

7 March 2022

Statutory Planning Department
Wyndham City Council
45 Princes Highway,
Werribee, VIC 3030

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Date Plans Provided: 7/04/2022

Dear Sir / Madam

PLANNING PERMIT APPLICATION FOR THE REMOVAL OF A COVENANT

15 GARD ROAD, MOUNT COTTRELL

Human Habitats acts for the permit applicant, Wilcon Projects, in regards to a planning permit application for the land at 15 Gard Road, Mount Cottrell (Lot 8 on Plan of Subdivision 701128Q); for the removal of a covenant (Instrument Number F239203).

1 Introduction

Upon review of the covenant, we believe that it is outdated and no longer relevant in today's context. This letter sets out the details of the covenant and provides justification for the removal of the covenant as it relates to the land at 15 Gard Road, Mount Cottrell on Plan of Subdivision 701128Q (V08782 F413).

In addition to this, we have set out all benefitted and burdened lots associated with the covenant.

The application is accompanied by the following documents:
Please see below our submissions/justifications on the matter.

#	Document	Prepared by
1.	Application Form	Human Habitats
2.	Certificate of Title (incl. Covenant F239203), dated 1/09/2021	-
3.	Beneficiaries Search Letter (dated 20/02/22)	Fiegl & Newell Pty Ltd
4.	Plan of Removal of Restriction (Ref: 12800S/3, Version A)	Hellier McFarland

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Town Planning
Advertised Documents

Plan: 1 of 11



2 Summary of Covenant (F239203)

The restrictions that the covenant imposes on the land are summarised as follows:

- Any new dwelling proposed achieve a minimum dwelling size of not less than ten (10) squares; and
- Any new dwelling must have external walls made of brick, brick veneer or such materials as is approved by the Building Inspector of the Shire of Werribee.

For the full details, please refer to a copy of the Covenant attached at Appendix A of this letter.

3 List of all Burdened Lots

As detailed within the Beneficiaries Search Letter prepared by Feigl & Newell Pty Ltd, it is understood that the only land burdened by the Covenant is the subject land.

Burdened Lot			
#	Address	Lot Number	Plan of Subdivision Number
1.	15 Gard Road, Mount Cottrell	Lot 8	PS701128Q

4 List of All Benefited Lots

As set out within the covenant, covenant F239203 “shall be attached to and run at law and in equity with each and every lot on Plans of Subdivision numbers 92917 and 92918”.

For Council’s convenience we have set out the addresses and lot and plan numbers for each of these in the table provided at Appendix A.

This has also been set out diagrammatically within the provided Beneficiaries Search Letter prepared by Feigl & Newell Pty Ltd.

5 Considerations

Since the covenant was originally applied to the title (in 1974) there have been significant changes to the local planning and development context that have resulted in this covenant unnecessarily encumbering the development of the site. We note that the built form controls for new housing on the site have become far more sophisticated since 1974 through the advancement of built controls such as the Wyndham Planning Scheme, the Building Code of Australia and Small Lot Housing Code (November 2019).

In addition to this, the subject site currently has a multi-lot development application underfoot (WYP13051/21) which will impose the Small Lot Housing Code on all lots except one (1) that will add a further layer of built form controls that will ensure that new housing will achieve acceptable levels of internal amenity and be of sound construction.

Finally, if the covenant were to be removed, it would give far greater opportunity for the site to be developed in accordance with the current planning and building controls and without the outdated restrictions related to the covenant.

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Plan: 2 of 11

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6 Summary

Due to the significant changes to the planning and development context since the covenant was applied, we believe that the restrictions applied under the covenant are now outdated and unnecessary, demonstrating that covenant F239203 should therefore be removed from our client's title, known as Lot 8 on Plan of Subdivision 701128Q.

We believe that this letter and the accompanying material provides Council with sufficient information to process this request in a timely manner.

If there are any further matters at this time, please do not hesitate to contact the undersigned on 03 9909 2202 or by email to asalter@humanhabitats.com.au.

Yours sincerely

Ashlea Salter
Urban Planner

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Plan: 3 of 11

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Appendix 1 – List of Beneficiaries

Benefitted Lot		Date Plans Provided: 7/04/2022	
#	Street Address	Lot Number	Plan of Subdivision Number
1.	525 Davis Road, Mount Cottrell	Lot 13	LP92917
2.	515 Davis Road, Mount Cottrell	Lot 14	LP92917
3.	525 Davis Road, Mount Cottrell	Lot 15	LP92917
4.	495 Davis Road, Mount Cottrell	Lot 16	LP92917
5.	485 Davis Road, Mount Cottrell	Lot 1	TP141369
6.	475 Davis Road, Mount Cottrell	Lot 18	LP92917
7.	465 Davis Road, Mount Cottrell	Lot 19	LP92917
8.	455 Davis Road, Mount Cottrell	Lot 1	PS701128
9.	435 Davis Road, Mount Cottrell	Lot 2	PS701128
10.	59 Karachi Avenue, Mount Cottrell	Lot RES2	PS812418
11.	57 Karachi Avenue, Mount Cottrell	Lot 343	PS812418
12.	55 Karachi Avenue, Mount Cottrell	Lot 344	PS812418
13.	53 Karachi Avenue, Mount Cottrell	Lot 345	PS812418
14.	51 Karachi Avenue, Mount Cottrell	Lot 346	PS812418
15.	49 Karachi Avenue, Mount Cottrell	Lot 347	PS812418
16.	47 Karachi Avenue, Mount Cottrell	Lot 348	PS812418
17.	45 Karachi Avenue, Mount Cottrell	Lot 349	PS812418
18.	43 Karachi Avenue, Mount Cottrell	Lot 350	PS812418
19.	41 Karachi Avenue, Mount Cottrell	Lot 351	PS812418
20.	2 Thatta Avenue, Mount Cottrell	Lot 352	PS812418
21.	4 Thatta Avenue, Mount Cottrell	Lot 353	PS812418
22.	1070 Leakes Road, Mount Cottrell	Lot D	PS812418
23.	44 Karachi Avenue, Mount Cottrell	Lot 337	PS812418
24.	42 Karachi Avenue, Mount Cottrell	Lot 336	PS812418
25.	40 Karachi Avenue, Mount Cottrell	Lot 335	PS812418
26.	38 Karachi Avenue, Mount Cottrell	Lot 334	PS812418
27.	36 Karachi Avenue, Mount Cottrell	Lot 333	PS812418
28.	34 Karachi Avenue, Mount Cottrell	Lot 319	PS812418
29.	32 Karachi Avenue, Mount Cottrell	Lot 318	PS812418
30.	30 Karachi Avenue, Mount Cottrell	Lot 317	PS812418



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Benefitted Lot			
#	Street Address	Lot Number	Plan of Subdivision Number
Date Plans Provided: 7/04/2022			
31.	28 Karachi Avenue, Mount Cottrell	Lot 316	PS812418
32.	26 Karachi Avenue, Mount Cottrell	Lot 315	PS812418
33.	24 Karachi Avenue, Mount Cottrell	Lot 301	PS812418
34.	22 Karachi Avenue, Mount Cottrell	Lot 101	PS812416
35.	20 Karachi Avenue, Mount Cottrell	Lot 102	PS812416
36.	18 Karachi Avenue, Mount Cottrell	Lot 103	PS812416
37.	16 Karachi Avenue, Mount Cottrell	Lot 104	PS812416
38.	14 Karachi Avenue, Mount Cottrell	Lot 105	PS812416
39.	12 Karachi Avenue, Mount Cottrell	Lot 118	PS812416
40.	10 Karachi Avenue, Mount Cottrell	Lot 119	PS812416
41.	8 Karachi Avenue, Mount Cottrell	Lot 120	PS812416
42.	6 Karachi Avenue, Mount Cottrell	Lot 121	PS812416
43.	4 Karachi Avenue, Mount Cottrell	Lot 122	PS812416
44.	2 Karachi Avenue, Mount Cottrell	Lot 123	PS812416
45.	33 Islamabad Crescent, Mount Cottrell	Lot 338	PS812418
46.	31 Islamabad Crescent, Mount Cottrell	Lot 339	PS812418
47.	29 Islamabad Crescent, Mount Cottrell	Lot 340	PS812418
48.	27 Islamabad Crescent, Mount Cottrell	Lot 341	PS812418
49.	25 Islamabad Crescent, Mount Cottrell	Lot 342	PS812418
50.	3 Lahore Close, Mount Cottrell	Lot 332	PS812418
51.	5 Lahore Close, Mount Cottrell	Lot 331	PS812418
52.	7 Lahore Close, Mount Cottrell	Lot 330	PS812418
53.	9 Lahore Close, Mount Cottrell	Lot 329	PS812418
54.	11 Lahore Close, Mount Cottrell	Lot 328	PS812418
55.	13 Lahore Close, Mount Cottrell	Lot 327	PS812418
56.	4 Lahore Close, Mount Cottrell	Lot 320	PS812418
57.	6 Lahore Close, Mount Cottrell	Lot 321	PS812418
58.	8 Lahore Close, Mount Cottrell	Lot 322	PS812418



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Benefitted Lot				
#	Street Address		Lot Number Date Plans Provided: 7/04/2022	Plan of Subdivision Number
59.	10 Lahore Close, Mount Cottrell	Cottrell	Lot 323	PS812418
60.	12 Lahore Close, Mount Cottrell		Lot 324	PS812418
61.	14 Lahore Close, Mount Cottrell		Lot 325	PS812418
62.	16 Lahore Close, Mount Cottrell		Lot 326	PS812418
63.	3 Islamabad Crescent, Mount Cottrell		Lot 314	PS812418
64.	5 Islamabad Crescent, Mount Cottrell		Lot 313	PS812418
65.	7 Islamabad Crescent, Mount Cottrell		Lot 312	PS812418
66.	9 Islamabad Crescent, Mount Cottrell		Lot 311	PS812418
67.	11 Islamabad Crescent, Mount Cottrell		Lot 310	PS812418
68.	13 Islamabad Crescent, Mount Cottrell		Lot 309	PS812418
69.	15 Islamabad Crescent, Mount Cottrell		Lot 308	PS812418
70.	4 Islamabad Crescent, Mount Cottrell		Lot 302	PS812418
71.	6 Islamabad Crescent, Mount Cottrell		Lot 303	PS812418
72.	8 Islamabad Crescent, Mount Cottrell		Lot 304	PS812418
73.	10 Islamabad Crescent, Mount Cottrell		Lot 305	PS812418
74.	12 Islamabad Crescent, Mount Cottrell		Lot 306	PS812418
75.	14 Islamabad Crescent, Mount Cottrell		Lot 307	PS812418
76.	2 Momil Road, Mount Cottrell		Lot RES1	PS812418
77.	16 Momil Road, Mount Cottrell		Lot RES3	PS812416
78.	14 Momil Road, Mount Cottrell		Lot 106	PS812416
79.	12 Momil Road, Mount Cottrell		Lot 107	PS812416
80.	10 Momil Road, Mount Cottrell		Lot 108	PS812416
81.	8 Momil Road, Mount Cottrell		Lot 109	PS812416
82.	6 Momil Road, Mount Cottrell		Lot 110	PS812416
83.	4 Momil Road, Mount Cottrell		Lot 11	PS812416
84.	13 Momil Road, Mount Cottrell		Lot 117	PS812416
85.	11 Momil Road, Mount Cottrell		Lot 116	PS812416
86.	9 Momil Road, Mount Cottrell		Lot 115	PS812416



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Benefitted Lot				
#	Street Address		Lot Number	Plan of Subdivision Number
Date Plans Provided: 7/04/2022				
87.	7 Momil Road, Mount Cottrell		Lot 114	PS812416
88.	5 Momil Road, Mount Cottrell		Lot 113	PS812416
89.	3 Momil Road, Mount Cottrell		Lot 112	PS812416
90.	40 Rohab Crescent, Mount Cottrell		Lot RES2	PS812416
91.	52 Rohab Crescent, Mount Cottrell		Lot 124	PS812416
92.	50 Rohab Crescent, Mount Cottrell		Lot 125	PS812416
93.	48 Rohab Crescent, Mount Cottrell		Lot 126	PS812416
94.	46 Rohab Crescent, Mount Cottrell		Lot 127	PS812416
95.	44 Rohab Crescent, Mount Cottrell		Lot 128	PS812416
96.	42 Rohab Crescent, Mount Cottrell		Lot 129	PS812416
97.	1070 Leakes Road, Mount Cottrell		Lot C	PS812416
98.	1070 Leakes Road, Mount Cottrell		Lot A	PS812416
99.	49 Rohab Crescent, Mount Cottrell		Lot 139	PS812416
100.	47 Rohab Crescent, Mount Cottrell		Lot 138	PS812416
101.	45 Rohab Crescent, Mount Cottrell		Lot 137	PS812416
102.	43 Rohab Crescent, Mount Cottrell		Lot136	PS812416
103.	41 Rohab Crescent, Mount Cottrell		Lot 135	PS812416
104.	39 Rohab Crescent, Mount Cottrell		Lot 134	PS812416
105.	37 Rohab Crescent, Mount Cottrell		Lot 133	PS812416
106.	33 Rohab Crescent, Mount Cottrell		Lot 132	PS812416
107.	31 Rohab Crescent, Mount Cottrell		Lot131	PS812416
108.	29 Rohab Crescent, Mount Cottrell		Lot 130	PS812416
109.	1126 Leakes Road, Mount Cottrell		Lot 6	PS701128
110.	37 Goodison Road, Mount Cottrell		Lot RES2	PS821032
111.	35 Goodison Road, Mount Cottrell		Lot 31	PS821032
112.	33 Goodison Road, Mount Cottrell		Lot 30	PS821032
113.	31 Goodison Road, Mount Cottrell		Lot 29	PS821032
114.	29 Goodison Road, Mount Cottrell		Lot 28	PS821032
115.	27 Goodison Road, Mount Cottrell		Lot 27	PS821032
116.	25 Goodison Road, Mount Cottrell		Lot 26	PS821032
117.	23 Goodison Road, Mount Cottrell		Lot 25	PS821032



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118.	21 Goodison Road, Mount Cottrell	Lot 24	PS821032
119.	19 Goodison Road, Mount Cottrell	Lot 23	PS821032
120.	17 Goodison Road, Mount Cottrell	Lot 22	PS821032
121.	15 Goodison Road, Mount Cottrell	Lot 21	PS821032
122.	13 Goodison Road, Mount Cottrell	Lot 20	PS821032
123.	26 Goodison Road, Mount Cottrell	Lot 37	PS821032
124.	24 Goodison Road, Mount Cottrell	Lot 36	PS821032
125.	22 Goodison Road, Mount Cottrell	Lot 35	PS821032
126.	20 Goodison Road, Mount Cottrell	Lot 34	PS821032
127.	18 Goodison Road, Mount Cottrell	Lot 33	PS821032
128.	16 Goodison Road, Mount Cottrell	Lot 32	PS821032
129.	11 Goodison Road, Mount Cottrell	Lot 19	PS821032
130.	9 Goodison Road, Mount Cottrell	Lot 18	PS821032
131.	7 Goodison Road, Mount Cottrell	Lot 17	PS821032
132.	14 Goodison Road, Mount Cottrell	Lot 60	PS821032
133.	12 Goodison Road, Mount Cottrell	Lot 59	PS821032
134.	10 Goodison Road, Mount Cottrell	Lot 58	PS821032
135.	8 Goodison Road, Mount Cottrell	Lot 57	PS821032
136.	6 Goodison Road, Mount Cottrell	Lot 56	PS821032
137.	4 Goodison Road, Mount Cottrell	Lot 55	PS821032
138.	2 Goodison Road, Mount Cottrell	Lot 11	PS821032
139.	30 Stacey Parade, Mount Cottrell	Lot 16	PS821032
140.	28 Stacey Parade, Mount Cottrell	Lot 15	PS821032
141.	26 Stacey Parade, Mount Cottrell	Lot 14	PS821032
142.	24 Stacey Parade, Mount Cottrell	Lot 13	PS821032
143.	22 Stacey Parade, Mount Cottrell	Lot 12	PS821032
144.	16 Stacey Parade, Mount Cottrell	Lot 10	PS821032
145.	14 Stacey Parade, Mount Cottrell	Lot 54	PS821032
146.	12 Stacey Parade, Mount Cottrell	Lot 53	PS821032
147.	10 Stacey Parade, Mount Cottrell	Lot 52	PS821032
148.	8 Stacey Parade, Mount Cottrell	Lot 51	PS821032



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#	Street Address	Lot Number	Plan of Subdivision Number
149.	6 Stacey Parade, Mount Cottrell	Lot 50	PS821032
150.	4 Stacey Parade, Mount Cottrell	Lot 49	PS821032
151.	15 Stacey Parade, Mount Cottrell	Lot 9	PS821032
152.	13 Stacey Parade, Mount Cottrell	Lot 8	PS821032
153.	11 Stacey Parade, Mount Cottrell	Lot 7	PS821032
154.	9 Stacey Parade, Mount Cottrell	Lot 6	PS821032
155.	7 Stacey Parade, Mount Cottrell	Lot 5	PS821032
156.	5 Stacey Parade, Mount Cottrell	Lot 4	PS821032
157.	3 Stacey Parade, Mount Cottrell	Lot 3	PS821032
158.	56 Goodison Grove, Mount Cottrell	Lot 1	PS821032
159.	54 Goodison Grove, Mount Cottrell	Lot 2	PS821032
160.	52 Goodison Grove, Mount Cottrell	Lot 48	PS821032
161.	50 Goodison Grove, Mount Cottrell	Lot 47	PS821032
162.	48 Goodison Grove, Mount Cottrell	Lot 46	PS821032
163.	46 Goodison Grove, Mount Cottrell	Lot 45	PS821032
164.	44 Goodison Grove, Mount Cottrell	Lot 44	PS821032
165.	42 Goodison Grove, Mount Cottrell	Lot 43	PS821032
166.	38 Goodison Grove, Mount Cottrell	Lot 42	PS821032
167.	36 Goodison Grove, Mount Cottrell	Lot 41	PS821032
168.	34 Goodison Grove, Mount Cottrell	Lot 40	PS821032
169.	32 Goodison Grove, Mount Cottrell	Lot 39	PS821032
170.	30 Goodison Grove, Mount Cottrell	Lot 38	PS821032
171.	65 Goodison Grove, Mount Cottrell	Lot RES3	PS821032
172.	55 Goodison Grove, Mount Cottrell	Lot A	PS821032
173.	53 Goodison Grove, Mount Cottrell	Lot RES1	PS821032
174.	20 Gard Road, Mount Cottrell	Lot 7	PS701128
175.	30 Gard Road, Mount Cottrell	Lot 52	LP92918
176.	40 Gard Road, Mount Cottrell	Lot 53	LP92918
177.	50 Gard Road, Mount Cottrell	Lot 54	LP92918
178.	60 Gard Road, Mount Cottrell	Lot 55	LP92918
179.	70 Gard Road, Mount Cottrell	Lot 56	LP92918



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Benefitted Lot			
#	Street Address	Lot Number	Plan of Subdivision Number
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180.	80 Gard Road, Mount Cottrell	Lot 57	LP92918
181.	90 Gard Road, Mount Cottrell	Lot 58	LP92918
182.	100 Gard Road, Mount Cottrell	Lot 59	LP92918
183.	105 Gard Road, Mount Cottrell	Lot 40	LP92918
184.	95 Gard Road, Mount Cottrell	Lot 41	LP92918
185.	85 Gard Road, Mount Cottrell	Lot 42	LP92918
186.	75 Gard Road, Mount Cottrell	Lot 43	LP92918
187.	65 Gard Road, Mount Cottrell	Lot 44	LP92918
188.	55 Gard Road, Mount Cottrell	Lot 45	LP92918
189.	45 Gard Road, Mount Cottrell	Lot 46	LP92918
190.	35 Gard Road, Mount Cottrell	Lot 47	LP92918
191.	25 Gard Road, Mount Cottrell	Lot 48	LP92918
192.	1166 Leakes Road. Mount Cottrell	Lot 9	PS701128
193.	1180 Leakes Road. Mount Cottrell	Lot 27	LP92917
194.	1192 Leakes Road. Mount Cottrell	Lot 28	LP92917
195.	320 Sewells Road, Mount Cottrell	Lot 29	LP92917
196.	340 Sewells Road, Mount Cottrell	Lot 30	LP92917
197.	360 Sewells Road, Mount Cottrell	Lot 31	LP92917
198.	380 Sewells Road, Mount Cottrell	Lot 32	LP92917
199.	400 Sewells Road, Mount Cottrell	Lot 33	LP92917
200.	420 Sewells Road, Mount Cottrell	Lot 34	LP92917
201.	440 Sewells Road, Mount Cottrell	Lot 35	LP92917
202.	460 Sewells Road, Mount Cottrell	Lot 36	LP92917
203.	480 Sewells Road, Mount Cottrell	Lot 37	LP92917
204.	500 Sewells Road, Mount Cottrell	Lot 38	LP92917
205.	1503 Dohertys Road. Mount Cottrell	Lot 1	LP92917
206.	1491 Dohertys Road. Mount Cottrell	Lot 2	LP92917
207.	1479 Dohertys Road. Mount Cottrell	Lot 3	LP92917
208.	1467 Dohertys Road. Mount Cottrell	Lot 4	LP92917
209.	1455 Dohertys Road. Mount Cottrell	Lot 5	LP92917
210.	1443 Dohertys Road. Mount Cottrell	Lot 6	LP92917



Benefitted Lot			
#	Street Address	Lot Number	Plan of Subdivision Number
211.	1431 Dohertys Road. Mount Cottrell	Lot 39	LP92918
212.	1419 Dohertys Road. Mount Cottrell	Lot 60	LP92918
213.	1407 Dohertys Road. Mount Cottrell	Lot 7	LP92917
214.	1395 Dohertys Road. Mount Cottrell	Lot 8	LP92917
215.	1383 Dohertys Road. Mount Cottrell	Lot 9	LP92917
216.	1371 Dohertys Road. Mount Cottrell	Lot 10	LP92917
217.	1359 Dohertys Road. Mount Cottrell	Lot 11	LP92917
218.	1347 Dohertys Road. Mount Cottrell	Lot 12	LP92917

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