City of Greater Geelong, Statutory Planning - Date Received 08/06/2026

Department of Transport and Planning

Electronic Instrument Statement

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Date and Time Lodged	07/12/2022 02:02:54 PM		

Lodger Details

Lodger Code	18776H
Name	HARWOOD ANDREWS
Address	
Lodger Box	
Phone	
Email	
Reference	7cmm:22204623

APPLICATION TO RECORD AN INSTRUMENT

Jurisdiction VICTORIA

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Estate and/or Interest
FEE SIMPLE

Land Title Reference
10066/466

Instrument and/or legislation
RECORD - AGREEMENT - SECTION 173
Planning & Environment Act - section 173

Applicant(s)

Name	GREATER GEELONG CITY COUNCIL
Address	
Street Number	30
Street Name	GHERINGHAP
Street Type	STREET
Locality	GEELONG
State	VIC
Postcode	3220

Additional Details

Reference :7cmm:22204623
Secure Electronic Registries Victoria (SERV)
Email: advice.enquiries@servictoria.com.au
ABN 86 627 986 396

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Department of Transport and Planning

Electronic Instrument Statement

Refer Image Instrument

The applicant requests the recording of this Instrument in the Register.

Execution

1. The Certifier has taken reasonable steps to verify the identity of the applicant or his, her or its administrator or attorney.
2. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
3. The Certifier has retained the evidence supporting this Registry Instrument or Document.
4. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant law and any Prescribed Requirement.

Executed on behalf of	GREATER GEELONG CITY COUNCIL
Signer Name	[redacted]
Signer Organisation	THE LANTERN LEGAL GROUP PTY LTD
Signer Role	LAW PRACTICE
Execution Date	07 DECEMBER 2022

File Notes:
NIL

This is a representation of the digitally signed Electronic Instrument or Document certified by Land Use Victoria.

Statement End.

Reference :7cmm:22204623
Secure Electronic Registries Victoria (SERV)
Email: advice.enquiries@servictoria.com.au
ABN 86 627 986 396

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Document Assembled	**06/06/2026 16:10**

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HARWOOD ANDREWS

SECTION 173 AGREEMENT
PLANNING AND ENVIRONMENT ACT 1987

GREATER GEELONG CITY COUNCIL
Responsible Authority

- and -

[redacted]
Registered Land Owner

in relation to land at:

360 AUTUMN STREET, HERNE HILL

AW346431D

5TJR:22204623

Harwood Andrews
ABN 98 076 868 034
70 Gheringhap Street, Geelong 3220, Victoria, Australia
DX 22019 Geelong
PO Box 101 Geelong Vic 3220

Telephone: 03 5225 5225 Facsimile: 03 5225 5222

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THIS AGREEMENT is made the 7 day of December 2022

PARTIES:

1. **Greater Geelong City Council** of 30 Gheringhap Street, Geelong 3220

(**Responsible Authority**)

2. [redacted] both of [redacted]

(**Owner**)

RECITALS:

R.1. The Owner is the registered proprietor of the land known as 360 Autumn Street, Herne Hill, being the land described in Certificate of Title Volume 10066 Folio 466 (**Land**).

R.2. The Responsible Authority is responsible for the administration and enforcement of the Planning Scheme pursuant to the provisions of the Act.

R.3. The Responsible Authority issued planning permit number PP-848-2020 on 29 April 2021 allowing construction of three dwellings and three (3) lot subdivision generally in accordance with the endorsed plans (**Permit**).

R.4. Conditions 6, 21 and 22 of the Permit provide as follows:

> *6. Unless otherwise approved in writing by the Responsible Authority, prior to works commencing, the landowner must enter an agreement with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987. All costs associated with setting up the agreement must be borne by the landowner. The agreement is to be registered on title and run with the land, and is to provide to the satisfaction of the Responsible Authority:*
>
> *a) All storm water runoff is to be collected on site and discharged to the legal point of discharge using a pump system or as otherwise nominated by the responsible authority. The pump system is to be designed and constructed in accordance with Australian Standard 3500 Part 3.2 Section 9*
>
> *b) In the event of any operational difficulties with the pump system, it is the Responsibility of the landowner to rectify these difficulties;*
>
> *c) Any pump system is to be replaced by gravity discharge if and when available, and if directed by the Responsible Authority, at the landowner's full cost.*
>
> *d) Provision is made (if appropriate) in any subdivision for Body Corporate drainage works, and access to those drainage works to be on common property or within an easement in favour of the Body Corporate*
>
> *Note: Where the legal point of discharge is kerb and channel, discharge velocity at the kerb must be no greater than 1.5 m/s with a maximum discharge flow rate of 10 l/s and the outlet directed at an angle of 45o to the direction of flow in the kerb and channel.*
>
> *21. Unless otherwise approved in writing by the Responsible Authority, prior to Statement of Compliance:*
>
> *a) …*
>
> *or*
>
> *b) The owner of the land must enter into an agreement with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987 which provides for all development to be in accordance with the endorsed plans forming part of the Planning Permit 848-2020 (or any amendment to that permit) or any subsequent Planning Permit.*

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The owner must pay the costs of preparation, review, execution and registration of the agreement and the agreement must be registered on the newly created title/s. The Section 173 Agreement may be ended by the Responsible Authority at the written request of the owner and at no cost to Council.

22. *Unless otherwise approved in writing by the Responsible Authority, prior to the issue of Statement of Compliance for the subdivision, the landowner must enter an agreement with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987. All costs associated with setting up the agreement must be borne by the landowner. The agreement is to be registered on title and run with the land, and is to provide to the satisfaction of the Responsible Authority:*

    a) *All storm water runoff is to be collected on site and discharged to the legal point of discharge using a pump system or as otherwise nominated by the responsible authority. The pump system is to be designed and constructed in accordance with Australian Standard 3500 Part 3.2 Section 9*

    b) *In the event of any operational difficulties with the pump system, it is the Responsibility of the landowner to rectify these difficulties;*

    c) *Any pump system is to be replaced by gravity discharge if and when available, and if directed by the Responsible Authority, at the landowner's full cost.*

    d) *Provision is made (if appropriate) in any subdivision for Body Corporate drainage works, and access to those drainage works to be on common property or within an easement in favour of the Body Corporate*

    Note: Where the legal point of discharge is kerb and channel, discharge velocity at the kerb must be no greater than 1.5 m/s with a maximum discharge flow rate of 10 l/s and the outlet directed at an angle of 45o to the direction of flow in the kerb and channel.

R.5. This Agreement is entered into between the Responsible Authority and the Owner pursuant to section 173 of the Act in order to meet the requirements of conditions 6, 21 and 22 of the Permit and to achieve the objectives of planning in Victoria.

R.6. The Land is subject to registered mortgage instrument no. AS635389X, which mortgagee Commonwealth Bank of Australia, as evidenced by its consent on the attestation page, consents to this Agreement.

IT IS AGREED AS FOLLOWS:

1. DEFINITIONS

In this Agreement unless inconsistent with the context or subject matter:

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

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

1.3. **Common Property** has the same meaning as in the *Owners Corporation Act 2006* (Vic).

1.4. **Current Address for Service**

1.4.1. for the Responsible Authority means the address shown under the heading "Parties" in this Agreement, or any other principal office address listed on the website of the Responsible Authority; and

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1.4.2. for the Owner means the address shown under the heading "Parties" in this Agreement or any other address provided by the Owner to the Responsible Authority for any purpose or purposes relating to the Land.

1.5. **Current Email Address for Service**

1.5.1. for the Responsible Authority means statplanning@geelongcity.vic.gov.au, or any other email address listed on the website of the Responsible Authority; and

1.5.2. for the Owner means any email address provided by the Owner to the Responsible Authority for the express purpose of electronic communication regarding this Agreement.

1.6. **Current Number for Service**

1.6.1. for the Responsible Authority means 03 5272 4277, or any other facsimile number listed on the website for the Responsible Authority; and

1.6.2. for the Owner means any facsimile number provided by the Owner to the Responsible Authority for the express purpose of facsimile communication regarding this Agreement.

1.7. **Land** means the land described in Recital R.1 and any reference to the Land includes any lot created by the subdivision of the Land or any part of it.

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

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

1.10. **Owner's Obligations** means the covenants, promises, agreements, indemnities, undertakings and warranties given by the Owner under this Agreement including the specific obligations imposed under clause 3.

1.11. **Owners Corporation** has the same meaning as in the *Owners Corporation Act 2006* (Vic).

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

1.13. **Permit** means the planning permit issued by the Responsible Authority described in Recital R.3 including the plans endorsed under it and as amended from time to time, or any subsequent permit issued by the Responsible Authority.

1.14. **Planning Scheme** means the Greater Geelong Planning Scheme and any successor instrument or other planning scheme which applies to the Land.

1.15. **Pump System** means a pumping system constructed in accordance with Australian Standard 3500 Part 3.2 Section 9 and the plans endorsed with the Permit, for the purpose of discharging stormwater runoff collected on the Land to the legal point of discharge.

1.16. **Register** and **Registrar** have the same meaning as in the *Transfer of Land Act 1958* (Vic).

1.17. **Responsible Authority** means Greater Geelong City Council in its capacity as:

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1.17.1. the authority responsible for administering and enforcing the Planning Scheme; and

1.17.2. a municipal council within the meaning of the *Local Government Act 2020* (Vic),

and includes its agents, officers, employees, servants, workers and contractors and any subsequent person or body which is the responsible authority or municipal council.

2. INTERPRETATION

In the interpretation of this Agreement unless inconsistent with the context or subject matter:

2.1. The singular includes the plural and the plural includes the singular.

2.2. A reference to a gender includes a reference to all other genders.

2.3. Words (including defined expressions) denoting persons will be deemed to include all trusts, bodies and associations, corporate or unincorporated, and vice versa.

2.4. A reference to a person includes a reference to a firm, corporation, association or other entity and their successors in law.

2.5. A reference to a statute includes any statute amending, consolidating or replacing that statute and includes any subordinate instruments made under that statute.

2.6. The Recitals to this Agreement are and will be deemed to form part of this Agreement including any terms defined within the Recitals.

2.7. References to the parties will include their transferees, heirs, assigns, and liquidators, executors and legal personal representatives as the case may be.

2.8. Reference to a document or agreement includes reference to that document or agreement as changed, novated or replaced from time to time.

2.9. Where a word or phrase is given a definite meaning in this Agreement, a part of speech or other grammatical form for that word or phrase has a corresponding meaning.

2.10. Where a word or phrase is not defined in this Agreement, it has the meaning as defined in the Act, or, if it is not defined in the Act, it has its ordinary meaning.

3. SPECIFIC OBLIGATIONS OF THE OWNER

The Owner agrees with the Responsible Authority that:

Development of the Land

3.1. Unless the prior written consent of the Responsible Authority is obtained, all development on the Land must be in accordance with the Permit to the satisfaction of the Responsible Authority.

Pump System

3.2. Stormwater runoff is to be collected on site and discharged to a legal point of discharge using a Pump System, or as otherwise directed by the Responsible Authority.

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3.3. In the event of any operational difficulties with the Pump System installed on the Land pursuant to the Permit, the Owner must promptly and at its cost rectify those difficulties to the satisfaction of the Responsible Authority.

3.4. In the event that a gravity discharge system is available to serve the Land, the Pump System installed pursuant to the Permit shall, if directed by the Responsible Authority, be replaced by the Owner or the Responsible Authority as Responsible Authority directs, at the Owner's full cost.

3.5. Provision shall be made, as appropriate, for drainage works concerning Owners Corporation property and for access to such drainage works to be on Common Property or within an easement in favour of the Owners Corporation.

4. FURTHER COVENANTS OF THE OWNER

The Owner warrants and covenants with the Responsible Authority that:

4.1. It is the registered proprietor (or entitled to be so) of the Land.

4.2. Save as shown in the certificate of title to the Land, there are no mortgages, liens, charges, easements or other encumbrances or any rights inherent in any person affecting the Land or any part of it and not disclosed by the usual searches.

4.3. Neither the Land nor any part of it is subject to any right obtained by adverse possession or subject to any easements, rights or encumbrances mentioned in section 42 of the *Transfer of Land Act* 1958 (Vic).

4.4. It will not sell, transfer, dispose of, assign, mortgage or otherwise part with possession of the Land or any part of it without first providing to its successors a copy of this Agreement.

4.5. It will within 28 days of written demand pay to the Responsible Authority the Responsible Authority's reasonable costs (including legal or other professional costs) and expenses of and incidental to the:

4.5.1. negotiation, preparation, execution and recording of this Agreement;

4.5.2. assessment, negotiation, preparation, execution and recording of any proposed amendment to this Agreement; and

4.5.3. determination of whether any of the Owner's obligations have been undertaken to the satisfaction of the Responsible Authority or to give consent to anything under this Agreement.

To the extent that such costs and expenses constitute legal professional costs, the Responsible Authority may at its absolute discretion have these costs assessed by the Law Institute of Victoria and in that event the parties will be bound by the amount of that assessment, with any fee for obtaining such an assessment being borne equally by the Responsible Authority and the Owner. Such costs payable by the Owner will include the costs and disbursements associated with the recording, cancellation or alteration of this Agreement in the Register.

4.6. It will do all that is necessary to enable the Responsible Authority to make application to the Registrar of Titles to record this Agreement in the Register in accordance with the Act, including the signing of any further agreement, acknowledgment or other document.

AMENDED

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4.7. Until such time as this Agreement is recorded in the Register, the Owner must ensure that successors in title will give effect to this Agreement, and do all acts and sign all documents which will require those successors to give effect to this Agreement, including executing a deed agreeing to be bound by the terms of this Agreement.

5. FURTHER ASSURANCE

The parties to this Agreement will do all things necessary (including signing any further agreement, acknowledgement or document) to give full effect to the terms of this Agreement and to enable this Agreement to be recorded in the Register in accordance with the Act.

6. AMENDMENT

This Agreement may be amended only in accordance with the requirements of the Act.

7. NO WAIVER

No waiver by any party of any default in the strict and literal performance of or compliance with any provision, condition or requirement in this Agreement will be deemed to be a waiver of strict and literal performance of and compliance with any other provision, condition or requirement of this Agreement nor to be a waiver of or in any way release any party from compliance with any provision, condition or requirement in the future nor will any delay or omission of any party to exercise any right under this Agreement in any manner impair the exercise of such right accruing to it thereafter.

8. NO FETTERING OF POWERS OF RESPONSIBLE AUTHORITY

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

9. INTEREST ON OVERDUE MONEYS

Any amount due under this Agreement but unpaid by the due date incurs interest at the rate prescribed under section 120 of the *Local Government Act 2020* (Vic) and any payment made shall be first directed to payment of interest and then the principal amount owing.

10. NOTICES

All notices and other communications under this Agreement will be sent by prepaid mail, by hand delivery, email or by facsimile to the Current Addresses for Service, Current Email Address for Service or Current Number for Service of the parties, and may be sent by an agent of the party sending the notice. Each notice or communication will be deemed to have been duly received:

10.1. not later than two business days after being deposited in the mail with postage prepaid;

10.2. when delivered by hand;

10.3. if sent by email, at the time of receipt in accordance with the *Electronic Transactions (Victoria) Act 2000* (Vic); or

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10.4. if sent by facsimile transmission upon completion of that transmission and production of a transmission report stating that the facsimile was sent to the addressee's facsimile number.

11. COSTS ON DEFAULT

If the Owner defaults in the performance of any obligations under this Agreement it will pay to the Responsible Authority its reasonable costs of action taken to achieve compliance with this Agreement.

12. INVALIDITY OF ANY CLAUSE

Notwithstanding anything to the contrary in this Agreement, if any provision of this Agreement will be invalid and not enforceable in accordance with its terms, all other provisions which are self-sustaining and capable of separate enforcement without regard to the invalid provisions will be and continue to be valid and enforceable in accordance with those terms.

13. AGREEMENT BINDING ON SUCCESSORS OF OWNERS

This Agreement will extend to and bind the Owner's successors, assigns, administrators, transferees and legal personal representatives and the obligations imposed upon them will also be binding on their successors, transferees, purchasers, mortgagees and assigns as if each of them had separately executed this Agreement.

14. JOINT OBLIGATIONS

In the case of each party that consists of more than one person (including in that expression any corporation) each of those persons covenants, agrees and declares that all of the covenants, agreements, declarations and consents contained in this Agreement and made and given by that party have been entered into, made and given and are binding upon that person both severally and also jointly with the other person or persons constituting that party.

15. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous agreements or understandings between the parties in connection with its subject matter.

16. COUNTERPARTS, ELECTRONIC SIGNING AND EXCHANGE

16.1. This Agreement may consist of a number of counterparts and, if so, the counterparts taken together constitute this Agreement.

16.2. Execution by either or both parties of a fax or email copy of this Agreement, or transmission or email of a copy of this Agreement, executed by that party, will constitute valid and binding execution of this Agreement by such party or parties

16.3. The parties acknowledge and agree that this Agreement may be executed electronically in accordance with the requirements of the Electronic Transactions (Victoria) Act 2000 (Vic)

17. COMMENCEMENT AND ENDING OF AGREEMENT

17.1. This Agreement will commence:

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17.1.1. on the date that it bears; or

17.1.2. if it bears no date, on the date it is recorded in the Register.

17.2. This Agreement will end by agreement between the parties or otherwise in accordance with the provisions of the Act.

EXECUTED AS A DEED

SIGNED SEALED AND DELIVERED on behalf of the **GREATER GEELONG CITY COUNCIL** by Joanne Van Slageren, Manager City Development, pursuant to an instrument of delegation authorised by Council resolution, in the presence of:

DocuSigned by:
Joanne Van Slageren
373AC6E77B7F4ED...

Joanne Van Slageren

DocuSigned by:
John Rush
551375514C9E4C3...

Witness

By witnessing this Agreement, the above witness confirms that either:

- this Agreement was signed physically in their presence; or
- where this Agreement was witnessed via audio-visual link, the requirements for witnessing by audio-visual link under section 12 of the Electronic Transactions (Victoria) Act 2000 (Vic) have been met.

SIGNED SEALED AND DELIVERED by the said [redacted] in the presence of:

[redacted]

Witness

By witnessing this Agreement, the above witness confirms that either:

- this Agreement was signed physically in their presence; or
- where this Agreement was witnessed via audio-visual link, the requirements for witnessing by audio-visual link under section 12 of the Electronic Transactions (Victoria) Act 2000 (Vic) have been met.

SIGNED SEALED AND DELIVERED by the said [redacted] in the presence

[redacted]

Witness

By witnessing this Agreement, the above witness confirms that either:

- this Agreement was signed physically in their presence; or
- where this Agreement was witnessed via audio-visual link, the requirements for witnessing by audio-visual link under section 12 of the Electronic Transactions (Victoria) Act 2000 (Vic) have been met.

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MORTGAGEE CONSENT

Commonwealth Bank of Australia as Mortgagee under Instrument of Mortgage No. AS635389X consents to the Owner entering into this Agreement and agrees to be bound by the terms and conditions of this Agreement.

DATED:

Executed for and on behalf of

Commonwealth Bank of Australia

SIGNED, SEALED AND DELIVERED in Sydney for and on behalf of the COMMONWEALTH BANK of AUSTRALIA by its Attorney

under Power dated 11 December 2000 a certified copy of which is filed in Permanent Order Book No. 277 at Page 016 who certifies that he/she is

[redacted]

SENIOR CONVEYANCING OFFICER

Sydney of COMMONWEALTH BANK OF AUSTRALIA in the presence of:

[redacted]

5-7 Central Avenue
South Eveleigh NSW 2015

AW346431D

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