

# Contract for the sale and purchase of land 2019 edition

| TERM  | MEANING OF TERM  | eCOS ID: 73673890 | NSW DAN:  |
|---|--|-------------------|---|
| vendor's agent                                      | Upstate<br>Level 1, Suite 15, 888 Pittwater Road Dee Why NSW 2099  |                   | Phone: 02 9971 9000<br>Fax:<br>Ref: Chris Aldren      |
| co-agent  | Not Applicable   |                   |   |
| vendor  | JOHN MERVYN HEALD, SANDRA JOAN HEALD<br>1/ 3A Nield Street Balgowlah NSW 2093  |                   |   |
| vendor's solicitor                                  | Freshwater Legal<br>13 Carrington Parade Freshwater NSW 2096<br>PO Box 610 Manly NSW 1655  |                   | Phone: 02 9029 8089<br>Fax: 02 9939 9996<br>Ref: 3966 |
| date for completion                                 | 42 days after the contract date  | (clause 15)       | Email: info@freshwaterlegal.com                       |
| land<br>(Address, plan details and title reference) | 1/3A NIELD AVE BALGOWLAH NSW 2093<br>LOT 1 IN STRATA PLAN 21446<br>1/SP21446<br><input checked="" type="checkbox"/> VACANT POSSESSION <input type="checkbox"/> Subject to existing tenancies   |                   |   |
| improvements  | <input type="checkbox"/> HOUSE <input type="checkbox"/> garage <input type="checkbox"/> carport <input type="checkbox"/> home unit <input type="checkbox"/> carspace <input type="checkbox"/> storage space<br><input type="checkbox"/> none <input checked="" type="checkbox"/> other: Townhouse with double garage |                   |   |
| attached copies                                     | <input checked="" type="checkbox"/> documents in the List of Documents as marked or as numbered:<br><input type="checkbox"/> 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 checked="" type="checkbox"/> dishwasher <input checked="" type="checkbox"/> light fittings <input checked="" type="checkbox"/> stove<br><input checked="" type="checkbox"/> built-in wardrobes <input checked="" type="checkbox"/> fixed floor coverings <input checked="" type="checkbox"/> range hood <input checked="" type="checkbox"/> pool equipment<br><input checked="" type="checkbox"/> clothes line <input checked="" type="checkbox"/> insect screens <input checked="" type="checkbox"/> solar panels <input checked="" type="checkbox"/> TV antenna<br><input checked="" type="checkbox"/> curtains <input checked="" type="checkbox"/> other: fridge, garage shelving, fixed TV cabinet/wall unit |
| exclusions            |  |
| purchaser             |  |
| purchaser's solicitor | Phone:<br>Fax:<br>Ref:<br>Email:   |
| 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

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vendor agrees to accept a **deposit-bond** (clause 3)

☒ NO ☐ yes

**Nominated Electronic Lodgment Network (ELN)** (clause 30)

PEXA

**Electronic transaction** (clause 30)

☐ no ☒ YES

(if no, vendor must provide further details, such as the proposed applicable waiver, in the space below, or *serve within 14 days* of the contract date):

**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 sale 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)

Purchaser must make an *GSTRW payment*  
(residential withholding payment)

☒ NO ☐ yes (if yes, vendor must provide further details)

If the further details below are not fully completed at the contract date, the vendor must provide all these details in a separate notice *within 14 days* of the contract date.

**GSTRW payment (GST residential withholding payment) – further details**

Frequently the supplier will be the vendor. However, sometimes further information will be required as to which entity is liable for GST, for example, if the supplier is a partnership, a trust, part of a GST group or a participant in a GST joint venture.

Supplier's name:

Supplier's ABN:

Supplier's GST branch number (if applicable):

Supplier's business address:

Supplier's email address:

Supplier's phone number:

Supplier's proportion of *GSTRW payment*: \$

If more than one supplier, provide the above details for each supplier.

Amount purchaser must pay – price multiplied by the *RW rate* (residential withholding rate): \$

Amount must be paid: ☐ AT COMPLETION ☐ at another time (specify):

Is any of the consideration not expressed as an amount in money? ☐ NO ☐ yes

If "yes", the GST inclusive market value of the non-monetary consideration: \$

Other details (including those required by regulation or the ATO forms):

## List of Documents

| General   | Strata or community title (clause 23 of the contract)   |
|---|---|
| <input checked="" type="checkbox"/> 1 property certificate for the land   | <input checked="" type="checkbox"/> 32 property certificate for strata common property                        |
| <input checked="" type="checkbox"/> 2 plan of the land  | <input checked="" type="checkbox"/> 33 plan creating strata common property                                   |
| <input type="checkbox"/> 3 unregistered plan of the land  | <input checked="" type="checkbox"/> 34 strata by-laws   |
| <input type="checkbox"/> 4 plan of land to be subdivided  | <input type="checkbox"/> 35 strata development contract or statement  |
| <input type="checkbox"/> 5 document that is to be lodged with a relevant plan   | <input type="checkbox"/> 36 strata management statement   |
| <input checked="" type="checkbox"/> 6 section 10.7(2) planning certificate under Environmental Planning and Assessment Act 1979   | <input type="checkbox"/> 37 strata renewal proposal   |
| <input type="checkbox"/> 7 additional information included in that certificate under section 10.7(5)  | <input type="checkbox"/> 38 strata renewal plan   |
| <input checked="" type="checkbox"/> 8 sewerage infrastructure location diagram (service location diagram)   | <input type="checkbox"/> 39 leasehold strata - lease of lot and common property                               |
| <input checked="" type="checkbox"/> 9 sewer lines location diagram (sewerage service diagram)   | <input type="checkbox"/> 40 property certificate for neighbourhood property                                   |
| <input type="checkbox"/> 10 document that created or may have created an easement, profit à prendre, restriction on use or positive covenant disclosed in this contract | <input type="checkbox"/> 41 plan creating neighbourhood property  |
| <input type="checkbox"/> 11 <i>planning agreement</i>   | <input type="checkbox"/> 42 neighbourhood development contract  |
| <input type="checkbox"/> 12 section 88G certificate (positive covenant)   | <input type="checkbox"/> 43 neighbourhood management statement  |
| <input type="checkbox"/> 13 survey report   | <input type="checkbox"/> 44 property certificate for precinct property  |
| <input type="checkbox"/> 14 building information certificate or building certificate given under <i>legislation</i>   | <input type="checkbox"/> 45 plan creating precinct property   |
| <input type="checkbox"/> 15 lease (with every relevant memorandum or variation)   | <input type="checkbox"/> 46 precinct development contract   |
| <input type="checkbox"/> 16 other document relevant to tenancies  | <input type="checkbox"/> 47 precinct management statement   |
| <input type="checkbox"/> 17 licence benefiting the land   | <input type="checkbox"/> 48 property certificate for community property                                       |
| <input type="checkbox"/> 18 old system document   | <input type="checkbox"/> 49 plan creating community property  |
| <input type="checkbox"/> 19 Crown purchase statement of account   | <input type="checkbox"/> 50 community development contract  |
| <input type="checkbox"/> 20 building management statement   | <input type="checkbox"/> 51 community management statement  |
| <input checked="" type="checkbox"/> 21 form of requisitions   | <input type="checkbox"/> 52 document disclosing a change of by-laws   |
| <input type="checkbox"/> 22 <i>clearance certificate</i>  | <input type="checkbox"/> 53 document disclosing a change in a development or management contract or statement |
| <input type="checkbox"/> 23 land tax certificate  | <input type="checkbox"/> 54 document disclosing a change in boundaries  |
| <b>Home Building Act 1989</b>   | <input type="checkbox"/> 55 information certificate under Strata Schemes Management Act 2015                  |
| <input type="checkbox"/> 24 insurance certificate   | <input type="checkbox"/> 56 information certificate under Community Land Management Act 1989                  |
| <input type="checkbox"/> 25 brochure or warning   | <input type="checkbox"/> 57 disclosure statement - off the plan contract                                      |
| <input type="checkbox"/> 26 evidence of alternative indemnity cover   | <input type="checkbox"/> 58 other document relevant to off the plan contract                                  |
| <b>Swimming Pools Act 1992</b>  | <b>Other</b>  |
| <input checked="" type="checkbox"/> 27 certificate of compliance  | <input type="checkbox"/> 59   |
| <input type="checkbox"/> 28 evidence of registration  |   |
| <input type="checkbox"/> 29 relevant occupation certificate   |   |
| <input type="checkbox"/> 30 certificate of non-compliance   |   |
| <input type="checkbox"/> 31 detailed reasons of non-compliance  |   |

## HOLDER OF STRATA OR COMMUNITY TITLE RECORDS – Name, address, email address and telephone number

Self Managed with Catherine White (other lot owner)  
0433674686

**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.

**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.

**WARNING—LOOSE-FILL ASBESTOS INSULATION**

Before purchasing land that includes any residential premises (within the meaning of Division 1A of Part 8 of the *Home Building Act 1989*) built before 1985, a purchaser is strongly advised to consider the possibility that the premises may contain loose-fill asbestos insulation (within the meaning of Division 1A of Part 8 of the *Home Building Act 1989*). In particular, a purchaser should:

- (a) search the Register required to be maintained under Division 1A of Part 8 of the *Home Building Act 1989*, and
- (b) ask the relevant local council whether it holds any records showing that the residential premises contain loose-fill asbestos insulation.

For further information about loose-fill asbestos insulation (including areas in which residential premises have been identified as containing loose-fill asbestos insulation), contact NSW Fair Trading.



### **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. **EXCEPT** in the circumstances listed in paragraph 3, the purchaser may rescind the contract at any time before 5 pm on—
  - (a) the tenth business day after the day on which the contract was made—in the case of an off the plan contract, or
  - (b) the fifth business day after the day on which the contract was made—in any other case.
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.

### **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, the Law Society Conveyancing Dispute Resolution Scheme or mediation (for example mediation under the Law Society Mediation Program).

### **AUCTIONS**

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

**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:
 

|   |  |
|---|--|
| <b>APA Group</b><br><b>Australian Taxation Office</b><br><b>Council</b><br><b>County Council</b><br><b>Department of Planning, Industry and Environment</b><br><b>Department of Primary Industries</b><br><b>Electricity and gas</b><br><b>Land &amp; Housing Corporation</b><br><b>Local Land Services</b> | <b>NSW Department of Education</b><br><b>NSW Fair Trading</b><br><b>Owner of adjoining land</b><br><b>Privacy</b><br><b>Public Works Advisory</b><br><b>Subsidence Advisory NSW</b><br><b>Telecommunications</b><br><b>Transport for NSW</b><br><b>Water, sewerage or drainage authority</b> |
|---|--|

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 will become payable before obtaining consent, or if no consent is needed, 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 transfer duty (and sometimes surcharge purchaser 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.
11. Where the market value of the property is at or above a legislated amount, the purchaser may have to comply with a foreign resident capital gains withholding payment obligation (even if the vendor is not a foreign resident). If so, this will affect the amount available to the vendor on completion.
12. Purchasers of some residential properties may have to withhold part of the purchase price to be credited towards the GST liability of the vendor. If so, this will also affect the amount available to the vendor. More information is available from the ATO.

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>clearance certificate</i> | a certificate within the meaning of s14-220 of Schedule 1 to the <i>TA Act</i> , that covers one or more days falling within the period from and including the contract date to completion;   |
| <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>FRCGW percentage</i>      | the percentage mentioned in s14-200(3)(a) of Schedule 1 to the <i>TA Act</i> (12.5% as at 1 July 2017);   |
| <i>FRCGW remittance</i>      | a remittance which the purchaser must make under s14-200 of Schedule 1 to the <i>TA Act</i> , being the lesser of the <i>FRCGW percentage</i> of the price (inclusive of GST, if any) and the amount specified in a <i>variation served by a party</i> ;  |
| <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>GSTRW payment</i>         | a payment which the purchaser must make under s14-250 of Schedule 1 to the <i>TA Act</i> (the price multiplied by the <i>GSTRW rate</i> );  |
| <i>GSTRW rate</i>            | the rate determined under ss14-250(6), (8) or (9) of Schedule 1 to the <i>TA Act</i> (as at 1 July 2018, usually 7% of the price if the margin scheme applies, 1/11 <sup>th</sup> if not);  |
| <i>legislation</i>           | an Act or a by-law, ordinance, regulation or rule made under an Act;  |
| <i>normally</i>              | 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>planning agreement</i>    | a valid voluntary agreement within the meaning of s7.4 of the Environmental Planning and Assessment Act 1979 entered into in relation to the <i>property</i> ;  |
| <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 by the party</i> ;   |
| <i>TA Act</i>                | Taxation Administration Act 1953;   |
| <i>terminate</i>             | terminate this contract for breach;   |
| <i>variation</i>             | a variation made under s14-235 of Schedule 1 to the <i>TA Act</i> ;   |
| <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 (but the term does not include a notice under s22E of the Swimming Pools Act 1992 or clause 22 of the Swimming Pools Regulation 2018). |

## 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* or by payment by electronic funds transfer 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.

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- 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 *Normally*, 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.

## 7 Claims by purchaser

*Normally*, 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 is paid; 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 and the amount belongs to the vendor.

## 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, priority notice 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 Terms used in this clause which are not defined elsewhere in this contract and have a defined meaning in the *GST Act* have the same meaning in this clause.
- 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 or payment for an expense of another party or pay an expense 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 expense; but
  - 13.3.2 the amount of the expense must be reduced to the extent the party receiving the adjustment or payment (or the representative member of a GST group of which that party is a member) is entitled to an input tax credit for the expense; and
  - 13.3.3 if the adjustment or payment under this contract is consideration for a taxable supply, an amount for GST must be added at 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 with a date of effect of registration on or before completion, 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.
- 13.12 If the vendor is liable for GST on rents or profits due to issuing an invoice or receiving consideration before completion, any adjustment of those amounts must exclude an amount equal to the vendor's GST liability.
- 13.13 If the purchaser must make a *GSTRW payment* the purchaser must –
- 13.13.1 at least 5 days before the date for completion, *serve* evidence of submission of a *GSTRW payment* notification form to the Australian Taxation Office by the purchaser or, if a direction under clause 4.3 has been *served*, by the transferee named in the transfer *served* with that direction;
- 13.13.2 produce on completion a *settlement cheque* for the *GSTRW payment* payable to the Deputy Commissioner of Taxation;
- 13.13.3 forward the *settlement cheque* to the payee immediately after completion; and
- 13.13.4 *serve* evidence of receipt of payment of the *GSTRW payment* and a copy of the settlement date confirmation form submitted to the Australian Taxation Office.

## 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, levies 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 not adjust surcharge land tax (as defined in the Land Tax Act 1956) but must adjust any other 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.
- 16.6 If a *party serves* a land tax certificate showing a charge on any of the land, by completion the vendor must do all things and pay all money required so that 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* –
- 16.7.1 the price less any:
- deposit paid;
  - *FRCGW remittance* payable;
  - *GSTRW payment*; and
  - amount payable by the vendor to the purchaser under this contract; and
- 16.7.2 any other amount payable by 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 Schedule 2, Part 7 of the Residential Tenancies Act 2010).
- 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 *serving* 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 email or fax to the *party's solicitor*, unless in either case 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, 30 and 31 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* (including any percentage or rate specified in *legislation*) is also 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 serving 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 - 3) 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****• Definitions and modifications**

- 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 –
- 23.2.1 'change', in relation to a scheme, means –
    - a registered or registrable change from by-laws set out 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;
  - 23.2.2 'common property' includes association property for the scheme or any higher scheme;
  - 23.2.3 'contribution' includes an amount payable under a by-law;
  - 23.2.4 'information certificate' includes a certificate under s184 Strata Schemes Management Act 2015 and s26 Community Land Management Act 1989;
  - 23.2.5 'information notice' includes a strata information notice under s22 Strata Schemes Management Act 2015 and a notice under s47 Community Land Management Act 1989;

- 23.2.6 '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;
- 23.2.7 'owners corporation' means the owners corporation or the association for the scheme or any higher scheme;
- 23.2.8 'the *property*' includes any interest in common property for the scheme associated with the lot; and
- 23.2.9 '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 capital works 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.
- **Adjustments and liability for expenses**
- 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 determined on or before the contract date, even if it is payable by instalments; and
- 23.6.2 the purchaser is liable for all contributions determined 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 23.6.1.
- 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 disclosed in this contract but the lot has a different proportional unit entitlement at the contract date or at any time before completion;
- 23.9.3 a change before the contract date or before completion in the scheme or a higher scheme materially prejudices the purchaser and is not disclosed in this contract; or
- 23.9.4 a resolution is passed by the owners corporation before the contract date or before completion to give to the owners in the scheme for their consideration a strata renewal plan that has not lapsed at the contract date and there is not attached to this contract a strata renewal proposal or the strata renewal plan.
- **Notices, certificates and inspections**
- 23.10 The purchaser must give the vendor 2 copies of an information notice 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 an information certificate issued after the contract date 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. On completion the purchaser must pay the vendor the prescribed fee for the certificate.
- 23.15 The vendor authorises the purchaser to apply for the purchaser's own certificate.
- 23.16 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.
- **Meetings of the owners corporation**
- 23.17 If a general meeting of the owners corporation is convened before completion –
- 23.17.1 if the vendor receives notice of it, the vendor must immediately notify the purchaser of it; and
- 23.17.2 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) cannot be transferred without consent under *legislation* or a *planning agreement*.
- 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 Each period in clause 27.6 becomes 90 days if the land (or part of it) is –
- 27.7.1 under a *planning agreement*; or
- 27.7.2 in the Western Division.
- 27.8 If the land (or part of it) 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 and with any *legislation* governing the rescission.
- 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 an *electronic transaction*;
- 30.1.2 the *parties* otherwise agree that it is to be conducted as an *electronic transaction*; or
- 30.1.3 the *conveyancing rules* require it to be conducted as an *electronic transaction*.
- 30.2 However, this *Conveyancing Transaction* is not to be conducted as an *electronic transaction* –
- 30.2.1 if the land is not *electronically tradeable* or the transfer is not eligible to be lodged electronically; or
- 30.2.2 if, at any time after the *effective date*, but at least 14 days before the date for completion, a *party* serves a notice stating a valid reason why it cannot be conducted as an *electronic transaction*.
- 30.3 If, because of clause 30.2.2, 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;
- incurred because this *Conveyancing Transaction* was to be conducted as an *electronic transaction*; 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 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*; and
  - using the nominated *ELN*, unless the *parties* otherwise agree;
- 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 the *effective date*; and
  - before the receipt of a notice given under clause 30.2.2;
- 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 the *effective date* –
- 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;
  - 30.9.2 the vendor must confirm the *adjustment figures* at least *1 business day* before the date for completion; and
  - 30.9.3 if the purchaser must make a *GSTRW payment* or an *FRCGW remittance*, the purchaser must *populate* the *Electronic Workspace* with the payment details for the *GSTRW payment* or *FRCGW remittance* payable to the Deputy Commissioner of Taxation at least *2 business days* before the date for completion.
- 30.10 Before 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 13.13.2 to 13.13.4, 16.8, 16.12, 16.13 and 31.2.2 to 31.2.4 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 computer systems of the *Land Registry* are inoperative for any reason at the *completion time* agreed by the *parties*, and the *parties* choose that financial settlement is to occur despite this, then on financial settlement occurring –
- 30.13.1 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
  - 30.13.2 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>conveyancing rules</i>    | the rules made under s12E of the Real Property Act 1900;  |
| <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>effective date</i>        | the date on which the <i>Conveyancing Transaction</i> is agreed to be an <i>electronic transaction</i> under clause 30.1.2 or, if clauses 30.1.1 or 30.1.3 apply, the contract date;  |
| <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>electronically tradeable</i> | a land title that is Electronically Tradeable as that term is defined in the <i>conveyancing 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>ECNL</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> .   |

### 31 Foreign Resident Capital Gains Withholding

- 31.1 This clause applies only if –
- 31.1.1 the sale is not an excluded transaction within the meaning of s14-215 of Schedule 1 to the *TA Act*; and
- 31.1.2 a *clearance certificate* in respect of every vendor is not attached to this contract.
- 31.2 The purchaser must –
- 31.2.1 at least 5 days before the date for completion, serve evidence of submission of a purchaser payment notification to the Australian Taxation Office by the purchaser or, if a direction under clause 4.3 has been served, by the transferee named in the transfer served with that direction;
- 31.2.2 produce on completion a *settlement cheque* for the *FRCGW remittance* payable to the Deputy Commissioner of Taxation;
- 31.2.3 forward the *settlement cheque* to the payee immediately after completion; and
- 31.2.4 serve evidence of receipt of payment of the *FRCGW remittance*.
- 31.3 The vendor cannot refuse to complete if the purchaser complies with clauses 31.2.1 and 31.2.2.
- 31.4 If the vendor serves any *clearance certificate* or *variation*, the purchaser does not have to complete earlier than 7 days after that service and clause 21.3 does not apply to this provision.
- 31.5 If the vendor serves in respect of every vendor either a *clearance certificate* or a *variation* to 0.00 percent, clauses 31.2 and 31.3 do not apply.

### 32 Residential off the plan contract

- 32.1 This clause applies if this contract is an off the plan contract within the meaning of Division 10 of Part 4 of the *Conveyancing Act 1919* (the Division).
- 32.2 No provision of this contract has the effect of excluding, modifying or restricting the operation of the Division.
- 32.3 If the purchaser makes a claim for compensation under the terms prescribed by clause 6A of the *Conveyancing (Sale of Land) Regulation 2017* –
- 32.3.1 the purchaser cannot make a claim under this contract about the same subject matter, including a claim under clauses 6 or 7; and
- 32.3.2 the claim for compensation is not a claim under this contract.
- 32.4 This clause does not apply to a contract made before the commencement of the amendments to the Division under the *Conveyancing Legislation Amendment Act 2018*.

# SECTION 66W CERTIFICATE

I,  
of , , certify as follows:

1. I am a \_\_\_\_\_ currently admitted to practise in New South Wales;
2. I am giving this certificate in accordance with section 66W of the Conveyancing Act 1919 with reference to a contract for the sale of property at 1/3A NIELD AVE BALGOWLAH NSW 2093 from JOHN MERVYN HEALD, SANDRA JOAN HEALD to in order that there is no cooling off period in relation to that contract;
3. I do not act for JOHN MERVYN HEALD, SANDRA JOAN HEALD and am not employed in the legal practice of a solicitor acting for JOHN MERVYN HEALD, SANDRA JOAN HEALD nor am I a member or employee of a firm of which a solicitor acting for JOHN MERVYN HEALD, SANDRA JOAN HEALD is a member or employee; and
4. I have explained to :
  - (a) The effect of the contract for the purchase of that property;
  - (b) The nature of this certificate; and
  - (c) The effect of giving this certificate to the vendor, i.e. that there is no cooling off period in relation to the contract.

Date:



## **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.**

### **SPECIAL CONDITIONS**

#### **AMENDMENTS TO PRINTED FORM OF CONTRACT**

32. The following clauses in the printed form of contract shall be amended as follows:
- (a) Clause 2.9 deletion of the words "if each party tells the deposit holder that the deposit is to be invested" and inserting the words at the end of the clause "each party is to provide the deposit holder with their tax file numbers at the time the deposit is being invested".
  - (b) Clauses 3 is deleted.
  - (c) Clause 8.1: deletion of the words "on reasonable grounds"
  - (d) Clause 8.1.2: deletion of the words "and those grounds"
  - (e) Clause 10.1.9: deletion of the word "substance" and the insertion of the word "existence" instead
  - (f) Clause 16.5: deletion of the words "plus another 20% of that fee"
  - (g) Clause 23.13: deletion of the words "at least 7 days before the completion date"
  - (h) Clause 23.14 is deleted

#### **CONDITION OF PROPERTY**

33. The Purchaser hereby acknowledges:
- (a) that on the signing hereof he has made his own enquiries in relation to the *property*, and he is not relying upon any warranty, undertaking or stipulation of any description whether given by the Vendor or his agents or otherwise in respect of the *property* or any improvements erected or to be erected thereon other than such warranties, undertakings and stipulation as are expressly set out in this contract;
  - (b) that he is fully satisfied as to all information relevant to the risks, contingencies and other circumstances affecting the purchase of the *property*; and
  - (c) that he is fully satisfied as to the need for and the existence or validity of any development or other approval for the *property*.

#### **CONDITION OF THE PROPERTY**

34. The Purchaser hereby acknowledges that he purchases the *property* in its present state of repair and condition with all faults latent and patent subject to fair wear and tear as provided in clause 10.1.4 and enters into this contract consequent upon his own inspection of the *property* and subject to any infestation and/or dilapidation and that the Vendor has not, nor has anyone on the Vendor's behalf, made any representation with

respect to the condition of the *property* and the Purchaser shall make no objection *requisition* or claim for compensation in respect of the same.

#### **TERMS OF AGREEMENT IN WRITING**

35. The Vendor shall not be bound or obliged in any way by any representation, warranty, condition, promise or other statement made by the Vendor or any other person or corporation acting or purporting to act on behalf of the Vendor unless the same is set out in writing in full in this contract.

#### **EXISTING SERVICES**

36. The Purchaser shall take the title subject to the existing water, sewerage, drainage, gas and electricity or other installations and services (if any) and shall make no objection, *requisition* or claim for compensation if any such services are joint services with any other property or properties, or if the sewer main of the respective Water Board passes through or penetrates the *property*.

#### **DEATH, BANKRUPTCY AND MENTAL ILLNESS**

37. Without in any manner negating, limiting or restricting any rights or remedies which would have been available to either party at law or in equity had this clause not been included herein should either party (or where a party consists of more than one person, any one of such persons) prior to the completion date:
- (a) die or become mentally ill (as defined in the Mental Health Act 1959) then the other party may at any time thereafter by notice in writing to the party so affected *rescind* this Contract in which event if that other party is not otherwise in default hereunder the provisions of clause 19 shall apply; or
  - (b) being a natural person, have a bankruptcy petition presented against him or be declared bankrupt or enter into any scheme or make any assignment for the benefit of any creditors, then that party shall be in default hereunder and the other party may at any time thereafter *terminate* this Contract and exercise all or any of the rights available to that party including those conferred upon it by clause 9 hereof; or
  - (c) being a corporation resolve to go into liquidation or have a petition for its winding up presented or enter into any scheme of arrangement or assignment for the benefit of its creditors under Part VIII of the Corporations Law or should any liquidator, receiver, receiver and manager, or official manager be appointed in respect of that party, then that party shall be deemed to be in default hereunder and the other party may at any time thereafter *terminate* this Contract and exercise all or any of the rights available to that party including those conferred upon it by clause 9 hereof.

- 37A. The Purchaser warrants that the Purchaser has the legal capacity to enter into this contract.

#### **NOTICE TO COMPLETE**

38. Notwithstanding any rule of Law or Equity to the contrary IT IS EXPRESSLY AGREED between the Vendor and the Purchaser that should any event arise entitling either the Vendor or the Purchaser to issue a Notice to Complete on the other party then either the Vendor or the Purchaser shall be entitled to serve such a Notice on the other party requiring that other party to complete the Contract within a period of fourteen (14)

days from and including the date of service thereby making time of the essence in this regard. IT IS ACKNOWLEDGED by both parties that the period of fourteen (14) days shall be deemed to be a sufficient and reasonable period for insertion in such Notice.

### **LATE COMPLETION**

39. If for any reason whatsoever other than default on the part of the Vendor completion of this contract does not take place on or before the date nominated in this contract, then the Purchaser shall pay the Vendor the following amount:

- (a) interest on the balance of the purchase price at the rate of ten per cent (10%) per annum calculated on a daily basis from the nominated date of completion until the actual date of completion; and
- (b) In addition to a) above, the defaulting purchaser shall also pay an additional \$330.00 on completion being the solicitor's extra legal costs incurred as a result in the delay in settlement.

and these sums are agreed as genuine pre-estimates of the additional expense that will be incurred by the Vendor as a result of the Purchaser's default, and this clause is acknowledged by the Purchaser as an essential term of the contract.

### **CLAIMS**

40. Notwithstanding anything to the contrary herein contained the parties hereto expressly agree that any claim for compensation pursuant to clause 7 or otherwise shall be deemed to be an objection or *requisition* pursuant to clause 8 hereof.

### **DEPOSIT**

41. (a) The deposit payable on exchange of Contracts shall be paid to the Vendor's agent herein named as stakeholder who shall invest such moneys in a Bank in an account opened in the name of the Vendor's agent on account of the Vendor and Purchaser with the interest accruing on investment to be equally divided between the Vendor and Purchaser on completion PROVIDED HOWEVER that if this Contract is duly *terminated* or *rescinded* then the defaulting party shall forfeit his, her or its share of the interest accrued.
- (b) Despite any other provisions of this Agreement if the Vendor becomes entitled to the deposit paid or payable hereunder, then the Purchaser will immediately upon demand pay to the Vendor the difference between ten per cent (10%) of the purchase price and the deposit actually paid (with the intention that an amount equal to ten per cent (10%) of the purchase price is forfeitable to the Vendor upon default by the Purchaser and that 10% of the purchase price is a sum in earnest of performance of the contract).
- (c) The parties hereto hereby authorise the person investing the deposit to provide the relevant Bank with details of the Tax File Number of either or both of such parties. The said parties acknowledge that they are aware that in the event of no such Tax File Numbers being provided then tax will be deducted by the relevant Bank at the statutory rate then applicable.

Despite any other condition in this contract, in the event that a deposit is paid less than 10% then the purchaser and vendor agree that all interest on the deposit is paid to the vendor.

## **REAL ESTATE AGENT**

42. The Purchaser warrants that they were not introduced to the Vendor or the *property* by any Real Estate Agent other than the agent referred to herein and the Purchaser indemnifies the Vendor (and if more than one each of them) against any claim for commission which might be made by any agent resulting from an introduction forming a breach of such warranty and against all costs and expenses incidental to defending any such claim. It is agreed that these indemnities shall be continuing indemnities not merging on completion.

## **COMPLETION**

43. On completion the Purchaser must accept the Discharge, Withdrawal, Surrender or Removal of Restriction executed and in registrable form, of any registered encumbrance affecting the title, other than an encumbrance to which this Contract is subject, together with an allowance for the registration fee.

## **FOREIGN CORPORATION OR PERSON**

44. (a) In the event that the purchaser/s is not an Australian resident or an Australian citizen, completion of this contract is conditional on the Treasurer of the Commonwealth of Australia (*Treasurer*) giving notice to the purchaser within 35 days from the date of the contract that the proposed acquisition by the purchaser from the vendor of the property is not contrary to the national interest or that the Treasurer has no objection to the proposal in terms of the Australian Government's foreign investment policy.
- (b) The purchaser undertakes to the vendor that it will:
- (i) within 7 *business days* of the date of this contract cause to be delivered to the Australian Treasurer a formal written application for approval pursuant to the Australian Government's foreign investment policy containing all details required of the proposed acquisition by the purchaser; and
  - (ii) promptly furnish to FIRB such information as may be reasonably required to assist the consideration by the Treasurer of the proposed acquisition by the purchaser of the property.
- (c) If neither of the events referred to in this clause have occurred prior to the expiration of 35 days from the date of this contract then provided that the purchaser has properly complied with its obligations under this clause and subject to the provisions of this clause, this contract may at the election of either *party* be *rescinded* and the provisions of clause 19 will apply.

## **GST**

45. The Purchaser warrants that the *property* will be used predominantly for residential accommodation. The Purchaser will indemnify the Vendor against any liability to pay GST arising from breach of this warranty. This right continues after completion.

## **WATER FEATURES**

46. (a) The Purchaser agrees to take the swimming pool and surrounds and pool fencing, if any, in its present state of repair and will not make any objections,

*requisitions* or claims for compensation in relation to the pool surrounds or fencing regarding non-compliance with current legislation. If the Purchaser requires a swimming pool fence, or should any competent authority issue any notice requiring a swimming pool fence to be built or to be altered pursuant to current legislation, such fence or alteration shall be built by the Purchaser at the expense of the Purchaser.

- (b) The Purchaser agrees to take any pond, fountain, or water feature of any type (including their surrounds and any fencing), if any, in its present state of repair and will not make any objections, *requisitions* or claims for compensation in relation to the pond, fountain, or water feature or their surrounds or any fencing regarding non-compliance with current legislation. If any competent authority issues any notice requiring a fence to be built or alteration to be made pursuant to current legislation, such fence shall be built or alteration made by the Owners Corporation at the expense of the Owners Corporation at that time.

### **RELEASE OF DEPOSIT**

47. In the event that the Vendor is purchasing another property the Purchaser agrees to release to the Vendor the deposit or so much of the deposit as is required for use by the Vendor:

- (a) As a deposit on the purchase of another property. The Vendor warrants that upon release of the deposit in accordance with the terms of this special condition such deposit will be paid only to the trust account of an estate agent or solicitor and shall not be further released without the consent of the Purchaser; and/or
- (b) As stamp duty on the contract for property being purchased by the Vendor.

### **REQUISITIONS ON TITLE**

48. The Purchaser agrees that the only form of Requisitions on Title the Purchaser shall be entitled to raise pursuant to Clause 5.1 are those in the form of Requisitions on Title annexed to this contract.

### **LOCAL GOVERNMENT COMPLIANCE**

- 49. 49.1 The purchaser acknowledges that the vendor does not possess a building certificate in respect of the improvements on the property. The vendor is not under any obligation to apply or obtain any such certificate nor to take any action or to comply with any requirements or do anything necessary to enable the purchaser to obtain any such certificate and this contract is in no way conditional upon the issue of such certificate.
- 49.2 Subject to the rights of the purchaser under section 52A of Conveyancing Act 1919 and the Regulations under that Act the purchaser is not entitled to rescind, terminate or delay completion of this contract, nor to object, requisition or make any claim (including a claim under clause 6) as a result of or arising out of the refusal or failure of any relevant authority for any reason whatsoever to issue a certificate.

## **SERVICE OF DOCUMENTS**

50. Notwithstanding the provisions contained in Clause 20.6.5 hereof a document under or relating to this contract shall be sufficiently served for the purposes of this contract if the document is sent by facsimile transmission and in any such case shall be deemed to be duly given or made when the transmission has been completed; except where:
- (a) The time of dispatch is not before 5.00 pm (Sydney time) on a *business day*, in which case the notice shall be deemed to have been received at 9.00am (Sydney time) on the next *business day*; or
  - (b) The sender's machine indicates a malfunction in transmission or the recipient immediately notifies the sender of an incomplete transmission in which case the facsimile transmission shall be deemed not to have been given or made.

## **INTERPRETATION**

51. (a) Headings are for ease of reference only and do not affect the interpretation of this contract.
- (b) If there is any inconsistency between these special conditions and the printed conditions or any annexure hereto, these conditions shall apply.
- (c) Each clause and sub clause of the conditions of this contract shall be severable from each other clause and sub clause and the unenforceability or invalidity of any clause or sub clause shall not affect the enforceability or validity of the remaining clauses and sub clauses.

## **BUILDING WORKS**

52. deliberately deleted.

## **SMOKE ALARMS**

53. The Purchaser cannot make a claim or *requisition* or *rescind* or *terminate* should the Vendor not have complied with the provisions or the regulations under the Environmental Planning and Assessment Act 1979 relating to the installation of smoke alarms on the *property*.

## **CONDITIONS OF SALE BY AUCTION**

54. (a) In this clause, *Bidders Record* means the Bidders Record to be kept pursuant to Clause 18 of the Property, Stock and Business Agents Regulation 2003 and Section 68 of the Property, Stock and Business Agents Act 2002.
- (b) The following conditions apply if the *property* is to be sold at auction:
- (i) All bidders must be registered in the Bidders Record and display an identifying number when making a bid.
  - (ii) The auctioneer may make only one vendor bid at the auction and no other vendor bid may be made by the auctioneer.
  - (iii) Immediately before making a vendor bid, the auctioneer must announce that the bid is made on behalf of the Vendor or announce "vendor bid".

## **SURVEY PLAN**

55. deliberately deleted

## **PRIVATE MANAGEMENT – VENDOR DISCLOSURE**

56. The Vendor discloses that the 2 lots comprising the relevant Strata Plan are separately managed by the proprietors thereof. At present the proprietors of the said Strata Plan do operate a bank account in the name of the proprietors of the Strata Plan and they also maintain a Strata Roll. Levies are payable by both proprietors on a quarterly basis. The Purchaser will make no objection requisition or claim for compensation in relation to the matters contained in this clause, and/or the way in which the strata is managed.

## **GUARANTEE AND INDEMNITY**

57. The Guarantor gives the guarantee and indemnity in Annexure "A".  
If the Purchaser is a company which is not listed on the Australian Stock Exchange, then the Purchaser must procure that the directors of that company give the guarantee and indemnity in Annexure "A".

## **POOL NON-COMPLIANCE**

58. The vendor will prior to completion provide the purchaser with a Pool Compliance Certificate, issued by the relevant authority and carry out the works at the vendor's expense required to procure such a Certificate prior to completion and this is an essential term of the Contract. The pool is currently non-compliant – see attached non compliance certificate together with reasons for non compliance.

## **EXCHANGE ON LESS THAN 10% DEPOSIT**

59. Although a full 10% deposit is payable by the purchaser, the vendor has agreed to allow the purchaser to exchange the contract on the basis that only part of the deposit is paid at the time of exchange being \$ . The balance of the deposit must be paid by the purchaser to the deposit holder as soon as possible as an earnest that the full price will be paid on completion. The full earnest of 10% of the price will be forfeited in the event that the purchaser fails to complete in accordance with the terms hereof.

Note: The full 10% deposit is to be inserted on the front page of the contract.

Despite any other condition in this contract, in the event that a deposit is paid less than 10% then the purchaser and vendor agree that all interest on the deposit is paid to the vendor.

## **ELECTRONIC SETTLEMENT**

60. 60.1 The parties agree and acknowledge that special condition 30.2.2 is deleted, and that settlement of this Contract is intended to take place as an “**electronic transaction**”.
- 60.2 Should the Purchaser be unwilling or unable to complete settlement of this transaction as an electronic transaction:
- (i) The Purchaser's legal representative must serve upon the vendor's legal representative, a request for a “paper” settlement together with the CoRD Consent details”, no later than 21 days prior to completion;

(ii) Should less than 21 days written notice be provided to the vendor's legal representative, the purchaser acknowledges that if the discharging mortgagee is not ready or unable to complete and requires further time to convert to a "paper settlement" and/or prepare and lodge the CoRD Consent at NSW Land Registry, special condition 39 will apply, and the purchaser will be liable to pay late completion charges to the Vendor as an adjustment in the final settlement figures on completion;

(iii) In addition, if settlement is to be converted from an "electronic transaction" to a "paper settlement", the purchaser acknowledges and agrees to compensate the Vendor on settlement the sum of \$160.00 plus GST, for the additional legal fees incurred for the time spent converting settlement from an "electronic transaction" to a "paper settlement" together with the additional expenses incurred, including but not limited to the Vendor's and Discharging Mortgagee's Settlement Agent's fees for attending a "paper settlement";



## **Annexure "A"**

### *Guarantee and Indemnity*

- 1 The Guarantor must execute this contract.
- 2 The Guarantor enters this contract, and incurs obligations and gives rights under the guarantee and indemnity, for the valuable consideration of among other things, the Vendor agreeing to enter this contract at the request of the Guarantor.
- 3 The covenants, guarantees and indemnities in this Schedule are severable.
- 4 The Guarantor unconditionally and irrevocably guarantees to the Vendor both the following:
  - 4.1 The Purchaser will pay to the Vendor the balance of the price and every other amount that the Purchaser must pay under this contract.
  - 4.2 The Purchaser's obligations will be performed.
- 5 The Guarantor indemnifies the Vendor against a Claim or action and cost relating to the Purchaser's breach, default or attempted breach or default of its obligations.
- 6 All the following apply to this guarantee and indemnity:
  - 6.1 It is a principal obligation.
  - 6.2 It is irrevocable and remains in full force and effect until discharged.
  - 6.3 It binds the estates of each Guarantor.
- 7 The parties must not treat this guarantee and indemnity as ancillary or collateral to any other right or obligation.
- 8 The Vendor may enforce this guarantee against the Guarantor without first exhausting a remedy that it may have against the Purchaser.
- 9 The Guarantor must pay on demand any money due to the Vendor that relates to the indemnity including but not limited to all the following:
  - 9.1 the balance of the price
  - 9.2 the adjustments due to the Vendor on completion
  - 9.3 interest that the Purchaser must pay to the Vendor.
- 10 The Guarantor and the Purchaser are jointly and severally liable to the Vendor for:
  - 10.1 the Purchaser's observance and performance of its obligations
  - 10.2 damage that the Vendor incurs as a result of any one or more of all the following:
    - 10.2.1 the Purchaser's failure to observe and perform its obligations under this contract
    - 10.2.2 its default under this contract
    - 10.2.3 the Vendor's termination of this contract.
- 11 The Purchaser or the Guarantor must pay all money payable to the Vendor and duly perform their several obligations before either may claim or receive the benefit of any of the following:
  - 11.1 a dividend or distribution of a person, liable jointly with the Purchaser or the Guarantor, to the Vendor

- 11.2 a payment out of the estate or assets of a person, liable jointly with the Purchaser or the Guarantor, to the Vendor
- 11.3 a payment in the liquidation, winding up or bankruptcy of a person, liable jointly with the Purchaser or the Guarantor, to the Vendor.
- 12 Clause 11 applies equally if the person is liable under a security for money that the Purchaser or the Guarantor must pay.
- 13 The Purchaser or the Guarantor must pay all money payable to the Vendor and perform their several obligations before either may prove in competition with the Vendor in an estate or in relation to an asset in a liquidation, winding up or bankruptcy.
- 14 Clause 13 only applies if the amount that the Vendor is entitled to is reduced as a result.
- 15 Upon the written request of the Vendor, the Guarantor must pay the Vendor all expenses that the Vendor incurs in respect of the Vendor's exercise or attempted exercise of a right of the Vendor under this Schedule 10.
- 16 The Guarantor's obligations are not affected if any of the following apply:
  - 16.1 The Vendor releases or enters into a composition with the Purchaser.
  - 16.2 A payment made to the Vendor is later avoided.
  - 16.3 The Vendor assigns or transfers the benefit of this contract.
- 17 If the Vendor assigns or transfers the benefit of this contract, then the assignee receives the benefit of the Guarantor's covenants, agreements, guarantees and indemnities.
- 18 The obligations of the Guarantor under this Schedule 10 are not released, discharged or otherwise affected by any of the following:
  - 18.1 failure by one or more Guarantors to execute this guarantee and indemnity, validly or otherwise
  - 18.2 the grant of time, waiver, covenant not to sue or other indulgence
  - 18.3 the release, including but not limited to a release as part of a novation, or discharge of a person
  - 18.4 an arrangement, composition or compromise that a person enters into
  - 18.5 an extinguishment, failure, loss, release, discharge, abandonment, impairment, compound, composition or compromise, in whole or in part of any document or agreement
  - 18.6 a variation of this contract including, but not limited to a variation in the date of completion
  - 18.7 a moratorium or other suspension of a right, power, authority, discretion or remedy conferred on the Vendor in any way
  - 18.8 payment to the Vendor, including but not limited to a payment which at or after the payment date is illegal, void, voidable, avoided or unenforceable
  - 18.9 the Purchaser becoming insolvent, going into liquidation, official management, receivership, arrangement, administration or winding up
  - 18.10 a person being appointed in respect of the Purchaser or any of its assets or undertakings, including but not limited to a receiver or manager or both, or a liquidator, or administrator.

# Strata Schemes Management Regulation 1997

Repealed version for 1 July 2005 to 31 August 2005 (accessed 19 September 2017 at 12:15)

Schedule 1

## Schedule 1 Model by-laws

(Clause 23)

### Residential Schemes

#### 1 Noise

An owner or occupier of a lot must not create any noise on a lot or the common property likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or of any person lawfully using common property.

#### 2 Vehicles

An owner or occupier of a lot must not park or stand any motor or other vehicle on common property except with the prior written approval of the owners corporation.

#### 3 Obstruction of common property

An owner or occupier of a lot must not obstruct lawful use of common property by any person except on a temporary and non-recurring basis.

#### 4 Damage to lawns and plants on common property

An owner or occupier of a lot must not, except with the prior written approval of the owners corporation:

- (a) damage any lawn, garden, tree, shrub, plant or flower being part of or situated on common property, or
- (b) use for his or her own purposes as a garden any portion of the common property.

#### 5 Damage to common property

- (1) An owner or occupier of a lot must not mark, paint, drive nails or screws or the like into, or otherwise damage or deface, any structure that forms part of the common property except with the prior written approval of the owners corporation.
- (2) An approval given by the owners corporation under subclause (1) cannot authorise any additions to the common property.
- (3) This by-law does not prevent an owner or person authorised by an owner from installing:
  - (a) any locking or other safety device for protection of the owner's lot against intruders or to improve safety within the owner's lot, or
  - (b) any screen or other device to prevent entry of animals or insects on the lot, or
  - (c) any structure or device to prevent harm to children, or
  - (d) any device used to affix decorative items to the internal surfaces of walls in the owner's lot.
- (4) Any such locking or safety device, screen, other device or structure must be installed in a competent and proper manner and must have an appearance, after it has been installed, in keeping with the appearance of the rest of the building.
- (5) Despite section 62, the owner of a lot must:
  - (a) maintain and keep in a state of good and serviceable repair any installation or structure referred to in subclause (3) that forms part of the common property and that services the lot, and
  - (b) repair any damage caused to any part of the common property by the installation or removal of any locking or safety device, screen, other device or structure referred to in subclause (3) that forms part of the common property and that services the lot.

## **6 Behaviour of owners and occupiers**

An owner or occupier of a lot when on common property must be adequately clothed and must not use language or behave in a manner likely to cause offence or embarrassment to the owner or occupier of another lot or to any person lawfully using common property.

## **7 Children playing on common property in building**

An owner or occupier of a lot must not permit any child of whom the owner or occupier has control to play on common property within the building or, unless accompanied by an adult exercising effective control, to be or to remain on common property comprising a laundry, car parking area or other area of possible danger or hazard to children.

## **8 Behaviour of invitees**

An owner or occupier of a lot must take all reasonable steps to ensure that invitees of the owner or occupier do not behave in a manner likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or any person lawfully using common property.

## **9 Depositing rubbish and other material on common property**

An owner or occupier of a lot must not deposit or throw on the common property any rubbish, dirt, dust or other material or discarded item except with the prior written approval of the owners corporation.

## **10 Drying of laundry items**

An owner or occupier of a lot must not, except with the prior written approval of the owners corporation, hang any washing, towel, bedding, clothing or other article on any part of the parcel in such a way as to be visible from outside the building other than on any lines provided by the owners corporation for the purpose and there only for a reasonable period.

## **11 Cleaning windows and doors**

An owner or occupier of a lot must keep clean all exterior surfaces of glass in windows and doors on the boundary of the lot, including so much as is common property, unless:

- (a) the owners corporation resolves that it will keep the glass or specified part of the glass clean, or
- (b) that glass or part of the glass cannot be accessed by the owner or occupier of the lot safely or at all.

## **12 Storage of inflammable liquids and other substances and materials**

- (1) An owner or occupier of a lot must not, except with the prior written approval of the owners corporation, use or store on the lot or on the common property any inflammable chemical, liquid or gas or other inflammable material.
- (2) This by-law does not apply to chemicals, liquids, gases or other material used or intended to be used for domestic purposes, or any chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine.

## **13 Moving furniture and other objects on or through common property**

- (1) An owner or occupier of a lot must not transport any furniture or large object through or on common property within the building unless sufficient notice has first been given to the executive committee so as to enable the executive committee to arrange for its nominee to be present at the time when the owner or occupier does so.
- (2) An owners corporation may resolve that furniture or large objects are to be transported through or on the common property (whether in the building or not) in a specified manner.
- (3) If the owners corporation has specified, by resolution, the manner in which furniture or large objects are to be transported, an owner or occupier of a lot must not transport any furniture or large object through or on common property except in accordance with that resolution.

## **14 Floor coverings**

- (1) An owner of a lot must ensure that all floor space within the lot is covered or otherwise treated to an extent sufficient to prevent the transmission from the floor space of noise likely to disturb the peaceful enjoyment of the owner or occupier of another lot.

(2) This by-law does not apply to floor space comprising a kitchen, laundry, lavatory or bathroom.

## **15 Garbage disposal**

- (1) An owner or occupier of a lot in a strata scheme that does not have shared receptacles for garbage, recyclable material or waste:
  - (a) must maintain such receptacles within the lot, or on such part of the common property as may be authorised by the owners corporation, in clean and dry condition and (except in the case of receptacles for recyclable material) adequately covered, and
  - (b) must ensure that before refuse, recyclable material or waste is placed in the receptacles it is, in the case of refuse, securely wrapped or, in the case of tins or other containers, completely drained, or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and
  - (c) for the purpose of having the garbage, recyclable material or waste collected, must place the receptacles within an area designated for that purpose by the owners corporation and at a time not more than 12 hours before the time at which garbage, recyclable material or waste is normally collected, and
  - (d) when the garbage, recyclable material or waste has been collected, must promptly return the receptacles to the lot or other area referred to in paragraph (a),
  - (e) must not place any thing in the receptacles of the owner or occupier of any other lot except with the permission of that owner or occupier, and
  - (f) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled from the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.
- (2) An owner or occupier of a lot in a strata scheme that has shared receptacles for garbage, recyclable material or waste:
  - (a) must ensure that before refuse, recyclable material or waste is placed in the receptacles it is, in the case of refuse, securely wrapped or, in the case of tins or other containers, completely drained, or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and
  - (b) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled in the area of the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.

## **16 Keeping of animals**

**Note.** Select option A, B or C. If no option is selected, option A will apply.

### **Option A**

**(1)**

Subject to section 49 (4), an owner or occupier of a lot must not, without the prior written approval of the owners corporation, keep any animal (except fish kept in a secure aquarium on the lot) on the lot or the common property.

**(2)**

The owners corporation must not unreasonably withhold its approval of the keeping of an animal on a lot or the common property.

### **Option B**

**(1)**

Subject to section 49 (4), an owner or occupier of a lot must not, without the prior written approval of the owners corporation, keep any animal (except a cat, a small dog or a small caged bird, or fish kept in a secure aquarium on the lot) on the lot or the common property.

**(2)**

The owners corporation must not unreasonably withhold its approval of the keeping of an animal on a lot or the common property.

**(3)**

If an owner or occupier of a lot keeps a cat, small dog or small caged bird on the lot then the owner or occupier must:

- (a) notify the owners corporation that the animal is being kept on the lot, and
- (b) keep the animal within the lot, and
- (c) carry the animal when it is on the common property, and
- (d) take such action as may be necessary to clean all areas of the lot or the common property that are soiled by the animal.

### **Option C**

Subject to section 49 (4), an owner or occupier of a residential lot must not keep any animal on the lot or the common property.

## **17 Appearance of lot**

- (1) The owner or occupier of a lot must not, without the prior written approval of the owners corporation, maintain within the lot anything visible from outside the lot that, viewed from outside the lot, is not in keeping with the rest of the building.
- (2) This by-law does not apply to the hanging of any washing, towel, bedding, clothing or other article as referred to in by-law 10.

## **18 Change in use of lot to be notified**

An occupier of a lot must notify the owners corporation if the occupier changes the existing use of the lot in a way that may affect the insurance premiums for the strata scheme (for example, if the change of use results in a hazardous activity being carried out on the lot, or results in the lot being used for commercial or industrial purposes rather than residential purposes).

## **19 Provision of amenities or services**

- (1) The owners corporation may, by special resolution, determine to enter into arrangements for the provision of the following amenities or services to one or more of the lots, or to the owners or occupiers of one or more of the lots:
  - (a) window cleaning,
  - (b) garbage disposal and recycling services,
  - (c) electricity, water or gas supply,
  - (d) telecommunication services (for example, cable television).
- (2) If the owners corporation makes a resolution referred to in subclause (1) to provide an amenity or service to a lot or to the owner or occupier of a lot, it must indicate in the resolution the amount for which, or the conditions on which, it will provide the amenity or service.

**Note.** Section 111 of the Act provides that an owners corporation may enter into an agreement with an owner or occupier of a lot for the provision of amenities or services by it to the lot or to the owner or occupier.

## **Retirement Village Schemes**

### **1 Noise**

An owner or occupier of a lot must not create any noise on a lot or the common property likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or of any person lawfully using common property.

### **2 Vehicles**

An owner or occupier of a lot must not park or stand any motor or other vehicle on common property except with the prior written approval of the owners corporation.

### **3 Obstruction of common property**

An owner or occupier of a lot must not obstruct lawful use of common property by any person except on a temporary and non-recurring basis.

#### **4 Damage to lawns and plants on common property**

An owner or occupier of a lot must not, except with the prior written approval of the owners corporation:

- (a) damage any lawn, garden, tree, shrub, plant or flower being part of or situated on common property, or
- (b) use for his or her own purposes as a garden any portion of the common property.

#### **5 Damage to common property**

- (1) An owner or occupier of a lot must not mark, paint, drive nails or screws or the like into, or otherwise damage or deface, any structure that forms part of the common property except with the prior written approval of the owners corporation.
- (2) An approval given by the owners corporation under subclause (1) cannot authorise any additions to the common property.
- (3) This by-law does not prevent an owner or person authorised by an owner from installing:
  - (a) any locking or other safety device for protection of the owner's lot against intruders or to improve safety within the owner's lot, or
  - (b) any health or medical equipment that is necessary to preserve the health or well-being of the occupier of the lot, or
  - (c) any screen or other device to prevent entry of animals or insects on the lot, or
  - (d) any device used to affix decorative items to the internal surfaces of walls in the owner's lot.
- (4) Any such locking or safety device, equipment, screen or other device must be installed in a competent and proper manner and must have an appearance, after it has been installed, in keeping with the appearance of the rest of the building.
- (5) Despite section 62, the owner of a lot must:
  - (a) maintain and keep in a state of good and serviceable repair any installation referred to in subclause (3) that forms part of the common property and that services the lot, and
  - (b) repair any damage caused to any part of the common property by the installation or removal of any locking or safety device, equipment, screen or other device referred to in subclause (3) that forms part of the common property and that services the lot.

#### **6 Behaviour of owners and occupiers**

An owner or occupier of a lot when on common property must be adequately clothed and must not use language or behave in a manner likely to cause offence or embarrassment to the owner or occupier of another lot or to any person lawfully using common property.

#### **7 Behaviour of invitees**

An owner or occupier of a lot must take all reasonable steps to ensure that invitees of the owner or occupier do not behave in a manner likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or any person lawfully using common property.

#### **8 Depositing rubbish and other material on common property**

An owner or occupier of a lot must not deposit or throw on the common property any rubbish, dirt, dust or other material or discarded item except with the prior written approval of the owners corporation.

#### **9 Drying of laundry items**

An owner or occupier of a lot must not, except with the prior written approval of the owners corporation, hang any washing, towel, bedding, clothing or other article on any part of the parcel in such a way as to be visible from outside the building other than on any lines provided by the owners corporation for the purpose and there only for a reasonable period.



## **10 Cleaning windows and doors**

An owner or occupier of a lot must keep clean all exterior surfaces of glass in windows and doors on the boundary of the lot, including so much as is common property, unless:

- (a) the owners corporation resolves that it will keep the glass or specified part of the glass clean, or
- (b) that glass or part of the glass cannot be accessed by the owner or occupier of the lot safely or at all.

## **11 Storage of inflammable liquids and other substances and materials**

- (1) An owner or occupier of a lot must not, except with the prior written approval of the owners corporation, use or store on the lot or on the common property any inflammable chemical, liquid or gas or other inflammable material.
- (2) This by-law does not apply to chemicals, liquids, gases or other material used or intended to be used for domestic purposes, or any chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine.

## **12 Moving furniture and other objects on or through common property**

- (1) An owner or occupier of a lot must not transport any furniture or large object through or on common property within the building unless sufficient notice has first been given to the executive committee so as to enable the executive committee to arrange for its nominee to be present at the time when the owner or occupier does so.
- (2) An owners corporation may resolve that furniture or large objects are to be transported through or on the common property (whether in the building or not) in a specified manner.
- (3) If the owners corporation has specified, by resolution, the manner in which furniture or large objects are to be transported, then an owner or occupier of a lot must not transport any furniture or large object through or on common property except in accordance with that resolution.

## **13 Floor coverings**

- (1) An owner of a lot must ensure that all floor space within the lot is covered or otherwise treated to an extent sufficient to prevent the transmission from the floor space of noise likely to disturb the peaceful enjoyment of the owner or occupier of another lot.
- (2) This by-law does not apply to floor space comprising a kitchen, laundry, lavatory or bathroom.

## **14 Garbage disposal**

- (1) An owner or occupier of a lot in a strata scheme that does not have shared receptacles for garbage, recyclable material or waste:
  - (a) must maintain such receptacles within the lot, or on such part of the common property as may be authorised by the owners corporation, in clean and dry condition and (except in the case of receptacles for recyclable material) adequately covered, and
  - (b) must ensure that before refuse, recyclable material or waste is placed in the receptacles it is, in the case of refuse, securely wrapped or, in the case of tins or other containers, completely drained, or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and
  - (c) for the purpose of having the garbage, recyclable material or waste collected, must place the receptacles within an area designated for that purpose by the owners corporation and at a time not more than 12 hours before the time at which garbage, recyclable material or waste is normally collected, and
  - (d) when the garbage, recyclable material or waste has been collected, must promptly return the receptacles to the lot or other area referred to in paragraph (a), and
  - (e) must not place any thing in the receptacles of the owner or occupier of any other lot except with the permission of that owner or occupier, and
  - (f) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled from the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.



- (2) An owner or occupier of a lot in a strata scheme that has shared receptacles for garbage, recyclable material or waste:
- (a) must ensure that before refuse, recyclable material or waste is placed in the receptacles it is, in the case of refuse, securely wrapped, or, in the case of tins or other containers, completely drained, or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and
  - (b) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled in the area of the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.

## **15 Keeping of animals**

**Note.** Select option A, B or C. If no option is selected, option A will apply.

### **Option A**

#### **(1)**

Subject to section 49 (4), an owner or occupier of a lot must not, without the prior written approval of the owners corporation, keep any animal (except fish kept in a secure aquarium on the lot) on the lot or the common property.

#### **(2)**

The owners corporation must not unreasonably withhold its approval of the keeping of an animal on a lot or the common property.

### **Option B**

#### **(1)**

Subject to section 49 (4), an owner or occupier of a lot must not, without the prior written approval of the owners corporation, keep any animal (except a cat, a small dog, a small caged bird or except fish kept in a secure aquarium kept on the lot) on the lot or the common property.

#### **(2)**

The owners corporation must not unreasonably withhold its approval of the keeping of an animal on a lot or the common property.

#### **(3)**

If an owner or occupier of a lot keeps a cat, small dog or small caged bird on the lot then the owner or occupier must:

- (a) notify the owners corporation that the animal is being kept on the lot, and
- (b) keep the animal within the lot, and
- (c) carry the animal when it is on the common property, and
- (d) take such action as may be necessary to clean all areas of the lot or the common property that are soiled by the animal.

### **Option C**

Subject to section 49 (4), the owner or occupier of a residential lot must not keep any animal on the lot or the common property.

## **16 Appearance of lot**

- (1) The owner or occupier of a lot must not, without the prior written approval of the owners corporation, maintain within the lot anything visible from outside the lot that, viewed from outside the lot, is not in keeping with the rest of the building.
- (2) This by-law does not apply to the hanging of any washing, towel, bedding, clothing or other article as referred to in by-law 9.

## **17 Change in use of lot to be notified**

An occupier of a lot must notify the owners corporation if the occupier changes the existing use of the lot in a way that may affect the insurance premiums for the strata scheme (for example, if the change of use results in a

hazardous activity being carried out on the lot, or results in the lot being used for commercial or industrial purposes rather than residential purposes).

## **18 Provision of amenities or services**

- (1) The owners corporation may, by special resolution, determine to enter into arrangements for the provision of the following amenities or services to one or more of the lots, or to the owners or occupiers of one or more of the lots:
  - (a) medical and nursing services,
  - (b) emergency response services,
  - (c) meals,
  - (d) domestic services,
  - (e) window cleaning,
  - (f) transportation,
  - (g) garbage disposal and recycling services,
  - (h) electricity, water or gas supply,
  - (i) telecommunication services (for example, cable television).
- (2) If the owners corporation makes a resolution referred to in subclause (1) to provide an amenity or service to a lot or to the owner or occupier of a lot, it must indicate in the resolution the amount for which, or the conditions on which, it will provide the amenity or service.

**Note.** Section 111 of the Act provides that an owners corporation may enter into an agreement with an owner or occupier of a lot for the provision of amenities or services by it to the lot or to the owner or occupier.

## **Industrial Schemes**

### **1 Vehicles**

- (1) An owner or occupier of a lot must not park or stand any motor or other vehicle on common property or permit any invitees of the owner or occupier to park or stand any motor or other vehicle on common property except with the prior written approval of the owners corporation.
- (2) The owners corporation must not unreasonably withhold its approval to the parking or standing of a motor vehicle on the common property.

### **2 Obstruction of common property**

An owner or occupier of a lot must not obstruct lawful use of common property by any person except on a temporary and non-recurring basis.

### **3 Damage to common property**

- (1) An owner or occupier of a lot must not mark, paint, drive nails or screws or the like into, or otherwise damage or deface, any structure that forms part of the common property except with the prior written approval of the owners corporation.
- (2) An approval given by the owners corporation under subclause (1) cannot authorise any additions to the common property.
- (3) This by-law does not prevent an owner or person authorised by an owner from installing:
  - (a) any locking or other safety device for protection of the owner's lot against intruders or to improve safety within the owner's lot, or
  - (b) any screen or other device to prevent entry of animals or insects on the lot, or
  - (c) any sign to advertise the activities of the occupier of the lot, or
  - (d) any device used to affix decorative items to the internal surfaces of walls in the owner's lot.

- (4) Any such locking or safety device, screen, other device or sign must be installed in a competent and proper manner and must have an appearance, after it has been installed, consistent with any guidelines established by the owners corporation about such installations or, in the absence of guidelines, in keeping with the appearance of the rest of the building.
- (5) Despite section 62, the owner of a lot must:
  - (a) maintain and keep in a state of good and serviceable repair any installation referred to in subclause (3) that forms part of the common property and that services the lot, and
  - (b) repair any damage caused to any part of the common property by the installation or removal of any locking or safety device, screen, other device or sign referred to in subclause (3) that forms part of the common property and that services the lot.

#### **4 Children on common property**

An owner or occupier of a lot must not permit any child of whom the owner or occupier has control to remain on common property, unless accompanied by an adult exercising effective control.

#### **5 Behaviour of invitees**

An owner or occupier of a lot must take all reasonable steps to ensure that invitees of the owner or occupier do not behave in a manner likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or any person lawfully using common property.

#### **6 Depositing rubbish and other material on common property**

An owner or occupier of a lot must not deposit or throw on the common property any rubbish, dirt, dust or other material or discarded item except with the written approval of the owners corporation.

#### **7 Cleaning windows and doors**

An owner or occupier of a lot must keep clean all exterior surfaces of glass in windows and doors on the boundary of the lot, including so much as is common property, unless:

- (a) the owners corporation resolves that it will keep the glass or specified part of the glass clean, or
- (b) that glass or part of the glass cannot be accessed by the owner or occupier of the lot safely or at all.

#### **8 Garbage disposal**

- (1) An owner or occupier of a lot in a strata scheme that does not have shared receptacles for garbage, recyclable material or waste:
  - (a) must maintain such receptacles within the lot, or on such part of the common property as may be authorised by the owners corporation, in clean and dry condition and (except in the case of receptacles for recyclable material) adequately covered, and
  - (b) must ensure that before refuse, recyclable material or waste is placed in the receptacles it is, in the case of refuse, securely wrapped or, in the case of tins or other containers, completely drained, or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and
  - (c) for the purpose of having the garbage, recyclable material or waste collected, must place the receptacles within an area designated for that purpose by the owners corporation and at a time not more than 12 hours before the time at which garbage, recyclable material or waste is normally collected, and
  - (d) when the garbage, recyclable material or waste has been collected, must promptly return the receptacles to the lot or other area referred to in paragraph (a), and
  - (e) must not place any thing in the receptacles of the owner or occupier of any other lot except with the permission of that owner or occupier, and
  - (f) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled from the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.

- (2) Subclause (1) does not require an owner or occupier of a lot to dispose of any chemical, biological, toxic or other hazardous waste in a manner that would contravene any relevant law applying to the disposal of such waste.
- (3) An owner or occupier of a lot in a strata scheme that has shared receptacles for garbage, recyclable material or waste:
  - (a) must ensure that before refuse, recyclable material or waste is placed in the receptacles it is, in the case of refuse, securely wrapped or, in the case of tins or other containers, completely drained, or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and
  - (b) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled in the area of the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.
- (4) Subclause (3) does not require an owner or occupier of a lot to dispose of any chemical, biological, toxic or other hazardous waste in a manner that would contravene any relevant law applying to the disposal of such waste.

## **9 Appearance of lot**

The owner or occupier of a lot must not, without the prior written approval of the owners corporation, maintain within the lot anything visible from outside the lot that, viewed from outside the lot, is not in keeping with the rest of the building.

## **10 Change in use of lot to be notified**

An occupier of a lot must notify the owners corporation if the occupier changes the existing use of the lot in a way that may affect the insurance premiums for the strata scheme (for example, if the change of use results in a hazardous activity being carried out on the lot).

## **11 Preservation of fire safety**

The owner or occupier of a lot must not do any thing or permit any invitees of the owner or occupier to do any thing on the lot or common property that is likely to affect the operation of fire safety devices in the parcel or to reduce the level of fire safety in the lots or common property.

## **12 Prevention of hazards**

The owner or occupier of a lot must not do any thing or permit any invitees of the owner or occupier to do any thing on the lot or common property that is likely to create a hazard or danger to the owner or occupier of another lot or any person lawfully using the common property.

## **13 Provision of amenities or services**

- (1) The owners corporation may, by special resolution, determine to enter into arrangements for the provision of the following amenities or services to one or more of the lots, or to the owners or occupiers of one or more of the lots:
  - (a) security services,
  - (b) promotional services,
  - (c) cleaning,
  - (d) garbage disposal and recycling services,
  - (e) electricity, water or gas supply,
  - (f) telecommunication services (for example, cable television).
- (2) If the owners corporation makes a resolution referred to in subclause (1) to provide an amenity or service to a lot or to the owner or occupier of a lot, it must indicate in the resolution the amount for which, or the conditions on which, it will provide the amenity or service.

**Note.** Section 111 of the Act provides that an owners corporation may enter into an agreement with an owner or occupier of a lot for the provision of amenities or services by it to the lot or to the owner or occupier.

## **Hotel/Resort Schemes**

### **1 Vehicles**

- (1) An owner or occupier of a lot must not park or stand any motor or other vehicle on common property except with the prior written approval of the owners corporation.
- (2) The owners corporation must not unreasonably withhold its approval to the parking or standing of a motor vehicle on the common property.

### **2 Obstruction of common property**

An owner or occupier of a lot must not obstruct lawful use of common property by any person except on a temporary and non-recurring basis.

### **3 Damage to common property**

- (1) An owner or occupier of a lot must not mark, paint, drive nails or screws or the like into, or otherwise damage or deface, any structure that forms part of the common property without the prior written approval of the owners corporation.
- (2) An approval given by the owners corporation under subclause (1) cannot authorise any additions to the common property.
- (3) This by-law does not prevent an owner or person authorised by an owner from installing:
  - (a) any locking or other safety device for protection of the owner's lot against intruders or to improve safety within the owner's lot, or
  - (b) any screen or other device to prevent entry of animals or insects on the lot, or
  - (c) any structure or device to prevent harm to children, or
  - (d) any device used to affix decorative items to the internal surfaces of walls in the owner's lot.
- (4) Any such locking or safety device, screen, other device or structure must be installed in a competent and proper manner and must have an appearance, after it has been installed, consistent with any guidelines established by the owners corporation about such installations or, in the absence of guidelines, in keeping with the appearance of the rest of the building.
- (5) Despite section 62, the owner of a lot must:
  - (a) maintain and keep in a state of good and serviceable repair any installation or structure referred to in subclause (3) that forms part of the common property and that services the lot, and
  - (b) repair any damage caused to any part of the common property by the installation or removal of any locking or safety device, screen, other device or structure referred to in subclause (3) that forms part of the common property and that services the lot.

### **4 Behaviour of owners and occupiers**

An owner or occupier of a lot when on common property must be adequately clothed and must not use language or behave in a manner likely to cause offence or embarrassment to the owner or occupier of another lot or to any person lawfully using common property.

### **5 Behaviour of invitees**

An owner or occupier of a lot must take all reasonable steps to ensure that invitees of the owner or occupier do not behave in a manner likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or any person lawfully using common property.

### **6 Depositing rubbish and other material on common property**

An owner or occupier of a lot must not deposit or throw on the common property any rubbish, dirt, dust or other material or discarded item except with the prior written approval of the owners corporation.



## **7 Cleaning windows and doors**

The owners corporation must keep clean all exterior surfaces of glass in windows and doors on the boundary of the lots, whether common property or part of a lot.

## **8 Storage of inflammable liquids and other substances and materials**

- (1) An owner or occupier of a lot must not, except with the prior written approval of the owners corporation, use or store on the lot or on the common property any inflammable chemical, liquid or gas or other inflammable material.
- (2) This by-law does not apply to chemicals, liquids, gases or other material used or intended to be used for domestic purposes, or any chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine.

## **9 Keeping of animals**

Subject to section 49 (4), an owner or occupier of a lot must not keep any animal on the lot or the common property.

## **10 Appearance of lot**

The owner or occupier of a lot must not, without the prior written approval of the owners corporation, maintain within the lot anything visible from outside the lot that, viewed from outside the lot, is not in keeping with the rest of the building.

## **11 Preservation of fire safety**

The owner or occupier of a lot must not do any thing or permit any invitees of the owner or occupier to do any thing on the lot or common property that is likely to affect the operation of fire safety devices in the parcel or to reduce the level of fire safety in the lots or common property.

## **12 Provision of amenities or services**

- (1) The owners corporation may, by special resolution, determine to enter into arrangements for the provision of the following amenities or services to one or more of the lots, or to the owners or occupiers of one or more of the lots:
  - (a) electricity, water or gas supply,
  - (b) telecommunication services (for example, cable television).
- (2) If the owners corporation makes a resolution referred to in subclause (1) to provide an amenity or service to a lot or to the owner or occupier of a lot, it must indicate in the resolution the amount for which, or the conditions on which, it will provide the amenity or service.

**Note.** Section 111 of the Act provides that an owners corporation may enter into an agreement with an owner or occupier of a lot for the provision of amenities or services by it to the lot or to the owner or occupier.

## **Commercial/Retail Schemes**

### **1 Vehicles**

- (1) An owner or occupier of a lot must not park or stand any motor or other vehicle on common property or permit any invitees of the owner or occupier to park or stand any motor or other vehicle on common property except with the prior written approval of the owners corporation.
- (2) The owners corporation must not unreasonably withhold its approval to the parking or standing of a motor vehicle on the common property.

### **2 Obstruction of common property**

An owner or occupier of a lot must not obstruct lawful use of common property by any person except on a temporary and non-recurring basis (for example a temporary display).

### **3 Damage to common property**

- (1) An owner or occupier of a lot must not mark, paint, drive nails or screws or the like into, or otherwise damage or deface, any structure that forms part of the common property without the written approval of the owners corporation.
- (2) An approval given by the owners corporation under subclause (1) cannot authorise any additions to the common property.
- (3) This by-law does not prevent an owner or person authorised by an owner from installing:
  - (a) any locking or other safety device for protection of the owner's lot against intruders or to improve safety within the owner's lot, or
  - (b) any screen or other device to prevent entry of animals or insects on the lot, or
  - (c) any sign to advertise the activities of the occupier of the lot if the owners corporation has specified locations for such signs and that sign is installed in the specified locations, or
  - (d) any device used to affix decorative items to the internal surfaces of walls in the owner's lot.
- (4) Any such locking or safety device, screen, other device or sign must be installed in a competent and proper manner and must have an appearance, after it has been installed, consistent with any guidelines established by the owners corporation about such installations or, in the absence of guidelines, in keeping with the appearance of the rest of the building.
- (5) Despite section 62, the owner of a lot must:
  - (a) maintain and keep in a state of good and serviceable repair any installation referred to in subclause (3) that forms part of the common property and that services the lot, and
  - (b) repair any damage caused to any part of the common property by the installation or removal of any locking or safety device, screen, other device or sign referred to in subclause (3) that forms part of the common property and that services the lot.

### **4 Behaviour of invitees**

An owner or occupier of a lot must take all reasonable steps to ensure that invitees of the owner or occupier (including all customers and staff) do not behave in a manner likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or any person lawfully using common property.

### **5 Depositing rubbish and other material on common property**

An owner or occupier of a lot must not deposit or throw on the common property any rubbish, dirt, dust or other material or discarded item except with the prior written approval of the owners corporation.

### **6 Cleaning windows and doors**

The owners corporation must keep clean all exterior surfaces of glass in windows and doors on the boundary of the lots, whether a part of a lot or common property.

### **7 Garbage disposal**

- (1) An owner or occupier of a lot in a strata scheme that does not have shared receptacles for garbage, recyclable material or waste:
  - (a) must maintain such receptacles within the lot, or on such part of the common property as may be authorised by the owners corporation, in clean and dry condition and (except in the case of receptacles for recyclable material) adequately covered, and
  - (b) must ensure that before refuse, recyclable material or waste is placed in the receptacles it is, in the case of refuse, securely wrapped or, in the case of tins or other containers, completely drained, or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and
  - (c) for the purpose of having the garbage, recyclable material or waste collected, must place the receptacles within an area designated for that purpose by the owners corporation and at a time not more than 12 hours before the time at which garbage, recyclable material or waste is normally collected, and



- (d) when the garbage, recyclable material or waste has been collected, must promptly return the receptacles to the lot or other area referred to in paragraph (a), and
  - (e) must not place any thing in the receptacles of the owner or occupier of any other lot except with the permission of that owner or occupier, and
  - (f) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled from the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.
- (2) Subclause (1) does not require an owner or occupier of a lot to dispose of any chemical, biological, toxic or other hazardous waste in a manner that would contravene any relevant law applying to the disposal of such waste.
  - (3) An owner or occupier of a lot in a strata scheme that has shared receptacles for garbage, recyclable material or waste:
    - (a) must ensure that before refuse, recyclable material or waste is placed in the receptacles it is, in the case of refuse, securely wrapped or, in the case of tins or other containers, completely drained, or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and
    - (b) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled in the area of the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.
  - (4) Subclause (3) does not require an owner or occupier of a lot to dispose of any chemical, biological, toxic or other hazardous waste in a manner that would contravene any relevant law applying to the disposal of such waste.

## **8 Appearance of lot**

The owner or occupier of a lot must not, without the prior written approval of the owners corporation, maintain within the lot anything visible from outside the lot that, viewed from outside the lot, is not in keeping with the rest of the building.

## **9 Change in use of lot to be notified**

An occupier of a lot must notify the owners corporation if the occupier changes the existing use of the lot in a way that may affect the insurance premiums for the strata scheme (for example, if the change of use results in a hazardous activity being carried out on the lot).

## **10 Preservation of fire safety**

The owner or occupier of a lot must not do any thing or permit any invitees of the owner or occupier to do any thing on the lot or common property that is likely to affect the operation of fire safety devices in the parcel or to reduce the level of fire safety in the lots or common property.

## **11 Prevention of hazards**

The owner or occupier of a lot must not do any thing or permit any invitees of the owner or occupier to do any thing on the lot or common property that is likely to create a hazard or danger to the owner or occupier of another lot or any person lawfully using the common property.

## **12 Provision of amenities or services**

- (1) The owners corporation may, by special resolution, determine to enter into arrangements for the provision of the following amenities or services to one or more of the lots, or to the owners or occupiers of one or more of the lots:
  - (a) security services,
  - (b) promotional services,
  - (c) advertising,
  - (d) cleaning,



- (e) garbage disposal and recycling services,
  - (f) electricity, water or gas supply,
  - (g) telecommunication services (for example, cable television).
- (2) If the owners corporation makes a resolution referred to in subclause (1) to provide an amenity or service to a lot or to the owner or occupier of a lot, it must indicate in the resolution the amount for which, or the conditions on which, it will provide the amenity or service.

**Note.** Section 111 of the Act provides that an owners corporation may enter into an agreement with an owner or occupier of a lot for the provision of amenities or services by it to the lot or to the owner or occupier.

### **13 Controls on hours of operation and use of facilities**

- (1) The owners corporation may, by special resolution, make any of the following determinations if it considers the determination is appropriate for the control, management, administration, use or enjoyment of the lots or the lots and common property of the strata scheme:
- (a) that commercial or business activities may be conducted on a lot or common property only during certain times,
  - (b) that facilities situated on the common property may be used only during certain times or on certain conditions.
- (2) An owner or occupier of a lot must comply with a determination referred to in subclause (1).

### **Mixed Use Schemes**

#### **1 Noise**

An owner or occupier of a lot must not create any noise on a lot or the property likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or of any person lawfully using common property.

#### **2 Vehicles**

- (1) An owner or occupier of a lot must not park or stand any motor or other vehicle on common property or permit any invitees of the owner or occupier to park or stand any motor or other vehicle on common property except with the prior written approval of the owners corporation.
- (2) The owners corporation must not unreasonably withhold its approval to the parking or standing of a motor vehicle on the common property.

#### **3 Obstruction of common property**

An owner or occupier of a lot must not obstruct lawful use of common property by any person except on a temporary and non-recurring basis.

#### **4 Damage to lawns and plants on common property**

An owner or occupier of a lot must not, except with the prior written approval of the owners corporation:

- (a) damage any lawn, garden, tree, shrub, plant or flower being part of or situated on common property, or
- (b) use for his or her own purposes as a garden any portion of the common property.

#### **5 Damage to common property**

- (1) An owner or occupier of a lot must not mark, paint, drive nails or screws or the like into, or otherwise damage or deface, any structure that forms part of the common property except with the written approval of the owners corporation.
- (2) An approval given by the owners corporation under subclause (1) cannot authorise any additions to the common property.
- (3) This by-law does not prevent an owner or person authorised by an owner from installing:
- (a) any locking or other safety device for protection of the owner's lot against intruders or to improve safety within the owner's lot, or

- (b) any screen or other device to prevent entry of animals or insects on the lot, or
  - (c) any structure or device to prevent harm to children, or
  - (d) any sign to advertise the activities of the occupier of the lot if the owners corporation has specified locations for such signs and that sign is installed in the specified locations, or
  - (e) any device used to affix decorative items to the internal surfaces of walls in the owner's lot.
- (4) Any such locking or safety device, screen, other device or structure must be installed in a competent and proper manner and must have an appearance, after it has been installed, in keeping with the appearance of the rest of the building.
- (5) Despite section 62, the owner of a lot must:
- (a) maintain and keep in a state of good and serviceable repair any installation or structure referred to in subclause (3) that forms part of the common property and that services the lot, and
  - (b) repair any damage caused to any part of the common property by the installation or removal of any locking or safety device, screen, other device or structure referred to in subclause (3) that forms part of the common property and that services the lot.

## **6 Behaviour of owners and occupiers**

An owner or occupier of a lot when on common property must be adequately clothed and must not use language or behave in a manner likely to cause offence or embarrassment to the owner or occupier of another lot or to any person lawfully using common property.

## **7 Children playing on common property in building**

An owner or occupier of a lot must not permit any child of whom the owner or occupier has control to play on common property within the building or, unless accompanied by an adult exercising effective control, to be or to remain on common property comprising a laundry, car parking area or other area of possible danger or hazard to children.

## **8 Behaviour of invitees**

An owner or occupier of a lot must take all reasonable steps to ensure that invitees of the owner or occupier do not behave in a manner likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or any person lawfully using common property.

## **9 Depositing rubbish and other material on common property**

An owner or occupier of a lot must not deposit or throw on the common property any rubbish, dirt, dust or other material or discarded item except with the prior written approval of the owners corporation.

## **10 Drying of laundry items**

An owner or occupier of a lot must not, except with the prior written approval of the owners corporation, hang any washing, towel, bedding, clothing or other article on any part of the parcel in such a way as to be visible from outside the building other than on any lines provided by the owners corporation for the purpose and there only for a reasonable period.

## **11 Cleaning windows and doors**

An owner or occupier of a lot must keep clean all exterior surfaces of glass in windows and doors on the boundary of the lot, including so much as is common property, unless:

- (a) the owners corporation resolves that it will keep the glass or specified part of the glass clean, or
- (b) that glass or part of the glass cannot be accessed by the owner or occupier of the lot safely or at all.

## **12 Storage of inflammable liquids and other substances and materials**

- (1) An owner or occupier of a lot must not, except with the prior written approval of the owners corporation, use or store on the lot or on the common property any inflammable chemical, liquid or gas or other inflammable material.

- (2) This by-law does not apply to chemicals, liquids, gases or other material used or intended to be used for domestic purposes, or any chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine.

### **13 Moving furniture and other objects on or through common property**

- (1) An owner or occupier of a lot must not transport any furniture, large object or deliveries to or from the lot through or on common property within the building unless sufficient notice has first been given to the executive committee so as to enable the executive committee to arrange for its nominee to be present at the time when the owner or occupier does so.
- (2) An owners corporation may resolve that furniture, large objects or deliveries to and from the lot are to be transported through or on the common property (whether in the building or not) in a specified manner.
- (3) If the owners corporation has specified, by resolution, the manner in which furniture, large objects or deliveries to and from the lot are to be transported, then an owner or occupier of a lot must not transport any furniture, large object or deliveries to and from the lot through or on common property except in accordance with that resolution.

### **14 Floor coverings**

- (1) An owner of a lot must ensure that all floor space within the lot is covered or otherwise treated to an extent sufficient to prevent the transmission from the floor space of noise likely to disturb the peaceful enjoyment of the owner or occupier of another lot.
- (2) This by-law does not apply to floor space comprising a kitchen, laundry, lavatory or bathroom.

### **15 Garbage disposal**

- (1) An owner or occupier of a lot in a strata scheme that does not have shared receptacles for garbage, recyclable material or waste:
- (a) must maintain such receptacles within the lot, or on such part of the common property as may be authorised by the owners corporation, in clean and dry condition and (except in the case of receptacles for recyclable material) adequately covered, and
  - (b) must ensure that before refuse, recyclable material or waste is placed in the receptacles it is, in the case of refuse, securely wrapped or, in the case of tins or other containers, completely drained, or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and
  - (c) for the purpose of having the garbage, recyclable material or waste collected, must place the receptacles within an area designated for that purpose by the owners corporation and at a time not more than 12 hours before the time at which garbage, recyclable material or waste is normally collected, and
  - (d) when the garbage, recyclable material or waste has been collected, must promptly return the receptacles to the lot or other area referred to in paragraph (a),
  - (e) must not place any thing in the receptacles of the owner or occupier of any other lot except with the permission of that owner or occupier, and
  - (f) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled from the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.
- (2) Subclause (1) does not require an owner or occupier of a lot to dispose of any chemical, biological, toxic or other hazardous waste in a manner that would contravene any relevant law applying to the disposal of such waste.
- (3) An owner or occupier of a lot in a strata scheme that has shared receptacles for garbage, recyclable material or waste:
- (a) must ensure that before refuse, recyclable material or waste is placed in the receptacles it is, in the case of refuse, securely wrapped or, in the case of tins or other containers, completely drained, or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and

- (b) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled in the area of the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.
- (4) Subclause (3) does not require an owner or occupier of a lot to dispose of any chemical, biological, toxic or other hazardous waste in a manner that would contravene any relevant law applying to the disposal of such waste.

## **16 Keeping of animals**

**Note.** Select option A, B or C. If no option is selected, option A will apply.

### **Option A**

#### **(1)**

Subject to section 49 (4), an owner or occupier of a residential lot must not, without the prior written approval of the owners corporation, keep any animal (except fish kept in a secure aquarium on the lot) on the lot or the common property.

#### **(2)**

The owners corporation must not unreasonably withhold its approval of the keeping of an animal on a residential lot or the common property.

### **Option B**

#### **(1)**

Subject to section 49 (4), an owner or occupier of a residential lot must not, without the prior written approval of the owners corporation, keep any animal (except a cat, a small dog or a small caged bird, or fish kept in a secure aquarium on the lot) on the lot or the common property.

#### **(2)**

The owners corporation must not unreasonably withhold its approval of the keeping of an animal on a residential lot or the common property.

#### **(3)**

If an owner or occupier of a residential lot keeps a cat, small dog or small caged bird on the lot then the owner or occupier must:

- (a) notify the owners corporation that the animal is being kept on the lot, and
- (b) keep the animal within the lot, and
- (c) carry the animal when it is on the common property, and
- (d) take such action as may be necessary to clean all areas of the lot or the common property that are soiled by the animal.

### **Option C**

Subject to section 49 (4), an owner or occupier of a residential lot must not keep any animal on the lot or the common property.

## **17 Appearance of lot**

- (1) The owner or occupier of a lot must not, except with the prior written approval of the owners corporation, maintain within the lot anything visible from outside the lot that, viewed from outside the lot, is not in keeping with the rest of the building.
- (2) This by-law does not apply to the hanging of any washing, towel, bedding, clothing or other article as referred to in by-law 10.

## **18 Change in use of lot to be notified**

An occupier of a lot must notify the owners corporation if the occupier changes the existing use of the lot in a way that may affect the insurance premiums for the strata scheme (for example, if the change of use results in a hazardous activity being carried out on the lot, or results in the lot being used for commercial or industrial purposes rather than residential purposes).

## **19 Preservation of fire safety**

The owner or occupier of a lot must not do any thing or permit any invitees of the owner or occupier to do any thing on the lot or common property that is likely to affect the operation of fire safety devices in the parcel or to reduce the level of fire safety in the lots or common property.

## **20 Prevention of hazards**

The owner or occupier of a lot must not do any thing or permit any invitees of the owner or occupier to do any thing on the lot or common property that is likely to create a hazard or danger to the owner or occupier of another lot or any person lawfully using the common property.

## **21 Provision of amenities or services**

- (1) The owners corporation may, by special resolution, determine to enter into arrangements for the provision of the following amenities or services to one or more of the lots, or to the owners or occupiers of one or more of the lots:
  - (a) security services,
  - (b) promotional services,
  - (c) advertising,
  - (d) commercial cleaning,
  - (e) domestic services,
  - (f) garbage disposal and recycling services,
  - (g) electricity, water or gas supply,
  - (h) telecommunication services (for example, cable television).
- (2) If the owners corporation makes a resolution referred to in subclause (1) to provide an amenity or service to a lot or to the owner or occupier of a lot, it must indicate in the resolution the amount for which, or the conditions on which, it will provide the amenity or service.

**Note.** Section 111 of the Act provides that an owners corporation may enter into an agreement with an owner or occupier of a lot for the provision of amenities or services by it to the lot or to the owner or occupier.

## **22 Controls on hours of operation and use of facilities**

- (1) The owners corporation may, by special resolution, make any of the following determinations if it considers the determination is appropriate for the control, management, administration, use or enjoyment of the lots or the lots and common property of the strata scheme:
  - (a) that commercial or business activities may be conducted on a lot or common property only during certain times,
  - (b) that facilities situated on the common property may be used only during certain times or on certain conditions.
- (2) An owner or occupier of a lot must comply with a determination referred to in subclause (1).



FOLIO: 1/SP21446

-----

| SEARCH DATE | TIME    | EDITION NO | DATE       |
|-------------|---------|------------|------------|
| -----       | ----    | -----      | ----       |
| 17/10/2020  | 7:48 AM | 4          | 19/10/2005 |

LAND

----

LOT 1 IN STRATA PLAN 21446  
AT BALGOWLAH  
LOCAL GOVERNMENT AREA NORTHERN BEACHES

FIRST SCHEDULE

-----

JOHN MERVYN HEALD  
SANDRA JOAN HEALD  
AS JOINT TENANTS (T AB848018)

SECOND SCHEDULE (3 NOTIFICATIONS)

-----

1 INTERESTS RECORDED ON REGISTER FOLIO CP/SP21446  
2 SP21446 RIGHT OF FOOTWAY AFFECTING THE PART SHOWN SO  
BURDENED IN THE TITLE DIAGRAM  
3 SP21446 RIGHT OF FOOTWAY APPURTENANT TO THE LAND ABOVE  
DESCRIBED

NOTATIONS

-----

UNREGISTERED DEALINGS: NIL

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



FOLIO: CP/SP21446

-----

| SEARCH DATE | TIME    | EDITION NO | DATE |
|-------------|---------|------------|------|
| -----       | ----    | -----      | ---- |
| 17/10/2020  | 7:48 AM | -          | -    |

VOL 15219 FOL 91 IS THE CURRENT CERTIFICATE OF TITLE

LAND

-----

THE COMMON PROPERTY IN THE STRATA SCHEME BASED ON STRATA PLAN 21446  
WITHIN THE PARCEL SHOWN IN THE TITLE DIAGRAM

AT BALGOWLAH

LOCAL GOVERNMENT AREA NORTHERN BEACHES

PARISH OF MANLY COVE COUNTY OF CUMBERLAND

TITLE DIAGRAM SHEET 1 SP21446

FIRST SCHEDULE

-----

THE OWNERS - STRATA PLAN NO. 21446

ADDRESS FOR SERVICE OF DOCUMENTS:

3A NEILD AVENUE

BALGOWLAH 2093

SECOND SCHEDULE (3 NOTIFICATIONS)

-----

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- \* 2 ATTENTION IS DIRECTED TO BY-LAWS SET OUT IN SCHEDULE 2 STRATA  
SCHEMES MANAGEMENT REGULATION 2016
- \* 3 DP538142 RIGHT OF CARRIAGEWAY 3.05 WIDE AND VARIABLE  
APPURTENANT TO THE LAND ABOVE DESCRIBED (SEE L638960)

SCHEDULE OF UNIT ENTITLEMENT (AGGREGATE: 100)

-----

STRATA PLAN 21446

| LOT | ENT  | LOT | ENT  |
|-----|------|-----|------|
| 1   | - 56 | 2   | - 44 |

NOTATIONS

-----

UNREGISTERED DEALINGS: NIL

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



**Signatures, seals and statements of intention to create easements or restrictions as to user**

PURSUANT TO SECTION 7(3) STRATA TITLES ACT, 1973 AND PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919 AS AMENDED IT IS INTENDED TO CREATE:-

1. RIGHT OF FOOTWAY 0.6 AND 1.39 WIDE

Signed and Sealed by the said  
Bank at Sydney by its Attorney  
**KEITH WILLIAM PARKER**  
who is personally known to me.

SYDNEY  
BANK OFFICE

**SITRALLA AND NEW ZEALAND BANKING GROUP LIMITED**  
INCORPORATING BANK OF AUSTRIA AND ESABA BANK  
**KEITH WILLIAM PARKER**  
By its Attorney  
I, D. L. the said Attorney state that I have not received  
any notice from the Registrar General's Office  
insisted in the name of the Registrar General's Office  
No. 20-28 Park Road, 3403 under which the document is  
dated.  
\_\_\_\_\_  
Solicitor / FARM MANAGER FOR THE  
THE BANKING OF AUSTRALIA AND NEW ZEALAND BANKING

TIME-BEING OF AUSTRIA, AND NEW ZEALAND BANKING  
GROUP LIMITED

THE OFFICIAL SEAL of CITICORP AUSTRALIA LIMITED was hitherto affixed in accordance with the memorandum and articles of association of the Company and in the presence of the undersigned persons and authorised by the authority for use of the Official Seal in New South Wales by an appointment dated 9th May 1983 duly registered in the Office of the Registrar-General Register No. 467 Book 3345.

SIGNED AT Sydney  
THIS 5<sup>th</sup> DAY OF \_\_\_\_\_  
April 1984  
R. H. [Signature]  
RICHARD AVERY HEADLEY


SUBDIVISION OF  
 PLAN OF LOT 1 IN D.P. 228402

|                    |            |                       |            |           |
|--------------------|------------|-----------------------|------------|-----------|
| Mun./Shire<br>City | :          | MANLY                 | Locality : | BALGOWLAH |
| Parish :           | MANLY COVE | County :              | CUMBERLAND |           |
| Reduction Ratio    | 1:400      | Lengths are in metres |            |           |

Name of, and \*address for  
 service of notices on, the  
 body corporate  
 \*Address required on  
 original strata plan only.

THE PROPRIETORS,  
 STRATA PLAN N° 2, 14446  
 N° 3A NIELD AVENUE,  
 BALGOWLAH, 2093

STRATA PLAN 21446

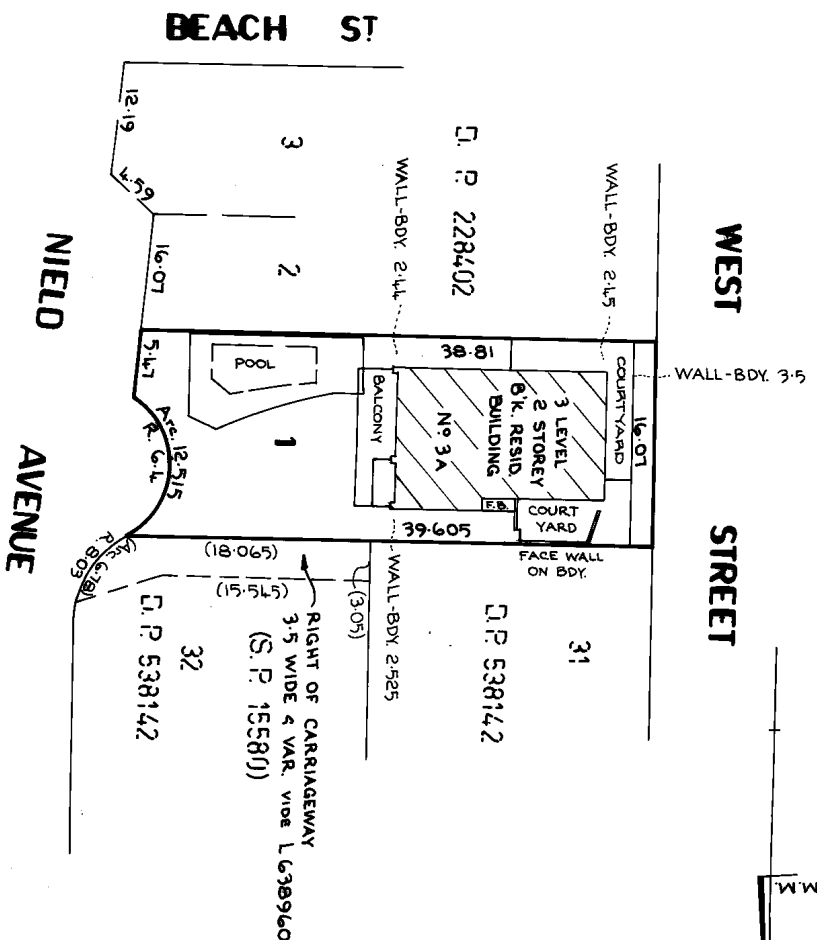
Registered:  18.4.1984

C.A. N° 31615 of 14.3.1984

Purpose: STRATA PLAN

Ref. Map: U1852-22 \*

Last Plan: D.P. 228402



**Plan Drawing only to appear in this space**

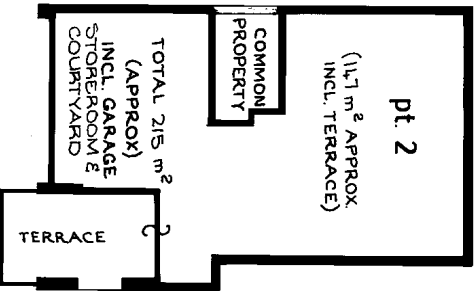
**SURVEYOR'S REFERENCE:** 21037

**Plan Drawing only to appear in this space**



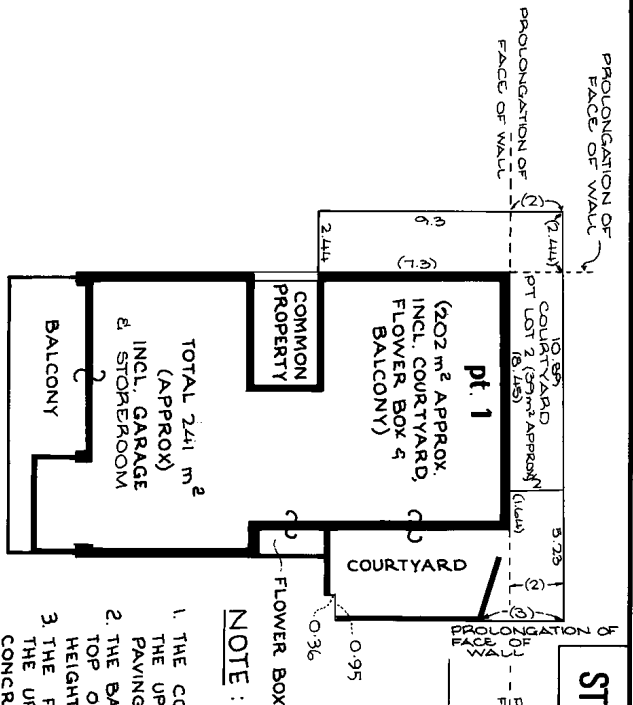
Diagram illustrating the layout of the property, showing various areas and dimensions:

- PT LOT 1** (2m² APPROX)
- STOREROOMS**
- PT 1** (20m² (APPROX))
- PT LOT 2** (8m² (APPROX))
- PT 2** (21 m² (APPROX))
- GARAGES**
- C.R.**
- Dimensions and Bearings:**
  - 3.65
  - 17.25
  - 10.79
  - 1.97
  - 10.79
  - 1.97
  - 1.19
  - 1.19



## LEVEL 3

THE UNCOVERED PART OF THE TERRACE EXTENDS FROM THE UPPER SURFACE OF THE CONCRETE SLAB UPWARDS TO THE HORIZONTAL PLANE OF THE UNDERSIDE OF THE HORIZONTAL EAVE ABOVE.



1. THE COURTYARDS EXTENDS FROM THE UPPER SURFACE OF THE CONCRETE PAVING TO A HEIGHT OF 2.8.
2. THE BALCONY EXTENDS FROM THE TOP OF THE TIMBER FLOOR TO A HEIGHT OF 2.6.
3. THE FLOWER BOX EXTENDS FROM THE UPPER SURFACE OF THE CONCRETE SLAB TO A HEIGHT OF 2.

NOTE:

| SCHEDULE OF UNIT ENTITLEMENT |                  |
|------------------------------|------------------|
| LOT N°                       | UNIT ENTITLEMENT |
| 1                            | 56               |
| 2                            | 44               |
| TOTAL                        | 100              |

**Lengths are in metres**

  
Council Clerk



\* OFFICE USE ONLY

SURVEYOR'S REFERENCE: 21037

INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS AS TO USER INTENDED  
TO BE CREATED PURSUANT TO SECTION 7(3) STRATA TITLES ACT, 1973 AND SECTION 88B,  
CONVEYANCING ACT, 1919.

Lengths are in metres.

(Sheet 1 of 1 Sheet)

PART 1

Strata Plan: 21446 (E)

Subdivision covered by Councils  
Certificate No. 3161/S of 14.3.84

Full name and address of  
proprietor of the land.

Nelson John Meers  
3A Nield Avenue, Balgowlah

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

Right of Footway 0.6 and 1.39 wide.

Schedule of lots affected.

Lots burdened

1  
2

Lots benefited

2  
1

Signed in my presence by Nelson John Meers  
who is personally known to me:

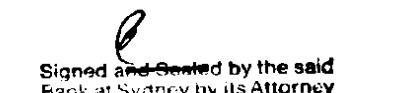
  
Signature of Witness

PETER JOHN KENNEDY

Name of Witness (BLOCK LETTERS)

blank

Qualification of Witness

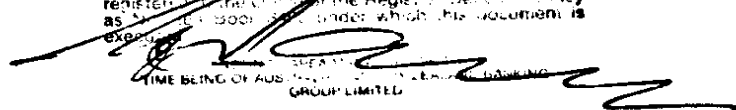
  
Signed and Sealed by the said  
Bank at Sydney by its Attorney  
KEITH WILLIAM PARKER  
who is personally known to me.

  
SYDNEY  
BANK OFFICER

AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED  
INCORPORATING ANZ BANK AND LS&A BANK

by its Attorney  
KEITH WILLIAM PARKER

and I, the said Attorney state that I have not received  
any notice of the revocation of the Power of Attorney  
registered in the Office of the Registrar-General as  
attorney for the said Bank under which this document is  
executed.

  
TIME BEING OF AUSTRALIA AND NEW ZEALAND BANKING  
GROUP LIMITED

The OFFICIAL SEAL of CITICORP AUSTRALIA  
LIMITED was hereunto affixed in accordance with the  
memorandum and articles of association of the Company.  
In the presence of the undersigned persons and  
authorised by the authority for use of the Official  
Seal in New South Wales by an appointment dated  
24 May 1983 duly registered in the Office of the  
Registrar-General Register No. 487 Book 3545.

SIGNED AT Sydney  
THIS 6<sup>th</sup> DAY OF  
MAY 1984  
BY KEITH WILLIAM PARKER  
Attorney for the said Bank



**INSTRUMENT SETTING OUT INTERESTS CREATED**

**PURSUANT TO SECTION 88B, CONVEYANCING ACT,**

**1919, LODGED WITH**

**52 21446**



**16 4 1984**

INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS AS TO USER INTENDED  
TO BE CREATED PURSUANT TO SECTION 7(3) STRATA TITLES ACT, 1973 AND SECTION 88B,  
CONVEYANCING ACT, 1919.

Lengths are in metres.

(Sheet 1 of 1 Sheet)

PART 1

Strata Plan: 21446 (E)

Subdivision covered by Councils  
Certificate No. 31615 of 14.3.84

Full name and address of  
proprietor of the land.

Nelson John Meers  
3A Nield Avenue, Balgowlah

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

Right of Footway 0.6 and 1.39 wide.

Schedule of lots affected.

Lots burdened

1  
2

Lots benefited

2  
1

Signed in my presence by Nelson John Meers  
who is personally known to me:


  
Signature of Witness

PETER JOHN KENNEDY

Name of Witness (BLOCK LETTERS)

blank

Qualification of Witness

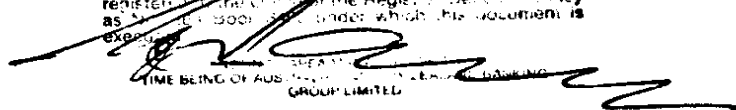
  
Signed and Sealed by the said  
Bank at Sydney by its Attorney  
KEITH WILLIAM PARKER  
who is personally known to me.

  
SYDNEY  
BANK OFFICER

AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED  
INCORPORATING ANZ BANK AND LS&A BANK

by its Attorney  
KEITH WILLIAM PARKER

and I, the said Attorney state that I have not received  
any notice of the revocation of the Power of Attorney  
registered in the Office of the Registrar-General  
as the said Power of Attorney under which this document is  
executed.

  
TIME BEING OF AUSTRALIA AND NEW ZEALAND BANKING  
GROUP LIMITED

The OFFICIAL SEAL of CITICORP AUSTRALIA  
LIMITED was hereunto affixed in accordance with the  
memorandum and articles of association of the Company.  
In the presence of the undersigned persons and  
authorised by the authority for use of the Official  
Seal in New South Wales by an appointment dated  
24 May 1983 duly registered in the Office of the  
Registrar-General Register No. 487 Book 3545.

SIGNED AT Sydney  
THIS 6<sup>th</sup> DAY OF  
MAY 1984  
BY KEITH WILLIAM PARKER  
Attorney for the Bank



**INSTRUMENT SETTING OUT INTERESTS CREATED**

**PURSUANT TO SECTION 88B, CONVEYANCING ACT,**

**1919, LODGED WITH**

**52 21446**



**16 4 1984**

L638960

Sheet only  
Najee  
10.11.02

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

PART 1.

Plan:

DP538142

Subdivision of Certificate of Title Volume  
8144 Folio 189, covered by Council Clerk's  
Certificate No. 2149 of 1961/4/6/1966

Full name and address of  
proprietor of the land.

Belgrave Nominee Corporation Pty. Ltd. of  
8 Belgrave Street Manly and Pauline Glenda  
Webb of 3A Nield Avenue Balgowlah, Married  
Woman as tenants in common in equal shares.

1. Identity of easement  
or restriction firstly  
referred to in above-  
mentioned plan.

Right of carriageway ten (10) feet wide  
and variable

Schedule of lots, etc. affected.

Lots burdened

32  
32

Lots, name of road, or Authority,  
benefited.

31  
Lot 1 D.P. 228402.  
Volume 10238 Folio 213.

2. Identity of easement  
or restriction secondly  
referred to in above-  
mentioned plan:

Easement to drain water three (3)  
feet wide.

Schedule of lots, etc. affected.

Lots burdened

32

Lots, name of road, or Authority,  
benefited

31

Signed in my presence by Pauline  
Glenda Webb who is personally  
known to me.

..... P. Webb. ....

*[Signature]*

S. S. WEBB  
SOLICITOR  
MANLY

The Common Seal of Belgrave  
Nominee Corporation Pty. Ltd.  
was hereunto affixed by the  
authority of the Board of  
Directors by a Director in the  
presence of the Secretary. I

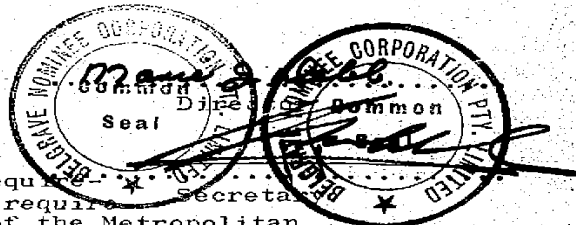
hereby certify that the requirements of the  
Local Government Act 1919 (other than the requirements of the registration of plans) and the requirements of the Metropolitan  
MANLY MUNICIPAL COUNCILMENTS of Section 34B of the Metropolitan  
Water Sewerage & Drainage Act 1924 have been complied  
with by the Applicant in relation to the proposed sub-  
division referred to herein,  
Sub-division No. 2149 of 14/6/1966  
dated 21st August 1969.

Town Clerk.

Signed by its Attorney  
JOHN REX CAREY  
under power for and on behalf of  
Australia and New Zealand Bank  
Limited in the presence of:

*[Signature]* J.P.

JUSTICE OF THE PEACE  
FOR NEW SOUTH WALES



AUSTRALIA AND NEW ZEALAND BANK LIMITED  
By its Attorney

and I, the said Attorney, state that I have not received any notice  
of the revocation of the Power of Attorney, registered No. 50419  
Miscellaneous Register and No. 18156 Land Titles Office, Sydney,  
under the authority of which I have just executed the above  
instrument of mortgage.

*[Signature]*

District Manager for the time being  
of Australia and New Zealand Bank  
Limited for New South Wales

Instrument pursuant to Regulation 52D Conveyancing  
Act Regulations, 1961, setting out the terms of  
easements or restrictions as to user created by  
registration of the within-mentioned Deposited Plan.



7-11-1969

L638960

B. J. McLeod

[illegible]

CONVERSION TABLE ADDED IN  
REGISTRATION GENERAL DEPARTMENT

DP 336342 SH 12

| FEET INCHES | METRES |
|-------------|--------|
| 1           | 0.304  |
| 2           | 0.508  |
| 3           | 0.762  |
| 4           | 1.016  |
| 5           | 1.270  |
| 6           | 1.524  |
| 7           | 1.778  |
| 8           | 2.032  |
| 9           | 2.286  |
| 10          | 2.540  |
| 11          | 2.794  |
| 12          | 3.048  |
| 13          | 3.302  |
| 14          | 3.556  |
| 15          | 3.810  |
| 16          | 4.064  |
| 17          | 4.318  |
| 18          | 4.572  |
| 19          | 4.826  |
| 20          | 5.080  |
| 21          | 5.334  |
| 22          | 5.588  |
| 23          | 5.842  |
| 24          | 6.096  |
| 25          | 6.350  |
| 26          | 6.604  |
| 27          | 6.858  |
| 28          | 7.112  |
| 29          | 7.366  |
| 30          | 7.620  |
| 31          | 7.874  |
| 32          | 8.128  |
| 33          | 8.382  |
| 34          | 8.636  |
| 35          | 8.890  |
| 36          | 9.144  |
| 37          | 9.398  |
| 38          | 9.652  |
| 39          | 9.906  |
| 40          | 10.160 |
| 41          | 10.414 |
| 42          | 10.668 |
| 43          | 10.922 |
| 44          | 11.176 |
| 45          | 11.430 |
| 46          | 11.684 |
| 47          | 11.938 |
| 48          | 12.192 |
| 49          | 12.446 |
| 50          | 12.700 |
| 51          | 12.954 |
| 52          | 13.208 |
| 53          | 13.462 |
| 54          | 13.716 |
| 55          | 13.970 |
| 56          | 14.224 |
| 57          | 14.478 |
| 58          | 14.732 |
| 59          | 14.986 |
| 60          | 15.240 |
| 61          | 15.494 |
| 62          | 15.748 |
| 63          | 16.002 |
| 64          | 16.256 |
| 65          | 16.510 |
| 66          | 16.764 |
| 67          | 17.018 |
| 68          | 17.272 |
| 69          | 17.526 |
| 70          | 17.780 |
| 71          | 18.034 |
| 72          | 18.288 |
| 73          | 18.542 |
| 74          | 18.796 |
| 75          | 19.050 |
| 76          | 19.304 |
| 77          | 19.558 |
| 78          | 19.812 |
| 79          | 20.066 |
| 80          | 20.320 |
| 81          | 20.574 |
| 82          | 20.828 |
| 83          | 21.082 |
| 84          | 21.336 |
| 85          | 21.590 |
| 86          | 21.844 |
| 87          | 22.098 |
| 88          | 22.352 |
| 89          | 22.606 |
| 90          | 22.860 |
| 91          | 23.114 |
| 92          | 23.368 |
| 93          | 23.622 |
| 94          | 23.876 |
| 95          | 24.130 |
| 96          | 24.384 |
| 97          | 24.638 |
| 98          | 24.892 |
| 99          | 25.146 |
| 100         | 25.400 |
| 101         | 25.654 |
| 102         | 25.908 |
| 103         | 26.162 |
| 104         | 26.416 |
| 105         | 26.670 |
| 106         | 26.924 |
| 107         | 27.178 |
| 108         | 27.432 |
| 109         | 27.686 |
| 110         | 27.940 |
| 111         | 28.194 |
| 112         | 28.448 |
| 113         | 28.702 |
| 114         | 28.956 |
| 115         | 29.210 |
| 116         | 29.464 |
| 117         | 29.718 |
| 118         | 29.972 |
| 119         | 30.226 |
| 120         | 30.480 |
| 121         | 30.734 |
| 122         | 30.988 |
| 123         | 31.242 |
| 124         | 31.496 |
| 125         | 31.750 |
| 126         | 32.004 |
| 127         | 32.258 |
| 128         | 32.512 |
| 129         | 32.766 |
| 130         | 33.020 |
| 131         | 33.274 |
| 132         | 33.528 |
| 133         | 33.782 |
| 134         | 34.036 |
| 135         | 34.290 |
| 136         | 34.544 |
| 137         | 34.798 |
| 138         | 35.052 |
| 139         | 35.306 |
| 140         | 35.560 |
| 141         | 35.814 |
| 142         | 36.068 |
| 143         | 36.322 |
| 144         | 36.576 |
| 145         | 36.830 |
| 146         | 37.084 |
| 147         | 37.338 |
| 148         | 37.592 |
| 149         | 37.846 |
| 150         | 38.100 |
| 151         | 38.354 |
| 152         | 38.608 |
| 153         | 38.862 |
| 154         | 39.116 |
| 155         | 39.370 |
| 156         | 39.624 |
| 157         | 39.878 |
| 158         | 40.132 |
| 159         | 40.386 |
| 160         | 40.640 |
| 161         | 40.894 |
| 162         | 41.148 |
| 163         | 41.402 |
| 164         | 41.656 |
| 165         | 41.910 |
| 166         | 42.164 |
| 167         | 42.418 |
| 168         | 42.672 |
| 169         | 42.926 |
| 170         | 43.180 |
| 171         | 43.434 |
| 172         | 43.688 |
| 173         | 43.942 |
| 174         | 44.196 |
| 175         | 44.450 |
| 176         | 44.704 |
| 177         | 44.958 |
| 178         | 45.212 |
| 179         | 45.466 |
| 180         | 45.720 |
| 181         | 45.974 |
| 182         | 46.228 |
| 183         | 46.482 |
| 184         | 46.736 |
| 185         | 46.990 |
| 186         | 47.244 |
| 187         | 47.498 |
| 188         | 47.752 |
| 189         | 48.006 |
| 190         | 48.260 |
| 191         | 48.514 |
| 192         | 48.768 |
| 193         | 49.022 |
| 194         | 49.276 |
| 195         | 49.530 |
| 196         | 49.784 |
| 197         | 50.038 |
| 198         | 50.292 |
| 199         | 50.546 |
| 200         | 50.800 |



IL 638960

INSTRUMENT SETTING OUT TERMS ON EASEMENTS AND RESTRICTIONS AS TO USER  
INTENDED TO BE CREATED PURSUANT TO SECTION 806 OF THE CONVEYANCING ACT  
1912

17AHT J.

Plan:  
DP538142

FULL NAME and ADDRESS of  
proprietor of the fund.

Reliative Nomine Corporation Pty. Ltd. of  
Reliative Street Mentilly and Pauline Glenda  
& Reliative Street Mentilly and Pauline Glenda  
Webb of 3A Nicoll Avenue Ralfoleth. Married  
Woman as tenants in common in equal shares.

1. Identity of easement or restriction first referred to in above-mentioned plan.

Right of right-of-way (10) feet wide and variable.

Schedule of Jobs, etc., effected

burderid

٧٧

2. Identity of casement  
or restriction secondly  
referred to in above-  
mentioned plan:

Exposure to drain water three (3) days.

Schedule of Lot's, etc. attached.

ULTIMO

ULTIMO

33

| Lot's, name of road, or authority. | Benefited |
|------------------------------------|-----------|
|                                    |           |
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Signed in my presence by Pauline Glendon Webb who is personally known to me.

The Common Seal of Baldevine Nominees Corporation Pty. Ltd. was herewith affixed by the authority of the Board of Directors by a Director in the presence of the Secretary. In hereby certifying that the foregoing is a true and correct copy of the Local Government Act 1919 of the State of New South Wales and of the regulations made thereunder, I am, Sir, Sirs, Madam, Madams, Gents, Gentlemen, Ladies, and Messrs, Yours faithfully,  
MAYNIE MONTICAP, COUNCILMAN.

WEN BY  
TOWN CLERK

[illegible]

Signed by the Attorney  
JOHN DEY CARBY

**JOHN REX GABRIEL** under power for and on behalf of Australia and New Zealand Bank Limited in the presence of:

JUSTICE OF THE PEACE  
FOR NEW SOUTH WALES

AUSTRALIA AND NEW ZEALAND BANK LIMITED

[illegible]

District Manager for the time being  
of Australia and New Zealand Bank  
Limited for New South Wales

AMENDMENTS AND/OR ADDITIONS MADE ON  
PLAN IN THE LAND TITLES OFFICE.

This negative is a photograph made as a permanent record of a document in the custody of the Registrar General this day, 13th May, 1985.



## Northern Beaches Council Planning Certificate – Part 2

**Applicant:** InfoTrack  
GPO Box 4029  
Sydney NSW 2001

**Reference:** 3966  
**Date:** 19/10/2020  
**Certificate No.** ePLC2020/6681

**Address of Property:** 1/3A Nield Avenue BALGOWLAH NSW 2093  
**Description of Property:** Lot 1 SP 21446

---

## Planning Certificate – Part 2

The following certificate is issued under the provisions of Section 10.7(2) of the *Environmental Planning and Assessment Act 1979* (as amended – formerly Section 149). The information applicable to the land is accurate as at the above date.

### **1. Relevant planning instruments and Development Control Plans**

**1.1 The name of each environmental planning instrument that applies to the carrying out of development on the land:**

**1.1a) Local Environmental Plan**

Manly Local Environmental Plan 2013

**1.1b) State Environmental Planning Policies and Regional Environmental Plans**

State Environmental Planning Policy 19 – Bushland in Urban Areas  
State Environmental Planning Policy 21 – Caravan Parks  
State Environmental Planning Policy 33 – Hazardous and Offensive Development  
State Environmental Planning Policy 50 – Canal Estate Development  
State Environmental Planning Policy 55 – Remediation of Land  
State Environmental Planning Policy 64 – Advertising and Signage  
State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development  
State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)  
State Environmental Planning Policy (Affordable Rental Housing) 2009  
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004  
State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017  
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008  
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004  
State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

State Environmental Planning Policy (State and Regional Development) 2011

State Environmental Planning Policy (State Significant Precincts) 2005

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

State Environmental Planning Policy (Primary Production and Rural Development) 2019

State Environmental Planning Policy (Koala Habitat Protection) 2019

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

## **1.2 Draft Environmental Planning Instruments**

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 subject of community consultation or on public exhibition under the Act (unless the Secretary has notified the Council that the making of the proposed instrument has been deferred indefinitely or has not been approved):

### **1.2 a) Draft State Environmental Planning Policies**

Draft State Environmental Planning Policy (Environment)

Draft State Environmental Planning Policy (Short-term Rental Accommodation) 2019

Amendment to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

Draft Remediation of Land State Environmental Planning Policy (intended to replace State Environmental Planning Policy 55)

### **1.2 b) Draft Local Environmental Plans**

## **1.3 Development Control Plans**

The name of each development control plan that applies to the carrying out of development on the land:

Manly Development Control Plan 2013

## **2. Zoning and land use under relevant Local Environmental Plans**

For each environmental planning instrument or proposed instrument referred to in Clause 1 (other than a SEPP or proposed SEPP) that includes the land in any zone (however described):

### **2.1 Zoning and land use under relevant Local Environmental Plans**

#### **2.1 (a), (b), (c) & (d)**

The following information identifies the purposes for which development may be carried out with or without development consent and the purposes for which the carrying out of development is prohibited, for all zones (however described) affecting the land to which the relevant Local Environmental Plan applies.

#### **ZONE R1 GENERAL RESIDENTIAL**

**(b) Land use for land within Zone R1 that can be carried out without development consent:**

Home-based child care; Home occupations.

**(c) Land uses for land within Zone R1 that can be carried out only with development**

**consent :**

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Boat launching ramps; Boat sheds; Child care centres; Community facilities; Dual occupancies; Dwelling houses; Emergency services facilities; Environmental protection works; Flood mitigation works; Group homes; Health consulting rooms; Home businesses; Home industries; Hostels; Information and education facilities; Jetties; Multi dwelling housing; Neighbourhood shops; Places of public worship; Recreation areas; Recreation facilities (indoor); Residential flat buildings; Respite day care centres; Roads; Semi-detached dwellings; Seniors housing; Shop top housing; Signage; Water recreation structures; Water recycling facilities; Water supply systems.

**(d) Land uses for land within Zone R1 that are prohibited:**

Advertising structures; Water treatment facilities; Any development not specified in items (b) and (c)

**Additional permitted uses**

Additional permitted uses, if any, for which development is permissible with development consent pursuant to Clause 2.5 and Schedule 1 of the relevant Local Environmental Plan:

Refer to Schedule 1 of Manly Local Environmental Plan 2013.

**(e) Minimum land dimensions**

The *Manly Local Environmental Plan 2013* contains no development standard that fixes minimum land dimensions for the erection of a dwelling house on the land.

**(f) Critical habitat**

The land does not include or comprise critical habitat.

**(g) Conservation areas**

The land is not in a heritage conservation area.

**(h) Item of environmental heritage**

The land does not contain an item of environmental heritage.

**2.2 Draft Local Environmental Plan - if any**

For any proposed changes to zoning and land use, see Part 1.2 b)

Please contact Council's Strategic and Place Planning unit with enquiries on 1300 434 434.

**2A. Zoning and land use under State Environmental Planning Policy (Sydney Region Growth Centres) 2006**

The *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* does not apply to the land.

**3. Complying Development**

The extent to which the land is land on which complying development may or may not 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*.

**a) Housing Code**

Complying Development under the Housing Code may be carried out on all of the land.

**b) Rural Housing Code**

Complying Development under the Rural Housing Code may be carried out on all of the land.

**c) Low Rise Housing Diversity Code**

Complying Development under the Low Rise Housing Diversity Code may be carried out on all of the land.

**d) Greenfield Housing Code**

Complying Development under the Greenfield Housing Code may not be carried out on all of the land.

**e) Housing Alterations Code**

Complying Development under the Housing Alterations Code may be carried out on all of the land.

**f) General Development Code**

Complying Development under the General Development Code may be carried out on all of the land.

**g) Commercial and Industrial Alterations Code**

Complying Development under the Commercial and Industrial Alterations Code may be carried out on all of the land.

**h) Commercial and Industrial (New Buildings and Additions) Code**

Complying Development under the Commercial and Industrial (New Buildings and Additions) Code may be carried out on all of the land.

**i) Container Recycling Facilities Code**

Complying Development under the Container Recycling Facilities Code may be carried out on all of the land.

**j) Subdivisions Code**

Complying Development under the Subdivisions Code may be carried out on all of the land.

**k) Demolition Code**

Complying Development under the Demolition Code may be carried out on all of the land.

**l) Fire Safety Code**

Complying Development under the Fire Safety Code may be carried out on all of the land.

## **m) Inland Code**

Complying Development under the Inland Code does not apply to the land.

**Note:** Pursuant to clause 3D.1 of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, the Inland Code only applies to 'inland local government areas'. Northern Beaches local government area is not defined as an 'inland local government area' by *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

## **4, 4A (Repealed)**

### **4B. Annual charges under Local Government Act 1993 for coastal protection services that relate to existing coastal protection works**

The owner of the land (or any previous owner) has not 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).

## **5. Mine Subsidence**

The land has not been proclaimed to be a mine Subsidence (Mine Subsidence) district within the meaning of section 15 of the *Mine Subsidence (Mine Subsidence) Compensation Act, 1961*.

## **6. Road widening and road realignment**

- (a) The land is not affected by a road widening or re-alignment proposal under Division 2 of Part 3 of the *Roads Act 1993*.
- (b) The land is not affected by a road widening or re-alignment proposal under an environmental planning instrument.
- (c) The land is not affected by a road widening or re-alignment proposal under a resolution of Council.

## **7. Council and other public authority policies on hazard risk restriction**

- (a) Council has adopted a number of policies with regard to various hazards or risks which may restrict development on this land. The identified hazard or risk and the respective Council policies which affect the property, if any, are listed below (other than flooding – see 7A):

### **Acid Sulfate Soils - Class 5**

This land is identified as Acid Sulfate Soils Class 5 on the Acid Sulfate Soils Map of the *Manly Local Environmental Plan 2013* (MLEP 2013). Restrictions apply to the carrying out of works on this land under Clause 6.1 of the MLEP 2013.

### **Geotechnical Risk (Landslip)**

Development on all of the land is affected by Clause 4.1.8 - *Manly Development Control Plan 2013*.

### **Contaminated Lands**

Council has adopted a contaminated land policy which may restrict the development of land. This policy is expressed to apply when zoning or land use changes are proposed on lands which are considered to be contaminated, or on lands which have been remediated for a specific use.

- (b) The following information applies to any policy 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. The identified hazard or risk and the respective Policy which affect the property, if any, are listed below:

Nil

## **7A. Flood related development control Information**

- (1) Development on the 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.
- (2) Development on the land or part of the land for any other purpose is subject to flood related development controls.

## **8. Land reserved for acquisition**

Environmental planning instrument referred to in Clause 1 does not make provision in relation to the acquisition of the land by a public authority, as referred to in section 3.15 of the Act.

## **9. Contribution plans**

The following applies to the land:

**Northern Beaches Section 7.12 Contributions Plan 2019**

## **9A. Biodiversity certified land**

The land is not biodiversity certified land under Part 8 of the *Biodiversity Conservation Act 2016* (includes land certified under Part 7AA of the repealed *Threatened Species Conservation Act 1995*).

## **10. Biodiversity Stewardship Sites**

The Council has not been notified by the Chief Executive of the Office of Environment and Heritage that the land is a biodiversity stewardship site under a biodiversity stewardship agreement under Part 5 of the *Biodiversity Conservation Act 2016* (includes land to which a biobanking agreement under Part 7A of the repealed *Threatened Species Conservation Act 1995* relates).

## **10A. Native vegetation clearing set asides**

Council has not been notified by Local Land Services of the existence of a set aside area under section 60ZC of the *Local Land Services Act 2013*.

## **11. Bush fire prone land**

### **Bush Fire Prone Land**

The land is not bush fire prone land.

## **12. Property vegetation plans**

The Council has not been notified that the land is land to which a vegetation plan under the *Native Vegetation Act 2003* applies.

## **13. Orders under Trees (Disputes Between Neighbours) Act 2006**

Council has not been notified of the existence of an order made under the *Trees (Disputes Between Neighbours) Act 2006* to carry out work in relation to a tree on the land.

## **14. Directions under Part 3A**

There is not 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.

## **15. Site compatibility certificates and conditions for seniors housing**

- (a) There is not a current site compatibility certificate (seniors housing), of which the council is aware, in respect of proposed development on the land.
- (b) No condition of consent applies to the property that limits the kind of people who may occupy the premises/ development. This refers only to consents granted after 11 October 2007 with conditions made in accordance with clause 18(2) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

## **16. Site compatibility certificates for infrastructure, schools or TAFE establishments**

There is not a valid site compatibility certificate (infrastructure) or site compatibility certificate (schools or TAFE establishments), of which the council is aware, in respect of proposed development on the land.

## **17. Site compatibility certificate and conditions for affordable rental housing**

- (a) There is not a current site compatibility certificate (affordable rental housing), of which the council is aware, in respect of proposed development on the land.
- (b) There are not terms of a kind referred to in clause 17 (1) or 38 (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.

## **18. Paper subdivision information**

There is no current paper subdivision, of which council is aware, in respect of this land according to Part 16C of the *Environmental Planning and Assessment Regulation 2000*.



## **19. Site verification certificates**

There is no current site verification certificate, of which council is aware, in respect of the land according to Part 4AA of the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*.

## **20. Loose-fill asbestos insulation**

The residential dwelling erected on this land has not been identified in the Loose-Fill Asbestos Insulation Register as containing loose-fill asbestos ceiling insulation.

This clause applies to residential premises (within the meaning of Division 1A of part 8 of the Home Building Act 1989) that are listed in the register that is required to be maintained under that Division.

Contact NSW Fair Trading for more information.

## **21 Affected building notices and building product rectification orders**

- 1) There is not an affected building notice of which the council is aware that is in force in respect of the land.
- 2) There is not a building product rectification order of which the council is aware that is in force in respect of the land and has not been fully complied with, and
- 3) There is not a notice of intention to make a building product rectification order of which the council is aware has been given in respect of the land and is outstanding.

In this clause:

***affected building notice*** has the same meaning as in Part 4 of the *Building Products (Safety) Act 2017*.

***building product rectification order*** has the same meaning as in the *Building Products (Safety) Act 2017*.

## **Additional matters under the Contaminated Land Management Act 1997**

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) the land to which the certificate relates is not significantly contaminated land within the meaning of that Act
- (b) the land to which the certificate relates is not subject to a management order within the meaning of that Act
- (c) the land to which the certificate relates is not the subject of an approved voluntary management proposal within the meaning of that Act
- (d) the land to which the certificate relates is not subject to an ongoing maintenance order within the meaning of that Act

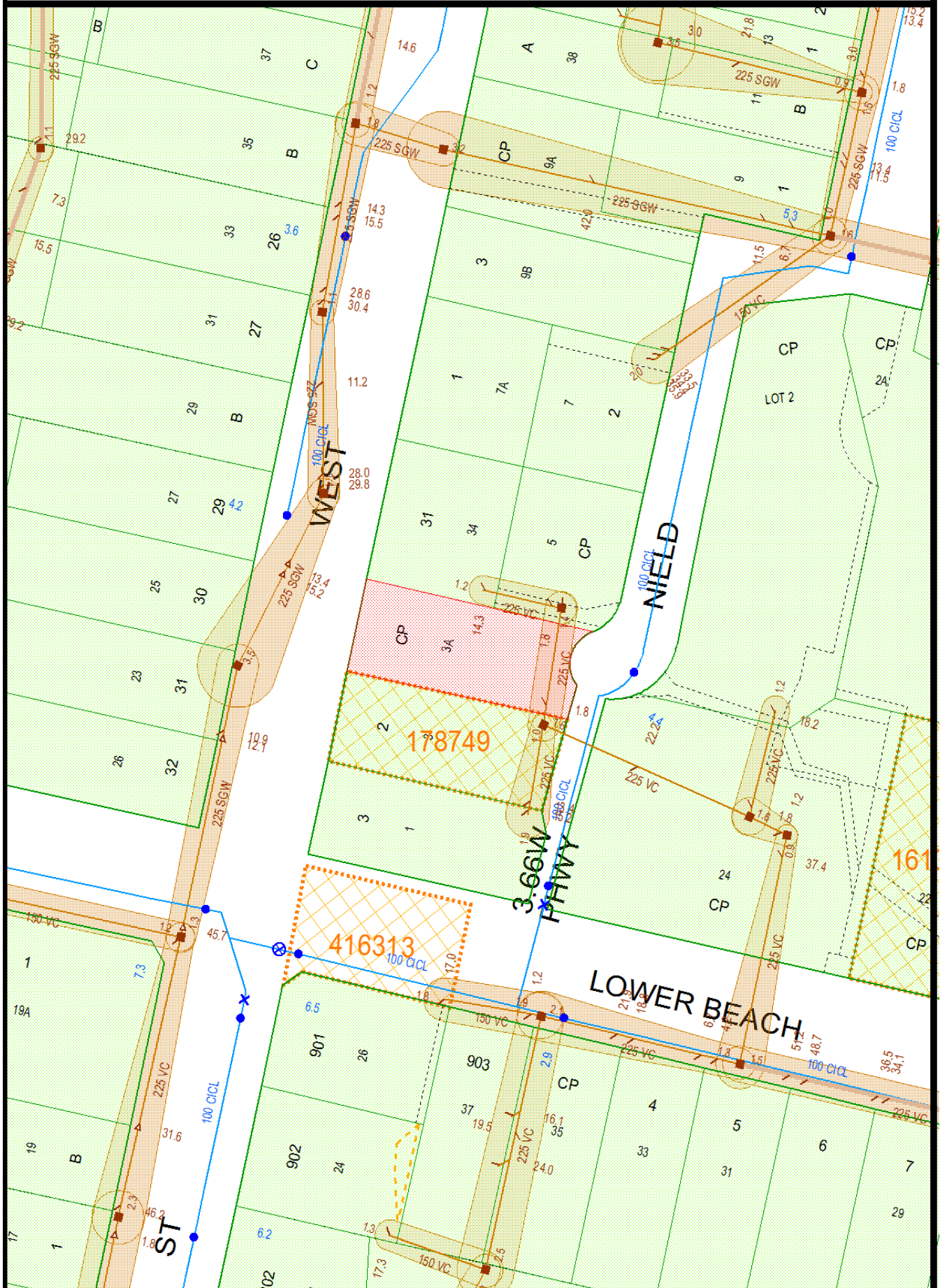
(e) the land to which the certificate relates is not the subject of a site audit statement

If contamination is identified above please contact the Environmental Protection Authority (EPA) for further information.

A handwritten signature in black ink, appearing to read 'Ray Brownlee', with a long horizontal stroke extending to the right.

**Ray Brownlee PSM  
Chief Executive Officer**

**19/10/2020**



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.

## SEWERAGE SERVICE DIAGRAM

MEERS

Manly (Balgowlah)

No. 628661

☐ Boundary Trap  
☐ Pit  
☒ G.I. Grease Interceptor  
☒ Gully  
☒ P.T. P. Trap  
☒ R.S. Reflux Sink

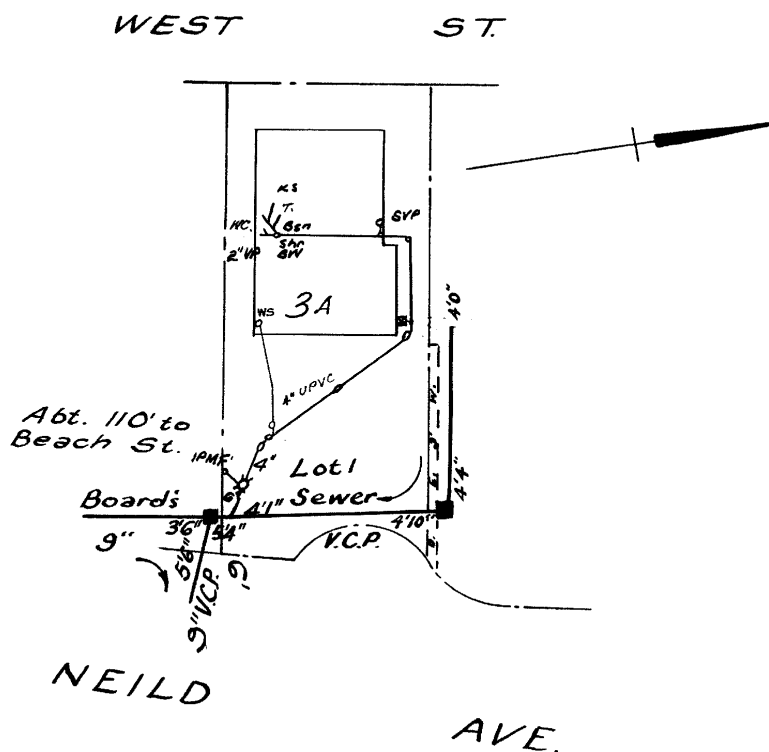
|   |        |                 |      |              |
|---|--------|-----------------|------|--------------|
| ■ | R.V.   | Reflux Valve    | I.P. | Induct Pipe  |
| ⊕ |        | Cleaning Eye    | M.F. | Mica Flap    |
| ○ | Vert.  | Vertical Pipe   | T.   | Tubs         |
| ○ | V.P.   | Vent. Pipe      | K.S. | Kitchen Sink |
| ○ | S.V.P. | Soil Vent. Pipe | W.C. | Water Closet |
|   | D.C.C. | Down Cast Cowl  | 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

**Scale: 40 Feet To An Inch**

## SEWER AVAILABLE

Where the sewer is not available and a special inspection is involved the Board accepts no responsibility for the suitability of the drainage in relation to the eventual position of the Board's Sewer



5

RATE No. \_\_\_\_\_ W.C.s. 2 U.C.s. \_\_\_\_\_ 19 \_\_\_\_\_

SHEET No. *2528*

OFFICE USE ONLY

**For Engineer House Services**

| DRAINAGE  |                 |      | PLUMBING                   |               |
|-----------|-----------------|------|----------------------------|---------------|
| W.C.      | Supervised by   | Date | BRANCH OFFICE              | Supervised by |
| Bth.      |                 | / /  | Date                       | / /           |
| Shr.      | Inspector       |      | Outfall                    | Inspector     |
| Bsn.      | Examined by     |      | HL                         |               |
| K.S.      |                 |      | LL                         |               |
| T.        |                 | / /  | Drainer                    |               |
| Plg.      | Chief Inspector |      | Plumber                    |               |
| Dge. Int. |                 |      | Boundary Trap              |               |
| Dge. Ext. | Tracing Checked | / /  | is <del>not</del> required |               |

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.

**STRATA TITLE (RESIDENTIAL) PROPERTY REQUISITIONS ON TITLE**

**Vendor:** John Mervyn Heald and Sandra Joan Heald

**Purchaser:**

**Property:** 1/3A Nield Avenue Balgowlah NSW 2093

**Dated:** 19 October 2020

---

**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 Schedule 2, Part 7 of the *Residential Tenancies Act 2010* (NSW))? If so, please provide details.
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 NSW Civil and Administrative Tribunal for an order?
  - (b) have any orders been made by the NSW Civil and Administrative 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 and notations and recorded as the owner of the property on the strata roll, free from all other interests.
7. On or before completion, any mortgage, caveat, writ or priority notice must be discharged, withdrawn, cancelled or removed as the case may be or, in the case of a mortgage, caveat nor priority notice, an executed discharge or withdrawal or removal handed over on completion together with a notice under Section 22 of the *Strata Schemes Management Act 2015* (NSW) (*the Act*).
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 any chattels or fixtures subject to any hiring or leasing agreement or charge or to any security interest under the *Personal Properties Securities Act 2009* (Cth)? If so, details must be given and all indebtedness cleared and title transferred unencumbered to the vendor prior to completion.

**Adjustments**

11. All outgoing 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?
13. If any land tax certificate shows a charge for land tax on the land, the vendor must procure evidence at completion that the charge is no longer effective against the land.



**Survey and building**

14. Subject to the Contract, survey should be satisfactory and show that the whole of the property and the common property is available, that there are no encroachments by or upon the property or the common property.
15. 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.
16. In respect of the property and the common property:
  - (a) Have the provisions of the *Local Government Act 1993 (NSW)*, the *Environmental Planning and Assessment Act 1979 (NSW)* 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 Information Certificate or a Building Certificate which relates to all current buildings or structures on the Property? If so, it should be handed over on completion. Please provide a copy in advance.
  - (d) Has the vendor a Final Occupation Certificate (as referred to in the former section 109C of the *Environmental Planning and Assessment Act 1979 (NSW)*) or an Occupation Certificate as referred to in Section 6.4 of that Act 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 or any alternative indemnity product under the *Home Building Act 1989 (NSW)*.
  - (f) Are there any proposals by the Owners Corporation or an owner of a lot to make any additions or alterations or to erect any new structures on the common property? If so, please provide details.
  - (g) Has any work been carried out by the vendor on the Property or the common property? If so:
    - (i) has the work been carried out in accordance with the by-laws and all necessary approvals and consents?
    - (ii) does the vendor have any continuing obligations in relation to the common property affected?
17. Is the vendor aware of any proposals to:
  - (a) resume the whole or any part of the Property or the common property?
  - (b) carry out building alterations to an adjoining lot which may affect the boundary of that lot or the Property?
  - (c) deal with, acquire, transfer, lease or dedicate any of the common property?
  - (d) dispose of or otherwise deal with any lot vested in the Owners Corporation?
  - (e) create, vary or extinguish any easements, restrictions or positive covenants over the Property or the common property?
  - (f) subdivide or consolidate any lots and/or any common property or to convert any lots into common property?
  - (g) grant any licence to any person, entity or authority (including the Council) to use the whole or any part of the common property?
18.
  - (a) Has the vendor (or any predecessor) or the Owners Corporation entered into any agreement with or granted any indemnity to the Council or any other authority concerning any development on the property or the common property?
  - (b) Is there any planning agreement or other arrangement referred to in s7.4 of the *Environmental Planning and Assessment Act* (registered or unregistered) affecting the Property or the common property? If so please provide details and indicate if there are any proposals for amendment or revocation?
19. In relation to the swimming pool on the Property or the common property:
  - (a) did its installation or construction commence before or after 1 August 1990?
  - (b) has the swimming pool been installed or constructed in accordance with approvals under the *Local Government Act 1919 (NSW)* and *Local Government Act 1993 (NSW)*?
  - (c) Does it comply with the provisions of the *Swimming Pools Act 1992 (NSW)* and regulations relating to access? If not, please provide details or the exemptions claimed;
  - (d) have any notices or orders issued or been threatened under the *Swimming Pools Act 1992 (NSW)* or regulations?

- (e) If a certificate of non-compliance has issued, please provide reasons for its issue if not disclosed in the contract;
  - (f) originals of certificate of compliance or non-compliance and occupation certificate should be handed over on settlement.
20. (a) Is the vendor aware of any dispute regarding boundary or dividing fences in the strata scheme?
- (b) Is the vendor aware of any notice, claim or proceedings under the *Dividing Fences Act 1991* or the *Encroachment of Buildings Act 1922 (NSW)* affecting the strata scheme?

**Affectations, notices and claims**

21. In respect of the property and the common property:
- (a) Is the vendor aware of any rights, licences, easements, covenants or restrictions as to use of them other than those disclosed in the Contract?
  - (b) Has any claim been made by any person to close, obstruct or limit access to or from them or to prevent the enjoyment of any easement appurtenant to them?
  - (c) Is the vendor aware of:
    - (i) any road, drain, sewer or storm water channel which intersects or runs through them?
    - (ii) any dedication to or use by the public of any right of way or other easement over any part of them?
    - (iii) any latent defects in them?
  - (d) Has the vendor any notice or knowledge of them being affected by the following:
    - (i) any notice requiring work to be done or money to be spent on them or any footpath or road adjoining? If so, such notice must be complied with prior to completion.
    - (ii) any work done or intended to be done on them or the adjacent street which may create a charge on them or the cost of which might be or become recoverable from the purchaser?
    - (iii) any sum due to any local or public authority recoverable from the purchaser? If so, it must be paid prior to completion.
    - (iv) any realignment or proposed realignment of any road adjoining them?
    - (v) The existence of any contamination, including, but not limited to, materials or substances dangerous to health such as asbestos and fibreglass or polyethylene or other flammable or combustible material such as cladding? If the property is a building or part of a building to which external combustible cladding has been applied, has the owner provided to the Planning Secretary details of the building and the external combustible cladding and is the building recorded in the Register maintained by the Secretary?
22. (a) If a licence benefits the Property please provide a copy and indicate:
  - (i) Whether there are any existing breaches by any party to it;
  - (ii) whether there are any matters in dispute; and
  - (iii) Whether the licensor holds any deposit, bond or guarantee.
- (b) In relation to such licence:
  - (i) All licence fees and other moneys payable should be paid up to and beyond the date of completion;
  - (ii) The vendor must comply with all requirements to allow the benefit to pass to the purchaser.

**Applications, Orders etc**

23. Are there any applications made, proposed or threatened, whether by an owner of a lot or the Owners Corporation, to the NSW Civil and Administrative Tribunal, any Court or to the Registrar General for orders relating to the strata scheme, the Property or the common property (including orders to vary the strata scheme consequent upon damage or destruction or to terminate the strata scheme) which are yet to be determined? If so, please provide particulars.
24. Are there any mediations currently being conducted by the Commissioner of Fair Trading, Department of Finance Services and Innovation in relation to the Property or the common property which involve the vendor or the Owners Corporation? If so, please provide particulars.
25. Are there any:
  - (a) orders of the Tribunal;
  - (b) notices of or investigations by the Owners Corporation;
  - (c) notices or orders issued by any Court; or

- (d) notices or orders issued by the Council or any public authority or water authority; affecting the Property or the common property not yet complied with? In so far as they impose an obligation on the vendor they should be complied with by the vendor before completion.
26. Have any orders been made by any Court or Tribunal that money (including costs) payable by the Owners Corporation be paid from contributions levied in relation to the Property? If so, please provide particulars.
27. Has the vendor made any complaints or been the subject of any complaints arising out of noise affecting the Property or emanating from the Property?
28. Has any proposal been given by any person or entity to the Owners Corporation for:
- (a) a collective sale of the strata scheme; or
  - (b) a redevelopment of the strata scheme (including a strata renewal proposal)?
- If so, please provide particulars of the proposal and the steps take and decisions made in relation to the proposal to the present time.

**Owners corporation management**

29. Has the initial period expired?
30. Are any actions proposed to be taken or have any been taken by the Owners Corporation in the initial period which would be in breach of its powers without an order authorising them?
31. If the property includes a utility lot, please specify the restrictions.
32. Do any special expenses (as defined in clause 23.2 of the Contract, including any liabilities of the Owners Corporation) exceed 1% of the price?
33. Has an appointment of a strata managing agent and/or a building manager been made? If so:
- (a) who has been appointed to each role;
  - (b) when does the term of each appointment expire; and
  - (c) what functions have been delegated to the strata managing agent and/or the building manager?
34. Has the Owners Corporation entered into any agreement to provide amenities or services to the Property? If so, please provide particulars.
35. Has a resolution been passed for the distribution of surplus money from the administrative fund or the capital works fund? If so, please provide particulars.
36. Have the by-laws adopted a common property memorandum as prescribed by the regulations for the purposes of Section 107 of the Act? If so, has the memorandum been modified? Please provide particulars.
37. Is there a registered building management statement pursuant to Section 108 of the *Strata Schemes Development Act 2015 (NSW)*? If so, are there any proposals to amend the registered building management statement?
38. If the strata scheme was in existence at 30 November 2016, has the Owners Corporation taken steps to review the by-laws that were current at that date? If so, please provide particulars.
39. Are there any pending proposals to amend or repeal the current by-laws or to add to them?
40. Are there any proposals, policies or by-laws in relation to the conferral of common property rights or which deal with short term rental accommodation, licences and/or holiday lettings?
41. If not attached to the Contract, a strata information certificate under Section 184 of the Act should be served on the purchaser at least 7 days prior to completion.
42. Has the Owners Corporation met all of its obligations under the Act relating to:
- (a) insurances;
  - (b) fire safety;
  - (c) occupational health and safety;
  - (d) building defects and rectification in relation to any applicable warranties under the *Home Building Act 1989 (NSW)*;
  - (e) the preparation and review of the 10 year plan for the capital works fund; and
  - (f) repair and maintenance.
43. Is the secretary (NSW Fair Trading) in receipt of a building bond for any building work on a building that is part of the Property or the common property? If so has any application to claim or realise and amount of it been made?
44. Has an internal dispute resolution process been established? If so, what are the terms?
45. Has the Owners Corporation complied with its obligation to lodge tax returns with the Australian Taxation Office and has all tax liability been paid?

**Capacity**

46. 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**

47. If not attached to the Contract and the transaction is not an excluded transaction, any *clearance certificate* under Section 14-220 of Schedule 1 of the *Taxation Administration Act 1953 (Cth)* should be served on the purchaser at least 7 days prior to completion.
48. The vendor should furnish completed details within the time specified in the contract, sufficient to enable the purchaser to make any GSTRW payment.
49. 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.
50. 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.
51. Searches, surveys, enquiries and inspection of title deeds must prove satisfactory.
52. The purchaser reserves the right to make further requisitions prior to completion.
53. 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.

**Off the plan contract**

54. If the Contract is an off the plan contract:
  - (a) Is the vendor aware of any inaccuracy in the disclosure statement attached to the Contract?  
If so, please provide particulars.
  - (b) The vendor should before completion serve on the purchaser a copy of the registered plan and any document that was registered with the plan.
  - (c) Please provide details, if not already given, of the holding of the deposit or any instalment as trust or controlled monies by a real estate agent, licensed conveyancer or law practice.

## NSW SWIMMING POOL REGISTER

### Certificate of Non-compliance

#### Clause 21 - Swimming Pools Regulation 2018

**Pool no:** 05034a1a  
**Property address:** 3A NIELD AVENUE BALGOWLAH  
**Date of inspection:** 22 October 2020  
**Expiry date:** 22 October 2021  
**Issuing authority:** Rory Fegan - Accredited Certifier - bpb2707

**Did not comply with AS1926 (1986).**

The swimming pool at the above property **DOES NOT COMPLY** with Part 2 of the *Swimming Pools Act 1992*. Please refer to the accredited certifier's notice, issued under section 22E of the *Swimming Pools Act 1992*, for detailed reasons of non-compliance and rectification works required to render the swimming pool compliant with the applicable standard.

The swimming pool poses a significant risk to public safety ☐

The swimming pool does not pose a significant risk to public safety ☒

#### Non-compliance area/s:

|                            |                                     |                     |                                     |
|----------------------------|-------------------------------------|---------------------|-------------------------------------|
| Boundary fence             | <input checked="" type="checkbox"/> | Doors               | <input type="checkbox"/>            |
| Fence height               | <input type="checkbox"/>            | Fence panels/gaps   | <input type="checkbox"/>            |
| Gate closure               | <input checked="" type="checkbox"/> | Gate latch          | <input checked="" type="checkbox"/> |
| Non-ancillary structure    | <input type="checkbox"/>            | Non-climbable zones | <input type="checkbox"/>            |
| Signage                    | <input checked="" type="checkbox"/> | Window              | <input type="checkbox"/>            |
| Other (see text box below) | <input type="checkbox"/>            |                     |                                     |

This certificate expires on issuing of a certificate of compliance or 12 months after the date of issue, whichever occurs first.

Purchasers of a property with a non-compliant swimming pool barrier have 90 days from the date of settlement to fix any areas of non-compliance.



Job no: 08/08/2016-2

22 Oct 2020  
C/O Strata Committee  
3A Neild Ave  
Balgowlah NSW 2093

A swimming pool inspection was conducted at the below premises, at the request of the pool owner, as per Clause 22C of the *Swimming Pools Act 1992* (The Act).

Clause 22D of the Act requires the accredited certifier to issue a Certificate of Compliance, where the swimming pool complies with the requirements of this Part.

Where a swimming pool does not comply, Clause 22E of the Act requires the accredited certifier to issue a written notice to the owner of the swimming pool, providing reasons why the pool does not comply and the steps that need to be taken in order to achieve compliance.

This swimming pool was found to be non-compliant. The following written notice provides detailed information regarding those areas of non-compliance.

## 1. NOTICE INFORMATION

|   |            |
|---|------------|
| Date of notice:                         | 22 Oct. 20 |
| Date on which the inspection took place | 22 Oct. 20 |
| Accredited Certifier name:              | Rory Fegan |
| Accreditation number:                   | bpb2707    |

## 2. CLIENT INFORMATION:

|                             |  |
|-----------------------------|--|
| Pool owner/ Contact person: | C/- Cathy Wright – Strata Manager                                      |
| Telephone contact:          | 0433 674 686   |
| Email:                      | <a href="mailto:messianicdance@gmail.com">messianicdance@gmail.com</a> |
| Fax:                        |  |

## 3. LOCATION OF THE SWIMMING POOL:

|                 |                  |              |      |
|-----------------|------------------|--------------|------|
| Street address: |                  | 3A Neild Ave |      |
| Suburb:         |                  | Balgowlah    |      |
| State:          | NSW              | Postcode:    | 2093 |
| LGA:            | Northern Beaches |              |      |

### POOL SAFETY INSPECTION:

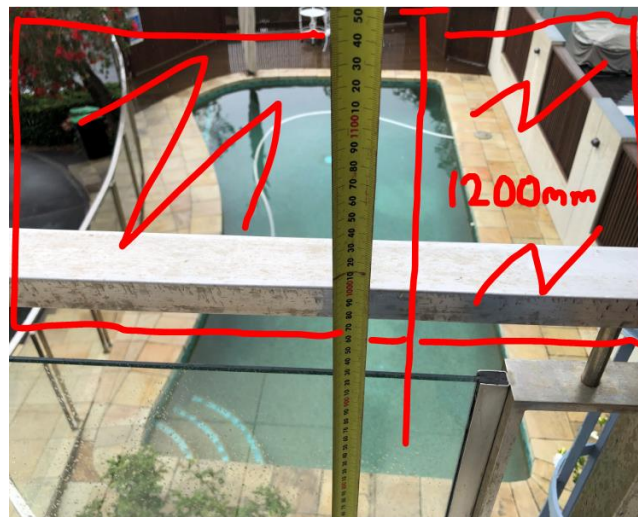
A swimming pool barrier inspection was conducted, in accordance with the AS 1926.1-2012 Standard. However, during the swimming pool barrier inspection, the barrier was found to be non-compliant. The following areas of non-compliance with recommendations are provided:

**Issue One:** Clause 2.1 of AS1926.1-2012: The height of a barrier within the property shall be not less than 1200 mm on the outside of the barrier.

It was noted that the external stairwell from the upper level enters directly into the pool area. The gate and balustrade adjacent the gate did not achieve a height of not less than 1200mm (please note that AS1926.1-2012 requires a pool barrier to be installed between doors from a residential dwelling and a pool).

#### Recommendations:

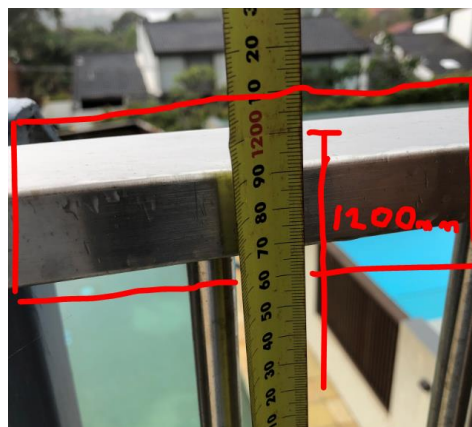
- Attach an all-weather material such as 10mm thick Perspex to the top of balustrade in order to raise the height to not less than 1200mm. This should extend for a distance of not less than 900mm on either side of the gate; and
- The gate can be raised in height approximately 10mm to achieve the required 1200mm; or
- An alternative can be to exclude the stairwell from the pool area by installing a new barrier in between the pool and the stair well on the lower level.



The above fence to the left of the gate can be raised in height to 1200mm for a distance of 900mm away from the gate.



The above gap in between the timber and gate can be raised to 1200mm with 10mm Perspex.



The gate can be raised to 1200 by either raising the gate or attaching Perspex.

**Issue Two:** Clause 2.4.1.2 of AS1926.1-2012 Gates shall be fitted with a self-closing device that will close the gate from any position, with a stationary start, without the application of a manual force and operate the latch. The self-closing device shall be capable of complying with these requirements with the gate at any position from fully open to resting on the latch.

**It was noted that the two gates providing entry to the pool area are fitted with self-closure hinges – however the hinges would not operate the latch from when resting on the latch.**

### Recommendations:

- The lower level gate will potentially require the hinges to be replaced as servicing them may no longer be applicable given the age and condition of the hinges; and
- The upper level gate has hinges that operate however the latch requires



servicing/ adjustment/ replacement as it is out of alignment and catches on the gate preventing closure; or

- An alternative can be to exclude the stairwell and existing gates from the pool area by installing a new barrier (with one gate) in between the pool and the gates on the lower level.



Both the upper and lower gates are fitted with comparable hinges and latches that require servicing/ adjustment or realignment.

**Issue Three:** Clause 2.3.6: Clear openings between any vertical components shall not exceed 100mm at any point in a barrier; and Section 3 of AS1926.1-2012: Vertical uprights if subject to a strength and rigidity test shall not create an opening in excess of 105mm.

**It was noted that that the lower gate has vertical steel rods that are spaced approximately 100mm apart. When subjected to force these vertical steel rods create an opening in excess of 100mm.**

#### Recommendations:

- Attach an all-weather type material to the gate such as Perspex. Therefore there is no gap created if the metal bars are pulled apart; or
- An alternative can be to exclude this gate from the pool area by installing a new barrier in between the pool and the gate on the lower level.



**Issue Four:** Clause 2.4.2.2 of AS1926.1-2012: This style of latch is required to achieve a height of not less than 1500 mm above the finished ground level.

**It was noted that the lower level latch did not achieve a height of 1500mm when measured from the intersecting retaining wall.**

**Recommendations:**

- Raise the height of the existing latch to not less than 1500mm above the intersecting retaining wall; or
- Replace the existing latch with a comparable latch; or
- An alternative can be to exclude this gate from the pool area by installing a new barrier in between the pool and the gate on the lower level.



**Issue Five:** Clause 2.2.4 of AS1926.1-2012 details where a boundary fence acts as a barrier to a pool, it shall have a height not less than 1800 mm on the inside and No Climb Zone (NCZ) 5 formed as a quadrant of 900 mm radius down from the top of the inside of the barrier. (Please see illustration at the end of this table detailing the boundary barrier requirements)

*Please note the purpose of measuring the inside of the pool boundary barrier and applying an internal NCZ is to prevent a child climbing down into the pool area. As a result the neighbour's side of the fence can be climbable.*

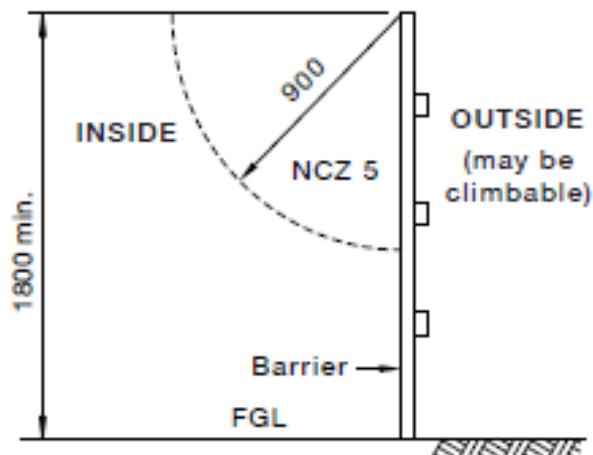
**It was noted that the existing boundary barrier did not achieve a height of not less than 1800mm when measured on the inside (The masonry pillars do achieve the required height, however the timber infills are approximately 50mm short of the required height)**

### Recommendations:

- Attach an all-weather material (such as a 50mm thick merbau timber) to the top of the existing timber boundary barrier to raise the height of the timber infill panels to that of the masonry pillars. If doing so the attachment should as much as possible sit flush with the top of the inside of the barrier so as a ledge is not created on the inside of the pool area.



Pictorial illustration of all the No Climb Zone 5



The matters identified during this inspection do not pose a significant risk to public safety. Where an accredited certifier is of the opinion that the swimming pool poses a significant risk to public safety, a copy of this notice will be forwarded immediately to the local authority for the area in which the swimming pool is situated.





A copy of this written notice is forwarded to the local authority six weeks after the date of inspection if a certificate of compliance is not issued for the swimming pool before this time as per the requirements of Clause 22E of the Act. This written notice will be sent to the local authority on 3 December 2020 if a certificate of compliance has not been furnished beforehand.

Thank you for allowing us to assist you with your swimming pool safety inspection. Please do not hesitate to contact us should you have any questions or require further advice regarding this notice. We look forward to assisting you to obtain your Certificate of Compliance.