

## Contract for the sale and purchase of land 2019 edition

TERM	MEANING OF TERM	NSW DAN:
vendor's agent	<b>David Haggarty First National</b> 454 High Street, Maitland, NSW 2320	<b>Phone:</b> 02 4933 5544 <b>Fax:</b> 02 4933 1706
co-agent		
vendor		
vendor's solicitor	<b>BAKER LOVE LAWYERS</b> 30 Dan Rees Street, WALLSEND NSW 2287 DX 21454 WALLSEND	<b>Phone:</b> (02) 4944 3322 <b>Fax:</b> (02) 4951 2146 <b>Ref:</b> LN:JP:59019
date for completion land (address, plan details and title reference)	<b>42nd day after the contract date</b> <b>8 Benshulla Drive, Bolwarra Heights, New South Wales 2320</b> <b>Registered Plan: Lot 30 Plan DP 260430</b> <b>Folio Identifier 30/260430</b>	(clause 15)
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 as numbered: <input type="checkbox"/> other documents:	

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

inclusions	<input checked="" type="checkbox"/> blinds <input type="checkbox"/> dishwasher <input checked="" type="checkbox"/> light fittings <input checked="" type="checkbox"/> stove <input checked="" type="checkbox"/> built-in wardrobes <input checked="" type="checkbox"/> fixed floor coverings <input checked="" type="checkbox"/> range hood <input type="checkbox"/> pool equipment <input checked="" type="checkbox"/> clothes line <input checked="" type="checkbox"/> insect screens <input type="checkbox"/> solar panels <input checked="" type="checkbox"/> TV antenna <input checked="" type="checkbox"/> curtains <input checked="" type="checkbox"/> other: Air Conditioning
exclusions	
purchaser	
purchaser's solicitor	<b>Phone:</b> <b>Fax:</b> <b>E:</b>
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

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

\_\_\_\_\_  
witness

\_\_\_\_\_  
purchaser  JOINT TENANTS  tenants in common  in unequal shares

\_\_\_\_\_  
witness

**Choices**

Vendor agrees to accept a *deposit-bond* (clause 3)  NO  YES

**Nominated Electronic Lodgment Network (ELN)** (clause 30): PEXA  NO  YES

**Electronic transaction** (clause 30)  NO  YES

(if no, vendor must provide further details, such as the proposed applicable waiver, in the space below, or *serve within 14 days of the contract date*):

**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

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 38-0
- input taxed because the sale is of eligible residential premises (sections 40-65, 40-75(2) and 195-1)

Purchaser must make a *GSTRW payment* (GST 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*.

**GSTRW payment (GST 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 supplier is a partnership, a trust, part of a GST group or a participant in a GST joint venture.

Supplier's name: \_\_\_\_\_

Supplier's ABN: \_\_\_\_\_

Supplier's GST branch address (if applicable): \_\_\_\_\_

Supplier's business address: \_\_\_\_\_

Supplier's email address: \_\_\_\_\_

Supplier's phone number: \_\_\_\_\_

Supplier's proportion of *GSTRW payment*: \_\_\_\_\_

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

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

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

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

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

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

## List of Documents

General	Strata or community title (clause 23 of the contract)
<input checked="" type="checkbox"/> 1 property certificate for the land	<input type="checkbox"/> 32 property certificate for strata common property
<input checked="" type="checkbox"/> 2 plan of the land	<input type="checkbox"/> 33 plan creating strata common property
<input type="checkbox"/> 3 unregistered plan of the land	<input type="checkbox"/> 34 strata by-laws
<input type="checkbox"/> 4 plan of land to be subdivided	<input type="checkbox"/> 35 strata development contract or statement
<input type="checkbox"/> 5 document that is to be lodged with a relevant plan	<input type="checkbox"/> 36 strata management statement
<input checked="" type="checkbox"/> 6 section 10.7(2) planning certificate under Environmental Planning and Assessment Act 1979	<input type="checkbox"/> 37 strata renewal proposal
<input type="checkbox"/> 7 additional information included in that certificate under section 10.7(5)	<input type="checkbox"/> 38 strata renewal plan
<input checked="" type="checkbox"/> 8 sewerage infrastructure location diagram (service location diagram)	<input type="checkbox"/> 39 leasehold strata - lease of lot and common property
<input type="checkbox"/> 9 sewer lines location diagram (sewerage service diagram)	<input type="checkbox"/> 40 property certificate for neighbourhood property
<input checked="" type="checkbox"/> 10 document that created or may have created an easement, profit à prendre, restriction on use or positive covenant disclosed in this contract	<input type="checkbox"/> 41 plan creating neighbourhood property
<input type="checkbox"/> 11 <i>planning agreement</i>	<input type="checkbox"/> 42 neighbourhood development contract
<input type="checkbox"/> 12 section 88G certificate (positive covenant)	<input type="checkbox"/> 43 neighbourhood management statement
<input type="checkbox"/> 13 survey report	<input type="checkbox"/> 44 property certificate for precinct property
<input type="checkbox"/> 14 building information certificate or building certificate given under <i>legislation</i>	<input type="checkbox"/> 45 plan creating precinct property
<input type="checkbox"/> 15 lease (with every relevant memorandum or variation)	<input type="checkbox"/> 46 precinct development contract
<input type="checkbox"/> 16 other document relevant to tenancies	<input type="checkbox"/> 47 precinct management statement
<input type="checkbox"/> 17 licence benefiting the land	<input type="checkbox"/> 48 property certificate for community property
<input type="checkbox"/> 18 old system document	<input type="checkbox"/> 49 plan creating community property
<input type="checkbox"/> 19 Crown purchase statement of account	<input type="checkbox"/> 50 community development contract
<input type="checkbox"/> 20 building management statement	<input type="checkbox"/> 51 community management statement
<input checked="" type="checkbox"/> 21 form of requisitions	<input type="checkbox"/> 52 document disclosing a change of by-laws
<input type="checkbox"/> 22 <i>clearance certificate</i>	<input type="checkbox"/> 53 document disclosing a change in a development or management contract or statement
<input type="checkbox"/> 23 land tax certificate	<input type="checkbox"/> 54 document disclosing a change in boundaries
<b>Home Building Act 1989</b>	<input type="checkbox"/> 55 information certificate under Strata Schemes Management Act 2015
<input type="checkbox"/> 24 insurance certificate	<input type="checkbox"/> 56 information certificate under Community Land Management Act 1989
<input type="checkbox"/> 25 brochure or warning	<input type="checkbox"/> 57 disclosure statement - off the plan contract
<input type="checkbox"/> 26 evidence of alternative indemnity cover	<input type="checkbox"/> 58 other document relevant to off the plan contract
<b>Swimming Pools Act 1992</b>	<b>Other</b>
<input type="checkbox"/> 27 certificate of compliance	<input type="checkbox"/> 59
<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**

**IMPORTANT NOTICE TO VENDORS AND PURCHASERS**  
 Before signing this contract you should ensure that you understand your rights and obligations, some of which are not written in this contract but are implied by law.

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

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

- (a) search the Register required to be maintained under Division 1A of Part 8 of the *Home Building Act 1989*, and
  - (b) ask the relevant local council whether it holds any records showing that the residential premises contain loose-fill asbestos insulation.
- For further information about loose-fill asbestos insulation (including areas in which residential premises have been identified as containing loose-fill asbestos insulation), contact NSW Fair Trading.

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

1. This is the statement required by section 66X of the *Conveyancing Act 1919* and applies to a contract for the sale of residential property.
2. **EXCEPT** in the circumstances listed in paragraph 3, the purchaser may rescind the contract at any time before 5 pm on—
  - (a) the tenth business day after the day on which the contract was made—in the case of an off the plan contract, or
  - (b) the fifth business day after the day on which the contract was made—in any other case.
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:  
 APA Group  
 Australian Taxation Office  
 Council  
 County Council  
 Department of Planning, Industry and Environment  
 Department of Primary Industries  
 Electricity and gas  
 Land & Housing Corporation  
 Local Land Services  
 If you think that any of these matters affects the property, tell your solicitor.  
 A lease may be affected by the Agricultural Tenancies Act 1990, the Residential Tenancies Act 2010 or the Retail Leases Act 1994.
2. 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. If a consent to transfer is required under legislation, see clause 27 as to the obligations of the parties.
3. 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.
4. The purchaser will usually have to pay transfer duty (and sometimes surcharge purchaser duty) on this contract. If duty is not paid on time, a purchaser may incur penalties.
5. 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). The purchaser should arrange insurance as appropriate.
6. Some transactions involving personal property may be affected by the Personal Property Securities Act 2009.
7. A purchaser should be satisfied that finance will be available at the time of completing the purchase.
8. 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.
9. 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. More information is available from the ATO.

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>FRCGW remittance</i>	a remittance which the purchaser must make under s14-200 of Schedule 1 to the <i>TA Act</i> , being 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>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>GSTRW 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>GSTRW rate</i> );
<i>GSTRW 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>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>rescind</i>	rescind this contract from the beginning;
<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</i> by the <i>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 22 of the Swimming Pools Regulation 2018).

## 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* or by payment by electronic funds transfer 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 <i>termination</i> by the vendor or completion, subject to any existing right.
2.9	If each party tells the <i>depositholder</i> that the deposit is to be invested, the <i>depositholder</i> 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	<b>Deposit-bond</b>
3.1	This clause applies only if this contract says the vendor has agreed to accept a <i>deposit-bond</i> for the deposit (or part of it).
3.2	The purchaser must provide the original <i>deposit-bond</i> to the vendor's solicitor (or if no solicitor the <i>depositholder</i> ) at or before the making of this contract and this time is essential.
3.3	If the <i>deposit-bond</i> 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 <i>deposit-bond</i> at least 7 days before the expiry date. The time for service is essential.
3.4	The vendor must approve a replacement <i>deposit-bond</i> if – 3.4.1 it is from the same issuer and for the same amount as the earlier <i>deposit-bond</i> ; 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 <i>terminate</i> . The right to <i>terminate</i> is lost as soon as – 3.5.1 the purchaser serves a replacement <i>deposit-bond</i> ; 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 <i>deposit-bond</i> , the vendor must serve the earlier <i>deposit-bond</i> .
3.8	The amount of any <i>deposit-bond</i> does not form part of the price for the purposes of clause 16.7.
3.9	The vendor must give the purchaser the <i>deposit-bond</i> – 3.9.1 on completion; or 3.9.2 if this contract is <i>rescinded</i> .
3.10	If this contract is <i>terminated</i> by the vendor – 3.10.1 normally, the vendor can immediately demand payment from the issuer of the <i>deposit-bond</i> ; or 3.10.2 if the purchaser serves prior to <i>termination</i> a notice disputing the vendor's right to <i>terminate</i> , the vendor must forward the <i>deposit-bond</i> (or its proceeds if called up) to the <i>depositholder</i> as stakeholder.
3.11	If this contract is <i>terminated</i> by the purchaser – 3.11.1 normally, the vendor must give the purchaser the <i>deposit-bond</i> ; or 3.11.2 if the vendor serves prior to <i>termination</i> a notice disputing the purchaser's right to <i>terminate</i> , the vendor must forward the <i>deposit-bond</i> (or its proceeds if called up) to the <i>depositholder</i> as stakeholder.
4	<b>Transfer</b>
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	<b>Requisitions</b>
5.1	If a form of <i>requisitions</i> is attached to this contract, the purchaser is taken to have made those <i>requisitions</i> .
5.2	If the purchaser is or becomes entitled to make any other <i>requisition</i> , the purchaser can make it only by serving it – 5.2.1 if it arises out of this contract or it is a general question about the <i>property</i> or title - <i>within</i> 21 days after the contract date; 5.2.2 if it arises out of anything served by the vendor - <i>within</i> 21 days after the later of the contract date and that <i>service</i> ; and 5.2.3 in any other case - <i>within</i> a reasonable time.
6	<b>Error or misdescription</b>
6.1	Normally, the purchaser can (but only before completion) claim compensation for an error or misdescription in this contract (as to the <i>property</i> , 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

Normally, 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;

101.7	the existence of any authority or licence to explore or prospect for gas, minerals or petroleum;
101.8	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
101.9	anything the substance of which is disclosed in this contract (except a caveat, charge, mortgage, priority notice or writ).
102	The purchaser cannot rescind or terminate only because of a defect in title to or quality of the inclusions. 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).
10.3	
11	<b>Compliance with work orders</b>
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	<b>Certificates and inspections</b>
12.1	The vendor must do everything reasonable to enable the purchaser, subject to the rights of any tenant – 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	<b>Goods and services tax (GST)</b>
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 depositor 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 depositor is to pay the retention sum to the purchaser; but
	• if the purchaser does not serve that letter within 3 months of completion, the depositor 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 a *GSTRW payment* the purchaser must –  
 13.13.1 at least 5 days before the date for completion, *serve* evidence of submission of a *GSTRW 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 *GSTRW 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 *GSTRW payment* and a copy of the settlement date confirmation form submitted to the Australian Taxation Office.

## 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 lodgment fee to the purchaser.
- 16.6 If a party serves a land tax certificate showing a charge on any of the land, by completion the vendor must do all things and pay all money required so that the charge is no longer effective against the land.
- 16.7 On completion the purchaser must pay to the vendor, by cash (up to \$2,000) or settlement cheque –  
 • Purchaser  
 the price less any:  
 • deposit paid;  
 • FRGW remittance payable;  
 • GSTRW 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. 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 deposit holder to account to the vendor for the deposit.
- 16.10 On completion the deposit belongs to the vendor.
- 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 Schedule 2, Part 7 of the Residential Tenancies Act 2010).
- 18 Possession before completion  
 18.1 This clause applies only if the vendor gives the purchaser possession of the property before completion.  
 18.2 The purchaser must not before completion –  
 18.2.1 let or part with possession of any of the property;  
 18.2.2 make any change or structural alteration or addition to the property; or  
 18.2.3 contravene any agreement between the parties or any direction, document, legislation, notice or order affecting the property.
- 18.3 The purchaser must until completion –  
 18.3.1 keep the property in good condition and repair having regard to its condition at the giving of possession; and  
 18.3.2 allow the vendor or the vendor's authorised representative to enter and inspect it at all reasonable times.
- 18.4 The risk as to damage to the property passes to the purchaser immediately after the purchaser enters into possession.  
 18.5 If the purchaser does not comply with this clause, then without affecting any other right of the vendor –  
 18.5.1 the vendor can before completion, without notice, remedy the non-compliance; and  
 18.5.2 if the vendor pays the expense of doing this, the purchaser must pay it to the vendor with interest at the rate prescribed under s101 Civil Procedure Act 2005.
- 18.6 If this contract is rescinded or terminated the purchaser must immediately vacate the property.  
 18.7 If the parties or their solicitors on their behalf do not agree in writing to a fee or rent, none is payable.
- 19 Rescission of contract  
 19.1 If this contract expressly gives a party a right to rescind, the party can exercise the right –  
 19.1.1 only by serving a notice before completion; and  
 19.1.2 in spite of any making of a claim or requisition, any attempt to satisfy a claim or requisition, any arbitration, litigation, mediation or negotiation or any giving or taking of possession.
- 19.2 Normally, if a party exercises a right to rescind expressly given by this contract or any legislation –  
 19.2.1 the deposit and any other money paid by the purchaser under this contract must be refunded;  
 19.2.2 a party can claim for a reasonable adjustment if the purchaser has been in possession;  
 19.2.3 a party can claim for damages, costs or expenses arising out of a breach of this contract; and  
 19.2.4 a party will not otherwise be liable to pay the other party any damages, costs or expenses.

**20 Miscellaneous**

- 20.1 The *parties* acknowledge that anything stated in this contract to be attached was attached to this contract by the vendor before the purchaser signed it and is part of this contract.
- 20.2 Anything attached to this contract is part of this contract.
- 20.3 An area, bearing or dimension in this contract is only approximate.
- 20.4 If a *party* consists of 2 or more persons, this contract benefits and binds them separately and together.
- 20.5 A *party's solicitor* can receive any amount payable to the *party* under this contract or direct in writing that it is to be paid to another person.
- 20.6 A document under or relating to this contract is –
- 20.6.1 signed by a *party* if it is signed by the *party* or the *party's solicitor* (apart from a direction under clause 4.3);
- 20.6.2 served if it is served by the *party* or the *party's solicitor*;
- 20.6.3 served if it is served on the *party's solicitor*, even if the *party* has died or any of them has died;
- 20.6.4 served if it is served in any manner provided in s170 of the Conveyancing Act 1919;
- 20.6.5 served if it is sent by email or fax to the *party's solicitor*, unless in either case it is not received;
- 20.6.6 served on a person if it (or a copy of it) comes into the possession of the person; and
- 20.6.7 served at the earliest time it is served, if it is served more than once.
- 20.7 An obligation to pay an expense of another *party* of doing something is an obligation to pay –
- 20.7.1 if the *party* does the thing personally - the reasonable cost of getting someone else to do it; or
- 20.7.2 if the *party* pays someone else to do the thing - the amount paid, to the extent it is reasonable.
- 20.8 Rights under clauses 11, 13, 14, 17, 24, 30 and 31 continue after completion, whether or not other rights continue.
- 20.9 The vendor does not promise, represent or state that the purchaser has any cooling off rights.
- 20.10 The vendor does not promise, represent or state that any attached survey report is accurate or current.
- 20.11 A reference to any *legislation* (including any percentage or rate specified in *legislation*) is also a reference to any corresponding later *legislation*.
- 20.12 Each *party* must do whatever is necessary after completion to carry out the *party's* obligations under this contract.
- 20.13 Neither taking possession nor *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 '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.
23.5	<b>• Adjustments and liability for expenses</b> 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 <i>requisition</i> or <i>rescind</i> or <i>terminate</i> 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 <i>rescind</i> 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 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 materially prejudices 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 to the owners in the scheme for their consideration a strata renewal plan that has not lapsed at the contract date and there is not attached to this contract a strata renewal proposal or the strata renewal plan.
23.10	<b>• Notices, certificates and inspections</b> 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 <i>serve</i> 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 <i>service</i> 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.
23.17	<b>• Meetings of the owners corporation</b> 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	<b>Crown purchase money</b>
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	<b>Consent to transfer</b>
27.1	This clause applies only if the land (or part of it) cannot be transferred without consent under <i>legislation</i> or a <i>planning agreement</i> .
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 <i>planning agreement</i> , 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	<b>Unregistered plan</b>
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 <i>legislation</i> .
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 <i>legislation</i> 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	<b>Conditional contract</b>
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 an *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 the *effective date*, but at least 14 days before the date for completion, a *party* *serves* a notice stating a valid reason why it cannot 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 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 *Lodgment 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*; and
  - using the nominated *ELN*, unless the *parties* otherwise agree;
- 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 <i>Electronic Workspace</i> the vendor must within 7 days of being invited to the <i>Electronic Workspace</i> –	
30.8.1	join the <i>Electronic Workspace</i> ;	
30.8.2	populate the <i>Electronic Workspace</i> with mortgagee details, if applicable; and	
30.8.3	invite any discharging mortgagee to join the <i>Electronic Workspace</i> .	
30.9	To complete the financial settlement schedule in the <i>Electronic Workspace</i> –	
30.9.1	the purchaser must provide the vendor with adjustment figures at least 2 business days before the date for completion;	
30.9.2	the vendor must confirm the adjustment figures at least 1 business day before the date for completion; and	
30.9.3	if the purchaser must make a <i>GSTRW</i> payment or an <i>FRCGW</i> remittance, the purchaser must populate the <i>Electronic Workspace</i> with the payment details for the <i>GSTRW</i> payment or <i>FRCGW</i> remittance payable to the Deputy Commissioner of Taxation at least 2 business days before the date for completion.	
30.10	Before completion, the parties must ensure that –	
30.10.1	all <i>electronic documents</i> which a party must <i>Digitally Sign</i> to complete the <i>electronic transaction</i> are populated and <i>Digitally Signed</i> ;	
30.10.2	all certifications required by the <i>ECNL</i> are properly given; and	
30.10.3	they do everything else in the <i>Electronic Workspace</i> which that party must do to enable the <i>electronic transaction</i> to proceed to completion.	
30.11	If completion takes place in the <i>Electronic Workspace</i> –	
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 <i>Electronic Workspace</i> ; 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 <i>Land Registry</i> , the <i>ELNO</i> 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 computer systems of the <i>Land Registry</i> are inoperative for any reason at the completion time agreed by the parties, and the parties choose that financial settlement is to occur despite this, then on financial settlement occurring –	
30.13.1	all <i>electronic documents Digitally Signed</i> by the vendor, the <i>certificate of title</i> and any discharge of mortgage, withdrawal of caveat or other <i>electronic document</i> forming part of the <i>Lodgment Case</i> for the <i>electronic transaction</i> 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 <i>certificate of title</i> ; and	
30.13.2	the vendor shall be taken to have no legal or equitable interest in the property.	
30.14	A party who holds a <i>certificate of title</i> must act in accordance with any <i>Prescribed Requirement</i> in relation to the <i>certificate of title</i> but if there is no <i>Prescribed Requirement</i> , the vendor must serve the <i>certificate of title</i> 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 <i>Electronic Workspace</i> , 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;	
30.16	the party entitled to them.	
	In this clause 30, these terms (in any form) mean –	
	adjustment figures	details of the adjustments to be made to the price under clause 14;
	certificate of title	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;
	completion time	the time of day on the date for completion when the <i>electronic transaction</i> is to be settled;
	conveyancing rules	the rules made under s12E of the Real Property Act 1900;
	discharging mortgagee	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 property to be transferred to the purchaser;
	ECNL	the <i>Electronic Conveyancing National Law</i> (NSW);
	effective date	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;
	electronic document	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> ;
	electronic transfer	a transfer of land under the Real Property Act 1900 for the property to be prepared and <i>Digitally Signed</i> in the <i>Electronic Workspace</i> established for the purposes of the parties' <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>ECNL</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 *FRCGW remittance* 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 *FRCGW remittance*.
- 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.

### 32 Residential off the plan contract

- 32.1 This clause applies if this contract is an off the plan contract within the meaning of Division 10 of Part 4 of the Conveyancing Act 1919 (the Division).
- 32.2 No provision of this contract has the effect of excluding, modifying or restricting the operation of the Division.
- 32.3 If the purchaser makes a claim for compensation under the terms prescribed by clause 6A of the Conveyancing (Sale of Land) Regulation 2017 –
- 32.3.1 the purchaser cannot make a claim under this contract about the same subject matter, including a claim under clauses 6 or 7; and
- 32.3.2 the claim for compensation is not a claim under this contract.
- 32.4 This clause does not apply to a contract made before the commencement of the amendments to the Division under the Conveyancing Legislation Amendment Act 2018.

- 35 If at any time prior to completion the Vendor or Purchaser (or any of them):-
- (a) being an individual die or becomes mentally ill or is declared bankrupt or enters into any scheme or makes any assignment for the benefit of creditors; or
  - (b) If the Purchaser does not complete this agreement by the completion date and, at that date the Vendor is ready, willing and able to complete and the Vendor issues a Notice to Complete, the sum of three hundred and thirty dollars (\$330.00) inclusive of GST to cover the legal costs and disbursements incurred by the Vendor's solicitors and drafting and serving a Notice to Complete is to be allowed by the Purchaser as an additional adjustment on completion and it is an essential term of this contract that such payment be so paid.
  - (c) If a party is entitled to provide a Notice to Complete then fourteen (14) days (excluding the date on which the notice is given) is a reasonable period to allow for completion in that notice.
- 34 Completion shall take place:-
- (a) On the date for completion stated on the front page of this Contract PROVIDED THAT if such day is not a business day then on the first business day after the date for completion stated on the front page of this Contract or such earlier date as the parties may agree (completion date).
  - (b) If the Vendor requires more than five bank or building society cheques, the vendor must pay \$10.00 for each extra bank or building society cheque;
  - (c) Clause 7.2.6 by replacing "3 months" with "6 weeks".
  - (d) Clause 7.2.6 by adding "and despite Clause 7.2.5 the amount held and all net interest must be paid to the vendor" at the end of the clause;
  - (e) Clauses 10.1.8 and 10.1.9 by substituting "existence" for "substance";
  - (f) Clause 11.2 is deleted;
  - (g) Delete Clause 16.8 and replace with the following clause: "If the vendor requires more than five bank or building society cheques, the vendor must pay \$10.00 for each extra bank or building society cheque";
  - (h) Clause 18 is amended by adding the following clause 18.8: "The purchaser cannot make a claim or requisition or delay settlement after entering into possession of the property".
  - (i) Clause 25.1.1 delete the word "Limited";
  - (j) Clause 25.7 is deleted.
- 33.3 This Contract is varied as follows:
- (a) Clause 7.1.1 is deleted;
  - (b) Clause 7.2.6 by replacing "3 months" with "6 weeks".
  - (c) Clause 7.2.6 by adding "and despite Clause 7.2.5 the amount held and all net interest must be paid to the vendor" at the end of the clause;
  - (d) Clauses 10.1.8 and 10.1.9 by substituting "existence" for "substance";
  - (e) Clause 11.2 is deleted;
  - (f) Delete Clause 16.8 and replace with the following clause: "If the vendor requires more than five bank or building society cheques, the vendor must pay \$10.00 for each extra bank or building society cheque";
  - (g) Clause 18 is amended by adding the following clause 18.8: "The purchaser cannot make a claim or requisition or delay settlement after entering into possession of the property".
  - (h) Clause 25.1.1 delete the word "Limited";
  - (i) Clause 25.7 is deleted.
- 33.2 Where there is any inconsistency between the printed contract and these Special Conditions these Special Conditions shall prevail.
- 33.1 In the construction of this contract except to the extent that such construction would be excluded by or be repugnant to the context:-
- (a) Reference to a "person" shall include a corporation;
  - (b) Words importing the singular or plural number shall also import the plural or singular number respectively; and
  - (c) Words importing the masculine, feminine or neuter gender shall also import the other two genders.

**THESE ARE THE SPECIAL CONDITIONS IN THE CONTRACT FOR SALE OF LAND  
BETWEEN THE VENDOR AND PURCHASER  
AS SET OUT ON THE FRONT PAGE OF CONTRACT FOR SALE.**

(b) being a company is wound up, is placed in liquidation or a Controller (as defined in Section 9 of the *Corporations Act 2001 (Cth)*) is appointed to that party

then either party may at any time thereafter rescind this agreement by notice in writing served upon the other party and in respect of such rescission the terms of Clause 19 shall apply.

36 If the Purchaser does not complete this agreement in accordance with Clause 34 and the delay in completion is not caused by the Vendor then:-

(a) The Purchaser shall be liable to the Vendor for damages, for the lost purchase price plus interest on the balance of the purchase price, at the rate of ten per centum (10%) per annum from, but excluding the completion date to and including the date upon which the purchase price and other monies due under this clause (including, without limitation) interest at cost (including legal costs and disbursements) are satisfied; and

(b) Subclause (a) is an essential term of this agreement and will not merge upon completion.

(c) The purchaser cannot require the Vendor to complete this contract unless interest is payable under subclause (a) of this contract be paid to the Vendor upon completion.

37 Notwithstanding any principle of law to the contrary, the Purchaser shall have the right to make any objection, requisition or claim in respect of:-

(a) any encroachment onto any adjoining land by any building or structure on the land, other than a dividing fence as defined in the *Dividing Fences Act 1991*; or

(b) any encroachment onto the land by any building or structure on any adjoining land, other than a dividing fence as defined in the *Dividing Fences Act 1991*; or

(c) any non-compliance with the *Local Government Act 1993*, or any regulation under that Act, in respect of any building or structure on the land;

unless the encroachment or non-compliance is disclosed and clearly described in this contract.

## 38 REPRESENTATIONS, WARRANTIES AND ACKNOWLEDGEMENTS

38.1 This Contract is the whole agreement between the parties and contains all representations, warranties, promises and agreements of the parties in respect of its subject matter.

38.2 The Purchaser represents and warrants that:

(a) unless otherwise stated in this Agreement, the Purchaser has not entered into this Agreement in reliance on any express or implied statement, representation, promise or warranty made by the Vendor or on its behalf in respect of any matter relating to the property (including any improvements, fixtures, furnishings, chattels and inclusions) or which has or may have an affect on the property including but not limited to:

(i) its suitability for any use (including any restrictions applying to that use);

(ii) any financial return or income to be derived from it;

(iii) any services or proposed services to the property, being a joint service with another lot, the pipes or connections of any Authority responsible for the provision and maintenance of any services passing through the property.

(b) the Purchaser relies on the Purchaser's own enquiries in relation to all matters affecting the property, whether or not disclosed in this Agreement.

The sale of the property is subject to the right by the Vendor or by any person on behalf of the Vendor or auctioneer to make one (1) bid (and only one (1) bid). The Vendor hereby expressly reserves the right to make one (1) bid at the auction.

44 Auction

(b) In the event that vacant possession is not available within 21 days after the completion date herein, time being of the essence, and if completion of this Contract has not been effected, then either party may rescind this Contract and the provisions of Clause 19 herein will apply.

(a) This Contract is conditional upon the vendor obtaining vacant possession of the property from the tenant. The vendor will forthwith serve a notice on the tenant and will pursue that notice and the obtaining of vacant possession.

If a tenant is currently in occupation of the property and if page 1 of this Contract provides for the vendor to give vacant possession of the property on completion of this contract, then the following provisions will apply:

43 Tenancy

The Purchaser acknowledges that he is purchasing the property in its present condition and state of repair and enters into this agreement consequent upon his own inspection of the property, improvements and inclusions and subject to any infestation and dilapidation and that the Vendor has not nor has anyone on the Vendor's behalf made any representation with respect to the condition of the property and the Purchaser shall make no objection or requisition or claim for compensation in respect of same.

42

The parties agree that the solicitor or conveyancer acting for them has the authority to make amendments to this Contract on behalf of the party they represent pursuant to the instructions of that party.

41

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.

40 Condition 14.1 of this Contract is hereby varied by the addition of the following sentence after the word "liable":-

shall not merge on completion. The parties agree that the obligations under this Special Condition contract and agrees to be responsible for any commission payable by the Vendor as a result of a breach of such warranty. The Purchaser warrants that he was not introduced to the property by any real estate agent other than the vendor's agent (if any) referred to in "vendor's agent" on the front page of this contract and agrees to be responsible for any commission payable by the Vendor as a result of a breach of such warranty. The parties agree that the obligations under this Special Condition shall not merge on completion.

(c) Without limitation to any other provision in this Agreement the Purchaser confirms, warrants and acknowledges to the Vendor that the Purchaser has undertaken its own investigations and enquiries in respect of the property prior to entering into this Agreement, and any material or information provided or made available by or on behalf of the Vendor, has been provided for the purpose of assisting the Purchaser in determining the direction of its own independent enquiries into, and independent assessment of the Property, and prior to entering into this Contract the Purchaser has satisfied himself or herself with respect to all matters relating or arising out of those investigations and inspections in respect of the Property;

45 **Deposit Bond**

- (a) The expression "Bond" in this Contract means a Deposit Guarantee Bond issued to the Vendor at the request of the Purchaser by an entity acceptable to the Vendor and the Vendor's sole discretion (either named in this Contract or otherwise agreed between the Vendor and the Purchaser) and in or to the effect of the form set out below.
- (b) The delivery to the Vendor or the Vendor's solicitor of a Bond which subject to (i) and (ii) of this sub-clause, be deemed for the purposes of this Contract to be payment of the guaranteed payment of the amount expressed in the Bond and the following provisions shall apply:
  - (i) On completion of this Contract or at such other time as may be provided for the deposit to be accounted for to the Vendor, the Purchaser shall pay the amount stipulated in the Bond to the Vendor in cash or by unendorsed bank cheque, or
  - (ii) If the Vendor serves on the Purchaser a notice in writing claiming to forfeit the deposit, then such service shall operate as a demand upon the Purchaser for payment forthwith of the deposit (or so much thereof as has not been paid) and upon failure of the Purchaser to pay the same within two (2) clear business days of service of such notice the Vendor shall be entitled to demand payment from the Guarantor in accordance with the provisions of the Bond and the provisions of this Contract in relation to the deposit shall then apply as though this Contract had just been made and required payment of the deposit within two (2) clear business days of demand on the Guarantor.

46 **Requisitions on Title**

The purchaser must not raise or make any general requisitions on title pursuant to clause 5 of this Contract except for the accepted Requisitions on Title annexed to this Contract. Nothing in this clause prevents the purchaser from making any specific requisitions in relation to a matter arising out of this Contract except where the Contract precludes the purchaser from making any requisitions.

47 **Electronic Execution by Purchaser**

- (a) 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").
- (b) 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.
- (c) The purchaser agrees to provide to the vendor the original signature page of this Contract within ten (10) days after the date of this Contract.

48 **Electronic Execution by Vendor**

- (a) The parties acknowledge and agree that the execution of this Contract by the vendor may be effected by the use of either scanned or emailed signatures (hereinafter called "the manner of the vendor's execution of this Contract").
- (b) 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.
- (c) The vendor agrees to provide to the purchaser the original signature page of this Contract within ten (10) days after the date of this Contract.

(a) The persons whose signatures appear at the end of these Special Conditions under the guarantee execution clauses (hereinafter called "the Guarantors") being directors of the Purchaser under this Contract, in consideration of the Vendor having at the Guarantors' request, which request is testified by the Guarantors signatures hereto, agreed to enter into a Contract (hereinafter called "the said Contract") to sell the within Property to the

53 **Guarantee and Indemnity**

52 **Sewer Lines Location Diagram**  
The vendor discloses that Hunter Water Corporation will not provide a Sewer Lines Location Diagram for the subject property and the purchaser cannot make any objection, requisition, claim for compensation, rescind or terminate in respect to such disclosure.

(i) The vendor shall provide written evidence from a medical practitioner or other appropriate authority confirming the diagnosis of COVID-19 and/or a direction for self-isolation to the purchaser within seven (7) of receiving same. For the purposes of this clause a statutory declaration made by the vendor or if more than one, one of them, shall be satisfactory evidence of a direction to self-isolate; and  
(ii) Completion shall take place on the date being seven (7) days from the date on which the party is permitted to cease self-isolation and leave the property provided such date shall be no later than twenty eight (28) days from the date on which the purchaser receives the written evidence set out in subclause (i) above.

Then the parties agree that the following provisions shall apply:  
(a) contract the COVID-19 virus;  
(b) are directed to self-isolate in the property; or  
(c) need to care for an immediate member of their household or family in the property as a result of the matters listed in subclause (a) or (b) above;

51 **COVID-19**  
51.1 In the event the vendor, or if more than one, any one of them, prior to completion:

50 **Extension(s) to Cooling Off Period**  
If a cooling-off period applies to this Contract then on the second and each subsequent occasion that the purchaser requests and extension thereof and irrespective of whether the request is granted by the vendor, the purchaser must on completion pay a further sum of \$220.00 inclusive of GST for the vendor's additional legal costs associated with dealing with the purchasers request(s). This fee is agreed by the parties to be a genuine and reasonable pre-estimate of the vendors actual costs. The payment of this fee is an essential term of the completion of this Contract

(a) For the purpose of interpreting this clause, Digital Signature and Digitally Signed have the same meaning given to those terms in the Electronic Conveyancing National Law (NSW).  
(b) The parties acknowledge and agree that execution of this Contract by either party may be effected by the use of a digital signature, using whatever software program that party wishes to use for that purpose.  
(c) 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 use of digital signature on this Contract.  
(d) If this Contract is electronically sent by email to either party's solicitor bearing one or the parties' digital signatures, then it will be taken to have the same effect as physical delivery of that document, bearing the original signature of that person who digitally signed it.

49 **Electronic Execution of the Contract**



Purchaser, **HEREBY IRREVOCABLY AND UNCONDITIONALLY GUARANTEE** to the Vendor the due and punctual payment by the Purchaser to the Vendor of all sums of money as shall or may at any time or times hereafter become due, owing or payable by the Purchaser to the Vendor under the terms of and/or as a result of the said Contract (hereinafter called "the guaranteed moneys") at the times and in the manner as set out in the said Contract or otherwise on demand **AND** also the due and punctual performance and observance by the Purchaser of all and singular the covenants provisions and stipulations on the part of the Purchaser to be so performed and observed under and pursuant to the said Contract.

**AND IT IS HEREBY AGREED AND DECLARED:-**

- (b) That this Guarantee shall be a continuing guarantee until the whole of the guaranteed moneys are paid and shall be independent of and additional to and in no way affected by any other security instrument or document which the Vendor now holds or hereafter may obtain or hold for any indebtedness or liability (whether present future direct or contingent matured or unmatured joint or several) of the Purchaser or of the Guarantors to the Vendor.
- (c) That the Vendor may at any time and from time to time grant or agree to grant to the Purchaser any time or other indulgence or consideration and may compound with or release or assent to the winding up of the Purchaser and may wholly or partially release or discharge the Purchaser from any of the terms set out in the said Contract and may vary any of the terms of the said Contract without notice to or the consent of the Guarantors without affecting or discharging the liability of the Guarantors.
- (d) The Guarantors agree and declare that the Vendor shall not be bound at any time to exercise any of its rights under the said Contract or any collateral or other contract and any omission, failure or refusal by the Vendor so to do shall not prejudice, affect, discharge or diminish any of the liabilities of the Guarantors hereunder and the liability of the Guarantors hereunder shall not be affected or discharged by any other laches or mistakes on the part of the Vendor.
- (e) Should the liability of the Guarantors hereunder become merged in any judgment or order then the Guarantors will pay to the Vendor interest at the rate per centum per annum mentioned in the said Contract on the amount owing under such judgment or order from the date thereof until payment.
- (f) If by reason of any statute or any rule of law or for any other reason whatsoever any covenant, term or condition of the said Contract is rendered unenforceable by the Vendor against the Purchaser then the Guarantors for the consideration aforesaid agree hereby at all times to indemnify the Vendor to the full extent in respect of the guarantees moneys or any part thereof which have thereby been rendered unrecoverable by the Vendor from the Purchaser and the Guarantors further indemnify the Vendor against and in respect of any damage, loss, claim, demand, cost, expenses or obligation direct or indirect which the Vendor has or may suffer, incur or sustain.
- (g) The Guarantors for the consideration aforesaid will pay on demand to the Vendor immediately the same becomes or may become due and payable, all or part of the guarantee moneys.
- (h) This Guarantee shall be binding on each of the Guarantors who sign the same notwithstanding that any one or more of the Guarantors named herein may not have signed or may never sign this Guarantee.
- (i) In order to give full effect to the provisions of this Guarantee, the Guarantors declare that the Vendor shall be at liberty to act as though the Guarantors are the principal Debtor and the Guarantors waive all rights either at law or under any Statute that the Guarantors might otherwise be entitled to claim or enforce. Any real property or other property or

both owned by the Guarantors is upon a notice or demand hereunder charged and mortgaged and the Vendor has a right to caveat such property.

(j) Any notice or demand to be given to or made upon the Guarantors by the Vendor hereunder shall be deemed to be fully given or made if the same be in writing and be signed by the Vendor or the Manager or Acting Manager for the time being of the Vendor or any Attorney or the Vendor or by its Solicitors.

(k) The Guarantors do not execute this instrument as a result of or by reason of any promise, representation, statement or information of any nature or kind whatsoever given or offered to them by or on behalf of the Vendor whether in answer to any inquiry by or on behalf of the Guarantors or not.

(l) This Guarantee shall not be determined by the death or winding up of the Guarantors or any of them.

(m) This Guarantee, being given for valuable consideration, is irrevocable until the said Contract has been fully performed and carried into effect by the Purchaser.

(n) That except to the extent that such interpretation shall be excluded by or be repugnant to the context whenever the same is used herein the word "Guarantors" shall mean and include the Guarantors, their executors, administrators and assigns or (in the case of a Company) such Guarantor and its successors and assigns and when two or more Guarantors are parties hereto shall mean and include every person and company who or which is a Guarantor and each of them, their, his or its assigns and the executors and administrators or successors of each Guarantor and when two or more Guarantors are parties to this Guarantee and the obligations and agreements on their part herein contained or implied shall bind them and every two or greater number of them jointly and each of them severally; and the expression "the Vendor" shall mean and include the Vendor, its successors and assigns, words importing the singular number or plural number shall be deemed to include the plural number and the singular number respectively and words importing any gender shall include every gender; and reference in case to a corporation to winding up shall include Official Management Receivership or Scheme of Arrangement.

I certify that the Guarantor with whom I am personally acquainted or as to whose identity I am otherwise satisfied, signed this instrument in my presence.

Signature of witness: \_\_\_\_\_

Name of witness: \_\_\_\_\_

Address of witness: \_\_\_\_\_

Certified correct for the purposes of the Real Property Act 1900 by the Guarantor

Signature of the Guarantor: \_\_\_\_\_

I certify that the Guarantor with whom I am personally acquainted or as to whose identity I am otherwise satisfied, signed this instrument in my presence.

Signature of witness: \_\_\_\_\_

Name of witness: \_\_\_\_\_

Address of witness: \_\_\_\_\_

Certified correct for the purposes of the Real Property Act 1900 by the Guarantor

Signature of the Guarantor: \_\_\_\_\_

Address of witness: \_\_\_\_\_

Name of witness: \_\_\_\_\_

Signature of witness: \_\_\_\_\_

## RESIDENTIAL PROPERTY REQUISITIONS ON TITLE

Vendor: Ann Robyn Wilkinson  
Purchaser:  
Property: 8 Benshulla Drive, Bolwarra Heights  
Dated:

---

### Possession and tenancies

1. Vacant possession of the property must be given on completion unless the Contract provides otherwise.
2. Is anyone in adverse possession of the property or any part of it?
3.
  - (a) What are the nature and provisions of any tenancy or occupancy?
  - (b) If they are in writing, all relevant documentation should be produced, found in order and handed over on completion with notices of attornment.
  - (c) Please specify any existing breaches.
  - (d) All rent should be paid up to or beyond the date of completion.
  - (e) Please provide details of any bond together with the Rental Bond Board's reference number.
  - (f) If any bond money is held by the Rental Bond Board, the appropriate transfer documentation duly signed should be handed over on completion.
4. Is the property affected by a protected tenancy? (A tenancy affected by Parts 2, 3, 4 or 5 of the *Landlord and Tenant (Amendment) Act 1948*.)
5. If the tenancy is subject to the *Residential Tenancies Act 1987*:
  - (a) has either the vendor or any predecessor or the tenant applied to the Residential Tenancies Tribunal for an order?
  - (b) have any orders been made by the Residential Tenancies 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 or cancelled as the case may be or, in the case of a mortgage or caveat, an executed discharge or withdrawal 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 the inclusions or fixtures subject to any charge or hiring agreement? If so, details must be given and any indebtedness discharged prior to completion or title transferred unencumbered to the vendor prior to completion.

### Adjustments

11. All outgoing 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?

### Survey and building

13. 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.
14. 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.
15.
  - (a) Have the provisions of the *Local Government Act, the Environmental Planning and Assessment Act 1979* 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? 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? 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*.
16. 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?
17. If a swimming pool is included in the property:
- (a) when did construction of the swimming pool commence?
- (b) is the swimming pool surrounded by a barrier which complies with the requirements of the *Swimming Pools Act 1992*?
- (c) if the swimming pool has been approved under the *Local Government Act 1993*, please provide details.
- (d) are there any outstanding notices or orders?
- (a) To whom do the boundary fences belong?
- (b) Are there any party walls?
- (c) If the answer to (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*?
- Affections**
19. Is the vendor aware of any rights, licences, easements, covenants or restrictions as to use other than those disclosed in the Contract?
20. 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?
21. 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?
22. Does the property have the benefit of water, sewerage, drainage, electricity, gas and telephone services?
- (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?
23. 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**
24. 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**
25. 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.
26. 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.
27. Searches, surveys, enquiries and inspection of title deeds must prove satisfactory.
28. The purchaser reserves the right to make further requisitions prior to completion.
29. 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 completion date.



FOLIO: 30/260430

SEARCH DATE	TIME	EDITION NO	DATE
16/4/2021	11:25 AM	2	30/6/1994

LAND

LOT 30 IN DEPOSITED PLAN 260430 AT BOLWARRA LOCAL GOVERNMENT AREA MAITLAND PARISH OF MIDDLEHOPE COUNTY OF DURHAM TITLE DIAGRAM DP260430

FIRST SCHEDULE

ANN ROBYN WILKINSON (T U400223)

SECOND SCHEDULE (5 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 DP260430 RIGHT OF CARRIAGEWAY 8.15 WIDE AND VARIABLE APPURTENANT TO THE LAND ABOVE DESCRIBED
- 3 DP260430 RIGHT OF USAGE FOR SERVICES APPURTENANT TO THE LAND ABOVE DESCRIBED
- 4 DP260430 EASEMENT TO DRAIN WATER 10.5 WIDE AND VARIABLE APPURTENANT TO THE LAND ABOVE DESCRIBED
- 5 DP260430 RESTRICTION(S) ON THE USE OF LAND

NOTATIONS

NOTE: THE CERTIFICATE OF TITLE FOR THIS FOLIO OF THE REGISTER DOES NOT INCLUDE SECURITY FEATURES INCLUDED ON COMPUTERISED CERTIFICATES OF TITLE ISSUED FROM 4TH JANUARY, 2004. IT IS RECOMMENDED THAT STRINGENT PROCESSES ARE ADOPTED IN VERIFYING THE IDENTITY OF THE PERSON(S) CLAIMING A RIGHT TO DEAL WITH THE LAND COMPRISED IN THIS FOLIO.

UNREGISTERED DEALINGS: NIL

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

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

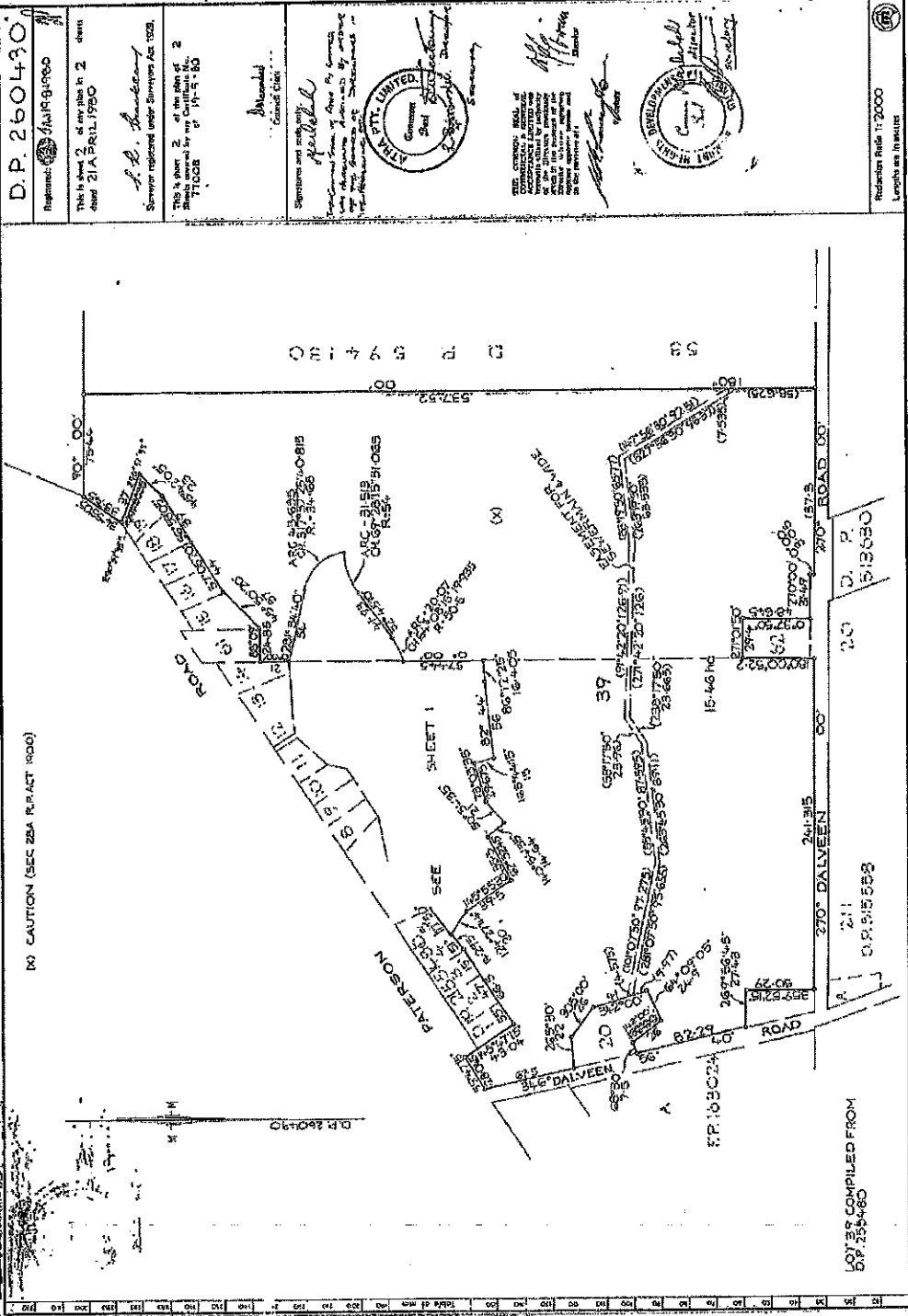




PLAN FORM 3 To be used in conjunction with Plan Form 2

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

DP260130 OFFICE USE ONLY



LOT 33 COMPILED FROM D.P. 255480

270th ROAD 157.5

270th ROAD 157.5

D.P. 260430

1:5000

Length in inches

Scale: 1 inch = 100 feet

REGISTRATION: 21 APR 1960

THIS IS SHEET 2 of 2 sheets in 2 sheets

Surveyor registered under Surveyors Act 1920,

L. S. Bunker

THIS IS SHEET 2 of the plan of 2 sheets

21 APR 1960

Registered under Surveyors Act 1920,

L. S. Bunker

THIS IS SHEET 2 of the plan of 2 sheets

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L. S. Bunker

THIS IS SHEET 2 of the plan of 2 sheets

21 APR 1960

Surveyor registered under Surveyors Act 1920,

L. S. Bunker

AMENDMENTS AND/OR ADDITIONS NOTED ON PLAN IN REGISTER GENERAL'S OFFICE.

I, Bruce Richard Davison, Public Notary for Land and Titles, certify that this plan is a photograph made as a permanent record of a plan in my custody this day.

1st October, 1982



This negative is a photograph made as a permanent record of a document in the custody of the Registrar General this day 28th August, 1990

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

(Sheet 1 of 5 sheets)

PLAN: D.P. 01280430  
 Full Name and Address of Proprietor of the Land: Atha Pty, Limited of 112 Russell Road, New Lambton  
 Full Name and Address of Mortgagees of the Land: Commercial & General Acceptance Limited of 418 - 422 Hunter Street, Newcastle  
 Michael John Walsh of 71 - 73 King Street, Newcastle

1. Identity of Easement or Restriction Fully Referred to in Above-mentioned Plan  
 Easement to drain water 2 wide

2. Identity of Easement or Restriction Secondly Referred to in Above-mentioned Plan  
 Easement to drain water 2.5 wide

3. Identity of Easement or Restriction Thirdly Referred to in Above-mentioned Plan  
 Right of Carriageway 8.15 wide and variable width.

SCHEDULE OF LOTS AFFECTED

Lots Burdened	Lot's Name of Road or Authority Benefitted
Lot 31	Lot's 30, 31, 32, 33, 34
Lot 32	Lot's 30, 31, 32, 33, 34
Lot 33	Lot's 30, 31, 32, 33, 34
Lot 34	Lot's 30, 31, 32, 33, 34

SCHEDULE OF LOTS ENT AFFECTED

Lot's Name of Road or Authority Benefitted
Lot's 30, 31, 32, 33, 34

*Do not*

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

(Sheet 3 of 5 sheets)

01280430 PART 2  
 Full Name and Address of Proprietor of the Land: Atha Pty, Limited of 112 Russell Road, New Lambton  
 Full Name and Address of Mortgagees of the Land: Commercial & General Acceptance Limited of 418 - 422 Hunter Street, Newcastle  
 Michael John Walsh of 71 - 73 King Street, Newcastle

1. TERMS OF EASEMENT FULLY REFERRED TO IN ABOVE-MENTIONED PLAN  
 Easement 10.5 wide and variable width granting right of usage for services

2. TERMS OF EASEMENT SECONDLY REFERRED TO IN ABOVE-MENTIONED PLAN  
 Easement for sewer wells

Full and free right for the body in whose favour this easement is created, and every person authorized by it, from time to time and at all times by means of pipes to drain sewerage and other waste material and fluid in any quantities across and through the land herein indicated as the servient tenement, together with the land already and which is the purpose of the easement, any line of pipes and conduits, with all appurtenances, and where no such lines substituting sewerage or any pipe or pipe or pipe or pipe or in any place and maintain a line of pipes of sufficient diameter to diameter beneath or upon the surface of the servient tenement and together with the right for the body in whose favour this easement is created and every person authorized by it, with any tools, implements, or machinery, necessary for the purpose, to enter upon the servient tenement and to remain there for any reasonable time for the purpose of laying, inspecting, cleaning, repairing, maintaining, or renewing such pipe line or any part thereof and for any of the aforesaid purposes to open the ground and soil of the servient tenement to such extent as may be necessary provided that the body in whose favour this easement is created and the persons authorized by it will take all reasonable precautions to ensure as little disturbance as possible to the surface of the servient tenement and will

D.P. 260430.

(Sheet 2 of 5 sheets)  
Subdivision covered by Consent  
Certificate No. 77008 of 1960.  
Easement 10.5 wide and variable  
width granting right of usage  
for services

4. Identity of Easement or  
Restriction Fourthly  
referred to in above  
mentioned Plan

**SCHEDULE OF LOTS ETC. AFFECTED**

**Lots Burdened**  
Benefitted  
Lots 30, 32, 33, 34  
Lots 30, 31, 33, 34  
Lots 30, 31, 32, 34  
Lots 30, 31, 32, 33.

5. Identity of Easement or  
Restriction Fifthly  
referred to in above  
mentioned Plan

**SCHEDULE OF LOTS ETC. AFFECTED**

**Lots Burdened**  
Benefitted  
Lots 30, 32, 33, 34  
Lots 30, 31, 33, 34  
Lots 30, 31, 32, 34  
Lots 30, 31, 32, 33.

6. Identity of Easement or  
Restriction Sixthly  
referred to in above  
mentioned Plan

**SCHEDULE OF LOTS ETC. AFFECTED**

**Lots Burdened**  
Benefitted  
Hunter District Water Board

7. Identity of Easement or  
Restriction Seventhly  
referred to in above  
mentioned Plan

**Lots Burdened**  
Benefitted  
As to the first term thereof As to the first term thereof  
Lot 30 Lots 31, 32, 33, 34  
Lot 31 Lots 30, 32, 33, 34  
Lot 32 Lots 30, 31, 33, 34  
Lot 33 Lots 30, 31, 32, 34  
Lot 34 Lots 30, 31, 32, 33  
And thereafter each Lot  
except Lots 21 and 39 Lot except Lots 21 and 39.

*D. J. ...*  
*B. ...*

AMENDMENTS AND/OR ADDITIONS MADE ON  
PLAN IN THE LAND TITLES OFFICE

10 20 30 40 50 60 70 Table of mm 110 120 130 140

This negative is a photograph made as a permanent  
record of a document in the custody of the  
Registrar General this day. 28th August, 1990



AMENDMENTS AND/OR ADDITIONS MADE ON  
PLAN IN THE LAND TITLES OFFICE

10 20 30 40 50 60 70 Table of mm 110 120 130 140

This negative is a photograph made as a permanent record of a document in the custody of the Registrar General this day 28th August, 1990

DP288430

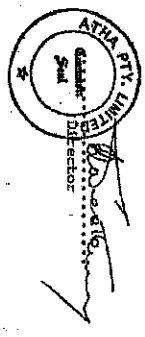
(Sheet 5 of 5 sheets)  
Subdivision created by General Clark's Certificate No. 77003 of 1980.

the said adjoining land by Atha Pty. Limited its successors or assigns other than purchasers on sale.

(j) Any release variation or modification of these restrictions shall be made and done in all respects at the cost and expense of the person or persons requesting the same.

The person or persons having the right to release or vary or modify these restrictions is Atha Pty. Limited or such other persons company or companies nominated by it under its Common Seal. Any release variation or modification shall be done in and to the satisfaction of the Registrar of Land Titles and the land comprised in the plan of subdivision and there shall be no such person company or companies so nominated then the persons for the time being registered as the proprietor of the land in the plan of subdivision other than each lot burdened.

THE COMMON SEAL of ATHA PTY. LIMITED was heretofore affixed by order of the Board of Directors in the presence of:



D. Babcock  
Secretary

SIGNED in my presence by MICHAEL JOHN WALSH who is personally known to me:

*[Signature]*  
Director

*[Signature]*

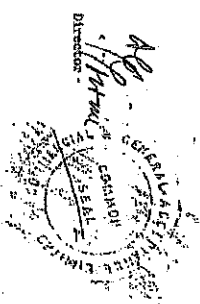
THE COMMON SEAL of BELMONT HEIGHTS DEVELOPMENTS PTY. LIMITED was heretofore affixed by order of the Board of Directors in the presence of:



*[Signature]*  
Secretary

THE COMMON SEAL of COMMERCIAL & GENERAL ACCREDITANCE LIMITED was heretofore affixed by authority of the Directors previously given in the presence of the Director whose signature appears opposite hereto and in the presence of:

*[Signature]*  
Secretary



REGISTRATION SETTING OUT INTERESTS CREATED PURSUANT TO SECTION 88B, CONVEYANCING ACT, 1984  
MJK, LOGGED WITH

DP288430  
19/8/90

3

**Certificate No.: PC/2021/1194**  
**Certificate Date: 19/04/2021**  
**Fee Paid: \$53.00**  
**Receipt No.: 976023**  
**Your Reference: 59019**

**SECTION 10.7 PLANNING CERTIFICATE**  
**Environmental Planning and Assessment Act, 1979 as amended**

**APPLICANT:** Infotrack  
 email: [ecertificates@infotrack.com.au](mailto:ecertificates@infotrack.com.au)

**PROPERTY DESCRIPTION:** 8 Benshulla Drive BOLWARRA HEIGHTS NSW 2320

**PARCEL NUMBER:** 11091

**LEGAL DESCRIPTION:** Lot 30 DP 260430

**IMPORTANT: Please read this Certificate carefully.**

This Certificate contains important information about the land described above.

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, please contact Council by phoning (02) 4934 9700, or personally at Council's Administration Building at 285-287 High Street, Maitland.

The information provided in this Certificate relates only to the land described above. If you require information about adjoining or nearby land, or about the Council's development policies or codes for the general area, contact Council's Planning & Environment Department.

All information provided is correct as at the date of issue of this Certificate, however it is possible for changes to occur at any time after the issue of this Certificate. We recommend that you only rely upon a very recent Certificate.

The following responses are based on the Council's records and/or information from sources outside the Council. The responses are provided with all due care and in good faith, however the Council cannot accept responsibility for any omission or inaccuracy arising from information outside the control of the Council.

Furthermore, while this Certificate indicates the general effect of the zoning of the above-mentioned land, it is suggested that the applicable planning instruments be further investigated to determine any additional requirements.

**Copies of Maitland City Council's Local Environmental Planning Instrument, Development Control Plans and Policies are available from Council's [website](#).**

## **PART 1: MATTERS PROVIDED PURSUANT TO SECTION 10.7 (2)**

### **1. Local Environmental Plan (LEP)**

Maitland LEP 2011, published 16 December 2011, applies to the land.

#### **Exhibited draft Local Environmental Plans**

No draft local Environmental Plans that have been on public exhibition under the Act are applicable to the land.

#### **Development Control Plan prepared by Council**

Maitland Development Control Plan 2011 applies to the land.

#### **Development Control Plan prepared by the Director General**

The Council has not been notified of any Development Control Plan applying to the land that has been prepared by the Director-General under section 51A of the Act.

#### **State Environmental Planning Policies**

The Minister for Planning has notified that the following State Environmental Planning Policies (SEPPs) shall be specified on Certificates under Section 10.7 of the Environmental Planning and Assessment Act, 1979.

The land is affected by the following State Environmental Planning Policies:

- SEPP21 Caravan Parks
- SEPP (Mining, Petroleum Production and Extractive Industries) 2007
- SEPP (State and Regional Development) 2011
- SEPP33 Hazardous and Offensive Development
- SEPP36 Manufactured Home Estates
- SEPP (Koala Habitat Protection) 2019
- SEPP50 Canal Estate Development
- SEPP (Housing for Seniors or People with a Disability) 2004
- SEPP55 Remediation of Land
- SEPP Affordable Rental Housing 2009
- SEPP Building Sustainability Index: BASIX 2004
- SEPP (Exempt and Complying Development Codes) 2008
- SEPP (Infrastructure) 2007
- SEPP Primary Production and Rural Development 2019
- SEPP65 Design Quality of Residential Apartment Development
- SEPP70 Affordable Housing (Revised Schemes)
- SEPP (Concurrences and Consents) 2018
- SEPP Vegetation in Non Rural Areas 2017
- SEPP (Educational Establishments and Child Care Facilities) 2017
-

**d) Prohibited**

Home occupations

**c) Permitted without Consent**

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dwelling houses; Group homes; Home-based child care; Home industries; Hostels; Hotel or motel accommodation; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Residential flat buildings; Respite day care centres; Roads; Semi-detached dwellings; Seniors housing; Serviced apartments; Shop top housing; Tank-based aquaculture; Any other development not specified in item 2 or 4

**b) Permitted with Consent**

- To provide for the housing needs of the community
- To provide for a variety of housing types and densities
- To enable other land uses that provide facilities or services to meet the day to day needs of residents

**a) Purpose/Objective**

**R1 General Residential**

The following development information gives the objectives of the zone, the description of the zone and identifies development allowed or prohibited in each zone. Development consent where required, must be obtained from the Council.

**R1 General Residential**

Maitland LEP 2011, published 16 December 2011, identifies the zone applying to the land as:

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

The proposed amendments to this SEPP are housekeeping amendments to the Codes SEPP to simplify and improve the policy, clarify definitions and standards, and address other minor technical matters raised. The proposed housekeeping amendment to the Codes SEPP will simplify and improve the policy, clarify definitions and standards, and address other minor technical matters, and address other minor technical matters.

**Housekeeping Amendment to the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008**

The following draft State Environmental Planning Policy(s) applying to the land is, or has been, the subject of community consultation or on public exhibition under the Act:

**Draft State Environmental Planning Policies**

premises; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Entertainment facilities; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Function centres; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Information and education facilities; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Passenger transport facilities; Public administration buildings; Recreation facilities (indoor); Recreation facilities (major); Registered clubs; Research stations; Restricted premises; Rural industries; Rural workers' dwellings; Service stations; Sewage treatment plants; Sex services premises; Signage; Storage premises; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Warehouse or distribution centres; Waste or resource management facilities; Water recreation structures; Water recycling facilities; Wharf or boating facilities; Wholesale supplies.

**e) Land dimensions to permit the erection of a dwelling house on the land**

For the land zoned R1 General Residential the Maitland LEP 2011 does not contain a development standard specifying the land dimensions required to permit the erection of a dwelling house on the land.

**f) Critical Habitat**

No Local Environmental Plan or draft Local Environmental Plan identifies the land as including or comprising critical habitat.

**g) Conservation Area**

The land IS NOT in a Heritage Conservation Area.

**h) Item of Environmental Heritage**

The land does NOT contain an item of Environmental Heritage.

**3. Complying Development**

Complying development under the **Housing Code** may be carried out on the land.

Complying development under the **Low Rise Medium Density Housing Code** may be carried out on the land. Complying development under the **Greenfield Housing Code** may be carried out on the land, but only if the land is identified on the *Greenfield Housing Code Area Map* issued by the NSW Department of Planning and Environment.

Complying development under the **Rural Housing Code** may not be carried out on the land as it is not within an applicable zone.

Complying development under the **Housing Alterations Code** may be carried out on the land.

Complying development under the **General Development Code** may be carried out on the land.

Complying development under the **Commercial and Industrial Alterations Code** may be carried out on the land.

Complying development under the **Commercial and Industrial (New Buildings and Additions) Code** may not be carried out on the land as it is not within an

applicable zone.

Complying development under the **Subdivisions Code** may be carried out on the land.

Complying development under the **Demolition Code** may be carried out on the land.

Complying development under the **Fire Safety Code** may be carried out on the land.

Complying development under the **Container Recycling Facilities Code** may not be carried out on the land.

**Note: Despite the above provisions, if only part of a lot is subject to an exclusion or exemption under Clause 1.17A or Clause 1.19 of State**

**Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Commercial and Industrial Development and Other Matters) 2013, complying development may be carried out on that part of the lot that is not affected by the exclusion or exemption.**

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

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

**5. Coal Mine Subsidence Compensation Act 2017**

The land has NOT been proclaimed to be within a Mine Subsidence District under the meaning of section 20 of the Coal Mine Subsidence Compensation Act 2017.

**6. Road widening and road realignment**

a) The land is NOT affected by road widening under Division 2 of Part 3 of the Roads Act 1993.

b) The land is NOT affected by any environmental planning instrument

c) The land is NOT affected by any road-widening or realignment under any resolution of the Council

The information above relates to Council's road proposals only. Other authorities, including Roads and Maritime Services, may have proposals, which have not been set out.

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

All land within the Maitland Local Government Area has the potential to contain acid sulfate soils. Clause 7.1 of the Maitland Local Environmental Plan 2011 generally applies. Development consent is required where works described in the Table to this clause are proposed on land shown on the Maitland LEP 2011 Acid Sulfate Soils Map as being of the class specified for those works.

The Council has adopted a Contaminated Lands Policy to provide a framework to appropriately manage land contamination risk through the land use planning process. This Policy seeks to ensure that changes in land use will not increase the risk to human health or the environment. The Policy applies to all land in the Maitland Local Government Area.



## 7A. Flood Related Development Controls

Development on this land or part of this land for the purposes of dwelling houses, attached dwellings, dual occupancies, multi dwelling housing or residential flat buildings (not including development for the purposes of group homes or seniors housing) is NOT subject to flood related development controls contained within clause 7.3 of the Maitland LEP 2011 and s.B3 of the Maitland DCP 2011.

Development on this land or part of this land for any other purpose is NOT subject to flood related development controls contained within clause 7.3 of the Maitland LEP 2011 and s.B3 of the Maitland DCP 2011.

Information given in relation to flooding is based upon Council's adopted 1:100 ARI (Average Recurrent Interval) flood event.

The Maitland LEP 2011 identifies the flood planning level (FPL) as the level of a 1:100 ARI flood event plus 0.5m freeboard.

## 8. Land Reserved for Acquisition

No environmental planning instrument, deemed environmental planning instrument or draft environmental planning instrument applying to the land provides for the acquisition of the land by a public authority, as referred to in section 3.15 of the Act.

## 9. Contribution Plans

The following contribution plan(s) apply to the land:

- Maitland S94A Levy Contributions Plan 2006
- Maitland City Wide Section 94 Contributions Plan 2016
- Maitland S94 Contributions Plan (City Wide) 2006

Contributions Plans may be viewed on Council's website or inspected and purchased at Council's Customer Service 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 Council is not aware if the land is a biodiversity stewardship site under a biodiversity stewardship agreement under part 5 of the *Biodiversity Conservation Act 2016*.

## 10A. Native Vegetation clearing set asides

The Council is not aware if the land contains a set aside area under 60ZC of the *Local Land Services Act 2013*.

## 11. Bushfire Prone Land

The land is NOT identified as being bushfire prone land.

## 12. Property vegetation plans

The Council has not received any notification from Hunter Local Land Services that

this land is affected by a property vegetation plan under Part 4 of the Native Vegetation Act 2003 (and that continues in force).

**13. Order under Trees (Disputes between Neighbours) Act 2006**

Council has NOT received notification from the Land and Environment Court of NSW that the land is affected by an Order under Trees – (Disputes Between Neighbours) Act 2006.

**14. Directions under Part 3A**

There is NO direction by the Minister under Section 75P(2)(c1) of the Act that a provision of an environmental planning instrument prohibiting or restricting the carrying out of a project or a stage of a project on the land under Part 4 (other than a project of a class prescribed by the regulations) of the Act does not have effect.

**15. Site Compatibility Certificate and Conditions for Seniors Housing**

**a) Site Compatibility Certificate**

Council is unaware of whether a current Site Compatibility Certificate issued under Clause 25 of the State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 has been issued for the land.

**b) Conditions of Development Consent since 11 October 2007**

No development consent has been granted for the development permitted under State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 after 11 October 2007.

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

Council is unaware of whether a valid Site Compatibility Certificate has been issued under clause 19 of State Environmental Planning Policy (Infrastructure) 2007 for the land.

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

Council is unaware if a Site Compatibility Certificate (Affordable Rental Housing) has been issued in accordance with State Environmental Planning Policy (Affordable Rental Housing) 2009.

**18. Paper subdivision information**

There is no development plan that applies to the:

1) Land or that is proposed to be subject to a consent ballot

2) There is no subdivision order that applies to the land.

**19. Site verification certificates**

Council is not aware of any current site verification certificate in respect of the land.

**20. Loose-fill asbestos insulation**

There are no premises on the subject land listed on the register.

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

The Council is NOT aware of any affected building notice which is in force in respect of the land.

The Council is NOT aware of any building product rectification order which is in force in respect of the land and that has not been fully complied with.

The Council is NOT aware of any notice of intention to make a building product rectification order being given in respect of the land and that is outstanding.

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

**Contaminated Land**

- a) The land to which this certificate relates is NOT significantly contaminated land within the meaning of the Contaminated Land Management Act 1997.
  - b) The land to which this certificate relates is NOT subject to a management order within the meaning of the Contaminated Land Management Act 1997.
  - c) The land to which this certificate relates is NOT the subject of an approved voluntary management proposal within the meaning of the Contaminated Land Management Act 1997.
  - d) The land to which this certificate relates is NOT the subject to an ongoing maintenance order within the meaning of the Contaminated Land Management Act 1997.
  - e) Council has NOT been provided with a site audit statement, within the meaning of the Contaminated Land Management Act 1997, for the land to which this Certificate relates.
- 

**David Evans**  
**General Manager**



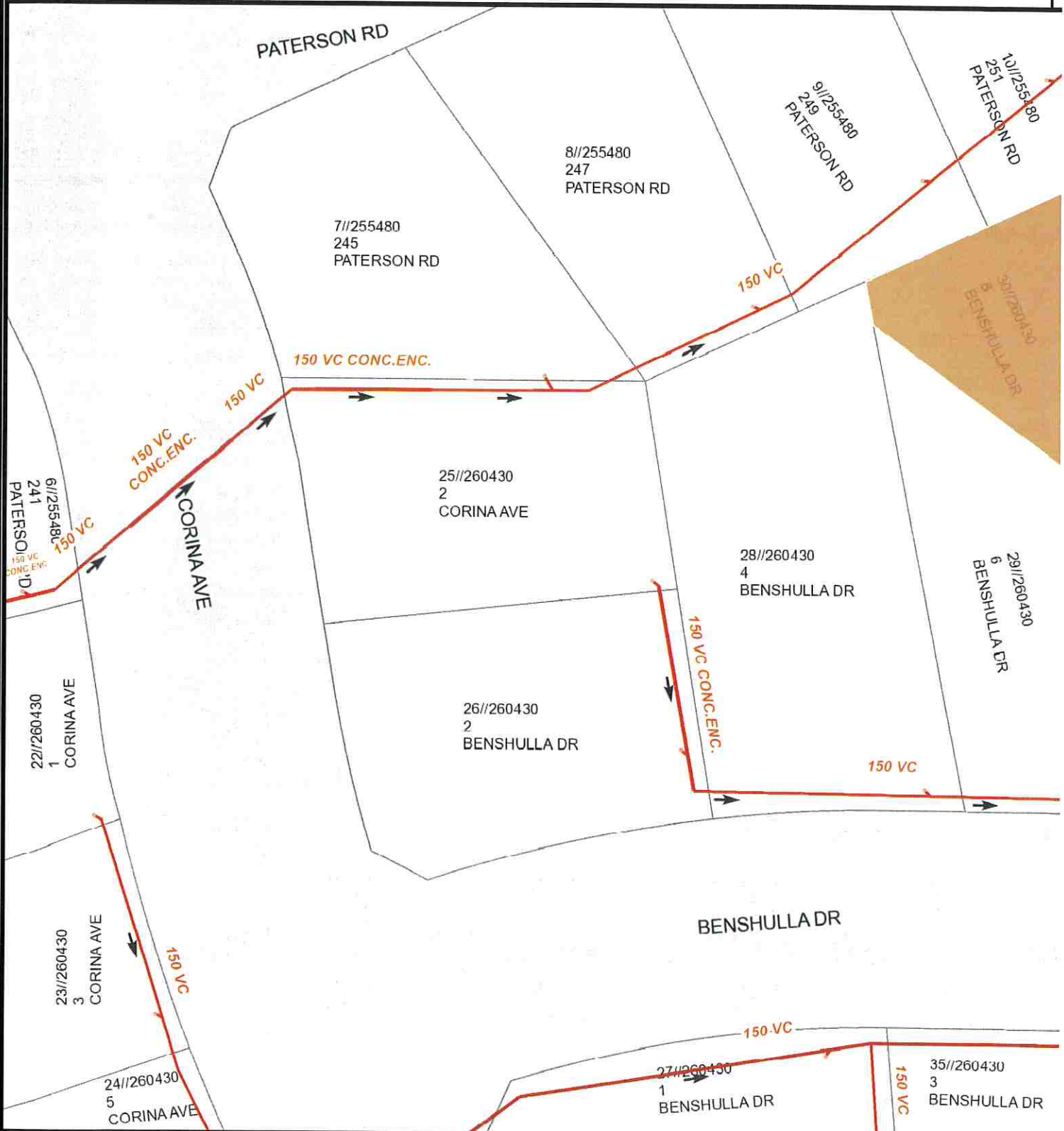


# HUNTER WATER CORPORATION

A.B.N. 46 228 513 446

## SERVICE LOCATION PLAN

Enquiries: 1300 657 657



Date: 16/04/2021  
User: HWCPriener

CADASTRAL DATA © Department Finance, Services & Innovation [Nov 2017].  
Modified [16/04/2021] AERIAL DATA © NearMap  
CONTOUR DATA © AAMHatch  
© Department of Planning

Scale at A3: 1:564

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

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

SEWER PC  
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