

# Contract for the sale and purchase of land 2018 edition

TERM	MEANING OF TERM	NSW Duty:
vendor's agent	<b>SKYLINE REAL ESTATE</b> 3/14 Frenchs Forest Road, Frenchs Forest NSW 2086	phone 9452 3444 fax 9452 4555 ref Stuart Bath
co-agent	Not Applicable	phone fax ref
vendor	<b>NEVILLE JAMES MILLAR and DIANNE THERESE MILLAR</b> 33 Peppercorn Drive, Frenchs Forest NSW 2086	
vendor's solicitor	<b>MARSDENS LAW GROUP</b> Level 1, 49 Dumaresq Street, Campbelltown NSW 2560 PO Box 291, Campbelltown NSW 2560 DX 5107 Campbelltown Email: sfoley@marsdens.net.au	phone (02) 4626 5077 fax (02) 4626 4826 ref 421940
date for completion	42nd day after the contract date (clause 15)	
land (address, plan details and title reference)	<b>33 PEPPERCORN DRIVE, FRENCHS FOREST</b> Registered Plan: Lot 2 in Deposited Plan 1031990 <b>Folio Identifier 2/1031990</b> <input checked="" type="checkbox"/> VACANT POSSESSION <input type="checkbox"/> subject to existing tenancies	
improvements	<input checked="" type="checkbox"/> HOUSE <input type="checkbox"/> garage <input type="checkbox"/> carport <input type="checkbox"/> home unit <input type="checkbox"/> carspace <input type="checkbox"/> storage space <input type="checkbox"/> none <input type="checkbox"/> other:	
attached copies	<input checked="" type="checkbox"/> documents in the List of Documents as marked or numbered: <input type="checkbox"/> other documents:	

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

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

buyer's agent

.....  
**vendor**

.....  
**witness**

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

.....  
**purchaser**

JOINT TENANTS  tenants in common  in unequal shares

.....  
**witness**

**Choices**

Vendor agrees to accept a **deposit bond** (clause 3)  NO  yes  
**Proposed electronic transaction** (clause 30)  no  YES  
Parties agree that the deposit be invested (clause 2.9)  NO  yes

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

**Land tax** is adjustable  NO  yes  
**GST:** Taxable supply  NO  yes in full  yes to an extent  
Margin scheme will be used in making the taxable supply  NO  yes

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

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

Purchaser must make an *RW payment* (residential withholding payment)  NO  yes  
(if yes, vendor must provide further details)

If the further details below are not fully completed at the contract date, the vendor must provide all these details in a separate notice within 14 days of the contract date.

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

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

Supplier's name:

Supplier's ABN:

Supplier's business address:

Supplier's email address:

Supplier's phone number:

Supplier's proportion of *RW payment*:

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

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

Amount must be paid:  AT COMPLETION  at another time (specify):

Is any of the consideration not expressed as an amount in money?  NO  yes

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

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

## List of Documents

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

## CERTIFICATE

I,

.....

of

.....

certify as follows:-

- (a) I am a Solicitor/Conveyancer currently admitted to practice in New South Wales.
- (b) I am giving this Certificate in accordance with S66W of the Conveyancing Act 1919 with reference to a contract for the sale of property referred to in the Schedule from the vendor to the purchaser in order that there be no cooling off period in relation to that contract.
- (c) I do not act for the Vendor and am not employed in the legal practice of a Solicitor acting for the Vendor nor am I a member or employee of a firm of which a Solicitor acting for the Vendor is a member or employee.
- (d) I have explained to the purchaser
  - (i) the effect of the contract for the purchase of that property;
  - (ii) the nature of this certificate;
  - (iii) the effect of giving this certificate to the vendor.

## SCHEDULE

PROPERTY:                    33 Peppercorn Drive, Frenchs Forest

VENDOR:                    Neville James Millar And Dianne Therese Millar

PURCHASER:

PRICE:                    \$

DATED:

.....  
Solicitor/Conveyancer For The Purchaser

**IMPORTANT NOTICE TO VENDORS AND PURCHASERS**

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

**WARNING—SMOKE ALARMS**

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

**WARNING—LOOSE-FILL ASBESTOS INSULATION**

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

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

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

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

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

### **DISPUTES**

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

### **AUCTIONS**

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

**WARNINGS**

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

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

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

2. **A lease may be affected by the Agricultural Tenancies Act 1990, the Residential Tenancies Act 2010 or the Retail Leases Act 1994.**
3. **If any purchase money is owing to the Crown, it will become payable before obtaining consent, or if no consent is needed, when the transfer is registered.**
4. **If a consent to transfer is required under legislation, see clause 27 as to the obligations of the parties.**
5. **The vendor should continue the vendor's insurance until completion. If the vendor wants to give the purchaser possession before completion, the vendor should first ask the insurer to confirm this will not affect the insurance.**
6. **The purchaser will usually have to pay stamp duty (and sometimes surcharge purchaser duty) on this contract. If duty is not paid on time, a purchaser may incur penalties.**
7. **If the purchaser agrees to the release of deposit, the purchaser's right to recover the deposit may stand behind the rights of others (for example the vendor's mortgagee).**
8. **The purchaser should arrange insurance as appropriate.**
9. **Some transactions involving personal property may be affected by the Personal Property Securities Act 2009.**
10. **A purchaser should be satisfied that finance will be available at the time of completing the purchase.**
11. **Where the market value of the property is at or above a legislated amount, the purchaser may have to comply with a foreign resident capital gains withholding payment obligation (even if the vendor is not a foreign resident). If so, this will affect the amount available to the vendor on completion.**
12. **Purchasers of some residential properties may have to withhold part of the purchase price to be credited towards the GST liability of the vendor. If so, this will also affect the amount available to the vendor.**

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

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

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

<i>adjustment date</i>	the earlier of the giving of possession to the purchaser or completion;
<i>bank</i>	the Reserve Bank of Australia or an authorised deposit-taking institution which is a bank, a building society or a credit union;
<i>business day</i>	any day except a bank or public holiday throughout NSW or a Saturday or Sunday;
<i>cheque</i>	a cheque that is not postdated or stale;
<i>clearance certificate</i>	a certificate within the meaning of s14-220 of Schedule 1 to the <i>TA Act</i> , that covers one or more days falling within the period from and including the contract date to completion;
<i>deposit-bond</i>	a deposit bond or guarantee from an issuer, with an expiry date and for an amount each approved by the vendor;
<i>depositholder</i>	vendor's agent (or if no vendor's agent is named in this contract, the vendor's <i>solicitor</i> , or if no vendor's <i>solicitor</i> is named in this contract, the buyer's agent);
<i>document of title</i>	document relevant to the title or the passing of title;
<i>FRCGW percentage</i>	the percentage mentioned in s14-200(3)(a) of Schedule 1 to the <i>TA Act</i> (12.5% as at 1 July 2017);
<i>GST Act</i>	A New Tax System (Goods and Services Tax) Act 1999;
<i>GST rate</i>	the rate mentioned in s4 of A New Tax System (Goods and Services Tax Imposition - General) Act 1999 (10% as at 1 July 2000);
<i>legislation</i>	an Act or a by-law, ordinance, regulation or rule made under an Act;
<i>normally</i>	subject to any other provision of this contract;
<i>party</i>	each of the vendor and the purchaser;
<i>property</i>	the land, the improvements, all fixtures and the inclusions, but not the exclusions;
<i>planning agreement</i>	a valid voluntary agreement within the meaning of s7.4 of the Environmental Planning and Assessment Act 1979 entered into in relation to the <i>property</i> ;
<i>requisition</i>	an objection, question or requisition (but the term does not include a claim);
<i>remittance amount</i>	the lesser of the <i>FRCGW percentage</i> of the price (inclusive of GST, if any) and the amount specified in a <i>variation served by a party</i> ;
<i>rescind</i>	rescind this contract from the beginning;
<i>RW payment</i>	a payment which the purchaser must make under s14-250 of Schedule 1 to the <i>TA Act</i> (the price multiplied by the <i>RW rate</i> );
<i>RW rate</i>	the rate determined under ss14-250(6), (8) or (9) of Schedule 1 to the <i>TA Act</i> (as at 1 July 2018, usually 7% of the price if the margin scheme applies, 1/11 <sup>th</sup> if not);
<i>serve</i>	serve in writing on the other <i>party</i> ;
<i>settlement cheque</i>	an unendorsed <i>cheque</i> made payable to the person to be paid and – <ul style="list-style-type: none"> <li>• issued by a <i>bank</i> and drawn on itself; or</li> <li>• if authorised in writing by the vendor or the vendor's <i>solicitor</i>, some other <i>cheque</i>;</li> </ul>
<i>solicitor</i>	in relation to a <i>party</i> , the <i>party's</i> solicitor or licensed conveyancer named in this contract or in a notice <i>served by the party</i> ;
<i>TA Act</i>	Taxation Administration Act 1953;
<i>terminate</i>	terminate this contract for breach;
<i>variation</i>	a variation made under s14-235 of Schedule 1 to the <i>TA Act</i> ;
<i>within</i>	in relation to a period, at any time before or during the period; and
<i>work order</i>	a valid direction, notice or order that requires work to be done or money to be spent on or in relation to the <i>property</i> or any adjoining footpath or road (but the term does not include a notice under s22E of the Swimming Pools Act 1992 or clause 18B of the Swimming Pools Regulation 2008).

## 2 Deposit and other payments before completion

- 2.1 The purchaser must pay the deposit to the *depositholder* as stakeholder.
- 2.2 *Normally*, the purchaser must pay the deposit on the making of this contract, and this time is essential.
- 2.3 If this contract requires the purchaser to pay any of the deposit by a later time, that time is also essential.
- 2.4 The purchaser can pay any of the deposit by giving cash (up to \$2,000) or by unconditionally giving a *cheque* to the *depositholder* or to the vendor, vendor's agent or vendor's *solicitor* for sending to the *depositholder*.
- 2.5 If any of the deposit is not paid on time or a *cheque* for any of the deposit is not honoured on presentation, the vendor can *terminate*. This right to *terminate* is lost as soon as the deposit is paid in full.
- 2.6 If the vendor accepts a bond or guarantee for the deposit, clauses 2.1 to 2.5 do not apply.
- 2.7 If the vendor accepts a bond or guarantee for part of the deposit, clauses 2.1 to 2.5 apply only to the balance.

- 2.8 If any of the deposit or of the balance of the price is paid before completion to the vendor or as the vendor directs, it is a charge on the land in favour of the purchaser until *termination* by the vendor or completion, subject to any existing right.
- 2.9 If each *party* tells the *depositholder* that the deposit is to be invested, the *depositholder* is to invest the deposit (at the risk of the *party* who becomes entitled to it) with a *bank*, in an interest-bearing account in NSW, payable at call, with interest to be reinvested, and pay the interest to the *parties* equally, after deduction of all proper government taxes and financial institution charges and other charges.
- 3 Deposit-bond**
- 3.1 This clause applies only if this contract says the vendor has agreed to accept a *deposit-bond* for the deposit (or part of it).
- 3.2 The purchaser must provide the original *deposit-bond* to the vendor's *solicitor* (or if no *solicitor* the *depositholder*) at or before the making of this contract and this time is essential.
- 3.3 If the *deposit-bond* has an expiry date and completion does not occur by the date which is 14 days before the expiry date, the purchaser must *serve* a replacement *deposit-bond* at least 7 days before the expiry date. The time for service is essential.
- 3.4 The vendor must approve a replacement *deposit-bond* if –
- 3.4.1 it is from the same issuer and for the same amount as the earlier *deposit-bond*; and
- 3.4.2 it has an expiry date at least three months after its date of issue.
- 3.5 A breach of clauses 3.2 or 3.3 entitles the vendor to *terminate*. The right to *terminate* is lost as soon as –
- 3.5.1 the purchaser *serves* a replacement *deposit-bond*; or
- 3.5.2 the deposit is paid in full under clause 2.
- 3.6 Clauses 3.3 and 3.4 can operate more than once.
- 3.7 If the purchaser *serves* a replacement *deposit-bond*, the vendor must *serve* the earlier *deposit-bond*.
- 3.8 The amount of any *deposit-bond* does not form part of the price for the purposes of clause 16.7.
- 3.9 The vendor must give the purchaser the *deposit-bond* –
- 3.9.1 on completion; or
- 3.9.2 if this contract is *rescinded*.
- 3.10 If this contract is *terminated* by the vendor –
- 3.10.1 *normally*, the vendor can immediately demand payment from the issuer of the *deposit-bond*; or
- 3.10.2 if the purchaser *serves* prior to *termination* a notice disputing the vendor's right to *terminate*, the vendor must forward the *deposit-bond* (or its proceeds if called up) to the *depositholder* as stakeholder.
- 3.11 If this contract is *terminated* by the purchaser –
- 3.11.1 *normally*, the vendor must give the purchaser the *deposit-bond*; or
- 3.11.2 if the vendor *serves* prior to *termination* a notice disputing the purchaser's right to *terminate*, the vendor must forward the *deposit-bond* (or its proceeds if called up) to the *depositholder* as stakeholder.
- 4 Transfer**
- 4.1 *Normally*, the purchaser must *serve* at least 14 days before the date for completion –
- 4.1.1 the form of transfer; and
- 4.1.2 particulars required to register any mortgage or other dealing to be lodged with the transfer by the purchaser or the purchaser's mortgagee.
- 4.2 If any information needed for the form of transfer is not disclosed in this contract, the vendor must *serve* it.
- 4.3 If the purchaser *serves* a form of transfer and the transferee is not the purchaser, the purchaser must give the vendor a direction signed by the purchaser personally for this form of transfer.
- 4.4 The vendor can require the purchaser to include a form of covenant or easement in the transfer only if this contract contains the wording of the proposed covenant or easement, and a description of the land benefited.
- 5 Requisitions**
- 5.1 If a form of *requisitions* is attached to this contract, the purchaser is taken to have made those *requisitions*.
- 5.2 If the purchaser is or becomes entitled to make any other *requisition*, the purchaser can make it only by *serving* it –
- 5.2.1 if it arises out of this contract or it is a general question about the *property* or title - *within* 21 days after the contract date;
- 5.2.2 if it arises out of anything *served* by the vendor - *within* 21 days after the later of the contract date and that *service*; and
- 5.2.3 in any other case - *within* a reasonable time.
- 6 Error or misdescription**
- 6.1 The purchaser can (but only before completion) claim compensation for an error or misdescription in this contract (as to the *property*, the title or anything else and whether substantial or not).
- 6.2 This clause applies even if the purchaser did not take notice of or rely on anything in this contract containing or giving rise to the error or misdescription.
- 6.3 However, this clause does not apply to the extent the purchaser knows the true position.

## 7 Claims by purchaser

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

## 8 Vendor's rights and obligations

- 8.1 The vendor can *rescind* if –
- 8.1.1 the vendor is, on reasonable grounds, unable or unwilling to comply with a *requisition*;
- 8.1.2 the vendor *serves* a notice of intention to *rescind* that specifies the *requisition* and those grounds; and
- 8.1.3 the purchaser does not *serve* a notice waiving the *requisition within* 14 days after that *service*.
- 8.2 If the vendor does not comply with this contract (or a notice under or relating to it) in an essential respect, the purchaser can *terminate* by *servicing* a notice. After the *termination* –
- 8.2.1 the purchaser can recover the deposit and any other money paid by the purchaser under this contract;
- 8.2.2 the purchaser can sue the vendor to recover damages for breach of contract; and
- 8.2.3 if the purchaser has been in possession a *party* can claim for a reasonable adjustment.

## 9 Purchaser's default

- If the purchaser does not comply with this contract (or a notice under or relating to it) in an essential respect, the vendor can *terminate* by *servicing* a notice. After the *termination* the vendor can –
- 9.1 keep or recover the deposit (to a maximum of 10% of the price);
- 9.2 hold any other money paid by the purchaser under this contract as security for anything recoverable under this clause –
- 9.2.1 for 12 months after the *termination*; or
- 9.2.2 if the vendor commences proceedings under this clause *within* 12 months, until those proceedings are concluded; and
- 9.3 sue the purchaser either –
- 9.3.1 where the vendor has resold the *property* under a contract made *within* 12 months after the *termination*, to recover –
- the deficiency on resale (with credit for any of the deposit kept or recovered and after allowance for any capital gains tax or goods and services tax payable on anything recovered under this clause); and
  - the reasonable costs and expenses arising out of the purchaser's non-compliance with this contract or the notice and of resale and any attempted resale; or
- 9.3.2 to recover damages for breach of contract.

## 10 Restrictions on rights of purchaser

- 10.1 The purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of –
- 10.1.1 the ownership or location of any fence as defined in the Dividing Fences Act 1991;
- 10.1.2 a service for the *property* being a joint service or passing through another property, or any service for another property passing through the *property* ('service' includes air, communication, drainage, electricity, garbage, gas, oil, radio, sewerage, telephone, television or water service);
- 10.1.3 a wall being or not being a party wall in any sense of that term or the *property* being affected by an easement for support or not having the benefit of an easement for support;
- 10.1.4 any change in the *property* due to fair wear and tear before completion;

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

- 13.7.2 the purchaser must pay the vendor on completion in addition to the price an amount calculated by multiplying the price by the *GST rate* if this sale is a taxable supply to any extent because of –
- a breach of clause 13.7.1; or
  - something else known to the purchaser but not the vendor.
- 13.8 If this contract says this sale is a taxable supply in full and does not say the margin scheme applies to the *property*, the vendor must pay the purchaser on completion an amount of one-eleventh of the price if –
- 13.8.1 this sale is not a taxable supply in full; or
- 13.8.2 the margin scheme applies to the *property* (or any part of the *property*).
- 13.9 If this contract says this sale is a taxable supply to an extent –
- 13.9.1 clause 13.7.1 does not apply to any part of the *property* which is identified as being a taxable supply; and
- 13.9.2 the payments mentioned in clauses 13.7 and 13.8 are to be recalculated by multiplying the relevant payment by the proportion of the price which represents the value of that part of the *property* to which the clause applies (the proportion to be expressed as a number between 0 and 1). Any evidence of value must be obtained at the expense of the vendor.
- 13.10 *Normally*, on completion the vendor must give the recipient of the supply a tax invoice for any taxable supply by the vendor by or under this contract.
- 13.11 The vendor does not have to give the purchaser a tax invoice if the margin scheme applies to a taxable supply.
- 13.12 If the vendor is liable for GST on rents or profits due to issuing an invoice or receiving consideration before completion, any adjustment of those amounts must exclude an amount equal to the vendor's GST liability.
- 13.13 If the purchaser must make an *RW payment* the purchaser must –
- 13.13.1 at least 5 days before the date for completion, *serve* evidence of submission of an *RW payment* notification form to the Australian Taxation Office by the purchaser or, if a direction under clause 4.3 has been *served*, by the transferee named in the transfer *served* with that direction;
- 13.13.2 produce on completion a *settlement cheque* for the *RW payment* payable to the Deputy Commissioner of Taxation;
- 13.13.3 forward the *settlement cheque* to the payee immediately after completion; and
- 13.13.4 *serve* evidence of receipt of payment of the *RW payment*.

#### 14 Adjustments

- 14.1 *Normally*, the vendor is entitled to the rents and profits and will be liable for all rates, water, sewerage and drainage service and usage charges, land tax, levies and all other periodic outgoings up to and including the *adjustment date* after which the purchaser will be entitled and liable.
- 14.2 The *parties* must make any necessary adjustment on completion.
- 14.3 If an amount that is adjustable under this contract has been reduced under *legislation*, the *parties* must on completion adjust the reduced amount.
- 14.4 The *parties* must not adjust surcharge land tax (as defined in the Land Tax Act 1956) but must adjust any other land tax for the year current at the *adjustment date* –
- 14.4.1 only if land tax has been paid or is payable for the year (whether by the vendor or by a predecessor in title) and this contract says that land tax is adjustable;
- 14.4.2 by adjusting the amount that would have been payable if at the start of the year –
- the person who owned the land owned no other land;
  - the land was not subject to a special trust or owned by a non-concessional company; and
  - if the land (or part of it) had no separate taxable value, by calculating its separate taxable value on a proportional area basis.
- 14.5 If any other amount that is adjustable under this contract relates partly to the land and partly to other land, the *parties* must adjust it on a proportional area basis.
- 14.6 *Normally*, the vendor can direct the purchaser to produce a *settlement cheque* on completion to pay an amount adjustable under this contract and if so –
- 14.6.1 the amount is to be treated as if it were paid; and
- 14.6.2 the *cheque* must be forwarded to the payee immediately after completion (by the purchaser if the *cheque* relates only to the *property* or by the vendor in any other case).
- 14.7 If on completion the last bill for a water, sewerage or drainage usage charge is for a period ending before the *adjustment date*, the vendor is liable for an amount calculated by dividing the bill by the number of days in the period then multiplying by the number of unbilled days up to and including the *adjustment date*.
- 14.8 The vendor is liable for any amount recoverable for work started on or before the contract date on the *property* or any adjoining footpath or road.

#### 15 Date for completion

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

**16 Completion****• Vendor**

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

**• Purchaser**

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

**• Place for completion**

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

**17 Possession**

- 17.1 *Normally*, the vendor must give the purchaser vacant possession of the *property* on completion.
- 17.2 The vendor does not have to give vacant possession if –
- 17.2.1 this contract says that the sale is subject to existing tenancies; and
- 17.2.2 the contract discloses the provisions of the tenancy (for example, by attaching a copy of the lease and any relevant memorandum or variation).
- 17.3 *Normally*, the purchaser can claim compensation (before or after completion) or *rescind* if any of the land is affected by a protected tenancy (a tenancy affected by Part 2, 3, 4 or 5 Landlord and Tenant (Amendment) Act 1948).

**18 Possession before completion**

- 18.1 This clause applies only if the vendor gives the purchaser possession of the *property* before completion.
- 18.2 The purchaser must not before completion –
- 18.2.1 let or part with possession of any of the *property*;
- 18.2.2 make any change or structural alteration or addition to the *property*; or
- 18.2.3 contravene any agreement between the *parties* or any direction, document, *legislation*, notice or order affecting the *property*.
- 18.3 The purchaser must until completion –
- 18.3.1 keep the *property* in good condition and repair having regard to its condition at the giving of possession; and
- 18.3.2 allow the vendor or the vendor's authorised representative to enter and inspect it at all reasonable times.
- 18.4 The risk as to damage to the *property* passes to the purchaser immediately after the purchaser enters into possession.
- 18.5 If the purchaser does not comply with this clause, then without affecting any other right of the vendor –
- 18.5.1 the vendor can before completion, without notice, remedy the non-compliance; and

18.5.2 if the vendor pays the expense of doing this, the purchaser must pay it to the vendor with interest at the rate prescribed under s101 Civil Procedure Act 2005.

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

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

## 19 Rescission of contract

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

19.1.1 only by *servicing* a notice before completion; and

19.1.2 in spite of any making of a claim or *requisition*, any attempt to satisfy a claim or *requisition*, any arbitration, litigation, mediation or negotiation or any giving or taking of possession.

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

19.2.1 the deposit and any other money paid by the purchaser under this contract must be refunded;

19.2.2 a *party* can claim for a reasonable adjustment if the purchaser has been in possession;

19.2.3 a *party* can claim for damages, costs or expenses arising out of a breach of this contract; and

19.2.4 a *party* will not otherwise be liable to pay the other *party* any damages, costs or expenses.

## 20 Miscellaneous

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

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

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

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

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

20.6 A document under or relating to this contract is –

20.6.1 signed by a *party* if it is signed by the *party* or the *party's solicitor* (apart from a direction under clause 4.3);

20.6.2 *served* if it is *served* by the *party* or the *party's solicitor*;

20.6.3 *served* if it is *served* on the *party's solicitor*, even if the *party* has died or any of them has died;

20.6.4 *served* if it is *served* in any manner provided in s170 of the Conveyancing Act 1919;

20.6.5 *served* if it is sent by email or fax to the *party's solicitor*, unless in either case it is not received;

20.6.6 *served* on a person if it (or a copy of it) comes into the possession of the person; and

20.6.7 *served* at the earliest time it is *served*, if it is *served* more than once.

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

20.7.1 if the *party* does the thing personally - the reasonable cost of getting someone else to do it; or

20.7.2 if the *party* pays someone else to do the thing - the amount paid, to the extent it is reasonable.

20.8 Rights under clauses 11, 13, 14, 17, 24, 30 and 31 continue after completion, whether or not other rights continue.

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

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

20.11 A reference to any *legislation* (including any percentage or rate specified in *legislation*) is also a reference to any corresponding later *legislation*.

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

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

20.14 The details and information provided in this contract (for example, on pages 1 - 3) are, to the extent of each *party's* knowledge, true, and are part of this contract.

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

## 21 Time limits in these provisions

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

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

21.3 The time for one thing to be done or to happen does not extend the time for another thing to be done or to happen.

21.4 If the time for something to be done or to happen is the 29th, 30th or 31st day of a month, and the day does not exist, the time is instead the last day of the month.

21.5 If the time for something to be done or to happen is a day that is not a *business day*, the time is extended to the next *business day*, except in the case of clauses 2 and 3.2.

21.6 *Normally*, the time by which something must be done is fixed but not essential.

## 22 Foreign Acquisitions and Takeovers Act 1975

22.1 The purchaser promises that the Commonwealth Treasurer cannot prohibit and has not prohibited the transfer under the Foreign Acquisitions and Takeovers Act 1975.

22.2 This promise is essential and a breach of it entitles the vendor to *terminate*.

## 23 Strata or community title

### • Definitions and modifications

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

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

• **Notices, certificates and inspections**

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

• **Meetings of the owners corporation**

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

**24 Tenancies**

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

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

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

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

## 26 Crown purchase money

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

## 27 Consent to transfer

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

**28 Unregistered plan**

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

**29 Conditional contract**

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

**30 Electronic transaction**

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

- 30.4 If this *Conveyancing Transaction* is to be conducted as an *electronic transaction* –
- 30.4.1 to the extent, but only to the extent, that any other provision of this contract is inconsistent with this clause, the provisions of this clause prevail;
- 30.4.2 *normally*, words and phrases used in this clause 30 (italicised and in Title Case, such as *Electronic Workspace* and *Lodgement Case*) have the same meaning which they have in the *participation rules*;
- 30.4.3 the *parties* must conduct the *electronic transaction* in accordance with the *participation rules* and the *ECNL*;
- 30.4.4 a *party* must pay the fees and charges payable by that *party* to the *ELNO* and the *Land Registry* as a result of this transaction being an *electronic transaction*;
- 30.4.5 any communication from one *party* to another *party* in the *Electronic Workspace* made –
- after the *effective date*; and
  - before the receipt of a notice given under clause 30.2.2;
- is taken to have been received by that *party* at the time determined by s13A of the *Electronic Transactions Act 2000*; and
- 30.4.6 a document which is an *electronic document* is served as soon as it is first *Digitally Signed* in the *Electronic Workspace* on behalf of the *party* required to serve it.
- 30.5 *Normally*, the vendor must *within 7 days* of the *effective date* –
- 30.5.1 create an *Electronic Workspace*;
- 30.5.2 *populate* the *Electronic Workspace* with *title data*, the date for completion and, if applicable, *mortgagee details*; and
- 30.5.3 invite the purchaser and any *discharging mortgagee* to the *Electronic Workspace*.
- 30.6 If the vendor has not created an *Electronic Workspace* in accordance with clause 30.5, the purchaser may create an *Electronic Workspace*. If the purchaser creates the *Electronic Workspace* the purchaser must –
- 30.6.1 *populate* the *Electronic Workspace* with *title data*;
- 30.6.2 create and *populate* an *electronic transfer*;
- 30.6.3 *populate* the *Electronic Workspace* with the date for completion and a nominated *completion time*; and
- 30.6.4 invite the vendor and any *incoming mortgagee* to join the *Electronic Workspace*.
- 30.7 *Normally*, *within 7 days* of receiving an invitation from the vendor to join the *Electronic Workspace*, the purchaser must –
- 30.7.1 join the *Electronic Workspace*;
- 30.7.2 create and *populate* an *electronic transfer*;
- 30.7.3 invite any *incoming mortgagee* to join the *Electronic Workspace*; and
- 30.7.4 *populate* the *Electronic Workspace* with a nominated *completion time*.
- 30.8 If the purchaser has created the *Electronic Workspace* the vendor must *within 7 days* of being invited to the *Electronic Workspace* –
- 30.8.1 join the *Electronic Workspace*;
- 30.8.2 *populate* the *Electronic Workspace* with *mortgagee details*, if applicable; and
- 30.8.3 invite any *discharging mortgagee* to join the *Electronic Workspace*.
- 30.9 To complete the financial settlement schedule in the *Electronic Workspace* –
- 30.9.1 the purchaser must provide the vendor with *adjustment figures* at least *2 business days* before the date for completion; and
- 30.9.2 the vendor must *populate* the *Electronic Workspace* with payment details at least *1 business day* before the date for completion.
- 30.10 At least *1 business day* before the date for completion, the *parties* must ensure that –
- 30.10.1 all *electronic documents* which a *party* must *Digitally Sign* to complete the *electronic transaction* are *populated* and *Digitally Signed*;
- 30.10.2 all certifications required by the *ECNL* are properly given; and
- 30.10.3 they do everything else in the *Electronic Workspace* which that *party* must do to enable the *electronic transaction* to proceed to completion.
- 30.11 If completion takes place in the *Electronic Workspace* –
- 30.11.1 payment electronically on completion of the price in accordance with clause 16.7 is taken to be payment by a single *settlement cheque*;
- 30.11.2 the completion address in clause 16.11 is the *Electronic Workspace*; and
- 30.11.3 clauses 13.13.2 to 13.13.4, 16.8, 16.12, 16.13 and 31.2.2 to 31.2.4 do not apply.
- 30.12 If the computer systems of any of the *Land Registry*, the *ELNO* or the Reserve Bank of Australia are inoperative for any reason at the *completion time* agreed by the *parties*, a failure to complete this contract for that reason is not a default under this contract on the part of either *party*.
- 30.13 If the *Electronic Workspace* allows the *parties* to choose whether financial settlement is to occur despite the computer systems of the *Land Registry* being inoperative for any reason at the *completion time* agreed by the *parties* –
- 30.13.1 *normally*, the *parties* must choose that financial settlement not occur; however

- 30.13.2 if both *parties* choose that financial settlement is to occur despite such failure and financial settlement occurs –
- all *electronic documents Digitally Signed* by the vendor, the *certificate of title* and any discharge of mortgage, withdrawal of caveat or other *electronic document* forming part of the *Lodgement Case* for the *electronic transaction* shall be taken to have been unconditionally and irrevocably delivered to the purchaser or the purchaser's mortgagee at the time of financial settlement together with the right to deal with the land comprised in the *certificate of title*; and
  - the vendor shall be taken to have no legal or equitable interest in the *property*.
- 30.14 A *party* who holds a *certificate of title* must act in accordance with any *Prescribed Requirement* in relation to the *certificate of title* but if there is no *Prescribed Requirement*, the vendor must serve the *certificate of title* after completion.
- 30.15 If the *parties* do not agree about the delivery before completion of one or more documents or things that cannot be delivered through the *Electronic Workspace*, the *party* required to deliver the documents or things –
- 30.15.1 holds them on completion in escrow for the benefit of; and
- 30.15.2 must immediately after completion deliver the documents or things to, or as directed by; the *party* entitled to them.
- 30.16 In this clause 30, these terms (in any form) mean –
- |                                 |   |
|---------------------------------|---|
| <i>adjustment figures</i>       | details of the adjustments to be made to the price under clause 14;   |
| <i>certificate of title</i>     | the paper duplicate of the folio of the register for the land which exists immediately prior to completion and, if more than one, refers to each such paper duplicate;  |
| <i>completion time</i>          | the time of day on the date for completion when the <i>electronic transaction</i> is to be settled;   |
| <i>conveyancing rules</i>       | the rules made under s12E of the Real Property Act 1900;  |
| <i>discharging mortgagee</i>    | any discharging mortgagee, chargee, covenant chargee or caveator whose provision of a <i>Digitally Signed</i> discharge of mortgage, discharge of charge or withdrawal of caveat is required in order for unencumbered title to the <i>property</i> to be transferred to the purchaser; |
| <i>ECNL</i>                     | the Electronic Conveyancing National Law (NSW);   |
| <i>effective date</i>           | the date on which the <i>Conveyancing Transaction</i> is agreed to be an <i>electronic transaction</i> under clause 30.1.2 or, if clauses 30.1.1 or 30.1.3 apply, the contract date;  |
| <i>electronic document</i>      | a dealing as defined in the Real Property Act 1900 which may be created and <i>Digitally Signed</i> in an <i>Electronic Workspace</i> ;   |
| <i>electronic transfer</i>      | a transfer of land under the Real Property Act 1900 for the <i>property</i> to be prepared and <i>Digitally Signed</i> in the <i>Electronic Workspace</i> established for the purposes of the <i>parties' Conveyancing Transaction</i> ;  |
| <i>electronic transaction</i>   | a <i>Conveyancing Transaction</i> to be conducted for the <i>parties</i> by their legal representatives as <i>Subscribers</i> using an <i>ELN</i> and in accordance with the <i>ECNL</i> and the <i>participation rules</i> ;   |
| <i>electronically tradeable</i> | a land title that is Electronically Tradeable as that term is defined in the <i>conveyancing rules</i> ;  |
| <i>incoming mortgagee</i>       | any mortgagee who is to provide finance to the purchaser on the security of the <i>property</i> and to enable the purchaser to pay the whole or part of the price;  |
| <i>mortgagee details</i>        | the details which a <i>party</i> to the <i>electronic transaction</i> must provide about any <i>discharging mortgagee</i> of the <i>property</i> as at completion;  |
| <i>participation rules</i>      | the participation rules as determined by the <i>ENCL</i> ;  |
| <i>populate</i>                 | to complete data fields in the <i>Electronic Workspace</i> ; and  |
| <i>title data</i>               | the details of the title to the <i>property</i> made available to the <i>Electronic Workspace</i> by the <i>Land Registry</i> .   |

### 31 Foreign Resident Capital Gains Withholding

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

- 31.2.4      *serve* evidence of receipt of payment of the *remittance amount*.
- 31.3      The vendor cannot refuse to complete if the purchaser complies with clauses 31.2.1 and 31.2.2.
- 31.4      If the vendor *serves* any *clearance certificate* or *variation*, the purchaser does not have to complete earlier than 7 days after that *service* and clause 21.3 does not apply to this provision.
- 31.5      If the vendor *serves* in respect of every vendor either a *clearance certificate* or a *variation* to 0.00 percent, clauses 31.2 and 31.3 do not apply.

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# Special Conditions

## 1 Definitions & Interpretation

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### 1.1 Interpretation

In the event of any inconsistency between the terms of these Special Conditions and the Printed Clauses these Special Conditions will apply to the extent of any inconsistency, including with respect to any defined terms.

### 1.2 Amendments to Printed Clauses

The Printed Clauses are amended as follows:

(1) A new Printed Clause 4.5 is inserted as follows:

*“4.5 If the purchaser fails to serve the form of transfer required under clause 4 at least 14 days before the completion date, then the purchaser must pay to the vendor, as an adjustment on completion, an amount of \$100.00 plus GST on account of the Vendor’s legal costs for the preparation of the transfer.”*

(2) Printed Clause 7.1.1 is deleted.

(3) In Printed Condition 7.1.3 replace the words “14 days” with the words “7 days”.

(4) Printed Clause 14.4.2 is deleted.

(5) Printed Clause 16.5 is amended by deleting the words "plus another 20% of that fee".

### 1.3 Definitions

The following definitions apply to terms used in these Special Conditions:

<b>Claim</b>	means:
	(1) any claim, allegation, action, demand, cause of action, suit, proceeding, judgment, debt, damage, loss, cost, expense or liability howsoever arising and whether present or future, fixed or unascertained, actual or contingent whether at law, in equity, under statute or otherwise; or
	(2) a party doing any of the following in relation to this Contract or any matter arising from it:
	(a) seeking to rescind this Contract;
	(b) seeking to delay Completion; or
	(c) taking, making or raising any objection or requisition or claim for loss, damage or compensation or other relief.
<b>Completion</b>	means completion of this Contract.
<b>Completion Date</b>	means the completion date set out in the Particulars.
<b>Contract</b>	means this contract.
<b>Deposit</b>	means the deposit payable under this Contract as set out in the Particulars.

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<b>Particulars</b>	means the particulars set out on page 1 of this Contract.
<b>Printed Clauses</b>	means clauses 1 to 31 (inclusive) of the printed Contract for the Sale and Purchase of Land (2018 edition) that form part of this Contract.
<b>Property</b>	means the land and improvements (if any) subject to this Contract.
<b>Purchase Price</b>	means the purchase price for the Property set out in the Particulars.
<b>Purchaser</b>	means the purchaser under this Contract as set out in the Particulars.
<b>Special Conditions</b>	means these special conditions.
<b>Vendor</b>	means the vendor under this Contract as set out in the Particulars.

## **2 Deposit**

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### **2.1 Deposit less than 10%**

- (1) The Vendor requires the Purchaser to pay the full amount of the Deposit on the date of this Contract.
- (2) If requested by the Purchaser, the Vendor may agree to accept the payment of the Deposit by way of installments as agreed between the parties.
- (3) If paragraph 2.1(2) applies:
  - (a) so much of the Deposit not paid by the Purchaser on the date of this Contract is a liquidated debt due and payable by the Purchaser to the Vendor; and
  - (b) that debt must be repaid to the Vendor on the earlier of:
    - (i) the Vendor becoming entitled to the Deposit under this Contract; and
    - (ii) Completion.

### **2.2 Release**

- (1) In the event that the Vendor is purchasing another property, the Purchaser agrees to release to the Vendor the Deposit or so much of the deposit as may be required for use by the Vendor as a deposit on the purchase and to pay stamp duty on the other property.
- (2) The Vendor warrants upon release of the Deposit in accordance with the terms of this Special Condition that such deposit will be paid only to the trust account of an Estate Agent, Solicitor, Licensed Conveyancer and/or to the Office of State Revenue and shall not be further released without the consent of the Purchaser.

## **3 Interest and Notice to Complete**

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### **3.1 Interest**

It is an essential term of this Contract that, in addition to the Purchase Price, the Purchaser must pay to the Vendor interest calculated at the rate of ten per cent (10%) per annum:

- (1) on the unpaid balance of the Purchase Price from the date which is the later of the Completion Date and the date on which the Vendor is ready willing and able to complete this Contract; and

- 
- (2) calculated daily and compounded monthly.

### **3.2 Exception**

The Purchaser is not required to pay interest under Special Condition 3.1 for the period after the Completion Date that the Purchaser is ready, willing and able to complete but the Vendor is not.

### **3.3 Notice to Complete**

If Completion does not take place by the Completion Date then:

- (1) the Vendor or Purchaser may, upon expiration of the time for completion, issue a notice to complete making the time for completion, in accordance with such notice, of the essence of this Contract; and
- (2) a period of fourteen (14) days following the date of service upon the Vendor, Purchaser or its solicitors (as applicable) of any such notice to complete is to be deemed to be a reasonable time for completion pursuant to that notice; and
- (3) where the Vendor issues a notice to complete the Purchaser must, in addition to any other money payable in accordance with the terms of this Contract, pay an amount of \$350.00 (plus GST) as an adjustment on Completion and as reimbursement of the Vendor's legal costs in having the notice to complete prepared and served.

## **4 Agent**

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### **4.1 Warranty**

The Purchaser warrants that it was not introduced to the Vendor or to the Property by any agent or employee of an agent other than the agent, if any, set out in the Particulars.

### **4.2 Indemnity**

- (1) If:
  - (a) the warranty set out in Special Condition 4.1 is breached; and
  - (b) as a result of that breach the Vendor is liable for the payment of any agent's commission arising from this Contract other than to the agent set out in the Particulars, then

the Purchaser indemnifies the Vendor in respect of the payment of any such commission and also for the payment of any costs or expenses involved in the defending of any claim for such commission.

- (2) If the Purchaser must pay the Vendor any amount under Special Condition 4.2(1) then the amount paid will be deemed to be in addition to the Purchase Price.

## **5 No Representations**

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### **5.1 General**

Subject to the provisions of Section 52A of the *Conveyancing Act 1919 (NSW)* the Purchaser acknowledges that:

- (1) it has not entered into this Contract as a result of any representation, whether oral or in writing, by the Vendor or anyone on his behalf, other than as is set forth in this Contract; and
- (2) it has made all such enquires and investigations as he deems appropriate prior to entering into this Contract and is satisfied with the results of those enquiries.

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## 5.2 Specific

The Purchaser further acknowledges that the Vendor, nor any person on its behalf has made any representation, promise or warranty as to:

- (1) any past or future income derived from the Property; or
- (2) the suitability of the Property for any particular purpose.

## 6 Disclosure and Purchaser claims

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### 6.1 Entire Agreement

This Contract contains the entire agreement between the parties in relation to the Property, notwithstanding:

- (1) any negotiations or discussions held between the parties, their representatives or agents; and
- (2) the terms of any sales brochures or other documents issued prior to the execution of this Contract.

### 6.2 Purchaser acknowledgements

- (1) The Purchaser acknowledges that:
  - (a) it has inspected the subject Property and any inclusions and satisfied itself as to the state and condition of the Property prior to execution of this Contract including without limitation the presence of any contamination; and
  - (b) in reliance on the inspection the Purchaser accepts the Property in its present state and condition including any defects (whether latent or patent and as to quality or title).
- (2) Without limiting the effect of paragraph (1), the Purchaser will make no objection, requisition or Claim in respect of the any matter or thing arising from this Special Condition 6.2 and the Vendor is not obliged to make any renovation or reparation in respect of any defect.

## 7 Death or Incapacity

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If, prior to Completion, the Purchaser (or either or any of them if more than one):

- (1) dies;
- (2) becomes incapable of managing their affairs within the meaning of the *Mental Health Act, 2007* (NSW); or
- (3) becomes subject to an Insolvency Event,

the Vendor may rescind this Contract.

## 8 Claim for compensation

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Any claim for compensation whether under Printed Clause 7 or otherwise is to be deemed to be a requisition for the purposes of Printed Clause 1.

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## 9 Notices

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### 9.1 Period of Notice

The parties acknowledge that a period of fourteen (14) days is a sufficient period for any notice issued under or pursuant to the provisions of this Contract, including but not limited to a Notice to Complete.

### 9.2 Method of Service

In addition to the provisions of Printed Clause 20, service of any document under or relating to this Contract may be effected on a party or that party's solicitor:

- (1) if addressed to that party or to that party's solicitor at the respective addresses set out in the Particulars and posted by ordinary pre-paid post in which case service will be deemed to have been effected on the second business day following the date of posting; and
- (2) if sent by facsimile transmission to the address shown on the letterhead or elsewhere of that party and/or that party's solicitor as being set aside for the transmission of or receipt of facsimile transmissions.

### 9.3 Time for Service by Facsimile

Any notice served by facsimile transmission in accordance with Special Condition 9.2(2), in the absence of proof to the contrary, will be deemed to have been received by the party to whom it was sent on the date of dispatch provided that:

- (1) the recipient's acknowledgment of receipt appears on the sender's copy of the notice, or on the activity record print out of the sender's machine, or the activity record print out of the sender's machine shows a successful transmission of any appropriate size document to the recipient's facsimile machine on the date indicated in the print out; and
- (2) if the time of dispatch is later than 5.00pm in the place to which such facsimile transmission is sent it will be deemed to have been received at the commencement of business on the next business day in that place.

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## 10 Non-Merger

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Any term of this Contract which may operate after Completion does not merge on Completion.

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## 11 Rescission of Contract

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If a party is entitled to rescind this Contract the provisions of Printed Clause 19 apply to that rescission.

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## 12 Requisitions

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### 12.1 Form

- (1) The Purchaser agrees that the only form of general Requisitions on Title the Purchaser may make under Printed Clause 5 are in the form attached as **Annexure 1 (Requisitions)**.
- (2) The Requisitions are deemed to be served the next business day after the date of this Contract.
- (3) The Purchaser may not make any Claim in respect of any answer to the Requisitions.

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## 13 Settlement Default

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If the Purchaser cancels settlement after appropriate arrangements have been made for Completion to take place, the Purchaser must, in addition to any other money payable in accordance with the terms of this Contract, pay an amount of \$150.00 (plus GST) as an adjustment on Completion for each cancellation.

## 14 Auction Conditions

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**Property, Stock & Business Agents Act (NSW) 2002, Part 6, s.77 and Regulation 2003 & 2007.**

- (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 seller 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 seller.
  - (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 seller.
  - (f) A bidder is taken to be a principal unless, before bidding, the bidder has given to the auctioneer a copy of a written authority to bid for or on behalf of another person.
  - (g) A bid cannot be made or accepted after the fall of the hammer.
  - (h) As soon as practicable after the fall of the hammer the purchaser is to sign the agreement (if any) for sale.
- (2) The following conditions, in addition to those prescribed by paragraph (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 paragraph (3), the auctioneer may make only one vendor bid at an auction for the sale of residential property or rural land and no other vendor bid may be made by the auctioneer or any other person.
  - (c) Immediately before making a vendor bid the auctioneer must announce that the bid is made on behalf of the seller or announce "vendor bid".
- (3) The following conditions, in addition to those prescribed by paragraphs (1) and (2), are prescribed as applicable to and in respect of the sale by auction of co-owned residential property or rural land or the sale of such land by a seller as executor or administrator:
  - (a) More than one vendor bid may be made to purchase the interest of a co-owner.
  - (b) A bid by or on behalf of an executor or administrator may be made to purchase in that capacity.

- 
- (c) Before the commencement of the auction, the auctioneer must announce that bids to purchase the interest of another co-owner or to purchase as executor or administrator may be made by or on behalf of the seller.
  - (d) Before the commencement of the auction, the auctioneer must announce the bidder registration number of any co-owner, executor or administrator or any person registered to bid on behalf of any co-owner, executor or administrator.
- (4) The following condition, in addition to those prescribed by paragraph (1), is prescribed as applicable to and in respect of the sale by auction of livestock:
- (a) 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:
    - (i) if that amount can reasonably be determined immediately after the fall of the hammer-before the close of the next business day following the auction, or
    - (ii) 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,
    - (iii) 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.

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**Annexure 1: Requisitions on Title**

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From .....Purchasers Solicitor

To .....Vendors Solicitor

Date: .....

REQUISITIONS ON TITLE

2008 EDITION

RE:..... Purchase From.....

Property .....

(In these Requisitions the terms "Vendor" and "Purchaser" should be read as expressing the appropriate number and gender including neuter gender and the terms Clause and Clauses refer to a Clause or Clauses in the 2005 Edition of the Contract for Sale of Land).

REQUISITIONS	RESPONSE
1. The Vendor must comply on completion with Clauses 15, 16.1, 16.2, 16.3, 16.5, 16.8 and 17.1.	
2. The Vendor must comply before completion with Clause 16.12.	
3. Rates and Taxes must be adjusted in accordance with Clause 14 and the Vendor must comply with Clause 16.6.	
4. The Vendor must before completion comply with any work order in accordance with Clauses 11.1 and 14.8.	
5. Has any claim been made on the Vendor to contribute to the cost of the boundary fences or is the Vendor aware of any such claim being made? If so, the Vendor should satisfy such claim before completion and produce receipt on or before completion.	
6. Is the Vendor aware of:- (a) any unregistered easements such as a right of way which affect the property? If so, please give full details. (b) the breach of any covenant noted on the title? If so, such breach must be remedied before completion.	
7. Has the Vendor received any notification from the Roads and Traffic Authority or local Council that the land or part of it is to be realigned, widened, altered or resumed? If so, please give full details.	
8. Is there any outstanding notification, claim or requirement of:- (a) a statutory or local authority, or (b) an adjoining owner which affects the property or any part of it? Any such notice, claim or requirement issued before contracts were exchanged must be complied with by the Vendor before completion.	
9. Is there any permissive occupancy of any part of the property or is any one in adverse possession? If so, the Purchaser relies on Clauses 16.3 and 17.1.	
10. Has any party (including corporation) acquired any rights in the property by prescription? The Purchaser relies on Clauses 16.3 and 17.1.	
11. If the sale of the property is subject to an existing tenancy:- (a) (if not already supplied) the Vendor should provide the Purchaser with a copy of the lease and advise the current rent and outgoings and the date to which they have been paid. (b) has there been any breach of the lease in which case such breach must be remedied before completion. (c) rent and outgoings should be apportioned in accordance with Clauses 14.1 and 14.2. (d) the lease (stamped and, if necessary, registered) should be handed over to the Purchaser on completion. (e) if applicable, the Vendor must obtain the consent in writing of the mortgagee to the transfer of the lease to the Purchaser on and from	

REQUISITIONS	RESPONSE
<p>completion.</p> <p>(f) The Vendor must comply with Clauses 24.3.2, 24.4.1, 24.4.3 and 24.4.4 on or before completion.</p>	
<p>12. Have the provisions of the Local Government Act 1919, or the Local Government Act 1993, as the case may be, its ordinances and regulations relating to buildings, subdivisions, alterations and additions been complied with in relation to the subject land and improvements? Any non-compliance must be advised before settlement.</p>	
<p>13. If any statutory or local authority has a valid claim to money due by the Vendor in respect of the property, such monetary claim or claims should be settled and discharged by the Vendor before completion.</p>	
<p>14. The Purchaser reserves his contractual rights to make a claim on the Vendor before completion as provided in Clauses 6, 7, 11.2 and 14.8.</p>	
<p>15. Has the Vendor or any predecessor in title:-</p> <p>(a) been bankrupt or are there any pending bankruptcy proceedings against the Vendor?</p> <p>(b) entered into any development or other agreement with a statutory or local authority which binds the subject land and which will bind the Purchaser on and from completion?</p> <p>If so, please give details?</p>	
<p>16. The Vendor must ensure all mortgages, writs and caveats are removed from the subject title prior to completion or in the alternative the appropriate registerable forms to remove them, properly executed, must be tendered at completion.</p>	
<p>17. Is there any pending litigation in respect of the property?</p>	
<p>18. Is the Vendor aware of any rights to, or restrictions on, access to the property? If so, please give full details.</p>	
<p>19. Is the Vendor aware of any restrictions on the use or development of the land?</p>	
<p>20. Survey should be satisfactory and certify (or report) that:-</p> <p>(a) the whole of the land sold will be available to the Purchasers on completion and</p> <p>(b) there is no encroachment by or upon the subject land and</p> <p>(c) the improvements sold are erected on the subject land.</p>	
<p>21. Has the Vendor been served with any order under Section 124 of the Local Government Act 1993 requiring him to demolish, repair or make structural alterations to a building which is erected on the subject land? If such order has not been complied with, the Vendor should do so before completion, and notify the Purchaser of his compliance.</p>	
<p>22. Has the Vendor or his mortgagee:-</p> <p>(a) a survey report?</p> <p>(b) a building certificate issued under Section 317A or Section 317AE of the Local Government Act 1913?</p> <p>(c) a building certificate issued under Section 149 of the Environmental Planning and Assessment Act 1979, Section 149D?</p> <p>If so, please obtain and forward a copy and ensure that the originals are handed over on completion.</p>	
<p>23. Has the Vendor been served with an order issued by the local Council or a consent authority under Section 121B of the Environmental Planning and Assessment Act 1979? If so, please give details.</p>	
<p>24. Is the land affected by the:-</p> <p>(a) National Parks and Wildlife Act 1974? If so, has the land or any part of it been set aside for conservation purposes? Please give full details.</p> <p>(b) Rural Fires Act 1997? If so, is the land a bushfire hazard or bushfire-prone land? Please give full details.</p> <p>(c) Threatened Species Conservation Act 1995? If so, please give full details.</p> <p>(d) Contaminated Land Management Act 1997? If so, please give full details.</p> <p>(e) Local Government Act 1993, Section 124? If so, please give full details.</p> <p>(f) Noxious Weeds Act 1993? If so, please give full details.</p>	

REQUISITIONS	RESPONSE
(g) Heritage Act 1977? If so, please give full details. (h) Unhealthy Building Land Act 1990? If so, please give full details.	
25. Has the Vendor been served with any notice, order or claim arising under the following statutes:- (a) Family Law Act 1975 (Commonwealth Statute)? (b) Property (Relationships) Act 1984 (NSW Statute)? (c) Family Provision Act 1982 (NSW Statute)? (d) Encroachment of Building Act 1922 (NSW Statute)? If so, please advise full details.	
26. If the property sold "off-the-plan":- (a) the Vendor must provide the Purchaser on or before completion with:- (i) an Occupation Certificate (or a copy) issued as required by section 109M(1) of the Environmental Planning and Assessment Act 1979. (ii) a Certificate of Insurance (or a copy) as required by Section 92 of the Home Building Act 1989 at least 14 business days before completion. (iii) a Building Certificate (or a copy) in accordance with Section 149D of the Environmental Planning and Assessment Act 1979. (iv) Evidence that a final Fire Safety Certificate has been issued for the building. (b) Has the Vendor complied fully with the local Councils Conditions of Development Consent in respect of the Subdivision which created the Lot? If not, the Vendor should do so before completion or else provide the Purchaser with an Undertaking signed by the Vendor (or in the case of a company, signed by the Directors of that company under its common seal) to fully comply with such conditions within such period as the local Council specified. (c) The Vendor must comply with Clause 28.2 before completion.	
27. Is the subject land inclosed land within the meaning of the Inclosed Lands Protection Act 1901?	
28. If a Swimming Pool is included in the sale:- (a) was its construction approved by the Local Council? Please furnish a copy of such approval. (b) have the requirements of the Swimming Pools Act 1992 and its Regulations (in particular as to access and fencing) been complied with? (c) the Vendor should assign in writing to the Purchaser the benefit of any current warranties or guarantees in relation to the contract for the construction of the Swimming Pool. Do any such warranties and guarantees exist? (d) all pool chemicals and equipment should be left behind by the Vendors for the Purchasers use.	
29. If the Vendor is a company, are any of its officers aware of:- (a) a resolution having been passed to wind up the company? (b) a summons having been filed to wind up the company? (c) the appointment of a receiver? (d) an application having been made to the Australian Securities and Investments Commission under Section 573 of the Corporations Act 2001 to cancel the registration of the company? (e) any statutory demand having been served on the company pursuant to Section 459E(2) of the Corporations Act 2001? (f) the appointment of a voluntary administrator under Part 5.3A of the Corporations Act 2001?	
30. Are any of the inclusions specified in the Contract subject to any credit contract, hire purchase agreement, security interest in goods, leasing agreement, lien, charge or otherwise encumbered? If so, the Vendor should satisfy any such liability on or before completion.	
31. If the Vendor is an executor and/or trustee:- (a) The Vendor should be present at settlement to receive the amount payable to him and to give a trustees receipt. (b) Alternatively, do you require payment of the amount payable to the Vendors to be made into an Estate bank account? (c) Alternatively, do you rely on Section 53 of the Trustee Act 1925? If so, please	

REQUISITIONS	RESPONSE
<p>produce your written authority before settlement.</p> <p>(d) If applicable, Section 66B of the Conveyancing Act 1919 should be complied with.</p>	
<p>32. In the case of Old System Title land:-</p> <p>(a) The Deeds and documents listed on Annexure "A" to these Requisitions should be produced for our inspection and found satisfactory prior to completion.</p> <p>(b) The Deeds and documents listed on Annexure "B" to these Requisitions relating solely to the subject property should be produced for inspection and found satisfactory and handed over at settlement.</p> <p>(c) As the Vendors will not retain any estate in the lands dealt with by the Deeds listed on Annexure "C" to these Requisitions after conveyance of the subject property to the Purchasers, they should be permanently deposited in the office of the Land and Property Information (NSW), Sydney, in accordance with Section 53(2)(e) of the Conveyancing Act 1919 and a certified copy of the Lodgement receipt furnished at settlement or, a written undertaking to furnish such certified copy handed over at settlement.</p> <p>(d) The Vendor must comply with Clauses 25.2 and 25.8 before completion.</p>	
<p>33. Have any building works been carried out at the property to which the Building Services Corporation Act 1989 and/or the Home Building Act 1989 applies? If so, please provide before completion satisfactory evidence that such legislation has been complied with.</p>	
<p>34. If the Transfer (or in the case of Old System Title, the Deed of Conveyance) will be signed under Power of Attorney:-</p> <p>(a) Please produce before completion a copy of the registered Power of Attorney, and</p> <p>(b) Written evidence should be provided at settlement of its non-revocation.</p>	
<p>35. Is the subject property situated within an aircraft flight path? If so, on what basis and what curfew applies?</p>	
<p>36. Satisfactory evidence must be produced before completion that any:-</p> <p>(a) improvements erected over the sewer, and/or</p> <p>(b) rainwater downpipes connected to the sewer water was authorised or permitted in writing by Sydney Water Corporation or its predecessor.</p>	
<p>37. Is there any encroachment:-</p> <p>(a) onto any adjoining land by any improvements erected on the subject land?</p> <p>(b) by any improvements erected on adjoining land onto the subject land to the Vendors knowledge? If so, please give details of any such encroachment which should be removed before completion.</p>	
<p>38. Has the Vendor been served with any notice or order relating to fire safety issued under Section 124 of the Local Government Act 1993 which the Vendor has not fully complied with? If so, the Vendor must satisfy the terms of such notice or order before completion.</p>	
<p>39. The Vendor must comply with Clause 4.2.</p>	
<p>40. The Vendor should provide at settlement a direction in accordance with Clause 20.5.</p>	
<p>41. (If applicable) The Vendor must comply with Clauses 13.4.2, 13.9 and 13.10 on and before completion.</p>	

**DISCLAIMER**

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.....  
Solicitor for Vendor



FOLIO: 2/1031990

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SEARCH DATE	TIME	EDITION NO	DATE
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7/5/2019	10:51 AM	5	8/9/2018

NO CERTIFICATE OF TITLE HAS ISSUED FOR THE CURRENT EDITION OF THIS FOLIO.  
CONTROL OF THE RIGHT TO DEAL IS HELD BY WESTPAC BANKING CORPORATION.

LAND

-----

LOT 2 IN DEPOSITED PLAN 1031990  
AT FRENCHS FOREST  
LOCAL GOVERNMENT AREA NORTHERN BEACHES  
PARISH OF MANLY COVE COUNTY OF CUMBERLAND  
TITLE DIAGRAM DP1031990

FIRST SCHEDULE

-----

NEVILLE JAMES MILLAR  
DIANNE THERESE MILLAR  
AS JOINT TENANTS (T AB851024)

SECOND SCHEDULE (13 NOTIFICATIONS)

-----

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 DP1008935 EASEMENT TO DRAIN WATER 1.5 METRE(S) WIDE APPURTENANT TO THE LAND ABOVE DESCRIBED
- 3 DP1008935 EASEMENT TO DRAIN WATER 1.5 METRE(S) WIDE AND VARIABLE APPURTENANT TO THE LAND ABOVE DESCRIBED
- 4 DP1008935 RESTRICTION(S) ON THE USE OF LAND (1)REFERRED TO AND NUMBERED 10 IN THE S.88B INSTRUMENT
- 5 DP1008935 RESTRICTION(S) ON THE USE OF LAND (2) REFERRED TO AND NUMBERED 11 IN THE S.88B INSTRUMENT
- 6 DP1008935 RESTRICTION(S) ON THE USE OF LAND (3) REFERRED TO AND NUMBERED 12 IN THE S.88B INSTRUMENT AFFECTING THE PART SHOWN SO BURDENED IN THE TITLE DIAGRAM.
- 7 DP1008935 RESTRICTION(S) ON THE USE OF LAND (4) REFERRED TO AND NUMBERED 13 IN THE S.88B INSTRUMENT AFFECTING THE PART SHOWN SO BURDENED IN THE TITLE DIAGRAM
- 8 DP1031990 RIGHT OF CARRIAGEWAY AND EASEMENT FOR SERVICES AND DRAINAGE 7 METRE(S) WIDE AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM
- 9 DP1031990 RIGHT OF CARRIAGEWAY AND EASEMENT FOR SERVICES AND DRAINAGE 7 METRE(S) WIDE APPURTENANT TO THE LAND ABOVE DESCRIBED
- 10 DP1031990 RESTRICTION(S) ON THE USE OF LAND (1) REFERRED TO AN NUMBERED 2 IN THE 88B INSTRUMENT
- 11 DP1031990 RESTRICTION(S) ON THE USE OF LAND (2) REFERRED TO AND

END OF PAGE 1 - CONTINUED OVER

FOLIO: 2/1031990

PAGE 2

-----  
SECOND SCHEDULE (13 NOTIFICATIONS) (CONTINUED)

-----  
NUMBERED 3 IN THE 88B INSTRUMENT  
12 DP1031990 RESTRICTION(S) ON THE USE OF LAND (3) REFERRED TO AND  
NUMBERED 4 IN THE 88B INSTRUMENT  
13 AE618962 MORTGAGE TO WESTPAC BANKING CORPORATION

NOTATIONS

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UNREGISTERED DEALINGS: NIL

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

421940

PRINTED ON 7/5/2019

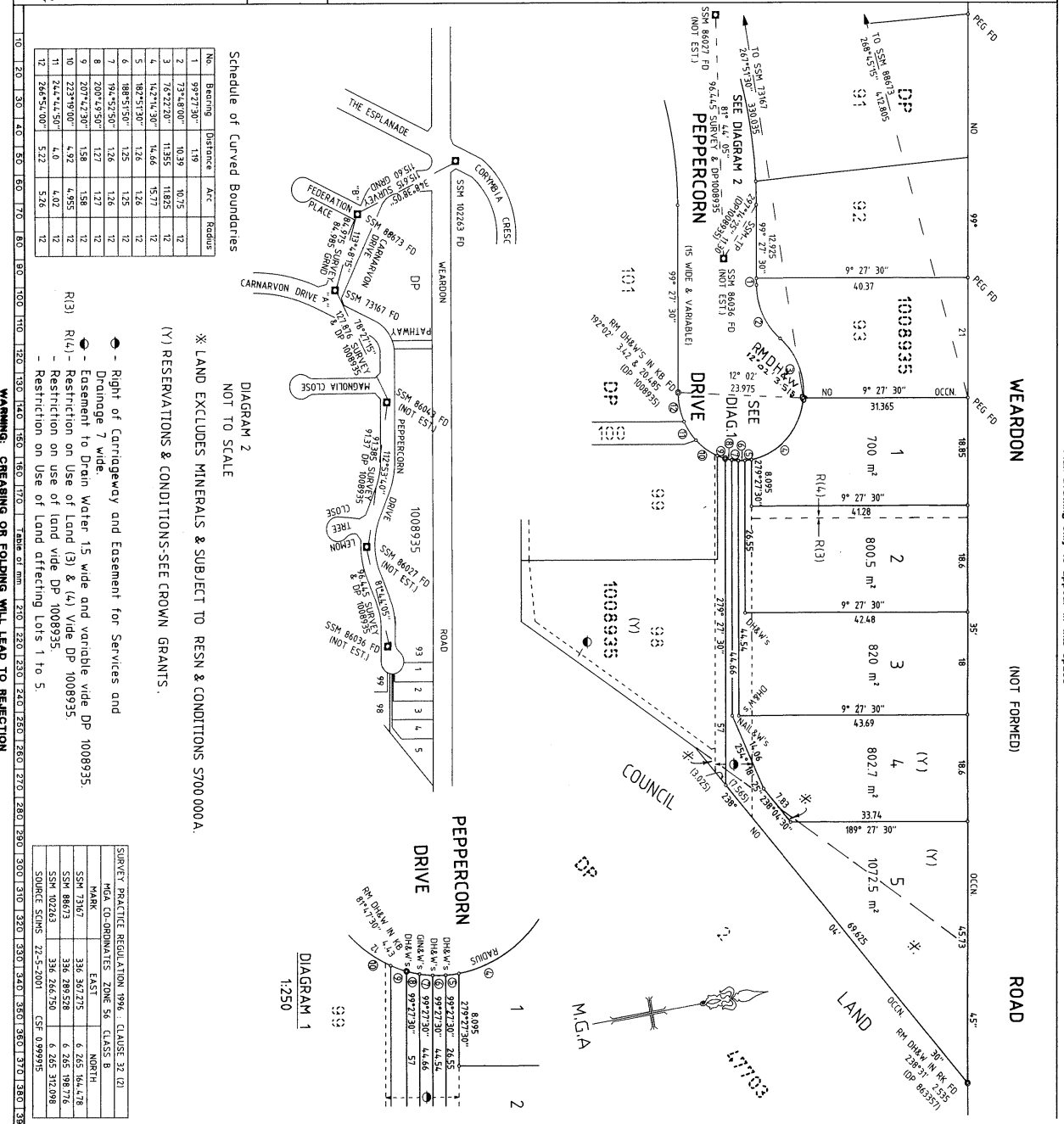
\* Any entries preceded by an asterisk do not appear on the current edition of the Certificate of Title. Warning: the information appearing under notations has not been formally recorded in the Register. InfoTrack an approved NSW Information Broker hereby certifies that the information contained in this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

SEALS AND STATEMENTS OF INTENTION TO DELIVER  
SEALS, RESTRICTIONS ON THE USE OF LAND OR MATTER CONCERNING  
"and set out in the accompanying plan."  
Authorised Person

*A. D. M. M. M.*

Crown Lands Office Approval  
PLAN APPROVED  
Authorised Officer  
Land District  
Field Book

Subdivision Certificate  
I hereby certify that...  
The requirements of Part 3 Division 2 of the Land Act 1994  
have been complied with by the applicant in relation to the  
proposed...  
Date  
Signature  
Council File No.  
Subdivision No.  
UNIFORMS REFERENCE 20-44



Schedule of Curved Boundaries

No	Bearing	Distance	Arc	Radius
1	99°27'30"	1.19		
2	73°48'00"	10.39	10.75	12
3	76°22'20"	11.355	11.825	12
4	142°14'30"	14.66	15.77	12
5	102°51'30"	12.6	12.6	12
6	108°51'50"	12.5	12.5	12
7	194°42'30"	12.6	12.6	12
8	200°49'50"	12.7	12.7	12
9	207°42'20"	15.8	15.8	12
10	223°19'00"	4.92	4.955	12
11	242°44'50"	4.0	4.02	12
12	268°54'00"	5.12	5.16	12

DIAGRAM 2  
NOT TO SCALE  
\* LAND EXCLUDES MINERALS & SUBJECT TO RESN & CONDITIONS S700 000A.  
(Y) RESERVATIONS & CONDITIONS-SEE CROWN GRANTS.  
- Right of Carriageway and Easement for Services and Drainage 7 wide.  
- Easement to Drain Water 15 wide and variable wide DP 1008935.  
- Restriction on Use of Land (3) & (4) Wide DP 1008935.  
- Restriction on Use of Land affecting Lots 1 to 5.

DIAGRAM 1  
1:250

MARK	EAST	NORTH
SSM 73871	38 26 27.5	6 205 184.178
SSM 88873	38 28 52.8	6 205 193.776
SSM 10263	38 28 6.750	6 205 312.008
SOURCE: SONS 22-5-2001	CS 0 999915	

DP1031990  
Registered: RE 3018101  
CALSEE CERTIFICATE  
The System: TORRENS  
Purpose: SUBDIVISION  
Rel. Map: U1860-2  
Last Plan: DP1008935

PLAN  
OF SUBDIVISION OF LOTS  
94, 95, 96, 97 IN DP 1008935

Lengths are in metres. Reduction Ratio: 1:500

LOCALITY: WARRINGAH  
LOCALITY: FRENCHS FOREST  
PARISH: MANLY COVE  
COUNTY: CUMBERLAND

1. IAN JAMES SOUTER  
of 6 HERON COVE PARISH, NEWPORT 2106  
a surveyor registered under the Surveyors Act 1929,  
hereby certify that the survey represented in this plan is  
correct and has been made according to his Surveyors  
Professional Regulation 1-6-2001 was completed on  
The survey relates to: LOTS 1-5

Signature registered under Surveyors Act 1929  
Surveyor registered under Surveyors Act 1929  
Zone: Suburban/General Purpose Datum Line "A" - "B"  
Plans used in preparation of survey/completion  
DP 1008935

PANEL FOR USE ONLY for statements of public reserves, drainage reserves, easements, restrictions on the use of land or positive covenants.  
PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919 AS AMENDED, IT IS INTENDED TO CREATE:-  
1. RIGHT OF CARRIAGEWAY & DRAINAGE 7 WIDE.  
2. EASEMENT FOR SERVICES & DRAINAGE 7 WIDE.  
3. RESTRICTION ON USE OF LAND (1).  
4. RESTRICTION ON USE OF LAND (2).  
5. RESTRICTION ON USE OF LAND (3).  
6. RESTRICTION ON USE OF LAND (4).  
TO RELIEVE:  
RIGHT OF CARRIAGEWAY & EASEMENT FOR SERVICES & DRAINAGE 7 WIDE (DP1008935).

Plan Drawing only to appear in this space

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS INTENDED TO BE  
CREATED OR RELEASED, AND OF PROFITS A PRENDRE, RESTRICTIONS  
ON THE USE OF LAND AND POSITIVE COVENANTS INTENDED TO BE  
CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919**

**DP1031990**

(Sheet 1 of 8 Sheets)  
Subdivision of Lots 94 - 97 in  
DP 1008935 Covered by Council  
Certificate No 10382 of 11-7-2001

Full Name and Address of  
Owner of Land

ARTHUR BARRY NESBITT  
Locked Mail Bag 2000  
Crows Nest NSW 2065

**PART 1**

1. Identity of easement, profit a prendre,  
restriction, or positive covenant to be  
created and firstly referred to in the plan Right of Carriageway and  
Easement for Services and  
Drainage 7 wide

Schedule of lots etc. affected

<u>Lots burdened</u>	<u>Lots benefited, relevant roads, bodies or Prescribed authorities</u>
2	3, 4, 5 and Lots 98 and 99 in DP1008935
3	2, 4, 5 and Lots 98 and 99 in DP1008935
4	2, 3, 5 and Lots 98 and 99 in DP1008935
5	2, 3, 4 and Lots 98 and 99 in DP1008935
98 in DP 1008935	2, 3, 4, 5 and 99 in DP 1008935
99 in DP 1008935	2, 3, 4, 5 and 98 in DP 1008935

2. Identity of easement, profit a prendre,  
restriction, or positive covenant to be  
created and secondly referred to in the plan Restriction on the Use of Land (1)

Schedule of lots etc. affected

<u>Lots burdened</u>	<u>Lots benefited, relevant roads, bodies or Prescribed authority</u>
1 to 5 inclusive	Lots 1 to 5 inclusive, Warringah Council

3. Identity of easement, profit a prendre,  
restriction, or positive covenant to be  
created and thirdly referred to in the plan Restriction on the Use of Land (2)

Schedule of lots etc. affected

<u>Lots burdened</u>	<u>Lots benefited, relevant roads, bodies or Prescribed authority</u>
1 to 5 inclusive	1 to 5 inclusive

**WARRINGAH COUNCIL**  
  
.....  
Authorised Person

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS INTENDED TO BE  
CREATED OR RELEASED, AND OF PROFITS A PRENDRE, RESTRICTIONS  
ON THE USE OF LAND AND POSITIVE COVENANTS INTENDED TO BE  
CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919**

Lengths are in metres

(Sheet 2 of 8 Sheets)

Subdivision of Lots 94 - 97 in  
DP 1008935 Covered by Council  
Certificate No 10322 of 11.7.2001

**DP1031990**

4. Identity of easement, profit a prendre, restriction, or positive covenant to be created and fourthly referred to in the plan Restriction on the Use of Land (3)

Schedule of lots etc. affected

<u>Lots burdened</u>	<u>Lots benefited, relevant roads, bodies or Prescribed authority</u>
2 to 5 inclusive	2 to 5 inclusive

5. Identity of easement, profit a prendre, restriction, or positive covenant to be created and fifthly referred to in the plan Restriction on the Use of Land (4)

Schedule of lots etc. affected

<u>Lots burdened</u>	<u>Lots benefited, relevant roads, bodies or Prescribed authority</u>
1	2 to 5 inclusive

**PART 1A**

1. Identity of Easement to be released and firstly referred to in the plan Right of Carriageway and Easement for Services and Drainage 7 wide (DP 1008935)

Schedule of lots etc. affected

<u>Lot burdened</u>	<u>Lots benefited, relevant roads, bodies or Prescribed authorities</u>
94/1008935	95, 96, 97, 98 and 99 in DP1008935
95/1008935	94, 96, 97, 98 and 99 in DP1008935
96/1008935	94, 95, 97, 98 and 99 in DP1008935
97/1008935	94, 95, 96, 98 and 99 in DP1008935
98/1008935	94, 95, 96, 97 and 99 in DP1008935
99/1008935	94, 95, 96, 97 and 98 in DP1008935

**WARRINGAH COUNCIL**  
  
.....  
Authorised Person

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS INTENDED TO BE  
CREATED OR RELEASED, AND OF PROFITS A PRENDRE, RESTRICTIONS  
ON THE USE OF LAND AND POSITIVE COVENANTS INTENDED TO BE  
CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919**

Lengths are in metres

(Sheet 3 of 8 Sheets)

Subdivision of Lots 94 - 97 in

DP 1008935 Covered by Council

Certificate No 10322 of 11.7.2001

**DP1031990**

**PART 2**

1. Terms of easements firstly referred to in the plan :

Right of Carriageway and Easement for Services and Drainage 7 wide.

Full and free right for every person who is at any time entitled to an estate or interest in possession in the land herein indicated as the lot benefited or any part thereof with which the right shall be capable of enjoyment (herein referred to as the "Proprietor") and every person authorised to go, pass and repass at all times and for all purposes with or without animals or both to and from the said lot benefited or any such part thereof TOGETHER WITH full and free right for the Proprietor and every person or persons authorised, and service authorities and every person or persons authorised by those authorities to lay, place, maintain, erect, or construct pipes, installations, conduits, cables or lines above, over, under or upon the land for purposes of gas, electricity, telephone, telecommunications, sewage and water services to enter upon the land with any necessary tools. Implements or machinery and to remain there for any reasonable time for the purposes of laying, inspecting, cleansing, repairing or renewing such pipes, installations, conduits, cables or lines or any part of them and for any of the aforesaid purposes to open the soil to such extent as may be necessary provided that all reasonable precautions are taken to ensure as little disturbance to the soil as possible and the surface be restored as soon as practicable to its original condition.

TOGETHER WITH the full and free right for the Proprietor and every person authorised, from time to time and at all times to drain water (whether rain, storm, spring, soakage or seepage water) in any quantities across and through the land herein indicated as the lot burdened, together with the right to use, for the purpose of the easement, any line of pipes already laid within the lot burdened for the purposes of draining water or any line of pipes in replacement or in substitution thereof and where no such line or pipes exists to lay, place and maintain a line of pipes of sufficient internal diameter beneath or upon the surface of the lot burdened, and together with the right for the Proprietor and every person authorised, with any tools, implements or machinery necessary for the purpose, to enter upon the lot burdened and to remain there for any reasonable time for the purpose of laying, inspecting, cleansing, maintaining or renewing such pipe line or any part thereof and for any of the aforesaid purposes to open the soil or surface of the lot burdened to such extent as may be necessary provided that the Proprietor and the persons authorised by him will take all reasonable precautions to ensure as little disturbance as possible to the surface of the lot burdened and will restore that surface as nearly as practicable to its original condition.

**WARRINGAH COUNCIL**  
  
.....  
**Authorised Person**

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS INTENDED TO BE  
CREATED OR RELEASED, AND OF PROFITS A PRENDRE, RESTRICTIONS  
ON THE USE OF LAND AND POSITIVE COVENANTS INTENDED TO BE  
CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919**

Lengths are in metres

(Sheet 4 of 8 Sheets)

Subdivision of Lots 94 - 97 in

DP 1008935 Covered by Council

Certificate No 10322 of 11.7.2001

**DP1031990**

Names of persons and Authorities empowered to release, vary or modify the easements firstly referred to in the plan: The Owners of Lots 2 to 5 inclusive and Sydney Water Corporation ABN 49 776 225 038.

2. Terms of Restriction on the Use of Land (1) secondly referred to in the plan :

- A. No dividing fences shall be erected on or adjacent to the common boundaries of adjoining access corridors.
- B. No dividing fence shall be erected on the southern boundary of Lot 1 adjacent to the access corridor of Lot 2.

Where the provisions of Paragraph A and/or B of the Terms of Restriction on the Use of Land (1) secondly referred to herein conflict with the provisions of Paragraph B of the Terms of Restriction on the Use of Land (2) thirdly referred to herein then the provisions of Paragraph A and/or B of the Terms of Restriction on the Use of Land (1) secondly referred to herein will apply.

Names of persons and Authorities empowered to release, vary or modify the Restrictions on the Use of Land secondly referred to in the plan: The Owners of Lots 2 to 5 inclusive and Warringah Council.

3. Terms of Restriction on the Use of Land (2) thirdly referred to in the plan :

A. External Walls and Building Plans.

- (1) No building shall be erected or permitted to remain on the lot burdened unless the external walls thereof are constructed of brick, stone, glass, timber, concrete, aluminium, hardboard sheeting or any combination thereof do not exceed twenty-five per centum (25%) of the total area of the external walls.
- (2) No building shall be erected on the lot burdened unless the design thereof and the materials to be used in the external facades thereof shall have been first approved in writing by the Developer nor shall any building be permitted to remain on the lot burdened unless the said approval shall have been given by the Developer prior to the commencement of construction thereof.
- (3) The Developer shall not make any charge for consideration and approval of plans.

**WARRINGAH COUNCIL**

  
.....  
Authorised Person

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS INTENDED TO BE  
CREATED OR RELEASED, AND OF PROFITS A PRENDRE, RESTRICTIONS  
ON THE USE OF LAND AND POSITIVE COVENANTS INTENDED TO BE  
CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919**

**DP1031990**

(Sheet 5 of 8 Sheets)  
Subdivision of Lots 94 - 97 in  
DP 1008935 Covered by Council  
Certificate No 10322 of 11-7-2001

- (4) Any approval granted by the Developer shall not constitute an agreement or representation as to adequacy, suitability or fitness of any plans and specifications or to the siting of the building or that the relevant State or Local Government or any other competent authority will grant its approval.

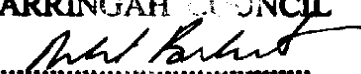
**B. Fences**

No fence shall be erected or permitted to remain on the lot burdened unless the same is constructed of brick, masonry, lapped and capped stained timber, lapped and capped pine impregnated with copper chrome arsenate (commonly known as "treated pine"), brushwood or such other material as may be approved by the Developer. Chain wire fencing and colour bonded metal fencing shall not be permitted.

No front boundary fence shall be constructed or permitted to remain constructed on the front boundary alignment of the lot burdened. No side fences shall be constructed or permitted to remain constructed on the lot burdened between the front alignment and the building line unless such fence does not exceed one (1) metre in height and the material used for such fence has first been approved in writing by the Developer. "Side Fences" shall mean fences from the street boundary to the front building alignment. Along access corridors of battleaxe allotments side fences shall not exceed one (1) metre height from road frontage to neighbouring front building alignments and from that point may exceed one metre height to rear boundary line. Plans and specifications for fencing for corner lots must be approved by the Developer, prior to construction thereof.

Where the provisions of Paragraph B of the Terms of Restriction on the Use of Land (2) thirdly referred to herein conflict with the provisions of Paragraph A and/or B of the Terms of Restriction on the Use of Land (1) secondly referred to herein then the provisions of Paragraph A and/or B of the Terms of Restriction on the Use of Land (1) secondly referred to herein will apply.

No fence shall be erected on each lot burdened to divide it from any adjoining land owned by Arthur Barry Nesbitt without the consent of the Developer but such consent shall not be withheld if such fence is erected without expense to Arthur Barry Nesbitt provided that this restriction shall remain in force only during such time as Arthur Barry Nesbitt is the registered proprietor of any land in the plan or any land immediately adjoining the land in the plan whichever is the later.

**WARRINGAH COUNCIL**  
  
.....  
**Authorised Person**

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS INTENDED TO BE  
CREATED OR RELEASED, AND OF PROFITS A PRENDRE, RESTRICTIONS  
ON THE USE OF LAND AND POSITIVE COVENANTS INTENDED TO BE  
CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919**

(Sheet 6 of 8 Sheets)

Subdivision of Lots 94 - 97 in

DP 1008935 Covered by Council

Certificate No 10322 of 11-7-2001

**DP1031990**

**C. Trailer and Caravans**

No plant, machinery and/or other equipment, including but without limiting the generality thereof any caravan, box trailer, boat trailer, car trailer, motor vehicle or any part thereof, (any item of such plant, machinery and/or other equipment or any item deemed to be included as such plant, machinery and/or other equipment being hereinafter in this restriction referred to as a "Prohibited Item") shall be permitted to remain on any part of the Prohibited Area of the lot burdened for a period exceeding thirty (30) consecutive days without being moved from the lot burdened. Any Prohibited Item that is moved from the lot burdened for a period of less than seven (7) consecutive days shall be deemed to have remained on the lot burdened for the period during which it was removed. Notwithstanding anything contained or implied in this restriction any motor car, motor station wagon and/or utility that is properly registered for use on a public road shall not be deemed to be a "Prohibited Item". For the purposes of this restriction the "Prohibited Area" of the lot shall mean:

- (i) in the case of a lot which faces only one (1) public road, that area between the rear building line of the main building erected thereon and the public road to which the said lot abuts BUT shall not include any area which is not visible from any public road and/or place; and
- (ii) in the case of a lot which faces more than one (1) public road, that area between the rear building line of the main building erected thereon and the public road to which the said main building faces AND any other area of the lot that is not screened from any other public road BUT shall not include any area which is not visible from any public road and/or place.

**D. Landscaping**

- (a) Landscaping shall be substantially completed from the front boundary line to the front building line of the lot burdened within three months after occupation of the dwelling. For the purposes of this clause "landscaping" shall mean that driveways are to be completed from the front boundary to car accommodation, land to be cleared of building debris and turf or other ground cover planted and maintained in a tidy state. Each lot shall be maintained in a tidy state and during construction, building debris shall be cleared regularly and all debris shall be confined to the lot boundary. The Owner shall ensure that builders or contractors engaged by the Owner minimise soil erosion and pollution during construction of the dwelling.

**WARRINGAH COUNCIL**  
  
.....  
**Authorised Person**

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS INTENDED TO BE  
CREATED OR RELEASED, AND OF PROFITS A PRENDRE, RESTRICTIONS  
ON THE USE OF LAND AND POSITIVE COVENANTS INTENDED TO BE  
CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919**

**DP1031990**

(Sheet 7 of 8 Sheets)  
Subdivision of Lots 94 - 97 in  
DP 1008935 Covered by Council  
Certificate No 10382 of 11.7.2001

- (b) Driveways shall be constructed of pressed concrete, pebblecrete, quarry tile/brick or similar quality surface material with the kerb shape adjusted to flange from the driveway to the road height. Driveways of natural grey concrete colour shall not be permitted. The kerb may not be bridged to the roadside nor temporary driveway surfaces be used after the said three (3) month period.
- E. Television Antennae, Solar Panels, etc.
- Satellite dishes/receptors, air conditioning units, solar heating apparatus and similar units shall be located in such positions so that they are not visible from any public road.
- F. Building.
- The Owner shall:
- (a) Substantially commence building construction of the dwelling on the lot burdened within twenty-four (24) months of the date of acquisition.
- (b) Proceed with all due diligence to complete the dwelling within twelve (12) months from the commencement of construction, and shall not in any case allow a period of more that three (3) months to elapse without substantial work being carried out.
- G. No signage shall be erected on any lot unless with the prior approval of the Developer.
- H. Any release, variation or modification of these restrictions shall be made and done in all respects at the cost and expense of the person or persons requesting the same.
- I. These Restrictions on the Use of Land shall be effective for a period of five (5) years from the date of registration of the Deposited Plan in relation to the lot and after the expiration of the said five (5) year period shall cease to be effective.
- J. In these Restrictions on the Use of Land, "the Developer" shall mean Colonial Credits Pty Limited ABN 900 000 92455.

Names of persons and Authorities empowered to release, vary or modify the Restrictions on the Use of Land thirdly referred to in the plan : Colonial Credits Pty Limited ABN 900 000 92455 or any person authorised by that Company from time to time for that purpose.

**WARRINGAH COUNCIL**  
  
Authorised Person

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS INTENDED TO BE  
CREATED OR RELEASED, AND OF PROFITS A PRENDRE, RESTRICTIONS  
ON THE USE OF LAND AND POSITIVE COVENANTS INTENDED TO BE  
CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919**

(Sheet 8 of 8 Sheets)

Subdivision of Lots 94 - 97 in  
DP 1008935 Covered by Council  
Certificate No 10382 of 11.7.2001

**DP1031990**

4. Terms of Restriction on Use of Land (3) fourthly referred to in the plan :

Size of Dwellings.

No single dwelling shall be erected or be permitted to remain erected on the lot burdened, having a total habitable floor area of less than 300 square metres exclusive of car accommodation, external landings and patios.

Names of persons and Authorities empowered to release, vary or modify the Restrictions on the Use of Land fourthly referred to in the plan : Colonial Credits Pty Limited ABN 900 000 92455 or any person authorised by that Company from time to time for that purpose.

5. Terms of Restriction on Use of Land (4) fifthly referred to in the plan :

Size of Dwellings.

No single dwelling shall be erected or be permitted to remain erected on the lot burdened, having a total habitable floor area of less than 200 square metres exclusive of car accommodation, external landings and patios.

Names of persons and Authorities empowered to release, vary or modify the Restrictions on the Use of Land fifthly referred to in the plan : Colonial Credits Pty Limited ABN 900 000 92455 or any person authorised by that Company from time to time for that purpose.

Signed in my presence by  
Arthur Barry Nesbitt who  
is personally known to me

*Arthur Barry Nesbitt*

Signature of Witness

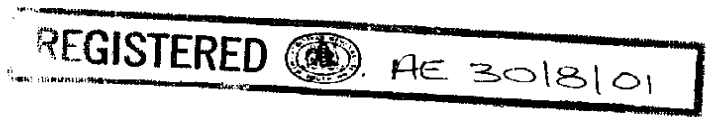
*Jarvet Heather Scott*

Name of Witness

JARVET HEATHER SCOTT

*Arthur Barry Nesbitt*

Authorised Person : Warringah Council



PLAN FORM 2

SUBDIVISION AND SEALS ONLY

*Handwritten signatures and initials*

SCHEDULE OF SHORT & CLINED BOUNDARIES

No.	BEARING	DISTANCE	ARC	RAIUS
1	138°21'30"	20.89	217	20.42
2	305°55'10"	4		
3	227°47'20"	14.75	14.86	35
4	247°31'30"	11.63	11.89	35
5	276°37'30"	4.83	4.84	35
6	357°09'40"	7.35	7.47	12
7	357°09'40"	10.3	11.42	12
8	88°31'50"	10.3	10.65	12
9	124°30'20"	3.98	4.42	12
10	144°35'40"	7.35	7.35	12
11	173°27'10"	3.98	8.08	12
12	209°12'00"	6.78	7.47	12
13	82°21'40"	14.80	15.05	12
14	230°3'40"	65.27	152.4	23.67
15	49°52'90"	11.66	11.78	35
16	285°52'40"	8.27	8.28	35

SCHEDULE OF REFERENCE MARKS

No.	DESCRIPTION	BEARING	DISTANCE	REFERENCE
A	RM DRILL HOLE & WINGS IN KERB	86° 27' 20"	5.16	
B	RM SSM 88673	12° 43' 30"	23.2	
C	RM SSM 73167	92° 30' 10"	9.275	
D	RM DRILLHOLE & WING IN KERB	100° 20' 15"	4-2.9	
E	RM DRILL HOLE & WINGS IN KERB	44° 30' 35"	28.005	pp 883357
F	RM DRILL HOLE & WINGS IN KERB	125°37'15"	5.36 & 14.58	
G	RM DRILL HOLE & WINGS IN KERB	162° 56' 45"	3.815 & 13.03	
H	RM DRILL HOLE & WINGS IN KERB	280° 35'	3.56 & 11.82	
J	RM DRILL HOLE & WINGS IN KERB	278° 59' 30"	3.57 & 11.8	

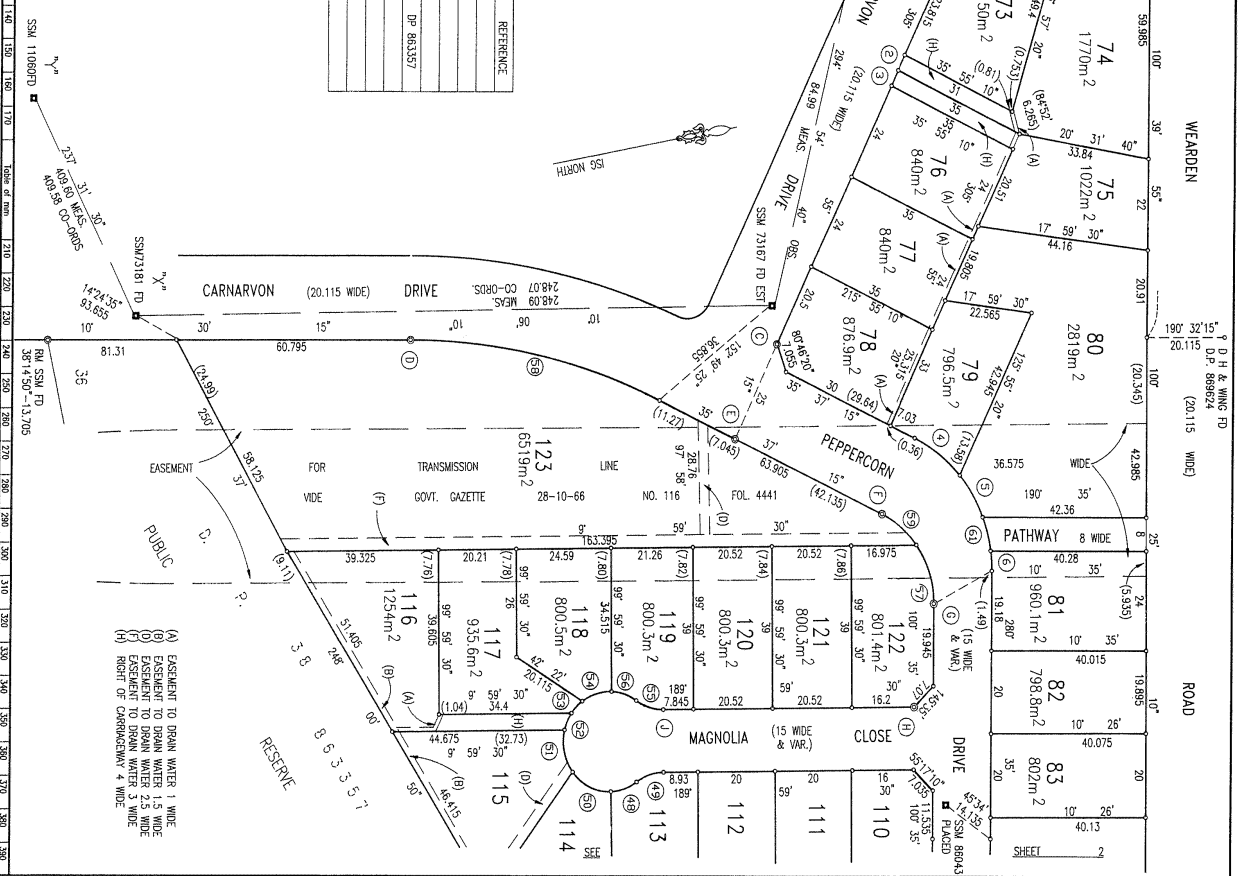
SURVEY PRACTICE REGULATIONS 1986. CLAUSE 32 (2)

MARK	ESTING	NORTHING	ZONE	ACC.
SSM 73167	321 531 657	1 265 085 679	56/1	2
SSM 73181	321 488 444	1 264 838 456	56/1	2
SSM 11060	321 142 911	1 264 619 510	56/1	2
SSM 88673	321 454 888	1 265 118 479	56/1	2
SSM 88674	321 431 185	1 265 218 277	56/1	2

COMBINED SEA LEVEL & SCALE FACTOR = 0.99993  
SOURCE: I.S.G. COMPOS. ADOPTED FROM L.I.C. ON 8-5-1986

1. I hereby certify that -  
(a) the requirements of the Local Government Act, 1998 (other than section 10) and  
(b) the requirements of Part 3 Division 2 of the Water Board Act (Consolidation Act 1988) have been complied with by the applicant in relation to the proposed subdivision of the land shown on the plan and that the plan is a true and correct copy of the original plan submitted to me for registration.  
(Signature) *[Signature]*  
Surveyor  
I declare that I am a duly qualified and registered Surveyor under the Survey Act, 1998 and that I am not a party to the proposed subdivision and that I have not acted as a party to the proposed subdivision in any capacity other than as a Surveyor.  
I declare if applicable

SURVEYOR'S REFERENCE: 952796  
DNR 333



Plan Drawing only to appear in this space

DP1008935

Registered 8/12/1999

C.A. No 10250 of 26-11-99

Title System: TORENS

Purpose: SUBDIVISION

Ref. Map: U1860-7, U1860-5

Last Plan: DP8633357

PLAN OF SUBDIVISION OF LOT 39 D.P. 863357

L.G.A.: WARRINGAH

Locality: FRENCH FOREST

Parish: MANYI COVE

County: CUMBERLAND

This is sheet 1 of my plan in 2 sheets (Delete if inapplicable)

I, V.A. TINKER OF MICHAEL BELL & PARTNERS P/L of 2, O.BOX 478, ROSEVILLE, 2088,

a surveyor registered under the Surveyors Act, 1998 as a duly qualified and registered Surveyor under the Survey Act, 1998 and that I am not a party to the proposed subdivision and that I have not acted as a party to the proposed subdivision in any capacity other than as a Surveyor.

15TH APRIL, 1999

Signature *[Signature]*  
Surveyor registered under the Surveyors Act, 1998, as provided by section 10 of the Survey Act, 1998.

Plan used in preparation of survey/compilation. 863357

Plans used in preparation of survey/compilation. 863357

PAINT FOR USE ONLY for statements of intention to dedicate public roads, to create public reserves, or for other purposes, to be used on the use of land or positive covenants.

IT IS INTENDED TO DEDICATE PEPPERCORN DRIVE AND THE DRIVE TO THE PUBLIC SUBJECT TO EASEMENT FOR TRANSMISSION LINE.

IT IS INTENDED TO DEDICATE MAGNOLIA CLOSE AND LEADON HILL DRIVE TO THE PUBLIC RESERVE.

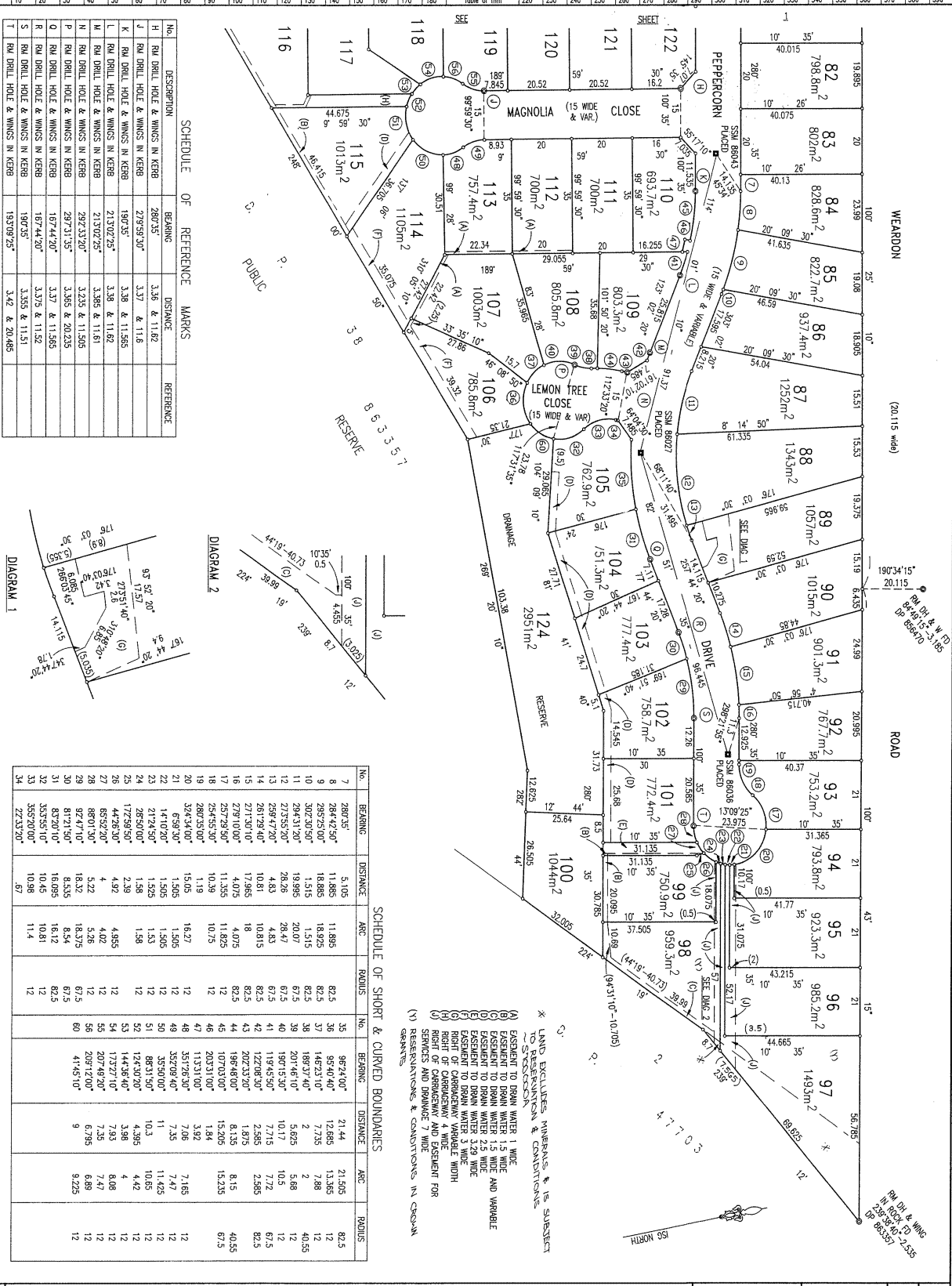
IT IS INTENDED TO CREATE LOT 124 AS BROWNS RESERVE.

PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919 IT IS INTENDED TO CREATE:

- EASEMENT TO DRAIN WATER 1 WIDE
  - EASEMENT TO DRAIN WATER 1.5 WIDE
  - EASEMENT TO DRAIN WATER 1.5 WIDE
  - EASEMENT TO DRAIN WATER 2.5 WIDE
  - EASEMENT TO DRAIN WATER 3 WIDE
  - EASEMENT TO DRAIN WATER 3.29 WIDE
  - RIGHT OF CARPARKWAY 4 WIDE
  - RIGHT OF CARPARKWAY VARIABLE WIDTH
- (CONTINUED ON SHEET 2)

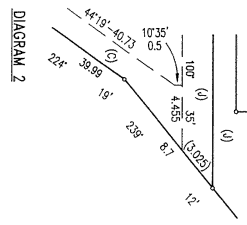
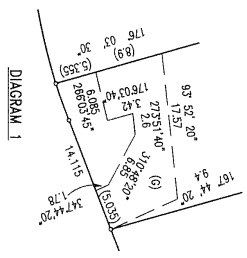
WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

PLAN FORM 3 To be used in conjunction with Plan Form 2  
 WARNING: UNLASSING OR FOLDING WILL LEAD TO REJECTION



SCHEDULE OF REFERENCE MARKS

No.	DESCRIPTION	BEARING	DISTANCE	REFERENCE
H	RM DRILL HOLE & WINGS IN KERB	280°35'	3.36 & 11.82	
I	RM DRILL HOLE & WINGS IN KERB	275°59'30"	3.37 & 11.6	
J	RM DRILL HOLE & WINGS IN KERB	190°35'	3.38 & 11.585	
K	RM DRILL HOLE & WINGS IN KERB	190°35'	3.38 & 11.62	
L	RM DRILL HOLE & WINGS IN KERB	213°02'25"	3.385 & 11.61	
M	RM DRILL HOLE & WINGS IN KERB	213°02'25"	3.235 & 11.505	
N	RM DRILL HOLE & WINGS IN KERB	292°31'20"	3.385 & 20.235	
O	RM DRILL HOLE & WINGS IN KERB	167°44'20"	3.37 & 11.585	
P	RM DRILL HOLE & WINGS IN KERB	167°44'20"	3.375 & 11.52	
Q	RM DRILL HOLE & WINGS IN KERB	190°35'	3.355 & 11.51	
R	RM DRILL HOLE & WINGS IN KERB	193°09'25"	3.42 & 20.485	



SCHEDULE OF SHORT & CURVED BOUNDARIES

No.	BEARING	DISTANCE	BEARINGS	NO.	BEARING	DISTANCE	ARC	BEARINGS
7	280°35'	5.105	11.895	35	98°24'00"	21.44	21.505	82.5
8	284°42'50"	11.885	18.925	36	95°40'40"	12.685	13.385	12
9	295°25'00"	18.885	37	148°23'10"	7.735	7.88	12	12
10	302°30'50"	1.515	82.5	38	188°37'40"	2	2	40.55
11	294°31'20"	19.995	20.07	39	201°46'10"	5.625	5.68	12
12	275°55'20"	28.28	28.47	40	190°15'30"	10.17	10.5	67.5
13	275°55'20"	4.83	4.83	41	119°45'30"	7.715	7.72	67.5
14	261°29'40"	10.81	10.81	42	122°08'30"	2.585	2.585	82.5
15	271°50'10"	17.965	18	43	202°33'20"	2.585	2.585	82.5
16	279°10'00"	4.075	4.075	44	198°48'00"	8.135	8.15	40.55
17	279°10'00"	11.385	11.825	45	107°03'00"	15.205	15.235	67.5
18	239°59'30"	10.39	10.75	46	203°31'00"	3.92	3.92	12
19	239°59'30"	15.08	16.27	47	113°31'00"	7.08	7.185	12
20	302°30'50"	1.505	1.505	48	352°09'40"	7.35	7.47	12
21	14°10'20"	1.505	1.505	49	353°00'00"	11	11.425	12
22	14°10'20"	1.58	1.58	50	88°31'50"	10.3	10.63	12
23	285°00'00"	2.29	4.92	51	124°30'20"	4.385	4.48	12
24	172°58'50"	4.92	4.955	52	144°30'40"	3.98	4.02	12
25	172°58'50"	4.92	5.22	53	112°30'20"	4.08	4.08	12
26	44°28'30"	4	4.02	54	142°30'40"	7.33	7.33	12
27	65°52'00"	4	4.375	55	207°21'00"	6.98	6.98	12
28	88°01'30"	18.32	18.375	56	209°12'00"	6.785	6.785	12
29	92°47'10"	18.32	18.375	57	41°45'10"	9	9	12
30	81°21'50"	16.095	16.12	58				12
31	83°20'10"	10.46	10.81	59				12
32	353°55'10"	10.46	10.81	60				12
33	353°20'00"	10.98	11.4					12
34	272°33'20"	6.7						12

- (A) LAND EXCLUDES MINERALS & IS SUBJECT TO REVERSION & CONVEYANCE.
- (B) EASEMENT TO DRAIN WATER 1.5 WIDE
- (C) EASEMENT TO DRAIN WATER 1.5 WIDE AND VARIABLE
- (D) EASEMENT TO DRAIN WATER 2.2 WIDE
- (E) EASEMENT TO DRAIN WATER 3 WIDE
- (F) EASEMENT TO DRAIN WATER 3 WIDE
- (G) RIGHT OF CARRIAGEWAY VARIABLE WIDTH
- (H) RIGHT OF CARRIAGEWAY 4 WIDE
- (I) RIGHT OF CARRIAGEWAY 4 WIDE
- (J) RIGHT OF CARRIAGEWAY 4 WIDE
- (K) RESERVATIONS & CONDITIONS, IN CREW DRAWINGS.

Plan Drawing only to appear in this space

Reduction Ratio: 1: 800

DP1008935

Registered 8-12-1999

This is sheet 2 of my plan of 2 sheets  
 dated 15 April 1999  
 I, [Signature]  
 Surveyor registered under Singapore Act 1909

This is sheet 2 of my plan of 2 sheets  
 dated 15 April 1999  
 I, [Signature]  
 Surveyor registered under Singapore Act 1909

General Manager/Authorized Person  
 For this sheet space is transferred in my plan on Plan Form 2

(CONTINUED FROM SHEET 1)  
 9. RIGHT OF CARRIAGEWAY AND EASEMENT FOR SERVICES AND DRAINAGE 7 WIDE  
 10. RESTRICTION ON USE OF LAND (1)  
 11. RESTRICTION ON USE OF LAND (2)  
 12. RESTRICTION ON USE OF LAND (3)  
 13. RESTRICTION ON USE OF LAND (4)

AS SET OUT IN THE ACCOMPANYING INSTRUMENT SIGNED BY THE GENERAL-MANAGER AUTHORIZED PERSON

[Signature]

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS ON USE  
OF LAND INTENDED TO BE CREATED PURSUANT TO SECTION 88B,  
CONVEYANCING ACT, 1919**

Lengths are in metres

(Sheet 1 of 11 Sheets)

Plan of Subdivision of Lot 39 D.P. 863357  
covered by Council Clerk's Certificate  
No ~~10250~~ of ~~26~~ - ~~11~~ . ~~99~~ .

**DP1008935**

Part 1

Full name and address  
of proprietor of the land

Arthur Barry Nesbitt and Janet Heather Scott  
Locked Mail Bag 2000  
CROWS NEST NSW 2065

- 1. Identity of restriction firstly referred to in abovementioned plan Easement to Drain Water  
1 Wide

Schedule of lots affected

<u>Lots burdened</u>	<u>Lots benefited</u>
74	73
75	73 & 74
76	73, 74 & 75
77	73, 74, 75 & 76
78	73, 74, 75, 76 & 77
106	107, 111, 112 & 113
107	111, 112 & 113
112	111
113	111 & 112
116	117

- 2. Identity of easement secondly referred to in abovementioned plan Easement to Drain Water  
1.5 Wide

Schedule of lots affected

<u>Lots burdened</u>	<u>Lots benefited</u>
99	94, 95, 96, 97 & 98
100	94, 95, 96, 97, 98 & 99
115	116, 117 & 123
116	117 & 123

- 3. Identity of easement thirdly referred to in abovementioned plan Easement to Drain Water  
1.5 Wide & Variable

Schedule of lots affected

<u>Lots burdened</u>	<u>Lots benefited</u>
98	94, 95 96 & 97

**WARRINGAH COUNCIL**  
*Neil Barrett*  
.....  
**Authorised Person**

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS ON USE  
OF LAND INTENDED TO BE CREATED PURSUANT TO SECTION 88B,  
CONVEYANCING ACT, 1919**

Lengths are in metres

(Sheet 2 of 11 Sheets)

Plan of Subdivision of Lot 39 D.P. 863357  
covered by Council Clerk's Certificate  
No10250 of 26.11.99 .

**DP1008935**

Part 1

- |    |  |                                     |
|----|--|-------------------------------------|
| 4. | <u>Identity of easement<br/>fourthly referred to in<br/>abovementioned plan.</u> | Easement to Drain Water<br>2.5 Wide |
|----|--|-------------------------------------|

Schedule of lots and authority affected

<u>Lots burdened</u>	<u>Authority benefited</u>
101	
102	
103	Warringah Council
104	
105	
115	
123	

- |    |  |                                   |
|----|--|-----------------------------------|
| 5. | <u>Identity of easement<br/>fifthly referred to in<br/>abovementioned plan</u> | Easement to Drain Water<br>3 Wide |
|----|--|-----------------------------------|

Schedule of lots and authority affected

<u>Lots burdened</u>	<u>Authority benefited</u>
106	
114	Warringah Council
123	

- |    |  |                                      |
|----|--|--------------------------------------|
| 6. | <u>Identity of easement<br/>sixthly referred to in<br/>abovementioned plan</u> | Easement to Drain Water<br>3.29 Wide |
|----|--|--------------------------------------|

Schedule of lots and authority affected

<u>Lots burdened</u>	<u>Authority benefited</u>
100	Warringah Council

**WARRINGAH COUNCIL**  
  
.....  
**Authorised Person**

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS ON USE  
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CONVEYANCING ACT, 1919**

Lengths are in metres

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Plan of Subdivision of Lot 39 D.P. 863357  
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**DP1008935**

Part 1

7. Identity of easement  
seventhly referred to in  
abovementioned plan. Right of Carriageway  
4 Wide

Schedule of lots affected

<u>Lots burdened</u>	<u>Lots benefited</u>
74	75
75	74
116	117

8. Identity of easement  
eighthly referred to in  
abovementioned plan Right of Carriageway  
Variable Width

Schedule of lots affected

<u>Lots burdened</u>	<u>Lots benefited</u>
89	88

9. Identity of easement  
ninthly referred to in  
abovementioned plan Right of Carriageway and  
Easement for Services and  
Drainage 7 wide

Schedule of lots affected

<u>Lots burdened</u>	<u>Lots benefited</u>
94	95, 96, 97, 98, 99
95	94, 96, 97, 98, 99
96	94, 95, 97, 98, 99
97	94, 95, 96, 98, 99
98	94, 95, 96, 97, 99
99	94, 95, 96, 97, 98

**WARRINGAH COUNCIL**



.....  
**Authorised Person**

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS ON USE  
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Lengths are in metres

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Plan of Subdivision of Lot 39 D.P. 863357  
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**DP1008935**

Part 1

10. Identity of restriction  
tenthly referred to in  
abovementioned plan Restriction on the use of Land (1)

Schedule of lots affected

Lots burdened

74 & 75  
88 & 89  
94,95,96,97  
98 & 99

Authority benefited

Warringah Council

11. Identity of restriction  
eleventhly referred to in  
abovementioned plan Restriction on the use of Land (2)

Schedule of lots affected

Lots burdened

73 to 122 inclusive

Lots benefited

73 to 122 inclusive

12. Identity of restriction  
twelfthly referred to in  
abovementioned plan Restriction on the use of Land (3)

Schedule of lots affected

Lots burdened

81,83,84,85,86,87  
88,89,90,91,95,96  
97,98,100,107,108  
109,114,115,116,117  
118,119,120,121 & 122

Lots benefited

81,83,84,85,86,87  
88,89,90,91,95,96  
97,98,100,107,108  
109,114,115,116,117  
118,119,120,121 & 122

**WARRINGAH COUNCIL**



.....  
Authorised Person

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS ON USE  
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Plan of Subdivision of Lot 39 D.P. 863357  
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**DP1008935**

13. Identity of restriction  
thirteenthly referred to in  
abovementioned plan

Restriction on the use of Land (4)

Schedule of lots affected

Lots burdened  
82,92,93,94,99,101  
102,103,104,105,106,  
110,111,112 & 113

Lots benefited  
82,92,93,94,99,101  
102,103,104,105,106  
110,111,112 & 113

Part 2

**Terms of Right of Carriageway and Easement for Services and Drainage ninthly referred  
to in abovementioned plan.**

Full and free right for every person who is at any time entitled to an estate or interest in possession in the land herein indicated as the lot benefited or any part thereof with which the right shall be capable of enjoyment (herein referred to as the "Proprietor") and every person authorised, to go, pass and repass at all times and for all purposes with or without animals or both to and from the said lot benefited or any such part thereof TOGETHER WITH full and free right for the Proprietor and every person or persons authorised, and service authorities and every person or persons authorised by those authorities to lay, place, maintain, erect, or construct pipes, installations, conduits, cables or lines above, over, under or upon the land for purposes of gas, electricity, telephone, telecommunications and water services to enter upon the land with any necessary tools, implements, or machinery and to remain there for any reasonable time for the purposes of laying, inspecting, cleansing, repairing or renewing such pipes, installations, conduits, cables or lines or any part of them and for any of the aforesaid purposes to open the soil to such extent as may be necessary provided that all reasonable precautions are taken to ensure as little disturbance to the soil as possible and the surface be restored as soon as practicable to its original condition.

**WARRINGAH COUNCIL**  
  
.....  
**Authorised Person**

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS ON USE  
OF LAND INTENDED TO BE CREATED PURSUANT TO SECTION 88B,  
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Lengths are in metres

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Plan of Subdivision of Lot 39 D.P. 863357  
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**DP1008935**

Part 2

TOGETHER WITH full and free right for the Proprietor and every person authorised, from time to time and at all times to drain water (whether rain, storm, spring, soakage, or seepage water) in any quantities across and through the land herein indicated as the lot burdened, together with the right to use, for the purposes of the easement, any line of pipes already laid within the lot burdened for the purposes of draining water or any line of pipes in replacement or in substitution thereof and where no such line or pipe exists, to lay, place and maintain a line of pipes of sufficient internal diameter beneath or upon the surface of the lot burdened, and together with the right for the proprietor and every person authorised, with any tools, implements, or machinery, necessary for the purpose, to enter upon the lot burdened and to remain there for any reasonable time for the purpose of laying, inspecting, cleansing, repairing, maintaining, or renewing such pipe line or any part thereof and for any of the aforesaid purposes to open the soil or surface of the lot burdened to such extent as may be necessary provided that the proprietor and the persons authorised by him will take all reasonable precautions and to ensure as little disturbance as possible to the surface of the lot burdened and will restore that surface as nearly as practicable to its original condition.

This Easement shall not be released, varied or modified without the prior consent in writing of Sydney Water Corporation.

**Terms of Restriction on the Use of Land (1) tenthly referred to in abovementioned plan**

- A. No dividing fences shall be erected on or adjacent to the common boundaries of adjoining access corridors.
- B. No dividing fence shall be erected on the southern boundary of lot 94 adjacent to the access corridor of lot 95 and no dividing fence shall be erected on the northern boundary of lot 99 adjacent to the access corridor of lot 98.

Where the provisions of paragraph B of the Terms of Restriction on the Use of Land tenthly referred to herein conflict with the provisions of paragraph B of the Terms of Restriction on the Use of Land eleventhly referred to herein then the provisions of paragraph B of the Terms of Restriction on the Use of Land tenthly referred to herein will apply.

These restrictions shall not be released, varied or modified without the prior consent in writing of Warringah Council

**WARRINGAH COUNCIL**



.....  
**Authorised Person**

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS ON USE  
OF LAND INTENDED TO BE CREATED PURSUANT TO SECTION 88B,  
CONVEYANCING ACT, 1919**

(Sheet 7 of 11 Sheets)

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Plan of Subdivision of Lot 39 D.P. 863357  
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**Terms of Restriction on the Use of Land (2) eleventhly referred to in abovementioned  
plan**

**A External Walls and Building Plans**

- (1) No building shall be erected or permitted to remain on the lot burdened unless the external walls thereof are constructed of brick, stone, glass, timber, concrete, aluminium, hardboard sheeting or any combination thereof provided that the part or parts of the external walls constructed of timber, concrete, aluminium sheeting, hardboard sheeting or any combination thereof do not exceed twenty-five per centum (25%) of the total area of the external walls.
- (2) No building shall be erected on the lot burdened unless the design thereof and the materials to be used in the external facades thereof shall have been first approved in writing by the Developer as having architectural merit nor shall any building be permitted to remain on the lot burdened unless the said approval shall have been given by the Developer prior to the commencement of construction thereof.
- (3) The Developer shall not make any charge for consideration and approval of plans.
- (4) Any approval granted by the Developer shall not constitute an agreement or representation as to adequacy, suitability or fitness of any plans and specifications or to the siting of the building or that the relevant State or Local Government or other

competent authority will grant its approval.

**B Fences**

No fence shall be erected or permitted to remain on the lot burdened unless the same is constructed of brick, masonry, lapped and capped stained timber, lapped and capped pine impregnated with copper chrome arsenate (commonly known as "treated pine"), brushwood, or such other material as may be approved by the Developer. Chain wire fencing and colour bonded metal fencing shall not be permitted with the exception of the existing rear boundary fences of lots 100 to 106 inclusive which cannot be removed varied or altered without the written approval of Warringah Council.

No front boundary fence shall be constructed or permitted to remain constructed on the front boundary alignment of the lot burdened. No side fences shall be constructed or permitted to remain constructed on the lot burdened between the front alignment and the building line unless such fence does not exceed one (1) metre in height and the material used for such fence has first been approved in writing by the Developer. "Side

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**INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS ON USE  
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Fences", shall mean fences from the street boundary to the front building alignment. Along access corridors of battleaxe allotments side fences shall not exceed one metre height from road frontage to neighbouring front building alignments and from that point may exceed one metre height to rear boundary line. Plans and specifications for fencing for corner lots must be approved by the Developer prior to construction thereof.

Where the provisions of paragraph B of the Terms of Restriction on the Use of Land eleventhly referred to herein conflict with the provisions of paragraph B of the Terms of Restriction on the Use of Land tenthly referred to herein then the provisions of paragraph B of the Terms of Restriction on the Use of Land tenthly referred to herein will apply.

No fence shall be erected on each lot burdened to divide it from any adjoining land owned by Arthur Barry Nesbitt and Janet Heather Scott without the consent of the Developer but such consent shall not be withheld if such fence is erected without expense to Arthur Barry Nesbitt and Janet Heather Scott provided that this restriction shall remain in force only during such time as Arthur Barry Nesbitt and Janet Heather Scott are the registered proprietors of any land in the plan or any land immediately adjoining the land in the plan whichever is the later.

**C Trailers and Caravans**

No plant, machinery and/or other equipment, including but without limiting the generality thereof any caravan, box trailer, boat trailer, car trailer, motor vehicle or any part thereof (any item of such plant, machinery and/or other equipment and any item deemed to be included as such plant, machinery and/or other equipment being hereinafter in this restriction referred to as a "Prohibited Item") shall be permitted to remain on any part of the prohibited area of the lot burdened for a period exceeding thirty (30) consecutive days without being moved from the lot burdened. Any Prohibited Item that is removed from the lot burdened for a period of less than seven (7) consecutive days shall be deemed to have remained on the lot burdened for the period during which it was removed. Notwithstanding anything contained or implied in this restriction any motor car, motor station wagon and/or utility that is properly registered for use on a public road shall not be deemed to be a "Prohibited Item". For the purposes of this restriction the "Prohibited Area" of the lot burdened shall mean:

- (i) in the case of a lot which faces only one (1) public road, that area between the rear building line of the main building erected thereon and the public road to which the said lot abuts BUT shall not include any area which is not visible from any public road and/or place; and
- (ii) in the case of a lot which faces more than one (1) public road, that area between the rear building line of the main building erected thereon and the public road to which the said main building faces AND any other area of the lot that is not screened from any other public road BUT shall not include any area which is not visible from any public road and/or place.

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Authorised Person

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS ON USE  
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(Sheet 9 of 11 Sheets)

Plan of Subdivision of Lot 39 D.P. 863357  
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**DP1008935**

**D Landscaping**

- (a) Landscaping shall be substantially completed from the front boundary line to the front building line of the lot burdened within three months after occupation of the dwelling. For the purposes of this clause "landscaping" shall mean that driveways are to be completed from the front boundary to car accommodation, land to be cleared of building debris and turf or other ground cover planted and maintained in a tidy state. Each lot shall be maintained in a tidy state and during construction, building debris shall be cleared regularly and all debris shall be confined to the lot boundary. The Owner shall ensure that builders or contractors engaged by the Owner minimise soil erosion and pollution during construction of the dwelling.
- (b) Driveways shall be constructed of pressed concrete, pebblecrete, quarry tile/brick or similar quality surface material with the kerb shape adjusted to flange from the driveway to the road height. Driveways of natural grey concrete colour shall not be permitted. The kerb may not be bridged to the roadside nor temporary driveway surfaces be used after the said three month period.

**E Television Antennae, Solar Panels, etc**

Satellite dishes/receptors, air conditioning units, solar heating apparatus and similar units shall be located in such position so that they are not visible from any public road.

**F Building**

The Owner shall:

- (a) Substantially commence building construction of the dwelling on the lot burdened within twenty four (24) months of the date of acquisition.
- (b) Proceed with all due diligence to complete the dwelling within twelve (12) months from the commencement of construction, and shall not in any case allow a period of more than three (3) months to elapse without substantial work being carried out.

**G No signage shall be erected on any lot unless with the prior written approval of the Developer.**

**WARRINGAH COUNCIL**  
  
.....  
**Authorised Person**

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS ON USE  
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(Sheet 10 of 11 Sheets)

Plan of Subdivision of Lot 39 D.P. 863357  
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**DP1008935**

- H Any release variation or modification of these restrictions shall be made and done in all respects at the cost and expense of the person or persons requesting the same.
- I These restrictions as to use shall be effective for a period of five (5) years from the date of registration of the Deposited Plan in relation to the lot and after the expiration of the said five (5) year period shall cease to be effective.
- J No driveway may be constructed or permitted to remain on any lot burdened unless it is constructed of pavers or other materials but not grey concrete.

**Terms of Restriction on the Use of Land (3) twelfthly referred to in abovementioned plan**

No single dwelling shall be erected or be permitted to remain erected on the lot burdened, having a total habitable floor area of less than 300 square metres exclusive of car accommodation, external landings and patios.

**Terms of Restriction on the Use of Land (4) thirteenthly referred to in abovementioned plan**

No single dwelling shall be erected or be permitted to remain erected on the lot burdened, having a total habitable floor area of less than 200 square metres exclusive of car accommodation, external landings and patios.

In these Restrictions on the Use of Land, "the Developer" shall mean Colonial Credits Pty Limited ACN 000 092 455 and the party having the authority to release, vary or modify the Restrictions as to Use eleventhly, twelfthly and thirteenthly referred to is Colonial Credits Pty Limited ACN 000 092 455 or any person authorised by that company from time to time for that purpose.

**WARRINGAH COUNCIL**

  
.....  
**Authorised Person**

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS ON USE  
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**DP1008935**

**Signed** in my presence by Arthur Barry  
Nesbitt and Janet Heather Scott who are  
personally known to me.

*M. Green*

Signature of witness

MADELINE R GREEN

Name of witness - please print

6/18 BALUC ST FAIRLIGHT.

Address of witness

*A. B. Nesbitt*

Registered Proprietor

*J. H. Scott*

Registered Proprietor

**WARRINGAH COUNCIL**

*Janet Heather Scott*  
.....  
Authorised Person

REGISTERED  8.12.1999

## Northern Beaches Council Planning Certificate – Part 2

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

**Reference:** 421940  
**Date:** 07/05/2019  
**Certificate No.** ePLC2019/2549

**Address of Property:** 33 Peppercorn Drive FRENCHS FOREST NSW 2086  
**Description of Property:** Lot 2 DP 1031990

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## Planning Certificate – Part 2

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

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

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

##### **1.1a) Local Environmental Plan**

Warringah Local Environmental Plan 2011

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

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

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

## **1.2 Draft Environmental Planning Instruments**

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

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

Review of State Environmental Planning Policy 44 – Koala Habitat Protection  
State Environmental Planning Policy No 64— Advertising and Signage (Amendment No 3)  
Draft State Environmental Planning Policy (Environment)  
Draft State Environmental Planning Policy (Primary Production and Rural Development)  
Draft Amendment to State Environmental Planning Policy (Affordable Rental Housing) 2009

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

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

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

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

- Rezone land on Ralston Avenue Belrose from Locality C8 - Belrose North to part R2 Low Density Residential, part RE1 Public Recreation and part E3 Environmental Conservation.
- Introduce subdivision lot size and height of building controls to land proposed to be zoned R2 Low Density Residential.

**Council resolution:** 25 November 2014

**Gateway Determination:** 28 January 2015

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

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

**Outline:** Amends WLEP 2011 to:

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

**Council resolution:** 23 September 2014

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

### **1.3 Development Control Plans**

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

Warringah Development Control Plan 2011

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

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

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

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

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

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

#### **Zone R2 Low Density Residential**

##### **1 Objectives of zone**

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

##### **2 Permitted without consent**

Home-based child care; Home occupations

##### **3 Permitted with consent**

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

##### **4 Prohibited**

Any development not specified in item 2 or 3

##### **Additional permitted uses**

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

Nil

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

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

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

The land does not include or comprise critical habitat.

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

The land is not in a heritage conservation area.

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

The land does not contain an item of environmental heritage.

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

For any proposed changes to zoning and land use, see Part 1.2 b)  
Please contact Council's Strategic and Place Planning unit with enquiries on 1300 434 434.

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

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

## **3. Complying Development**

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

### **a) Housing Code**

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

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

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

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

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

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

**d) Greenfield Housing Code**

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

**e) Housing Alterations Code**

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

**f) General Development Code**

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

**g) Commercial and Industrial Alterations Code**

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

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

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

**i) Container Recycling Facilities Code**

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

**j) Subdivisions Code**

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

**k) Demolition Code**

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

**l) Fire Safety Code**

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

**4, 4A (Repealed)**

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

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

## **5. Mine Subsidence**

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

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

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

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

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

Nil

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

### **Bush Fire Prone Land**

This land is identified on a Bush Fire Prone Land map certified by the Commissioner of the NSW Rural Fire Service as being bush fire prone land. The requirements of the NSW Rural Fire Service document *Planning for Bush Fire Protection* apply to this land. For further information please contact the Warringah Pittwater District Rural Fire Service.

### **Draft Northern Beaches Bush Fire Prone Land Map (BFPLM) 2018**

This land is identified as bush fire prone land on the Draft Northern Beaches Bush Fire Prone Land Map 2018. The Northern Beaches BFPLM will supersede the Warringah BFPLM 2016, Pittwater BFPLM 2013 and Manly BFPLM 2010 from the date of its Certification by the Commissioner of the NSW Rural Fire Service. Please refer to the project page on Council's website for more information.

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

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

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

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

## **9. Contribution plans**

The following applies to the land:

Northern Beaches Contributions Plan 2018

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

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

## **10. Biodiversity Stewardship Sites**

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

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

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

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

### **Bush Fire Prone Land**

The land is bush fire prone land.

### **Draft Northern Beaches Bush Fire Prone Land Map 2018**

All of the land is bush fire prone land.

## **12. Property vegetation plans**

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

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

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

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

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

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

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

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

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

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

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

## **18. Paper subdivision information**

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

## **19. Site verification certificates**

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

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

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

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

Contact NSW Fair Trading for more information.

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

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

In this clause:

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

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

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

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

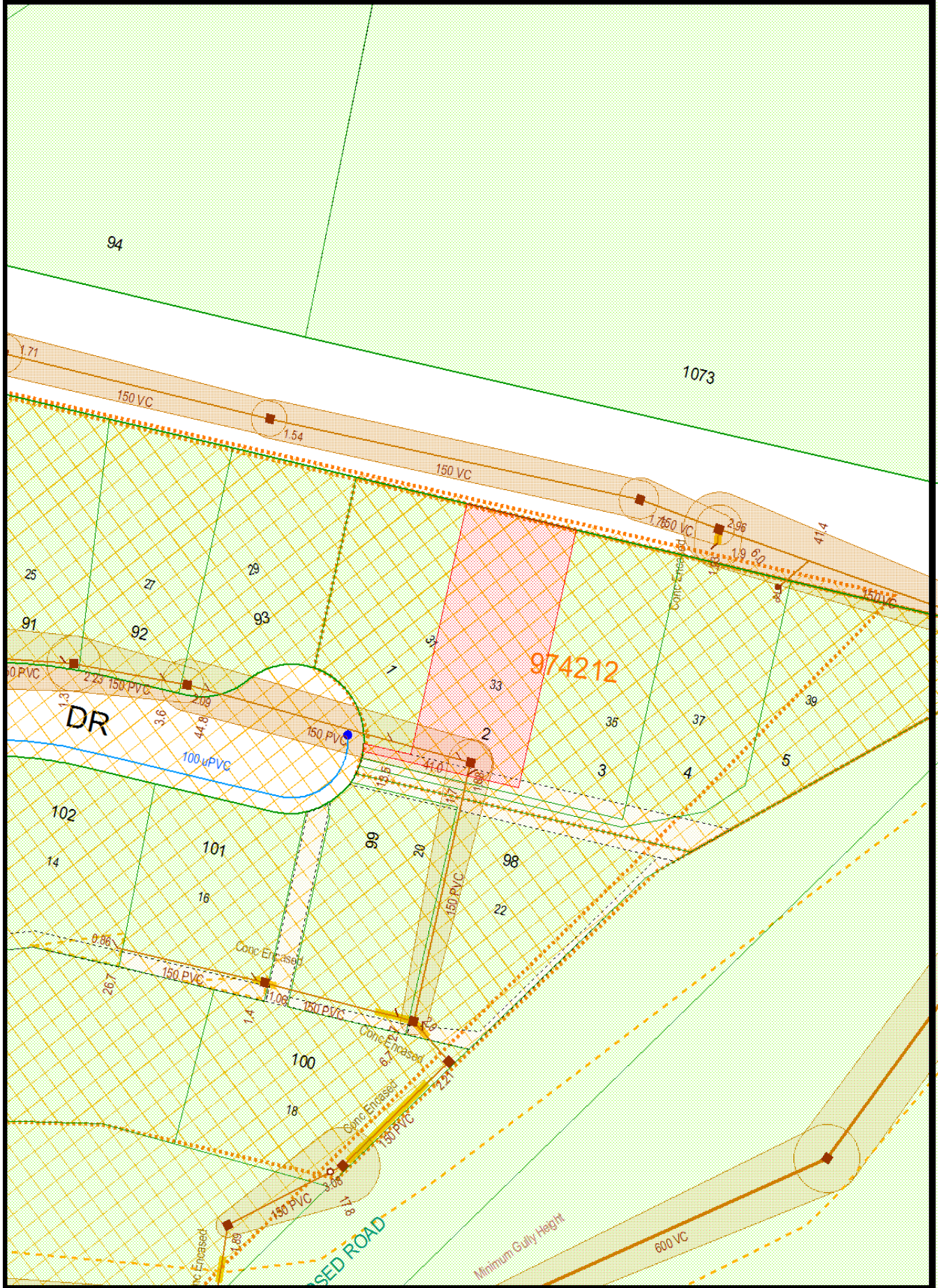
- (a) the land to which the certificate relates is not significantly contaminated land within the meaning of that Act
- (b) the land to which the certificate relates is not subject to a management order within the meaning of that Act
- (c) the land to which the certificate relates is not the subject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

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

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

**Ray Brownlee PSM  
Chief Executive Officer**

**07/05/2019**



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

# SEWERAGE SERVICE DIAGRAM

MUNICIPALITY OF WARRINGAH

SUBURB OF FRENCHS FOREST

Copy of Diagram no. **3066714**

## SYMBOLS AND ABBREVIATIONS

- INDICATES - DRAINAGE FITTINGS**
- Manhole
  - Chr Chamber
  - LH Lamphole
  - ⊗ Boundary Trap
  - ⊙ Inspection Shaft
  - PIt Pit
  - ⊞ G Grease Interceptor
  - ⊠ Gully
  - ⊠ P P. Trap
  - R Reflux Valve
  - ◊ Cleaning Eye
  - Vert Vertical Pipe
  - IP Induct Pipe
  - MF Mica Flap
  - Jn Junction
  - RP Rodding Point

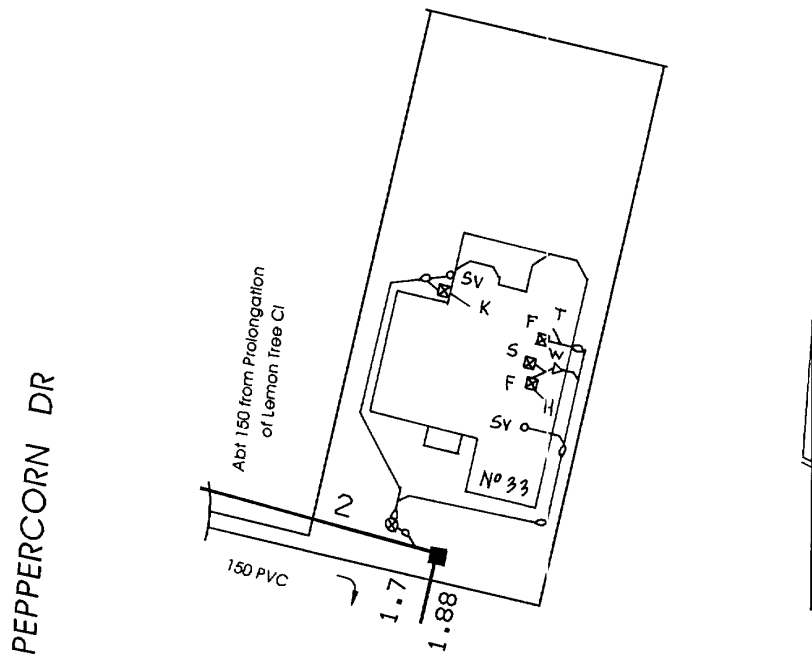


- INDICATES - PLUMBING FIXTURES & OR FITTINGS**
- CO Clean out
  - V Vent Pipe
  - T Tubs
  - K Kitchen Sink
  - W Water Closet
  - B Bath Waste
  - H Handbasin
  - SVP Soil Vent Pipe
  - Bid Bidet
  - S Shower
  - DW Dishwasher
  - F Floor Waste
  - M Washing Machine
  - BS Bar Sink
  - LS Lab Sink
  - WS Waste Stack

### 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. The existence and position of the Board's sewers, stormwater channels, pipes, mains and structures should be ascertained by inspection of records available at Board's Business Offices. (Section 33 of Board's Act). Position of structures, boundaries, sewers and sewerage service shown hereon are approximate only and in general the outlines of building may have been drawn from initial building plans submitted to the Board. Discrepancies in outline can occur from amendment to these plans. Discrepancies in position and type of drainage lines and fittings can be due to unnotified work. Before building work is commenced location of drainage lines is recommended. Licensee is required to submit to the Board a Certificate Of Compliance as not all work may have been supervised.

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



Scale: Approx 1:500 Distances/depths in metres Pipe diameters in millimetres

W.s. _____ Ur.s. _____ Sewer Ref. _____ Sheet No. _____	DRAINAGE Inspected by Inspector . . . . .		Date of Issue . . . . .		PLUMBING Inspected Inspector . . . . .	
	Cert. Of Compliance No. . . . .		Outfall . . . . .		Cert. Of Compliance No. . . . .	
	Field Diagram Examined by . . . . .		Drainer . . . . .		. . . . .	
	Tracing Checked by . . . . .		Plumber . . . . .		. . . . .	
Connection Date: . . . . .		Boundary Trap <b>NOT REQUIRED</b>		For Regional Manager		

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