

Our ref: BAVA.MANUGARAN:/192346-006  
Your ref:  
Direct e-mail: Bava.Manugaran@turnerfreeman.com.au  
Direct phone: 02 8222 3333  
Responsible partner: T L Goldberg

Turner  
Freeman

Lawyers

18 February 2019

Upstate  
Level 1, Suite 15, 888 Pittwater Road  
DEE WHY NSW 2099

**By email**

Dear Sir/Madam

**RE: NSW TRUSTEE AND GUARDIAN (AS EXECUTOR OF THE ESTATE OF  
PEGGY ELLEN CALOW) PROPOSED SALE  
PROPERTY: 6 KILKENNY AVENUE, KILLARNEY HEIGHTS**

We *enclose* a copy of the draft contract prepared in accordance with our client's instructions and note that the abovementioned property is to be sold by auction. **Please advise our office of the proposed auction date once same has been appointed.** Originals will be forwarded to you prior to the auction.

Please keep us informed as to your progress in selling the property in accordance with the instructions of our client.

If you have any queries or require anything further, please contact the writer.

Yours faithfully  
**TURNER FREEMAN**



Per: Bava Manugaran  
Lawyer

Enc

Turner Freeman Sydney Office  
Level 12 | 160 Sussex Street  
SYDNEY | NSW | 2000  
Tel: 02 8222 3333 | Fax: 02 8222 3349  
Online: [www.turnerfreeman.com.au](http://www.turnerfreeman.com.au)  
DX 152 SYDNEY  
A.B.N. 27 395 824 213

# Contract for the sale and purchase of land 2018 edition

TERM	MEANING OF TERM	NSW Duty:
Vendor's agent	Upstate Level 1, Suite 15, 888 Pittwater Road, Dee Why NSW 2099	Phone 02 9971 9000 Fax Ref:
Co-agent Vendor	N/A <b>NSW TRUSTEE AND GUARDIAN (AS EXECUTOR OF THE ESTATE OF PEGGY ELLEN CALOW)</b> C/- 160 Marsden Street, Parramatta NSW 2150	
Vendor's solicitor	Turner Freeman Level 12, 160 Sussex Street, Sydney NSW 2000 DX 152 SYDNEY	Phone 02 8222 3333 Fax 02 8222 3349 Ref 192346
Date for completion	42nd	day after the contract date (clause 15)
Land (address, plan details and title reference)	<b>6 KILKENNY AVENUE, KILLARNEY HEIGHTS</b> Lot 772 Section Plan 231927 Folio identifier 772/231927	
Improvements	<input checked="" type="checkbox"/> VACANT POSSESSION <input type="checkbox"/> subject to existing tenancies <input checked="" type="checkbox"/> HOUSE <input checked="" type="checkbox"/> garage <input type="checkbox"/> carport <input type="checkbox"/> home unit <input type="checkbox"/> carspace <input type="checkbox"/> storage space <input type="checkbox"/> none <input type="checkbox"/> other:	
Attached copies	Documents in the List of Documents as marked or numbered: Other documents:	

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

Inclusions	<input checked="" type="checkbox"/> blinds <input type="checkbox"/> dishwasher <input checked="" type="checkbox"/> light fittings <input checked="" type="checkbox"/> stove
	<input checked="" type="checkbox"/> built-in wardrobes <input 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 type="checkbox"/> TV antenna
	<input type="checkbox"/> curtains <input type="checkbox"/> other:
Exclusions	
Purchaser	
Purchaser's solicitor	<b>DRAFT</b> Phone Fax Ref
Price	\$
Deposit	\$ (10% of the price, unless otherwise stated)
Balance	\$
Contract date	(if not stated, the date this contract was made)

Buyer's agent

**DRAFT ONLY****THIS COPY NOT TO BE USED****IN EXCHANGE OF CONTRACTS**

Vendor

Witness

GST AMOUNT (optional)

The price includes

GST of: \$

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)Purchaser must make an RW payment  
(residential withholding payment)☒ NO ☐ yes (if yes, vendor must provide  
further details)If the further details below are not fully completed at the  
contract date, the vendor must provide all these details in a  
separate notice within 14 days of the contract date.

## RW payment (residential withholding payment) – further details

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

Supplier's name:

Supplier's ABN:

Supplier's business address:

Supplier's email address:

Supplier's phone number:

Supplier's proportion of RW payment: \$

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

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

Amount must be paid: ☐ AT COMPLETION ☐ at another time (specify):Is any of the consideration not expressed as an amount in money? ☐ NO ☐ yes

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

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

## List of Documents

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

Telephone:

**IMPORTANT NOTICE TO VENDORS AND PURCHASERS**

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

**WARNING—SMOKE ALARMS**

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

**WARNING—LOOSE-FILL ASBESTOS INSULATION**

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

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

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

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

1. This is the statement required by section 66X of the *Conveyancing Act 1919* and applies to a contract for the sale of residential property.
2. 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.

### **DISPUTES**

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

### **AUCTIONS**

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

**WARNINGS**

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

Australian Taxation Office	NSW Fair Trading
Council	NSW Public Works Advisory
County Council	Office of Environment and Heritage
Department of Planning and Environment	Owner of adjoining land
Department of Primary Industries	Privacy
East Australian Pipeline Limited	Roads and Maritime Services
Electricity and gas	Subsidence Advisory NSW
Land & Housing Corporation	Telecommunications
Local Land Services	Transport for NSW
NSW Department of Education	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 will become payable before obtaining consent, or if no consent is needed, when the transfer is registered.
4. If a consent to transfer is required under legislation, see clause 27 as to the obligations of the parties.
5. The vendor should continue the vendor's insurance until completion. If the vendor wants to give the purchaser possession before completion, the vendor should first ask the insurer to confirm this will not affect the insurance.
6. The purchaser will usually have to pay stamp duty (and sometimes surcharge purchaser duty) on this contract. If duty is not paid on time, a purchaser may incur penalties.
7. If the purchaser agrees to the release of deposit, the purchaser's right to recover the deposit may stand behind the rights of others (for example the vendor's mortgagee).
8. The purchaser should arrange insurance as appropriate.
9. Some transactions involving personal property may be affected by the Personal Property Securities Act 2009.
10. A purchaser should be satisfied that finance will be available at the time of completing the purchase.
11. Where the market value of the property is at or above a legislated amount, the purchaser may have to comply with a foreign resident capital gains withholding payment obligation (even if the vendor is not a foreign resident). If so, this will affect the amount available to the vendor on completion.
12. Purchasers of some residential properties may have to withhold part of the purchase price to be credited towards the GST liability of the vendor. If so, this will also affect the amount available to the vendor.

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

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

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

<i>adjustment date</i>	the earlier of the giving of possession to the purchaser or completion;
<i>bank</i>	the Reserve Bank of Australia or an authorised deposit-taking institution which is a bank, a building society or a credit union;
<i>business day</i>	any day except a bank or public holiday throughout NSW or a Saturday or Sunday;
<i>cheque</i>	a cheque that is not postdated or stale;
<i>clearance certificate</i>	a certificate within the meaning of s14-220 of Schedule 1 to the <i>TA Act</i> , that covers one or more days falling within the period from and including the contract date to completion;
<i>deposit-bond</i>	a deposit bond or guarantee from an issuer, with an expiry date and for an amount each approved by the vendor;
<i>depositholder</i>	vendor's agent (or if no vendor's agent is named in this contract, the vendor's <i>solicitor</i> , or if no vendor's <i>solicitor</i> is named in this contract, the buyer's agent);
<i>document of title</i>	document relevant to the title or the passing of title;
<i>FRCGW percentage</i>	the percentage mentioned in s14-200(3)(a) of Schedule 1 to the <i>TA Act</i> (12.5% as at 1 July 2017);
<i>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>planning agreement</i>	a valid voluntary agreement within the meaning of s7.4 of the Environmental Planning and Assessment Act 1979 entered into in relation to the <i>property</i> ;
<i>requisition</i>	an objection, question or requisition (but the term does not include a claim);
<i>remittance amount</i>	the lesser of the <i>FRCGW percentage</i> of the price (inclusive of GST, if any) and the amount specified in a <i>variation served</i> by a <i>party</i> ;
<i>rescind</i>	rescind this contract from the beginning;
<i>RW payment</i>	a payment which the purchaser must make under s14-250 of Schedule 1 to the <i>TA Act</i> (the price multiplied by the <i>RW rate</i> );
<i>RW rate</i>	the rate determined under ss14-250(6), (8) or (9) of Schedule 1 to the <i>TA Act</i> (as at 1 July 2018, usually 7% of the price if the margin scheme applies, 1/11 <sup>th</sup> if not);
<i>serve</i>	serve in writing on the other <i>party</i> ;
<i>settlement cheque</i>	an unendorsed <i>cheque</i> made payable to the person to be paid and – <ul style="list-style-type: none"> <li>• issued by a <i>bank</i> and drawn on itself; or</li> <li>• If authorised in writing by the vendor or the vendor's <i>solicitor</i>, some other <i>cheque</i>;</li> </ul>
<i>solicitor</i>	in relation to a <i>party</i> , the <i>party's</i> solicitor or licensed conveyancer named in this contract or in a notice <i>served</i> by the <i>party</i> ;
<i>TA Act</i>	Taxation Administration Act 1953;
<i>terminate</i>	terminate this contract for breach;
<i>variation</i>	a variation made under s14-235 of Schedule 1 to the <i>TA Act</i> ;
<i>within</i>	in relation to a period, at any time before or during the period; and
<i>work order</i>	a valid direction, notice or order that requires work to be done or money to be spent on or in relation to the <i>property</i> or any adjoining footpath or road (but the term does not include a notice under s22E of the Swimming Pools Act 1992 or clause 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 16.7.
- 3.9 The vendor must give the purchaser the *deposit-bond* –
- 3.9.1 on completion; or
  - 3.9.2 if this contract is *rescinded*.
- 3.10 If this contract is *terminated* by the vendor –
- 3.10.1 *normally*, the vendor can immediately demand payment from the issuer of the *deposit-bond*; or
  - 3.10.2 if the purchaser *serves* prior to *termination* a notice disputing the vendor's right to *terminate*, the vendor must forward the *deposit-bond* (or its proceeds if called up) to the *depositholder* as stakeholder.
- 3.11 If this contract is *terminated* by the purchaser –
- 3.11.1 *normally*, the vendor must give the purchaser the *deposit-bond*; or
  - 3.11.2 if the vendor *serves* prior to *termination* a notice disputing the purchaser's right to *terminate*, the vendor must forward the *deposit-bond* (or its proceeds if called up) to the *depositholder* as stakeholder.

### 4 Transfer

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

### 5 Requisitions

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

### 6 Error or misdescription

- 6.1 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 is paid; and

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

## 8 Vendor's rights and obligations

8.1 The vendor can *rescind* if –

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

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

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

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

8.2.1 the purchaser can recover the deposit and any other money paid by the purchaser under this contract;

8.2.2 the purchaser can sue the vendor to recover damages for breach of contract; and

8.2.3 if the purchaser has been in possession a *party* can claim for a reasonable adjustment.

## 9 Purchaser's default

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

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

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

9.2.1 for 12 months after the *termination*; or

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

9.3 sue the purchaser either –

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

- the deficiency on resale (with credit for any of the deposit kept or recovered and after allowance for any capital gains tax or goods and services tax payable on anything recovered under this clause); and

- the reasonable costs and expenses arising out of the purchaser's non-compliance with this contract or the notice and of resale and any attempted resale; or

9.3.2 to recover damages for breach of contract.

## 10 Restrictions on rights of purchaser

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

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

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

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

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

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

- 13.7.2 the purchaser must pay the vendor on completion in addition to the price an amount calculated by multiplying the price by the *GST rate* if this sale is a taxable supply to any extent because of –
- a breach of clause 13.7.1; or
  - something else known to the purchaser but not the vendor.
- 13.8 If this contract says this sale is a taxable supply in full and does not say the margin scheme applies to the *property*, the vendor must pay the purchaser on completion an amount of one-eleventh of the price if –
- 13.8.1 this sale is not a taxable supply in full; or
- 13.8.2 the margin scheme applies to the *property* (or any part of the *property*).
- 13.9 If this contract says this sale is a taxable supply to an extent –
- 13.9.1 clause 13.7.1 does not apply to any part of the *property* which is identified as being a taxable supply; and
- 13.9.2 the payments mentioned in clauses 13.7 and 13.8 are to be recalculated by multiplying the relevant payment by the proportion of the price which represents the value of that part of the *property* to which the clause applies (the proportion to be expressed as a number between 0 and 1). Any evidence of value must be obtained at the expense of the vendor.
- 13.10 *Normally*, on completion the vendor must give the recipient of the supply a tax invoice for any taxable supply by the vendor by or under this contract.
- 13.11 The vendor does not have to give the purchaser a tax invoice if the margin scheme applies to a taxable supply.
- 13.12 If the vendor is liable for GST on rents or profits due to issuing an invoice or receiving consideration before completion, any adjustment of those amounts must exclude an amount equal to the vendor's GST liability.
- 13.13 If the purchaser must make an *RW payment* the purchaser must –
- 13.13.1 at least 5 days before the date for completion, serve evidence of submission of an *RW payment* notification form to the Australian Taxation Office by the purchaser or, if a direction under clause 4.3 has been *served*, by the transferee named in the transfer *served* with that direction;
- 13.13.2 produce on completion a *settlement cheque* for the *RW payment* payable to the Deputy Commissioner of Taxation;
- 13.13.3 forward the *settlement cheque* to the payee immediately after completion; and
- 13.13.4 serve evidence of receipt of payment of the *RW payment*.
- 14 Adjustments**
- 14.1 *Normally*, the vendor is entitled to the rents and profits and will be liable for all rates, water, sewerage and drainage service and usage charges, land tax, levies and all other periodic outgoings up to and including the *adjustment date* after which the purchaser will be entitled and liable.
- 14.2 The *parties* must make any necessary adjustment on completion.
- 14.3 If an amount that is adjustable under this contract has been reduced under *legislation*, the *parties* must on completion adjust the reduced amount.
- 14.4 The *parties* must not adjust surcharge land tax (as defined in the Land Tax Act 1956) but must adjust any other land tax for the year current at the *adjustment date* –
- 14.4.1 only if land tax has been paid or is payable for the year (whether by the vendor or by a predecessor in title) and this contract says that land tax is adjustable;
- 14.4.2 by adjusting the amount that would have been payable if at the start of the year –
- the person who owned the land owned no other land;
  - the land was not subject to a special trust or owned by a non-concessional company; and
  - if the land (or part of it) had no separate taxable value, by calculating its separate taxable value on a proportional area basis.
- 14.5 If any other amount that is adjustable under this contract relates partly to the land and partly to other land, the *parties* must adjust it on a proportional area basis.
- 14.6 *Normally*, the vendor can direct the purchaser to produce a *settlement cheque* on completion to pay an amount adjustable under this contract and if so –
- 14.6.1 the amount is to be treated as if it were paid; and
- 14.6.2 the *cheque* must be forwarded to the payee immediately after completion (by the purchaser if the *cheque* relates only to the *property* or by the vendor in any other case).
- 14.7 If on completion the last bill for a water, sewerage or drainage usage charge is for a period ending before the *adjustment date*, the vendor is liable for an amount calculated by dividing the bill by the number of days in the period then multiplying by the number of unbilled days up to and including the *adjustment date*.
- 14.8 The vendor is liable for any amount recoverable for work started on or before the contract date on the *property* or any adjoining footpath or road.
- 15 Date for completion**
- The *parties* must complete by the date for completion and, if they do not, a *party* can serve a notice to complete if that *party* is otherwise entitled to do so.

**16 Completion****• Vendor**

- 16.1 On completion the vendor must give the purchaser any *document of title* that relates only to the *property*.
- 16.2 If on completion the vendor has possession or control of a *document of title* that relates also to other property, the vendor must produce it as and where necessary.
- 16.3 *Normally*, on completion the vendor must cause the legal title to the *property* (being an estate in fee simple) to pass to the purchaser free of any mortgage or other interest, subject to any necessary registration.
- 16.4 The legal title to the *property* does not pass before completion.
- 16.5 If the vendor gives the purchaser a document (other than the transfer) that needs to be lodged for registration, the vendor must pay the lodgement 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;
  - *remittance amount* payable;
  - *RW payment*; and
  - amount payable by the vendor to the purchaser under this contract, and
- 16.7.2 any other amount payable by the purchaser under this contract.
- 16.8 If the vendor requires more than 5 *settlement cheques*, the vendor must pay \$10 for each extra *cheque*.
- 16.9 If any of the deposit is not covered by a bond or guarantee, on completion the purchaser must give the vendor an order signed by the purchaser authorising the *depositholder* to account to the vendor for the deposit.
- 16.10 On completion the deposit belongs to the vendor.
- Place for completion**
- 16.11 *Normally*, the *parties* must complete at the completion address, which is –
- 16.11.1 if a special completion address is stated in this contract - that address; or
- 16.11.2 if none is stated, but a first mortgagee is disclosed in this contract and the mortgagee would usually discharge the mortgage at a particular place - that place; or
- 16.11.3 in any other case - the vendor's *solicitor's* address stated in this contract.
- 16.12 The vendor by reasonable notice can require completion at another place, if it is in NSW, but the vendor must pay the purchaser's additional expenses, including any agency or mortgagee fee.
- 16.13 If the purchaser requests completion at a place that is not the completion address, and the vendor agrees, the purchaser must pay the vendor's additional expenses, including any agency or mortgagee fee.

**17 Possession**

- 17.1 *Normally*, the vendor must give the purchaser vacant possession of the *property* on completion.
- 17.2 The vendor does not have to give vacant possession if –
- 17.2.1 this contract says that the sale is subject to existing tenancies; and
- 17.2.2 the contract discloses the provisions of the tenancy (for example, by attaching a copy of the lease and any relevant memorandum or variation).
- 17.3 *Normally*, the purchaser can claim compensation (before or after completion) or *rescind* if any of the land is affected by a protected tenancy (a tenancy affected by 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 email or fax to the *party's solicitor*, unless in either case it is not received;  
 20.6.6 *served* on a person if it (or a copy of it) comes into the possession of the person; and  
 20.6.7 *served* at the earliest time it is *served*, if it is *served* more than once.  
 20.7 An obligation to pay an expense of another *party* of doing something is an obligation to pay –  
 20.7.1 if the *party* does the thing personally - the reasonable cost of getting someone else to do it; or  
 20.7.2 if the *party* pays someone else to do the thing - the amount paid, to the extent it is reasonable.  
 20.8 Rights under clauses 11, 13, 14, 17, 24, 30 and 31 continue after completion, whether or not other rights continue.  
 20.9 The vendor does not promise, represent or state that the purchaser has any cooling off rights.  
 20.10 The vendor does not promise, represent or state that any attached survey report is accurate or current.  
 20.11 A reference to any *legislation* (including any percentage or rate specified in *legislation*) is also a reference to any corresponding later *legislation*.  
 20.12 Each *party* must do whatever is necessary after completion to carry out the *party's* obligations under this contract.  
 20.13 Neither taking possession nor *serving* a transfer of itself implies acceptance of the *property* or the title.  
 20.14 The details and information provided in this contract (for example, on pages 1 - 3) are, to the extent of each *party's* knowledge, true, and are part of this contract.  
 20.15 Where this contract provides for choices, a choice in BLOCK CAPITALS applies unless a different choice is marked.

## 21 Time limits in these provisions

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

## 22 Foreign Acquisitions and Takeovers Act 1975

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

## 23 Strata or community title

### • Definitions and modifications

- 23.1 This clause applies only if the land (or part of it) is a lot in a strata, neighbourhood, precinct or community scheme (or on completion is to be a lot in a scheme of that kind).
- 23.2 In this contract –
- 23.2.1 'change', in relation to a scheme, means –
- a registered or registrable change from by-laws set out in this contract;
  - a change from a development or management contract or statement set out in this contract; or
  - a change in the boundaries of common property;
- 23.2.2 'common property' includes association property for the scheme or any higher scheme;
- 23.2.3 'contribution' includes an amount payable under a by-law;
- 23.2.4 'information certificate' includes a certificate under s184 Strata Schemes Management Act 2015 and s26 Community Land Management Act 1989;
- 23.2.5 'information notice' includes a strata information notice under s22 Strata Schemes Management Act 2015 and a notice under s47 Community Land Management Act 1989;
- 23.2.6 'normal expenses', in relation to an owners corporation for a scheme, means normal operating expenses usually payable from the administrative fund of an owners corporation for a scheme of the same kind;
- 23.2.7 'owners corporation' means the owners corporation or the association for the scheme or any higher scheme;
- 23.2.8 'the property' includes any interest in common property for the scheme associated with the lot; and
- 23.2.9 'special expenses', in relation to an owners corporation, means its actual, contingent or expected expenses, except to the extent they are –
- normal expenses;
  - due to fair wear and tear;
  - disclosed in this contract; or
  - covered by moneys held in the capital works fund.
- 23.3 Clauses 11, 14.8 and 18.4 do not apply to an obligation of the owners corporation, or to property insurable by it.
- 23.4 Clauses 14.4.2 and 14.5 apply but on a unit entitlement basis instead of an area basis.
- ### • Adjustments and liability for expenses
- 23.5 The parties must adjust under clause 14.1 –
- 23.5.1 a regular periodic contribution;
- 23.5.2 a contribution which is not a regular periodic contribution but is disclosed in this contract; and
- 23.5.3 on a unit entitlement basis, any amount paid by the vendor for a normal expense of the owners corporation to the extent the owners corporation has not paid the amount to the vendor.
- 23.6 If a contribution is not a regular periodic contribution and is not disclosed in this contract –
- 23.6.1 the vendor is liable for it if it was determined on or before the contract date, even if it is payable by instalments; and
- 23.6.2 the purchaser is liable for all contributions determined after the contract date.
- 23.7 The vendor must pay or allow to the purchaser on completion the amount of any unpaid contributions for which the vendor is liable under clause 23.6.1.
- 23.8 Normally, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of –
- 23.8.1 an existing or future actual, contingent or expected expense of the owners corporation;
- 23.8.2 a proportional unit entitlement of the lot or a relevant lot or former lot, apart from a claim under clause 6; or
- 23.8.3 a past or future change in the scheme or a higher scheme.
- 23.9 However, the purchaser can *rescind* if –
- 23.9.1 the special expenses of the owners corporation at the later of the contract date and the creation of the owners corporation when calculated on a unit entitlement basis (and, if more than one lot or a higher scheme is involved, added together), less any contribution paid by the vendor, are more than 1% of the price;
- 23.9.2 in the case of the lot or a relevant lot or former lot in a higher scheme –
- a proportional unit entitlement for the lot is 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;
- 23.9.3 a change before the contract date or before completion in the scheme or a higher scheme substantially disadvantages the purchaser and is not disclosed in this contract; or



- 23.9.4 a resolution is passed by the owners corporation before the contract date or before completion to give a strata renewal plan to the owners in the scheme for their consideration and there is not attached to this contract a strata renewal proposal or the strata renewal plan.

• **Notices, certificates and inspections**

- 23.10 The purchaser must give the vendor 2 copies of an information notice addressed to the owners corporation and signed by the purchaser.
- 23.11 The vendor must complete and sign 1 copy of the notice and give it to the purchaser on completion.
- 23.12 Each *party* can sign and give the notice as agent for the other.
- 23.13 The vendor must *serve* an information certificate issued after the contract date in relation to the lot, the scheme or any higher scheme at least 7 days before the date for completion.
- 23.14 The purchaser does not have to complete earlier than 7 days after *service* of the certificate and clause 21.3 does not apply to this provision. On completion the purchaser must pay the vendor the prescribed fee for the certificate.
- 23.15 The vendor authorises the purchaser to apply for the purchaser's own certificate.
- 23.16 The vendor authorises the purchaser to apply for and make an inspection of any record or other document in the custody or control of the owners corporation or relating to the scheme or any higher scheme.

• **Meetings of the owners corporation**

- 23.17 If a general meeting of the owners corporation is convened before completion –
- 23.17.1 if the vendor receives notice of it, the vendor must immediately notify the purchaser of it; and
- 23.17.2 after the expiry of any cooling off period, the purchaser can require the vendor to appoint the purchaser (or the purchaser's nominee) to exercise any voting rights of the vendor in respect of the lot at the meeting.

**24 Tenancies**

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



- 24.4.5 the purchaser must comply with any obligation to the tenant under the lease, to the extent that the obligation is disclosed in this contract and is to be complied with after completion.

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

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

## **26 Crown purchase money**

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

## **27 Consent to transfer**

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

**28 Unregistered plan**

- 28.1 This clause applies only if some of the land is described as a lot in an unregistered plan.
- 28.2 The vendor must do everything reasonable to have the plan registered *within* 6 months after the contract date, with or without any minor alteration to the plan or any document to be lodged with the plan validly required or made under *legislation*.
- 28.3 If the plan is not registered *within* that time and in that manner –
- 28.3.1 the purchaser can *rescind*; and
- 28.3.2 the vendor can *rescind*, but only if the vendor has complied with clause 28.2 and with any *legislation* governing the rescission.
- 28.4 Either *party* can *serve* notice of the registration of the plan and every relevant lot and plan number.
- 28.5 The date for completion becomes the later of the date for completion and 21 days after *service* of the notice.
- 28.6 Clauses 28.2 and 28.3 apply to another plan that is to be registered before the plan is registered.

**29 Conditional contract**

- 29.1 This clause applies only if a provision says this contract or completion is conditional on an event.
- 29.2 If the time for the event to happen is not stated, the time is 42 days after the contract date.
- 29.3 If this contract says the provision is for the benefit of a *party*, then it benefits only that *party*.
- 29.4 if anything is necessary to make the event happen, each *party* must do whatever is reasonably necessary to cause the event to happen.
- 29.5 A *party* can *rescind* under this clause only if the *party* has substantially complied with clause 29.4.
- 29.6 If the event involves an approval and the approval is given subject to a condition that will substantially disadvantage a *party* who has the benefit of the provision, the *party* can *rescind* *within* 7 days after either *party* *serves* notice of the condition.
- 29.7 If the *parties* can lawfully complete without the event happening –
- 29.7.1 if the event does not happen *within* the time for it to happen, a *party* who has the benefit of the provision can *rescind* *within* 7 days after the end of that time;
- 29.7.2 if the event involves an approval and an application for the approval is refused, a *party* who has the benefit of the provision can *rescind* *within* 7 days after either *party* *serves* notice of the refusal; and
- 29.7.3 the date for completion becomes the later of the date for completion and 21 days after the earliest of –
- either *party* *serving* notice of the event happening;
  - every *party* who has the benefit of the provision *serving* notice waiving the provision; or
  - the end of the time for the event to happen.
- 29.8 If the *parties* cannot lawfully complete without the event happening –
- 29.8.1 if the event does not happen *within* the time for it to happen, either *party* can *rescind*;
- 29.8.2 if the event involves an approval and an application for the approval is refused, either *party* can *rescind*;
- 29.8.3 the date for completion becomes the later of the date for completion and 21 days after either *party* *serves* notice of the event happening.
- 29.9 A *party* cannot *rescind* under clauses 29.7 or 29.8 after the event happens.

**30 Electronic transaction**

- 30.1 This *Conveyancing Transaction* is to be conducted as an *electronic transaction* if –
- 30.1.1 this contract says that it is a proposed *electronic transaction*;
- 30.1.2 the parties otherwise agree that it is to be conducted as an *electronic transaction*; or
- 30.1.3 the *conveyancing rules* require it to be conducted as an *electronic transaction*.
- 30.2 However, this *Conveyancing Transaction* is not to be conducted as an *electronic transaction* –
- 30.2.1 if the land is not *electronically tradeable* or the transfer is not eligible to be lodged electronically; or
- 30.2.2 if, at any time after 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 30.2.2, this *Conveyancing Transaction* is not to be conducted as an *electronic transaction* –
- 30.3.1 each *party* must –
- bear equally any disbursements or fees; and
  - otherwise bear that *party's* own costs;
- incurred because this *Conveyancing Transaction* was to be conducted as an *electronic transaction*; and
- 30.3.2 if a *party* has paid all of a disbursement or fee which, by reason of this clause, is to be borne equally by the *parties*, that amount must be adjusted under clause 14.2.

- 30.4 If this *Conveyancing Transaction* is to be conducted as an *electronic transaction* –
- 30.4.1 to the extent, 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 *Lodgement 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 the *effective date*; and
  - before the receipt of a notice given under clause 30.2.2;
- is taken to have been received by that *party* at the time determined by s13A of the *Electronic Transactions Act 2000*; and
- 30.4.6 a document which is an *electronic document* is served as soon as it is first *Digitally Signed* in the *Electronic Workspace* on behalf of the *party* required to serve it.
- 30.5 *Normally*, the vendor must *within 7 days* of the *effective date* –
- 30.5.1 create an *Electronic Workspace*;
- 30.5.2 *populate* the *Electronic Workspace* with *title data*, the date for completion and, if applicable, *mortgagee details*; and
- 30.5.3 invite the purchaser and any *discharging mortgagee* to the *Electronic Workspace*.
- 30.6 If the vendor has not created an *Electronic Workspace* in accordance with clause 30.5, the purchaser may create an *Electronic Workspace*. If the purchaser creates the *Electronic Workspace* the purchaser must –
- 30.6.1 *populate* the *Electronic Workspace* with *title data*;
- 30.6.2 create and *populate* an *electronic transfer*;
- 30.6.3 *populate* the *Electronic Workspace* with the date for completion and a nominated *completion time*; and
- 30.6.4 invite the vendor and any *incoming mortgagee* to join the *Electronic Workspace*.
- 30.7 *Normally*, *within 7 days* of receiving an invitation from the vendor to join the *Electronic Workspace*, the purchaser must –
- 30.7.1 join the *Electronic Workspace*;
- 30.7.2 create and *populate* an *electronic transfer*;
- 30.7.3 invite any *incoming mortgagee* to join the *Electronic Workspace*; and
- 30.7.4 *populate* the *Electronic Workspace* with a nominated *completion time*.
- 30.8 If the purchaser has created the *Electronic Workspace* the vendor must *within 7 days* of being invited to the *Electronic Workspace* –
- 30.8.1 join the *Electronic Workspace*;
- 30.8.2 *populate* the *Electronic Workspace* with *mortgagee details*, if applicable; and
- 30.8.3 invite any *discharging mortgagee* to join the *Electronic Workspace*.
- 30.9 To complete the financial settlement schedule in the *Electronic Workspace* –
- 30.9.1 the purchaser must provide the vendor with *adjustment figures* at least *2 business days* before the date for completion; 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 13.13.2 to 13.13.4, 16.8, 16.12, 16.13 and 31.2.2 to 31.2.4 do not apply.
- 30.12 If the computer systems of any of the *Land Registry*, the *ELNO* or the Reserve Bank of Australia are inoperative for any reason at the *completion time* agreed by the *parties*, a failure to complete this contract for that reason is not a default under this contract on the part of either *party*.
- 30.13 If the *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 *Lodgement 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>conveyancing rules</i>       | the rules made under s12E of the Real Property Act 1900;  |
| <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>effective date</i>           | the date on which the <i>Conveyancing Transaction</i> is agreed to be an <i>electronic transaction</i> under clause 30.1.2 or, if clauses 30.1.1 or 30.1.3 apply, the contract date;  |
| <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 <i>parties' Conveyancing Transaction</i> ;  |
| <i>electronic transaction</i>   | a <i>Conveyancing Transaction</i> to be conducted for the <i>parties</i> by their legal representatives as <i>Subscribers</i> using an <i>ELN</i> and in accordance with the <i>ECNL</i> and the <i>participation rules</i> ;   |
| <i>electronically tradeable</i> | a land title that is Electronically Tradeable as that term is defined in the <i>conveyancing rules</i> ;  |
| <i>incoming mortgagee</i>       | any mortgagee who is to provide finance to the purchaser on the security of the <i>property</i> and to enable the purchaser to pay the whole or part of the price;  |
| <i>mortgagee details</i>        | the details which a <i>party</i> to the <i>electronic transaction</i> must provide about any <i>discharging mortgagee</i> of the <i>property</i> as at completion;  |
| <i>participation rules</i>      | the participation rules as determined by the <i>ENCL</i> ;  |
| <i>populate</i>                 | to complete data fields in the <i>Electronic Workspace</i> ; and  |
| <i>title data</i>               | the details of the title to the <i>property</i> made available to the <i>Electronic Workspace</i> by the <i>Land Registry</i> .   |

### 31 Foreign Resident Capital Gains Withholding

- 31.1 This clause applies only if –
- 31.1.1 the sale is not an excluded transaction within the meaning of s14-215 of Schedule 1 to the *TA Act*; and
- 31.1.2 a *clearance certificate* in respect of every vendor is not attached to this contract.
- 31.2 The purchaser must –
- 31.2.1 at least 5 days before the date for completion, serve evidence of submission of a purchaser payment notification to the Australian Taxation Office by the purchaser or, if a direction under clause 4.3 has been served, by the transferee named in the transfer served with that direction;
- 31.2.2 produce on completion a *settlement cheque* for the *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* in respect of every vendor either a *clearance certificate* or a *variation* to 0.00 percent, clauses 31.2 and 31.3 do not apply.

6 Kilkenny Avenue KILLARNEY HEIGHTS NSW 2087

## STANDARD ADDITIONAL CLAUSES

### 32. Agency

- 32.1 The purchaser warrants that:
- 32.1.1 this sale is not made through any estate agent or estate agency company (other than the vendor's agent); and
  - 32.1.2 the purchaser was not brought into contact with the vendor or was not introduced to the property or to the vendor as a result of anything done by any other estate agent or estate agency company.
- 32.2 If the purchaser is in breach of a warranty in clause 32.1, the purchaser must indemnify and compensate the vendor for any loss incurred by the vendor arising out of the breach, including payment of legal costs on an indemnity basis.
- 32.3 The vendor warrants that there is no sole agency agreement in force at the date of this contract with any agent not named in this contract.
- 32.4 Rights under this clause continue after completion.

### 33. Auction – conditions of sale

- 33.1 Where this sale is a sale by auction the following conditions shall apply:
- 33.1.1 the highest bidder is the purchaser subject to any reserve price.
  - 33.1.2 in the event of a disputed bid the auctioneer is the sole arbitrator and the auctioneer's decision is final.
  - 33.1.3 the auctioneer may refuse to accept any bid that, in the auctioneer's opinion, is not in the best interest of the vendor.
  - 33.1.4 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 on behalf of another person.
  - 33.1.5 a bid cannot be made or accepted after the fall of the hammer.
  - 33.1.6 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.
  - 33.1.7 the vendor reserves the right to make one (1) bid including any bid made by the auctioneer on behalf of the vendor.
  - 33.1.8 when any bid is made on behalf of the vendor or a bid as accepted by the auctioneer by or on behalf of the vendor the auctioneer must clearly state that such bid was made by or on behalf of the vendor or auctioneer.
  - 33.1.9 all bidders must be registered in the bidders' record and display an identifying number when making a bid.
  - 33.1.10 as practicable after the fall of the hammer the purchaser must sign this contract.

### 34. Improvements, furnishings and chattels

- 34.1 The improvements, furnishing and chattels are sold in their present condition and state of repair and have been inspected by the purchaser prior to signing this contract. The purchaser cannot make a claim, objection or requisition or rescind or terminate in respect of a defect in or any lack of repair of the improvements (or any part of the improvements) or any existing infestation or decay.
- 34.2 The purchaser warrants that it shall not make any objection, requisition, claim for compensation in relation to this condition nor rescind, terminate or delay completion because of:
- 34.2.1 the location of the property;
  - 34.2.2 the suitability of the property;
  - 34.2.3 any matter disclosed by any sewerage service diagram;
  - 34.2.4 the presence of any sewer, drain, manhole or vent on the property;
  - 34.2.5 any rainwater downpipe connected to the sewer;
  - 34.2.6 the state of repair or condition of any services to or on the property ("service" includes air, communication, drainage, storm water, electricity, garbage, gas, oil, radio, sewerage, telephone, television or water services);
  - 34.2.7 the nature, location, availability or non-availability of any service or fence;
  - 34.2.8 whether or not the property is subject to or has the benefit of any right or easement in respect of any such service or the mains, pipes or connection thereof;
  - 34.2.9 the compliance or non-compliance with any restriction on user;
  - 34.2.10 any key and remotes not in possession of vendor.
- 34.3 The vendor has no knowledge of:
- 34.3.1 approval of the improvements on the land or property;
  - 34.3.2 the conditions relating to any development approval which may have issued in respect of the property;
  - 34.3.3 whether or not any of the improvements on the land could justify the making of an *upgrading or demolition order* as defined in the *Conveyancing (Sale of Land) Regulation 2017 (NSW)*; or
  - 34.3.4 whether the person or corporation which erected the improvements on the land held any or any appropriate or requisite licence to erect or build the improvements.

- 34.4 The vendor is not required to comply with a work order which issues on or before the contract date. The purchaser must comply with any work order which issued on, before or after the contract date.
- 34.5 The vendor is not required to clean the property or remove existing rubbish, materials, debris or other items from the property prior to or on completion. The purchaser acknowledges and agrees that he/she/it will accept the property in its current condition and with any remaining chattels on the property.
- 34.6 The purchaser cannot make a claim or *requisition* or *rescind* or *terminate* or delay completion in regards to the above special provision.

### **35. Failure to complete on the completion date**

- 35.1 If the parties do not complete on the completion date for any reason other than default by the vendor, the purchaser must pay the vendor interest on the balance of the price at the rate of ten per centum (10%) per annum calculated daily from the completion date to the date of actual completion (both inclusive).
- 35.2 The amount payable under this clause is to be paid as an adjustment in favour of the vendor on completion.
- 35.3 This clause does not affect any other rights of the vendor.
- 35.4 If interest is payable pursuant to 35.1 the purchaser may not require the vendor to complete this contract unless such interest is paid to the vendor on completion. It is an essential term of this agreement that the interest due is paid on completion. Interest payable pursuant to this condition is a genuine pre-estimate of the vendor's loss as a result of the purchaser's failure to complete on or before the date of completion.

### **36. Notice to Complete**

- 36.1 If a notice to complete is served it is agreed and acknowledged by the vendor and purchaser(s) that:
  - 36.1.1 fourteen (14) days is reasonable and sufficient time for compliance with a notice to complete;
  - 36.1.2 Such a notice may specify an hour of the day at or before which time settlement is to take place; and
  - 36.1.3 such a notice is deemed reasonable and sufficient to render the time for completion essential;
- 36.2 If the vendor becomes entitled to issue a notice to complete, then the purchaser shall pay to the vendor the legal costs of the issue of such notice in the sum of \$330.00 and agrees that it is a condition of settlement that such amount be paid at settlement.
- 36.3 The parties agree that the party serving a notice can:
  - 36.3.1 withdraw the notice; and
  - 36.3.2 issue further notices to complete.

### **37. Additional Rights of Vendor to Rescind**

- 37.1 The vendor can by notice in writing rescind this Contract if:
  - 37.1.1 the purchaser (or if more than one purchaser, any one of them) dies or becomes mentally ill prior to completion; or
  - 37.1.2 being an individual, compounds with his creditors; or
  - 37.1.3 being a company resolves to go into liquidation or have a petition for its winding up presented or enters into any scheme of arrangement with its creditors or has a liquidator, receiver or official manager appointed.

The provisions of clause 19 will apply to these additional rights of the vendor to rescind.

### **38. Dual occupancy - State Environmental Planning Policy**

The vendor discloses that SEPP28 has been repealed and that some provisions of SEPP25 and SREP12 that allowed subdivision of dual occupancies have been repealed, and the attached section 10.7 certificate may be inaccurate in respect of those matters.

### **39. Amendments to Contract for Sale of Land 2018**

- 39.1 Delete the second bullet point from the definition of "settlement cheque" in clause 1.
- 39.2 In clause 2.9, the following words are deleted "If each party tells the depositholder that the deposit is to be invested" and the following words are inserted in lieu thereof "If this contract says that the deposit is to be invested".
- 39.3 In clause 4.1.1, add the words "duly signed by the purchaser or the purchaser's solicitor" after the word "transfer".
- 39.4 Delete clause 7.1.1;
- 39.5 Delete clause 14.4.2;
- 39.6 In clause 16.5, delete the words "plus another 20% of that fee";
- 39.7 Delete clause 16.8;
- 39.8 In clause 20.6.5, delete the words "unless in either case it is not received";
- 39.9 In clause 23.5.2, delete the words "but is disclosed in the contract";
- 39.10 Delete clause 23.6;
- 39.11 Delete clause 23.7;
- 39.12 Delete clause 23.13,
- 39.13 Delete clause 23.14;
- 39.14 In the event of any inconsistency between any further provision and the standard provisions in the contract for sale of land the further provisions shall prevail.

#### **40. Guarantee And Indemnity**

- 40.1 If the purchaser (and, if comprising more than one person, any one or more of them) is a company, and in consideration of the vendor entering into this contract with the purchaser, it is an essential clause of this contract that the officers or persons who sign this contract on behalf of the company or who attest the seal of the company on this contract:
- 40.1.1 jointly and severally guarantee all obligations of the purchasers under this contract including the payment of the purchase price and the due and punctual performance and observance by the purchaser of its obligations under this contract.
  - 40.1.2 jointly and severally indemnify the vendor and must keep indemnified the vendor in respect of all losses, damages, liabilities, costs and expenses accruing to the vendor, resulting or arising from any failure or default of the purchaser to perform or observe any of the obligations on its part to be performed or observed.
- 40.2 This guarantee and indemnity is given by each guarantor as principal and is a continuing obligation and cannot be abrogated, prejudiced or discharged by any waiver, release or variation of this contract by the vendor or by any other matter.
- 40.3 Any rescission or termination will not waive the obligation arising under this clause.

#### **41. Requisitions on Title**

For the purposes of clause 5 of the contract, the purchaser acknowledges that the vendor shall not be obliged to reply to the purchaser's requisitions unless the requisitions submitted are 2013 Law Society of New South Wales Residential Property Requisitions on Title a copy of which is annexed hereto.

#### **42. Section 10.7(2) & (5) Certificate**

- 42.1 The purchaser acknowledges that it has (before entering into this contract) satisfied itself as to the contents of the Planning Certificate and has made investigations to confirm whether or not the Certificates comply with the Regulation. The purchaser shall not raise any objection, requisition nor make any Claim nor delay completion, as a consequence of anything contained in the Planning Certificate, this clause, nor in respect of any use to which the Property may be put, nor in respect of any development consent issued in respect of the Property.

#### **43. Cancelling Settlement Arrangements**

- 43.1 If the purchaser cancels settlement after appropriate arrangements have been made, the purchaser will allow any agents fee incurred on settlement and the vendor's legal costs of \$165.00 for each cancellation.

#### **44. Failure to Serve Transfer**

- 44.1 If the purchaser fails to serve the transfer within the time limited by Clause 4.1 then the purchaser shall pay to the vendor by way of an adjustment on completion an amount of \$99.00 being additional costs incurred by the vendor arising from the delay in service of the transfer.

#### **45. Unauthorised Access to the Property**

- 45.1 Apart from the authority given by the vendor to the purchaser in clause 12 of the Contract, the purchaser must not without the vendor's written authority do any of the following:
- 45.1.1 enter the property;
  - 45.1.2 occupy the property;
  - 45.1.3 take possession of the property; or
  - 45.1.4 carry out any work to or on the property.
- 45.2 If the purchaser without the vendor's written permission does any of those things referred to in special provisions 45.1.1 to 45.1.4 (inclusive) at any time between the date of this Contract and its completion:
- 45.2.1 the purchaser must pay the vendor on completion a fee calculated at the rate of ten per centum (10%) per annum on the balance of the purchase money from the date of the Contract to the date of completion; and
  - 45.2.2 the purchaser agrees that the vendor's obligation to complete the Contract is interdependent on the purchaser's payment to the vendor of this fee on completion.
- 45.3 If interest is payable under special provision 35 of this Contract, the fee payable under special provision 45 of this Contract will only be paid up until the date of completion nominated in this Contract.

#### **46. Holiday Period**

- 46.1 Despite any other clause in this Contract, the vendor will not be required to complete this Contract during the period commencing at 3:00pm on 19 December 2019 and ending at 10:00am on 16 January 2020 ("Holiday Period").
- 46.2 If the completion date noted on page 1 of this Contract falls during the Holiday Period:
- 46.2.1 the completion date of this Contract will instead be 16 January 2020;
  - 46.2.2 the "completion date" wherever referred to in this Contract will be 16 January 2020;
  - 46.2.3 a party will not be entitled to serve a notice to complete (under general clause 15 and special provision 36 of this Contract) until after 16 January 2020; and
  - 46.2.4 interest payable by the purchaser under special provision 35 will be calculated from and including 16 January 2020.



46.3 The purchaser cannot make any *requisition*, delay completion, rescind or terminate this Contract because of any matter referred to in this special provision.

**47. Land Tax Certificate**

- 47.1 The vendor will serve a current Land Tax Certificate on the purchaser, at least 14 days prior to settlement.  
47.2 Should the vendor fail to serve a current Land Tax Certificate on the purchaser within this timeframe, the purchaser does not have to complete earlier than 14 days after service of the certificate.  
47.3 The vendor will obtain and serve a clear Land Tax Certificate on or before settlement.  
47.4 The purchaser agrees to pay the costs for the s47 Land Tax Certificate.

**48. Less than 10% deposit paid on exchange**

- 48.1 The deposit payable under this contract is 10% of the purchase price.  
48.2 Should the vendor agree to accept an amount being not less than 5% of the purchase price as part payment of the deposit on the date of this contract, then the deposit shall be paid as follows:  
48.2.1 as to a sum equal to 5% of the purchase price at the time of the making of this contract; and  
48.2.2 as to the remaining 5% balance of the purchase price on the earlier of the following:  
(a) on the completion of this contract; or  
(b) within 24 hours of service of written notice by the vendor on the purchaser that the purchaser is in default under this contract.

**49. Investment of Deposit**

- 49.1 Pending completion or the rescission or termination of this Contract (whichever in fact occurs), the vendor's agent will place the said deposit on deposit with a Bank (as defined elsewhere in this Contract) by way of unsecured deposit repayable at call. Such deposit will be made in the name of the vendor's agent as trustee for the vendor and the purchaser.  
49.2 The interest which accrues on the said deposit is (after deduction of any Bank fees and charges) payable as follows:  
49.2.1 if the deposit is forfeited to the vendor, all such interest is to be paid to the vendor;  
49.2.2 if the deposit is refunded to the purchaser, all such interest is to be paid to the purchaser; and  
49.2.3 if this Contract is completed, such interest is to be paid to the vendor and purchaser equally PROVIDED THAT if less than 10% deposit has been paid, then all of the interest is to be paid to the vendor.  
49.3 The vendor and the purchaser agree that they will give such directions and do such things as may be necessary to give effect to the provisions of this condition. This includes providing their tax file number to the agent, if required.  
The vendor's agent will not be responsible in any way for any loss occasioned by their investment of the deposit on the terms of this condition. The party entitled to the deposit on the completion, rescission or termination of this Contract (whichever in fact occurs) will bear the risk of loss of the said deposit.

**50. Public Trustee name change to NSW Trustee and Guardian**

- 50.1 The purchaser acknowledges by signing this contract that the purchaser is aware that, from 1 July 2009, the Public Trustee became known as NSW Trustee and Guardian. Pursuant to clauses 3, 5 and 11 of Schedule 1 of the NSW Trustee and Guardian Act 2009, NSW Trustee and Guardian is the same as the former Public Trustee. All documents made and signed in the name of the Public Trustee NSW before or after 1 July 2009 are to be treated as signed in the name of the NSW Trustee and Guardian and any reference in a document to the Public Trustee is to be read as a reference to the NSW Trustee and Guardian.  
50.2 The vendor may hand over on settlement documents of title which are in the name of Public Trustee or NSW Trustee and Guardian.  
50.3 The vendor may execute any documents under the name of Public Trustee or NSW Trustee and Guardian.  
50.4 The purchaser will not be entitled to make any requisitions as to title, objections or claims arising from the use of the name Public Trustee or NSW Trustee and Guardian.  
50.5 The vendor undertakes to answer any requisitions which may issue from Land and Property Information in respect of the use of the name Public Trustee or NSW Trustee and Guardian.

## CERTIFICATE

I,  
certify as follows:

1. I am a solicitor/licensed conveyancer currently admitted to practise in **New South Wales**.
2. I am giving this certificate in accordance with section 66W of the *Conveyancing Act* 1919, with reference to a contract for sale of property known as no: **6 Kilkenny Avenue, Killarney Heights** from **NSW Trustee and Guardian (as executor of the estate of Peggy Ellen Calow)** to
3. I do not act for the vendor/s and I am not employed in the legal practice acting for the vendor/s, nor am I a member or employee of a firm of which a solicitor or licensed conveyancer acting for the vendor/s is a member or employee.
4. I have explained to the purchaser/s:
  - (a) the effect of the contract for the purchase of that property;
  - (b) the nature of this certificate;
  - (c) the effect of giving this certificate to the vendor/s (ie that there is no cooling off period in relation to this contract).

---

Date

---

Solicitor/Licensed Conveyancer

## RESIDENTIAL PROPERTY REQUISITIONS ON TITLE

Vendor: NSW Trustee and Guardian (as executor of the estate of Peggy Ellen Calow)  
Purchaser:  
Property: 6 Kilkenny Avenue, Killarney Heights  
Dated:

### Possession & Tenancies

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

### Title

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

### Adjustments

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

### Survey & Building

13. Subject to the Contract, survey should be satisfactory and show that the whole of the property is available and that there are no encroachments by or upon the property and that all improvements comply with local government/planning legislation.
14. Is the vendor in possession of a survey report? If so, please produce a copy for inspection prior to completion. The original should be handed over on completion.
15. (a) Have the provisions of the *Local Government Act*, the *Environmental Planning and Assessment Act 1979* and their regulations been complied with?  
(b) Is there any matter that could justify the making of an upgrading or demolition order in respect of any building or structure?  
(c) Has the vendor a Building Certificate which relates to all current buildings or structures? If so, it should be handed over on completion. Please provide a copy in advance.  
(d) Has the vendor a Final Occupation Certificate issued under the *Environmental Planning and Assessment Act 1979* for all current buildings or structures? If so, it should be handed over on completion. Please provide a copy in advance.  
(e) In respect of any residential building work carried out in the last 7 years:  
(i) please identify the building work carried out;  
(ii) when was the building work completed?  
(iii) please state the builder's name and licence number;  
(iv) please provide details of insurance under the *Home Building Act 1989*.
16. Has the vendor (or any predecessor) entered into any agreement with or granted any indemnity to the Council or any other authority concerning any development on the property?
17. If a swimming pool is included in the property:  
(a) when did construction of the swimming pool commence?  
(b) is the swimming pool surrounded by a barrier which complies with the requirements of the *Swimming Pools Act 1992*?  
(c) if the swimming pool has been approved under the *Local Government Act 1993*, please provide details.  
(d) are there any outstanding notices or orders?
18. (a) To whom do the boundary fences belong?

- (b) Are there any party walls?
- (c) If the answer to Requisition (b) is yes, specify what rights exist in relation to each party wall and produce any agreement. The benefit of any such agreement should be assigned to the purchaser on completion.
- (d) Is the vendor aware of any dispute regarding boundary or dividing fences or party walls?
- (e) Has the vendor received any notice, claim or proceedings under the *Dividing Fences Act 1991* or the *Encroachment of Buildings Act 1922*?

#### **Affectations**

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

#### **Capacity**

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

#### **Requisitions & Transfer**

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



FOLIO: 772/231927

SEARCH DATE	TIME	EDITION NO	DATE
18/2/2019	4:10 PM	2	25/10/2018

LAND

LOT 772 IN DEPOSITED PLAN 231927  
AT FORESTVILLE  
LOCAL GOVERNMENT AREA NORTHERN BEACHES  
PARISH OF MANLY COVE COUNTY OF CUMBERLAND  
TITLE DIAGRAM DP231927

FIRST SCHEDULE

NSW TRUSTEE & GUARDIAN

(AE AN807120)

SECOND SCHEDULE (2 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 DP231927 RESTRICTION(S) ON THE USE OF LAND

NOTATIONS

UNREGISTERED DEALINGS: NIL

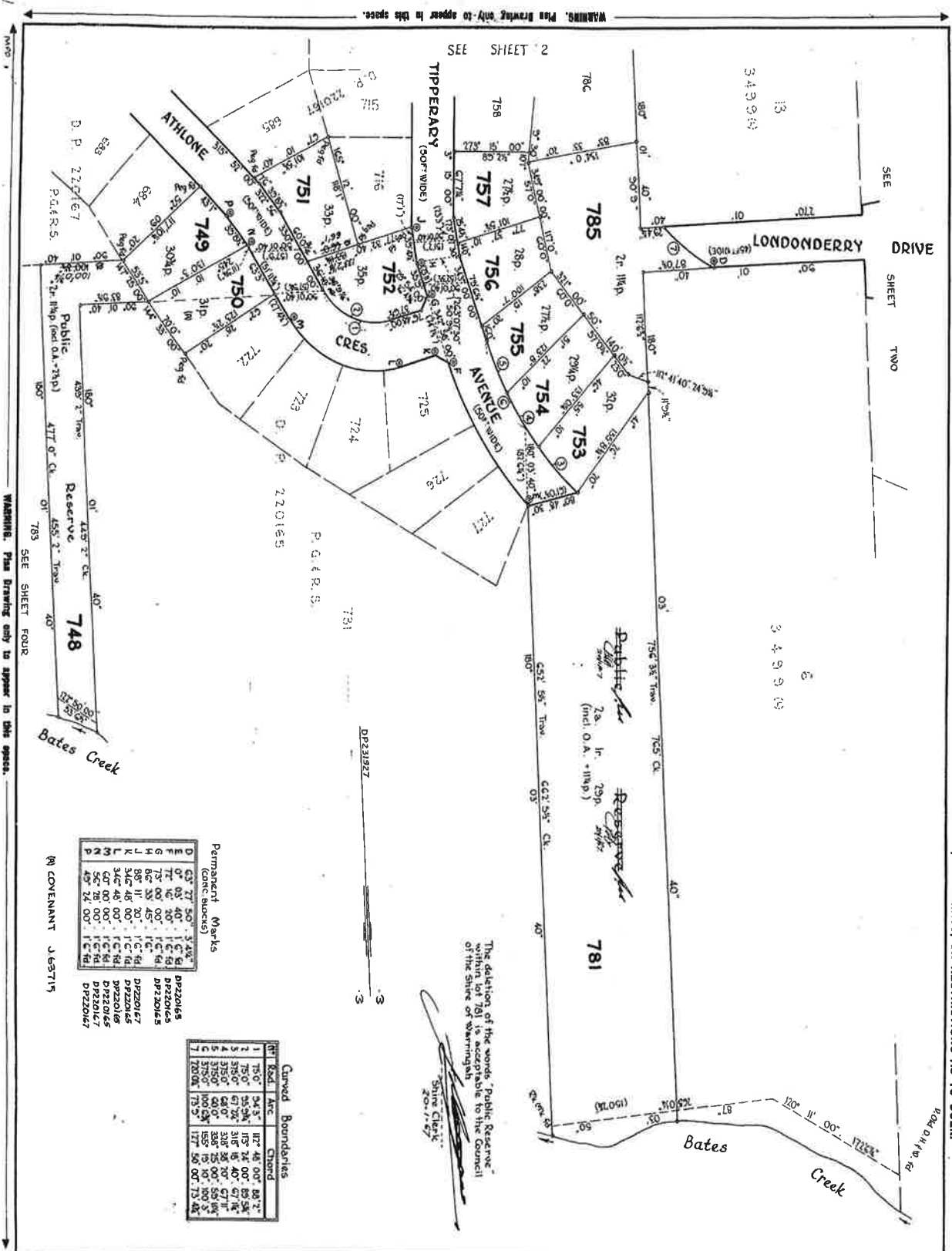
\*\*\* END OF SEARCH \*\*\*

M192346

PRINTED ON 18/2/2019

\* 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.

Plan Form 3—TO BE USED WHERE IT IS INTENDED TO DEDICATE PUBLIC ROADS OR PUBLIC RESERVES OR CREATE DRAINAGE RESERVES, EASEMENTS, OR RESTRICTIONS AS TO USER.



Permanent Marks  
(Cont. bucces)

Point	Mark	Station
D	07 03 40	1 C 64
E	07 03 40	1 C 64
F	07 03 40	1 C 64
G	07 03 40	1 C 64
H	07 03 40	1 C 64
I	07 03 40	1 C 64
J	07 03 40	1 C 64
K	07 03 40	1 C 64
L	07 03 40	1 C 64
M	07 03 40	1 C 64
N	07 03 40	1 C 64
O	07 03 40	1 C 64
P	07 03 40	1 C 64
Q	07 03 40	1 C 64
R	07 03 40	1 C 64
S	07 03 40	1 C 64
T	07 03 40	1 C 64
U	07 03 40	1 C 64
V	07 03 40	1 C 64
W	07 03 40	1 C 64
X	07 03 40	1 C 64
Y	07 03 40	1 C 64
Z	07 03 40	1 C 64

Curved Boundaries

Point	Angle	Distance
1	75°	100.00
2	75°	100.00
3	75°	100.00
4	75°	100.00
5	75°	100.00
6	75°	100.00
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8	75°	100.00
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It is intended to dedicate to the public  
a. Public Reserves  
b. Public Reserves

INSTRUMENT FILED AS K576518

352518B

Pursuant to Section 100 of the  
Conveyancing Act 1919, the  
instrument is intended to create:  
1. Easements to drain water, 6m wide.  
2. Restriction as to user.

Statements of intention to dedicate public roads  
or public reserves or create drainage reserves,  
easements, or restrictions as to user.  
(Signatures and Seals to appear in panel  
provided).

Signature: *[Signature]*  
Name: T.A. Dalton, Angel Pl. Sydney  
Witness: *[Signature]*  
Name: T.A. Dalton, Angel Pl. Sydney

Shire of Warringah  
Local Government  
Perth: Forestville  
County: Cumberland  
Shire of Warringah

Shire of Warringah  
Local Government  
Perth: Forestville  
County: Cumberland  
Shire of Warringah

PLAN OF subdivision of Reserve  
for the purpose of creating lots 78 to  
790 in D.P. 220165, lots 770 (771 in  
D.P. 220167, lots 731, 732, 746, 750, 753  
(754 in D.P. 222208, lot 543 in  
D.P. 231923 (lot 148 in D.P. 231928  
lot 2 in 3459) and lots 11 & 12  
and part of lot 1 in D.P. 231570

Scale: 80 feet to an inch

Registered: *[Signature]*  
CA 6545 of 29-9-1966  
Title System: Torrens  
Purpose: Subdivision  
Ref. Map: Warringah Sh. 83 #  
345964  
Last Plan: D.P. 220167  
D.P. 231923  
D.P. 231570

DP231927 sk 1/4

OFFICE USE ONLY.

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION.

Plan Form 3—TO BE USED WHERE IT IS INTENDED TO DEDICATE PUBLIC ROADS OR PUBLIC RESERVES OR CREATE DRAINAGE RESERVES, EASEMENTS, OR RESTRICTIONS AS TO USER.

DP 231927 SL 1/4 (E)

SEE SHEET TWO

LONDONDERRY DRIVE

349.9 (3)

349.9 (3)

6

Bates

Creek

781

Public Use Reserve  
 2a. 1r. 29p. 24/47  
 (incl. O.A. 11/4p.)

78C

785

758

757

75C

755

754

753

SEE SHEET 2

TIPPERARY (50' WIDE)

CRES.

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752

750

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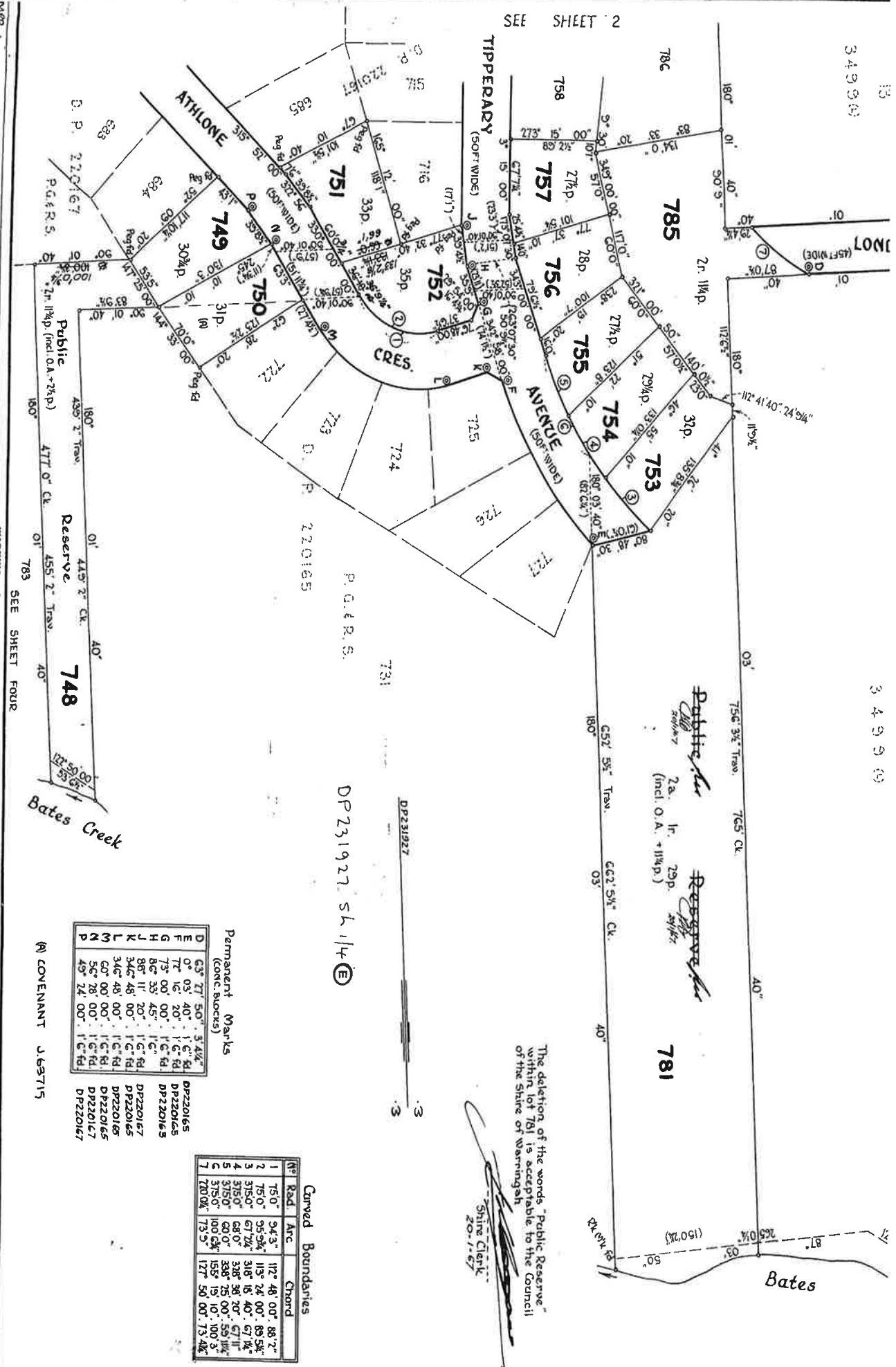
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SEE SHEET 2



Bates Creek

Permanent Marks  
(conc. blocks)

Block	Mark	DP
D	37' 50" 3' 43"	DP220165
E	77' 00" 1' 6" Rd	DP220165
F	75' 00" 00' 1' 6" Rd	DP220165
G	86' 33' 45' 1' 6" Rd	DP220165
H	86' 11' 20' 1' 6" Rd	DP220165
I	346' 48' 00' 1' 6" Rd	DP220165
J	346' 48' 00' 1' 6" Rd	DP220165
K	60' 00' 00' 1' 6" Rd	DP220165
L	56' 28' 00' 1' 6" Rd	DP220165
M	49' 24' 00' 1' 6" Rd	DP220167

(N) COVENANT J 63715

Carved Boundaries

No	Rad.	Arc	Chord
1	75.0'	94.3'	117' 48' 00" 88.7'
2	75.0'	95.5%	113' 24' 00" 89.5%
3	375.0'	67.7%	318' 18' 40" 67.1%
4	375.0'	68.0'	318' 36' 20" 67.1%
5	375.0'	68.0'	338' 25' 00" 55.1%
6	375.0'	100.0%	155' 19' 10" 100.3'
7	770.0%	73.5'	127' 50' 00" 73.4%

The deletion of the words "Public Reserve" within lot 781 is acceptable to the Council of the Shire of Warringham

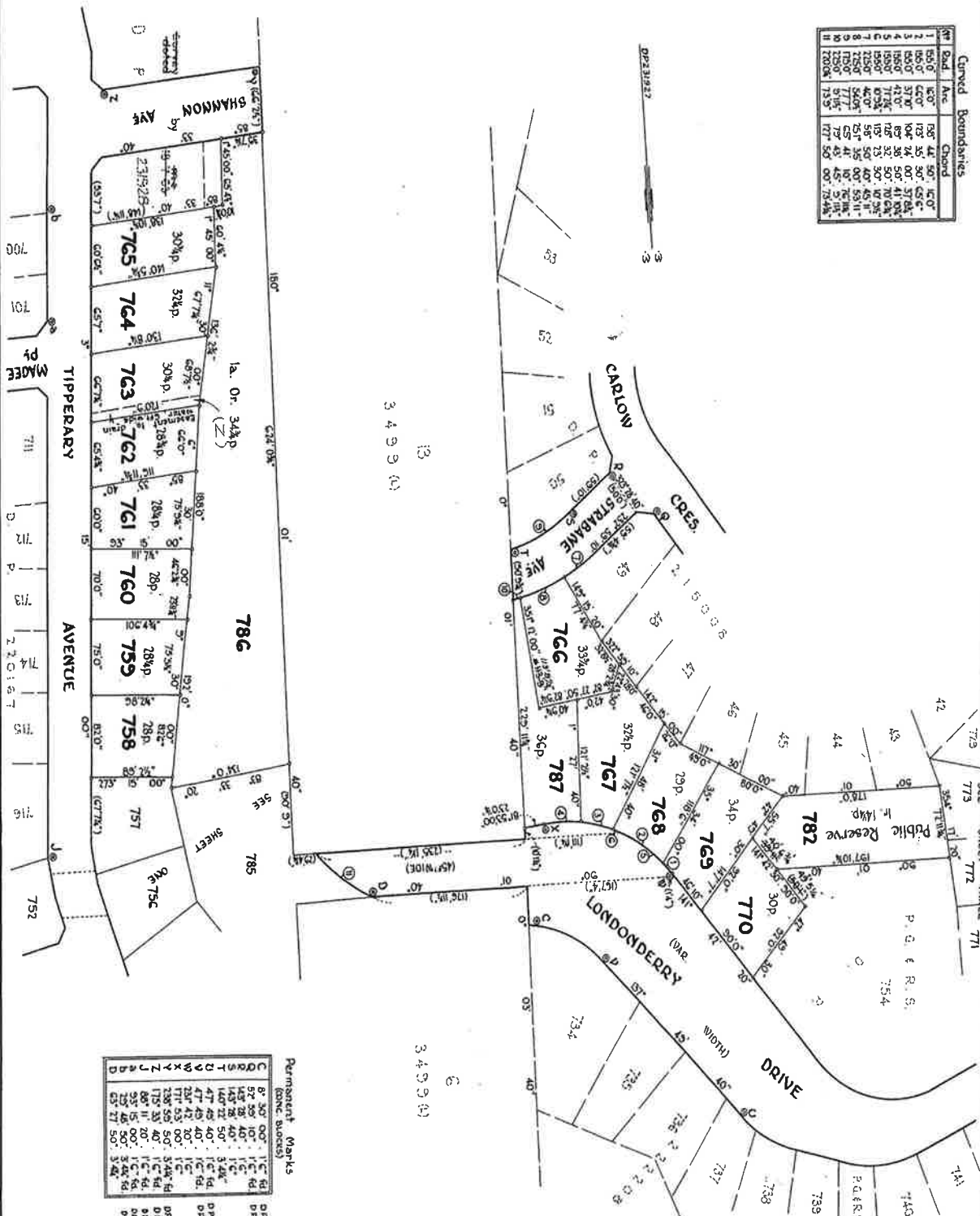
Shire Clerk  
20.1.67



Form No. 4—To be used in conjunction with Forms 2 or 3.

WARNING: CHEATING OR FOLDING WILL LEAD TO REJECTION.

Conrad Boundaries	
Ref	Bound
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2	180' 0"
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Permanent Marks	
Ref	Mark
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31	180' 0"
32	180' 0"
33	180' 0"
34	180' 0"
35	180' 0"
36	180' 0"
37	180' 0"
38	180' 0"
39	180' 0"
40	180' 0"
41	180' 0"
42	180' 0"
43	180' 0"
44	180' 0"
45	180' 0"
46	180' 0"
47	180' 0"
48	180' 0"
49	180' 0"
50	180' 0"
51	180' 0"
52	180' 0"
53	180' 0"
54	180' 0"
55	180' 0"
56	180' 0"
57	180' 0"
58	180' 0"
59	180' 0"
60	180' 0"
61	180' 0"
62	180' 0"
63	180' 0"
64	180' 0"
65	180' 0"
66	180' 0"
67	180' 0"
68	180' 0"
69	180' 0"
70	180' 0"
71	180' 0"
72	180' 0"
73	180' 0"
74	180' 0"
75	180' 0"
76	180' 0"
77	180' 0"
78	180' 0"
79	180' 0"
80	180' 0"
81	180' 0"
82	180' 0"
83	180' 0"
84	180' 0"
85	180' 0"
86	180' 0"
87	180' 0"
88	180' 0"
89	180' 0"
90	180' 0"
91	180' 0"
92	180' 0"
93	180' 0"
94	180' 0"
95	180' 0"
96	180' 0"
97	180' 0"
98	180' 0"
99	180' 0"
100	180' 0"

**DP231927 ©**

Registered: **AKC 2.1967**

This is Sheet: **2** of the plan in: **4**

Sheets dated: **1st August, 1963**

Surveyor: **1923** (unrecorded)

This is Sheet: **2** of the plan of: **A**

Sheet covered by my Certificate No.: **6545** of: **29 SEP 66**

Council Clerk

**KILLARNEY HEIGHTS ESTATE**

PT WATERFORD SECTION

Scale: 80 feet to an inch

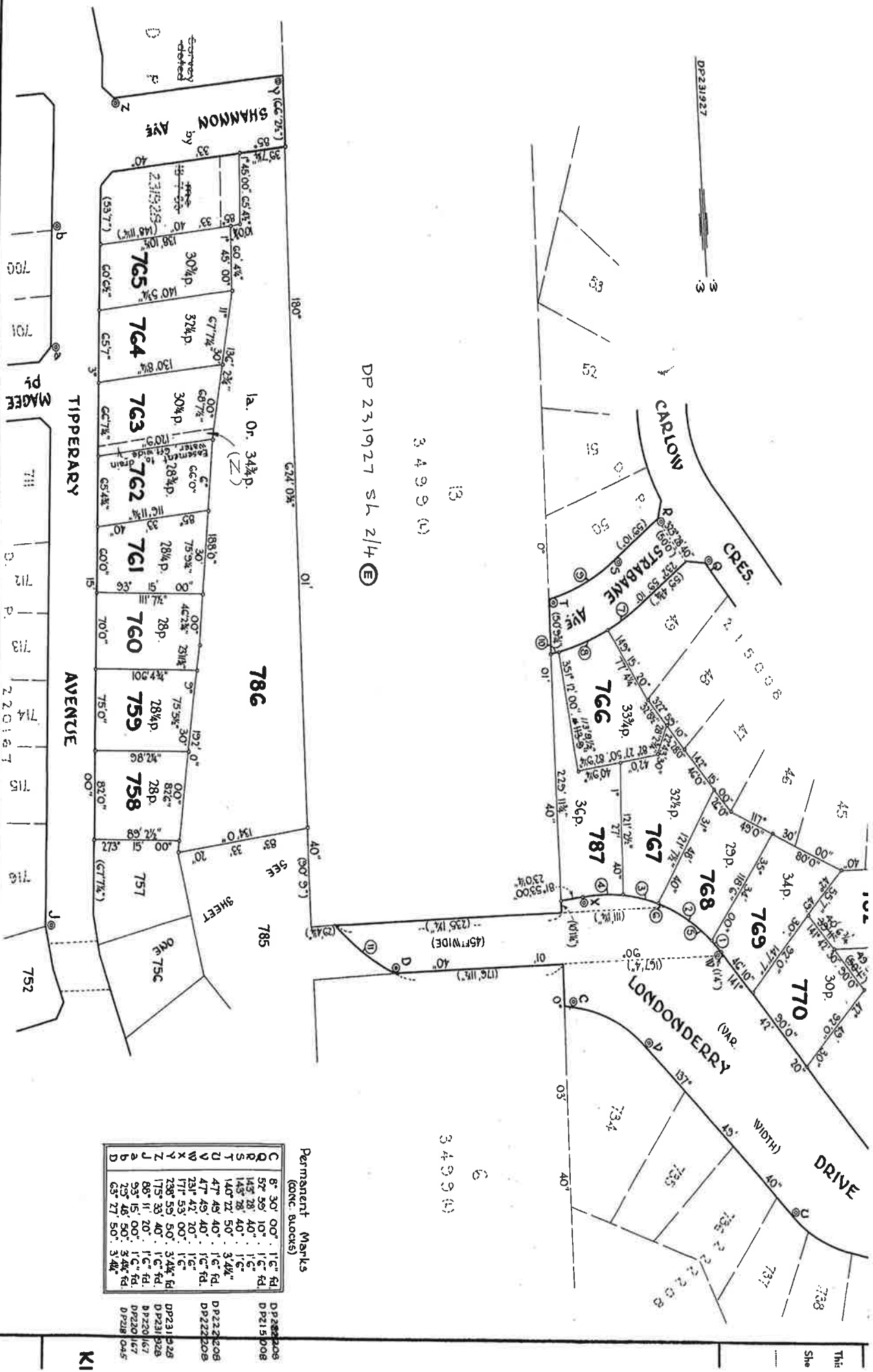
**3529198**

**WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION.**

No	Rad	Arc	Chord
1	155.0'	16.0"	136' 44' 50"
2	155.0'	16.0"	136' 44' 50"
3	155.0'	16.0"	136' 44' 50"
4	155.0'	16.0"	136' 44' 50"
5	155.0'	16.0"	136' 44' 50"
6	155.0'	16.0"	136' 44' 50"
7	155.0'	16.0"	136' 44' 50"
8	155.0'	16.0"	136' 44' 50"
9	155.0'	16.0"	136' 44' 50"
10	155.0'	16.0"	136' 44' 50"
11	155.0'	16.0"	136' 44' 50"
12	155.0'	16.0"	136' 44' 50"

Permanent Marks (ionic blocks)		
C	B <sup>+</sup> 30° 00'	1° C <sup>+</sup> fd
Q	57° 28' 10"	1° C <sup>+</sup> fd
R	143° 28' 40"	1° C <sup>+</sup>
S	143° 28' 40"	1° C <sup>+</sup>
T	140° 22' 50"	3.4k <sup>+</sup>
U	47° 45' 40"	1° C <sup>+</sup> fd
V	47° 45' 40"	1° C <sup>+</sup> fd
W	74° 47' 30"	1° C <sup>+</sup>
		D P2222008
		D P21.5 008
		D P2222008

WARNING: Plan Drawing only to appear in this space.





Order	Q#	Red	Acc	Chord
1	333	41.8	45.7	41.7
2	100	61.04	66.34	59.7
3	150	53.07	57.12	48.84
4	100	53.07	57.12	48.84
5	150	53.07	57.12	48.84
6	150	53.07	57.12	48.84
7	150	53.07	57.12	48.84
8	125	55.84	57.00	48.84
9	175	42.04	45.50	41.7

PI WATERFORD SECTION

**352520B**

Registered  LC 6.2.1967

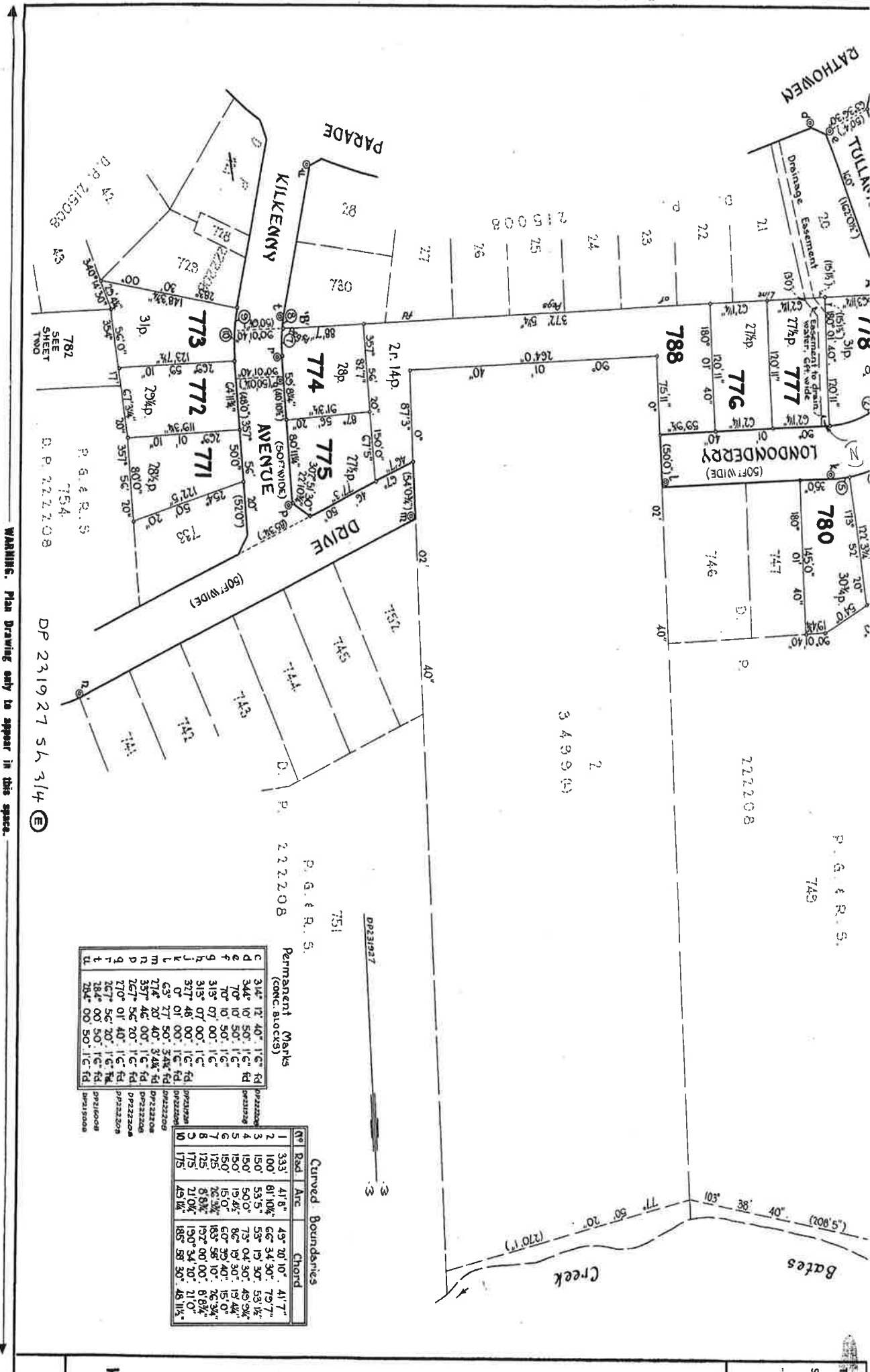
1st August, 1963

Internal Security Act, 1950, as amended

...ured by my Certificate No. ....

**Council Clerk**

WARNING. Plan Drawing only to appear in this space.



WARNING. Plan Drawing only to appear in this space.

Form No. 4—To be used in conjunction with Forms 2 or 3.

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION.

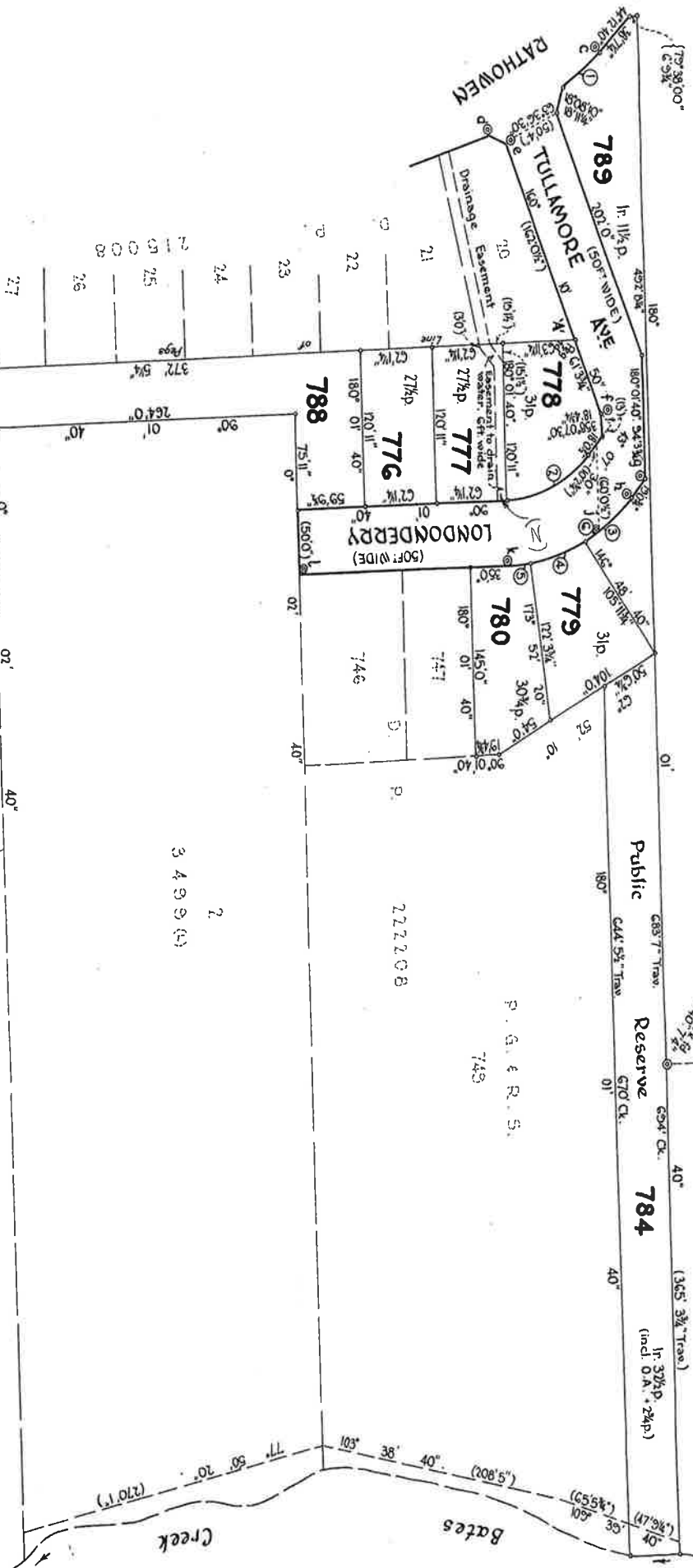
DP 231927 SL 314 (E)

CROWN LAND

G. S. 2743.2

Public Reserve 784

(incl. 0.1A, 24p)



Permanent Marks  
(conc. blocks)

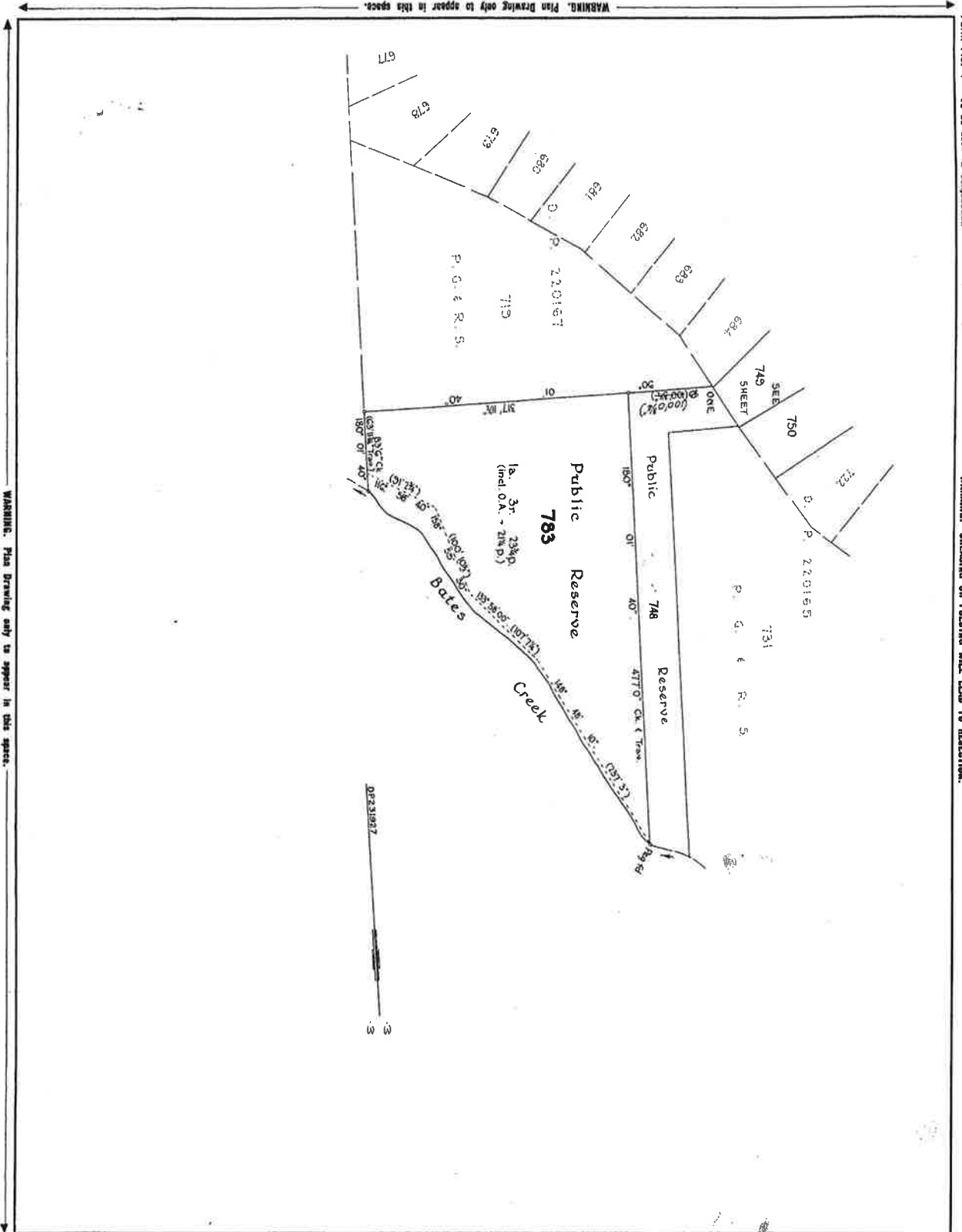
C	D	E	F	G
314' 12' 40" 1' 6" 8d	344' 10' 50" 1' 6" 8d	70' 10' 50" 1' 6" 8d	70' 10' 50" 1' 6" 8d	313' 07' 00" 1' 6" 8d

Curved Boundaries

Nº	Rad	Arc	Chord
1	333'	41' 8"	43' 20' 10" 41' 7"
2	100'	81' 10"	66' 34' 30" 79' 7"
3	150'	53' 5"	53' 19' 30" 53' 14"
4	150'	50' 0"	73' 04' 30" 49' 24"
5	150'	15' 45"	86' 19' 30" 15' 0"
6	150'	15' 0"	60' 30' 40" 15' 0"
7	125'	26' 33"	183' 58' 10" 26' 33"

Form No. 4—To be used in conjunction with Forms 2 or 3.

WARNING: CHEATING OR FALSIFYING WILL LEAD TO REJECTION.




DP231927 ©	
Registered: 446.2.1967	
This is Sheet 4 of my plan in 4	
Sheets dated 1st August, 1963	
Survey registered under Surveyors Act, 1929, as amended.	
This is Sheet 4 of the plan of 4	
Sheets covered by my Certificate No. 6545 of 29 SEP 65	
Council Clerk	
KILLARNEY HEIGHTS ESTATE PRIVATE ROAD SECTION	
Scale: 80 feet to an inch	
352s218	



DP 231927 Sh 4/4 (E)



DP23192T 54.14

Registered:  A.K.G. 2 1967

CA 6545 of 23-21926

This System: TOTTERTS

Subdivision

Part: Map Warrington 54.83 #

Ref. Map DP229056

Last Plan DP224167

DP231926

DP231920

PLAN or subdivision of designated  
 owner-tenants, excess land, lots 726  
 to 730 in DP 210145, lots 770, 771 in  
 DP 210146, lots 731, 732, 740, 750, 753  
 to 759, 761, 762 in DP 210147, lots  
 763, 764, 765, 766, 767, 768, 769, 770  
 (lot 71 in 54.09) and lots 11 & 12  
 and part of lot 1 in DP231920


Scale: 80 feet to an inch

NEW SHIRE  
 4204 Warrington  
 Locality: Forestville  
 Parish: Maitland  
 County: Cumberland  
 54.09/14 54.09/5

L. Keith Spencer, Syllage

2. T.A. Dalton, Angel Pl., Sydney

Surveyor registered under the Surveyors Act, 1970, in  
 the State of New South Wales, and is duly  
 qualified to execute this plan as a surveyor.  
 Done at Sydney, N.S.W. (State of New South  
 Wales) this 14th day of August, 1972.

Signature: 

Statements of reference to evidence public records  
 or private documents, or references as to use,  
 (signatures and seal) to appear in panel  
 provided)

Pursuant to Section 88 of the  
 Conveyancing Act, 1919-1944 it  
 is hereby declared that the following  
 1. Easements to which water, fire, etc. are  
 2. Restrictions as to use.

It is intended to dedicate to the public  
 a. All new roads  
 b. Public Reserves

WATERBOARD SECTION 4-SHEETS

OFFICE USE ONLY.

**WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION.**

[illegible]

CONVERSION TABLE ADDED IN  
REGISTRAR GENERAL'S DEPARTMENT

CONVERSION TABLE ADDED IN  
REGISTRAR GENERAL'S DEPARTMENT

OP 231927 SH 1/4

FEET INCHES

METRES

OP 231927 SH 1/4

FEET INCHES

METRES

OP 231927 SH 1/4

1 6

0.487

1.25

1 6

0.487

1.25

2 6

0.508

1.28

2 6

0.508

1.28

3 6

0.529

1.31

3 6

0.529

1.31

4 6

0.549

1.34

4 6

0.549

1.34

5 6

0.569

1.37

5 6

0.569

1.37

6 6

0.59

1.4

6 6

0.59

1.4

7 6

0.61

1.43

7 6

0.61

1.43

8 6

0.635

1.46

8 6

0.635

1.46

9 6

0.655

1.49

9 6

0.655

1.49

10 6

0.676

1.52

10 6

0.676

1.52

11 6

0.696

1.55

11 6

0.696

1.55

12 6

0.716

1.58

12 6

0.716

1.58

13 6

0.737

1.61

13 6

0.737

1.61

14 6

0.758

1.64

14 6

0.758

1.64

15 6

0.778

1.67

15 6

0.778

1.67

16 6

0.799

1.7

16 6

0.799

1.7

17 6

CONVERSION TABLE ADDED IN  
 REGISTRAR GENERAL'S DEPARTMENT

DP 231927	SH	2/4
FEET INCHES	METRES	
1 0	0.406	
1 1	0.457	
1 2	0.508	
1 3	0.559	
1 4	0.610	
1 5	0.661	
1 6	0.712	
1 7	0.763	
1 8	0.814	
1 9	0.865	
2 0	0.916	
2 1	0.967	
2 2	1.018	
2 3	1.069	
2 4	1.120	
2 5	1.171	
2 6	1.222	
2 7	1.273	
2 8	1.324	
2 9	1.375	
3 0	1.426	
3 1	1.477	
3 2	1.528	
3 3	1.579	
3 4	1.630	
3 5	1.681	
3 6	1.732	
3 7	1.783	
3 8	1.834	
3 9	1.885	
4 0	1.936	
4 1	1.987	
4 2	2.038	
4 3	2.089	
4 4	2.140	
4 5	2.191	
4 6	2.242	
4 7	2.293	
4 8	2.344	
4 9	2.395	
5 0	2.446	
5 1	2.497	
5 2	2.548	
5 3	2.599	
5 4	2.650	
5 5	2.701	
5 6	2.752	
5 7	2.803	
5 8	2.854	
5 9	2.905	
6 0	2.956	
6 1	3.007	
6 2	3.058	
6 3	3.109	
6 4	3.160	
6 5	3.211	
6 6	3.262	
6 7	3.313	
6 8	3.364	
6 9	3.415	
7 0	3.466	
7 1	3.517	
7 2	3.568	
7 3	3.619	
7 4	3.670	
7 5	3.721	
7 6	3.772	
7 7	3.823	
7 8	3.874	
7 9	3.925	
8 0	3.976	
8 1	4.027	
8 2	4.078	
8 3	4.129	
8 4	4.180	
8 5	4.231	
8 6	4.282	
8 7	4.333	
8 8	4.384	
8 9	4.435	
9 0	4.486	
9 1	4.537	
9 2	4.588	
9 3	4.639	
9 4	4.690	
9 5	4.741	
9 6	4.792	
9 7	4.843	
9 8	4.894	
9 9	4.945	
100	5.000	

CONVERSION TABLE ADDED IN  
 REGISTRAR GENERAL'S DEPARTMENT

DP 231927	SH	2/4	CONTD
FEET INCHES	METRES		
110	36.219		
111	36.670		
112	37.121		
113	37.572		
114	38.023		
115	38.474		
116	38.925		
117	39.376		
118	39.827		
119	40.278		
120	40.729		
121	41.180		
122	41.631		
123	42.082		
124	42.533		
125	42.984		
126	43.435		
127	43.886		
128	44.337		
129	44.788		
130	45.239		
131	45.690		
132	46.141		
133	46.592		
134	47.043		
135	47.494		
136	47.945		
137	48.396		
138	48.847		
139	49.298		
140	49.749		
141	50.200		
142	50.651		
143	51.102		
144	51.553		
145	52.004		
146	52.455		
147	52.906		
148	53.357		
149	53.808		
150	54.259		
151	54.710		
152	55.161		
153	55.612		
154	56.063		
155	56.514		
156	56.965		
157	57.416		
158	57.867		
159	58.318		
160	58.769		
161	59.220		
162	59.671		
163	60.122		
164	60.573		
165	61.024		
166	61.475		
167	61.926		
168	62.377		
169	62.828		
170	63.279		
171	63.730		
172	64.181		
173	64.632		
174	65.083		
175	65.534		
176	65.985		
177	66.436		
178	66.887		
179	67.338		
180	67.789		
181	68.240		
182	68.691		
183	69.142		
184	69.593		
185	70.044		
186	70.495		
187	70.946		
188	71.397		
189	71.848		
190	72.299		
191	72.750		
192	73.201		
193	73.652		
194	74.103		
195	74.554		
196	75.005		
197	75.456		
198	75.907		
199	76.358		
200	76.809		

CONVERSION TABLE ADDED IN  
 REGISTRAR GENERAL'S DEPARTMENT

DP 231927	SH	3/4
FEET INCHES	METRES	
1 5	0.457	
1 6	0.508	
1 7	0.559	
1 8	0.610	
1 9	0.661	
2 0	0.712	
2 1	0.763	
2 2	0.814	
2 3	0.865	
2 4	0.916	
2 5	0.967	
2 6	1.018	
2 7	1.069	
2 8	1.120	
2 9	1.171	
3 0	1.222	
3 1	1.273	
3 2	1.324	
3 3	1.375	
3 4	1.426	
3 5	1.477	
3 6	1.528	
3 7	1.579	
3 8	1.630	
3 9	1.681	
4 0	1.732	
4 1	1.783	
4 2	1.834	
4 3	1.885	
4 4	1.936	
4 5	1.987	
4 6	2.038	
4 7	2.089	
4 8	2.140	
4 9	2.191	
5 0	2.242	
5 1	2.293	
5 2	2.344	
5 3	2.395	
5 4	2.446	
5 5	2.497	
5 6	2.548	
5 7	2.599	
5 8	2.650	
5 9	2.701	
6 0	2.752	
6 1	2.803	
6 2	2.854	
6 3	2.905	
6 4	2.956	
6 5	3.007	
6 6	3.058	
6 7	3.109	
6 8	3.160	
6 9	3.211	
7 0	3.262	
7 1	3.313	
7 2	3.364	
7 3	3.415	
7 4	3.466	
7 5	3.517	
7 6	3.568	
7 7	3.619	
7 8	3.670	
7 9	3.721	
8 0	3.772	
8 1	3.823	
8 2	3.874	
8 3	3.925	
8 4	3.976	
8 5	4.027	
8 6	4.078	
8 7	4.129	
8 8	4.180	
8 9	4.231	
9 0	4.282	
9 1	4.333	
9 2	4.384	
9 3	4.435	
9 4	4.486	
9 5	4.537	
9 6	4.588	
9 7	4.639	
9 8	4.690	
9 9	4.741	
100	4.792	
101	4.843	
102	4.894	
103	4.945	
104	4.996	
105	5.047	
106	5.098	
107	5.149	
108	5.200	
109	5.251	
110	5.302	
111	5.353	
112	5.404	
113	5.455	
114	5.506	
115	5.557	
116	5.608	
117	5.659	
118	5.710	
119	5.761	
120	5.812	
121	5.863	
122	5.914	
123	5.965	
124	6.016	
125	6.067	
126	6.118	
127	6.169	
128	6.220	
129	6.271	
130	6.322	
131	6.373	
132	6.424	
133	6.475	
134	6.526	
135	6.577	
136	6.628	
137	6.679	
138	6.730	
139	6.781	
140	6.832	
141	6.883	
142	6.934	
143	6.985	
144	7.036	
145	7.087	
146	7.138	
147	7.189	
148	7.240	
149	7.291	
150	7.342	
151	7.393	
152	7.444	
153	7.495	
154	7.546	
155	7.597	
156	7.648	
157	7.699	
158	7.750	
159	7.801	
160	7.852	
161	7.903	
162	7.954	
163	8.005	
164	8.056	
165	8.107	
166	8.158	
167	8.209	
168	8.260	
169	8.311	
170	8.362	
171	8.413	
172	8.464	
173	8.515	
174	8.566	
175	8.617	
176	8.668	
177	8.719	
178	8.770	
179	8.821	
180	8.872	
181	8.923	
182	8.974	
183	9.025	
184	9.076	
185	9.127	
186	9.178	
187	9.229	
188	9.280	
189	9.331	
190	9.382	
191	9.433	
192	9.484	
193	9.535	
194	9.586	
195	9.637	
196	9.688	
197	9.739	
198	9.790	
199	9.841	
200	9.892	

CONVERSION TABLE ADDED IN  
 REGISTRAR GENERAL'S DEPARTMENT

DP 231927	SH	3/4	CONTD
FEET INCHES	METRES		
151	45.710		
152	46.161		
153	46.612		
154	47.063		
155	47.514		
156	47.965		
157	48.416		
158	48.867		
159	49.318		
160	49.769		
161	50.220		
162	50.671		
163	51.122		
164	51.573		
165	52.024		
166	52.475		
167	52.926		
168	53.377		
169	53.828		
170	54.279		
171	54.730		
172	55.181		
173	55.632		
174	56.083		
175	56.534		
176	56.985		
177	57.436		
178	57.887		
179	58.338		
180	58.789		
181	59.240		
182	59.691		
183	60.142		
184	60.593		
185	61.044		
186	61.495		
187	61.946		
188	62.397		
189	62.848		

K 576518

Roll 196. K1442 I

FORM 221.

INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS AS TO USER INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919. SHEET 1.

Plan:

DP231927

Subdivision of Certificates of Title  
Volume 9699 Folios 83, 84, 85  
Volume 9697 Folios 220, 221 Volume  
9835 Folios 36, 37, 53, 55, 58, 61  
Volume 9697 Folio 218 Volume 9342  
Folio 89 Volume 3604 Folio 116 and  
covered by Council Client's Cert.  
No. 6545 of 1966.

Full name and address of Proprietor of the Land

Hooker Holdings Pty. Limited and  
Hooker Town Development Pty. Limited  
Hooker House, Angel Place, Sydney.

Part 1.

1. Identity of easement or restriction firstly referred to in above-mentioned Plan.

Easements to drain water 6' wide.

SCHEDULE OF LOTS ETC. AFFECTED.

Lots burdened

Lots, name of road or authority benefited.

763  
772

The Council of the Shire of Marrangaroo  
The Council of the Shire of Marrangaroo

2. Identity of easement or restriction secondly referred to in above-mentioned Plan.

Restriction as to user.

SCHEDULE OF LOTS ETC. AFFECTED.

Lots burdened

Lots, name of road or authority benefited.

Each lot except Lots  
781, 782, 783, 784, 785, 786,  
787, 788, 789

Every other lot except Lots  
781, 782, 783, 784, 785, 786, 787  
788, 789

Part 2.

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

(a) No building or buildings shall be erected on each lot burdened with external wall or walls of asbestos fibre cement or any other materials of a similar nature.

(b) No main building shall be erected on each lot burdened with an internal floor area of less than 1,000 sq. ft.

(c) No main building shall be erected on each lot burdened having a roof of corrugated tin or iron and the exterior of any roof of any such building shall not be more than 80% in area of predominantly red colour.

(d) No main building shall be erected on each lot burdened having a roof of fibre cement with a pitch greater than 10 degrees to the horizontal.

FORM 21.

INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS AS TO USER INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919. SHEET 3.

Plan:

DP231927

Subdivision of Certificates of Title  
Volume 9699 Folios 83, 84, 85  
Volume 9697 Folios 220, 221 Volume  
9835 Folios 36, 37, 53, 55, 58, 61  
Volume 9697 Folio 218 Volume 9342  
Folio 89 Volume 3604 Folio 116 and  
covered by Council Client's Cert.  
No. 6545 of 1966.

Primary Application 45374

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

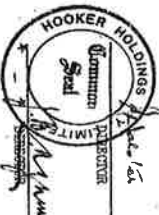
THE COMMON SEAL OF HOOKER TOWN DEVELOPMENTS PTY. LIMITED was heretofore affixed by authority of the Directors previously given in the presence of:-

SECRETARY



THE COMMON SEAL OF HOOKER HOLDINGS PTY. LIMITED was heretofore affixed by authority of the Directors previously given in the presence of:-

SECRETARY



Marrangaroo Shire Council  
Peter Cook

This negative is a photograph made as a permanent record of a document in the custody of the Registrar General this day  
26th March, 1990

1

K 576518

Instrument pursuant to Regulation 53D Conveyancing Act  
Regulation, 1961, setting out the terms of easements or  
restrictions as to use created by registration of the  
within-mentioned Deceased Eas. 27-1-77

W. H. H. H.

14576518

27/1/77

FORM 21.

INTERESTS SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS AS TO USE, INTENDED  
TO BE GRANTED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919. SHEET 2.

Plan:

DP231927

Subdivision of Certificates of Title  
Volume 9699 Folios 83, 84, 85  
Volume 9697 Folios 220, 221 Volume  
9686 Folios 36, 37, 38, 39, 40, 41  
Volume 9697 Folio 218, Volume 9702  
Folio 89 Volume 9604 Folio 146 and  
covered by Council Order No. 4574  
of 1966.

Primary Application 4574

AMENDMENTS AND/OR ADDITIONS MADE ON  
PLAN IN THE LAND TITLES OFFICE

10 20 30 40 50 60 70 Table of mm 110 120 130 140

This negative is a photograph made as a permanent  
record of a document in the custody of the  
Registrar General this day  
26th March 1990



- (a) No entry shall be erected in a conspicuous place or position and if the same is visible from the road or other lots in the subdivision it shall be screened.
- (b) No paling fences or any type of fence composed substantially of palings shall be erected on each lot burdened and as to what constitutes a paling fence shall be determined by the Transferor and its decision shall be final and binding on the transferee.
- (c) No advertisement hoarding sign or matter of any description shall be erected or displayed on each lot burdened.
- (d) No earth stone gravel or trees shall be removed or excavated on each lot burdened except where such removal or excavation is necessary for the erection of a building or structure or for the safety of the occupants or the prospective occupants thereof.
- (e) No more than one main building shall be erected on each lot burdened and such building shall not be used or permitted to be used other than as a single private dwelling house.
- (f) No main building shall be erected on each lot burdened unless the same shall be connected to the sewer if available and if not available to a septic tank installation the design and construction of which is acceptable to the proper authorities. If approval of the aforementioned septic tank installation cannot be obtained, then connection shall be to a septic closet the design and construction of which is acceptable to the proper authorities.
- (g) No trees shall be removed from each lot burdened without first obtaining the approval of the Haringhah Shire Council.
- (h) Any release variation or modification of these restrictions shall be made and done in all respects at the cost and expense of the person or persons requesting the same.
- (i) That no fence shall be erected on each lot burdened to divide it from any adjoining land owned by the Vendor without the consent of the Vendor its successors or assigns other than purchasers on sale the right of which shall not be withheld if such fence is erected without expense to the Vendor its successors or assigns and in favour of any person dealing with the purchaser or his assigns such consent shall be deemed to have been given in respect of every such fence for the time being erected PROVIDED HOWEVER that this consent in regard to fencing shall be binding on the purchaser his successors administrators and assigns only during the ownership of the said adjoining land by the Vendor its successors or assigns other than purchasers on sale.

*W. H. H. H.*



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

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

**Reference:** M192346  
**Date:** 12/10/2018  
**Certificate No.** ePLC2018/6443

**Address of Property:** 6 Kilkenny Avenue KILLARNEY HEIGHTS NSW 2087  
**Description of Property:** Lot 772 DP 231927

### Planning Certificate – Part 2

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

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

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

**1.1a) Local Environmental Plan**

Warringah Local Environmental Plan 2011

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

State Environmental Planning Policy 1—Development Standards  
State Environmental Planning Policy 19 – Bushland in Urban Areas  
State Environmental Planning Policy 21 – Caravan Parks  
State Environmental Planning Policy 30 – Intensive Agriculture  
State Environmental Planning Policy 33 – Hazardous and Offensive Development  
State Environmental Planning Policy 50 – Canal Estate Development  
State Environmental Planning Policy 55 – Remediation of Land  
State Environmental Planning Policy 62—Sustainable Aquaculture  
State Environmental Planning Policy 64 – Advertising and Signage  
State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development  
State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)  
State Environmental Planning Policy (Affordable Rental Housing) 2009  
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004  
State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008  
 State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004  
 State Environmental Planning Policy (Infrastructure) 2007  
 State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007  
 State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007  
 State Environmental Planning Policy (State and Regional Development) 2011  
 State Environmental Planning Policy (State Significant Precincts) 2005  
 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017  
 Sydney Regional Environmental Plan No 20-Hawkesbury-Nepean River (No 2-1997)  
 State Environmental Planning Policy No 44-Koala Habitat Protection  
 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005  
 Sydney Regional Environmental Plan No 9-Extractive Industry (No 2-1995)

## **1.2 Draft Environmental Planning Instruments**

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

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

Review of State Environmental Planning Policy 44 – Koala Habitat Protection  
 State Environmental Planning Policy No 64— Advertising and Signage (Amendment No 3)  
 Draft State Environmental Planning Policy (Environment)  
 Draft State Environmental Planning Policy (Primary Production and Rural Development)

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

#### **Planning Proposal - Ralston Avenue (Belrose) (PEX2013/0003)**

**Applies to land:** Lot 1 DP 1139826, Ralston Avenue, Belrose

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

- 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.
- Introduce subdivision lot size and height of building controls to land proposed to be zoned R2 Low Density Residential.

**Council resolution:** 25 November 2014

**Gateway Determination:** 28 January 2015

#### **Planning Proposal - Dee Why Town Centre Planning Controls (PEX2018/0002)**

**Applies to land:** Dee Why Town Centre (boundaries identified within the Planning Proposal)

**Outline:** Amends WLEP 2011 to:

- Increase maximum permissible building heights
- Introduce floor space ratio controls
- Provide development standards in relation to car parking, building setbacks and building proportion
- Identify additional "Key Sites"
- Implement a delivery mechanism for key infrastructure and public domain improvements

**Council resolution:** 23 September 2014

**Gateway Determination:** 1 April 2015 amended 22 September 2016

### **1.3 Development Control Plans**

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

Warringah Development Control Plan 2011

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

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

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

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

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

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

#### **Zone 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; Centre-based child care facilities; 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; Secondary dwellings; Veterinary hospitals

##### **4 Prohibited**

Any development not specified in item 2 or 3

#### **Additional permitted uses**

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

Nil

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

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

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

The land does not include or comprise critical habitat.

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

The land is not in a heritage conservation area.

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

The land does not contain an item of environmental heritage.

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

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

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

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

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

## **3. Complying Development**

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

### **a) Housing Code**

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

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

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

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

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

**Note:** Pursuant to clause 3B.63 of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, all land in Northern Beaches Council is a 'deferred area' meaning that the Low Rise Medium Density Code does not apply until 1 July 2019.



**d) Greenfield Housing Code**

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

**e) Housing Alterations Code**

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

**f) General Development Code**

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

**g) Commercial and Industrial Alterations Code**

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

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

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

**i) Container Recycling Facilities Code**

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

**j) Subdivisions Code**

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

**k) Demolition Code**

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

**l) Fire Safety Code**

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

**4. 4A (Repealed)**

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

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

**5. Mine Subsidence**

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

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

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

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

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

Nil

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

Nil

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

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

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

Environmental planning instrument referred to in Clause 1 does not make provision in relation to the acquisition of the land by a public authority, as referred to in section 27 of the Act.

## **9. Contribution plans**

The following applies to the land:

Northern Beaches Contributions Plan 2018

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

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

## **10. Biodiversity Stewardship Sites**

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

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

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

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

The land is not bush fire prone land.

## **12. Property vegetation plans**

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

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

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

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

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

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

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

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

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

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

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

## **18. Paper subdivision information**

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

## **19. Site verification certificates**

There is no current site verification certificate, of which council is aware, in respect of the land according to Part 4AA of the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*.

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

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

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

Contact NSW Fair Trading for more information.

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

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

In this clause:

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

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

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

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

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

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

## **Planning Certificate – Part 5**

ePLC2018/6443

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

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

### **Company Title Subdivision**

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

### **District Planning**

As part of ongoing NSW Planning Reforms, the Greater Sydney Commission is preparing six District plans for Sydney in consultation with local Councils. Northern Beaches LGA is part of the North District Plan. More information about the NSW Planning Reforms is available at the NSW Department of Planning (website: [www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)).

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

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

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

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

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

- manor houses and multi-dwelling housing (including terraces) in zone R2 Low Density Residential zone under the Manly LEP 2013
- dual occupancy in zone R2 Low Density Residential zone under the Manly LEP 2013 and Pittwater LEP 2014
- multi-dwelling housing and dual occupancies in the R3 Zone in the Warriewood Valley under Pittwater LEP 2014

**Council resolution:** 26 June 2018

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

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

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

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

**Council resolution:** 24 February 2015

### **Planning Proposal - 28 Lockwood Avenue, Belrose**

**Applies to land:** 28 Lockwood Avenue, Belrose

**Outline:** Amends WLEP 2011 to:

- Permit additional land uses of 'residential flat building' and 'multi dwelling housing' on that part of the land fronting Lockwood Avenue only
- Prohibit the granting of development consent for a residential flat building or multi-dwelling housing on the land unless a minimum Floor Space Ratio of 0.5:1 is provided on the site for commercial premises.

**Council resolution:** 28 November 2017

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

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

Nil

## **General Information**

### **Threatened Species**

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

Potential threatened species could include:

- (a) threatened species as described in the final determination of the scientific committee to list endangered and vulnerable species under Schedule 1 of the *Biodiversity Conservation Act 2016*, and/or
- (b) one or more of the following threatened ecological communities as described in the final determination of the scientific committee to list the ecological communities under Schedule 2 of the *Biodiversity Conservation Act 2016*:

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

### **Bush fire**

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

### **Aboriginal Heritage**

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

### **Coastal Erosion**

Information available to Council indicates coastal erosion may affect a greater number of properties and may present an increased risk to properties than that shown on published hazard

maps of the Warringah coastline. Council's Natural Environment Unit can be contacted for further information.

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

**Ray Brownlee PSM**  
**Chief Executive Officer**  
**12/10/2018**



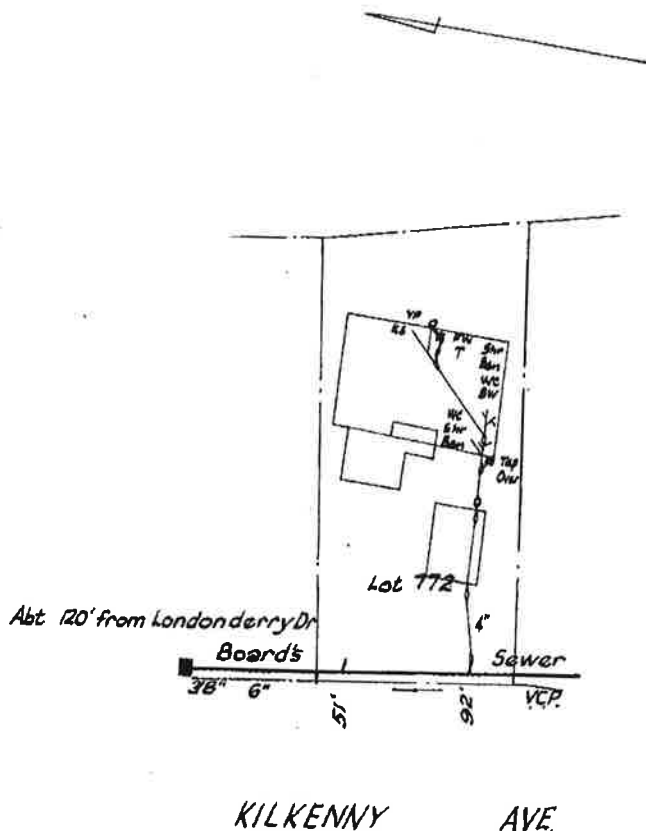
**SEWERAGE SERVICE DIAGRAM***PAUL*Municipality of *Warringah*No. *626102*

<input type="checkbox"/> Boundary Trap	<input type="checkbox"/> R.V. Reflux Valve	I.P. Induct Pipe	Bsn. Basin
<input type="checkbox"/> Pit	<input type="checkbox"/> C.E. Cleaning Eye	M.F. Mica Flap	Shr. Shower
<input type="checkbox"/> G.I. Grease Interceptor	<input type="checkbox"/> V.P. Vertical Pipe	T. Tubs	W.I.P. Wrought Iron Pipe
<input type="checkbox"/> Gully	<input type="checkbox"/> V.P. Vent. Pipe	K.S. Kitchen Sink	C.I.P. Cast Iron Pipe
<input type="checkbox"/> P.T. P. Trap	<input type="checkbox"/> S.V.P. Soil Vent. Pipe	W.C. Water Closet	F.W. Floor Waste
<input type="checkbox"/> R.S. Reflux Sink	<input type="checkbox"/> D.C.C. Down Cast Cowl	B.W. Bath Waste	W.M. Washing Machine

Scale: 40 Feet To An Inch

**SEWER AVAILABLE**

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



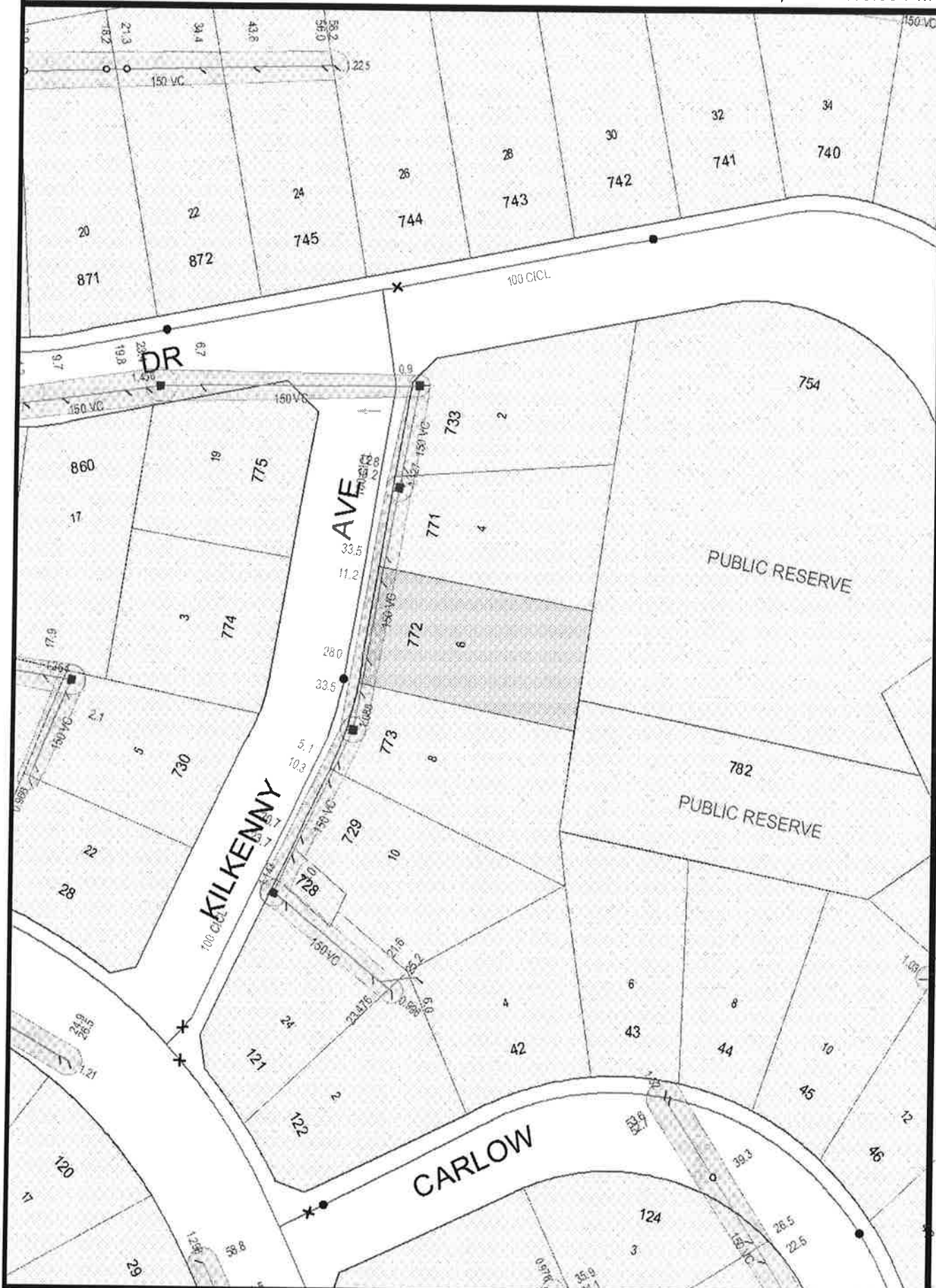
RATE No. \_\_\_\_\_ W.C.s \_\_\_\_\_ U.C.s \_\_\_\_\_ 19\_\_\_\_  
 SHEET No. *7052* OFFICE USE ONLY For Engineer House Services

DRAINAGE			PLUMBING	
W.C.	Supervised by	Date	BRANCH OFFICE	Supervised by
Bth.	Inspector	/ / /	Date	/ / /
Shr.			Outfall	HL
Bsn.			Drainer	LI
K.S.			Plumber	
T.	Chief Inspector	/ / /	Boundary Trap	
Pig.				
Dge. lat.				

900 126

**Disclaimer**

The information in this diagram shows the private wastewater pipes on this property. It may not be accurate or to scale and may not show our pipes, structures or all property boundaries. If you'd like to see these, please buy a Service location print.



**Disclaimer** The information on this print shows if we provide any water, wastewater or stormwater services to this property. It may not be accurate or to scale. If you'd like to see the location of private wastewater pipes on the property, please buy a **Sewer service diagram**.