

# 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	<b>AJJA NEILANDS</b> (as Executor of the Estate of the late Erna Vera Neilands) 604 Macquarie Drive, ELEEBANA NSW 2282		
vendor's solicitor	Turnbull Hill Lawyers 29 Smith Street CHARLESTOWN NSW 2290 DX 12607 Charlestown		Tel: 4904 8000 Fax: 4943 3657 Ref: Rani Gandha Email: rgandha@turnbullhill.com.au
date for completion	42 <sup>nd</sup> day after the contract date (clause 15)		
land (Address, plan details and title reference)	<b><u>23 Ellerslie Road, Adamstown Heights NSW 2289</u></b> Lot 14 in Deposited Plan 19549 Folio Identifier 14/19549		
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 type="checkbox"/> blinds	<input type="checkbox"/> dishwasher	<input type="checkbox"/> light fittings	<input type="checkbox"/> stove
	<input type="checkbox"/> built-in wardrobes	<input type="checkbox"/> fixed floor coverings	<input type="checkbox"/> range hood	<input type="checkbox"/> pool equipment
	<input type="checkbox"/> clothes line	<input type="checkbox"/> insect screens	<input type="checkbox"/> solar panels	<input type="checkbox"/> TV antenna
	<input type="checkbox"/> curtains	<input type="checkbox"/> other:		
exclusions				
purchaser				
purchaser's solicitor			Phone:	
			Fax:	
			Ref:	
			Email:	
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)

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

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

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

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

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### 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.

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 \$396.00 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 subparagraph (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 effected by the use of either scanned or 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

**Purchaser:**

**Vendor:** Aija Neilands

**Property:** 23 Ellerslie Road, Adamstown Heights

**Date:**

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### 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 of 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.



FOLIO: 14/19549

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SEARCH DATE	TIME	EDITION NO	DATE
4/9/2018	2:33 PM	-	-

VOL 5766 FOL 75 IS THE CURRENT CERTIFICATE OF TITLE

LAND

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LOT 14 IN DEPOSITED PLAN 19549  
 AT ADAMSTOWN  
 LOCAL GOVERNMENT AREA NEWCASTLE  
 PARISH OF NEWCASTLE COUNTY OF NORTHUMBERLAND  
 TITLE DIAGRAM DP19549

FIRST SCHEDULE

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ERNA VERA NEILANDS (T S259952)

SECOND SCHEDULE (4 NOTIFICATIONS)

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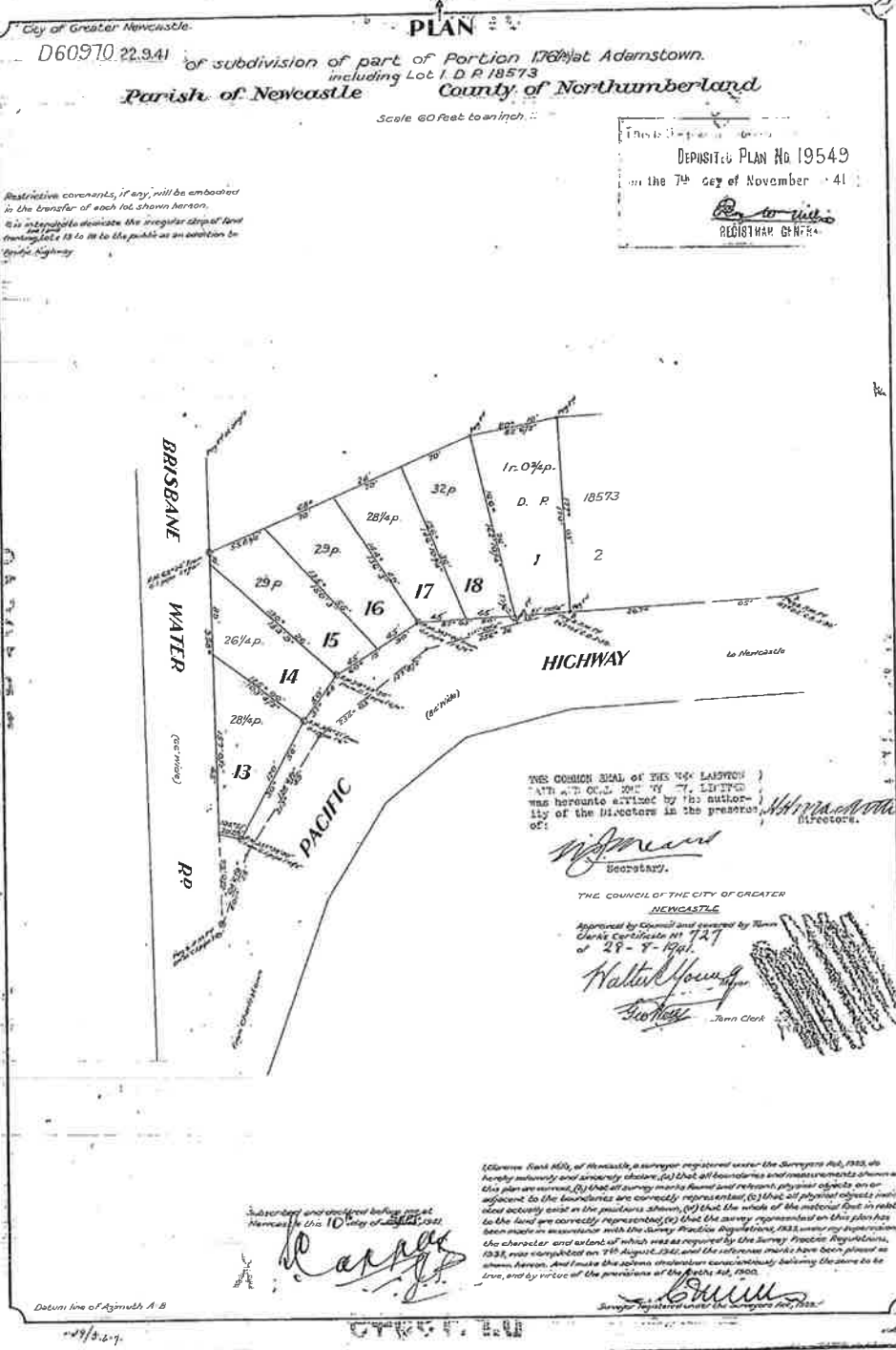
- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 F627198 LAND EXCLUDES THE ROAD SHOWN IN VOL 5766 FOL 75  
(LIMITED TO THE SURFACE AND TO A DEPTH OF 15.24 METRES  
BELOW THE SURFACE)
- 3 D731407 LAND EXCLUDES MINERALS AND IS SUBJECT TO RIGHTS TO  
MINE
- 4 D731407 COVENANT

NOTATIONS

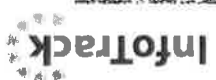
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UNREGISTERED DEALINGS: NIL

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



FEET	TACHES	METRES
1	0.30	0.30
2	0.61	0.61
3	0.91	0.91
4	1.22	1.22
5	1.52	1.52
6	1.83	1.83
7	2.13	2.13
8	2.44	2.44
9	2.74	2.74
10	3.05	3.05
11	3.35	3.35
12	3.66	3.66
13	3.96	3.96
14	4.27	4.27
15	4.57	4.57
16	4.88	4.88
17	5.18	5.18
18	5.49	5.49
19	5.79	5.79
20	6.10	6.10
25	7.62	7.62
30	9.14	9.14
35	10.66	10.66
40	12.18	12.18
45	13.70	13.70
50	15.22	15.22
55	16.74	16.74
60	18.26	18.26
65	19.78	19.78
70	21.30	21.30
75	22.82	22.82
80	24.34	24.34
85	25.86	25.86
90	27.38	27.38
95	28.90	28.90
100	30.42	30.42
105	31.94	31.94
110	33.46	33.46
115	34.98	34.98
120	36.50	36.50
125	38.02	38.02
130	39.54	39.54
135	41.06	41.06
140	42.58	42.58
145	44.10	44.10
150	45.62	45.62
155	47.14	47.14
160	48.66	48.66
165	50.18	50.18
170	51.70	51.70
ACRO P	SM	M
-- 26 1/4		663.9
-- 28 1/4		718.5
-- 29		753.5
-- 35		1031.4
-- 1	3 1/4	1031



F 627198

*Suppl to 107-  
Plan 107-  
K2-3-52*

CONVEYANCING ACTS, 1919-1943.  
REAL PROPERTY ACT, 1900.

**Notice of Resumption of Land subject to the provisions  
of Real Property Act, 1900.**

I, ARTHUR HERIOT SIMPSON <sup>Office</sup> State Crown Solicitor's/ DO HEREBY CERTIFY that the copy Gazette Notification herunto annexed is a true copy of the Gazette Notification contained in the Government Gazette of the Eleventh day of January one thousand nine hundred and fiftytwo, declaring that the land therein described, being the land mentioned in the Schedule hereunder written, has been resumed. AND I REQUEST that you will deal with and give effect to the said Notification as if the same were a Memorandum of Transfer of the land therein described duly executed under the Real Property Act, 1900, and I, the said ARTHUR HERIOT SIMPSON HEREBY CERTIFY that this instrument is correct for the purposes of the Real Property Act, 1900. AND I FURTHER CERTIFY that I was appointed by writing dated the Twentieth day of August, one thousand nine hundred and forty-six under his hand and official seal by THE COMMISSIONER FOR LAND, CALS to sign this Certificate on behalf of the said Commissioner and that I have received no notice or information of the revocation of such appointment.

SCHEDULE.

Lot	Section	Deposited Plan or Name of Estate	Part or Whole	Volume	Folio
• Pt. Lot 17		Deposited Plan 19549	Part	5590 ✓	194 ✓
" " 13		do 19549	"	5602 ✓	57 ✓
" " 14		do 19549	"	5706 ✓	75 ✓

Being the land delineated and edged red in the plan herunto annexed marked "A".

DATED this *twenty-seventh* day of *February*, in the year of Our Lord  
one thousand nine hundred and forty- *fiftytwo*.

SIGNED by the said  
ARTHUR HERIOT SIMPSON } *A.H. Simpson*  
in the presence of *R. Mitchell*

THE REGISTRAR GENERAL  
SYDNEY.



fol. 32

[Published in Government Gazette, No. 3 of 11th  
January, 1952.]

TRANSPORT (DIVISION OF FUNCTIONS) ACT, 1932  
1950.—MAIN ROADS ACT, 1924-1950.—PROCLAMATION.

(L.S.) K. W. STREET, *Lieutenant-Governor.*

I, the Honourable KENNETH WHITTIER STREET, Chief Justice of the Supreme Court of New South Wales, Lieutenant-Governor of the State of New South Wales and its Dependencies, in the Commonwealth of Australia, with the advice of the Executive Council, and by virtue of the provisions of the Transport (Division of Functions) Act, 1932-1950, and in pursuance of the provisions of the Main Roads Act, 1924-1950, do by this my Proclamation declare that so much of the land hereunder described as is Crown land is hereby appropriated, and so much thereof as is private property is hereby resumed under the provisions of the Public Works Act, 1912, for the purposes of the Main Roads Act, 1924-1950, but only to a depth of 50 feet below the surface thereof, and that the land hereunder described to a depth aforesaid is hereby vested in the Commissioner for Main Roads.

Signed and sealed at Sydney, this twenty-eighth day of November, 1951.

By His Excellency's Command,  
W. SHEAHAN, Minister for Transport.

GOD SAVE THE KING!

DESCRIPTIONS OF THE LAND REFERRED TO.

All that piece or parcel of land situate in the City of Newcastle, parish of Newcastle, county of Northumberland, and State of New South Wales, being part of lot 17, deposited plan 10,519: Commencing at the intersection of the north-eastern boundary of the said lot 17 with a northern side of Pacific Highway; and bounded thence on the south by part of that side of that highway bearing westerly 45 feet; thence on the north-west by a line bearing north-easterly 42 feet 3½ inches to the aforesaid north-eastern boundary of lot 17; thence on the north-east by part of that boundary of that lot bearing south-easterly 21 feet to the point of commencement,—having an area of 1½ perches or thereabouts, and said to be in the possession of C. R. H. and Gertrude M. Sorrell.

And also, all that piece or parcel of land situate in the City of Newcastle, parish of Newcastle, county of Northumberland, and State of New South Wales, being part of lots 13 and 14, deposited plan 19,549: Commencing at the intersection of the north-eastern boundary of the said lot 13 with a north-western side of Pacific Highway; and bounded thence on the south-east by that side of that highway bearing 210 degrees 58 minutes 120 feet to a splay at the intersection of the said north-western side of Pacific Highway with the eastern side of Brisbane Water road; thence on the south-west by that splay bearing 284 degrees 51 minutes 29 feet 2½ inches; thence on the north-west by lines bearing 37 degrees 29 minutes 40 seconds 126 feet 9½ inches and 43 degrees 25 minutes 10 seconds 50 feet 5½ inches to a north-western side of Pacific Highway, again on the south-east by that side of that highway bearing 217 degrees 44 minutes 50 feet to the point of commencement,—having an area of 5½ perches or thereabouts, and said to be in the possession of L. Barnes and W. H. Bates. (D.M.R. No. 10/325-111) (6159)

Sydney: A. B. Pettifer, Government Printer—1952.

This is the copy Gazette Notification referred to in the annexed Certificate.

Witness

*P. Mitchell*

*A. H. Simpson*

**F 627198**  
No.

LODGED by  
State Crown Solicitor,  
237 Macquarie Street,  
Sydney.

*Plan*

NOTICE OF RESUMPTION.

*To a depth of 50 feet in the  
to surface.  
the means and depths.*

*feet.*

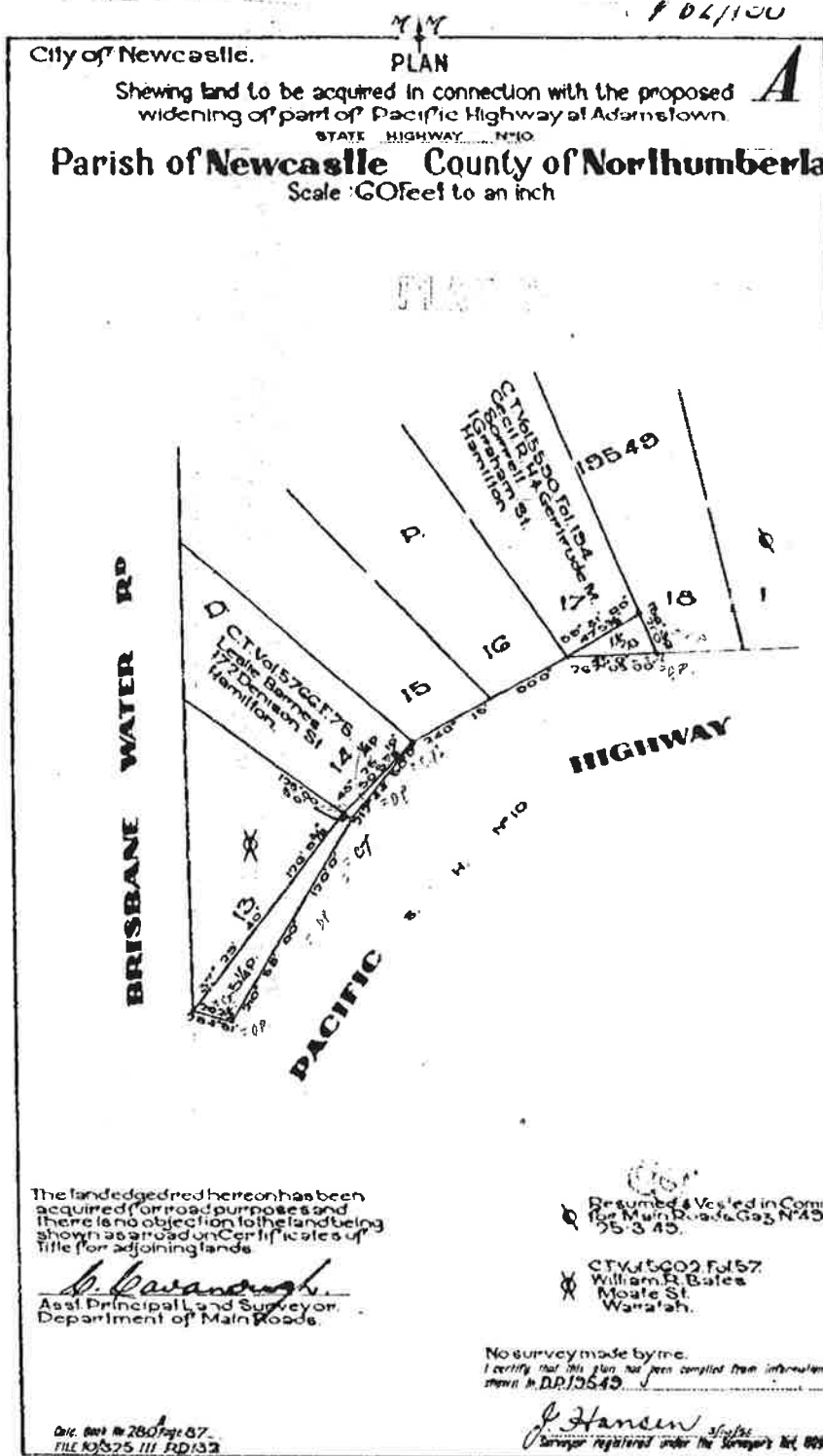
Particulars entered in Register Book.

Vol. 5390 . Fol. 194  
" 5602 " 57  
" 5766 " 751

day of *April* the *15th* 19 *52*  
at minutes  
o'clock in the noon.

*J. H. Ellis*  
Registrar-General





Signature of person to be referred to in the certificate of requisition

This is the plan marked 'A' referred to in the annual certificate of requisition dated the 27th day of September 1910. *R. W. Simpson*



"A"

THIS IS THE ANNEXURE marked "A" to the Transfer dated 1st September, 1947

from THE NEW LAMBTON LAND AND COAL COMPANY PTY. LIMITED.

(Transferor) to THELMA ETHELWYN REES

(Transferee) of Lot 14

Deposited Plan Number 19549.

(THE TRANSFEROR excepts out of the land hereby transferred and reserves to itself its successors and assigns all mines veins and seams of coal and all other mines and minerals lying and being within or under the land hereby transferred (which mines veins and seams of coal and other mines and minerals are hereinafter referred to as the excepted premises) TOGETHER with full and free liberty for the Transferor its successors and assigns and all lessees and other persons claiming or to claim under the Transferor its successors or assigns and all persons acting by the authority or permission of the Transferor its successors or assigns or of any such lessee or other person claiming or to claim as aforesaid already given or hereafter to be given without entering on the surface of the land hereby transferred at any time and from time to time to search for win work get raise take away and dispose of the excepted premises and also all mines veins and seams of coal and other mines and minerals adjoining the excepted premises or any part thereof and with or without leaving any support to the surface of the land hereby transferred and whether such surface shall or shall not by any subsidence thereof or otherwise be depressed lowered damaged or destroyed and to make maintain and use any water-courses ways and other works under the land hereby transferred and to make thereof as the Transferor or other persons availing themselves of the powers hereby conferred or any part thereof the Transferor its successors and assigns and such lessees and other persons as aforesaid not being in any manner liable or responsible for any depression subsidence damage or injury whatsoever which shall or may be caused or occasioned to the surface of the land hereby transferred or to any erection building engine machinery or thing of any description now being or growing or hereafter to be or grow upon the land hereby transferred by the exercise of any right hereby conferred AND it is hereby agreed and declared that the land to which the benefit of the easements or restrictions above mentioned is appurtenant is the adjoining lands of the Transferor and all mines veins and seams of coal and other minerals lying and being within or under the land hereby transferred and or all such mines and minerals owned by the Transferor its successors or assigns under adjoining lands AND the land which is subject to the burden of the easements or restrictions hereby created is the land hereby transferred AND the persons whose consent to a release variation or modification of the easements or restrictions is stipulated for are the Transferor its successors or assigns.

AND the Transferee for herself and her assigns doth hereby covenant with the Transferor its successors and assigns as follows:

- (a) That no building shall be erected within 15' feet of the alignment of boundary fronting Pacific Highway.
- (b) That only one house shall be erected on the lot hereby transferred.
- (c) That any house erected on the said lot shall be constructed in a proper and workmanlike manner at a cost of not less than Six hundred and fifty pounds.
- (d) That no building erected upon the said lot shall be used as a public house hotel or place for the sale of wine or beer or for any noxious or offensive trade or for any purpose which shall be a damage nuisance or annoyance to the owners or occupiers of adjoining property or the neighbourhood.
- (e) That no hoarding shall be erected on the said lot nor shall any portion of any building project over the prescribed line.
- (f) That with the exception of the necessary accommodation for horses for the use of the occupier or his family alone but not for hiring no stables shall be erected on the said lot nor shall the said lot be used as a horse yard.
- (g) That any house erected upon the said lot shall at all times be occupied and used as a private dwelling only and for no other purpose.

AND it is hereby agreed and declared:

- (1) That the land to which the benefit of the foregoing restrictions is appurtenant is the lots shown in the Deposited Plan No. 19549 excluding the land hereby sold.
- (2) The land which is subject to the burden of such covenants is the lot hereby transferred.
- (3) The persons whose consent to a release variation or modification of the said restrictions is stipulated for are the Transferor its successors and the owners for the time being of said lots shown in Deposited Plan No. 19549 excluding the land hereby sold.

THE COMMON SEAL of THE NEW LAMBTON LAND AND COAL COMPANY PTY. LIMITED was hereunto affixed by the authority of the Directors in the presence of

*[Signature]*  
Secretary.

*[Signature]*  
Directors  
Transferor.

Signed in my presence by the transferee

THELMA ETHELWYN REES

who is personally known to me:

*[Signature]*

Hotel Licensee,  
9 Bayswater Rd. DARLINGBURGH.

*[Signature]*  
Transferee.

6408 RP-1E

0408 001E

11. 04. 11. 1997



R.P. 13.

New South Wales.

MEMORANDUM OF TRANSFER  
REAL PROPERTY ACT, 1900.

D731407

Fees: £ s. d.  
Lodgment ...  
Endorsement ...  
Certificate ...

Esc dpts 141 - 15-1-48  
5/2  
SEP 23 1958  
1-12-6  
-26.9.47

(Trusts must not be disclosed in the transfer.)

I, THE NEW LAMBTON LAND AND COAL COMPANY PTY. LIMITED

(herein called transferor )

being registered as the proprietor of an estate in *fee simple* in the land hereinafter described, subject however, to such encumbrances, liens and interests as are notified hereunder in consideration of ONE HUNDRED AND NINETY POUNDS

(£190---) (the receipt whereof is hereby acknowledged) paid to it by

THELMA ETHELWYN REES of Darlinghurst the wife of Alwyn Gordon Rees

Accountant

(herein called transferee )

do hereby transfer to the said transferee

ALL such its Estate and Interest in ALL THE land mentioned in the schedule following :

County.	Parish.	Reference to Title (c)			Description of Land (if part only). (d)
		Whole or Part.	Vol.	Fol.	
Northumberland	Newcastle	Part	5425	8	AND being Lot 14 on Deposited Plan Number 19549.

Subject to the exception and reservation of coal and other minerals and rights of working same as set out in Annexure "A" hereto.

And the transferee covenants with the transferor in terms of Annexure "A" hereto.

ENCUMBRANCES, &c., REFERRED TO:

Reservations and conditions endorsed upon the said Certificate of Title.

Signed at Newcastle the First day of September 1947.

THE COMMON SEAL OF THE NEW LAMBTON LAND AND COAL COMPANY PTY. LIMITED was hereunto affixed by the authority of the Directors in the presence of

*[Signature]*  
Directors. Transferor \*

"Signed- Secretary.

Accepted, and I hereby certify this Transfer to be correct for the purposes of the Real Property Act.

Signed in my presence by the transferee THELMA ETHELWYN REES - WHO IS PERSONALLY KNOWN TO ME

*[Signature]*

*[Signature]*  
Transferee.

Hotel Licensee  
9 Bayswater Rd. DARLINGHURST.

\* If signed by virtue of any power of attorney, the original power must be registered, and produced with each dealing, and the memorandum of non-revocation on page 2 signed by the attorney before a witness.

† N.B.—Section 117 requires that the above Certificate be signed by Transferor or his Solicitor, and renders any person falsely or negligently certifying liable to a penalty of £50; also to damages recoverable by parties injured. If the Solicitor signs he must sign his own name and not that of his firm.

No alterations should be made by erasure. The words rejected should be scored through with the pen, and those substituted written over them, the alteration being verified by signature or initials in the margin, or noticed in the attestation.

THIS SPACE TO BE LEFT FREE FROM NOTATION.



b If to two or more, state whether as joint tenants or tenants in common.  
c If all the references cannot be conveniently inserted, a form of annexure (obtainable at L.T.O.) may be added. Any annexure must be signed by the parties and their signatures witnessed.  
d If part only of the land comprised in a Certificate of Title is to be transferred add "and being lot sec. D.P. " or "being the land shown in the plan annexed hereto," or "being the residue of the land in certificate for grant registered Vol. Fol. Where the consent of the local council is required to a subdivision the certificate and plan mentioned in the L.C. Act, 1910, should accompany the transfer.  
e Strike out if unnecessary. Covenants should comply with Section 88 of the Conveyancing Act, 1919-1923. Here also should be set forth any right-of-way or easement or exception. Any provision in addition to or modification of the covenants implied by the Act may also be inserted. If the space provided is insufficient a form of annexure should be used.  
f A very short note will suffice.

NOT TO BE ALTERED BY ERASURE—See Foot Note.

No **0731407**

LODGED BY H. H. BELL, C. C. C.

**CONSENT OF MORTGAGEE.**

I, \_\_\_\_\_ mortgagee under Mortgage No. \_\_\_\_\_  
release and discharge the land comprised in the within transfer from such mortgage and all claims thereunder but without prejudice to my rights and remedies as regards the balance of the land comprised in such mortgage.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ } Mortgagee.  
Signed in my presence by \_\_\_\_\_ }  
who is personally known to me. }

**MEMORANDUM AS TO NON-REVOCAION OF POWER OF ATTORNEY.**

(To be signed at the time of executing the within instrument.)

Memorandum whereby the undersigned states that he has no notice of the revocation of the Power of Attorney registered No. \_\_\_\_\_ Miscellaneous Register under the authority of which he has just executed the within transfer.

Signed at \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
Signed in the presence of— \_\_\_\_\_

Strike out unnecessary words. Add any other notice necessary to show that the power is effective.

**FORM OF DECLARATION BY ATTESTING WITNESS.**

Appeared before me at \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, one thousand \_\_\_\_\_ and declared that he personally knew \_\_\_\_\_ the person signing the same, and whose signature thereto he has attested; and that the name purporting to be such signature of the said \_\_\_\_\_ is \_\_\_\_\_ own handwriting, and that he was of sound mind and freely and voluntarily signed the same.

May be made before either Registrar-General, Deputy Registrar-General, a Notary Public, J.P., or Commissioner for Affidavits. Not required if the instrument itself be made or acknowledged before one of these parties.

**MEMORANDUM OF TRANSFER of**

Acres \_\_\_\_\_ Rods \_\_\_\_\_ perches \_\_\_\_\_  
Vol. 17, Fol. 19549  
City of Victoria  
Parish of \_\_\_\_\_  
Melina Elizabeth New Transferee.

**DOCUMENTS LODGED HEREWITH.**

To be filled in by person lodging dealing.

Nature.	No.	Reg'd Propr., M't'gor, etc.

Particulars entered in Register Book, Vol. 5428 Fol. 8

the 29th day of October 1947  
at \_\_\_\_\_ minutes 12 o'clock in the noon

J. H. Bell  
Registrar-General

**PROGRESS RECORD.**

	Initials.	Date.
Sent to Survey Branch...		
Received from Records...		
Draft written ...	W.H.	11-11-47
Draft examined...	W.H.	14/11/47
Diagram prepared	W.H.	15/11/47
Diagram examined	W.H.	15/11/47
Draft forwarded		
Supt. of Engrossers		
Cancellation Clerk		
Vol. <b>5766</b> Fol. <b>75</b>		
Diagram Fees ...		
Additional Folios ...		

If the parties be resident without the State, but in any other part of the British Dominions, the instrument must be signed or acknowledged before the Registrar-General or Recorder of Titles of such Possession, or before any Judge, Notary Public, Justice of the Peace for New South Wales, or Commissioner for taking affidavits for New South Wales, or the Mayor or Chief Officer of any municipal or local government corporation of such part, or Justice of the Peace for such part, or the Governor, Government Resident, or Chief Secretary of such part or such other person as the Chief Justice of New South Wales may appoint.

If resident at any foreign place, then the parties should sign or acknowledge before a British Minister, Ambassador, Envoy, Minister Chargé d'Affaires, Secretary of the Embassy or Legation, Consul-General, Consul, Vice-Consul, Acting-Consul, Pro-Consul, or Consular Agent, who should affix his seal of office, or the attesting witness may make a declaration of the due execution thereof before one of such persons (who should sign and affix his seal to such declaration), or such other person as the said Chief Justice may appoint.

Attention is specially directed to the provisions relating to the attestation of instruments executed by members of the Forces.

The fees are—Lodgment fee 12/6 (includes endorsement on first certificate), and 2/6 for each additional certificate included in the Transfer, and £1 for every new Certificate of Title issuing upon a Transfer on sale for a consideration of not more than £1,000, and £1 2s. for a new Certificate of Title in every other case. Additional fees, however, may be necessary in cases involving more than a simple diagram or more than six folios of engrossing.

Tenants in common must receive separate Certificates. If part only of the land is transferred a new Certificate must issue for that part, and the old Certificate will be retained in the Office. A new Certificate may be taken out for the remainder if desired.

THESE SPACES FOR DEPARTMENTAL USE.

EXTRA FEES	Diagram	14/-
	Extra Folios	

2,31408 to follow



# PLANNING CERTIFICATE

Section 10.7, Environmental Planning and Assessment Act 1979

**To:** Infotrack  
GPO Box 4029  
SYDNEY NSW 2001

**Certificate No:** PL2018/04255  
**Fees:** \$53.00  
**Receipt No(s):** D000970227

**Your Reference:** 181217

**Date of Issue:** 05/09/2018

**The Land:** Part Lot 14 DP 19549  
23 Ellerslie Road Adamstown Heights NSW 2289

## Advice provided on this Certificate:

Advice under section 10.7(2): see items 1 – 21

## IMPORTANT: Please read this certificate carefully

This certificate contains important information about the land.

Please check for any item which could be inconsistent with the proposed use or development of the land. If there is anything you do not understand, phone Council's **Customer Enquiry Centre** on (02) 4974 2000, or come in and see us.

The information provided in this certificate relates only to the land described above. If you need information about adjoining or nearby land, or about the Council's development policies for the general area, contact Council's **Customer Enquiry Centre**.

All information provided is correct as at 05/09/2018. However, it's possible for changes to occur within a short time. We recommend that you only rely upon a very recent certificate.

## WARNING:

This certificate DOES NOT contain additional advice provided under section 10.7(5). We have not provided this additional advice because it was not requested or paid for by the applicant. We recommend that you obtain a full certificate.

---

## Newcastle City Council

PO Box 489  
NEWCASTLE 2300

Phone: (02) 4974 2000  
Facsimile: (02) 4974 2222

### Customer Enquiry Centre

Ground floor,  
282 King Street  
Newcastle NSW 2300

### Office hours:

Mondays to Fridays 8.30 am to 5.00 pm

---

## PART 1:

### ADVICE PROVIDED UNDER SECTION 10.7(2)

*ATTENTION: The explanatory notes appearing in italic print within Part 1 are provided to assist understanding, but do not form part of the advice provided under section 10.7(2). These notes shall be taken as being advice provided under section 10.7(5).*

#### 1. Names of relevant planning instruments and DCPs

The following environmental planning instruments, proposed environmental planning instruments and development control plans apply to the land, either in full or in part.

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  
State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development  
State Environmental Planning Policy (Housing For Seniors or People with a Disability) 2004  
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004  
State Environmental Planning Policy (State Significant Precincts) 2005  
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007  
State Environmental Planning Policy (Temporary Structures) 2007  
State Environmental Planning Policy (Infrastructure) 2007  
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008  
State Environmental Planning Policy (Affordable Rental Housing) 2009  
State Environmental Planning Policy (State and Regional Development) 2011  
Newcastle Local Environmental Plan 2012  
Newcastle Development Control Plan 2012

#### 2. Zoning and land use under relevant LEPs

##### Newcastle Local Environmental Plan 2012

**Zoning:** The Newcastle Local Environmental Plan 2012 identifies the land as being within the following zone(s):

Zone R2 Low Density Residential
---------------------------------

*Note: Refer to [www.newcastle.nsw.gov.au](http://www.newcastle.nsw.gov.au) or [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au) web site for LEP instrument and zoning maps.*

The following is an extract from the zoning provisions contained in Newcastle Local Environmental Plan 2012:

##### Zone R2 Low Density Residential

- **Objectives of zone**
  - To provide for the housing needs of the community within a low density residential environment.

- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
  - To accommodate a diversity of housing forms that respects the amenity, heritage and character of surrounding development and the quality of the environment.
- **Permitted without consent**
    - Environmental protection works; Home occupations
  - **Permitted with consent**
    - Boarding houses; Child care centres; Community facilities; Dwelling houses; Educational establishments; Emergency services facilities; Exhibition homes; Exhibition villages; Flood mitigation works; Group homes; Home-based child care; Hospitals; Neighbourhood shops; Recreation areas; Residential accommodation; Respite day care centres; Roads; Tourist and visitor accommodation
  - **Prohibited**
    - Backpackers' accommodation; Hostels; Rural workers' dwellings; Serviced apartments; Any other development not specified in, permitted without consent or permitted with consent

**Minimum land dimensions for erection of a dwelling-house:** The Newcastle Local Environmental Plan 2012 contains development standards relating to minimum land dimensions for the erection of a dwelling house. Refer to clause 4.1 Minimum subdivision lot size and Part 4 Principle development standards of the Newcastle LEP 2012 for provisions relating to minimum lot sizes for residential development.

**Critical habitat:** The Newcastle Local Environmental Plan 2012 does not identify the land as including or comprising critical habitat.

**Heritage conservation area:** The land is not within a heritage conservation area under the Newcastle Local Environmental Plan 2012.

**Heritage items:** There are no heritage items listed in the Newcastle Local Environmental Plan 2012 situated on the land.

### 3. Complying development

**Note Other requirements:** The advice below for all Complying Development Codes, is limited to identifying whether or not the land, the subject of the certificate, is land on which complying development may be carried out because of Clauses 1.17A(1)(c) to (e), (2), (3) & (4), 1.18 (1)(c3) and 1.19 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the Codes SEPP).

To ascertain the extent to which the complying development may or may not be carried out on the land, maps are available on Council's web pages.

#### General Housing Code

Complying development under the General Housing Code MAY be carried out on this land.

#### Rural Housing Code

Complying development under the Rural Housing Code MAY be carried out on this land.

#### Housing Alterations Code

Complying development under the Housing Alterations Code MAY be carried out on this land.

#### General Development Code

Complying development under the General Development Code MAY be carried out on this land.

#### Commercial and Industrial Alterations Code

Complying development under the Commercial and Industrial Alterations Code MAY be carried out on this land.

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

Complying development under the Commercial and Industrial (New Buildings and Additions) Code MAY be carried out on this land.

### **Subdivision Code**

Complying development under the Subdivision Code MAY be carried out on this land.

### **Demolition Code**

Complying development under the Demolition Code MAY be carried out on this land.

### **Fire Safety Code**

Complying development under the Fire Safety Code MAY be carried out on this land.

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

The land IS NOT subject to an agreement for annual charges under section 496B of the Local Government Act 1993 for coastal protection services (within the meaning of section 553B of that Act).

### **5. Mine Subsidence Compensation Act 1961**

The land IS within a proclaimed Mine Subsidence District under the Mine Subsidence Compensation Act 1961. The approval of the Mine 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 about mine subsidence and advise whether existing structures comply with the requirements of the Act.

*NOTE: Plans of existing and abandoned mine workings are available for viewing at the Mine Subsidence Board's offices. For further clarification and details, contact the Mine Subsidence Board, 117 Bull Street, Newcastle West. Ph (02) 49084300.*

### **6. Road widening or realignment**

*NOTE: The Roads and Maritime Services (RMS) may have proposals that are not referred to in this item. For advice about affectation by RMS proposals, contact the Roads and Maritime Services, Locked Mail Bag 30 Newcastle 2300. Ph: 131 782.*

The land IS NOT AFFECTED by any road widening or road realignment under Division 2 of Part 3 of the Roads Act 1993.

The land IS NOT AFFECTED by any road widening or road realignment under an environmental planning instrument.

The land IS NOT AFFECTED by road widening or road realignment under a resolution of the Council.

### **7. Policies on hazard risk restrictions**

Except as stated below, the land is not affected by a policy referred to in Item 7 of Schedule 4 of the Environmental Planning and Assessment Regulation 2000 that restricts the development of the land because of the likelihood of land slip, bushfire, tidal inundation, subsidence, acid sulphate soils or any other risk (other than flooding).

**Potential acid sulfate soils:** Works carried out on the land must be undertaken in accordance with Clause 6.1 Acid sulfate soils of the Newcastle Local Environmental Plan 2012.

**Land Contamination:** Council has adopted a policy of restricting development or imposing conditions on properties affected by Land Contamination. Refer to the Newcastle Development Control Plan 2012, which may be inspected or purchased at Council's Customer Enquiry Centre.



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*NOTE: The absence of a policy to restrict development of the land because of the likelihood of a particular risk does not imply that the land is free from that risk. The Council considers the likelihood of natural and man-made risks when determining development applications under section 4.15 of the Environmental Planning and Assessment Act 1979. Detailed investigation carried out in conjunction with the preparation or assessment of a development application may result in the Council either refusing development consent or imposing conditions of consent on the basis of risks that are not identified above.*

#### **7A. Flood related development controls information**

Council's current information indicates the property is not flood prone land as defined in the Floodplain Development Manual: the management of flood liable land, April 2005 published by the NSW Government.

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

The land is not identified for acquisition by a public authority (as referred to in section 3.15 of the Act) by any environmental planning instrument or proposed environmental planning instrument applying to the land.

#### **9. Contributions plans**

The following contribution plan/s apply to the land.

##### **Section 94A Development Contributions Plan 2009 - August 2017:**

The Plan specifies section 94A contributions that may be imposed as a condition of development consent.

*NOTE: Contributions plans are available on Council's website or may be inspected or purchased at Council's Customer Enquiry Centre.*

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

The land IS NOT biodiversity certified land under Part 8 of the Biodiversity Conservation Act 2016.

#### **10. Biodiversity stewardship sites**

The land IS NOT land (of which the Council is aware) under a biodiversity stewardship agreement under Part 5 of the Biodiversity Conservation Act 2016.

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

The land IS NOT land (of which the Council is aware) that contains a set aside area under section 60ZC of the Local Land Services Act 2013.

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

The land IS NOT bush fire prone land for the purposes of the Environmental Planning and Assessment Act 1979.

#### **12. Property vegetation plans**

Not applicable. The Native Vegetation Act 2003 does not apply to the Newcastle local government area.

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

Council HAS NOT been notified that an order has been made under the Trees (Disputes between Neighbours) Act 2006 to carry out work in relation to a tree on the land.

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

The land IS NOT AFFECTED by a direction by the Minister in force under section 75P (2) (c1) of the Act.

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

(a) The land IS NOT AFFECTED by a current site compatibility certificate (of which the Council is aware) issued under the State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004.

(b) The land IS NOT AFFECTED by any terms of kind referred to in clause 18(2) of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, that have been imposed as a condition of consent to a development application granted after 11 October, 2007 in respect of the land.

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

The land IS NOT AFFECTED by a valid site compatibility certificate (of which the Council is aware) issued under the State Environmental Planning Policy (Infrastructure) 2007.

**17. Site compatibility certificates and conditions for affordable rental housing**

The land IS NOT AFFECTED by a valid site compatibility certificate (of which the Council is aware) issued under the State Environmental Planning Policy (Affordable Rental Housing) 2009.

**18. Paper subdivision information**

The land IS NOT AFFECTED by any development plan that applies to the land or that is proposed to be subject to a consent ballot.

**19. Site verification certificates**

The land IS NOT AFFECTED by a current site verification certificate (of which the Council is aware) issued under the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.

**20. Loose-fill asbestos insulation**

The Council HAS NOT been notified that 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 of loose-fill asbestos insulation, that is required to be maintained under that Division.

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

The land IS NOT AFFECTED by any affected building notice of which the council is aware that is in force in respect of the land.

The land IS NOT AFFECTED by any building product rectification order that has not been fully complied with, of which the council is aware that is in force in respect of the land.

The land IS NOT AFFECTED by an outstanding notice of intention to make a building product rectification order of which the council is aware.

An 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: There are no matters prescribed by section 59(2) of the Contaminated Land Management Act 1997 to be disclosed, however if other contamination information is held by the Council this may be provided under a section 10.7(5) certificate.*

Issued without alterations or additions, 05/09/18  
Authorised by  
**JEREMY BATH**  
CHIEF EXECUTIVE OFFICER



# 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

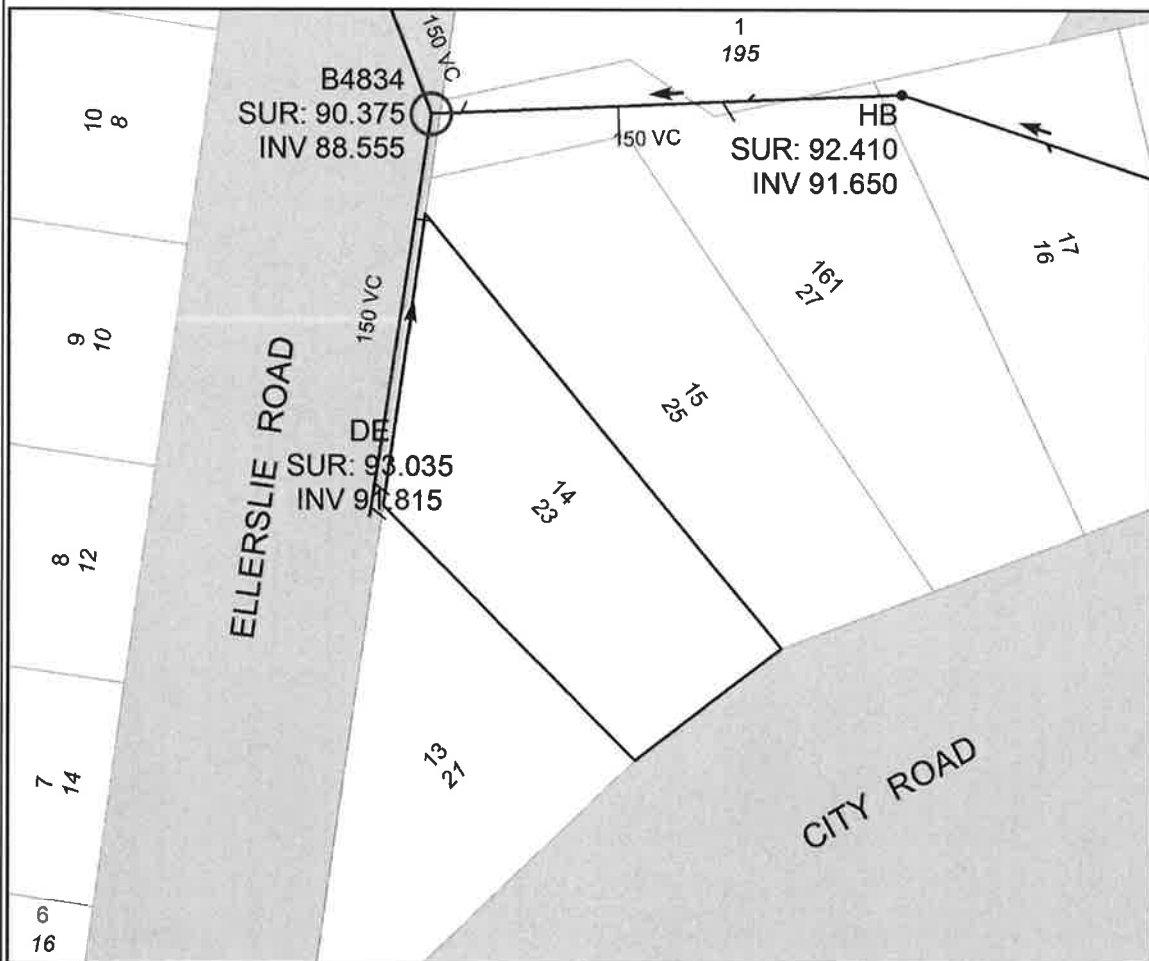
APPLICATION NO.: 1519936480

APPLICANT REF: M 181217

RATEABLE PREMISE NO.: 1121110212

PROPERTY ADDRESS: 23 ELLERSLIE RD ADAMSTOWN HEIGHTS 2289

LOT/SECTION/DP:SP: 14/DP 19549



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

IF THE ABOVE DIAGRAM SHOWS A HUNTER WATER CORPORATION ASSET LOCATED WITHIN THE PROPERTY, YOUR ATTENTION IS DRAWN TO SECTION 25 OF THE HUNTER WATER ACT 1991 (NSW). ANY DEVELOPMENT LIKELY TO IMPACT THESE ASSETS REQUIRES PRIOR APPROVAL FROM HUNTER WATER CORPORATION AND SPECIAL PROTECTION WORKS MAY BE REQUIRED. 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 OWNERS RESPONSIBILITY TO DETERMINE WHETHER IT IS PRACTICABLE TO DISCHARGE WASTEWATER FROM ALL PARTS OF THE PROPERTY TO THAT CONNECTION.

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

Date: 4/09/2018

Scale at A4: 1:500

CADASTRAL DATA © Department Finance,  
Services & Innovation [Nov 2017]  
Modified [04/09/2018]  
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.

23 ELLERSLIE RD  
ADAMSOWN HIGHWAY NSW 2259

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

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

### DISPUTES

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

### AUCTIONS

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

**WARNINGS**

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

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

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

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

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

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

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

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

## 2 Deposit and other payments before completion

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

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

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

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

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

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

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

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

## 20 Miscellaneous

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

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

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

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

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

20.6 A document under or relating to this contract is –

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## 21 Time limits in these provisions

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

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

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

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

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

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

## 22 Foreign Acquisitions and Takeovers Act 1975

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

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

**23 Strata or community title****• Definitions and modifications**

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

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

• **Notices, certificates and inspections**

- 23.10 The purchaser must give the vendor 2 copies of an information notice addressed to the owners corporation and signed by the purchaser.
- 23.11 The vendor must complete and sign 1 copy of the notice and give it to the purchaser on completion.
- 23.12 Each *party* can sign and give the notice as agent for the other.
- 23.13 The vendor must *serve* an information certificate issued after the contract date in relation to the lot, the scheme or any higher scheme at least 7 days before the date for completion.
- 23.14 The purchaser does not have to complete earlier than 7 days after *service* of the certificate and clause 21.3 does not apply to this provision. On completion the purchaser must pay the vendor the prescribed fee for the certificate.
- 23.15 The vendor authorises the purchaser to apply for the purchaser's own certificate.
- 23.16 The vendor authorises the purchaser to apply for and make an inspection of any record or other document in the custody or control of the owners corporation or relating to the scheme or any higher scheme.
- **Meetings of the owners corporation**
- 23.17 If a general meeting of the owners corporation is convened before completion –
- 23.17.1 if the vendor receives notice of it, the vendor must immediately notify the purchaser of it; and
- 23.17.2 after the expiry of any cooling off period, the purchaser can require the vendor to appoint the purchaser (or the purchaser's nominee) to exercise any voting rights of the vendor in respect of the lot at the meeting.

**24 Tenancies**

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

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

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

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

## 26 Crown purchase money

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

## 27 Consent to transfer

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



**28 Unregistered plan**

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

**29 Conditional contract**

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

**30 Electronic transaction**

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

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

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