

A Deal with the Lot Promotion

The Contents of the Promotion

Subject to the terms and conditions set out below, under this promotion a Buyer will be entitled to obtain:

- (A) from Mirvac (WA) Pty Ltd (**Seller**) either a \$25,000.00, a \$20,000.00, or a \$15,000.00 reduction in the Purchase Price (inclusive of GST) of an Eligible Lot, the relevant reduction being provided by the Seller in the form of a set-off against the Purchase Price payable by the Buyer at Settlement (**Rebate**); and
- (B) from a Participating Builder, \$15,000.00 worth of Inclusions (inclusive of GST).

Terms and Conditions

1. Definitions

1.1 In these terms and conditions:

- (a) **Buyer** means the Buyer of an Eligible Lot;
- (b) **Contract** means a contract of sale between the Buyer and the Seller in respect of an Eligible Lot;
- (c) **Building Contract** means a contract between the Buyer and a Participating Builder for the construction of a dwelling on an Eligible Lot that has been purchased by the Buyer under a Contract;
- (d) **Contribution Amount** means the value of the Inclusions (including the cost of their installation, where applicable) that a Participating Builder will supply to the Buyer if the Buyer enters a Building Contract, and being in respect of each Eligible Lot \$15,000.00 (inclusive of GST);
- (e) **Eligible Lot** means any lot specified in table A, *below*;
- (f) **Inclusions** means new items of good quality to be installed in or constructed as part of a dwelling under a Building Contract, and which may include any one or more of fixtures and fittings, whitegoods, or other new items customarily installed in a new residential property;
- (g) **Offer Period** has the meaning that is given to that term in clause 2.2(b);
- (h) **Participating Builder** means any one of the building companies listed in Table B, *below*;

- (i) **Rebate Amount** means the rebate amount for a given Eligible Lot that is specified in Table A, below, for that Eligible Lot, and **Rebate** has a corresponding meaning; and
- (j) words that are capitalised but which are not defined have the meaning that would be given to them under a Contract that includes the *Joint Form of General Conditions (2018)*.

2. The Rebate from Mirvac

2.1 Subject to clause 2.2 to 2.9 of these terms and conditions, as an incentive to the Buyer:

- (a) completing Settlement on the Settlement Date; and
- (b) ensuring that the Buyer does not breach the Contract at or prior to the Settlement Date,

the Seller will provide the Rebate Amount to the Buyer as an adjustment to the Purchase Price at Settlement.

2.2 The Buyer will only be entitled to receive the Rebate Amount if:

- (a) the Property is an Eligible Lot;
- (b) the Buyer and the Seller sign the Contract between 10.00 am (WST) on 17 August 2019 and 5.00 pm (WST) on 31 October 2019 (**Offer Period**);
- (c) the Settlement Date specified in the Contract is on or before 31 March 2020;
- (d) the first page of the REIWA offer and acceptance form that is located at the front of the Contract (**O&A**) includes a special condition that states (as applicable, given the Rebate Amount that applies to the Property) as follows:

“1. *The Purchase Price will be subject to a \$25,000.00 (inc GST) rebate at Settlement if the Buyer complies with the contents of this Contract’s Promotion Annexure.*”

OR

“1. *The Purchase Price will be subject to a \$20,000.00 (inc GST) rebate at Settlement if the Buyer complies with the contents of this Contract’s Promotion Annexure.*”

OR

“1. *The Purchase Price will be subject to a \$15,000.00 (inc GST) rebate at Settlement if the Buyer complies with the contents of this Contract’s Promotion Annexure.*”

- (e) the Purchase Price specified in the O&A is stated to be “*subject to Special Condition 1*”;
- (f) the Contract includes a promotion annexure prepared by the Seller which substantially reproduces the contents of clauses 1 to 2.9 of these terms and

conditions, albeit with such changes to wording as the Seller reasonably considers necessary, but which will not in any case alter their substance in any material way (**Promotion Annexure**);

- (g) the Buyer does not breach the Contract in any way (whether any breach is remedied or not);
- (h) Settlement occurs on or before the date referred to in paragraph (c), *above*, provided that if Settlement is postponed due to delay by the Seller, then, subject always to paragraph (g), *above*, and to the other provisions in this clause, the Buyer shall remain entitled to the Rebate when Settlement occurs; and
- (i) the balance of these terms and conditions entitle the Buyer to the Rebate.

2.3 Importantly, it is the Buyer's responsibility to ensure that:

- (a) the Property that the Buyer is purchasing comprises an Eligible Lot; and
- (b) that the Contract prepared by the Seller Agent includes:
 - (i) a Promotion Annexure; and
 - (ii) the elements referred to in clause 2.2(c) to (e) (inclusive), *above*.

The Seller will not provide a Rebate if any of these requirements are not satisfied.

2.4 If the Contract is made conditional in any respect at the request of the Buyer (except where the condition is that the Contract is subject to finance), then the Seller will not be required to provide the Rebate, although the Seller may opt to do so in the Seller's absolute discretion.

2.5 The Buyer acknowledges and agrees that the Promotion Annexure will include the following provisions, namely, that:

- (a) the Buyer cannot and must not attempt to transfer, assign, or otherwise dispose of the Buyer's right to receive the Rebate Amount;
- (b) the Rebate does not apply to more than one property transaction at a time between the Buyer and the Seller;
- (c) the Buyer will forfeit all rights to receive the Rebate Amount if the Buyer fails to comply with the requirements specified in the Promotion Annexure or any other provisions in the Contract (for any reason whatsoever); and
- (d) the Buyer warrants to the Seller that it will provide a copy of the Contract, including the Promotion Annexure, to any proposed financier or mortgagee of the Property prior to the Buyer entering into any agreement with the financier or the mortgagee, and that the Buyer will provide written proof of the same to the Seller if requested.

2.6 The Promotion Annexure will also include promises by the Buyer that, once the Buyer has received the Rebate Amount, the Buyer:

- (a) acknowledges and agrees that the Seller has satisfied its obligations in respect of the Rebate and the terms and conditions that relate to it;

- (b) indemnifies the Seller and the Seller's related bodies corporate against all claims, damages, losses, liabilities, or proceedings of any nature arising from any breach of the warranty in the Promotion Annexure that is referred to in clause 2.5(d), *above*; and
- (c) releases and indemnifies the Seller in relation to all liability for duty on the Transfer of the Property to the Buyer.

2.7 The following provision will also be included in the Promotion Annexure:

"The Buyer:

- (a) agrees that the negotiations of the Parties relating to the transaction contemplated by this Contract and the subject matter and terms and existence of this Contract must be kept confidential by the Buyer and may only be disclosed by the Buyer as required by law or to its professional advisers or financiers on the condition that they agree to be bound by the terms of this clause;
- (b) acknowledges that damages will not be a sufficient remedy for any breach by the purchaser of this clause and that the Seller will be entitled to injunctive relief in respect of any actual or threatened breach of this clause by the Buyer; and
- (c) indemnifies the Seller against all claims, damages, losses, or expenses incurred directly or indirectly as a consequence of any breach of this clause by the Buyer."

2.8 If the terms and conditions in Promotion Annexure are satisfied without default by the Buyer, then the Seller must provide the Rebate Amount to the Buyer as a lump sum at Settlement, which the Seller may allow as an adjustment to the balance of the Purchase Price that is due on the Settlement Date.

2.9 The Rebate is not available in conjunction with any other promotion or offer by the Seller.

3. The Builder Contribution

3.1 The Seller has entered into a contract with one of the Participating Builders under which each Participating Builder:

- (a) is required to give to any Buyer who, between 10.00 am (WST) on 17 August 2019 and 5.00 pm (WST) on 31 October 2019, enters into a Building Contract with the Participating Builder, free Inclusions that, as nearly as is reasonably possible, are equal in value to the Contribution Amount; and
 - (b) subject to clause 3.1(c), must, in order to give effect to the obligation referred to in clause 3.1(a), include in the Building Contract:
 - (i) a list of the Inclusions agreed by the Buyer and the Participating Builder;
 - (ii) the Inclusions' respective as-installed costs, which must:
 - (A) in total, accord as nearly as is reasonably possible with the Contribution Amount; and
 - (B) fairly comprise the Inclusions' actual as-installed market values;
- ; and

(iii) a provision that states if any Inclusion becomes unavailable for any reason, then the Participating Builder may replace the same with an equivalent item of equivalent value;

; and

(c) agrees that if the Participating Builder (acting reasonably) and the Buyer cannot agree on what should constitute the Inclusions, then the Participating Builder will itemise Inclusions selected by it (acting reasonably) in a schedule that:

(i) will not form part of the Building Contract; and

(ii) in respect of the Inclusions, will otherwise comply with clause 3.1(b)(ii),

and that the Participating Builder will:

(iii) provide copies of the schedule to the Seller and the Buyer; and

(iv) supply the selected Inclusions to the Buyer, subject to the principle in clause 3.1(b)(iii) should any Inclusion become unavailable.

The requirements in this clause 3.1 do not prevent a Participating Builder from ultimately charging more for the construction of a dwelling than was originally agreed in the Building Contract by reason of terms and conditions in the Building Contract that do not deal with the Inclusions. Such terms may include construction variation clauses and other clauses under which a builder might legitimately secure an increase in the price of a build.

3.2 Subject to:

(a) clause 3.3; and

(b) the Buyer receiving the Rebate by reason of the Buyer having complied with clause 2,

the Seller promises that the Participating Builder will supply Inclusions to the Buyer that, as near as is reasonably possible, equate in value to the Contribution Amount.

3.3 The Seller's liability to the Buyer under clause 3.2 is limited in all cases to the Contribution Amount and does not apply if:

(a) the Building Contract is terminated due to a breach by the Buyer; or

(b) the Building Contract is terminated by agreement before the dwelling reaches practical completion.

4. Other matters

4.1 Clause 2 of these terms and conditions will be superseded and replaced by the Promotion Annexure when it is included in the Buyer's Contract.

4.2 The Promotion Annexure will:

(a) be governed by the laws of Western Australia; and

- (b) not merge at Settlement or on the transfer of the Property.

Table A

Eligible Lots at *One71 Baldivis*

Lot	Deposited Plan	Rebate Amount (GST inc)
129	DP 406742	\$20,000
145	DP 39428	\$25,000
180	DP 39431	\$20,000
267	DP 406743	\$25,000
270	DP 406743	\$20,000
347	DP 406743	\$20,000
348	DP 39431	\$15,000
321	DP 413119	\$15,000
359	DP 413119	\$15,000

Table B

Participating Builders

Builder Name	Address and Contact Details
Commodore Homes	Ground Floor/22 Mount St, Perth (08) 6555 7522
WA Housing Centre	22 Mount St, Perth (08) 6555 7585
Smart Homes for Living	6/20 Walters Dr, Osborne Park (08) 9241 1300