

Contract for the sale and purchase of land 2018 edition

TERM	MEANING OF TERM	eCOS ID:	NSW Duty:
vendor's agent	First National Altitude 68 Medcalf Street WARNERS BAY NSW 2282		Phone: 4903 8228 Fax: 4903 8233 Ref: Brigitte Audet
co-agent vendor	SCOTT ANTHONY DOWSE 49 Elizabeth Street, CARDIFF SOUTH NSW 2285		
vendor's solicitor	Turnbull Hill Lawyers 29 Smith Street CHARLESTOWN NSW 2290 DX 12607 Charlestown		Tel: 4904 8000 Fax: 4943 3657 Ref: Nicole Brotherton Email: nbrotherton@turnbullhill.com.au
date for completion	42 nd day after the contract date (clause 15)		
land <small>(Address, plan details and title reference)</small>	49 Elizabeth Street, Cardiff South NSW 2285 Lot 207 in Deposited Plan 1073988 Folio Identifier 207/1073988		
improvements	<input checked="" type="checkbox"/> VACANT POSSESSION <input type="checkbox"/> subject to existing tenancies <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 checked="" type="checkbox"/> blinds <input checked="" type="checkbox"/> built-in wardrobes <input checked="" type="checkbox"/> clothes line <input checked="" type="checkbox"/> curtains	<input checked="" type="checkbox"/> dishwasher <input checked="" type="checkbox"/> fixed floor coverings <input checked="" type="checkbox"/> insect screens <input checked="" type="checkbox"/> other: garden shed; ceiling fans; air conditioning; all remotes	<input checked="" type="checkbox"/> light fittings <input type="checkbox"/> range hood <input type="checkbox"/> solar panels	<input checked="" type="checkbox"/> stove <input type="checkbox"/> pool equipment <input checked="" type="checkbox"/> TV antenna
exclusions	Nil			
purchaser				
purchaser's solicitor				
price	\$			
deposit	\$	(10% of the price, unless otherwise stated)		
balance	\$			
contract date	(if not stated, the date this contract was made)			

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

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)

Purchase 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 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 of 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

General	Strata or community title (clause 23 of the contract)
<input checked="" type="checkbox"/> 1 property certificate for the land	<input type="checkbox"/> 32 property certificate for strata common property
<input checked="" type="checkbox"/> 2 plan of the land	<input type="checkbox"/> 33 plan creating strata common property
<input type="checkbox"/> 3 unregistered plan of the land	<input type="checkbox"/> 34 strata by-laws
<input type="checkbox"/> 4 plan of land to be subdivided	<input type="checkbox"/> 35 strata development contract or statement
<input type="checkbox"/> 5 document that is to be lodged with a relevant plan	<input type="checkbox"/> 36 strata management statement
<input checked="" type="checkbox"/> 6 section 10.7(2) planning certificate under environmental planning and assessment act 1979	<input type="checkbox"/> 37 strata renewal proposal
<input type="checkbox"/> 7 additional information included in that certificate under section 10.7(5)	<input type="checkbox"/> 38 strata renewal plan
<input checked="" type="checkbox"/> 8 sewerage infrastructure location diagram (service location diagram)	<input type="checkbox"/> 39 leasehold strata – lease of lot and common property
<input type="checkbox"/> 9 sewer lines location diagram (sewerage service diagram)	<input type="checkbox"/> 40 property certificate for neighbourhood property
<input checked="" type="checkbox"/> 10 document that created or may have created an easement, profit à prendre, restriction on use or positive covenant disclosed in this contract	<input type="checkbox"/> 41 plan creating neighbourhood property
<input type="checkbox"/> 11 planning agreement	<input type="checkbox"/> 42 neighbourhood development contract
<input type="checkbox"/> 12 section 88g certificate (positive covenant)	<input type="checkbox"/> 43 neighbourhood management statement
<input type="checkbox"/> 13 survey report	<input type="checkbox"/> 44 property certificate for precinct property
<input type="checkbox"/> 14 building information certificate or building certificate given under <i>legislation</i>	<input type="checkbox"/> 45 plan creating precinct property
<input type="checkbox"/> 15 lease (with every relevant memorandum or variation)	<input type="checkbox"/> 46 precinct development contract
<input type="checkbox"/> 16 other document relevant to tenancies	<input type="checkbox"/> 47 precinct management statement
<input type="checkbox"/> 17 licence benefiting the land	<input type="checkbox"/> 48 property certificate for community property
<input type="checkbox"/> 18 old system document	<input type="checkbox"/> 49 plan creating community property
<input type="checkbox"/> 19 Crown purchase statement of account	<input type="checkbox"/> 50 community development contract
<input type="checkbox"/> 20 building management statement	<input type="checkbox"/> 51 community management statement
<input checked="" type="checkbox"/> 21 form of requisitions	<input type="checkbox"/> 52 document disclosing a change of by-laws
<input type="checkbox"/> 22 <i>clearance certificate</i>	<input type="checkbox"/> 53 document disclosing a change in a development or management contract or statement
<input type="checkbox"/> 23 land tax certificate	<input type="checkbox"/> 54 document disclosing a change in boundaries
Home Building Act 1989	<input type="checkbox"/> 55 information certificate under strata schemes management act 2015
<input type="checkbox"/> 24 Insurance certificate	<input type="checkbox"/> 56 information certificate under community land management act 1989
<input type="checkbox"/> 25 Brochure of warning	<input type="checkbox"/> 57 document relevant to off-the-plan sale
<input type="checkbox"/> 26 Evidence of alternative indemnity cover	Other
Swimming Pools Act 1992	<input type="checkbox"/> 58
<input type="checkbox"/> 27 Certificate of compliance	
<input type="checkbox"/> 28 Evidence of registration	
<input type="checkbox"/> 29 Relevant occupation certificate	
<input type="checkbox"/> 30 Certificate of non-compliance	
<input type="checkbox"/> 31 Detailed reasons of non-compliance	

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



TURNBULL HILL LAWYERS

SPECIAL CONDITIONS

The following Special Conditions form part of the Contract for Sale of Land made the _____ day of _____
_____ 2018 between **Scott Anthony Dowse** as Vendor of the one part and
as Purchaser of the other part.

1. Notice to Perform and Complete

- 1.1 Should any event arise entitling either party to issue a Notice to Perform upon the other, then the parties agree that a period of seven (7) days from the service of such a Notice making time of the essence shall be a proper and reasonable time.
- 1.2 If either party serves on the other a Notice to Complete, the party served shall not object to the Notice on the ground that the time stipulated for completion is unreasonable if that time is not less than fourteen (14) days.
- 1.3 The party serving a Notice to Complete may:
 - (a) at any time withdraw the Notice to Complete by further notice to the party in default; and
 - (b) at its option issue a further Notice to Complete.

2. Delivery of Notices

- 2.1 Notwithstanding anything contained in Clause 20.6 hereof, any notice or document under or relating to this Contract shall be deemed to have been served on the recipient and the recipient's solicitor on the day after it is delivered to the serving party's facility in the Document Exchange System.

3. Death, Liquidation, etc.

- 3.1 Without affecting any other right of the parties, if either party:
 - (a) being an individual:
 - i) dies; or
 - ii) becomes incapable because of unsoundness of mind to manage the party's own affairs,either party can rescind; or
 - 3.2 being a company:
 - (a) resolves to go into liquidation;
 - (b) has a petition for its winding up presented and not withdrawn within thirty (30) days of presentation;
 - (c) enters into any scheme of arrangement with its creditors under the relevant provisions of the Corporations Law or any similar legislation; or
 - (d) has a liquidator, provisional liquidator, administrator, receiver or receiver and a manager of it appointed,

such party will have failed to comply with an essential provision of this contract and either party can terminate.

4. Deposit Bond

- 4.1 This Special Condition only applies if the Purchaser and the Vendor agree that the deposit payable by the Purchaser pursuant to Clause 2 hereof is to be secured by a Deposit Guarantee Bond.
- 4.2 In this Contract, the word Guarantee means the Deposit Guarantee Bond issued to the Vendor at the request of the Purchaser by _____ (the "Guarantor").
- 4.3 Subject to paragraphs 4.4 and 4.5 below, the delivery of the Guarantee, upon or before the making of this Contract, to the person nominated in this Contract to hold the deposit shall, to the extent of the amount guaranteed under the Guarantee, be deemed for the purposes of this Contract to be payment of the deposit in accordance with this Contract.
- 4.4 The Purchaser shall pay the amount stipulated in the Guarantee to the Vendor in cash or by unendorsed bank cheque on completion of this contract or at such other time as may be provided for the deposit to be accounted for to the Vendor.
- 4.5 If the Vendor serves on the Purchaser a notice in writing claiming to forfeit the deposit, then to the extent that the amount has not already been paid by the Guarantor under the Guarantee, the Purchaser shall forthwith pay the deposit (or so much thereof as has not been paid) to the person nominated in this contract to hold the deposit.
- 4.6 The Vendor acknowledges that payment by the Guarantor under the Guarantee shall, to the extent of the amount paid, be in satisfaction of the Purchaser's obligation to pay the deposit under paragraph 4.4 above.

5. Payment of Deposit by Instalments

- 5.1 The Purchaser acknowledges that the deposit payable hereunder is ten per cent (10%) of the purchase price. If the Vendor on the making of this Contract agrees that the deposit may be paid by instalments, then notwithstanding any other provision of this Contract, the Purchaser shall pay the deposit by instalments as follows:
- (a) the sum of \$ _____ (being equal to five per cent (5%) of the purchase price) to be paid on or before the date of this Contract in accordance with clauses 2.1 and 2.2 of the printed Contract; and
 - (b) the balance of the deposit to be paid on or before the completion date in accordance with clause 2.1,

and in this respect time is essential.

- 5.2 The Purchaser acknowledges that the Vendor has agreed to accept payment of the deposit by instalments at the Purchaser's request in earnest of the bargain, this Contract and its performance by the Purchaser.

6. Guarantee where Purchaser is a Proprietary Company

- 6.1 If the Purchaser of the property is a company, the officers (as well as any other persons who sign this Contract on behalf of the Purchaser, or who attest the seal of the Company on this Contract):
- (a) jointly and separately guarantee all obligations of the Purchaser under this contract, including the payment of the purchase price;
 - (b) jointly and separately indemnify the Vendor in respect of any default of the Purchaser under this contract.
- 6.2 This guarantee and indemnity is given by each Guarantor as principal and is not discharged or released by any release or variation of this Contract between the Vendor and the Purchaser.
- 6.3 If the Purchaser is a company, all officers (as well as any other persons who sign this Contract on behalf of the Purchaser) shall, prior to or simultaneously with the making of this Contract, enter into a

Deed of Guarantee and Indemnity with the Vendor, such Deed of Guarantee and Indemnity to be in the form of (and shall contain the content of) the draft "Deed of Guarantee and Indemnity".

6.4 This Special Condition is an essential term of this Contract.

7. Warranty as to Agent

7.1 The Purchaser warrants that he was not introduced to the property by any Real Estate Agent other than the Agent shown as the "Vendor's Agent" or "Co-Agent" on the front page of this Contract.

7.2 Should any other Real Estate Agent make a successful claim for commission against the Vendor based on the fact that such agent introduced the Purchaser to the property then the Purchaser will indemnify the Vendor in respect of such commission and in respect of all costs of and incidental to such claim for commission incurred by the Vendor.

7.3 This clause will not merge on completion.

8. Alterations to Contract

8.1 Each party ("the warrantor") warrants to the other party that any alteration made to the counterpart Contract signed by the warrantor, either before or after such signature, has been made by or with the authority of the warrantor, and indemnifies the other party against any breach of this warranty.

9. Water Consumption

9.1 Clause 14.1 of this Contract is hereby varied by the addition of the following sentence after the word "liable," in the third line:

The amounts and figures for water consumption furnished by the relevant water rating authority, even if estimated or provisional, shall be conclusive for the purposes of such adjustment.

10. Annexing as agent for the Vendor

10.1 The Purchaser acknowledges that, if before this Contract was signed by or on behalf of the Purchaser, documents of the kind referred to in this Contract were attached to this Contract by or on behalf of the Purchaser (or the solicitor for the Purchaser) at the request of the Vendor or the solicitor for the Vendor, the person so attaching those documents or copies of documents did so as the agent of the Vendor.

11. Financial capacity of Purchaser

11.1 The Purchaser warrants to the Vendor that the Purchaser either:

(a) holds a current loan approval in an amount and upon terms satisfactory to the purchaser and sufficient to enable the Purchaser to complete this Contract within the time stipulated herein, and upon the terms and conditions set out herein. The Purchaser further acknowledges that the Vendor relies upon this warranty in entering into this Contract; or

(b) does not require finance to complete this Contract.

12. Purchaser Acknowledgment

12.1 The Purchaser acknowledges:

(a) he has not been induced to enter into this Contract for Sale of Land by any statement made or given by the Vendor or on behalf of the Vendor;

(b) the property is sold in its present state of repair and condition as inspected by the Purchaser;

(c) he has relied entirely upon his own inspection of the property herein; and

(d) that he will not make any objection, requisition or claim for compensation in regard to the foregoing matters or any of them.

13. Condition of Inclusions

13.1 The inclusions listed in this Contract are included in the purchase and the purchase price. The Purchaser:

- (a) acknowledges that none of the inclusions are new, and
- (b) acknowledges that the Vendor has not made and does not make any representation or warranty as to the state of repair or condition of the inclusions; and
- (c) shall accept the inclusions on the date on which the Purchaser is entitled to possession of the property in the state of repair and condition that the inclusions are now in, reasonable wear and tear between the date of this Contract and the date upon which the Purchaser becomes entitled to possession of the property under this Contract excepted.

13.2 The Purchaser acknowledges that the title to the inclusions shall pass to the Purchaser on completion of this Contract and the Vendor shall not be required to give formal delivery of the inclusions to the Purchaser. The Vendor shall not be responsible for any mechanical breakdown in respect of any of the inclusions.

14. Mine Subsidence

14.1 The Purchaser may rescind this Contract if the owner of the improvements on the land is not entitled, as at the date of this Contract, to claim compensation from the Mine Subsidence Board in respect of any damage to the land and/or improvements arising from mine subsidence and written communication from the Mine Subsidence Board to that effect shall be conclusive for the purposes of this condition.

15. Liquidated Damages

15.1 Where:

- (a) the Vendor is ready, willing and able to execute the assurance of the property and complete this Contract; and
- (b) the Purchaser does not complete this Contract on the completion date, the Purchaser must pay to the Vendor on completion:
 - i) the sum of \$330.00 on account of the additional legal fees incurred by the Vendor because of the delay; and
 - ii) liquidated damages on the balance of the purchase price at the rate of ten per cent (10%) per annum (calculated daily) from and including the day after the completion date to the actual date of completion. The purchaser acknowledges that the payment required under this sub-paragraph (b) represents a genuine pre-estimate of the liquidated damages likely to be suffered by the Vendor as a result of completion not taking place on or before the completion date.

15.2 The parties agree that the payments under this special condition are made on account of damages and that the Vendor shall not be required to settle unless such amounts are paid by the Purchaser on completion.

15.3 The Vendor's right to the payments under this special condition shall not limit any other rights the Vendor may have against the Purchaser as a result of the Purchaser's failure to complete this Contract in accordance with the provisions of this Contract.

16. Claims for Compensation

16.1 Notwithstanding the provisions of Clauses 6 and 7 hereof the parties expressly agree that any claim for compensation shall be deemed to be an objection or requisition for the purpose of Clause 8 hereto entitling the Vendor to rescind this Contract.

17. GST - Residential

17.1 The purchaser warrants that the property will be used predominantly for residential accommodation. The Purchaser will indemnify the Vendor against any liability to pay GST arising from breach of this warranty. The provisions of this special condition shall not merge on completion.

18. Requisitions on Title

18.1 The Purchaser agrees that the only form of general Requisitions on Title the Purchaser may make pursuant to Clause 5 shall be in the form of the Requisitions on Title **annexed hereto**.

19. Amendments to Printed Provisions

19.1 The printed provisions of this contract are amended as follows:

- (a) Clause 7.1.1 – delete “5%” and in lieu thereof insert “1%”;
- (b) Clause 7.2.4 – delete “and the costs of the Purchaser”.
- (c) Clauses 10.1.8 and 10.1.9 – delete “substance” and insert in lieu thereof “existence”.
- (d) Clause 16.8 – delete “5” and insert in lieu thereof “8”.
- (e) Clause 25.1.1 – delete “, limited”.
- (f) Clause 25.2 - delete “7” and insert in lieu thereof “21”.
- (g) Clause 25.7 – delete.
- (h) Clause 28 – delete.

20. Electronic Execution

20.1 The parties acknowledge and agree that the execution of this Contract by the Purchaser may be affected by the use of either scanned and emailed signatures (hereinafter called “the manner of the Purchaser’s execution of this Contract”).

20.2 The parties agree that they will not make any objection or claim any right to terminate or rescind this Contract or delay the completion of this Contract, due to the manner of the Purchaser’s execution of this Contract.

20.3 The Purchaser agrees to provide to the Vendor the original signature page of this Contract within twenty-one (21) days after the date of this Contract.

21. Conflict

21.1 If there is any conflict or inconsistency between these Special Conditions and the printed clauses of this Contract, these Special Conditions shall apply to the extent of such conflict or inconsistency.

RESIDENTIAL PROPERTY REQUISITIONS ON TITLE

Vendor: Scott Anthony Dowse
Purchaser:
Property: 49 Elizabeth Street, Cardiff South
Dated:

Possession and tenancies

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

Title

6. Subject to the Contract, on completion the vendor should be registered as proprietor in fee simple of the property free from all encumbrances.
7. On or before completion, any mortgage or caveat or writ must be discharged, withdrawn, cancelled or removed as the case may be or, in the case of a mortgage or caveat or priority notice, an executed discharge or withdrawal or removal handed over on completion.
8. Are there any proceedings pending or concluded that could result in the recording of any writ on the title to the property or in the General Register of Deeds? If so, full details should be provided at least 14 days prior to completion.
9. When and where may the title documents be inspected?
10. Are any chattels or fixtures subject to any hiring or leasing agreement or charge or to any security interest under the *Personal Properties Securities Act 2009 (Cth)*? If so, details must be given and all indebtedness cleared and title transferred unencumbered to the vendor prior to completion.

Adjustments

11. All outgoings referred to in clause 14.1 of the Contract must be paid up to and including the date of completion.
12. Is the vendor liable to pay land tax or is the Property otherwise charged or liable to be charged with land tax? If so:
 - (a) to what year has a return been made?
 - (b) what is the taxable value of the Property for land tax purposes for the current year?
13. The vendor must serve on the purchaser a current land tax certificate (issued under Section 47 of the *Land Tax Management Act 1956 (NSW)*) at least 14 days before completion.

Survey and building

14. Subject to the Contract, survey should be satisfactory and show that the whole of the Property is available and that there are no encroachments by or upon the Property and that all improvements comply with local government/planning legislation.
15. Is the vendor in possession of a survey report? If so, please produce a copy for inspection prior to completion. The original should be handed over on completion.
16. In respect of the Property:
 - (a) Have the provisions of the *Local Government Act* (NSW), the *Environmental Planning and Assessment Act 1979* (NSW) and their regulations been complied with?
 - (b) Is there any matter that could justify the making of an upgrading or demolition order in respect of any building or structure?
 - (c) Has the vendor a Building Certificate which relates to all current buildings or structures on the Property? If so, it should be handed over on completion. Please provide a copy in advance.
 - (d) Has the vendor a Final Occupation Certificate issued under the *Environmental Planning and Assessment Act 1979* for all current buildings or structures on the Property? If so, it should be handed over on completion. Please provide a copy in advance.
 - (e) In respect of any residential building work carried out in the last 7 years:
 - i) please identify the building work carried out;
 - ii) when was the building work completed?
 - iii) please state the builder's name and licence number;
 - iv) please provide details of insurance under the *Home Building Act 1989* (NSW).
17. Has the vendor (or any predecessor) entered into any agreement with or granted any indemnity to the Council or any other authority concerning any development on the Property?
18. If a swimming pool is included in the Property:
 - (a) did its installation or construction commence before or after 1 August 1990?
 - (b) has the swimming pool been installed or constructed in accordance with approvals under the *Local Government Act 1919* (NSW) and *Local Government Act 1993* (NSW)?
 - (c) does it comply with the provisions of the *Swimming Pools Act 1992* (NSW) and regulations relating to access? If not, please provide details or the exemptions claimed;
 - (d) have any notices or orders issued or been threatened under the *Swimming Pools Act 1992* (NSW) or regulations?
 - (e) if a certificate of non-compliance has issued, please provide reasons for its issue if not disclosed in the contract;
 - (f) originals of certificate of compliance or non-compliance and occupation certificate should be handed over on settlement.
19.
 - (a) To whom do the boundary fences belong?
 - (b) Are there any party walls?
 - (c) If the answer to Requisition 19(b) is yes, specify what rights exist in relation to each party wall and produce any agreement. The benefit of any such agreement should be assigned to the purchaser on completion.
 - (d) Is the vendor aware of any dispute regarding boundary or dividing fences or party walls?
 - (e) Has the vendor received any notice, claim or proceedings under the *Dividing Fences Act 1991* or the *Encroachment of Buildings Act 1922* (NSW)?

Affectations

20. Is the vendor aware of any rights, licences, easements, covenants or restrictions as to use other than those disclosed in the Contract?
21. Is the vendor aware of:
 - (a) any road, drain, sewer or storm water channel which intersects or runs through the land?
 - (b) any dedication to or use by the public of any right of way or other easement over any part of the land?
 - (c) any latent defects in the property?
22. Has the vendor any notice or knowledge that the property is affected by the following:

- (a) any resumption or acquisition or proposed resumption or acquisition?
 - (b) any notice requiring work to be done or money to be spent on the property or any footpath or road adjoining? If so, such notice must be complied with prior to completion.
 - (c) any work done or intended to be done on the property or the adjacent street which may create a charge on the property or the cost of which might be or become recoverable from the purchaser?
 - (d) any sum due to any local or public authority? If so, it must be paid prior to completion.
 - (e) any realignment or proposed realignment of any road adjoining the property?
 - (f) any contamination including, but not limited to, materials or substances dangerous to health such as asbestos and fibreglass?
23. (a) Does the property have the benefit of water, sewerage, drainage, electricity, gas and telephone services?
- (b) If so, do any of the connections for such services pass through any adjoining land?
- (c) Do any service connections for any other property pass through the property?
24. Has any claim been made by any person to close, obstruct or limit access to or from the property or to an easement over any part of the property?

Capacity

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

Requisitions and transfer

26. If not attached to the Contract and the transaction is not an excluded transaction, any clearance certificate under Section 14-220 of Schedule I of the *Taxation Administration Act 1953* (Cth) should be served on the purchaser at least 7 days prior to completion.
27. If the transfer or any other document to be handed over on completion is executed pursuant to a power of attorney, then at least 7 days prior to completion a copy of the registered power of attorney should be produced and found in order.
28. If the vendor has or is entitled to have possession of the title deeds the Certificate Authentication Code must be provided 7 days prior to settlement.
29. Searches, surveys, enquiries and inspection of title deeds must prove satisfactory.
30. The purchaser reserves the right to make further requisitions prior to completion.
31. Unless we are advised by you to the contrary prior to completion, it will be assumed that your replies to these requisitions remain unchanged as at the completion date.

ADDITIONAL PROPERTY REQUISITIONS ON TITLE

Mine Subsidence

32. (a) Does the property lie within a Mine Subsidence District under the provisions of the *Mines Subsidence Compensation Act 1961*?
- (b) Does the property form part of a subdivision of land within a Mine Subsidence District effected since 1st July 1961?
- (c) Does the property form part of a subdivision of land effected prior to 1st July, 1961, within a district proclaimed under the *Mines Subsidence Act 1928*.
- (d) If the property lies within a Mines Subsidence District have any improvements (whether or not requiring the consent of the Local Council) been erected since 1 July, 1961?
- (e) If the answer to (b), (c) and/or (d) is in the affirmative, we must be satisfied that the approval of the Mines Subsidence Board was obtained and that the owner complied with any conditions or requirements imposed by the Board or the relative Act.
- (f) i) Was a conditional right to insure improvements erected prior to 1 July, 1961, granted by the Mines Subsidence Board?
ii) If so, has the owner or his predecessor in title complied with the conditions imposed by Board?
- (g) Is the vendor aware of any claim in respect of the subject property having been made under the *Mine Subsidence Compensation Act 1961*?

Fill

33. If the subject property is vacant land, has any fill been placed on the subject property? If so, whereabouts on the property is the fill located and what is the depth of fill in those locations?

Septic sewage disposal

34. Is there a separate sewage disposal system on the property? If so, please supply evidence of registration of it with the local Council (required as of 30 June 1999). If there is no septic disposal system and there is a house on the property, please supply details of the effluent disposal system used and evidence of registration with the local Council.

Unfulfilled Development Consent

35. Is the vendor aware of any unfulfilled condition of a development consent given in respect of the property by the local council (eg. any right of way required by the development consent but not created)?

Environment

36. (a) Has the vendor undertaken any activity that constitutes a "controlled action" under the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*? If so, please provide details.
- (b) Has the vendor received any order or direction, or given any undertaking, under the *Biosecurity Act 2015 (NSW)*? If so, please provide details.
- (c) Are there any registered or unregistered conservation agreements under the *Biodiversity Conservation Act 2016 (NSW)* affecting the property (such as Biodiversity Stewardship Agreements, Conservation Agreements and Wildlife Refuge Agreements)?
- (d) Are there any registered or unregistered conservation agreements not covered by the *Biodiversity Conservation Act 2016 (NSW)*?

Foreign resident capital gains withholding measure

37. (a) IS the transaction an excluded transaction within the meaning of S14-215 of Schedule 1 of the *Taxation Administration Act 1953 (Cth)* ("TA Act")?
- (b) If not attached to the contract, does the vendor hold or has the vendor applied for a clearance certificate within the meaning of s14-220 of Schedule 1 to the TA Act?

- (c) If not attached to the contract, does the vendor hold or has the vendor applied for a variation made under s14-235 of Schedule 1 to the TA Act.

Agreements or disagreements affecting the property

38. (a) Has the vendor or any predecessor in title entered into any agreements not otherwise referred to in these requisitions, with anyone else affecting the property? If so, please provide details and provide a copy of any relevant documentation.
- (b) Are there any legal proceedings threatened, pending or not concluded that involve the property in any way?

Completion

39. (a) If the vendor is entitled to have possession of the title deeds, any Certificate Authentication Code must be provided 7 days prior to completion.
- (b) Please list any documents to be handed over on completion in addition to the certificate of title, transfer and any discharge of mortgage.
- (c) If applicable, has the vendor submitted a Request for CoRD Holder Consent to the outgoing mortgagee?
- (d) Unless we are advised by you to the contrary prior to completion, it will be assumed that your replies to these requisitions remain unchanged as at the completion date.



FOLIO: 207/1073988

SEARCH DATE	TIME	EDITION NO	DATE
18/5/2018	6:08 PM	4	3/9/2015

LAND

LOT 207 IN DEPOSITED PLAN 1073988
AT HILLSBROUGH
LOCAL GOVERNMENT AREA LAKE MACQUARIE
PARISH OF KAHIBAH COUNTY OF NORTHUMBERLAND
TITLE DIAGRAM DP1073988

FIRST SCHEDULE

SCOTT ANTHONY DOWSE (TZ AJ785663)

SECOND SCHEDULE (7 NOTIFICATIONS)

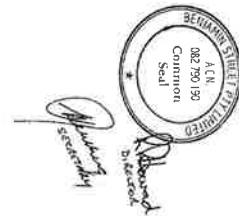
- 1 LAND EXCLUDES MINERALS AND IS SUBJECT TO RESERVATIONS AND CONDITIONS IN FAVOUR OF THE CROWN - SEE CROWN GRANT(S)
- 2 DP1008418 EASEMENT FOR DRAINAGE OF WATER 2 METRE(S) WIDE APPURTENANT TO THE LAND ABOVE DESCRIBED
- 3 DP1073988 EASEMENT FOR DRAINAGE OF WATER 2.0 METRE(S) WIDE AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM
- 4 DP1073988 EASEMENT FOR DRAINAGE OF WATER 2.0 METRE(S) WIDE APPURTENANT TO THE LAND ABOVE DESCRIBED
- 5 DP1073988 RESTRICTION(S) ON THE USE OF LAND REFERRED TO AND NUMBERED (3) IN THE S.88B INSTRUMENT
- 6 DP1073988 RESTRICTION(S) ON THE USE OF LAND REFERRED TO AND NUMBERED (6) IN THE S.88B INSTRUMENT
- 7 AJ785664 MORTGAGE TO NEWCASTLE PERMANENT BUILDING SOCIETY LIMITED

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

PLAN FORM 2
 SIGNATURE AND SEALS ONLY.



Department of Land Approval

I, (Professional Officer) hereby certify that the necessary approvals in respect to the description of the land shown herein have been given.

Signature: _____

Date: _____

Office: _____

Subdivision Certificate

I hereby certify that the provisions of a 100% of the Environmental Planning and Assessment Act 1979 have been satisfied in relation to the Subdivision.

Subdivision Certificate No: SC-124/2004

Date of endorsement: 21/10/2004

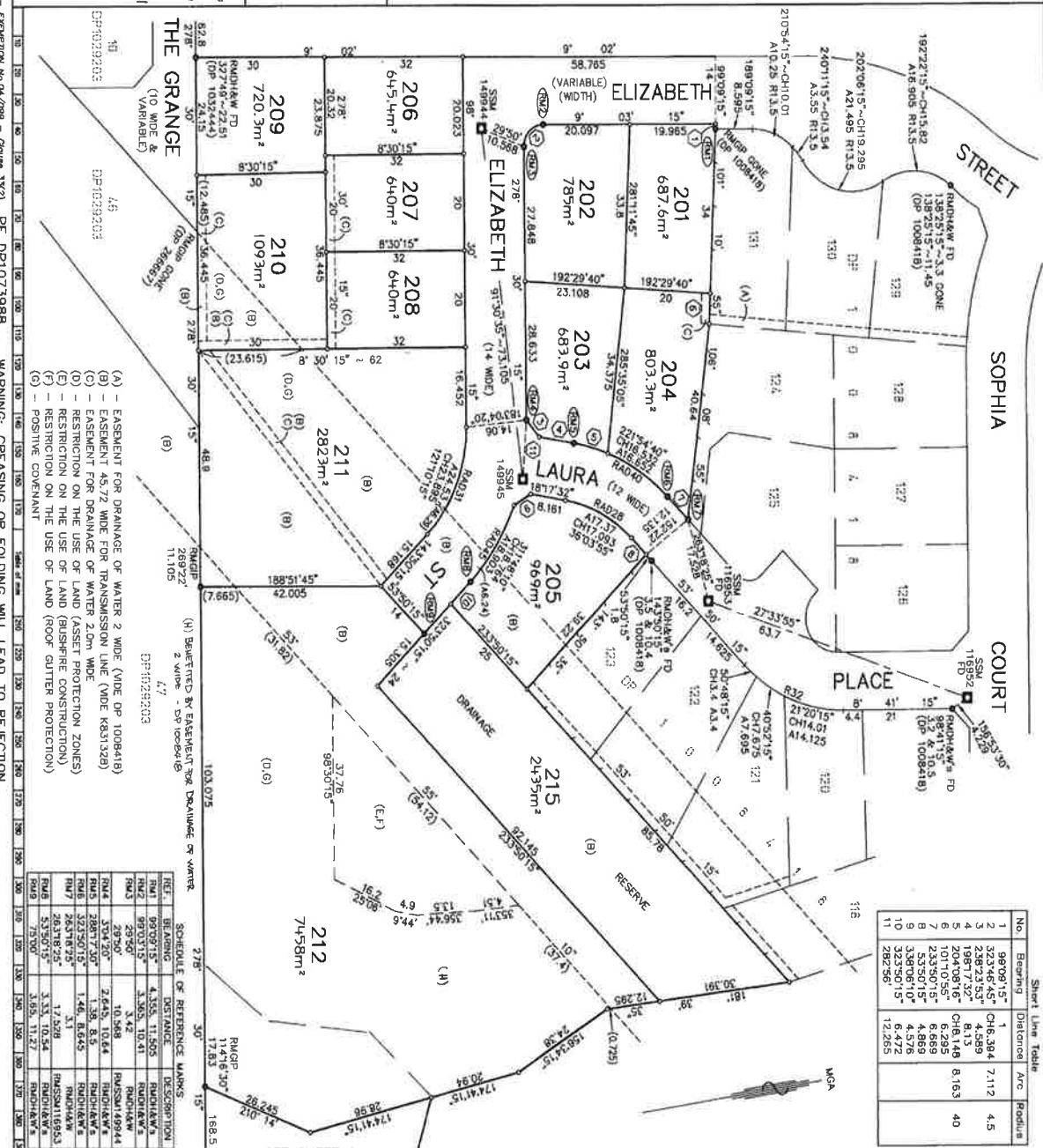
Authorisation No: _____

Scale: 1:1000

Ref No: DP/05/1945

Warning: This plan is to be lodged with the Registrar of Land and Property and is subject to the provisions of the Environmental Planning and Assessment Act 1979 and the Subdivision Act 1988.

Surveyor's Reference: 02/085 - (28/09/2004) - EXERCUTION No.04/099 - CLAUSE 3X(2) PE DP1073988



Sheet Line Table

No.	Bearing	Distance	Arc	Radius
1	99°09'15"	CH6.304	7.112	4.5
2	323°46'48"	4.589		
3	238°23'53"	8.13		
4	198°17'32"	8.13		
5	204°08'16"	CH6.148	8.163	40
6	204°08'16"	CH6.148		
7	233°50'15"	6.869		
8	53°50'15"	4.869		
9	338°08'10"	4.578		
10	323°50'15"	6.472		
11	282°56'	12.265		

Registered DP1073988

Title System: Torrens

Purpose: Subdivisional

Ref. Map: U 5450-92

Lost Plan: DP 052444

PLAN OF SUBDIVISION OF LOT 2 DP 1032444

L.G.A. LAKE MACQUARIE

Locality: HILLSBOROUGH

Parish: KAHIBAH

County: NORTHUMBERLAND

Lengths are in metres. Reduction Ratio: 1:500

This is sheet 1 of my plan in 2 sheets.

1. MONTAIGNE & POWERS PTY LTD
 2. NEIL JOHN OTTOLE

Panel for use only for amendments of planning to dedicate public roads, to create public reserves, drainage reserves, easements, restrictions on the use of land or positive covenants.

PURSUANT TO SECTION 88B OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 AS AMENDED IT IS INTENDED TO CREATE:

1. EASEMENT FOR DRAINAGE OF WATER 2 WIDE
2. RESTRICTION ON THE USE OF THE LAND (ASBEST PROTECTION ZONES)
3. RESTRICTION ON THE USE OF THE LAND (BUSHPINE CONSTRUCTION)
4. RESTRICTION ON THE USE OF THE LAND (ROOF GUTTER PROTECTION)
5. POSITIVE COVENANT
6. RESTRICTION ON THE USE OF THE LAND.

IT IS INTENDED TO CREATE:

LOT 214 AS PUBLIC RESERVE.

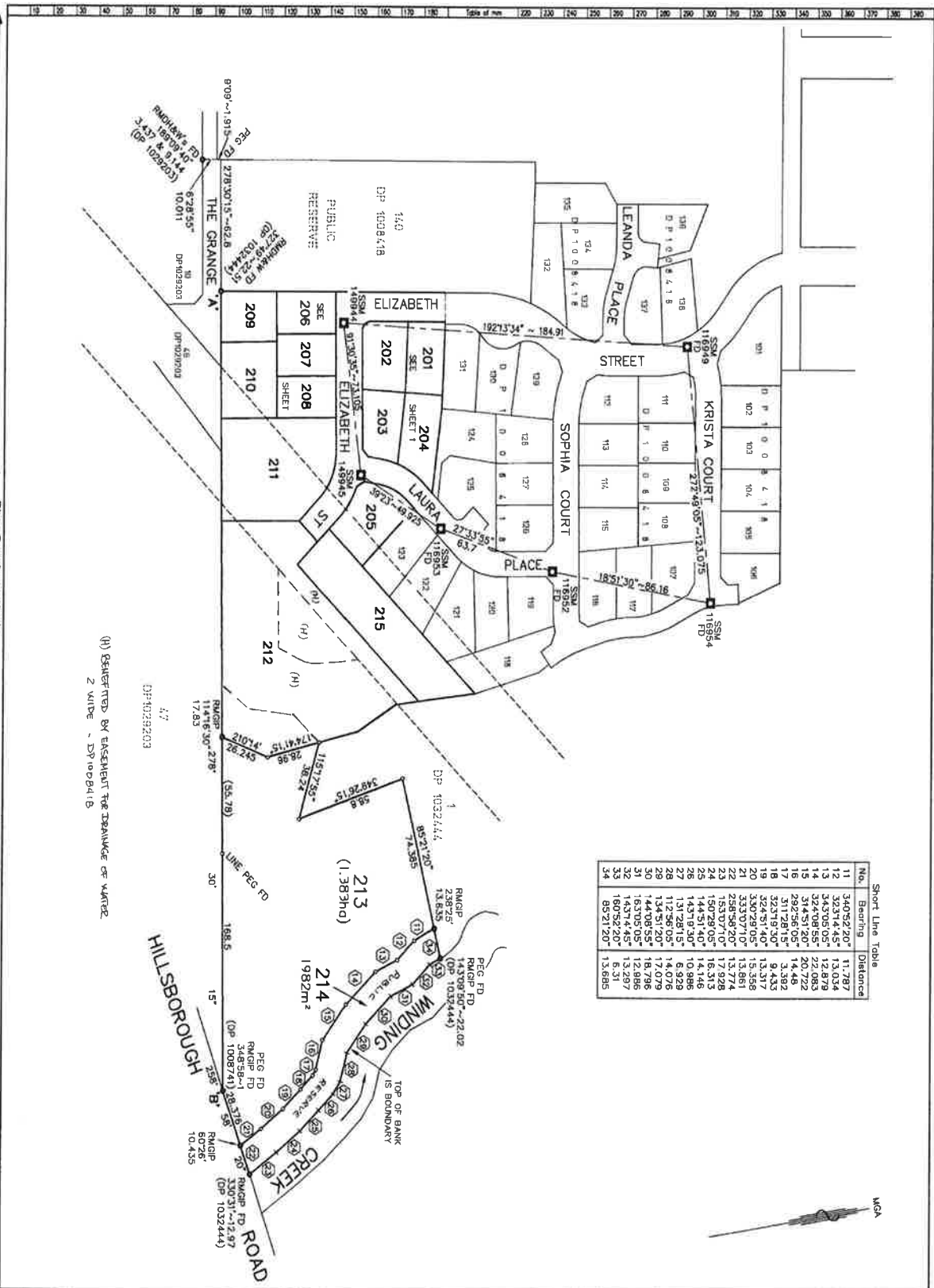
IT IS INTENDED TO CREATE LOT 215 AS DRAINAGE RESERVE.

IT IS INTENDED TO DEDICATE THE EXTENSION OF ELIZABETH STREET SUBJECT TO EASEMENT FOR TRANSMISSION UNDER THE ELECTRICITY ACT 1989 TO THE PUBLIC AS ROAD.

202650P/ADWC

Plan Drawing only to appear in this space

*OFFICE USE ONLY



Short Line Table

No.	Bearing	Distance
11	340°52'20"	11.787
12	323°14'45"	13.034
13	324°05'05"	22.878
14	324°05'05"	22.878
15	314°51'20"	20.722
16	292°56'05"	14.446
17	311°28'15"	3.382
18	323°19'30"	9.433
19	323°19'30"	9.433
20	330°29'05"	15.356
21	333°07'10"	13.861
22	258°58'20"	13.774
23	153°07'10"	17.928
24	150°29'10"	18.313
25	143°19'30"	10.886
26	143°19'30"	6.928
27	131°28'15"	14.076
28	112°56'05"	14.076
29	134°51'20"	17.079
30	144°08'55"	18.786
31	143°19'30"	13.259
32	143°19'30"	13.259
33	160°52'20"	6.31
34	85°21'20"	13.685

(H) EASEMENT BY ENCUMBRANCE FOR DRAINAGE OF WATER
 2 WIDE - DP1008416

Plan Drawing only to appear in this space



Registration No. DP1073988

Registered on 29/10/2004

This is sheet 2 of my plan in 2 sheets

[Signature]

Survey registered under the Survey Act 2002

This is a copy of the plan of the land as shown on the plan of 2004

Approved from General Manager/Deputy General Manager

For use where shown in handbooks in my plan on Plan

02065SDP-A.DWG

Reduction Ratio 1:1250

SUMATOR'S REFERENCE: 02/065 - (29/09/2004)

INSTRUMENT SETTING OUT TERMS OF EASEMENTS, RESTRICTIONS ON THE USE OF LAND & POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919

(Sheet 1 of 4 sheets)

DP1073988

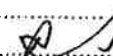
Plan of Subdivision of Lot 2 D.P. 1032444 covered By Subdivision Certificate No.



Full name and address of proprietor of Land:

Benjamin Street Pty Ltd
 PO Box 2088
 Gateshead DC NSW 2290

Number of item shown in the intention panel on the plan	Identity of easement, profit a prendre, restriction or positive covenant to be created and referred to in the plan.	Burdened lot(s) or parcel(s):	Benefited lot(s) Roads(s), bodies or Prescribed Authorities.
1	Easement for drainage of water 2.0 wide	211 210 208 207 204	210,208,207,206,209 208,207,206,209 207,206 206 201
2	Restriction on the use of land (Asset Protection Zones)	205,210,211 & 212	Lake Macquarie City Council
3	Restriction on the use of land (Bushfire Construction)	201 to 212 inclusive	Lake Macquarie City Council
4	Restriction on the use of land (Roof Gutter Protection)	205,209,210,211 & 212	Lake Macquarie City Council
5	Positive Covenant	205,210,211 & 212	Lake Macquarie City Council
6	Restriction on the use of land	201 to 212 inclusive	Every other Lot except 213

This is Sheet 1 of a 4 Sheet Instrument - SECT88B, Benjamin St. Cardiff NSW

Lake Macquarie City Council
 Section 88B Instrument for
SUBDIVISION CERTIFICATE
 Sc. 124, 2004
 Authorised Person: 
 Date: 21 / 10 / 2004

(Sheet 2 of 4 sheets)

Plan: Subdivision of Lot 2 D.P. 1032444
covered By Subdivision Certificate No.

DP1073988

Part 2 (Terms)

1. Terms of Restriction on the use of land secondly referred to in the abovementioned plan.

The registered proprietor of the lot burdened must not:

- (a) do or neglect to do or permit or suffer anything to be done which may result in the Asset Protection Zone being interfered with or compromised in terms of its capacity to reduce the bushfire hazard to the improvements on the lot burdened or
- (b) erect or permit to be erected any building or other erection of any kind or description on over or under the Asset Protection Zone or carry out any form of construction affecting the surface, under surface or subsoil of the Asset Protection Zone or place any item whatsoever upon the surface of the Asset Protection Zone which may obstruct or interfere with access to the Asset Protection Zone or interfere with the capacity of the Asset Protection Zone to reduce the bushfire hazard to the improvements on the Lot

2. Terms of Restriction on the use of land (Bushfire Construction) thirdly referred to in the abovementioned plan.

The southern elevation of the future dwellings within Lots 209,210 and 211 should be constructed with a minimum Level 2 construction. The proposed dwellings within Lots 201 – 208 and the remaining elevations of dwellings on Lots 209, 210 and 211 should be constructed with a minimum Level 1 construction. The future dwelling on Lot 212 should be constructed to comply with Level 2 construction to all elevations.

3. Terms of Restriction on the use of Land (Roof Gutter Protection) fourthly referred to in the abovementioned plan.

All roof gutters and valleys within Lots 209, 210, 211 and Lot 212 should be leaf proofed by the installation of an external gutter protection shroud or a gutter system that denies all leaves from entering the gutter and building up on that gutter. Any material used in such a system should have a flammability index of no greater than 5 (as measured against AS 1530.2)

4. Terms of Positive Covenant fifthly referred to in the abovementioned plan.

The registered proprietor of the Lot burdened must maintain bushfire hazard reduction work in the Asset Protection Zones to manage or reduce the bushfire hazard including the following:

- (a) the establishment or maintenance of firebreaks within the Asset Protection Zone
- (b) the controlled application of appropriate fire regimes or other means for the reduction of available fuels in the Asset Protection Zone to mitigate against the risk of a bushfire.

This is Sheet 2 of a 4 Sheet Instrument – SECT88B.BenjaminSt.Cardiff.Stage 2

(Sheet 3 of 4 sheets)

DP1073988

Subdivision of Lot 2 D.P. 1032444
covered By Subdivision Certificate No.

5. Terms of Restriction on the use of land sixthly referred to in the abovementioned plan.
- (a) No single level building or buildings, shall be erected on any lot burdened other than with external walls of brick, and/or brick veneer and/or granosited Harditex provided that the proportion of brick and/or brick veneer and/or granosited Harditex shall not be less than 70% of the total area of the external walls (excluding window and door areas). No double level building or buildings, shall be erected on any lot burdened other than with external walls of brick, and/or brick veneer and/or granosited Harditex which shall not be less than 50% of the total area of the external walls (excluding window and door areas)
 - (b) No main buildings shall be erected or permitted to remain erected on any lot burdened , having a total internal floor area of less than 140 square metres exclusive of car accommodation, external landings and patios.
 - (c) No existing dwelling house shall be partly or wholly moved to, placed upon, re-erected upon, reconstructed on or permitted to remain on any lot burdened.
 - (d) No noxious, noisesome or offensive occupation, trade, business, manufacture or home industry shall be conducted on any lot burdened.
 - (e) No fence shall be erected on any lot burdened to divide it from any adjoining land owned by Benjamin Street Pty Limited without the prior written consent of Benjamin Street Pty Limited its successors or assigns other than purchasers on sale, but such consent shall not be withheld if such fence is erected without expense to Benjamin Street Pty Limited its successors or assigns and is doubled lapped and capped timber fence or any colourbond metal fence of a natural earth tone. In favour of any person dealing with the transferees Benjamin Street Pty Limited its successors or assigns such consent shall be deemed to have been given in respect of every such fence for the time being erected. This covenant in regard to fencing shall be binding on the registered proprietor of any lot burdened, his executors, administrators and assigns only during the ownership of the said adjoining land by Benjamin Street Pty Limited, its successors or assigns other than purchasers on sale.
 - (f) No fence shall be erected or be permitted to remain erected on any Lot burdened closer to any street than the house building line required by the Lake Macquarie City Council, except for a corner lot where one fence can be erected on the boundary.
 - (g) No building shall be erected or permitted to remain erected on any Lot burdened having a roof of other than tiles, slate, shingles or colourbond non-flat metal material, of a natural earth tone, or having a slope less than 17 degrees.
 - (h) No building shall be erected, or be permitted to remain erected, or occupied by any person, corporation Government or semi-government instrumentality for the purpose of public housing.
 - (i) No building shall be erected or be permitted to remain erected on any Lot burdened with a solar hot water service unless the storage tank is located within the building or at the rear of the building at ground level.



(Sheet 4 of 4 sheets)

DP1073988

Subdivision of Lot 2 D.P. 1032444
covered By Subdivision Certificate No.

- (j) i) Not more than one residence shall be erected or be permitted to remain erected on any Lot other than a corner lot save and except for the incorporation in the main building of a granny flat in accordance with the relevant local Council provisions.
 - ii) No two residences shall be erected or be permitted to remain on any corner lot unless one residence faces one street and the other residence faces the other street.
 - iii) In this sub-clause "corner lot" shall mean Lots 202,203 and 205.
- (k) No advertising or hoarding sign including any "For Sale" sign shall be displayed or erected on any lot burdened for a period of one (1) year from the date of transfer by Benjamin Street Pty Limited without the prior written consent of Benjamin Street Pty Limited.
- (l) With the exception of vehicles used in connection with the creation of a dwelling on any lot burdened no motor truck, lorry or semi-trailer with a load capacity exceeding 2.5 tonnes shall be parked or permitted to remain on any lot burdened.
- (m) No mobile home or temporary or permanent moveable improvements including a tent, shack, camper or caravan shall be moved to, placed upon, re-erected upon, constructed on or permitted to remain on, or used for residential purposes on any lot burdened.
- (n) No mobile home or temporary or permanent moveable improvements including a tent, shack, camper or caravan shall be moved to, placed upon, re-erected upon, reconstructed on or permitted to remain on, or used for residential purposes on any lot burdened.


Name of person empowered to release, vary or modify restriction or positive covenant numbered 1-5 inclusive in the plan.

Lake Macquarie City Council


Name of person empowered to release, vary or modify restriction or positive covenant numbered 6 inclusive in the plan.

Benjamin Street Pty Limited, during the period ending 3 years from the date of registration of this plan, thereafter the proprietor of the lots in the plan having common boundaries with the proprietor of the lot seeking to release, vary or modify the restriction.

Executed by **BENJAMIN STREET
PTY LIMITED**
ACN 082 790 190 by:


.....
Director Secretary
Print Name: Paul Fehlberg




.....
Director
Print Name: Ross P. Howard

This is Sheet 4 of a 4 Sheet Instrument - SECT88B.BenjaminSt.Cardiff.Stage 2



PLAN FORM 2A

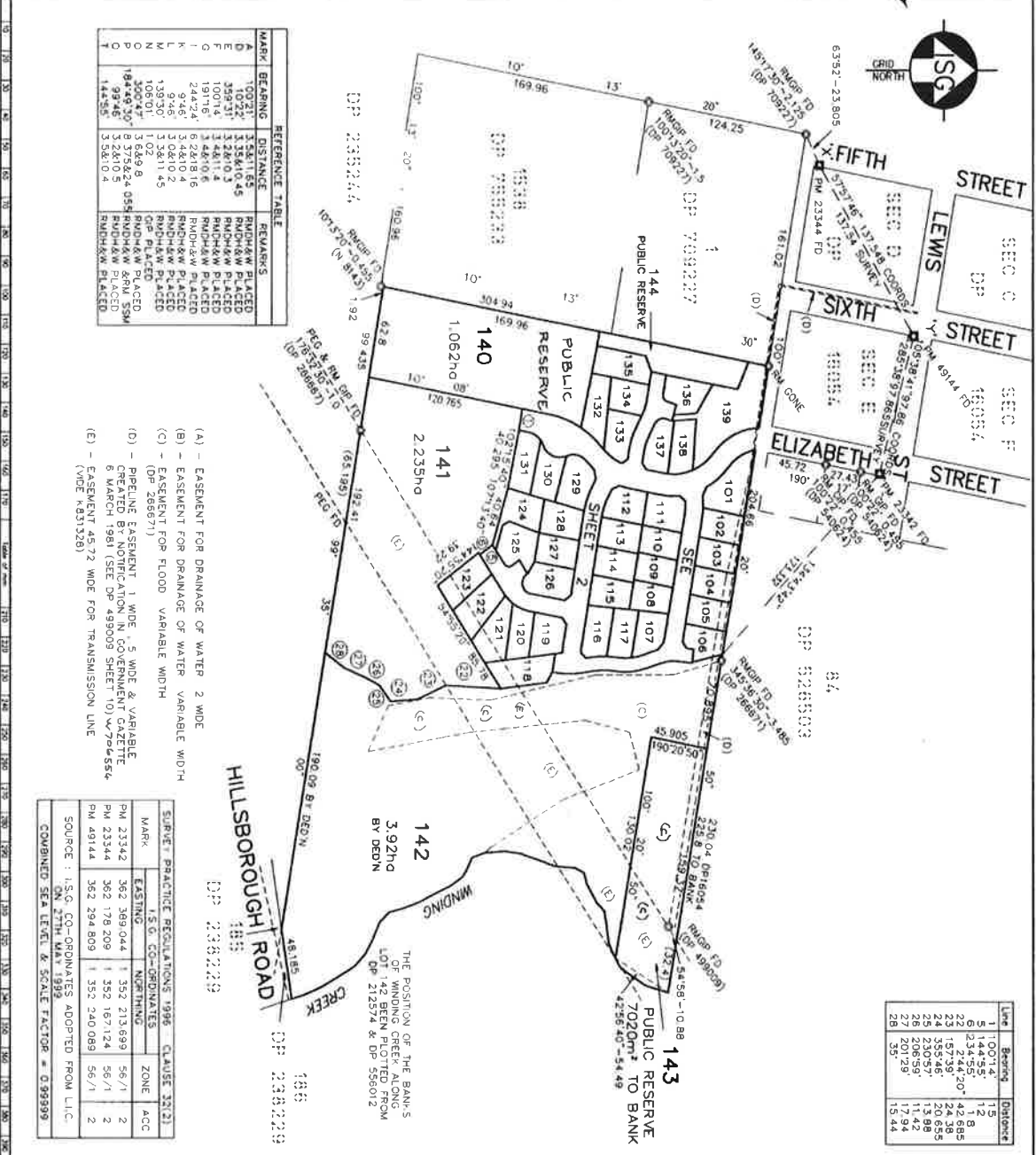
STAKEWORKS REFERENCE: 18299



Crown Lands Office Approval
 Approved Office
 Date of Approval: 08-03-00
 Subdivision Certificate
 Approved Office: [Signature]
 Date of Approval: 08-03-00

NOTE: This plan is prepared in accordance with the provisions of the Land Use Management Act 1996 and the provisions of the Environmental Planning and Assessment Act 1979 in relation to the subdivision of land.
 The subdivision of land is subject to the provisions of the Environmental Planning and Assessment Act 1979 in relation to the subdivision of land.
 The subdivision of land is subject to the provisions of the Environmental Planning and Assessment Act 1979 in relation to the subdivision of land.

STAKEWORKS REFERENCE: 18299



MARK	BEARING	DISTANCE	REMARKS
A	100°21'	1.53x11.65	RINDHAW PLACED
B	359°32'	1.53x10.45	RINDHAW PLACED
C	100°14'	1.44x11.4	RINDHAW PLACED
D	191°15'	1.44x10.6	RINDHAW PLACED
E	244°24'	6.22x18.16	RINDHAW PLACED
F	9°46'	3.04x10.9	RINDHAW PLACED
G	3°48'10"	3.04x10.9	RINDHAW PLACED
H	139°30'	3.04x11.45	RINDHAW PLACED
I	106°01'	1.02	RINDHAW PLACED
J	180°04'	3.62x8.8	RINDHAW PLACED
K	99°42'	3.24x10.4	RINDHAW PLACED
L	99°42'	3.24x10.4	RINDHAW PLACED
M	144°55'	3.5x10.4	RINDHAW PLACED
N			
O			
P			
Q			
R			
S			
T			

- (A) - EASEMENT FOR DRAINAGE OF WATER 2 WIDE
- (B) - EASEMENT FOR DRAINAGE OF WATER VARIABLE WIDTH
- (C) - EASEMENT FOR FLOOD VARIABLE WIDTH (DP 266671)
- (D) - PRELIMINARY EASEMENT 1 WIDE, 5 WIDE & VARIABLE CREATED BY NOTIFICATION IN GOVERNMENT GAZETTE 6 MARCH 1981 (SEE DP 489008 SHEET 10) W/704654
- (E) - EASEMENT 45.72 WIDE FOR TRANSMISSION LINE (VDE K831328)

MARK	EASTING	NORTHING	ZONE	ACC
PM 23342	362 369 044	1 352 213 699	56/1	2
PM 23344	362 178 209	1 352 167 124	56/1	2
PM 49144	362 284 809	1 352 240 089	56/1	2

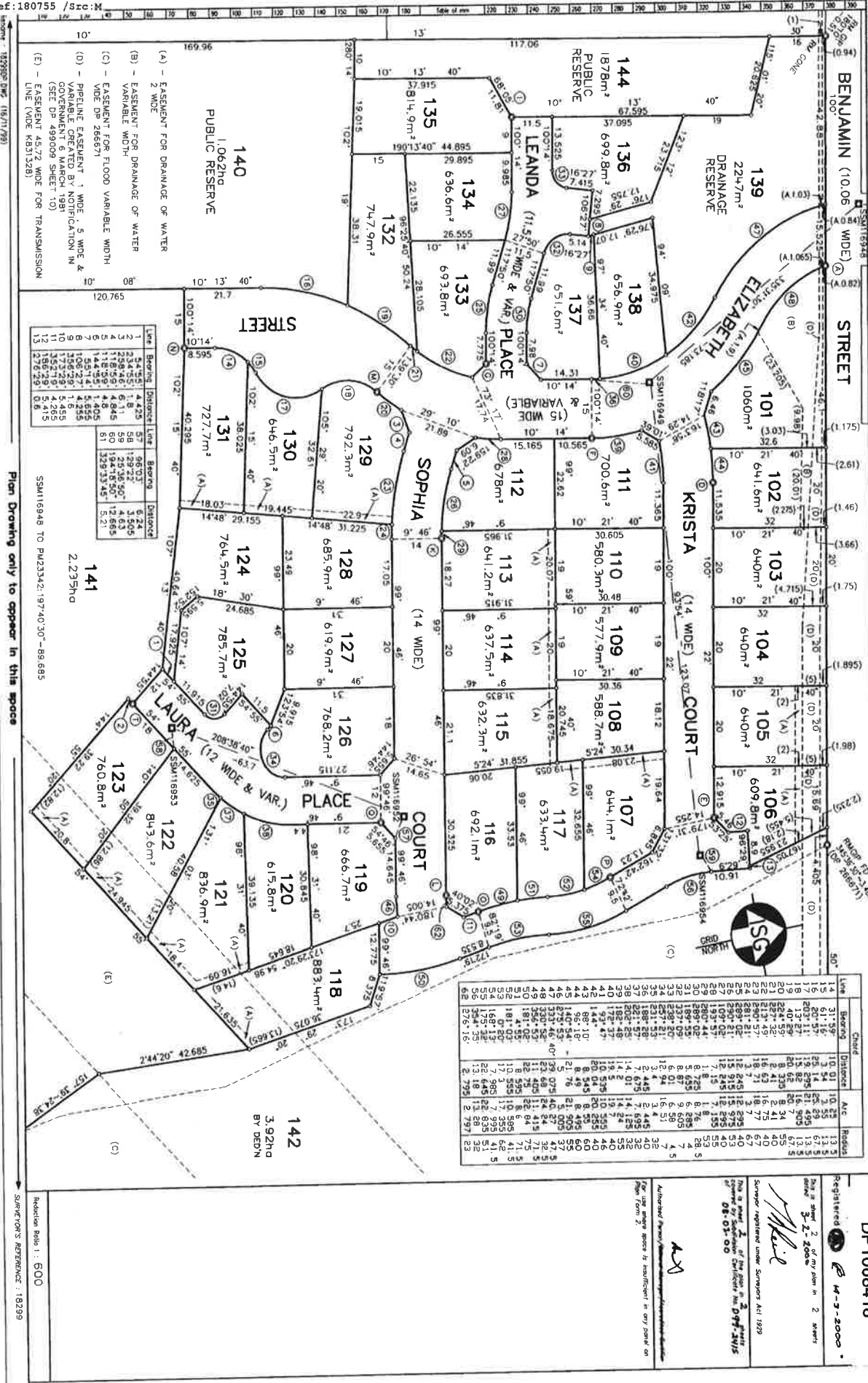
SOURCE: I.S.G. CO-ORDINATES ADOPTED FROM L.I.C. COMBINED SEA LEVEL & SCALE FACTOR = 0.99999

Registered: 14-3-2000
 CA: SEE CERTIFICATE
 Title System: TORRENS
 Purpose: SUBDIVISION
 Ref Map: U 54.50-92
 Last Plan: DP 709227
 PLAN OF SUBDIVISION OF LOT 2 DP 709227
 L.O.A.: LAKE MACQUARIE
 Shire/Agency: HILLSBOROUGH
 Parish: KAHIBAH
 County: NORTHLAND
 This is sheet 1 of my plan is 2 sheets
 Survey District: [Blank]
 Survey Plan: [Blank]
 Survey Reference: [Blank]
 MARK ANTHONY REID
 HANFORD SOLICITORS PTY LTD
 100/101/102/103/104/105/106/107/108/109/110/111/112/113/114/115/116/117/118/119/120/121/122/123/124/125/126/127/128/129/130/131/132/133/134/135/136/137/138/139/140/141/142/143/144/145/146/147/148/149/150/151/152/153/154/155/156/157/158/159/160/161/162/163/164/165/166/167/168/169/170/171/172/173/174/175/176/177/178/179/180/181/182/183/184/185/186/187/188/189/190/191/192/193/194/195/196/197/198/199/200
 This survey was conducted in accordance with the provisions of the Survey Act 1981 and the provisions of the Environmental Planning and Assessment Act 1979 in relation to the subdivision of land.
 The survey was conducted in accordance with the provisions of the Survey Act 1981 and the provisions of the Environmental Planning and Assessment Act 1979 in relation to the subdivision of land.
 The survey was conducted in accordance with the provisions of the Survey Act 1981 and the provisions of the Environmental Planning and Assessment Act 1979 in relation to the subdivision of land.

PLAN FORM 3

To be used in conjunction with Plan Form 2

WARNING: CREASING OR FOLDING WILL LEAD TO MISALIGNMENT



DP1008418

Registered M-5-2000

Registered M-5-2000
 M-5-2000
 M-5-2000

Registered M-5-2000
 M-5-2000
 M-5-2000

Registered M-5-2000
 M-5-2000
 M-5-2000

Reduction Ratio: 1:600
 SURVEYOR'S REFERENCE: 18299

Plan Drawing only to appear in this space

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

Lengths are in metres

(Sheet 1 of 6 Sheets)

PART 1

DP1008418

Subdivision of Lot 2 in deposited plan 709227
(being the land in folio identifier 2/709227
covered by Subdivision Certificate No. D99-2415

Full name and address of
proprietor of the land:

Benjamin Street Pty Limited
ACN 082 790 190
364 Pacific Highway
BELMONT NSW

1. Identity of easement
restriction or covenant
firstly referred to in
abovementioned plan:

Easement for drainage of water 2 wide

SCHEDULE OF LOTS, ETC AFFECTED

Lots Burdened

Lots, Name of Road or Authority Benefited

105	104
106	104, 105
107	112-115 incl.
113	112
114	112, 113
115	112, 113, 114
117	112-115 incl.
118	120-123 incl., 141
121	120, 122, 123, 141
122	123, 141
123	141
129	130, 131, 141
130	131, 141
131	141

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

Lengths are in metres

(Sheet 2 of 6 Sheets)

2. Identity of easement
restriction or covenant
secondly referred to in
abovementioned plan: Easement for drainage of water variable width

SCHEDULE OF LOTS, ETC AFFECTED

<u>Lots Burdened</u>	<u>Lots, Name of Road or Authority Benefited</u>
101 102	102, 103, Council of the City of Lake Macquarie 103

3. Identity of easement
restriction or covenant
thirdly referred to in
abovementioned plan: Restriction on the use of the land

SCHEDULE OF LOTS, ETC AFFECTED

<u>Lots Burdened</u>	<u>Lots, Name of Road or Authority Benefited</u>
101-138 incl.	Each other lot except lots 139-144 incl.

4. Identity of easement
restriction or covenant
fourthly referred to in
abovementioned plan: Restriction on the use of the land

SCHEDULE OF LOTS, ETC AFFECTED

<u>Lots Burdened</u>	<u>Lots, Name of Road or Authority Benefited</u>
101-106 incl.	Easement for pipeline W706554

DP1008418

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

Lengths are in metres

(Sheet 3 of 6 Sheets)

PART 2

3. Terms of Restriction on the use of the Land Thirdly referred to in the abovementioned plan:

- (a) No single level building or buildings, shall be erected on any lot burdened other than with external walls of brick, and/or brick veneer and/or granosited Harditex provided that the proportion of brick and/or brick veneer and/or granosited Harditex shall not be less than 70% of the total area of the external walls (excluding window and door areas). No double level building or buildings, shall be erected on any lot burdened other than with external walls of brick, and/or brick veneer and/or granosited Harditex which shall not be less than 50% of the total area of the external walls (excluding window and door areas).
- (b) No main buildings shall be erected or permitted to remain erected on any lot burdened, having a total internal floor area of less than 125 square metres exclusive of car accommodation, external landings and patios.
- (c) No existing dwelling house shall be partly or wholly moved to, placed upon, re-erected upon, reconstructed on or permitted to remain on any lot burdened.
- (d) No noxious, noisesome or offensive occupation, trade, business, manufacture or home industry shall be conducted or carried out on any lot burdened.
- (e) No fence shall be erected on any lot burdened to divide it from any adjoining land owned by Benjamin Street Pty Limited without the prior written consent of Benjamin Street Pty Limited its successors or assigns other than purchasers on sale, but such consent shall not be withheld if such fence is erected without expense to Benjamin Street Pty Limited its successors or assigns and is doubled lapped and capped timber fence or any colourbond metal fence of a natural earth tone. In favour of any person dealing with the transferees Benjamin Street Pty Limited its successors or assigns such consent shall be deemed to have been given in respect of every such fence for the time being erected. This covenant in regard to fencing shall be binding on the registered proprietor of any lot burdened, his executors, administrators and assigns only during the ownership of the said adjoining land by Benjamin Street Pty Limited, its successors or assigns other than purchasers on sale.
- (f) No fence shall be erected or be permitted to remain erected on any Lot burdened closer to any street than the house building line required by the Lake Macquarie City Council.
- (g) No fence shall be erected on any lot burdened without the prior consent in writing of Benjamin Street Pty Limited first being had and obtained and such consent shall be deemed to have been given for any double lapped and capped timber fence or any colourbond metal fence of a natural earth tone.

DP1008418

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

Lengths are in metres

(Sheet 4 of 6 Sheets)

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- (h) No building shall be erected or permitted to remain erected on any Lot burdened having a roof of other than tiles, slate, shingles or colourbond non-flat metal material, of a natural earth tone, or having a slope less than 17 degrees.
- (i) No building shall be erected, or be permitted to remain erected, or occupied by any person, corporation Government or semi-government instrumentality for the purpose of public housing.
- (j) No building shall be erected or be permitted to remain erected on any Lot burdened with a solar hot water service unless the storage tank is located within the building or at the rear of the building at ground level.
- (k) Not more than one residence shall be erected or be permitted to remain erected on any Lot burdened save and except for the incorporation in the main building of a granny flat in accordance with the relevant local Council provisions.
- (l) No advertising or hoarding sign including any "For Sale" sign shall be displayed or erected on any lot burdened for a period of one (1) year from the date of transfer by Benjamin Street Pty Limited without the prior written consent of Benjamin Street Pty Limited.
- (m) With the exception of vehicles used in connection with the erection of a dwelling on any lot burdened no motor truck, lorry or semi-trailer with a load capacity exceeding 2.5 tonnes shall be parked or permitted to remain on any lot burdened.
- (n) No mobile home or temporary or permanent moveable improvements including a tent, shack, camper or caravan shall be moved to, placed upon, re-erected upon, reconstructed on or permitted to remain on, or used for residential purposes on any lot burdened.

4. Terms of Restriction on the use of the land fourthly referred to in the abovementioned plan:

The Proprietors of the lots burdened will not;

- (a) excavate, drill or dig in the site of the easement;
- (b) erect or place or permit the erection or placing of any building, structure (save and except for a boundary fence with gates allowing for pedestrian access by the proprietor of the easement benefited or persons authorised by it and containing panels removable for the purposes of repairing or replacing any pipeline in the site of the easement), paving, plant, apparatus or equipment of whatsoever nature whether permanent or temporary upon or within 2 metres of the site of the easement;

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

Lengths are in metres

(Sheet 5 of 6 Sheets)

- (c) alter or disturb existing levels, contours or gradients of the site of the easement or do or permit to be done any act, matter or thing in or about the lot burdened whereby the depth of soil or other material covering any pipeline in the site of the easement might be reduced below 1 metre;
- (d) plant trees or cultivate trees of any kind upon or within 2 metres of the site of the easement;
- (e) use any part of the site of the easement for vehicular access purposes, or for the transport carriage or support of any heavy object, vehicle or thing; and
- (f) generally do or permit to be done any act or thing in, near or on the lot burdened which may interfere with, injure, damage, or destroy any pipelines, apparatus or works or obstruct, prevent or interfere with construction, maintenance or operation of the pipeline in the site of the easement.

'Site of the easement' means the area shown as pipeline easement 1 wide, 5 wide and variable created by notification in Government Gazette 6th March 1981 (see D.P. 499009 sheet 10).

Name of person whose consent is required to release, vary or modify the easements firstly and secondly and the restriction fourthly referred to in the abovementioned plan;

The Council of the City of Lake Macquarie

Name of person empowered to release, vary or modify the restriction thirdly referred to in the abovementioned plan;

The abovementioned proprietor, until the expiry of two (2) years from the date on which the abovementioned plan is registered as a deposited plan and thereafter, by the person or persons in whom the legal estate in fee simple is for the time being vested in the land in the said deposited plan (other than streets or public areas) having a common boundary with the land burdened PROVIDED that any such release, variation or modification shall, if approved, be made and done in all respects at the cost and expense of the person requesting such release, variation or modification.

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

Lengths are in metres

(Sheet 6 of 6 Sheets)

DATED THIS 9th DAY OF MARCH 2000

THE COMMON SEAL OF
BENJAMIN STREET PTY LIMITED
was hereunto affixed by the
authority of the Board in the
presence of:




Director


~~Secretary~~ Director

DP1008418

REGISTERED   14-3-2000

22 May 2018

INFOTRACK PTY LTD
DX 578
SYDNEY

Our Ref: 118431
Your Ref:
180755:70134
ABN 81 065 027 868

**PLANNING CERTIFICATE UNDER THE
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979**

Fee Paid: 53.00
Receipt No: 9817312
Receipt Date: 18 May 2018

DESCRIPTION OF LAND

Address: 49 Elizabeth Street, CARDIFF SOUTH NSW 2285
Lot Details: Lot 207 DP 1073988
Parish: Kahibah
County: Northumberland

For: MORVEN CAMERON
GENERAL MANAGER



Our Ref: Your Ref:

ADVICE PROVIDED IN ACCORDANCE WITH SUBSECTION (2)

1 Names of Relevant Planning Instruments and Development Control Plans

- (1) The name of each environmental planning instrument that applies to the carrying out of development on the land.

Lake Macquarie Local Environmental Plan 2014

State Environmental Planning Policy - (Housing for Seniors or People with a Disability) 2004 (This SEPP applies to the land to the extent provided by Clause 4 of the SEPP)

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 (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

State Environmental Planning Policy No. 19 – Bushland in Urban Areas

State Environmental Planning Policy No. 21 – Caravan Parks

State Environmental Planning Policy No. 33 – Hazardous and Offensive Development

State Environmental Planning Policy No. 44 – Koala Habitat Protection

State Environmental Planning Policy No. 50 – Canal Estate Development

State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy No. 62 - Sustainable Aquaculture

State Environmental Planning Policy No. 64 – Advertising and Signage

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

Lake Macquarie Local Environmental Plan 2014 (Amendment No. F2014/01451)

Draft State Environmental Planning Policy (Infrastructure) Amendment (Review) 2016

- (3) The name of each development control plan that applies to the carrying out of development on the land.

Lake Macquarie Development Control Plan 2014

- (4) In this clause, proposed environmental planning instrument includes a planning proposal for a Local Environmental Plan or a Draft environmental planning instrument.

2 Zoning and land use under relevant Local Environmental Plans

- (1) The following answers (a) to (h) relate to the instrument (see 1(1) above).

- (a) (i) The identity of the zone applying to the land.

R2 Low Density Residential

under Lake Macquarie Local Environmental Plan 2014

- (ii) The purposes for which the Instrument provides that development may be carried out within the zone without the need for development consent.

Exempt development as provided in Schedule 2; Home-based child care; Home occupations

- (iii) The purposes for which the Instrument provides that development may not be carried out within the zone except with development consent.

Bed and breakfast accommodation; Boarding houses; Boat sheds; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Emergency services facilities; Environmental facilities; Environmental protection works; Exhibition homes; Exhibition villages; Flood mitigation works; Group homes; Health consulting rooms; Home businesses; Home industries; Hostels; Kiosks; Neighbourhood shops; Places of public worship; Recreation areas; Respite day care centres; Roads; Secondary dwellings; Semi-detached dwellings; Seniors housing; Sewage reticulation systems; Sewage treatment plants; Shop top housing; Water recreation structures; Water recycling facilities; Water supply systems

- (iv) The purposes for which the Instrument provides that development is prohibited within the zone.

Any other development not specified in item (ii) or (iii)

NOTE: The advice in sections (a) above relates only to restrictions that apply by virtue of the zones indicated. The Lake Macquarie LEP 2014 includes additional provisions that require development consent for particular types of development, or in particular circumstances, irrespective of zoning.

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

There are no development standards applying to the land that fix minimum land dimensions for the erection of a dwelling house.

- (c) Whether the land includes or comprises critical habitat.

No

- (d) Whether the land is in a conservation area (however described).

No

- (e) Whether an item of environmental heritage (however described) is situated on the land.

Local Environmental Plan 2014 Schedule 5 Part 1 Heritage Items

There are no items listed for this land under Local Environmental Plan 2014 Schedule 5 Part 1 Heritage items.

Local Environmental Plan 2014 Schedule 5 Part 2 Heritage conservation areas

There are no items listed for this land under Local Environmental Plan 2014 Schedule 5 Part 2 Heritage conservation areas.

Local Environmental Plan 2014 Schedule 5 Part 3 Archaeological sites

There are no items listed for this land under Local Environmental Plan 2014 Schedule 5 Part 3 Archaeological sites.

Local Environmental Plan 2014 Schedule 5 Part 4 Landscape Items

There are no items listed for this land under Local Environmental Plan 2014 Schedule 5 Part 4 Landscape items.

Local Environmental Plan 2004 Schedule 4 Part 1 Heritage Items

There are no heritage items listed for this land within Local Environmental Plan 2004 Schedule 4 Part 1.

Local Environmental Plan 2004 Part 11 Clause 150 Environmental Heritage

There are no heritage items listed for this land within Local Environmental Plan 2004 Part 11 Clause 150 – South Wallarah Peninsula.

NOTE: An item of environmental heritage, namely Aboriginal heritage, listed within the Aboriginal Heritage Information Management System (AHIMS), may affect the land. The applicant should contact the Office of Environment and Heritage (OEH) for more information.

(2) The following answers relate to the Draft Instrument (see 1(2) above).

(a) Nil

NOTE: The advice in section (a) above relates only to restrictions that apply by virtue of the zones indicated. The Draft instrument may include additional provisions that require development consent for particular types of development, or in particular circumstances, irrespective of zoning.

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

There are no development standards applying to the land that fix minimum land dimensions for the erection of a dwelling house.

(c) Whether the land includes or comprises critical habitat.

No

(d) Whether the land is in a conservation area (however described).

No

(e) Whether an item of environmental heritage (however described) is situated on the land.

No

3 Complying development

The extent to which the land is land on which complying development may be carried out under each of the codes for complying development because of the provisions of clauses 1.17A (1) (c) to (e), (2), (3) and (4), and 1.18 (1) (c3) and 1.19 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

Housing Code

Note: If a lot is not specifically listed in this section then, complying development under the Housing Code **MAY** be carried out on any part of that lot.

Housing Alterations Code

Note: If a lot is not specifically listed in this section then, complying development under the Housing Alterations Code **MAY** be carried out on any part of that lot.

Commercial and Industrial Alterations Code

Note: If a lot is not specifically listed in this section then, complying development under the Commercial and Industrial Alterations Code **MAY** be carried out on any part of that lot.

Commercial and Industrial (New Buildings and Additions) Code

Note: If a lot is not specifically listed in this section then, complying development under the Commercial and Industrial (New Buildings and Additions) Code **MAY** be carried out on any part of that lot.

Subdivisions Code

Note: If a lot is not specifically listed in this section then, complying development under the Subdivisions Code **MAY** be carried out on any part of that lot.

Rural Housing Code

Note: If a lot is not specifically listed in this section then, complying development under the Rural Housing Code **MAY** be carried out on any part of that lot.

General Development Code

Note: If a lot is not specifically listed in this section then, complying development under the General Development Code **MAY** be carried out on any part of that lot.

Demolition Code

Note: If a lot is not specifically listed in this section then, complying development under the Demolition Code **MAY** be carried out on any part of that lot.

Fire Safety Code

Note: If a lot is not specifically listed in this section then, complying development under the Fire Safety Code **MAY** be carried out on any part of that lot.

4 Coastal Protection

(Repealed 3 April 2018)

4A Information relating to beaches and coasts

(Repealed 3 April 2018)

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

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

Nil

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

5 Mine subsidence

Whether or not the land is proclaimed to be a mine subsidence district within the meaning of section 20 of the Coal Mine Subsidence Compensation Act 2017.

The land is within a proclaimed Mine Subsidence District under the *Coal Mine Subsidence Compensation Act 2017*. The approval of the Mines Subsidence Board is required for all subdivision and building, except for certain minor structures. Surface development controls are in place to prevent damage from old, current, or future mining. It is strongly recommended prospective purchasers consult with the Mine Subsidence Board regarding mine subsidence and any surface development guidelines. The Board can assist with information, mine subsidence, and advise whether existing structures comply with the requirements of the *Act*.

6 Road widening and road realignment

Whether the land is affected by any road widening or realignment under:

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

No

- (b) any environmental planning instrument.

No

- (c) any resolution of the Council.

No, other road widening proposals may affect this land and if so, will be noted on the SECTION 149(5) certificate.

7 Council and other public authority policies on hazard risk restrictions

Whether or not the land is affected by a policy:

- (i) adopted by the Council, or
(ii) 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 planning certificates issued by the Council,

that restricts the development of the land because of the likelihood of:

- (a) land slip or subsidence

Yes

Relevant sections of Lake Macquarie Development Control Plan 2014 and Lake Macquarie Development Control Plan No.1 apply when development is proposed on land covered by Council's geotechnical areas map. The map is available for viewing at the Council. If you require any further clarification on the policy and how it may affect any possible development contact the Council on 02 4921 0333.

- (b) bushfire

Yes

- (c) tidal inundation

No

- (d) acid sulfate soils

Yes

Relevant sections of Lake Macquarie Development Control Plan 2014 and Lake Macquarie Development Control Plan No.1 apply when development is proposed on land covered by the Acid Sulfate Soils Map. If you require any further clarification on the policy and how it may affect any possible development contact the Council on 02 4921 0333.

- (e) contaminated or potentially contaminated land

Council has adopted a policy that may restrict the development of Contaminated or Potentially Contaminated land. This policy is implemented when zoning, development, or land use changes are proposed. Council does not hold sufficient information about previous use of the land to determine whether the land is contaminated. Consideration of Council's adopted Policy located in the applicable DCP noted in Clause 1(3) above, and the application of provisions under relevant State legislation is recommended.

- (f) any other risk (other than flooding).

No

NOTE: The absence of a council policy restricting development of the land by reason of a particular natural hazard does not mean that the risk from that hazard is non-existent.

7A Flood related development controls information

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

No

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

No

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

8 Land reserved for acquisition

Whether or not any environmental planning instrument or proposed environmental planning instrument referred to in Clause 1 makes provision in relation to the acquisition of the land by a public authority, as referred to in section 3.15 of the Act.

No

9 Contributions Plans

The name of each contributions plan applying to the land.

Lake Macquarie City Council Development Contributions Plan - Glendale
Contributions Catchment - 2015

9A Biodiversity Certified Land

This land is not biodiversity certified land under Part 8 of the Biodiversity Conservation Act 2016.

10 Biodiversity stewardship sites

The land is not a biodiversity stewardship site under a biodiversity stewardship agreement under Part 5 of the Biodiversity Conservation Act 2016.

10A Native vegetation clearing set asides

The land does not contain a set aside area under section 60ZC of the Local Land Services Act 2013.

11 Bush Fire Prone Land

Note: If a lot is not specifically listed in this section then, **NONE** of that lot is bush fire prone land.

Lot 207 DP 1073988 - ALL of the land is bush fire prone land.

12 Property Vegetation Plans

The land IS NOT subject to a property vegetation plan approved under Part 4 of the Native Vegetation Act 2003 (and that continues in force).

13 Orders under Trees (Disputes Between Neighbours) Act 2006

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

The land IS NOT subject to 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

If there is 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, a statement to that effect identifying the provision that does not have effect.

Nil

15 Site compatibility certificates and conditions for seniors housing

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

Council is not aware of any site capability certificate for any proposed development on the land.

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

Nil

16 Site compatibility certificates for infrastructure, schools or TAFE establishments

Whether there is a valid site compatibility certificate (infrastructure, schools or TAFE establishments), of which the council is aware, in respect of proposed development on the land.

Council is not aware of any site capability certificate for any proposed development on the land.

17 Site compatibility certificates and conditions for affordable rental housing

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

Council is not aware of any site capability certificate for any proposed development on the land.

(2) Any 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.

Nil

18 Paper subdivision information

- (1) The name of any development plan adopted by a relevant authority that applies to the land or that is proposed to be subject to a consent ballot.

Nil

- (2) The date of any subdivision order that applies to the land.

Not Applicable

Note Words and expressions used in this clause have the same meaning as they have in Part 16C of Environmental Planning and Assessment Regulation 2000.

19 Site verification certificates

Whether there is a current site verification certificate, of which the council is aware, in respect of the land.

No

- (a) The matter certified by the certificate

Not Applicable

- (b) The date on which the certificate ceases to be current

Not Applicable

- (c) A copy of the certificate (if any) may be obtained from the head office of the Department of Planning and Infrastructure.

Note A site verification certificate sets out the Secretary's opinion as to whether the land concerned is or is not biophysical strategic agricultural land or critical industry cluster land—see Division 3 of Part 4AA of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.

20 Loose-fill asbestos insulation

If the land includes any residential premises (within the meaning of Division 1A of Part 8 of the *Home Building Act 1989*) that are listed on the register that is required to be maintained under that Division

No. Council **has not** been notified that a residential premises erected on this land has been identified in the NSW Fair Trading Loose-Fill Asbestos Insulation Register as containing loose-fill asbestos ceiling insulation.

21 Affected building notices and building product rectification orders

- (1) Whether there is any affected building notice of which the council is aware that is in force in respect of the land.

No, Council **has not** been notified that an affected building notice is in force in respect of this land.

- (2) (a) Whether there is any 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

A building rectification order **is not** in force in respect of this land.

- (b) Whether any 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.

A notice of intention to make a building product rectification order **has not** been given in respect of this land.

- (3) 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

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:

Matters arising under the Contaminated Land Management Act 1997 (s59 (2))

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

No

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

No

- (c) The land to which the certificate relates is the subject of an approved voluntary management proposal within the meaning of that Act - if it is the subject of such an approved proposal at the date when the certificate is issued,
No
- (d) The land to which the certificate relates is subject to an ongoing maintenance order within the meaning of that Act - if it is subject to such an order at the date when the certificate is issued,
No
- (e) The land to which the certificate relates is the subject of a site audit statement within the meaning of that Act - if a copy of such a statement has been provided at any time to the local authority issuing the certificate.
No



HUNTER WATER CORPORATION

A.B.N. 46 228 513 446

SERVICE LOCATION PLAN

Enquiries: 1300 657 657

APPLICANT'S DETAILS



InfoTrack

N/A

N/A

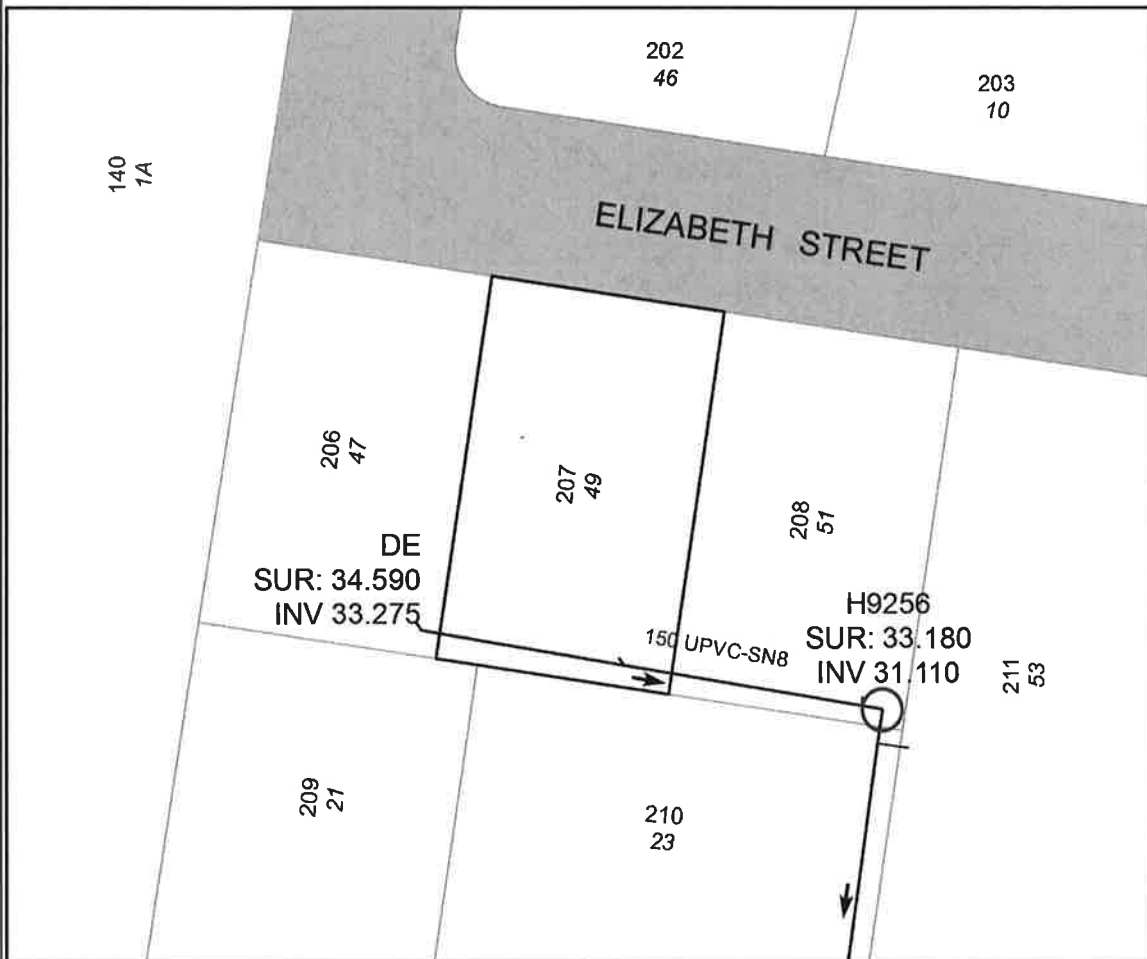
APPLICATION NO.: 1966218031

APPLICANT REF: M 180755

RATEABLE PREMISE NO.: 2419020142

PROPERTY ADDRESS: 49 ELIZABETH ST CARDIFF SOUTH 2285

LOT/SECTION/DP:SP: 207/ /DP 1073988



SEWER POSITION APPROXIMATE ONLY.
SUBJECT PROPERTY BOLD.
ALL MEASUREMENTS ARE METRIC.

IF A SEWERMAIN IS LAID WITHIN THE BOUNDARIES OF THE LOT, SPECIAL REQUIREMENTS FOR THE PROTECTION OF THE SEWERMAIN APPLY IF DEVELOPMENT IS UNDERTAKEN. IN THESE CASES, IT IS RECOMMENDED THAT YOU SEEK ADVICE ON THE SPECIAL REQUIREMENTS PRIOR TO PURCHASE. PHONE 1300 657 657, FOR MORE INFORMATION.

IMPORTANT:

IF THIS PLAN INDICATES A SEWER CONNECTION IS AVAILABLE OR PROPOSED FOR THE SUBJECT PROPERTY, IT IS THE INTENDING OWNERS RESPONSIBILITY TO DETERMINE WHETHER IT IS PRACTICABLE TO DISCHARGE WASTEWATER FROM ALL PARTS OF THE PROPERTY TO THAT CONNECTION.

ANY INFORMATION ON THIS PLAN MAY NOT BE UP TO DATE AND THE CORPORATION ACCEPTS NO RESPONSIBILITY FOR ITS ACCURACY.

Date: 18/05/2018

Scale at A4: 1:500

CADASTRAL DATA © LPI OF NSW
CONTOUR DATA © AAMHatch
© Department of Planning

SEWER/WATER/RECYCLED WATER
UTILITY DATA
© HUNTER WATER CORPORATION

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:**

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

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 th 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"> • issued by a <i>bank</i> and drawn on itself; or • if authorised in writing by the vendor or the vendor's <i>solicitor</i>, some other <i>cheque</i>;
<i>solicitor</i>	in relation to a <i>party</i> , the <i>party's</i> solicitor or licensed conveyancer named in this contract or in a notice <i>served 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 *servicing* 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 *serving* a notice before completion; and

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

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

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

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

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

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

20 Miscellaneous

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

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

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

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

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

20.6 A document under or relating to this contract is –

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

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

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

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

20.6.5 served if it is sent by 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 *serving* a transfer of itself implies acceptance of the *property* or the title.

20.14 The details and information provided in this contract (for example, on pages 1 - 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'</i> <i>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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