

ENCUMBRANCE

PRIVACY COLLECTION STATEMENT: The information in this form is collected under statutory authority and is used for maintaining publicly searchable registers and indexes. It may also be used for authorised purposes in accordance with Government legislation and policy requirements.

LAND DESCRIPTION

ESTATE & INTEREST

Estate in Fee Simple

ENCUMBRANCER (Full name and address)

ENCUMBRANCEE (Full name and address)

JM BLUE PTY LTD A.C.N. 164 657 827 and **CPROP SA PTY LTD A.C.N. 607 479 345** both of C/ - 125 Galway Avenue, Broadview SA 5083

OPERATIVE CLAUSE

THE ENCUMBRANCER ENCUMBERS THE ESTATE AND INTEREST IN THE LAND DESCRIBED FOR THE BENEFIT OF THE ENCUMBRANCEE WITH AN ANNUITY OR RENT CHARGE OF

- | | | |
|-----|---|---|
| (a) | Insert the amount of the annuity or rent charge | TEN CENTS (10c) PER ANNUM (IF DEMANDED) |
| (b) | State the term of the annuity or rent charge.
If for life use words "during his or her lifetime" | TO BE PAID TO THE ENCUMBRANCEE annually as a yearly rent for a term of 99 years from the date hereof. |
| (c) | State the times appointed for payment of the annuity or rent charge. Any special covenants may be inserted. | AT THE TIMES AND IN THE MANNER FOLLOWING that is to say if demanded by the Encumbrancee on the 30 th day of June next and on each succeeding 30 th day of June. |
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COVENANTS

IT IS COVENANTED BETWEEN THE ENCUMBRANCER AND ENCUMBRANCEE as follows:

1. THE PURPOSE OF THE ENCUMBRANCE

- 1.1 The Encumbrancer on page 1 (“You”, “Your”) grants this encumbrance:
 - 1.1.1 for the benefit of the Encumbrancee on page 1 (“We”, “Our”, “Us”);
 - 1.1.2 for the benefit of each present and future owner of the land as described on page 1 of this encumbrance (“the Land”);
 - 1.1.3 to charge the Land with the payment of the annuity on page 1 of this encumbrance (“the Rent Charge”);
 - 1.1.4 for the purpose of a common building scheme for the Development Zone with the intent that its covenants run with the Land and be binding also on anyone who becomes the owner of the Land after You.

2. INTERPRETING THIS ENCUMBRANCE

- 2.1 In this encumbrance, unless the contrary intention appears:
 - 2.1.1 “Affected Allotments” means allotments numbered 1 – 23 inclusive proposed to be created on the Land and as depicted in the Plan of Division annexed to this encumbrance;
 - 2.1.2 “the Land” means all the land and any rights and easements described above in the panel entitled ‘Land Description’;
 - 2.1.3 “Development Zone” means all of the land delineated in Development No 145/8113/2015;
 - 2.1.4 “Development” means work of any kind, including but not limited to:
 - 2.1.4.1 “Building Works” as defined in the Building Works Contractors Act (SA) 1995;
 - 2.1.4.2 the construction or alteration of any permanent or temporary structure;
 - 2.1.4.3 earthworks or landscaping of any kind;
 - 2.1.4.4 repairs, painting or improvements of any kind;
 - 2.1.5 “Plan of Division” means the plan annexed to this encumbrance at ‘Annexure A’;
 - 2.1.6 reference to giving access to Us includes giving access to Our employees agents and contractors;
 - 2.1.7 reference to a party includes the party’s successors and transferees (and also the party’s personal representatives if the party is a natural person);
 - 2.1.8 reference to any statute includes statutes which change or replace it, and
 - 2.1.9 any word indicating the singular includes the plural and vice versa.

3. MORE THAN ONE ENCUMBRANCER

- 3.1 If there are more than one of You then:
 - 3.1.1 We only have to give notices to one of You and
 - 3.1.2 all Your obligations in this encumbrance are joint and several;

4. RESTRICTIONS ON THE USE AND DEVELOPMENT OF THE LAND

- 4.1 You must use the Land only for private residential purposes;
- 4.2 You must obey any development guidelines we issue from time to time relating to carrying out any development on the Land.

5. RULES GOVERNING THE USE OF THE LAND

- 5.1 You must obey the following rules in using or owning the Land:
 - 5.1.1 You must not subdivide the Land or create any additional allotment from the Land;
 - 5.1.2 You may not construct a transportable home or building upon the Land at any time;
 - 5.1.3 You must not use any caravan, tent or other shelter on the Land as a place of residence;
 - 5.1.4 You must not make any claim against us for the cost of (or for contribution to the cost of) erecting a fence between the Land and any land of ours. You indemnify us against such claim.

6. LAW

- 6.1 The provisions of the Law of Property Act (SA) 1936 and the Real Property Act (SA) 1886 (collectively, “the Acts”) relating to encumbrances apply to this encumbrance. In particular, the provisions of the above Acts include amongst other things, the following rights and obligations:
 - 6.1.1 an obligation on You to keep all improvements on the Land in good repair;
 - 6.1.2 a right of Ours to enter upon the Land, upon giving the occupier of the dwelling house reasonable notice of Our intention to do so, to inspect the state of repair of such improvements;
 - 6.1.3 an obligation on You to pay the Rent Charge at the time and in the manner set out in this encumbrance;
 - 6.1.4 the right of a subsequent mortgagee or encumbrancee to redeem this encumbrance;
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- 6.1.5 a power of Ours, if you default in payment of the Rent Charge or in observing your obligations expressed or implied in this encumbrance, to enter and take possession of the Land or bring an action for recovery of the Land;
 - 6.1.6 a right of Ours to sell the Land if you default in payment of the Rent Charge or in observing your obligations expressed or implied in this encumbrance.

7 DWELLING

- 7.1 During the continuance of this encumbrance, You SHALL NOT:
 - 7.1.1 erect or cause to be erected on the Land any dwelling unless plans showing the design, materials for external elements of the structure (which shall comprise of no less than three different materials for the dwelling's façade), walls, roofing or other such combination of materials have received written approval from us. Any dwelling must have at least one (1) undercover carport or garage attached to the main dwelling or incorporated under the roofline of the main dwelling unless approved by us in writing.
 - 7.1.2 erect or cause to be erected, a roof on the said dwelling house with a pitch of less than twenty five (25) degrees unless otherwise approved by us;
 - 7.1.3 place any advertising or business signage on the Land or in the front window or on the walls of any dwelling house except real estate signage associated with the sale of an established dwelling on the Land;
 - 7.1.4 erect or cause to be erected any dwelling house other than a dwelling house of permanent structure and of masonry construction (i.e. rendered brick or coloured face brick, or light-weight materials such as rendered hebel, render or texture-coated fibre cement, render panel, planking or feature galvanised iron or pre-coated colourbond steel) or such other materials as shall be approved by us. The exterior and interior of the dwelling must be constructed of new materials, and the exterior must be of non-reflective material. Neither the interior nor the exterior of the dwelling house are to be constructed of materials such as asbestos cement, fibreglass, plastic or rubber or any material of a like nature. In this clause, the term "permanent structure" shall mean a dwelling house which is permanently affixed to the Land;
 - 7.1.5 use used or second-hand materials in the construction of the dwelling house or the domestic outbuildings unless they present an architectural appearance or merit;
 - 7.1.6 use the Land other than solely for residential purposes unless You shall obtain Our prior written consent and also the prior written consent of the relevant council;
 - 7.1.7 erect or permit to be erected any structure or structures which are ancillary to the use of the dwelling house as outbuildings or any improvements unless such ancillary structure shall be made of new, non-reflective, non-bright coloured materials;
 - 7.1.8 delay or permit to be delayed the completion of the construction of the dwelling house after construction of the same has commenced;
 - 7.1.9 erect any dwelling house, domestic outbuilding, garage or shed that is not connected to a stormwater disposal system (including a rain water tank) which is approved by us.
- 7.2 The Encumbrancer shall not submit any applications or any associated plans to build a dwelling to the City of Onkaparinga without first having obtained Our written approval in respect of such applications and associated plans concerning the proposed development You wish to undertake.
- 7.3 Any such application concerning the Affected Allotments shall ensure that any proposed dwelling to be constructed on the Land shall incorporate:
 - 7.3.1 a footing design incorporating a concrete raft slab;
 - 7.3.2 a wall construction design incorporating a minimum 75mm thick aerated concrete panel with a row of minimum 90mm timber studs incorporating 50mm thick glass or mineral wool insulation with a density of 11kg/m³, positioned between studs and a layer of 10mm plasterboard fixed to the inside face (or any other wall construction such as brick veneer which is acoustically equivalent to the above);
 - 7.3.3 10.38mm laminated glass for all glazing into bedrooms and for all sliding doors into living areas other than on the street-facing facade. Such glazing must incorporate rubber or compressible foam strip seals to provide an airtight seal when closed;
 - 7.3.4 6.38mm laminated glass for all other glazing into habitable rooms other than that described in clause 7.3.3. Such glazing must incorporate rubber, contact brush seal or compressible foam strip seals to provide an airtight seal when closed;
 - 7.3.5 a ceiling design of 10mm plasterboard with a minimum 100mm thick insulation with a minimum density of 11 kg/m³ laid above; and
 - 7.3.6 44mm thick solid core doors incorporating acoustic seals, such as Raven "RP8Si" and "RP10" to the threshold and door frame respectively for any entry doors into the façade except for those doors on the street-facing façade.

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- 7.4 Allotment 23 depicted on the Plan of Division may:
- 7.4.1 have a finished floor level of the dwelling at a minimum height of 28.35 for gravity sewer disposal; or
 - 7.4.2 if the finished floor level of the dwelling is less than 28.35, then a sewer pump must be installed and maintained at all times, within Allotment 23 in accordance with all requirements of SA Water and connected to the SA Water connection point to be provided at the front of Allotment 23.

8 CARPORTS SHEDS GARAGES DOMESTIC OUTBUILDINGS

- 8.1 Garages, carports and outbuildings should have a roof form and pitch, building materials and detailing that compliment the associated dwelling;
- 8.2 Garages and carports facing the street should not dominate the streetscape;
- 8.3 During the continuance of this Encumbrance, you SHALL NOT:
 - 8.3.1 erect or cause to be erected unless otherwise approved by us on the Land any dwelling house which does not provide accommodation for at least one vehicle either in the form of one carport under the main roof or the dwelling house or other suitable free standing vehicle accommodation having a roof line similar in style and of the same roofing materials as that of the dwelling;
 - 8.3.2 erect or cause to be erected any shed or outbuilding except that the same shall be constructed with "Colorbond Woodland Grey" coloured material;

9 FENCING

- 9.1 During the continuance of this Encumbrance, you SHALL NOT:
 - 9.1.1 erect or cause to be erected any fence forward of the building alignment or on the front alignment of the Land during the first twelve (12) months after completion of the residential dwelling to be constructed upon the Land unless the Land is a corner allotment and has two front alignments in which case you may erect a fence along one of the front alignments for the purpose of enclosing the area at the rear of the Land;
 - 9.1.2 erect or cause to be erected any fence on the Land to be less than 1800 mm in height (measured from the highest side) and all fencing shall be constructed with "Colorbond Woodland Grey" coloured steel sheeting or other material with the same or greater surface density (kg/m²).
- 9.2 Should the fence be constructed above 1.8 metres in height above ground level (measured from the highest side), the portion of fence above 1.8 metres in height may be constructed of other material.

10 RAINWATER TANK

- 10.1 The Encumbrancer must prior to the occupation of any future dwelling to be erected upon the Land, install and thereafter maintain an above ground rain water detention tank of minimum capacity of 2,500 litres.

11 COMMENCEMENT OF CONSTRUCTIONS OF A DWELLING

- 11.1 You must substantially commence construction of a dwelling house on the Land within one (1) year of the date you buy the Land unless we have, by written notice, allowed an extension of time in which to substantially commence construction of a dwelling house;
- 11.2 If you do not substantially commence construction of a dwelling house within the time allowed for in clause 11.1 above, then you must sell the Land and clauses 16 and 17 of this encumbrance will apply.
- 11.3 In this clause, "substantially commence" means the pouring of a concrete footing or foundation for the construction of a residential dwelling on the Land;

12 LANDSCAPING

- 12.1 You shall within six (6) months of the completion of a dwelling house on the Land, landscape the area between the front alignment of the dwelling and the kerb alignment or pedestrian walkway fronting or bounding the Land, and in the case of a corner allotment shall also landscape the area between the side alignment of the dwelling house and the kerb alignment or pedestrian walkway. You shall at all times thereafter maintain, keep tidy and care for the said landscaping. We shall plant one tree in front of the Land for which you shall be responsible for its care and maintenance.

13 PARKING OF VEHICLES

- 13.1 You must not cause or allow:
 - 13.1.1 parking of motor vehicles on other than the driveway on the Land;
 - 13.1.2 the storage of boats, caravans and/or trailers forward of the front alignment of the dwelling house or anywhere else on the Land so as to be visible from the street or from any other public place, except on an irregular and infrequent basis.

14 HARD REFUSE

14.1 You will not deposit or keep any hard refuse on any part of the Land in a position or in a manner that will be visible to any allotments adjoining the Land or any road, which is abutting the Land. For the purpose of this clause, "hard refuse" shall include any unroadworthy vehicle of any kind, any scrap vehicles or vehicle components, any scrap metal, any unserviceable or scrap agricultural implements or equipment and any unserviceable or scrap domestic or commercial appliances of any kind.

15 MAINTENANCE OF THE LAND

15.1 Until the construction of any dwelling on the Land is completed, you shall regularly cut down all weeds growing on and otherwise keep and maintain the Land free from rubbish and in a good, neat, clean and tidy order and condition and from and after construction of any dwelling, you shall at all times maintain and keep the Land in good, neat, clean and tidy order and condition.

16 POWER OF SALE OF THE LAND

16.1 Notwithstanding s.136 of the Real Property Act, you agree that we may, if we exercise our power of sale, require the purchaser of the Land to accept the sale of the Land subject to an encumbrance in the same terms as this encumbrance.

17 YOUR OBLIGATIONS ON TRANSFERRING THE LAND

17.1 You must not sell or transfer or otherwise dispose (or grant any legal or equitable interest in) the Land except subject to this encumbrance and procuring a replacement encumbrance from the incoming purchaser to the Encumbrancee, which is to be on the same terms as this encumbrance, which replacement encumbrance must be registered on the title for the Land immediately after the transfer of Land from the Owner to the incoming purchaser, and before any other interest in the Land is created.

17.2 The Owner and its successors in title will be successively released and discharged from the payment of the Rent Charge and from the observance of the covenants and other stipulations contained and implied in this encumbrance upon ceasing to be registered owner of the Land to the intent that the Rent Charge and covenants and other stipulations will be binding only upon the registered proprietor for the time being of the Land;

17.3 If you are forced to sell the Land by virtue of your default under this encumbrance, then, we will have the option to purchase the whole of the Land together with all improvements thereon (if any) free from all mortgages, charges, liens and encumbrances;

17.4 We may exercise the option to purchase the Land and improvements by providing you with notice in writing to that effect at any time within 6 months of when we first becomes aware that the option is capable of being exercised;

17.5 If we exercise the option then the terms and conditions upon which we shall purchase the Land shall be those contained in the contract used by the Law Society of South Australia at the time that the option is exercised except that:

17.5.1 the purchase Price shall be 90% of the purchase price paid by you for the Land and we will be entitled to deduct from this amount any costs we incur in discharging any mortgage, charge, lien or other interest over the Land;

17.5.2 no deposit shall be payable; and

17.5.3 the dates settlement is to be completed shall be 30 days after the date on which we exercises the option, or if that date is not a business day, shall be the next business day; and

17.5.4 all costs associated with the preparation including all legal and conveyancing fees in respect of the Memorandum of Transfer shall be paid by you or deducted from the purchase price at our discretion; and

17.5.5 the total amount of stamp duty and Transfer registration fees payable in respect of the Memorandum of Transfer to be created for the purpose of re-conveying the Land back to us shall be paid by you, or in our discretion, shall be deducted from the purchase price such that we will pay the same from funds withheld by us.

18 ASSIGNMENT BY US

18.1 We may transfer or assign our rights under this encumbrance.

19 SEVERANCE OF INVALID CLAUSES

19.1 If any clause of this encumbrance is void or unenforceable then it must be read down so that it is not void or unenforceable;

19.2 If it cannot be read down, it must be severed (that is, treated as if cut out);

19.3 The rest if this encumbrance is not affected if any clauses are read down or severed;

20 PAYMENT OF COSTS

- 20.1 The costs incidental to the preparation of this encumbrance, and the stamp duty and registration fee on it, must be paid by You;
- 20.2 You must also pay us any costs we incur as a result of any breach of this encumbrance by You or Your employees, agents contractors or invitees.

21 HOW NOTICES MAY BE GIVEN

- 21.1 All notices (including approvals or demands):
 - 21.1.1 must be in writing;
 - 21.1.2 must be given to the other party;
 - 21.1.3 can be given in person;
 - 21.1.4 can be left at the other party's address on page 1, or at the other party's last known address;
 - 21.1.5 can be sent there by post, but they must be correctly addressed and posted;
 - 21.1.6 can be given to you by being left at, or sent by post to, the Land;
 - 21.1.7 are, if posted, treated as given the next business day after posting;
 - 21.1.8 may, if the party has a facsimile number, be sent by facsimile transmission to that facsimile number. In that case, the notice is treated as having been given when the sender's facsimile number confirms that the transmission has been successfully completed;
 - 21.1.9 may be signed by a party, or any person that party authorises to sign it.

22 SUNSET CLAUSE

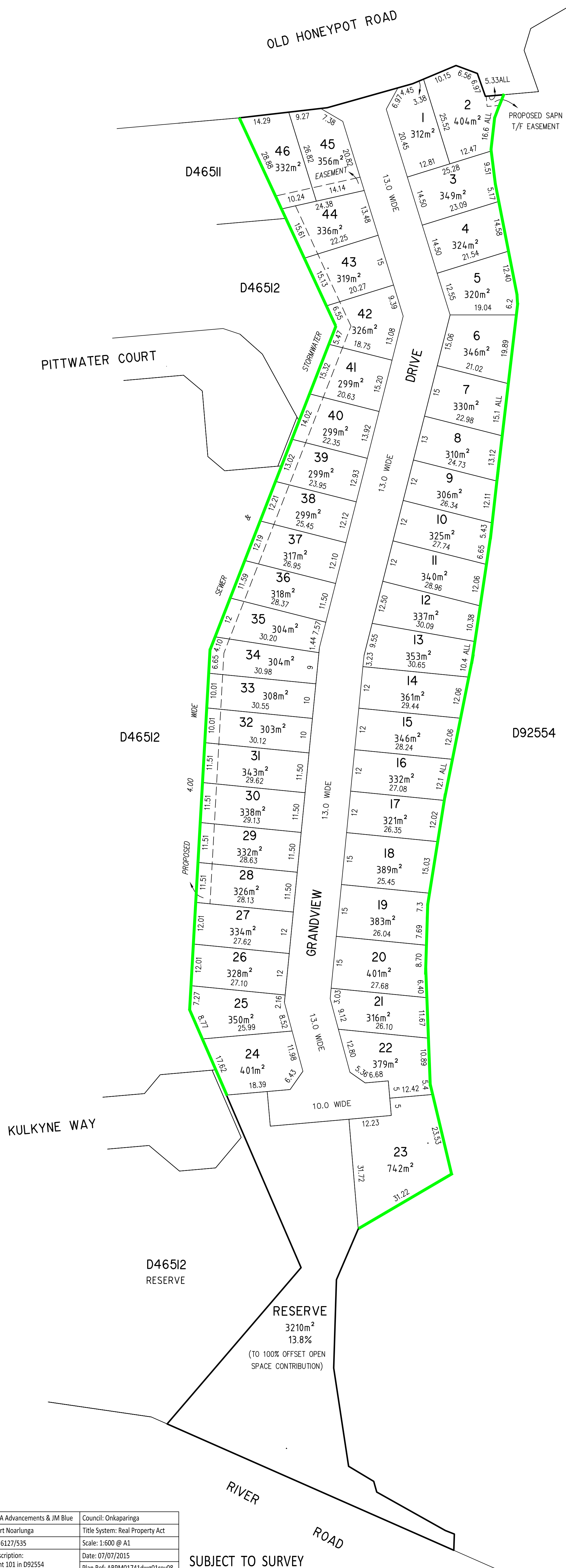
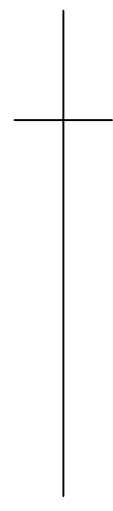
- 22.1 Our rights and obligations will cease under this encumbrance upon the earlier of one (1) year after We cease to be the registered proprietor of any allotment created in the Development Zone or 1 November 2018.
- 22.2 For the avoidance of doubt it is expressly stated that the rights and obligations of the owners of any land in the Development Zone arising under the building scheme created by this encumbrance will continue despite the provisions of clause 22.1.

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PROPOSED PLAN OF DIVISION

AMENDED PLAN

24/08/2015
 Add proposed street name.
 04/11/2015
 Amend allotment layout.
 06/11/2015
 Further amendments to layout.
 27/01/2016
 Add sewer & stormwater easements
 rear of allotments 28 - 46 Incl.
 05/02/2016
 Amend dividing boundaries
 allotments 1, 2, 45 & 46.



Denotes 1.8 Meter High Colourbond Fence To Be Constructed By The Developer

Note:
 Contour Interval 0.50 Metres,
 Contour Datum AHD,
 Contours derived from field survey dated 20/05/2015.

	Client: AA Advancements & JM Blue	Council: Onkaparinga
	Area: Port Noarlunga	Title System: Real Property Act
	Title: CT 6127/535	Scale: 1:600 @ A1
	Land Description:	Date: 07/07/2015
	Allotment 101 in D92554	Plan Ref: ABPM01741dwo1rev08

SUBJECT TO SURVEY

** Delete the inapplicable*

IT IS COVENANTED BETWEEN THE ENCUMBRANCER AND THE ENCUMBRANCEE in accordance with the terms and conditions expressed * herein / in Memorandum No _____ subject to such exclusions and amendments specified herein.

DATED

CERTIFICATION **Delete the inapplicable*

Encumbrancer(s)

- *The Prescribed Person has taken reasonable steps to verify the identity of the encumbrancer.
- *The Prescribed Person holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
- *The Prescribed Person has retained the evidence to support this Registry Instrument or Document.
- *The Prescribed Person has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Signed By:

<Name of certifying party>
<Capacity of certifying party>
for: <Company name>
on behalf of the Encumbrancer

Encumbrancee(s)

- *The Prescribed Person has taken reasonable steps to verify the identity of the encumbrancee.
- *The Prescribed Person holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
- *The Prescribed Person has retained the evidence to support this Registry Instrument or Document.
- *The Prescribed Person has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Signed By:

<Name of certifying party>
<Capacity of certifying party>
for: <Company name>
on behalf of the Encumbrancee

ENCUMBRANCE

FORM APPROVED BY THE REGISTRAR-GENERAL

PRIORITY NOTICE ID	
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**BELOW THIS LINE FOR OFFICE &
STAMP DUTY PURPOSES ONLY**

SERIES NO	PREFIX
	E

AGENT CODE

LODGED BY:

CORRECTION TO:

SUPPORTING DOCUMENTATION LODGED WITH INSTRUMENT
(COPIES ONLY)

- 1.....
- 2.....
- 3.....
- 4.....
- 5.....

CORRECTION	PASSED
REGISTERED	
REGISTRAR-GENERAL	