Standard Form Contract for Sale of Real Estate in Tasmania (2018)

The Particulars of Sale (2018)

The Standard Form Contract for Sale of Real Estate in Tasmania (2018) as approved for use by the Law Society of Tasmania and the Real Estate Institute of Tasmania is made up of two parts:

1. these agreed variables and non-standard clauses, known as "the Particulars of Sale (2018)"; and
2. the standard clauses known as "the Standard Conditions of Sale (2018)".

The Standard Conditions of Sale are adopted as part of the Contract by signature of the Particulars of Sale.

The parties may add special clauses in the Particulars of Sale, for instance to make their agreement subject to finance, sale, inspection, or other issues.

The Particulars of Sale may vary the Standard Form Contract. The Particulars of Sale have priority if there is any inconsistency with the Standard Conditions of Sale.

The drafting of the Particulars of Sale should make evident changes to the provisions of the Standard Form Contract.

Words defined in the Particulars of Sale have that meaning when used in the Standard Conditions of Sale.

WORDS	DEFINITION
Contract Date	The _____ day of _____ 20 _____
Vendor *(The seller of the Property)*	Name: JANET ELIZABETH FLEMING & JOHN QUINCY FLEMING ABN: Address: 9 KIRABATI ROAD Suburb: MIDWAY POINT State: TAS Postcode: 7171 Email: Phone:
Vendor's Solicitor or Conveyancer	Firm: Tierney Law Person: Isaac Williams Address: 42 MAIN ROAD SORELL TAS 7172
Purchaser *(The buyer of the Property)*	Name: ABN: Address: Suburb: State: Postcode: Email: Phone:
Purchaser's Solicitor or Conveyancer	Firm: Person: Address:
Property *(If part only, accurately describe part)*	The Vendor's property at: *(insert address)* Street: 9 KIRABATI ROAD Suburb: MIDWAY POINT State: TAS Postcode: 7171 Property Identifier Number: 1654436 As described by Title Reference(s): Volume 120182 Folio 60

Vendor Initials _____ *Witness Initials* _____ *Purchaser Initials* _____ *Witness Initials* _____

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Chattels	*(List the Chattels included in this sale or attach annexure)* Fixed floor coverings, light fittings, fixed & fitted electric fittings, curtains, blinds & drapes, Electrolux oven, rangehood, Westinghouse gas stove, Bosch dishwasher, Fujitsu reverse cycle A/C, 2 x Atlantic panel heaters, heat transfer system,
Sale Price *(See Standard Condition 2)*	*(in words)* _____ dollars *(in figures)* **$** _____
Chattels Value	The part of the Sale Price attributable to the Chattels is: *(in words)* NIL dollars *(in figures)* **$** 0
Deposit *(See Standard Condition 2)*	*(in words)* _____ dollars *(in figures)* **$** _____
Deposit Holder *(See Standard Condition 2)*	*(Insert name of person or organisation that will hold the Deposit)* HARRISON AGENTS HOBART BSB: 017 042 ACC: 428605203
Deposit Payment Time *(See Standard Condition 2)*	**Either** ☐ On the Contract Date **or** ☐ Other date – (*specify*):
GST Treatment *(See Standard Condition 10)*	*Mark a box to indicate the GST Treatment.* **Either** ☑ The sale is not a taxable supply **or** ☐ Margin Scheme - The sale is a taxable supply, the Sale Price includes GST and the Margin Scheme applies **or** ☐ The sale is a GST-free supply according to the special clause added **or** ☐ The sale is a taxable supply and GST is included in the Sale Price according to the special clause added **or** ☐ The sale is a taxable supply and GST is added to the Sale Price according to the special clause added
GST Withholding Treatment *(See Standard Condition 11)*	*Mark a box to indicate the GST Withholding Treatment.* **Either** GST Withholding not required because: ☑ Sale is not a taxable supply ☐ Sale is GST-free ☐ Sale not new residential premises or potential residential land ☐ Property is potential residential land and Purchaser is registered with creditable purpose **or** GST Withholding required and: ☐ Property entirely new residential premises and/or potential residential land ☐ Property not entirely new residential premises and/or potential residential land
Completion Date *(See Standard Condition 3)*	**Either** ☐ The _____ day of _____ 20 _____ **or** ☐ Another date (*specify*):

Vendor Initials _____ *Witness Initials* _____ *Purchaser Initials* _____ *Witness Initials* _____

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Availability *(See Standard Condition 3(b))*	On the Completion Date, the Vendor must make available to the Purchaser: **Either** ☑ Vacant possession of the Property **or** ☐ The right to receive rents and profits of the Property **or** ☐ Otherwise (*specify*):
Purchaser's Required Use *(See Standard Condition 4(a))*	**Either** ☑ Residential **or** ☐ Other (*specify*): **or** ☐ The Purchaser does not require any specified required use
Vendor Warranty *(See Standard Condition 9)*	The Standard Condition 9 exclusion of warranties applies: **Either** ☑ without qualification **or** ☐ except to the extent modified by any selection below: ☐ The Vendor warrants to best of the Vendor's knowledge, there are no outstanding completion or occupancy certificates, statutory orders or permit conditions on the Property ☐ The Vendor warrants that to the best of the Vendor's knowledge the attached statement is accurate
Cooling Off *(See Standard Condition 19)*	The Purchaser: **Either** ☑ Waives **or** ☐ Confirms reliance on the Cooling Off provision in Standard Condition 19 of the Standard Conditions of Sale

SPECIAL CLAUSES

Use Special Clauses to vary or add to the Standard Conditions of Sale.

Finance Clause	*If this Contract is subject to finance, complete all relevant details below. All relevant details must be completed for the following clause to apply.*

It is a condition precedent to the Purchaser's obligation to complete this Contract, that within the Finance Period, the Financier makes available to the Purchaser a loan of the Finance Amount, on terms currently available in transactions of a similar nature.

The Purchaser is the party benefited by this condition precedent.

Finance Amount	*(Insert amount)* **$** _____
Financier	*(Insert name)*
Finance Period	*(Complete)* Until the _____ day of _____ 20 _____ or *(Insert number)* _____ days from the Contract Date or _____

Vendor Initials _____ *Witness Initials* _____ *Purchaser Initials* _____ *Witness Initials* _____

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Subject to Sale Clause	*If this Contract is subject to the signing and/or settlement of a contract for the sale of the Purchaser's Property, complete all relevant details below. All relevant details must be completed for the relevant provision/s to apply.*
Purchaser's Property	*(Insert address)* _____ _____ Suburb _____ State _____ Postcode _____

- **Subject to Contract**: It is a condition precedent to the Purchaser's obligation to complete this Contract, that within the nominated Contract Selling Period, the Purchaser obtains a contract for the sale of the Purchaser's Property that is free of any unsatisfied condition precedent. The Purchaser must offer the Purchaser's Property for sale for no more than the Maximum Asking Price.

Contract Selling Period	**Either** ☐ Not applicable **or** By the ____ day of _____ 20 ____ or within ____ days from _____
Maximum Asking Price	*(Insert amount)* **$** _____

- **Subject to Completion**: It is a condition precedent to the Purchaser's obligation to complete this Contract, that a sale of the Purchaser's Property is completed on or before the nominated Deadline for Settlement of Sale.

Deadline for Settlement of Sale	**Either** ☐ Not applicable **or** By the ____ day of _____ 20 ____ or within ____ days from _____

Inspection Clause	*If this Contract is subject to a building inspection, complete **all** relevant details below.*

The Purchaser may have reasonable access to the Property during the Building Inspection Period to inspect buildings and other improvements on the property personally or by agents, at the Purchaser's cost.

If, strictly within the Building Inspection Period, the Purchaser serves on the Vendor:

- a copy of a report, by a building inspector holding professional indemnity cover for that work or a licenced Building Services Provider under the *Occupational Licensing Act 2005* (Tas), both:
  - specifying one or more defects in buildings and other improvements on the Property; and
  - certifying such defects are likely to cost more to remedy than the Defect Limit;
- notice that the Purchaser terminates this Contract in response to that report,

then the parties' obligations under this Contract end and the Purchaser is entitled to a refund of the Deposit, but neither party is otherwise entitled to compensation.

Building Inspection Period	*(Complete)* until the _____ day of _____ 20 _____ or *(Insert number of days)* _____ days from _____
Defect Limit	**Either** _____ per cent of the Sale Price **or** **$** _____

Vendor Initials _____ *Witness Initials* _____ *Purchaser Initials* _____ *Witness Initials* _____

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Shorter Period Clause	If selected below the Vendor may shorten the period to satisfy Special Clauses.

The Vendor may, by notice in writing to the Purchaser, shorten to two (2) business days after the day on which that notice is given the period for satisfying:

Either ☐ all of the special clauses to this Contract

or ☐ the following special clauses

Additional Special Clauses are annexed ☐

(Complete if there are attachments) The attached _____ annexure page(s) are part of this Contract.

Cautionary Notes:

Subject to these Particulars of Sale, the Standard Conditions of Sale:

- allow the Purchaser to terminate without penalty within a cooling off period; and
- provide for sale as is/where is, without promises about physical condition, permits or certificates.

Take legal and other relevant advice as soon as possible.

This Contract creates critical timeframes.

Both Vendor and Purchaser should insure the Property from the Contract Date.

Contracts relating to the sale of residential premises or potential residential land trigger specific legal obligations on vendors and purchasers. The GST Treatment and GST Withholding Treatment clauses may avail a vendor of their legal obligations but only if the correct options are selected. In the case of a contract between associates, a contract involving non-monetary consideration or contract involving a GST mixed supply, the standard provisions are not sufficient and professional advice and special clauses are required.

By signature the parties confirm:

- they have read these Particulars of Sale and the Standard Conditions of Sale 2018,
- their intention to be bound by this Contract for the sale of real estate, and
- they had the opportunity to take necessary advice before signing the Particulars of Sale.

Vendor Signature _____

in the presence of: *Witness Signature* _____

Name, Address, Occupation of Witness

Purchaser Signature _____

in the presence of: *Witness Signature* _____

Name, Address, Occupation of Witness

Agent Commission _____ Other Charges _____ Deposit held: _____ Certified true copy by _____

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The Particulars of Sale may vary the Standard Form Contract and will have priority if there is any inconsistency with the Standard Conditions of Sale.

The drafting of the Particulars of Sale should make evident changes to the provisions of the Standard Form Contract.

Words defined in the Particulars of Sale have that meaning when used in the Standard Conditions of Sale.

1 Agreement to sell and buy

(a) The Vendor agrees to sell, and the Purchaser agrees to buy, free from encumbrances, the Property and the Chattels.

2 Sale Price and Deposit

(a) The Sale Price is payable as follows:
  (i) the Deposit, to the Deposit Holder as stakeholder at the Deposit Payment Time; and
  (ii) the balance, either in cash or by a cheque drawn by a bank, on the Completion Date.

(b) The Chattels Value is included in the Sale Price.

(c) If no Chattels Value is included in the Particulars of Sale then the Chattels Value will be the written down value of the Chattels in the Vendor's taxation records for the year ending 30 June before the Completion Date.

(d) If the Chattels do not have a written down value in the Vendor's taxation records, then the Chattels Value is nil.

3 Completion

(a) The parties must complete this Contract on the Completion Date.

(b) On the Completion Date the Vendor must:
  (i) make the Property available to the Purchaser as specified in the Particulars of Sale under the heading "Availability"; and
  (ii) deliver to the Purchaser the documents of title to the Property and possession of the Chattels.

(c) On the Completion Date the Purchaser must:
  (i) pay all money payable on the Completion Date under this Contract;
  (ii) authorise release of the Deposit held by the Deposit Holder; and
  (iii) satisfy all the Purchaser's other obligations under this Contract due to be performed on or before the Completion Date.

(d) No later than two (2) business days prior to completion of this Contract the Vendor must supply to the Purchaser all the information relating to the Vendor and to the Property (including without limitation a Transferor (Vendor) Transaction Certificate in the form prescribed by the Tasmanian State Revenue Office) required by the Purchaser for assessment and payment of duty on and registration of the transfer of the title to the Property and the Chattels.

(e) Notwithstanding any other term of this Contract the Purchaser will not be obliged to complete the Contract any earlier than the date which is two (2) business days from the date upon which the said information is provided by the Vendor to the Purchaser.

4 Conditions precedent to completion

(a) It is a condition precedent to the Purchaser's obligation to complete this Contract that, except as disclosed in the Particulars of Sale, there is no legal restriction:
  (i) at the Contract Date still existing at the Completion Date,
  (ii) that may hinder or prevent the Purchaser from using the Property for the Purchaser's Required Use,
  (iii) which is not a restriction applicable to use of all property in Tasmania.

(b) The term "legal restriction" includes, without limitation, restriction by:
  (i) an easement,
  (ii) a covenant,
  (iii) a requirement or order of a statutory body, or
  (iv) a requirement or order of a statutory planning agreement, planning scheme or planning permit.

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(c) The party benefited by a condition precedent may waive the benefit of the condition precedent.

(d) Apart from the condition precedent in clause 4a, the party benefited by a condition precedent must use all reasonable endeavours to fulfil the condition precedent within the period stated for doing so.

(e) To be effective, a waiver of a condition precedent must be given within the period allowed for its satisfaction.

(f) If the party specified to benefit by a condition precedent does not give unconditional notice of either satisfaction or waiver of that condition precedent, in one of the ways specified in clause 16, before the period for satisfying that condition precedent expires, then the other party may treat this Contract as at an end, and each party:

(i) is then released from their obligation to further perform the Contract, apart from the return to the Purchaser of any deposit paid; and

(ii) retains the rights they have against the other party because of a prior breach.

5 Ownership

Ownership of the Property and the Chattels passes on completion.

6 Removal of goods

(a) Before completion the Vendor must remove from the Property all items not included in the sale.

(b) The Vendor cannot claim from the Purchaser for items left on the Property for more than seven (7) days after written notice to remove. That notice will not be effective if served before completion.

(c) The Vendor must indemnify the Purchaser against all claims made against the Purchaser about items not included in the sale, but left on the Property after completion.

7 Easements and covenants

Except as the Contract otherwise provides, the Purchaser accepts the Property:

(a) together with all easements and covenants benefiting it, and

(b) subject to all easements and covenants that are:

(i) registered,

(ii) apparent from an inspection of the Property, or

(iii) disclosed in this Contract, and

(c) the Purchaser can not object to any such easements or covenants.

8 Title warranties

The Vendor warrants to the Purchaser that, at completion:

(a) the Vendor will provide a good marketable documentary title to the Property;

(b) none of the Chattels will be encumbered in any way;

(c) the Chattels and the Property will either be the Vendor's absolute property, or the Vendor will have the power to require a transfer of the title to the Purchaser; and

(d) the Property will be free from charges payable to any authority, either now or in the future, for anything that has occurred before the Contract Date. The Vendor indemnifies the Purchaser against all liability of that kind.

9 Other warranties

(a) Subject to the risk of accidental damage to the Property and the Chattels passing to the Purchaser from the date of contract, the Vendor warrants to the Purchaser that, at completion the Property and the Chattels will be at least as clean, tidy and in good repair as when last inspected by the Purchaser prior to the contract.

(b) Except as otherwise agreed in the Contract or as required by law, the Property is sold "As Is/ Where Is" and, the Vendor makes no legally binding warranty, description, or representation of any kind as to:

(i) the physical nature of the Property; or

(ii) the Property having any permits or certificates of completion or occupancy.

10 GST

(a) If the GST Treatment in the Contract is "The sale is not a taxable supply" the Vendor warrants to the Purchaser that one or more of the following applies:

(i) the sale is not in the course or furtherance of an enterprise carried on by the Vendor;

(ii) the Vendor is neither registered, nor required to be registered, for GST; or

(iii) the sale is an input taxed supply of residential premises to be used predominantly for residential accommodation, and not new residential premises.

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(b) If the GST Treatment in the Contract is "The sale is not a taxable supply":
  (i) the Vendor cannot recover from the Purchaser any GST payable on supplies under this Contract; and
  (ii) the Vendor makes no warranty that the Purchaser will receive any GST Tax Credits on supplies under this Contract.

(c) If the GST Treatment in the Contract is 'Margin Scheme' the Sale Price is inclusive of GST and the parties agree that the margin scheme applies.

(d) If there is no indication of GST Treatment in the Contract then this clause 10 does not apply to this Contract.

(e) A word defined in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) has that meaning when used about GST in this Contract.

(f) This clause 10 does not merge on completion.

11 GST Withholding Treatment

(a) The parties agree and acknowledge that the indication as to GST Withholding Treatment, together with the balance of this Contract, serves as notice from the Vendor as required by section 14-255 of the *Taxation Administration Act 1953* (Cth).

(b) If the GST Withholding Treatment in the Contract is 'GST Withholding not required because Sale is not a taxable supply' then the Vendor notifies and warrants to the Purchaser that no withholding is required and that the sale is not a taxable supply.

(c) If the GST Withholding Treatment in the Contract is 'GST Withholding not required because Sale is GST-free' then the Vendor notifies the Purchaser that no withholding is required.

(d) If the GST Withholding Treatment in the Contract is 'GST Withholding not required because Sale not new residential premises or potential residential land' then the Vendor notifies and warrants to the Purchaser that no withholding is required and that:
  (i) the Property is not new residential premises (unless the new residential premises have been created through substantial renovations of a building or is new commercial residential premises); and
  (ii) the Property is not potential residential land that is included in a property subdivision plan (unless the Property contains a building that is in use for a commercial purpose).

(e) If the GST Withholding Treatment in the Contract is 'GST Withholding not required because the Property is potential residential land and the Purchaser is registered and has a creditable purpose' then:
  (i) the Vendor warrants to the Purchaser that the Property is potential residential land that is included in a property subdivision plan and does not contain a building that is in use for a commercial purpose; and
  (ii) the Purchaser warrants to the Vendor that:
    (1) the Purchaser is registered for GST; and
    (2) the Purchaser is acquiring the Property for a creditable purpose,

  and, in reliance on the Purchaser's warranty, the Vendor notifies the Purchaser that no withholding is required.

(f) If the GST Withholding Treatment in the Contract is 'GST Withholding required and Property entirely new residential premises and/or potential residential land' then the following clauses apply:
  (i) The Vendor hereby notifies the Purchaser that the Purchaser must withhold the following amount ('the Withholding Amount') pursuant to section 14-250 of the *Taxation Administration Act 1953* (Cth):
    (1) If the GST Treatment in the Contract is 'Margin Scheme' then 7% of the Contract Price;
    (2) If the GST Treatment in the Contract is 'The sale is a taxable supply and GST is included in the Sale Price according to the special clause added' then 1/11th of the Contract Price; or
    (3) If the GST Treatment in the Contract is 'The sale is a taxable supply and GST is added to the Sale Price according to the special clause added' then 10% of the Contract Price,

    and the Contract Price is the Sale Price.
  (ii) The Purchaser must lodge with the Australian Taxation Office;
    (1) Form 1 (GST property settlement withholding notification online form), and provide the Payment Reference Number ('PRN') and Lodgement Reference Number to the Vendor, along with the payment slip that contains the PRN and is produced when Form 1 is lodged ('the Payment Slip'), prior to completion as a condition precedent to the Vendor's obligation to complete this Contract; and
    (2) Form 2 (GST property settlement date confirmation online form) which the Purchaser warrants that the Purchaser will lodge on the date of completion.

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(iii) The Purchaser must procure a cheque drawn by a bank for the Withholding Amount ('the Withholding Cheque') payable to the Deputy Commissioner of Taxation and that cheque must be dealt with at completion or when the Purchaser first provides consideration, other than a deposit held on trust, to the Vendor if that is earlier than completion ('the Withholding Date').

(iv) If the Vendor is represented by a Solicitor or Licensed Conveyancer ('the Vendor's Representative') then this clause 11(f)(iv) applies:

(1) The Purchaser must provide the Withholding Cheque to the Vendor's Representative on the Withholding Date and the parties agree that this fulfils the Purchaser's obligations to withhold the GST Withholding Amount.

(2) The Vendor must provide the Purchaser with an acknowledgement of receipt for the Withholding Cheque.

(3) The Vendor warrants that the Vendor will forward the Withholding Cheque, together with the Payment Slip, to the Deputy Commissioner of Taxation, as soon as practicable after the Withholding Date.

(v) If the Vendor is not represented by a Solicitor or Licensed Conveyancer then the Purchaser warrants that the Purchaser will forward the Withholding Cheque, together with the Payment Slip, to the Deputy Commissioner of Taxation as soon as practicable after the Withholding Date.

(vi) Unless the GST Treatment in the Contract is 'The sale price is a taxable supply and GST is added to the Sale Price according to the special clause added' then the balance of the Sale Price referred to in clause 2(a)(ii) of this Contract is taken to be net of the Withholding Amount.

(vii) If the Purchaser makes a nomination pursuant to clause 12 of this Contract, then the nominee must fulfil the obligations in this clause 11(f).

(g) If the GST Withholding Treatment in the Contract is 'GST Withholding required and Property is not entirely new residential premises and/or potential residential land' the Vendor must serve written notice on the Purchaser complying with section 14-255 of the *Taxation Administration Act 1953* (Cth) at least three (3) Business Days prior to the Withholding Date and to which clauses 11(f)(i)-(vii) of this Contract applies.

(h) If no GST Withholding Treatment is indicated in the Contract and the property is residential premises or potential residential land, the Vendor must provide the Purchaser with a written notification in accordance with section 14-255 of the *Taxation Administration Act 1953* (Cth) at least three (3) Business Days prior to the Withholding Date and in relation to which clauses 11(f)(iii)-(vii) of this Contract applies despite there being no GST Withholding Treatment indicated.

(i) If the Vendor does not fulfil the Vendor's obligation in clause 11(g) or 11(h) then the Purchaser may, at the Purchaser's discretion:

(i) provide to, at the Purchaser's discretion:

(1) the Vendor's Representative on the Withholding Date (in which case clause 11(f)(iv)(3) applies); or

(2) to the Deputy Commissioner of Taxation as soon as practicable after the Withholding Date (in which case the Purchaser warrants to do so), a cheque drawn by a bank payable to the Deputy Commissioner of Taxation for the Withholding Amount as determined by clause 11(f)(i)(3) of this Contract, but if the Withholding Amount is indeterminable, then for 10% of the Sale Price; and

(ii) provide to the Vendor or the Vendor's Representative a cheque drawn by a bank for the balance referred to in clause 2(a)(ii) of this Contract net of the amount of the cheque referred to in clause 11(i)(i),

but the Purchaser must notify the Vendor in writing prior to the Withholding Date of the Purchaser's intention to exercise this discretion and that notification must specify whether the Purchaser elects to provide the cheque in accordance with clause 11(i)(i)(1) or 11(i)(i)(2), and if the discretion is exercised then the Vendor must treat the above as fulfilling the Purchaser's obligations in clause 2(a)(ii) of this Contract.

(j) Where the Vendor provides a notification for the purpose of section 14-255 of the *Taxation Administration Act 1953* (Cth) that is separate from this Contract, the Vendor warrants to the Purchaser that the contents of that notification are accurate.

(k) Where one party makes a warranty to the other party in this clause 11, that party also indemnifies the other party for all liability, costs and expenses that result from the breach of that warranty.

(l) A word defined in A New Tax System (Goods and Services Tax) Act 1999 (Cth) or Taxation Administration Act 1953 (Cth) has that meaning when used about GST in this Contract.

(m) This clause does not merge on completion.

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12 Nominee

(a) The Purchaser may nominate, in writing, other persons or corporations to complete this Contract.

(b) The Purchaser remains personally liable to the Vendor to perform all the Purchaser's obligations under this Contract regardless of any nomination.

13 Joint and several liability

Each person or corporation named as comprising a party to this Contract is liable both jointly and severally.

14 Rights after completion

After completion:

(a) the Purchaser retains the benefit of title warranties to the Chattels; and

(b) each party retains the benefit of all provisions requiring or contemplating that the other party must do something after completion.

15 Boundary fences

(a) The Purchaser cannot require the Vendor to contribute to the cost of erecting or repairing a dividing fence or wall between the Property and any adjoining land and owned by the vendor.

(b) The Purchaser indemnifies the Vendor against all claims of that kind.

16 Notices

(a) Unless the contract otherwise requires, a party may serve notices in other ways but a notice given by one party to the other is properly given if:

  (i) signed by any one or more persons or companies constituting the party giving the notice, or their solicitor or conveyancer, and

  (ii) given to the receiving party or their solicitor or conveyancer, either

    (1) personally; or

    (2) by post to, or left at, the receiving party's address shown on this Contract; or

    (3) by post to, or left at, the office of the receiving party's solicitor or conveyancer; or

    (4) by facsimile transmission; or

    (5) by email sent to an email address the recipient has, in the course of this transaction, nominated, acknowledged or used.

(b) A notice is properly given if given to any one or more of the persons or companies constituting the receiving party for all of them.

(c) A notice is taken to be received:

  (i) if hand delivered, on delivery;

  (ii) if sent by prepaid post, five days after the date of posting;

  (iii) if sent by facsimile, at the time shown of correct and complete transmission to the recipient's facsimile number by the sending machine; or

  (iv) if sent by email, when the email becomes capable of being retrieved by the recipient at an electronic address nominated, acknowledged or used by the recipient.

17 Time

In this Contract:

(a) when a period dated or calculated from a given day, act, or event, is prescribed or allowed for any purpose, that period excludes that day, or the day of that act or event, as the case may be;

(b) time extends until the next Business Day if the time for doing something falls on a day other than a Business Day;

(c) a "Business Day" is a day other than a Saturday, Sunday, or a statutory holiday (as defined in the Statutory Holidays Act 2000) applicable to an area in which any part of the Property is located; and

(d) only Business Days are counted for periods shorter than seven (7) days specified in this Contract.

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18 Default

(a) After the Completion Date, a party may, by fourteen (14) days notice to the other, make the time for completion essential so that failure to complete will constitute a fundamental breach of this Contract justifying termination.

(b) If the Purchaser fails to complete the Contract in accordance with its terms then, unless the failure is due to the Vendor's wilful default, on termination of the Contract:

(i) the deposit is forfeited to the Vendor; and

(ii) in addition to any other remedies available:

(1) the Vendor may resell the Property and the Chattels in any manner and on any terms the Vendor chooses;

(2) the Vendor may claim any loss on resale from the Purchaser as liquidated damages; and

(3) any profit on resale will belong to the Vendor.

19 Cooling Off

Unless the Particulars of Sale otherwise provide, the Purchaser may terminate the contract, by serving on the Vendor notice of such termination within three (3) Business Days of when the contract is made, and then:

(a) the obligations of the parties to complete ends; and

(b) the Purchaser will be entitled to any deposit paid but neither party will be otherwise entitled to any compensation.

20 Foreign resident withholding tax

(a) For the purposes of this clause:

"ATO Clearance Certificate" means a certificate issued under s14-220(1) of the Withholding Law which is current on the date of completion of this Contract;

"CGT Withholding Amount" means the amount determined under s14-200(3) (a) of the Withholding Law or, if a copy is provided to the Purchaser prior to completion of this Contract, a lesser amount specified in a variation notice under s14-235 of the Withholding Law; and

"Withholding Law" means Schedule 1 to the *Taxation Administration Act 1953* (Cth).

(b) This clause applies (despite any other provision of this Contract) if;

(i) The market value of the Property at the Contract Date is $750,000.00 or more and this sale is not otherwise an excluded transaction under s14-215 of the Withholding Law; and

(ii) The Vendor has not given to the Purchaser at least two (2) business days prior to completion of this Contract for each person comprising the Vendor:

A. An ATO Clearance Certificate; or

B. A variation notice under s14-235 of the Withholding Law which remains current at the date of completion of this Contract varying the CGT Withholding Amount to nil.

(c) This clause applies then:

(i) The Purchaser or the Purchaser's duly authorised representative must lodge a Foreign Resident Capital Gains Withholding Purchaser Payment Notification Form with the Australian Taxation Office for each person comprising the Purchaser and give copies to the Vendor with the payment reference numbers (PRN) on or before completion of this Contract;

(ii) The Purchaser or the Purchaser's duly authorised representative must on completion of this Contract:

A. Show to the Vendor or the Vendor's duly authorised representative a cheque drawn by a bank for the CGT Withholding Amount payable to the Deputy Commissioner of Taxation and provide to the Vendor or the Vendor's duly authorised representative a photocopy of that cheque; or

B. Provide to the Vendor or the Vendor's duly authorised representative such other assurance that payment of the CGT Withholding Amount will be made as may be approved and accepted by or on behalf of the Vendor.

(iii) The Purchaser must pay the CGT Withholding Amount to the Australian Taxation Office and give the Vendor within two (2) business days of completion of this Contract evidence that it has done so;

and the monies otherwise payable by the Purchaser to the Vendor upon completion of this Contract will be reduced by the amount of the CGT Withholding Amount.

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(d) For the purposes of this clause the market value of the Property is taken to be the Sale Price less any GST included in the Contract Price for which the Purchaser is entitled to an input tax credit unless:

(i) The Contract Price is for assets in addition to the Property; and

(ii) No later than two (2) business days prior to the date of completion of this Contract, the Vendor gives to the Purchaser a valuation of the Property as at the Contract Date prepared by a registered valuer;

in which case the market value of the Property will be as stated in the valuation.

21 Payment and apportionment of charges

(a) The Vendor must pay all land tax, rates, contributions to any body corporate related to the Property, charges and assessments charged, or to be charged, against the Property ("the Charges") for the period ending on the 30th of June after completion ("the Adjustment Period").

(b) The Charges for the Adjustment Period must be apportioned as at the earlier of:

(i) the date of possession; and

(ii) the date of completion.

(c) Any rebate, indemnity or concession available to the Vendor must be ignored when calculating the Charges, unless the rebate, indemnity or concession reduces a Charge to zero, in which case there must be no apportionment of that Charge.

(d) Land tax must be apportioned as if the Property were the Vendor's only Tasmanian land.

CAUTIONARY NOTES

- *Clause 20 (d) specifies the meaning of the market value of the Property for the **purposes of clause 20**, but not for the purposes of the Withholding Law.*
- *Clause 11(f)(i) specifies the meaning of Withholding Amount and Contract Price for the purpose of clause 11, but not for the purpose of the GST Withholding provisions in the Taxation Administration Act 1935 (Cth).*
- *The provisions of clause 11 and clause 20 do not exhaustively specify all of the statutory obligations of the Vendor and the Purchaser pursuant to the Taxation Administration Act 1935 (Cth).*
- *The Vendor's and the Purchaser's compliance with the provisions of clause 11 and clause 20 may not necessarily constitute full compliance with their statutory obligations.*
- *The parties should take appropriate professional advice with respect to:*
  - *The market value of the Property for the purposes of the Withholding Law;*
  - *The Withholding Amount and the Contract Price for the purpose of the Taxation Administration Act 1935 (Cth); and*
  - *The Vendor's and the Purchaser's statutory obligations pursuant to the Taxation Administration Act 1935 (Cth)*

The parties confirm they have:

- **carefully read the Standard Conditions of Sale and the Particulars of Sale, and**
- **had the opportunity to take necessary advice before signing the Particulars of Sale.**

Vendor Signature _____

in the presence of: *Witness Signature* _____

Purchaser Signature _____

in the presence of: *Witness Signature* _____

Property Address: Street: 9 KIRABATI ROAD

Suburb: MIDWAY POINT State: TAS Postcode: 7171

File reference: _____

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RESULT OF SEARCH

RECORDER OF TITLES

Issued Pursuant to the Land Titles Act 1980

Tasmanian Government

SEARCH OF TORRENS TITLE

VOLUME	FOLIO
120182	60
EDITION	DATE OF ISSUE
7	15-Jan-2014

SEARCH DATE : 31-Aug-2021
SEARCH TIME : 05.03 PM

DESCRIPTION OF LAND

Parish of SORELL, Land District of PEMBROKE
Lot 60 on Sealed Plan 120182
Derivation : Part of 3002 Acres Gtd. to J.W. Lord and Part of Lot 306 Gtd. to J. Lord
Prior CT 40255/1

SCHEDULE 1

M447999 TRANSFER to JANET ELIZABETH FLEMING and JOHN QUINCY FLEMING Registered 15-Jan-2014 at 12.01 PM

SCHEDULE 2

Reservations and conditions in the Crown Grant if any
SP 120182 EASEMENTS in Schedule of Easements
SP 40255, SP 120182 COVENANTS in Schedule of Easements
SP 40255, SP 120182 FENCING PROVISION in Schedule of Easements
D110813 MORTGAGE to MyState Financial Limited Registered 15-Jan-2014 at 12.02 PM

UNREGISTERED DEALINGS AND NOTATIONS

No unregistered dealings or other notations

OWNER MAURICE LLOYD BARWICK

FOLIO REFERENCE 40255/1

GRANTEE PART OF 3002Ac GTD. TO J.W. LORD ~~AND PART OF LOT 306 GTD.TO J. LORD~~

PLAN OF SURVEY

BY SURVEYOR JOHN L. CERUTTY
CROMER & CERUTTY
7 BAYFIELD STREET, ROSNY PARK
A DIVISION OF CC&R PTY. LTD. ACN 009521984

LOCATION

LAND DISTRICT OF PEMBROKE
PARISH OF SORELL

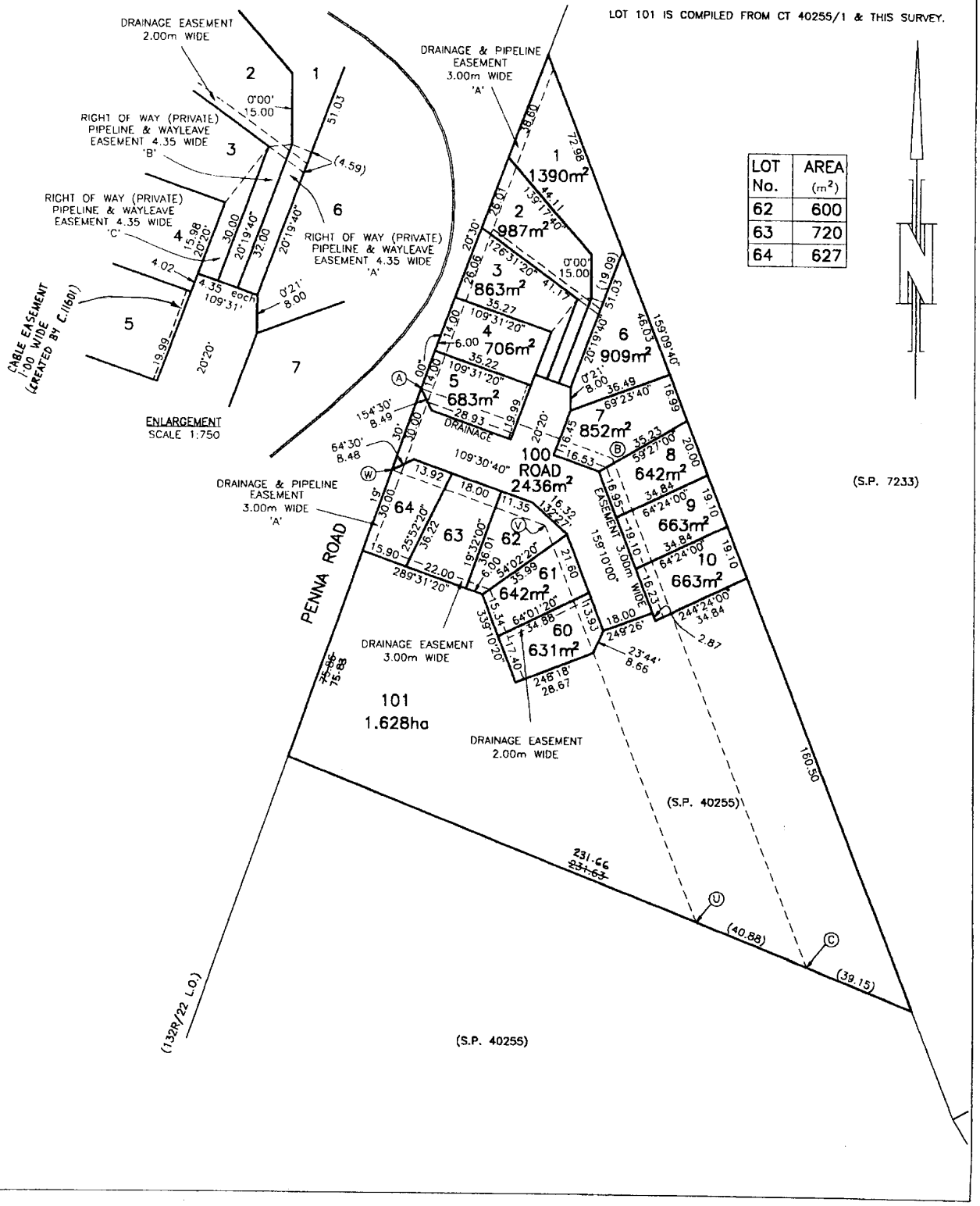
SCALE 1:1250 LENGTHS IN METRES

REGISTERED NUMBER
SP120182

APPROVED
EFFECTIVE FROM 25 SEP 1996
Recorder of Titles

MAPSHEET MUNICIPAL CODE No. 124	LAST UPI No. ~~1241073~~ 2904253	LAST PLAN No. S.P. 40255	ALL EXISTING SURVEY NUMBERS TO BE CROSS REFERENCED ON THIS PLAN

LOT 101 IS COMPILED FROM CT 40255/1 & THIS SURVEY.



LOT No.	AREA (m^2)
62	600
63	720
64	627

SCHEDULE OF EASEMENTS

NOTE: THE SCHEDULE MUST BE SIGNED BY THE OWNERS & MORTGAGEES OF THE LAND AFFECTED. SIGNATURES MUST BE ATTESTED.

REGISTERED NUMBER

SP120182

EASEMENTS AND PROFITS

PAGE 1 OF 6 PAGES

Each lot on the plan is together with:-
(1) such rights of drainage over the drainage easements shown on the plan (if any) as may be necessary to drain the stormwater and other surplus water from such lot; and
(2) any easements or profits a prendre described hereunder.
Each lot on the plan is subject to:-
(1) such rights of drainage over the drainage easements shown on the plan (if any) as passing through such lot as may be necessary to drain the stormwater and other surplus water from any other lot on the plan; and
(2) any easements or profits a prendre described hereunder.
The direction of the flow of water through the drainage easements shown on the plan is indicated by arrows.

Lot 1 on the Plan is TOGETHER WITH a Pipeline Easement (as herein defined) over the "Drainage and Pipeline Easement 3.00 wide A" shown passing through Lots 2, 3, 4, 5, 100 and 64 on the Plan.

Lot 2 on the Plan is TOGETHER WITH a Pipeline Easement (as herein defined) over the "Drainage and Pipeline Easement 3.00 wide A" shown passing through Lots 1, 3, 4, 5, 100 and 64 on the Plan.

Lot 3 on the Plan is TOGETHER WITH a Pipeline Easement (as herein defined) over the "Drainage and Pipeline Easement 3.00 wide A" shown passing through Lots 1, 2, 4, 5, 100 and 64 on the Plan.

SUBDIVIDER : Maurice Lloyd Barwick

FOLIO REF : 40255/1

SOLICITOR & REFERENCE : NJW

PLAN SEALED BY : SORELL COUNCIL

DATE : 1/9/95

REF No. .....

General Manager .....

NOTE: THE COUNCIL GENERAL MANAGER MUST SIGN THE CERTIFICATE FOR THE PURPOSE OF IDENTIFICATION.

SCHEDULE OF EASEMENTS

PAGE 2 OF 6 PAGES

Registered Number

SP120182

Lot 4 on the Plan is TOGETHER WITH a Pipeline Easement (as herein defined) over the "Drainage and Pipeline Easement 3.00 wide A" shown passing through Lots 1, 2, 3, 5 and 64 on the Plan. / 100

Lot 5 on the Plan is TOGETHER WITH a Pipeline Easement (as herein defined) over the "Drainage and Pipeline Easement 3.00 wide A" shown passing through Lots 1, 2, 3, 4 and 64 on the Plan. 100

Lot 64 on the Plan is TOGETHER WITH a Pipeline Easement (as herein defined) over the "Drainage and Pipeline Easement 3.00 wide A" shown passing through Lots 1, 2, 3, 4 and 5 on the Plan. 100

Lot 1 on the Plan is SUBJECT TO a Pipeline Easement (as herein defined) over the "Drainage and Pipeline Easement 3.00m wide A" (appurtenant to Lots 2, 3, 4, 5, and 64 on the Plan). 100

Lot 2 on the Plan is SUBJECT TO a Pipeline Easement (as herein defined) over the "Drainage and Pipeline Easement 3.00m wide A" (appurtenant to Lots 1, 3, 4, 5, and 64 on the Plan). 100

Lot 3 on the Plan is SUBJECT TO a Pipeline Easement (as herein defined) over the "Drainage and Pipeline Easement 3.00m wide A" (appurtenant to Lots 1, 2, 4, 5, and 64 on the Plan). 100

Lot 4 on the Plan is SUBJECT TO a Pipeline Easement (as herein defined) over the "Drainage and Pipeline Easement 3.00m wide A" (appurtenant to Lots 1, 2, 3, 5 and 64 on the Plan). 100

SCHEDULE OF EASEMENTS

PAGE 3 OF 6 PAGES

Registered Number
SP120182

IF FURTHER PAGES ARE REQUIRED USE ANNEXURE SHEETS COMMENCING AT PAGE 4

Lot 100 on the plan is subject to a Pipeline Easement (as herein defined) over the "Drainage and Pipeline Easement 3.00 wide A" (appurtenant to Lots 1, 2, 3, 4, 5 and 64 on the plan).

Lot 5 on the Plan is SUBJECT TO a Pipeline Easement (as herein defined) over the "Drainage and Pipeline Easement 3.00m wide A" (appurtenant to Lots 1, 2, 3, 5 and 64 on the Plan).

Lot 64 on the Plan is SUBJECT TO a Pipeline Easement (as herein defined) over the "Drainage and Pipeline Easement 3.00m wide A" (appurtenant to Lots 1, 2, 3, 4 and 5 on the Plan).

Lot 1 on the Plan is TOGETHER WITH a Right of Carriageway and a Pipeline Easement (as herein defined) over the "Right of Way (Private) Pipeline and Wayleave Easement 4.35m wide" marked "B" and "C" on the Plan passing through Lots 2 and 3.

Lot 2 on the Plan is TOGETHER WITH a Right of Carriageway and a Pipeline Easement (as herein defined) over the "Right of Way (Private) Pipeline and Wayleave Easement 4.35m wide" marked "A" and "C" on the Plan passing through Lots 1 and 3.

Lot 3 on the Plan is TOGETHER WITH a Right of Carriageway and a Pipeline Easement (as herein defined) over the "Right of Way (Private) Pipeline and Wayleave Easement 4.35m wide" marked "A" and "B" on the Plan passing through Lots 1 and 2.

Lot 1 on the Plan is SUBJECT TO a Right of Carriageway and a Pipeline Easement (as herein defined) over the Right of Way marked "Right of Way (Private Pipeline and Drainage Easement 4.35m wide "A" (appurtenant to Lots 2 and 3 on the Plan).

SCHEDULE OF EASEMENTS PAGE 4 OF 6 PAGES	Registered Number SP 120182

Lot 2 on the Plan is SUBJECT TO a Right of Carriageway and a Pipeline Easement (as herein defined) over the Right of Way marked "Right of Way and Pipeline Easement (Private Pipeline and Drainage Easement 4.35m wide "B" (appurtenant to Lots 1 and 3 on the Plan).

Lot 3 on the Plan is SUBJECT TO a Right of Carriageway and a Pipeline Easement as herein defined over the Right of Way and Pipeline Easement marked "Right of Way (Private Pipeline and Drainage Easement 4.35m wide "C" (appurtenant to Lots 1 and 2 on the Plan).

Lots 1, 2 and 3 on the Plan are SUBJECT TO a Wayleave Easement for the Hydro-Electric Commission as defined by Section 2 of the Hydro Electric Commission Act 1944 as shown on the Plan.

FENCING PROVISION

In respect of each Lot shown on the Plan the Vendor Maurice Lloyd Barwick shall not be required to fence.

INTERPRETATION

"A Pipeline Easement" shall mean:

A right to construct lay and maintain water pipes under the surface of the strip of land 3.00m wide and 4.35m wide marked "Pipeline Easement" TOGETHER WITH the full and free right and liberty at all times to use the pipes and reticulation systems lying under the surface of the said strip of land marked "Pipeline Easement" to run and to pass water through under and along the said pipes and from time to time and at all times hereafter to enter upon that strip of land to inspect cleanse and repair and maintain the said pipes and reticulation systems and when and where necessary to lay new pipes in

SCHEDULE OF EASEMENTS PAGE 5 OF 6 PAGES	Registered Number SP120182

substitution therefor and for the purpose of the full enjoyment of the aforesaid rights the owner or the dominant tenement shall have full free and uninterrupted right and liberty at all times and from time to time to enter upon and to go pass and repass over and along that strip of land and shall have the right to enter upon or under the strip of land with or without inspectors workmen or other persons and to open and break up the soil to bring place and remove upon the strip of land any materials machinery tools or other equipment as may be necessary for the proper construction laying and maintenance of the said pipes PROVIDED THAT the rights and privileges hereby granted shall be exercised in a proper and workmanlike manner so as to cause as little inconvenience as possible and to do as little damage as practicable on the strip of land.

COVENANTS

The owner of each Lot shown on the Plan covenants with the Vendor Maurice Lloyd Barwick and the owners for the time being of every other Lot shown on the Plan to the intent that the burden of these covenants may run with and bind the covenantor's Lot and every part thereof and that the benefit thereof shall be annexed to and devolve with each and every part of every other Lot shown on the said Plan to observe the following stipulations:-

1. NOT without the consent in writing of Maurice Lloyd Barwick to erect on the said Lot any fence greater than 1m in height within 6m of any street frontage of that Lot except where the Vendor may in his discretion otherwise grant approval in writing.
2. NOT to erect on the said Lot any building which does not have a roof constructed of tiling or other substance which does not reflect light and so that no galvanised iron or other reflective material or substance shall be used for the construction of any roof or any other part of any

SCHEDULE OF EASEMENTS

6
PAGE 6 OF 6 PAGES

Registered Number

SP120182

IF FURTHER PAGES ARE REQUIRED USE ANNEXURE SHEETS COMMENCING AT PAGE 4

7. Each lot on the plan which formerly comprised part of Lot 1 on Sealed Plan No. 40255 is burdened by a restrictive covenant not to erect a dwelling or develop in any way within the area marked ABCUVW on the plan, as created by and set forth in Sealed Plan No. 40255.

dwelling or structure on such Lot.

3. NOT to carry on the whole or any part or any process of any business upon such Lot subject to the exception that the whole of any dwelling erected on any Lot may be let by the owner.

4. NOT to erect or to permit to be erected any advertising hoarding on such Lot or otherwise exhibit or permit to be exhibited upon the property any advertisement or notice provided that the exhibition of any notice that the Lot is for sale or any notice required by law to be exhibited shall not be deemed to be a breach of this stipulation.

5. NOT without the consent in writing of Maurice Lloyd Barwick to erect place or maintain any structure upon the said Lot or any part thereof the exterior walls of which are not constructed of clay-brick concrete-block or precut natural sandstone blocks.

6. ~~NOT to permit vehicular access from Lots 37, 38, 39, 55, 56, 57, onto Penna Road.~~

~~7. THE owners of each and every Lot on the Plan covenant with the owners of each and every Lot on Sealed Plan 40255 not to erect a dwelling or develop in any way within the area marked A B C U V W on the Plan.~~

8. Not to erect on such Lot a log cabin or transportable home.

SIGNED by MAURICE LLOYD BARWICK the registered proprietor of the land comprised in Certificate of Title Volume 40255 Folio 1 in the presence of:-)

M. L. Barwick

RBerry
Law Clerk
Hobart

SIGNED by NOEL JOHN WARE GLENN ALAN HAY and JUSTIN FRANCIS OTLOWSKI as Mortgagees pursuant to Mortgage No. B778162 in the presence of:-)

RBerry
Law Clerk
Hobart

NJW4868