

DEED OF AMENDMENT TO AN AGREEMENT

This **DEED OF AMENDMENT TO AN AGREEMENT** is made on the _____ day of _____ pursuant to section 183 of the *Planning and Environment Act 1987* (the Act)

BETWEEN

and

WELLINGTON SHIRE COUNCIL

of 18 Desailly Street, Sale, Victoria (the Council)

RECITALS:

- A The Owner is the registered proprietor of the lands situated at Ti Tree Road, Alberton, Victoria being the Lot 3 on PS 603015B and being the lands described in Certificate of Title Volume 10999 Folio 282 (the Owner's Land). The Owner's Land was purchased by the Owner from their predecessor by Contract of Sale dated 5 August 2019.
- B On 18 April 2005, the Council as responsible authority for the Wellington Planning Scheme, issued planning permit P351/2004 for the subdivision/use and development of various lands inclusive of the Owner's Land.
- C The Planning Permit provided inter alia that the proponent enter into an agreement under section 173 of the Act which agreement regulated the further development and use of the land and which permit required this agreement be registered on title.
- D Pursuant to the permit, agreement AE946616B dated 10 November 2006 was duly registered on the Title and PS 603015B ultimately proceeded towards registration and separate titles issued inclusive of the Title to the Owner's Land.
- E The agreement included provisions, refer to recitals B(d) to (k) and Condition 2(d) to (i) inclusive dealing with onsite wastewater treatment systems and which provisions of the agreement provided for the establishment and maintenance of wastewater system treatments in the manner therein described.
- F The Owner has sought a permit to construct a dwelling on the Owner's Land and as such has made application for the installation of a septic tank system operation which application has been supported by a land capacity assessment report of Eco Vision Australia dated 3 October 2019 reference 96JO19 LCA.
- G The Council has agreed to amendment to the agreement to permit the Owner to construct the wastewater treatment system utilising the Taylex ABS system recommended by the report in lieu of the system provided for in clause 2 of the agreement and the parties have agreed to enter into this agreement to evidence the amendment of the agreement insofar as it relates to the Owner's Land.

H As a result of undertaking a process under section 178 of the Act, the Council and the Owner have agreed to amend the agreement as hereafter provided.

OPERATIVE PART:

The parties have agreed to amend the agreement insofar as it relates to the Land as follows:

1. By deletion of clause 2(d) to (i) inclusive, of the agreement and by substitution of the following 2(d) in place of the said clauses:

“(d) An onsite wastewater treatment plant shall be installed to the following specifications:

- (i) Installation of a Taylex ABS secondary wastewater treatment plant which meets 20/30 treatment levels, to be tested and commissioned on completion;
- (ii) Land application of wastewater in a 700m² subsurface irrigation area (may be subdivided into two separate fields of 350m² in size), via ROTO valve to dose load the two fields alternatively;
- (iii) The specified area for the septic will be at the west end of the dwelling and >100 metres away from the river flat of the Albert river and located towards Ti Tree Road, Alberton West;
- (iv) On site disposal of tertiary treated/ Class A effluent must be above natural ground surface in an imported soil medium constructed in accordance with the design principles for a mound system as detailed in Australian Standards 1547:2000 *On- side domestic wastewater management*;
- (v) Samples of treated domestic wastewater must be taken twice yearly demonstrating effluent complies with Class A standards at the point of disposal to the land. Where a sample fails to meet Class A standards it shall be repeated two more times immediately following the first failed sample. Two or more failed samples will require the owner of the treatment system to modify, correct or improve the treatment system until future sampling satisfactorily complies with Class A standards as described by Council;
- (vi) Effluent disposal areas must be left undisturbed, be constructed to allow for samples to be taken and must be planted with shallow rooting grasses and/ or shrubs suitable for conditions on Telegraph Road, Alberton;
- (vii) Naturally occurring surface water from rainfall events must be diverted from effluent disposal areas at all times; and
- (viii) Effluent disposal areas must be located towards Telegraph Road and no closer than 100m to the river flat of the Albert River.

2 The amendments set out in this Deed take effect on the date on which this Deed is registered by the Registrar.

3. In all other aspects the parties confirm the agreement.

EXECUTED as a deed on the day and date marked at the commencement of this Agreement.

SIGNED by the said).....
)
)

In the presence of:
.....witness

SIGNED by the said).....
)
)

In the presence of:
.....witness

The Common Seal of **WELLINGTON**)
SHIRE COUNCIL was hereunto affixed)

This day of 20)

in accordance with Local Law No. 1)

in the presence of:)

.....
Chief Executive Officer