

## Contract for the sale and purchase of land 2019 edition

<b>TERM</b>	<b>MEANING OF TERM</b>	<b>NSW DAN:</b>
vendor's agent	<b>Skyline Real Estate</b> 3/14 Frenchs Forest Road, Frenchs Forest East, NSW 2086 Australia	Phone: 0408433881 Ref: Damien Dwyer
co-agent		
vendor	<b>John McDonald and Liliana Ilva McDonald</b> 6 Ocean View Way, Belrose, NSW 2086 Australia	
vendor's solicitor	<b>Emmerson &amp; Emmerson</b> Forestway Centre Suite 9, Forest Way, Frenchs Forest NSW 2086	Phone: (02) 9452 1022 Email: ckelly@eande.com.au Fax: (02) 9975 2549 Ref: CK:6906
date for completion land (address, plan details and title reference)	<b>84th day after the contract date</b> <b>6 Ocean View Way, Belrose, New South Wales 2085</b> <b>Registered Plan: Lot 16 Plan DP 285490</b> <b>Folio Identifier 16/285490</b>	(clause 15)
improvements	<input checked="" type="checkbox"/> VACANT POSSESSION <input type="checkbox"/> subject to existing tenancies <input checked="" type="checkbox"/> HOUSE <input checked="" type="checkbox"/> garage <input type="checkbox"/> carport <input type="checkbox"/> home unit <input type="checkbox"/> carspace <input type="checkbox"/> storage space <input type="checkbox"/> none <input type="checkbox"/> other:	
attached copies	<input checked="" type="checkbox"/> documents in the List of Documents as marked or as numbered: <input type="checkbox"/> other documents:	

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

inclusions	<input checked="" type="checkbox"/> blinds	<input checked="" type="checkbox"/> dishwasher	<input checked="" type="checkbox"/> light fittings	<input checked="" type="checkbox"/> stove
	<input checked="" type="checkbox"/> built-in wardrobes	<input checked="" type="checkbox"/> fixed floor coverings	<input checked="" type="checkbox"/> range hood	<input type="checkbox"/> pool equipment
	<input type="checkbox"/> clothes line	<input checked="" type="checkbox"/> insect screens	<input type="checkbox"/> solar panels	<input checked="" type="checkbox"/> TV antenna
	<input type="checkbox"/> curtains	<input checked="" type="checkbox"/> other: NBN, washing machine, dryer, air conditioner, refrigerator ladders and cabinets in garage, Foxtel antenna, alarm system, safe, internal intercom system		
exclusions				
purchaser				
purchaser's solicitor				
price	\$			
deposit	\$	(10% of the price, unless otherwise stated)		
balance	\$			
contract date	(if not stated, the date this contract was made)			

buyer's agent

vendor

**GST AMOUNT (optional)**

The price includes

GST of: \$

witness

purchaser

JOINT TENANTS     tenants in common     in unequal shares

witness

## Choices

Vendor agrees to accept a *deposit-bond* (clause 3) NO yes

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

*Electronic transaction* (clause 30) no YES  
(if no, vendor must provide further details, such as the proposed applicable waiver, in the space below, or *serve within 14 days* of the contract date):

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

Land tax is adjustable NO yes

GST: Taxable supply NO yes in full yes to an extent

Margin scheme will be used in making the taxable supply NO yes

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

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

Purchaser must make a *GSTRW payment* (GST residential withholding payment)  NO  yes (if yes, vendor must provide further details)

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

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

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

Supplier's name:

Supplier's ABN:

Supplier's GST branch address (if applicable):

Supplier's business address:

Supplier's email address:

Supplier's phone number:

Supplier's proportion of *GSTRW payment*:

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

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

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

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

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

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

## List of Documents

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

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

Lamb and Walters

Tel: 94498855

19/23 Bridge St, Pymble 2073

**IMPORTANT NOTICE TO VENDORS AND PURCHASERS**

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

**WARNING—SMOKE ALARMS**

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

**WARNING—LOOSE-FILL ASBESTOS INSULATION**

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

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

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

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

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

### DISPUTES

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

### AUCTIONS

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

**WARNINGS**

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

<p>APA Group          Australian Taxation Office          Council          County Council          Department of Planning, Industry and Environment          Department of Primary Industries          Electricity and gas          Land &amp; Housing Corporation          Local Land Services</p>	<p>NSW Department of Education          NSW Fair Trading          Owner of adjoining land          Privacy          Public Works Advisory          Subsidence Advisory NSW          Telecommunications          Transport for NSW          Water, sewerage or drainage authority</p>
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If you think that any of these matters affects the property, tell your solicitor.
2. A lease may be affected by the Agricultural Tenancies Act 1990, the Residential Tenancies Act 2010 or the Retail Leases Act 1994.
3. If any purchase money is owing to the Crown, it will become payable before obtaining consent, or if no consent is needed, when the transfer is registered.
4. If a consent to transfer is required under legislation, see clause 27 as to the obligations of the parties.
5. The vendor should continue the vendor's insurance until completion. If the vendor wants to give the purchaser possession before completion, the vendor should first ask the insurer to confirm this will not affect the insurance.
6. The purchaser will usually have to pay transfer duty (and sometimes surcharge purchaser duty) on this contract. If duty is not paid on time, a purchaser may incur penalties.
7. If the purchaser agrees to the release of deposit, the purchaser's right to recover the deposit may stand behind the rights of others (for example the vendor's mortgagee).
8. The purchaser should arrange insurance as appropriate.
9. Some transactions involving personal property may be affected by the Personal Property Securities Act 2009.
10. A purchaser should be satisfied that finance will be available at the time of completing the purchase.
11. Where the market value of the property is at or above a legislated amount, the purchaser may have to comply with a foreign resident capital gains withholding payment obligation (even if the vendor is not a foreign resident). If so, this will affect the amount available to the vendor on completion.
12. Purchasers of some residential properties may have to withhold part of the purchase price to be credited towards the GST liability of the vendor. If so, this will also affect the amount available to the vendor. More information is available from the ATO.

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

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

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

<i>adjustment date</i>	the earlier of the giving of possession to the purchaser or completion;
<i>bank</i>	the Reserve Bank of Australia or an authorised deposit-taking institution which is a bank, a building society or a credit union;
<i>business day</i>	any day except a bank or public holiday throughout NSW or a Saturday or Sunday;
<i>cheque</i>	a cheque that is not postdated or stale;
<i>clearance certificate</i>	a certificate within the meaning of s14-220 of Schedule 1 to the <i>TA Act</i> , that covers one or more days falling within the period from and including the contract date to completion;
<i>deposit-bond</i>	a deposit bond or guarantee from an issuer, with an expiry date and for an amount each approved by the vendor;
<i>depositholder</i>	vendor's agent (or if no vendor's agent is named in this contract, the vendor's <i>solicitor</i> , or if no vendor's <i>solicitor</i> is named in this contract, the buyer's agent);
<i>document of title</i>	document relevant to the title or the passing of title;
<i>FRCGW percentage</i>	the percentage mentioned in s14-200(3)(a) of Schedule 1 to the <i>TA Act</i> (12.5% as at 1 July 2017);
<i>FRCGW remittance</i>	a remittance which the purchaser must make under s14-200 of Schedule 1 to the <i>TA Act</i> , being the lesser of the <i>FRCGW percentage</i> of the price (inclusive of GST, if any) and the amount specified in a <i>Variation served by a party</i> ;
<i>GST Act</i>	A New Tax System (Goods and Services Tax) Act 1999;
<i>GST rate</i>	the rate mentioned in s4 of A New Tax System (Goods and Services Tax Imposition - General) Act 1999 (10% as at 1 July 2000);
<i>GSTRW payment</i>	a payment which the purchaser must make under s14-250 of Schedule 1 to the <i>TA Act</i> (the price multiplied by the <i>GSTRW rate</i> );
<i>GSTRW rate</i>	the rate determined under ss14-250(6), (8) or (9) of Schedule 1 to the <i>TA Act</i> (as at 1 July 2018, usually 7% of the price if the margin scheme applies, 1/11 <sup>th</sup> if not);
<i>legislation</i>	an Act or a by-law, ordinance, regulation or rule made under an Act;
<i>normally</i>	subject to any other provision of this contract;
<i>party</i>	each of the vendor and the purchaser;
<i>property</i>	the land, the improvements, all fixtures and the inclusions, but not the exclusions;
<i>planning agreement</i>	a valid voluntary agreement within the meaning of s7.4 of the Environmental Planning and Assessment Act 1979 entered into in relation to the <i>property</i> ;
<i>requisition</i>	an objection, question or requisition (but the term does not include a claim);
<i>rescind</i>	rescind this contract from the beginning;
<i>serve</i>	serve in writing on the other <i>party</i> ;
<i>settlement cheque</i>	an unendorsed <i>cheque</i> made payable to the person to be paid and – <ul style="list-style-type: none"> <li>• issued by a <i>bank</i> and drawn on itself; or</li> <li>• if authorised in writing by the vendor or the vendor's <i>solicitor</i>, some other <i>cheque</i>;</li> </ul>
<i>solicitor</i>	in relation to a <i>party</i> , the <i>party's</i> solicitor or licensed conveyancer named in this contract or in a notice <i>served by the party</i> ;
<i>TA Act</i>	Taxation Administration Act 1953;
<i>terminate</i>	terminate this contract for breach;
<i>variation</i>	a variation made under s14-235 of Schedule 1 to the <i>TA Act</i> ;
<i>within</i>	in relation to a period, at any time before or during the period; and
<i>work order</i>	a valid direction, notice or order that requires work to be done or money to be spent on or in relation to the <i>property</i> or any adjoining footpath or road (but the term does not include a notice under s22E of the Swimming Pools Act 1992 or clause 22 of the Swimming Pools Regulation 2018).

## 2 Deposit and other payments before completion

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

- 2.7 If the vendor accepts a bond or guarantee for part of the deposit, clauses 2.1 to 2.5 apply only to the balance.
- 2.8 If any of the deposit or of the balance of the price is paid before completion to the vendor or as the vendor directs, it is a charge on the land in favour of the purchaser until *termination* by the vendor or completion, subject to any existing right.
- 2.9 If each *party* tells the *depositholder* that the deposit is to be invested, the *depositholder* is to invest the deposit (at the risk of the *party* who becomes entitled to it) with a *bank*, in an interest-bearing account in NSW, payable at call, with interest to be reinvested, and pay the interest to the *parties* equally, after deduction of all proper government taxes and financial institution charges and other charges.
- 3 Deposit-bond**
- 3.1 This clause applies only if this contract says the vendor has agreed to accept a *deposit-bond* for the deposit (or part of it).
- 3.2 The purchaser must provide the original *deposit-bond* to the vendor's *solicitor* (or if no *solicitor* the *depositholder*) at or before the making of this contract and this time is essential.
- 3.3 If the *deposit-bond* has an expiry date and completion does not occur by the date which is 14 days before the expiry date, the purchaser must *serve* a replacement *deposit-bond* at least 7 days before the expiry date. The time for service is essential.
- 3.4 The vendor must approve a replacement *deposit-bond* if –
- 3.4.1 it is from the same issuer and for the same amount as the earlier *deposit-bond*; and
- 3.4.2 it has an expiry date at least three months after its date of issue.
- 3.5 A breach of clauses 3.2 or 3.3 entitles the vendor to *terminate*. The right to *terminate* is lost as soon as –
- 3.5.1 the purchaser *serves* a replacement *deposit-bond*; or
- 3.5.2 the deposit is paid in full under clause 2.
- 3.6 Clauses 3.3 and 3.4 can operate more than once.
- 3.7 If the purchaser *serves* a replacement *deposit-bond*, the vendor must *serve* the earlier *deposit-bond*.
- 3.8 The amount of any *deposit-bond* does not form part of the price for the purposes of clause 16.7.
- 3.9 The vendor must give the purchaser the *deposit-bond* –
- 3.9.1 on completion; or
- 3.9.2 if this contract is *rescinded*.
- 3.10 If this contract is *terminated* by the vendor –
- 3.10.1 *normally*, the vendor can immediately demand payment from the issuer of the *deposit-bond*; or
- 3.10.2 if the purchaser *serves* prior to *termination* a notice disputing the vendor's right to *terminate*, the vendor must forward the *deposit-bond* (or its proceeds if called up) to the *depositholder* as stakeholder.
- 3.11 If this contract is *terminated* by the purchaser –
- 3.11.1 *normally*, the vendor must give the purchaser the *deposit-bond*; or
- 3.11.2 if the vendor *serves* prior to *termination* a notice disputing the purchaser's right to *terminate*, the vendor must forward the *deposit-bond* (or its proceeds if called up) to the *depositholder* as stakeholder.
- 4 Transfer**
- 4.1 *Normally*, the purchaser must *serve* at least 14 days before the date for completion –
- 4.1.1 the form of transfer; and
- 4.1.2 particulars required to register any mortgage or other dealing to be lodged with the transfer by the purchaser or the purchaser's mortgagee.
- 4.2 If any information needed for the form of transfer is not disclosed in this contract, the vendor must *serve* it.
- 4.3 If the purchaser *serves* a form of transfer and the transferee is not the purchaser, the purchaser must give the vendor a direction signed by the purchaser personally for this form of transfer.
- 4.4 The vendor can require the purchaser to include a form of covenant or easement in the transfer only if this contract contains the wording of the proposed covenant or easement, and a description of the land benefited.
- 5 Requisitions**
- 5.1 If a form of *requisitions* is attached to this contract, the purchaser is taken to have made those *requisitions*.
- 5.2 If the purchaser is or becomes entitled to make any other *requisition*, the purchaser can make it only by *servicing* it –
- 5.2.1 if it arises out of this contract or it is a general question about the *property* or title - *within* 21 days after the contract date;
- 5.2.2 if it arises out of anything *served* by the vendor - *within* 21 days after the later of the contract date and that *service*; and
- 5.2.3 in any other case - *within* a reasonable time.
- 6 Error or misdescription**
- 6.1 *Normally*, the purchaser can (but only before completion) claim compensation for an error or misdescription in this contract (as to the *property*, the title or anything else and whether substantial or not).
- 6.2 This clause applies even if the purchaser did not take notice of or rely on anything in this contract containing or giving rise to the error or misdescription.
- 6.3 However, this clause does not apply to the extent the purchaser knows the true position.

## 7 Claims by purchaser

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

- 7.1 the vendor can *rescind* if in the case of claims that are not claims for delay –
- 7.1.1 the total amount claimed exceeds 5% of the price;
  - 7.1.2 the vendor serves notice of intention to *rescind*; and
  - 7.1.3 the purchaser does not serve notice waiving the claims *within* 14 days after that service; and
- 7.2 if the vendor does not *rescind*, the parties must complete and if this contract is completed –
- 7.2.1 the lesser of the total amount claimed and 10% of the price must be paid out of the price to and held by the *depositholder* until the claims are finalised or lapse;
  - 7.2.2 the amount held is to be invested in accordance with clause 2.9;
  - 7.2.3 the claims must be finalised by an arbitrator appointed by the parties or, if an appointment is not made *within* 1 month of completion, by an arbitrator appointed by the President of the Law Society at the request of a party (in the latter case the parties are bound by the terms of the Conveyancing Arbitration Rules approved by the Law Society as at the date of the appointment);
  - 7.2.4 the purchaser is not entitled, in respect of the claims, to more than the total amount claimed and the costs of the purchaser;
  - 7.2.5 net interest on the amount held must be paid to the parties in the same proportion as the amount held is paid; and
  - 7.2.6 if the parties do not appoint an arbitrator and neither party requests the President to appoint an arbitrator *within* 3 months after completion, the claims lapse and the amount belongs to the vendor.

## 8 Vendor's rights and obligations

- 8.1 The vendor can *rescind* if –
- 8.1.1 the vendor is, on reasonable grounds, unable or unwilling to comply with a *requisition*;
  - 8.1.2 the vendor serves a notice of intention to *rescind* that specifies the *requisition* and those grounds; and
  - 8.1.3 the purchaser does not serve a notice waiving the *requisition within* 14 days after that service.
- 8.2 If the vendor does not comply with this contract (or a notice under or relating to it) in an essential respect, the purchaser can *terminate* by serving a notice. After the *termination* –
- 8.2.1 the purchaser can recover the deposit and any other money paid by the purchaser under this contract;
  - 8.2.2 the purchaser can sue the vendor to recover damages for breach of contract; and
  - 8.2.3 if the purchaser has been in possession a party can claim for a reasonable adjustment.

## 9 Purchaser's default

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

- 9.1 keep or recover the deposit (to a maximum of 10% of the price);
- 9.2 hold any other money paid by the purchaser under this contract as security for anything recoverable under this clause –
  - 9.2.1 for 12 months after the *termination*; or
  - 9.2.2 if the vendor commences proceedings under this clause *within* 12 months, until those proceedings are concluded; and
- 9.3 sue the purchaser either –
  - 9.3.1 where the vendor has resold the *property* under a contract made *within* 12 months after the *termination*, to recover –
    - the deficiency on resale (with credit for any of the deposit kept or recovered and after allowance for any capital gains tax or goods and services tax payable on anything recovered under this clause); and
    - the reasonable costs and expenses arising out of the purchaser's non-compliance with this contract or the notice and of resale and any attempted resale; or
  - 9.3.2 to recover damages for breach of contract.

## 10 Restrictions on rights of purchaser

- 10.1 The purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of –
- 10.1.1 the ownership or location of any fence as defined in the Dividing Fences Act 1991;
  - 10.1.2 a service for the *property* being a joint service or passing through another property, or any service for another property passing through the *property* ('service' includes air, communication, drainage, electricity, garbage, gas, oil, radio, sewerage, telephone, television or water service);
  - 10.1.3 a wall being or not being a party wall in any sense of that term or the *property* being affected by an easement for support or not having the benefit of an easement for support;
  - 10.1.4 any change in the *property* due to fair wear and tear before completion;
  - 10.1.5 a promise, representation or statement about this contract, the *property* or the title, not set out or referred to in this contract;
  - 10.1.6 a condition, exception, reservation or restriction in a Crown grant;

- 10.1.7 the existence of any authority or licence to explore or prospect for gas, minerals or petroleum;
- 10.1.8 any easement or restriction on use the substance of either of which is disclosed in this contract or any non-compliance with the easement or restriction on use; or
- 10.1.9 anything the substance of which is disclosed in this contract (except a caveat, charge, mortgage, priority notice or writ).
- 10.2 The purchaser cannot *rescind* or *terminate* only because of a defect in title to or quality of the inclusions.
- 10.3 *Normally*, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* or require the vendor to change the nature of the title disclosed in this contract (for example, to remove a caution evidencing qualified title, or to lodge a plan of survey as regards limited title).
- 11 Compliance with work orders**
- 11.1 *Normally*, the vendor must by completion comply with a *work order* made on or before the contract date and if this contract is completed the purchaser must comply with any other *work order*.
- 11.2 If the purchaser complies with a *work order*, and this contract is *rescinded* or *terminated*, the vendor must pay the expense of compliance to the purchaser.
- 12 Certificates and inspections**
- The vendor must do everything reasonable to enable the purchaser, subject to the rights of any tenant –
- 12.1 to have the *property* inspected to obtain any certificate or report reasonably required;
- 12.2 to apply (if necessary in the name of the vendor) for –
- 12.2.1 any certificate that can be given in respect of the *property* under *legislation*; or
- 12.2.2 a copy of any approval, certificate, consent, direction, notice or order in respect of the *property* given under *legislation*, even if given after the contract date; and
- 12.3 to make 1 inspection of the *property* in the 3 days before a time appointed for completion.
- 13 Goods and services tax (GST)**
- 13.1 Terms used in this clause which are not defined elsewhere in this contract and have a defined meaning in the *GST Act* have the same meaning in this clause.
- 13.2 *Normally*, if a *party* must pay the price or any other amount to the other *party* under this contract, GST is not to be added to the price or amount.
- 13.3 If under this contract a *party* must make an adjustment or payment for an expense of another party or pay an expense payable by or to a third party (for example, under clauses 14 or 20.7) –
- 13.3.1 the *party* must adjust or pay on completion any GST added to or included in the expense; but
- 13.3.2 the amount of the expense must be reduced to the extent the party receiving the adjustment or payment (or the representative member of a GST group of which that party is a member) is entitled to an input tax credit for the expense; and
- 13.3.3 if the adjustment or payment under this contract is consideration for a taxable supply, an amount for GST must be added at the *GST rate*.
- 13.4 If this contract says this sale is the supply of a going concern –
- 13.4.1 the *parties* agree the supply of the *property* is a supply of a going concern;
- 13.4.2 the vendor must, between the contract date and completion, carry on the enterprise conducted on the land in a proper and business-like way;
- 13.4.3 if the purchaser is not registered by the date for completion, the *parties* must complete and the purchaser must pay on completion, in addition to the price, an amount being the price multiplied by the *GST rate* ("the retention sum"). The retention sum is to be held by the *depositholder* and dealt with as follows –
- if *within* 3 months of completion the purchaser *serves* a letter from the Australian Taxation Office stating the purchaser is registered with a date of effect of registration on or before completion, the *depositholder* is to pay the retention sum to the purchaser; but
  - if the purchaser does not *serve* that letter *within* 3 months of completion, the *depositholder* is to pay the retention sum to the vendor; and
- 13.4.4 if the vendor, despite clause 13.4.1, *serves* a letter from the Australian Taxation Office stating the vendor has to pay GST on the supply, the purchaser must pay to the vendor on demand the amount of GST assessed.
- 13.5 *Normally*, the vendor promises the margin scheme will not apply to the supply of the *property*.
- 13.6 If this contract says the margin scheme is to apply in making the taxable supply, the *parties* agree that the margin scheme is to apply to the sale of the *property*.
- 13.7 If this contract says the sale is not a taxable supply –
- 13.7.1 the purchaser promises that the *property* will not be used and represents that the purchaser does not intend the *property* (or any part of the *property*) to be used in a way that could make the sale a taxable supply to any extent; and
- 13.7.2 the purchaser must pay the vendor on completion in addition to the price an amount calculated by multiplying the price by the *GST rate* if this sale is a taxable supply to any extent because of –
- a breach of clause 13.7.1; or
  - something else known to the purchaser but not the vendor.
- 13.8 If this contract says this sale is a taxable supply in full and does not say the margin scheme applies to the *property*, the vendor must pay the purchaser on completion an amount of one-eleventh of the price if –

- 13.8.1 this sale is not a taxable supply in full; or
- 13.8.2 the margin scheme applies to the *property* (or any part of the *property*).
- 13.9 If this contract says this sale is a taxable supply to an extent –
- 13.9.1 clause 13.7.1 does not apply to any part of the *property* which is identified as being a taxable supply; and
- 13.9.2 the payments mentioned in clauses 13.7 and 13.8 are to be recalculated by multiplying the relevant payment by the proportion of the price which represents the value of that part of the *property* to which the clause applies (the proportion to be expressed as a number between 0 and 1). Any evidence of value must be obtained at the expense of the vendor.
- 13.10 *Normally*, on completion the vendor must give the recipient of the supply a tax invoice for any taxable supply by the vendor by or under this contract.
- 13.11 The vendor does not have to give the purchaser a tax invoice if the margin scheme applies to a taxable supply.
- 13.12 If the vendor is liable for GST on rents or profits due to issuing an invoice or receiving consideration before completion, any adjustment of those amounts must exclude an amount equal to the vendor's GST liability.
- 13.13 If the purchaser must make a *GSTRW payment* the purchaser must –
- 13.13.1 at least 5 days before the date for completion, *serve* evidence of submission of a *GSTRW payment* notification form to the Australian Taxation Office by the purchaser or, if a direction under clause 4.3 has been *served*, by the transferee named in the transfer *served* with that direction;
- 13.13.2 produce on completion a *settlement cheque* for the *GSTRW payment* payable to the Deputy Commissioner of Taxation;
- 13.13.3 forward the *settlement cheque* to the payee immediately after completion; and
- 13.13.4 *serve* evidence of receipt of payment of the *GSTRW payment* and a copy of the settlement date confirmation form submitted to the Australian Taxation Office.

#### 14 Adjustments

- 14.1 *Normally*, the vendor is entitled to the rents and profits and will be liable for all rates, water, sewerage and drainage service and usage charges, land tax, levies and all other periodic outgoings up to and including the *adjustment date* after which the purchaser will be entitled and liable.
- 14.2 The *parties* must make any necessary adjustment on completion.
- 14.3 If an amount that is adjustable under this contract has been reduced under *legislation*, the *parties* must on completion adjust the reduced amount.
- 14.4 The *parties* must not adjust surcharge land tax (as defined in the Land Tax Act 1956) but must adjust any other land tax for the year current at the *adjustment date* –
- 14.4.1 only if land tax has been paid or is payable for the year (whether by the vendor or by a predecessor in title) and this contract says that land tax is adjustable;
- 14.4.2 by adjusting the amount that would have been payable if at the start of the year –
- the person who owned the land owned no other land;
  - the land was not subject to a special trust or owned by a non-concessional company; and
  - if the land (or part of it) had no separate taxable value, by calculating its separate taxable value on a proportional area basis.
- 14.5 If any other amount that is adjustable under this contract relates partly to the land and partly to other land, the *parties* must adjust it on a proportional area basis.
- 14.6 *Normally*, the vendor can direct the purchaser to produce a *settlement cheque* on completion to pay an amount adjustable under this contract and if so –
- 14.6.1 the amount is to be treated as if it were paid; and
- 14.6.2 the *cheque* must be forwarded to the payee immediately after completion (by the purchaser if the *cheque* relates only to the *property* or by the vendor in any other case).
- 14.7 If on completion the last bill for a water, sewerage or drainage usage charge is for a period ending before the *adjustment date*, the vendor is liable for an amount calculated by dividing the bill by the number of days in the period then multiplying by the number of unbilled days up to and including the *adjustment date*.
- 14.8 The vendor is liable for any amount recoverable for work started on or before the contract date on the *property* or any adjoining footpath or road.

#### 15 Date for completion

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

#### 16 Completion

##### • Vendor

- 16.1 On completion the vendor must give the purchaser any *document of title* that relates only to the *property*.
- 16.2 If on completion the vendor has possession or control of a *document of title* that relates also to other property, the vendor must produce it as and where necessary.
- 16.3 *Normally*, on completion the vendor must cause the legal title to the *property* (being an estate in fee simple) to pass to the purchaser free of any mortgage or other interest, subject to any necessary registration.
- 16.4 The legal title to the *property* does not pass before completion.

- 16.5 If the vendor gives the purchaser a document (other than the transfer) that needs to be lodged for registration, the vendor must pay the lodgment fee to the purchaser.
- 16.6 If a *party serves* a land tax certificate showing a charge on any of the land, by completion the vendor must do all things and pay all money required so that the charge is no longer effective against the land.
- Purchaser**
- 16.7 On completion the purchaser must pay to the vendor, by cash (up to \$2,000) or *settlement cheque* –
- 16.7.1 the price less any:
- deposit paid;
  - *FRCGW remittance* payable;
  - *GSTRW payment*; and
  - amount payable by the vendor to the purchaser under this contract; and
- 16.7.2 any other amount payable by the purchaser under this contract.
- 16.8 If the vendor requires more than 5 *settlement cheques*, the vendor must pay \$10 for each extra *cheque*.
- 16.9 If any of the deposit is not covered by a bond or guarantee, on completion the purchaser must give the vendor an order signed by the purchaser authorising the *depositholder* to account to the vendor for the deposit.
- 16.10 On completion the deposit belongs to the vendor.
- Place for completion**
- 16.11 *Normally*, the *parties* must complete at the completion address, which is:
- 16.11.1 if a special completion address is stated in this contract - that address; or
- 16.11.2 if none is stated, but a first mortgagee is disclosed in this contract and the mortgagee would usually discharge the mortgage at a particular place - that place; or
- 16.11.3 in any other case - the vendor's *solicitor's* address stated in this contract.
- 16.12 The vendor by reasonable notice can require completion at another place, if it is in NSW, but the vendor must pay the purchaser's additional expenses, including any agency or mortgagee fee.
- 16.13 If the purchaser requests completion at a place that is not the completion address, and the vendor agrees, the purchaser must pay the vendor's additional expenses, including any agency or mortgagee fee.
- 17 Possession**
- 17.1 *Normally*, the vendor must give the purchaser vacant possession of the *property* on completion.
- 17.2 The vendor does not have to give vacant possession if –
- 17.2.1 this contract says that the sale is subject to existing tenancies; and
- 17.2.2 the contract discloses the provisions of the tenancy (for example, by attaching a copy of the lease and any relevant memorandum or variation).
- 17.3 *Normally*, the purchaser can claim compensation (before or after completion) or *rescind* if any of the land is affected by a protected tenancy (a tenancy affected by Schedule 2, Part 7 of the Residential Tenancies Act 2010).
- 18 Possession before completion**
- 18.1 This clause applies only if the vendor gives the purchaser possession of the *property* before completion.
- 18.2 The purchaser must not before completion –
- 18.2.1 let or part with possession of any of the *property*;
- 18.2.2 make any change or structural alteration or addition to the *property*; or
- 18.2.3 contravene any agreement between the *parties* or any direction, document, *legislation*, notice or order affecting the *property*.
- 18.3 The purchaser must until completion –
- 18.3.1 keep the *property* in good condition and repair having regard to its condition at the giving of possession; and
- 18.3.2 allow the vendor or the vendor's authorised representative to enter and inspect it at all reasonable times.
- 18.4 The risk as to damage to the *property* passes to the purchaser immediately after the purchaser enters into possession.
- 18.5 If the purchaser does not comply with this clause, then without affecting any other right of the vendor –
- 18.5.1 the vendor can before completion, without notice, remedy the non-compliance; and
- 18.5.2 if the vendor pays the expense of doing this, the purchaser must pay it to the vendor with interest at the rate prescribed under s101 Civil Procedure Act 2005.
- 18.6 If this contract is *rescinded* or *terminated* the purchaser must immediately vacate the *property*.
- 18.7 If the *parties* or their *solicitors* on their behalf do not agree in writing to a fee or rent, none is payable.
- 19 Rescission of contract**
- 19.1 If this contract expressly gives a *party* a right to *rescind*, the *party* can exercise the right –
- 19.1.1 only by *servicing* a notice before completion; and
- 19.1.2 in spite of any making of a claim or *requisition*, any attempt to satisfy a claim or *requisition*, any arbitration, litigation, mediation or negotiation or any giving or taking of possession.
- 19.2 *Normally*, if a *party* exercises a right to *rescind* expressly given by this contract or any *legislation* –
- 19.2.1 the deposit and any other money paid by the purchaser under this contract must be refunded;
- 19.2.2 a *party* can claim for a reasonable adjustment if the purchaser has been in possession;
- 19.2.3 a *party* can claim for damages, costs or expenses arising out of a breach of this contract; and
- 19.2.4 a *party* will not otherwise be liable to pay the other *party* any damages, costs or expenses.

**20 Miscellaneous**

- 20.1 The *parties* acknowledge that anything stated in this contract to be attached was attached to this contract by the vendor before the purchaser signed it and is part of this contract.
- 20.2 Anything attached to this contract is part of this contract.
- 20.3 An area, bearing or dimension in this contract is only approximate.
- 20.4 If a *party* consists of 2 or more persons, this contract benefits and binds them separately and together.
- 20.5 A *party's solicitor* can receive any amount payable to the *party* under this contract or direct in writing that it is to be paid to another person.
- 20.6 A document under or relating to this contract is –
- 20.6.1 signed by a *party* if it is signed by the *party* or the *party's solicitor* (apart from a direction under clause 4.3);
- 20.6.2 served if it is served by the *party* or the *party's solicitor*;
- 20.6.3 served if it is served on the *party's solicitor*, even if the *party* has died or any of them has died;
- 20.6.4 served if it is served in any manner provided in s170 of the Conveyancing Act 1919;
- 20.6.5 served if it is sent by email or fax to the *party's solicitor*, unless in either case it is not received;
- 20.6.6 served on a person if it (or a copy of it) comes into the possession of the person; and
- 20.6.7 served at the earliest time it is served, if it is served more than once.
- 20.7 An obligation to pay an expense of another *party* of doing something is an obligation to pay –
- 20.7.1 if the *party* does the thing personally - the reasonable cost of getting someone else to do it; or
- 20.7.2 if the *party* pays someone else to do the thing - the amount paid, to the extent it is reasonable.
- 20.8 Rights under clauses 11, 13, 14, 17, 24, 30 and 31 continue after completion, whether or not other rights continue.
- 20.9 The vendor does not promise, represent or state that the purchaser has any cooling off rights.
- 20.10 The vendor does not promise, represent or state that any attached survey report is accurate or current.
- 20.11 A reference to any *legislation* (including any percentage or rate specified in *legislation*) is also a reference to any corresponding later *legislation*.
- 20.12 Each *party* must do whatever is necessary after completion to carry out the *party's* obligations under this contract.
- 20.13 Neither taking possession nor *servicing* a transfer of itself implies acceptance of the *property* or the title.
- 20.14 The details and information provided in this contract (for example, on pages 1 - 3) are, to the extent of each *party's* knowledge, true, and are part of this contract.
- 20.15 Where this contract provides for choices, a choice in BLOCK CAPITALS applies unless a different choice is marked.

**21 Time limits in these provisions**

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

**22 Foreign Acquisitions and Takeovers Act 1975**

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

**23 Strata or community title****• Definitions and modifications**

- 23.1 This clause applies only if the land (or part of it) is a lot in a strata, neighbourhood, precinct or community scheme (or on completion is to be a lot in a scheme of that kind).
- 23.2 In this contract –
- 23.2.1 'change', in relation to a scheme, means –
- a registered or registrable change from by-laws set out in this contract;
  - a change from a development or management contract or statement set out in this contract; or
  - a change in the boundaries of common property;
- 23.2.2 'common property' includes association property for the scheme or any higher scheme;
- 23.2.3 'contribution' includes an amount payable under a by-law;
- 23.2.4 'information certificate' includes a certificate under s184 Strata Schemes Management Act 2015 and s26 Community Land Management Act 1989;
- 23.2.5 'information notice' includes a strata information notice under s22 Strata Schemes Management Act 2015 and a notice under s47 Community Land Management Act 1989;

- 23.2.6 'normal expenses', in relation to an owners corporation for a scheme, means normal operating expenses usually payable from the administrative fund of an owners corporation for a scheme of the same kind;
- 23.2.7 'owners corporation' means the owners corporation or the association for the scheme or any higher scheme;
- 23.2.8 'the *property*' includes any interest in common property for the scheme associated with the lot; and
- 23.2.9 'special expenses', in relation to an owners corporation, means its actual, contingent or expected expenses, except to the extent they are –
- normal expenses;
  - due to fair wear and tear;
  - disclosed in this contract; or
  - covered by moneys held in the capital works fund.
- 23.3 Clauses 11, 14.8 and 18.4 do not apply to an obligation of the owners corporation, or to property insurable by it.
- 23.4 Clauses 14.4.2 and 14.5 apply but on a unit entitlement basis instead of an area basis.
- **Adjustments and liability for expenses**
- 23.5 The *parties* must adjust under clause 14.1 –
- 23.5.1 a regular periodic contribution;
- 23.5.2 a contribution which is not a regular periodic contribution but is disclosed in this contract; and
- 23.5.3 on a unit entitlement basis, any amount paid by the vendor for a normal expense of the owners corporation to the extent the owners corporation has not paid the amount to the vendor.
- 23.6 If a contribution is not a regular periodic contribution and is not disclosed in this contract –
- 23.6.1 the vendor is liable for it if it was determined on or before the contract date, even if it is payable by instalments; and
- 23.6.2 the purchaser is liable for all contributions determined after the contract date.
- 23.7 The vendor must pay or allow to the purchaser on completion the amount of any unpaid contributions for which the vendor is liable under clause 23.6.1.
- 23.8 *Normally*, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of –
- 23.8.1 an existing or future actual, contingent or expected expense of the owners corporation;
- 23.8.2 a proportional unit entitlement of the lot or a relevant lot or former lot, apart from a claim under clause 6; or
- 23.8.3 a past or future change in the scheme or a higher scheme.
- 23.9 However, the purchaser can *rescind* if –
- 23.9.1 the special expenses of the owners corporation at the later of the contract date and the creation of the owners corporation when calculated on a unit entitlement basis (and, if more than one lot or a higher scheme is involved, added together), less any contribution paid by the vendor, are more than 1% of the price;
- 23.9.2 in the case of the lot or a relevant lot or former lot in a higher scheme, a proportional unit entitlement for the lot is disclosed in this contract but the lot has a different proportional unit entitlement at the contract date or at any time before completion;
- 23.9.3 a change before the contract date or before completion in the scheme or a higher scheme materially prejudices the purchaser and is not disclosed in this contract; or
- 23.9.4 a resolution is passed by the owners corporation before the contract date or before completion to give to the owners in the scheme for their consideration a strata renewal plan that has not lapsed at the contract date and there is not attached to this contract a strata renewal proposal or the strata renewal plan.
- **Notices, certificates and inspections**
- 23.10 The purchaser must give the vendor 2 copies of an information notice addressed to the owners corporation and signed by the purchaser.
- 23.11 The vendor must complete and sign 1 copy of the notice and give it to the purchaser on completion.
- 23.12 Each *party* can sign and give the notice as agent for the other.
- 23.13 The vendor must *serve* an information certificate issued after the contract date in relation to the lot, the scheme or any higher scheme at least 7 days before the date for completion.
- 23.14 The purchaser does not have to complete earlier than 7 days after *service* of the certificate and clause 21.3 does not apply to this provision. On completion the purchaser must pay the vendor the prescribed fee for the certificate.
- 23.15 The vendor authorises the purchaser to apply for the purchaser's own certificate.
- 23.16 The vendor authorises the purchaser to apply for and make an inspection of any record or other document in the custody or control of the owners corporation or relating to the scheme or any higher scheme.
- **Meetings of the owners corporation**
- 23.17 If a general meeting of the owners corporation is convened before completion –
- 23.17.1 if the vendor receives notice of it, the vendor must immediately notify the purchaser of it; and
- 23.17.2 after the expiry of any cooling off period, the purchaser can require the vendor to appoint the purchaser (or the purchaser's nominee) to exercise any voting rights of the vendor in respect of the lot at the meeting.

**24 Tenancies**

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

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

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

- 25.7.1 normally, the abstract of title need not include any document which does not show the location, area or dimensions of the land (for example, by including a metes and bounds description or a plan of the land);
- 25.7.2 clause 25.7.1 does not apply to a document which is the good root of title; and
- 25.7.3 the vendor does not have to provide an abstract if this contract contains a delimitation plan (whether in registrable form or not).
- 25.8 The vendor must give a proper covenant to produce where relevant.
- 25.9 The vendor does not have to produce or covenant to produce a document that is not in the possession of the vendor or a mortgagee.
- 25.10 If the vendor is unable to produce an original document in the chain of title, the purchaser will accept a photocopy from the Registrar-General of the registration copy of that document.
- 26 Crown purchase money**
- 26.1 This clause applies only if purchase money is payable to the Crown, whether or not due for payment.
- 26.2 The vendor is liable for the money, except to the extent this contract says the purchaser is liable for it.
- 26.3 To the extent the vendor is liable for it, the vendor is liable for any interest until completion.
- 26.4 To the extent the purchaser is liable for it, the parties must adjust any interest under clause 14.1.
- 27 Consent to transfer**
- 27.1 This clause applies only if the land (or part of it) cannot be transferred without consent under legislation or a planning agreement.
- 27.2 The purchaser must properly complete and then serve the purchaser's part of an application for consent to transfer of the land (or part of it) within 7 days after the contract date.
- 27.3 The vendor must apply for consent within 7 days after service of the purchaser's part.
- 27.4 If consent is refused, either party can rescind.
- 27.5 If consent is given subject to one or more conditions that will substantially disadvantage a party, then that party can rescind within 7 days after receipt by or service upon the party of written notice of the conditions.
- 27.6 If consent is not given or refused –
- 27.6.1 within 42 days after the purchaser serves the purchaser's part of the application, the purchaser can rescind; or
- 27.6.2 within 30 days after the application is made, either party can rescind.
- 27.7 Each period in clause 27.6 becomes 90 days if the land (or part of it) is –
- 27.7.1 under a planning agreement; or
- 27.7.2 in the Western Division.
- 27.8 If the land (or part of it) is described as a lot in an unregistered plan, each time in clause 27.6 becomes the later of the time and 35 days after creation of a separate folio for the lot.
- 27.9 The date for completion becomes the later of the date for completion and 14 days after service of the notice granting consent to transfer.
- 28 Unregistered plan**
- 28.1 This clause applies only if some of the land is described as a lot in an unregistered plan.
- 28.2 The vendor must do everything reasonable to have the plan registered within 6 months after the contract date, with or without any minor alteration to the plan or any document to be lodged with the plan validly required or made under legislation.
- 28.3 If the plan is not registered within that time and in that manner –
- 28.3.1 the purchaser can rescind; and
- 28.3.2 the vendor can rescind, but only if the vendor has complied with clause 28.2 and with any legislation governing the rescission.
- 28.4 Either party can serve notice of the registration of the plan and every relevant lot and plan number.
- 28.5 The date for completion becomes the later of the date for completion and 21 days after service of the notice.
- 28.6 Clauses 28.2 and 28.3 apply to another plan that is to be registered before the plan is registered.
- 29 Conditional contract**
- 29.1 This clause applies only if a provision says this contract or completion is conditional on an event.
- 29.2 If the time for the event to happen is not stated, the time is 42 days after the contract date.
- 29.3 If this contract says the provision is for the benefit of a party, then it benefits only that party.
- 29.4 If anything is necessary to make the event happen, each party must do whatever is reasonably necessary to cause the event to happen.
- 29.5 A party can rescind under this clause only if the party has substantially complied with clause 29.4.
- 29.6 If the event involves an approval and the approval is given subject to a condition that will substantially disadvantage a party who has the benefit of the provision, the party can rescind within 7 days after either party serves notice of the condition.
- 29.7 If the parties can lawfully complete without the event happening –
- 29.7.1 if the event does not happen within the time for it to happen, a party who has the benefit of the provision can rescind within 7 days after the end of that time;
- 29.7.2 if the event involves an approval and an application for the approval is refused, a party who has the benefit of the provision can rescind within 7 days after either party serves notice of the refusal; and

- 29.7.3 the date for completion becomes the later of the date for completion and 21 days after the earliest of –
- either *party serving* notice of the event happening;
  - every *party* who has the benefit of the provision *serving* notice waiving the provision; or
  - the end of the time for the event to happen.
- 29.8 If the *parties* cannot lawfully complete without the event happening –
- 29.8.1 if the event does not happen *within* the time for it to happen, either *party* can *rescind*;
- 29.8.2 if the event involves an approval and an application for the approval is refused, either *party* can *rescind*;
- 29.8.3 the date for completion becomes the later of the date for completion and 21 days after either *party* *serves* notice of the event happening.
- 29.9 A *party* cannot *rescind* under clauses 29.7 or 29.8 after the event happens.
- 30 Electronic transaction**
- 30.1 This *Conveyancing Transaction* is to be conducted as an *electronic transaction* if –
- 30.1.1 this contract says that it is an *electronic transaction*;
- 30.1.2 the *parties* otherwise agree that it is to be conducted as an *electronic transaction*; or
- 30.1.3 the *conveyancing rules* require it to be conducted as an *electronic transaction*.
- 30.2 However, this *Conveyancing Transaction* is not to be conducted as an *electronic transaction* –
- 30.2.1 if the land is not *electronically tradeable* or the transfer is not eligible to be lodged electronically; or
- 30.2.2 if, at any time after the *effective date*, but at least 14 days before the date for completion, a *party* *serves* a notice stating a valid reason why it cannot be conducted as an *electronic transaction*.
- 30.3 If, because of clause 30.2.2, this *Conveyancing Transaction* is not to be conducted as an *electronic transaction* –
- 30.3.1 each *party* must –
- bear equally any disbursements or fees; and
  - otherwise bear that *party's* own costs;
- incurred because this *Conveyancing Transaction* was to be conducted as an *electronic transaction*; and
- 30.3.2 if a *party* has paid all of a disbursement or fee which, by reason of this clause, is to be borne equally by the *parties*, that amount must be adjusted under clause 14.2.
- 30.4 If this *Conveyancing Transaction* is to be conducted as an *electronic transaction* –
- 30.4.1 to the extent that any other provision of this contract is inconsistent with this clause, the provisions of this clause prevail;
- 30.4.2 *normally*, words and phrases used in this clause 30 (italicised and in Title Case, such as *Electronic Workspace* and *Lodgment Case*) have the same meaning which they have in the *participation rules*;
- 30.4.3 the *parties* must conduct the *electronic transaction* –
- in accordance with the *participation rules* and the *ECNL*; and
  - using the nominated *ELN*, unless the *parties* otherwise agree;
- 30.4.4 a *party* must pay the fees and charges payable by that *party* to the *ELNO* and the *Land Registry* as a result of this transaction being an *electronic transaction*;
- 30.4.5 any communication from one *party* to another *party* in the *Electronic Workspace* made –
- after the *effective date*; and
  - before the receipt of a notice given under clause 30.2.2;
- is taken to have been received by that *party* at the time determined by s13A of the *Electronic Transactions Act 2000*; and
- 30.4.6 a document which is an *electronic document* is *served* as soon as it is first *Digitally Signed* in the *Electronic Workspace* on behalf of the *party* required to *serve* it.
- 30.5 *Normally*, the vendor must *within 7 days* of the *effective date* –
- 30.5.1 create an *Electronic Workspace*;
- 30.5.2 *populate* the *Electronic Workspace* with *title data*, the date for completion and, if applicable, *mortgagee details*; and
- 30.5.3 *invite* the purchaser and any *discharging mortgagee* to the *Electronic Workspace*.
- 30.6 If the vendor has not created an *Electronic Workspace* in accordance with clause 30.5, the purchaser may create an *Electronic Workspace*. If the purchaser creates the *Electronic Workspace* the purchaser must –
- 30.6.1 *populate* the *Electronic Workspace* with *title data*;
- 30.6.2 create and *populate* an *electronic transfer*;
- 30.6.3 *populate* the *Electronic Workspace* with the date for completion and a nominated *completion time*; and
- 30.6.4 *invite* the vendor and any *incoming mortgagee* to join the *Electronic Workspace*.
- 30.7 *Normally*, *within 7 days* of receiving an invitation from the vendor to join the *Electronic Workspace*, the purchaser must –
- 30.7.1 join the *Electronic Workspace*;
- 30.7.2 create and *populate* an *electronic transfer*;
- 30.7.3 *invite* any *incoming mortgagee* to join the *Electronic Workspace*; and
- 30.7.4 *populate* the *Electronic Workspace* with a nominated *completion time*.

- 30.8 If the purchaser has created the *Electronic Workspace* the vendor must *within 7 days* of being invited to the *Electronic Workspace* –
- 30.8.1 join the *Electronic Workspace*;
- 30.8.2 populate the *Electronic Workspace* with *mortgagee details*, if applicable; and
- 30.8.3 invite any *discharging mortgagee* to join the *Electronic Workspace*.
- 30.9 To complete the financial settlement schedule in the *Electronic Workspace* –
- 30.9.1 the purchaser must provide the vendor with *adjustment figures* at least *2 business days* before the date for completion;
- 30.9.2 the vendor must confirm the *adjustment figures* at least *1 business day* before the date for completion; and
- 30.9.3 if the purchaser must make a *GSTRW payment* or an *FRCGW remittance*, the purchaser must populate the *Electronic Workspace* with the payment details for the *GSTRW payment* or *FRCGW remittance* payable to the Deputy Commissioner of Taxation at least *2 business days* before the date for completion.
- 30.10 Before completion, the *parties* must ensure that –
- 30.10.1 all *electronic documents* which a party must *Digitally Sign* to complete the *electronic transaction* are populated and *Digitally Signed*;
- 30.10.2 all certifications required by the *ECNL* are properly given; and
- 30.10.3 they do everything else in the *Electronic Workspace* which that party must do to enable the *electronic transaction* to proceed to completion.
- 30.11 If completion takes place in the *Electronic Workspace* –
- 30.11.1 payment electronically on completion of the price in accordance with clause 16.7 is taken to be payment by a single *settlement cheque*;
- 30.11.2 the completion address in clause 16.11 is the *Electronic Workspace*; and
- 30.11.3 clauses 13.13.2 to 13.13.4, 16.8, 16.12, 16.13 and 31.2.2 to 31.2.4 do not apply.
- 30.12 If the computer systems of any of the *Land Registry*, the *ELNO* or the Reserve Bank of Australia are inoperative for any reason at the *completion time* agreed by the *parties*, a failure to complete this contract for that reason is not a default under this contract on the part of either party.
- 30.13 If the computer systems of the *Land Registry* are inoperative for any reason at the *completion time* agreed by the *parties*, and the *parties* choose that financial settlement is to occur despite this, then on financial settlement occurring –
- 30.13.1 all *electronic documents Digitally Signed* by the vendor, the *certificate of title* and any discharge of mortgage, withdrawal of caveat or other *electronic document* forming part of the *Lodgment Case* for the *electronic transaction* shall be taken to have been unconditionally and irrevocably delivered to the purchaser or the purchaser's mortgagee at the time of financial settlement together with the right to deal with the land comprised in the *certificate of title*; and
- 30.13.2 the vendor shall be taken to have no legal or equitable interest in the *property*.
- 30.14 A party who holds a *certificate of title* must act in accordance with any *Prescribed Requirement* in relation to the *certificate of title* but if there is no *Prescribed Requirement*, the vendor must serve the *certificate of title* after completion.
- 30.15 If the *parties* do not agree about the delivery before completion of one or more documents or things that cannot be delivered through the *Electronic Workspace*, the party required to deliver the documents or things –
- 30.15.1 holds them on completion in escrow for the benefit of; and
- 30.15.2 must immediately after completion deliver the documents or things to, or as directed by; the party entitled to them.
- 30.16 In this clause 30, these terms (in any form) mean –
- adjustment figures* details of the adjustments to be made to the price under clause 14;
- certificate of title* the paper duplicate of the folio of the register for the land which exists immediately prior to completion and, if more than one, refers to each such paper duplicate;
- completion time* the time of day on the date for completion when the *electronic transaction* is to be settled;
- conveyancing rules* the rules made under s12E of the Real Property Act 1900;
- discharging mortgagee* any discharging mortgagee, chargee, covenant chargee or caveator whose provision of a *Digitally Signed* discharge of mortgage, discharge of charge or withdrawal of caveat is required in order for unencumbered title to the *property* to be transferred to the purchaser;
- ECNL* the Electronic Conveyancing National Law (NSW);
- effective date* the date on which the *Conveyancing Transaction* is agreed to be an *electronic transaction* under clause 30.1.2 or, if clauses 30.1.1 or 30.1.3 apply, the contract date;
- electronic document* a dealing as defined in the Real Property Act 1900 which may be created and *Digitally Signed* in an *Electronic Workspace*;
- electronic transfer* a transfer of land under the Real Property Act 1900 for the *property* to be prepared and *Digitally Signed* in the *Electronic Workspace* established for the purposes of the *parties' Conveyancing Transaction*;

<i>electronic transaction</i>	a <i>Conveyancing Transaction</i> to be conducted for the <i>parties</i> by their legal representatives as <i>Subscribers</i> using an <i>ELN</i> and in accordance with the <i>ECNL</i> and the <i>participation rules</i> ;
<i>electronically tradeable</i>	a land title that is Electronically Tradeable as that term is defined in the <i>conveyancing rules</i> ;
<i>incoming mortgagee</i>	any mortgagee who is to provide finance to the purchaser on the security of the <i>property</i> and to enable the purchaser to pay the whole or part of the price;
<i>mortgagee details</i>	the details which a <i>party</i> to the <i>electronic transaction</i> must provide about any <i>discharging mortgagee</i> of the <i>property</i> as at completion;
<i>participation rules</i>	the participation rules as determined by the <i>ECNL</i> ;
<i>populate</i>	to complete data fields in the <i>Electronic Workspace</i> ; and
<i>title data</i>	the details of the title to the <i>property</i> made available to the <i>Electronic Workspace</i> by the <i>Land Registry</i> .

### 31 Foreign Resident Capital Gains Withholding

31.1 This clause applies only if –

- 31.1.1 the sale is not an excluded transaction within the meaning of s14-215 of Schedule 1 to the *TA Act*; and
- 31.1.2 a *clearance certificate* in respect of every vendor is not attached to this contract.

31.2 The purchaser must –

- 31.2.1 at least 5 days before the date for completion, *serve* evidence of submission of a purchaser payment notification to the Australian Taxation Office by the purchaser or, if a direction under clause 4.3 has been *served*, by the transferee named in the transfer *served* with that direction;
- 31.2.2 produce on completion a *settlement cheque* for the *FRCGW remittance* payable to the Deputy Commissioner of Taxation;
- 31.2.3 forward the *settlement cheque* to the payee immediately after completion; and
- 31.2.4 *serve* evidence of receipt of payment of the *FRCGW remittance*.

31.3 The vendor cannot refuse to complete if the purchaser complies with clauses 31.2.1 and 31.2.2.

31.4 If the vendor *serves* any *clearance certificate* or *variation*, the purchaser does not have to complete earlier than 7 days after that *service* and clause 21.3 does not apply to this provision.

31.5 If the vendor *serves* in respect of every vendor either a *clearance certificate* or a *variation* to 0.00 percent, clauses 31.2 and 31.3 do not apply.

### 32 Residential off the plan contract

32.1 This clause applies if this contract is an off the plan contract within the meaning of Division 10 of Part 4 of the *Conveyancing Act 1919* (the *Division*).

32.2 No provision of this contract has the effect of excluding, modifying or restricting the operation of the *Division*.

32.3 If the purchaser makes a claim for compensation under the terms prescribed by clause 6A of the *Conveyancing (Sale of Land) Regulation 2017* –

- 32.3.1 the purchaser cannot make a claim under this contract about the same subject matter, including a claim under clauses 6 or 7; and
- 32.3.2 the claim for compensation is not a claim under this contract.

32.4 This clause does not apply to a contract made before the commencement of the amendments to the *Division* under the *Conveyancing Legislation Amendment Act 2018*.

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**SECTION 66W CERTIFICATE**

I, \_\_\_\_\_ of \_\_\_\_\_, certify as follows:

1. I am a \_\_\_\_\_ currently admitted to practise in New South Wales;
2. I am giving this certificate in accordance with section 66W of the Conveyancing Act 1919 with reference to a contract for the sale of property at **6 Ocean View Way, Belrose**, from **John McDonald and Liliana Ilva McDonald** to \_\_\_\_\_ in order that there is no cooling off period in relation to that contract;
3. I do not act for **John McDonald and Liliana Ilva McDonald** and am not employed in the legal practice of a solicitor acting for **John McDonald and Liliana Ilva McDonald** nor am I a member or employee of a firm of which a solicitor acting for **John McDonald and Liliana Ilva McDonald** is a member or employee; and
4. I have explained to :
  - (a) The effect of the contract for the purchase of that property;
  - (b) The nature of this certificate; and
  - (c) The effect of giving this certificate to the vendor, i.e. that there is no cooling off period in relation to the contract.

Dated: \_\_\_\_\_

\_\_\_\_\_

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## CONDITIONS OF SALE BY AUCTION

These conditions replace 'Auction -- Conditions of Sale' on page 3 of the printed contract.

If the property is or is intended to be sold at auction:

*Bidders Record* means the Bidders Record to be kept pursuant to Clause 18 of the Property, Stock and Business Agents Regulation 2003 and Section 68 of the Property, Stock and Business Agents Act 2002;

(1) The following conditions are prescribed as applicable to and in respect of the sale by auction of land:

- (a) The principal's reserve price must be given in writing to the auctioneer before the auction commences.
- (b) A bid for the seller cannot be made unless the auctioneer has, before the commencement of the auction, announced clearly and precisely the number of bids that may be made by or on behalf of the seller.
- (c) The highest bidder is the purchaser, subject to any reserve price.
- (d) In the event of a disputed bid, the auctioneer is the sole arbitrator and the auctioneer's decision is final.
- (e) The auctioneer may refuse to accept any bid that, in the auctioneer's opinion, is not in the best interests of the seller.
- (f) A bidder is taken to be a principal unless, before bidding, the bidder has given to the auctioneer a copy of a written authority to bid for or on behalf of another person.
- (g) A bid cannot be made or accepted after the fall of the hammer.
- (h) As soon as practicable after the fall of the hammer the purchaser is to sign the agreement (if any) for sale.

(2) The following conditions, in addition to those prescribed by subclause (1), are prescribed as applicable to and in respect of the sale by auction of residential property or rural land:

- (a) All bidders must be registered in the Bidders Record and display an identifying number when making a bid.
- (b) One bid only may be made by or on behalf of the seller. This includes a bid made by the auctioneer on behalf of the seller.
- (c) When making a bid on behalf of the seller or accepting a bid made by or on behalf of the seller, the auctioneer must clearly state that the bid was made by or on behalf of the seller or auctioneer.

## SPECIAL CONDITIONS

**Vendor: John McDonald and Liliana Ilva McDonald**

**Property: 6 Ocean View Way, Belrose**

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### 32 GENERAL

The parties agree that:

32

- 32.1 Clause 7.1.1 is amended by altering 5% to read 1%.
- 32.2 Printed clause 18 is amended by adding the following:
  - Clause 18.8 'The Purchaser cannot make a claim or requisition or delay settlement after entering into possession of the property'.
- 32.3 Clause 31.4 is deleted in its entirety and replaced with, 'If the vendor has delivered a certificate no later than 5 business days prior to settlement then the purchaser is not entitled to delay settlement.'

### 33 CONDITION OF PROPERTY

- 33.1 The Purchaser acknowledges that it is satisfied as to the approved and capable use and condition of the property and is purchasing the property in its present condition and state of repair (subject to fair wear and tear), and;
- 33.2 The Purchaser acknowledges that it is purchasing the property subject to all defects (if any) latent or patent, including:
  - (a) All infestations and dilapidations (if any)
  - (b) Existing services (if any) and defects therein, their location and the absence of any rights or easements in respect thereof;
  - (c) The presence of any sewer or manhole or vent on the property;
  - (d) Any rainwater downpipes being connected to the sewer, and/or;
  - (e) Compliance or otherwise with any covenantsdisclosed or not disclosed herein, and the Purchaser cannot make a claim, objection or requisition, rescind or terminate or delay completion in respect of any of the above matters.
- 33.3 The Vendor has not made and does not make any warranty as to the state of repair or condition of the inclusions and the Purchaser shall accept them in their state of repair and condition at the date of this contract. The Vendor is not responsible for any loss (other than loss due to act or default of the Vendor), mechanical breakdown or reasonable wear and tear to the furnishings and chattels (if any) occurring after the date of this contract.
- 33.4 The Purchaser shall not call upon the Vendor to carry out any work, repair or replacement whatsoever in relation to the property and/or the inclusions the subject of this sale.

### 34 DEATH, MENTAL ILLNESS, BANKRUPTCY

If at any time prior to completion of this contract either the Vendor or Purchaser or if more than one of them shall die, become mentally ill or be declared bankrupt, then either party may rescind the contract and clause 19 of the contract shall apply.

### **35 ESTATE AGENT AND COMMISSION**

The Purchaser warrants to the Vendor that they were not introduced to the Vendor or the property by any real estate agent except the agent (if any) named herein or by any other person who might be entitled to claim commission from the Vendor in respect of this sale, and the Purchaser indemnifies the Vendor (and if more than one, each of them) against any claim for commission which might be made by any agent resulting from an introduction constituting a breach of such warranty and against all costs and expenses incidental to defending any such claim. It is agreed that these indemnities shall be continuing indemnities not merging on completion.

### **36 ENTIRE AGREEMENT**

The Purchaser acknowledges that he does not rely upon any warranty or representation made by the Vendor or the Vendor's agent except such that are expressly provided for in this contract.

### **37 NOTICE TO COMPLETE**

37.1 Completion of this matter shall take place on or before 3:30pm within the time provided for in clause 15 herein. Should completion not take place within that time, then either party shall be at liberty to issue a Notice to complete calling for the other party to complete the matter making the time for completion essential. Such notice shall give not less than 14 days notice after the day immediately following the day on which that notice is received by the recipient of the notice. A notice to complete of such duration is considered by the parties as being deemed reasonable and sufficient to render the time for completion essential. Should either party serve a notice to complete, the other party will be liable for a fee of three hundred dollars \$300.00 inclusive of GST payable by way of an adjustment in the other party's favour on completion to cover the cost for issuing such notice.

37.2 The service of any notice or document under or relating to this contract may, in addition to the provisions of Clause 20, be effected and shall be sufficient service on a party and that parties solicitor if the Notice or Document is sent by facsimile transmission to the facsimile number noted on the contract or on their letterhead and in any such case shall be deemed to be duly given or made, except where;

- (a) The time of dispatch is not before 5pm (Sydney time) on a day which business is generally carried on in the place to which such notice is sent, in which case the notice shall be deemed to have been received at the commencement of business on the next such business day in the place; or
- (b) The sender's machine indicates a malfunction in transmission and the recipient's transmission shall be deemed not to have been given or made.

### **38 INTEREST & FAILURE TO COMPLETE**

38.1 It is an essential term of this agreement that in the event that completion does not take place by the completion date, then the Purchaser shall pay the Vendor on completion in addition to the balance of purchase monies and any other monies payable to the Vendor, interest on the balance of purchase monies calculated at the rate of ten per centum (10%) per annum computed at a daily rate from the day immediately after the agreed completion date up to and including the actual date on which this sale shall be completed but if completion is delayed by reason of the Vendor's default, then interest shall not be charged for the period during which completion was so delayed. It is further agreed that this amount is a genuine pre-estimate of the Vendor's loss of interest for the purchase money and liability for rates and outgoings. The

Vendor is not obliged to complete this contract unless the amount payable under this clause is tendered.

38.2 If this contract is not completed by the completion date and the Vendor is ready willing and able to complete, then in addition to any other right the Vendor may have under this contract or otherwise, the Purchaser must on completion of this contract pay the Vendor an amount of \$300.00 as a re-imbusement of the Vendor's additional legal expenses incurred by the delay of the Purchaser.

#### **39 SURVEY REPORT**

If annexed hereto is a copy of a survey report relating to the property the Purchaser acknowledges any encroachment by or upon the property and/or non-compliance that may be specifically disclosed in the survey report annexed are clearly described therein. The Vendor makes no warranties or representations in respect of any of the matters disclosed in the report. The Purchaser cannot make any claim, objection or requisitions in relation to any such encroachment and/or non-compliance.

The Vendor is not required to hand over on settlement the original Survey Report if it is not in the possession of the Vendor.

#### **40 DEPOSIT**

In the event that the Vendor wishes to purchase a further property the Vendor shall be entitled to a release of the deposit, or part thereof, as is necessary for the deposit, stamp duty, or towards the balance of the purchase price payable on the property the Vendor is purchasing without production of further authority from the Purchaser other than by sending a copy of this condition to the stakeholder and notifying the Purchaser's solicitor, and on the condition that if the released funds are to be used as a deposit that they are held in a trust account of a solicitor or a real estate agent or invested in accordance with the contract and not further released.

#### **41 FIRB**

41.1 The Purchaser warrants to the Vendor that the Purchaser is entitled to purchase the property without the approval or consent of the Foreign Investment Review Board

41.2 In the event of any breach of said warranty, the Purchaser will indemnify and compensate the Vendor in respect of any loss, damage, penalty, fine, expense or legal costs which may be incurred by the Vendor as a consequence thereof. This warranty and indemnity shall not merge upon completion.

#### **42 BUILDING CERTIFICATE**

Notwithstanding the provisions of clause 11 hereof if, as a consequence of any application by the Purchaser for a building certificate from the local council:

A work order under any legislation is made after the date of this contract or;

The local council informs the Purchaser of works to be done before it will issue the building certificate;

Then the Purchaser is not entitled to make a requisition or claim in respect of such works required by the local council and if this contract is completed the Purchaser must comply with such work order and pay the expenses of the compliance or do the works required at his own expense.

**43. ADJUSTMENT OF PERIODIC OUTGOINGS**

Each party agrees that if on completion the adjustment of any periodic outgoing or other expense required to be made under this Contract is overlooked or incorrectly calculated, it will forthwith upon being so requested by the other party, make the correct calculation and pay to the other party such an amount as is shown by such calculation to be payable. This clause shall not merge on completion.

**44. PURCHASER'S FINANCE**

The Purchaser acknowledges that the Vendor has entered into this Contract in reliance upon the Purchaser's warranty that:

- a) The Purchaser does not require credit in order to pay for the property; or
- b) If the Purchaser requires credit in order to pay for the property, the Purchaser has obtained such credit under reasonable terms prior to the date of this Contract; or
- c) The Purchaser has satisfied himself that he will be able to arrange such credit as is needed to pay for the property and has represented to the vendor that he has such ability to obtain all necessary credit.

**45. NO SETTLEMENT IN HOLIDAY PERIOD**

45.1 The parties agree that any day falling between 21 December 2022 and Monday 13 January 2023 inclusive (the "holiday period") is not a business day during the holiday period.

45.2 Neither party may require the other party to complete during the holiday period.

45.3 neither party may serve a notice to complete during the holiday period.



NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 16/285490

SEARCH DATE	TIME	EDITION NO	DATE
26/5/2022	12:31 PM	5	13/8/2001

LAND

LOT 16 IN NEIGHBOURHOOD PLAN DP285490  
AT BELROSE  
LOCAL GOVERNMENT AREA NORTHERN BEACHES  
PARISH OF MANLY COVE COUNTY OF CUMBERLAND  
TITLE DIAGRAM DP285490

FIRST SCHEDULE

JOHN GEORGE MCDONALD  
LILIANA ILVA MCDONALD  
AS JOINT TENANTS (T 7847940)

SECOND SCHEDULE (7 NOTIFICATIONS)

- 1 LAND EXCLUDES MINERALS AND IS SUBJECT TO RESERVATIONS AND CONDITIONS IN FAVOUR OF THE CROWN - SEE CROWN GRANT(S)
- 2 INTERESTS RECORDED ON REGISTER FOLIO 1/285490
- 3 ATTENTION IS DIRECTED TO THE MANAGEMENT STATEMENT AND DEVELOPMENT CONTRACT OF THE NEIGHBOURHOOD SCHEME FILED WITH THE NEIGHBOURHOOD PLAN
- 4 THIS NEIGHBOURHOOD SCHEME DOES NOT FORM PART OF A COMMUNITY SCHEME
- 5 Y941409 COVENANT
- 6 DP285490 EASEMENT TO DRAIN WATER 1 WIDE AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM
- 7 DP285490 EASEMENT TO DRAIN WATER 1 WIDE APPURTENANT TO THE LAND ABOVE DESCRIBED

NOTATIONS

UNREGISTERED DEALINGS: NIL

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

6906

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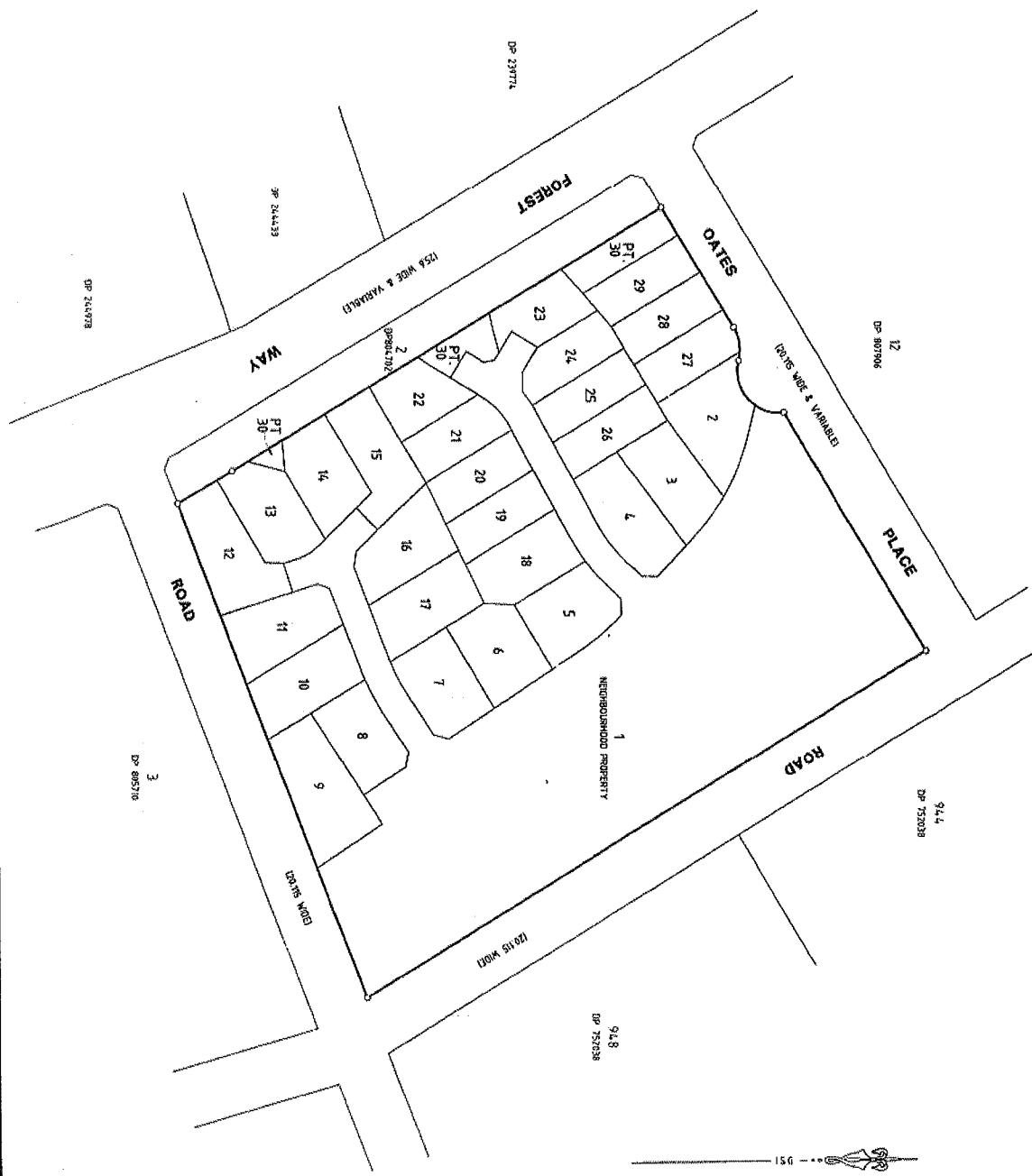
\* Any entries preceded by an asterisk do not appear on the current edition of the Certificate of Title. Warning: the information appearing under notations has not been formally recorded in the Register. InfoTrack an approved NSW Information Broker hereby certifies that the information contained in this document has been provided electronically by the Registrar General in accordance with Section 96B(2) of the Real Property Act 1900.

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Received: 26/05/2022 12:31:01

NAME OF DEVELOPMENT, IF ANY  
 LYNDBURST ESTATE

ADDRESS FOR SERVICE OF NOTICE  
 183 FOREST WAY  
 BELMORE N.S.W. 2085

LOCATION DIAGRAM ONLY



NEIGHBOURHOOD PLAN  
 D.P. No. **(E)**  
 DP 285490  
 SHEET 1 OF 5 SHEETS

For reference to additional sheets see schedule below

Registered **30.4.1998.**

This plan is being submitted together to show the layout for details of site and other and without any replacement sheet being submitted herewith

Concave's Approval No **10109**  
 Date **17-4-98**  
 Local Council's Signature **M. G. G.**  
 Authorised Officer **M. G. G.**  
 Surveyor's Signature **S. P. K. G.**  
 Date **25 FEBRUARY 1998**

SCHEDULE OF CHANGES TO THE SOURCE

Lot No	Details	Sheet No

SEALING STAMPS AND STATEMENTS of intention to develop public roads or to create public reserves, drainage reserves, easements, covenants or other rights of land or interest, consented to by the Registrar-General.

Executed by  
**AUSTRALIAN HOUSINGS LIMITED**  
 AON 004 401 000  
 By its Attorney  
**ERNEST SHIPLE**  
 Under Power of Attorney Book 4104  
 No. 572 in the presence of *[Signature]*

Open Lands Office Approval  
 Attest: *[Signature]*  
 Land Officer  
 Date: *[Date]*

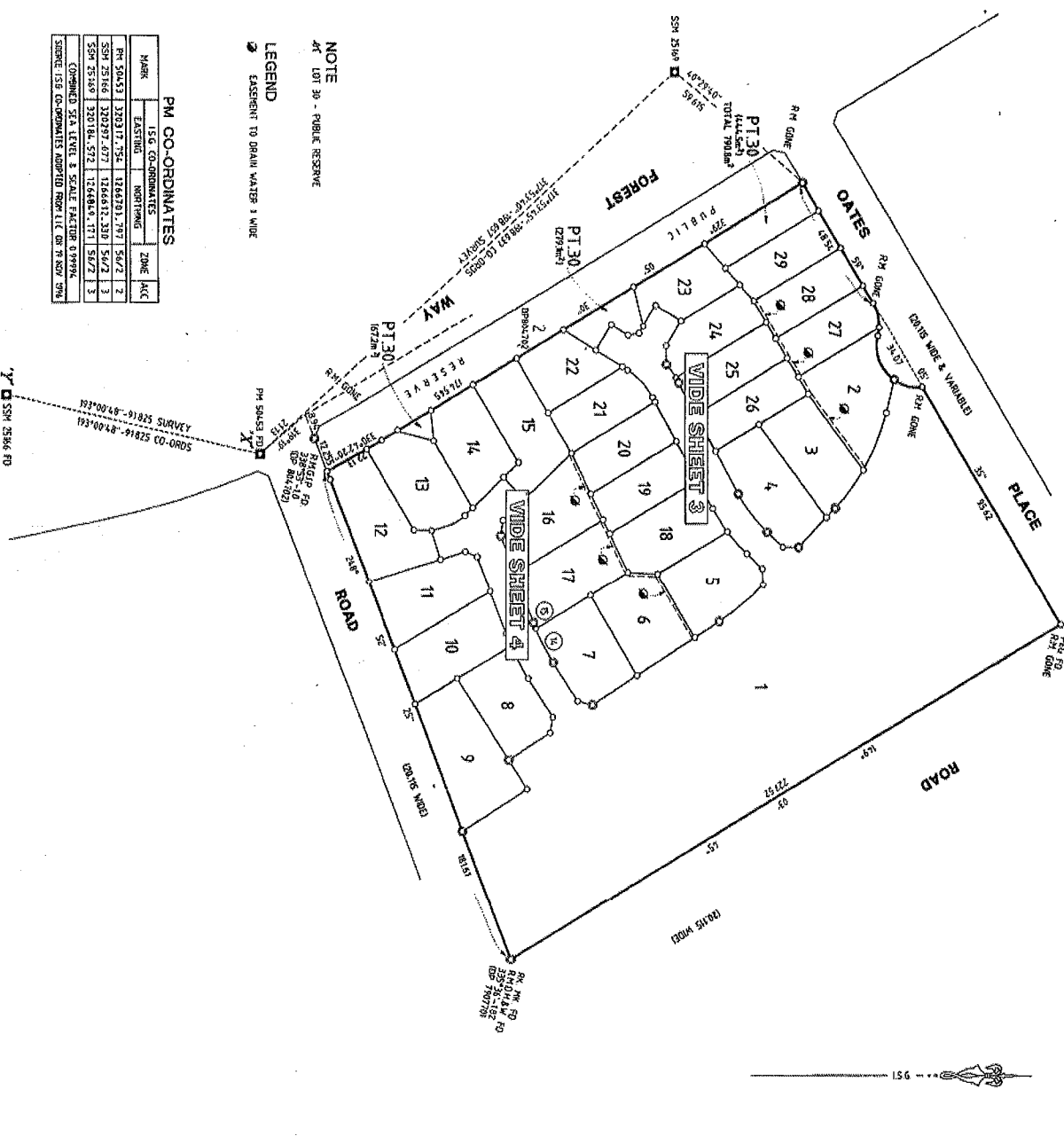
**Council Clerk's Certificate**

All the requirements of the Local Government Act 1999 (other than those relating to the creation of public roads, drainage reserves, easements, covenants or other rights of land or interest) have been satisfied and by the council or council in the presence of the Registrar-General, I hereby certify that the requirements of the Local Government Act 1999 have been satisfied and the requirements of the Local Government Act 1999 have been satisfied and the requirements of the Local Government Act 1999 have been satisfied.

*[Signature]*  
 Council Clerk

Plan Drawing only to appear in this space

**DETAIL PLAN**



**NOTE**  
 AT LOT 30 - PUBLIC RESERVE

**LEGEND**  
 EASEMENT TO DRAIN WATER 1 WIDE

**PM CO-ORDINATES**

MARK	1:50 CO-ORDINATES	ZONE	MTC
PM 504531	320217.754 1266720.747	56/72	2
SM 251563	320297.677 1266615.339	56/72	3
SM 251569	320181.572 1266615.171	56/72	3

COMBINED STA. TANG. & SCALE FACTOR 0.99999  
 SOURCE: ISE CO-ORDINATES ADJUSTED FROM I.C. ON N.S.W. 5794

WARNING: CHEASING OR FOLDING WILL LEAD TO REJECTION

OFFICE USE ONLY

**NEIGHBOURHOOD PLAN**  
 DP No. **DP 285490**

Registered *[Stamp]* 30.4.1998.  
 LA No 10109 OF T.L.A. 1998.

Site System: **TORRENS**

Purpose: **SUBDIVISION**

Stat. Map: **U1860-1#**

Lot Plan No: **DP 804702**

**PLAN**  
 SUBDIVISION OF  
 LOT 1 DP 804702

Lengths are in metres. Reduction ratio 1:1000

L.G.A.: **MARRIBGAH**

Locality: **BELROSE**

Parish: **MANLY COVE**

County: **CUMBERLAND**

This is sheet 1 of my plan or sheets as stipulated.

I, **Donald Ross Buckton**, of GPO, Surveys Pty. Ltd., a Public Enterprise, being the Registrar-General, do hereby certify that the survey mentioned in the above plan was lawfully made and that the same is correct and true.

**D. S. FERRELL**  
 Director General of Survey

Printed and prepared in preparation of survey/compilation  
 DP 794070  
 DP 804702  
 DP 807905  
 DP 809922

PLAN: THIS USE ONLY for drawings of intention to dedicate public roads, to create public reserves, drainage reserves, easements, covenants or other rights of land or interest, consented to by the Registrar-General.

PURSUANT TO SECTION 115 OF THE CONVEYANCING ACT 1997, IT IS INTENDED TO CREATE:

01 EASEMENT TO DRAIN WATER 1 WIDE

02 RIGHT OF EASEMENT

03 EASEMENT FOR ELECTRICITY

04 EASEMENT FOR UNDERGROUND MAINS 12 WIDE & 2 WIDE

05 RIGHT OF ACCESS

06 POSITIVE COVENANT

IT IS INTENDED TO CREATE  
 DP LOT 30 AS A PUBLIC RESERVE

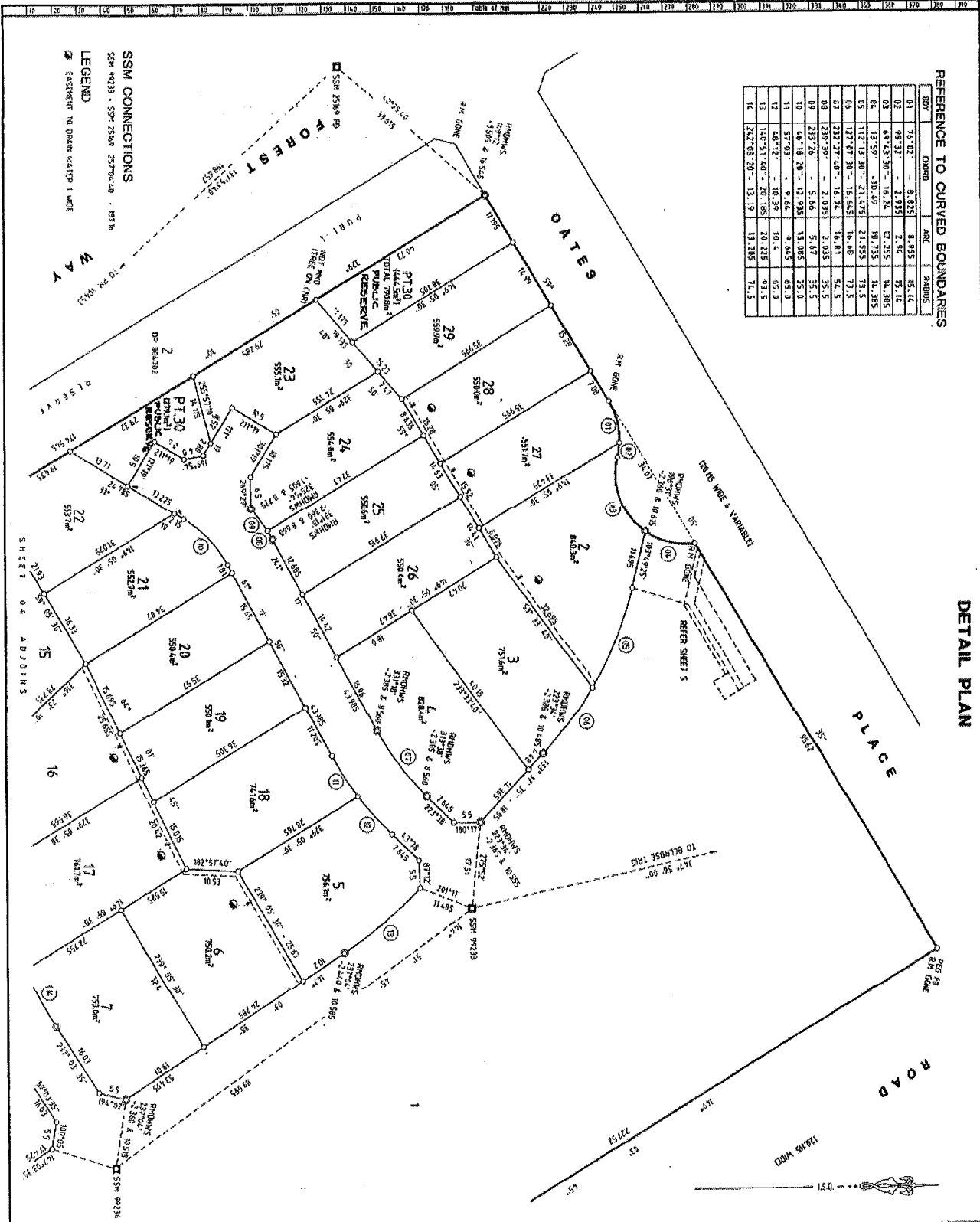
PLAN FORM 3 To be used in conjunction with Plan Form 2

WARNING: CREASING OR FOLDING WILL LEAD TO REFLECTION

DETAIL PLAN

REFERENCE TO CURVED BOUNDARIES

BODY	CHORD	ARC	RADIUS
01	76.02	- 8.525	8.955
02	98.37	- 2.935	2.94
03	49.43	- 16.24	17.255
04	13.59	- 18.49	18.735
05	112.13	- 21.425	21.555
06	127.87	- 16.445	16.81
07	232.27	- 16.74	16.81
08	239.29	- 2.035	2.035
09	233.26	- 5.46	5.47
10	46.18	- 12.935	13.085
11	57.03	- 9.44	9.445
12	48.12	- 10.38	10.4
13	140.51	- 20.185	20.235
14	242.08	- 13.19	13.205



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NEIGHBOURHOOD PLAN  
 DP No. **DP 285490**  
 Registered 30.4.1998.

This is sheet 3 of my plan n. 4  
 dated 25 FEBRUARY 1998

*S. P. B. ...*

Survey registered under Surveyors Act 1992

This is sheet 3 of the plan of 6  
 Shards covered by my Certificate No. 1009  
 of 17-4-98

**WARRENDAH COUNCIL**  
 Municipal Corporation  
 Warrendah

For use where state is highlighted in any  
 print in Plan Form 2

Reduction Ratio 1:500

Scale: 1:500

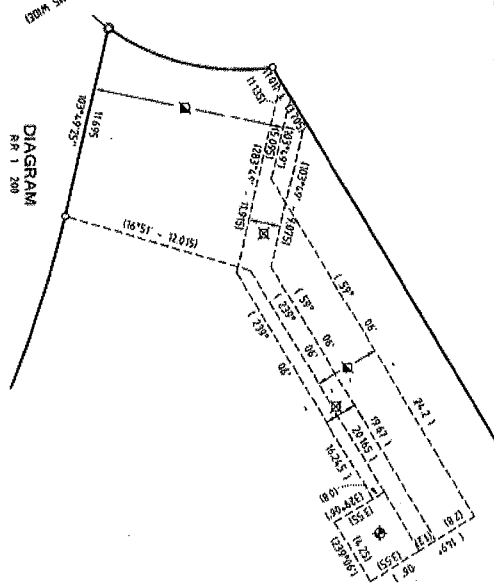
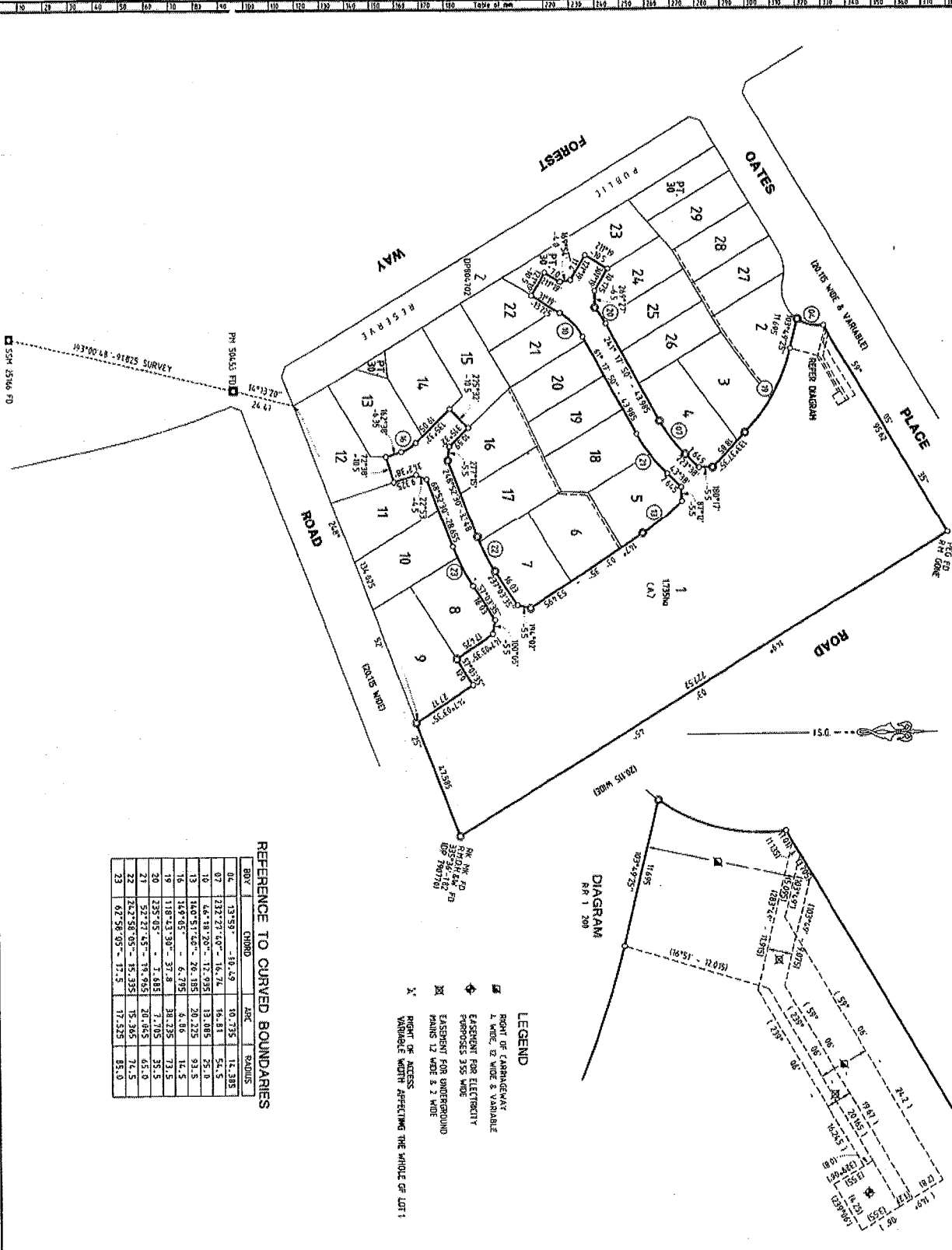
Plan Drawing only to appear in this space



PLAN FORM 3 To be used in conjunction with Form 2

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**NEIGHBOURHOOD PROPERTY PLAN**  
 NEIGHBOURHOOD PROPERTY LOT ONLY



- LEGEND**
- ▣ RIGHT OF EASEMENT
  - ▤ 1 METER WIDE & VARIABLE
  - ⚡ EASEMENT FOR ELECTRICITY
  - ⚡ EASEMENT FOR ELECTRICITY
  - ⚡ EASEMENT FOR UNDERGROUND PIPING 12 WIDE & 2 METER
  - X RIGHT OF ACCESS
  - X VARIABLE WIDTH AFFECTING THE WHOLE OF LOT 1

**REFERENCE TO CURVED BOUNDARIES**

BBV	CHORD	ARC	RADIUS
06	13.587	18.40	16.385
07	237.271	16.74	16.41
10	6.648	20.12	13.085
12	14.051	20.885	20.225
13	14.051	6.785	6.416
18	110.233	37.8	38.235
19	138.087	1.481	7.705
20	52.214	18.965	20.845
21	82.583	18.385	15.365
23	82.583	17.5	17.525

OFFICE USE ONLY

**NEIGHBOURHOOD PLAN**  
 DP No. 287470

Required 30.4.1998.  
 This is sheet 5 of my plan in 6 sheets  
 dated 25 NOVEMBER 1997

*D.R. Buben*  
 Surveyor registered under Statutes Act 1978

WARREN COUNCIL  
 Authorised Person  
 (Seal)

For use where space is insufficient in any  
 paid in Plan Form 2

# INITIAL SCHEDULE

## SCHEDULE OF UNIT ENTITLEMENT

LOT	UNIT ENTITLEMENT	SUBDIVISION
1	NEIGHBOURHOOD PROPERTY	
2	21	
3	21	
4	23	
5	23	
6	22	
7	23	
8	23	
9	22	
10	21	
11	20	
12	20	
13	21	
14	21	
15	18	
16	20	
17	20	
18	21	
19	14	
20	14	
21	13	
22	12	
23	12	
24	13	
25	14	
26	14	
27	12	
28	11	
29	11	
<b>TOTAL</b>	<b>500</b>	

NEIGHBOURHOOD PLAN  
 DP No. 285490

Approved 30.4.1998.  
 Date: 25 FEBRUARY 1998

This is sheet 6 of the plan of 6 sheets  
 dated 25 FEBRUARY 1998

*D.R. Sullivan*  
 Surveyor Registered under Chapter Act 1988

This is sheet 6 of the plan of 6 sheets  
 dated 25 FEBRUARY 1998

**WARRENDALE COUNCIL**  
 Authorised Person  
*M. Bell*

For use where there is insufficient to copy  
 sheet in this form 2

THIS SHEET SHOWS AN INITIAL SCHEDULE OF UNIT ENTITLEMENT FOR THE NEIGHBOURHOOD SCHEME WHICH IS LIABLE TO BE ALTERED AS THE SCHEME IS DEVELOPED OR ON THE REVISION OF THE SCHEME.  
 SUBSEQUENT CHANGES WILL BE RECORDED ON A REPLACEMENT SHEET OF THIS PLAN WHICH WILL BE SUBMITTED SEPARATELY BY OR FOR THE APPLICANT.  
 AS THE CIRCUMSTANCES REQUIRE.

I, DONALD ROSS BATHAN, OF DPO SURVEYERS PTY LTD, BEING A SURVEYOR REGISTERED UNDER THE SURVEYORS ACT 1992, HEREBY CERTIFY THAT NO VALUATION HAS BEEN MADE AND THAT THE UNIT ENTITLEMENTS ARE BASED UPON AN ESTIMATION OF THE RELATIVE VALUES OF THE LOTS.

*D.R. Sullivan*  
 25 FEBRUARY 1998

Revisions Page 11

Plan Drawing only to appear in this space

Sheet 1 of 36 sheets

DP 285490

(E)

**Lyndhurst Estate  
Belrose**

**Neighbourhood  
Management Statement**

**Warning**

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**Mallesons Stephen Jaques**  
Solicitors

Governor Phillip Tower  
1 Farrer Place  
Sydney NSW 2000  
Telephone (02) 9296 2000  
Fax (02) 9296 3999  
DX 113 Sydney  
Ref. MGA:CL1

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**REGISTERED**  *KLJ* 30.4.1998.

DP285 490

Sheet 2 of 36 sheets

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## Neighbourhood management statement Introduction

### 1 What is a neighbourhood management statement?

- 1.1 A neighbourhood management statement is a set of by-laws and plans that regulate the management and operation of a neighbourhood scheme.
- 1.2 A neighbourhood management statement tells the neighbourhood association and owners and occupiers what they must do and must not do. It is an essential document for everyone who lives in a neighbourhood scheme.

### 2 Do I have to comply with this management statement?

- 2.1 You must comply with this management statement if you:
  - (a) own a lot in Lyndhurst Estate;
  - (b) lease or live in a lot in Lyndhurst Estate; or
  - (c) are a mortgagee in possession of a lot in Lyndhurst Estate.
- 2.2 The Neighbourhood Association must also comply with this management statement.

### 3 How does the management statement work?

- 3.1 There are 5 parts in the management statement:

#### Part 1 Architectural and landscape standards

This part has by-laws about the how the Neighbourhood Association will control and preserve architectural standards. The Neighbourhood Association may change or cancel by-laws in part 1 only by unanimous resolution.

#### Part 2 Your rights and obligations

This part has important by-laws about your obligations as an owner or occupier in Lyndhurst Estate. The Neighbourhood Association may change or cancel by-laws in part 2 only by special resolution.

#### Part 3 The Neighbourhood Association's rights and obligations

This part has by-laws about the Neighbourhood Association and insurance, committee meetings and contracts. The Neighbourhood Association may change by-laws in part 3 only by special resolution.



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#### Part 4 Lyndhurst Estate and Neighbourhood Property

This part has by-laws about Neighbourhood Property and using common facilities. There are also by-laws about internal fencing, services and access ways. The Neighbourhood Association may change or cancel by-laws in part 4 only by special resolution.

By-laws restricting the use of Neighbourhood Property to certain people or groups are in part 4. The Neighbourhood Association may change or cancel restricted property by-laws only by special resolution and with the written consent of each person who has the restricted use rights.

The Neighbourhood Association cannot change or cancel restricted property by-laws during the initial period.

#### Part 5 Dictionary

Words written Like This and some other words have special meanings. Part 5 explains what they mean.

- 3.2 Public authorities (eg Warringah Council and water and electricity providers) have required the Neighbourhood Association to include by-laws in the management statement. These are public authority by-laws. The Neighbourhood Association may change public authority by-laws only by special resolution and with the public authority's consent.
- 3.3 You may get a copy of this management statement (at your cost) from the Neighbourhood Association's managing agent or secretary.

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## Part 1 Architectural and landscape standards

### 4 Architectural and landscape standards

#### Purpose of the standards

- 4.1 Architectural and landscape standards help protect the architectural integrity of Lyndhurst Estate and ensure that the same standards are maintained throughout the development.

#### Who must comply?

- 4.2 You and the Neighbourhood Association must comply with the architectural and landscape standards in this by-law. The Developer is not bound by the architectural and landscape standards.

#### Setbacks

- 4.3 The front building line for lots 2 to 12 (inclusive) and 15 to 29 (inclusive) must be a minimum of 6 metres. The building line must be measured parallel to the street alignment.
- 4.4 The front building line for lots 13 and 14 must be a minimum of 4.5 metres. The building line must be measured parallel to the street alignment.
- 4.5 The garages and attached carports for all lots must be setback with a minimum front building line of 5.5 metres.
- 4.6 The side boundaries of all lots must have a minimum setback of 1 metre.

#### Building sizes and heights

- 4.7 The maximum floor space of a building must not exceed 66% of the area of the lot on which it is built.
- 4.8 The maximum building height is two storeys. However, if the topography of your lot allows, you may construct a sub floor garage beneath the main floor area of the building on your lot. While the Developer owns a lot in Lyndhurst Estate, you must have the Developer's consent to build a sub floor garage.
- 4.9 The floor space of a building constructed on a lot must be a minimum of 180 square metres (excluding car accommodation, external landings and patios).

#### Building materials

- 4.10 Subject to the architectural and landscape standards, you must construct the external walls of buildings on your lot in brick, brick veneer, stone, concrete, glass, timber or fibre. The external walls may be constructed of a combination of these materials provided that the combination has:

- (a) not less than 25% brick, brick veneer, stone and concrete; and

**MANAGEMENT STATEMENT**

**DP285490**

*Sheet 7 of 36 sheets*

(b) not more than 25% fibre cement.

4.11 Timber used in the external walls of a building must not comprise more than 10% of the facade of the building (except for windows).

**Roofing**

4.12 Unless you have the written consent of the Developer, your lot must not have a roof of:

(a) metal that does not have a non-reflective surface;

(b) fibre cement;

(c) asbestos cement;

(d) fibreglass;

(e) aluminium or steel decking; or

(f) other similar materials.

4.13 Your lot must not have a corrugated iron roof.

4.14 Unless you have the written consent of the Developer, your lot must not have a roof with a pitch less than three degrees to the horizontal.

**Fencing**

4.15 The types of fences you may construct in your lot are:

(a) lapped and capped stained timber; or

(b) lapped and capped treated pine.

4.16 You must have the written consent of the Developer to construct a fence of a different material.

4.17 Fences in your lot must not be more than 0.8 metres high:

(a) on the street alignment of the lot; or

(b) between the street alignment and the building line (as fixed by Warringa Shire Council).

If your lot is on a street corner, this height restriction applies only to one street frontage.

4.18 You cannot erect a fence to divide your lot from an adjoining lot or land owned by the Developer unless you have written consent from the Developer. The Developer cannot withhold consent if you agree to erect the fence wholly at your cost.

**Landscaping**

4.19 You may landscape a maximum of 34% of your lot.

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*KSP* 30.4.1998.

## MANAGEMENT STATEMENT

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- 4.20 If landscaping on your lot faces open space areas of Neighbourhood Property, you must use plants which are fire retardant (eg plants of the mesic species including, but not limited to, pittosporum undulatum, polycias sambucifolia, ceratopetalum gummiferum, leucopogon lanceolatus and notelaea longifolia).
- 4.21 You must finish landscaping your lot within three months after:
- (a) you finish construction of the buildings on your lot; or
  - (b) you occupy your lot (whichever is earlier).
- 4.22 You and the Neighbourhood Association must not plant or keep Grevillea species within Lyndhurst Estate which are likely to hybridise with the Grevillea caleyi population conserved in the public reserve adjacent to Lyndhurst Estate.

### Bond

- 4.23 Before you construct a building or landscaping in your lot, you must pay the Neighbourhood Association a \$1,000 bond to cover any damage you (or persons doing work on your behalf) might cause to Neighbourhood Property.
- 4.24 The Neighbourhood Association must hold the bond in trust. It may allocate some or all of the bond (including interest earned) to pay for repairing damage to Neighbourhood Property caused by you (or persons working on your behalf) while you were constructing the building or landscaping.
- 4.25 When you have finished construction of the building or landscaping, the Neighbourhood Association must give you back the bond:
- (a) including any interest earned on the bond while the Neighbourhood Association held it in trust; and
  - (b) after the Neighbourhood Association has deducted any amounts under by-law 4.24.

## 5 How to change the standards

- 5.1 The Neighbourhood Association may change or add to the architectural and landscape standards by unanimous resolution.
- 5.2 You may apply to the Neighbourhood Association to change or add to the standards. Your application must:
- (a) be in writing; and
  - (b) specify how you want the Neighbourhood Association to change the standards.
- 5.3 The Neighbourhood Association may ask for more information about your application.

REGISTERED



30.4.1998.

MANAGEMENT STATEMENT

DP 285490

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- 5.4 The Neighbourhood Association has refused an application if it does not make a decision within 2 months.
- 5.5 The Neighbourhood Association must give you a copy of changes to the standards.
- 5.6 You may ask the Neighbourhood Association for a copy of the standards (at your cost). The Neighbourhood Association must give you a copy.

**6 Building and landscaping changes and new works**

- 6.1 You must have the Neighbourhood Association's consent to:
  - (a) change the external appearance of an existing building or change existing landscaping; or
  - (b) build a new structure or carry out new landscaping (unless you have bought your lot as vacant land and are constructing a building or landscaping on the lot).

However, you do not need consent to make minor changes to the landscaping or garden in your lot (eg plant or remove individual shrubs).

- 6.2 The Neighbourhood Association may review applications under this by-law and may give or refuse consent in its absolute discretion. The Neighbourhood Association is not bound by its past decisions.
- 6.3 You must make a written application to the Neighbourhood Association for consent under this by-law. You must submit plans and specifications with your application.
- 6.4 Plans and specifications for building changes and new structures must:
  - (a) show the design, height, width, colour, size, materials and location of the proposed works;
  - (b) show the location and elevation of the proposed works and how they relate to the surrounding area; and
  - (c) have a landscaping proposal.
- 6.5 Plans and specifications for landscaping that are not minor and for new landscaping:
  - (a) show the design, types of plants, shape, colour, height, quantity and location of the proposed works;
  - (b) show the location and elevation of the proposed works and how they relate to the surrounding area;
  - (c) show the nature and type of proposed landscaping materials; and

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## MANAGEMENT STATEMENT

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- (d) explain how you will deal with existing plants.
- 6.6 The Neighbourhood Association must consider the information in your application and:
  - (a) the suitability and quality of the proposed works;
  - (b) the harmony of the proposed works with existing structures and landscaping;
  - (c) this management statement;
  - (d) rules; and
  - (e) architectural and landscape standards.
- 6.7 The Committee has refused an application if it does not make a decision within 2 months.
- 6.8 This by-law does not apply to the Developer.

## 7 You must get consent from Government Agencies

- 7.1 If you want to do building or landscaping works under by-law 6, you must:
  - (a) comply with this management statement and the law; and
  - (b) obtain the necessary consents under this management statement; and
  - (c) obtain consents from Warringah Council and other relevant Government Agencies.
- 7.2 You may only apply for consent from Warringah Council and other Government Agencies after the Neighbourhood Association has given its consent to your proposal.

TERMS OF SALE  
BY LAWYERS

REGISTERED  YDP 30.4.1998.

MANAGEMENT STATEMENT

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## Part 2 Your rights and obligations

### 8 Your behaviour

- 8.1 You must not:
- (a) make noise or behave in a way that might interfere with another owner or occupier or their visitors;
  - (b) use language or behave in a way that might cause offence or embarrassment to another owner or occupier or their visitors;
  - (c) obstruct a person's legal use of Neighbourhood Property;
  - (d) use equipment that interferes with equipment or appliances used by other owners or occupiers;
  - (e) do anything that might damage the good reputation of Lyndhurst Estate; or
  - (f) do anything in Lyndhurst Estate that is illegal.
- 8.2 You must be adequately clothed when you are on Neighbourhood Property.
- 8.3 You must not allow children in your care to be in a dangerous area of Neighbourhood Property (eg the private access way) unless an adult exercising effective control is with them.

### 9 You are responsible for others

- 9.1 You must:
- (a) make sure your visitors comply with this management statement;
  - (b) make your visitors leave Lyndhurst Estate if they do not comply with this management statement; and
  - (c) accompany your visitors at all times, except when they are entering and leaving Lyndhurst Estate.
- 9.2 If you lease your lot (or it is subject to a licence agreement), you must:
- (a) give the tenant or licensee a copy of this management statement and changes to it;
  - (b) make sure the tenant or licensee and their visitors comply with this management statement; and

REGISTERED  30.4.1998

**MANAGEMENT STATEMENT**

**DP285490**

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- (c) take all action available to you, including action under the lease or license agreement, to make the tenant or licensee comply or leave Lyndhurst Estate.

9.3 You must not allow another person to do anything that you cannot do under this management statement.

**10 Your lot**

10.1 You must:

- (a) use your lot only for residential purposes;
- (b) keep your lot clean and tidy and in good repair and condition (including buildings and landscaping);
- (c) regularly maintain landscaping in your lot;
- (d) properly maintain and replace an installation or alteration made under this management statement that services your lot whether or not you made it; and
- (e) at your expense, comply with all laws about your lot including, without limitation, requirements of Government Agencies.

10.2 You must have the Neighbourhood Association's consent to:

- (a) keep anything in your lot that is visible from outside the lot and is not in keeping with the appearance of Lyndhurst Estate;
- (b) install bars, screens, grilles, security locks or other devices on the exterior of windows or doors in your lot; or
- (c) attach or hang an aerial, security device or wires outside a building.

10.3 You must carry out maintenance and repairs to your lot properly and:

- (a) according to the architectural and landscape standards; and
- (b) with materials of the same or similar quality as those used in the construction of the building.

10.4 You must not use your lot in a way that:

- (a) adversely effects (or might adversely effect) another lot or Neighbourhood Property; or
- (b) interferes with a person's use and enjoyment of their lot.

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### **11 Accessing your lot**

- 11.1 The owners and occupiers of lots 2 to 26 (inclusive) may gain vehicle access to their lots only via the Private Accessway.
- 11.2 You must comply with the requirements of Warringah Council about gaining vehicle access to your lot.
- 11.3 This is a public authority by-law. The Neighbourhood Association may change it only by special resolution and with the written consent of Warringah Council.

### **12 Drying your laundry**

You may hang your laundry, bedding, towels and other articles:

- (a) on the clothesline in the rear yard of your lot; or
- (b) in another area designated by the Neighbourhood Association.

### **13 Keeping flammable materials**

- 13.1 You may keep flammable materials in your lot if you:
  - (a) use them in connection with the lawful use of your lot; and
  - (b) keep them in reasonable quantities.
- 13.2 You may not keep flammable materials on Neighbourhood Property.

### **14 Keeping an animal**

- 14.1 You may keep an animal in your lot. You must have consent from the Neighbourhood Association to keep more than one animal at the same time.
- 14.2 You must ensure that your animal:
  - (a) does not enter another lot; and
  - (b) is on a leash or properly controlled when the animal is on Neighbourhood Property.
- 14.3 The Neighbourhood Association has the right at any time to order you to remove your animal if it becomes offensive, vicious, noisy or a nuisance.
- 14.4 You are responsible:
  - (a) to other owners, occupiers and people using Neighbourhood Property for:

- (i) any noise your animal makes which causes unreasonable disturbance; and
  - (ii) damage to or loss of property or injury to any person caused by your animal; and
- (b) to clean up after your animal.

## 15 How to dispose of your garbage

15.1 You must sort, store and make your garbage and recyclable materials available for collection according to:

- (a) Warringah Council's instructions; and
- (b) the Neighbourhood Association's instructions.

15.2 You must:

- (a) keep your garbage bin in the garage or rear yard of your lot;
- (b) ensure that your garbage bin cannot be seen from Neighbourhood Property (except for when you put the bin out for garbage collection);
- (c) securely wrap your garbage and drain tins and bottles before you put them in your garbage bin;
- (d) put your garbage bin out for collection not more than 12 hours before the time Warringah Council normally collects garbage from Lyndhurst Estate; and
- (e) return your bin to your lot within 12 hours after Warringah Council has collected your garbage.

15.3 You must not:

- (a) deposit garbage on Neighbourhood Property; or
- (b) put anything in another person's garbage bin without their consent.

## 16 Disposing of garden refuse

16.1 You must not:

- (a) store or accumulate garden refuse (including clippings) in your lot or on Neighbourhood Property; or
- (b) put garden refuse on Neighbourhood Property.

16.2 You must:

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- (a) arrange to regularly remove your garden refuse from Lyndhurst Estate (at your cost); and
- (b) comply with any instructions from Warringah Council or the Neighbourhood Association about removing garden refuse.

## 17 Where can you park?

- 17.1 You may park your car and other vehicles (including boats) only in the garage, driveway or rear yard of your lot.
- 17.2 You must have the Neighbourhood Association's consent to park on Neighbourhood Property.
- 17.3 You must not repair a vehicle on Neighbourhood Property unless it is an emergency repair.
- 17.4 The Neighbourhood Association may designate part of its property as:
  - (a) parking areas for use by owners, occupiers and their visitors; and
  - (b) washing bay areas for use by owners and occupiers.

## 18 Displaying a sign

- 18.1 You must have the Neighbourhood Association's consent to display a sign or advertisement.
- 18.2 You do not need the Neighbourhood Association's consent to put up a "For Sale" or "For Lease" sign. However, you must follow the Neighbourhood Association's instructions about the type, shape, size and location of the sign.
- 18.3 This by-law does not apply to the Developer.

## 19 Doing work in your lot

If you do work in your lot you must:

- (a) get the necessary consents from the Neighbourhood Association, Warringah Council and other relevant Government Agencies before you do the work;
- (b) use qualified, reputable and, where appropriate, licensed contractors; and
- (c) comply with architectural and landscape standards.

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### 20 Additions and alterations to Neighbourhood Property

- 20.1 You must have the Neighbourhood Association's consent to make alterations or additions to Neighbourhood Property. You must also obtain any necessary consents from Warringah Council and other relevant Government Agencies before you do the work.
- 20.2 If you make alterations or additions to Neighbourhood Property, you must:
- (a) not damage service lines or pipes or interrupt services;
  - (b) do the work in a proper manner and to the reasonable satisfaction of the Neighbourhood Association; and
  - (c) repair any damage you cause to Neighbourhood Property.

### 21 Damage to Neighbourhood Property

- 21.1 You must:
- (a) use Neighbourhood Property only for its intended purposes;
  - (b) immediately notify the Neighbourhood Association if you know about damage to or a defect in Neighbourhood Property; and
  - (c) compensate the Neighbourhood Association for any damage you or your visitors cause to Neighbourhood Property.
- 21.2 You must have the Neighbourhood Association's consent to:
- (a) interfere with or damage Neighbourhood Property;
  - (b) remove equipment or other articles from Neighbourhood Property;
  - (c) use or adjust equipment on Neighbourhood Property; or
  - (d) use Neighbourhood Property as a garden.

### 22 You cannot interfere with other lots or Neighbourhood Property

- 22.1 You must not do anything to your lot that will:
- (a) interfere with a support or shelter provided to another lot or Neighbourhood Property; or
  - (b) interfere with garbage services, Service Lines, Private Services or Statutory Services.
- 22.2 You must not use Neighbourhood Property in a way that interferes unreasonably with another person's use and enjoyment of that property.

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**23 Your insurance obligations**

- 23.1 You must have the Neighbourhood Association's consent to do anything that might invalidate, suspend or increase the premium for a Neighbourhood Association insurance policy.
- 23.2 If the Neighbourhood Association gives you consent under this by-law it may make conditions that, without limitation, require you to reimburse it for increased premiums.

**24 Payments you will have to make**

- 24.1 You must comply with this management statement at your cost.
- 24.2 You must pay or reimburse the Neighbourhood Association on demand for any of its expenses caused by you not complying with this management statement, including consultants' fees and administrative costs.
- 24.3 You must pay interest to the Neighbourhood Association on any amount that you owe it but do not pay. The Neighbourhood Association must calculate interest according to the method in the Act or at:
- (a) 10% simple interest per annum for the first 3 months; and
  - (b) 20% simple interest per annum after that.
- 24.4 The Neighbourhood Association may recover more than the interest calculated under this by-law.

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### Part 3

## The Neighbourhood Association's rights and obligations

### 25 Functions of Committee officers

- 25.1 The officers of the Committee are the secretary, treasurer and chairperson.
- 25.2 The functions of the secretary are to:
- (a) convene Neighbourhood Association meetings and Committee meetings;
  - (b) prepare and distribute minutes of Neighbourhood Association meetings and Committee meetings;
  - (c) give notices under the Act for the Neighbourhood Association and the Committee;
  - (d) supply certificates about contributions, insurance and other matters under clause 2 of schedule 4 of the Act;
  - (e) answer communications sent to the Neighbourhood Association;
  - (f) perform administrative and secretarial functions for the Neighbourhood Association and the Committee; and
  - (g) keep records according to the Act.
- 25.3 The functions of the treasurer are to:
- (a) send notices of contributions to Neighbourhood Association members and collect contributions;
  - (b) receive, acknowledge, bank and account for money paid to the Neighbourhood Association;
  - (c) prepare certificates about contributions, insurance and other matters under clause 2 of schedule 4 of the Act;
  - (d) keep accounting records according to the Act; and
  - (e) prepare financial statements according to the Act.
- 25.4 The function of the chairperson is to preside at Neighbourhood Association meetings and Committee meetings at which they are present.

### 26 How to convene a Committee meeting

- 26.1 Committee meetings must be convened:

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- (a) by the secretary of the Neighbourhood Association if they are asked to do so by one-third of the Committee members; or
  - (b) by another Committee member if, in the secretary's absence, one-third of the Committee members ask them to do so.
- 26.2 The secretary or other Committee member must convene the meeting:
- (a) within the time specified in the notice asking for the meeting; or
  - (b) if the notice does not specify a time, within 14 days of being asked.

### **27 You may attend Committee meetings**

You or your company nominee may attend Committee meetings. You may address the meeting only if the Committee agrees.

### **28 Committee meeting notices**

- 28.1 At least 72 hours before the Committee holds a meeting, the secretary or the Committee member who convenes the meeting must serve on each member of the Neighbourhood Association:
- (a) a notice advising that the meeting will be held; and
  - (b) the agenda for the meeting.
- 28.2 The agenda for the meeting must include details of all the business the Committee will deal with at the meeting. The Committee cannot deal with other business at the meeting.

### **29 Committee decisions made in writing**

The Committee may vote on motions in writing if:

- (a) notice of the meeting and an agenda have been provided according to this management statement;
- (b) each Committee member has been given the motion to be decided at the meeting; and
- (c) a majority of Committee members approve the motion in writing.

### **30 Committee meeting minutes**

The secretary or the Committee member who convenes a meeting of the Committee (including meetings held in writing) must:

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- (a) serve a copy of the minutes of the meeting on each member of the Neighbourhood Association; and
- (b) serve a copy of the minutes of the meeting within 7 days after the meeting.

### **31 How to serve Committee meeting notices and minutes**

Notices and minutes of Committee meetings (including meetings held in writing) must be served:

- (a) by sending them to the member's address shown on the association roll;
- (b) by personally delivering them to the member; or
- (c) by any other method allowed under the Act.

### **32 Keeping records of Committee meetings**

The Committee must keep copies of agendas and minutes of its meetings (including meetings it holds in writing):

- (a) with the Neighbourhood Association's records; and
- (b) for 7 years from the date of the meeting (or for the period the Act requires the Neighbourhood Association to keep its meeting records).

### **33 Regular review of insurances**

33.1 Each year the Neighbourhood Association must review:

- (a) the insurance policies it has effected; and
- (b) whether it needs new insurance policies.

33.2 Each year the Committee's secretary must include a motion in the annual general meeting notice for the Neighbourhood Association to decide if it should confirm or change its insurance policies.

### **34 Regular valuations of Neighbourhood Property**

34.1 Every fifth year, the Neighbourhood Association must have a qualified valuer value the buildings and improvements on Neighbourhood Property for insurance purposes.

34.2 The Neighbourhood Association must give a copy of the valuation to each of its members.

### **35 Insuring new risks**

The Neighbourhood Association must immediately effect new insurance or adjust existing insurances if there is an increase in risk or a new risk to the Neighbourhood Association or Neighbourhood Property.

### **36 Contracts by the Neighbourhood Association**

The Neighbourhood Association has the power to make agreements or enter into licences to provide:

- (a) management, operation, maintenance and other services for Neighbourhood Property;
- (b) services or amenities to owners and occupiers; and
- (c) services or amenities to Neighbourhood Property.

### **37 Private services provided by the Neighbourhood Association**

37.1 The Neighbourhood Association has the power to:

- (a) provide Private Services to owners and occupiers;
- (b) arrange for the installation and maintenance of Services Lines to provide Private Services; and
- (c) make agreements with persons to monitor or provide Private Services.

37.2 You must have the Neighbourhood Association's consent to:

- (a) interfere with Private Services; and
- (b) obstruct access to, overload or damage Private Services.

37.3 You must immediately notify the Neighbourhood Association if you know about a fault in a Private Service.

37.4 The Neighbourhood Association (or persons authorised by it) may enter your lot to do work on Private Services. The Neighbourhood Association must give you reasonable notice before it enters your lot unless there is an emergency.

### **38 Community education program**

38.1 The Neighbourhood Association must develop with Warringah Shire Council and implement a program to encourage in owners and occupiers a sense of stewardship for the bushland in Neighbourhood Property and surrounding Lyndhurst Estate.

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