

# Contract for the sale and purchase of land 2016 edition

TERM	MEANING OF TERM	NSW Duty:
vendor's agent	<b>Skyline Real Estate</b> 3/14 Frenchs Forest Road, Frenchs Forest, NSW 2086	<b>Phone: 9452 3444</b> <b>Ref: Stuart Bath</b>
co-agent		
vendor	<b>Robert Peter Linigen as Executor of the Estate of the late Muriel Valda Linigen</b> 19 Acacia Avenue, Leura, NSW 2780	
vendor's solicitor	<b>Emmerson &amp; Emmerson</b> Forestway Centre Suite 9, Forest Way, Frenchs Forest NSW 2086	<b>Phone: (02) 9452 1022</b> <b>Fax: (02) 9975 2549</b> <b>Ref: CK:JF:4879</b>
date for completion	(clause 15)	
land (address, plan details and title reference)	<b>4 Maxwell Parade, Frenchs Forest, New South Wales 2086</b> <b>Registered Plan: Lot 2 Plan DP29273</b> <b>Folio Identifier 2/29273</b>	

improvements ☒ VACANT POSSESSION ☐ subject to existing tenancies

☒ HOUSE ☒ garage ☐ carport ☐ home unit ☐ carspace ☐ storage space

☐ none ☐ other:

attached copies ☐ documents in the List of Documents as marked or as numbered:  
other documents:

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

inclusions	<input type="checkbox"/> blinds	<input type="checkbox"/> dishwasher	<input checked="" type="checkbox"/> light fittings	<input checked="" type="checkbox"/> stove
	<input type="checkbox"/> built-in wardrobes	<input checked="" type="checkbox"/> fixed floor coverings	<input type="checkbox"/> range hood	<input type="checkbox"/> pool equipment
	<input checked="" type="checkbox"/> clothes line	<input checked="" type="checkbox"/> insect screens	<input type="checkbox"/> solar panels	<input checked="" type="checkbox"/> TV antenna
	<input checked="" type="checkbox"/> curtains	<input type="checkbox"/> other:		
exclusions				
purchaser				
purchaser's solicitor				
price	\$			
deposit	\$	(10% of the price, unless otherwise stated)		
balance	\$			
contract date	(if not stated, the date this contract was made)			

buyer's agent

vendor

witness

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

purchaser ☐ JOINT TENANTS ☐ tenants in common ☐ in unequal shares

witness

## Choices

vendor agrees to accept a **deposit-bond** (clause 3) ☒ NO ☐ yes  
 proposed **electronic transaction** (clause 30) ☒ NO ☐ yes

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

land tax is adjustable ☒ NO ☐ yes  
 GST: Taxable supply ☒ NO ☐ yes in full ☐ yes to an extent  
 margin scheme will be used in making the taxable supply ☒ NO ☐ yes

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

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

<b>HOLDER OF STRATA OR COMMUNITY TITLE RECORDS – Name, address and telephone number</b>
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## List of Documents

## General

- ☒ 1 property certificate for the land  
☒ 2 plan of the land  
☐ 3 unregistered plan of the land  
☐ 4 plan of land to be subdivided  
☐ 5 document that is to be lodged with a relevant plan  
☒ 6 section 149(2) certificate (Environmental Planning and Assessment Act 1979)  
☒ 7 section 149(5) information included in that certificate  
☐ 8 service location diagram (pipes)  
☒ 9 sewerage service diagram (property sewerage diagram)  
☒ 10 document that created or may have created an easement, profit à prendre, restriction on use or positive covenant disclosed in this contract  
☐ 11 section 88G certificate (positive covenant)  
☐ 12 survey report  
☐ 13 building certificate given under *legislation*  
☐ 14 insurance certificate (Home Building Act 1989)  
☐ 15 brochure or warning (Home Building Act 1989)  
☐ 16 lease (with every relevant memorandum or variation)  
☐ 17 other document relevant to tenancies  
☐ 18 old system document  
☐ 19 Crown purchase statement of account  
☐ 20 building management statement  
☐ 21 form of requisitions  
☐ 22 *clearance certificate*  
☒ 23 land tax certificate

## Swimming Pools Act 1992

- ☐ 24 certificate of compliance  
☐ 25 evidence of registration  
☐ 26 relevant occupation certificate  
☐ 27 certificate of non-compliance  
☐ 28 detailed reasons for non-compliance

## Strata or community title (clause 23 of the contract)

- ☐ 29 property certificate for strata common property  
☐ 30 plan creating strata common property  
☐ 31 strata by-laws not set out in *legislation*  
☐ 32 strata development contract or statement  
☐ 33 strata management statement  
☐ 34 leasehold strata - lease of lot and common property  
☐ 35 property certificate for neighbourhood property  
☐ 36 plan creating neighbourhood property  
☐ 37 neighbourhood development contract  
☐ 38 neighbourhood management statement  
☐ 39 property certificate for precinct property  
☐ 40 plan creating precinct property  
☐ 41 precinct development contract  
☐ 42 precinct management statement  
☐ 43 property certificate for community property  
☐ 44 plan creating community property  
☐ 45 community development contract  
☐ 46 community management statement  
☐ 47 document disclosing a change of by-laws  
☐ 48 document disclosing a change in a development or management contract or statement  
☐ 49 document disclosing a change in boundaries  
☐ 50 certificate under Management Act – section 109 (Strata Schemes)  
☐ 51 certificate under Management Act – section 26 (Community Land)

## Other

- ☐ 52



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## SECTION 66W CERTIFICATE

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

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

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

\_\_\_\_\_

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## WARNING— SWIMMING POOLS

An owner of a 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.

### 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.

## WARNINGS

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

Australian Taxation Office	NSW Department of Education
Council	NSW Fair Trading
County Council	NSW Public Works
Department of Planning and Environment	Office of Environment and Heritage
Department of Primary Industries	Owner of adjoining land
East Australian Pipeline Limited	Privacy
Electricity and gas authority	Roads and Maritime Services
Land & Housing Corporation	Telecommunications authority
Local Land Services	Transport for NSW
Mine Subsidence Board	Water, sewerage or drainage authority

If you think that any of these matters affects the property, tell your solicitor.

2. A lease may be affected by the Agricultural Tenancies Act 1990, the Residential Tenancies Act 2010 or the Retail Leases Act 1994.
3. If any purchase money is owing to the Crown, it may become payable when the transfer is registered.
4. If a consent to transfer is required under legislation, see clause 27 as to the obligations of the parties.
5. The vendor should continue the vendor's insurance until completion. If the vendor wants to give the purchaser possession before completion, the vendor should first ask the insurer to confirm this will not affect the insurance.
6. The purchaser will usually have to pay stamp duty on this contract. If duty is not paid on time, a purchaser may incur penalties.
7. If the purchaser agrees to the release of deposit, the purchaser's right to recover the deposit may stand behind the rights of others (for example the vendor's mortgagee).
8. The purchaser should arrange insurance as appropriate.
9. Some transactions involving personal property may be affected by the Personal Property Securities Act 2009.
10. A purchaser should be satisfied that finance will be available at the time of completing the purchase.
11. Where the market value of the property is \$2 million or more, the purchaser may have to comply with a foreign resident capital gains withholding payment obligation (even if the vendor is not a foreign resident). If so, this will affect the amount available to the vendor on completion.

## 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 Model and Guidelines).

## AUCTIONS

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

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

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

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

<i>adjustment date</i>	the earlier of the giving of possession to the purchaser or completion;
<i>bank</i>	the Reserve Bank of Australia or an authorised deposit-taking institution which is a bank, a building society or a credit union;
<i>business day</i>	any day except a bank or public holiday throughout NSW or a Saturday or Sunday;
<i>cheque</i>	a cheque that is not postdated or stale;
<i>clearance certificate</i>	a certificate within the meaning of s14-220 of Schedule 1 to the <i>TA Act</i> , that covers one or more days falling within the period from and including the contract date to completion;
<i>deposit-bond</i>	a deposit bond or guarantee from an issuer, with an expiry date and for an amount each approved by the vendor;
<i>depositholder</i>	vendor's agent (or if no vendor's agent is named in this contract, the vendor's <i>solicitor</i> , or if no vendor's <i>solicitor</i> is named in this contract, the buyer's agent);
<i>document of title</i>	document relevant to the title or the passing of title;
<i>GST Act</i>	A New Tax System (Goods and Services Tax) Act 1999;
<i>GST rate</i>	the rate mentioned in s4 of A New Tax System (Goods and Services Tax Imposition - General) Act 1999 (10% as at 1 July 2000);
<i>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>remittance amount</i>	the lesser of 10% of the price (inclusive of GST, if any) and the amount specified in a <i>variation served by a party</i> ;
<i>rescind</i>	rescind this contract from the beginning;
<i>serve</i>	serve in writing on the other party;
<i>settlement cheque</i>	an unendorsed <i>cheque</i> made payable to the person to be paid and – <ul style="list-style-type: none"> <li>• issued by a <i>bank</i> and drawn on itself; or</li> <li>• if authorised in writing by the vendor or the vendor's <i>solicitor</i>, some other <i>cheque</i>;</li> </ul>
<i>solicitor</i>	in relation to a party, the party's solicitor or licensed conveyancer named in this contract or in a notice served by the party;
<i>TA Act</i>	Taxation Administration Act 1953;
<i>terminate</i>	terminate this contract for breach;
<i>variation</i>	a variation made under s14-235 of Schedule 1 to the <i>TA Act</i> ;
<i>within</i>	in relation to a period, at any time before or during the period; and
<i>work order</i>	a valid direction, notice or order that requires work to be done or money to be spent on or in relation to the <i>property</i> or any adjoining footpath or road (but the term does not include a notice under s22E of the Swimming Pools Act 1992 or clause 18B of the Swimming Pools Regulation 2008).

## 2 Deposit and other payments before completion

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



### 3 Deposit-bond

- 3.1 This clause applies only if this contract says the vendor has agreed to accept a *deposit-bond* for the deposit (or part of it).
- 3.2 The purchaser must provide the original *deposit-bond* to the vendor's *solicitor* (or if no solicitor the *depositholder*) at or before the making of this contract and this time is essential.
- 3.3 If the *deposit-bond* has an expiry date and completion does not occur by the date which is 14 days before the expiry date, the purchaser must *serve* a replacement *deposit-bond* at least 7 days before the expiry date. The time for service is essential.
- 3.4 The vendor must approve a replacement *deposit-bond* if –
- 3.4.1 It is from the same issuer and for the same amount as the earlier *deposit-bond*; and
  - 3.4.2 It has an expiry date at least three months after its date of issue.
- 3.5 A breach of clauses 3.2 or 3.3 entitles the vendor to *terminate*. The right to *terminate* is lost as soon as –
- 3.5.1 the purchaser *serves* a replacement *deposit-bond*; or
  - 3.5.2 the deposit is paid in full under clause 2.
- 3.6 Clauses 3.3 and 3.4 can operate more than once.
- 3.7 If the purchaser *serves* a replacement *deposit-bond*, the vendor must *serve* the earlier *deposit-bond*.
- 3.8 The amount of any *deposit-bond* does not form part of the price for the purposes of clause 10.7.
- 3.9 The vendor must give the purchaser the *deposit-bond* –
- 3.9.1 on completion; or
  - 3.9.2 if this contract is *rescinded*.
- 3.10 If this contract is *terminated* by the vendor –
- 3.10.1 *normally*, the vendor can immediately demand payment from the issuer of the *deposit-bond*; or
  - 3.10.2 if the purchaser *serves* prior to *termination* a notice disputing the vendor's right to *terminate*, the vendor must forward the *deposit-bond* (or its proceeds if called up) to the *depositholder* as stakeholder.
- 3.11 If this contract is *terminated* by the purchaser –
- 3.11.1 *normally*, the vendor must give the purchaser the *deposit-bond*; or
  - 3.11.2 if the vendor *serves* prior to *termination* a notice disputing the purchaser's right to *terminate*, the vendor must forward the *deposit-bond* (or its proceeds if called up) to the *depositholder* as stakeholder.

### 4 Transfer

- 4.1 *Normally*, the purchaser must *serve* at least 14 days before the date for completion –
- 4.1.1 the form of transfer; and
  - 4.1.2 particulars required to register any mortgage or other dealing to be lodged with the transfer by the purchaser or the purchaser's mortgagee.
- 4.2 If any information needed for the form of transfer is not disclosed in this contract, the vendor must *serve* it.
- 4.3 If the purchaser *serves* a form of transfer and the transferee is not the purchaser, the purchaser must give the vendor a direction signed by the purchaser personally for this form of transfer.
- 4.4 The vendor can require the purchaser to include a form of covenant or easement in the transfer only if this contract contains the wording of the proposed covenant or easement, and a description of the land benefited.

### 5 Requisitions

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

### 6 Error or misdescription

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

### 7 Claims by purchaser

- The purchaser can make a claim (including a claim under clause 6) before completion only by *serving* it with a statement of the amount claimed, and if the purchaser makes one or more claims before completion –
- 7.1 the vendor can *rescind* if in the case of claims that are not claims for delay –
- 7.1.1 the total amount claimed exceeds 5% of the price;

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

## 8 Vendor's rights and obligations

### 8.1 The vendor can *rescind* if –

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

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

- 8.2.1 the purchaser can recover the deposit and any other money paid by the purchaser under this contract;
- 8.2.2 the purchaser can sue the vendor to recover damages for breach of contract; and
- 8.2.3 if the purchaser has been in possession a *party* can claim for a reasonable adjustment.

## 9 Purchaser's default

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

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

## 10 Restrictions on rights of purchaser

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

- 10.1.1 the ownership or location of any fence as defined in the Dividing Fences Act 1991;
- 10.1.2 a service for the *property* being a joint service or passing through another property, or any service for another property passing through the *property* ('service' includes air, communication, drainage, electricity, garbage, gas, oil, radio, sewerage, telephone, television or water service);
- 10.1.3 a wall being or not being a party wall in any sense of that term or the *property* being affected by an easement for support or not having the benefit of an easement for support;
- 10.1.4 any change in the *property* due to fair wear and tear before completion;
- 10.1.5 a promise, representation or statement about this contract, the *property* or the title, not set out or referred to in this contract;
- 10.1.6 a condition, exception, reservation or restriction in a Crown grant;
- 10.1.7 the existence of any authority or licence to explore or prospect for gas, minerals or petroleum;
- 10.1.8 any easement or restriction on use the substance of either of which is disclosed in this contract or any non-compliance with the easement or restriction on use; or

- 10.1.9 anything the substance of which is disclosed in this contract (except a caveat, charge, mortgage 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, to have the *property* inspected to obtain any certificate or report reasonably required;
- 12.1 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 11 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 date for completion, the *parties* must complete and the purchaser must pay on completion, in addition to the price, an amount being the price multiplied by the *GST rate* ("the retention sum"). The retention sum is to be held by the *depositholder* and dealt with as follows –
- if *within* 3 months of completion the purchaser *serves* a letter from the Australian Taxation Office stating the purchaser is registered, 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 Date for completion**
- The *parties* must complete by the date for completion and, if they do not, a *party* can serve a notice to complete if that *party* is otherwise entitled to do so.
- 16 Completion**
- **Vendor**
- 16.1 On completion the vendor must give the purchaser any *document of title* that relates only to the *property*.
- 16.2 If on completion the vendor has possession or control of a *document of title* that relates also to other property, the vendor must produce it as and where necessary.

- 16.3 Normally, on completion the vendor must cause the legal title to the *property* (being an estate in fee simple) to pass to the purchaser free of any mortgage or other interest, subject to any necessary registration.
- 16.4 The legal title to the *property* does not pass before completion.
- 16.5 If the vendor gives the purchaser a document (other than the transfer) that needs to be lodged for registration, the vendor must pay the lodgment fee to the purchaser, plus another 20% of that fee.
- 16.6 If a *party* serves a land tax certificate showing a charge on any of the land, on completion the vendor must give the purchaser a land tax certificate showing the charge is no longer effective against the land.
- **Purchaser**
- 16.7 On completion the purchaser must pay to the vendor, by cash (up to \$2,000) or *settlement cheque* –
- 16.7.1 the price less:
- any deposit paid;
  - if clause 31 applies, the *remittance amount*; and
  - any amount payable by the vendor to the purchaser under this contract; and
- 16.7.2 any other amount payable by the purchaser under this contract.
- 16.8 If the vendor requires more than 5 *settlement cheques*, the vendor must pay \$10 for each extra *cheque*.
- 16.9 If any of the deposit is not covered by a bond or guarantee, on completion the purchaser must give the vendor an order signed by the purchaser authorising the *depositholder* to account to the vendor for the deposit.
- 16.10 On completion the deposit belongs to the vendor.
- **Place for completion**
- 16.11 Normally, the *parties* must complete at the completion address, which is –
- 16.11.1 if a special completion address is stated in this contract – that address; or
- 16.11.2 if none is stated, but a first mortgagee is disclosed in this contract and the mortgagee would usually discharge the mortgage at a particular place – that place; or
- 16.11.3 in any other case – the vendor's *solicitor's* address stated in this contract.
- 16.12 The vendor by reasonable notice can require completion at another place, if it is in NSW, but the vendor must pay the purchaser's additional expenses, including any agency or mortgagee fee.
- 16.13 If the purchaser requests completion at a place that is not the completion address, and the vendor agrees, the purchaser must pay the vendor's additional expenses, including any agency or mortgagee fee.
- 17 Possession**
- 17.1 Normally, the vendor must give the purchaser vacant possession of the *property* on completion.
- 17.2 The vendor does not have to give vacant possession if –
- 17.2.1 this contract says that the sale is subject to existing tenancies; and
- 17.2.2 the contract discloses the provisions of the tenancy (for example, by attaching a copy of the lease and any relevant memorandum or variation).
- 17.3 Normally, the purchaser can claim compensation (before or after completion) or *rescind* if any of the land is affected by a protected tenancy (a tenancy affected by 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 prescribed under s101 Civil Procedure Act 2005.
- 18.6 If this contract is *rescinded* or *terminated* the purchaser must immediately vacate the *property*.
- 18.7 If the *parties* or their *solicitors* on their behalf do not agree in writing to a fee or rent, none is payable.

**19 Rescission of contract**

- 19.1 If this contract expressly gives a *party* a right to *rescind*, the *party* can exercise the right –
- 19.1.1 only by *serving* a notice before completion; and
  - 19.1.2 in spite of any making of a claim or *requisition*, any attempt to satisfy a claim or *requisition*, any arbitration, litigation, mediation or negotiation or any giving or taking of possession.
- 19.2 Normally, if a *party* exercises a right to *rescind* expressly given by this contract or any *legislation* –
- 19.2.1 the deposit and any other money paid by the purchaser under this contract must be refunded;
  - 19.2.2 a *party* can claim for a reasonable adjustment if the purchaser has been in possession;
  - 19.2.3 a *party* can claim for damages, costs or expenses arising out of a breach of this contract; and
  - 19.2.4 a *party* will not otherwise be liable to pay the other *party* any damages, costs or expenses.

**20 Miscellaneous**

- 20.1 The *parties* acknowledge that anything stated in this contract to be attached was attached to this contract by the vendor before the purchaser signed it and is part of this contract.
- 20.2 Anything attached to this contract is part of this contract.
- 20.3 An area, bearing or dimension in this contract is only approximate.
- 20.4 If a *party* consists of 2 or more persons, this contract benefits and binds them separately and together.
- 20.5 A *party's solicitor* can receive any amount payable to the *party* under this contract or direct in writing that it is to be paid to another person.
- 20.6 A document under or relating to this contract is –
- 20.6.1 signed by a *party* if it is signed by the *party* or the *party's solicitor* (apart from a direction under clause 4.3);
  - 20.6.2 served if it is served by the *party* or the *party's solicitor*;
  - 20.6.3 served if it is served on the *party's solicitor*, even if the *party* has died or any of them has died;
  - 20.6.4 served if it is served in any manner provided in s170 of the Conveyancing Act 1919;
  - 20.6.5 served if it is sent by 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, 17, 24, 30 and 31 continue after completion, whether or not other rights continue.
- 20.9 The vendor does not promise, represent or state that the purchaser has any cooling off rights.
- 20.10 The vendor does not promise, represent or state that any attached survey report is accurate or current.
- 20.11 A reference to any *legislation* includes a reference to any corresponding later *legislation*.
- 20.12 Each *party* must do whatever is necessary after completion to carry out the *party's* obligations under this contract.
- 20.13 Neither taking possession nor *serving* a transfer of itself implies acceptance of the *property* or the title.
- 20.14 The details and information provided in this contract (for example, on pages 1 and 2) are, to the extent of each *party's* knowledge, true, and are part of this contract.
- 20.15 Where this contract provides for choices, a choice in BLOCK CAPITALS applies unless a different choice is marked.

**21 Time limits in these provisions**

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

**22 Foreign Acquisitions and Takeovers Act 1975**

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

**23 Strata or community title**

- 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
  - 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 s109 Strata Schemes Management Act 1996 or s26 Community Land Management Act 1989 in relation to the lot, the scheme or any higher scheme at least 7 days before the date for completion.
- 23.14 The purchaser does not have to complete earlier than 7 days after *service* of the certificate and clause 21.3 does not apply to this provision.



- 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 after the expiry of any cooling off period, the purchaser can require the vendor to appoint the purchaser (or the purchaser's nominee) to exercise any voting rights of the vendor in respect of the lot at the meeting.

## 24 Tenancies

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

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

- 25.1 This clause applies only if the land (or part of it) –
- 25.1.1 is under qualified, limited or old system title; or
- 25.1.2 on completion is to be under one of those titles.
- 25.2 The vendor must *serve* a proper abstract of title *within 7 days* after the contract date.
- 25.3 If an abstract of title or part of an abstract of title is attached to this contract or has been lent by the vendor to the purchaser before the contract date, the abstract or part is *served* on the contract date.



- 25.4 An abstract of title can be or include a list of documents, events and facts arranged (apart from a will or codicil) in date order, if the list in respect of each document –
- 25.4.1 shows its date, general nature, names of parties and any registration number; and
  - 25.4.2 has attached a legible photocopy of it or of an official or registration copy of it.
- 25.5 An abstract of title –
- 25.5.1 must start with a good root of title (if the good root of title must be at least 30 years old, this means 30 years old at the contract date);
  - 25.5.2 in the case of a leasehold interest, must include an abstract of the lease and any higher lease;
  - 25.5.3 *normally*, need not include a Crown grant; and
  - 25.5.4 need not include anything evidenced by the Register kept under the Real Property Act 1900.
- 25.6 In the case of land under old system title –
- 25.6.1 in this contract 'transfer' means conveyance;
  - 25.6.2 the purchaser does not have to *serve* the form of transfer until after the vendor has *served* a proper abstract of title; and
  - 25.6.3 each vendor must give proper covenants for title as regards that vendor's interest.
- 25.7 In the case of land under limited title but not under qualified title –
- 25.7.1 *normally*, the abstract of title need not include any document which does not show the location, area or dimensions of the land (for example, by including a metes and bounds description or a plan of the land);
  - 25.7.2 clause 25.7.1 does not apply to a document which is the good root of title; and
  - 25.7.3 the vendor does not have to provide an abstract if this contract contains a delimitation plan (whether in registrable form or not).
- 25.8 The vendor must give a proper covenant to produce where relevant.
- 25.9 The vendor does not have to produce or covenant to produce a document that is not in the possession of the vendor or a mortgagee.
- 25.10 If the vendor is unable to produce an original document in the chain of title, the purchaser will accept a photocopy from the Registrar-General of the registration copy of that document.
- 26 Crown purchase money**
- 26.1 This clause applies only if purchase money is payable to the Crown, whether or not due for payment.
  - 26.2 The vendor is liable for the money, except to the extent this contract says the purchaser is liable for it.
  - 26.3 To the extent the vendor is liable for it, the vendor is liable for any interest until completion.
  - 26.4 To the extent the purchaser is liable for it, the parties must adjust any interest under clause 14.1.
- 27 Consent to transfer**
- 27.1 This clause applies only if the land (or part of it) 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 date for completion becomes the later of the date for completion and 14 days after *service* of the notice granting consent to transfer.
- 28 Unregistered plan**
- 28.1 This clause applies only if some of the land is described as a lot in an unregistered plan.
  - 28.2 The vendor must do everything reasonable to have the plan registered *within* 6 months after the contract date, with or without any minor alteration to the plan or any document to be lodged with the plan validly required or made under *legislation*.
  - 28.3 If the plan is not registered *within* that time and in that manner –
    - 28.3.1 the purchaser can *rescind*; and
    - 28.3.2 the vendor can *rescind*, but only if the vendor has complied with clause 28.2 and with any *legislation* governing the rescission.
  - 28.4 Either party can *serve* notice of the registration of the plan and every relevant lot and plan number.
  - 28.5 The date for completion becomes the later of the date for completion and 21 days after *service* of the notice.

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

## 29 Conditional contract

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

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

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

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

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

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

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

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

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

29.7.3 the date for completion becomes the later of the date for completion and 21 days after the earliest of –

- either *party* serving notice of the event happening;
- every *party* who has the benefit of the provision serving notice waiving the provision; or
- the end of the time for the event to happen.

29.8 If the *parties* cannot lawfully complete without the event happening –

29.8.1 if the event does not happen within the time for it to happen, either *party* can *rescind*;

29.8.2 if the event involves an approval and an application for the approval is refused, either *party* can *rescind*;

29.8.3 the date for completion becomes the later of the date for completion and 21 days after either *party* serves notice of the event happening.

29.9 A *party* cannot *rescind* under clauses 29.7 or 29.8 after the event happens.

## 30 Electronic transaction

30.1 This *Conveyancing Transaction* is to be conducted as an *electronic transaction* if –

30.1.1 this contract says that it is a proposed *electronic transaction*; and

30.1.2 the purchaser serves a notice that it is an *electronic transaction* within 14 days of the contract date.

30.2 However, this *Conveyancing Transaction* is not to be conducted as an *electronic transaction* if, at any time after it has been agreed that it will be conducted as an *electronic transaction*, a *party* serves a notice that it will not be conducted as an *electronic transaction*.

30.3 If, because of clause 30.2, this *Conveyancing Transaction* is not to be conducted as an *electronic transaction* –

30.3.1 each *party* must –

- bear equally any disbursements or fees; and
- otherwise bear that *party's* own costs;

associated with the agreement under clause 30.1; and

30.3.2 if a *party* has paid all of a disbursement or fee which, by reason of this clause, is to be borne equally by the *parties*, that amount must be adjusted under clause 14.2.

30.4 If this *Conveyancing Transaction* is to be conducted as an *electronic transaction* –

30.4.1 to the extent, but only to the extent, that any other provision of this contract is inconsistent with this clause, the provisions of this clause prevail;

30.4.2 normally, words and phrases used in this clause 30 (italicised and in Title Case, such as *Electronic Workspace* and *Lodgment Case*) have the same meaning which they have in the participation rules;

30.4.3 the *parties* must conduct the *electronic transaction* in accordance with the participation rules and the ECNL;

30.4.4 a *party* must pay the fees and charges payable by that *party* to the ELNO and the Land Registry as a result of this transaction being an *electronic transaction*;

- 30.4.5 any communication from one *party* to another *party* in the *Electronic Workspace* made –
- after receipt of the purchaser's notice under clause 30.1.2; and
  - before the receipt of a notice given under clause 30.2;
- is taken to have been received by that *party* at the time determined by s13A of the Electronic Transactions Act 2000; and
- 30.4.6 a document which is an *electronic document* is served as soon as it is first *Digitally Signed* in the *Electronic Workspace* on behalf of the *party* required to serve it.
- 30.5 Normally, the vendor must *within 7 days* of receipt of the notice under clause 30.1.2 –
- 30.5.1 create an *Electronic Workspace*;
  - 30.5.2 populate the *Electronic Workspace* with *title data*, the date for completion and, if applicable, *mortgagee details*; and
  - 30.5.3 invite the purchaser and any *discharging mortgagee* to the *Electronic Workspace*.
- 30.6 If the vendor has not created an *Electronic Workspace* in accordance with clause 30.5, the purchaser may create an *Electronic Workspace*. If the purchaser creates the *Electronic Workspace* the purchaser must –
- 30.6.1 populate the *Electronic Workspace* with *title data*;
  - 30.6.2 create and populate an *electronic transfer*;
  - 30.6.3 populate the *Electronic Workspace* with the date for completion and a *nominated completion time*; and
  - 30.6.4 invite the vendor and any *incoming mortgagee* to join the *Electronic Workspace*.
- 30.7 Normally, *within 7 days* of receiving an invitation from the vendor to join the *Electronic Workspace*, the purchaser must –
- 30.7.1 join the *Electronic Workspace*;
  - 30.7.2 create and populate an *electronic transfer*;
  - 30.7.3 invite any *incoming mortgagee* to join the *Electronic Workspace*; and
  - 30.7.4 populate the *Electronic Workspace* with a *nominated completion time*.
- 30.8 If the purchaser has created the *Electronic Workspace* the vendor must *within 7 days* of being invited to the *Electronic Workspace* –
- 30.8.1 join the *Electronic Workspace*;
  - 30.8.2 populate the *Electronic Workspace* with *mortgagee details*, if applicable; and
  - 30.8.3 invite any *discharging mortgagee* to join the *Electronic Workspace*.
- 30.9 To complete the financial settlement schedule in the *Electronic Workspace* –
- 30.9.1 the purchaser must provide the vendor with *adjustment figures* at least *2 business days* before the date for completion; and
  - 30.9.2 the vendor must populate the *Electronic Workspace* with payment details at least *1 business day* before the date for completion.
- 30.10 At least *1 business day* before the date for completion, the *parties* must ensure that –
- 30.10.1 all *electronic documents* which a *party* must *Digitally Sign* to complete the *electronic transaction* are populated and *Digitally Signed*;
  - 30.10.2 all certifications required by the ECNL are properly given; and
  - 30.10.3 they do everything else in the *Electronic Workspace* which that *party* must do to enable the *electronic transaction* to proceed to completion.
- 30.11 If completion takes place in the *Electronic Workspace* –
- 30.11.1 payment electronically on completion of the price in accordance with clause 16.7 is taken to be payment by a single *settlement cheque*;
  - 30.11.2 the completion address in clause 16.11 is the *Electronic Workspace*; and
  - 30.11.3 clauses 16.8, 16.12, 16.13, 31.2.2 and 31.2.3 do not apply.
- 30.12 If the computer systems of any of the *Land Registry*, the *ELNO* or the Reserve Bank of Australia are inoperative for any reason at the *completion time* agreed by the *parties*, a failure to complete this contract for that reason is not a default under this contract on the part of either *party*.
- 30.13 If the *Electronic Workspace* allows the *parties* to choose whether financial settlement is to occur despite the computer systems of the *Land Registry* being inoperative for any reason at the *completion time* agreed by the *parties* –
- 30.13.1 normally, the *parties* must choose that financial settlement not occur; however

- 30.13.2 if both *parties* choose that financial settlement is to occur despite such failure and financial settlement occurs –
- all *electronic documents Digitally Signed* by the vendor, the *certificate of title* and any discharge of mortgage, withdrawal of caveat or other *electronic document* forming part of the *Lodgment Case* for the *electronic transaction* shall be taken to have been unconditionally and irrevocably delivered to the purchaser or the purchaser's mortgagee at the time of financial settlement together with the right to deal with the land comprised in the *certificate of title*; and
  - the vendor shall be taken to have no legal or equitable interest in the *property*.

30.14 A party who holds a *certificate of title* must act in accordance with any *Prescribed Requirement* in relation to the *certificate of title* but if there is no *Prescribed Requirement*, the vendor must serve the *certificate of title* after completion.

30.15 If the *parties* do not agree about the delivery before completion of one or more documents or things that cannot be delivered through the *Electronic Workspace*, the party required to deliver the documents or things –

30.15.1 holds them on completion in escrow for the benefit of; and

30.15.2 must immediately after completion deliver the documents or things to, or as directed by; the party entitled to them.

30.16 In this clause 30, these terms (in any form) mean –

<i>adjustment figures</i>	details of the adjustments to be made to the price under clause 14;
<i>certificate of title</i>	the paper duplicate of the folio of the register for the land which exists immediately prior to completion and, if more than one, refers to each such paper duplicate;
<i>completion time</i>	the time of day on the date for completion when the <i>electronic transaction</i> is to be settled;
<i>discharging mortgagee</i>	any discharging mortgagee, chargee, covenant chargee or caveator whose provision of a <i>Digitally Signed</i> discharge of mortgage, discharge of charge or withdrawal of caveat is required in order for unencumbered title to the <i>property</i> to be transferred to the purchaser;
<i>ECNL</i>	the Electronic Conveyancing National Law (NSW);
<i>electronic document</i>	a dealing as defined in the Real Property Act 1900 which may be created and <i>Digitally Signed</i> in an <i>Electronic Workspace</i> ;
<i>electronic transfer</i>	a transfer of land under the Real Property Act 1900 for the <i>property</i> to be prepared and <i>Digitally Signed</i> in the <i>Electronic Workspace</i> established for the purposes of the parties' <i>Conveyancing Transaction</i> ;
<i>electronic transaction</i>	a <i>Conveyancing Transaction</i> to be conducted for the parties by their legal representatives as <i>Subscribers</i> using an <i>ELN</i> and in accordance with the <i>ECNL</i> and the <i>participation rules</i> ;
<i>incoming mortgagee</i>	any mortgagee who is to provide finance to the purchaser on the security of the <i>property</i> and to enable the purchaser to pay the whole or part of the price;
<i>mortgagee details</i>	the details which a party to the <i>electronic transaction</i> must provide about any <i>discharging mortgagee</i> of the <i>property</i> as at completion;
<i>participation rules</i>	the participation rules as determined by the <i>ECNL</i> ;
<i>populate</i>	to complete data fields in the <i>Electronic Workspace</i> ; and
<i>title data</i>	the details of the title to the <i>property</i> made available to the <i>Electronic Workspace</i> by the <i>Land Registry</i> .

### 31 Foreign Resident Capital Gains Withholding

31.1 This clause applies to contracts made on or after 1 July 2016 but only if –

31.1.1 the sale is not an excluded transaction within the meaning of s14-215 of Schedule 1 to the *TA Act*; and

31.1.2 a *clearance certificate* in respect of every vendor is not attached to this contract.

31.2 The purchaser must –

31.2.1 at least 5 days before the date for completion, serve evidence of the purchaser's submission of a purchaser payment notification to the Australian Taxation Office;

31.2.2 produce on completion a *settlement cheque* for the *remittance amount* payable to the Deputy Commissioner of Taxation;

31.2.3 forward the *settlement cheque* to the payee immediately after completion; and

31.2.4 serve evidence of receipt of payment of the *remittance amount*.

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

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

31.5 If the vendor serves a *clearance certificate* in respect of every vendor, clauses 31.2 and 31.3 do not apply.



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## **SPECIAL CONDITIONS**

### **Conditions of sale of land by auction**

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

Bidders record means the bidders record to be kept pursuant to clause 13 of the Property, Stock and Business Agents Regulation 2014 and section 68 of the Property, Stock and Business Agents Act 2002:

1. The following conditions are prescribed as applicable to and in respect of the sale by auction of land or livestock:
    - (a) The vendor's reserve price must be given in writing to the auctioneer before the auction commences;
    - (b) A bid for the vendor cannot be made unless the auctioneer has, before the commencement of the auction, announced clearly and precisely the number of bids that may be made by or on behalf of the vendor;
    - (c) The highest bidder is the purchaser, subject to any reserve price;
    - (d) In the event of a disputed bid, the auctioneer is the sole arbitrator and the auctioneer's decision is final;
    - (e) The auctioneer may refuse to accept any bid that, in the auctioneer's opinion, is not in the best interests of the vendor;
    - (f) A bidder is taken to be a principal unless, before bidding, the bidder has given to the auctioneer a copy of a written authority to bid for or on behalf of another person;
    - (g) A bid cannot be made or accepted after the fall of the hammer;
    - (h) As soon as practicable after the fall of the hammer the purchaser is to sign the agreement (if any) for sale.
  2. The following conditions, in addition to those prescribed by subclause 1, are prescribed as applicable to and in respect of the sale by auction of residential property or rural land:
    - (a) All bidders must be registered in the bidders record and display an identifying number when making a bid;
    - (b) Subject to subclause 3, the auctioneer may make only one vendor bid at an auction for the sale of residential property or rural land and no other vendor bid may be made by the auctioneer or any other person; and
    - (c) Immediately before making a vendor bid the auctioneer must announce that the bid is made on behalf of the seller or announces 'vendor bid'.
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3. The following conditions, in addition to those prescribed by subclauses 1 and 2 are prescribed as applicable to and in respect of the sale by auction of co-owned residential property or rural land or the sale of such land by a seller as executor or administrator:

- (a) More than one vendor bid may be made to purchase interest of a co-owner;
  - (b) A bid by or on behalf of an executor or administrator may be made to purchase in that capacity;
  - (c) Before the commencement of the auction, the auctioneer must announce that bids to purchase the interest of another co-owner or to purchase as executor or administrator may be made by or on behalf of the seller;
  - (d) Before the commencement of the auction, the auctioneer must announce the bidder registration number of any co-owner, executor or administrator or any person registered to bid on behalf of any co-owner, executor or administrator.
-





## SPECIAL CONDITIONS

**ROBERT PETER LINIGEN**

**Vendor  
Purchaser**

**Property: 4 MAXWELL PARADE, FRENCHS FOREST**

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### **30 GENERAL**

The parties agree that:

- 30.1 In clause 1 the words 'a building society, credit union or other FCA institution as defined in the Cheques Act 1986; that carries on business in Australia; or' are deleted.
- 30.2 Clause 7.1.1 is amended by altering 5% to read 1%.
- 30.3 Clause 14.4 is deleted and replaced with:-  
The parties must adjust land tax for the year current at the adjustment date:-
  - (i) If land tax has been paid or is payable by the Vendor; and
  - (ii) using the amount paid or payable by the Vendor in respect of the property calculated by reference to the rate applicable to the assessable value of the property.
- 30.4 Clause 16.5 is amended by deleting 'plus another 20% of that fee'.
- 30.5 Clause 16.6 is amended by adding after the last word 'providing that the uncleared Certificate is received ten (10) days prior to the date of settlement, otherwise the purchaser must accept an undertaking on settlement that the land tax certificate will be cleared within 14 days after settlement'.
- 30.6 Clause 16.8 is amended by deleting '\$10' and substituting '\$8'.
- 30.7 Clause 16.12 is deleted.
- 30.8 Clause 23.9.3 is amended by deleting 'or before completion'.
- 30.9 Clause 23.13 and 23.14 is amended by deleting '7' and replacing with '5'.
- 30.10 Clause 23.18.1 is deleted.
- 30.11 Printed clause 18 is amended by adding the following;  
Clause 18.8 'The Purchaser cannot make a claim or requisition or delay settlement after entering into possession of the property'.

### **31 CONDITION OF PROPERTY**

- 31.1 The Purchaser acknowledges that it is satisfied as to the approved and capable use and condition of the property and is purchasing the property in its present condition and state of repair (subject to fair wear and tear), and;
- 31.2 The Purchaser acknowledges that it is purchasing the property subject to all defects (if any) latent or patent, including:
  - (a) All infestations and dilapidations (if any)
  - (b) Existing services (if any) and defects therein, their location and the absence of any rights or easements in respect thereof;
  - (c) The presence of any sewer or manhole or vent on the property;
  - (d) Any rainwater downpipes being connected to the sewer, and/or;
  - (e) Compliance or otherwise with any covenants



disclosed or not disclosed herein, and the Purchaser cannot make a claim, objection or requisition, rescind or terminate or delay completion in respect of any of the above matters.

- 31.3 The Vendor has not made and does not make any warranty as to the state of repair or condition of the inclusions and the Purchaser shall accept them in their state of repair and condition at the date of this contract. The Vendor is not responsible for any loss (other than loss due to act or default of the Vendor), mechanical breakdown or reasonable wear and tear to the furnishings and chattels (if any) occurring after the date of this contract.
- 31.4 The Purchaser shall not call upon the Vendor to carry out any work, repair or replacement whatsoever in relation to the property and/or the inclusions the subject of this sale.

### **32 DEATH, MENTAL ILLNESS, BANKRUPTCY**

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

### **33 ESTATE AGENT AND COMMISSION**

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

### **34 ENTIRE AGREEMENT**

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

### **35 NOTICE TO COMPLETE**

- 35.1 Completion of this matter shall take place on or before 3:30pm within the time provided for in clause 15 herein. Should completion not take place within that time, then either party shall be at liberty to issue a Notice to complete calling for the other party to complete the matter making the time for completion essential. Such notice shall give not less than 14 days notice after the day immediately following the day on which that notice is received by the recipient of the notice. A notice to complete of such duration is considered by the parties as being deemed reasonable and sufficient to render the time for completion essential. Should either party serve a notice to complete, the other party will be liable for a fee of one hundred and ten dollars \$110:00 inclusive of GST payable by way of an adjustment in the other party's favour on completion to cover the cost for issuing such notice.
- 35.2 The service of any notice or document under or relating to this contract may, in addition to the provisions of Clause 20, be effected and shall be sufficient service on a party and that parties solicitor if the Notice or Document is sent by facsimile transmission to the facsimile number noted on the contract or on their letterhead and in any such case shall be deemed to be duly given or made, except where;
- (a) The time of dispatch is not before 5pm (Sydney time) on a day which business is generally carried on in the place to which such notice is sent, in which case the notice shall be deemed to have been received at the commencement of business on the next such business day in the place; or
  - (b) The sender's machine indicates a malfunction in transmission and the recipient's transmission shall be deemed not to have been given or made.



### **36 INTEREST & FAILURE TO COMPLETE**

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

### **37 SURVEY REPORT**

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

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

### **38 DEPOSIT**

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

### **39 FIRB**

- 39.1 The Purchaser warrants to the Vendor that the Purchaser is entitled to purchase the property without the approval or consent of the Foreign Investment Review Board
- 39.2 In the event of any breach of said warranty, the Purchaser will indemnify and compensate the Vendor in respect of any loss, damage, penalty, fine, expense or legal costs which may be incurred by the Vendor as a consequence thereof. This warranty and indemnity shall not merge upon completion.

### **40 BUILDING CERTIFICATE**

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

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

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

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



**41. PROBATE**

- 41.1 Completion of this Contract is conditional upon a grant to the Vendor of Probate of the Will of Muriel Valda Linigen and registration of the Vendor as proprietor by transmission of the property hereby sold.
- 41.2 Completion of this Contract shall take place by the later of forty-two (42) days from the date hereof or fourteen (14) days after the Vendor's solicitors notify the Purchaser's solicitors in writing that the Vendor is registered as proprietor of the property.





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## Title Search

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LAND AND PROPERTY INFORMATION NEW SOUTH WALES - TITLE SEARCH

FOLIO: 2/29273

SEARCH DATE	TIME	EDITION NO	DATE
11/8/2016	1:49 PM	1	15/10/2001

### LAND

LOT 2 IN DEPOSITED PLAN 29273  
LOCAL GOVERNMENT AREA NORTHERN BEACHES  
PARISH OF MANLY COVE COUNTY OF CUMBERLAND  
TITLE DIAGRAM DP29273

### FIRST SCHEDULE

MURIEL VALDA LINIGEN (ND N972758)

### SECOND SCHEDULE (3 NOTIFICATIONS)

- 1 LAND EXCLUDES MINERALS AND IS SUBJECT TO RESERVATIONS AND CONDITIONS IN FAVOUR OF THE CROWN - SEE CROWN GRANT(S)
- 2 H279784 COVENANT
- 3 8023118 THIS EDITION ISSUED PURSUANT TO S.111 REAL PROPERTY ACT, 1900

### NOTATIONS

NOTE: THE CERTIFICATE OF TITLE FOR THIS FOLIO OF THE REGISTER DOES NOT INCLUDE SECURITY FEATURES INCLUDED ON COMPUTERISED CERTIFICATES OF TITLE ISSUED FROM 4TH JANUARY, 2004. IT IS RECOMMENDED THAT STRINGENT PROCESSES ARE ADOPTED IN VERIFYING THE IDENTITY OF THE PERSON(S) CLAIMING A RIGHT TO DEAL WITH THE LAND COMPRISED IN THIS FOLIO.

UNREGISTERED DEALINGS: NIL

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

4879

PRINTED ON 11/8/2016

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



REGISTRAR GENERAL

[illegible]

(Signature) \_\_\_\_\_  
 Entered registered under the Copyright Act, 1909-60

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1:4879 /Src:M

FORM FOR SIMPLE TRANSFER, WHERE NEW RESTRICTIVE COVENANTS ARE IMPOSED, OR MORTGAGES, CHARGES, OR OTHER INTERESTS ARE REGISTERED, OR WHERE THIS FORM IS OTHERWISE UNSUITABLE, FORM N.P. 13A SHOULD BE USED.



R.P. 13. No. **11279784** **UG 17**  
New South Wales



Free  
Lodgment  
Endorsement  
Certificate

# MEMORANDUM OF TRANSFER

(REAL PROPERTY ACT, 1900.)

**I, DAVIS ESTATES PTY. LIMITED**

being registered as the proprietor of an estate in fee simple in the land hereinafter described, subject, however, to such encumbrances, liens and interests as are notified hereunder, in consideration of **One thousand seven hundred pounds** (£1,700.00) (the receipt whereof is hereby acknowledged) paid to it by **Richard Kenneth Bonwick**

do hereby transfer to

the said **RICHARD KENNETH BONWICK** of 1 Abingdon Street, Balgowlah,  
Builder  
(herein called transferee)

ALL such its Estate and Interest in ALL the land mentioned in the schedule following

County	Parish	Reference to Title			Description of Land (if part only)
		Whole or Part	Vol.	Fol.	
Cumberland	Manly Cove	Part	7540	150	Being Lot 2 in D.P. 29273
		now part	7729	248	

AND the transferee covenants with the transferor in the manner set forth in the annexure hereto marked "A".

ENCUMBRANCES, &c., REFERRED TO:

Reservations of minerals.

Signed at **Sydney** the **5th** day of **July** 1958

THE COMMON SEAL OF DAVIS ESTATES PTY. LIMITED was hereto affixed by the authority of a resolution of the Board of Directors in the presence of **Henry Roland House** a Director of the said Company and also in the presence of **SECRETARY**

Transferor  
**Richard Kenneth Bonwick**

Signed in my presence by the transferee

WHO IS PERSONALLY KNOWN TO ME

**ma power**  
**Thames**

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

**R Bonwick**

Transferee(s)

If signed by virtue of any power of attorney, the original power must be registered in the Miscellaneous Register, and produced with each dealing, and the memorandum of non-revocation on back of form signed by the attorney before a witness.

N.B.—Section 117 requires that the above Certificate be signed by each Transferee or his Solicitor or Conveyancer, and renders any person falsely or negligently certifying liable to a penalty of £20, also to damages recoverable by parties injured. Acceptance by the Solicitor or Conveyancer (who must sign his own name and not that of his firm) is permitted only when the signature of the Transferee cannot be obtained without difficulty, and when the instrument does not impose a liability on the party taking under it. When the instrument contains some special covenant by the Transferee or is subject to a mortgage, encumbrance or lease, the Transferee must accept personally.

No alterations should be made by erasure. The words rejected should be scored through with the pen, and those substituted written over them, the alteration being verified by signature or initials in the margin, or noticed in the attestation.

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H 279784

This is the annexure marked "A" referred to in the Memorandum of Transfer from Davis Estates Pty. Limited to Richard Kenneth Bonwick dated this 2nd day of July 1959.

And the Transferee so as to bind the land hereby transferred and all subsequent owners and occupiers thereof covenants with the Transferor as follows:

1. That no fence shall be erected on the land hereby transferred to divide it from any adjoining land owned by the Transferor without the consent of the Transferor, but such consent shall not be withheld if such fence is erected without expense to the Transferor and in favour of any person dealing with the Transferee and his assigns such consent shall be deemed to have been given in respect of every such fence for the time being erected.

2. That no advertisement hoarding shall be erected on the land hereby transferred nor shall there be erected on the said land any house or building used as an exhibition home or for advertising purposes.

IT IS HEREBY AGREED AND DECLARED THAT:

1. The land to which the benefit of the above covenant is intended to be appurtenant is the whole of the land comprised in D.P. 29273 other than Lots 14 and 15 thereof and the land hereby transferred.

2. The land which is to be subject to the burden of the above covenants is the land hereby transferred.

3. That notwithstanding the provisions of Clause 1 above the above covenants or any of them may be released, varied or modified as regards any part of the land comprised in D.P. 29273 other than Lots 14 and 15 thereof by the said Davis Estates Pty. Limited during such time as it shall remain registered proprietor of any land in the said D.P. 29273 other than Lots 14 and 15 thereof or by any person or persons to whom the said Davis Estates Pty. Limited shall assign this right in such manner as to it or them from time to time may seem proper and without obtaining the consent of any other person or persons whatsoever and upon the said Davis Estates Pty. Limited ceasing to be the registered proprietor of any land in the said D.P. 29273 the persons having the right to release vary or modify the above covenants shall be the registered proprietors for the time being of the land expressed to have the benefit of the above covenants.

SIGNED at Adelaide the 2nd day of July 1959.

THE COMMON SEAL of DAVIS ESTATES PTY. LIMITED was hereto affixed by the authority of a resolution of the Board of Directors in the presence of Richard Kenneth Bonwick a Director of the said Company and also in the presence of:

SECRETARY.

SIGNED in my presence by the Transferee, who is personally known to me:

Richard Kenneth Bonwick  
per manley

Richard Kenneth Bonwick  
per manley

No. **H 279784**

**PARTIAL DISCHARGE OF MORTGAGE**  
(N.B.—Before execution read marginal note.)



**M. A. SPENCER**  
Solicitor  
EWING STREET  
MANLY, N.S.W. 1505

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

This discharge is in part of the of part of the in the mortgage. mortgage should execute a formal discharge where the land transferred is the whole of or the residue of the land in the Certificate of Title or Crown Grant or is the whole of the land in the mortgage.

Dated at his day of 19  
Signed in my presence by

who is personally known to me.

Mortgagee.

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

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

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

Signed at the day of 19  
Signed in the presence of—

Strike out unnecessary words. Add any other matter necessary to show that the power is effective.

**CERTIFICATE OF J.P., &c., TAKING DECLARATION OF ATTESTING WITNESS**

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

To be signed by Registrar-General, Deputy Registrar-General, a Notary Public, J.P., Commissioner for Affidavits, or other functionary before whom the attesting witness appears. Not required if the instrument itself is signed or acknowledged before one of these parties.

LEAVE THESE SPACES FOR DEPARTMENTAL USE.

INDEXED	<b>MEMORANDUM OF TRANSFER</b> <i>Subject to covenant</i>
Checked by <i>EPH</i>	Particulars entered in Register Book, Volume <u>7772</u> Folio <u>248.1</u>
Passed (in S.D.B.) by <i>3</i>	<u>24th</u> September <u>1907</u> at <u>12</u> o'clock in the <u>noon</u> .
Signed by <i>R</i>	<i>Jawadon</i> Registrar

**DOCUMENTS LODGED HEREBWITH.**  
To be filled in by person lodging dealing.

1	4	Received Docs. Nos.
2	5	
3	6	

Receiving Clerk.

**PROGRESS RECORD.**

	Mtds	Days
Sent to Survey Branch		
Received from Records		
Draft written	<i>30</i>	<i>10.9.07</i>
Draft examined		<i>24.9.07</i>
Diagram prepared		
Diagram examined		
Draft forwarded		
Supt. of Engravers	<i>W</i>	<i>24.9.07</i>
Cancellation Clerk		
Vol. <u>7772</u>	Vol. <u>128</u>	

The Fees, which are payable on lodgment, are as follows:—

- £2 where the memorandum of transfer is accompanied by the relevant Certificate of Title or Crown Grant, otherwise £2 3s. 6d. Where such instrument is to be entered on more than one folium of the register, an additional charge of 5s. is made for every Certificate of Title or Crown Grant after the first.
- A supplementary charge of 10s. is made in each of the following:—
  - where a rectification is required; or
  - a new covenant is created; or
  - a partial discharge of mortgage is entered on the transfer.
- Where a new Certificate of Title is issued, the same charge as—
  - £2 for every Certificate of Title not exceeding 10 folios and without diagram;
  - £2 10s. 6d. for every Certificate of Title not exceeding 15 folios with one simple diagram;
  - £3 as approved where more than one simple diagram, or an extensive diagram will appear.Where the one dealing exceeds 15 folios, an amount of 5s. per folium, extra fee is payable.

H279784 Hallow





Date Printed: 11 August 2016

Certificate Number: ePLC2016/2665

InfoTrack

Applicant Reference: 4879

DX 578

Receipt Number: 11595

SYDNEY

Property Address: 4 Maxwell Parade FRENCHS FOREST NSW 2086

Legal Description: Lot 2 DP 29273

Property ID: 122748

*Note: This planning certificate pertains to land which was within the area of the former Warringah Council and is now within the area of the Northern Beaches Council pursuant to the Local Government (Council Amalgamations) Proclamation 2016.*

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

**Warringah Local Environmental Plan 2011**

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

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

**a) Draft State Environmental Planning Policy (Competition) 2010****b) The following planning proposals may affect the land:**

Date of Council Resolution	Outline of Planning Proposal	Land to which Planning Proposal applies
25 March 2014 27 October 2015	Amends WLEP 2011 to rezone the identified subject sites and to reclassify one of the allotments to reflect and be compatible with the surrounding land use zones and management principles.	Darley Street and Starkey Street, Forestville (Lot 7084 in DP 93981, Lot 15 in DP 401139, Lot X & Y in DP 26598, 'the Centre' road reserve between Darley Street & Starkey Street and LOT 18 DP 30880).

- 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**

**3. Complying development**

*(1) The extent to which 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 (1) (c) to (e), (2), (3) and (4), 1.18(1)(c3) and 1.19 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.*

*(2) The extent to which complying development may not be carried out on that land because of the provisions of clauses 1.17A (1) (c) to (e), (2), (3) and (4), 1.18(1)(c3) and 1.19 of that Policy and the reasons why it may not be carried out under those clauses.*

---

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

**Complying development may be carried out on the whole of the land.**

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

**Complying development may be carried out on the whole of the land.**

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

**Complying development may be carried out on the whole of the land.**

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

**Complying development may be carried out on the whole of the land.**

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

**Complying development may be carried out on the whole of the land.**

*(f) May Complying Development under the Commercial and Industrial (New Buildings and Additions) Code be carried out on the land?*

Complying development may be carried out on the whole of the land.

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

Complying development may be carried out on the whole of the land.

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

Complying development may be carried out on the whole of the land.

*(i) May Complying Development under the Fire Safety Code be carried out on the land?*

Complying development may be carried out on the whole of the land.

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.  
**No**
- 7A. *Flood related development controls information*  
 (a) *Whether or not development on that land or part of the land for the purposes of dwelling houses, dual occupancies, multi dwelling housing or residential flat buildings (not including development for the purposes of group homes or seniors housing) is subject to flood related development controls.*  
**No**  
 (b) *Whether or not development on that land or part of the land for any other purpose is subject to flood related development controls.*  
**No**  
 (c) *Words and expressions in this clause have the same meanings as in the instrument set out in the Schedule to the Standard Instrument (Local Environmental Plans) Order 2006.*
8. *Whether or not any environmental planning instrument or proposed environmental planning instrument referred to in clause 1 makes provision in relation to the acquisition of the land by a public authority, as referred to in section 27 of the Act.*  
**No**
9. *The name of each contributions plan applying to the land*  
**Northern Beaches Council Section 94A Plan 2016 (adopted 7 July 2016 effective 16 July 2016). Please contact Council's Customer Service Counter for more information.**
- 9A. *Is this land biodiversity certified land (within the meaning of Part 7AA of the Threatened Species Conservation Act 1995)?*  
**No**
10. *Whether the land is land to which a biobanking agreement under Part 7A of the Threatened Species Conservation Act 1995 relates (but only if council has been notified of the existence of the agreement by the Director-General of the Department of Environment and Climate Change and Water)?*  
**No**
11. *Bush Fire Prone Land*  
**No**
12. *Is the land subject to a property vegetation plan made under the Native Vegetation Act 2003?*  
**No**
13. *Whether an order has been made under the Trees (Disputes Between Neighbours) Act 2006 to carry out work in relation to a tree on the land (but only if the Council has been notified of the order).*  
**No**
14. *Is there a direction by the Minister in force under section 75P (2) (c1) of the Act that a provision of an environmental planning instrument prohibiting or restricting the carrying out of a project or a stage of a project on the land under Part 4 of the Act does not have effect?*  
**No**
15. (a) *Is there a current site compatibility certificate (seniors housing), of which the council is aware, in respect of proposed development on the land?*

**No**

*For what period is the certificate current?*

**not applicable**

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

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

**No**

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

**No**

*For what period is the certificate current?*

**not applicable**

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

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

**No**

*For what period is the certificate current?*

**Not Applicable**

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

*(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*

20. *Whether the land includes any residential premises (within the meaning of Division 1A of Part 8 of the Home Building Act 1989) that are listed on the register that is required to be maintained under that Division*

**No**

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

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

**No**

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

**No**

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

**No**

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

**No**

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

**No**

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

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

*Note: This planning certificate pertains to land which was within the area of the former Warringah Council and is now within the area of the Northern Beaches Council pursuant to the Local Government (Council Amalgamations) Proclamation 2016.*

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
22 March 2016	Amends Schedule 1 Additional Permitted Uses under WLEP 2011 to: <ul style="list-style-type: none"> <li>• Permit the use of 'service station'</li> <li>• Permit the use of 'neighbourhood shop' with a floor area of less than 240sqm</li> </ul>	632-634 Warringah Road, Forestville  Lots 8 & 9, DP 250525
23 June 2015	Amends WLEP 2011 to allow development of internal and attached Secondary Dwellings in the RU4 – Primary Production Small Lot zone	RU4 – Primary Production Small Lot zone
25 November 2014	Amends WLEP 2000 and WLEP 2011 to: <ul style="list-style-type: none"> <li>• Rezone land on Ralston Avenue Belrose from Locality C8 – Belrose North to part R2 Low Density Residential, part RE1 Public Recreation and part E3 Environmental Conservation.</li> <li>• Introduce subdivision lot size and height of building controls to land proposed to be zoned R2 Low Density Residential.</li> <li>• Amend the Land Application and Landslip Risk maps.</li> </ul>	Ralston Avenue, Belrose  Lot 1 DP 1139826
23 September 2014	Amends WLEP 2011 to: <ul style="list-style-type: none"> <li>• Increase maximum permissible building heights</li> <li>• Introduce floor space ratio controls</li> <li>• Provide development standards in relation to car parking, building setbacks and building proportion</li> <li>• Identify additional "Key Sites"</li> </ul> Implement a delivery mechanism for key infrastructure and public domain improvements	Dee Why Town Centre (Boundaries identified within the Planning Proposal)

(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  
Coastal Upland Swamp in the Sydney Basin Bioregion

Many threatened species identified under the Threatened Species Conservation Act 1995 (NSW) and Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth) are found within the Local Government Area of Warringah. Council's Natural Environment unit can be contacted to determine whether any site specific information is available for this property. Records of threatened flora and fauna are also available from the NSW Office of Environment and Heritage's Atlas of NSW Wildlife database: <http://www.bionet.nsw.gov.au>

(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)?

Many threatened species identified under the Threatened Species Conservation Act 1995 (NSW) and Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth) are found within the Local Government Area of Warringah. Council's Natural Environment unit can be contacted to determine whether any site specific information is available for this property. Records of threatened flora and fauna are also available from the NSW Office of Environment and Heritage's Atlas of NSW Wildlife database: <http://www.bionet.nsw.gov.au>

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

No

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

5. Is the land subject to Council Resolution No. 192/15 made on 22 September 2015?

No



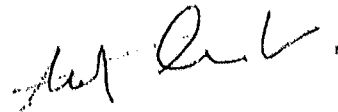
*Additional Information:*

- 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 Narrabeena, 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 Mark Ferguson  
INTERIM GENERAL MANAGER

**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

METROPOLITAN WATER SEWERAGE AND DRAINAGE BOARD

# SEWERAGE SERVICE DIAGRAM

LINAGEN

Municipality of Warringah

No. 804825

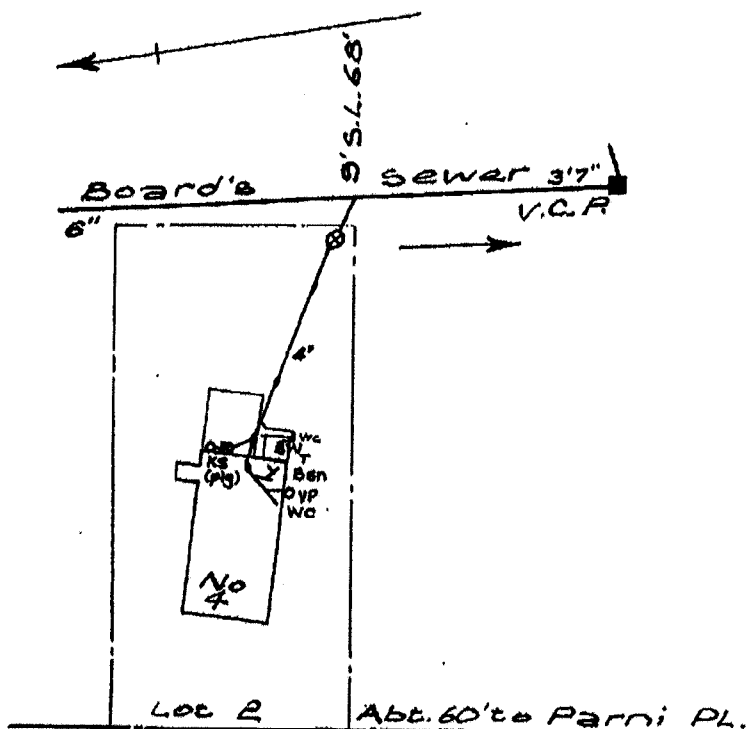
## SYMBOLS AND ABBREVIATIONS

□ Boundary Trap	■ R.V. Reflux Valve	I.P. Induct Pipe	Bsn. Basin
■ Pit	○ C.E. Cleaning Eye	M.F. Mica Flap	Shr. Shower
■ G.I. Grease Interceptor	○ V.P. 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



MAXWELL

PDE.

88-87622

RATE No. 9942 W.C. / U.C. 19  
SHEET No. OFFICE USE ONLY For Engineer House Services

DRAINAGE			PLUMBING		
W.C.	Supervised by	Date	BRANCH OFFICE	Supervised by	Date
Bch.			Date		
Shr.	Inspector		Outfall	Inspector	
Bsn.	Examined by		Drainer	1225 346	
K.S.			Plumber	1457 283	
T.	Chief Inspector		Boundary Trap		
Pig.					

TE This diagram only indicates availability of a sewer and any sewerage service shown as existing in Sydney Water's records. The existence and location 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.





Office of  
State Revenue

Enquiry ID	2506810
Agent ID	81429403
Issue Date	22 Aug 2016
Correspondence ID	1639188653
Your reference	4879

INFOTRACK PTY LIMITED  
DX Box 578  
SYDNEY

**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
D29273/2	4 MAXWELL PDE FRENCHS FOREST 2086	EXEMPT

There is no land tax charged on the land up to and including the 2016 tax year.

Yours sincerely,

Stephen R Brady  
Chief Commissioner of State Revenue



## OSR Contact Details



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



1300 139 816\*



Phone enquiries  
8:30 am - 5:00pm, Mon. - Fri.

\* Interstate clients please call (02) 9689 6200.  
Help in community languages is available.

## Important information

### Who is protected by a clearance certificate?

A clearance certificate states whether there is any land tax owing on a property.

The clearance certificate protects a purchaser from any outstanding land tax liability by a previous owner. It does not provide any protection to the owner of the land.

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

The certificate may be issued as 'clear' if:

- the land is not liable or is exempt from land 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.

**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.

### Why is the certificate not clear from land tax?

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 clear a certificate?

To remove a charge from a clearance certificate the outstanding tax must be paid. To do this the owner should follow the steps shown on the certificate or contact OSR if no instructions are shown.

You should allow 10 working days to process a request.

### How do I get an updated certificate?

A certificate can be updated by using our online clearance certificate update service at [www.osr.nsw.gov.au/taxes/land/clearance](http://www.osr.nsw.gov.au/taxes/land/clearance) or reprocess the certificate through your Client Service Provider (CSP).

Please ensure you have allowed sufficient time for any payment to be processed prior to requesting a new version of the clearance certificate.

### 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 on land tax threshold and rates, as well as the land tax calculator and examples are available at [www.osr.nsw.gov.au/taxes/land](http://www.osr.nsw.gov.au/taxes/land)

