

# Contract for the sale and purchase of land 2022 edition

<b>TERM</b>	<b>MEANING OF TERM</b>	<b>NSW DAN:</b>
vendor's agent	<b>Skyline Real Estate</b> <b>3/14 Frenchs Forest Road East, Frenchs Forest, NSW 2086</b>	<b>Phone: 0416207215</b> <b>Ref: Stuart Bath</b>
co-agent		
vendor	<b>Robert Adnet Sutton and Tanya Leigh and Robert Adnet Sutton as executors for est of Late Beverley Ann Sutton</b> <b>38 Dundilla Road, Frenchs Forest, NSW 2086 and</b>	
vendor's solicitor	<b>Emmerson &amp; Emmerson</b> <b>Forestway Centre Suite 9, Forest Way, Frenchs Forest NSW 2086</b>	<b>Phone: (02) 9452 1022</b> <b>Email: ckelly@eande.com.au</b> <b>Fax: (02) 9975 2549</b> <b>Ref: CK:7068</b>
date for completion	<b>42nd day after the contract date</b>	(clause 15)
land (address, plan details and title reference)	<b>8/84 Wyadra Ave, Freshwater, New South Wales 2096</b> <b>Registered Plan: Lot 8 Plan SP 6636</b> <b>Folio Identifier 8/SP6636</b>	
improvements	<input type="checkbox"/> VACANT POSSESSION <input checked="" type="checkbox"/> subject to existing tenancies <input type="checkbox"/> HOUSE <input checked="" type="checkbox"/> garage <input type="checkbox"/> carport <input checked="" type="checkbox"/> home unit <input type="checkbox"/> carspace <input type="checkbox"/> storage space <input type="checkbox"/> none <input type="checkbox"/> other:	
attached copies	<input checked="" type="checkbox"/> documents in the List of Documents as marked or as numbered: <input type="checkbox"/> other documents:	

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

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

**Where there is more than one purchaser**    ☐ JOINT TENANTS  
☐ tenants in common    ☐ in unequal shares, specify:

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

buyer's agent

Note: Clause 20.15 provides “Where this contract provides for choices, a choice in BLOCK CAPITALS applies unless a different choice is marked.”

### SIGNING PAGE

VENDOR	PURCHASER
<p><b>Signed by</b></p> <p>_____</p> <p>Vendor</p> <p>_____</p> <p>Vendor</p>	<p><b>Signed by</b></p> <p>_____</p> <p>Purchaser</p> <p>_____</p> <p>Purchaser</p>
VENDOR (COMPANY)	PURCHASER (COMPANY)
<p><b>Signed by</b> _____</p> <p>in accordance with s127(1) of the Corporations Act 2001 by the authorised person(s) whose signature(s) appear(s) below:</p> <p>_____</p> <p>Signature of authorised person      Signature of authorised person</p> <p>_____</p> <p>Name of authorised person      Name of authorised person</p> <p>_____</p> <p>Office held      Office held</p>	<p><b>Signed by</b> _____</p> <p>in accordance with s127(1) of the Corporations Act 2001 by the authorised person(s) whose signature(s) appear(s) below:</p> <p>_____</p> <p>Signature of authorised person      Signature of authorised person</p> <p>_____</p> <p>Name of authorised person      Name of authorised person</p> <p>_____</p> <p>Office held      Office held</p>

**Choices**Vendor agrees to accept a **deposit-bond**☒ NO ☐ yes**Nominated *Electronic Lodgment Network (ELN)*** (clause 4):

PEXA

**Manual transaction** (clause 30)☒ NO ☐ yes

(if yes, vendor must provide further details, including any applicable exception, in the space below):

**Tax information (the parties promise this is correct as far as each party is aware)****Land tax** is adjustable☒ NO ☐ yes**GST:** Taxable supply☒ NO ☐ yes in full ☐ yes to an extent

Margin scheme will be used in making the taxable supply

☒ NO ☐ yes

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

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

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

If the further details below are not fully completed at the contract date, the vendor must provide all these details in a separate notice at least 7 days before the date for completion.

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

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

Supplier's name:

Supplier's ABN:

Supplier's GST branch address (if applicable):

Supplier's business address:

Supplier's representative:

Supplier's contact phone number:

Supplier's proportion of *GSTRW payment*:**If more than one supplier, provide the above details for each supplier.**Amount purchaser must pay – price multiplied by the *GSTRW rate* (residential withholding rate):Amount must be paid: ☐ AT COMPLETION ☐ at another time (specify):Is any of the consideration not expressed as an amount in money? ☐ NO ☐ yes

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

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

## List of Documents

<p><b>General</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> 1 property certificate for the land</li> <li><input checked="" type="checkbox"/> 2 plan of the land</li> <li><input type="checkbox"/> 3 unregistered plan of the land</li> <li><input type="checkbox"/> 4 plan of land to be subdivided</li> <li><input type="checkbox"/> 5 document to be lodged with a relevant plan</li> <li><input checked="" type="checkbox"/> 6 section 10.7(2) planning certificate under Environmental Planning and Assessment Act 1979</li> <li><input checked="" type="checkbox"/> 7 additional information included in that certificate under section 10.7(5)</li> <li><input checked="" type="checkbox"/> 8 sewerage infrastructure location diagram (service location diagram)</li> <li><input checked="" type="checkbox"/> 9 sewer lines location diagram (sewerage service diagram)</li> <li><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</li> <li><input type="checkbox"/> 11 <i>planning agreement</i></li> <li><input type="checkbox"/> 12 section 88G certificate (positive covenant)</li> <li><input type="checkbox"/> 13 survey report</li> <li><input type="checkbox"/> 14 building information certificate or building certificate given under <i>legislation</i></li> <li><input type="checkbox"/> 15 occupation certificate</li> <li><input checked="" type="checkbox"/> 16 lease (with every relevant memorandum or variation)</li> <li><input type="checkbox"/> 17 other document relevant to tenancies</li> <li><input type="checkbox"/> 18 licence benefiting the land</li> <li><input type="checkbox"/> 19 old system document</li> <li><input type="checkbox"/> 20 Crown purchase statement of account</li> <li><input type="checkbox"/> 21 building management statement</li> <li><input type="checkbox"/> 22 form of requisitions</li> <li><input type="checkbox"/> 23 <i>clearance certificate</i></li> <li><input type="checkbox"/> 24 land tax certificate</li> </ul> <p><b>Home Building Act 1989</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> 25 insurance certificate</li> <li><input type="checkbox"/> 26 brochure or warning</li> <li><input type="checkbox"/> 27 evidence of alternative indemnity cover</li> </ul> <p><b>Swimming Pools Act 1992</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> 28 certificate of compliance</li> <li><input type="checkbox"/> 29 evidence of registration</li> <li><input type="checkbox"/> 30 relevant occupation certificate</li> <li><input type="checkbox"/> 31 certificate of non-compliance</li> <li><input type="checkbox"/> 32 detailed reasons of non-compliance</li> </ul>	<p><b>Strata or community title (clause 23 of the contract)</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> 33 property certificate for strata common property</li> <li><input checked="" type="checkbox"/> 34 plan creating strata common property</li> <li><input checked="" type="checkbox"/> 35 strata by-laws</li> <li><input type="checkbox"/> 36 strata development contract or statement</li> <li><input type="checkbox"/> 37 strata management statement</li> <li><input type="checkbox"/> 38 strata renewal proposal</li> <li><input type="checkbox"/> 39 strata renewal plan</li> <li><input type="checkbox"/> 40 leasehold strata - lease of lot and common property</li> <li><input type="checkbox"/> 41 property certificate for neighbourhood property</li> <li><input type="checkbox"/> 42 plan creating neighbourhood property</li> <li><input type="checkbox"/> 43 neighbourhood development contract</li> <li><input type="checkbox"/> 44 neighbourhood management statement</li> <li><input type="checkbox"/> 45 property certificate for precinct property</li> <li><input type="checkbox"/> 46 plan creating precinct property</li> <li><input type="checkbox"/> 47 precinct development contract</li> <li><input type="checkbox"/> 48 precinct management statement</li> <li><input type="checkbox"/> 49 property certificate for community property</li> <li><input type="checkbox"/> 50 plan creating community property</li> <li><input type="checkbox"/> 51 community development contract</li> <li><input type="checkbox"/> 52 community management statement</li> <li><input type="checkbox"/> 53 document disclosing a change of by-laws</li> <li><input type="checkbox"/> 54 document disclosing a change in a development or management contract or statement</li> <li><input type="checkbox"/> 55 document disclosing a change in boundaries</li> <li><input type="checkbox"/> 56 information certificate under Strata Schemes Management Act 2015</li> <li><input type="checkbox"/> 57 information certificate under Community Land Management Act 1989</li> <li><input type="checkbox"/> 58 disclosure statement - off the plan contract</li> <li><input type="checkbox"/> 59 other document relevant to off the plan contract</li> </ul> <p><b>Other</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> 60</li> </ul>
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**HOLDER OF STRATA OR COMMUNITY TITLE RECORDS – Name, address, email address and telephone number**

Strata One  
8/12 Rickard Rd, North Narrabeen  
1300988702

**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 residential premises, within the meaning of the *Home Building Act 1989*, Part 8, Division 1A, 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 the *Home Building Act 1989*, Part 8, Division 1A. In particular, a purchaser should—

- (a) search the Register required to be maintained under the *Home Building Act 1989*, Part 8, Division 1A, and
- (b) ask the relevant local council whether it holds 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 the *Conveyancing Act 1919*, section 66X. This statement applies to a contract for the sale of residential property.
- 2** **EXCEPT** in the circumstances listed in paragraph 3, the purchaser may rescind the contract before 5pm on—
  - (a) for an off the plan contract—the tenth business day after the day on which the contract was made, or
  - (b) in any other case—the fifth business day after the day on which the contract was made.
- 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 the Act, section 66W, 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 the Act, section 66ZG.
- 4** A purchaser exercising the right to cool off by rescinding the contract forfeits 0.25% of the purchase price of the property to the vendor.
- 5** The vendor is entitled to recover the forfeited amount from an amount paid by the purchaser as a deposit under the contract. 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 and Stock Agents Act 2002 prescribe a number of conditions applying to sales by auction.

**WARNINGS**

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

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

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

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

## **1.1** 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>adjustment figures</i>	details of the adjustments to be made to the price under clause 14;
<i>authorised Subscriber</i>	a <i>Subscriber</i> (not being a <i>party's solicitor</i> ) named in a notice <i>served</i> by a <i>party</i> as being authorised for the purposes of clause 20.6.8;
<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>completion time</i>	the time of day at which completion is to occur;
<i>conveyancing rules</i>	the rules made under s12E of the Real Property Act 1900;
<i>deposit-bond</i>	a deposit bond or guarantee with each of the following approved by the vendor – <ul style="list-style-type: none"> <li>• the issuer;</li> <li>• the expiry date (if any); and</li> <li>• the amount;</li> </ul>
<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>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>document of title</i>	document relevant to the title or the passing of title;
<i>ECNL</i>	the Electronic Conveyancing National Law (NSW);
<i>electronic document</i>	a dealing as defined in the Real Property Act 1900 which may be created and <i>Digitally Signed</i> in an <i>Electronic Workspace</i> ;
<i>electronic 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>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>FRCGW percentage</i>	the percentage mentioned in s14-200(3)(a) of Schedule 1 to the <i>TA Act</i> (12.5% as at 1 July 2017);
<i>FRCGW remittance</i>	a remittance which the purchaser must make under s14-200 of Schedule 1 to the <i>TA Act</i> , being the lesser of the <i>FRCGW percentage</i> of the price (inclusive of GST, if any) and the amount specified in a <i>variation served</i> by a <i>party</i> ;
<i>GST Act</i>	A New Tax System (Goods and Services Tax) Act 1999;
<i>GST rate</i>	the rate mentioned in s4 of A New Tax System (Goods and Services Tax Imposition - General) Act 1999 (10% as at 1 July 2000);
<i>GSTRW payment</i>	a payment which the purchaser must make under s14-250 of Schedule 1 to the <i>TA Act</i> (the price multiplied by the <i>GSTRW rate</i> );
<i>GSTRW rate</i>	the rate determined under ss14-250(6), (8) or (9) of Schedule 1 to the <i>TA Act</i> (as at 1 July 2018, usually 7% of the price if the margin scheme applies, 1/11 <sup>th</sup> if not);
<i>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>legislation</i>	an Act or a by-law, ordinance, regulation or rule made under an Act;
<i>manual transaction</i>	a <i>Conveyancing Transaction</i> in which a dealing forming part of the <i>Lodgment Case</i> at or following completion cannot be <i>Digitally Signed</i> ;
<i>normally</i>	subject to any other provision of this contract;
<i>participation rules</i>	the participation rules as determined by the <i>ECNL</i> ;
<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>populate</i>	to complete data fields in the <i>Electronic Workspace</i> ;



<i>requisition</i>	an objection, question or requisition (but the term does not include a claim);
<i>rescind</i>	rescind this contract from the beginning;
<i>serve</i>	serve in writing on the other <i>party</i> ;
<i>settlement cheque</i>	an unendorsed <i>cheque</i> made payable to the person to be paid and – <ul style="list-style-type: none"> <li>• issued by a <i>bank</i> and drawn on itself; or</li> <li>• if authorised in writing by the vendor or the vendor's <i>solicitor</i>, some other <i>cheque</i>;</li> </ul>
<i>solicitor</i>	in relation to a <i>party</i> , the <i>party's</i> solicitor or licensed conveyancer named in this contract or in a notice <i>served</i> by the <i>party</i> ;
<i>TA Act</i>	Taxation Administration Act 1953;
<i>terminate</i>	terminate this contract for breach;
<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> ;
<i>variation</i>	a variation made under s14-235 of Schedule 1 to the <i>TA Act</i> ;
<i>within</i>	in relation to a period, at any time before or during the period; and
<i>work order</i>	a valid direction, notice or order that requires work to be done or money to be spent on or in relation to the <i>property</i> or any adjoining footpath or road (but the term does not include a notice under s22E of the Swimming Pools Act 1992 or clause 22 of the Swimming Pools Regulation 2018).

- 1.2 Words and phrases used in this contract (italicised and in Title Case, such as *Conveyancing Transaction*, *Digitally Signed*, *Electronic Workspace*, *ELN*, *ELNO*, *Land Registry*, *Lodgment Case* and *Subscriber*) have the meanings given in the *participation rules*.

## 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 –
- 2.4.1 giving cash (up to \$2,000) to the *depositholder*;
  - 2.4.2 unconditionally giving a *cheque* to the *depositholder* or to the vendor, vendor's agent or vendor's *solicitor* for sending to the *depositholder*; or
  - 2.4.3 electronic funds transfer to the *depositholder's* nominated account and, if requested by the vendor or the *depositholder*, providing evidence of that transfer.
- 2.5 The vendor can *terminate* if –
- 2.5.1 any of the deposit is not paid on time;
  - 2.5.2 a *cheque* for any of the deposit is not honoured on presentation; or
  - 2.5.3 a payment under clause 2.4.3 is not received in the *depositholder's* nominated account by 5.00 pm on the third *business day* after the time for payment.
- This right to *terminate* is lost as soon as the deposit is paid in full.
- 2.6 If the vendor accepts a *deposit-bond* for the deposit, clauses 2.1 to 2.5 do not apply.
- 2.7 If the vendor accepts a *deposit-bond* 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 the vendor accepts a *deposit-bond* for the deposit (or part of it).
- 3.2 The purchaser must provide the *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 16.5.
- 3.9 The vendor must give the purchaser any original *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 any original *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 any original *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 any original *deposit-bond* (or its proceeds if called up) to the *depositholder* as stakeholder.
- 4 Electronic transaction**
- 4.1 This *Conveyancing Transaction* is to be conducted as an *electronic transaction* unless –
- 4.1.1 the contract says this transaction is a *manual transaction*, giving the reason, or
  - 4.1.2 a party serves a notice stating why the transaction is a *manual transaction*, in which case the parties do not have to complete earlier than 14 days after service of the notice, and clause 21.3 does not apply to this provision,
- and in both cases clause 30 applies.
- 4.2 If, because of clause 4.1.2, this *Conveyancing Transaction* is to be conducted as a *manual transaction* –
- 4.2.1 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
  - 4.2.2 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.
- 4.3 The parties must conduct the *electronic transaction* –
- 4.3.1 in accordance with the *participation rules* and the *ECNL*; and
  - 4.3.2 using the nominated *ELN*, unless the parties otherwise agree. This clause 4.3.2 does not prevent a party using an *ELN* which can interoperate with the nominated *ELN*.
- 4.4 A party must pay the fees and charges payable by that party to the *ELNO* and the *Land Registry*.
- 4.5 *Normally*, the vendor must within 7 days of the contract date create and populate an *Electronic Workspace* with title data and the date for completion, and invite the purchaser to the *Electronic Workspace*.
- 4.6 If the vendor has not created an *Electronic Workspace* in accordance with clause 4.5, the purchaser may create and populate an *Electronic Workspace* and, if it does so, the purchaser must invite the vendor to the *Electronic Workspace*.
- 4.7 The parties must, as applicable to their role in the *Conveyancing Transaction* and the steps taken under clauses 4.5 or 4.6 –
- 4.7.1 promptly join the *Electronic Workspace* after receipt of an invitation;
  - 4.7.2 create and populate an *electronic transfer*;
  - 4.7.3 invite any *discharging mortgagee* or *incoming mortgagee* to join the *Electronic Workspace*; and
  - 4.7.4 populate the *Electronic Workspace* with a nominated *completion time*.
- 4.8 If the transferee in the *electronic transfer* is not the purchaser, the purchaser must give the vendor a direction signed by the purchaser personally for that transfer.
- 4.9 The vendor can require the purchaser to include a covenant or easement in the *electronic transfer* only if this contract contains the wording of the proposed covenant or easement, and a description of the land burdened and benefited.
- 4.10 If the purchaser must make a *GSTRW payment* or an *FRCGW remittance*, the purchaser must populate the *Electronic Workspace* with the payment details for the *GSTRW payment* or *FRCGW remittance* payable to the Deputy Commissioner of Taxation at least 2 *business days* before the date for completion.
- 4.11 Before completion, the parties must ensure that –
- 4.11.1 all *electronic documents* which a party must *Digitally Sign* to complete the *electronic transaction* are populated and *Digitally Signed*;
  - 4.11.2 all certifications required by the *ECNL* are properly given; and
  - 4.11.3 they do everything else in the *Electronic Workspace* which that party must do to enable the *electronic transaction* to proceed to completion.
- 4.12 If the computer systems of any of the *Land Registry*, the *ELNO*, Revenue NSW 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.

- 4.13 If the computer systems of the *Land Registry* are inoperative for any reason at the *completion time* agreed by the *parties*, and the *parties* choose that financial settlement is to occur despite this, then on financial settlement occurring –
- 4.13.1 all *electronic documents Digitally Signed* by the vendor and any discharge of mortgage, withdrawal of caveat or other *electronic document* forming part of the *Lodgment Case* for the *electronic transaction* are 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; and
- 4.13.2 the vendor is taken to have no legal or equitable interest in the *property*.
- 4.14 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 –
- 4.14.1 holds them on completion in escrow for the benefit of; and
- 4.14.2 must immediately after completion deliver the documents or things to, or as directed by; the *party* entitled to them.

## 5 Requisitions

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

## 6 Error or misdescription

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

## 7 Claims by purchaser

- Normally*, the purchaser can make a claim (including a claim under clause 6) before completion only by *serving* it with a statement of the amount claimed, and if the purchaser makes one or more claims before completion –
- 7.1 the vendor can *rescind* if in the case of claims that are not claims for delay –
- 7.1.1 the total amount claimed exceeds 5% of the price;
- 7.1.2 the vendor *serves* notice of intention to *rescind*; and
- 7.1.3 the purchaser does not *serve* notice waiving the claims *within* 14 days after that *service*; and
- 7.2 if the vendor does not *rescind*, the *parties* must complete and if this contract is completed –
- 7.2.1 the lesser of the total amount claimed and 10% of the price must be paid out of the price to and held by the *depositholder* until the claims are finalised or lapse;
- 7.2.2 the amount held is to be invested in accordance with clause 2.9;
- 7.2.3 the claims must be finalised by an arbitrator appointed by the *parties* or, if an appointment is not made *within* 1 month of completion, by an arbitrator appointed by the President of the Law Society at the request of a *party* (in the latter case the *parties* are bound by the terms of the Conveyancing Arbitration Rules approved by the Law Society as at the date of the appointment);
- 7.2.4 the purchaser is not entitled, in respect of the claims, to more than the total amount claimed and the costs of the purchaser;
- 7.2.5 net interest on the amount held must be paid to the *parties* in the same proportion as the amount held is paid; and
- 7.2.6 if the *parties* do not appoint an arbitrator and neither *party* requests the President to appoint an arbitrator *within* 3 months after completion, the claims lapse and the amount belongs to the vendor.

## 8 Vendor's rights and obligations

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

- 8.2 If the vendor does not comply with this contract (or a notice under or relating to it) in an essential respect, the purchaser can *terminate* by *serving* a notice. After the *termination* –
- 8.2.1 the purchaser can recover the deposit and any other money paid by the purchaser under this contract;
  - 8.2.2 the purchaser can sue the vendor to recover damages for breach of contract; and
  - 8.2.3 if the purchaser has been in possession a *party* can claim for a reasonable adjustment.

## 9 Purchaser's default

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

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

## 10 Restrictions on rights of purchaser

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

## 11 Compliance with work orders

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

## 12 Certificates and inspections

The vendor must do everything reasonable to enable the purchaser, subject to the rights of any tenant –

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

### 13 Goods and services tax (GST)

- 13.1 Terms used in this clause which are not defined elsewhere in this contract and have a defined meaning in the *GST Act* have the same meaning in this clause.
- 13.2 *Normally*, if a *party* must pay the price or any other amount to the other *party* under this contract, GST is not to be added to the price or amount.
- 13.3 If under this contract a *party* must make an adjustment or payment for an expense of another party or pay an expense payable by or to a third party (for example, under clauses 14 or 20.7) –
- 13.3.1 the *party* must adjust or pay on completion any GST added to or included in the expense; but
  - 13.3.2 the amount of the expense must be reduced to the extent the party receiving the adjustment or payment (or the representative member of a GST group of which that party is a member) is entitled to an input tax credit for the expense; and
  - 13.3.3 if the adjustment or payment under this contract is consideration for a taxable supply, an amount for GST must be added at the *GST rate*.
- 13.4 If this contract says this sale is the supply of a going concern –
- 13.4.1 the *parties* agree the supply of the *property* is a supply of a going concern;
  - 13.4.2 the vendor must, between the contract date and completion, carry on the enterprise conducted on the land in a proper and business-like way;
  - 13.4.3 if the purchaser is not registered by the date for completion, the *parties* must complete and the purchaser must pay on completion, in addition to the price, an amount being the price multiplied by the *GST rate* ("the retention sum"). The retention sum is to be held by the *depositholder* and dealt with as follows –
    - if *within* 3 months of completion the purchaser serves a letter from the Australian Taxation Office stating the purchaser is registered with a date of effect of registration on or before completion, the *depositholder* is to pay the retention sum to the purchaser; but
    - if the purchaser does not serve that letter *within* 3 months of completion, the *depositholder* is to pay the retention sum to the vendor; and
  - 13.4.4 if the vendor, despite clause 13.4.1, serves a letter from the Australian Taxation Office stating the vendor has to pay GST on the supply, the purchaser must pay to the vendor on demand the amount of GST assessed.
- 13.5 *Normally*, the vendor promises the margin scheme will not apply to the supply of the *property*.
- 13.6 If this contract says the margin scheme is to apply in making the taxable supply, the *parties* agree that the margin scheme is to apply to the sale of the *property*.
- 13.7 If this contract says the sale is not a taxable supply –
- 13.7.1 the purchaser promises that the *property* will not be used and represents that the purchaser does not intend the *property* (or any part of the *property*) to be used in a way that could make the sale a taxable supply to any extent; and
  - 13.7.2 the purchaser must pay the vendor on completion in addition to the price an amount calculated by multiplying the price by the *GST rate* if this sale is a taxable supply to any extent because of –
    - a breach of clause 13.7.1; or
    - something else known to the purchaser but not the vendor.
- 13.8 If this contract says this sale is a taxable supply in full and does not say the margin scheme applies to the *property*, the vendor must pay the purchaser on completion an amount of one-eleventh of the price if –
- 13.8.1 this sale is not a taxable supply in full; or
  - 13.8.2 the margin scheme applies to the *property* (or any part of the *property*).
- 13.9 If this contract says this sale is a taxable supply to an extent –
- 13.9.1 clause 13.7.1 does not apply to any part of the *property* which is identified as being a taxable supply; and
  - 13.9.2 the payments mentioned in clauses 13.7 and 13.8 are to be recalculated by multiplying the relevant payment by the proportion of the price which represents the value of that part of the *property* to which the clause applies (the proportion to be expressed as a number between 0 and 1). Any evidence of value must be obtained at the expense of the vendor.
- 13.10 *Normally*, on completion the vendor must give the recipient of the supply a tax invoice for any taxable supply by the vendor by or under this contract.
- 13.11 The vendor does not have to give the purchaser a tax invoice if the margin scheme applies to a taxable supply.
- 13.12 If the vendor is liable for GST on rents or profits due to issuing an invoice or receiving consideration before completion, any adjustment of those amounts must exclude an amount equal to the vendor's GST liability.
- 13.13 If the vendor serves details of a *GSTRW payment* which the purchaser must make, the purchaser does not have to complete earlier than 5 *business days* after that *service* and clause 21.3 does not apply to this provision.
- 13.14 If the purchaser must make a *GSTRW payment* the purchaser must, at least 2 *business days* before the date for completion, serve evidence of submission of a *GSTRW payment* notification form to the Australian Taxation Office by the purchaser or, if a direction under either clause 4.8 or clause 30.4 has been given, by the transferee named in the transfer the subject of that direction.

## 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, and –
- 14.2.1 the purchaser must provide the vendor with *adjustment figures* at least 2 *business days* before the date for completion; and
- 14.2.2 the vendor must confirm the *adjustment figures* at least 1 *business day* before the date for 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 The *parties* must not adjust any first home buyer choice property tax.
- 14.6 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.
- 14.7 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 *Normally*, on completion the vendor must cause the legal title to the *property* (being the estate disclosed in this contract) to pass to the purchaser free of any charge, mortgage or other interest, subject to any necessary registration.
- 16.2 The legal title to the *property* does not pass before completion.
- 16.3 If the vendor gives the purchaser a document (other than the transfer) that needs to be lodged for registration, the vendor must pay the lodgment fee to the purchaser.
- 16.4 If a *party* serves a land tax certificate showing a charge on any of the land, by completion the vendor must do all things and pay all money required so that the charge is no longer effective against the land.

### • Purchaser

- 16.5 On completion the purchaser must pay to the vendor –
- 16.5.1 the price less any –
- deposit paid;
  - *FRCGW remittance* payable;
  - *GSTRW payment*; and
  - amount payable by the vendor to the purchaser under this contract; and
- 16.5.2 any other amount payable by the purchaser under this contract.
- 16.6 If any of the deposit is not covered by a *deposit-bond*, at least 1 *business day* before the date for completion the purchaser must give the vendor an order signed by the purchaser authorising the *depositholder* to account to the vendor for the deposit, to be held by the vendor in escrow until completion.
- 16.7 On completion the deposit belongs to the vendor.

## 17 Possession

- 17.1 *Normally*, the vendor must give the purchaser vacant possession of the *property* on completion.
- 17.2 The vendor does not have to give vacant possession if –
- 17.2.1 this contract says that the sale is subject to existing tenancies; and
- 17.2.2 the contract discloses the provisions of the tenancy (for example, by attaching a copy of the lease and any relevant memorandum or variation).
- 17.3 *Normally*, the purchaser can claim compensation (before or after completion) or *rescind* if any of the land is affected by a protected tenancy (a tenancy affected by Schedule 2, Part 7 of the Residential Tenancies Act 2010).

**18 Possession before completion**

- 18.1 This clause applies only if the vendor gives the purchaser possession of the *property* before completion.
- 18.2 The purchaser must not before completion –
- 18.2.1 let or part with possession of any of the *property*;
  - 18.2.2 make any change or structural alteration or addition to the *property*; or
  - 18.2.3 contravene any agreement between the *parties* or any direction, document, *legislation*, notice or order affecting the *property*.
- 18.3 The purchaser must until completion –
- 18.3.1 keep the *property* in good condition and repair having regard to its condition at the giving of possession; and
  - 18.3.2 allow the vendor or the vendor's authorised representative to enter and inspect it at all reasonable times.
- 18.4 The risk as to damage to the *property* passes to the purchaser immediately after the purchaser enters into possession.
- 18.5 If the purchaser does not comply with this clause, then without affecting any other right of the vendor –
- 18.5.1 the vendor can before completion, without notice, remedy the non-compliance; and
  - 18.5.2 if the vendor pays the expense of doing this, the purchaser must pay it to the vendor with interest at the rate prescribed under s101 Civil Procedure Act 2005.
- 18.6 If this contract is *rescinded* or *terminated* the purchaser must immediately vacate the *property*.
- 18.7 If the *parties* or their *solicitors* on their behalf do not agree in writing to a fee or rent, none is payable.

**19 Rescission of contract**

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

**20 Miscellaneous**

- 20.1 The *parties* acknowledge that anything stated in this contract to be attached was attached to this contract by the vendor before the purchaser signed it and is part of this contract.
- 20.2 Anything attached to this contract is part of this contract.
- 20.3 An area, bearing or dimension in this contract is only approximate.
- 20.4 If a *party* consists of 2 or more persons, this contract benefits and binds them separately and together.
- 20.5 A *party's solicitor* can receive any amount payable to the *party* under this contract or direct in writing that it is to be paid to another person.
- 20.6 A document under or relating to this contract is –
- 20.6.1 signed by a *party* if it is signed by the *party* or the *party's solicitor* (apart from a direction under clause 4.8 or clause 30.4);
  - 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;
  - 20.6.7 *served* at the earliest time it is *served*, if it is *served* more than once; and
  - 20.6.8 *served* if it is provided to or by the *party's solicitor* or an *authorised Subscriber* by means of an *Electronic Workspace* created under clause 4. However, this does not apply to a notice making an obligation essential, or a notice of *rescission* or *termination*.
- 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 4, 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 - 4) 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.
- 20.16 Each *party* consents to –
- 20.16.1 any *party* signing this contract electronically; and
  - 20.16.2 the making of this contract by the exchange of counterparts delivered by email, or by such other electronic means as may be agreed in writing by the *parties*.
- 20.17 Each *party* agrees that electronic signing by a *party* identifies that *party* and indicates that *party's* intention to be bound by this contract.

## 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 s171 Community Land Management Act 2021;
  - 23.2.5 'interest notice' includes a strata interest notice under s22 Strata Schemes Management Act 2015 and an association interest notice under s20 Community Land Management Act 2021;
  - 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 14.6 apply but on a unit entitlement basis instead of an area basis.
- ### • Adjustments and liability for expenses
- 23.5 The *parties* must adjust under clause 14.1 –
- 23.5.1 a regular periodic contribution;
  - 23.5.2 a contribution which is not a regular periodic contribution but is disclosed in this contract; and
  - 23.5.3 on a unit entitlement basis, any amount paid by the vendor for a normal expense of the owners corporation to the extent the owners corporation has not paid the amount to the vendor.



- 23.6 If a contribution is not a regular periodic contribution and is not disclosed in this contract –
- 23.6.1 the vendor is liable for it if it was determined on or before the contract date, even if it is payable by instalments; and
- 23.6.2 the purchaser is liable for all contributions determined after the contract date.
- 23.7 The vendor must pay or allow to the purchaser on completion the amount of any unpaid contributions for which the vendor is liable under clause 23.6.1.
- 23.8 *Normally*, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of –
- 23.8.1 an existing or future actual, contingent or expected expense of the owners corporation;
- 23.8.2 a proportional unit entitlement of the lot or a relevant lot or former lot, apart from a claim under clause 6; or
- 23.8.3 a past or future change in the scheme or a higher scheme.
- 23.9 However, the purchaser can *rescind* if –
- 23.9.1 the special expenses of the owners corporation at the later of the contract date and the creation of the owners corporation when calculated on a unit entitlement basis (and, if more than one lot or a higher scheme is involved, added together), less any contribution paid by the vendor, are more than 1% of the price;
- 23.9.2 in the case of the lot or a relevant lot or former lot in a higher scheme, a proportional unit entitlement for the lot is disclosed in this contract but the lot has a different proportional unit entitlement at the contract date or at any time before completion;
- 23.9.3 a change before the contract date or before completion in the scheme or a higher scheme materially prejudices the purchaser and is not disclosed in this contract; or
- 23.9.4 a resolution is passed by the owners corporation before the contract date or before completion to give to the owners in the scheme for their consideration a strata renewal plan that has not lapsed at the contract date and there is not attached to this contract a strata renewal proposal or the strata renewal plan.
- **Notices, certificates and inspections**
- 23.10 Before completion, the purchaser must serve a copy of an interest notice addressed to the owners corporation and signed by the purchaser.
- 23.11 After completion, the purchaser must insert the date of completion in the interest notice and send it to the owners corporation.
- 23.12 The vendor can complete and send the interest notice as agent for the purchaser.
- 23.13 The vendor must serve at least 7 days before the date for completion, an information certificate for the lot, the scheme or any higher scheme which relates to a period in which the date for completion falls.
- 23.14 The purchaser does not have to complete earlier than 7 days after service of the information certificate and clause 21.3 does not apply to this provision. On completion the purchaser must pay the vendor the prescribed fee for the information certificate.
- 23.15 The vendor authorises the purchaser to apply for the purchaser's own information 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 –
- at least 2 *business days* before the date for completion, a proper notice of the transfer (an attornment notice) addressed to the tenant, to be held by the purchaser in escrow until completion;
  - 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 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 On completion the vendor must give the purchaser any *document of title* that relates only to the *property*.
- 25.9 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.
- 25.10 The vendor must give a proper covenant to produce where relevant.
- 25.11 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.
- 25.12 If the vendor is unable to produce an original document in the chain of title, the purchaser will accept a photocopy from the *Land Registry* 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.

**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 Manual transaction

- 30.1 This clause applies if this transaction is to be conducted as a *manual transaction*.
- **Transfer**
    - 30.2 *Normally*, the purchaser must *serve* the transfer at least 7 days before the date for completion.
    - 30.3 If any information needed for the transfer is not disclosed in this contract, the vendor must *serve* it.
    - 30.4 If the purchaser *serves* a transfer and the transferee is not the purchaser, the purchaser must give the vendor a direction signed by the purchaser personally for that transfer.
    - 30.5 The vendor can require the purchaser to include a 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 burdened and benefited.
  - **Place for completion**
    - 30.6 *Normally*, the *parties* must complete at the completion address, which is –
      - 30.6.1 if a special completion address is stated in this contract - that address; or
      - 30.6.2 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
      - 30.6.3 in any other case - the vendor's *solicitor's* address stated in this contract.
    - 30.7 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.
    - 30.8 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.
  - **Payments on completion**
    - 30.9 On completion the purchaser must pay to the vendor the amounts referred to in clauses 16.5.1 and 16.5.2, by cash (up to \$2,000) or *settlement cheque*.
    - 30.10 *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 –
      - 30.10.1 the amount is to be treated as if it were paid; and
      - 30.10.2 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).
    - 30.11 If the vendor requires more than 5 *settlement cheques*, the vendor must pay \$10 for each extra *cheque*.
    - 30.12 If the purchaser must make a *GSTRW payment* the purchaser must –
      - 30.12.1 produce on completion a *settlement cheque* for the *GSTRW payment* payable to the Deputy Commissioner of Taxation;
      - 30.12.2 forward the *settlement cheque* to the payee immediately after completion; and
      - 30.12.3 serve evidence of receipt of payment of the *GSTRW payment* and a copy of the settlement date confirmation form submitted to the Australian Taxation Office.
    - 30.13 If the purchaser must pay an *FRCGW remittance*, the purchaser must –
      - 30.13.1 produce on completion a *settlement cheque* for the *FRCGW remittance* payable to the Deputy Commissioner of Taxation;
      - 30.13.2 forward the *settlement cheque* to the payee immediately after completion; and
      - 30.13.3 serve evidence of receipt of payment of the *FRCGW remittance*.

### 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 If the vendor *serves* any *clearance certificate* or *variation*, the purchaser does not have to complete earlier than 5 *business days* after that *service* and clause 21.3 does not apply to this provision.
- 31.3 The purchaser must at least 2 *business 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 either clause 4.8 or clause 30.4 has been given, by the transferee named in the transfer the subject of that direction.
- 31.4 The vendor cannot refuse to complete if the purchaser complies with clause 31.3 and, as applicable, clauses 4.10 or 30.13.
- 31.5 If the vendor *serves* in respect of every vendor either a *clearance certificate* or a *variation* to 0.00 percent, clauses 31.3 and 31.4 do not apply.

**32 Residential off the plan contract**

- 32.1 This clause applies if this contract is an off the plan contract within the meaning of Division 10 of Part 4 of the Conveyancing Act 1919 (the Division).
- 32.2 No provision of this contract has the effect of excluding, modifying or restricting the operation of the Division.
- 32.3 If the purchaser makes a claim for compensation under the terms prescribed by sections 4 to 6 of Schedule 3 to the Conveyancing (Sale of Land) Regulation 2022 –
- 32.3.1 the purchaser cannot make a claim under this contract about the same subject matter, including a claim under clauses 6 or 7; and
- 32.3.2 the claim for compensation is not a claim under this contract.

8/84 WYADRA AVE, FRESHWATER 2096

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**SECTION 66W CERTIFICATE**

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

1. I am a \_\_\_\_\_ currently admitted to practise in New South Wales;
2. I am giving this certificate in accordance with section 66W of the Conveyancing Act 1919 with reference to a contract for the sale of property at **8/84 Wyadra Ave, Freshwater**, from **Robert Adnet Sutton and Tanya Leigh and Robert Adnet Sutton as executors for est of Late Beverley Ann Sutton** to \_\_\_\_\_ in order that there is no cooling off period in relation to that contract;
3. I do not act for **Robert Adnet Sutton and Tanya Leigh and Robert Adnet Sutton as executors for est of Late Beverley Ann Sutton** and am not employed in the legal practice of a solicitor acting for **Robert Adnet Sutton and Tanya Leigh and Robert Adnet Sutton as executors for est of Late Beverley Ann Sutton** nor am I a member or employee of a firm of which a solicitor acting for **Robert Adnet Sutton and Tanya Leigh and Robert Adnet Sutton as executors for est of Late Beverley Ann Sutton** is a member or employee; and
4. I have explained to :
  - (a) The effect of the contract for the purchase of that property;
  - (b) The nature of this certificate; and
  - (c) The effect of giving this certificate to the vendor, i.e. that there is no cooling off period in relation to the contract.

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

\_\_\_\_\_

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## **SPECIAL CONDITIONS**

**Vendor: Robert Adnet Sutton and Tanya Leigh and Robert Adnet Sutton as executors for est of Late Beverley Ann Sutton**

**Property: 8/84 Wyadra Ave, Freshwater**

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### **32 GENERAL**

The parties agree that:

32.1 Clause 7.1.1 is amended by altering 5% to read 1%.

32.2 Printed clause 18 is amended by adding the following;

Clause 18.8 'The Purchaser cannot make a claim or requisition or delay settlement after entering into possession of the property'.

32.3 Clause 31.4 is deleted in its entirety and replaced with, 'If the vendor has delivered a certificate no later than 5 business days prior to settlement then the purchaser is not entitled to delay settlement.'

### **33 CONDITION OF PROPERTY**

33.1 The Purchaser acknowledges that it is satisfied as to the approved and capable use and condition of the property and is purchasing the property in its present condition and state of repair (subject to fair wear and tear), and;

33.2 The Purchaser acknowledges that it is purchasing the property subject to all defects (if any) latent or patent, including:

- (a) All infestations and dilapidations (if any)
- (b) Existing services (if any) and defects therein, their location and the absence of any rights or easements in respect thereof;
- (c) The presence of any sewer or manhole or vent on the property;
- (d) Any rainwater downpipes being connected to the sewer, and/or;
- (e) Compliance or otherwise with any covenants

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

33.3 The Vendor has not made and does not make any warranty as to the state of repair or condition of the inclusions and the Purchaser shall accept them in their state of repair and condition at the date of this contract. The Vendor is not responsible for any loss (other than loss due to act or default of the Vendor), mechanical breakdown or reasonable wear and tear to the furnishings and chattels (if any) occurring after the date of this contract.

33.4 The Purchaser shall not call upon the Vendor to carry out any work, repair or replacement whatsoever in relation to the property and/or the inclusions the subject of this sale.

### **34 DEATH, MENTAL ILLNESS, BANKRUPTCY**

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

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

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

### **36 ENTIRE AGREEMENT**

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

### **37 NOTICE TO COMPLETE**

- 37.1 Completion of this matter shall take place on or before 3:30pm within the time provided for in clause 15 herein. Should completion not take place within that time, then either party shall be at liberty to issue a Notice to complete calling for the other party to complete the matter making the time for completion essential. Such notice shall give not less than 14 days notice after the day immediately following the day on which that notice is received by the recipient of the notice. A notice to complete of such duration is considered by the parties as being deemed reasonable and sufficient to render the time for completion essential. Should either party serve a notice to complete, the other party will be liable for a fee of three hundred dollars \$300.00 inclusive of GST payable by way of an adjustment in the other party's favour on completion to cover the cost for issuing such notice.
- 37.2 The service of any notice or document under or relating to this contract may, in addition to the provisions of Clause 20, be effected and shall be sufficient service on a party and that parties solicitor if the Notice or Document is sent by email or facsimile transmission to the email or facsimile number noted on the contract or on their letterhead and in any such case shall be deemed to be duly given or made, except where;
- (a) The time of dispatch is not before 5pm (Sydney time) on a day which business is generally carried on in the place to which such notice is sent, in which case the notice shall be deemed to have been received at the commencement of business on the next such business day in the place; or
  - (b) The sender's machine indicates a malfunction in transmission and the recipient's transmission shall be deemed not to have been given or made.

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

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



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

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

### **39 SURVEY REPORT**

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

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

### **40 DEPOSIT**

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

### **41 FIRB**

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

### **42 BUILDING CERTIFICATE**

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

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

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

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

**43. ADJUSTMENT OF PERIODIC OUTGOINGS**

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

**44. PURCHASER'S FINANCE**

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

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

**45. NO SETTLEMENT IN HOLIDAY PERIOD**

- 45.1 The parties agree that any day falling between 21 December 2022 and 13 January 2023 inclusive (the "holiday period") is not a business day during the holiday period.
- 45.2 Neither party may require the other party to complete during the holiday period.
- 45.3 neither party may serve a notice to complete during the holiday period.

**46. PROBATE**

Completion of this contract shall take place by the later of forty-two (42) days from the date hereof or fourteen (14) days after the vendor's solicitors notify the purchaser's solicitors in writing that the vendor is registered as proprietor of the property.

**47. LAUNDRY**

The vendor discloses that notwithstanding they have been able to use the laundry marked as number 8 on the common property they do not hold exclusive rights and as far as they are aware no by-law has been passed granting the registered title holders of lot 8 to the exclusive use of the laundry. The Purchaser is not entitled to make a requisition or claim in respect of the laundry and or its use.

**If this property is to be sold by public auction, the following conditions apply:-**

These conditions replace the auction conditions of sale of the printed Contract.

1. If the property is or intended to be sold at Auction:-

*Bidders' Record means the bidders record to be kept pursuant to Clause 18 of the Property Stock and Business Agents Regulations 2003 and Section 68 of the Property Stock and Business Agents Act 2002.*

2. The following conditions are prescribed as applicable to and in respect of the sale by auction of land:-

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

3. The following conditions, in addition to those prescribed by sub-clause 2, are prescribed as applicable to and in respect of the sale by auction of residential property or rural land:-

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



LAND  
REGISTRY  
SERVICES

## Title Search



NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 8/SP6636

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SEARCH DATE	TIME	EDITION NO	DATE
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23/11/2022	12:27 PM	2	1/2/1999

LAND

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LOT 8 IN STRATA PLAN 6636

AT HARBORD

LOCAL GOVERNMENT AREA NORTHERN BEACHES

FIRST SCHEDULE

-----

ROBERT SUTTON

BEVERLEY ANNE SUTTON

AS TENANTS IN COMMON IN EQUAL SHARES

(T 5557748)

SECOND SCHEDULE (1 NOTIFICATION)

-----

1 INTERESTS RECORDED ON REGISTER FOLIO CP/SP6636

NOTATIONS

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UNREGISTERED DEALINGS: NIL

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

7068

PRINTED ON 23/11/2022

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

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Received: 23/11/2022 12:27:20



FOLIO: CP/SP6636

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SEARCH DATE	TIME	EDITION NO	DATE
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23/11/2022	12:27 PM	3	6/10/2020

LAND

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THE COMMON PROPERTY IN THE STRATA SCHEME BASED ON STRATA PLAN 6636  
WITHIN THE PARCEL SHOWN IN THE TITLE DIAGRAM

AT HARBORD  
LOCAL GOVERNMENT AREA NORTHERN BEACHES  
PARISH OF MANLY COVE COUNTY OF CUMBERLAND  
TITLE DIAGRAM SHEET 1 SP6636

FIRST SCHEDULE

-----

THE OWNERS - STRATA PLAN NO. 6636  
ADDRESS FOR SERVICE OF DOCUMENTS:  
C/O STRATA ONE  
PO BOX 889  
NARRABEEN 2101

SECOND SCHEDULE (4 NOTIFICATIONS)

-----

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 ATTENTION IS DIRECTED TO CLAUSE 3 SCHEDULE 4 STRATA SCHEMES  
(FREEHOLD DEVELOPMENT) ACT 1973 REGARDING BOUNDARIES BETWEEN  
LOTS AND COMMON PROPERTY IN STRATA SCHEMES REGISTERED BEFORE  
1-7-1974
- 3 AQ440515 CONSOLIDATION OF REGISTERED BY-LAWS
- 4 AQ440515 INITIAL PERIOD EXPIRED

SCHEDULE OF UNIT ENTITLEMENT (AGGREGATE: 1000)

-----

STRATA PLAN 6636

LOT	ENT	LOT	ENT	LOT	ENT	LOT	ENT
1	- 74	2	- 73	3	- 76	4	- 77
5	- 54	6	- 78	7	- 78	8	- 56
9	- 70	10	- 70	11	- 74	12	- 72
13	- 72	14	- 76				

NOTATIONS

-----

UNREGISTERED DEALINGS: NIL

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

7068

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Received: 23/11/2022 12:27:21

## Form 1

- (a) State if whole or part.
- (b) Refer to number of Lot, Allotment, or Portion and to the Deposited Plan, Town, or as the case may be.

Parcel comprises<sup>(a)</sup> whole of<sup>(b)</sup> lots 3 & 4, D.P. 16760

Reference to Title Vol. 4966 Fol. 238, & Vol. 11537 Fol. 46

~~Mun./Shire/City~~ Warringah

Locality Harbord

Parish Manly Cove County Cumberland

Scale: 30 Feet to 1 inch.

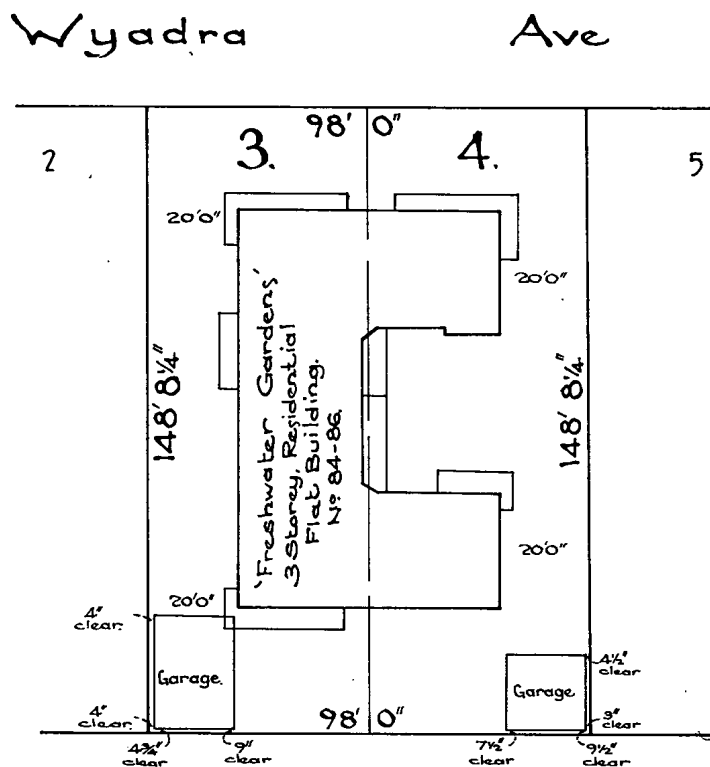
STRATA PLAN 6636

Registered:  17-10-1972

C.A.: N° 683/72 of 28.9.1972

Ref. Map: WARRINGAH SH. 67

Last Plan: D. P. 16760\*



**External surface boundaries of the parcel and location of the building in relation thereto to be delineated in space opposite.**

(c) Additional lots should be shown in an annexure.

(d) Delete if inappropriate.

[illegible]



**STRATA PLAN No. 6636**

'Freshwater Gardens'

Schedule of Unit Entitlement		OFFICE USE ONLY
		<del>Current G. of T.</del>
Lot No.	Unit Entitlement	Vol. RESUBDIVISION Fd.
1.	74	
2.	73	
3.	76	
4.	77	
5.	54	
6.	78	
7.	78	
8.	56	
9.	70	
10.	70	
11.	74	
12.	72	
13.	72	
14.	76	
AGGREGATE	1000	

CONVERSION TABLE ADDED IN  
REGISTRAR GENERAL'S DEPARTMENT

STRATA PLAN 6636

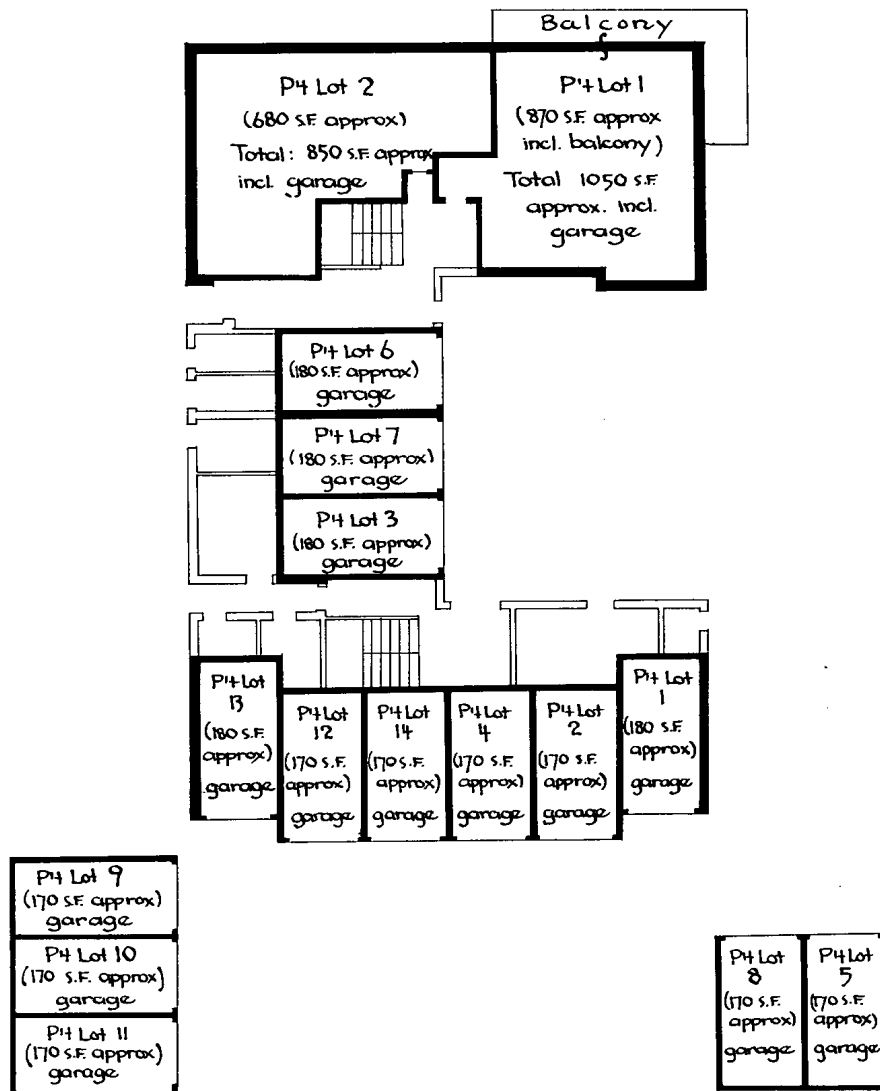
FEET INCHES	METRES
3	0.075
4	0.1
4 1/2	0.115
4 3/4	0.12
7 1/2	0.19
9	0.23
9 1/2	0.24
20	6.095
98	29.87
148 8 1/4	45.32
SQ FT	SQ M
170	15.8
180	16.7
630	58.5
680	63.2
780	72.5
800	74.3
810	75.3
820	76.2
850	79
870	80.8
950	88.3
960	89.2
963	89.5
980	91
990	92
1000	92.9
1050	97.5

*R. M. [Signature]*  
Council Clerk.

STRATA PLAN No. 6636

Ground Floor

Scale 1/5" = 1'

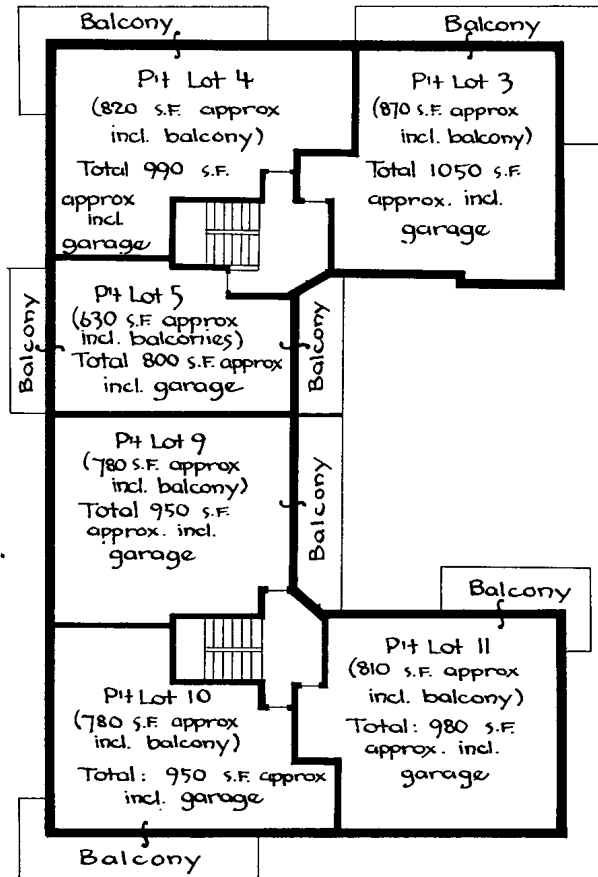


*R. M. Stuckey*  
Council Clerk.

**STRATA PLAN No. 6636**

**First Floor**

Scale: 1/5"=1'

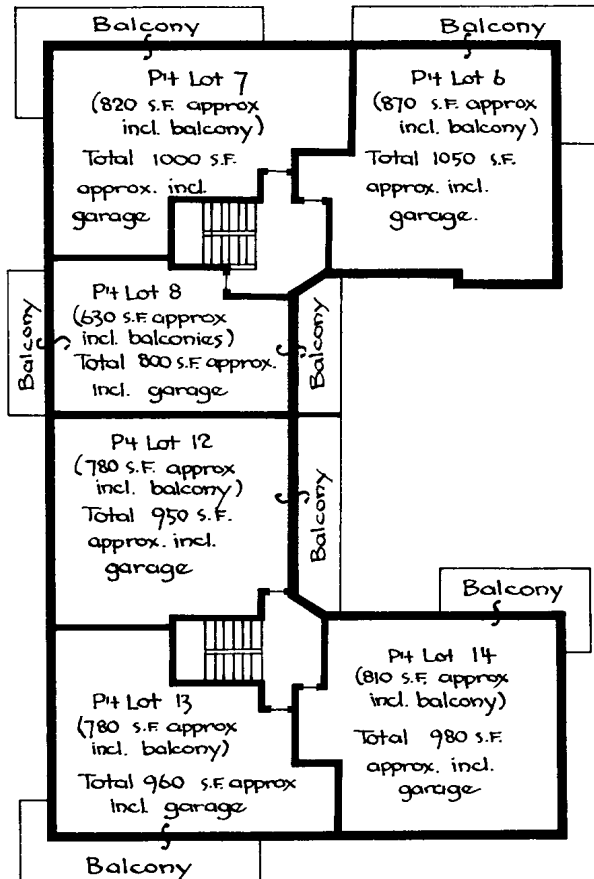


*R. M. [Signature]*  
Council Clerk.

**STRATA PLAN No. 6636**

**Second Floor**

Scale 1/5" = 1'



Title over the uncovered balconies extends from the centre of the concrete floor upwards to the line of the horizontal prolongation of the underside of the eaves above.

*R. M. M. M. M.*  
Council Clerk.



# Strata Schemes (Freehold Development) Act 1973 No 68

Repealed version for 1 March 2016 to 29 November 2016 (accessed 18 November 2022 at 9:35)

[Schedule 4](#) > [Part 1](#) > Section 3

## Schedule 4 Transitional and savings provisions

(Section 160)

### Part 1A General

#### 1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of any Act that amends this Act.
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as:
  - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

### Part 1 Provisions relating to repeal of the former Act

#### 1 Definitions

- (1) In this Schedule, except in so far as the context or subject-matter otherwise indicates or requires:

*appointed day* means the day appointed and notified under section 2.

*former Act* means the *Conveyancing (Strata Titles) Act 1961*.

*former by-law* means a by-law within the meaning of the former Act as that by-law was in force immediately before the appointed day.

*former common property* means so much of a former parcel as, immediately before the appointed day, was not comprised in any former lot.

*former lot* means a lot under the former Act as it existed immediately before the appointed day.

*former parcel* means land which, immediately before the appointed day, comprised the former lots and the former common property the subject of a former strata scheme.

*former proprietor* means a person who, immediately before the appointed day, was a proprietor, within the meaning of the former Act, of a former lot.

*former strata scheme* means:

- (a) the manner of division, immediately before the appointed day, of a former parcel into former lots or into former lots and former common property and the manner of allocation, immediately before that day, of unit entitlements under the former Act among the former lots, and
  - (b) the rights and obligations, between themselves, immediately before the appointed day, of former proprietors, other persons having property interests in or occupying former lots and the body corporate, as conferred or imposed by the former Act or by anything done under the authority of the former Act or the Real Property Act 1900.
- (2) For the purposes of the application of any provision of this Act to or in respect of a scheme to which the provisions of this Act apply by reason of clause 6:
- (a) the initial period in relation to the body corporate for that scheme shall be deemed to have expired if on the appointed day the original proprietor within the meaning of paragraph (c) is not the proprietor of any lots the subject of that scheme or is the proprietor of lots the subject of that scheme the sum of whose unit entitlements is less than two-thirds of the aggregate unit entitlement,
  - (b) except where the initial period in relation to the body corporate for that scheme has, under paragraph (a), expired, a reference to the initial period in relation to that body corporate is a reference to the period commencing on the appointed day and ending on the day on which there are proprietors of lots the subject of that scheme (other than the original proprietor within the meaning of paragraph (c)) the sum of whose unit entitlements is at least one-third of the aggregate unit entitlement, and
  - (c) a reference to an original proprietor, in relation to that scheme, is a reference to the person by whom the parcel (being the parcel comprised in the strata plan, within the meaning of the former Act, the registration of which under the former Act initiated the scheme to which the provisions of this Act apply by reason of clause 6) was held in fee simple or under a perpetual lease from the Crown at the time of that registration.
- (3) The express application of any provision of this Act (whether unamended or deemed to be amended) by any provision of this Schedule to or in respect of any act, matter or thing referred to in this Schedule shall not, except in so far as a contrary intention appears, be construed as preventing or limiting the application of any other provision of this Act to that or any other act, matter or thing.
- (4) Where any provision of this Act is deemed to be amended by this Schedule by inserting in that provision any words, those words shall be construed as if they were contained in this Schedule.

## 2 Registration of unregistered former strata plans

- (1) Notwithstanding section 8 or 9, a strata plan, or a strata plan of resubdivision, within the meaning of the former Act, may be registered as a strata plan or as a strata plan of subdivision, as the case may be, but shall not be so registered unless:
- (a) it illustrates a division of a building into different parts,
  - (b) the requirements of the former Act have been or are complied with in so far as those requirements relate to the registration of a strata plan, or a strata plan of resubdivision, as the case may be, and
  - (c) except in the case of such a strata plan of resubdivision, the certificate referred to in section 4 (3) (b) of the former Act states that the approval given under Part 11 of the Local Government Act 1919 by the local council to the erection of that building was given not earlier than two years before the appointed day.
- (2) Without limiting the generality of subclause (1) (b), for the purpose of enabling a person to comply, as referred to in subclause (1) (b), with the requirements of the former Act, the provisions of section 20 (subsection (4) (a), (c), (d), (e), (f) and (g) excepted) of the former Act apply to and in respect of an application for a certificate referred to in section 4 (3) (b) of the former Act relating to the proposed subdivision illustrated by a strata plan or strata plan of resubdivision referred to in subclause (1), as if the former Act had not been repealed.

- (3) Where a plan is registered under subclause (1), the land comprised in the plan shall be deemed to have been subdivided under this Act into lots or into lots and common property in the same manner as that land would have been subdivided if that plan had been registered under the former Act, except that:
- (a) where a boundary of any such lot would, if that plan had been validly registered under the former Act, have been, under section 4 (2) of the former Act, the centre of a floor, wall or ceiling, that boundary shall upon the registration of the plan and until it is altered in accordance with this Act be the upper surface of that floor, the inner surface of that wall or the under surface of that ceiling, as the case may be, and
  - (b) where a boundary of any lot is adjusted under paragraph (a), the boundaries of the common property are adjusted reciprocally,
- and any such lots or common property shall, for the purposes of this Act, be deemed to be lots or common property, or to be lots or common property with boundaries adjusted as referred to in paragraph (a) or (b), as the case may be.
- (4) A lot created by the registration of a plan under subclause (1) does not include any structural cubic space unless that structural cubic space was stipulated in that plan as forming part of that lot.
- (5) For the purposes of the registration of a plan under subclause (1), the reference in:
- (a) section 10 (1) to a plan illustrating a proposed subdivision referred to in section 5 (7) (a) shall be construed as a reference to a strata plan of resubdivision within the meaning of section 20 (4) of the former Act,
  - (b) section 10 (2) and (3) to subsection (1) shall be construed as a reference to subsection (1) construed in accordance with paragraph (a),
  - (c) section 38 (2) (a) to a certificate of approval under section 37 (1) (3) or (4) shall be construed as a reference to a certificate issued under section 20 (2) of the former Act,
  - (d) section 39 (1) to any certificate of approval issued under section 37 shall be construed as a reference to any certificate issued under section 20 (2) of the former Act, and
  - (e) section 39 (2), (3) and (4) to subsection (1) shall be construed as a reference to section 39 (1) construed in accordance with paragraph (d).
- (6) Where, under any provision of this Act, any act, matter or thing depends on or results from (either directly or indirectly) the registration of a strata plan, that provision operates in relation to the registration of a plan under subclause (1) in the same way as it operates in relation to the registration of a strata plan.
- (7) Subject to this clause, a reference in this Act to a strata plan or a strata plan of subdivision includes a reference to a plan registered under subclause (1) as a strata plan or a strata plan of subdivision, as the case may be.
- (8) The address endorsed, as referred to in section 4 (1) (g) of the former Act, upon a plan registered under subclause (1) shall, for the purposes of this Act, be deemed to be the address for the service of notices on the body corporate concerned until that address is altered in accordance with this Act.
- (9) The schedule endorsed, as referred to in section 18 of the former Act, upon a plan (not being a strata plan of resubdivision within the meaning of section 20 (4) of the former Act) registered under subclause (1) shall, for the purposes of this Act, be deemed to be the schedule referred to in section 8 (1) (d).
- (10) Section 41 (5) does not apply to or in respect of the registration of a plan under subclause (1).
- (11) A reference to a lot shown in a plan capable of being registered under subclause (1) made in any instrument executed before the registration of that plan under subclause (1) (being an instrument relating to the sale or other disposition of an estate or interest in the lot so shown) shall, on and after the registration of that plan, be construed as a reference to the lot which corresponds to the lot so shown.

### 3 Former lots and former common property to be derived lots and derived common property

(1) Where immediately before the appointed day:

- (a) a former lot had any boundary that under section 4 (2) of the former Act was the centre of a floor, wall or ceiling, that former lot, on the appointed day, becomes for the purposes of this Schedule a derived lot corresponding to that former lot and having, subject to subclause (2), as its boundaries:
    - (i) instead of any boundary that was the centre of a floor, wall or ceiling, the upper surface of that floor, the inner surface of that wall or the under surface of that ceiling, as the case may be, and
    - (ii) except as provided by subparagraph (i), the same boundaries as that former lot, and
  - (b) a former lot had no boundary that under section 4 (2) of the former Act was the centre of a floor, wall or ceiling, that former lot, on the appointed day, becomes for the purposes of this Schedule a derived lot corresponding to that former lot and having as its boundaries the same boundaries as that former lot.
- (2) A derived lot does not include any structural cubic space unless that structural cubic space was stipulated, in the relevant strata plan or strata plan of resubdivision, as forming part of the former lot to which that derived lot corresponds.
- (3) On the appointed day, former common property becomes, for the purposes of this Schedule, derived common property corresponding to that former common property but has as its boundaries:
- (a) where any derived lot has any of its boundaries ascertained in accordance with subclause (1) (a) (i) or (b), boundaries adjusted reciprocally, and
  - (b) except as provided by paragraph (a), the same boundaries as that former common property.
- (4) A reference to a former lot made in any instrument executed before the appointed day (being an instrument relating to the sale or other disposition of an estate or interest in that former lot) shall, on and after that day, be construed as a reference to the derived lot which corresponds to that former lot.

#### **4 Continuation of bodies corporate**

A body corporate, constituted under the former Act, in relation to a former strata scheme:

- (a) shall continue notwithstanding the repeal of the former Act,
- (b) shall, on the appointed day, be deemed to be the body corporate constituted under section 54 (1) in respect of the scheme that corresponds to that former strata scheme and to which the provisions of this Act apply by reason of clause 6, and
- (c) notwithstanding section 54 (1), shall have as its corporate name its corporate name under the former Act.

#### **5 Continuation of estates or interests in former lots and former common property and rights in former common property**

A person who, immediately before the appointed day:

- (a) had an estate or interest in a former lot, has on that day the same estate or interest in the derived lot which corresponds to that former lot, or
- (b) had an estate or interest (not being a right or special privilege referred to in clause 15) in former common property, has, subject to clause 7 (1), on that day the same estate or interest in the derived common property which corresponds to that former common property.

#### **6 Application of Act to former strata schemes, former parcels, derived lots and derived common property**

Subject to this Schedule, the provisions of this Act shall, on and from the appointed day, apply to and in respect of:

- (a) a former strata scheme as if it were a strata scheme,
- (b) a former parcel as if it were a parcel,



- (c) a derived lot as if it were a lot, and
- (d) derived common property as if it were common property.

## 7 Vesting of derived common property in body corporate

- (1) On the appointed day, derived common property is divested from the former proprietors by whom it was, immediately before that day, held as referred to in section 9 (1) of the former Act and, subject to section 20, vests in the body corporate for the estate or interest therein of those former proprietors evidenced by the Register immediately before that day.
- (2) The Registrar-General shall, on the appointed day, issue in the name of any body corporate in which any derived common property vests under subsection (1) a certificate of title for that derived common property.
- (3) For the purpose only of the making of the recordings referred to in section 23 (2) on a certificate of title issued under subclause (2), section 23 (2) shall be construed as if the reference in:
  - (a) section 23 (2) (b) to the address for service of notices on the body corporate were a reference to such an address shown on the strata plan, within the meaning of the former Act, upon the registration, under the former Act, of which the body corporate concerned was constituted or on a later or the latest amendment of that strata plan,
  - (b) section 23 (2) (c) to the schedule of unit entitlement in force in respect of the strata scheme concerned were, subject to subclauses (4) and (5), a reference to a schedule specifying the respective unit entitlements of the lots the subject of the strata scheme concerned, being the unit entitlements as in force under the former Act immediately before the appointed day, and
  - (c) section 23 (2) (d) to any easement or restriction therein referred to were a reference to any such easement or restriction noted on the strata plan referred to in paragraph (a).
- (4) Before recording a schedule on a certificate of title in accordance with section 23 (2) (c) construed in accordance with subclause (3) (b), the Registrar-General, if the unit entitlement for every derived lot to be specified in the schedule is divisible by a whole number so as to produce as the quotient a whole number, may record on that certificate of title as the schedule of unit entitlement a schedule:
  - (a) allocating to each of those derived lots the quotient obtained by making that division in respect of each such lot, and
  - (b) specifying as the aggregate unit entitlement the sum of the quotients so allocated in respect of all of those derived lots.
- (5) Where:
  - (a) under the former Act one or more former lots was or were resubdivided as referred to in section 20 (4) of the former Act, and
  - (b) the aggregate of the unit entitlements of the lots created by the strata plan of resubdivision which effected that resubdivision is not equal to the unit entitlement of the lot, or to the aggregate of the unit entitlements of lots, which was or were so resubdivided,the Registrar-General, when issuing a certificate of title comprising common property the subject of the former strata scheme concerned, shall record thereon as the schedule of unit entitlement a schedule:
  - (c) allocating to each derived lot that corresponds to a former lot the subject of that former strata scheme a unit entitlement, expressed as a whole number, which bears to the aggregate unit entitlement the same proportion as the unit entitlement under the former Act of that former lot bore, immediately before the appointed day, to the aggregate of the unit entitlements under the former Act of all the former lots which, immediately before that day, were the subject of that former strata scheme, and

- (d) specifying as the aggregate unit entitlement the sum of the unit entitlements so allocated in respect of all of those derived lots.
- (6) The address recorded on a certificate of title in accordance with section 23 (2) (b) construed in accordance with subclause (3) (a) for service of notices on a body corporate shall, for the purposes of, but subject to, this Act, be the address for service of notices on that body corporate as continued by the operation of clause 4.
- (7) The schedule recorded on a certificate of title in accordance with section 23 (2) (c) construed in accordance with subclause (3) (b) or recorded on a certificate of title in accordance with subclause (4) or (5) shall, for the purposes of, but subject to, this Act, be the schedule of unit entitlement in relation to the strata scheme which corresponds to the former strata scheme concerned.
- (8) The unit entitlement, as shown on the schedule referred to in subclause (7), of a derived lot shall, for the purposes of, but subject to, this Act be the unit entitlement of that derived lot.
- (9) Section 49 (3) does not apply where the Registrar-General records a schedule of unit entitlement under this clause on a folio of the Register comprising common property unless the recording was made in accordance with subclause (4) or (5).
- (10) The certificate of title and the folio of the Register for a former lot shall respectively be deemed to be the certificate of title and the folio of the Register for the derived lot corresponding to that former lot and any recording made on that certificate of title or folio in relation to the derived common property shall, for the purposes of section 42 (a) of the Real Property Act 1900, be deemed to be excluded therefrom.
- (11) The partial cancellation of a certificate of title for a derived lot made for the purpose of excluding the recording referred to in subclause (10) shall be deemed not to be a partial cancellation of that certificate of title for the purposes of the Real Property Act 1900.

## 8 Modification of section 22 in relation to former strata schemes

Section 22 applies to and in respect of a scheme to which the provisions of this Act apply by reason of clause 6 but, for the purposes only of that application, shall be deemed to be amended:

- (a) by omitting from subsection (1) the words “no part of a parcel is common property the Registrar-General shall, upon registration of a strata plan” and by inserting instead the words “immediately before the appointed day no part of a former parcel was common property, the Registrar-General shall, upon that day”,
- (b) by omitting from subsection (1) (b) the word “plan” and by inserting instead the word “scheme”,
- (c) by omitting from subsection (2) the words “the registration of a strata plan” and by inserting instead the words “the appointed day”,
- (d) by omitting from subsection (2) (a) the words “section 18 (2) or subsection (5), as the case may be” and by inserting instead the words “clause 7 (2) of Schedule 4”, and
- (e) by inserting in subsections (3) and (4) after the matter “(1)” wherever occurring the words “, as deemed to be amended by clause 8 (a) and (b) of Schedule 4,”.

## 9 Modification of section 23 (3) in relation to former lots

Section 23 (3) shall apply to and in respect of a certificate of title issued under clause 7 (2) but, for the purposes only of that application, shall be deemed to be amended:

- (a) by omitting the word “not”,
- (b) by omitting the words “on the folio of the Register comprising a lot the subject of the strata scheme concerned but shall record the easement or restriction”, and
- (c) by omitting the words “any such lot” and by inserting instead the words “any lot the subject of the strata scheme concerned”.

**10 Registration of transfers or leases of derived common property registrable under section 10 of former Act**

- (1) Where a transfer or lease of any common property under the former Act:
- (a) would under section 10 of the former Act have been registrable under the *Real Property Act 1900* had this Act not been enacted but had not, before the appointed day, been registered under that Act, and
  - (b) was executed pursuant to an agreement entered into by the body corporate before the appointed day,
- that transfer or lease, upon its lodgment in the office of the Registrar-General, shall be dealt with under section 25 (4) as if it were a dealing referred to in section 25 (1).
- (2) For the purposes of section 25 (3), a lease referred to in subclause (1) shall be deemed to have been granted under section 25 (1).

**11 General meetings of certain continued bodies corporate**

- (1) Where, in relation to a body corporate continued by the operation of clause 4, the original proprietor is not, on the appointed day, the proprietor of any lots the subject of the strata scheme or is the proprietor of lots the subject of the strata scheme the sum of whose unit entitlements is less than two-thirds of the aggregate unit entitlement and:
- (a) a general meeting of that body corporate has not been held before the appointed day, a general meeting of that body corporate shall be held within three months after the appointed day, and that general meeting shall, for the purposes of this Act (section 57 (4) excepted) be the first annual general meeting of the body corporate, or
  - (b) a general meeting of that body corporate has been held before the appointed day, the last general meeting of that body corporate held before that day shall, for the purposes of clause 1 (1) of Part 1 of Schedule 2, be deemed to have been the first annual general meeting.
- (2) If a meeting of the body corporate is not held in accordance with subclause (1) (a), the Commissioner may, pursuant to an application by a proprietor or mortgagee of a lot appoint, by order, a person to convene a general meeting within such time as may be specified in the order and the meeting convened by that person shall for the purposes of this Act (section 57 (4) excepted) be the first annual general meeting of the body corporate.
- (3) An order made under subclause (2) may include such ancillary or consequential provisions as the Commissioner thinks fit.
- (4) The agenda for a meeting convened under subclause (1) (a) or subclause (2) shall be the agenda specified in section 57 (2).
- (5) The original proprietor shall not fail or neglect to deliver to the body corporate (being a body corporate a general meeting of which is required to be held under subclause (1) (a)), within fourteen days after notice in writing is given to him by the body corporate or if the documents referred to in paragraphs (a) and (b) are not then in his possession within fourteen days after they come into his possession or under his control:
- (a) any plan, specification, certificate (other than a certificate of title for a lot), diagram or other document (including any policy of insurance) obtained or received by him and relating to the parcel or building, and
  - (b) any book of account, notice or other record relating to the strata scheme,
- other than any such document which exclusively evidences rights or obligations of the original proprietor and which is not capable of being used for the benefit of the body corporate or any of the proprietors, other than the original proprietor.
- Maximum penalty: 10 penalty units.
- (6) Section 70 (1) (b) (iii) shall be deemed to be amended by inserting after the matter "section 57 (4)" the matter "or under clause 11 (5) of Schedule 4".

**12 Meetings of former bodies corporate held within two months after appointed day**

Notwithstanding section 57 (5), for the purposes of any general meeting of a body corporate continued by the operation of clause 4, being a general meeting held before the expiration of two months after the appointed day:

- (a) the procedure for the convening and holding of meetings of such a body corporate and the rights of persons to vote at and to requisition meetings of such a body corporate shall be the same as they were under the former Act, and
- (b) where a notice is given to the body corporate under section 81 (3), (5) or (6), the mortgagee specified in the notice shall have the same voting rights as he would have had if the meeting had been held in accordance with the former Act and if the notice were a notice given under section 26 (2) of the former Act.

**13 Notices served by public authority or local council before the appointed day**

The reference in section 60 to a notice served on the proprietor of a lot by a public authority or local council includes a reference to a notice served, before the appointed day, by such an authority or council on the proprietor of a former lot which has become a derived lot.

**14 Effect of former by-laws**

- (1) Subject to this clause, the former by-laws relating to a former strata scheme shall, notwithstanding the repeal of the former Act, continue in force in respect of the corresponding scheme to which the provisions of this Act apply by reason of clause 6 except to the extent of any inconsistency of the former by-laws with any provision of this Act except Schedule 1.
- (2) Until the expiration of a period of three months after the appointed day the former by-laws relating to a former strata scheme may be added to, amended or repealed in the manner provided by the former Act, and any such addition, amendment or repeal shall, notwithstanding any other provision of this Act, have force and effect upon a notification thereof, in the form prescribed under the former Act, being recorded on the relevant strata plan registered under the former Act.
- (3) Upon the expiration of a period of three months after the appointed day:
  - (a) any by-laws continued in force by subclause (1) or any by-laws so continued in force, as added to, amended or repealed in accordance with subclause (2), shall cease to have any force or effect, and
  - (b) the by-laws set forth in Schedule 1 and any by-laws, made in accordance with subclause (4), amending, adding to or repealing:
    - (i) the by-laws set forth in Schedule 1, or
    - (ii) any by-laws made under that subclause,shall, subject to subclause (5), be the by-laws in force in respect of the strata scheme concerned.
- (4) During the period commencing two months after the appointed day and ending three months after that day a body corporate continued by the operation of clause 4 may, in the manner provided by section 58, make by-laws amending, adding to or repealing the by-laws set forth in Schedule 1 or any by-laws made under this subclause.
- (5) An amendment of, addition to or repeal of the by-laws in accordance with subclause (4) has no force or effect until:
  - (a) the expiration of the period of three months after the appointed day, or
  - (b) the Registrar-General has, pursuant to a notification in the prescribed form lodged in his office by the body corporate in accordance with section 58 (3), recorded the notification on the folio of the Register comprising the common property,

whichever occurs the later.

- (6) Nothing in this clause affects the operation, after the expiration of the period of three months after the appointed day, of section 58 in relation to a body corporate continued by the operation of clause 4.

#### **15 Maintenance of exclusive use etc of, and special privileges in respect of, common property**

- (1) Where immediately before the appointed day a proprietor of a former lot was entitled, whether pursuant to a resolution of the body corporate under the former Act or pursuant to a former by-law, to a right of exclusive use and enjoyment of, or special privileges in respect of, any of the former common property, the proprietor for the time being of the derived lot that corresponds to that former lot may at any time after that day serve notice on that body corporate, as continued by the operation of clause 4, requiring it to make a by-law, in terms specified in the notice, confirming that right or those special privileges and indicating the method by which the by-law may be amended, added to or repealed.
- (2) Notwithstanding section 58, the body corporate may make a by-law referred to in subclause (1) otherwise than pursuant to a special resolution or a unanimous resolution.
- (3) Where the body corporate on which a requisition has been served under subclause (1):
  - (a) fails to make a by-law (being a by-law adding to the by-laws set forth in Schedule 1) in accordance with the requisition:
    - (i) if the requisition was served on the body corporate within two months after the appointed day—before the expiration of three months after the appointed day, or
    - (ii) if the requisition was served on the body corporate after the expiration of two months after the appointed day—within one month after the service of the requisition, or
  - (b) having made such a by-law and having been tendered the prescribed fee, does not cause the by-law to be recorded in accordance with section 58 (3) within a reasonable time,

the proprietor who made the requisition may make an application to the Commissioner for an order to be made by the Residential Tribunal under subclause (5).
- (4) The provisions of Part 5 apply to an application made under subclause (3) in the same way as they apply to an application for an order made under that Part and required to be referred by the Commissioner to the Residential Tribunal.
- (5) Where, pursuant to an application by a proprietor under subclause (3), the Residential Tribunal is of the opinion that the applicant or a predecessor in title to the lot of which the applicant is proprietor was, immediately before the appointed day, entitled to a right or to special privileges of the nature referred to in subclause (1), the Residential Tribunal may, having regard to the interests of other persons having an estate or interest in lots the subject of the strata scheme concerned, the extent to which the right or special privileges referred to in the application has or have been exercised or apparent since the appointed day and the justice and merits of the case, order that the applicant is entitled to such rights or special privileges of that nature as may be specified in the order and in that order shall specify the method by which the by-law, giving effect, by virtue of subclause (7), to the terms of the order, may be amended, added to or repealed.
- (6) The provisions of:
  - (a) section 130 (subsection (2) (b) and (c) excepted) apply to and in respect of an order under subclause (5) in the same way as they apply to an order under Division 4 of Part 5 (section 117 excepted), and
  - (b) section 141 (subsections (3) and (4) excepted) apply to the recording of an order under subclause (5) in the same way as they apply to the recording of an order referred to in that section.
- (7) An order under subclause (5), when recorded under section 141, has effect, subject to any order with respect thereto made by a superior court, as if its terms were a by-law.

(8) Notwithstanding section 58, a by-law:

- (a) made pursuant to a requisition under subclause (1), or
  - (b) giving effect, by virtue of subclause (7), to the terms of an order under subclause (5),
- may be amended, added to or repealed in such manner as may be specified in that by-law.

(9) A by-law:

- (a) made under subclause (1), or
  - (b) giving effect, by virtue of subclause (7), to the terms of an order under subclause (5),
- being a by-law expressed to be for the benefit of a specified derived lot, shall while it remains in force enure as appurtenant to, and for the benefit of, that lot.

(10) Subject to subclause (8), a by-law:

- (a) made under subclause (1), or
  - (b) giving effect, by virtue of subclause (7), to the terms of an order under subclause (5),
- shall be deemed, for the purposes of this Act, to be a by-law referred to in section 58 (7).

## **16 Recovery of contributions levied under former Act**

- (1) Any contribution levied under the former Act by a body corporate and unpaid at the appointed day may be recovered by the body corporate, and as on and from the appointed day bears interest, as if it were a contribution levied under this Act.
- (2) Any determination made under the former Act by a body corporate specifying amounts to be raised by regular periodic contributions shall be deemed to be a determination made under section 68 (1) (j) of the kind referred to in section 68 (4).

## **17 Modification of section 68 (1) (e) in relation to continued bodies corporate**

In relation to a body corporate continued by the operation of clause 4, section 68 (1) (e) shall be deemed to be amended by inserting after the matter "Division 5" the words " , as notified by clause 25 of Schedule 4".

## **18 Inspection of former records etc**

- (1) A body corporate continued by the operation of clause 4 shall, for the purposes of the strata scheme concerned, cause to be retained, until the expiration of the prescribed period, any records, minutes of meetings, notices and books of account kept or received by it before the appointed day and in its custody or under its control on that day and upon application under section 70 (1) made in respect of a lot the subject of the strata scheme concerned shall make those records, minutes, notices and books available for inspection by the applicant or his agent at a time and place ascertained in accordance with section 70 (1) (b).
- (2) Section 70 (2) applies to the making of an inspection referred to in subclause (1) in the same way as it applies to the making of an inspection referred to in section 70 (1) (b).

## **19 Administrative and sinking funds of continued bodies corporate**

- (1) Where a determination made under section 15 (2) (b) of the former Act by a body corporate continued by the operation of clause 4 was in force immediately before the appointed day, that determination shall be deemed to be the determination required under section 68 (1) (j) to be made by that body corporate.
- (2) Where a fund was, immediately before the appointed day, kept under section 15 (2) (a) of the former Act by a body corporate continued by the operation of clause 4 that fund shall, on the appointed day, be deemed to be the fund required under section 68 (1) (l) to be established by that body corporate.

- (3) In relation to a body corporate continued by the operation of clause 4 which had not, before the appointed day, made a determination under section 15 (2) (b) of the former Act:
- (a) section 68 (1) (j) shall be deemed to be amended by omitting the words “seven days after the constitution of the body corporate” and by inserting instead the words “three months after the appointed day”, and
  - (b) section 68 (1) (l) shall be deemed to be amended by inserting after the matter “paragraph (j)” the words “, as deemed to be amended by clause 19 (3) (a) of Schedule 4”.
- (4) In relation to a body corporate continued by the operation of clause 4 which had, before the appointed day, made a determination under section 15 (2) (b) of the former Act but had not before that day established a fund under section 15 (2) (a) of the former Act, section 68 (1) (l) shall be deemed to be amended by omitting the words “upon determining the amounts referred to in paragraph (j)” and by inserting instead the words “upon receiving any amounts raised pursuant to a determination referred to in clause 19 (1) of Schedule 4”.
- (5) In relation to a body corporate continued by the operation of clause 4:
- (a) section 68 (1) (k) shall be deemed to be amended by omitting the words “one month after the constitution of the council or one year after the constitution of the body corporate, whichever first happens” and by inserting instead the words “three months after the appointed day”,
  - (b) section 68 (1) (m) shall be deemed to be amended by inserting after the matter “paragraph (k)” the words “, as deemed to be amended by clause 19 (5) (a) of Schedule 4”.
- (6) Until a body corporate continued by the operation of clause 4 establishes its sinking fund:
- (a) it may disburse the moneys in its administrative fund for the purpose of meeting its liabilities referred to in section 68 (1) (j) or (k), and
  - (b) section 68 (2) does not apply to that body corporate.
- (7) Upon the establishment of its sinking fund a body corporate continued by the operation of clause 4 shall:
- (a) determine what part of its administrative fund should be allocated for the purpose of meeting its actual or expected liabilities referred to in section 68 (1) (k), and
  - (b) notwithstanding section 68 (2), transfer the amount so determined to its sinking fund.

## **20 Modification of section 69 in relation to continued bodies corporate**

- (1) Where the initial period in relation to a body corporate continued by the operation of clause 4 has not expired, the original proprietor in relation to the strata scheme concerned may give to the body corporate a notice stating that he is the original proprietor and specifying his name in full and the address for the service of notices on him.
- (2) In relation to a body corporate continued by the operation of clause 4, section 69 (3) (b) shall be deemed to be omitted and the following paragraph inserted instead:
- (b) the name of, and address for the service of notices on, the original proprietor, as shown in any notice given to the body corporate under clause 20 (1) of Schedule 4.
- (3) Where:
- (a) a body corporate believes that a person may, under subclause (1), give a notice to it, and
  - (b) the body corporate has not received that notice,
- the body corporate may serve a notice on that person specifying the capacity in which it believes he is entitled to give the notice and requiring him:

- (c) to state, within fourteen days, whether or not he is a person entitled to give a notice in that capacity, and
  - (d) if he is such a person, to furnish that notice.
- (4) Where a body corporate has served a notice under subclause (3) on a person who it believes to be a person entitled to give a notice to the body corporate under subclause (1) and that person has not complied with the firstmentioned notice, that person is not entitled to cast a vote at any meeting of the body corporate until he has complied with the firstmentioned notice.
- (5) A notice given under section 26 (2) of the former Act before the appointed day by a mortgagee to a body corporate shall, for the purpose of the making by the body corporate of a recording under section 69 (3) (c) of the name of the mortgagee of the lot specified in the notice, be deemed to be a notice given to that body corporate under section 81 (3) and for the purpose of completing the recording in the strata roll required by section 69 (3) (c):
- (a) the address, if any, specified in the notice as the address of the mortgagee shall be deemed to be the address for the service of notices on the mortgagee shown in a notice given to the body corporate under section 81 (3), and
  - (b) any other mortgage notice which was given under section 26 (2) of the former Act before the notice firstmentioned in this clause was received by the body corporate shall, subject to any notice given to the body corporate under section 81 (3), be deemed to be a mortgage specified in that firstmentioned notice as having priority over the mortgage specified in that firstmentioned notice.
- (6) Any notice given before the appointed day by a mortgagor of a former lot to a body corporate, being a notice of the discharge of a mortgage notice of which had been given to the body corporate under section 26 (2) of the former Act, shall, for the purpose of the making under section 69 (3) (d) by the body corporate of a recording of the discharge of that mortgage, be deemed to be a notice given to that body corporate under section 81 (4).

## **21 Modification of section 70 (1) (c) in relation to continued bodies corporate**

For the purposes of section 70 (1) (c), any contribution levied under the former Act by a body corporate and unpaid before the appointed day shall:

- (a) if levied pursuant to a determination specifying amounts to be raised by regular periodic contributions, be deemed to be a contribution determined under section 68 (1) (j), or
- (b) except as provided in paragraph (a), be deemed to be a contribution determined under section 68 (1) (k).

## **22 Continuation of councils of former bodies corporate**

- (1) The council constituted under the former Act of a body corporate continued by the operation of clause 4 shall, subject to this Act, be, on and from the appointed day, the council of that body corporate.
- (2) A person who is a member of a council of a body corporate referred to in subclause (1) shall, for the purposes of section 72 (1), be deemed to have been elected as a member of that council if he was elected as a member of the council of the body corporate constituted under the former Act.
- (3) Section 73 (1) shall, in relation to a council referred to in subclause (1), be deemed to be amended by omitting therefrom the words “they assume office as such members” and by inserting instead the words “the appointed day”.

## **23 (Repealed)**

## **24 Operation of section 81 in relation to former strata schemes**

Section 81 extends to authorising the giving by any person to a body corporate continued by the operation of clause 4 of a notice after the occurrence of any event specified in that section notwithstanding that that event occurred before the appointed day.



**25 Modification of Part 4, Division 5**

- (1) Section 83 does not apply to or in respect of a body corporate continued by the operation of clause 4, which has in force on the appointed day a policy of insurance expiring not later than one year after the appointed day and effected by it in accordance with section 15 (1) (a) of the former Act, until the expiry of that policy.
- (2) Section 84 (1) (a) does not apply to or in respect of a body corporate continued by the operation of clause 4, which has in force on the appointed day a policy of insurance expiring not later than one year after the appointed day and effected by it in accordance with section 15 (1) (b) of the former Act, until the expiry of that policy.
- (3) Sections 85 (2) and 88 apply to and in respect of a policy of insurance entered into in accordance with the former Act before the appointed day between a body corporate continued by the operation of clause 4 and an insurer in the same way as those sections apply to and in respect of a contract of insurance entered into between a body corporate and an insurer pursuant to Division 5 of Part 4.
- (4) Notwithstanding the repeal of the former Act, section 17 of the former Act continues to apply to and in respect of a policy of insurance referred to in that section entered into before the appointed day until the expiry of that policy as if this Act had not been enacted.

**26 Effect of section 90 in relation to former parcels**

- (1) A valuation of a former parcel made by a valuing authority within the meaning of section 21 of the former Act in accordance with section 21 (2) (a) of the former Act and in force immediately before the appointed day shall, for the purposes of this Act, be deemed to be a valuation made in accordance with section 90 (1) by that valuing authority.
- (2) In relation to a parcel to which the provisions of this Act apply by reason of clause 6 and which corresponds to a former parcel a valuation of which had not, at the appointed day, been made in accordance with section 21 (2) (a) of the former Act, section 90 (2) shall be deemed to be amended by omitting therefrom the words “the registration of a strata plan” and by inserting instead the words “the appointed day”.

**27 Evidentiary effect under section 91 of particulars furnished under section 21 (3) of former Act**

Except where the Registrar-General furnishes particulars under section 49 (3) of the unit entitlements of the lots the subject of a strata scheme to which the provisions of this Act apply by reason of clause 6, the particulars of the unit entitlements of any former lots shown on a certified copy of the strata plan referred to in section 21 (3) of the former Act or on any amendment of that plan and furnished to any authority referred to in section 21 (3) of the former Act shall for the purposes of section 91 be deemed to be particulars furnished to that authority under section 49 (3) of the unit entitlements of the derived lots that correspond to those former lots.

**28 Modification of section 92 (2) (c) in relation to valuations of certain lots**

In relation to a lot comprised in a parcel referred to in clause 26 (2), section 92 (2) (c) shall be deemed to be amended by inserting after the figures “90” the words “, as deemed to be amended by clause 26 (2) of Schedule 4”.

**29 Modification of section 119 in relation to lots in former strata schemes**

In relation to a strata scheme to which the provisions of this Act apply by reason of clause 6, section 119 shall be deemed to be amended by omitting the words “the strata plan was registered or at the time any strata plan of subdivision was registered, as the case may be” and by inserting instead the words “the strata plan, or strata plan of resubdivision, within the meaning of the former Act, as the case may be, was registered under the former Act”.

**30 Destruction of or damage to building under former Act**

- (1) Any proceedings under section 19 (1) of the former Act which were pending before the Supreme Court immediately before the appointed day may be continued and completed as if they were proceedings under section 51.

- (2) Any declaration made under section 19 (1) (b) of the former Act before the appointed day shall, notwithstanding the repeal of the former Act, continue to operate and shall have the same force and effect as if this Act had not been enacted.
- (3) Any proceedings for an order referred to in section 19 (3) of the former Act which were pending before the Supreme Court immediately before the appointed day may be continued and completed as if they were proceedings under section 50.
- (4) Any order made under section 19 (3) of the former Act before the appointed day shall, notwithstanding the repeal of the former Act, continue to operate and shall, subject to subclause (5), have the same force and effect as if this Act had not been enacted.
- (5) An order referred to in section 19 (3) of the former Act may be varied in the same way as if it were an order made under section 50 (4).
- (6) Notwithstanding the repeal of the former Act, section 11 of the former Act and the regulations made under that section continue to apply to and in respect of a building which was destroyed under the former Act and the parcel on which that building was situated.

### **31 Administrators under former Act**

- (1) A person who, immediately before the appointed day, held office as an administrator under section 23 of the former Act shall, notwithstanding the repeal of the former Act, continue to have the powers and duties he had, as the holder of that office, immediately before the appointed day.
- (2) The provisions of section 23 of the former Act continue to apply to and in respect of a person holding office as referred to in subclause (1) notwithstanding the repeal of the former Act.
- (3) Where immediately before the appointed day an application under section 23 (1) of the former Act was pending, the Supreme Court shall remit the application to such Board as it thinks fit on such terms and conditions (including terms and conditions relating to the payment of the costs of the application up to the date of the remittal) as it thinks fit and any application so remitted shall be deemed to be an application capable of being made under section 127.

### **32 Recovery of rates paid by body corporate**

A body corporate may recover any amount referred to in section 16 (2) of the former Act paid by it, whether before or after the appointed day, as if section 16 (3) of the former Act had not been repealed by this Act.

### **33 Keeping of animals**

Where at the expiration of a period of three months after the appointed day:

- (a) the by-laws in force in respect of a scheme to which the provisions of this Act apply by reason of clause 6 prohibit the proprietor or occupier of a lot from keeping any animal upon his lot or the common property without the approval in writing of the body corporate, and
- (b) the proprietor or occupier of any lot the subject of that scheme was keeping an animal on that lot or the common property and had not before the expiration of that period been given a notice by the council requiring him not so to keep that animal,

the body corporate shall be deemed to have given its approval under the by-laws referred to in paragraph (a) to the keeping of that animal on that lot or the common property, as the case may be.

### **34 Regulations—transitional**

- (1) The Governor may, for the purposes of bringing lots, common property, bodies corporate and councils, within the meaning of the former Act, under the provisions of this Act and applying the provisions of this Act, with or without modifications, additions or exclusions to or in respect of any such lots, common property, bodies

corporate or councils, and for any purposes incidental thereto, make regulations containing such transitional, consequential or savings provisions as to the Governor may appear to be necessary or expedient.

- (2) A regulation made under this clause may make provisions which differ in their application according to such factors as may be specified in the regulation.
- (3) Section 39 (1) (b) of the *Interpretation Act 1987* does not apply to a regulation made under this clause.
- (4) Regulations made under this clause before the appointed day shall take effect on the appointed day or on some later day specified in the regulations.
- (5) Regulations made under this clause after the appointed day shall take effect on the day of publication or on some other day specified in the regulations, being a day before or after the day of publication, but not earlier than the appointed day.
- (6) The *Acts Reprinting Act 1972* does not apply to or in respect of any modifications, additions or exclusions referred to in subclause (1).

## Part 2 Provisions relating to the Strata Titles (Part Strata) Amendment Act 1992

### 1 Definition

In this Part, *amending Act* means the *Strata Titles (Part Strata) Amendment Act 1992*.

### 2 Exemption from insurance

An order that exempted a body corporate from any requirement of section 83 immediately before the substitution of that section by the amending Act is, on that substitution:

- (a) taken to have been made under that section, as so substituted, and
- (b) taken to exempt the body corporate from the corresponding requirement of that section, as so substituted.

### 3 Orders under Part 5

- (1) An order that was in force under Part 5 immediately before the commencement of any amendment of that Part made by the amending Act is, on the commencement of the amendment, taken to have been made under that Part, as so amended.
- (2) An application for an order under Part 5 that was pending immediately before the commencement of any such amendment is, on the commencement of the amendment, taken to have been made under that Part, as so amended.

## Part 3 Transitional provisions relating to the Strata Titles (Staged Development) Amendment Act 1993

### 1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the *Strata Titles (Staged Development) Amendment Act 1993*.
- (2) Such a provision may, if the regulations so provide, take effect on the date of assent to that Act or on a later date.
- (3) To the extent to which such a provision takes effect on a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
  - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of that publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done before the date of that publication.

## 2 Transitional arrangements for certain development schemes

- (1) The amendments made to this Act by the *Strata Titles (Staged Development) Amendment Act 1993* do not apply to a development scheme provided for, and represented by, a development statement:
  - (a) that was certified under section 28A (4) before 1 January 1995, or
  - (b) that, not needing to be so certified, was duly lodged for registration before 1 January 1995.
- (2) The amendments made to the *Land and Environment Court Act 1979* by the *Strata Titles (Staged Development) Amendment Act 1993* do not apply to any proceedings:
  - (a) that are commenced after 1 January 1995 in the Land and Environment Court, and
  - (b) that relate to any such development scheme or development statement.

## 3 Proceedings pending in Land and Environment Court

The amendments made to the *Land and Environment Court Act 1979* by the *Strata Titles (Staged Development) Amendment Act 1993* do not apply to any proceedings that are pending at 1 January 1995 in the Land and Environment Court under:

- this Act,
- the *Strata Titles (Leasehold) Act 1986*, or
- the *Community Land Management Act 1989*.

## Part 4 Transitional provisions relating to the *Strata Schemes Legislation Amendment (Strata Approvals) Act 1999*

### 1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the *Strata Schemes Legislation Amendment (Strata Approvals) Act 1999*.
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
  - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

### 2 Application to existing developments

- (1) The amendments made to this Act by the *Strata Schemes Legislation Amendment (Strata Approvals) Act 1999* do not apply to any proposed strata plan, strata plan of subdivision or notice of conversion in respect of which an application for development consent was lodged before the commencement of this clause.
- (2) For the purposes of satisfying section 37 (1) (a) (i), as amended by the *Strata Schemes Legislation Amendment (Strata Approvals) Act 1999*, it is sufficient if the provisions of that subparagraph as in force immediately before that amendment are satisfied in respect of a building.

### 3 References to approvals under section 37

A reference in any Act (other than in this clause) or in any instrument made under any Act or in any instrument of any kind to:

- (a) an approval under section 37, or
- (b) a certificate of approval under section 37,

is to be read as a reference to a strata certificate issued under section 37 or 37A.

## **Part 5 Transitional provisions relating to the Strata Schemes Legislation Amendment Act 2001**

### **1 Definition**

In this Part:

*amending Act* means the Strata Schemes Legislation Amendment Act 2001.

### **2 Regulations**

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the amending Act, but only in relation to amendments made to this Act.
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the amending Act or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
  - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

### **3 Surveyors certificates**

A certificate duly given by a registered surveyor under section 8 (2) (c), 8A (3) (b) or 9 (3) (c) before the amendment of Schedule 1A by the amending Act is taken to have been duly given under that provision despite that amendment.

### **4 Transitional arrangements for certain staged development**

The amendments made to this Act by the amending Act do not apply to a strata development contract or strata management statement registered before the commencement of this clause.

### **5 Transfer or lease of common property and creation of variation of easements, restrictions and positive covenants**

A transfer or other dealing pursuant to a unanimous resolution passed before the commencement of an amendment made by the amending Act to section 19, 25, 26, 27 or 28 is authorised to be carried out after the commencement as if that section had not been amended.

## **Part 6 Transitional provisions relating to the Environmental Planning Legislation Amendment Act 2006**

### **1 Strata certificates**

Division 4 of Part 2, as amended by the Environmental Planning Legislation Amendment Act 2006, does not apply to or in respect of an application for a strata certificate made, but not determined, before the commencement of

Schedule 3.3 to that Act and that Division, as in force immediately before that commencement, continues to apply to and in respect of any such application.

Form: 15CH  
Release: 2.1

**CONSOLIDATION/  
CHANGE OF BY-LAW**

New South Wales  
Strata Schemes Management Act  
Real Property Act 1900



**AQ440515G**

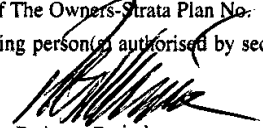
**PRIVACY NOTE:** Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person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

(A) <b>TORRENS TITLE</b>	For the common property CP/SP 6636				
(B) <b>LODGED BY</b>	<table border="1"><tr><td>Document Collection Box</td><td>Name, Address or DX, Telephone, and Customer Account Number if any N. Lee-Anne Bacina AJL Legal P.O. Box 1264, Manly NSW Tel: 0449 797 131 Reference: NLB/SP6636</td></tr></table>	Document Collection Box	Name, Address or DX, Telephone, and Customer Account Number if any N. Lee-Anne Bacina AJL Legal P.O. Box 1264, Manly NSW Tel: 0449 797 131 Reference: NLB/SP6636	<table border="1"><tr><td>CODE  <b>CH</b></td></tr></table>	CODE  <b>CH</b>
Document Collection Box	Name, Address or DX, Telephone, and Customer Account Number if any N. Lee-Anne Bacina AJL Legal P.O. Box 1264, Manly NSW Tel: 0449 797 131 Reference: NLB/SP6636				
CODE  <b>CH</b>					

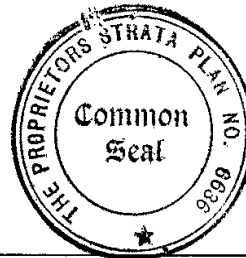
- (C) The Owners-Strata Plan No. 6636 certify that a special resolution was passed on 11/08/20
- (D) pursuant to the requirements of section 141 of the Strata Schemes Management Act 2015, by which the by-laws were changed as follows—
- (E) Repealed by-law No.  
Added by-law No. Special by-law 5  
Amended by-law No.  
as fully set out below:

Please see consolidated set of by-laws attached.

- (F) A consolidated list of by-laws affecting the above mentioned strata scheme and incorporating the change referred to at Note (E) is annexed hereto and marked as Annexure A
- (G) The seal of The Owners-Strata Plan No. 6636 was affixed on 30/09/20 in the presence of the following person(s) authorised by section 273 Strata Schemes Management Act 2015 to attest the affixing of the seal:

Signature:   
Name: Peter Brisbane  
Authority: Strata Manager

Signature:  
Name:  
Authority:



## Approved Form 10

### Certificate re Initial Period

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

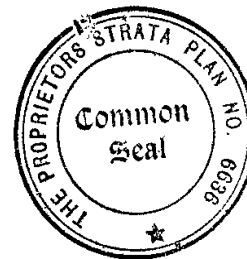
\*that the initial period has expired.

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

The seal of The Owners - Strata Plan No 6636 was affixed on 30/09/20  
in the presence of the following person(s) authorised by section 273 Strata Schemes  
Management Act 2015 to attest the affixing of the seal.

Signature:  Name: Peter Brisbane  
Signature: \_\_\_\_\_ Name: \_\_\_\_\_

Authority: Strata Manager  
Authority: \_\_\_\_\_





## **CONSOLIDATED BY-LAWS FOR STRATA PLAN 6636** - "A"

**84 Wyadra St, Freshwater**

**Model By-laws: Strata Management Regulation 1996, Schedule 1**

### **1 Noise**

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

### **2 Vehicles**

An owner or occupier of a lot must not park or stand any motor or other vehicle on common property except with the written approval of the owners corporation.

### **3 Obstruction of common property**

An owner or occupier of a lot must not obstruct lawful use of common property by any person.

### **4 Damage to lawns and plants on common property**

An owner or occupier of a lot must not:

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

### **5 Damage to common property**

(1) An owner or occupier of a lot must not mark, paint, drive nails or screws or the like into, or otherwise damage or deface, any structure that forms part of the common property without the approval in writing of the owners corporation.

(2) An approval given by the owners corporation under subclause (1) cannot authorise any additions to the common property.

(3) This by-law does not prevent an owner or person authorised by an owner from installing:

- (a) any locking or other safety device for protection of the owner's lot against intruders, or
- (b) any screen or other device to prevent entry of animals or insects on the lot, or
- (c) any structure or device to prevent harm to children.

(4) Any such locking or safety device, screen, other device or structure must be installed in a competent and proper manner and must have an appearance, after it has been installed, in keeping with the appearance of the rest of the building.

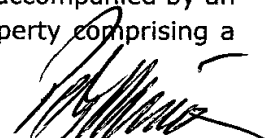
(5) Despite section 62, the owner of a lot must maintain and keep in a state of good and serviceable repair any installation or structure referred to in subclause (3) that forms part of the common property and that services the lot.

### **6 Behaviour of owners and occupiers**

An owner or occupier of a lot when on common property must be adequately clothed and must not use language or behave in a manner likely to cause offence or embarrassment to the owner or occupier of another lot or to any person lawfully using common property.

### **7 Children playing on common property in building**

An owner or occupier of a lot must not permit any child of whom the owner or occupier has control to play on common property within the building or, unless accompanied by an adult exercising effective control, to be or to remain on common property comprising a



laundry, car parking area or other area of possible danger or hazard to children.

#### **8 Behaviour of invitees**

An owner or occupier of a lot must take all reasonable steps to ensure that invitees of the owner or occupier do not behave in a manner likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or any person lawfully using common property.

#### **9 Depositing rubbish and other material on common property**

An owner or occupier of a lot must not deposit or throw on the common property any rubbish, dirt, dust or other material likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or of any person lawfully using the common property.

#### **10 Drying of laundry items**

An owner or occupier of a lot must not, except with the consent in writing of the owners corporation, hang any washing, towel, bedding, clothing or other article on any part of the parcel in such a way as to be visible from outside the building other than on any lines provided by the owners corporation for the purpose and there only for a reasonable period.

#### **11 Cleaning windows and doors**

An owner or occupier of a lot must keep clean all glass in windows and all doors on the boundary of the lot, including so much as is common property.

#### **12 Storage of inflammable liquids and other substances and materials**

(1) An owner or occupier of a lot must not, except with the approval in writing of the owners corporation, use or store on the lot or on the common property any inflammable chemical, liquid or gas or other inflammable material.

(2) This by-law does not apply to chemicals, liquids, gases or other material used or intended to be used for domestic purposes, or any chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine.

#### **13 Moving furniture and other objects on or through common property**

An owner or occupier of a lot must not transport any furniture or large object through or on common property within the building unless sufficient notice has first been given to the executive committee so as to enable the executive committee to arrange for its nominee to be present at the time when the owner or occupier does so.

#### **14 Floor coverings**

(1) An owner of a lot must ensure that all floor space within the lot is covered or otherwise treated to an extent sufficient to prevent the transmission from the floor space of noise likely to disturb the peaceful enjoyment of the owner or occupier of another lot.

(2) This by-law does not apply to floor space comprising a kitchen, laundry, lavatory or bathroom.

#### **15 Garbage disposal**

An owner or occupier of a lot:

- a) must maintain within the lot, or on such part of the common property as may be authorised by the owners corporation, in clean and dry condition and adequately covered a receptacle for garbage, and

- b) must ensure that before refuse is placed in the receptacle it is securely wrapped or, in the case of tins or other containers, completely drained, and
- c) for the purpose of having the garbage collected, must place the receptacle within an area designated for that purpose by the owners corporation and at a time not more than 12 hours before the time at which garbage is normally collected, and
- d) when the garbage has been collected, must promptly return the receptacle to the lot or other area referred to in paragraph (a),
- e) must not place any thing in the receptacle of the owner or occupier of any other lot except with the permission of that owner or occupier, and
- f) must promptly remove any thing which the owner, occupier or garbage collector may have spilled from the receptacle and must take such action as may be necessary to clean the area within which that thing was spilled.

#### **16 Keeping of animals**

- (1) Subject to section 49 (4), an owner or occupier of a lot must not, without the approval in writing of the owners corporation, keep any animal on the lot or the common property.
- (2) The owners corporation must not unreasonably withhold its approval of the keeping of an animal on a lot or the common property.

#### **17 Appearance of lot**

- (1) The owner or occupier of a lot must not, without the written consent of the owners corporation, maintain within the lot anything visible from outside the lot that, viewed from outside the lot, is not in keeping with the rest of the building.
- (2) This by-law does not apply to the hanging of any washing, towel, bedding, clothing or other article as referred to in By-law 10.

#### **18 Notice-board**

An owners corporation must cause a notice-board to be affixed to some part of the common property.

#### **19 Change in use of lot to be notified**

An occupier of a lot must notify the owners corporation if the occupier changes the existing use of the lot in a way that may affect the insurance premiums for the strata scheme (for example, if the change of use results in a hazardous activity being carried out on the lot, or results in the lot being used for commercial or industrial purposes rather than residential purposes).

### **Special By-Laws**

#### **1. Electronic Delivery of Notices**

A document or notice may be served by the Owners Corporation, its secretary or executive committee on the owner of a lot by electronic means if the person has given the owners corporation an email address for the service of notices and the document is sent to that address. A notice or document served on an owner by email in accordance with this by-law is deemed to have been served when transmitted by the sender providing that the sender does not receive an

electronic notification of unsuccessful transmission (i.e. "bounce back" or "undeliverable") within 24 hours.

## **2. Laundry No. 5 (formerly by-law 28)**

The Proprietors of Strata Plan No.6636 pursuant to Clause 15 Schedule 4 confirm and grant to the proprietor from time to time of Lot 5 in Strata Plan No.6636 the right to the exclusive use and enjoyment of Laundry No. 5 described in the Schedule hereto and that such right shall not be determined abridged or otherwise altered or affected except with the unanimous consent of the proprietors of all lots in the said Strata Plan.

### *Schedule*

THAT area containing 3,9135 sq. m. known as Laundry No. 5 situated on Western side of building approximately 12 metres from North-Western corner of building.

## **3. Laundry No. 10 (formerly by-law 29)**

The Proprietors of Strata Plan No.6636 pursuant to Clause 15 Schedule 4 confirm and grant to the proprietor from time to time of Lot 10 in Strata Plan No.6636 the right to the exclusive use and enjoyment of Laundry No. 10 described in the Schedule hereto and that such right shall not be determined abridged or otherwise altered or affected except with the unanimous consent of the proprietors of all lots in the said Strata Plan.

### *Schedule*

THAT area containing 3,816 sq. m. known as Laundry No. 5 situated on southern part of the ground floor of the building, as shown on sheet 3 in the strata plan, adjoining on the south by the garages which are part of Lots 12 and 13, adjoined on the east by the southern stairwell, adjoined on the north by a corridor and adjoined on the west in part by a neighboring room and in part by the garage of Lot 13.

## **4. Smoke penetration**

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

## **5. Minor renovations by owners - Delegation of functions**

- a) Within the meaning of section 110(6)(b) of the *Strata Schemes Management Act 2015* the Owners Corporation is permitted to delegate its functions under section 110 of that Act to the strata committee or Managing Agent,
- b) The Owners Corporation RESOLVES to delegate its functions to the strata committee or Managing Agent in accordance with the by-law made in point a.

6/6



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

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

**Reference:** 7068  
**Date:** 23/11/2022  
**Certificate No.** ePLC2022/08325

**Address of Property:** 8/84 Wyadra Avenue FRESHWATER NSW 2096  
**Description of Property:** Part Lot 8 SP 6636

---

### 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) The name of each environmental planning instrument and development control plan that applies to the carrying out of development on the land:**

###### **(a) Local Environmental Plan**

Warringah Local Environmental Plan 2011

###### **(b) State Environmental Planning Policies and Regional Environmental Plans**

State Environmental Planning Policy (Housing) 2021

State Environmental Planning Policy (Primary Production) 2021  
Chapters 1,2

State Environmental Planning Policy (Resources and Energy) 2021  
Chapters 1, 2

State Environmental Planning Policy (Resilience and Hazards) 2021  
Chapters 1, 3, 4

State Environmental Planning Policy (Industry and Employment) 2021  
Chapters 1, 3

State Environmental Planning Policy (Transport and Infrastructure) 2021  
Chapters 1, 2, 3

State Environmental Planning Policy (Biodiversity and Conservation) 2021  
Chapters 1, 2, 3, 4, 6, 7

State Environmental Planning Policy (Planning Systems) 2021  
Chapters 1, 2

State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021  
Chapters 1, 2

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008  
SEPP 65 – Design Quality of Residential Apartment Development  
SEPP (Building Sustainability Index: BASIX)

State Environmental Planning Policy (Biodiversity and Conservation) 2021  
Chapters 9, 10

### **(c) Development Control Plans**

Warringah Development Control Plan 2011

## **(2) Draft Environmental Planning Instruments**

The name of each proposed environmental planning instrument and draft development control plan, which is or has been subject to community consultation or public exhibition under the Act, that will apply to the carrying out of development on the land.

### **(a) Draft Local Environmental Plans**

### **(b) Draft State Environmental Planning Policies**

Draft State Environmental Planning Policy (Environment)

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

### **(c) Draft Development Control Plans**

## **2. Zoning and land use under relevant planning instruments**

The following matters for each environmental planning instrument or draft environmental planning instrument that includes the land in a zone, however described—

### **(1) Zoning and land use under relevant Local Environmental Plans**

#### **(a), (b)**

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; 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; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Respite day care centres; Roads; Secondary dwellings; Tank-based aquaculture; Veterinary hospitals

## **4 Prohibited**

Any development not specified in item 2 or 3

## **Employment zones reform implementation**

On 1 December 2022, Business and Industrial zones will be replaced by the new Employment zones under the Standard Instrument (Local Environmental Plans) Order 2006. The Department of Planning and Environment is currently exhibiting details of how each Local Environmental Plan that includes a current Business or Industrial zone will be amended to use the new Employment zones. The Explanation of Intended Effect (EIE) and a searchable web tool that displays the current and proposed zone for land covered in this public exhibition is available on the [Planning Portal](#).

## **(c) 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

## **(d) 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.

## **(e) Outstanding biodiversity value**

The land is not in an area of outstanding biodiversity value under the [Biodiversity Conservation Act 2016](#)

## **(f) Conservation areas**

The land is not in a heritage conservation area.

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

The land does not contain an item of environmental heritage.

## **(2) Zoning and land use under draft Local Environmental Plans**

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

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

## **3. Contribution plans**

(1) The name of each contributions plan under the Act, Division 7.1 applying to the land, including draft contributions plans.

**Northern Beaches Section 7.12 Contributions Plan 2022 - in force 1 June 2022.**

(2) If the land is in a special contributions area under the Act, Division 7.1, the name of the area.

Nil

## **4. Complying Development**

If the land is land on which complying development may or may not be carried out under each of the complying development codes under [State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008](#), because of that Policy, clause 1.17A(1)(c)–(e), (2), (3) or (4), 1.18(1)(c3) or 1.19.

### **Part 3 Housing Code**

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

### **Part 3A Rural Housing Code**

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

### **Part 3B Low Rise Housing Diversity Code**

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

### **Part 3C Greenfield Housing Code**

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

### **Part 3D Inland Code**

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

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

## **Part 4 Housing Alterations Code**

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



## **Part 4A General Development Code**

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

## **Part 5 Industrial and Business Alterations Code**

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

## **Part 5A Industrial and Business Buildings Code**

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

## **Part 5B Container Recycling Facilities Code**

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

## **Part 6 Subdivisions Code**

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

## **Part 7 Demolition Code**

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

## **Part 8 Fire Safety Code**

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

### **(4) Complying Development Codes varied under Clause 1.12 of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008***

No complying codes are varied under this clause in relation to the land.

## **5. Exempt Development**

If the land is land on which exempt development may or may not be carried out under each of the exempt development codes under [\*State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008\*](#), because of that Policy, clause 1.16(1)(b1)–(d) or 1.16A.

### **Part 2 Exempt Development Codes**

Exempt Development under the Exempt Development Codes may be carried out on all of the land.

### **(4) Exempt Development Codes varied under Clause 1.12 of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008***

No exempt development codes are varied under this clause in relation to the land.

## **6. Affected building notices and building product rectification orders**

(a) There is not an affected building notice of which the council is aware that is in force in respect of the land.

- (b) 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
- (c) 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 section—

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

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

## **7. Land reserved for acquisition**

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

## **8. 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.

## **9. Flood related development controls**

- (1) The land is not within the flood planning area and subject to flood related development controls.
- (2) The land or part of the land is not between the flood planning area and the probable maximum flood and subject to flood related development controls.

In this section—

**flood planning area** has the same meaning as in the Floodplain Development Manual.

**Floodplain Development Manual** means the Floodplain Development Manual (ISBN 0 7347 5476 0) published by the NSW Government in April 2005.

**probable maximum flood** has the same meaning as in the Floodplain Development Manual.

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

- (a) Council has adopted policies that restrict the development of the land because of the likelihood of land slip, bush fire, tidal inundation, subsidence, acid sulfate soils, contamination, aircraft noise, salinity, coastal hazards, sea level rise or another risk, other than flooding (for flooding – see 9). The identified hazard or risk, if any, are listed below:

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

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

The land is not bush fire prone land.

## **12. 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.

## **13. Mine Subsidence**

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

## **14. Paper subdivision information**

There is no current paper subdivision, of which council is aware, in respect of this land according to Part 10 of the *Environmental Planning and Assessment Regulation 2021* and Schedule 7 of the *Environmental Planning & Assessment Act 1997 No 203*.

## **15. 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.

## **16. Biodiversity Stewardship Sites**

The Council has not been notified by the Biodiversity Conservation Trust 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).

## **17. 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*).

## **18. 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.

## **19. 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).

Note—

Existing coastal protection works are works to reduce the impact of coastal hazards on land, such as seawalls, revetments, groynes and beach nourishment, that existed before 1 January 2011.

## **20. Western Sydney Aerotropolis**

Under State Environmental Planning Policy (Precincts – Western Parkland City) 2021, Chapter 4 the land is –

- (a) not in an ANEF or ANEC contour of 20 or greater, as referred to in that Chapter, section 4.17, or
- (b) not shown on the [Lighting Intensity and Wind Shear Map](#), or
- (c) not shown on the [Obstacle Limitation Surface Map](#), or
- (d) not in the “public safety area” on the [Public Safety Area Map](#), or
- (e) not in the “3 kilometre wildlife buffer zone” or the “13 kilometre wildlife buffer zone” on the [Wildlife Buffer Zone Map](#).

## **21. Development consent conditions for seniors housing**

No condition of development consent granted after 11 October 2007 in relation to the land applies to the property that are of the kind set out in that Policy, section 88(2) of [State Environmental Planning Policy \(Housing\) 2021](#).

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

- (1) There is not a current site compatibility certificate of which the council is aware, in respect of proposed development on the land.

(2) No condition of development consent in relation to the land applies to the property that are of the kind set out in section 21(1) or 40(1) of [State Environmental Planning Policy \(Housing\) 2021](#).

(3) No condition of development consent in relation to the land applies to the property that are of the kind set out in clause 17(1) or 38(1) of [State Environmental Planning Policy \(Affordable Rental Housing\) 2009](#).

## **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**

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

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

## **Company Title Subdivision**

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

subject of a company title scheme are advised to check that the land has been subdivided with the consent of the Council.

## **District Planning**

Under the Greater Sydney Regional Plan – A Metropolis of Three Cities 2018, the Greater Sydney Commission sets a planning framework for a metropolis of three cities across Greater Sydney which reach across five Districts. Northern Beaches is located within the 'Eastern Harbour City' area and is in the North District which forms a large part of the Eastern Harbour City. The North District Plan sets out planning priorities and actions for the growth of the North District, including Northern Beaches. Northern Beaches Council's Local Strategic Planning Statement gives effect to the District Plan based on local characteristics and opportunities and Council's own priorities in the community. The Local Strategic Planning Statement came into effect on 26 March 2020.

## **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 - 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

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

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

### **Geotechnical Planning Controls**

Council is currently undertaking a study to review geotechnical planning controls across the Local Government Area. Information from a draft study indicates geotechnical considerations may affect a greater number of properties and may present an increased risk to properties than that shown on published hazard maps. Council's Development Engineering & Certification team can be contacted for further information.

## **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**  
**23/11/2022**



# Sewer Service Diagram

Application Number: 8002107656

METROPOLITAN WATER SEWERAGE AND DRAINAGE BOARD

## SEWERAGE SERVICE DIAGRAM

Municipality of *Warringah* No. *144431*

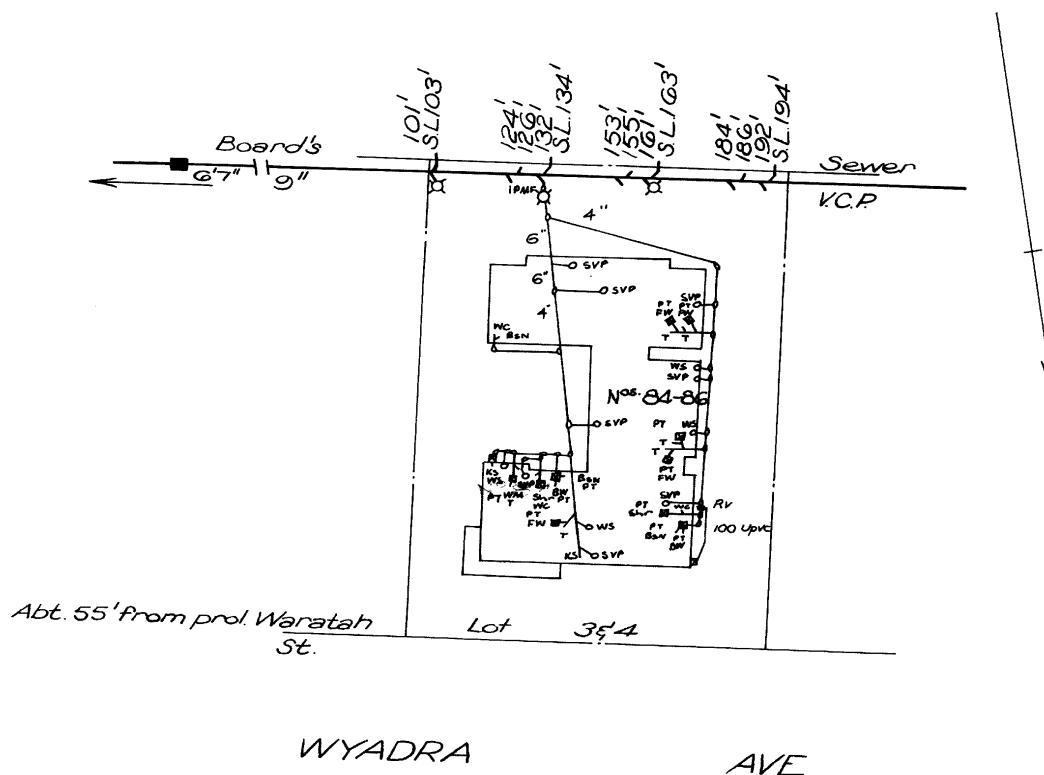
(Harbord)

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



**SEWERAGE SURCHARGE**

RATE No. *3261* W.C.s *15* U.C.s *19*

SHEET No. *3261* OFFICE USE ONLY

DRAINAGE		BRANCH OFFICE		For Engineer House Services PLUMBING	
Supervised by	Date	Date	HL	Supervised by	Date
Examined by	Inspector	Outfall	LL	Inspector	
Chief Inspector		Drainer			
Tracing Checked		Plumber			
		Boundary Trap is/ required			

29.8.72

81-628  
553-504  
1264 046

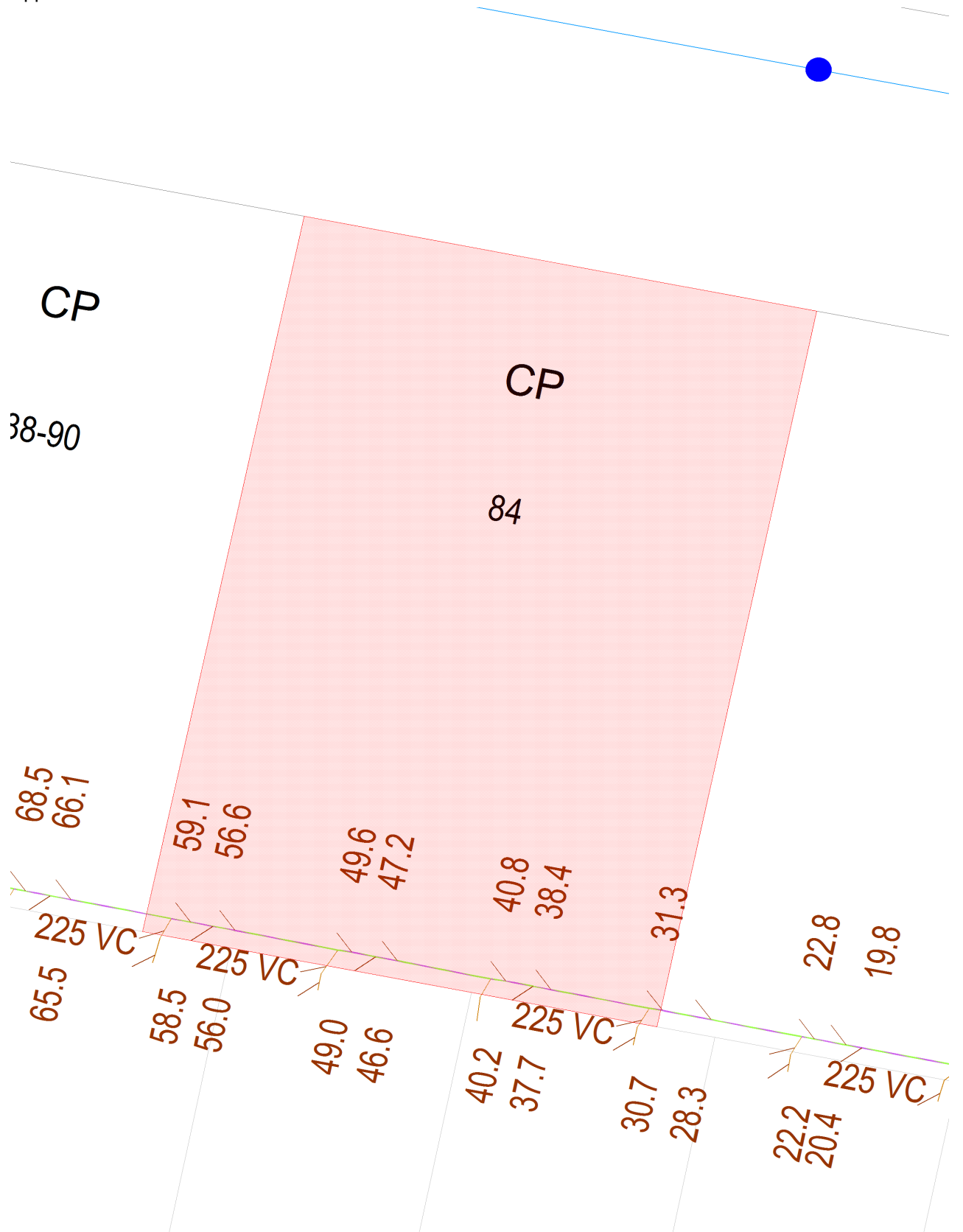
Document generated at 23-11-2022 01:40:36 PM

### 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**.

# Service Location Print

Application Number: 8002107680



Document generated at 23-11-2022 01:40:32 PM

## 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**.

# Asset Information

## Legend

Sewer		Property Details	
Sewer Main (with flow arrow & size type text)		Boundary Line	
Disused Main		Easement Line	
Rising Main		House Number	
Maintenance Hole (with upstream depth to invert)		Lot Number	
Sub-surface chamber		Proposed Land	
Maintenance Hole with Overflow chamber		Sydney Water Heritage Site (please call 132 092 and ask for the Heritage Unit)	
Ventshaft EDUCT			
Ventshaft INDUCT			
Property Connection Point (with chainage to downstream MH)			
Concrete Encased Section			
Terminal Maintenance Shaft			
Maintenance Shaft			
Rodding Point			
Lamphole			
Vertical			
Pumping Station			
Sewer Rehabilitation			
Pressure Sewer		Water	
Pressure Sewer Main		WaterMain - Potable (with size type text)	
Pump Unit (Alarm, Electrical Cable, Pump Unit)		Disconnected Main - Potable	
Property Valve Boundary Assembly		Proposed Main - Potable	
Stop Valve		Water Main - Recycled	
Reducer / Taper		Special Supply Conditions - Potable	
Flushing Point		Special Supply Conditions - Recycled	
		Restrained Joints - Potable	
		Restrained Joints - Recycled	
		Hydrant	
		Maintenance Hole	
		Stop Valve	
		Stop Valve with By-pass	
		Stop Valve with Tapers	
		Closed Stop Valve	
		Air Valve	
		Valve	
		Scour	
		Reducer / Taper	
		Vertical Bends	
		Reservoir	
		Recycled Water is shown as per Potable above. Colour as indicated	
Vacuum Sewer		Private Mains	
Pressure Sewer Main		Potable Water Main	
Division Valve		Recycled Water Main	
Vacuum Chamber		Sewer Main	
Clean Out Point		Symbols for Private Mains shown grey	
Stormwater			
Stormwater Pipe			
Stormwater Channel			
Stormwater Gully			
Stormwater Maintenance Hole			

### 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**.

## Pipe Types

<b>ABS</b>	Acrylonitrile Butadiene Styrene	<b>AC</b>	Asbestos Cement
<b>BRICK</b>	Brick	<b>CI</b>	Cast Iron
<b>CICL</b>	Cast Iron Cement Lined	<b>CONC</b>	Concrete
<b>COPPER</b>	Copper	<b>DI</b>	Ductile Iron
<b>DICL</b>	Ductile Iron Cement (mortar) Lined	<b>DIPL</b>	Ductile Iron Polymeric Lined
<b>EW</b>	Earthenware	<b>FIBG</b>	Fibreglass
<b>FL BAR</b>	Forged Locking Bar	<b>GI</b>	Galvanised Iron
<b>GRP</b>	Glass Reinforced Plastics	<b>HDPE</b>	High Density Polyethylene
<b>MS</b>	Mild Steel	<b>MSCL</b>	Mild Steel Cement Lined
<b>PE</b>	Polyethylene	<b>PC</b>	Polymer Concrete
<b>PP</b>	Polypropylene	<b>PVC</b>	Polyvinylchloride
<b>PVC - M</b>	Polyvinylchloride, Modified	<b>PVC - O</b>	Polyvinylchloride, Oriented
<b>PVC - U</b>	Polyvinylchloride, Unplasticised	<b>RC</b>	Reinforced Concrete
<b>RC-PL</b>	Reinforced Concrete Plastics Lined	<b>S</b>	Steel
<b>SCL</b>	Steel Cement (mortar) Lined	<b>SCL IBL</b>	Steel Cement Lined Internal Bitumen Lined
<b>SGW</b>	Salt Glazed Ware	<b>SPL</b>	Steel Polymeric Lined
<b>SS</b>	Stainless Steel	<b>STONE</b>	Stone
<b>VC</b>	Vitrified Clay	<b>WI</b>	Wrought Iron
<b>WS</b>	Woodstave		

## Further Information

Please consult the Dial Before You Dig enquiries page on the Sydney Water website.

**For general enquiries please call the Customer Contact Centre on 132 092**

**In an emergency, or to notify Sydney Water of damage or threats to its structures, call 13 20 90 (24 hours, 7 days)**

### 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**.

## RESIDENTIAL TENANCY AGREEMENT - NOVAK



(Where Tenancy is for a term of 3 years or less)  
(Residential Tenancies Act – 2010)

This Agreement is in 2 parts:

Part 1 – Sets out the terms of the agreement

Part 2 – Contains the condition report in respect of the residential premises.

### PART 1 – PAGE 1: TERMS OF THE AGREEMENT

THIS AGREEMENT is made on 06/06/20 at 822 Pittwater Rd Dee Why NSW 2099.  
BETWEEN:


- | LANDLORD: ROBERT SUTTON & BEVERLY ANNE SUTTON
- | LANDLORDS AGENT: FRESHWATER MANAGEMENT GROUP PTY TRADING AS NOVAK  
A.B.N 44 770 739 215  
822 PITTWATER ROAD, DEE WHY 2099
- | TENANT: JUSTIN WILKES & TAMARA CUEVAS ALFARO
- | PREMISES: The landlord gives the tenant the right to occupy the premises at  
8/84 WYADRA AVENUE, FRESHWATER NSW 2096.
- | PARKING: 1XLOCK UP GARAGE


The premises are UNFURNISHED. No more than 2 ADULT PERSON/S may ordinarily live in the premises at any one time.

- | RENT: The rent is: \$838.00 PER FORTNIGHT starting on 06/06/20.  
THE TENANT MUST ALWAYS REMAIN 2 WEEKS IN ADVANCE.

The rent must be paid:

- a) To the landlord, or the landlord's agent, at; 822 Pittwater Rd, Dee Why  
b) At any other reasonable place the landlord names in writing; or  
Payment must be paid by the following method:  
PERSONAL CHEQUE, iPAY OR MONEY ORDER.

DocuSigned by:  
  
9B98E4CF2D3947B...

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- | TERM: The term of the agreement is 26 WEEKS beginning on 06/06/20 and ending on 05/12/20.

| CONTINUATION: At the end of this term, the tenant can stay in the Residential Premises at the same rent (or at an increased rent if the rent is increased in accordance with the Residential Tenancy Acts 2010) but otherwise under the same terms unless or until the agreement is ended in accordance with the Residential Tenancies Act 2010.

| RENTAL BOND: A rental bond of \$1676.00 must be paid by the tenant to the NSW Bond Board on or before signing this agreement.

| TRADEPERSONS: (see 'Urgent Repairs', Clause 19):

CITY-WIDE MASTER PLUMBING - 0411 802 548; A1 CONNECTED ELECTRICIAN – 0405 765 029  
PROFESSIONAL LOCKSMITHS – 0411 424 973 Luitz or 0418 296 480 Joel

**NOVAK**  
**UNDERSTANDING AND FOLLOWING THE RESIDENTIAL TENANCY AGREEMENT TERMS**

**1. REPAIRS: MUST ALWAYS BE IN WRITING**

The tenant understands and agrees that:

- ❖ Any repairs ordinarily the responsibility of the landlord shall be reported immediately to agent/landlord, otherwise the tenant may be held responsible for the cost of the repairs due to their negligence.
- ❖ The property is to be made available for repairs or by appointment between 8am and 5pm Monday to Friday. Should you deny access between these hours and request for an after-hours service, you will be responsible for after-hours call out fees & charges.
- ❖ If a suitable time cannot be agreed upon, then key access shall be made available.
- ❖ They will be contacted directly by an authorised tradesman for all repairs via phone numbers provided to the agency.
- ❖ Should a tradesman be called to the property to repair an item that has been damaged due to negligence, then the tenant will be held responsible for the cost of the repair work and the tradesman's call-out fee.
- ❖ Should a tradesman be called to the property at an arranged time with the tenant and the tenant does not attend to provide access, then the tenant will be held responsible for the cost of the tradesman's call-out fee.
  - ❖ Once a repair request has been sought by the Tenant, we will seek instructions from your Landlord to proceed or not proceed with the request for repair.
  - ❖ If the Landlord grants an approval for the repair, we will issue a "Work Order" to a Trusted and previously used tradesperson, you will be included in this correspondence by email.
  - ❖ The Approved Tradesperson will contact you within 24-72 hours of the "Work Order" being issued. They will contact you for access with a lead time of no shorter 3 hours.
  - ❖ You do not have to be at your property for the Tradesperson. Should you not reply/decline access, the approved Tradesperson shall attend your property, they will use the Master set keys from Novak offices.

**2. DISHONoured PAYMENTS**

The tenant agrees to pay a \$30.00 dishonoured payment fee plus any other charges that are incurred. If payments are dishonoured 3 times a bank cheque or postal money order will be required in future.

**3. POT PLANTS**

The tenant understands and agrees to put a tray under any internal pot plants and that any damage caused by potted plants to the carpet is to be repaired at the tenants' expense.

**4. CARPET CLEANING**

The tenant is advised and agrees that should the carpets in the leased property become soiled during their period of occupancy, they will be responsible for having the carpets professionally steam cleaned upon vacating.

**5. GROUNDS**

The tenant agrees to maintain all lawns and gardens (where applicable).

**6. SMOKING**

The tenant agrees not to smoke within the property as it can damage walls, curtains & carpets. Any damage to the property caused by smoke will be rectified at the tenants cost.

**7. TAPS / DRYERS**


Washing machine taps & dishwasher taps are to be off at the end of tenancy to prevent risk of flooding. Dryers are not to be left on without supervision during use.

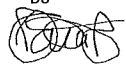
**8. NOTICE TO TENANTS/ TELECOMMUNICATIONS SERVICES**

The availability of telephone lines; internet services; analogue, digital or cable television (and the adequacy of such services); are the sole responsibility of the tenant(s) and tenants should make their own enquiries as to the availability and adequacy of such services before accepting the tenancy of the property. The landlord does not warrant that any telephone plugs, antenna sockets or other such service points located in the property are serviceable, or will otherwise meet the requirements of the tenant, and tenants must rely upon their own enquiries.

**9. HOME CONTENTS INSURANCE**

The tenant understands that it is their responsibility to take out their own Home Contents Insurance. The landlord is responsible for their own building insurance however the tenants possessions are not covered by this plan.

DS  


DS  


10. ANNUAL FIRE INSPECTIONS

The tenant agrees to allow access to the property for annual Fire Inspections, providing 7 days’ notice in writing is given.

If the tenant cannot allow access to the property for the Fire Inspection they must arrange for another individual to allow access or notify ‘Novak’ in writing/email at least 48 hours prior to the inspection date that they will not be able to be in attendance.

If access is not granted to inspectors because the tenant is not present at the property, they understand that they will be charged a fee of \$99 for not allowing access and not giving fair and reasonable notice to move the date.

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SIGNED: \_\_\_\_\_

Tenant/s

DocuSigned by:  
  
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SIGNED: \_\_\_\_\_

Agent

## Email Service of Notices and Documents Consent Form

*Note: Use this form where consent is required for confirmation of email service of notices and documents where there is no record of confirmation of email service and a list of notices and documents which email service applies to the party noted on a tenancy agreement or any other documentation retained by the property agent.*


Date 06/06/20


I/We **JUSTIN WILKES & TAMARA ALFARO** consent to all notices and documentation relevant to the proposed sale, purchase, management or letting (as applicable) of **8/84 WYADRA AVENUE, FRESHWATER NSW 2096** being served electronically via email:  
**justiceflow@gmail.com**

Where the Premises are subject to a tenancy agreement, I/we consent to the service of notices and documents required to be given or served in respect of or under the tenancy agreement for the Premises including but is not limited to termination notices, notice of intention to sell the Premises, notice of access/inspection/entry and a notice of rent increase.

I/We **JUSTIN WILKES & TAMARA ALFARO** acknowledge that by providing an email address and signing this form, I/we consent to **Novak Properties Pty Ltd** updating my/our details of the method of communication for the purposes of email service of notices and other documents on all relevant documents.

Signatures of the consenting party/s:

DocuSigned by:  
  
9B98E4CF283947B...

DocuSigned by:  
  
BE1C8BA8728940B...

Date:

31-05-2020

31-05-2020



# The Agreement

## RIGHT TO OCCUPY THE PREMISES

1. **The landlord agrees** that the tenant has the right to occupy the residential premises during the tenancy. The residential premises include the additional things (if any) noted under **'Residential premises'** on page 2 of this agreement.

## COPY OF AGREEMENT

2. **The landlord agrees** to give the tenant:
  - 2.1 a copy of this agreement before or when the tenant gives the signed copy of the agreement to the landlord or landlord's agent, and
  - 2.2 a copy of this agreement signed by both the landlord and the tenant as soon as is reasonably practicable.

## RENT

3. **The tenant agrees:**
  - 3.1 to pay rent on time, and
  - 3.2 to reimburse the landlord for the cost of replacing rent deposit books or rent cards lost by the tenant, and
  - 3.3 to reimburse the landlord for the amount of any fees paid by the landlord to a bank or other authorised deposit-taking institution as a result of funds of the tenant not being available for rent payment on the due date.
4. **The landlord agrees:**
  - 4.1 to provide the tenant with at least one means to pay rent for which the tenant does not incur a cost (other than bank fees or other account fees usually payable for the tenant's transactions) and that is reasonably available to the tenant, and
  - 4.2 not to require the tenant to pay more than 2 weeks rent in advance or to pay rent for a period of the tenancy before the end of the previous period for which rent has been paid, and
  - 4.3 not to require the tenant to pay rent by a cheque or other negotiable instrument that is post-dated, and
  - 4.4 to accept payment of unpaid rent after the landlord has given a termination notice on the ground of failure to pay rent if the tenant has not vacated the residential premises, and
  - 4.5 not to use rent paid by the tenant for the purpose of any amount payable by the tenant other than rent, and

- 4.6 to give a rent receipt to the tenant if rent is paid in person (other than by cheque), and
- 4.7 to make a rent receipt available for collection by the tenant or to post it to the residential premises or to send it by email to an email address specified in this agreement by the tenant for the service of documents of that kind if rent is paid by cheque, and
- 4.8 to keep a record of rent paid under this agreement and to provide a written statement showing the rent record for a specified period within 7 days of a request by the tenant (unless the landlord has previously provided a statement for the same period).

**Note.** The landlord and tenant may, by agreement, change the manner in which rent is payable under this agreement.

## RENT INCREASES

5. **The landlord and the tenant agree** that the rent cannot be increased after the end of the fixed term (if any) of this agreement or under this agreement if the agreement is for a fixed term of 2 years or more, unless the landlord gives not less than 60 days written notice of the increase to the tenant. The notice must specify the increased rent and the day from which it is payable.

**Note:** Section 42 of the Residential Tenancies Act 2010 sets out the circumstances in which rent may be increased during the fixed term of a residential tenancy agreement. An additional term for this purpose may be included in the agreement.

6. **The landlord and the tenant agree** that the rent may not be increased after the end of the fixed term (if any) of this agreement more than once in any 12-month period.
7. **The landlord and the tenant agree:**
  - 7.1 that the increased rent is payable from the day specified in the notice, and
  - 7.2 that the landlord may cancel or reduce the rent increase by a later notice that takes effect on the same day as the original notice, and
  - 7.3 that increased rent under this agreement is not payable unless the rent is increased in accordance with this agreement and the Residential Tenancies Act 2010 or by the Civil and Administrative Tribunal.

## RENT REDUCTIONS

8. **The landlord and the tenant agree** that the rent abates if the residential premises:
  - 8.1 are destroyed, or become wholly or partly uninhabitable, otherwise than as a result of a breach of this agreement, or

For information about your rights and responsibilities under this agreement, contact NSW Fair Trading at [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au) or call 13 32 20.

- 8.2 cease to be lawfully usable as a residence, or
  - 8.3 are compulsorily appropriated or acquired by an authority.
9. The landlord and the tenant may, at any time during this agreement, agree to reduce the rent payable.

## PAYMENT OF COUNCIL RATES, LAND TAX, WATER AND OTHER CHARGES

### 10. The landlord agrees to pay:

- 10.1 rates, taxes or charges payable under any Act (other than charges payable by the tenant under this agreement), and
- 10.2 the installation costs and charges for initial connection to the residential premises of an electricity, water, gas, bottled gas or oil supply service, and
- 10.3 all charges for the supply of electricity, non-bottled gas or oil to the tenant at the residential premises that are not separately metered, and

**Note 1.** Clause 10.3 does not apply to premises located in an embedded network in certain circumstances in accordance with clauses 34 and 35 of the Residential Tenancies Regulation 2019.

**Note 2.** Clause 10.3 does not apply to social housing tenancy agreements in certain circumstances, in accordance with clause 36 of the Residential Tenancies Regulation 2019.

- 10.4 the costs and charges for the supply or hire of gas bottles for the supply of bottled gas at the commencement of the tenancy, and
- 10.5 all charges (other than water usage charges) in connection with a water supply service to separately metered residential premises, and
- 10.6 all charges in connection with a water supply service to residential premises that are not separately metered, and
- 10.7 all charges for the supply of sewerage services (other than for pump out septic services) or the supply or use of drainage services to the residential premises, and
- 10.8 all service availability charges, however described, for the supply of non-bottled gas to the residential premises if the premises are separately metered but do not have any appliances, supplied by the landlord, for which gas is required and the tenant does not use gas supplied to the premises, and

- 10.9 the costs and charges for repair, maintenance or other work carried out on the residential premises which is required to facilitate the proper installation or replacement of an electricity meter, in working order, including an advance meter, if the meter installation is required by the retailer to replace an existing meter because the meter is faulty, testing indicates the meter may become faulty or the meter has reached the end of its life.

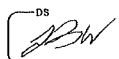
### 11. The tenant agrees to pay:

- 11.1 all charges for the supply of electricity or oil to the tenant at the residential premises if the premises are separately metered, and
- 11.2 all charges for the supply of non-bottled gas to the tenant at the residential premises if the premises are separately metered, unless the premises do not have any appliances supplied by the landlord for which gas is required and the tenant does not use gas supplied to the premises, and

**Note.** Charges for the supply of gas in certain circumstances may also be payable by a tenant under a social housing agreement in accordance with clause 36 of the Residential Tenancies Regulation 2019.

- 11.3 all charges for the supply of bottled gas to the tenant at the residential premises except for the costs and charges for the supply or hire of gas bottles at the start of the tenancy, and
- 11.4 all charges for pumping out a septic system used for the residential premises, and
- 11.5 any excess garbage charges relating to the tenant's use of the residential premises, and
- 11.6 water usage charges, if the landlord has installed water efficiency measures referred to in clause 10 of the Residential Tenancies Regulation 2019 and the residential premises:
  - 11.6.1 are separately metered, or
  - 11.6.2 are not connected to a water supply service and water is delivered by vehicle.

**Note. Separately metered** is defined in section 3 of the Residential Tenancies Act 2010.




**12. The landlord agrees** that the tenant is not required to pay water usage charges unless:

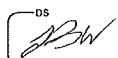
- 12.1** the landlord gives the tenant a copy of the part of the water supply authority's bill setting out the charges, or other evidence of the cost of water used by the tenant, and
- 12.2** the landlord gives the tenant at least 21 days to pay the charges, and
- 12.3** the landlord requests payment of the charges by the tenant not later than 3 months after the issue of the bill for the charges by the water supply authority, and
- 12.4** the residential premises have the following water efficiency measures:
  - 12.4.1** all internal cold water taps and single mixer taps for kitchen sinks or bathroom hand basins on the premises have a maximum flow rate of 9 litres a minute,
  - 12.4.2** on and from 23 March 2025, all toilets are dual flush toilets that have a minimum 3 star rating in accordance with the WELS scheme,
  - 12.4.3** all showerheads have a maximum flow rate of 9 litres a minute,
  - 12.4.4** at the commencement of the residential tenancy agreement and whenever any other water efficiency measures are installed, repaired or upgraded, the premises are checked and any leaking taps or toilets on the premises have been fixed.

**13. The landlord agrees** to give the tenant the benefit of, or an amount equivalent to, any rebate received by the landlord for water usage charges payable or paid by the tenant.

## **POSSESSION OF THE PREMISES**

**14. The landlord agrees:**

- 14.1** to make sure the residential premises are vacant so the tenant can move in on the date agreed, and
- 14.2** to take all reasonable steps to ensure that, at the time of signing this agreement, there is no legal reason why the premises cannot be used as a residence for the term of this agreement.




## **TENANT'S RIGHT TO QUIET ENJOYMENT**

**15. The landlord agrees:**

- 15.1** that the tenant will have quiet enjoyment of the residential premises without interruption by the landlord or any person claiming by, through or under the landlord or having superior title to that of the landlord (such as a head landlord), and
- 15.2** that the landlord or the landlord's agent will not interfere with, or cause or permit any interference with, the reasonable peace, comfort or privacy of the tenant in using the residential premises, and
- 15.3** that the landlord or the landlord's agent will take all reasonable steps to ensure that the landlord's other neighbouring tenants do not interfere with the reasonable peace, comfort or privacy of the tenant in using the residential premises.

## **USE OF THE PREMISES BY TENANT**

**16. The tenant agrees:**

- 16.1** not to use the residential premises, or cause or permit the premises to be used, for any illegal purpose, and
- 16.2** not to cause or permit a nuisance, and
- 16.3** not to interfere, or cause or permit interference, with the reasonable peace, comfort or privacy of neighbours, and
- 16.4** not to intentionally or negligently cause or permit any damage to the residential premises, and
- 16.5** not to cause or permit more people to reside in the residential premises than is permitted by this agreement.

**17. The tenant agrees:**

- 17.1** to keep the residential premises reasonably clean, and
- 17.2** to notify the landlord as soon as practicable of any damage to the residential premises, and
- 17.3** that the tenant is responsible to the landlord for any act or omission by a person who is lawfully on the residential premises if the person is only permitted on the premises with the tenant's consent and the act or omission would be in breach of this agreement if done or omitted by the tenant, and

For information about your rights and responsibilities under this agreement, contact NSW Fair Trading at [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au) or call 13 32 20.

- 17.4 that it is the tenant's responsibility to replace light globes on the residential premises.

**18. The tenant agrees,** when this agreement ends and before giving vacant possession of the premises to the landlord:

- 18.1 to remove all the tenant's goods from the residential premises, and
- 18.2 to leave the residential premises as nearly as possible in the same condition, fair wear and tear excepted, as at the commencement of the tenancy, and
- 18.3 to leave the residential premises reasonably clean, having regard to its condition at the commencement of the tenancy, and
- 18.4 to remove or arrange for the removal of all rubbish from the residential premises in a way that is lawful and in accordance with council requirements, and
- 18.5 to make sure that all light fittings on the premises have working globes, and
- 18.6 to return to the landlord all keys, and other opening devices or similar devices, provided by the landlord.

**Note.** Under section 54 of the Residential Tenancies Act 2010, the vicarious liability of a tenant for damage to residential premises caused by another person is not imposed on a tenant who is the victim of a domestic violence offence, or a co-tenant who is not a relevant domestic violence offender, if the damage occurred during the commission of a domestic violence offence (within the meaning of that Act).

## LANDLORD'S GENERAL OBLIGATIONS FOR RESIDENTIAL PREMISES

**19. The landlord agrees:**

- 19.1 to make sure that the residential premises are reasonably clean and fit to live in, and

**Note 1.** Section 52 of the Residential Tenancies Act 2010 specifies the minimum requirements that must be met for the residential premises to be fit to live in. These include that the residential premises:

- a) are structurally sound, and
- b) have adequate natural light or artificial lighting in each room of the premises other than a room that is intended to be used only for the purposes of storage or a garage, and
- c) have adequate ventilation, and
- d) are supplied with electricity or gas and have an adequate number of electricity outlet sockets or gas outlet sockets for the supply of lighting and heating to, and use of appliances in, the premises, and

- e) have adequate plumbing and drainage, and
- f) are connected to a water supply service or infrastructure that supplies water (including, but not limited to, a water bore or water tank) that is able to supply to the premises hot and cold water for drinking and ablution and cleaning activities, and
- g) contain bathroom facilities, including toilet and washing facilities, that allow privacy for the user.

**Note 2.** Premises are structurally sound only if the floors, ceilings, walls, supporting structures (including foundations), doors, windows, roof, stairs, balconies, balustrades and railings:

- a) are in a reasonable state of repair, and
- b) with respect to the floors, ceilings, walls and supporting structures – are not subject to significant dampness, and
- c) with respect to the roof, ceilings and windows – do not allow water penetration into the premises, and
- d) are not liable to collapse because they are rotted or otherwise defective.

- 19.2 to make sure that all light fittings on the residential premises have working light globes on the commencement of the tenancy, and

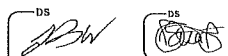
- 19.3 to keep the residential premises in a reasonable state of repair, considering the age of, the rent paid for and the prospective life of the premises, and

- 19.4 not to interfere with the supply of gas, electricity, water, telecommunications or other services to the residential premises (unless the interference is necessary to avoid danger to any person or enable maintenance or repairs to be carried out), and

- 19.5 not to hinder a tradesperson's entry to the residential premises when the tradesperson is carrying out maintenance or repairs necessary to avoid health or safety risks to any person, or to avoid a risk that the supply of gas, electricity, water, telecommunications or other services to the residential premises may be disconnected, and

- 19.6 to comply with all statutory obligations relating to the health or safety of the residential premises, and

- 19.7 that a tenant who is the victim of a domestic violence offence or a co-tenant who is under the same agreement as the victim of the domestic violence offence



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but is not a relevant domestic violence offender is not responsible to the landlord for any act or omission by a co-tenant that is a breach of this agreement if the act or omission constitutes or resulted in damage to the premises and occurred during the commission of a domestic violence offence.

## URGENT REPAIRS

**20. The landlord agrees** to pay the tenant, within 14 days after receiving written notice from the tenant, any reasonable costs (not exceeding \$1,000) that the tenant has incurred for making urgent repairs to the residential premises (of the type set out below) so long as:

- 20.1** the damage was not caused as a result of a breach of this agreement by the tenant, and
- 20.2** the tenant gives or makes a reasonable attempt to give the landlord notice of the damage, and
- 20.3** the tenant gives the landlord a reasonable opportunity to make the repairs, and
- 20.4** the tenant makes a reasonable attempt to have any appropriate tradesperson named in this agreement make the repairs, and
- 20.5** the repairs are carried out, where appropriate, by licensed or properly qualified persons, and
- 20.6** the tenant, as soon as possible, gives or tries to give the landlord written details of the repairs, including the cost and the receipts for anything the tenant pays for.

**Note.** The type of repairs that are **urgent repairs** are defined in the Residential Tenancies Act 2010 and are defined as follows:

- (a) a burst water service,
- (b) an appliance, fitting or fixture that uses water or is used to supply water that is broken or not functioning properly, so that a substantial amount of water is wasted,
- (c) a blocked or broken lavatory system,
- (d) a serious roof leak,
- (e) a gas leak,
- (f) a dangerous electrical fault,
- (g) flooding or serious flood damage,
- (h) serious storm or fire damage,
- (i) a failure or breakdown of the gas, electricity or water supply to the premises,

- (j) a failure or breakdown of any essential service on the residential premises for hot water, cooking, heating, cooling or laundering,
- (k) any fault or damage that causes the premises to be unsafe or insecure.

## SALE OF THE PREMISES

### 21. The landlord agrees:

- 21.1** to give the tenant written notice that the landlord intends to sell the residential premises, at least 14 days before the premises are made available for inspection by potential purchasers, and
- 21.2** to make all reasonable efforts to agree with the tenant as to the days and times when the residential premises are to be available for inspection by potential purchasers.

**22. The tenant agrees** not to unreasonably refuse to agree to days and times when the residential premises are to be available for inspection by potential purchasers.

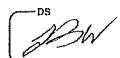
### 23. The landlord and tenant agree:

- 23.1** that the tenant is not required to agree to the residential premises being available for inspection more than twice in a period of a week, and
- 23.2** that, if they fail to agree, the landlord may show the residential premises to potential purchasers not more than twice in any period of a week and must give the tenant at least 48 hours notice each time.

## LANDLORD'S ACCESS TO THE PREMISES

**24. The landlord agrees** that the landlord, the landlord's agent or any person authorised in writing by the landlord, during the currency of this agreement, may only enter the residential premises in the following circumstances:

- 24.1** in an emergency (including entry for the purpose of carrying out urgent repairs),
- 24.2** if the Civil and Administrative Tribunal so orders,
- 24.3** if there is good reason for the landlord to believe the premises are abandoned,
- 24.4** if there is good reason for serious concern about the health of the tenant or any other person on the residential premises and a reasonable attempt has been made to obtain consent to the entry,




For information about your rights and responsibilities under this agreement, contact NSW Fair Trading at [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au) or call 13 32 20.

- 24.5** to inspect the premises, if the tenant is given at least 7 days written notice (no more than 4 inspections are allowed in any period of 12 months),
- 24.6** to carry out, or assess the need for, necessary repairs, if the tenant is given at least 2 days notice each time,
- 24.7** to carry out, or assess the need for, work relating to statutory health and safety obligations relating to the residential premises, if the tenant is given at least 2 days notice each time,
- 24.8** to show the premises to prospective tenants on a reasonable number of occasions if the tenant is given reasonable notice on each occasion (this is only allowed during the last 14 days of the agreement),
- 24.9** to value the property, if the tenant is given 7 days notice (not more than one valuation is allowed in any period of 12 months),
- 24.10** to take photographs, or make visual recordings, of the inside of the premises in order to advertise the premises for sale or lease, if the tenant is given reasonable notice and reasonable opportunity to move any of their possessions that can reasonably be moved out of the frame of the photograph or the scope of the recording (this is only allowed once in a 28 day period before marketing of the premises starts for sale or lease or the termination of this agreement),
- 24.11** if the tenant agrees.
- 25. The landlord agrees** that a person who enters the residential premises under clause 24.5, 24.6, 24.7, 24.8, 24.9 or 24.10 of this agreement:
- 25.1** must not enter the premises on a Sunday or a public holiday, unless the tenant agrees, and
- 25.2** may enter the premises only between the hours of 8.00 a.m. and 8.00 p.m., unless the tenant agrees to another time, and
- 25.3** must not stay on the residential premises longer than is necessary to achieve the purpose of the entry to the premises, and
- 25.4** must, if practicable, notify the tenant of the proposed day and time of entry.
- 26. The landlord agrees** that, except in an emergency (including to carry out urgent repairs), a person other than the landlord or the

landlord's agent must produce to the tenant the landlord's or the landlord's agent's written permission to enter the residential premises.

- 27. The tenant agrees** to give access to the residential premises to the landlord, the landlord's agent or any person, if they are exercising a right to enter the residential premises in accordance with this agreement.

## PUBLISHING PHOTOGRAPHS OR VISUAL RECORDINGS

- 28.** The landlord agrees that the landlord or the landlord's agent must not publish any photographs taken or visual recordings made of the inside of the residential premises in which the tenant's possessions are visible unless they first obtain written consent from the tenant.

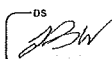
**Note.** See section 55A of the *Residential Tenancies Act 2010* for when a photograph or visual recording is 'published'.

- 29. The tenant agrees** not to unreasonably withhold consent. If the tenant is in circumstances of domestic violence within the meaning of section 105B of the *Residential Tenancies Act 2010*, it is not unreasonable for the tenant to withhold consent.

## FIXTURES, ALTERATIONS, ADDITIONS OR RENOVATIONS TO THE PREMISES

### 30. The tenant agrees:

- 30.1** not to install any fixture or renovate, alter or add to the residential premises without the landlord's written permission, and
- 30.2** that certain kinds of fixtures or alterations, additions or renovations that are of a minor nature specified by clause 22(2) of the *Residential Tenancies Regulation 2019* may only be carried out by a person appropriately qualified to install those fixtures or carry out those alterations, additions or renovations unless the landlord gives consent, and
- 30.3** to pay the cost of a fixture, installed by or on behalf of the tenant, or any renovation, alteration or addition to the residential premises, unless the landlord otherwise agrees, and
- 30.4** not to remove, without the landlord's permission, any fixture attached by the tenant that was paid for by the landlord or for which the landlord gave the tenant a benefit equivalent to the cost of the fixture, and




For information about your rights and responsibilities under this agreement, contact NSW Fair Trading at [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au) or call 13 32 20.

**30.5** to notify the landlord of any damage caused by removing any fixture attached by the tenant, and

**30.6** to repair any damage caused by removing the fixture or compensate the landlord for the reasonable cost of repair.

**31. The landlord agrees** not to unreasonably withhold consent to a fixture, or to an alteration, addition or renovation that is of a minor nature.

*Note. The Residential Tenancies Regulation 2019 provides a list of the kinds of fixtures or alterations, additions or renovations of a minor nature to which it would be unreasonable for a landlord to withhold consent and which of those fixtures, or alterations, additions or renovations the landlord may give consent to on the condition that the fixture or alteration, addition or renovation is carried out by an appropriately qualified person.*

## LOCKS AND SECURITY DEVICES

**32. The landlord agrees:**

**32.1** to provide and maintain locks or other security devices necessary to keep the residential premises reasonably secure, and

**32.2** to give each tenant under this agreement a copy of the key or opening device or information to open any lock or security device for the residential premises or common property to which the tenant is entitled to have access, and

**32.3** not to charge the tenant for the cost of providing the copies except to recover the cost of replacement or additional copies, and

**32.4** not to alter, remove or add any lock or other security device without reasonable excuse (which includes an emergency, an order of the Civil and Administrative Tribunal, termination of a co-tenancy or an apprehended violence order prohibiting a tenant or occupant from having access) or unless the tenant agrees, and

**32.5** to give each tenant under this agreement a copy of any key or other opening device or information to open any lock or security device that the landlord changes as soon as practicable (and no later than 7 days) after the change.

**33. The tenant agrees:**

**33.1** not to alter, remove or add any lock or other security device without reasonable excuse (which includes an emergency, an order of the Civil and Administrative

Tribunal, termination of a co-tenancy or an apprehended violence order prohibiting a tenant or occupant from having access) or unless the landlord agrees, and

**33.2** to give the landlord a copy of the key or opening device or information to open any lock or security device that the tenant changes within 7 days of the change.

**34.** A copy of a changed key or other opening device need not be given to the other party if the other party agrees not to be given a copy or the Civil and Administrative Tribunal authorises a copy not to be given or the other party is prohibited from access to the residential premises by an apprehended violence order.

## TRANSFER OF TENANCY OR SUB-LETTING BY TENANT

**35. The landlord and the tenant agree that:**

**35.1** the tenant may, with the landlord's written permission, transfer the tenant's tenancy under this agreement or sub-let the residential premises, and

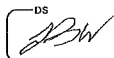
**35.2** the landlord may refuse permission (whether or not it is reasonable to do so) to the transfer of the whole of the tenancy or sub-letting the whole of the residential premises, and

**35.3** the landlord must not unreasonably refuse permission to a transfer of part of a tenancy or a sub-letting of part of the residential premises, and

**35.4** without limiting clause 35.3, the landlord may refuse permission to a transfer of part of the tenancy or to sub-letting part of the residential premises if the number of occupants would be more than is permitted under this agreement or any proposed tenant or sub-tenant is listed on a residential tenancy database or it would result in overcrowding of the residential premises.

*Note: Clauses 35.3 and 35.4 do not apply to social tenancy housing agreements.*

**36. The landlord agrees** not to charge for giving permission other than for the landlord's reasonable expenses in giving permission.




For information about your rights and responsibilities under this agreement, contact NSW Fair Trading at [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au) or call 13 32 20.

## CHANGE IN DETAILS OF LANDLORD OR LANDLORD'S AGENT

### 37. The landlord agrees:

- 37.1** if the name and telephone number or contact details of the landlord change, to give the tenant notice in writing of the change within 14 days, and
- 37.2** if the address of the landlord changes (and the landlord does not have an agent), to give the tenant notice in writing of the change within 14 days, and
- 37.3** if the name, telephone number or business address of the landlord's agent changes or the landlord appoints an agent, to give the tenant notice in writing of the change or the agent's name, telephone number and business address, as appropriate, within 14 days, and
- 37.4** if the landlord or landlord's agent is a corporation and the name or business address of the corporation changes, to give the tenant notice in writing of the change within 14 days.

## COPY OF CERTAIN BY-LAWS TO BE PROVIDED [Cross out clauses if not applicable]

- 38. The landlord agrees** to give to the tenant, before the tenant enters into this agreement, a copy of the by-laws applying to the residential premises if they are premises under the *Strata Schemes Management Act 2015*.
- 39. The landlord agrees** to give to the tenant, within 7 days of entering into this agreement, a copy of the by-laws applying to the residential premises if they are premises under the *Strata Schemes Development Act 2015*, the *Community Land Development Act 1989* or the *Community Land Management Act 1989*.

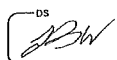
## MITIGATION OF LOSS

- 40.** The rules of law relating to mitigation of loss or damage on breach of a contract apply to a breach of this agreement. (For example, if the tenant breaches this agreement, the landlord will not be able to claim damages for loss which could have been avoided by reasonable effort by the landlord.)

## RENTAL BOND

[Cross out clauses if no rental bond is payable]

- 41. The landlord agrees** that, where the landlord or the landlord's agent applies to the Rental Bond Board or the Civil and Administrative Tribunal for payment of the whole or part of the rental bond to the landlord, the landlord or the landlord's agent will provide the tenant with:




- 41.1** details of the amount claimed, and
- 41.2** copies of any quotations, accounts and receipts that are relevant to the claim, and
- 41.3** a copy of a completed condition report about the residential premises at the end of the residential tenancy agreement.

## SMOKE ALARMS

### 42. The landlord agrees to:

- 42.1** ensure that smoke alarms are installed in accordance with the *Environmental Planning and Assessment Act 1979* if that Act requires them to be installed in the premises and are functioning in accordance with the regulations under that Act, and
- 42.2** conduct an annual check of all smoke alarms installed on the residential premises to ensure that the smoke alarms are functioning, and
- 42.3** install or replace, or engage a person to install or replace, all removable batteries in all smoke alarms installed on the residential premises annually, except for smoke alarms that have a removable lithium battery, and
- 42.4** install or replace, or engage a person to install or replace, a removable lithium battery in a smoke alarm in the period specified by the manufacturer of the smoke alarm, and
- 42.5** engage an authorised electrician to repair or replace a hardwired smoke alarm, and
- 42.6** repair or replace, a smoke alarm within 2 business days of becoming aware that the smoke alarm is not working, unless the tenant notifies the landlord that the tenant will carry out the repair to the smoke alarm and the tenant carries out the repair, and
- 42.7** reimburse the tenant for the costs of a repair or replacement of a smoke alarm in accordance with clause 18 of the *Residential Tenancies Regulation 2019*, that the tenant is allowed to carry out.

**Note 1.** Under section 64A of the *Residential Tenancies Act 2010*, repairs to a smoke alarm (which includes a heat alarm) includes maintenance of a smoke alarm in working order by installing or replacing a battery in the smoke alarm.

**Note 2.** Clauses 42.2-42.7 do not apply to a landlord of premises that comprise or include a lot in a strata scheme (within the meaning of the *Strata Schemes Management Act 2015*) if the owners corporation is responsible for the repair and replacement of smoke alarms in the residential premises.

For information about your rights and responsibilities under this agreement, contact NSW Fair Trading at [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au) or call 13 32 20.



**Note 3.** A tenant who intends to carry out a repair to a smoke alarm may do so only in the circumstances prescribed for a tenant in clause 15 of the Residential Tenancies Regulation 2019.

#### 43. The tenant agrees:

- 43.1** to notify the landlord if a repair or a replacement of a smoke alarm is required, including replacing a battery in the smoke alarm, and
- 43.2** that the tenant may only replace a battery in a battery-operated smoke alarm, or a back-up battery in a hardwired smoke alarm, if the smoke alarm has a removable battery or a removable back-up battery, and
- 43.3** to give the landlord written notice, as soon as practicable if the tenant will carry out and has carried out a repair or replacement, or engages a person to carry out a repair or replacement, in accordance with clauses 15-17 of the Residential Tenancies Regulation 2019.

**Note.** Clauses 43.2 and 43.3 do not apply to tenants under social housing tenancy agreements or tenants of premises that comprise or include a lot in a strata scheme (within the meaning of the Strata Schemes Management Act 2015) if the owners corporation is responsible for the repair and replacement of smoke alarms in the residential premises.

- 44. The landlord and tenant each agree** not to remove or interfere with the operation of a smoke alarm installed on the residential premises unless they have a reasonable excuse to do so.

**Note.** The regulations made under the Environmental Planning and Assessment Act 1979 provide that it is an offence to remove or interfere with the operation of a smoke alarm or a heat alarm in particular circumstances.

#### SWIMMING POOLS

[Cross out the following clause if there is no swimming pool]

- 45. The landlord agrees** to ensure that the requirements of the Swimming Pools Act 1992 have been complied with in respect of the swimming pool on the residential premises.

[Cross out the following clause if there is no swimming pool or the swimming pool is situated on land in a strata scheme (within the meaning of the Strata Schemes Management Act 2015) or in a community scheme (within the meaning of the Community Land Development Act 1989) and that strata or community scheme comprises more than 2 lots]

- 46. The landlord agrees** to ensure that at the time that this residential tenancy agreement is entered into:

- 46.1** the swimming pool on the residential premises is registered under the Swimming Pools Act 1992 and has a valid certificate of compliance under that Act or a relevant occupation certificate within the meaning of that Act, and
- 46.2** a copy of that valid certificate of compliance or relevant occupation certificate is provided to the tenant.

**Note.** A swimming pool certificate of compliance is valid for 3 years from its date of issue.

#### LOOSE-FILL ASBESTOS INSULATION

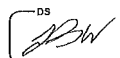
##### 47. The landlord agrees:

- 47.1** if, at the time that this residential tenancy agreement is entered into, the premises have been and remain listed on the LFAI Register, the tenant has been advised in writing by the landlord that the premises are listed on that Register, or
- 47.2** if, during the tenancy, the premises become listed on the LFAI Register, to advise the tenant in writing, within 14 days of the premises being listed on the Register, that the premises are listed on the Register.

#### COMBUSTIBLE CLADDING

- 48. The landlord agrees** that if, during the tenancy, the landlord becomes aware of any of the following facts, the landlord will advise the tenant in writing within 14 days of becoming aware of the fact:

- 48.1** that the residential premises are part of a building in relation to which a notice of intention to issue a fire safety order, or a fire safety order, has been issued requiring rectification of the building regarding external combustible cladding,
- 48.2** that the residential premises are part of a building in relation to which a notice of intention to issue a building product rectification order, or a building product rectification order, has been issued requiring rectification of the building regarding external combustible cladding,
- 48.3** that the residential premises are part of a building where a development application or complying development certificate application has been lodged for rectification of the building regarding external combustible cladding.




For information about your rights and responsibilities under this agreement, contact NSW Fair Trading at [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au) or call 13 32 20.

**SIGNIFICANT HEALTH OR SAFETY RISKS**

**49. The landlord agrees** that if, during the tenancy, the landlord becomes aware that the premises are subject to a significant health or safety risk, the landlord will advise the tenant in writing, within 14 days of becoming aware, that the premises are subject to the significant health or safety risk and the nature of the risk.

**ELECTRONIC SERVICE OF NOTICES AND OTHER DOCUMENTS**

**50. The landlord and the tenant agree:**

- 50.1** to only serve any notices and any other documents, authorised or required by the *Residential Tenancies Act 2010* or the regulations or this agreement, on the other party by email if the other party has provided express consent, either as part of this agreement or otherwise, that a specified email address is to be used for the purpose of serving notices and other documents, and
- 50.2** to notify the other party in writing within 7 days if the email address specified for electronic service of notices and other documents changes, and
- 50.3** that they may withdraw their consent to the electronic service of notices and other documents at any time, by notifying the other party in writing, and
- 50.4** if a notice is given withdrawing consent to electronic service of notices and other documents, following the giving of such notice, no further notices or other documents are to be served by email.

**BREAK FEE FOR FIXED TERM OF NOT MORE THAN 3 YEARS**

**51. The tenant agrees** that, if the tenant ends the residential tenancy agreement before the end of the fixed term of the agreement, the tenant must pay a break fee of the following amount if the fixed term is not more than 3 years:

- 51.1** 4 weeks rent if less than 25% of the fixed term has expired,
- 51.2** 3 weeks rent if 25% or more but less than 50% of the fixed term has expired,
- 51.3** 2 weeks rent if 50% or more but less than 75% of the fixed term has expired,
- 51.4** 1 week's rent if 75% or more of the fixed term has expired.

This clause does not apply if the tenant terminates a fixed term residential tenancy agreement for a fixed term of more than 3 years or if the tenant terminates a residential tenancy agreement early for a reason that is permitted under the *Residential Tenancies Act 2010*.

**Note.** Permitted reasons for early termination include destruction of residential premises, breach of the agreement by the landlord and an offer of social housing or a place in an aged care facility, and being in circumstances of domestic violence. Section 107 of the *Residential Tenancies Act 2010* regulates the rights of the landlord and tenant under this clause.

**52. The landlord agrees** that the compensation payable by the tenant for ending the residential tenancy agreement before the end of the fixed term of not more than 3 years is limited to the amount specified in clause 51 and any occupation fee payable under the *Residential Tenancies Act 2010* for goods left on the residential premises.

**Note.** Section 107 of the *Residential Tenancies Act 2010* also regulates the rights of landlords and tenants for a residential tenancy agreement with a fixed term of more than 3 years.

**ADDITIONAL TERMS**

[Additional terms may be included in this agreement if:

- (a) both the landlord and the tenant agree to the terms, and
- (b) they do not conflict with the *Residential Tenancies Act 2010*, the *Residential Tenancies Regulation 2019* or any other Act, and
- (c) they do not conflict with the standard terms of this agreement.

Any additional terms are not required by law and are **negotiable**.]

**ADDITIONAL TERM—PETS**

[Cross out clauses if not applicable]

**53. The landlord agrees** that the tenant may keep the following animal on the residential premises [specify the breed, size etc]:

**54. The tenant agrees:**

- 54.1** to supervise and keep the animal within the premises, and
- 54.2** to ensure that the animal does not cause a nuisance, or breach the reasonable peace, comfort or privacy of neighbours, and

For information about your rights and responsibilities under this agreement, contact NSW Fair Trading at [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au) or call 13 32 20.

**54.3** to ensure that the animal is registered and micro-chipped if required under law, and

**54.4** to comply with any council requirements.

- 55. The tenant agrees** to have the carpet professionally cleaned or to pay the cost of having the carpet professionally cleaned at the end of the tenancy if cleaning is required because an animal has been kept on the residential premises during the tenancy.

Insert any other agreed additional terms here.  
Attach a separate page if necessary.

## NOTES

### 1. Definitions

In this agreement:

- **landlord** means the person who grants the right to occupy residential premises under this agreement, and includes a successor in title to the residential premises whose interest is subject to that of the tenant and a tenant who has granted the right to occupy residential premises to a sub-tenant.
- **landlord's agent** means a person who acts as the agent of the landlord and who (whether or not the person carries on any other business) carries on business as an agent for:
  - (a) the letting of residential premises, or
  - (b) the collection of rents payable for any tenancy of residential premises.
- **LFAI Register** means the register of residential premises that contain or have contained loose-fill asbestos insulation that is required to be maintained under Division 1A of Part 8 of the *Home Building Act 1989*.
- **rental bond** means money paid by the tenant as security to carry out this agreement.
- **residential premises** means any premises or part of premises (including any land occupied with the premises) used or intended to be used as a place of residence.
- **tenancy** means the right to occupy residential premises under this agreement.
- **tenant** means the person who has the right to occupy residential premises under this agreement, and includes the person to whom such a right passes by transfer or operation of the law and a sub-tenant of the tenant.

### 2. Continuation of tenancy (if fixed term agreement)

Once any fixed term of this agreement ends, the agreement continues in force on the same terms as a periodic agreement unless the agreement is terminated by the landlord or the tenant in accordance with the *Residential Tenancies Act 2010* (see notes 3 and 4).

### 3. Ending a fixed term agreement

If this agreement is a fixed term agreement, it may be ended by the landlord or the tenant by giving written notice of termination. The notice may be given at any time up until the end of the fixed term but cannot take effect until the term ends. The landlord must give at least 30 days notice and the tenant must give at least 14 days notice.

### 4. Ending a periodic agreement

If this agreement is a periodic agreement, it may be ended by the landlord or the tenant by giving written notice of termination. The notice may be given at any time. The landlord must give at least 90 days notice and the tenant must give at least 21 days notice.

### 5. Other grounds for ending agreement

The *Residential Tenancies Act 2010* also authorises the landlord and tenant to end this agreement on other grounds. The grounds for the landlord ending the agreement include sale of the residential premises requiring vacant possession, breach of this agreement by the tenant, due to hardship or if the agreement is frustrated because the premises are destroyed, become wholly or partly uninhabitable or cease to be lawfully usable as a residence or are appropriated or acquired by any authority by compulsory process.

The grounds for the tenant include breach by the landlord of information disclosure provisions under section 26 of the Act (not revealed when this agreement was entered into), breach of this agreement by the landlord, due to hardship or if the agreement is frustrated because the premises are destroyed, become wholly or partly uninhabitable or cease to be lawfully usable as a residence or are appropriated or acquired by any authority by compulsory process.

For more information refer to that Act or contact NSW Fair Trading on 13 32 20.

### 6. Warning

It is an offence for any person to obtain possession of the residential premises without an order of the Civil and Administrative Tribunal or a judgement or order of a court if the tenant does not willingly move out. A court can order fines and compensation to be paid for such an offence.

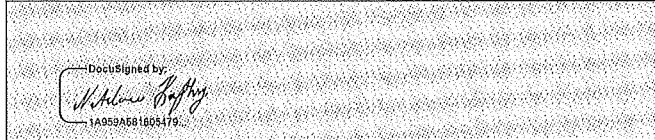
**THE LANDLORD AND THE TENANT ENTER INTO THIS AGREEMENT AND AGREE TO ALL ITS TERMS.**

**Note.** Section 9 of the Electronic Transactions Act 2000 allows for agreements to be signed electronically in NSW if the parties consent. If an electronic signature is used then it must comply with Division 2 of Part 2 of the Electronic Transactions Act 2000.

**SIGNED BY THE LANDLORD/AGENT**Name of ~~landlord~~/agent

NATDANAI KONGTHONG

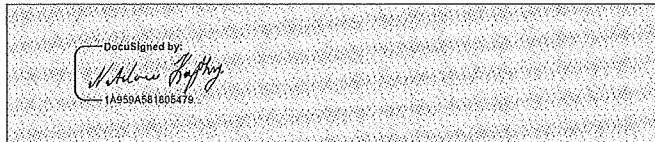
Signature of landlord/agent



on the      day of 01-06-2020      20\_\_

**LANDLORD INFORMATION STATEMENT**

The landlord acknowledges that, at or before the time of signing this residential tenancy agreement, the landlord has read and understood the contents of the **Landlord Information Statement** published by NSW Fair Trading that sets out the landlord's rights and obligations.

Signature of ~~landlord~~/agent


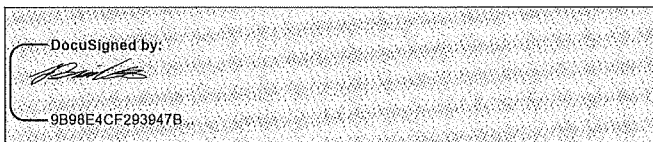
on the      day of 01-06-2020      20\_\_

**SIGNED BY THE TENANT (1)**

Name of tenant

Justin W

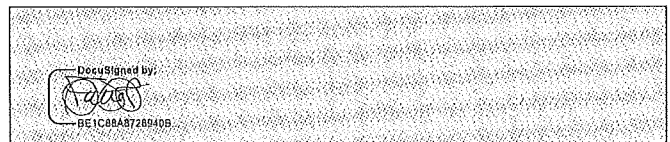
Signature of tenant


on the <sup>31</sup> day of May      20<sub>20</sub>**SIGNED BY THE TENANT (2)**

Name of tenant

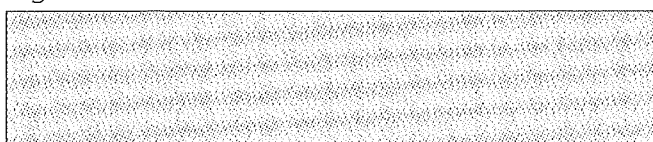
TAMARA ANDREA CUEVAS ALFARO

Signature of tenant


on the <sup>31</sup> day of May      20<sub>20</sub>**SIGNED BY THE TENANT (3)**

Name of tenant

Signature of tenant

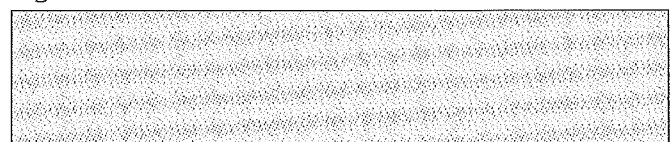


on the      day of      20\_\_

**SIGNED BY THE TENANT (4)**

Name of tenant

Signature of tenant



on the      day of      20\_\_

For information about your rights and responsibilities under this agreement, contact NSW Fair Trading at [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au) or call 13 32 20.



March 2020

# Tenant information statement

## What you must know before you start renting

### Starting a tenancy

Landlords or agents must give all tenants a copy of this **Tenant information statement** before signing a residential tenancy agreement.

Make sure you read this information statement thoroughly before you sign a residential tenancy agreement. Ask questions if there is anything in the agreement that you do not understand.

Remember, you are committing to a legally binding contract with no cooling-off period. You want to be certain you understand and agree to what you are signing.

#### The landlord or agent must:

- ensure the property is vacant, reasonably clean, fit to live in and in good repair at the start of the tenancy
- provide and maintain the property in a reasonable state of repair
- meet health and safety laws (e.g. pool fencing, electrical installations, smoke alarms, window and balcony safety)
- ensure the property is reasonably secure
- respect your privacy and follow entry and notice requirements.

#### When renting, you must:

- pay the rent on time
- keep the property reasonably clean and undamaged and leave it in the same condition it was in when you moved in (fair wear and tear excepted)
- not use the property for anything illegal
- follow the terms of the tenancy agreement
- respect your neighbours' right to peace, comfort and privacy

#### What you must be told before you sign an agreement

Sometimes a rental property has something in its history that you should know before you sign an agreement.

The landlord or agent **must tell** you if the property is:

- planned to be sold
- subject to court proceedings where the mortgagee is trying to take possession of the property
- in a strata scheme and a strata renewal committee is currently established for the strata scheme.

The landlord or agent **must tell** you if they are aware of any of the following facts. If the property:

- has been subject to flooding from a natural weather event or bushfire in the last 5 years
- has significant health or safety risks (unless obvious to a reasonable person when the property is inspected)
- has been the scene of a serious violent crime (e.g. murder or aggravated assault) in the last 5 years
- is listed on the loose-fill asbestos insulation register
- has been used to manufacture or cultivate a prohibited drug or prohibited plant in the last 2 years
- is part of a building where a fire safety or building product rectification order (or a notice of intention to issue one of these orders) has been issued regarding external combustible cladding
- is part of a building where a development or complying development certificate application for rectification has been lodged regarding external combustible cladding
- is in a strata scheme where scheduled rectification work or major repairs will be carried out to common property during the fixed term of the agreement
- is affected by zoning or laws that will not allow you to obtain a parking permit, and only paid parking is available in the area
- is provided with any council waste services that are different to other properties in the council area
- has a driveway or walkway that others can legally use.

Penalties apply to landlords or agents if any of the above is not done.

### **What you must be given before you sign an agreement**

Before you sign an agreement or move into the property, the landlord or agent **must give** you:

- a copy of this Tenant information statement
- a copy of the proposed tenancy agreement, filled out in the spaces provided
- 2 hard copies, or 1 electronic copy, of the condition report for the property completed by the landlord or agent
- a copy of the by-laws, if the property is in a strata scheme.

### **What you must be given at the time you sign an agreement**

At the time you sign the agreement, the landlord or agent **must give** you:

- for any swimming or spa pools on the property, a valid certificate of compliance or occupation certificate (issued within the last 3 years). This does not apply if you are renting a property in a strata or community scheme that has more than 2 lots.

### **Before or at the start of the tenancy**

The landlord or agent **must give** you:

- a copy of the key (or other opening device or information) to open any lock or security device for the rented property or common property, at no cost to you or any tenant named in the agreement.

### **The property must be fit to live in**

The property must be reasonably clean, fit to live in and in a reasonable state of repair.

To be fit to live in, the property must (at a minimum):

1. be structurally sound
2. have adequate natural or artificial lighting in each room, except storage rooms or garages
3. have adequate ventilation
4. be supplied with electricity or gas, and have enough electricity or gas sockets for lighting, heating and other appliances
5. have adequate plumbing and drainage
6. have a water connection that can supply hot and cold water for drinking, washing and cleaning
7. have bathroom facilities, including toilet and washing facilities, that allow users' privacy.

The property could have other issues that may make it unfit for you to live in, even if it meets the

above 7 minimum standards. Before you rent the property, you should tell the landlord or agent to take steps (such as make repairs) to make sure the property is fit to live in.

### **Residential tenancy agreement**

The tenancy agreement is a legal agreement. It must include certain standard terms that cannot be changed or deleted. It may also include additional terms. Verbal agreements are still binding on you and the landlord.

### **Condition report**

You should have already received a copy of the condition report, completed by the landlord or agent, before you signed the agreement. This is an important piece of evidence and you should take the time to check the condition of the property at the start of the tenancy. If you do not complete the report accurately, money could be taken out of your bond (after you move out) to pay for damage that was already there when you moved in.

You must complete and give a copy of the condition report to your landlord or agent **within 7 days** after moving into the property. You must also keep a copy of the completed report.

### **Rent, receipts and records**

Rent is a regular payment you make to the landlord to be able to live in the property. You cannot be asked to pay more than 2 weeks' rent in advance. Your landlord or agent cannot demand more rent until it is due.

Your landlord or agent can serve you with 14 days' termination notice if you are more than 14 days behind with the rent.

Your landlord or agent must:

- give you rent receipts (unless rent is paid into a nominated bank account)
- keep a record of rent you pay
- provide you with a copy of the rent record within 7 days of your written request for it.

### **Rental bonds**

The bond is money you may have to pay at the start of the tenancy as security. It must be in the form of money and not as a guarantee. Your landlord or agent can only ask for 1 bond for a tenancy agreement. The bond payable cannot be more than 4 weeks rent. If the landlord agrees, you can pay the bond in instalments.

Your landlord or agent cannot make you pay a bond before the tenancy agreement is signed. If you pay the bond directly to Fair Trading using Rental Bonds Online (RBO) the landlord or agent will receive confirmation of this before they finalise the tenancy agreement.

Your landlord or agent must give you the option to use RBO to pay your bond. You can use RBO to securely pay your bond direct to NSW Fair Trading using a credit card or BPAY, without the need to fill out and sign a bond lodgement form. Once registered, you can continue to use your RBO account for future tenancies.

If you decide not to use RBO, you can ask your agent or landlord for a paper bond lodgement form for you to sign, so that it can be lodged with Fair Trading. The landlord must deposit any bond you pay them with Fair Trading within 10 working days. If the bond is paid to the agent, the agent must deposit the bond with Fair Trading within 10 working days after the end of the month in which the bond was paid.

### Discrimination when applying for rental property

It is against the law for a landlord or agent to discriminate on the grounds of your race, age, disability, gender, sexual orientation, marital status or pregnancy.

If you feel that a landlord or agent has declined your tenancy application or has treated you less favourably because of the above, you can contact the NSW Anti-Discrimination Board on 1800 670 812 or the Australian Human Rights Commission on 1300 656 419.

It is not against the law if a landlord or agent chooses not to have a tenant who smokes, or has a poor tenancy history or issues with rent payments.

### Communicating with your landlord or agent

Your landlord must provide you with their name and a way for you to contact them directly, even if your landlord has an agent.

This information must be given to you in writing before or when you sign the tenancy agreement, or it can be included in the agreement you sign. Your landlord must also let you know, in writing, within 14 days of any changes to their details.

Some formal communication between you and the landlord or agent must be in writing to be valid, for example, termination notices. You can use email to serve notices or other documents but only if the landlord or agent has given you permission to use their nominated email address for this purpose.

## During the tenancy

### Can rent be increased during the tenancy?

For a fixed-term of less than 2 years, rent can only be increased during the fixed-term if the agreement sets out the increased amount or how the increase will be calculated. No written notice of the increase is required.

For a fixed-term of 2 years or more, or for a periodic agreement (i.e. where the fixed-term has expired or no fixed-term is specified), the rent can only be increased once in a 12-month period. You must get at least 60 days written notice.

### Paying for electricity, gas and water usage

You may have to pay the cost for certain utilities as set out in the agreement. For example, you will pay for all:

- electricity, non-bottled gas or oil supply charges **if** the property is separately metered. Some exceptions apply for electricity or gas
- charges for the supply of bottled gas during the tenancy.

There are limits on when you need to pay for water usage charges. You can only be asked to pay for water usage if the property is separately metered (or water is delivered by vehicle) and meets the following water efficiency measures:

- all showerheads have a maximum flow rate of 9 litres per minute
- all internal cold-water taps and single mixer taps for kitchen sinks or bathroom hand basins have a maximum flow rate of 9 litres per minute
- any leaking taps or toilets on the property are fixed at the start of the agreement and whenever other water efficiency measures are installed, repaired or upgraded
- from 23 March 2025, toilets are dual flush and have a minimum 3-star WELS rating.

### Repairs and maintenance

The property must always be fit for you to live in. The landlord is responsible for any repairs or maintenance, so the property is in a reasonable state of repair. They must also ensure the property meets health and safety laws.

You are responsible for looking after the property and keeping it clean and undamaged. If the property includes a yard, lawns and gardens, you must also keep these areas neat and tidy.

You need to tell your landlord or the agent of any necessary repairs or damage as soon as possible. They are responsible for arranging and paying for the repair costs unless you caused or allowed the damage. You are not responsible for any damage caused by a perpetrator of domestic violence during a domestic violence offence.

If the repair is an **urgent repair** e.g. where there is a burst water service, a blocked or broken toilet, a gas leak or dangerous electrical fault, your landlord or agent should organise these repairs as soon as reasonably possible, after being notified. If they do not respond to an urgent repair, you may be able to organise the work yourself and be reimbursed



a maximum amount of \$1,000 within 14 days from requesting payment in writing. A list of **urgent repairs** is available on the [Fair Trading website](#).

You can apply to Fair Trading for a rectification order if your landlord refuses or does not provide and maintain the property in a reasonable state of repair. Similarly, your landlord can apply to Fair Trading for a rectification order if you refuse or do not repair damage you have caused or allowed. You can also apply to the NSW Civil and Administrative Tribunal (the Tribunal) if your landlord does not carry out repairs.

### Smoke alarms must be working

Landlords must ensure that smoke alarms are installed on all levels of the property. Your landlord must maintain the smoke alarms in your property to ensure they are working.

You should notify your landlord or agent if a smoke alarm is not working. They are responsible for repairing (including replacing a battery) or replacing a smoke alarm within 2 business days after they become aware that it is not working.

You can choose to replace a removable battery if it needs replacing, but you must notify the landlord if and when you do this. You are not responsible for maintaining, repairing or replacing a smoke alarm. However, there are some circumstances where you can arrange for a smoke alarm to be repaired or replaced.

### Privacy and access

You have the right to reasonable peace, comfort and privacy when renting. Tenancy laws restrict when and how often your landlord, agent or other authorised person can enter the property during the tenancy. Your landlord, agent or authorised person can enter the property without your consent in certain circumstances if proper notice (if applicable) is provided.

For example:

- in an **emergency**, no notice is necessary
- if the **Tribunal orders** that access is allowed
- to carry out, or assess the need for, **necessary repairs or maintenance** of the property, if you have been given at least 2 days' notice
- to carry out **urgent repairs**, no notice is necessary
- to carry out **repairs or replacement of a smoke alarm**, if you have been given at least 1 hours' notice
- to **inspect or assess the need for repair or replacement of a smoke alarm**, if you have been given at least 2 business days' notice
- to carry out a **general inspection** of the property if you have been given at least 7 days' written notice (no more than 4 inspections during a 12-month period).

### How to make 'minor' changes to the property

You can only make minor changes to the property with your landlord's written consent, or if the agreement allows it. Your landlord can only refuse your request if it is reasonable to do so e.g. if the work involves structural changes or is inconsistent with the nature of the property.

There are certain types of 'minor' changes where it would be unreasonable for your landlord to refuse consent. For example:

- secure furniture to a non-tiled wall for safety reasons
- fit a childproof latch to an outdoor gate in a single dwelling
- insert fly screens on windows
- install or replace internal window covering (e.g. curtains)
- install cleats or cord guides to secure blind or curtain cords
- install child safety gates inside the property
- install window safety devices for child safety (non-strata only)
- install hand-held shower heads or lever-style taps to assist elderly or disabled occupants
- install or replace hooks, nails or screws for hanging pictures etc.
- install a phone line or internet connection
- plant vegetables, flowers, herbs or shrubs in the garden
- install wireless removable outdoor security camera
- apply shatter-resistant film to window or glass doors
- make changes that don't penetrate a surface, or permanently modify a surface, fixture or structure of the property.

Some exceptions apply. The landlord can also require that certain minor changes be carried out by a qualified person.

You will be responsible for paying for the changes and for any damage you cause to the property. Certain rules apply for removing any modifications at the end of the tenancy.

### Your rights in circumstances of domestic violence

Every person has the right to feel safe and live free from domestic violence. If you or your dependent child are experiencing domestic violence in a rental property, there are options available to you to improve your safety.

If you or your dependent child need to escape violence, you can end your tenancy immediately,

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without penalty. To do this you must give your landlord a termination notice with the relevant evidence and give a termination notice to any co-tenants.

Or, if you wish to stay in your home, you can apply to the Tribunal for an order to end the tenancy of the perpetrator (if they are another co-tenant).

A tenant or any innocent co-tenant is not liable for property damage caused by the perpetrator of violence during a domestic violence offence.

## Ending the tenancy

### Termination notice must be given

A tenancy agreement is a legally binding agreement that can only be ended in certain ways. A tenancy will usually be ended by you or your landlord giving notice to the other party and you vacating on or by the date specified in the notice.

To end a tenancy, you need to give the landlord or agent a written termination notice with the applicable notice period. In some cases, you can apply directly to the Tribunal for a termination order without issuing a termination notice (for example if you are experiencing hardship).

If you do not leave by the date specified in the termination notice, the landlord or agent can apply to the Tribunal for termination and possession orders. If you do not comply with the Tribunal order, only a Sheriff's Officer can legally remove you from the property under a warrant for possession.

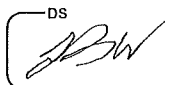
You cannot be locked out of your home under any circumstances unless a Sheriff's Officer is enforcing a warrant for possession issued by the Tribunal or a court.

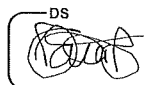
### Break fee for ending a fixed term agreement early

If you end a fixed term agreement early that is for 3 years or less, mandatory break fees may apply based on the stage of the agreement. If it applies, the set fee payable will be:

- 4 weeks rent if less than 25% of the lease had expired
- 3 weeks rent if 25% or more but less than 50% of the lease had expired
- 2 weeks rent if 50% or more but less than 75% of the lease had expired
- 1 week's rent if 75% or more of the lease had expired.

The break fee does not apply if you end the agreement early for a reason allowed under the Act.

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## Getting the rental bond returned

You should receive the bond in full at the end of the tenancy unless there is a reason for the landlord to make a claim against the bond. For example if:

- rent or other charges (e.g. unpaid water usage bills, break fee) are owing
- copies of the keys were not given back and the locks needed to be changed
- you caused damage or did not leave the property in a reasonably clean condition compared to the original condition report, apart from 'fair wear and tear'.

You are not liable for fair wear and tear to the property that occurs over time with the use of the property, even when the property receives reasonable care and maintenance.

## Checklist

You should only sign the agreement when you can answer **Yes** to the following.

### The tenancy agreement

- ☐ I have read the agreement and asked questions if there were things I did not understand.
- ☐ I understand the fixed-term of the agreement is negotiated before I sign, which means it can be for 6 months, 12 months, or some other period.
- ☐ I understand that I must be offered at least one way to pay the rent that does not involve paying a fee to a third party.
- ☐ I understand that any additional terms to the agreement can be negotiated before I sign.
- ☐ I have checked that all additional terms to the agreement are allowed. For example, the agreement does not include a term requiring me to have the carpet professionally cleaned when I leave, unless it is required because the landlord has allowed me to keep a pet on the property.

### Promised repairs

For any promises the landlord or agent makes to fix anything (e.g. replace the oven, etc.) or do other work (e.g. paint a room, clean up the backyard, etc.):

- ☐ I have made sure these have already been done or
- ☐ I have an undertaking in writing (before signing the agreement) that they will be done.

## Upfront costs

- ☐ I am **not** required to pay:
  - more than 2 weeks rent in advance
  - more than 4 weeks rent as a rental bond.
- ☐ I am **not** being charged for:
  - the cost of preparing the tenancy agreement
  - the initial supply of keys and other opening devices to each tenant named in the agreement
  - being allowed to keep a pet on the property.

## Top tips for problem-free renting

Some useful tips to help avoid problems when renting:

- Keep a copy of your agreement, condition report, rent receipts, Rental Bond Number and copies of letters/emails you send or receive in a safe place where you can easily find them later.
- Photos are a great way to record the condition of the property when you first move in. Take date-stamped photos of the property, especially areas that are damaged or unclean. Keep these photos in case the landlord objects to returning your bond at the end of your tenancy.
- Comply with the terms of your agreement and never stop paying your rent, even if you don't think the landlord is complying with their side of the agreement (e.g. by failing to do repairs). You could end up being evicted if you do.
- Never make any changes to the property, or let other people move in without asking the landlord or agent for permission first.
- Keep a written record of your dealings with the landlord or agent (for example by keeping copies of emails or a diary record of your conversations, including the times and dates, who you spoke to and what they agreed to do). It is helpful to have any agreements in writing, for example requests for repairs. This is a useful record and can also assist if there is a dispute.

- Consider taking out home contents insurance to cover your belongings in case of theft, fires and natural disasters. The landlord's building insurance, if they have it, will not cover your belongings.
- If the property has a pool or garden, be clear about what the landlord or agent expects you to do to maintain them.
- Be careful with what you sign relating to your tenancy and do not let anybody rush you. Never sign a blank form, such as a 'Claim for refund of bond' form.
- If you are happy in the property and your agreement is going to end, consider asking for the agreement to be renewed for another fixed-term. This will remove any worry about being unexpectedly asked to leave and can help to lock in the rent for the next period.

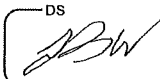
## More information

Visit the [Fair Trading website](https://fairtrading.nsw.gov.au) or call 13 32 20 for more information about your renting rights and responsibilities. The NSW Government funds a range of community-based Tenants Advice and Advocacy Services across NSW to provide advice, information and advocacy to tenants. Visit the Tenants' Union website at [tenants.org.au](https://tenants.org.au)

**[fairtrading.nsw.gov.au](https://fairtrading.nsw.gov.au) 13 32 20**

Language assistance 13 14 50  
(ask for an interpreter in your language)

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