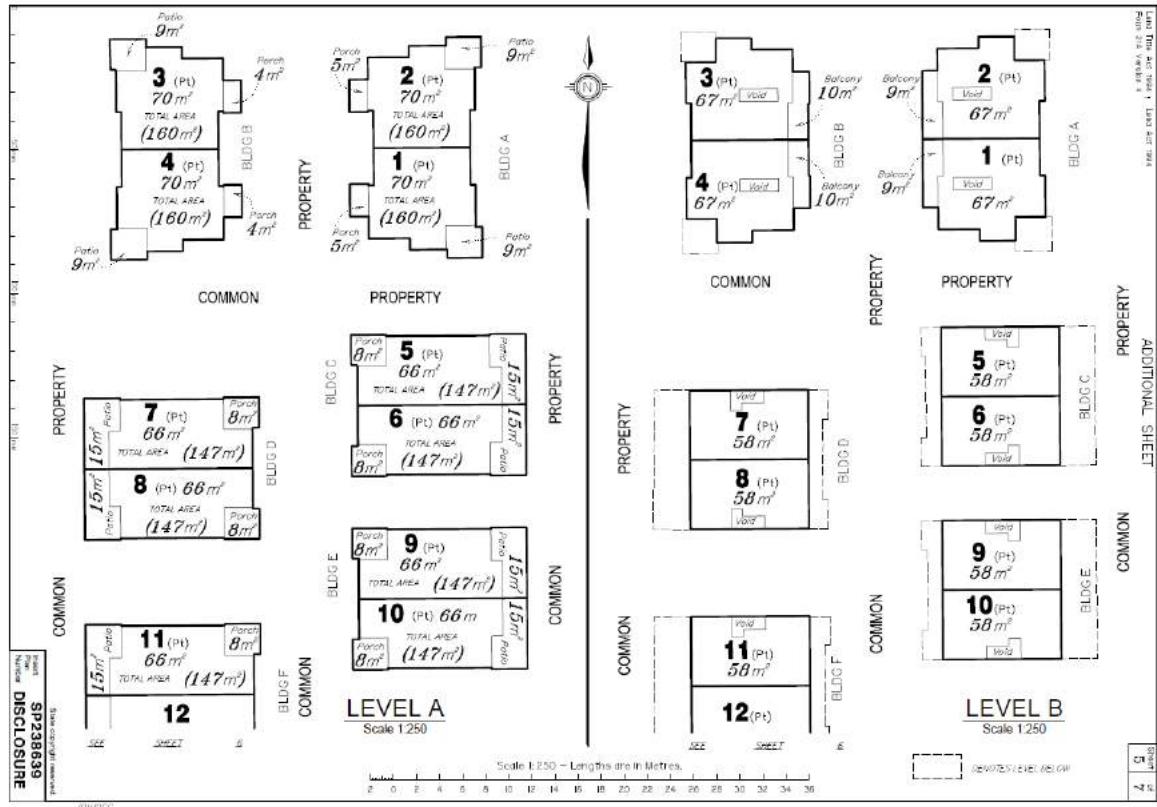
Land Title Act 1994 ; Land Act 1994 Form 21B Version 1		WARNING: Folded or Mutilated Plans will not be accepted. Plans may be rolled. Information may not be placed in the outer margins.		Sheet 2 of 7										
(Dealing No.)		Lodged by												
(Include address, phone number, reference, and Lodger Code)														
1. Certificate of Registered Owners or Lessees.		2. Existing      Created												
I/We .....		<table border="1" style="width: 100%;"> <thead> <tr> <th>Title Reference</th> <th>Description</th> <th>New Lots</th> <th>Rodd</th> <th>Secondary Interests</th> </tr> </thead> <tbody> <tr> <td>18579070</td> <td>Lot 4 on RP204524</td> <td>1-20, 400 &amp; CP</td> <td></td> <td></td> </tr> </tbody> </table>			Title Reference	Description	New Lots	Rodd	Secondary Interests	18579070	Lot 4 on RP204524	1-20, 400 & CP		
Title Reference	Description	New Lots	Rodd	Secondary Interests										
18579070	Lot 4 on RP204524	1-20, 400 & CP												
<p>(Names in full)</p> <p>♦ as Registered Owners of this land agree to this plan and dedicate the Public Use Land as shown hereon in accordance with Section 50 of the Land Title Act 1994.</p> <p>♦ as Lessees of the land agree to the plan.</p> <p>Signature of ♦ Registered Owner ♦ Lessees</p> <p>♦ Note on whether is applicable</p>														
3. Planning Body Approval.		<p>♦</p> <p>hereby approves this plan in accordance with the :</p> <p>%</p>												
Dated this..... day of.....		<p>1-20, 400 &amp; CP      Per 55Y</p> <p>Lots      Orig</p> <p>7. Orig Grant Allocation :</p> <p>8. Passed &amp; Endorsed :</p> <p>TOOCHEY SURVEY PTY LTD By : AGN.000.455.754 Date : Signed : Designation : Surveyor/Officer</p> <p>9. Insert applicable approving legislation</p> <p>10. Insert Plan Number</p> <p><b>SP238639</b> <b>DISCLOSURE</b></p>												
<p>♦ Insert the name of the Planning Body.</p> <p>♦ Insert designation of signatory or designee</p> <p>11. Plans with Community Management Statement :</p> <p>CMS Number : Name : BLUE SKY KALLANGUR</p>		<p>11. Insert applicable approving legislation</p>												





Scale 1:500 – Lengths are in Metres.  
5 0 5 10 15 20 25 30 35 40 45 50 55 60 65 70

State copyright reserved.  
**SP238639**  
**DISCLOSURE**



Reinstatement Report to go here.

NH199CC

State copyright reserved.

Insert  
Plan  
Number  
**SP238639**  
**DISCLOSURE**

## Schedule 3 – Guarantee & Indemnity

Date

## Parties

Name:

**Short Form Name:** **Guarantor**

## Notice Details:

**Facsimile:**

## Attention:

Name: Blue Water (D Bay) Pty Ltd as trustee

A.C.N.: 117 453 040

**Short Form Name:** Seller

Notice Details: c/- RiverLegal

3A John Street, Beenleigh QLD 4207

PO Box 48 Beenleigh QLD 4207

Facsimile: +61 7 3287 4663

Email: [williamboyd@riverlegal.com](mailto:williamboyd@riverlegal.com)

Attention: William Boyd

Attention: William Boyd

# Terms

---

## 1. Defined terms & interpretation

### 1.1 Defined terms

In this document:

**Buyer** means \_\_\_\_\_.

**Contract** means the contract to be entered into between the Seller and the Buyer for the sale and purchase of the property known as Proposed Lot No. \_\_\_\_\_ in "Blue Sky Kallangur" Community Titles Scheme as outlined or highlighted in the plan in Schedule 2 of the Contract.

**Guaranteed Money** means all money that the Buyer is or may at any time be liable (actually, prospectively or contingently) to pay to the Seller under or in connection with the Contract (including in connection with non-compliance with the Buyer's obligations under the Contract) and includes money which the Buyer would be liable to pay but for its insolvency.

**Guarantor Assets** means all debts and liabilities owed by the Buyer to the Guarantor and any security the Guarantor holds over the Buyer's assets.

### 1.2 Interpretation

In this document:

- (a) the singular includes the plural and the other way round;
- (b) a reference to:
  - (i) this guarantee and indemnity includes its schedules and annexures;
  - (ii) this guarantee and indemnity or another document includes a reference to it as novated, altered or replaced;
  - (iii) anything is to the whole and each part of it;
  - (iv) a group of persons is all of them or any two or more of them jointly and each of them severally;
  - (v) a person includes the person's executors, administrators, successors and permitted assigns;
  - (vi) legislation includes any amendment to it and any consolidation, re-enactment or replacements of it and any subordinate legislation made under it; and
  - (vii) **Guarantor** is to all persons named as **Guarantor** jointly and each of them severally;
- (c) words importing natural persons include partnerships, bodies corporate, associations, governments and governmental and local authorities and agencies; and
- (d) a promise, representation or warranty:
  - (i) in favour of two or more persons is in favour of all of them jointly and each of them severally; and

- (ii) made by two or more persons binds all of them jointly and each of them severally.

## 2. Consideration

The Guarantor gives this guarantee and indemnity in consideration of the Seller agreeing to enter into the Contract at the Guarantor's request.

## 3. Guarantee

The Guarantor irrevocably and unconditionally guarantees to the Seller that the Buyer will:

- (a) pay the Guaranteed Money on time; and
- (b) comply on time with the Buyer's obligations under the Contract.

## 4. Payment under guarantee

If the Buyer does not:

- (a) pay the Guaranteed Money; or
- (b) comply with the Buyer's obligations under the Contract,

on time, the Guarantor must on demand pay that money to the Seller or comply with those obligations or both, as the case may be, whether or not the Seller has demanded that the Buyer pay or comply.

## 5. Indemnity

As an additional obligation of the Guarantor which the Seller may enforce separately from the guarantee in clause 3, the Guarantor irrevocably and unconditionally indemnifies the Seller against, and undertakes as principal debtor to pay the Seller on demand a sum equal to all liability, loss, penalties, costs, charges and expenses directly or indirectly arising from or incurred in connection with:

- (a) the Buyer not paying the Guaranteed Money on time;
- (b) the Buyer not complying on time with the Buyer's obligations under the Contract; and
- (c) the Seller not being able to recover all of the Guaranteed Money from the Buyer or enforce all of the Buyer's obligations under the Contract for any reason,

whether or not the Seller or the Guarantor knew or should have known about a fact or circumstance that gives rise to a claim under this indemnity. It is not necessary for the Seller to incur expense or make a payment before enforcing this indemnity.

## 6. Extent of guarantee and indemnity

This guarantee and this indemnity are independent of and in addition to any other guarantee or security the Seller holds and are continuing and are not discharged by any one payment and may not be terminated by the Guarantor. They continue until the Seller unconditionally releases the Guarantor in writing or until all of the Guarantor's obligations under the guarantee and the indemnity are complied with.

## **7. Liabilities and rights not affected**

The Guarantor's liabilities as a guarantor, indemnifier and principal debtor, and the Seller's rights, under this guarantee and indemnity are not affected by anything which might otherwise affect them including but not limited to:

- (a) the Seller giving time or any other concession to the Buyer, the Guarantor or any other person;
- (b) the Seller abandoning or transferring any right, compromising with or releasing the Buyer or any person named as Guarantor;
- (c) the Seller's acquiescence, delay or mistake;
- (d) the variation, assignment, or termination of the Contract;
- (e) a liquidator or a trustee in bankruptcy disclaiming the Contract;
- (f) the Buyer, if a corporation, being wound up or dissolved;
- (g) the Buyer, if an individual, being declared bankrupt or dying;
- (h) the Seller obtaining judgment against the Buyer or any person named as Guarantor for money secured under this guarantee and indemnity;
- (i) the obligations of a person named as Guarantor being partly or wholly unenforceable for any reason;
- (j) any person named as Guarantor not executing this guarantee and indemnity or not executing it correctly; and
- (k) the Guarantor being wholly or partly released from its obligations for any other reason.

## **8. Guarantor's rights waived**

So far as it legally can, the Guarantor waives:

- (a) any right it has of requiring the Seller to proceed against or enforce any right against the Buyer or any other person before claiming against the Guarantor under this guarantee and indemnity;
- (b) any claim, right of set off or counterclaim or any defence which might reduce or discharge the Guarantor's liability under this guarantee and indemnity; and
- (c) any legal or equitable rights it has that are inconsistent with its obligations under this guarantee and indemnity.

## **9. Guarantor's rights suspended**

Until the Seller:

- (a) has received all the Guaranteed Money;
  - (b) is satisfied that it will not have to repay any of it; and
  - (c) is satisfied that all the Buyer's obligations under the Contract have been complied with, the Guarantor must not:
- (d) claim for any reason to have a right to the benefit of any guarantee or other security the Seller holds in connection with the Contract;

- (e) make a claim or enforce a right against the Buyer or its property; or
- (f) prove or claim or exercise voting rights if a liquidator, provisional liquidator, administrator or trustee in bankruptcy is appointed in respect of the Buyer.

## 10. Reinstatement of guarantee

If any payment or other transaction in connection with the Contract or this guarantee and indemnity is void, voidable, unenforceable or defective or is claimed to be so and that claim is upheld or settled then:

- (a) the liability of the Guarantor is to be what it would have been if the payment or other transaction had not been made; and
- (b) immediately after the Seller requests it, the Guarantor must do everything necessary to put the Seller back into the position it would have been if the payment or other transaction had not been made.

## 11. Power of attorney

The Guarantor for valuable consideration irrevocably appoints the Seller its attorney to:

- (a) demand, sue for, recover and enforce the Guarantor Assets;
- (b) prove on behalf of the Guarantor for the Guarantor Assets if the Buyer is insolvent, liquidated or has an administrator appointed to it; and
- (c) exercise the Guarantor's rights in connection with and deal with the Guarantor Assets in the Guarantor's name as if the Seller were the Guarantor.

The Seller may delegate its powers under this clause 11 and revoke a delegation. The Guarantor must ratify everything the Seller or its delegate does under this clause 11.

## 12. Costs

The Guarantor must pay the Seller on demand for:

- (a) the Seller's costs, charges and expenses (including but not limited to legal costs, charges and expenses on a full indemnity basis whether incurred by or awarded against the Seller) in connection with this guarantee and indemnity including but not limited to its enforcement; and
- (b) all taxes, duties, imposts and charges in connection with this guarantee and indemnity or any transaction contemplated by it.

## 13. Interest

The Guarantor must pay interest on any amount payable by it under this guarantee and indemnity, which it does not pay on time on demand or at times the Seller specifies, from when the amount becomes due until it is paid. Interest is calculated on daily balances at the rate of 10% per annum and is capitalised on the last day of each month if unpaid.

## 14. Seller's certificate

A certificate from the Seller stating that an amount is owing or an event has occurred is

taken to be correct unless the contrary is proved.

## 15. Notices

A notice, consent, approval, request or demand in connection with this guarantee and indemnity:

- (a) must be in writing and in English;
- (b) must be signed by the party giving it or that party's authorised officer, attorney, or solicitor;
- (c) must be left at or posted by prepaid post (airmail, if posted outside Australia) to the address of the addressee, or sent to the addressee's facsimile number, in the notice details for that party in this document, or if the addressee notifies another address or facsimile number for receipt of documents, then at or to that address or facsimile number;
- (d) is taken to be received:
  - (i) if hand delivered, on delivery;
  - (ii) if posted in Australia, on the third business day after posting;
  - (iii) if posted outside Australia, on the seventh business day after posting; and
  - (iv) if sent by facsimile, when the machine sending the facsimile generates a report showing that the total number of pages of the facsimile were successfully sent to the facsimile number of the addressee; and
- (e) unless a later date is specified in it, takes effect on the date it is taken to be received.

## 16. Governing law, jurisdiction and service

### 16.1 Law

The guarantee and indemnity is governed by the laws applicable in Queensland.

### 16.2 Jurisdiction

Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Queensland.

### 16.3 Service

Any document in connection with legal proceedings may be served on a party by delivering it to or leaving it for that party at that party's address for service in clause 15 (or if the party notifies another address for service, then to or at that address) as well as by any other method of service permitted by law.

## 17. GST

### 17.1 Interpretation

In this clause 17:

- (a) **GST, supply and tax invoice** have the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999*; and
- (b) a reference to payment being made or received includes a reference to consideration other than money being given or received.

## **17.2 Guarantor to pay**

The Guarantor must pay to the Seller with any payment it makes to the Seller under this document an additional amount equal to any GST payable by the Seller on the supply for which that payment is made.

## **17.3 Tax invoice**

The Seller must give a tax invoice to the Guarantor if the Seller receives a payment under this clause 17.

# Signing Page – Guarantee and Indemnity

EXECUTED as a deed

SIGNED SEALED AND DELIVERED by \_\_\_\_\_ as guarantor in the  
presence of:

---

Witness

---

Guarantor

# Schedule 4 – Schedule of Finishes

---

## Schedule of Finishes @ 165 Ann Street, Kallangur

---

### EXTERNAL

Rainwater Tank	Harvesting Rainwater tank 3000 litres
External Walls	Brick veneer finish
Ballustrade	Aluminium balustrades in selected colorbond finish
Windows and Doors	Selected aluminium windows and doors Vertical drapes throughout Security screens to all windows on ground floor And to all external glass doors
Driveway & Paths	Broom finish concrete
Letterboxes	To front entry gatehouse – one per unit
Garage door	Selected colorbond metal with remote control
Roof	Selected colorbond metal
Landscaping	Soft landscape features incorporating turf, planting Beds, feature trees to approved landscape plan

### TYPICAL INTERNALS

Floors	Carpet to living area all bedrooms and robes Selected tiles to dining area all wet areas and elsewhere	
Walls	FC to wet areas Sound rated party walls to meet code requirements Painted plasterboard on studs to internal walls	
Ceilings	Painted flush set plasterboard with cornice	
Entry Door	Solid exterior grade door and frame with lever action	
Other Doors	Hollow core door. Gloss paint finish	
Door Furniture	Lever action handles or similar ( with privacy set to Main)	
Joinery	Kitchen Robes Skirtings Window Kitchen	Fully laminated bench tops and cupboards Sliding mirror doors to main bedroom. Hanging rod And overhead shelves. Vinyl sliders Moulded pine in selected gloss paint finish Moulded pine in selected gloss paint finish Selected tile splashbacks

### WHITEGOODS

Cooktop	selected electric stainless steel finish glass cooktop
Oven	selected electric stainless steel finish fan forced oven
Rangehood	selected pull out stainless steel rangehood
Dishwasher	Selected stainless steel dishwasher
Clothesline	Wall/Fence mounted folding clothesline fitted to exterior

### KITCHEN

Taps	Selected AAA rates chrome sink flick mixer
Sink	Stainless steel bowl 1.5 with drainer

## **Schedule of Finishes @ 165 Ann Street, Kallangur**

---

### BATHROOM AND ENSUITE

Tiling	Selected AAA rated fixed head mixer set
Shower	Exhaust fans as indicated on plans
Bath	Skirting tiles to all wet area (toilets, bathrooms ensuite)
Toilets	Powder coated shower screen with clear glass
Vanity	White acrylic bath tub
Accessories	Selected white vitreous china dual flush suite
	Selected vitreous china or polymarble bowl
	Quality chrome accessories to bathroom and toilet

### LAUNDRY

Taps	Selected AAA rated chrome taps
Laundry	Selected stainless steel tub with cupboard unit

### ELECTRICAL

Selected energy efficient fittings throughout
Circuit breakers and earth leakage system as required
Adequate GPO's – all doubles
Light switches and GPO to be white finish
2 x telephone outlets to each unit
2 x TV outlets with antenna to service each unit
Ceiling fans to all bedrooms
Split system reverse cycle air conditioner to living area

### HOT WATER

Heat Pump hot water system.

**Schedule 5 – INTENTIONALLY LEFT BLANK**

## Schedule 6 – Special Conditions

# Signing Page

## **Seller**

**EXECUTED BY** Blue Water (D Bay) Pty Ltd ACN 117 453 040 as trustee for the Blue Water (Kallangur) Unit Trust in accordance with section 127 of the *Corporations Act 2001* (Cth)

---

Sole Director

**EXECUTED BY** Blue Water (D Bay) Pty Ltd ACN 117 453 040 as trustee for the Blue Water (Kallangur) Unit Trust by its duly authorised signatory in accordance with section 126 of the *Corporations Act 2001* (Cth)

---

Authorised Signatory

---

Name

## **Section 165 *Property Occupations Act 2014* (Qld)**

**The Contract may be subject to a 5 business day statutory cooling-off period. A termination penalty of 0.25% of the Purchase Price applies if the Buyer terminates the Contract during the statutory cooling-off period. It is recommended the Buyer obtain an independent property valuation and independent legal advice about the Contract and his or her cooling-off rights, before signing.**

## **Buyer**

**EXECUTED BY** \_\_\_\_\_ in accordance with section 127 of the *Corporations Act 2001* (Cth)

---

Director/Sole Director

---

Director/Secretary

**Section 165 Property Occupations Act 2014 (Qld)**

**The Contract may be subject to a 5 business day statutory cooling-off period. A termination penalty of 0.25% of the Purchase Price applies if the Buyer terminates the Contract during the statutory cooling-off period. It is recommended the Buyer obtain an independent property valuation and independent legal advice about the Contract and his or her cooling-off rights, before signing.**

**Buyer**

SIGNED SEALED AND DELIVERED by \_\_\_\_\_ as Buyer in the presence of:

\_\_\_\_\_  
Witness

SIGNED SEALED AND DELIVERED by \_\_\_\_\_ as  
Buyer in the presence of:

\_\_\_\_\_  
Witness

**The Deposit Holder:**

- (a) Acknowledges having received the Initial Deposit and agrees to hold it and any Balance Deposit when received as Deposit Holder for the parties provided in this Contract; and
- (b) Accepts the benefit of any provisions in the contract expressed to be for the benefit of the Deposit Holder.

\_\_\_\_\_  
Deposit Holder

# **Disclosure statement**

Blue Water (D Bay) Pty Ltd  
ACN 117 453 040  
Blue Sky Kallangur – Stage 1

# Disclosure Statement – Blue Sky Kallangur

---

**TO:** The prospective buyer of proposed lot\_\_\_\_ (**Lot**) in ‘Blue Sky Kallangur’ Community Titles Scheme (**Scheme**)

**Buyer:** \_\_\_\_\_ (**you**)

**Buyer’s address:** \_\_\_\_\_  
\_\_\_\_\_

**FROM:**

**Seller:** Blue Water (D Bay) Pty Ltd ACN 117 453 040 as trustee (**us, we or our**)

**Seller’s address:** PO Box 746 Elsternwick VIC 3124

The following statements and documents are provided to inform you about the matters that may affect you as a prospective buyer.

---

<b>DOCUMENT IDENTIFICATION</b>	<b>DOCUMENT NAME</b>
Document 1	Statement pursuant to section 213 of the <i>Body Corporate and Community Management Act 1997</i> (Qld)
Annexure A	Proposed administration fund and sinking fund budget for the first 12 months of the Scheme
Annexure B	Schedule of contribution entitlements and interest entitlements, and estimated annual and weekly contributions
Annexure C	Body Corporate Management Agreement
Annexure D	Caretaking Agreement
Annexure E	Letting Agreement
Annexure F	Proposed First Community Management Statement for the Scheme
Annexure G	Survey Plan
Annexure H	Exclusive Use Plan
Annexure I	Drawings
Annexure J	Schedule of Finishes
Document 2	Power of Attorney Deed
Document 3	Power of Attorney Disclosure Statement
Document 4	Acknowledgement by Buyer

## Document 1 – First Statement – Stage 1

---

Blue Sky Kallangur

### **First Statement by the Seller to the Buyer required by section 213 of the *Body Corporate and Community Management Act 1997* (Qld)**

#### **TO:**

**Buyer:** \_\_\_\_\_ (you)

**Buyer's address:** \_\_\_\_\_  
\_\_\_\_\_

#### **FROM:**

**Seller:** Blue Water (D Bay) Pty Ltd ACN 117 453 040 as trustee (**us, we or our**)

**Seller's address:** PO Box 746 Elsternwick VIC 3124

We propose to enter into a contract with you (**Contract**) for the sale of proposed lot \_\_\_\_\_ (**Lot**) in "Blue Sky Kallangur" Community Titles Scheme (**Scheme**). The proposed lot is identified in the Contract. This Disclosure Statement forms part of that Contract.

We inform you in accordance with Section 213(2) of the *Body Corporate and Community Management Act 1997* (Qld) that:

<b>Lot:</b>	Proposed lot _____ ( <b>Lot</b> ) in "Blue Sky Kallangur" Community Titles Scheme ( <b>Scheme</b> ) as outlined or highlighted in the Disclosure Plan in Annexure G.
<b>Exclusive Use:</b>	Courtyard No. _____ and Carpark No. _____ as depicted in the plan in Annexure H of this First Statement.
<b>Date by which we must settle the Contract:</b>	5.5 years from the date of the Contract.
<b>Certificate of Title Representation:</b>	We state that neither we nor our agent has made any representation or promise in relation to the provision of a certificate of title for the Lot to you. We have represented that we will give you separate title to the Lot and will supply at settlement the documents referred to in clause 4 of the Contract.

<p><b>Contributions payable to the Body Corporate:</b></p>	<ul style="list-style-type: none"> <li>(a) The amount of annual contributions reasonably expected to be payable to the Body Corporate for the Scheme by you, as owner of the Lot is contained in Annexures A &amp; B of this First Statement.</li> <li>(b) The extent to which the amount of the annual contribution disclosed in (a) is based on the contributions schedule lot entitlements for the Lot is 100%.</li> <li>(c) The extent to which the amount of the annual contributions disclosed in (a) is based on the interest schedule lot entitlements for the Lot is 0%.</li> <li>(d) The contributions schedule lot entitlements, and interest schedule lot entitlements for the lots included in the Scheme are set out in the proposed community management statement contained in Annexure F of this First Statement.</li> </ul>
--	---

<b>Body Corporate contracts:</b>	<p>Details of the body corporate manager and all service contractors for the Scheme, currently engaged and proposed to be continued to be engaged after the establishment of the Scheme are as follows:</p> <ol style="list-style-type: none"> <li>1. <b>Body Corporate Manager</b> <ol style="list-style-type: none"> <li>(a) The Body Corporate for the Scheme has engaged Capitol Body Corporate Administration (Delray Pacific Pty Ltd ACN 086 838 066) (Capitol) on terms contained in the Body Corporate Management Agreement, which is Annexure C of this First Statement.</li> <li>(b) The cost of engagement of the Body Corporate Manager has been included in the proposed administration budget – see Annexure A of this First Statement.</li> <li>(c) The proportion of the cost you will bear for the engagement of the Body Corporate Manager for the first year following registration of the new CMS for the Scheme will be: <i>The cost disclosed for your proposed Lot in Annexure B of this First Statement</i></li> <li>(d) It is proposed that the Body Corporate for the Scheme will enter into further agreements with Capitol from time to time. The terms of these agreements will be substantially the same as the terms of the agreement contained in Annexure C of this First Statement.</li> </ol> </li> <li>2. <b>Caretaker</b> <ol style="list-style-type: none"> <li>(a) We will cause the Body Corporate for the Scheme to enter into an agreement with a caretaker to undertake caretaking services for the Scheme. The identity of the caretaker may not yet be known. However, we may elect to engage a caretaker that is an operator that is related to us.</li> <li>(b) The proposed terms of the engagement are set out in the Caretaking Agreement, which is Annexure D of this statement.</li> <li>(c) The cost of the engagement of the caretaker has been included in the proposed administration budget – see Annexure A of this First Statement.</li> </ol> </li> </ol>
----------------------------------	---

	<p>(d) The proportion of the cost you will bear for the engagement of the caretaker for the first year following the establishment of the Scheme, and pending the registration of the second stage will be:</p> <p><i>The cost disclosed for your proposed Lot in Annexure B of this First Statement</i></p> <p>3. <b>Letting Agreement</b></p> <p>(a) We will cause the Body Corporate for the Scheme to enter into an agreement with a letting agent to undertake letting services for the scheme. The identity of the letting agent may not yet be known. However, we may elect to engage a letting agent that is an operator that is related to us.</p> <p>(b) The proposed terms of the engagement are set out in the Letting Agreement, which is Annexure E to this First Statement.</p>
<b>Details of Body Corporate assets which it is proposed that the Body Corporate will acquire after the establishment of the Scheme:</b>	We will supply at our cost various assets after registration of the First CMS to the Body Corporate for the Scheme.
<b>Proposed First Community Management Statement for the Scheme:</b>	The proposed First Community Management Statement for the Scheme is Annexure F to this First Statement.
<b>Regulation Module proposed to apply to the Scheme:</b>	Accommodation Module.

Dated 19.05.2016



Signature of us

## **Annexure A – Proposed administration fund and sinking fund budget for the Scheme**

---

# Proposed budget

First financial year

Stage 1

BLUE SKY KALLANGUR CTS #

(21 Lots)

165 Ann Street, Kallangur QLD

<u>Administrative fund expenses</u>	\$
Accountants fee (preparation of tax return)	\$110.00
Audit fees	\$300.00
Bank fees and statutory charges	\$50.00
Caretakers remuneration	\$23,100.00
Caretaker's consumables	\$500.00
Community power (incl. deposit)	\$1,400.00
Insurance – property	\$7,600.00
Insurance – property & public liability	\$900.00
Management fee – body corporate manager	\$3,465.00
Postage & incidentals (body corporate manager)	\$1,386.00
Repairs & maintenance - buildings	\$500.00
Repairs & maintenance – electrical	\$500.00
Repairs & maintenance – general	\$500.00
Contingency	\$280.00
<b>TOTAL</b>	<b>\$40,591.00</b>

### Sinking fund

Provision for future capital expenditure (estimate only pending preparation of a sinking fund analysis by a suitably qualified person)

**\$8,400.00**

### Summary

Administrative fund contributions and sinking fund contributions are payable in accordance with the contribution schedule lot entitlements. The contributions towards the insurance premium for the building are based on the interest schedule lot entitlements. Both the contribution schedule lot entitlements and the interest schedule lot entitlements will be as per the schedule hereto.

Accordingly, upon registration of the building format plan for the development Stage 1 of 22 Lots, the lots will contribute to the amount of \$32,991.00 being the above administrative fund budget amount of \$40,591.00 (less the building insurance premium of \$7,600.00) and the sinking fund budget amount of \$8,400.00 in accordance with the contribution schedule lot entitlements. Lots 1 to 20 will contribute to the building insurance premium amount of \$7,600.00 in accordance with the interest schedule lot entitlement. Lot 400 is a standard format lot and will not contribute to the building insurance premium.

Based on the above budget and on the basis of the contribution and interest entitlements shown in the first community management statements for the development, as detailed above, the amounts payable by the owners will be:

Administrative fund contributions	\$1,571.00 per contribution schedule lot entitlement
Sinking fund contributions	\$ 400.00 per contribution schedule lot entitlement
Building Insurance premium	\$ 380.00 per interest schedule lot entitlement

The levy contributions will be payable by quarterly instalments, in advance.

#### **GST**

All of the estimated expenses shown in the budget are GST inclusive. It is not intended to register the body corporate for GST initially, although the body corporate will apply for an Australian Business Number immediately following registration of the scheme.

#### **Contingency**

This amount includes provision for any increased or unforeseen costs or charges or water charges billed directly to the body corporate by the local Council.

#### **Sinking fund contribution**

Pursuant to Section 139 of the Body Corporate and Community Management (Standard Module) Regulation 2008, the body corporate must adopt a sinking fund budget. This budget must allow for raising a reasonable capital amount to provide for necessary and reasonable spending from the sinking fund for the financial year, and also to reserve an appropriate proportional share of amounts necessary to be accumulated to meet anticipated major expenditure over at least the next nine years.

#### **Insurance**

The developer has the obligation for the first year's insurance for the complex, but it is entitled to recover that cost from the buyer of lots in the complex on a pro-rata basis at settlement. An estimated cost of insurance renewal for the building for the second year is included in the administrative fund budget.

#### **Lot entitlements**

The equality principle is the principle that has been used for deciding the contribution schedule lot entitlements for the lots included in this scheme.

The market value principle is the principle that has been used for deciding the interest schedule lot entitlements for the lots included in this scheme.

**Annexure B - Schedule of contributions entitlements and interest entitlements, and estimated annual and weekly contributions**

---

## **Levy Contributions**

The levy contributions payable by the individual lots for the first year following the registration of the scheme will be as set out in the following table.

<b>Lot #</b>	<b>Cont ent.</b>	<b>Int ent</b>	<b>Admin</b>	<b>Insurance</b>	<b>Sinking</b>	<b>Annual</b>
1	1	1	\$1,571.00	\$380.00	\$400.00	\$2,351.00
2	1	1	\$1,571.00	\$380.00	\$400.00	\$2,351.00
2	1	1	\$1,571.00	\$380.00	\$400.00	\$2,351.00
4	1	1	\$1,571.00	\$380.00	\$400.00	\$2,351.00
5	1	1	\$1,571.00	\$380.00	\$400.00	\$2,351.00
6	1	1	\$1,571.00	\$380.00	\$400.00	\$2,351.00
7	1	1	\$1,571.00	\$380.00	\$400.00	\$2,351.00
8	1	1	\$1,571.00	\$380.00	\$400.00	\$2,351.00
9	1	1	\$1,571.00	\$380.00	\$400.00	\$2,351.00
10	1	1	\$1,571.00	\$380.00	\$400.00	\$2,351.00
11	1	1	\$1,571.00	\$380.00	\$400.00	\$2,351.00
12	1	1	\$1,571.00	\$380.00	\$400.00	\$2,351.00
13	1	1	\$1,571.00	\$380.00	\$400.00	\$2,351.00
14	1	1	\$1,571.00	\$380.00	\$400.00	\$2,351.00
15	1	1	\$1,571.00	\$380.00	\$400.00	\$2,351.00
16	1	1	\$1,571.00	\$380.00	\$400.00	\$2,351.00
17	1	1	\$1,571.00	\$380.00	\$400.00	\$2,351.00
18	1	1	\$1,571.00	\$380.00	\$400.00	\$2,351.00
19	1	1	\$1,571.00	\$380.00	\$400.00	\$2,351.00
20	1	1	\$1,571.00	\$380.00	\$400.00	\$2,351.00
400	1	1	\$1,571.00	0.00	\$400.00	\$1,971.00
	<b>21</b>	<b>21</b>	<b>\$32,991.00</b>	<b>\$7,600.00</b>	<b>\$8,400.00</b>	<b>\$48,991.00</b>

## **Contributions to the caretaker's management agreement, the letting agreement and the body corporate manager's administration agreement**

Based on the above budget items for the caretaker's remuneration and the body corporate manager's fees and disbursements and on the basis of the contribution schedule lot entitlements shown in the first community management statements for the development, which are as detailed in the table appearing on the previous page, the amounts payable by the owners in year 1 will be:

Caretaker's remuneration	\$ 1,100.00 per lot (including GST)
Letting agreement	\$ 0.00 per lot
Body corporate manager	\$ 231.04 per lot (including GST)

The body corporate does not make any payment to the contractor under the letting agreement, so accordingly there is no contribution by the individual owners towards a body corporate expense under that agreement.

## **Annexure C - Body Corporate Administration Agreement**

---



## *Administration Agreement Engagement of a Body Corporate Manager*

*For use by SCA (Qld) members with a Practicing Certificate*

This Agreement is made this \_\_\_\_\_ day of \_\_\_\_\_ 2016.

The Body Corporate for **BLUE SKY KALLANGUR CTS#**

Of **165 Ann Street, Kallangur, Qld.**

and

**CAPITAL STRATA MANAGEMENT (REDCLIFFE) PTY LTD** (hereinafter called "the Manager") of the other part.  
ABN 91 606 976 121 of 5/77 Redcliffe Parade, Redcliffe Qld 4032 (PO Box 1020, Redcliffe Qld 4020).

### **ABOUT THIS AGREEMENT**

This Agreement is produced by the Strata Community Australia (Queensland) Limited (SCA (QLD)). It provides for the engagement of a body corporate manager by a body corporate.

This Agreement may only be used by body corporate managers holding a *Practicing Certificate* issued by SCA (QLD).

Under this Agreement, the Body Corporate appoints the Manager as the body corporate manager for the Scheme.

### **TERMINATION OF THE AGREEMENT**

This Agreement is a binding legal document. The engagement of the body corporate manager may be terminated only in accordance with Clause 12.

### **TERM, OPTIONS AND PRICES**

This Agreement may be for a term of up to three years (including options) - See Clause 3.

All costs expressed in dollar (\$) terms exclude any applicable GST - See Clause 14

### **SPECIAL CONDITIONS TO THE AGREEMENT**

Any special conditions to this Agreement appear in Item K.

### **COPYRIGHT AND REPRODUCTION**

The copyright in this Agreement is owned by SCA (QLD). Only a Manager who holds a current *Practicing Certificate* issued by SCA (QLD) or other person authorised in writing by the board of SCA (QLD) may use this Agreement or reproduce it (including scanned copies for electronic archival). In all other cases reproduction, including retyping, of the agreement is prohibited without prior written consent of SCA (QLD).

### **FURTHER ADVICE**

Body corporate managers and others seeking to use this Agreement should consider seeking independent legal advice if questions exist concerning any provisions contained within the agreement.

**Capitol**  
BODY CORPORATE ADMINISTRATION

T 1300 55 10 19

F 07 3622 3999

[www.capitolbca.com.au](http://www.capitolbca.com.au)



## STANDARD CONDITIONS

### 1. INTRODUCTION

- 1.1 All words having a defined meaning in the Act have the same meaning in this Agreement (unless the context otherwise requires).
- 1.2 In this Agreement, terms in bold in the Reference Schedule have the meanings shown opposite them.
- 1.3 Unless the context otherwise permits -
  - (1) "Act" means the *Body Corporate and Community Management Act (Qld) 1997*;
  - (2) "Additional Services" means those services stated in Item G of the Reference Schedule;
  - (3) "Agreed Services" means those services stated in Item F of the Reference Schedule;
  - (4) "Authorised Powers" means all those powers of the executive committee members of the Body Corporate that are capable of exercise by a body corporate manager under the Act unless otherwise amended or excluded under the Special Conditions to this Agreement;
  - (5) "Committee" means the committee chosen by the Body Corporate at each annual general meeting;
  - (6) "CPI" means the Consumer Price Index (All Groups) for Brisbane as published by the Australian Bureau of Statistics;
  - (7) "SCA (QLD)" means the Community Titles Institute Queensland Limited ACN 010 517 923;
  - (8) "Disbursements" means the disbursements listed in Item E.
  - (9) "Module" means the regulation module of the Act applying to the Scheme from time to time, which at the commencement of this Agreement is the module referred to in Item J;
  - (10) "Reference Schedule" means the reference schedule annexed to this Agreement;
  - (11) "Review Date" means each anniversary of the commencement date of this Agreement;
  - (12) "Scheme" means the community title scheme for which the Body Corporate is the body corporate;
  - (13) "Special Conditions" means the special conditions noted in Item K of the Reference Schedule;
  - (14) "Standard Conditions" means the standard condition applying to this Agreement;
  - (15) "Term" means the term set out in Item A.

1.4 A reference to an Item is a reference to the applicable Item in the Reference Schedule.

1.5 This Agreement comprises the -

- (1) Reference Schedule;
- (2) Standard Conditions; and
- (3) any Special Conditions.

1.6 Where there is any inconsistency between any Special Condition to this Agreement and the Standard Conditions, the Special Condition prevails.

### 2. WHAT IS THIS AGREEMENT?

- 2.1 The Body Corporate appoints the Manager as the body corporate manager for the Scheme and the Manager accepts the appointment.
- 2.2 The Manager is engaged by the Body Corporate (as an independent contractor and not as an employee of the Body Corporate) to supply administrative services (comprising the Agreed Services and the Additional Services where applicable) to the Body Corporate.
- 2.3 The parties acknowledge and agree that the appointment of the manager is not an engagement of the Manager under Part 3 Division 10 of the Module.
- 2.4 For the avoidance of doubt, the Body Corporate acknowledges and agrees that this Agreement is not a property maintenance agreement and that the Manager is not required under this Agreement to carry out any property maintenance for the Scheme.

### 3. WHAT IS THE TERM OF THIS AGREEMENT?

3.1 The Manager is appointed for the Term.

### 4. WHAT ARE THE DUTIES OF THE MANAGER UNDER THIS AGREEMENT?

- 4.1 The Manager must supply the Agreed Services stated in Item F to the Body Corporate in accordance with the terms of this Agreement..
- 4.2 The Manager may supply the Additional Services stated in Item G to the Body Corporate at the Body Corporate's request.
- 4.3 During the Term, the Manager shall have the custody of the common seal of the Body Corporate.
- 4.4 The Manager will at all times comply with:
  - (1) the Act;
  - (2) the Module;
  - (3) the code of conduct in the Act applying to body corporate managers; and
  - (4) the *Code of Ethical Conduct* published by SCA (QLD).



- |  |   |
|--|---|
| <p>4.5 The Body Corporate will use its best endeavours to ensure the voting committee members at all times comply with the code of conduct in the Act applying to voting committee members.</p> <p><b>5. WHAT ARE THE AUTHORISED POWERS OF THE MANAGER?</b></p> <p>5.1 The Body Corporate authorises the Manager to exercise the Authorised Powers.</p> <p>5.2 The Manager must only exercise the Authorised Powers to facilitate the performance of the Agreed Services or any Additional Services.</p> <p>5.3 The Manager is not under any obligation to exercise the Authorised Powers except to facilitate the performance of the Agreed Services and the Additional Services.</p> <p>5.4 Without limiting clause 5.2, the Manager is specifically authorised to administer funds controlled by the Body Corporate.</p> <p>5.5 The Body Corporate, in writing, may revoke part or all of the authorisation granted under clause 5.1 at any time by notice in writing to the Manager.</p> <p>5.6 The authorisation given by the Body Corporate to the Manager to exercise the Authorised Powers under this clause 5 does not:</p> <ul style="list-style-type: none"> <li>(1) make the Manager responsible for performing the statutory functions of the Body Corporate or the Committee;</li> <li>(2) relieve the Body Corporate or the Committee of their statutory functions.</li> </ul> <p>5.7 The Body Corporate specifically authorises the Manager to:</p> <ul style="list-style-type: none"> <li>(1) obtain quotations for insurances required to be effected by the Body Corporate under the Act or the Module;</li> <li>(2) effect, on behalf of the Body Corporate, the insurances required to be effected and maintained by the Body Corporate under the Act or the Module;</li> <li>(3) pay insurance premiums from the Body Corporate's funds; and</li> <li>(4) submit insurance claims to the Body Corporate's insurers.</li> </ul> <p><b>6. HOW IS THE MANAGER TO BE PAID?</b></p> <p>6.1 The Body Corporate must pay the Manager:</p> <ul style="list-style-type: none"> <li>(1) for the performance of the Agreed Services – the fee stated in Item B;</li> <li>(2) for the performance of the Additional Services – the fees stated in Item C; and</li> </ul> | <p>(3) an amount for any Disbursements associated with the provisions of the Agreed Services or the Additional Services.</p> <p>6.2 The Manager may –</p> <ul style="list-style-type: none"> <li>(1) charge the Body Corporate for Disbursements at the rates stated in Item E for the Agreed Services and Additional Services (which may include a margin above cost to the Manager);</li> <li>(2) keep fees received by it for:           <ul style="list-style-type: none"> <li>(a) information which the Manager must supply about the Body Corporate under the Act or the Module (eg, an information certificate under section 205 of the Act);</li> <li>(b) services supplied at the request of lot owners (g, information required to prepare a disclosure statement under section 206 of the Act); and</li> </ul> </li> <li>(3) retain commissions paid to it by the providers of services to the Body Corporate as disclosed in Item I.</li> </ul> <p>6.3 The Body Corporate must pay any account rendered by the Manager for fees or Disbursements under this Agreement within 14 days of receipt of the account.</p> <p>6.4 When the Term is greater than one (1) year, the Body Corporate agrees that on each anniversary of the commencement date of this Agreement the Manager may increase the fee for the Agreed Services by the fixed percentage increase stated in Item D or by the following formula:</p> $\text{A} \times \frac{\text{B}}{\text{C}}$ <p><b>where:</b></p> <p><b>A</b> is the fee payable for the year immediately prior to the Review Date;</p> <p><b>B</b> is the CPI determined for the quarter ending immediately prior to the Review Date;</p> <p><b>C</b> equals the CPI determined for the quarter ending immediately prior to commencement of the year last concluded.</p> <p>6.5 The Body Corporate agrees that the fees and charges payable for the Additional Services and Disbursements may be increased by the Manager on 1 July each year following commencement of this Agreement and the Body Corporate must pay the increased fees and charges by the Manager at the reviewed rate from time to time.</p> |
|--|---|



**7. HOW DOES THE BODY CORPORATE GIVE INSTRUCTIONS TO THE MANAGER?**

7.1 The Body Corporate must nominate a person to communicate with the Manager on behalf of the Body Corporate (the Nominee). In the event that no person is nominated by the Committee, the chairperson of the Committee is taken to be the Nominee.

7.2 The Body Corporate may replace the Nominee by written notice to the Manager.

**8. DISCLOSURE OF ASSOCIATES**

8.1 If the Body Corporate proposes to enter into a contract with a provider of goods and services and that provider is an associate of the Manager, then the Manager must disclose the relationship to the Body Corporate:

- (1) if the Manager is aware of the proposed contract then before the contract is entered into; or
- (2) otherwise as soon as it becomes aware that the contract is being entered into.

8.2 The Manager discloses that at the commencement of this Agreement it is associated with the providers of goods and services stated in Item H.

8.3 Where the Manager has an arrangement with the provider of goods or services, and the Manager is entitled to receive a commission if the Body Corporate enters into a contract with that provider, then:

- (1) the details of any existing arrangement between the manager and the provider as at the commencement of this Agreement are disclosed in Item I; or
- (2) for a new arrangement entered into after the commencement of this Agreement - the Manager must disclose to the Body Corporate the details of that arrangement before accepting any commission from the provider.

8.4 With the exception of any arrangement disclosed by the Manager as described in clause 8.3, the Manager must not, without the prior consent of the Body Corporate receive any commission from any contractor or supplier because the Body Corporate entered into an agreement with the contractor or supplier.

**9. INDEMNITY BY THE BODY CORPORATE**

9.1 The Body Corporate:

- (1) releases the Manager (to the extent permitted by law) from any claim, action or liability; and
- (2) indemnifies the Manager against any damages, losses, liabilities, costs, expenses or claims incurred by the Manager (including the Manager, without any fault on its part, being made a party to any litigation commenced by or against the Body Corporate);

arising out of or in connection with:

- (3) the exercise or performance of the Manager's rights and obligations under this Agreement;
- (4) the relationship between the Manager and the Body Corporate; or
- (5) the Manager being the manager for the Scheme.

**10. BODY CORPORATE WARRANTY**

10.1 The Body Corporate warrants it has validly passed any necessary resolutions required to enable it to enter into this Agreement or give any authorization under it.

**11. WHAT ARE THE CONDITIONS FOR TRANSFER OF THIS AGREEMENT?**

- 11.1 This Agreement may be transferred by the Manager if the Body Corporate approves the transfer.
- 11.2 The Body Corporate's approval of any transfer of the Manager's interest in this Agreement must be in accordance with the transfer provisions of the Module and the Act.

**12. WHAT ARE THE CONDITIONS FOR TERMINATING THIS AGREEMENT?**

- 12.1 Either party may terminate this Agreement in accordance with the Act and/or the Module.
- 12.2 The Manager may terminate this Agreement at any time and for any reason by giving 60 days written notice to the Body Corporate.
- 12.3 If the Body Corporate fails to pay the Manager any amount owing to it under this Agreement and the failure continues for a period of 14 days after notice of the failure is given to the Body Corporate by the Manager, then the Manager may terminate this Agreement by giving 30 days written notice to the Body Corporate.

**13. HAND OVER OF BODY CORPORATE RECORDS**

- 13.1 On expiry or earlier termination of this Agreement, the Manager must deliver to the Body Corporate its seal and the records and other documents in accordance with the Act and the Module.
- 13.2 The Manager acknowledges that it does not have a lien over the seal and the records and other documents of the Body Corporate.



#### **14. GOODS AND SERVICES TAX**

- 14.1 For the purposes of this clause, a goods and services tax ("GST") means any tax imposed by any government or regulatory authority which is a tax on goods and services, a tax on consumption, a value-added tax or any similar impost.
- 14.2 Unless GST is expressly included, any fee or consideration expressed to be payable by the Body Corporate under any part of this Agreement does not include any GST that may be payable on the supply for which the fee or consideration is paid.
- 14.3 The Body Corporate must pay to the Manager, in addition to any fee or consideration payable for the Agreed Services, Additional Services or Disbursements, any additional amount of GST payable on the supply of those services.
- 14.4 The Body Corporate and the Manager agree to do all things, including providing tax invoices and other documentation, necessary or desirable to assist the other in claiming any input tax credit, adjustment or refund for any GST payable under this Agreement.

#### **15. MISCELLANEOUS**

- 15.1 Any notice required to be given or served by either party to this Agreement shall be given or served in the same manner as is provided for in the *Property Law Act (Qld) 1974*.

15.2 If anything in this Agreement is unenforceable, illegal or void then it is severed and the rest of this Agreement remains in force unless the basic purposes of this Agreement would be defeated by severance of the offending provision. This Agreement shall be governed and construed with reference to the laws in force in the state of Queensland.

---

© Copyright 2007 - SCA (QLD) Limited  
Agreement Version - June 2007  
Must be reproduced in its complete  
and unaltered state.

**THIS SECTION INTENTIONALLY BLANK**



### REFERENCE SCHEDULE

#### ITEM

#### A. TERM (clause 3)

Three (3) years and 0 months commencing on \_\_\_\_\_ Date  
 and ending on \_\_\_\_\_ Date  
 Does the Manager hold a SCA (QLD) Practising Certificate  YES  NO  
 Does the Manager have professional indemnity insurance?  YES  NO  
 If so, how much? ..... \$ 5,000,000

#### B. FEES FOR AGREED SERVICES

The fee for Agreed Services shall be \$ 150.00  
 Per registered lot in the scheme  
 per annum payable in advance on the basis indicated right: Quarterly

#### C. ADDITIONAL FEES

**Hourly Rates**  
 Accountant \$ ..110.00 per hour  
 Administrative Staff \$ ....55.00 per hour  
 Capitol Consulting Fees \$ ..185.00 per hour  
 Community Relationship Manager (CRM) \$ ...125.00 per hour  
 Director(s) / General Manager \$ ..150.00 per hour  
**Additional Meetings**  
 Extraordinary General Meetings \$ 125.00 per hour  
 Additional Committee Meetings \$ ..125.00 per hour  
 Voting Outside Committee Meetings} \$ ..... Hourly Rates  
 ("Flying Minutes & Resolutions") } Minimum \$ ... 95.00  
 Adjourned General Meetings \$ .... Hourly Rates  
 Minimum \$ 100.00  
**Matters of a Legal Nature**  
 Arranging for Lodgement of Documents At Dept of Natural Resources & Mines \$ ..... Hourly Rates  
 Preparation of Application / Submission To Commissioner's Office \$ ..... Hourly Rates  
 Liaison with Lawyers or Other professionals \$ ..... Hourly Rates  
 Distributing Land Valuation Notices \$ ..... 45.00 each  
**Traveling Expenses**  
 Traveling Time per hour \$ ..... Hourly Rates  
 Is the Hourly Rate applicable to travel to and from AGM's & Committee meetings?  YES  NO  
 Traveling per kilometer per ATO Rates

#### Tax Returns & Application Fees

Tax File Number Application \$..... 75.00

Collating Data for Tax Returns  
 02 to 10 lots \$ 75.00 per Tax Return  
 11 to 30 lots \$120.00 per Tax Return  
 31 to 100 lots \$180.00 per Tax Return  
 101 lots to over \$300.00 per Tax Return

Preparation & Lodgment of Tax Return .....no charge

**GST Compliance**  
 ABN & GST Registration \$..... 75.00

ATO – Application Change Details \$..... 20.00

BAS Preparation Fee (per Return) \$.....200.00

IAS Return (Instalment Activity Statement) \$..... 50.00

**Audit Fees**  
 Independent Auditor Actual cost as invoiced

Capitol Audit Preparation Fees  
 02 to 10 lots \$..... 65.00  
 11 to 30 lots \$.....125.00  
 31 to 100 lots \$.....175.00  
 101 lots to over \$.....300.00

Obtaining Bank Audit Confirmation Advice \$ ..... 15.00 each

**Special Levies & On-charging to Lot Owners**  
 Special Levies Set Up (2 to 5 lots) \$..... 25.00 each  
 Special Levies Set Up (6 lots & over).... \$.....5.00 per lot  
 Maximum \$125.00

Billing of Utilities to Lot Owners \$.. 9.00 per Invoice

Billing of Other On-Charges to Lot Owners \$12.00 per Invoice

On-Charging to Non-Lot Owners \$.....Hourly Rate

**Workers Compensation & WH & S Returns**  
 Workers Compensation Returns \$..... 50.00

Workplace Health & Safety return \$..... 40.00

**Debt Collection Service Fee**  
 Second Reminder Notice \$..... 40.00  
 Final Reminder Notice \$..... 40.00  
 Capitol Letter of Demand \$..... 45.45

Liaison with Debt Collectors & Lawyers \$.....Hourly Rates

**(The above fees are all charged to the Owner's account)**

**Maintenance Coordination**  
 (Opt In) Maintenance Coordination Fee \$.....25.00 per lot  
 Obtaining quotes \$.....45.00 each  
 Work Orders \$ .....45.00 each  
 Maintenance Coordinator \$.... 90.00 per hour

(Opt Out) Maintenance Coordination Fee \$ .....nil  
 Obtaining Quotes \$.....90.00 each  
 Work Orders \$ .....90.00 each  
 Maintenance Coordinator \$ . 180.00 per hour

#### D. FIXED PERCENTAGE INCREASE

The percentage increase is whichever is greater CPI or 4%



## E. DISBURSEMENTS

The Disbursements rates for the

Agreed Services [F]

Option (a)  \$ 60.00  
 Fixed Per Lot per Annum

OR

Option (b)  cost per item

Please note: Options (a) and (b) are in relation to the agreed services in this contract. Any work that is conducted by Capitol which is outside of the agreed services is deemed additional and will be charged by Capitol as Cost per item and Additional Disbursements as outlined below.

=====

Disbursements for the  
Additional Services

Cost per Item

=====

**Cost Per Item**

**Printing & Photocopying**

Photocopying (A4):	\$ ..... 0.40 per page, per side \$ ... 1.00 per sheet
Labels (20 per sheet)	\$ ..... 0.45 each
With Compliments Slip	\$ ..... 1.20 each
Cheques, Remittance	\$ ..... 1.00 each
EFT's & Remittance	\$ ..... 1.00 each
Levy Notices	\$ ..... 1.00 each

**Postage**

Postage (Standard within Aust)	..... at cost
Express Post (C5)	..... at cost
Express Post (A4)	..... at cost

**Envelopes**

- Ballot	\$ ..... 1.10 each
- Small	\$ ..... 0.30 each
- DL (110 x 220)	\$ ..... 0.30 each
- C5 (162 x 229)	\$ ..... 0.45 each
- C4 (229 x 324)	\$ ..... 0.55 each
- C3 (324 x 458)	\$ ..... 1.10 each

**ADDITIONAL DISBURSEMENTS**

The Additional Disbursements hereunder are applicable regardless of whether the Body Corporate pays for Disbursements on a Flat Rate per Lot basis or a Cost per Item basis. These Additional Disbursements are charged on a User Pays basis.

**Telephone**

Local calls:	\$ ..... 0.40 per call
STD:	\$ ..... 0.50 per minute
ISD	\$ ..... 2.00 per minute
Mobile	\$ ..... 1.00 per minute

**Facsimile**

Local & Interstate: (outgoing & incoming)	\$.....1.10 per page
--	----------------------

International (outgoing)	\$.....5.00 per page
--------------------------	----------------------

International (incoming)	\$.....1.10 per page
--------------------------	----------------------

<b><u>Emails</u></b>	\$..... 1.00 per email
----------------------	------------------------

**Storage**

Archive Fees for paper records	\$ 20.00 per box pa
Archive Retrieval	..... at cost
Binders large	\$..... 10.00 each
Electronic Archiving	\$..... 10.00 per qtr
Electronic Data Discs	\$..... 5.00 each
Dividers	\$..... 6.50 each
Manilla Folders Plain	\$..... 0.55 each
Manilla Folders Colour	\$..... 1.05 each
Plastic Inserts	\$..... 0.35 each
Set Up folders fee	\$..... 25.00 per set
Suspension Files	\$..... 0.55 each

**Miscellaneous**

Accounting Fee - Software Licence	\$..... at cost
-----------------------------------	-----------------

Building Status Report 2 to 6 lots	\$.....5.00 per mth
Building Status Report 7 & over	\$.....10.00 per mth

Common Seal	\$..... 30.00 each
-------------	--------------------

Courier	\$..... 15.00 each
---------	--------------------

Dishonored Cheque	\$..... 15.00 each
-------------------	--------------------

Owner Information Pack	\$..... 15.00 each
------------------------	--------------------

Set up of Term deposit	\$.....25.00 each
------------------------	-------------------



## F. AGREED SERVICES

The agreed services are as follows:

### Secretarial

- Convene and/or attend the Annual General Meeting up to the number of hours: Two (2)
- Call nominations for the position of executive and ordinary members of the Committee.
- Prepare and distribute the notice of annual general meeting and ancillary documentation.
- Record and distribute minutes of annual general meeting.
- Prepare and distribute notices for committee meetings based upon the following number of meetings: Two (2)
- Attend Committee Meetings based upon the following number of meetings: Two (2)  
and up to the following number of hours per meeting: Two (2)
- Record and distribute the minutes of committee meetings based upon the following number of meetings : Two (2)
- Arrange for the appointment of a returning officer.

*The engagement of the returning officer will be an additional expense to the Body Corporate (if required for a general meeting).*

### Financial

- Open, maintain and operate a bank account for the administrative fund and the sinking fund.
- Prepare a statement of accounts for each financial year.
- Prepare a draft budget for each financial year.
- Issue notices to lot owners for payment of contributions.
- Receipt and bank levies.
- Process and pay accounts.
- Prepare financial records and statements as required by the Regulations for the Module stated in Item J.

### Administrative

- Organise renewal quotations for insurance renewals if requested by the committee at least one month before the renewal date is due.
- Pay insurance premiums on or before the due date.
- Establish and maintain the roll and registers
- Maintain and keep records
- Make available the records for inspection

### Other agreed services:

- Annual follow up with Owners to update Roll information
- Subject to Special Condition 5, to assist with the processing of insurance claims

## G. ADDITIONAL SERVICES

- Any Agreed Services required to be undertaken outside of normal business hours
- Preparation of notice of meeting, distribution of minutes and attendance at meetings in excess of those stated as an Agreed Service
- Any reasonable and lawful request by the Body Corporate which is not stated as an Agreed Service
- Prepare and distribute other levy notices (e.g. utility on-charging notices)
- Advice provided to and communications with individual lot owners
- Liaison with independent contractors
- Processing of insurance claims where insurance has been arranged through an insurer other than an underwriter or broker from whom the Manager receives a commission
- Process employee costs such as payroll, superannuation and employee related expenses for any Body Corporate employees
- Recoding of Body Corporate expenses
- Assisting the Body Corporate in the application and enforcement of its by-laws
- Preparing and answering non-routine written communications
- Any matters to do with collecting overdue or unpaid contributions.
- Any matters to do with collecting non receipt of change of ownership or change of address details as per statutory requirements.

Charges relating to overdue contributions and non receipt of change of ownership or address details are on charged to the respective lot.

- 
- 
- 
- 
- 
- 
- 
-



## H. DISCLOSURE OF ASSOCIATES

Providers that are associates of the Manager and the nature of the relationship.

Name of Company:

Relationship:

## I. DISCLOSURE OF COMMISSIONS

Providers of services that pay a commission to the Manager

Name of Company: CHU Underwriting Agencies Pty Ltd

Commission Details: 20% of the Insurance Premium paid for Residential Business and 17.5% for Commercial Business.

Name of Company: Strata Unit Underwriters Pty Ltd

Commission Details: 20% of the Insurance Premium paid for Residential Business and 17.5% for Commercial Business.

Name of Company: Body Corporate Brokers

Commission Details: Up to 15% of the insurance premium paid for Residential Business and 10% for Commercial Business.

Name of Company: Amicus Insurance Services

Commission Details: 10% of the Insurance Premium paid for Residential Business and 10% for Commercial Business

Name of Company: Strata Community Insurance Agencies Pty Ltd

Commission Details: 20% of the Insurance Premium paid for Residential and 15% for Commercial Business

Name of Company: Honan Insurance Group Pty Ltd

Commission Details: Up to 15% of the insurance premium paid for Residential Business and 10% for Commercial Business.

Name of Company: Solutions IE Pty Ltd / Solutions in Fire

Commission Details: 20% of the fee paid by the Body Corporate

Name of Company: Quality Building Maintenance Pty Ltd

Commission Details: 20% of the fee paid by the Body Corporate

Name of Company: Phillips Safety Service

Commission Details: 20% of the fee paid by the Body Corporate

Name of Company: Asset Economics

Commission Details: 20% of the fee paid by the Body Corporate

## J. RELEVANT MODULE

Standard

Commercial

Accommodation

Small Schemes

## K. SPECIAL CONDITIONS (INCLUDING AMENDMENTS TO THE STANDARD CONDITIONS)

1. Without in any way limiting the indemnity contained in clause 9, the Body Corporate agrees that nothing in this Agreement will render the Manager liable to the Body Corporate for the non-performance of the Manager's obligations under this Agreement where such non-performance arises from the failure of the Body Corporate to make the appropriate decision or have sufficient moneys to enable the Manager to carry out its obligations under this Agreement.

2. To remove any doubt, the Manager's entitlement to charge the Body Corporate for Disbursements at the Cost per Item Rate in relation to Additional Services pursuant to clause 6.2(1) shall apply to this Agreement even if the Disbursements for the Agreed Services are charged at a Flat Rate per Lot

3. To remove any doubt, the Manager is only required to perform the Agreed Services during normal business hours, however the Manager may attend General Meetings and Committee meetings outside those hours on Monday to Saturday, by prior mutual agreement with the Body Corporate including agreement to pay the Manager's fee for such Additional Services.

4. The Body Corporate acknowledges that the Manager's office will be closed from 23 December in each year until the second Monday in January in the following year.

5. The Manager shall not charge the Body Corporate any Insurance Claim Processing fee where the Manager has received a commission from either the Underwriter or an Insurance Broker in relation to the Body Corporate's insurances, but in any case where no such commission was received, then the fee shall be calculated in accordance with the hourly rates specified above.

6. Wherever possible, the Manager's fee structure is based on the user pays principle. The Body Corporate is only charged for those services that are applicable to it. In a number of instances, e.g. the obtaining of quotes, the fee payable to the Manager will not apply, if the committee obtains such quotes.



*Administration Agreement*  
*Engagement of a Body Corporate Manager*

*For use by SCA (Qld) members with a Practicing Certificate*

THE COMMON SEAL of the Body Corporate for:

**BLUE SKY KALLANGUR CTS #**

was affixed pursuant to an ordinary resolution of the  
Body Corporate in the presence of:

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Designation e.g. Chairperson/Secretary/Treasurer)

\_\_\_\_\_  
(Date)

Number of Lots: Fifty-three (53)

SIGNED by  
An Authorised Officer for and on Behalf of  
CAPITOL STRATA MANAGEMENT (REDCLIFFE)  
PTY LTD  
In the presence of:

Per: Authorised Officer

## **Annexure D – Caretaking Agreement**

---

## **BODY CORPORATE SERVICE CONTRACTORS AGREEMENT**

### **DATE:**

### **PARTIES**

1. **BODY CORPORATE FOR BLUE SKY KALLANGUR COMMUNITY TITLE SCHEME #####**  
of C/- Capitol Body Corporate Administration, 5/77 Redcliffe Parade, Redcliffe Queensland 4020  
("Body Corporate")
2. **##### of #####**  
("Service Contractor")

### **RECITALS:**

- A. The Body Corporate and Community Management Act 1997 ("Act") imposes on the Body Corporate a responsibility to control, manage and administer the Common Property.
- B. The Body Corporate has resolved to appoint the Service Contractor to perform various management, maintenance and other services for the Body Corporate.
- C. The Service Contractor has agreed to accept appointment upon the terms set out in this Agreement.

### **OPERATIVE PART:**

### **TERMS:**

#### **1. INTERPRETATION**

- 1.1 The following words and expressions shall have the following meanings respectively assigned to them, namely:

**"By-laws"** means the by-laws for the Scheme;

**"Building"** means any buildings contained in the Blue Sky Kallangur Community Titles Scheme including all uses and areas contained within and around the building;

**"CMS"** means the Community Management Statement in effect from time to time;

**"Committee"** - the committee of the Body Corporate constituted under the Act;

**"Common Property"** - so much of the scheme land as is not comprised in any lot in the Scheme;

**"Market Adjustment Dates"** – the dates that are the 5<sup>th</sup>, 10<sup>th</sup>, 15<sup>th</sup> and 20<sup>th</sup> anniversaries of the Commencement Date;

**"Market Remuneration"** – such remuneration as shall be determined by a person as agreed by

the parties or in the absence of such agreement within 30 days after the date when the reviewed remuneration is to apply from, then as determined by a person appointed by the President for the time being of the Australian Resident Accommodation Managers Association Inc which person must be experienced in reviewing or determining remuneration payable to persons in similar positions to the Service Contractor (which person conducting the determination is called "the Reviewer"), as being the appropriate remuneration payable to the Service Contractor having regard to:

- A. the terms and conditions of this Agreement including without limitation the Service Contractor's Duties;
- B. the time taken to perform the Service Contractor's Duties;
- C. the time that the Service Contractor is or is required to be available in relation to the performance of the Service Contractor's Duties;
- D. an appropriate hourly rate for the performance of the Service Contractor's Duties; and
- E. the extent to which the Reviewer considers appropriate, the remuneration payable to other persons in similar positions to the Service Contractor.

**"Original Proprietor"** - means Blue Water (D Bay) Pty Ltd ACN 117 453 040 as Trustee for the Blue Water (Kallangur) Unit Trust

**"Property"** - all of the Land and improvements erected thereon comprising the Scheme (excluding where the context so requires the interior of Lots);

**"Related Persons"** -

- (i) in respect of a corporation, the corporation's directors and principal shareholders;  
or
- (ii) in respect of a partnership, the partners of the partnership;

**"Representative"** - the person appointed by the Committee from time to time pursuant to Clause 9;

**"Scheme"** – Blue Sky Kallangur Community Titles Scheme;

1.2 In this Agreement, unless a contrary intention appears:

- (a) the Schedules to this Agreement form part of this Agreement;
- (b) words denoting the masculine include the feminine and vice versa;
- (c) words importing the singular shall include the plural and vice versa;
- (d) reference to persons include corporations;
- (e) headings are for reference purposes only and do not form part of this Agreement;
- (f) reference to any statute is as amended or replaced from time to time;

- (g) unless otherwise defined in this Agreement, words and expressions defined in the Act to have a particular meaning shall have that meaning when used in this Agreement.
- 1.3 This Agreement shall bind the administrators, executors, successors and permitted assigns of each party to this Agreement.
- 1.4 Every agreement or obligation expressed or implied in this Agreement by which two or more persons agree to be bound, binds such persons jointly, and each of them severally, and every provision expressed or implied in this Agreement which applies to two or more persons applies to such persons jointly and each of them severally.

## **2. APPOINTMENT OF SERVICE CONTRACTOR**

- 2.1 The Body Corporate appoints the Service Contractor as the service contractor of the Scheme. This appointment shall (subject to the Act) continue for a term of 25 years commencing on the day of and expiring on the day of (“Term”). The Service Contractor accepts the appointment subject to the provisions of this Agreement.
- 2.2 The Service Contractor is not appointed as a Body Corporate Manager.

## **3. REMUNERATION**

- 3.1 In consideration of the due and punctual performance by the Service Contractor of its duties, the Body Corporate shall pay to the Service Contractor the remuneration described in the First Schedule.
- 3.2 If the supply of the Service Contractor’s Duties under this Agreement is a supply under A New Tax System (Goods and Services Tax) Act 1999 (“GST Act”), the Body Corporate must pay to the Service Contractor in addition to the remuneration, a further amount equal to the remuneration multiplied by the statutory rate GST (as defined in the GST Act) prevailing at the time of payment.

## **4. STAFF & ANNUAL LEAVE**

- 4.1 The Service Contractor may, for temporary purposes only, appoint a person to act as service contractor of the Scheme (“the Alternate Service Contractor”). The Service Contractor shall not appoint an Alternate Service Contractor without the written approval of the Committee which approval shall not be unreasonably withheld. The Alternate Service Contractor must satisfy the Committee that they are of good character and will be capable of discharging the duties and obligations of the Service Contractor.
- 4.2 The Service Contractor may perform any of its duties or obligations through the Alternate Service Contractor. The Service Contractor shall be solely responsible for any remuneration payable to the Alternate Service Contractor. The Service Contractor at all times shall be responsible to ensure that the Alternate Service Contractor carries out the duties of the Service Contractor.
- 4.3 The Service Contractor will be entitled to four (4) weeks leave per annum. In the Service

Contractor's absence it must temporarily appoint an alternative service contractor to carry out the Service Contractor's duties under this Agreement

## **5. DUTIES**

- 5.1 The Service Contractor shall carry out and discharge the duties set out in the Second Schedule. Where the Service Contractor is a natural person those duties shall be performed by the Service Contractor personally or under the supervision of the Service Contractor by an assistant to the Service Contractor. Where the Service Contractor is a corporation the Service Contractor must ensure that an adequate number of its employees, officers, servants or agents are available at the Scheme to carry out the Service Contractor's duties and functions.
- 5.2 The Service Contractor must arrange and supervise contracts between the Body Corporate and independent contractors for all work of a specialist nature required for any of those things referred to in sub-clause 1, or for any services to, or work to be carried out to, the Common Property including without limitation:-
- (a) specialist repairs and maintenance of the Common Property;
  - (b) cleaning of external windows or parts of the Complex not easily accessed; and
  - (c) the provision of water, electricity, gas, fuel, telephone and other necessary services as required by the Body Corporate.

Such contracts with independent contractors will only be entered into with the prior consent of the Body Corporate, but the Body Corporate must not unreasonably withhold such consent.

## **6. EXPENDITURE**

Any expense incurred by the Service Contractor with authority of the Body Corporate, if paid by the Service Contractor, shall be reimbursed by the Body Corporate to the Service Contractor.

## **7. AGENT**

All things done by the Service Contractor pursuant to this Agreement shall be done by the Service Contractor as the agent of the Body Corporate and all obligations and expenses incurred shall be to the account of the Body Corporate

## **8. SERVICE CONTRACTOR'S COVENANTS**

The Service Contractor covenants with the Body Corporate that it shall:

- (a) at its own expense, duly and punctually comply with the provisions of:
  - (i) all relevant statutes;
  - (ii) all requirements and orders of any lawful authority in relation to the duties of the Service Contractor; and

- (iii) all By-laws and rules of the Body Corporate;
- (b) not do anything to prejudice, render void or increase the premiums under the policies of insurance effected in respect of the Scheme. In addition to any other liability, the Service Contractor will pay all damage suffered by the Body Corporate and all increases of insurance premiums for a breach of this Clause..
- (c) not exhibit or permit to be exhibited upon any part of the Common Property any sign, poster or notice unless it has first been approved of in writing by the Body Corporate (which shall not be unreasonably withheld). Approval shall not be necessary for signs on the Common Property which relate to the business being conducted by the Service Contractor, or in Lots available for leasing, provided the signs are in keeping with the style and quality of the Scheme;
- (d) indemnify the Body Corporate against all damage and expenses which the Body Corporate may sustain by reason of any failure of the Service Contractor to observe any of the covenants of this Agreement;
- (e) insure and keep insured the Service Contractor's activities with an insurance company, approved by the Body Corporate, against public risk liability for \$10 million;
- (f) provide all tools and equipment (including specialised cleaning equipment) required for maintenance and rubbish removal which shall remain the property of the Service Contractor.

## **9. BODY CORPORATE REPRESENTATIVE**

- 9.1 The Committee shall appoint a member of the Committee to give instructions to and to communicate with the Service Contractor on behalf of the Body Corporate. Not more than one person shall be appointed at any one time.
- 9.2 The Service Contractor will confer fully and freely with the Representative regarding the performance by the Service Contractor of its duties. If the Representative requests, the Service Contractor shall attend meetings of the members of the Body Corporate. The Service Contractor shall be entitled to be heard on any relevant question or matter raised at any meeting.

## **10. PLANS**

The Body Corporate must give the Service Contractor a set of plans of the Scheme to assist the Service Contractor in performing its duties. The plans shall remain the property of the Body Corporate. The plans must be returned to the Body Corporate upon determination of this Agreement

## **11. CLEANING CONSUMABLES**

All tools and equipment, required and used by the Service Contractor shall be provided by the Service Contractor and shall remain the property of the Service Contractor and all cleaning consumables and materials required and used by the Service Contractor shall be provided by the Body Corporate.

## **12. ASSIGNMENT**

- 12.1 The Service Contractor must not assign its interest in this Agreement except in accordance with this Clause. The Service Contractor may assign its interest in this Agreement with the prior consent in writing of the Committee of the Body Corporate which consent shall not be unreasonably withheld if: -
- (a) at the time at which such consent is sought by the Service Contractor from the Body Corporate the Service Contractor is not in default under this Agreement entitling the Body Corporate to terminate this Agreement;
  - (b) the Service Contractor gives at least one (1) month's written notice to the Body Corporate of the proposed assignment which notice shall include all pertinent details of the proposed assignee and shall provide two (2) character references (or in the case where the proposed assignee is a corporation two (2) character references of the directors) and at least two (2) business references in respect of the assignee;
  - (c) the Service Contractor has proved to the reasonable satisfaction of the Committee that the proposed assignee is a respectable, responsible and financially sound person capable of adequately performing and observing the provisions of this Agreement;
  - (d) the Service Contractor has entered into a deed with the Body Corporate in a form reasonably required by the Body Corporate under which the parties release each other from all future claims against the other (but not accrued claims) in respect of or in any way arising from this Agreement;
  - (e) the proposed assignee has entered into a deed with the Service Contractor and the Body Corporate in a form required by the Body Corporate which deed contains, amongst other things, a covenant by the proposed assignee to be bound by and to observe and perform the provisions of this Agreement;
  - (f) the Service Contractor pays to the Body Corporate all proper and reasonable costs and expenses incurred by the Body Corporate incidental to any enquiries which may be made by or on behalf of the Body Corporate as to the respectability, responsibility and financial status of the proposed assignee;
  - (g) the Service Contractor pays to the Body Corporate all proper and reasonable costs and expenses incurred by the Body Corporate in respect of the assignment (including legal costs and outlays of the preparation, negotiation, execution and stamping of any document relating to the assignment); and
  - (h) if the proposed assignee is a corporation, (other than a corporation which, or a parent company of which is listed on the Australian or other stock exchange) and if required by the Committee, the directors and/or shareholders (as the Committee may elect) of such corporation shall have guaranteed the covenants and agreements on the part of the proposed assignee.
  - (i) Any documentation to be prepared pursuant to this clause shall be prepared by the

solicitors for the Body Corporate and shall contain such terms, covenants and conditions as such solicitors shall determine.

- (j) After the Service Contractor has complied with the provisions of sub-clause 1(a) and (b), the Body Corporate shall consider the Service Contractor's request for consent to assign this Agreement.
- (k) If the Service Contractor is a corporation (other than a corporation which, or a parent company of which is listed on the Australian or other stock exchange) and there is any alteration to the board of directors or share capital of the Service Contractor or other event which in the reasonable opinion of the Committee alters the effective control of the Service Contractor, such change of control of the Service Contractor shall be deemed to be an assignment of this Agreement and sub-clause 1 shall apply.

### **13. DISPUTE RESOLUTION**

The dispute resolution provisions of the Act apply to this Agreement.

### **14. TERMINATION**

- 14.1 The Body Corporate may, following resolution of the Body Corporate at General Meeting, terminate this Agreement by giving the Service Contractor a notice in writing if either the Service Contractor or a Related Person to the Service Contractor:-
- (a) Assigns or attempts to assign the benefit of this Agreement in breach of this Agreement;
  - (b) Should the Service Contractor's appointment as agent under the letting agreement between the Service Contractor and the Body Corporate be terminated for any reason;
  - (c) Should the Service Contractor neglect to carry out its duties pursuant to this Agreement for a period of sixty (60) days after notice in writing is given to the Service Contractor specifying the duty which the Service Contractor has neglected to carry out and calling upon the Service Contractor to perform such duty; and
  - (d) If the Service Contractor is convicted of any indictable offence and sentenced to any term of imprisonment, or fined in excess of \$100,000.00.

### **15. MISCELLANEOUS**

#### **15.1 Notices**

- (a) Any notice may be given by a party or its solicitor and may be given to the other party or its solicitor. Any such notice in writing may be delivered to or forwarded by prepaid post or by facsimile transmission to the person intended to receive it at its address as may have been notified in writing for that purpose (or to its facsimile number as notified in writing). Any notice or document sent by prepaid post or by facsimile transmission shall be deemed to have been given or delivered:
  - (i) in respect of prepaid post, on the next working day after the date of posting; and

- (ii) in respect of a facsimile transmission, upon the date and at the time contained in any transmission confirmation report which contains the identification code of the person to whom it was intended to be transmitted and which indicates that the transmission was received without error.
  - (iii) In addition, any notice may be given or document delivered in the manner prescribed by Section 357 of the Property Law Act 1974.
  - (iv) For the purposes of this Agreement, any notice given by a party's solicitor will be deemed to be given with the authority of that party.
- 15.2 **Application of Laws and Severance** - If any clause in this Agreement is held to be illegal or unenforceable in whole or in part, under any enactment or rule of law then that term or provision or part will, to that extent be deemed not to form part of this Agreement, but the validity and enforceability of the remainder of the Agreement will not be affected.
- 15.3 **No Waiver** - Nothing in this Agreement nor any document executed pursuant to this Agreement shall be construed as a waiver, neglect, forbearance, omission or delay in respect of any antecedent breach of any of the obligations arising under this Agreement. All the powers, remedies and rights of each party pursuant to the Agreement shall continue in full force notwithstanding any apparent or valid waiver, neglect, forbearance, omission or delay in enforcement on any prior occasion.
- 15.4 **No Merger** – None of the terms or conditions of this agreement, nor any act, matter or thing done under or by virtue of, or in connection with, this Agreement will operate as a merger of any of the rights and remedies of either party in or under this Agreement or otherwise. All such rights and remedies of the parties will continue in full force and effect.
- 15.5 **Costs**
- (a) Each party to this Agreement shall bear its own costs of and incidental to the preparation, negotiation and execution of this Agreement but all stamp duty assessed shall be paid by the Service Contractor.
  - (b) Where either party is in default hereunder, it shall pay to the other party all costs (including legal costs of a solicitor and own client basis) which are reasonably incurred by the other party in connection with sudden default. Legal costs shall be deemed to have been reasonably incurred in the obtaining of advice, the attempted exercise of any power, remedy or rights hereunder, the actual exercise of any power, remedy of rights hereunder, or the institution or prosecution of proceedings in respect of any such default.
- 15.6 **Authority to Date and Complete** - The Service Contractor authorises every member of the Committee and the solicitors for the Body Corporate to do all or any of the following things:-
- (a) to date or complete any blank spaces in this Agreement; and
  - (b) to complete and sign any document or paper writing as is necessary to stamp or register this Agreement.

- 15.7 **Agreement to Supersede any Previous Agreements** - This Agreement supersedes any previous agreement (whether written or oral) between the parties touching or concerning any of the matters or similar matters those matters dealt with in this Agreement. Any such agreement shall be terminated (unless it has already been completed or otherwise terminated) from the date of this Agreement without prejudice to any antecedent liability of any party to that previous agreement.

## **16. GUARANTEE AND INDEMNITY**

If the Service Contractor is a company, (other than a corporation which, or a parent company of which is listed on the Australian or other stock exchange) then its directors and shareholders (at the sole and unfettered discretion of the Body Corporate) shall be required to execute a guarantee and indemnity in favour of the Body Corporate which shall be in the form reasonably required by the Body Corporate on the advice of its solicitors. The Service Contractor agrees that it shall be the contractual obligation of the Service Contractor to procure the due execution by the said directors and shareholders of the guarantee and indemnity contemporaneously with the execution of this Agreement by the Service Contractor. It is agreed by the Service Contractor that a failure on the part of the Service Contractor to so procure the duly executed guarantee and indemnity shall constitute a default by the Service Contractor of an essential condition of this Agreement.

## **17. EXCLUSIVITY**

During this Agreement the Body Corporate shall not authorise any person to, nor permit any of its staff to, nor itself to conduct within the Scheme any business of the same or similar nature as the Service Contractor may conduct pursuant to this Agreement, nor shall the Body Corporate licence or lease any part of the Common Property for the purpose of any such business. If any person other than the Service Contractor attempts to use any part of the Common Property for the purpose of conducting a business or rendering a service in competition with the business the Service Contractor carries on pursuant to this Agreement, then the Body Corporate will use all reasonable endeavours to effect a termination of the competing business or service.

## FIRST SCHEDULE

### REMUNERATION

- 1 The annual remuneration payable to the Service Contractor shall be such figure calculated on the basis of \$1,000.00 (exclusive of GST) for each registered lot in the Scheme at any given time, per year.
- 2 The term shall be divided into salary periods of one year each, the first of which shall commence on the date of commencement of the Term. Each subsequent salary period shall commence on the corresponding day of each succeeding year during the Term.
- 3 The Body Corporate shall pay to the Service Contractor the annual remuneration in arrears by calendar monthly installments. The first of such installments to be paid one (1) calendar month after the date of commencement of the Term and thereafter on the corresponding day of every subsequent month.
4. The remuneration will be increased on the Market Adjustment Dates-
  - 4.1 by such amount agreed on between the parties within 30 days after each Market Adjustment Date; but
  - 4.2 failing agreement, by the greater of-
    - (a) an increase to the Market Remuneration; or
    - (b) the same percentage of the previous year's remuneration as the last percentage increase in the CPI for one year as last recorded by the Commonwealth Statistician immediately before the year in which the remuneration is to be reviewed.
- 5 When there is not a review of the remuneration under clause 4, the remuneration of the Service Contractor shall be reviewed annually during the Term. The reviewed remuneration shall be that component of the remuneration paid for the immediately preceding twelve (12) month period multiplied by:
  - 5.1 a fraction obtained by dividing by the Index Number (as defined below) determined immediately prior to the date upon which the relevant amount is to be determined ("the Review Date") by the Index Number (as defined below) determined immediately prior to the date which is twelve (12) months prior to the Review Date; or
  - 5.2 the fraction of 103/100;whichever is the greater, plus such additional amount (if any) as may be negotiated between the Service Contractor and the Committee.
- 6 The words "Index Number" shall mean the Consumer Price Index (All Groups) for Brisbane ("the CPI") published from time to time by the Australian Statistician or its successor. If there is any suspension or discontinuance of the CPI or its method of calculation is substantially altered, then

the “Index Number” shall be determined by the President for the time being of the Queensland Law Society Incorporated whose decision shall be final, binding and conclusive upon both the Body Corporate and the Service Contractor.

## **SECOND SCHEDULE** **SERVICE CONTRACTOR'S DUTIES**

- A. GENERAL DUTIES:** The Service Contractor shall have the following general duties:-
- 1 supervise any agents, contractors or employees of the Body Corporate or of the Service Contractor engaged in gardening, cleaning, building maintenance or any other work upon the Common Property;
  - 2 use its best endeavours to see that the Common Property is kept in good order and repair and to protect the interests of the Body Corporate and the owners of lots;
  - 3 monitor the observance of the By-laws and rules (if any) of the Body Corporate by the owners and/or occupiers (including their guests, licensees and invitees) of the lots in the Scheme and report any serious or persistent breach to the Body Corporate;
  - 4 at the request of the Body Corporate advise the Body Corporate concerning the duties of the Service Contractor and to provide such other advice which the Body Corporate may request for the caretaking of the Scheme;
  - 5 keep in its possession the master key or keys (if any) under the control of the Body Corporate and the lots in the Scheme so far as individual lot owners shall permit and keep a register of keys. The possession of those keys shall be rendered to no other person other than a fully authorised representative of the Body Corporate or the individual lot owner concerned but the Service Contractor shall allow a lawfully authorised person in the course of their duties free access to any part of the Property (other than the interior of lots) as authorised at all reasonable times;
  - 6 report promptly on all things requiring repair and on all matters creating a hazard or danger and take remedial action where applicable;
  - 7 arrange maintenance contracts as required by the Body Corporate and ensure that any such contracts in force are carried out in accordance with their terms;
  - 8 comply with and carry out all reasonable directions from time to time given by the Body Corporate to the Service Contractor in and about the caretaking, administration and management of the Scheme;
  - 9 to perform such other acts and things as are reasonably necessary and proper in the discharge of its duties under the Agreement;
  - 10 to carry out the reasonable written directions of the Body Corporate regarding specific matters or regarding permanent policies or procedures to be observed in the conduct of the Scheme;
  - 11 to regularly inspect the firefighting equipment installed within the Common Property, and arrange for any maintenance or other works necessary to keep such equipment in effective working condition in accordance with the relevant legislation. The charges relevant to such inspection and the out-of-pocket expenses required to keep the equipment in order shall be borne by the Body

Corporate;

- 12 ensure that all common electrical apparatus including lighting and security devices are kept fully functional throughout the Common Property and arrange for maintenance or other works necessary to keep such apparatus in efficient working condition by a duly qualified person. The cost of any lights, globes, tubes, fuses and maintenance and other works shall be borne by the Body Corporate;
- 13 as required and if applicable, clean all easily accessible glass and windows in the Common Property (excluding the inside and outside of windows in each lot in the Schemes). The Service Contractor (if directed by the Body Corporate) shall engage a professional window cleaner to perform the task of cleaning the windows in areas which are not easily accessed at the cost of the Body Corporate;
- 14 mow the lawns on the Common Property and the adjacent footpath (if any) and maintain the gardens and shrubs to a high standard;
- 15 effect minor repairs and maintenance to the Common Property of such nature as not to require the services of a skilled tradesman;
- 16 account promptly and faithfully to the Body Corporate and to unit owners, as the case may be, for all their funds or other property (if any) in the possession or custody of the Service Contractor;
- 17 supervise the car parking arrangements (including the visitor car parking area and the use of the loading bay, if any) having regard to the provisions of the CMS and the By-laws of the Body Corporate and maintain the visitor car parking areas and car wash areas (if any) in a clean and tidy condition;
- 18 monitor By-laws provided that if the same By-law is breached by the same owner or occupier more than twice or an owner or occupier is found to be continually breaching the By-laws refer that owner or occupier to the Body Corporate Manager;

**B. SPECIFIC DUTIES:** Without derogating from the generality of the Service Contractor's duties above, the Service Contractor shall be responsible for the following duties:

- 1 Arrange a method whereby the Service Contractor may be readily contactable.
- 2 Supervise the activities relating to all easements (if any) both burdening and benefiting the Scheme Land and report any breaches of those easements to the Body Corporate Committee:

## **GARDEN MAINTENANCE**

All garden and grass edges to be trimmed and grass mowed around Scheme and adjacent footpath weekly or according to rate of growth or condition of weather. Keep all garden plants to a good standard at all times with replacement of shrubs and plants at the expense of the Body Corporate as is necessary. Spray pathways and arid brickwork with weed killer at regular intervals. Check on state of exterior fencing and gates and report to Committee accordingly

C      **EXCLUSIONS**

Notwithstanding the above, the Service Contractor shall not be obliged to perform any works normally carried out by the Body Corporate Manager or a Lot Owner of Blue Sky Kallangur Community Titles Scheme No ##### pursuant to the By-Laws.

**IN WITNESS** whereof this Agreement has been executed on the date as set out at the commencement of this Agreement.

THE COMMON SEAL of BODY      )  
CORPORATE FOR                    )  
BLUE SKY KALLANGUR             )  
COMMUNITY TITLE SCHEME        )  
was hereunto affixed on this    )  
day of                            )  
In the presence of:              )

.....

Witness

SIGNED SEALED AND DELIVERED by      )  
#####                            )  
                                  )  
                                  )  
As Service Contractor in the presence of:    )

.....

Witness

**THIS DEED OF GUARANTEE AND INDEMNITY** is made this day of

BY ##### ("Guarantors")

TO: Body Corporate for Blue Sky Kallangur Community Title Scheme ##### of C/- Capitol Body Corporate Administration, 5/77 Redcliffe Parade, Redcliffe Queensland 4020  
("Body Corporate")

**BACKGROUND:**

- A. At the request of the Guarantors, the Body Corporate has agreed to enter into a Body Corporate Service Contractors Agreement ("the Agreement") with ("Service Contractor") for the maintenance and repair of the Common Property for the Scheme as defined in the Agreement.
- B. The Guarantors are directors and/or shareholders of the Service Contractor, or have otherwise agreed to execute this Deed.
- C. In consideration of the Body Corporate's agreeing to enter into the Agreement, the Guarantors have agreed to give this Guarantee and Indemnity.

**TERMS:**

1. The Guarantors hereby jointly and severally guarantee to the Body Corporate the due performance, observance and fulfillment by the Service Contractor of the terms, provisions and conditions of the Agreement.
2. The Guarantors hereby jointly and severally indemnify and agree to keep indemnified the Body Corporate from and against all damages and all costs, losses and expenses (including legal fees on a solicitor and own client basis) which the Body Corporate may suffer or incur consequent upon or arising directly or indirectly out of any breach or non-observance by the Service Contractor of the Agreement
3. The Guarantors agree that this Guarantee and Indemnity shall continue and the Guarantors shall remain liable to the Body Corporate under this Guarantee and Indemnity notwithstanding that as a consequence of any breach or non-observance on the part of the Service Contractor the Body Corporate has exercised any of its rights under the Agreement and notwithstanding that the Service Contractor may be wound up and the Agreement be unenforceable either in whole or in part.
4. The liability of the Guarantors shall not be affected by any assignment of the Agreement by the Service Contractor and shall not be affected by the granting of time or other indulgence or concession to the Service Contractor or by the compounding, compromise, release, abandonment, waiver, variation, relinquishment or renewal of any of the rights of the Body Corporate against the Service Contractor or by any neglect or omission relating to sureties which would or might but for this provision release the Guarantors from their obligations and the Guarantors waive all claims and rights which might otherwise be inconsistent with the rights of the Body Corporate including, amongst other things, the claimed existence of any conditions

precedent.

5. The Guarantee and Indemnity is to continue and remain in full force and effect until the due performance, observance and fulfillment by the Service Contractor of all the terms and conditions of the Agreement.
6. The Guarantors give the following warranties in the knowledge that the Body Corporate has relied on them in entering into this Deed of Guarantee and Indemnity and the Agreement:
  - (a) that the Guarantors have read and understood the Agreement of which this Guarantee and Indemnity forms part,
  - (b) that the Guarantors have sought and obtained such independent legal and accounting advice as they may have required before executing this Deed.
7. The expression "the Guarantors" shall include their executors, successors, administrators and assigns.
8. The Guarantors agree that the Body Corporate is at liberty to act as though the Guarantors are the primary debtor and contractor jointly and severally liable with the Service Contractor and the Guarantors waive all rights either at law or under any statute that the Guarantors might otherwise be entitled to claim or enforce.

In witness whereof this Guarantee and Indemnity has been executed on the date set out above.

SIGNED SEALED AND. DELIVERED by )  
##### ) .....  
 )  
in the presence of: ) .....  
 )  
 ) .....

.....  
Witness

SIGNED SEALED AND. DELIVERED by )  
Body Corporate for Blue Sky Kallangur )  
Community Title Scheme ##### )  
in the presence of: ) .....  
 )  
 ) .....

.....  
Witness

## **Annexure E – Letting Agreement**

---

## **LETTING AUTHORISATION AGREEMENT**

**DATE:**

**BETWEEN:** **BODY CORPORATE FOR BLUE SKY KALLANGUR COMMUNITY TITLE SCHEME #####**

of C/- Capitol Body Corporate Administration, 5/77 Redcliffe Parade, Redcliffe Queensland 4020

(“Body Corporate”)

**AND:** **##### of #####**

(“Agent”)

### **BACKGROUND:**

- A. The Body Corporate is the body corporate for Blue Sky Kallangur Community Titles Scheme.
- B. The Body Corporate wishes to provide the owners of lots in the Scheme with a service for letting out their respective lots.
- C. The Body Corporate and the Agent have reached agreement on the performance of certain duties by the Agent and the granting to the Agent of certain privileges by the Body Corporate.
- D. The Body Corporate has, by resolution, authorised the execution of this Agreement.

### **TERMS:**

#### **1. INTERPRETATION**

- 1.1 The following words and expressions shall have the following meanings respectively assigned to them namely:-

**“Act”** - Body Corporate and Community Management Act 1997;

**“Business”** - the business of letting lots in the Scheme as described in Clause 3;

**“Committee”** - the committee of the Body Corporate;

**“Related Persons”**

- (a) in respect of a corporation, the corporation’s directors and principal shareholders; or
- (b) in respect of a partnership, the partners of the partnership;

**“Representative”** - the person appointed by the Committee from time to time pursuant to Clause 8.

**“Scheme”** – Blue Sky Kallangur Community Titles Scheme

- 1.2 In this Agreement unless a contrary intention appears:
- (a) words denoting the masculine include the feminine and vice versa;
  - (b) words importing the singular include the plural and vice versa;
  - (c) reference to persons includes corporations;
  - (d) headings are for reference purposes only and do not form part of this Agreement;
  - (e) reference to any statute is as amended or replaced from time to time.
  - (f) words and expressions defined in the Act to have a particular meaning shall have that meaning when used in this Agreement.
- 1.3 This Agreement shall bind the administrators, executors, successors and permitted assigns of each party to this Agreement.
- 1.4 Every agreement or obligation expressed or implied in this Agreement by which two or more persons agree to be bound, binds such persons jointly, and each of them severally, and every provision expressed or implied in this Agreement which applies to two or more persons applies to such persons jointly and each of them severally.

## **2. APPOINTMENT OF AGENT**

- 2.1 The Body Corporate appoints the Agent as the letting agent of the Scheme. This appointment shall continue for a term of twenty-five (25) years commencing on the day of \_\_\_\_\_ and expiring on the \_\_\_\_\_ day of \_\_\_\_\_ ("the Term"). The Agent accepts the appointment subject to the provisions of this Agreement.
- 2.2 The Agent is not appointed as a Body Corporate Manager.

## **3. BUSINESS**

- 3.1 The Agent shall be entitled to conduct the business of letting lots in the Scheme for such of the owners of lots in the Scheme as desire to have the Agent act as their agent in letting their respective lots as evidenced by a duly executed Letting Appointment. The Agent will provide all associated services commonly rendered in connection with the provisions of such accommodation in the area.

## **4. AGENT'S COVENANTS**

- 4.1 The Agent covenants that it shall at its own expense:
- (a) comply with all statutes and obtain and keep current all necessary permits, consents or licences required by any lawful authority to enable it to conduct such business;

- (b) conduct such business in a manner so as not to unduly interfere with the quiet enjoyment and occupation of lots in the Scheme and in compliance with every by-law of the Body Corporate;
  - (c) supervise the standard of tenants of all lettings arranged by it and ensure, so far as is practicable, that no nuisance is created in the Scheme and that the Scheme is not brought into disrepute.
- 4.2 Where the Agent is a corporation the Agent must ensure an adequate number of its officers, employees, servants or agents are available at the Scheme to carry out the Agent's duties and functions.
- 4.3 The Agent further covenants that:-
- (a) it will not conduct a serviced apartment operation for the Scheme;
  - (b) it accepts that an owner of a lot in the Scheme is not obliged to make their lot available to the Agent for letting to prospective tenants;
  - (c) there will be no agreement, arrangement, obligation or understanding between the Agent and any lot owner that their lot will be let on a rotational or other basis, it being accepted that a prospective tenant will have the right to select a particular lot for letting and, in fact, may have a preference for a particular lot;
  - (d) if a lot owner makes their lot available for letting, there will be no fixed, indexed or guaranteed return payable or nor will there be any pooling of rental income between lots in the Scheme, it being accepted that the return will simply be the rent that is able to be secured from the prospective tenant for a particular lot, which will depend upon, among other things, the market forces of supply and demand; and
  - (e) any letting agreement entered into between a lot owner and the Agent will be able to be terminated by the owner on not more than ninety (90) days notice.

## 5. ACKNOWLEDGMENT

The Agent covenants that it will provide the letting service only to such of the owners of lots in the Scheme as shall require that service and the Agent acknowledges that the owners of lots in the Scheme are free to choose whether or not they use the services of the Agent or instead use the services of any other person and the Agent covenants that it will not hinder any person so engaged.

## 6. BODY CORPORATE'S COVENANTS

The Body Corporate covenants with the Agent that:

- (a) during the continuance of this Agreement it will not directly or indirectly, nor will it permit any person including its staff, to carry on or render or be concerned in any business or service of letting lots in the Scheme;

- (b) the Body Corporate will not lease or grant any licence in respect of any part of the common property of the Scheme to any person or corporation other than the Agent for the purpose of a business of letting lots in the Scheme;
- (c) the Body Corporate will not enter into any agreement with any other entity on the same or similar terms as this Agreement during the Term or any extension thereof.

## **7. BODY CORPORATE'S REPRESENTATIVE**

- 7.1 The Committee shall appoint a member of the Committee to give instructions to and to communicate with the Agent on behalf of the Body Corporate. Not more than one person shall be appointed as Representative at any one time.
- 7.2 The Agent will confer fully and fairly with the Representative relative to the performance by the Agent of its duties. If the Representative requests, the Agent shall attend meetings of the members of the Body Corporate. The Agent shall be entitled to be heard on any relevant question or matter raised at any meeting. After being so heard, the Agent may be requested to leave the meeting if not otherwise entitled to attend.

## **8. ASSIGNMENT**

- 8.1 The Agent must not assign its interest in this Agreement except in accordance with this Clause. The Agent may assign its interest in this Agreement with the prior consent in writing of the Body Corporate which consent shall not be unreasonably withheld if:
  - (a) at the time at which such consent is sought by the Agent from the Body Corporate the Agent is not in default under this Agreement entitling the Body Corporate to terminate this Agreement;
  - (b) the Agent gives at least one (1) month's written notice to the Body Corporate of the proposed assignments which notice shall include all pertinent details of the proposed assignee and shall provide two (2) character references (or in the case where the proposed assignee is a corporation two (2) character references of the directors) and two (2) business references of the assignee;
  - (c) the Agent has proved to the reasonable satisfaction of the Committee that the proposed assignee is a respectable, responsible and financially sound person capable of adequately performing and observing the provisions of this Agreement;
  - (d) the Agent has entered into a deed with the Body Corporate in a form reasonably required by the Body Corporate under which each of the parties releases the other party from all future claims against the Body Corporate in respect of or in any way arising from this Agreement;
  - (e) the proposed assignee has entered into a deed with the Agent and the

Body Corporate in a form required by the Body Corporate which deed contains, amongst other things a covenant by the proposed assignee to be bound by and to observe and perform the provisions of this Agreement;

- (f) the Agent pays to the Body Corporate all proper and reasonable costs and expenses incurred by the Body Corporate incidental to any enquiries which may be made by or on behalf of the Body Corporate as to the respectability, responsibility and financial status of the proposed assignee;
  - (g) the Agent pays to the Body Corporate all proper and reasonable costs and expenses incurred by the Body Corporate in respect of the assignment (including legal costs and outlays of the preparation, negotiation, execution and stamping of any document relating to the assignment); and
  - (h) if the proposed assignee is a corporation, (other than a corporation which or a parent company of which is listed on the Australian or other stock exchange) and if required by the Committee, the directors and/or shareholders (as the Committee may elect) of such corporation shall have guaranteed the covenants and agreements on the part of the proposed assignee.
- 8.2 Any documentation to be prepared pursuant to this clause shall be prepared by the solicitors for the Body Corporate and shall contain such terms, covenants and conditions as such solicitors shall determine.
- 8.3 After the Agent has complied with the provisions sub-clauses 1(a) & (b), the Body Corporate shall consider the Agent's request for consent to assign this Agreement.
- 8.4 If the Agent is a corporation (other than a corporation which or a parent company of which is listed on the Australian or other stock exchange) and there is any alteration to the board of directors or share capital of the Agent, or other event which in the reasonable opinion of the Committee alters the effective control of the Agent, such change of control of the Agent shall be deemed to be an assignment of this Agreement and sub-clause 1 shall apply.

## **9. APPONTEE**

- 9.1 The Agent may from time to time appoint a person to act as its employee or agent ("Appointee"). The Agent shall not appoint an Appointee without the prior approval in writing of the Committee of the Body Corporate, which approval shall not be unreasonably withheld.
- 9.2 The Agent may perform any of its duties or obligations through the Appointee.
- 9.3 The Appointee may exercise all the authorities and powers given to the Agent.

- 9.4 The Agent shall be responsible for any remuneration payable to the Appointee.
- 9.5 The Agent shall be liable and responsible for the performance of all acts, deeds and things required under this Agreement despite the appointment of any Appointee.
- 9.6 The Agent will be entitled to four (4) weeks vacation per annum during which time it must appoint its Appointee to carry out its duties under this Agreement.

## **10. TERMINATION**

- 10.1 The Body Corporate may, following resolution of the Body Corporate at General Meeting, terminate this Agreement by giving the Agent a notice in writing if the Agent or a Related Person to the Agent:-
  - (a) Assigns or attempts to assign the benefit of this Agreement in breach of this Agreement;
  - (b) Intentionally deleted;
  - (c) Should the Agent's appointment as Service Contractor under the Service Contractor's Agreement between the Body Corporate and the Agent for the property be terminated for any reason;
  - (d) Should the Agent neglect to carry out its duties pursuant to this agreement for a period of ninety (90) days after notice in writing is given to the Agent specifying the duty which the Agent has neglected to carry out and calling upon the Agent to perform such duty; and
  - (e) If the Agent is convicted of any indictable offence and sentenced to any term of imprisonment, or fined in excess of \$100,000.00.

## **11. GUARANTEE AND INDEMNITY**

If the Letting Agent is a company, (other than a corporation which, or a parent company of which, is listed on the Australian or other stock exchange) then its directors and shareholders (at the sole and unfettered discretion of the Body Corporate) shall be required to execute a guarantee and indemnity in favour of the Body Corporate which shall be in the form reasonably required by the Body Corporate on the advice of its solicitors. The Letting Agent agrees that it shall be the contractual obligation of the Letting Agent to procure the due execution by the said directors and shareholders of the guarantee and indemnity contemporaneously with the execution of this Agreement by the Letting Agent. It is agreed by the Letting Agent that a failure on the part of the Letting Agent to so procure the duly executed guarantee and indemnity shall constitute a default by the Letting Agent of an essential condition of this Agreement.

## **12. NOTICES**

Any notice under this Agreement may be given or document delivered in the manner

prescribed by Section 347 of the Property Law Act 1974. For the purposes of this Agreement, any notice given by a party's solicitor will be deemed to be given with the authority of that party.

**THE COMMON SEAL of the BODY )**  
**CORPORATE FOR BLUE SKY )**  
**KALLANGUR COMMUNITY TITLE )**  
**SCHEME ##### )**  
was hereunto affixed on this )  
day of                         in the presence of:         ) .....  
.....

.....  
Witness

**SIGNED SEALED AND DELIVERED by )**  
**##### )**  
in the presence of:                     ) .....  
.....

.....  
Witness

**THIS DEED OF GUARANTEE AND INDEMNITY** is made this \_\_\_\_\_ day of \_\_\_\_\_  
**BY:** ##### ("Guarantors")  
**TO:** Body Corporate for Blue Sky Kallangur Community Title Scheme #####  
of C/- Capitol Body Corporate Administration, 5/77 Redcliffe Parade, Redcliffe  
Queensland 4020  
("Body Corporate")

**BACKGROUND:**

- A. At the request of the Guarantors, the Body Corporate has agreed to enter into a Letting Authorisation Agreement ("the Agreement") with ("Agent") under which the Agent will be entitled to let Lots in the scheme from within the scheme land for the Scheme as defined in the Agreement.
- B. The Guarantors are directors and/or shareholders of the Agent, or have otherwise agreed to execute this Deed.
- C. In consideration of the Body Corporate's agreeing to enter into the Agreement, the Guarantors have agreed to give this Guarantee and Indemnity.

**TERMS:**

1. The Guarantors hereby jointly and severally guarantee to the Body Corporate the due performance, observance and fulfillment by the Agent of the terms, provisions and conditions of the Agreement.
2. The Guarantors hereby jointly and severally indemnify and agree to keep indemnified the Body Corporate from and against all damages and all costs, losses and expenses (including legal fees on a solicitor and own client basis) which the Body Corporate may suffer or incur consequent upon or arising directly or indirectly out of any breach or non-observance by the Agent of the Agreement:
3. The Guarantors agree that this Guarantee and Indemnity shall continue and the Guarantors shall remain liable to the Body Corporate under this Guarantee and Indemnity notwithstanding that as a consequence of any breach or non-observance on the part of the Agent the Body Corporate has exercised any of its rights under the Agreement and notwithstanding that the Agent may be wound up and the Agreement be unenforceable either in whole or in part.
4. The liability of the Guarantors shall not be affected by any assignment of the Agreement by the Agent and shall not be affected by the granting of time or other indulgence or concession to the Agent or by the compounding, compromise, release, abandonment, waiver, variation, relinquishment or renewal of any of the rights of the Body Corporate against the Agent or by any neglect or omission relating to sureties which would or might but for this provision release the Guarantors from their obligations and the Guarantors waive all claims and rights which might otherwise be inconsistent with the rights of the

Body Corporate including, amongst other things, the claimed existence of any conditions precedent.

5. The Guarantee and indemnity is to continue and remain in full force and effect until the due performance, observance and fulfillment by the Agent of all the terms and conditions of the Agreement.
6. The Guarantors give the following warranties in the knowledge that the Body Corporate has relied on them in entering into this Deed of Guarantee and Indemnity and the Agreement:
  - (a) that the Guarantors have read and understood the Agreement of which this Guarantee and Indemnity forms part;
  - (b) that the Guarantors have sought and obtained such independent legal and accounting advice as they may have required before executing this Deed.
7. The expression "the Guarantors" shall include their executors, successors, administrators and assigns.
8. The Guarantors agree that the Body Corporate is at liberty to act as though the Guarantors are the primary debtor and contractor jointly and severally liable with the Agent and the Guarantors waive all rights either at law or under any statute that the Guarantors might otherwise be entitled to claim or enforce.

In witness whereof this Guarantee and Indemnity has been executed on the date set out above.

**SIGNED SEALED AND. DELIVERED** by )

##### ) .....  
 )  
 )

in the presence of: )

) .....  
 )  
 )

.....  
Witness

**SIGNED SEALED AND. DELIVERED** by )

Body Corporate for Blue Sky Kallangur )

Community Title Scheme ##### )

in the presence of: ) .....  
 )  
 )

.....  
Witness

## **Annexure F - New Community Management Statement for the Scheme**

THIS STATEMENT MUST BE LODGED TOGETHER WITH A FORM 14 GENERAL REQUEST AND IN THE CASE OF A NEW STATEMENT MUST BE LODGED WITHIN THREE (3) MONTHS OF THE DATE OF CONSENT BY THE BODY CORPORATE

Office use only  
CMS LABEL NUMBER

This statement incorporates and must include the following:

- Schedule A - Schedule of lot entitlements
- Schedule B - Explanation of development of scheme land
- Schedule C - By-laws
- Schedule D - Any other details
- Schedule E - Allocation of exclusive use areas

**1. Name of community titles scheme**

BLUE SKY KALLANGUR COMMUNITY TITLES SCHEME

**2. Regulation module**

ACCOMMODATION MODULE

**3. Name of body corporate**

BODY CORPORATE FOR BLUE SKY KALLANGUR COMMUNITY TITLES SCHEME

**4. Scheme land**

Lot on Plan Description	Title Reference
COMMON PROPERTY OF	To Issue
BLUE SKY KALLANGUR CTS###	
LOTS 1 TO 20 ON SP238639	To Issue
LOT 400 ON SP238639	To Issue

**5. Name and address of original owner**

BLUE WATER (D BAY) PTY LTD  
ACN 117 453 040 AS TRUSTEE FOR THE BLUE  
WATER (KALLANGUR) UNIT TRUST  
  
PO BOX 746, ELSTERNWICK VIC 3185

**6. Reference to plan lodged with this statement**

SURVEY PLAN 238639

**7. Local Government community management statement notation**

..... signed

..... name and designation

Moreton Bay Regional Council ..... name of Local Government

**8. Execution by original owner**

/ /  
Execution Date

.....

\*Execution

\*Original owner to execute for a first community management statement

**Privacy Statement**

Collection of this information is authorised by the Body Corporate and Community Management Act 1997 and is used to maintain the publicly searchable registers in the land registry. For more information about privacy in NR&W see the Department's website.

**SCHEDULE A SCHEDULE OF LOT ENTITLEMENTS**

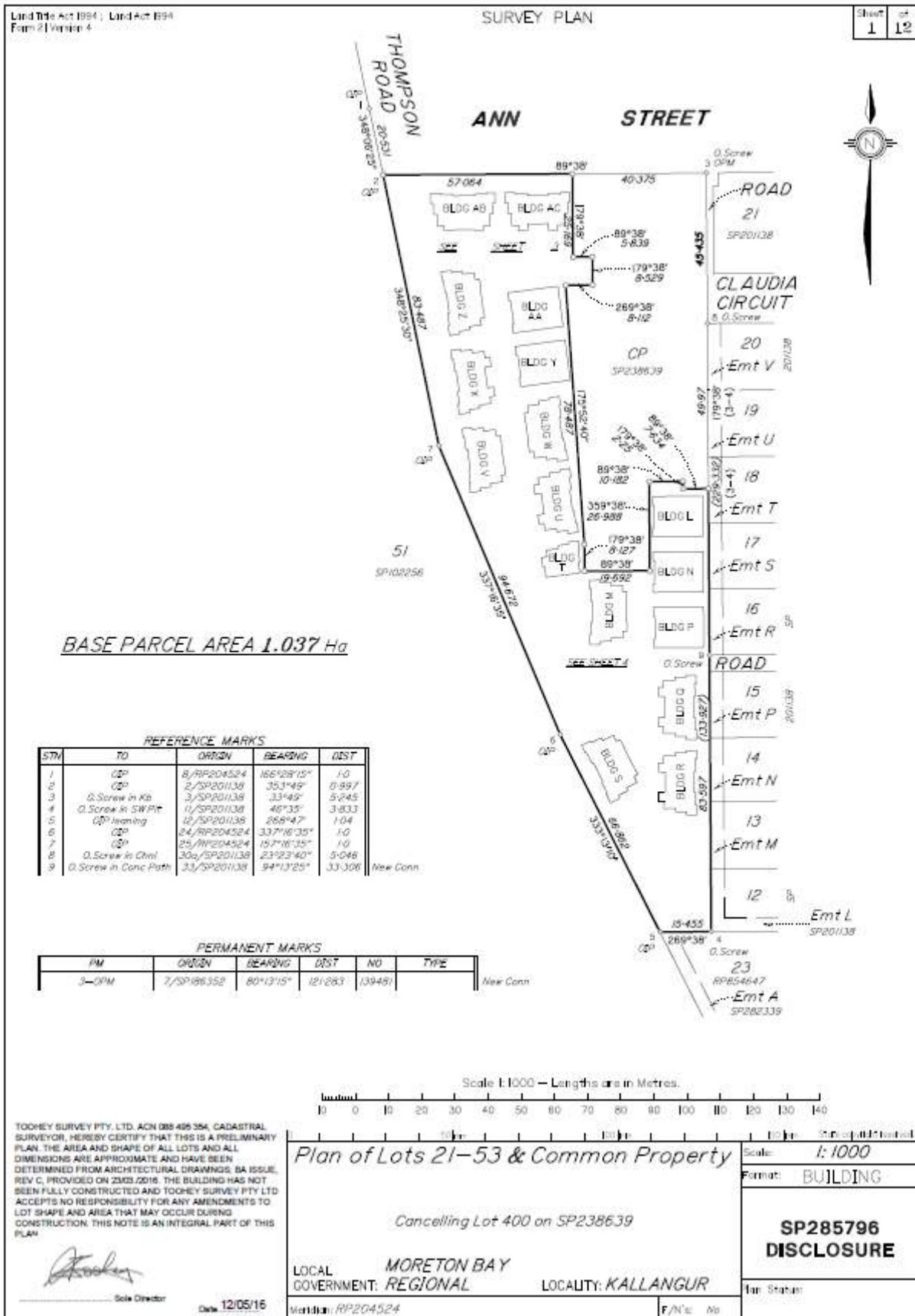
<b>Lot on Plan</b>	<b>Contribution</b>	<b>Interest</b>
Lot 1 on SP238639	1	1
Lot 2 on SP238639	1	1
Lot 3 on SP238639	1	1
Lot 4 on SP238639	1	1
Lot 5 on SP238639	1	1
Lot 6 on SP238639	1	1
Lot 7 on SP238639	1	1
Lot 8 on SP238639	1	1
Lot 9 on SP238639	1	1
Lot 10 on SP238639	1	1
Lot 11 on SP238639	1	1
Lot 12 on SP238639	1	1
Lot 13 on SP238639	1	1
Lot 14 on SP238639	1	1
Lot 15 on SP238639	1	1
Lot 16 on SP238639	1	1
Lot 17 on SP238639	1	1
Lot 18 on SP238639	1	1
Lot 19 on SP238639	1	1
Lot 20 on SP238639	1	1
Lot 400 on SP238639	33	33
<b>TOTALS</b>	<b>53</b>	<b>53</b>

1. The contribution schedule principle under section 46A of the *Body Corporate and Community Management Act 1997* on which the contribution schedule lot entitlements for the community titles scheme have been decided on the *equality principle*.
2. The interest schedule lot entitlements reflect the respective market values of the lots (as per section 46B of the *Body Corporate and Community Management Act 1997*).

**SCHEDULE B EXPLANATION OF THE DEVELOPMENT OF SCHEME LAND**

1. It is proposed that the Scheme be developed by subdivision of the Scheme Land in a number of stages under the accommodation module.
2. It is proposed that the development will be developed as follows:
  - a. The first stage is created by a proposed building format plan (SP238639) which cancels lot 4 on RP204524 and consists of 20 lots and common property in addition to lot 400, which is the remainder of the Scheme Land.
  - b. The second stage will be created by a proposed building format plan (SP285796) which cancels lot 400 and consists of 33 lots and common property.
3. Additional land may be added to, and land may be removed from, the Scheme from time to time at the discretion of the Original Owner.
4. The total number of residential lots in the development will not exceed 53.

5. In relation to the progressive future development:-
  - a. The Original Owner may increase or decrease the number of lots in each stage at its discretion.
  - b. The order in which the stages are developed may change. In particular, stages may occur contemporaneously. However, subject to (a), the number of lots in each subsidiary scheme will not exceed those indicated above.
  - c. Any plan numbers mentioned in this Schedule B may change.
  - d. Where a particular module or format plan is referred to in this Schedule B, the Original Owner may, in its absolute discretion, change the module or format plan which is to apply to the scheme.
6. In relation to the attached concept plan:-
  - a. The plan shows the Scheme Land and the possible progressive development of the Scheme Land.
  - b. The plan represents an indicative development plan of the Scheme Land.
  - c. The plan is not intended to accurately specify the location of any common property on the Scheme Land.
7. In this Schedule B:
  - a. Reference to areas on the concept plan is done by use the name of those areas.
  - b. Original Owner has the meaning given to that expression in the *Body Corporate and Community Management Act 1997*.



**SCHEDULE C BY-LAWS**

It is proposed to amend the By-laws of the Body Corporate in the following matter:-

- (a) By repealing the By-laws contained in Schedule 4 of the Body Corporate and Community Management Act 1997 as amended from time to time; and
- (b) By inserting the following By-laws in lieu thereof.

**BY-LAWS****1. Vehicles**

- 1.1 The owner or occupier of a Lot must not, without the Body Corporate's written approval:
  - (a) park a vehicle, or allow a vehicle to stand, on the Common Property, or
  - (b) permit an invitee to park a vehicle, or allow a vehicle to stand, on the Common Property, except for the designated visitor parking which must remain available at all times for the sole use of visitors vehicles.
- 1.2 An approval under subsection (1) must state the period for which it is given, with the exception of designated visitor parking.
- 1.3 However, the Body Corporate may cancel the approval by giving 7 days written notice to the owner or occupier, with the exception of designated visitor parking.

**2. Roads and Other Common Property**

The roadways, pathways, drives and other Common Property and any easement giving access to the Scheme or lots contained within the Scheme (whether or not forming part of the Scheme) shall not be obstructed by any owner or occupier or used by them for any purpose other than the reasonable ingress and egress to and from their respective Lots or the parking areas provided. An owner or occupier of a Lot shall not drive or permit to be driven any motor vehicle in excess of two (2) tonnes weight onto or over the Common Property other than such vehicles necessary to complete the construction and/or occupation of any Lot, and any motor vehicles entitled by any statute and/or local authority ordinances.

**3. Carspace**

Unless approved in writing by the Committee, only motor cars and motor bikes are permitted to be parked in the Lots' allocated car space. These vehicles shall at all times be kept in a roadworthy condition.

**4. Car Washing**

The Committee from time to time may designate an area of Common Property (being a carparking space) that shall be used for car/vehicle washing purposes. The washing of cars/vehicles elsewhere on the Common Property is prohibited.

**5. Bicycle Spaces**

Bicycles shall only be stored in the bicycle racks (if any) provided by the Body Corporate or in the Lots allocated bicycle space. Bicycles stores in any bicycle racks or bicycle spaces shall be properly locked to prevent theft at all times.

**6. Obstruction**

An owner or occupier of a Lot shall not obstruct lawful use of Common Property by any person.

**7. Damage to Common Property**

An owner or occupier of a Lot shall not:

- (a) damage any lawn, garden, tree, shrub, plant or flower being part of or situated upon Common Property; or
  - (b) use for their own purposes as a garden any portion of the Common Property; or
  - (c) mark, paint, drive nails or screws or the like into, or otherwise damage or deface, any structure that forms part of the Common Property;
- except with the consent in writing of the Body Corporate Committee.

## 8. Depositing Rubbish etc on Common Property

An owner or occupier of a Lot shall not deposit or throw upon the Common Property any rubbish, dirt, dust or other material likely to interfere with the peaceful enjoyment of an owner or occupier of another Lot or of any person lawfully using the Common Property.

## 9. Garbage Disposal

9.1 The Body Corporate has the power to devise a rubbish removal system from time to time incorporating, amongst other things:-

- (a) permitted means, areas and times for disposal and collection;
- (b) disposal routes;
- (c) permitted pickup areas (if any) as per subclause 9.5;
- (d) location of rubbish removal;
- (e) storage of rubbish;
- (f) containment of rubbish;
- (g) regularity of rubbish removal;
- (h) segregation of rubbish; and
- (i) special rubbish requirements.

9.2 The owner or occupier of a Lot must:-

- (a) comply with all Local Government laws about disposal of garbage;
- (b) ensure that the owner or occupier does not, in disposing of garbage, adversely affect the health, hygiene, safety or comfort of the owner or occupiers of other Lots;
- (c) comply with the rubbish removal system put in place by the Body Corporate from time to time under sub-clause 9.1.
- (d) comply with any rubbish removal system devised by the Body Corporate.

9.3 The Body Corporate will advise each owner of its rubbish removal system. Each owner will display in its Lot at all times a copy of any such rubbish removal system.

9.4 Any rubbish removal system devised by the Body Corporate, in particular in regard to the storage of rubbish and the system of actual removal of rubbish from the Scheme, must be first approved by the Local Government.

9.5 Rubbish removal shall occur from the nominated bin collection points for Lots 3, 4, 31, 32, 33, 34, 50, 51, 52 and 53 and no other points. The nominated bin collection points shall only be utilised for collection and are not to be used as bin storage areas.

**10. Appearance of Lot**

- 10.1 An owner or occupier of a Lot must not, without the written approval of the Committee make a change to the external appearance of the Lot.
- 10.2 An owner or occupier of a Lot must not, without the written approval of the Committee:
  - (a) Hang washing, bedding or other clothes articles; or
  - (b) Display a sign, advertisement, placard, banner, pamphlet or similar article; or
  - (c) Use any part of the Lot, (including any exclusive use areas) for storage,  
if it is visible from another Lot or Common Property or from outside the Scheme Land.
- 10.3 The Lot owner shall be responsible for the upkeep and maintenance of all grass, trees and plants together with associated maintenance systems within a courtyard or terrace attaching to a lot (as part of the lot or by exclusive use by-law).
- 10.4 An owner or occupier shall not hang curtains, install venetian blinds, apply window tinting visible from outside the Lot install shutters, insect screens or security screens or other screening device unless such hanging, installation or application has first been approved by the Committee. In giving such approvals, the Committee shall ensure that any such hanging, installation or application presents a uniform and visually pleasing appearance when viewed from Common Property, any other Lot or from outside of the Scheme Land.
- 10.5 An owner or occupier must not install any spa pool or anything similar on any balconies, courtyards or terraces of a Lot without first obtaining written approval from the Committee.
- 10.6 An owner or occupier must not install any umbrellas or awnings on a Lot without first obtaining written approval from the Committee.
- 10.7 The operation of this By-law is subject to the operation of all other By-laws.

**11. Inflammable Liquids Gases or Other Materials**

An owner or occupier of a Lot shall not bring to, do or keep anything in their Lot which shall increase the rate of fire insurance on any property in the Scheme or which may conflict with the laws and/or regulations relating to fires or any insurance policy upon any property in the Scheme or the regulations or ordinances of any public authority for the time being in force.

**12. Keeping of Animals**

Subject to the provisions of the Guide Dogs Act 1972, an owner or occupier of a Lot may keep one (1) cat or dog if the dog or cat is or will grow to less than 10kg in weight and 30cm in height only with the prior written approval of the Body Corporate which will not be unreasonably refused. An owner or occupier shall not keep any other animal upon their lot or the Common Property without the prior written approval of the Body Corporate, which may be granted with or without conditions or refused or withdrawn at the discretion of the Committee. If conditions are imposed, the owner or occupier must comply with those conditions.

**13. Auction Sales**

Except the original owner, an owner or occupier of a Lot shall not permit any auction sale to be conducted or to take place in their Lot within the Scheme without the prior approval in writing of the Committee.

**14. Right of Entry**

An owner, upon receiving reasonable notice from the Body Corporate, shall allow the Body Corporate or any contractors, sub-contractors, workmen or other person authorised by it, the right of access to their Lot for the purpose of carrying out works, pest control or effecting repairs on mains, pipes, wires or connections of any water, sewerage, drainage, gas, electricity, telephone or other system or service, whether to their Lot or to an adjoining Lot.

## 15. Noise

- 15.1 An owner or occupier of a Lot or their guests or agents shall not make or permit any noise likely to interfere in any way with the peaceful enjoyment of other owners or occupiers of Lots or of any person lawfully using the Common Property. In particular, no owner or occupier of a Lot shall hold or permit to be held any social gathering in their Lot which would cause any noise which unlawfully interferes with the peace and quietness of any other owner or occupier of a Lot, at any time of day or night and in particular shall comply in all respects with the Environmental Protection (Noise) Policy 1997, as amended.
- 15.2 In the event of any unavoidable noise in a Lot at any time, the owner or occupier thereof shall take all practical means to minimise annoyance to other owners or occupiers of Lots by closing all doors, windows and curtains of their Lot and also take such further steps as may be within their power for the same purpose.
- 15.3 An owner or occupier of a Lot shall not play any musical instrument, use any radio, television set, computer, electrical or mechanical device in such a manner that will cause any noise likely to interfere in any way with the peaceful enjoyment of other owners or occupiers of Lots or any person lawfully using the Common Property.

## 16. Use of Lots

- 16.1 Subject to any by-law to the contrary, an owner or occupier of a Lot shall not use that Lot or permit their lot to be used:
  - (a) otherwise than as a residence, save and except that the original owner may use or cause to be used any Lot for the purpose of a display unit;
  - (b) for any purpose that may cause a nuisance or hazard or in any manner likely to interfere with the peaceful enjoyment of owners or occupiers of other Lots or any person lawfully using the Common Property;
  - (c) for any illegal or immoral purpose or purposes that will interfere with the good reputation of the Scheme;
  - (d) for storage purposes other than the storage of domestic household items normally held in residential community title accommodation; or
  - (e) for any other purpose that may endanger the safety or good reputation of persons residing within the Scheme.
- 16.2 The Committee may authorise an occupier to conduct a business from within a lot so long as:
  - (a) the use is lawful; and
  - (b) the use would not, in the reasonable opinion of the Committee and/or the Caretaker interfere with the amenity of other occupiers of the Scheme.
- 16.3 Any authority under subclause 2, may be issued subject to conditions which may be varied at the direction of the Committee and may be revoked if such conditions are not complied with.

## 17. Infectious Diseases

In the event of any infectious disease which may require notification by virtue of any Statute, Regulation or Ordinance happening in any Lot, the owner or occupier of such Lot shall give written notice thereof and any other information which may be required relative thereto to the Committee and shall pay to the Body Corporate the expenses incurred by the Committee of disinfecting the Lot and any part of the Common Property required to be disinfected and replacing any articles or things the destruction of which may be rendered necessary by such disease.

**18. Alteration to Lots and Common Property**

- 18.1 An owner or occupier of a Lot shall not construct or permit the construction or erection of any (including in any carpark space) pergola, screen, awning or other structure of any kind within or upon a Lot or on Common Property without the approval in writing of the Committee
- 18.2 Any alteration made to Common Property or any fixture or fitting attached to Common Property by any owner or occupier of a Lot, whether made or attached with or without the approval of the Committee, shall, unless otherwise provided by resolution of a general meeting or of a meeting of the Committee, be repaired and maintained by the owner for the time being of the Lot of which the aforesaid owner or occupier was such owner or occupier.
- 18.3 There shall be no external structural alterations or extensions or external repainting to a Lot without the approval in writing of the Committee. An owner shall submit to the Body Corporate's architect all plans and specifications for any such structural alteration or extension. .
- 18.4 Any approval given by the Committee or the Body Corporate to carry out construction, erection or installation of any kind (in particular the installation of shutters) shall be conditional upon the owner or occupier first obtaining all necessary approvals of the Local Government to the construction, erection or installation.
- 18.5 Unless specifically shown as such on the Local Government approved plans for the Scheme, balconies and terraces are to remain unenclosed and there are to be no shutters, glazing, louvres, blinds or similar structures on balconies and terraces.

**19. Maintenance**

- 19.1 Each owner shall be responsible for the maintenance of their Lot and each owner or occupier shall ensure that their Lot is so kept and maintained as not to be offensive in appearance to other Lot owners through the accumulation of excess, rubbish or otherwise. Further, all Lots are to be so maintained as to prevent the excessive growth of grass and other vegetation making Lots unsightly, increasing fire risks or contributing to the spread of noxious weeds to other Lots.
- 19.2 Each owner must ensure that waterproofing of all balconies and terraces which form part of that owner's Lot do not leak resulting in water escaping into other Lots or onto Common Property.
- 19.3 Windows shall be kept clean and promptly replaced by the owner or occupier of their Lot at their expense with fresh glass of the same kind and weight as at present if broken or cracked. This By-law does not prohibit an owner from making a claim on the Body Corporate insurance.
- 19.4 The owners and occupiers of Lots must maintain the courtyards (and plants therein) within their lots to such a standard as nominated by the Committee of the Body Corporate from time to time. The purpose of this by-law is to ensure that the Scheme presents a visually uniform and high standard. If the owners of these lots fail to comply with the reasonable directions of the Committee of the Body Corporate in this regard, for a period of fourteen (14) days after being directed to do so, the Body Corporate may enter upon the lot itself to carry out the works. The Body Corporate's costs of carrying out the works, including material and the cost of plants are recoverable by the Body Corporate as a liquidated debt.
- 19.5 Each owner shall be responsible for ensuring that the landscaping is maintained in good order to ensure healthy and vigorous plant growth.
- 19.6 The Body Corporate will maintain a water efficient irrigation system and the landscaping and ensure that any replacement water efficient irrigation system will be an equivalent or better system than the system being replaced from time to time.

**20. Security for Lots**

- 20.1 With the written permission of the Committee, an owner or a person authorised by them may install:
  - (a) any locking or other safety device for protection of their Lot against intruders; or
  - (b) any screen or other device to prevent entry of animals or insects upon their Lot,

provided that the locking or other safety device or, as the case may be, screen or other device is constructed in a workmanlike manner, is maintained in a state of good and serviceable repair by the owner and does not detract from the amenity of the building. All doors and windows to the premises shall be securely fastened on all occasions when the premises are left unoccupied and the Committee reserves the right to enter and fasten same if left insecurely fastened.

- 20.2 An owner shall not disclose to any person other than the owners family resident in the Scheme or any other person residing in the Scheme with the authority of the owner, any security code (if any) advised from time to time to the owner by the Body Corporate for the security gate or door (if any) erected at the entrance to the Scheme.

## 21. **Taps**

An owner or occupier of a Lot shall not waste water and shall see that all water taps in their Lot are promptly turned off after use. Should the Lot be unoccupied for a period of more than a month, then the stopcock on the hot water system (if any) must be turned off.

## 22. **Aerials and Receivers**

No outside wireless, television, aerial, sky dish, receiver, satellite receiver or other erection, construction, aerial, receiver or thing of like nature may be erected by any owner or occupier without the previous consent in writing of the Committee.

## 23. **Water Closets and Conveniences**

The water closets and conveniences and other water apparatus including waste pipes and drains shall not be used for any purposes other than those for which they were constructed and no sweepings or rubbish or other unsuitable substance shall be deposited therein. Any damage or blockage resulting to such water closets, conveniences, water apparatus, waste pipes and drains from misuse or negligence shall be borne by the owner whether the same is caused by their own actions or those of their tenants, servants, agents, licensees or invitees.

## 24. **Behaviour of Invitees**

- 24.1 An owner or occupier of a Lot shall take all reasonable steps to ensure that their invitees do not behave in a manner likely to interfere with the peaceful enjoyment of an owner or occupier of another Lot or of any person lawfully using Common Property.
- 24.2 The owner or occupier of a Lot shall be liable to compensate the Body Corporate in respect of all damage to the Common Property or personal property vested in it caused by such owner or occupier or their invitees.
- 24.3 An owner of a Lot which is the subject of a lease, licence or tenancy agreement shall take all reasonable steps, including any action available to them under any such lease licence or tenancy agreement, to ensure that any lessee, licensee, tenant or other occupier of the Lot or their invitees comply with the provisions of the By-Laws.
- 24.4 The duties and obligations imposed by these By-Laws on an owner or occupier of a Lot shall be observed not only by the owner or occupier but also by the guests, servants, employees, agents, children, invitees and licensees of such owner or occupier.
- 24.5 Where the Body Corporate expends money to make good damage caused by a breach of the Act or of these By-Laws by any owner or occupier of a Lot or the guests, servants, employees, agents, children, invitees or licensees of the owner or occupier of a Lot or any of them, the Committee shall be entitled to recover the amount so expended as a debt in any action in any Court of competent jurisdiction from the owner of the Lot at a time when the breach occurred.

## 25. **Notice of Defect**

An owner or occupier of a Lot shall give the Committee and/or the Caretaker prompt notice of any accident to or defect in the water pipes, gas pipes, electric installations or fixtures which comes to their knowledge and the Committee shall have authority by its agents or servants in the circumstances having regard to the urgency

involved to examine or make such repairs or renovations as it may deem necessary for the safety and preservation of the Scheme and improvements contained within it as often as may be necessary.

## 26. Insurance

- 26.1 The Body Corporate shall insure and keep insured all buildings in the Scheme and any improvements thereon in accordance with the requirements of the Body Corporate and Community Management Act 1997.
- 26.2 All insurance premiums payable by the Body Corporate under this By-Law shall be paid from funds contributed to the administrative fund.
- 26.3 An owner shall be responsible for the insurance of owners fixtures as defined in the Body Corporate and Community Management Act 1997 including all electrical equipment, carpets, drapes and improvements within their Lot.

## 27. Use of Common Property Facilities

- 27.1 All owners and occupiers of Lots in the Scheme may use the recreation areas, barbeque area, gardens and associated facilities ("Common Property Facilities") on the Common Property subject to the following rules which will, where appropriate, apply to all guests or invitees of lots owners or occupiers:-
  - (a) The Common Property Facilities will not be used by guests or invitees unless accompanied by the host, lot owner or occupier;
  - (b) Children below the age of thirteen (13) years will at all times be accompanied by an adult owner or occupier exercising effective control over them and all children using the Common Property Facilities must be supervised by an adult exercising effective control over them at all times;
  - (c) The Common Property Facilities may only be used between the hours of 6:00 am and 10:00 pm unless arranged otherwise with the Caretaker.
  - (d) The cooking appliances and appurtenances (if any) situated in the Common Property Facilities are to be used in a proper manner and turned off according to their operating instructions, and such appliances and appurtenances are to be thoroughly cleaned after use;
  - (e) After facilities are used, the relevant area is to be left in a clean and tidy state and available to the next users. Failing to comply with this may incur a cleaning cost;
  - (f) Common Property and assets will not be defaced, damaged or removed, and
  - (g) The Body Corporate or the Caretaker may operate a reservation system for Common Property facilities and assets with which lot owners and occupiers shall comply,
- 27.2 An owner or occupier of a Lot in the Scheme must not without proper authority, operate, adjust or interfere with the operation of any of the facilities referred to in this by-law.
- 27.3 Notwithstanding the rules set out in sub-clause 1, the Committee may from time to time make other rules regarding the facilities including forms of reservation and the like.

## 28. Display Unit

While the original owner remains an owner or occupier it and its officers, servants and/or agents shall be entitled to use any Lot of which it remains an owner or occupier as a display dwelling and shall be entitled to allow prospective purchasers or any other person with the authority of the original owner to inspect any such dwelling and for such purposes shall be entitled to use such signs, advertising or display material in or about the dwelling and the Scheme as it thinks fit, such signs shall be attractive and tasteful having regard to the general appearance of the Scheme and shall not at any time and from time to time be more in terms of number and size than is reasonably necessary. All signage will comply with requirements of the Pine Rivers Plan. The original owner shall also be entitled to carry out promotional and marketing functions from the Common Property providing that reasonable steps are taken to minimize the disturbance to owners and occupiers of Lots in the Scheme

**29. Fire Alarms**

An owner or occupier shall not do anything or allow any of their invitees to do anything to cause any fire alarms situated on Scheme Land to sound except in the event of a fire. Any owner or occupier who breaches this By-law must pay to the Body Corporate on demand, the cost charged by the fire brigade in responding to the alarm and the cost of repairing that alarm (if any).

**30. Instructions to Contractors etc**

The owners or occupiers of Lots shall not directly instruct any contractors or workmen employed by the Body Corporate unless so authorised.

**31. Security Equipment**

The Body Corporate may, in the name of the Body Corporate enter into leases from time to time of security equipment.

**32. Correspondence**

All complaints or applications to the Body Corporate or its Committee shall be addressed in writing to the Secretary or the Body Corporate Manager of the Body Corporate.

**33. Requests to the Secretary**

An owner or occupier of a Lot shall direct all requests for consideration of any particular matter to be referred to the Committee of the Body Corporate or to the Secretary and not to the Chairman or any member of the Committee.

**34. Notices**

An owner or occupier of a Lot, their servants, agents, licensees and invitees shall observe the terms of any notice displayed in the Common Property by authority of the Committee of the Body Corporate or of any statutory authority.

**35. Copy of By-Laws to be Produced Upon Request**

Where any Lot or Common Property is leased or rented, otherwise than to an owner of a Lot, the lessor or, as the case may be, landlord shall upon the request of the lessee or tenant produce or cause to be produced to the lessee or tenant for their inspection a copy of the By-Laws for the time being in force in respect of the Scheme.

**36. Power of Committee**

The Committee may make or adopt rules and regulations relating to the Common Property (which may be varied from time to time) not inconsistent with these By-Laws. The rules and regulations shall be observed by the owners and occupiers of Lots unless and until they are amended or revoked by a majority resolution at a general meeting of the Body Corporate.

**37. Recovery of Costs**

An owner shall pay on demand the whole of the Body Corporate costs and expenses (including solicitor and own client costs), which amount shall be deemed to be a liquidated debt due, in recovering all and any levies or moneys duly levied upon such owner by the Body Corporate pursuant to the Act. Where the Body Corporate expends money to make good damage caused by a breach of the Act or of these By-Laws by any owner or occupier or the tenant, guest, servants, employees, agents, children, invitees or licensees of the owner or occupier or any of them, the Committee shall be entitled to recover the amount so expended as a debt in an action in any Court of competent jurisdiction from the owner of the Lot at the time when the breach occurred.

**38. Interest**

38.1 If a contribution levied under the Body Corporate and Community Management Act 1997 is unpaid thirty (30) days after it falls due for payment, then the amount of the unpaid contribution will bear interest at an

annual rate to be determined by the Body Corporate Committee from time to time. If no such resolution has been made, then at a rate of 2% per month or any part thereof.

38.2 If, at the time a person becomes the owner of a Lot, another person is liable in respect of the Lot to pay interest on a contribution, the owner is jointly and severally liable with the other person for the payment of the interest.

38.3 The amount of any interest is recoverable by the Body Corporate as a liquidated debt.

### **39 Exclusive Use - Courtyard**

39.1 Each lot owner or occupier for the time being of a Lot identified in Schedule E shall be entitled to the exclusive use and enjoyment for themselves and their licensees of the respective courtyard areas as identified on the plans attached marked "A" to these by-laws. A lot owner or occupier of a lot having exclusive use and enjoyment of a courtyard shall:-

- (a) keep the same in a clean and tidy condition and in accordance with any landscaping code adopted by the Body Corporate;
- (b) use the same for ordinary residential courtyard uses; and
- (c) not use the same so as to create a nuisance or disturbance to other lot owners or occupiers of lots in the scheme.

39.2 In the event that any of the exclusive area is not cleaned or maintained to a standard that the Committee considers appropriate, the Committee may at its discretion, engage the Caretaker to undertake those duties at the expense of the owner of occupier.

39.3 The Original Owner may allocate Common Property to Owners for exclusive use purposes and any allocation will be effective if:-

- (a) the allocation is made within 12 months of the date of recording of the CMS that first included this by-law; and
- (b) Details of the allocation are notified to the Body Corporate.

39.4 The Body Corporate must within a reasonable time after receiving a notice in by-law 39.3 register a new CMS reflecting the new allocation. The cost of preparing the registering the new CMS will be the responsibility of the Original Owner.

39.4 No Owner may object to the allocations envisaged by by-law 39.3.

### **40. Landscaping Code**

The Body Corporate shall have the lawful authority from time to time to devise, adopt and regulate the operation of a landscaping code for the Scheme.

### **41. Special Privileges**

41.1 For as long as there is in existence an agreement entered into by the Body Corporate for provision of services for the control, management and administration of the Common Property (a "Caretaking Agreement") and/or an agreement for provision of letting and ancillary services to such of the owners or occupiers of lots who wish to avail themselves of such services (a "Letting Agreement") (collectively described as the "Agreements") then:-

- (a) The Body Corporate will not itself, directly or indirectly, provide any of the services set out in the Agreements;
- (b) The Body Corporate will not allow any person or entity other than the parties to the Agreements to provide, from within the Scheme, any of the services set out in the Agreements;

- (c) The Body Corporate will not enter into with any other person or entity an agreement similar to the Agreements;
- (d) The parties to the Agreements will be entitled to erect or display signs or notices in or on the Common Property advertising any of the services it provides pursuant to the Agreements;
- (e) The Body Corporate must not grant to any other person or entity the right to conduct any business of a similar nature to the letting business from within the Scheme land and the Body Corporate (or any of its members individually) must not directly or indirectly conduct or attempt to conduct any business of a similar nature to letting business from within the Scheme land;
- (f) The Body Corporate must not make any part of the Common Property available to any other person or entity for the purpose of conducting a letting business; and
- (g) The Body Corporate confers on the parties to the Agreements special rights in respect of the whole of the Common Property to use same in connection with the business carried out pursuant to the Agreements.

41.2 Where under this by-law any exclusive use or special privileges in respect of the Common Property is given to any parties to the Agreements, the Body Corporate will continue to be responsible for the maintenance and operating costs for any part of that Common Property.

## 42. Fencing Requirements

- 42.1 Fencing of internal open space areas in Lots shall not exceed 1.8 metres in height.
- 42.2 Any fencing of the kind in sub-clause 42.1 shall be constructed only of materials, in a form and of a colour that is compatible with the amenity of the neighbourhood.
- 42.3 In addition to responsibilities in clause 19, Lot owners are solely responsible for keeping the fences described in this clause 42 and any fences erected along the boundary of their Lot and/or Courtyard (exclusive use area), in good order at all times such that the fencing is not unsafe or unattractive.
- 42.4 Owners of Lots 38, 39, 42, 43, 46 and 47 must ensure that any fences on the western boundary of such Lots are transparent pool style fences and appropriately maintained as aforesaid.
- 42.5 Owners of Lots 50, 51, 52 and 53 must ensure that any fences adjacent to Ann Street shall incorporate an access gate and appropriate indentations or detailing in conjunction with landscaping to ensure that the streetscape is not dominated by high blank fences or walls.

## 43. Stormwater Quality Control Maintenance

- 43.1 The Body Corporate will provide stormwater management in accordance with Council's standards.
- 43.2 Individual Lot owners are responsible for the ongoing operation and maintenance of the stormwater management devices.
- 43.3 The Body Corporate will ensure that the stormwater quality devices are to be maintained by a suitably qualified contractor at regular intervals not exceeding 4 months.
- 43.4 The Body Corporate will ensure that a certificate of compliance is forwarded to the Council's Assets and Drainage Engineer, or such other Council officer as the Council may advise from time to time, upon successful completion of each maintenance procedure.

## 44. Original Owner Exceptions

While the Original Owner is the Owner of any Lot, it may:

- 44.1 Use that Lot for display purposes.
- 44.2 Allow any prospective purchasers of any Lot to inspect such display lots.

- 44.3 Use any signs, advertising or display material in or about the display lot and Common Property in accordance with these by-laws as it thinks fit.

#### 45. Special Rights – Marketing and related matters

Despite anything else contained in these by-laws, the Original Owner (and any person to whom the Original Owner assigns its rights under this By-Law) shall have the special right to use the Common Property and erect and maintain signs on the Scheme Land for anything related to, directly or indirectly, the following:

- 45.1 selling, letting and marketing any lots in the Scheme; and
- 45.2 offering any other lawful service to Occupiers of any lots in the Scheme.

#### 46. Construction and Sale of Lots

- 46.1 Whilst the Original Owner (and any person to whom the Original Owner assigns its rights under this by-law) remains an Owner of any Lot in the Scheme Land it and its contractors, agents and those authorised by it will be entitled:
- (a) to place such signs and other advertising and display material in and about the Lot, and about the Common Property which signs will in all respects be attractive and tasteful having regard to the visual and acoustic privacy of other Lots and the general aesthetics and amenity of the Scheme Land, and will not at any time and from time to time be more, in terms of number and size, than is reasonably necessary.
  - (c) Together with persons authorised by it, to pass over the Common Property (with or without vehicles and equipment) to gain access to and egress any part of the Scheme Land;
  - (d) To carry out any building (including construction) of any improvements, or any other things done, on the Scheme Land an no objection will be made to the noise, nuisance or other inconvenience which might arise from that; and
  - (e) To use the Common Property or other Lots in the Scheme to:
    - a. Give access to and egress from any part of the Scheme Land with or without vehicles and equipment (or either of them); and
    - b. Store building materials, vehicles, equipment or fill on the Scheme Land.
- 46.2 In exercising its rights under this by-law, the Original Owner will use reasonable endeavours to prevent undue interference with the enjoyment, by lot Owners, of their lots and the Common Property.
- 46.3 While any construction or building operations are occurring on the Scheme Land, lot Owners, Occupiers and invitees to the Scheme Land must comply with the reasonable direction of the Original Owner (and persons authorised by it). In particular, they must comply with any altered traffic (vehicle and pedestrian) flow directions.
- 46.4 Any by-laws containing prohibitions on sale of lots on the Scheme Land do not apply to the Original Owner or any person to whom the Original Owner assigns its rights under this by-law.

#### SCHEDULE D OTHER DETAILS REQUIRED/PERMITTED TO BE INCLUDED

1. Utility Infrastructure Works
  - a. To facilitate the progressive development of the Blue Sky Kallangur CTS, the Original Owner (and those authorised by it) may, at any time, enter on the Scheme Land to undertake works of any kind necessary or incidental to establishing utility infrastructure and utility services. To facilitate this, the Original Owner may, without limitation, carry on the following works:-
    - i. Excavation and general earthworks;

- ii. The construction of common property areas, including roads;
- iii. The construction on common property of such improvements and facilities as may be considered necessary by the Original Owner to establish utility services and connections thereto; and
- iv. The construction of services infrastructure whether public or private including but without limiting the generality thereof, connections for sewerage, gas, electricity, telephone, fibre optics or any other lawful service available to the public;

All of which are collectively called the "utility infrastructure works".

- b. The Original Owner shall use reasonable endeavours to ensure that the utility infrastructure works will be carried out in a manner which minimises (so far as practical) any inconvenience caused to Owners and Occupiers of lots in the Scheme Land.
- c. The Body Corporate and each Owner and Occupier of lots in the Scheme Land agree not to make any objection or any claim against the Original Owner in respect of any noise, dust, traffic or nuisance of any type which may arise in connection with the utility infrastructure works.
- d. The expression utility infrastructure and utility services have the meaning given to them in the *Body Corporate and Community Management Act 1997*. In this Schedule, the Original Owner means Blue Water (D Bay) Pty Ltd ACN 117 453 040 as trustee (or its nominee).

Services Location Diagram is annexed hereto and marked "B".

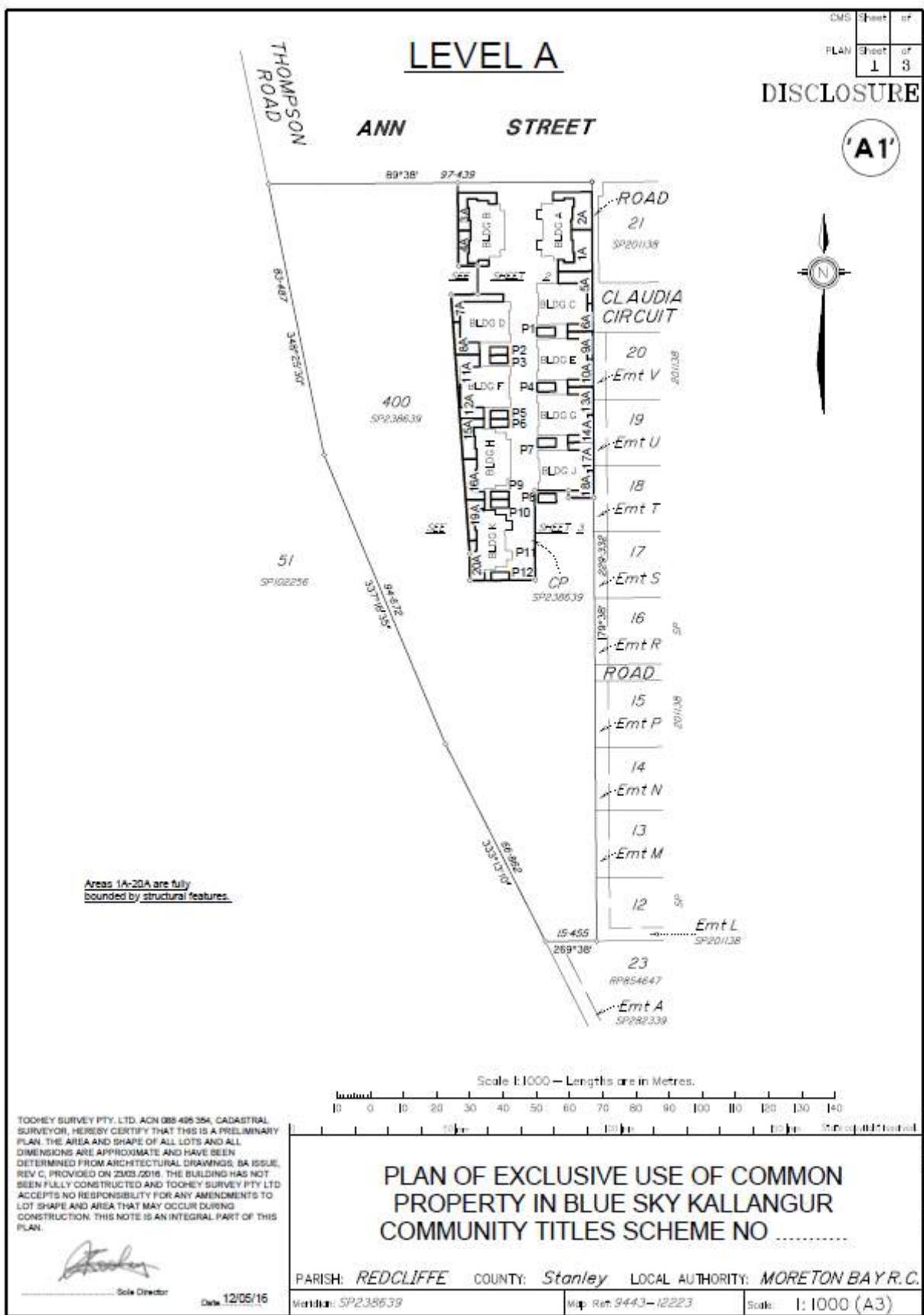
The following statutory easements under the Land Title Act apply to the Lots (including the common property) in the Scheme as follows:-

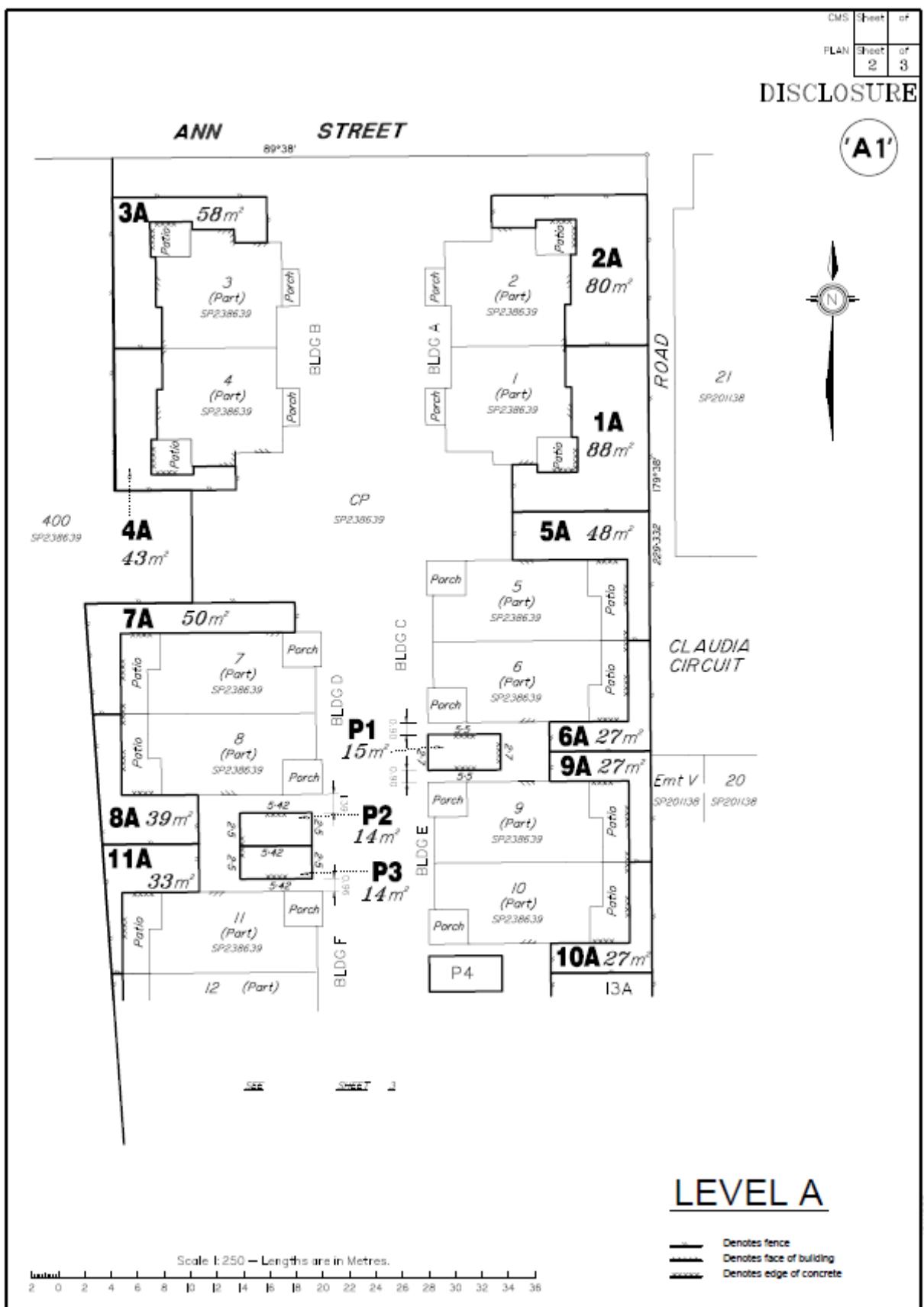
Lot Description	Statutory Easement
Lots 1 – 20 and 400 on SP238639	<p>Each Lot, to the extent applicable and necessary having regard to the relative positioning of the Lots in respect of each has the benefit and burden of the statutory easements for:-</p> <ul style="list-style-type: none"> <li>(a) support;</li> <li>(b) shelter;</li> <li>(c) projections;</li> <li>(d) utility services and utility infrastructure;</li> <li>(e) maintenance of building close to boundary</li> </ul> <p>as shown in annexure B.</p>
Common Property	<p>The Common Property, to the extent applicable and necessary having regard to the relative positioning of the Lots in respect of each has the benefit and burden of the statutory easements for:-</p> <ul style="list-style-type: none"> <li>(a) support;</li> <li>(b) shelter;</li> <li>(c) projections;</li> <li>(d) utility services and utility infrastructure;</li> <li>(e) maintenance of building close to boundary</li> </ul> <p>as shown in annexure B.</p>

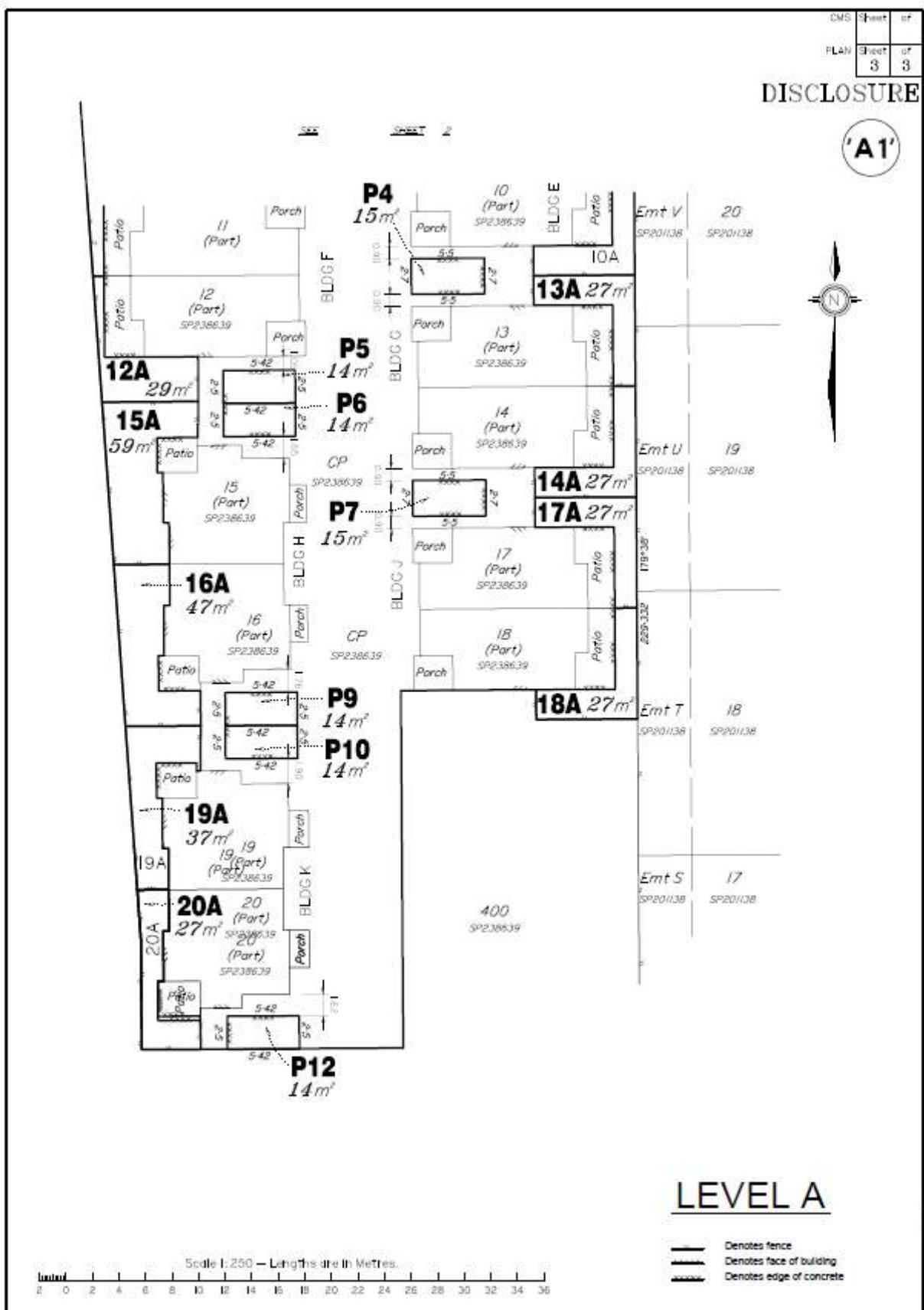
<b>SCHEDULE E      DESCRIPTION OF LOTS ALLOCATED EXCLUSIVE USE AREAS OF COMMON PROPERTY</b>	
---	--

The Original Owner will allocate within 12 months of the establishment of the Scheme, to the proprietors of Lots identified in Schedule E the exclusive use of the areas allocated therein and as identified on sketch plans annexed hereto marked A1.

<b>Lot on Plan</b>	<b>Exclusive Use of Common Property</b>	<b>Use</b>
LOT 1 ON SP238639	Area 1A	Courtyard
LOT 2 ON SP238639	Area 2A	Courtyard
LOT 3 ON SP238639	Area 3A	Courtyard
LOT 4 ON SP238639	Area 4A	Courtyard
LOT 5 ON SP238639	Area 5A	Courtyard
LOT 6 ON SP238639	Area 6A	Courtyard
	Area P1	Carpark
LOT 7 ON SP238639	Area 7A	Courtyard
LOT 8 ON SP238639	Area 8A	Courtyard
	Area P2	Carpark
LOT 9 ON SP238639	Area 9A	Courtyard
LOT 10 ON SP238639	Area 10A	Courtyard
	Area P4	Carpark
LOT 11 ON SP238639	Area 11A	Courtyard
	Area P3	Carpark
LOT 12 ON SP238639	Area 12A	Courtyard
	Area P5	Carpark
LOT 13 ON SP238639	Area 13A	Courtyard
LOT 14 ON SP238639	Area 14A	Courtyard
	Area P7	Carpark
LOT 15 ON SP238639	Area 15A	Courtyard
	Area P6	Carpark
LOT 16 ON SP238639	Area 16A	Courtyard
	Area P9	Carpark
LOT 17 ON SP238639	Area 17A	Courtyard
LOT 18 ON SP238639	Area 18A	Courtyard
LOT 19 ON SP238639	Area 19A	Courtyard
	Area P10	Carpark
LOT 20 ON SP238639	Area 20A	Courtyard
	Area P12	Carpark

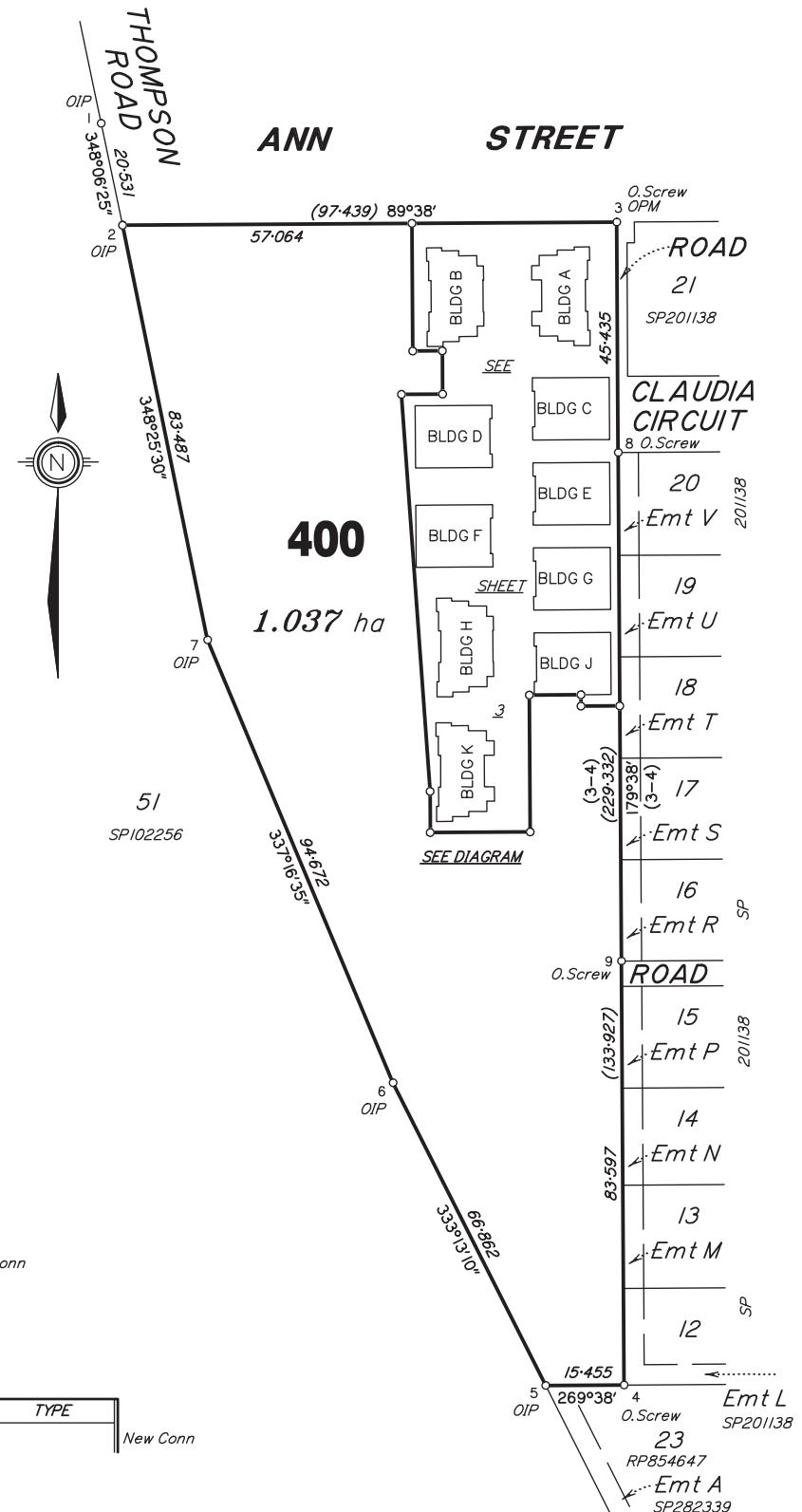
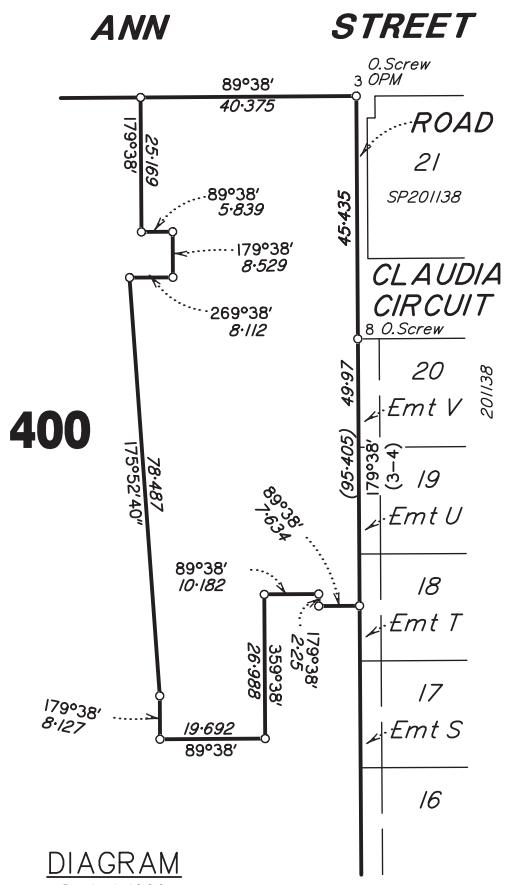






## **Annexure G – Disclosure Plan**

---



REFERENCE MARKS

STN	TO	ORIGIN	BEARING	DIST
1	OIP	8/RP204524	166°28'15"	1.0
2	OIP	2/SP201138	353°49'	0.997
3	O.Screw in Kb	3/SP201138	33°49'	5.245
4	O.Screw in SWPit	11/SP201138	46°35'	3.833
5	OIP leaning	12/SP201138	268°47'	1.04
6	OIP	24/RP204524	337°16'35"	1.0
7	OIP	25/RP204524	157°16'35"	1.0
8	O.Screw in Chnl	30a/SP201138	239°23'40"	5.046
9	O.Screw in Conc Path	33/SP201138	94°13'25"	33.306

New Conn

PERMANENT MARKS

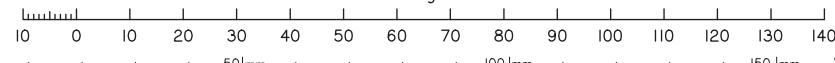
PM	ORIGIN	BEARING	DIST	NO	TYPE
3-OPM	7/SP186352	80°13'15"	121.283	139481	New Conn

Lot 400 is a Standard Format lot.

Peg placed at all subject lot corners  
unless stated otherwise.

**BASE PARCEL AREA 4291 m<sup>2</sup>**

Scale 1: 1000 – Lengths are in Metres.



**Plan of Lots 1-20, 400 & Common Property**

Cancelling Lot 4 on RP204524

LOCAL GOVERNMENT: MORETON BAY REGIONAL

LOCALITY: KALLANGUR

Meridian: RP204524

Scale:	1: 1000
Format:	BUILDING
<b>SP238639 DISCLOSURE</b>	
Plan Status:	

Sole Director

Date 12/05/16

(Dealing No.)

1. Certificate of Registered Owners or Lessees.

I/We .....

.....

.....

.....

(Names in full)

\* as Registered Owners of this land agree to this plan and dedicate the Public Use Land as shown hereon in accordance with Section 50 of the Land Title Act 1994.

\* as Lessees of this land agree to this plan.

.....  
Signature of \* Registered Owner \* Lessee

\* Rule out whichever is inapplicable

2. Planning Body Approval.

\* ..... hereby approves this plan in accordance with the : %

Dated this..... day.of.....

\* Insert the name of the Planning Body.  
\* Insert designation of signatory or delegation

% Insert applicable approving legislation.

3. Plans with Community Management Statement :

CMS Number :

Name : BLUE SKY KALLANGUR

4. References :

Dept File :

Local Govt :

Surveyor : 101119-1

(Include address, phone number, reference, and Lodger Code)

6. Existing		Created		
Title Reference	Description	New Lots	Road	Secondary Interests
18579070	Lot 4 on RP204524	1-20, 400 & CP	—	—

9. Building Format Plans only.

I certify that :

\* As far as it is practical to determine, no part of the building shown on this plan encroaches onto adjoining lots or road;  
\* Part of the building shown on this plan encroaches onto adjoining lots and road

Cadastral Surveyor/Director \* Date  
\* delete words not required

10. Lodgement Fees :

Survey Deposit \$ .....

Lodgement \$ .....

..... New Titles \$ .....

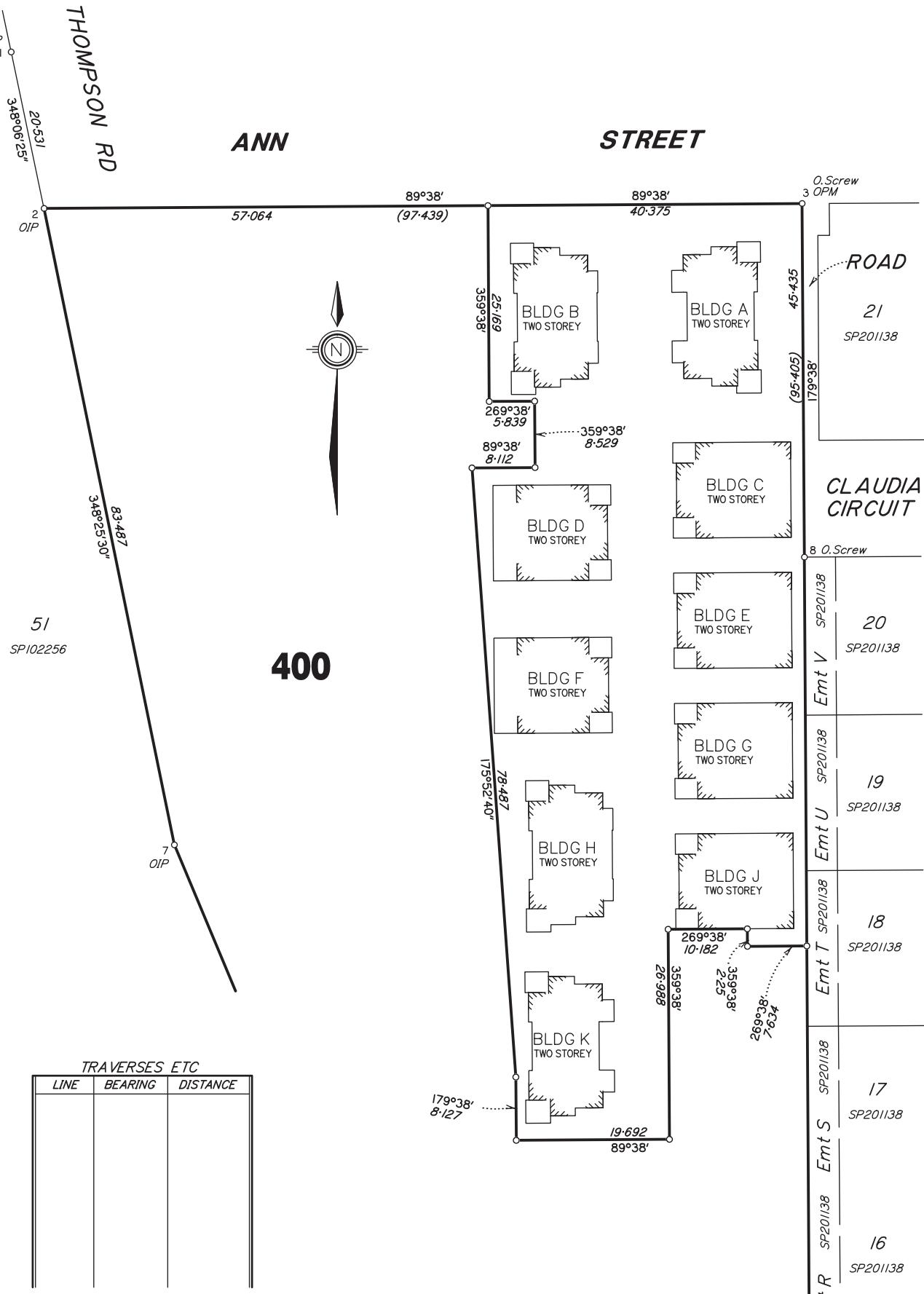
Photocopy \$ .....

Postage \$ .....

TOTAL \$ .....

11. Insert Plan Number

**SP238639  
DISCLOSURE**



Scale 1: 500 – Lengths are in Metres.

0 5 10 15 20 25 30 35 40 45 50 55 60 65 70  
50 mm 100 mm 150 mm

State copyright reserved.

Insert Plan Number  
**SP238639**  
**DISCLOSURE**



The diagram illustrates a building layout with five distinct sections, each containing two stacked rectangular rooms labeled (Pt). The sections are:

- BLDG B**: Contains rooms **3 (Pt)** and **4 (Pt)**.
- PROPERTY**: Contains rooms **2 (Pt)** and **1 (Pt)**.
- BLDG C**: Contains rooms **5 (Pt)** and **6 (Pt)**.
- BLDG E**: Contains rooms **9 (Pt)** and **10 (Pt)**.
- BLDG G**: Contains rooms **13 (Pt)** and **14 (Pt)**.
- BLDG F**: Contains rooms **11 (Pt)** and **12 (Pt)**.
- BLDG H**: Contains rooms **15 (Pt)** and **16 (Pt)**.
- BLDG J**: Contains rooms **17 (Pt)** and **18 (Pt)**.
- BLDG K**: Contains rooms **19 (Pt)** and **20 (Pt)**.
- COMMON**: Labeled vertically on the left.
- COMMON**: Labeled vertically on the right.
- SHEET**: Labeled horizontally below BLDG F.
- SHEET**: Labeled horizontally below BLDG G.
- SHEET**: Labeled horizontally below BLDG J.
- SHEET**: Labeled horizontally below BLDG K.
- SEE**: Labeled vertically next to BLDG H.
- SEE**: Labeled vertically next to BLDG K.
- SEE**: Labeled vertically next to BLDG A.
- SEE**: Labeled vertically next to BLDG C.
- SEE**: Labeled vertically next to BLDG E.
- SEE**: Labeled vertically next to BLDG G.
- PROPERTY**: Labeled vertically next to BLDG A.
- PROPERTY**: Labeled vertically next to BLDG B.
- 5**: Labeled vertically next to BLDG C.

## LEVEL A

Scale 1:500

## LEVEL B

Scale 1:500

Scale I: 500 – Lengths are in Metres.

State copyright reserved.

Insert  
Plan  
Number

**SP238639**  
**DISCLOSURE**

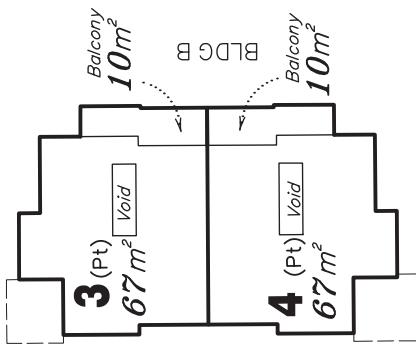
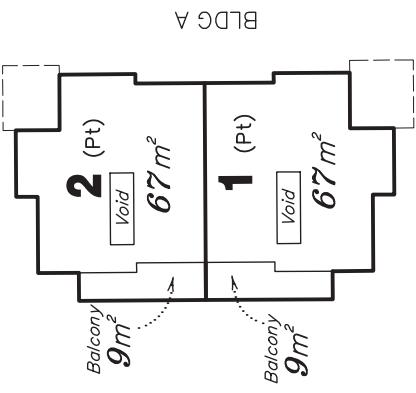
006110

PROPERTY

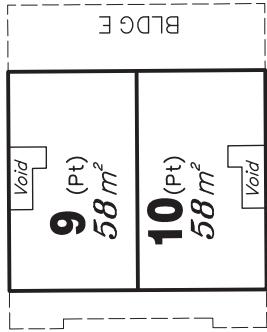
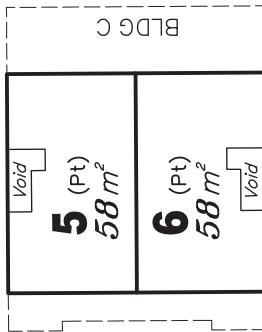
COMMON

LEVEL B  
Scale 1:250

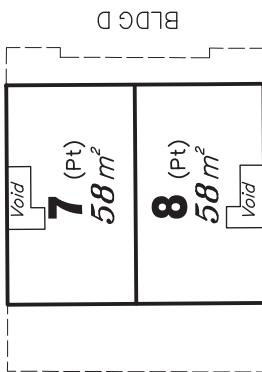
[---] DENOTES LEVEL BELOW



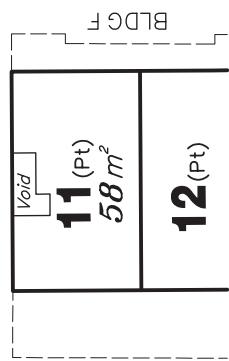
PROPERTY



PROPERTY



COMMON



SHEET 5

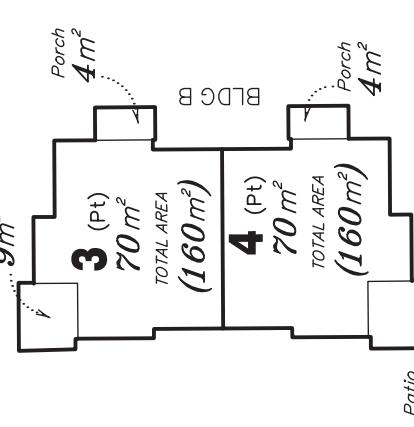
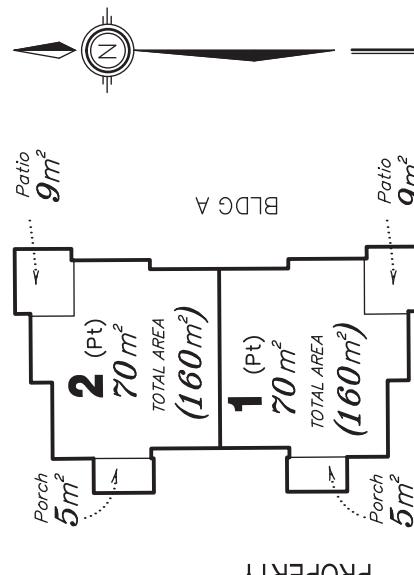
Scale 1:250 – Lengths are in Metres.  
2 0 2 4 6 8 10 12 14 16 18 20 22 24 26 28 30 32 34 36

COMMON

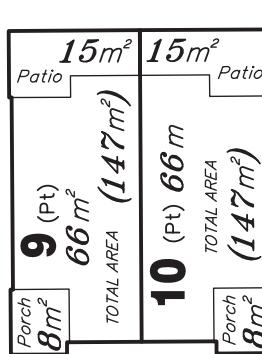
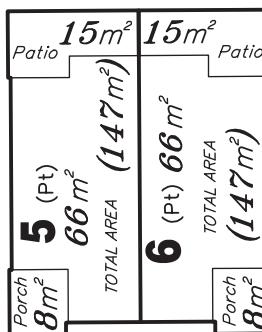
COMMON

PROPERTY

COMMON

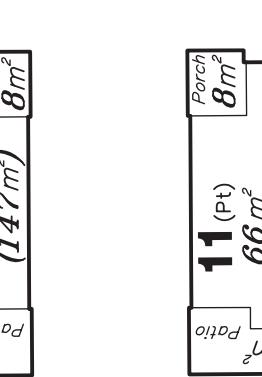
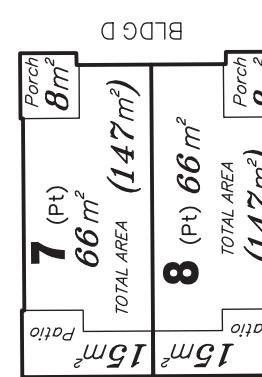


PROPERTY



COMMON

PROPERTY



LEVEL A  
Scale 1:250

SHEET 5

Scale 1:250 – Lengths are in Metres.  
2 0 2 4 6 8 10 12 14 16 18 20 22 24 26 28 30 32 34 36

10/19/2022



Reinstatement Report to go here.

CCG/101

State copyright reserved.

Insert  
Plan  
Number  
**SP238639**  
**DISCLOSURE**

0 | 50 | mm | 100 | mm | 150 | mm

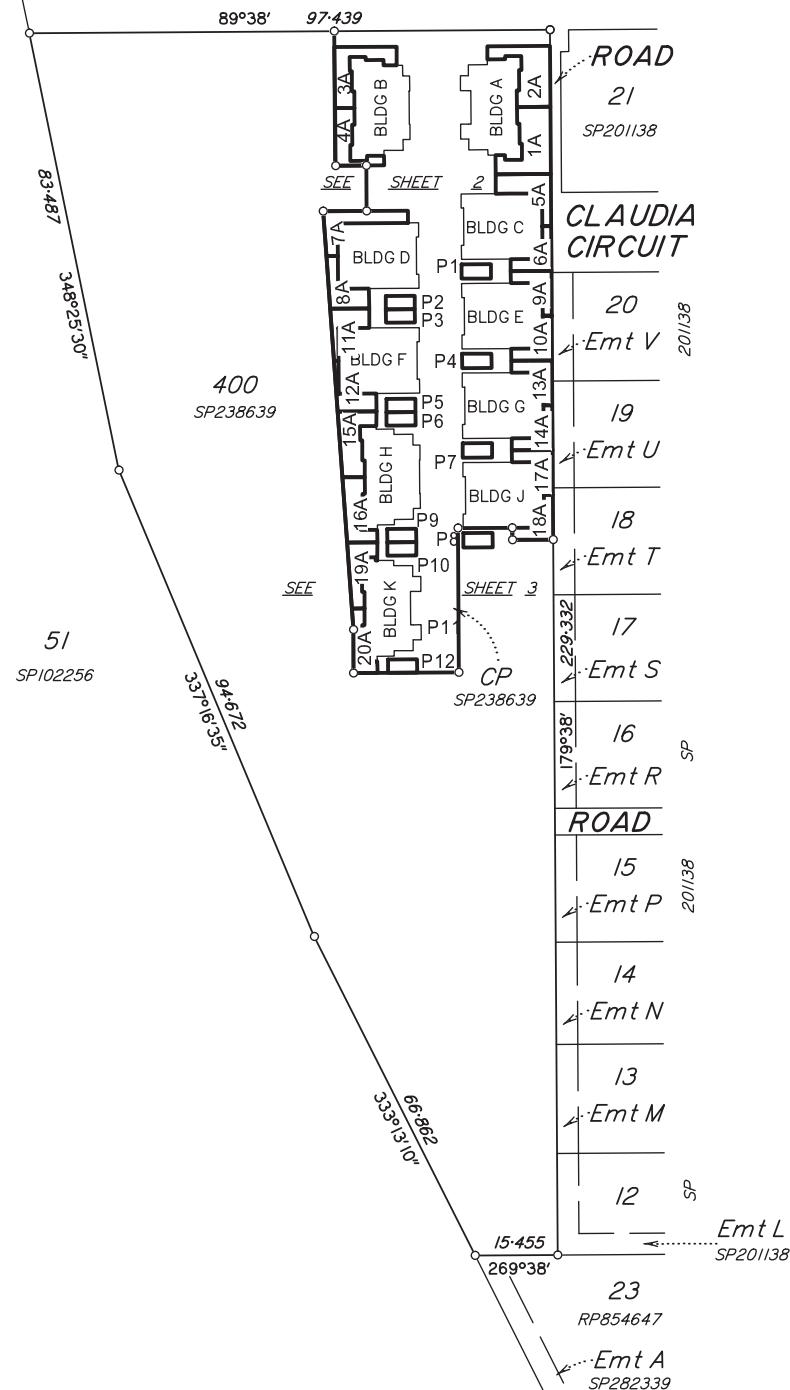
## **Annexure H – Exclusive Use**

---

## LEVEL A

## DISCLOSURE

'A1'



Areas 1A-20A are fully bounded by structural features.

TOOHEY SURVEY PTY. LTD. ACN 088 495 354. CADASTRAL SURVEYOR. HEREBY CERTIFY THAT THIS IS A PRELIMINARY PLAN. THE AREA AND SHAPE OF ALL LOTS AND ALL DIMENSIONS ARE APPROXIMATE AND HAVE BEEN DETERMINED FROM ARCHITECTURAL DRAWINGS. BA ISSUE. REV C. PROVIDED ON 23/03/2016. THE BUILDING HAS NOT BEEN FULLY CONSTRUCTED AND TOOHEY SURVEY PTY LTD ACCEPTS NO RESPONSIBILITY FOR ANY AMENDMENTS TO LOT SHAPE AND AREA THAT MAY OCCUR DURING CONSTRUCTION. THIS NOTE IS AN INTEGRAL PART OF THIS PLAN.

Scale I: 1000 – Lengths are in Metres.

10 0 10 20 30 40 50 60 70 80 90 100 110 120 130 140

50 mm 100 mm 150 mm State c

Page 10 of 10

PLAN OF EXCLUSIVE USE OF COMMON

# PLAN OF EXCLUSIVE USE OF COMMON

#### PROPERTY IN BLUE SKY KAILANGUR

**PROPERTY IN DESE SKY VALLEY  
COMMUNITY TITLES SCHEME NO.**



**Sole Director**

13/05/16

PARISH: *REDCLIFFE* COUNTY: *Stanley* LOCAL AUTHORITY: *MORETON BAY R.C.*

Meridian: SP2 386 39

COUNTY: *Stanley*

LOCAL AUTHORITY: *MORETON BAY R.C.*

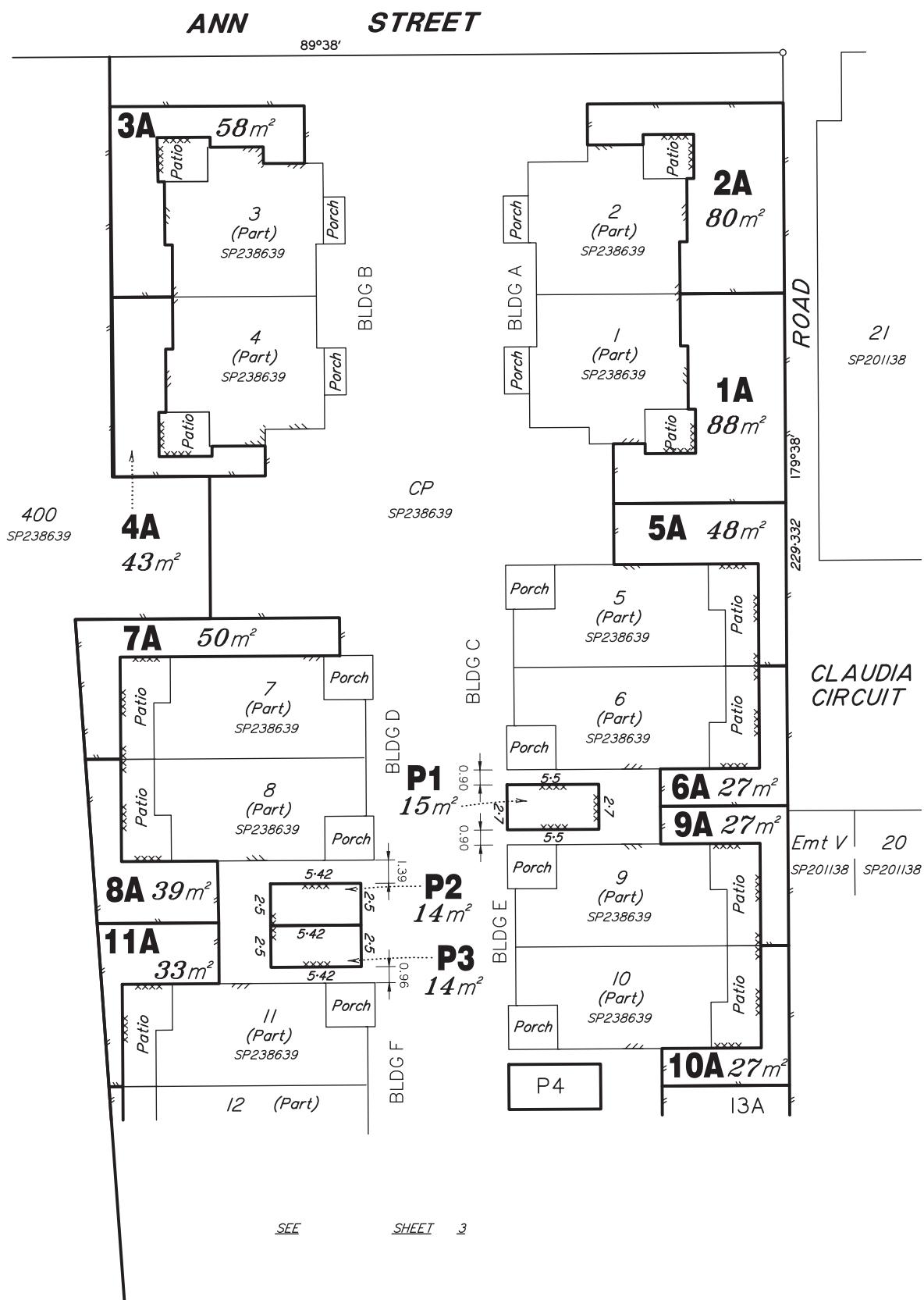
Meridian: SP238639

Ms. Ref. 9443-12223

Size: 1:1000 (A3)

# DISCLOSURE

'A1'



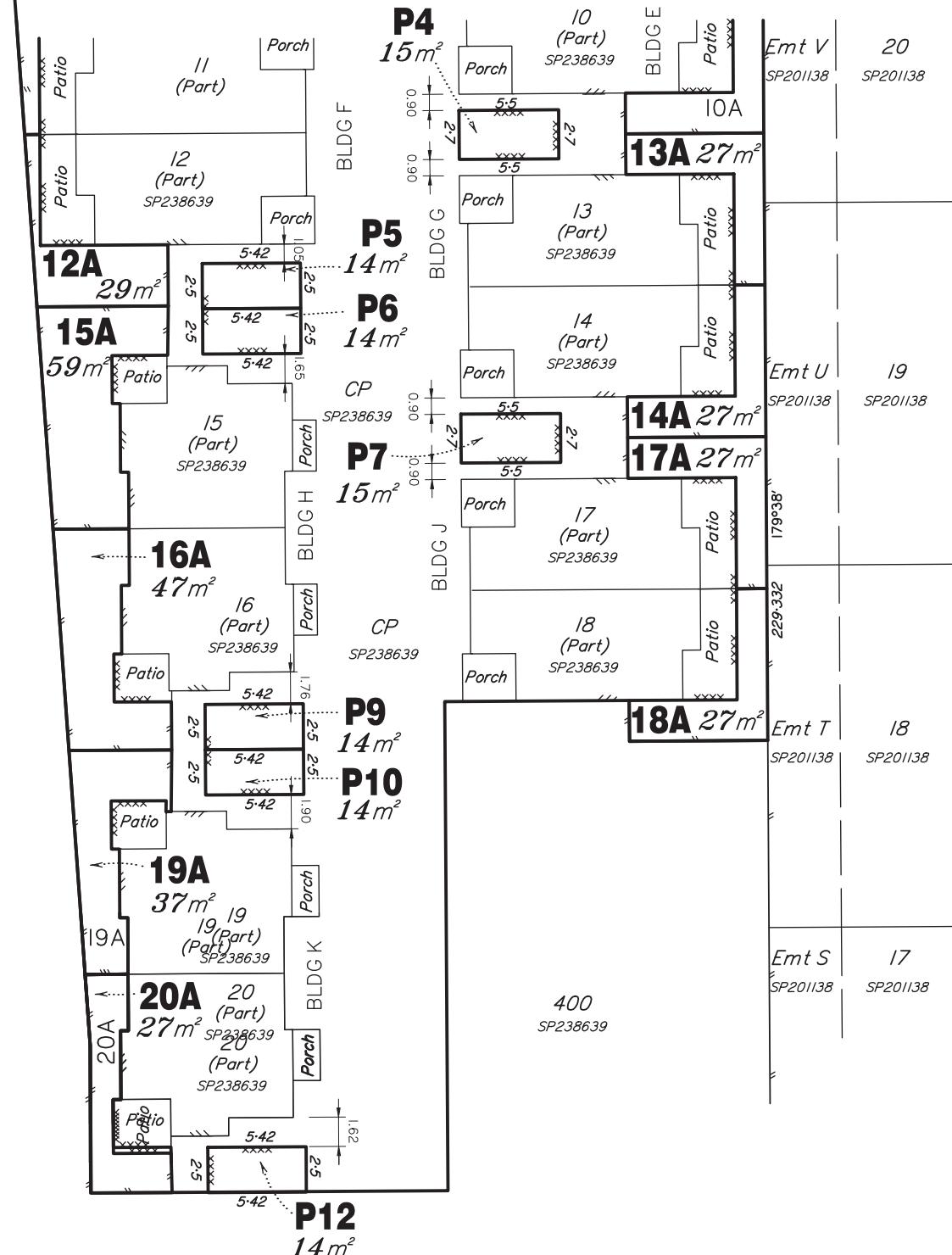
**LEVEL A**

Denotes fence  
Denotes face of building  
Denotes edge of concrete

# DISCLOSURE

'A1'

SEE SHEET 2



## LEVEL A

Scale 1:250 – Lengths are in Metres.

2 0 2 4 6 8 10 12 14 16 18 20 22 24 26 28 30 32 34 36

- Denotes fence
- Denotes face of building
- Denotes edge of concrete

## **Annexure I – Development Drawings**

---

**PROPOSED TOWN HOUSE DEVELOPMENT AT 165 ANN ST, KALLANGUR,  
PROUDLY DEVELOPED BY BLUE WATER (D BAY) PTY LTD**

<b>TOTAL SITE AREA</b>	14,665.34
<b>PRIVATE OPEN SPACE PROVIDED</b>	3,182.21
APPROX. 60.1sqm/ UNIT (min 40sqm/unit required)	
<b>TOTAL COMMUNAL AREA PROVIDED</b>	3,524.84
24% SITE AREA (Min 20% site area required)	

Floor (Story)	GFA PROVIDED
GROUND	2,334.36
LEVEL 1	3,687.35
	<b>6,021.71 m<sup>2</sup></b>

<b>42% SITE COVER</b> (Remains Unchanged to Original DA)	<b>TOTAL NUMBER OF DWELLINGS : 53 (&gt;75M<sup>2</sup>)</b>	<b>CAR PARKING REQUIRED</b>	<b>CAR PARKING PROVIDED</b>
		DENSITY - 6/HA	
		1.25 CARS / DWELLING <75m <sup>2</sup>	95 CARS - RESIDENTIAL
		1.5 CARS / DWELLING >75m <sup>2</sup>	14 VISITORS
		1/4 PER DWELLING VISITOR	TOTAL : 109

**SITE PLAN NOTES:**  
1. DRIVEWAY IS TO BE DE  
AGGREGATE AND COLOU  
2. ALL VISITOR PARKING S  
MARKED.  
3. ALL CARPARKS FACING

1:500 @ A1  
1:1000 @ A3

<input type="radio"/> SCALE : AS INDICATED <input type="radio"/> DATE : 10/02/2016 6:04 pm <input type="radio"/> DRAWN : RS <input type="radio"/> DWG. No.: DA 0.1 	<input type="radio"/> REV. NO.: 002 E&H <input type="radio"/> DATE: 10/02/2016 <input type="radio"/> PAGE: 100 OF 120 <input type="radio"/> SHEET: 100 OF 100 
 <b>AEC ARCHITECTS</b> <small>Architects • Engineers • Interior Designers</small>	
<input type="radio"/> E-mail: <a href="mailto:sales@aeconarchitects.com.au">sales@aeconarchitects.com.au</a> <input type="radio"/> Tel: +61 3 9411 1000   Fax: +61 3 9411 1133   Web: <a href="http://www.aeconarchitects.com.au">www.aeconarchitects.com.au</a>	





- TYPE 1
- TYPE 2
- TYPE 3
- TYPE 4
- SINGLE DWELLING (HOUSE)
- PRIVATE OPEN SPACE
- COMMON OPEN SPACE



PROUDLY DEVELOPED BY :

BLUE WATER  
PTY LTD

AT :

165 ANN STREET  
KALLANGUR

## SITE PLAN

ALEX ENBORISOFF  
[www.enborisoff.com.au](http://www.enborisoff.com.au)

AEV ARCHITECTS  
M. 0411 700 800  
FURNITURE IN DISPLAY ARE FOR ILLUSTRATIVE PURPOSE ONLY. DO NOT SCALE OFF DRAWINGS.  
FINAL LAYOUT AND AREAS ARE SUBJECT TO DESIGN CHANGES.  
COUNCIL APPROVAL AND FIELD SURVEY MAY DIFFER FROM THOSE SHOWN ON THIS PLAN.

165 ANN STREET  
KALLANGUR

# TYPE 1

UNIT 1-2, 19-20, 29-30,  
31-32, 36-37, 42-43,  
52-53

## KEYPLAN



PROUDLY DEVELOPED BY:

BLUE WATER  
Pty Ltd

GROUND LEVEL  
INTERNAL : 73.53 m<sup>2</sup>  
EXTERNAL : 14.96 m<sup>2</sup>  
LANDSCAPE : Varies

LEVEL 1  
INTERNAL : 73.53 m<sup>2</sup>  
EXTERNAL : 8.53 m<sup>2</sup>

(APPROX AREA ONLY, REFER TO  
(SURVEYOR BFP FOR FINAL TITLING AREAS)

## LEVEL 1



## GROUND LEVEL



0m 1m 3m 5m

ALEX ENBORISOFF  
[alexenborisoff.com](http://alexenborisoff.com)

AEV ARCHITECTS  
[aevalley.com.au](http://aevalley.com.au)

M. 0411 700 800  
AUSTRALIA & OVERSEAS  
PHOTOGRAPH BY: PHOTONIC

NOTICE: THE DISPLAY LAYOUT AND AREAS ARE FOR ILLUSTRATIVE PURPOSE ONLY. ON-SITE LAND AREAS ARE SUBJECT TO DESIGN CHANGES.  
COUNCIL APPROVAL AND FIELD SURVEY MAY DIFFER FROM THOSE SHOWN ON THIS PLAN.

165 ANN STREET  
KALLANGUR

## TYPE 2

UNIT 3-4, 15-16, 23-24,  
33-34, 38-39, 40-41,  
46-47, 50-51

### KEYPLAN



PROUDLY DEVELOPED BY:

BLUE WATER  
Pty Ltd

GROUND LEVEL  
INTERNAL : 73.06 m<sup>2</sup>  
EXTERNAL : 14.49 m<sup>2</sup>  
LANDSCAPE : Varies

LEVEL 1  
INTERNAL : 73.06 m<sup>2</sup>  
EXTERNAL : 8.99 m<sup>2</sup>

(APPROX AREA ONLY, REFER TO  
SURVEYOR BFP FOR FINAL TITLING AREA)

### LEVEL 1



### GROUND LEVEL



0m 1m 3m 5m

ALEX ENBORISOFF  
INTERIOR DESIGNER

AEV ARCHITECTS  
ARCHITECTURE

M. 0411 700 800  
NOTICE: IN DISPLAY ARE FOR ILLUSTRATIVE PURPOSE ONLY. LAND AREAS ARE SUBJECT TO DESIGN CHANGES.  
COUNCIL APPROVAL AND FIELD SURVEY MAY DIFFER FROM THOSE SHOWN ON THIS PLAN.

165 ANN STREET  
KALLANGUR

## TYPE 3

**UNIT 5-6, 11-12, 13-14,  
21-22, 27-28, 48-49**



PROUDLY DEVELOPED BY:

**BLUE WATER  
Pty Ltd**

GROUND LEVEL  
INTERNAL : 68.53 m<sup>2</sup>  
EXTERNAL : 22.89 m<sup>2</sup>  
LANDSCAPE : Varies

LEVEL 1  
INTERNAL : 63.81m<sup>2</sup>  
EXTERNAL : -

(APPROX AREA ONLY, REFER TO  
SURVEYOR BFP FOR FINAL TITLING AREAS)

ALEX ENBORISOFF  
[www.enborisoff.com.au](http://www.enborisoff.com.au)

**AEV ARCHITECTS**  
[www.aevarchitects.com.au](http://www.aevarchitects.com.au)

M. 0411 700 800  
NOTICE: IN DISPLAY ARE PREFERENTIAL PLACEMENTS OF OFFICES OR DESIGN CHANGES.  
FINAL LAYOUT AND AREAS ARE SUBJECT TO DESIGN CHANGES.  
COUNCIL APPROVAL AND FIELD SURVEY MAY DIFFER FROM THOSE SHOWN ON THIS PLAN.



LEVEL 1



GROUND LEVEL

165 ANN STREET  
KALLANGUR

## TYPE 4

UNIT 7-8, 9-10, 17-18,  
25-26, 44-45



PROUDLY DEVELOPED BY:

BLUE WATER  
Pty Ltd

GROUND LEVEL  
INTERNAL : 68.53 m<sup>2</sup>  
EXTERNAL : 22.89 m<sup>2</sup>  
LANDSCAPE : Varies

LEVEL 1  
INTERNAL : 63.30 m<sup>2</sup>  
EXTERNAL : -

(APPROX AREA ONLY, REFER TO  
SURVEYOR BFP FOR FINAL TITLING AREAS)

ALEX ENBORISOFF  
alex@enborisoff.com.au

AEV ARCHITECTS  
m. 0411 700 800

NOTICE: IN DISPLAY ARE PREFERRED PLACEMENTS OF FURNITURE AND DECOR. FINAL LAYOUT AND AREAS ARE SUBJECT TO DESIGN CHANGES.  
COUNCIL APPROVAL AND FIELD SURVEY MAY DIFFER FROM THOSE SHOWN ON THIS PLAN.



LEVEL 1



165 ANN STREET  
KALLANGUR

# TYPE 5

UNIT 35

KEYPLAN



PROUDLY DEVELOPED BY :

BLUE WATER  
Pty Ltd

GROUND LEVEL  
INTERNAL : 74.83 m<sup>2</sup>  
EXTERNAL : 15.36 m<sup>2</sup>  
LANDSCAPE : Varies

LEVEL 1  
INTERNAL : 72.54 m<sup>2</sup>  
EXTERNAL : 12.33 m<sup>2</sup>

(APPROX AREA ONLY, REFER TO  
SURVEYOR BFP FOR FINAL TITLING AREAS)

LEVEL 1



GROUND LEVEL



ALEX ENBORISOFF  
PROJECT MANAGER



FURNITURE IN DISPLAY ARE FOR ILLUSTRATIVE PURPOSE ONLY. DO NOT SCALE OFF DRAWINGS.  
COUNCIL APPROVAL AND FIELD SURVEY HAS NOT BEEN OBTAINED FOR THIS PLAN.

## **Annexure J – Schedule of Finishes**

---

# Inclusions Form

Please complete this form electronically or PRINT clearly in BLACK PEN and attach to relevant Contracts of Sale.

## 1. Property Details

Property Address	165 Ann Street	Suburb	Kallangur	State	Qld	PC	4503
Seller	Blue Water (D.Bay) Pty Ltd	Contact Name	Leon Shisman				
Seller's Address	Po Box 746	Office Number	040404-3787	Fax Number	03-9917-2146		
Suburb	Elsternwick	State	Vic	PC	3185	Email Address	office@lmdevelopers.com
Seller's Solicitor	River Legal	Contact Name	Scott Anderson				
Solicitor Address	Po Box 48	Office Number	07 3807 0777	Fax Number	07 3287 4663		
Suburb	Beenleigh	State	Qld	PC	4207	Email Address	scottanderson@riverlegal.com

## 2. Property Inclusions and Settlement Incentives

This property is to include the following additional items by the date of settlement. This list also states any settlement incentives applicable to the sale.

- Vertical blinds to external glass doors
- Vertical blinds to all clear glass windows
- Security screens to all ground floor windows
- Security screens to all external glass doors
- External Clothes Line
- Dishwasher
- 2.5hp split-system Air Conditioner to living area
- Deposit of AU\$1,000.00
- 
- 

Seller's Signature

28/10/2010

Date

By signing above, I hereby acknowledge and agree that I will provide the finishes and inclusions as they appear in The Investors Club's Property Profile or as provided in writing and signed by you, that the attached special conditions as signed will form part of the Contract of Sale and that this Inclusions Form as signed as will also form part of the Contract of Sale.

# **Schedule of Finishes @ 165 Ann Street, Kallangur**

---

## **EXTERNAL**

Rainwater Tank	Harvesting Rainwater tank 3000 litres
External Walls	Brick veneer finish
Ballustrade	Aluminium balustrades in selected colorbond finish
Windows and Doors	Selected aluminium windows and doors
	Vertical drapes throughout
	Security screens to all windows on ground floor
	And to all external glass doors
Driveway & Paths	Broom finish concrete
Letterboxes	To front entry gatehouse – one per unit
Garage door	Selected colorbond metal with remote control
Roof	Selected colorbond metal
Landscaping	Soft landscape features incorporating turf, planting Beds, feature trees to approved landscape plan

## **TYPICAL INTERNALS**

Floors	Carpet to living area all bedrooms and robes
Walls	Selected tiles to dining area all wet areas and elsewhere FC to wet areas
Ceilings	Sound rated party walls to meet code requirements
Entry Door	Painted plasterboard on studs to internal walls
Other Doors	Painted flush set plasterboard with cornice
Door Furniture	Solid exterior grade door and frame with lever action
Joinery	Hollow core door. Gloss paint finish
Kitchen	Lever action handles or similar ( with privacy set to Main)
Robes	Fully laminated bench tops and cupboards
Skirtings	Sliding mirror doors to main bedroom. Hanging rod
Window	And overhead shelves. Vinyl sliders
Kitchen	Moulded pine in selected gloss paint finish
	Moulded pine in selected gloss paint finish
	Selected tile splashbacks

## **WHITEGOODS**

Cooktop	selected electric stainless steel finish glass cooktop
Oven	selected electric stainless steel finish fan forced oven
Rangehood	selected pull out stainless steel rangehood
Dishwasher	Selected stainless steel dishwasher
Clothesline	Wall/Fence mounted folding clothesline fitted to exterior

## **KITCHEN**

Taps	Selected AAA rates chrome sink flick mixer
Sink	Stainless steel bowl 1.5 with drainer

## **Schedule of Finishes @ 165 Ann Street, Kallangur**

---

### **BATHROOM AND ENSUITE**

	Selected AAA rated fixed head mixer set
	Exhaust fans as indicated on plans
Tiling	Skirting tiles to all wet area (toilets, bathrooms ensuite)
Shower	Powder coated shower screen with clear glass
Bath	White acrylic bath tub
Toilets	Selected white vitreous china dual flush suite
Vanity	Selected vitreous china or polymarble bowl
Accessories	Quality chrome accessories to bathroom and toilet

### **LAUNDRY**

Taps	Selected AAA rated chrome taps
Laundry	Selected stainless steel tub with cupboard unit

### **ELECTRICAL**

Selected energy efficient fittings throughout  
Circuit breakers and earth leakage system as required  
Adequate GPO's – all doubles  
Light switches and GPO to be white finish  
2 x telephone outlets to each unit  
2 x TV outlets with antenna to service each unit  
Ceiling fans to all bedrooms  
Split system reverse cycle air conditioner to living area

### **HOT WATER**

Heat Pump hot water system.

## Document 2 – Power of Attorney Deed

---

### POWER OF ATTORNEY DEED

**THIS DEED** is made this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

**BY:** [Buyer's name] of [Buyer's address] (**Buyer**)

**IN FAVOUR OF:** Blue Water (D Bay) Pty Ltd ACN 117 453 040 as trustee of PO Box 746  
Elsternwick VIC 3124 (**Seller**)

#### 1. Appointment of Attorney

In consideration of the Seller agreeing to enter into the Contract with the Buyer, the Buyer jointly and severally (if there is more than one Buyer) **IRREVOCABLY APPOINTS** the Seller (including each director, secretary and attorney jointly and severally) as the Buyer's attorney(s) to exercise the authority conferred on each attorney under this Power of Attorney Deed for the purposes and matters set out in the Power of Attorney Disclosure Statement the Seller gave to the Buyer before the Buyer signed the Contract.

#### 2. Authority of Attorney

Pursuant to that authority the attorney(s) can sign all instruments and do all acts, matters and things as may be necessary for carrying out those powers as described in the Power of Disclosure Statement.

#### 3. Exclusion

In so far as it is lawful, the rights of the Seller can be exercised to the exclusion of the Buyer.

#### 4. Term

This Power of Attorney commences upon settlement of the Contract and expires the earlier of:

- a. where the Lot is created, 12 months from the Settlement Date or where the Lot is not created, 12 months from the establishment of the Scheme
- b. as provided by the *Body Corporate and Community Management Act 1997* (Qld) from time to time; and
- c. the date the Seller (we) gives written notice to the Body Corporate of its resignation as attorney.

#### 5. Interpretation

In this Power of Attorney Deed:

**Body Corporate, Contract and Scheme** have the same meaning as in the Power of Attorney Disclosure Statement.

**Lot** means proposed lot [Lot No.] in the Scheme.

**EXECUTED as a deed**

**SIGNED SEALED AND DELIVERED** by [Buyer's name] )  
in the presence of: )

**Signature of Witness**

Name of Witness (BLOCK LETTERS)

**SIGNED SEALED AND DELIVERED** by [Buyer's name]  
in the presence of:

**Signature of Witness**

Name of Witness (BLOCK LETTERS)

**EXECUTED** by [Buyer's name] ACN [Buyer's ACN]  
in accordance with Section 127 of *the Corporations  
Act 2001* (Cth):

Signature of Director/Secretary

**Signature of Director**

**Name of Director/Secretary (BLOCK LETTERS)**

Name of Director (BLOCK LETTERS)

# Document 3 - Power of Attorney Disclosure Statement

---

## POWER OF ATTORNEY DISCLOSURE STATEMENT

### 1. Power of Attorney Disclosure Statement

This Power of Attorney Disclosure Statement is given to Blue Water (D Bay) Pty Ltd ACN 117 453 040 as trustee of PO Box 746, Elsternwick VIC 3124 (**us, we or our**) by [Buyer's name] of [Buyer's address] (**you**) in accordance with section 219 of the *Body Corporate and Community Management Act 1997* (Qld).

### 2. Interpretation

In this Power of Attorney Disclosure Statement:

- (a) **BCCM Act** means the *Body Corporate and Community Management Act 1997* (Qld);
- (b) **Body Corporate** means the body corporate for the Scheme;
- (c) **CMS** means the community management statement for the Scheme and includes the first community management statement contained in the Disclosure Statement and any new community management statement;
- (d) **Contract** means the contract of sale between us and you for the sale of proposed lot [Lot No.] in the Scheme;
- (e) **Development** means all work required to develop the Parcel identified in the Disclosure Statement and described in the CMS including but not limited to:
  - (i) the establishment of the Scheme;
  - (ii) the physical construction of the improvements that are proposed to be constructed on the Scheme land; and
  - (iii) all other matters which are required to provide for the lawful occupation of the Lot;
- (f) **Disclosure Statement** means the separate document entitled "Disclosure Statement" which includes this Power of Attorney Disclosure Statement and which we or our agent provided to you before you signed the Contract;
- (g) **Parcel** means Lot 4 on RP204524 (Title Reference 17186027);
- (h) **Regulation Module** means the *Body Corporate and Community Management (Accommodation Module) Regulation 2008* (Qld); and
- (i) **Scheme** means the community titles scheme to be known as "Blue Sky Kallangur", established in respect of the Parcel upon registration of the Subdivision Plan under the *Land Title Act 1994* (Qld) and recording of the first CMS under the BCCM Act.

### **3. Appointment**

You appoint us (including each director, secretary and attorney jointly and severally) as your attorney for the following purposes (and for no other purpose):

- (a) complete any necessary details (including signing) to give us effect to any agreement between an owner of a Lot and the Seller concerning exchange of areas of exclusive use and enjoyment pursuant to by-law 23 of the New CMS (Reallocation Agreement);
- (b) attend and vote (or do either) in your name at all or any meetings of the Body Corporate or of the Committee of the Body Corporate;
- (c) complete, sign and lodge any voting paper (or any other document including, corporate owner nominees notification form or owner's representative notification form) and any notice under the Regulation Module to allow the attorney to vote in your name at all or any meetings of the Body Corporate or of the committee of the Body Corporate in respect of any motion or resolution for or relating to any one or more of the following:
  - (i) consent to any new CMS to be recorded to facilitate the development identified in the CMS, which development necessitates the lodgement of new CMSs to reflect the matters identified in the CMS or to more effectively regulate the Development;
  - (ii) consent to any new CMS to record a by-law required to rectify any inaccuracy, defect, error or omission in any by-law contained in schedule C of the CMS, or to procure the grant of exclusive use by-laws by the Body Corporate to enable us to effectively market and undertake the Development, or to sign an agreement to relocate any exclusive use area to give effect to any agreement or to allow compliance with relevant laws;
  - (iii) consent to any new CMS to record allocations under any exclusive use by-laws contained in schedule C of the CMS or to record any deletion of any additional or replacement exclusive use by-law to facilitate the identification and/or allocation of exclusive use areas in the Scheme;
  - (iv) consent to any new CMS to record allocations under any additional or replacement exclusive use by-law referred to above;
  - (v) consent to any new CMS to record a by-law required to rectify any inaccuracy, defect, error or omission in any by-law contained in schedule C of the CMS;
  - (vi) consent to any arrangements required for maintenance by the body corporate;
  - (vii) consent to affix the seal of the Body Corporate of the Scheme to a Form 14 General Request to record any new CMS in the Department of Natural Resources and Mines;
  - (viii) the granting of consent to any appeal to be lodged in the Planning and Environment Court under the *Sustainable Planning Act 2009* (Qld) pursuant to section 60(7) of the BCCM Act consequent upon the Council failing or refusing to endorse a community management statement notation within 40 days after the CMS or any new CMS (referred to above) is submitted to the Council for endorsement;
  - (ix) approve the keeping of a pet within the Development in accordance with the CMS;
  - (x) approve the engagement of a person (including as a service contractor) on commercial terms that are for the benefit of the Body Corporate (as determined by us);

- (xi) consent to the assignment of an agreement entered into between the Body Corporate and a service contractor with or without a transfer fee being imposed under section 120 of the Regulation Module;
- (xii) a proposal that there shall be no prohibition or restriction on the use of proxies by us;
- (xiii) authorise the owner of a lot (including us) to make an improvement under section 169 of the Regulation Module;
- (xiv) authorise the owner of a lot (including us) to make an improvement under section 161 of the Regulation Module;
- (xv) to exercise, authorise, ratify or give effect to any right under this Contract;
- (xvi) authorise any proposal by the Body Corporate to take action or steps permitted under sections 159, 160, 161, 162, 164, 165, 166, 167 and 169 of the Regulation Module including the Body Corporate entering into and affixing its seal to an easement or licence with neighbouring property owners;
- (xvii) the issue of a continuing contravention notice under section 182(2) of the BCCM Act or the issue of a future contravention notice under section 183(2) of the BCCM Act;
- (xviii) the issue of a notice under sections 203(1) or (2) of the BCCM Act;
- (xix) any expenditure contemplated under sections 149, 150 and 151 of the Regulation Module;
- (xx) the issue of an authorisation to the owner of a lot (including us) to make an improvement contemplated under section 172 of the Regulation Module;
- (xxi) an application to be made for an order of an adjudicator under Chapter 6, Part 4 of the BCCM Act;
- (xxii) an appeal to be lodged under section 289(2) of the BCCM Act or an application for or review of a decision under section 304 of the BCCM Act;
- (xxiii) the commencement of a proceeding under section 312(1) of the BCCM Act;
- (xxiv) the adoption of administrative and sinking fund budgets for the Body Corporate;
- (xxv) the composition and/or election of the members of the committee of the Body Corporate;
- (xxvi) any proposal involving spending above the limit for Body Corporate committee spending;
- (xxvii) obtain authority/necessary consents from the Body Corporate to enable us to fix any building defects;
- (xxviii) prevent the Body Corporate from interfering with any building work we need to undertake after registration of the Subdivision Plan to complete the Development;
- (xxix) to procure the Body Corporate to authorise or ratify a transfer, lease, easement (or release or variation of) licence, or other dealing involving the common property;
- (xxx) the convening of a general meeting of the Body Corporate or a Body Corporate committee meeting to consider any one or more of the matters referred to above;
- (xxxi) affixing the seal of the Body Corporate to any document to facilitate one or more of the matters referred to above;

- (b) complete, sign and lodge any written consent pursuant to the BCCM Act or the Regulation Module as may be required to facilitate and perfect the passing of any exclusive use allocations contained in Schedule E of the CMS or any additional or replacement exclusive use by-laws for the identification and/or allocation of exclusive areas in the Scheme consequent upon the Scheme land being progressively developed; and
- (c) appoint a representative, proxy or company nominee so that we may exercise your vote at a meeting of the Body Corporate for any of the above purposes.

**4. Duration of power of attorney**

The power of attorney given by you to us is irrevocable, and commences upon Settlement and expires the earlier of:

- (a) where the Lot is created, 12 months from the Settlement Date or where the Lot is not created, 12 months from the establishment of the Scheme;
- (b) as provided by the BCCM Act from time to time; and
- (c) the date the Seller (we) give written notice to the Body Corporate of its resignation as attorney.

**5. Delivery of signed power of attorney**

If requested by us, you must deliver to us a duly executed and completed Power of Attorney in registrable form on the same terms as outlined in this clause.

**6. Scope of power of attorney**

- (a) You agree to ratify and confirm all the acts, deeds and things done or performed under this power of attorney.
- (b) You will not grant a mortgage of the Lot without first providing a copy of this Contract to the mortgagee and procuring the mortgagee's agreement to be bound by the provisions of this Power of Attorney Disclosure Statement.

**7. Exclusion**

In so far as it is lawful, our rights as attorney can be exercised to your exclusion.

**8. New power of attorney**

While the power of attorney remains in force, you must not transfer the lot (or any share of the lot) except to a person who has first signed a power of attorney on the same terms as that given pursuant to this clause. If you do not comply with this provision, you indemnify us against all loss and damage incurred by us as a result.

## **Document 4 – Acknowledgement by Buyer**

I/We, \_\_\_\_\_ acknowledge having received a copy of the Disclosure Statement containing the below before signing the contract in respect of the proposed lot \_\_\_\_\_.  
  
*(Signature)*

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

### Buyer

## Buyer

<b>DOCUMENT IDENTIFICATION</b>	<b>DOCUMENT NAME</b>
Document 1	Statement pursuant to section 213 of the <i>Body Corporate and Community Management Act 1997 (Qld)</i>
Annexure A	Proposed administration fund and sinking fund budget for the first 12 months of the Scheme
Annexure B	Schedule of contribution entitlements and interest entitlements, and estimated annual and weekly contributions
Annexure C	Body Corporate Management Agreement
Annexure D	Caretaking Agreement
Annexure E	Letting Agreement
Annexure F	Proposed First Community Management Statement for the Scheme
Annexure G	Survey Plan
Annexure H	Exclusive Use Plan
Annexure I	Drawings
Annexure J	Schedule of Finishes
Document 2	Power of Attorney Deed
Document 3	Power of Attorney Disclosure Statement
Document 4	Acknowledgement by Buyer
Document 1	Statement pursuant to section 213 of the <i>Body Corporate and Community Management Act 1997 (Qld)</i>