

Our ref: MM:CL:301526

16 December 2014

The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
Level 35, The Tower
Melbourne Central
360 Elizabeth Street
MELBOURNE VIC 3000

Email

adjudication@accc.gov.au

& Facsimile:

(03) 9663 3699

Dear Sir/Madam

#### **Exclusive Dealing Notification**

We act for Peet Greenvale Syndicate ABN 72 160 996 510.

#### Attached is:

- 1. our client's Form G notification of exclusive dealing;
- 2. proposed plan of subdivision PS724877R; and
- 3. proposed single and double storey dwellings site, floor and landscaping plans.

A cheque for \$100.00 (being the applicable fee) will be handed to the Melbourne office of the Australian Competition and Consumer Commission today with the original of this letter.

If you have any queries, please do not hesitate to contact us.

Yours faithfully

Michael Mammen

Partner

HWL Ebsworth Lawyers

+61 3 8644 3643

mmammen@hwle.com.au

Adelaide

Brisbane

Canberra

Melbourne Norwest

Perth

- .

Sydney

## 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**

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

N98052 PEET FUNDS MANAGEMENT LTD AS RESPONSIBLE ENTTITY FOR THE PEET GREENVALE SYNDICATE ABN 72 160 996 510

- Short description of business carried on by that person: (b) (Refer to direction 3) Residential Land Construction, Development and Subdivision
- Address in Australia for service of documents on that person: (c) c/o HWL Ebsworth Lawyers Level 26, 530 Collins Street, Melbourne, Victoria 3000

#### 2. **Notified arrangement**

- Description of the goods or services in relation to the supply or acquisition (a) of which this notice relates:
  - Sale of vacant subdivided land for residential use
  - Construction of fully detached residential homes
- Description of the conduct or proposed conduct: (b)

Entry into contracts of sale of vacant subdivided land for residential use, conditional upon purchasers also entering into building contracts with Nostra Homes & Developments Pty Ltd ACN 127 679 627 trading as Nostra Homes ('Nostra Homes'), for construction of attached and semiattached single and double storey residential homes choosing from 4 different types of design and 8 different lot sizes.

(Refer to direction 4)

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

- Class or classes of persons to which the conduct relates: (a) (Refer to direction 5)
  - purchasers of subdivided vacant residential land

Page 1 of 6 Doc ID 223919043/v1

- builders of residential homes
- (b) Number of those persons:
  - (i) At present time:

0

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

8

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

N/A

#### 4. Public benefit claims

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

Peet Greenvale Syndicate is the registered proprietor of a vacant residential land estate known as Aitken Aspect (Stage 1F), Greenvale ('Estate').

The Estate contains a significant amount of land which is being developed for various residential, educational and other mixed-use purposes.

Within the Estate, Lots 10 to 17 on unregistered plan of subdivision 724877R, Halcyon Way, Greenvale ('Site') is proposed for subdivision and development as affordable single storey and double storey housing products to appeal to first homebuyers and other purchasers seeking a high quality affordable home.

The medium density residential dwellings on the Site will comprise of attached and semi attached single and double storey residential housing, where these dwellings will, in many cases, share common boundaries and will otherwise be constructed on narrow or shallow lots with small overall lot sizes to maximise affordability.

Because of this, Peet Greenvale Syndicate has entered into detailed negotiations with a number of residential builders, with a view to nominating one single builder to construct all dwellings on the Site, to:

- ensure that fully detached housing can be constructed simultaneously by the one builder:
- avoid issues with construction timeframes and disruption which would arise if multiple builders were attempting to construct housing at different times;
- avoid issues with construction timeframes and disruption which would arise if multiple builders were attempting to construct 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 Site.

Doc ID 223919043/v1 Page 2 of 6

As a result of these negotiations, Peet Greenvale Syndicate wishes to nominate Nostra Homes as its preferred builder for the Site.

Nostra Homes will provide purchasers with a choice of 4 alternative designs, distinct floor plans and layouts, as well as choices of internal specifications to ensure that purchasers have a wide variety of options, whilst still ensuring cohesive, efficient and cost-effective construction.

Nostra Homes has advised they will ensure that the aesthetic and design controls on the Site will be complied with in all construction (which provides more security for the value of purchasers' investments).

As noted above, this will create significant opportunities for economies of scale, in terms of marketing costs and expertise, and most importantly, will enable Nostra Homes to offer high value building products to potential purchasers at lowered costs, due to the savings made on committing significant resources to the project, thereby reducing input, material and labour costs, and being able to transfer these benefits to purchasers.

This will lead to affordable quality homes being constructed for what is predominantly a first home buyer market, enabling purchasers to benefit from the arrangements in purchasing their own land and constructing homes.

- (b) Facts and evidence relied upon in support of these claims:
  - Approved sample home designs are attached, for which Nostra Homes will be able to construct high value residential dwellings at lowered costs due to their economies of scale. 4 alternative layouts and designs are available, as well as 8 different lot sizes and a choice of fixtures, fittings and internal specifications.
  - A copy of the proposed plans are attached, showing the requirement for attached and semi-attached single and double storey dwellings.

## 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)

- First Home Buyer market
- Second and subsequent Home Buyer Market
- Residential Home Builders
- Investor purchasers

#### 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:

Doc ID 223919043/v1 Page 3 of 6

## (Refer to direction 9)

It is likely that no detriment will flow to the public, as potential purchasers will be seeking attached and semi attached construction, and will recognise the significant cost savings to be obtained through the use of one single builder throughout the Site. Potential purchasers will also achieve further cost savings as the attached and semi-attached residential homes will be constructed simultaneously by one builder resulting in a saving of overheads.

Also, no material detriment will result from the notification, as the same goods and services (ie house and land packages, separate vacant land and also residential construction products) are available within the Estate itself and at a number of alternative residential developments adjacent to and surrounding the development for which the notification is made. Therefore, the notification will not materially affect the available options comprising an approximate amount of 380 lots for purchasers in the Estate, let alone other alternatives available in the local area. Approximately 329 lots are also available in nearby estates as follows:

Estate	<b>Number of lots for sale</b>
Highlands	104
Providence	44
Greenvale Gardens	35
Greenvale Orchards	8
Aston	46
Trillium	72
Arena	20

The notification will also not materially affect potential builders, as vacant land options exist within the Estate and at nearby developments, with significant levels of stock already available, or about to become available. Builders such as Metricon Homes, Porter Davis Homes, Carlisle Homes, Sherridon Homes, Eight Homes, JG King Homes, Bentley Homes, Henley Homes, Boutique Homes, Dennis Family Homes, Orbit Homes, Urban Edge Homes, Zuccala Homes and Dakota Homes are available for selection to construct on other lots.

Therefore, because the public has significant choices in this segment of the market in this geographic region, the potential detriment is minimised.

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

As set out above, the Estate itself offers other vacant land opportunities and other developments in the area offer vacant land to purchasers with an unlimited choice of residential builders, as well as house and land packages with a choice of nominated builders.

Doc ID 223919043/v1 Page 4 of 6

# 7. Further information

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

Michael Mammen

**HWL** Ebsworth Lawyers

Level 26, 530 Collins Street, Melbourne VIC 3000

(03) 8644 3500

mmammen@hwle.com.au

Dated \6 \2 \4	
Signed by/on behalf of the applicant	
Mes allarences	(Signature)
MICHAEL MAMMEN	(Full Name)
HWL EBSWORTH LAW	
PARTHER	, , ,

#### DIRECTIONS

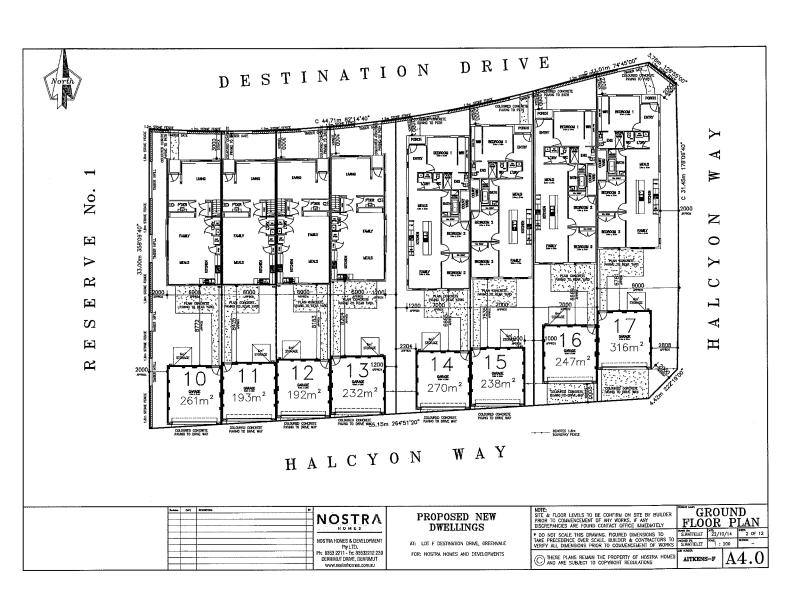
- 1. In lodging this form, applicants must include all information, including supporting evidence that they wish the Commission to take into account in assessing their notification.
  - Where there is insufficient space on this form to furnish the required information, the information is to be shown 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 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.

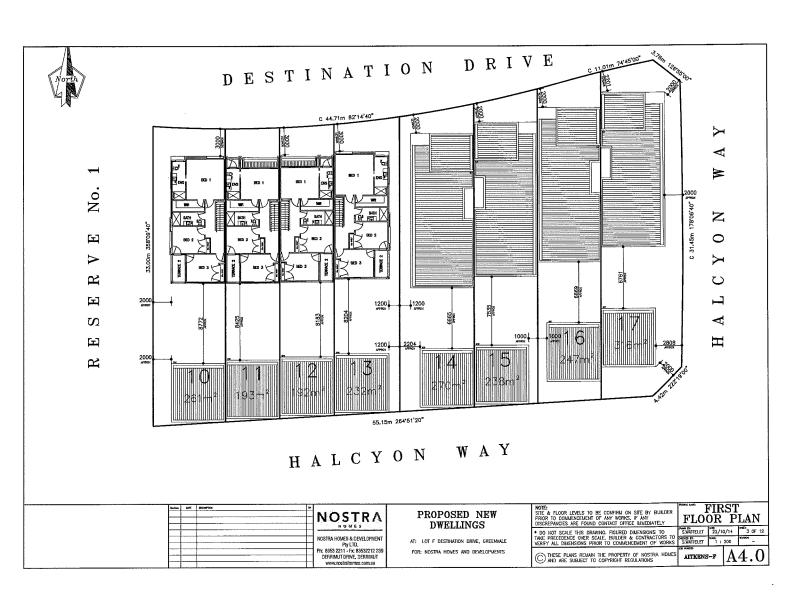
Doc ID 223919043/v1 Page 6 of 6

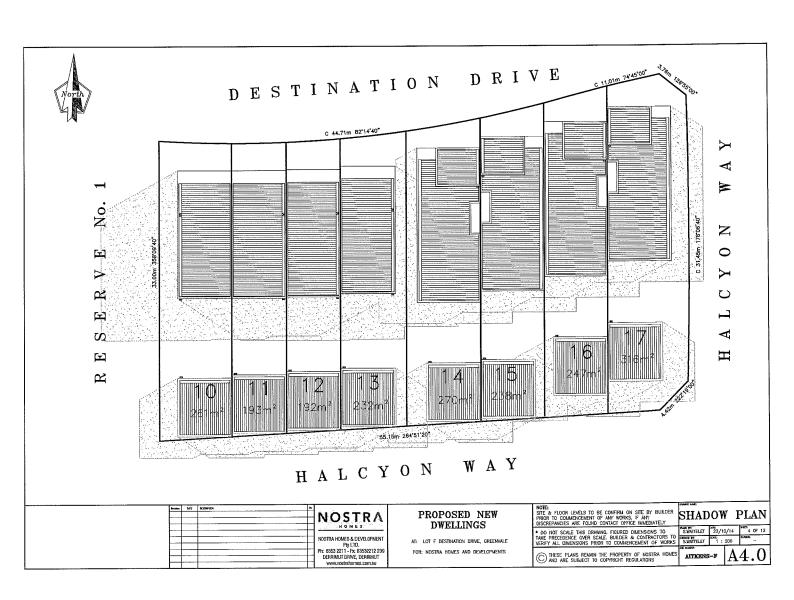
LOT 10		
SITE AREA:		261.0m²
GROUND FLOOR:		78.3m²
FIRST FLOOR:		74.6m²
GARAGE 1:		38.8m²
PORCH:		1,65m²
PRIVATE OPEN SPACE:		25.1m²
SECLUDED PRIVATE OPEN SPACE:		54.1m²
TOTAL OPEN SPACE:		79.2m²
	45.5%	118,8m²
	54.5%	
- Child Oct	O HOZ	1 (2.12.1)
LOT 11		
SITE AREA:		193,0m²
GROUND FLOOR:		78.3m²
FIRST FLOOR:		70.7m²
GARAGE 2		38.8m²
PORCH:		1,65m²
PRIVATE OPEN SPACE:		18.4m <sup>2</sup>
SECLUDED PRIVATE OPEN SPACE:		38.5m <sup>2</sup>
TOTAL OPEN SPACE:		56.9m²
SITE COVERAGE:	61.5%	118,8m²
PERMEABILITY	38.5%	74.2m²
LOT 12		
SITE AREA:		192.0m <sup>2</sup>
GROUND FLOOR:		81.1m²
FIRST FLOOR:		70.7m²
GARAGE 3		38.8m²
PORCH:		1.65m <sup>2</sup>
PRIVATE OPEN SPACE:		19.1m²
SECLUDED PRIVATE OPEN SPACE:		37.1m <sup>2</sup>
TOTAL OPEN SPACE:		56,2m²
SITE COVERAGE:	61.8%	118.8m²
PERMEABILITY	38,2%	73.2m²
LOT 13		
SITE AREA:		232,0m²
GROUND FLOOR:		81.1m <sup>2</sup>
FIRST FLOOR:		74.6m <sup>2</sup>
		38.8m²
GARAGE 4		
PORCH:		1.65m <sup>2</sup> 24.6m <sup>2</sup>
PRIVATE OPEN SPACE:		24.6m <sup>2</sup>
SECLUDED PRIVATE OPEN SPACE:		
TOTAL OPEN SPACE:	51.2%	69.2m <sup>2</sup> 118.8m <sup>2</sup>
	51,2%	
	40 097	1170 -2
PERMEABILITY	48.8%	113.2m²

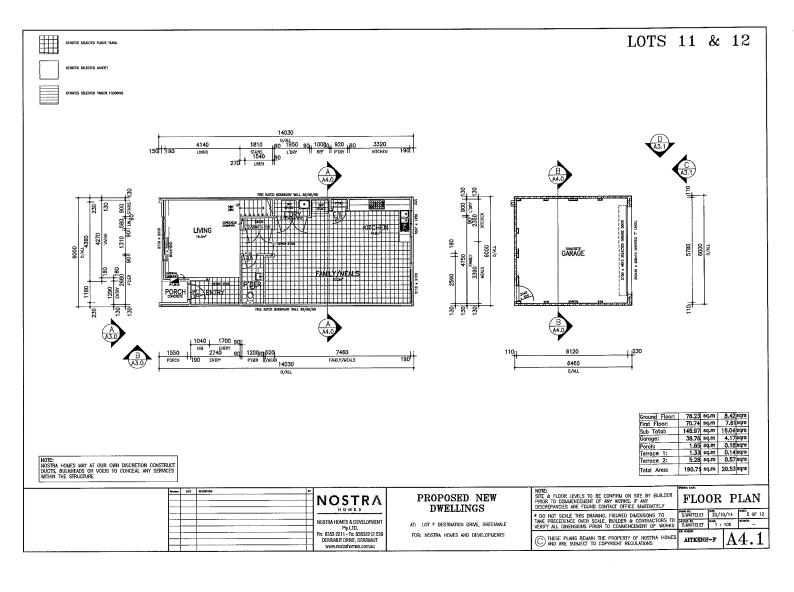
			LOT 14		
		261.0m <sup>2</sup>	SITE AREA:		270.0m²
		78.3m²	GROUND FLOOR:		113.7m²
		74.6m²	GARAGE 6		38.8m²
		38.8m²	PORCH:		1.87m²
		1.65m <sup>3</sup>	LIGHT WELL		3.43m <sup>2</sup>
		25.1m²	PRIVATE OPEN SPACE:		20.9m²
		54.1m²	SECLUDED PRIVATE OPEN SPACE:		38,2m²
_		79.2m²	TOTAL OPEN SPACE:		59.1m <sup>2</sup>
	45.5%	118,8m²	SITE COVERAGE:	58.4%	157.8m²
_	54.5%	142.2m²	PERMEABILITY	41.6%	112.2m²
_	34.3%	142.20	FERMEABILIT	41.0%	112,211
			LOT 15		
		193,0m²	SITE AREA:		238.0m²
		78.3m²	GROUND FLOOR:		113.7m²
		70.7m²	GARAGE 7		38.8m²
-		38.8m²	PORCH:		1.87m²
		1.65m²	LIGHT WELL		3.43m <sup>2</sup>
		18.4m²	PRIVATE OPEN SPACE:		20.0m²
_		38.5m <sup>2</sup>	SECLUDED PRIVATE OPEN SPACE:		38.7m²
_		56.9m²	TOTAL OPEN SPACE:		58.7m²
	61.5%	118,8m²	SITE COVERAGE:	66.3%	157.8m²
	38.5%	74.2m²	PERMEABILITY	33.7%	80.2m²
	30.3%	/4.ZIII	ECUMENDICITI	33.7/6	00.2111
			LOT 16		
		192,0m <sup>2</sup>	SITE AREA:		247.0m²
		81.1m²	GROUND FLOOR:		113.7m²
		70.7m²	GARAGE 8		38,8m²
		38.8m²	PORCH:		1,87m²
		1,65m²	LIGHT WELL		3.43m²
		19.1m²	PRIVATE OPEN SPACE:		20.9m²
_		37.1m <sup>2</sup>	SECLUDED PRIVATE OPEN SPACE:		46.7m²
_		56,2m²	TOTAL OPEN SPACE:		67.6m²
	61.8%	118.8m²	SITE COVERAGE:	63.9%	157.8m²
_	38.2%	73.2m²	PERMEABILITY	36.1%	89,2m <sup>2</sup>
	36,2%	/3.2m	PERMEABILITY	30.17	08.2111
			LOT 17		
		232,0m <sup>2</sup>	SITE AREA:		316.0m <sup>2</sup>
		81.1m <sup>2</sup>	GROUND FLOOR:		113.7m²
		74.6m <sup>2</sup>	GARAGE 9	•••	38.8m²
		38.8m²	PORCH:		1.87m²
		1.65m²	LIGHT WELL		3.43m <sup>2</sup>
		24.6m²	PRIVATE OPEN SPACE:		23.4m²
_		44.6m²	SECLUDED PRIVATE OPEN SPACE:		60,0m²
		69.2m <sup>2</sup>	TOTAL OPEN SPACE:		83.4m²
_	51.2%	118.8m²	SITE COVERAGE:	49.9%	157.8m <sup>2</sup>
_	48.8%	113.2m²	PERMEABILITY	50.1%	158.2m²
	40.0%	113.2m	FERMEADILIT	30.176	130,271

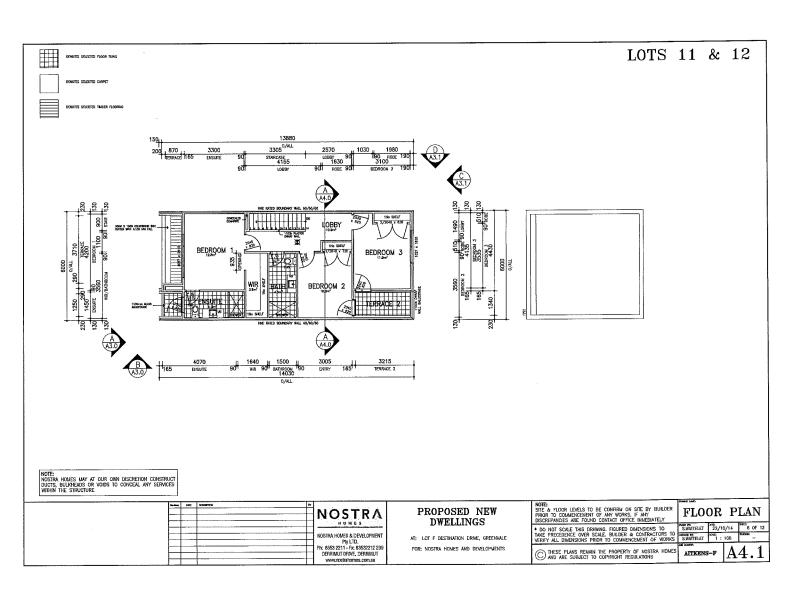
Re-Joseph	test	browns ju			1 NOTE:	puned halfs	
<u> </u>	<u> </u>		NOSTRA	PROPOSED NEW	SITE & FLOOR LEVELS TO BE CONFIRM ON SITE BY BUILDER PRIOR TO COMMENCEMENT OF ANY WORKS, IF ANY	AREA	TABLE
$\vdash$	-	-	HOMES	DWELLINGS	DISCREPANCIES ARE FOUND CONTACT OFFICE IMMEDIATELY		
	<del>                                     </del>						10/14 1 0F 12
			NOSTRA HOMES & DEVELOPMENT	AT: LOT F DESTINATION DRIVE, GREENVALE	TAKE PRECEDENCE OVER SCALE, BUILDER & CONTRACTORS TO VERIFY ALL DIMENSIONS PRIOR TO COMMENCEMENT OF WORKS	S.WATTELET 1	: 200
			Pty LTD. Ptr: 8353 2211 - Ptc 83532212 239	· ·		as wars.	1
⊢	<u> </u>		DERRIMUT DRIVE, DERRIMUT	FOR: NOSTRA HOMES AND DEVELOPMENTS	THESE PLANS REMAIN THE PROPERTY OF NOSTRA HOMES	AITKENS-F	$\pm \Delta A$ ()
⊢	-	<del>                                     </del>	www.nostrahomes.com.au		AND ARE SUBJECT TO COPYRIGHT REGULATIONS		AT.U

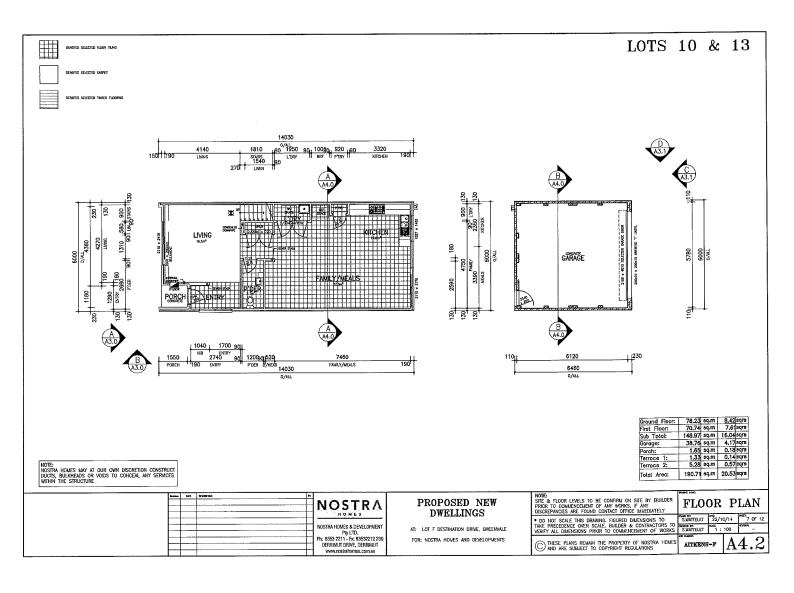


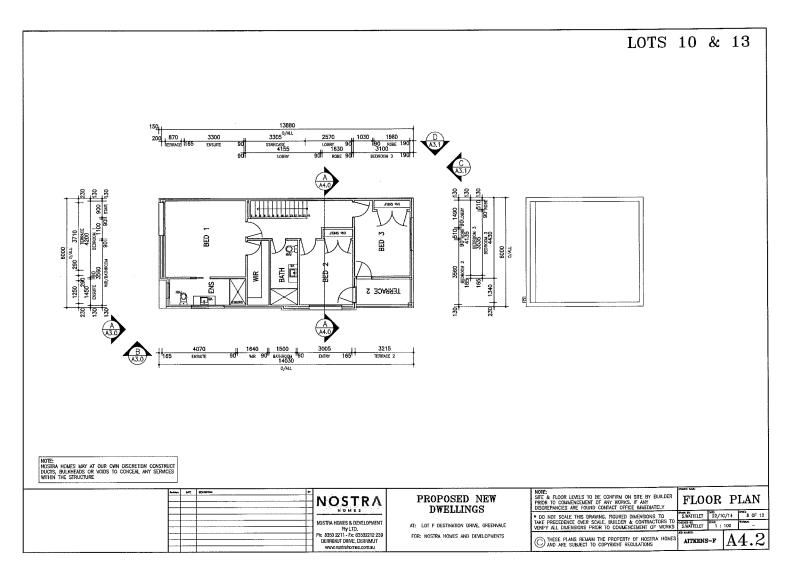


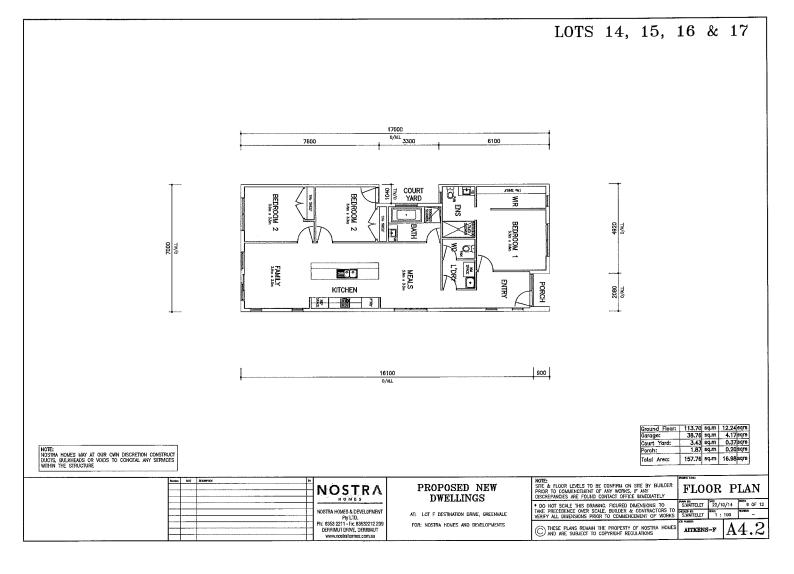


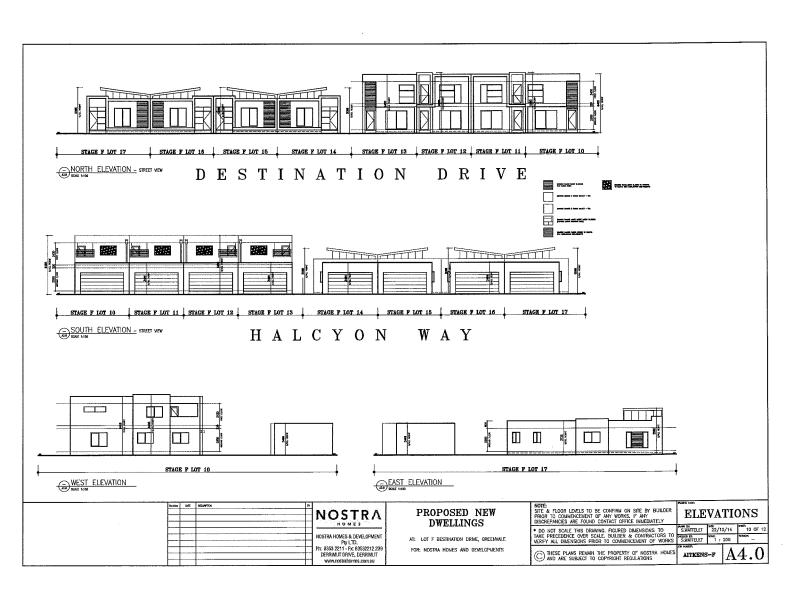


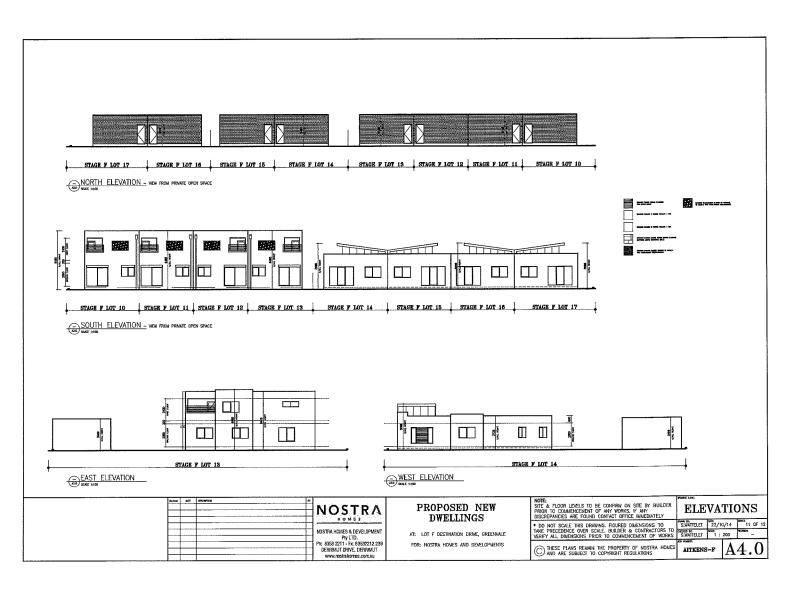




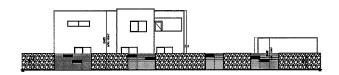












WEST FENCE ELEVATION

Sedan.	Cali	BSOWDO P	NOSTRA	PROPOSED NEW	NOTE:  SITE & FLOOR LEVELS TO BE CONFIRM ON SITE BY BUILDER PRIOR TO COMMENCEMENT OF ANY WORKS, IF ANY DISCREPANCIES ARE FOUND CONTACT OFFICE IMMEDIATELY	ELEVATIONS
			NOSTRA HOMES & DEVELOPMENT Pty LTD.	AT: LOT F DESTINATION DRIVE, GREENVALE	TAKE PRECEDENCE OVER SCALE, BUILDER & CONTRACTORS TO VERIFY ALL DIMENSIONS PRIOR TO COMMENCEMENT OF WORKS	S.WATTELET 1 : 200
			Ph: 8353 2211 - Fx: 83532212 239 DERRIMUT DRIVE, DERRIMUT www.nostrehornes.com.au	FOR: NOSTRA HOUES AND DEVELOPMENTS	THESE PLANS REMAIN THE PROPERTY OF NOSTRA HOMES AND ARE SUBJECT TO COPYRIGHT REGULATIONS	AITKENS-F A4.0

Legend: E — Encumbering Easement, Condition in Crown Grant in A — Appurtenant Easement the Nature of an Easement or Other Encumbrance R — Encumbering Easement (Road)						
Subject Land	Purpose	Width (metres)	Origin	Land Benefited/In Favour Of		

LICENSED SURVEYOR (PRINT)

REF 29818013

DWG 2981801AE

SIGNATURE DIGITALLY SIGNED

02/05/14

GEOFFREY JAMES TURNER

VERSION E

Original sheet size A3

8 LOTS

Bosco Jonson Pty Ltd

Vic 3205 Australia

A.B.N 95 282 532 642 P.O. Box 5075, South Melbourne, Vic 3205 16 Eastern Road South Melbourne

Tel 03) 9699 1400 Fax 03) 9699 5992

Signed by: Geoffrey James Turner (Bosco Jonson Pty Ltd) Surveyor's Plan Version (E) SPEAR Ref: S056543B 27/08/2014

WARNING - This document is a working document in the SPEAR approval process. It is subject to revision and change and therefore should not be relied on. If you have any questions about this document please contact the person from Bosco Jonson Pty Ltd who gave you