

YARRA PARK PARKING AGREEMENT

DEED dated the 28th day of October 2005

BETWEEN **MELBOURNE CITY COUNCIL**
Town Hall, Swanston Street, Melbourne, Victoria, 3000 ('City')

AND **THE MINISTER FOR PLANNING**
Parliament House, Melbourne ('Minister')

RECITALS

- A. Yarra Park is subject to a Crown Grant issued to the City and the Minister as joint trustees.
- B. Yarra Park is reserved as a public park under the *Crown Land (Reserves) Act 1978* ('Act').
- C. Pursuant to an Order in Council dated 9 October 1917 the City was appointed as a Committee of Management of Yarra Park.
- D. For a number of years Yarra Park has been used for the parking of Vehicles for patrons of the facilities at the Melbourne Cricket Ground and at the Melbourne Park and Olympic Park stadiums.
- E. The use of Yarra Park for the parking of Vehicles as referred to in Recital D above has been permitted pursuant to the Act and an agreement dated 29 March 2000 between the City and the Minister which agreement expired on 29 September 2005.
- F. The City and the Minister have identified the following objectives for the future operation of the Precinct and the use of Yarra Park:
- (a) support Major Events in the Precinct;
 - (b) ensure long term sustainability of Yarra Park and its trees; and
 - (c) maintain and enhance the amenity of nearby residential areas to Yarra Park.
- G. The City and the Minister have agreed to enter into a new Agreement to achieve the objectives detailed in Recital F on the terms set out below.

OPERATIVE PART

1. DEFINITIONS

In this Operative Part and the Recitals that precede it:

'Agreement' means this parking agreement and includes the Schedule and attached plans or documents described herein;

'City' means the Melbourne City Council;

'Event Manager' means a person or persons:

- (a) employed or contracted by the operators of any of the Venues to manage or co-ordinate a Major Event at any of the Venues; or
- (b) hiring any of the Venues for the purpose of conducting a Major Event.

'Major Event' means an event or events within the Precinct involving the use of any of the Venues where:

- (a) in relation to the Melbourne Cricket Ground, such event involves the use of:
 - (i) the arena as a major part of the carrying on of the event; and
 - (ii) one or more of the stands.
- (b) in relation to the Melbourne and Olympic Park stadiums, such event or combination of events that involve an expected attendance at the event or combined expected attendance at the events exceeding 10,000 people (provided that the maximum number of vehicles to be parked in Yarra Park shall not exceed 750 vehicles except for the Australian Open Tennis Tournament when additional parking spaces will be made available to meet expected parking requirements).

'Melbourne Cricket Ground' means the Venue described as such on the plan attached to this Agreement and marked A;

'Melbourne and Olympic Park Stadiums' means the stadiums described below and on the plan attached to this Agreement marked B, C, D and E as follows:

B – Rod Laver Arena (Tennis Centre Main Stadium);

C – Vodafone Arena (Tennis Centre Second Stadium);

D – Olympic Park No. 1 Stadium; and

E – Proposed Olympic Park NRN Stadium.

'Minister' means the Minister for Planning or such other Minister of the Crown in the State of Victoria as shall from time to time be responsible for the administration of the *Crown Land (Reserves) Act 1978*;

'Objectives' mean the objectives described in Recital F of this Agreement;

'Parties' means the Minister and the Council referred to collectively;

'Precinct' means the Sports and Recreation Precinct being the area bounded by the Yarra River, Punt Road, Wellington Parade and Birrarung Marr.

'Schedule' means the schedule to this Agreement;

'State' means the State of Victoria;

'Term' means the term of this Agreement as described in Clause 2;

'Vehicle' means a motor vehicle as defined in the *Road Safety Act 1986*;

'Venues' mean the Melbourne Cricket Ground, the Rod Laver Arena and the Vodafone Arena at Melbourne Park and the Olympic Park No. 1 Stadium land and the Olympic Park NRN Stadium.;

'Venue Manager' mean the Melbourne Cricket Ground Trust for the Melbourne Cricket Ground and the Melbourne & Olympic Parks Trust for the Melbourne Park and Olympic Park stadiums.

'Yarra Park' means so much of the originally reserved Yarra Park as remains after the coming into operation of the Melbourne Cricket Ground Acts of 1933, 1951, 1962, 1983 and 1984 (Acts Nos. 4149, 5614, 6854, 9990 and 10039) of the land at East Melbourne permanently reserved by an Order in Council dated 9 June 1873 as a site for a public park and by Crown grant dated 13 June 1873 entered in the register book of the Office of Titles volume 600 folium 119902 (with the exception of any land no longer forming part of Crown Grant Volume 600 folium 119902 as a result of any revocation of part or whole of that Crown Grant under the *Melbourne Cricket Ground Trust Act* 1989, No. 70/1989) granted to the Board of Land and Works (the successor in law to which is the Minister) and the Mayor Aldermen Councillors and Citizens of the City of Melbourne (the successor in law to which is the Council). For the purposes of the operative part of this Agreement 'Yarra Park' means that part of Yarra Park identified on the plan attached to this Agreement shaded with a solid border.

2. TERM

This Agreement shall operate for a term of five years from 30 September 2005 to 29 September 2010 unless otherwise agreed in writing by the Parties. .

3. PARKING IN YARRA PARK

The Parties agree that during the Term:

- (a) Yarra Park will only be open for the parking of Vehicles for a Major Event except in accordance with Clause 10 of this Agreement.
- (b) Subject to Clause 4 of this Agreement, the maximum number of parking spaces that can be provided will be made available and maintained at any time in Yarra Park for the parking of Vehicles by persons attending a Major Event.

- (c) Lawn 16 of Yarra Park, due to confluence of significant pedestrian numbers and movements occurring before and after a Major Event, unless measures can be implemented to resolve this conflict, parking will only be provided for vehicles of authorised event staff arriving early and/or leaving early or well after the conclusion of a Major Event, up to the capacity of the lawn and subject to Clause 4. Lawn 16 is described on the plan attached to this Agreement and marked “**Lawn 16**”.
- (d) Monitoring of the use of Yarra Park for parking for Major Events excluding those involving the Melbourne Cricket Ground shall be achieved by requiring the Melbourne & Olympic Parks Trust to provide to the City every three months, records of all Major Events proposed to be held or held at the relevant venues, the number of people anticipated to attend each proposed Major Event, and the actual number of patrons attending Major Events over the preceding three month period.

4. SUSTAINABILITY OF YARRA PARK

- (a) Despite anything to the contrary in this Agreement but subject to compliance with the following sub-clause 4(b), at any time during the Term the City with the agreement of the Minister or his or her delegate may decide that some or all areas of Yarra Park will be closed for the parking of Vehicles on a specific occasion or occasions or period.
- (b) A decision as referred to in the immediately preceding Sub-Clause 4(a) may be made by the City with the Agreement of the Minister or his or her delegate:
- (i) for the reason that to provide the maximum number of spaces specified in this Agreement on that occasion or occasions or period would, in the opinion of the City, be to the serious detriment of Yarra Park;
 - (ii) after taking into account the criteria specified in the Schedule; and
 - (iii) where it is practical, reasonable and appropriate to do so, after consultation with:
 - (1) any operator of a Venue who would be adversely affected by the reduction of spaces or the total closure of those spaces on that occasion; and
 - (2) the Australian Football League; and
 - (3) Tennis Australia; and
 - (4) the Melbourne Cricket Club.
- (c) Without in any way limiting any other provision in this Agreement, where:
- (i) in the opinion of the City, significant damage to the surface of Yarra Park has occurred or is likely to occur as a result of the parking of Vehicles on Yarra Park; and
 - (ii) the damage will affect the future use of Yarra Park; or

(iii) the City considers that there is a significant safety risk to persons or property,

the City with the Minister's or his or her delegate's agreement may decide to restrict the parking of Vehicles in Yarra Park on such terms and conditions as it thinks appropriate irrespective of the numbers of persons expected to attend any future Major Events. However, all reasonable efforts will be made to provide sufficient parking on hard surfaces such as pathways to provide parking for players and such persons as agreed by the City and Managers of the Venues.

(d) When such closure occurs then the City agrees to communicate this information to the public as widely and in as timely a manner as possible, particularly through the media.

(e) The Parties agree that any lawn areas in Yarra Park used for the purpose of the parking of Vehicles shall be periodically rested from use for the parking of Vehicles and, without limiting the generality of the above, shall be rested in the following circumstances

- (i) where such lawn areas have been used for the parking of Vehicles for 10 Major Events in any 4 week period; or
- (ii) where periods of high soil moisture content particularly in areas around trees occur; or
- (iii) to protect the root zones of trees where there is evidence of the decline of tree health due to soil compaction or related impacts, or
- (iv) in their entirety, for a period of 4 weeks after the closure of the Australian Football League season in Spring at a time to be determined after consultation with Managers of Venues, for the purpose of carrying out maintenance works.

provided that where such action will substantially impact on the maximum number of parking spaces that would be anticipated to be needed to support a major event, the City will seek the Minister's or his or her delegate's agreement to the proposed resting of the lawn area or areas as the case may be;

(f) despite anything to the contrary in this Agreement, the City will make as much of Yarra Park as is practicable available to meet accommodation requirements associated with the Commonwealth Games to be staged at the Melbourne Cricket Ground and other venues in the Precinct in 2006.

(g) The City agrees to implement measures:

- (i) for the expert maintenance of the areas of Yarra Park used for the parking of Vehicles; and
- (ii) to time the maintenance of Yarra Park to achieve the optimum use of areas used for the parking of Vehicles.

5. COMMITMENT TO PROVIDING PARKING AND ASSOCIATED FACILITIES IN YARRA PARK

To assist in achieving the Objectives the Minister on behalf of the State agrees to take action where considered appropriate and consistent with Government policies, objectives and budget in conjunction with the City, Venues Managers and Event Managers to:

- (i) achieve further transport improvements to service the needs of the patrons of the Venues; and
- (ii) achieve the construction of additional Vehicle parking spaces elsewhere in the Precinct.

6. COMMITMENT TO PRECINCT CO-ORDINATION

The Parties undertake to work towards:

- (a). improving conditions and facilities for the free and proper movement of Vehicles about, into and out of the Precinct.
- (b). a co-ordinated policy for parking throughout the Precinct including:
 - (i) co-ordinated strategies for parking management at all parking facilities in the Precinct.
 - (ii) the avoidance of differential charging of parking fees for the Venues; and
- (c). implementation of works to reduce the conflict between vehicle and pedestrian movement and in particular creation of vehicle free major pathways.

7. COMMITMENT TO INCREASED USAGE OF PUBLIC TRANSPORT

The Parties undertake to work towards:

- (a) co-ordination between the Venues Managers, Event Managers, allied ticketing agencies and suppliers of public transport operating in or adjacent to the Precinct and, without limiting the generality of the above:
 - (i) the inclusion of public transport availability in ticketing packages, general promotional publications and scoreboard announcements at all events at Venues; and
 - (ii) ensuring each of the Melbourne Cricket Ground Trust and the Melbourne & Olympic Parks Trust actively promote the use of public transport to events at their respective facilities.

8. RESIDENTIAL AMENITY

- (a) The Parties agree to work towards the carrying out of such achievable actions as may be necessary by each of them to minimise the impact on the residential areas of East Melbourne, Jolimont, Richmond and South Yarra of traffic moving to, about, into, out of and from the Precinct.

- (b) The Parties agree that during the Term, the parking of Vehicles on lawn No. 7, extending 50m into Yarra Park along the western perimeter of Vale Street road reserve, and all of the area known as lawn No. 6 (as marked on the plan attached to this Agreement)) shall be absolutely prohibited. The residential buffer areas are described on the plan attached to this Agreement and marked “**Residential Buffer**”.

9. PARKING FEES

The Parties agree in principle that parking fees should continue to be increased over time until parity with the parking charges at other Venues in the Precinct is reached.

10. OTHER PARKING ARRANGEMENTS

In the management and use of facilities of the Melbourne Cricket Ground during non-Major Event times the Melbourne Cricket Club may require to park vehicles in Yarra Park that cannot be accommodated in purpose built parking space under the Melbourne Cricket Ground grandstands. The parties to this Agreement agree to this practice subject to the following:

- (a) that vehicles are permitted only to park on hard paved areas of the external concourse of the Melbourne Cricket Ground; and
- (b) that vehicles enter through a staff controlled entry point approved by the City to enter the external concourse; and
- (c) that access to the external concourse only be permitted if all available parking spaces under the grandstands contain vehicles or as agreed with the City.

11. EXERCISE OF RIGHT OR POWER

- (a) Where a right or power is vested in the City pursuant to this Agreement such right or power may be exercised by the Chief Executive of the City or his/her nominee.
 - (i) Where a right or power is vested in the Minister pursuant to this Agreement such right or power may be exercised by the Minister’s authorised delegate.

SCHEDULE

CRITERIA TO BE USED BY THE CITY IN DETERMINING NUMBER OF PARKING SPACES UNDER CLAUSE 4(b)(ii)

(1) Assessment of the condition of the surface of Yarra Park.

This includes consideration of all of the following matters:

- (a) Weather Bureau forecast for rain on the day of the Major Event;
 - (b) The amount and timing of rain in the days immediately before the Major Event;
 - (c) Water lying on the Park surface;
 - (d) Evidence of mud and/or a furrowed surface or other damage to horticultural assets, which has been caused by previous parking;
 - (e) Physical condition of the grass in regard to strength and thatch content;
 - (f) The likely impact of Vehicles on the range of topography within the Park from flat to steep, taking into account the weather and soil conditions;
 - (g) The potential for grass to regenerate after parking and the likely rate of restabilisation of the surface;
 - (h) Seasonal variations in weather and the potential for weather which is conducive to improving or damaging the surface;
 - (i) damage to the soil or grass which could cause a reduction in the number of parking spaces in the short-term or long-term future
- (2) The need for full availability of parking spaces on the occasion of a Grand Final match of the Australian Football League being staged at the Melbourne Cricket Ground.
- (3) Criteria to be used on the day of the Major Event to determine the number of parking spaces (in addition to the other criteria in this Schedule), including safety of pedestrians.
- (4) Condition of the soil and level of sub-surface water content, in relation to vehicle movement or concentration:

- (a) Vehicles to be physically unable to enter or move over the surface of the grass; or
- (b) Vehicles to be able to move over the surface of the grass, but to slip or slide to a degree that:
 - (i) endangers the safety of pedestrians or Vehicle parking attendants; or
 - (ii) may damage private or public property;
- (c) a significant increase in the compaction of the soil due to parking near trees particularly when a high moisture content is evident;
- (d) The need to ensure that parking configurations maximise vehicle safety including turning movements and/or up hill movement and stopping and starting.

(5) The need to rotate parking so that, in the case of Major Events:

- (a) spaces as required by this Agreement are available; and
- (b) the need to reduce spaces by reason of excessive damage or wear to the surface of the Park is minimised.

EXECUTED as a deed this 28 day of October 2005.

SIGNED, SEALED AND
DELIVERED by the Chief Executive
for and on behalf of MELBOURNE
CITY COUNCIL pursuant to a
Resolution of MELBOURNE CITY
COUNCIL and in the presence of:

Ally
.....
Signature of witness

David Picefor
..... Delegate

Alison Lyon
..... Name of witness (print)

SIGNED, SEALED AND
DELIVERED by THE MINISTER
FOR PLANNING

R. J. ...
.....
Signature of witness

Robert ...
..... Signature of Minister

Rachael Jorner
..... Name of witness (print)

[illegible]

27-07-2005

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