

SOLICITORS

ABN 71 067 064 628

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KATE MITCHELL
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MICHAEL LONG
SENIOR ASSOCIATE ANTHONY FAMELI
ASSOCIATES PATRICK LAWLER
MELVA CAMERON
ELIZABETH WELDON
DERRICK TOH
CONSULTANTS TIM C HEWISON
ANTHONY ZANELLI
MICHAEL MAPLESTONE
JOHN BLOOM

17 May 2013

Australian Competition and Consumer Commission
GPO Box 520
MELBOURNE VIC 3001

Dear Sir

Notification of Exclusive Dealing
Pakenham Hills Pty Ltd

FILE No:
DOC:
MARS/PRISM:

Please find enclosed Form G Notification of Exclusive Dealing form together with our cheque for \$100.00 being payment of your notification fees.

We would appreciate your acknowledgement of receipt and your earliest response.

Yours faithfully
SEPTIMUS JONES & LEE
Derrick Toh

enc

cc. adjudication@accg.gov.au



DKT-235469-17-9-V1:TEP

P O Box 258, Collins Street West, 8007
DX 186, Melbourne
Level 5, 99 William Street, Melbourne (deliveries)
Telephone: (03) 9613 6555 Fax: (03) 9613 6500



Form G

Commonwealth of Australia
Competition and Consumer Act 2010 — subsection 93 (1)
NOTIFICATION OF EXCLUSIVE DEALING

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with subsection 93 (1) of the *Competition and Consumer Act 2010*, of particulars of conduct or of proposed conduct of a kind referred to subsections 47 (2), (3), (4), (5), (6), (7), (8) or (9) of that Act in which the person giving notice engages or proposes to engage.

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

1. Applicant

- (a) Name of person giving notice:
(Refer to direction 2)

N96746

PAKENHAM HILLS PTY LTD ACN 108 507 624 as trustee for the George Street Unit Trust ("**Pakenham Hills**")

- (b) Short description of business carried on by that person:
(Refer to direction 3)

Pakenham Hills is a property developer.

- (c) Address in Australia for service of documents on that person:

c/- Derrick Toh, Septimus Jones Lee
PO Box 258, Collins Street West, Victoria 8007.

2. Notified arrangement

- (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:

Contracts for the sale of house and land packaged residential lots situated at corner South Road and Barr Street, Brighton East Vic 3187 being the land described in Certificates of Title Volume 9565 Folio 368, Volume 8998 Folio 849, Volume 4913 Folio 442, Volume 4790 Folio 940 and Volume 4714 Folio 663 ("**Land**").

- (b) Description of the conduct or proposed conduct:
(Refer to direction 4)

Pakenham Hills intends to:

- subdivide and develop the Land into 16 residential lots and common areas ("**Development**");

- enter into an agreement with Metricon Homes Pty Ltd ACN 005 108 752 ("**Metricon**") which gives Metricon the exclusive right to construct residential town houses on the Development;
- offer purchasers a contract to purchase lots in the Development on the condition that the purchaser will also be required to enter into a building contract with Metricon to construct a home and improvements on the lot .

(“**Proposed Conduct**”).

3. Persons, or classes of persons, affected or likely to be affected by the notified conduct

(a) Class or classes of persons to which the conduct relates:
(Refer to direction 5)

- Purchasers of residential lots that wish to buy house and land within the Development.
- Builders of residential homes.

(b) Number of those persons:

(i) At present time:

0

(ii) Estimated within the next year:
(Refer to direction 6)

16

(c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:

Not applicable

4. Public benefit claims

(a) Arguments in support of notification:
(Refer to direction 7)

The Development consists entirely of attached and semi-attached townhouses. This means that the dwellings will have shared party walls and common boundaries.

Because of this, Pakenham Hills has made enquiries with a number of residential builders with a view to nominating one single builder to construct all dwellings in the Development in such a manner as to:

- ensure that attached and semi-attached dwellings can be constructed simultaneously with one builder;
- avoid issues with construction timeframes and disruptions which would arise if multiple builders were attempting to construct attached and semi-attached dwellings at different times;

- avoid issues with construction timeframes and disruption which would arise if multiple builders were attempting to construct medium density housing at the same time, using different plans which may not be cohesive;
- enable the most efficient and effective construction timeframe for purchasers;
- deliver a cohesive and attractive development where purchasers can rely on the aesthetics and design controls within the development; and
- ensure that affordable first home buyer plans can be delivered through cost savings which a single builder can achieve on the Development.

By utilising the proposed conduct, purchasers will benefit as:

- they will receive the benefit of obtaining a new home in a residential estate for a fixed price.
- the total cost to the purchaser is potentially lower than other developments because Metricon does not incur duties and taxes which would have occurred if a builder purchased the land and on-sold it, and subsequently passed on to the purchaser.
- the overall standard and consistency of design within each block of town houses within the Development is achieved, therefore preserving the resale value of each town house development.
- the design of all townhouses within a block is consistent and integrated, which provides economies of scale and practical consistency and again lowers the cost for purchasers to obtaining a new home.
- a consistent high standard will be achieved across the board, Metricon has a proven track record of providing industry leading quality of workmanship.
- by having party walls between the town house lots, the cost of each town house is reduced as compared to a free standing house. However the party walls for the block of townhouses will have to be constructed simultaneously, and the only practical way of achieving this is to have one builder for the entire block.
- by ensuring that the same builder constructs all the town houses within a block there are obvious economies of scale which will further reduce the cost of construction. These economies of scale include the supply of materials, because a supplier can provide the materials for all the town houses in the block, reducing delivery fees, and allowing the builder to take advantage of discounts offered for supply of larger quantities of material.
- there are economies of scale in the building in that tradesmen performing electrical, plumbing, carpentry or fit-out services can perform the work for the entire block as one job, instead of treating each dwelling as a separate job.
- there is a saving in compliance costs as inspections can be carried out for all the town houses within the block at the same time. Indeed, in the case of construction of the party walls the inspections have to be carried out at the same time.

(b) Facts and evidence relied upon in support of these claims:

A copy of the approved site plan and drawings are attached as Annexure A.

5. Market definition

Provide a description of the market(s) in which the goods or services described at 2 (a) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):
(Refer to direction 8)

The affected market:

- consists of purchasers of residential dwellings (including owner occupier and investors) particularly those looking at purchasing residential buildings in close proximity of the Land; and
- builders of residential dwellings in close proximity of the Land;
- is situated within an established area within the South Eastern corridor of the Greater Melbourne Metropolitan area and more specifically located in the Bayside City Council.

("Affected Market").

6. Public detriments

- (a) Detriments to the public resulting or likely to result from the notification, in particular the likely effect of the notified conduct on the prices of the goods or services described at 2 (a) above and the prices of goods or services in other affected markets:
(Refer to direction 9)

- The applicant considers that there would be little or no detriment to the public, as potential purchasers have access to a high percentage of new and existing medium density dwellings and plenty of building projects in the Affected Market.
- The applicants do not consider that the proposed conduct would adversely impact on prices of house and land packages in the Affected Market. As a matter of fact and as mentioned above, it would most likely be cheaper for purchasers if a single builder was engaged to construct the attached and semi-attached townhouses.

- (b) Facts and evidence relevant to these detriments:

- The Bayside City Council reports that there were 11,030 medium density dwellings in 2011 (<http://profile.id.com.au/bayside/dwellings>), which means the Development would affect a miniscule percentage of overall medium density housing in the Bayside City Council, which again constitutes part of the larger South Eastern corridor of the Greater Melbourne Metropolitan area.
- There is no obligation on a purchaser to purchase a lot in the Development, there are new high and medium density developments located in the general

vicinity of the Development which do not require purchasers to use Metricon to construct dwellings.

- There are various medium and high density construction projects existing, including to name a few :
 - 13 unit development at 200 Dendy Street, Brighton East,
 - 18 unit development at 4 Dudley Street, Brighton East,
 - 13 unit development at 10 St Andrews Street, Brighton,
 - 14 unit development at Keilier Street, Hampton East
 - high density multi-storey development at Bay Street
 - various other developments at Hampton Street, Church Street, Nepean Highway, etc
- The proposed conduct only affects purchasers who wish to purchase in the Development.
- Purchasers will avoid the uncertainty of overall costs for the construction of a home on their lot by purchasing under a house and land package

7. Further information

- (a) Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:

c/- Derrick Toh
Septimus Jones Lee
PO Box 258, Collins Street West, Victoria 8007
Tel: (03) 9613 6555
Email: dtoh@sjl.com.au

Dated 13th May 2013

Signed by/on behalf of the applicant

Peter L Gillon

(Signature)

PETER L GILLON

(Full Name)

PAKENHAM HILLS P/L

(Organisation)

MANAGING DIRECTOR

(Position in Organisation)



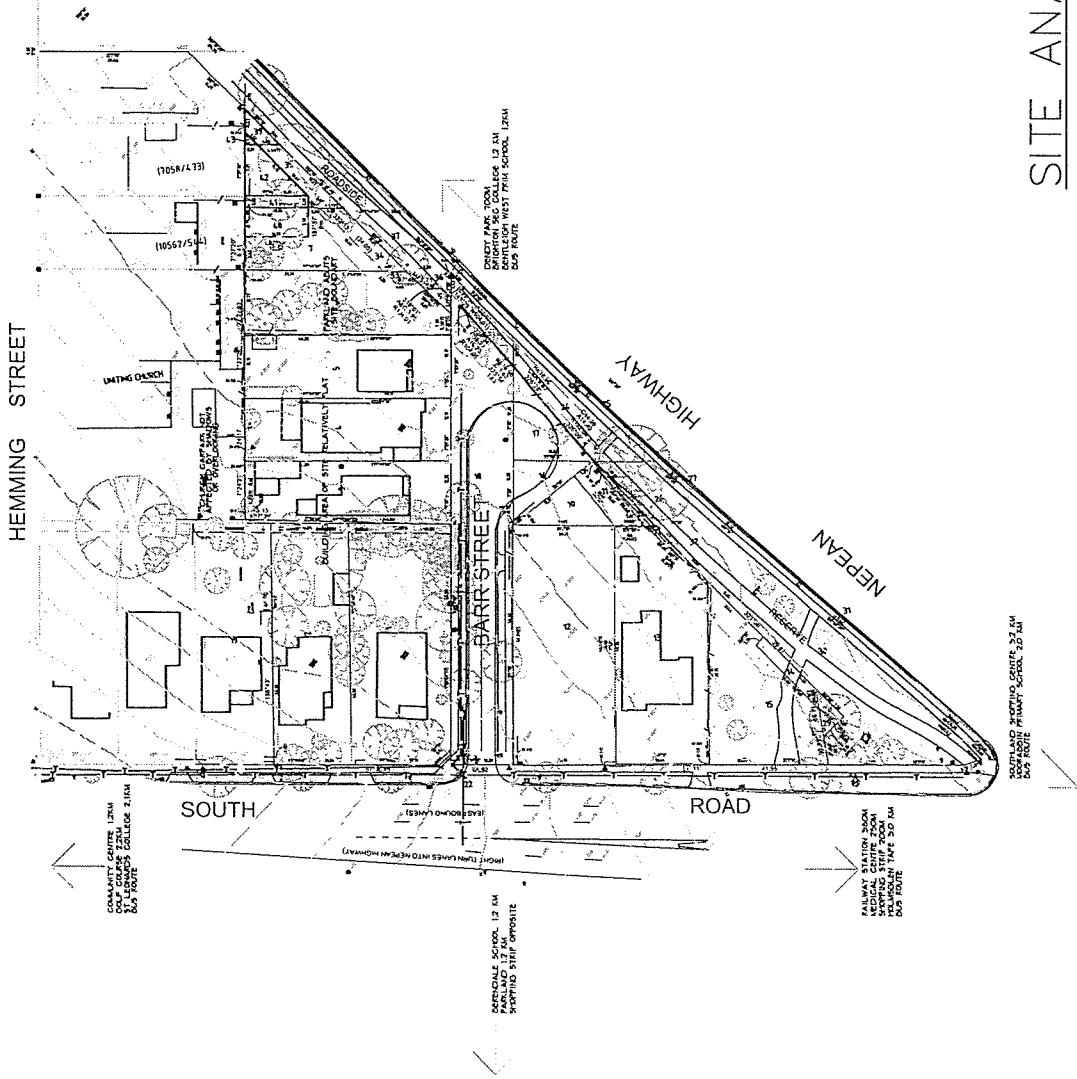
DIRECTIONS

1. In lodging this form, applicants must include all information, including supporting evidence that they wish the Commission to take into account in assessing their notification.

Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the applicant.

2. If the notice is given by or on behalf of a corporation, the name of the corporation is to be inserted in item 1 (a), not the name of the person signing the notice, and the notice is to be signed by a person authorised by the corporation to do so.
3. Describe that part of the business of the person giving the notice in the course of the which the conduct is engaged in.
4. If particulars of a condition or of a reason of the type referred to in section 47 of the *Competition and Consumer Act 2010* have been reduced in whole or in part to writing, a copy of the writing is to be provided with the notice.
5. Describe the business or consumers likely to be affected by the conduct.
6. State an estimate of the highest number of persons with whom the entity giving the notice is likely to deal in the course of engaging in the conduct at any time during the next year.
7. Provide details of those public benefits claimed to result or to be likely to result from the proposed conduct including quantification of those benefits where possible.
8. Provide details of the market(s) likely to be affected by the notified conduct, in particular having regard to goods or services that may be substitutes for the good or service that is the subject matter of the notification.
9. Provide details of the detriments to the public which may result from the proposed conduct including quantification of those detriments where possible.

ANNEXURE A



Copyright, information in this plan is published by copyright.
 PROPOSED RESIDENTIAL
 DEVELOPMENT AT:
 Cnr Barr Street and South Road
 Brighton East Vic 3187
 FOR:
 THE GILLON GROUP

JOB No.	SCALE	DATE
10013	1 : 500	B-4-2013
ORIG. SIZE	SHEET	VERSION
A1	1	TP-4

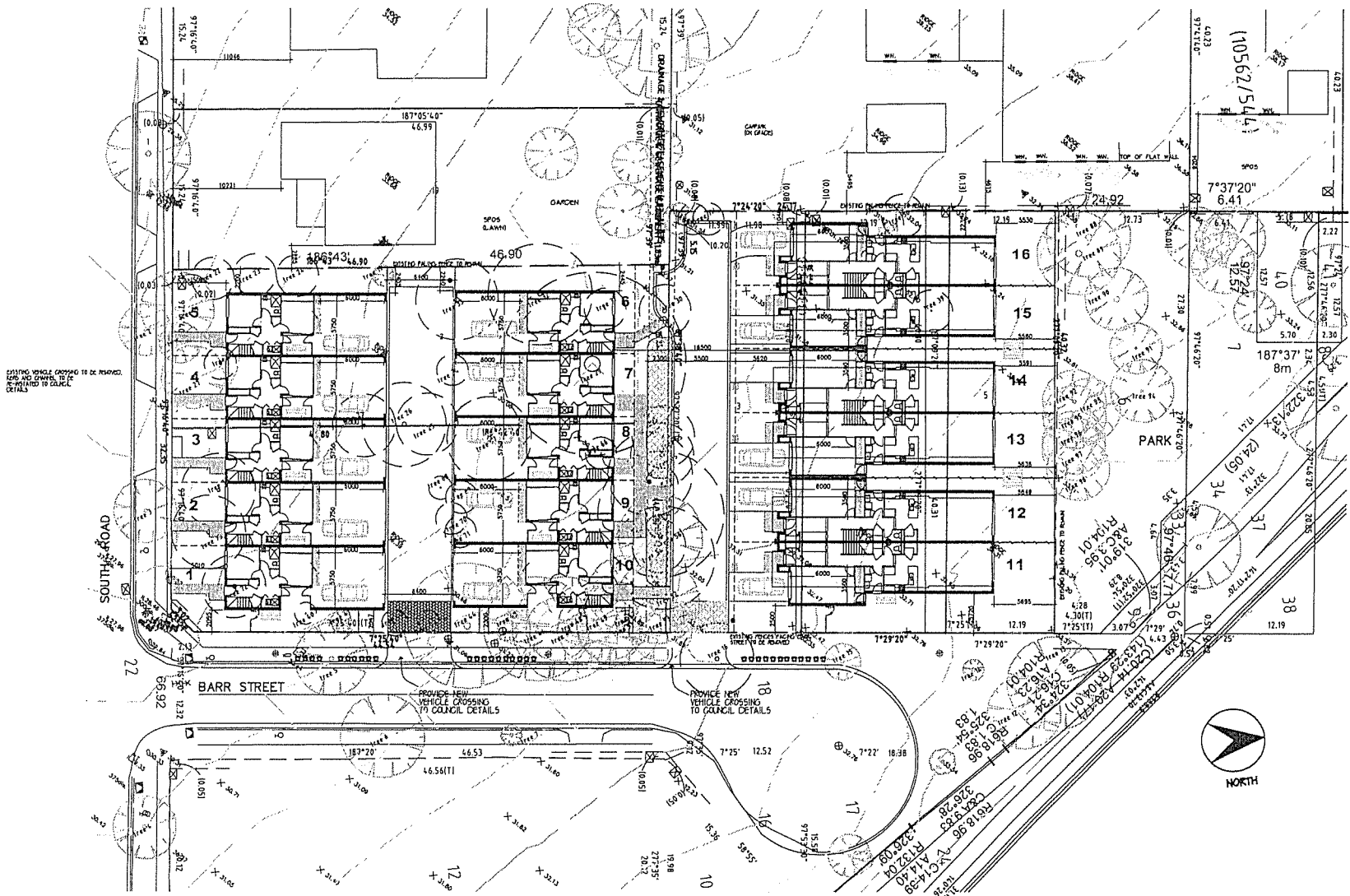
TOWN
by metricon

120 South Road, Level 11, Werribee, Vic. 3188
 (03) 9470 1234



LOTUS
 (03) 9214 8800
 2000 St. Albans Rd.
 St. Albans, Vic. 3170

SITE ANALYSIS PLAN



- LEGEND**
- EXISTING TREE TO BE RETAINED
 - EXISTING TREE TO BE REMOVED
 - BOLLARD LIGHT
 - CARPARK SPACES
4,000 LONG X 2,800 WIDE
 - BOUNDARY LINES
 - 1800MM HIGH TIMBER PALING FENCE
 - 1800MM HIGH HORIZONTAL TIMBER SLATTEN FENCE AND GATE
 - SPOS
SEALED PRIVATE OPEN SPACE
 - COBBLESTONE PAVING
 - WASTE BIN COLLECTION LOCATIONS
 - CLOTHESLINE
 - LETTER BOX

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PROPOSED RESIDENTIAL DEVELOPMENT AT:
 Cnr Barr Street and South Road
 Brighton East Vic 3187
 FOR:
 THE GILLON GROUP

JOB No.	SCALE	DATE
10013	1 : 200	8-4-2013
ORIG. SIZE	SHEET	VERSION
A1	2	TP4

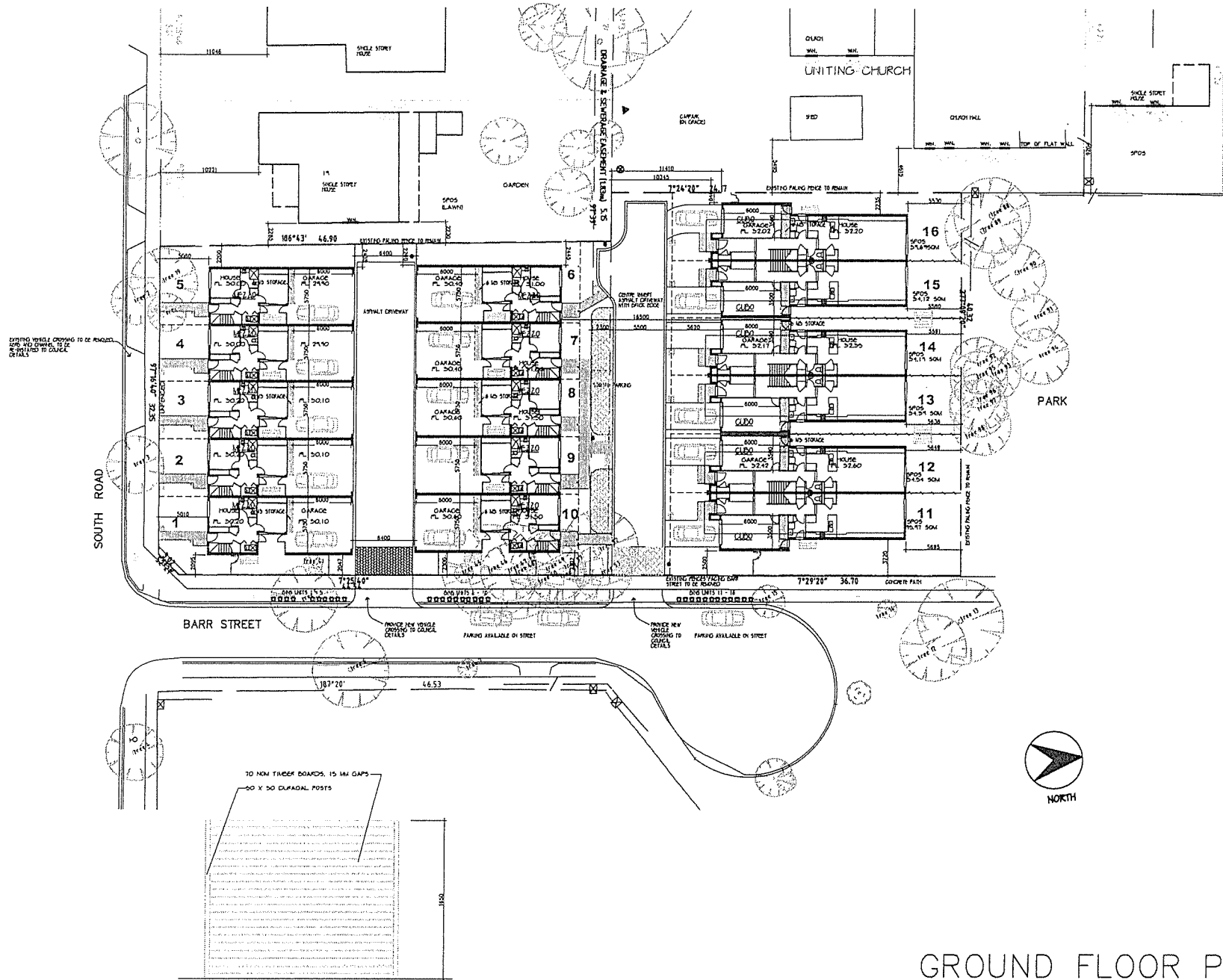
TOWN
by metricon

501 Blackburn Road, Mt View Vic. 3149
1300 848 742

DEVELOPMENT PLAN

LOTUS

0488 22 59 22 (03) 9874 6650
 0177@lotus.com.au 0488 1400 5014 54



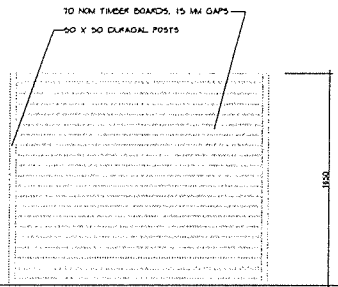
- LEGEND**
- EXISTING TREE TO BE RETAINED
 - EXISTING TREE TO BE REMOVED
 - DOLLAND LIGHT
 - CARPARK SPACES 4.000 LONG X 2.800 WIDE
 - BOUNDARY LINES
 - 1.800M HIGH THICKER PALING FENCE
 - 1.800M HIGH HORIZONTAL THICK DOTTEN FENCE AND DATE
 - SPDS SECURED PRIVATE OPEN SPACE
 - COBBLESTONE PAVING
 - WASTE BIN COLLECTION LOCATIONS
 - CLOTHESLINE
 - LETTER BOX

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PROPOSED RESIDENTIAL DEVELOPMENT A1:
 Cnr Barr Street and South Road
 Brighton East Vic 3187
 FOR:
 THE GILLON GROUP

JOB No.	SCALE	DATE
10013	1 : 200	8-4-2013
ORIG. SIZE	SHEET	VERSION
A1	3	TP4

TOWN
by metrlcon

501 Brougham Road, Mt Waverley, Vic. 3168
 1300 848 742

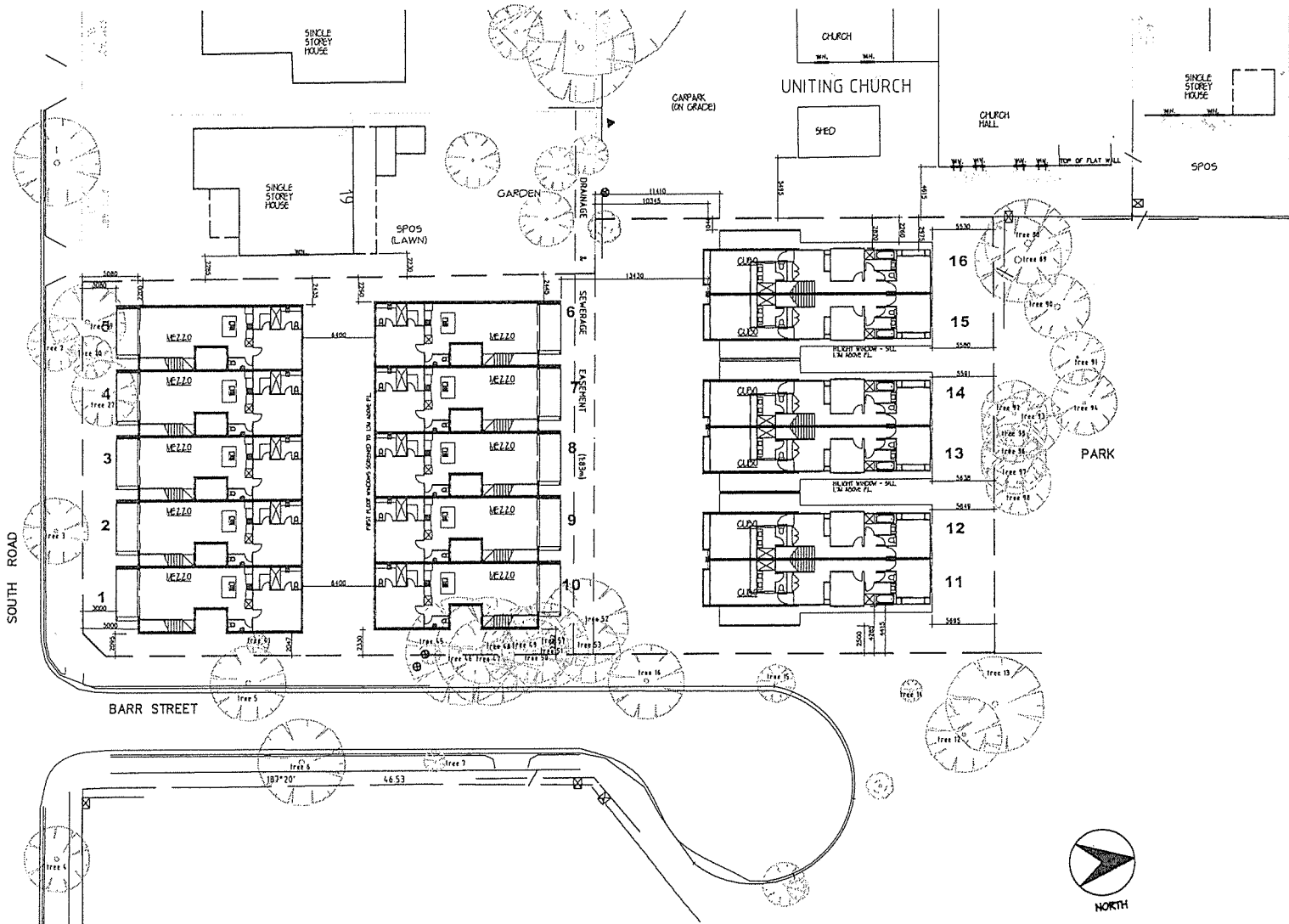


BATTENED FENCE ELEVATION
Typical 1:20

GROUND FLOOR PLAN



0486 22 59 22 (03) 9034 6850
 dt@lotus.com.au dt@1403_4946 39



- LEGEND**
- EXISTING TREE TO BE RETAINED
 - EXISTING TREE TO BE REMOVED
 - BOLLARD LIGHT
 - CARPARK SPACES
4'000 LONG X 2'000 WIDE
 - BOUNDARY LINES
 - 1650MM HIGH TIMBER PALING FENCE
 - 1650MM HIGH HORIZONTAL TIMBER SLAT FENCE AND GATE
 - SPOS SECURED PRIVATE OPEN SPACE
 - COBBLESTONE PAVING
 - WASTE BIN COLLECTION LOCATIONS
 - CLOTHESLINE
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 FOR:
 THE GILLON GROUP

JOB No.	SCALE	DATE
10013	1 : 200	8-4-2013
ORIG. SIZE	SHEET	VERSION
A1	4	TP4



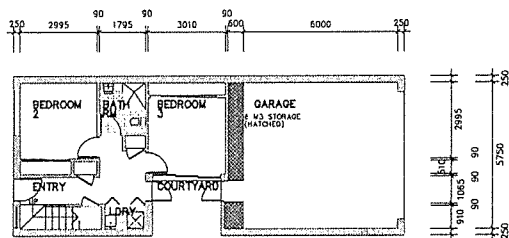
TOWN
by metricon

501 Blackburn Road, Mt Waverley, Vic. 3148
1300 416 742

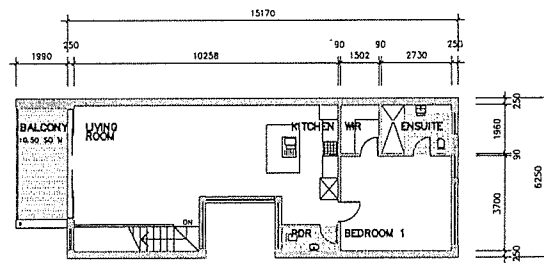
UPPER FLOOR PLAN



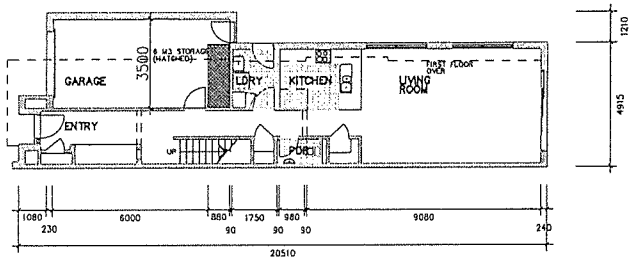
D166 22 26 72 (03) 9071 6020
d166@town-metricon.au d166 1103 4617 34



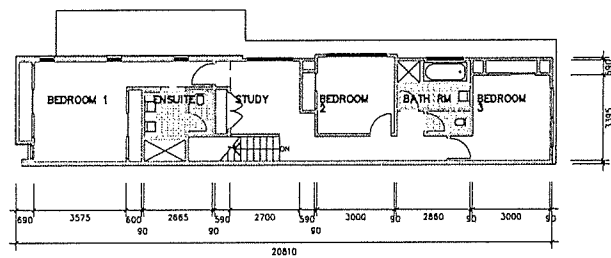
GROUND FLOOR LOTS 1 - 10



FIRST FLOOR LOTS 1 - 10



GROUND FLOOR LOTS 11 - 16



FIRST FLOOR LOTS 11 - 16

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 PROPOSED RESIDENTIAL
 DEVELOPMENT AT:
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 Brighton East Vic 3187
 FOR:
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JOB No.	SCALE	DATE
10013	1 : 100	12-2-2013
ORIG. SIZE	SHEET	VERSION
A1	5	TP3

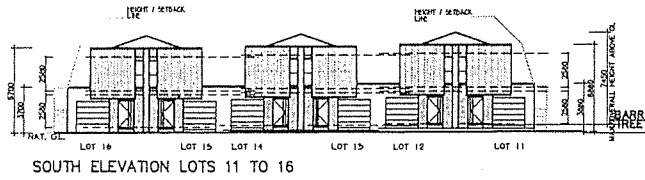
TOWN
by metricon

501 Blackburn Road, Mt Waverley, Vic. 3148
 1300 616 742

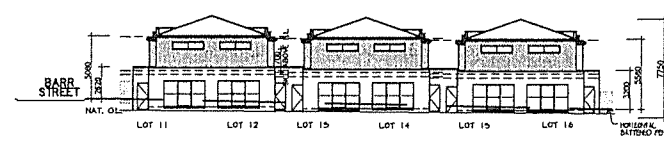
TYPICAL FLOOR PLANS



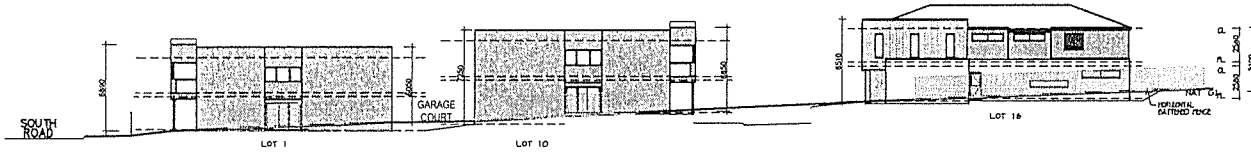
0488 22 28 22 (03) 9071 8550
 cire@lotus.com.au greg@lotus.com.au



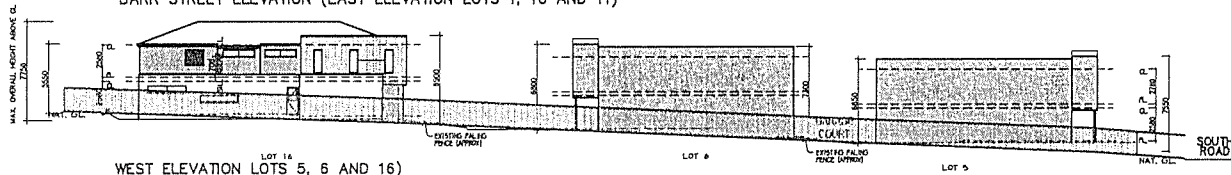
SOUTH ELEVATION LOTS 11 TO 16



NORTH ELEVATION LOTS 11 TO 16



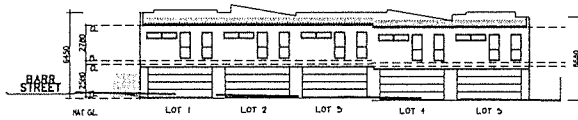
BARR STREET ELEVATION (EAST ELEVATION LOTS 1, 10 AND 11)



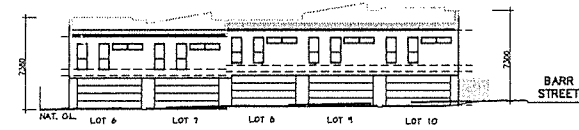
WEST ELEVATION LOTS 5, 6 AND 16

FINISHES LEGEND

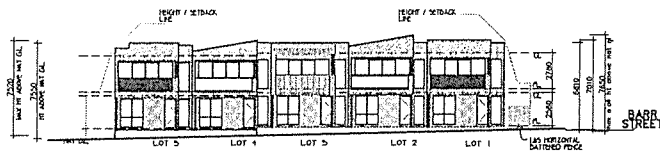
- EXPOSED BRICK
- PAINTED FACE BRICK
- PAINTED HORIZONTAL
- FLUTED BRICKWORK
- FACE BRICKWORK



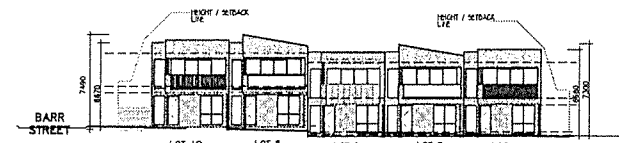
NORTH ELEVATION LOTS 1 TO 5



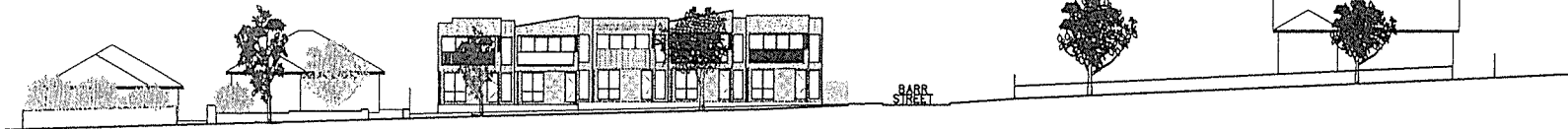
SOUTH ELEVATION LOTS 6 TO 10



SOUTH ROAD ELEVATION (SOUTH ELEVATION LOTS 1 TO 5)



NORTH ELEVATION LOTS 6 TO 10



SOUTH ROAD ELEVATION
TREES SHOWN ARE APPROXIMATE SIZE AND LOCATION OF EXISTING TREES

ELEVATIONS

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 DEVELOPMENT AT:
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JOB No.	SCALE	DATE
10013	1 : 200	8-4-2013
ORIG. SIZE	SHEET	VERSION
A1	6	TP4

TOWN
by metrixon

301 Biscuum Road, Mt. View, Vic. 3148
 1300 610 742



0168 22 59 22 (03) 9024 6830
 0114@lotus.com.au 0344 1402 4264 24