



FREEHILLS MELB 6.
ENERGY PROJECTS DIVISION
 Department of Treasury and Finance

Level 3, 35 Spring Street
 MELBOURNE VIC 3000
 Phone: (613) 9651 3108
 Facsimile: (613) 9651 3192

FACSIMILE COVER SHEET

To: Jane Hodder (Freehill, Hollingdale and Page) 9288 1567
cc: Linda Cantan (KPMG) - 9288 6781 (Cover sheet only)
From: Cameron Borschmann / Mandy Zowa
Date: 25 July, 1997
Number of Pages: 2
 (including cover sheet)

Message:

Energy Projects Division (EPD) has determined a strategy to cash fund the liabilities of SECV's Gas Fund over the next two years and in this regard, EPD requires a firm estimate of the cash funding requirements of the Gas Fund over the period to 30 June 1999.

I am aware that you provided similar advice to Mandy Zowa, however, I would appreciate if you advised of the cash funding requirements of the Gas Fund over the next two years which should address:

- (a) any changes that may have occurred in the following:
 - (i) the current cash balance in the Gas Fund (previously you advised it was in the order of \$8 million);
 - (ii) estimated clean-up/land remediation costs to be borne by the Gas Fund over the next two years (please arrange for Royce Evans to consider the necessity for any revision to his original estimate of \$39 million); and
- (b) included in this analysis should be an estimate of proceeds from land sales of properties being remediated over the next two years;

I understand there is uncertainty with respect to responsibility for clean-up of Docklands. I attach extract from the Trunk Infrastructure Information Memorandum describing clean-up and remediation costs of Docklands. I would appreciate your interpretation of the extract vis-a-vis the clean-up notice that was issued to GFCV regarding Docklands in 1994 (for which SECV is now responsible). Could it be the case that SECV may not have liability for this site to the extent that developers assume responsibility for clean-up costs?

I appreciate if you could speak with Graham Brooke to determine his understanding of SECV's responsibility (or otherwise) with respect to Docklands. Please note that at this stage it is not appropriate to contact the Docklands Authority.

In summary, we require advise as to the best estimate of the opening balance of the Gas Fund, the cash inflows and outflows over the next two years and as a result, the closing balance of the Gas Fund. I would appreciate your response by close of business 1 August 1997.

Regards, Cameron

Cameron

PS: I will be away on Monday so please feel free to contact Mandy Zowa in my absence

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- a certificate of environmental audit in accordance with section 57AA of the Environment Protection Act 1970; or
- a statement under section 57AA5(b) of the Act from an environmental auditor that the environmental conditions of the land are suitable for the proposed use.

The Authority will require developers to comply with either of these requirements whether or not the development land is proposed for a sensitive use.

Further contamination investigation within the stadium precinct was undertaken in January and February 1997. The reports resulting from this further investigation are included on CD ROM 3.

Clean-up and remediation costs

The developer will be required to provide a complete indemnity to the Authority and the State for all costs incurred by either of them associated with remedialing any contaminated land at any time.

Land will be required to be cleaned up for the purposes of the proposed element of Trunk Infrastructure. The level of clean-up will vary depending upon the purpose for which the elements are built. It is possible that containment may be used as the method of remediation by the developer. Whatever method is used, the developer will bear the ongoing liability for the remediation of any contamination, whether it is contained or not.

Developers should refer to Section 7 of the *Trunk Infrastructure Minimum Performance Specifications* for details of the Environment Protection Authority requirements.

Although it is anticipated that precinct developers will undertake the majority of precinct remediation works, the developer must allow for any anticipated remediation necessary for the delivery of Trunk Infrastructure. To the extent that associated costs are not to the account of a precinct developer or contemplated under the *Trunk Infrastructure Plan and Costing* report, the costs will be borne by the developer.

If appropriate, a developer may seek to quantify this risk in a non-conforming Bid Proposal by proposing liability caps and any available insurance arrangements.

Bid Proposals should also clearly specify the following information:

- details, including timing, of any proposed remediation of the land; and
- the amount allowed by the developer to carry out the proposed remediation.

The Authority has a discretion to accept responsibility for the remediation of any part of the Melbourne Docklands. If the Authority exercises its discretion, the payment specified by the developer will be decreased by the amount allowed by the developer for remediation. In addition:

- the Authority will use its best endeavours to obtain a warranty, in favour of the developer from the entity which carried out the remediation work, that the remediation work is not defective; and
- the complete indemnity provided by the developer will not be able to be relied upon by the Authority or the State if the claim or damage is as a result of the remediation work, for which the Authority has accepted responsibility, being defective.

If the developer requires ownership of any land, the developer may be required to enter into a Section 173 agreement. This provides that, should the property be redeveloped at some stage in the future and, as a result, further remediation work is required, the entity undertaking the redevelopment cannot seek to recover, either directly or indirectly, the costs of that remediation from the Authority or the State.

For guidance on the information required in the Bid Proposal refer to the *Trunk Infrastructure Form of the Bid Proposal*.

61 3 9652 5100

FAX

Date 29/07/97

Number of pages including cover sheet

15

TO: Mr. Graham Brooke
SECVPhone
Fax PhoneFROM: Royce Evans
Gas and Fuel
Level 5, 196 Flinders Street
MelbournePhone 9652 5582
Fax Phone 9652 5100

CC:

REMARKS: Urgent For your review Reply ASAP Please Comment

Graham,

EPD request re: Gas Fund

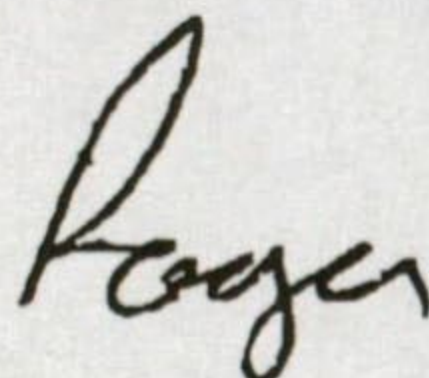
I have drafted the attached table for our discussion.

It is very difficult to estimate what clean-up requirements are going to be required for the next two years.

If the figures look alright to you, perhaps we can stay with the \$39^{million} advised Jane Hodder last month. (Docklands and Morwell are the difficult ones.) Could you give me a call please to discuss and I will then prepare a table of estimated costs for the EPD as requested.

I have also attached a copy of the notes I made for Jane in June.

Regards



Royce

61 3 9652 5100

Confidential
Issued 31/7/97

**Gas Fund - Estimated Clean-up Costs⁶
for 1997/98 and 1998/99**

(This schedule should be read in conjunction with the accompanying notes which are integral to the estimates)
(including provision for comparison)
7

	<u>Estimated c/u</u> <u>costs</u>	<u>Provision</u>
Category 1 Sites (<i>land never owned but contaminated by GFCV</i>)		
North Geelong (Douro Street)	\$500,000 ¹	\$1,786,386
Category 2 Sites (<i>land previously owned by GFCV but sold to another party</i>)		
Docklands	\$24,000,000 ²	\$23,827,179
Morwell (<i>Lungi site</i>)	\$6,000,000 ³	\$6,479,629
<i>Other sites</i>		
Sub-Total	<u>\$30,000,000</u>	<u>\$30,306,808</u>
Category 3 Sites (<i>land currently owned but ^{presently} not intended for sale</i>)		
Bacchus Marsh	\$300,000	\$254,556
North Geelong GMPS	\$500,000	\$353,211
Sub-Total	<u>\$800,000⁴</u>	<u>\$607,767</u>
Category 4 Sites (<i>land owned + ear market for sale</i>)		
Kyneton	\$50,000 ⁴	\$17,879
Oakleigh	\$50,000 ⁴	\$23,221
Port Melbourne (Liardet Street)]		\$693,473
Port Melbourne (Pickles/Graham NW)]		\$3,240,000
Port Melbourne (Pickles/Graham SW)]	\$7,893,816 ⁵	\$1,403,768
South Melbourne (Meter Shop)]		\$2,556,575
Queenscliff	\$215,000 ⁴	\$29,253
Sale (<i>2 lots</i>)	\$100,000	\$27,016
Sub-Total	<u>\$8,308,816</u>	<u>\$7,991,176</u>
TOTAL	\$39,608,816	\$40,692,137

¹ Recent work at North Geelong may increase the risk of a claim being made against the Gas Fund.

² Without talking to Docklands Authority very difficult to estimate - see below.

³ This clean-up requirement could arise in next two years. - *could be very costly & difficult.*

⁴ Currently being cleaned up.

⁵ SECV currently working on this site independent of Gascor. *via Urban Land Authority*

⁶ *Each site clean-up costs are contingent upon the ultimate proposed use of the sites or disposal.*

⁷ *In 21/6/98 the provision was allocated to SECV but not any matching cash.*

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*Gas Sites - Remediation**Confidential
31/7/97***NOTES ON SECV GAS FUND, PROVISION &
2 YEAR CASH FLOW****Purpose**

This has been prepared in response to a question from EPD, via Jane Hodder from Freehills requesting a description of the Gas Fund, both how it was established and its balance to date. An estimated cash flow for SECV work relating to the Gas Fund for the next two years was also requested.

The purpose of providing this information is to supply the EPD with background data to assist it to consider what provision, if any, should be made for reimbursement by Gas and Fuel to the Gas Fund for extraordinary expenditure that may occur.

The Gas Fund

During 1992/93 the Gas and Fuel Corporation of Victoria (GFCV) established the potential costs to remediate various sites to a level complying with guidelines adopted by the Environment Protection Authority. For this purpose GFCV classified sites into 4 categories and a Provision for land remediation was made through an abnormal charge to the profit and loss account.

The four categories of sites established were:

- Category 1 - Sites never owned by GFCV but allegedly contaminated by GFCV
- Category 2 - Sites previously owned by GFCV and potentially contaminated
- Category 3 - Sites owned by GFCV
- Category 4 - Sites owned by GFCV and proposed to be sold

On the disaggregation of the Victorian Gas Industry in 1994, GFCV retained the liabilities and provisions for Categories 1 and 2 and a number of sites in Categories 3 and 4. The balance of the liabilities and the Provisions were transferred to Gas and Fuel and the Gas Transmission Company (GTC).

With the dissolution of GFCV ^{June} in 1995, liabilities and Provisions retained by GFCV were transferred to the SECV. The transfer of the Provision did not include the transfer of funds. The Repeal Act 1995 provided for the establishment of the Gas Fund of \$10M.

Since then a number of sites have been sold, with the revenue added to the Gas Fund. A number of sites have been investigated to determine the nature and extent of the contamination and a number of sites have been cleaned up with the expenditure being met by the Gas Fund. This has resulted in a balance of the Gas Fund of about \$15.5M.

SECV's liabilities or Provisions for land remediation at 31 May 1997 are:

- Category 1 Sites - \$1,786,368 (1 site)
- Category 2 Sites - \$65,724,084 (68 sites)
- Category 3 Sites - \$607,767 (2 sites)
- Category 4 Sites - \$7,991,176 (9 sites)

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The Gas and Fuel in its 1995/96 Annual Report provided under item 24 Contingency Liabilities -

"The State Electricity Commission Act 1958 as amended by the Gas and Fuel Corporation (Repeal) Act 1995, provides that the Treasurer may guarantee, indemnify or otherwise support the performance, satisfaction or discharge of obligations or liabilities of the SEC in its functions in relation to gas. Should the Treasurer provide such support to the SEC he may seek reimbursement therefor from Gas and Fuel and GTC. To the extent the Treasurer may seek reimbursement from Gas and Fuel, a contingent liability exists".

With the disaggregation of Gas and Fuel, GTC presently underway, the relevance of the reimbursement plan calls for early review

The Cash Flow

A cash flow for the next two years for SECV in relation to the Gas Fund cannot be reliably estimated due to a number of factors. The following discussions on a category by category basis is an indication only of the level of expenditure that might be required during the two year period.

Category 1 (\$1,786,368) Provision

This provision was established in 1992/93 when GFCV had been advised by a land owner that its land had been contaminated by GFCV during the manufacture of coal gas on the North Geelong gasworks site which was located nearby. Liability was denied and if a claim is made this matter will be contested.

The owner has subsequently cleaned up the land (about two years ago) and no further claims have been made against GFCV, Gas and Fuel or SECV.

Although the risk of this claim appears to have diminished, the risk of this claim or a similar claim at a different location being made in the future is quite possible. The migration of contamination onto or under adjoining properties is a very real threat on a number of SECV properties, *including the pollution of sub-surface waterways.*

The present view
Although the estimation of the costs of remediation in these situations is difficult, it is *h* probable that the above provision is sufficient to cover such liabilities for the next two years.

Category 2 Sites (\$65,724,084) Provision

There are two sites in this category that may require major expenditure from the Gas Fund over the next two years. These are the West Melbourne Gasworks site at Docklands and the Lurgi Gasification plant at Morwell. The current provision for Docklands is \$23,479,620 and for Morwell is \$6,479,629. There are additional liabilities associated with the Morwell site which are not the responsibility of GFCV and in fact there is a possibility of seeking contributions from a third party in relation to a portion of the GFCV Provision. There is already an EPA Clean-up Notice issued for Docklands and there is a possibility that a Notice will be issued for Morwell within the next two years.

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Actual expenditure likely on these sites is also very difficult to estimate. Levels of expenditure are unpredictable and depend, to a certain extent, on the actions of others. However there is a real possibility that expenditure of the order of the above two provisions will be required over the next two years.

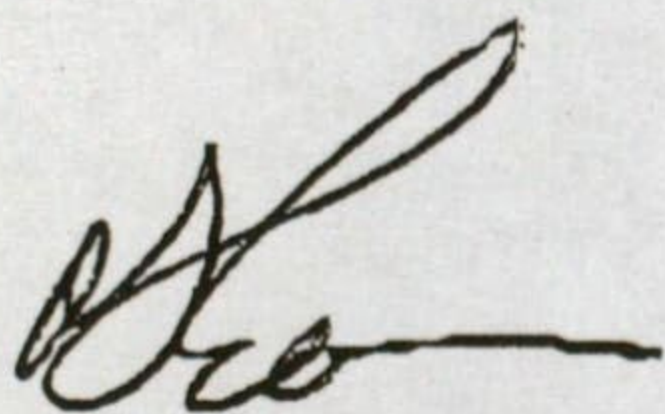
*at least***Category 3 and 4 Sites (\$8,598,943) Provision**

There are a number of SECV sites currently being cleaned up or planned to be cleaned up during 1997/98. Expenditure on these sites should be in the order of the provision above.

Summary

It is very difficult to estimate a cash flow for works on SECV liabilities over the next two years, but an indication of the order of magnitude is provided:

Category 1	\$500,000
Category 2	\$30,000,000
Categories 3 and 4	<u>\$8,500,000</u>
Indicative Total	<u><u>\$39,000,000</u></u>



R. D. Evans
Manager, Land Remediation

GASFUND23697

*** ACTIVITY REPORT ***

TRANSMISSION OK

TX/RX NO.	8933
CONNECTION TEL	61 3 9652 5100
CONNECTION ID	
START TIME	29/07 14:19
USAGE TIME	01'47
PAGES	5
RESULT	OK

*Go
by
Svans*

From: MANAGER
CORPORATE PROPERTY

To: MR. W. L. FITZHERBERT
CORPORATE SECRETARY
GASCOR

CC: MR. G. BROOKE
ADMINISTRATOR
SECV

RECEIVED

- 8 AUG 1997

ANSD.....

RE: GFCV/SECV PROGRESS REPORT

I refer to our meeting of the 21st July 1997. Provided hereunder is the status of properties remaining and those sold over the last 3 years.

1. Bacchus Marsh - Pilmer Street - Previously used for the manufacture of coal gas and more recently a minor depot. History dates back to the turn of the century. Property acquired in the Colonial Gas takeover in 1972. Land Remediation testing has shown the site to be contaminated.

Land Remediation Department have advised stage one of a clean-up strategy has been effected in that gross contamination has been removed. They are currently assessing the off-site effects from the contamination remaining and expect an Environmental Auditor's report on this aspect within the next month.

It is proposed that the Crown accept ownership and that the Moorabool Shire will be appointed Committee of Management to manage and maintain the property as a park.

2. Queenscliff - Corner Learmonth and Symonds Streets - This property was also used for the manufacture of coal gas. The equivalent of 3 house blocks; previously in the ownership of the Queenscliff Gas and Coke Company Limited; a subsidiary of Geelong Gas Company.

The property is contaminated; 2 high pressure gas tanks were removed.

A Planning Permit was obtained for a clean-up to take place. It is proposed that a clean-up could be undertaken to obtain a Statement of Environmental Audit to use this property for Medium Density Housing.

- 2 -

Rezoning of the property will need to be pursued to change the present reservation to Public Purposes - Gas and Fuel. The property is also covered by Urban Conservation overlay controls.

3. Port Melbourne - Liardet Street - Ex Laboratory
Port Melbourne - Johnson, Danks & Graham Streets - Holder Site No. 1
Port Melbourne - Graham & Pickles Streets - Holder Site No. 2
Port Melbourne - Corner Graham & Pickles Streets - Ex Meter Shop

These four sites were previously part of the South Melbourne Gas Works and are contaminated.

Following an extensive marketing campaign resulting in an Expression of Interest from 7 parties, interviews were conducted, inviting a number of parties to tender on the properties.

After extensive negotiations, all offers were rejected.

The Urban Land Authority subsequently dealt directly with the SECV in the proposed sale of these properties.

Corporate Property Department, however, still ensures a security patrol service is undertaken each night and has the nature strips mowed on a regular basis.

4. Oakleigh - Regent Street - Ex Regulator Site, surrounded by Ministry of Housing and Development, area of land is 295 m².

Landscaping of the site is to take place, which will result in part of the contamination being removed. After landscaping, it is proposed that the site will transfer to the Ministry of Housing for \$1.00 without an indemnity.

The landscaping is to be carried out by Alex Fraser Pty. Ltd., contracted through Land Remediation Department.

5. Croydon - Dorset Road - Vacant Land - past use - minor depot.

The property was put to auction in May 1995 and remains unsold. Interest in the property has increased in recent months, with conditional offers being rejected.

.../3

- 3 -

The Marketing Agents have been advised that an offer at \$550,000 would be acceptable.

6. Kyneton - Ebdon Street - Previously used for the manufacture of coal gas and later a part of the property as a Depot. Of the seven allotments, five were left with GFCV, while two were transferred to Gascor.

Stage 1 of a remediation strategy has been undertaken and gross contamination removed. It is thought that 2 of the allotments could be sold for residential purposes along with one site allocated to Gascor. The balance might be transferred to Council.

An auditor's report is anticipated within the next month.

It is proposed that the Crown also accept ownership and that the Macedon Ranges Shire will be appointed Committee of Management to manage and maintain the property as a park.

7. Sale - McMillan Street - One vacant house site and one house. These properties are located adjacent to the old coal gas manufacturing plant site, now used as a Depot by Stratus, who are to confirm their property is surplus to requirements.

Land Remediation Department testing has shown the sites contaminated. The adjoining Stratus Depot will need to be cleaned up first, prior to the subject sites, because of the migration of contaminants.

8. Geelong North - Victoria, Benmore and Slevin Streets - This property is comprised of 2 Certificates of Title and was part of the portfolio of properties belonging to the Geelong Gas Company. Ownership of the property and surrounding land dates back to purchase in 1859 by the Geelong Gas Company.

The property is known to be contaminated due to its past use associated with gas production.

Currently, negotiating with the adjoining owner, Boral, for a joint clean-up of their land and the subject property.

.../4

Shown below is a list of properties sold on terms and settled over the last 3 to 4 years.

Morwell	Tramway Road Settled 3/9/95	Contract date 4/6/93	\$302,750
Mornington	Watt & Racecourse Roads Settled 20/8/96	Contract date 10/12/93	\$1,050,000
Hawthorn	529 Burwood Road Settled 29/3/96	Contract date 17/12/93	\$740,000
Hawthorn East	24 Kaikoura Avenue	Contract date 27/3/94	\$148,000
	20 Kaikoura Avenue	Contract date 27/3/94	\$142,000
	12 Kaikoura Avenue	Contract date 27/3/94	\$141,000
	10 Kaikoura Avenue	Contract date 27/3/94	\$150,000
	748 Toorak Road	Contract date 27/3/94	\$146,000
Various Settlement Dates			
Benalla	Maginness & Hannah Streets Settled 14/10/96	Contract date 18/7/94	\$35,000
Ivanhoe	217 Upper Heidelberg Road Settled 7/10/96	Contract date 9/9/94	\$315,000
Pascoe Vale South	Moreland Road Settled. (Several dates)	Contract date 21/9/94	\$2,460,000
Vermont	190 Rooks Road	Contract date 19/8/94	\$575,000
Mornington	106 Main Street Settled 28/8/96	Contract date 15/9/94	\$591,500
Derrimut	Fairbairn Road Settled 28/4/97	Contract date 15/6/94	\$2,163,000
Goon Nure	Barkhill Road 2 Sales. Only 1 settled 11/7/97	Contract date 7/4/95	\$220,000

- 5 -

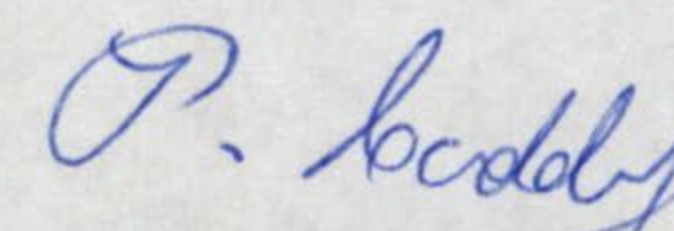
Geelong	Ryrie Street Settled 5/8/96 and 2/7/97	Contract dates 10 & 28/3/95	\$385,000
Collingwood	Corner Peel & Oxford Streets	Contract date 11/4/95	\$301,000
			\$9,865,250

Previous Cash Sales

Spotswood	137 Hudson Road	Contract date 10/1/95	\$300
Traralgon	Breed Street	Contract date 10/2/95	\$80
Elsternwick	Nepean Highway	Contract date 13/12/94	\$90,000
Footscray	Corner Lyons, Cowper & Whitehall Streets	Contract date 5/5/95	\$610,000
		Sub-Total	\$10,565,630

Property Sold on Terms Pending Settlement

Melton	Reserve Road Settlement pending 22/11/97	Contract date 5/7/95	\$185,000
Goon Nure	Barkhill Road Settlement pending 7/6/98	Contract date 7/4/95	\$600,000
		Total Sale Value	\$11,350,630



P. R. CADDY
MANAGER, CORPORATE PROPERTY

8th August 1997

PRC/DB

Ext. 5584

Gascor

To Graham Brooke
SECU Administration

RECEIVED

21 JUL 1997

ANSD.....

fr

Roger Ewan
Gascor

Mallesons Stephen Jaques

S O L I C I T O R S

*Graham
Copy for your
information**Royce,***Confidential communication**

Mr Royce Evans
 GASCOR Pty Ltd
 Level 5
 196 Flinders Street
 Melbourne Vic 3000
 Fax 03-9652 5100

18 July 1997

By fax from
 G Dent
 GASF8140 687
Fax room queries
 (61 3) 9643 4026

Dear Royce

Scope of Ballarat Indemnity

I refer to our discussion re the Ballarat Indemnity and have attached extracts of the relevant provision from the Ballarat contract of sale.

In summary I believe the contract adequately protects Gas and Fuel against claims for contamination on or off-site, through a two fold approach. Firstly, the Purchaser is not permitted to bring a claim and releases Gas and Fuel from any liability to it. Secondly, should a third party bring a claim, the Purchaser is required to indemnify Gas and Fuel. As always, however, an indemnity is only as good as the financial strength of the party providing it. In this case this does not appear to be an issue.

For your ease of reference I have summarised the structure of the Indemnity below (emphasis added):-

- 11.2 The Purchaser **releases and forever discharges** Gas and Fuel from any Environmental Liability in respect of the Property **or its surrounds.**
- 11.3 The Purchaser **will not make any claim/demand** etc against Gas and Fuel for any loss/cost etc arising from any Environmental Liability arising from the Property or its surrounds.
- 11.4 The Purchaser will **indemnify** Gas and Fuel against any Environmental Liability arising in any manner from the Contamination of the Property or **any surrounding areas.**
- 11.5 The Purchaser acknowledges having received the Environmental Site Report and having undertaken its own inquiries.

LEVEL 28
 RIALTO
 525 COLLINS STREET
 MELBOURNE VIC 3000
 AUSTRALIA
 DX 101 MELBOURNE

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 TAIPEI
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Mallesons Stephen Jaques
SOLICITORS

GASCOR Pty Ltd

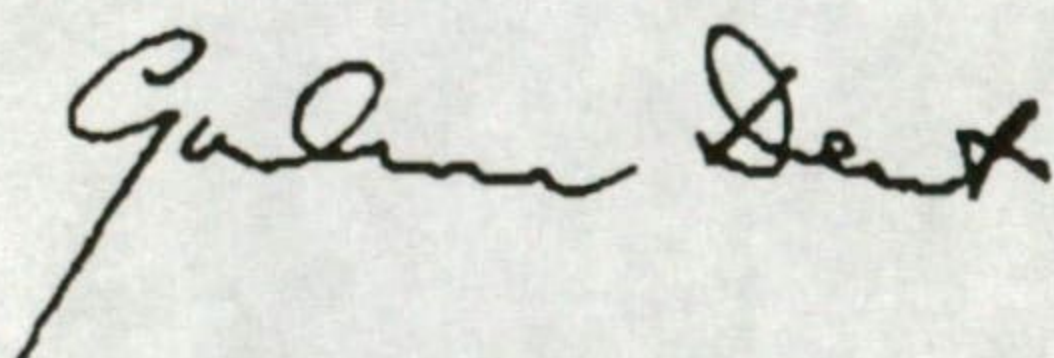
18 July 1997

Relevant definitions, including:-

- "Contaminant" and
- "Environmental Liability"

are contained in clause 1.1 of the contract. Relevant parts of the latter definition are highlighted in the attached extract.

Yours sincerely



Graham Dent
Consultant
Direct line (61 3) 9643 4111

Enc

~~Interest on Deposit~~

9.3 The Vendor must cause its solicitors to pay the Interest paid on the Deposit to the Vendor unless the Vendor wrongfully repudiates this contract or the Purchaser lawfully avoids this contract, in which case the Vendor must cause its solicitors to pay all Interest to the Purchaser.

~~10. DELIVERY OF TRANSFER~~

~~Time for delivery~~

10.1 The Purchaser must deliver to the Vendor's Solicitors the transfer required under condition 12 of Table A validly executed by the Purchaser and an assurance under condition 12 of the Third Schedule no later than 10 days before the date for payment of the Residue ("Delivery Date"). **General condition 7** does not apply to this special condition.

~~Failure to deliver on time~~

10.2 If the Purchaser fails to deliver the transfer to the Vendor on or before the Delivery Date, then, without prejudice to the Vendor's other rights:
(a) the Vendor may complete this contract at any time between the date for payment of the Residue and the date which is 21 days after the Purchaser delivers the transfer; and
(b) the Purchaser must pay interest under **special condition 8** on the Price for the period from the date for payment of the Residue until the ~~contract is completed.~~

11. RELEASE AND INDEMNITIES

11.1 Without limiting **special condition 7**, the Purchaser indemnifies the Vendor for all cost, liability, loss or damage incurred or suffered by the Vendor caused or contributed to by the Purchaser's failure to comply with this contract including, without limitation, liability incurred under another contract of sale.

Environmental Issues

11.2 The Purchaser unconditionally releases and forever discharges the Vendor and its officers, employees, agents and contractors from any Environmental Liability in respect of the Property or its surrounds, and does so with the full knowledge of the potential nature and extent of all Environmental Liabilities as acknowledged in **special condition 11.5**.

11.3 Without limiting the generality of **special condition 11.2**, the Purchaser agrees not to make any claims, demands, suits or to issue any proceedings against the Vendor or its officers, employees, agents and contractors for any loss, cost or expense incurred by the Purchaser in dealing with any Environmental Liability arising from the Property or its surrounds.

11.4 The Purchaser unconditionally and irrevocably agrees to indemnify and hold harmless the Vendor and its officers, employees, agents and contractors against any Environmental Liability incurred by the Vendor or its officers, employees, agents and contractors arising in any manner from the

Contamination of the Property or any surrounding areas, or from any of the Remediation processes utilised in respect of any Contamination including, without limiting the generality of the foregoing, any liabilities arising out of:

- (a) any transport or disposal of Contaminated soil to a location outside the Property;
- (b) the appropriateness of any methods of Remediation implemented; and
- (c) any advice or assistance offered by the Vendor in relation to the history of the gasworks operations, the properties of any gasworks wastes, the nature of any activities, processes or practices conducted at the gasworks operations; or any other information provided by the Vendor.

This indemnity is given with the knowledge of the potential nature and extent of all Environmental Liabilities as acknowledged in *special condition 11.5*.

- 11.5 The Purchaser acknowledges that it has undertaken its own inquiries and has informed itself of the nature and potential extent of the Environmental Liabilities that presently exist in relation to the Property and that it is fully aware of the potential costs that may be involved in dealing with these Environmental Liabilities. The Purchaser further acknowledges that it has been provided with a copy of the Environmental Site Report in Appendix 1 by the Vendor and has fully informed itself of the contents of this document and made such other independent inquiries as it considers fit in relation to the condition of the Property.

~~12. RE-SALE OF PROPERTY~~

- 12.1 The Purchaser acknowledges that the Vendor is restricted in its sale of the Property by certain restrictions imposed by the Land Monitor, Department of Planning and Development.
- 12.2 The Purchaser agrees that it will not on-sell the Property or any part of it within a period of 3 years from the Day of Sale for a price which individually or collectively exceed the Price.
- 12.3 The provisions of this clause continue to have full effect after the Settlement Date and do not merge on the transfer of the Land.

3

PAYMENT OF RESIDUE

Subject to Special Condition 10, on the expiration of 30 days after the Day of Sale or earlier by agreement.

SETTLEMENT DATE

is the date upon which vacant possession of the Property (or entitlement to the rents and profits from the Property) is given, namely, upon acceptance of title and payment of the price.

DAY OF SALE

is the date of this contract, namely 29 December 1993.

SCHEDULE

ITEM (1)

Encumbrances to be assumed by the Purchaser.

(GC 1.1)

- 1. All covenants and easements, whether registered or unregistered.

SPECIAL CONDITIONS

1. INTERPRETATION

Definitions

1.1 The following words have these meanings in this contract unless the contrary intention appears:

→ "Contaminant" means a solid, liquid, gas, odour, heat, sound, vibration, radiation or substance which makes, or may make, the Property, or the surrounding Environment or any area where waste from the Property is deposited or disposed of:

- (a) not safe or not fit for habitation or occupation by persons, animals or plants;
- (b) fail to comply with any Environmental Law; or
- (c) fail to satisfy the contamination criteria or standards published, or adopted, by the Victorian Environment Protection Authority or any other relevant environmental authority, as evidencing the need for a Contamination assessment (as amended from time to time). As at the time of the execution of this contract those criteria are contained in the "Australian Guidelines for the Assessment and Management of Contaminated Sites" published by the Australian and New Zealand Environment and Conservation Council and National Health and Medical Research Council;

and "Contamination" and "Contaminated" have equivalent meanings.

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"Environment" includes the meaning given to that word in any legislation which has force in Victoria and includes the physical factors of the surroundings of persons including, without limitation, the Property, water, atmosphere, climate, sound, odours, taste, the biological factors of animals and plants and the social factor of aesthetics.

"Environmental Law" means a law relating to the Environment or the health or safety of persons, including, without limitation:

- (a) a law relating to the use of property, planning, environmental assessment, the environmental heritage, water, pollution of air or water, noise, soil or ground water contamination, chemicals, pesticides, hazardous substances, nuisance, ozone depleting substances, waste, dangerous goods, public health, occupational health and safety, any aspect of protection of the Environment, or the enforcement or administration of any of those laws (whether that law arises under statute or pursuant to any statutory instrument, regulation, ordinance, permit, notice, decree, order or directive of any government agency or otherwise); and
- (b) a cause of action at common law in nuisance, negligence, trespass or otherwise or which gives rise or may give rise to equitable relief or which results or may result in an award of damages, costs or compensation, where any aspect of the cause of action concerns directly or indirectly the Environment or the health or safety of persons.

"Environmental Liability" means any of the following liabilities which arise, directly or indirectly, from or in relation to the Property:

- (a) all costs and expenses associated with complying with the lawful requirements of , or any order, notice, directive, decree or other binding obligation issued or imposed by, any government agency under an Environmental Law:
- (b) any compensation or other moneys that a government agency requires to be paid to any person under an Environmental Law;
- (c) any fines or penalties incurred under Environmental Laws; and
- (d) all costs and expenses incurred in complying with or avoiding a contravention of Environmental Laws including, without limitation, the costs and expenses of establishing and implementing an environmental or health and safety management plan, which plan may include all practicable and reasonable steps, measures and precautions that can be adopted so that:
 - (i) all aspects of the occupation and use of the Property comply with Environmental Laws;
 - (ii) if there is any non-compliance with Environmental Laws the impact on the Environment is minimised; and
 - (iii) there is no Contamination of the Property or any adjacent air, Property or waters above limits determined to be acceptable