

SALES INSPECTION REPORT AND EXCLUSIVE AGENCY AGREEMENT AND CONTINUING AGENCY

The Property, Stock and Business Agents Act 2002 (NSW) and Regulation requires all Agent's instructions to be in the form of a written agreement.

E-MAILED
16.5.19.

SALES INSPECTION REPORT

PARTIES

Principal

Jenny Cock

ABN / ACN _____ GST Registered ☐ Yes ☒ No

Address _____

Postcode _____

Phone: Work _____ Mobile 0412 303 734

Phone: Home _____ Fax _____

Email JSCock@bigpond.com

Agent

Licensee's Licence No.* (see note) _____

ABN / ACN A.M. & P.J. KERR PTY LTD ABN 21 761 505 722 GST Registered ☒ Yes ☐ No

Trading as T/AS KERR REAL ESTATE

Address 14 DENILQUIN STREET TOCUMWAL NSW 2714

LICENCE No. 10002112 Postcode _____

Phone: Work _____ Mobile 0428 577 067

Fax _____ Email andrew@kerrrealestate.com.au

* Note: If the Agent trades as a corporation the licensee's licence number is the corporation's licence number.

PROPERTY

Address of Property for Sale

3/59-61 Kelly Street,
Tocumwal NSW 2714.

Together with inclusions as specified in the contract for sale

AS per the contract.

Covenants/easements/defects/notices/orders as specified in the contract for sale, if known

AS per the contract.

Offered: ☐ with vacant possession ☒ subject to existing tenancies

Special Conditions (if any) as specified in the contract for sale

Nil

Refer to Clauses 4 & 5 regarding special instructions about the inspection of and promotional activities for the Property.

PRICE

Agent's opinion as to current estimated selling price (or price range) \$190,000 - \$208,000

Note: This opinion is not to be construed as a valuation and if a price range is used then the highest price in the price range must not be more than 10% higher than the lowest price in the price range.

The Principal instructs the Agent to market the Property (including GST, if any) at: \$208,000

Note: The price at which the Property is marketed cannot be less than the Agent's current estimated selling price for the Property.

Recommended method of sale Private sale.

PRINCIPAL'S ☐ SOLICITOR ☐ CONVEYANCER

Firm _____

Name of Solicitor/Conveyancer _____

Address 1. Business _____

2. Document Service _____

Phone: Work _____ Mobile _____

Fax _____ Email _____

Signature of Agent [Signature] Date of report 16/5/19.

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EXCLUSIVE AGENCY AGREEMENT

Agency Period

1. In consideration of the Agent promising to use their best endeavours to sell the subject Property, the Principal hereby grants to the Agent exclusive selling rights of the Property for a period from 16/5/19 to 15/8/19 inclusive now called the "Exclusive Agency Period".
2. i In addition to the exclusive selling rights granted to the Agent under Clause 1, the Principal also grants to the Agent non-exclusive selling rights of the Property commencing on the expiry of the Exclusive Agency Period specified in Clause 1 and until such time as either the Property is sold or this agreement is terminated by either party giving notice in writing, but without prejudice to either party's rights accrued or obligations incurred prior to the effective termination, now called the "Continuing Agency Period".
 - ii If the Exclusive Agency Period is for a fixed term exceeding 90 days, then the Principal can terminate this agreement without penalty at any time after the end of the first 90 days by giving 30 days notice in writing (this clause does not apply where the contract for sale provides for the construction by the Principal of a dwelling on the Property).

Agent's Remuneration

3. i The Exclusive Agent shall be entitled to a fee of 3.85% (GST incl.) if during the Exclusive Agency Period the Property is sold either:
 - (a) by the Agent; (b) by any other agent; or (c) by the Principal.
- ii The Agent shall be entitled to a fee at the agreed amount if at any time following the expiration of the Exclusive Agency Period the Principal enters into a contract for the sale of the Property with a purchaser effectively introduced to the Principal or the Property during the Exclusive Agency Period by the Agent, by any other agent or by the Principal.
- iii The Agent shall be entitled to a fee at the agreed amount if during the Continuing Agency Period the Agent effectively introduces to the Principal or the Property a purchaser who subsequently enters into a binding contract.
- iv The Agent's fee is calculated on the selling price. If the sale is subject to GST then the Agent's fee is calculated on the GST inclusive selling price.
- v The Agent's remuneration in the event of a sale at the Agent's estimate of selling price would equate to \$ 8008. (GST incl.)
- vi The fee to which the Agent is entitled shall be due and payable upon demand:
 - (a) on completion of the sale; or
 - (b) if the sale is not completed owing to the default of the Principal after the parties have entered into a binding contract; or
 - (c) if after the making of the contract the Principal and the purchaser mutually agree not to proceed with the contract; or
 - (d) upon the termination of the contract by the Principal if the sale is not completed owing to the default of the Purchaser and the fee is the same or less than the amount of the deposit which is forfeited to the Principal.

IMPORTANT: This is an exclusive agency agreement. This means you may have to pay the agent commission even if another agent (or you) sell the property or introduce a buyer who later buys the property.

WARNING: Have you signed an agency agreement for the sale of this property with another agent? If you have you may have to pay 2 commissions (if this agreement or the other agreement you have signed is a sole or exclusive agency agreement).

WARNING: The term immediately above provides that a commission is payable under this agreement even if the sale of the property is not completed.

Inspection

4. Unless otherwise instructed by the Principal, any prospective purchaser is entitled to inspect the Property in the following circumstances:

by appointment with agent.

Promotional Activities

5. The sale of the Property is to be advertised and/or otherwise promoted

☐ as per the attached schedule OR ☐ not advertised

OR as follows:

agents discretion.

For Sale Sign: Permission is hereby granted for the Agent to erect "For Sale" signage ☒ Yes ☐ No

It is acknowledged that the Agent is not responsible for any liability, damages or injuries incurred as a result of the erection of the signage.

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Expenses

6. The Agent shall be entitled to reimbursement for the following expenses incurred by them:

Item	Amount	When due and payable
	\$	
	\$	
	\$	
	\$	
	\$	
	\$	
TOTAL amount of expenses or charges the Agent expects to incur and for which the Agent is entitled under this agreement to be reimbursed (incl GST where applicable).	\$	

Variation of Fees and Expenses

7. The services to be provided by the Agent and any fees or expenses payable by the Principal to the Agent pursuant to this agreement cannot be varied except as agreed by the Principal in writing.

Deposit

8. It is irrevocably agreed that all monies paid by the purchaser as deposit monies shall be held by the Agent in trust as stakeholder pending completion.

Authority to Deduct

9. If any money is received by the Agent on behalf of the Principal, then the Principal authorises the Agent to deduct all of the Agent's above mentioned fees, expenses and charges before accounting to the Principal or the Principal's solicitor/conveyancer.

Payment to Principal

10. If money held by the Agent becomes due to the Principal, then the Principal directs the Agent to pay that money by:

Cheque ☐ Yes ☐ No Electronic Funds Transfer (EFT) ☐ Yes ☐ No

If by EFT: Account Name

BSB / Account No.

Financial Institution Taxes or Deductions

11. The Agent shall be entitled to be reimbursed for any taxes or deductions debited by banks or other financial institutions against the Agent's account that are attributable to the affairs of the Principal.

Contract for sale

12. Where the Property is residential property (as defined in Division 8 of Part 4 of the *Conveyancing Act 1919* (NSW)), the Agent cannot act on behalf of the Principal in respect of the sale of the Property unless the Agent has a copy of the proposed contract for sale in respect of the Property available for inspection.

13. The Agent is not authorised to enter into or sign a contract for sale on behalf of the Principal.

Conjunction

14. Unless otherwise instructed, the Agent may allow other agents to act in conjunction with them in order to effect a sale but only one fee will be payable.

Limit of Agent's Services

15. The Agent does not undertake to perform any other services in connection with the sale.

GST

16. i Any amounts referred to in this agreement which are payable by the Principal to the Agent in respect of services provided by the Agent under this agreement, including reimbursement of expenses, are expressed inclusive of the Goods and Services Tax ("GST"), at the rate of 10% (the current rate). If the current rate is increased or decreased, the parties agree that any amounts referred to in this agreement will be varied accordingly.

ii The parties agree that the time of supply for GST purposes shall be the completion date of the sale.

Agent's Indemnity and Liability

17. The Principal will hold and keep indemnified the Agent against all actions, suits, proceedings, claims, demands, costs and expenses whatsoever which may be taken or made against the Agent in the course of or arising out of the proper performance or exercise of any of the powers, duties or authorities of the Agent under this agreement.

Financial and Investment Advice

18. The Principal acknowledges that any financial or investment advice provided by the Agent to the Principal is of a general nature only whose preparation does not take into account the individual circumstances, objectives, financial situation or needs of the Principal. The Principal is advised to consult with their own independent financial and/or investment advisor.

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EXCLUSIVE AGENCY AGREEMENT

Material Fact

19. i The Principal warrants that the Principal has supplied the Agent in writing with all the relevant details and information pertaining to all the material facts in respect of the Property.
- ii The Principal acknowledges that the *Property, Stock and Business Agents Act 2002* (NSW) requires the Agent to disclose all material facts to prospective and actual purchasers.
- iii The Principal directs the Agent to disclose all of the material facts provided in writing by the Principal to the Agent to all prospective and actual purchasers of the Property.
- iv In this clause "material fact" has the same meaning as it has in Section 52 of the *Property, Stock and Business Agents Act 2002* (NSW).

Privacy Policy

20. The *Privacy Act 1988* (Cth) (the **Act**) allows personal information to be collected, used and disclosed for the purposes which it was collected, and otherwise in accordance with the Act. This Privacy Policy does not form part of this agreement and only applies to the extent the Agent collects, uses and discloses personal information. The Agent may amend, or amend and restate, this Privacy Policy from time to time and may subsequently notify the Principal of any changes to this Privacy Policy by updating it on the Agent's website or by other written notification to the Principal. Any changes to this Privacy Policy take effect upon the earlier of the update to the website or other notification to the Principal.

The personal information the Principal provides the Agent in connection with this agreement or collected from other sources is necessary for the Agent to: (a) identify and verify the Principal and the Property; (b) act on behalf of the Principal in accordance with this agreement; (c) where applicable, advertise, promote and, otherwise, market the Property for sale; (d) negotiate any prospective sale of the Property; (e) liaise and exchange information with the Principal, the ultimate purchaser, prospective purchasers and each of their legal and other advisors in relation to or in connection with any sale of the Property (including with respect to the contract for sale); (f) comply with this agreement, any applicable law and any dispute resolution process; (g) manage any sale of the Property (including assisting with the exchange of the contract for sale and the preparation of any required statements of account); and (h) contact and liaise with goods and services providers as instructed by the Principal and to provide those providers with the Principal's personal information.

If the personal information is not provided by the Principal, the Agent may not be able to act on behalf of the Principal effectively or at all.

Personal information collected about the Principal may be disclosed by the Agent for the purpose for which it was collected to other parties including actual or prospective purchasers, the legal and other advisors of the Agent, Principal, purchaser and/or prospective purchasers, and any Agent (if applicable), clients of the Agent both existing and potential, advertising and media organisations, property data service providers, valuers, parties engaged to evaluate the Property, owners' corporations, government and statutory bodies, financial institutions and other third parties as instructed by the Principal (including, without limitation, goods and services providers) or as required by any applicable law.

The Agent may also use the Principal's information including personal information for marketing and research purposes to inform the Principal of products and services provided by the Agent, which the Agent considers may be of value or interest to the Principal, unless the Principal tells the Agent (see opt out option below) or has previously told the Agent not to. If the Principal **does not** wish to receive any information about such products and services then please tick this box: ☐ or otherwise notify the Agent using the Agent's contact details set out earlier in this agreement.

The Principal has the right to request access to any personal information held by the Agent which relates to it, unless the Agent is permitted by law (including the Act) to withhold that information. Any requests for access to the Principal's personal information should be made in writing to the Agent at the contact details included in this agreement. The Agent may charge a reasonable fee where access to personal information is provided (no fee may be charged for making an application to access personal information). The Principal has the right to request the correction of any personal information which relates to the Principal that is inaccurate, incomplete or out-of-date.

The Agent will take reasonable precautions to protect the personal information it holds in relation to the Principal from misuse, loss, and unauthorised access, modification or disclosure.

By signing this agreement, the Principal acknowledges that it has read, understands and accepts the terms of this Privacy Policy and the permissions to collect, use and disclose personal information, and the Principal authorises the Agent to collect, use and disclose, in accordance with the Act, their personal information for the purposes specified in this Privacy Policy.

Disclosure of Rebates, Discounts, Commissions or Benefits

21. In respect of any expenses to be incurred by the Principal or the Agent on behalf of the Principal pursuant to this agreement or if the Agent refers a person to a non-independent service provider, the Agent discloses that the Agent may receive, or expects to receive, the following rebates, discounts, commissions or benefits from third parties:

Name of Third Party

Nature of relationship with Third Party

The nature and value of any estimated amount of rebate, discount, commission or benefit

\$
\$

If no rebate, discount, commission or benefit, write "nil"

Principal's Authority

22. The Principal warrants that the Principal has authority to enter into this agreement.

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Acknowledgements

23. The Principal acknowledges being served with a copy of this agreement.
24. The Principal acknowledges that by signing this agreement the Principal is denied the right to sell the Property without paying a fee.

Work Health and Safety

25. The Principal acknowledges that, at all material times:
- i the Principal has sole management and control of the Property listed for sale, to the exclusion of the Agent;
 - ii the Agent acts under the direction, management and control of the Principal to facilitate the real estate transaction between the Principal and the purchaser; and
 - iii the Principal is the person conducting a business or undertaking for the purposes of all work, health and safety laws, regulations and other requirements.
26. The Principal acknowledges, so far as reasonably practicable, that the Principal has thoroughly inspected the Property prior to sale and that the Property is:
- i without risk to health and safety ☒ Yes ☐ No
- OR
- ii subject to the defects and risks outlined in the contract for sale ☒ Yes ☐ No

Consumers Guide

27. The Principal acknowledges that they have been given a copy of the consumers guide "Agency Agreements for the Sale of Residential Property" prior to signing this agreement ☐ Yes ☒ No Date / /

Cooling-Off Period

COOLING-OFF PERIOD: You (the vendor) have a cooling-off period for this agreement. If you do not wish to continue with this agreement you can cancel it until 5pm on the next business day or Saturday.

Have you waived the cooling-off period in writing? ☒ Yes ☐ No

Signature of Principal

Date

/ /
 / /

Signature of Agent

Date

16 / 8 / 19