

Office Use Only

VicSmart?

Specify class of VicSmart application:

Application No.:

Date Lodged: / /

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Date Plans Provided: 23/02/2021

Application for a Planning Permit

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



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



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



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



Click for further information.

Clear Form

Application Type

Is this a VicSmart application?*

☐ No ☐ Yes

If yes, please specify which

VicSmart class or classes:.....



If the application falls into one of the classes listed under Clause 92 or the schedule to Clause 94, it is a VicSmart application.

Pre-application Meeting

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

☐ No ☐ Yes

If 'Yes', with whom?:

Date:

day / month / year

The Land

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

Street Address *

Unit No.:

St. No.:

St. Name:

Suburb/Locality:

Postcode:

Formal Land Description *

Complete either A or B.



This information can be found on the certificate of title.

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

A

Lot No.:

☐ Lodged Plan

☐ Title Plan

☐ Plan of Subdivision

No.:

OR

B

Crown Allotment No.:

Section No.:

Parish/Township Name:

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The Proposal



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



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

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



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

Cost \$



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

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

Existing Conditions

Describe how the land is used and developed now *

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



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

Title Information

Encumbrances on title *

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

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



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

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Applicant and Owner Details

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

Applicant *

The person who wants the permit.

Please provide at least one contact phone number *

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

Owner *

The person or organisation who owns the land

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

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Name:		
Title:	First Name:	Surname:
Organisation (if applicable):		
Postal Address:		
Unit No.:	St. No.:	St. Name:
Suburb/Locality:		
State:		Postcode:

Contact information for applicant OR contact person below

Business phone:	Email:
Mobile phone:	Fax:

Contact person's details*

Same as applicant ☐

Name:		
Title:	First Name:	Surname:
Organisation (if applicable):		
Postal Address:		
Unit No.:	St. No.:	St. Name:
Suburb/Locality:		
State:		Postcode:

Same as applicant ☐

Name:		
Title:	First Name:	Surname:
Organisation (if applicable):		
Postal Address:		
Unit No.:	St. No.:	St. Name:
Suburb/Locality:		
State:		Postcode:
Owner's Signature (Optional):		Date:
		day / month / year

Information requirements


Is the required information provided?

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

☐ Yes ☐ No

Declaration

This form must be signed by the applicant *

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

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


Signature:	Date:
	
day / month / year	

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Checklist

Have you:

<input type="checkbox"/>	Filled in the form completely?
<input type="checkbox"/>	Paid or included the application fee?
	Provided all necessary supporting information and documents: <ul style="list-style-type: none"><input type="checkbox"/> A full, current copy of title information for each individual parcel of land forming the subject site.<input type="checkbox"/> A plan of existing conditions.<input type="checkbox"/> Plans showing the layout and details of the proposal.<input type="checkbox"/> Any information required by the planning scheme requested by council or outlined in a council planning permit checklist.<input type="checkbox"/> If required, a description of the likely effect of the proposal (for example, traffic, noise, environmental impacts).<input type="checkbox"/> If applicable, a current Metropolitan Planning Levy certificate (a levy certificate expires 90 days after the day on which it is issued by the State Revenue Office and then cannot be used). Failure to comply means the application is void.
<input type="checkbox"/>	Completed the relevant council planning permit checklist?
<input type="checkbox"/>	Signed the declaration above?

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 Most applications require a fee to be paid. Contact Council to determine the appropriate fee.

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Need help with the Application?

If you need help to complete this form, read More Information at the end of this form.

For help with a VicSmart application see Applicant's Guide to Lodging a VicSmart Application at www.planning.vic.gov.au

General information about the planning process is available at www.planning.vic.gov.au

Assistance can also be obtained from Council's planning department.

Lodgement

Lodge the completed and signed form, the fee and all documents with:

Deliver application in person, by post or by electronic lodgement.

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MORE INFORMATION

The Land

Planning permits relate to the use and development of the land. It is important that accurate, clear and concise details of the land are provided with the application.

How is land identified?


Land is commonly identified by a street address, but sometimes this alone does not provide an accurate identification of the relevant parcel of land relating to an application. Make sure you also provide the formal land description - the lot and plan number or the crown, section and parish/township details (as applicable) for the subject site. This information is shown on the title.

See **Example 1**.

The Proposal

Why is it important to describe the proposal correctly?


The application requires a description of what you want to do with the land. You must describe how the land will be used or developed as a result of the proposal. It is important that you understand the reasons why you need a permit in order to suitably describe the proposal. By providing an accurate description of the proposal, you will avoid unnecessary delays associated with amending the description at a later date.

 Planning schemes use specific definitions for different types of use and development. Contact the Council planning office at an early stage in preparing your application to ensure that you use the appropriate terminology and provide the required details.

How do planning schemes affect proposals?

A planning scheme sets out policies and requirements for the use, development and protection of land. There is a planning scheme for every municipality in Victoria. Development of land includes the construction of a building, carrying out works, subdividing land or buildings and displaying signs.

Proposals must comply with the planning scheme provisions in accordance with Clause 61.05 of the planning scheme. Provisions may relate to the State Planning Policy Framework, the Local Planning Policy Framework, zones, overlays, particular and general provisions. You can access the planning scheme by either contacting Council's planning department or by visiting the Planning Schemes Online section of the department's website <http://planning-schemes.delwp.vic.gov.au>

 You can obtain a planning certificate to establish planning scheme details about your property. A planning certificate identifies the zones and overlays that apply to the land, but it does not identify all of the provisions of the planning scheme that may be relevant to your application. Planning certificates for land in metropolitan areas and most rural areas can be obtained by visiting www.landata.vic.gov.au. Contact your local Council to obtain a planning certificate in Central Goldfields, Corangamite, Macedon Ranges and Greater Geelong. You can also use the free Planning Property Report to obtain the same information.

See **Example 2**.

Estimated cost of development


In most instances an application fee will be required. This fee must be paid when you lodge the application. The fee is set down by government regulations.

To help Council calculate the application fee, you must provide an accurate cost estimate of the proposed development. This cost does not include the costs of development that you could undertake without a permit or that are separate from the permit process. Development costs should be calculated at a normal industry rate for the type of construction you propose.

Council may ask you to justify your cost estimates. Costs are required solely to allow Council to calculate the permit application fee. Fees are exempt from GST.

 Costs for different types of development can be obtained from specialist publications such as Cordell Housing: Building Cost Guide or Rawlinsons: Australian Construction Handbook.

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 document must not be used for any purpose which may breach copyright legislation. Contact the Council to determine the appropriate fee. Go to www.planning.vic.gov.au to view a summary of fees in the Planning and Environment (Fees) Regulations.

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Metropolitan Planning Levy refer Division 5A of Part 4 of the Planning and Environment Act 1987 (the Act). A planning permit application under section 4 and 57 of the Act for development of land in metropolitan Melbourne as defined in section 3 of the Act may be a leviable application. If the cost of the development exceeds the threshold of \$1 million (adjusted annually by consumer price index) a levy certificate must be obtained from the State Revenue Office after payment of the levy. A valid levy certificate must be submitted to the responsible planning authority (usually council) with a leviable planning permit application. Refer to the State Revenue Office website at www.sro.vic.gov.au for more information. A leviable application submitted without a levy certificate is void.

Existing Conditions

How should land be described?

You need to describe, in general terms, the way the land is used now, including the activities, buildings, structures and works that exist (e.g. single dwelling, 24 dwellings in a three-storey building, medical centre with three practitioners and 8 car parking spaces, vacant building, vacant land, grazing land, bush block).

Please attach to your application a plan of the existing conditions of the land. Check with the local Council for the quantity, scale and level of detail required. It is also helpful to include photographs of the existing conditions.

See **Example 3**.

Title Information

What is an encumbrance?

An 'encumbrance' is a formal obligation on the land, with the most common type being a 'mortgage'. Other common examples of encumbrances include:

- **Restrictive Covenants:** A 'restrictive covenant' is a written agreement between owners of land restricting the use or development of the land for the benefit of others, (eg. a limit of one dwelling or limits on types of building materials to be used).
- **Section 173 Agreements:** A 'section 173 agreement' is a contract between an owner of the land and the Council which sets out limitations on the use or development of the land.
- **Easements:** An 'easement' gives rights to other parties to use the land or provide for services or access on, under or above the surface of the land.
- **Building Envelopes:** A 'building envelope' defines the development boundaries for the land.

Aside from mortgages, the above encumbrances can potentially limit or even prevent certain types of proposals.

What documents should I check to find encumbrances?

Encumbrances are identified on the title (register search statement) under the header 'encumbrances, caveats and notices'. The actual details of an encumbrance are usually provided in a separate document (instrument) associated with the title. Sometimes encumbrances are also marked on the title diagram or plan, such as easements or building envelopes.

What about caveats and notices?

A 'caveat' is a record of a claim from a party to an interest in the land. Caveats are not normally relevant to planning applications as they typically relate to a purchase mortgage or charges claim, but can sometimes include claims to a covenant or easement on the land. These types of caveats may affect your proposal.

Other less common types of obligations may also be specified on title in the form of 'notices'. These may have an effect on your proposal, such as a notice that the building on the land is listed on the Heritage Register.

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What happens if the proposal contravenes an encumbrance on title?

Encumbrances may affect or limit your proposal or prevent it from proceeding. Section 61(4) of the *Planning and Environment Act 1987* for example, prevents a Council from granting a permit if it would result in a breach of a registered restrictive covenant. If the proposal contravenes any encumbrance, contact the Council for advice on how to proceed.

You may be able to modify your proposal to respond to the issue. If not, separate procedures exist to change or remove the various types of encumbrances from the title. The procedures are generally quite involved and if the encumbrance relates to more than the subject property, the process will include notice to the affected party.

▲ You should seek advice from an appropriately qualified person, such as a solicitor, if you need to interpret the effect of an encumbrance or if you seek to amend or remove an encumbrance.

Why is title information required?

Title information confirms the location and dimensions of the land specified in the planning application and any obligations affecting what can be done on or with the land.

As well as describing the land, a full copy of the title will include a diagram or plan of the land and will identify any encumbrances, caveats and notices.

What is a 'full' copy of the title?

The title information accompanying your application must include a 'register search statement' and the title diagram, which together make up the title.

In addition, any relevant associated title documents, known as 'instruments', must also be provided to make up a full copy of the title.

Check the title to see if any of the types of encumbrances, such as a restrictive covenant, section 173 agreement, easement or building envelope, are listed. If so, you must submit a copy of the document (instrument) describing that encumbrance. Mortgages do not need to be provided with planning applications.

▲ Some titles have not yet been converted by Land Registry into an electronic register search statement format. In these earlier types of titles, the diagram and encumbrances are often detailed on the actual title, rather than in separate plans or instruments.

Why is 'current' title information required?

It is important that you attach a current copy of the title for each individual parcel of land forming the subject site. 'Current' title information accurately provides all relevant and up-to-date information.

Some Councils require that title information must have been searched within a specified time frame. Contact the Council for advice on their requirements.

▲ Copies of title documents can be obtained from Land Registry: Level 10, 570 Bourke Street, Melbourne; 03 8636 2010; www.landata.vic.gov.au – go direct to "titles & property certificates".

Applicant and Owner Details

This section provides information about the permit applicant, the owner of the land and the person who should be contacted about any matters concerning the permit application.

The applicant is the person or organisation that wants the permit. The applicant can, but need not, be the contact person.

In order to avoid any confusion, the Council will communicate only with the person who is also responsible for providing further details. The contact may be a professional adviser (e.g. architect or planner) engaged to prepare or manage the application. To ensure prompt communications, contact details should be given.

Check with council how they prefer to communicate with you about the application. If an email address is provided this may be the preferred method of communication between Council and the applicant/contact.

The owner of the land is the person or organisation who owns the land at the time the application is made. Where a parcel of land has been sold and an application made prior to settlement, the owner's details should be identified as those of the vendor. The owner can, but need not, be the contact or the applicant.

See **Example 4**.

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The declaration must be signed by the applicant before you provide the information to the Council. If the owner is not the applicant, the owner must either sign the application form or must be notified of the application which is acknowledged in the declaration. **they are the most recent version as at the date shown below:**

▲ Obtaining or attempting to obtain a permit by wilfully making or causing any false representation or declaration, either orally or in writing, is an offence under the *Planning and Environment Act 1987* and could result in a fine and/or cancellation of the permit.

Checklist

What additional information should you provide to support the proposal?

You should provide sufficient supporting material with the application to describe the proposal in enough detail for the Council to make a decision. It is important that copies of all plans and information submitted with the application are legible.

There may be specific application requirements set out in the planning scheme for the use or development you propose. The application should demonstrate how these have been addressed or met.

The checklist is to help ensure that you have:

- provided all the required information on the form
- included payment of the application fee
- attached all necessary supporting information and documents
- completed the relevant Council planning permit checklist
- signed the declaration on the last page of the application form

▲ The more complete the information you provide with your permit application, the sooner Council will be able to make a decision.

Need help with the Application?

If you have attended a pre-application meeting with a Council planner, fill in the name of the planner and the date, so that the person can be consulted about the application once it has been lodged.

Lodgement

The application must be lodged with the Council responsible for the planning scheme in which the land affected by the application is located. In some cases the Minister for Planning or another body is the responsible authority instead of Council. Ask the Council if in doubt.

Check with Council how they prefer to have the application lodged. For example, they may have an online lodgement system, prefer email or want an electronic and hard copy. Check also how many copies of plans and the size of plans that may be required.

Contact details are listed in the lodgement section on the last page of the form.

▲ Approval from other authorities: In addition to obtaining a planning permit, approvals or exemptions may be required from other authorities or Council departments. Depending on the nature of your proposal, these may include food or health registrations, building permits or approvals from water and other service authorities.

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REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

VOLUME 11335 FOLIO 971

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Security no : 124086018475L
Produced 15/10/2020 11:52 AM

Date Plans Provided: 23/02/2021

LAND DESCRIPTION

Lot 2 on Plan of Subdivision 633047S.

PARENT TITLES :

Volume 03450 Folio 844 Volume 06484 Folio 660

Created by instrument PS633047S 29/02/2012

REGISTERED PROPRIETOR

Estate Fee Simple

TENANTS IN COMMON

As to 1 of a total of 2 equal undivided shares

Sole Proprietor

ANGELO ANTONIO VALLETTA of 366 DERRIMUT ROAD HOPPERS CROSSING VIC 3029

As to 1 of a total of 2 equal undivided shares

Sole Proprietor

PAUL ANTHONY MICHAEL JOL VALLETTA of 366 DERRIMUT ROAD HOPPERS CROSSING VIC 3029

AJ576986H 30/03/2012

ENCUMBRANCES, CAVEATS AND NOTICES

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

AGREEMENT Section 173 Planning and Environment Act 1987

AH613313D 15/11/2010

DIAGRAM LOCATION

SEE PS633047S FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

Street Address: 12 BEAMISH STREET WERRIBEE VIC 3030

OWNERS CORPORATIONS

The land in this folio is affected by

OWNERS CORPORATION 1 PLAN NO. PS633047S

DOCUMENT END

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Document Type	Plan
Document Identification	PS633047S
Number of Pages (excluding this cover sheet)	2
Document Assembled	13/10/2020 11:54

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PLAN OF SUBDIVISION

Stage No.

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LRS USE ONLY
EDITION 1

Plan No. **PS6330478**
PS
1929.30

LOCATION OF LAND

PARISH: DEUTGAM
TOWNSHIP: WERRIBEE
SECTION:
CROWN ALLOTMENT: 20 (PART)
CROWN PORTION:
LRS BASE RECORD: VICMAP (METRO)
TITLE REFERENCES: Vol. 3450 Fol. 844
Vol. 6484 Fol. 660
LAST PLAN REFERENCE/S: LOTS 8 & 9 LP 5073

POSTAL ADDRESS: 12 & 14 BEAMISH STREET,
(At time of subdivision) WERRIBEE 3030

MGA Co-ordinates E 294 495 ZONE: 55
(of approx centre of land in plan) N 5 802 310

VESTING OF ROADS AND/OR RESERVES

IDENTIFIER	COUNCIL / BODY / PERSON
NIL	NIL

COUNCIL CERTIFICATION AND ENDORSEMENT

WYNDHAM CITY COUNCIL

PLEASE NOTE: The plan/s that are being provided to you may not reflect what is ultimately approved by Council however they are the most recent version as at the date shown below:

1. This plan is certified under Section 6 of the Subdivision Act 1988.
2. This plan is certified under Section 11(7) of the Subdivision Act 1988.
Date of original certification under Section 6
Date Provided: 23/02/2021
3. This is a statement of compliance issued under Section 21 of the Subdivision Act 1988

OPEN SPACE

- (i) A requirement for public open space under Section 18 of the Subdivision Act 1988 has/has not been made
- (ii) The requirement has been satisfied.
- (iii) The requirement is to be satisfied in Stage.....

Council Delegate
Council Seal
Date 20/12/2010

Re-certified under Section 11(7) of the Subdivision Act 1988
Council Delegate
Council Seal
Date / /

NOTATIONS

STAGING This is not a staged subdivision.
Planning permit No.

DEPTH LIMITATION DOES NOT APPLY

LOTS IN THIS PLAN MAY BE AFFECTED BY ONE OR MORE OWNERS CORPORATIONS.

For details of Owners Corporation(s) including; purpose, responsibility & entitlement & liability, See Owners Corporation search report, Owners Corporation rules & Owners Corporation additional Information.

SURVEY. THIS PLAN IS BASED ON SURVEY

THIS SURVEY HAS BEEN CONNECTED TO PERMANENT MARKS No. (s) PM 112 DEUTGAM
IN PROCLAIMED SURVEY AREA No. PM 6 MAMBOURIN

EASEMENT INFORMATION

LEGEND A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)

SECTION 12 (2) OF THE SUBDIVISION ACT 1988 APPLIES TO ALL THE LAND IN THIS PLAN.

Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of

LRS USE ONLY

STATEMENT OF COMPLIANCE/
EXEMPTION STATEMENT

RECEIVED



DATE 24/02/2012

LRS USE ONLY

PLAN REGISTERED

TIME 12:28PM

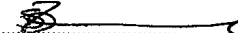
WYNDHAM CITY COUNCIL

Town Planning
Assistant Registrar of Titles

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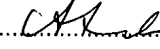
P.M.KENNEDY
LICENSED LAND SURVEYOR
UNIT 27 / No. 22 - 30 WALLACE AVENUE
POINT COOK 3030
TEL: 9369 0730 FAX: 9369 8285

LICENSED SURVEYOR (PRINT) SALVATORE ZUCCARELLO

SIGNATURE  DATE 29 / 10 / 09

REF 16918

VERSION 3

DATE 29/12/2012
COUNCIL DELEGATE SIGNATURE


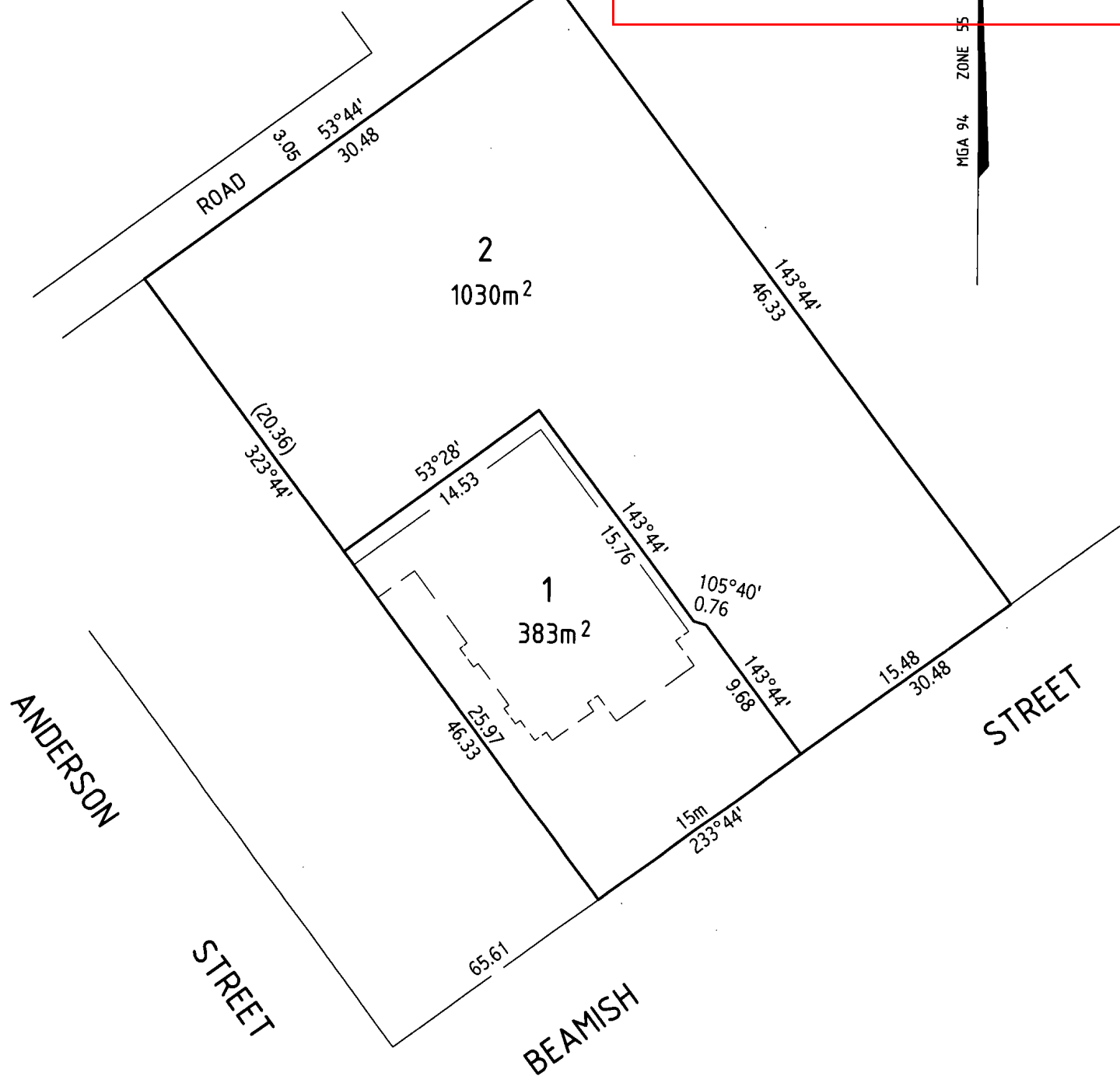
Original sheet size A3

PLAN OF SUBDIVISION

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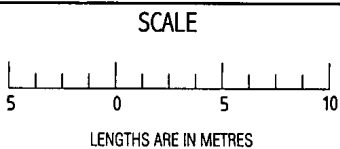
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P.M.KENNEDY
LICENSED LAND SURVEYOR
 UNIT 27 / No. 22 - 30 WALLACE AVENUE,
 POINT COOK 3030
 TEL: 9369 0730 FAX: 9369 8285

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ORIGINAL
 SCALE
 1: 250
 SHEET SIZE
 A3

LICENSED SURVEYOR (PRINT) SALVATORE ZUCCARELLO
 SIGNATURE DATE 29 / 10 / 2010
 REF 16918 VERSION 3

SHEET 2
 Plan: 11 of 20
 DATE 20 / 12 / 2010
 COUNCIL DELEGATE SIGNATURE

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Date Plans Provided: 23/02/2021

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Number of Pages (excluding this cover sheet)	8
Document Assembled	13/10/2020 11:54

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AH613313D

PLEASE NOTE: The plan/s that are being provided to you may not reflect what is ultimately approved by Council however they are the most recent version as at the date shown below:

Date Plans Provided: 23/02/2021

Section 181

APPLICATION BY A RESPONSIBLE AUTHORITY FOR THE MAKING OF A RECORDING OF AN AGREEMENT

Planning and Environment Act 1987

Lodged at the Land Titles Office by:

Sergeants - Altens/
Werribee

Name:

Phone:

Address:

Ref:

Customer Code:

1563V

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

Land: Volume 3450 folio 844 and Volume 6484 folio 660

Authority: Wyndham City Council

Section of the Act under which agreement made: Section 173 of the *Planning and Environment Act 1987*.

A copy of the agreement is attached to this application

Signature for the Authority:

Name of Officer:

Tam Walsh

Office held:

Principal Planner

Date:

12/10/2010

WYNDHAM CITY COUNCIL
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Dated: 11th October 2019

SECTION 173 PLANNING AND ENVIRONMENT ACT AGREEMENT

Date Plans Provided: 23/02/2021

Section 173 Planning and Environment Act Agreement

PEAK SERVICES PTY. LTD.
("Owner")

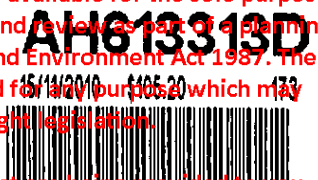
WYNDHAM CITY COUNCIL
("Responsible Authority")

**The Practitioners
Australian Lawyers
246 Errol Street,
NORTH MELBOURNE 3051
Tel/Fax 5977 9139**

**WYNDHAM CITY COUNCIL
Town Planning
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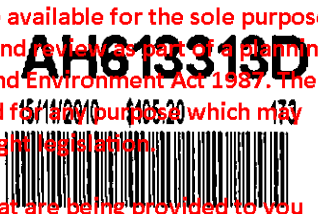
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PLEASE NOTE: The plan/s that are being provided to you may not reflect what is ultimately approved by Council however they are the most recent version as at the date shown below:

Date Plans Provided: 23/02/2021

Agreement

DATE // / / 2010

BETWEEN

Wyndham City Council
of 45 Princes Highway Werribee 3030

(Council)

AND

Peak Services Pty. Ltd. ACN 097 861 008
of 99 Elm Park Drive Hoppers Crossing 3030

(Owner)

RECITALS

- A. Council is the Responsible Authority pursuant to the Act for the Planning Scheme.
- B. The Owner is or is entitled to be the registered proprietor of the Subject Land.
- C. On 2nd July 2010 the Council issued a Planning Permit No: **WYP3530/09 (Planning Permit)** allowing the Owner to subdivide the land into Two (2) lots in accordance with the endorsed plans.
Condition 2 of the Planning Permit requires the Owner to enter into this Agreement to provide for the matters set out in that condition of the Planning Permit.
A copy of the Planning Permit is available for inspection at Council offices during normal business hours upon giving the Council reasonable notice.
- D. The parties entered into this agreement:
 - (i) to give effect to the requirements of the Planning Permit; and
 - (ii) to achieve and advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Subject Land.

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Date Plans Provided: 23/02/2021

THE PARTIES AGREE

1. INTERPRETATION

1.1 Definitions

In this Agreement, unless the context otherwise requires:

Act means the *Planning and Environment Act 1987*

Agreement means this Agreement and any Agreement executed by the parties expressed to be supplemental to this Agreement.

Mortgagee means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as Mortgagee of the Subject land or any part of it.

Owner means the person or persons registered or entitled to be from time to time to be registered by the Registrar of Titles as proprietor or proprietors of an estate in fee simple of the Subject Land or any part of it and includes a Mortgagee in possession.

Party or Parties means the Owner and Council under this Agreement as appropriate.

Planning Scheme means the **Wyndham Planning Scheme** and any other Planning Scheme that applies to the Subject Land.

Subject Land means the land situated at **No 12 and 14 Beamish Street Werribee** being the land described in Certificates of Title Volume **3450** folio **844** and Volume **6484** folio **660**.

1.2 General

In this Agreement, unless the context otherwise requires:

- (a) the singular includes the plural and visa versa;
- (b) a reference to a gender includes a reference to each other gender;
- (c) a reference to a person includes a reference to a firm, corporation or other corporate body and that person's successors in law;
- (d) if a party consists of more than one person this Agreement binds them jointly and each of them severally;
- (e) a term used in this Agreement has its ordinary meaning unless that term is defined in this Agreement. If the term is not defined in this Agreement and it is defined in the Act it has the meaning defined in the Act.
- (f) a reference to an Act, regulation or a Planning Scheme includes any Acts, regulations or amendments, consolidating or replacing the Act, regulation or Planning Scheme.
- (g) The introductory clauses to this Agreement will be deemed to form part of this Agreement.
- (h) The obligations of the Owner under this Agreement, will take effect as separate and as several covenants which are annexed to and run at law and in equity with the Subject Land.

1.3 Headings

In this Agreement, headings are for convenience of reference and do not affect the Interpretation of this Agreement.

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PLEASE NOTE: The plan/s that are being provided to you may not reflect what is ultimately approved by Council however they are the most recent version as at the date shown below:

2. SPECIFIC OBLIGATIONS OF THE OWNER

The Owner covenants and agrees that:

Date Plans Provided: 23/02/2021

- (a) The Owner will not build, construct or erect or cause or permit to be built, constructed or erected any building on the Subject Land other than that permitted by Planning Permit WYP1491/07 issued 08 April 2008, without the prior written consent of Council.

3. FURTHER OBLIGATIONS OF THE OWNERS

3.1 Notice and Registration

The Owner further covenants and agrees that the Owner will bring this Agreement to the attention of all prospective purchasers, lessees, mortgagees, chargees, transferees and assigns.

3.2 Further actions

The Owner further covenants and agrees:

- 3.2.1 the Owner will do all things necessary to give effect to this Agreement;
- 3.2.2 the Owner will consent to Council making application to the Registrar of Titles to make a recording of this Agreement in the register on the Certificate of Title of the Subject Land in accordance with Section 181 of the Act and do all things necessary to enable Council to do so including signing any further Agreements, acknowledgment or document or procuring the consent to this Agreement of any mortgagee or caveator to enable the recording to be made in the Register under that section.

3.3 Council's costs to be paid

The Owner further covenants and agrees that the Owner will immediately pay the Council, Council's reasonable costs and expenses (including legal expenses) of and incidental to the preparation, drafting, finalisation, engrossing, execution, registration and enforcement of this Agreement which are and until paid, will remain a debt due to Council by the Owner.

4. AGREEMENT UNDER SECTION 173 OF THE ACT

Council and the Owner agree that without limiting or restricting the respective powers to enter into this Agreement and in so far as it can be so treated, this Agreement is made as a deed pursuant to Section 173 of the Act and the obligations of the Owner under this Agreement are obligations to be performed by the Owner as conditions subject to which the Subject Land may be used and developed for the specified purposes.

5. OWNERS WARRANTIES

Without limiting the operation or affect which this Agreement has, the Owner warrants that apart from the Owner and any other person who has consented in writing to this Agreement, no other person has an interest, either legal or equitable, in the Subject Land which may be affected by the Agreement.

6. SUCCESSORS IN TITLE

Without limiting the operation or affect which this Agreement has, the Owner must ensure that until such time as a memorandum of this Agreement is registered on the Title to the Subject Land, successors in title shall be required to:-

- 6.1 give effect to and do all acts and execute all documents which will require those successors to give effect to this Agreement; and

WYNDHAM CITY COUNCIL
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6.2 execute a deed agreeing to be bound by the terms of this Agreement.

7. GENERAL MATTERS

Date Plans Provided: 23/02/2021

7.1 Notices

A notice or other communication required or permitted to be served by a party on another party must be in writing and may be served:

- 7.1.1 by delivering it personally to that party;
- 7.1.2 by sending it by pre-paid post addressed to that party at the address set out in this Agreement or any new address subsequently notified to each party from time to time;
- 7.1.3 by sending it by facsimile provided that a communication sent by facsimile shall be confirmed immediately in writing by the sending party by hand delivery or pre-paid post.

7.2 Service of notice

A notice or other communication is deemed to be served:

- 7.2.1 if delivered, on the next following business day;
- 7.2.2 if posted, on the expiration of seven business days after the date of posting; or
- 7.2.3 if sent by facsimile, on the next following business day unless the receiving party has requested re-transmission before the end of that business day.

7.3 No waiver

Any time or other indulgence granted by Council to the Owner or any variation of the terms and conditions of this Agreement or any judgment or order obtained by Council against the Owner will not in any way amount to a waiver or any of the rights or remedies of Council in relation to the terms of this Agreement.

7.4 Severability

If any court, arbitrator, tribunal or other competent authority determines that a word, phrase, sentence, paragraph or clause of this Agreement is unenforceable, illegal or void, then it must be severed and the other provisions of this Agreement will remain operative.

7.5 No Fettering of Councils Powers

It is acknowledged and agreed that this Agreement does not fetter or restrict the power or discretion of Council to make decisions or impose any requirements or conditions in connection with the granting of any planning approval applicable to the Subject Land or relating to the any use or development of the Subject Land.

8. COMMENCEMENT OF AGREEMENT

Unless otherwise provided in this Agreement, this Agreement commences from the date of this Agreement.

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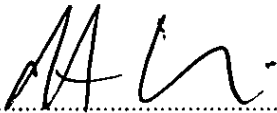
EXECUTED as a Deed

Signed for and upon behalf of the

WYNDHAM CITY COUNCIL

pursuant to an Instrument of Delegation

dated 11 August 2008



Name: Peter Van Til
Position Title: Manager Town Planning

EXECUTED by

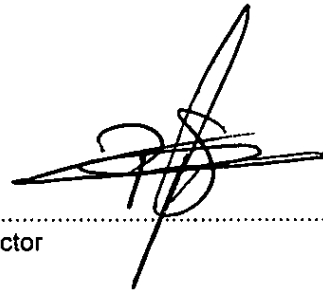
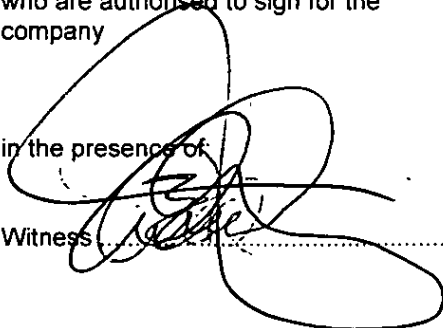
PEAK SERVICES PTY. LTD.

ACN 097 861 008

by being signed by the persons
who are authorised to sign for the
company

in the presence of

Witness



Director

Director

WYNDHAM CITY COUNCIL
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