

PETITION TO AMEND SEALED PLAN NO. 130563

SECTION 103 OF THE LOCAL GOVERNMENT (BUILDING AND MISCELLANEOUS PROVISIONS) ACT 1993

TO: GEORGE TOWN COUNCIL

1. YOUR PETITIONER

MOANA MANAGEMENT PROPRIETARY LIMITED (ACN 009 506 610) of PO Box 220, George Town in Tasmania

2. SUBJECT LAND

The property situate at Old Aerodrome Road, Low Head in Tasmania comprised in certificate of title Volume 130563 Folio 2 ("the Subject Land"), being Lot 2 on Sealed Plan 130563 ("the Plan").

3. BACKGROUND

The Subject Land is one of four lots on the Plan. Lots 2, 3 and 4 are burdened by a restrictive covenant, which prohibits the construction of any buildings within a defined area (being the hatched portion shown on the Plan) ("the Covenant"). Those Lots are also burdened by a second restrictive covenant prohibiting the disposal of effluent within that defined area. That second covenant is not the subject of this Petition.

The Subject Land is zoned Light Industrial.

The Petitioner is desirous of being able to develop the Subject Land in accordance with the Interim George Town Planning Scheme 2013. However, the wording of the Covenant, that "no buildings shall be constructed", currently prevents it from doing so, even where such proposed developments are permitted by the Planning Scheme.

4. PROPOSED AMENDMENTS

The proposed amendment is to delete covenant number 1 from the Schedule of Easements to SP130563 insofar as it relates to the Subject Land.

The amendment will be effected by "crossing out" the word "2" from covenant number 1 on the Schedule of Easements at the Land Titles Office, as opposed to complete removal from the Schedule, so anyone looking at the Schedule in the future will still be able to see that the hatched areas on the Plan used to be burdened by that covenant. The hatched area shown on the Plan will also still be subject to covenant number 2, so there will be no confusion regarding the interpretation of the Plan.

The proposed amendment will enable the Subject Land to be developed in the future, in accordance with Council's requirements from time to time.

5. **PROPOSED SERVICE OF PETITION**

Section 103(3) of the *Local Government (Building and Miscellaneous Provisions) Act 1993* provides that a person making an application must serve a copy of the petition on all persons appearing to have "an estate or interest at law affected by the proposed amendment".

The Covenant is in favour of the original subdivider, London Marsh Pty Ltd, and the owners for the time being of each lot shown on the Plan, together with the owner for the time being of the "Balance", being the land comprised in certificate of title Volume 117199 Folio 1.

Of the four lots on the Plan:

- two lots (the Subject Land and Lot 4) are owned by the Petitioner;
- Lot 1, comprised in certificate of title Volume 130563 Folio 1, is registered in the name of George Town Council; and
- Lot 3, comprised in certificate of title Volume 130563 Folio 3, is registered in the name of George Town Airport Association Inc.

Certificate of title Volume 117199 Folio 1 is a historic title, and the land previously comprised in that title is now comprised in Volume 168064 Folio 1, registered in the name of the Petitioner.

George Town Airport Association Inc. has already received a copy of this Petition and is content for it to proceed. The President of the George Town Airport Association Inc., Stephen Ross, has signed below, indicating the Association's consent.

The original subdivider, London Marsh Pty Ltd, is now deregistered, and an ASIC summary evidencing same is attached.

Council is the only remaining party with an estate or interest affected by the proposed amendment and is notified by the lodgement of this Petition.

It is not intended to serve this Petition on anyone else.

6. **OTHER AFFECTED PERSONS**

Pursuant to Section 103(3) of the *Local Government (Building and Miscellaneous Provisions) Act 1993* there are no other persons affected by the proposed amendment other than those set out in Part 5 of this Petition.

7. **SECTION 103 AMENDMENT**

- 7.1 Section 103 of the Act is the only legal mechanism by which an easement or notation on a Sealed Plan may be varied, deleted or amended.

7.2 Division 2 of the Local Government (Building and Miscellaneous Provisions) Act 1993 provides for a Request to Amend the Sealed Plan document to be lodged with the Recorder of Titles to effect an amendment.

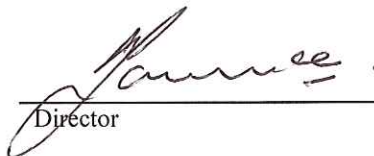
8. **APPLICATION TO COUNCIL**

8.1 The Application to Council for amendment of the Sealed Plan is as set out in this Petition.

8.2 Should Council approve the amendments proposed in this Petition, Council is requested to execute, seal and return the Request to Amend Sealed Plan No. 130563 which is lodged with this Petition.

DATED this 12th day of December 2017

EXECUTED BY MOANA MANAGEMENT PTY LTD in accordance with section 127 of the *Corporations Act* 2001:




Director




Director/Secretary

I, **STEPHEN ARTHUR ROSS**, being the President of **GEORGE TOWN AIRPORT ASSOCIATION INC.**, the registered proprietor of the land comprised in certificate of title Volume 130563 Folio 3, which has the benefit of the Covenant, consent to the amendment to the Covenant as set out in this Petition on behalf of the said **GEORGE TOWN AIRPORT ASSOCIATION INC.**

SIGNED BY STEPHEN ARTHUR ROSS
in his capacity as President of **GEORGE TOWN AIRPORT ASSOCIATION INC.**
in the presence of:



Stephen Arthur Ross

Witness: 
Witness Full Name: ROGER MCLENNAN
Address: 1526 ALBERT ST
Occupation: BK AIRPORT 7262