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Contract for the sale and purchase of land 2019 edition

TERM	MEANING OF TERM	eCOS ID: 67412520	NSW DAN:
vendor's agent	Burns & Burns Estate Agent		Phone: 041204140529
	1051 Pacific Highway, Pymble NSW 2073		Fax: Lee Burrows
co-agent			Ref:
vendor	GREGORY JOHN TOLHURST, ELISABETH MARY PEDEN		
vendor's solicitor	Keith Bagley Lawyer		Phone: 02 90116477
	Suite 119, Lvl 1 40 Yeo Street NEUTRAL BAY NSW 2089		Fax: 02 89696849
			Ref: KAB:PEDEN
date for completion	42 days after the contract date	(clause 15)	Email: carmen@keithbagleylawyer.com.au
land (Address, plan details and title reference)	9 GLADSTONE AVE WARRAWEE NSW 2074 LOT IN D/318743		
	☑ VACANT POSSESSION ☐ Subject to existing tenancies		
improvements	☑ HOUSE ☐ garage ☐ carport ☐ home unit ☐ carspace ☐ storage space		
	☐ none ☑ other: swimming pool, tennis court		
attached copies	☑ documents in the List of Documents as marked or as numbered:		
	☐ other documents:		

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

inclusions	☑ blinds	☑ dishwasher	☑ light fittings	☑ stove
	☑ built-in wardrobes	☑ fixed floor coverings	☑ range hood	☐ pool equipment
	☑ clothes line	☑ insect screens	☐ solar panels	☑ TV antenna
	☑ curtains	☑ other: tennis court equipment, alarm system, air conditioning unit		
exclusions				
purchaser				
purchaser's solicitor			Phone:	
			Fax:	
			Ref:	
price	$		Email:	
deposit	$		(10% of the price, unless otherwise stated)	
balance	$			
contract date			(if not stated, the date this contract was made)	

buyer's agent

vendor _____ witness _____

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

purchaser ☐ JOINT TENANTS ☐ tenants in common ☐ in unequal shares witness _____

Choices

vendor agrees to accept a ***deposit-bond*** (clause 3)	☑ NO	☐ yes
Nominated *Electronic Lodgment Network (ELN)* (clause 30)		
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:

Supplier's ABN:

Supplier's GST branch number (if applicable):

Supplier's business address:

Supplier's email address:

Supplier's phone number:

Supplier's proportion of *GSTRW payment*: $

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

Amount purchaser must pay – price multiplied by the *RW rate* (residential withholding rate): $

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

Is any of the consideration not expressed as an amount 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):

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List of Documents

General

- [x] 1 property certificate for the land
- [x] 2 plan of the land
- [ ] 3 unregistered plan of the land
- [ ] 4 plan of land to be subdivided
- [ ] 5 document that is to be lodged with a relevant plan
- [x] 6 section 10.7(2) planning certificate under Environmental Planning and Assessment Act 1979
- [x] 7 additional information included in that certificate under section 10.7(5)
- [x] 8 sewerage infrastructure location diagram (service location diagram)
- [x] 9 sewer lines location diagram (sewerage service diagram)
- [ ] 10 document that created or may have created an easement, profit à prendre, restriction on use or positive covenant disclosed in this contract
- [ ] 11 *planning agreement*
- [ ] 12 section 88G certificate (positive covenant)
- [ ] 13 survey report
- [ ] 14 building information certificate or building certificate given under *legislation*
- [ ] 15 lease (with every relevant memorandum or variation)
- [ ] 16 other document relevant to tenancies
- [ ] 17 licence benefiting the land
- [ ] 18 old system document
- [ ] 19 Crown purchase statement of account
- [ ] 20 building management statement
- [ ] 21 form of requisitions
- [ ] 22 *clearance certificate*
- [x] 23 land tax certificate

Home Building Act 1989

- [ ] 24 insurance certificate
- [ ] 25 brochure or warning
- [ ] 26 evidence of alternative indemnity cover

Swimming Pools Act 1992

- [x] 27 certificate of compliance
- [ ] 28 evidence of registration
- [ ] 29 relevant occupation certificate
- [ ] 30 certificate of non-compliance
- [ ] 31 detailed reasons of non-compliance

Strata or community title (clause 23 of the contract)

- [ ] 32 property certificate for strata common property
- [ ] 33 plan creating strata common property
- [ ] 34 strata by-laws
- [ ] 35 strata development contract or statement
- [ ] 36 strata management statement
- [ ] 37 strata renewal proposal
- [ ] 38 strata renewal plan
- [ ] 39 leasehold strata - lease of lot and common property
- [ ] 40 property certificate for neighbourhood property
- [ ] 41 plan creating neighbourhood property
- [ ] 42 neighbourhood development contract
- [ ] 43 neighbourhood management statement
- [ ] 44 property certificate for precinct property
- [ ] 45 plan creating precinct property
- [ ] 46 precinct development contract
- [ ] 47 precinct management statement
- [ ] 48 property certificate for community property
- [ ] 49 plan creating community property
- [ ] 50 community development contract
- [ ] 51 community management statement
- [ ] 52 document disclosing a change of by-laws
- [ ] 53 document disclosing a change in a development or management contract or statement
- [ ] 54 document disclosing a change in boundaries
- [ ] 55 information certificate under Strata Schemes Management Act 2015
- [ ] 56 information certificate under Community Land Management Act 1989
- [ ] 57 disclosure statement - off the plan contract
- [ ] 58 other document relevant to off the plan contract

Other

- [ ] 59

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

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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.

9 GLADSTONE AVENUE MAYFIELD NSW 2304

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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.

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WARNINGS

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

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

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

2. A lease may be affected by the Agricultural Tenancies Act 1990, the Residential Tenancies Act 2010 or the Retail Leases Act 1994.

3. If any purchase money is owing to the Crown, it will become payable before obtaining consent, or if no consent is needed, when the transfer is registered.

4. If a consent to transfer is required under legislation, see clause 27 as to the obligations of the parties.

5. The vendor should continue the vendor's insurance until completion. If the vendor wants to give the purchaser possession before completion, the vendor should first ask the insurer to confirm this will not affect the insurance.

6. The purchaser will usually have to pay 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.

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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 –

adjustment date	the earlier of the giving of possession to the purchaser or completion;
bank	the Reserve Bank of Australia or an authorised deposit-taking institution which is a bank, a building society or a credit union;
business day	any day except a bank or public holiday throughout NSW or a Saturday or Sunday;
cheque	a cheque that is not postdated or stale;
clearance certificate	a certificate within the meaning of s14-220 of Schedule 1 to the *TA Act*, that covers one or more days falling within the period from and including the contract date to completion;
deposit-bond	a deposit bond or guarantee from an issuer, with an expiry date and for an amount each approved by the vendor;
depositholder	vendor's agent (or if no vendor's agent is named in this contract, the vendor's *solicitor*, or if no vendor's *solicitor* is named in this contract, the buyer's agent);
document of title	document relevant to the title or the passing of title;
FRCGW percentage	the percentage mentioned in s14-200(3)(a) of Schedule 1 to the *TA Act* (12.5% as at 1 July 2017);
FRCGW remittance	a remittance which the purchaser must make under s14-200 of Schedule 1 to the *TA Act*, being the lesser of the *FRCGW percentage* of the price (inclusive of GST, if any) and the amount specified in a *variation served* by a *party*;
GST Act	A New Tax System (Goods and Services Tax) Act 1999;
GST rate	the rate mentioned in s4 of A New Tax System (Goods and Services Tax Imposition - General) Act 1999 (10% as at 1 July 2000);
GSTRW payment	a payment which the purchaser must make under s14-250 of Schedule 1 to the *TA Act* (the price multiplied by the *GSTRW rate*);
GSTRW rate	the rate determined under ss14-250(6), (8) or (9) of Schedule 1 to the *TA Act* (as at 1 July 2018, usually 7% of the price if the margin scheme applies, 1/11th if not);
legislation	an Act or a by-law, ordinance, regulation or rule made under an Act;
normally	subject to any other provision of this contract;
party	each of the vendor and the purchaser;
property	the land, the improvements, all fixtures and the inclusions, but not the exclusions;
planning agreement	a valid voluntary agreement within the meaning of s7.4 of the Environmental Planning and Assessment Act 1979 entered into in relation to the *property;*
requisition	an objection, question or requisition (but the term does not include a claim);
rescind	rescind this contract from the beginning;
serve	serve in writing on the other *party*;
settlement cheque	an unendorsed *cheque* made payable to the person to be paid and – • issued by a *bank* and drawn on itself; or • if authorised in writing by the vendor or the vendor's *solicitor*, some other *cheque*;
solicitor	in relation to a *party*, the *party's* solicitor or licensed conveyancer named in this contract or in a notice *served* by the *party*;
TA Act	Taxation Administration Act 1953;
terminate	terminate this contract for breach;
variation	a variation made under s14-235 of Schedule 1 to the *TA Act*;
within	in relation to a period, at any time before or during the period; and
work order	a valid direction, notice or order that requires work to be done or money to be spent on or in relation to the *property* 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.

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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.

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7 Claims by purchaser

Normally, the purchaser can make a claim (including a claim under clause 6) before completion only by *serving* 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 *serving* 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 *serving* 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;

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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 –

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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.

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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.

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20 Miscellaneous

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

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

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

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

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

20.6 A document under or relating to this contract is –

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 Time limits in these provisions

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

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

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

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

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

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

22 Foreign Acquisitions and Takeovers Act 1975

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

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

23 Strata or community title

• Definitions and modifications

23.1 This clause applies only if the land (or part of it) is a lot in a strata, neighbourhood, precinct or community scheme (or on completion is to be a lot in a scheme of that kind).

23.2 In this contract –

23.2.1 'change', in relation to a scheme, means –

- a registered or registrable change from by-laws set out in this contract;
- a change from a development or management contract or statement set out in this contract; or
- a change in the boundaries of common property;

23.2.2 'common property' includes association property for the scheme or any higher scheme;

23.2.3 'contribution' includes an amount payable under a by-law;

23.2.4 'information certificate' includes a certificate under s184 Strata Schemes Management Act 2015 and s26 Community Land Management Act 1989;

23.2.5 'information notice' includes a strata information notice under s22 Strata Schemes Management Act 2015 and a notice under s47 Community Land Management Act 1989;

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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.

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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 earnt 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 –

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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

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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*.

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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*;

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electronic transaction	a *Conveyancing Transaction* to be conducted for the *parties* by their legal representatives as *Subscribers* using an *ELN* and in accordance with the *ECNL* and the *participation rules;*
electronically tradeable	a land title that is Electronically Tradeable as that term is defined in the *conveyancing rules;*
incoming mortgagee	any mortgagee who is to provide finance to the purchaser on the security of the *property* and to enable the purchaser to pay the whole or part of the price;
mortgagee details	the details which a *party* to the *electronic transaction* must provide about any *discharging mortgagee* of the *property* as at completion;
participation rules	the participation rules as determined by the *ECNL;*
populate	to complete data fields in the *Electronic Workspace*; and
title data	the details of the title to the *property* made available to the *Electronic Workspace* by the *Land Registry.*

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.

9 GLADSTONE ST NEWTOWN NSW 2042

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SPECIAL CONDITIONS

SPECIAL CONDITIONS TO CONTRACT FOR SALE OF LAND

VENDORS: **GREGORY JOHN TOLHURST & ELISABETH MARY PEDEN**

PURCHASER:

PROPERTY:

DATED: **day of** **2020**

32.A AMENDMENTS TO PRINTED FORM.

32.A.1 For the purposes of this Contract the terms of clauses 1 to 31as printed on pages 5 to 17 of the form of Contract for Sale to which these clauses are annexed will be deemed to be amended as follows:

32.A.1.1 Clause 7.1.3:	replace the word and figure "14 days" with "7days".
32.A.1.2 Clause 10.1.9:	replace first line with "The Purchaser cannot make a claim, objection or requisition, delay completion or rescind or terminate in respect of".
32.A.1.3 Clause 16.5:	delete Clause 16.5.
32.A.1.4 Clause 16.8:	replace the words "settlement cheques" with the words "bank cheques" and replace the amount of of "$10" with the amount of "($5)".
32.A.1.6 Clause 23:	Clause 23 delete Clause 23.9.1.

33. PROPERTY SOLD SUBJECT TO EXISTING SERVICES

The purchaser represents and warrants to the vendor that the purchaser has satisfied itself as to the existence, position and nature of, and acknowledges that it takes title subject to, all water, sewerage, drainage, gas, electricity and other mains and services, connections, pipes or distributors installed in the property, whether or not operational, and whether or not connected to the property or to any improvements on the property. The purchaser must not make a requisition, or claim, or attempt to delay completion or attempt to rescind or terminate because of the existence, position or nature of any of these things.

34. POSITION OF PIPES

34.1 Acknowledgement

The purchaser acknowledges that the drainage diagram attached to this contract is that currently available in the ordinary course of business from Sydney Water.

34.2 No requisition

Subject to the purchaser's rights under section 52A of the Conveyancing Act 1919 and under the Conveyancing (Sale of Land) Regulation 2005, the purchaser must not make a requisition, or claim, or attempt to delay completion or attempt to rescind or terminate because of anything in connection with:

(a) the sewerage and drainage works that are eventually installed in the property or the common property, including any easement to be granted in connection with those sewerage and drainage works and the property or the common property being constructed wholly or partly over a Sydney Water sewer if this is done with the approval of and to the requirements of Sydney Water; and

(b) the location or proposed location of all other services to the property or the common property that may affect or pass through the property including gas, electricity, water and telephone.

35. SURVEY

35.1 Purchaser's warranty

The purchaser represents and warrants to the vendor that the purchaser has satisfied itself as to:

(a) the identification of the property;

(b) the position of any improvements on the property;

(c) any encroachment by or on the property; and

(d) whether or not there are irregularities in connection with the property under the Local Government Act 1993 or the Environmental Planning and Assessment Act 1979 or any ordinance or regulation made under either of them.

35.2 Purchaser's expense

If the purchaser requires a survey, it must obtain one at its own expense.

35.3 No requisition

The purchaser must not make a requisition, or claim, or attempt to delay completion or attempt to rescind or terminate because of anything in connection with:

(a) any of the matters referred to in clause 35.1; or

(b) any boundary of the property not being fenced or any fence not being on its correct boundary or being a give and take fence.

36. REAL ESTATE AGENT

The purchaser warrants that the purchaser was not introduced to the vendor or the property by any Real Estate Agent except the Agent (if any) named on the front page of this contract and the purchaser indemnifies the vendor (and if more than one each of them) against any claim for commission which might be made by an Agent resulting from an introduction forming a breach of such warranty and against all costs and expenses incidental to defending any such claim. It is agreed that these indemnities shall be continuing indemnities not merging on completion.

37. WARRANTY AND CONDITION OF PROPERTY

37.1 Warranty

The purchaser acknowledges having inspected the improvements (if any) erected on the property and the furnishings and chattels (if any) referred to on the front page of this contract and warrants that the property improvements and inclusions (if any) are being purchased in their present condition and state of repair and without representation as to their quality or fitness for a particular purpose and will make no requisition or claim for compensation in respect thereof.

37.2 Condition of property

Without in any manner excluding, modifying or restricting the rights of the purchaser pursuant to Section 52A (2)(b) of the Conveyancing Act, 1919;

(a) the property (and inclusions, if any) is sold in its condition and state of repair (including structural repair) as at the date of this contract and subject to all faults and defects both latent and patent and the purchaser must not make any objection, requisition or claim for compensation regarding the condition and state of repair of the property;

(b) no objection, requisition or claim for compensation may be made by the purchaser on account of any of the following:

(i) any matter disclosed in any survey or report or plan annexed to this contract (if any) in relation to the property and the vendor does not warrant the accuracy, completeness or the current application of such survey report or plan;

(ii) any matter disclosed in any Building Certificate issued under the Local Government Act (1993) or the Environmental Planning and Assessment Act (1979) (as the case may be) annexed to this contract (if any); or

(iii) any encroachment by a dividing fence (as defined by the dividing Fences Act, 1991) on the property or any adjoining property whether disclosed by a survey or not.

38. OUTSTANDING CHARGES

The vendor is not be obliged to remove any charge on the property for a rate, tax or outgoing until completion. The vendor is not to be taken to be unable, not ready or unwilling to complete because there is a charge on the property for a rate, tax or outgoing. The vendor may serve a notice to complete even if, at the time the notice is served or at any time after that, there is a charge on the property for a rate, tax or outgoing.

39. MORTGAGES, WRITS, CAVEATS NO IMPEDIMENT TO COMPLETION

If a mortgage, writ or caveat is noted, or is lodged for registration but not yet registered, on any certificate of title for the whole or any part of the property:

(a) this does not prevent the vendor serving a notice to complete if the vendor is otherwise entitled to do so; and

(b) on completion, the purchaser must accept, if required by the vendor, a discharge of that mortgage or a withdrawal of that writ or caveat so far as it relates to the property, if the discharge or withdrawal is in registrable form and the vendor allows the registration fees to the purchaser on completion.

40. DEPOSIT BY INSTALMENTS

40.1 The purchaser acknowledges that the vendor has an unconditional right:

(a) to have a sum equal to 10% of the purchase price as deposit on making of this contract; and

(b) to keep or recover that sum as set out in clause 9.1 of the contract, if the purchaser defaults under this contract.

40.2 The vendor will accept the deposit in 2 instalments, each of 5% of the price, the first such instalment must be paid by the purchaser in accordance with clauses 2.1 & 2.2 of the contract and the second instalment must be paid by the purchaser on the later of the completion date set out on the front of this contract or the date that is made essential for completion in a valid notice to complete served by either party.

41. NOTICE TO COMPLETE

41.1 Notice to Complete

If, for any reason other than default or delay by the party proposing to give a Notice to Complete, this contract is not completed by 3.00pm on the Completion Date, the party not in default may serve on the party in default a Notice to Complete:

(a) requiring the other party to complete this contract within 14 days after the service of the Notice to Complete; and

(b) making time of the essence.

41.2 Terms of Notice to Complete

For the purposes of clause 15 of this contract, the parties agree that a period of 14 days following the date of service of any such Notice to Complete is deemed to be a reasonable time for completion pursuant to any such Notice.

41.3 Party serving Notice

The party serving a Notice to complete may at any time or times:

(a) withdraw the Notice to Complete by a further notice to the party in default; and

(b) at its option issue a further Notice to Complete.

41.4 Vendor

The vendor:

(a) is not obliged to remove any charge on the property for any outgoings until completion;

(b) will not be deemed to be unable, not ready or unwilling to complete this contract by reason of the existence of any charge on the property for any outgoings;

(c) may serve a Notice to Complete on the purchaser notwithstanding that, at the time such Notice is issued or at any subsequent time, there is a charge on the property for any outgoings.

42. DAMAGES FOR FAILURE TO COMPLETE

42.1 Damages

In addition to the right of the Vendor to issue a Notice to Complete, if completion does not take place on or before the Completion Date, then the vendor has the right (in addition to all other monies payable to the vendor pursuant to this contract) to require the purchaser to pay damages on completion calculated on the balance of the purchase price at a rate of eight 8% per annum from and including the day after the Completion Date up to and including the date that completion in fact occurs.

42.2 Assessment of loss

The parties agree that the damages payable by the purchaser pursuant to this clause represents a fair and reasonable assessment of the loss occasioned to the vendor due to the purchaser's failure to complete within the specified time.

42.3 Vendor not liable

The vendor shall not be liable to the purchaser for any damage or loss suffered by the purchaser due to the vendor's failure to complete unless such failure constitutes a breach of an essential term of this contract.

43. INCAPACITY

Without in any manner negating limiting or restricting any rights or remedies which would have been available to the a party at law or in equity had this clause not been included in this Contract, should a party die or go bankrupt or if a company goes into liquidation or otherwise than for the purpose of reconstruction or a Receiver and Manager is appointed in relation to the affairs of that party, then the other party may rescind this Contract and thereupon this Contract shall be at an end and the provisions of clause 19 shall apply.

44. ENVIRONMENTAL PLANNING INSTRUMENTS

The purchaser purchases the property subject to regulations, restrictions and controls imposed by any relevant environmental planning instruments (and all other relevant planning controls and proposals) and shall satisfy and is deemed to have satisfied itself as to the purposes for which the property may be used in accordance with the requirements of all such planning and environmental regulations, restrictions and controls.

45. PURCHASER FINANCE

The purchaser warrants to the vendor that the purchaser has the necessary funds to complete the purchase of the property. This warranty is a continuing warranty and if at any time the purchaser's warranty is found to be not true, the purchaser will have failed to have complied with this contract in an essential respect and the provisions of clause 19 will apply.

46. INCONSISTENCY

If there is any inconsistency in this contract between the printed clauses and these special conditions, these special conditions prevail to the extent of that inconsistency.

47. REQUISITIONS

For the purposes of clause 5.1, the requisitions about the property or the title must be in the form of the attached requisitions.

48. GUARANTEE – CORPORATE PURCHASER

If the purchaser is a corporation, the purchaser will procure two (2) natural persons over the age of 18 years who are directors or shareholders of the purchaser to unconditionally guarantee the due performance of the purchaser's obligations under this Contract and the due and punctual payment by the purchaser of the purchase price and all other monies payable by the purchaser to the vendor under this Contract. Such guarantee shall be in the form annexed to this Contra; and ct and shall be executed and handed over on exchange and in this respect time shall be of the essence of the contract.

49. SWIMMING POOL

49.1 The Vendor discloses, and the Purchaser acknowledges:

(a) that the property includes a swimming pool within the meaning of the Swimming Pools Act 1992 (Act); and

(b) annexed hereto is a copy of the Certificate of Registration dated 11 October 2013 pursuant to Section 30C of the Act; and

(c) Certificate of Compliance under section 22D of the Act expiring on 27 June 2021.

49.2 Subject to the purchaser's rights under section 52A of the Conveyancing Act 1919 and under the Conveyancing (Sale of Land) Regulations 2017, the purchaser must not make a requisition or claim, or attempt to delay completion nor attempt to rescind or terminate the contract because of anything in connection with:

(a) the swimming pool at the property;

(b) the fences, windows, doors and gates around the swimming pool or at the property;

(c) any absence of fences, windows, doors or gates; or

(d) any non-compliance with the Swimming Pools Act 1992 or any unavailability of a certificate within the meaning of that Act.

REQUISITIONS

RESIDENTIAL PROPERTY REQUISITIONS ON TITLE

Vendor:
Purchaser:
Property:
Dated:

Possession and tenancies

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

Title

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

Adjustments

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

Survey and building

14. Subject to the Contract, survey should be satisfactory and show that the whole of the Property is available and that there are no encroachments by or upon the Property and that all improvements comply with local government/planning legislation.
15. Is the vendor in possession of a survey report? If so, please produce a copy for inspection prior to completion. The original should be handed over on completion.
16.
   (a) Have the provisions of the *Local Government Act (NSW)*, the *Environmental Planning and Assessment Act 1979 (NSW)* and their regulations been complied with?
   (b) Is there any matter that could justify the making of an upgrading or demolition order in respect of any building or structure?
   (c) Has the vendor a Building Information Certificate of a Building Certificate which relates to all current buildings or structures? If so, it should be handed over on completion. Please provide a copy in advance.
   (d) Has the vendor a Final Occupation Certificate (as referred to in the former s109C of the Environmental Planning and Assessment Act) or an Occupation Certificate as referred to in s6.4 of that Act for all current buildings or structures? If so, it should be handed over on completion. Please provide a copy in advance.

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(e) In respect of any residential building work carried out in the last 7 years:
  (i) please identify the building work carried out;
  (ii) when was the building work completed?
  (iii) please state the builder's name and licence number;
  (iv) please provide details of insurance or any alternative indemnity product under the *Home Building Act 1989 (NSW)*.

17.
(a) Has the vendor (or any predecessor) entered into any agreement with or granted any indemnity to the Council or any other authority concerning any development on the Property?
(b) Is there any planning agreement or other arrangement referred to in s7.4 of the Environmental Planning and Assessment Act, (registered or unregistered) affecting the Property. If so please provide details and indicate if there are any proposals for amendment or revocation?

18. If a swimming pool is included in the sale:
(a) did its installation or construction commence before or after 1 August 1990?
(b) has the swimming pool been installed or constructed in accordance with approvals under the *Local Government Act 1919 (NSW)* and *Local Government Act 1993 (NSW)*?
(c) does it comply with the provisions of the *Swimming Pools Act 1992 (NSW)* and regulations relating to access? If not, please provide details or the exemptions claimed;
(d) have any notices or orders issued or been threatened under the *Swimming Pools Act 1992 (NSW)* or regulations?
(e) if a certificate of non-compliance has issued, please provide reasons for its issue if not disclosed in the contract;
(f) originals of certificate of compliance or non-compliance and occupation certificate should be handed over on settlement.

19.
(a) To whom do the boundary fences belong?
(b) Are there any party walls?
(c) If the answer to Requisition 19(b) is yes, specify what rights exist in relation to each party wall and produce any agreement. The benefit of any such agreement should be assigned to the purchaser on completion.
(d) Is the vendor aware of any dispute regarding boundary or dividing fences or party walls?
(e) Has the vendor received any notice, claim or proceedings under the *Dividing Fences Act 1991 (NSW)* or the *Encroachment of Buildings Act 1922 (NSW)*?

Affectations/Benefits

20.
(a) Is the vendor aware of any rights, licences, easements, covenants or restrictions as to use affecting or benefiting the Property other than those disclosed in the Contract? If a licence benefits the Property please provide a copy and indicate:
  (i) whether there are any existing breaches by any party to it;
  (ii) whether there are any matters in dispute; and
  (iii) whether the licensor holds any deposit, bond or guarantee.
(b) In relation to such licence:
  (i) All licence fees and other moneys payable should be paid up to and beyond the date of completion;
  (ii) The vendor must comply with all requirements to allow the benefit to pass to the purchaser.

21. Is the vendor aware of:
(a) any road, drain, sewer or storm water channel which intersects or runs through the land?
(b) any dedication to or use by the public of any right of way or other easement over any part of the land?
(c) any latent defects in the Property?

22. Has the vendor any notice or knowledge that the Property is affected by the following:
(a) any resumption or acquisition or proposed resumption or acquisition?
(b) any notice requiring work to be done or money to be spent on the Property or any footpath or road adjoining? If so, such notice must be complied with prior to completion.
(c) any work done or intended to be done on the Property or the adjacent street which may create a charge on the Property or the cost of which might be or become recoverable from the purchaser?
(d) any sum due to any local or public authority? If so, it must be paid prior to completion.
(e) any realignment or proposed realignment of any road adjoining the Property?
(f) the existence of any contamination including, but not limited to, materials or substances dangerous to health such as asbestos and fibreglass or polyethylene or other flammable or combustible material including cladding?

23.
(a) Does the Property have the benefit of water, sewerage, drainage, electricity, gas and telephone services?
(b) If so, do any of the connections for such services pass through any adjoining land?
(c) Do any service connections for any other Property pass through the Property?

24. Has any claim been made by any person to close, obstruct or limit access to or from the Property or to an easement over any part of the Property?

Capacity

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

Requisitions and transfer

26. If not attached to the Contract and the transaction is not an excluded transaction, any *clearance certificate* under Section 14-220 of Schedule 1 of the *Taxation Administration Act 1953 (Cth)* should be served on the purchaser at least 7 days prior to completion.
27. The vendor should furnish completed details within the time specified in the contract, sufficient to enable the purchaser to make any RW payment.
28. If the transfer or any other document to be handed over on completion is executed pursuant to a power of attorney, then at least 7 days prior to completion a copy of the registered power of attorney should be produced and found in order.
29. If the vendor has or is entitled to have possession of the title deeds the Certificate Authentication Code must be provided 7 days prior to settlement.
30. Searches, surveys, enquiries and inspection of title deeds must prove satisfactory.
31. The purchaser reserves the right to make further requisitions prior to completion.
32. Unless we are advised by you to the contrary prior to completion, it will be assumed that your replies to these requisitions remain unchanged as at the completion date.

TITLE SEARCHES

LAND REGISTRY SERVICES **Title Search** InfoTrack

NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: AUTO CONSOL 4160-106

SEARCH DATE	TIME	EDITION NO	DATE
2/4/2020	11:06 AM	11	2/9/2018

NO CERTIFICATE OF TITLE HAS ISSUED FOR THE CURRENT EDITION OF THIS FOLIO.
CONTROL OF THE RIGHT TO DEAL IS HELD BY COMMONWEALTH BANK OF AUSTRALIA.

LAND

LAND DESCRIBED IN SCHEDULE OF PARCELS
AT TURRAMURRA
LOCAL GOVERNMENT AREA KU-RING-GAI
PARISH OF GORDON COUNTY OF CUMBERLAND
TITLE DIAGRAM SEE SCHEDULE OF PARCELS

FIRST SCHEDULE

GREGORY JOHN TOLHURST
ELISABETH MARY PEDEN
AS JOINT TENANTS (T 8423401)

SECOND SCHEDULE (5 NOTIFICATIONS)

1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
2 B593886 EASEMENT FOR DRAINAGE AFFECTING THAT PART OF LOT A SHOWN SO BURDENED IN VOL 4160 FOL 106
3 C850145 EASEMENTS AFFECTING THOSE PARTS OF LOT D SHOWN SO BURDENED IN VOL 4160 FOL 106
4 W515698 EASEMENT FOR DRAINAGE AFFECTING THE PART SHOWN 15 WIDE IN PLAN WITH W515698
5 8423402 MORTGAGE TO COMMONWEALTH BANK OF AUSTRALIA

NOTATIONS

UNREGISTERED DEALINGS: NIL

SCHEDULE OF PARCELS	TITLE DIAGRAM
LOT D IN DP318743	DP318743
LOT A IN DP319500	DP319500.

*** END OF SEARCH ***

KAB:PEDEN PRINTED ON 2/4/2020

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

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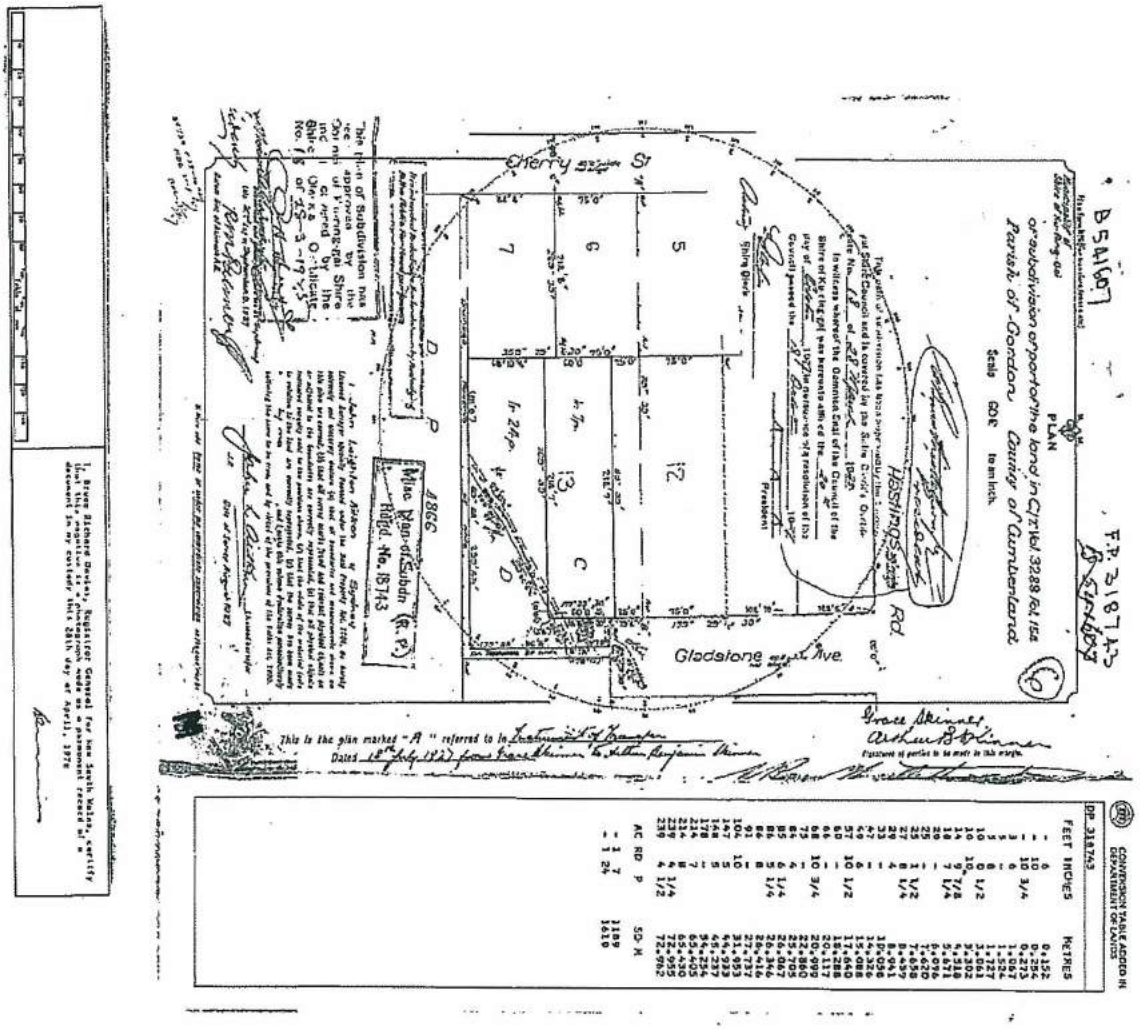
Received: 02/04/2020 11:06:50

InfoTrack

Req:R885314 /Doc:DP 0318743 P /Rev:25-Sep-1992 /NSW LRS /Pgs:ALL /Prt:02-Apr-2020 11:23 /Seq:1 of 1
© Office of the Registrar-General /Src:INFOTRACK /Ref:KAB:PEDEN



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© Office of the Registrar-General /Src:INFOTRACK /Ref:KAB:PEDEN

B 590507

F.P 319500 (E) B 590507

Plan Form No. 7 (for compilations)

Municipality of
Shire of Ku-ring-gai

PLAN OF

PROPOSED SUBDIVISION OF PART OF LOT 9 D.P. 4866

Parish of Gordon County of Cumberland.

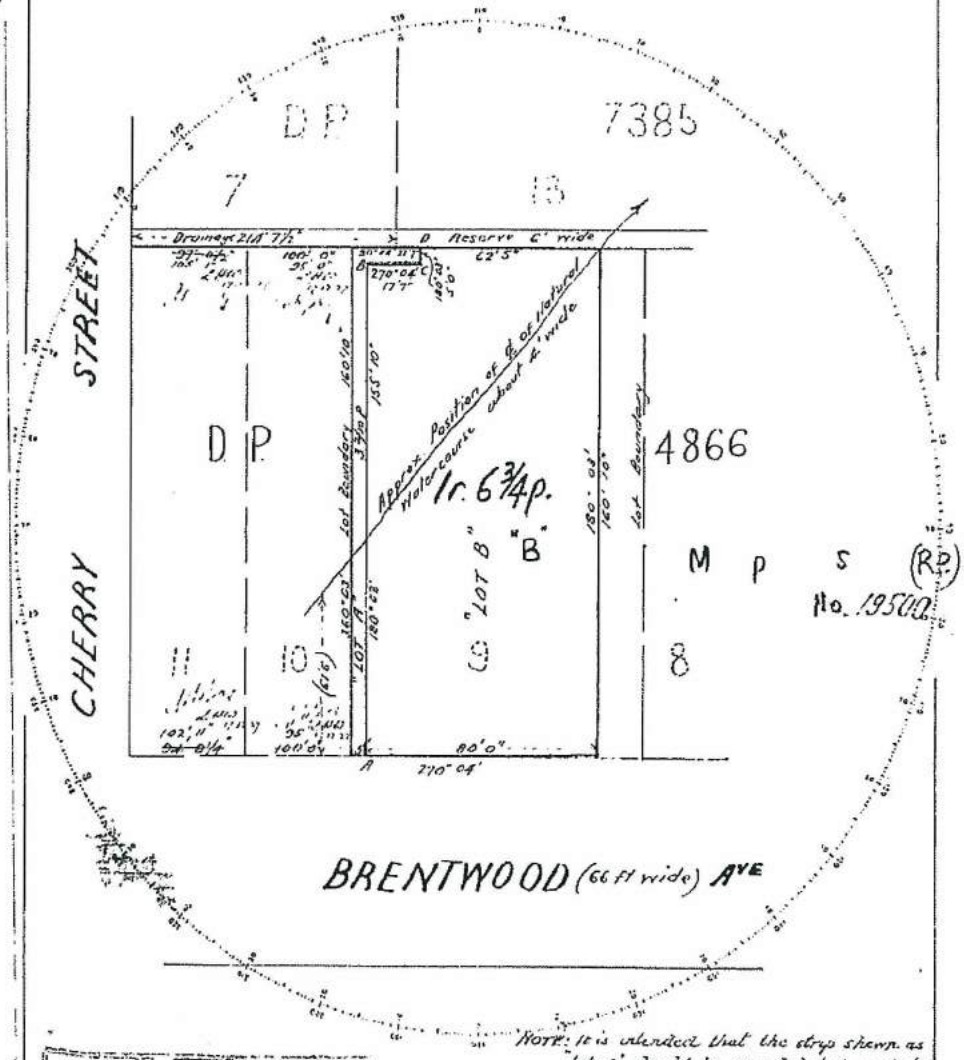
Scale 40 Feet to an Inch.

CONVERSION TABLE ADDED BY DEPARTMENT OF LANDS

DP 319500

FEET	INCHES	METRES
-	4	0.102
5	-	1.524
6	-	1.829
17	7	5.359
22	7	6.883
62	5	19.025
80	-	24.384
95	-	28.956
97	8 1/2	29.782
100	-	30.480
102	11	31.369
105	1	32.029
155	10	47.498
160	10	49.022
177	7	54.127
180	3	54.940
214	7 1/2	65.418

AC	RD	P	SQ M
-	1	6 3/4	1102



NOTE: It is intended that the strip shewn as "Lot A" should be consolidated in Cert. of Title which includes Lot 13 of D.P. 7385.

This plan of Subdivision has been approved by the Council of Ku-ring-gai Shire and is covered by the Shire Clerk's Certificate No. 140 of 18 August 1961.

[signature]
Acting Shire Clerk

I certify that this plan has been compiled with the exception of points A B C D from the information shown on D.P. 4866 & 7385, also Reg Plan No. 10125 and is correct for the purpose of the Real Property Act.

L.H. Webber
Licensed Surveyor.
5.10.27

J.L. 23-11-27

Signatures of parties to be made in this manner.

This is the plan marked "" referred to in Dated

Office of the Registrar-General /Src:INFOTRACK /Ref:RAB:REDEN

New South Wales

B593886M

MEMORANDUM OF TRANSFER AND GRANT OF DRAINAGE EASEMENT

R125 11 27 S

(Real Property Act 1900)

I, WILLIAM SACH of Turramurra in the State of New South Wales Builder (hereinafter called "the transferror") being registered as the proprietor of an estate in fee simple in the land hereinafter described (subject however to such encumbrances liens and interests as are notified hereunder in consideration of the sum of TEN SHILLINGS (10/) (the receipt whereof is hereby acknowledged) paid to me by THE COUNCIL OF THE SHIRE OF KU-RING-GAI (hereinafter called "the Council") DO HEREBY GRANT AND TRANSFER to the Council to be used by it as appurtenant to Brentwood Avenue Turramurra aforesaid FULL AND FREE RIGHT AND LIBERTY to make lay out construct and forever use and maintain a pipe drain twelve inches in diameter upon in through and/or under the piece of land five feet wide situated at Turramurra aforesaid in the Shire aforesaid Parish of Gordon and County of Cumberland more particularly delineated on the plan annexed hereto marked with the letter "A" and thereon hatched in black being part of the land comprised in Certificate of Title dated 22nd December 1926 registered volume 3951 folio 133 for the purpose of conveying and carrying off surface and storm-waters from Brentwood Avenue aforesaid And for that purpose to remove and carry away all or any of the clay sand gravel stones and earth which shall be taken out of the said piece of land and/or to use all or any part thereof in the making laying out and constructing the said drain and/or to leave same or any part or parts thereof upon the said piece of land TOGETHER WITH FULL AND FREE RIGHT AND LIBERTY from time to time and at all times to inspect the condition of and to cleanse maintain mend repair and/or relay the said drain or any part or parts thereof and for such purposes or any of them at all reasonable times with surveyors workmen horses carts and other persons and things to enter into and upon the said piece of land and to bring and place and leave thereon and/or to remove therefrom all necessary materials machinery implements and things and to remove and carry away and/or use and/or leave as aforesaid all or any of the clay sand gravel stones and earth which shall be taken out of the said piece of land and to do all such acts and things as may be deemed by the Council to be necessary AND the transferror hereby covenants with the Council that the transferror will not do permit or suffer any act deed matter or thing whereby the said drain shall or shall be likely to become injured or damaged or whereby the Council shall be prevented from or hampered in constructing

maintaining mending repairing or cleansing the said drain or any part or parts thereof or interfere with the free flow and passage of soil or water through the same AND THAT if he the transferror shall do permit or suffer anything which shall injure or damage the said drain or any part thereof or shall interfere with the free flow and passage of soil or water through the same he the transferror will forthwith at his own expense properly and substantially repair and make good all such injury or damage and restore the free flow and passage of soil or water through the said drain and do all things necessary or expedient for the purposes aforesaid or any of them AND will not erect or permit to be erected any building or other erection of any kind or description over such piece of land without the Council's permission in writing being first had and obtained AND for the purpose of Section 89 of the "Conveyancing Act 1919" IT IS HEREBY EXPRESSLY AGREED AND DECLARED that:-

(a) the land to which the benefit of this covenant is intended to be appurtenant is Brentwood Avenue aforesaid

(b) the land which is to be subject to the burden of such covenant is the said piece of land five feet wide hatched in black as aforesaid

(c) the said covenant may be released varied or modified only with the consent of the Council or its successors.

ENCUMBRANCES ETC. REFERRED TO

RESERVATIONS of all mines of gold and of silver

DATED at Sydney this fourteenth day of November 1927

SIGNED in my presence by the transferror)
who is personally known to me)

W. Sach

J. Myers Robin
97 Elizabeth St Sydney

Accepted and I hereby certify By this instrument to be correct for the purposes of the Real Property Act 1900.

SIGNED in my presence by ~~CHRISTOPHER BOWES THISTLETHWAYTE~~ (the President of and for and on behalf of the Council of the Shire of Ku-ring-gai) who is personally known to me

George Christie (the deputy)

Geo Christie

Deputy President

A H Smith

Shire Clerk

Office of the Registrar-General /Src: INFOTRACK /Rec: KAB: PEDEN

B 593886

A

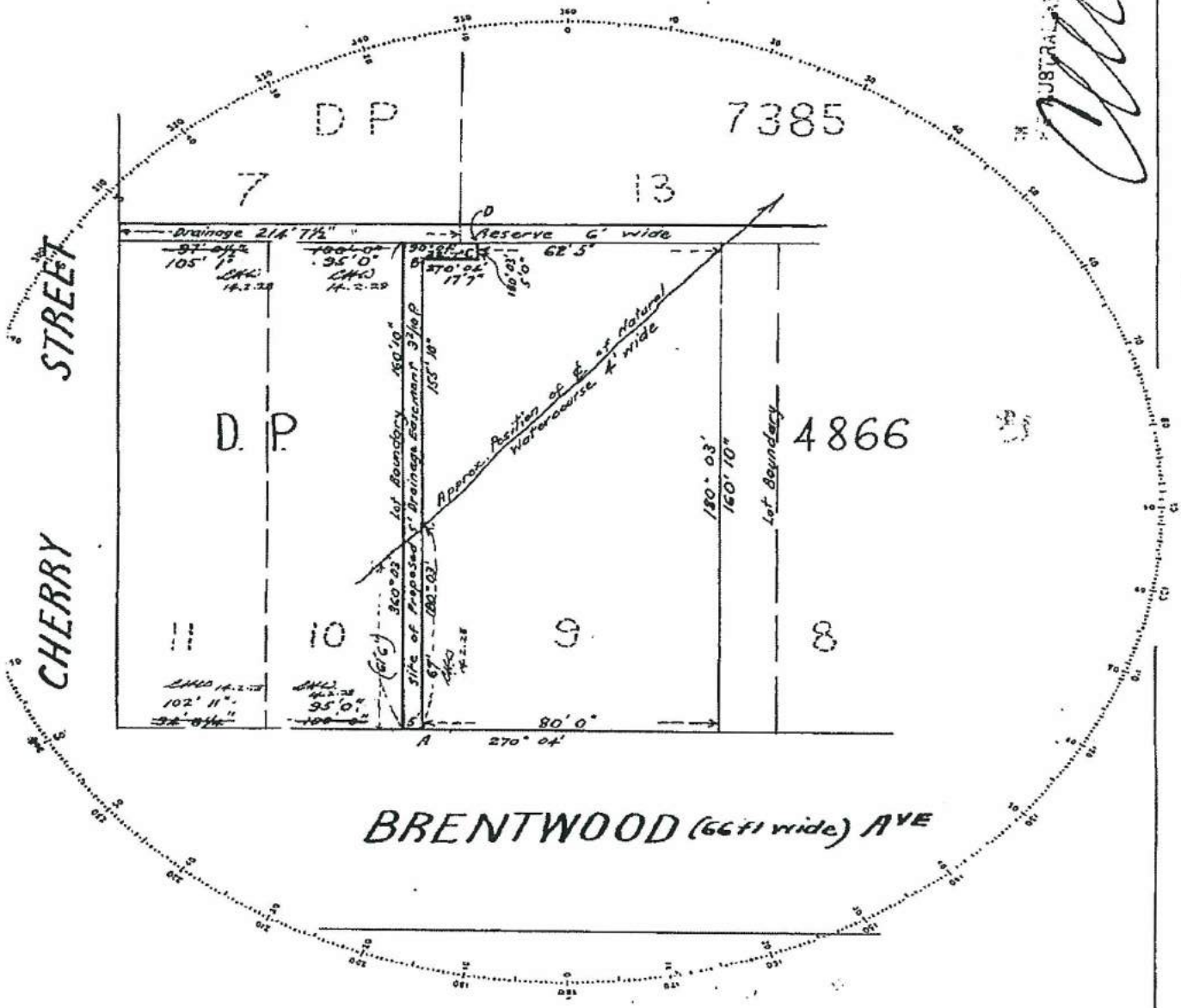
an Form No. 7 (for compilations)

Municipality of
Shire of Ku-ring-gai

SITE PLAN OF PROPOSED DRAINAGE EASEMENT, BEING PART OF LOT 9 D.P. 4866

Parish of Gordon County of Cumberland

Scale 40 Feet to an Inch.



I certify that this plan has been compiled with the exception of points A, B, C & D from the information shown on D.P.s 4866 & 7385, also Reg Plan N° 10125 and is correct for the purpose of the Real Property Act.

L. A. Webber
Licensed Surveyor.
5. 10. 27

This is the plan marked "A" referred to in Transfer by Transfer and Grant of Drainage Easement from William Jack to the Council of the Municipality of Ku-ring-gai Dated the 14th day of November 1927

Signatures of parties to be made in this space

J.L. 1.12.27.

Office of the Registrar-General /Src:INFOTRACK /Ref:RAB:PEDEN .155 hereby consents to the within
nsfer and Grant of Easement but without prejudice to its rights and remedies and
ers as regards the land comprised in such Mortgage.
ED at Sydney --- this Fourteenth day of Nov? 1927.

COMMON SEAL of The Australian Bank)
Commerce Limited was hereto affixed)
Order of the Board of Directors in)
presence of)

& Cam Eccles ...)
... J. J. Gillespie ...) Directors.
... H.R. Leaver ...)

... A. C. Shannon ... General Manager.

Office of the Registrar-General /Src: INFOTRACK /Doc: NAB: PEDEN

Easement for Drainage &c.
over Part Lot 9 D.P. 4866
at Turramurra
Shire Ku-ring-gai
& Gordon
Co Cumberland.

Subject to Covenant

Lodged by

DOWLING TAYLER MACDONALD & W.
Wingello House,
Angel Place,
SYDNEY

The Council of the Shire of Ku-ring-gai
in fee

Particulars Entered on ~~Certificate of~~ Title Register Book. Vol. 3951. Fol. 133
the 6th March 1928 at 2 o'clock
in the afternoon.

No.

E H Clayton
for Acting Registrar General

6 MAR. 1928

MB

CB 7/12/56

Office of the Registrar-General /Src:INFOTRACK /Ref:KAB:PEDEN

New South Wales 27-2-64 26.11.38

MEMORANDUM OF TRANSFER AND GRANT OF DRAINAGE EASEMENT

(Real Property Act 1900)

First Printed

Stamp Duties

£1

C850145

I ARTHUR BENJAMIN SKINNER of Warrawee in the State of New South Wales Horticulturist (hereinafter called "the Transferror") being registered as the proprietor of an estate in fee simple in the land hereinafter described (subject however to such encumbrances liens and interests as are notified hereunder) in consideration of the sum of TEN SHILLINGS (10/-)(the receipt whereof is hereby acknowledged) paid to me by THE COUNCIL OF THE MUNICIPALITY OF KU-RING-GAI (hereinafter called "the Council") DO HEREBY GRANT AND TRANSFER to the Council FULL AND FREE RIGHT AND LIBERTY to make lay out construct and forever use and maintain a pipe and/or covered drain upon in through and/or under the strip of land ten feet wide situate at Turramurra in the Municipality of Ku-ring-gai Parish of Gordon and County of Cumberland and also upon in through and/or under the strip of land five feet wide situate as aforesaid both of which pieces of land are more particularly delineated on the plan annexed hereto marked with the letter "A" and thereon edged red being part of the land comprised in Certificate of Title dated the Twenty eighth day of June One thousand nine hundred and thirty eight Registered Volume 4160 Folio 106 AND for that purpose to remove and carry away all or any of the clay sand gravel stones and earth which shall be taken out of the said strip of land and/or to use all or any part thereof in the making laying out and constructing the said drain and/or to leave same or any part or parts thereof upon the said strip of land TOGETHER WITH FULL AND FREE RIGHT AND LIBERTY from time to time and at all times to inspect the condition of and to cleanse maintain mend repair and/or relay the said drain or any part or parts thereof and for such purposes or any of them at all reasonable times with surveyors workmen horses carts materials machinery and implements and other persons and things to enter into and upon the said strip of land and to bring and place and leave thereon and/or to remove therefrom all necessary materials machinery implements and things and to remove and carry away and/or use and/or leave as aforesaid all or any of the clay sand gravel stones and earth which shall be taken out of the said strip of land and to do all such acts and things as may be deemed by the Council to be necessary AND the Transferror hereby covenants with the Council that he the Transferror will not:-

(a) do permit or suffer any act deed matter or thing whereby the said drain shall or shall be likely to become injured or damaged or whereby the Council shall be prevented from or hampered in constructing maintaining mending repairing or

30393B

Office of the Registrar-General /Src: INFOTRACK /Ref: KAB: PEDEN

cleansing the said drain or any part or parts thereof or

(b) interfere with the free flow and passage of soil or water through the same

PROVIDED ALWAYS and it is hereby agreed and declared by and between the parties hereto that the Transferror shall not be liable under this Covenant for any damage to the said drain or to any part or parts thereof or to any pipes or other articles laid therein caused inadvertently by the passage of vehicles along or across the said strips of land 10 and 5 feet wide respectively shown on the said Plan marked "A" and therein edged red. AND THAT if he the Transferror shall do permit or suffer anything which shall injure or damage the said drain or any part thereof or shall interfere with the free flow and passage of soil or water through the same he the Transferror will forthwith at his own expense properly and substantially repair and make good all such injury or damage and restore the free flow and passage of soil or water through the said drain and do all things necessary or expedient for the purposes aforesaid or any of them AND will not erect or permit to be erected any building or other erection of any kind or description over the said strip of land without the Council's permission in writing being first had and obtained

The Council hereby grants to the Transferror a right of discharging all surplus water resulting from his occupation of the land in the said Certificate of Title into the drains to be laid through or under the strips of land 5 feet and 10 feet wide respectively shown on the said plan and therein edged red and agrees that the Council will from time to time and at all times when laying pipes therein provide openings to such pipes at such point or points as may be reasonably required by the Transferror

ENCUMBRANCES ETC. REFERRED TO

Reservation of mines of gold and silver

DATED at Sydney this tenth day of March One thousand nine hundred and thirty nine

SIGNED in my presence by the Transferror who is personally known to me: Arthur B Thomas

Geo. S. Mitchell J.P.

SIGNED in my presence by HERBERT GORDON CARTER the Mayor of and for and on behalf of the Council of the Municipality of Ku-ring-gai who is personally known to me:

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

TOWN CLERK

H. G. Carter
MAYOR

The Rural Bank of New South Wales Mortgagee of the within described land Hereby Consents to this transfer and grant of easement. The Common Seal of the Rural Bank of New South Wales was hereunto affixed in the presence of the Commissioner whose signature is set opposite hereto.

Commissioner.

Prov. Secretary

B 592 464

Office of the Registrar-General /Src:INFOTRACK /Ref:KAB:PEDEN

0603298

WILLIAM SACH the second Mortgagee of the within described land HEREBY CONSENTS to this transfer and grant of easement.

SIGNED by the said WILLIAM SACH the second Mortgagee in the presence of:- M Lynn Robb Solicitor Sydney

W. Sach.

Office of the Registrar-General /Src:INFOTRACK /Ref:KAB:PEDEN

C850145

MEMORANDUM OF TRANSFER AND GRANT OF EASEMENTS AFFECTING

part of lot D in plan annexed to B541607. (part of lot 13 of 7385) at Turramurra

Mun. Ku-ring-gai.

LODGED BY

DOWLING TAYLER MACDONALD & PRATT,
Solicitors,
Wingello House,
Angel Place, SYDNEY.

The Council of the Municipality of Ku-ring-gai.

transferee.

Particulars entered in Register Book Vol. 4160 Fol. 106 the 4th day of December 1939 at 12 o'clock noon.

Registrar General.

INDEXED
6-DEC1939
BY
CHECKED BY

Office of the Registrar-General /Src:INFOTRACK /Ref:KAB:PEDEN

"A"

Negatives filed

C850145

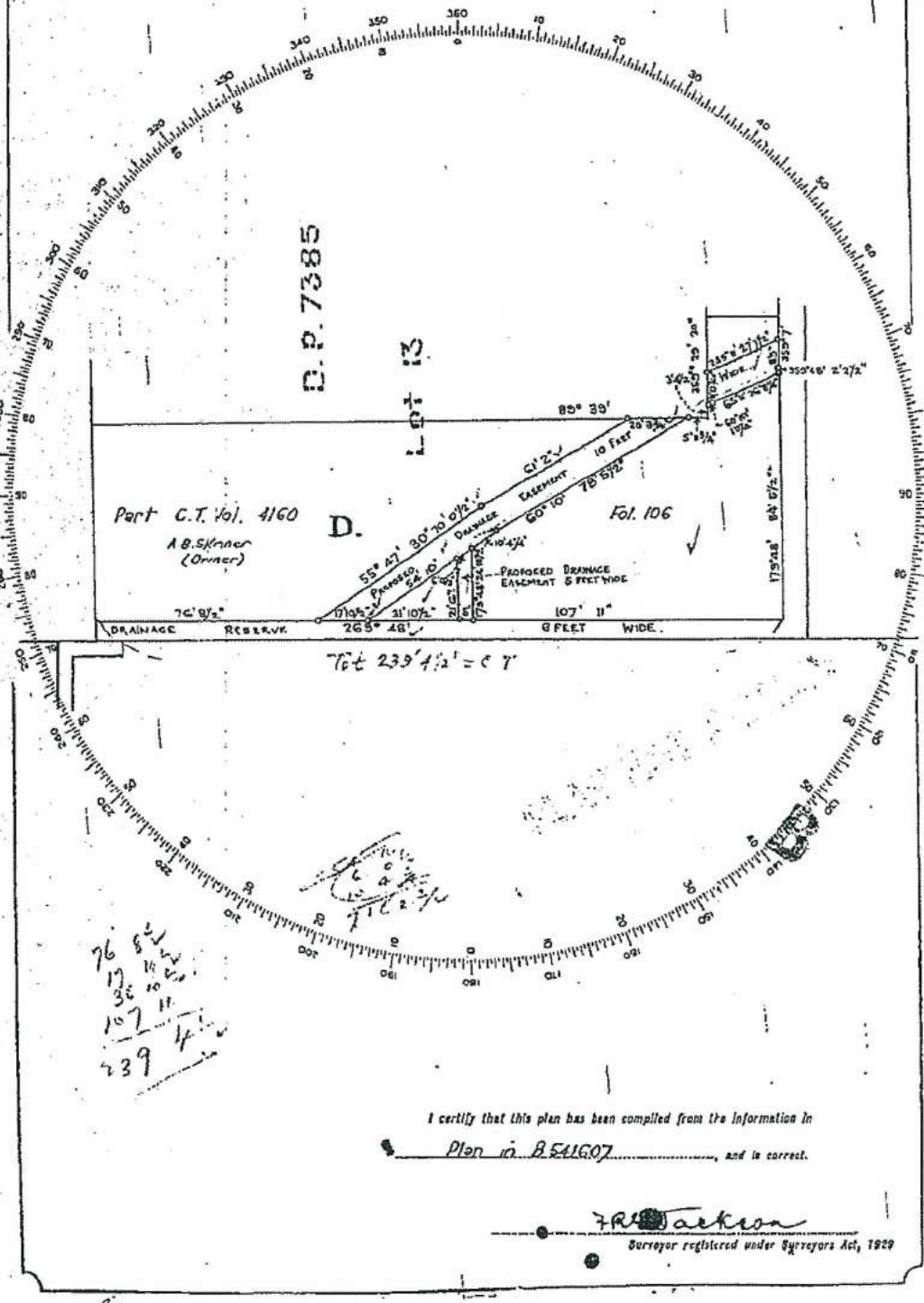
Plan Form No. 7 (for compilations)

Municipality of Ku-ring-gai
Shire of

PLAN

of proposed Easements, being Parts of the land comprised in Certificate of Title Vol. 4160 Fol. 106.
Parish of Gordon County of Cumberland.

Scale 40 Feet to an Inch.



This margin to be left free from notation

I certify that this plan has been compiled from the information in Plan in B541607, and is correct.

[redacted] Jackson
Surveyor registered under Surveyors Act, 1929

This is the plan marked "A" referred to in Memorandum of Transfer & Grant of Drainage Easement
Dated 9th December 1937 H. B. S Kinney to The Council of the Municipality of Ku-ring-gai.

Signatures of parties to be made in this margin.

L207
21-3-38

Office of the Registrar-General /Src:INFOTRACK /Ref:KAB:PEDEN

W
515698 E

W 5 1 5 6 9 8

TRANSFER AND GRANT

John Richard Scott and Christine Frances Scott (transferor)

The Council of the Municipality of Ku-ring-gai (transferee)

of

part of the land in Certificate of title Volume 4160 fol 106

Registered 13.10.1986

Annexures "A" and "B" referred to in the above transfer and grant were not microfilmed and would appear to have been destroyed.

An office copy of these pages has been produced by The Council of the Municipality of Ku-ring-gai and is microfilmed herewith.

Director of Land Titles
6.9.1993

Office of the Registrar-General /Src:INFOTRACK /Ref:KAB:PEDEN

RP)3B, NSW S=*******10.00 STAMP-DUTY 175/05/6 16569 0 CHQ 17

STAMP DUTY

$10

W315698

TG A 1 of 1 X

$85 E MPD

TRANSFER GRANTING EASEMENT

REAL PROPERTY ACT, 1900
(See instructions for Completion on back of form)

Servient Tenement (Land burdened)	Dominant Tenement (Land benefited)
Torrens Title Reference	Torrens Title Reference
Vol. 4160 fol. 106	The Council of the Municipality of Ku-ring-gai

DESCRIPTION OF LAND
Note (a)

TRANSFEROR (registered proprietor of servient tenement)
Note (b)

John Richard Scott, Company Director and Christine Frances Scott, His Wife, both of 9 Gladstone Avenue, Warrawee

(the abovenamed TRANSFEROR) hereby acknowledges receipt of the consideration of $1.00 and TRANSFERS and GRANTS an easement for drainage 15 metres wide in terms of Annexure "A" hereto and shown on Annexure "B" hereto as "proposed easement for drainage 15 wide"

Note (c)

OFFICE USE ONLY

OVER

out of the servient tenement and appurtenant to the dominant tenements to the TRANSFEREE

TRANSFEREE (registered proprietor of dominant tenement)
Note (b)

The Council of the Municipality of Ku-ring-gai,
818 Pacific Highway,
GORDON. NSW 2072

PRIOR ENCUMBRANCES
Note (d)

subject to the following PRIOR ENCUMBRANCES: 1. Drainage Easement - G850145
2. # V379475 3. W301361

DATE 10th May 1986

We hereby certify this dealing to be correct for the purposes of the Real Property Act, 1900.

EXECUTION
Note (e)

Signed in my presence by the transferor who is personally known to me

Signature of Witness

John F.W. Hill
Name of Witness (BLOCK LETTERS)

83 George St Sydney
Address and occupation of Witness

SOLICITOR

Signature of Transferor

Note (e)

Signed in my presence by the transferee who is personally known to me

Signature of Witness

Name of Witness (BLOCK LETTERS)

Address or Occupation of Witness

The Common Seal of the Council of the Municipality of Ku-ring-gai was hereto affixed this 10th day of March 1986 pursuant to a resolution of Council passed on First day of November 1985.

Mayor

Deputy Town Clerk

TO BE COMPLETED BY LODGING PARTY
Notes (f) and (g)

$85

LODGED BY

Delivery Box Number

LOCATION OF DOCUMENTS

CT	OTHER	
		Herewith.
		In R.G.O. with
		Produced by WBC

OFFICE USE ONLY

444

Checked	Passed
Signed	Extra Fee

REGISTERED 13 - 10 - 1986

Registrar General

$10 10 20

CT

3TY

792:29

Office of the Registrar-General /Src: INFOTRACK /Ref: KAB: PEDEN

RP13B

INSTRUCTIONS FOR COMPLETION

This dealing should be marked by the Commissioner of Stamp Duties before lodgment by hand at the Registrar General's Office.

Typewriting and handwriting should be clear, legible and in permanent black non-copying ink.

Alterations are not to be made by erasure; the words rejected are to be ruled through and initialled by the parties to the dealing.

If the space provided is insufficient, additional sheets of the same size and quality of paper and having the same margins as this form should be used. Each additional sheet must be identified as an annexure and signed by the parties and the attesting witnesses

Registered mortgagees, chargees and lessees of the servient tenement should consent to the grant of easement; otherwise, the mortgage, charge or lease should be noted in the memorandum of prior encumbrances.

Rule up all blanks.

The following instructions relate to the side notes on the form.

(a) Description of land. TORRENS TITLE REFERENCE.—Insert the current Folio Identifiers or Volume and Folios of the Certificates of Title/Crown Grants for both the dominant and servient tenements, e.g., 135/SP12345 or Vol. 8514 Fol. 126. Title references should be listed in numerical sequence.

(b) Show the full name, address and occupation or description.

(c) State the nature of the easement (see, e.g., section 181A of the Conveyancing Act, 1919), and accurately describe the site of the easement. The transfer and grant must comply with section 88 of the Conveyancing Act, 1919.

(d) In the memorandum of prior encumbrances state only the registered number of any mortgage, lease or charge (except where the consent of the mortgagee, lessee or chargee is furnished), and of any writ recorded in the Register.

(e) Execution.

GENERALLY (i) Should there be insufficient space for the execution of this dealing, use an annexure sheet.

(ii) The certificate of correctness under the Real Property Act, 1900 must be signed by all parties to the transfer, each party to execute the dealing in the presence of an adult witness, not being a party to the dealing, to whom he is personally known

The solicitor for the transferee may sign the certificate on behalf of the transferee, the solicitor's name (not that of his firm) to be typewritten or printed adjacent to his signature. Any person falsely or negligently certifying is liable to the penalties provided by section 117 of the Real Property Act, 1900.

ATTORNEY (iii) If the transfer is executed by an attorney for the transferee pursuant to a registered power of attorney, the form of execution must set out the full name of the attorney, and the form of execution must indicate the source of his authority, e.g., "AB by his attorney (or receiver or delegate, as the case may be) XY pursuant to power of attorney registered Book No. , and I declare that I have no notice of the revocation of the said power of attorney"

AUTHORITY (iv) If the transfer is executed pursuant to an authority (other than specified in (iii)), the form of execution must indicate the statutory, court or other authority pursuant to which the transfer has been executed.

CORPORATION (v) If the transfer is executed by a corporation under seal, the form of execution should include a statement that the seal has been properly affixed, e.g., in accordance with the Articles of Association of the corporation. Each person attesting the affixing of the seal must state his position (e.g., director, secretary) in the corporation.

(f) Insert the name, postal address, Document Exchange reference, telephone number, and delivery box number of the lodging party.

(g) The lodging party is to complete the LOCATION OF DOCUMENTS panel. Place a tick in the appropriate box to indicate the whereabouts of the Certificate of Title. List, in an abbreviated form, other documents lodged, e.g., stat. dec. for statutory declaration, pbte for probate, L/A for letters of administration.

OFFICE USE ONLY

FIRST SCHEDULE DIRECTIONS

DIRECTION: PROP
No. OF NAMES:

(A) FOLIO IDENTIFIER	(B) No.	(C) SHARE	(D) F	(E) NAME AND DESCRIPTION

SECOND SCHEDULE & OTHER DIRECTIONS

(F) FOLIO IDENTIFIER for most dealings a folio identifier	(G) DIRECTION	(H) NOTIFY TYPE	(I) DEALING NUMBER	(K) DETAILS
	ON	EA		Easement for drainage affecting the part of the land within described shown 15 wide in plan with W515698

LAW B. GOVT. GOVERNMENT PRINTER

Office of the Registrar-General /Src:INFOTRACK /Ref:KAB:PEDEN

Annexure "A" Granting Easement for Drainage dated _____ between John Richard SCOTT and Christine Frances SCOTT, Transferrors, and The Council of the Municipality of Ku-ring-gai, Transferee.

FULL AND FREE RIGHT for the Transferee, and every person authorised by it, from time to time and at all times to drain water (whether rain, storm, spring, soakage, or seepage water) in any quantities across and through the land herein indicated as the servient tenement, together with the right to use, for the purposes of the easement, any line of pipes already laid within the servient tenement for the purpose of draining water or any pipe or pipes in replacement or in substitution therefor together with the right for the Transferee and every person authorised by it, with any tools, implements, or machinery, necessary for the purpose, to enter upon the servient tenement and to remain there for any reasonable time for the purpose of laying, inspecting, cleansing, repairing, maintaining, or renewing such pipe line or any part thereof and for any of the aforesaid purposes to open the soil of the servient tenement to such extent as may be necessary PROVIDED THAT the Transferee and the persons authorised by it will take all reasonable precautions to ensure as little disturbance as possible to the surface of the servient tenement and will restore that surface as nearly as practicable to its original condition AND the Transferors HEREBY COVENANT with the Transferee that the Transferors will not:-

a) Do permit or suffer any act deed matter or thing whereby the said drain shall or shall be likely to become injured or damaged or whereby the Transferee shall be prevented from or hampered in constructing inspecting cleansing repairing maintaining or renewing the said drain or any part or parts thereof, or

b) Interfere with the free flow and passage of soil or water through the same

AND THAT if the Transferors shall do permit or suffer anything which shall injure or damage the said drain or any part thereof or shall interfere with the free flow and passage of soil or water through the same the Transferors will forthwith at the expense of the Transferors properly and substantially repair and make good all such injury or damage and restore the free flow and passage of soil or water aforesaid or any of them AND THAT in default of the Transferors doing so the Transferee shall be at liberty to remedy such default and to do and execute all such things as the Transferee shall consider necessary in that behalf and may recover from the Transferors the cost thereof AND THAT the Transferors will not erect or permit to be erected any structure, improvement building or other erection of any kind or description over the said strip

Item 172. 6/81

.....of land

of land other than a tennis court and appurtenant fencing, retaining walls and piers and will not alter the surface level thereof or carry out any form of construction affecting the surface thereof without the permission of the Transferee in writing first had and obtained AND THAT the Transferors will bear all risk and responsibility of and incidental to the existence of any structures and improvements including the said tennis court retaining walls fencing and/or paving and piers (hereafter called structures and improvements) now or at any time hereafter erected or caused to be erected by the Transferors over the said strip of land and will indemnify and forever hold harmless the Transferee its servants or agents against all claims demands proceeding damages expenses or costs by or at the instance of any person or body in relation to damage of whatever kind or description to the said structures and improvements caused by any blockage or defect in and to the said drain or caused by storm and/or surface waters flowing across the said strip of land and the parties FURTHER COVENANT with each other that if the Transferee should at any time require to enter upon the said strip of land or any part thereof for the purpose of exercising any of its rights and liberties herein contained the Transferee will so far as possible effect such entry and carry out such purposes without entering upon or disturbing the said structures and improvements PROVIDED ALWAYS that if and insofar as it may be impossible to effect such entry and/or carry out such purposes without so doing it shall be lawful for the transferee its servants agents or contractors to enter upon the said structures and improvements and to break up the same or any part thereof and to do all such things as may be necessary to effect such entry and/or carry out such purposes committing always as little damage as possible AND THAT the Transferors will pay to the Transferee upon demand:-

a) So much of the cost of effecting such entry and/or carrying out such purposes as may be due to the increased need or difficulty of so doing in consequence of the existence of structures and improvements (including, but in no way limiting the generality of the foregoing) the full cost of cleansing any additional junction pit or inlet structure required to facilitate construction of the said structures and improvements; and

b) So much of the cost [including any amount payable under (a) above] of the work of repairing making good altering or adding to the said drain or other drainage works of the Transferee now or at any time hereafter upon or under the said strip of land as may be due to the erection maintenance or existence of the structures and improvements; and

c) The cost of disturbing the structures and improvements in the event of the Transferee entering thereon and breaking up the same for the purposes of exercising its rights and liberties hereincontained.

AND THAT the Transferors will restore the said structures and improvements at their own cost and expense in the event of the same being broken up by the Transferee as hereinbefore provided.

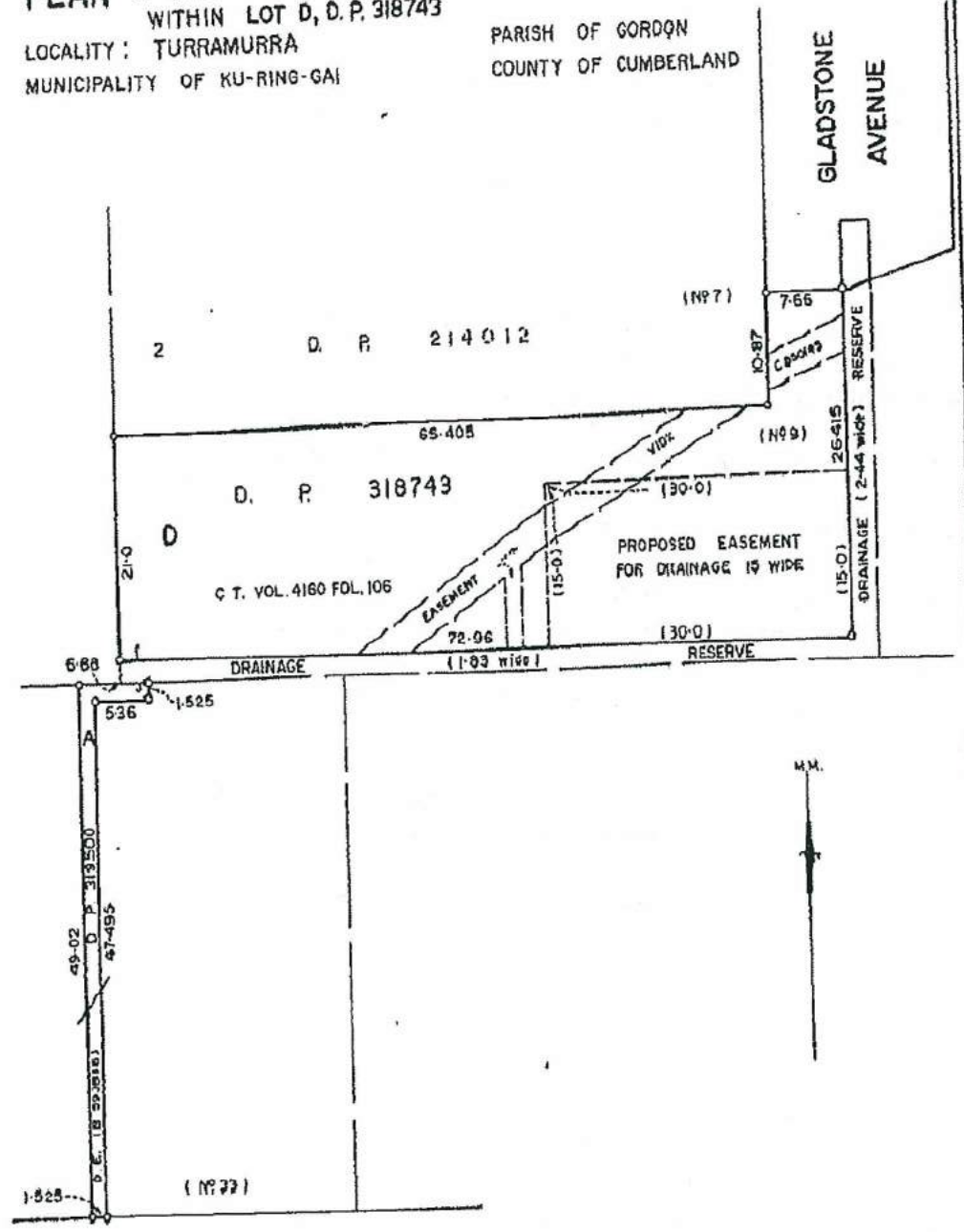
1007E

Office of the Registrar-General /Src:INFOTRACK /Ref:KAB:PEDEN

PLAN OF PROPOSED EASEMENT FOR DRAINAGE 15 WIDE WITHIN LOT D, D.P. 318743

LOCALITY : TURRAMURRA
MUNICIPALITY OF KU-RING-GAI

PARISH OF GORDON
COUNTY OF CUMBERLAND



RATIO 1 : 500 SURVEYOR [signature] DATE 26-2-86 PLAN № L 2357

SIGNATURES, SEALS ETC

[signature]

[signature]

SECTION 10.7 CERTIFICATE

PLANNING CERTIFICATE

818 Pacific Highway, Gordon NSW 2072
Locked Bag 1006, Gordon NSW 2072
T 02 9424 0000 F 02 9424 0001
DX 8703 Gordon TTY 02 9424 0875
E kmc@kmc.nsw.gov.au
W www.kmc.nsw.gov.au
ABN 86 408 856 411

Ku-ring-gai Council

UNDER SECTION 10.7 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

PROPERTY DETAILS

Address: 9 Gladstone Avenue WARRAWEE NSW 2074

Lot Description: Lot D DP 318743, Lot A DP 319500

CERTIFICATE DETAILS

Certificate No: ePC1144/20 **Certificate Date:** 02/04/2020

Certificate Type: Section 10.7(2) & (5)

APPLICANT DETAILS

REF: KAB:PEDEN-#67412517#

InfoTrack
DX 578
SYDNEY

BACKGROUND INFORMATION

This certificate provides information on how a property (such as land, a house, a commercial building, etc.) may be used and the limits on its development. The certificate contains information Council is aware of through its records and environmental plans with data supplied by the State Government. The details contained in this certificate are limited to that required by Section 10.7 of the Environmental Planning and Assessment Act.

THE FOLLOWING INFORMATION IS ISSUED UNDER SECTION 10.7(2) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

MATTERS AFFECTING THE LAND AS PRESCRIBED BY SCHEDULE 4 – ENVIRONMENTAL PLANNING & ASSESSMENT ACT REGULATION, 2000.

1. Names of relevant planning instruments and development control plans

(1) Which environmental planning instruments apply to the carrying out of development on this land?

Ku-ring-gai Local Environmental Plan 2015 as published on the NSW Legislation Website on 5 March 2015.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River.

State Environmental Planning Policy No.19 - Bushland in Urban Areas.
State Environmental Planning Policy No.21 - Caravan Parks
State Environmental Planning Policy No.33 - Hazardous & Offensive Development.
State Environmental Planning Policy No.44 - Koala Habitat Protection.
State Environmental Planning Policy No.55 - Remediation of Land.
State Environmental Planning Policy No.62 - Sustainable Aquaculture.
State Environmental Planning Policy No.64 - Advertising and Signage.
State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development.
State Environmental Planning Policy No.70 - Affordable Housing (Revised Schemes).
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.
State Environmental Planning Policy (State Significant Precincts) 2005.
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.
State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007.
State Environmental Planning Policy (Infrastructure) 2007.
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
State Environmental Planning Policy (Affordable Rental Housing) 2009.
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.
State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.
State Environmental Planning Policy (Coastal Management) 2018.
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

(2) Which proposed environmental planning instruments apply to the carrying out of development on this land? *(Including planning proposals and proposed environmental planning instruments that are or have been the subject of community consultation or on public exhibition under the E. P. & A. Act).*

Planning Proposal Number PP_2018_KURIN_005_00 to consolidate Ku-ring-gai's local environmental planning instruments, the Local Environmental Plan (Local Centres) 2012, Ku-ring-gai Local Environmental Plan 2015 and Ku-ring-gai Planning Scheme Ordinance, into a single local environmental plan.

(3) Which development control plans apply to the carrying out of development on this land?

Ku-ring-gai Development Control Plan

SPECIAL NOTE: *A development control plan adds further detail to local environmental plans and may address issues such as building design, car parking, landscaping etc. Copies of the Plans are available from Council.*

2. Zoning and land use under relevant local environmental plans (other than a SEPP or proposed SEPP)

(a) What is the zoning of this property and the relevant environmental planning instrument?

R2 Low Density Residential under the provisions of Ku-ring-gai Local Environmental Plan 2015.

(b) What does not require development consent under the above environmental planning instrument?

Home occupations.

Note: Please refer to the provisions for Exempt and Complying Development as described in Part 3 of Ku-ring-gai Local Environmental Plan 2015.

(c) What does require development consent under the above environmental planning instrument?

Bed and breakfast accommodation; Boarding houses; Building identification signs, Business identification signs; Centre-based child care facilities; Community facilities; Dwelling houses; Environmental protection works; Exhibition homes; Flood mitigation works; Group homes; Health consulting rooms; Home-based child care; Home businesses; Home industries; Hospitals; Neighbourhood shops; Oyster aquaculture; Pond-based aquaculture; Tank-based aquaculture; Places of public worship; Recreation areas; Respite day care centres; Roads; Secondary dwellings.

(d) What is prohibited under the above environmental planning instrument?

Any development not specified in item (b) or (c).

(e) What is the proposed zoning of this property and the relevant proposed environmental planning instrument?

Not applicable. There are no proposed environmental planning instruments that relate to this matter.

(f) What does not require development consent under the above proposed environmental planning instrument?

Not applicable. There are no proposed environmental planning instruments that relate to this matter.

(g) What does require development consent under the above proposed environmental planning instrument?

Not applicable. There are no proposed environmental planning instruments that relate to this matter.

(h) What is prohibited under the above proposed environmental planning instrument?

Not applicable. There are no proposed environmental planning instruments that relate to this matter.

(i) Do any development standards applying to the land fix minimum land dimensions for the erection of a dwelling-house on the land?

There are no provisions in Ku-ring-gai Local Environmental Plan 2015 that regulate minimum dimension sizes for the erection of a dwelling house on this property.

(j) Does the land include or comprise critical habitat?

No.

(k) Is the land in a conservation area?

No.

SPECIAL NOTE: *A conservation area is a place of historic and aesthetic value to the community. It contains a number of elements of significance, such as a historic subdivision layout, a pattern of building "footprints" within each street block, buildings of historic and architectural importance, road alignments, trees, gutters and kerb edges which all combine to create a sense of place that is worth keeping. Council's Heritage Planner can provide you with more information on this matter.*

(l) Is an item of environmental heritage situated on the land?

No.

SPECIAL NOTE: *You are advised that the consent authority may, before granting consent to any development: (a) on land on which a heritage item is located, or (b) on land that is within a heritage conservation area, or (c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.*

3. Complying development

The extent to which the land is land on which complying development may or may not be carried out under each of the codes for complying development because of the provisions of clauses 1.17A(1)(c) to (e), (2), (3) and (4), 1.18(1)(c3) and 1.19 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 and if complying development may not be carried out on that land the reason why it may not be carried out under those clauses?

*(**Special Note:** It is your responsibility to ensure that you comply with any other general requirements of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. Failure to do so may mean that a Complying Development Certificate issued under the provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 is invalid).*

Container Recycling Facilities Code

Complying development under the Container Recycling Facilities Code **may** be carried out on the land.

Commercial and Industrial Alterations Code

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

Commercial and Industrial (New Buildings and Additions) Code

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

Demolition Code

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

Fire Safety Code

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

General Development Code

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

Housing Code

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

Housing Alterations Code

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

Low Rise Medium Density Housing Code

Complying development under the Low Rise Medium Density Housing Code **may** be carried out on the land.

Subdivision Code

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

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

Not applicable. This matter does not apply to land within Ku-ring-gai Local Government Area.

5. Mine subsidence

Is the land proclaimed to be a mine subsidence district within the meaning of section 15 of the Mine Subsidence Compensation Act 1961?

No. Council has not been notified that the land is subject to such a proclamation.

6. Road widening and road realignment

Is the land affected by any road widening or road realignment under the Roads Act, any environmental planning instrument or any resolution of council?

No.

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

Is the land affected by a policy adopted by council, or by any other public authority required to be referred to in a planning certificate, that restricts the development of the land because of the likelihood of land slip, bushfire, tidal inundation, subsidence, contamination, acid sulphate soils or other risk (other than flooding)?

No.

Note: A review of Council's readily available records has been conducted to identify previous land uses that may have caused land contamination. This review did not reveal any reason for contamination of this property. However, prior to urban settlement, sizeable areas of Ku-ring-gai were covered by agricultural and horticultural activities. These uses are listed in the Managing Land Contamination Planning Guidelines as activities that may cause contamination. If you are concerned about possible contamination of the site you should make your own investigations regarding the condition of this property.

7A. Flood related development controls information

Is development on the land or part of the land affected by a policy adopted by council, or by any other public authority required to be referred to in a planning certificate, subject to flood related development controls?

No.

8. Land reserved for acquisition

Do any environmental planning instruments or proposed environmental planning instruments referred to in clause 1 make provision in relation to the acquisition of the land by a public authority, as referred to in section 3.15 of the Act?

No.

9. Contribution plans

Which contribution plans apply if this land is developed?

Ku-ring-gai Contributions Plan 2010.
Ku-ring-gai s94A Contributions Plan 2015.

SPECIAL NOTE: *A contribution plan, commonly known as a section 94 plan, outlines the financial costs Council charges if land is developed and Council believes the development will require additional services such as parks, roads etc. Copies of the contribution plans are available from Council.*

9A. Biodiversity certified land

Is the land, land that is biodiversity certified land under Part 8 of the Biodiversity Conservation Act 2016?

Council has not been notified that the land is biodiversity certified land.

SPECIAL NOTE: *Biodiversity certified land includes land certified under Part 7AA of the Threatened Species Conservation Act 1995 that is taken to be certified under Part 8 of the Biodiversity Conservation Act 2016.*

10. Biodiversity stewardship sites

Is the land, land that is a biodiversity stewardship site under a biodiversity stewardship agreement under part 5 of the Biodiversity Conservation Act 2016?

Council has not been notified that the land is biodiversity stewardship land.

SPECIAL NOTE: *Biodiversity stewardship agreements include biobanking agreements under Part 7A of the Threatened Species Conservation Act 1995 that are taken to be biodiversity stewardship agreements under Part 5 of the Biodiversity Conservation Act 2016.*

10A. Native vegetation clearing set asides

Is the land, land that contains a set aside area under section 60ZC of the Local Land Services Act 2013?

Council has not been notified that the land contains a set aside area.

11. Bush fire prone land

Is the land bush fire prone land?

No.

SPECIAL NOTE: *Bush fire prone land is defined in section 4 of the Environmental Planning and Assessment Act 1979 as meaning "land recorded for the time being as bushfire prone land on a bush fire prone land map for the area". The "area" is the local government area of Ku-ring-gai.*

12. Property vegetation plans

Is the land, land to which a property vegetation plan under Native Vegetation Act 2003 applies?

Council has not been notified that the land is subject to an approved property vegetation plan.

13. Orders under Trees (Disputes between Neighbours) Act 2006

Is the land, subject to an order under the Tree (Disputes between neighbours) Act 2006 to carry out work in relation to a tree on the land?

Council has not been notified that the land is subject to such an order.

14. Directions under Part 3A

Is the land, land subject to a direction under Part 3A Section 75P(2)(c1) of the Environmental Planning and Assessment Act 1979 No.203?

No.

15. Site Compatibility certificates and conditions for seniors housing

Is there a current site compatibility certificate (seniors housing), of which council is aware, in respect of proposed development on the land issued under clause 24 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004?

The land is not subject to such a current site compatibility certificate (seniors housing) of which Council is aware.

16. Site Compatibility certificates for infrastructure, schools or TAFE establishments

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

The land is not subject to such a valid site compatibility certificate (infrastructure) of which Council is aware.

17. Site Compatibility certificates and conditions for affordable rental housing

Is there a current site compatibility certificate (affordable rental housing), of which council is aware, in respect of proposed development on the land issued under clause 37 of State Environmental Planning Policy (Affordable Rental Housing) 2009?

The land is not subject to such a current site compatibility certificate (affordable rental housing) of which Council is aware.

18. Paper subdivision information

Is the land, land subject to a development plan adopted by a relevant authority, land proposed to be subject to a consent ballot or land subject to a subdivision order?

Not applicable.

SPECIAL NOTE: Words and expressions used in this item have the same meaning as they have in Part 16C of the Environmental Planning and Assessment Regulation 2000.

19. Site verification certificate

Is there a current site verification certificate, of which council is aware, in respect of the land issued under clause 17C of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007?

The land is not subject to a current site verification certificate of which Council is aware.

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

20. Loose-fill asbestos insulation

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

NSW Fair Trading has not provided Council with written confirmation that this property is listed on the Loose-Fill Asbestos Insulation Register.

SPECIAL NOTE: Some residential homes located in the Ku-ring-gai Local Government Area have been identified as containing loose-fill asbestos insulation, for example in the roof space. NSW Fair Trading maintains a Register of homes that are affected by loose-fill asbestos insulation.
You should make your own enquiries as to the age of the buildings on the land to which this certificate relates and, if it contains a building constructed prior to 1980, the council strongly recommends that any potential purchaser obtain advice from a licensed asbestos assessor to determine whether loose-fill asbestos is present in any building on the land and, if so, the health risks (if any) this may pose for the building's occupants.

For further information about the Loos-fill asbestos Public Register contact NSW Fair Trading. Tel:13 32 20 or www.loosefillasbestos.nsw.gov.au.

21. Affected building notices and building product rectification orders

(1) Is there any affected building notice of which council is aware that is in force in respect of the land?

No.

(2) Is there any building product rectification order of which council is aware that is in force in respect of the land and has not been fully complied with?

No.

(3) Has any notice of intention to make a building product rectification order of which council is aware has been given in respect of the land and is outstanding?

No.

SPECIAL NOTE: The terms "affected building notice" and "building product rectification order" have the same meaning as in the Building Products (Safety) Act 2017.

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.

(a) Is the land to which this certificate relates significantly contaminated land within the meaning of that Act?

No.

(b) Is the land to which this certificate relates subject to a management order within the meaning of that Act?

No.

(c) Is the land to which this certificate relates subject to an approved voluntary management proposal within the meaning of that Act?

No.

(d) Is the land to which this certificate relates subject to an ongoing maintenance order within the meaning of that Act?

No.

(e) Is the land of which this certificate relates subject to a site audit statement within the meaning of the Act?

No.

SPECIAL NOTE: *If you have any concerns about land contamination beyond the information described in this certificate, you should contact the NSW Environmental Protection Authority. Tel: 131 555 or email info@environment.nsw.gov.au.*

THE FOLLOWING INFORMATION IS ISSUED UNDER SECTION
OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT AC

Land Slip or Subsidence:

Council records do not have sufficient information to indicate land slip or subsidenc
restrict development on this land. However, some lots in Ku-ring-gai Local Governm
contain filling and/or road batters which may be subject to settlement and require sp
consideration in the design of foundations.

Flooding:

Some properties in the Ku-ring-gai Local Government area contain or adjoin natural
paths, pipelines, watercourses and depressions. During major rainfall or blockage of
drainage system surface water may affect the site or restrict future development.

SPECIAL NOTE: *The Department of Planning and Environment and the Department of Commerce have not indicat
property which may be affected by flooding of major rivers or creeks in the Ku-ring-gai Local Government Area.*

Loose-fill asbestos insulation:

Some residential homes located in the Ku-ring-gai Local Government Area have bee
as containing loose-fill asbestos insulation, for example in the roof space. NSW Fair
maintains a Register of homes that are affected by loose-fill asbestos insulation.

You should make your own enquiries as to the age of the buildings on the land to wh
certificate relates and, if it contains a building constructed prior to 1980, the council s
recommends that any potential purchaser obtain advice from a licensed asbestos as
determine whether loose-fill asbestos is present in any building on the land and, if so
risks (if any) this may pose for the building's occupants.

For further information about the Loos-fill asbestos Public Register please contact NSW Fair Trading. Tel:13 32 20 or www.loosefillasbestos

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Contamination:

Council records do not have sufficient information relating to any previous uses of th
confirm that the land has not been used for a purpose which would be likely to have
contaminated the land. Parties should make their own enquiries as to whether the la
contaminated.

Threatened species, populations and ecological communities:

This land may contain threatened species, populations and ecological communities
the *Biodiversity Conservation Act 2016 (NSW)* and or the *Environment Protection Bi
Conservation Act 1999* (Commonwealth). For more information contact NSW Office
Environment and Heritage Tel: 131 555 or the Australian Government Department o
Environment and Energy Tel: 1800 803 772.

This land may contain one or more of the following endangered or critically

Important information

Who is protected by a clearance certificate?
A clearance certificate states whether there is any land tax (including surcharge land tax) owing on a property. The certificate protects a purchaser from outstanding land tax liability by a previous owner, however it does not provide protection to the owner of the land.

When is a certificate clear from land tax?
A certificate may be issued as 'clear' if:
- the land is not liable or is exempt from land tax
- the land tax has been paid
- Revenue NSW is satisfied payment of the tax is not at risk, or
- the owner of the land failed to lodge a land tax return when it was due, and the liability was not detected at the time the certificate was issued.

Note: A clear certificate does not mean that land tax was not payable, or that there is no land tax adjustment to be made on settlement if the contract for sale allows for it.

When is a certificate not clear from land tax?
Under section 47 of the *Land Tax Management Act 1956*, land tax is a charge on land owned in NSW at midnight on 31 December of each year. The charge applies from the taxing date and does not depend on the issue of a land tax assessment notice. Land tax is an annual tax so a new charge may occur on the taxing date each year.

How do I clear a certificate?
A charge is removed for this property when the outstanding land tax amount is processed and paid in full. Payment can be made during settlement via an accepted Electronic Lodgement Network or at an approved settlement room.

To determine the land tax amount payable, you must use one of the following approved supporting documents:
- Current year land tax assessment notice. This can only be used if the settlement date is no later than the first instalment date listed on the notice. If payment is made after this date interest may apply.
- Clearance quote or settlement letter which shows the amount to clear.

The charge on the land will be considered removed upon payment of the amount shown on these documents

How do I get an updated certificate?
A certificate can be updated by re-processing the certificate through your Client Service Provider (CSP), or online at www.revenue.nsw.gov.au.

Please allow sufficient time for any payment to be processed prior to requesting a new version of the clearance certificate.

Land value, tax rates and thresholds
The taxable land value shown on the clearance certificate is the value used by Revenue NSW when assessing land tax. Details on land tax rates and thresholds are available at www.revenue.nsw.gov.au.

Contact details

Read more about Land Tax and use our online servce at www.revenue.nsw.gov.au

1300 139 816*

Phone enquiries
8:30 am - 5:00 pm, Mon. to Fri.

landtax@revenue.nsw.gov.au

* Overseas customers call +61 2 7808 6906
Help in community languages is available.

SWIMMING POOL CERTIFICATES

NSW SWIMMING POOL REGISTER

Certificate of Compliance

Section 22D - Swimming Pools Act 1992

Pool No:	**940c8114**
Property Address:	**9 GLADSTONE AVENUE WARRAWEE**
Expiry Date:	**27 June 2021**
Issuing Authority:	**Anthony Stuart Whitelaw - Accredited Certifier - bpb2747**
Assessed against AS1926.1 version:	

The swimming pool at the above property complies with Part 2 of the *Swimming Pools Act 1992*. The issue of this certificate does not negate the need for regular maintenance of the swimming pool barrier to ensure it is compliant with the *Swimming Pools Act 1992*.

This certificate ceases to be valid if a direction is issued pursuant to Section 23 of the *Swimming Pools Act 1992*.

The swimming pool at the above property is not required to be inspected under the inspection program of the local authority while this certificate of compliance remains valid pursuant to Section 22B(3) of the *Swimming Pools Act 1992*.

Please remember:

- **Children should be supervised by an adult at all times when using your pool**
- **Regular pool barrier maintenance**
- **Pool gates must be closed at all times**
- **Don't place climbable articles against your pool barrier**
- **Remove toys from the pool area after use**

NSW SWIMMING POOL REGISTER

Certificate of Registration

Section 30C – Swimming Pools Act 1992

Pool No:	**940c8114**
Property Address:	**9 GLADSTONE AVENUE WARRAWEE**
Date of Registration:	**11 October 2013**
Type of Pool:	**An outdoor pool that is not portable or inflatable**
Description of Pool:	**In ground**

The swimming pool at the above premises has been registered in accordance with Section 30B of the *Swimming Pools Act 1992*.

The issue of this certificate does not negate the need for regular maintenance of the pool.

Please remember:

- **Children should be supervised by an adult at all times when using your pool**
- **Regular pool barrier maintenance**
- **Pool gates must be closed at all times**
- **Don't place climbable articles against your pool barrier**
- **Remove toys from the pool area after use**

You may be required to obtain a Pool Compliance Certificate before you lease or sell your property. Contact your council for further information.

This is NOT a Certificate of Compliance

GUARANTEE

THIS DEED OF GUARANTEE

MADE: On the date set out in Item 1 of the Schedule hereto.

BETWEEN: The Party set out in Item 2 of the Schedule hereto ("the Vendor")

AND: The Party set out in Item 3 of the Schedule hereto ("the Guarantor")

AND: The party set out in Item 4 of the Schedule hereto ("the Purchaser")

RECITALS:

A. The Vendor has agreed to enter into a Contract for Sale of property referred to in Item 5 of the Schedule hereto such contract bearing the dated referred to in Item 6 of the Schedule to the Purchaser ("the Contract").

B. In consideration thereof the Guarantor has agreed to guarantee the performance of the Purchaser under the Contract on the covenants, terms and conditions set forth in the operative terms of this Deed.

OPERATIVE TERMS

1. In consideration of the Vendor entering into the Contract with the Purchaser, the Guarantor hereby covenants with the Vendor as follows:-

   a. The Guarantor hereby guarantees to the Vendor due payment of all moneys hereby agreed to be paid and performance of the terms and conditions contained or implied and on the part of the Purchaser to be performed and observed and fulfilled pursuant to the Contract.

   b. The Guarantor hereby indemnifies the Vendor and agrees at all times hereafter to keep the Vendor indemnified from and against all damages and all costs losses and expenses which the Vendor may suffer or incur consequent upon or arising directly or indirectly out of any breach by the Purchaser or any of the terms or conditions of the Contract contained or implied and on the part of the Purchaser to be performed observed or fulfilled and the Guarantor agrees that this indemnity shall continue and the Guarantor shall remain liable to the Vendor under this indemnity notwithstanding that as a consequence of such breach the Vendor has exercised any of the Vendor's rights hereunder notwithstanding that the

Purchaser (being a company) may be wound up and notwithstanding that the Guarantee hereby given may for any reason whatsoever be unenforceable either in whole or in part AND in the case of disclaimer of the Contract arising out of the liquidation of the Purchaser the Guarantor hereby agrees to pay to the Vendor the amount of any loss damages costs and expenses suffered by and/or awarded to the Vendor by reason of such disclaimer.

c. The Vendor's rights against the Guarantor are not affected by any one of the following:-

   i. Any indulgence or extension of time by the Vendor to the Purchaser or to the Guarantor;

   ii. The winding up of the Purchaser or the death or bankruptcy of the Guarantor;

   iii. The Purchaser's liability under the Contract, or the Contract, being or becoming invalid, illegal or unenforceable, through any act, omission or legislation.

d. Although as between the Guarantor and the Purchaser the Guarantor is surety for the Purchaser it is expressly agreed and declared that as between the Guarantor and the Vendor the Guarantor is and shall remain principal debtor for all moneys and liabilities hereby guaranteed.

e. Nothing herein contained shall make it obligatory upon the Vendor to make any demand or give any notice as a condition precedent to the enforcement by the Vendor of the rights and remedies of the Vendor against the Guarantor.

f. All benefits compositions and payments received by the Vendor from or on account of the Purchaser or of the Purchaser in liquidation in reduction of the Purchaser's indebtedness in relation to this Guarantee shall be taken and applied by the Vendor as payments in gross without any right on the part of the Guarantor to stand in the place of the Vendor in respect of or to claim the benefit of any moneys so received until the whole of the moneys secured by this Guarantee have been fully paid or satisfied and so that in the event of the Guarantor becoming bankrupt the Vendor

shall be entitled to prove the total indebtedness and liability of the Purchaser in relation to this Guarantee.

g. In the event of the liquidation of the Purchaser the Guarantor will not prove in such liquidation in competition with the Purchaser and the Guarantor hereby authorises the Vendor to prove for all moneys which the Guarantor may be liable to pay hereunder and to retain and to carry to a suspense account and appropriate at the discretion of the Vendor any amount received until the Vendor with the aid thereof shall have been paid one hundred cents in the dollar in respect of the indebtedness and liability of the Purchaser in relation to this Guarantee. The Guarantor hereby waives in favour of the Vendor all right whatever against the Vendor and the Purchaser so far as is necessary to give effect to anything in this Guarantee contained.

h. In the event that there shall be more than one Guarantor the word "Guarantor" shall include the Guarantors jointly and each of them severally and a reference herein to the Guarantor shall in the case of a natural person include the executors, administrators and assigns of the Guarantor.

SCHEDULE

ITEM 1: DATE:

Dated this day of 2020

ITEM 2: THE VENDORS: **GREGORY JOHN TOLHURST & ELISABETH MARY PEDEN**

ITEM 3: GUARANTOR(S):

Name:.....

Address:.....

Director:.....

Name:.....

Address:.....

Director:.....

ITEM 4: PURCHASER:

ITEM 5: PROPERTY: **9 GLADSTONE AVENUE, WARRAWEE NSW 2074**

ITEM 6: CONTRACT DATE

Date of contract: 2020

VENDORS: GREGORY JOHN TOLHURST & ELISABETH MARY PEDEN

Signed Sealed and Delivered by the said

GREGORY JOHN TOLHURST

in the presence of: .....

.....

Witness

Signed Sealed and Delivered by the said

ELISABETH MARY PEDEN

in the presence of: .....

.....

Witness

PURCHASER:

Executed by (ABN)

In accordance with Section 127 of the

Corporations Act 2001

....

Director/Secretary Director

Signed Sealed and Delivered by the said

in the presence of: .....

Guarantor

.....

Witness

Signed Sealed and Delivered by the said

in the presence of: .....

Guarantor

.....

Witness