

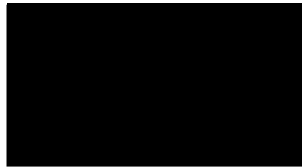
In the Royal Court of Jersey

Samedi Division

In the year two thousand and seven, the first day of February.

Before the Judicial Greffier.

Upon the application of Her Majesty's Solicitor General, IT IS ORDERED that the Planning Obligation Agreement between Denbrae Limited and the Minister for Planning and Environment in relation to Field 40, La Rue du Maupertuis, St Clement, be registered in the Public Registry of this Island.



Greffier Substitute

LOD

Reg. Pub. ✓

L1213-777--



Planning Obligation Agreement

Article 25 of the Planning and Building Law 2002

Between

Denbrae Limited

And

Minister for Planning and Environment

Regarding

La Treille and Field 40, La Rue du Maupertuis,

In the Parish of St. Clement

Law Officers' Department,
Morier House,
ST. HELIER
Jersey
JE1 1DD

Our ref: PLEGENA-100 SCN/PW

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1. Parties

- 1.1 Denbrae Limited (hereinafter called “**the Owner**”, which expression shall be construed in accordance with clause 3 below).
- 1.2 The Minister for Planning and Environment (hereinafter called “**the Planning Minister**”, which expression shall be construed in accordance with clause 3 below).

2. Interpretation

2.1 In this Agreement the expressions in the left-hand column below have the meaning set out in the right-hand column opposite thereto.

communal areas	The roads, footpaths, paved areas and associated lighting (if any) serving the Development, the bin storage areas, the amenity space with children’s playground, the landscaped areas and any other open areas or any construction which is owned or to be owned in common by the owners of properties within the Development.
cycle	(i) a bicycle or tricycle not being in any case a mechanically propelled vehicle. (ii) a mechanically propelled vehicle the weight of which unladen does not exceed 254 kg. and which is specifically designed and constructed, and not merely adapted, for the use of persons suffering from some physical defect or disability and is used solely by such persons.
cyclist	Shall be construed in accordance with the definition of “cycle”.
development	As defined by the Law.
Development, the	The development of the Land, including the communal areas, in pursuance of the Permission.
development agreement	As defined by clause 4.6.
first time buyer	Any person who – Either: (1)(i) does not own, and has not previously owned,

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	<p>whether as sole owner or jointly or in common with any other person or persons:</p> <p>(a) any immovable property</p> <p>(b) either in his own name or as beneficial owner, shares in any company, ownership which confers the right to occupy residential accommodation; and</p> <p>(1)(ii) is neither married to, nor buying as co-owner with any person who does not fall within (i) above,</p> <p>or</p> <p>(2) has been approved by the Minister for Housing as being a person to whom consent should be granted to acquire or occupy the residential accommodation as the case may be, notwithstanding the fact that he does not fall within (1).</p>
first time buyer unit	Accommodation which may not be owned or occupied other than by a first time buyer.
Housing Minister, the	The Minister for Housing charged with the administration of the Housing (Jersey) Law 1949.
Housing Trust	An association incorporated under the provisions of the <i>Loi (1862) sur la teneur en fidéicommis et l'incorporation d'associations</i> as a non-profit making association whose object is the provision of housing for those in need of assistance to obtain accommodation suitable for their needs.
Land, the	The area comprising La Treille and Field 40, La Rue du Maupertuis, in the Parish of St. Clement, as shown for identification purposes only marked with oblique hatching on the plan at Schedule 1 hereto.
Law, the	The Planning and Building (Jersey) Law 2002.
Owner, the	<p>(a) Denbrae Limited;</p> <p>(b) any assign or successor in title of Denbrae Limited in respect of the Land or any part thereof.</p>

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Permission, the	The permission for the development of the Land dated the 14 th September, 2006, granted in respect of planning application P/2005/1754 under Article 9 of the Law.
Planning Minister, the	The Minister for Planning and Environment charged with the administration of the Law.
planning permission	As defined by the Law.
Principal Development	The Development, including the priority communal areas but excluding the remaining communal areas.
priority communal areas	Roads, footpaths, paved areas, lighting, bin and storage areas.
remaining communal areas	All communal areas other than the priority communal areas.
social rental accommodation	Accommodation which is for rental by a social rental landlord approved for that purpose by the Minister for Housing to social rental tenants.
social rental landlord	<p>(a) The Public;</p> <p>(b) A Parish;</p> <p>(c) A Housing Trust; or</p> <p>(d) Any other person or body who has –</p> <p>(i) been approved as such by the Minister for Housing, and</p> <p>(ii) entered into a social rental landlord agreement with the Minister for Housing</p> <p>when discharging their function of providing housing for social rental tenants.</p>
social rental tenants	<p>(i) those persons whom the social rental landlord considers, having regard to the criteria set out from time to time by the States or by the Minister for Housing as the case may be, to be in need of financial and/or social assistance for obtaining accommodation suitable for their needs, or</p> <p>(ii) those persons whom the Minister for Housing has</p>



	nominated in accordance with any relevant social rental landlord agreement, as the case may be.
surface water	Includes flood water and water from roofs.
Track, the	The track referred to in clause 5.13.
transferred land	As defined by clause 4.6.

2.2 Any reference to a Minister includes a reference to –

- (a) any Assistant Minister or officer to whom the Minister may from time to time validly delegate any relevant function;
- (b) any person or body to whom the States may hereafter validly transfer the relevant functions of the Minister.

2.3 Any reference to an enactment includes a reference to –

- (a) that enactment as it may be hereafter amended;
- (b) any other enactment which repeals and substantially replaces any relevant provisions of that enactment;
- (c) any subordinate legislation made, any notice, order, or other legally binding directive given, and any code of practice, guidelines or similar document issued, under such enactment.

2.4 Unless the contrary intention appears –

- (a) words in the singular shall include the plural and words used in the plural include the singular;
- (b) grammatical variations of words to which definitions are assigned shall be construed in accordance with the definition.

2.5 Any reference to a clause is a reference to a clause in this Agreement.

3. The Recitals

3.1 The Owner is the owner in perpetuity of the Land, which it acquired by two Deeds of Sale and one Deed of Gift passed before the Royal Court on the 17th October, 1997, the 18th May, 2004, and the 24th October, 1997, respectively, and



thus has an interest in the Land within the meaning of paragraph (1) of Article 25 of the Law.

3.2 The Planning Minister has granted the Owner Permission to develop the Land by the demolition of the existing dwelling and the construction of 25 three bedroom dwellings.

3.3 The Permission was subject to a condition inter alia that the Owner should,, within three months of the date of the Permission, enter into a Planning Obligation Agreement under Article 25 of the Law, which period was subsequently extended by the Minister to the 31st January 2007.

4. It is agreed as follows:

4.1 This Agreement is made pursuant to all powers enabling the parties and in particular to Article 25 of the Law.

4.2 The obligation assumed by the Owner is a planning obligation for the purposes of Article 25 of the Law.

4.3 This Agreement is conditional upon the existence of the Permission. If the Permission is quashed or revoked, or otherwise ceases to be valid, prior to its implementation and is not replaced by any planning permission to like effect for development of the Land, this Agreement will cease to be of effect.

4.4 Subject to clause 4.6 any person who is bound by the obligation in this Agreement who ceases to have an interest in the Land shall cease to be bound by such obligation save to the extent that any liability has already accrued thereunder at the date when the person ceases to have the interest.

4.5 The purchasers of completed first time buyer dwelling units or the sites thereof and/or tenants and occupiers of dwelling units constructed in accordance with the Permission will only be bound by clauses 5.7, 5.8, 5.9.3, 5.9.4 insofar as it relates to maintenance and replacement of impact absorbing playground surfacing and playground equipment but not insofar as it relates to the establishment of the remaining communal areas or to the installation of impact absorbing playground surfacing and playground equipment as provided for by clauses 5.10, 5.11 and 5.12.

4.6 If the Owner transfers the land or any part thereof ("the transferred land") to a third party, and enters into an arrangement with that third party for the development of the transferred land by the Owner, the Owner will continue to be bound by the terms of this Agreement until the completion of the Development and the discharge by the Owner of all and any liability which may have accrued under this Agreement.

5. The Obligation

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- 5.1 55% of the dwelling units constructed or the sites of dwelling units to be constructed on the Land in accordance with the Permission shall be transferred in perpetuity to first time buyers and 45% of the dwelling units shall be transferred in perpetuity to a social rental landlord approved by the Minister for Housing.
- 5.2 The Owner will give effect to the said tenure division by constructing 13 first time buyer units and 10 social rental accommodation dwelling units on the land.
- 5.3 The Owner will carry out the Principal Development as expeditiously as possible.
- 5.4 At or prior to completion of the Principal Development, the Owner will place the first time buyer units or the sites thereof on the open market and will take all reasonable steps to facilitate their sale to first time buyers.
- 5.5 At or prior to completion of the Principal Development, the Owner will transfer in perpetuity the social rental accommodation or the site thereof to a social rental landlord approved by the Minister for Housing.
- 5.6 The transfer of a site to a first time buyer or social rental landlord as the case may be prior to the completion of the construction thereon of a first time buyer unit or social rental accommodation respectively will not operate to transfer to the purchaser any obligation to which the Owner is subject by this agreement until final completion of the Development and sale or other alienation of all the Land.
- 5.7 All subsequent transfers of first time buyer units will be to first time buyers and all subsequent transfers of social rental accommodation will be to a social rental landlord.
- 5.8 All first time buyer units will be occupied only by first time buyers and all social rental accommodation will be used only for the purpose of providing social rental accommodation.
- 5.9.1 The Owner will within six months of the completion of the Principal Development complete the establishment of the remaining communal areas in accordance with the Permission, and in accordance with 5.9.2 below.
- 5.9.2 The Owner will install in the children's playground –
- (a) impact absorbing playground surfacing which meets the specifications of British Standard EN 1177, and
- (b) playground equipment –
- (i) including an integrated structure incorporating a climbing frame, slide and shelter; a see-saw; and a rocker,
- (ii) as shown on the extracts from drawing 1414/002/PO which are at Schedule 2 hereto, and

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(iii) which meets the specifications of British Standard EN 1176.

5.9.3 The Owner will –

- (a) maintain the impact absorbing playground surfacing and playground equipment in a safe and satisfactory condition.
- (b) replace the impact absorbing playground surfacing and the playground equipment as may be necessary from time to time with impact absorbing playground surfacing and playground equipment which respectively satisfy the specifications of British Standard EN 1177 and British Standard EN 1176 or such British Standard specifications as may from time to time hereafter replace them or either of them and which are in force at the date of the replacement of the impact absorbing playground surfacing or playground equipment as the case may be.

5.9.4 Should the Owner fail –

- (a) to complete the establishment of the remaining communal areas within six months of the completion of the Development, or
- (b) to maintain and replace the impact absorbing playground surfacing and the playground equipment

in accordance with the terms of this Agreement the Minister will be entitled to –

- (i) establish or complete the establishment of the remaining communal areas
- (ii) install or complete the installation of impact absorbing playground surfacing and playground equipment in the children's playground
- (iii) repair the existing impact absorbing playground surfacing and playground equipment or any part thereof
- (iv) replace the existing impact absorbing playground surfacing and playground equipment or any part thereof

as the case may be to the extent that the Owner was liable but failed to do so in accordance with the Permission and/or the terms of this Agreement and to recover the cost of so doing from the Owner as a civil debt.

5.10 The Owner will include in every deed of transfer of any part of the Land –

- (a) an obligation on the acquirer to contribute a percentage payment of the cost of maintaining the communal areas and the cost of maintaining and replacing existing impact absorbing playground surfacing and playground



equipment and the fees (if any) of the agent or secretary appointed pursuant to sub-paragraph (b) of this Clause; and

- (b) an obligation to appoint, in common with the other owners of any part of the land, an agent or secretary who will be responsible for ensuring that the communal areas and existing impact absorbing playground surfacing and playground equipment are properly maintained and that existing impact absorbing playground play equipment is replaced when it is necessary to do so and all contributions required of the owners duly made.

5.11 Should the Owner fail to include any of the obligations specified in Clause 5.10 in any deed of transfer of any part of the land, the Minister will, in addition to all his other powers of enforcement of this Agreement, be entitled to –

- (a) determine the percentage payment which the owner of the part of the Land so transferred is to make for the maintenance of the communal area and the maintenance and replacement of existing impact absorbing playground surfacing and playground equipment and the fees (if any) of the agent or secretary;
- (b) require the owner of the Land so transferred to appoint, in common with the other owners of any part of the Land, an agent or secretary for the purposes set out in paragraph (b) of Clause 5.10.

5.12 Any person deriving title from the owner will comply with any obligation contained in a deed of transfer in accordance with the provisions of Clause 5.10 and any determination made by the Minister in accordance with Clause 5.11.

5.13.1 The Owner will pay to the Treasurer of the States the sum of fifty thousand pounds (£50,000) to be expended as set out below.

5.13.2 Subject to the provisions of 5.13.3, 5.13.4, 5.13.5 and 5.13.6, the said sum will be expended for the provision of a footpath upon land bordering the whole or any part of the northern side of La Rue du Maupertuis between the Land and the junction of La Rue du Maupertuis with La Rue de Samarès.

5.13.3 If the land required for the construction of the footpath referred to in 5.13.2 has not been acquired, and compulsory purchase proceedings for the acquisition of the said land have not been commenced, within a period of twelve months from the date of this Agreement, the said sum may be expended as the Minister may think fit either for the provision of such footpath or for any of the following purposes.

- (i) the provision, maintenance or improvement of any public art as defined by clause 5.13.4;

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- (ii) the provision, maintenance or improvement of any public amenity as defined by clause 5.13.5;
- (iii) the provision, maintenance or improvement of any travel and transport infrastructure as defined by clause 5.13.6;

on the land or in the vicinity thereof.

5.13.4 In clause 5.13.3(i), “public art” means any work of art which is commissioned from a professional artist or craftsman, is unique, and is publicly visible. Without prejudice to the generality of the foregoing, public art includes –

- (i) sculptures, monuments, memorials and fountains;
- (ii) signs, maps, text, inscriptions;
- (iii) floorworks such as paving, pebbles, mosaics, tiles, ceramics;
- (iv) wallworks such as glass, murals, ceramics, photography;
- (v) festivals including music, dance, poetry;
- (vi) street furniture including seating, lighting, railings, gates, clocks;
- (vii) new media including film, video, light, sound, holographics;
- (viii) hard and soft landscaping;
- (ix) creative educational/environmental and community projects;
- (x) artist-in-residence schemes;
- (xi) semi-permanent and temporary works or artistic events or cultural festivals in public spaces;
- (xii) the care or restoration of existing works.

5.13.5 In clause 5.13.3(ii), public amenity means any land, space or facility including landscape or planting, provided for the active or passive recreation of and use by either the occupants of dwellings on the Land and/or members of the general public.

5.13.6 In clause 5.13.3(iii), travel and transport infrastructure means roads, footpaths, cycle paths, paved areas, shared surfaces, lighting, shelters and associated street furniture, such as signs, bins, benches, bollards and ancillary hard and soft landscaping required as a result of infrastructural works.

- 5.14.1 The Owner will pay to the Treasurer of the States the sum of £10,000 to be used for or towards the construction of a track for the use of pedestrians and cyclists ("the Track") from such point on the northern part of the western boundary of the Land as the Minister may determine.
- 5.14.2 If the Owner constructs or erects any wall or fence, plants any hedge, or creates any barrier of any kind whatsoever upon the western boundary of the Land or any part thereof, the Owner will include, maintain, and retain in perpetuity in such barrier such opening as may be necessary to allow owners or occupiers of residential units in the Development to pass freely from the Development to the Track on foot or with cycles.
- 5.14.3 The Owner may insert a door, gate, or other hinged or sliding barrier in such opening for the purpose of preventing persons who are not owners or occupiers of properties in the Development from using the roads in the Development to come and go between the Track and La Rue du Maupertuis, provided always that such hinged or sliding barrier does not prevent any owner or occupier of a residential unit in the Development from passing freely between the Land and the Track.
- 5.15 The Owner will make such provision for the adequate disposal of surface water including water from roofs and flood water as may be specified by the Minister for Transport and Technical Services.
- 5.16 The Owner will make such provision for the adequate disposal of foul sewage as may be specified by the Minister for Transport and Technical Services.

6. Enforcement of the Obligation

- 6.1 The Planning Minister has the power pursuant to Article 25 of the Law and to the provisions of this Agreement to enforce this Agreement against the Owner and save as otherwise provided by this Agreement against any person who derives title to the Land or any part thereof from the Owner.

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Signed on behalf of the Owner

[Redacted signature]

In the presence of

[Redacted name]

On the 31st day of January 2007.

Signed by/on behalf of the

[Redacted signature]

Minister for Planning and Environment by ...

P. THORNE

In the presence of

[Redacted name]

ANDREW RILEY

This 31 day of January 2007.

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Schedule 1 (Clause 2.1)



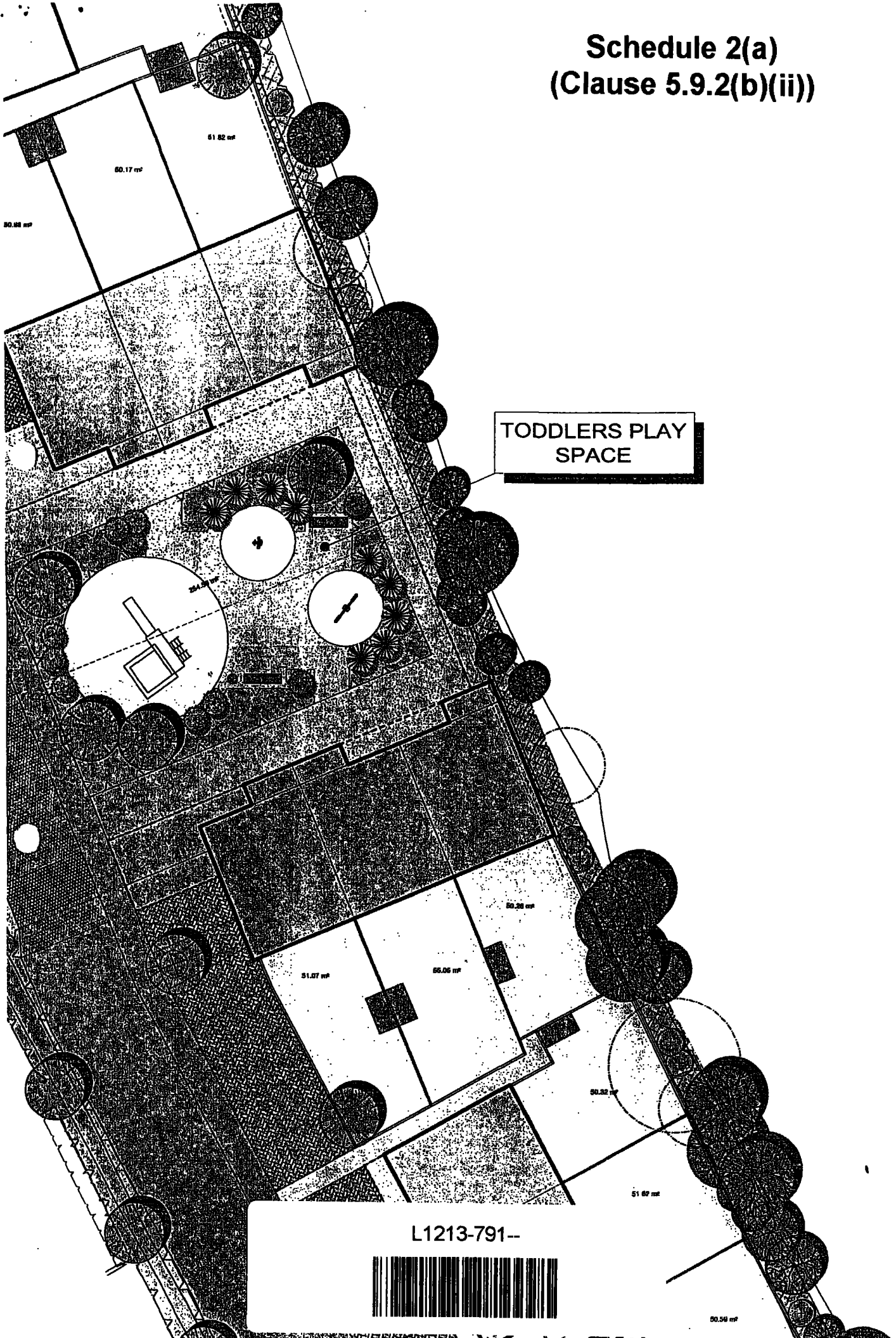
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Location Map. 1 : 2500



Schedule 2(a) (Clause 5.9.2(b)(ii))

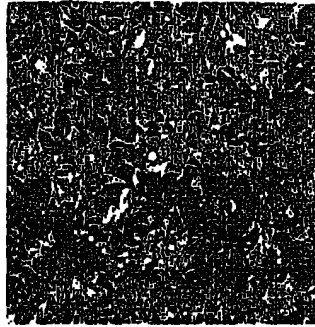
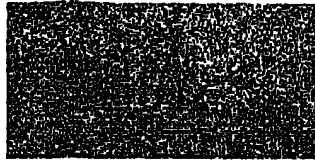


TODDLERS PLAY SPACE

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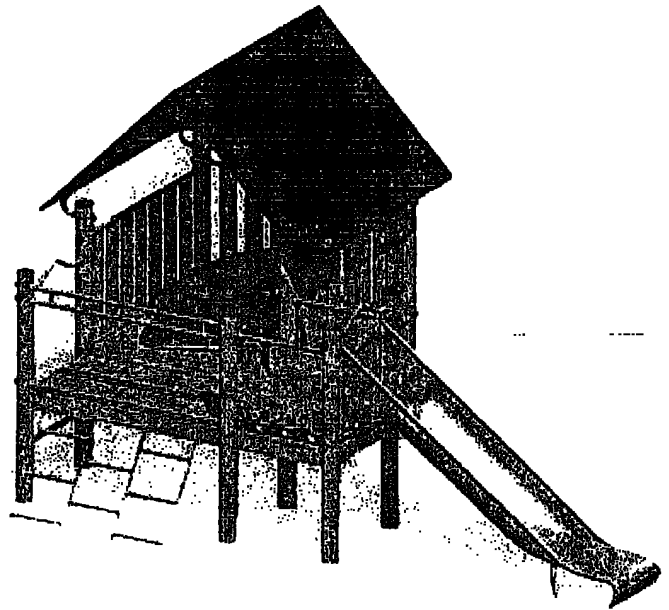
**Schedule 2(b)
(Clause 5.9.2(b)(ii))**



Native Mix



Equipped Play Area



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FIELD 40, St. Clement
Extract from DWG 1414/002/PO