

Contract for the sale of land – 2005 edition

TERM

MEANING OF TERM

Vendor's agent **SKYLINE REAL ESTATE of 3-7/14 Frenchs Forest Road, Frenchs Forest, NSW, 2086** Phone 9452 3444
Fax 9452 4555
Ref Stuart Bath

Co-agent
Vendor **NEIL IAN LOTTER and GILLIAN MARGARET LOTTER of 23 Seaview Parade, Belrose, NSW, 2085**

Vendor's Solicitor **FOREST LEGAL
PO Box 245
BELROSE WEST NSW 2085** Phone 8901 0292
Fax 8901 0412
Ref Kos Psaltis

Completion date 42nd day after the date of this contract or in accordance with Special Condition 42 (clause 15)

Land **32 Kens Road, Frenchs Forest, 2086**

(Address, plan details and title reference) **Unregistered Plan: Lot 1 in an unregistered plan (a copy of which is annexed hereto) which is part Folio 2425/752038**

Improvements ☒ VACANT POSSESSION ☐ subject to existing tenancies
☒ HOUSE ☐ garage ☒ carport ☐ home unit ☐ carspace ☐ none
☐ other:

Attached copies ☒ Documents in the List of Documents as marked or as numbered:
☐ Other documents:

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

Inclusions ☒ blinds ☐ curtains ☐ insect screens ☒ stove
☒ built-in wardrobes ☒ dishwasher ☒ light fittings ☐ pool equipment
☐ clothes line ☒ fixed floor coverings ☒ range hood ☐ TV antenna
☒ other: air conditioner

Exclusions

Purchaser

Purchaser's solicitor Phone
Fax
Ref

Price \$ (10% of the price, unless otherwise stated)

Deposit \$

Balance \$

Contract date (if not stated, the date this contract was made)

Vendor

Witness

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

Purchaser

☐ JOINT TENANTS ☐ tenants in common ☐ in unequal shares

Witness

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)

HOLDER OF STRATA OR COMMUNITY TITLE RECORDS

List of Documents

General	Strata or community title (clause 23 of the contract)
☒ 1 property certificate for the land ☐ 2 plan of the land ☒ 3 unregistered plan of the land ☐ 4 plan of land to be subdivided ☐ 5 document that is to be lodged with a relevant plan ☒ 6 section 149(2) certificate (Environmental Planning and Assessment Act 1979) ☐ 7 section 149(5) information included in that certificate ☒ 8 sewerage connections diagram ☐ 9 sewer mains diagram ☒ 10 document that created or may have created an easement, profit à prendre, restriction on use or positive covenant disclosed in this contract ☐ 11 section 88G certificate (positive covenant) ☐ 12 survey report ☐ 13 section 317A certificate (certificate of compliance) ☐ 14 building certificate given under <i>legislation</i> ☐ 15 insurance certificate (Home Building Act 1989) ☐ 16 brochure or note (Home Building Act 1989) ☐ 17 section 24 certificate (Swimming Pools Act 1982) ☐ 18 lease (with every relevant memorandum or variation) ☐ 19 other document relevant to tenancies ☐ 20 old system document ☐ 21 Crown tenure card ☐ 22 Crown purchase statement of account ☐ 23 ~~Statutory declaration regarding vendor duty~~	☐ 24 property certificate for strata common property ☐ 25 plan creating strata common property ☐ 26 strata by-laws not set out in <i>legislation</i> ☐ 27 strata development contract or statement ☐ 28 strata management statement ☐ 29 leasehold strata - lease of lot and common property ☐ 30 property certificate for neighbourhood property ☐ 31 plan creating neighbourhood property ☐ 32 neighbourhood development contract ☐ 33 neighbourhood management statement ☐ 34 property certificate for precinct property ☐ 35 plan creating precinct property ☐ 36 precinct development contract ☐ 37 precinct management statement ☐ 38 property certificate for community property ☐ 39 plan creating community property ☐ 40 community development contract ☐ 41 community management statement ☐ 42 document disclosing a change of by-laws ☐ 43 document disclosing a change in a development or management contract or statement ☐ 44 document disclosing a change in boundaries ☐ 45 certificate under Management Act – section 109 (Strata Schemes) or section 26 (Community Land)

WARNINGS

- 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

AGL Gas Networks Limited	Government Business & Government Procurement	Public Works Dept
Council	Heritage Office	Roads & Traffic Authority
County Council	Infrastructure Planning and Natural Resources	Rural Lands Protection Board
East Australian Pipeline Limited	Land & Housing Corporation	Sustainable Energy Development
Education & Training Dept	Mine Subsidence Board	Telecommunications authority
Electricity authority	Owner of adjoining land	Water, sewerage or drainage authority
Environment & Conservation Dept	Primary Industries Department	
Fair Trading	RailCorp	

If you think that any of these matters affects the property, tell your solicitor.
- A lease may be affected by the Agricultural Tenancies Act 1990, the Residential Tenancies Act 1987 or the Retail Leases Act 1994.
- If any purchase money is owing to the Crown, it may become payable when the transfer is registered.
- If a consent to transfer is required under legislation, see clause 27 as to the obligations of the parties.
- 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.
- The purchaser will usually have to pay stamp duty on this contract. ~~The sale will also usually be a vendor duty transaction.~~ If duty is not paid on time, a party may incur penalties.
- If the purchaser agrees to the release of deposit any rights in relation to the land (for example, the rights mentioned in clause 2.8) may be subject to the rights of other persons such as the vendor's mortgagee.
- The purchaser should arrange insurance as appropriate.

DISPUTES

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

AUCTIONS

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

WARNING SWIMMING POOLS

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

WARNING SMOKE ALARMS

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

IMPORTANT NOTICE TO VENDORS AND PURCHASERS

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

For example, as purchaser you should be satisfied that finance will be available at the time of completing the purchase (even if settlement might occur many months after signing this contract – in particular, if you are buying off the plan).

COOLING OFF PERIOD (PURCHASER'S RIGHTS)

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

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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>	a bank as defined in the Banking Act 1959, the Reserve Bank or a State bank;
<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>depositholder</i>	vendor's agent (or if no vendor's agent is named in this contract, the vendor's <i>solicitor</i>);
<i>document of title</i>	document relevant to the title or the passing of title;
<i>GST Act</i>	A New Tax System (Goods and Services Tax) Act 1999;
<i>GST rate</i>	the rate mentioned in section 4 of A New Tax System (Goods and Services Tax Imposition - General) Act 1999 (10% as at 1 July 2000);
<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>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 drawn on its own funds by - ● a <i>bank</i>; or ● a building society, credit union or other FCA institution as defined in Cheques Act 1986; that carries on business in Australia; or if authorised in writing by the vendor or the vendor's <i>solicitor</i> , some other <i>cheque</i> ;
<i>solicitor</i>	in relation to a <i>party</i> , the <i>party's</i> solicitor or licensed conveyancer named in this contract or in a notice <i>served</i> by the <i>party</i> ;
<i>terminate</i>	terminate this contract for breach;
<i>vendor duty</i>	vendor duty imposed under Chapter 4 of the Duties Act 1997;
<i>within</i>	in relation to a period, at any time before or during the period;
<i>work order</i>	a valid direction, notice or order that requires work to be done or money to be spent on or in relation to the <i>property</i> or any adjoining footpath or road.

2 Deposit and other payments before completion

- 2.1 The purchaser must pay the deposit to the *depositholder* as stakeholder.
- 2.2 *Normally*, the purchaser must pay the deposit on the making of this contract, and this time is essential.
- 2.3 If this contract requires the purchaser to pay any of the deposit by a later time, that time is also essential.
- 2.4 The purchaser can pay any of the deposit only by unconditionally giving cash (up to \$2,000) or a *cheque* to the *depositholder* or to the vendor, vendor's agent or vendor's *solicitor* for sending to the *depositholder*.
- 2.5 If any of the deposit is not paid on time or a *cheque* for any of the deposit is not honoured on presentation, the vendor can *terminate*. This right to *terminate* is lost as soon as the deposit is paid in full.
- 2.6 If the vendor accepts a bond or guarantee for the deposit, clauses 2.1 to 2.5 and 3 do not apply.
- 2.7 If the vendor accepts a bond or guarantee for part of the deposit, clauses 2.1 to 2.5 and 3 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*, credit union or permanent building society, 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 Payment of vendor duty out of the deposit

- 3.1 This clause applies only if this contract says the deposit can be used to pay vendor duty.
- 3.2 If the amount held by the *depositholder* (disregarding the value of any bond or guarantee) exceeds the amount of *vendor duty*, the *parties* direct the *depositholder* to release the amount of *vendor duty* on the following terms -
 - 3.2.1 the *depositholder* is to draw a *cheque* ("the vendor duty cheque") in favour of the Office of State Revenue and in a form acceptable to the Office of State Revenue for payment of *vendor duty*;
 - 3.2.2 the *depositholder* is not to draw that *cheque* earlier than 14 days before the completion date; and
 - 3.2.3 the receipt of a letter from the vendor's *solicitor* requesting the vendor duty cheque will be sufficient authority for the *depositholder* to draw and release that cheque.
- 3.3 The vendor's *solicitor* will use the vendor duty cheque for the sole purpose of payment of the *vendor duty* relating to this transaction.
- 3.4 If this contract is not completed in circumstances that there is, or may be, no liability for *vendor duty* -
 - 3.4.1 if the vendor duty cheque has been forwarded to the vendor's *solicitor* but has not been used to pay *vendor duty*, that cheque must be returned immediately to the *depositholder* for cancellation;
 - 3.4.2 if the vendor duty cheque has been used to pay *vendor duty* -
 - the amount of *vendor duty* is repayable upon demand;
 - the vendor must lodge an application for refund of *vendor duty*; and
 - the vendor irrevocably authorises the Office of State Revenue to pay to the *depositholder* the refund of *vendor duty*;
 - 3.4.3 each *party* must do whatever else is necessary to ensure that the *party* whose funds were used to pay *vendor duty* receives the refund; and
 - 3.4.4 rights under this clause continue even if the contract has been *rescinded* or *terminated*.

4 Transfer

- 4.1 *Normally*, the purchaser must *serve* the form of transfer at least 14 days before the completion date.
- 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.
- 4.5 If this sale is exempt from *vendor duty* -
 - 4.5.1 the vendor can (but does not have to) *serve* an application for exemption from *vendor duty* in the form satisfactory to the Office of State Revenue *within* 7 days after the contract date;
 - 4.5.2 if that application is attached to this contract or has been provided to the purchaser before the contract date, the application is *served* on the contract date; and
 - 4.5.3 if the vendor complies with clause 4.5.1 -
 - the purchaser must have the form of transfer marked by the Office of State Revenue in relation to *vendor duty* before *serving* the form of transfer; and
 - on completion the vendor must pay to the purchaser \$33.

5 Requisitions

- If the purchaser is or becomes entitled to make a *requisition*, the purchaser can make it only by *serving* it -
 - 5.1 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 if it arises out of anything *served* by the vendor - *within* 21 days after the later of the contract date and that *service*; and
 - 5.3 in any other case - *within* a reasonable time.

6 Error or misdescription

- 6.1 The purchaser can (but only before completion) claim compensation for an error or misdescription in this contract (as to the *property*, the title or anything else and whether substantial or not).
- 6.2 This clause applies even if the purchaser did not take notice of or rely on anything in this contract containing or giving rise to the error or misdescription.
- 6.3 However, this clause does not apply to the extent the purchaser knows the true position.

7 Claims by purchaser

The purchaser can make a claim (including a claim under clause 6) before completion only by *serving* it with a statement of the amount claimed, and if the purchaser makes one or more claims before completion -

7.1 the vendor can *rescind* if in the case of claims that are not claims for delay -

7.1.1 the total amount claimed exceeds 5% of the price;

7.1.2 the vendor *serves* notice of intention to *rescind*; and

7.1.3 the purchaser does not *serve* notice waiving the claims *within* 14 days after that *service*; and

7.2 if the vendor does not *rescind*, the *parties* must complete and if this contract is completed -

7.2.1 the lesser of the total amount claimed and 10% of the price must be paid out of the price to and held by the *depositholder* until the claims are finalised or lapse;

7.2.2 the amount held is to be invested in accordance with clause 2.9;

7.2.3 the claims must be finalised by an arbitrator appointed by the *parties* or, if an appointment is not made *within* 1 month of completion, by an arbitrator appointed by the President of the Law Society at the request of a *party* (in the latter case the *parties* are bound by the terms of the Conveyancing Arbitration Rules approved by the Law Society as at the date of the appointment);

7.2.4 the purchaser is not entitled, in respect of the claims, to more than the total amount claimed and the costs of the purchaser;

7.2.5 net interest on the amount held must be paid to the *parties* in the same proportion as the amount held; and

7.2.6 if the *parties* do not appoint an arbitrator and neither *party* requests the President to appoint an arbitrator *within* 3 months after completion, the claims lapse.

8 Vendor's right to rescind

The vendor can *rescind* if -

8.1 the vendor is, on reasonable grounds, unable or unwilling to comply with a *requisition*;

8.2 the vendor *serves* a notice of intention to *rescind* that specifies the *requisition* and those grounds; and

8.3 the purchaser does not *serve* a notice waiving the *requisition within* 14 days after that *service*.

9 Purchaser's default

If the purchaser does not comply with this contract (or a notice under or relating to it) in an essential respect, the vendor can *terminate* by *serving* a notice. After the *termination* the vendor can -

9.1 keep or recover the deposit (to a maximum of 10% of the price);

9.2 hold any other money paid by the purchaser under this contract as security for anything recoverable under this clause-

9.2.1 for 12 months after the *termination*; or

9.2.2 if the vendor commences proceedings under this clause *within* 12 months, until those proceedings are concluded; and

9.3 sue the purchaser either -

9.3.1 where the vendor has resold the *property* under a contract made *within* 12 months after the *termination*, to recover -

- the deficiency on resale (with credit for any of the deposit kept or recovered and after allowance for any capital gains tax or goods and services tax payable on anything recovered under this clause); and
- the reasonable costs and expenses arising out of the purchaser's non-compliance with this contract or the notice and of resale and any attempted resale; or

9.3.2 to recover damages for breach of contract.

10 Restrictions on rights of purchaser

10.1 The purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of -

10.1.1 the ownership or location of any fence as defined in the Dividing Fences Act 1991;

10.1.2 a service for the *property* being a joint service or passing through another property, or any service for another property passing through the *property* ('service' includes air, communication, drainage, electricity, garbage, gas, oil, radio, sewerage, telephone, television or water service);

10.1.3 a wall being or not being a party wall in any sense of that term or the *property* being affected by an easement for support or not having the benefit of an easement for support;

10.1.4 any change in the *property* due to fair wear and tear before completion;

10.1.5 a promise, representation or statement about this contract, the *property* or the title, not set out or referred to in this contract;

10.1.6 a condition, exception, reservation or restriction in a Crown grant;

10.1.7 the existence of any authority or licence to explore or prospect for gas, minerals or petroleum;

10.1.8 any easement or restriction on use the substance of either of which is disclosed in this contract or any non-compliance with the easement or restriction on use; or

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

10.2 The purchaser cannot *rescind* or *terminate* only because of a defect in title to or quality of the inclusions.

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

11 Compliance with work orders

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

12 Certificates and inspections

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

13 Goods and services tax (GST)

- 13.1 In this clause, enterprise, input tax credit, margin scheme, supply of a going concern, tax invoice and taxable supply have the same meanings as in the *GST Act*.
- 13.2 *Normally*, if a *party* must pay the price or any other amount to the other *party* under this contract, GST is not to be added to the price or amount.
- 13.3 If under this contract a *party* must make an adjustment, pay an expense of another party or pay an amount payable by or to a third party (for example, under clauses 14 or 20.7) -
- 13.3.1 the *party* must adjust or pay on completion any GST added to or included in the amount; but
 - 13.3.2 if this contract says this sale is a taxable supply, and payment would entitle the *party* to an input tax credit, the adjustment or payment is to be worked out by deducting any input tax credit to which the party receiving the adjustment is or was entitled and adding the *GST rate*.
- 13.4 If this contract says this sale is the supply of a going concern -
- 13.4.1 the *parties* agree the supply of the *property* is a supply of a going concern;
 - 13.4.2 the vendor must, between the contract date and completion, carry on the enterprise conducted on the land in a proper and business-like way;
 - 13.4.3 if the purchaser is not registered by the completion date, the *parties* must complete and the purchaser must pay on completion, in addition to the price, an amount being the price multiplied by the *GST rate* ("the retention sum"). The retention sum is to be held by the *depositholder* and dealt with as follows:
 - if *within* 3 months of completion the purchaser *serves* a letter from the Australian Taxation Office stating the purchaser is registered, the *depositholder* is to pay the retention sum to the purchaser; but
 - if the purchaser does not *serve* that letter *within* 3 months of completion, the *depositholder* is to pay the retention sum to the vendor; and
 - 13.4.4 if the vendor, despite clause 13.4.1, *serves* a letter from the Australian Taxation Office stating the vendor has to pay GST on the supply, the purchaser must pay to the vendor on demand the amount of GST assessed.
- 13.5 *Normally*, the vendor promises the margin scheme will not apply to the supply of the *property*.
- 13.6 If this contract says the margin scheme is to apply in making the taxable supply, the parties agree that the margin scheme is to apply to the sale of the property.
- 13.7 If this contract says the sale is not a taxable supply -
- 13.7.1 the purchaser promises that the *property* will not be used and represents that the purchaser does not intend the *property* (or any part of the *property*) to be used in a way that could make the sale a taxable supply to any extent; and
 - 13.7.2 the purchaser must pay the vendor on completion in addition to the price an amount calculated by multiplying the price by the *GST rate* if this sale is a taxable supply to any extent because of -
 - a breach of clause 13.7.1; or
 - something else known to the purchaser but not the vendor.
- 13.8 If this contract says this sale is a taxable supply in full and does not say the margin scheme applies to the *property*, the vendor must pay the purchaser on completion an amount of one-eleventh of the price if -
- 13.8.1 this sale is not a taxable supply in full; or
 - 13.8.2 the margin scheme applies to the *property* (or any part of the *property*).
- 13.9 If this contract says this sale is a taxable supply to an extent -
- 13.9.1 clause 13.7.1 does not apply to any part of the *property* which is identified as being a taxable supply; and
 - 13.9.2 the payments mentioned in clauses 13.7 and 13.8 are to be recalculated by multiplying the relevant payment by the proportion of the price which represents the value of that part of the *property* to which the clause applies (the proportion to be expressed as a number between 0 and 1). Any evidence of value must be obtained at the expense of the vendor.
- 13.10 *Normally*, on completion the vendor must give the recipient of the supply a tax invoice for any taxable supply by the vendor by or under this contract.
- 13.11 The vendor does not have to give the purchaser a tax invoice if the margin scheme applies to a taxable supply.

14 Adjustments

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

15 Completion date

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

16 Completion

• Vendor

- 16.1 On completion the vendor must give the purchaser any *document of title* that relates only to the *property*.
- 16.2 If on completion the vendor has possession or control of a *document of title* that relates also to other property, the vendor must produce it as and where necessary.
- 16.3 *Normally*, on completion the vendor must cause the legal title to the *property* (being an estate in fee simple) to pass to the purchaser free of any mortgage or other interest, subject to any necessary registration.
- 16.4 The legal title to the *property* does not pass before completion.
- 16.5 If the vendor gives the purchaser a document (other than the transfer) that needs to be lodged for registration, the vendor must pay the lodgment fee to the purchaser, plus another 20% of that fee.
- 16.6 If the purchaser serves a land tax certificate showing a charge on any of the land, on completion the vendor must give the purchaser a land tax certificate showing the charge is no longer effective against the land.

• Purchaser

- 16.7 On completion the purchaser must pay to the vendor, by cash (up to \$2,000) or *settlement cheque*, the price (less any deposit paid) and any other amount payable by the purchaser under this contract (less any amount payable by the vendor to the purchaser under this contract).
- 16.8 If the vendor requires more than 5 *settlement cheques*, the vendor must pay \$10 for each extra *cheque*.
- 16.9 If any of the deposit is not covered by a bond or guarantee, on completion the purchaser must give the vendor an order signed by the purchaser authorising the *depositholder* to account to the vendor for the deposit.
- 16.10 On completion the deposit belongs to the vendor.

• Place for completion

- 16.11 *Normally*, the *parties* must complete at the completion address, which is -
- 16.11.1 if a special completion address is stated in this contract - that address; or
 - 16.11.2 if none is stated, but a first mortgagee is disclosed in this contract and the mortgagee would usually discharge the mortgage at a particular place - that place; or
 - 16.11.3 in any other case - the vendor's *solicitor's* address stated in this contract.
- 16.12 The vendor by reasonable notice can require completion at another place, if it is in NSW, but the vendor must pay the purchaser's additional expenses, including any agency or mortgagee fee.
- 16.13 If the purchaser requests completion at a place that is not the completion address, and the vendor agrees, the purchaser must pay the vendor's additional expenses, including any agency or mortgagee fee.

17 Possession

- 17.1 *Normally*, the vendor must give the purchaser vacant possession of the *property* on completion.
- 17.2 The vendor does not have to give vacant possession if -

- 17.2.1 this contract says that the sale is subject to existing tenancies; and
- 17.2.2 the contract discloses the provisions of the tenancy (for example, by attaching a copy of the lease and any relevant memorandum or variation).
- 17.3 *Normally*, the purchaser can claim compensation (before or after completion) or *rescind* if any of the land is affected by a protected tenancy (a tenancy affected by Part 2, 3, 4 or 5 Landlord and Tenant (Amendment) Act 1948).

18 Possession before completion

- 18.1 This clause applies only if the vendor gives the purchaser possession of the *property* before completion.
- 18.2 The purchaser must not before completion -
 - 18.2.1 let or part with possession of any of the *property*;
 - 18.2.2 make any change or structural alteration or addition to the *property*; or
 - 18.2.3 contravene any agreement between the *parties* or any direction, document, *legislation*, notice or order affecting the *property*.
- 18.3 The purchaser must until completion -
 - 18.3.1 keep the *property* in good condition and repair having regard to its condition at the giving of possession; and
 - 18.3.2 allow the vendor or the vendor's authorised representative to enter and inspect it at all reasonable times.
- 18.4 The risk as to damage to the *property* passes to the purchaser immediately after the purchaser enters into possession.
- 18.5 If the purchaser does not comply with this clause, then without affecting any other right of the vendor -
 - 18.5.1 the vendor can before completion, without notice, remedy the non-compliance; and
 - 18.5.2 if the vendor pays the expense of doing this, the purchaser must pay it to the vendor with interest at the rate mentioned in Schedule J of the Supreme Court Rules 1970.
- 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 fax to the *party's solicitor*, unless it is not received;
 - 20.6.6 *served* on a person if it (or a copy of it) comes into the possession of the person; and
 - 20.6.7 *served* at the earliest time it is *served*, if it is *served* more than once.
- 20.7 An obligation to pay an expense of another *party* of doing something is an obligation to pay -
 - 20.7.1 if the *party* does the thing personally - the reasonable cost of getting someone else to do it; or
 - 20.7.2 if the *party* pays someone else to do the thing - the amount paid, to the extent it is reasonable.
- 20.8 Rights under clauses 11, 13, 14, and 17 continue after completion, whether or not other rights continue.
- 20.9 The vendor does not promise, represent or state that the purchaser has any cooling off rights.
- 20.10 The vendor does not promise, represent or state that any attached survey report is accurate or current.
- 20.11 A reference to any *legislation* includes a reference to any corresponding later *legislation*.
- 20.12 Each *party* must do whatever is necessary after completion to carry out the *party's* obligations under this contract.
- 20.13 Neither taking possession nor *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 page 1) 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 clause 2 (deposit).
- 21.6 *Normally*, the time by which something must be done is fixed but not essential.

22 Foreign Acquisitions and Takeovers Act 1975

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

23 Strata or community title

- 23.1 This clause applies only if the land (or part of it) is a lot in a strata, neighbourhood, precinct or community scheme (or on completion is to be a lot in a scheme of that kind).
- 23.2 In this contract -
 'change', in relation to a scheme, means -
 • a registered or registrable change from by-laws set out in this contract or set out in *legislation* and specified in this contract;
 • a change from a development or management contract or statement set out in this contract; or
 • a change in the boundaries of common property;
 'common property' includes association property for the scheme or any higher scheme;
 'contribution' includes an amount payable under a by-law;
 'normal expenses', in relation to an owners corporation for a scheme, means normal operating expenses usually payable from the administrative fund of an owners corporation for a scheme of the same kind;
 'owners corporation' means the owners corporation or the association for the scheme or any higher scheme;
 'the *property*' includes any interest in common property for the scheme associated with the lot;
 'special expenses', in relation to an owners corporation, means its actual, contingent or expected expenses, except to the extent they are normal expenses, due to fair wear and tear, disclosed in this contract or covered by moneys held in the sinking fund.
- 23.3 Clauses 11, 14.8 and 18.4 do not apply to an obligation of the owners corporation, or to property insurable by it.
- 23.4 Clauses 14.4.2 and 14.5 apply but on a unit entitlement basis instead of an area basis.
- 23.5 The *parties* must adjust under clause 14.1 -
 23.5.1 a regular periodic contribution;
 23.5.2 a contribution which is not a regular periodic contribution but is disclosed in this contract; and
 23.5.3 on a unit entitlement basis, any amount paid by the vendor for a normal expense of the owners corporation to the extent the owners corporation has not paid the amount to the vendor.
- 23.6 If a contribution is not a regular periodic contribution and is not disclosed in this contract -
 23.6.1 the vendor is liable for it if it was levied before the contract date (unless it relates to work not started by that date), even if it is payable by instalments;
 23.6.2 the vendor is also liable for it to the extent it relates to work started by the owners corporation before the contract date; and
 23.6.3 the purchaser is liable for all other contributions levied after the *contract date*.
- 23.7 The vendor must pay or allow to the purchaser on completion the amount of any unpaid contributions for which the vendor is liable under clause 23.6.
- 23.8 *Normally*, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of -
 23.8.1 an existing or future actual, contingent or expected expense of the owners corporation;
 23.8.2 a proportional unit entitlement of the lot or a relevant lot or former lot, apart from a claim under clause 6; or
 23.8.3 a past or future change in the scheme or a higher scheme.
- 23.9 However, the purchaser can *rescind* if -
 23.9.1 the special expenses of the owners corporation at the later of the contract date and the creation of the owners corporation when calculated on a unit entitlement basis (and, if more than one lot or a higher scheme is involved, added together), less any contribution paid by the vendor, are more than 1% of the price;
 23.9.2 in the case of the lot or a relevant lot or former lot in a higher scheme -
 • a proportional unit entitlement for the lot is not disclosed in this contract; or
 • a proportional unit entitlement for the lot is disclosed in this contract but the lot has a different proportional unit entitlement at the contract date or at any time before completion; or
 23.9.3 a change before the contract date or before completion in the scheme or a higher scheme substantially disadvantages the purchaser and is not disclosed in this contract.
- 23.10 The purchaser must give the vendor 2 copies of a proper form of notice of the transfer of the lot addressed to the owners corporation and signed by the purchaser.
- 23.11 The vendor must complete and sign 1 copy of the notice and give it to the purchaser on completion.
- 23.12 Each *party* can sign and give the notice as agent for the other.
- 23.13 The vendor must *serve* a certificate under section 109 Strata Schemes Management Act 1996 or section 26 Community Land Management Act 1989 in relation to the lot, the scheme or any higher scheme at least 7 days before the completion date.

- 23.14 The purchaser does not have to complete earlier than 7 days after *service* of the certificate and clause 21.3 does not apply to this provision.
- 23.15 On completion the purchaser must pay the vendor the prescribed fee for the certificate.
- 23.16 The vendor authorises the purchaser to apply for the purchaser's own certificate.
- 23.17 The vendor authorises the purchaser to apply for and make an inspection of any record or other document in the custody or control of the owners corporation or relating to the scheme or any higher scheme.
- 23.18 If a general meeting of the owners corporation is convened before completion -
- 23.18.1 if the vendor receives notice of it, the vendor must immediately notify the purchaser of it; and
- 23.18.2 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 -
- any of Parts 2 to 7 of the Retail Leases Act 1994 applies to the tenancy, unless this contract discloses that the tenancy commenced on or after 1 August 1994;
 - a disclosure statement required by the Act 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 Act.
- 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;
 - 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; and
- 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 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 to the tenant 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.
- 24.5 Rights under this clause continue after completion, whether or not other rights continue.

25 Qualified title, limited title and old system title

- 25.1 This clause applies only if the land (or part of it) -
- 25.1.1 is under qualified, limited or old system title; or
 - 25.1.2 on completion is to be under one of those titles.
- 25.2 The vendor must *serve* a proper abstract of title *within 7* days after the contract date.
- 25.3 If an abstract of title or part of an abstract of title is attached to this contract or has been lent by the vendor to the purchaser before the contract date, the abstract or part is *served* on the contract date.
- 25.4 An abstract of title can be or include a list of documents, events and facts arranged (apart from a will or codicil) in date order, if the list in respect of each document -
- 25.4.1 shows its date, general nature, names of parties and any registration number; and
 - 25.4.2 has attached a legible photocopy of it or of an official or registration copy of it.
- 25.5 An abstract of title -
- 25.5.1 must start with a good root of title (if the good root of title must be at least 30 years old, this means 30 years old at the contract date);
 - 25.5.2 in the case of a leasehold interest, must include an abstract of the lease and any higher lease;
 - 25.5.3 *normally*, need not include a Crown grant; and
 - 25.5.4 need not include anything evidenced by the Register kept under the Real Property Act 1900.
- 25.6 In the case of land under old system title -
- 25.6.1 in this contract 'transfer' means conveyance;
 - 25.6.2 the purchaser does not have to *serve* the form of transfer until after the vendor has *served* a proper abstract of title; and
 - 25.6.3 each vendor must give proper covenants for title as regards that vendor's interest.
- 25.7 In the case of land under limited title but not under qualified title -
- 25.7.1 *normally*, the abstract of title need not include any document which does not show the location, area or dimensions of the land (for example, by including a metes and bounds description or a plan of the land);
 - 25.7.2 clause 25.7.1 does not apply to a document which is the good root of title; and
 - 25.7.3 the vendor does not have to provide an abstract if this contract contains a delimitation plan (whether in registrable form or not).
- 25.8 The vendor must give a proper covenant to produce where relevant.
- 25.9 The vendor does not have to produce or covenant to produce a document that is not in the possession of the vendor or a mortgagee.
- 25.10 If the vendor is unable to produce an original document in the chain of title, the purchaser will accept a photocopy from the Registrar General of the registration copy of that document.

26 Crown purchase money

- 26.1 This clause applies only if purchase money is payable to the Crown, whether or not due for payment.
- 26.2 The vendor is liable for the money, except to the extent this contract says the purchaser is liable for it.
- 26.3 To the extent the vendor is liable for it, the vendor is liable for any interest until completion.
- 26.4 To the extent the purchaser is liable for it, the *parties* must adjust any interest under clause 14.1.

27 Consent to transfer

- 27.1 This clause applies only if the land (or part of it) is restricted title land (land that cannot be transferred without consent under *legislation*).
- 27.2 The purchaser must properly complete and then *serve* the purchaser's part of an application for consent to transfer of the land (or part of it) *within 7* days after the contract date.
- 27.3 The vendor must apply for consent *within 7* days after *service* of the purchaser's part.
- 27.4 If consent is refused, either *party* can *rescind*.
- 27.5 If consent is given subject to one or more conditions that will substantially disadvantage a *party*, then that *party* can *rescind within 7* days after receipt by or *service* upon the *party* of written notice of the conditions.
- 27.6 If consent is not given or refused -
- 27.6.1 *within 42* days after the purchaser *serves* the purchaser's part of the application, the purchaser can *rescind*; or
 - 27.6.2 *within 30* days after the application is made, either *party* can *rescind*.
- 27.7 If the *legislation* is the Western Lands Act 1901 each period in clause 27.6 becomes 90 days.
- 27.8 If the land or part is described as a lot in an unregistered plan, each time in clause 27.6 becomes the later of the time and 35 days after creation of a separate folio for the lot.
- 27.9 The completion date becomes the later of the completion date and 14 days after *service* of the notice granting consent to transfer.

28 Unregistered plan

- 28.1 This clause applies only if some of the land is described as a lot in an unregistered plan.
- 28.2 The vendor must do everything reasonable to have the plan registered *within 6* months after the contract date, with or without any minor alteration to the plan or any document to be lodged with the plan validly required or made under *legislation*.

- 28.3 If the plan is not registered *within* that time and in that manner -
 28.3.1 the purchaser can *rescind*; and
 28.3.2 the vendor can *rescind*, but only if the vendor has complied with clause 28.2.
 28.4 Either *party* can serve notice of the registration of the plan and every relevant lot and plan number.
 28.5 The completion date becomes the later of the completion date and 21 days after *service* of the notice.
 28.6 Clauses 28.2 and 28.3 apply to a 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;
 29.7.3 the completion date becomes the later of the completion date 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;
 • 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 completion date becomes the later of the completion date 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.

Cooling-off certificate

I, _____
of _____

in the State of New South Wales, Solicitor/Barrister certify as follows:-

- (a) I am a Solicitor/Barrister currently admitted to practise in New South Wales.
- (b) 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 known as **32 Kens Road, Frenchs Forest** from **Neil Ian Lotter** and **Gillian Margaret Lotter** as vendor to

as purchaser in order that there is no cooling-off period in relation to that contract.

- (c) I do not act for the vendor and am not employed in the legal practice of a solicitor acting for the vendor nor am I a member or employee of a firm of which a solicitor acting for the vendor is a member or employee.
- (d) I have explained to _____

the purchaser / an officer of the purchaser corporation or a person involved in the management of its affairs:

- (i) the effect of the contract for the purchase of that property;
- (ii) the nature of this certificate;
- (iii) the effect of giving this certificate to the vendor, that is, that there is no cooling-off period in relation to the contract.

Dated:

Signed: _____

SPECIAL CONDITIONS

30. SERVICE OF NOTICES

In addition to the provisions of Clause 20 of this Contract, service of any notice or document under or relating to this Contract may be effected and shall be sufficient service on a party and that party's solicitor:

- (a) if addressed to that party or to that party's solicitor at the respective addresses set out in this Contract and posted by ordinary pre-paid post and such notice or document shall be deemed to have been received by that party or that party's solicitor on the second business day following the date of posting.
- (b) if sent by facsimile transmission to the address shown on the letterhead of that party and/or that party's solicitor as being set aside for transmission of or receipt of facsimile transmissions.
- (c) any notice validly given by facsimile transmission in accordance with sub-clause (b) of this Clause, in the absence of proof to the contrary, shall be deemed to have been received by the party to whom it was sent on the date of dispatch provided that:
 - (i) the recipient's acknowledgement of receipt appears on the sender's copy of the notice, or on the activity record print out of the sender's machine, or the activity record print out of the sender's machine shows a successful transmission of any appropriate size document to the recipient's facsimile machine on the date indicated in the print out; and
 - (ii) if the time of dispatch is later than 5:00pm in the place to which such facsimile transmission is sent it shall be deemed to have been received at the commencement of business on the next business day in that place.

31. CREDIT CODE

- (a) The Purchaser acknowledges that the Vendor has entered into this Contract on the Purchaser's warranty that:
 - (i) the Purchaser does not require credit in order to pay for the Property; or
 - (ii) if the Purchaser requires credit in order to pay for the Property, the Purchaser has obtained such credit on reasonable terms prior to the date of this Contract.
- (b) The Purchaser shall not have any right to terminate this Contract by virtue of any non-availability of credit as at the settlement date.

32. REGISTRATION OF PLAN

- 32.1 Completion of this Contract is subject to and conditional upon issue of the Subdivision Certificate and registration of the Draft Deposited Plan by Land and Property Information NSW as a Deposited Plan. The conditions that must be complied with prior to the issue of the Subdivision Certificate (Subdivision Conditions of Consent) are detailed in Warringah Council Development Consent DA2012/0795 (the "DA Consent") as modified by section 96 certificate Mod2013/0024 (the "Section 96 Consent"), both attached.
- 32.2 DELETED
- 32.3 DELETED
- 32.4 The Vendor shall use its best endeavours with due expedition to comply with and carry out all works set out in the Subdivision Conditions of Consent including retaining Council as the principal certifying authority, obtaining mortgagee approval and lodging and registering the Plan of Subdivision at the earliest possible point in time.
- 32.5 DELETED
- 32.6a DELETED
- 32.6b If the Draft Deposited Plan has not been registered by 3 months from the date hereof then either party may rescind this Contract by notice in writing to the other whereupon the provisions of Clause 19 hereof shall apply.
- 32.7 The parties acknowledge that the lot numbers, boundary positions, measurements and dimensions shown on the Draft Deposited Plan are or will be provisional and are subject to alteration as may be required or requested by the Local Council, Land and Property Information NSW or any other authority.
- 32.8 Subject to sub-clause 32.9, the Purchaser is not entitled to make any objection, requisition or claim for compensation, rescind, terminate or delay completion of the Contract by reason of any minor variation or discrepancy between the lot numbers, the position of the property, boundary positions, measurements or dimensions shown on the Draft Deposited Plan and those shown on the Deposited Plan as registered by the Land and Property Information NSW.
- 32.9 If there is or are one or more variations or discrepancies shown on the Draft Deposited Plan and the registered Deposited Plan which is or are other than minor and which materially adversely affect the property the Purchaser may rescind this Contract by notice in writing to the Vendor whereupon the provisions of Clause 19 hereof will apply.

- 32.10 The right of rescission conferred by the previous clause may be exercised no later than twenty-one (21) days after the Vendor has notified the Purchaser of the variation or discrepancy or fourteen (14) days after the Vendor has served notice on the Purchaser of registration of the Draft Deposited Plan by the Land and Property Information NSW, whichever is the earlier ("the rescission period"). If the Purchaser does not rescind the Contract during the rescission period then the Purchaser's right to rescind lapses and this Contract becomes and remains binding in all respects as though the right of rescission had not been included in this Contract.
- 32.11 The parties agree any decrease in the area of the property as shown in the registered Deposited Plan from the area as shown on the Draft Deposited Plan attached of less than or equal to 5 percent, shall be deemed to be minor.

33. RIGHT TO CHANGE DOCUMENTS

- 33.1 Notwithstanding any other provision of this Contract with the sole exception of clause 33.3, the Vendor may up to the time of completion notify the Purchaser of its intention to alter, to add to, vary or delete a draft document or plan annexed to this Contract.
- 33.2 If such an alteration, variation, addition or deletion was contained in the final document or plan and the Purchaser would otherwise have had the right to rescind the Contract as a result of any such alteration, addition, variation or deletion then the Purchaser must exercise that right of rescission by notice in writing to the Vendor within 21 days of being notified by the Vendor of such alteration, addition, variation or 14 days after being notified of registration of the documents at the Land and Property Information NSW where applicable ("the rescission period"). If this right of rescission is not exercised within the rescission period this Contract becomes binding in all aspects as though the right of rescission had not been granted.
- 33.3 The Vendor may not vary the terms of the Plan of Subdivision or amend any of the terms of the existing DA Consent, Section 96 Consent or Construction Certificate by way of an additional section 96 certificate or otherwise unless agreed in writing by the Purchaser.

34. EASEMENTS TO BE CREATED

The Purchaser acknowledges that there are to be created upon registration of the Deposited Plan restrictions as to user and/or easements in the terms of the document annexed hereto and the Purchaser will not, subject to Section 52A of the Conveyancing Act 1919 take any objection or make any requisition or claim for compensation in respect of the creation of the said restrictions as to user and/or the said easements as aforesaid.

35. CLAUSE DELETED

36. CLAUSE DELETED

37. WATER RATES

- 37.1 If at completion no separate assessment for water and sewerage rates in respect of lots in the subject sub-division for the quarter current at completion has been issued the Purchaser agrees to accept \$150.00 as the amount payable for water and sewerage rates for each lot in the subject sub-division for the quarter current at completion and such amount shall be adjusted on completion in accordance with clause 14.
- 37.2 An adjustment under clause 37.1 shall be on the basis that the amount being adjusted is paid.
- 37.3 If an adjustment is made under clause 37.1 no regard shall be had to the actual assessment or assessments for water and sewerage rate, which are subsequently issued for each lot in the subject sub-division.
- 37.4 If an adjustment is made under clause 37.1 the Vendor shall pay any assessment or assessments for water and sewerage rates which may be issued for each lot in the subject sub-division for the quarter current at completion or any part thereof when such assessment or assessments are issued.

38. COUNCIL RATES

- 38.1 If at completion no separate assessment for municipal rates in respect of lots in the subject sub-division for the year current at completion has been issued the Purchaser agrees to accept \$1,000 as the amount payable for municipal rates for each lot in the subject sub-division for the year current at completion and such amount shall be adjusted on completion in accordance with clause 14.
- 38.2 An adjustment under clause 38.1 shall be on the basis that the amount being adjusted is paid.
- 38.3 If an adjustment is made under clause 38.1 no regard shall be had to the actual assessment or assessments for municipal rates, which are subsequently issued for each lot in the subject sub-division.
- 38.4 If an adjustment is made under clause 38.1 the Vendor shall pay any assessment or assessments for municipal rates which may be issued for each lot in the subject sub-division for the year current at completion or any part thereof when such assessment or assessments are issued.

39. DELETED

40. NO CAVEAT

The Purchaser shall not lodge, prior to registration of the deposited plan, any caveat or other instrument at the Land and Property Information NSW in respect of the land in Folio Identifier 2425/752038 for any Lot in the Deposited Plan to protect his interest under and pursuant to this Contract.

41. TITLE PARTICULARS

The Purchaser agrees that, for the purpose of Clause 5 hereof, if the Deposited Plan is not registered as at the date hereof, sufficient particulars of title shall be furnished by the Vendor stating the number of the lot hereby sold and the number under which the Deposited Plan has been lodged for registration at the Land and Property Information NSW.

42. COMPLETION DATE

Completion of this Contract will be effected within twenty one (21) days of the Vendor or its solicitors notifying the Purchaser or his solicitors in writing of registration of the Deposited Plan and of the number allocated thereto.

43. NOTICE TO COMPLETE

If this Contract is not completed by the time stipulated in Clause 42 hereof the Vendor shall be entitled to issue a Notice to Complete fixing the time for completion which time shall be of the essence of the Contract and such notice shall be deemed to be sufficient as to time if a period of not less than twenty one (21) days from the date of the notice is allowed for completion.

44. INTEREST

It is an essential term of this Contract that in the event that completion does not take place within the time stipulated in Clause 42 hereof then the Purchaser shall pay to the Vendor on completion in addition to the balance purchase moneys and any other moneys payable to the Vendor, interest on the balance purchase moneys calculated at the rate of 8% per annum computed from the date specified in the Clause 42 hereof and calculated up until completion PROVIDED HOWEVER that should completion at any time be delayed by reason of the Vendor's default then interest shall not be charged for the period during which completion was so delayed.

45. CLAUSE DELETED**46. CLAUSE DELETED****47. CLAUSE DELETED****48. CLAUSE DELETED****49. GUARANTEE**

In the event that the Purchaser hereunder is a Company, the form of Guarantee annexed hereto shall be executed by Directors of the Company.

50. CLAUSE DELETED**51. CLAUSE DELETED**

52. SERVICES

- (a) The Purchaser acknowledges that the Vendor has no responsibility for the installation or connection of any Services other than those which the Vendor may be required to provide by a Relevant Authority.
- (b) The Purchaser cannot make a claim, objection or requisition or rescind or terminate or delay completion in respect of any delay in the installation or connection of any Services or the non-availability of any of the Services where all bonds have been entered into and all funds paid to the Relevant Authorities by the Vendor.
- (c) For the purposes of this Clause "Relevant Authority" means Warringah Council and every other Governmental statutory or other authority whose approval must be obtained to the draft Deposited Plan before the Draft Deposited Plan may be lodged for registration at the Land and Property Information NSW as a Deposited Plan.
- (d) For the purposes of this clause "Services" shall include telephone, gas, electricity, water and sewerage services to the Property.

53. CLAUSE DELETED**54. MARGIN SCHEME**

- 54.1 The Vendor discloses that it may apply (but is not obliged to apply) the margin scheme under Division 75 of A New Tax System (Goods and Services Tax) Act 1999 in calculating its GST liability in relation to the sale of the lot sold to the Purchaser.
- 54.2 The Purchaser cannot make a claim, objection or requisition or rescind or terminate in respect of the Vendor applying the margin scheme in calculating its GST liability in relation to the sale of the lot sold to the Purchaser.

55. GOVERNING LAW

This Contract is governed by the laws of New South Wales. The parties submit to the non-exclusive jurisdiction of courts exercising jurisdiction there.

56. TAX FILE NUMBER

Simultaneously with paying the deposit the Purchaser shall advise the Vendor's solicitors of the Purchaser's tax file number, if any. Should no tax file number be provided by the Purchaser, any income tax deducted from the interest which accrued on the deposit shall be deducted from the proportion of interest otherwise payable to the Purchaser hereunder.

57. CLAUSE DELETED**58. CLAUSE DELETED**

59. CLAUSE DELETED**60. REQUISITIONS ON TITLE**

Annexed hereto and marked with the letter "D" are Residential Property Requisitions on Title 2011 Copyright of the Law Society of New South Wales (the "Requisitions"). Notwithstanding the provision of Clause 5 hereof, the Vendor shall not be required nor obliged to answer any other requisitions on title other than the requisition referred to herein and the Purchaser agrees not to forward any other form of requisition on title nor make any further requisitions (unless such further requisitions arise from the answers given by the Vendor to the requisitions referred to herein).

61. DEPOSIT BOND

In the event that the deposit is paid by way of a Deposit Bond, this special condition is deemed to be inserted between Clauses 2 and 3 of the contract and:

- (a) The expression "Bond" in this contract means a Deposit Guarantee Bond issued to the Vendor at the request of the Purchaser by a guarantor (either named in the Contract or otherwise agreed between the Vendor and the Purchaser) and in or to the effect of the form set out below.
- (b) The delivery to the Vendor or the Vendor's Solicitor of a Bond which binds the guarantor to the Vendor shall, subject to (i) and (ii) of this subclause, be deemed for the purposes of this Contract to be payment of the guaranteed amount at the time of such delivery on account of the deposit to the person or persons nominated in this contract to receive the deposit and the following provisions shall apply:
 - (i) on completion of this Contract or at such other time as may be provided for the deposit to be accounted for to the Vendor, the Purchaser shall pay the amount stipulated in the Bond to the Vendor in cash or by unendorsed bank cheque: and
 - (ii) if the Vendor serves on the Purchaser a notice in writing claiming to forfeit the deposit, then such service shall operate as a demand upon the Purchaser for payment forthwith of the deposit (or so much thereof as has not been paid) and upon failure of the Purchaser to pay same within two (2) clear business days of service of such notice, the Vendor shall be entitled to demand payment from the guarantor in accordance with the provisions of the Bond and the provisions of this Contract in relation to the deposit shall then apply as though this Contract had just been made and required payment of the deposit within two (2) clear business days of demand on the guarantor.

62. CLAUSE DELETED

63. SPECIAL CONDITIONS OVERRIDE

If there is a conflict between these Special Conditions and the printed Provisions of this Contract, these Special Conditions prevail.

64. DEPOSIT LESS THAN 10%

In the event that:

- (a) the Purchaser defaults in the observance of any obligation hereunder which is or the performance of which has become essential; and
- (b) the Purchaser has paid a deposit of less than ten percent (10%) of the purchase price; and
- (c) the Vendor terminates this Contract or the Purchaser does not rescind this Contract in accordance with the Cooling Off provisions created by Section 66S of the Conveyancing Act

then the Vendor shall be entitled to recover from the Purchaser, an amount equal to ten percent (10%) of the purchase price less any deposit paid, as liquidated damages and it is agreed that this right shall be in addition to and shall not limit any remedies available to the vendor herein contained or implied notwithstanding any rule of Law or Equity to the contrary. This Special Condition shall not merge upon completion of this Contract.

65. ON-SITE STORMWATER DETENTION

- (a) Annexed hereto is the Section 96 Consent MOD 2013/0024 which amends the development application. The Purchaser acknowledges that following completion and registration of the plan of subdivision they will be solely liable for construction of the on-site stormwater detention system.
- (b) The Purchaser further acknowledges that it is a provision of the Section 96 Consent and a requirement of Council that prior to the procurement of an occupation certificate a positive covenant and restriction as to user in terms of the attached would need to be registered for the on-site stormwater.

MCCANNS LEGAL SERVICES PTY LTD**Box 886 G.P.O. Sydney NSW 2001. Phone: 02 9235 2299 Fax: 02 9233 4292****<http://www.rapidprocess.com.au>**

Note: Information contained in this document is provided by GlobalX Information Services Pty Ltd (ABN 99 073 436 414)
www.globalx.com.au an approved broker.

LAND AND PROPERTY INFORMATION NEW SOUTH WALES - TITLE SEARCH

FOLIO: 2425/752038

SEARCH DATE	TIME	EDITION NO	DATE
22/1/2014	9:56 AM	5	15/12/2012

LAND

LOT 2425 IN DEPOSITED PLAN 752038
 LOCAL GOVERNMENT AREA WARRINGAH
 PARISH OF MANLY COVE COUNTY OF CUMBERLAND
 (FORMERLY KNOWN AS PORTION 2425)
 TITLE DIAGRAM CROWN PLAN 8870.2030

FIRST SCHEDULE

NEIL IAN LOTTER
 GILLIAN MARGARET LOTTER
 AS JOINT TENANTS (T AC972377)

SECOND SCHEDULE (4 NOTIFICATIONS)

- 1 LAND EXCLUDES MINERALS AND IS SUBJECT TO RESERVATIONS AND CONDITIONS IN FAVOUR OF THE CROWN - SEE CROWN GRANT(S)
- 2 EXCEPTING LAND BELOW A DEPTH FROM THE SURFACE OF 15.24 METRES
- 3 DP230150 RIGHT OF CARRIAGEWAY APPURTENANT TO THE LAND ABOVE DESCRIBED
- 4 AH437335 MORTGAGE TO COMMONWEALTH BANK OF AUSTRALIA

NOTATIONS

UNREGISTERED DEALINGS: PP DP1192794.

*** END OF SEARCH ***

Vahivo Pty Limited t/as The Legal Group PRINTED ON 22/1/2014

GlobalX Information Services Pty Ltd (ABN 99 073 436 414) an approved NSW Information Broker hereby certifies that the information contained in this document has been provided electronically by the Registrar General in accordance with section 96B(2) of the Real Property Act 1900.

* ANY ENTRIES PRECEDED BY AN ASTERISK DO NOT APPEAR ON THE CURRENT EDITION OF THE CERTIFICATE OF TITLE
WARNING: THE INFORMATION APPEARING UNDER NOTATIONS HAS NOT BEEN FORMALLY RECORDED IN THE REGISTER.
 © State of New South Wales through the Department of Lands 2014

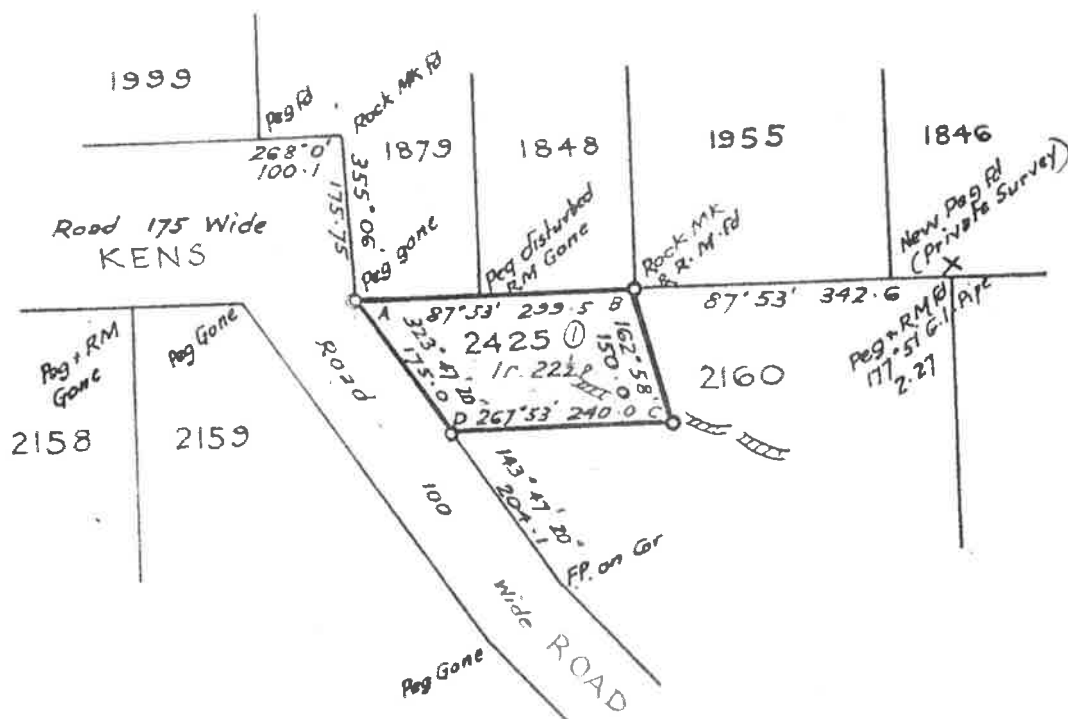
NOTATION PLAN

The following Change, General Description, PERTINENT, that this not very plan is a PHOTOGRAPHIC COPY OF THE ORIGINAL AT DATE OF ITS APPROVAL.

R.L. Gordon

DATE 16.2.65

PLAN MICROFILMED
NO ADDITIONS OR AMENDMENTS TO BE MADE



Surround Area

Por. 2425 39092a

REFERENCE MARKS

CORNER	BEARING	FROM	DISTANCE	NO. ON TOPE
A	Peg Numbered			2425
	87° 53' RK MK		2.74	
B	Rock MK at Corner	1848-1955		2425
	357° 53' RK MK		2.27	
C	Peg Numbered			2425
	267° 53' RK MK		4.30	
D	Peg Numbered			2425
	87° 53' RK MK		2.74	

SCALE 2 chains TO AN INCH
All measurements shown in links
AZIMUTH TAKEN FROM BX Mag.
FIELD BOOK 5090 PAGES 3, 4, 5

I, George Westwood Anderson
of MOSMAN
a Surveyor registered under the Surveyors Act, 1929-1946, hereby
certify that the survey represented in this plan is accurate and has
been made by me ~~under my immediate supervision~~ in accordance with
the Survey Practice Regulations, 1933, and the special requirements
of the Department of Lands and was completed on 11th Sept 1964.

Signature G. W. Anderson
Surveyor registered under the Surveyors Act, 1929-1946.

Cancels part C6646-2030

Within R2716 from Occupation under MR or BL notified 28th October, 1960.

R84618 for Future Public Requirements notified 8th November, 1963 Revd 23.4.65.

Portion 2425 Conditional Purchase 1963/6 of 26th February (Conversion of part

① { Special Lease 58/229) Maxwell John Snelgrove Sale completed. Ten. 65-662
Grant limited to surface and depth of 50 feet.

FEET INCHES		METERS	
1	6	0.457	
2	6 1/4	0.494	
3	6 1/2	0.521	
4	6 3/4	0.548	
5	7	0.575	
6	7 1/4	0.602	
7	7 1/2	0.629	
8	8	0.656	
9	8 1/4	0.683	
10	8 1/2	0.710	
11	8 3/4	0.737	
12	9	0.764	
13	9 1/4	0.791	
14	9 1/2	0.818	
15	9 3/4	0.845	
16	10	0.872	
17	10 1/4	0.899	
18	10 1/2	0.926	
19	10 3/4	0.953	
20	11	0.980	
21	11 1/4	1.007	
22	11 1/2	1.034	
23	11 3/4	1.061	
24	12	1.088	
25	12 1/4	1.115	
26	12 1/2	1.142	
27	12 3/4	1.169	
28	13	1.196	
29	13 1/4	1.223	
30	13 1/2	1.250	
31	13 3/4	1.277	
32	14	1.305	
33	14 1/4	1.332	
34	14 1/2	1.359	
35	14 3/4	1.386	
36	15	1.413	
37	15 1/4	1.440	
38	15 1/2	1.467	
39	15 3/4	1.494	
40	16	1.521	
41	16 1/4	1.548	
42	16 1/2	1.575	
43	16 3/4	1.602	
44	17	1.629	
45	17 1/4	1.656	
46	17 1/2	1.683	
47	17 3/4	1.710	
48	18	1.737	
49	18 1/4	1.764	
50	18 1/2	1.791	
51	18 3/4	1.818	
52	19	1.845	
53	19 1/4	1.872	
54	19 1/2	1.899	
55	19 3/4	1.926	
56	20	1.953	
57	20 1/4	1.980	
58	20 1/2	2.007	
59	20 3/4	2.034	
60	21	2.061	
61	21 1/4	2.088	
62	21 1/2	2.115	
63	21 3/4	2.142	
64	22	2.169	
65	22 1/4	2.196	
66	22 1/2	2.223	
67	22 3/4	2.250	
68	23	2.277	
69	23 1/4	2.304	
70	23 1/2	2.331	
71	23 3/4	2.358	
72	24	2.385	
73	24 1/4	2.412	
74	24 1/2	2.439	
75	24 3/4	2.466	
76	25	2.493	
77	25 1/4	2.520	
78	25 1/2	2.547	
79	25 3/4	2.574	
80	26	2.601	
81	26 1/4	2.628	
82	26 1/2	2.655	
83	26 3/4	2.682	
84	27	2.709	
85	27 1/4	2.736	
86	27 1/2	2.763	
87	27 3/4	2.790	
88	28	2.817	
89	28 1/4	2.844	
90	28 1/2	2.871	
91	28 3/4	2.898	
92	29	2.925	
93	29 1/4	2.952	
94	29 1/2	2.979	
95	29 3/4	3.006	
96	30	3.033	
97	30 1/4	3.060	

[illegible][illegible]

NOTICE OF AUDITIONS BEING HELD
IN DISTRICT CLERK'S OFFICE.

I, Bruce Richard Davis, Register General for New South Wales, certify that I have received from the Registrar-General's Office a statement in my custody till 16th day of June, 1977

Bruce R. Davis



10	20	30	40	50	60	70	Table of mm	110	120	130	140
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 19th MARCH, 1990											

W 445465

Roll K 1114

No 700
19/9/90

FORM 21

INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS AS TO USER INTENDED TO BE CREATED PURSUANT TO SECTION 89B OF THE CONVEYANCING ACT 1919. Sheet 1.

Plan: DP230150

9681 Folio 192 Subdivision of part of Grove-Grant Volume Certificate No. 6497

Part 1.

Full name and address of proprietor of the Land
Avalon Development Pty. Limited,
Hooker House, Angel Place, Sydney
1. Identity of easement or restriction directly referred to in above-mentioned Plan
Easement to drain water 34th. wide

SCHEDULE OF LOTS ETC. AFFECTED

Lots Burdened
8
2. Identity of easement or restriction secondarily referred to in above-mentioned Plan
Right of Carriageway 12th. wide

SCHEDULE OF LOTS ETC. AFFECTED

Lots Burdened
9
Lots, name of road or authority benefited
Portion 245 Parish of Maitland County of Cumberland

7
6
3. Identity of easement or restriction thirdarily referred to in above-mentioned Plan
Restrictions as to user

SCHEDULE OF LOTS ETC. AFFECTED

Lots Burdened
Each Lot
Lots, name of road or authority benefited
Every other lot.

The Common Seal of AMALGAMATED DEVELOPMENTS PTY. LIMITED was hereunto attested by authority of the directors previously given in the presence of:

Secretary



Director

Approved by the AUTHORITY of the MEMBERS of THE COMMON SEAL OF MERCANTILE CREDITS LIMITED WAS HEREUNTO AFFIXED BY AUTHORITY OF A RESOLUTION OF DIRECTORS IN THE PRESENCE OF:-

Secretary

K 445465

Roll K 1114

FORM 21

INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS AS TO USER INTENDED TO BE CREATED PURSUANT TO SECTION 89B OF THE CONVEYANCING ACT 1919. Sheet 3.

Plan: DP230150

9681 Folio 192 Subdivision of part of Grove-Grant Volume Certificate No. 6497

(k) That no fence shall be erected on each lot burdened to divide it from any adjoining land owned by the Vendor without the consent of the Vendor its successors or assigns and no person dealing with the Vendor its successors or assigns shall be deemed to have agreed to any person dealing with the Vendor its successors or assigns such consent shall be deemed to have been given by the Vendor its successors or assigns in respect of every such fence for the time being erected PROVIDED THAT this covenant in regard to fencing shall be binding on the Purchaser his estate and assigns and on the Vendor its successors or assigns only during the currency of the said adjoining land by the Vendor its successors or assigns other than purchasers on sale.

(1) Any release variation or modification of these restrictions shall be made and done in all respects at the cost and expense of the person or persons requesting the same.

The person or persons having the right to release vary or modify these restrictions is the Vendor and such other persons Company or Companies nominated by it under its common seal for that purpose and if the Vendor shall no longer be in existence or shall not be the Registered Proprietor of any of the land comprised in the Plan of Subdivision and there shall be no such person or persons Company or Companies so nominated then the person for the time being registered as the proprietor of the lots having the benefit of these restrictions.

MERCANTILE CREDITS LIMITED

Secretary

Warrigal Shire Council
Council Clerk

2

10	20	30	40	50	60	70	Table of mm	110	120	130	140
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 19th MARCH, 1990											

K 445465

R 11 K 1114

FORM 21

INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS AS TO USER INTENDED TO BE CREATED PURSUANT TO SECTION 83B OF THE CONVEYANCING ACT 1919. Sheet 2.

DP230150

Part 2.

Plan 9691 Folio 192 Subdivision of part of Crown Grant Volume 866930/2000000, covered by Council Order's Certificate No. G457.

Terms of easement or restriction thirdly referred to in above-mentioned Plan.

- (a) No main building shall be erected on each lot burdened having an area of less than 900 square feet.
- (b) No building or buildings shall be erected on each lot burdened the external walls of which shall aggregate less than one third brick or brick veneer and greater than one third weatherboard and/or one third glass.
- (c) No main building shall be erected on each lot burdened having a roof of corrugated tin or iron.
- (d) No privy shall be erected on each lot burdened in a conspicuous place or position and if the same is visible from the road or other lots in the subdivision, it shall be screened.
- (e) No main building shall be erected on each lot burdened with any external wall or walls of asbestos cement or any other material of a similar nature.
- (f) No advertisement hoarding sign or matter of any description shall be erected or displayed on each lot burdened.
- (g) No earth stone gravel or trees shall be removed or excavated from each lot burdened except where such removal or excavation is necessary for the erection of a building or structure or for the safety of the occupants or the prospective occupants thereof.
- (h) No main building shall be erected on each lot burdened unless the same shall be connected to the sewer if available and if not available to a septic tank installation the design and construction of which is acceptable to the proper authorities. If approval of the aforementioned septic tank installation cannot be obtained, then connection shall be to a septic closet the design and construction of which is acceptable to the proper authorities.
- (i) No trees shall be topped, topped, ringbarked or removed without the prior consent of the Warrigal Shire Council.
- (j) No paling fence/whitened or rough-sawn timber shall be erected on each lot burdened.

MERCANTILE CREDITS LIMITED

Secretary

Warrigal Shire Council
 Council Clerk

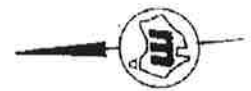
K 445465

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.



9/1/1965

Hooker - Rev. Mr. K. H. H.

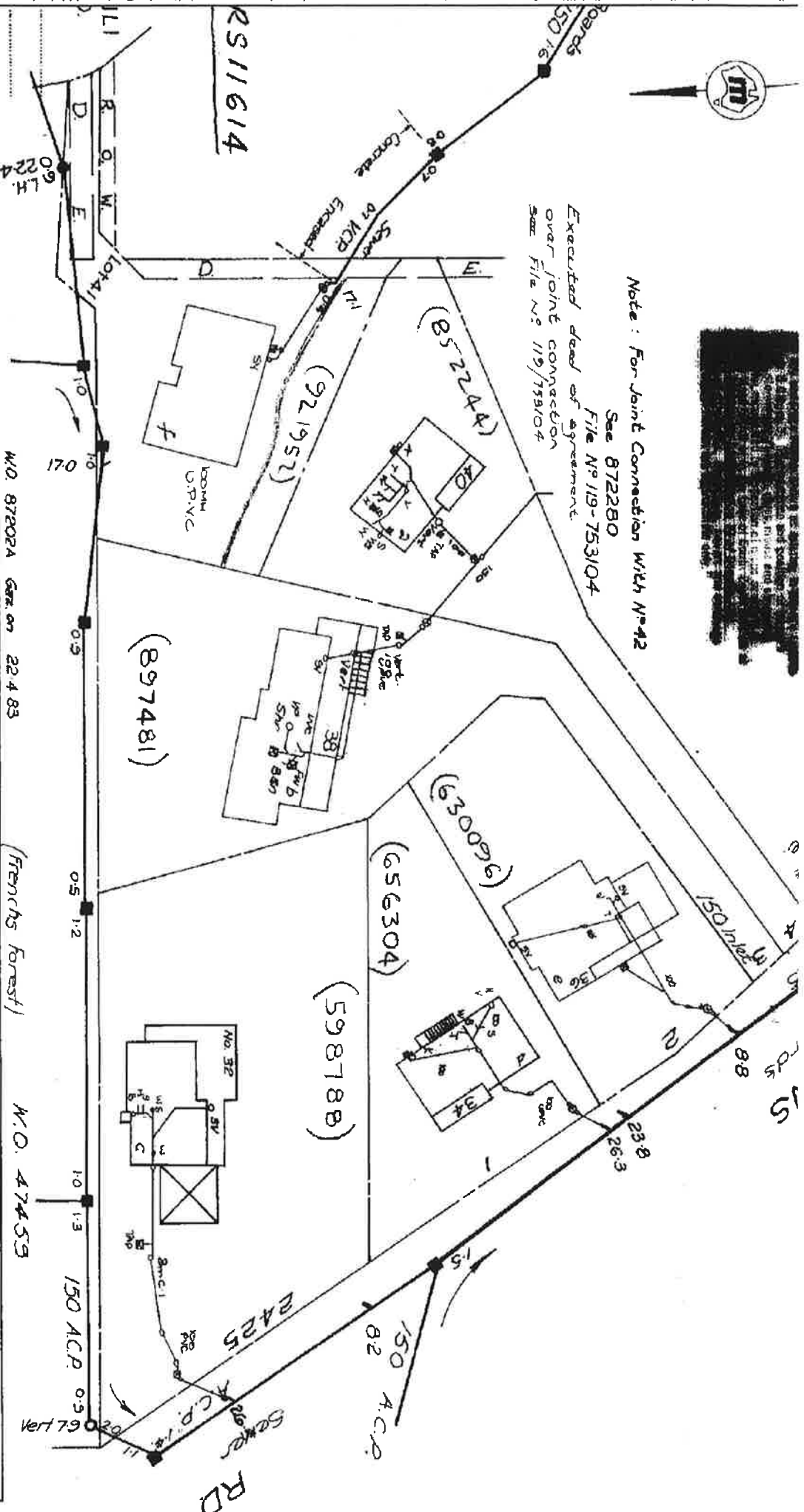


Note: For Joint Connection With N°42

See 872280

File N° 119-753104

Executed deed of agreement
over joint connection
See File N° 119/753104



W.O. 872024 GAZ. ON 22.4.83

(Frenchs Forest)

W.O. 47459

DRAINAGE

PLUMBING

Supervised by	Date	Supervised by	Date
Inspector		Inspector	
Examined by	Date	Examined by	Date
Inspector	N/S	Inspector	
Plumber		Plumber	
Chief Inspector		Chief Inspector	
Tracing Checked		Boundary Trap	
		W/O is not required	

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.

Boundary Trap	IP	Induct Pipe
Inspection Shaft	MF	Mica Flap
Pit	T	Tubs
Grease Interceptor	K	Kitchen Sink
Gully	W	Water Closet
P Trap	B	Bath Waste
Reflex Valve	H	Handbasin
Cleaning Eye	S	Shower
Vert Vertical Pipe	WIP	Wrought Iron Pipe
OV Vent Pipe	CIP	Cast Iron Pipe
OV Soil Vent Pipe	F	Floor Waste
DC Down Cast Cowl	M	Washing Machine

M.W.S. & D.B.
Municipality of Warrington
Scale 1:500
Distances/depths in metres;
pipe diameters in millimetres

for House Services Engineer

15-2-77 & 28-11-77 e. 8-11-79 f. 28-8-86

10 October 2012

1301011022213011011220310011021100313

Gartner Trovato
Po Box 1122
MONA VALE NSW 2103

Dear Sir/Madam

Application Number: DA2012/0795
Address: Lot 2425 DP 752038
32 Kens Road
FRENCHS FOREST NSW 2086
Proposed Development: Demolition works, Alterations and additions to the existing dwelling, Construction of a dwelling house and Subdivision of land

Please find attached the Notice of Determination for the above mentioned Application.

Please be advised that a copy of the Assessment Report associated with the application is available on Council's eServices website at www.warringah.nsw.gov.au

Please read your Notice of Determination carefully and the assessment report in the first instance.

If you have any further questions regarding this matter please contact the undersigned on (02) 9942 2111 or via email quoting the application number, address and description of works to council@warringah.nsw.gov.au

Regards,



Luke Perry
Development Assessment Officer



NOTICE OF DETERMINATION

Application Number:	DA2012/0795
Determination Type:	Development Application

APPLICATION DETAILS

Applicant:	Gartner Trovato
Land to be developed (Address):	Lot 2425 DP 752038 , 32 Kens Road FRENCHS FOREST NSW 2086
Proposed Development:	Demolition works, Alterations and additions to the existing dwelling, Construction of a dwelling house and Subdivision of land

DETERMINATION - APPROVED

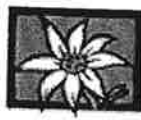
Made on (Date)	09/10/2012
Consent to operate from (Date):	09/10/2012
Consent to lapse on (Date):	09/10/2017

Detail of Conditions

The conditions, which have been applied to the consent, aim to ensure that the Environmental Impacts of Development are minimised and the Health and Safety of the community is maintained in accordance with the relevant standards and the Building Code of Australia.

Note:

If the works are to be certified by a Private Certifying Authority, then it is the certifier's responsibility to ensure all outstanding fees and bonds have been paid to Council prior to the issue of the Construction Certificate or as otherwise specified by Consent conditions.



DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
1	04/07/2012	Gartner Trovato Architects
2	04/07/2012	Gartner Trovato Architects
3	04/07/2012	Gartner Trovato Architects
4	04/07/2012	Gartner Trovato Architects
5 (Amended)	13/09/2012	Gartner Trovato Architects
6	04/07/2012	Gartner Trovato Architects

Engineering Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
SW 1	30/05/2012	Barrenjoey Consulting Engineers

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Investigation (2012-088)	1 June 2012	Crozier Geotechnical Consultants
Arboricultural Assessment	June 2012	Urban Forestry Australia

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

2. **Prescribed Conditions**

(a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

(b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

(c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
- (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

(d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

(e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (i) protect and support the adjoining premises from possible damage from the excavation, and
- (ii) where necessary, underpin the adjoining premises to prevent any such damage.
- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement (DACPLB09)

3. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- o 7.00 am to 5.00 pm inclusive Monday to Friday,
- o 8.00 am to 1.00 pm inclusive on Saturday,
- o No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- o 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

(b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

(c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

(d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

(e) Prior to the release of the Construction Certificate payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

(f) Smoke alarms are to be installed throughout all new and existing portions of any Class 1a building in accordance with the Building Code of Australia prior to the occupation of the new works.

(g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

(h) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(i) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.)

(j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

(k) Prior to the commencement of any development onsite for:

- i) Building/s that are to be erected
- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out

v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

FEES / CHARGES / CONTRIBUTIONS

4. **Policy Controls**

Warringah Section 94A Development Contribution Plan

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:

Warringah Section 94 Development Contributions Plan		
Contribution based on a total development cost of \$ 698,450		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 6,635
Section 94A Planning and Administration	0.05%	\$ 349
Total	1%	\$ 6,985

The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

Reason: To provide for contributions in accordance with the Warringah Section 94A Development Contributions Plan 2012.

5. **Bonds**

Security Bond

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection)

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate protection of Councils infrastructure. (DACENZ01)

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

6. On-site Stormwater Detention Compliance Certification

Drainage plans detailing the provision of On-site Stormwater Detention in accordance with Warringah Council's "On-site Stormwater Detention Technical Specification" and the concept drawing by Barrenjoey Consulting Engineers Pty Ltd, drawing number 120505 SW1 dated 30.05.2012. The following amendments are to be included on the drawing.

1. Provision of a 2,000 litre rainwater tank as per the Basix Certificate
2. Details of all the downpipes with connection to the rainwater tank and overflow to the OSD basin

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development. (DACENC03)

7. Stormwater Disposal

A drainage plan is to be submitted for proposed Lot 01, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to the kerb in Kens Road. Where the existing drainage system crosses any existing or proposed boundaries an easement to drain water is to be created benefiting proposed Lot 01 and burdening the affected lot. Alternatively the drainage lines are to be relocated and contained within the proposed lot as part of the works.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from the development. (DACENC06)

8. Vehicle Crossings Application Formwork Inspection

An application for street levels shall be made with Council subject to the payment of fee applicable at the time of payment. The fee includes all Council inspections relating to the driveway construction and must be paid.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property. (DACENC12)

9. Vehicle Driveway Gradients

Driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in Council's Minor Works Policy.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the

issue of the Construction Certificate.

Reason: To ensure suitable vehicular access to private property. (DACENC13)

10. Utilities Services

Prior to the issue of the Construction Certificate, evidence is to be submitted to the Certifying Authority that

- (a) A letter from the telecommunications service provider confirming that satisfactory arrangements have been made for the provision of underground telecommunications for the approved development have been made; and
- (b) Evidence that notification has been received from an Electricity Service Provider of electricity supply requirements for the development can be provided.

Reason: To ensure that services have been provided as required by this consent. (DACENC15)

11. Structural Adequacy and Excavation Work

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required.

All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Safety. (DACENC19)

12. Trees and / or Landscaping

In order to protect and enhance on-site vegetation and trees the following applies to the development site:

(a) Construction Certificate Plans

Where applicable the Construction Certificate plans must include reference to:

- (i) Trees to be removed coloured or shaded in the colour red
- (ii) Trees to be retained coloured or shaded in the colour green
- (iii) Trees to be pruned coloured or shaded in the colour blue
- (iv) Trees to be transplanted coloured or shaded in the colour yellow

(b) Existing trees which must be retained

(i)

All trees not indicated for removal on Site Plan -		
Drawing Number	Dated	Prepared By
02	June 2012	Gartner Trovato

All tree protection to be in accordance with the Arboricultural Assessment and Impact

Development Report prepared by Urban Forestry Australia dated June 2012 and AS 4970-2007 Protection of trees on development sites.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site. (DACLAC01)

13. Compliance with Standards

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

Advice to Applicants: At the time of determination in the opinion of Council, the following (but not limited to) Australian Standards are considered to be appropriate:

- (a) AS2601.2001 - Demolition of Structures**
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings**
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
- (e) AS 4970 - 2009 'Protection of trees on development sites'**
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**
- (g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities**
- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities**
- (i) AS 2890.5 - 1993 Parking facilities - On-street parking**
- (j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities**
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set**
- (l) AS 1428.1 - 2009* Design for access and mobility - General requirements for access - New building work**
- (m) AS 1428.2 - 1992*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities**

*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website

http://www.humanrights.gov.au/disability_rights/buildings/good.htm

**Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to. (DACPLC02)

14. External Colours and Materials (Dwellings)

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours are not permitted.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that excessive glare or reflectivity nuisance from glazing does not occur as a result of the development. (DACPLC03)

15. Sewer / Water Quickcheck

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney

Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website www.sydneywater.com.au for:

- o Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- o Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- o Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLC12)

16. Window sill height and obscured glazing

The southern facing windows to bedroom four (4) and the rumpus room are to have a minimum sill height of 1.65m (measured from finished floor level). Additionally, the southern facing windows to bedroom one (1) and bedroom two (2) are to be affixed with obscured glazing up to a minimum height of 1.65m (measured from the finished floor level).

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: In order to maintain privacy and amenity to the adjoining/nearby property. (DACPLCPC1)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

17. Public Liability Insurance - Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$10 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Warringah Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land. (DACEND01)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

18. Property Boundary Levels

The property boundary levels shall match the existing levels except where modified for the vehicular crossing. The applicant shall design and construct having regard for the existing levels. No approval is granted for any change to existing property alignment levels to accommodate the development.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To maintain the existing profile of the nature strip/road reserve. (DACENE01)

19. Vehicle Crossings

The provision of 1 vehicle crossing 4 metres wide in accordance with Warringah Council Drawing No A4-3330/2 Normal High and specifications. An Authorised Vehicle Crossing



Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property. (DACENE05)

20. Civil Works Supervision

All civil works approved in the Construction Certificate are to be supervised by an appropriately qualified and practising Civil Engineer.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure compliance of civil works with Council's specification for engineering works. (DACENE06)

21. Layback Construction

A layback 4 metres wide (excluding the wings) is to be constructed in accordance with Warringah Council Drawing No A4-2276 and specifications.

Reason: To ensure suitable vehicular access to private property. (DACENE08)

22. Maintenance of Road Reserve

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety. (DACENE09)

23. Traffic Control During Road Works

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with Council's Minor Works Policy and to the satisfaction of the Principal Certifying Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works.

Reason: Public Safety. (DACENE11)

24. Trees Condition

During the construction period the applicant is responsible for ensuring all protected trees are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to. In this regard all protected plants on this site shall not exhibit:

- (a) A general decline in health and vigour.
- (b) Damaged, crushed or dying roots due to poor pruning techniques.
- (c) More than 10% loss or dieback of roots, branches and foliage.
- (d) Mechanical damage or bruising of bark and timber of roots, trunk and branches.
- (e) Yellowing of foliage or a thinning of the canopy untypical of its species.
- (f) An increase in the amount of deadwood not associated with normal growth.
- (g) An increase in kino or gum exudation.

(h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.

(i) Branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of Trees. (DACLAE03)

25. Protection of Environmental Features

All rock outcrops and overhangs indicated for retention on the approved plans are to be retained and protected during the demolition and construction works.

Should any Aboriginal sites be uncovered during earthworks, works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: Protection of significant environmental features. (DACLAEDW1)

**CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE
OCCUPATION CERTIFICATE**

26. House / Building Number

House/building number is to be affixed to the building to be readily visible from the public domain.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: Proper identification of buildings. (DACPLF04)

**CONDITIONS THAT MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY STRATA
SUBDIVISION OR SUBDIVISION CERTIFICATE**

27. Positive Covenant for On-site Stormwater Detention

A positive covenant (under the provisions of Section 88B of the Conveyancing Act 1919) is to be created on the final plan of subdivision and accompanying 88B instrument, requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements, which are available from Warringah Council. Warringah Council shall be nominated as the sole authority empowered to release, vary or modify such covenant.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure ongoing maintenance of the on-site stormwater detention system.
(DACENH02)

28. Restriction as to User for On-site Stormwater Detention(DACENH07)

A restriction as to user (under the provisions of Section 88B of the Conveyancing Act) is to be created on the final plan of subdivision and accompanying 88B instrument for the on-site stormwater detention system, restricting any alteration or additions to the system. The terms of such restriction are to be prepared to Council's standard requirements, which are available from Warringah Council. Warringah Council shall be nominated as the party to release, vary or modify such restriction.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure no modification to the on-site stormwater detention structure without Council's approval. (DACENH07)

29. Stormwater Drainage and Utility Services Plan

A plan of subdivision identifying the location of water, gas, telephone, electricity and stormwater drainage in relation to boundaries and/or relevant easements, prepared by a registered surveyor is to be submitted to Council.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure that services have been provided with appropriate easements as required by the Conveyancing Act 1919. (DACENH10)

30. Sydney Water Compliance Certification

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au <<http://www.sydneywater.com.au>> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACENH13)

31. Certification of Utility Services

The provision of all utilities/services are to be certified by the relevant authority(s) and/or authorised contractor.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: To ensure services have been provided in accordance with the relevant authorities requirements. (DACENH15)

32. Easement for Drainage

An easement for drainage (under the provisions of Section 88B of the Conveyancing Act) is to be created on the final plan of subdivision the accompanying 88B instrument to ensure all drainage infrastructure is located within the appropriate easement(s).

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: Council's Subdivision standards and statutory requirements of the Conveyancing Act 1919. (DACENH16)

33. Easement for Services

An easement for services (under the provisions of Section 88B of the Conveyancing Act) is to be created on the final plan of subdivision and the accompanying 88B instrument to ensure all utility services are located within the appropriate easement(s).

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

Reason: Council's Subdivision standards and statutory requirements of the Conveyancing Act 1919.(DACENH18)

34. On-Site Stormwater Detention Compliance Certification

Prior to issue of a subdivision certificate the on-site stormwater detention (OSD) system must be certified by a consulting engineer and include a "works as executed" (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans. Additionally a Compliance Certificate is to be issued by an Accredited Certifier in Civil Works registered with the Institute of Engineers Australia, stating that the works are in accordance with the approved plans.

Reason: To ensure stormwater disposal is constructed to standard specifications AUSPEC 1. (DACENH21)

35. Release of Subdivision Certificate

To enable the lodgement of the final plan at the NSW Land and Property Information Department the Subdivision Certificate shall not be issued until the Final Occupation Certificate for the approved development.

Reason: To ensure that the plans relate to approved development. (DACENH23)

36. Subdivision Certificate Application

Prior to the issue of the Subdivision Certificate, a completed Subdivision Certificate form, a final plan of subdivision prepared in accordance with the requirements of the Conveyancing Act 1919 are to be submitted to Council. Nine copies of the final plan of subdivision are to be submitted. All plans of survey are to show connections to at least two Survey Co-ordination Permanent Marks. The fee payable is to be in accordance with Council's fees and charges.

Reason: Statutory requirement of the Conveyancing Act 1919. (DACENH24)

Right to Review by the Council

You may request Council review the determination of the application under Section 82A of the Environmental Planning & Assessment Act 1979 if it is NOT integrated or designated development. Any request to review the application must be made and determined within 6 months from the date of determination.

NOTE: A fee will apply for any request to review the determination.

Right of Appeal

If you are dissatisfied with this decision Section 97 of the Environmental Planning & Assessment Act 1979 may give you the right to appeal to the Land and Environment Court within 6 months after the date on which you receive this notice.

Signed On behalf of the Consent Authority

Signature



Name Luke Perry, Development Assessment Officer

Date 09/10/2012

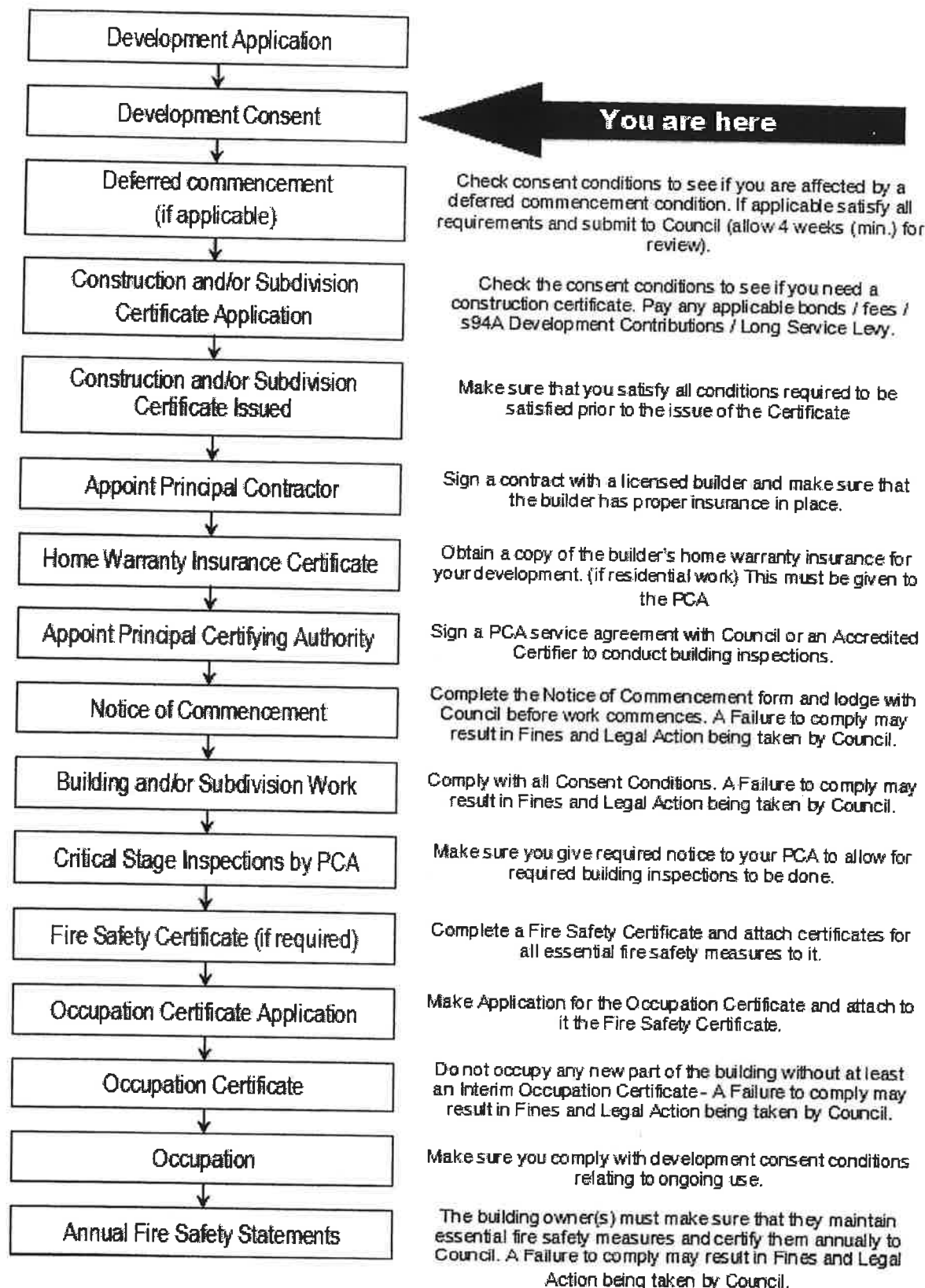


GENERAL ADVICE



Advisory Notes (General)

Where are you in the development process?



The attached Notice of Determination includes conditions of consent which must be complied with.

(Note: A failure to comply is a serious breach of the Environmental Planning & Assessment Act 1979 which attracts penalties and may also result in legal action being taken, and orders for demolition.)

Building Certification

The Environmental Planning and Assessment Act 1979 provides that:

- Building work cannot occur unless a construction certificate has been issued;
- Occupation of building works cannot occur unless an occupation certificate has been issued
- Subdivision cannot be registered until a subdivision certificate has been issued
- Mandatory Inspection for building work must be completed

Please refer to process chart for more detail.

(Note: A failure to gain approval prior to the works being carried out is a serious breach of the Environmental Planning & Assessment Act 1979 which attracts penalties and may also result in legal action being taken, and orders for demolition.)

Certification Services

Construction Certificates / Occupation Certificate / Subdivision Certificates / Strata Certificate, can be issued by Council or an accredited private certifier (Note Council must be the Principal Certifying Authority (PCA) for subdivisions).

Council is well placed to provide Certification Services. Council can issue Construction Certificates and act as your Principle Certifying Authority at competitive rates. Please visit our web site www.warringah.nsw.gov.au or speak to our Customer Service Officers if you have any further questions about our Certification Services or if you wish to use Council as your certifier.

Charges Associated with the Development Consent

All bonds, fees, (s94A) Development Contributions, Long Service Levy detailed within the Notice of Determination are required to be paid prior to the issuing of any Construction Certificate.

Acceptable Form of Security Bonds

Council will accept bank guarantee (in a form acceptable to Council) in lieu of cash and is required prior to the issue of a construction certificate.

Modifications to the consent

If you seek to make any changes to the development (which may include internal / external configuration of the building, variation to facades, site layout or any changes to the proposed operation or use), the modifications will require the submission and approval of an application to modify the development consent prior to the issuing of a Construction Certificate and prior to the works being carried out.

(Note: A failure to gain approval prior to the works being carried out is a serious breach of the Environmental Planning & Assessment Act 1979 which attracts penalties and may also result in legal action being taken, and orders for demolition.)

Other Matters not detailed within the Notice of Determination

The Notice of Determination does not stipulate every requirement that must be completed to satisfy New South Wales and Commonwealth legislation.

You should check, as may be relevant, with other authorities including but not limited to:

- Workcover NSW for work safety and asbestos requirements
- Sydney Water – Quick Check Agent for the provision of water and sewer services
- Energy & Gas suppliers for utility services
- Department of Fair Trading for advice about builders and licensing
- Building Professionals Board for advice about private certifiers
- NSW Roads and Traffic Authority for works on state roads only
- Human Rights and Equal Opportunity Commission for access issues
- NSW Land and Property Information Service for Land Title matters
- Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments;

Model

If you submitted a model with the application it must be collected from the Council offices within fourteen (14) days of the date of this determination. Models not collected will be disposed of by Council.

Trade waste agreement

A Trade Waste Agreement must be obtained from Sydney Water prior to the discharge of trade wastewater to the sewer system. Trade wastewater is defined as 'discharge water containing any substance produced through industrial or commercial activities or operation on the premises'.

Waste collection

Liquid and solid wastes generated on the site must be collected, transported and disposed of in accordance with the requirements of the Protection of the Environment Operations Act 1997. Records must be kept of all waste disposal from the site.

Material to be removed from the site must be source separated on site to maximise recycling, and the material disposed of to an appropriate disposal and recycling facility in accordance with the approved Waste Management Plan.

Aboriginal Heritage

If in undertaking excavation or works and any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Warringah Council, and the Cultural Heritage Division of the Department of Environment and Climate Change (DECC).

On-Site Sewage Management System

This approval does not authorise the installation or operation of a new or modification of an existing on-

site wastewater management system. An On-Site Sewage Management System must not be installed or operated unless an 'Approval to Install an On Site Sewage Management System' is obtained from Warringah Council.

Cost of Works

The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

Relocation of stormwater drainage

Council is not responsible for the cost of relocating Council's stormwater drainage pipes through the subject property.

Tree preservation

Where tree work has not been approved by this Development Consent the developer is notified that a general Tree Preservation Order applies to all trees in the Warringah Local Government Area. This order prohibits the ringbarking, cutting down, topping, lopping, pruning, transplanting, injuring, or wilful destruction of such trees except without the prior written consent of Council.

Storage bins on footpath and roadway

Approval is required from Council prior to the placement of any storage bin on Council's footpath and/or roadway.

Protection of Public Places

(1) If the work involved in the erection or demolition of a building:

(a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or

(b) building involves the enclosure of a public place,

a hoarding and site fencing must be erected between the work site and the public place.

(2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

(3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

(4) Any such hoarding, fence or awning is to be removed when the work has been completed.

(5) No access across public reserves or parks is permitted.

Note: Prior to the erection of any temporary fence or hoarding over property owned or managed by Council, written approval must be obtained.

Road Opening Permit

The developer/applicant is to obtain a "Road Opening Permit" from Council and pay all appropriate charges prior to commencement of any work on Council property. The developer/applicant shall be responsible for all public utilities and services in the area of the work, and as such shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

Special Permits

Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development are to occur entirely on the property. The applicant, owner or builder must apply for specific permits available from Council. A minimum of forty-eight (48) hours notice is required for all permits except work zones, which may require additional assessment time.

- Permit for on-street mobile plant

Restrictions apply to the hours of operation and the area of operation for on street mobile plant equipment (for example cranes, concrete pumps, cherry pickers). Separate permits are required for each occasion and each piece of equipment. It is the responsibility of the applicant, owner and builder to take whatever steps are necessary to ensure that the use of any equipment does not violate adjoining property owner's rights.

- Hoarding Permit

Permits are required to erect Class A, Class B and Class C hoardings. If an 'A' Class hoarding is to alienate a section of Council's property, that section will require a permit for the occupation of Council's property.

- Storage of building materials and building waste containers (skips) on Council's property

Permits to utilise Council property for the storage of building materials and building waste containers (skips) are required for each location. Failure to obtain the relevant permits will result in the building materials or building waste containers (skips) being impounded by Council with no additional notice being given.

- Kerbside restrictions, work zones

Existing kerbside restrictions apply. An application must be made to Council for the alteration of existing kerbside restrictions or the provision of a construction zone.

Other permits may include out of construction hours permits.

Licensing requirements for removal of bonded asbestos

Anyone who removes, repairs or disturbs bonded asbestos must hold a bonded or a friable asbestos licence, or a demolition licence in accordance with Workcover requirements and the Occupational Health and Safety Act 2000.

Pool Access

Access to pools are required to be restricted by a child resistant barrier in accordance with the regulations prescribed in all relevant Acts, Regulations and Australian Standards including:

- (i) Swimming Pools Act 1992;
- (ii) Swimming Pools Amendment Act 2009;
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

It is your responsibility as a land owner to ensure any fencing is maintained.

Dewatering

Where dewatering works are required on the development site during construction, the developer/applicant must apply for and obtain a bore license from the NSW Department of Water and Energy. The bore license must be obtained prior to commencement of dewatering works.

Requirement to Notify about New Contamination Evidence

Any new information revealed during works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to Council and the Principal

Certifying Authority.

Flood Evacuation Plan

If your site is on flood prone land you may wish to consider the preparation of a flood evacuation plan.

Generally a Flood Evacuation Plan would be prepared by suitably qualified Engineer (e.g. Hydraulic) with a number of years experience in flood management and who is eligible for Membership to the Australian Institute of Engineers.

Some matters that you may wish to consider (but not limited to) include:

- (i) a route of evacuation to higher ground and / or point of shelter
- (ii) depth of water for a Possible Maximum Flood event surrounding the building
- (iii) details of 'last chance' evacuation water levels / times for evacuation prior to floodwaters surrounding the building
- (iv) provide details of flood warning systems and protocols
- (v) details of how this information will be distributed and people educated for users of the site.

You may seek to discuss this with the State Emergency Service of NSW.

Utility Service Requirements

Where development requires the installation of, or the relocation of utility services being (but not limited to) gas, water, electricity and telecommunications, the installation of, or the relocation of utility services shall be conducted in accordance with the requirements of the relevant service provider / authority (unless stipulated by any other condition of the consent or will result in damage to threatened or endangered species defined under the Threatened Species Conservation Act).

Plant & Equipment Kept Within Site

All plant and equipment used in the erection of the building, including concrete pumps, wagons, lifts, mobile cranes, etc, shall be situated within the boundaries of the site and so placed that all concrete slurry, water, debris and the like shall be discharged onto the building site, and is to be contained within the site boundaries. This does not prevent any requirement to comply with the Protection of the Environment Operations Act.

Lighting

Illumination of the site is to be arranged in accordance with the requirements of Australian Standard 4282 - 1997 Control of the obtrusive effects of outdoor lighting so as not to impact upon the amenity of the occupants of adjoining and nearby residential premises.

Silt and Sediment Control

During any onsite demolition, excavation and construction works, the site should be maintained in accordance with "The Blue Book - Managing Urban Stormwater (MUS): Soils and Construction".

In managing the site provision shall be made throughout the period of works to prevent transmission of soil to the public road, drainage system, any riparian lands or off site in any manner. Upon completion of the development, any measures to prevent the transition of soil off site to remain in place until the site is stabilised.

A failure to prevent the transmission of silt and sediment and / or causing, water pollution, air pollution, noise pollution or land pollution may result in a breach of the Protection of the Environment Operations Act and orders, penalties and prosecutions may occur.

OTHER MATTERS

Child Care Centres

A license to operate a child care centre must be obtained from the NSW Department of Community Services prior to the commencement of the use of the child care centre.

Disability Access

This decision does not ensure compliance with the Commonwealth Disability Discrimination Act 1992. Applicants are strongly advised to investigate their requirements under that Act

Food Premises

Food premises are required to comply with the requirements of the Food Act 2003, the Food Standards Code and Australian Standards.

The proprietor of a food business must notify the NSW Food Authority of the details of the business. Notification may be done either online at www.foodnotify.nsw.gov.au or by lodging a completed NSW Food Authority notification form to the NSW Food Authority or Council.

Wheel washing facility

All trucks leaving the site, having had access to unpaved or contaminated areas, shall depart via a wheel wash facility in order to prevent mud, dust or debris from being deposited on Council's roads. The wheel wash facility shall be constructed prior to any truck movements occurring. Water from the wheel wash facility must not cause pollution. Any direction of Council with regard to cleaning trucks or the clean up of road pavements adjoining the site shall be complied with immediately.

Monitoring State of Roadways

The applicant shall monitor the state of roadways leading to and from the site and shall take all necessary steps to clean up any adversely impacted road pavements as directed by Council.

Storage of Dangerous Goods

Prior to the storage of any "dangerous goods" on the premises, a copy of a license obtained from the Chemical Safety Branch of Work Cover Authority must be submitted to Council.

Storage of Flammable and Combustible Liquids

Flammable and combustible liquids must be stored in accordance with Australian Standard 1940 The Storage and Handling of Flammable and Combustible Liquids.

Noise and Vibration

The premises, including operation of vehicles, shall be conducted so as to avoid offensive noise or vibration and cause no interference to adjoining or nearby occupants. Special precautions must be taken to avoid nuisance in neighbouring residential areas, particularly from machinery, vehicles, warning sirens, public address systems and the like.

Hairdressing/Beauty Treatment/ Skin penetration Requirements

The premises must comply with the following requirements before the commencement of business:

- i) A hand wash basin with warm water delivered through a common spout must be provided in the treatment area. The hand wash basin must be provided with liquid soap and paper towel.
- ii) The wall behind the hand wash basin from the floor to a height of 450mm above the top of the washbasin and from the centre of the washbasin to a distance of 140mm beyond each side of the wash basin, must be finished with a material that is durable, smooth, impervious to moisture and capable of being easily cleaned (eg tiles).
- iii) The premises must be provided with washing, drainage, ventilation and lighting that are adequate for the carrying out of hairdressing/beauty treatment/skin penetration procedures.
- iv) The floor coverings must be smooth and impervious.

- v) All furniture, shelves and fittings must be constructed of, or covered with a material that is smooth, impervious to moisture and capable of being easily cleaned.
- vi) Adequate lockers must be provided for the storage of employees clothing and personal effects.
- vii) The premises must be provided with facilities that are adequate for the purpose of storing of hairdressing/beauty treatment/skin penetration appliance and utensils.
- viii) The premises must be provided with a sink sullied with hot and cold water for washing equipment.

Food Premises Construction Requirements

The food premises must comply with the following specific construction requirements:

Solid walls must be provided in all food handling areas (solid includes brick, cement and foam filled preformed panels);

ix) Walls in food preparation and wash up areas must be finished with a smooth and impervious surface to a height of at least 2 metres.

x) Hand wash basins must be provided with warm water delivered through a common spout with taps that are hands free operation;

xi) Coving with a radius of 25mm must be provided between all floor and wall joints in food handling areas;

xii) The open space between the top of the coolroom and the ceiling must be fully enclosed and kept insect and pest proof;

xiii) The coolroom must be able to be opened from the inside with out a key and fitted with an alarm that can only be operated from within the coolroom;

xiv) The doors to the toilet air lock and toilet compartment must be tight fitting and self closing;

xv) The rear external door must be self closing or be provided with a fly screen that is self closing;

xvi) Where cooking or extensive heating processes or such other processes as may be specified are carried out in food preparation areas, an approved mechanical ventilation system shall be installed and operated in accordance with AS 1668 part 1 & 2.

Legionella Control

Cooling towers, warm water systems, water cooling systems must be registered with the Council. Details of registration are to be provided to the Council prior to operation.



Warringah
Council

18 March 2013

1301011022213011011220310011021100313

Neil Ian Lotter
PO BOX 1122
MONA VALE NSW 2103

Dear Sir/Madam

Application Number: Mod2013/0024
Address: Lot 2425 DP 752038
32 Kens Road
FRENCHS FOREST NSW 2086
Proposed Development: Modification of Development Consent DA2012/0795 granted for
Demolition works, Alterations and additions to the existing
dwelling, Construction of a dwelling house and Subdivision of
land

Please find attached the Notice of Determination for the above mentioned Application.

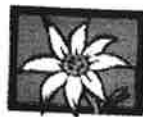
Please be advised that a copy of the Assessment Report associated with the application is available on Council's eServices website at www.warringah.nsw.gov.au

Please read your Notice of Determination carefully and the assessment report in the first instance.

If you have any further questions regarding this matter please contact the undersigned on (02) 9942 2111 or via email quoting the application number, address and description of works to council@warringah.nsw.gov.au

Regards,

Phil Lane
Senior Development Assessment Officer



NOTICE OF DETERMINATION

Application Number:	Mod2013/0024
Determination Type:	Modification of Development Consent

APPLICATION DETAILS

Applicant:	Neil Ian Lotter
Land to be developed (Address):	Lot 2425 DP 752038 , 32 Kens Road FRENCHS FOREST NSW 2086
Proposed Development:	Modification of Development Consent DA2012/0795 granted for Demolition works, Alterations and additions to the existing dwelling, Construction of a dwelling house and Subdivision of land

DETERMINATION - APPROVED

Made on (Date)	15/03/2013
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The request to modify the above-mentioned Development Consent has been approved as follows:

A. Modify Condition 35 - Release of Subdivision Certificate to read as follows:

To enable the lodgement of the final plan at the NSW Land and Property Information Department the Subdivision Certificate shall not be issued until the issue of the Final Occupation Certificate for all works required to achieve land subdivision only for the approved development. This includes demolition, alterations and additions to the existing dwelling and all other service and stormwater adjustments required to provide the two separate lots. The construction of the proposed new dwelling is excluded from this requirement.

Reason: To ensure that the plans relate to approved development and to enable subdivision of the land exclusive of the construction of the proposed dwelling. (DACENH23)

B. Delete Condition 27 - Positive Covenant for On-site Stormwater Detention as follows:

Deleted

Delete Condition 28 - Restriction as to User for On-site Stormwater Detention as follows:

Deleted

Delete Condition 34 - Restriction as to User for On-site Stormwater Detention as follows:

Deleted

C. Add Condition 26A - Positive Covenant for On-site Stormwater Detention as follows:

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Warringah Council's delegate prior to lodgement with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such covenant.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure ongoing maintenance of the on-site stormwater detention system. (DACENF12)

Add Condition 26B - Restriction as to User for On-site Stormwater Detention as follows:

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such restriction.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure modification to the on-site stormwater detention structure is not carried without Council's approval. (DACENF04)

Add Condition 26C - On-site Stormwater Detention Compliance Certification as follows:

Upon completion of the on-site stormwater detention (OSD) system, certification from a consulting engineer and a "work as executed" (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans are to be provided to Council. Additionally a Compliance Certificate is to be issued by an Accredited Certifier in Civil Works registered with the Institute of Engineers Australia, stating that the works are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure stormwater disposal is constructed to Council's satisfaction. (DACENF10)

Add Condition 26D - Authorisation of Legal Documentation Required for On-site Stormwater Detention

The original completed request forms (Department of Lands standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the

approved drainage plan), hydraulic engineers certification and Compliance Certificate issued by an Accredited Certifier in Civil Works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land. (DACENF01)

Add Condition 26E - Registration of Encumbrances for On-site Stormwater Detention

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To identify encumbrances on land. (DACENF02)

Add Condition 26F - Creation of Positive Covenant and Restriction as a User

Where any conditions of this Consent require the creation of a positive covenant and/or restriction as a user, the original completed request forms, (Department of Lands standard forms 13PC and/or 13RPA), shall be submitted to Warringah Council for authorisation.

A certified copy of the documents shall be provided to Warringah Council after final approval and registration has been affected by the "Department of Lands".

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of a Interim / Final Occupation Certificate.

Reason: To identify encumbrances on land. (DACENF14)

Important Information

This letter should therefore be read in conjunction with DA2012/0795 dated 9 October 2012.

Please note that on site works cannot proceed unless a Construction Certificate application for the modified proposal has been lodged with and approved by Council or an accredited certifier, and relevant conditions of the Development Application have been carried out.

Section 97AA of the Environmental Planning and Assessment Act confers on an applicant who is not satisfied with the determination of the Consent Authority a right of appeal to the Land and Environment Court within 6 months of determination.

Right to Review by the Council

You may request the Council to review the determination of the application under Section 96AB of the Environmental Planning and Assessment Act 1979. Any request to review the application must be lodged and determined within 28 days after the date of the determination shown on this notice.



NOTE: A fee will apply for any request to review the determination.

Signed On behalf of the Consent Authority

Signature 

Name Phil Lane, Senior Development Assessment Officer

Date 15/03/2013

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE
INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF
LAND AND POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO
SECTION 88B OF THE CONVEYANCING ACT 1919.**

Lengths are in metres

Sheet 1 of 4 sheets

Plan:

Plan of Subdivision of Lot 2425 in Deposited
Plan 752038 covered by Subdivision
Certificate N°

Dated:

**Full name and address
of proprietors of land:**

Neil Ian Lotter
Gillian Margaret Lotter
32 Kens Road, Frenchs Forest NSW 2086

PART 1 CREATION

Number of item shown in the intention panel of the plan	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan	Burdened lot(s) or parcel(s)	Benefited lot(s), road(s), bodies or Prescribed Authorities
1	Restriction on the Use of Land (whole lot)	2	1

PART 2 TERMS

Terms of Restriction on the Use of Land numbered 1 in the plan:

1. For that portion of the Burdened Lot where natural ground level is equal to or below 140.0 metres on Australian Height Datum as shown on drawing 02B approved by Warringah Council in construction certificate CC2013/0176:

1.1 No dwelling, or any part thereof, or any associated structure, shall be allowed to be erected at a level higher than 141.7 metres on Australian Height Datum

1.2 The Burdened Proprietor must maintain the Burdened Lot so that Vegetation on the Burdened Lot does not exceed 141.7 metres on Australian Height Datum

The Burdened Proprietor must not make any development application or seek to modify any existing development approval, if the effect of the application, approval or modification would override or in any way affect the rights and restriction imposed on the Burdened Land by the terms of this instrument.

Plan:

Plan of Subdivision of Lot 2425 in Deposited
Plan 752038 covered by Subdivision
Certificate N°

The Burdened Proprietor irrevocably grants to the Benefited Proprietor the right to come on to the Burdened Land to trim, cut or remove Vegetation on the Burdened Land in breach of the restrictions in this instrument. In exercising its rights under this clause, the registered proprietor for the time being on the Benefited Land must

- a) give the burdened Proprietor at least three weeks prior notice in writing of the date on which the Benefited Proprietor proposes to enter onto the Burdened Land to carry out the necessary work
- b) effect the necessary work between 10:00 am and 5:00 pm on a day that is not a Saturday, Sunday or public holiday
- c) provided that the Burdened Proprietor gives at least 7 days prior notice of any day which is not suitable, ensure that the work is not scheduled on that day
- d) use professional and reputable contractors
- e) if demanded, produce to the Burdened Proprietor a copy of the public liability insurance policy of the contractor
- f) ensure that the work is carried out, causing as little noise and inconvenience to the Burdened Proprietor as is practicable in the circumstances
- g) remove and carry away cuttings, and tidy up after the work; and
- h) cause no damage to the Burdened Land.

The Benefited Proprietor's right to enter the Burdened Land is conditional upon the Vegetation on the Burdened Land exceeding the maximum height limit at the time of entry. If the Burdened Proprietor rectifies any breach of the restriction prior to the scheduled work said work shall be cancelled by the Benefited Proprietor.

In exercising the right to cut, trim and remove Vegetation, the parties note that the height limits in the Restricted Area are maximum heights to which the Vegetation can grow. It follows that if the Benefited Proprietor is limited to trimming the Vegetation back to the maximum permitted height, the Vegetation will quickly exceed the maximum permitted height accordingly, the Benefited Proprietor may in exercising its rights under clause 3, reduce the height of Vegetation to a level 0.5 metres below the maximum specified height.

The Benefited Proprietor must not exercise the right to enter on to the Burdened Land:

- a) more than three times in a calendar year, and
- b) within three months of having previously exercised that right.

Plan:

Plan of Subdivision of Lot 2425 in Deposited
Plan 752038 covered by Subdivision
Certificate N°

Dated:

The Burdened Proprietor:

- a) must on demand, make all necessary application, at the cost of the Benefited Proprietor, to Council or the Land and Environment Court for permission to trim, cut or remove any Vegetation in the Restricted Area to which a tree preservation order applies, and which exceeds the height limit in the Covenant Plan;
- b) must not oppose any application by the Benefited Proprietor to trim, cut or remove Vegetation on the Burdened Land which exceeds the height limit restrictions in this instrument;
- c) irrevocably appoints the Benefited Proprietor as its attorney to make any applications to Council or the Land and Environment Court which are required to enable Vegetation to be trimmed so as to comply with the height limit in this instrument provided that the Burdened Proprietor is indemnified against such costs.

The Burdened Proprietor must not commence any proceedings or take any other action to deprive the Benefited Proprietor of the right to enter onto the Burdened Land and exercise its rights in accordance with the provisions of this instrument.

EXECUTION

Signed in my presence by Neil Ian Lotter
who is personally known to me.

.....
REGISTERED PROPRIETOR.

.....
SIGNATURE OF WITNESS.

.....
NAME OF WITNESS (Block Letters)

.....
ADDRESS AND OCCUPATION OF WITNESS.

Lengths are in metres

Sheet 4 of 4 sheets

Plan:

Plan of Subdivision of Lot 2425 in Deposited
Plan 752038 covered by Subdivision
Certificate N°

Dated:

Signed in my presence by Gillian Margaret Lotter
who is personally known to me.

.....
REGISTERED PROPRIETOR.

.....
SIGNATURE OF WITNESS.

.....
NAME OF WITNESS (Block Letters)

.....
ADDRESS AND OCCUPATION OF WITNESS

EXECUTION BY MORTGAGEE



Date Printed: 20 January 2014

Certificate Number: PLC2014/0039



Applicant Reference: N/A

Receipt Number: 100217700

Forest Legal Lawyers

Po Box 245

BELROSE WEST NSW 2085

Property Address: 32 Kens Road FRENCHS FOREST NSW 2086

Legal Description: Lot 2425 DP 752038

Property ID: 118825

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

Warringah Local Environmental Plan 2011

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

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

a) Draft State Environmental Planning Policy (Competition) 2010

b) The following planning proposals may affect the land:

Date of Council Resolution	Outline of Planning Proposal	Land to which Planning Proposal applies
27 March 2012	Amends WLEP 2000 and WLEP 2011. Rezone land from B2 Oxford Falls Valley Locality (WLEP 2000) to R2 Low Density Residential (WLEP 2011).	Land in the vicinity of Dawes and Perentie Roads, Belrose
28 August 2012	Amends WLEP 2011 to correct identified anomalies and errors and improve its operation	Warringah Local Government Area

Section 149 (2) Environmental Planning and Assessment Act, 1979 (As Amended)

Date of Council Resolution	Outline of Planning Proposal	Land to which Planning Proposal applies
26 March 2013	Amends WLEP2011, by updating Schedule 5 Environmental Heritage and the Heritage Maps	Land within the Warringah Local Government Area

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

Warringah Development Control Plan

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

2. *Zoning and land use under relevant LEPs*

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

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

LEP - Land zoned R2 Low Density Residential

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

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

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

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

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

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

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

No

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

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

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

No

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

No

- 2.2 *Draft Local Environmental Plan – if any*

Please refer to the table in Question 1.2.

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

(a) *In relation to the Heritage Planning Proposal, whether a new item of environmental heritage is proposed on the land*



No

3. *Whether or not the land is land on which complying development may be carried out under each of the codes for complying development because of the provisions of clauses 1.17A (c) and (d) and 1.19 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.*

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

Yes

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

Yes

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

Yes

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

Yes

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

Yes

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

Yes

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

Yes

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

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

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

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

No

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

No

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

No

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



Section 149 (2) Environmental Planning and Assessment Act, 1979 (As Amended)

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

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

No

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

No

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

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

No

(b) any environmental planning instrument

No

(c) any resolution of Council.

No

7. *Whether or not the land is affected by a policy that restricts the development of the land because of the likelihood of land slip, bushfire, tidal inundation, subsidence, acid sulfate soils, or any other risk (other than flooding):-*

(a) as adopted by Council

Land Slip Risk Area C

(b) as adopted by any other public authority and notified to the Council for the express purpose of its adoption by that authority being referred to in a planning certificate issued by the Council.

No

- 7A. *Flood related development controls information*

(a) Whether or not development on that land or part of the land for the purposes of dwelling houses, dual occupancies, multi dwelling housing or residential flat buildings (not including development for the purposes of group homes or seniors housing) is subject to flood related development controls.

No

(b) Whether or not development on that land or part of the land for any other purpose is subject to flood related development controls.

No

(c) Words and expressions in this clause have the same meanings as in the instrument set out in the Schedule to the Standard Instrument (Local Environmental Plans) Order 2006.

8. *Whether or not any environmental planning instrument or proposed environmental planning instrument referred to in clause 1 makes provision in relation to the acquisition of the land by a public authority, as referred to in section 27 of the Act.*

No

9. *The name of each contributions plan applying to the land*

Warringah Section 94A Development Contributions Plan 2013 (adopted 25 June 2013 effective 1 July 2013). Please contact Council's Planning and Assessment Counter for more information.

- 9A. *Is this land biodiversity certified land (within the meaning of Part 7AA of the Threatened Species Conservation Act 1995)?*
No
10. *Whether the land is land to which a biobanking agreement under Part 7A of the Threatened Species Conservation Act 1995 relates (but only if council has been notified of the existence of the agreement by the Director –General of the Department of Environment and Climate Change and Water)?*
No
11. *Bush Fire Prone Land*
No
12. *Is the land subject to a property vegetation plan made under the Native Vegetation Act 2003?*
No
13. *Whether an order has been made under the Trees (Disputes Between Neighbours) Act 2006 to carry out work in relation to a tree on the land (but only if the Council has been notified of the order).*
No
14. *Is there a direction by the Minister in force under section 75P (2) (c1) of the Act that a provision of an environmental planning instrument prohibiting or restricting the carrying out of a project or a stage of a project on the land under Part 4 of the Act does not have effect?*
No
15. (a) *Is there a current site compatibility certificate (seniors housing), of which the council is aware, in respect of proposed development on the land?*
No
For what period is the certificate current?
not applicable
A copy of the site compatibility certificate may be obtained from the head office of the Department of Planning.
(b) Are there any terms of a kind referred to in clause 18(2) of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 that have been imposed as a condition of consent to a development application granted after 11 October 2007 in respect of the land?
No
16. *Is there a valid site compatibility certificate (infrastructure), of which the council is aware, in respect of proposed development on the land?*
No
For what period is the certificate current?
not applicable
A copy of the site compatibility certificate may be obtained from the head office of the Department of Planning.
17. (a) *Is there a current site compatibility certificate (affordable rental housing), of which the council is aware, in respect of proposed development on the land?*
No
For what period is the certificate current?
Not Applicable
A copy of the site compatibility certificate may be obtained from the head office of the Department of Planning.

**Section 149 (2) Environmental Planning and
Assessment Act, 1979 (As Amended)**

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

No

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

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

No

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

No

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

No

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

No

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

No

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



Disclaimer

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

for Rik Hart
GENERAL MANAGER
WARRINGAH COUNCIL

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

Clause 1.1 of the Section 149(2) Certificate

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

STATE ENVIRONMENTAL PLANNING POLICY (MAJOR PROJECTS) 2005

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

STATE ENVIRONMENTAL PLANNING POLICY (Sydney Region Growth Centres) 2006

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

STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

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

STATE ENVIRONMENTAL PLANNING POLICY (REPEAL OF CONCURRENCE AND REFERRAL PROVISIONS) 2008

Gazetted: 12.12.2008; Commencement: 15.12.2008. The SEPP aims to improve efficiency in the planning system by removing duplicative or unnecessary requirements in environmental planning instruments (EPIs) to consult with State agencies (government departments) on planning decisions.

STATE ENVIRONMENTAL PLANNING POLICY (EXEMPT AND COMPLYING DEVELOPMENT CODES) 2008

Gazetted: 12.12.2008 – Commenced 27.02.2009

Streamlines assessment processes for development that complies with specified development standards. The policy provides exempt and complying development codes that have State-wide application, identifying, in the General Exempt Development Code, types of development that are of minimal environmental impact that may be carried out without the need for development consent; and, types of complying development that may be carried out in accordance with a complying development certificate as defined in the Environmental Planning and Assessment Act 1979.

STATE ENVIRONMENTAL PLANNING POLICY (AFFORDABLE RENTAL HOUSING) 2009

Published: 31.07.2009; Commencement 31.07.2009. The policy aims to better encourage home owners, social housing providers and developers to invest and create new affordable rental housing to meet the needs of our growing population and existing residents.

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

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

2 Permitted without consent

Home-based child care; Home occupations

3 Permitted with consent

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

4 Prohibited

Any development not specified in item 2 or 3

RESIDENTIAL PROPERTY REQUISITIONS ON TITLE

Vendor:
Purchaser:
Property:
Dated:

Possession and tenancies

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

Title

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

Adjustments

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

Survey and building

13. Subject to the Contract, survey should be satisfactory and show that the whole of the property is available and that there are no encroachments by or upon the property and that all improvements comply with local government/planning legislation.
14. Is the vendor in possession of a survey report? If so, please produce a copy for inspection prior to completion. The original should be handed over on completion.
15.
 - (a) Have the provisions of the *Local Government Act*, the *Environmental Planning and Assessment Act 1979* and their regulations been complied with?
 - (b) Is there any matter that could justify the making of an upgrading or demolition order in respect of any building or structure?
 - (c) Has the vendor a Building Certificate which relates to all current buildings or structures? If so, it should be handed over on completion. Please provide a copy in advance.
 - (d) Has the vendor a Final Occupation Certificate issued under the *Environmental Planning and Assessment Act 1979* for all current buildings or structures? If so, it should be handed over on completion. Please provide a copy in advance.
 - (e) In respect of any residential building work carried out in the last 7 years:
 - (i) please identify the building work carried out;
 - (ii) when was the building work completed?
 - (iii) please state the builder's name and licence number;
 - (iv) please provide details of insurance under the *Home Building Act 1989*.
16. Has the vendor (or any predecessor) entered into any agreement with or granted any indemnity to the Council or any other authority concerning any development on the property?

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

Affectations

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

Capacity

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

Requisitions and transfer

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