

AK865958T

30/01/2014 \$113 173



Section 181

APPLICATION BY A RESPONSIBLE AUTHORITY FOR THE MAKING OF A
RECORDING OF AN AGREEMENT

Section 181(1) Planning and Environment Act 1987

Lodged by:

Name: Littleton Jackford
Gippsland Legal Conveyancing
Phone: 5172 2444
Address: 119 Hotham Street, Traralgon
Reference:
Customer Code: 1130E

The Authority in 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 for the land.

Land	Volume 08605	Folio 701
	Volume 08605	Folio 702
	Volume 08605	Folio 703

Authority Latrobe City Council
PO Box 264
MORWELL VIC 3840

Section and Act under which agreement made:

Section 173
Planning and Environment Act 1987

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A copy of the Act agreement is attached to this application

Signature of Authority:

Name of Officer:

Yvonne Burtin

Designation of Officer:

City Planning Admin

Date:

18 December 2013

Planning and Environment Act Regulations - 9.1

THIS AGREEMENT is made on this 16 day of December two thousand and thirteen.

BETWEEN:

THE LATROBE CITY COUNCIL of 141 Commercial Road, Morwell (hereinafter called "the Council") of the first part;

and

DAVID IAN MITCHELL of Shop 13, Harbour Plaza, Thompson Road, Patterson Lakes, Victoria 3197 ("the Owner") of the second part

WHEREAS:

A. The Owner is the registered proprietor of the land described in certificate of title volume 08605 folio 701, volume 08605 folio 702 and volume 08605 folio 703 (hereinafter called "the subject land") and has made an application to the Council as the Responsible Authority under the Latrobe Planning Scheme (hereinafter called "the Scheme") for a permit to subdivide the subject land.

B. The Council has granted Planning Permit no. 2012/3 dated 16 March 2012 and (hereinafter called "the Permit") for the subdivision of the subject land subject to conditions including a condition as follows:-

"Prior to the issue of a statement of compliance, the operator of this permit must: enter into an Agreement with the Responsible Authority, made pursuant to Section 173 of the *Planning and Environment Act 1987* (the Act), that:

a. requires any future development of the land on Lot 3 on Plan of Subdivision approved on Planning Permit 2012/3 must address both street frontages (Shakespeare Street and Murphy Crescent);

b. make application to the Registrar of Titles to register the Section 173 Agreement on the title to the land under Section 181 of the Act;

c. pay the reasonable costs of the preparation, review, and execution and registration of the Section 173 Agreement;

d. provide Council with a copy of the dealing number issued by the Titles Office;

e. once titles are issued, provide either:

i. a current title search; or

ii. a photocopy of the duplicate Certificate of Title

as evidence of registration of the Section 173 Agreement on title.'

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- C. The owner has prepared Plan of Subdivision number 711197N in accordance with the Permit.

NOW THIS AGREEMENT DOES WITNESS AS FOLLOWS:

1. In this Agreement unless inconsistent with the context or subject matter:-
"The Owner" shall mean the person or persons entitled from time to time to be registered by the Registrar of Titles as the proprietor or proprietors of an estate in fee simple of the subject land.
2. The Owner with the intent that this covenant shall run with the land hereby covenants and agrees:-
 - that any future development of the land on Lot 3 on Plan of Subdivision approved on Planning Permit 2012/3 must address both street frontages (Shakespeare Street and Murphy Crescent);
 - that every dwelling erected on a lot in the Plan of Subdivision must be connected, in a proper and workmanlike manner to the reasonable satisfaction of the Responsible Authority, prior to the Occupancy Permit being issued for the dwelling to either –
 - i) a stormwater holding tank which includes:
 - a permanent plumbed connection from every dwelling; and
 - a stormwater holding tank as shown on the site drainage plan 1100117-01-41000 as approved by Latrobe City Council dated 21 May 2012, a copy of which is attached to this agreement; or,
 - ii) an alternative stormwater solution first approved in writing by the Responsible Authority which requires the Owner to submit the following documents, prepared by an appropriately qualified engineer, to the Responsible Authority for the review:
 - engineering plans; and
 - hydraulic calculations.
 - That site drainage plan 1100117-01-41000 as approved by Latrobe City Council dated 21 May 2012 becomes an attachment to this S173 agreement.
3. The Council and the Owner have agreed that without restricting or limiting their respective powers to enter into this Agreement and insofar as it can be so treated this Agreement shall be treated as being an Agreement under Section 173 (1) of the *Planning & Environment Act 1987*.

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4. 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.
5. The Owner agrees to do all things necessary to enable the Council to enter a memorandum of this Agreement on the Certificate of Title to the subject land in accordance with Section 181 of the Act including signing of any further agreement, acknowledgement or document to enable the said memorandum to be registered under that section.
6. Without limiting the operation or effect that 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, successors in title shall 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.
7. The Owner covenants and agrees to pay the Council's costs of and incidental to the execution of this Agreement and the registration of a memorandum of the Agreement at the Office of Titles pursuant to Section 181 of the Act and any duties or fees payable in connection with either the Agreement or the registration of the memorandum at the Office of Titles.
8. This Agreement will end pursuant to Section 177 of the Act. As soon as reasonably practical after the Agreement has ended, the Council will, at the request and at the cost of the Owner make application to the Registrar of Titles under Section 183(2) of the Act to cancel the recording of this Agreement on the register.
9. A notice or other communication required or permitted to be served by a party on another party must be in writing and may be served:-
 - (a) be delivering it personally to that party;
 - (b) by sending it by prepaid 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 prepaid post.

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A notice or other communication is deemed served:-

- (d) if delivered, on the next following business day;
- (e) if posted, on the expiration of two business days after the date of posting;
or,
- (f) if sent by facsimile, on the next following business day unless the receiving party has requested retransmission before the end of that business day.

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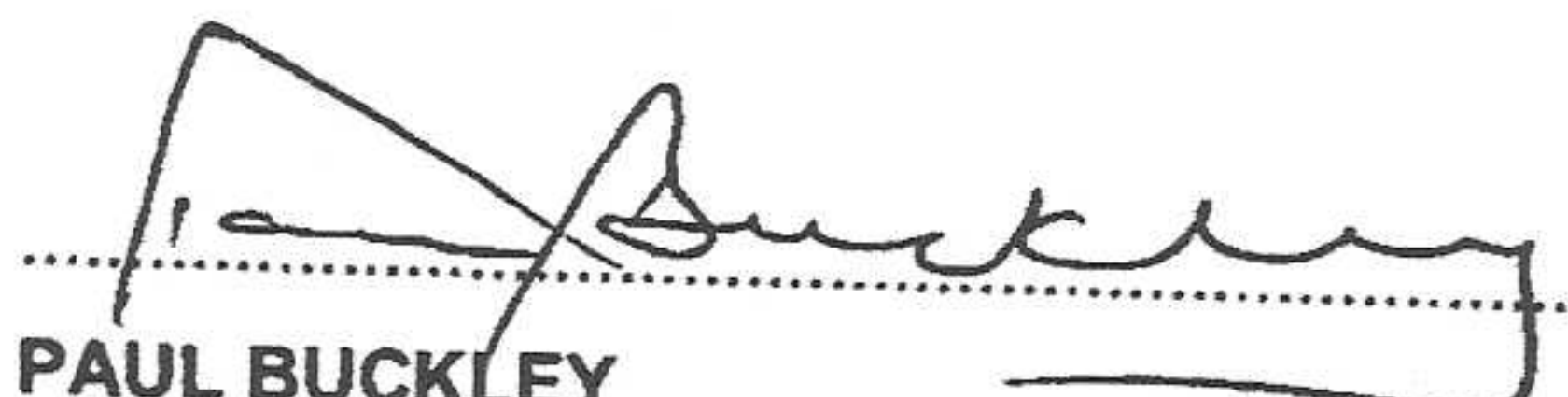
EXECUTED BY THE PARTIES on the date set out at the commencement of this Agreement.

The **Common Seal of Latrobe City Council**)
was affixed in accordance with Local Law No.1)
this day of 2013)

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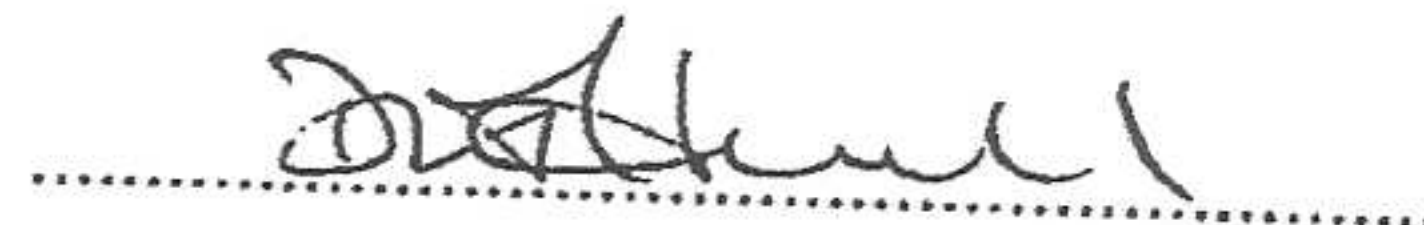
In the presence of:


.....
PAUL BUCKLEY
Chief Executive Officer

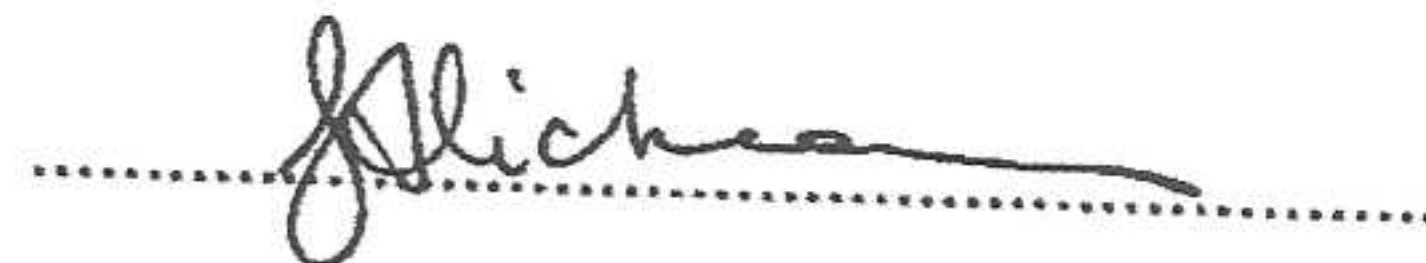
And

Signed by the said

DAVID IAN MITCHELL


.....

In the presence of (witness):


.....

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