**STATUTORY DECLARATION IN SUPPORT OF AN APPLICATION UNDER SECTION 60 OF THE *TRANSFER OF LAND ACT 1958***

**(TO BE COMPLETED BY AN AUSTRALIAN LEGAL PRACTITIONER)**

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| I |   |
| of | [FULL NAME] |
|  | [ADDRESS]Australian Legal Practitioner |
|  [OCCUPATION]make the following statutory declaration under the ***Oaths and Affirmations Act 2018*:** |

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|  | I act for [insert applicant name(s)] (the Applicant(s)). |
|  | The Applicant(s) claim(s) adverse possession of the Subject Land being (delete inapplicable): |
|  | all of the land described in folio(s) of the Register [volume] [folio]. |
|  | OR |
|  | the land marked [insert identifier] on the SPEAR plan [insert SPEAR reference] being part of the land in folio of the Register [volume and folio reference]. |
|  | The address for the Subject Land is [enter street address]. |
|  | I have received instructions from the Applicant(s) in relation to sections A to E of this statutory declaration. |
|  | I have made the following reasonable inquiries and have found nothing contrary to or inconsistent with these instructions: |
|  | *Describe the nature of your inquiries. This may include obtaining folio searches and folio histories, company extracts and probate searches. You will need to review any plans and any other evidentiary material provided. You will also need to ensure that the Applicant(s) (or prior possessor(s)) is/are not otherwise entitled to the land such as through inheritance, under a trust or under a tenancy agreement. This is a non-exhaustive list, and your inquiries will depend on the circumstances of the claim.* |
| **A. Possession and occupation** (delete inapplicable) |
|  | The Applicant(s) commenced possession of the Subject Land on or about:  |
|  | *Enter actual or approximate date possession began. If less than 15 years, one or more deeds of assignment of possessory interest and statutory declarations from prior possessors will be required. If a statutory declaration cannot be obtained because the prior possessor cannot be found, set out the steps taken to trace the prior possessor and obtain a statutory declaration. Additional unequivocal evidence of possession will be required.*  |
|  | The Applicant(s) came to exclusively possess the Subject Land because: |
|  | *Describe circumstances which gave rise to the possession of the Subject Land.* |
|  | The Applicant(s) have remained in continuous, uninterrupted and exclusive possession of the Subject Land since they commenced possession. |
|  | The Subject Land has been completely enclosed either by itself or along with other land by: |
|  | *Describe the fences/walls/buildings/roads that enclose the Subject Land. If the enclosures have been replaced at any time during the period of possession, and were not replaced in the same position, explain the difference in location.* |
|  | These enclosures have remained on the same boundaries of the Subject Land throughout the period the Applicant(s) (or any prior possessor(s)) has/have been in possession. |
|  | The enclosures were adequately maintained to exclude people other than those in possession throughout the period of possession. |
|  | OR |
|  | Even though the Subject Land has not been fully enclosed, exclusive possession was maintained and demonstrated to the world at large by: |
|  | *Describe how exclusive possession was maintained and demonstrated to the world at large despite the lack of full enclosure.* |
|  | The Subject Land can be accessed by: |
|  | *Describe the means of access. If there is a lockable gate indicate who has the keys.* |
|  | The Applicant(s) (and any prior possessors) used the Subject Land by:  |
|  | *Describe the use made of the land. If the land is tenanted, state whether the Subject Land is included in the lease and who receives the rent.* |
|  | The Applicant(s) (and any prior possessors) have carried out the following improvements to the Subject Land: |
|  | *Describe the improvements to the land and the circumstances in which these improvements were made.* |
| **B. Encumbrances abandoned or extinguished** (delete inapplicable) |
|  | The Subject Land is unencumbered. |
|  | OR |
|  | The Subject Land is encumbered by the following interest(s) or estate(s): |
|  | *Set out the instrument numbers registered on the folio of Subject Land. Describe the nature of the encumbrance(s).* |
|  | The encumbrances are to remain. |
|  | OR |
|  | These encumbrance(s) have been extinguished by: |
|  | *Describe the continuous, uninterrupted and exclusive possession of the Subject Land that is inconsistent with the encumbrance. If there is an easement, set out the circumstances and actions taken by the Applicant(s) and any prior possessor that demonstrate exclusive continuous and adverse occupation of no less than 30 years. If there is a carriageway easement encumbering the Subject Land, evidence that the land has not been used for carriageway purposes by the owners of the dominant tenement for the last 30 years must be provided. All other encumbrances require evidence of no less than 15 years of adverse occupation. Depending on the nature of the encumbrance, specific evidence may be required.*  |
| **C. Value** |
|  | The Subject Land has a monetary value of: |
|  | *Set out the value of the Subject Land.* |
|  | The basis for this value is: |
|  | *Set out the basis for the value eg rated value or valuation.* |
| **D. Payment of rates** (delete inapplicable) |
| 1. The Subject Land is located within the municipal area of [insert council name and address].
 |
|  | I have sighted evidence that confirms that Applicant(s) is/are the current rate payer(s) and have paid the council rates for the period they have been in possession of the Subject Land.  |
|  | OR |
|  | I have sighted evidence that states that a person other than the Applicant(s) paid the council rates during some or all of the period of possession of the Subject Land. The name of this person is [insert name] and their address is [insert their address].  |
|  | OR |
|  | I have sighted evidence that confirms that the Subject Land is not subject to council rates. |
| **E. No acknowledgment of title** |
|  | The Applicant(s) have never acknowledged the title of the registered proprietor in respect of all or any part of the Subject Land.  |
|  | The Applicants(s) have never received the consent of the registered proprietor to their possession of the Subject Land. |
| **G. Title of registered proprietor(s)** (delete inapplicable) |
|  | I have no knowledge of any circumstance or disability on the part of the registered proprietor(s) of the Subject Land or any other person(s) previously entitled to bring an action for recovery of the Subject Land, which might have extended the period of limitation for doing so beyond 15 years.  |
|  | I am not aware of any dispute or contact with the registered proprietor of the Subject Land or any other person claiming an interest in the Subject Land. |
|  | OR |
|  | I am aware of a dispute or contact with the registered proprietor(s) of the Subject Land or any other person(s) claiming an interest in the Subject Land, the details of which are as follows: |
|  | *Set out the details of any dispute or contact.*  |
|  | Based on my instructions and my own inquiries, I am satisfied that the Applicant(s) has/have acquired title by possession of the Subject Land under section 60 of the *Transfer of Land Act 1958*. |

**I declare that the contents of this statutory declaration are true and correct and I make it knowing that making a statutory declaration that I know to be untrue is an offence.**

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| **Signature of person making this declaration** *[to be signed in front of an Authorised Witness]* |
| Declared at |  | *[place]* in the State of Victoria |
| on  |  / / | *[date]* |
| **I am an authorised statutory declaration witness and I sign this document in the presence of the person making the declaration:** |
| û |
| **Signature of authorised statutory declaration witness** |
| on  |  / / | *[date]* |
| *[Full name of authorised statutory declaration witness in legible writing, typing or stamp]* |  |  |
| *[Personal or professional address of authorised statutory declaration witness in legible writing, typing or stamp]* |  |  |
| *[Qualification as an authorised statutory declaration witness]* |  |  |
| A person authorised under section 30(2) of the ***Oaths and Affirmations Act 2018*** to witness the signing of a statutory declaration. |

*\* I confirm that reasonable modifications were used in preparing this statutory declaration and that the contents of this statutory declaration were read to the person making the statutory declaration in a way that was appropriate to the person’s circumstances.*

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| Signature of authorised statutory declaration witness |

\* strikeout if not applicable