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REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

VOLUME 08631 FOLIO 745

Security no : 124119310021X  
Produced 24/10/2024 05:36 PM

**ADVERTISED  
PLAN**

LAND DESCRIPTION

Lot 1 on Plan of Subdivision 073679.  
PARENT TITLE Volume 03432 Folio 244  
Created by instrument LP073679 24/08/1966

REGISTERED PROPRIETOR

Estate Fee Simple  
Sole Proprietor  
AILSAN ANNIE ELIZABETH WYLIE of 932 MT MERCER-DEREEL ROAD MT MERCER VIC 3350  
AD540994N 06/04/2005

ENCUMBRANCES, CAVEATS AND NOTICES

CAVEAT AH489622B 13/09/2010  
Caveator  
MT MERCER WINDFARM PTY LTD  
Grounds of Claim  
LEASE WITH THE FOLLOWING PARTIES AND DATE.  
Parties  
THE REGISTERED PROPRIETOR(S)  
Date  
22/03/2006  
Estate or Interest  
LEASEHOLD ESTATE  
Prohibition  
ANY INSTRUMENT THAT AFFECTS MY/OUR INTEREST  
Lodged by  
K&L GATES (17)  
Notices to  
MIDDLETONS of LEVEL 25 RIALTO SOUTH TOWER 525 COLLINS STREET MELBOURNE VIC  
3000

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan or imaged folio set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE LP073679 FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

DOCUMENT END

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## **ADVERTISED PLAN**

REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

VOLUME 08631 FOLIO 746

Security no : 124119310032L

Produced 24/10/2024 05:37 PM

### LAND DESCRIPTION

Lot 2 on Plan of Subdivision 073679.  
PARENT TITLE Volume 03432 Folio 244  
Created by instrument LP073679 24/08/1966

### REGISTERED PROPRIETOR

Estate Fee Simple  
Sole Proprietor  
BVM FARMING PTY LTD of 600 SHELFORD-MOUNT MERCER ROAD MOUNT MERCER VIC 3352  
AU890924H 07/10/2021

### ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AU890925F 07/10/2021  
NATIONAL AUSTRALIA BANK LTD

### CAVEAT AH489637M 13/09/2010

Caveator  
MT MERCER WINDFARM PTY LTD  
Grounds of Claim  
LEASE WITH THE FOLLOWING PARTIES AND DATE.  
Parties  
THE REGISTERED PROPRIETOR(S)  
Date  
05/08/2008  
Estate or Interest  
LEASEHOLD ESTATE  
Prohibition  
ANY INSTRUMENT THAT AFFECTS MY/OUR INTEREST  
Lodged by  
K&L GATES (17)  
Notices to  
MERIDIAN ENERGY AUSTRALIA of 9 QUEEN STREET, BASEMENT LEVEL, MELBOURNE VIC.  
3000  
AMENDMENT OF ADDRESS ON CAVEAT AJ837336X 3/08/2012

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AGREEMENT Section 173 Planning and Environment Act 1987  
AJ960437C 10/10/2012

### DIAGRAM LOCATION

SEE LP073679 FOR FURTHER DETAILS AND BOUNDARIES

### ACTIVITY IN THE LAST 125 DAYS

NIL

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

### ADMINISTRATIVE NOTICES

NIL

eCT Control 16089P NATIONAL AUSTRALIA BANK LTD  
Effective from 13/10/2021

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**LP73679**  
**EDITION 3**  
APPROVED 18/7/166

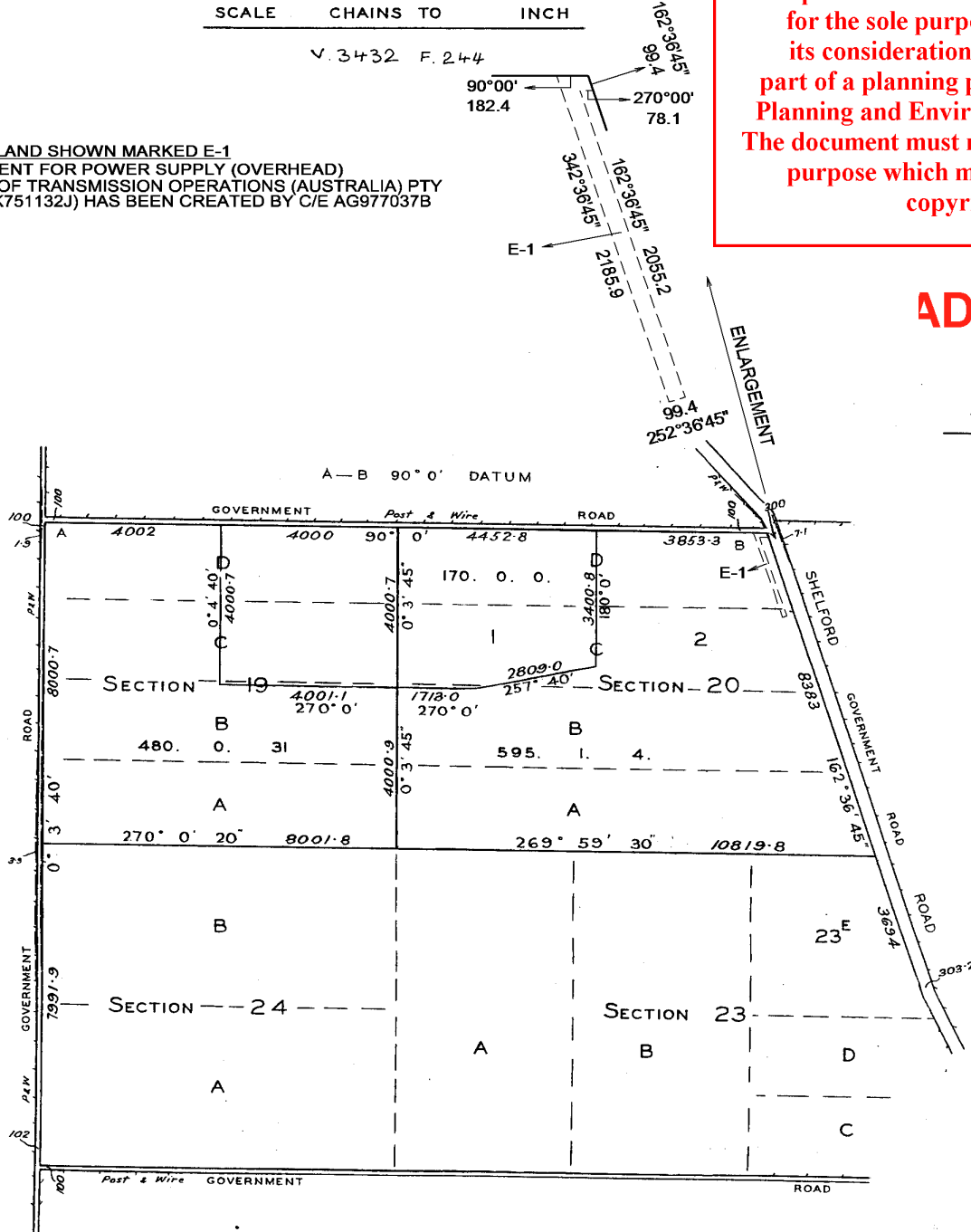
PLAN OF SUBDIVISION  
CROWN ALLOTMENTS A B C AND D SECTION XX  
PART OF CROWN ALLOTMENTS A AND B SECTION XXIII  
AND PART OF CROWN ALLOTMENT 23<sup>E</sup>  
PARISH OF LAVALUK  
COUNTY OF GRENVILLE

SCALE CHAINS TO INCH

V. 3432 F. 244

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AS TO THE LAND SHOWN MARKED E-1  
THE EASEMENT FOR POWER SUPPLY (OVERHEAD)  
IN FAVOUR OF TRANSMISSION OPERATIONS (AUSTRALIA) PTY  
LTD (SEE AK751132J) HAS BEEN CREATED BY C/E AG977037B



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# MODIFICATION TABLE

RECORD OF ALL ADDITIONS OR CHANGES TO THE PLAN

## PLAN NUMBER

### LP73679

**WARNING: THE IMAGE OF THIS DOCUMENT OF THE REGISTER HAS BEEN DIGITALLY AMENDED.  
NO FURTHER AMENDMENTS ARE TO BE MADE TO THE ORIGINAL DOCUMENT OF THE REGISTER.**

AFFECTED LAND/PARCEL	LAND/PARCEL IDENTIFIER CREATED	MODIFICATION	DEALING NUMBER	DATE	EDITION NUMBER	ASSISTANT REGISTRAR OF TITLES
LOT 2	E-1	CREATION OF EASEMENT	AG977037B	18/1/10	2	DBR
LOT 2		TRANSFER OF EASEMENT	AK751132J	02/12/13	3	F.H.C

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**AJ960437C**

**Application by a responsible authority  
for the making of a recording of an  
agreement**

Section 181 Planning and Environment Act 1987

Lodged by — **JAMES LERRATY**  
**MERIDIAN ENERGY AUSTRALIA**  
Name: Atten: **9 QUEEN STREET, MELBOURNE**  
**VIC 3000**  
Phone: **+61 396 141 011**  
Address: **101 Collins Street, Melbourne VIC 3000**  
Reference: **120167000**  
Customer Code: **095TR**



Golden Plains Shire Council  
BluePoint  
File No(s) **52120596.**  
**A1066.**  
**PROCESSED 2 AUG 2012**  
Owner \_\_\_\_\_  
Manager \_\_\_\_\_  
Reader(s) \_\_\_\_\_  
Doc Ref \_\_\_\_\_

The responsible authority having made an agreement referred to in Section 181(1) of the *Planning and Environment Act 1987* requires a recording to be made in the Register.

Land: Volume 8631 Folio 746

Responsible authority: Golden Plains Shire Council, 2 Pope Street, Bannockburn Victoria 3331

Section and Act under which agreement made: Section 173 Planning and Environment Act 1987

A copy of the agreement is attached to this application:

Date: **31/08/2012**

Signature for responsible authority: **[Signature]**

Name of officer: (full name) **RICHARD JOHN TRIGG**  
**ACTING CHIEF EXECUTIVE OFFICER.**

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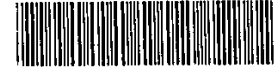
## **ADVERTISED PLAN**

### **Section 173 Agreement**

This Agreement is made the \_\_\_\_\_ day of \_\_\_\_\_ 2012  
pursuant to Section 173 of the *Planning and Environment Act 1987*  
(the Act)

**AJ960437C**

10/10/2012 \$110.30 173



## Section 173 Agreement

---

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AJ960437C



ADVERTISED PLAN

## Section 173 Agreement

<b>Date</b>	
<b>Parties</b>	<ol style="list-style-type: none"> <li>1. Golden Plains Shire Council of 2 Pope Street, Bannockburn in the State of Victoria (the <i>Responsible Authority</i>).</li> <li>2. <b>Robert William Rice</b> of 400 Shelford - Mt Mercer Road, Mt Mercer, Victoria 3352 (the <i>Owner</i>).</li> <li>3. <b>Mt Mercer Windfarm</b> (ACN 118 169 421) of Level 29, 530 Collins Street, Melbourne VIC 3000 (<i>MMWF</i>).</li> </ol>
<b>Recitals</b>	<p>A The Responsible Authority is responsible for the administration and enforcement of the Planning Permit or the Planning Scheme pursuant to the Act.</p> <p>B The Owner is the registered proprietor or is entitled to be registered as the proprietor of an estate in fee simple of the Subject Land.</p> <p>C The Responsible Authority issued the Planning Permit.</p> <p>D In accordance with Condition 16 of the Planning Permit, the parties enter into this Agreement through which the Owner accepts that predicted noise levels at a certain existing dwelling on the Subject Land may exceed the noise limits specified in the NZ Standard.</p>

It is agreed as follows.

### 1. Definitions

In this Agreement, the words and expressions set out in this clause have the following meanings unless the context admits otherwise:

*Act* means the *Planning and Environment Act 1987* (Vic).

*Agreement* means this agreement and any agreement executed by the parties expressed to be supplemental to this agreement.

*Mortgagee* means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as Mortgagee of the Subject Land or any part of it.

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AJ960437C



## Section 173 Agreement

# ADVERTISED PLAN

**Owner** means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as proprietor or proprietors of an estate in fee simple of the Subject Land or any part of it and includes a Mortgagee in possession.

**party or parties** means the Owner, the Responsible Authority and MMWF under this Agreement as appropriate.

**Planning Permit** means Planning Permit No. PL-SP/05/0321 for the development of land for a Wind Energy Facility in accordance with the approved plans.

**Planning Scheme** means the Golden Plains Planning Scheme and any successor instrument or other planning scheme which applies to the Subject Land.

**Responsible Authority** means Golden Plains Shire Council or its successor as the authority responsible for administering and enforcing the Planning Permit or the Planning Scheme and includes its agents, officers, employees, servants, workers and contractors.

**Subject Land** means the land being the land referred to in Certificate of Title Volume 8631 Folio 746 and any reference to the Subject Land in this Agreement includes any lot created by the subdivision of the Subject Land or any part of it.

**Wind Energy Facility** means the wind energy facility MMWF is developing or has developed at Mt Mercer in Victoria pursuant to the Planning Permit.

## 2. Interpretation

In this Agreement, unless the context indicates otherwise:

- (a) The singular includes the plural and the plural includes the singular.
- (b) A reference to a gender includes a reference to each other gender.
- (c) A reference to a person includes a reference to a firm, corporation or other corporate body and their successors in law.
- (d) If a party consists of more than one person this Agreement binds them jointly and each of them severally.
- (e) A reference to a "planning scheme" includes any amendment, consolidation or replacement of such a scheme and any document incorporated by reference into such a scheme.
- (f) A reference to a statute includes any statutes amending, consolidating or replacing same and any subordinate instruments made under such statutes.
- (g) Where in this Agreement the Responsible Authority may exercise any power, duty or function, that power may be exercised on behalf of the Responsible Authority by an authorised or delegated officer.
- (h) All headings are for ease of reference only and shall not be taken into account in the construction or interpretation of this Agreement.
- (i) The recitals to this Agreement are and will be deemed to form part of this Agreement including any terms defined within the Recitals.

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## Section 173 Agreement



# ADVERTISED PLAN

- (j) A reference to the Owner includes its officers, employees, agents, servants, workers and contractors.
- (k) A reference to the Responsible Authority includes its agents, officers, employees, servants, workers and contractors.
- (l) The obligations of the Owner under this Agreement, will take effect as separate and several covenants which are annexed to and run at law and equity with the Subject Land provided that if the Subject Land is subdivided, this Agreement must be read and applied so that each subsequent Owners of a lot is only responsible for those covenants and obligations which relate to that Owners' lot.

### 3. Agreement under Section 173 of the Act and intention of the parties

---

- (a) The parties acknowledge and agree that, without limiting or restricting the respective powers to enter into this Agreement and insofar as it can be so treated, this Agreement is made pursuant to Section 173 of the Act.
- (b) The Owner's obligations under this Agreement will take effect as separate and several covenants which are annexed to and run with the Subject Land at law and equity, provided that if the Subject Land is subdivided, this Agreement must be read and applied so that each subsequent owner of a lot is only responsible for those covenants and obligations which relate to that owner's lot.

### 4. Commencement of Agreement

---

Unless otherwise provided in this Agreement, this Agreement commences from the date of this Agreement.

### 5. Specific Obligations of the Owner


---

The Owner covenant and agree with MMWF, with respect to the Subject Land:

- (a) that condition 16(a) of the Planning Permit is varied so that with respect to the dwelling located at 400 Shelford - Mt Mercer Rd, Mt Mercer, Victoria 3352, in determining compliance with New Zealand Standard Acoustics – The Assessment and Measurement of Sound from Wind Turbine Generators' (NZS 6808:1998) the sound level from the wind energy facility, when measured outdoors within 10 metres of a dwelling at any relevant nominated wind speed, must not exceed the background level ( $L_{95}$ ) by more than 5dBA or a level of 42dBA  $L_{95}$ , whichever is the greater; and
- (b) not to make any complaint or bring any claim, action or proceeding in relation to sound levels arising from the operation of the Wind Energy Facility which comply with clause 5(a) of this Agreement; and
- (c) not to allow the Subject Land to be occupied by persons other than:
  - (i) themselves and members of their family

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## Section 173 Agreement

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- (ii) those who have an interest in the ownership and management of the Subject Land and members of their family; or
- (iii) persons who have otherwise received a financial benefit as a result of the Wind Energy Facility,

without the prior written consent of the Responsible Authority.

**ADVERTISED  
PLAN**

### 6. Further Obligations of the Owner

---

The Owner further consents to the Responsible Authority making an application to the Registrar of Titles to make a recording of this Agreement on the Certificate of Title to the Subject Land in accordance with Section 181 of the Act, and will do all things necessary to enable the Responsible Authority to make an application, including obtaining the consent of any mortgagee.

### 7. Responsible Authority's Costs to be Paid

---

MMWF will pay immediately on demand the reasonable costs and expenses (including legal expenses) of the Responsible Authority of and incidental to the preparation, review, execution and registration of this Agreement.

### 8. Further Assurance

---

The parties to this Agreement must do or cause to be done all things that are reasonably necessary to give effect to this Agreement.

### 9. Agreement Runs with the Subject Land

---

The parties acknowledge and agree that the obligations in this Agreement take effect as covenants annexed to the Subject Land that run at law and in equity with Subject Land and bind the Owner.

### 10. Owner's Warranties

---

Without limiting the operation or effect which this Agreement has, the Owner warrants that apart from the Owner and any other person who has consented in writing to this Agreement, no other person has any interest, either legal or equitable, in the Subject Land which may be affected by this Agreement.

### 11. Planning Objectives

---

The parties acknowledge that the provisions of this Agreement are intended to achieve or advance the Objectives of Planning in Victoria and the objectives of the Planning Scheme.

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## Section 173 Agreement

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### 12. Successors in Title

---

Without limiting the operation or effect which this Agreement has, the Owner must ensure that, until such time as a memorandum of this Agreement is registered on the title to the Subject Land, its successors in title must be required to:

- (a) give effect to and do all acts and sign all documents which will require those successors to give effect to this Agreement; and
- (b) execute a deed agreeing to be bound by the terms of this Agreement.

### 13. General Matters

---

#### 13.1 Service of Notice

A notice or other communication required or permitted to be served by a party on another party shall be in writing and may be served:

- (a) by delivering it personally on that party;
- (b) by sending it by pre paid post, addressed to that party at the address set out in this Agreement or subsequently notified to each party from time to time; or
- (c) by sending it by facsimile provided that a communication sent by facsimile shall be confirmed immediately in writing by the sending party by hand delivery or pre paid post.

#### 13.2 Time of Service

A notice or other communication is deemed served:

- (a) if delivered personally, on the next following business day;
- (b) if posted within Australia to an Australian address, two (2) business days after the date of posting and in any other case, seven (7) business days after the date of posting;
- (c) if sent by facsimile, on the next following business day unless the receiving party has requested retransmission before the end of that day; or
- (d) if received after 6.00pm in the place of receipt or on a day which is not a business day, at 9.00am on the next business day.

### 14. No Waiver

---

Any time or other indulgence granted by the Responsible Authority to the Owner or any variation of the terms and conditions of this Agreement or any judgement or order obtained by the Responsible Authority against the Owner will not in any way amount to a waiver of any of the rights or remedies of the Responsible Authority in relation to the terms of this Agreement.



## Section 173 Agreement

---

### 15. Jurisdiction

---

For the purposes of this Agreement, the parties acknowledge that they are subject to the jurisdiction of the Act and the Victorian Courts for the enforcement of this Agreement.

### 16. Severability

---

If a court, arbitrator, tribunal or other competent authority determines that a word, phrase, sentence, paragraph or clause of this Agreement is unenforceable, illegal or void then it shall be severed and the other provisions of this Agreement shall remain operative.

### 17. No Fettering of Responsible Authority's Powers

---

The parties acknowledge and agree that this Agreement does not fetter or restrict the power or discretion of the Responsible Authority to make any decision or impose any requirements or conditions in connection with the granting of any planning approval or certification of any plans of subdivision applicable to the Subject Land or relating to any use or development of the Subject Land.

### 18. Amendment

---

Subject to the consent of the Minister responsible for administering the Act, the parties may agree in writing to amend this Agreement.

### 19. Ending of Agreement

---

This Agreement will come to an end on agreement between the parties.

Once this Agreement ends, the Responsible Authority will, as soon as practicable following a request from the Owner and at the cost of MMWF, make application to the Registrar of Titles under Section 183(2) of the Act to cancel the recording of this Agreement on the register.

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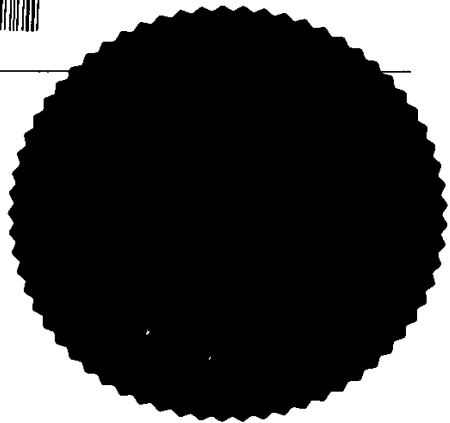
AJ960437C



Section 173 Agreement

# ADVERTISEE PLAN

Executed and delivered as a deed in Victoria



The Common Seal of the Golden Plains Shire Council was affixed in the presence of:

*[Handwritten Signature]*

Chief Executive Officer (ACTING)  
RICHARD TRIGG.

Print Name

*[Handwritten Signature]*

Councillor Signature  
WITNESS  
Alexa Morries

Print Name

Signed Sealed and Delivered by Robert William Rice in the presence of:

*[Handwritten Signature]*

Witness Signature  
Wayne Peter Bott.

Print Name

*[Handwritten Signature]*

Signature

Executed as a deed in accordance with section 127 of the Corporations Act 2001 by Mt Mercer Windfarm Pty Ltd:

*[Handwritten Signature]*

Director Signature

Print Name Peter Scott Lowe

*[Handwritten Signature]*

Director/Secretary Signature

Print Name RUTH KEATING