

Insert type of document

here Application to note Rescission of a Land Management Agreement (Pursuant to Section 57(8) of the Development Act 1993).....

To the Registrar General:

- 1. Land Management Agreement No 9402205 dated 15th July 2002 ("the Agreement") is noted against the whole of the land comprised in Certificate of Title Register Book Volume 5855 Folio 112 ("the land") pursuant to Section 57(5) of the Development Act 1993 ("the Act").
- 2. The Agreement has been rescinded as regards the land.

NOW THEREFORE THE CITY OF UNLEY applies pursuant to Section 57(8) of the Act to note the rescission against the land.

Dated the 5th day of March 2009.

THE COMMON SEAL of)
 THE CITY OF UNLEY was)
 hereunto affixed in the presence)
 of:)
)

[Handwritten signature]

Mayor

[Handwritten signature]

 Chief Executive Officer

TO: THE REGISTRAR GENERAL

THE CITY OF UNLEY of 181 Unley Road, Unley HEREBY APPLIES pursuant to the provisions of section 57(5) of the Development Act 1993 for the noting of the attached Deed dated the day of 2001 and made between the aforesaid, as the Council, of the first part and NICK D'ANNUNZIO and NATALIE McGOWN both of 32 Chinner Street, Parkside SA 5063 and NEVILLE THOMAS BRANDON and ADRIENNE BRANDON both of 34 Chinner Street, Parkside SA 5063 as the Owner of the land comprised in Certificate of Title Register Book VOLUME 5376 FOLIO 735 of the second part as a Land Management Agreement pursuant to section 57(2) of the said Act. The said Deed binds THE WHOLE OF THE LAND comprised in the said Certificate of Title Register Book VOLUME 5376 FOLIO 735 and operates to control the future development preservation and conservation of the said land.

DATED the day of FEBRUARY 2002

THE COMMON SEAL of the CITY OF UNLEY was hereunto affixed in the presence of:

.....
Mayor

.....
Chief Executive Officer

NB: This form may be used only when no panel form is suitable. A penalty of up to \$2000 or 6 months imprisonment applies for improper witnessing.

THIS DEED is made the

day of

2001

BETWEEN: THE CITY OF UNLEY of 181 Unley Road, Unley SA 5061 (hereinafter with its successors and assigns referred to as "the Council") of the first part

AND: NICK D'ANNUNZIO and NATALIE McGOWN both of 32 Chinner Street, Parkside SA 5063 and NEVILLE THOMAS BRANDON and ADRIENNE BRANDON both of 34 Chinner Street, Parkside SA 5063 (hereinafter, with its executors, administrators, successors and assigns, as the case may be, referred to as "the Owner") of the second part

RECITALS:

- A. The Owner is the proprietor of an estate in fee simple in the whole of the land comprised in Certificate of Title Register Book Volume 5376 Folio 735, which land is to be divided into three allotments as delineated on the plan annexed hereto and marked "Annexure A". This deed is to apply to the whole of the land contained in the allotments marked "32", "34" and "36" on Annexure A (hereinafter called "the Land");
- B. The Land contains two semi-detached dwellings of two storeys in height fronting Chinner Street (hereinafter referred to as "No. 32 Chinner Street" and "No. 34 Chinner Street" respectively) and an office fronting Glen Osmond Road on the allotment marked "36" on Annexure A (hereinafter called "the Office").
- C. The Council has granted a Development Approval numbered DA 090/00682/00/DX and dated 31 October 2001, authorising the construction of the dwellings at No. 32 Chinner Street and No. 34 Chinner Street and the Office.
- D. The Owner has applied by the development application number 090/850/01 (hereinafter called "the application") to increase the floor area of the Office without altering the external components of the Office.
- E. The Council is of the opinion that two additional car parking spaces are required for the Office to accommodate the proposed increase in the floor area in the application which car parks can be located on No. 32 Chinner Street and No. 34 Chinner Street so long as a person who resides in No. 32 Chinner Street and a person who resides in No. 34 Chinner Street works in the Office
- F. Pursuant to the provisions of s57(2) of the Act, the Owner has agreed, with the Council, to enter into this deed to control the development and management of the Land, subject to the terms and conditions that follow.

NOW THIS DEED WITNESSETH:

1. INTERPRETATION

- 1.1 The parties acknowledge that the matters recited above are true and accurate and agree that they shall form part of the terms of this Deed.
- 1.2 In the interpretation of this Deed unless the context shall otherwise require or admit:
 - 1.2.1 Words and phrases used in this Deed which are defined in the Act, or in the regulations made under the Act, shall have the meanings ascribed to them by the Act or the regulations as the case may be;
 - 1.2.2 References to any statute or subordinate legislation shall include all statutes and subordinate legislation amending, consolidating or replacing the statute or subordinate legislation referred to;
 - 1.2.3 The term "the Owner" where it is a company includes its successors, assigns and transferees and where it is a person, includes his or her heirs, executors, administrators and transferees and where it consists of more than one person or company the term includes each and every one or more of such persons or companies jointly and each of them severally and their respective successors, assigns, heirs, executors, administrators and transferees of the companies or persons being registered or entitled to be registered as the proprietor of an estate in fee simple of Allotment 91, subject however to such encumbrances, liens and interests as are registered and notified by memoranda endorsed on the Certificate of Title thereof;
 - 1.2.4 The term "the Land" shall include any part of parts of the Land.
 - 1.2.5 The term "person" shall include a corporate body;
 - 1.2.6 Any term which is defined in the statement of the names and descriptions of the parties or in the Recitals shall have the meaning there defined;
 - 1.2.7 Words importing the singular number or plural number shall be deemed to include the plural number and the singular number respectively;
 - 1.2.8 Words importing any gender shall include both genders;
 - 1.2.9 Where two or more persons are bound hereunder to observe or perform any obligation or agreement whether express or implied then they shall be bound jointly and each of them severally;

- 1.3 Clause headings are provided for reference purposes only and shall not be resorted to in the interpretation of this Deed.
- 1.4 The requirements of this Deed are at all times to be construed as additional to the requirements of the Act and any other legislation affecting the Land.

2. UNDERTAKINGS OF THE OWNER

2.1 The parties agree that the extended floor area of the Office as proposed in the application may only be used as an office (if a development approval is issued by the Council under the Act for the application) for so long as two (2) additional carparks are provided for use by the occupiers of the Office in the following way:

2.1.1 For so long as the Owner occupies No. 32 Chinner Street and works in the Office, by the Owner providing and making use of one carpark on No. 32 Chinner Street for the parking of a vehicle used in association with the use of the Office (which vehicle may be the vehicle owned or used by the Owner); or

2.1.2 By the Owner having the benefit of a binding agreement in writing with the owner of other adjacent or conveniently located land to the satisfaction of the City of Unley, (not being land comprised in Allotment 36) for the use of that land for the provision of one carpark for use associated with the Office.

And

2.1.3 For so long as the Owner occupies No. 34 Chinner Street and works in the Office, by the Owner providing and making use of one carpark on No. 34 Chinner Street for the parking of a vehicle used in association with the use of the Office (which vehicle may be the vehicle owned or used by the Owner); or

2.1.4 By the Owner having the benefit of a binding agreement in writing with the owner of other adjacent or conveniently located land to the satisfaction of the City of Unley, (not being land comprised in Allotment 36) for the use of that land for the provision of one carpark for use associated with the Office.

3. RESCISSION

The Council agrees that in the event that -

- 3.1 any Development Approval for the extension of the floor area of the Office in accordance with (or substantially in accordance with) the application that is granted under the Act by the Council (or any Court on appeal) lapses under the Act, then the Council will rescind this Deed over the Land; or
- 3.2 an owner of adjacent or conveniently located land to Allotment 36 (hereinafter called "the nearby owner") enters into a Land Management Agreement under Section 57 of the Development Act with the Council (and any other parties as may be necessary), whereby the nearby owner agrees to provide one (1) or more of the carparks referred to in clause 2 of this Deed, then the Council will rescind this Deed over either No. 32 Chinner Street or No. 34 Chinner Street (in the case of the provision by the nearby owner of one (1) carparking space) or both No. 32 Chinner Street and No. 34 Chinner Street (in the case of the provision by the nearby owner of two (2) or more carparking spaces) at the request of the Owner;

and the reasonable costs of, and incidental to the preparation, stamping and registration of the Deed of Rescission shall be borne by the Owner.

4. OPERATION OF THIS DEED

- 4.1 The Council and the Owner agree that this Deed will not operate, commence or have any effect unless and until the Council (or any Court on appeal) grants a Development Authorisation for the extension of the floor area of the Office in accordance (or substantially in accordance) with the application.

5. COUNCIL'S POWERS OF ENTRY, ETC

- 5.1 The Council and any employee or agent of the Council authorised by the Council may at any reasonable time after giving notice to the Owner in accordance with the provisions of this Deed enter the Land for the purpose of:
 - 5.1.1 inspecting the Land and any building or structure thereupon for any reason relating to the subject matter of this Deed;
 - 5.1.2 exercising any other powers of the Council under this Deed or pursuant to law.

5.2 If the Owner is in breach of any provision of this Deed, the Council may, by notice in writing served on the Owner, specify the nature of the breach and require the Owner to remedy the breach within such time as may be reasonably nominated by the Council in the notice (being not less than twenty eight (28) days from the date of service of the notice) and if the Owner fails so to remedy the breach, the Council or its servants or agents may carry out the requirements of the notice and in doing so may enter and perform any necessary works upon the Land and recover any costs thereby reasonably incurred from the Owner.

5.3 The Council may delegate any of its powers under this Deed to any person.

6. VARIATION AND WAIVER

6.1 This Deed may not be varied except by a supplementary Deed signed by the Council and the Owner.

6.2 The Council may waive compliance the Owner with the whole or any part of the obligations of the Owner, herein contained, provided that no such waiver shall be effective unless expressed in writing and signed by the Council.

7. NOTICES

Notice shall for the purposes of this Deed be properly served on the Owner if it is:

7.1 posted to the Owner at the last address known to the Council; or

7.2 affixed in a prominent position on the Land.

8. NOTING OF THIS DEED

Each party shall do and execute all such acts, documents and things as shall be necessary to ensure that, as soon as is possible after the execution of this Deed by all necessary parties, this Deed is noted by the Registrar-General, against the respective Certificates of Title for the Land pursuant to the provisions of s57(5) of the Act.

9. GOVERNING LAW

The law governing the interpretation and implementation of the provisions of this Deed shall be the law of South Australia.

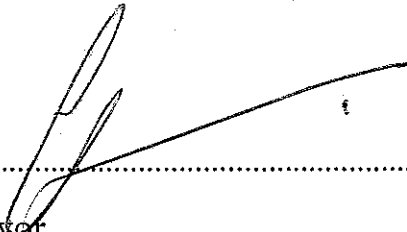
10. GENERAL PROVISIONS

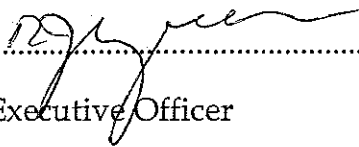
10.1 If any provision of this Deed shall be found by a court of competent jurisdiction to be invalid or unenforceable in law then and in such case the parties hereby request and direct such court to sever such provision from this Deed.

10.2 This Deed contains the whole agreement between the parties in respect of the matters referred to herein.

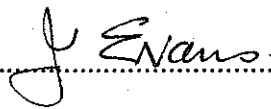
EXECUTED as a Deed

THE COMMON SEAL of the THE
CITY OF UNLEY was hereunto affixed
in the presence of:


.....
Mayer

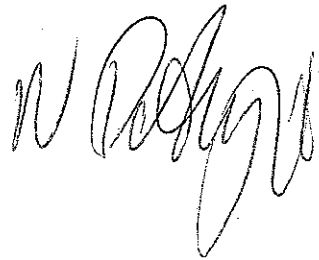

.....
Chief Executive Officer

SIGNED BY NICK D'ANNUNZIO in
the presence of:


.....
Witness

JOHN EVANS
.....

[Print Name]



SIGNED BY NATALIE McGOWN in
the presence of:

J Evans
.....

Witness

JOHN EVANS
.....

[Print Name]

Natalie McGown

SIGNED BY NEVILLE THOMAS
BRANDON in the presence of:

J Evans
.....

Witness

JOHN EVANS
.....

[Print Name]

Neville Thomas Brandon

SIGNED BY ADRIENNE BRANDON
in the presence of:

J Evans
.....

Witness

JOHN EVANS
.....

[Print Name]

A. Brandon

The WESTPAC BANKING CORPORATION being a person with a legal interest in the Land by virtue of registered mortgage number 8973573 on Certificate of Title Volume 5376 Folio 735, **HEREBY CONSENTS** to the Owner entering into this Deed:

THE COMMON SEAL of the
WESTPAC BANKING
CORPORATION was hereunto affixed
in the presence of:

.....)
)
)
)
)
)
)
)
)
)
)

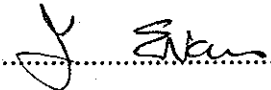
Authorised Officer

.....
Authorised Officer

THE OWNER HEREBY CERTIFIES pursuant to s57(4) of the *Development Act 1993* that no other person has a legal interest in the Land:

SIGNED BY NICK D'ANNUNZIO in
the presence of:

.....)
)
)
)
)
)
)
)
)
)
)


.....

Witness

.....
JOHN EVANS

[Print Name]



SIGNED BY NATALIE MCGOWN in
the presence of:

J. Evans
.....

Witness

JOHN EVANS
.....

[Print Name]

Natalie McGown

SIGNED BY NEVILLE THOMAS
BRANDON in the presence of:

J. Evans
.....

Witness

JOHN EVANS
.....

[Print Name]

Neville Thomas Brandon

SIGNED BY ADRIENNE BRANDON
in the presence of:

J. Evans
.....

Witness

JOHN EVANS
.....

[Print Name]

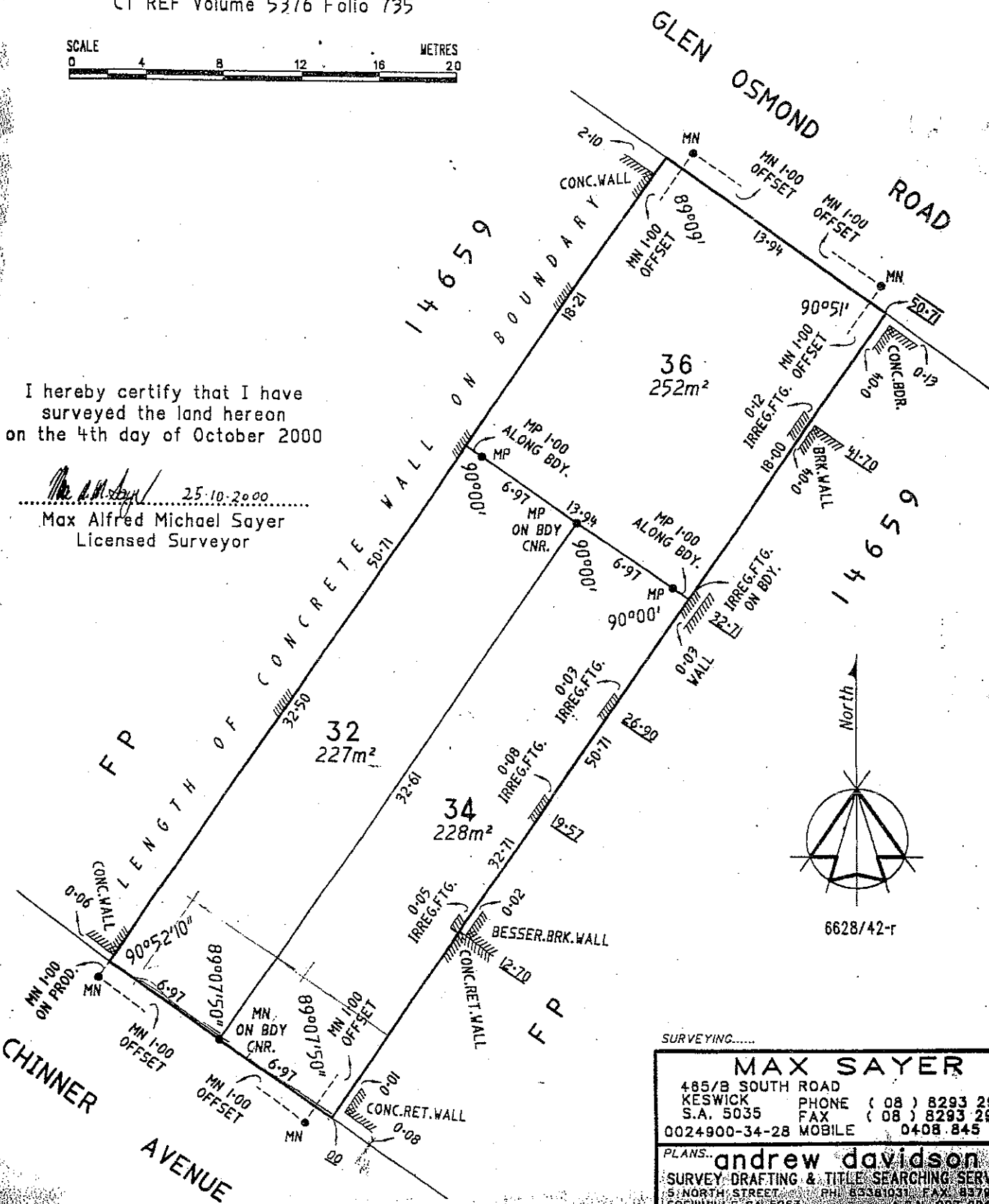
A. Brandon

ANNEXURE A

Boundary
Identification Survey
In the Area Named
PARKSIDE

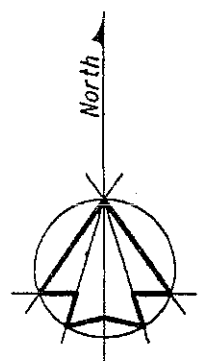
Allotments 32, 34 & 36
in
DEV. NO. 090:C.011:00
CT REF Volume 5376 Folio 735

NOTE:-
BDY. denotes Boundary
CNR. denotes Corner
BRK. denotes Brick
RET. denotes Retaining
CONC. denotes Concrete
MN denotes Masonry Nail
MP denotes Metal Pin
PROD. denotes Production
IRREG. denotes Irregular
FTG. denotes Footing



I hereby certify that I have surveyed the land hereon on the 4th day of October 2000

Max Alfred Michael Sayer 25.10.2000
Max Alfred Michael Sayer
Licensed Surveyor



6628/42-T

SURVEYING.....

MAX SAYER
485/B SOUTH ROAD
KESWICK S.A. 5035
0024900-34-28

PHONE (08) 8293 2939
FAX (08) 8293 2949
MOBILE 0408 845 945

PLANS.. **andrew davidson**
SURVEY DRAFTING & TITLE SEARCHING SERVICES
5 NORTH STREET FREWVILLE SA 5063
13-10-00 Email: todday@comtech.net.au 1522-81

DATED

2001

BETWEEN:

THE CITY OF UNLEY

of the first part

AND

NICK D'ANNUNZIO, NATALIE
McGOWN, NEVILLE THOMAS
BRANDON and ADRIENNE BRANDON

of the second part

LAND MANAGEMENT AGREEMENT
BY DEED

**LANDS TITLES REGISTRATION
OFFICE
SOUTH AUSTRALIA**

FORM APPROVED BY THE REGISTRAR GENERAL

BELOW THIS LINE FOR AGENT USE ONLY

<p>CERTIFIED CORRECT FOR THE PURPOSES OF THE REAL PROPERTY ACT 1886</p> <hr style="width: 50%; margin: 10px auto;"/> <p style="text-align: center;">Solicitor/Registered Conveyance/Applicant</p>
--

AGENT CODE

Lodged by:

Correction to:

TITLES, CROWN LEASES, DECLARATIONS ETC. LODGED WITH INSTRUMENT (TO BE FILLED IN BY PERSON LODGING)

1.
2.
3.
4.
5.

Assessor

PLEASE ISSUE NEW CERTIFICATES OF TITLE AS FOLLOWS

1.
2.
3.

DELIVERY INSTRUCTIONS (Agent to complete)
PLEASE DELIVER THE FOLLOWING ITEM(S) TO THE UNDERMENTIONED AGENT(S)

ITEM(S)	AGENT CODE

Series No.	Prefix

BELOW THIS LINE FOR OFFICE USE ONLY

Date	Time	
FEES		
R.G.O.	POSTAGE	NEW C.T.

CORRECTION	PASSED
------------	--------

REGISTERED	REGISTRAR-GENERAL
------------	-------------------