

# Contract for the sale and purchase of land 2019 edition

TERM	MEANING OF TERM	NSW DAN:
vendor's agent	Peters Real Estate 475-477 High Street Maitland NSW	Phone 02 4933 7855 Fax Ref Tim Peters Email sales@petersrealestate.com.au
vendor	<b>NewPro 20 Pty Ltd ACN 639 377 987 ATF NewPro 20 Unit Trust ABN 42 709 573 659</b> c/- Suite 25, 19 Bolton Street, Newcastle NSW 2300	
vendor's solicitor	<b>Sparke Helmore</b> Level 7, Sparke Helmore Building, 28 Honeysuckle Drive, Newcastle NSW 2300	Phone +61 2 4924 7251 Fax +61 2 4924 7299 Ref ABF:NEW998-[ ] Email Andrew.Ferguson@sparke.com.au
date for completion	Refer Special Conditions (clause 15)	
land (Address, plan details and title reference)	Lot Hillcrest Lochinvar, 48 Windermere Road, Lochinvar Lot being part folio identifier 1/537313	
improvements	<input checked="" type="checkbox"/> VACANT POSSESSION <input type="checkbox"/> subject to existing tenancies <input 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 checked="" 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.**

purchaser		
guarantor		
purchaser's solicitor		Phone Fax Ref Email
price	\$	
deposit	\$	(10% of the price, unless otherwise stated)
balance	\$	
contract date		(if not stated, the date this contract was made)
buyer's agent		

See Execution Page

\_\_\_\_\_  
**vendor**

\_\_\_\_\_  
**witness**

<b>GST AMOUNT</b> (optional) The price includes GST
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\_\_\_\_\_  
**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

**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 in full  yes to an extent

Margin scheme will be used in making the taxable supply  NO  yes

This sale is not a taxable supply because (one or more of the following may apply) the sale is:

- not made in the course or furtherance of an enterprise that the vendor carries on (section 9-5(b))
- by a vendor who is neither registered nor required to be registered for GST (section 9-5(d))
- GST-free because the sale is the supply of a going concern under section 38-325
- GST-free because the sale is subdivided farm land or farm land supplied for farming under Subdivision 38-O
- input taxed because the sale is of eligible residential premises (sections 40-65, 40-75(2) and 195-1)

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

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

**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: Newpro 20 Pty Ltd ACN 639 377 987 ATF Newpro 20 Unit Trust

Supplier's ABN: 42 709 573 659

Supplier's GST branch number (if applicable):

Supplier's business address: c/- Suite 25, 19 Bolton Street, Newcastle NSW 2300

Supplier's email address: tom@newquestproperty.com.au

Supplier's phone number: 02 4929 5400

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 *RWrate* (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

<p><b>General</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> 1 property certificate for the land</li> <li><input checked="" type="checkbox"/> 2 plan of the land</li> <li><input checked="" type="checkbox"/> 3 unregistered plan of the land</li> <li><input checked="" type="checkbox"/> 4 plan of land to be subdivided</li> <li><input checked="" type="checkbox"/> 5 document that is to be lodged with a relevant plan</li> <li><input checked="" type="checkbox"/> 6 section 10.7(2) planning certificate under Environmental Planning and Assessment Act 1979</li> <li><input type="checkbox"/> 7 additional information included in that certificate under section 10.7(5)</li> <li><input checked="" type="checkbox"/> 8 sewerage infrastructure location diagram (service location diagram)</li> <li><input type="checkbox"/> 9 sewer lines location diagram (sewerage service diagram)</li> <li><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</li> <li><input type="checkbox"/> 11 <i>planning agreement</i></li> <li><input type="checkbox"/> 12 section 88G certificate (positive covenant)</li> <li><input type="checkbox"/> 13 survey report</li> <li><input type="checkbox"/> 14 building information certificate or building certificate given under <i>legislation</i></li> <li><input type="checkbox"/> 15 lease (with every relevant memorandum or variation)</li> <li><input type="checkbox"/> 16 other document relevant to tenancies</li> <li><input type="checkbox"/> 17 licence benefiting the land</li> <li><input type="checkbox"/> 18 old system document</li> <li><input type="checkbox"/> 19 Crown purchase statement of account</li> <li><input type="checkbox"/> 20 building management statement</li> <li><input checked="" type="checkbox"/> 21 form of requisitions</li> <li><input type="checkbox"/> 22 <i>clearance certificate</i></li> <li><input type="checkbox"/> 23 land tax certificate</li> </ul> <p><b>Home Building Act 1989</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> 24 insurance certificate</li> <li><input type="checkbox"/> 25 brochure or warning</li> <li><input type="checkbox"/> 26 evidence of alternative indemnity cover</li> </ul> <p><b>Swimming Pools Act 1992</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> 27 certificate of compliance</li> <li><input type="checkbox"/> 28 evidence of registration</li> <li><input type="checkbox"/> 29 relevant occupation certificate</li> <li><input type="checkbox"/> 30 certificate of non-compliance</li> <li><input type="checkbox"/> 31 detailed reasons of non-compliance</li> </ul>	<p><b>Strata or community title (clause 23 of the contract)</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> 32 property certificate for strata common property</li> <li><input type="checkbox"/> 33 plan creating strata common property</li> <li><input type="checkbox"/> 34 strata by-laws</li> <li><input type="checkbox"/> 35 strata development contract or statement</li> <li><input type="checkbox"/> 36 strata management statement</li> <li><input type="checkbox"/> 37 strata renewal proposal</li> <li><input type="checkbox"/> 38 strata renewal plan</li> <li><input type="checkbox"/> 39 leasehold strata - lease of lot and common property</li> <li><input type="checkbox"/> 40 property certificate for neighbourhood property</li> <li><input type="checkbox"/> 41 plan creating neighbourhood property</li> <li><input type="checkbox"/> 42 neighbourhood development contract</li> <li><input type="checkbox"/> 43 neighbourhood management statement</li> <li><input type="checkbox"/> 44 property certificate for precinct property</li> <li><input type="checkbox"/> 45 plan creating precinct property</li> <li><input type="checkbox"/> 46 precinct development contract</li> <li><input type="checkbox"/> 47 precinct management statement</li> <li><input type="checkbox"/> 48 property certificate for community property</li> <li><input type="checkbox"/> 49 plan creating community property</li> <li><input type="checkbox"/> 50 community development contract</li> <li><input type="checkbox"/> 51 community management statement</li> <li><input type="checkbox"/> 52 document disclosing a change of by-laws</li> <li><input type="checkbox"/> 53 document disclosing a change in a development or management contract or statement</li> <li><input type="checkbox"/> 54 document disclosing a change in boundaries</li> <li><input type="checkbox"/> 55 information certificate under Strata Schemes Management Act 2015</li> <li><input type="checkbox"/> 55 information certificate under Community Land Management Act 1989</li> <li><input checked="" type="checkbox"/> 57 disclosure statement - off the plan contract</li> <li><input type="checkbox"/> 58 other document relevant to off the plan contract</li> </ul> <p><b>Other</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> 59 Other</li> </ul>
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**HOLDER OF STRATA OR COMMUNITY TITLE RECORDS – Name, address, email address and telephone number**  
Not applicable

# Execution Page

Vendor:

**Signed** for and on behalf of **Newpro 20** )  
**Pty Ltd ACN 639 377 987 ATF Newpro** )  
**20 Unit Trust ABN** by its attorney under a )  
 Power of Attorney dated 3 June 2022 )  
 Registered No. 286 Book 4799 and the )  
 Attorney declares that the Attorney has )  
 not received notice of the revocation of )  
 such Power of Attorney in the presence of: )

.....  
 Signature of Witness

.....  
 Signature of Attorney

.....  
 Print name of Witness

Purchaser:

Guarantor:

**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:
 

<b>APA Group</b> <b>Australian Taxation Office</b> <b>Council</b> <b>County Council</b> <b>Department of Planning, Industry and Environment</b> <b>Department of Primary Industries</b> <b>Electricity and gas</b> <b>Land &amp; Housing Corporation</b> <b>Local Land Services</b>	<b>NSW Department of Education</b> <b>NSW Fair Trading</b> <b>Owner of adjoining land</b> <b>Privacy</b> <b>Public Works Advisory</b> <b>Subsidence Advisory NSW</b> <b>Telecommunications</b> <b>Transport for NSW</b> <b>Water, sewerage or drainage authority</b>
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If you think that any of these matters affects the property, tell your solicitor.
2. A lease may be affected by the Agricultural Tenancies Act 1990, the Residential Tenancies Act 2010 or the Retail Leases Act 1994.
3. If any purchase money is owing to the Crown, it will become payable before obtaining consent, or if no consent is needed, when the transfer is registered.
4. If a consent to transfer is required under legislation, see clause 27 as to the obligations of the parties.
5. The vendor should continue the vendor's insurance until completion. If the vendor wants to give the purchaser possession before completion, the vendor should first ask the insurer to confirm this will not affect the insurance.
6. The purchaser will usually have to pay transfer duty (and sometimes surcharge purchaser duty) on this contract. If duty is not paid on time, a purchaser may incur penalties.
7. If the purchaser agrees to the release of deposit, the purchaser's right to recover the deposit may stand behind the rights of others (for example the vendor's mortgagee).
8. The purchaser should arrange insurance as appropriate.
9. Some transactions involving personal property may be affected by the Personal Property Securities Act 2009.
10. A purchaser should be satisfied that finance will be available at the time of completing the purchase.
11. Where the market value of the property is at or above a legislated amount, the purchaser may have to comply with a foreign resident capital gains withholding payment obligation (even if the vendor is not a foreign resident). If so, this will affect the amount available to the vendor on completion.
12. Purchasers of some residential properties may have to withhold part of the purchase price to be credited towards the GST liability of the vendor. If so, this will also affect the amount available to the vendor. 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 by the party</i> ;
<i>TA Act</i>	Taxation Administration Act 1953;
<i>terminate</i>	terminate this contract for breach;
<i>variation</i>	a variation made under s14-235 of Schedule 1 to the <i>TA Act</i> ;
<i>within</i>	in relation to a period, at any time before or during the period; and
<i>work order</i>	a valid direction, notice or order that requires work to be done or money to be spent on or in relation to the <i>property</i> or any adjoining footpath or road (but the term does not include a notice under s22E of the Swimming Pools Act 1992 or clause 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.

BREACH OF COPYRIGHT MAY RESULT IN LEGAL ACTION



- 2.7 If the vendor accepts a bond or guarantee for part of the deposit, clauses 2.1 to 2.5 apply only to the balance.
- 2.8 If any of the deposit or of the balance of the price is paid before completion to the vendor or as the vendor directs, it is a charge on the land in favour of the purchaser until *termination* by the vendor or completion, subject to any existing right.
- 2.9 If each *party* tells the *depositholder* that the deposit is to be invested, the *depositholder* is to invest the deposit (at the risk of the *party* who becomes entitled to it) with a *bank*, in an interest-bearing account in NSW, payable at call, with interest to be reinvested, and pay the interest to the *parties* equally, after deduction of all proper government taxes and financial institution charges and other charges.

### 3 Deposit-bond

- 3.1 This clause applies only if this contract says the vendor has agreed to accept a *deposit-bond* for the deposit (or part of it).
- 3.2 The purchaser must provide the original *deposit-bond* to the vendor's *solicitor* (or if no *solicitor* the *depositholder*) at or before the making of this contract and this time is essential.
- 3.3 If the *deposit-bond* has an expiry date and completion does not occur by the date which is 14 days before the expiry date, the purchaser must *serve* a replacement *deposit-bond* at least 7 days before the expiry date. The time for service is essential.
- 3.4 The vendor must approve a replacement *deposit-bond* if –
- 3.4.1 it is from the same issuer and for the same amount as the earlier *deposit-bond*; and
- 3.4.2 it has an expiry date at least three months after its date of issue.
- 3.5 A breach of clauses 3.2 or 3.3 entitles the vendor to *terminate*. The right to *terminate* is lost as soon as –
- 3.5.1 the purchaser *serves* a replacement *deposit-bond*; or
- 3.5.2 the deposit is paid in full under clause 2.
- 3.6 Clauses 3.3 and 3.4 can operate more than once.
- 3.7 If the purchaser *serves* a replacement *deposit-bond*, the vendor must *serve* the earlier *deposit-bond*.
- 3.8 The amount of any *deposit-bond* does not form part of the price for the purposes of clause 16.7.
- 3.9 The vendor must give the purchaser the *deposit-bond* –
- 3.9.1 on completion; or
- 3.9.2 if this contract is *rescinded*.
- 3.10 If this contract is *terminated* by the vendor –
- 3.10.1 *normally*, the vendor can immediately demand payment from the issuer of the *deposit-bond*; or
- 3.10.2 if the purchaser *serves* prior to *termination* a notice disputing the vendor's right to *terminate*, the vendor must forward the *deposit-bond* (or its proceeds if called up) to the *depositholder* as stakeholder.
- 3.11 If this contract is *terminated* by the purchaser –
- 3.11.1 *normally*, the vendor must give the purchaser the *deposit-bond*; or
- 3.11.2 if the vendor *serves* prior to *termination* a notice disputing the purchaser's right to *terminate*, the vendor must forward the *deposit-bond* (or its proceeds if called up) to the *depositholder* as stakeholder.

### 4 Transfer

- 4.1 *Normally*, the purchaser must *serve* at least 14 days before the date for completion –
- 4.1.1 the form of transfer; and
- 4.1.2 particulars required to register any mortgage or other dealing to be lodged with the transfer by the purchaser or the purchaser's mortgagee.
- 4.2 If any information needed for the form of transfer is not disclosed in this contract, the vendor must *serve* it.
- 4.3 If the purchaser *serves* a form of transfer and the transferee is not the purchaser, the purchaser must give the vendor a direction signed by the purchaser personally for this form of transfer.
- 4.4 The vendor can require the purchaser to include a form of covenant or easement in the transfer only if this contract contains the wording of the proposed covenant or easement, and a description of the land benefited.

### 5 Requisitions

- 5.1 If a form of *requisitions* is attached to this contract, the purchaser is taken to have made those *requisitions*.
- 5.2 If the purchaser is or becomes entitled to make any other *requisition*, the purchaser can make it only by *serving* it –
- 5.2.1 if it arises out of this contract or it is a general question about the *property* or title - *within* 21 days after the contract date;
- 5.2.2 if it arises out of anything *served* by the vendor - *within* 21 days after the later of the contract date and that *service*; and
- 5.2.3 in any other case - *within* a reasonable time.

### 6 Error or misdescription

- 6.1 *Normally*, the purchaser can (but only before completion) claim compensation for an error or misdescription in this contract (as to the *property*, the title or anything else and whether substantial or not).
- 6.2 This clause applies even if the purchaser did not take notice of or rely on anything in this contract containing or giving rise to the error or misdescription.
- 6.3 However, this clause does not apply to the extent the purchaser knows the true position.

## 7 Claims by purchaser

*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;

- 10.1.7 the existence of any authority or licence to explore or prospect for gas, minerals or petroleum;
- 10.1.8 any easement or restriction on use the substance of either of which is disclosed in this contract or any non-compliance with the easement or restriction on use; or
- 10.1.9 anything the substance of which is disclosed in this contract (except a caveat, charge, mortgage, priority notice or writ).
- 10.2 The purchaser cannot *rescind* or *terminate* only because of a defect in title to or quality of the inclusions.
- 10.3 *Normally*, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* or require the vendor to change the nature of the title disclosed in this contract (for example, to remove a caution evidencing qualified title, or to lodge a plan of survey as regards limited title).
- 11 Compliance with work orders**
- 11.1 *Normally*, the vendor must by completion comply with a *work order* made on or before the contract date and if this contract is completed the purchaser must comply with any other *work order*.
- 11.2 If the purchaser complies with a *work order*, and this contract is *rescinded* or *terminated*, the vendor must pay the expense of compliance to the purchaser.
- 12 Certificates and inspections**
- The vendor must do everything reasonable to enable the purchaser, subject to the rights of any tenant –
- 12.1 to have the *property* inspected to obtain any certificate or report reasonably required;
- 12.2 to apply (if necessary in the name of the vendor) for –
- 12.2.1 any certificate that can be given in respect of the *property* under *legislation*; or
- 12.2.2 a copy of any approval, certificate, consent, direction, notice or order in respect of the *property* given under *legislation*, even if given after the contract date; and
- 12.3 to make 1 inspection of the *property* in the 3 days before a time appointed for completion.
- 13 Goods and services tax (GST)**
- 13.1 Terms used in this clause which are not defined elsewhere in this contract and have a defined meaning in the *GST Act* have the same meaning in this clause.
- 13.2 *Normally*, if a *party* must pay the price or any other amount to the other *party* under this contract, GST is not to be added to the price or amount.
- 13.3 If under this contract a *party* must make an adjustment or payment for an expense of another party or pay an expense payable by or to a third party (for example, under clauses 14 or 20.7) –
- 13.3.1 the *party* must adjust or pay on completion any GST added to or included in the expense; but
- 13.3.2 the amount of the expense must be reduced to the extent the party receiving the adjustment or payment (or the representative member of a GST group of which that party is a member) is entitled to an input tax credit for the expense; and
- 13.3.3 if the adjustment or payment under this contract is consideration for a taxable supply, an amount for GST must be added at the *GST rate*.
- 13.4 If this contract says this sale is the supply of a going concern –
- 13.4.1 the *parties* agree the supply of the *property* is a supply of a going concern;
- 13.4.2 the vendor must, between the contract date and completion, carry on the enterprise conducted on the land in a proper and business-like way;
- 13.4.3 if the purchaser is not registered by the date for completion, the *parties* must complete and the purchaser must pay on completion, in addition to the price, an amount being the price multiplied by the *GST rate* ("the retention sum"). The retention sum is to be held by the *depositholder* and dealt with as follows –
- if *within* 3 months of completion the purchaser *serves* a letter from the Australian Taxation Office stating the purchaser is registered with a date of effect of registration on or before completion, the *depositholder* is to pay the retention sum to the purchaser; but
  - if the purchaser does not *serve* that letter *within* 3 months of completion, the *depositholder* is to pay the retention sum to the vendor; and
- 13.4.4 if the vendor, despite clause 13.4.1, *serves* a letter from the Australian Taxation Office stating the vendor has to pay GST on the supply, the purchaser must pay to the vendor on demand the amount of GST assessed.
- 13.5 *Normally*, the vendor promises the margin scheme will not apply to the supply of the *property*.
- 13.6 If this contract says the margin scheme is to apply in making the taxable supply, the *parties* agree that the margin scheme is to apply to the sale of the *property*.
- 13.7 If this contract says the sale is not a taxable supply –
- 13.7.1 the purchaser promises that the *property* will not be used and represents that the purchaser does not intend the *property* (or any part of the *property*) to be used in a way that could make the sale a taxable supply to any extent; and
- 13.7.2 the purchaser must pay the vendor on completion in addition to the price an amount calculated by multiplying the price by the *GST rate* if this sale is a taxable supply to any extent because of –
- a breach of clause 13.7.1; or
  - something else known to the purchaser but not the vendor.
- 13.8 If this contract says this sale is a taxable supply in full and does not say the margin scheme applies to the *property*, the vendor must pay the purchaser on completion an amount of one-eleventh of the price if –

- 13.8.1 this sale is not a taxable supply in full; or
- 13.8.2 the margin scheme applies to the *property* (or any part of the *property*).
- 13.9 If this contract says this sale is a taxable supply to an extent –
- 13.9.1 clause 13.7.1 does not apply to any part of the *property* which is identified as being a taxable supply; and
- 13.9.2 the payments mentioned in clauses 13.7 and 13.8 are to be recalculated by multiplying the relevant payment by the proportion of the price which represents the value of that part of the *property* to which the clause applies (the proportion to be expressed as a number between 0 and 1). Any evidence of value must be obtained at the expense of the vendor.
- 13.10 *Normally*, on completion the vendor must give the recipient of the supply a tax invoice for any taxable supply by the vendor by or under this contract.
- 13.11 The vendor does not have to give the purchaser a tax invoice if the margin scheme applies to a taxable supply.
- 13.12 If the vendor is liable for GST on rents or profits due to issuing an invoice or receiving consideration before completion, any adjustment of those amounts must exclude an amount equal to the vendor's GST liability.
- 13.13 If the purchaser must make 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.
- **Purchaser**
- 16.7 On completion the purchaser must pay to the vendor, by cash (up to \$2,000) or *settlement cheque* –
- 16.7.1 the price less any:
- deposit paid;
  - *FRCGW 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*.
- 16.9 If any of the deposit is not covered by a bond or guarantee, on completion the purchaser must give the vendor an order signed by the purchaser authorising the *depositholder* to account to the vendor for the deposit.
- 16.10 On completion the deposit belongs to the vendor.
- **Place for completion**
- 16.11 *Normally*, the *parties* must complete at the completion address, which is –
- 16.11.1 if a special completion address is stated in this contract - that address; or
- 16.11.2 if none is stated, but a first mortgagee is disclosed in this contract and the mortgagee would usually discharge the mortgage at a particular place - that place; or
- 16.11.3 in any other case - the vendor's *solicitor's* address stated in this contract.
- 16.12 The vendor by reasonable notice can require completion at another place, if it is in NSW, but the vendor must pay the purchaser's additional expenses, including any agency or mortgagee fee.
- 16.13 If the purchaser requests completion at a place that is not the completion address, and the vendor agrees, the purchaser must pay the vendor's additional expenses, including any agency or mortgagee fee.
- 17 Possession**
- 17.1 *Normally*, the vendor must give the purchaser vacant possession of the *property* on completion.
- 17.2 The vendor does not have to give vacant possession if –
- 17.2.1 this contract says that the sale is subject to existing tenancies; and
- 17.2.2 the contract discloses the provisions of the tenancy (for example, by attaching a copy of the lease and any relevant memorandum or variation).
- 17.3 *Normally*, the purchaser can claim compensation (before or after completion) or *rescind* if any of the land is affected by a protected tenancy (a tenancy affected by 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
- 23.2.9 'special expenses', in relation to an owners corporation, means its actual, contingent or expected expenses, except to the extent they are –
- normal expenses;
  - due to fair wear and tear;
  - disclosed in this contract; or
  - covered by moneys held in the capital works fund.
- 23.3 Clauses 11, 14.8 and 18.4 do not apply to an obligation of the owners corporation, or to property insurable by it.
- 23.4 Clauses 14.4.2 and 14.5 apply but on a unit entitlement basis instead of an area basis.
- **Adjustments and liability for expenses**
- 23.5 The *parties* must adjust under clause 14.1 –
- 23.5.1 a regular periodic contribution;
- 23.5.2 a contribution which is not a regular periodic contribution but is disclosed in this contract; and
- 23.5.3 on a unit entitlement basis, any amount paid by the vendor for a normal expense of the owners corporation to the extent the owners corporation has not paid the amount to the vendor.
- 23.6 If a contribution is not a regular periodic contribution and is not disclosed in this contract –
- 23.6.1 the vendor is liable for it if it was determined on or before the contract date, even if it is payable by instalments; and
- 23.6.2 the purchaser is liable for all contributions determined after the contract date.
- 23.7 The vendor must pay or allow to the purchaser on completion the amount of any unpaid contributions for which the vendor is liable under clause 23.6.1.
- 23.8 *Normally*, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of –
- 23.8.1 an existing or future actual, contingent or expected expense of the owners corporation;
- 23.8.2 a proportional unit entitlement of the lot or a relevant lot or former lot, apart from a claim under clause 6; or
- 23.8.3 a past or future change in the scheme or a higher scheme.
- 23.9 However, the purchaser can *rescind* if –
- 23.9.1 the special expenses of the owners corporation at the later of the contract date and the creation of the owners corporation when calculated on a unit entitlement basis (and, if more than one lot or a higher scheme is involved, added together), less any contribution paid by the vendor, are more than 1% of the price;
- 23.9.2 in the case of the lot or a relevant lot or former lot in a higher scheme, a proportional unit entitlement for the lot is 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.
- **Notices, certificates and inspections**
- 23.10 The purchaser must give the vendor 2 copies of an information notice addressed to the owners corporation and signed by the purchaser.
- 23.11 The vendor must complete and sign 1 copy of the notice and give it to the purchaser on completion.
- 23.12 Each *party* can sign and give the notice as agent for the other.
- 23.13 The vendor must *serve* an information certificate issued after the contract date in relation to the lot, the scheme or any higher scheme at least 7 days before the date for completion.
- 23.14 The purchaser does not have to complete earlier than 7 days after *service* of the certificate and clause 21.3 does not apply to this provision. On completion the purchaser must pay the vendor the prescribed fee for the certificate.
- 23.15 The vendor authorises the purchaser to apply for the purchaser's own certificate.
- 23.16 The vendor authorises the purchaser to apply for and make an inspection of any record or other document in the custody or control of the owners corporation or relating to the scheme or any higher scheme.
- **Meetings of the owners corporation**
- 23.17 If a general meeting of the owners corporation is convened before completion –
- 23.17.1 if the vendor receives notice of it, the vendor must immediately notify the purchaser of it; and
- 23.17.2 after the expiry of any cooling off period, the purchaser can require the vendor to appoint the purchaser (or the purchaser's nominee) to exercise any voting rights of the vendor in respect of the lot at the meeting.

**24 Tenancies**

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

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

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



- 25.7.1 normally, the abstract of title need not include any document which does not show the location, area or dimensions of the land (for example, by including a metes and bounds description or a plan of the land);
- 25.7.2 clause 25.7.1 does not apply to a document which is the good root of title; and
- 25.7.3 the vendor does not have to provide an abstract if this contract contains a delimitation plan (whether in registrable form or not).
- 25.8 The vendor must give a proper covenant to produce where relevant.
- 25.9 The vendor does not have to produce or covenant to produce a document that is not in the possession of the vendor or a mortgagee.
- 25.10 If the vendor is unable to produce an original document in the chain of title, the purchaser will accept a photocopy from the Registrar-General of the registration copy of that document.
- 26 Crown purchase money**
- 26.1 This clause applies only if purchase money is payable to the Crown, whether or not due for payment.
- 26.2 The vendor is liable for the money, except to the extent this contract says the purchaser is liable for it.
- 26.3 To the extent the vendor is liable for it, the vendor is liable for any interest until completion.
- 26.4 To the extent the purchaser is liable for it, the *parties* must adjust any interest under clause 14.1.
- 27 Consent to transfer**
- 27.1 This clause applies only if the land (or part of it) cannot be transferred without consent under *legislation* or a *planning agreement*.
- 27.2 The purchaser must properly complete and then *serve* the purchaser's part of an application for consent to transfer of the land (or part of it) *within 7 days* after the contract date.
- 27.3 The vendor must apply for consent *within 7 days* after *service* of the purchaser's part.
- 27.4 If consent is refused, either *party* can *rescind*.
- 27.5 If consent is given subject to one or more conditions that will substantially disadvantage a *party*, then that *party* can *rescind within 7 days* after receipt by or *service* upon the *party* of written notice of the conditions.
- 27.6 If consent is not given or refused –
- 27.6.1 *within 42 days* after the purchaser *serves* the purchaser's part of the application, the purchaser can *rescind*; or
- 27.6.2 *within 30 days* after the application is made, either *party* can *rescind*.
- 27.7 Each period in clause 27.6 becomes 90 days if the land (or part of it) is –
- 27.7.1 under a *planning agreement*, or
- 27.7.2 in the Western Division.
- 27.8 If the land (or part of it) is described as a lot in an unregistered plan, each time in clause 27.6 becomes the later of the time and 35 days after creation of a separate folio for the lot.
- 27.9 The date for completion becomes the later of the date for completion and 14 days after *service* of the notice granting consent to transfer.
- 28 Unregistered plan**
- 28.1 This clause applies only if some of the land is described as a lot in an unregistered plan.
- 28.2 The vendor must do everything reasonable to have the plan registered *within 6 months* after the contract date, with or without any minor alteration to the plan or any document to be lodged with the plan validly required or made under *legislation*.
- 28.3 If the plan is not registered *within* that time and in that manner –
- 28.3.1 the purchaser can *rescind*; and
- 28.3.2 the vendor can *rescind*, but only if the vendor has complied with clause 28.2 and with any *legislation* governing the rescission.
- 28.4 Either *party* can *serve* notice of the registration of the plan and every relevant lot and plan number.
- 28.5 The date for completion becomes the later of the date for completion and 21 days after *service* of the notice.
- 28.6 Clauses 28.2 and 28.3 apply to another plan that is to be registered before the plan is registered.
- 29 Conditional contract**
- 29.1 This clause applies only if a provision says this contract or completion is conditional on an event.
- 29.2 If the time for the event to happen is not stated, the time is 42 days after the contract date.
- 29.3 If this contract says the provision is for the benefit of a *party*, then it benefits only that *party*.
- 29.4 If anything is necessary to make the event happen, each *party* must do whatever is reasonably necessary to cause the event to happen.
- 29.5 A *party* can *rescind* under this clause only if the *party* has substantially complied with clause 29.4.
- 29.6 If the event involves an approval and the approval is given subject to a condition that will substantially disadvantage a *party* who has the benefit of the provision, the *party* can *rescind within 7 days* after either *party* *serves* notice of the condition.
- 29.7 If the *parties* can lawfully complete without the event happening –
- 29.7.1 if the event does not happen *within* the time for it to happen, a *party* who has the benefit of the provision can *rescind within 7 days* after the end of that time;
- 29.7.2 if the event involves an approval and an application for the approval is refused, a *party* who has the benefit of the provision can *rescind within 7 days* after either *party* *serves* notice of the refusal; and

- 29.7.3 the date for completion becomes the later of the date for completion and 21 days after the earliest of –
- either *party serving* notice of the event happening;
  - every *party* who has the benefit of the provision *serving* notice waiving the provision; or
  - the end of the time for the event to happen.
- 29.8 If the *parties* cannot lawfully complete without the event happening –
- 29.8.1 if the event does not happen *within* the time for it to happen, either *party* can *rescind*;
- 29.8.2 if the event involves an approval and an application for the approval is refused, either *party* can *rescind*;
- 29.8.3 the date for completion becomes the later of the date for completion and 21 days after either *party* *serves* notice of the event happening.
- 29.9 A *party* cannot *rescind* under clauses 29.7 or 29.8 after the event happens.
- 30 Electronic transaction**
- 30.1 This *Conveyancing Transaction* is to be conducted as an *electronic transaction* if –
- 30.1.1 this contract says that it is 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 *Electronic Workspace* the vendor must *within 7 days* of being invited to the *Electronic Workspace* –
- 30.8.1 join the *Electronic Workspace*;
- 30.8.2 *populate* the *Electronic Workspace* with *mortgagee details*, if applicable; and
- 30.8.3 invite any *discharging mortgagee* to join the *Electronic Workspace*.
- 30.9 To complete the financial settlement schedule in the *Electronic Workspace* –
- 30.9.1 the purchaser must provide the vendor with *adjustment figures* at least *2 business days* before the date for completion;
- 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 *GSTRW payment* or an *FRCGW remittance*, the purchaser must *populate* the *Electronic Workspace* with the payment details for the *GSTRW payment* or *FRCGW 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 *electronic documents* which a *party* must *Digitally Sign* to complete the *electronic transaction* are *populated* and *Digitally Signed*;
- 30.10.2 all certifications required by the *ECNL* are properly given; and
- 30.10.3 they do everything else in the *Electronic Workspace* which that *party* must do to enable the *electronic transaction* to proceed to completion.
- 30.11 If completion takes place in the *Electronic Workspace* –
- 30.11.1 payment electronically on completion of the price in accordance with clause 16.7 is taken to be payment by a single *settlement cheque*;
- 30.11.2 the completion address in clause 16.11 is the *Electronic Workspace*; and
- 30.11.3 clauses 13.13.2 to 13.13.4, 16.8, 16.12, 16.13 and 31.2.2 to 31.2.4 do not apply.
- 30.12 If the computer systems of any of the *Land Registry*, the *ELNO* or the Reserve Bank of Australia are inoperative for any reason at the *completion time* agreed by the *parties*, a failure to complete this contract for that reason is not a default under this contract on the part of either *party*.
- 30.13 If the computer systems of the *Land Registry* 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 *electronic documents Digitally Signed* by the vendor, the *certificate of title* and any discharge of mortgage, withdrawal of caveat or other *electronic document* forming part of the *Lodgment Case* for the *electronic transaction* shall be taken to have been unconditionally and irrevocably delivered to the purchaser or the purchaser's mortgagee at the time of financial settlement together with the right to deal with the land comprised in the *certificate of title*; and
- 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 *certificate of title* must act in accordance with any *Prescribed Requirement* in relation to the *certificate of title* but if there is no *Prescribed Requirement*, the vendor must *serve* the *certificate of title* after completion.
- 30.15 If the *parties* do not agree about the delivery before completion of one or more documents or things that cannot be delivered through the *Electronic Workspace*, the *party* required to deliver the documents or things –
- 30.15.1 holds them on completion in escrow for the benefit of; and
- 30.15.2 must immediately after completion deliver the documents or things to, or as directed by; the *party* entitled to them.
- 30.16 In this clause 30, these terms (in any form) mean –
- 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 *electronic transaction* 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 *Digitally Signed* 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 Electronic Conveyancing National Law (NSW);
- effective date* the date on which the *Conveyancing Transaction* is agreed to be an *electronic transaction* 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 *Digitally Signed* in an *Electronic Workspace*;
- electronic transfer* a transfer of land under the Real Property Act 1900 for the *property* to be prepared and *Digitally Signed* in the *Electronic Workspace* established for the purposes of the *parties' Conveyancing Transaction*;

<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.

# Contract Special Conditions

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## Special Conditions

### 33 Conditions to prevail

The parties agree that in the case of any inconsistency the terms and conditions from special condition 34 onwards will prevail.

### 34 Amendments

The terms of clauses 1 to 31 are amended as follows:

- (a) Clause 2.9 is deleted;
- (b) Clause 3 is deleted;
- (c) Clause 5 is amended by including at the end of the clause “and the Purchaser must not raise any other form of requisitions”;
- (d) Clause 5.2 is deleted entirely;
- (e) Clause 7 delete clause 7.1.1 and in clause 7.2.4 delete the words “and the costs of the Purchaser”;
- (f) Clause 8 delete the words “on reasonable grounds” in the first line of clause 8.1.1 and delete the words “and those grounds” in the first line of clause 8.1.2;
- (g) Clause 8.2.2 is deleted entirely;
- (h) Clause 10.1, line 1 is replaced with:  

"The Purchaser cannot make a claim or requisition, delay completion, rescind or terminate in respect of-
- (i) Clause 14.4.2 is deleted;
- (j) Clause 16.8 add the words “which is a bank cheque” to the end of the clause;
- (k) Clause 21.4 in the second line delete the words “the month” and in lieu insert “that month”;
- (l) Clause 24 is deleted entirely;
- (m) Clause 25.1.1 delete the word “limited”; and
- (n) Clause 28 and 29 are deleted entirely.

### 35 Definitions and Interpretation

#### 35.1 Definitions

In this Contract, unless the context requires otherwise:

**Act** means the *Conveyancing Act 1919*.

**Action** means make any objection, requisition, claim for compensation or exercise any right to rescind or terminate this Contract or seek to delay Completion.

**Claim** means any claim, losses, costs, charges, allegation, suit, action, demand, cause of action or proceeding of any kind made under or in connection with this Contract or the Property whether or not it arises at law or in any other way.

**Commencement Date** means 30 April 2023.

**Completion** means completion of this Contract.

**Contaminant** means a solid, liquid, gas, odour, temperature, sound, vibration or radiation of substance that makes or may make the land:

- (a) unfit or unsafe for habitation or occupation by humans or animals;
- (b) degraded in its capacity to support plant life;
- (c) otherwise environmentally degraded; or
- (d) not comply with any Environmental Law.

**Contamination** means the presence of any Contaminant which any authority has or may require the removal of or in respect of which any restoration, rehabilitation or remediation has or may be required.

**Council** means Maitland City Council.

**Design Guidelines** means the vendor's design guidelines applicable to the Property from time to time which, as at the date of this Contract, are those guidelines in Annexure F.

**Development** means the development of the Land to be constructed by the Vendor.

**Development Activities** means:

- (a) any form of demolition work, building work or work ancillary to or associated with building work on the Land including, without limitation the installation of services and construction of roads, facilities and improvements;
- (b) any form of landscaping work or work ancillary to or associated with landscaping work on the Land;
- (c) any form of work other than the forms of work referred to in paragraphs (a) and (b) of this definition which is considered necessary or desirable by the Vendor;
- (d) the subdivision of Land.

**Development Approval** means the development consent(s) in respect of the Development and/or Property as modified from time to time.

**Discharge** means a registrable discharge, surrender or withdrawal of an Encumbrance.

**Disclosure Material** means all documents attached to this Contract and any documents provided to the Purchaser in relation to the Land and the Property, including the Disclosure Statement.

**Disclosure Statement** means the disclosure statement and accompanying documents attached to this Contract which may be varied by further disclosures issued by or on behalf of the Vendor and includes:

- (a) a disclosure statement required under Section 66ZM of the Act, including any changes in a further notice served in accordance with Section 66ZN of the Act;
- (b) a copy of the Plan of Subdivision prepared by a registered surveyor and which includes the information required under Clause 4A(1) of the Regulation; and
- (c) copies of the documents required under Clause 4A(3) of the Regulation, including the Instrument.

**Encumbrance** means a mortgage, charge or a caveat protecting an interest under any mortgage, loan agreement, or other security arrangement.

**Environment** has the same meaning as under the *Protection of the Environment Administration Act 1991*.

**Environmental Law** means any law, regulation, ordinance or directive in connection with the Environment.

**Extended Registration Date** means the date 12 months after the Registration Date.

**Government Agency** means any government, semi or local government, statutory, or public or other authority having jurisdiction over the Land.

**Instrument** means the Instrument pursuant to s 88B of the *Conveyancing Act 1919* (a draft of which is Annexure B) to be registered with the Plan of Subdivision with or without the changes permitted under this Contract.

**Land** means lot 1 in deposited plan 537313.

**Lot** means a lot in the Plan of Subdivision.

**LRS** means NSW Land Registry Services.

**Material Change** means a change, inaccuracy, difference or matter which:

- (a) detrimentally affects the Property to an extent which is substantial; or
- (b) will, or is likely to, adversely affect the Purchaser's use or enjoyment of the Property; or
- (c) will materially prejudice the Purchaser.

**Plan of Subdivision** means the plan of subdivision of the Land (a draft of which is Annexure A) to be registered with or without changes permitted under this Contract.

**Property** means the lot to be purchased as shown on page 1 of the contract.

**Registration Date** means 30 June 2024.

**Registration Documents** includes the Plan of Subdivision and the Instrument.

**Regulation** means the *Conveyancing (Sale of Land) Regulation 2017*.

**Service Providers** includes Council any Government Agency or public authority or any company in the business of supplying services.

**Vendor's Surveyor** means Delfs Lascelles Consulting Surveyors or such other surveyor as the Vendor may determine from time to time in its absolute discretion.

## 35.2 Interpretation

In this Contract unless the context requires otherwise:

- (a) the singular includes the plural and vice versa;
- (b) a gender includes the other genders;
- (c) headings are used for convenience only and do not affect the interpretation of this Contract;
- (d) a reference to a document includes the document as modified from time to time and any document replacing it;
- (e) **person** includes a natural person and any body or entity whether incorporated or not;



- (f) **month** means calendar month and **year** means 12 months;
- (g) **in writing** includes any communication sent by letter, facsimile transmission or email;
- (h) **including** and similar expressions are not words of limitation;
- (i) money amounts are stated in Australian currency unless otherwise specified; and
- (j) a reference to any agency or body, if that agency or body ceases to exist or is reconstituted, renamed or replaced or has its powers or functions removed (**defunct body**), means the agency or body which performs most closely the functions of the defunct body.

## 36 FIRB

### 36.1 Warranty

The Purchaser warrants that the provisions of the *Foreign Acquisitions and Takeovers Act 1975* (Cth) do not apply to the Purchaser or to this purchase.

### 36.2 Indemnity

In the event of breach of the warranty in special condition 36.1, the Purchaser will indemnify the Vendor against any penalties, fines, legal costs, claims, loss or damage suffered by the Vendor in connection with that breach.

## 37 Vendor disclosures

### 37.1 Disclosure Statement

The Purchaser acknowledges that:

- (a) before signing this Contract the Purchaser received and read the Disclosure Statement; and
- (b) the Disclosure Statement and the required documents prescribed by the Act and the Regulations are attached to this Contract.

### 37.2 Vendor disclosures

The Vendor discloses and the Purchaser acknowledges:

- (a) the Disclosure Material and the matters referred to and attached to this Contract;
- (b) any Development Approval for the Development is subject to variation, amendment and/or subsequent development application(s) as required by the Vendor to carry out the Development Activities including without limitation a modification under section 4.55 of the *Environmental Planning and Assessment Act 1979*;
- (c) the Vendor intends to procure the registration of the Registration Documents;
- (d) the terms of the Registration Documents may not be finalised and may change;
- (e) the Vendor, either alone or with others, proposes to carry out Development Activities on the Land and may do so in stages;
- (f) the number, position and configuration of the Lots in the Plan of Subdivision as registered may vary from the number, position or configuration of Lots as shown in the draft attached to this Contract;

- (g) it may be necessary to make changes to the draft documents attached to this Contract to meet the requirements of the Vendor, Council, Service Providers or a Government Agency;
- (h) easements, restrictions on use or positive covenants may be imposed or required by Council or a Government Agency, or as required to complete the Development, which are not disclosed in this Contract;
- (i) some or all of the easements, covenants, restrictive covenants, leases and instruments anticipated to be created or released may be created by another plan or instrument;
- (a) the Vendor may change the Lot number for the Property or other Lot in the Plan of Subdivision; and
- (j) the Vendor may increase or reduce the number of Lots within the Development;

### **37.3 *Position of Hunter Water's supply***

The Vendor discloses and the Purchaser acknowledges:

- (a) the position of Hunter Water's water supply on the Land at the time of completion may not be as shown in the diagrams attached to the contract; and
- (b) the Vendor is not sure what the exact position of the Hunter Water's water supply on the Land will be at the time of completion.

### **37.4 *Neighbouring land***

The Vendor discloses and the Purchaser acknowledges:

- (a) land surrounding or in the vicinity of the Land is or may be undergoing development and future development of that land will be subject to development applications and conditions of consent as determined by the relevant consent authorities;
- (b) land surrounding or in the vicinity of the Land may be public land and the Vendor is not in control of this public land nor is it in control of any changes proposed for any public land; and
- (c) the Vendor may be required to carry out certain works on the Land and/or on land adjacent to the Land as required by the Development Approval.

### **37.5 *No Action***

Despite any other provision in this Contract but subject to the Act, the Purchaser may not take any Action because of any matter disclosed in this Contract, including any matter disclosed in the Disclosure Material and/or in any document attached or annexed to this Contract.

### **37.6 *Non merger***

This special condition 37 does not merge on Completion.

## **38 Purchaser's acknowledgements, representations, warranties**

### **38.1 *Acknowledgements***

The Purchaser acknowledges that:

- (a) the Vendor is developing and selling the Development in stages, and at the date of this Contract the Development Activities may not have been completed;
- (b) the Development Activities may continue after Completion;

- (c) the Development may vary from the Development proposed as at the date of this Contract;
- (d) the Vendor may in its absolute discretion elect not to complete the Development or any part of it, other than as required by this Contract; and
- (e) during the construction, staging and sale of the Development, the Vendor may elect or be required to close or keep open roads or parts of roads in the Development.

### 38.2 *Representations and warranties*

- (a) The Purchaser represents and warrants that in entering into this Contract the Purchaser:
  - (i) has not relied on any representations or warranties made or any conduct engaged in by the Vendor or any person on behalf of the Vendor about the subject matter of this Contract except as provided in this Contract;
  - (ii) has not relied on any representations or warranties made, or conduct engaged in, as to the fitness or suitability for any particular purpose or otherwise of the Property or the Development or any part of the Property or the Development or as to any financial return or income to be derived from the Property;
  - (iii) has satisfied itself as to its obligations and rights under this Contract;
  - (iv) has relied entirely on its own enquiries relating to and inspection of the Property;
  - (v) was not induced to enter into this Contract by any warranty, or representation; and
  - (vi) does not have any special or particular requirements in respect of the Purchaser's use and enjoyment of the Property.
- (b) The Purchaser represents and warrants that the Purchaser will not make any submission, objection, claim, commence proceedings to any development application by the Vendor for the Development, or any matter disclosed in special condition 38.1, or do anything or omit to do anything which may obstruct, delay or prevent the Vendor completing the Development, Development Activities or undertaking selling and leasing activities in the Development.
- (c) The Purchaser acknowledges that the Vendor has entered into this Contract on the basis that the representations and warranties contained in special condition 38 are true and not misleading.
- (d) The Purchaser indemnifies the Vendor against any liability or loss arising from, and any costs, charges and expenses incurred in connection with:
  - (i) any breach of the Purchaser's representations and warranties in this special condition 38; and
  - (ii) all actions, proceedings and expenses arising out of any such breach including, without limitation, legal costs and expenses on a full indemnity basis or solicitor and own client basis, whichever is the higher.

### 38.3 *S 10.7 Certificate*

- (a) The Purchaser acknowledges the Vendor's disclosure in the annexed planning certificate issued under section 10.7 of the *Environmental Planning and Assessment Act 1979*.

- (b) The Purchaser warrants it has satisfied itself in relation to:
  - (i) the manner in which the Property is affected by any environmental planning instrument (actual or deemed) under the *Environmental Planning and Assessment Act 1979* (as amended from time to time);
  - (ii) any restriction or prohibition whether statutory or otherwise relating to the zoning of the Property or development on the Property;
  - (iii) the use to which the Property may be put; and
  - (iv) any existing proposals for realignment, widening or siting of a road by any authority.

#### 38.4 *Property sold in present condition*

- (a) The Vendor makes no warranty to the Purchaser about the existence or otherwise of any Contamination on the Property or on any adjoining property and the Purchaser has relied on its own enquiries as to the existence or the presence of any Contamination.
- (b) To the maximum extent permitted by law, the Purchaser releases the Vendor from all claims, demands, suits, judgments, costs and agrees not to make any claim or take any Action in respect of any Contamination affecting the Property or any breach or non-compliance by the Vendor of any Environmental Law affecting the Property.
- (c) The Purchaser agrees that from Completion it will comply with any work order, notice or order issued by any Authority requiring the Vendor or the Purchaser to remove, remediate or clean up any Contamination affecting or emanating from the Property.

#### 38.5 *No Action*

- (a) Subject to the Act, the Purchaser must not take any Action in respect of, or by reason of, any of the following matters:
  - (i) the state of repair or condition of the Land or the Property;
  - (ii) the state of repair, condition or availability of any service to or on the Land or the Property;
  - (iii) the presence or location of any sewer, sewer line, manhole or vent on the Land or the Property;
  - (iv) any patent defect to the Land or the Property; or
  - (v) any Contamination or other environmental damage to the Land or the Property.
- (b) Subject to the Act, the Purchaser must not take any Action in respect any matter considered by or referred to in this special condition 38.

### 39 Encumbrances and Affectations

#### 39.1 *Encumbrances*

- (a) If any Encumbrance is noted on the certificate of title for the Land and this Contract is not stated as being subject to that Encumbrance then on Completion the Vendor must provide to the Purchaser a duly executed discharge which will remove the Encumbrance, together with the applicable registration fee.
- (b) After Completion the Vendor must, if requested by the Purchaser, provide all information and documents reasonably necessary to assist the Purchaser in removing the Encumbrance.

- (c) Subject to special conditions 39.1(a) and 39.1(b), the Vendor is regarded as having given the Purchaser a transfer of the Property free from the Encumbrance when the Vendor gives the Purchaser the Discharge.

### 39.2 *Affectations*

- (a) The Purchaser acknowledges that at the date of this Contract all the easements, restrictions on the use of land and positive covenants ("**Affectations**"), which the Vendor or any other Government Agency may deem necessary or desirable to create, enter into, make or grant may not have been created, entered into, made or granted.
- (b) If any Affectation, other than an Affectation disclosed in this Contract, detrimentally and substantially affects the Property, the Purchaser may rescind this Contract by written notice to the Vendor within 7 days, time of the essence, after the Vendor serves notice of the Affectation giving the Purchaser the right to rescind.
- (c) Subject to special conditions 39.2(b) and 47, the Purchaser must not take any Action because of any Affectation.

## 40 Commencement Date

### 40.1 *Commencement Date*

Notwithstanding any other provision to the contrary, the Vendor may at any time prior to the Commencement Date notify the Purchaser that the Development will not proceed and rescind this Contract in which case the Purchaser will have no Claim against the Vendor.

### 40.2 *Purchaser acknowledgement*

The Purchaser acknowledges that this special condition 40 is for the benefit of the Vendor and the rights given by it can be waived by the Vendor at any time prior to the Commencement Date.

## 41 Conditions Precedent to Completion

### 41.1 *Conditions Precedent*

Completion is subject to and conditional on:

- (a) the Vendor receiving Development Approval for the Registration Documents on terms and conditions acceptable to the Vendor in its absolute discretion on or before the Registration Date;
- (b) the Vendor satisfying any pre-sales set by its financier for the Development; and
- (c) the Vendor obtaining finance for the Development on terms and conditions all of which must be found satisfactory to the Vendor at its sole discretion.

("Conditions Precedent")

### 41.2 *Right of rescission*

If any of the Conditions Precedent are not satisfied on or before 5pm, 31 December 2023 ("**Conditions Date**"), then the Vendor can rescind this Contract by notice in writing to the Purchaser in which case neither party will be under any obligation to, or have any Claim against, the other party under this Contract other than in respect of any antecedent breach of this Contract.

### 41.3 *Vendor may notify*

The vendor may notify the purchaser within 21 days after the Conditions Date if the Conditions Precedent have not been satisfied and if no such notice is given by the vendor, the Conditions Precedent will be deemed to have been satisfied and this Contract will no longer be subject to or conditional on the Conditions Precedent.

### 41.4 *Purchaser acknowledgement*

The Purchaser acknowledges that this special condition 41 is for the benefit of the Vendor and the rights given by it can be waived by the Vendor at any time prior to the Commencement Date.

## 42 Completion subject to registration

### 42.1 *Registration*

Completion is subject to and conditional on the registration of the Registration Documents at LRS.

### 42.2 *Rescission*

Subject to special condition 43, if the Registration Documents are not registered at LRS on or before the Registration Date:

- (a) then subject to special condition 42.3, the Purchaser may rescind this Contract by written notice to the Vendor; and
- (b) the Vendor may rescind this Contract if:
  - (i) the Vendor has served on the Purchaser (or the purchaser's solicitor or conveyancer) a notice in writing at least 28 days before the proposed rescission specifying why the Vendor is proposing to rescind the contract and the reason for the delay in creating the Property ("**Vendor's Rescission Notice**") and the purchaser, after receiving the Vendor Rescission Notice, consents in writing to the rescission;
  - (ii) the Vendor obtains an order from the Supreme Court of NSW under Section 66ZS of the Act permitting the Vendor to rescind this Contract under this clause 42.2; or
  - (iii) the Regulation permits the Vendor to rescind this Contract under this clause 42.242.2.

### 42.3 *Purchaser's consent*

The parties unconditionally and irrevocably agree the Purchaser will be deemed to have consented to the Vendor rescinding this Contract pursuant to and for the purposes of special condition 42.2(b)(i) if the purchaser fails to notify the Vendor in writing that the Purchaser does not consent to the rescission within 21 days of the date of the Vendor Rescission Notice.

### 42.4 *Vendor's obligations*

The Vendor must use all reasonable endeavours to have the Registration Documents registered on or before the Registration Date.

### 42.5 *Purchaser's rescission notice*

If the Purchaser wishes to rescind this Contract pursuant to clause 42.2(a), the Purchaser must serve on the Vendor a valid rescission notice within seven days of the Registration Date

or the Extended Registration Date, time of the essence. The Purchaser's right to rescind under clause 42.2(a) lapses immediately if the purchaser does not rescind strictly in accordance with this Contract including within the timeframe set out in this special condition 42.

## 43 Extension of time for registration

### 43.1 *Vendor may extend*

Despite any other provision, the Vendor may extend the Registration Date if the Vendor has been delayed by reason of:

- (a) inclement weather or conditions resulting from inclement weather;
- (b) any civil commotion, combination of workmen strikes or lockouts affecting the progress of the Development or affecting the manufacture or supply of materials for the construction of the Land and the Property;
- (c) any matter or thing beyond the control of the Vendor including but not limited to a delay in supply to the Vendor or the Vendor's builder or a delay experienced by the Vendor in dealing with its consultants or a delay in obtaining any necessary consents, certificates, licences, not limited to any Consents of any kind from Council or other authority or Government Agency or registering the Registration Documents;
- (d) a delay in any consent, approval or permit required for construction of the Development by Council or other Government Agency;
- (e) anything else beyond the Vendor's control which could not reasonably have been contemplated at the date of this Contract; or
- (f) by any other cause, matter or thing at the sole discretion of the Vendor.

### 43.2 *Vendor's Surveyor conclusive*

A certificate by the Vendor's Surveyor in relation to extensions of time under this special condition 42 is final, conclusive and binding on the parties.

### 43.3 *Extended Registration Date*

Extensions of time under this special condition 43 cannot be claimed whereby the Registration Date is extended beyond the Extended Registration Date.

## 44 Completion

### 44.1 *Completion date*

Completion is the later of:

- (a) 28 days after the date of this Contract; and
- (b) 21 days after the Vendor notifies the Purchaser in writing that the Registration Documents have been registered.

### 44.2 *Notice to complete*

- (a) If this Contract is not completed on or by the date of completion, the party not in default will be entitled by notice in writing to the other to fix a date for Completion and in this regard making time for Completion essential.
- (b) It is agreed between the parties that 14 days between (but excluding) the date of service of a notice under special condition 44.2 and the date for Completion specified in the notice is reasonable and adequate time for the insertion in any notice served by one

party on the other requiring Completion even though the period includes days which are not business days.

- (c) The party that served the notice may at any time withdraw the notice without prejudice to the continuing right of that party to give any further notice.
- (d) If a party validly serves a notice to complete then the receiving party must pay to the issuing party an amount of \$300.00 on account of the reasonable legal costs of issuing the notice, payment of which must be made on Completion.

#### 44.3 *Liquidated damages*

- (a) If Completion does not take place on or before the date of completion for any reason not attributable to the Vendor, then without prejudice to all other remedies of the Vendor, the Purchaser must pay on Completion to the Vendor by way of liquidated damages, interest on the purchase price less the deposit at the rate of 10% per annum calculated daily from the date of completion until the date of Completion.
- (b) The Purchaser is not entitled to require the Vendor to complete this Contract unless the payment under special condition 44.3(a) is paid to the Vendor on Completion.

## 45 Amendment to Registration Documents

### 45.1 *Purchaser acknowledgment*

The Purchaser acknowledges having inspected the Registration Documents and despite anything elsewhere in this Contract cannot take any Action in relation to the Plan of Subdivision or the Instrument or in relation to any modification to them:

- (a) to correct an error which is evident on the face of the Plan of Subdivision or the Instrument;
- (b) required by Council to obtain its approval;
- (c) required by LRS to obtain registration;
- (d) which is minor.

## 46 Replacement or amendment of documents

### 46.1 *Vendor may serve notice*

At any time before the Vendor serves notice that the Registration Documents are registered, the Vendor may:

- (a) replace a document or plan attached to this Contract (**Replaced Document**) with another document or plan (**Replacement Document**); or
- (b) amend a document or plan attached to this Contract (**Amended Document**) with another document or plan (**Amending Document**),

and serve notice on the Purchaser of the Replacement Document or Amending Document, whichever is applicable.

### 46.2 *Documents replaced or amended*

From and including the day of service of a notice under special condition 46.1 the Replaced Document or Amended Document is taken to be no longer attached to this Contract and the Replacement Document or Amending Document (as the case may be) is taken to be attached to this Contract.



## 47 Limitation on purchaser's rights

### 47.1 *No Action*

The Purchaser must not take any Action in connection with anything done by the Vendor which is not prohibited under this Contract.

### 47.2 *Material Change*

Subject to the Act and despite special condition 47.1, if any of the following matters are a Material Change and they are not referred to in special condition 37:

- (a) there is a difference between documents or plans attached to this Contract and those documents or plans as actually registered and, where such a difference relates to a change in the area of the lot forming the Property;
- (b) there is a difference between a document attached to the contract and a Replacement Document or between an Amended Document and an Amending Document referred to in special condition 46;
- (c) any right specified in special condition 39 is created, entered into or any land is dedicated

then the Purchaser may, within 14 days (and in this respect time is of the essence of this Contract) of the earlier of the date the Vendor notifies the Purchaser of the relevant matter and the date the Vendor gives notice of registration of the Registration Documents, elect by written notice to the Vendor to either:

- (d) rescind this Contract; or
- (e) accept the Material Change without any right to make a Claim or seek a reduction in the purchase price.

### 47.3 *Acceptance by Purchaser*

If the Purchaser does not give notice to the Vendor in accordance with special condition 47.2, the Purchaser will be deemed to have accepted the Material Change.

### 47.4 *Not a Material Change*

Notwithstanding any other provision of this Contract, the parties agree that the following is not a Material Change:

- (a) a decrease in the area of the Property of less than or equal to 5% is taken not to detrimentally affect the Property to an extent which is substantial;
- (b) a change, inaccuracy, difference or matter permitted under this Contract or arising out of or in a connection with a Disclosure;
- (c) any change, inaccuracy, difference or matter identified in the Act or Regulations as not being a material particular.

## 48 Adjustments

### 48.1 *Not separately rated*

If the Property will be separately rated in the rating year/cycle current at registration of the Strata Plan and the amount of those separate rates is not known at Completion, the Vendor must make an allowance to the Purchaser for its proportion of the rates from the date of registration of the Plan of Subdivision to the date of Completion adjusted on the following amounts:

- (a) Council rates of \$500 per annum; and
- (b) Water and sewerage rates of \$250 per cycle

the Purchaser is then liable to pay the separate rate assessment in full when it is issued on or before its due date.

#### 48.2 *Land tax*

On Completion, irrespective of whether or not an assessment of land tax on the Property has issued, the Purchaser must adjust the deemed amount of \$500 per annum for land tax.

#### 48.3 *Reasonable assessment*

The Purchaser and the Vendor agree the amounts specified in special condition 48 represent a fair and reasonable assessment of rates and taxes for the Property on which to adjust on Completion.

### 49 Agent

#### 49.1 *Purchaser acknowledgement*

The Purchaser has dealt only with the agent nominated in this Contract. If there is no agent nominated in this Contract, the Purchaser has not dealt with any agent.

#### 49.2 *Purchaser warranty and indemnity*

- (a) The Purchaser warrants that it has not dealt with any real estate agent in relation to the Property in a way that may give rise to a Claim against the Vendor for agent's commission or expenses in respect of the sale.
- (b) The Purchaser indemnifies the Vendor against any Claim arising out of a breach of the Purchaser's warranty in special condition 49.2.

#### 49.3 *Non merger*

This special condition 49 does not merge on completion.

### 50 Connection of Services

#### 50.1 *Vendor to connect*

The Vendor will prior to Completion arrange for electricity, water, sewer services and NBN (telecommunications) to be installed to the boundary of the Property.

#### 50.2 *Purchaser's responsibility*

Other than the provision of the services stated in special condition 50.1, connection of all services to the Property are the Purchaser's responsibility and cost.

### 51 Fencing

The Purchaser acknowledges that the Vendor is not liable to contribute to any dividing fence between the Property and any adjoining lot owned by the Vendor.

### 52 Design Guidelines

- (a) The Purchaser acknowledges that:
  - (i) it has read and had the opportunity to obtain independent advice on the provisions of the Design Guidelines;
  - (ii) the Design Guidelines may be varied from time to time by the Vendor; and

- (iii) no improvement may be constructed on the Property other than in accordance with the Design Guidelines.
- (b) The Purchaser agrees to be bound by the provisions of the Design Guidelines as if such provisions were covenants under this Contract.
- (c) The Purchaser acknowledges that the Design Guidelines do not bind the Vendor and the Vendor may vary or modify the Design Guidelines or allow improvements to be constructed which may not comply with the Design Guidelines.
- (d) The Purchaser may not take any Action because of any variation or modification to the Design Guidelines or the Vendor's failure to comply with the Design Guidelines.
- (e) The Purchaser warrants that where the Purchaser transfers the Property, the transferee will enter into a deed with the Vendor at the Purchaser's cost whereby the transferee agrees to be bound by clause 52.
- (f) The rights and obligations pursuant to this clause do not merge on Completion.

## 53 Security Interests

The Vendor is not obliged to provide the Purchaser any release, statement, approval or correction in respect of any personal property subject to a security interest under the *Personal Property Securities Act 2009* (Cth).

## 54 Insolvency, Death or Bankruptcy

### 54.1 *Insolvency*

Without in any manner negating, limiting or restricting any rights or remedies which would have been available to the Vendor at law or in equity, if:

- (a) the Purchaser resolves to enter into liquidation or provisional liquidation;
- (b) a summons is presented for the winding-up of the Purchaser;
- (c) the Purchaser enters into any scheme of arrangement with its creditors under Part 5.1 of the *Corporations Act 2001*;
- (d) any liquidator, provisional liquidator, receiver, receiver and manager, controller or administrator is appointed in respect of the Purchaser or in respect of any asset of the Purchaser, or
- (e) an application for bankruptcy is made against the Purchaser,

then the Vendor may terminate this Contract by notice in writing to the Purchaser at any time.

### 54.2 *Death, etc. of Purchaser*

If the Purchaser (and if the Purchaser is constituted by more than one person then if any of the parties constituting the Purchaser) dies or becomes mentally incapable before Completion, then the Vendor may rescind this Contract by notice in writing to the Purchaser and clause 19 will apply.

## 55 Guarantee and indemnity

- (a) The Guarantor gives the guarantee and indemnity in Schedule 1.
- (b) If the Purchaser is a company which is not listed on the Australian Stock Exchange, then the Purchaser must procure that the directors of that company give the guarantee and indemnity in Schedule 1.

## 56 Goods and Services Tax (GST)

### 56.1 *Margin scheme*

- (a) The parties agree:
  - (i) to use the margin scheme in relation to this sale;
  - (ii) the purchase price on page 1 of this Contract includes GST calculated using the margin scheme;
  - (iii) printed condition 13.5 is deleted; and
  - (iv) printed condition 13.10 is deleted.
- (b) This special condition does not merge on completion.

### 56.2 *RW Payment*

- (a) The parties acknowledge that the *RW Payment* will be made direct to the Australian Taxation Office as part of the electronic transaction contemplated by printed condition 30 of the Contract.
- (b) The Vendor may at any time 14 days before the date of completion serve on the Purchaser details (or amended details) of the *RW Payment*.
- (c) The Purchaser must:
  - (i) at least 10 Business Days before the date for completion; or
  - (ii) within 2 Business Days following the issue of any amended detail under issued under special condition 56.2(c),

whichever is the later and time being of the essence, *serve* on the Vendor a copy of the duly completed and submitted 'GST property settlement withholding notification form' (including a copy of the confirmation screen which displays the Lodgement Reference Number and Payment Reference Number) submitted 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.

## 57 Investment of Deposit

### 57.1 *Direction to depositholder*

The parties direct the depositholder:

- (a) to invest the deposit with a bank in Australia nominated by the Vendor in an interest-bearing account payable at call with interest to be reinvested; and
- (b) when requested by the Vendor, to withdraw the deposit and interest earned on the deposit and reinvest the sum withdrawn with another bank nominated by the Vendor; and
- (c) when requested by the Vendor, to withdraw the deposit and interest earned on the deposit in anticipation of Completion; and
- (d) to withdraw the deposit and interest earned on the deposit on Completion, rescission or termination of this Contract (whichever occurs first); and
- (e) to pay the interest earned on the deposit in accordance with this special condition 57.

### 57.2 *Interest to Purchaser*

The Purchaser is entitled to the interest earned on the deposit and bears the risk of loss of interest.

### 57.3 *On termination*

If a party terminates this Contract because of the other party's default, then the defaulting party must pay to the terminating party an amount equal to half the interest earned on the deposit, by way of damages, without limitation to any other remedies or damages to which the terminating party may be entitled.

### 57.4 *Charges*

All proper government taxes and financial institution charges and other charges are to be deducted from the interest earned on the deposit before payment is made under this special condition 57.

### 57.5 *TFN*

The Purchaser acknowledges that it may not receive from the bank its full share of the interest earned on the deposit if it fails to provide to the depositor its tax file number by the date of this Contract.

## 58 *Caveat by Purchaser*

### 58.1 *Purchaser must not lodge*

The Purchaser must not lodge a caveat or priority notice for recording on the folio of the register for the Property or lots to be subdivided by the Plan of Subdivision.

### 58.2 *Attorney*

The Purchaser irrevocably appoints the Vendor as its attorney to execute a form of Withdrawal of Caveat where the Purchaser in breach of special condition 58.1 has lodged a caveat for recording on the register of the Property or lots to be subdivided by the Plan of Subdivision.

## 59 *Trusts*

Where the Purchaser purchases the Property as trustee, the Purchaser:

- (a) warrants the Purchaser has the power under the trust to enter into this Contract;
- (b) is personally liable under this Contract;
- (c) warrants the Purchaser has a right of indemnity under the trust;
- (d) must not do anything to prejudice the right of indemnity the Purchaser has under the trust; and
- (e) must not allow the variation of the trust or the advance or distribution of capital of the trust or re-settlement of trust property.

## 60 *Landscaping Rebate*

60.1 On Completion the Vendor will direct \$5,000.00 from the price payable on Completion to be held by the vendor's solicitor in its trust account for the purposes of a landscaping rebate ("**Retention Amount**").

60.2 The Purchaser may access the Retention Amount on completion of:

- (i) construction of a dwelling on the Property; and
- (ii) landscaping works,

which meet the Design Guidelines (“**the Works**”). The vendor is the sole determiner of satisfactory completion of the Works.

- 60.3 On satisfactory completion of the Works, the Vendor must authorise the release of the Retention Amount to the Purchaser in payment of or towards the cost of the landscaping works.
- 60.4 The Retention Amount is personal to the Purchaser and cannot be assigned to any third party if the Property is sold by the Purchaser.
- 60.5 If the Retention Amount has not been released within 18 months of Completion, the parties agree that the Vendor is at liberty to authorise the Vendor’s solicitor to release the Retention Amount to the Vendor.
- 60.6 This clause does not merge on Completion.

## 61 General

### 61.1 *Draft documents*

A reference in this Contract to a draft document is a reference to the copy of the document of that name attached to this Contract.

### 61.2 *Exercise of certain rights to rescind*

If a right to rescind given by a special condition is not exercised within the period specified for its exercise it may not be exercised.

### 61.3 *Counterparts*

This Contract may be executed in any number of counterparts. Each counterpart is deemed an original and all the counterparts together constitute the one instrument.

### 61.4 *Nature of obligations*

Any provision in this Contract which binds more than one person binds all of those persons jointly and each of them individually. Each obligation imposed on a party by this Contract in favour of another is a separate obligation.

### 61.5 *Entire agreement*

- (a) This Contract contains the entire understanding between the parties concerning the subject matter of this Contract and supersedes all prior communications between the parties.
- (b) Each party acknowledges that, except as expressly stated in this Contract, that party has not relied on any representation, warranty or undertaking of any kind made by or on behalf of the other party in relation to the subject matter of this Contract.

### 61.6 *No waiver*

A failure, delay, relaxation or indulgence by a party in exercising any power or right conferred on the party by this Contract does not operate as a waiver of the power or right. A single or partial exercise of the power or right does not preclude a further exercise of it or the exercise of any other power or right under this Contract. A waiver of a breach does not operate as a waiver of any other breach.

### **61.7 Severability**

If any provision of this Contract offends any law applicable to it and is as a consequence illegal, invalid or unenforceable then:

- (a) where the offending provision can be read down so as to give it a valid and enforceable operation of a partial nature it must be read down to the extent necessary to achieve that result; and
- (b) in any other case the offending provision must be severed from this Contract and the remaining provisions of this Contract operate as if the severed provision had not been included.

### **61.8 Successors and assigns**

This Contract binds and benefits the parties and their respective successors and permitted assigns.

### **61.9 No assignment**

The Purchaser must not onsell the Property prior to Completion, assign, transfer or otherwise transfer the benefit of this Contract without the prior written consent of the Vendor.

### **61.10 No variation**

This Contract cannot be amended or varied except in writing signed by the parties.

### **61.11 Costs**

Each party must pay its own legal costs of and incidental to the preparation, negotiation and completion of this Contract.

### **61.12 Non-merger**

A term or condition of, or act done in connection with this Contract does not operate as a merger of any of the rights or remedies of the parties under this Contract and those rights and remedies continue unchanged.

### **61.13 No adverse construction**

This Contract is not to be construed to the disadvantage of a party because that party was responsible for its preparation.

### **61.14 Governing law and jurisdiction**

This Contract is governed by and must be construed in accordance with the laws of the State of New South Wales. The parties submit to the non-exclusive jurisdiction of the Courts of that State and the Commonwealth of Australia in respect of all matters or things arising out of this Contract.

### **61.15 Transfer duty**

All transfer duty (including fines and penalties, if any) payable in respect of this Contract or any instrument created in connection with it must be borne by the Purchaser. The Purchaser indemnifies the Vendor against all liability relating to the transfer duty, fines and penalties.

### **61.16 Electronic transaction**

- (a) The Vendor may give, provide, serve or deliver documents under or relating to this Contract, including Replacement Documents or Amending Documents under special condition 46 (Replacement or amendment of documents), to or on the Purchaser by email to, or by sending another form of electronic communication, including for example

by providing access via a link to or for the document or a copy of it to be accessed online in a document sharing website or platform to, the Purchaser's solicitor.

- (b) Each party consents to this Contract, being signed by any party in accordance with an electronic communication method approved by the Vendor, such as 'DocuSign' or other electronic signature platforms.
- (c) The parties acknowledge and agree that:
  - (i) the contract is in writing if sent and / or received electronically; and
  - (ii) electronic or digital signatures constitute a signature and have the same quality of integrity as a written signature including if the signature is:
    - (A) computer generated;
    - (B) by computer pen;
    - (C) by a typed mark or name;
    - (D) contained in an email or embedded link;
    - (E) physically signed on paper and scanned electronically;
- (d) The Purchaser authorises the Purchaser's solicitor to be the Purchaser's representative, including for the purposes of service of notices and documents under this Contract and the law.
- (e) If the Vendor requests it, the Purchaser must provide to the Vendor within 14 days of the request, a signed customary paper form contract on the same terms as this Contract and if the Purchaser does not comply, the Purchaser appoints the Vendor as its attorney to comply with this special condition. A paper contract under this special condition is only intended to record the terms of the contract in paper form and does not affect the parties obligations and rights under this Contract.



## Schedule 1                      Guarantee and Indemnity

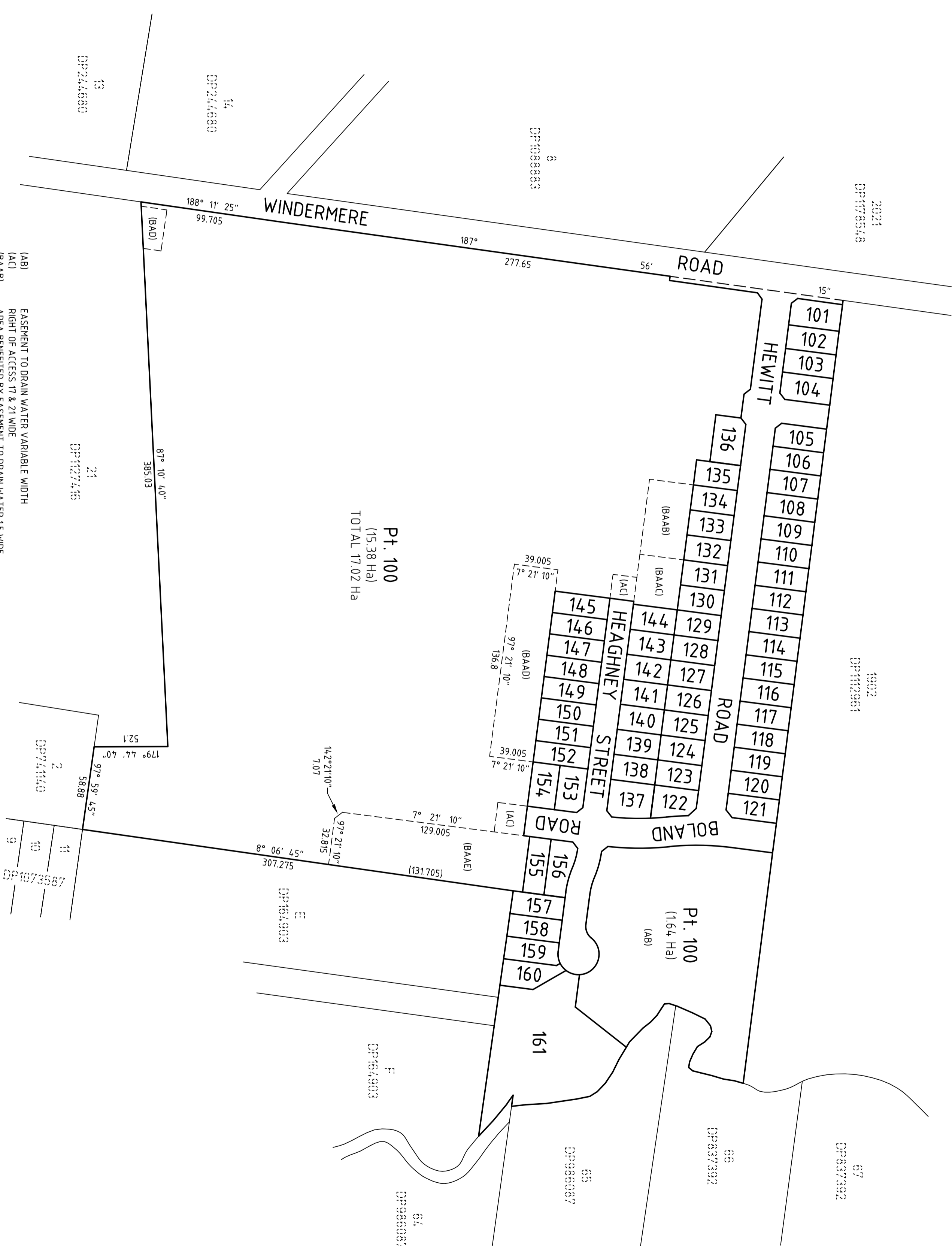
- 1        The Guarantor must execute this Contract.
- 2        The Guarantor enters this Contract, and incurs obligations and gives rights under the guarantee and indemnity, for the valuable consideration of among other things, the Vendor agreeing to enter this Contract at the request of the Guarantor.
- 3        The covenants, guarantees and indemnities in this Schedule 1 are severable.
- 4        The Guarantor unconditionally and irrevocably guarantees to the Vendor:
  - (a)     that the Purchaser will pay to the Vendor the balance of the price and every other amount that the Purchaser must pay under this Contract; and
  - (b)     the performance of the Purchaser's obligations.
- 5        The Guarantor indemnifies the Vendor against a claim or action and cost relating to the Purchaser's breach, default or attempted breach or default of its obligations.
- 6        This guarantee and indemnity:
  - (a)     is a principal obligation;
  - (b)     is irrevocable and remains in full force and effect until discharged; and
  - (c)     binds the estates of each Guarantor.
- 7        The parties must not treat this guarantee and indemnity as ancillary or collateral to any other right or obligation.
- 8        The Vendor may enforce this guarantee against the Guarantor without first exhausting a remedy that it may have against the Purchaser.
- 9        The Guarantor must pay on demand any money due to the Vendor that relates to the indemnity including but not limited to:
  - (a)     the balance of the price;
  - (b)     the adjustments due to the Vendor on completion; and
  - (c)     interest that the Purchaser must pay to the Vendor.
- 10       The Guarantor and the Purchaser are jointly and severally liable to the Vendor for:
  - (a)     the Purchaser's observance and performance of its obligations; and
  - (b)     damage that the Vendor incurs as a result of any one or more of:
    - (i)     the Purchaser's failure to observe and perform its obligations under this Contract;
    - (ii)    its default under this Contract; and
    - (iii)   the Vendor's termination of this Contract.
- 11       The Purchaser or the Guarantor must pay all money payable to the Vendor and duly perform their several obligations before either may claim or receive the benefit of:
  - (a)     a dividend or distribution of a person, liable jointly with the Purchaser or the Guarantor, to the Vendor;
  - (b)     a payment out of the estate or assets of a person, liable jointly with the Purchaser or the Guarantor, to the Vendor; or

- (c) a payment in the liquidation, winding up or bankruptcy of a person, liable jointly with the Purchaser or the Guarantor, to the Vendor.
- 12 Clause 11 applies equally if the person is liable under a security for money that the Purchaser or the Guarantor must pay.
- 13 The Purchaser or the Guarantor must pay all money payable to the Vendor and perform their several obligations before either may prove in competition with the Vendor:
- (a) in an estate; or
  - (b) in relation to an asset in a liquidation, winding up or bankruptcy.
- 14 Clause 13 only applies if the amount that the Vendor is entitled to is reduced as a result.
- 15 Upon the written request of the Vendor, the Guarantor must pay the Vendor all expenses that the Vendor incurs in respect of the Vendor's exercise or attempted exercise of a right of the Vendor under this Schedule 1.
- 16 The Guarantor's obligations are not affected if:
- (a) the Vendor releases or enters into a composition with the Purchaser;
  - (b) a payment made to the Vendor is later avoided; or
  - (c) the Vendor assigns or transfers the benefit of this Contract.
- 17 If the Vendor assigns or transfers the benefit of this Contract, then the assignee receives the benefit of the Guarantor's covenants, agreements, guarantees and indemnities.
- 18 The obligations of the Guarantor under this Schedule 1 are not released, discharged or otherwise affected by:
- (a) failure by one or more Guarantors to execute this guarantee and indemnity, validly or otherwise;
  - (b) the grant of time, waiver, covenant not to sue or other indulgence;
  - (c) the release, including but not limited to a release as part of a novation, or discharge of a person;
  - (d) an arrangement, composition or compromise that a person enters into;
  - (e) an extinguishment, failure, loss, release, discharge, abandonment, impairment, compound, composition or compromise, in whole or in part of any document or agreement;
  - (f) a variation of this Contract including, but not limited to a variation in the date of completion;
  - (g) a moratorium or other suspension of a right, power, authority, discretion or remedy conferred on the Vendor in any way;
  - (h) payment to the Vendor, including but not limited to a payment which at or after the payment date is illegal, void, voidable, avoided or unenforceable;
  - (i) the Purchaser becoming insolvent, going into liquidation, official management, receivership, arrangement, administration or winding up; or
  - (j) a person being appointed in respect of the Purchaser or any of its assets or undertakings, including but not limited to a receiver or manager or both, or a liquidator, or administrator.

Annexure A      Plan of Subdivision

M.G.A.

(SCIMS)



**PRELIMINARY ONLY**

THIS PLAN IS PRELIMINARY ONLY AND IS SUBJECT TO COUNCIL APPROVAL, FINAL DESIGN, CONSTRUCTION, FINAL SURVEY AND REGISTRATION AT THE LAND AND PROPERTY INFORMATION, SYDNEY.

10 20 30 40 50 60 70 80 90 100 110 120 130 140 150 Table of mm

- (IAB) EASEMENT TO DRAIN WATER VARIABLE WIDTH
- (IAC) RIGHT OF ACCESS 17 & 21 WIDE
- (IAAB) AREA BENEFITED BY EASEMENT TO DRAIN WATER 1.5 WIDE
- (IAAC) AREA BENEFITED BY EASEMENT TO DRAIN WATER 1.5 WIDE
- (IAAD) AREA BENEFITED BY EASEMENT TO DRAIN WATER 1.5 WIDE
- (IAAE) AREA BENEFITED BY EASEMENT TO DRAIN WATER 1.5 WIDE
- (IAD) AREA BENEFITED BY EASEMENT FOR SIGNAGE 2 WIDE

SURVEYOR  
Name: THOMAS F CAMPBELL  
Date:  
Reference: 20338\_DP(Draft)\_R6\_221121

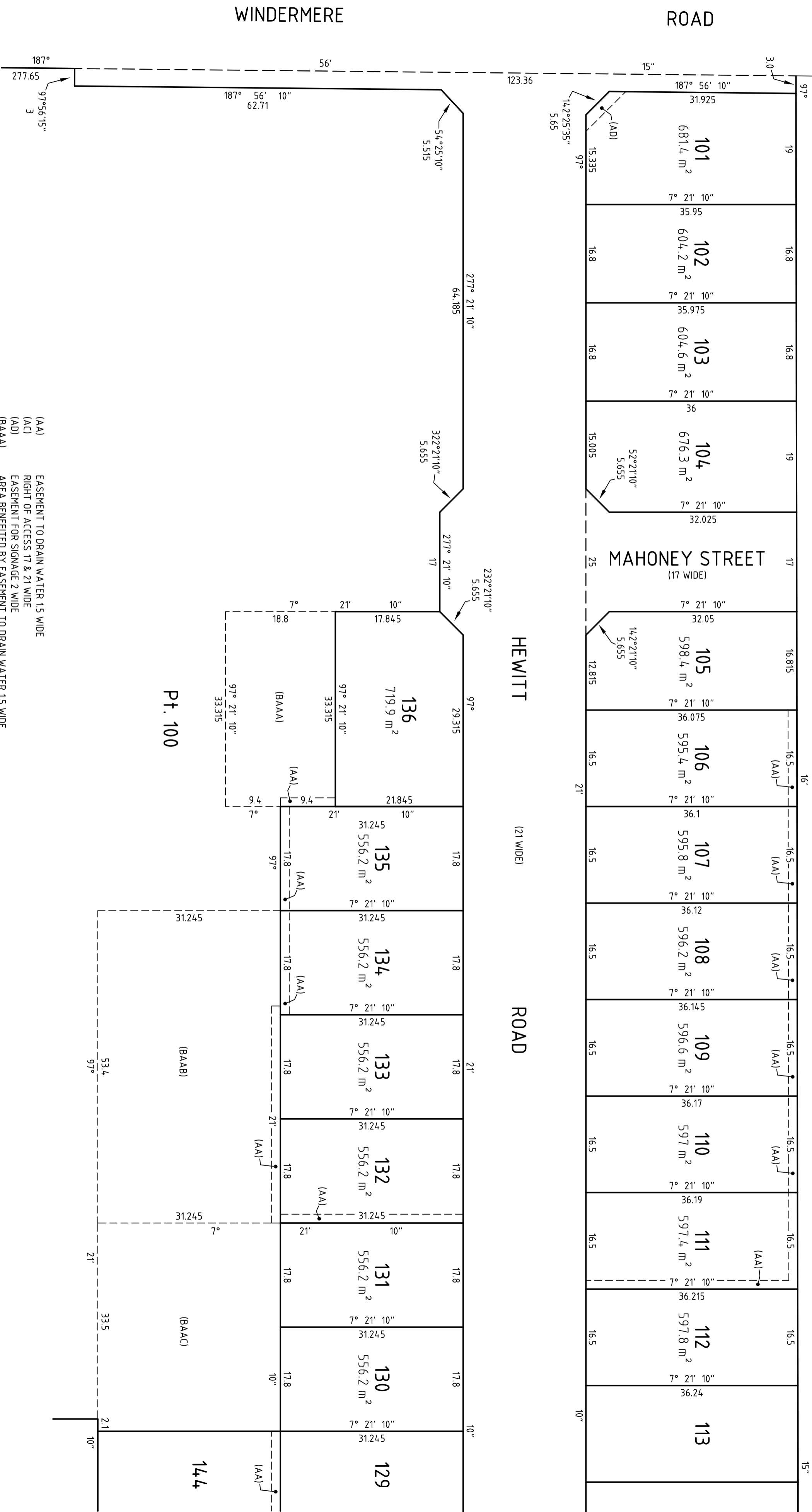
PLAN OF SUBDIVISION OF LOT 1 DP537313

LGA: MAITLAND  
Locality: LOCHINVAR  
Reduction Ratio 1:2000  
Lengths are in metres.

REGISTERED

DP

M.G.A.



1902  
DP1112961

**PRELIMINARY ONLY**

THIS PLAN IS PRELIMINARY ONLY AND IS SUBJECT TO COUNCIL APPROVAL, FINAL DESIGN, CONSTRUCTION, FINAL SURVEY AND REGISTRATION AT THE LAND AND PROPERTY INFORMATION, SYDNEY.

- (AA) EASEMENT TO DRAIN WATER 15 WIDE
- (AC) RIGHT OF ACCESS 17 & 21 WIDE
- (AD) EASEMENT FOR SIGNAGE 2 WIDE
- (BAAB) AREA BENEFITED BY EASEMENT TO DRAIN WATER 15 WIDE
- (BAAB) AREA BENEFITED BY EASEMENT TO DRAIN WATER 15 WIDE
- (BAAC) AREA BENEFITED BY EASEMENT TO DRAIN WATER 15 WIDE

SURVEYOR  
Name: THOMAS F CAMPBELL  
Date:  
Reference: 20338\_DP(Draft)\_R6\_221121

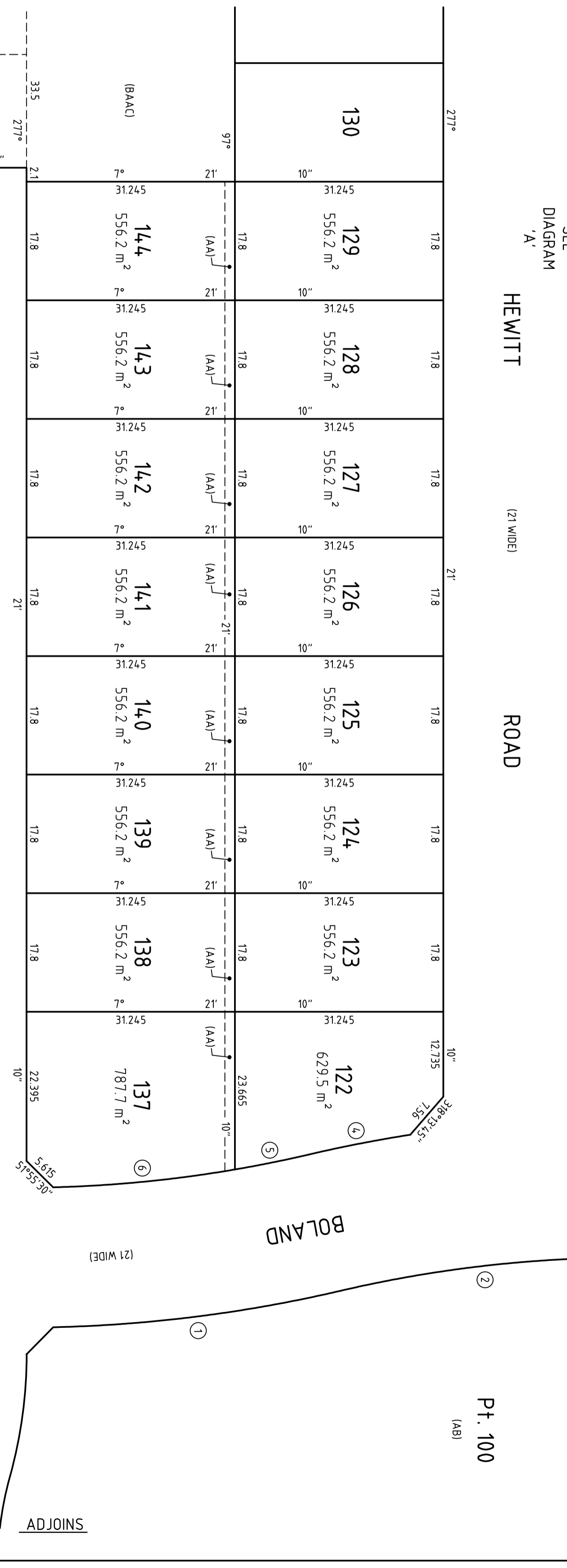
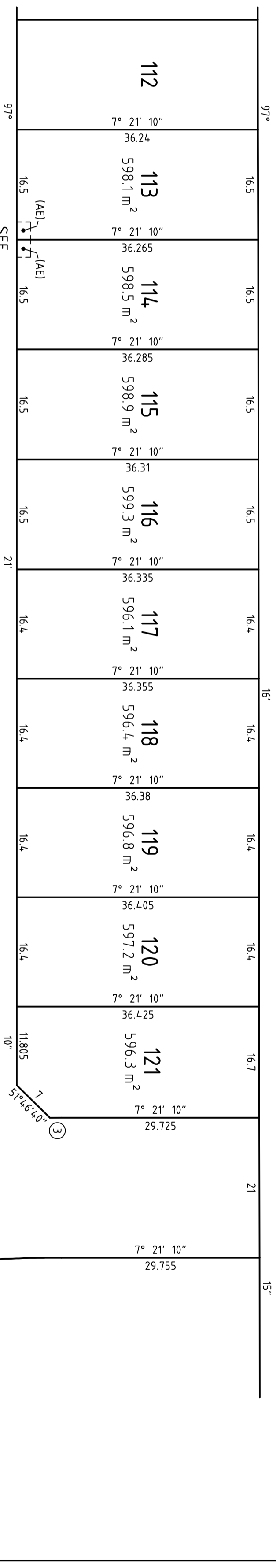
PLAN OF SUBDIVISION OF LOT 1 DP537313

LGA: MAITLAND  
Locality: LOCHINVAR  
Reduction Ratio 1500  
Lengths are in metres.

REGISTERED

DP

M.G.A.



SHORT LINE & ARC TABLE

Number	Chord Bearing	Chord Distance	Arc Length	Radius
1	0°07'	43.43	43.505	210.5
2	180°46'25"	4.342	4.3515	189.5
3	187°07'05"	1.725	1.725	210.6
4	176°18'35"	15.53	15.535	210.5
5	355°54'05"	11.28	11.285	189.5
6	1°45'	27.38	27.4	189.5

- (AA) EASEMENT TO DRAIN WATER 15 WIDE
- (AB) EASEMENT TO DRAIN WATER VARIABLE WIDTH
- (AC) RIGHT OF ACCESS 17 & 21 WIDE
- (BAAC) AREA BENEFITED BY EASEMENT TO DRAIN WATER 15 WIDE
- (BAAD) AREA BENEFITED BY EASEMENT TO DRAIN WATER 15 WIDE

**PRELIMINARY ONLY**

THIS PLAN IS PRELIMINARY ONLY AND IS SUBJECT TO COUNCIL APPROVAL, FINAL DESIGN, CONSTRUCTION, FINAL SURVEY AND REGISTRATION AT THE LAND AND PROPERTY INFORMATION, SYDNEY.

SURVEYOR  
Name: THOMAS F CAMPBELL  
Date:  
Reference: 20338\_DP(Draft)\_R6\_221121

PLAN OF SUBDIVISION OF LOT 1 DP537313

LGA: MAITLAND  
Locality: LOCHINVAR  
Reduction Ratio 1:500  
Lengths are in metres.

REGISTERED

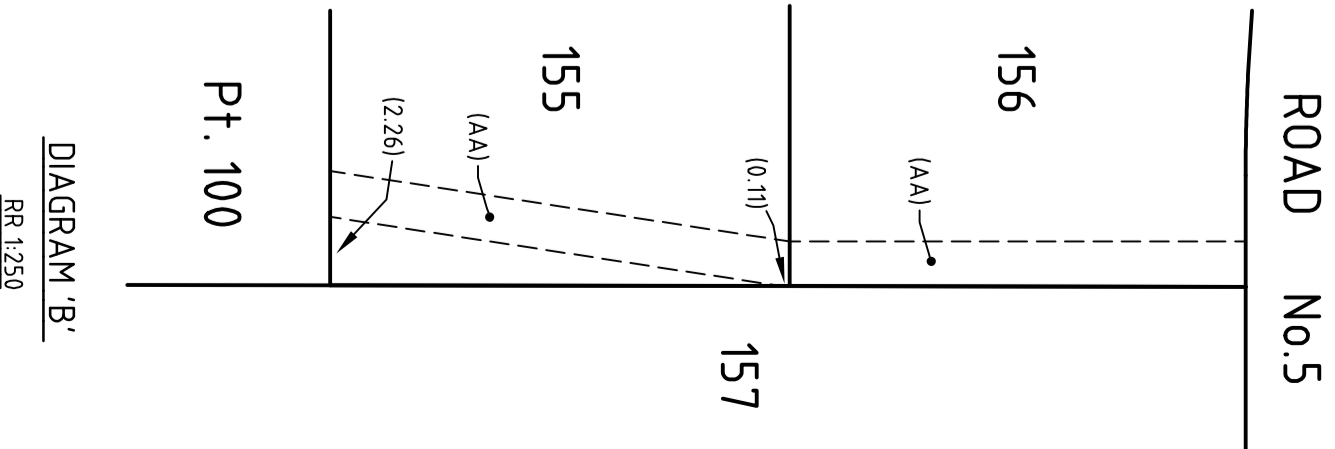
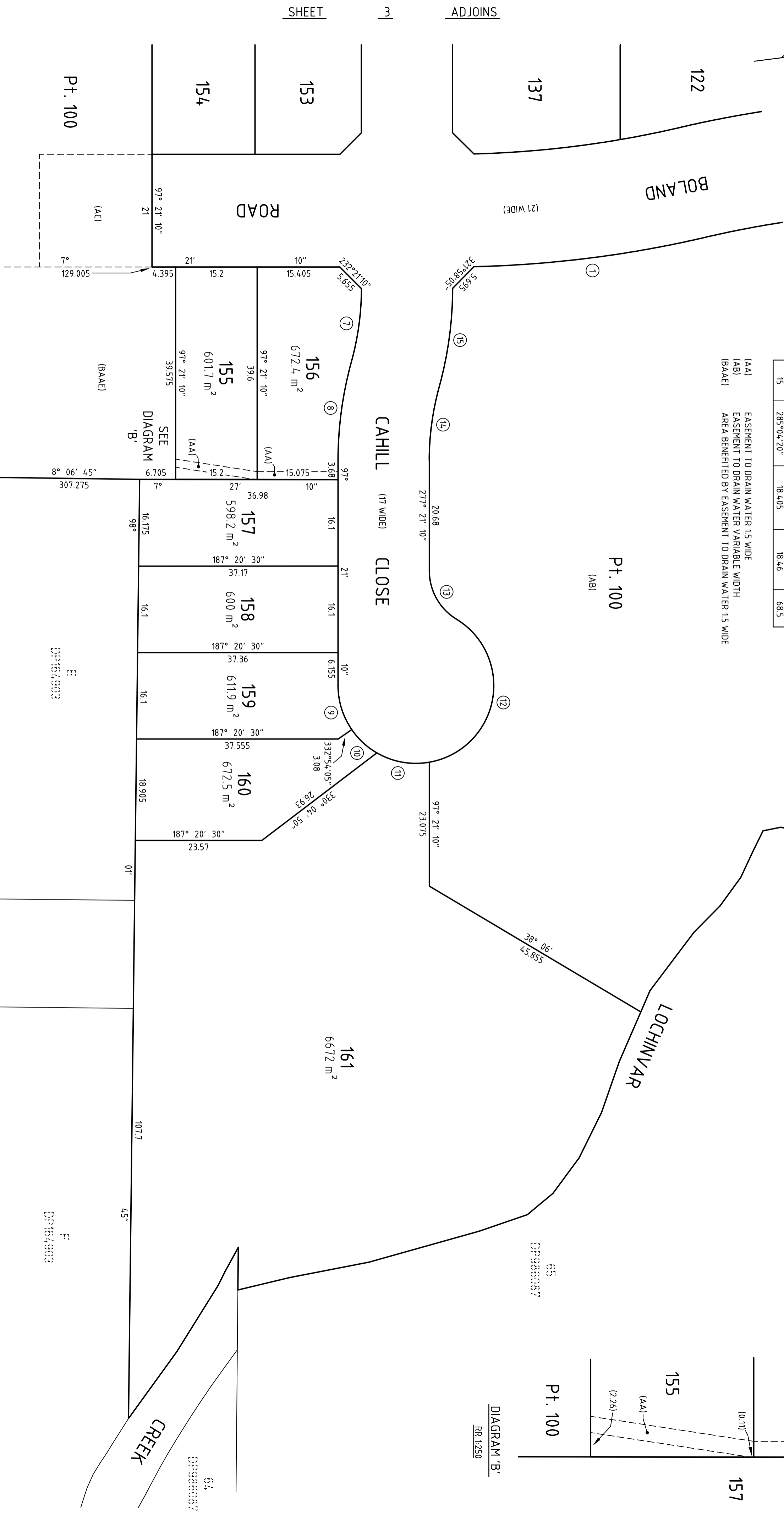
DP

M.G.A.

(SCIMS)

SHORT LINE & ARC TABLE			
Number	Chord Bearing	Chord Distance	Arc Length
1	0°07'	4.343	4.3505
7	285°04'20"	13.835	13.88
8	105°04'20"	18.405	18.46
9	80°07'40"	8.59	8.72
10	50°11'15"	6.385	6.435
11	17°26'55"	9.93	10.135
12	108°03'15"	27.14	35.11
13	68°01'10"	10.29	10.75
14	105°04'20"	13.835	13.88
15	285°04'20"	18.405	18.46

(AA) EASEMENT TO DRAIN WATER 15 WIDE  
 (AB) EASEMENT TO DRAIN WATER VARIABLE WIDTH  
 (BAAE) AREA BENEFITED BY EASEMENT TO DRAIN WATER 15 WIDE



SHEET 3

ADJOINS

PRELIMINARY ONLY

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10 20 30 40 50 60 70 80 90 100 110 120 130 140 150 Table of mm

SURVEYOR  
 Name: THOMAS F CAMPBELL  
 Date:  
 Reference: 20338\_DP(Draft)\_R6\_221121

PLAN OF SUBDIVISION OF LOT 1 DP537313

LGA: MAITLAND  
 Locality: LOCHINVAR  
 Reduction Ratio 1:500  
 Lengths are in metres.

REGISTERED

DP

DP164903

DP164903

DP988087

DIAGRAM 'B'  
 RR 1250

DP988087

<p style="text-align: right;">Office Use Only</p> <p>Registered:</p> <p>Title System:</p>	<p style="text-align: right;">Office Use Only</p> <h2 style="text-align: center; border-bottom: 1px solid black;">PRELIMINARY ONLY</h2> <p style="font-size: small;">THIS PLAN IS PRELIMINARY ONLY AND IS SUBJECT TO COUNCIL APPROVAL, FINAL DESIGN, CONSTRUCTION, FINAL SURVEY AND REGISTRATION AT THE LAND AND PROPERTY INFORMATION, SYDNEY.</p>
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<h3>PLAN OF SUBDIVISION OF LOT 1 DP537313</h3>	<p>LGA: MAITLAND</p> <p>Locality: LOCHINVAR</p> <p>Parish: GOSFORTH</p> <p>County: NORTHUMBERLAND</p>
--	---

<p style="text-align: center;">Survey Certificate</p> <p style="text-align: center;"><b>THOMAS F CAMPBELL</b></p> <p>I, .....  of <u>Delfs Lascelles Pty Ltd, 260 Maitland Road Mayfield 2304</u>  a surveyor registered under the <i>Surveying and Spatial Information Act 2002</i>, certify that:</p> <p><del>*(a) The land shown in the plan was surveyed in accordance with the <i>Surveying and Spatial Information Regulation 2017</i>, is accurate and the survey was completed on ....., or</del></p> <p>*(b) The part of the land shown in the plan (*being/*excluding ** .....) was surveyed in accordance with the <i>Surveying and Spatial Information Regulation 2017</i>, the part surveyed is accurate and the survey was completed on, ..... the part not surveyed was compiled in accordance with that Regulation, or</p> <p><del>*(c) The land shown in this plan was compiled in accordance with the <i>Surveying and Spatial Information Regulation 2017</i>.</del></p> <p>Datum Line: ..... 'X' - 'Y' .....</p> <p>Type: *Urban/*<del>Rural</del></p> <p>The terrain is *Level-Undulating / *<del>Steep-Mountainous</del>.</p> <p>Signature: ..... Dated: .....</p> <p>Surveyor Identification No: ..... <b>8704</b> .....</p> <p>Surveyor registered under the <i>Surveying and Spatial information Act 2002</i></p> <p style="font-size: x-small;">* Strike through if inapplicable.  ** Specify the land actually surveyed or specify any land shown in the plan that is not the subject of the survey.</p>	<p style="text-align: center;">Crown Lands NSW/Western Lands Office Approval</p> <p>I, ..... (Authorised Officer) in approving this plan certify that all necessary approvals in regard to the allocation of the land shown herein have been given.</p> <p>Signature: .....</p> <p>Date: .....</p> <p>File Number: .....</p> <p>Office: .....</p>
---	---

<p style="text-align: center;">Subdivision Certificate</p> <p>I, .....  *Authorised Person/*General Manager/*Registered Certifier, certify that the provisions of section 6.15 of the <i>Environmental Planning and Assessment Act 1979</i> have been satisfied in relation to the proposed subdivision, new road or reserve set out herein.</p> <p>Signature: .....</p> <p>Accreditation number: .....</p> <p>Consent Authority: .....</p> <p>Date of endorsement: .....</p> <p>Subdivision Certificate number: .....</p> <p>File number: .....</p> <p style="font-size: x-small;">* Strike through if inapplicable</p>	<p>Plans used in the preparation of survey/compilation.</p> <p>DP537313</p>
--	---

<p>Statements of intention to dedicate public roads, create public reserves and drainage reserves, acquire/resume land.</p>	<p>Signatures, Seals and Section 88B Statements should appear on  <b>PLAN FORM 6A</b></p>
---	---



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Registered:

**PRELIMINARY ONLY**

**PLAN OF SUBDIVISION OF  
LOT 1 DP537313**

THIS PLAN IS PRELIMINARY ONLY AND IS SUBJECT TO COUNCIL APPROVAL, FINAL DESIGN, CONSTRUCTION, FINAL SURVEY AND REGISTRATION AT THE LAND AND PROPERTY INFORMATION, SYDNEY.

This sheet is for the provision of the following information as required:

- A schedule of lots and addresses - See 60(c) *SSI Regulation 2017*
- Statements of intention to create and release affecting interests in accordance with section 88B *Conveyancing Act 1919*
- Signatures and seals - See 195D *Conveyancing Act 1919*
- Any information which cannot fit in the appropriate panel of sheet 1 of the administration sheets.

Subdivision Certificate number : .....

Date of Endorsement : .....

PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919, AS AMENDED, IT IS INTENDED TO CREATE:-

1. POSITIVE COVENANT
2. RESTRICTION ON THE USE OF LAND
3. RESTRICTION ON THE USE OF LAND
4. EASEMENT TO DRAIN WATER 1.5 WIDE (AA)
5. EASEMENT TO DRAIN WATER VARIABLE WIDTH (AB)
6. RIGHT OF ACCESS 17 & 21 WIDE (AC)
7. EASEMENT FOR SIGNAGE 2 WIDE (AD)
8. EASEMENT FOR ELECTRICITY & OTHER PURPOSES 2.05 WIDE (AE)

EXECUTED by

XXXXXXXXXXXXX PTY LIMITED )  
 (ACN XXX XXX XXX) )  
 in accordance with Section 127 of )  
 the Corporations Act )

.....  
 Signature

.....  
 Signature

.....  
 Name

.....  
 Name

.....  
 Position

.....  
 Position

If space is insufficient use additional annexure sheet

Office Use Only

Office Use Only

Registered:

**PRELIMINARY ONLY**

**PLAN OF SUBDIVISION OF LOT 1 DP537313**

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  - Statements of intention to create and release affecting interests in accordance with section 88B *Conveyancing Act 1919*
  - Signatures and seals - See 195D *Conveyancing Act 1919*
  - Any information which cannot fit in the appropriate panel of sheet 1 of the administration sheets.

Subdivision Certificate number : .....

Date of Endorsement : .....

LOT	STREET No.	ROAD NAME	ROAD TYPE	LOCALITY
100				LOCHINVAR
101				LOCHINVAR
102				LOCHINVAR
103				LOCHINVAR
104				LOCHINVAR
105				LOCHINVAR
106				LOCHINVAR
107				LOCHINVAR
108				LOCHINVAR
109				LOCHINVAR
110				LOCHINVAR
111				LOCHINVAR
112				LOCHINVAR
113				LOCHINVAR
114				LOCHINVAR
115				LOCHINVAR
116				LOCHINVAR
117				LOCHINVAR
118				LOCHINVAR
119				LOCHINVAR
120				LOCHINVAR
121				LOCHINVAR
122				LOCHINVAR
123				LOCHINVAR
124				LOCHINVAR
125				LOCHINVAR
126				LOCHINVAR
127				LOCHINVAR
128				LOCHINVAR
129				LOCHINVAR
130				LOCHINVAR
131				LOCHINVAR
132				LOCHINVAR
133				LOCHINVAR
134				LOCHINVAR
135				LOCHINVAR

If space is insufficient use additional annexure sheet

Office Use Only

Office Use Only

Registered:

**PRELIMINARY ONLY**

**PLAN OF SUBDIVISION OF  
LOT 1 DP537313**

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- Statements of intention to create and release affecting interests in accordance with section 88B *Conveyancing Act 1919*
- Signatures and seals - See 195D *Conveyancing Act 1919*
- Any information which cannot fit in the appropriate panel of sheet 1 of the administration sheets.

Subdivision Certificate number : .....

Date of Endorsement : .....

LOT	STREET No.	ROAD NAME	ROAD TYPE	LOCALITY
136				LOCHINVAR
137				LOCHINVAR
138				LOCHINVAR
139				LOCHINVAR
140				LOCHINVAR
141				LOCHINVAR
142				LOCHINVAR
143				LOCHINVAR
144				LOCHINVAR
145				LOCHINVAR
146				LOCHINVAR
147				LOCHINVAR
148				LOCHINVAR
149				LOCHINVAR
150				LOCHINVAR
151				LOCHINVAR
152				LOCHINVAR
153				LOCHINVAR
154				LOCHINVAR
155				LOCHINVAR
156				LOCHINVAR
157				LOCHINVAR
158				LOCHINVAR
159				LOCHINVAR
160				LOCHINVAR
161				LOCHINVAR

If space is insufficient use additional annexure sheet

Annexure B      Instrument

Instrument setting out terms of Easements or Profits a Prendre intended to be created or released and of Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to Sections 88B of the Conveyancing Act, 1919.

(Sheet 1 of 11 sheets)

**Plan:** PLAN OF SUBDIVISION OF LOTS 1 DP537313  
covered by Subdivision Certificate  
Dated

**Full name and address  
of the owners of the land:** **NEWPRO20 PTY LIMITED**  
**(ACN 42 709 573 659)**  
Shop 3, 239-247 Pacific Highway  
North Sydney  
NSW 2060

**PART 1 - CREATION**

Number of item shown in the intention panel on the plan	Identity of easement, profit a prendre, restriction or positive covenant to be created and referred to in the plan.	Burdened lot(s) or parcel:	Benefited lot(s), road(s), bodies or Prescribed Authorities:
1	Positive covenant	161	Maitland City Council
2	Restriction on the use of land	101 to 161 inclusive	Every other lot except 100
3	Restriction on the use of land	101 to 161 inclusive	Every other lot except 100
4	Easement to drain water 1.5 wide (AA)	106 107 108 109 110 111  100 135 134 100  132  144 143 142  141	105 105 to 106 inclusive 105 to 107 inclusive 105 to 108 inclusive 105 to 109 inclusive 105 to 110 inclusive  136 136, part 100 designated (BAAA) 136, part 100 designated (BAAA), 135 136, part 100 designated (BAAA), 135, 134 136, part 100 designated (BAAA), 135, 134, part 100 designated (BAAB)  Part 100 designated (BAAC) Part 100 designated (BAAC), 144 Part 100 designated (BAAC), 144 to 143 inclusive Part 100 designated (BAAC), 144 to 142 inclusive

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or released and of Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to Sections 88B of the Conveyancing Act, 1919.**

(Sheet 2 of 11 sheets)

**Plan:** PLAN OF SUBDIVISION OF LOTS 1 DP537313  
covered by Subdivision Certificate  
Dated

		140 139 138 137 100, 154, 153 155 156	Part 100 designated (BAAC), 144 to 141 inclusive Part 100 designated (BAAC), 144 to 140 inclusive Part 100 designated (BAAC), 144 to 139 inclusive Part 100 designated (BAAC), 144 to 138 inclusive Part 100 designated (BAAD) Part 100 designated (BAAE) Part 100 designated (BAAE), 155
5	Easement to drain water variable width (AB)	100	Maitland City Council
6	Right of access 17 & 21 wide (AC)	100	Maitland City Council
7	Easement for signage 2 wide (AD)	101	Part 100 designated (BAD)
8	Easement for electricity & other purposes 2.05 wide (AE)	113 & 114	Alpha Distribution Ministerial Holding Corporation ABN 67 505 337 385

**PART 2 – TERMS**

- 1. Terms of the easement, profit a prendre, restriction, or positive covenant firstly referred to in the abovementioned plan:**

**Dwelling Lot Adjoining Stormwater Basin and fronting Lochinvar Creek**

- 1.1 The proprietor of the lot burdened acknowledges that it is to comply with the following requirements required by Maitland City Council DA/2020/1248:
- a) Any fencing erected within a watercourse, to the limit of the 1% AEP flood level, shall be of post and wire/rail construction.
  - b) A building envelope shall be of at least 250m<sup>2</sup> (with a minimum width of 12m)

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or released and of Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to Sections 88B of the Conveyancing Act, 1919.**

(Sheet 3 of 11 sheets)

**Plan:** PLAN OF SUBDIVISION OF LOTS 1 DP537313  
covered by Subdivision Certificate  
Dated

at 0.5m above the 1% AEP. All future structures and setbacks are required to be wholly located within the building envelope.

- c) The vegetation within the land zoned E3 Environmental management shall be managed with the approved vegetation management plan.

Any release, variation or modification of this positive covenant will be made and done in all respects at the cost and expense of the person or persons requesting same.  
The name of the person having the power to release, vary or modify this positive covenant is Maitland City Council.

**2. Terms of the easement, profit a prendre, restriction, or positive covenant secondly referred to in the abovementioned plan:**

**Dwelling Houses**

- 2.1 No dwelling house may be erected or permitted to remain erect on any lot burdened having a total internal floor area of less than 150m<sup>2</sup> exclusive of car accommodation, external landings and patios.
- 2.2 All lots must comply with the building specifications and standards contained within the vendors design guidelines from time to time.
- 2.3 No driveway shall be constructed on the lot burdened unless such driveway is constructed of materials and is of a colour which complies with the Vendor Design Guidelines from time to time.
- 2.4 No commercial or boarding kennels shall be constructed or permitted to remain on any lot burdened.
- 2.5 No advertisement hoarding sign or matter of any description shall be erected or displayed on any lot burdened without the prior written consent of the Vendors having been given to the registered proprietor of the lot burdened. The required approval may be given or withheld at the absolute discretion of the Vendors BUT nothing in this restriction shall prevent the proprietor of any other lot burdened from displaying not more than one (1) sign on the lot burdened advertising the fact that the dwelling on the relevant lot burdened is for sale IF:
- a) Any such sign does not exceed nine hundred millimetres (900mm) in width and nine hundred millimetres (900mm) in height; and
- b) Any such sign is painted and /or decorated in its entirety by a professional signwriter
- 2.6 No dwelling house shall be erected or permitted to remain erected on any lot burdened having a roof other than tiles (terracotta or cement) or non-reflective

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or released and of Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to Sections 88B of the Conveyancing Act, 1919.**

(Sheet 4 of 11 sheets)

**Plan:** PLAN OF SUBDIVISION OF LOTS 1 DP537313  
covered by Subdivision Certificate  
Dated

Colorbond. Untreated Zinalume is prohibited.

- 2.7 No existing dwelling house or relocatable type dwelling or existing shed or relocatable type shed shall be partially or wholly moved to, placed on, re-erected, or permitted to remain on any lot burdened.
- 2.8 No ancillary buildings (if any) are to be used for residential accommodation.
- 2.9 No building shall be permitted to be constructed on the lot burdened nor shall the construction of any building be permitted to continue on the lot burdened:
- a) Unless the lot burdened is maintained in clean and tidy condition as is practicable having regard to the nature of the construction on the lot burdened.
  - b) Unless all rubbish or refuse generated by such construction works is collected and removed from the lot burdened not less than once every four weeks.
- 2.10 No clothesline shall be erected or permitted to remain on the lot burdened unless the same is not visible from any public road and/or place BUT nothing in this restriction shall prevent the erection and maintenance of a clothesline where all care has been taken to ensure that the same is as least obvious as possible having regard to the topography of the relevant lot burdened as related to any surrounding public roads and/ or places.
- 2.11 No air conditioning plant and/or equipment shall be installed or permitted to remain on any building erected on the lot burdened unless the same is either:
- a) Not visible from any public road and/or place; or
  - b) Is screened from any public road and/or place in a manner approved by the Vendor
- 2.12 No radio masts and/or antennas shall be erected or permitted to remain on any lot burdened unless the same are not visible from any public road and/or place.
- 2.13 No television mast and/or antennas shall be erected or permitted to remain on the lot burdened unless the same are erected at or near the rear of the main building erected on the lot burdened.
- 2.14 No building, apart from the main building erected on the lot burdened, shall be erected or permitted to remain on the lot burdened unless it complies with the requirements of Vendors Design Guidelines from time to time.



**Instrument setting out terms of Easements or Profits a Prendre intended to be created or released and of Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to Sections 88B of the Conveyancing Act, 1919.**

(Sheet 5 of 11 sheets)

**Plan:** PLAN OF SUBDIVISION OF LOTS 1 DP537313  
covered by Subdivision Certificate  
Dated

**Ancillary Buildings**

- 2.16 No building, not being the main dwelling house, shall be erected or permitted to remain on a lot burdened unless:
- a) It is situated at the rear of the house; and
  - b) It is not more than one structure (and only one outbuilding is permitted to be constructed upon the lot) and;
  - c) It is less than 4 metres in height.
  - d) It is not habitable
  - e) It is not erected prior to achieving final occupation certificate for the main dwelling.

**Fencing of common boundaries**

- 2.17 No fence shall be erected or permitted to remain between the building line, as fixed by Maitland City Council and the adjoining public road that exceeds 1,200mm in height except on a corner lot where a fence 1,800mm in height is permitted up to and on the boundary of one of the public road frontages.
- 2.18 No fence shall be erected or permitted to remain on any boundary of the lot burdened with a painted or coated surface unless the painted or coated surface is a painted in the colour type 'woodland grey'.
- 2.19 No fence shall be erected on a lot burdened unless it is erected without expense to Newpro20 Pty Ltd, its successors and permitted assigns other than purchasers on sale.

**Prohibited activities**

- 2.20 No obnoxious, noisy or offensive occupation, trade or business shall be conducted or carried on any lot burdened.
- 2.21 No structure of a temporary character, basement, tent, shack, garage, trailer, camper, caravan or any other building may be used at any time as residential accommodation on the lot burdened.
- 2.22 No temporary structure, caravan, camper or detached ancillary building may be permitted to remain erected on a lot burdened prior to the issue of an Occupation Certificate for the dwelling house erected on the lot burdened.
- 2.23 No motor truck, lorry or semi-trailer with a load carrying capacity exceeding 2.5

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or released and of Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to Sections 88B of the Conveyancing Act, 1919.**

(Sheet 6 of 11 sheets)

**Plan:** PLAN OF SUBDIVISION OF LOTS 1 DP537313  
covered by Subdivision Certificate  
Dated

tonnes shall be parked or permitted to remain on any lot burdened unless the same is being used in connection with the erection of a dwelling on the relevant lot burdened any only prior to occupation of the dwelling.

- 2.24 No boat, trailer, caravan, camper or other vehicle intended to be towed may be placed, parked stored or permitted to remain on any lot burdened unless the same is located behind at the rear of the dwelling house erected on the lot burdened.
- 2.25 No shipping container may be placed, parked, stored or permitted to remain on any lot burdened.
- 2.26 No Livestock shall be permitted to remain on the lot burdened.

**Acknowledgement of Covenants**

- 2.27 The proprietor of a burdened lot acknowledged that prior to purchasing the subject lot they have made their own enquiries about the nature and effect of these covenants.
- 2.28 The proprietor of a burdened lot acknowledges that the burden of the covenants in this instrument run with the lot for the benefit of each other proprietor of a lot in a subdivision, excluding land which is not residential, and shall be enforceable against the proprietor of each and every lot from time to time so burdened.
- 2.29 The proprietor of each lot acknowledges that the covenants are separate from each other and if any covenant is declared invalid or unenforceable then the remaining restrictive covenants will not be affected, and each remaining covenant will be valid and enforceable to the full extent permitted by law.

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

The name of the person having the power to release, vary or modify this restriction on the use of land is Newpro20 Pty Ltd and is Newpro20 Pty Ltd no longer exists or is not the registered proprietor of the land comprised in the plan of subdivision then the person or persons for the time being the registered proprietor of land in the plan of subdivision within 50 metres of the lot burdened shall be empowered to release or vary the restriction.

**3. Terms of the easement, profit a prendre, restriction, or positive covenant thirdly referred to in the abovementioned plan:**

**Further Subdivision**

- 3.1 For the purposes of this clause:
  - a) "application" includes a development application and an application for a

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or released and of Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to Sections 88B of the Conveyancing Act, 1919.**

(Sheet 7 of 11 sheets)

**Plan:** PLAN OF SUBDIVISION OF LOTS 1 DP537313  
covered by Subdivision Certificate  
Dated

complying development certificate (as defined in the Environmental Planning and Assessment Act 1979); and

b) “relevant approval body” includes the consent authority and an accredited certifier (as defined in the Environmental Planning and Assessment Act 1979).

- 3.2 Not more than one main residential dwelling shall be erected on any lot burdened with exception of corner lots (other than with frontage to Windermere Road) that comply the requirements of the Maitland City Council Local Environmental plan for dual occupancy and subdivision and such dual occupancy subdivision must have garaging and driveways erected on opposing street frontage (dual driveways to a street frontage are prohibited).
- 3.3 Without limiting subclause 3.2 above, the owner of the burdened lot must not make any application, or consent to an application being made on its behalf, requesting consent from the relevant approval body to construct more than one residential dwelling on the burdened lot.
- 3.4 The burdened lot must not be further subdivided.
- 3.5 Without limiting subclause 3.4 above, the owner of the burdened lot must not make any application, or consent to an application being made on its behalf, requesting consent from the relevant approval body to subdivide the burdened lot.

The name of the person having the power to release, vary or modify this restriction on the use of land is Newpro20 Pty Ltd and if Newpro20 Pty Ltd no longer exists or is not the registered proprietor of the land comprised in the plan of subdivision then the person or persons for the time being the registered proprietor of land in the plan of subdivision within 50 metres of the lot burdened shall be empowered to release or vary the restriction.

**4. Terms of the easement, profit a prendre, restriction, or positive covenant seventhly referred to in the abovementioned plan:**

- 4.1 Full and free right for NEWPRO20 PTY LIMITED and its employees, assigns and agents to have an entrance feature erected within the easement and enter upon the land so designated to undertake repairs, maintenance and like services for the continued maintenance of the entrance feature.
- 4.2 Except for the entrance feature at the date of registration of this instrument, no fence, landscaping or structure of any kind may be erected within the area designated (AD) on the plan without the written permission of NEWPRO20 PTY LIMITED.

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or released and of Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to Sections 88B of the Conveyancing Act, 1919.**

(Sheet 8 of 11 sheets)

**Plan:** PLAN OF SUBDIVISION OF LOTS 1 DP537313  
covered by Subdivision Certificate  
Dated

**5. Terms of the easement, profit a prendre, restriction, or positive covenant eighthly referred to in the abovementioned plan:**

An easement is created on the terms and conditions set out in memorandum registered number AK980903. In this easement, "easement for electricity and other purposes" is taken to have the same meaning as "easement for electricity works" in the memorandum.

DRAFT

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or released and of Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to Sections 88B of the Conveyancing Act, 1919.**

(Sheet 9 of 11 sheets)

**Plan:** PLAN OF SUBDIVISION OF LOTS 1 DP537313  
covered by Subdivision Certificate  
Dated

**EXECUTED by:**

**NEWPRO20 PTY LIMITED** )  
**(ACN 42 709 573 659)** )  
in accordance with Section 127 of the )  
Corporations Act 2001 )

.....  
Signature

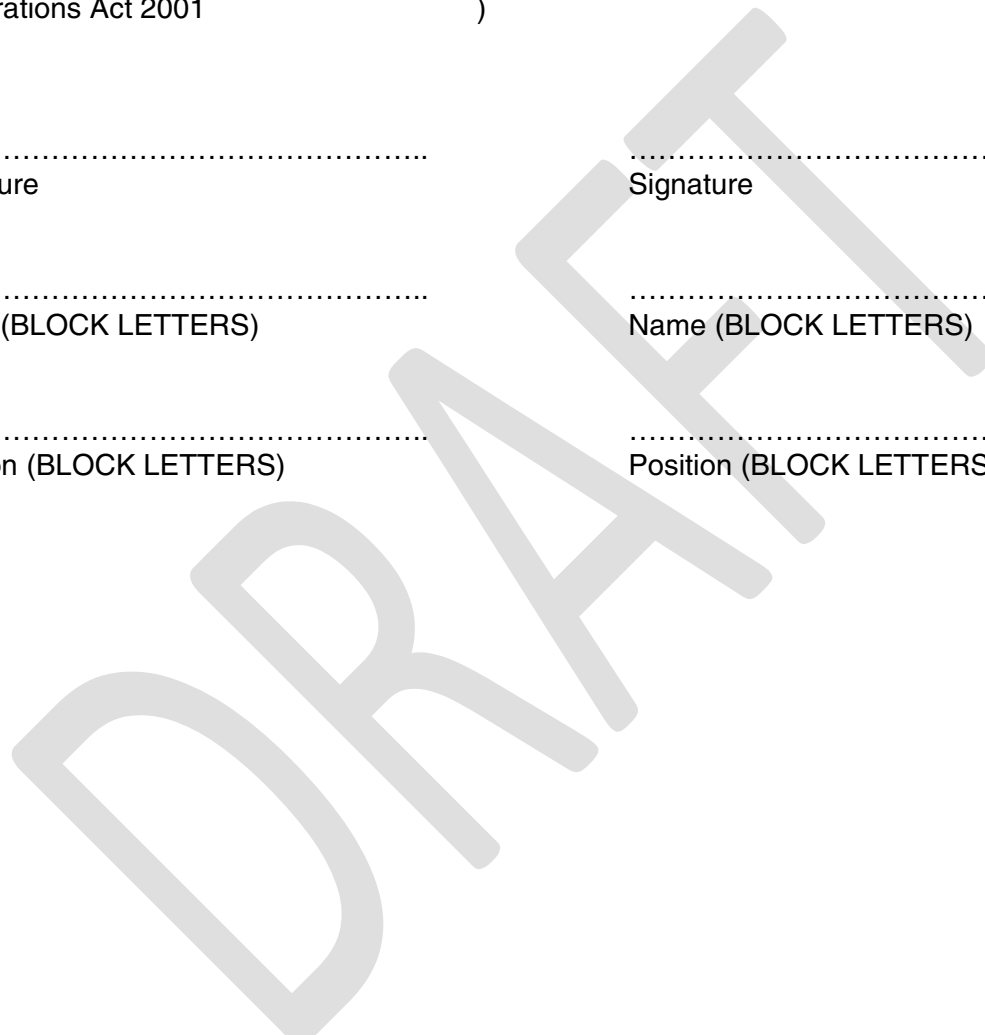
.....  
Signature

.....  
Name (BLOCK LETTERS)

.....  
Name (BLOCK LETTERS)

.....  
Position (BLOCK LETTERS)

.....  
Position (BLOCK LETTERS)



**Instrument setting out terms of Easements or Profits a Prendre intended to be created or released and of Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to Sections 88B of the Conveyancing Act, 1919.**

(Sheet 10 of 11 sheets)

**Plan:** PLAN OF SUBDIVISION OF LOTS 1 DP537313  
covered by Subdivision Certificate  
Dated

**Certified correct for the purposes of the Real Property Act 1900 by the Prescribed Authority's attorneys who signed this dealing pursuant to the power of attorney specified.**

Signed, sealed and delivered for

ERIC Alpha Asset Corporation 1 Pty Ltd ACN 612 974 044, ERIC Alpha Asset Corporation 2 Pty Ltd ACN 612 975 023, ERIC Alpha Asset Corporation 3 Pty Ltd ACN 612 975 032, ERIC Alpha Asset Corporation 4 Pty Ltd ACN 612 975 078 and Blue Asset Partner Pty Ltd ACN 615 217 493

**on behalf of Alpha Distribution Ministerial Holding Corporation pursuant to s. 36 of the Electricity Network Assets (Authorised Transactions) Act 2015** by its attorneys under power of attorney registered book 4734 no. 366

sign here



\_\_\_\_\_  
Attorney

sign here



\_\_\_\_\_  
Attorney

print name

\_\_\_\_\_

print name

\_\_\_\_\_

Date  
electronic  
signature  
affixed

\_\_\_\_\_

Date  
electronic  
signature  
affixed

\_\_\_\_\_

I certify that I am an eligible witness and that the Prescribed Authority's attorney signed this dealing in my presence. [See note\* below]

I certify that I am an eligible witness and that the Prescribed Authority's attorney signed this dealing in my presence. [See note\* below]

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Witness

print name

\_\_\_\_\_

print name

\_\_\_\_\_

print  
address

\_\_\_\_\_

print  
address

\_\_\_\_\_

Date  
electronic  
signature  
affixed

\_\_\_\_\_

Date  
electronic  
signature  
affixed

\_\_\_\_\_

\*s117 RP Act requires that you must have known the signatory for more than 12 months or have sighted identifying documents.

**Instrument setting out terms of Easements or Profits a Prendre intended to be created or released and of Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to Sections 88B of the Conveyancing Act, 1919.**

(Sheet 11 of 11 sheets)

**Plan:** PLAN OF SUBDIVISION OF LOTS 1 DP537313  
covered by Subdivision Certificate  
Dated

**EXECUTED by:**

**MAITLAND CITY COUNCIL** by its )  
authorised delegate pursuant to s.377 )  
Local Government Act 1993 )

I certify that I am an eligible witness  
and that the delegate signed  
in my presence

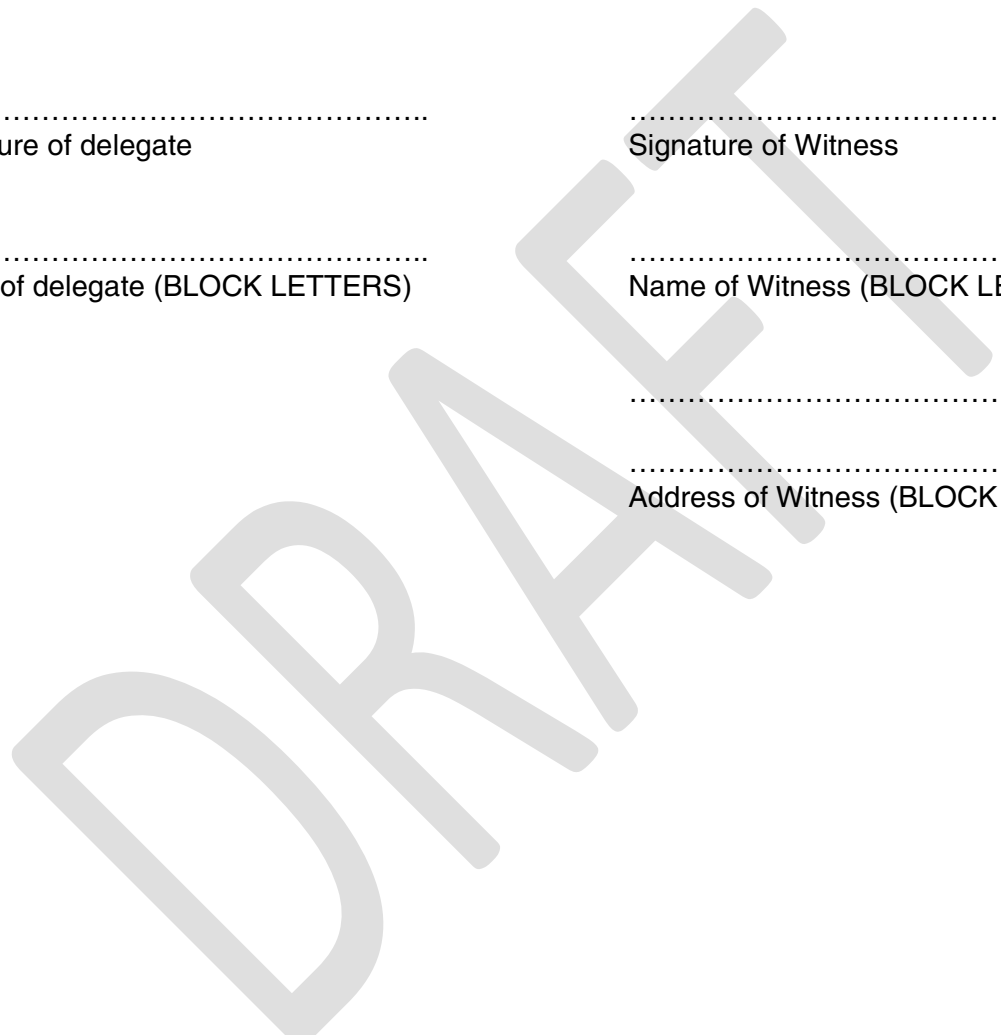
.....  
Signature of delegate

.....  
Signature of Witness

.....  
Name of delegate (BLOCK LETTERS)

.....  
Name of Witness (BLOCK LETTERS)

.....  
Address of Witness (BLOCK LETTERS)



## Annexure C      Requisitions on Title



## RESIDENTIAL PROPERTY REQUISITIONS ON TITLE

**Vendor:** NewPro 20 Pty Ltd ACN 639 377 987 ATF NewPro 20 Unit Trust ACN 42 709 573 659

**Purchaser:**

**Property:** Hillcrest Lochinvar, 48 Windermere Road, Lochinvar NSW 2321

**Dated:**

### 1. Possession and tenancies

- 1.1. Vacant possession of the property must be given on completion unless the Contract provides otherwise.
- 1.2. Is anyone in adverse possession of the property or any part of it?
- 1.3.
  - (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.

### 2. Title

- 2.1. Subject to the Contract, on completion the vendor should be registered as proprietor in fee simple of the property free from all encumbrances.
- 2.2. On or before completion, any mortgage or caveat must be discharged or withdrawn (as the case may be) or an executed discharge or withdrawal handed over on completion.
- 2.3. When and where may the title documents be inspected?

### 3. Adjustments

- 3.1. All outgoing referred to in clause 14.1 of the Contract must be paid up to and including the date of completion.
- 3.2. 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 land value for land tax purposes for the current year?

### 4. Affectations

- 4.1. Is the vendor aware of any rights, licences, easements, covenants or restrictions as to use other than those disclosed in the Contract?
- 4.2. 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?
- 4.3. 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?
- 4.4. (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?
- 4.5. 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?

## **5. Capacity**

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

## **6. Requisitions and transfer**

- 6.1. If the transfer or any other document to be handed over on completion is executed pursuant to a power of attorney, then at least seven days prior to completion a copy of the registered power of attorney should be produced and found in order.
- 6.2. Searches, surveys, enquiries and inspection of title deeds must prove satisfactory.
- 6.3. The purchaser reserves the right to make further requisitions prior to completion.
- 6.4. 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.

## Annexure D Vendor Disclosure



FOLIO: 1/537313

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SEARCH DATE	TIME	EDITION NO	DATE
-----	----	-----	----
12/4/2022	12:44 PM	4	31/1/2022

LAND

-----

LOT 1 IN DEPOSITED PLAN 537313  
AT LOCHINVAR  
LOCAL GOVERNMENT AREA MAITLAND  
PARISH OF GOSFORTH COUNTY OF NORTHUMBERLAND  
TITLE DIAGRAM DP537313

FIRST SCHEDULE

-----

EILEEN ALICE SPENCER (ND AE212125)

SECOND SCHEDULE (4 NOTIFICATIONS)

-----

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 AQ229339 MORTGAGE TO NEWPRO 20 PTY LTD
- 3 DP1271709 EASEMENT FOR DRAINAGE OF SEWAGE 3 METRE(S) WIDE  
APPURTENANT TO THE LAND ABOVE DESCRIBED
- 4 AR843756 PLANNING AGREEMENT PURSUANT TO SECTION 7.6  
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

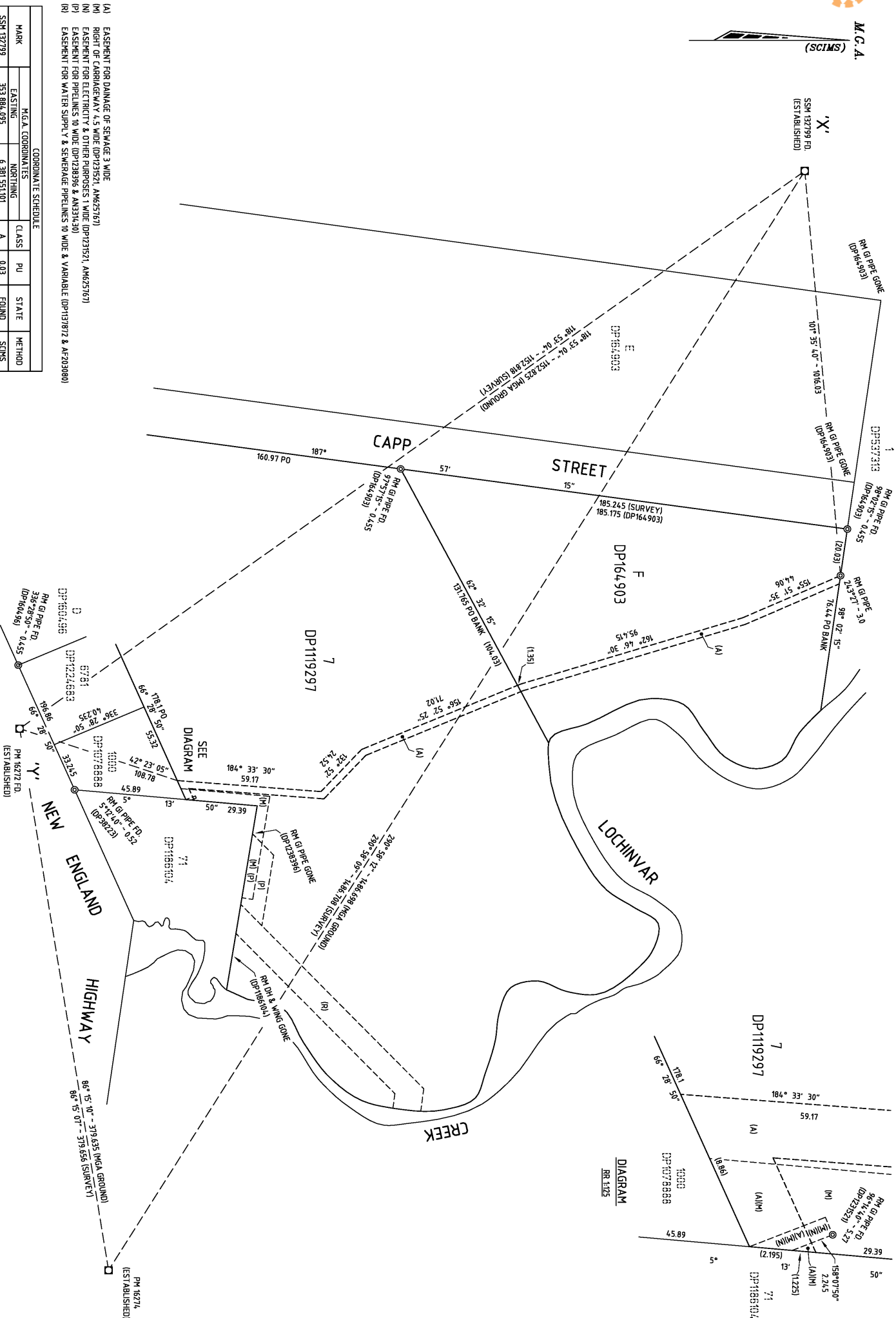
NOTATIONS

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UNREGISTERED DEALINGS: NIL

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





- (A) EASEMENT FOR DAMAGE OF SEWAGE 3 WIDE
- (M) RIGHT OF CARRIAGE WAY 4.5 WIDE (DP1231521, AM625161)
- (N) EASEMENT FOR ELECTRICITY & OTHER PURPOSES 1 WIDE (DP1231521, AM625161)
- (P) EASEMENT FOR PRELIMINES 10 WIDE (DP1231521, AM625161)
- (R) EASEMENT FOR WATER SUPPLY & SEWERAGE PIPELINES 10 WIDE & VARIABLE (DP1191812 & AP203880)

COORDINATE SCHEDULE

MARK	EASTING	NORTHING	CLASS	PU	STATE	METHOD
SM 13279	351.884.055	6.381.551.101	A	0.03	FOUND	SCMS
PM 16271	354.883.354	6.380.994.317	B	---	FOUND	SCMS
PM 16271	355.272.220	6.381.019.324	B	---	FOUND	SCMS


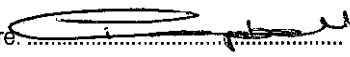
DATE OF SCMS COORDINATES: 27/08/2020  
M.G.A. ZONE: 56  
M.G.A. DATUM: GDA2020  
COMBINED SCALE FACTOR: -0.999950

SURVEYOR  
Name: THOMAS F CAMPBELL  
Date: 27/08/2020  
Reference: 20338


PLAN OF EASEMENT FOR DRAINAGE OF SEWAGE WITHIN LOTS F DP164903 AND LOT 7 DP119297

LGA: MAITLAND  
Locality: LOCHINVAR  
Reduction Ratio 1:1000  
Lengths are in metres.

REGISTERED  
4.3.2021  
DP1271709

<p>PLAN FORM 6 (2019)</p>	<p>DEPOSITED PLAN ADMINISTRATION SHEET</p>	<p>Sheet 1 of 2 sheet(s)</p>
<p>Office Use Only</p> <p>Registered:  4.3.2021</p> <p>Title System: TORRENS</p>		<p>Office Use Only</p> <p><b>DP1271709</b></p>
<p><b>PLAN OF EASEMENT FOR DRAINAGE OF SEWAGE WITHIN LOTS F DP164903 AND LOT 7 DP1119297</b></p>		<p>LGA: MAITLAND                  Locality: LOCHINVAR                  Parish: GOSFORTH                  County: NORTHUMBERLAND</p>
<p>Survey Certificate</p> <p>I, <b>THOMAS F CAMPBELL</b>                  of Delfs Lascelles Pty Ltd, 260 Maitland Road Mayfield 2304                  a surveyor registered under the <i>Surveying and Spatial Information Act 2002</i>, certify that:</p> <p><del>*(a) The land shown in the plan was surveyed in accordance with the <i>Surveying and Spatial Information Regulation 2017</i>, is accurate and the survey was completed on ....., or</del></p> <p>*(b) The part of the land shown in the plan (*being/*excluding**.....  <b>EASEMENT &amp; CONNECTIONS</b>.....)                  was surveyed in accordance with the <i>Surveying and Spatial Information Regulation 2017</i>, the part surveyed is accurate and the survey was completed on, <u>27/08/20</u>. the part not surveyed was compiled in accordance with that Regulation, or</p> <p><del>*(c) The land shown in this plan was compiled in accordance with the <i>Surveying and Spatial Information Regulation 2017</i>.</del></p> <p>Datum Line: ..... 'X' - 'Y'.....                  Type: *Urban/*Rural-                  The terrain is *Level-Undulating / *Steep-Mountainous-</p> <p>Signature:  Dated: <u>16/02/2021</u></p> <p>Surveyor Identification No: ..... 8704                  Surveyor registered under the <i>Surveying and Spatial information Act 2002</i></p> <p>* Strike through if inapplicable.                  ** Specify the land actually surveyed or specify any land shown in the plan that is not the subject of the survey.</p>		<p>Crown Lands NSW/Western Lands Office Approval</p> <p>I, ..... (Authorised Officer) in approving this plan certify that all necessary approvals in regard to the allocation of the land shown herein have been given.</p> <p>Signature: .....</p> <p>Date: .....</p> <p>File Number: .....</p> <p>Office: .....</p>
<p>Plans used in the preparation of survey/compilation.</p> <p>DP 164903                  DP 1119297</p>		<p>Subdivision Certificate</p> <p>I, .....                  *Authorised Person/*General Manager/*Registered Certifier, certify that the provisions of section 6.15 of the <i>Environmental Planning and Assessment Act 1979</i> have been satisfied in relation to the proposed subdivision, new road or reserve set out herein.</p> <p>Signature: .....</p> <p>Accreditation number: .....</p> <p>Consent Authority: .....</p> <p>Date of endorsement: .....</p> <p>Subdivision Certificate number: .....</p> <p>File number: .....</p> <p>* Strike through if inapplicable</p>
<p>Surveyor's Reference: 20338</p>		<p>Signatures, Seals and Section 88B Statements should appear on  <b>PLAN FORM 6A</b></p>

PLAN FORM 6A (2017)	DEPOSITED PLAN ADMINISTRATION SHEET	Sheet 2 of 2 sheet(s)
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Office Use Only Registered:  4.3.2021	Office Use Only <b>DP1271709</b>
<b>PLAN OF EASEMENT FOR DRAINAGE OF SEWAGE WITHIN LOTS F DP164903 AND LOT 7 DP1119297</b>	This sheet is for the provision of the following information as required: <ul style="list-style-type: none"><li>• A schedule of lots and addresses - See 60(c) <i>SSI Regulation 2017</i></li><li>• Statements of intention to create and release affecting interests in accordance with section 88B <i>Conveyancing Act 1919</i></li><li>• Signatures and seals - See 195D <i>Conveyancing Act 1919</i></li><li>• Any information which cannot fit in the appropriate panel of sheet 1 of the administration sheets.</li></ul>
Subdivision Certificate number : ..... Date of Endorsement : .....	

PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919, AS AMENDED, IT IS INTENDED TO CREATE:-

1. EASEMENT FOR DRAINAGE OF SEWAGE 3 WIDE

  
.....  
MARIA CHRISTINA EMMANUELLE PHILOMENA ROSA HEALY

If space is insufficient use additional annexure sheet

Surveyor's Reference: 20338



Instrument setting out terms of Easements or Profits a Prendre intended to be created or released and of Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to Sections 88B of the Conveyancing Act, 1919.

(Sheet 1 of 1 sheets)

Plan: **DP1271709**

PLAN OF EASEMENT FOR DRAINAGE OF SEWAGE WITHIN LOTS F DP164903 AND LOT 7 DP1119297

Full name and address of the owner of the land:

**MARIA CHRISTINA EMMANUELLE PHILOMENA ROSA HEALY**  
96 Capp Street  
Lochinvar NSW 2321

**PART 1 - CREATION**

Number of item shown in the intention panel on the plan	Identity of easement, profit a prendre, restriction or positive covenant to be created and referred to in the plan.	Burdened lot(s) or parcel:	Benefited lot(s), road(s), bodies or Prescribed Authorities:
1	EASEMENT FOR DRAINAGE OF SEWAGE 3 WIDE	F/164903 & 7/1119297	1/537313

Executed by:

**MARIA CHRISTINA EMMANUELLE PHILOMENA ROSA HEALY**

*M. C. Healy*  
Signature

Signed in my presence by Maria Christina Emmanuelle Philomena Rosa Healy who is personally known to me.

*P. J. Curran*  
Signature of Witness

*Patrick Joseph Curran*  
Name of Witness (BLOCK LETTERS)

*467 High St*

*Maitland*  
Address of Witness (BLOCK LETTERS)

*Solicitor*

**Lodger Details**

Lodger Code 503689X  
Name HILLS SOLICITORS  
Address 447 HIGH ST  
MAITLAND 2320  
Lodger Box 1W  
Email JULIE@HILLSOL.COM.AU  
Reference DHA:190173:SPEN

Land Registry Document Identification

AR843756

STAMP DUTY:

**Request (11R)**

**Jurisdiction** NEW SOUTH WALES

**Privacy Collection Statement**

The information in this form is collected under statutory authority and used for the purpose of maintaining publicly searchable registers and indexes.

Land Title Reference	Part Land Affected?	Land Description
1/537313	N	

**Applicant**

EILEEN ALICE SPENCER

**Document Type**

Request (11R)

The subscriber requests the Registrar-General to make any necessary recording in the Register to give effect to this instrument, in respect of the land or interest described above.

**Attachment**

See attached Dealing

**Execution**

The Certifier has taken reasonable steps to verify the identity of the applicant or his, her or its administrator or attorney.

The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.

The Certifier has retained the evidence supporting this Registry Instrument or Document.

The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

**Executed on behalf of** EILEEN ALICE SPENCER  
**Signer Name** DAVID ALLEN  
**Signer Organisation** DAVID HENRY ALLEN  
**Signer Role** PRACTITIONER CERTIFIER  
**Execution Date** 28/01/2022

Form: 11R  
Release: 4.3

# REQUEST

# AR843756L

New South Wales  
Real Property Act 1900

**PRIVACY NOTE:** Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

All Statutory Declarations and evidence that are lodged in support of land dealings will be treated as publicly accessible and will be disclosed to persons upon request.

<b>(A) STAMP DUTY</b>	If applicable. Revenue NSW use only
-----------------------	-------------------------------------

<b>(B) TORRENS TITLE</b>	See Annexure A
--------------------------	----------------

<b>(C) REGISTERED DEALING</b>	Number	Torrens Title
		1/537313

<b>(D) LODGED BY</b>	Document Collection Box	Name, Address or DX, Telephone, and Customer Account Number if any	CODE
		Reference: _____	<b>R</b>

<b>(E) APPLICANT</b>	Minister for Planning and Public Spaces for the State of New South Wales
----------------------	--

<b>(F) NATURE OF REQUEST</b>	Application for registration of a Planning Agreement on title under section 7.6 of the Environmental Planning and Assessment Act 1979
------------------------------	---

**(G) TEXT OF REQUEST**

That the Planning Agreement, provided in Annexure "B" attached, is registered on the title of the folios for the land referred to in Annexure "A".

DATE \_\_\_\_\_

**(H)** I certify that I am an eligible witness and that an authorised officer of the applicant signed this dealing in my presence. [See note\* below].

Certified correct for the purposes of the Real Property Act 1900 by the authorised officer named below.

Signature of witness:

Signature of authorised officer:

Name of witness: See Annexure A  
Address of witness: \_\_\_\_\_

Authorised officer's name: See Annexure A  
Authority of officer: \_\_\_\_\_  
Signing on behalf of: \_\_\_\_\_

**(I)** This section is to be completed where a notice of sale is required and the relevant data has been forwarded through eNOS. The \_\_\_\_\_ certifies that the eNOS data relevant to this dealing has been submitted and stored under eNOS ID No. \_\_\_\_\_ Full name: \_\_\_\_\_ Signature: \_\_\_\_\_

\* s117 RP Act requires that you must have known the signatory for more than 12 months or have sighted identifying documentation.

Annexure A to

Parties:

Applicant: Minister for Planning and Public Spaces for the State of New South Wales  
Registered Proprietor: Newpro 20 Pty Ltd

Dated: \_\_\_\_\_

Schedule of Titles for Planning to Agreement to be Registered:

Lot 1 DP 537313

I certify that I am an eligible witness and that an authorised officer of the applicant signed this dealing in my presence.

Certified correct for the purposes of the Real Properties Act 1900 by the authorised officer named below.

Signature of witness:



Name of witness: SAUGTHAYO YANG  
Address of witness: 12 DARCY ST, PARRAMATTA  
NSW 2150

Signature of authorised officer:



Authorised officer's name: Megan Nugent  
Authority of officer: Delegate of the Minister for Planning and Public Spaces  
Signing on behalf of: The Minister for Planning and Public Spaces.

~~Certified correct for the purpose of the Real Property Act 1900 and executed on behalf of the company named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified.~~ BY THE REGISTERED PROPRIETOR

Company:  
Authority:



Signature of ~~authorised person:~~  
WITNESS



Signature of ~~authorised person:~~  
REGISTERED PROPRIETOR

Name of ~~authorised person:~~  
~~Office held:~~ WITNESS  
DAVID HENRY ALLEN  
447 HIGH ST MAITLAND  
NSW 2320

Name of ~~authorised person:~~ REGISTERED PROPRIETOR  
~~Office held:~~  
EILEEN ALICE SPENCER

I CERTIFY THAT I AM AN ELIGIBLE WITNESS AND THAT THE REGISTERED PROPRIETOR SIGNED THIS DEALING IN MY PRESENCE

"B"

## Planning Agreement

### Environmental Planning and Assessment Act 1979

48 Windermere Road Lochinvar NSW 2321

**Minister for Planning and Public Spaces (ABN 20 770 707 468)**

**Newpro 20 Pty Ltd (ACN 639 377 987) in its capacity as trustee of  
Newpro 20 Unit Trust**

**Eileen Alice Spencer**



Voluntary Planning Agreement SVPA2021-74 – Newpro 20 Pty Ltd and Eileen Spencer

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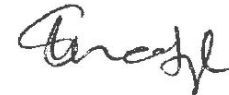
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This deed is dated 21 NOVEMBER 2021

**Parties:**

**Minister for Planning and Public Spaces** (ABN 20 770 707 468)  
of Level 15, 52 Martin Place, Sydney, New South Wales 2000  
(Minister)



**Newpro 20 Pty Ltd** (ACN 639 377 987) in its capacity as trustee of Newpro 20 Unit Trust  
of Shop 3, 239 Pacific Highway North Sydney New South Wales 2060  
(Newpro 20)



**Eileen Alice Spencer**  
of 48 Windermere Road Lochinvar New South Wales 2321  
(Landowner)



**Introduction:**

- A The Landowner owns the Land.
- B Newpro 20 proposes to carry out the Development on the Land.
- C A Development Application has been made to the Consent Authority in respect of the Land.
- D Clause 6.1 of the LEP provides that the Consent Authority must not grant Development Consent to the Development unless the Secretary has certified in writing to the Consent Authority that satisfactory arrangements have been made to contribute to the provision of designated State infrastructure referred to in clause 6.1 of the LEP.
- E The Developer has offered to enter into this deed with the Minister to secure the Development Contribution in order to enable the Secretary to provide the certification required by the LEP.

**It is agreed:**

**1. Definitions and interpretation**

**1.1 Definitions**

In this deed, unless the context clearly indicates otherwise:

**Act** means the *Environmental Planning and Assessment Act 1979* (NSW).

**Address for Service** means the address of each party appearing in Schedule 2 or any new address notified by any party to all other parties as its new Address for Service.

**Authority** means any Federal, State or local government or semi-governmental, statutory, judicial or public person, instrumentality or department.



**Bank Guarantee** means an irrevocable and unconditional undertaking:

- (a) by an Australian bank which is an eligible financial institution for the purposes of Treasury Circular NSW TC14/01 dated 24 January 2014 as amended, supplemented or substituted from time to time; and
- (b) on terms acceptable to the Minister, in the Minister's absolute discretion,

to pay the face value of that undertaking (being such amount as is required under this deed) on demand.

**Base CPI** means the CPI number for the quarter ending 31 March 2021.

**Business Day** means any day that is not a Saturday, Sunday, public holiday or bank holiday in Sydney, and concludes at 5 pm on that day.

**CoRD Holder Consent** means the electronic document lodged through an ELNO that provides consent to the registration of instruments and plans.

**Consent Authority** has the same meaning as in the Act.

**Contribution Amount** means the amount of the monetary contribution to be paid by the Developer as described in Schedule 4.

**CPI** means the Consumer Price Index (All Groups Index) for Sydney published by the Commonwealth Statistician, or if that index no longer exists, any similar index that the Minister specifies, in his or her sole discretion, for the purposes of this deed.

**CPI Adjustment Date** means 1 July 2022 and each anniversary of 1 July 2022.

**Current CPI** means the CPI number for the quarter ending before 31 March in the year in which the relevant adjustment is made.

**Dealing** means in relation to the Land, to sell, transfer, assign, mortgage, charge, dispose, encumber or otherwise deal with the Land in whole or part.

**Developer** means Newpro 20 and the Landowner, unless otherwise specified in this deed.

**Development** means the proposed subdivision of the Land into approximately 237 residential lots over 8 stages, a drainage basin, a lot for community/recreational land and new roads, generally in accordance with the plan in Schedule 7 and the Development Application DA 2020/1248 lodged with Maitland City Council.

**Development Application** has the same meaning as in the Act.

**Development Consent** has the same meaning as in the Act.

**Development Contribution** means the contributions to be provided by the Developer in accordance with Schedule 4.

**ELNO** has the same meaning as in *the Electronic Conveyancing National Law (NSW)*.

**Explanatory Note** means the note exhibited with a copy of this deed when this deed is made available for inspection by the public pursuant to the Act, as required by the Regulation.

**General Register of Deeds** means the land register maintained under the *Conveyancing Act 1919 (NSW)* and so titled.

**GST** means any form of goods and services tax payable under the GST Legislation.

**GST Legislation** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Insurance Bond** means an irrevocable and unconditional undertaking:

- (a) by an Insurance Company which is an eligible financial institution for the purposes of Treasury Circular NSW TC14/01 dated 24 January 2014 as amended, supplemented or substituted from time to time; and
- (b) on terms acceptable to the Minister, in the Minister's absolute discretion,

to pay the face value of that undertaking (being such amount as is required under this deed) on demand.

**Insurance Company** means an insurance company authorised under the *Insurance Act 1973* and subject to prudential supervision by Australian Prudential Regulatory Authority.

**Land** means the land described in Schedule 3.

**LEP** means *Maitland Local Environment Plan 2011*.

**Mediation Program** means the Mediation Program of the Law Society of New South Wales as published on its website and as varied from time to time.

**Minister** means the Minister for Planning and Public Spaces and includes the Secretary and the Secretary's nominee.

**Planning Application** means:

- (a) a Development Application; or
- (b) any other application required under the Act,

which seeks approval for the subdivision of the Land.

**Real Property Act** means the *Real Property Act 1900* (NSW).

**Register** means the Torrens title register maintained under the Real Property Act.

**Regulation** means the *Environmental Planning and Assessment Regulation 2000* (NSW).

**Satisfactory Arrangements Certificate** means a certificate issued by the Secretary that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in accordance with clause 6.1 of the LEP.

**Secretary** means the Secretary of the Department of Planning, Industry and Environment.

**Security** means a Bank Guarantee or an Insurance Bond.

**SIC Amount** means the amount of a monetary contribution calculated in accordance with a Special Infrastructure Contribution that would be payable for a stage of the subdivision authorised by the relevant Development Consent had section 7.24 of the Act not been excluded by this deed.

**Subdivision Certificate** has the same meaning as in the Act.

**Tax** means a tax, duty (including stamp duty and any other transaction duty), levy, impost, charge, fee (including a registration fee) together with all interest, penalties, fines and costs concerning them.

## 1.2 Interpretation

In this deed unless the context clearly indicates otherwise:

- (a) a reference to **this deed** or another document means **this deed** or that other document and any document which varies, supplements, replaces, assigns or novates this deed or that other document;
- (b) a reference to **legislation** or a **legislative provision** includes any statutory modification, or substitution of that legislation or legislative provision and any subordinate legislation made under that legislation or legislative provision;
- (c) a reference to a **body** or **authority** which ceases to exist is a reference to either a body or authority that the parties agree to substitute for the named body or authority or, failing agreement, to a body or authority having substantially the same objects as the named body or authority;
- (d) a reference to the **introduction**, a **clause**, a **schedule** or an **annexure** is a reference to the introduction, a clause, a schedule or an annexure to or of this deed;
- (e) **clause headings**, the **introduction** and the **table of contents** are inserted for convenience only and do not form part of this deed;
- (f) the **schedules** and **annexures** form part of this deed;
- (g) a reference to a **person** includes a natural person, corporation, statutory corporation, partnership, the Crown or any other organisation or legal entity;
- (h) a reference to a **natural person** includes their personal representatives, successors and permitted assigns;
- (i) a reference to a **corporation** includes its successors and permitted assigns;
- (j) a reference to a right or obligation of a party is a reference to a right or obligation of that party under this deed;
- (k) an **obligation** or **warranty** on the part of 2 or more persons binds them jointly and severally and an obligation or warranty in favour of 2 or more persons benefits them jointly and severally;
- (l) a requirement to do any thing includes a requirement to cause that thing to be done and a requirement not to do any thing includes a requirement to prevent that thing being done;
- (m) **including** and **includes** are not words of limitation;
- (n) a word that is derived from a defined word has a corresponding meaning;
- (o) **monetary amounts** are expressed in Australian dollars;
- (p) the singular includes the plural and vice-versa;
- (q) words importing one gender include all other genders;
- (r) a reference to a thing includes each part of that thing; and
- (s) neither this deed nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting.

## **2. Operation and application of this deed**

### **2.1 Operation**

This deed commences on the date that this deed is signed by all the parties.

### **2.2 Planning agreement under the Act**

This deed constitutes a planning agreement within the meaning of section 7.4 of the Act and the parties agree on the matters set out in Schedule 1.

### **2.3 Application**

This deed applies to:

- (a) the Land; and
- (b) the Development.

## **3. Application of sections 7.11, 7.12 and 7.24 of the Act**

The application of sections 7.11, 7.12 and 7.24 of the Act is excluded to the extent stated in Schedule 1.

## **4. Development Contribution**

### **4.1 Developer to provide Development Contribution**

The Developer undertakes to provide to the Minister, or the Minister's nominee, the Development Contribution in accordance with the provisions of Schedule 4.

### **4.2 Special Infrastructure Contribution**

- (a) This clause applies where:
  - (i) the Minister determines a special infrastructure contribution (SIC) under section 7.23 of the Act for a special contributions area that includes any part of the Land (SIC Determination); and
  - (ii) the SIC Determination takes effect on or after the commencement of this deed, but before the Development Contribution has been paid in full.
- (b) If the SIC Amount for a stage of the subdivision authorised by the relevant Development Consent is less than the Contribution Amount that would otherwise be payable under this deed for that stage, then:
  - (i) the Developer is required to pay only the SIC Amount; and
  - (ii) that amount is to be treated as the relevant Contribution Amount for the purposes of clause 4.1 and clauses 1(b) and 2(b) of Schedule 4.
- (c) Clause 4.2(b) applies only to a Contribution Amount that has not been paid and is not due and payable at the time the SIC Determination takes effect. To avoid doubt, the Minister is not required to refund or reimburse any part of the Development Contribution paid before that time.
- (d) In this clause 4.2, a reference to the SIC Amount for a stage of the subdivision authorised by the relevant Development Consent is a reference to the amount of the monetary contribution for that stage calculated in accordance with the SIC Determination, being the amount that would have been payable if the application of section 7.24 of the Act had not

been excluded by this deed and the Development Consent had been granted on or after the SIC Determination took effect.

#### **4.3 Acknowledgement**

The Developer acknowledges and agrees that, subject to section 7.3 of the Act, the Minister:

- (a) has no obligation to use or expend the Development Contribution for a particular purpose despite any provision of this deed to the contrary and has no obligation to repay the Development Contribution; and
- (b) in circumstances where the Development Contribution is transferred to any Authority, has not made any representation or warranty that the Development Contribution will or must be used for a particular purpose by that Authority.

### **5. Interest**

#### **5.1 Interest for late payment**

- (a) If the Developer fails to pay a Contribution Amount (as indexed in accordance with Schedule 4) due to the Minister on the due date for payment, the Developer must also pay to the Minister interest at a rate of 2% above the loan reference rate charged by the Commonwealth Bank of Australia from time to time.
- (b) Interest is payable on the daily balance of amounts due from the due date for payment of those amounts until all outstanding amounts (including interest on those amounts) have been paid to the Minister.

### **6. Enforcement**

#### **6.1 Developer to provide Security**

The Developer has agreed to provide security to the Minister for the performance of the Developer's obligations under this deed by providing the Security to the Minister in accordance with the terms and procedures set out in Schedule 5.

### **7. Registration**

#### **7.1 Registration of deed**

- (a) Within 10 Business Days of receiving a copy of this deed executed by the Minister, the Developer at its own expense is to take all practical steps and otherwise do anything to procure:
  - (i) the consent of each person, as required by the Registrar-General, who:
    - (A) has an estate or interest in the Land registered under the Real Property Act; or
    - (B) is seized or possessed of an estate or interest in the Land,to the registration of this deed on the title to the Land and to the terms of this deed; and
  - (ii) the execution of any documents;
  - (iii) the production of the relevant certificates of title or electronic lodgement of the relevant CoRD Holder Consents through an ELNO; and
  - (iv) the lodgement of this deed in a registrable form at the NSW Land Registry Services for registration by the Registrar-General in the relevant folio of the Register for the

Land, or in the General Register of Deeds if this deed relates to land not under the Real Property Act.

- (b) The Developer will take all practical steps and otherwise do anything to procure the registration of this deed within three months of the date of this deed in the relevant folio of the Register for the Land, or in the General Register of Deeds if this deed relates to land not under the Real Property Act, including promptly responding to any requisitions made by the Registrar-General in respect of this deed and/or any ancillary documents.

#### **7.2 Evidence of registration**

- (a) The Developer must provide the Minister with evidence of the lodgement of this deed pursuant to clause 7.1(a)(iv) within 10 Business Days of such lodgement at the NSW Land Registry Services.
- (b) The Developer will provide the Minister with a copy of the relevant folio of the Register for the Land and a copy of the registered dealing containing this deed within 10 Business Days of registration of this deed.

#### **7.3 Release and discharge of deed**

The Minister agrees to do all things reasonably required by the Developer to release and discharge this deed with respect to any part of the Land upon the Developer satisfying all of its obligations under this deed in respect of that part of the Land.

#### **7.4 Interest in Land**

The Landowner represents and warrants that it is:

- (a) the owner of the Land; and
- (b) legally and beneficially entitled to obtain all consents and approvals and to compel any person referred to in or contemplated by clause 7.1(a)(i) to assist, co operate and to otherwise do all things necessary for the Landowner to comply with the obligations under clause 7.

#### **7.5 Right to lodge caveat**

- (a) Subject to clause 7.5(b) until such time as this deed is registered on the title of the Land in accordance with clause 7.1, the Developer acknowledges that this deed confers on the Minister an interest in the Land and entitles the Minister to lodge and maintain a caveat on the title to the Land to prevent any Dealing in respect of the Land.
- (b) If the Minister lodges a caveat in accordance with clause 7.5(a), then the Minister will do all things reasonably necessary to:
  - (i) ensure that the caveat does not prevent or delay the registration of this deed; and
  - (ii) remove the caveat from the title to the Land promptly, following registration of this deed in accordance with clause 7.1.
- (c) If, after 10 Business Days of receipt of a copy of this deed executed by the Minister, the Developer has failed or has been unable to achieve the registration of this deed in accordance with clause 7.1, the Developer must pay the Minister's reasonable costs and expenses, including legal costs, of exercising the Minister's rights under clause 7.5(a) to lodge and withdraw a caveat(s) (as applicable).

## **8. Dispute Resolution**

### **8.1 Not commence**

A party must not commence any court proceedings relating to a dispute unless it complies with this clause 8.

### **8.2 Written notice of dispute**

A party claiming that a dispute has arisen under or in relation to this deed must give written notice to the other party specifying the nature of the dispute.

### **8.3 Attempt to resolve**

On receipt of notice under clause 8.2, the parties must endeavour in good faith to resolve the dispute expeditiously using informal dispute resolution processes such as mediation, expert evaluation or other methods agreed by them.

### **8.4 Mediation**

If the parties do not agree within 21 Business Days of receipt of notice under clause 8.2 (or any further period agreed in writing by them) as to:

- (a) the dispute resolution technique and procedures to be adopted;
- (b) the timetable for all steps in those procedures; or
- (c) the selection and compensation of the independent person required for such technique,

the parties must mediate the dispute in accordance with the Mediation Program. The parties must request the president of the Law Society of NSW or the president's nominee to select the mediator and determine the mediator's remuneration.

### **8.5 Court proceedings**

If the dispute is not resolved within 60 Business Days after notice is given under clause 8.2 then any party which has complied with the provisions of this clause 8 may in writing terminate any dispute resolution process undertaken under this clause and may then commence court proceedings in relation to the dispute.

### **8.6 Not use information**

The parties acknowledge the purpose of any exchange of information or documents or the making of any offer of settlement under this clause 8 is to attempt to settle the dispute. No party may use any information or documents obtained through any dispute resolution process undertaken under this clause 8 for any purpose other than in an attempt to settle the dispute.

### **8.7 No prejudice**

This clause 8 does not prejudice the right of a party to institute court proceedings for urgent injunctive or declaratory relief in relation to any matter arising out of or relating to this deed.

## **9. GST**

### **9.1 Definitions**

Words used in this clause that are defined in the GST Legislation have the meaning given in that legislation.

## 9.2 Intention of the parties

The parties intend that:

- (a) Divisions 81 and 82 of the GST Legislation apply to the supplies made under and in respect of this deed; and
- (b) no additional amounts will be payable on account of GST and no tax invoices will be exchanged between the parties.

## 9.3 Reimbursement

Any payment or reimbursement required to be made under this deed that is calculated by reference to a cost, expense, or other amount paid or incurred must be limited to the total cost, expense or amount less the amount of any input tax credit to which any entity is entitled for the acquisition to which the cost, expense or amount relates.

## 9.4 Consideration GST exclusive

Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under this deed are exclusive of GST. Any consideration that is specified to be inclusive of GST must not be taken into account in calculating the GST payable in relation to a supply for the purposes of this clause 9.

## 9.5 Additional Amounts for GST

To the extent an amount of GST is payable on a supply made by a party (**Supplier**) under or in connection with this deed (the **GST Amount**), the recipient must pay to the Supplier the GST Amount. However, where a GST Amount is payable by the Minister as recipient of the supply, the Developer must ensure that:

- (a) the Developer makes payment of the GST Amount on behalf of the Minister, including any gross up that may be required; and
- (b) the Developer provides a tax invoice to the Minister.

## 9.6 Non monetary consideration

Clause 9.5 applies to non-monetary consideration.

## 9.7 Assumptions

The Developer acknowledges and agrees that in calculating any amounts payable under clause 9.5 the Developer must assume the Minister is not entitled to any input tax credit.

## 9.8 No merger

This clause does not merge on completion or termination of this deed.

## 10. Assignment and transfer

### 10.1 Right to assign or novate

- (a) Prior to a proposed assignment or novation of its rights or obligations under this deed, the party seeking to assign its rights or novate its obligations (**Assigning Party**) must seek the consent of the Minister and:
  - (i) satisfy the Minister (acting reasonably) that the person to whom the Assigning Party's rights or obligations are to be assigned or novated (**Incoming Party**) has



sufficient assets, resources and expertise required to perform the Assigning Party's obligations under this deed insofar as those obligations are to be novated to the Incoming Party;

- (ii) procure the execution of an agreement by the Incoming Party with the Minister on terms satisfactory to the Minister (acting reasonably) under which the Incoming Party agrees to comply with the terms and conditions of this deed as though the Incoming Party were the Assigning Party; and
  - (iii) satisfy the Minister, acting reasonably, that it is not in material breach of its obligations under this deed.
- (b) The Assigning Party must pay the Minister's reasonable legal costs and expenses incurred under this clause 10.1.

#### 10.2 Right to transfer Land

- (a) The Developer must not sell or transfer to another person (Transferee) the whole or part of any part of the Land:
- (i) on which this deed remains registered under section 7.6 of the Act; or
  - (ii) for which the Development Contribution required under this deed remains outstanding.
- (b) Notwithstanding clause 10.2(a) the Developer may sell or transfer the whole or any part of the Land to a Transferee if prior to the proposed sale or transfer the Developer:
- (i) satisfies the Minister, acting reasonably, that the proposed Transferee has sufficient assets, resources and expertise required to perform any of the remaining obligations of the Developer under this deed or satisfies the Minister, acting reasonably, that the Developer will continue to be bound by the terms of this deed after the transfer has been effected;
  - (ii) procures the execution of an agreement by the Transferee with the Minister on terms satisfactory to the Minister, acting reasonably, under which the Transferee agrees to comply with the terms and conditions of this deed as though the Transferee were the Developer; and
  - (iii) satisfies the Minister, acting reasonably, that it is not in material breach of its obligations under this deed.
- (c) The Developer must pay the Minister's reasonable legal costs and expenses incurred under this clause 10.2.

#### 10.3 Replacement Security

Provided that:

- (a) the Developer has complied with clause 10.1 and 10.2; and
- (b) the Transferee or Incoming Party (as the case may be) has provided the Minister with a replacement Security in accordance with the requirements of Schedule 5 and on terms acceptable to the Minister,

the Minister will promptly return the Security to the Developer.

## **11. Capacity**

### **11.1 General warranties**

Each party warrants to each other party that:

- (a) this deed creates legal, valid and binding obligations, enforceable against the relevant party in accordance with its terms; and
- (b) unless otherwise stated, it has not entered into this deed in the capacity of trustee of any trust.

### **11.2 Power of attorney**

If an attorney executes this deed on behalf of any party, the attorney declares that it has no notice of the revocation of that power of attorney.

### **11.3 Trustee Developer**

- (a) Newpro 20 Pty Ltd (ACN 639 377 987) (Trustee) enters into this deed in its capacity as the trustee for the Newpro 20 Unit Trust (Trust) constituted by a trust deed (Trust Deed). The Trustee:
  - (i) warrants that:
    - (A) it is the sole trustee of the Trust and no action has been taken to remove or replace it;
    - (B) entry into this deed is for the benefit of the beneficiaries of the Trust and as trustee it is authorised and empowered under the Trust Deed to enter into and to perform its obligations and satisfy or discharge its liabilities under this deed;
    - (C) it is not in breach of the Trust Deed;
    - (D) it is entitled under the Trust Deed to be indemnified in full in respect of the obligations and liabilities incurred by it under this deed;
    - (E) it is not aware of any reason why the assets of the Trust might be insufficient to satisfy or discharge the obligations and liabilities incurred by it under this deed; and
    - (F) it has the power under the Trust Deed to execute and perform its obligations and discharge its liabilities under this deed and all necessary action has been taken to authorise the execution and performance of this deed under the Trust Deed; and
  - (ii) indemnifies the Minister, and agrees to keep the Minister indemnified, in respect of any loss or liability in any way connected with a breach of a warranty in clause 11.3(a)(i).
- (b) Prior to the Trustee being replaced as the trustee of the Trust in accordance with the Trust Deed:
  - (i) the Trustee must procure that the replacement trustee enters into a new deed with the Minister on the same terms as this deed;
  - (ii) the Trustee (as outgoing trustee) must procure an agreement from the Minister, under which the Minister releases the Trustee from the requirement to observe and perform any future obligation under this deed;

- (iii) the Trustee (as outgoing trustee) must release the Minister, from the requirement to observe and perform any future obligation under this deed; and
  - (iv) the Trustee (as the outgoing trustee) must pay the reasonable costs and expenses of the Minister in relation to entering into a new deed under this clause 11.3(b) and the costs and expenses of registering any new deed on the title to the Land.
- (c) Subject to clause 11.3(e), liability arising under or in connection with this deed (except under or in connection with clause 11.3(a) above) is limited and can be enforced against the Trustee only to the extent to which the Trustee, having sought indemnification to the maximum extent possible, is actually indemnified in respect of that liability out of the assets of the Trust. This limitation of the Trustee's liability extends to all liabilities and obligations of the Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this deed.
- (d) No party to this deed or any person claiming through or on behalf of them will be entitled to:
- (i) claim from or commence proceedings against the Trustee in respect of any liability in any capacity other than as the trustee of the Trust;
  - (ii) seek the appointment of a receiver, receiver and manager, liquidator, an administrator or any similar office-holder to the Trustee, or prove in any liquidation, administration or arrangement of or affecting the Trustee, except in relation to the assets of the Trust; or
  - (iii) enforce or seek to enforce any judgment in respect of a liability under this deed or otherwise against the Trustee in any capacity other than as Trustee of the Trust,
- except under or in connection with clause 11.3(a) above.
- (e) Notwithstanding any other provision of this deed, clauses 11.3(c) and 11.3(d) do not apply to any obligation or liability of the Trustee to the extent to which there is, in respect of that obligation or liability, whether under the Trust Deed or by operation of law, a reduction in the extent of the Trustee's indemnification, or loss of the Trustee's right of indemnification, out of the assets of the Trust as a result of Trustee's failure to properly perform its duties as trustee of the Trust.
- (f) Nothing in clause 11.3(e) will make the Trustee liable for any claim for an amount greater than the amount which the Minister would have been able to claim and recover from the assets of the Trust in relation to the relevant obligation or liability if the Trustee's right of indemnification, out of the assets of the Trust had not been prejudiced by the failure of the Trustee to properly perform its duties.

## **12. Reporting requirement**

- (a) By 1 September each year or as otherwise agreed with the Secretary, the Developer must deliver to the Secretary a report (in a format acceptable to the Secretary) for the period 1 July to 30 June of the preceding financial year which must include the following matters, as applicable:
- (i) details of all Development Consents and Subdivision Certificates issued in relation to the Development;
  - (ii) a description of the status of the Development including a plan that identifies what parts of the Development have been completed, are under construction and are to be constructed;

- (iii) a forecast in relation to the anticipated progression and completion of the Development;
  - (iv) a compliance schedule showing the details of all Contribution Amounts provided under this deed as at the date of the report and indicating any non-compliance with this deed and the reason for the non-compliance; and
  - (v) when the Developer expects to lodge the next Planning Application.
- (b) Upon the Secretary's request, the Developer must deliver to the Secretary all documents and other information which, in the reasonable opinion of the Secretary are necessary for the Secretary to assess the status of the Development and the Developer's compliance with this deed.

### **13. General Provisions**

#### **13.1 Entire deed**

This deed constitutes the entire agreement between the parties regarding the matters set out in it and supersedes any prior representations, understandings or arrangements made between the parties, whether orally or in writing.

#### **13.2 Variation**

This deed must not be varied except by a later written document executed by all parties.

#### **13.3 Waiver**

A right created by this deed cannot be waived except in writing signed by the party entitled to that right. Delay by a party in exercising a right does not constitute a waiver of that right, nor will a waiver (either wholly or in part) by a party of a right operate as a subsequent waiver of the same right or of any other right of that party.

#### **13.4 Further assurances**

Each party must promptly execute all documents and do every thing necessary or desirable to give full effect to the arrangements contained in this deed.

#### **13.5 Time for doing acts**

- (a) If:
  - (i) the time for doing any act or thing required to be done; or
  - (ii) a notice period specified in this deed,expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.
- (b) If any act or thing required to be done is done after 5 pm on the specified day, it is taken to have been done on the following Business Day.

#### **13.6 Governing law and jurisdiction**

- (a) The laws applicable in New South Wales govern this deed.
- (b) The parties submit to the non-exclusive jurisdiction of the courts of New South Wales and any courts competent to hear appeals from those courts.

### **13.7 Severance**

If any clause or part of any clause is in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal. If this is not possible, the clause (or where possible, the offending part) is to be severed from this deed without affecting the enforceability, validity or legality of the remaining clauses (or parts of those clauses) which will continue in full force and effect.

### **13.8 Preservation of existing rights**

The expiration or termination of this deed does not affect any right that has accrued to a party before the expiration or termination date.

### **13.9 No merger**

Any right or obligation of any party that is expressed to operate or have effect on or after the completion, expiration or termination of this deed for any reason, does not merge on the occurrence of that event but remains in full force and effect.

### **13.10 Counterparts**

This deed may be executed in any number of counterparts. All counterparts taken together constitute one instrument.

### **13.11 Relationship of parties**

Unless otherwise stated:

- (a) nothing in this deed creates a joint venture, partnership, or the relationship of principal and agent, or employee and employer between the parties; and
- (b) no party has the authority to bind any other party by any representation, declaration or admission, or to make any contract or commitment on behalf of any other party or to pledge any other party's credit.

### **13.12 Good faith**

Each party must act in good faith towards all other parties and use its best endeavours to comply with the spirit and intention of this deed.

### **13.13 No fetter**

Nothing in this deed is to be construed as requiring the Minister to do anything that would cause the Minister to breach any of the Minister's obligations at law and without limitation, nothing in this deed shall be construed as limiting or fettering in any way the discretion of the Minister in exercising any of the Minister's statutory functions, powers, authorities or duties.

### **13.14 Explanatory note**

The Explanatory Note must not be used to assist in construing this deed.

### **13.15 Expenses and stamp duty**

- (a) The Developer must pay its own and the Minister's reasonable valuation costs, legal costs and disbursements in connection with the negotiation, preparation, execution and carrying into effect of this deed.
- (b) The Developer must pay for all costs and expenses associated with the giving of public notice of this deed and the Explanatory Note in accordance with the Regulation.

- (c) The Developer must pay all Taxes assessed on or in respect of this deed and any instrument or transaction required or contemplated by or necessary to give effect to this deed (including stamp duty and registration fees, if applicable).
- (d) The Developer must provide the Minister with bank cheques, or an alternative method of payment if agreed with the Minister, in respect of the Minister's costs pursuant to clauses 13.15(a) and (b):
  - (i) where the Minister has provided the Developer with written notice of the sum of such costs prior to execution, on the date of execution of this deed; or
  - (ii) where the Minister has not provided the Developer with prior written notice of the sum of such costs prior to execution, within 30 Business Days of demand by the Minister for payment.

### 13.16 Notices

- (a) Any notice, demand, consent, approval, request or other communication (**Notice**) to be given under this deed must be in writing and must be given to the recipient at its Address for Service by being:
  - (i) hand delivered; or
  - (ii) sent by prepaid ordinary mail within Australia; or
  - (iii) in the case of a Notice to be given by the Minister or Secretary, sent by email.
- (b) A Notice is given if:
  - (i) hand delivered, on the date of delivery but if delivery occurs after 5pm New South Wales time or a day that is not a Business Day, is taken to be given on the next Business Day;
  - (ii) sent by prepaid ordinary mail within Australia, on the date that is 2 Business Days after the date of posting; or
  - (iii) sent by email:
    - (A) before 5 pm on a Business Day, on that Day;
    - (B) after 5 pm on a Business Day, on the next Business Day after it is sent; or
    - (C) on a day that it is not a Business Day, on the next Business Day after it is sent, and the sender does not receive a delivery failure notice.

**Schedule 1**

**Table 1 - Requirements under section 7.4 of the Act (clause 2.2)**

The parties acknowledge and agree that the table set out below provides for certain terms, conditions and procedures for the purpose of the deed complying with the Act.

<b>Requirement under the Act</b>	<b>This deed</b>
<p><b>Planning instrument and/or development application – (section 7.4(1))</b></p> <p>The Developer has:</p> <p>(a) sought a change to an environmental planning instrument.</p> <p>(b) made, or proposes to make, a Development Application.</p> <p>(c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies.</p>	<p>(a) No</p> <p>(b) No</p> <p>(c) Yes</p>
<b>Description of land to which this deed applies – (section 7.4(3)(a))</b>	See Schedule 3
<b>Description of development to which this deed applies – (section 7.4 (3)(b))</b>	See definition of Development in clause 1.1
<b>Description of change to the environmental planning instrument to which this deed applies – (section 7.4 (3)(b))</b>	N/A
<b>The scope, timing and manner of delivery of contribution required by this deed – (section 7.4 (3)(c))</b>	See Schedule 4
<b>Applicability of sections 7.11 and 7.12 of the Act – (section 7.4 (3)(d))</b>	The application of sections 7.11 and 7.12 of the Act is not excluded in respect of the Development.
<b>Applicability of section 7.24 of the Act – (section 7.4 (3)(d))</b>	The application of section 7.24 of the Act is excluded in respect of the Development.
<b>Consideration of benefits under this deed if section 7.11 applies – (section 7.4 (3)(e))</b>	No
<b>Mechanism for Dispute Resolution – (section 7.4(3)(f))</b>	See clause 8
<b>Enforcement of this deed – (section 7.4(3)(g))</b>	See clause 6
<b>No obligation to grant consent or exercise functions – (section 7.4(10))</b>	See clause 13.13

**Table 2 – Other matters**

<b>Requirement under the Act</b>	<b>This deed</b>
<b>Registration of the Planning Agreement – (section 7.6 of the Act)</b>	Yes (see clause 7)
<b>Whether the Planning Agreement specifies that certain requirements of the agreement must be complied with before a construction certificate is issued – (clause 25E(2)(g) of the Regulation)</b>	No
<b>Whether the Planning Agreement specifies that certain requirements of the agreement must be complied with before an occupation certificate is issued – (clause 25E(2)(g) of the Regulation)</b>	No
<b>Whether the Planning Agreement specifies that certain requirements of the agreement must be complied with before a subdivision certificate is issued – (clause 25E(2)(g) of the Regulation)</b>	Yes (see clause 3 of Schedule 4)



## Schedule 2

### Address for Service (clause 1.1)

#### Minister

**Contact:** The Secretary  
**Address:** Department of Planning, Industry and Environment  
320 Pitt Street  
SYDNEY NSW 2000  
**Email:** [planningagreements@planning.nsw.gov.au](mailto:planningagreements@planning.nsw.gov.au)

#### Developer

**Contact:** The Company Director(s) and Secretary  
**Address:** Newpro 20 Pty Ltd  
Shop 3, 239 Pacific Highway  
NORTH SYDNEY NSW 2060  
**Email:** [tom@newquestproperty.com.au](mailto:tom@newquestproperty.com.au)

#### Landowner

**Contact:** Eileen Alice Spencer  
**Address:** 48 Windermere Road  
LOCHINVAR NSW 2321  
**Email:** [lucy@hillsol.com.au](mailto:lucy@hillsol.com.au)

**Schedule 3**

**Land (clause 1.1)**

**1. Lots proposed for development**

Lot	Deposited Plan	Folio Identifier
1	537313	1/537313

## Schedule 4

### Development Contribution (clause 4)

#### 1. Development Contribution

- (a) For the purposes of this Schedule, Net Developable Area, in relation to a part of the Land means the net developable area of that part as defined and determined in accordance with Schedule 6.
- (b) The Developer undertakes to provide the Development Contribution in the manner set out in the table below:

Development Contribution	Value	Timing
Contribution Amount - Monetary contribution towards designated State public infrastructure	\$87,414.00 per hectare of Net Developable Area for any part of the Land to which a Subdivision Certificate application relates.	Pursuant to clause 3 of this Schedule 4

- (c) The Minister and Developer acknowledge and agree that the Development Contribution is the sum of the Contribution Amounts under this deed.

#### 2. Calculation of the value of a Contribution Amount

- (a) Each Contribution Amount will be an amount equal to the sum represented by "X" in the following formula:

$$X = N \times \$87,414.00$$

"N" means the number of hectares comprised in the Net Developable Area of the part of Land to which a Subdivision Certificate application relates.

- (b) On the CPI Adjustment Date, each Contribution Amount is to be adjusted by multiplying the Contribution Amount payable (as previously adjusted in accordance with this clause, where relevant) by an amount equal to the Current CPI divided by the Base CPI.

#### 3. Payment of Contribution Amounts

- (a) The Developer must pay to the Minister or the Minister's nominee each Contribution Amount prior to the issue of the relevant Subdivision Certificate.
- (b) The Developer must provide the Minister with not less than 10 Business Days' written notice of its intention to lodge an application for the relevant Subdivision Certificate.
- (c) The parties agree that the requirement to make a payment under this clause is a restriction on the issue of the relevant Subdivision Certificate within the meaning of section 6.15(1)(d) of the Act.

## **Schedule 5**

### **Security terms (clause 6)**

#### **1. Developer to provide Security**

- (a) In order to secure the payment or performance of the Development Contribution the Developer has agreed to provide the Security.
- (b) The Security must:
  - (i) name the "Minister for Planning and Public Spaces" and the "Department of Planning, Industry and Environment ABN 38 755 709 681" as the relevant beneficiaries; and
  - (ii) not have an expiry date.

#### **2. Security**

- (a) At the time the Developer signs this deed, the Developer must provide the Security to the Minister having a face value amount of \$20,000 (**Security Amount**) in order to secure the Developer's obligations under this deed.
- (b) From the date of execution of this deed until the date that the Developer has provided the Development Contribution, the Minister is entitled to retain the Security.

#### **3. Claims under Bank Guarantees**

- (a) The Minister may:
  - (i) call upon the Security where the Developer has failed to pay a Contribution Amount for the Development on or after the date for payment under this deed; and
  - (ii) retain and apply such monies towards the Contribution Amount and any costs and expenses incurred by the Minister in rectifying any default by the Developer under this deed.
- (b) Prior to calling upon the Security the Minister must give the Developer not less than 10 Business Days written notice of his or her intention to call upon the Security.
- (c) If:
  - (i) the Minister calls upon the Security; and
  - (ii) applies all or part of such monies towards the Contribution Amount and any costs and expenses incurred by the Minister in rectifying any default by the Developer under this deed; and
  - (iii) has notified the Developer of the call upon the Security in accordance with clause 3(b) of this Schedule 5,

then the Developer must provide to the Minister a replacement Security to ensure that at all times until the date that the Security is released in accordance with clause 4 of this Schedule, the Minister is in possession of Security for a face value equivalent to the Security Amount.

#### **4. Release of Security**

If:

- (a) the Developer has satisfied all of its obligations under this deed secured by the Bank Guarantee; and
- (b) the whole of the monies secured by the Bank Guarantee has not been expended and the monies accounted for in accordance with clause 2 of this Schedule 5,

then the Minister will promptly return the Bank Guarantee (less any costs, charges, duties and taxes payable), or the remainder of the monies secured by the Bank Guarantee (as the case may be), to the Developer.

## Schedule 6

### Definition of Net Developable Area (Schedule 4, clauses 1 and 2)

1. The net developable area of a part of the Land (*the net developable area for the proposed subdivision*) is the area of land, in hectares, shown on the proposed plan of subdivision (that is, the area to which the relevant application for a subdivision certificate for that part of the Land relates), subject to the other provisions of this Schedule 6.
2. The net developable area does not include the area of any land that the proposed subdivision reserves, dedicates or otherwise sets aside as, or for the purpose of, any of the following:
  - (a) school;
  - (b) TAFE establishment;
  - (c) emergency services facility;
  - (d) health services facility owned or operated by a public authority;
  - (e) golf course;
  - (f) passenger transport facility;
  - (g) place of public worship;
  - (h) public open space, including a public reserve (within the meaning of the *Local Government Act 1993*);
  - (i) drainage reserve (within the meaning of the *Local Government Act 1993*);
  - (j) public utility undertaking;
  - (k) bus depot;
  - (l) recreation area;
  - (m) cemetery (within the meaning of the *Cemeteries and Crematoria Act 2013*);
  - (n) public roads; and
  - (o) public amenities or public services, in connection with which development contributions have been imposed under section 7.11 or section 7.12 of the Act or may be imposed in accordance with a contributions plan approved under section 7.18 of the Act.
3. The following areas of land are not to be included in the calculation of the net developable area for the proposed subdivision:
  - (a) any area of land that is at or below the level of a 1:100 ARI (average recurrent interval) flood event, if the Secretary is satisfied that the area is unsuitable for developing for the purposes of the subdivision by virtue of it being at or below that level;
  - (b) any area of land that is identified as public open space in a development control plan or in a contributions plan approved under section 7.18 of the Act;
  - (c) any area of land that is within Zone E2 Environmental Conservation;
  - (d) any area of land within the curtilage of a building listed on the State Heritage Register;
  - (e) any area of land this is within an asset protection zone:
    - (i) that is specified in a bush fire safety authority issued under the *Rural Fires Act 1997*; or

- (ii) that is required to be established by the development consent relating to the subdivision,  
if the Secretary is satisfied that the area is unsuitable for developing for the purposes of the subdivision by virtue of it being within that zone;
  - (f) an area of land that is subject to an easement in favour of a public utility undertaking for the purpose of the supply of the utility service to the public as shown on the title to that land or as confirmed in writing by the public utility undertaking, if the Secretary is satisfied that the area is unsuitable for developing for the purposes of the subdivision by virtue of the easement; and
  - (g) any area of land that is within a public transport corridor (other than a road corridor) as shown on a Land Zoning Map for the purposes of an environmental planning instrument or a development control plan made under the Act, if the Secretary is satisfied that the area is unsuitable for development for the purposes of the subdivision by virtue of it being within the public transport corridor.
- 4. The net developable area does not include the area of any lot in the proposed plan of subdivision that may be further subdivided (other than under a strata scheme) in accordance with the development consent relating to the subdivision.
- 5. The net developable area does not include the area of any lot in the proposed plan of subdivision that the Secretary has determined (in writing), at the Secretary's discretion and having regard to the relevant planning controls, will be further subdivided (other than under a strata scheme) in accordance with a future development consent for the purpose of the orderly development of the land for urban purposes in the future.
- 6. If a proposed lot contains an existing lawful habitable dwelling (being a dwelling that lawfully existed on the proposed lot at the date this deed commences) and:
  - (a) is no more than 0.1 hectare, the net developable area does not include the area of the lot, or
  - (b) is more than 0.1 hectare in area, the net developable area is reduced by 0.1 hectare, for the purpose of calculating the net developable area for the proposed subdivision.
- 7. If a proposed lot is wholly within Zone E3 Environmental Management, Zone E4 Environmental Living or Zone R5 Large Lot Residential and is more than 0.1 hectare, that lot is taken to be 0.1 hectare for the purpose of calculating the net developable area for the proposed subdivision.
- 8. The parties agree that the Secretary may make any determination required to be made for the purpose of calculating the net developable area for the proposed subdivision in accordance with this clause and, for that purpose, may have regard to any information available at the time, such as construction plans and any measurements made by a registered surveyor of the land concerned.
- 9. In this Schedule 6, the following words or expressions have the same meanings as they have in the Standard Instrument (that is, the standard instrument for a principal local environmental plan prescribed by the Standard Instrument (Local Environmental Plans) Order 2006 (Standard Instrument):
  - (a) emergency services facility;
  - (b) health services facility;
  - (c) passenger transport facility;

- (d) place of public worship;
  - (e) public utility undertaking;
  - (f) recreation area; and
  - (g) school.
10. In this Schedule, a reference to:
- (a) a land use zone is a reference to a land use zone specified in the Standard Instrument and to a land use zone that is equivalent to any such land use zone; and
  - (b) curtilage of a building listed on the State Heritage Register is a reference to the curtilage of that building, or the site of that building, as specified or described in the listing of the building on the State Heritage Register kept under Part 3A of the *Heritage Act 1977*; and
  - (c) a “strata scheme” means a reference to a strata scheme as that term is defined in the *Strata Scheme (Freehold Development) Act 1973* or a leasehold strata scheme as that term is defined in the *Strata Scheme (Leasehold Development) Act 1986*.

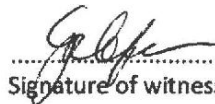




Execution page

Executed as a deed

Signed, sealed and delivered for and on behalf of the Minister for Planning and Public Spaces ABN 20 770 707 468, in the presence of:

  
Signature of witness

GABRIELLE COLEMAN  
Name of witness in full

12 DARCY STREET  
PARRAMATTA NSW 2150  
Address of witness

  
Signature of the Minister for Planning and Public Spaces or delegate

GRANT KNOETZE  
Name of Minister for Planning and Public Spaces or delegate

Signed sealed and delivered  
by Eileen Alice Spencer of 48 Windermere  
Road Lochinvar New South Wales 2321 in the  
presence of:

  
Signature of witness

LUCY ROSE KELLY  
Name of witness in full

447 HIGH ST, MAITLAND  
Address of witness

  
Signature of Eileen Alice Spencer

**Signed, sealed and delivered by Newpro 20  
Pty Ltd (ACN 639 377 987) in its capacity as  
trustee of Newpro 20 Unit Trust in  
accordance with section 127 of the  
Corporations Act 2001:**

.....  
Signature of Director

  
.....  
Signature of Director/Secretary

.....  
Name of Director in full

*STEWART NETTLETON*  
.....  
Name of Director/Secretary in full

"C"

**Annexure C to the Form 11R Request by Minister for Planning and Public Spaces for the State of New South Wales**

Torrens Title: 1/537313

NEWPRO 20 PTY LTD ACN 639 377 987 as mortgagee under Mortgage Registered No. AQ229339 hereby consents to the annexed Request to register Planning Agreement between the Minister for Planning and Public Spaces for the State of New South Wales and Eileen Alice Spencer against the above title:

Executed by Newpro 20 Pty Ltd )  
ACN 639 377 987 in accordance with )  
section 127 of the *Corporations Act 2001* )  
(Cth) by: )  
)  
)

  
.....  
Signature of Director

.....  
Signature of Director/Secretary

*STEWART NETTLETON*  
.....  
Print name of Director

.....  
Print name of Director/Secretary



**NSW Land Registry Services**  
Level 30, 175 Liverpool Street Sydney NSW 2000  
GPO Box 15, Sydney NSW 2001  
P (02) 8776 3575  
E [eConveyancingNSW@nswlrs.com.au](mailto:eConveyancingNSW@nswlrs.com.au)  
[www.nswlrs.com.au](http://www.nswlrs.com.au)

## Lodgment Rules Exception Form

**This form must be lodged with every Dealing with Exception and Miscellaneous Dealing (Miscellaneous Document) form, as defined in the Lodgment Rules.**

Please accept this scanned paper dealing, as an eligible exception under Rules 5 or 10 of the Lodgment Rules (version 2), that has been lodged as either a:

1. Dealing with Exception form; or
2. Miscellaneous Dealing (Miscellaneous Document) form

**Lodgment Rules exception number: \*** 46

*\*Insert, from the [Lodgment Rules exceptions list](#), the exception number relied on to use the Dealing with Exception form or Miscellaneous Dealing (Miscellaneous Document) form.*

**The Lodgment Rules exception list is published on the Office of the Registrar General Lodgment Rules webpage:**  
<https://www.registrargeneral.nsw.gov.au/publications/lodgment-rules>

**Certificate No.:** PC/2022/3072

**Certificate Date:** 13/10/2022

**Fee Paid:** \$62.00

**Receipt No.:**

**Your Reference:** NEW998-00005

**SECTION 10.7 PLANNING CERTIFICATE**

**Environmental Planning and Assessment Act, 1979 as amended**

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<b>APPLICANT:</b>	Infotrack  ecertificates@infotrack.com.au
<b>PROPERTY DESCRIPTION:</b>	48 Windermere Road LOCHINVAR NSW 2321
<b>PARCEL NUMBER:</b>	27501
<b>LEGAL DESCRIPTION:</b>	Lot 1 DP 537313

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

The information provided in this Certificate relates only to the land described above. If you need information about an adjoining property or nearby land, a separate certificate will be required.

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.

For more information on the Planning Certificate please contact our Customer Experience team on 4934 9700.

## **SECTION 10.7(2)**

The following matters relate to the land, as required by section 10.7(2) of the *Environmental Planning and Assessment Act (1979)* ("the Act") and clause 284 and Schedule 2 of the *Environment Planning and Assessment Regulation 2021*.

### **ITEM 1 - Names of relevant planning instruments and development control plans**

The following environmental planning instruments and development control plans apply to the carrying out of development on the land:

#### **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:

- SEPP (Biodiversity and Conservation) 2021
- SEPP (Industry and Employment) 2021
- SEPP (Primary Production) 2021
- SEPP (Planning Systems) 2021
- SEPP (Housing) 2021
- SEPP Building Sustainability Index: BASIX 2004
- SEPP (Exempt and Complying Development Codes) 2008
- SEPP (Resources and Energy) 2021
- SEPP (Transport and Infrastructure) 2021
- SEPP (Resilience and Hazards) 2021

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

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

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

Maitland Development Control Plan 2011 applies to the land.

The following proposed environmental planning instruments and draft development control plans are or have been the subject of community consultation or on public exhibition under the *Environmental Planning and Assessment Act 1979*, apply to the carrying out of development on the land and:

#### **Planning Proposal for a Local Environmental Plan**

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

Detailed information on draft environmental planning instruments is available at the NSW Department of Planning and Environment Current LEP Proposals website;

or Maitland City Council's website.

### **Draft Development Control Plans**

No draft Development Control Plan(s) that have been on public exhibition under the Act are applicable to the land.

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

No draft State Environmental Planning Policy(s) applying to the land is, or has been publicised the subject of community consultation or on public exhibition under the Act.

## **ITEM 2 – Zoning and land use under relevant planning instruments**

For each environmental planning instrument or proposed instrument referred to in clause 1 (other than a State Environmental Planning Policy or proposed State Environmental Planning Policies)

### ***Zone and Land Use Table from Local Environmental Plan***

#### **R1 General Residential**

##### **a) Purpose/Objective**

- 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

##### **b) Permitted with 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

##### **c) Permitted without Consent**

Home occupations

##### **d) Prohibited**

Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Biosolids treatment facilities; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Car parks; Caravan parks; Cemeteries; Charter and tourism boating facilities; Commercial 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.

Detailed information on the land zone mapping is available at the NSW Department of Planning and Environment ePlanning Spatial Viewer website; or Maitland City Council's website.

**Note:** On 1 December 2022, Business and Industrial zones will be replaced by the new Employment zones under the Standard Instrument (Local Environmental Plans) Order 2006. The Department of Planning and Environment is currently exhibiting details of how each Local Environmental Plan that includes a current Business or Industrial zone will be amended to use the new Employment zones. The Explanation of Intended Effect (EIE) and a searchable web tool that displays the current and proposed zone for land covered in this public exhibition is available on the Planning Portal.

### **C3 Environmental Management**

#### **a) Purpose/Objective**

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values
- To provide for a limited range of development that does not have an adverse effect on those values
- To maintain and improve the connectivity of habitat between remnant areas of native vegetation

#### **b) Permitted with Consent**

Bed and breakfast accommodation; Building identification signs; Business identification signs; Dwelling houses; Eco-tourist facilities; Environmental facilities; Environmental protection works; Extensive agriculture; Home-based child care; Home businesses; Oyster Aquaculture; Pond-based Aquaculture; Recreation areas; Roads; Tank-based Aquaculture; Water reticulation systems

#### **c) Permitted without Consent**

Home occupations

#### **d) Prohibited**

Dairies (pasture-based); Industries; Multi dwelling housing; Residential flat buildings; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3.

***Additional permitted uses***

No environmental planning instrument applies additional permitted use provisions to this land.

**Note:** Detailed information on the local environmental plan is available at NSW Legislation – In force legislation.

***Whether development standards applying to the land fix minimum land dimensions for the erection of a dwelling house on the land and, if so, the fixed minimum land dimensions.***

For the land zoned C3 Environmental Management Clause 4.2A in the Maitland Local Environmental Plan 2011 applies to the land. This clause fixes a minimum lot size for the erection of a dwelling-house that is identified on the Maitland Local Environmental Plan 2011 Lot Size Map as 40.0 Hectares. 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.

***Is the land in an area of outstanding biodiversity value under the Biodiversity Conservation Act 2016?***

The land IS NOT identified in an area of outstanding biodiversity value under the Biodiversity Conservation Act.

***Is the land within a conservation area, however described?***

The land IS NOT in a Heritage Conservation Area.

***Is there an item of environmental heritage in a local environmental plan?***

The land does NOT contain an item of Environmental Heritage.

**Note:** An item of environmental heritage, namely Aboriginal heritage, listed on the Aboriginal Heritage Information Management System (AHIMS), may be situated on the land. The Department of Planning and Environment, Biodiversity and Conservation Division.

**ITEM 3 – Contribution plans*****The name of each contributions plan under the Act, Division 7.1 applying to the land, including draft contributions plans.***

- Maitland S94A Levy Contributions Plan 2006
- Lochinvar S94 Contribution Plan 2013
- Maitland City Wide Section 94 Contributions Plan 2016
- Maitland S94 Contributions Plan (City Wide) 2006

***If the land is in a special contributions area under the Act, Division 7.1, the name of the area.***

The land IS NOT in a special contributions area.

**Note:** In addition to the above developer contribution plans, Development Servicing Plans for water and sewer connection may be applicable, attracting additional contributions for the development, particularly where development will connect to water and/or sewer services.

#### **ITEM 4 – Complying Development**

***If the land is land on which complying development may be carried out under each of the complying development codes under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, because of that Policy, clause 1.17A(1)(c)–(e), (2), (3) or (4), 1.18(1)(c3) or 1.19.***

Complying development under the **Housing Code** may not be carried out on the land as it is:

Land identified under an environmental planning instrument as an ecologically sensitive area.

Complying development under the **Low Rise Medium Density Housing Code and Greenfield Housing Code** may not be carried out on the land as it is:

Land identified under an environmental planning instrument as an ecologically sensitive area.

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

Land identified under an environmental planning instrument as an ecologically sensitive area.

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 and the land is:

Land identified under an environmental planning instrument as an ecologically sensitive area.

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. The complying development may not be carried out on the land because of the following provisions of Clauses 1.17A(1)(c) to (e), (2), (3) and (4), 1.18(1)(c3) and 1.19 of the Policy.**

The provisions of Clauses 1.17A(1)(c) to (e), (2), (3) and (4), 1.18(1)(c3) and 1.19 are not identified on the land. Complying development may be undertaken in accordance with the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 as amended.

**Note:** This information needs to be read in conjunction with the whole of the State Environment Planning Policy. If an identification, restriction or characteristic of land referred to above is not located on or does not comprise, the whole of the relevant land, complying development may be carried out on any part of the land not so identified, restricted or characterised.

**Note:** Information regarding whether the property is affected by flood related development controls or is bushfire prone land is identified in other sections of this certificate. If your property is identified as being impacted by bushfire or flooding, a specific technical assessment of these issues will be required as part of any Complying Development Certificate application under the State Environment Planning Policy, or a development application for any other type of development requiring consent from Council.

**Note:** Despite any references above advising that Complying Development may be undertaken on the land, certain Complying Development may be precluded from occurring on the land due to requirements contained in the remainder of State Environment Planning Policy (Exempt and Complying Development Codes) 2008. It is necessary to review the State Environment Planning Policy in detail to ensure that specific types of complying development may be undertaken on the land.

***If the council does not have sufficient information to ascertain the extent to which complying development may or may not be carried out on the land, a statement that***

***(a) a restriction applies to the land, but it may not apply to all of the land,***

**(b) and that council does not have sufficient information to ascertain the extent to which complying development may or may not be carried out on the land.**

***If the complying development codes are varied, under that Policy, clause 1.12, in relation to the land.***

There are no variations to the exempt development codes within the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 that apply in the Maitland local government area.

For further information on complying development, please refer to the Department of Planning and Environment.

#### **ITEM 5 – Exempt Development**

***If the land is land on which exempt development may be carried out under each of the exempt development codes under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, because of that Policy, clause 1.16(1)(b1)–(d) or 1.16A.***

***If exempt development may not be carried out on the land because of 1 of those clauses, the reasons why it may not be carried out under the clause.***

***If the council does not have sufficient information to ascertain the extent to which exempt development may or may not be carried out on the land, a statement that***

- a) a restriction applies to the land, but it may not apply to all of the land, and***
- b) the council does not have sufficient information to ascertain the extent to which exempt development may or may not be carried out on the land.***

***If the exempt development codes are varied, under that Policy, clause 1.12, in relation to the land.***

#### **ITEM 6 – Affected building notices and building product rectification orders**

**Whether the council is aware that –**

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.

#### **ITEM 7 - Land Reserved for Acquisition**

**Whether an environmental planning instrument or proposed**

**environmental planning instrument referred to in section 1 makes provision in relation to the acquisition of the land by an authority of the State, as referred to in the Act, section 3.15.**

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.

**ITEM 8 – Road widening and road realignment**

Whether the land is affected by road widening or road realignment under –

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

Note: This item relates to Council's road proposals only. Other authorities, including the NSW Roads and Traffic Authority may have road widening proposals.

**ITEM 9 – Flood related development controls**

The land or part of the land IS within the flood planning area and subject to flood related development controls.

The land or part of the land IS between the flood planning area and the probable maximum flood and subject to flood related development controls.

The Maitland LEP 2011 identifies the flood planning level (FPL) as the level of a 1:100 ARI flood event plus 0.5m freeboard. The probable maximum flood has the same meaning as the Floodplain Development Manual.

Note in this section – **flood planning area** has the same meaning as in the Floodplain Development Manual. **Floodplain Development Manual** means the Floodplain Development Manual (ISBN 0 7347 5476 00) published by the NSW Government in April 2005. **probable maximum flood** has the same meaning as in Floodplain Development Manual

Note: The information provided in item 9 is based on the data and information presently available to the Council and on development controls in force as at the date of this certificate. The identification of land as not being subject to flood related development controls does not mean that the land is not, or may not be, subject to flooding or that the land will not in the future be subject to flood related development controls, as additional data and information regarding the land become available.

**ITEM 10 – Council and other public authority policies on hazard risk restrictions**

Whether any of the land is affected by an adopted policy that restricts the development of the land because of the likelihood of land slip, bush fire, tidal

inundation, subsidence, acid sulfate soils, contamination, aircraft noise, salinity, coastal hazards, sea level rise or another risk, other than flooding.

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 by resolution a policy on contaminated land which may restrict the development of the land to which this certificate relates. This policy is implemented when zoning or land use changes are proposed on lands which:

- are considered to be contaminated; or
- which have previously been used for certain purposes; or
- which have previously been used for certain purposes but Council's records do not have sufficient information about previous use of the land to determine whether the land is contaminated; or
- have been remediated for a specific use.

Consideration of Council's adopted policy and the application of provisions under relevant State legislation is warranted.

Note in this section –

**adopted policy** means a policy adopted –

- a) by the council, or
- b) by another public authority, if the public authority has notified the council that the policy will be included in a planning certificate issued by council.

#### **ITEM – 11 Bush fire prone land**

If any of the land is bush fire prone land, designated by the Commissioner of the NSW Rural Fire Service under the Act, section 10.3, a statement that all or some of the land is bush fire prone land.

The land is mapped as bushfire prone land and as such restrictions may apply to new development on this land.

**Note** – In accordance with the *Environmental Planning and Assessment Act 1979*, bush fire prone land, in relation to area, means land recorded for the time being as bush fire prone on a bush fire prone land map for the area. This mapping is subject to periodic review.

**Note** – The identification of land as not being bushfire prone does not mean that the land is not, or may not be affected by bushfire or that the land will not in the future be subject to bushfire related development controls, as additional data and information regarding the land become available.

#### **ITEM – 12 Loose-fill asbestos insulation**

**If the land includes residential premises, within the meaning of the Home Building Act 1989, Part 8, Division 1A, that are listed on the Register kept under that Division, a statement to that effect.**

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

#### **ITEM – 13 Mine subsidence**

**Whether the land is declared to be a mine subsidence district, within the meaning of the 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.

**ITEM – 14 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.

**ITEM – 15 Property vegetation plans**

**If the land in relation to which a property vegetation plan is approved and in force under the Native Vegetation Act 2003, Part 4, a statement to that effect, but only if the council has been notified of the existence of the plan by the person or body that approved the plan under that Act.**

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).

**ITEM – 16 Biodiversity stewardship sites**

**If the land is a biodiversity stewardship site under a biodiversity stewardship agreement under the Biodiversity Conservation Act 2016, Part 5, a statement to that effect, but only if the council has been notified of the existence of the agreement by the biodiversity Conservation Trust.**

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*.

**Note** – Biodiversity stewardship agreements include biobanking agreements under the *Threatened Species Conservation Act 1995*, Part 7A that are taken to be biodiversity stewardship agreements under the *Biodiversity Conservation Act 2016*, Part 5.

**ITEM 17 – Biodiversity certified land**

**If the land is biodiversity certified land under the Biodiversity Conservation Act 2016, Part 8, a statement to that effect.**

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

**Note** – Biodiversity certified land includes land certified under the *Threatened Species Conservation Act 1995*, Part 7AA that is taken to be certified under the *Biodiversity Conservation Act 2016*, Part 8.

**ITEM 18 – Orders under Trees (Disputes Between Neighbours) Act 2006**

**Whether an order has been made under the Trees (Disputes Between**



**Neighbours) Act 2006 to carry out work in relation to a tree on the land, but only if the council has been notified or the order.**

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.

**ITEM 19 – Annual charges under Local Government Act 1993 for coastal protection services that relate to existing coastal protection works**

If the *Coastal Management Act 2016* applies to the council, whether the owner, or a previous owner, of the land has given written consent to the land being subject to annual charges under the *Local Government Act 1993*, section 496B, 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).

**Note** - In this section existing coastal protection works has the same meaning as in the *Local Government Act 1993*, section 553B.

**Note** – Existing coastal protection works are works to reduce the impact of coastal hazards on land, such as seawalls, revetments, groynes and beach nourishment, that existed before 1 January 2011

**ITEM 20 – Western Sydney Aerotropolis**

The State Environmental Planning Policy (Precincts – Western Parkland City) 2021 does not apply to land within the Maitland City Council local government area.

**ITEM 21 – Development consent conditions for seniors housing**

If State Environmental Planning Policy (Housing) 2021, Chapter 3, Part 5 applies to the land, any conditions of a development consent granted after 11 October 2007 in relation to the land that are of the kind set out in that Policy, section 88(2).

Clause 88(2) of the *State Environmental Planning Policy (Housing) 2021* restricts occupation of development approved for seniors housing to:

- a) Seniors or people who have a disability
- b) People who live in the same household with seniors or people who have a disability,
- c) Staff employed to assist in the administration and provision of services to housing provided under this Part.

**ITEM 22 – Site compatibility certificates and development consent conditions for affordable rental housing**

**Whether there is a current site compatibility certificate under State Environmental Planning Policy (Housing) 2021, or a former site compatibility certificate, of which the council is aware, in relation to proposed development on the land and, if there is a certificate –**

- a) the period for which the certificate is current, and
- b) that a copy may be obtained from the Department.

**If State Environmental Planning Policy (Housing) 2021, Chapter 2, Part 2,**

**Division 1 or 5 applies to the land, any conditions of a development consent in relation to the land that are of a kind referred to in that Policy, section 21(1) or 40(1).**

Any conditions of a development consent in relation to land that are kind referred to in State Environmental Planning Policy (Affordable Rental Housing) 2009, clause 17(1) or 38(1).

**Note** - No Seniors Housing development consent conditions apply to this land.

**Note** - In this section – Former site compatibility certificate means a site compatibility certificate issued under State Environmental Planning Policy (Affordable Rental Housing) 2009.

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.

**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 - WATER ONLY

Enquiries: 1300 657 657



APPLICATION NUMBER: 1694264

APPLICANT NAME: *InfoTrack*

RATEABLE PREMISE NO.: 5351010536

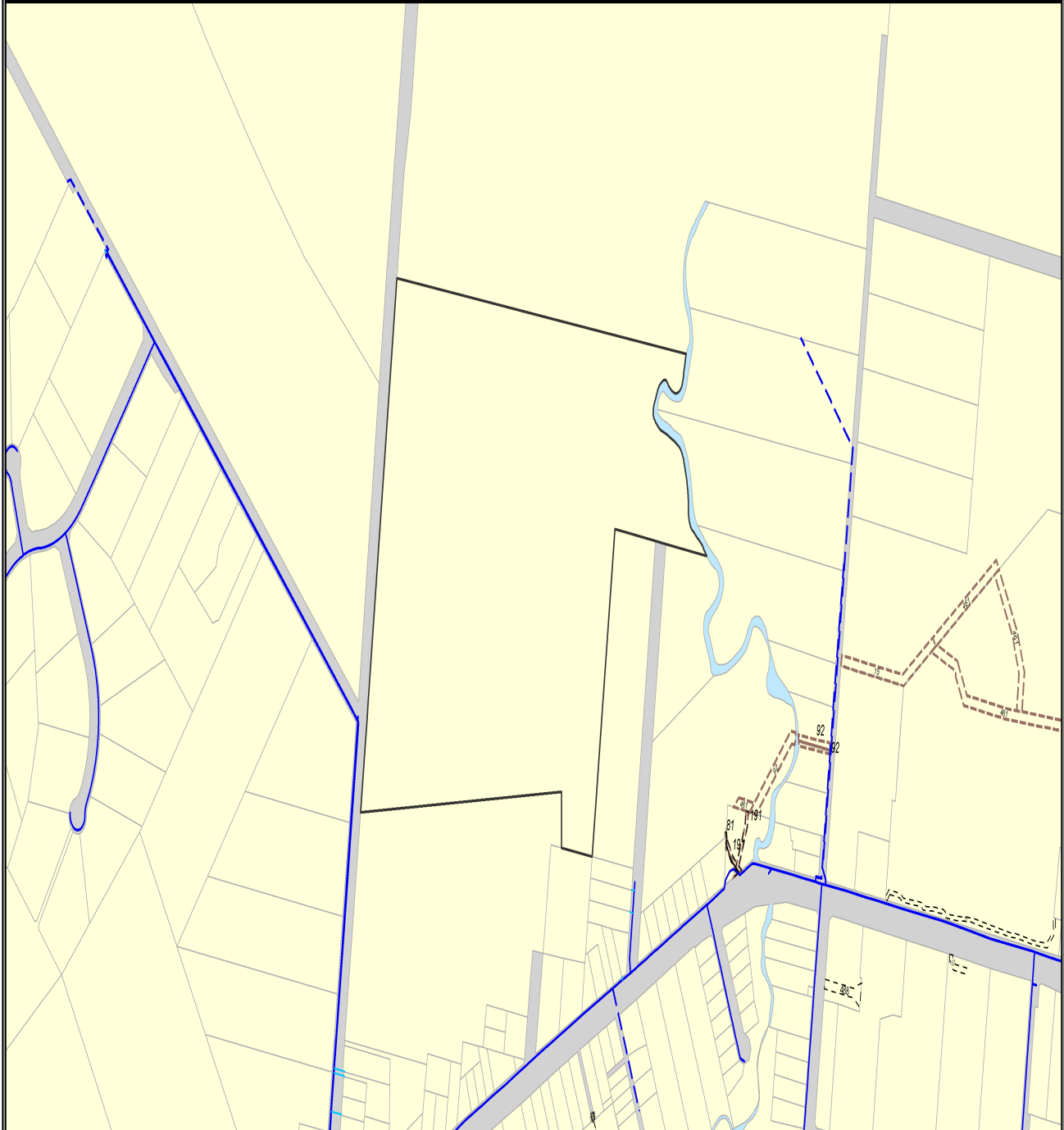
PROPERTY ADDRESS: 48 WINDERMERE RD LOCHINVAR 2321

LOT/SECTION/DP:SP: 1//DP 537313

APPLICANT REF: M NEW998-00005

48 WINDERMERE

LOCHINVAR NSW



Date: 12/04/2022  
CADASTRAL DATA © LPI OF NSW  
CONTOUR DATA © AMHatch  
© Department of Planning

Scale: at A3 1:5,000  
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.  
**A SEWERMAIN IS NOT AVAILABLE TO WHICH THE PROPERTY CAN BE CONNECTED.**

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

**IMPORTANT:**  
IF THIS PLAN INDICATES A SEWER CONNECTION IS AVAILABLE OR PROPOSED FOR THE SUBJECT PROPERTY, IT IS THE INTENDING OWNERS RESPONSIBILITY TO DETERMINE WHETHER IT IS PRACTICABLE TO DISCHARGE WASTEWATER FROM ALL PARTS OF THE PROPERTY TO THAT CONNECTION.  
ANY INFORMATION ON THIS PLAN MAY NOT BE UP TO DATE AND THE CORPORATION ACCEPTS NO RESPONSIBILITY FOR ITS ACCURACY.

Annexure E      Disclosure Statement

## Disclosure Statement – Off the Plan Contracts

This is the approved form for the purposes of s66ZM of the *Conveyancing Act 1919*.

<b>VENDOR</b>	Newpro 20 Pty Ltd ACN 639 377 987 ATF Newpro 20 Unit Trust
<b>PROPERTY</b>	Proposed Lot in a subdivision of 48 Windemere Road, Lochinvar – part folio 1/537313

TITLE STRUCTURE	
Will the lot be a lot in a strata scheme?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
Will the lot also be subject to a Strata Management Statement or Building Management Statement?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
Will the lot form part of a community, precinct or neighbourhood scheme?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes If Yes, please specify scheme type:

DETAILS					
Completion			Refer to clause(s):	Special Condition 41, 42, 43 and 44	
Is there a sunset date?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	Can this date be extended?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	Refer to clause(s):	Special Conditions 42 and 43
Does the purchaser pay anything more if they do not complete on time?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	Provide details, including relevant clause(s) of contract:	Notice to complete costs under Special Condition 44.2 Late interest under Special Condition 44.3		
Has development approval been obtained?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	Development Approval No:	DA/2020/1248		
Has a principal certifying authority been appointed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	Provide details:	NA		
Can the vendor cancel the contract if an event preventing or enabling the development does or does not occur?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	Provide details, including relevant clause(s) of contract:	Rescission under Special Conditions 40 and 41		

ATTACHMENTS (s66ZM(2) of the Conveyancing Act 1919)			
The following prescribed documents are included in this disclosure statement ( <i>select all that apply</i> )			
<input checked="" type="checkbox"/>	draft plan	<input type="checkbox"/>	draft community/precinct/neighbourhood/management statement
<input checked="" type="checkbox"/>	s88B instrument proposed to be lodged with draft plan	<input type="checkbox"/>	draft community/precinct/neighbourhood/development contract
<input type="checkbox"/>	proposed schedule of finishes	<input type="checkbox"/>	draft strata management statement
<input type="checkbox"/>	draft strata by-laws	<input type="checkbox"/>	draft building management statement
<input type="checkbox"/>	draft strata development contract		

# Annexure F      Design Guidelines

# DESIGN GUIDELINES

HOUSE DESIGNS  
MUST COMPLY WITH  
THE FOLLOWING  
DESIGN GUIDELINES  
THAT ARE INCLUDED  
IN THE LAND SALE  
CONTRACT:

NEW BEGINNINGS IN



#### **Front facade and secondary street facade for corner lots:**

Must include articulation and a mix of materials and colours.

#### **BRICK COLOUR:**

Speckled or red and black face bricks are not permitted.

#### **FRONT FENCES:**

Are not allowed. Hedges are permitted.

#### **SIDE FENCES:**

Must be constructed out of Colourbond Basalt at 1800mm high, this can be reduced to 1500mm high when built on top of a retaining wall.

Must not extend forward of a point, 700mm back from the front of the dwelling or the neighbouring dwelling (whichever is further back).

#### **FENCES (CORNER LOTS):**

On the secondary street must be 1800 mm Colorbond in 'Basalt', masonry piers in a face brick or bagged and painted in a colour that matches the house. Length should be a maximum of half the boundary measured from the rear.

#### **ROOF PALETTE:**

Tiles or Metal roofing is permitted in grey, navy or beige colours excluding tones such as Colorbond Mangrove, Evening Haze, Terrain, Manor Red, Cottage Green, Pale Eucalypt and Classic Cream.

#### **MASONRY BRICK LETTERBOX**

In face brick, rendered or painted in a colour that matches the house and is a minimum of 450mm wide and 1000mm high.

#### **LANDSCAPING**

Driveway from back of kerb to garage  
Turf from property boundary to building façade  
Garden beds and planting within the front yard

HILLCRESTLOCHINVAR.COM.AU