

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

Page 1 of 1

VOLUME 11163 FOLIO 504

Security no : 124122900755C
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LAND DESCRIPTION

Lot 1 on Plan of Subdivision 613134L.
PARENT TITLE Volume 08444 Folio 790
Created by instrument PS613134L 10/10/2009

**ADVERTISED
PLAN**

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
HAWKESDALE LAND PTY LTD of "MERLINDA PARK" 1966 PENSHURST-WARRNAMBOOL ROAD
WARRONG VIC 3283
AU638921A 30/07/2021

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AU638922X 30/07/2021
RABOBANK AUSTRALIA LTD

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 set out under DIAGRAM LOCATION below.

AGREEMENT Section 173 Planning and Environment Act 1987
AG088273U 17/09/2008

DIAGRAM LOCATION

SEE PS613134L 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)

Street Address: 1950 PENSHURST-WARRNAMBOOL ROAD WARRONG VIC 3283

ADMINISTRATIVE NOTICES

NIL

eCT Control 16667Y GADENS LAWYERS
Effective from 30/07/2021

DOCUMENT END

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

Page 1 of 2

VOLUME 11163 FOLIO 505

Security no : 124122901032A
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LAND DESCRIPTION

Lot 2 on Plan of Subdivision 613134L.
PARENT TITLE Volume 08444 Folio 790
Created by instrument PS613134L 10/10/2009

**ADVERTISED
PLAN**

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
D.J. & V.B. WARE PASTORAL PTY LTD of 1966 PENSHURST-WARRNAMBOOL ROAD
HAWKESDALE VIC 3287
AJ632859F 01/05/2012

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AQ224835L 08/09/2017
RABOBANK AUSTRALIA LTD

CAVEAT AY772698P 13/01/2025
Caveator
HAWKESDALE ASSET PTY LTD ACN: 643793711
Grounds of Claim
LEASE WITH THE FOLLOWING PARTIES AND DATE.
Parties
THE REGISTERED PROPRIETOR(S)
Date
05/12/2024
Estate or Interest
LEASEHOLD ESTATE
Prohibition
ABSOLUTELY
Lodged by
BAKER & MCKENZIE
Notices to
BAKER MCKENZIE - JOSH BALDACCHINO of LEVEL 19 181 WILLIAM STREET MELBOURNE
VIC 3000

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AGREEMENT Section 173 Planning and Environment Act 1987
AG088273U 17/09/2008

DIAGRAM LOCATION

SEE PS613134L FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NUMBER		STATUS	DATE
AY772698P (E)	CAVEAT	Registered	13/01/2025
AY785842M (E)	WITHDRAWAL OF CAVEAT	Registered	15/01/2025

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

Page 2 of 2

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

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

Street Address: PENSHURST-WARRNAMBOOL ROAD WARRONG VIC 3283

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Document Type	Plan
Document Identification	PS613134L
Number of Pages (excluding this cover sheet)	2
Document Assembled	17/03/2025 16:58

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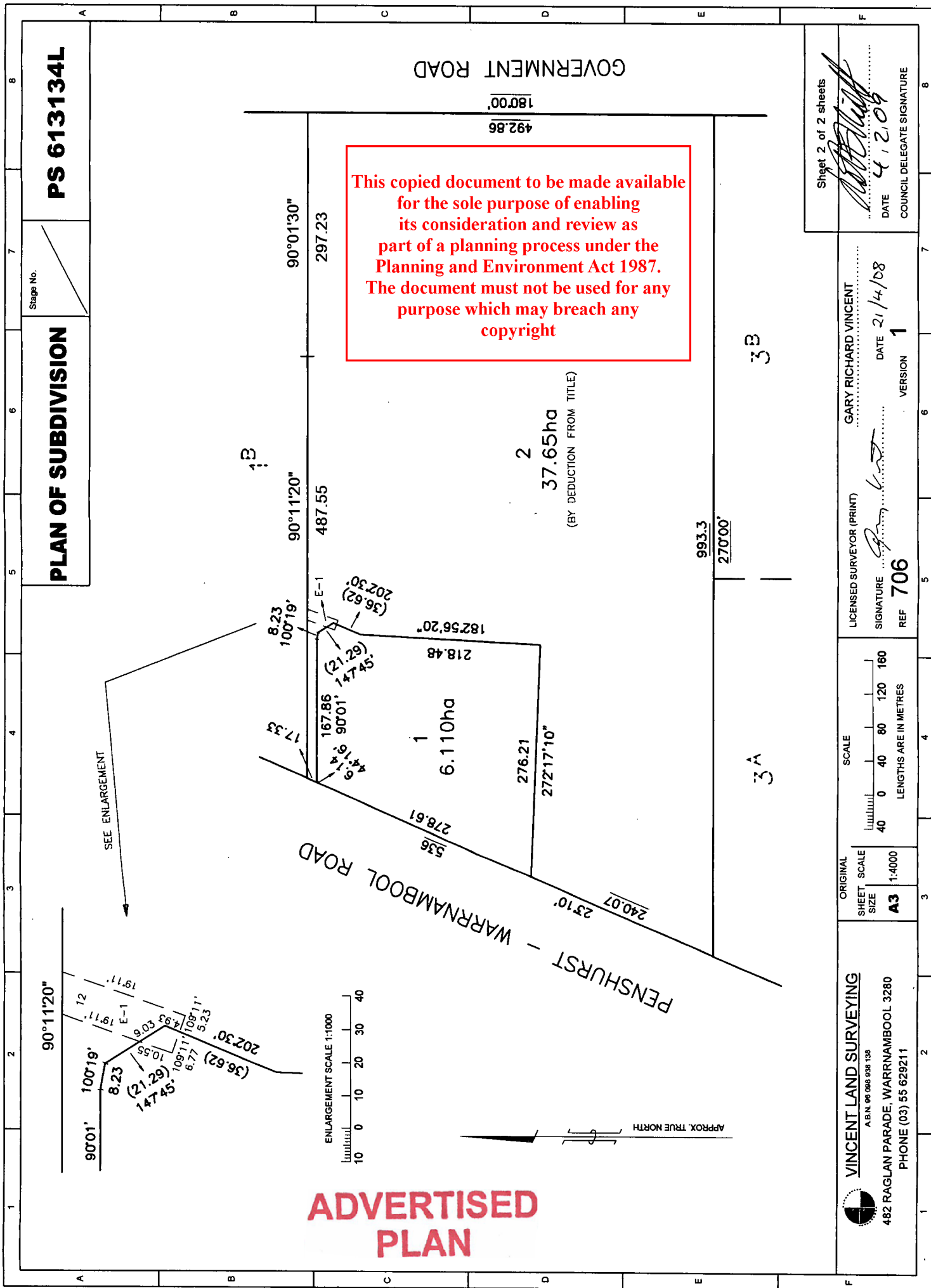
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PLAN OF SUBDIVISION				Stage No. <div style="border-bottom: 1px solid black; height: 20px; width: 50px; margin: 0 auto;"></div>	LR use only EDITION	PS613134L 20/08/2009 \$869.80 PS
Location of Land Parish: WILLATOOK Township: _____ Section: 17 Crown Allotment: 2A & 2B Crown Portion: _____ Title Reference: Vol 8444 Fol 790 Last Plan Reference: _____ Postal Address: 1950 PENSHURST-WARRNAMBOOL ROAD HAWKESDALE 3287 MGA Co-ordinates: E 616 240 (Of approx. centre of plan) N 5 775 670 Zone 54				Council Certification and Endorsement Council Name: MOYNE SHIRE COUNCIL Ref: SuB 07/0059 1. This plan is certified under section 6 of the Subdivision Act 1988. 2. This plan is certified under section 11 (7) of the Subdivision Act 1988. Date of original certification under section 6 1/1 3. This is a statement of compliance issued under section 21 of the Subdivision Act 1988. Open Space (i) A requirement for public open space under section 18 Subdivision Act 1988 has not been made. (ii) The requirement has been satisfied. (iii) The requirement is to be satisfied in Stage Council Delegate Council seal Date 4.2.09		
Vesting of Roads or Reserves				<div style="border: 2px solid red; padding: 10px; color: red; font-weight: bold;"> This copied document to be made available for notations purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach any copyright. </div>		
Identifier		Council/Body/Person				
NIL		NIL				
Depth Limitation: DOES NOT APPLY				This plan is not a staged subdivision. Planning Permit No. PL 07/084 Dimensions shown are not the result of this survey. The area of lot 2 has been obtained by deduction from title. Survey:- This plan is based on survey. To be completed where applicable. This survey has been connected to permanent marks no(s). 26 & 27 In proclaimed Survey Area no. _____		
Easement Information						LR use only Statement of Compliance / Exemption Statement Received <input checked="" type="checkbox"/> Date 20 / 08 / 2009
Legend: E - Encumbering Easement or Condition in Crown Grant in Nature of an Easement A - Appurtenant Easement R - Encumbering Easement (Road)						LR use only PLAN REGISTERED TIME 11.27am DATE 10 / 10 / 2009 Mark Cagdas Assistant Registrar of Titles Sheet 1 of 2 sheets DATE 4.2.09 COUNCIL DELEGATE SIGNATURE Original sheet size A3
Subject Land	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of		
E-1	POWERLINE	12	THIS PLAN (SEC 88 ELECTRICITY INDUSTRY ACT 2000)	POWERCOR AUSTRALIA LTD.		
VINCENT LAND SURVEYING A.B.N. 96 098 938 138 482 RAGLAN PARADE, WARRNAMBOOL 3280 PHONE (03) 55 629211				LICENSED SURVEYOR (PRINT) GARY RICHARD VINCENT SIGNATURE DATE 21/4/08 REF 706 VERSION 1		



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Document Type	Instrument
Document Identification	AG088273U
Number of Pages (excluding this cover sheet)	9
Document Assembled	06/05/2025 12:39

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APPLICATION BY A RESPONSIBLE AUTHORITY

Section 181 Planning and Environment Act 1987 for
ENTRY OF A MEMORANDUM OF AGREEMENT
under Section 173 of the Act

Lodged by:

Name: Bassetts Legal

Phone: (03) 5523 3900

Address: 134 Percy Street, Portland (DX 30508)

Ref: WEB: 08 1011

Customer Code: 0462H



AG088273U

17/09/2008 \$99.90 173



MADE AVAILABLE/CHANGE CONTROL

Office Use Only

899.90.

The Responsible Authority under the Planning Scheme having entered into an agreement with the parties named for the land described requires that a memorandum of the agreement be entered on the title to the land.

~~Land: Lot 1 & 2 on the plan attached to the annexed agreement being the whole of~~

The land being described in Certificate of Title Volume 8444 Folio 790

Address of the Land:

Warrnambool-Penshurst Road, Warrong

Responsible Authority:

Moyne Shire Council

Planning Scheme:

Moyne Planning Scheme

Agreement Date:

Agreement With:

Peter Alexander Kelly and Paul Johnson Kelly
of 1950 Warrnambool-Penshurst Road,
Warrong

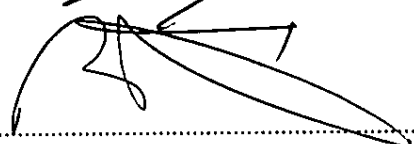
A copy of the agreement is attached to this application

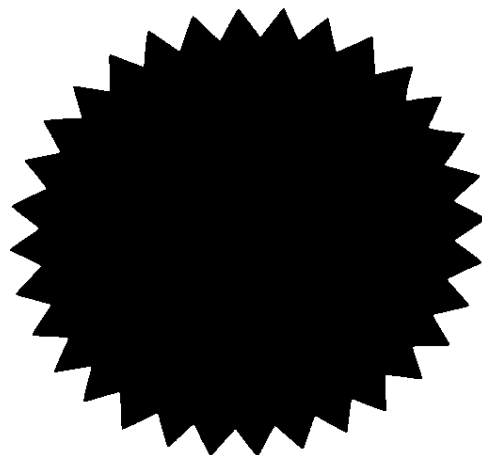
Dated: 26 August 2008

THE COMMON SEAL of MOYNE SHIRE)

COUNCIL was hereunto affixed in the presence of:)


.....Councillor


.....Chief Executive Officer



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**AGREEMENT PURSUANT TO SECTION 173 OF
THE PLANNING & ENVIRONMENT ACT 1987**

**ADVERTISED
PLAN**

MOYNE SHIRE COUNCIL

and

PETER ALEXANDER KELLY and PAUL JOHNSON KELLY

AFFECTED LAND: Crown Allotments 2A and 2B Section 17 Parish of Willatook, being the land contained in Certificate of Title Volume 8444 Folio 790 situate at Warrnambool-Penshurst Road, Warrong.

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**BASSETTS LEGAL
Barrister & Solicitor
134 Percy Street, Portland 3305
Tel: (03) 5523 3900 Fax: (03) 5521 1444
DX 30508 Portland
WEB: 08 1011**

ADVERTISED PLAN

THIS AGREEMENT is made the 26th day of August, 2008.

BETWEEN: **MOYNE SHIRE COUNCIL** of Princess Street, Port Fairy, Victoria 3284 ("the Council") of the first part

-and-

PETER ALEXANDER KELLY and PAUL JOHNSON KELLY
of 1950 Warrnambool-Penshurst Road, Warrong, Victoria 3287 ("the Owners") of the second part

WHEREAS:

- 1.1 The Owners are registered as the proprietors of the following land situate at Warrnambool-Penshurst Road, Warrong the land more particularly described in Certificate of Title 8444 Folio 790 and being Lots 1 & 2 on the attached Plan of Subdivision ("the Land").
- 1.2 The Land is affected by the provisions of the Moyne Planning Scheme.
- 1.3 The Council is the responsible authority under the Planning & Environment Act 1987 ("the Act") for the purpose of the Moyne Planning Scheme.
- 1.4 The Council on 18 April, 2007 issued Planning Permit No. PL07/084 for the subdivision of the Land in accordance with the attached Plan of Subdivision ("the Subdivision Plan").
- 1.5 Under the conditions attached to the Planning Permit by the Council, the Council has required the Owners to enter into this agreement with the Council in respect of the proposed Lots on the Subdivision Plan.
- 1.6 The parties enter this agreement in satisfaction of the Planning Permit condition.

BY THIS AGREEMENT IT IS AGREED AND COVENANTED:

2. OPERATION

- 2.1 This agreement is made pursuant to the provisions of Section 173 of the Act.
- 2.2 This agreement shall come into force on its registration pursuant to Section 181 of the Act.
- 2.3 The burden of the covenants of this agreement shall run with the land.

3. DEFINITIONS

In this Agreement the terms and words set out in this clause shall have the following meanings unless otherwise indicated by the context:-

- 3.1 "Lots" shall mean Lots 1 & 2 created by the Subdivision Plan.
- 3.2 "Owner" In this agreement the word "Owner" unless the contrary intention appears shall be deemed to include Peter Alexander Kelly and Paul Johnson Kelly their



ADVERTISED PLAN

successors assigns and transferees and the obligations imposed on and assumed by Peter Alexander Kelly and Paul Johnson Kelly shall be binding on the successors transferees purchasers mortgagees assigns of Peter Alexander Kelly and Paul Johnson Kelly and any person obtaining possession of the whole or part of the land as if each of those successors separately executed this agreement; and

If the Owner holds the land in a trust capacity, "Owner" shall include the beneficiaries of the trust in relation to which it holds such land. Where such trust relationship exists the Owner in executing this agreement does so intending to assume not only personal liability, but also to bind the trust for which it acts as trustee.

If the Owner is constituted by more than one person any obligation imposed by this agreement on the Owner shall be imposed on those persons jointly and severally.

- 3.3 "Council" shall include the Council's successors.
- 3.4 "Permit" shall mean Planning Permit No.PL07/084 issued by the Council on 18 April, 2007.
- 3.5 "The Act" shall mean the Planning and Environment Act (as amended) 1987.

4. INTERPRETATION

In this agreement, unless the context otherwise requires:

- 4.1 Words denoting the singular number shall include the plural and vice versa.
- 4.2 Words denoting any gender shall include all genders.
- 4.3 Where a word or phrase is defined, other parts of speech and grammatical forms of that word or phrase shall have corresponding meanings.
- 4.4 Words denoting natural persons shall include firms, corporations and other corporate bodies.
- 4.5 Reference to clauses and schedules are to clauses of and schedules to this agreement.
- 4.6 Headings are for convenience only and do not affect interpretation.
- 4.7 References to any party to this agreement or any other agreement or instrument shall include the party's successors and permitted assigns.
- 4.8 Reference to any agreement or instrument shall be also to such agreement or instrument as amended novated supplemented varied or replaced from time to time.
- 4.9 References to any legislation or to any provision of any legislation shall include any modification or re-enactment of that legislation and any legislative provision substituted for, and all regulations and statutory instruments issued under, such legislation or provision.
- 4.10 As the case may be, a reference to a right or obligation of any two or more persons confers that right, or imposes that obligation, jointly and severally.

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ADVERTISED PLAN

5. COVENANTS OF THE OWNERS – FURTHER SUBDIVISION PROHIBITED

The Owners agree and acknowledge that the land may not be further subdivided so as to increase the number of lots.

6. COST OF AGREEMENT

The Owners shall pay the costs and expenses of and incidental to this agreement and of any consequent on it or in furtherance of it.

7. DEFAULT

If the Owner fails to comply with this agreement the Council may serve on the Owner or on the owner of that part of the land in respect of which there has been failure of compliance a notice in writing specifying the works, matters and things ("the Remedial Works") in respect of which the relevant owner is in default. If such default continues for thirty days after the service of such notice the Council by its employees or contractors may enter upon the land and cause the Remedial Works to be done.

A notice served on the Owner pursuant to this clause may set out the costs (as estimated by the Council) of carrying out the Remedial Works. If the Owner does not comply with the notice within thirty days the Council may serve on the Owner a demand in writing for the amount of the estimated costs. The amount then shall become a debt due and payable by the relevant owner to the Council.

As soon as practicable after the completion of the Remedial Works the Council shall certify the actual costs of the Remedial Works. The difference between a sum paid to the Council as the estimated costs, and the actual costs, shall be paid by the relevant owner to the Council or if there is excess, repaid by the Council to the relevant owner.

8. COUNCIL AS ATTORNEY FOR OWNER

The Owner hereby appoints the Council as its attorney to do all things the Owner is capable of doing for the purposes of giving effect to this agreement or necessary to give effect to any of the duties or obligations imposed on the Owner pursuant to this agreement and hereby authorises the Council to do and will ratify whatever the Council lawfully shall do or cause to be done under this power of attorney.

9. NOTICES

Any notice required under this agreement shall be in writing and may be served by delivering it to the Owners at their last known address within the rating records of the Council. Any notice posted shall be deemed to have been served at the expiration of twenty-four hours from the time of posting.

10. SUCCESSORS BOUND

Without limiting the operation or effect which this agreement has apart from the sub-clause, the Owner shall ensure that its successors:-

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10.1 Give effect to and do all acts and sign all documents which are required of them to give effect to this agreement; and

10.2 Execute under seal a deed agreeing to be bound by the terms of this agreement.

The obligations imposed on the Owner by sub-clause 1 of this clause shall cease for such time as there appears in the register book at the office of the Registrar of Titles a memorandum of this agreement.

11. DISPUTE

Should any dispute or difference arise between the parties with respect to the interpretation of this agreement or its application, such dispute or difference shall be determined by a person appointed by the parties by agreement, or failing agreement, by a person qualified in the area of the dispute or difference and appointed by the Secretary as defined in the Act.

12. REGISTRATION

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

13. NO WAIVER

Any time or other indulgence granted by the Council to the Owners or any of them or any variation of the terms and conditions of this Agreement will not in any way amount to a waiver of any of the rights or remedies of the Council in relation to the terms of this Agreement.

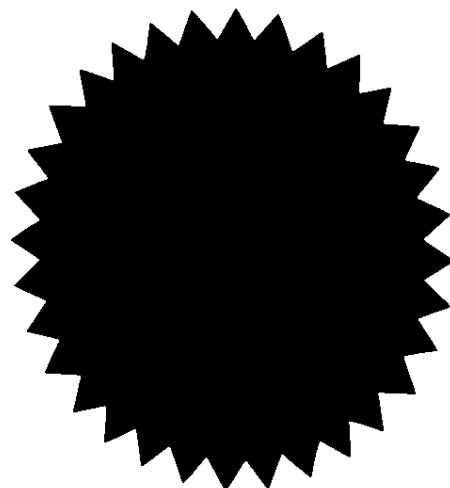
14. RELEASE

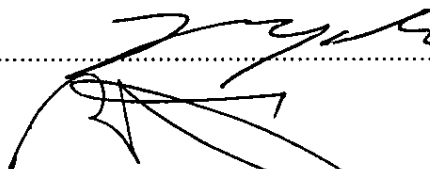
On a person ceasing to own any part of the land, that person shall be released from the obligations of that person as an owner under this agreement, save to the extent that any right has arisen against such owner prior to such cessation.

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EXECUTED as a Deed.

THE COMMON SEAL of MOYNE SHIRE)
COUNCIL was hereunto affixed this 26)
day of August, 2008 in the presence of:)



.....Councillor

.....Chief Executive Officer

SIGNED SEALED AND DELIVERED by the
said **PETER ALEXANDER KELLY**
in the presence of:

)
)
)

Peter A. Kelly
P. A. Kelly

[Signature]

WITNESS

SIGNED SEALED AND DELIVERED by the
said **PAUL JOHNSON KELLY**
in the presence of:

)
)
)

Paul J. Kelly
P. J. Kelly

[Signature]

WITNESS

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14-MAY-2008 10:02

VINCENT

55629211

P. 02

PLAN OF SUBDIVISION				Stage No. <div style="text-align: center;">/</div>	LR use only EDITION										
Location of Land Parish: WILLATOOK Township: _____ Section: 17 Crown Allotment: 2A & 2B Crown Portion: _____ Title Reference: Vol 8444 Fd 790 Last Plan Reference: _____ Postal Address: 1950 PENSHURST-WARRNAMBOOL ROAD HAWKESDALE 3287 MSA Co-ordinator: E 616 240 (Of approx. centre of plan) M 5 775 670 Zone 54				Council Certification and Endorsement Council Name: MOYNE SHIRE COUNCIL Ref: _____ 1. This plan is certified under section 8 of the Subdivision Act 1988. 2. This plan is certified under section 11 (7) of the Subdivision Act 1988. Date of original certification under section 8 / / 3. This is a statement of compliance issued under section 21 of the Subdivision Act 1988. Open Space (i) A requirement for public open space under section 18 Subdivision Act 1988 has / has not been made. (ii) The requirement has been satisfied. (iii) The requirement is to be satisfied in Stage _____ Council Delegate: _____ Council seal: _____ Date: / /											
Vesting of Roads or Reserves				<div style="text-align: right; font-size: 24pt; font-weight: bold;">AG088273U</div> <div style="display: flex; justify-content: space-between; font-size: 10pt;"> 17/09/2008 \$99.90 173 </div>											
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%;">Identifier</th> <th style="width: 50%;">Council/Body/Person</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">NIL</td> <td style="text-align: center;">NIL</td> </tr> </tbody> </table>	Identifier	Council/Body/Person	NIL	NIL	Notations Depth Limitation: DOES NOT APPLY										
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NIL	NIL														
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Easement Information				LR use only Statement of Compliance / Exemption Statement Received <input type="checkbox"/> Date / / LR use only PLAN REGISTERED TIME DATE / / Assistant Registrar of Titles <div style="text-align: center;">Sheet 1 of 2 sheets</div>											
Legend: E - Encumbering Easement or Condition in Crown Grant in Nature of an Easement A - Appurtenant Easement R - Encumbering Easement (Road)				<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;">Subject Land</th> <th style="width: 20%;">Purpose</th> <th style="width: 10%;">Width (Metres)</th> <th style="width: 20%;">Origin</th> <th style="width: 40%;">Land Benefited/In Favour Of</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">E-1</td> <td style="text-align: center;">POWERLINE</td> <td style="text-align: center;">12</td> <td style="text-align: center;">THIS PLAN (SEC 88 ELECTRICITY INDUSTRY ACT 2000)</td> <td style="text-align: center;">POWERCOR AUSTRALIA LTD.</td> </tr> </tbody> </table>		Subject Land	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of	E-1	POWERLINE	12	THIS PLAN (SEC 88 ELECTRICITY INDUSTRY ACT 2000)	POWERCOR AUSTRALIA LTD.
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VINCENT LAND SURVEYING <small>A.M.S. 90 000 000 100</small> 462 RAGLAN PARADE, WARRNAMBOOL 3280 PHONE (03) 55 629211				LICENCED SURVEYOR (PRINT): GARY RICHARD VINCENT SIGNATURE DATE REF 706 VERSION 1											
DATE / / COUNCIL DELEGATE SIGNATURE Original sheet size A3			 DATE / / COUNCIL DELEGATE SIGNATURE											

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