Dated 14th January 2025

PETER JOHN WILLIAM CLOUGH & SHARON MARY CLOUGH

UNILATERAL UNDERTAKING
Section 106 of the Town and Country Planning Act 1990

Relating to land Adjacent to:

HARVEST LODGE. STATION ROAD. GEDNEY HILL. SPALDING. PE12 0NP

South Holland District Council
Council Offices
Priory Road
Spalding
PE11 2XE

-

SHDC Reference: LD/ H07-0854-24

THIS UNDERTAKING is made as a **DEED** the 14th day of January 2025

BY:

(1) **PETER JOHN WILLIAM CLOUGH & SHARON MARY CLOUGH**

of

HARVEST LODGE. STATION ROAD. GEDNEY HILL. SPALDING. PE12 0NP

("the Owners.");

TO:

SOUTH HOLLAND DISTRICT COUNCIL of Council Offices, Priory Road, Spalding, PE11 2XE ("the Council")

INTRODUCTION

(A) The Council is the Local Planning Authority for the purposes of the Act for the area within which the Land is situated.

(B) The Owner is the freehold owner of the Land which is registered at the Land Registry under Title Number LL363914

(C) The Owner has via their agent sharman architecture, applied to the Council for planning permission for the Land under reference H07-0854-24 for the Development.

(D) The Council resolved under delegated authority to grant Planning Permission for the Development in accordance with the Application.

(E) The parties agreed to enter into this Deed in order to secure the Development as Self-Build/Custom Build Dwellings.

(F) The parties in entering into this Deed does so to create planning obligations pursuant to section 106 of the 1990 Act in respect of their interest in the Land and the Owner agrees to be bound by and to observe and perform the covenants agreements conditions and stipulations hereinafter contained on the terms of this Deed.

NOW THIS DEED WITNESSES AS FOLLOWS:

1. DEFINITIONS

For the purposes of this Deed the following expressions shall have the following meanings:

"2015 Act"	means the Self-build and Custom Housebuilding Act 2015 as amended
"Act"	means the Town and Country Planning Act 1990 as amended
"Application"	means the application for Planning Permission for the Development and allocated reference number H07-0854-24
"Commencement of Development"	means the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and for no other purpose) operations consisting of: • access; • site clearance; • demolition work; • archaeological investigations; • investigations for the purpose of assessing ground conditions; • remedial work in respect of any contamination or other adverse conditions; • the laying or diversion of services; • the erection of hoardings or other temporary means of enclosure; and • the temporary display of site notices or advertisements; • any other works as may be approved in

	writing by the Council (acting reasonably)
"Commencement Notice"	means written notice to the Council of the intended date of Commencement of Development for the Service Plots of Land
"Development"	means the development of the Land for Residential Development, pursuant to the Planning Permission
"District"	means the district of South Holland
"Dwelling"	means the dwelling (whether a house flat bungalow or maisonette) approved for construction pursuant to the Planning Permission
"Eligibility Criteria"	means any individual(s) and/or association of individual(s) (as the case may be) who are: (a) aged 18 and over (b) UK, EEA or Swiss National Citizen
"Interested Parties"	means the individuals and associations of individuals who are seeking to acquire a Serviced Plot of Land within the District and are registered with the Council on the Self-Build Register or any individual(s) and/or association of individual(s) (as the case may be) that acquire a Serviced Plot of Land and who meet the Eligibility Criteria
"Land"	means the land as described in Schedule 1 against which this Deed may be enforced and as shown edged red on the Plan

"Occupation"	means occupation of the Development for the purposes permitted by the Planning Permission but not including the occupation by personnel engaged in construction, fitting out or decoration, or occupation for marketing or display, or occupation in relation to security operation and "Occupied" and "Occupier(s)" shall be construed accordingly
“Plan”	means the plan attached to this Deed at Schedule One being the location plan submitted with the Application and labelled as drawing number PJWC/05/A
“Planning Permission”	means the planning permission to be granted by the Council pursuant to the Application which is subject to this Deed and substantially in the form attached in draft hereto at Schedule 2
“Self-Build/Custom Build Dwelling”	means any Dwelling(s) constructed pursuant to the Planning Permission by an individual or association of individuals or persons working with or for individuals or associations of individuals and that dwelling is to be occupied as a home by those individuals in accordance with section 1 of the 2015 Act (or such other replacement or successor legislation) and meets the definition in the 2015 Act
"Self-Build and Custom Build Plot"	means the plot that is owned by Interested Parties with the sole intention to construct on that plot a Self-Build and Custom Build Dwelling

"Self-Build Register"	means the register of individuals and associations of individuals who are seeking to acquire Serviced Plots of Land in the District for their own self-build and custom house building which the Council is required to keep under section 1(1) of the 2015 Act
"Serviced Plot of Land"	means a plot of land on the Land for a Self-Build Dwelling that meets the definition in section 5(1) of the 2015 Act
"Statutory Undertaker"	means any company corporation board or authority at the date of this Deed authorised by statute to carry on an undertaking for the supply of telephone and television communications electricity gas water or drainage and any authorised successor to any such undertaking
"Working Days"	means any day other than a Saturday Sunday or public or bank holiday in England

2. CONSTRUCTION OF THIS DEED

2.1 Clause headings are for reference only and shall not affect the interpretation of this Deed.

2.2 Where in this Deed reference is made to any clause, paragraph, schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph, schedule or recital in this Deed.

2.3 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.

2.4 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeably

2.5 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise.

2.6 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that act for the time being in force and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given under that act or deriving validity from it.

2.7 References to any party to this Deed shall include the successors in title to that party and to any deriving title through or under that party to the Land or any part thereof and in the case of the Council, successors to its functions.

3. LEGAL BASIS

3.1 This Deed is made pursuant to Section 106 of the Act, Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and Section 93 of the Local Government Act 2003 and all other enabling powers with the intent that the covenants and obligations shall run with the Land.

3.2 The covenants, restrictions and obligations imposed upon the Owner under this Deed are planning obligations pursuant to Section 106 of the Act and are enforceable by the Council as local planning authority against the Owner.

4. CONDITIONALITY

4.1 This Deed and the obligations contained herein are conditional upon:

(a) the grant of Planning Permission and;

(b) the Commencement of Development

SAVE FOR the provisions of Clauses 7, 9.3 and 11 (legal costs, local land charge and change of ownership clauses) and any other relevant provisions which shall come into effect immediately upon completion of this Deed.

5. NOTICES AND RECORD KEEPING

5.1 Any notices required to be served pursuant to this Deed shall be deemed to have been properly served if delivered by hand or sent by recorded or special delivery to the principal address or registered office (as appropriate) of the relevant party or other such other address as may be notified by one party to other from time to time.

5.2 The Owner shall serve the Commencement Notice upon the Council at least 20 Working Days prior to the Commencement of the Development.

6. THE OWNER'S COVENANTS

6.1 The Owner covenants with the Council as set out herein

7. THE COUNCIL'S COSTS

7.1 The Owner shall pay to the Council on or before the date of this Deed the Council's reasonable legal costs of £150 together with all disbursements (if any) incurred in connection with the preparation, completion and registration of this Deed; and

8. MORTGAGEE CONSENT

8.1 A mortgagee of any part of the Site shall be bound by the obligations contained in this Deed to the extent they are binding on that part of the Site and the security of any mortgage over any part of the Site shall take affect subject to this Deed **PROVIDED THAT** the mortgagee shall otherwise have no liability under this Deed unless they take possession of the Site (or that part of it which the mortgage relates to) in which case it too will be bound by the obligations as if it were a person deriving title from the Owner **PROVIDED FURTHER THAT** it shall not in any event be liable for any breach of this Deed arising prior to it becoming a mortgagee in possession of the land and nor shall it be liable for any breach of this Deed unless it shall have caused such breach to have occasioned.

9. MISCELLANEOUS

9.1 Nothing contained or implied in this Deed shall prejudice or affect the rights, discretions, powers and duties of the Council under all statutes by-laws statutory instruments orders and regulations in the exercise of the functions as a local authority.

9.2 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.

9.3 This Deed shall be registerable as a local land charge by the Council.

9.4 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Council under the terms of this Deed such agreement,

approval, consent or expression of satisfaction shall not be unreasonably withheld or delayed.

9.5 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.

9.6 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) modified by any statutory procedure or expires prior to the Commencement of Development.

9.7 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after they shall have irrevocably parted with their entire interest in the Land or part of the Land but without prejudice to liability for any subsisting breach arising in relation to that part prior to parting with such interest.

9.8 This Deed shall not be enforceable against:

9.8.1 any party solely as a result of such party possessing an interest in the Land relating to subsoil of land which has been adopted by the Council or any other relevant public body as maintainable at public expense;

9.8.2 Statutory Undertakers acquiring an interest in the Land for the purposes of their undertaking;

9.8.3 any individual purchaser occupier or tenant of an individual Serviced Plot of Land

9.9 Representatives of the Council may enter upon the Land at any reasonable time upon reasonable prior written notice to ascertain whether the terms of this Deed are being or have been complied with.

9.10 Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.

10. WAIVER

10.1 No waiver (whether expressed or implied) by the Council or the Owner of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council or the Owner from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

11. CHANGE OF OWNERSHIP

11.1 The Owner agrees with the Council to give the Council 20 Working Days' written notice of any change in the ownership of any of its interest in the Land occurring before all the obligations under this Deed have been discharged such notice to give details of the transferees name and address together with details of the part of the Land disposed of.

12. DISPUTE RESOLUTION

12.1 In the event of any dispute or difference arising between any of the parties to this Deed in respect of any matter contained in this Deed such dispute or difference shall be referred to an independent and suitable person holding appropriate professional qualifications to be appointed by agreement between the parties or in the absence of agreement as to the identity of the person by or on behalf of the president for the time being of the professional body chiefly relevant in England with such matters as may be in dispute.

12.2 In the absence of agreement as to the appropriateness of the professional body then such question may be referred by any party to the president for the time being of the Royal Institution of Chartered Surveyors for him to determine the appropriate professional body.

12.3 Any person appointed pursuant to this clause shall act as an expert and his decision shall be final and binding on the parties in the absence of manifest error or fraud.

12.4 The expert's costs shall be payable by the parties to the dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties in equal shares.

12.5 Any expert shall be appointed subject to the express requirement that a decision is reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than forty Working Days after appointment.

12.6 The expert shall be required to give notice to each of the said parties requiring them to submit to him within ten Working Days written submissions and supporting material and each party will be entitled to make a counter written submission on the other party's original submission within a further ten Working Days.

13. VAT

13.1 All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.

14. JURISDICTION

14.1 This Deed is governed by and interpreted in accordance with the law of England.

15. EXECUTION AND DELIVERY

This Deed is executed as a deed by the parties and is delivered on the date first hereinbefore written

IN WITNESS whereof the parties hereto have executed this Deed on the day and year first before written.

SIGNED as a **DEED** by PETER JOHN WILLIAM CLOUGH

P. Clough

in the presence of:

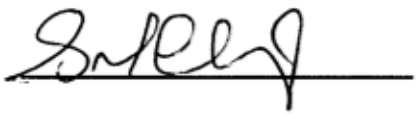
Name of Witness PAUL SHARMAN

Signature of witness

Address OAK BARN. WILLOW DROVE. BOROUGH FEN. PETERBOROUGH. PE6 7QB7

Occupation ARCHITECTURAL DESIGNER

SIGNED as a **DEED** by SHARON MARY CLOUGH



in the presence of:

Name of Witness PAUL SHARMAN

Signature of witness 

Address OAK BARN. WILLOW DROVE. BOROUGH FEN. PETERBOROUGH. PE6 7QB7

Occupation ARCHITECTURAL DESIGNER

SCHEDULE 1

DETAILS OF THE OWNER'S TITLE, AND DESCRIPTION OF THE LAND

The Land is known as:

LAND ADJACENT TO HARVEST LODGE. STATION ROAD. GEDNEY HILL. SPALDING. PE12 0NP

(G) being registered at the Land Registry under Title Number LL363914 shown edged red on the Plan.

SCHEDULE 2

DRAFT PLANNING PERMISSION

Sharman Architecture
Oak Barn
Willow Drove
Peterborough
Cambs
PE6 7QB

Council Offices
Priory Road
Spalding
Lincolnshire
PE11 2XE

Admin 01775 764723
DC Officers 01775 761161
Facsimile 01775 762937

planningadvice@sholland.gov.uk

www.sholland.gov.uk

TOWN AND COUNTRY PLANNING ACT 1990

DRAFT APPROVAL

Reference: H07-0854-24 **Date of Decision:**

Applicant: Mr P Clough
Harvester Lodge
Station Road
Gedney Hill
Spalding
PE12 0NP

Location: Land Adjacent To Harvest Lodge Station Road Gedney Hill Spalding

Description: Residential Development

South Holland District Council hereby give notice that permission has been GRANTED (or equivalent) subject to the following condition(s):

1 An application for approval of reserved matters shall be made to the Local Planning Authority not later than the expiration of three years from the date of this permission.

Reason: As required by Section 92 of the Town and Country Planning Act 1990 imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004.

2 The development hereby permitted shall be commenced before the expiration of three years from the date of this permission, or two years from the approval of the last of the reserved matters, whichever is the later.

Reason: To ensure that the development is commenced in a timely manner, as required by Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

3 Details of all reserved matters, as set out below, shall have been submitted to the Local

Planning Authority for approval within three years from the date of this permission:

i) layout
ii) scale
iii) appearance of the building(s) (including a schedule of external materials to be used);
iv) the means of access to the site; and
v) the landscaping of the site (including boundary treatment).

Approval of all reserved matters, as detailed above, shall have been obtained from the Local Planning Authority in writing, before any development is commenced.

The development shall be carried out as approved.

Reason: To ensure the Local Planning Authority can control development in detail, and to ensure that the development is commenced in a timely manner, as required by Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

4 The development hereby permitted shall be carried out in accordance with the following approved plans:

- Application Form;
- Site Location Plan; and
- Flood Risk Assessment (S M Hemmings B Sc C Eng MICE MIWEM).

Reason: For the avoidance of doubt and in the interests of proper planning.

5 The development hereby permitted shall be carried out in accordance with the measures set out in the Flood Risk Assessment (S M Hemmings B Sc C Eng MICE MIWEM) forming part of this planning application. In particular, the following measure shall be fully implemented before the property is first occupied:

- Finished floor levels shall be 300mm above existing ground level.

Notes:
1. The applicant is advised to refer to the following document for information on flood resilience and resistance techniques that could be incorporated into the development: "Improving Flood Performance of New Buildings - Flood Resilient Construction" (Department for Communities and Local Government, 2007);
2. Future occupants are advised to sign up to the Environment Agency's free Floodline Warnings Direct Service.

Reason: To ensure that the development does not increase the risk of flooding or be at risk of flooding.
This Condition is imposed in accordance with Policies 3 and 4 of the South East Lincolnshire Local Plan, 2019 and Section 14 of the National Planning Policy Framework, December 2024.

6 Before any development beyond oversite/above ground level is commenced, full details of the proposed means of foul and surface water disposal to separate systems shall be

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submitted to and approved in writing by the Local Planning Authority and the details so approved shall be implemented in full before there are any flows into the receiving systems.

Reason: To ensure that the site is adequately drained, to avoid pollution, and to prevent increased risk of flooding.
This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019 and Section 14 of the National Planning Policy Framework, December 2024.

Notes:

The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise, and subsequently determining to grant planning permission.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at http://planning.sholland.gov.uk/OcellaWeb/planningSearch

This Certificate is subject to a Unilateral Undertaking under Section 106 of the Town & Country Planning Act 1990 (as amended) dated ******* and the development shall be carried out in strict accordance with the provisions of that Undertaking at all times.

The permitted development requires the formation of a new/amended vehicular access. These works will require approval from the Highway Authority in accordance with Section 184 of the Highways Act. The works should be constructed in accordance with the Authority's specification that is current at the time of construction. Relocation of existing apparatus, underground services or street furniture will be the responsibility of the applicant, prior to application.

For application guidance, approval and specification details, please visit:
https://www.lincolnshire.gov.uk/licences-permits/apply-dropped-kerb
or contact vehiclecrossings@lincolnshire.gov.uk

Please contact the Lincolnshire County Council Streetworks and Permitting Team on 01522 782070 to discuss any proposed statutory utility connections and any other works which will be required within the public highway in association with the development permitted under this Consent. This will enable Lincolnshire County Council to assist in the coordination and timings of these works.

For further guidance please visit:
Traffic Management - https://www.lincolnshire.gov.uk/traffic-management
Licences and Permits - https://www.lincolnshire.gov.uk/licences-permits

Biodiversity Net Gain

The applicant's attention is drawn to the following Biodiversity Net Gain requirement.

The effect of Paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 is that planning permission is deemed to have been granted subject to the "biodiversity gain condition". The effect of this "biodiversity gain condition" is that development granted by this

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notice must not begin unless:

(a) a Biodiversity Gain Plan has been submitted to the planning authority, and

(b) the planning authority has approved the plan, or

(c) the development is exempt from the biodiversity gain condition.

For guidance on the contents, in respect of the details that must be submitted and agreed by the Local Planning Authority, prior to the commencement of the consented development, please see the GOV.uk website and Planning Practice Guidance.

Statutory exemptions and transitional arrangements

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These can be found at Paragraph: 003 Reference ID: 74-003-20240214 of the Planning Practice Guidance, which can be found at https://www.gov.uk/guidance/biodiversity-net-gain.

Based on the information available and submitted in support of this application, the Local Planning Authority considers that the development hereby permitted is exempt and therefore will not require the approval of a biodiversity gain plan, prior to the commencement of development; with the development comprising a statutory exemption as listed below: -

It is considered that the proposed dwelling would be a self-build / custom home and as such, the dwelling would be exempt from the requirement to demonstrate biodiversity net gain.

As such, the development hereby permitted will not be subject to the biodiversity gain condition.

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

For clarity the LPA do not consider that irreplaceable habitats are present at this site.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

Effect of Section 73(2D) of the 1990 Act

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Under Section 73(2D) of the Town and Country Planning Act 1990 (as amended) where

(a) a biodiversity gain plan was approved in relation to the previous planning permission ("the earlier biodiversity gain plan"), and

(b) the conditions subject to which the planning permission is granted:

(i) do not affect the post-development value of the onsite habitat as specified in the earlier biodiversity gain plan, and

(ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat within the meaning of regulations made under paragraph 18 of Schedule 7A, do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier biodiversity gain plan.

- the earlier biodiversity gain plan is regarded as approved for the purposes of paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended) in relation to the planning permission.

Phil Norman
Assistant Director - Planning and Strategic Infrastructure
South Holland District Council

20th January 2025

BUILDING REGULATIONS:
This decision refers only to planning permission as granted under the Town and Country Planning Act 1990. The works that you are proposing may also require Building Regulations and this planning permission does not give authority under Building Regulations to commence work. Please contact the Building Control section for further information on 01775 764557 or bcadmin@sholland.gov.uk

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SCHEDULE 3
THE OWNER'S COVENANTS

The Owner covenants with the Council as follows:

1 To build a Self-Build and Custom Build Dwelling in accordance with the Planning Permission which meets the definition of self-build and custom housebuilding in the 2015 Act.

2 To occupy the dwelling as a Self-Build and Custom Build Dwelling

3 If the Self-Build and Custom Build Dwelling is not to be built by the Owner to provide to the Council within 14 Working Days (or such longer period as may be agreed with the Council) of the grant of the Planning Permission the contact details of the person who will liaise on behalf of the Owner with the Interested Parties in order to dispose of the Serviced Plot of Land

4 To use reasonable endeavours to enter into a contract with the Interested Parties to transfer each Self-Build and Custom Build Plot as a Serviced Plot of Land until all such plots have been disposed of (unless otherwise agreed in writing with the Council and such agreement not to be unreasonably withheld or delayed)

5 To request that any Interested Parties (who are seeking to acquire a Serviced Plot of Land but are not on the Self-Build Register) contact the Council to be asked to be placed on the Self-Build Register.

6 The transfer of the Self-Build and Custom Build Dwelling as a Serviced Plot of Land shall contain inter alia the following clauses:

6.1 a grant of all rights of access passage of services and other rights reasonably necessary for the beneficial enjoyment of the Self-Build and Custom Build Dwelling;

6.2 reservation of all rights of access and passage of services and rights of entry and all usual covenants reasonably necessary or appropriate for the beneficial enjoyment of the retained parts of the Land

7 To keep the Council informed of its progress in negotiating the disposal of each of the Self-Build and Custom Build Plot as Serviced Plot of Land to the Interested Parties on a half-yearly basis until such time as the Owner has notified the Council that all of the Serviced Plot(s) of Land have been disposed of to Interested Parties.

8 Where contracts are exchanged with a purchaser of a Self-Build and Custom Build Plot to supply a certified copy of such contract to the Council within 14 (14) Working Days of such contract being completed **PROVIDED THAT** the copy shall redact any commercially sensitive information.

9 If the Owner does not occupy the Self-Build and Custom Build Dwelling to only market the Dwelling as a Self-Build and Custom Build Dwelling.