

**SCHEDULE A  
MARANDA HEIGHTS  
BUILDING COVENANTS  
(Stages 1, 2 & 7)**

BETWEEN: PORTFOLIO PROJECTS (PILOT FARM) PTY LTD ACN 109 248 204 as Seller

AND: \_\_\_\_\_ as Buyer

**1.00 PRELIMINARY**

**1.01 Building Covenants**

The Buyer acknowledges that the Land is part of a premier residential subdivision and it is desirable in the interests of all Buyers of lots in the subdivision that the Seller exercises supervision and control to ensure that a high standard of design and construction of dwellings on the subdivision is maintained. In consideration of the execution of the Contract of which this schedule forms part, the Buyer covenants and agrees to the building covenants listed below.

**1.02 Information Supplied by Seller**

Any information supplied by or on behalf of the Seller is supplied for the convenience of the Buyer and does not form part of the Contract. The accuracy of any information supplied is not warranted by the Seller and the Buyer acknowledges that it has entered into this Contract solely on the basis of the Buyer's own investigation. The Seller will not be liable in Contract or in Tort for the accuracy, adequacy or suitability of any information, documents or advice in relation to the condition of the Lot or its surroundings.

**1.03 Seller's right to vary or exclude any Covenant Conditions**

The Seller reserves the right at the request of a Buyer or at its own discretion to vary or exclude any of the obligations under the Covenants provided that such action will only be taken by it in keeping with the aims to establish a modern well designed residential estate. The Buyer hereby absolves the Seller from any liability whatsoever for any action taken in the variation or exclusion of any Covenant including a Covenant with any other Buyer in the Estate. The Seller acknowledges that new products designed as substitutes or alternatives for the various materials listed herein will be marketed from time to time and provided these products, in its opinion, are not inconsistent with the aims of the covenant, they will at the absolute and sole discretion of the Seller be acceptable.

**1.04 Legal Duty or Obligation**

The Buyer and the Seller acknowledge and agree that these provisions relating to building covenants do not create any legal duty or obligation for the benefit of or enforceable by a third party in terms of Section 55 of the *Property Law Act 1974* as amended and the operation of that section is hereby expressly excluded in respect of this Contract.

**2.00 DEFINITIONS**

In these building covenants, unless the contrary intention appears:

**2.01** "Building Operation" means all dwellings, garages, garden sheds, pergolas and outbuildings proposed to be constructed on the Lot.

**2.02** "The Council" means the local government identified on page 1 of the Contract of which these covenants form part.

**2.03** "The Estate" means the residential estate described in the heading of this Contract owned by the Seller.

**2.04** "Lot" means that land identified in the Contract of Sale between the Seller and the Buyer.

**2.05** "Works" means any building operation.

**3.0 APPROVAL PROCEDURES**

**3.01 Council's Requirements**

The following development requirements establish a minimum standard, which is to be maintained by Buyers when undertaking Building Operations. It is the responsibility of the Buyer to identify all of the Council's building requirements for inclusion on building plans.

**3.02 Submission of Plans to Seller**

The Buyer will produce to the Seller or the Seller's appointed agent, before commencing construction:-

- (a) plans and specifications including finishes and colour schedules for the dwelling house (including plans for driveways) to be erected on the Lot and;
- (b) colour, material, heights and design details of all fences visible from roadways;
- (c) plans and specifications for any proposed extensions or alterations to any dwelling house already erected on the Lot;

- (d) construction details and material selections for any site retaining walls;

for the Seller's or Seller's Agent's approval prior to such plans and specifications being produced to the Council (or a private certifier) for its consent provided that no such approval shall be unreasonably or arbitrarily withheld. The Seller agrees to consider and either reject or approve with or without conditions within 14 days after such production of such plans and specifications by the Buyer to the Seller.

### **3.03 Buyer to obtain Building Approval**

The Buyer acknowledges that the risk in relation to seeking and obtaining the approval of the Council to the plans and specifications referred to in clause 3.02 above, rests solely with the Buyer notwithstanding that such plans and specifications may have been approved by the Seller.

### **3.04 Filling**

The Buyer shall not allow or cause to be performed the excavation, filling or building up of the level of the Lot without the prior written approval of the Council and any other necessary authority.

### **3.05 Geotechnical Investigations**

The Buyer acknowledges and agrees that the Lot may have been filled. The Buyer must make its own investigations to satisfy itself concerning any proposed Building Operation as to the suitability of any footing, foundations or proposed construction given the nature of the Lot and as to any requirements of the Council in that regard.

### **3.06 Adequacy of Plans**

No approval or consent granted by the Seller shall constitute any agreement or representation as to the adequacy, suitability or fitness of any plans, designs or proposed structures and the Buyer acknowledges that no reliance shall be placed on such approval or consent.

## **4.00 BUILDING OPERATION REQUIREMENTS**

### **4.01 Dwelling**

- (a) Subject to sub-paragraph (b), only a single dwelling house for residential purposes may be erected on the Lot. Parked vehicles in the car accommodation shall not be visible from the street. The car accommodation shall be fitted with a vehicular access door and form an integral part of the design of the dwelling.
- (b) Subject to the approval of Council the Buyer can, if it chooses, erect a duplex dwelling house on the following Lots:-  
Lot 24, 32, 41, 88 and 395.

### **4.02 Outbuildings**

The design, appearance and external colours and building materials of all outbuildings (such as lock up garages, garden sheds and pergolas etc) shall comply with these Covenants and be integrated with the design of the dwelling. The construction of garden sheds must satisfy the following requirements:-

- (a) A maximum height of 3 metres and maximum area of 20 square metres;
- (b) For sheds with a floor area less than 10 square metres, the shed may be colourbond (or similar non reflective material) and predominantly green in colour;
- (c) For sheds with a floor area greater than 10 square metres, the shed should be integrated with the design of the dwelling house using materials and colours consistent with that of the dwelling house;
- (d) The shed shall not be visible from any public road which abuts the Lot or be forward of any front building alignment.

### **4.03 Building Setbacks**

The Buyer shall not erect or permit to remain upon the Lot part of any Building Operation or structure less than the minimum requirements of the Council.

### **4.04 Building Materials**

No dwelling house including any outbuildings shall be erected or permitted to be erected: -

- (a) From substandard materials;
- (b) Where external walls have no visual relief, in the case of a single storey garage wall they shall be no longer than 9.5 metres, otherwise they shall have a minimum of two materials or colours with one of these treatments covering at least 75% of external wall surfaces (other than doors and windows).
- (c) With highly reflective roofing materials

**4.05 Building Operations Requirement**

All Building Operations shall comply with Council requirements. The front façade of any dwelling (including attached and enclosed car accommodation) must represent at least 70% of the Lot's frontage. For example, if the Lot's frontage is 20 metres, then the front façade of the dwelling must be at least 14 metres.

**4.06 Eaves**

All roofs on the upper level of two storey dwelling houses must have eaves of a minimum width of 450 millimetres projected from the face of the external walls.

**4.07 Minimum Roof Pitch**

Roof pitches under 20 degrees excluding verandahs must be approved by the developer or his agent.

**4.08 Existing or Temporary Structures**

The Buyer shall not erect, bring upon or permit to remain upon the Lot any structure previously erected on the Lot or any caravan, tent or living shelter of any kind.

**4.09 Uncompleted Works**

The Buyer shall not allow any uncompleted Works to be left without work being carried out for more than three (3) months and shall ensure that the Works are finally complete within twelve (12) months from the date of commencement of the Works.

**4.10 Landscaping Controls**

- (a) A Buyer must maintain in a reasonable condition any trees, landscaping or feature wall and/or fence existing within the boundaries of the Lot ("the Landscaping") as at the date of or subsequent to the date of this Contract PROVIDED THAT should the Buyer wish to remove any of the Landscaping, he/she must request permission from the Seller or its agent before such removal. The Seller will advise the Buyer within a reasonable time of such request as to whether the Seller wishes to relocate the Landscaping, in which case the Landscaping will be relocated at the cost of the Seller. If the Seller does not wish to relocate the Landscaping and gives the Buyer permission to remove it, then such removal will be at the cost of the Buyer. If the Landscaping is placed on any other allotments or public areas by the Buyer without the Seller's permission, the Seller shall be entitled to remove the same and any costs incurred by the Seller as a result of such removal shall be paid by the Buyer.
- (b) Any fence constructed by the Seller on any lot boundary, such as a pool fence, shall not be removed or altered without the Seller's permission and no other fence, such as a timber fence, shall be constructed by the Buyer directly in front of or behind the pool fence.
- (c) A Buyer must ensure that the Lot is adequately landscaped, to a level consistent with the standard of design and construction of dwellings within the Estate, within six (6) months of completion of the dwelling house constructed on the Lot. It will be in the Seller's discretion as to what constitutes adequate landscaping for the purpose of satisfying this covenant.
- (d) Turf must be laid from the street kerb to the front alignment of the dwelling house within thirty (30) days of habitation of the dwelling house.

**4.11 Building Materials Colours**

- (a) Vibrant primary colours are not preferred but may be used as features with the combined vibrant coloured external surface areas not representing more than 25% of the external surface treatments.
- (b) Fascia boards, trim and exposed metalwork must be colour co-ordinated with the balance of the building on the Lot. Unpainted metalwork is not permitted.
- (c) Fences that are to be painted, storage facilities and retaining walls will be colour co-ordinated with any other buildings on the Lot and will not be painted in vibrant primary colours.
- (d) Highly visually reflective glazing treatments will not be permitted

**4.12 Retaining Walls**

- (a) Retaining walls constructed of concrete blockwork and located on the front boundary or within the front boundary setback area must be treated with a bagged or rendered finish and colour co-ordinated with the Building Operations on the Lot.
- (b) The Buyer acknowledges that the Seller may have caused the construction of a retaining wall on the boundary of the Lot. The Buyer or someone acting on its behalf shall not, when excavating or building on the Lot, interfere with or undermine the structural integrity of the retaining wall. The Buyer agrees to indemnify and keep harmless the Seller and any other affected person (eg. adjoining land owner) from any

breach of this covenant.

#### 4.13 Driveways

Driveways shall be of pavers or concrete with exposed aggregate or stamped or stencilled surfacing. Driveways shall be completed prior to habitation or completion of the dwelling house, whichever is the sooner.

#### 4.14 Miscellaneous

ANTENNAE, AERIALS:	External TV antennae and other aerials to be located so they are not highly visible from the roadways.
SATELLITE DISH:	Will only be approved if below the lower storey roofline and colour co-ordinated with adjacent material surfaces and located so they are not highly visible from the roadways.
CLOTHESLINES:	Must be screened from view from public areas.
INCINERATORS:	Not permitted.
AIR-CONDITIONERS, POOL FILTERS AND MECHANICAL SUPPORT EQUIPMENT	Located well below eaves lines and concealed from view from public areas and neighbouring houses. All equipment must be noise attenuated and compliant with local noise regulations.

#### 4.15 Additions and Extensions

Additions and extensions to the dwelling house, outbuildings and other structures, including new verandahs, pergolas, outbuildings, sheds, swimming pools and garden structures are subject to the same covenant requirements and application for approval must be made to the Seller in the same manner as the original building applications.

#### 5.00 FENCE CONSTRUCTION

- (a) Notwithstanding anything in the *Dividing Fences Act 1953* as amended to the contrary, the Seller shall not be bound and the Buyer shall not make any claim against the Seller to contribute to the construction of any dividing fences on or within boundaries or between the Lot, or any adjoining lot owned by the Seller.
- (b) All side and rear boundary fences, if constructed of timber, shall have timber palings exposed to both sides of the fence and if stained or painted, shall be stained or painted with a colour to blend with the landscape and / or building.
- (c) No fence forward of the front building alignment of the Lot will be permitted unless: -
  - (i) The written approval of the Seller or the Seller's agent is obtained;
  - (ii) It complies with any law relating to fences;
  - (iii) It is constructed of approved materials integrated with the architectural style of the dwelling on the Lot and the streetscape;
  - (iv) Any gate forming part of the fence is integrated with the design of the fence and if painted to be in the same colour or a colour complimentary to the fence and the dwelling on the Lot.
  - (v) Front boundary fencing must incorporate selected landscape features placed within and to provide articulation along the boundary fence.
  - (vi) Fences between adjoining lots shall finish level with the main house frontage facing the street other than for:
    - a. Side boundary fences where a fence forward of the main house frontage is directly behind the rear boundary of a corner lot. Timber paling fences shall not be allowed in this situation; and
    - b. Side boundary fences where the area forward to the main house frontage is overlooked or adjacent to another dwelling.
- (d) If the Lot has a frontage to more than one public road, each boundary abutting a road shall be deemed to be a front boundary and each building alignment which faces a road shall be deemed to be a front building alignment.

#### 6.00 ESTATE WALL

In the event that there is any fence or wall erected on or partly erected on the Lot as at or subsequent to the date of the Contract the Buyer acknowledges that such fence or wall has been constructed for and on behalf of the Seller, or its predecessor/s in title for the purposes of enhancing the value of the Lot and also the Estate generally. The Buyer agrees that it shall not remove, change, damage or disfigure the fence, wall or landscaping and to maintain and keep the fence, wall or landscaping in the same good order and condition and standard of presentation as at the date of or subsequent to the Contract. Furthermore the Buyer agrees not to alter the fence or wall (either aesthetically or materially) in such way as would interfere with the uniformity of the total fence or wall part of which is on the Lot.

**7.00 MAINTENANCE OF LOTS**

The Buyer shall not allow any rubbish including site excavations and building materials to accumulate on the Lot (unless such rubbish is stored within a suitably sized industrial bin or skip) or allow excessive growth of grass or weeds upon the Lot. The Buyer shall not place any rubbish including site excavations and building materials on adjoining land or in any waterway. The Seller or its Agents may enter upon and have access over the Lot at any time without creating liability for trespass or otherwise to maintain, slash or mow the Lot with no obligation and in consideration for the Seller so doing, the Buyer shall pay to the Seller the sum of forty dollars (\$40.00) upon presentation of an invoice.

**8.00 ADVERTISING SIGNS**

For the purpose of ensuring a generally pleasing aesthetic streetscape for all owners within the Estate, no more than three (3) signs of any nature whatsoever, including only two (2) "For Sale" signs, each being a maximum of 1.10 square metres in area, shall be erected on the Lot without the prior written consent of the Seller, which consent may be granted unconditionally or subject to conditions, provided however that until construction of a dwelling house has commenced then no "For Sale" signs shall be erected. The Buyer hereby authorises the Seller or its Servants or Agents to enter upon and have access across the Lot for the purpose of removing any sign erected without written consent. Such entry and access shall not constitute trespass and the Buyer shall not make any claim against the Seller arising from such entry or access PROVIDED ALWAYS THAT this sub-clause shall not prevent any participant in a Queensland Master Builders Association Display Village or other Display Village (with the prior written approval of the Seller) from erecting and exhibiting any advertisement, sign or notice relating to the Buyer's participation in the said Villages provided always that the exemption shall only apply during the duration of the Villages.

**9.00 NO MERGER**

The parties hereto agree that the provisions of this Covenant will not merge on the completion of this Contract.

**10.00 ASSIGNMENT**

The Buyer will not sell, transfer or otherwise dispose of the Land without first delivering to the Seller a Deed of Covenant given by the Buyer, Transferee or Disponee in favour of the Seller containing covenants on the same terms (mutatis mutandis) as are set forth herein including liability to obtain such Deed of Covenant from any further Buyer, Transferee or Disponee.

**11.00 LIQUIDATED DAMAGES**

The Buyer and Seller hereby agree that in the event of a breach by the Buyer of any of the provisions of this covenant, the Seller shall suffer loss, which each of the parties hereto presently estimate to be an amount of not less than ten thousand dollars (\$10,000.00) and the Buyer hereby covenants in the event of such breach, the Buyer shall pay to the Seller the sum of ten thousand dollars (\$10,000.00) (by way of liquidated damages and not as a penalty), or, at the election of the Seller, such greater sum as may represent the actual loss and damage suffered by the Seller as a result of such breach.

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SELLER

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WITNESS

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BUYER

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WITNESS