

LEGAL DOCUMENT LODGEMENT FORM

Lodgement Date 6/3/12

Date of Legal Documents: 8/2/12

Type of Documents Deed of Guarantee

le: Agreements, Contracts, Easements, General, Lease, Loans (see separate forms of Bank Guarantees and Certificates of Title)

Expiry Date of Document (if applicable): NA

Parties AV Jennings Ltd + WSC

Address AV Jennings Ltd : Level 4, 108  
Power St, Hawthorne VIC 3122

Details of Document Deed of Guarantee ~~to~~

as required by clause 6.1 of  
VPA dated 29/2/12.

Property Description ( Lot DP Various

Review Date 30/6/2014

Responsible Officer Sharon Colquhoun

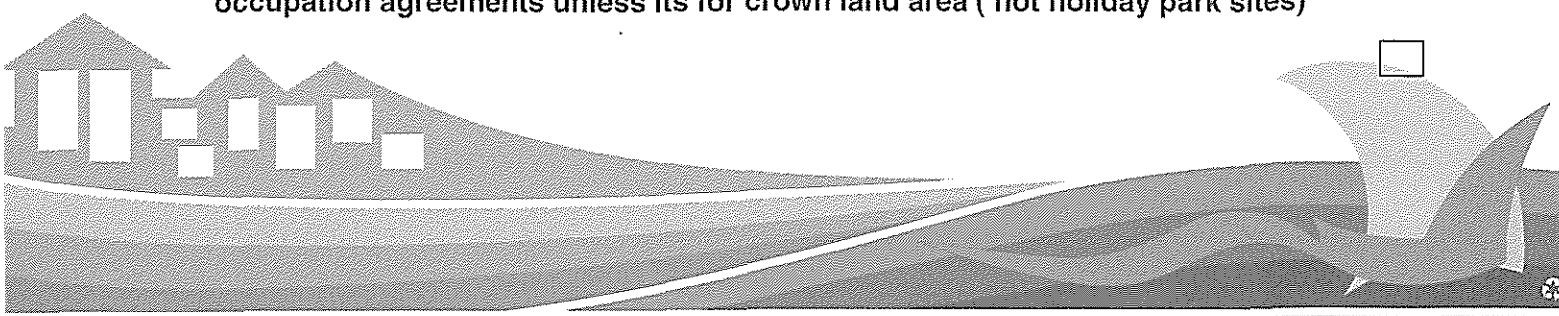
Folder Number DA 2790/2004

Note: This form and the original documents are to be delivered to Corporate Information

Legal Document supersedes LDOC \_\_\_\_\_ (if applicable)

After legal document is recorded on the computer a Trim link is e-mailed to the responsible officer advising of registration.

Send Link to Sonia Witt for the Agreement Register to be updated – doesn't need occupation agreements unless its for crown land area ( not holiday park sites)



# Deed of Guarantee

**Dated** 8th day of February 2012

**By**

AVJennings Limited A.B.N. 44 004 327 771 of Level 4 108 Power Street  
Hawthorn Victoria 3122 (the Guarantor)

**In Favour of**

Wyong Shire Council of 2 Hely Street Wyong, New South Wales (the  
Beneficiary)

## **Background**

- A. On 8 January 2012 AVJennings Properties Limited (AVJ) entered into a Voluntary Planning Agreement with the Beneficiary in relation to certain land located at 465-481 and at 483 Pacific Highway Wadalba New South Wales (the VPA).
- B. Under the VPA, the Guarantor is to guarantee to the Beneficiary the payment of certain development contributions by AVJ as set out in clause 5.1 of the VPA.
- C. The Guarantor has entered into this Deed of Guarantee in accordance with clause 6.1 of the VPA.

## **1 Guarantee**

### **1.1 Guarantee**

- (a) the Guarantor irrevocably and unconditionally guarantees to the Beneficiary the due and punctual observance, performance and discharge of all the obligations of the Customer under clause 5.1 of the VPA.
- (b) If there is any breach of any of AVJ's obligations under clause 5.1 of the VPA, the Guarantor must, to the extent required by the Beneficiary, perform, observe and discharge AVJ's obligations to the extent AVJ has not done so.

### **1.2 Survival**

The obligations and liability of the Guarantor under this deed are not revoked or discharged (in whole or in part) by:

- (a) any time, concession, waiver or other indulgence (including any release of any liability) being given by the Beneficiary to AVJ for or in relation to the observance or performance of AVJ's obligations under the VPA;
- (b) any variation being made to the terms of the VPA;
- (c) any other security or contractual obligations to secure the performance of AVJ's obligations under the VPA being or not being taken, held, renewed, varied, enforced or released by the Beneficiary or such security being void, defective, informal or unenforceable;
- (d) any discharge or release by operation of law or equity;
- (e) any non-exercise or partial exercise of any right or remedy, including any right of termination or any non-enforcement of any right or remedy;
- (f) any acquiescence in respect of breach of the VPA;
- (g) any lack of capacity, any limitation on capacity or any lack of authority;
- (h) all or any of AVJ's obligations under the VPA being discharged otherwise than by their due performance;
- (i) the liquidation, administration, bankruptcy or insolvency of the Guarantor or AVJ; or
- (j) by anything done or omitted to be done by AVJ or by anything else which, but for this deed might operate to release wholly or partially or discharge or otherwise exonerate the Guarantor from his liability under this guarantee.

### **1.3 Continuing guarantee**

The guarantee given under this deed:

- (a) is a continuing guarantee and remains in force, subject to clause 5.2 of the VPA, until the whole of the obligations of AVJ under clause 5.1 of the VPA have in all respects been duly performed, observed and discharged in full;
- (b) is irrevocable; and
- (c) constitutes a separate and independent obligation of the Guarantor.

### **1.4 Remedy**

The Beneficiary may enforce the guarantee given under this deed without first making any demand or taking any action or proceedings to enforce its rights or remedies against AVJ.

### **1.5 Warranties**

The Guarantor represents and warrants that:

- (a) It has full power and authority to enter into this guarantee and has taken all necessary action to authorise the execution, delivery and performance of this guarantee in accordance with its terms;
- (b) this guarantee constitutes a legally valid and binding obligation of the Guarantor enforceable in accordance with its terms; and

- (c) the execution, delivery and performance of this guarantee by the Guarantor will not violate any provision of:
- (i) any law or regulation or any order or decree of any Governmental Agency of the Commonwealth of Australia or any state or territory or relevant jurisdiction in which it is incorporated;
  - (ii) the constitution of the Guarantor or equivalent constituent document; or
  - (iii) any Encumbrance or other document which is binding on the Guarantor.

**Executed as a Deed**

Executed by

AVJennings Limited

In accordance with section 127 of

The Corporations Act



Director

**Peter K Summers**



Director/Secretary

**Carl Thompson**