

Land Use Activity Agreement

being part of the Recognition and Settlement Agreement under s 4 of the *Traditional Owner Settlement Act 2010* (Vic)

between

Dja Dja Wurrung Clans Aboriginal Corporation

Indigenous Corporation Number 4421

and

the State of Victoria

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Date 28 March 2013

**Dja Dja Wurrung Clans Aboriginal Corporation
Indigenous Corporation Number 4421**

(the Corporation)

and

the State of Victoria

(the State)

Background

- A. This Land Use Activity Agreement forms part of the Recognition and Settlement Agreement entered into by the Parties on 28 March 2013 under s 4 of the *Traditional Owner Settlement Act 2010* (Vic) (the Act).
- B. For the purposes of s 32 of the Act, this Land Use Activity Agreement:
 - (a) specifically lists Land Use Activities the carrying out of which are subject to this Land Use Activity Agreement; and
 - (b) specifies which of the listed Land Use Activities are Routine Activities, Advisory Activities, Negotiation Activities, Class A, Negotiation Activities, Class B, or Agreement Activities.
- C. The Act provides for the procedures that apply to Negotiation Activities and Agreement Activities specified in this Land Use Activity Agreement.
- D. The Act also provides for the Minister to make directions as to the notification of, and consultation with, the Corporation regarding any proposals to carry out Advisory Activities specified in this Land Use Activity Agreement.

Agreed terms

1. Parties

The Parties to this Land Use Activity Agreement are:

- (a) the Corporation; and
- (b) the State.

2. Registration and Effective Date (s 72(1) and s 73(1) of the Act)

- (a) Pursuant to s 72(1) of the Act, on entering into this Land Use Activity Agreement, the Minister must lodge this Land Use Activity Agreement with the Registrar for registration on the Register of Land Use Activity Agreements.

- (b) This Land Use Activity Agreement comes into effect on the date of the first Business Day after the last of the following pre-conditions occurs:
 - (i) notice of the registration of this Land Use Activity Agreement is published in the Government Gazette; and
 - (ii) the ILUA is registered on the Register of Indigenous Land Use Agreements; and
 - (iii) the Minister has issued directions in accordance with s 34 of the Act.

3. Ministerial Consent

The consent of any Minister (other than the Minister entering into this Land Use Activity Agreement) required under s 30(3) of the Act is attached at Schedule 1.

4. Aboriginal Cultural Heritage

- (a) The Parties do not intend this Land Use Activity Agreement, or any agreement made under Division 3 of Part 4 of the Act, to result in any inconsistency with the *Aboriginal Heritage Act 2006* (Vic) and procedures or instruments pursuant to that statute.
- (b) If any matter arises in connection with this Land Use Activity Agreement that is covered by the *Aboriginal Heritage Act 2006* (Vic) or a procedure or an instrument made pursuant to that statute, then the Parties:
 - (i) acknowledge that the relevant procedures under the *Aboriginal Heritage Act 2006* (Vic) regarding that matter will apply; and
 - (ii) agree not to duplicate or seek to duplicate any of the procedures referred to in clause 4(b)(i).
- (c) For the avoidance of doubt, to the extent that the *Aboriginal Heritage Act 2006* (Vic) deals with matters relating to Aboriginal Cultural Heritage, any protection given under that Act against prosecution will only apply where parties have complied with the requirements of the *Aboriginal Heritage Act 2006* (Vic).

5. Agreement Land (s 31(2)(a) of the Act)

5.1 Definition of Agreement Land

- (a) Subject to clauses 5.1(b) and 5.1(c), the Land Use Activity Agreement applies to the area described in Item 1 of Schedule 2.
- (b) This Land Use Activity Agreement does not apply to the areas specified in item 2 of Schedule 2.
- (c) This Land Use Activity Agreement will cease to apply to an area or part of an area described under clause 5.1(a) in the event that a Land Use Activity that is specified in item 3 of Schedule 2 is carried out in relation to that area or part of that area.

- (d) This Land Use Activity Agreement will cease to apply to an area or part of an area to which clause 5.1(c) applies immediately on the carrying out of the relevant Land Use Activity.

5.2 Variation of Agreement Land

The Parties will take all reasonable steps to ensure that, areas specified under item 2.2 of Schedule 2 are included in the Agreement Land through a variation to this Land Use Activity Agreement under clause 17 in the event that the Parties agree that the basis for excluding the area has been removed, ceased or no longer has effect.

6. Traditional Owner Rights recognised in the Recognition and Settlement Agreement

- (a) The traditional owner rights recognised in the Recognition and Settlement Agreement in accordance with s 9 of the Act are:
 - (i) to enjoy the culture and identity of the Dja Dja Wurrung;
 - (ii) to maintain a distinctive spiritual, material and economic relationship with the land and the natural resources on or depending on the land;
 - (iii) to access and remain on the land;
 - (iv) to camp on the land;
 - (v) to use and enjoy the land;
 - (vi) to take natural resources on or depending on the land;
 - (vii) to conduct cultural and spiritual activities on the land; and
 - (viii) to protect places and areas of importance on the land.

7. Emergency situations

- (a) Pursuant to s 39 of the Act this Land Use Activity Agreement is not to be taken to prevent or impose any requirements on the carrying out of any activity by a Decision Maker in an emergency for the purpose of protecting property, life or the environment.
- (b) The State will make reasonable efforts to inform the Corporation in relation to any activities to which clause 7(a) applies as soon as practicable.

8. Land Use Activities to which this Land Use Activity Agreement applies

- (a) Pursuant to s 32(1) of the Act this Land Use Activity Agreement only applies to the Land Use Activities listed under clauses 9 to 12.
- (b) This Land Use Activity Agreement does not apply to a Land Use Activity specified in item 6 of Schedule 3, even if, but for this clause 8, this Land Use Activity Agreement would otherwise apply to it.

9. Routine Activities

9.1 Activities to which this clause applies

The Land Use Activities specified in item 1 of Schedule 3 are Routine Activities.

9.2 Earth Resource and Infrastructure Authorisations for exploration or prospecting

- (a) Pursuant to s 33(2) of the Act, the granting of any Earth Resource Or Infrastructure Authorisation for the purpose of exploration or prospecting under any of the following acts:
- (i) the *Mineral Resources (Sustainable Development) Act 1990*;
 - (ii) the *Petroleum Act 1998*;
 - (iii) the *Geothermal Energy Resources Act 2005*;
 - (iv) the *Offshore Petroleum and Greenhouse Gas Storage Act 2010*; or
 - (v) the *Greenhouse Gas Geological Sequestration Act 2008*;
- on the terms specified in Schedule 4 is a Routine Activity.
- (b) As part of the initial outcomes review under clause 11.2 of the Recognition and Settlement Agreement, the Parties agree that the review will include, but not be limited to, the degree of compliance with the terms specified in Schedule 4.

10. Advisory Activities

10.1 Activities to which this clause applies

The Land Use Activities specified in item 2 of Schedule 3 are Advisory Activities.

10.2 Ministerial directions as to Advisory Activities

- (a) The Parties acknowledge that a Decision Maker who proposes to carry out an Advisory Activity in the Agreement Land must comply with any Ministerial direction given under s 34(1) of the Act that may apply from time to time to the carrying out of that activity.
- (b) A draft direction for the Minister's consideration is attached at Schedule 5.
- (c) The Parties acknowledge that under s 34(3) of the Act the Minister may, after consulting with the Corporation, vary or revoke a direction given under s 34(1) of the Act from time to time.
- (d) The Parties acknowledge that if the Minister revokes a direction given under s 34(1) of the Act, the Minister must, as soon as possible after doing so, give further written directions as to the matters covered by the revoked direction.

- (e) The State will send the Corporation a copy of any Ministerial direction given or varied under s 34 of the Act, at the same time as it is sent to Decision Makers.
- (f) This clause is not intended to fetter the Minister's discretion in making any direction under s 34 of the Act.

11. Negotiation Activities

11.1 Negotiation Activities, Class A

- (a) The Land Use Activities specified in item 3 of Schedule 3 are Negotiation Activities, Class A.
- (b) Pursuant to s 32(3)(b) of the Act, a Land Use Activity specified in item 3 of Schedule 3 must be a Significant Land Use Activity.
- (c) Without derogating from clause 11.1(a), the Parties agree that the granting of any Earth Resource Or Infrastructure Authorisation for the purposes of exploration or prospecting under any of the following acts:
 - (i) the *Mineral Resources (Sustainable Development) Act 1990* (Vic);
 - (ii) the *Petroleum Act 1998* (Vic);
 - (iii) the *Geothermal Energy Resources Act 2005* (Vic);
 - (iv) the *Petroleum (Submerged Lands) Act 1982* (Vic);
 - (v) the *Offshore Petroleum and Greenhouse Gas Storage Act 2010* (Vic); or
 - (vi) the *Greenhouse Gas Geological Sequestration Act 2008* (Vic);on terms other than those specified in Schedule 4 are Negotiation Activities, Class A.

11.2 Negotiation Activities, Class B

- (a) The Land Use Activities specified in item 4 of Schedule 3 are Negotiation Activities, Class B.
- (b) Pursuant to s 32(3)(a) of the Act, a Land Use Activity specified in item 4 of Schedule 3 must be either a:
 - (i) Limited Land Use Activity; or
 - (ii) Significant Land Use Activity.

12. Agreement Activities

- (a) The Land Use Activities specified in item 5 of Schedule 3 are Agreement Activities.
- (b) Pursuant to s 32(3)(b) of the Act, a Land Use Activity specified in item 5 of Schedule 3 must be a Significant Land Use Activity.

- (c) The Corporation agrees to respond to a notification made under s 49 of the Act within a period of three months from the date that the notice comes into effect.

13. Activities that fall under more than one category of Land Use Activity

Subject to clause 9.2, if a Land Use Activity is capable of falling under more than one category in Schedule 3, a categorisation that provides a higher level of procedural rights to the Corporation takes precedence over a categorisation that provides a lower level of procedural rights to the Corporation.

14. Multiple activities may be treated as a single activity

For the purpose of s 37 of the Act, the Parties agree to follow the process specified in Schedule 6 to enable negotiations and decisions by the Corporation under this Land Use Activity Agreement in relation to the carrying out of two or more Land Use Activities on the land to be conducted as a joint process where each of the activities to be negotiated and decided relates to a single enterprise.

15. Review of listing and categorisation of Land Use Activities

- (a) The Parties will consider varying the Land Use Activities to which this Land Use Activity Agreement applies and their categorisation as part of the initial outcomes review under clause 11.2 and a periodic outcomes review under clause 11.3 of the Recognition and Settlement Agreement.
- (b) The Parties must consider varying the Land Use Activities to which this Land Use Activity Agreement applies and their categorisation when a change in law introduces, creates, varies or eliminates a land use activity which:
 - (i) is of the same type of a Land Use Activity which is categorised as an Agreement Activity or a Negotiation Activity; or
 - (ii) if permitted, would exclude or restrict public access in the area affected for a period of more than ten years.
- (c) When considering a proposed variation referred to in clause 15(a), the Parties may take into account any relevant consideration including:
 - (i) changes in technology;
 - (ii) changes in law;
 - (iii) the priorities of each Party;
 - (iv) clarifying the status of an act or an activity under this Land Use Activity Agreement; or
 - (v) additions to or changes regarding the categorisation of Land Use Activities under other registered Land Use Activity Agreements.
- (d) For the avoidance of doubt, any variation of the kind referred to in clause 15(a) is not intended to apply to Land Use Activities that have been done or carried out before the variation or change.

16. Community Benefits

- (a) The Parties agree that:
 - (i) the State will provide Community Benefits to the Corporation in accordance with Schedule 7;
 - (ii) any Community Benefits that are provided in accordance with Schedule 7 are full and final satisfaction of the Corporation's entitlement under the Act to any Community Benefits for any Land Use Activity to which the Community Benefits relate.
- (b) The Corporation agrees that neither the Corporation nor a member of the Corporation will seek or receive payments, pecuniary or otherwise, in return for the Corporation providing its agreement under Part 4 Division 3 to the Responsible Person in relation to a Land Use Activity to which a formula in Schedule 7 applies, unless:
 - (i) it is a Community Benefit Payment made in accordance with the formula in Schedule 7; or
 - (ii) it is a non-pecuniary Community Benefit provided by a Responsible Person who is not also the Decision Maker in relation to the Land Use Activity.
- (c) This clause 16 does not prevent the Corporation from negotiating with a Responsible Person for non-pecuniary Community Benefits in relation to a Land Use Activity to which this clause applies.
- (d) The Parties acknowledge that this clause does not affect the ability of either Party to apply under s 53 of the Act to the Victorian Civil and Administrative Tribunal for a determination.
- (e) The Parties agree that:
 - (i) the Corporation may apply in writing to the Minister requesting the payment of Community Benefits in accordance with the formula in Schedule 7 in relation to a Significant Land Use Activity that is granted on or after 28 March 2013 but before the Effective Date; and that is:
 - (A) a Public Land Authorisation that is listed in item 3, 4 or 5 in Schedule 3; or
 - (B) a grant of an estate in fee simple that is listed in Item 4 or 5 in Schedule 3; but is not:
 - (C) a Future Act; or
 - (D) listed in Item 2.2 of Schedule 2 (Planned Future Use);
 - (ii) the State will provide Community Benefits to the Corporation in accordance with the formula in Schedule 7 for a Significant Land Use Activity referred to in clause 16(e)(i) which meets all of the requirements listed in paragraphs 16(e)(i)(A) to (D); and

- (iii) for the avoidance of doubt, the State will continue to comply with its obligations pursuant to Division 3 of Part 2 of the *Native Title Act 1993* (Cth) in relation to any Future Act done on or in the Agreement Land.
- (f) The Parties will consider varying the thresholds of the formulae in Schedule 7 in accordance with the Consumer Price Index (Melbourne), land value increases (where applicable), and other indicators (as appropriate) as part of the initial outcomes review under clause 11.2 and the periodic outcomes reviews under clause 11.3 of the Recognition and Settlement Agreement.

17. Variation

- (a) This Land Use Activity Agreement may only be varied by the Parties by agreement in writing.
- (b) The Parties acknowledge that under s 38 of the Act the provisions of Part 4 of the Act apply to any variation of this Land Use Activity Agreement as if the varying of the agreement were the entering into of a new agreement.
- (c) If this Land Use Activity Agreement requires re-registration due to a variation consented to in accordance with clause 17(a), in accordance with s 72(1), the Minister will seek to have this Land Use Activity Agreement re-registered on the Register of Land Use Activity Agreements.

18. Anti-avoidance

- (a) The State will not cause, or suffer, the alteration of the terms or conditions of a proposed Land Use Activity to which this LUAA would apply for the primary purpose of avoiding any of the following:
 - (i) a Land Use Activity that would otherwise be categorised as an Agreement Activity from falling into that category;
 - (ii) a Land Use Activity that would otherwise be categorised as a Negotiation Activity, Class A, from falling into that category;
 - (iii) a Land Use Activity that would otherwise be categorised as a Negotiation Activity, Class B, from falling into that category.
- (b) The State agrees that the allocation of a Commercial Lease will be subject to a competitive allocation process, unless an exemption to enter into direct negotiations is approved by the Relevant Land Minister or delegate.
- (c) The State agrees that where the allocation of a Commercial Lease falls into the Advisory category, and is intended to be allocated through a direct negotiation process to a person who has previously held a Lease over the same area of land, then the Decision Maker will notify the Corporation of this intent, and advise the Relevant Land Minister or delegate of any concerns raised by the Corporation within a period of 10 Business Days since the Corporation received the notification.

19. Definitions and Interpretation

19.1 Definitions

In this Land Use Activity Agreement, unless the context otherwise requires or a contrary intention appears:

Aboriginal Cultural Heritage has the same meaning as in s 4 of the *Aboriginal Heritage Act 2006* (Vic);

Act means the *Traditional Owner Settlement Act 2010* (Vic);

Advisory Activity means a Land Use Activity specified under clause 10;

Agreement Activity means a Land Use Activity specified under clause 12;

Agreement Area means the area defined in Schedule 1 of the Recognition and Settlement Agreement;

Agreement Land means the area defined in clause 5.1;

Business Day means any of the days from Monday to Friday inclusive, excluding days that are public holidays in Victoria;

Carbon Sequestration Agreement has the same meaning as in s 45 of the *Climate Change Act 2010* (Vic);

Commercial Lease, Commercial Licence, and Commercial Permit each means a Public Land Authorisation that is not, respectively, a Community Purpose Lease, Community Purpose Licence or Community Purpose Permit;

Commercial Purpose means any purpose other than:

- (a) the purpose of a Community Purpose Lease, Community Purpose Licence or Community Purpose Permit, and
- (b) the purpose of a Specified Public Work;

Community Benefit has the same meaning as in s 27(1) of the Act;

Community Benefit Payment has the same meaning as in s 27(1) of the Act;

Community Purpose Lease, Community Purpose Licence, and Community Purpose Permit each means a Public Land Authorisation that:

- (a) either:
 - (i) is granted for a purpose that is solely or primarily for community, social, religious, educational, health, charitable or sporting purposes; or
 - (ii) permits the use of land for providing services that are non-commercial in nature and aimed at improving community safety or welfare; and
- (b) is granted to an organisation that does not:

- (i) permit the distribution of profit to members;
- (ii) operate gaming equipment under the *Gambling Regulation Act 2003* (Vic); or
- (iii) have, or plan to have, a gross annual turnover of more than \$1 million in operating the leased premises;

Corporation means the Dja Dja Wurrung Clans Aboriginal Corporation (Indigenous Corporation Number 4421), or successor entity, being a Traditional Owner Group Entity;

Decision Maker has the same meaning as in s 29 of the Act;

Dispute means a dispute relating to the interpretation and operation of this Land Use Activity Agreement;

Dja Dja Wurrung has the same meaning as in the Recognition and Settlement Agreement;

Earth Resource Or Infrastructure Authorisation has the same meaning as in s 27(1) of the Act;

Effective Date means the day that this Land Use Activity Agreement comes into effect under clause 2(b);

Fisheries Authorisation means a licence or permit issued under the *Fisheries Act 1995* (Vic) that is an access licence (s 38), an aquaculture licence (s 43) or a general permit (s 49), but does not include the transfer or renewal of an access licence or aquaculture licence, under s 56 or s 57 of the *Fisheries Act 1995* (Vic);

Future Act has the same meaning as in s 233 of the *Native Title Act 1993* (Cth);

Government Party has the same meaning as in s 26 of the *Native Title Act 1993* (Cth);

Grantee Party has the same meaning as in s 29 of the *Native Title Act 1993* (Cth);

Indigenous Land Use Agreement or **ILUA** means the indigenous land use agreement under Subdivision C of Division 3 of Part 2 of the *Native Title Act 1993* (Cth) at Attachment 2 of the Recognition and Settlement Agreement;

Infrastructure means any:

- (a) Specified Public Work;
- (b) other building or man-made structure; or
- (c) work that has changed the natural condition or topography of the land;

Land Use Activity has the same meaning as in s 28 of the Act;

Land Use Activity Agreement means this agreement, including any schedules, annexures, attachments and appendices to this agreement;

Law means:

- (a) common law and equity; and
- (b) Commonwealth, Victorian or local government legislation, regulations, by-laws and other subordinate regulations;

Lease means, unless otherwise specified, a lease that is a Public Land Authorisation;

Licence means, unless otherwise specified, licence that is a Public Land Authorisation;

Limited Land Use Activity has the same meaning as in s 27(1) of the Act;

Major Public Work means a Specified Public Work that is listed under item 4(a) or (b) of Schedule 3;

Minister means the Minister administering the Act;

Minor Public Work means a Specified Public Work that is of the type listed under item 2(f) of Schedule 3;

Native Title and **Native Title Rights and Interests** have the same meaning as in s 223 of the *Native Title Act 1993* (Cth);

Native Title Party has the same meaning as in s 29 and s 30 of the *Native Title Act 1993* (Cth);

Negotiation Activity means a Land Use Activity specified under clause 11;

Negotiation Activity, Class A means a Land Use Activity specified under clause 11.1;

Negotiation Activity, Class B means a Land Use Activity specified under clause 11.2;

Old Earth Resource Approval has the same meaning as in s 73(4) of the Act;

Parties means the parties to this Land Use Activity Agreement, set out in clause 1;

Permit, unless otherwise specified, means a permit that is a Public Land Authorisation;

Public Land has the same meaning as in s 3 of the Act, which for the purposes of this Land Use Activity Agreement is not to be taken to mean land that is held in fee simple other than land that is Aboriginal title land held in fee simple by a traditional owner group entity;

Public Land Authorisation has the same meaning as in s 27(1) of the Act;

Recognition and Settlement Agreement means the recognition and settlement agreement of which this Land Use Activity Agreement forms a part, entered into by the Corporation and the State under s 4 of the Act dated 28 March 2013;

Register of Indigenous Land Use Agreements has the same meaning as in s 253 of the *Native Title Act 1993* (Cth);

Relevant Land Minister has the same meaning as in s 3 of the Act;

Responsible Person has the same meaning as in s 27 of the Act;

Routine Activity means a Land Use Activity specified under clause 9;

Settlement Package means the agreements entered into by the Parties in settlement of the Native Title determination applications in Federal Court proceedings VID6006/1998, VID 6001/1999, VID 6003/1999 and VID/6001/2000, being the Indigenous Land Use Agreement, the Traditional Owner Land Management Agreement and the Recognition and Settlement Agreement;

Significant Land Use Activity has the same meaning as in s 27(1) of the Act;

Specified Public Work has the same meaning as in s 27(1) of the Act;

State Agency means:

- (a) a government department;
- (b) a public statutory authority;
- (c) a government business enterprise; or
- (d) a committee of management where the Secretary of a State Agency is appointed as the committee of management,

but does not include any local government body.

Traditional Owner Group has the same meaning as in the Act;

Traditional Owner Group Entity has the same meaning as in the Act;

Traditional Owner Land Management Agreement means the traditional owner land management agreement under the *Conservation, Forests and Lands Act 1987* (Vic), attached to the Recognition and Settlement Agreement;

Traditional Owner Right has the same meaning as in s 9 of the Act and set out in clause 2.1 of the Recognition and Settlement Agreement;

Utility means:

- (a) a licensee under the *Water Industry Act 1994* (Vic);
- (b) an authority under the *Water Act 1989* (Vic);
- (c) a gas transmission company or gas distribution company under the *Gas Industry Act 2001* (Vic);
- (d) a distribution company, a transmission company or a generation company under the *Electricity Industry Act 2000* (Vic); or
- (e) a carrier under the *Telecommunications Act 1997* (Cth).

19.2 Interpretation

In this Land Use Activity Agreement, unless the context otherwise requires:

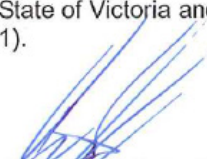
- (a) an expression defined in the Act has the same meaning when used in this Agreement;
- (b) a reference to any person includes a reference to that person's personal representatives, successors and transferees (whether by assignment, novation or otherwise pursuant to law);
- (c) a reference to any group includes a reference to the members of that group from time to time;
- (d) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any subordinate legislation or instruments of a legislative character issued under, that legislation or legislative provision;
- (e) the singular includes the plural and vice versa;
- (f) a reference to an individual or person includes a company, corporation, partnership, firm, joint venture, association (whether incorporated or not), body, authority, trust, state or government and vice versa;
- (g) a reference to a part, clause, sub-clause, schedule, or attachment is to a part, clause, sub-clause, schedule or attachment of or to this Land Use Activity Agreement;
- (h) the 'Background' paragraphs form part of this Land Use Activity Agreement;
- (i) a reference to any agreement, arrangement, understanding, document, deed or protocol is to that agreement, arrangement, understanding, document, deed or protocol (and, where applicable, any provisions) as amended, novated, supplemented or replaced from time to time;
- (j) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;
- (k) headings are included for convenience and do not affect the interpretation of this Land Use Activity Agreement; and
- (l) an agreement, representation or warranty on the part of or in favour of 2 or more persons binds or is for the benefit of them jointly and severally.

Schedule 1 Ministerial Consent (Clause 3)

I, Ryan Smith MP, as the Minister administering the:

- *Crown Land (Reserves) Act 1978*;
- *National Parks Act 1975*;
- *Forests Act 1958*;
- *Land Act 1958*; and
- *Wildlife Act 1975*;

for the purposes of sections 30(3)(a) and 30(3)(b) of the *Traditional Owner Settlement Act 2010* consent to the making of the Recognition and Settlement Agreement including a Land Use Activity Agreement under Part 4 of that Act between the State of Victoria and the Dja Dja Wurrung Clans Aboriginal Corporation (ICN 4421).



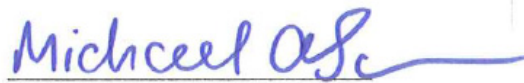
Ryan Smith MP
Minister for Environment and Climate Change

Dated 5/3/13

I, Michael O'Brien MP, as the Minister administering the:

- *Mineral Resources (Sustainable Development) Act 1990*;
- *Petroleum Act 1998*;
- *Pipelines Act 2005*;
- *Geothermal Energy Resources Act 2005*;
- *Greenhouse Gas Geological Sequestration Act 2008*; and

for the purposes of section 30(3)(a) of the *Traditional Owner Settlement Act 2010* consent to the making of the Recognition and Settlement Agreement including a Land Use Activity Agreement under Part 4 of that Act between the State of Victoria and the Dja Dja Wurrung Clans Aboriginal Corporation (ICN 4421).



Michael O'Brien MP
Minister for Energy and Resources

Dated 8/3/2013

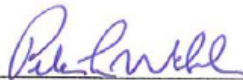
Land Use Activity Agreement
for the recognition of the Dja Dja Wurrung and settlement of Native Title claims

Schedule 1 Ministerial Consent (Clause 3)

I, Peter Walsh MP, as the Minister administering the:

- *Wildlife Act 1975*;
- *Forests Act 1958*;
- *Fisheries Act 1995*;
- *Water Act 1989*;

for the purposes of sections 30(3)(a) and 30(3)(b) of the *Traditional Owner Settlement Act 2010* consent to the making of the Recognition and Settlement Agreement including a Land Use Activity Agreement under Part 4 of that Act between the State of Victoria and the Dja Dja Wurrung Clans Aboriginal Corporation (ICN 4421).



Peter Walsh MP
Minister for Agriculture and Food Security
Minister for Water

Dated 14.3.2013

I, Gordon Rich-Phillips MLC, as the Minister administering Division 6 of Part I of the *Land Act 1958*, for the purposes of section 30(3)(c) of the *Traditional Owner Settlement Act 2010* consent to the making of the Recognition and Settlement Agreement including a Land Use Activity Agreement under Part 4 of that Act between the State of Victoria and the Dja Dja Wurrung Clans Aboriginal Corporation (ICN 4421).



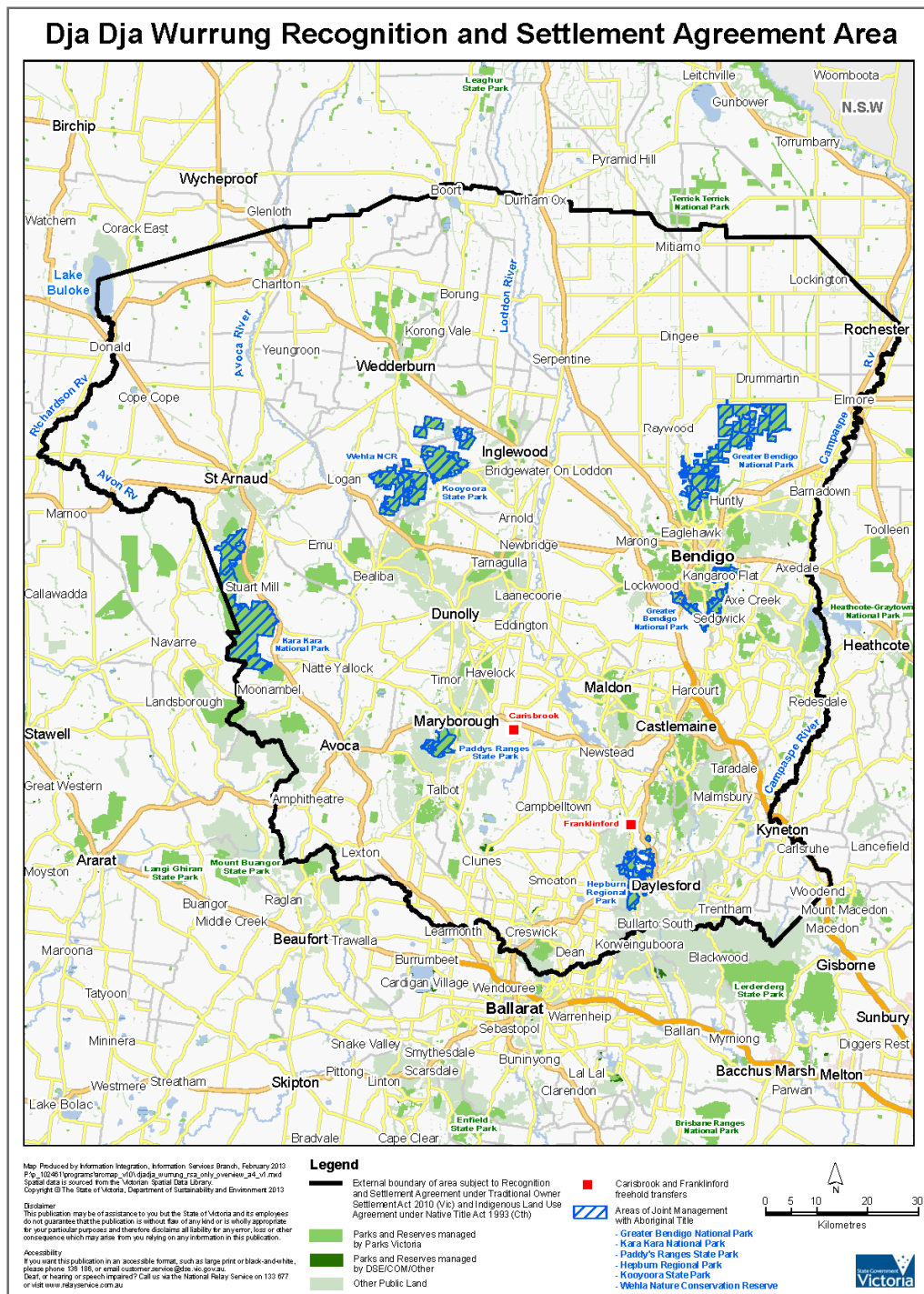
Gordon Rich-Phillips MLC
Assistant Treasurer

Dated 8/3/13

Schedule 2 Agreement Land (Clause 5)

1. Plan and written description

The Agreement Land is all the Public Land which falls within the boundary depicted on the map provided in this Item 1 being the boundary described in writing in this Item 1 also, subject to the exclusions in clauses 5.1(b) and (c) (items 2 and 3 below). Where there is any inconsistency between the map and the written description in this item 1, the written description shall prevail.



External boundary description

(Prepared by Geospatial Services, National Native Title Tribunal, 25 March 2013.)

The agreement area covers all the land and waters within the external boundary described as:

Commencing at a point within Lake Buloke at Longitude 142.958419° East, Latitude 36.259125° South and extending generally north easterly to a point on the centreline of Avoca River at Latitude 36.169881° South; then generally south easterly along that river to Latitude 36.170953° South; then easterly to the junction of the Jeruk River Road and Hobbs Road; then easterly along the centreline of Hobbs Road to the Boort – Charlton Road; then northerly and generally easterly along the centreline of that road to Whittaker Lane; then generally northerly along the centreline of that lane to the Boort – Wycheproof Road; then north westerly along the centreline of that road for about 140 metres to again Whittaker Lane; then generally northerly along the centreline of that lane to Latitude 36.102250° South; then generally easterly through a point at Longitude 143.716667° East, Latitude 36.100000° South to the centreline of the Boort – Kerang Road at Latitude 36.099845° South; then generally southerly along the centreline of that road to the Boort – Yando Road; then generally north easterly and generally easterly along the centreline of that road to the southern boundary of Allotment 1 on TP342620; then generally easterly along the southern boundaries of that allotment and Allotment 2 on TP668356, Allotment 2 on TP127482, Allotment 29, Section D in the Parish of Boort, Allotment 1 on TP219370, Allotment 1 on TP946523, again Allotment 1 on TP219370, Allotment 1 on TP863172 to its south east corner; then onwards to the centreline of the Loddon River Road; then generally south easterly along the centreline of that road to the Boort – Pyramid Road; then generally easterly along centreline of that road to the Loddon Valley Highway at Durham Ox; then across that highway to the Mologa – Durham Ox Road; then generally south easterly along the centreline of that road, the Bendigo – Pyramid Road, again the Mologa - Durham Ox Road, Mitiamo – Kerang Road, Boyds Pit Road, Mitiamo – Forest Road, Leechs Road, Mitiamo – Kow Swamp Road, Allens Lane, Wason Road, Clayton Road, Trimby Road and Echuca – Mitiamo Road to Longitude 144.515615° East (being in the vicinity of Palmer Road); then generally south easterly through Longitude 144.624766° East, Latitude 36.291375° South and Longitude 144.702843° East, Latitude 36.349049° South to the centreline of the Campaspe River at Latitude 36.351124° South (at Rochester); then generally south westerly along the centreline of that river to the Knowsley – Eppalock Road; then continuing generally southerly through Lake Eppalock along the centreline of the former river course to again meet the Campaspe River; then continuing generally southerly along the centreline of that river to where it crosses the Calder Freeway south of Carlsruhe; then generally south easterly along the centreline of Calder Freeway to Latitude 37.332399° South; then southerly to Longitude 144.553998° East, Latitude 37.350911° South; then south westerly to a point on the centreline of Burnt Mill Road at Longitude 144.423598° East; then generally north westerly along the centreline of that track for about 240 metres to an unnamed track; then generally north westerly along a series of unnamed tracks, generally following the ridge of the Great Dividing Range (as it is defined in the Dja Dja Wurrung Clans Aboriginal Corporation Registered Aboriginal Parties area boundary) for about 3.6 kilometres to Firth Road at Latitude 37.436348° South; then generally northerly along the centreline of that road for about 1 kilometre to Mill Road; then generally westerly along the centreline of that road for about 460 metres to XL Track; then generally northerly along the centreline of that track to its end at an unnamed track at Latitude 37.418918° South; then generally westerly along the centreline of that unnamed track for about 660 metres to its end; then generally westerly along the southern boundaries of the Dja Dja Wurrung Clans Aboriginal Corporation Registered Aboriginal Parties area until the eastern extent of an unnamed track at approximately Longitude 144.343787° East, Latitude 37.415804° South; then generally north westerly along the centreline of that track to Countess Track; then generally northerly along

the centreline of that track to Jim Dunn Track; then generally north westerly along the centreline of that track and Countess Road to Blackwood Road; then generally southerly along the centreline of that road and Old Blackwood Road to Tower Track; then generally south westerly along the centreline of that track to Latitude 37.426057° South; then westerly to the junction of Morris Lane and Beaches Lane; then generally north westerly along the centreline of Beaches Road to again Blackwood Road; then generally northerly along the centreline of that road to Kearneys Road; then generally westerly along the centreline of that road for about 2.2 kilometres to an unnamed track (located between Pines Track and Frenchman Track) at Longitude 144.264002° East; then generally south westerly along the centreline of that track to Frenchman Track; then generally southerly along the centreline of that track for about 300 metres to an unnamed track at Latitude 37.426006° South; then generally north westerly along the centreline of that track to Roach Road; then generally south westerly along the centreline of that road to Thomas Track; then generally north westerly along the centreline of that track to Pearces Road; then generally westerly, southerly and generally westerly along the centreline of that road, South Bullarto Road and Leonards Hill-South Bullarto Road to Longitude 144.169016° East; then generally westerly through the following coordinate points:

Longitude (East)	Latitude (South)
144.168847	37.419321
144.168603	37.419342
144.168378	37.419331
144.168127	37.419268
144.167881	37.419106
144.167711	37.418906
144.167394	37.418716
144.167171	37.418504
144.167008	37.418356
144.166517	37.418110
144.165877	37.417853
144.165467	37.417758
144.164912	37.417696
144.164203	37.417619
144.163802	37.417648
144.163429	37.417713
144.162825	37.417923
144.162257	37.418129
144.161773	37.418264
144.161104	37.418377
144.160360	37.418426

Then westerly to Leonards Hill-South Bullarto Road at Longitude 144.160221° East; then continuing generally westerly along the centreline of that road to Longitude 144.142023° East; then generally south westerly through the following coordinate points:

Longitude (East)	Latitude (South)
144.142013	37.421048
144.141762	37.421533

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Longitude (East)	Latitude (South)
144.141739	37.422098
144.141630	37.422525
144.141487	37.422838
144.140968	37.423283
144.140571	37.423787
144.140417	37.424260
144.140046	37.424858
144.139660	37.425456
144.139436	37.425991
144.139163	37.426394
144.138774	37.426778
144.138192	37.427115
144.137762	37.427402
144.137004	37.427870
144.136593	37.428152
144.136043	37.428363
144.135403	37.428601
144.134750	37.428720
144.134162	37.428787
144.133842	37.428647
144.133458	37.428413
144.132916	37.428098
144.132527	37.427843
144.132021	37.427546
144.131613	37.427366
144.131092	37.427222
144.130560	37.427026
144.130030	37.426725
144.129341	37.426261
144.128768	37.425885
144.128225	37.425615
144.127585	37.425370
144.127084	37.425181
144.126294	37.424809
144.126043	37.424609
144.125771	37.424376
144.125370	37.424034
144.125072	37.423796
144.124789	37.423626
144.124377	37.423412
144.123701	37.423203
144.123384	37.423251
144.122767	37.423296
144.122332	37.423452

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Longitude (East)	Latitude (South)
144.121781	37.423575
144.121347	37.423776
144.120938	37.424112
144.120518	37.424580
144.120162	37.425158
144.119866	37.425623
144.119545	37.426026
144.119110	37.426323
144.118484	37.426683
144.117602	37.427032
144.116786	37.427253
144.116126	37.427387
144.115758	37.427495
144.115441	37.427591
144.115105	37.427743
144.114768	37.427999
144.114482	37.428393
144.114357	37.428742
144.114364	37.429123
144.114421	37.429463
144.114538	37.429855
144.114621	37.430299
144.114685	37.430568
144.114917	37.430844
144.115216	37.431100
144.115535	37.431351
144.115870	37.431602
144.116131	37.431811
144.116468	37.432068
144.116797	37.432315
144.117022	37.432499
144.117040	37.432617
144.117020	37.432715
144.116924	37.432770
144.116821	37.432812
144.116658	37.432811
144.116478	37.432820
144.116218	37.432827
144.115794	37.432778
144.115454	37.432766
144.115129	37.432763
144.114762	37.432811
144.114544	37.432864
144.114290	37.432938

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Longitude (East)	Latitude (South)
144.113974	37.432986
144.113501	37.433000
144.112663	37.432945
144.111914	37.432912
144.111073	37.432870
144.110341	37.432854
144.109624	37.432939
144.109080	37.433070
144.108704	37.433298
144.108450	37.433457
144.108295	37.433595
144.108057	37.433687
144.107767	37.433780
144.107378	37.433844
144.106972	37.433886
144.106660	37.433882
144.106461	37.433922
144.106262	37.433961
144.105981	37.434055
144.105568	37.434161
144.105370	37.434192
144.105107	37.434211
144.104804	37.434225
144.104451	37.434202
144.104281	37.434176
144.104065	37.434107
144.103883	37.434016
144.103716	37.433938
144.103545	37.433879
144.102912	37.433787
144.102521	37.433842
144.102389	37.433994
144.102214	37.434237
144.101973	37.434616
144.101801	37.435023
144.101783	37.435350
144.101912	37.435699
144.101857	37.436076
144.102258	37.436348
144.102452	37.436715
144.102538	37.437115
144.102426	37.437599
144.102318	37.437968
144.102236	37.438351

Longitude (East)	Latitude (South)
144.102136	37.438799
144.101915	37.439225
144.101776	37.439558
144.101637	37.440052
144.101810	37.440369
144.102148	37.440646
144.102313	37.440860
144.102634	37.441215
144.102690	37.441619
144.102595	37.441879
144.102308	37.442195
144.101924	37.442442
144.101539	37.442649
144.101034	37.442789
144.100626	37.442822
144.100239	37.442717
144.099969	37.442656
144.099523	37.442616
144.099168	37.442590
144.098533	37.442575
144.098233	37.442648
144.097904	37.442720
144.097566	37.442861
144.097349	37.443046

Then south westerly to Leonards Hill – Barkstead Road at Latitude 37.443257° South; then generally south westerly along the centreline of that road to Rocklyn Road; then generally south westerly along the southern boundaries of the Dja Dja Wurrung Clans Aboriginal Corporation Registered Aboriginal Parties area to Codes Forrest Road at Longitude 143.906146° East, then generally north westerly along the centreline of that road and Kellys Lane to Latitude 37.464584° South; then generally north westerly through the following coordinate points:

Longitude (East)	Latitude (South)
143.857582	37.464454
143.857555	37.464423
143.857244	37.464222
143.856844	37.463836
143.856517	37.463535
143.856273	37.463269
143.855791	37.462924
143.855228	37.462542
143.854883	37.462367
143.854654	37.462275
143.854408	37.462187

Longitude (East)	Latitude (South)
143.853827	37.461988
143.853361	37.461853
143.852457	37.461615
143.851328	37.461415
143.850309	37.461336
143.849469	37.461376
143.849463	37.461375
143.849300	37.461396

Then westerly to Blackmore Road at Longitude 143.846167° East; then generally westerly along the centreline of Blackmore Road and Sulky Road to Gillies Road; then generally north westerly along the southern boundaries of the Dja Dja Wurrung Clans Aboriginal Corporation Registered Aboriginal Parties area to North South Track at Longitude 143.460795° East; then generally northerly along the centreline of that track and Ben Major Track to Latitude 37.310767° South; then generally north easterly and generally north westerly along the southern boundaries of the Dja Dja Wurrung Clans Aboriginal Corporation Registered Aboriginal Parties area (through the peak of Granite Hill) to again Ben Major Track at Latitude 37.295259° South; then generally north westerly and generally south westerly along the centreline of that track to Amphitheatre Road; then southerly along the centreline of that road to Flint Gully Road; then generally westerly along the centreline of that road to Longitude 143.374060° East; then generally north westerly and generally westerly along the top of the main ridge for about 2.5 kilometres as it is defined in the Wathaurung Aboriginal Corporation Registered Aboriginal Parties area boundary to the intersection of Little Breakneck Road, Fortes Road and F1a Road; then generally south westerly and generally northerly along the centreline of F1a Road, Forte Road, Tower Road, Hills Road, again Tower Road to its intersection with Mount Lonarch Road and continuing generally northerly along an unnamed track (as defined in the Victorian 1:25,000 topographic vector data) to the northern boundary of Allotment 4A, Section C in the Parish of Amphitheatre; then westerly along the northern boundary of that allotment to the centreline of a road reserve located east of the eastern boundary of Allotment 27, Section Z in the Parish of Amphitheatre; then generally north westerly along the centreline of that road reserve and onwards to the southern boundary of the Parish of Glenlogie; then generally westerly and generally northerly along the boundaries of that parish to Keiths Road; then generally north easterly along the centreline of that road to the prolongation easterly of the northern boundary of Allotment 22, Section A in the Parish of Glenpatrick; then westerly to the north eastern corner of that allotment; then westerly and generally northerly along the western boundaries of the Parish of Glenlogie to a corner at Latitude 37.175279° South; then generally northerly and generally north easterly through the following coordinate points:

Longitude (East)	Latitude (South)
143.324681	37.174990
143.324673	37.174719
143.324704	37.174369
143.324511	37.174046
143.324497	37.173584
143.324598	37.173211
143.324502	37.172840
143.324435	37.172492
143.324381	37.172110

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Longitude (East)	Latitude (South)
143.324243	37.171730
143.324116	37.171270
143.324093	37.171000
143.324229	37.170828
143.324343	37.170421
143.324528	37.170000
143.324840	37.169644
143.325077	37.169549
143.325183	37.169311
143.325127	37.168872
143.325123	37.168738
143.325466	37.168437
143.325795	37.168161
143.326212	37.167972
143.326681	37.167658
143.326880	37.167249
143.327282	37.167072
143.327721	37.166669
143.328178	37.166412
143.328283	37.166184
143.328297	37.165700
143.328174	37.165341
143.328230	37.164901
143.328235	37.164585
143.328057	37.164318
143.327835	37.163950
143.327800	37.163726
143.327845	37.163342
143.327892	37.163070
143.327611	37.162636
143.327392	37.162359
143.327428	37.162166
143.327644	37.161858
143.327927	37.161469
143.328341	37.161190
143.328790	37.161114
143.329283	37.161127
143.329730	37.161028
143.330049	37.160853
143.330249	37.160488
143.330011	37.160053
143.329848	37.159808
143.329834	37.159347
143.329880	37.159007

Longitude (East)	Latitude (South)
143.330096	37.158722
143.330709	37.158473
143.331121	37.158172
143.331420	37.157828
143.331678	37.157496
143.331734	37.157022
143.331854	37.156793
143.332189	37.156697
143.332542	37.156746
143.333047	37.156680
143.333711	37.156317
143.334114	37.156118
143.334543	37.155823
143.334915	37.155599
143.335067	37.155285
143.335152	37.154876
143.335551	37.154523
143.335837	37.154310
143.336383	37.154160
143.336802	37.154100
143.337151	37.153842
143.337428	37.153344

Then northerly to Point Patrick Track at Longitude 143.337624° East; then generally easterly and generally north easterly along the centreline of that track and Main Break to Latitude 37.135863° South; then generally north westerly passing through Longitude 143.348250° East, Latitude 37.105785° South to the centreline of Main Break at Longitude 143.338303° East; then generally westerly and generally north westerly along the centreline of that track and Blue Mountain Track to Barkly Track; then generally north easterly along the centreline of that track to Wild Dog Track; then continuing generally north easterly along that track for about 1.4 km to an unnamed track at a peak marked 540 in the as defined in the Victorian 1:25,000 topographic vector data; then generally northerly along that unnamed track to Salt Patch Track; then generally westerly along the centreline of that track to the eastern boundary of the Parish of Barkly; then northerly along that parish boundary to Latitude 37.004535° South; then generally northerly through the following coordinate points:

Longitude (East)	Latitude (South)
143.249710	37.004341
143.249310	37.004071
143.248830	37.003451
143.248537	37.002882
143.248479	37.002476
143.248448	37.001927
143.248347	37.001488
143.248095	37.001158

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Longitude (East)	Latitude (South)
143.247626	37.000868
143.246828	37.000654
143.246291	37.000279
143.245955	36.999841
143.245735	36.999419
143.245374	36.998908
143.245153	36.998468
143.244923	36.997695
143.244833	36.996994
143.244801	36.996533
143.244788	36.996090
143.244525	36.995637
143.244142	36.995344
143.243955	36.995047
143.243908	36.994661
143.243751	36.993562
143.243716	36.992977
143.243667	36.992520
143.243752	36.991788
143.243866	36.991414
143.244000	36.991097
143.244254	36.990663
143.244619	36.990327
143.244915	36.990092
143.245040	36.989956
143.245092	36.989792
143.245202	36.989447
143.245364	36.989226
143.245523	36.988922
143.245598	36.988434
143.245589	36.988120
143.245486	36.987664
143.245368	36.987308
143.245214	36.986910
143.244952	36.986501
143.244779	36.986060
143.244587	36.985606
143.244466	36.985108
143.244490	36.984735
143.244655	36.984288
143.245035	36.983866
143.245538	36.983370
143.245722	36.982966
143.245728	36.982566

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Longitude (East)	Latitude (South)
143.245533	36.981983
143.245280	36.981258
143.245125	36.980832
143.245228	36.980114
143.245251	36.979670
143.245306	36.979111
143.245472	36.978693
143.245567	36.978291
143.245447	36.977864
143.245209	36.977625
143.244593	36.977322
143.244163	36.977230
143.243870	36.976978
143.243558	36.976669
143.243156	36.976362
143.242591	36.975943
143.242154	36.975623
143.241754	36.975373
143.241226	36.974996
143.240971	36.974815
143.240859	36.974631
143.240798	36.974389
143.240840	36.974002
143.240865	36.973644
143.240625	36.973334
143.240584	36.973163
143.240629	36.972861
143.240760	36.972487
143.240977	36.971982
143.241108	36.971579
143.241256	36.971147
143.241474	36.970685
143.241482	36.970341
143.241431	36.969813
143.241295	36.969429
143.241137	36.968932
143.241017	36.968490
143.241078	36.968117
143.241298	36.967727
143.241539	36.967436
143.241727	36.967161
143.242113	36.966924
143.242464	36.966746
143.242815	36.966539

Longitude (East)	Latitude (South)
143.243273	36.966373
143.243928	36.966189
143.244424	36.966094
143.244594	36.965804
143.244741	36.965344
143.244909	36.964997
143.245170	36.964778
143.245520	36.964556
143.245960	36.964376
143.246531	36.964366
143.247042	36.964184
143.247583	36.963788
143.248197	36.963447
143.248508	36.963098
143.248742	36.962550
143.248907	36.962117
143.249017	36.961614
143.249090	36.961055
143.249216	36.960495
143.249485	36.959946
143.249689	36.959599
143.250015	36.959163
143.250183	36.958817
143.250371	36.958556
143.250398	36.958255
143.250580	36.957779
143.250766	36.957432
143.251072	36.956911
143.251525	36.956559
143.252154	36.956147
143.252785	36.955777
143.253259	36.955511
143.253682	36.955345
143.254601	36.955084
143.255309	36.954914
143.256132	36.954397

Then north easterly to the westernmost corner of Allotment 4A, Section K in the Parish of Redbank (being a corner of the Kara Kara National Park); then generally northerly, generally westerly and generally northerly again along the boundaries of that national park to the southernmost corner of Allotment 26B, Section E in the Parish of Barkly; then westerly along the boundary of that allotment to its westernmost corner; then north easterly across Frenchmans – St Arnaud Road to the southernmost corner of Allotment 26A, Section E in the Parish of Barkly; then north westerly, north easterly and easterly along the boundaries of that allotment and onwards to the centreline of Frenchmans – St Arnaud Road; then generally

north easterly along that road to Latitude 36.908991; then easterly to a corner of Allotment 54A, Section E in the Parish of Barkly at Latitude 36.909080° South; then generally easterly along the northern boundaries of that allotment to its eastern most corner, being a point on the boundary of the Kara Kara National Park; then easterly and generally north westerly along the western boundaries of that national park to the southern boundary of the Parish of Boola Boloke; then easterly along the southern boundary of that parish to Longitude 143.251864° East; then north westerly to a point on the Avon River at Beazleys Bridge at Longitude 143.166672° East; then generally north westerly along the centreline of that river to Latitude 36.695433° South (this section of the agreement area excludes any area which is subject to the VI2004/008 Wotjobaluk Jaadwa Jadawadjali Wergaia and Jupagulk ILUA); then continuing generally north westerly along the centreline of the Avon River to where it enters the Richardson River; then generally north easterly along the centreline of that river to Longitude 142.954154° East, being a point about 300 metres south of the southern shoreline of Lake Buloke; then northerly back to the commencement point.

Exclusions

The agreement area excludes any area covered by VI2004/008 Wotjobaluk Jaadwa Jadawadjali Wergaia and Jupagulk ILUA as registered on 11 November 2005.

Note

Data Reference and source

- Agreement boundary data compiled by National Native Title Tribunal based on data sourced from Department of Sustainability and Environment.
- Cadastre data sourced from Public Sector Mapping Agency (July 2012) or from Vicmap data supplied by Spatial Vision under licence from Department of Sustainability and Environment (2010).
- Parish boundary data sourced from Department of Sustainability and Environment, VIC (2006).
- Roads and watercourses based on Topographic vector data (1:25,000) sourced from Department of Sustainability and Environment, VIC.
- Registered Aboriginal Parties (RAP) boundaries sourced from Aboriginal Affairs Victoria, Department of Planning and Community Development, VIC (March 2013).
 - Dja Dja Wurrung Clans Aboriginal Corporation Registered Aboriginal Parties area as per the amendment made to the registered area on 7 February 2013.
 - Wathaurung Aboriginal Corporation Registered Aboriginal Parties area boundary as registered on 25 May 2009.
- VI2004/008 Wotjobaluk Jaadwa Jadawadjali Wergaia and Jupagulk ILUA as registered on 11 November 2005.

Reference datum

Geographical coordinates have been provided by the NNTT Geospatial Services and are referenced to the Geocentric Datum of Australia 1994 (GDA94), in decimal degrees and are based on the spatial reference data acquired from the various custodians at the time

Use of Coordinates

Where coordinates are used within the description to represent cadastral or topographical boundaries or the intersection with such, they are intended as a guide only. As an outcome to the custodians of cadastral and topographic data continuously recalculating the geographic position of their data based on improved survey and data maintenance procedures, it is not possible to accurately define such a position other than by detailed ground survey.

2. Areas to which this Land Use Activity Agreement does not apply

2.1 Existing Infrastructure

- (a) Land where Infrastructure that exists at the Effective Date has the effect of excluding or restricting public access, either practically or by regulation, continuously or from time to time; including:
 - (i) land that is necessary for, or incidental to, the operation of the Infrastructure including all of a leased area where the Infrastructure is on leased land; and/or
 - (ii) land adjacent or proximate to Infrastructure that is covered by a modification or extension of that Infrastructure; and/or
 - (iii) land on which the Infrastructure has been demolished to enable the replacement or refurbishment for the same purpose; and
 - (iv) specifically:
 - (A) the entire road reservation area, and the road, where the road has been constructed;
 - (B) railways and tramways and their respective reservations;
 - (C) that part of a cemetery or crematorium reserve or other area of Public Land that is being utilised as a cemetery or crematorium;
 - (D) public recreation facilities that are for organised sporting activities; and
 - (E) Major Public Works.
- (b) Item 2.1(a) does not apply to existing Minor Public Works.

- (c) Item 2.1(a) ceases to apply to Infrastructure if:
 - (i) the Infrastructure is removed so as to permit safe public access to the former footprint of the Infrastructure; or
 - (ii) the land on which the Infrastructure is located is granted, sold or transferred in a fee simple estate; or
 - (iii) the Infrastructure consists of a road which is sought to be upgraded.
- (d) In the case of item 2.1(c)(ii), item 2.1(a) ceases to apply immediately before the grant, sale or transfer.

2.2 Planned future use

- (a) Land that, at the Effective Date, was held in fee simple and that has since been purchased or acquired by the Crown for a Major Public Work.
- (b) Land in Bendigo (as notified by the State to the Corporation as soon as practicable after it is identified) that, at the time the Recognition and Settlement Agreement was signed, was held in fee simple and is to be purchased by the Crown for the purpose of constructing and operating a residential care facility for children in out-of-home care;
- (c) Crown land parcel P127623, which is the former Bendigo Gaol site at Gaol Road, Bendigo, to be redeveloped as the Bendigo Theatre Complex;
- (d) Crown allotment 2013 in the Township of Inglewood, which is a former General Practitioner's residence (adjacent the Inglewood & District Health Service) and which is to be sold in order to offset costs for building a new General Practitioner's residence in Inglewood.
- (e) Land in Bendigo with following Crown descriptions:
 - (i) PC353555 (135 Arnold St);
 - (ii) Allotment 4, Section 83C, at Bendigo Parish of Sandhurst (27 Drought St);
 - (iii) Allotment 3, Section 83C, at Bendigo Parish of Sandhurst (31 Drought St);
 - (iv) Lots 1 & 2, TP760480D (35 Drought St);
 - (v) PC364160 (37 Drought St);
 - (vi) Allotment 7, Section 83C, at Bendigo Parish of Sandhurst (100-104 Barnard St);
 - (vii) Allotment 2109, at Bendigo Parish of Sandhurst (38 Mercy St)
 - (viii) Allotment 1, Section 84C, at Bendigo Parish of Sandhurst (40 Mercy St)

- (ix) Allotment 5, Section 83C, at Bendigo Parish of Sandhurst (41 Mercy St)
- (x) Lot 1, TP824154P (42 Mercy St)
- (xi) Allotment 6, Section 83C, at Bendigo Parish of Sandhurst (43 Mercy St)
- (xii) Allotment 1, Section 84C, at Bendigo Parish of Sandhurst (44 Mercy St);
- (xiii) Allotment 2105, at Bendigo Parish of Sandhurst; and
- (xiv) Allotment 1, Section 54D, at Bendigo Parish of Sandhurst (62 Lucan St);

which is to be used for the purpose of constructing and operating a new Bendigo Hospital and associated facilities.

Note: If the planned future use does not proceed, the land may be added to the Agreement Land by a variation under clause 17.

2.3 Additional exclusions

- (a) This Land Use Activity Agreement does not apply to an area that meets a description below at the time the Recognition and Settlement Agreement was signed:
 - (i) Land that is vested in Victorian Rail Track by an Act of Parliament (whether or not it is Crown land);
 - (ii) Land that is vested in a municipality under s16 of the *Crown Land (Reserves) Act 1978*;
- (b) Item 2.3(a) ceases to apply to any area of land that is surrendered to, or otherwise resumed by, the Crown.

3. Excluded Areas

- (a) An area to which any of the following Land Use Activities are carried out in compliance with Division 3 of Part 4 of the Act on or after the Effective Date are excluded from the Agreement Land immediately on the carrying out of the activity:
 - (i) The grant of an estate in fee simple other than pursuant to s 19 of the Act.

Schedule 3 Land Use Activities (Clauses 9 to 12)

1. Routine Activities

- (a) A Public Land Authorisation (s 28 (a) of the Act) that is:
 - (i) An unused road Licence;
 - (ii) The transfer of an existing authorisation;
 - (iii) A new Licence or Permit for 10 years or less.
- (b) An Earth Resource Or Infrastructure Authorisation, where the exploration or prospecting is to be carried out in accordance with the conditions for carrying out such exploration or prospecting that are set out in Schedule 4 of this Land Use Activity Agreement (s 27, 28 (b) and 31(3) and (4) of the Act).
- (c) Maintenance and other low impact works (s 28 (e) of the Act) that include:
 - (i) Erection and maintenance of fences, gates and signage;
 - (ii) Maintenance of Infrastructure;
 - (iii) Maintenance of grounds, roads and tracks (e.g. weed control, grass cutting).
- (d) A Fisheries Authorisation (s 28 (ka), (kb) and (kc) of the Act) that is an:
 - (i) Access licence (s 38);
 - (ii) Aquaculture licence (s 43);
 - (iii) General permit (s 49).

2. Advisory Activities

- (a) A Public Land Authorisation (s 28 (a) of the Act) that is a:
- (i) Lease, Licence or Permit for Minor Public Works;
 - (ii) Bee farm and range Licence or Permit (apiculture);
 - (iii) Grazing or stock Licence;
 - (iv) Licence for forest produce (e.g. tree ferns, leaves, flowers, sleepers, eucalyptus oil, seed, posts, poles and timber);
 - (v) Licence for extractive materials (e.g. gravel, limestone, sand, salt);
 - (vi) Permit for recreation events (e.g. car rallies, rave parties, rogaining/orienteering, mountain biking);
 - (vii) An agricultural Lease covering less than 40 hectares, including Leases for plantations and aquaculture (specified agricultural Lease);
 - (viii) Licence for the construction of works on a waterway, or a bore;
 - (ix) Community Purpose Licence or Permit for more than 10 years;
 - (x) Community Purpose Lease for 21 years or less;
 - (xi) Commercial Lease for 10 years or less,
- excluding an authorisation that is associated with Major Public Works or that is listed at Item 1(a)(i) or 1(a)(ii) of this Schedule.
- (b) An Earth Resources Or Infrastructure Authorisation (s 28 (b) of the Act) that is:
- (i) Issued under the *Mineral Resource (Sustainable Development) Act 1990* (Vic) for the purposes of extracting stone from an existing reserve set aside for that purpose, or from a reserve recommended prior to the Effective Date for that purpose by the Victorian Environmental Assessment Council or its predecessors and approved by Government;
 - (ii) A pre-licence survey under Part 4 Division 2 of the *Pipelines Act 2005* (Vic) for a proposed pipeline that is for the purposes of the establishment, use or operation of any Specified Public Works (see s 27, Limited Land Use Activity (b) of the Act).
- (c) A management plan or working plan that is prepared under the:
- (i) *Fisheries Act 1995* (Vic) (s 28);
 - (ii) *National Parks Act 1975* (Vic) (s 17, 17B, 17D or 18);

- (iii) *Wildlife Act 1975* (Vic) (s 18 or s 32);
 - (iv) *Water Act 1989* (Vic) (s 31);
 - (v) *Forests Act 1958* (Vic) (s 22).
- (d) A change in the status of land that is the:
- (i) reservation, revocation of the reservation or change in the boundary of a reservation of land that is under the *Crown Land (Reserves) Act 1978* (Vic);
 - (ii) classification of a State Wildlife Reserve under s 15(2) of the *Wildlife Act 1975* (Vic);
 - (iii) dedication, excision, setting aside, declaration or proclamation, or the revocation, variation or alteration of a declaration or proclamation, of land under ss 45, 49, 50(1) or 58 of the *Forests Act 1958* (Vic).
- (e) A land management activity that is the:
- (i) Planned controlled burning of the land (s 28 (d) of the Act);
 - (ii) Regeneration works and associated activities (s 28 (f) of the Act);
 - (iii) Rehabilitation of vegetation, or a river, creek or stream (s 28 (e) or (f) of the Act);
 - (iv) Destruction of rabbit warrens (s 28 (f) of the Act).
- (f) The construction of Infrastructure (s 28 (e) of the Act), that is a Specified Public Work, or that does not require a Public Land Authorisation, other than a Major Public Work, that is, or is similar to, a:
- (i) Fish ladder;
 - (ii) Sport or recreation facility (unless earth moving is required);
 - (iii) Walking track;
 - (iv) Other track (where there is an existing footprint);
 - (v) Road improvement (from one class to another);
 - (vi) Car park;
 - (vii) Pump, bore or other works on a waterway;
 - (viii) Lighting of public places;
 - (ix) Jetty or wharf;
 - (x) Tide gauge;

- (xi) Navigation marker or other navigational facility;
 - (xii) Weather station or tower;
 - (xiii) Storage shed;
 - (xiv) Toilet block;
 - (xv) Picnic facility;
 - (xvi) Work that is of the type described in the Schedule to the *Telecommunications (Low Impact Facilities) Determination 1997* (Cth), as amended from time to time;
 - (xvii) Other minor works carried out by or on behalf of the Crown which fall within the definition of Specified Public Work.
- (g) A change or modification to an approved Timber Release Plan (s 28 (j) of the Act).

3. Negotiation Activities, Class A

- (a) An Earth Resource Or Infrastructure Authorisation (s 27 and s 28 (b) of the Act):
 - (i) That allows for the mining, extraction, injection, utilisation, treatment or processing of an earth resource above, on or below the surface of the land, for the purposes of commercial development and production of an earth resource, other than a prospecting licence; or
 - (ii) For the purposes of exploration or prospecting for an earth resource, if the exploration or prospecting is not to be carried out in accordance with the conditions for carrying out such exploration or prospecting that are set out in Schedule 4 of this Land Use Activity Agreement.
- (b) A Public Land Authorisation (s 27 of the Act) that is a:
 - (i) Commercial Lease for more than 10 years and up to and including 21 years;excluding an authorisation that is associated with Major Public Works or that is listed in Item 1(a) or Item 2(a) of this Schedule.

4. Negotiation Activities, Class B

- (a) Major Public Works (s 27 and s 28 (c) and (e) of the Act), and associated activities, including:
- (i) The construction of new vehicular roads, tracks, railways and bridges where there is no existing footprint;
 - (ii) The construction of public recreation or sport facilities where earthmoving is required;
 - (iii) The construction of new educational, health or emergency service facilities, or similar;
 - (iv) A project that involves the alienation of Crown land by the granting of an estate in fee simple that is for a public purpose, other than a grant, vestment or transfer pursuant to s22A of the *Land Act 1958* (Vic);
 - (v) A Specified Public Work that involves the alienation of Crown land by the granting of a Commercial Lease for more than 10 years or a Community Purpose Lease for more than 21 years;
 - (vi) A project that has been declared to be a major project, declared project or similar according to legislation, or has otherwise been enabled through an Act of Parliament;
 - (vii) The construction of Infrastructure through a public-private partnership;
 - (viii) Any other works carried out by, or on behalf of, the Crown that will require the exclusion of the public for effective operation,
- but excluding:
- (ix) A work undertaken by a Utility that is of a type described in the Schedule to the *Telecommunications (Low Impact Facilities) Determination 1997* (Cth), as amended from time to time.
- Note: This item forms part of the definition of Major Public Works. Major Public Works may also be multiple activities that are conducted under a joint process (s 37 of the Act).
- (b) A Specified Public Work undertaken by a Utility (s 28 (c) and (e) of the Act), including:
- (i) An electricity transmission or distribution facility;
 - (ii) A gas transmission or distribution facility;
 - (iii) A cable, antenna, tower or other communications facility;
 - (iv) A pipeline or other water supply or reticulation facility;

- (v) A drainage facility, or a levee or device for the management of water flows;
- (vi) An irrigation channel or other irrigation facility;
- (vii) A sewerage facility,

but excluding:

- (viii) A work undertaken by a Utility that is of a type described in the Schedule to the *Telecommunications (Low Impact Facilities) Determination 1997* (Cth), as amended from time to time.

Note: Infrastructure undertaken by a Utility may require a Public Land Authorisation(s) or alienation of land through the grant of an estate in fee simple. Infrastructure undertaken by a Utility may be Major Public Works.

- (c) A new Timber Release Plan (s 28 (i) of the Act).
- (d) A Public Land Authorisation (s 27 of the Act) that is a:
 - (i) Commercial Licence or Commercial Permit for more than 10 years;
 - (ii) Community Purpose Lease for more than 21 years; or
 - (iii) An agricultural Lease covering 40 hectares or more,

excluding an authorisation that is associated with a Major Public Works or that is listed in Item 1(a) or Item 2(a) of this Schedule.

5. Agreement Activities

- (a) The grant of an estate in fee simple other than:
 - (i) A grant made pursuant to s 14 or s 19 of the Act;
 - (ii) A grant made for the purpose of a project that is for a public purpose; and
 - (iii) A grant, transfer or vestment made pursuant to s22A of the *Land Act 1958*.
- (b) A Public Land Authorisation (s 27 of the Act) that is a:
 - (i) Commercial Lease for more than 21 years;
 - (ii) Carbon Sequestration Agreement;excluding an authorisation that is associated with a Major Public Works or that is listed in Item 1(a), Item 2(a) or Item 4(d)(iii) of this Schedule.
- (c) Major Works and/or clearing of land (s 28 (c) or (e) of the Act) for Commercial Purposes, where a Public Land Authorisation is not required, and excluding Major Public Works.

6. Land Use Activities to which this Land Use Activity Agreement does not apply

6.1 Land Use Activity Agreement does not apply to Land Use Activities that existed or commenced before the Effective Date (s 73(2) of the Act)

The Parties acknowledge that pursuant to s 73(2) of the Act, this Land Use Activity Agreement does not apply to:

- (a) any Public Land Authorisation or Earth Resource Or Infrastructure Authorisation in existence before the Effective Date, and any activity carried out in accordance with that authorisation; or
- (b) any other Land Use Activity that had commenced before the coming into effect of this Land Use Activity Agreement.

6.2 Land Use Activity Agreement does not apply to Earth Resource Or Infrastructure Authorisations already valid under the *Native Title Act* (s 73(3) of the Act)

The Parties acknowledge that pursuant to s 73(3) of the Act, this Land Use Activity Agreement is not taken to apply to:

- (a) the granting of an Earth Resource Or Infrastructure Authorisation, or
- (b) amendment or variation to an Earth Resource Or Infrastructure Authorisation that allows a change to an activity authorised by that authorisation;

if, in relation to the land that would be the subject of the activity, immediately before the Effective Date there was an Old Earth Resource Approval granted on the basis that it was valid or had been validated under the Native Title Act, and the land use activity is subsequent on the granting of that Old Earth Resource Approval, and the activity to be authorised is the same activity as that to which the Old Earth Resource Approval relates.

6.3 Land Use Activities consistent with joint management plan (s 32(4) of the Act)

- (a) A Land Use Activity or class of Land Use Activity specified in paragraph (b) that is consistent with a joint management plan for the land is not subject to this Land Use Activity Agreement.
- (b) Subject to item 6.3(c), for the purposes of item 6.3(a), the specified class of Land Use Activity is any Advisory Activity.
- (c) The Corporation may, at any time, require the State to apply this Land Use Activity Agreement to any specific Land Use Activity within the class of Land Use Activity specified in item 6.3(b).

6.4 Transitional Exclusions

- (a) The Land Use Activity procedures do not apply to any Land Use Activities in relation to the projects specified in paragraph (c) to the extent that the projects are, as of the Effective Date, the subject of a negotiation toward an agreement that has the effect that the Land Use Activity is valid as a future act under the *Native Title Act 1993* (Cth), provided that the negotiation has concluded by 27 March 2015.
- (b) The Corporation agrees to:
 - (i) provide a response to a notice provided in relation to a negotiation referred to in item 6.4(a) within a period of three months from the date of that notice;
 - (ii) take all reasonable steps to conclude each negotiation referred to in item 6.4 (c) by 27 March 2015.
- (c) Transitional projects that are the subject of a negotiation under the *Native Title Act 1993* (Cth) are:
 - (i) A grant of a Public Land Authorisation in relation to Crown Allotments 2037 (P377367) and 2038 (P377368), Parish of Castlemaine;
 - (ii) A grant of a Public Land Authorisation in relation to works at Mt Moliagul, parts of Crown Allotments 55A and 55C, Section 10, Parish of Moliagul;
 - (iii) A grant of an estate in fee simple in relation to Crown Allotment 2103 (P383977), Parish of Sandhurst at Bendigo;
 - (iv) A grant of an estate in fee simple in relation to Crown Allotment 432C, Section E, Parish of Sandhurst;
 - (v) A grant of an estate in fee simple in relation to Crown Allotment 9B Section 39C at Bendigo, Parish of Sandhurst;
 - (vi) A grant of an estate in fee simple in relation to Crown Allotment 23B, Section B5, Parish of Castlemaine;
 - (vii) A grant of an Earth Resource Or Infrastructure Authorisation that is for the purposes of exploration or prospecting:
 - (A) EL5146 and EL5147 by Fiddlers Creek Gold Mining Company Pty Ltd;
 - (B) EL5412 by Mr Karl Drago Sabljak;
 - (C) EL5370 by New Ballarat Consolidated Pty Ltd;
 - (D) PL1008 by Mr Dusan Gorjance;
 - (viii) A grant of an Earth Resource Or Infrastructure Authorisation:

- (A) MIN5425 by Excalibur Mining Pty Ltd;
- (B) MIN5460 by Armstrong Constructions (Vic) Pty Ltd;
- (C) MIN5510 by Fiddlers Creek Gold Mining Co Pty Ltd;
- (D) MIN5512 by Twenty-Seventh Yeneb Pty Ltd;
- (E) MIN5515 by Twenty-Seventh Yeneb Pty Ltd;

6.5 Additional Exclusions

- (a) Land Use Activities carried out pursuant to:
 - (i) a Public Land Authorisation or an Earth Resources Or Infrastructure Authorisation that has been granted in accordance with Part 4 of the Act; or
 - (ii) a Land Use Activity that has been granted or carried out before the Effective Date.

Schedule 4 Conditions for Earth Resource Or Infrastructure Authorisations to be Routine Activities (Clause 9.2)

Part A - General

This Schedule applies to:

1. an Earth Resource Or Infrastructure Authorisation granted for the purpose of exploration or prospecting, including:
 - a. An exploration licence, prospecting licence or retention licence granted under the *Mineral Resources (Sustainable Development) Act 1990* (Vic);
 - b. An exploration permit or retention lease granted under the *Petroleum Act 1998* (Vic), *Geothermal Energy Resources Act 2005* (Vic), or *Greenhouse Gas Geological Sequestration Act 2008* (Vic);
 - c. A special access authorisation or a special drilling authorisation granted under the *Petroleum Act 1998* (Vic);
 - d. A greenhouse gas assessment permit, greenhouse gas holding lease, petroleum exploration permit or petroleum retention lease granted under the *Offshore Petroleum and Greenhouse Gas Storage Act 2010* (Vic);
 - e. Any other authorisation granted under these Acts for the purpose of exploration.
2. If a titleholder accepts the conditions in this Schedule, no additional conditions under the *Traditional Owner Settlement Act 2010* (Vic) or this Land Use Activity Agreement are to be imposed on the titleholder in relation to the works carried out by the titleholder under their Earth Resource Or Infrastructure Authorisation on Agreement Land.

Definitions applying generally

3. In this Schedule:

“*authorisation*” means an Earth Resource Or Infrastructure Authorisation of the type listed in item 1(a) of this Schedule.

“*Department*” means Victorian Department of Primary Industries or successor department.

“*titleholder*” means:

- a. In Part A, the holder or applicant (as applicable) for an Earth Resource Or Infrastructure Authorisation granted under any of the statutes in item 1(a).
- b. In Part B, the holder or applicant (as applicable) for an Earth Resource Or Infrastructure Authorisation granted under the:
 - i. *Petroleum Act 1998* (Vic);
 - ii. *Geothermal Energy Resources Act 2005* (Vic);
 - iii. *Greenhouse Gas Geological Sequestration Act 2008* (Vic);
 - iv. *Offshore Petroleum and Greenhouse Gas Storage Act 2010* (Vic).
- c. In Part C, the holder or applicant (as applicable) for an Earth Resource Or Infrastructure Authorisation granted under the *Mineral Resources (Sustainable Development) Act 1990* (Vic), other than a prospecting licence holder.

- d. In Part D, the holder of a prospecting licence granted under the *Mineral Resources (Sustainable Development) Act 1990* (Vic).

Access to land subject to Land Use Activity Agreement

4. Subject to the titleholder's:

- a. Conditions and plans contained within and under their authorisation;
- b. Public and occupational health and safety requirements applying to works under the authorisation;
- c. Obligations under a law of Victoria or the Commonwealth applying to works under the authorisation.

a titleholder must minimise interference with the entry, occupation and use of any part of the land subject to their authorisation, by traditional owners in exercise of traditional owner rights recognised under a Recognition and Settlement Agreement to which that land is subject.

Consultation and Communication

5. The titleholder acknowledges that it has a duty to consult with the Corporation throughout the period of their authorisation.

Information

6. The titleholder shall keep the Corporation informed about progress of the project works and promptly provide to the Corporation:
- a. notification of the grant of the authorisation;
 - b. notification of any approvals, renewals, amalgamations or relinquishments in relation to the authorisation;
 - c. notification of an assignment or transfer of the authorisation, or any interests or obligations under that authorisation;
 - d. a copy of any plan or any variation to a plan required under the authorisation (e.g. a standard or area work plan, operation plan and/or environment plan);
 - e. for an exploration licence under *the Mineral Resources (Sustainable Development) Act 1990* (Vic), where a work plan is not required, a copy of a work schedule which includes a description of the exploration site work activities that are planned;
 - f. information reasonably requested by the Corporation which relates to the exploration and to the titleholder's obligations under the authorisation, save that the titleholder may withhold commercially sensitive information.
7. The titleholder shall provide a summary of all site works completed on Agreement Land to the Department as part of the annual report.
8. For titleholders under Part C, the summary shall include the details set out in items 2 and 3 in Table A to this Schedule.
9. Where a statute or regulation under a statute which an Earth Resource Or Infrastructure Authorisation is granted do not stipulate annual reporting requirements, the information required in item 6 must be provided to the Department at the time specified by the Department in writing.

Work schedules, work plans and other documents

10. If requested, the titleholder must make reasonable attempts to consult with the Corporation (with a view to explaining and clarifying details) regarding the work schedule, the standard or area work plan, or any other information provided to the Corporation under item 6.
11. The titleholder must notify the Corporation and the Department at least 7 days prior to commencing works on Agreement Land.
12. The titleholder must provide the Corporation with a copy of the work schedule for any program of works, at the same time as the titleholder consults with the Department (being at least 21 days prior to the commencement of site works).

Procedures relating to amounts payable under this Schedule 4

13. The amounts payable under this Schedule are exclusive of GST.
14. All amounts payable under this Schedule must be indexed annually according to the consumer price index for Melbourne, as published by the Australian Bureau of Statistics from time to time.
15. Evidence of payments made under this Schedule must be provided to the Department as part of the titleholder's annual reporting requirements related to their authorisation, as applicable.
16. Where requirements under an Act which an Earth Resource Or Infrastructure Authorisation is granted do not stipulate annual reporting requirements, evidence of payments must be provided to the Department at a time specified by the Department in writing.

Part B – Specific conditions on petroleum, geothermal and greenhouse gas exploration

Definitions

For the purpose of this Part of Schedule 4:

17. "Units of work" are defined in relation to the following table:

Activity	Unit of Work
Drilling of a well	One
2D seismic survey covering 100 linear kilometres or less	One
2D seismic survey covering more than 100 linear kilometres	Two
3D seismic survey covering 50 square kilometres or less	One
3D seismic survey covering more than 50 square kilometres	Two

An "average work program" means a total work program under the authorisation, which includes up to and including three units of work.

An “exceptional work program” means a total work program under the authorisation, which includes more than three units of work.

Payment for exploration activities

18. The titleholder must pay the Corporation the following amount:

- a. For an average work program, an upfront fee of \$5,000 is payable as a fee for the duration of the Earth Resource or Infrastructure Authorisation, as applicable; or
- b. For an exceptional work program, an upfront fee of \$7,500 payable for the duration of the Earth Resource or Infrastructure Authorisation, as applicable.

19. A payment under item 18 becomes payable at the renewal of the permit or lease.

20. A payment under item 18 must be made no later than 30 days following the registration of the Earth Resource Or Infrastructure Authorisation.

21. To avoid doubt, payments under item 18 are not refundable in whole or part.

Part C – Specific conditions on mineral exploration

22. The titleholder must pay the Corporation in accordance with Table A of this Schedule for works carried out under a licence.

23. The payments required under item 22 become payable by the titleholder following the grant of the Earth Resource or Infrastructure Authorisation.

24. Notwithstanding item 23, payment under item 1 of Table A is not due until the titleholder accesses Agreement Land.

Part D – Specific conditions on prospecting licence holders

25. The titleholder must pay the fees in accordance with item 4 of Table A in Schedule 4.

26. To avoid doubt, no additional fees to those set out in item 25, are payable under this Land Use Activity Agreement, for carrying out works under a prospecting licence on Agreement Land.

27. To avoid doubt, payments under Table A associated with a licence for mineral exploration or a prospecting licence are not refundable in whole or part.

Schedule 4 - Table A

Schedule 4 – Payments made pursuant to interests granted under the <i>Mineral Resources (Sustainable Development) Act 1990 (Vic)</i>				
Item	Tenement	Activity / Milestone over Agreement Land	Description	Rate (not including GST)
1	Exploration Licence or Retention Licence	After access to Agreement Land following Grant of Licence for: <ul style="list-style-type: none"> • Survey work, or • Hand tools 	Access to Agreement Land defined in Clause 5.1 of this Land Use Activity Agreement. <ul style="list-style-type: none"> • Including geological, geophysical, geochemical and/or other technical investigations. • Surface rock samples or surface soil samples taken by hand tools. 	<ul style="list-style-type: none"> • \$1850 per year for all activities in Item 1.
2	Exploration Licence or Retention Licence	Drilling	Exploration drilling, < 300 mm diameter hole at the surface.	<ul style="list-style-type: none"> • \$2 per drill hole for depths < 5m; • \$5 per drill hole for depths > 5m & < 20m; • \$10 per drill hole for depths > 20m & < 100m; • \$50 per drill hole for depths > 100m & < 200m; • \$100 per drill hole for depths > 200m.
			Large core bulk sample drilling.	<ul style="list-style-type: none"> • \$10 per cubic metre.
3	Exploration Licence or Retention Licence	Excavating/clearing	Excavating, incl. costeaning, trenching, channelling, access tracks, and clearing of vegetation.	<ul style="list-style-type: none"> • \$1 per square metre
4	Prospecting Licence	All activities permitted under a Prospecting Licence	Standard fee.	<ul style="list-style-type: none"> • Upfront fee of \$2,670 payable at grant of licence or \$534 for each year of a Prospecting Licence, paid annually upfront.

Schedule 5 Draft Ministerial Directions as to Advisory Activities (Clause 10.2)

INTRODUCTION

The State of Victoria and the Dja Dja Wurrung Clans Aboriginal Corporation have entered into a Land Use Activity Agreement (the Agreement), under Part 4 of the *Traditional Owner Settlement Act 2010* (Vic) (the Act).

This Agreement relates to certain areas of public land within Victoria. Annexure 1 includes a map/description of the land (Agreement Land).

The Agreement categorises certain activities that can occur on this public land as Advisory Activities: a list of Advisory Activities is included under Annexure 2.

Under section 34 of the Act, I have the statutory responsibility to provide written directions as to actions that must be taken by the State and its delegates (as Decision Makers) prior to carrying out an Advisory Activity, or authorising the carrying out of an Advisory Activity, as the case may be.

MINISTERIAL DIRECTIONS

Under section 34 of the Act, I direct as follows:

- (a) A Decision Maker (as defined under section 29 of the Act) who is proposing to carry out an Advisory activity (listed in Annexure 2) on any Agreement Land (as in Annexure 1):
 - (i) must comply with, or exceed, the standards detailed in paragraphs (b), (c), (d) and (e) below; and
 - (ii) should apply the other considerations detailed in paragraphs (f), (g), (h) and (i) where relevant; and
 - (iii) at all times exercise his or her decision-making power in accordance with the principles of natural justice.

Minimum Standard

- (b) A Decision Maker must notify the Corporation that has an Agreement over the area to which the Advisory Activity relates. Notification may be in writing, including electronic form (e.g. being posted on an official website), and must include:
 - (i) The name of the government department, agency or authority giving the notice;
 - (ii) A description of the activity, why it is required, what legislation gives effect to the activity, and activity timelines;
 - (iii) A description of the land or waters affected (allotment, section, parish, county, road address or description, geographical location GPS), a relevant topographic map, plans or specifications where appropriate, and if available, aerial or other photographs of the site;
 - (iv) An invitation to comment that specifies to whom comments should be sent and the time-period within which comments will be accepted;

- (v) The name of a person who may be contacted for further information or explanation of the proposed activity.
- (c) The minimum time-period for the initial consultation between the Decision Maker and the corporation is 28 days from the date of the notification.
- (d) Where comments are received from the Corporation, the decision maker must:
 - (i) provide a response that acknowledges receipt of those comments;
 - (ii) actively consider those comments and, where practical, discuss those comments, and possible ways to resolve the issues with the Corporation; and
 - (iii) once a decision has been made, and where requested by the Corporation, the decision maker must send a subsequent letter detailing what, if any, action was taken in response to the comments received.
- (e) The Decision Maker must maintain records of all correspondence with the Corporation made with respect to these directions.

Other considerations

- (f) These directions describe formal procedures for engagement between a Decision Maker and the Corporation with respect to Advisory Activities. However, the Parties agree that engagement should go beyond formal procedures and establish a relationship between Parties that is flexible enough to respect and accommodate the needs of each party.
- (g) A notification and consultation process undertaken in accordance with these directions may include details of two or more Advisory Activities.
- (h) The Corporation has the right to choose not to receive notification for particular Advisory Activities. It may do this by writing to the Attorney-General.
- (i) There may be different procedures arranged for the notification of certain Advisory activities, if it is by mutual agreement of the Attorney-General and the Corporation.

Application

- (j) These directions apply to the Agreement Land detailed in Annexure 1.
- (k) These directions apply to the Land Use Activities that are listed in Annexure 2.
- (l) The requirement for the State and its delegates to follow these directions is effective from **[insert date]**.

Hon. Robert Clark MP
Attorney-General
Date:

Schedule 6 Process as to multiple activities (Clause 14)

Application of joint process

All persons required to reach agreement under Division 3 of Part 4 of the Act in relation to two or more Land Use Activities may agree in writing to enable the Corporation's negotiations and decisions regarding those Land Use Activities to be conducted as a joint process, provided that all Land Use Activities to which the joint process relates relate to a single enterprise.

Note: A joint process should specify the Land Use Activities to which it relates, clearly identify the enterprise to which the Land Use Activities relate, and specify the particular actions each party is required to take and at what time.

Note: The fact that a joint process applies to a Land Use Activity does not alter the requirements that apply to the Land Use Activity under the Act.

Schedule 7 Community Benefits (Clause 16)

1. Land Use Activities to which this Schedule applies

- (a) Subject to paragraph (b), this Schedule applies to:
 - (i) all Agreement Activities and Negotiation Activities where a State Agency is the Responsible Person;
 - (ii) Negotiation Activities and Agreement Activities where a State Agency is issuing a Public Land Authorisation (other than a Carbon Sequestration Agreement) or approving a new timber release plan;
- (b) This Schedule does not apply to:
 - (i) Earth Resource Or Infrastructure Authorisations;
 - (ii) Carbon Sequestration Agreements;
 - (iii) Land Use Activities where a State Agency is not the Responsible Person; or is not issuing a Public Land Authorisation;
 - (iv) A Negotiation Activity that is the subject of an Application for VCAT determination under s 53 of the Act.

2. Community Benefits formula

- (a) The Parties agree that:
 - (i) if an agreement is made under Division 3 of Part 4 of the Act in relation to a Land Use Activity described in item 1 of this Schedule; and
 - (ii) that agreement provides that Community Benefits are to be provided to the Corporation;

then the State will provide Community Benefits to the Corporation in accordance with the table in item 4 of this Schedule.

3. Non-monetary Community Benefits

- (a) The State may, by agreement with the Corporation, provide all or part of an agreed monetary quantum of Community Benefits in non-monetary form.

4. Community Benefits formula

- (a) The Parties agree that each formula specified in the right hand column of the table below applies to the corresponding Land Use Activity specified in the left hand column.

Negotiation Activity	Applicable Formula
Commercial Leases for more than 10 and up to and including 21 years (excluding Major Public Works)	Formula A
Major Public Works (including Infrastructure undertaken by a Utility)	Formula A (where a Lease, Licence or Permit applies)
	Formula B
Commercial Licences and Commercial Permits for more than 10 years	Formula A
Agriculture Leases covering 40 hectares or more, including Leases for plantations and aquaculture	Formula A
Community Purpose Leases for more than 21 years	Formula A
New Timber Release Plans	Formula C
Agreement Activity	Applicable Formula
The grant of an estate in fee simple other than a grant pursuant to s 14 or s 19 of the Act or a grant made for the purpose of a project that is for a public purpose.	Formula D
Commercial Leases more than 21 years (excluding Major Public Works)	Formula E
Major works and/or clearing of land for Commercial Purposes (where a Public Land Authorisation is not required, and excluding Major Public Works)	Formula F

5. Formulae

FORMULA A

ACRONYMS: RENTAL Received (RR)

Community Benefits (payable each
year that the Lease rental is received) =

$$\begin{aligned} & (\$ \text{ amount of RR}^1 \text{ in } \$0 - \$20,000 * 25 \%^2) \\ & + (\$ \text{ amount of RR in } \$20,001 - \$100,000 * 10 \%) \\ & + (\$ \text{ amount of RR in } \$100,001 - \$500,000 * 5 \%) \\ & + (\$ \text{ amount of RR in } \$500,001 - \$1,000,000 * 2.5 \%) \\ & + (\$ \text{ amount of RR above } \$1,000,001 * 0.5 \%) \end{aligned}$$

PLUS GST

Note: The Corporation will also be entitled to reimbursement of reasonable negotiation costs (as prescribed by regulation)³

¹ Public Works (where a Lease applies) and Commercial Leases will be at market value as determined by the issuing authority, based on the market valuation as specified in Valuer-General's valuation report. For Community Purpose Leases discounted below the market value, the Community Benefits will be based on the discounted rate actually paid. A discount may be applied on account of the community purpose of the Lease at the discretion of the issuing authority. Rental as determined by the issuing authority, and under certain circumstances (e.g. times of hardship due to drought etc), the issuing authority may reduce or exempt the rental payable in any particular year. That is, the Community Benefits will be based on the actual rental payments received by the issuing authority in each year.

² All percentages in this formula are inclusive of a 10% solatium.

³ As provided for under section 52 of the Act.

FORMULA B

ACRONYMS: UNIMPROVED MARKET VALUE (UMV)

$$\begin{aligned} \text{Community Benefits} = & \left\{ \begin{aligned} & (\$ \text{ amount of UMV}^4 \text{ in } \$0 - \$100,000 * 25 \%^5) \\ & + (\$ \text{ amount of UMV in } \$100,001 - \$500,000 * 10 \%) \\ & + (\$ \text{ amount of UMV in } \$500,001 - \$1,000,000 * 5 \%) \\ & + (\$ \text{ amount of UMV in } \$1,000,001 - \$10,000,000 * 2.5 \%) \\ & + (\$ \text{ amount of UMV above } \$10,000,000 * 0.5 \%) \end{aligned} \right\} \end{aligned}$$

PLUS GST

Note: The Corporation will also be entitled to reimbursement of reasonable negotiation costs (as prescribed by regulation)⁶

⁴ UMV means market value of the area required for the public work, less the value of physical or structural improvements (i.e., buildings), as specified in Valuer-General's valuation report (or as otherwise agreed by both parties).

⁵ All percentages in this formula are inclusive of a 10% solatium.

⁶ As provided for under section 52 of the Act.

FORMULA C

Community Benefits (payable each year that the Timber Release Plan is current) =

$$\begin{array}{r}
 \text{Dividend}^1 * \frac{\text{adjusted area harvested}^2 \text{ by VicForests within TRP that is covered by LUAA}^3 \text{ in that year}}{\text{Total adjusted area harvested}^2 \text{ by VicForests in that year}} * \left[\begin{array}{l}
 (\$ \text{ TO group share of Dividend}^4 \text{ in } \$0 - \$20,000 * 25 \%) \\
 + (\$ \text{ TO group share of Dividend}^4 \text{ in } \$20,001 - \$100,000 * 10 \%) \\
 + (\$ \text{ TO group share of Dividend}^4 \text{ in } \$100,001 - \$500,000 * 5 \%) \\
 + (\$ \text{ TO group share of Dividend}^4 \text{ in } \$500,001 - \$1,000,000 * 2.5 \%) \\
 + (\$ \text{ TO group share of Dividend}^4 \text{ above } \$1,000,001 * 0.5 \%)
 \end{array} \right]
 \end{array}$$

PLUS GST

Note: The Corporation will also be entitled to reimbursement of reasonable negotiation costs (as prescribed by regulation)⁵

1. Dividend

- Annual Dividend - as reported in VicForests Annual Report.
- Note that VicForests is required to pay a dividend in accordance with a determination of the Treasurer of Victoria under the *State Owned Enterprises Act 1992*. An obligation to pay a dividend only arises after consultation between the VicForests Board and the Treasurer of Victoria and a formal determination is made by the Treasurer.

2. Adjusted area harvested (hectares) - is defined as the area harvested within the financial year in which the dividend is paid adjusted for both clearfell logging and thinning harvesting activities. For the purposes of this formula, area thinned by VicForests will be weighted at 50% of the equivalent clearfell area. This is to reflect that fact that thinning activity normally results in the harvesting of 50% of the basal area, compared to clearfell logging. For example, if VicForests harvests 5,000ha (clearfell) and 2,000ha (thinned) the adjusted area harvested will be calculated as follows: 5,000ha + (2,000ha * 0.50) = 6,000ha.

3. LUAA – Land Use Activity Agreement negotiated between the State and a traditional owner (TO) group.

4. TO share of adjusted dividend – the proportion of the Dividend that is payable to the Corporation in that year for that TRP covered by the LUAA.

5. As provided for under section 52 of the Act.

6. Formula includes 10% solatium.

FORMULA D

ACRONYMNS: MARKET VALUE (MV); UNIMPROVED NET MARKET VALUE (UNMV)

UNMV = Sale price less financial value of third party interest(s)⁷ less MV of improvements⁸ less costs to sell⁹

$$\text{Community Benefits} = \left\{ \begin{array}{l} (\$ \text{ amount of UNMV in } \$0 - \$100,000 * 50 \%^{10}) \\ + (\$ \text{ amount of UNMV in } \$100,001 - \$500,000 * 25 \%) \\ + (\$ \text{ amount of UNMV in } \$500,001 - \$1,000,000 * 10 \%) \\ + (\$ \text{ amount of UNMV in } \$1,000,001 - \$10,000,000 * 2 \%) \\ + (\$ \text{ amount of UNMV above } \$10,000,000 * 0.5 \%) \end{array} \right\}$$

PLUS GST

Note: The Corporation will also be entitled to reimbursement of reasonable negotiation costs (as prescribed by regulation)¹¹

⁷ Value, most likely expressed as a percentage of market value, of third party interests as specified in Valuer-General's valuation report (or as otherwise agreed by both parties). Examples of third parties that might have an interest in Crown land include local councils, non-state tenants, and community or not-for-profit organisations.

⁸ Value, expressed in dollar terms, of physical or structural improvements, i.e. buildings, as specified in Valuer-General's valuation report (or as otherwise agreed by both parties).

⁹ Costs to sell include both incremental costs directly attributable to the disposal of an asset (e.g. legal costs; valuation costs; professional expenses; survey costs; and marketing costs) and costs incurred as part of preparing the land for sale (e.g. professional expenses or fees arising from rezoning or planning scheme amendments; remediation costs associated with the land (not improvements); fencing; and removal of improvements). Costs to sell does not include costs arising from relocating community facilities.

¹⁰ All percentages in this formula are inclusive of a 10% solatium.

FORMULA E

ACRONYMNS: RENTAL RECEIVED (RR)

**Community Benefits (payable each
year that the Lease rental is received) =**

$$\begin{aligned} & (\$ \text{ amount of RR}^{12} \text{ in } \$0 - \$20,000 * 50 \%^{13}) \\ & + (\$ \text{ amount of RR in } \$20,001 - \$100,000 * 25 \%) \\ & + (\$ \text{ amount of RR in } \$100,001 - \$500,000 * 10 \%) \\ & + (\$ \text{ amount of RR in } \$500,001 - \$1,000,000 * 5 \%) \\ & + (\$ \text{ amount of RR above } \$1,000,001 * 1 \%) \end{aligned}$$

PLUS GST

Note: The Corporation will also be entitled to reimbursement of reasonable negotiation costs (as prescribed by regulation)¹⁴

¹¹ As provided for under section 52 of the Act.

¹² Rental received: for Commercial Leases this will be at Market Value as determined by the issuing authority, based on the market valuation as specified in Valuer-General's valuation report. Under certain circumstances (e.g. times of hardship due to drought etc), the issuing authority may reduce or exempt the rental payable in any particular year. That is, the Community Benefits will be based on the actual rental payments received by the issuing authority in each year.

¹³ All percentages in this formula are inclusive of a 10% solatium.

¹⁴ As provided for under section 52 of the Act.

FORMULA F

ACRONYMNS: UNIMPROVED MARKET VALUE (UMV)

$$\text{Community Benefits} = \left\{ \begin{array}{l} (\$ \text{ amount of UMV}^{15} \text{ in } \$0 - \$100,000 * 25 \%^{16}) \\ + (\$ \text{ amount of UMV in } \$100,001 - \$500,000 * 10 \%) \\ + (\$ \text{ amount of UMV in } \$500,001 - \$1,000,000 * 5 \%) \\ + (\$ \text{ amount of UMV in } \$1,000,001 - \$10,000,000 * 2.5 \%) \\ + (\$ \text{ amount of UMV above } \$10,000,000 * 0.5 \%) \end{array} \right\}$$

PLUS GST

Note: The Corporation will also be entitled to reimbursement of reasonable negotiation costs (as prescribed by regulation)¹⁷

¹⁵ UMV means market value less the value of physical or structural improvements, i.e. buildings, as specified in Valuer-General's valuation report (or as otherwise agreed by both parties).

¹⁶ All percentages in this formula are inclusive of a 10% solatium.

¹⁷ As provided for under section 52 of the Act.