

# Contract for the sale of land – 2005 edition

TERM	MEANING OF TERM	
Vendor's agent	Skyline Real Estate Frenchs Forest 3-7, 14 Frenchs Forest Road, FRENCHS FOREST NSW 2086	Tel +61 2 9452 3444 Fax +61 2 9452 4555 Ref Stuart Bath
Co-agent Vendor	Commonwealth Bank of Australia Limited t/as Bankwest as Mortgagee Exercising Power of Sale pursuant to mortgage registered number AE32087 c/- Level 14, 201 Sussex Street (Darling Park 1) SYDNEY NSW 2000	ACN/ARBN/ABN 123 123 124
Vendor's Solicitor	Henry Davis York 44 Martin Place, Sydney NSW 2000 DX 173 SYDNEY	Tel +61 2 9947 6000 Fax +61 2 9947 6999 Ref AGS/SYN/JYH/3118679-005
Completion date	42nd day after the contract date (clause 15)	
Land (Address, plan details and title reference)	6 Derna Crescent, Allambie Heights NSW 2100 Registered plan: Lot 3 on Section 51 in Deposited Plan 237501 (copy attached) Folio Identifier: 3/51/237501	
Improvements	<input checked="" type="checkbox"/> VACANT POSSESSION <input type="checkbox"/> subject to existing tenancies <input checked="" type="checkbox"/> HOUSE <input type="checkbox"/> garage <input checked="" type="checkbox"/> carport <input type="checkbox"/> home unit <input type="checkbox"/> carspace <input type="checkbox"/> none <input checked="" type="checkbox"/> other: Swimming pool	
Attached copies	<input type="checkbox"/> Documents in the List of Documents as marked or as numbered: <input checked="" type="checkbox"/> Other documents: See Schedule A	

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

Inclusions	<input type="checkbox"/> blinds <input type="checkbox"/> curtains <input type="checkbox"/> insect screens <input type="checkbox"/> stove <input type="checkbox"/> built-in wardrobes <input type="checkbox"/> dishwasher <input type="checkbox"/> light fittings <input type="checkbox"/> pool equipment <input type="checkbox"/> clothes line <input type="checkbox"/> fixed floor coverings <input type="checkbox"/> range hood <input type="checkbox"/> TV antenna <input checked="" type="checkbox"/> other: Refer to clause 43	
Exclusions	Refer to clause 43	
Purchaser		ACN/ARBN/ABN
Purchaser's solicitor		Tel Fax Ref
Price	\$	
Deposit	\$	(10% of the price, unless otherwise stated)
Balance	\$	
Contract date		(if not stated, the date this contract was made)

**SEE PAGE 3 FOR SIGNING**

Vendor

Witness

**SEE PAGES 3 AND 4 FOR SIGNING**

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

Purchaser

JOINT TENANTS     tenants in common     in unequal shares

Witness

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

**Vendor duty** is payable     NO     yes in full     yes to an extent  
**Deposit** can be used to pay vendor duty     NO     yes  
**Land tax** is adjustable     NO     yes  
**GST:** Taxable supply     NO     yes in full     yes to an extent  
Margin scheme will be used in making the taxable supply     NO     yes

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

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

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

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

**WARNINGS**

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

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

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

**DISPUTES**

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

**AUCTIONS**

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

**Executed by vendor**

**Executed by Commonwealth Bank of Australia t/as Bankwest as mortgagee exercising power of sale ACN 123 123 124** by its duly constituted Attorney under Power of Attorney Book No \_\_\_\_\_ dated \_\_\_\_\_ who has no notice of revocation of such Power of Attorney in the presence of:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Full name (Please print)

\_\_\_\_\_  
Full Name and Title (Please print)

\_\_\_\_\_  
Date

**Purchaser Execution**

*Delete inapplicable execution clause*

**Individual**

**Signed by** \_\_\_\_\_ **in** \_\_\_\_\_  
the presence of:

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

\_\_\_\_\_  
Print name:

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Address

**Company**

**Signed by** \_\_\_\_\_ **by:** \_\_\_\_\_

\_\_\_\_\_  
Signature of director/company secretary

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

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Print name

**Power of Attorney**

**Signed** on behalf of  
by its attorney under power of attorney  
dated  
Book      No      in the presence of:

By executing this instrument the attorney  
states that they have received no notice of  
the revocation of the power of attorney.

\_\_\_\_\_  
Witness (signature)

\_\_\_\_\_  
Attorney (signature)

\_\_\_\_\_  
Witness (print name)

\_\_\_\_\_  
Attorney (print name)

**Execution by Guarantor:**

**Signed by**  
in the presence of:

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

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

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Address

**Signed by**  
in the presence of:

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

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

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Address

## Certificate under s66w of the Conveyancing Act 1919

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

1. I am a solicitor 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 sale of property situated at 6 Derna Crescent, Allambie Heights NSW 2100 from Commonwealth Bank of Australia Limited t/as Bankwest as Mortgagee Exercising Power of Sale pursuant to mortgage registered number AE32087 (**Vendor**) to (**Purchaser**) in order that there be 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:
  - (a) the effect of the contract for the purchase of the said property;
  - (b) the nature of this certificate; and
  - (c) the effect of giving this certificate to the vendor, i.e. that there is to be no cooling off period in relation to the contract.

Dated:

\_\_\_\_\_

### **WARNING SWIMMING POOLS**

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

### **WARNING SMOKE ALARMS**

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

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

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

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

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

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

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

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

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

<i>adjustment date</i>	the earlier of the giving of possession to the purchaser or completion;
<i>bank</i>	a bank as defined in the Banking Act 1959, the Reserve Bank or a State bank;
<i>business day</i>	any day except a bank or public holiday throughout NSW or a Saturday or Sunday;
<i>cheque</i>	a cheque that is not postdated or stale;
<i>depositholder</i>	vendor's agent (or if no vendor's agent is named in this contract, the vendor's <i>solicitor</i> );
<i>document of title</i>	document relevant to the title or the passing of title;
<i>GST Act</i>	A New Tax System (Goods and Services Tax) Act 1999;
<i>GST rate</i>	the rate mentioned in section 4 of A New Tax System (Goods and Services Tax Imposition - General) Act 1999 (10% as at 1 July 2000);
<i>legislation</i>	an Act or a by-law, ordinance, regulation or rule made under an Act;
<i>normally</i>	subject to any other provision of this contract;
<i>party</i>	each of the vendor and the purchaser;
<i>property</i>	the land, the improvements, all fixtures and the inclusions, but not the exclusions;
<i>requisition</i>	an objection, question or requisition (but the term does not include a claim);
<i>rescind</i>	rescind this contract from the beginning;
<i>serve</i>	serve in writing on the other <i>party</i> ;
<i>settlement cheque</i>	an unendorsed <i>cheque</i> made payable to the person to be paid and drawn on its own funds by - <ul style="list-style-type: none"> <li>● a <i>bank</i>; or</li> <li>● a building society, credit union or other FCA institution as defined in Cheques Act 1986; that carries on business in Australia; or</li> </ul> if authorised in writing by the vendor or the vendor's <i>solicitor</i> , some other <i>cheque</i> ;
<i>solicitor</i>	in relation to a <i>party</i> , the <i>party's</i> solicitor or licensed conveyancer named in this contract or in a notice <i>served</i> by the <i>party</i> ;
<i>terminate</i>	terminate this contract for breach;
<i>vendor duty</i>	vendor duty imposed under Chapter 4 of the Duties Act 1997;
<i>within</i>	in relation to a period, at any time before or during the period;
<i>work order</i>	a valid direction, notice or order that requires work to be done or money to be spent on or in relation to the <i>property</i> or any adjoining footpath or road.

## 2 Deposit and other payments before completion

- 2.1 The purchaser must pay the deposit to the *depositholder* as stakeholder.
- 2.2 *Normally*, the purchaser must pay the deposit on the making of this contract, and this time is essential.
- 2.3 If this contract requires the purchaser to pay any of the deposit by a later time, that time is also essential.
- 2.4 The purchaser can pay any of the deposit only by unconditionally giving cash (up to \$2,000) or a *cheque* to the *depositholder* or to the vendor, vendor's agent or vendor's *solicitor* for sending to the *depositholder*.
- 2.5 If any of the deposit is not paid on time or a *cheque* for any of the deposit is not honoured on presentation, the vendor can *terminate*. This right to *terminate* is lost as soon as the deposit is paid in full.
- 2.6 If the vendor accepts a bond or guarantee for the deposit, clauses 2.1 to 2.5 and 3 do not apply.
- 2.7 If the vendor accepts a bond or guarantee for part of the deposit, clauses 2.1 to 2.5 and 3 apply only to the balance.
- 2.8 If any of the deposit or of the balance of the price is paid before completion to the vendor or as the vendor directs, it is a charge on the land in favour of the purchaser until *termination* by the vendor or completion, subject to any existing right.
- 2.9 If each *party* tells the *depositholder* that the deposit is to be invested, the *depositholder* is to invest the deposit (at the risk of the *party* who becomes entitled to it) with a *bank*, credit union or permanent building society, in an interest-bearing account in NSW, payable at call, with interest to be reinvested, and pay the interest to the *parties* equally, after deduction of all proper government taxes and financial institution charges and other charges.

## 3 Payment of vendor duty out of the deposit

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

## 4 Transfer

- 4.1 *Normally*, the purchaser must *serve* the form of transfer at least 14 days before the completion date.
- 4.2 If any information needed for the form of transfer is not disclosed in this contract, the vendor must *serve* it.
- 4.3 If the purchaser *serves* a form of transfer and the transferee is not the purchaser, the purchaser must give the vendor a direction signed by the purchaser personally for this form of transfer.
- 4.4 The vendor can require the purchaser to include a form of covenant or easement in the transfer only if this contract contains the wording of the proposed covenant or easement, and a description of the land benefited.
- 4.5 If this sale is exempt from *vendor duty* -
- 4.5.1 the vendor can (but does not have to) *serve* an application for exemption from *vendor duty* in the form satisfactory to the Office of State Revenue *within* 7 days after the contract date;
- 4.5.2 if that application is attached to this contract or has been provided to the purchaser before the contract date, the application is *served* on the contract date; and
- 4.5.3 if the vendor complies with clause 4.5.1 -
- the purchaser must have the form of transfer marked by the Office of State Revenue in relation to *vendor duty* before *serving* the form of transfer; and
  - on completion the vendor must pay to the purchaser \$33.

## 5 Requisitions

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

## 6 Error or misdescription

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

## 7 Claims by purchaser

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

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

## 8 Vendor's right to rescind

The vendor can *rescind* if -

- 8.1 the vendor is, on reasonable grounds, unable or unwilling to comply with a *requisition*;
- 8.2 the vendor *serves* a notice of intention to *rescind* that specifies the *requisition* and those grounds; and
- 8.3 the purchaser does not *serve* a notice waiving the *requisition within* 14 days after that *service*.

## 9 Purchaser's default

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

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

## 10 Restrictions on rights of purchaser

- 10.1 The purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of -
- 10.1.1 the ownership or location of any fence as defined in the Dividing Fences Act 1991;
  - 10.1.2 a service for the *property* being a joint service or passing through another property, or any service for another property passing through the *property* ('service' includes air, communication, drainage, electricity, garbage, gas, oil, radio, sewerage, telephone, television or water service);
  - 10.1.3 a wall being or not being a party wall in any sense of that term or the *property* being affected by an easement for support or not having the benefit of an easement for support;
  - 10.1.4 any change in the *property* due to fair wear and tear before completion;
  - 10.1.5 a promise, representation or statement about this contract, the *property* or the title, not set out or referred to in this contract;
  - 10.1.6 a condition, exception, reservation or restriction in a Crown grant;
  - 10.1.7 the existence of any authority or licence to explore or prospect for gas, minerals or petroleum;
  - 10.1.8 any easement or restriction on use the substance of either of which is disclosed in this contract or any non-compliance with the easement or restriction on use; or
  - 10.1.9 anything the substance of which is disclosed in this contract (except a caveat, charge, mortgage or writ).
- 10.2 The purchaser cannot *rescind* or *terminate* only because of a defect in title to or quality of the inclusions.
- 10.3 *Normally*, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* or require the vendor to change the nature of the title disclosed in this contract (for example, to remove a caution evidencing qualified title, or to lodge a plan of survey as regards limited title).

**11 Compliance with work orders**

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

**12 Certificates and inspections**

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

**13 Goods and services tax (GST)**

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

## 14 Adjustments

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

## 15 Completion date

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

## 16 Completion

### • Vendor

- 16.1 On completion the vendor must give the purchaser any *document of title* that relates only to the *property*.
- 16.2 If on completion the vendor has possession or control of a *document of title* that relates also to other property, the vendor must produce it as and where necessary.
- 16.3 *Normally*, on completion the vendor must cause the legal title to the *property* (being an estate in fee simple) to pass to the purchaser free of any mortgage or other interest, subject to any necessary registration.
- 16.4 The legal title to the *property* does not pass before completion.
- 16.5 If the vendor gives the purchaser a document (other than the transfer) that needs to be lodged for registration, the vendor must pay the lodgment fee to the purchaser, plus another 20% of that fee.
- 16.6 If the purchaser *serves* a land tax certificate showing a charge on any of the land, on completion the vendor must give the purchaser a land tax certificate showing the charge is no longer effective against the land.
- 16.7 On completion the purchaser must pay to the vendor, by cash (up to \$2,000) or *settlement cheque*, the price (less any deposit paid) and any other amount payable by the purchaser under this contract (less any amount payable by the vendor to the purchaser under this contract).
- 16.8 If the vendor requires more than 5 *settlement cheques*, the vendor must pay \$10 for each extra *cheque*.
- 16.9 If any of the deposit is not covered by a bond or guarantee, on completion the purchaser must give the vendor an order signed by the purchaser authorising the *depositholder* to account to the vendor for the deposit.
- 16.10 On completion the deposit belongs to the vendor.

### • Place for completion

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

## 17 Possession

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

- 17.2.1 this contract says that the sale is subject to existing tenancies; and
- 17.2.2 the contract discloses the provisions of the tenancy (for example, by attaching a copy of the lease and any relevant memorandum or variation).

17.3 *Normally*, the purchaser can claim compensation (before or after completion) or *rescind* if any of the land is affected by a protected tenancy (a tenancy affected by Part 2, 3, 4 or 5 Landlord and Tenant (Amendment) Act 1948).

## 18 Possession before completion

18.1 This clause applies only if the vendor gives the purchaser possession of the *property* before completion.

18.2 The purchaser must not before completion -

- 18.2.1 let or part with possession of any of the *property*;
- 18.2.2 make any change or structural alteration or addition to the *property*; or
- 18.2.3 contravene any agreement between the *parties* or any direction, document, *legislation*, notice or order affecting the *property*.

18.3 The purchaser must until completion -

- 18.3.1 keep the *property* in good condition and repair having regard to its condition at the giving of possession; and
- 18.3.2 allow the vendor or the vendor's authorised representative to enter and inspect it at all reasonable times.

18.4 The risk as to damage to the *property* passes to the purchaser immediately after the purchaser enters into possession.

18.5 If the purchaser does not comply with this clause, then without affecting any other right of the vendor -

- 18.5.1 the vendor can before completion, without notice, remedy the non-compliance; and
- 18.5.2 if the vendor pays the expense of doing this, the purchaser must pay it to the vendor with interest at the rate mentioned in Schedule J of the Supreme Court Rules 1970.

18.6 If this contract is *rescinded* or *terminated* the purchaser must immediately vacate the *property*.

18.7 If the *parties* or their *solicitors* on their behalf do not agree in writing to a fee or rent, none is payable.

## 19 Rescission of contract

19.1 If this contract expressly gives a *party* a right to *rescind*, the *party* can exercise the right -

- 19.1.1 only by *servicing* a notice before completion; and
- 19.1.2 in spite of any making of a claim or *requisition*, any attempt to satisfy a claim or *requisition*, any arbitration, litigation, mediation or negotiation or any giving or taking of possession.

19.2 *Normally*, if a *party* exercises a right to *rescind* expressly given by this contract or any *legislation* -

- 19.2.1 the deposit and any other money paid by the purchaser under this contract must be refunded;
- 19.2.2 a *party* can claim for a reasonable adjustment if the purchaser has been in possession;
- 19.2.3 a *party* can claim for damages, costs or expenses arising out of a breach of this contract; and
- 19.2.4 a *party* will not otherwise be liable to pay the other *party* any damages, costs or expenses.

## 20 Miscellaneous

20.1 The *parties* acknowledge that anything stated in this contract to be attached was attached to this contract by the vendor before the purchaser signed it and is part of this contract.

20.2 Anything attached to this contract is part of this contract.

20.3 An area, bearing or dimension in this contract is only approximate.

20.4 If a *party* consists of 2 or more persons, this contract benefits and binds them separately and together.

20.5 A *party's solicitor* can receive any amount payable to the *party* under this contract or direct in writing that it is to be paid to another person.

20.6 A document under or relating to this contract is -

- 20.6.1 signed by a *party* if it is signed by the *party* or the *party's solicitor* (apart from a direction under clause 4.3);
- 20.6.2 *served* if it is *served* by the *party* or the *party's solicitor*;
- 20.6.3 *served* if it is *served* on the *party's solicitor*, even if the *party* has died or any of them has died;
- 20.6.4 *served* if it is *served* in any manner provided in s170 of the Conveyancing Act 1919;
- 20.6.5 *served* if it is sent by fax to the *party's solicitor*, unless it is not received;
- 20.6.6 *served* on a person if it (or a copy of it) comes into the possession of the person; and
- 20.6.7 *served* at the earliest time it is *served*, if it is *served* more than once.

20.7 An obligation to pay an expense of another *party* of doing something is an obligation to pay -

- 20.7.1 if the *party* does the thing personally - the reasonable cost of getting someone else to do it; or
- 20.7.2 if the *party* pays someone else to do the thing - the amount paid, to the extent it is reasonable.

20.8 Rights under clauses 11, 13, 14, and 17 continue after completion, whether or not other rights continue.

20.9 The vendor does not promise, represent or state that the purchaser has any cooling off rights.

20.10 The vendor does not promise, represent or state that any attached survey report is accurate or current.

20.11 A reference to any *legislation* includes a reference to any corresponding later *legislation*.

20.12 Each *party* must do whatever is necessary after completion to carry out the *party's* obligations under this contract.

20.13 Neither taking possession nor *servicing* a transfer of itself implies acceptance of the *property* or the title.

20.14 The details and information provided in this contract (for example, on page 1) are, to the extent of each *party's* knowledge, true, and are part of this contract.

20.15 Where this contract provides for choices, a choice in BLOCK CAPITALS applies unless a different choice is marked.

## 21 Time limits in these provisions

21.1 If the time for something to be done or to happen is not stated in these provisions, it is a reasonable time.

21.2 If there are conflicting times for something to be done or to happen, the latest of those times applies.

- 21.3 The time for one thing to be done or to happen does not extend the time for another thing to be done or to happen.
- 21.4 If the time for something to be done or to happen is the 29th, 30th or 31st day of a month, and the day does not exist, the time is instead the last day of the month.
- 21.5 If the time for something to be done or to happen is a day that is not a *business day*, the time is extended to the next *business day*, except in the case of clause 2 (deposit).
- 21.6 *Normally*, the time by which something must be done is fixed but not essential.
- 22 Foreign Acquisitions and Takeovers Act 1975**
- 22.1 The purchaser promises that the Commonwealth Treasurer cannot prohibit and has not prohibited the transfer under the Foreign Acquisitions and Takeovers Act 1975.
- 22.2 This promise is essential and a breach of it entitles the vendor to *terminate*.
- 23 Strata or community title**
- 23.1 This clause applies only if the land (or part of it) is a lot in a strata, neighbourhood, precinct or community scheme (or on completion is to be a lot in a scheme of that kind).
- 23.2 In this contract -
- 'change', in relation to a scheme, means -
- a registered or registrable change from by-laws set out in this contract or set out in *legislation* and specified in this contract;
  - a change from a development or management contract or statement set out in this contract; or
  - a change in the boundaries of common property;
- 'common property' includes association property for the scheme or any higher scheme;
- 'contribution' includes an amount payable under a by-law;
- 'normal expenses', in relation to an owners corporation for a scheme, means normal operating expenses usually payable from the administrative fund of an owners corporation for a scheme of the same kind;
- 'owners corporation' means the owners corporation or the association for the scheme or any higher scheme;
- 'the *property*' includes any interest in common property for the scheme associated with the lot;
- 'special expenses', in relation to an owners corporation, means its actual, contingent or expected expenses, except to the extent they are normal expenses, due to fair wear and tear, disclosed in this contract or covered by moneys held in the sinking fund.
- 23.3 Clauses 11, 14.8 and 18.4 do not apply to an obligation of the owners corporation, or to property insurable by it.
- 23.4 Clauses 14.4.2 and 14.5 apply but on a unit entitlement basis instead of an area basis.
- 23.5 The *parties* must adjust under clause 14.1 -
- 23.5.1 a regular periodic contribution;
- 23.5.2 a contribution which is not a regular periodic contribution but is disclosed in this contract; and
- 23.5.3 on a unit entitlement basis, any amount paid by the vendor for a normal expense of the owners corporation to the extent the owners corporation has not paid the amount to the vendor.
- 23.6 If a contribution is not a regular periodic contribution and is not disclosed in this contract -
- 23.6.1 the vendor is liable for it if it was levied before the contract date (unless it relates to work not started by that date), even if it is payable by instalments;
- 23.6.2 the vendor is also liable for it to the extent it relates to work started by the owners corporation before the contract date; and
- 23.6.3 the purchaser is liable for all other contributions levied after the *contract date*.
- 23.7 The vendor must pay or allow to the purchaser on completion the amount of any unpaid contributions for which the vendor is liable under clause 23.6.
- 23.8 *Normally*, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of -
- 23.8.1 an existing or future actual, contingent or expected expense of the owners corporation;
- 23.8.2 a proportional unit entitlement of the lot or a relevant lot or former lot, apart from a claim under clause 6; or
- 23.8.3 a past or future change in the scheme or a higher scheme.
- 23.9 However, the purchaser can *rescind* if -
- 23.9.1 the special expenses of the owners corporation at the later of the contract date and the creation of the owners corporation when calculated on a unit entitlement basis (and, if more than one lot or a higher scheme is involved, added together), less any contribution paid by the vendor, are more than 1% of the price;
- 23.9.2 in the case of the lot or a relevant lot or former lot in a higher scheme -
- a proportional unit entitlement for the lot is not disclosed in this contract; or
  - a proportional unit entitlement for the lot is disclosed in this contract but the lot has a different proportional unit entitlement at the contract date or at any time before completion; or
- 23.9.3 a change before the contract date or before completion in the scheme or a higher scheme substantially disadvantages the purchaser and is not disclosed in this contract.
- 23.10 The purchaser must give the vendor 2 copies of a proper form of notice of the transfer of the lot addressed to the owners corporation and signed by the purchaser.
- 23.11 The vendor must complete and sign 1 copy of the notice and give it to the purchaser on completion.
- 23.12 Each *party* can sign and give the notice as agent for the other.
- 23.13 The vendor must *serve* a certificate under section 109 Strata Schemes Management Act 1996 or section 26 Community Land Management Act 1989 in relation to the lot, the scheme or any higher scheme at least 7 days before the completion date.

- 23.14 The purchaser does not have to complete earlier than 7 days after *service* of the certificate and clause 21.3 does not apply to this provision.
- 23.15 On completion the purchaser must pay the vendor the prescribed fee for the certificate.
- 23.16 The vendor authorises the purchaser to apply for the purchaser's own certificate.
- 23.17 The vendor authorises the purchaser to apply for and make an inspection of any record or other document in the custody or control of the owners corporation or relating to the scheme or any higher scheme.
- 23.18 If a general meeting of the owners corporation is convened before completion -
- 23.18.1 if the vendor receives notice of it, the vendor must immediately notify the purchaser of it; and
- 23.18.2 the purchaser can require the vendor to appoint the purchaser (or the purchaser's nominee) to exercise any voting rights of the vendor in respect of the lot at the meeting.

## 24 Tenancies

- 24.1 If a tenant has not made a payment for a period preceding or current at the *adjustment date* -
- 24.1.1 for the purposes of clause 14.2, the amount is to be treated as if it were paid; and
- 24.1.2 the purchaser assigns the debt to the vendor on completion and will if required give a further assignment at the vendor's expense.
- 24.2 If a tenant has paid in advance of the *adjustment date* any periodic payment in addition to rent, it must be adjusted as if it were rent for the period to which it relates.
- 24.3 If the *property* is to be subject to a tenancy on completion or is subject to a tenancy on completion -
- 24.3.1 the vendor authorises the purchaser to have any accounting records relating to the tenancy inspected and audited and to have any other document relating to the tenancy inspected;
- 24.3.2 the vendor must *serve* any information about the tenancy reasonably requested by the purchaser before or after completion; and
- 24.3.3 *normally*, the purchaser can claim compensation (before or after completion) if -
- any of Parts 2 to 7 of the Retail Leases Act 1994 applies to the tenancy, unless this contract discloses that the tenancy commenced on or after 1 August 1994;
  - a disclosure statement required by the Act was not given when required;
  - such a statement contained information that was materially false or misleading;
  - a provision of the lease is not enforceable because of a non-disclosure in such a statement; or
  - the lease was entered into in contravention of the Act.
- 24.4 If the *property* is subject to a tenancy on completion -
- 24.4.1 the vendor must allow or transfer -
- any remaining bond money or any other security against the tenant's default (to the extent the security is transferable);
  - any money in a fund established under the lease for a purpose and compensation for any money in the fund or interest earned by the fund that has been applied for any other purpose;
  - any money paid by the tenant for a purpose that has not been applied for that purpose and compensation for any of the money that has been applied for any other purpose; and
- 24.4.2 if the security is not transferable, each *party* must do everything reasonable to cause a replacement security to issue for the benefit of the purchaser and the vendor must hold the original security on trust for the benefit of the purchaser until the replacement security issues;
- 24.4.3 the vendor must give to the purchaser -
- a proper notice of the transfer addressed to the tenant;
  - any certificate given under the Retail Leases Act 1994 in relation to the tenancy;
  - a copy of any disclosure statement given to the tenant under the Retail Leases Act 1994;
  - a copy of any document served on the tenant under the lease and written details of its service, if the document concerns the rights of the landlord or the tenant after completion; and
  - any document served by the tenant under the lease and written details of its service, if the document concerns the rights of the landlord or the tenant after completion;
- 24.4.4 the vendor must comply with any obligation to the tenant under the lease, to the extent it is to be complied with by completion; and
- 24.4.5 the purchaser must comply with any obligation to the tenant under the lease, to the extent that the obligation is disclosed in this contract and is to be complied with after completion.
- 24.5 Rights under this clause continue after completion, whether or not other rights continue.

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

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

**26 Crown purchase money**

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

**27 Consent to transfer**

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

**28 Unregistered plan**

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

- 28.3 If the plan is not registered *within* that time and in that manner -  
28.3.1 the purchaser can *rescind*; and  
28.3.2 the vendor can *rescind*, but only if the vendor has complied with clause 28.2.
- 28.4 Either *party* can serve notice of the registration of the plan and every relevant lot and plan number.
- 28.5 The completion date becomes the later of the completion date and 21 days after *service* of the notice.
- 28.6 Clauses 28.2 and 28.3 apply to a plan that is to be registered before the plan is registered.
- 29 Conditional contract**
- 29.1 This clause applies only if a provision says this contract or completion is conditional on an event.
- 29.2 If the time for the event to happen is not stated, the time is 42 days after the contract date.
- 29.3 If this contract says the provision is for the benefit of a *party*, then it benefits only that *party*.
- 29.4 If anything is necessary to make the event happen, each *party* must do whatever is reasonably necessary to cause the event to happen.
- 29.5 A *party* can *rescind* under this clause only if the *party* has substantially complied with clause 29.4.
- 29.6 If the event involves an approval and the approval is given subject to a condition that will substantially disadvantage a *party* who has the benefit of the provision, the *party* can *rescind within 7 days* after either *party serves* notice of the condition.
- 29.7 If the *parties* can lawfully complete without the event happening -  
29.7.1 if the event does not happen *within* the time for it to happen, a *party* who has the benefit of the provision can *rescind within 7 days* after the end of that time;  
29.7.2 if the event involves an approval and an application for the approval is refused, a *party* who has the benefit of the provision can *rescind within 7 days* after either *party serves* notice of the refusal;  
29.7.3 the completion date becomes the later of the completion date and 21 days after the earliest of -  
• either *party serving* notice of the event happening;  
• every *party* who has the benefit of the provision *serving* notice waiving the provision;  
• the end of the time for the event to happen.
- 29.8 If the *parties* cannot lawfully complete without the event happening -  
29.8.1 if the event does not happen *within* the time for it to happen, either *party* can *rescind*;  
29.8.2 if the event involves an approval and an application for the approval is refused, either *party* can *rescind*;  
29.8.3 the completion date becomes the later of the completion date and 21 days after either *party serves* notice of the event happening.
- 29.9 A *party* cannot *rescind* under clauses 29.7 or 29.8 after the event happens.

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## 30 Definitions and interpretation

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### 30.1 Definitions

Words and phrases defined in the printed conditions of this Contract have the same meaning when used in these further conditions, even if those words are not italicised. The following are also defined terms in this Contract:

**Authority** means:

- (a) any government in any jurisdiction, whether federal, state, territorial or local;
- (b) any provider of public utility services, whether statutory or not; and
- (c) any other person, authority, instrumentality or body having jurisdiction, rights, powers, duties or responsibilities over the property or any part of it.

**Completion Date** means the completion date specified on the front page of this Contract.

**Contaminant** includes any matter or substance (whether harmful or not) which has or has been present in, on, under or near the property or any improvements on it and includes all contamination as defined in the Contaminated Land Management Act 1997 (NSW).

**Contract Date** means the date of this Contract or, if no date is shown, the day contracts were exchanged by the parties.

**Fittings** means any furnishings, chattels, plant or equipment, not being fixtures and not being the vendor's fixtures and fittings, located on or about the property at the Contract Date.

**Guarantor** has the same meaning given to that term in the deed of guarantee referred to in clause 48.

**Interest Rate** means 12% per annum.

**Laws** means the requirements of all statutes, rules, regulations, proclamations, ordinances or by-laws, present or future.

**Vendor's Solicitor** means Henry Davis York Lawyers, 44 Martin Place, Sydney NSW 2000.

### 30.2 Interpretation

The following applies in the interpretation of this Contract, unless the context requires otherwise.

- (a) A reference to this Contract means the agreements set out in this document or the document itself.

- (b) A reference to any statute, regulation, rule or similar instrument includes any consolidations, amendments or re-enactments of it, any replacements of it, and any regulation or other statutory instrument issued under it.
- (c) A reference to **clause, paragraph, subclause, attachment** and **schedule** means a clause, paragraph, subclause, attachment or schedule to this Contract.
- (d) The singular includes the plural number and vice versa.
- (e) A reference to a gender includes a reference to each gender.
- (f) **Person** includes a firm, corporation, body corporate, unincorporated association or a governmental authority.
- (g) A reference to a party or a person includes that party's or person's executors, legal personal representatives, successors, liquidators, administrators, trustees in bankruptcy and similar officers and, where permitted under this Contract, their substitutes and assigns.
- (h) An agreement on the part of, or in favour of, two or more persons binds them together and separately (jointly and severally).
- (i) A reference to a party means a person named as a party to, and bound by, this Contract.
- (j) If a body or Authority referred to in this Contract ceases to exist, the reference to that body or Authority is a reference to the body or Authority that has substantially the same functions and objects as the first body or Authority.
- (k) **Includes** means includes but without limitation.
- (l) Where a word or expression has a defined meaning, its other grammatical forms have a corresponding meaning.
- (m) A reference to doing something includes an omission, statement or undertaking (whether or not in writing) and includes executing a document.
- (n) A heading is for reference only. It does not affect the meaning or interpretation of this Contract.
- (o) If there is any conflict between these further conditions and the printed conditions of this Contract, these further conditions prevail.
- (p) These further conditions are subject to any rights granted to the purchaser under any Laws to the extent that those rights are not excluded.
- (q) Any provision of this Contract which is prohibited or unenforceable is ineffective to the extent of the prohibition or unenforceability, but the validity or enforceability of the remaining provisions of this Contract will not be affected.

- (r) Unless this Contract provides otherwise, if a party's consent is required, that party must not unreasonably delay or withhold its consent or unreasonably attach conditions to its consent.
- (s) Where the day on or by which any thing is to be done is not a business day, that thing must be done on or by the next business day.
- (t) No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this Contract or any part of it.

## **31 Amendments and alterations**

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### **31.1 Amendments to the printed conditions**

The printed conditions of this Contract are amended as follows:

- (a) The sentence beginning with "The Vendor sells..." located immediately before clause 1 is amended by including at the end of the sentence, "and the Guarantor has agreed to guarantee the purchaser's obligations on the terms of this Contract and indemnify the vendor for any liability it suffers or incurs in connection with this Contract";
- (b) The definition of depositholder in clause 1 is amended by deleting the words "vendor's agent or if no vendor's agent is named in this contract, the vendor's solicitor) and inserting "Vendor's Solicitor";
- (c) the definition of settlement cheque in clause 1 is amended by deleting the words "or a building society, credit union or other FCA institution as defined in the Cheques Act 1986 (Cth)";
- (d) the words "each party" is replaced with the words "the vendor" in clause 2.9;
- (e) clause 3 is deleted;
- (f) clause 4.5 is deleted;
- (g) clause 5.1 is deleted;
- (h) clause 7.1.1 is deleted;
- (i) clause 8.1 is amended by deleting the words "on reasonable grounds";
- (j) the word "substance" is replaced with the word "existence" where appearing in clauses 10.1.8 and 10.1.9;
- (k) the words "other than on account of the purchaser's breach" are inserted immediately after the word "terminated" in clause 11.2;
- (l) clause 13 is deleted and the definition of "GST Act" and "GST rate" in clause 1 is deleted;

- (m) clause 14.4.2 is deleted;
- (n) clause 16.5 is amended by deleting the words "plus another 20% of that fee";
- (o) clause 16.8 is deleted;
- (p) clause 20.6.5 is deleted; and
- (q) clauses 23 to 29 (inclusive) are deleted.

### 31.2 Alterations to the contract

The parties authorise their respective solicitors or any employee of those solicitors to alter this Contract up until the Contract Date. Any such alterations will be binding.

## 32 Acknowledgment and warranties

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### 32.1 Inspection

Before signing this Contract, the purchaser acknowledges that it has had an opportunity to inspect the property.

### 32.2 Purchaser's warranties

- (a) Without limiting clause 10.1, the purchaser warrants that it has not relied on any warranty or representation made by the vendor or anyone representing the vendor about:
  - (i) the nature, quality and condition of the property;
  - (ii) the suitability for any use or purpose of the property;
  - (iii) the rights attaching to or affecting the property;
  - (iv) the viability, profitability or potential (including development potential) of the property;
  - (v) the value of the property;
  - (vi) the zoning of and planning restrictions on the property;
  - (vii) the presence in or on the property of asbestos or any other hazardous substance or Contaminant;
  - (viii) the boundaries, description or area of the property;
  - (ix) any permissions, consents and approvals required from a relevant Authority for the construction of any part of the improvements being obtained or complied with;

- (x) any consents, approvals, permits or licences desirable or required to be held for the present use of the property being granted by any Authority;
  - (xi) the property complying with all applicable Laws, notices or orders;  
or
  - (xii) any other matter which has or may have an effect on the property or the yield from the property.
- (b) The purchaser warrants that it accepts the property in its present condition and state of repair and subject to all defects, dilapidations and infestations (if any) whether latent or patent.

### 32.3 Purchaser's rights

The purchaser may not make a claim or requisition, delay completion, rescind or terminate for any of the matters referred to in clause 32.2, including:

- (a) any roof or surface water drainage being connected to the sewer;
- (b) the existence or non-existence of any easement or right affecting or benefiting the property for any service that passes through another property or any service for another property that passes through the property;
- (c) any loss, damage, dilapidation, infestation, defect (latent or patent) or mechanical breakdown or wear and tear that affects the property between exchange and completion;
- (d) any licences, application for, or grant of licences or titles under the Mining Act 1992, the Petroleum (Onshore) Act 1991 or any other law relating to mining which affects the property; or
- (e) the presence in or on or migration to or from the property of any hazardous substance or Contaminant.

### 32.4 Vendor's warranty and representation

The vendor makes no warranty or representation about any matters relating to the property described in clause 32.2.

## 33 Annexures to contract

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- (a) The vendor makes no warranty or representation as to the correctness or completeness of any of the documents annexed to this Contract.
- (b) The purchaser cannot make any requisition or claim or rescind or terminate in respect of anything referred to or disclosed in any of the documents.

---

## 34 Deposit

### 34.1 Authority

The purchaser authorises the depositholder to:

- (a) lodge the deposit immediately after the Contract Date in accordance with clause 2.9; and
- (b) withdraw the deposit and pay the interest earned under this clause 34.

### 34.2 Entitlement to interest

- (a) If this Contract is completed, or is rescinded and neither party is in default, the vendor and the purchaser are entitled to the interest earned on the deposit in equal shares.
- (b) If the vendor terminates this Contract because of the purchaser's default, or rescinds, the vendor is entitled to all interest earned on the deposit.
- (c) If the purchaser terminates this Contract because of the vendor's default, or rescinds, the purchaser is entitled to all interest earned on the deposit.

### 34.3 Tax file numbers

The parties must give the depositholder their tax file numbers immediately after the Contract Date.

### 34.4 Liability of the depositholder

The depositholder and/or the vendor are not liable for loss of the deposit or interest on the deposit either due to investing the deposit under clause 2 or failing to invest the deposit.

---

## 35 GST

### 35.1 Application of GST

In this clause 35, **GST Law** has the meaning given in the A New Tax System (Goods and Services Tax) Act 1999 (Cth), and terms used which are not defined in this Contract, but which are defined in the GST Law, have the meanings given in the GST Law.

### 35.2 Exclusive of GST

Unless stated otherwise, all consideration provided under this document is exclusive of GST.

**35.3 Tax invoice**

Subject to clause 35.4, if GST is payable by the supplier, the recipient must, upon receipt of a tax invoice from the supplier, pay the supplier an amount equal to the GST payable on that supply.

**35.4 Supply of residential premises****(a) Residential Premises**

The supply of the property is Residential Premises within the meaning of the GST Law.

**(b) Recipient's Warranty**

The recipient represents and warrants that the property will be used for the provision of residential accommodation and will not be used in any way that could cause the sale of the property to become a taxable supply to any extent.

**(c) Supplies subject to GST**

To the extent a supply made in connection with this Contract is later determined to be subject to GST for any reason, the recipient must pay to the supplier the amount equal to the GST payable on the supply, together with interest and penalties that may be imposed on the supplier under the GST Law, when the recipient receives a tax invoice from the supplier.

**36 Notice to complete**

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**36.1 Period of notice**

If a party is entitled to serve a notice to complete, the parties agree that 14 days (ending at any time) after the date of service of the notice is a reasonable period to complete.

**36.2 Time essential**

Service of the notice to complete makes time of the essence.

**36.3 Withdrawal of notice**

A notice to complete may be withdrawn before the expiration of the period without prejudicing a party's right to serve a further notice.

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**37 Interest on balance of purchase price**

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**37.1 Pre-completion payments**

- (a) If any amount due and payable by the purchaser between exchange but before completion under this Contract is not paid when due, the purchaser must pay interest on the outstanding amount.
- (b) Interest is calculated daily at the Interest Rate from the due date up to and including the date that amount is paid.

**37.2 Completion of this Contract**

If this Contract is not completed by the Completion Date, the purchaser must pay interest to the vendor on completion on the following:

- (a) the balance of the purchase price; and
- (b) any other amount payable on completion by the purchaser to the vendor; and
- (c) half of the deposit,

calculated daily at the Interest Rate from the Completion Date up to and including the date completion occurs.

**37.3 Vendor's delay**

The purchaser is not required to pay interest under this clause 37 for any period that the purchaser's failure to complete is caused solely by the vendor.

**37.4 Essential term**

The obligation to pay interest on completion is an essential term of this Contract.

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**38 Stamp duty**

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**38.1 Purchaser responsible for stamp duty**

The purchaser must pay stamp duty (including any penalties or interest) on this Contract and on any documents that are executed under this Contract.

**38.2 Indemnity**

The purchaser indemnifies the vendor for any liability incurred because of the default, delay or omission to pay the duty or the failure to make proper disclosure to the revenue authorities about the duty.

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**39 Selling agent**

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**39.1 Purchaser's warranty**

The purchaser warrants that it was not introduced to the property directly or indirectly by any agent other than the vendor's agent (if any) disclosed in this Contract.

**39.2 Purchaser's indemnity**

The purchaser indemnifies the vendor against any claim for commission and all costs incurred by the vendor arising out of or in connection with a breach of this warranty.

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**40 Particulars of title**

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The particulars of title disclosed in this Contract are sufficient to enable the purchaser to prepare a transfer of the property. The purchaser may not request particulars of title under clause 4.

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**41 Requisitions**

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Any requisitions made by the purchaser under this Contract must relate to the title of the property, be served within 21 days of the Contract Date and be in the form of requisitions attached to this Contract.

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**42 Building certificate**

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- (a) The vendor does not have a building certificate issued under section 149D of the Environmental Planning and Assessment Act 1979 (NSW) for the improvements on the property.
- (b) The purchaser may not have the property inspected for the purposes of obtaining a building certificate.
- (c) The purchaser may not make a claim or requisition, delay completion, rescind or terminate because the purchaser does not obtain a building certificate for the property before completion.

---

**43 Fittings**

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**43.1 Vendor's disclosure**

The vendor discloses that:

- (a) it gives no representation or warranty:
  - (i) that it has the power to sell the Fittings; or
  - (ii) that any Fittings will remain on or about the property at completion.
- (b) the Fittings are not included in the sale of the property; and
- (c) it does not claim or exercise any rights in respect of the Fittings.

**43.2 Completion**

- (a) The vendor is not required to remove the Fittings from the property on completion.
- (b) While the vendor does not claim or exercise any rights in respect of the Fittings, it makes no representation or warranty that any of the Fittings will remain on or about the property at completion.

**43.3 No claim etc**

The purchaser shall not make any claim, objection or requisition or delay completion, rescind or terminate by reason of the matters disclosed in, or arising from, this clause 43.

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**44 Improvements**

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- (a) The vendor discloses that it did not erect the improvements on the land and has no knowledge as to who erected the improvements or whether that person held an appropriate licence or similar authority.
- (b) The purchaser may not make a claim or requisition, delay completion, rescind or terminate because the vendor is unable to give the purchaser information concerning the identity of the person who erected the improvements or whether such person was licensed or otherwise authorised.

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**45 Home Building Act 1989 (Act)**

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If the property is subject to the Act, the purchaser acknowledges and agrees:

- (a) the vendor as mortgagee exercising power of sale does not hold any documentation evidencing a contract of insurance that complies with the Act; and
- (b) the purchaser shall not make any claim, objection or requisition or delay completion, rescind or terminate by reason of the matters disclosed in clause 45(a).

---

## **46 Caveats and mortgages**

### **46.1 Completion**

Subject to clause 46.2, if at completion:

- (a) the purchaser or any person claiming an interest through the purchaser has lodged a caveat which affects the title to the property, the purchaser must complete this Contract and may not compel the vendor to provide a withdrawal of that caveat;
- (b) any other caveat or mortgage affects the title to the property, the purchaser must accept a withdrawal of caveat or discharge of mortgage, if that withdrawal or discharge is in registrable form and the vendor provides the registration fees to the purchaser.

### **46.2 Section 59 of the Real Property Act 1900**

- (a) The purchaser may not make a claim or requisition, delay completion, rescind or terminate by reason of any caveat registered on the title before or after the Contract Date that would ordinarily be cancelled under section 59 of the Real Property Act 1900 (NSW) upon registration of a transfer by the vendor as mortgagee exercising power of sale, and the vendor must not be required to provide a withdrawal of such caveat or caveats or to have such caveat or caveats lapsed on or before completion.
- (b) The purchaser acknowledges that the caveats with registered dealing numbers A1166470 and A1186294, noted on the title to the property are caveats that would ordinarily be cancelled pursuant to section 59 of the Real Property Act 1900 (NSW) upon registration of a transfer by the vendor as mortgagee exercising power of sale.

---

## **47 Termination**

If the purchaser:

- (a) is a corporation and before completion:
  - (i) it enters into a scheme;

- (ii) it makes any arrangement for the benefit of creditors;
  - (iii) an order is made to wind up the purchaser;
  - (iv) a liquidator, administrator or official manager is appointed in respect of the purchaser;
  - (v) a mortgagee enters into possession of all or a substantial part of the assets of the purchaser;
  - (vi) it is deemed by any relevant legislation to be insolvent or unable to pay its debts; or
  - (vii) a receiver, receiver and manager or agent of a mortgagee is appointed to all or a substantial part of the assets of the purchaser,
- the vendor may terminate this Contract; or
- (b) is an individual who before completion:
- (i) dies; or
  - (ii) becomes mentally ill,
- the vendor may terminate this Contract.

## **48 Guarantee and Indemnity**

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### **48.1 Guarantee**

If the purchaser is or includes a corporation (other than a corporation listed on the Australian Stock Exchange) or the trustee of a trust then each person who signs this Contract on behalf of that corporation or trustee:

- (a) is personally liable for the due performance of the purchaser's obligations under this Contract to the same extent as if that person was the purchaser under this Contract; and
- (b) must procure the execution by at least two directors or shareholders (being persons over the age of 18 years) of the corporation or trustee of a deed of guarantee in the form attached to this Contract in Schedule C.

### **48.2 Deed of guarantee**

The deed of guarantee, duly executed, must be delivered to the Vendor's Solicitor within 7 days of the Contract Date and in this regard time is of the essence.

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**49 Proceedings against the Vendor**

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**49.1 Delay to completion**

If:

- (a) any proceedings relating to this Contract or any matter arising from it are instituted by or against the vendor;
- (b) any caveat registered on the title to the property will not be removed by the registrar-general on registration of the form of transfer;
- (c) subject to any other term of this Contract, the vendor is unable to give possession of the property to the purchaser on the completion date; or
- (d) the vendor considers it necessary to do so,

then, in its absolute discretion, the vendor may serve notice on the purchaser that completion will be delayed to enable the proceedings to be resolved or disposed of, the caveat lapsed or withdrawn or possession to be obtained by the vendor, as the case may be.

**49.2 If completion is delayed**

If completion is so delayed, then:

- (a) the vendor must use reasonable endeavours to resolve the matter causing the delay in completion; and
- (b) the completion date will be the date 14 days after the vendor serves notice that it is ready, willing and able to complete.

**49.3 Rescission**

If completion does not occur within 90 days from the date of the vendor's notice delaying completion, then either party may serve notice rescinding this contract and in that event the purchaser will not be entitled to claim compensation from the vendor due to the failure to complete on the completion date and otherwise the provisions of clause 19 will apply.

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**50 Authority to sell**

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The vendor discloses that it sells as mortgagee exercising power of sale under a mortgage which was granted to it by the registered proprietor of the property under the Real Property Act 1900 (NSW) dated 13 June 2008 and which is registered in the Land and Property Information of New South Wales at Sydney as No AE32087.

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**51 Transfer under Power of Sale**

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- (a) The purchaser must serve the form of Transfer Under Power of Sale at least 21 days before the Completion Date.
- (b) If the Transfer Under Power of Sale is not served at least 21 days before the Completion Date the vendor may, in its discretion, have the Transfer Under Power of Sale prepared and the purchaser must reimburse the vendor the sum of \$110, being a genuine pre-estimate of the costs of preparation of the Transfer Under Power of Sale.
- (c) This clause is an essential term of this Contract that this amount be paid on completion in addition to all other monies required to be paid by the purchaser under this Contract at that time.

---

**52 Writ**

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The purchaser may not make any claim, objection or requisition or delay completion, rescind or terminate by reason of any writ registered on the title before or after the Contract Date. The purchaser acknowledges that the writ will not be removed by the vendor having regard to the provisions of section 105A of the Real Property Act.

---

**53 Swimming pool**

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The purchaser may not make a claim, objection or requisition or delay completion or rescind or terminate this Contract in respect of:

- (a) the swimming pool at the property;
- (b) the fences, windows, doors and gates around the swimming pool or at the property;
- (c) any absence of fences, windows, doors or gates; or
- (d) any non-compliance with the Swimming Pools Act 1992 or any other Laws or any unavailability of a certificate under section 22D of that Act in respect of the swimming pool.

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**54 Entire agreement**

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This Contract:

- (a) records the entire agreement between the parties; and

- (b) supersedes all previous negotiations, understandings, representations and agreements,

in relation to the subject matter of this Contract.

## **55 No merger and survival**

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A party's right or obligation which is of a continuing nature or which is not fully satisfied and discharged on completion of any transaction contemplated by this Contract:

- (a) does not merge on completion of that transaction;
- (b) continues in favour of the party to which it is owed; and
- (c) remains in full effect.

**Schedule A: Attachments**

---

1. Property Certificate
2. Plan of the Land
3. Other title documents
4. Section 149 Certificate
5. Sewerage Service Diagram
6. Property enquiries

# GLOBALX INFORMATION PTY LTD

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## LAND AND PROPERTY INFORMATION NEW SOUTH WALES - TITLE SEARCH

FOLIO: 3/51/237501

SEARCH DATE	TIME	EDITION NO	DATE
17/2/2014	1:50 PM	5	19/6/2008

### LAND

LOT 3 OF SECTION 51 IN DEPOSITED PLAN 237501  
AT ALLAMBIE HEIGHTS  
LOCAL GOVERNMENT AREA WARRINGAH  
PARISH OF MANLY COVE COUNTY OF CUMBERLAND  
TITLE DIAGRAM DP237501

### FIRST SCHEDULE

SIMONE NANETTE RUSKIN (T AC262002)

### SECOND SCHEDULE (6 NOTIFICATIONS)

- 1 LAND EXCLUDES MINERALS AND IS SUBJECT TO RESERVATIONS AND CONDITIONS IN FAVOUR OF THE CROWN - SEE CROWN GRANT(S)
- 2 EXCEPTING THE LAND BELOW A DEPTH FROM THE SURFACE OF 15.24 METRES BY THE CROWN GRANT
- 3 AE32086 MORTGAGE TO BANK OF WESTERN AUSTRALIA LIMITED
- 4 AE32087 MORTGAGE TO BANK OF WESTERN AUSTRALIA LIMITED
- \* 5 AI166470 CAVEAT BY J.W. HUNT PTY LTD
- \* 6 AI186294 CAVEAT BY J.W. HUNT PTY LTD

### NOTATIONS

UNREGISTERED DEALINGS: NIL

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

Henry Davis York

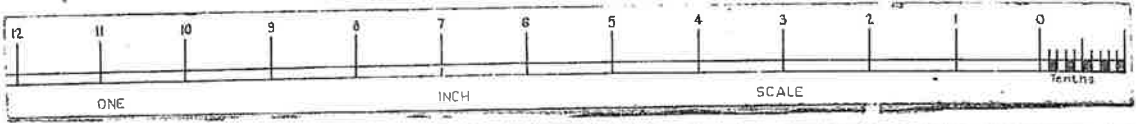
PRINTED ON 17/2/2014

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

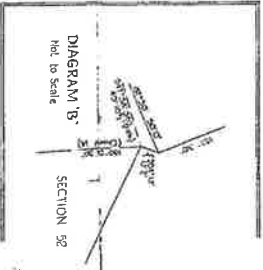
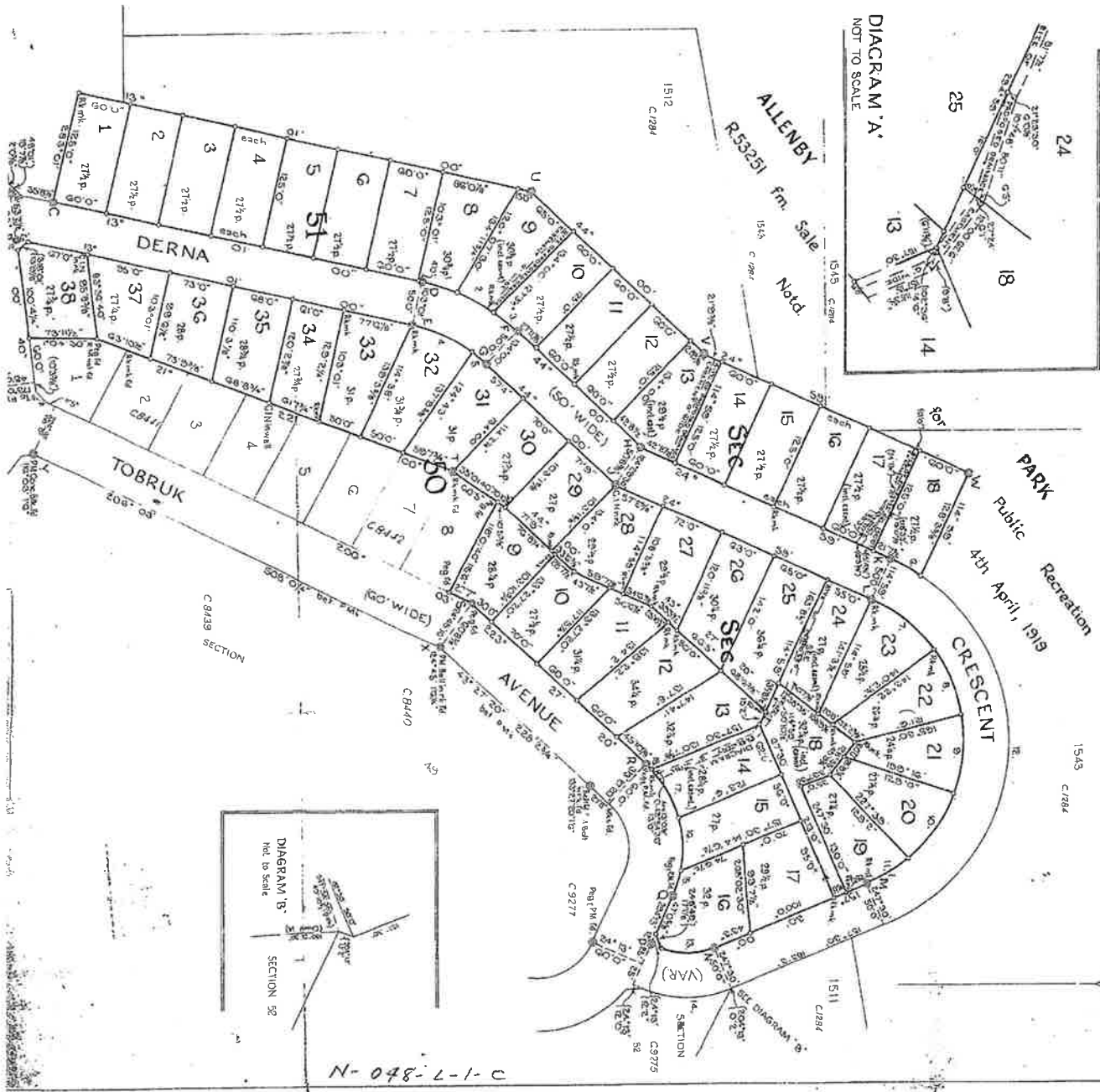
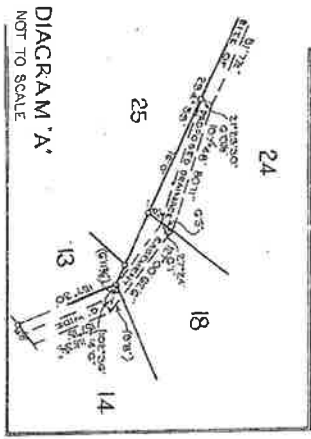
\* ANY ENTRIES PRECEDED BY AN ASTERISK DO NOT APPEAR ON THE CURRENT EDITION OF THE CERTIFICATE OF TITLE

**WARNING: THE INFORMATION APPEARING UNDER NOTATIONS HAS NOT BEEN FORMALLY RECORDED IN THE REGISTER.**

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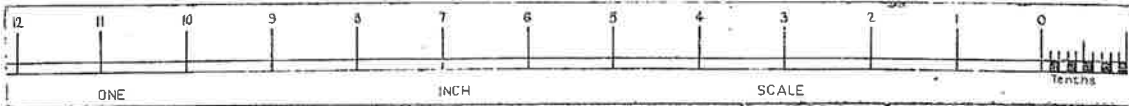
PLAN OF ALLOTS 1-38 SECTION 50 & ALLOTS 1-18 PARISH MANLY COVE  
SECTION 51 LAND DISTRICT METROPOLITAN  
AT ALLAMBIE HEIGHTS COUNTY CUMBERLAND  
SHIRE WARRINGAH



N-048-L-1-C

I, Jack Hayward Watson, Registrar General, certify that this negative is a photograph made as a permanent record of an instrument in my custody this 4th day of February 1969.

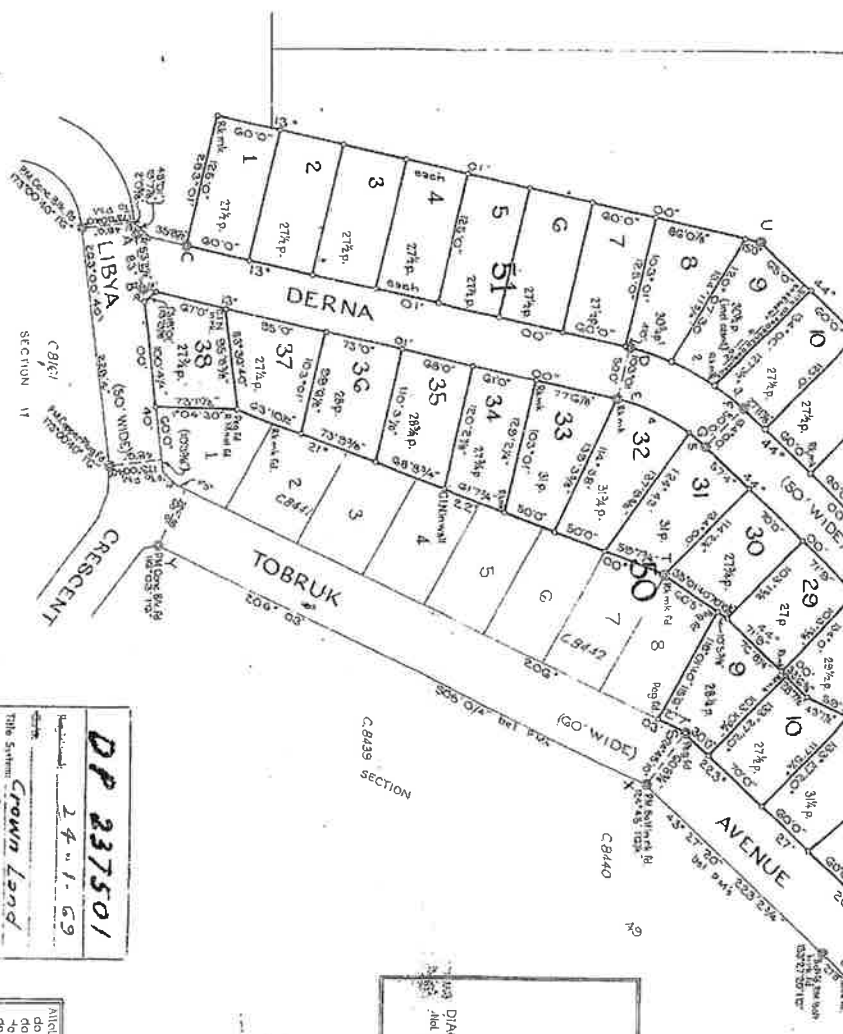
*Jack Hayward Watson*



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 Within 12716 from Occupation under any Miner's Right or Business License  
 This plan limited to the surface and to a depth of 50 feet below the surface.

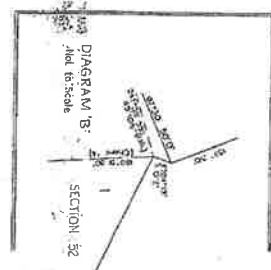
SCALE 90 FEET TO AN INCH All measurements shown in feet & inches



**DP 237501**  
 24' x 116'  
 Crown Land  
 Reference Map  
 Hartings 4 Sh Co

REFERENCE MARKS

LINE	BEARING	DISTANCE	HD. ON THE
1	N 89° 15' 00" W	116.00	TOP
2	S 89° 15' 00" E	24.00	TOP
3	N 0° 00' 00" W	116.00	TOP
4	S 0° 00' 00" E	24.00	TOP
5	N 89° 15' 00" W	116.00	TOP
6	S 89° 15' 00" E	24.00	TOP
7	N 0° 00' 00" W	116.00	TOP
8	S 0° 00' 00" E	24.00	TOP
9	N 89° 15' 00" W	116.00	TOP
10	S 89° 15' 00" E	24.00	TOP
11	N 0° 00' 00" W	116.00	TOP
12	S 0° 00' 00" E	24.00	TOP
13	N 89° 15' 00" W	116.00	TOP
14	S 89° 15' 00" E	24.00	TOP
15	N 0° 00' 00" W	116.00	TOP
16	S 0° 00' 00" E	24.00	TOP
17	N 89° 15' 00" W	116.00	TOP
18	S 89° 15' 00" E	24.00	TOP
19	N 0° 00' 00" W	116.00	TOP
20	S 0° 00' 00" E	24.00	TOP
21	N 89° 15' 00" W	116.00	TOP
22	S 89° 15' 00" E	24.00	TOP
23	N 0° 00' 00" W	116.00	TOP
24	S 0° 00' 00" E	24.00	TOP
25	N 89° 15' 00" W	116.00	TOP
26	S 89° 15' 00" E	24.00	TOP
27	N 0° 00' 00" W	116.00	TOP
28	S 0° 00' 00" E	24.00	TOP
29	N 89° 15' 00" W	116.00	TOP
30	S 89° 15' 00" E	24.00	TOP
31	N 0° 00' 00" W	116.00	TOP
32	S 0° 00' 00" E	24.00	TOP
33	N 89° 15' 00" W	116.00	TOP
34	S 89° 15' 00" E	24.00	TOP
35	N 0° 00' 00" W	116.00	TOP
36	S 0° 00' 00" E	24.00	TOP
37	N 89° 15' 00" W	116.00	TOP
38	S 89° 15' 00" E	24.00	TOP



NOTATION PLANS

1	130.00	do	C 9329	2030
2	210.00	do	C 9330	2030
3	210.00	do	C 9331	2030
4	210.00	do	C 9332	2030
5	210.00	do	C 9333	2030
6	210.00	do	C 9334	2030
7	210.00	do	C 9335	2030
8	210.00	do	C 9336	2030
9	210.00	do	C 9337	2030
10	210.00	do	C 9338	2030
11	210.00	do	C 9339	2030
12	210.00	do	C 9340	2030
13	210.00	do	C 9341	2030
14	210.00	do	C 9342	2030
15	210.00	do	C 9343	2030
16	210.00	do	C 9344	2030
17	210.00	do	C 9345	2030
18	210.00	do	C 9346	2030
19	210.00	do	C 9347	2030
20	210.00	do	C 9348	2030
21	210.00	do	C 9349	2030
22	210.00	do	C 9350	2030
23	210.00	do	C 9351	2030
24	210.00	do	C 9352	2030
25	210.00	do	C 9353	2030
26	210.00	do	C 9354	2030
27	210.00	do	C 9355	2030
28	210.00	do	C 9356	2030
29	210.00	do	C 9357	2030
30	210.00	do	C 9358	2030
31	210.00	do	C 9359	2030
32	210.00	do	C 9360	2030
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45	210.00	do	C 9373	2030
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49	210.00	do	C 9377	2030
50	210.00	do	C 9378	2030
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86	210.00	do	C 9414	2030
87	210.00	do	C 9415	2030
88	210.00	do	C 9416	2030
89	210.00	do	C 9417	2030
90	210.00	do	C 9418	2030
91	210.00	do	C 9419	2030
92	210.00	do	C 9420	2030
93	210.00	do	C 9421	2030
94	210.00	do	C 9422	2030
95	210.00	do	C 9423	2030
96	210.00	do	C 9424	2030
97	210.00	do	C 9425	2030
98	210.00	do	C 9426	2030
99	210.00	do	C 9427	2030
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119	210.00	do	C 9447	2030
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126	210.00	do	C 9454	2030
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130	210.00	do	C 9458	2030
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133	210.00	do	C 9461	2030
134	210.00	do	C 9462	2030
135	210.00	do	C 9463	2030
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137	210.00	do	C 9465	2030
138	210.00	do	C 9466	2030
139	210.00	do	C 9467	2030
140	210.00	do	C 9468	2030
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142	210.00	do	C 9470	2030
143	210.00	do	C 9471	2030
144	210.00	do	C 9472	2030
145	210.00	do	C 9473	2030
146	210.00	do	C 9474	2030
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160	210.00	do	C 9488	2030
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163	210.00	do	C 9491	2030
164	210.00	do	C 9492	2030
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168	210.00	do	C 9496	2030
169	210.00	do	C 9497	2030
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174	210.00	do	C 9502	2030
175	210.00	do	C 9503	2030
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177	210.00	do	C 9505	2030
178	210.00	do	C 9506	2030
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180	210.00	do	C 9508	2030
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185	210.00	do	C 9513	2030
186	210.00	do	C 9514	2030
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188	210.00	do	C 9516	2030
189	210.00	do	C 9517	2030
190	210.00	do	C 9518	2030
191	210.00	do	C 9519	2030
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193	210.00	do	C 9521	2030
194	210.00	do	C 9522	2030
195	210.00	do	C 9523	2030
196	210.00	do	C 9524	2030
197	210.00	do	C 9525	2030
198	210.00	do	C 9526	2030
199	210.00	do	C 9527	2030
200	210.00	do	C 9528	2030
201	210.00	do	C 9529	2030
202	210.00	do	C 9530	2030
203	210.00	do	C 9531	2030
204	210.00	do	C 9532	2030
205	210.00	do	C 9533	2030
20				

Form: 08X  
Release: 4.3

# CAVEAT

Prohibiting Recording of a Dealing or  
or Granting of a Possessory Appliat  
New South Wales

Section 74F Real Property Act 1900



AI186294K

**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.

**STAMP DUTY**

Office of State Revenue use only	Office of State Revenue NSW Treasury Client No. 112141337 3113 Duty \$50.00 7373926 Asst details: S227(2)(b)
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(A) **TORRENS TITLE**

3/51/237501
-------------

(B) **REGISTERED DEALING**

Number	Torrens Title

(C) **LODGED BY**

Document Collection Box	Name, Address or DX, Telephone, and Customer Account Number if any	CODE
228R	McCabes Lawyers      LLPN 123146G DX 145 Sydney	<b>X</b>
	Reference: TSM 75445	

(D) **REGISTERED PROPRIETOR**

Simone Nanette Ruskin 6 Derna Crescent, Allambie Heights NSW  Postcode: 2100
---

(E) **CAVEATOR**

Insert the full name and address (residential if individual/registered office if body corporate)  J.W. Hunt Pty Ltd ACN 107 156 641 Unit 217, 40 Yeo Street, Neutral Bay NSW  Postcode: 2089
---

(F) **NAME AND ADDRESS IN NEW SOUTH WALES FOR SERVICE OF NOTICES ON THE CAVEATOR**

<b>IMPORTANT NOTE:</b> The address <i>must</i> be a street address. If desired, a Document Exchange box in NSW may be provided <i>in addition</i> . If the caveator's name or address for service of notices changes, notification <i>must</i> be lodged on form 08CX.
Name: McCabes Lawyers Street Address: Level 14, 130 Elizabeth Street, Sydney  NSW postcode: 2000
Document Exchange Box in NSW (additional):

(G) **ACTION PROHIBITED**

1, 2 and 4
------------

(H) The caveator claims to be entitled to the estate or interest in the above land  specified in Schedule I by virtue of the instrument  set out in that schedule and prohibits the Registrar General from taking, with respect to the above land \_\_\_\_\_, the action specified above unless the caveator has consented in writing or this caveat has lapsed or been withdrawn.

**WARNING:** care should be exercised in completing a caveat form. An unsupported caveat may be challenged in the Supreme Court; compensation may be awarded for lodging a caveat without justification (section 74P Real Property Act 1900). Failure to observe the requirements of regulations 7 and 8 of the current Real Property Regulation may make the caveat invalid.

(I) **SCHEDULE 1 Estate or interest claimed**

Particulars of the estate or interest in the abovementioned land		
Mortgagee in respect of an unregistered real property mortgage		
By virtue of the instrument referred to below		
Nature of Instrument	Date	Parties
Real Property Mortgage	22 November 2013	the Caveator (as Mortgagee) and Simone Nanette Ruskin (as Mortgagor)
By virtue of the facts stated below		

(J) **SCHEDULE 2 Action prohibited by this caveat**

- The recording in the Register of any dealing other than a plan affecting the estate or interest claimed by the caveator and set out in Schedule 1.
- The registration or recording of any plan other than a delimitation plan affecting the estate or interest claimed by the caveator and set out in Schedule 1.
- The registration of delimitation plan<sup>1</sup> No.
- The granting of any possessory application<sup>2</sup> with respect to the land in the Torrens Title referred to above.
- The recording in the register of any dealing affecting the estate or interest of which the caveator is registered proprietor.
- The granting of an application to extinguish the NOT APPLICABLE  created by NOT APPLICABLE  No.
- The recording in the Register of a writ affecting the estate or interest claimed by the caveator and set out in Schedule 1.

(K) **STATUTORY DECLARATION<sup>3</sup>**

I, Terence Sean McCabe

solemnly and sincerely declare that—

- To the best of my knowledge, information and belief
  - the caveator has a good and valid claim to the estate or interest set out in Schedule 1.
  - the address specified at (D) as the address of the registered proprietor is the correct address.
- This caveat does not require the leave of the Supreme Court or the endorsed consent of the registered proprietor ; I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths Act 1900 and I certify this caveat to be correct for the purposes of the Real Property Act 1900.

Made and subscribed at Sydney in the State of New South Wales on 25/11/2013  
 in the presence of Nancy Rand Wang of Level 14, 130 Elizabeth Street, Sydney  
 Justice of the Peace (J.N. Number: \_\_\_\_\_)  Practising Solicitor  
 Other qualified witness [specify] \_\_\_\_\_

\*\* who certifies the following matters concerning the making of this statutory declaration by the person who made it:  
 1. I saw the face of the person ~~OR I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering; and~~  
 2. I have known the person for at least 12 months ~~OR I have confirmed the person's identity using an identification document and the document I relied on was a~~ [Omit ID No.] \_\_\_\_\_

Signature of witness: \_\_\_\_\_ Signature of declarant: \_\_\_\_\_  
 Capacity of declarant if other than the caveator: Solicitor

(L) **CONSENT (section 74O Real Property Act 1900)<sup>4</sup>**

I, the registered proprietor named at (D)/possessory applicant, for the purposes of section 74O only, consent to this caveat.

Signature of registered proprietor/possessory applicant \_\_\_\_\_

- A plan defining the boundaries of land in a limited folio of the Register. See Part IVB Real Property Act 1900.
- An application made by a person claiming title to land by virtue of adverse possession. See Part VIA Real Property Act 1900.
- As the services of a qualified witness cannot be provided at lodgment, the declaration should be signed and witnessed prior to lodgment.\*\* If made outside NSW, cross out the witness certification. If made in NSW, cross out the text which does not apply.
- Only one capacity can be selected, either registered proprietor or possessory applicant, cross out whichever does not apply.

Form: 08X  
Release: 4.3

# CAVEAT

Prohibiting Recording of a Dealing or Granting of a Possessory Application  
New South Wales



AI166470E

Section 74F Real Property Act 1900

**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.

**STAMP DUTY**

Office of State Revenue use only

**(A) TORRENS TITLE**

3/51/237501

**(B) REGISTERED DEALING**

Number	Torrens Title
--------	---------------

**(C) LODGED BY**

Document Collection Box <b>228R</b>	Name, Address or DX, Telephone, and Customer Account Number if any McCabes Lawyers LLPN 123146G DX 145 Sydney	CODE <b>X</b>
	Reference: TSM 75445	

**(D) REGISTERED PROPRIETOR**

Simone Nanette Ruskin  
6 Derna Crescent, Allambie Heights NSW  
  
Postcode: 2100

**(E) CAVEATOR**

Insert the full name and address (residential if individual/registered office if body corporate)  
J.W. Hunt Pty Ltd ACN 107 156 641  
Unit 217, 40 Yeo Street, Neutral Bay NSW  
  
Postcode: 2089

**(F) NAME AND ADDRESS IN NEW SOUTH WALES FOR SERVICE OF NOTICES ON THE CAVEATOR**

**IMPORTANT NOTE:** The address *must* be a street address. If desired, a Document Exchange box in NSW may be provided *in addition*. If the caveator's name or address for service of notices changes, notification *must* be lodged on form 08CX.

Name: McCabes Lawyers  
Street Address: Level 14, 130 Elizabeth Street, Sydney  
  
NSW postcode: 2000

Document Exchange Box in NSW (additional):

**(G) ACTION PROHIBITED**

1, 2, and 4

(H) The caveator claims to be entitled to the estate or interest in the above land  specified in Schedule I by virtue of the instrument  set out in that schedule and prohibits the Registrar General from taking, with respect to the above land \_\_\_\_\_, the action specified above unless the caveator has consented in writing or this caveat has lapsed or been withdrawn.

**WARNING:** care should be exercised in completing a caveat form. An unsupported caveat may be challenged in the Supreme Court; compensation may be awarded for lodging a caveat without justification (section 74P Real Property Act 1900). Failure to observe the requirements of regulations 7 and 8 of the current Real Property Regulation may make the caveat invalid.

(I) **SCHEDULE 1 Estate or interest claimed**

Particulars of the estate or interest in the abovementioned land		
An equitable interest in the land pursuant to the Litigation Funding Agreement dated 31 May 2012 charging and mortgaging the property to secure repayment to the Caveator.		
By virtue of the instrument referred to below		
Nature of Instrument	Date	Parties
Litigation Funding Agreement	31 May 2012	Scott & Suzanna Michaelson, Gay Daly, Kimberly Whyte, Stephen & Simone Ruskin and Eminence Family Pty Ltd (as Borrowers) and the Caveator (as Funder)
By virtue of the facts stated below		

(J) **SCHEDULE 2 Action prohibited by this caveat**

- The recording in the Register of any dealing other than a plan affecting the estate or interest claimed by the caveator and set out in Schedule 1.
- The registration or recording of any plan other than a delimitation plan affecting the estate or interest claimed by the caveator and set out in Schedule 1.
- The registration of delimitation plan<sup>1</sup> No.
- The granting of any possessory application<sup>2</sup> with respect to the land in the Torrens Title referred to above.
- The recording in the register of any dealing affecting the estate or interest of which the caveator is registered proprietor.
- The granting of an application to extinguish the NOT APPLICABLE  created by NOT APPLICABLE  No.
- The recording in the Register of a writ affecting the estate or interest claimed by the caveator and set out in Schedule 1.

(K) **STATUTORY DECLARATION<sup>3</sup>**

I, Terence Sean McCabe  
 solemnly and sincerely declare that—

- To the best of my knowledge, information and belief
  - the caveator has a good and valid claim to the estate or interest set out in Schedule 1.
  - the address specified at (D) as the address of the registered proprietor is the correct address. *Registered proprietor*
- This caveat does not require the leave of the Supreme Court or the endorsed consent of the ~~SELECT~~ *REGISTERED PROPRIETOR* ;



I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths Act 1900 and I certify this caveat to be correct for the purposes of the Real Property Act 1900.

Made and subscribed at *Sydney* in the *State of New South Wales* on *14/11/2013*  
 in the presence of *Nancy Rand Wang* of *Level 14, Elizabeth Street, Sydney, NSW*.

Justice of the Peace (J.P. Number: \_\_\_\_\_ )  Practising Solicitor  
 Other qualified witness [specify] \_\_\_\_\_

\*\* who certifies the following matters concerning the making of this statutory declaration by the person who made it:

- I saw the face of the person ~~OR I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering; and~~
- I have known the person for at least 12 months ~~OR I have confirmed the person's identity using an identification document and the document I relied on was a \_\_\_\_\_~~ *[Omit ID No.]*

Signature of witness:  Signature of declarant:   
 Capacity of declarant if other than the caveator: \_\_\_\_\_

(L) **CONSENT (section 74O Real Property Act 1900)<sup>4</sup>**

I, the registered proprietor named at (D)/possessory applicant, for the purposes of section 74O only, consent to this caveat.  
 Signature of registered proprietor/possessory applicant \_\_\_\_\_

- A plan defining the boundaries of land in a limited folio of the Register. See Part IVB Real Property Act 1900.
- An application made by a person claiming title to land by virtue of adverse possession. See Part VIA Real Property Act 1900.
- As the services of a qualified witness cannot be provided at lodgment, the declaration should be signed and witnessed prior to lodgment.\*\* If made outside NSW, cross out the witness certification. If made in NSW, cross out the text which does not apply.
- Only one capacity can be selected, either registered proprietor or possessory applicant, cross out whichever does not apply.

**Date Printed: 12 March 2014**

**Certificate Number: PLC2014/0402**

**Applicant Reference: 667049: JYH/3118679-005**

**GlobalX Information Services  
DX 1239  
SYDNEY**

**Receipt Number:**

**Property Address: 6 Derna Crescent ALLAMBIE HEIGHTS NSW 2100**

**Legal Description: Lot 3 Sec 51 DP 237501**

**Property ID: 110312**

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

**Warringah Local Environmental Plan 2011**

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

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

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

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

<b>Date of Council Resolution</b>	<b>Outline of Planning Proposal</b>	<b>Land to which Planning Proposal applies</b>
26 March 2013	Amends WLEP2011, by updating Schedule 5 Environmental Heritage and the Heritage Maps	Land within the Warringah Local Government Area
28 August 2012	Amends WLEP2011 to reconcile the zoning of National Parks & Wildlife Service Holdings	Land within the Warringah Local Government Area
6 August 2013	Amends WLEP2011, by updating Schedule 1 Additional Permitted Uses, to permit recreation facility (outdoor)	Land at Bundaleer Street, Belrose, being Lot 2 in DP1144741



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

**Warringah Development Control Plan 2011**

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

2. *Zoning and land use under relevant LEPs*

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

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

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

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

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

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

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

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

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

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

**No**

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

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

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

**No**

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

**No**

- 2.2 *Draft Local Environmental Plan – if any*

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

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

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

**No**

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



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

**Yes**

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

**Yes**

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

**Yes**

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

**Yes**

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

**Yes**

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

**Yes**

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

**Yes**

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

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

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

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

**No**

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

**No**

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

**No**

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

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

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

**No**

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

**No**



6. *Whether or not the land is affected by any road widening or road realignment under:-*  
*(a) Division 2 of Part 3 of the Roads Act 1993.*  
**No**  
*(b) any environmental planning instrument*  
**No**  
*(c) any resolution of Council.*  
**No**
7. *Whether or not the land is affected by a policy that restricts the development of the land because of the likelihood of land slip, bushfire, tidal inundation, subsidence, acid sulfate soils, or any other risk (other than flooding):-*  
*(a) as adopted by Council*  
**No**  
*(b) as adopted by any other public authority and notified to the Council for the express purpose of its adoption by that authority being referred to in a planning certificate issued by the Council.*  
**Bushfire Prone Land**
- 7A. *Flood related development controls information*  
*(a) Whether or not development on that land or part of the land for the purposes of dwelling houses, dual occupancies, multi dwelling housing or residential flat buildings (not including development for the purposes of group homes or seniors housing) is subject to flood related development controls.*  
**No**  
*(b) Whether or not development on that land or part of the land for any other purpose is subject to flood related development controls.*  
**No**  
*(c) Words and expressions in this clause have the same meanings as in the instrument set out in the Schedule to the Standard Instrument (Local Environmental Plans) Order 2006.*
8. *Whether or not any environmental planning instrument or proposed environmental planning instrument referred to in clause 1 makes provision in relation to the acquisition of the land by a public authority, as referred to in section 27 of the Act.*  
**No**
9. *The name of each contributions plan applying to the land*  
**Warringah Section 94A Development Contributions Plan 2013 (adopted 25 June 2013 effective 1 July 2013). Please contact Council's Planning and Assessment Counter for more information.**
- 9A. *Is this land biodiversity certified land (within the meaning of Part 7AA of the Threatened Species Conservation Act 1995)?*  
**No**
10. *Whether the land is land to which a biobanking agreement under Part 7A of the Threatened Species Conservation Act 1995 relates (but only if council has been notified of the existence of the agreement by the Director –General of the Department of Environment and Climate Change and Water)?*  
**No**
11. *Bush Fire Prone Land*  
**Yes**
12. *Is the land subject to a property vegetation plan made under the Native Vegetation Act 2003?*  
**No**
13. *Whether an order has been made under the Trees (Disputes Between Neighbours) Act 2006 to carry out work in relation to a tree on the land (but only if the Council has been notified of the order).*



**No**

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

**No**

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

**No**

*For what period is the certificate current?*

**not applicable**

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

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

**No**

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

**No**

*For what period is the certificate current?*

**not applicable**

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

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

**No**

*For what period is the certificate current?*

**Not Applicable**

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

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

**No**

18. Paper subdivision information

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

**Not applicable**

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

**Not applicable**

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



19. Site verification certificates

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

**No**

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

**Not applicable**

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

**Not applicable**

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

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

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

**No**

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

**No**

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

**No**

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

**No**

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

**No**

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



**Under The Provisions of Section 149(5) of the Environmental Planning and Assessment Act.**

1. (a) Whether any instrument or resolution of Council varies or proposes to vary the provisions of an environmental planning instrument, other than as referred to in the Certificate under section 149(2):-

Date of Council Resolution	Outline of Planning Proposal	Land to which Planning Proposal applies
N/A	N/A	N/A

(b) Whether the land or any item on the land is affected by an order under section 24 or section 25 of the Heritage Act 1977

**No**

(c) Is the land subject to Councils interim policy and interim guidelines for development and use of the land likely to be affected by 1:100 year flood – Development and subdivision applications may be subject to the floor affected controls.

**No**

(d) Is the land subject to Councils resolution of 26<sup>th</sup> August 1997. Assessment of Development applications will be made by reference to the Collaroy/Narrabeen Coastline Management Plan- Development Guidelines for Collaroy/Narrabeen Beach.

**No**

2. *Threatened Species.*

(a) Does this land have the potential to contain one or more of the following endangered or vulnerable ecological communities as described in the final determination of the scientific committee to list the ecological communities under Part 3 of Schedule 1 and Part 2 of Schedule 2 Threatened Species Conservation Act 1995(NSW)?

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

**No**

(b) Is this land known to contain threatened species as described in the final determination of the scientific committee to list endangered and vulnerable species under part 1 of Schedule 1 and part 1 of Schedule 2 Threatened Species Conservation Act 1995 (NSW)?

**No**

3. Does Council's Protection of Waterways and Riparian Land Policy apply to the land?

**Yes**

4. (a) Is this land affected by Council's geotechnical assessment of Queenscliff headland?

**No**

(b) Is the land identified as having specific potential geotechnical hazards?

**No**



*Additional Information:*

- a. **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 bushfire matters. Contact NSW Rural Fire Service.**
- b. **Many Aboriginal objects are found within the Local Government Area of Warringah. It is prudent for the purchaser of land within such area to make enquiry of the Director-General of National Parks and Wildlife whether he/she is aware of any Aboriginal objects on the subject land or whether the land has been declared as an Aboriginal place under the National Parks and Wildlife Act 1974 (NSW). Such Director-General has wide powers to prevent the carrying out of work on land which is likely to significantly affect an Aboriginal object or Aboriginal place.**
- c. **Information available to Council indicates properties within the catchments of Dee Why CBD, Manly Lagoon and Middle Creek may be flood affected. This includes the suburbs of Narraweena, Dee Why, Cromer, Ingleside, Brookvale and Oxford Falls. Council's Natural Environment Unit can be contacted for further information.**
- d. **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.**

**The advice above is provided in good faith and the Council shall not incur any liability in respect of any such advice.**

**Disclaimer**

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



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for Rik Hart  
GENERAL MANAGER  
WARRINGAH COUNCIL

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

Clause 1.1 of the Section 149(2) Certificate

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**STATE ENVIRONMENTAL PLANNING POLICY (MAJOR PROJECTS) 2005**

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

**STATE ENVIRONMENTAL PLANNING POLICY (Sydney Region Growth Centres) 2006**

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

**STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007**

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

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

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

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

Gazetted: 12.12.2008 – Commenced 27.02.2009

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

**STATE ENVIRONMENTAL PLANNING POLICY (AFFORDABLE RENTAL HOUSING) 2009**

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

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

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

**2 Permitted without consent**

Home-based child care; Home occupations

**3 Permitted with consent**

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

**4 Prohibited**

Any development not specified in item 2 or 3

# SEWERAGE SERVICE DIAGRAM

Municipality of *Warringah*

No. *652608*

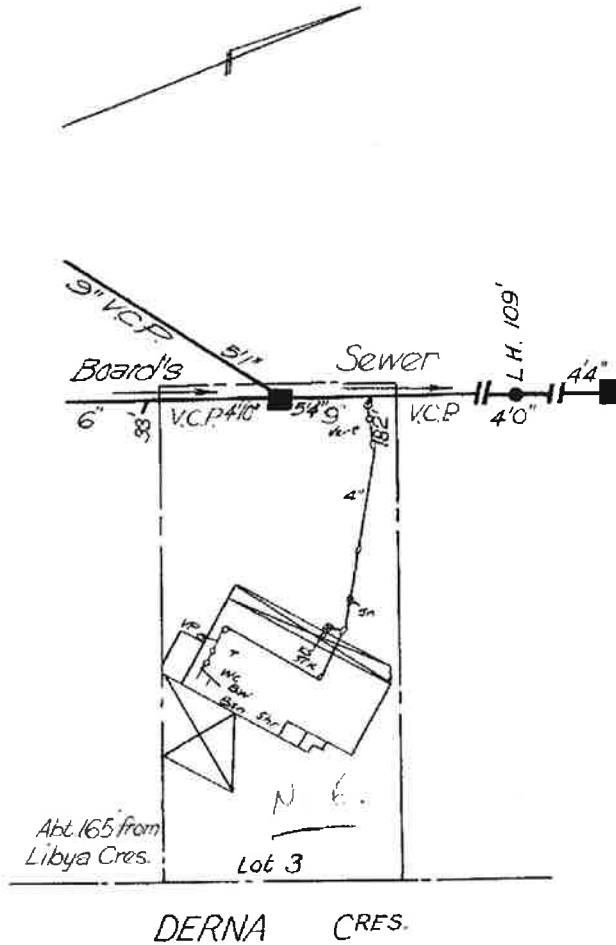
### SYMBOLS AND ABBREVIATIONS

- |                           |                          |                   |                          |
|---------------------------|--------------------------|-------------------|--------------------------|
| □ Boundary Trap           | ■ R.V. Reflux Valve      | I.P. Induct Pipe  | Bsn. Basin               |
| ■ Pit                     | ◊ Cleaning Eye           | M.F. Mica Flap    | Shr. Shower              |
| ▤ G.I. Grease Interceptor | ○ Vert. Vertical Pipe    | T. Tubs           | W.I.P. Wrought Iron Pipe |
| ⊠ Gully                   | ○ V.P. Vent. Pipe        | K.S. Kitchen Sink | C.I.P. Cast Iron Pipe    |
| ⊞ P.T. P. Trap            | ○ S.V.P. Soil Vent. Pipe | W.C. Water Closet | F. W. Floor Waste        |
| ⊞ R.S. Reflux Sink        | ○ D.C.C. Down Cast Cowl  | B.W. Bath 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



RATE No. \_\_\_\_\_ W.C.s \_\_\_\_\_ U.C.s \_\_\_\_\_ 19\_\_\_\_  
 SHEET No. *9/32* OFFICE USE ONLY For Engineer House Services

DRAINAGE			PLUMBING	
W.C.	Supervised by	Date	Supervised by	Date
Bth.	Inspector	/ /	Inspector	/ /
Shr.				
Bsn.	Examined by	/ /	Inspector	/ /
K.S.				
T.	Chief Inspector	/ /	Inspector	/ /
Pig.				
Drain				

1003 425

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.

CENTRAL REGISTER OF RESTRICTIONS

GLOBALX INFORMATION PTY LTD

APPLN NO: 1736131

ISSUED: 17/2/2014 3:00 PM

YOUR REFERENCE: 667049 JYH/3118679-005

PAGE 1

CERTIFICATE

REFERENCE: 3/51/237501

LGA: WARRINGAH

PARISH: MANLY COVE

COUNTY: CUMBERLAND

NO. OF AUTHORITIES INQUIRED OF: 10

THE FOLLOWING AUTHORITIES HAVE NO INTEREST IN THIS PROPERTY:

DEPT OF EDUCATION AND COMMUNITIES

NO PRESENT INTEREST IN THE ACQUISITION OF THE ABOVEMENTIONED LAND.

EAST AUSTRALIAN PIPELINE LTD

NOT AFFECTED BY PIPELINES OR PROPOSALS UNDER THE PIPELINE AUTHORITY ACT, 1973.

JEMENA GAS NETWORKS (NSW) LTD

NOT AFFECTED BY COMPANY PIPELINES OR PROPOSALS UNDER THE PIPELINES ACT, 1967.

NSW TRADE & INVESTMENT

THE RECORDS OF THE DIVISION OF RESOURCES AND ENERGY DISCLOSE THAT THE SUBJECT AREA IS NOT AFFECTED BY ANY PERMIT OR LICENCE OR RELATED APPLICATION UNDER THE PIPELINES ACT 1967.

OFFICE OF ENVIRONMENT AND HERITAGE

THE LAND &/OR BUILDING IS NOT SUBJECT TO A CONSERVATION INSTRUMENT, ORDER OR NOTICE

ROADS AND MARITIME SERVICES SYDNEY OFFICE

THE ROADS AND MARITIME SERVICES OF NEW SOUTH WALES (RMS) HAS NO CURRENT PROPOSAL TO ACQUIRE ANY INTEREST IN THE LAND SUBJECT OF THIS APPLICATION

RAIL CORPORATION NEW SOUTH WALES

RAIL CORPORATION NEW SOUTH WALES HAS NO APPROVED PROPOSAL TO ACQUIRE ANY RIGHT OR INTEREST IN THE SUBJECT PROPERTY.

THE DEPARTMENT OF DEFENCE - (ADMINISTERED BY LPI)

THE DEPARTMENT OF DEFENCE ADVISES THAT THERE IS NO RECORD OF LAND WITHIN THIS TITLE HAVING BEEN USED FOR MILITARY PURPOSES OF A

CENTRAL REGISTER OF RESTRICTIONS

GLOBALX INFORMATION PTY LTD

APPLN NO: 1736131

ISSUED: 17/2/2014 3:00 PM

YOUR REFERENCE: 667049 JYH/3118679-005

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CERTIFICATE

NATURE THAT MAY HAVE RESULTED IN ORDNANCE-RELATED CONTAMINATION.

TRANSGRID (ELECTRICITY TRANSMISSION AUTHORITY)

TRANSGRID HAS NO RIGHT OR INTEREST IN THE LAND OR ANY TRANSGRID BOARD APPROVED PROPOSAL WHICH WOULD AFFECT TITLE TO THE LAND.

\*\*\*\*\*

THE FOLLOWING AUTHORITIES HAVE A POSSIBLE OR ACTUAL INTEREST IN THIS PROPERTY. YOUR INQUIRY HAS BEEN REFERRED TO THEM FOR DIRECT RESPONSE:

AUSGRID

REGISTRAR GENERAL

\*\*\*\*\* END OF CERTIFICATE \*\*\*\*\*

APPLICANTS SHOULD SATISFY THEMSELVES AS TO THE CORRECTNESS OF THE LAND DESCRIPTION (INCLUDING PARISH/COUNTY) RECORDED HEREON AGAINST WHICH THIS INQUIRY HAS BEEN UNDERTAKEN.



Henry Davis York  
44 Martin Place  
Sydney NSW 2000

Agent ID: 81290352  
Issue date: 17-FEB-2014  
Enquiry ID: 1991984  
Correspondence ID: 1591361967  
Your reference: JYH/3118679-005

**Land Tax Certificate under section 47 of the *Land Tax Management Act 1956***

This information is based on data held by the Office of State Revenue.

---

Land ID:	Land address:	Taxable land value:
D237501/3/51	6 DERNA CRES ALLAMBIE HEIGHTS 2100	EXEMPT

There is NO LAND TAX charged on the land up to and including the 2014 tax year.

---

If you have any questions concerning the land ID, land address or taxable land value details, contact one of my officers on 1300 139 816.

Yours sincerely,

Tony Newbury  
Chief Commissioner of State Revenue

## OSR contact details



For more information and services on land tax  
[www.osr.nsw.gov.au](http://www.osr.nsw.gov.au)



1300 139 816\*



Phone enquiries  
8.30 am – 5.00 pm, Mon. to Fri.

\* Interstate clients please call (02) 9689 6200.

Help in community languages is available.

## Important information

### What is a land tax charge?

Under section 47 of the *Land Tax Management Act 1956*, land tax is a charge on land owned in NSW at midnight on 31 December of each year. The charge applies from the taxing date and does not depend on the issue of a land tax assessment notice. Land tax is an annual tax so a new charge may occur on the taxing date each year.

### How do I have the charge removed?

A land tax charge remains until the tax is paid or an exemption is allowed. The vendor will need to contact the Office of State Revenue (OSR) to arrange for the charge to be released.

Vendors should allow at least 10 working days for a request to release the charge before settlement.

### Why is the certificate clear from land tax?

The certificate may be issued as 'clear' if:

- the land is not liable or exempt from tax
- the tax has been paid
- the Chief Commissioner is satisfied payment of the tax is not at risk, or
- the owner of the land failed to lodge a land tax return when it was due and the liability had not been detected when the certificate was issued.

### Who is protected by a clearance certificate?

A clear land tax certificate protects a purchaser from any outstanding land tax payable by a previous owner. It means that once they become the owner, they cannot be made to pay a prior land tax liability, unless they had been given notice of the unpaid charge prior to the issue of the certificate.

It does not provide any protection to the owner of the land at the time the land tax charge occurred. That owner must still pay any unpaid land tax, even if the unpaid land tax is not assessed until after the sale is completed.

**Note:** A clear certificate does not mean that land tax was not payable or that there is no land tax adjustment to be made on settlement, if the contract for sale allows for it.

### Land value, tax rates and threshold

The taxable land value shown on the clearance certificate is the value that is used by OSR when assessing land tax.

Details of land tax thresholds and rates, as well as the land tax calculator and examples are available at [www.osr.nsw.gov.au](http://www.osr.nsw.gov.au)

**Date of Issue** Mon February 17 2014  
**Your Reference:** P Henry Davi



Sydney Water certifies in pursuance of Section 66 of its Act that charges as set out below are payable with respect to this property.

The amount specified in this certificate is applicable as at the date of issue.

Land and Property Information NSW  
1 Prince Albert Road  
Sydney 2000

**Property No:** 3413152 **Payment No:** 34131520008  
Property Location: 6 Derna Cres Allambie Heights 2100  
Property Type: Single Dwelling  
Property Description: Lot 3 Sec 51 Dp 237501 18.29X38.1  
Sydney Water Reference: 8681572 rblpi001

**Financial Details**

01/01/14-31/03/14	Total Debit	Less Credit	Balance
<b>Service Charges</b>	\$ 174.00	\$ 0.00	\$ 174.00
Water			
Sewerage			
Water Usage To 29/01/14	\$ 153.92	\$ 0.02	\$ 153.90
<b>Totals</b>	\$ 327.92	\$ 0.02	\$ 327.90

**Meter Details**

Last Meter Reading Details

Date of Reading 29/01/14  
Reading 2615 kL  
Consumption 71 kL  
Number of Days 103  
Average Daily Usage 0.689 kL

Potable Water has been charged as: 18/10 - 29/01 71 kL @ \$2.1680 per kL

**Important Messages**

A verbal update can be obtained by phoning 1300 361 369 between 8.30am and 5.30pm Monday to Friday. Sydney Water accepts no responsibility for any inaccuracy.

Interest will be charged on overdue accounts.

Cheques are to be made payable to Sydney Water Corporation and sent to PO Box 974 Parramatta NSW 2124.

Please quote the SWC Property Number when submitting your payment.

Any development or redevelopment of a property in Sydney Water's area of operations may incur a Sydney Water developer charge.

# Property Information Inquiry Form

Authority: Ausgrid

**Application No** 1736131      **Application Date** 17/2/2014 3:00:46 PM  
**Application Ref** 667049 JYH/3118679-005  
**Source** GLOBALX INFORMATION PTY LTD

**Applicant Details**

GLOBALX INFORMATION SERVICES  
DX 1239 SYDNEY

**Email** PI@LEGALINX.COM.AU  
**Phone** 02 9230 6900  
**Fax** 02 9223 8215  
**ABN**

**Local Council** WARRINGAH  
**Parish/County** MANLY COVE CUMBERLAND  
**Property Location**  
6 DERMA PLACE ALLAMBIE HEIGHTS 2100

**Title Reference**  
3/51/237501

**Item Description(s)**

Information of any approved proposal to acquire any right or interest

\*\*\*\*\* END OF REPORT \*\*\*\*\*



A SEARCH OF OUR RECORDS INDICATES THAT AT THIS DATE  
**Ausgrid** HAS NO APPROVED PROPOSAL TO ACQUIRE ANY  
RIGHT OR INTEREST IN THE PROPERTY. THIS INFORMATION  
DOES NOT APPLY TO ANY AFFECTATION REGISTERED ON TITLE  
OR DISCOVERABLE BY PHYSICAL INSPECTION OF THE PROPERTY

A large, stylized handwritten signature in black ink.

FOR MANAGER PROPERTY PORTFOLIO

Please telephone 9942-2922 for an update  
prior to settlement. Updates will be provided  
within the current financial year.

GlobalX Information Services  
DX 1239  
SYDNEY

**Your Reference:** 667049 - JYH/3118679-005  
**Property No.:** 110312  
**Certificate No.:** RAT2014/2454  
**Processing Date:** 21 February 2014  
**Receipt Details** 100220800  
**Amount** \$70.00

<b>Subject Property Details:</b>	<b>Owner as Recorded by Council:</b>
<b>Location:</b> 6 Derna Crescent ALLAMBIE HEIGHTS NSW 2100	S N Ruskin
<b>Description:</b> Lot 3 Sec 51 DP 237501	6 Derna Crescent
<b>Land Value:</b> \$510000	ALLAMBIE HEIGHTS NSW 2100
<b>Rate Levy Date:</b> 02/01/2014	

01/07/2013 to 30/06/2014	
Property 110312	782.54
Arrears of Rates Brought Forward	
<b>CURRENT LEVY DUE 31/05/2014</b>	<b>1023.92</b>
Ordinary Residential Rates	490.00
Domestic Waste Standard 120 Litre Service	1513.92
<b>SUB TOTAL - CURRENT YEAR LEVY</b>	<b>34.48</b>
Interest Charges	-800.00
Payments	1530.94
<b>SUB TOTAL</b>	<b>1530.94</b>
<b>TOTAL BALANCE</b>	<b>\$1530.94</b>

**Notes:**

- 1 \*\*All payment subject to clearance of funds\*\*
- 2 Land Valuation by Valuer General as at 01/07/2012
- 3 Interest on overdue rates – 9% pa (calculated daily)



Rik Hart  
GENERAL MANAGER  
WARRINGAH COUNCIL



**APPLICATION FOR SEARCH**

**ORIGINAL**

**UNDER: The Mining Act 1992  
The Petroleum (Onshore) Act 1991**

**Search Number  
402140**

**Applicant's Name and full postal address.**

GlobalX Information Services  
PO Box A250  
SYDNEY SOUTH NSW 1235

**To: Executive Director Mineral Resources  
Minerals & Energy Division  
PO Box 344  
HUNTER REGION MAIL CENTRE  
NSW 2310  
ABN 72 189 919 072  
Telephone: 1300 736 122  
Fax: 02 4931 6776  
DX: DX 21617 MAITLAND  
Applicant's Reference  
667049 – JYH/3118679-005  
Applicant's Phone Number**

**Date**

- IMPORTANT**
1. This application must be submitted in duplicate and must be accompanied by a fee of \$50.00 + \$5.00 GST
  2. A plan or diagram showing the location of the property in relation to Parish portion nos or lot and DP nos must be attached to assist identification from Departmental records
  3. Incomplete applications or applications lodged without the correct fee will be returned unacted upon.

DESCRIPTION OF PROPERTY		District, Town or Village	Street Name(s) Where applicable
County CUMBERLAND		Parish MANLY COVE	Lot or Portion - Section - DP or SP
Area	City, Municipality or Shire	WARRINGAH	Lot 3 Section 51 DP 237501
Purchaser's Full Name			
Owner's Full Name		Simone Nanette Ruskin	

**OFFICE USE ONLY**

The subject area is affected by the following Titles or Applications for Titles. See overleaf for a brief explanation of the effect such titles or applications may have on the area.

APPLICATION/TITLE NO.	TERM	APPLICANT/HOLDER & ADDRESS
PEL 463 (1991) (PETROLEUM EXPLORATION LICENCE)	22 Oct 2015	MACQUARIE ENERGY PTY LTD PO BOX 15589 CITY EAST QLD 4002

Information Prepared: LS

Information Checked: Lisa Sargent

Date: 21 February 2014

PLEASE NOTE : It is requested that payment for any future searches requested by your firm have the following payee on cheques, money orders, etc -

NSW TRADE AND INVESTMENT (and if appropriate ABN 72 189 919 072)

Thank you

# GENERAL INFORMATION

## Exploration Licences, Authorisations and Petroleum Licences

These can affect extensive areas of land and are to search for minerals, coal and petroleum. Exploration is usually done on a broad regional basis. These types of activities usually have minimal effect on the land. However entry onto land requires prior notification to the landholder and an access arrangement between the landholder and the explorer.

## Leases and Mineral Claims

These permit the holder to prospect and mine for the minerals as well as carry out purposes in connection with mining. Some are granted over the surface of the land to a specified depth (depth restriction) while others may be granted exclusive of the surface (surface exception). Particulars should be sought from the Department of Primary Industries - Mineral Resources to determine the effect that these have on the land.

## Assessment Leases

These bridge the gap between exploration and mining by permitting economic, feasibility, marketing and environmental studies to be undertaken.

## Additional Information

The Department's website contains detailed information regarding the above matters, titles administered by this Department and landholders' rights, etc. Please go to [www.industry.nsw.gov.au](http://www.industry.nsw.gov.au) and select 'MINERALS AND PETROLEUM', then from 'TOPICS' select 'TITLES'.

Under the 'TITLES' menu, 'LANDHOLDERS RIGHTS' is possibly the most relevant to persons purchasing a property.

20 February 2014

GlobalX Information Services  
DX 1239  
SYDNEY

Dear Sir/Madam

**Re: Application No. OH2014/0178  
Lot 3 Sec 51 DP 237501, 6 Derna Crescent ALLAMBIE HEIGHTS**

I refer to your request for advice regarding outstanding Health and Building Notices for the above premises.

A search of Council's records revealed that there are no outstanding Health and Building Notices under the Local Government Act 1993, Environmental Planning & Assessment Act 1979, Food Act 2003, Public Health Act 1991, Protection of the Environment Operations Act 1997, Contaminated Land Management Act 1997, Swimming Pools Act 1992 over the above-mentioned property.

Please note that the absence of any outstanding notices does not guarantee that the property is in a satisfactory condition and prospective purchasers should make their own assessment.

Should you require any further information regarding this matter please contact Compliance Services, weekdays on 9942 2317 or via [council@warringah.nsw.gov.au](mailto:council@warringah.nsw.gov.au).

Yours faithfully  
Per



Rodney Piggott  
**Acting Regulation & Enforcement Manager**

Our Ref: OH2014/0178 Your Ref: 667049 - JYH/3118679-005

**Schedule B: Form of requisitions on title**

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## RESIDENTIAL PROPERTY REQUISITIONS ON TITLE

Vendor:  
Purchaser:  
Property:  
Dated:

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### Possession and tenancies

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

### Title

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

### Adjustments

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

### Survey and building

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

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

**Affectations**

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

**Capacity**

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

**Requisitions and transfer**

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

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**Schedule C: Deed of guarantee**

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HENRY DAVIS YORK  
LAWYERS

# Guarantee and Indemnity

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**The Party or Parties named in Item 1**

**Commonwealth Bank of Australia Limited t/as Bankwest as Mortgagee Exercising  
Power of Sale pursuant to mortgage registered number AE32087**

**CONTENTS**

KEY DETAILS	2
1 Definitions and interpretation	3
2 Guarantee and indemnity	4
3 Counterparts	6
4 Governing law	6
5 Costs	6
6 Stamp duty	6
EXECUTION	8

**KEY DETAILS**

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	<b>Date</b>	See Execution on page 8
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<b>1</b>	<b>Parties</b>	
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<b>2</b>	<b>Guarantor</b>	
	Name	
	Address	
	Attention	
	Fax	
	<b>Vendor</b>	
	Name	Commonwealth Bank of Australia Limited t/as Bankwest as Mortgagee Exercising Power of Sale pursuant to mortgage registered number AE32087
	Address	C/- Level 14, 201 Sussex Street (Darling Park 1), Sydney NSW 2000
	Attention	Michael Furnell
	Phone	
	<b>Purchaser</b>	
	Name	
	Address	
	Attention	
	Phone	

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<b>3</b>	<b>Property</b>	6 Derna Crescent, Allambie Heights NSW 2100
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<b>4</b>	<b>Date of Contract for Sale</b>	
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## BACKGROUND

- A The Vendor and the Purchaser have entered into the Contract for Sale.
- B The Guarantor has agreed to guarantee to the Vendor the performance of the Purchaser and to indemnify the Vendor in respect of the consequences of non-performance by the Purchaser in the terms set out in this document.

## TERMS

### 1 Definitions and interpretation

---

- 1.1 The following words have these meanings in this document:

**Allowed Event** means:

- (a) the lawful rescission by either the Vendor or the Purchaser of the Contract for Sale;
- (b) the lawful termination by the Purchaser of the Contract for Sale as a result of the Vendor's default; or
- (c) the lawful termination of the Contract for Sale by express agreement in writing between the Vendor and the Purchaser

**Contract for Sale** means the contract for sale of the Property between the Vendor (as vendor) and the Purchaser (as purchaser) bearing the date specified in the Key Details.

**Property** means the property specified in the Key Details.

**Purchaser** means the party named in the Key Details.

**Vendor** has the party named in the Key Details.

- 1.2 In this document unless the contrary intention appears:

- (a) a reference to this document means this Deed and includes any variation or replacement of it;
- (b) a reference to a statute or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements or any of them;
- (c) singular includes the plural number and vice versa;
- (d) a reference to any one gender includes each other gender (as the case may require);

- (e) the word "person" includes a firm, corporation, body corporate, unincorporated association or any governmental authority;
  - (f) a reference to a person includes a reference to the person's executors, administrators, legal personal representatives, successors and permitted assigns;
  - (g) an agreement on the part of, or in favour of, two or more persons binds or is for the benefit of them or any one or more of them jointly and severally;
  - (h) a reference to a party means a person who is named as a party to the "Contract for Sale", and is bound to observe the provisions of this document; and
  - (i) a reference to an item means an item in the schedule to this document.
- 1.3 All headings in this document have been inserted for the purpose of ease of reference only. They do not affect the meaning or interpretation of it.

#### 1.4 **Schedules**

Any schedule attached to this Guarantee and Indemnity forms part of it. If there is any inconsistency between any clause of this Guarantee and Indemnity and any provision in any schedule or attachment, the clause of this Guarantee and Indemnity will prevail.

## **2 Guarantee and indemnity**

---

In consideration of the Vendor agreeing to sell the Property to the Purchaser at the request of the Guarantor (which request is evidenced by the execution of this document by the Guarantor):

- 2.1 The Guarantor guarantees to the Vendor the due and punctual payment of all money and the due and punctual performance and observance of all conditions and provisions expressed in or implied by the Contract for Sale to be respectively paid, performed and observed by the Purchaser.
- 2.2 The Guarantor agrees at all times to keep the Vendor indemnified against all damages and all costs losses and expenses which the Vendor may suffer or incur consequent upon or arising directly or indirectly out of any breach or non-observance by the Purchaser of any of the terms provisions or conditions contained in the Contract for Sale and on the part of the Purchaser to be performed, observed or fulfilled.
- 2.3 The Guarantor agrees that the indemnity given in clause 2.2 continues and that it remains liable to the Vendor under the indemnity notwithstanding that as a consequence of any breach or non-observance the Vendor has exercised any of its rights contained in the Contract for Sale and notwithstanding that the Purchaser may enter into liquidation either voluntary or otherwise and notwithstanding that the guarantee as to performance observance and fulfilment given in clause 2.1 may for any reason be unenforceable either in whole or in part.

- 2.4 On any default or failure by the Purchaser to observe and perform any of the covenants terms or conditions of the Contract for Sale the Guarantor must immediately on demand by the Vendor make good to the Vendor all losses and expenses sustained or incurred by the Vendor by reason or in consequence of any such default or failure by the Purchaser in performing or observing any of those covenants terms or conditions without the necessity of any prior demand having been made on the Purchaser.
- 2.5 The liability of the Guarantor under this document is not affected by the granting of time or any other indulgence or concessions by the Vendor to the Purchaser or by the compounding compromise release abandonment waiver variation relinquishment or renewal of any of the rights of the Vendor against the Purchaser or by any neglect or omission to enforce those rights or by any other thing which under the law relating to sureties would be or might but for this provision release the Guarantor in whole or in part from its obligations under this document
- 2.6 Notwithstanding that as between the Guarantor and the Purchaser the Guarantor may be a surety only nevertheless as between the Guarantor and the Vendor the Guarantor is deemed to be a primary debtor and contractor with the Purchaser.
- 2.7 To the fullest extent permitted by law the Guarantor hereby waives such of its rights as surety or indemnifier (legal equitable statutory or otherwise) which may at any time be inconsistent with any of the provisions of this document.
- 2.8 The covenants and agreements made or given by any one or more parties comprising the Guarantor (where more than one party comprises the Guarantor) are not conditional or contingent in any way or dependent upon the validity or enforceability of the covenants and agreements of any other party or parties comprising the Guarantor or of any other person and are and remain binding notwithstanding that any other party who comprises the Guarantor or any other person has not executed or validly executed this document.
- 2.9 The obligations of the Guarantor under this document continue to remain in force until all money payable pursuant to the Contract for Sale has been paid and until all other obligations have been performed observed and satisfied and such obligations are not reduced or affected by the insolvency liquidation or dissolution of the Purchaser or the Guarantor.
- 2.10 If the obligations of the Guarantor under this document are (or but for this clause 2.10 would be) at any time or from time to time discharged in part or in whole by reason of the receipt by the Vendor from any person whatever of money or other consideration in satisfaction in part or in whole of the obligations of the Guarantor and if the Vendor is subsequently called upon to refund any moneys so paid or to return any consideration so given to the Vendor whether by reason of the payment or consideration being a preference under the laws for the time being relating to bankruptcy or insolvency or being avoided by any other statutory provision or for any other reason whatever then notwithstanding that the guarantee and indemnity contained in this document may have been wholly or partially cancelled or given up to be wholly or partially cancelled the guarantee and indemnity contained in this document remains in full force and effect to the same extent as if it had never been wholly or partially discharged and the Guarantor and the Vendor are deemed to have been restored to the rights which each respectively would have had if such payment or consideration had not been made or given.

2.11 If for any reason other than an Allowed Event:

- (a) the Purchaser ceases to be bound by all or any of the terms and conditions of the Contract for Sale; or
- (b) the obligations of the Purchaser under the Contract for Sale are abrogated or modified,

then and in any such event the Guarantor must pay to the Vendor an amount equal to the total direct loss or damage incurred by the Vendor by reason of the Purchaser having ceased to be bound or having its obligations abrogated or modified and the Guarantor must do all such other acts and things as the Vendor may require to place the Vendor in as good a position as nearly may be to the position in which the Vendor would have been had the Purchaser's obligations under the Contract for Sale not been abrogated or modified. The obligations of the Guarantor under this clause 2.11 are also original and independent and are in addition to the Guarantor's other obligations and the Vendor's other rights.

### **3 Counterparts**

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If this document is signed in counterparts, each is deemed an original and all constitute one and the same instrument.

### **4 Governing law**

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The contents of this document, its meaning and interpretation and the relationship of the parties are to be governed by the laws of New South Wales, Australia. The parties submit to the jurisdiction of the courts of that place.

### **5 Costs**

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Each party is to pay its own legal costs and disbursements of and incidental to the preparation, completion and signing of this document.

### **6 Stamp duty**

---

The Guarantor is to pay all stamp duty (including any penalties or fines) which is payable in respect of this document and any documents which are executed by a party in accordance with the provisions of this document. The Guarantor must indemnify the Vendor and keep the Vendor indemnified against any liability which the Vendor may suffer or incur as a result of the default, delay or omission to pay

**EXECUTION**

**Signed** as a deed on

2014

**Individuals**

**Signed, sealed and delivered as a deed**  
by \_\_\_\_\_ in the  
presence of:

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

\_\_\_\_\_  
Print name:

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Address

**Signed, sealed and delivered as a deed**  
by \_\_\_\_\_ in the  
presence of:

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

\_\_\_\_\_  
Print name:

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Address

**Company**

**Signed, sealed and delivered as a deed**  
by \_\_\_\_\_ by the  
authority of its authorised officers:

\_\_\_\_\_  
Signature of director/company secretary

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

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Print name

**Power of Attorney**

**Signed, sealed and delivered as a deed**  
on behalf of  
by its attorney under power of attorney  
dated  
Book      No            in the presence of:

By executing this deed the attorney states  
that they have received no notice of the  
revocation of the power of attorney.

\_\_\_\_\_  
Witness (signature)

\_\_\_\_\_  
Attorney (signature)

\_\_\_\_\_  
Witness (print name)

\_\_\_\_\_  
Attorney (print name)

**Executed by Commonwealth Bank of  
Australia t/as Bankwest as mortgagee  
exercising power of sale ACN 123 123  
124** by its duly constituted Attorney under  
Power of Attorney Book  
No            dated  
who has no notice of revocation of such  
Power of Attorney in the presence of:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Full name (Please print)

\_\_\_\_\_  
Full Name and Title (Please print)

\_\_\_\_\_  
Date