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[Barcode]



SECTION 181

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

Planning and Environment Act 1987

Lodged by:

Name: *BST heyer*
Phone:
Address:
Ref: *E*
Customer Code: *570*

The 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 for the land.

Land: Volume 10046 Folio 938 Volume 0677 Folio 374
Volume 6226 Folio 048 Volume 10050 Folio 625
Authority: COLAC OTWAY SHIRE of 2-6 Rae Street, Colac 3250

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

A copy of the Agreement is attached to this Application.

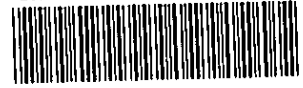
Signature of the Authority: *[Signature]*
Name of Officer: *ROBERT WAYNE SMALL*
Date: *2/11/09*

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**COLAC OTWAY SHIRE
AND
ROMAN CATHOLIC TRUSTS CORPORATION FOR THE
DIOCESE OF BALLARAT**

SECTION 173 AGREEMENT

Site: 189-243 Pound Road, Colac

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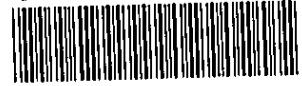
Barristers & Solicitors
38 Lydiard Street South
Ballarat, 3350
Telephone: (03) 5333 8888

OUR REF: BRAD MATTHEWS
20933339

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SECTION 173 AGREEMENT

Parties:

- 1. COLAC OTWAY SHIRE of 2-6 Rae Street, Colac 3250 ("the Responsible Authority"); and
- 2. ROMAN CATHOLIC TRUSTS CORPORATION FOR THE DIOCESE OF BALLARAT of 5 Lyons Street South, PO Box 121, Ballarat Vic 3353 ("the Owner")

Executed as a Deed on the 28 day of October 2009

THE COMMON SEAL of the COLAC OTWAY SHIRE was hereto affixed in accordance with its Local Laws No. 4:



[Signature]
.....
Chief Executive Officer

THE COMMON SEAL of THE ROMAN CATHOLIC TRUSTS CORPORATION FOR THE DIOCESE OF BALLARAT was hereto affixed in the presence of:

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+ P. J. Lannon
.....
Bishop

[Signature]
.....
Member

[Signature]
.....
Trustee

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SECTION 173 AGREEMENT

RECITALS:

- A. The Owner is the registered proprietor of the land at 189-243 Pound Road, Colac being the land known as Crown Allotment 129 Parish of Colac and described in Certificates of Title Volume 10046 Folio 938 (hereinafter referred to as "the Land");
- B. The Owner is also the registered proprietor of the land being Crown Allotment 113 Parish of Colac described in Certificate of Title Volume 0677 Folio 374, Lot 1 on TP 401872R being part of that described in Certificate of Title Volume 6226 Folio 048 and Lot 1 PS304089M described in Certificate of Title Volume 10050 Folio 625 ("the adjoining land");
- C. The expression "**Owner**" shall be deemed to include the Owner's successors, assignees and transferees and the obligations imposed upon and assumed by the Owner in respect to the land of which it is registered as proprietor shall also be binding on its successors, transferees, purchasers, mortgagees, assigns and any person obtaining possession of whole or part of the Land ("**the Successors**") as if each of those Successors had separately executed this Agreement;
- D. The land is affected by the provisions of the Colac Otway Planning Scheme ("the Scheme");
- E. The Authority is the responsible authority under the Planning & Environmental Act 1987 ("the Act") for the purposes of the Scheme;
- F. A reference to the words "**Responsible Authority**" includes its successors as Responsible Authority for the Planning Scheme in which case any reference to the holder of an office with the Responsible Authority shall be deemed to be a reference to such office of the successor Responsible Authority as that Responsible Authority may designate;
- G. A reference to the words "**Planning Scheme**" includes any planning control in the form of or similar to a planning scheme and being a successor to the Colac Otway Planning Scheme;

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- H. A reference to the words "the facility" includes the land and buildings used for the purposes of education and associated uses;
- I. Pursuant to the Planning Permit No. 127/2009 ("the Permit") the Authority has allowed the owner to construct an administrative centre in accordance with endorsed plans ("the Works");
- J. Conditions 1 of the Permit requires the owner to enter into an Agreement pursuant to Section 173 of the Planning and Environment Act 1987 prior to the issue of a building permit;
- K. The parties enter into this Agreement to give effect to Condition 1 of the Permit.

OPERATIVE PROVISIONS:

1. OPERATION

- 1.1. This agreement is entered into pursuant to Section 173 of the Act.
- 1.2. This agreement shall come into force on the execution by all parties.
- 1.3. The covenants of this agreement shall run with the land.

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2. OWNERS CONSTRAINTS

The Owner agrees:

- 2.1. The carpark approved by planning permit PP334/07 must be used as a carpark in association with the education and related uses facility ("the Facility") situated on the Land and Adjoining Land.
- 2.2. The Works allowed by the Permit must only be used as an office in association to the Facility situated on the Adjoining Land.
- 2.3. That the Land and the Adjoining Land must not (either wholly or in part) be individually sold, leased, or otherwise disposed of separately whilst all or part of the Land or Adjoining Land continues to be being used as the Facility.

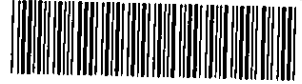
3. REGISTRATION

The parties shall do all things necessary to enable the Authority to register this agreement pursuant to section 181 of the Act.

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4. **COST OF AGREEMENT**

The Owner forthwith on demand shall pay to the Authority the Authority's costs and expenses of and incidental to this agreement and of anything consequent on it or in furtherance of it.

5.. **NOTIFICATION TO SUCCESSORS IN TITLE**

5.1 The Owner will not sell, transfer, assign or otherwise part with possession of the Land or any part thereof until this Agreement and the Section 181 Application has been lodged with Land Victoria by or on behalf of the Responsible Authority and entered on the Certificate of Title to the Land.

5.2 The Owner will not sell, transfer, assign or otherwise part with possession of the Land or any part thereof without first disclosing to the intended purchaser, transferee or assignee the existence and nature of this Agreement.

5.3 The Owner and the Responsible Authority acknowledge and agree that this Agreement is made pursuant to Section 173 of the Act and during the period of this Agreement the obligations imposed on the Owner are conditions on which the Land may be used or developed for specified purposes and are intended to take effect as covenants which shall be annexed to and run at law and in equity with the Land and bind the Owner, its successors in title, assignees and transferees and the registered proprietor and proprietors for the time being of the Land and every part of the Land.

6. **ENDING OF AGREEMENT**

In the future if this Agreement shall in the opinion of the Authority ever become null and void the Authority will make application to the Registrar of Titles under section 183(2) of the Act to cancel the recording of this Agreement on the register PROVIDED THAT Authority shall not be obliged to make such an application until it has been requested to do so by the Owner and the Owner has paid the Authority's costs in relation to the making of that application, including any legal fees incurred by Authority and any fees payable to the Land

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Titles Office and any costs payable pursuant to Clause 6 of this Agreement which remain unpaid at that time.

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