

Form G

FILE No:
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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)

N98955

Wendy Scroggie, Development Manager, Newland Developers on behalf of
GEMARO 001 P/L
of 497 Blackburn Road, Mt Waverley, Victoria, 3149

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

Newland Developers is a property development firm acting as the
Development Manager on behalf of GEMARO 001 whom is the owner of
the residential land development known as Belmond on Clyde
("Belmond").

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

Newland Developers
497 Blackburn Road
Mt Waverley 3149

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 within Stage 6 of
proposed Plan of Subdivision No PS731328M (Plan) (Annexure B)) at 365 Clyde
Five Ways Road, Clyde 3978 and being part of the land described in Certificate of
Title Volume 11543 Folio 420.

- (b) Description of the conduct or proposed conduct:

GEMARO 001 are the registered proprietors of the land.

GEMARO 001 has partnered with Fairhaven Homes Pty Ltd (Fairhaven), Metricon Homes Pty Ltd (Metricon), Simonds Homes Pty Ltd (Simonds), Carlisle Homes (Carlisle), Burbank Homes (Burbank) & Porter Davis Homes (Porter Davis) which gives builders listed here within the exclusive right to sell and construct residential houses within Belmond, which is to be sold to consumers as house and land packages ("proposed conduct").

Under the proposed conduct, a person entering into a contract with GEMARO to purchase land at Belmond will do so on the basis that the purchaser is also required to enter into a building contract with a selected builder listed here within (Fairhaven, Metricon, Simonds, Carlisle, Burbank & Porter Davis) to construct a home and improvements on the lot in accordance with a prescribed building contract.

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 Belmond.

- (b) Number of those persons:

- (i) At present time:

There are no purchasers at the present time.

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

GEMARO 001 plans to enter into Contracts of Sale of the Land with various purchasers which are conditional upon the purchasers entering into a Building Contract with either of the following builders: Fairhaven, Metricon, Simonds, Carlisle, Burbank & Porter Davis.

- (iii) 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)

Belmond consists entirely of detached houses. 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 Fairhaven, Metricon, Simonds, Carlisle, Burbank & Porter Davis do 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 for a lot within Belmond is achieved, therefore preserving the resale value of each house development.
- the design of all houses on lots 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, Fairhaven, Metricon, Simonds, Carlisle, Burbank & Porter Davis have a proven track record of providing industry leading quality of workmanship.
- by ensuring that the same builder has opportunity to construct more than 1 home there are also economies of scale which will further reduce the cost of construction. There are obvious economies of scale in the supply of materials, because a supplier can provide the materials for both houses, reducing delivery fees, and allowing the builder to take advantage of discounts offered for supply of larger quantities of material.

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

N/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 the purchasers of residential dwellings in the area identified as the Casey Fields South and Clyde Creek Precinct Structure Plans by the Victorian Metropolitan Planning Authority (MPA) (http://www.mpa.vic.gov.au/clyde_creek) which is where Belmond is also situated within, either as an investor or owner occupier ("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 applicants consider that there would be little or no detriment to the public at large as a result of the proposed conduct in the affected market.

- The applicants do not consider that the proposed conduct would negatively affect prices of other house and land packages in the affected market

(b) Facts and evidence relevant to these detriments:

- There is no obligation on a purchaser to purchase land in Belmond, in fact there are several residential estates located in the general vicinity of the Belmond which do not require purchasers to use specific builders to construct dwellings. There are also a large selection of lots available for Sale at Belmond which do not require purchasers to use specific builders to construct dwellings.
- The proposed conduct only affects purchasers who wish to purchase in Belmond and on specific lots at Belmond.
- The proposed conduct would not affect or restrict the choice of consumers as there are many other residential estates in the affected market offering house and land packages, eg Highgrove, Clydevale and several other residential estates in the Clyde, Clyde North, Cranbourne East, Berwick growth corridor and within the City of Casey, offering a range of low and medium density lots, free standing houses or semi-detached townhouses for both owner occupier and investors. There are also a large range of builders operating in this corridor who construct free standing houses and/or semi-detached townhouses.
- The proposed conduct only affects an insignificant percentage of the affected market.
- 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:

Wendy Scroggie

Development Manager

Belmond on Clyde

497 Blackburn Road

Mt Waverley 3149

Ph: (03) 9915 5688

Email: wendyscroggie@newland.com.au

Dated.....7/3/16.....

Signed by/on behalf of the applicant

Wendy Scroggie

(Signature)

Wendy Scroggie

Newland Developers

Development Manager




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.

PLAN OF SUBDIVISION		LV USE ONLY EDITION		PS 731328M	
Location of Land Parish: CRANBOURNE Township: - Section: - Crown Allotment: 37 (PART) Crown Portion: Title References: c/t Vol. - Fol. Last Plan Reference: PS 731331Y (Lot FF) Postal Address: 365 CLYDE-FIVE WAYS ROAD (At time of subdivision) CLYDE 3978 MGA94 Co-ordinates: E 353 000 Zone: 55 (GDA 94) (Of approx. centre of plan) N 5778 500		CASEY CITY COUNCIL			
VESTING OF ROADS AND/OR RESERVES		NOTATIONS			
IDENTIFIER		COUNCIL/BODY/PERSON		LOT NUMBERS 1 TO 600 (BOTH INCLUSIVE) HAVE BEEN OMITTED FROM THIS PLAN. LOT GG IS IN 2 PARTS - SEE SHEET 2. THE OTHER PURPOSE OF THIS PLAN IS TO CREATE THE RESTRICTIONS DESCRIBED ON SHEET 5 OF THIS PLAN.	
ROADS R-1		CASEY CITY COUNCIL			
NOTATIONS					
DEPTH LIMITATION - DOES NOT APPLY					
Survey: This plan is based on survey To be completed where applicable. Staging: This is not a staged subdivision. Planning Permit No PInA00856/14 This survey has been connected to permanent marks no(s). "Cranbourne" "PM 103" "(GNSS)" In Proclaimed Survey Area no. 52 BELMOND ON CLYDE STAGE 6 (2-6187ha) LOTS 43					
EASEMENT INFORMATION					
Legend: A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)					
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/in Favour Of	
E-1, E-3	POWERLINE	See diag	PS 731327P - (Sec. 88 Electricity Industry Act 2000)	AUSNET ELECTRICITY SERVICES P/L	
E-2, E-3	SEWERAGE	See diag	PS 731327P	SOUTH EAST WATER CORPORATION	
E-4, E-5	DRAINAGE	See diag	PS 731330B	CASEY CITY COUNCIL	
E-5	SEWERAGE	See diag	PS 731330B	SOUTH EAST WATER CORPORATION	
E-6	DRAINAGE	See diag	PS 731331Y	CASEY CITY COUNCIL	
E-7, E-6	SEWERAGE	See diag	PS 731331Y	SOUTH EAST WATER CORPORATION	
E-8, E-9	DRAINAGE	See diag	THIS PLAN	CASEY CITY COUNCIL	
E-9	SEWERAGE	See diag	THIS PLAN	SOUTH EAST WATER CORPORATION	
 Bortoli Wellington Pty Ltd <small>ABN 40 069 841 496 Licensed Land Surveyors, Property Development Consultants Unit 14, 104 Fernside Gully Road, DAKLEIGH EAST, VIC. 3105 PO Box 776 MOUNT WAVERLEY VIC 3149 E: survey@bortoliwellington.com.au T: (03) 9543 5855</small>		REF 2214F	VERSION 2	ORIGINAL SHEET SIZE A3	Sheet 1 of 7 Sheets
2016-02-25 2214F-1		DIGITALLY SIGNED BY LICENSED SURVEYOR: ROBERT G BORTOLI		2016-02-26	

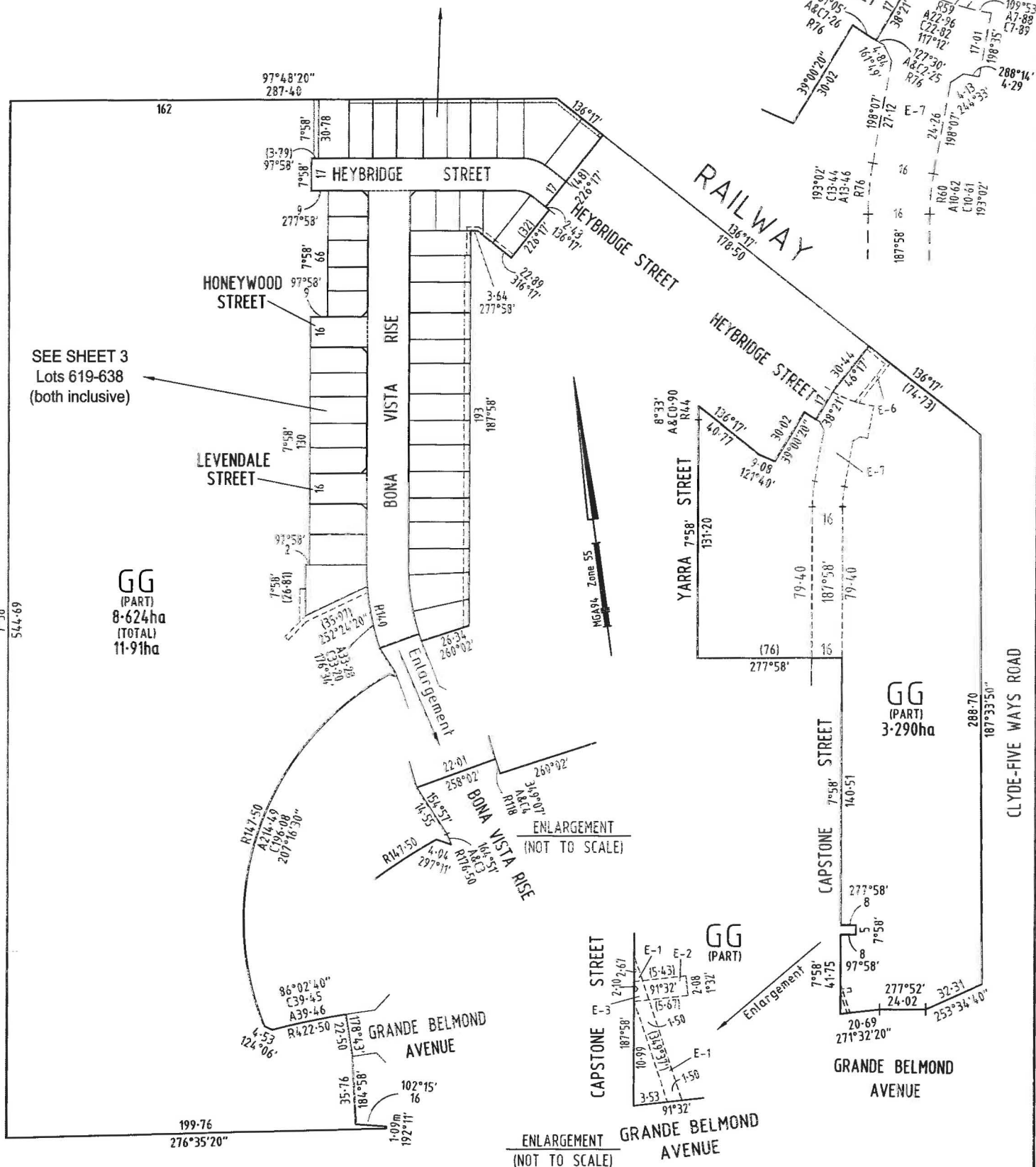
SEE SHEET 4
Lots 601 - 618 (both inclusive)
Lots 639 - 643 (both inclusive)

SEE SHEET 3
Lots 619-638
(both inclusive)

GG
(PART)
8.624ha
(TOTAL)
11.91ha

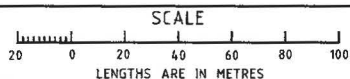
GG
(PART)
3.290ha

GG
(PART)



Bortoli Wellington Pty Ltd

ABN 48 053 241 485
Licensed Land Surveyors, Property Development Consultants
Unit 14, 104 Fentress Gully Road, OAKLEIGH EAST, VIC, 3166
PO Box 776 MOUNT WAVERLEY VIC 3149
E: survey@bortoliwellington.com.au T: (03) 9543 5855

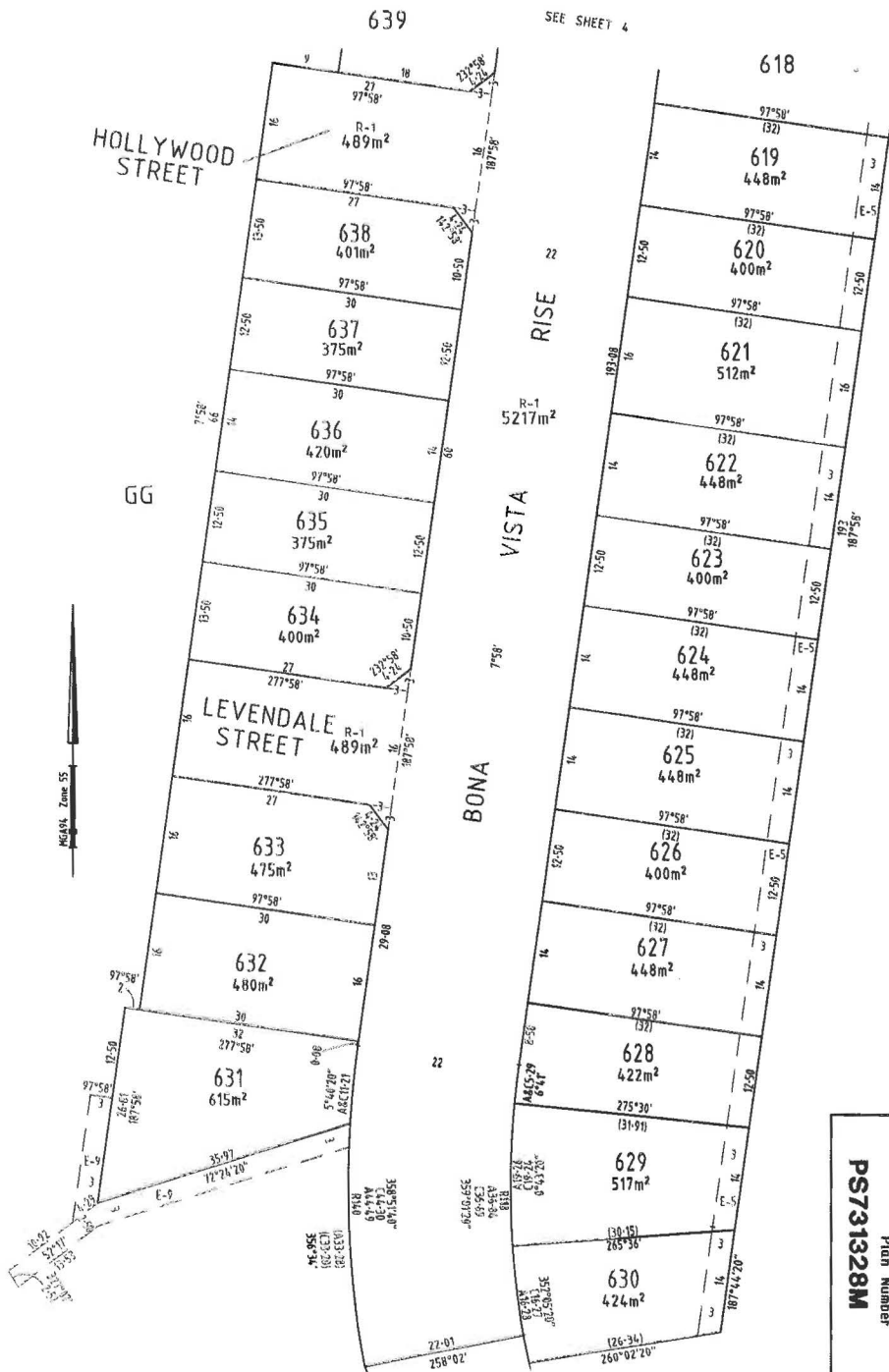


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Sheet 2

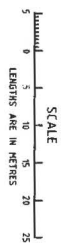
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LICENSED SURVEYOR: Robert G Bortoli



Bortoli Wellington Pty Ltd
 Licensed Land Surveyors, Property Development Consultants
 Unit 14, 104 Fernside Quay Road, OAKLEIGH VIC 3166
 PO Box 700 MOUNT WATHELET VIC 3169
 E. survey@bortoliwellington.com.au Tel: (03) 9534 5655

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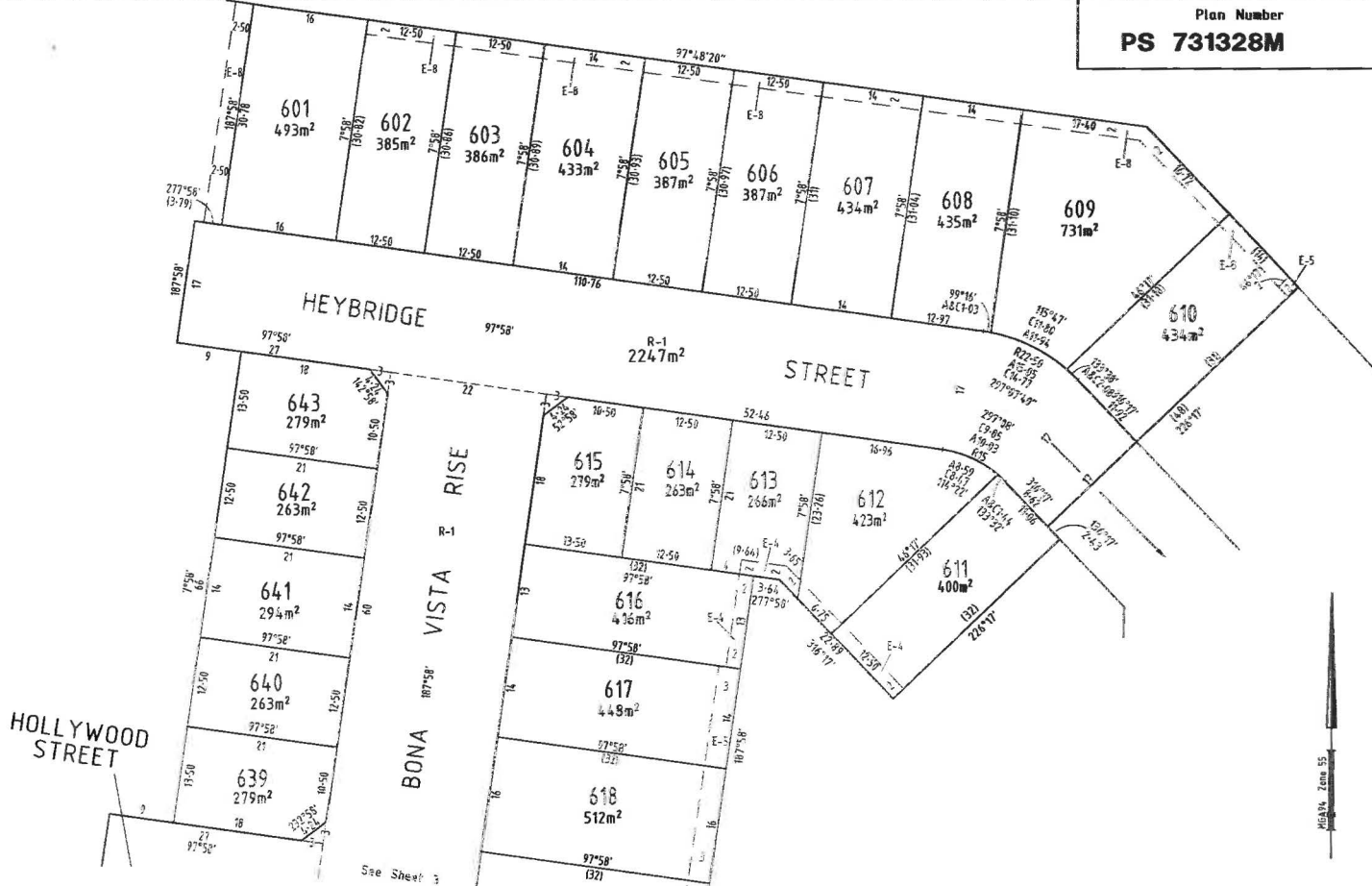
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SCALE 1:500
SHEET SIZE A3

REF N° 2214F VERSION

DIGITALLY SIGNED BY

LICENSED SURVEYOR: Robert G Bortali

Sheet 3



Bortoli Wellington Pty Ltd
ALSO KNOWN AS:
 Licensed Land Surveyors, Property Development Consultants
 Unit 14, 104 Fensholt Quay Road, CARLETON EAST, VIC. 3109
 PO Box 770 MOUNT Waverley VIC 3145
 E: survey@bortoliwellington.com.au T: (03) 9565 9655

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 DIGITALLY SIGNED BY
 LICENSED SURVEYOR: Robert G Bortoli

Sheet 4

CREATION OF RESTRICTIONS

RESTRICTION No 1

The following restriction is to be created upon registration of Plan of Subdivision No. PS 731328M (Plan of Subdivision) by way of a restrictive covenant and as a restriction as defined in the Subdivision Act 1988.

LAND TO BENEFIT: Lots 601 to 643 (both inclusive) on this plan - PS 731328M
LAND TO BE BURDENED: Lots 601 to 643 (both inclusive) on this plan - PS 731328M

Definition: In this restriction "Belmond on Clyde Design Reviewer" means Gemaro 001 Pty Ltd or its agent from time to time".

DESCRIPTION OF RESTRICTION

Except with the written consent of the Belmond on Clyde Design Reviewer and the Responsible Authority, and in all other instances with the written consent of each and every registered proprietor of a benefitting Lot on the Plan of Subdivision the registered proprietor or proprietors for the time being of any burdened Lot on the Plan of Subdivision shall not:

- (a) subdivide or allow the Lot to be subdivided.
- (b) build or allow to be built on each lot more than one private dwelling house together with the usual outbuildings.

This restriction shall cease to burden any Lot on the Plan of Subdivision on 31 December 2030.

RESTRICTION No 2

The following restriction is to be created upon registration of Plan of Subdivision No. PS 731328M (Plan of Subdivision) by way of a restrictive covenant and as a restriction as defined in the Subdivision Act 1988.

TABLE OF THE LAND BURDENED AND BENEFITTED

BURDENED LOT NO	BENEFITTED LOT NO	BURDENED LOT NO	BENEFITTED LOT NO	BURDENED LOT NO	BENEFITTED LOT NO	BURDENED LOT NO	BENEFITTED LOT NO
601	602	613	612,614,616	625	624,626	637	636,638
602	601,603	614	613,615,616	626	625,627	638	637
603	602,604	615	614,616	627	626,628	639	640
604	603,605	616	613,614,615,617	628	627,629	640	639,641
605	604,606	617	616,618	629	628,630	641	640,642
606	605,607	618	617,619	630	629	642	641,643
607	606,608	619	618,620	631	632	643	642
608	607,609	620	619,621	632	631,633		
609	608,610	621	620,622	633	632		
610	609	622	621,623	634	635		
611	612	623	622,624	635	634,636		
612	611,613	624	623,625	636	635,637		

Definition: In this restriction (a) "Belmond on Clyde Design Reviewer" means Gemaro 001 Pty Ltd or its agent from time to time", and (b) "Council" means Casey City Council.

DESCRIPTION OF RESTRICTION

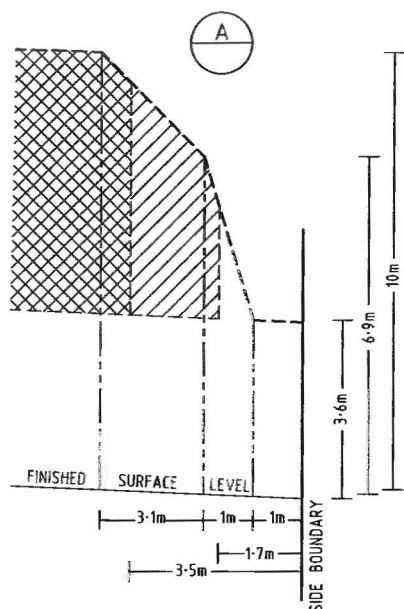
Except with the written consent of the Belmond on Clyde Design Reviewer and the Responsible Authority, and in all other instances with the written consent of each and every registered proprietor of a benefitting Lot on the Plan of Subdivision the registered proprietor or proprietors for the time being of any burdened Lot on the Plan of Subdivision shall not:

- (a) build or allow to be built on the Lot any dwelling or garage or outbuilding that is not in accordance with the Belmond on Clyde Design Guidelines (as amended by the Belmond on Clyde Design Reviewer and approved by Council, if required, from time to time) and has not been approved in writing by the Belmond on Clyde Design Reviewer.
- (b) construct or allow to be constructed on Lots 613 - 615 (both inclusive) & 639 - 643 (both inclusive) any building which is not in accordance with a "Building Envelope" established in accordance with the "SMALL LOT HOUSING CODE" as amended from time to time.
- (c) construct or allow to be constructed on Lots 601 - 612 (both inclusive), 616 - 638 (both inclusive) any building other than in accordance with the building envelope plan and building envelope profile shown in the Building Envelope Schedule on the following sheets.
- (d) build or allow to be built any dwelling unless the building incorporates plumbing for recycled water supply for toilet flushing and garden watering use when it becomes available.
- (e) use or allow the Lot to be used for any:
 - (i) commercial use; or
 - (ii) non-residential use (other than allowing the land to be vacant land),
 without the Belmond on Clyde Design Reviewer's prior written consent, but this restriction does not apply to prevent the land being used as a display home (as defined in the planning scheme applying to the land) with the Belmond on Clyde Design Reviewer's prior written consent.

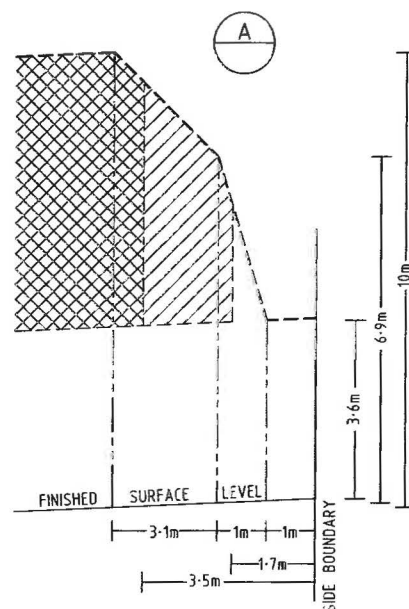
The restrictions specified in paragraph (b), (c) & (d) shall cease to burden any Lot on the Plan of Subdivision after the issue of a certificate of occupancy for the whole of a dwelling constructed or built on the Lot.




BUILDING ENVELOPE SCHEDULE
BUILDING ENVELOPE PROFILE

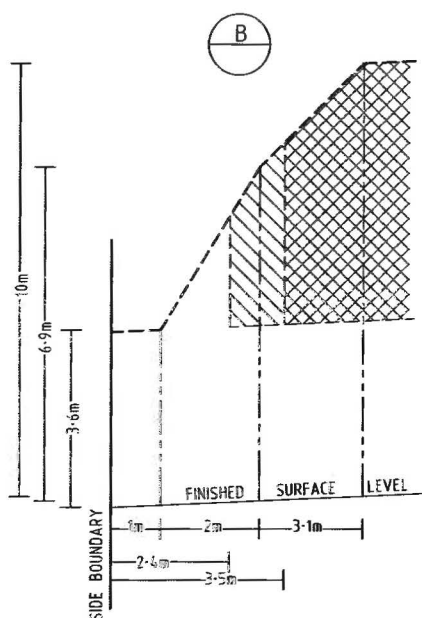
Plan Number
PS 731328M



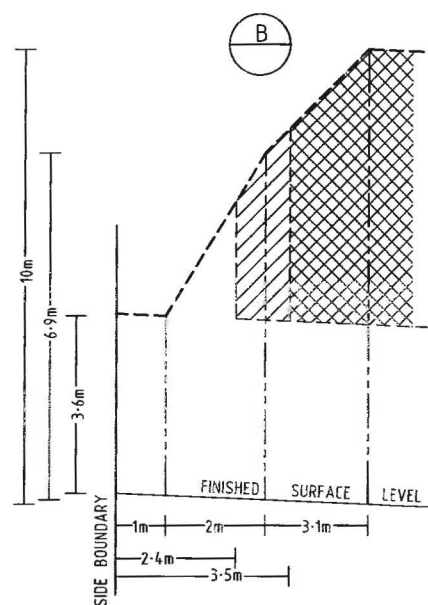
STANDARD ALLOTMENT
NORTH, EAST OR WEST BOUNDARY



-  **SINGLE STOREY (BUILDING TO BOUNDARY) ZONE**
Any part of a building within the SINGLE STOREY (BUILDING TO BOUNDARY) ZONE must be no more than one storey.
Only one of these zones can be utilized for each lot in relation to the location of the crossover provided to that lot.
-  **DOUBLE STOREY (HABITABLE ROOM WINDOW) ZONE**
Any part of a building within the DOUBLE STOREY (HABITABLE ROOM WINDOW) ZONE must be no more than two storeys and may have habitable room windows which face towards the nearest adjoining allotment.
-  **DOUBLE STOREY (NO HABITABLE ROOM WINDOW) ZONE**
Any part of a building within the DOUBLE STOREY (NO HABITABLE ROOM WINDOW) ZONE must be no more than two storeys and must not include a habitable Room Window which faces towards the nearest adjoining allotment unless the habitable Room window which faces the nearest adjoining allotment is screened to prevent any unreasonable overlooking of the nearest adjoining allotment.



STANDARD ALLOTMENT
SOUTH BOUNDARY



Bortoli Wellington Pty Ltd

AS/NZS 4000 041 045
Licensed Land Surveyors, Property Development Consultants
Unit 14, 104 Fernside Gully Road, OAKLEIGH EAST, VIC, 3166
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Sheet 6

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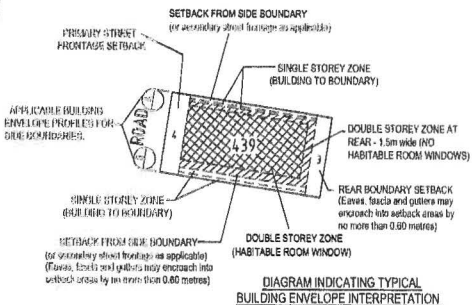
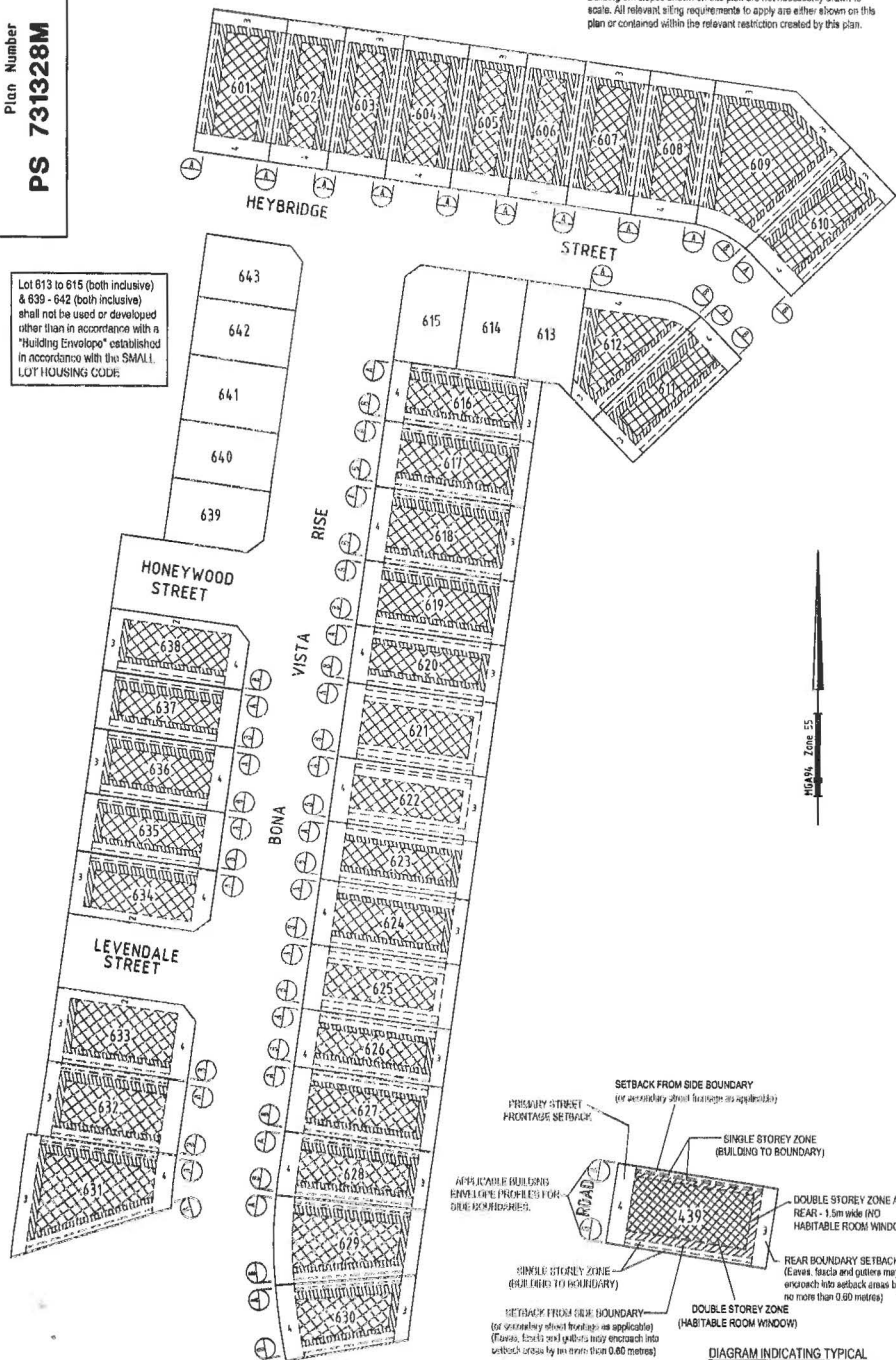
VERSION 2

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LICENSED SURVEYOR: Robert G Bortoli

Lot 613 to 615 (both inclusive)
& 639 - 642 (both inclusive)
shall not be used or developed
other than in accordance with a
"Building Envelope" established
in accordance with the S.M.A.P.I.
LOT HOUSING CODE.

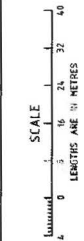
BUILDING ENVELOPE SCHEDULE BUILDING ENVELOPE PLAN

Building envelopes shown on this plan are not necessarily drawn to
scale. All relevant siting requirements to apply are either shown on this
plan or contained within the relevant restriction created by this plan.



Bortoli Wellington Pty Ltd
100-102 Pitt Street
 Wellington 6140
 PO Box 170, 170 Market Street, VIC 3140
 E: info@bortoliwellington.com.au T: (03) 9593 2000

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SHEET SIZE A3



REF. N° 2214F
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 LICENSED SURVEYOR, Robert G Bortoli

Sheet 7

VERSION 2

2/16/16