

VIC Hybrid Loan

Austrata Motions Requiring Approval

Explanation: The Owners Corporation is considering entering into finance arrangements utilising the Austrata Finance Hybrid Loan facility.

A detailed explanation of the Austrata Finance Hybrid Loan is attached in the Explanatory Paper included in this agenda.

Motion 1 – Borrowing funds from Austrata

In order to fund remediation works including car lift remediation project, the Owners Corporation resolves by special resolution pursuant to s.25 of the *Owners Corporation Act 2006 (the OC Act)* to exercise its statutory power to borrow money and enter into an initial loan contract with Austrata Lending Services Pty Ltd (**Austrata**), on terms that are generally contained in the agreement attached hereto (**Initial Austrata Loan Contract**), in the amount of up to \$1,200,000 (**Total Amount Borrowed**).

Motion 2 – Refinancing Initial Austrata Loan Contract with Austrata Hybrid Loan

In order to refinance the Initial Austrata Loan Contract after completion of the remediation works, the Owners Corporation resolves by special resolution:

- (a) pursuant to s.25 of the OC Act to exercise its statutory power to borrow money and enter into a loan contract after the completion of the remediation works with those lot owners (if any) who wish to contribute towards the Total Amount Borrowed from their own funds (**Self-Funding Owners**) on terms that are generally contained in the agreement attached hereto (**SFO Agreement**), with Schedule 1 of the SFO Agreement to be completed once the Self-Funding Owners have subscribed to the finance arrangement; and
- (b) pursuant to s.25 of the OC Act to exercise its statutory power to borrow money and enter into a subsequent loan contract with Austrata Lending Services Pty Ltd (**Austrata**), on terms that are generally contained in the agreement attached hereto (**Subsequent Austrata Loan Contract**), in the amount of up to \$1,200,000 (**Total Amount Borrowed**) LESS the total amount (if any) lent to the Owners Corporation by the Self-Funding Owners; and

Motion 3 – Owners Corporation as Agent for Self-Funding Owners

The Owners Corporation hereby resolves by special resolution to authorise a service pursuant to s.12 of the OC Act whereby the Owners Corporation will act as agent for each Self-Funding Owner in respect of the borrowings covered by the SFO Agreement and the disposition of such borrowing. In acting as agent for each Self-Funding Owner the Owners Corporation will comply with its statutory duty to act in the best interests of its members.

Motion 4 – Execution of Loan Contracts & Delegation of Authority

The Owners Corporation hereby resolves:

- (a) to authorise the execution of the Initial Austrata Loan Contract, SFO Agreement and Subsequent Austrata Loan Contract (collectively the **Loan Contracts**) in accordance with s.21 and s.10 of the OC Act.
- (b) to delegate and authorise the committee and/or Manager of the Owners Corporation the power and authorities necessary to fully comply with the contractual obligations of the Owners Corporations in respect of the Loan Contracts.

Motion 5 – Future Contingent Events

The Owners Corporation resolves that, on the basis that there is no increase in the Total Amount Borrowed and no additional cost to the Owners Corporation in doing so:

- (a) if any Self-Funding Owner subsequently sells their lot, and if the incoming purchaser does not agree to the assignment of the SFO Agreement, the Owners Corporation may (as determined

by the committee, which is delegated this function) repay the loan balance owing to that Self-Funding Owner using additional loan funds drawn down from Austrata; or

- (b) if a Self-Funding Owner suffers financial distress, that Self-Funding Owner may apply to the Owners Corporation to be repaid any existing loan balance owing to them by the Owners Corporation, using additional loan funds drawn down from Austrata; or
- (c) if the lot entitlements are amended in the future under section 33 (by special resolution) or 34D (Tribunal order) of the Subdivision Act 1988 resulting in a change in any Self-Funding Owner's lot entitlements in the strata scheme (as a percentage of the overall lot entitlements), each Self-Funding Owner's loan amount will be proportionately increased or decreased consistent with the corresponding increase or decrease in the Self-Funding Owner's lot entitlements (as a percentage of the overall lot entitlements), and the increase or decrease in each Self-Funding Owner's loan amount will be offset by a corresponding increase or decrease in the loan amount from Austrata.

Motion 6 – Levies

The Owners Corporation resolves by special resolution pursuant to s.23 and s.25 of the OC Act to raise sufficient levy contributions each year to meet the expected loan repayments due under the Loan Contracts (**Loan Repayment Levy**) payable quarterly in advance, to ensure that the Owners Corporation's financial obligations with respect to the Loan Contracts are met for the entire term of the loans.