

Your Ref:  
Our Ref: SP:151000

22 September 2015

Ms Rosemaree Prendergast  
Australian Securities and Investments Commission  
Level 7, 120 Collins Street  
MELBOURNE VIC 3000

By email

Dear Rosemaree

### **ASIC V MCINTYRE & ORS – FEDERAL COURT PROCEEDINGS**

We refer to the above matter and to recent developments.

On 2 September 2015 we wrote a letter to ASIC with a proposal to offer refunds to investors in the five land banking projects which are the subject of these proceedings.

On 7 September 2015 our clients made application to the Court to vary the undertakings provided on 21 August 2015 in order for our clients to settle on the purchase of the Secret Valley land. ASIC refused to allow our clients to settle on the acquisition of the Secret Valley land and the Court made orders on 8 September 2015 dismissing our clients' application.

In light of the above, our clients are prepared to make the following proposal to resolve these proceedings:

1. Botanica project – our clients offer to provide refunds to all option holders in this project within 30 days from the date of this letter. We confirm that the number of options sold by our client as developer of the Botanica project totals \$372,175.
2. Melbourne Grove - our clients offer to provide refund to all option holders in this project within 60 days from the date of this letter. We confirm that the value of options sold by our client as developer of this project totals \$127,000.
3. Oak Valley Estate project - our clients offer to provide refunds to all option holders in this project within 6 months from the date of this letter. We confirm that the value of options sold by our client as developer of this project totals \$677,698.
4. Bendigo Vineyard Estate project – it is the intention of Bendigo Vineyard Estate Pty Ltd subject to Court approval to, within 90 days from the date of this letter, sell the project land to a licensed developer who would then apply to register the project as a managed investment scheme and preserve all current option holders' options.
5. Secret Valley Estate project – it is the intention of Secret Valley Estate Pty Ltd subject to Court approval to, within 90 days from the date of this letter, source a prospective purchaser of the Secret Valley land who would acquire the land from the existing vendor. Once the land is acquired, and as with the Bendigo project, the purchaser would then apply to register the project as a MIS and preserve current option holders' options.

Our clients are prepared to consent to self-executing orders to have provisional liquidators appointed to each of the five land banking projects if either refunds are not provided to option holders within the timeframes set out above, or if our clients do not succeed in selling the Bendigo Vineyard land to a third party developer or procuring the sale of the Secret Valley land to a third party developer within the timeframes set out above.

Conversely if our clients provide refunds to option holders in the Botanica, Oak Valley and Melbourne Grove projects and undertake the matters set out in paragraphs 4 and 5 above regarding Secret Valley Estate and Bendigo Vineyard Estate, our clients would require ASIC's consent and agreement to orders that provisional liquidators, official liquidators or receivers and managers would not be appointed to any of the five projects the subject of these proceedings, or any of the respondent companies.

With respect to the Secret Valley Estate Project, and as ASIC would be aware, our clients had an arrangement with Macro to sell the land pertaining to this project (as well as the Bendigo land) to Macro. ASIC's actions in refusing to allow the settlement in respect to the Secret Valley land to proceed has ensured that the offer set out in our letter of 2 September could not proceed. Our clients fail to understand why ASIC has refused to support the proposal and why it has taken an unwarranted stance in that regard.

Our clients otherwise seek ASIC's response to the above proposal by 4 pm on 24 September 2015.

Yours faithfully