

Deed of Confidentiality and Conflict of Interest
For Gold Creek Homestead Community & Stakeholder Panel Participants

THIS DEED POLL is made on:

BY THE PARTICIPANT:

_____ of _____
PRINT FULL NAME PRINT ADDRESS

IN FAVOUR OF:

The **AUSTRALIAN CAPITAL TERRITORY**, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth), represented by the Suburban Land Agency (**Territory**).

BACKGROUND

- A. The Participant has or will be engaged to participate as a member of the Gold Creek Homestead Community & Stakeholder panel (**the Community & Stakeholder Panel**) formed to inform the development of a precinct development brief (**the Brief**), which will be part of the Request for Tender for the sale of Block 109 Section 23 Ngunnawal (**the RFT**).
- B. As part of this engagement the Territory will invite, or has invited, the Participant to attend meetings and workshops and contribute towards the development of the Brief, which may require the Participant to obtain, access or develop certain documents, material, data or other information about the Territory, its policies or processes.
- C. The information to be provided by the Territory, or to be made available to the Participant, may include Confidential Information belonging to, or in the possession of, the Territory.
- D. The parties agree that it is necessary to take all reasonable steps (including the execution of this Deed) to ensure that the Territory's Confidential Information is kept confidential.

IT IS AGREED AS FOLLOWS:

1. Background

The Participant acknowledges the truth and accuracy of the Background in every particular.

2. Restrictions on use

The Participant may only use the Confidential Information for the purposes of participating in the Community & Stakeholder Panel.

3. Non-disclosure of confidential information

- 3.1 Except as required by law, the Participant must not, at any time during or after participating in the Community & Stakeholder Panel disclose any Confidential Information to any person or remove the Confidential Information from the possession or premises of the Agency without the prior written consent of the Territory.

- 3.2 The Territory may grant or withhold its consent for the purposes of clause 3.1 in its absolute and unfettered discretion. If the Agency grants its consent, it may impose conditions on that consent and the Participant must comply with those conditions.
- 3.3 The Participant must immediately inform the person named in **clause 15.1** of any unauthorised communications. “Unauthorised communications” means communications by a person who is not a Territory employee and not engaged by the Territory on the Community & Stakeholder Panel.
- 3.4 The Participant must immediately deliver to the Territory all documents in his/her control containing the Confidential Information as soon as they are demanded by the Territory (whether in writing or not).

4. Conflict of interest

The Participant:

- (1) warrants that, at the date of this Deed either:
 - (a) no conflict of interest exists or is likely to arise as a result of their participation in the Community & Stakeholder Panel; or
 - (b) it has a conflict of interest as disclosed in **Annexure A** of this Deed.
- (2) must, if a Conflict of Interest or risk of a Conflict of Interest (Risk) arises after entering into this Deed:
 - (a) notify the Territory’s authorised officer named in **clause 15.1** immediately in writing of that Conflict of Interest or Risk; and
 - (b) comply with any requirement of the Territory to deal with that Conflict of Interest or Risk.
- (3) agrees that by participating in the Community & Stakeholder Panel neither it nor an Associated Entity may be eligible to participate in the RFT or act as a subcontractor or affiliate for a tenderer participating in the RFT.
- (4) acknowledges the Territory will consider any Conflicts of Interest or Risk, whether disclosed or otherwise, and conclude in its absolute discretion whether a Participant or an Associated Entity is excluded from participating in the Community & Stakeholder Panel and subsequent RFT.

5. Indemnity

The Participant indemnifies the Territory, its employees and agents from any claims, costs and expenses made against any of them in respect of injury, loss or any damage suffered by any person as a consequence of the Participant breaching this Deed.

6. Legal proceedings

The Participant acknowledges that the Territory may take legal proceedings against the Participant if there is any actual, threatened or suspected breach of this Deed, including proceedings for an injunction to restrain such breach.

7. No exclusion of law or equity

This Deed does not exclude the operation of any principle of law or equity intended to protect and preserve the confidentiality of the Confidential Information.

8. Survival

This Deed will survive the expiration or termination of the Community & Stakeholder Panel.

9. No Waiver

The waiver by the Territory of a breach of any obligation or provision in this Deed (whether stated or implied) will not operate as a waiver of another breach of this Deed.

10. Remedies cumulative

The rights and remedies provided under this Deed are in addition to those provided by law.

11. Variations

No term or provision of this Deed may be amended or varied unless by deed and signed by both parties.

12. Governing law

This Deed is governed and construed in accordance with the law in force in the Territory and the parties submit to the non-exclusive jurisdiction of the courts of the Territory.

13. Notices

Any notice or communication under this Deed must be in writing and will be received:

- (1) if delivered by hand, on delivery;
- (2) if sent by prepaid mail, 5 days after the date on which it was so sent; or
- (3) if sent by electronic mail, on the other party's acknowledgement of receipt.

to the addresses in **clause 15** or as notified by a party to the other from time to time.

14. Interpretation

14.1 The following definitions apply in this Deed unless the context otherwise requires.

“Associated Entity” means:

- (1) any Related Person;
- (2) any company of which the Participant or a Related Person is a director, shareholder;
- (3) any entity (including incorporated association) of which the Participant or a Related Person is an employee, contractor or member;

“Confidential Information” means the kind of information that:

- (1) is or relates to documents, submissions, consultations, policies, strategies, practices and procedures of the Territory which are by their nature confidential;
- (2) is notified (whether in writing or not) as such by the Territory to the Participant as confidential;
- (3) the Participant knows or ought to know is confidential;
- (4) is commercial in confidence including the contents of any tender; or
- (5) is Personal Information;

but does not include information which:

- (6) is or becomes public knowledge other than by breach of this Deed;
- (7) has been independently developed or acquired by the Participant; or
- (8) the Territory has notified to the Confidant as not being confidential.

“Conflict of Interest” means an actual, potential or perceived incompatibility between the Participant's role in the Community & Stakeholder Panel and the Participant's other interests, actual, potential or perceived, including the relationships with an Associated Entity that may participate in the RFT.

“**Personal Information**” means the information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about a natural person whose identity is apparent or can reasonably be ascertained, from the information or opinion.

“**Related Person**” means the Participant’s:

- (1) spouse or domestic partner;
- (2) child (including step child or adopted child);
- (3) parent (including step parent); or
- (4) sibling (including step sibling).

“**Territory**” means the Australian Capital Territory when used in a geographical sense and the body politic established under the *Australian Capital Territory (Self-Government) Act 1988* (Cwlth)

14.2 In this Deed, unless the context otherwise requires:

- (1) words in the singular number include the plural and vice versa; and references to legislation or to provisions in legislation include references to amendments or re-enactments of them and to all regulations and instruments issued under the legislation;
- (2) clause headings are for convenient reference only and have no effect on the interpretation of the provisions to which they refer; and
- (3) a reference to a term of one gender includes any other; and a reference to a “person” includes a body corporate.

15. Contact details of the Territory and the Participant are as follows:

15.1 **Territory** contact person: Petra Oswald
or such other person notified by the Territory from time to time

Address: TransAct House, 470 Northbourne Ave, Dickson.

Telephone: 02 6205 8665 Email: Petra.Oswald@act.gov.au

15.2 **the Participant**: _____

Telephone: _____ Email: _____

Address: _____

SIGNED as a deed poll on the date written on page 1.

SIGNED by:.....)

in the presence of:)

) Signature of Participant

.....)

Signature of witness)

)

.....)

Name of witness)

Annexure A - Disclosure of potential or actual conflict of interest

Describe the potential or actual conflict of interest below: