

***DIVISION 4C - MACHINERY PROVISIONS FOR LAND RELATED
BENEFITS***

47. PROCESS FOR CHOOSING A PROPONENT

47.1 Application

- (1) This clause 47 is intended to apply to each of the Farm Areas within the M2 Development Area, the Mantinea Development Area and the Ord West Bank

M2 Maximum Farm Area by Proponents), 32.4 (dealing with development of Mantinea Farm Area by Proponents) and 33.3 (dealing with development of Ord West Bank Farm Area by Proponents), respectively. Accordingly the reference to the term Farm Area, throughout this clause is a reference to all or part of:

- (i) any comments provided by the MG Corporation in accordance with clause 47.2(4)(a); and
 - (ii) the extent to which the MG Corporation and the Proponent have engaged with a view to reaching an agreement in principle with the MG Corporation about the content of the draft Aboriginal Development Package; and
- (c) only offer to transfer or grant a freehold title or lease in the Farm Area to the Proponent ("*Preferred Proponent*") whose proposal complies with the

Weighting Criteria.

- (5) If the comments provided by the MG Corporation in accordance with clause 47.2(4)(a) include an assertion that a Proponent has failed to provide an adequate draft Aboriginal Development Package then:
- (a) the State must:
 - (i) notify the MG Corporation in writing whether the State agrees or disagrees with the MG Corporation's assertion;
 - (ii) if the State disagrees, make reasonable efforts to consult with the MG Corporation with a view to resolving the disagreement; and
 - (iii) if the disagreement cannot be resolved within 10 Business Days of service of the notice referred to in clause 47.2(5)(a)(i), refer the

- (d) the submissions and information provided to the Independent Expert, and the decision of the Independent Expert, under clause 47.2(5)(b);
 - (e) the identity of the Proponent referred to in clause 47.4(1)(a);
 - (f) the MG Corporation's submissions and information referred to in clause 47.4(1)(b); and
 - (g) the content of any consultations with the Proponent referred to in clause 47.4(1)(c).
- (2) The MG Corporation may disclose confidential information referred to in clause 47.5(1):
- (a) as required by law;
 - (b) to a bona fide expert or consultant providing advice to the MG Corporation, provided that expert or consultant agrees to keep the information confidential; and
 - (c) insofar as the information is in the public domain otherwise than as a result of a breach of clause 47.5(1) by the MG Corporation (or any of its officers, employees, agents or members).

48. 5% OF SERVICED FARM LOTS PROVISIONS

48.1 Application

(1) This clause 48 applies to the M2 Development Area the Montineo

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Corporation releases the Proponent from any liability for anything done

corresponding provisions of this deed.

48.3 Transfer of Serviced Farm Lots

MG Corporation shall have priority of selection up to 7.5% of the aggregate Market Value of all Serviced Farm Lots in the Farm Area ("Nominated MG Lots"). The MG Corporation, by virtue of this deed, is entitled to 5% of the aggregate Market Value of all Serviced Farm Lots in the Farm Area ("MG Lot Entitlement") without valuable consideration. However, Market Value must be paid for the difference between the Nominated MG Lots (up to 7.5%) and the Lot Entitlement (5%).

- (1) A reference in this clause 48 to Market Value is a reference to the Market Value according to the valuation referred to in clause 48.3(3)(a).
- (2) The Developing Party must transfer part of the Farm Area to the value of 5% of the aggregate Market Value of all Serviced Farm Lots in the Farm Area ("**MG Lot Entitlement**") in accordance with this clause 48 without valuable consideration passing to the Developing Party.
- (3) Prior to the first sale or lease of any Serviced Farm Lot to the public within a Farm Area, or the Developing Party, any other purchaser or other lessee of a Serviced Farm Lot commencing farming operations within a Farm Area, the Developing Party must:
 - (a) obtain a valuation of the Market Value of each Serviced Farm Lot in accordance with clause 52 (dealing with Valuations); and
 - (b) at the same time as commencing to obtain the valuation in accordance

into a sales contract in respect of the Serviced Farm Lots on the terms in this clause 48.

- (6) Unless otherwise agreed in writing between the MG Corporation and the Developing Party, the terms and conditions of sale of Serviced Farm Lots to the MG Corporation under this deed will be those specified in the 2002 Joint Form of General Conditions for the Sale of Land, excluding clauses 1, 4.2, 5, 10, 11, 12, 13.3(a), 14, 15, 19 and 24.14 and as further varied to the extent necessary so that they are consistent with the terms of this deed.
- (7) Settlement of the sale of the Serviced Farm Lots will occur within twenty (20) Business Days of the later of:

(a) the issue by the Department of Land Information of certificates of title for

each of the Serviced Farm Lots; and

(b) the completion of the construction of the Serviced Farm Lots.

- (i) in instalments, each instalment being 5% of the Market Value of each Serviced Farm Lot, to be paid within twenty (20) Business Days of the transfer of the relevant Serviced Farm Lot; or
- (ii) as a lump sum within twenty (20) Business Days of the registration

of the first transfer of a Serviced Farm Lot within the Maximum Farm Area; or

- (b) in any other case, as a lump sum within twenty (20) Business Days of the

notice referred to in clause 48.3(3)(b).

- (1) If clause 48.4(1) applies then the Developing Party may proceed to sell or lease

49. ABORIGINAL DEVELOPMENT PACKAGE

49.1 Application

(1) This clause 49 has application in relation to the M2 Development Area, the Mantinea Development Area and the Ord West Bank Development Area, if and in the circumstances it is stated to apply in clauses:

(a) 31.2 (dealing with development of M2 Maximum Farm Area by State or LandCorp);

(b) 31.3 (dealing with development of M2 Maximum Farm Area by State or LandCorp);

Proponents);

(c) 32.3 (dealing with development of Mantinea Farm Area by State or LandCorp);

...ing into account any contributions from the Developing Party and the MG

Corporation.

- (5) The Developing Party must execute and deliver to the MG Corporation the Aboriginal Development Package agreed or determined in accordance with this clause 49.2.

Note: An agreed or determined Aboriginal Development Package will include a process for determining or verifying the Development Costs.

- (6) The Developing Party must not substantially commence development of the Maximum Farm Area until it has executed and delivered to the MG Corporation the Aboriginal Development Package agreed or determined in accordance with this clause 49.2.

Note: If the MG Corporation does not then execute the Aboriginal Development

(i) if and to the extent that the draft Aboriginal Development Package

does not comply with Schedule 3; and

(ii) to take account of any changes to the Developing Party's Project which have occurred between the date the Developing Party

50. BUFFER AREAS

Notes: This clause applies to each of the M2 Development Area, the Mantinea Development Area and the Ord West Bank Development Area as if the terms within this clause refer to the respective areas as follows.

<u>Term in clause 50</u>	<u>Meaning if dealing with M2</u>	<u>Meaning if dealing with Mantinea</u>	<u>Meaning if dealing with Ord West Bank</u>
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<i>Farm Area</i>	<i>M2 Maximum Farm Area</i>	<i>Mantinea Farm Area</i>	<i>Ord West Bank Farm Area</i>
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- (b) Mantinea Farm Area, Mantinea Buffer Area, Mantinea Buffer Reserve, Mantinea Buffer Original Freehold Area, Mantinea Buffer Additional Freehold Area, Mantinea EME, any Raw Materials Areas and any Additional Raw Materials Areas within the Mantinea Development Area respectively; or

~~(c) Old West Park Farm Area, Old West Park Buffer Area, Old West Park~~

~~Buffer Reserve, Old West Park Buffer Original Freehold Area, Old West~~

- (ii) any parts of the Buffer Area which the State reasonably considers should not be granted in freehold to the MG Corporation because they are required for infrastructure purposes associated with the development or operation of the Farm Area; and
 - (iii) any parts of the Raw Materials Areas and Additional Raw Materials Areas within the Buffer Area which the State reasonably considers are still required for the extraction of raw materials (whether or not related to the development or operation of the Farm Area); and
- (b) at its own cost, undertake the preparation of suitable deposited plans (and

including the areas notified under clause 50.3(1)(a) ("*Buffer Original*

associated with the Farm Area or any other necessary purpose associated with the Farm Area.

Note: The lease of the Buffer Area to the EME may then be terminated - see Schedule 11 clause 9.

- (7) The reference in Schedule 11 to the Management Plan is a reference to the buffer management plan, any cultural heritage management plan and any other relevant management plans applicable to the Buffer Area as at the date the lease

is entered into, which management plans are requirements under the Environmental Approval in relation to the relevant Development Area

50.4 Buffer Additional Freehold Area

- (1) If:
- (a) part of the Buffer Area was excluded from the Buffer Original Freehold Area because:
 - (i) it was the subject of an Existing Mining Tenement;
 - (ii) it was required for infrastructure purposes; or
 - (iii) it was a Raw Material Area which was still required for the extraction of raw materials; and
 - (b) at any time after the grant of freehold title to the Buffer Original Freehold Area that part:
 - (i) of an Existing Mining Tenement is expired, surrendered or withdrawn, except when surrendered or withdrawn in pursuance of a right to the grant of another mining tenement over the area of the Existing Mining Tenement;
 - (ii) will not be required for the extraction of raw materials; or
 - (iii) is not in the State's opinion required for infrastructure purposes associated with the development or operation of the relevant Farm Area,

then the State must give written notice to the MG Corporation identifying the part of the Buffer Area over which freehold title may then be granted and giving the MG Corporation at least four (4) months in which to request a transfer of freehold title to that part of the Buffer Area.

- (2) As soon as practicable after the State receives a request in writing from the MG Corporation in accordance with clause 50.4(1), the State must...

50.5 Future alternative buffer arrangements

freehold title to the Buffer Area then the State and the MG Corporation may by deed executed by those two Parties:

(a) agree to the surrender of the existing freehold title or titles held by the

MG Corporation or its nominee in respect of the Buffer Original Freehold Area and any Buffer Additional Freehold Area and the granting of an inalienable freehold title in its place; and

(b) vary the terms of this deed insofar as it relates to the transfer of freehold title to the Buffer Freehold Area to the MG Corporation and insofar as it

51. 5% OF TOWN LAND PROVISIONS

Notes:

(1) *The general purpose of this clause is to provide 5% of the value of the*

subdivision and development of the Mantinea Other Area, the Ord East Bank Acquisition Area and the Kununurra Additional Acquisition Area to the MG Corporation where the land is being transferred to a Third Party.

(2) *Either the State or LandCorp will implement the subdivision and development of the Mantinea Other Area, the Ord East Bank Acquisition Area and the Kununurra Additional Acquisition Area. Any transfers from the State to LandCorp for this purpose will not attract a 5% MG Corporation entitlement, ~~however, if the State or LandCorp is the transferee, the land will attract the 5% MG~~*

(b) receive 5% of the value of the Town Land given in a monetary payment.

If the MG Corporation gives a Further Election Notice then settlement will generally occur in 20 business of the Further Election Notice

(6) Disputes as to the value of Town Lots-5% payment

~~Under Developing Party Must Pay MG Corporation 5% of Sale Price~~

process applies, then within 20 Business Days the Developing Party must give the MG Corporation details about the sale and pay the MG Corporation 5% of the Sale Price (or market value where the Developing Party provides an estimated Market Value).

If the MG Corporation disputes the Sale Price then it must respond in 10 business days by giving the Developing Party an Undervalue Notice.

~~Under Developing Party Must Pay MG Corporation 5% of Sale Price~~

- (a) the State, if the State develops any Town Land for the sale of Town Lots to the public;
- (b) the Commonwealth, a Commonwealth or State agency or statutory authority, or local Government body, including LandCorp (***Government Entity***), if the State transfers Town Land which is undeveloped land to the Government Entity and the Government Entity develops such Town

Land for the sale of Town Lots to the public; or

- (c) LandCorp, if the State transfers Town Land containing Town Lots to LandCorp for the sale of Town Lots by LandCorp to the public.

(5) This clause 51 shall apply only once in respect of a Town Lot.

51.2 Sale of Undeveloped Town Land by the State or LandCorp

(1) An ***Undeveloped Town Land Transferor*** under this clause 51.2 is:

- (a) the State, if the State develops any Town Land for the sale of Town Lots to the public;

51.3 Development Notice by the State or LandCorp

- (1) Prior to the transfer to the public, by the Developing Party, of any Town Lot within the Town Land, the Developing Party must give written notice ~~“Development Notice” to the MC Corporation containing:~~

~~(a) a plan of the Town Land and other necessary documents identifying~~

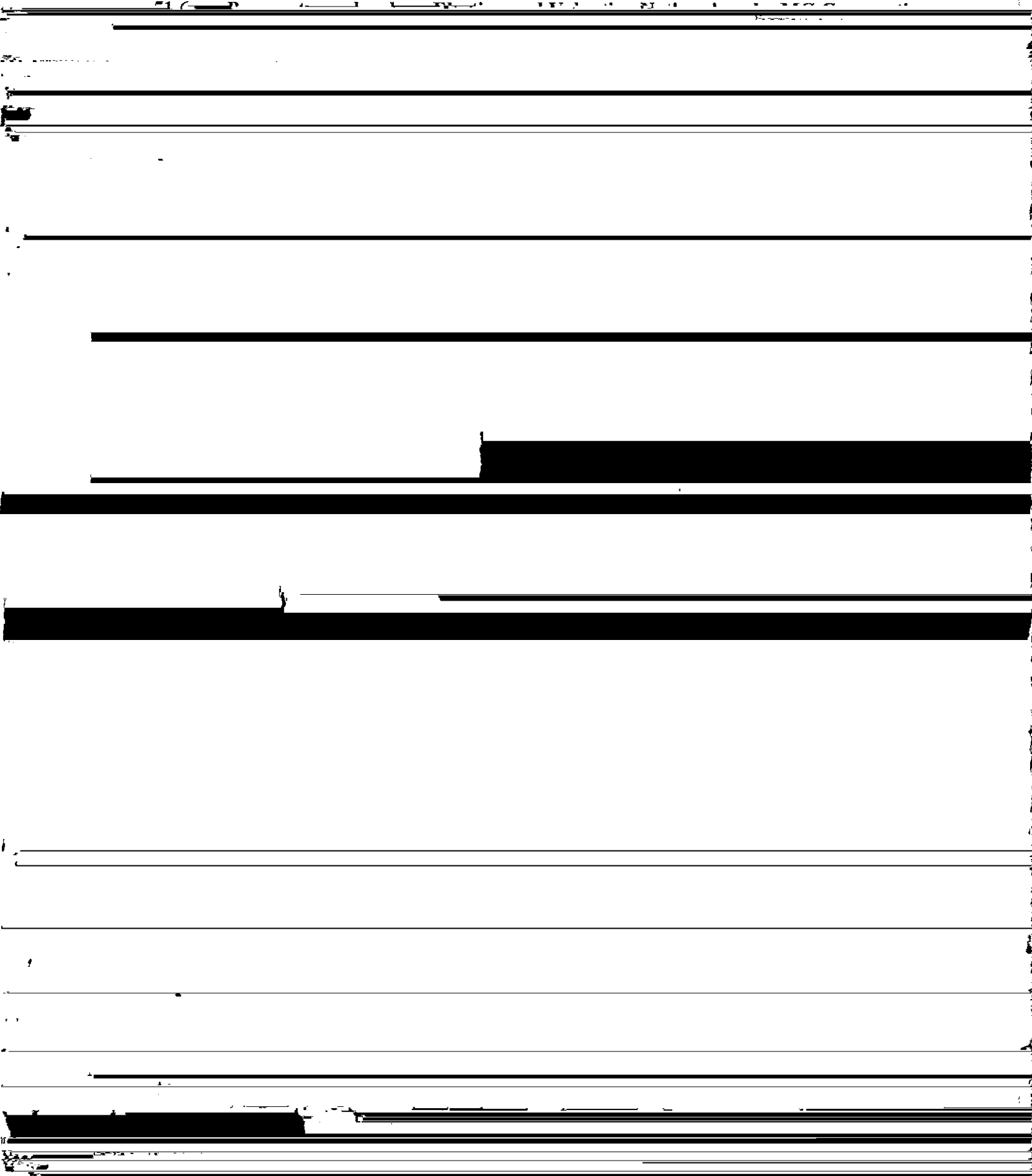
51.4 Process to apply where Election Notice is given by MG Corporation

If an option is given in a Development Notice by a Developing Party and the MG Corporation gives the Developing Party an Election Notice within the specified time in the Development Notice, then a sale contract shall be deemed to be entered into between the MG Corporation and the Developing Party on the terms in clause 51.5 (dealing with Process to apply to Transfer of Town Lots to MG Corporation).

51.5 Process to apply to Transfer of Town Lots to MG Corporation

(1) Unless otherwise agreed in writing between the MG Corporation and the Developing Party, the terms and conditions of sale shall be those specified in

- (b) as a lump sum, to be paid within twenty (20) Business Days of the registration of the first transfer of a Town Lot the subject of the Development Notice to a Third Party Purchaser.



transfer of all or some of the Town Lots specified in the Election and Valuation Notice ("*Further Election Notice*").

- (5) If the MG Corporation is served with a valuation in accordance with clause 51.6(3)(c) and the MG Corporation does not give a Further Election Notice then:
- (a) the MG Corporation shall be deemed not to have given an Election and Valuation Notice; and
 - (b) clause 51.7 (*dealing with 50% Payment Procedure*) shall apply

- (6) If and when:

- (a) the Market Values of all Town Lots in the Election and Valuation Notice are determined, agreed or deemed to be agreed under this clause 51.6; and
- (b) the MG Corporation gives the Developing Party a Further Election Notice,

then a sale contract shall be deemed to be entered into between the MG Corporation and the Developing Party on the terms in clause 51.5 (*dealing with*

(c) the MG Corporation's estimate of the Market Value of the Town Lot;

Developing Party's estimate of the Market Value for the Town Lot does not equal the Market Value of the Town Lot; and

- (b) the MG Corporation's estimation of the Market Value of the Town Lot and of the amount of the Undervalue Payment.
- (5) Within ten (10) Business Days of receipt of an Undervalue Notice, the Developing Party must notify the MG Corporation:

(a) that it agrees to pay the Undervalue Payment specified in the Undervalue

Notice; or

- (b) that it does not agree with the MG Corporation's estimate of the Market Value of the Town Lot or of the Undervalue Payment in respect of the Town Lot, in which case it must also:

less than the Sale Price or estimated value in the Lot Payment Advice (as the case may be) then the Developing Party is not liable to make an Undervalue Payment.

51.8 No interest in Town Lands or Town Lots

Except in relation to those Town Lots which are the subject of a sale contract under clause 51.4 (dealing with Process to apply where Election Notice is given by MG

52. VALUATIONS

52.1 Application of this clause

(1) This clause 52 applies to all valuations required under this deed

52.2 Appointment of Independent Valuer

(1) As soon as practicable after the need for a valuation arises under this deed, the Developing Party must appoint:

(a) an agreed Independent Valuer in accordance with clause 52.2(2); or

(b) if an Independent Valuer has not been agreed in accordance with clause 52.2(2), an Independent Valuer chosen by the President for the time being of the Australian Property Institute in accordance with clause 52.2(3), to conduct the valuation in accordance with the Valuation Principles.

(2) The process for agreeing an Independent Valuer is as follows:

(a) the Developing Party must nominate in writing to the MG Corporation at least two (2) Independent Valuers;

(b) within ten (10) Business Days of such nomination, the MG Corporation

- (3) The process for the appointment of an Independent Valuer by the President for the time being of the Australian Property Institute is as follows:
 - (a) the Developing Party must provide the President for the time being of the Australian Property Institute with its nominated Independent Valuers

Section 1.1.1.1 - 50 (2) (a) - Independent Valuers

(2) In this clause 52.5:

(a) ***Developing Party's Estimate for Sale to MG Corporation*** means:

(i) the Developing Party's revised estimate of the Market Value of the Town Lots specified in the Election and Valuation Notice as having

Market Value less than the List Price as defined in clause

51.6(1)(b)(ii); or

(ii) if there is no such revised estimate - the List Price of the Town Lots specified in the Election and Valuation Notice as having a Market Value different from the List Price;

(b) ***Developing Party's Estimate for Payment to MG Corporation*** means:

(i) the Developing Party's revised estimate of the Market Value of the Town Lot referred to in clause 51.7(5)(b)(ii);

(ii) if there is no such revised estimate - the Developing Party's estimate

of the Market Value of the Town Lot as stated in the Lot Payment Advice; or

(iii) if there is no such estimate - the Sale Price.

(3) The Developing Party must pay the costs of the valuation.

(4) If the valuation of an Independent Valuer obtained pursuant to clause 51.6(3)(c) is:

(a) greater than the Developing Party's Estimate for Sale to MG Corporation;
or

(a) it will be the unimproved market value of the land in its natural or virgin state but taking into account existing surrounding services to the farm

boundary, facilities off the land and amenities including any potential utility or detriments inherent with the location, and including any improvements to the land such as clearing, levelling, drainage, contour or

retaining walls;

(b) the market value will be determined by reference to the market value of the land in its natural or virgin state but taking into account existing surrounding services to the farm

simple in the land in the manner provided for in clauses 52.6(2)(a) to 52.6(2)(g) above but also:

- (I) assuming the strata plan is registered; and
 - (II) taking into account any services and infrastructure on any common property in the strata scheme; and
- (ii) Survey-Strata Lots, each Survey-Strata Lot will be valued as a separate parcel according to the site value of that Survey-Strata Lot

~~INDEPENDENT EXPERT~~

- (1) If this deed provides that a matter is to be referred to an Independent Expert then that Independent Expert must be chosen in accordance with this clause 53.
- (2) The Developing Party must give the MG Corporation a list of three (3) Independent Experts, including details of the qualifications, experience and fees

- (3) The MG Corporation may choose one of the Independent Experts referred to in clause 53(2) by notice in writing to the Developing Party within 5 Business Days of receipt of the list referred to in clause 53(2), and the Independent Expert shall be the person so chosen.
- (4) If the MG Corporation does not give notice in accordance with clause 53(3) then the Developing Party may choose any one of the Independent Experts referred to in clause 53(2), and the Independent Expert shall be the person so chosen.