

# Contract for the sale of land – 2005 edition

## TERM

## MEANING OF TERM

Vendor's agent **Skyline Real Estate** Phone: **02 9452 3444**  
**3/14 Frenchs Forest Road, Frenchs Forest NSW 2086** Fax: **02 9452 4555**

Vendor **Stephen John Harmer & Victoria Rosamund Harmer**  
**4 Kadigal Place, Beacon Hill, NSW 2100**

Vendor's Solicitor **Thogersens Legal** Phone: **02 9144 4082**  
**55 Station Street, Pymble NSW 2073** Fax: **02 9402 5862**  
**PO Box 6244, Pymble NSW 2073** Ref: **LGT:130189**

Completion date **91<sup>st</sup> day after the date of this contract**

Land **4 Kadigal Place, Beacon Hill, New South Wales 2100**  
 (Address, plan details and title reference) **Registered Plan: Lot 11 Plan DP238331**  
**Folio Identifier 11/238331**

Improvements ☒ VACANT POSSESSION ☐ subject to existing tenancies  
☒ HOUSE ☐ garage ☒ carport ☐ home unit ☐ carspace ☐ none  
☒ other: Swimming pool, Shed & Gazebo

Attached copies ☒ Documents in the List of Documents as marked or as numbered:  
☐ Other documents:

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

Inclusions ☒ blinds ☒ curtains ☒ insect screens ☒ stove  
☒ built-in wardrobes ☒ dishwasher ☒ light fittings ☒ clothes line  
☒ TV antenna ☒ range hood ☒ fixed floor coverings  
☒ pool equipment (Creepy Crawly included) ☐ other:

Exclusions

Purchaser

Purchaser's solicitor

Price \$  
 Deposit \$ (10% of the price, unless otherwise stated)  
 Balance \$  
 Contract date (if not stated, the date this contract was made)

Vendor

Witness

**GST AMOUNT** (optional)

The price includes

GST of:

Purchaser

☐ JOINT TENANTS ☐ tenants in common ☐ in unequal shares

Witness

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

Land tax is adjustable

☒ NO ☐ yes

GST: Taxable supply

☒ NO ☐ yes in full ☐ yes to an extent

Margin scheme will be used in making the taxable supply

☒ NO ☐ yes

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

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

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

## List of Documents

General	Strata or community title (clause 23 of the contract)
<input checked="" type="checkbox"/> 1 property certificate for the land <input checked="" type="checkbox"/> 2 plan of the land <input type="checkbox"/> 3 unregistered plan of the land <input type="checkbox"/> 4 plan of land to be subdivided <input type="checkbox"/> 5 document that is to be lodged with a relevant plan <input checked="" type="checkbox"/> 6 section 149(2) certificate (Environmental Planning and Assessment Act 1979) <input type="checkbox"/> 7 section 149(5) information included in that certificate <input checked="" type="checkbox"/> 8 sewerage connections diagram <input type="checkbox"/> 9 sewer mains diagram <input checked="" type="checkbox"/> 10 document that created or may have created an easement, profit à prendre, restriction on use or positive covenant disclosed in this contract <input type="checkbox"/> 11 section 88G certificate (positive covenant) <input type="checkbox"/> 12 survey report <input type="checkbox"/> 13 section 317A certificate (certificate of compliance) <input type="checkbox"/> 14 building certificate given under <i>legislation</i> <input type="checkbox"/> 15 insurance certificate (Home Building Act 1989) <input type="checkbox"/> 16 brochure or note (Home Building Act 1989) <input type="checkbox"/> 17 section 24 certificate (Swimming Pools Act 1992) <input type="checkbox"/> 18 lease (with every relevant memorandum or variation) <input type="checkbox"/> 19 other document relevant to tenancies <input type="checkbox"/> 20 old system document <input type="checkbox"/> 21 Crown tenure card <input type="checkbox"/> 22 Crown purchase statement of account <input type="checkbox"/> 23 <del>Statutory declaration regarding vendor duty</del>	<input type="checkbox"/> 24 property certificate for strata common property <input type="checkbox"/> 25 plan creating strata common property <input type="checkbox"/> 26 strata by-laws not set out in <i>legislation</i> <input type="checkbox"/> 27 strata development contract or statement <input type="checkbox"/> 28 strata management statement <input type="checkbox"/> 29 leasehold strata - lease of lot and common property <input type="checkbox"/> 30 property certificate for neighbourhood property <input type="checkbox"/> 31 plan creating neighbourhood property <input type="checkbox"/> 32 neighbourhood development contract <input type="checkbox"/> 33 neighbourhood management statement <input type="checkbox"/> 34 property certificate for precinct property <input type="checkbox"/> 35 plan creating precinct property <input type="checkbox"/> 36 precinct development contract <input type="checkbox"/> 37 precinct management statement <input type="checkbox"/> 38 property certificate for community property <input type="checkbox"/> 39 plan creating community property <input type="checkbox"/> 40 community development contract <input type="checkbox"/> 41 community management statement <input type="checkbox"/> 42 document disclosing a change of by-laws <input type="checkbox"/> 43 document disclosing a change in a development or management contract or statement <input type="checkbox"/> 44 document disclosing a change in boundaries <input type="checkbox"/> 45 certificate under Management Act – section 109 (Strata Schemes) or section 26 (Community Land)

## WARNINGS

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

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

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

## DISPUTES

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

## AUCTIONS

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

## SECTION 66W CERTIFICATE

I, \_\_\_\_\_ of  
\_\_\_\_\_,

certify as follows:

1. I am a Solicitor / Conveyancer currently admitted to practise in New South Wales;
2. I am giving this certificate in accordance with section 66W of the Conveyancing Act 1919 with reference to a contract for the sale of property at **4 Kadigal Place, Beacon Hill**, from **Victoria Harmer and Stephen Harmer** to \_\_\_\_\_  
\_\_\_\_\_ (“the purchaser/s”) in order that there is no cooling off period in relation to that contract;
3. I do not act for **Victoria Harmer and Stephen Harmer** and am not employed in the legal practice of a solicitor acting for **Victoria Harmer and Stephen Harmer** nor am I a member or employee of a firm of which a solicitor acting for **Victoria Harmer and Stephen Harmer** is a member or employee; and
4. I have explained to the purchaser/s:
  - (a) The effect of the contract for the purchase of that property;
  - (b) The nature of this certificate; 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: \_\_\_\_\_

\_\_\_\_\_  
Signature -

## **Conditions of sale by auction**

If the property is or is 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 Regulation 2003 and section 68 of the Property, Stock and Business Agents Act 2002:

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

- (c) Immediately before making a vendor bid the auctioneer must announce that the bid is made on behalf of the vendor or announces 'vendor bid'.
- 2A. The following conditions, in addition to those prescribed by subclauses 1 and 2 are prescribed as applicable to and in respect of the sale by auction of co-owned residential property or rural land or the sale of such land by a vendor as executor or administrator:
- (a) More than one vendor bid may be made to purchase interest of co-owner;
  - (b) A bid by or on behalf of an executor or administrator may be made to purchase in that capacity;
  - (c) Before the commencement of the auction, the auctioneer must announce that bids to purchase the interest of another co-owner or to purchase as executor or administrator may be made by or on behalf of the vendor; and
  - (d) Before the commencement of the auction, the auctioneer must announce the bidder registration number of any co-owner, executor or administrator or any person registered to bid on behalf of any co-owner, executor or administrator.
3. The following condition, in addition to those prescribed by subclause 1, is prescribed as applicable to and in respect of the sale by auction of livestock. The purchaser of livestock must pay the stock and station agent who conducted the auction, or under whose immediate and direct supervision the auction was conducted, or the vendor the full amount of the purchase price:
- (a) If amount can reasonably be determined immediately after fall of hammer – before the close of the next business day following the auction; or
  - (b) If that amount cannot reasonably be determined immediately after the fall of the hammer – before the close of the next business day following determination of that amount,
- unless some other time for payment is specified in a written agreement between the purchaser and the agent or the purchaser and the vendor made before the fall of the hammer.

### **WARNING SWIMMING POOLS**

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

### **WARNING SMOKE ALARMS**

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

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

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

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

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

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

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

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

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

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

#### 2 Deposit and other payments before completion

- 2.1 The purchaser must pay the deposit to the *depositholder* as stakeholder.
- 2.2 *Normally*, the purchaser must pay the deposit on the making of this contract, and this time is essential.
- 2.3 If this contract requires the purchaser to pay any of the deposit by a later time, that time is also essential.

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

### **3 Payment of vendor duty out of the deposit**

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

### **4 Transfer**

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

### **5 Requisitions**

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

### **6 Error or misdescription**

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



## 7 Claims by purchaser

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

7.1 the vendor can *rescind* if in the case of claims that are not claims for delay -

7.1.1 the total amount claimed exceeds 5% of the price;

7.1.2 the vendor *serves* notice of intention to *rescind*; and

7.1.3 the purchaser does not *serve* notice waiving the claims *within* 14 days after that *service*; and

7.2 if the vendor does not *rescind*, the *parties* must complete and if this contract is completed -

7.2.1 the lesser of the total amount claimed and 10% of the price must be paid out of the price to and held by the *depositholder* until the claims are finalised or lapse;

7.2.2 the amount held is to be invested in accordance with clause 2.9;

7.2.3 the claims must be finalised by an arbitrator appointed by the *parties* or, if an appointment is not made *within* 1 month of completion, by an arbitrator appointed by the President of the Law Society at the request of a *party* (in the latter case the *parties* are bound by the terms of the Conveyancing Arbitration Rules approved by the Law Society as at the date of the appointment);

7.2.4 the purchaser is not entitled, in respect of the claims, to more than the total amount claimed and the costs of the purchaser;

7.2.5 net interest on the amount held must be paid to the *parties* in the same proportion as the amount held; and

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

## 8 Vendor's right to rescind

The vendor can *rescind* if -

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

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

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

## 9 Purchaser's default

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

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

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

9.2.1 for 12 months after the *termination*; or

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

9.3 sue the purchaser either -

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

- the deficiency on resale (with credit for any of the deposit kept or recovered and after allowance for any capital gains tax or goods and services tax payable on anything recovered under this clause); and
- the reasonable costs and expenses arising out of the purchaser's non-compliance with this contract or the notice and of resale and any attempted resale; or

9.3.2 to recover damages for breach of contract.

## 10 Restrictions on rights of purchaser

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

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

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

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

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

10.1.5 a promise, representation or statement about this contract, the *property* or the title, not set out or referred to in this contract;

10.1.6 a condition, exception, reservation or restriction in a Crown grant;

10.1.7 the existence of any authority or licence to explore or prospect for gas, minerals or petroleum;

10.1.8 any easement or restriction on use the substance of either of which is disclosed in this contract or any non-compliance with the easement or restriction on use; or

10.1.9 anything the substance of which is disclosed in this contract (except a caveat, charge, mortgage or writ).

10.2 The purchaser cannot *rescind* or *terminate* only because of a defect in title to or quality of the inclusions.

10.3 *Normally*, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* or require the vendor to change the nature of the title disclosed in this contract (for example, to remove a caution evidencing qualified title, or to lodge a plan of survey as regards limited title).

## 11 Compliance with work orders

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

## 12 Certificates and inspections

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

## 13 Goods and services tax (GST)

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

## 14 Adjustments

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

## 15 Completion date

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

## 16 Completion

### ● Vendor

- 16.1 On completion the vendor must give the purchaser any *document of title* that relates only to the *property*.
- 16.2 If on completion the vendor has possession or control of a *document of title* that relates also to other property, the vendor must produce it as and where necessary.
- 16.3 *Normally*, on completion the vendor must cause the legal title to the *property* (being an estate in fee simple) to pass to the purchaser free of any mortgage or other interest, subject to any necessary registration.
- 16.4 The legal title to the *property* does not pass before completion.
- 16.5 If the vendor gives the purchaser a document (other than the transfer) that needs to be lodged for registration, the vendor must pay the lodgment fee to the purchaser, plus another 20% of that fee.
- 16.6 If the purchaser *serves* a land tax certificate showing a charge on any of the land, on completion the vendor must give the purchaser a land tax certificate showing the charge is no longer effective against the land.

### ● Purchaser

- 16.7 On completion the purchaser must pay to the vendor, by cash (up to \$2,000) or *settlement cheque*, the price (less any deposit paid) and any other amount payable by the purchaser under this contract (less any amount payable by the vendor to the purchaser under this contract).
- 16.8 If the vendor requires more than 5 *settlement cheques*, the vendor must pay \$10 for each extra *cheque*.
- 16.9 If any of the deposit is not covered by a bond or guarantee, on completion the purchaser must give the vendor an order signed by the purchaser authorising the *depositholder* to account to the vendor for the deposit.
- 16.10 On completion the deposit belongs to the vendor.

### ● Place for completion

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

## 17 Possession

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

- 17.2.1 this contract says that the sale is subject to existing tenancies; and
- 17.2.2 the contract discloses the provisions of the tenancy (for example, by attaching a copy of the lease and any relevant memorandum or variation).
- 17.3 *Normally*, the purchaser can claim compensation (before or after completion) or *rescind* if any of the land is affected by a protected tenancy (a tenancy affected by Part 2, 3, 4 or 5 Landlord and Tenant (Amendment) Act 1948).

## 18 Possession before completion

- 18.1 This clause applies only if the vendor gives the purchaser possession of the *property* before completion.
- 18.2 The purchaser must not before completion -
  - 18.2.1 let or part with possession of any of the *property*;
  - 18.2.2 make any change or structural alteration or addition to the *property*; or
  - 18.2.3 contravene any agreement between the *parties* or any direction, document, *legislation*, notice or order affecting the *property*.
- 18.3 The purchaser must until completion -
  - 18.3.1 keep the *property* in good condition and repair having regard to its condition at the giving of possession; and
  - 18.3.2 allow the vendor or the vendor's authorised representative to enter and inspect it at all reasonable times.
- 18.4 The risk as to damage to the *property* passes to the purchaser immediately after the purchaser enters into possession.
- 18.5 If the purchaser does not comply with this clause, then without affecting any other right of the vendor -
  - 18.5.1 the vendor can before completion, without notice, remedy the non-compliance; and
  - 18.5.2 if the vendor pays the expense of doing this, the purchaser must pay it to the vendor with interest at the rate mentioned in Schedule J of the Supreme Court Rules 1970.
- 18.6 If this contract is *rescinded* or *terminated* the purchaser must immediately vacate the *property*.
- 18.7 If the *parties* or their *solicitors* on their behalf do not agree in writing to a fee or rent, none is payable.

## 19 Rescission of contract

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

## 20 Miscellaneous

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

## 21 Time limits in these provisions

- 21.1 If the time for something to be done or to happen is not stated in these provisions, it is a reasonable time.
- 21.2 If there are conflicting times for something to be done or to happen, the latest of those times applies.

- 21.3 The time for one thing to be done or to happen does not extend the time for another thing to be done or to happen.
- 21.4 If the time for something to be done or to happen is the 29th, 30th or 31st day of a month, and the day does not exist, the time is instead the last day of the month.
- 21.5 If the time for something to be done or to happen is a day that is not a *business day*, the time is extended to the next *business day*, except in the case of clause 2 (deposit).
- 21.6 *Normally*, the time by which something must be done is fixed but not essential.

## 22 Foreign Acquisitions and Takeovers Act 1975

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

## 23 Strata or community title

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

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

## 24 Tenancies

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

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

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

**26 Crown purchase money**

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

**27 Consent to transfer**

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

**28 Unregistered plan**

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

- 28.3 If the plan is not registered *within* that time and in that manner -  
 28.3.1 the purchaser can *rescind*; and  
 28.3.2 the vendor can *rescind*, but only if the vendor has complied with clause 28.2.  
 28.4 Either *party* can serve notice of the registration of the plan and every relevant lot and plan number.  
 28.5 The completion date becomes the later of the completion date and 21 days after *service* of the notice.  
 28.6 Clauses 28.2 and 28.3 apply to a plan that is to be registered before the plan is registered.

## 29 Conditional contract

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



## Special conditions

**These are the special conditions to the contract for the sale of land**

**BETWEEN**

**Stephen John Harmer & Victoria Rosamund Harmer** (Vendor)

And

(Purchaser)

The below Special Conditions apply in addition to the standard printed terms and conditions. To the extent of any inconsistency between the below Special Conditions and the standard printed terms numbered 1 to 29 inclusive, the below Special Conditions prevail.

**30. Alterations to printed form**

- 30.1 Clause 7.1.1 of this Contract is amended by deleting the words "5%" of the price and inserting "1%" in their place.
- 30.2 Clause 10.1.8 of this Contract is amended by deleting the word "substance" and inserting the word "existence" in place thereof;
- 30.3 Clause 10.1.9 of this Contract is amended by deleting the word "substance" and inserting the word "existence" in place thereof;
- 30.4 Clause 16.5 of this Contract is amended by deleting the words "plus another 20% of that fee"
- 30.5 Clause 16.8 of this Contract is amended by deleting "\$10" and inserting "\$5" in place thereof; and
- 30.6 Clause 29 of this Contract is deleted.

**31. Whole Contract**

In entering into this contract, the purchaser does not rely upon any warranty, representation or statement (whether oral or written) made or published by the vendor or by any person on behalf of the vendor or otherwise except such as are expressly made in this contract

**32. Real Estate Agent**

The purchaser warrants that he/she was not introduced to the *property* or the vendor by any real estate agent or other person entitled to claim commission as a result of this sale (other than the vendor's agent or co-agent, if any, specified in this contract). The purchaser will indemnify the vendor against any claim for commission by any real estate agent or other person arising out of an introduction of the purchaser (being a breach of this warranty) and against all claims and expenses for the defence and determination of such a claim made against the vendor. The purchaser hereby agrees and declares that this clause shall not merge in the transfer upon completion, or be extinguished by completion of this contract, and shall continue in full force, and effect, notwithstanding completion.

**33. Notice to complete**

In the event of either party failing to complete this contract within the specified time, then the other party (provided that the other party is ready, willing and able to complete) shall be entitled at any time thereafter to serve a notice to complete, requiring the other party to complete within 14 days from the date of service of the notice. This 14 day period is considered to be a reasonable time by both parties. For the purpose of this contract, such

notice to complete shall be deemed both at law and in equity sufficient to make time of the essence of this contract.

#### **34. Capacity**

- 34.1 Notwithstanding any rule of law or equity to the contrary, if either *party* (and if more than one person comprises that *party* then any one of them) prior to completion:
- 34.1.1 being a natural person, dies or becomes mentally ill, as defined in the Mental Health Act, or becomes bankrupt, then either party may rescind this contract by notice in writing forwarded to the other party and thereupon this contract shall be at an end and the provisions of clause 19; or
  - 34.1.2 being a company, has a summons or application for its winding up presented or has a liquidator, receiver or voluntary administrator of it appointed, or enters into any deed of company arrangement or scheme of arrangement with its creditors, then that party is in default of the Contract.
    - 34.1.2.1 If the purchaser is in default under this subclause then the provisions of clause 9.1 of the Contract apply, and
    - 34.1.2.2 If the vendor is in default under this subclause then the provision of clause 19.2.1 of the Contract apply.
- 34.2 The purchaser warrants that the purchaser has the legal capacity to enter into this contract.

#### **35. Purchaser acknowledgements**

The purchaser acknowledges that they are purchasing the property:

- 35.1 In its present condition and state of repair;
- 35.2 Subject to all defects latent and patent (subject to fair wear and tear as provided in clause 10.1.4);
- 35.3 Subject to any infestations and dilapidation;
- 35.4 Subject to all existing water, sewerage, drainage and plumbing services and connections in respect of the property; and
- 35.5 Subject to any non-compliance, that is disclosed herein, with the Local Government Act or any Ordinance under that Act in respect of any building on the land.

The purchaser agrees not to seek to terminate, rescind or make any objection, requisition or claim for compensation arising out of any of the matters covered by this clause.

#### **36. Furnishings and Chattels**

The items of furnishings and chattels referred to in this contract are included in the sale without further consideration and are sold in their existing physical condition and state of repair and the Purchaser shall make no objection, requisition or claim for compensation in respect thereof.

#### **37. Late completion**

Provided that the vendor is ready, willing and able to give title to the purchaser, if this contract is not completed for any reason (other than the vendor's default) on or before the Completion date then in addition to any other right which the vendor may have under this contract or otherwise the purchaser will on completion of this contract pay to the vendor interest on the balance of the purchase price at the rate of 8% per annum calculated on daily balances, commencing on the Completion date and continuing until completion of this

contract. This interest is a genuine pre-estimate of liquidated damages and will be deemed to be part of the balance of purchase money due and payable on completion.

### **38. Services**

The Purchaser acknowledges that the Purchaser is purchasing the property and shall take title thereto subject to existing water, sewerage and drainage, gas and electricity, telephone or other installations or services (if any) and shall not make any requisition objection or claim for compensation in respect of:-

- 38.1 the nature, location, availability or non-availability of any such services; OR
- 38.2 if any such service is a joint service with any other property or properties; OR
- 38.3 if any services for any other property or properties or the pipes or connections therefore pass through the subject property; OR
- 38.4 if any sewer main or the mains or connections for or any relevant authority for or supplier of any such services pass in over or through the subject property; OR
- 38.5 whether or not the property is subject to or has the benefit of any rights of easements in respect of any such service or the mains pipes or connections therefore; OR
- 38.6 any manhole, vent, connections, wires, pipes, channels or distributors which exists on the property with respect of any such service; OR
- 38.7 if any roof or yard water drainage or pipe which exists on the property drains through any such service.

### **39. Error in Adjustments**

Each party agrees that if on completion any apportionment of outgoings or deposit required to be made under this contract is incorrectly calculated or omitted, they will forthwith upon so being requested by the other party make the correction and pay such amount to the other party as is shown by such calculations payable. This clause shall not merge on completion.

### **40. GST**

The purchaser warrants that the *property* will be used predominantly for residential accommodation. The purchaser will indemnify the vendor against any liability to pay GST arising from breach of this warranty. This right continues after completion.

### **41. Investment of Deposit**

- 41.1 In this contract *depositholder* means the real estate agent named herein.
- 41.2 For the purposes of clause 2 of this contract, the vendor and the purchaser direct the *depositholder* to:-
  - 41.2.1 hold the deposit in their trust account; or
  - 41.2.2 invest the deposit in an interest bearing bank account pending settlement.

### **42. Deposit less than 10%**

- 42.1 The deposit payable by the purchaser upon the making of this contract is 10% of the purchase price.
- 42.2 If the vendor accepts, upon the exchange of this contract, a sum less than the full 10% then the vendor is accepting a part-payment of the deposit. Nothing in this subsection shall alter the fact that the deposit payable by the purchaser is the full sum of 10% of the purchase price payable.

- 42.3 The balance of the deposit will be payable by the purchaser as follows:  
 42.3.1 5% of the purchase price at the date of this contract, and  
 42.3.2 5% of the purchase price by bank cheque on or before the date of completion under this Contract.
- 42.4 The vendor will not be obliged to complete the sale of the property unless the amount of the unpaid deposit is paid by bank cheque at the time set out in this clause.
- 42.5 In the event that the purchaser defaults in the observance or performance of any obligation hereunder which is or has become essential, the balance of the deposit shall become immediately due and payable and the purchaser shall forfeit the entire sum of 10% of the purchase price, pursuant to clause 9, to the vendor.
- 42.6 This balance of the deposit shall be payable to the vendor, notwithstanding that the contract is not completed. This clause shall not merge on completion and the vendor shall be entitled to sue for recovery of so much of the 10% deposit as remains outstanding as a debt due by the purchaser to the vendor.
- 42.7 In the event that this clause applies, any interest earned on the investment of the part payment of the deposit (being less than the full 10%) from exchange will be paid after completion to the vendor, to the exclusion of the purchaser.

#### **43 Swimming Pool**

As far as the vendor is aware, the swimming pool complies with the requirements of the Swimming Pools Act. The purchaser warrants that they have made their own enquiries concerning the swimming pool prior to entering into the contract and cannot make a claim or *requisition* or *rescind* or *terminate* if the swimming pool on the *property* does not comply with the requirements of the Swimming Pools Act 1992.

#### **44 Foreign Investment Approval**

The Purchaser warrants that the *Foreign Acquisitions & Takeovers Act*, 1975 (Commonwealth) does not apply to the Purchaser or to this purchase. In the event that the Foreign Acquisitions & Takeovers Act, 1975 does apply to the Purchaser and to this purchase, the Purchaser indemnifies the Vendor in respect of any loss, damage, penalty, fine or legal cost which may be incurred by the Vendor as a consequence thereof. This condition shall not merge on completion.

#### **45 Requisitions on Title**

Annexed to this contract is a standard form of Requisitions on Title and replies to same. The purchaser acknowledges that the requisitions and replies to same are deemed to have been served as at the date of this Contract and the Purchaser shall not require the Vendor to answer similar or standard requisitions presented in any other format.

#### **46 No warranty by the vendor as to use of the *property***

- 46.1 The purchaser must satisfy itself on all matters relating to the use of the *property* because the vendor gives no warranty as to the use to which the *property* may be put.
- 46.2 The purchaser will be deemed to have entered into this contract with full knowledge of and subject to any prohibition or restriction upon the use of the *property*, whether under any Act, Ordinance, Regulation, By-law, Town Planning Scheme, Interim Development Order, Order of Court, or otherwise.
- 46.3 If the use to which the vendor has put the *property* is permissible only with the consent of any authority under any Act, Ordinance, Regulation, By-law, Town

Planning Scheme, Interim Development Order, Order of Court or otherwise, the purchaser must obtain consent at the purchaser's own expense.

- 46.4 Completion of this contract will not be conditional or dependent upon any matter referred to in this clause.

#### **47 Transfer Not Submitted**

If the purchaser fails to provide the transfer to the vendor's solicitor at least 14 days prior to the date of completion and in accordance with standard clause 4 herein, then the purchaser must pay the vendor the additional fee of \$77.00 (inclusive of GST) at settlement by way of an adjustment. The vendors may refuse to complete the contract unless and until the purchaser has paid this amount

#### **48 Guarantee**

- 48.1 This clause applies if the purchaser is a corporation but does not apply to a corporation listed on an Australian Stock Exchange. This clause is an essential term of this contract.

- 48.2 The word *guarantor* means \_\_\_\_\_ and \_\_\_\_\_ (being two of the directors of the purchaser or, if the purchaser is a sole director/secretary corporation, the sole director/secretary).

- 48.3 If the guarantor has not signed this clause, the vendor may *terminate* this contract by serving a notice, but only *within* 14 days after the contract date.

- 48.4 In consideration of the vendor entering into this contract at the guarantor's request, the guarantor guarantees to the vendor:

- 48.4.1 payment of all money payable by the purchaser under this contract; and  
48.4.2 the performance of all of the purchaser's other obligations under this contract.

- 48.5 The guarantor:

- 48.5.1 Indemnifies the vendor against any claim, action, loss, damage, cost, liability, expense or payment incurred by the vendor in connection with or arising from any breach or default by the purchaser of its obligations under this contract; and  
48.5.2 must pay on demand any money due to the vendor under this indemnity.

- 48.6 The guarantor is jointly and separately liable with the purchaser to the vendor for:

- 48.6.1 the performance by the purchaser of its obligations under this contract; and  
48.6.2 any damage incurred by the vendor as a result of the purchaser's failure to perform its obligations under this contract or the termination of this contract by the vendor.

- 48.7 The guarantor must pay to the vendor on written demand by the vendor all expenses incurred by the vendor in respect of the vendor's exercise or attempted exercise of any right under this clause.

- 48.8 If the vendor assigns or transfers the benefit of this contract, the transferee receives the benefit of the guarantor's obligations under this clause.

- 48.9 The guarantor's obligations under this clause are not released, discharged or otherwise affected by:
- 48.9.1 The granting of any time, waiver, covenant not to sue or other indulgence;
  - 48.9.2 the release or discharge of any person;
  - 48.9.3 an arrangement, composition or compromise entered into by the vendor, the purchaser, the guarantor or any other person;
  - 48.9.4 any moratorium or other suspension of the right, power, authority, discretion or remedy conferred on the vendor by this contract, a statute, a Court or otherwise;
  - 48.9.5 payment to the vendor, including payment which at or after the payment date is illegal, void, voidable, avoided or unenforceable; or
  - 48.9.6 the winding up of the purchaser.
- 48.10 This clause binds the guarantor and the executors, administrators and assigns of the guarantor.
- 48.11 This clause operates as a Deed between the vendor and the guarantor.

**EXECUTED** as a Deed.

**SIGNED SEALED & DELIVERED** in the presence of:

.....  
Signature of Witness

.....  
Signature of Director

.....  
Name of Witness

.....  
Name of Director

**SIGNED SEALED & DELIVERED** in the presence of:

.....  
Signature of Witness

.....  
Signature of Director

.....  
Name of Witness

.....  
Name of Director

## RESIDENTIAL PROPERTY REQUISITIONS ON TITLE

Vendor: Stephen John Harmer & Victoria Rosamund Harmer  
Purchaser:  
Property: 4 Kadigal Place, Beacon Hill, New South Wales 2100  
Dated:

---

### Possession and tenancies

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

### Title

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

### Adjustments

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

### Survey and building

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

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

#### **Affectations**

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

#### **Capacity**

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

#### **Requisitions and transfer**

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



Our Ref: LGT:130189

## **HARMER & HARMER SALE OF 4 KADIGAL PLACE, BEACON HILL REPLIES TO REQUISITIONS ON TITLE**

The vendors reply to the requisitions on title contained herein as follows:

1. Noted
2. No.
3. The sale is not subject to a tenancy.
4. No.
5. (a)-(b) Not applicable.
6. Noted.
7. Noted.
8. Not as far as the vendor is aware.
9. At the office of the discharging mortgagee.
10. No.
11. Noted.
12. See the contract. The property should be exempt from land tax as the vendors' principal place of residence. Please advise if you do not receive a clear section 47 certificate.
13. Noted.
14. No.
15. (a) As far as the vendor is aware yes.  
(b) Not as far as the vendor is aware.  
(c) No.  
(d) No.  
(e) There have been no major building works to the property in the last 7 years. The vendors have however conducted renovations and refurbishments as follows:-
  - (1) kitchen refurbishment in 2010
  - (2) rear deck in 2013, and
  - (3) laundry refurbishment in 2013.
16. As to the vendor no, the purchaser should otherwise rely upon their own enquiries.
17. To the best of the vendor's knowledge the swimming pool complies with the requirements of the *Swimming Pools Act 1992* and has been registered in NSW. The vendor is not aware of any outstanding notices with respect to the swimming pool.
18. (a) It is presumed to adjoining owners.  
(b) No.  
(c) Not applicable.  
(d) No.  
(e) No.
19. No.
20. (a)-(c) Other than as disclosed in the contract, no.
21. (a)-(f) Not as far as the vendor is aware.
22. (a)-(c) The services that are available will have been seen by the purchaser. Other than shown on certificates attached to the contract the vendor does not know the location of these services or of those of adjoining properties.
23. Not that the vendor is aware.
24. Noted, however the vendor is not acting in the capacity as a trustee.
25. Noted.
26. While this is not anticipated, if applicable this will be provided shortly prior to settlement.
27. Noted.
28. Noted subject to contract.
29. Not agreed.

## Title Search

LAND AND PROPERTY INFORMATION NEW SOUTH WALES - TITLE SEARCH

FOLIO: 11/238331

SEARCH DATE	TIME	EDITION NO	DATE
14/1/2014	10:15 AM	1	10/8/1990

LAND

LOT 11 IN DEPOSITED PLAN 238331  
AT BEACON HILL  
LOCAL GOVERNMENT AREA WARRINGAH  
PARISH OF MANLY COVE COUNTY OF CUMBERLAND  
TITLE DIAGRAM DP238331

FIRST SCHEDULE

STEPHEN JOHN HARMER  
VICTORIA ROSAMUND HARMER  
AS JOINT TENANTS (T Z161144)

SECOND SCHEDULE (3 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 DP238331 RESTRICTION(S) ON THE USE OF LAND
- 3 Z161145 MORTGAGE TO NATIONAL AUSTRALIA BANK LIMITED

NOTATIONS

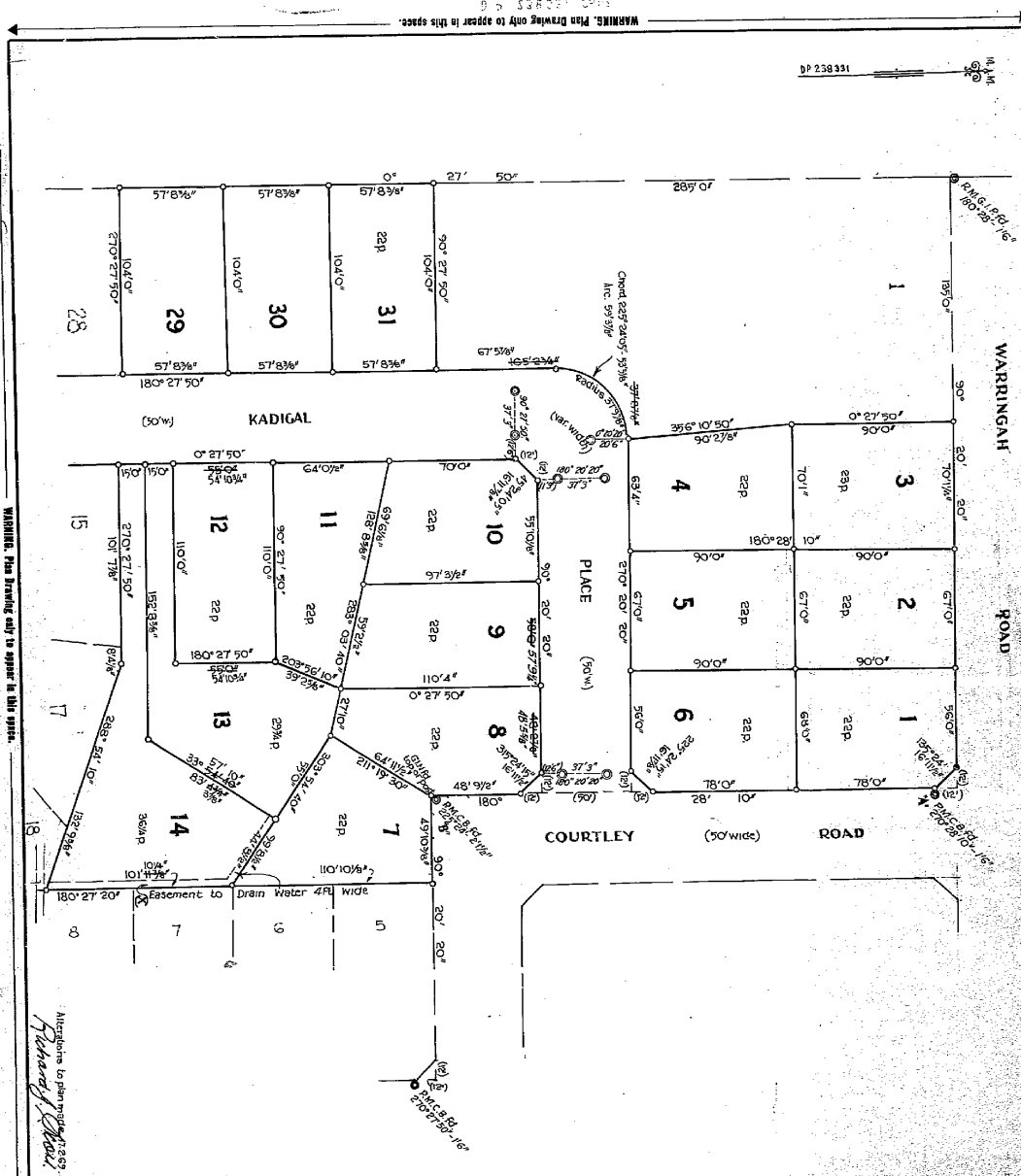
NOTE: THE CERTIFICATE OF TITLE FOR THIS FOLIO OF THE REGISTER DOES NOT INCLUDE SECURITY FEATURES INCLUDED ON COMPUTERISED CERTIFICATES OF TITLE ISSUED FROM 4TH JANUARY, 2004. IT IS RECOMMENDED THAT STRINGENT PROCESSES ARE ADOPTED IN VERIFYING THE IDENTITY OF THE PERSON(S) CLAIMING A RIGHT TO DEAL WITH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

UNREGISTERED DEALINGS: NIL

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

\* 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.



**WARNING.** Plan Drawing only to appear in this space

Alterthorpe to plan model 17.2.69.  
Richard J. Drew.

**SURVEYOR'S REFERENCE:** F.192/2

AMENDMENTS OR ADDITIONS NOTED ON PLANS  
IN REGISTRAR GENERAL'S OFFICE.

I, Bruce Richard Davies, Registrar General for New South Wales, certify that this negative is a photograph made as a permanent record of a document in my custody this 26th day of July, 1977

De

WARNING. GREASING OR FOLDING WILL LEAD TO REJECTION

CONVERSION TABLE ADDED IN  
RESISTAL GENERAL'S DEPARTMENT

DP 238331

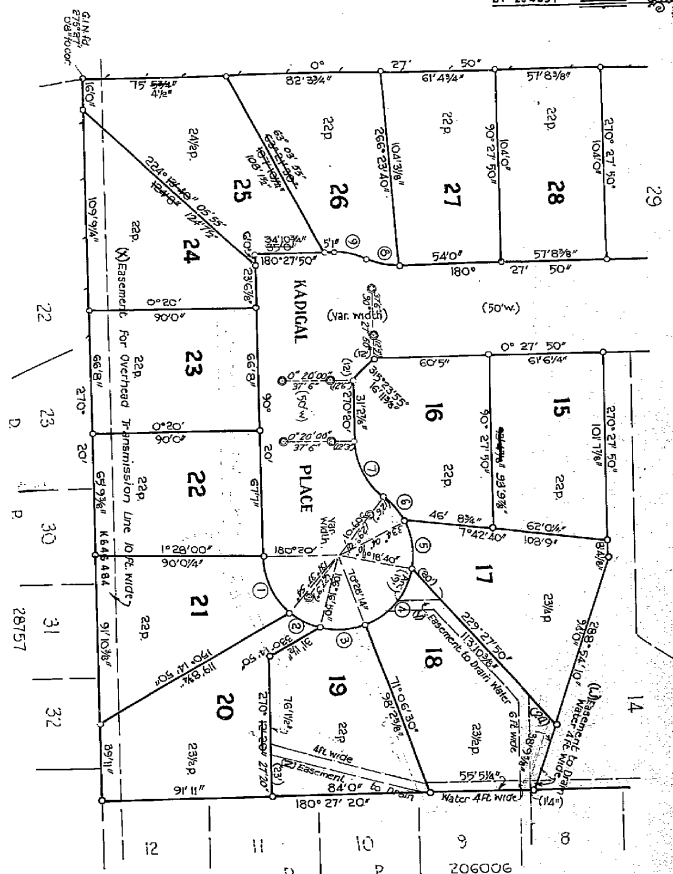
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13	7	3.30	
14	7	3.56	
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17	11	4.57	
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49	21	11.93	
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51	22	12.44	
52	22	12.70	
53	23	12.95	
54	23	13.20	
55	24	13.46	
56	24	13.71	
57	25	13.96	
58	25	14.22	
59	26	14.47	
60	26	14.73	
61	27	14.98	
62	27	15.23	
63	28	15.49	
64	28	15.74	
65	29	16.00	
66	29	16.25	
67	30	16.50	
68	30	16.76	
69	31	17.01	
70	31	17.26	
71	32	17.52	
72	32	17.77	
73	33	18.02	
74	33	18.28	
75	34	18.53	
76	34	18.78	
77	35	19.03	
78	35	19.29	
79	36	19.54	
80	36	19.79	
81	37	20.04	
82	37	20.30	
83	38	20.55	
84	38	20.80	
85	39	21.05	
86	39	21.31	
87	40	21.56	
88	40	21.81	
89	41	22.07	
90	41	22.32	
91	42	22.57	
92	42	22.82	
93	43	23.08	
94	43	23.33	
95	44	23.58	
96	44	23.83	
97	45	24.08	
98	45	24.34	
99	46	24.59	
100	46	24.84	
101	47	25.09	
102	47	25.34	
103	48	25.60	
104	48	25.85	
105	49	26.10	
106	49	26.35	
107	50	26.60	
108	50	26.86	
109	51	27.11	
110	51	27.36	
111	52	27.61	
112	52	27.87	
113	53	28.12	
114	53	28.37	
115	54	28.62	
116	54	28.88	
117	55	29.13	
118	55	29.38	
119	56	29.63	
120	56	29.89	
121	57	30.14	
122	57	30.39	
123	58	30.64	
124	58	30.90	
125	59	31.15	
126	59	31.40	
127	60	31.65	
128	60	31.91	
129	61	32.16	
130	61	32.41	
131	62	32.66	
132	62	32.92	
133	63	33.17	
134	63	33.42	
135	64	33.67	
136	64	33.93	
137	65	34.18	
138	65	34.43	
139	66	34.68	
140	66	34.94	
141	67	35.19	
142	67	35.44	
143	68	35.69	
144	68	35.95	
145	69	36.20	
146	69	36.45	
147	70	36.70	
148	70	36.96	
149	71	37.21	
150	71	37.46	
151	72	37.71	
152	72	37.97	
153	73	38.22	
154	73	38.47	
155	74	38.72	
156	74	38.98	
157	75	39.23	
158	75	39.48	
159	76	39.73	
160	76	40.00	
161	77	40.25	
162	77	40.50	
163	78	40.75	
164	78	41.01	
165	79	41.26	
166	79	41.51	
167	80	41.76	
168	80	42.02	
169	81	42.27	
170	81	42.52	
171	82	42.77	
172	82	43.03	
173	83	43.28	
174	83	43.53	
175	84	43.78	
176	84	44.04	
177	85	44.29	
178	85	44.54	
179	86	44.79	
180	86	45.05	
181	87	45.30	
182	87	45.55	
183	88	45.80	
184	88	46.06	
185	89	46.31	
186	89	46.56	
187	90	46.81	
188	90	47.07	
189	91	47.32	
190	91	47.57	
191	92	47.82	
192	92	48.08	
193	93	48.33	
194	93	48.58	
195	94	48.83	
196	94	49.09	
197	95	49.34	
198	95	49.59	
199	96	49.84	
200	96	50.10	
201	97	50.35	
202	97	50.60	
203	98	50.85	
204	98	51.11	
205	99	51.36	
206	99	51.61	
207	100	51.87	
208	100	52.12	
209	101	52.37	
210	101	52.62	
211	102	52.88	
212	102	53.13	
213	103	53.38	
214	103	53.63	
215	104	53.89	
216	104	54.14	
217	105	54.39	
218	105	54.64	
219	106	54.89	
220	106	55.15	
221	107	55.40	
222	107	55.65	
223	108	55.90	
224	108	56.16	
225	109	56.41	
226	109	56.66	
227	110	56.91	
228	110	57.17	
229	111	57.42	
230	111	57.67	
231	112	57.92	
232	112	58.18	
233	113	58.43	
234	113	58.68	
235	114	58.93	
236	114	59.19	
237	115	59.44	
238	115	59.69	
239	116	59.94	
240	116	60.20	
241	117	60.45	
242	117	60.70	
243	118	60.96	
244	118	61.21	
245	119	61.46	
246	119	61.71	
247	120	61.97	
248	120	62.22	
249	121	62.47	
250	121	62.72	
251	122	62.98	
252	122	63.23	
253	123	63.48	
254	123	63.73	
255	124	63.99	
256	124	64.24	
257	125	64.49	
258	125	64.74	
259	126	65.00	
260	126	65.25	
261	127	65.50	
262	127	65.75	
263	128	66.01	
264	128	66.26	
265	129	66.51	
266	129	66.76	
267	130	67.02	
268	130	67.27	
269	131	67.52	
270	131	67.77	
271	132	68.03	
272	132	68.28	
273	133	68.53	
274	133	68.78	
275	134	69.04	
276	134	69.29	
277	135	69.54	
278	135	69.79	
279	136	70.05	
280	136	70.30	
281	137	70.55	
282	137	70.80	
283	138	71.06	
284	138	71.31	
285	139	71.56	
286	139	71.81	
287	140	72.07	
288	140	72.32	
289	141	72.57	
290	141	72.82	
291	142	73.08	
292	142	73.33	
293	143	73.58	
294	143	73.83	
295	144	74.09	
296	144	74.34	
297	145	74.59	
298	145	74.84	
299	146	75.10	
300	146	75.35	
301	147	75.60	
302	147	75.85	
303	148	76.11	
304	148	76.36	
305	149	76.61	
306	149	76.86	
307	150	77.12	
308	150	77.37	
309	151	77.62	
310	151	77.87	
311	152	78.13	
312	152	78.38	
313	153	78.63	
314	153	78.88	
315	154	79.14	
316	154	79.39	
317	155	79.64	
318	155	79.89	
319	156	80.15	
320	156	80.40	
321	157	80.65	
322	157	80.90	
323	158	81.16	
324	158	81.41	
325	159	81.66	
326	159	81.91	
327	160	82.17	
328	160	82.42	
329	161	82.67	
330	161	82.92	
331	162	83.18	
332	162	83.43	
333	163	83.68	
334	163	83.93	
335	164	84.19	
336	164	84.44	
337	165	84.69	
338	165	84.94	
339	166	85.20	
340	166	85.45	
341	167	85.70	
342	167	85.95	
343	168	86.21	
344	168	86.46	
345	169	86.71	
346	169	86.96	
347	170	87.22	
348	170	87.47	
349	171	87.72	
350	171	87.97	
351	172	88.23	
352	172	88.48	
353	173	88.73	
354	173	88.98	
355	174	89.24	
356	174	89.49	
357	175	89.74	
358	175	89.99	
359	176	90.25	
360	176	90.50	
361	177	90.75	
362	177	91.00	
363	178	91.26	
364	178	91.51	
365	179	91.76	
366	179	92.01	
367	180	92.27	
368	180	92.52	
369	181	92.77	
370	18		

From No. 4-1 to 14 used in conjunction with Form 2 or 3.

WARNING: GROUND OR FLOODING WILL LEAD TO REJECTION.

No	Bearing	Chord	Arc	Radius
1	67° 59' 00"	52.114'	34.0°	40.0'
2	28° 57' 20"	17.686'	17.63°	"
3	395° 22' 20"	26.776'	28.73°	"
4	300° 53' 20"	39.234'	41.83°	"
5	285° 41' 28"	52.604'	55.62°	"
6	241° 32' 32"	57.604'	57.62°	"
7	241° 32' 32"	57.604'	57.62°	"
8	189° 23' 00"	17.036'	18.06°	"
9	193° 23' 00"	17.036'	18.06°	"

Reference to Curves



WARNING: Plan Drawing only to appear in this space.

WARNING: Plan Drawing only to appear in this space.

Allocations to plan made 7-2-57

Scale: 40 feet to an inch

DP 238331 SH 2/2

Registered: 116.9.684

This is Sheet 2 of my plan No. 2

Surveyed 11th February 1959

Surveyed by my Certificate No. 7108 of 18 AUG 1959

This is Sheet 2 of the plan of 2

Shewn covered by my Certificate No. 7108 of 18 AUG 1959

Surveyed by my Certificate No. 7108 of 18 AUG 1959

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Surveyed by my Certificate No. 7108 of 18 AUG 1959

Surveyed by my Certificate No. 7108 of 18 AUG 1959

CONVERSION TABLE ADDED IN REGISTER GENERAL'S DEPARTMENT

DP 238331 SH 2/2

FEET INCHES	METRES
0 1/8	0.100
0 1/4	0.200
0 3/8	0.300
0 1/2	0.400
5/8	0.500
3/4	0.600
7/8	0.700
1 0/8	0.800
1 1/8	0.900
1 1/4	1.000
1 3/8	1.100
1 1/2	1.200
1 5/8	1.300
1 3/4	1.400
1 7/8	1.500
2 0/8	1.600
2 1/8	1.700
2 1/4	1.800
2 3/8	1.900
2 1/2	2.000
2 5/8	2.100
2 3/4	2.200
2 7/8	2.300
3 0/8	2.400
3 1/8	2.500
3 1/4	2.600
3 3/8	2.700
3 1/2	2.800
3 5/8	2.900
3 3/4	3.000
3 7/8	3.100
4 0/8	3.200
4 1/8	3.300
4 1/4	3.400
4 3/8	3.500
4 1/2	3.600
4 5/8	3.700
4 3/4	3.800
4 7/8	3.900
5 0/8	4.000
5 1/8	4.100
5 1/4	4.200
5 3/8	4.300
5 1/2	4.400
5 5/8	4.500
5 3/4	4.600
5 7/8	4.700
6 0/8	4.800
6 1/8	4.900
6 1/4	5.000
6 3/8	5.100
6 1/2	5.200
6 5/8	5.300
6 3/4	5.400
6 7/8	5.500
7 0/8	5.600
7 1/8	5.700
7 1/4	5.800
7 3/8	5.900
7 1/2	6.000
7 5/8	6.100
7 3/4	6.200
7 7/8	6.300
8 0/8	6.400
8 1/8	6.500
8 1/4	6.600
8 3/8	6.700
8 1/2	6.800
8 5/8	6.900
8 3/4	7.000
8 7/8	7.100
9 0/8	7.200
9 1/8	7.300
9 1/4	7.400
9 3/8	7.500
9 1/2	7.600
9 5/8	7.700
9 3/4	7.800
9 7/8	7.900
10 0/8	8.000
10 1/8	8.100
10 1/4	8.200
10 3/8	8.300
10 1/2	8.400
10 5/8	8.500
10 3/4	8.600
10 7/8	8.700
11 0/8	8.800
11 1/8	8.900
11 1/4	9.000
11 3/8	9.100
11 1/2	9.200
11 5/8	9.300
11 3/4	9.400
11 7/8	9.500
12 0/8	9.600
12 1/8	9.700
12 1/4	9.800
12 3/8	9.900
12 1/2	10.000

CONVERSION TABLE ADDED IN REGISTER GENERAL'S DEPARTMENT

DP 238331 SH 2/2

FEET INCHES	METRES
0 1/8	0.100
0 1/4	0.200
0 3/8	0.300
0 1/2	0.400
5/8	0.500
3/4	0.600
7/8	0.700
1 0/8	0.800
1 1/8	0.900
1 1/4	1.000
1 3/8	1.100
1 1/2	1.200
1 5/8	1.300
1 3/4	1.400
1 7/8	1.500
2 0/8	1.600
2 1/8	1.700
2 1/4	1.800
2 3/8	1.900
2 1/2	2.000
2 5/8	2.100
2 3/4	2.200
2 7/8	2.300
3 0/8	2.400
3 1/8	2.500
3 1/4	2.600
3 3/8	2.700
3 1/2	2.800
3 5/8	2.900
3 3/4	3.000
3 7/8	3.100
4 0/8	3.200
4 1/8	3.300
4 1/4	3.400
4 3/8	3.500
4 1/2	3.600
4 5/8	3.700
4 3/4	3.800
4 7/8	3.900
5 0/8	4.000
5 1/8	4.100
5 1/4	4.200
5 3/8	4.300
5 1/2	4.400
5 5/8	4.500
5 3/4	4.600
5 7/8	4.700
6 0/8	4.800
6 1/8	4.900
6 1/4	5.000
6 3/8	5.100
6 1/2	5.200
6 5/8	5.300
6 3/4	5.400
6 7/8	5.500
7 0/8	5.600
7 1/8	5.700
7 1/4	5.800
7 3/8	5.900
7 1/2	6.000
7 5/8	6.100
7 3/4	6.200
7 7/8	6.300
8 0/8	6.400
8 1/8	6.500
8 1/4	6.600
8 3/8	6.700
8 1/2	6.800
8 5/8	6.900
8 3/4	7.000
8 7/8	7.100
9 0/8	7.200
9 1/8	7.300
9 1/4	7.400
9 3/8	7.500
9 1/2	7.600
9 5/8	7.700
9 3/4	7.800
9 7/8	7.900
10 0/8	8.000
10 1/8	8.100
10 1/4	8.200
10 3/8	8.300
10 1/2	8.400
10 5/8	8.500
10 3/4	8.600
10 7/8	8.700
11 0/8	8.800
11 1/8	8.900
11 1/4	9.000
11 3/8	9.100
11 1/2	9.200
11 5/8	9.300
11 3/4	9.400
11 7/8	9.500
12 0/8	9.600
12 1/8	9.700
12 1/4	9.800
12 3/8	9.900
12 1/2	10.000

2

1587757

INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS AS TO BEEN APPROVED TO BE  
CHAINED PURSUANT TO SECTION 98B OF THE CONVEYANCING ACT 1919-1964.

Sheet 1 of 2 sheets

Plan DP238331

Full name and address  
of proprietor of land.

COUNTRY RESOURCES PTY. LIMITED  
113 Deaneville Road  
CLAYTON VIC 3168

PAGE I  
Subdivision of Lot 2 D.P. 534570  
Covered by Council Clerk's Certificate No.  
7106/65.

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

Lot 2 Burwood

14.  
15.  
19

13  
11, 14, 19 and 20

SCHEDULE OF LOTS AND APPROVED

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

Lot 2 Burwood

SCHEDULE OF LOTS AND APPROVED

Let name of road or authority benefited

Warrington Shire Council

3. Identity of easement or  
restriction thirdly referred  
to in above mentioned plan.

PAGE II

Restriction as to User

1. Terms of easement or  
restriction firstly referred  
to in above mentioned plan.  
Easement to Drain Water within the meaning of Schedule VIII Part III of  
the Conveyancing Act 1919-1964.

2. Terms of easement or  
restriction secondly referred  
to in above mentioned plan.  
Easement to Drain Water within the meaning of Schedule VIII Part III of  
the Conveyancing Act 1919-1964.

THE COMMON SEAL OF COUNTRY RESOURCES  
PTY LIMITED was hereto affixed with  
the approval of the Board.

(Acting) Secretary, *Abel*



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

This negative is a photograph made as a permanent  
record of a document in the custody of the  
Registrar General this day 13th May, 1986



1587757

INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS AS TO BEEN APPROVED TO BE  
CHAINED PURSUANT TO SECTION 98B OF THE CONVEYANCING ACT 1919-1964.

Sheet 2 of 2 sheets

Plan DP238331

PAGE I  
Subdivision of Lot 2 D.P. 534570  
Covered by Council Clerk's Certificate No.  
7106/65.

3. Terms of easement or  
restriction thirdly referred  
to in above mentioned plan.

(a) No building shall be erected on the land the external walls of which shall  
consist of materials other than brick or brick veneer or brick or brick  
or brick veneer and timber but if composed of brick or brick veneer or brick  
or brick veneer and timber not more than 20% of the external surface shall be of  
timber.

(b) That no main building shall be erected or permitted to remain on any lot  
shall have a minimum overall area (excluding any attached garage or carport  
under the main roof) of less than 1,200 square feet or a value of less than  
\$30,000.

(c) No house than one main building shall be erected on the land and such  
building shall not be used or permitted to be used other than as a private  
dwelling.

(d) No main building shall be erected on the land having a flat roof unless the  
design thereof be first approved by Council Officers. Any material or no roof  
of any building erected on the subject land shall be covered with any material  
tiles or materials shall be coloured red or painted red or any shade thereof.

(e) That no main building shall be erected or permitted to remain on any lot  
unless the same shall be connected to the sewer.

(f) That no fence shall be erected on the boundary of any lot so as to divide it  
from the adjacent lot without the consent of COUNTRY RESOURCES PTY LIMITED  
from the date of the deposit of the plan (1) every fence erected at the date of  
the deposit of the plan shall be subject to the following conditions:

(g) No paling fence shall be erected on the land hereby sold and no fence shall  
be erected closer to the street than the house building line as fixed by the  
responsible Municipal or Shire Council except that any fence erected by the  
front alignment (or side alignment for a detached building) shall not exceed 2'6" in height and  
shall not be deemed to be a paling fence unless it constitutes a paling fence  
shall be determined by the vendor and its decision shall be final and  
binding on the purchaser.

(h) No advertisement hoarding sign or notice of any description shall be erected  
displayed on the land hereby sold.

(i) Any release variation or modification of these restrictions shall be made and  
done in all respects at the cost and expense of the person or persons  
requesting the same. COUNTRY RESOURCES PTY LIMITED has the sole right to  
release vary or modify these restrictions.

BANK OF NEW SOUTH WALES as Mortgagee under Mortgage No. 1515053 hereby consents  
to creation of the within easement,  
Dated at Sydney this third day of September, 1969 FOR AND ON BEHALF OF  
BANK OF NEW SOUTH WALES  
by *James Stewart* Clerk  
who is specially empowered for the purpose.

THE COMMON SEAL OF COUNTRY RESOURCES  
PTY LIMITED was hereto affixed with  
the approval of the Board.

(Acting) Secretary, *Abel*



Warrington Shire Council

*Richard*



**Date Printed: 14 January 2014**

**Certificate Number: ePLC2014/0064**

**Applicant Reference: 130189**

**Receipt Number: 542**

**InfoTrack**

**DX 578**

**SYDNEY**

**Property Address:** 4 Kadigal Place BEACON HILL NSW 2100

**Legal Description:** Lot 11 DP 238331

**Property ID:** 118044

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

**Warringah Local Environmental Plan 2011**

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

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

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

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

<b>Date of Council Resolution</b>	<b>Outline of Planning Proposal</b>	<b>Land to which Planning Proposal applies</b>
27 March 2012	Amends WLEP 2000 and WLEP 2011. Rezone land from B2 Oxford Falls Valley Locality (WLEP 2000) to R2 Low Density Residential (WLEP 2011).	Land in the vicinity of Dawes and Perentie Roads, Belrose
28 August 2012	Amends WLEP 2011 to correct identified anomalies and errors and improve its operation	Warringah Local Government Area



Date of Council Resolution	Outline of Planning Proposal	Land to which Planning Proposal applies
26 March 2013	Amends WLEP2011, by updating Schedule 5 Environmental Heritage and the Heritage Maps	Land within the Warringah Local Government Area

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

**Warringah Development Control Plan**

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

2. *Zoning and land use under relevant LEPs*

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

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

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

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

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

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

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

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

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

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

**No**

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

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

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

**No**

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

**No**

- 2.2 *Draft Local Environmental Plan – if any*

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

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

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





**No**

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

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

**Yes**

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

**Yes**

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

**Yes**

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

**Yes**

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

**Yes**

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

**Yes**

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

**Yes**

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

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

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

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

**No**

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

**No**

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

**No**

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



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

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

**No**

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

**No**

6. *Whether or not the land is affected by any road widening or road realignment under:-*

*(a) Division 2 of Part 3 of the Roads Act 1993.*

**No**

*(b) any environmental planning instrument*

**No**

*(c) any resolution of Council.*

**No**

7. *Whether or not the land is affected by a policy that restricts the development of the land because of the likelihood of land slip, bushfire, tidal inundation, subsidence, acid sulfate soils, or any other risk (other than flooding):-*

*(a) as adopted by Council*

**No**

*(b) as adopted by any other public authority and notified to the Council for the express purpose of its adoption by that authority being referred to in a planning certificate issued by the Council.*

**No**

- 7A. *Flood related development controls information*

*(a) Whether or not development on that land or part of the land for the purposes of dwelling houses, dual occupancies, multi dwelling housing or residential flat buildings (not including development for the purposes of group homes or seniors housing) is subject to flood related development controls.*

**No**

*(b) Whether or not development on that land or part of the land for any other purpose is subject to flood related development controls.*

**No**

*(c) Words and expressions in this clause have the same meanings as in the instrument set out in the Schedule to the Standard Instrument (Local Environmental Plans) Order 2006.*

8. *Whether or not any environmental planning instrument or proposed environmental planning instrument referred to in clause 1 makes provision in relation to the acquisition of the land by a public authority, as referred to in section 27 of the Act.*

**No**

9. *The name of each contributions plan applying to the land*

**Warringah Section 94A Development Contributions Plan 2013 (adopted 25 June 2013 effective 1 July 2013). Please contact Council's Planning and Assessment Counter for more information.**

- 9A *Is this land biodiversity certified land (within the meaning of Part 7AA of the Threatened Species Conservation Act 1995)?*

**No**



10. *Whether the land is land to which a biobanking agreement under Part 7A of the Threatened Species Conservation Act 1995 relates (but only if council has been notified of the existence of the agreement by the Director –General of the Department of Environment and Climate Change and Water)?*

**No**

11. *Bush Fire Prone Land*

**No**

12. *Is the land subject to a property vegetation plan made under the Native Vegetation Act 2003?*

**No**

13. *Whether an order has been made under the Trees (Disputes Between Neighbours) Act 2006 to carry out work in relation to a tree on the land (but only if the Council has been notified of the order).*

**No**

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

**No**

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

**No**

*For what period is the certificate current?*

**not applicable**

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

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

**No**

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

**No**

*For what period is the certificate current?*

**not applicable**

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

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

**No**

*For what period is the certificate current?*

**Not Applicable**

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

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

**No**



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

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

**No**

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

**No**

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

**No**

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

**No**

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

**No**

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



**Disclaimer**

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

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for Rik Hart  
GENERAL MANAGER  
WARRINGAH COUNCIL

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

Clause 1.1 of the Section 149(2) Certificate

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**STATE ENVIRONMENTAL PLANNING POLICY (Sydney Region Growth Centres) 2006**  
Gazetted: 28.07.06. Abstract: Provides for the coordinated release of land for residential, employment and other urban development in the North West and South West growth centres of the Sydney Region (in conjunction with Environmental Planning and Assessment Regulation relating to precinct planning).

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

**STATE ENVIRONMENTAL PLANNING POLICY (REPEAL OF CONCURRENCE AND REFERRAL PROVISIONS) 2008**  
Gazetted: 12.12.2008; Commencement: 15.12.2008. The SEPP aims to improve efficiency in the planning system by removing duplicative or unnecessary requirements in environmental planning instruments (EPIs) to consult with State agencies (government departments) on planning decisions.

**STATE ENVIRONMENTAL PLANNING POLICY (EXEMPT AND COMPLYING DEVELOPMENT CODES) 2008**  
Gazetted: 12.12.2008 – Commenced 27.02.2009  
Streamlines assessment processes for development that complies with specified development standards. The policy provides exempt and complying development codes that have State-wide application, identifying, in the General Exempt Development Code, types of development that are of minimal environmental impact that may be carried out without the need for development consent; and, types of complying development that may be carried out in accordance with a complying development certificate as defined in the Environmental Planning and Assessment Act 1979.

**STATE ENVIRONMENTAL PLANNING POLICY (AFFORDABLE RENTAL HOUSING) 2009**  
Published: 31.07.2009; Commencement 31.07.2009. The policy aims to better encourage home owners, social housing providers and developers to invest and create new affordable rental housing to meet the needs of our growing population and existing residents.

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

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

**2 Permitted without consent**

Home-based child care; Home occupations

**3 Permitted with consent**

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

**4 Prohibited**

Any development not specified in item 2 or 3



MUNICIPALITY OF WARRINGAHSUBURB OF BEACON HILLCopy of  
Diagram No. 805440

- ☐ Manhole  
☐ Chr. Chamber  
☐ L.H. Lamphole  
☐ Boundary Trap  
☐ Inspection Shaft  
☐ Pit  
☐ G Grease Interceptor

- ☐ P P Trap  
☐ R Reflux Valve  
☐ Cleaning Eye  
☐ O Vert Vertical Pipe  
☐ O V Vent Pipe  
☐ O SV Soil Vent Pipe

**SYMBOLS AND ABBREVIATIONS**

- O WS Waste Stack  
 IP Induct Pipe  
 MF Mica Flap  
 T Tube  
 K Kitchen Sink  
 W Water Closet  
 B Bath Waste

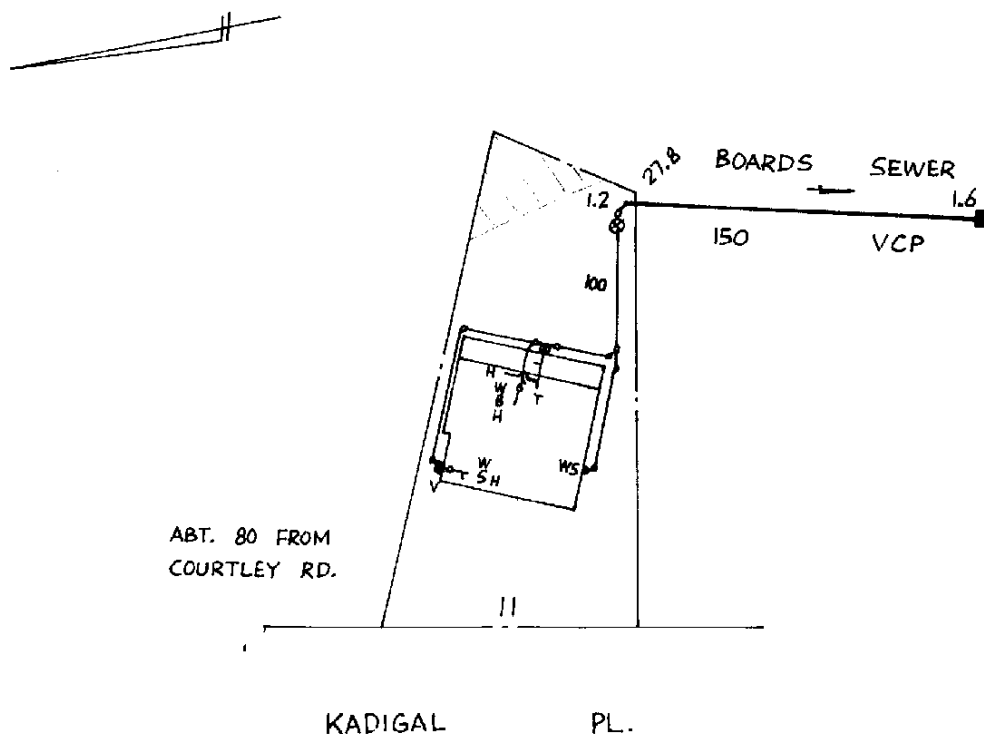
- H Handbasin  
 S Shower  
 Jn. Junction  
 DW. Dishwasher  
 F Floor Waste  
 M Washing Machine  
 BS Bar Sink


**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.

**NOTE:** This diagram only indicates availability of a sewer and any sewerage service shown as existing in Board's records (By-law 8, Clause 3).

The existence and position of Board's sewers, stormwater channels, pipes, mains and structures should be ascertained by inspection of maps available at Board's Head Office or in the case of South Coast District at Board's Wollongong Office (Section 33 of Board's Act). Position of structures, boundaries, sewers and sewerage service shown hereon are approximate only.



DRAINAGE		Scale: Approx. 1:500 Distances/depths in metres pipe diameters in millimetres	PLUMBING	
 W.s ..... Ur.s ..... SHEET No. <u>9475</u>	Supervised by .....	Date of Issue .....	Supervised by .....	Inspector .....
	Inspector .....	Outfall .....	Drainer .....	
	Field Diagram Examined by .....	Plumber .....	Boundary Trap .....	
	Chief Inspector .....	Tracing Checked by .....	for House Services Engineer .....	

Connection Date: .....

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