

# Contract for the sale and purchase of land 2014 edition

TERM	MEANING OF TERM
vendor's agent	<b>Skyline Real Estate</b> <b>3-5/14 Frenchs Forest Road, Frenchs Forest, NSW 2086</b> Phone: <b>9452 3444</b> Fax: <b>9452 4555</b> Ref: <b>Darrel Maloney</b>
co-agent	
vendor	<b>Sidney James Eavis, Janet Deidre Eavis and Mark David Brenton</b> <b>c/- 17 Goondari Road, Allambie Heights NSW 2578</b>
vendor's solicitor	<b>HPL Lawyers</b> <b>Level 1, 17 Albert Street, Freshwater NSW 2096</b> <b>PO Box 705, Freshwater NSW 2096</b> Phone: <b>02 9905 9500</b> Fax: <b>02 9905 7493</b> Ref: <b>AM:DB:37790</b>
date for completion land (address, plan details and title reference)	<b>42nd day after the date of this contract (clause 15)</b> <b>17 Goondari Road, Allambie Heights, New South Wales 2100</b> <b>Registered Plan: Lot 1 Plan DP834988</b> <b>Folio Identifier 2/834988</b>
improvements	<input checked="" type="checkbox"/> VACANT POSSESSION <input type="checkbox"/> subject to existing tenancies <input checked="" type="checkbox"/> HOUSE <input type="checkbox"/> garage <input checked="" type="checkbox"/> carport <input type="checkbox"/> home unit <input type="checkbox"/> carspace <input type="checkbox"/> storage space <input type="checkbox"/> none <input type="checkbox"/> other:
attached copies	<input type="checkbox"/> documents in the List of Documents as marked or as numbered: other documents:

**A real estate agent is permitted by legislation to fill up the items in this box in a sale of residential property.**

inclusions	<input checked="" type="checkbox"/> blinds <input type="checkbox"/> dishwasher <input checked="" type="checkbox"/> light fittings <input checked="" type="checkbox"/> stove <input checked="" type="checkbox"/> built-in wardrobes <input type="checkbox"/> fixed floor coverings <input type="checkbox"/> range hood <input type="checkbox"/> pool equipment <input type="checkbox"/> clothes line <input type="checkbox"/> insect screens <input type="checkbox"/> solar panels <input checked="" type="checkbox"/> TV antenna <input type="checkbox"/> curtains <input checked="" type="checkbox"/> other: Ceiling Fans
exclusions	<b>Potted garden plants, cast iron fire place in garden</b>
purchaser	
purchaser's solicitor	
price	\$ _____
deposit	\$ _____ (10% of the price, unless otherwise stated)
balance	\$ _____
contract date	(if not stated, the date this contract was made)

buyer's agent

\_\_\_\_\_  
**vendor**

\_\_\_\_\_  
**witness**

**GST AMOUNT (optional)**  
 The price includes  
 GST of: \$ \_\_\_\_\_

**purchaser**     JOINT TENANTS     tenants in common     in unequal shares

\_\_\_\_\_  
**witness**

## Choices

- vendor agrees to accept a **deposit-bond** (clause 3)  NO  yes  
**proposed electronic transaction** (clause 30)  NO  yes

## Tax information (the parties promise this is correct as far as each party is aware)

- land tax is adjustable  NO  yes  
 GST: Taxable supply  NO  yes in full  yes to an extent  
 margin scheme will be used in making the taxable supply  NO  yes

This sales is not a taxable supply because (one or more of the following may apply) the sale is:

- not made in the course or furtherance of an enterprise that the vendor carries on section 9-5(b))  
 by a vendor who is neither registered nor required to be registered for GST (section 9-5(d))  
 GST-free because the sale is the supply of a going concern under section 38-325  
 GST-free because the sale is subdivided farm land or farm land supplied for farming under Subdivision 38-O  
 input taxed because the sale is of eligible residential premises (sections 40-65, 40-75(2) and 195-1)

<b>HOLDER OF STRATA OR COMMUNITY TITLE RECORDS – Name, address and telephone number</b>
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## List of Documents

## General

- 1 property certificate for the land  
 2 plan of the land  
 3 unregistered plan of the land  
 4 plan of land to be subdivided  
 5 document that is to be lodged with a relevant plan  
 6 section 149(2) certificate (Environmental Planning and Assessment Act 1979)  
 7 section 149(5) information included in that certificate  
 8 service location diagram (pipes)  
 9 sewerage service diagram (property sewerage diagram)  
 10 document that created or may have created an easement, profit à prendre, restriction on use or positive covenant disclosed in this contract  
 11 section 88G certificate (positive covenant)  
 12 survey report  
 13 building certificate given under *legislation*  
 14 insurance certificate (Home Building Act 1989)  
 15 brochure or warning (Home Building Act 1989)  
 16 certificate of compliance (Swimming Pools Act 1992)  
 17 evidence of registration (Swimming Pools Act 1992)  
 18 relevant occupation certificate (Swimming Pools Act 1992)  
 19 lease (with every relevant memorandum or variation)  
 20 other document relevant to tenancies  
 21 old system document  
 22 Crown purchase statement of account  
 23 building management statement  
 24 form of requisitions

## Strata or community title (clause 23 of the contract)

- 25 property certificate for strata common property  
 26 plan creating strata common property  
 27 strata by-laws not set out in *legislation*  
 28 strata development contract or statement  
 29 strata management statement  
 30 leasehold strata - lease of lot and common property  
 31 property certificate for neighbourhood property  
 32 plan creating neighbourhood property  
 33 neighbourhood development contract  
 34 neighbourhood management statement  
 35 property certificate for precinct property  
 36 plan creating precinct property  
 37 precinct development contract  
 38 precinct management statement  
 39 property certificate for community property  
 40 plan creating community property  
 41 community development contract  
 42 community management statement  
 43 document disclosing a change of by-laws  
 44 document disclosing a change in a development or management contract or statement  
 45 document disclosing a change in boundaries  
 46 certificate under Management Act – section 109 (Strata Schemes)  
 47 certificate under Management Act – section 26 (Community Land)  
 48 other:

### **WARNING— SWIMMING POOLS**

An owner of a property on which a swimming pool is situated must ensure that the pool complies with the requirements of the *Swimming Pools Act 1992*. Penalties apply. Before purchasing a property on which a swimming pool is situated, a purchaser is strongly advised to ensure that the swimming pool complies with the requirements of that Act.

### **WARNING— SMOKE ALARMS**

The owners of certain types of buildings and strata lots must have smoke alarms (or in certain cases heat alarms) installed in the building or lot in accordance with regulations under the *Environmental Planning and Assessment Act 1979*. It is an offence not to comply. It is also an offence to remove or interfere with a smoke alarm or heat alarm. Penalties apply.

### **IMPORTANT NOTICE TO VENDORS AND PURCHASERS**

Before signing this contract you should ensure that you understand your rights and obligations, some of which are not written in this contract but are implied by law.

### **COOLING OFF PERIOD (PURCHASER'S RIGHTS)**

1. This is the statement required by section 66X of the *Conveyancing Act 1919* and applies to a contract for the sale of residential property.
2. The purchaser may rescind the contract at any time before 5 p.m. on the fifth business day after the day on which the contract was made, **EXCEPT** in the circumstances listed in paragraph 3.
3. There is **NO COOLING OFF PERIOD**:
  - (a) if, at or before the time the contract is made, the purchaser gives to the vendor (or the vendor's solicitor or agent) a certificate that complies with section 66W of the Act, or
  - (b) if the property is sold by public auction, or
  - (c) if the contract is made on the same day as the property was offered for sale by public auction but passed in, or
  - (d) if the contract is made in consequence of the exercise of an option to purchase the property, other than an option that is void under section 66ZG of the Act.
4. A purchaser exercising the right to cool off by rescinding the contract will forfeit to the vendor 0.25% of the purchase price of the property. The vendor is entitled to recover the amount forfeited from any amount paid by the purchaser as a deposit under the contract and the purchaser is entitled to a refund of any balance.

## WARNINGS

1. Various Acts of Parliament and other matters can affect the rights of the parties to this contract. Some important matters are actions, claims, decisions, licences, notices, orders, proposals or rights of way involving

Council	NSW Fair Trading
County Council	NSW Public Works
Department of Planning and Environment	Office of Environment and Heritage
Department of Primary Industries	Owner of adjoining land
East Australian Pipeline Limited	Privacy
Electricity and gas authority	Roads and Maritime Services
Local Land Services	Telecommunications authority
Land & Housing Corporation	Transport for NSW
Mine Subsidence Board	Water, sewerage or drainage authority
NSW Department of Education and Communities	NSW Department of Trade and Investment
Regional Infrastructure and Services	

If you think that any of these matters affects the property, tell your solicitor.

2. A lease may be affected by the Agricultural Tenancies Act 1990, the Residential Tenancies Act 2010 or the Retail Leases Act 1994.
3. If any purchase money is owing to the Crown, it may become payable when the transfer is registered.
4. If a consent to transfer is required under legislation, see clause 27 as to the obligations of the parties.
5. The vendor should continue the vendor's insurance until completion. If the vendor wants to give the purchaser possession before completion, the vendor should first ask the insurer to confirm this will not affect the insurance.
6. The purchaser will usually have to pay stamp duty on this contract. If duty is not paid on time, a purchaser may incur penalties.
7. If the purchaser agrees to the release of deposit, the purchaser's right to recover the deposit may stand behind the rights of others (for example the vendor's mortgagee).
8. The purchaser should arrange insurance as appropriate.
9. Some transactions involving personal property may be affected by the Personal Property Securities Act 2009.
10. A purchaser should be satisfied that finance will be available at the time of completing the purchase.

## DISPUTES

If you get into a dispute with the other party, the Law Society and Real Estate Institute encourage you to use informal procedures such as negotiation, independent expert appraisal or mediation (for example mediation under the Law Society Mediation Model and Guidelines).

## AUCTIONS

Regulations made under the Property, Stock and Business Agents Act 2002 prescribe a number of conditions applying to sales by auction.

The vendor sells and the purchaser buys the *property* for the price under these provisions instead of Schedule 3 Conveyancing Act 1919, subject to any *legislation* that cannot be excluded.

## 1 Definitions (a term in italics is a defined term)

In this contract, these terms (in any form) mean –

<i>adjustment date</i>	the earlier of the giving of possession to the purchaser or completion;
<i>bank</i>	the Reserve Bank of Australia or an authorised deposit-taking institution which is a bank, a building society or a credit union;
<i>business day</i>	any day except a bank or public holiday throughout NSW or a Saturday or Sunday;
<i>cheque</i>	a cheque that is not postdated or stale;
<i>deposit-bond</i>	a deposit bond or guarantee from an issuer, with an expiry date and for an amount each approved by the vendor;
<i>depositholder</i>	vendor's agent (or if no vendor's agent is named in this contract, the vendor's <i>solicitor</i> , or if no vendor's <i>solicitor</i> is named in this contract, the buyer's agent);
<i>document of title</i>	document relevant to the title or the passing of title;
<i>GST Act</i>	A New Tax System (Goods and Services Tax) Act 1999;
<i>GST rate</i>	the rate mentioned in s4 of A New Tax System (Goods and Services Tax Imposition - General) Act 1999 (10% as at 1 July 2000);
<i>legislation normally</i>	an Act or a by-law, ordinance, regulation or rule made under an Act; subject to any other provision of this contract;
<i>party</i>	each of the vendor and the purchaser;
<i>property</i>	the land, the improvements, all fixtures and the inclusions, but not the exclusions;
<i>requisition</i>	an objection, question or requisition (but the term does not include a claim);
<i>rescind</i>	rescind this contract from the beginning;
<i>serve</i>	serve in writing on the other <i>party</i> ;
<i>settlement cheque</i>	an unendorsed <i>cheque</i> made payable to the person to be paid and – <ul style="list-style-type: none"> <li>• issued by a <i>bank</i> and drawn on itself; or</li> <li>• if authorised in writing by the vendor or the vendor's <i>solicitor</i>, some other <i>cheque</i>;</li> </ul>
<i>solicitor</i>	in relation to a <i>party</i> , the <i>party's</i> solicitor or licensed conveyancer named in this contract or in a notice <i>served</i> by the <i>party</i> ;
<i>terminate</i>	terminate this contract for breach;
<i>within</i>	in relation to a period, at any time before or during the period; and
<i>work order</i>	a valid direction, notice or order that requires work to be done or money to be spent on or in relation to the <i>property</i> or any adjoining footpath or road.

## 2 Deposit and other payments before completion

- 2.1 The purchaser must pay the deposit to the *depositholder* as stakeholder.
- 2.2 *Normally*, the purchaser must pay the deposit on the making of this contract, and this time is essential.
- 2.3 If this contract requires the purchaser to pay any of the deposit by a later time, that time is also essential.
- 2.4 The purchaser can pay any of the deposit by giving cash (up to \$2,000) or by unconditionally giving a *cheque* to the *depositholder* or to the vendor, vendor's agent or vendor's *solicitor* for sending to the *depositholder*.
- 2.5 If any of the deposit is not paid on time or a *cheque* for any of the deposit is not honoured on presentation, the vendor can *terminate*. This right to *terminate* is lost as soon as the deposit is paid in full.
- 2.6 If the vendor accepts a bond or guarantee for the deposit, clauses 2.1 to 2.5 do not apply.
- 2.7 If the vendor accepts a bond or guarantee for part of the deposit, clauses 2.1 to 2.5 apply only to the balance.
- 2.8 If any of the deposit or of the balance of the price is paid before completion to the vendor or as the vendor directs, it is a charge on the land in favour of the purchaser until *termination* by the vendor or completion, subject to any existing right.
- 2.9 If each *party* tells the *depositholder* that the deposit is to be invested, the *depositholder* is to invest the deposit (at the risk of the *party* who becomes entitled to it) with a *bank*, in an interest-bearing account in NSW, payable at call, with interest to be reinvested, and pay the interest to the *parties* equally, after deduction of all proper government taxes and financial institution charges and other charges.

## 3 Deposit-bond

- 3.1 This clause applies only if this contract says the vendor has agreed to accept a *deposit-bond* for the deposit (or part of it).
- 3.2 The purchaser must provide the original *deposit-bond* to the vendor's *solicitor* (or if no solicitor the *depositholder*) at or before the making of this contract and this time is essential.
- 3.3 If the *deposit-bond* has an expiry date and completion does not occur by the date which is 14 days before the expiry date, the purchaser must *serve* a replacement *deposit-bond* at least 7 days before the expiry date. The time for service is essential.

- 3.4 The vendor must approve a replacement *deposit-bond* if –
- 3.4.1 it is from the same issuer and for the same amount as the earlier *deposit-bond*; and
- 3.4.2 it has an expiry date at least three months after its date of issue.
- 3.5 A breach of clauses 3.2 or 3.3 entitles the vendor to *terminate*. The right to *terminate* is lost as soon as –
- 3.5.1 the purchaser *serves* a replacement *deposit-bond*; or
- 3.5.2 the deposit is paid in full under clause 2.
- 3.6 Clauses 3.3 and 3.4 can operate more than once.
- 3.7 If the purchaser *serves* a replacement *deposit-bond*, the vendor must *serve* the earlier *deposit-bond*.
- 3.8 The amount of any *deposit-bond* does not form part of the price for the purposes of clause 16.7.
- 3.9 The vendor must give the purchaser the *deposit-bond* –
- 3.9.1 on completion; or
- 3.9.2 if this contract is *rescinded*.
- 3.10 If this contract is *terminated* by the vendor –
- 3.10.1 *normally*, the vendor can immediately demand payment from the issuer of the *deposit-bond*; or
- 3.10.2 if the purchaser *serves* prior to *termination* a notice disputing the vendor's right to *terminate*, the vendor must forward the *deposit-bond* (or its proceeds if called up) to the *depositholder* as stakeholder.
- 3.11 If this contract is *terminated* by the purchaser –
- 3.11.1 *normally*, the vendor must give the purchaser the *deposit-bond*; or
- 3.11.2 if the vendor *serves* prior to *termination* a notice disputing the purchaser's right to *terminate*, the vendor must forward the *deposit-bond* (or its proceeds if called up) to the *depositholder* as stakeholder.
- 4 Transfer**
- 4.1 *Normally*, the purchaser must *serve* at least 14 days before the date for completion –
- 4.1.1 the form of transfer; and
- 4.1.2 particulars required to register any mortgage or other dealing to be lodged with the transfer by the purchaser or the purchaser's mortgagee.
- 4.2 If any information needed for the form of transfer is not disclosed in this contract, the vendor must *serve* it.
- 4.3 If the purchaser *serves* a form of transfer and the transferee is not the purchaser, the purchaser must give the vendor a direction signed by the purchaser personally for this form of transfer.
- 4.4 The vendor can require the purchaser to include a form of covenant or easement in the transfer only if this contract contains the wording of the proposed covenant or easement, and a description of the land benefited.
- 5 Requisitions**
- 5.1 If a form of *requisitions* is attached to this contract, the purchaser is taken to have made those *requisitions*.
- 5.2 If the purchaser is or becomes entitled to make any other *requisition*, the purchaser can make it only by *serving* it –
- 5.2.1 if it arises out of this contract or it is a general question about the *property* or title - *within* 21 days after the contract date;
- 5.2.2 if it arises out of anything *served* by the vendor - *within* 21 days after the later of the contract date and that *service*; and
- 5.2.3 in any other case - *within* a reasonable time.
- 6 Error or misdescription**
- 6.1 The purchaser can (but only before completion) claim compensation for an error or misdescription in this contract (as to the *property*, the title or anything else and whether substantial or not).
- 6.2 This clause applies even if the purchaser did not take notice of or rely on anything in this contract containing or giving rise to the error or misdescription.
- 6.3 However, this clause does not apply to the extent the purchaser knows the true position.
- Claims by purchaser**
- The purchaser can make a claim (including a claim under clause 6) before completion only by *serving* it with a statement of the amount claimed, and if the purchaser makes one or more claims before completion –
- 7.1 the vendor can *rescind* if in the case of claims that are not claims for delay –
- 7.1.1 the total amount claimed exceeds 5% of the price;
- 7.1.2 the vendor *serves* notice of intention to *rescind*; and
- 7.1.3 the purchaser does not *serve* notice waiving the claims *within* 14 days after that *service*; and

- 7.2 if the vendor does not *rescind*, the *parties* must complete and if this contract is completed –
- 7.2.1 the lesser of the total amount claimed and 10% of the price must be paid out of the price to and held by the *depositholder* until the claims are finalised or lapse;
- 7.2.2 the amount held is to be invested in accordance with clause 2.9;
- 7.2.3 the claims must be finalised by an arbitrator appointed by the *parties* or, if an appointment is not made *within* 1 month of completion, by an arbitrator appointed by the President of the Law Society at the request of a *party* (in the latter case the *parties* are bound by the terms of the Conveyancing Arbitration Rules approved by the Law Society as at the date of the appointment);
- 7.2.4 the purchaser is not entitled, in respect of the claims, to more than the total amount claimed and the costs of the purchaser;
- 7.2.5 net interest on the amount held must be paid to the *parties* in the same proportion as the amount held; and
- 7.2.6 if the *parties* do not appoint an arbitrator and neither *party* requests the President to appoint an arbitrator *within* 3 months after completion, the claims lapse.
- 8 Vendor's rights and obligations**
- 8.1 The vendor can *rescind* if –
- 8.1.1 the vendor is, on reasonable grounds, unable or unwilling to comply with a *requisition*;
- 8.1.2 the vendor *serves* a notice of intention to *rescind* that specifies the *requisition* and those grounds; and
- 8.1.3 the purchaser does not *serve* a notice waiving the *requisition within* 14 days after that *service*.
- 8.2 If the vendor does not comply with this contract (or a notice under or relating to it) in an essential respect, the purchaser can *terminate* by *serving* a notice. After the *termination* –
- 8.2.1 the purchaser can recover the deposit and any other money paid by the purchaser under this contract;
- 8.2.2 the purchaser can sue the vendor to recover damages for breach of contract; and
- 8.2.3 if the purchaser has been in possession a *party* can claim for a reasonable adjustment.
- 9 Purchaser's default**
- If the purchaser does not comply with this contract (or a notice under or relating to it) in an essential respect, the vendor can *terminate* by *serving* a notice. After the *termination* the vendor can –
- 9.1 keep or recover the deposit (to a maximum of 10% of the price);
- 9.2 hold any other money paid by the purchaser under this contract as security for anything recoverable under this clause –
- 9.2.1 for 12 months after the *termination*; or
- 9.2.2 if the vendor commences proceedings under this clause *within* 12 months, until those proceedings are concluded; and
- 9.3 sue the purchaser either –
- 9.3.1 where the vendor has resold the *property* under a contract made *within* 12 months after the *termination*, to recover –
- the deficiency on resale (with credit for any of the deposit kept or recovered and after allowance for any capital gains tax or goods and services tax payable on anything recovered under this clause); and
  - the reasonable costs and expenses arising out of the purchaser's non-compliance with this contract or the notice and of resale and any attempted resale; or
- 9.3.2 to recover damages for breach of contract.
- 10 Restrictions on rights of purchaser**
- 10.1 The purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of –
- 10.1.1 the ownership or location of any fence as defined in the Dividing Fences Act 1991;
- 10.1.2 a service for the *property* being a joint service or passing through another property, or any service for another property passing through the *property* ('service' includes air, communication, drainage, electricity, garbage, gas, oil, radio, sewerage, telephone, television or water service);
- 10.1.3 a wall being or not being a party wall in any sense of that term or the *property* being affected by an easement for support or not having the benefit of an easement for support;
- 10.1.4 any change in the *property* due to fair wear and tear before completion;
- 10.1.5 a promise, representation or statement about this contract, the *property* or the title, not set out or referred to in this contract;
- 10.1.6 a condition, exception, reservation or restriction in a Crown grant;
- 10.1.7 the existence of any authority or licence to explore or prospect for gas, minerals or petroleum;
- 10.1.8 any easement or restriction on use the substance of either of which is disclosed in this contract or any non-compliance with the easement or restriction on use; or

10.1.9 anything the substance of which is disclosed in this contract (except a caveat, charge, mortgage or writ).

- 10.2 The purchaser cannot *rescind* or *terminate* only because of a defect in title to or quality of the inclusions.  
 10.3 *Normally*, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* or require the vendor to change the nature of the title disclosed in this contract (for example, to remove a caution evidencing qualified title, or to lodge a plan of survey as regards limited title).

## 11 Compliance with work orders

- 11.1 *Normally*, the vendor must by completion comply with a *work order* made on or before the contract date and if this contract is completed the purchaser must comply with any other *work order*.  
 11.2 If the purchaser complies with a *work order*, and this contract is *rescinded* or *terminated*, the vendor must pay the expense of compliance to the purchaser.

## 12 Certificates and inspections

- The vendor must do everything reasonable to enable the purchaser, subject to the rights of any tenant –  
 12.1 to have the *property* inspected to obtain any certificate or report reasonably required;  
 12.2 to apply (if necessary in the name of the vendor) for –  
 12.2.1 any certificate that can be given in respect of the *property* under *legislation*, or  
 12.2.2 a copy of any approval, certificate, consent, direction, notice or order in respect of the *property* given under *legislation*, even if given after the contract date; and  
 12.3 to make 1 inspection of the *property* in the 3 days before a time appointed for completion.

## 13 Goods and services tax (GST)

- 13.1 In this clause, enterprise, input tax credit, margin scheme, supply of a going concern, tax invoice and taxable supply have the same meanings as in the *GST Act*.  
 13.2 *Normally*, if a *party* must pay the price or any other amount to the other *party* under this contract, GST is not to be added to the price or amount.  
 13.3 If under this contract a *party* must make an adjustment, pay an expense of another party or pay an amount payable by or to a third party (for example, under clauses 14 or 20.7) –  
 13.3.1 the *party* must adjust or pay on completion any GST added to or included in the amount; but  
 13.3.2 if this contract says this sale is a taxable supply, and payment would entitle the *party* to an input tax credit, the adjustment or payment is to be worked out by deducting any input tax credit to which the party receiving the adjustment is or was entitled and adding the *GST rate*.  
 13.4 If this contract says this sale is the supply of a going concern –  
 13.4.1 the *parties* agree the supply of the *property* is a supply of a going concern;  
 13.4.2 the vendor must, between the contract date and completion, carry on the enterprise conducted on the land in a proper and business-like way;  
 13.4.3 if the purchaser is not registered by the date for completion, the *parties* must complete and the purchaser must pay on completion, in addition to the price, an amount being the price multiplied by the *GST rate* ("the retention sum"). The retention sum is to be held by the *depositholder* and dealt with as follows –  
  - if *within* 3 months of completion the purchaser *serves* a letter from the Australian Taxation Office stating the purchaser is registered, the *depositholder* is to pay the retention sum to the purchaser; but
  - if the purchaser does not *serve* that letter *within* 3 months of completion, the *depositholder* is to pay the retention sum to the vendor; and
 13.4.4 if the vendor, despite clause 13.4.1, *serves* a letter from the Australian Taxation Office stating the vendor has to pay GST on the supply, the purchaser must pay to the vendor on demand the amount of GST assessed.  
 13.5 *Normally*, the vendor promises the margin scheme will not apply to the supply of the *property*.  
 13.6 If this contract says the margin scheme is to apply in making the taxable supply, the *parties* agree that the margin scheme is to apply to the sale of the *property*.  
 13.7 If this contract says the sale is not a taxable supply –  
 13.7.1 the purchaser promises that the *property* will not be used and represents that the purchaser does not intend the *property* (or any part of the *property*) to be used in a way that could make the sale a taxable supply to any extent; and

- 13.7.2 the purchaser must pay the vendor on completion in addition to the price an amount calculated by multiplying the price by the *GST rate* if this sale is a taxable supply to any extent because of –
- a breach of clause 13.7.1; or
  - something else known to the purchaser but not the vendor.
- 13.8 If this contract says this sale is a taxable supply in full and does not say the margin scheme applies to the *property*, the vendor must pay the purchaser on completion an amount of one-eleventh of the price if –
- 13.8.1 this sale is not a taxable supply in full; or
- 13.8.2 the margin scheme applies to the *property* (or any part of the *property*).
- 13.9 If this contract says this sale is a taxable supply to an extent –
- 13.9.1 clause 13.7.1 does not apply to any part of the *property* which is identified as being a taxable supply; and
- 13.9.2 the payments mentioned in clauses 13.7 and 13.8 are to be recalculated by multiplying the relevant payment by the proportion of the price which represents the value of that part of the *property* to which the clause applies (the proportion to be expressed as a number between 0 and 1). Any evidence of value must be obtained at the expense of the vendor.
- 13.10 *Normally*, on completion the vendor must give the recipient of the supply a tax invoice for any taxable supply by the vendor by or under this contract.
- 13.11 The vendor does not have to give the purchaser a tax invoice if the margin scheme applies to a taxable supply.

#### 14 Adjustments

- 14.1 *Normally*, the vendor is entitled to the rents and profits and will be liable for all rates, water, sewerage and drainage service and usage charges, land tax and all other periodic outgoings up to and including the *adjustment date* after which the purchaser will be entitled and liable.
- 14.2 The *parties* must make any necessary adjustment on completion.
- 14.3 If an amount that is adjustable under this contract has been reduced under *legislation*, the *parties* must on completion adjust the reduced amount.
- 14.4 The *parties* must adjust land tax for the year current at the *adjustment date* –
- 14.4.1 only if land tax has been paid or is payable for the year (whether by the vendor or by a predecessor in title) and this contract says that land tax is adjustable;
- 14.4.2 by adjusting the amount that would have been payable if at the start of the year –
- the person who owned the land owned no other land;
  - the land was not subject to a special trust or owned by a non-concessional company; and
  - if the land (or part of it) had no separate taxable value, by calculating its separate taxable value on a proportional area basis.
- 14.5 If any other amount that is adjustable under this contract relates partly to the land and partly to other land, the *parties* must adjust it on a proportional area basis.
- 14.6 *Normally*, the vendor can direct the purchaser to produce a *settlement cheque* on completion to pay an amount adjustable under this contract and if so –
- 14.6.1 the amount is to be treated as if it were paid; and
- 14.6.2 the *cheque* must be forwarded to the payee immediately after completion (by the purchaser if the *cheque* relates only to the *property* or by the vendor in any other case).
- 14.7 If on completion the last bill for a water, sewerage or drainage usage charge is for a period ending before the *adjustment date*, the vendor is liable for an amount calculated by dividing the bill by the number of days in the period then multiplying by the number of unbilled days up to and including the *adjustment date*.
- 14.8 The vendor is liable for any amount recoverable for work started on or before the contract date on the *property* or any adjoining footpath or road.

#### 15 Date for completion

The *parties* must complete by the date for completion and, if they do not, a *party* can *serve* a notice to complete if that *party* is otherwise entitled to do so.

#### 16 Completion

##### • Vendor

- 16.1 On completion the vendor must give the purchaser any *document of title* that relates only to the *property*.
- 16.2 If on completion the vendor has possession or control of a *document of title* that relates also to other property, the vendor must produce it as and where necessary.

- 16.3 *Normally*, on completion the vendor must cause the legal title to the *property* (being an estate in fee simple) to pass to the purchaser free of any mortgage or other interest, subject to any necessary registration.
- 16.4 The legal title to the *property* does not pass before completion.
- 16.5 If the vendor gives the purchaser a document (other than the transfer) that needs to be lodged for registration, the vendor must pay the lodgment fee to the purchaser, plus another 20% of that fee.
- 16.6 If the purchaser *serves* a land tax certificate showing a charge on any of the land, on completion the vendor must give the purchaser a land tax certificate showing the charge is no longer effective against the land.
- **Purchaser**
- 16.7 On completion the purchaser must pay to the vendor, by cash (up to \$2,000) or *settlement cheque*, the price (less any deposit paid) and any other amount payable by the purchaser under this contract (less any amount payable by the vendor to the purchaser under this contract).
- 16.8 If the vendor requires more than 5 *settlement cheques*, the vendor must pay \$10 for each extra *cheque*.
- 16.9 If any of the deposit is not covered by a bond or guarantee, on completion the purchaser must give the vendor an order signed by the purchaser authorising the *depositholder* to account to the vendor for the deposit.
- 16.10 On completion the deposit belongs to the vendor.
- **Place for completion**
- 16.11 *Normally*, the *parties* must complete at the completion address, which is –
- 16.11.1 if a special completion address is stated in this contract - that address; or
  - 16.11.2 if none is stated, but a first mortgagee is disclosed in this contract and the mortgagee would usually discharge the mortgage at a particular place - that place; or
  - 16.11.3 in any other case - the vendor's *solicitor's* address stated in this contract.
- 16.12 The vendor by reasonable notice can require completion at another place, if it is in NSW, but the vendor must pay the purchaser's additional expenses, including any agency or mortgagee fee.
- 16.13 If the purchaser requests completion at a place that is not the completion address, and the vendor agrees, the purchaser must pay the vendor's additional expenses, including any agency or mortgagee fee.
- 17 Possession**
- 17.1 *Normally*, the vendor must give the purchaser vacant possession of the *property* on completion.
- 17.2 The vendor does not have to give vacant possession if –
- 17.2.1 this contract says that the sale is subject to existing tenancies; and
  - 17.2.2 the contract discloses the provisions of the tenancy (for example, by attaching a copy of the lease and any relevant memorandum or variation).
- 17.3 *Normally*, the purchaser can claim compensation (before or after completion) or *rescind* if any of the land is affected by a protected tenancy (a tenancy affected by Part 2, 3, 4 or 5 Landlord and Tenant (Amendment) Act 1948).
- 18 Possession before completion**
- 18.1 This clause applies only if the vendor gives the purchaser possession of the *property* before completion.
- 18.2 The purchaser must not before completion –
- 18.2.1 let or part with possession of any of the *property*;
  - 18.2.2 make any change or structural alteration or addition to the *property*; or
  - 18.2.3 contravene any agreement between the *parties* or any direction, document, *legislation*, notice or order affecting the *property*.
- 18.3 The purchaser must until completion –
- 18.3.1 keep the *property* in good condition and repair having regard to its condition at the giving of possession; and
  - 18.3.2 allow the vendor or the vendor's authorised representative to enter and inspect it at all reasonable times.
- 18.4 The risk as to damage to the *property* passes to the purchaser immediately after the purchaser enters into possession.
- 18.5 If the purchaser does not comply with this clause, then without affecting any other right of the vendor –
- 18.5.1 the vendor can before completion, without notice, remedy the non-compliance; and
  - 18.5.2 if the vendor pays the expense of doing this, the purchaser must pay it to the vendor with interest at the rate prescribed under s101 Civil Procedure Act 2005.
- 18.6 If this contract is *rescinded* or *terminated* the purchaser must immediately vacate the *property*.
- 18.7 If the *parties* or their *solicitors* on their behalf do not agree in writing to a fee or rent, none is payable.

**19 Rescission of contract**

- 19.1 If this contract expressly gives a *party* a right to *rescind*, the *party* can exercise the right –
- 19.1.1 only by *servicing* a notice before completion; and
  - 19.1.2 in spite of any making of a claim or *requisition*, any attempt to satisfy a claim or *requisition*, any arbitration, litigation, mediation or negotiation or any giving or taking of possession.
- 19.2 *Normally*, if a *party* exercises a right to *rescind* expressly given by this contract or any *legislation* –
- 19.2.1 the deposit and any other money paid by the purchaser under this contract must be refunded;
  - 19.2.2 a *party* can claim for a reasonable adjustment if the purchaser has been in possession;
  - 19.2.3 a *party* can claim for damages, costs or expenses arising out of a breach of this contract; and
  - 19.2.4 a *party* will not otherwise be liable to pay the other *party* any damages, costs or expenses.

**20 Miscellaneous**

- 20.1 The *parties* acknowledge that anything stated in this contract to be attached was attached to this contract by the vendor before the purchaser signed it and is part of this contract.
- 20.2 Anything attached to this contract is part of this contract.
- 20.3 An area, bearing or dimension in this contract is only approximate.
- 20.4 If a *party* consists of 2 or more persons, this contract benefits and binds them separately and together.
- 20.5 A *party's solicitor* can receive any amount payable to the *party* under this contract or direct in writing that it is to be paid to another person.
- 20.6 A document under or relating to this contract is –
- 20.6.1 signed by a *party* if it is signed by the *party* or the *party's solicitor* (apart from a direction under clause 4.3);
  - 20.6.2 *served* if it is *served* by the *party* or the *party's solicitor*;
  - 20.6.3 *served* if it is *served* on the *party's solicitor*, even if the *party* has died or any of them has died;
  - 20.6.4 *served* if it is *served* in any manner provided in s170 of the Conveyancing Act 1919;
  - 20.6.5 *served* if it is sent by fax to the *party's solicitor*, unless it is not received;
  - 20.6.6 *served* on a person if it (or a copy of it) comes into the possession of the person; and
  - 20.6.7 *served* at the earliest time it is *served*, if it is *served* more than once.
- 20.7 An obligation to pay an expense of another *party* of doing something is an obligation to pay –
- 20.7.1 if the *party* does the thing personally – the reasonable cost of getting someone else to do it; or
  - 20.7.2 if the *party* pays someone else to do the thing – the amount paid, to the extent it is reasonable.
- 20.8 Rights under clauses 11, 13, 14, 17, 24 and 30 continue after completion, whether or not other rights continue.
- 20.9 The vendor does not promise, represent or state that the purchaser has any cooling off rights.
- 20.10 The vendor does not promise, represent or state that any attached survey report is accurate or current.
- 20.11 A reference to any *legislation* includes a reference to any corresponding later *legislation*.
- 20.12 Each *party* must do whatever is necessary after completion to carry out the *party's* obligations under this contract.
- 20.13 Neither taking possession nor *servicing* a transfer of itself implies acceptance of the *property* or the title.
- 20.14 The details and information provided in this contract (for example, on pages 1 and 2) are, to the extent of each *party's* knowledge, true, and are part of this contract.
- 20.15 Where this contract provides for choices, a choice in BLOCK CAPITALS applies unless a different choice is marked.

**21 Time limits in these provisions**

- 21.1 If the time for something to be done or to happen is not stated in these provisions, it is a reasonable time.
- 21.2 If there are conflicting times for something to be done or to happen, the latest of those times applies.
- 21.3 The time for one thing to be done or to happen does not extend the time for another thing to be done or to happen.
- 21.4 If the time for something to be done or to happen is the 29th, 30th or 31st day of a month, and the day does not exist, the time is instead the last day of the month.
- 21.5 If the time for something to be done or to happen is a day that is not a *business day*, the time is extended to the next *business day*, except in the case of clauses 2 and 3.2.
- 21.6 *Normally*, the time by which something must be done is fixed but not essential.

**22 Foreign Acquisitions and Takeovers Act 1975**

- 22.1 The purchaser promises that the Commonwealth Treasurer cannot prohibit and has not prohibited the transfer under the Foreign Acquisitions and Takeovers Act 1975.
- 22.2 This promise is essential and a breach of it entitles the vendor to *terminate*.

**23 Strata or community title**

- 23.1 This clause applies only if the land (or part of it) is a lot in a strata, neighbourhood, precinct or community scheme (or on completion is to be a lot in a scheme of that kind).
- 23.2 In this contract –  
'change', in relation to a scheme, means –
- a registered or registrable change from by-laws set out in this contract or set out in *legislation* and specified in this contract;
  - a change from a development or management contract or statement set out in this contract; or
  - a change in the boundaries of common property;
- 'common property' includes association property for the scheme or any higher scheme;  
'contribution' includes an amount payable under a by-law;  
'normal expenses', in relation to an owners corporation for a scheme, means normal operating expenses usually payable from the administrative fund of an owners corporation for a scheme of the same kind;  
'owners corporation' means the owners corporation or the association for the scheme or any higher scheme;  
'the *property*' includes any interest in common property for the scheme associated with the lot;  
'special expenses', in relation to an owners corporation, means its actual, contingent or expected expenses, except to the extent they are normal expenses, due to fair wear and tear, disclosed in this contract or covered by moneys held in the sinking fund.
- 23.3 Clauses 11, 14.8 and 18.4 do not apply to an obligation of the owners corporation, or to property insurable by it.
- 23.4 Clauses 14.4.2 and 14.5 apply but on a unit entitlement basis instead of an area basis.
- 23.5 The *parties* must adjust under clause 14.1 –
- 23.5.1 a regular periodic contribution;
- 23.5.2 a contribution which is not a regular periodic contribution but is disclosed in this contract; and
- 23.5.3 on a unit entitlement basis, any amount paid by the vendor for a normal expense of the owners corporation to the extent the owners corporation has not paid the amount to the vendor.
- 23.6 If a contribution is not a regular periodic contribution and is not disclosed in this contract –
- 23.6.1 the vendor is liable for it if it was levied before the contract date (unless it relates to work not started by that date), even if it is payable by instalments;
- 23.6.2 the vendor is also liable for it to the extent it relates to work started by the owners corporation before the contract date; and
- 23.6.3 the purchaser is liable for all other contributions levied after the contract date.
- 23.7 The vendor must pay or allow to the purchaser on completion the amount of any unpaid contributions for which the vendor is liable under clause 23.6.
- 23.8 *Normally*, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of –
- 23.8.1 an existing or future actual, contingent or expected expense of the owners corporation;
- 23.8.2 a proportional unit entitlement of the lot or a relevant lot or former lot, apart from a claim under clause 6; or
- 23.8.3 a past or future change in the scheme or a higher scheme.
- 23.9 However, the purchaser can *rescind* if –
- 23.9.1 the special expenses of the owners corporation at the later of the contract date and the creation of the owners corporation when calculated on a unit entitlement basis (and, if more than one lot or a higher scheme is involved, added together), less any contribution paid by the vendor, are more than 1% of the price;
- 23.9.2 in the case of the lot or a relevant lot or former lot in a higher scheme –
- a proportional unit entitlement for the lot is not disclosed in this contract; or
  - a proportional unit entitlement for the lot is disclosed in this contract but the lot has a different proportional unit entitlement at the contract date or at any time before completion; or
- 23.9.3 a change before the contract date or before completion in the scheme or a higher scheme substantially disadvantages the purchaser and is not disclosed in this contract.
- 23.10 The purchaser must give the vendor 2 copies of a proper form of notice of the transfer of the lot addressed to the owners corporation and signed by the purchaser.
- 23.11 The vendor must complete and sign 1 copy of the notice and give it to the purchaser on completion.
- 23.12 Each *party* can sign and give the notice as agent for the other.
- 23.13 The vendor must *serve* a certificate under s109 Strata Schemes Management Act 1996 or s26 Community Land Management Act 1989 in relation to the lot, the scheme or any higher scheme at least 7 days before the date for completion.
- 23.14 The purchaser does not have to complete earlier than 7 days after *service* of the certificate and clause 21.3 does not apply to this provision.

- 23.15 On completion the purchaser must pay the vendor the prescribed fee for the certificate.
- 23.16 The vendor authorises the purchaser to apply for the purchaser's own certificate.
- 23.17 The vendor authorises the purchaser to apply for and make an inspection of any record or other document in the custody or control of the owners corporation or relating to the scheme or any higher scheme.
- 23.18 If a general meeting of the owners corporation is convened before completion –
- 23.18.1 if the vendor receives notice of it, the vendor must immediately notify the purchaser of it; and
- 23.18.2 after the expiry of any cooling off period, the purchaser can require the vendor to appoint the purchaser (or the purchaser's nominee) to exercise any voting rights of the vendor in respect of the lot at the meeting.

## 24 Tenancies

- 24.1 If a tenant has not made a payment for a period preceding or current at the *adjustment date* –
- 24.1.1 for the purposes of clause 14.2, the amount is to be treated as if it were paid; and
- 24.1.2 the purchaser assigns the debt to the vendor on completion and will if required give a further assignment at the vendor's expense.
- 24.2 If a tenant has paid in advance of the *adjustment date* any periodic payment in addition to rent, it must be adjusted as if it were rent for the period to which it relates.
- 24.3 If the *property* is to be subject to a tenancy on completion or is subject to a tenancy on completion –
- 24.3.1 the vendor authorises the purchaser to have any accounting records relating to the tenancy inspected and audited and to have any other document relating to the tenancy inspected;
- 24.3.2 the vendor must *serve* any information about the tenancy reasonably requested by the purchaser before or after completion; and
- 24.3.3 *normally*, the purchaser can claim compensation (before or after completion) if –
- a disclosure statement required by the Retail Leases Act 1994 was not given when required;
  - such a statement contained information that was materially false or misleading;
  - a provision of the lease is not enforceable because of a non-disclosure in such a statement; or
  - the lease was entered into in contravention of the Retail Leases Act 1994.
- 24.4 If the *property* is subject to a tenancy on completion –
- 24.4.1 the vendor must allow or transfer –
- any remaining bond money or any other security against the tenant's default (to the extent the security is transferable);
  - any money in a fund established under the lease for a purpose and compensation for any money in the fund or interest earned by the fund that has been applied for any other purpose; and
  - any money paid by the tenant for a purpose that has not been applied for that purpose and compensation for any of the money that has been applied for any other purpose;
- 24.4.2 if the security is not transferable, each *party* must do everything reasonable to cause a replacement security to issue for the benefit of the purchaser and the vendor must hold the original security on trust for the benefit of the purchaser until the replacement security issues;
- 24.4.3 the vendor must give to the purchaser –
- a proper notice of the transfer (an attornment notice) addressed to the tenant;
  - any certificate given under the Retail Leases Act 1994 in relation to the tenancy;
  - a copy of any disclosure statement given under the Retail Leases Act 1994;
  - a copy of any document served on the tenant under the lease and written details of its service, if the document concerns the rights of the landlord or the tenant after completion; and
  - any document served by the tenant under the lease and written details of its service, if the document concerns the rights of the landlord or the tenant after completion;
- 24.4.4 the vendor must comply with any obligation to the tenant under the lease, to the extent it is to be complied with by completion; and
- 24.4.5 the purchaser must comply with any obligation to the tenant under the lease, to the extent that the obligation is disclosed in this contract and is to be complied with after completion.

## 25 Qualified title, limited title and old system title

- 25.1 This clause applies only if the land (or part of it) –
- 25.1.1 is under qualified, limited or old system title; or
- 25.1.2 on completion is to be under one of those titles.
- 25.2 The vendor must *serve* a proper abstract of title *within 7 days* after the contract date.
- 25.3 If an abstract of title or part of an abstract of title is attached to this contract or has been lent by the vendor to the purchaser before the contract date, the abstract or part is *served* on the contract date.

- 25.4 An abstract of title can be or include a list of documents, events and facts arranged (apart from a will or codicil) in date order, if the list in respect of each document –
- 25.4.1 shows its date, general nature, names of parties and any registration number; and
  - 25.4.2 has attached a legible photocopy of it or of an official or registration copy of it.
- 25.5 An abstract of title –
- 25.5.1 must start with a good root of title (if the good root of title must be at least 30 years old, this means 30 years old at the contract date);
  - 25.5.2 in the case of a leasehold interest, must include an abstract of the lease and any higher lease;
  - 25.5.3 *normally*, need not include a Crown grant; and
  - 25.5.4 need not include anything evidenced by the Register kept under the Real Property Act 1900.
- 25.6 In the case of land under old system title –
- 25.6.1 in this contract 'transfer' means conveyance;
  - 25.6.2 the purchaser does not have to *serve* the form of transfer until after the vendor has *served* a proper abstract of title; and
  - 25.6.3 each vendor must give proper covenants for title as regards that vendor's interest.
- 25.7 In the case of land under limited title but not under qualified title –
- 25.7.1 *normally*, the abstract of title need not include any document which does not show the location, area or dimensions of the land (for example, by including a metes and bounds description or a plan of the land);
  - 25.7.2 clause 25.7.1 does not apply to a document which is the good root of title; and
  - 25.7.3 the vendor does not have to provide an abstract if this contract contains a delimitation plan (whether in registrable form or not).
- 25.8 The vendor must give a proper covenant to produce where relevant.
- 25.9 The vendor does not have to produce or covenant to produce a document that is not in the possession of the vendor or a mortgagee.
- 25.10 If the vendor is unable to produce an original document in the chain of title, the purchaser will accept a photocopy from the Registrar-General of the registration copy of that document.
- 26 Crown purchase money**
- 26.1 This clause applies only if purchase money is payable to the Crown, whether or not due for payment.
  - 26.2 The vendor is liable for the money, except to the extent this contract says the purchaser is liable for it.
  - 26.3 To the extent the vendor is liable for it, the vendor is liable for any interest until completion.
  - 26.4 To the extent the purchaser is liable for it, the *parties* must adjust any interest under clause 14.1.
- 27 Consent to transfer**
- 27.1 This clause applies only if the land (or part of it) is restricted title land (land that cannot be transferred without consent under *legislation*).
  - 27.2 The purchaser must properly complete and then *serve* the purchaser's part of an application for consent to transfer of the land (or part of it) *within 7 days* after the contract date.
  - 27.3 The vendor must apply for consent *within 7 days* after *service* of the purchaser's part.
  - 27.4 If consent is refused, either *party* can *rescind*.
  - 27.5 If consent is given subject to one or more conditions that will substantially disadvantage a *party*, then that *party* can *rescind* *within 7 days* after receipt by or *service* upon the *party* of written notice of the conditions.
  - 27.6 If consent is not given or refused –
    - 27.6.1 *within 42 days* after the purchaser *serves* the purchaser's part of the application, the purchaser can *rescind*; or
    - 27.6.2 *within 30 days* after the application is made, either *party* can *rescind*.
  - 27.7 If the *legislation* is the Western Lands Act 1901 each period in clause 27.6 becomes 90 days.
  - 27.8 If the land or part is described as a lot in an unregistered plan, each time in clause 27.6 becomes the later of the time and 35 days after creation of a separate folio for the lot.
  - 27.9 The date for completion becomes the later of the date for completion and 14 days after *service* of the notice granting consent to transfer.
- 28 Unregistered plan**
- 28.1 This clause applies only if some of the land is described as a lot in an unregistered plan.
  - 28.2 The vendor must do everything reasonable to have the plan registered *within 6 months* after the contract date, with or without any minor alteration to the plan or any document to be lodged with the plan validly required or made under *legislation*.
  - 28.3 If the plan is not registered *within* that time and in that manner –
    - 28.3.1 the purchaser can *rescind*; and
    - 28.3.2 the vendor can *rescind*, but only if the vendor has complied with clause 28.2.
  - 28.4 Either *party* can *serve* notice of the registration of the plan and every relevant lot and plan number.

- 28.5 The date for completion becomes the later of the date for completion and 21 days after *service* of the notice.  
 28.6 Clauses 28.2 and 28.3 apply to another plan that is to be registered before the plan is registered.

### 29 Conditional contract

- 29.1 This clause applies only if a provision says this contract or completion is conditional on an event.  
 29.2 If the time for the event to happen is not stated, the time is 42 days after the contract date.  
 29.3 If this contract says the provision is for the benefit of a *party*, then it benefits only that *party*.  
 29.4 if anything is necessary to make the event happen, each *party* must do whatever is reasonably necessary to cause the event to happen.  
 29.5 A *party* can *rescind* under this clause only if the *party* has substantially complied with clause 29.4.  
 29.6 If the event involves an approval and the approval is given subject to a condition that will substantially disadvantage a *party* who has the benefit of the provision, the *party* can *rescind* within 7 days after either *party* serves notice of the condition.  
 29.7 If the *parties* can lawfully complete without the event happening –  
 29.7.1 if the event does not happen *within* the time for it to happen, a *party* who has the benefit of the provision can *rescind* within 7 days after the end of that time;  
 29.7.2 if the event involves an approval and an application for the approval is refused, a *party* who has the benefit of the provision can *rescind* within 7 days after either *party* serves notice of the refusal; and  
 29.7.3 the date for completion becomes the later of the date for completion and 21 days after the earliest of –  
 • either *party* serving notice of the event happening;  
 • every *party* who has the benefit of the provision serving notice waiving the provision; or  
 • the end of the time for the event to happen.  
 29.8 If the *parties* cannot lawfully complete without the event happening –  
 29.8.1 if the event does not happen *within* the time for it to happen, either *party* can *rescind*;  
 29.8.2 if the event involves an approval and an application for the approval is refused, either *party* can *rescind*;  
 29.8.3 the date for completion becomes the later of the date for completion and 21 days after either *party* serves notice of the event happening.  
 29.9 A *party* cannot *rescind* under clauses 29.7 or 29.8 after the event happens.

### 30 Electronic transaction

- 30.1 This *Conveyancing Transaction* is to be conducted as an *electronic transaction* if –  
 30.1.1 this contract says that it is a proposed *electronic transaction*; and  
 30.1.2 the purchaser serves a notice that it is an *electronic transaction* within 14 days of the contract date.  
 30.2 However, this *Conveyancing Transaction* is not to be conducted as an *electronic transaction* if, at any time after it has been agreed that it will be conducted as an *electronic transaction*, a *party* serves a notice that it will not be conducted as an *electronic transaction*.  
 30.3 If, because of clause 30.2, this *Conveyancing Transaction* is not to be conducted as an *electronic transaction* –  
 30.3.1 each *party* must –  
 • bear equally any disbursements or fees; and  
 • otherwise bear that *party's* own costs;  
 associated with the agreement under clause 30.1; and  
 30.3.2 if a *party* has paid all of a disbursement or fee which, by reason of this clause, is to be borne equally by the *parties*, that amount must be adjusted under clause 14.2.  
 30.4 If this *Conveyancing Transaction* is to be conducted as an *electronic transaction* –  
 30.4.1 to the extent, but only to the extent, that any other provision of this contract is inconsistent with this clause, the provisions of this clause prevail;  
 30.4.2 normally, words and phrases used in this clause 30 (italicised and in Title Case, such as *Electronic Workspace* and *Lodgment Case*) have the same meaning which they have in the *participation rules*;  
 30.4.3 the *parties* must conduct the *electronic transaction* in accordance with the *participation rules* and the *ECNL*;  
 30.4.4 a *party* must pay the fees and charges payable by that *party* to the *ELNO* and the *Land Registry* as a result of this transaction being an *electronic transaction*;

- 30.4.5 any communication from one *party* to another *party* in the *Electronic Workspace* made –
- after receipt of the purchaser's notice under clause 30.1.2; and
  - before the receipt of a notice given under clause 30.2;
- is taken to have been received by that *party* at the time determined by s13A of the Electronic Transactions Act 2000; and
- 30.4.6 a document which is an *electronic document* is served as soon as it is first *Digitally Signed* in the *Electronic Workspace* on behalf of the *party* required to serve it.
- 30.5 *Normally*, the vendor must *within 7 days* of receipt of the notice under clause 30.1.2 –
- 30.5.1 create an *Electronic Workspace*;
- 30.5.2 *populate* the *Electronic Workspace* with *title data*, the date for completion and, if applicable, *mortgagee details*; and
- 30.5.3 invite the purchaser and any *discharging mortgagee* to the *Electronic Workspace*.
- 30.6 If the vendor has not created an *Electronic Workspace* in accordance with clause 30.5, the purchaser may create an *Electronic Workspace*. If the purchaser creates the *Electronic Workspace* the purchaser must –
- 30.6.1 *populate* the *Electronic Workspace* with *title data*;
- 30.6.2 create and *populate* an *electronic transfer*;
- 30.6.3 *populate* the *Electronic Workspace* with the date for completion and a nominated *completion time*; and
- 30.6.4 invite the vendor and any *incoming mortgagee* to join the *Electronic Workspace*.
- 30.7 *Normally*, *within 7 days* of receiving an invitation from the vendor to join the *Electronic Workspace*, the purchaser must –
- 30.7.1 join the *Electronic Workspace*;
- 30.7.2 create and *populate* an *electronic transfer*;
- 30.7.3 invite any *incoming mortgagee* to join the *Electronic Workspace*; and
- 30.7.4 *populate* the *Electronic Workspace* with a nominated *completion time*.
- 30.8 If the purchaser has created the *Electronic Workspace* the vendor must *within 7 days* of being invited to the *Electronic Workspace* –
- 30.8.1 join the *Electronic Workspace*;
- 30.8.2 *populate* the *Electronic Workspace* with *mortgagee details*, if applicable; and
- 30.8.3 invite any *discharging mortgagee* to join the *Electronic Workspace*.
- 30.9 To complete the financial settlement schedule in the *Electronic Workspace* –
- 30.9.1 the purchaser must provide the vendor with *adjustment figures* at least *2 business days* before the date for completion; and
- 30.9.2 the vendor must *populate* the *Electronic Workspace* with payment details at least *1 business day* before the date for completion.
- 30.10 At least *1 business day* before the date for completion, the *parties* must ensure that –
- 30.10.1 all *electronic documents* which a *party* must *Digitally Sign* to complete the *electronic transaction* are *populated* and *Digitally Signed*;
- 30.10.2 all certifications required by the ECNL are properly given; and
- 30.10.3 they do everything else in the *Electronic Workspace* which that *party* must do to enable the *electronic transaction* to proceed to completion.
- 30.11 If completion takes place in the *Electronic Workspace* –
- 30.11.1 payment electronically on completion of the price in accordance with clause 16.7 is taken to be payment by a single *settlement cheque*;
- 30.11.2 the completion address in clause 16.11 is the *Electronic Workspace*; and
- 30.11.3 clauses 16.8, 16.12 and 16.13 do not apply.
- 30.12 If the computer systems of any of the *Land Registry*, the *ELNO* or the Reserve Bank of Australia are inoperative for any reason at the *completion time* agreed by the *parties*, a failure to complete this contract for that reason is not a default under this contract on the part of either *party*.
- 30.13 If the *Electronic Workspace* allows the *parties* to choose whether financial settlement is to occur despite the computer systems of the *Land Registry* being inoperative for any reason at the *completion time* agreed by the *parties* –
- 30.13.1 *normally*, the *parties* must choose that financial settlement not occur; however

- 30.13.2 if both *parties* choose that financial settlement is to occur despite such failure and financial settlement occurs –
- all *electronic documents Digitally Signed* by the vendor, the *certificate of title* and any discharge of mortgage, withdrawal of caveat or other *electronic document* forming part of the *Lodgment Case* for the *electronic transaction* shall be taken to have been unconditionally and irrevocably delivered to the purchaser or the purchaser's mortgagee at the time of financial settlement together with the right to deal with the land comprised in the *certificate of title*; and
  - the vendor shall be taken to have no legal or equitable interest in the *property*.
- 30.14 A *party* who holds a *certificate of title* must act in accordance with any *Prescribed Requirement* in relation to the *certificate of title* but if there is no *Prescribed Requirement*, the vendor must *serve the certificate of title* after completion.
- 30.15 If the *parties* do not agree about the delivery before completion of one or more documents or things that cannot be delivered through the *Electronic Workspace*, the *party* required to deliver the documents or things –
- 30.15.1 holds them on completion in escrow for the benefit of; and
- 30.15.2 must immediately after completion deliver the documents or things to, or as directed by; the *party* entitled to them.
- 30.16 In this clause 30, these terms (in any form) mean –
- |                               |   |
|-------------------------------|---|
| <i>adjustment figures</i>     | details of the adjustments to be made to the price under clause 14;   |
| <i>certificate of title</i>   | the paper duplicate of the folio of the register for the land which exists immediately prior to completion and, if more than one, refers to each such paper duplicate;  |
| <i>completion time</i>        | the time of day on the date for completion when the <i>electronic transaction</i> is to be settled;   |
| <i>discharging mortgagee</i>  | any discharging mortgagee, chargee, covenant chargee or caveator whose provision of a <i>Digitally Signed</i> discharge of mortgage, discharge of charge or withdrawal of caveat is required in order for unencumbered title to the <i>property</i> to be transferred to the purchaser; |
| <i>ECNL</i>                   | the Electronic Conveyancing National Law (NSW);   |
| <i>electronic document</i>    | a dealing as defined in the Real Property Act 1900 which may be created and <i>Digitally Signed</i> in an <i>Electronic Workspace</i> ;   |
| <i>electronic transfer</i>    | a transfer of land under the Real Property Act 1900 for the <i>property</i> to be prepared and <i>Digitally Signed</i> in the <i>Electronic Workspace</i> established for the purposes of the <i>parties' Conveyancing Transaction</i> ;  |
| <i>electronic transaction</i> | a <i>Conveyancing Transaction</i> to be conducted for the <i>parties</i> by their legal representatives as <i>Subscribers</i> using an <i>ELN</i> and in accordance with the <i>ECNL</i> and the <i>participation rules</i> ;   |
| <i>incoming mortgagee</i>     | any mortgagee who is to provide finance to the purchaser on the security of the <i>property</i> and to enable the purchaser to pay the whole or part of the price;  |
| <i>mortgagee details</i>      | the details which a <i>party</i> to the <i>electronic transaction</i> must provide about any <i>discharging mortgagee</i> of the <i>property</i> as at completion;  |
| <i>participation rules</i>    | the participation rules as determined by the <i>ENCL</i> ;  |
| <i>populate</i>               | to complete data fields in the <i>Electronic Workspace</i> ; and  |
| <i>title data</i>             | the details of the title to the <i>property</i> made available to the <i>Electronic Workspace</i> by the <i>Land Registry</i> .   |

## SPECIAL CONDITIONS

**IMPORTANT NOTICE TO VENDORS AND PURCHASERS:** You should refer to these provisions in conjunction with the preparation and signature of this contract.

### 30 Variation of this Contract

- 30.1 The preceding conditions of this agreement are amended in accordance with the subclauses of this clause.
- 30.2 Clause 1 is amended as follows:
- 30.2.1 definition of "*work order*" is amended by inserting the words, "*issued by a competent authority*" after the word "*order*"
- ~~30.3 Clause 14.4.2 is deleted and substituted with the following:  
"14.4.2 the amount to be adjusted shall be determined by multiplying the taxable value of the property (for land tax purposes for the land tax year current at the date of completion) by 1.6% or such other rate as applies at the date of completion (provided the amount to be adjusted must not exceed the amount of land tax that is actually paid or payable for the year)."~~
- 30.4 Clause 16.5 is amended by deleting all words from "plus" to the end of the subclause.
- 30.5 Clause 20.6.5 is deleted in its entirety and replaced with:  
"20.6.5 served if it is sent by fax to the party's solicitor and shall be deemed to have been served when the fax transmission has been completed except in the following situations:  
(a) When the sender's machine indicates a malfunction in transmission or the recipient immediately notifies the sender of any incomplete transmission service; or  
(b) The transmission is not received before 5:00pm (recipient's time) on a *business day* in which case service shall be deemed to be effected at 9:00am on the following business day."
- ~~30.8 Clause 23.14 is amended by deleting "7 days" and replacing with "2 days".~~
- 30.9 Clause 30 is deleted.

### 31 Requisitions on Title

- 31.1 For the purpose of Clause 5 the Vendor shall have complied with its obligations if it furnishes to the Purchaser replies to the **attached** Requisitions as approved by the Law Society of the New South Wales in 2013.

### 32 Default in Completion

- 32.1 It is hereby expressly agreed and declared that at any time after 3:00pm on the completion date referred to in this Contract either party shall be entitled to serve upon the other a Notice to Complete this Contract requiring the other party to complete the same within such period or upon such date as the said notice may specify but being a minimum of fourteen (14) days from the date of service of such notice making such time for settlement of the essence of the Contract. The parties acknowledge that the time for settlement of the Contract therein specified shall be reasonable and of the essence of the Contract and the receiving party shall not be entitled to make any objection thereto. If the receiving party shall fail to comply with the same the other party shall forthwith be entitled to terminate this Contract provided however that the sending party shall be at liberty at any time to withdraw the said notice without prejudice to his continuing right to give any further such notice.
- 32.2 If this Contract is not completed by the completion date then the Purchaser must pay interest on the unpaid balance of the price at the rate of 9% per annum calculated daily from and including the completion date but excluding the actual day of settlement, and:
- 32.2.1 The interest must be paid on completion;
- 32.2.2 The Vendor is not obliged to complete unless that interest is paid;
- 32.2.3 Interest payable pursuant to this Special Condition is a genuine pre-estimate of the Vendor's loss as a result of the Purchaser's failure to complete in accordance with this Contract;
- 32.2.4 The right to interest does not limit any other rights the Vendor may have as a result of the Purchaser's failure to complete in accordance with this Contract.
- 32.3 The Purchaser need not pay interest under this Special Condition for any period that the Purchaser's failure to complete is caused solely by the Vendor. Should the vendor serve a notice to complete the purchaser will be liable for a fee of \$250.00 plus GST, payable on completion.

### **33 Acceptance of Present Condition**

- 33.1 The Purchaser acknowledges that it is purchasing the property in its present condition and state of repair (both patent and latent) and subject to any infestation and dilapidation and whether or not affected by insect or pest and whether or not any of the improvements upon the property are subject to or insured under the provisions of the Builders Licensing Act 1971 (NSW), the Home Building Act 1989 (NSW) or the Building Services Corporation Act 1989 (NSW), and the Purchaser will raise no objection, requisition or claim for compensation in respect of such matters.

### **34 Warranty as to Agent**

- 34.1 The Purchaser warrants that the Purchaser was not introduced to the Vendor or the property by any real estate agent except the agent (if any) named on the front page of this contract, and the Purchaser indemnifies the Vendor (and if more than one, each of them):
- 34.1.1 against any claim for commission which might be made by an agent resulting from an introduction forming a breach of such warranty; and
- 34.1.2 against all costs and expenses incidental to defending any such claim.
- 34.2 The indemnities in this clause shall continue after termination of this contract and shall not merge on completion.

### **35 Tax File Number**

- 35.1 If the Contract says the deposit is to be invested all parties must provide their respective tax file numbers to the deposit holder by no later than the date of this Contract and in the event of default by any party resulting in the bank or financial institution withholding any amount, such amount shall be deducted from the defaulting party's share of the interest.

### **36 Death or Incapacity**

- 36.1 Without in any manner negating limiting or restricting any rights or remedies available to either party at law or in equity had this clause not been included, should either party (or, if more than one, any of them) die, become mentally ill, become insolvent or appoint or suffer the appointment of a trustee in bankruptcy, receiver, receiver/manager, voluntary administrator or liquidator, then the other may rescind at any time thereafter.

### **37 Completion Address**

- 37.1 If the Vendor agrees to a request by the Purchaser for settlement of this Contract to occur other than at the Vendor's Lawyers office or the discharging mortgagee's office (if any), the Purchaser agrees to pay the Vendor the sum of \$88.00 to reimburse the Vendor's additional legal costs and other expenses incurred as a result of acceding to the request.
- 37.2 In the event settlement does not take place at the scheduled time, or does not take place at a re-arranged time on that same day, due to default of the Purchaser or their Mortgagee and through no fault of the Vendor, in addition to any other monies payable by the Purchaser on completion of this Contract, the Purchaser must pay an additional \$275.00 (GST inclusive) on settlement, to cover the legal costs and other expenses incurred as a consequence of the delay.

### **38 Corporate Purchaser**

- 38.1 In the event of the Purchaser purporting to be a company, each of the persons in the presence of whom the common seal of the Purchaser purports to have been affixed (or, in the event the contract is not signed under common seal, each person who signs on behalf of the Purchaser):
- 38.1.1 Warrants that the company has been incorporated and exists at law and agrees that he or she shall be personally liable under this contract, both jointly and severally, as if he or she had been named as a Purchaser; and
- 38.1.2 Guarantees (jointly and severally) the due performance of the Purchaser in relation to its obligations pursuant to the terms of this contract in every respect as if he or she had personally entered into this contract himself/herself.

**39 Transfer**

39.1 The Purchaser hereby agrees that they will allow the amount of \$110.00 (GST inclusive) on settlement, if the Transfer is not served to the Vendor's Solicitor 14 days prior to the agreed settlement date to cover the cost of the Vendor's Solicitor preparing their own.

**40 Alterations to Contract**

40.1 The Vendor and Purchaser each authorise their Solicitor or Licensed Conveyancer (or any employee of that Solicitor or Licensed Conveyancer) to make alterations to the Contract as agreed to between the parties (including the addition of annexures) at any time after execution of this Contract by the party, up until the date of this Contract.

40.2 Any such alteration or addition shall be binding upon the relevant party deemed hereby to have authorised the same as if the alteration or addition of annexures was made prior to the contract being signed by that party.

## RESIDENTIAL PROPERTY REQUISITIONS ON TITLE

Vendor: **SIDNEY JAMES EAVIS, JANET DEIDRE EAVIS AND MARK DAVID BRENTON**  
Purchaser:  
Property: **17 GOONDARI ROAD, ALLAMBIE HEIGHTS, NEW SOUTH WALES 2100**  
Dated:

---

### Possession and tenancies

1. Vacant possession of the property must be given on completion unless the Contract provides otherwise.
2. Is anyone in adverse possession of the property or any part of it?
3.
  - (a) What are the nature and provisions of any tenancy or occupancy?
  - (b) If they are in writing, all relevant documentation should be produced, found in order and handed over on completion with notices of attornment.
  - (c) Please specify any existing breaches.
  - (d) All rent should be paid up to or beyond the date of completion.
  - (e) Please provide details of any bond together with the Rental Bond Board's reference number.
  - (f) If any bond money is held by the Rental Bond Board, the appropriate transfer documentation duly signed should be handed over on completion.
4. Is the property affected by a protected tenancy? (A tenancy affected by Parts 2, 3, 4 or 5 of the *Landlord and Tenant (Amendment) Act 1948*.)
5. If the tenancy is subject to the *Residential Tenancies Act 2010 (NSW)*:
  - (a) has either the vendor or any predecessor or the tenant applied to the Consumer, Trader and Tenancy Tribunal for an order?
  - (b) have any orders been made by the Consumer, Trader and Tenancy Tribunal? If so, please provide details.

### Title

6. Subject to the Contract, on completion the vendor should be registered as proprietor in fee simple of the property free from all encumbrances.
7. On or before completion, any mortgage or caveat or writ must be discharged, withdrawn or cancelled as the case may be) or, in the case of a mortgage or caveat, an executed discharge or withdrawal handed over on completion.
8. Are there any proceedings pending or concluded that could result in the recording of any writ on the title to the property or in the General Register of Deeds? If so, full details should be provided at least 14 days prior to completion.
9. When and where may the title documents be inspected?
10. Are the inclusions or fixtures subject to any charge or hiring agreement? If so, details must be given and any indebtedness discharged prior to completion or title transferred unencumbered to the vendor prior to completion.

### Adjustments

11. All outgoings referred to in clause 14.1 of the Contract must be paid up to and including the date of completion.
12. Is the vendor liable to pay land tax or is the property otherwise charged or liable to be charged with land tax? If so:
  - (a) to what year has a return been made?
  - (b) what is the taxable value of the property for land tax purposes for the current year?

### Survey and building

13. Subject to the Contract, survey should be satisfactory and show that the whole of the property is available and that there are no encroachments by or upon the property and that all improvements comply with local government/planning legislation.
14. Is the vendor in possession of a survey report? If so, please produce a copy for inspection prior to completion. The original should be handed over on completion.
15.
  - (a) Have the provisions of the Local Government Act, the Environmental Planning and Assessment Act 1979 and their regulations been complied with?
  - (b) Is there any matter that could justify the making of an upgrading or demolition order in respect of any building or structure?
  - (c) Has the vendor a Building Certificate which relates to all current buildings or structures? If so, it should be handed over on completion. Please provide a copy in advance.
  - (d) Has the vendor a Final Occupation Certificate issued under the *Environmental Planning and Assessment Act 1979* for all current buildings or structures? If so, it should be handed over on completion. Please provide a copy in advance.
  - (e) In respect of any residential building work carried out in the last 7 years:
    - (i) please identify the building work carried out;
    - (ii) when was the building work completed?

- (iii) please state the builder's name and licence number;
  - (iv) please provide details of insurance under the *Home Building Act 1989*.
16. Has the vendor (or any predecessor) entered into any agreement with or granted any indemnity to the Council or any other authority concerning any development on the property?
17. If a swimming pool is included in the property:
- (a) when did construction of the swimming pool commence?
  - (b) is the swimming pool surrounded by a barrier which complies with the requirements of the *Swimming Pools Act 1992*?
  - (c) if the swimming pool has been approved under the *Local Government Act 1993*, please provide details.
  - (d) are there any outstanding notices or orders?
- 18.
- (a) To whom do the boundary fences belong?
  - (b) Are there any party walls?
  - (c) If the answer to Requisition (b) is yes, specify what rights exist in relation to each party wall and produce any agreement. The benefit of any such agreement should be assigned to the purchaser on completion.
  - (d) Is the vendor aware of any dispute regarding boundary or dividing fences or party walls?
  - (e) Has the vendor received any notice, claim or proceedings under the *Dividing Fences Act 1991* or the *Encroachment of Buildings Act 1922*?

#### **Affectations**

19. Is the vendor aware of any rights, licences, easements, covenants or restrictions as to use other than those disclosed in the Contract?
20. Is the vendor aware of:
- (a) any road, drain, sewer or storm water channel which intersects or runs through the land?
  - (b) any dedication to or use by the public of any right of way or other easement over any part of the land?
  - (c) any latent defects in the property?
21. Has the vendor any notice or knowledge that the property is affected by the following:
- (a) any resumption or acquisition or proposed resumption or acquisition?
  - (b) any notice requiring work to be done or money to be spent on the property or any footpath or road adjoining? If so, such notice must be complied with prior to completion.
  - (c) any work done or intended to be done on the property or the adjacent street which may create a charge on the property or the cost of which might be or become recoverable from the purchaser?
  - (d) any sum due to any local or public authority? If so, it must be paid prior to completion.
  - (e) any realignment or proposed realignment of any road adjoining the property?
  - (f) any contamination?
- 22.
- (a) Does the property have the benefit of water, sewerage, drainage, electricity, gas and telephone services?
  - (b) If so, do any of the connections for such services pass through any adjoining land?
  - (c) Do any service connections for any other property pass through the property?
23. Has any claim been made by any person to close, obstruct or limit access to or from the property or to an easement over any part of the property?

#### **Capacity**

24. If the Contract discloses that the vendor is a trustee, evidence should be produced to establish the trustee's power of sale.

#### **Requisitions and transfer**

25. If the transfer or any other document to be handed over on completion is executed pursuant to a power of attorney, then at least 7 days prior to completion a copy of the registered power of attorney should be produced and found in order.
26. If the vendor has or is entitled to have possession of the title deeds the Certificate Authentication Code must be provided 7 days prior to settlement.
27. Searches, surveys, enquiries and inspection of title deeds must prove satisfactory.
28. The purchaser reserves the right to make further requisitions prior to completion.
29. Unless we are advised by you to the contrary prior to completion, it will be assumed that your replies to these requisitions remain unchanged as at completion date.

LAND AND PROPERTY INFORMATION NEW SOUTH WALES - TITLE SEARCH

FOLIO: 1/834988

SEARCH DATE	TIME	EDITION NO	DATE
29/4/2016	3:52 PM	7	13/5/2004

LAND

LOT 1 IN DEPOSITED PLAN 834988  
AT ALLAMBIE  
LOCAL GOVERNMENT AREA WARRINGAH  
PARISH OF MANLY COVE COUNTY OF CUMBERLAND  
TITLE DIAGRAM DP834988

FIRST SCHEDULE

JANET DEIDRE EAVIS  
SIDNEY JAMES EAVIS  
AS JOINT TENANTS IN 99/100 SHARE  
MARK DAVID BRENTON  
IN 1/100 SHARE  
AS TENANTS IN COMMON (T AA635342)

SECOND SCHEDULE (8 NOTIFICATIONS)

- 1 LAND EXCLUDES MINERALS AND IS SUBJECT TO RESERVATIONS AND CONDITIONS IN FAVOUR OF THE CROWN - SEE CROWN GRANT(S)
- 2 EXCEPTING LAND BELOW A DEPTH FROM THE SURFACE OF 15.24 METRES
- 3 DP834988 RIGHT OF WAY 3.9 WIDE AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM
- 4 DP834988 RIGHT OF WAY 3.9 WIDE APPURTENANT TO THE LAND ABOVE DESCRIBED
- 5 DP834988 EASEMENT FOR SERVICES 3.9 WIDE AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM
- 6 DP834988 EASEMENT FOR SEWERAGE PURPOSES OVER EXISTING LINE OF PIPES APPURTENANT TO THE LAND ABOVE DESCRIBED
- 7 DP834988 EASEMENT FOR DRAINAGE OVER SOAKAGE SYSTEM 1 WIDE AND VAR APPURTENANT TO THE LAND ABOVE DESCRIBED
- 8 7474777 MORTGAGE TO THE TRUST COMPANY (AUSTRALIA) LIMITED

NOTATIONS

UNREGISTERED DEALINGS: NIL

\*\*\* END OF SEARCH \*\*\*

Ref:37790 /Src:M

**PLAN FORM 1**

Plan Drawing only to appear in this space

OFFICE USE ONLY

SIGNATURES, SEALS AND STATEMENTS of intention to dedicate public roads or to create public reserves, drainage reserves, easements, restrictions on the use of land or positive covenants, PURSUANT TO SEC. 88B OF THE CONVEYANCING ACT, 1919-1964, IT IS INTENDED TO CREATE:-

- 1) RIGHT OF WAY 3.9 WD.
- 2) EASEMENT FOR SERVICES 3.9 WD.
- 3) EASEMENT FOR SEWERAGE PURPOSES OVER EXISTING LINE OF PIPES.
- 4) RESTRICTION ON USE OF LAND.
- 5) RIGHT OF WAY 3.9 WD.
- 6) EASEMENT FOR DRAINAGE OVER SOAKAGE SYSTEM 1 WIDE & VAR.

Tables set out in the accompanying Instrument signed by the Council Clerk:-

*[Handwritten Signature]*

Crown Lands Office Approval

PLAN APPROVED  
 Land District: \_\_\_\_\_ Authorized Officer  
 Paper No.: \_\_\_\_\_  
 Field Book: \_\_\_\_\_

**Council Clerk's Certificate**

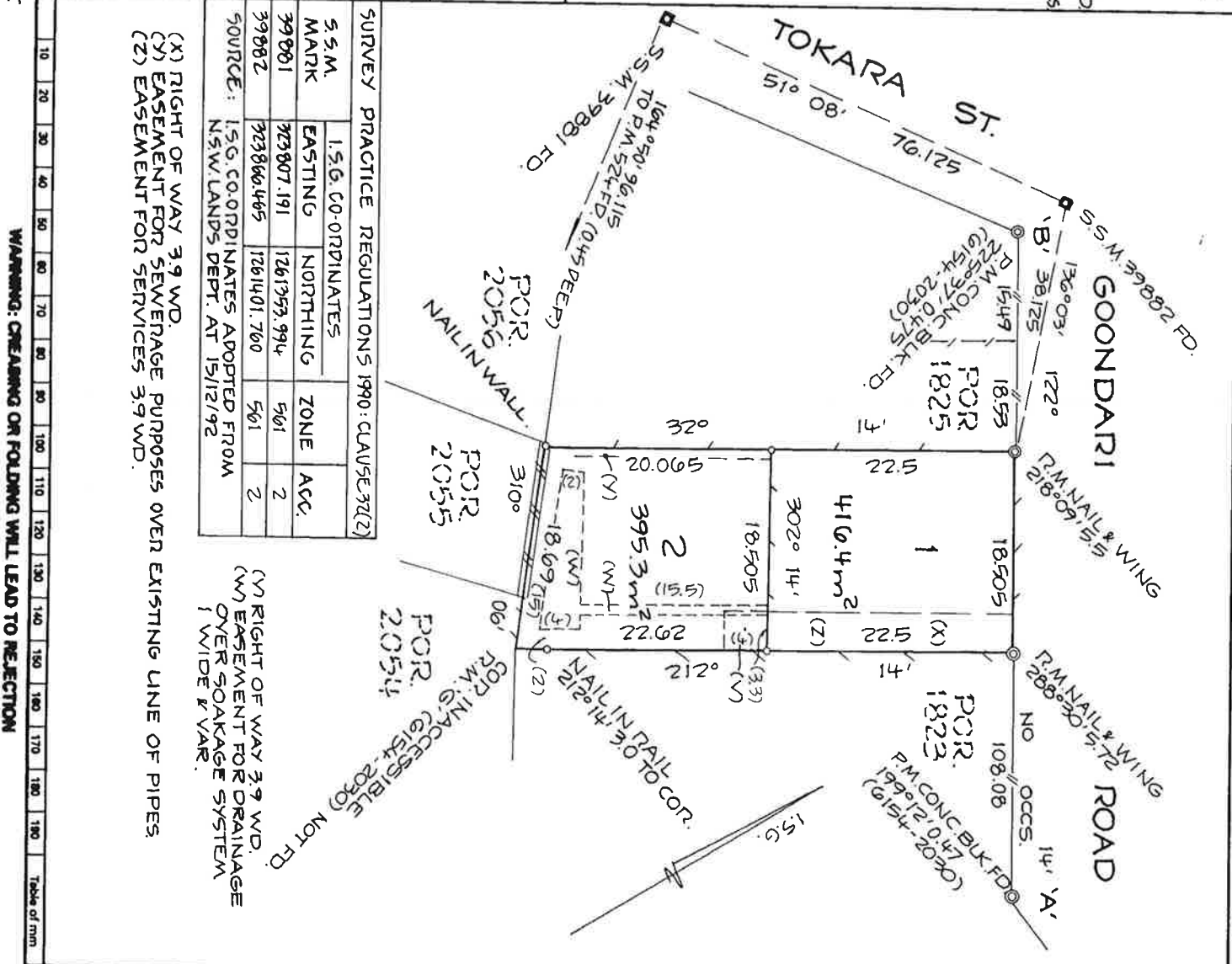
I hereby certify that:-  
 (a) the requirements of the Local Government Act, 1919 (other than the requirements for the registration of plans, and  
 (b) the requirements of Part 3 Division 2 of the Water Board Act 1907, and Part 4 Division 2 of the Water Meter Board (Consolidation) Act 1905,  
 have been complied with by the applicant in relation to the proposed Subdivision.  
 I insert "new road", "subdivision" or "conveyanced lot" set out herein  
 Date: **20th October 1993**  
 (Signature) *[Handwritten Signature]*  
 Council File No. **SD 8270**  
 General Manager

\*This part of the certificate to be deleted where the application is only for a conveyanced lot or the opening of a new road or where the land to be subdivided is wholly outside the area of operations of the Metropolitan Water Sewerage and Drainage Board and the Hunter Water Corporation Ltd.  
 † Delete if inapplicable

METRO'S REFERENCE: 13438/a CHECK UST

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

Registered:  26.11.1993 WGI 80%	<b>DP 834988</b>
CA: 9316 OF 20-10-1993	
Title System: TORRENS	
Purpose: SUBDIVISION	
Ref. Map: UB60482 #	
Last Plan: _____	
<b>PLAN OF SUBDIVISION OF PORTION 1824</b>	
Lengths are in metres. Reduction Ratio 1:400	
Name/Shire: <b>WARRINGAH</b>	
Locality: <b>ALLAMBIE</b>	
Parish: <b>MANLY COVE</b>	
County: <b>CUMBERLAND</b>	
Plans used in preparation of survey/compilation: <b>D.P.752038</b>	
1. <b>GRAHAM CADDEY</b> of <b>41 RAWSON ST, EPPING,</b> 2121 a surveyor registered under the Surveyors Act 1929, hereby certify that the survey represented in this plan is accurate, has been made in accordance with the Survey Practice Regulation 1980 and was completed on <b>21/1/93</b> DATUM LINE OF AZIMUTH 'A-A'.	
(Signature) <i>[Handwritten Signature]</i> Surveyor registered under the Surveyors Act 1929	



SURVEY PRACTICE REGULATIONS 1990: CLAUSE 37(2)

S.M. MARK	EASTING	NORTHING	ZONE	ACC.
39801	723807.191	1261353.994	501	2
39802	723866.445	1261401.700	501	2

SOURCE: I.S.G. CO-ORDINATES ADOPTED FROM N.S.W. LANDS DEPT. AT 15/12/192

- (X) RIGHT OF WAY 3.9 WD.  
 (Y) EASEMENT FOR SEWERAGE PURPOSES OVER EXISTING LINE OF PIPES.  
 (Z) EASEMENT FOR SERVICES 3.9 WD.
- (V) RIGHT OF WAY 3.9 WD.  
 (W) EASEMENT FOR DRAINAGE OVER SOAKAGE SYSTEM 1 WIDE & VAR.

Table of mm  
 10 20 30 40 50 60 70 80 90 100 110 120 130 140 150 160 170 180 190

INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS  
AS TO USER INTENDED TO BE CREATED PURSUANT TO  
SECTION 88B OF THE CONVEYANCING ACT, 1919

Lengths are in metres

(sheet 1 of 7 sheets)

PART 1.

Plan: **DP 834988**

Subdivision covered by  
Shire Clerk's Certificate  
No. 9316 dated 20 October, 1993  
comprised in Certificate  
of Title Folio Identifier  
1824/752038

Full name and address of  
proprietor of the land

Stephen Charles Whatling  
and Sonia Venn,  
17 Goondari Road,  
Allambie NSW 2100

Full name and address of  
Mortgagee of the land

Greater Newcastle  
Permanent Building Society  
Ltd, 220 George Street,  
Sydney NSW 2000

1. Identity of easement firstly  
referred to in the  
abovementioned plan

Right of Way 3.9 wide

Schedule of Lots etc affected

- | <u>Lots Burdened</u>   | <u>Lots road or Authority<br/>Benefited</u> |
|--|---|
| 1  | 2   |
| 2. <u>Identity of easement secondly<br/>referred to in the above-<br/>mentioned plan</u> | Easement for services<br>3.9 wide           |

APPROVED BY THE COUNCIL OF  
THE SHIRE OF WARRINGAH

.....*J. Len Thomas*.....  
General Manager

INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS  
AS TO USER INTENDED TO BE CREATED PURSUANT TO  
SECTION 88B OF THE CONVEYANCING ACT, 1919

Lengths are in metres

(sheet 2 of 7 sheets)

Plan: DP 834988

Subdivision covered by  
Shire Clerk's Certificate  
No. 9316 dated 20 October 1993  
comprised in certificate  
of Title Folio Identifier  
1824/752038

Schedule of Lots etc affected

<u>Lots burdened</u>	<u>Lots road or Authority Benefited</u>
1	2
3. <u>Identity of easement thirdly referred to in the above- mentioned plan</u>	Easement for sewerage purposes over existing line of pipes

Schedule of Lots etc affected

<u>Lots burdened</u>	<u>Lots road or Authority Benefited</u>
2	1
4. <u>Identity of easement or restriction fourthly referred to in the above- mentioned plan</u>	Restriction on the use of the land

Schedule of Lots etc affected

<u>Lots burdened</u>	<u>Lots road or Authority Benefited</u>
2	1

APPROVED BY THE COUNCIL OF  
THE SHIRE OF WARRINGAH

..... *F. J. Thomson* .....  
General Manager

INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS  
AS TO USER INTENDED TO BE CREATED PURSUANT TO  
SECTION 88B OF THE CONVEYANCING ACT, 1919

Lengths are in metres

(sheet 3 of 7 sheets)

Plan: DP 834988

Subdivision covered by  
Shire Clerk's Certificate  
No. 9316 of 20 October 1993  
comprised in Certificate  
of Title Folio Identifier  
1824/752038

- 5. Identity of Easement or  
Restriction fifthly  
referred to in the above-  
mentioned plan

Right of way 3.9 wide

Schedule of Lots etc. affected

Lots Burdened

Lots Road or Authority  
Benefited

2

1

- 6. Identity of Easement or  
Restriction sixthly  
referred to in the above-  
mentioned plan

Easement for Drainage over  
soakage system 1 wide &  
var.

Schedule of Lots etc. affected

Lots Burdened

Lots Road or Authority  
Benefited

2

1

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..... *John Thomson* .....  
General Manager

INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS  
AS TO USER INTENDED TO BE CREATED PURSUANT TO  
SECTION 88B OF THE CONVEYANCING ACT, 1919

Lengths are in metres

(sheet 4 of 7 sheets)

Plan: DP 834988

Subdivision covered by  
Shire Clerk's Certificate  
No. 9316 of 20 October 1993  
comprised in Certificate  
of Title Folio Identifier  
1824/752038

PART 2

1. TERMS OF RIGHT OF WAY FIRSTLY REFERRED TO IN THE ABOVE-  
MENTIONED PLAN

As set out in Part 1 of Schedule VIII of the Conveyancing Act,  
1919 (as amended).

2. TERMS OF EASEMENT SECONDLY REFERRED TO IN THE ABOVEMENTIONED  
PLAN

Full and free right for every person who is at any time  
entitled to an estate or interest in possession in the lot  
hereby benefited or any part thereof with which the right  
shall be capable of enjoyment, and every person authorised by  
him to make layout construct erect install carry maintain and  
use through above on and under that part of the lot hereby  
burdened all drains pipes conduits poles wires or other  
equipment and materials necessary to provide and carry all or  
any of water sewerage gas electric power electric light  
telephone and/or other domestic services to and from the lot  
hereby benefited provided that the said drains pipes conduits  
poles wire and/or other equipment and materials shall be laid  
in such position so as to cause as little interference as  
possible with the lot burdened and together with the imple-  
ments or machinery necessary for the purpose to enter upon  
that part of the lot hereby burdened and to remain there for  
any reasonable time for the purpose of laying inspecting  
cleansing repairing maintaining or renewing such equipment or  
any part thereof and for any of the aforesaid purposes to open  
the soil of that part of the lot hereby burdened to such

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INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS  
AS TO USER INTENDED TO BE CREATED PURSUANT TO  
SECTION 88B OF THE CONVEYANCING ACT, 1919

Lengths are in metres

(sheet 5 of 7 sheets)

Plan: DP 834988

Subdivision covered by  
Shire Clerk's Certificate  
No. 9316 dated 20 October 1993  
comprised in Certificate  
of Title Folio Identifier  
1824/752038

extent as may be necessary provided that the person so entitled and the persons authorised by him will take all precautions to ensure as little disturbance as possible to the surface of the lot hereby burdened and or free access as nearly as practicable to its original condition.

3. TERMS OF EASEMENT THIRDLY REFERRED TO IN THE ABOVEMENTIONED PLAN

Full and free right for every person who is at any time entitled to an estate or interest in possession in the lot benefited or any part thereof with which the right shall be capable of enjoyment, and every person authorised by him, from time to time and at all times by means of pipes to drain sewage and other waste material and fluid in any quantities across and through the lot burdened together with the right to use, for the purpose of the easement, any line of pipes already laid within the lot burdened for the purpose of draining sewage or any pipe or pipes in replacement or in substitution therefor and together with the right for the person so entitled and every person authorised by him, with any tools, implements, or machinery, necessary for the purpose, to enter upon the lot burdened and to remain there for any reasonable time for the purpose of laying, inspecting, cleansing, repairing, maintaining or renewing such pipe line

APPROVED BY THE COUNCIL OF  
THE SHIRE OF WARRINGAH

*F. J. Thomson*  
.....

General Manager

INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS  
AS TO USER INTENDED TO BE CREATED PURSUANT TO  
SECTION 88B OF THE CONVEYANCING ACT, 1919

Lengths are in metres

(sheet 6 of 7 sheets)

Plan: DP 834988

Subdivision covered by  
Shire Clerk's Certificate  
No.9316 dated 20 October 1993  
comprised in Certificate  
of Title Folio Identifier  
1824/752038

or any part thereof and for any of the aforesaid purposes to open the soil of the lot burdened to such extent as may be necessary provided that the person so entitled and the persons authorised by him will take all reasonable precautions to ensure as little disturbance as possible to the surface of the lot burdened and will restore that surface as nearly as practicable to its original condition and this easement shall not be released varied or modified without the consent of the Water Board.

4. TERMS OF RESTRICTION AS TO USER FOURTHLY REFERRED TO IN THE ABOVEMENTIIONED PLAN

No building or other structure shall be erected, constructed or placed on the land shown as Easement for Sewerage Purposes Over Existing Line Of Pipes without prior consent in writing of the Water Board first had and obtained nor otherwise than in strict compliance with such conditions as the said Board may impose and this restriction shall not be released varied or modified without the consent of the said Board.

5. TERMS OF RIGHT OF WAY FIFTHLY REFERRED TO IN THE ABOVE-MEMENTIIONED PLAN

As set out in Part I of Schedule VIII of the Conveyancing Act, 1919 (as amended)

APPROVED BY THE COUNCIL OF  
THE SHIRE OF WARRINGAH  
*J. Len Thomson*  
.....  
General Manager

INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS  
AS TO USER INTENDED TO BE CREATED PURSUANT TO  
SECTION 88B OF THE CONVEYANCING ACT, 1919

Lengths are in metres

(sheet 7 of 7 sheets)

Plan: DP 834988

Subdivision covered by  
Shire Clerk's Certificate  
No.9316 dated 20 October 1993  
comprised in Certificate  
of Title Folio Identifier  
1824/752038

6. TERMS OF EASEMENT SIXTHLY REFERRED TO IN THE ABOVE-  
MENTIIONED PLAN

As set out in Part III of Schedule VIII of the Conveyancing  
Act, 1919 (as amended)

Signed in my presence by )  
Steven Charles Whatling and )  
Sonia Venn who are personally )  
known to me

[Signature]  
Signature of Witness

G POELSTRA  
Name of Witness ((BLOCK LETTERS))

37 Emma St

Mona Vake / Carpenter  
Address & occupation of witness

[Signature]  
[Signature]

APPROVED BY THE COUNCIL OF  
THE SHIRE OF WARRINGAH

..... [Signature] .....  
General Manager



Date Printed: 29 April 2016

Certificate Number: ePLC2016/1472

HPL Lawyers

Applicant Reference:

Po Box 705

Receipt Number: 10398

FRESHWATER NSW 2095

Property Address: 17 Goondari Road ALLAMBIE HEIGHTS NSW 2100

Legal Description: Lot 1 DP 834988

Property ID: 145899

1. Names of relevant planning instruments and DCPs.
- 1.1 The name of each environmental planning instrument that applies to the carrying out of development on the land.

**Warringah Local Environmental Plan 2011**

**See Attachment "A" for all other environmental planning instruments that apply to the carrying out of development on the land**

- 1.2 The name of each proposed environmental planning instrument that will apply to the carrying out of development on the land and that is or has been the subject of community consultation or on public exhibition under the Act (unless the Director-General has notified the council that the making of the proposed instrument has been deferred indefinitely or has not been approved).

**a) Draft State Environmental Planning Policy (Competition) 2010**

**b) The following planning proposals may affect the land:**

Date of Council Resolution	Outline of Planning Proposal	Land to which Planning Proposal applies
25 November 2014	Amends WLEP 2011 to: <ul style="list-style-type: none"> <li>• Modify maximum building height controls over certain portions of the site</li> <li>• Introduce the flexibility to utilise Level 1 and Level 2 of the proposed development for residential purposes.</li> <li>• Increase the range of permissible commercial uses on the ground floor</li> </ul>	'Site B'; Howard Avenue Oaks Avenue and Pittwater Road as follows; 9 Howard Avenue Lot 7, DP 8172 11 Howard Avenue Lot 1, DP 209503 15 Howard Avenue Lot 1, DP 212382 17 Howard Avenue Lot 2, DP 212382 14 Oaks Avenue Lot A, DP 371110 16 Oaks Avenue Lot B, DP 371110 28 Oaks Avenue Lot 3, DP 212382 884 Pittwater Road Lot A, DP 339410 888 Pittwater Road Lot 11, DP 231418 890 Pittwater Road Lot 10, DP 231418 892 Pittwater Road Lot 1, DP 504212 894 Pittwater Road Lot A, DP 416469 896 Pittwater Road Lots 1 and 3, DP 307937



Date of Council Resolution	Outline of Planning Proposal	Land to which Planning Proposal applies
25 November 2014	Amends WLEP 2011 to: <ul style="list-style-type: none"> <li>Permit secondary dwellings in the R2 Low Density Residential and R3 Medium Density Residential zones</li> <li>Increase the permitted floor area of secondary dwellings that are located within existing dwelling houses to 75 square metres.</li> </ul>	R2 Low Density Residential and R3 Medium Density Residential zones
22 March 2016	Amends WLEP 2011 to: <ul style="list-style-type: none"> <li>Allow up to 14 attached dwellings with shared basement carparking structure</li> <li>Allow subdivision of the site into lots smaller than the minimum permitted lot size when subdivided in conjunction with a development of up to 14 attached dwellings</li> </ul>	184 Wyndora Avenue, Freshwater (Lot 1, Lot 2, Lot 33, Lot 34 and Lot 35, DP 7912)
25 March 2014 27 October 2015	Amends WLEP 2011 to rezone the identified subject sites and to reclassify one of the allotments to reflect and be compatible with the surrounding land use zones and management principles.	Darley Street and Starkey Street, Forestville (Lot 7084 in DP 93981, Lot 15 in DP 401139, Lot X & Y in DP 26598, 'the Centre' road reserve between Darley Street & Starkey Street and LOT 18 DP 30880).

1.3 *The name of each development control plan that applies to the carrying out of development on the land.*

**Warringah Development Control Plan 2011**

1.4 *In this clause, proposed environmental planning instrument includes a planning proposal for a LEP or a draft environmental planning instrument.*

2. *Zoning and land use under relevant LEPs*

2.1 *Zoning and land use under Warringah Local Environmental Plan 2011*

*(a) The Land is identified by Warringah Local Environmental Plan 2011 as being within the following zone:-*

**LEP - Land zoned R2 Low Density Residential**

*(b) The purposes for which Warringah Local Environmental Plan 2011 provides that development may be carried out within the zone without the need for development consent.*

**Refer to extract of Warringah Local Environmental Plan 2011 (attached)**

*(c) The purposes for which Warringah Local Environmental Plan 2011 provides that development may not be carried out within the zone except with development consent.*

**Refer to extract of Warringah Local Environmental Plan 2011 (attached)**

*(d) The purposes for which Warringah Local Environmental Plan 2011 provides that development is prohibited within the zone.*

**Refer to extract of Warringah Local Environmental Plan 2011 (attached)**



*(e) Whether any development standards applying to the land fix minimum land dimensions for the erection of a dwelling house on the land and, if so, the minimum land dimensions so fixed.*

**No**

*(f) Whether the land includes or comprises critical habitat.*

**Reference should be made to the registers of critical habitat kept by the National Parks and Wildlife Service under the Threatened Species Conservation Act 1995 and the Department of Fisheries under the Fisheries Management Act 1994.**

*(g) Whether the land is in a conservation area.*

**No**

*(h) Whether an item of environmental heritage is situated on the land*

**No**

2.2 *Draft Local Environmental Plan – if any*

**Please refer to the table in Question 1.2.**

**Please contact Council's Strategic Planning unit with enquiries on 9942 2111**

3. *Complying development*

*(1) The extent to which the land is land on which complying development may be carried out under each of the codes for complying development because of the provisions of clauses 1.17A (1) (c) to (e), (2), (3) and (4), 1.18(1)(c3) and 1.19 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.*

*(2) The extent to which complying development may not be carried out on that land because of the provisions of clauses 1.17A (1) (c) to (e), (2), (3) and (4), 1.18(1)(c3) and 1.19 of that Policy and the reasons why it may not be carried out under those clauses.*

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*(a) May Complying Development under the General Housing Code be carried out on the land?*

**Complying development may be carried out on the whole of the land.**

*(b) May Complying Development under the Rural Housing Code be carried out on the land?*

**Complying development may be carried out on the whole of the land.**

*(c) May Complying Development under the Housing Alterations Code be carried out on the land?*

**Complying development may be carried out on the whole of the land.**

*(d) May Complying Development under the General Development Code be carried out on the land?*

**Complying development may be carried out on the whole of the land.**

*(e) May Complying Development under the Commercial and Industrial Alterations Code be carried out on the land?*

**Complying development may be carried out on the whole of the land.**

*(f) May Complying Development under the Commercial and Industrial (New Buildings and Additions) Code be carried out on the land?*

**Complying development may be carried out on the whole of the land.**

*(g) May Complying Development under the Subdivision Code be carried out on the land?*



**Complying development may be carried out on the whole of the land.**

*(h) May Complying Development under the Demolition Code be carried out on the land?*

**Complying development may be carried out on the whole of the land.**

*(i) May Complying Development under the Fire Safety Code be carried out on the land?*

**Complying development may be carried out on the whole of the land.**

4. *Whether or not the land is affected by the operation of section 38 or 39 of the Coastal Protection Act 1979, but only to the extent that the Council has been so notified by the Department of Public Works.*

**No. Council has not received any notification that the land is affected by the operation of Sections 38 or 39 of the Coastal Protection Act 1979.**

- 4A. *Information relating to beaches and coasts*

*(1) Whether an order has been made under Part 4D of the Coastal Protection Act 1979 in relation to temporary coastal protection works (within the meaning of that Act) on the land (Or on public land adjacent to that land), except if Council is satisfied that such an order has been fully complied with.*

**No**

*(2) (a) Whether Council has been notified under section 55X of the Coastal Protection Act 1979 that temporary coastal protection works (within the meaning of that Act) have been placed on the land (or on public land adjacent to that land).*

**No**

*(2) (b) if works have been so placed – whether Council is satisfied that the works have been removed and the land restored in accordance with that Act.*

**No**

- 4B. **Annual Charges for coastal protection services under Local Government Act 1993**

*Whether the owner (or any previous owner) of the land has consented in writing to the land being subject to annual charges under section 496B of the Local Government Act 1993 for coastal protection services that relate to existing coastal protection works (within the meaning of section 553B of that Act).*

*Note. "Existing coastal protection works" are works to reduce the impact of coastal hazards on land (such as seawalls, revetments, groynes and beach nourishment) that existed before the commencement of section 553B of the Local Government Act 1993.*

**No**

5. *Whether or not the land is proclaimed to be a mine subsidence district within the meaning of Section 15 of the Mines Subsidence Compensation Act 1961*

**No**

6. *Whether or not the land is affected by any road widening or road realignment under:-*

*(a) Division 2 of Part 3 of the Roads Act 1993.*

**No**

*(b) any environmental planning instrument*

**No**

*(c) any resolution of Council.*

**No**



7. *Whether or not the land is affected by a policy that restricts the development of the land because of the likelihood of land slip, bushfire, tidal inundation, subsidence, acid sulfate soils, or any other risk (other than flooding):-*  
*(a) as adopted by Council*
- No**
- (b) as adopted by any other public authority and notified to the Council for the express purpose of its adoption by that authority being referred to in a planning certificate issued by the Council.*
- No**
- 7A. *Flood related development controls information*
- (a) Whether or not development on that land or part of the land for the purposes of dwelling houses, dual occupancies, multi dwelling housing or residential flat buildings (not including development for the purposes of group homes or seniors housing) is subject to flood related development controls.*
- No**
- (b) Whether or not development on that land or part of the land for any other purpose is subject to flood related development controls.*
- No**
- (c) Words and expressions in this clause have the same meanings as in the instrument set out in the Schedule to the Standard Instrument (Local Environmental Plans) Order 2006.*
8. *Whether or not any environmental planning instrument or proposed environmental planning instrument referred to in clause 1 makes provision in relation to the acquisition of the land by a public authority, as referred to in section 27 of the Act.*
- No**
9. *The name of each contributions plan applying to the land*  
**Warringah Development Contributions Plan 2015 (adopted 23 June 2015 effective 1 July 2015). Please contact Council's Customer Service Counter for more information.**
- 9A. *Is this land biodiversity certified land (within the meaning of Part 7AA of the Threatened Species Conservation Act 1995)?*
- No**
10. *Whether the land is land to which a biobanking agreement under Part 7A of the Threatened Species Conservation Act 1995 relates (but only if council has been notified of the existence of the agreement by the Director –General of the Department of Environment and Climate Change and Water)?*
- No**
11. *Bush Fire Prone Land*
- No**
12. *Is the land subject to a property vegetation plan made under the Native Vegetation Act 2003?*
- No**
13. *Whether an order has been made under the Trees (Disputes Between Neighbours) Act 2006 to carry out work in relation to a tree on the land (but only if the Council has been notified of the order).*
- No**
14. *Is there a direction by the Minister in force under section 75P (2) (c1) of the Act that a provision of an environmental planning instrument prohibiting or restricting the carrying out of a project or a stage of a project on the land under Part 4 of the Act does not have effect?*
- No**
15. *(a) Is there a current site compatibility certificate (seniors housing), of which the council is aware, in respect of proposed development on the land?*



**No**

*For what period is the certificate current?*

**not applicable**

*A copy of the site compatibility certificate may be obtained from the head office of the Department of Planning.*

*(b) Are there any terms of a kind referred to in clause 18(2) of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 that have been imposed as a condition of consent to a development application granted after 11 October 2007 in respect of the land?*

**No**

16. *Is there a valid site compatibility certificate (infrastructure), of which the council is aware, in respect of proposed development on the land?*

**No**

*For what period is the certificate current?*

**not applicable**

*A copy of the site compatibility certificate may be obtained from the head office of the Department of Planning.*

17. *(a) Is there a current site compatibility certificate (affordable rental housing), of which the council is aware, in respect of proposed development on the land?*

**No**

*For what period is the certificate current?*

**Not Applicable**

*A copy of the site compatibility certificate may be obtained from the head office of the Department of Planning.*

*(b) Are there any terms of a kind referred to in clause 17(1) or 37 (1) of State Environmental Planning Policy (Affordable Rental Housing) 2009 that have been imposed as a condition of consent to a development application in respect of the land?*

**No**

18. Paper subdivision information

*(a) The name of any development plan adopted by a relevant authority that applies to the land or that is proposed to be subject to a consent ballot*

**Not applicable**

*(b) The date of any subdivision order that applies to the land*

**Not applicable**

*Words and expressions used in this clause have the same meaning as they have in Part 16C of the Environmental Planning and Assessment Regulation 2000*



19. Site verification certificates

(a) *Is there a current site verification certificate of which the council is aware, in respect of the land?*

**No**

(b) *For what matter is certified by the site verification certificate?*

**Not applicable**

(c) *For what date does the site verification certificate cease to be current?*

**Not applicable**

*A copy of the site verification certificate may be obtained from the head office of the Department of Planning and Infrastructure*

**Note.** *The following matters are prescribed by section 59 (2) of the Contaminated Land Management Act 1997 as additional matters to be specified in a planning certificate:*

(a) *that the land to which the certificate relates is significantly contaminated land within the meaning of that Act—if the land (or part of the land) is significantly contaminated land at the date when the certificate is issued,*

**No**

(b) *that the land to which the certificate relates is subject to a management order within the meaning of that Act—if it is subject to such an order at the date when the certificate is issued,*

**No**

(c) *that the land to which the certificate relates is the subject of an approved voluntary management proposal within the meaning of that Act—if it is the subject of such an approved proposal at the date when the certificate is issued,*

**No**

(d) *that the land to which the certificate relates is subject to an ongoing maintenance order within the meaning of that Act—if it is subject to such an order at the date when the certificate is issued,*

**No**

(e) *that the land to which the certificate relates is the subject of a site audit statement within the meaning of that Act—if a copy of such a statement has been provided at any time to the local authority issuing the certificate.*

**No**

**Council records do not have sufficient information about the uses (including previous uses) of the land which is the subject of this Section 149 Certificate. To confirm that the land hasn't been used for a purpose which would be likely to have contaminated the land, parties should make their own enquiries as to whether the land may be contaminated.**



**Disclaimer**

The Environmental Planning and Assessment Amendment Act 1997 commenced operation on the 1 July 1998. As a consequence of this Act the information contained in this certificate needs to be read in conjunction with the provisions of the Environmental Planning and Assessment (Amendment) Regulation 1998, Environmental Planning and Assessment (Further Amendment) Regulation 1998 and Environmental Planning and Assessment (Savings and Transitional) Regulation 1998. The locality information in this certificate is based on the Lot and Deposited Plan referred to in this certificate. If the Lot and Deposited Plan is not the current description of the land then this certificate could attribute to incorrect locality. Persons relying on the certificate should satisfy themselves by reference to the Title Deed that the land to which this certificate relates is identical to the land to which they seek to know the locality.

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for Rik Hart  
GENERAL MANAGER  
WARRINGAH COUNCIL



**ATTACHMENT 'A'  
ATTACHMENT TO CERTIFICATE UNDER SECTION 149(2)  
OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT**

Clause 1.1 of the Section 149(2) Certificate

**SYDNEY REGIONAL ENVIRONMENTAL PLAN (Sydney Harbour Catchment) 2005** – Gazetted: 28.09.2005

The plan aims to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways. It establishes planning principles and controls for the catchment as a whole.

**STATE ENVIRONMENTAL PLANNING POLICY NO. 30 – Intensive Agriculture** – Gazetted 08.12.1989. Amended 20.08.1993, 24.02.1995, 11.06.1999 and 04.08.2000

The SEPP introduces consistency in the control of cattle feed lots and piggeries throughout the State by ensuring development consent is required for all cattle feed lots and specifying the information to accompany such applications and the range of matters the consent authority must consider before granting consent.

**STATE ENVIRONMENTAL PLANNING POLICY NO.32 –Urban Consolidation (Redevelopment of Urban Land)** – Gazetted 15.11.1991

States the Government's intention to ensure that urban consolidation objectives are met in all urban areas throughout the State. The policy:

- Focuses on the redevelopment of urban land that is no longer required for the purposes it is currently zoned or used.
- Encourages local Councils to pursue their own urban consolidation strategies to help implement the aims and objectives of the policy.

Councils will continue to be responsible for the majority of rezoning. The policy sets out guidelines for the Minister to follow when considering whether to initiate a regional environmental plan (REP) to make particular sites available for consolidated urban development. Where a site is rezoned by an REP, the Minister will be the consent authority.

**STATE ENVIRONMENTAL PLANNING POLICY NO.50 – Canal Estates** – Gazetted 10.11.1997

Bans new canal estates from the date of gazettal, to ensure coastal and aquatic environments are not affected by these developments.

**STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – Remediation of Land** - Gazetted 28.08.1998

Aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. The policy applies to the whole state, to ensure that remediation is permissible development and is always carried out to a high standard. It specifies when consent is required for remediation and lists considerations that are relevant when rezoning land and determining development applications.

**STATE ENVIRONMENTAL PLANNING POLICY NO. 62 – Sustainable Aquaculture** -Gazetted: 01.10.2000.

The plan aims to encourage sustainable aquaculture throughout New South Wales by:

- Making aquaculture permissible under certain zones under the Standard Instrument,
- Setting minimum performance criteria for aquaculture development, and
- Establishing a graduated environmental assessment regime for aquaculture development.

**STATE ENVIRONMENTAL PLANNING POLICY NO. 64 – ADVERTISING AND SIGNAGE** - Gazetted 16.03.2001

Aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish. The SEPP was amended in August 2007 to permit and regulate outdoor advertising in transport corridors (e.g. freeways, tollways and rail corridors). The amended SEPP also aims to ensure that public benefits may be derived from advertising along and adjacent to transport corridors. Transport Corridor Outdoor Advertising and Signage Guidelines (DOP July 2007) provides information on design criteria, road safety and public benefit requirements for SEPP 64 development applications.

**STATE ENVIRONMENTAL PLANNING POLICY NO. 65 – Design Quality of Residential Flat Development** - Gazetted 26.07.2002. Aims to improve the design quality of residential flat development in New South Wales.

**STATE ENVIRONMENTAL PLANNING POLICY NO. 71 - Coastal Protection** - Gazetted 01.11.2002 (and in force in Warringah from 18.11.2005) Aims to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast. The policy identifies sensitive coastal locations and sets down additional planning criteria to be considered in these areas.

**STATE ENVIRONMENTAL PLANNING POLICY (Housing for Seniors or People with a Disability) 2004** - Gazetted 31.03.2004; Repealed by SEPP (Seniors Living) Housing for Seniors or People with a Disability) 2004 and effective 12.10.07.

Aims to encourage the provision of housing (including residential care facilities) that will:

- (a) Increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and
- (b) Make efficient use of existing infrastructure and services, and
- (c) Be of good design.

**STATE ENVIRONMENTAL PLANNING POLICY (Building Sustainability Index: BASIX) 2004** - Gazetted 25.06.2004.  
The aim of the policy is to encourage sustainable residential development (*the BASIX scheme*), specifically to achieve a reduction in the consumption of water and reduction in energy use leading to less green house gas emissions.

**STATE ENVIRONMENTAL PLANNING POLICY (Sydney Metropolitan Water Supply) 2004** - Gazetted 24.12.2004. The aims of the policy are to facilitate development for water supply infrastructure to enable deep water extraction from dams, and to facilitate investigation into the availability of groundwater to augment water supply to the Sydney metropolitan area (including the carrying out of exploratory drilling).

**STATE ENVIRONMENTAL PLANNING POLICY (Temporary Structures and Places of Public Entertainment) 2007** – Gazetted 28.09.2007, effective 26.10.07. Provides for the erection of temporary structures and the use of places of public entertainment while protecting public safety and local amenity. The SEPP supports the transfer of the regulation of places of public entertainment and temporary structures (such as tents, marquees and booths) from the Local Government Act 1993 to the Environmental Planning and Assessment Act 1979.

Aims to ensure the provision of safety measures for uses of temporary structures or POPE, to encourage the protection of the environment at these locations, and to specify circumstances under which these structures and uses can be considered exempt or complying development. Also aims to promote job creation and increase access for places of public entertainment.

**STATE ENVIRONMENTAL PLANNING POLICY (MAJOR PROJECTS) 2005**  
Gazetted: 01.08.05. Formerly known as State Environmental Planning Policy (State Significant Development) 2005. Defines certain developments that are major projects under Part 3A of the Environmental Planning and Assessment Act 1979 and determined by the Minister for Planning. The SEPP also lists State significant sites. The policy repeals SEPP 34 and SEPP 38, as well as provisions in numerous other planning instruments, declarations and directions.

**STATE ENVIRONMENTAL PLANNING POLICY (Sydney Region Growth Centres) 2006**  
Gazetted: 28.07.06. Abstract: Provides for the coordinated release of land for residential, employment and other urban development in the North West and South West growth centres of the Sydney Region (in conjunction with Environmental Planning and Assessment Regulation relating to precinct planning).

**STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007**  
Gazetted: 21 December 2007; Commenced: 1 January 2008. Facilitates the delivery of public infrastructure and provision of services across the State by providing a consistent planning regime for this purpose; greater flexibility of location of infrastructure and provisions for development, redevelopment and disposal of surplus government owned land.

**STATE ENVIRONMENTAL PLANNING POLICY (REPEAL OF CONCURRENCE AND REFERRAL PROVISIONS) 2008**  
Gazetted: 12.12.2008; Commencement: 15.12.2008. The SEPP aims to improve efficiency in the planning system by removing duplicative or unnecessary requirements in environmental planning instruments (EPis) to consult with State agencies (government departments) on planning decisions.

**STATE ENVIRONMENTAL PLANNING POLICY (EXEMPT AND COMPLYING DEVELOPMENT CODES) 2008**  
Gazetted: 12.12.2008 – Commenced 27.02.2009  
Streamlines assessment processes for development that complies with specified development standards. The policy provides exempt and complying development codes that have State-wide application, identifying, in the General Exempt Development Code, types of development that are of minimal environmental impact that may be carried out without the need for development consent; and, types of complying development that may be carried out in accordance with a complying development certificate as defined in the Environmental Planning and Assessment Act 1979.

**STATE ENVIRONMENTAL PLANNING POLICY (AFFORDABLE RENTAL HOUSING) 2009**  
Published: 31.07.2009; Commencement 31.07.2009. The policy aims to better encourage home owners, social housing providers and developers to invest and create new affordable rental housing to meet the needs of our growing population and existing residents.

**EXTRACT FROM WARRINGAH LOCAL ENVIRONMENTAL PLAN 2011****Zone R2 Low Density Residential****1 Objectives of zone**

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.

**2 Permitted without consent**

Home-based child care; Home occupations

**3 Permitted with consent**

Bed and breakfast accommodation; Boarding houses; Boat sheds; Building identification signs; Business identification signs; Child care centres; Community facilities; Dwelling houses; Educational establishments; Emergency services facilities; Environmental protection works; Exhibition homes; Group homes; Health consulting rooms; Home businesses; Hospitals; Places of public worship; Recreation areas; Respite day care centres; Roads; Veterinary hospitals

**4 Prohibited**

Any development not specified in item 2 or 3

# DIAGRAM OF SANITARY DRAINAGE NEW

Diagram No. 335816

Municipality of WARRINGAH

SEWER AVAILABLE

- SYMBOLS AND ABBREVIATIONS**
- Boundary Trap
  - Pit
  - G.I. Grease Interceptor
  - Gully
  - P.T. P. Trap
  - R.S. Reflux Sink
  - R.V. Reflux Valve
  - Cleaning Eye
  - VERT Vertical Pipe
  - V.P. Vent. Pipe
  - S.V.P. Soil Vent. Pipe
  - D.C.C. Down Cast Cowl
  - I.P. Induct Pipe
  - M.F. Mica Flap
  - T. Tubs
  - K.S. Kitchen Sink
  - W.C. Water Closet
  - B.W. Bath Waste
  - Bsn. Basin
  - Shr. Shower
  - W.I.P. Wrought Iron Pipe
  - C.I.P. Cast Iron Pipe
  - F.W. Floor Waste
  - W.M. Washing Machine

Existing drainage shown by black lines. Scale: 40 Feet to an Inch New drainage shown by full blue lines.

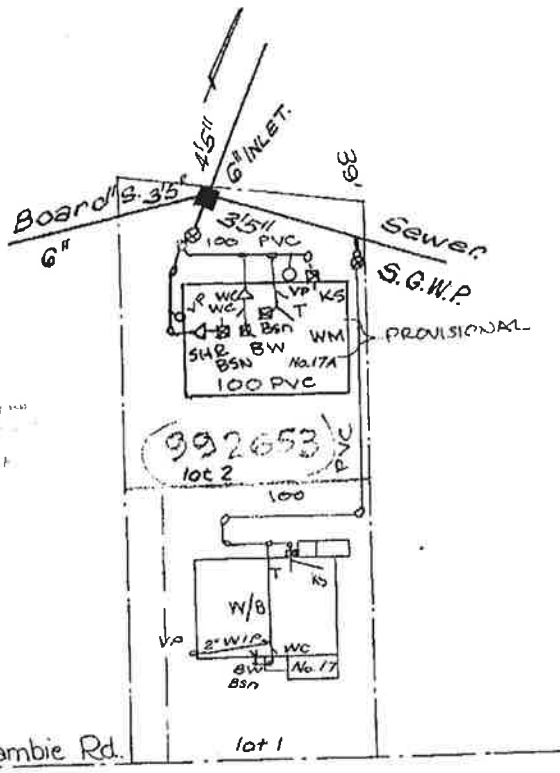
This diagram is the property of the Proprietor and is to be returned to him on completion of the work.

Certificates for drainage and sanitary plumbing may be obtained on application at the office of the Board by the Drainer or Plumber concerned.

~~The Board accepts no responsibility for the suitability of the diagram in relation to the eventual position of the Board's sewer. When the sewer becomes available it will be necessary to apply for a revised diagram.~~

This work must be carried out in accordance with the Board's By-laws and Regulations. (4" dia. pipes may be used in lieu of 6" dia pipes as shown on this diagram if the property owner so desires, provided that the relative levels of the sewer and house fixtures will permit of the pipes being laid with regulation grades and cover. For further information consult Board's Inspector.)

This work will be tested from .....



GOONDARI RD.

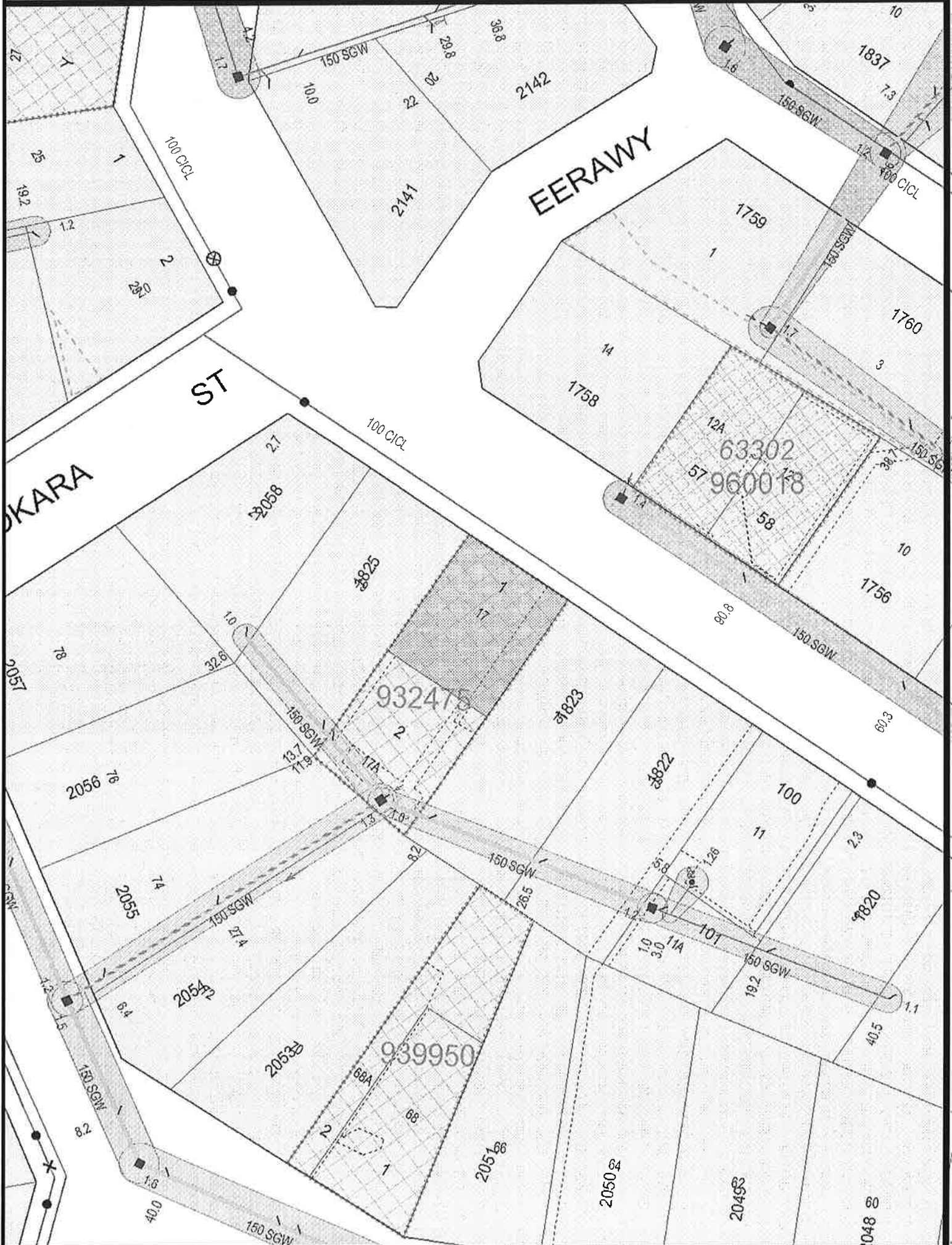
SHEET No 6703  
F.B. 1462/50.

1098 103

For Engineer-in-Chief

			OFFICE USE ONLY		
		Date	Inspector	First Visit	Passed
W.C.	Designed by	/ /			
B.W.		/ /			
Shr.	Inspector	/ /			
Bsn.	Examined by	/ /			
K.S.		/ /			
T.	Chief Inspector	/ /			
Ptg.		/ /			
Dge.Int.		/ /			
			Boundary Trap is not required.	Checked with Design and Diagram	
				Chief Inspector	
SUPERVISION					

NOTE This diagram only indicates availability of a sewer and any sewerage service shown as existing in Sydney Water's records. The existence and position of Sydney Water's sewers, stormwater channels, pipes, mains and structures should be ascertained by inspection of maps available at any of Sydney Water's Customer Centres. Position of structures, boundaries, sewers and sewerage services shown hereon are approximately only.



NOTE This diagram only indicates availability of a sewer and any sewerage service shown as existing in Sydney Water's records. The existence and position of Sydney Water's sewers, stormwater channels, pipes, mains and structures should be ascertained by inspection of maps available at any of Sydney Water's Customer Centres. Position of structures, boundaries, sewers and sewerage services shown hereon are approximately only.