

# Contract for the sale and purchase of land 2019 edition

TERM	MEANING OF TERM	eCOS ID: 68984691	NSW DAN:
vendor's agent	Upstate Suite 15, Level 1, 888 Pittwater Road, Dee Why NSW 2099		Phone: 02 9971 9000 Fax: Ref: Chris Aldren
co-agent			
vendor	MEGAN LEE PARSONS and SUSAN MAREE PARSONS 28 Epping Drive FRENCHS FOREST NSW 2086		
vendor's solicitor	WMW Lawyers Lighthouse Level 1 Suite 20 888 Pittwater Road Dee Why NSW 2100		Phone: 02 9938 2444 Fax: Ref: KF:20200797
date for completion	42 days after the contract date	(clause 15)	Email: kfooster@wmw.com.au
land	9/29 HOWARD AVE DEE WHY NSW 2099 (Address, plan details and title reference)		
	LOT 9 IN STRATA PLAN 68946 9/SP68946		
	<input checked="" type="checkbox"/> VACANT POSSESSION <input type="checkbox"/> Subject to existing tenancies		
improvements	<input type="checkbox"/> HOUSE <input type="checkbox"/> garage <input type="checkbox"/> carport <input checked="" type="checkbox"/> home unit <input checked="" 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 type="checkbox"/> insect screens <input type="checkbox"/> solar panels <input type="checkbox"/> TV antenna <input checked="" type="checkbox"/> curtains <input type="checkbox"/> other: ceiling fans, astro turf on balcony
exclusions	
purchaser	
purchaser's solicitor	Phone: Fax: Ref: Email:
price	\$
deposit	\$ (10% of the price, unless otherwise stated)
balance	\$
contract date	(if not stated, the date this contract was made)

buyer's agent

vendor

witness

### GST AMOUNT (optional)

The price includes

GST of: \$

purchaser

☐ JOINT TENANTS

☐ tenants in common

☐ in unequal shares

witness

BREACH OF COPYRIGHT MAY RESULT IN LEGAL ACTION

20200797

68984691

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

☐ NO ☐ yes

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

**Electronic transaction** (clause 30)

☐ no ☐ YES

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

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

**land tax** is adjustable

☒ NO ☐ yes

**GST:** Taxable supply

☒ NO ☐ yes in full ☐ yes to an extent

Margin scheme will be used in making the taxable supply

☒ NO ☐ yes

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

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

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

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

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

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

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

Supplier's name:

Supplier's ABN:

Supplier's GST branch number (if applicable):

Supplier's business address:

Supplier's email address:

Supplier's phone number:

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

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

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

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

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

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

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

## List of Documents

General	Strata or community title (clause 23 of the contract)
<input checked="" type="checkbox"/> 1 property certificate for the land <input 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 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 checked="" type="checkbox"/> 21 form of requisitions <input type="checkbox"/> 22 <i>clearance certificate</i> <input type="checkbox"/> 23 land tax certificate	<input checked="" type="checkbox"/> 32 property certificate for strata common property <input checked="" type="checkbox"/> 33 plan creating strata common property <input checked="" 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 type="checkbox"/> 41 plan creating neighbourhood property <input type="checkbox"/> 42 neighbourhood development contract <input 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>Other</b> <input type="checkbox"/> 59
<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	

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

Fresh Strata

Suite 3, 529 Pittwater Road, Brookvale NSW 2100

Tel: 9939 8061

E. info@freshstrata.com.au

## SECTION 66W CERTIFICATE

**VENDOR(S):** Megan Lee Parsons and Susan Maree Parsons

**PURCHASER(S):**

**PROPERTY:** 9/29 Howard Avenue, Dee Why

I, \_\_\_\_\_ of \_\_\_\_\_,  
Solicitor/Licensed Conveyancer certify as follows:-

1. I am a Solicitor/Licensed Conveyancer 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 the above property from the Vendor to the Purchaser in order that there is no cooling off period in relation to that Contract.
3. I do not act for the Vendor and am not employed in the legal practice of a solicitor acting for the Vendor nor am I a member or employee of a firm of which a Solicitor acting for the Vendor is a member or employee.
4. I have explained to the Purchaser:
  1. the effect of the Contract for the purchase of that property;
  2. the nature of this Certificate;
  3. the effect of giving this Certificate to the vendor, ie. that there is no cooling off period in relation to the Contract.

DATED:

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**IMPORTANT NOTICE TO VENDORS AND PURCHASERS**

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

**WARNING—SMOKE ALARMS**

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

**WARNING—LOOSE-FILL ASBESTOS INSULATION**

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

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

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

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

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

### **DISPUTES**

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

### **AUCTIONS**

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

**WARNINGS**

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

<b>APA Group</b> <b>Australian Taxation Office</b> <b>Council</b> <b>County Council</b> <b>Department of Planning, Industry and Environment</b> <b>Department of Primary Industries</b> <b>Electricity and gas</b> <b>Land &amp; Housing Corporation</b> <b>Local Land Services</b>	<b>NSW Department of Education</b> <b>NSW Fair Trading</b> <b>Owner of adjoining land</b> <b>Privacy</b> <b>Public Works Advisory</b> <b>Subsidence Advisory NSW</b> <b>Telecommunications</b> <b>Transport for NSW</b> <b>Water, sewerage or drainage authority</b>
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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 *serving* it –
- 5.2.1 if it arises out of this contract or it is a general question about the *property* or title - *within* 21 days after the contract date;
  - 5.2.2 if it arises out of anything *served* by the vendor - *within* 21 days after the later of the contract date and that *service*; and
  - 5.2.3 in any other case - *within* a reasonable time.

### 6 Error or misdescription

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

## 7 Claims by purchaser

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

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

## 8 Vendor's rights and obligations

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

## 9 Purchaser's default

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

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

## 10 Restrictions on rights of purchaser

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

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

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

## 14 Adjustments

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

## 15 Date for completion

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

## 16 Completion

### • Vendor

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

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

**20 Miscellaneous**

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

**21 Time limits in these provisions**

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

**22 Foreign Acquisitions and Takeovers Act 1975**

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

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

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

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

**24 Tenancies**

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

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

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



- 25.7.1 *normally*, the abstract of title need not include any document which does not show the location, area or dimensions of the land (for example, by including a metes and bounds description or a plan of the land);
- 25.7.2 clause 25.7.1 does not apply to a document which is the good root of title; and
- 25.7.3 the vendor does not have to provide an abstract if this contract contains a delimitation plan (whether in registrable form or not).

25.8 The vendor must give a proper covenant to produce where relevant.

25.9 The vendor does not have to produce or covenant to produce a document that is not in the possession of the vendor or a mortgagee.

25.10 If the vendor is unable to produce an original document in the chain of title, the purchaser will accept a photocopy from the Registrar-General of the registration copy of that document.

## **26 Crown purchase money**

26.1 This clause applies only if purchase money is payable to the Crown, whether or not due for payment.

26.2 The vendor is liable for the money, except to the extent this contract says the purchaser is liable for it.

26.3 To the extent the vendor is liable for it, the vendor is liable for any interest until completion.

26.4 To the extent the purchaser is liable for it, the *parties* must adjust any interest under clause 14.1.

## **27 Consent to transfer**

27.1 This clause applies only if the land (or part of it) cannot be transferred without consent under *legislation* or a *planning agreement*.

27.2 The purchaser must properly complete and then serve the purchaser's part of an application for consent to transfer of the land (or part of it) *within 7 days* after the contract date.

27.3 The vendor must apply for consent *within 7 days* after *service* of the purchaser's part.

27.4 If consent is refused, either *party* can *rescind*.

27.5 If consent is given subject to one or more conditions that will substantially disadvantage a *party*, then that *party* can *rescind within 7 days* after receipt by or *service* upon the *party* of written notice of the conditions.

27.6 If consent is not given or refused –

27.6.1 *within 42 days* after the purchaser serves the purchaser's part of the application, the purchaser can *rescind*; or

27.6.2 *within 30 days* after the application is made, either *party* can *rescind*.

27.7 Each period in clause 27.6 becomes 90 days if the land (or part of it) is –

27.7.1 under a *planning agreement*; or

27.7.2 in the Western Division.

27.8 If the land (or part of it) is described as a lot in an unregistered plan, each time in clause 27.6 becomes the later of the time and 35 days after creation of a separate folio for the lot.

27.9 The date for completion becomes the later of the date for completion and 14 days after *service* of the notice granting consent to transfer.

## **28 Unregistered plan**

28.1 This clause applies only if some of the land is described as a lot in an unregistered plan.

28.2 The vendor must do everything reasonable to have the plan registered *within 6 months* after the contract date, with or without any minor alteration to the plan or any document to be lodged with the plan validly required or made under *legislation*.

28.3 If the plan is not registered *within* that time and in that manner –

28.3.1 the purchaser can *rescind*; and

28.3.2 the vendor can *rescind*, but only if the vendor has complied with clause 28.2 and with any *legislation* governing the rescission.

28.4 Either *party* can serve notice of the registration of the plan and every relevant lot and plan number.

28.5 The date for completion becomes the later of the date for completion and 21 days after *service* of the notice.

28.6 Clauses 28.2 and 28.3 apply to another plan that is to be registered before the plan is registered.

## **29 Conditional contract**

29.1 This clause applies only if a provision says this contract or completion is conditional on an event.

29.2 If the time for the event to happen is not stated, the time is 42 days after the contract date.

29.3 If this contract says the provision is for the benefit of a *party*, then it benefits only that *party*.

29.4 If anything is necessary to make the event happen, each *party* must do whatever is reasonably necessary to cause the event to happen.

29.5 A *party* can *rescind* under this clause only if the *party* has substantially complied with clause 29.4.

29.6 If the event involves an approval and the approval is given subject to a condition that will substantially disadvantage a *party* who has the benefit of the provision, the *party* can *rescind within 7 days* after either *party* serves notice of the condition.

29.7 If the *parties* can lawfully complete without the event happening –

29.7.1 if the event does not happen *within* the time for it to happen, a *party* who has the benefit of the provision can *rescind within 7 days* after the end of that time;

29.7.2 if the event involves an approval and an application for the approval is refused, a *party* who has the benefit of the provision can *rescind within 7 days* after either *party* serves notice of the refusal; and

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

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

**These are further Clauses Annexed to the Contract for Sale of Land Between  
Megan Lee Parsons and Susan Maree Parsons**

And

The Purchaser.

**33. Amendments to the Printed Form**

33.1 If there is any inconsistency between any clause in the printed form and the clauses in this contract that follow, the clauses that follow prevail.

33.2 The printed form of contract attached is amended as follows.

a) Clause 7.1 – delete “that are not” and substitute “including”.

b) Clause 7.1.1 – delete “5%” of the price and substitute “\$1.00”.

c) Clause 8.1.1 – delete “, on reasonable grounds,”

d) Clause 16.8 – delete “settlement” and substitute “bank”.

e) Clause 20.6.5 – delete “or fax”.

f) Clause 20.6 – add the following.

“20.6.8 the time of despatch is later than 5.00pm on a business day in the place to which the document is sent in which case it is taken to have been received at 9.00am on the next business day at the place”.

g) Clause 23.13 – replace “7 days” with “3 days”.

h) Clause 23.14 – replace “7 days” with “3 days”.

i) Clause 24.1 is deleted.

**34. Condition of Property**

34.1 The Purchaser accepts the Property in its present state and condition of repair and will make no objection, requisition or claim for compensation nor seek to terminate or rescind this Contract by reason of any defect whether latent or patent, any want of repair, dilapidation or infestation by vermin, borers, white ants or otherwise.

- 34.2 The Purchaser acknowledges that the Purchaser buys the property relying on the Purchaser's own inspection knowledge and Inquiries and that the Purchaser does not rely on any warranties or representations made to the Purchaser by or on behalf of the Vendor.
- 34.3 The Purchaser acknowledges that the Purchaser shall not call upon the Vendor to carry out any repairs whatsoever in relation to the Property sold.

**35. Insolvency Death and Incapacity**

- 35.1 If the purchaser or the vendor (if more than one anyone of them) is a natural person and prior to completion dies, then the surviving party as the case may be, may rescind this Contract
- 35.2 If the Purchaser (if more than one anyone of them) is a company and prior to completion has an administrator, liquidator, provisional liquidator, receiver or be made the subject of any form of external administration or enter into any scheme or arrangement with its creditors under the Corporations Law, then the Purchaser will be deemed to be in default under this Contract and the Vendor may rescind the Contract.
- 35.3 Any right of recession under this clause may be exercised by notice in writing forwarded to the Solicitor named as the other Party's Solicitor in this contract and the Contract will then be at an end and the provisions of Clause 19 hereof will apply.

**36. Claims for Compensation**

- 36.1 Any claim for compensation shall be deemed to be an objection or requisition for the purpose of Clauses 7 and 8 of this Contract.

**37. Warranty Estate Agent**

- 37.1 The Purchaser warrants that the Purchaser was not introduced to the Vendor or to the Property by any Agent other than the Agent (if any) named in the contract.
- 37.2 The Purchaser indemnifies and agrees to hold and keep indemnified the Vendor against any claim for commission and any costs associated with such a claim arising out of an introduction by an Agent other than the Agent (if any) named in this contract of the Purchaser to the Vendor or to the Property.

### **38. Notice To Complete**

- 38.1 The Vendor and the Purchaser agree that should any event arise entitling either party to issue a Notice to Complete on the other then the party shall be entitled to serve such Notice on the other party requiring the other to complete the Contract within a period of fourteen (14) days from the service of the notice (making time of the essence in this regard). The period of fourteen (14) days is agreed to be a proper and reasonable time.

### **39. Interest**

- 39.1 If for any reason not solely attributable to default on the part of the Vendor, the balance of the purchase moneys is not paid by the Purchaser to the Vendor by the time specified in this Contract for completion the Purchaser on completion will pay by way of liquidated damages a sum equal to interest calculated at the rate of 8% per annum on the balance purchase moneys from the date specified in this Contract for completion until actual completion.
- 39.2 Without prejudice to the Vendor's rights and remedies arising from the Purchaser's default under this Contract, the interest shall form part of the balance of purchase moneys and be paid on completion as an essential term of this Contract.

### **40. Warranties, Representations and Acknowledgements**

- 40.1 The Purchasers acknowledge and agree that the terms and conditions set out in this Contract contain the entire agreement between them in relation to the sale or purchase of the Property notwithstanding any sales brochures or other documents issued by or on behalf of the Vendor prior to the execution of this Contract.
- 40.2 The Purchaser acknowledges and agrees that the Purchaser has entered into this Contract in reliance upon the Purchaser's own inspection and assessment of the Property and the Purchaser acknowledges and agrees that the Purchaser has not been induced to enter into this Contract by any statements, representations or warranties made by or on behalf of the Vendor not set out in this Contract.
- 40.3 The purchaser represents and warrants to the vendor that the purchaser's acquisition of the property is not within the scope of the Foreign Acquisitions and Takeovers Act 1975 and is not examinable by the Foreign Investment Review Board (FIRB);
- 40.4 The Purchaser represents and warrants that the Commonwealth Treasurer cannot prohibit and has not prohibited the transfer under the Foreign Acquisitions and Takeovers Act 1975;

40.5 The Purchaser has obtained all approvals the law requires to enable the Purchaser to enter into and complete the Contract.

40.6.1 The Purchaser acknowledges that:

- (a) the Purchaser cannot make a claim, objection or requisition delay completion or rescind or terminate the Contract because of:
  - (i) the condition of the Property;
  - (ii) any latent or patent defect in the Property;
  - (iii) the presence, nature, location, availability or non-availability of any services as defined in Clause 10.1.2 or any easements or rights in connection with those services;
  - (iv) the discharge of any roof, swimming pool or ground water into the sewer.

40.6.2 The Purchaser takes title to the Property subject to all existing services.

#### **41. Building Certificate**

41.1 Notwithstanding anything else contained in this Contract, this Agreement is not subject to the issue of a certificate under Section 172 of the Local Government Act 1993 in respect of the Property.

41.2 The Purchaser agrees that the Vendor shall not be required to carry out any works necessary to enable such a certificate to issue.

41.3 The Purchaser will not be entitled to make any requisitions, objection or claim for compensation if the Local Council refuses to issue such a certificate or requires that any works be carried out as a condition of the issue of such a certificate.

#### **42. Severability**

42.1 Unenforceability of a provision of this contract does not affect the enforceability of any other provision.

#### **43. Non-merger**

43.1 The provisions of this contract having application after completing continue to apply despite completion.



#### **44. Deposit By Instalments – 5% on Exchange**

- 44.1 Notwithstanding anything to the contrary contained elsewhere in this Contract, if the Vendor agrees to accept payment of the deposit by instalments then the deposit must be paid as follows: -
- (a) As to the sum being 5% of the purchase price, on the date of this Contract;
  - (b) As to the balance of the amount equal to 10% of the purchase price, at the earlier of;
    - (i) The date of Completion of the sale or;
    - (ii) Forthwith in the event that the Vendor is entitled to terminate this contract and the Deposit is to forfeit to Vendor.
  - (c) Any accrued interest on investment of the Deposit is to be paid in full to the Vendor.

#### **45. Requisitions**

- 45.1 The Parties agree that the only requisitions on title that the purchaser may make under the terms of this contract are the requisitions that are annexed to this contract (the Standard Requisitions). The purchaser shall be deemed to have served the Standard Requisitions on the Vendor.

#### **46. Force Majeure Event**

##### **46.1 Notice of Force Majeure Event**

If, as a result of a Force Majeure Event, a party (**Affected Party**) considers that it has or will imminently become unable wholly or in part to perform any of its Obligations under this Agreement (**Affected Obligations**) or will be delayed in doing so, the Affected Party must, as soon as reasonably practicable after the occurrence of that Force Majeure Event, give to the other party prompt written notice of:

- (a) reasonably sufficient particulars of the Force Majeure Event and the Affected Obligations; and
- (b) so far as is known or reasonably capable of being ascertained or estimated, the probable extent to which the Affected Party will be unable to perform or will be delayed in performing the Affected Obligations.

##### **46.2 Affected Obligations are suspended**

- (a) On the giving notice under clause 46.1, the Completion Date will be extended by 14 days from the date of service of the notice under 46.1
- (b) Clause 45.2(a) will not apply to the extent that the Force Majeure Event has been caused by the Affected Party's negligence or breach of its Obligations under this Agreement.

46.3 In this clause a Force Majeure Event means any circumstance which:

- (a) is beyond the reasonable control of the party affected by it; and
- (b) causes or results in a default or delay in the performance by that party of any of its Obligations under this Agreement where the occurrence of the circumstance and the effects of it could not be avoided or remedied by the exercise by that party of a standard of foresight, care and diligence consistent with the operations of a reasonable, prudent and competent person under the circumstances, and includes any of the following circumstances if they meet the requirements of paragraphs (a) and (b):
  - (i) Pandemic; or
  - (ii) acts or omissions of governmental, semi-governmental, statutory or judicial body, department, commission, authority, tribunal, agency, Minister;

#### **47. Release of Deposit**

47.1 Notwithstanding anything to the contrary herein contained the Purchaser shall forthwith authorise the release to the Vendor of the deposit paid by the Purchaser herein such sum to be used by the Vendor in the payment of deposit and/or stamp duty for the purchase by the Vendor of another Property.

## STRATA TITLE (RESIDENTIAL) PROPERTY REQUISITIONS ON TITLE

Vendor:  
Purchaser:  
Property: Unit  
Dated:

### Possession and tenancies

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

### Title

6. Subject to the Contract, on completion the vendor should be registered as proprietor in fee simple of the Property free from all encumbrances and notations and recorded as the owner of the Property on the strata roll, free from all other interests.
7. On or before completion, any mortgage, caveat, writ or priority notice must be discharged, withdrawn, cancelled or removed as the case may be or, in the case of a mortgage, caveat or priority notice, an executed discharge or withdrawal or removal handed over on completion together with a notice under Section 22 of the *Strata Schemes Management Act 2015 (NSW) (Act)*.
8. Are there any proceedings pending or concluded that could result in the recording of any writ on the title to the Property or in the General Register of Deeds? If so, full details should be provided at least 14 days prior to completion.
9. When and where may the title documents be inspected?
10. Are any chattels or fixtures subject to any hiring or leasing agreement or charge or to any security interest under the *Personal Properties Securities Act 2009 (Cth)*? If so, details must be given and all indebtedness cleared and title transferred unencumbered to the vendor prior to completion.

### Adjustments

11. All outgoings referred to in clause 14.1 of the Contract must be paid up to and including the date of completion.
12. Is the vendor liable to pay land tax or is the Property otherwise charged or liable to be charged with land tax? If so:
  - (a) to what year has a return been made?
  - (b) what is the taxable value of the Property for land tax purposes for the current year?
13. The vendor must serve on the purchaser a current land tax certificate (issued under Section 47 of the *Land Tax Management Act 1956 (NSW)*) at least 14 days before completion.

### Survey and building

14. Subject to the Contract, survey should be satisfactory and show that the whole of the Property and the common property is available, that there are no encroachments by or upon the Property or the common property.
15. Is the vendor in possession of a survey report? If so, please produce a copy for inspection prior to completion. The original should be handed over on completion.
16. In respect of the Property and the common property:
  - (a) Have the provisions of the *Local Government Act (NSW)*, the *Environmental Planning and Assessment Act 1979 (NSW)* and their regulations been complied with?
  - (b) Is there any matter that could justify the making of an upgrading or demolition order in respect of any building or structure?

- (c) Has the vendor a Building Certificate which relates to all current buildings or structures on the Property? If so, it should be handed over on completion. Please provide a copy in advance.
  - (d) Has the vendor a Final Occupation Certificate issued under the *Environmental Planning and Assessment Act 1979* for all current buildings or structures on the Property? If so, it should be handed over on completion. Please provide a copy in advance.
  - (e) In respect of any residential building work carried out in the last 7 years:
    - (i) please identify the building work carried out;
    - (ii) when was the building work completed?
    - (iii) please state the builder's name and licence number;
    - (iv) please provide details of insurance under the *Home Building Act 1989 (NSW)*.
  - (f) Are there any proposals by the Owners Corporation or an owner of a lot to make any additions or alterations or to erect any new structures on the common property? If so, please provide details.
  - (g) Has any work been carried out by the vendor on the Property or the common property? If so:
    - (i) has the work been carried out in accordance with the by-laws and all necessary approvals and consents?
    - (ii) does the vendor have any continuing obligations in relation to the common property affected?
17. Is the vendor aware of any proposals to:
- (a) resume the whole or any part of the Property or the common property?
  - (b) carry out building alterations to an adjoining lot which may affect the boundary of that lot or the Property?
  - (c) deal with, acquire, transfer, lease or dedicate any of the common property?
  - (d) dispose of or otherwise deal with any lot vested in the Owners Corporation?
  - (e) create, vary or extinguish any easements, restrictions or positive covenants over the Property or the common property?
  - (f) subdivide or consolidate any lots and/or any common property or to convert any lots into common property?
  - (g) grant any licence to any person, entity or authority (including the Council) to use the whole or any part of the common property?
18. Has the vendor (or any predecessor) or the Owners Corporation entered into any agreement with or granted any indemnity to the Council or any other authority concerning any development on the Property or the common property?
19. In relation to any swimming pool on the Property or the common property:
- (a) did its installation or construction commence before or after 1 August 1990?
  - (b) has the swimming pool been installed or constructed in accordance with approvals under the *Local Government Act 1919 (NSW)* and *Local Government Act 1993 (NSW)*?
  - (c) does it comply with the provisions of the *Swimming Pools Act 1992 (NSW)* and regulations relating to access? If not, please provide details of the exemptions claimed;
  - (d) have any notices or orders issued or been threatened under the *Swimming Pools Act 1992 (NSW)* or regulations?
  - (e) if a certificate of non-compliance has issued, please provide reasons for its issue if not disclosed in the contract;
  - (f) originals of certificate of compliance or non-compliance and occupation certificate should be handed over on settlement.
- 20.
- (a) Is the vendor aware of any dispute regarding boundary or dividing fences in the strata scheme?
  - (b) Is the vendor aware of any notice, claim or proceedings under the *Dividing Fences Act 1991 (NSW)* or the *Encroachment of Buildings Act 1922 (NSW)* affecting the strata scheme?
- Affectations, notices and claims**
21. In respect of the Property and the common property:
- (a) Is the vendor aware of any rights, licences, easements, covenants or restrictions as to use of them other than those disclosed in the Contract?
  - (b) Has any claim been made by any person to close, obstruct or limit access to or from them or to prevent the enjoyment of any easement appurtenant to them?
  - (c) Is the vendor aware of:
    - (i) any road, drain, sewer or storm water channel which intersects or runs through them?
    - (ii) any dedication to or use by the public of any right of way or other easement over any part of them?
    - (iii) any latent defects in them?
  - (d) Has the vendor any notice or knowledge of them being affected by the following:
    - (i) any notice requiring work to be done or money to be spent on them or any footpath or road adjoining? If so, such notice must be complied with prior to completion.
    - (ii) any work done or intended to be done on them or the adjacent street which may create a charge on them or the cost of which might be or become recoverable from the purchaser?
    - (iii) any sum due to any local or public authority recoverable from the purchaser? If so, it must be paid prior to completion.
    - (iv) any realignment or proposed realignment of any road adjoining them?

- (v) any contamination including, but not limited to, materials or substances dangerous to health such as asbestos and fibreglass?

**Applications, Orders etc**

22. Are there any applications made, proposed or threatened, whether by an owner of a lot or the Owners Corporation, to the NSW Civil and Administrative Tribunal, any Court or to the Registrar General for orders relating to the strata scheme, the Property or the common property (including orders to vary the strata scheme consequent upon damage or destruction or to terminate the strata scheme) which are yet to be determined? If so, please provide particulars.
23. Are there any mediations currently being conducted by the Commissioner of Fair Trading, Department of Finance Services and Innovation in relation to the Property or the common property which involve the vendor or the Owners Corporation? If so, please provide particulars.
24. Are there any:
- (a) orders of the Tribunal;
  - (b) notices of or investigations by the Owners Corporation;
  - (c) notices or orders issued by any Court; or
  - (d) notices or orders issued by the Council or any public authority or water authority,
- affecting the Property or the common property not yet complied with? In so far as they impose an obligation on the vendor they should be complied with by the vendor before completion.
25. Have any orders been made by any Court or Tribunal that money (including costs) payable by the Owners Corporation be paid from contributions levied in relation to the Property? If so, please provide particulars.
26. Has the vendor made any complaints or been the subject of any complaints arising out of noise affecting the Property or emanating from the Property?
27. Has any proposal been given by any person or entity to the Owners Corporation for:
- (a) a collective sale of the strata scheme; or
  - (b) a redevelopment of the strata scheme?
- If so, please provide particulars of the proposal and the steps taken and decisions made in relation to the proposal to the present time.

**Owners Corporation management**

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

**Capacity**

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

**Requisitions and transfer**

46. If not attached to the Contract and the transaction is not an excluded transaction, any *clearance certificate* under Section 14-220 of Schedule 1 of the *Taxation Administration Act 1953 (Cth)* should be served on the purchaser at least 7 days prior to completion.
47. If the transfer or any other document to be handed over on completion is executed pursuant to a power of attorney, then at least 7 days prior to completion a copy of the registered power of attorney should be produced and found in order.
48. If the vendor has or is entitled to have possession of the title deeds the Certificate Authentication Code must be provided 7 days prior to settlement.
49. Searches, surveys, enquiries and inspection of title deeds must prove satisfactory.
50. The purchaser reserves the right to make further requisitions prior to completion.
51. Unless we are advised by you to the contrary prior to completion, it will be assumed that your replies to these requisitions remain unchanged as at the completion date.



FOLIO: 9/SP68946

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SEARCH DATE	TIME	EDITION NO	DATE
-----	----	-----	----
1/6/2020	12:18 PM	6	2/9/2018

NO CERTIFICATE OF TITLE HAS ISSUED FOR THE CURRENT EDITION OF THIS FOLIO.  
CONTROL OF THE RIGHT TO DEAL IS HELD BY COMMONWEALTH BANK OF AUSTRALIA.

LAND

----

LOT 9 IN STRATA PLAN 68946  
AT DEE WHY  
LOCAL GOVERNMENT AREA NORTHERN BEACHES

FIRST SCHEDULE

-----

MEGAN LEE PARSONS  
IN 4/5 SHARE  
SUSAN MAREE PARSONS  
IN 1/5 SHARE  
AS TENANTS IN COMMON (T AJ232958)

SECOND SCHEDULE (4 NOTIFICATIONS)

-----

1 INTERESTS RECORDED ON REGISTER FOLIO CP/SP68946  
2 SP68946 RESTRICTION(S) ON THE USE OF LAND  
3 SP68946 POSITIVE COVENANT  
4 AJ232959 MORTGAGE TO COMMONWEALTH BANK OF AUSTRALIA

NOTATIONS

-----

UNREGISTERED DEALINGS: NIL

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



FOLIO: CP/SP68946

-----

SEARCH DATE	TIME	EDITION NO	DATE
-----	----	-----	----
1/6/2020	12:18 PM	5	7/5/2020

LAND

-----

THE COMMON PROPERTY IN THE STRATA SCHEME BASED ON STRATA PLAN 68946  
WITHIN THE PARCEL SHOWN IN THE TITLE DIAGRAM

AT DEE WHY

LOCAL GOVERNMENT AREA NORTHERN BEACHES

PARISH OF MANLY COVE COUNTY OF CUMBERLAND

TITLE DIAGRAM SP68946

FIRST SCHEDULE

-----

THE OWNERS - STRATA PLAN NO. 68946

ADDRESS FOR SERVICE OF DOCUMENTS:

29 HOWARD AVENUE

DEE WHY 2095

SECOND SCHEDULE (4 NOTIFICATIONS)

-----

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 A863774 COVENANT
- 3 AN674131 INITIAL PERIOD EXPIRED
- 4 AQ79269 CONSOLIDATION OF REGISTERED BY-LAWS

SCHEDULE OF UNIT ENTITLEMENT (AGGREGATE: 10000)

-----

STRATA PLAN 68946

LOT	ENT	LOT	ENT	LOT	ENT	LOT	ENT
1	- 237	2	- 223	3	- 243	4	- 313
5	- 208	6	- 223	7	- 236	8	- 230
9	- 229	10	- 234	11	- 223	12	- 223
13	- 250	14	- 234	15	- 248	16	- 255
17	- 237	18	- 243	19	- 243	20	- 234
21	- 248	22	- 248	23	- 421	24	- 236
25	- 252	26	- 244	27	- 374	28	- 358
29	- 349	30	- 449	31	- 273	32	- 280
33	- 269	34	- 421	35	- 133	36	- 162
37	- 258	38	- 259				

NOTATIONS

-----

UNREGISTERED DEALINGS: NIL

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

20200797

PRINTED ON 1/6/2020



# STRATA PLAN FORM 1

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

OFFICE USE ONLY

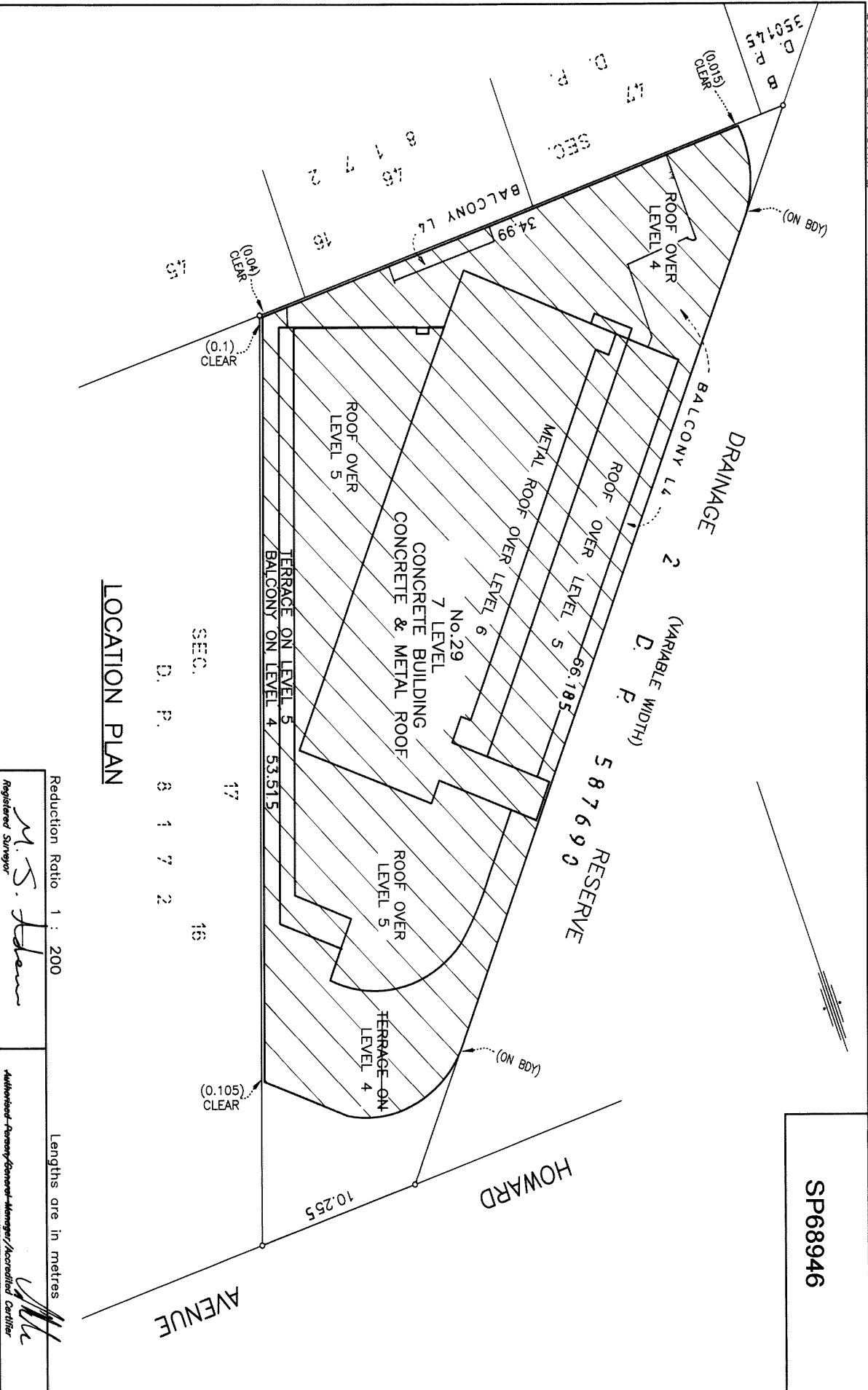
<p><b>Strata Certificate</b></p> <p>"I, the Council/Strata Committee, ANTHONY, ALBERT, being satisfied that the requirements of the Strata Schemes (Freehold Development) Act 1973 or Strata Schemes (Leasehold Development) Act 1986 have been complied with, approve of the proposed Strata plan/strata plan of subdivision."</p> <p>Illustrated in the annexure to this certificate.</p> <p>"The accredited certifier is satisfied that the plan is consistent with the development consent in force, and that all conditions of the development consent that by its terms are required to be complied with before a strata certificate may be issued, have been complied with."</p> <p>"The council does not object to the encroachment of the building beyond the alignment of..."</p> <p>"The encroachment is not objectionable to the building's use as a strata unit."</p> <p>"The approval is given on the condition that the use of the building for the storage or accommodation of boats, motor vehicles or goods (other than those used in connection with the business of the strata lot) is restricted to the purpose of storage of a motor vehicle or goods (other than those used in connection with the business of the strata lot) not being such a use as to be a nuisance or a source of danger or damage to the strata lot or the strata scheme (freehold development) Act 1973 or section 68 of the Strata Schemes (Leasehold Development) Act 1986."</p> <p>Date: 17/10/2002 Subdivision No. 253/2002 Registration No. 253/2002 Section No. 1000/S174DA Issued by: MARK JOHN ANDREW Council:</p>		<p><b>Surveyors Certificate</b></p> <p>1. MARK JOHN ANDREW or LEVEL 5, 17 RANDE STREET SURREY HILLS NSW 2010</p> <p>a surveyor registered under the Surveyors Act 1929, hereby certify that:</p> <p>(1) each applicable requirement of Schedule 1A to the Strata Schemes (Freehold Development) Act 1973 Schedule 1A to the Strata Schemes (Leasehold Development) Act 1986 has been met</p> <p>(2) the building encroaches on a public place (other than a public place) in respect of which encroachment an appropriate assessment has been made by a registered valuer and the assessment is in accordance with section 38B of the Conveyancing Act 1919</p> <p>(3) the survey information recorded in the accompanying location plan is accurate</p> <p>Signature: <i>Mark John Andrew</i> Date: 24/9/2002</p> <p>* Delete if inapplicable * State whether dealing or plan, and quote registered number</p> <p>THIS IS SHEET 1 OF MY PLAN IN 9 SHEETS</p> <p>* Model By-laws adopted for this scheme - Keeping of Animals : Option A/B/C * Schedule of By-laws in 6 sheets filed with plan * No By-laws apply - Strike out whichever is inapplicable</p>																																																																																					
<p><b>SCHEDULE OF UNIT ENTITLEMENT</b></p> <table border="1"> <thead> <tr> <th>LOT NO.</th> <th>U.E.</th> <th>LOT NO.</th> <th>U.E.</th> </tr> </thead> <tbody> <tr><td>1</td><td>237</td><td>20</td><td>234</td></tr> <tr><td>2</td><td>223</td><td>21</td><td>248</td></tr> <tr><td>3</td><td>243</td><td>22</td><td>248</td></tr> <tr><td>4</td><td>421</td><td>23</td><td>236</td></tr> <tr><td>5</td><td>208</td><td>24</td><td>236</td></tr> <tr><td>6</td><td>223</td><td>25</td><td>252</td></tr> <tr><td>7</td><td>236</td><td>26</td><td>244</td></tr> <tr><td>8</td><td>230</td><td>27</td><td>374</td></tr> <tr><td>9</td><td>229</td><td>28</td><td>358</td></tr> <tr><td>10</td><td>234</td><td>29</td><td>349</td></tr> <tr><td>11</td><td>223</td><td>30</td><td>449</td></tr> <tr><td>12</td><td>223</td><td>31</td><td>273</td></tr> <tr><td>13</td><td>250</td><td>32</td><td>280</td></tr> <tr><td>14</td><td>234</td><td>33</td><td>269</td></tr> <tr><td>15</td><td>248</td><td>34</td><td>421</td></tr> <tr><td>16</td><td>255</td><td>35</td><td>133</td></tr> <tr><td>17</td><td>237</td><td>36</td><td>162</td></tr> <tr><td>18</td><td>243</td><td>37</td><td>258</td></tr> <tr><td>19</td><td>243</td><td>38</td><td>259</td></tr> <tr><td colspan="2">Aggregate:</td><td colspan="2">10000</td></tr> </tbody> </table>		LOT NO.	U.E.	LOT NO.	U.E.	1	237	20	234	2	223	21	248	3	243	22	248	4	421	23	236	5	208	24	236	6	223	25	252	7	236	26	244	8	230	27	374	9	229	28	358	10	234	29	349	11	223	30	449	12	223	31	273	13	250	32	280	14	234	33	269	15	248	34	421	16	255	35	133	17	237	36	162	18	243	37	258	19	243	38	259	Aggregate:		10000		<p>PLAN OF SUBDIVISION OF LOT 161 D.P. 104 5 755</p> <p>L.G.A.: WARRINGAH Suburb/Locality: DEE WHY</p> <p>Parish: MANLY COVE County: CUMBERLAND</p> <p>THE OWNERS STRATA PLAN No. 68946 29 HOWARD AVENUE DEE WHY 2099</p> <p>Names of, and address for, service of notices on, the owners corporation (Address required on original strata plan only)</p> <p>FOR LOCATION PLAN SEE SHEET 2</p> <p>Signatures, seals and statements of intention to create easements, restrictions on the use of land or positive covenants PURSUANT TO SEC. 88B OF THE CONVEYANCING ACT 1919 AND SECTION 7(3) OF THE STRATA SCHEMES (FREEHOLD) DEVELOPMENT ACT 1973 IT IS INTENDED TO CREATE:</p> <ol style="list-style-type: none"> <li>RESTRICTION ON THE USE OF LAND.</li> <li>POSITIVE COVENANT.</li> </ol> <p>Mortgagee under Mortgage No. 8236886 Signed at Sydney this 15<sup>th</sup> day of October 2002 for National Australia Bank Limited A/N 12 004 044 837 by Fiona Mary FERGUSON its duly appointed Attorney under Power of Attorney No. 545 Desk 8304</p> <p>Manager <i>Kylie Griffith</i> Witness/Bank Officer 255 George Street, Sydney NSW</p> <p><i>Mark Andrew</i> Diocese Surrey Hills</p> <p>HOWARD STREET PTY LIMITED ACN 105 240 527</p>	
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STRATA PLAN FORM 2

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Sheet No. 2 of 9 Sheets

SP68946



LOCATION PLAN

Reduction Ratio 1 : 200

Lengths are in metres

Registered Surveyor *M.S. Adam*

Authorised Person/Person-Member/Authorised Officer *W. M. M.*

SURVEYOR'S REFERENCE : 010904 SP

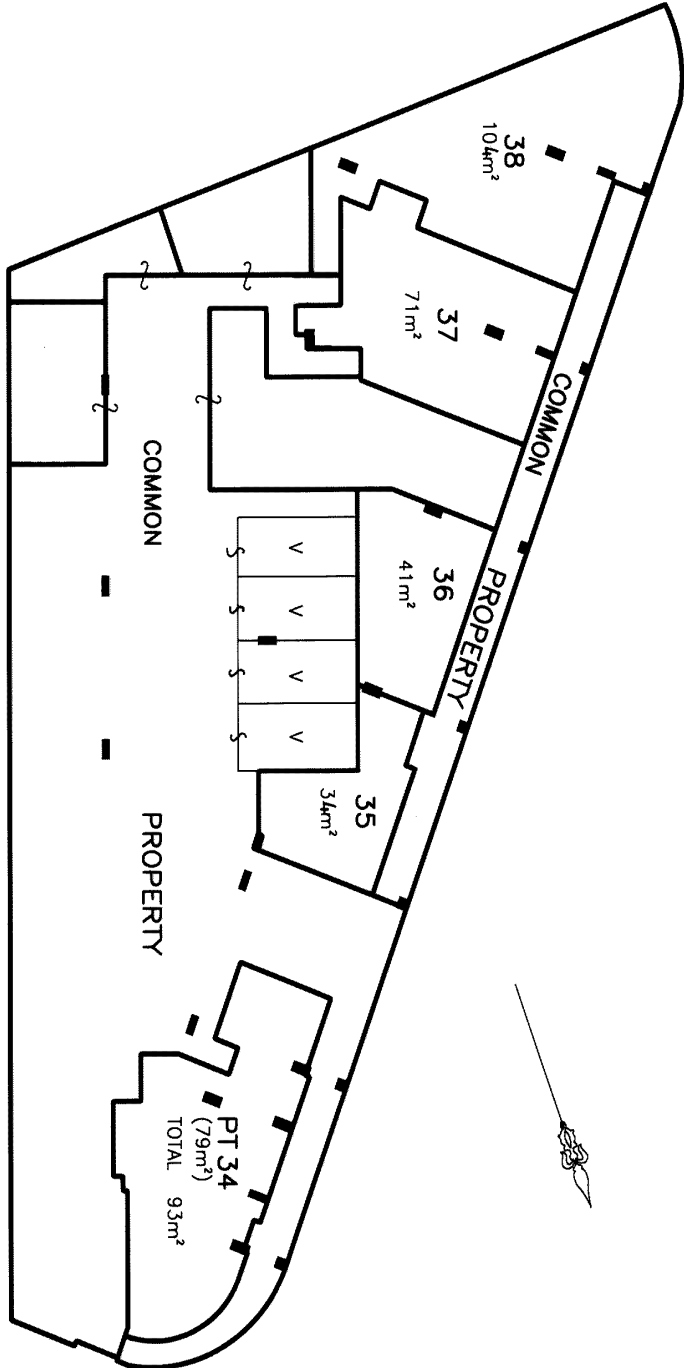
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STRATA PLAN FORM 2

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

Sheet No. 3 of 9 Sheets

SP68946



V - DENOTES VISITORS CARSPACE

GROUND LEVEL

Reduction Ratio 1 : 200

Lengths are in metres

Registered Surveyor *M. S. Khan*

Authorised Planning/Consent Manager/Accredited Certifier *M. S. Khan*

SURVEYOR'S REFERENCE : 010904 DSP 01

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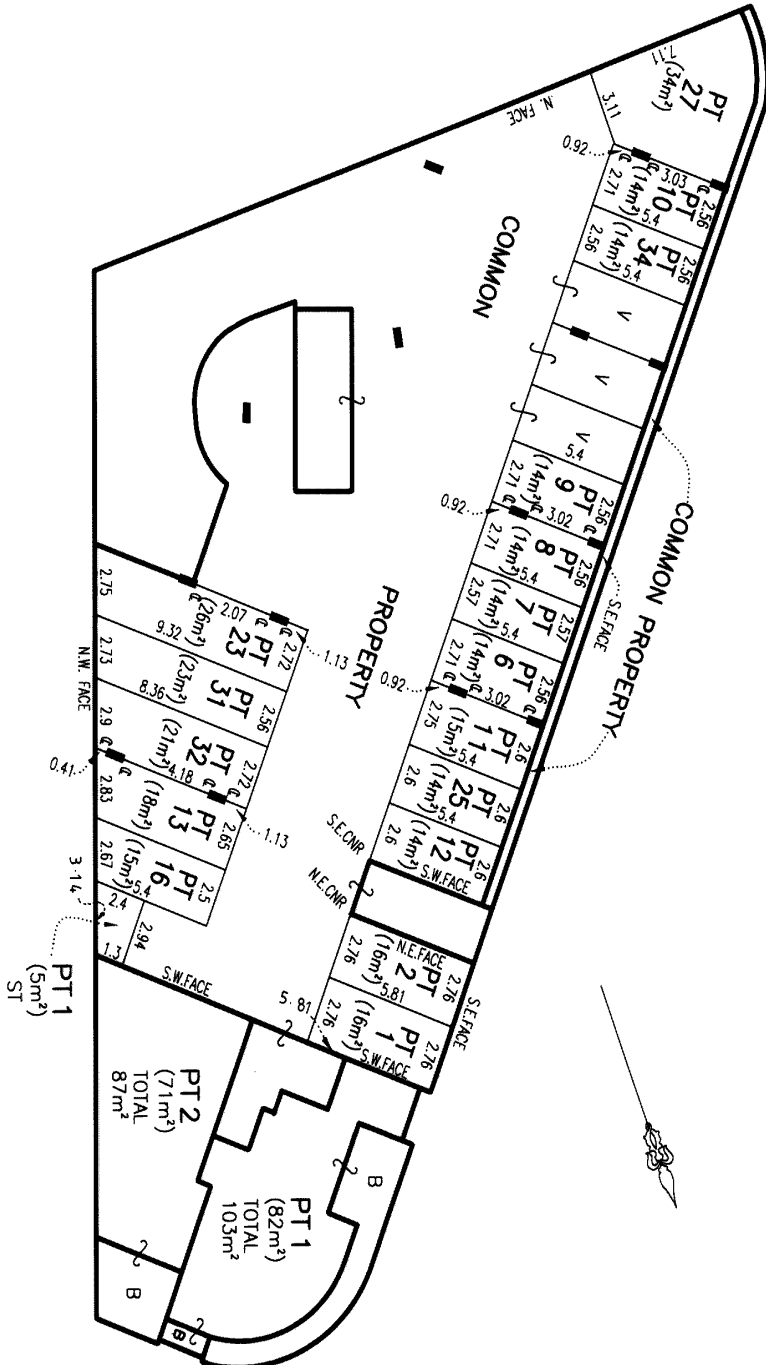
STRATA PLAN FORM 2

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Sheet No. 4 of 9 Sheets

SP68946

THE STRATUM OF THE  
BALCONIES, WHERE NOT COVERED,  
IS LIMITED TO 2.1 METRES ABOVE  
THE UPPER SURFACE OF THEIR  
RESPECTIVE FLOORS.



LEVEL 1

- B - DENOTES BALCONY
- Q - DENOTES CENTRE OF FACE OF COLUMNS
- P - DENOTES PLANTER
- ST - DENOTES STORAGE SPACE
- V - DENOTES VISITOR CARSPACE

Reduction Ratio 1 : 200

Lengths are in metres

Registered Surveyor

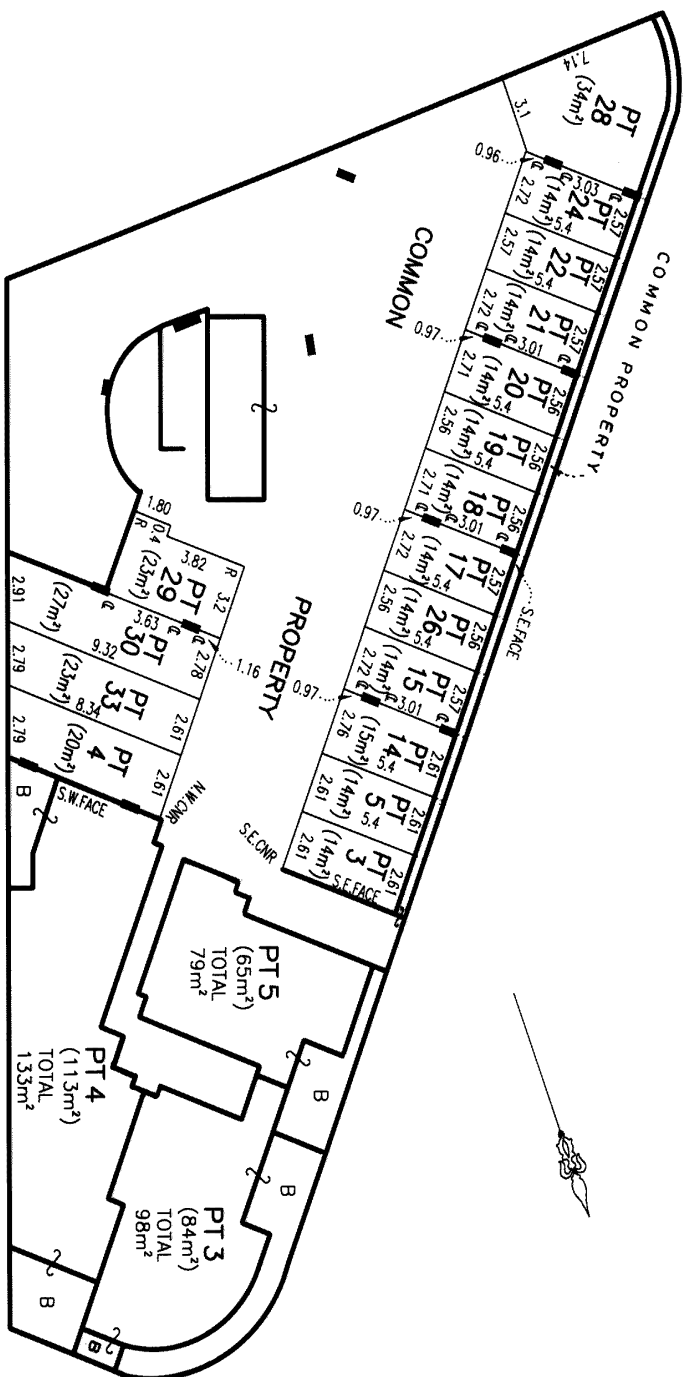
Authorised Person/General Manager/Accredited Certifier

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SURVEYOR'S REFERENCE : 010904 SP

THE STRATUM OF THE BALCONIES, WHERE NOT COVERED, IS LIMITED TO 2.1 METRES ABOVE THE UPPER SURFACE OF THEIR RESPECTIVE FLOORS.

SP68946



## LEVEL 2

- B - DENOTES BALCONY  
C - DENOTES CENTRE OF FACE OF COLUMNS  
P - DENOTES PLANTER  
R - DENOTES 90°

Reduction Ratio 1 : 200

Lengths are in metres

M. S. Adam  
Registered Surveyor

~~Authorized Person/General Manager/Accredited Certifier~~

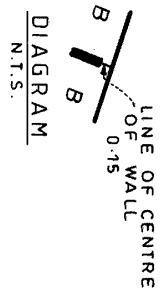
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SURVEYOR'S REFERENCE : 010904 SP

STRATA PLAN FORM 2

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

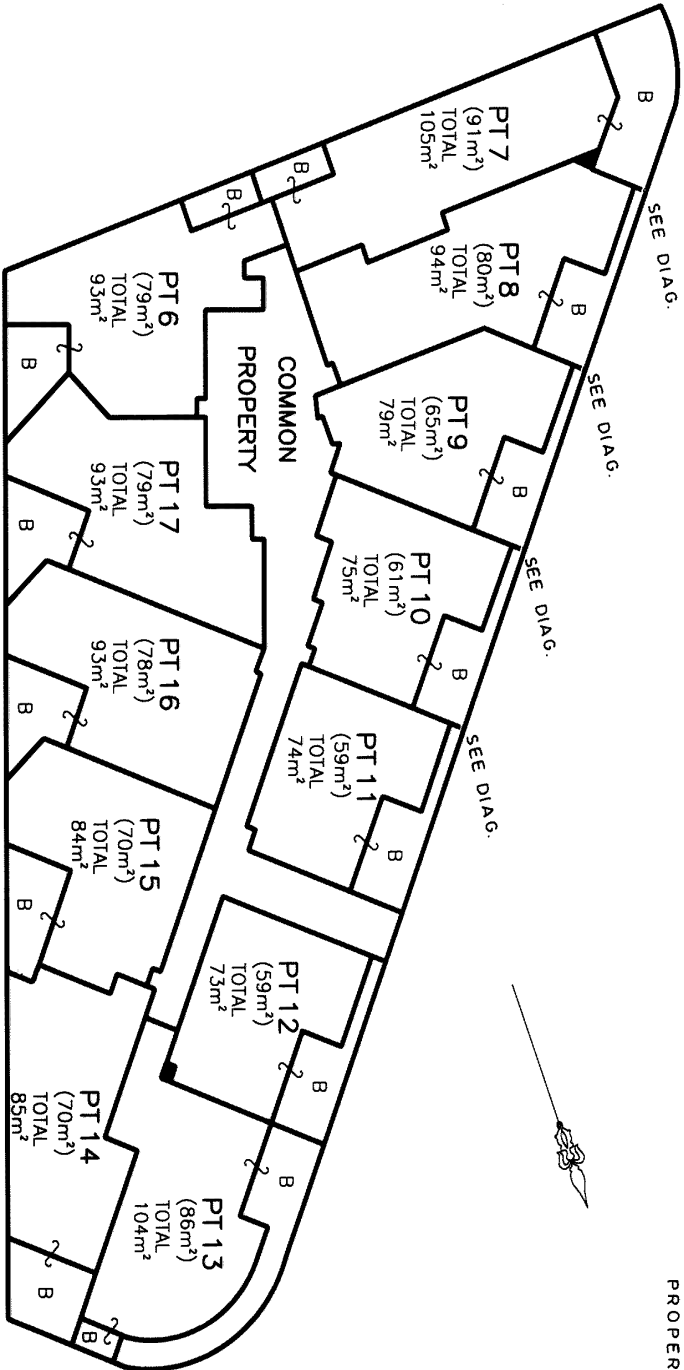
Sheet No. 6 of 9 Sheets



THE STRATUM OF THE BALCONIES,  
WHERE NOT COVERED, IS LIMITED  
TO 2.1 METRES ABOVE THE UPPER  
SURFACE OF THEIR RESPECTIVE  
FLOORS.

NOTE: LOUVRES & SHUTTERS ON  
BALCONIES ARE COMMON  
PROPERTY.

SP68946



B - DENOTES BALCONY

LEVEL 3

Reduction Ratio 1 : 200

Lengths are in metres

Registered Surveyor *M. S. J. J. J.*

Authorised Practice/General Manager/Accredited Certifier *[Signature]*

SURVEYOR'S REFERENCE : 010904 SP

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STRATA PLAN FORM 2

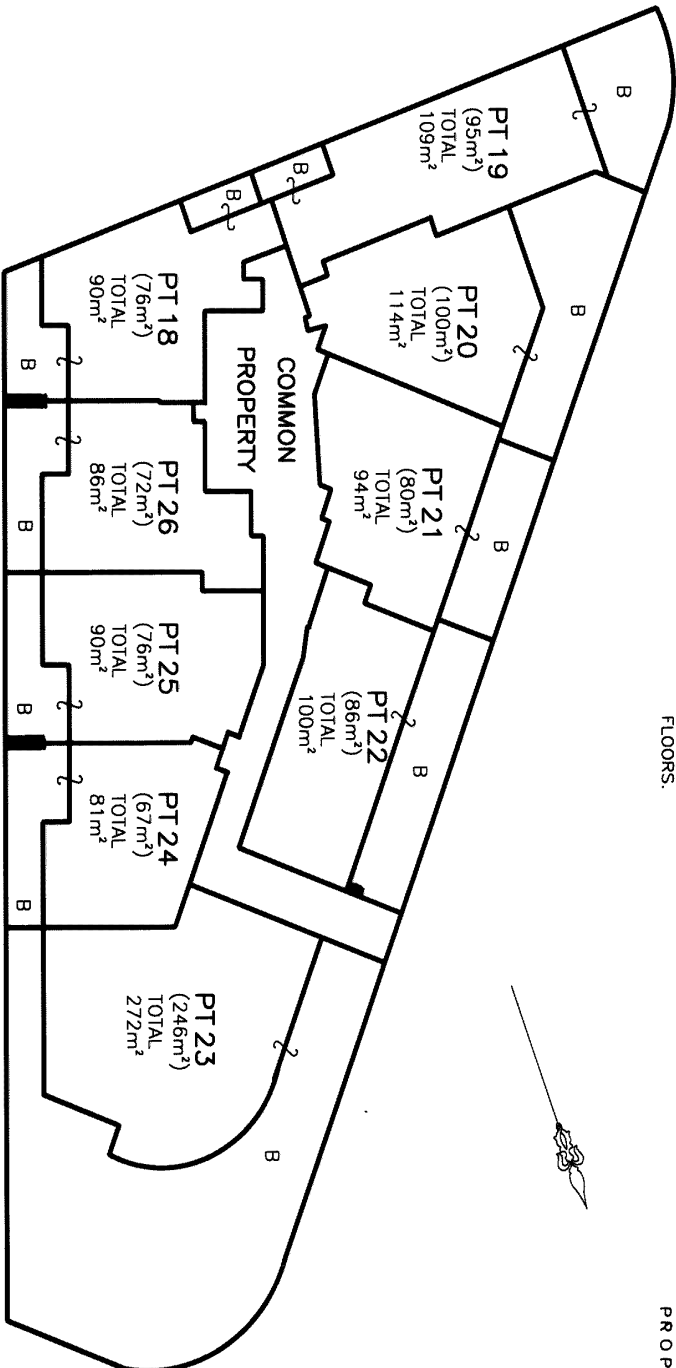
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Sheet No. 7 of 9 Sheets

SP68946

THE STRATUM OF THE BALCONIES,  
 WHERE NOT COVERED, IS LIMITED  
 TO 2.5 METRES ABOVE THE UPPER  
 SURFACE OF THEIR RESPECTIVE  
 FLOORS.

NOTE: LOUVRES & SHUTTERS ON  
 BALCONIES ARE COMMON  
 PROPERTY.



B -- DENOTES BALCONY

LEVEL 4

Reduction Ratio 1 : 200

Lengths are in metres

Registered Surveyor

Authorised Person/General Manager/Accredited Certifier

SURVEYOR'S REFERENCE : 010904 SP

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STRATA PLAN FORM 2

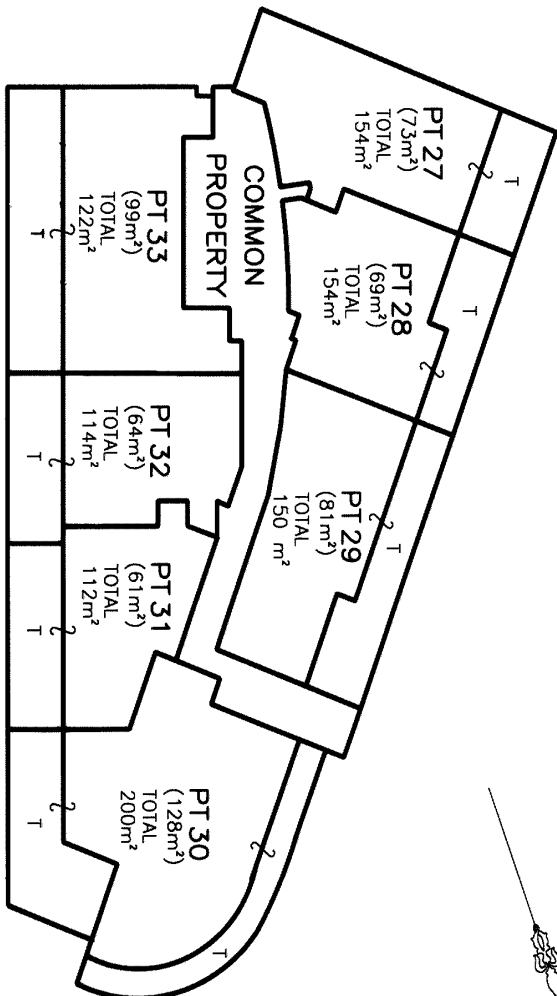
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Sheet No. 8 of 9 Sheets

SP68946

THE STRATUM OF THE TERRACES,  
 WHERE NOT COVERED, IS LIMITED  
 TO 2.5 METRES ABOVE THE UPPER  
 SURFACE OF THEIR RESPECTIVE  
 FLOORS.

NOTE: LOUVRES & SHUTTERS ARE  
 COMMON PROPERTY.



T - DENOTES TERRACE

LEVEL 5

Reduction Ratio 1 : 200

Lengths are in metres

Registered Surveyor

M.S. Adam

Authorised Planning Consultant/Manager/Accredited Certifier

SURVEYOR'S REFERENCE : 010904 SP

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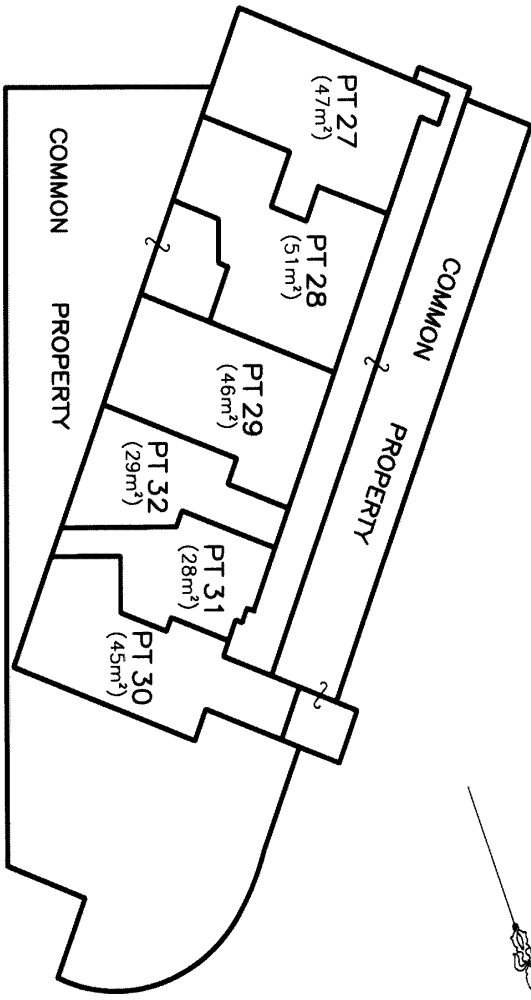


STRATA PLAN FORM 2

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

Sheet No. 9 of 9 Sheets

SP68946



LEVEL 6

Reduction Ratio 1 : 200

Lengths are in metres

Registered Surveyor  
*M. S. Hume*

Authorised Person/General Manager/Accredited Certifier  
*[Signature]*

SURVEYOR'S REFERENCE : 010904 SP

X:\ACADATA\_MJR\010904\_HOWARD-AVE\LEVEL\_06.DWG

**Instrument setting out terms of Easements or Profits à Prendre intended to be created or released and of Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to Section 88B, Conveyancing Act, 1919.**

(Sheet 1 of 4 sheets)

Lengths are in metres

### **PART 1 (Creation)**

**Plan:**

**SP68946**

Plan of Subdivision of Lot 16 of Section 46  
in DP 8172 covered by Council Certificate  
No 53/2002  
Dated:

**Full name and address  
of the owner of the land**

Howard Street Pty Limited of Suite 301,  
"The Bijou", 2A Rowntree Street, Balmain.

**1. Identity of restriction firstly referred to in  
abovementioned plan:**

Restriction on the Use of Land

Lots burdened  
All lots

Schedule of lots etc. affected

Authority benefited  
Warringah Council

**2. Identity of positive covenant secondly  
referred to in abovementioned plan:**

Positive Covenant

Lots burdened  
All lots

Schedule of lots etc. affected

Authority benefited  
Warringah Council

### **PART 2 (Terms)**

**Terms of restriction firstly referred to in the abovementioned plan:**

The registered proprietor covenants with the Warringah Council (Council) in respect to the structure erected on the land described as "on-site stormwater detention system" (which expression includes all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to temporarily detain stormwater) shown on plans approved by the Council No. 2000/5174 (herein after called "the system").

The registered proprietors covenant with the Warringah Council (Council) that they will not:

1. Do any act, matter or thing which would prevent the structure and works from operating in an efficient manner.
2. Make any alterations or additions to the structure and works or allow any development within the meaning of the Environmental Planning and Assessment Act 1979 to encroach upon the structure and works without the express written consent of the authority.



# SP68946

**Instrument setting out terms of Easements or Profits à Prendre intended to be created or released and of Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to Section 88B, Conveyancing Act, 1919.**

Lengths are in metres

(Sheet 2 of 4 sheets)

3. This covenant shall bind all persons who claim under the registered proprietors as stipulated in section 88E(5) of the Act.

For the purposes of this covenant:

Structure and Works shall mean the on-site stormwater detention system constructed on the land as detailed on the plans approved by Council No. 2000/5174 including all gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to temporarily detain stormwater on the land.

The Act shall mean the Conveyancing Act 1919.

**Terms of positive covenant secondly referred to in the abovementioned plan:**

The registered proprietors covenant with the Warringah Council (Council) that they will maintain and repair the structure and works on the land in accordance with the following terms conditions:

1. The registered proprietor will:
  - (i) keep the structure and works clean and free from silt, rubbish and debris
  - (ii) maintain and repair at the sole expense of the registered proprietors the whole of the structure and works so that it functions in a safe and efficient manner.
2. For the purpose of ensuring observance of the covenant the Council may by its servants or agents at any reasonable time of the day upon giving to the person against whom the covenant is enforceable not less than two days notice (but at any time without notice in the case of an emergency) enter the land and view the condition of the land and the state of construction maintenance or repair of the structure and works on the land.
3. By written notice the Council may require the registered proprietors to attend to any matter and to carry out such work within such time as the Council may require to ensure the proper and efficient performance of the structure and works and to that extent section 88F(2) (a) of the Act is hereby agreed to be amended accordingly.
4. Pursuant to section 88F(3) of the Act the authority shall have the following additional powers pursuant to this covenant:
  - (i) In the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above the Council or its authorised agents may enter the land with all necessary equipment and carry



# SP68946

**Instrument setting out terms of Easements or Profits à Prendre intended to be created or released and of Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to Section 88B, Conveyancing Act, 1919.**

(Sheet 3 of 4 sheets)

Lengths are in metres

out any work which the Council in its discretion considers reasonable to comply with the said notice referred to in 1 hereof.

- (ii) The Council may recover from the registered proprietor in a Court of competent jurisdiction:
  - (a) Any expense reasonably incurred by it in exercising its powers under sub-paragraph 1 hereof. Such expense shall include reasonable wages for the Council's own employees engaged in effecting the said work, supervising the said work and administering the said work together with costs, reasonably estimated by the Council, for the use of machinery, tools and equipment in conjunction with the said work.
  - (b) Legal costs on an indemnity basis for issue of the said notices and recovery of the said costs and expenses together with the costs and expenses of registration of a covenant charge pursuant to section 88F of the Act or providing any certificate required pursuant to section 88G of the Act or obtaining any injunction pursuant to section 88H of the Act.

5. This covenant shall bind all persons who claim under the registered proprietors as stipulated in section 88E(5) of the Act.

For the purposes of this covenant:

Structure and Works shall mean the on-site stormwater detention system constructed on the land detailed on the plans approved by Council No. 2000/5174 including all gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to temporarily detain stormwater on the land.

The Act means the Conveyancing Act 1919.

**Name of authority empowered to release vary or modify restriction on use firstly and positive covenant secondly referred to in the abovementioned plan:**

Warringah Council

Date:



# SP68946

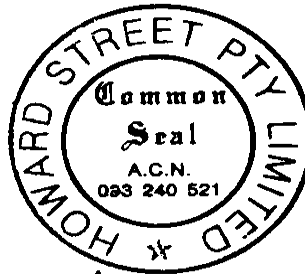
**Instrument setting out terms of Easements or Profits à Prendre intended to be created or released and of Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to Section 88B, Conveyancing Act, 1919.**

Lengths are in metres

(Sheet 4 of 4 sheets)

For and on behalf of Howard Street Pty Limited:

*Mike Norckovici*  
Director



*[Signature]*  
Secretary

For and on behalf of the Mortgagee:

Mortgagee under Mortgage No. 8236886  
Signed at Sydney this 15<sup>th</sup> day of  
October 2002 for National  
Australia Bank Limited ABN 12 004 044 937  
by Fiona Mary FERGUSON its duly  
appointed Attorney under Power of Attorney  
No. 549 Book 3334

*[Signature]*  
Manager

*[Signature]*  
Witness/Bank Officer **Kylie GRIFFITH**  
255 George Street, Sydney NSW

**REGISTERED**



**24.10.2002**

MEMORANDUM OF TRANSFER.  
(REAL PROPERTY ACT, 1900.)

A863774V

WILLIAM BRAMWELL BOOTH of London in  
General of the Salvation Army

15 5 22  
NEW SOUTH WALES

(herein called transferror)  
being registered as the proprietor of an estate in fee simple in the land hereinafter described,  
subject, however, to such encumbrances, liens and interests as are notified hereunder in  
consideration of FIFTY POUNDS

(£50.0.0) (the receipt whereof is hereby acknowledged) paid to me by  
FANNY HAWORTH of Sydney the wife of Walter Haworth of Sydney Salvation  
Army Officer AND IN CONSIDERATION of the sum of ONE HUNDRED and FIVE POUNDS  
paid to the said FANNY HAWORTH by William James Watt of Dee Why Builder  
and Horace Flint Hayman of Dee Why Builder (the receipt of which respective  
sums is hereby acknowledged) do hereby at the request and by the direction of  
the said Fanny Haworth testified by her joining in (herein called transferee)  
and executing these presents TRANSFER to the said William James Watt and  
do hereby transfer to the transferee and Horace Flint Hayman as tenants in common  
ALL such my Estate and Interest in ALL THE land mentioned in the schedule following:—

(c)	County.	Parish.	State if Whole or Part.	Vol.	Fol.
	Cumberland	Manly Cove Shire of Warringah	Part of the land comprised in Certificate of Title dated 27th August 1931 Volume 2903 Folio 238 being Lot 16 of Section 16 as shown on Deposited Plan Number 8172	2903 3111	238 141

And the transferee covenants with the transferror (AND the said William James Watt and  
Horace Flint Hayman for themselves their heirs executors administrators  
transferees and assigns and so as to bind not only themselves but the  
registered proprietors for the time being of the land hereby transferred do  
hereby covenant with the said William Bramwell Booth his heirs executors and  
administrators that they will not sell or permit to be sold or connive at or  
be a party to the sale of any wines beers ales spirits or any other intoxicat-  
ing liquor of any kind whatsoever on the land hereby transferred or any part  
of the land comprised in the said deposited Plan Number 8172 And further that  
they will not carry on or permit to be carried on upon the land hereby trans-  
ferred or any part of the land comprised in the said Deposited Plan any noxious  
noisome or offensive trade occupation or business. The land to which this  
covenant is intended to be appurtenant is the residue of the land comprised in  
the said Deposited Plan and the land which is to be subject to the burden  
hereof is the land hereby transferred and the person by whom and with whose  
consent this covenant may be released varied or modified is the abovenamed  
William Bramwell Booth his heirs executors or administrators or Attorney or  
other the General for the time being of the Salvation Army his heirs executors  
or administrators or Attorney

ENCUMBRANCES, &c., REFERRED TO:

nil

Signed at Sydney the ninth day of March 1922.

Signed in my presence by the transferror  
by Hugh Edward Whatmore (as the duly Constituted Attorney  
of the said William Bramwell Booth)  
WHO IS PERSONALLY KNOWN TO ME.

Hugh Edward Whatmore  
Transferror's Attorney

Signed in my presence by the  
said FANNY HAWORTH who is  
personally known to me

Fanny Haworth

Signed in my presence by the transferee  
WHO IS PERSONALLY KNOWN TO ME

Accepted, and I hereby certify this Transfer to be correct  
for the purposes of the Real Property Act.

Walter Haworth  
Solicitor for Transferee.

mortgagee under Mortgage No.

release and discharge the land comprised in the within transfer from such mortgage and all claims thereunder but without prejudice to my rights and remedies as regards the balance of the land comprised in such mortgage.

Dated at this day of 192

Mortgagee.

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

A 863774

### MEMORANDUM AS TO NON-REVOCATION OF POWER OF ATTORNEY.

(To be signed at the time of executing the within instrument.)

Memorandum whereby the undersigned states that he has no notice of the revocation of the Power of Attorney registered No. 1080 Miscellaneous Register under the authority of which he has just executed the within transfer.

h Strike out unnecessary words. Adjoin any matter necessary to show that the power is effective.

Signed at Sydney the Sixth day of June 1922.  
Signed at the place and on the date above mentioned, in the presence of  
Jno P. Kemp

### FORM OF DECLARATION BY ATTESTING WITNESS.

Appeared before me at the day of one thousand nine hundred and twenty the attesting witness to this instrument, and declared that he personally knew the person signing the same, and whose signature thereto he has attested; and that the name purporting to be such signature of the said is own handwriting, and that he was of sound mind and freely and voluntarily signed the same.

i May be made before either Registrar-General, Deputy Registrar-General, Notary Public, J.P. or Commissioner for Affidavits. Not required if the instrument itself is made or acknowledged before one of these parties.

### MEMORANDUM OF TRANSFER of

Acres roads perches.  
Lot 16 Sec 16 D.P. 8172  
at Dee Why  
Shire Warringah  
Municipality  
Parish Tranby Gore County Cumberland  
Subject to Covenant  
William James Watt & Horace Flint Hayman Transferrees.  
As Tenants in Common

### LODGED BY

N. L. R. Chippin,  
Solicitor,  
117 Pitt Street Sydney.

Particulars entered in Register Book, Vol. Fol.  
311 141

### DOCUMENTS LODGED HEREWITH.

To be filled in by person lodging dealing.

Nature.	No.	Reg'd Propr., M't'gor, etc.

the 23<sup>rd</sup> day of October 1922  
at minutes 11 o'clock in the afternoon

Registrar

### PROGRESS RECORD.

	Initials	Date
Sent to Survey Branch ...	CVS	9/10/12
Received from Records	9 OCT	10/10/12
Draft written	CVS	10/10/12
Draft examined	CVS	13/10/12
Diagram prepared	CVS	16/10/12
Diagram examined	CVS	18/10/12
Draft forwarded	CVS	19/10/12
Supt. of Engrossers	25 OCT	1922
Cancellation Clerk		
VOL. 3380	FOL. 5	
Diagram Fees		
Additional Folios		

If the parties be resident without the State, but in any other part of the British Dominions the instrument must be signed or acknowledged before the Registrar-General or Recorder of Title of such Possession, or before any Judge, Notary Public, Justice of the Peace for New South Wales or Commissioner for taking affidavits for New South Wales, or the Mayor or Chief Officer of any municipal or local government corporation of such part, or the Governor, Government Resident or Chief Secretary of such part or such other person as the Chief Justice of New South Wales may appoint.

If resident in the United Kingdom then Before the Mayor or Chief Officer of any corporation or a Notary Public.

If resident at any foreign place, then the parties should sign or acknowledge before a British Minister, Ambassador, Envoy, Minister Chargé d'Affaires, Secretary of the Embassy or Legation Consul-General, Consul, Vice-Consul, Acting Consul, Pro-consul or Consular Agent, who should affix his seal of office, or the attesting witness may make a declaration of the due execution thereof before one of such persons (who should sign and affix his seal to such declaration), or such other person as the said Chief Justice may appoint.

The fees are:—Registration fee 12/6 for endorsement on first certificate, and 2/6 for each additional certificate included in the Transfer, and 1/1 5s. for every new Certificate of Title issued. Additional Certificate fees, however, may be necessary in cases involving more than a simple diagram or more than six folios of engrossing.

Tenants in common must receive separate Certificates.

If part only of the land is transferred a new Certificate must issue, but the old Certificate may remain in the Office or the Transferrer may take out a new Certificate for the residue.

Form: 15CH  
Release: 2-1

## CONSOLIDATION/ CHANGE OF BY-LAWS

## New South Wales

## Strata Schemes Management Act 2015

## Real Property Act 1900

AN674131U

**PRIVACY NOTE:** Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

**(A) TORRENS TITLE**

For the common property  
CP/SP68946

**(B) LODGED BY**

Document  
Collection  
Box

1W

Name, Address or DX, Telephone, and Customer Account Number if any  
FRESH STRATA PTY LTD  
SUITE 3/529 PITTSWATER ROAD, BROOKVALE NSW 2100  
PHONE: (02) 9939 8061

**Reference:**

**CODE**

# СН

- (C) The Owners-Strata Plan No. 68946 certify that a special resolution was passed on 20/3/2018
- (D) pursuant to the requirements of section 141 of the Strata Schemes Management Act 2015, by which the by-laws were changed as follows—
- (E) Repealed by-law No. NOT APPLICABLE  
Added by-law No. BY-LAWS 1-23  
Amended by-law No. NOT APPLICABLE  
as fully set out below:
- ATTENTION IS DIRECTED TO THE ADOPTION OF BY-LAWS 1-22. SEE ANNEXURE "A" ATTACHED HERETO

- (F) A consolidated list of by-laws affecting the above mentioned strata scheme and incorporating the change referred to at Note (E) is annexed hereto and marked as Annexure "A"
- (G) The seal of The Owners-Strata Plan No. 68946 was affixed on 1/8/2018 in the presence of the following person(s) authorised by section 273 Strata Schemes Management Act 2015 to attest the affixing of the seal:

**Signature:**

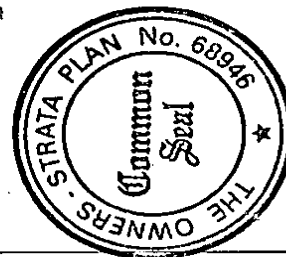
Name: LANA FISHER

**Authority:** STRATA MANAGER

**Signature:**

Name: \_\_\_\_\_

**Authority:**



D394384



## **ANNEXURE "A"**

### **STRATA PLAN NO 68946**

**Address: 29 Howard Avenue, Dee Why**

#### **By-Laws**

#### **Contents**

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<b>By-Law 3: Damage to lawns and plants on common property</b> .....	<b>2</b>
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## **BY-LAWS SP 68946**

### **By-Law 1: Vehicles**

An owner or occupier of a lot must not park or stand any motor or other vehicle on common property, or permit a motor vehicle to be parked or stood on common property, except with the prior written approval of the owners corporation or as permitted by a sign authorised by the owners corporation. No unapproved rental of garages/ car spaces are permitted, fines of up to \$250.00 may apply.

### **By-Law 2: Changes to common property:**

1. An owner or person authorised by an owner may install, without the consent of the owners corporation:
  - a. any locking or other safety device for protection of the owner's lot against intruders or to improve safety within the owner's lot, or
  - b. any screen or other device to prevent entry of animals or insects on the lot, or
  - c. any structure or device to prevent harm to children.
2. Any such locking or safety device, screen, other device or structure must be installed in a competent and proper manner and must have an appearance, after it has been installed, in keeping with the appearance of the rest of the building.
3. Clause (1) does not apply to the installation of anything that is likely to affect the operation of fire safety devices in the lot or to reduce the level of safety in the lots or common property.
4. Screens (eg. bamboo) or awnings on balconies must be approved by the strata committee.
5. The owner of a lot must:
  - a. maintain and keep in a state of good and serviceable repair any installation or structure referred to in clause (1) that forms part of the common property and that services the lot, and
  - b. repair any damage caused to any part of the common property by the installation or removal of any locking or safety device, screen, other device or structure referred to in clause (1) that forms part of the common property and that services the lot.

### **By-Law 3: Damage to lawns and plants on common property**

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

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

## **By-Law 4: Obstruction of common property**

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

## **By-Law 5: Keeping of animals**

1. An owner or occupier of a lot may keep an animal on the lot or the common property with the written approval of the owners corporation.
2. The owners corporation must not unreasonably withhold its approval of the keeping of an animal on a lot or the common property and must give an owner or occupier written reasons for any refusal to grant approval.
3. If an owner or occupier of a lot keeps an animal on the lot, the owner or occupier must:
  - a. keep the animal within the lot, and
  - b. supervise the animal when it is on the common property, and
  - c. take any action that is necessary to clean all areas of the lot or the common property that are soiled by the animal.
  - d. Generally keep under control and ensure no exercise noise (barking etc)
4. An owner or occupier of a lot who keeps an assistance animal on the lot must, if required to do so by the owners corporation, provide evidence to the owners corporation demonstrating that the animal is an assistance animal as referred to in section 9 of the Disability Discrimination Act 1992 of the Commonwealth.

## **By-Law 6: Noise**

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

## **By-Law 7: Behaviour of owners, occupiers and invitees**

1. An owner or occupier of a lot, or any invitee of an owner or occupier of a lot, when on common property must be adequately clothed and must not use language or behave in a manner likely to cause offence or embarrassment to the owner or occupier of another lot or to any person lawfully using common property.
2. An owner or occupier of a lot must take all reasonable steps to ensure that invitees of the owner or occupier:

- a. do not behave in a manner likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or any person lawfully using common property, and
- b. without limiting paragraph (a), that invitees comply with clause (1).
- c. owner liable for damage to common property caused by the owner, agents, licensees or invitees.

### **By-Law 8: Smoke penetration**

1. An owner or occupier, and any invitee of the owner or occupier, must not smoke tobacco or any other substance on the common property.
2. An owner or occupier of a lot must ensure that smoke caused by the smoking of tobacco or any other substance by the owner or occupier, or any invitee of the owner or occupier, on the lot does not penetrate to the common property or any other lot.

### **By-Law 9: Preservation of fire safety**

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

### **By-Law 10: Storage of inflammable liquids and other substances and materials**

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

### **By-Law 11: Appearance of lot**

1. The owner or occupier of a lot must not, without the prior written approval of the owners corporation, maintain within the lot anything visible from outside the lot that, viewed from outside the lot, is not in keeping with the rest of the building.
2. This by-law does not apply to the hanging of any clothing, towel, bedding or other article of a similar type in accordance with by-law 14.

## **By-Law 12: Cleaning windows and doors**

1. Except in the circumstances referred to in clause (2), an owner or occupier of a lot is responsible for cleaning all interior and exterior surfaces of glass in windows and doors on the boundary of the lot, including so much as is common property.
2. The owners corporation is responsible for cleaning regularly all exterior surfaces of glass in windows and doors that cannot be accessed by the owner or occupier of the lot safely or at all.

## **By-Law 13: Hanging out of washing**

1. An owner or occupier of a lot may hang washing on any part of the lot other than over the balcony railings. The washing may only be hung for a reasonable period.
2. In this by-law: washing includes any clothing, towel, bedding or other article of a similar type.

## **By-Law 14: Disposal of waste-shared bins**

1. An owner or occupier of a lot must not deposit or throw on the common property any rubbish, dirt, dust or other material or discarded item except with the prior written approval of the owners corporation.
2. An owner or occupier of a lot must not deposit in a toilet, or otherwise introduce or attempt to introduce into the plumbing system, any item that is not appropriate for any such disposal (for example, a disposable nappy).
3. An owner or occupier must:
  - a. comply with all reasonable directions given by the owners corporation as to the disposal and storage of waste (including the cleaning up of spilled waste) on common property, and
  - b. comply with the local council's guidelines for the storage, handling, collection and disposal of waste.
4. The owners corporation may give directions for the purposes of this by-law by posting signs on the common property with instructions on the handling of waste that are consistent with the local council's requirements or giving notices in writing to owners or occupiers of lots.
5. In this by-law:

“bin” includes any receptacle for waste.

“waste” includes garbage and recyclable material.

## **By-Law 15: Change of use in lot to be notified**

1. An occupier of a lot must notify the owners corporation if the occupier changes the existing use of the lot.

2. Without limiting clause (1), the following changes of use must be notified:
  - a. a change that may affect the insurance premiums for the strata scheme (for example, if the change of use results in a hazardous activity being carried out on the lot, or results in the lot being used for commercial or industrial purposes rather than residential purposes),
  - b. a change to the use of a lot for short-term or holiday letting.
3. The notice must be given in writing at least 21 days before the change occurs or a lease or sublease commences.

## **By-Law 16: Compliance with planning and other requirements**

1. The owner or occupier of a lot must ensure that the lot is not used for any purpose that is prohibited by law.
2. The owner or occupier of a lot must ensure that the lot is not occupied by more persons than are allowed by law to occupy the lot.

## **By-Law 17: Moving Furniture**

An owner or occupier of a lot must not transport any furniture or large objects to and from the lot through common property or within the building unless sufficient notice has first been given to the owners corporation to arrange access and notify tenants.

The owner of a lot in which this activity occurs indemnities the owners corporation against any loss or damage caused by such actions.

## **By-Law 18: Use of Car Spaces**

An owner or occupier of a lot must not use or permit the use of a car space/garage for other than the purpose of parking a motor or other vehicles registered under the Roads Act (as amended) and the vehicle must be kept wholly within the boundary of the car space/garage.

An owner or occupier must not store any item within a car space/garage other than a motor or other vehicle registered under the Roads Act (as amended) unless those items are placed within a storage cabinet or neatly stored within the boundaries of the parking lot or on shelving approved by the strata committee from time to time.

## **By-Law 19: Previous Approvals**

An owner or occupier of a lot who obtained an approval from the owners corporation or strata committee under any former by-law is taken to be an approval under the corresponding current by-law (including

any conditions) and where no such by-law exists the former by-law (and approval) is revived for the purpose of the approval (including any conditions placed upon that approval).

## **By-Law 20: Major and minor works approval programme**

Note: Any "optional" provisions contained within by-law 20 at registration shall be considered to form part of by-law 20, unless there are owners corporation minutes which show that the optional provisions ought to have been deleted prior to registration.

### **PART 1 - PREAMBLE**

1.1 The purpose of this by-law is to:

- (a) Provide a programme for the seeking of approval from the Owners Corporation to the carrying out of Works to a Lot and to regulate the maintenance, repair and replacement of those Works.
- (b) Delegate to the Strata Committee the power to approve Minor Works applications.

### **DEFINITIONS & INTERPRETATION**

#### **2.1 Definitions**

In this by-law, unless the context otherwise requires:

- (a) **Act** means the *Strata Schemes Management Act 2015*.
- (b) **Approved Form** means the form attached at **Annexure "A – Building Works Application Form"** or as the strata committee may otherwise approve from time to time.
- (c) **Australian Standards** means the standards, codes and regulations which govern building and construction work from time to time as relevant and applicable to the particular works being carried out by the Owner.
- (d) **Authority** means any government, semi-government, statutory, judicial, quasi-judicial, public or other authority having any jurisdiction over the Lot or the Building including but limited to the local council, a court or a tribunal.
- (e) **Bond** means the amount of \$1,000.00 or an amount determined by the strata committee payable to the Owners Corporation. The strata committee shall notify the Owner as to the amount payable prior to the Owner commencing works. The Bond may be in the form of a bank guarantee.
- (f) **Building** means the building situated at **29 Howard Avenue, Dee Why**
- (g) **Building Manager** means the building manager engaged by the Owners Corporation from time to time.
- (h) **Cosmetic Works** means cosmetic works as defined from time to time in the Act and the Regulations.
- (i) **Essential Works** means any essential maintenance, repair, replacement, upgrading or emergency works that the Owners Corporation is required to do under the Act or any other law to any part of common property structure or services including within a lot.
- (j) **Insurance** means:

- (i) contractors all risk insurance (including public liability insurance) in the sum of \$20,000,000.00;
  - (ii) insurance required under the *Home Building Act 1989* (if any); and
  - (iii) workers' compensation insurance.
- (k) **Lot** means any lot in strata plan number **68946**.
- (l) **Major Works** means works that are not Minor Works or Cosmetic Works, and include:
- (i) work involving structural changes;
  - (ii) work requiring penetration to or removal of common property floors, walls and ceilings;
  - (iii) work that changes the external appearance of a lot, including the installation of an external access ramp;
  - (iv) work involving waterproofing; and
  - (v) any other item prescribed by the Regulations pursuant to sections 109(2)(h) or 110(7)(g) of the Act not to be Cosmetic Works or Minor Works.
- (m) **Minor Works** means works as defined from time to time in the Act and the Regulations including but not limited to:
- (i) renovating a kitchen;
  - (ii) changing recessed light fittings;
  - (iii) installing or replacing wood or other hard floors;
  - (iv) installing or replacing wiring or cabling or power or access points;
  - (v) work involving reconfiguring of internal walls;
  - (vi) installing security or alarm system;
  - (vii) installing a reverse cycle split system air-conditioner; and
  - (viii) replacing bathroom fixings and fittings (i.e. tap-ware, basin, toilet) where tiles or plumbing connections are not affected.
- (n) **Owner** means the owner(s) of the Lot(s).
- (o) **Owners Corporation** means the owners corporation constituted upon the registration of Strata Plan No 68946.
- (p) **Regulations** means the *Strata Schemes Management Regulations 2016*.
- (q) **Works** means Minor Works and Major Works.

## 2.2 Interpretation

### 2.2.1 In this by-law, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;



- (b) any gender includes the other genders;
- (c) any terms in the by-law will have the same meaning as those defined in the Act;
- (d) a reference to the Owners Corporation includes the building manager, strata managing agent, any member of the strata committee or any person authorised by the Owners Corporation from time to time;
- (e) references to legislation include references to amending and replacing legislation;
- (f) a reference to the Owner includes any of the Owner's executors, administrators, successors, permitted assigns or transferees; and
- (g) to the extent of any inconsistency between the by-laws applicable to Strata Plan No 68946 and this by-law, the provisions of this by-law shall prevail.

2.2.2 Despite anything contained in this by-law, if any provision or part of a provision in this by-law whether held or found to be void, invalid, or otherwise unenforceable, it shall be deemed to be severed from this by-law (or that provision) to the extent that it is void or invalid or unenforceable but the remainder of this by-law and the relevant provision shall remain in full force and effect.

### **PART 3 - CONDITIONS**

#### **3.1 Cosmetic Works**

- (a) The Owners Corporation may add to the definition of Cosmetic Works from time-to-time by circulation of written notification to all Owners.
- (b) An Owner may carry out Cosmetic Works to their lot without consent of the Owners Corporation.

#### **3.2 Before Commencement of Works**

- (a) Prior to commencement of any Works, an Owner must submit to the strata committee:
  - (i) a duly completed Approved Form;
  - (ii) detailed specifications as to the works to be undertaken and the duration of any impact on the common property or disruption to common property services or access; and
  - (iii) Copies of any Insurance policies as relevant to the Works, if required.
- (b) Upon receipt of the Approved Form, the strata committee shall determine, at its absolute discretion, whether the Works to be carried out are Minor Works or Major Works. In order to make such determination, the strata committee may request the Owner to provide additional details of the Works, including plans, specifications and engineer's reports or certifications.
- (c) On making the determination, the strata committee shall inform the Owner, in writing, of that determination.

##### **3.2.1 Minor Works**

- (a) If the strata committee determines that the works are Minor Works, the strata committee may approve the Minor Works application.
- (b) If the Minor Works are approved by the strata committee, the Owner may carry out the Minor Works without further consent of the Owners Corporation.

- (c) The Owners Corporation or strata committee may impose further conditions in addition to those provided for by this by-law with respect to the carrying out of the Works and, if such conditions are imposed, it shall inform the Owner in writing of those conditions.

### 3.2.2 Major Works

- (a) If the strata committee determines that works to be carried out are Major Works, the Owner must lodge the Bond (if the Bond has not been lodged with the Approved Form) within fourteen (14) days from the date of notification by the strata committee.
  - (b) Before commencement of any Major Works, the Owner must:
    - (i) provide a complete proposal concerning the Major Works including but not limited to:
      - (I) plans and specifications of the proposed works;
      - (II) specifications for any sound or energy rating, type, size together with the manufacturer's or suppliers brochure regarding same;
      - (III) a diagram depicting the location of or proposed installation points of all parts of the works;
      - (IV) engineering plans and certifications if requested by the Owners Corporation;
      - (V) any necessary approvals/consents/permits from any Authority; and
      - (VI) a report(s) from an engineer nominated by the Owners Corporation concerning the impact of the works on the structural integrity of the Building and Lot and common property (if required);
    - (ii) prepare and provide to the Owners Corporation:
      - (I) a new by-law (as per Annexure B) under the Act, to amend the definition of "Major Works", "Lot" and include a new definition of "Plans" to cover the specific scope of Major Works to be carried out and Part 1 to confer rights of exclusive use and enjoyment and special privilege; and
      - (II) the owner's written consent to:
        - 1. the passing of the by-law; and
        - 2. be responsible for the maintenance, repair and replacement of the Major Works,
      - (III) where required, written consent of other affected owners to the passing of the by-law;
- such by-law (marked **Annexure "B –Works"**) and form of consent (marked **Annexure "C – Consent"**) to be prepared substantially in the terms set out in **Annexures "A" and "B"** and to be considered at a general meeting of the Owners Corporation.
- (iii) pay for all costs of the Owners Corporation including:
    - (I) legal fees for reviewing the proposal;
    - (II) fees for convening any meeting to consider the proposal;

- (III) any other reasonable professional fees required to consider the proposal including strata management fees or engineering fees; and
- (IV) registration fees for the by-law contemplated in clause 3.2.2(b)(ii);
- (iv) a dilapidation report prepared by a structural engineer having reviewed the Major Works in relation to any area of the Building ( if required including any lot and common property) that may be affected by the Works. The dilapidation report shall be in writing and shall include photographs of the relevant areas; and
- (v) obtain written consent to the date for the commencement of the Works from the Owners Corporation upon satisfaction of its obligations in clause 3.2.2(b) above. For clarity, no Major Works may be commenced unless and until the by-law referred to in clause 3.2.2(b)(ii) is passed by special resolution at a duly convened general meeting of the Owners Corporation.
- (c) Upon receipt of a by-law under clause 3.2.2(b)(ii) the Owners Corporation will review the proposal and stipulate any relevant conditions to be contained in the common property rights by-law such conditions to include (but not be limited to) those set out in clauses (inclusive).

### 3.3 Specific Conditions – Reconfiguration

- (a) Unless prior written approval is granted by the Owners Corporation, the following conditions apply as relevant:
- (b) Where the Works include reconfiguration of walls the Owner must ensure:
  - (i) No reconfigurations alter or impinge on the structural integrity of the Building;
  - (ii) No walls are to be reconfigured so as to place a bedroom 4over a bathroom and vice versa;
  - (iii) Walls containing wet areas must not be reconfigured;
  - (iv) Walls must not be added to create new wet areas; and
  - (v) A report from an independent structural engineer agreed to between the Owner and the Owners Corporation must be provided certifying reconfiguration will have no structural impact and does not involve any load bearing walls.
- (c) Where Works involve the installation of a floor finish other than carpet:
  - (i) before commencement of Works, the Owner must provide to the Owners Corporation or strata committee a report from a qualified acoustic engineer that analyses the proposed floor finish, method of installation and the effect of sound transmission including impact noise following installation. The report must state that the proposed floor finish after installation to the Lot will comply with clause 3.3(c)(ii)(II) below;
  - (ii) the Owner must:
    - (I) ensure that all floor space within the Lot is covered or otherwise treated to an extent sufficient to prevent the transmission from the floor space of noise likely to disturb the peaceful enjoyment of an Owner or occupier of another Lot;
    - (II) ensure that the flooring is insulated with soundproofing underlay as specified by the Owners Corporation from time to time and shall not have a weighted standardised impact sound pressure level L'nT, w exceeding 40 when measured in situ in

accordance with Australian Standard "AS ISO 140.7-2006 Field measurements of impact sound insulation of floors" and rated to AS ISO 717.2-2004" Acoustics – Rating of sound insulation in buildings and of building elements. Part 2: Impact sound insulation;

- (iii) following the installation of a floor finish other than carpet in a Lot, if there are any complaints about noise transmission through or from the floor of the Lot (whether vertically or horizontally) the Owners Corporation or strata committee may require, and if it does so, the Owner must provide the Owners Corporation or strata committee with a certificate from a qualified acoustic engineer acceptable to the Owners Corporation or strata committee. The certificate must state that the qualified acoustic engineer has tested the floor finish as installed to ensure that the installation and the resulting sound transmission meet the parameters set out in this by-law including those in the report required under clause 3.3(b)(v);
- (d) Where the Works involve alteration, replacement, addition or removal of ceiling insulation such works must:
  - (i) not be commenced without prior written approval from the Owners Corporation or strata committee; and
  - (ii) be carried out in a tradesmanlike and professional manner and comply with fire safety standards.
- (e) Where the Works involve the installation of air-conditioning units, the Works must:
  - (i) have a new condenser unit (external) that:
    - (I) is mounted on vibration pads in a location so to minimise noise and vibration;
    - (II) is installed unobtrusively on the location as approved by the Owners Corporation or strata committee in writing); and
    - (III) is not visible from the street. All electrical and coolant lines must be concealed as much as possible;
  - (ii) not be installed through or attached to windows or brick walls;
  - (iii) be manufactured, designed and installed to specifications for commercial/domestic use; and
  - (iv) have any condensation and run-off from the Lot drained through existing drains or downpipes.
- (f) Owners must ensure that in carrying out Cosmetic Works and Works to the Lot:
  - (i) access panels are not blocked;
  - (ii) exhaust fans do not penetrate into the ceiling;
  - (iii) hot water service overflow pipes do not penetrate external walls but are plumbed into internal pipes in accordance with Australian Standards.

## 2.4 Notice

- (a) At least two (2) weeks prior to the commencement of the Works the Owner shall notify the Owners Corporation and each owner (by way of letterbox drop) of the proposed day of commencement of the Works or an aspect of the Works.
- (b) At least two (2) days prior to the commencement of the Works or an aspect of the Works the Owner shall make arrangements with the building manager regarding:
  - (i) the suitable times and method for the Owner's contractors to access the Building to undertake the Works; and
  - (ii) the suitable times and method for contractors to park their vehicles on common property whilst the Works are being conducted.

### **3.5 Compliant Works**

To be compliant under this by-law, Works:

- (a) must be in keeping with the appearance and amenity of the Building in the opinion of the Owners Corporation;
- (b) must be manufactured, designed and installed to specifications for domestic use;
- (c) must be in accordance with Australian Standards and the Building Code of Australia;
- (d) for fire detectors, any alterations, connections or disconnection to the fire detectors are to be detailed. If approved, the changes shall be certified by the fire certification controller appointed by the Owners Corporation;
- (e) must be in keeping with fire safety standards.

### **3.6 During construction**

Whilst the Works are in progress the Owner of the Lot at the relevant time must:

- (a) use duly licensed employees, contractors or agents to conduct the Works;
- (b) ensure the Works are conducted with due care and skill and comply with the current Building Code of Australia and Australian Standards;
- (c) ensure the Works are carried out expeditiously and with a minimum of disruption;
- (d) carry out the Works between the hours of 7:30 AM and 5:00 PM Monday-Friday and from 8.00 AM to 12.00 PM Saturday or such other times reasonably approved by the strata committee. No Works are to be carried out on a Sunday or public holiday unless they are silent works (e.g. painting);
- (e) transport all construction materials, equipment and debris as reasonably directed by the Owners Corporation and keep all areas of the Building outside the Lot clean and tidy;
- (f) not allow tradespersons and contractors at any time to park on common property without the written consent of the Owners Corporation;
- (g) not dispose of rubbish and waste material in common property waste bins or skips except with the prior written consent of the Owners Corporation;

- (h) not allow waste bins or skips to be placed on or near the common property without the prior written consent of the Owners Corporation;
- (i) not cause or permit storage, mixing, preparation, cutting or any other work in connection with the Works to be conducted on the common property;
- (j) protect all affected areas of the Building outside the Lot from damage relating to the Works or the transportation of construction materials, equipment and debris;
- (k) provide to the strata committee at least forty-eight (48) hours prior written notice of any noisy works (e.g., jackhammering, the use of any pneumatic, rotary or powder-actuated tools) such works which may only be carried out between the hours of 9:00 AM and 12:00 PM or 1:00 PM to 4:00 PM Monday-Tuesday or such other times reasonably approved by the Owners Corporation;
- (l) ensure that the Works do not interfere with or damage the common property or the property of any other owner other than as approved in this by-law and if this occurs the Owner must rectify that interference or damage within a reasonable period of time;
- (m) provide the Owners Corporation's nominated representative(s) access to inspect the Lot within forty-eight (48) hours of any request from the Owners Corporation (for clarity more than one inspection may be required);
- (n) observe all the other by-laws applicable to the strata scheme at all times; and
- (o) not vary the Works or their scope without first obtaining the consent in writing from the Owners Corporation.

### **3.7 After construction**

#### **3.7.1 After the Works have been completed the Owner must without unreasonable delay:**

- (a) notify the Owners Corporation that the Works have been completed;
- (b) notify the Owners Corporation that all damage, if any, to lot and common property caused by the Works and not permitted by this by-law has been rectified;
- (c) provide the Owners Corporation with a copy of any certificate or certification required by an Authority to indicate completion of the Works;
- (d) provide (if required) the Owners Corporation with certification from a suitably qualified engineer(s) approved by the Owners Corporation that the Major Works or works required to rectify any damage to lot or common property have been completed in accordance with the terms of this by-law;
- (e) provide (if required) the Owners Corporation with certification from a suitably qualified engineer(s) approved by the Owners Corporation that the Works have been completed satisfactorily and in accordance with this by-law; and
- (f) provide the Owners Corporation's nominated representative(s) access to inspect the Lot within forty-eight (48) hours of any request from the Owners Corporation to check compliance with this by-law or any consents provided under this by-law.

#### **3.7.2 The Owners Corporation's right to access the Lot arising under this by-law expires once it is reasonably satisfied that clauses 3.7.1(a)-(f) immediately above have been complied with.**

- 3.7.3 Upon satisfaction of clause 3.7.1 the Owners Corporation will refund the Bond to the Owner less any costs incurred by the Owners Corporation for or in connection with the carrying out of the Works or breach of this by-law.

### **3.8 Statutory and other requirements**

(a) The Owner must:

- (i) comply with all requirements of the Owners Corporation, the by-laws applicable to the strata scheme and all directions, orders and requirements of all relevant statutory authorities, including the local council relating to the Works;
- (ii) ensure that the respective servants, agents and contractors of the Owner comply with the said directions, orders and requirements;
- (iii) ensure that the warranties provided by the Building Code of Australia and Australian Standards are, so far as relevant, complied with; and
- (iv) comply with the provisions of the *Home Building Act 1989*.

(b) The Works must:

- (i) be carried out with due care and skill and in accordance with the plans and specifications set out in the contract;
- (ii) comprise materials that are good and suitable for the purpose for which they are used and must be new.

### **3.9 Enduring rights and obligations**

3.9.1 An Owner must:

- (a) properly maintain, replace and keep in good and serviceable repair any Works installed by them;
- (b) properly maintain and upkeep those parts of the common property in contact with the Works;
- (c) repair and/or reinstate the common property or personal property of the Owners Corporation to its original condition if the Works are removed or relocated;
- (d) ensure that the Works (where applicable) do not cause water escape or water penetration to lot or common property;
- (e) ensure that any electricity or other services required to operate the Works (where applicable) are installed so they are connected to the Lot's electricity or appropriate supply;
- (f) indemnify and keep indemnified the Owners Corporation against any costs or losses arising out of the installation, use, repair, replacement or removal of any Works including any liability in respect of the property of the Owner; and
- (g) without derogating from the generality of clause (f) above, indemnifies and shall keep indemnified the Owners Corporation against any loss, damage to or destruction of the Works caused howsoever by the Owners Corporation, its officers, employees, contractors or agents carrying out any Essential Works where those costs would not have been incurred other than where the Owner or occupier is in breach of clause 3.11.

- 3.9.2 If the dilapidation report referred to in 3.2.2(b)(iv) of this by-law is obtained, the Owner and the Owners Corporation acknowledge and agree that shall be the basis for ascertaining and determining whether any damage has been occasioned by the Works to the common property and any lot.

### **3.10 Recovery of costs**

If an Owner fails to comply with any obligation under this by-law, the Owners Corporation may:

- (a) by its agents, employees and contractors, enter upon the Lot and carry out all work necessary to perform that obligation;
- (b) apply the Bond towards the costs incurred by the Owners Corporation to carry out that work;
- (c) recover from the Owner the amount of any fine or fee which may be charged to the Owners Corporation; and
- (d) recover any costs from the Owner as a debt due.

### **3.11 Essential Works**

No Owner or occupier shall refuse or restrict the Owners Corporation's (or its officers, employees, contractors or agents) lawful entry, or access to all or any part of the Works to carry out Essential Works to the common property (at the cost of the Owners Corporation) which may be attached to, in, under or about the Works including the common property structures or services provided that the Owners Corporation shall give prior notice to the owner or occupier (emergencies excepted).

### **3.12 Applicability**

In the event that the owner desires to remove the Works installed under this by-law (or otherwise), the provisions of Part 3 shall also apply in relation to that removal.



**Annexure "A – Building Works Application Form"**

**STRATA PLAN NO 68946**

**BUILDING WORKS APPLICATION FORM**

Use this form if you wish to undertake building works or renovations within your apartment. This form is to be construed according to the conditions outlined in the BY-LAW NO. 20 FOR MAJOR AND MINOR WORK APPROVAL PROGRAMME. Please ensure you have read and understood the document before completing this form. No work may commence until your application is approved by the Strata committee, or in the case of building works affecting common property, an appropriate by-law has been made and registered.

**OWNERS NAME** \_\_\_\_\_ **UNIT/LOT NUMBER** \_\_\_\_\_

**CONTACT TELEPHONE** (list all).....

**EMAIL** .....

**LOCATION:**    ☐ KITCHEN        ☐ BATHROOM    ☐ TOILET    ☐ HALLWAY  
                 ☐ LIVING ROOM ☐ BEDROOM    ☐ OTHER.....

**WORK**

**INVOLVES:**    ☐ PAINTING        ☐ TILING        ☐ FLOOR SURFACES    ☐ ELECTRICAL  
                 ☐ CEILING        ☐ AIRDUCTS    ☐ FIRE SPRINKLERS  
                 ☐ PLUMBING       ☐ MASONRY     ☐ WALL REMOVAL/PENETRATION  
                 ☐ COMMON PROPERTY ALTERATION    ☐ OTHER .....

**PREFERRED DATE OF WORKS**    STARTING...../...../.....    ENDING...../...../.....

**PLEASE ATTACH**    ☐ DETAILED DESCRIPTION OF INTENDED WORKS

AND EITHER:    ☐ PLAN BY ARCHITECT (if available)

OR:    ☐ ROUGH PLAN / DIAGRAM (provided by owner)

☐ **BOND DEPOSIT:** Please check with your strata committee as to the amount payable as bond and record those details here: Amount: \$ \_\_\_\_\_ Date Paid: \_\_\_\_\_ Strata Committee acknowledge receipt: \_\_\_\_ (SC initial)

☐ **DEVELOPMENT APPLICATION**

I the undersigned hereby warrant that I have read the By-Law No. 20 for major and minor work approval programme and agree to comply with all of the conditions and limitations imposed thereby.

**OWNERS SIGNATURE:** ..... **DATE:**.....

**ADDITIONAL WARRANTIES (IF APPLICABLE)**

**STRUCTURAL** **ALTERATIONS:**  
As the work applied for entails the removal and/or penetration of masonry within the apartment, I hereby warrant that I accept full responsibility for the upkeep and preservation of the altered masonry.

**OWNERS SIGNATURE:** ..... **DATE:**.....

**CEILING** **ALTERATIONS:**  
**CAVITY**  
As the work applied for entails the alteration of one or more ceiling cavities in the apartment, I hereby warrant that I accept full responsibility for any loss of acoustic amenity caused by the alteration.

**OWNERS SIGNATURE:** ..... **DATE:**.....

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## Annexure "B –WORKS"

### MOTION < >

Subject to the by-law in the next succeeding motion being approved, The Owners – Strata Plan No [NUMBER] SPECIALLY RESOLVES pursuant to section 108 of the *Strata Schemes Management Act 2015* for the purpose of improving or enhancing the common property to specifically authorise the Works proposed by the owner of lot < > to the common property on the terms and in the manner as set out in the by-law.

### MOTION < >

Subject to the preceding motion being approved, The Owners – Strata Plan No [NUMBER] SPECIALLY RESOLVES pursuant to sections 141 and 143 of the *Strata Schemes Management Act 2015* to make a by-law adding to the by-laws applicable to the strata scheme in the following terms:

### SPECIAL BY-LAW NO < >

Lot < > Works

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#### PART 1

##### GRANT OF RIGHT

- 1.1 Notwithstanding anything contained in any by-law applicable to the strata scheme, the Owner has the special privilege to carry out the Major Works (at the Owner's cost and to remain the Owner's fixture) and the right of exclusive use and enjoyment of those parts of the common property attached to or occupied by the Works, subject to the terms and conditions contained in this by-law.

#### PART 2

##### APPLICATION OF SPECIAL BY-LAW

- 2.1 The provisions of Parts 2 and 3.2-3.12 (inclusive) of Special By-law No. < > are adopted for the purposes of this by-law with the exception of the insertion of the definition of "Plans" and the amendment of the definition of "Major Works" and "Lot" as follows:

#### PART 3

##### DEFINITIONS

- 3.1 In addition to the definitions in Part 2 of By-law 20, the following definitions are also adopted:
- (a) "Major Works" means the works to the Lot and the common property to be carried out in connection with the \_\_\_\_\_ works for the Lot including:
    - (i) \_\_\_\_\_; and
    - (ii) the restoration of lot and common property (including the Lot) damaged by the works referred to above,all of which is to be conducted strictly in accordance with the Plans and the provisions of this by-law.
  - (b) "Lot" means \_\_\_\_\_ in strata plan [NUMBER].
  - (c) "Plans" means the plans/drawings prepared by \_\_\_\_\_ and dated \_\_\_\_\_ a copy of which were tabled at the meeting at which this by-law was passed and which may be attached to this by-law.

#### PART 4

##### CONDITIONS

- 4.1 The owner must comply with any conditions set out by the Owners Corporation in relation to the Major Works. These conditions include:

(a) The Owner must complete the Major Works by [insert date]. If the Owner has not completed the Major Works by [DATE] the Owners Corporation will issue the Owner with a "Notice to Complete" which records that

(i) the Major Works must be completed within 21 days of the date of the Notice to Complete; and

(ii) if the Major Works have not been completed within 21 days of the date of the Notice to Complete the Owners Corporation may retain part of the Owners bond at a rate of \$10.00 per day from the expiry of the 21 day notice period until such time as the Major Works are completed.

[[INSERT ANY ADDITIONAL/SPECIAL CONDITIONS]]

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**Annexure "C"**

**CONSENT UNDER SECTION 143**  
**STRATA SCHEMES MANAGEMENT ACT 2015**  
**STRATA SCHEME 68946**

TO: The Registrar-General  
Land & Property Information NSW  
Queens Square  
SYDNEY NSW 2000

I/We, \_\_\_\_\_, CONSENT to the making of a by-law conferring rights over the common property for the installation of \_\_\_\_\_ to be carried out by me/us as the owner/s of lot \_\_\_\_\_ in our strata scheme and conferring on me/us the responsibility to repair and maintain such works.

The by-law is to be made by the Owners Corporation at a general meeting on \_\_\_\_\_ or any adjournment of that meeting.

Dated: .....

Signature of \_\_\_\_\_

Owner of Lot \_\_\_\_\_

cc: The Owners – Strata Plan No 68946

## By-Law 21: Short Term Letting

Short term lettings under 3 months not permitted

## By-Law 22: Security Keys

- 1.1 The owners corporation may provide each Owner or Occupier with a security key in respect of a lot or any part of the common property and may require its return at any time.
- 1.2 Each Owner or Occupier shall take all reasonable precautions to ensure that any security key is kept in a safe and secure place and is not lost, lent or given to any other person. In the event that any security key is lost then the Owner or Occupier of the relevant Lot to whom it was originally provided shall be entitled to a replacement security key provided that the Owners Corporation is reimbursed for all costs associated with the same and is advised promptly if any security key is lost or found.

## By-Law 23: Balcony Shutters

### A DEFINITIONS:

1. This by-law provides that any owner of a lot may install Balcony Shutter Works on the balcony of their lot and on so much of the common property as is necessary.
2. In this by-law, the following terms are defined to mean:

**"Owners"** means each of the owners of a lot in Strata Plan No. 68946.

**"Balcony Shutter Works"** means the alterations and additions undertaken by Owners to install an balcony shutters to their lots and so much of the adjoining common property as is necessary, and must be on the operating provisions detailed below and the specifications provided by Shaderite a copy of which was tabled at the meeting of the Owners Corporation approving this by-law and is appended to the minutes of that meeting:

- (a) Material - marine grade aluminium with reinforcement joints.
- (b) Colour- Black Colourbond Powder Coating Finish.
- (c) Engineering - Shutter to be mounted on the balcony inside of the balustrade.
- (d) Installation - Top tracks to be mounted from the concrete slab above the balcony using mungo plugs and galvanised fixing bolts. Bottom tracks must penetrate less than 20mm from the top of the tile. Holes to be filled with waterproof sealant before screws are fitted.
- (e) Blade Size - 89 millimetres

(f) Blade thickness - 12 millimetres

## B SCOPE OF BY-LAW

3. The Owner must ensure that the Balcony Shutter Works are in a construction and colour scheme that matches the overall appearance of the building.
4. The Owner must not install any Balcony Shutter Works except in accordance with the conditions in part C of this by-law.

## C CONDITIONS

### Before installing Balcony Shutter Works

5. The Owner must obtain approval for the installation of the Balcony Shutter Works from:
  - (a) The owners corporation;
  - (b) the relevant consent authority under the *Environmental Planning and Assessment Act* (if required); and
  - (c) any other relevant statutory authority whose requirements apply to installing Balcony Shutter Works.
6. The Owner must submit to the owners corporation any document reasonably required by the owners corporation relating to the installation of the Balcony Shutter Works.
7. The Owner must ensure that installation of the Balcony Shutter Works shall be done:
  - (a) in a proper and workmanlike manner;
  - (b) by duly licensed and insured contractor; and
  - (c) in accordance with the specifications approved by the owners corporation and the local council (if applicable).

## WHEN INSTALLING THE BALCONY SHUTTER WORKS

8. When installing the Balcony Shutter Works, the Owner must:
  - (a) transport all construction materials, equipment, debris and other material, in the manner reasonably directed by the owners corporation;
  - (b) protect all areas of the building outside their respective lot from damage by installation of the Balcony Shutter Works or the transportation of construction materials, equipment, debris;
  - (c) keep all areas of the building outside their respective lot clean and tidy throughout the installation of the Balcony Shutter Works;

;

- (d) only install the Balcony Shutter Works at times approved by the Owners Corporation
- (e) not create noise that causes unreasonable discomfort, disturbance or interference with activities of any other occupier in the building;
- (f) remove all debris resulting from the installation of the Balcony Shutter Works immediately from the building; and
- (g) comply with the requirements of the owners corporation to comply with any by-laws and any relevant statutory authority concerning the installation of Balcony Shutter Works

### **After installing the Balcony Shutter Works**

- 9. The Owners must deliver to the owners corporation any document reasonably required by the owners corporation.
- 10. The Owner must properly maintain and keep the common property to which the Balcony Shutter works are erected or attached in a state of good and serviceable repair.
- 11. The Owner must (at that Owner's cost) properly maintain and keep the Balcony Shutter Works in a state of good and serviceable repair and must replace the Balcony Shutter Works (or *any* part of them) as required from time to time.
- 12. To the extent that's 62(3) of the Act is applicable, the owners corporation determines it is inappropriate to maintain, renew, replace or repair any common property affected by the installation of the Balcony Shutter Works proposed under this by-law.

### **Liability and Indemnities**

- 13. The Owner will be liable for any loss and/or damage caused to any part of the common property as a result of installing, attaching or erecting the Balcony Shutter Works to the common property and will make good that damage immediately after it has occurred.
- 14. The Owner must indemnify the owner's corporation against any loss and/or damage suffered by **the owner's corporation as a result of the installation, performance, maintenance or replacement** of the Balcony Shutter Works on the common property including liability under section 65(6) of the Act in respect of any property of the Owner.
- 15. The Owner must indemnify the owner's corporation for any costs (legal and/or any other costs) of **any claim and/or counter claim brought by the owner's corporation in respect of any loss and/or damage** suffered by the owner's corporation as a result of the installation, performance, maintenance or replacement of the Balcony Shutter Works on the common property.

## RIGHT TO REMEDY DEFAULT

16. If the Owner fails to comply with any obligations under this by-law,  
THEN the owners corporation may:
  - (a) carry out all work necessary to perform that obligation;
  - (b) enter upon any part of the parcel to carry out that work;
  - (c) recover the costs of carrying out that work from the defaulting Owner as a debt;  
and
  - (d) include reference to the debt on levy notices and any other levy reports or  
information.
17. Any debt for which the Owner is liable under this by-law, is due and  
payable on written demand or at the direction of the owners  
corporation and, if not paid at the end of 1 month from the date on  
which it is due, will bear until paid, simple interest at an annual rate of  
10 per cent or, if the regulations provide for another rate, that other  
rate and the interest will form part of that debt.



## Approved Form 10

### Certificate re Initial Period

The owners corporation certifies that in respect of the strata scheme:

\*that the initial period has expired.

~~\*the original proprietor owns all of the lots in the strata scheme and any purchaser under an  
exchanged contract for the purchase of a lot in the scheme has consented to any plan or dealing  
being lodged with this certificate.~~

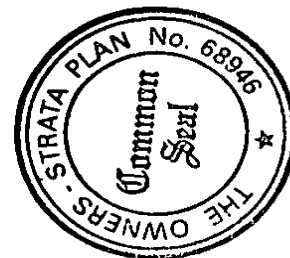
The seal of The Owners - Strata Plan No ..... was affixed on ^ 01/08/2018 in the presence of the  
following person(s) authorised by section 273 *Strata Schemes Management Act 2015* to attest the affixing  
of the seal.

Signature: *LANA FISHER* Name: LANA FISHER Authority: STRATA MANAGER

Signature: ..... Name: ..... Authority: .....

^ Insert appropriate date

\* Strike through if inapplicable.



Form: 15CH  
Release: 2-1

**CONSOLIDATION/  
CHANGE OF BY-LAWS**

New South Wales

Strata Schemes Management Act  
Real Property Act 1900



**AQ79269G**

**PRIVACY NOTE:** Section 31B of the Real Property Act 1900 (RP Act) authorises the collection of the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

(A) **TORRENS TITLE**

For the common property  
CP/SP68946

(B) **LODGED BY**

Document Collection Box <i>1W</i>	Name, Address or DX, Telephone, and Customer Account Number if any FRESH STRATA PTY LTD SUITE 3/529 PITTWATER ROAD, BROOKVALE NSW 2100 PHONE: (02) 99398061 ISABELLE@FRESHSTRATA.COM.AU Reference: <i>SP68946</i>	CODE  <b>CH</b>
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- (C) The Owners-Strata Plan No. 68946 certify that a special resolution was passed on 27/3/2020
- (D) pursuant to the requirements of section 141 of the Strata Schemes Management Act 2015, by which the by-laws were changed as follows—
- (E) Repealed by-law No. NOT APPLICABLE
- Added by-law No. CONSOLIDATED BY-LAWS 1-24
- Amended by-law No. NOT APPLICABLE
- as fully set out below:

ATTENTION IS DIRECTED TO THE ADOPTION OF CONSOLIDATED BY-LAWS 1-24. SEE ANNEXURE 'A' ATTACHED HERETO.

- (F) A consolidated list of by-laws affecting the above mentioned strata scheme and incorporating the change referred to at Note (E) is annexed hereto and marked as Annexure 'A'
- (G) The seal of The Owners-Strata Plan No. 68946 was affixed on 16/4/2020 in the presence of the following person(s) authorised by section 273 Strata Schemes Management Act 2015 to attest the affixing of the seal:

Signature:

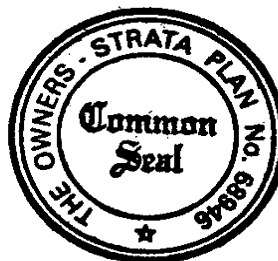
Name: SARAH PIETERS

Authority: STRATA MANAGER

Signature:

Name:

Authority:



## ANNEXURE "A"

### STRATA PLAN NO 68946

**Address: 29 Howard Avenue, Dee Why**

#### By-Laws

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## **BY-LAWS SP 68946**

### **By-Law 1: Vehicles**

An owner or occupier of a lot must not park or stand any motor or other vehicle on common property, or permit a motor vehicle to be parked or stood on common property, except with the prior written approval of the owners corporation or as permitted by a sign authorised by the owners corporation. No unapproved rental of garages/ car spaces are permitted, fines of up to \$250.00 may apply.

### **By-Law 2: Changes to common property:**

1. An owner or person authorised by an owner may install, without the consent of the owners corporation:
  - a. any locking or other safety device for protection of the owner's lot against intruders or to improve safety within the owner's lot, or
  - b. any screen or other device to prevent entry of animals or insects on the lot, or
  - c. any structure or device to prevent harm to children.
2. Any such locking or safety device, screen, other device or structure must be installed in a competent and proper manner and must have an appearance, after it has been installed, in keeping with the appearance of the rest of the building.
3. Clause (1) does not apply to the installation of anything that is likely to affect the operation of fire safety devices in the lot or to reduce the level of safety in the lots or common property.
4. Screens (eg. bamboo) or awnings on balconies must be approved by the strata committee.
5. The owner of a lot must:
  - a. maintain and keep in a state of good and serviceable repair any installation or structure referred to in clause (1) that forms part of the common property and that services the lot, and
  - b. repair any damage caused to any part of the common property by the installation or removal of any locking or safety device, screen, other device or structure referred to in clause (1) that forms part of the common property and that services the lot.

### **By-Law 3: Damage to lawns and plants on common property**

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

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

## **By-Law 4: Obstruction of common property**

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

## **By-Law 5: Keeping of animals**

1. An owner or occupier of a lot may keep an animal on the lot or the common property with the written approval of the owners corporation.
2. The owners corporation must not unreasonably withhold its approval of the keeping of an animal on a lot or the common property and must give an owner or occupier written reasons for any refusal to grant approval.
3. If an owner or occupier of a lot keeps an animal on the lot, the owner or occupier must:
  - a. keep the animal within the lot, and
  - b. supervise the animal when it is on the common property, and
  - c. take any action that is necessary to clean all areas of the lot or the common property that are soiled by the animal.
  - d. Generally keep under control and ensure no exercise noise (barking etc)
4. An owner or occupier of a lot who keeps an assistance animal on the lot must, if required to do so by the owners corporation, provide evidence to the owners corporation demonstrating that the animal is an assistance animal as referred to in section 9 of the Disability Discrimination Act 1992 of the Commonwealth.

## **By-Law 6: Noise**

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

## **By-Law 7: Behaviour of owners, occupiers and invitees**

1. An owner or occupier of a lot, or any invitee of an owner or occupier of a lot, when on common property must be adequately clothed and must not use language or behave in a manner likely to cause offence or embarrassment to the owner or occupier of another lot or to any person lawfully using common property.
2. An owner or occupier of a lot must take all reasonable steps to ensure that invitees of the owner or occupier:

- a. do not behave in a manner likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or any person lawfully using common property, and
- b. without limiting paragraph (a), that invitees comply with clause (1).
- c. owner liable for damage to common property caused by the owner, agents, licensees or invitees.

### **By-Law 8: Smoke penetration**

1. An owner or occupier, and any invitee of the owner or occupier, must not smoke tobacco or any other substance on the common property.
2. An owner or occupier of a lot must ensure that smoke caused by the smoking of tobacco or any other substance by the owner or occupier, or any invitee of the owner or occupier, on the lot does not penetrate to the common property or any other lot.

### **By-Law 9: Preservation of fire safety**

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

### **By-Law 10: Storage of inflammable liquids and other substances and materials**

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

### **By-Law 11: Appearance of lot**

1. The owner or occupier of a lot must not, without the prior written approval of the owners corporation, maintain within the lot anything visible from outside the lot that, viewed from outside the lot, is not in keeping with the rest of the building.
2. This by-law does not apply to the hanging of any clothing, towel, bedding or other article of a similar type in accordance with by-law 14.

## **By-Law 12: Cleaning windows and doors**

1. Except in the circumstances referred to in clause (2), an owner or occupier of a lot is responsible for cleaning all interior and exterior surfaces of glass in windows and doors on the boundary of the lot, including so much as is common property.
2. The owners corporation is responsible for cleaning regularly all exterior surfaces of glass in windows and doors that cannot be accessed by the owner or occupier of the lot safely or at all.

## **By-Law 13: Hanging out of washing**

1. An owner or occupier of a lot may hang washing on any part of the lot other than over the balcony railings. The washing may only be hung for a reasonable period.
2. In this by-law: washing includes any clothing, towel, bedding or other article of a similar type.

## **By-Law 14: Disposal of waste-shared bins**

1. An owner or occupier of a lot must not deposit or throw on the common property any rubbish, dirt, dust or other material or discarded item except with the prior written approval of the owners corporation.
2. An owner or occupier of a lot must not deposit in a toilet, or otherwise introduce or attempt to introduce into the plumbing system, any item that is not appropriate for any such disposal (for example, a disposable nappy).
3. An owner or occupier must:
  - a. comply with all reasonable directions given by the owners corporation as to the disposal and storage of waste (including the cleaning up of spilled waste) on common property, and
  - b. comply with the local council's guidelines for the storage, handling, collection and disposal of waste.
4. The owners corporation may give directions for the purposes of this by-law by posting signs on the common property with instructions on the handling of waste that are consistent with the local council's requirements or giving notices in writing to owners or occupiers of lots.
5. In this by-law:

“bin” includes any receptacle for waste.

“waste” includes garbage and recyclable material.

## **By-Law 15: Change of use in lot to be notified**

1. An occupier of a lot must notify the owners corporation if the occupier changes the existing use of the lot.

2. Without limiting clause (1), the following changes of use must be notified:
  - a. a change that may affect the insurance premiums for the strata scheme (for example, if the change of use results in a hazardous activity being carried out on the lot, or results in the lot being used for commercial or industrial purposes rather than residential purposes),
  - b. a change to the use of a lot for short-term or holiday letting.
3. The notice must be given in writing at least 21 days before the change occurs or a lease or sublease commences.

## **By-Law 16: Compliance with planning and other requirements**

1. The owner or occupier of a lot must ensure that the lot is not used for any purpose that is prohibited by law.
2. The owner or occupier of a lot must ensure that the lot is not occupied by more persons than are allowed by law to occupy the lot.

## **By-Law 17: Moving Furniture**

An owner or occupier of a lot must not transport any furniture or large objects to and from the lot through common property or within the building unless sufficient notice has first been given to the owners corporation to arrange access and notify tenants.

The owner of a lot in which this activity occurs indemnities the owners corporation against any loss or damage caused by such actions.

## **By-Law 18: Use of Car Spaces**

An owner or occupier of a lot must not use or permit the use of a car space/garage for other than the purpose of parking a motor or other vehicles registered under the Roads Act (as amended) and the vehicle must be kept wholly within the boundary of the car space/garage.

An owner or occupier must not store any item within a car space/garage other than a motor or other vehicle registered under the Roads Act (as amended) unless those items are placed within a storage cabinet or neatly stored within the boundaries of the parking lot or on shelving approved by the strata committee from time to time.

## **By-Law 19: Previous Approvals**

An owner or occupier of a lot who obtained an approval from the owners corporation or strata committee under any former by-law is taken to be an approval under the corresponding current by-law (including



any conditions) and where no such by-law exists the former by-law (and approval) is revived for the purpose of the approval (including any conditions placed upon that approval).

## By-Law 20: Major and minor works approval programme

Note: Any "optional" provisions contained within by-law 20 at registration shall be considered to form part of by-law 20, unless there are owners corporation minutes which show that the optional provisions ought to have been deleted prior to registration.

### PART 1 - PREAMBLE

1.1 The purpose of this by-law is to:

- (a) Provide a programme for the seeking of approval from the Owners Corporation to the carrying out of Works to a Lot and to regulate the maintenance, repair and replacement of those Works.
- (b) Delegate to the Strata Committee the power to approve Minor Works applications.

### DEFINITIONS & INTERPRETATION

#### 2.1 Definitions

In this by-law, unless the context otherwise requires:

- (a) **Act** means the *Strata Schemes Management Act 2015*.
- (b) **Approved Form** means the form attached at **Annexure "A – Building Works Application Form"** or as the strata committee may otherwise approve from time to time.
- (c) **Australian Standards** means the standards, codes and regulations which govern building and construction work from time to time as relevant and applicable to the particular works being carried out by the Owner.
- (d) **Authority** means any government, semi-government, statutory, judicial, quasi-judicial, public or other authority having any jurisdiction over the Lot or the Building including but limited to the local council, a court or a tribunal.
- (e) **Bond** means the amount of \$1,000.00 or an amount determined by the strata committee payable to the Owners Corporation. The strata committee shall notify the Owner as to the amount payable prior to the Owner commencing works. The Bond may be in the form of a bank guarantee.
- (f) **Building** means the building situated at **29 Howard Avenue, Dee Why**
- (g) **Building Manager** means the building manager engaged by the Owners Corporation from time to time.
- (h) **Cosmetic Works** means cosmetic works as defined from time to time in the Act and the Regulations.
- (i) **Essential Works** means any essential maintenance, repair, replacement, upgrading or emergency works that the Owners Corporation is required to do under the Act or any other law to any part of common property structure or services including within a lot.
- (j) **Insurance** means:

- (i) contractors all risk insurance (including public liability insurance) in the sum of \$20,000,000.00;
  - (ii) insurance required under the *Home Building Act 1989* (if any); and
  - (iii) workers' compensation insurance.
- (k) **Lot** means any lot in strata plan number **68946**.
- (l) **Major Works** means works that are not Minor Works or Cosmetic Works, and include:
- (i) work involving structural changes;
  - (ii) work requiring penetration to or removal of common property floors, walls and ceilings;
  - (iii) work that changes the external appearance of a lot, including the installation of an external access ramp;
  - (iv) work involving waterproofing; and
  - (v) any other item prescribed by the Regulations pursuant to sections 109(2)(h) or 110(7)(g) of the Act not to be Cosmetic Works or Minor Works.
- (m) **Minor Works** means works as defined from time to time in the Act and the Regulations including but not limited to:
- (i) renovating a kitchen;
  - (ii) changing recessed light fittings;
  - (iii) installing or replacing wood or other hard floors;
  - (iv) installing or replacing wiring or cabling or power or access points;
  - (v) work involving reconfiguring of internal walls;
  - (vi) installing security or alarm system;
  - (vii) installing a reverse cycle split system air-conditioner; and
  - (viii) replacing bathroom fixings and fittings (i.e. tap-ware, basin, toilet) where tiles or plumbing connections are not affected.
- (n) **Owner** means the owner(s) of the Lot(s).
- (o) **Owners Corporation** means the owners corporation constituted upon the registration of Strata Plan No 68946.
- (p) **Regulations** means the *Strata Schemes Management Regulations 2016*.
- (q) **Works** means Minor Works and Major Works.

## 2.2 Interpretation

### 2.2.1 In this by-law, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;

- (b) any gender includes the other genders;
- (c) any terms in the by-law will have the same meaning as those defined in the Act;
- (d) a reference to the Owners Corporation includes the building manager, strata managing agent, any member of the strata committee or any person authorised by the Owners Corporation from time to time;
- (e) references to legislation include references to amending and replacing legislation;
- (f) a reference to the Owner includes any of the Owner's executors, administrators, successors, permitted assigns or transferees; and
- (g) to the extent of any inconsistency between the by-laws applicable to Strata Plan No 68946 and this by-law, the provisions of this by-law shall prevail.

2.2.2 Despite anything contained in this by-law, if any provision or part of a provision in this by-law whether held or found to be void, invalid, or otherwise unenforceable, it shall be deemed to be severed from this by-law (or that provision) to the extent that it is void or invalid or unenforceable but the remainder of this by-law and the relevant provision shall remain in full force and effect.

### **PART 3 - CONDITIONS**

#### **3.1 Cosmetic Works**

- (a) The Owners Corporation may add to the definition of Cosmetic Works from time-to-time by circulation of written notification to all Owners.
- (b) An Owner may carry out Cosmetic Works to their lot without consent of the Owners Corporation.

#### **3.2 Before Commencement of Works**

- (a) Prior to commencement of any Works, an Owner must submit to the strata committee:
  - (i) a duly completed Approved Form;
  - (ii) detailed specifications as to the works to be undertaken and the duration of any impact on the common property or disruption to common property services or access; and
  - (iii) Copies of any Insurance policies as relevant to the Works, if required.
- (b) Upon receipt of the Approved Form, the strata committee shall determine, at its absolute discretion, whether the Works to be carried out are Minor Works or Major Works. In order to make such determination, the strata committee may request the Owner to provide additional details of the Works, including plans, specifications and engineer's reports or certifications.
- (c) On making the determination, the strata committee shall inform the Owner, in writing, of that determination.

##### **3.2.1 Minor Works**

- (a) If the strata committee determines that the works are Minor Works, the strata committee may approve the Minor Works application.
- (b) If the Minor Works are approved by the strata committee, the Owner may carry out the Minor Works without further consent of the Owners Corporation.

- (c) The Owners Corporation or strata committee may impose further conditions in addition to those provided for by this by-law with respect to the carrying out of the Works and, if such conditions are imposed, it shall inform the Owner in writing of those conditions.

### 3.2.2 Major Works

- (a) If the strata committee determines that works to be carried out are Major Works, the Owner must lodge the Bond (if the Bond has not been lodged with the Approved Form) within fourteen (14) days from the date of notification by the strata committee.
- (b) Before commencement of any Major Works, the Owner must:
- (i) provide a complete proposal concerning the Major Works including but not limited to:
    - (I) plans and specifications of the proposed works;
    - (II) specifications for any sound or energy rating, type, size together with the manufacturer's or suppliers brochure regarding same;
    - (III) a diagram depicting the location of or proposed installation points of all parts of the works;
    - (IV) engineering plans and certifications if requested by the Owners Corporation;
    - (V) any necessary approvals/consents/permits from any Authority; and
    - (VI) a report(s) from an engineer nominated by the Owners Corporation concerning the impact of the works on the structural integrity of the Building and Lot and common property (if required);
  - (ii) prepare and provide to the Owners Corporation:
    - (I) a new by-law (as per Annexure B) under the Act, to amend the definition of "Major Works", "Lot" and include a new definition of "Plans" to cover the specific scope of Major Works to be carried out and Part 1 to confer rights of exclusive use and enjoyment and special privilege; and
    - (II) the owner's written consent to:
      - 1. the passing of the by-law; and
      - 2. be responsible for the maintenance, repair and replacement of the Major Works,
    - (III) where required, written consent of other affected owners to the passing of the by-law;
- such by-law (marked **Annexure "B –Works"**) and form of consent (marked **Annexure "C – Consent"**) to be prepared substantially in the terms set out in **Annexures "A" and "B"** and to be considered at a general meeting of the Owners Corporation.
- (iii) pay for all costs of the Owners Corporation including:
    - (I) legal fees for reviewing the proposal;
    - (II) fees for convening any meeting to consider the proposal;

- (III) any other reasonable professional fees required to consider the proposal including strata management fees or engineering fees; and
- (IV) registration fees for the by-law contemplated in clause 3.2.2(b)(ii);
- (iv) a dilapidation report prepared by a structural engineer having reviewed the Major Works in relation to any area of the Building ( if required including any lot and common property) that may be affected by the Works. The dilapidation report shall be in writing and shall include photographs of the relevant areas; and
- (v) obtain written consent to the date for the commencement of the Works from the Owners Corporation upon satisfaction of its obligations in clause 3.2.2(b) above. For clarity, no Major Works may be commenced unless and until the by-law referred to in clause 3.2.2(b)(ii) is passed by special resolution at a duly convened general meeting of the Owners Corporation.
- (c) Upon receipt of a by-law under clause 3.2.2(b)(ii) the Owners Corporation will review the proposal and stipulate any relevant conditions to be contained in the common property rights by-law such conditions to include (but not be limited to) those set out in clauses (inclusive).

### 3.3 Specific Conditions – Reconfiguration

- (a) Unless prior written approval is granted by the Owners Corporation, the following conditions apply as relevant:
- (b) Where the Works include reconfiguration of walls the Owner must ensure:
  - (i) No reconfigurations alter or impinge on the structural integrity of the Building;
  - (ii) No walls are to be reconfigured so as to place a bedroom 4over a bathroom and vice versa;
  - (iii) Walls containing wet areas must not be reconfigured;
  - (iv) Walls must not be added to create new wet areas; and
  - (v) A report from an independent structural engineer agreed to between the Owner and the Owners Corporation must be provided certifying reconfiguration will have no structural impact and does not involve any load bearing walls.
- (c) Where Works involve the installation of a floor finish other than carpet:
  - (i) before commencement of Works, the Owner must provide to the Owners Corporation or strata committee a report from a qualified acoustic engineer that analyses the proposed floor finish, method of installation and the effect of sound transmission including impact noise following installation. The report must state that the proposed floor finish after installation to the Lot will comply with clause 3.3(c)(ii)(II) below;
  - (ii) the Owner must:
    - (I) ensure that all floor space within the Lot is covered or otherwise treated to an extent sufficient to prevent the transmission from the floor space of noise likely to disturb the peaceful enjoyment of an Owner or occupier of another Lot;
    - (II) ensure that the flooring is insulated with soundproofing underlay as specified by the Owners Corporation from time to time and shall not have a weighted standardised impact sound pressure level L'nT, w exceeding 40 when measured in situ in

accordance with Australian Standard "AS ISO 140.7-2006 Field measurements of impact sound insulation of floors" and rated to AS ISO 717.2-2004" Acoustics – Rating of sound insulation in buildings and of building elements. Part 2: Impact sound insulation;

- (iii) following the installation of a floor finish other than carpet in a Lot, if there are any complaints about noise transmission through or from the floor of the Lot (whether vertically or horizontally) the Owners Corporation or strata committee may require, and if it does so, the Owner must provide the Owners Corporation or strata committee with a certificate from a qualified acoustic engineer acceptable to the Owners Corporation or strata committee. The certificate must state that the qualified acoustic engineer has tested the floor finish as installed to ensure that the installation and the resulting sound transmission meet the parameters set out in this by-law including those in the report required under clause 3.3(b)(v);
- (d) Where the Works involve alteration, replacement, addition or removal of ceiling insulation such works must:
  - (i) not be commenced without prior written approval from the Owners Corporation or strata committee; and
  - (ii) be carried out in a tradesmanlike and professional manner and comply with fire safety standards.
- (e) Where the Works involve the installation of air-conditioning units, the Works must:
  - (i) have a new condenser unit (external) that:
    - (I) is mounted on vibration pads in a location so to minimise noise and vibration;
    - (II) is installed unobtrusively on the location as approved by the Owners Corporation or strata committee in writing); and
    - (III) is not visible from the street. All electrical and coolant lines must be concealed as much as possible;
  - (ii) not be installed through or attached to windows or brick walls;
  - (iii) be manufactured, designed and installed to specifications for commercial/domestic use; and
  - (iv) have any condensation and run-off from the Lot drained through existing drains or downpipes.
- (f) Owners must ensure that in carrying out Cosmetic Works and Works to the Lot:
  - (i) access panels are not blocked;
  - (ii) exhaust fans do not penetrate into the ceiling;
  - (iii) hot water service overflow pipes do not penetrate external walls but are plumbed into internal pipes in accordance with Australian Standards.

## **2.4 Notice**

- (a) At least two (2) weeks prior to the commencement of the Works the Owner shall notify the Owners Corporation and each owner (by way of letterbox drop) of the proposed day of commencement of the Works or an aspect of the Works.
- (b) At least two (2) days prior to the commencement of the Works or an aspect of the Works the Owner shall make arrangements with the building manager regarding:
  - (i) the suitable times and method for the Owner's contractors to access the Building to undertake the Works; and
  - (ii) the suitable times and method for contractors to park their vehicles on common property whilst the Works are being conducted.

### **3.5 Compliant Works**

To be compliant under this by-law, Works:

- (a) must be in keeping with the appearance and amenity of the Building in the opinion of the Owners Corporation;
- (b) must be manufactured, designed and installed to specifications for domestic use;
- (c) must be in accordance with Australian Standards and the Building Code of Australia;
- (d) for fire detectors, any alterations, connections or disconnection to the fire detectors are to be detailed. If approved, the changes shall be certified by the fire certification controller appointed by the Owners Corporation;
- (e) must be in keeping with fire safety standards.

### **3.6 During construction**

Whilst the Works are in progress the Owner of the Lot at the relevant time must:

- (a) use duly licensed employees, contractors or agents to conduct the Works;
- (b) ensure the Works are conducted with due care and skill and comply with the current Building Code of Australia and Australian Standards;
- (c) ensure the Works are carried out expeditiously and with a minimum of disruption;
- (d) carry out the Works between the hours of 7:30 AM and 5:00 PM Monday-Friday and from 8.00 AM to 12.00 PM Saturday or such other times reasonably approved by the strata committee. No Works are to be carried out on a Sunday or public holiday unless they are silent works (e.g. painting);
- (e) transport all construction materials, equipment and debris as reasonably directed by the Owners Corporation and keep all areas of the Building outside the Lot clean and tidy;
- (f) not allow tradespersons and contractors at any time to park on common property without the written consent of the Owners Corporation;
- (g) not dispose of rubbish and waste material in common property waste bins or skips except with the prior written consent of the Owners Corporation;

- (h) not allow waste bins or skips to be placed on or near the common property without the prior written consent of the Owners Corporation;
- (i) not cause or permit storage, mixing, preparation, cutting or any other work in connection with the Works to be conducted on the common property;
- (j) protect all affected areas of the Building outside the Lot from damage relating to the Works or the transportation of construction materials, equipment and debris;
- (k) provide to the strata committee at least forty-eight (48) hours prior written notice of any noisy works (e.g., jackhammering, the use of any pneumatic, rotary or powder-actuated tools) such works which may only be carried out between the hours of 9:00 AM and 12:00 PM or 1:00 PM to 4:00 PM Monday-Tuesday or such other times reasonably approved by the Owners Corporation;
- (l) ensure that the Works do not interfere with or damage the common property or the property of any other owner other than as approved in this by-law and if this occurs the Owner must rectify that interference or damage within a reasonable period of time;
- (m) provide the Owners Corporation's nominated representative(s) access to inspect the Lot within forty-eight (48) hours of any request from the Owners Corporation (for clarity more than one inspection may be required);
- (n) observe all the other by-laws applicable to the strata scheme at all times; and
- (o) not vary the Works or their scope without first obtaining the consent in writing from the Owners Corporation.

### **3.7 After construction**

#### **3.7.1 After the Works have been completed the Owner must without unreasonable delay:**

- (a) notify the Owners Corporation that the Works have been completed;
- (b) notify the Owners Corporation that all damage, if any, to lot and common property caused by the Works and not permitted by this by-law has been rectified;
- (c) provide the Owners Corporation with a copy of any certificate or certification required by an Authority to indicate completion of the Works;
- (d) provide (if required) the Owners Corporation with certification from a suitably qualified engineer(s) approved by the Owners Corporation that the Major Works or works required to rectify any damage to lot or common property have been completed in accordance with the terms of this by-law;
- (e) provide (if required) the Owners Corporation with certification from a suitably qualified engineer(s) approved by the Owners Corporation that the Works have been completed satisfactorily and in accordance with this by-law; and
- (f) provide the Owners Corporation's nominated representative(s) access to inspect the Lot within forty-eight (48) hours of any request from the Owners Corporation to check compliance with this by-law or any consents provided under this by-law.

#### **3.7.2 The Owners Corporation's right to access the Lot arising under this by-law expires once it is reasonably satisfied that clauses 3.7.1(a)-(f) immediately above have been complied with.**



- 3.7.3 Upon satisfaction of clause 3.7.1 the Owners Corporation will refund the Bond to the Owner less any costs incurred by the Owners Corporation for or in connection with the carrying out of the Works or breach of this by-law.

### **3.8 Statutory and other requirements**

(a) The Owner must:

- (i) comply with all requirements of the Owners Corporation, the by-laws applicable to the strata scheme and all directions, orders and requirements of all relevant statutory authorities, including the local council relating to the Works;
- (ii) ensure that the respective servants, agents and contractors of the Owner comply with the said directions, orders and requirements;
- (iii) ensure that the warranties provided by the Building Code of Australia and Australian Standards are, so far as relevant, complied with; and
- (iv) comply with the provisions of the *Home Building Act 1989*.

(b) The Works must:

- (i) be carried out with due care and skill and in accordance with the plans and specifications set out in the contract;
- (ii) comprise materials that are good and suitable for the purpose for which they are used and must be new.

### **3.9 Enduring rights and obligations**

3.9.1 An Owner must:

- (a) properly maintain, replace and keep in good and serviceable repair any Works installed by them;
- (b) properly maintain and upkeep those parts of the common property in contact with the Works;
- (c) repair and/or reinstate the common property or personal property of the Owners Corporation to its original condition if the Works are removed or relocated;
- (d) ensure that the Works (where applicable) do not cause water escape or water penetration to lot or common property;
- (e) ensure that any electricity or other services required to operate the Works (where applicable) are installed so they are connected to the Lot's electricity or appropriate supply;
- (f) indemnify and keep indemnified the Owners Corporation against any costs or losses arising out of the installation, use, repair, replacement or removal of any Works including any liability in respect of the property of the Owner; and
- (g) without derogating from the generality of clause (f) above, indemnifies and shall keep indemnified the Owners Corporation against any loss, damage to or destruction of the Works caused howsoever by the Owners Corporation, its officers, employees, contractors or agents carrying out any Essential Works where those costs would not have been incurred other than where the Owner or occupier is in breach of clause 3.11.

- 3.9.2 If the dilapidation report referred to in 3.2.2(b)(iv) of this by-law is obtained, the Owner and the Owners Corporation acknowledge and agree that shall be the basis for ascertaining and determining whether any damage has been occasioned by the Works to the common property and any lot.

### **3.10 Recovery of costs**

If an Owner fails to comply with any obligation under this by-law, the Owners Corporation may:

- (a) by its agents, employees and contractors, enter upon the Lot and carry out all work necessary to perform that obligation;
- (b) apply the Bond towards the costs incurred by the Owners Corporation to carry out that work;
- (c) recover from the Owner the amount of any fine or fee which may be charged to the Owners Corporation; and
- (d) recover any costs from the Owner as a debt due.

### **3.11 Essential Works**

No Owner or occupier shall refuse or restrict the Owners Corporation's (or its officers, employees, contractors or agents) lawful entry, or access to all or any part of the Works to carry out Essential Works to the common property (at the cost of the Owners Corporation) which may be attached to, in, under or about the Works including the common property structures or services provided that the Owners Corporation shall give prior notice to the owner or occupier (emergencies excepted).

### **3.12 Applicability**

In the event that the owner desires to remove the Works installed under this by-law (or otherwise), the provisions of Part 3 shall also apply in relation to that removal.

## Annexure ±A ¥ Building Works Application Forms

### STRATA PLAN NO 68946

#### BUILDING WORKS APPLICATION FORM

Use this form if you wish to undertake building works or renovations within your apartment. This form is to be construed according to the conditions outlined in the BY-LAW NO. 20 FOR MAJOR AND MINOR WORK APPROVAL PROGRAMME. Please ensure you have read and understood the document before completing this form. No work may commence until your application is approved by the Strata committee, or in the case of building works affecting common property, an appropriate by-law has been made and registered.

OWNERS NAME \_\_\_\_\_ UNIT/LOT NUMBER \_\_\_\_\_

CONTACT TELEPHONE (list all).....

EMAIL .....

LOCATION: ☐ KITCHEN ☐ BATHROOM ☐ TOILET ☐ HALLWAY

☐ LIVING ROOM ☐ BEDROOM ☐ OTHER.....

#### WORK

INVOLVES: ☐ PAINTING ☐ TILING ☐ FLOOR SURFACES ☐ ELECTRICAL

☐ CEILING ☐ AIRDUCTS ☐ FIRE SPRINKLERS

☐ PLUMBING ☐ MASONRY ☐ WALL REMOVAL/PENETRATION

☐ COMMON PROPERTY ALTERATION ☐ OTHER .....

PREFERRED DATE OF WORKS STARTING...../...../..... ENDING...../...../.....

PLEASE ATTACH ☐ DETAILED DESCRIPTION OF INTENDED WORKS

AND EITHER: ☐ PLAN BY ARCHITECT (if available)

OR: ☐ ROUGH PLAN / DIAGRAM (provided by owner)

☐ BOND DEPOSIT: Please check with your strata committee as to the amount payable as bond and record those details here: Amount: \$\_\_\_\_\_ Date Paid: \_\_\_\_\_ Strata Committee acknowledge receipt: \_\_\_\_(SC initial)

☐ DEVELOPMENT APPLICATION

I the undersigned hereby warrant that I have read the By-Law No. 20 for major and minor work approval programme and agree to comply with all of the conditions and limitations imposed thereby.

OWNERS SIGNATURE: ..... DATE.....

#### ADDITIONAL WARRANTIES (IF APPLICABLE)

##### STRUCTURAL

As the work applied for entails the removal and/or penetration of masonry within the apartment, I hereby warrant that I accept full responsibility for the upkeep and preservation of the altered masonry.

##### ALTERATIONS:

OWNERS SIGNATURE: ..... DATE.....

##### CEILING

##### CAVITY

##### ALTERATIONS:

As the work applied for entails the alteration of one or more ceiling cavities in the apartment, I hereby warrant that I accept full responsibility for any loss of acoustic amenity caused by the alteration.

OWNERS SIGNATURE: ..... DATE.....

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## Annexure "B –WORKS"

### MOTION $\leq \geq$

Subject to the by-law in the next succeeding motion being approved, The Owners – Strata Plan No [NUMBER] SPECIALLY RESOLVES pursuant to section 108 of the *Strata Schemes Management Act 2015* for the purpose of improving or enhancing the common property to specifically authorise the Works proposed by the owner of lot  $\leq \geq$  to the common property on the terms and in the manner as set out in the by-law.

### MOTION < >

Subject to the preceding motion being approved, The Owners – Strata Plan No [NUMBER] SPECIALLY RESOLVES pursuant to sections 141 and 143 of the *Strata Schemes Management Act 2015* to make a by-law adding to the by-laws applicable to the strata scheme in the following terms:

### SPECIAL BY-LAW NO $\leq \geq$

### Lot $\leq \geq$ Works

---

#### PART 1

#### GRANT OF RIGHT

- 1.1 Notwithstanding anything contained in any by-law applicable to the strata scheme, the Owner has the special privilege to carry out the Major Works (at the Owner's cost and to remain the Owner's fixture) and the right of exclusive use and enjoyment of those parts of the common property attached to or occupied by the Works, subject to the terms and conditions contained in this by-law.

#### PART 2

#### APPLICATION OF SPECIAL BY-LAW

- 2.1 The provisions of Parts 2 and 3.2-3.12 (inclusive) of Special By-law No.  $\leq \geq$  are adopted for the purposes of this by-law with the exception of the insertion of the definition of "Plans" and the amendment of the definition of "Major Works" and "Lot" as follows:

#### PART 3

#### DEFINITIONS

- 3.1 In addition to the definitions in Part 2 of By-law 20, the following definitions are also adopted:
- (a) "Major Works" means the works to the Lot and the common property to be carried out in connection with the \_\_\_\_\_ works for the Lot including:
    - (i) \_\_\_\_\_; and
    - (ii) the restoration of lot and common property (including the Lot) damaged by the works referred to above,all of which is to be conducted strictly in accordance with the Plans and the provisions of this by-law.
  - (b) "Lot" means \_\_\_\_\_ in strata plan [NUMBER].
  - (c) "Plans" means the plans/drawings prepared by \_\_\_\_\_ and dated \_\_\_\_\_ a copy of which were tabled at the meeting at which this by-law was passed and which may be attached to this by-law.

#### PART 4

#### CONDITIONS

- 4.1 The owner must comply with any conditions set out by the Owners Corporation in relation to the Major Works. These conditions include:

- (a) The Owner must complete the Major Works by [insert date]. If the Owner has not completed the Major Works by [DATE] the Owners Corporation will issue the Owner with a "Notice to Complete" which records that

- (i) the Major Works must be completed within 21 days of the date of the Notice to Complete; and
- (ii) if the Major Works have not been completed within 21 days of the date of the Notice to Complete the Owners Corporation may retain part of the Owners bond at a rate of \$10.00 per day from the expiry of the 21 day notice period until such time as the Major Works are completed.

[INSERT ANY ADDITIONAL/SPECIAL CONDITIONS]

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**Annexure "C"**

**CONSENT UNDER SECTION 143**  
**STRATA SCHEMES MANAGEMENT ACT 2015**  
**STRATA SCHEME 68946**

TO: The Registrar-General  
Land & Property Information NSW  
Queens Square  
SYDNEY NSW 2000

I/We, \_\_\_\_\_, CONSENT to the making of a by-law conferring rights over the common property for the installation of \_\_\_\_\_ to be carried out by me/us as the owner/s of lot \_\_\_\_\_ in our strata scheme and conferring on me/us the responsibility to repair and maintain such works.

The by-law is to be made by the Owners Corporation at a general meeting on \_\_\_\_\_ or any adjournment of that meeting.

Dated: .....

Signature of \_\_\_\_\_

Owner of Lot \_\_\_\_\_

cc: The Owners – Strata Plan No 68946

## By-Law 21: Short Term Letting

Short term lettings under 3 months not permitted

## By-Law 22: Security Keys

- 1.1 The owners corporation may provide each Owner or Occupier with a security key in respect of a lot or any part of the common property and may require its return at any time.
- 1.2 Each Owner or Occupier shall take all reasonable precautions to ensure that any security key is kept in a safe and secure place and is not lost, lent or given to any other person. In the event that any security key is lost then the Owner or Occupier of the relevant Lot to whom it was originally provided shall be entitled to a replacement security key provided that the Owners Corporation is reimbursed for all costs associated with the same and is advised promptly if any security key is lost or found.

## By-Law 23: Balcony Shutters

### A DEFINITIONS:

1. This by-law provides that any owner of a lot may install Balcony Shutter Works on the balcony of their lot and on so much of the common property as is necessary.
2. In this by-law, the following terms are defined to mean:

**"Owners"** means each of the owners of a lot in Strata Plan No. 68946.

**"Balcony Shutter Works"** means the alterations and additions undertaken by Owners to install an balcony shutters to their lots and so much of the adjoining common property as is necessary, and must be on the operating provisions detailed below and the specifications provided by Shaderite a copy of which was tabled at the meeting of the Owners Corporation approving this by-law and is appended to the minutes of that meeting:

- (a) Material - marine grade aluminium with reinforcement joints.
- (b) Colour- Black Colourbond Powder Coating Finish.
- (c) Engineering - Shutter to be mounted on the balcony inside of the balustrade.
- (d) Installation - Top tracks to be mounted from the concrete slab above the balcony using mungo plugs and galvanised fixing bolts. Bottom tracks must penetrate less than 20mm from the top of the tile. Holes to be filled with waterproof sealant before screws are fitted.
- (e) Blade Size - 89 millimetres

(f) Blade thickness - 12 millimetres

## B SCOPE OF BY-LAW

3. The Owner must ensure that the Balcony Shutter Works are in a construction and colour scheme that matches the overall appearance of the building.
4. The Owner must not install any Balcony Shutter Works except in accordance with the conditions in part C of this by-law.

## C CONDITIONS

### Before installing Balcony Shutter Works

5. The Owner must obtain approval for the installation of the Balcony Shutter Works from:
  - (a) The owners corporation;
  - (b) the relevant consent authority under the *Environmental Planning and Assessment Act* (if required); and
  - (c) any other relevant statutory authority whose requirements apply to installing Balcony Shutter Works.
6. The Owner must submit to the owners corporation any document reasonably required by the owners corporation relating to the installation of the Balcony Shutter Works.
7. The Owner must ensure that installation of the Balcony Shutter Works shall be done:
  - (a) in a proper and workmanlike manner;
  - (b) by duly licensed and insured contractor; and
  - (c) in accordance with the specifications approved by the owners corporation and the local council (if applicable).

### WHEN INSTALLING THE BALCONY SHUTTER WORKS

8. When installing the Balcony Shutter Works, the Owner must:
  - (a) transport all construction materials, equipment, debris and other material, in the manner reasonably directed by the owners corporation;
  - (b) protect all areas of the building outside their respective lot from damage by installation of the Balcony Shutter Works or the transportation of construction materials, equipment, debris;
  - (c) keep all areas of the building outside their respective lot clean and tidy throughout the installation of the Balcony Shutter Works;



- (d) only install the Balcony Shutter Works at times approved by the Owners Corporation
- (e) not create noise that causes unreasonable discomfort, disturbance or interference with activities of any other occupier in the building;
- (f) remove all debris resulting from the installation of the Balcony Shutter Works immediately from the building; and
- (g) comply with the requirements of the owners corporation to comply with any by-laws and any relevant statutory authority concerning the installation of Balcony Shutter Works

### **After installing the Balcony Shutter Works**

- 9. The Owners must deliver to the owners corporation any document reasonably required by the owners corporation.
- 10. The Owner must properly maintain and keep the common property to which the Balcony Shutter works are erected or attached in a state of good and serviceable repair.
- 11. The Owner must (at that Owner's cost) properly maintain and keep the Balcony Shutter Works in a state of good and serviceable repair and must replace the Balcony Shutter Works (or *any* part of them) as required from time to time.
- 12. To the extent that's 62(3) of the Act is applicable, the owners corporation determines it is inappropriate to maintain, renew, replace or repair any common property affected by the installation of the Balcony Shutter Works proposed under this by-law.

### **Liability and Indemnities**

- 13. The Owner will be liable for any loss and/or damage caused to any part of the common property as a result of installing, attaching or erecting the Balcony Shutter Works to the common property and **will** make good that damage immediately after it has occurred.
- 14. The Owner must indemnify the owner's corporation against any loss and/or damage suffered by **the owner's corporation as a result of the installation, performance, maintenance or replacement** of the Balcony Shutter Works on the common property including liability under section 65(6) of the Act in respect of any property of the Owner.
- 15. The Owner must indemnify the owner's corporation for any costs (legal and/or any other costs) of **any claim and/or counter claim brought by the owner's corporation in respect of any loss and/or** damage suffered by the owner's corporation as a result of the installation, performance, maintenance or replacement of the Balcony Shutter Works on the common property.

## RIGHT TO REMEDY DEFAULT

16. If the Owner fails to comply with any obligations under this by-law, THEN the owners corporation may:
  - (a) carry out all work necessary to perform that obligation;
  - {b} enter upon any part of the parcel to carry out that work;
  - (c) recover the costs of carrying out that work from the defaulting Owner as a debt; and
  - (d) include reference to the debt on levy notices and any other levy reports or information.
17. Any debt for which the Owner is liable under this by-law, is due and payable on written demand or at the direction of the owners corporation and, if not paid at the end of 1 month from the date on which it is due, will bear until paid, simple interest at an annual rate of 10 per cent or, if the regulations provide for another rate, that other rate and the interest will form part of that debt.

## By-Law 24: Lot 9 Works

BY-LAW 20

Lot 9 Works

### PART 1

#### GRANT OF RIGHT

- 1.1 Notwithstanding anything contained in any by-law applicable to the strata scheme, the Owner has the special privilege to carry out the Major Works (at the Owner's cost and to remain the Owner's fixture) and the right of exclusive use and enjoyment of those parts of the common property attached to or occupied by the Works, subject to the terms and conditions contained in this by-law.

### PART 2

#### APPLICATION OF SPECIAL BY-LAW

- 2.1 The provisions of Parts 2 and 3.2-3.12 (inclusive) of By-law No. 20 are adopted for the purposes of this by-law with the exception of the insertion of the definition of "Plans" and the amendment of the definition of "Major Works" and "Lot" as follows:

### PART 3

#### DEFINITIONS

- 3.1 In addition to the definitions in Part 2 of By-law 20, the following definitions are also adopted:
  - (a) "Major Works" means the works to the Lot and the common property to be carried out in connection with the renovation works per Annexure "A" works for the Lot including:
    - (i) As per the annexure and Scope of Works; and

- (ii) the restoration of lot and common property (including the Lot) damaged by the works referred to above,

all of which is to be conducted strictly in accordance with the Plans and the provisions of this by-law.

- (b) "**Lot**" means unit 9 in strata plan 68946.
- (c) "**Plans**" means the plans/drawings prepared by the owner and dated 27/03/2020 a copy of which were tabled at the meeting at which this by-law was passed and which may be attached to this by-law.

#### **PART 4**

#### **CONDITIONS**

4.1 The owner must comply with any conditions set out by the Owners Corporation in relation to the Major Works. These conditions include:

- (a) The owner must provide relevant certification documentation (this includes any relevant waterproofing certificates etc).

Annexure "A – Building Works Application Form"

STRATA PLAN NO 68946

BUILDING WORKS APPLICATION FORM

Use this form if you wish to undertake building works or renovations within your apartment. This form is to be construed according to the conditions outlined in the BY-LAW NO. 20 FOR MAJOR AND MINOR WORK APPROVAL PROGRAMME. Please ensure you have read and understood the document before completing this form. No work may commence until your application is approved by the Strata committee, or in the case of building works affecting common property, an appropriate by-law has been made and registered.

OWNERS NAME M Parsons UNIT/LOT NUMBER 9  
S Parsons  
CONTACT TELEPHONE (list all) 0422 29 Howard Ave Dee Why  
EMAIL ..... a.gmail.com

LOCATION: ☐ KITCHEN ☒ BATHROOM ☐ TOILET ☐ HALLWAY  
☐ LIVING ROOM ☐ BEDROOM ☐ OTHER.....

WORK

INVOLVES: ☒ PAINTING ☒ TILING ☐ FLOOR SURFACES ☒ ELECTRICAL  
☐ CEILING ☐ AIRDUCTS ☐ FIRE SPRINKLERS  
☒ PLUMBING ☐ MASONRY ☒ WALL REMOVAL/PENETRATION  
☐ COMMON PROPERTY ALTERATION ☐ OTHER .....

PREFERRED DATE OF WORKS STARTING 23/3/20 ENDING 29/9/20

PLEASE ATTACH ☒ DETAILED DESCRIPTION OF INTENDED WORKS

AND EITHER: ☐ PLAN BY ARCHITECT (if available)

OR: ☒ ROUGH PLAN / DIAGRAM (provided by owner)

NA ☐ BOND DEPOSIT: Please check with your strata committee as to the amount payable as bond and record those details here: Amount: \$ \_\_\_\_\_ Date Paid: \_\_\_\_\_ Strata Committee acknowledge receipt: \_\_\_\_\_ (SC Initial)

NA ☐ DEVELOPMENT APPLICATION

I the undersigned hereby warrant that I have read the By-Law No. 20 for major and minor work approval programme and agree to comply with all of the conditions and limitations imposed thereby.

OWNERS SIGNATURE: \_\_\_\_\_ DATE \_\_\_\_\_

ADDITIONAL WARRANTIES (IF APPLICABLE)

✓ STRUCTURAL ALTERATIONS:  
As the work applied for entails the removal and/or penetration of masonry within the apartment, I hereby warrant that I accept full responsibility for the upkeep and preservation of the altered masonry.

OWNERS SIGNATURE: M Parsons DATE 11/3/2020

NA CEILING CAVITY ALTERATIONS:  
As the work applied for entails the alteration of one or more ceiling cavities in the apartment, I hereby warrant that I accept full responsibility for any loss of acoustic amenity caused by the alteration.

OWNERS SIGNATURE: \_\_\_\_\_ DATE \_\_\_\_\_

Annexure "C"

CONSENT UNDER SECTION 143  
STRATA SCHEMES MANAGEMENT ACT 2015  
STRATA SCHEME 68946

TO: The Registrar-General  
Land & Property Information NSW  
Queens Square  
SYDNEY NSW 2000

*Megan Parsons and*  
I/We, *Susan Parsons*, CONSENT to the making of a by-law conferring rights over the  
common property for the installation of *bathroom water plotting* to be carried out by me/us as the  
owner/s of lot *9* in our strata scheme and conferring on me/us the responsibility to repair and maintain  
such works.

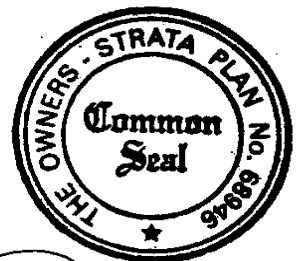
The by-law is to be made by the Owners Corporation at a general meeting on *27/3/20* or any  
adjournment of that meeting.

Dated: *11/3/2020*

Signature of *Megan Parsons*

Owner of Lot *9*

cc: The Owners – Strata Plan No 68946



*SAR*



0410 340 946

8 Carawa Rd  
Cromer NSW 2099

25 February 2020

### Statement

Client : Megan and Susan Parsons  
Site address: 9/29 Howard Ave, Dee Why

All work at above address performed by Ezy Reno Pty Ltd or  
its subcontractors will meet Bca and Australian standards.

Freshwater Plumbing Sydney Pty Ltd  
Lic:236032c

Scot-tec Electrical and Communication Services  
Lic:132049c

Simon Watson  
Managing Director

Ezy Reno Pty Ltd  
Ph: 0410 340 946  
Licence No. 225075C  
ABN: 39 142 393 011



0410 340 946

8 Carawa Rd  
Cromer NSW 2099

## Estimate

25 February 2020

Client: Megan and Susan Parsons  
Site address: 9/29 Howard Ave, Dee Why

Renovate existing bathroom,  
Remove tiles, screed and sheet linings.  
Install new wall sheeting, new waterproofing,  
Install new wall and floor tiles (supplied by owner)  
Installation of new plumbing fittings, (taps, toilet and vanity  
to be supplied by owner).  
Taps will be replaced with quick-shutting (quarter turn, lever  
action or similar) taps and will be fitted with water hammer  
arrestors on both hot and cold lines.  
Remove waste.

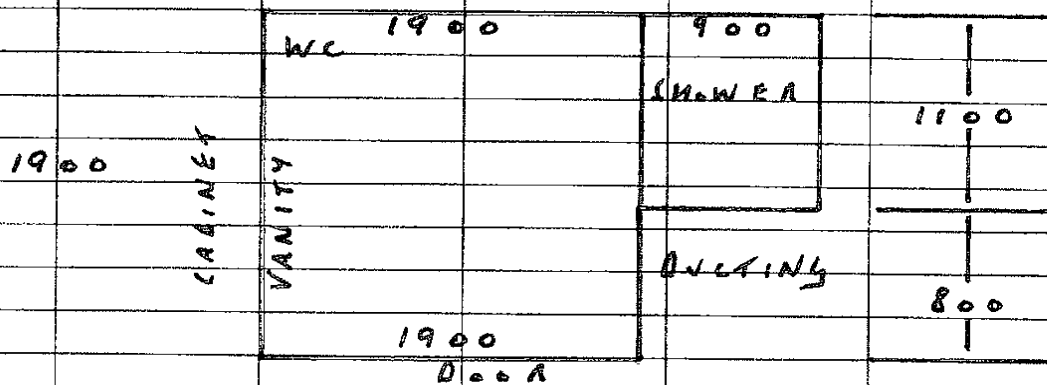
Amount	\$13,000.00
GST	\$1,300.00
<u>Total</u>	<u>\$14,300.00</u>

All work is to comply with Building Code of Australia and relevant Australian standards

Estimate is made in accordance with the *Building and Construction Security of Payments Act 1999 NSW*

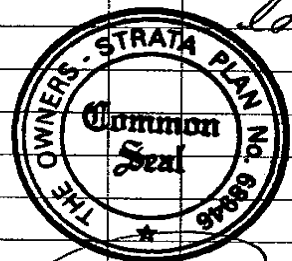
Ezy Reno Pty Ltd  
Ph: 0410 340 946  
Licence No. 225075C  
ABN: 39 142 393 011

9129 HOWARD AV  
DEE WMY  
BATHROOM PLAN



THE NEW BATHROOM WILL BE THE SAME  
AS THE EXISTING BATHROOM  
THERE IS NO CHANGE TO THE LAYOUT

ALL WALLS WILL BE TILED FROM  
FLOOR TO CEILING





## Northern Beaches Council Planning Certificate – Part 2&5

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

**Reference:** 20200797  
**Date:** 01/06/2020  
**Certificate No.** ePLC2020/3238

**Address of Property:** 9/29 Howard Avenue DEE WHY NSW 2099  
**Description of Property:** Lot 9 SP 68946

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### Planning Certificate – Part 2

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

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

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

**1.1a) Local Environmental Plan**

Warringah Local Environmental Plan 2011

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

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

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

State Environmental Planning Policy (State and Regional Development) 2011

State Environmental Planning Policy (State Significant Precincts) 2005

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

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

State Environmental Planning Policy (Koala Habitat Protection) 2019

Sydney Regional Environmental Plan No 20-Hawkesbury-Nepean River (No 2-1997)

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

Sydney Regional Environmental Plan No 9-Extractive Industry (No 2-1995)

## **1.2 Draft Environmental Planning Instruments**

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

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

Draft State Environmental Planning Policy (Environment)

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

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

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

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

**Planning Proposal - Manly Creek Riparian Lands, Manly Vale (in the vicinity of “Mermaid Pool”)**

**Applies to: Crown Land:**

- Part Lot 7370 DP1165551 being land adjoining 102 King Street, Manly Vale
- Part Lot 7369 DP1165551 Wandella Road, Allambie Heights, south of Jenna Close, Allambie heights
- Lot 7371 DP1165577
- Part unmade road at the southern end of Wandella Road, King Street, Manly Vale

**Outline:** Proposed amendment to WLEP 2011 to:

- Amend Land Zoning Map to change the zoning from R2 (Low Density Residential) to RE1 (Public Recreation).
- Amend Height of Building Map and Minimum Lot Size Map to remove the residential development standards for height and minimum lot size from all of the subject lots.

**Council resolution:** 27 November 2018

**Gateway Determination:** 9 August 2019

**Planning Proposal - Freshwater Village Carpark Reclassification**

**Applies to land:** Oliver Street carpark and Lawrence Street carpark, Freshwater

**Outline:** Amends WLEP 2011 to:

- Amend Schedule 4 Part 1 to include reference to the land
- Amend LZN\_010 map to change the zoning from RE1 - Public Recreation to SP2 - Infrastructure
- Amend HOB\_010 map to implement a maximum height of building of 3 metres.

**Council resolution:** 27 November 2018

**Gateway determination:** 23 September 2019

### **1.3 Development Control Plans**

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

Warringah Development Control Plan 2011

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

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

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

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

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

#### **EXTRACT FROM WARRINGAH LOCAL ENVIRONMENTAL PLAN 2011**

#### **Zone B4 Mixed Use**

##### **1 Objectives of zone**

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To reinforce the role of Dee Why as the major centre in the sub-region by the treatment of public spaces, the scale and intensity of development, the focus of civic activity and the arrangement of land uses.
- To promote building design that creates active building fronts, contributes to the life of streets and public spaces and creates environments that are appropriate to human scale as well as being comfortable, interesting and safe.
- To promote a land use pattern that is characterised by shops, restaurants and business premises on the ground floor and housing and offices on the upper floors of buildings.
- To encourage site amalgamations to facilitate new development and to facilitate the provision of car parking below ground.

##### **2 Permitted without consent**

Home-based child care; Home occupations

##### **3 Permitted with consent**

Boarding houses; Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Hotel or motel accommodation; Information and education facilities; Medical centres; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Residential flat buildings; Respite day care centres; Restricted premises; Roads; Seniors housing; Shop top housing; Any other development not specified in item 2 or 4

#### **4 Prohibited**

Advertising structures; Agriculture; Air transport facilities; Animal boarding or training establishments; Boat building and repair facilities; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Environmental facilities; Exhibition villages; Extractive industries; Forestry; Freight transport facilities; Heavy industrial storage establishments; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Marinas; Mooring pens; Moorings; Open cut mining; Port facilities; Recreation facilities (major); Recreation facilities (outdoor); Research stations; Residential accommodation; Rural industries; Service stations; Sex services premises; Storage premises; Transport depots; Vehicle body repair workshops; Vehicle repair stations; Waste or resource management facilities; Water recreation structures; Wharf or boating facilities; Wholesale supplies

#### **Additional permitted uses**

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

Nil

#### **(e) Minimum land dimensions**

The *Warringah Local Environmental Plan 2011* contains no development standard that fixes minimum land dimensions for the erection of a dwelling house on the land.

#### **(f) Critical habitat**

The land does not include or comprise critical habitat.

#### **(g) Conservation areas**

The land is not in a heritage conservation area.

#### **(h) Item of environmental heritage**

The land does not contain an item of environmental heritage.

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

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

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

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

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

#### **3. Complying Development**

The extent to which the land is land on which complying development may or may not be carried out under each of the codes for complying development because of the provisions of clauses 1.17A (1) (c) to (e), (2), (3) and (4), 1.18 (1) (c3) and 1.19 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

#### **a) Housing Code**

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

#### **b) Rural Housing Code**

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

#### **c) Low Rise Medium Density Code**

Complying Development under the Low Rise Medium Density Code may not be carried out on all the land.

**Note:** Pursuant to clause 3B.63 of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, all land in Northern Beaches Council is a 'deferred area' meaning that the Low Rise Medium Density Code does not apply until 1 July 2020.

#### **d) Greenfield Housing Code**

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

#### **e) Housing Alterations Code**

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

#### **f) General Development Code**

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

#### **g) Commercial and Industrial Alterations Code**

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

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

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

#### **i) Container Recycling Facilities Code**

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

#### **j) Subdivisions Code**

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

#### **k) Demolition Code**

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

#### **l) Fire Safety Code**

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

#### **m) Inland Code**

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

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

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

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

The owner of the land (or any previous owner) has not consented in writing to the land being subject to annual charges under section 496B of the *Local Government Act 1993* for coastal protection services that relate to existing coastal protection works (within the meaning of section 553B of that Act).

#### **5. Mine Subsidence**

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

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

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

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

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

Nil

- (b) The following information applies to any policy as adopted by any other public authority and notified to the Council for the express purpose of its adoption by that authority being referred to in a planning certificate issued by the Council. The identified hazard or risk and the respective Policy which affect the property, if any, are listed below:

Nil

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

- (1) Development on the land or part of the land for the purposes of dwelling houses, dual occupancies, multi dwelling housing or residential flat buildings (not including development for the purposes of group homes or seniors housing) is subject to flood related development controls.
- (2) Development on the land or part of the land for any other purpose is subject to flood related development controls.

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

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

## **9. Contribution plans**

The following applies to the land:

### **Dee Why Town Centre Contributions Plan - in force 13 July 2019**

This Plan was approved to fund the delivery of local infrastructure to support growth in the Dee Why Town Centre.

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

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

## **10. Biodiversity Stewardship Sites**

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

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

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

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

### **Bush Fire Prone Land**

The land is not bush fire prone land.

### **Draft Northern Beaches Bush Fire Prone Land Map 2018**

The land is not bush fire prone land.

## **12. Property vegetation plans**

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

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

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

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

There is not a direction by the Minister in force under section 75P(2) (c1) of the Act that a provision of an environmental planning instrument prohibiting or restricting the carrying out of a project or a stage of a project on the land under Part 4 of the Act does not have effect.

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

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

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

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

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

- (a) There is not a current site compatibility certificate (affordable rental housing), of which the council is aware, in respect of proposed development on the land.
- (b) There are not terms of a kind referred to in clause 17 (1) or 38 (1) of *State Environmental Planning Policy (Affordable Rental Housing) 2009* that have been imposed as a condition of consent to a development application in respect of the land.

### **18. Paper subdivision information**

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

### **19. Site verification certificates**

There is no current site verification certificate, of which council is aware, in respect of the land



according to Part 4AA of the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*.

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

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

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

Contact NSW Fair Trading for more information.

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

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

In this clause:

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

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

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

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

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

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

## Planning Certificate – Part 5

ePLC2020/3238

The following is information provided in good faith under the provisions of Section 10.7(5) of the *Environmental Planning and Assessment Act 1979* (as amended – formerly Section 149) and lists relevant matters affecting the land of which Council is aware. The Council shall not incur any liability in respect of any such advice.

Persons relying on this certificate should read the environmental planning instruments referred to in this certificate.

### **Company Title Subdivision**

Clause 4.1 of the *Pittwater Local Environmental Plan 2014*, *Warringah Local Environmental Plan 2011* or *Manly Local Environmental Plan 2013* provides that land may not be subdivided except with the consent of the Council. This includes subdivision by way of company title schemes. Persons considering purchasing property in the Northern Beaches local government area the subject of a company title scheme are advised to check that the land has been subdivided with the consent of the Council.

### **District Planning**

Under the Greater Sydney Regional Plan – A Metropolis of Three Cities 2018, the Greater Sydney Commission sets a planning framework for a metropolis of three cities across Greater Sydney which reach across five Districts. Northern Beaches is located within the 'Eastern Harbour City' area and is in the North District which forms a large part of the Eastern Harbour City. The North District Plan sets out planning priorities and actions for the growth of the North District, including Northern Beaches. Northern Beaches Council is preparing a Local Strategic Planning Statement which will give effect to the District Plan based on local characteristics and opportunities and Council's own priorities in the community.

### **Council Resolution To Amend Environmental Planning Instrument**

The following instrument or resolution of Council proposes to vary the provisions of an environmental planning instrument, other than as referred to in the Planning Certificate – Part 2:

#### **Planning Proposal - Response to Low Rise Medium Density Code**

**Applies to land:** Certain land in the Pittwater Local Environmental Plan 2014 (PLEP 2014) and Manly Local Environmental Plan 2013 (MLEP 2013)

**Outline:** Seeks to amend the PLEP 2014 and MLEP 2013 in response to issues arising from the future implementation of the NSW Governments' SEPP (Exempt and Complying Development) Amendment (Low Rise Medium Density Code). The intent of the Planning Proposal is to prohibit:

- manor houses and multi-dwelling housing (including terraces) in zone R2 Low Density Residential zone under the Manly LEP 2013
- dual occupancy in zone R2 Low Density Residential zone under the Manly LEP 2013 and Pittwater LEP 2014

- multi-dwelling housing and dual occupancies in the R3 Zone in the Warriewood Valley under Pittwater LEP 2014

**Council resolution:** 26 June 2018

**Planning Proposal - rezone deferred land within the Oxford Falls Valley & Belrose North area**

**Applies to land:** Land within the B2 Oxford Falls Valley and C8 Belrose North localities of WLEP 2000 and land zoned E4 Environmental Living under WLEP 2011 at Cottage Point (Boundaries identified within the Planning Proposal)

**Outline:** Amends WLEP 2000 and WLEP 2011 to:

- Transfer the planning controls for land within the B2 Oxford Falls Valley and C8 Belrose North localities of WLEP 2000 into the best fit zones and land use controls under WLEP 2011
- Rezone the majority of the subject land to E3 Environmental Management under WLEP 2011
- Rezone smaller parcels of land to E4 Environmental Living, RU4 Primary Production Small Lots, SP2 Infrastructure, SP1 Special Activities, R5 Large Lot Residential and R2 Low Density Residential under WLEP 2011
- Include various parcels of land as having additional permitted uses under Schedule 1 of WLEP 2011

**Council resolution:** 24 February 2015

**Planning Proposal - Manly Warringah War Memorial State Park (Wakehurst Parkway, Allambie Heights & 1 Kirkwood Street, North Balgowlah)**

**Applies to:** **Crown Land:** Lots 76 and 77 DP 504237; Lot 2 DP 710023 and Lot 1 DP 1200869; and **Sydney Water Land:** Lot 1 DP 710023 and Lot 1 DP 835 123

**Outline:** Proposed amendment to WLEP 2011 to:

- Amend Land Zoning Map to change the zoning from R2 (Low Density Residential) to RE1 (Public Recreation) for Lots 76 and 77 DP 504237, Lots 1 and 2 DP 710023, and Lot 1 DP 1200869.
- Amend Land Zoning Map to change the zoning from R2 (Low Density Residential) to SP2 (Infrastructure) - 'Water Supply System' for Lot 1 DP 835123.
- Amend Height of Building Map and Minimum Lot Size Map to remove the residential development standards for height and minimum lot size from all of the subject lots.

**Council resolution:** 28 May 2019

**Planning Proposal - Pittwater Road and Albert Street, Narrabeen**

**Applies to:** 1294 - 1300 Pittwater Road and 2 - 4 Albert Street, Narrabeen

**Outline:** Amends WLEP 2011 to:

- Amend Height of Building Map to increase height from 8.5m to 11m (excluding lot 1 DP613544 and part lot 8C DP200030).
- Amend Schedule 1 to allow "shop top housing" on the site.
- To seek an affordable housing contribution in conjunction with future redevelopment of the land.

**Council resolution:** 28 May 2019

## **Additional Information Applying To The Land**

Additional information, if any, relating to the land the subject of this certificate:

Nil

## **General Information**

### **Threatened Species**

Many threatened species identified under the *Biodiversity Conservation Act 2016* (NSW) and Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth) are found within the former Local Government Area of Warringah (now part of Northern Beaches). Council's Natural Environment unit can be contacted to determine whether any site specific information is available for this property. Records of threatened flora and fauna are also available from the NSW Office of Environment and Heritage's Atlas of NSW Wildlife database: <http://www.bionet.nsw.gov.au>

Potential threatened species could include:

(a) threatened species as described in the final determination of the scientific committee to list endangered and vulnerable species under Schedule 1 of the *Biodiversity Conservation Act 2016*, and/or

(b) one or more of the following threatened ecological communities as described in the final determination of the scientific committee to list the ecological communities under Schedule 2 of the *Biodiversity Conservation Act 2016*:

- Duffys Forest Ecological Community in the Sydney Basin Bioregion
- Swamp Sclerophyll Forest on Coastal Floodplain
- Coastal Saltmarsh of the Sydney Basin Bioregion
- Swamp Oak Floodplain Forest
- Bangalay Sand Forest of the Sydney Basin Bioregion
- Themeda grasslands on Seacliffs and Coastal Headlands
- Sydney Freshwater Wetlands in the Sydney Basin Bioregion
- Coastal Upland Swamp in the Sydney Basin Bioregion
- River-Flat Eucalypt Forest on Coastal Floodplains of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions

### **Bush fire**

Certain development may require further consideration under section 79BA or section 91 of the Environmental Planning and Assessment Act 1979, and section 100B of the Rural Fires Act, 1997 with respect to bush fire matters. Contact NSW Rural Fire Service.

### **Aboriginal Heritage**

Many Aboriginal objects are found within the Local Government Area. It is prudent for the purchaser of land to make an enquiry with the Office of Environment and Heritage as to whether any known Aboriginal objects are located on the subject land or whether the land has been declared as an Aboriginal place under the *National Parks and Wildlife Act 1974* (NSW). The carrying out of works may be prevented on land which is likely to significantly affect an Aboriginal object or Aboriginal place. For information relating to Aboriginal sites and objects across NSW, contact: Aboriginal Heritage Information Management System (AHIMS) on (02) 9585 6345 or email [AHIMS@environment.nsw.gov.au](mailto:AHIMS@environment.nsw.gov.au). Alternatively visit <http://www.environment.nsw.gov.au/licences/AboriginalHeritageInformationManagementSystem.htm>.

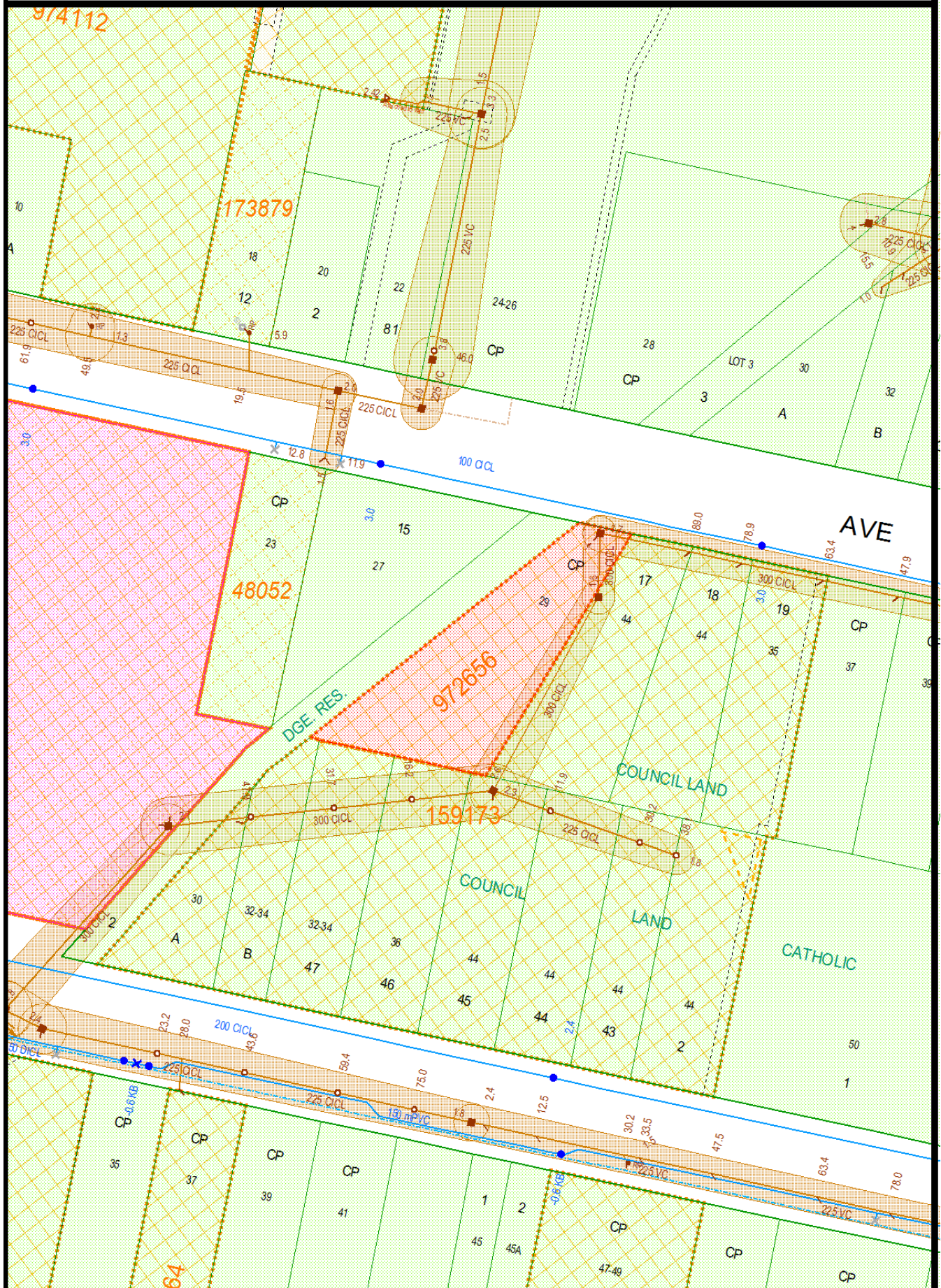
### **Coastal Erosion**

Information available to Council indicates coastal erosion may affect a greater number of properties and may present an increased risk to properties than that shown on published hazard maps of the Warringah coastline. Council's Natural Environment Unit can be contacted for further information.

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

**Ray Brownlee PSM**  
**Chief Executive Officer**  
**01/06/2020**





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

# METROPOLITAN WATER SEWERAGE AND DRAINAGE BOARD

## SEWERAGE SERVICE DIAGRAM

Municipality of *Warringah*

No. 586697

*KNEEBONE*

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

## SYMBOLS AND ABBREVIATIONS

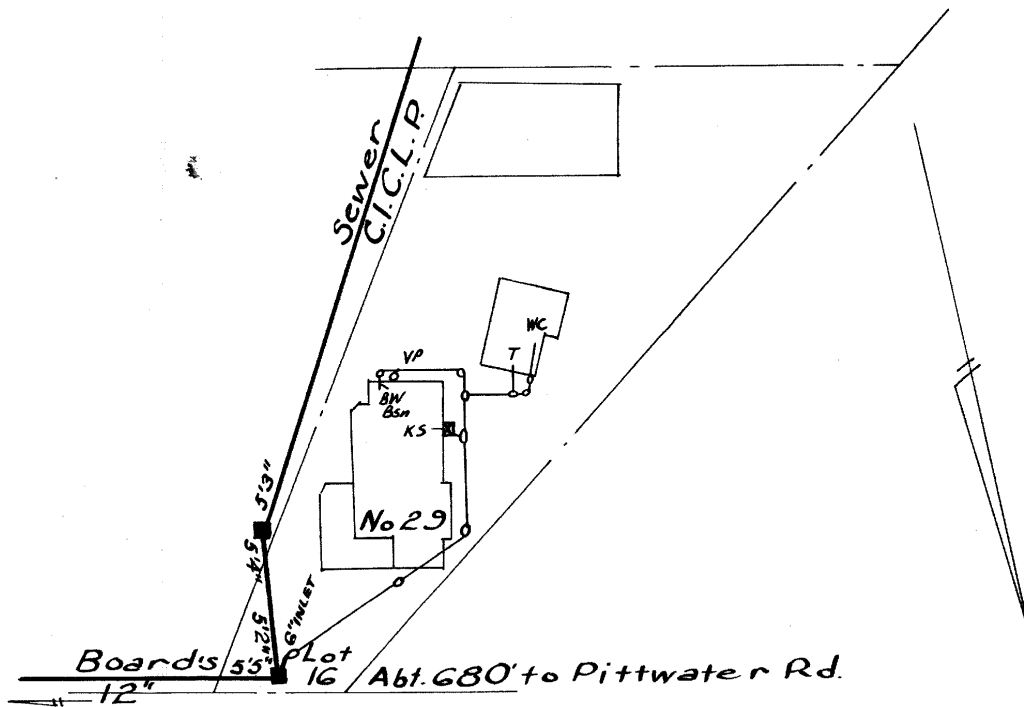
- ☒ R.V. Reflux Valve
- ☒ C.E. Cleaning Eye
- ☐ VERT. Vertical Pipe
- ☐ V.P. Vent. Pipe
- ☐ S.V.P. Soil Vent. Pipe
- ☐ D.C.C. Down Cast Cowl
- ☐ I.P. Induct Pipe
- ☐ M.F. Mica Flap
- ☐ T. Tubs
- ☐ K.S. Kitchen Sink
- ☐ W.C. Water Closet
- ☐ B.W. Bath Waste

- ☐ Bsn. Basin
- ☐ Shr. Shower
- ☐ W.I.P. Wrought Iron Pipe
- ☐ C.I.P. Cast Iron Pipe
- ☐ F.W. Floor Waste
- ☐ W.M. Washing Machine

SCALE: 40 FEET TO AN INCH.

## SEWER AVAILABLE

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



HOWARD

AV.

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

SHEET No. *7163*

OFFICE USE ONLY

FOR ENGINEER HOUSE SERVICES

DRAINAGE			PLUMBING		
W.C.	Supervised by	Date	BRANCH OFFICE	Supervised by	Date
Bth	Inspector	/ /	Date / /	Inspector	/ /
Shr		Examined by	Outfall <span style="float: right;">HL LL</span>		
Bsn.		Chief Inspector	Drainer		
K.S.	Tracing Checked	/ /	Plumber	726 320	
T.					
Pig.					
Dge. Int.			Boundary Trap		
Dge. Ext.			is not required		

Se 2

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