

Contract for the sale and purchase of land 2018 edition

TERM	MEANING OF TERM	NSW Duty:
vendor's agent	River Realty 7 Church Street, Maitland NSW 2320	Phone: (02) 4934 4111 E: chrishenry@riverrealty.com.au Ref: Chris Henry
co-agent		
vendor		

vendor's solicitor	Jenkins Legal Services Level 5, 77 Hunter Street, Newcastle NSW 2300 DX 7855 Newcastle	Phone: (02) 49292000 Email: sam@jenkinslegal.com.au Ref: SSS:210860
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date for completion land (address, plan details and title reference)	35th day after the contract date "Bronte House", 145 - 147 Swan Street, Morpeth, New South Wales 2321 Registered Plan: Lot 2 Plan SP 74847 Folio Identifier 2/SP74847	(clause 15)
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improvements	<input type="checkbox"/> VACANT POSSESSION <input checked="" type="checkbox"/> subject to existing tenancies
attached copies	<input type="checkbox"/> HOUSE <input type="checkbox"/> garage <input type="checkbox"/> carport <input type="checkbox"/> home unit <input type="checkbox"/> carspace <input type="checkbox"/> storage space <input type="checkbox"/> none <input checked="" type="checkbox"/> other: Commercial premises
	<input type="checkbox"/> documents in the List of Documents as marked or as numbered: <input checked="" type="checkbox"/> other documents:

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

inclusions	<input type="checkbox"/> blinds <input type="checkbox"/> dishwasher <input type="checkbox"/> light fittings <input type="checkbox"/> stove <input type="checkbox"/> built-in wardrobes <input type="checkbox"/> fixed floor coverings <input type="checkbox"/> range hood <input type="checkbox"/> pool equipment <input type="checkbox"/> clothes line <input type="checkbox"/> insect screens <input type="checkbox"/> solar panels <input type="checkbox"/> TV antenna <input type="checkbox"/> curtains <input type="checkbox"/> other:
exclusions	Tenant's fixtures and fittings
purchaser	
purchaser's solicitor	Phone: Email: Ref:
price	\$
deposit	\$ _____ (10% of the price, unless otherwise stated)
balance	\$
contract date	(if not stated, the date this contract was made)

buyer's agent

SEE EXECUTION PAGE 3A

vendor

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

witness

SEE EXECUTION PAGE 3A

purchaser

JOINT TENANTS tenants in common in unequal shares

witness

Choices

Vendor agrees to accept a **deposit-bond** (clause 3) NO yes
Proposed electronic transaction (clause 30) no YES

Tax information (the parties promise this is correct as far as each party is aware)

Land tax is adjustable NO yes
GST: Taxable supply NO yes in full yes to an extent
 Margin scheme will be used in making the taxable supply NO yes

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

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

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

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

RW payment (residential withholding payment) – further details

Frequently the supplier will be the vendor. However, sometimes further information will be required as to which entity is liable for GST, for example, if the vendor is part of a GST group or a participant in a GST joint venture.

Supplier's name:

Supplier's ABN:

Supplier's business address:

Supplier's email address:

Supplier's phone number:

Supplier's proportion of *RW payment*: \$

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

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

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

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

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

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

List of Documents

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

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

Signature Page to Contract for Sale of Land – 2019 edition

Vendor **Morpeth Property Management Pty Limited ACN 600 500 749 ATF Morpeth Property Trust**

Purchaser

Executed for and on behalf of **Morpeth Property Management Pty Limited ACN 600 500 749 ATF Morpeth Property Trust** in accordance with section 127 of the Corporations Act 2001)
)
)

.....
Director Signature

.....
Director/Secretary Signature

.....
Director Name: (Please print)

.....
Director/Secretary Name: (Please print)

Executed for and on behalf of _____ in accordance with section 127 of the Corporations Act 2001)
)
)

.....
Director Signature

.....
Director/Secretary Signature

.....
Director Name: (Please print)

.....
Director/Secretary Name: (Please print)

Executed by the Guarantor in the presence of:)

.....
Witness Signature

.....

.....
Witness Name: (Please print)

Executed by the Guarantor in the presence of:)

.....
Witness Signature

.....

.....
Witness Name: (Please print)

IMPORTANT NOTICE TO VENDORS AND PURCHASERS

Before signing this contract you should ensure that you understand your rights and obligations, some of which are not written in this contract but are implied by law.

WARNING—SMOKE ALARMS

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

WARNING—LOOSE-FILL ASBESTOS INSULATION

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

- (a) search the Register required to be maintained under Division 1A of Part 8 of the *Home Building Act 1989*, and
- (b) ask the relevant local council whether it holds any records showing that the residential premises contain loose-fill asbestos insulation.

For further information about loose-fill asbestos insulation (including areas in which residential premises have been identified as containing loose-fill asbestos insulation), contact NSW Fair Trading.

COOLING OFF PERIOD (PURCHASER'S RIGHTS)

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

DISPUTES

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

AUCTIONS

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

WARNINGS

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

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

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

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

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

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

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

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

2 Deposit and other payments before completion

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

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

7 Claims by purchaser

- The purchaser can make a claim (including a claim under clause 6) before completion only by *servicing* it with a statement of the amount claimed, and if the purchaser makes one or more claims before completion –
- 7.1 the vendor can *rescind* if in the case of claims that are not claims for delay –
- 7.1.1 the total amount claimed exceeds 5% of the price;
- 7.1.2 the vendor *serves* notice of intention to *rescind*; and
- 7.1.3 the purchaser does not *serve* notice waiving the claims *within* 14 days after that *service*; and
- 7.2 if the vendor does not *rescind*, the *parties* must complete and if this contract is completed –
- 7.2.1 the lesser of the total amount claimed and 10% of the price must be paid out of the price to and held by the *depositholder* until the claims are finalised or lapse;
- 7.2.2 the amount held is to be invested in accordance with clause 2.9;
- 7.2.3 the claims must be finalised by an arbitrator appointed by the *parties* or, if an appointment is not made *within* 1 month of completion, by an arbitrator appointed by the President of the Law Society at the request of a *party* (in the latter case the *parties* are bound by the terms of the Conveyancing Arbitration Rules approved by the Law Society as at the date of the appointment);
- 7.2.4 the purchaser is not entitled, in respect of the claims, to more than the total amount claimed and the costs of the purchaser;
- 7.2.5 net interest on the amount held must be paid to the *parties* in the same proportion as the amount held is paid; and
- 7.2.6 if the *parties* do not appoint an arbitrator and neither *party* requests the President to appoint an arbitrator *within* 3 months after completion, the claims lapse and the amount belongs to the vendor.

8 Vendor's rights and obligations

- 8.1 The vendor can *rescind* if –
- 8.1.1 the vendor is, on reasonable grounds, unable or unwilling to comply with a *requisition*;
- 8.1.2 the vendor *serves* a notice of intention to *rescind* that specifies the *requisition* and those grounds; and
- 8.1.3 the purchaser does not *serve* a notice waiving the *requisition within* 14 days after that *service*.
- 8.2 If the vendor does not comply with this contract (or a notice under or relating to it) in an essential respect, the purchaser can *terminate* by *servicing* a notice. After the *termination* –
- 8.2.1 the purchaser can recover the deposit and any other money paid by the purchaser under this contract;
- 8.2.2 the purchaser can sue the vendor to recover damages for breach of contract; and
- 8.2.3 if the purchaser has been in possession a *party* can claim for a reasonable adjustment.

9 Purchaser's default

- If the purchaser does not comply with this contract (or a notice under or relating to it) in an essential respect, the vendor can *terminate* by *servicing* a notice. After the *termination* the vendor can –
- 9.1 keep or recover the deposit (to a maximum of 10% of the price);
- 9.2 hold any other money paid by the purchaser under this contract as security for anything recoverable under this clause –
- 9.2.1 for 12 months after the *termination*; or
- 9.2.2 if the vendor commences proceedings under this clause *within* 12 months, until those proceedings are concluded; and
- 9.3 sue the purchaser either –
- 9.3.1 where the vendor has resold the *property* under a contract made *within* 12 months after the *termination*, to recover –
- the deficiency on resale (with credit for any of the deposit kept or recovered and after allowance for any capital gains tax or goods and services tax payable on anything recovered under this clause); and
 - the reasonable costs and expenses arising out of the purchaser's non-compliance with this contract or the notice and of resale and any attempted resale; or
- 9.3.2 to recover damages for breach of contract.

10 Restrictions on rights of purchaser

- 10.1 The purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of –
- 10.1.1 the ownership or location of any fence as defined in the Dividing Fences Act 1991;
- 10.1.2 a service for the *property* being a joint service or passing through another property, or any service for another property passing through the *property* ('service' includes air, communication, drainage, electricity, garbage, gas, oil, radio, sewerage, telephone, television or water service);
- 10.1.3 a wall being or not being a party wall in any sense of that term or the *property* being affected by an easement for support or not having the benefit of an easement for support;
- 10.1.4 any change in the *property* due to fair wear and tear before completion;

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

- 13.7.2 the purchaser must pay the vendor on completion in addition to the price an amount calculated by multiplying the price by the *GST rate* if this sale is a taxable supply to any extent because of –
- a breach of clause 13.7.1; or
 - something else known to the purchaser but not the vendor.
- 13.8 If this contract says this sale is a taxable supply in full and does not say the margin scheme applies to the *property*, the vendor must pay the purchaser on completion an amount of one-eleventh of the price if –
- 13.8.1 this sale is not a taxable supply in full; or
- 13.8.2 the margin scheme applies to the *property* (or any part of the *property*).
- 13.9 If this contract says this sale is a taxable supply to an extent –
- 13.9.1 clause 13.7.1 does not apply to any part of the *property* which is identified as being a taxable supply; and
- 13.9.2 the payments mentioned in clauses 13.7 and 13.8 are to be recalculated by multiplying the relevant payment by the proportion of the price which represents the value of that part of the *property* to which the clause applies (the proportion to be expressed as a number between 0 and 1). Any evidence of value must be obtained at the expense of the vendor.
- 13.10 *Normally*, on completion the vendor must give the recipient of the supply a tax invoice for any taxable supply by the vendor by or under this contract.
- 13.11 The vendor does not have to give the purchaser a tax invoice if the margin scheme applies to a taxable supply.
- 13.12 If the vendor is liable for GST on rents or profits due to issuing an invoice or receiving consideration before completion, any adjustment of those amounts must exclude an amount equal to the vendor's GST liability.
- 13.13 If the purchaser must make an *RW payment* the purchaser must –
- 13.13.1 at least 5 days before the date for completion, *serve* evidence of submission of an *RW payment* notification form to the Australian Taxation Office by the purchaser or, if a direction under clause 4.3 has been *served*, by the transferee named in the transfer *served* with that direction;
- 13.13.2 produce on completion a *settlement cheque* for the *RW payment* payable to the Deputy Commissioner of Taxation;
- 13.13.3 forward the *settlement cheque* to the payee immediately after completion; and
- 13.13.4 *serve* evidence of receipt of payment of the *RW payment*.

14 Adjustments

- 14.1 *Normally*, the vendor is entitled to the rents and profits and will be liable for all rates, water, sewerage and drainage service and usage charges, land tax, levies and all other periodic outgoings up to and including the *adjustment date* after which the purchaser will be entitled and liable.
- 14.2 The *parties* must make any necessary adjustment on completion.
- 14.3 If an amount that is adjustable under this contract has been reduced under *legislation*, the *parties* must on completion adjust the reduced amount.
- 14.4 The *parties* must not adjust surcharge land tax (as defined in the Land Tax Act 1956) but must adjust any other land tax for the year current at the *adjustment date* –
- 14.4.1 only if land tax has been paid or is payable for the year (whether by the vendor or by a predecessor in title) and this contract says that land tax is adjustable;
- 14.4.2 by adjusting the amount that would have been payable if at the start of the year –
- the person who owned the land owned no other land;
 - the land was not subject to a special trust or owned by a non-concessional company; and
 - if the land (or part of it) had no separate taxable value, by calculating its separate taxable value on a proportional area basis.
- 14.5 If any other amount that is adjustable under this contract relates partly to the land and partly to other land, the *parties* must adjust it on a proportional area basis.
- 14.6 *Normally*, the vendor can direct the purchaser to produce a *settlement cheque* on completion to pay an amount adjustable under this contract and if so –
- 14.6.1 the amount is to be treated as if it were paid; and
- 14.6.2 the *cheque* must be forwarded to the payee immediately after completion (by the purchaser if the *cheque* relates only to the *property* or by the vendor in any other case).
- 14.7 If on completion the last bill for a water, sewerage or drainage usage charge is for a period ending before the *adjustment date*, the vendor is liable for an amount calculated by dividing the bill by the number of days in the period then multiplying by the number of unbilled days up to and including the *adjustment date*.
- 14.8 The vendor is liable for any amount recoverable for work started on or before the contract date on the *property* or any adjoining footpath or road.

15 Date for completion

The *parties* must complete by the date for completion and, if they do not, a *party* can *serve* a notice to complete if that *party* is otherwise entitled to do so.

16 Completion**• Vendor**

- 16.1 On completion the vendor must give the purchaser any *document of title* that relates only to the *property*.
- 16.2 If on completion the vendor has possession or control of a *document of title* that relates also to other property, the vendor must produce it as and where necessary.
- 16.3 *Normally*, on completion the vendor must cause the legal title to the *property* (being an estate in fee simple) to pass to the purchaser free of any mortgage or other interest, subject to any necessary registration.
- 16.4 The legal title to the *property* does not pass before completion.
- 16.5 If the vendor gives the purchaser a document (other than the transfer) that needs to be lodged for registration, the vendor must pay the lodgement fee to the purchaser, plus another 20% of that fee.
- 16.6 If a *party serves* a land tax certificate showing a charge on any of the land, on completion the vendor must give the purchaser a land tax certificate showing the charge is no longer effective against the land.

• Purchaser

- 16.7 On completion the purchaser must pay to the vendor, by cash (up to \$2,000) or *settlement cheque* –
- 16.7.1 the price less any:
- deposit paid;
 - *remittance amount* payable;
 - *RW payment*; and
 - amount payable by the vendor to the purchaser under this contract; and
- 16.7.2 any other amount payable by the purchaser under this contract.
- 16.8 If the vendor requires more than 5 *settlement cheques*, the vendor must pay \$10 for each extra *cheque*.
- 16.9 If any of the deposit is not covered by a bond or guarantee, on completion the purchaser must give the vendor an order signed by the purchaser authorising the *depositholder* to account to the vendor for the deposit.
- 16.10 On completion the deposit belongs to the vendor.

• Place for completion

- 16.11 *Normally*, the *parties* must complete at the completion address, which is –
- 16.11.1 if a special completion address is stated in this contract - that address; or
- 16.11.2 if none is stated, but a first mortgagee is disclosed in this contract and the mortgagee would usually discharge the mortgage at a particular place - that place; or
- 16.11.3 in any other case - the vendor's *solicitor's* address stated in this contract.
- 16.12 The vendor by reasonable notice can require completion at another place, if it is in NSW, but the vendor must pay the purchaser's additional expenses, including any agency or mortgagee fee.
- 16.13 If the purchaser requests completion at a place that is not the completion address, and the vendor agrees, the purchaser must pay the vendor's additional expenses, including any agency or mortgagee fee.

17 Possession

- 17.1 *Normally*, the vendor must give the purchaser vacant possession of the *property* on completion.
- 17.2 The vendor does not have to give vacant possession if –
- 17.2.1 this contract says that the sale is subject to existing tenancies; and
- 17.2.2 the contract discloses the provisions of the tenancy (for example, by attaching a copy of the lease and any relevant memorandum or variation).
- 17.3 *Normally*, the purchaser can claim compensation (before or after completion) or *rescind* if any of the land is affected by a protected tenancy (a tenancy affected by Part 2, 3, 4 or 5 Landlord and Tenant (Amendment) Act 1948).

18 Possession before completion

- 18.1 This clause applies only if the vendor gives the purchaser possession of the *property* before completion.
- 18.2 The purchaser must not before completion –
- 18.2.1 let or part with possession of any of the *property*;
- 18.2.2 make any change or structural alteration or addition to the *property*; or
- 18.2.3 contravene any agreement between the *parties* or any direction, document, *legislation*, notice or order affecting the *property*.
- 18.3 The purchaser must until completion –
- 18.3.1 keep the *property* in good condition and repair having regard to its condition at the giving of possession; and
- 18.3.2 allow the vendor or the vendor's authorised representative to enter and inspect it at all reasonable times.
- 18.4 The risk as to damage to the *property* passes to the purchaser immediately after the purchaser enters into possession.
- 18.5 If the purchaser does not comply with this clause, then without affecting any other right of the vendor –
- 18.5.1 the vendor can before completion, without notice, remedy the non-compliance; and

18.5.2 if the vendor pays the expense of doing this, the purchaser must pay it to the vendor with interest at the rate prescribed under s101 Civil Procedure Act 2005.

18.6 If this contract is *rescinded* or *terminated* the purchaser must immediately vacate the *property*.

18.7 If the *parties* or their *solicitors* on their behalf do not agree in writing to a fee or rent, none is payable.

19 Rescission of contract

19.1 If this contract expressly gives a *party* a right to *rescind*, the *party* can exercise the right –

19.1.1 only by *servicing* a notice before completion; and

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

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

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

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

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

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

20 Miscellaneous

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

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

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

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

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

20.6 A document under or relating to this contract is –

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 Time limits in these provisions

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

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

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

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

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

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

22 Foreign Acquisitions and Takeovers Act 1975

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

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

23 Strata or community title

• Definitions and modifications

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

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

• **Notices, certificates and inspections**

- 23.10 The purchaser must give the vendor 2 copies of an information notice addressed to the owners corporation and signed by the purchaser.
- 23.11 The vendor must complete and sign 1 copy of the notice and give it to the purchaser on completion.
- 23.12 Each *party* can sign and give the notice as agent for the other.
- 23.13 The vendor must *serve* an information certificate issued after the contract date in relation to the lot, the scheme or any higher scheme at least 7 days before the date for completion.
- 23.14 The purchaser does not have to complete earlier than 7 days after *service* of the certificate and clause 21.3 does not apply to this provision. On completion the purchaser must pay the vendor the prescribed fee for the certificate.
- 23.15 The vendor authorises the purchaser to apply for the purchaser's own certificate.
- 23.16 The vendor authorises the purchaser to apply for and make an inspection of any record or other document in the custody or control of the owners corporation or relating to the scheme or any higher scheme.

• **Meetings of the owners corporation**

- 23.17 If a general meeting of the owners corporation is convened before completion –
- 23.17.1 if the vendor receives notice of it, the vendor must immediately notify the purchaser of it; and
- 23.17.2 after the expiry of any cooling off period, the purchaser can require the vendor to appoint the purchaser (or the purchaser's nominee) to exercise any voting rights of the vendor in respect of the lot at the meeting.

24 Tenancies

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

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

25 Qualified title, limited title and old system title

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

26 Crown purchase money

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

27 Consent to transfer

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

28 Unregistered plan

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

29 Conditional contract

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

30 Electronic transaction

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

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

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

31 Foreign Resident Capital Gains Withholding

- 31.1 This clause applies only if –
- 31.1.1 the sale is not an excluded transaction within the meaning of s14-215 of Schedule 1 to the *TA Act*; and
- 31.1.2 a *clearance certificate* in respect of every vendor is not attached to this contract.
- 31.2 The purchaser must –
- 31.2.1 at least 5 days before the date for completion, serve evidence of submission of a purchaser payment notification to the Australian Taxation Office by the purchaser or, if a direction under clause 4.3 has been served, by the transferee named in the transfer served with that direction;
- 31.2.2 produce on completion a *settlement cheque* for the *remittance amount* payable to the Deputy Commissioner of Taxation;
- 31.2.3 forward the *settlement cheque* to the payee immediately after completion; and

- 31.2.4 *serve* evidence of receipt of payment of the *remittance amount*.
- 31.3 The vendor cannot refuse to complete if the purchaser complies with clauses 31.2.1 and 31.2.2.
- 31.4 If the vendor *serves* any *clearance certificate* or *variation*, the purchaser does not have to complete earlier than 7 days after that *service* and clause 21.3 does not apply to this provision.
- 31.5 If the vendor *serves* in respect of every vendor either a *clearance certificate* or a *variation* to 0.00 percent, clauses 31.2 and 31.3 do not apply.

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SPECIAL CONDITIONS

32 DEFINITIONS AND INTERPRETATION

32.1 Definitions

These meanings apply unless the contrary intention appears:

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

Completion means Completion of this Contract.

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

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

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

Contract means the standard 2018 Edition Contract for Sale of Land together with these special conditions and all annexure, schedules and attachments to this Contract.

Corporations Act means the *Corporations Act 2001* (Cth).

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

Due Diligence Matters means each matter referred to in clause 35.2.

Encumbrance means a mortgage, Lease or caveat.

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

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

GST has the meaning it has in the GST Act.

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

Guarantor means each person who is a director of the purchaser as at the date of this Contract and signs this Contract on behalf of the purchaser, such signature being confirmation that the signatory accepts the provisions of clause 46.

Land means the land described on the front page of the Contract.

Property means the Land, the improvements described on the front page of this Contract, all fixtures and the inclusions.

Service and Maintenance Contracts means any service and maintenance contracts relating to the Property to which the vendor is a party which the vendor will terminate (as far as they relate to the Property, if applicable) with effect on the Completion Date.

Services means services to the Property including but not limited to:

- (a) water, gas, electricity and air-conditioning;
- (b) sewerage and drainage;
- (c) telephone, television and other telecommunications; and
- (d) security systems.

32.2 Interpretation

In this Contract unless the context requires otherwise:

- (a) If the vendor 'may' do something means that the vendor may, but is not obliged, to do the thing or take the action contemplated in the relevant clause;
- (b) if the vendor has an obligation to cause something to be done, the vendor may either
 - (i) do that thing itself; or
 - (ii) engage a third person to do that thing;
- (c) the singular includes the plural and vice versa;
- (d) words implying a gender imply any gender;
- (e) headings are used for convenience only and do not affect the interpretation of this Contract;
- (f) a reference to a document (including this Contract) includes the document as modified from time to time and any document replacing it;
- (g) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements or any of them;
- (h) law means common law, principles of equity and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements);
- (i) an agreement, representation or warranty in favour of 2 or more persons is for the benefit of them jointly and severally;
- (j) an agreement, representation or warranty on the part of 2 or more persons binds them jointly and severally;
- (k) the word "person" includes an individual, a firm, a body corporate, a partnership, a joint venture, an unincorporated body or association or any authority;
- (l) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including without limitation, persons taking by novation) and assigns;

- (m) a reference to any agency or body, if that agency or body ceases to exist or is constituted, renamed or replaced or has its powers or functions removed (**defunct body**), means the agency or body which performs most closely the functions of the defunct body;
- (n) a reference to a day is a reference to a period of time commencing at midnight and ending 24 hours later;
- (o) a reference to time is a reference to eastern standard time;
- (p) **month** means calendar month and **year** means 12 months;
- (q) if a period of time dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (r) **in writing** includes any communication sent by letter, facsimile transmission or email;
- (s) **including** and similar expressions are not words of limitation; and
- (t) money amounts are stated in Australian currency unless otherwise specified.

32.3 Inconsistency

To the extent that the provisions of these special conditions are inconsistent with the printed form Contract, these special conditions will prevail.

33 AMENDMENTS TO THE CONTRACT FOR THE SALE OF LAND 2018 EDITION

- 33.1 Clause 2.9 is amended by inserting at the end of the clause “if this Contract is completed, and otherwise to the party entitled to the deposit”.
- 33.2 Clause 7.1.1 is amended by deleting the words “the total amount claimed exceeds 5% of the price” and instead inserting the words “the total amount claimed exceeds 1% of the price”.
- 33.3 Clause 7.2.4 is amended by deleting the words “and the costs of the purchaser”.
- 33.4 Clause 8 is amended by deleting the words “on reasonable grounds” in the first line of clause 8.1.1 and by deleting the words “and those grounds” in the first line of clause 8.1.2.
- 33.5 Clause 10.1 is amended by replacing line 1 with:

“The purchaser cannot take any Action in respect of”
- 33.6 Clause 10 is amended by inserting the following additional clause:

“10.4 For the purposes of this clause 10 the vendor discloses all of the material appearing in the documents attached to this Contract whether specified in the table on page 2 or not and all of that material is deemed to have been disclosed in substance in this Contract.”
- 33.7 At clause 13.7.2 after the words “GST Rate”, insert the words “together with any penalties and interest levied thereon,”
- 33.8 Clause 14.4.2 is deleted and replaced with the following clause 14.4.2.

“14.4.2 by adjusting the amount of land tax on the basis of the land tax shown on the assessment issued to the vendor by the relevant authority for the property as a proportion of all land tax paid by the vendor (with no threshold) for the year.”
- 33.9 Clause 21.4 is amended by deleting in the second line “the month” and in lieu insert “that month”.

- 33.10 Clause 23.9.1 is amended by deleting “1%” and instead inserting “5%”.
- 33.11 Clause 23.9.3 is amended by deleting the words “*or before Completion*”.
- 33.12 Clause 23.14 is deleted.
- 33.13 Clause 23.17.2 is deleted.
- 33.14 Clause 28 is deleted.

34 VENDOR'S DISCLOSURES

- 34.1 The vendor discloses that the annexures to this Contract, environmental planning instruments and other Council policies may restrict the way the Land can be improved and/or the uses for which the Land can be put.
- 34.2 Despite any other provision in this Contract, the purchaser may not take any Action because of any matter disclosed or referred to in this clause 34 or any matter referred to or disclosed in any document attached or annexed to this Contract.

35 REPRESENTATIONS, WARRANTIES, ACKNOWLEDGMENTS AND INDEMNITIES BY PURCHASER

- 35.1 Without limitation to any other provision in this Contract, the purchaser confirms, warrants and acknowledges to the vendor that:
- (a) the Property is being sold on an ‘as is where is’ basis.
 - (b) the Property is sold subject to such of the Tenancies as are current or being held over as at Completion;
 - (c) it has inspected or has had adequate opportunity to inspect the Property;
 - (d) it has made or undertaken its own investigations and enquiries as to each of the Due Diligence Matters prior to entering into this Contract and any material or information provided or made available by or on behalf of the vendor has been provided for the purpose of assisting the purchaser in determining the direction of its own independent enquiries into, and independent assessment of, the Property and prior to entering into this Contract the purchaser has satisfied itself with respect of all matters relating or arising out of those investigations and enquiries and has relied entirely upon its own enquiries and inspections in respect of the Property;
 - (e) it has sought independent legal advice on and has satisfied itself as to the obligations and rights of the purchaser under this Contract and its annexures and attachments;
 - (f) it has, where applicable, obtained the approval of all relevant governmental or semi-governmental instrumentalities to enable the purchaser to complete this Contract;
 - (g) it does not rely on the vendor or on anybody purporting to act on behalf of the vendor as to the Due Diligence Matters; and
 - (h) it will not take any Action in respect of any of the Due Diligence Matters.
- 35.2 The Due Diligence Matters are each of:
- (a) the condition, state of repair, safety, quality, or potential of the Property;
 - (b) the state of repair, condition or availability of any Service to and on the Property;
 - (c) the presence or location of any sewer, sewer line, manhole or vent on the Property;

- (d) access to the Property or lack of protection of any Services to the Property by way of registered easements;
- (e) any latent or patent defect to the Land or improvements;
- (f) any rainwater downpipe being connected to the sewer;
- (g) any Contamination or other environmental damage to the Property or any adjoining property;
- (h) any claim, grant, notice, order or declaration in connection with native title, land rights or heritage protection under legislation, the common law or otherwise affecting the Property or any adjoining property;
- (i) that all aspects of the Property offered for sale and inspected are identical to the Property;
- (j) Encumbrances affecting the Land;
- (k) any easement, covenant or other restriction affecting the Land;
- (l) the boundaries of the Land or any encroachments;
- (m) any approvals, consents or other permissions in connection with, or required for use of, the Property or any part of the Property, or the absence of any such approval, consent or permission;
- (n) compliance with the terms or conditions of any approval, consent or permission in connection with, or required for use of, the Property or any part of the Property, or any use of the Property, including any use under a Lease, being unauthorised or unlawful under the planning scheme that applies to the Property;
- (o) the manner in which the Property is affected by any environmental planning instrument (actual or deemed) under the *Environmental Planning and Assessment Act 1979* (NSW) or any other restriction or prohibition whether statutory or otherwise relating to the zoning of the Property or development on the Property or to the use to which the Property may be put and any existing proposals for realignment, widening or siting of a road by any authority;
- (p) the Tenancies;
- (q) any Tenancy Documents including their completeness, validity or enforceability or as to any breaches, the manner of execution, stamping or registration;
- (r) compliance with the Retail Leases Act 1994;
- (s) the accuracy of any schedule disclosed in this Contract.
- (t) the existence of any sub-tenancy granted by a Tenant;
- (u) any heritage item situated on the Land;
- (v) the present and future economic feasibility, viability and economic return of the Property;
- (w) any inclusions, furnishings and chattels passing with the Property, including any property left by the vendor on the Property after Completion which is not an Inclusion;
- (x) any matter referred to in any document annexed, attached or referred to in this Contract; and

- (y) those other inspections and enquiries which a prudent purchaser would make in respect of the Property.
- 35.3 Without limitation to any other provision in this Contract, the purchaser confirms, warrants and acknowledges to the vendor that:
- (a) in entering into this Contract and in proceeding to Completion neither the vendor, or any person on behalf of the vendor, has made or given any representation, warranty, promise or forecast, including any contained in or referred to by this Contract, in connection with the Property or the Due Diligence Matters and that the purchaser has not been induced or influenced to enter into this Contract by the vendor or any person on behalf of the vendor;
 - (b) no other statements or representations:
 - (i) have induced or influenced it to enter into this Contract or to agree to any or all of its terms;
 - (ii) have been relied on by it in any way as being accurate for those purposes; or
 - (iii) have been warranted to it as being true.
- 35.4 Without limitation to any other provision in this Contract, the purchaser confirms, warrants and acknowledges to the vendor that the Property and the Services to and on the Property is sold in their present condition and state of repair, subject to reasonable wear and tear and to all faults and defects, both latent or patent.
- 35.5 Without limitation to any other provision in this Contract, the purchaser confirms, warrants and acknowledges to the vendor that the vendor is not required to provide the purchaser with a survey report or plan in respect of the Property (**Survey Report**) on or before Completion and the purchaser must not take any Action on account of any matter or thing that may have been disclosed in any such Survey Report.
- 35.6 Without limitation to any other provision in this Contract, the purchaser confirms, warrants and acknowledges to the vendor that on or before the date of this Contract, the purchaser has investigated or has had adequate opportunity to investigate and is satisfied with all the matters that a building certificate would refer to or cover.
- 35.7 Without limitation to any other provision in this Contract, the purchaser confirms, warrants and acknowledges to the vendor that:
- (a) the vendor is not required to provide the purchaser with a building certificate in respect of the Property on or before Completion;
 - (b) Completion is not conditional on the purchaser (or anyone else) obtaining a building certificate in respect of the Property; and
 - (c) the purchaser may seek to obtain a building certificate, at the purchaser's sole cost, but must not take any Action on account of any refusal by the local council to issue a building certificate or any work order issued in connection with, or as a consequence of, any such application for a building certificate.
- 35.8 The purchaser agrees not to make any claim or exercise any right it may at any time have against the vendor in respect of any Contamination of the Environment or the presence, at any time, of any Contaminant or the breach of or non-compliance with any Environmental Law affecting the Property. From Completion the purchaser will comply with any work order or notice or order issued by any authority requiring the vendor or the purchaser to remove, remediate or clean up any Contamination at or from the Property.

- 35.9 On and from Completion the purchaser assumes all risks and responsibilities in connection with the Property and releases the vendor from all actions, claims, proceedings, orders, directions, notices, requisitions or obligations whatsoever which may arise after Completion in connection with the Property.
- 35.10 On and from Completion, the purchaser indemnifies the vendor against all liabilities, costs and losses howsoever incurred by the vendor in connection with the purchaser's non-performance of its obligations under this Contract except to the extent that such damage, loss, liability, action or cost arises from the negligent or wilful act or omission of the vendor or breach of this Contract by the vendor.
- 35.11 Without limitation to any other provision in this Contract, the purchaser confirms, warrants and acknowledges to the vendor that this Contract is the entire agreement between the parties as to the sale and purchase of the Property and anything not contained in this Contract is of no force or effect.

36 BUSINESS, GOODWILL, FITTINGS, PLANT AND EQUIPMENT

- 36.1 The purchaser acknowledges that the subject of this sale is land only and does not include any chattels, including any chattels of the business or any tenant, unless specifically noted in this Contract. In particular, the parties agree that all fixtures fittings and other items that belong or relate to the business conducted on the property are expressly excluded from the Property which is the subject of this Contract.
- 36.2 To the extent that this sale includes any fittings, plant and equipment, the vendor does not warrant the state of repair or condition of any fittings, plant or equipment nor does it warrant that they are in working order. The fittings, plant and equipment is sold on a "walk in, walk out" basis and must be accepted by the purchaser as they stand and with all defects and defaults as at Completion.
- 36.3 The purchaser agrees that the vendor is not liable for and releases the vendor from liability or loss arising from, and costs, charges and expenses incurred in connection with damage to, mechanical breakdown of, or fair wear and tear to any fittings or plant and equipment included in the sale which occurs after the date of this Contract.
- 36.4 The vendor need not give formal delivery of any fittings or plant and equipment included in the sale but must leave them at the Property on Completion.

37 FIRB WARRANTY

- 37.1 The purchaser warrants that the provisions of the *Foreign Acquisitions and Takeovers Act 1975* (Cth) do not apply to the purchaser or to this purchase.
- 37.2 In the event of breach of the warranty in clause 37.1, the purchaser will indemnify the vendor against any penalties, fines, legal costs, claims, loss or damage suffered in connection with that breach.

38 STAMP DUTY

- 38.1 The purchaser must pay stamp duty (including any penalties or interest) on this Contract and on any documents that are executed under this Contract.
- 38.2 The purchaser indemnifies the vendor for any liability incurred because of the default, delay or omission to pay the duty or the failure to make the proper disclosure to the revenue authorities about the duty.

39 ENCUMBRANCES AND CHARGES

- 39.1 If any Encumbrance to which this sale is not subject is noted on the certificate of title for the Property on Completion, then:

- (a) on Completion the vendor must provide to the purchaser a duly executed Discharge, together with the applicable registration fee;
- (b) on Completion the vendor must, if requested by the purchaser, provide all information and documents reasonably necessary to assist the purchaser in removing the Encumbrance; and
- (c) subject to clauses 39.1(a) and 39.1(b), the vendor is regarded as having given the purchaser a transfer of the Property free from the Encumbrance when the vendor gives the purchaser the Discharge.

39.2 Without limiting any other provision of this Contract, the vendor is not required to remove a charge on the Property for any Outgoings until Completion is effected.

40 **NOTICE TO COMPLETE**

40.1 If Completion does not occur on or before 4:00 pm on the Completion date, or at any time agreed by the vendor and purchaser, either party (as long as that party is not in default under this Contract) may:

- (a) serve on the other a notice requiring Completion on a specified date at least 14 days after the date of service of the notice, which time period the parties expressly agree is reasonable and sufficient even though the period includes days which are not business days;
- (b) make time of the essence for compliance with that notice; and
- (c) at any time withdraw that notice without prejudice to the continuing right of that party to give any further notice.

40.2 If the vendor is required to issue any notice pursuant to this clause, then the purchaser will pay to the vendor the sum of \$330.00 (including GST) being a genuine pre-estimate of the vendor's legal costs of issuing the notice.

41 **COMPLETION NOT ON COMPLETION DATE**

41.1 If the vendor is able to complete this Contract and if through no fault of the vendor, the purchaser does not complete this Contract in accordance with this Contract then and without prejudice to all or any other remedies of the vendor including but not limited to the service of a notice to complete pursuant to clause 15 and 40 the purchaser will pay to the vendor (in addition to other monies payable to the vendor on Completion) an amount 'X' calculated in accordance with the following formula:

$$X = \frac{D \times B \times 6\%}{Y}$$

where D is number of days from the Completion date to the actual date of Completion including the Completion date less the number of days during that period on which the vendor is unable to complete this Contract, unless the vendor's inability to complete is due to the purchaser's breach of this contract.

where Y is number of days in the year that this Contract is completed

where B is balance of the price

41.2 It is agreed that this amount is a genuine estimate of the vendor's damages for the purchaser failing to complete in accordance with the Contract. It is further agreed that payment of such amount is an essential term of this Contract.

42 DEPOSIT

- 42.1 If the purchaser pays, and the vendor accepts, less than 10% of the price as the deposit under clause 2, notwithstanding that, in the event of any default by the purchaser under this contract, including any act or omission which in the opinion of the vendor constitutes default on written demand by the vendor, the purchaser will immediately pay the vendor an amount equal to the difference between 10% of the price and the amount of deposit paid by the purchaser.

43 ADDITIONAL RIGHTS

- 43.1 Subject to clause 44, if a party (or if that party consists of two or more persons, any of those persons):

- (a) dies; or
- (b) is so intellectually, physically or psychologically disabled as to be, in the reasonable opinion of the other party, unable to complete this Contract on time;

Then the other party may rescind by giving written notice to the first party's solicitor.

- 43.2 Subject to clause 44, if a party (or if a party consists of two or more persons, any of those persons) is a body corporate and:

- (a) an application is made to a court for an order or an order is made that it be wound up; or
- (b) an application is made to a court for an order appointing a liquidator or provisional liquidator in respect of it, or one of them is appointed, whether or not under an order;

- 43.3 Then the other party may rescind by giving written notice to the first party's solicitor.

44 TERMINATION OR RESCISSION

- 44.1 Notwithstanding any other provision in this Contract or any principle of law or equity, the purchaser is not entitled to rescind or terminate this Contract or make any claim, objection or requisition by reason of any of the following facts:

- (a) that the vendor prior to Completion has a liquidator, provisional liquidator, receiver, receiver manager, administrator, voluntary administrator, controller, controlling manager, official manager or similar office of it appointed; or
- (b) the vendor's mortgagee exercises any rights under any security or other arrangement between the vendor, the vendor's mortgagee or anyone else, including but not limited to any moratorium or any enforcement action against the vendor or the Property.

45 NO OTHER AGENT

- 45.1 The purchaser warrants to the vendor that it was not introduced directly or indirectly to the Property or the vendor by any agent, other than the agent referred to in this Contract (if any). The purchaser indemnifies the vendor against any claim by any other agent for commission from the vendor arising from the sale of the Property to the purchaser. This clause will not merge on Completion.

46 DIRECTOR'S WARRANTY AND DIRECTORS' GUARANTEES

- 46.1 If the purchaser is a corporation which is not listed on the Australian Stock Exchange or which is not a Disclosing Entity as defined in s.111AC of the Corporations Act, then each person who signs this Contract on behalf of the purchaser warrants:

- (a) that the purchaser is duly incorporated and registered as a corporation under all applicable laws; and
 - (b) they are a director or secretary of the purchaser.
- 46.2 The Guarantor gives the Guarantee in consideration of the vendor agreeing to enter into this Contract. The Guarantor acknowledges the receipt of valuable consideration from the vendor incurring obligations and giving rights under the Guarantee.
- 46.3 The Guarantor unconditionally and irrevocably guarantees to the vendor:
- (a) payment to the vendor of the Guaranteed Money; and
 - (b) the due and punctual performance and observance of the Guaranteed Obligations.
- 46.4 If the purchaser does not pay the Guaranteed Money on time and in accordance with the terms of this Contract then the Guarantor agrees to pay the Guaranteed Money to the vendor on demand from the vendor.
- 46.5 If the purchaser does not duly and punctually perform the Guaranteed Obligations in accordance with the terms of this Contract then the Guarantor agrees to perform the Guaranteed Obligations on demand from the vendor.
- 46.6 The Guarantor acknowledges:
- (a) all amounts due under the Guarantee are payable as soon as the vendor gives the Guarantor a written demand for payment;
 - (b) the vendor may make a demand under this Guarantee at any time and from time to time:
 - (i) without any pre-conditions first being met;
 - (ii) whether or not demand has been made by the purchaser;
 - (iii) whether or not the vendor has or is able to demand payment or performance from the purchaser or anybody else;
 - (iv) whether or not the vendor is able to or has attempted to recover any relevant amount or performance from the purchaser or anybody else;
 - (v) whether or not the vendor has exercised or exhausted any of its rights against the purchaser or anybody else; and
 - (vi) whether or not the purchaser or anybody else has to pay the relevant amount or perform the relevant obligation.
- 46.7 As a separate undertaking, the Guarantor unconditionally and irrevocably indemnifies the vendor against:
- (a) all liability or loss arising from, and any costs, charges or expenses incurred with, the Guaranteed Money not being recoverable from the Guarantor under sub-clauses 46.3 or 46.4 or from the purchaser because of any circumstances whatsoever; and
 - (b) all liability or loss arising from, and any costs, charges or expenses incurred in connection with, the Guaranteed Obligations not being duly and punctually performed because of any circumstance whatsoever.

It is not necessary for the vendor to incur expense or make payment before enforcing that right of indemnity.

- 46.8 The Guarantor agrees to pay or reimburse the vendor on demand for:
- (a) the vendor's costs, charges and expenses in making, enforcing and doing anything in connection with the Guarantee including legal costs and expenses on whichever is the high of a full indemnity basis or solicitor and own client basis; and
 - (b) all stamp duties, fees, taxes and charges which are payable in connection with the Guarantee or a payment, receipt or other transaction contemplated by it.
- 46.9 If a claim to a payment to the vendor in connection with this Contract or the Guarantee is void or voidable (including, but not limited to, a claim under laws relating to liquidation, administration, insolvency or protection of creditors) is upheld, conceded or compromised then the vendor is entitled immediately as against the Guarantor to the rights to which it would have been entitled under the Guarantee if the payment had not occurred and on request from the vendor, the Guarantor agrees to do anything (including signing any document) to restore to the vendor any mortgage, charge or other encumbrance (including this Contract).
- 46.10 The Guarantee is a continuing security and liability and is not discharged by any one payment and extends to all of the Guaranteed Money and other money payable under the Guarantee and to all the Guaranteed Obligations. The Guarantor waives any right it has of first requiring the vendor to proceed against or enforce any other right, power, remedy or security or claim payment from the purchaser or any other person before claiming from the Guarantor under the Guarantee.
- 46.11 The liabilities of the Guarantor under the Guarantee as a guarantor, principal debtor, principal obligor or indemnifier and the rights of the vendor under the Guarantee are not affected by anything which might otherwise affect them at law or in equity including, without limitation, one or more of the following:
- (a) the vendor or another person granting time or other indulgence to, compounding or compromising with or releasing the purchaser; or
 - (b) acquiescence, delay, acts, omissions or mistakes on the part of the vendor; or
 - (c) any variation or novation of a right of the vendor, or alteration of this Contract or a document, in respect of the purchaser; or
 - (d) the invalidity or unenforceability of an obligation or liability of a person other than the Guarantor.
- 46.12 As long as the Guaranteed Money or other money payable under the Guarantee remains unpaid or the Guaranteed Obligations or any of them remain unperformed, the Guarantor must not, without the vendor's written approval:
- (a) raise a set-off or counterclaim available to it or the purchaser against the vendor in reduction of its liability under the Guarantee; or
 - (b) claim to be entitled by way of contribution, indemnity, subrogation, marshalling or otherwise of any benefit of any security or guarantee held by the vendor in connection with this Contract; or
 - (c) make a claim or enforce a right (including, without limitation, a mortgage, charge or other Encumbrance) against the purchaser or its Property; or
 - (d) prove in competition with the vendor if a liquidator, provisional liquidator, receiver, manager, administrator or trustee in bankruptcy is appointed in respect of the purchaser or the purchaser is otherwise unable to pay its debts when they fall due.
- 46.13 The Guarantor acknowledges that before signing this Contract, and incurring obligations and giving rights under the Guarantee, it:

- (a) was given a copy of this Contract (and all documents giving rise to an obligation of the purchaser in connection with this Contract) and had full opportunity to consider their provisions; and
- (b) made itself aware of the financial position of the purchaser and any other person who guarantees any of the purchaser's obligations in connection with this Contract.

46.14 The Guarantor represents and warrants that its obligations under the Guarantee are valid and binding and that it does not enter into the Guarantee in the capacity of a trustee of any trust or settlement.

46.15 The vendor may assign or otherwise deal with its rights under the Guarantee.

46.16 This clause is an essential term of this Contract.

47 **TRUSTEE PURCHASER**

47.1 If the purchaser is a trustee of a trust, then the purchaser:

- (a) enters into this Contract in its capacity as trustee of the trust and in its own capacity; and
- (b) each person who signs this Contract warrants that as at the Contract date and until Completion:
 - (i) the purchaser is the sole and only trustee of the trust;
 - (ii) the purchaser is empowered by the trust deed of the trust to enter into this Contract; and
 - (iii) the trustee's right of indemnity out of, and lien over, the assets of the trust have not been limited in any way.

48 **ATTACHMENTS AND ANNEXURES**

48.1 Attached and/or annexed to the Contract are various documents relating to the Land and the Land's title.

48.2 The purchaser cannot take any Action if the original of any of these documents are not available on or after Completion.

48.3 The purchaser cannot take any Action or require the vendor to carry out any work in respect of the contents of these documents or the disclosures made therein.

48.4 The vendor makes no statement, warranty or representation in respect to the accuracy, completeness or currency of any of attached and/or annexed documents.

49 **MISCELLANEOUS**

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

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

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

49.3 A term or condition of, or an act done in connection with, this Contract does operate as a merger of any of the rights or remedies of the parties under this Contract and those rights and remedies continue unchanged. Each term of this Contract that has not been carried into effect at the termination of this Contract survives the termination.

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

49.5 A party cannot assign or otherwise transfer the benefit of this Contract without the prior written consent of the other party.

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

50 APPROVALS AND BUILDING WORKS

50.1 The vendor discloses to the purchaser that:

- (a) the vendor has approvals to complete alterations and additions to the property in accordance with the DA16/1403 and Construction Certificate 19-999 (**Approvals**). Copies of the approved plans for the Construction Certificate are annexed to this Contract;
- (b) the vendor has carried out part of the works pursuant to the Approvals and the plans, including the storeroom and laundry;
- (c) the vendor has not commenced other parts of the works that were approved, including the restaurant;
- (d) the Vendor will obtain an interim Occupation Certificate in relation to the works already completed prior to completion and, for the avoidance of doubt, the vendor cannot compel the purchaser to settle until this interim Occupation Certificate is provided; and
- (e) other than work necessary to obtain the interim Occupation Certificate in relation to the works already completed and the works referred to in special condition 50, the vendor will not commence, continue or complete any further building works pursuant to the Approvals prior to completion.

50.2 Provided that the Vendor provides an interim Occupation Certificate in relation to the works already completed, other than in relation to special condition 50.1, the purchaser must:

- (a) accept the Property in its current state of repair and condition, with any building works completed by the vendor;
- (b) not take any Action as a result of any matter or thing arising out of or in connection with the building works that have been completed by the Vendor;
- (c) not take any Action or seek that the vendor will complete the works the subject of the Approval, or do any further works pursuant to the Approval.

51 STRATA

- 51.1 The Vendor agrees to do all things reasonably necessary to have the owners corporation adopt and register Special By-Law 1, annexed hereto at **Tabs 14 and 15**, prior to Completion.
- 51.2 The purchaser will not be required to complete this contract until the Vendor has completed the registration of Special By-Law 1 in accordance with this Contract.
- 51.3 The Vendor has arranged for a surveyor to complete the subdivision of the common property, so that the Lot 2 owner will have the benefit of the area identified in the Special By-Law 1, on the terms of the Strata Plan annexed hereto at **Tab 16**. The Vendor will use its reasonable endeavours to complete the subdivision of the common property, including obtaining approval and registering the plan of subdivision, prior to completion and will continue to do all things reasonably necessary to complete the subdivision following completion.
- 51.4 The parties acknowledge and agree that completion of this contract is not subject to the completion of the approval or registration of the survey plan referred to in clause 54.3 and the purchaser will not be entitled to terminate, rescind or make any objection, requisition, claim for compensation or delay completion in relation to the non-completion of the approval or registration of the survey plan, provided that the Vendor has used its reasonable endeavours.

52 SUBJECT TO NEW LEASE

- 52.1 The parties acknowledge and agree that this contract is subject to the vendor arranging for the Lease on title to be surrendered and a new Lease on the terms annexed hereto at **Tab 18** to be entered into, to commence on and from the date of completion.

53 CONDITIONS PRECEDENT

- 53.1 Completion is subject to and conditional upon each of the following conditions being fulfilled (or waived in writing by both parties):
- (a) the parties entering into a Contract for Sale of Business for the business known as "Bronte House" within 7 days from the date of this Contract; and
 - (b) completion of the Contract for Sale of Business on or before the date of this Contract.
- 53.2 If the conditions referred to in clause 53.1 are not fulfilled (or not waived under clause 53.1 on or before the date for the conditions to be satisfied, then either party may rescind this Contract and the terms of clause 19 of the Contract will apply. Notwithstanding any other term of this Contract, the parties agree that rescission of this Contract does not preclude the enforcement of any right or claim for breach which has arisen before this Contract comes to an end.
- 53.3 A condition referred to in clause 53.1 may only be waived by the written agreement of both parties, expressly waiving the condition.
- 53.4 The parties must use their respective reasonable endeavours to ensure that the conditions referred to in clause 53.1 are fulfilled on or before the Condition Satisfaction Date.
- 53.5 The obligation imposed on a party by clause 53.4 does not require that party to waive any condition under clause 53.1.
- 53.6 The Purchaser may not make a Claim or requisition, objection, delay completion, rescind or terminate because of anything in connection with any matter referred to in this clause.
- 53.7 This clause 53 is an essential term of this Contract.

54 **INTERDEPENDENT CONTRACTS**

- 54.1 This Contract is interdependent with the Contract for Sale of Business entered into by the parties' related entities for the Contract for Sale of Business.
- 54.2 A breach of the Contract for Sale of Business by either party will be a breach of this Contract.
- 54.3 If the Contract for Sale of Land is rescinded or terminated, either party may exercise a corresponding right to either rescind or terminate this Contract, as the case may be, by giving written notice to the other.
- 54.4 The parties acknowledge that Completion of this Contract and the Contract for Sale of Land is to occur on the same date.
- 54.5 This clause 54 is an essential term of this Contract.



LAND
REGISTRY
SERVICES

Title Search



NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 2/SP74847

SEARCH DATE	TIME	EDITION NO	DATE
27/10/2021	6:08 PM	4	7/6/2021

LAND

LOT 2 IN STRATA PLAN 74847
AT MORPETH
LOCAL GOVERNMENT AREA MAITLAND

FIRST SCHEDULE

MORPETH PROPERTY MANAGEMENT PTY LIMITED (T AI946898)

SECOND SCHEDULE (3 NOTIFICATIONS)

- 1 INTERESTS RECORDED ON REGISTER FOLIO CP/SP74847
- 2 AI946899 MORTGAGE TO NATIONAL AUSTRALIA BANK LIMITED
- 3 AR122404 LEASE TO HUNTER VALLEY BOUTIQUE ESCAPES PTY LTD
EXPIRES: 18/3/2026. OPTION OF RENEWAL: 5 YEARS AND ONE
FURTHER OPTION OF 5 YEARS.

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

210860

PRINTED ON 27/10/2021

* 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.



LAND
REGISTRY
SERVICES

Title Search



NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: CP/SP74847

SEARCH DATE	TIME	EDITION NO	DATE
31/10/2021	1:36 PM	1	2/5/2005

LAND

THE COMMON PROPERTY IN THE STRATA SCHEME BASED ON STRATA PLAN 74847
WITHIN THE PARCEL SHOWN IN THE TITLE DIAGRAM

AT MORPETH
LOCAL GOVERNMENT AREA MAITLAND
PARISH OF ALNWICK COUNTY OF NORTHUMBERLAND
TITLE DIAGRAM SP74847

FIRST SCHEDULE

THE OWNERS - STRATA PLAN NO. 74847
ADDRESS FOR SERVICE OF DOCUMENTS:
145-147 SWAN STREET
MORPETH 2321

SECOND SCHEDULE (2 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 ATTENTION IS DIRECTED TO THE MIXED USE SCHEMES MODEL BY-LAWS
CONTAINED IN THE STRATA SCHEMES MANAGEMENT REGULATION APPLICABLE
AT THE DATE OF REGISTRATION OF THE SCHEME
KEEPING OF ANIMALS - OPTION B HAS BEEN ADOPTED

SCHEDULE OF UNIT ENTITLEMENT (AGGREGATE: 100)

STRATA PLAN 74847

LOT	ENT	LOT	ENT
1	- 30	2	- 70

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

210860

PRINTED ON 31/10/2021

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STRATA CERTIFICATE

Name of Council: Northland City Council being satisfied that the requirements of the Strata Schemes (General Development) Act 1973 have been complied with, otherwise of the proposed

- strata plan of subdivision
- strata plan of subdivision

Application is the proposed by the certificate

The certificate holder is satisfied that the plan is consistent with a relevant development consent in force, and that the conditions of the development consent that by its terms are required to be complied with before a strata certificate may be issued, have been complied with

The State plan/strata plan of subdivision is part of a development scheme. The council considered and is satisfied that the plan is consistent with any special conditions of any development consent and that the plan gives effect to the edge of the strata development consent to which it relates

The Council does not object to the incorporation of the building beyond the alignment of _____ Street

The Accredited Certifier is satisfied that the building complies with a relevant development consent in force that allows the incorporation

This approval is given on the condition that the use of lot (a) _____ being utility lot / a

is designed to be used primarily for the storage or accommodation of boats, motor vehicles or goods and not for any other purpose, and that the use of lot (a) is restricted to the storage or accommodation of a boat or motor vehicle or goods and that the use of lot (a) is restricted to the storage or accommodation of a boat or motor vehicle or goods and that the use of lot (a) is restricted to the storage or accommodation of a boat or motor vehicle or goods and that the use of lot (a) is restricted to the storage or accommodation of a boat or motor vehicle or goods

Date: 8.4.05

Subdivision No.: 05/118

Application No.: PA05-118

Relevant Development Consent No.: PA05-118

Issued by: *[Signature]*

General Manager/Authorised Person/Accounting Officer

SCHEDULE OF UNIT ENTITLEMENT

LOT	UNIT ENTITLEMENT
1	30
2	70
AGGREGATE	100

SUBRECTOR'S CERTIFICATE

MICHAEL ANTHONY TAYLOR
1 ASQUITH & DEWITT P.O. BOX 179 CHARLESTOWN NSW 2290

Signature applied under the Surveying Act 2002, hereby certify that:

- (1) each applicable requirement of Schedule 1, to the Strata Schemes (General Development) Act 1973 has been met;
- (2) & (3) the building encroaches on a public place;
- (4) the building encroaches on a public place;
- (5) the building encroaches on a public place;
- (6) the building encroaches on a public place;

Signature: *Michael Taylor*
Date: 23-3-2005

This is sheet 1 of my Plan in _____ sheets.

Mixed-use Model By-Laws adopted for this scheme

Keeping of Animals: Option A/B/C

Schedule of By-Laws in _____ sheets filed with plan

No By-Laws apply

strike out whichever is inapplicable

PLAN OF SUBDIVISION OF LOTS 101 & 102 D.P.867100

L G A: MAITLAND Suburb/Locality: MORPETH

Parish: ALNWICK County: NORTHUMBERLAND

Reduction Ratio 1: *** Lengths are in metres

Registered: L S 2.5.2005

CA: _____

Purpose STRATA PLAN

Ref.Mop: U 54-72-24 #

Last Plan: DP867100

Name of, and *address for service of notices on, the owners corporation (*Address required on original strata plan only.)
The Owners
Strata Plan No. 74847
145-147 SWAN STREET
MORPETH 2321

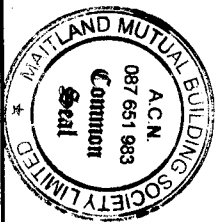
FOR LOCATION PLAN SEE SHEET 2

Signatures, seals and statements of intention to create easements, restrictions on the use of land or positive covenants.

PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919 AND SEC. 7(3) STRATA SCHEMES (FREEHOLD DEVELOPMENT) ACT 1973, IT IS INTENDED TO RELEASE:-

1. EASEMENT FOR OVERHANG 0.6 WIDE (D.P.867100)
2. EASEMENT FOR CARPARKING 3 WIDE (D.P.867100)

[Signature]
[Signature]



[Signature]
William T. Morgan
DIRECTOR

[Signature]
Allan G. Secomb
SECRETARY

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

Sheet No. 2 of 4 Sheets

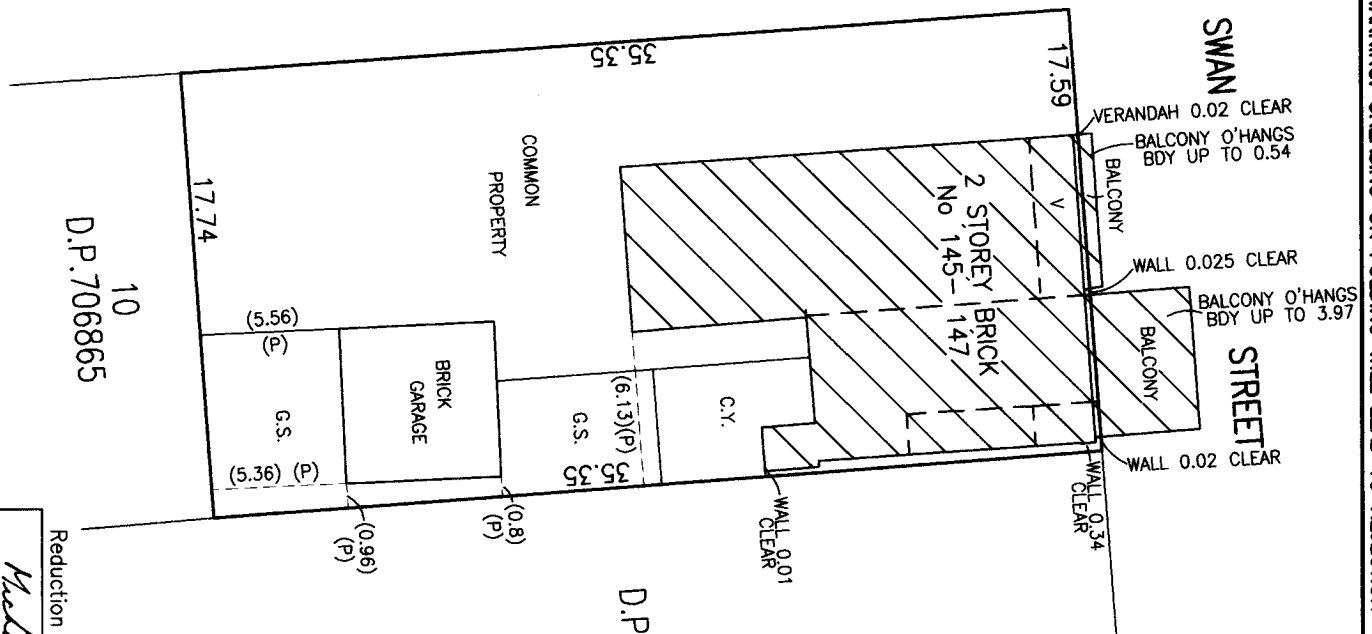
I.S.G. NORTH



BERKLEY STREET

SWAN STREET

STREET



SP74847

LOCATION PLAN

D.P. 741953

D.P. 706865

Reduction Ratio 1:200

Lengths are in metres

Michael Taylor
 Surveyor Registered under Surveying Act 2002
 SURVEYOR'S REFERENCE: 364,195T-2(c)

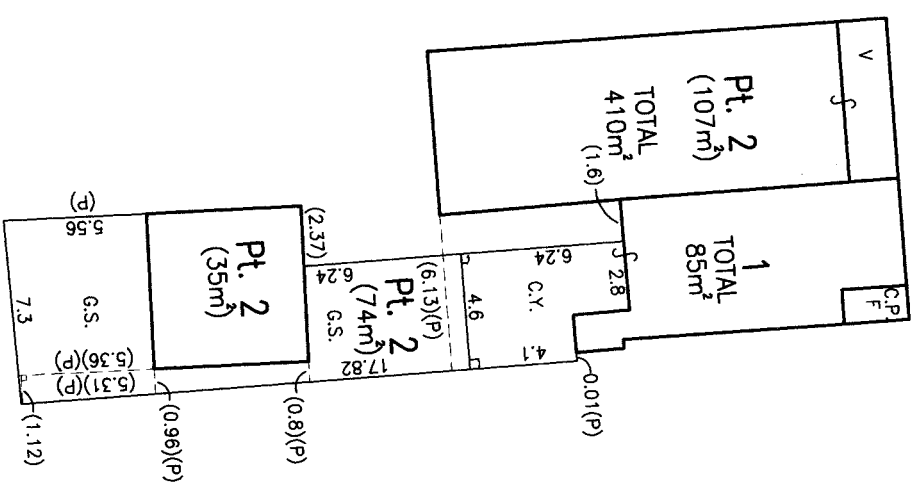
[Signature]
 General-Manager/Authorised Person

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

SP74847

GROUND FLOOR

I.S.G. NORTH



NOTES:-

- ALL AREAS ARE APPROXIMATE.
- GARDEN SPACES AND COURTYARDS ARE LIMITED IN HEIGHT FROM 2m BELOW TO 10m ABOVE THE UPPER SURFACE OF THE FLOOR OF LOT 1 EXCEPT WHERE COVERED.
- C.P. - COMMON PROPERTY
- C.Y. - COURTYARD
- G.S. - GARDEN SPACE
- F - FOTER
- V - VERANDAH (COVERED)
- (P) - DENOTES PROLONGATION OF OF OUTSIDE FACE OF WALL
- └ - DENOTES RIGHT ANGLE

Reduction Ratio 1:200

Lengths are in metres

Michael Taylor
 Surveyor Registered under Surveying Act 2002
 SURVEYOR'S REFERENCE: 36419ST-2(C)

[Signature]
 General Manager/Authorised Person

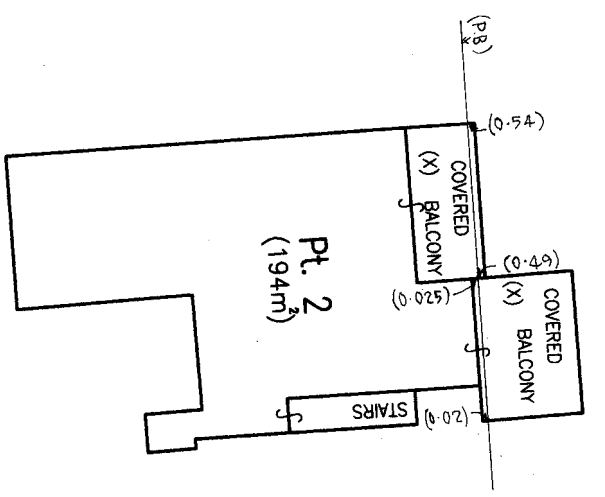
WARNING: CREAMING OR FOLDING WILL LEAD TO REJECTION

Sheet No. 4 of 4 Sheets

I.S.G. NORTH

NOTES:- ALL AREAS ARE APPROXIMATE.
(X) - THE PART OF THE FIRST FLOOR BALCONIES WHICH ENROACH OVER SWAN STREET ARE FOR THE EXCLUSIVE USE OF LOT 2. THE PROVISIONS OF THE ACT APPLY TO THIS AREA OTHER THAN THOSE RELATING TO OWNERSHIP AND CERTIFICATE OF TITLE.

(P B) PARCEL BOUNDARY



SP74847
FIRST FLOOR

OFFICE USE ONLY

Reduction Ratio 1:200

Lengths are in metres

Michael Taylor
Surveyor Registered under Surveying Act 2002
SURVEYOR'S REFERENCE: 364,19ST-2(C)

[Signature]
General Manager/Authorised Person

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Lengths are in metres

(Sheet 1 of 2 Sheets)

SP74847

Plan of Subdivision of Lots 101 and 102
in DP 867100 covered by Strata
Certificate No.

**Full Name and Address of
The Owner of the land:**

Martin Kevin Hurley

Nicolena Ann Hurley

**Full Name and Address of
The Mortgagee of the land:**

Maitland Mutual Building Society Ltd

PART 1A (Release)

No of item shown in the intention panel on the plan	Identity of easement to be released and referred to in the plan	Burdened lot(s) or parcel(s):	Benefited lot(s), road(s), bodies or Prescribed Authorities
1	Easement for overhang 0.6 wide (DP 867100)	Lot 102 DP 867100	Lot 101 DP 867100
2	Easement for carparking 3 wide (DP 867100)	Lot 102 DP 867100	Lot 101 DP 867100

PART 2

Signed by **MARTIN KEVIN HURLEY**
In the presence of:

.....
Signature of Witness


.....
MARTIN KEVIN HURLEY

ERROL JAMES RUSSELL
.....
Name of Witness (BLOCK LETTERS)

417 HIGH ST
.....

MAITLAND NSW 2320
.....

.....
Address of Witness

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

(Sheet 2 of 2 Sheets)

SP74847

Signed by NICOLENA ANN HURLEY
In the presence of:

Signature of Witness

NICOLENA ANN HURLEY

EAROL JAMES RUSSELL

Name of Witness (BLOCK LETTERS)

417 HIGH ST

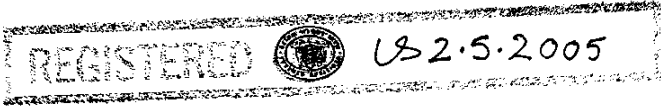
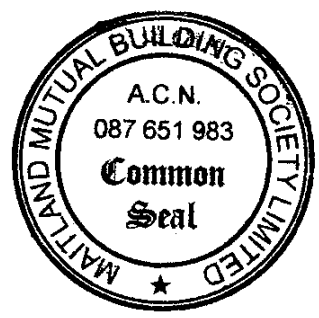
MAITLAND NSW 2320

Address of Witness

The Common Seal of
MAITLAND MUTUAL BUILDING SOCIETY LTD
Was hereunto affixed in the presence of:

Director

Secretary



Lodger Details

Lodger Code 500314
Name JENKINS LEGAL SERVICES
Address L 5, 77 HUNTER ST
NEWCASTLE 2300
Lodger Box 1W
Email RAELENE@JENKINSLEGAL.COM.AU
Reference MORPETH PROPERT

For Office Use Only

AR122404

LEASE

Jurisdiction NEW SOUTH WALES

Privacy Collection Statement

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

Land Title Reference

2/SP74847

Land Extent

WHOLE OF THE LAND

Lessor

Name MORPETH PROPERTY MANAGEMENT PTY LIMITED
ACN 600500749

Lessee

Name HUNTER VALLEY BOUTIQUE ESCAPES PTY LTD
ACN 150006849

Tenancy (inc. share) SOLE PROPRIETOR

The lessor leases to the lessee the property referred to above.

Lease Details

Term 5 YEARS
Commencing Date 19/03/2021
Terminating Date 18/03/2026
Option to Renew YES
Option to Renew Period 5 YEARS
& Further Option of 5 YEARS
Option to Purchase NO
Rent Details
Amount 81600.00
Payment Frequency Month
Payment Terms \$81,600.00 (plus GST) in equal monthly instalments of \$6,800.00 (plus GST)
Rent Description Monthly instalments

Conditions and Provisions

See attached CONDITIONS AND PROVISIONS

THE SUBSCRIBER VERIFIES THAT THE ATTACHED LEASE HAS BEEN SIGNED BY OR ON BEHALF OF A PERSON PURPORTING TO BE THE LESSEE.

THE LESSOR DECLARES, TO THE BEST KNOWLEDGE OF THE SUBSCRIBER, THAT REGISTRATION OF THE LEASE IS NOT PRECLUDED BY ANY OPTION OF RENEWAL/PURCHASE IN A REGISTERED LEASE.

Lessor Execution

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

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

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

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

Executed on behalf of MORPETH PROPERTY MANAGEMENT PTY LIMITED
Signer Name SAM SLACK-SMITH
Signer Organisation JENKINS LEGAL SERVICES PTY LTD
Signer Role PRACTITIONER CERTIFIER
Execution Date 07/06/2021

ANNEXURE A

ANNEXURE A
SEE A SOLICITOR ABOUT THIS LEASE

Lessor: MORPETH PROPERTY MANAGEMENT PTY LTD ACN 600 500 749 ATF THE MORPETH PROPERTY TRUST ABN 54 633 080 262

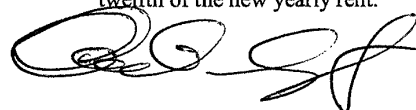
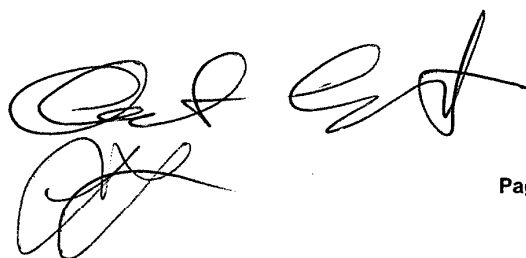
Lessee: HUNTER VALLEY BOUTIQUE ESCAPES PTY LTD ACN 150 006 849

This annexure consists of 3 pages.

NOTE: Any alterations and additions to Lease Covenants in Annexure B **must** be made by additional clauses in Annexure A. The printed clauses in Annexure B are to remain in their copyright form without alteration.

SCHEDULE OF ITEMS (continued)

- Item 10 (cls 2.3, 13.1) (cl 13.7)
- A. **The guarantor:** N.A.
 - B. **Limit of guarantor's liability:** N.A.
- Item 11 (cl 3)
- Additional leased property:**
- Item 12 (cl 4)
- Option to renew**
- A. Further period of five (5) years from 19 March 2026 to 18 March 2031
 - B. Further period of five (5) years from 19 March 2031 to 18 March 2036
 - C. Maximum period of tenancy under this lease and permitted renewals: 15 years
 - D. First day option for renewal can be exercised: six (6) months before the terminating date, including in each further period.
 - E. Last day option for renewal can be exercised: three (3) months before the terminating date, including in each further period.
- Item 13 (cl 5)
- A. Rent**
- For the lease period:
- | | |
|---|--|
| From the commencement date to the first rent review date: | \$81,600.00 plus GST a year by equal monthly instalments of \$6,800.00 plus GST |
| Afterwards: | At the new yearly rent beginning on each review date by monthly instalments of one twelfth of the new yearly rent. |
- For the further period in item 12A:
- | | |
|---|--|
| From the commencement date to the first rent review date:
(for example: Current market rent) | The current market rent to be paid by monthly instalments. |
| Afterwards: | At the new yearly rent beginning on each review date by monthly instalments of one twelfth of the new yearly rent. |



For the further period in item 12B:

From the commencement date
to the first rent review date:

The current market rent to be paid by monthly instalments.

(for example: Current market rent)

Afterwards:

At the new yearly rent beginning on each review date by monthly instalments of one twelfth of the new yearly rent.

Item 13
(cl 15)

B. GST

Clause 15 provides for payment by the lessee of GST unless otherwise here indicated:

Item 14
(cl 5)

Outgoings

A. Share of outgoings: 100%

B. Outgoings –

- (a) local council rates and charges;
- (b) water sewerage and drainage charges;
- (c) all levies and contributions of whatsoever nature determined and/or levied by the owners corporation with the exception of any contribution to a sinking fund or special levy in respect of the strata scheme of which the property forms part (if applicable).

for the land or the building of which the property is part, fairly apportioned to the period of this lease.

Item 15
(cl 5.1.5)

Interest rate: 10%

Item 16
(cl 5.4)

Rent review

Rent review date	Method of rent review	If Method 1 applies, increase by (the increase should show percentage or amount)
On each anniversary of the commencement date	Method 2	
On the renewal of the new lease	Method 3	

Method 1 is a fixed amount or percentage.

Method 2 is Consumer Price Index.

Method 3 is current market rent.

Method 2 applies unless another method is stated.

Item 17
(cl 6.1)

Permitted use: Bed and breakfast/guest house accommodation and catering events.

Item 18
(cl 8.1.1)

Amount of required public liability insurance: \$20,000,000.00

Item 19 **Bank Guarantee**
(cl 16)

Not applicable.

Item 20 **Security Deposit**
(cl 17)

Not applicable.

Details of strata manager/secretary of the owners corporation (if applicable)

The following alterations and additions are to be made to the Lease Covenants in Annexure B:

19. UTILITIES

- 19.1 The Lessee will arrange accounts for and be responsible for all charges for utilities provided to or consumed upon the property, including but not limited to water usage, electricity, telephone, garbage, waste removal, tenant insurance, air conditioning service and maintenance and other like and similar charges.
- 19.2 If any such charges are rated jointly with other premises not forming part of the property, then the Lessee's proportion of the overall charges will be that proportion that is obtained by taking the lettable area of the property leased and dividing it by the area of all premises jointly rated (including the area of the property) that was actually occupied during the period covered by the account.
- 19.3 For any charges payable by the Lessee under clause 19.2, the Lessor will, when requesting payment by the Lessee, provide to the Lessee a copy of the invoice and calculation of the Lessee's proportion of the overall charge.

20. CONDITION AND REPAIRS – ADDITIONAL OBLIGATIONS OF LESSEE

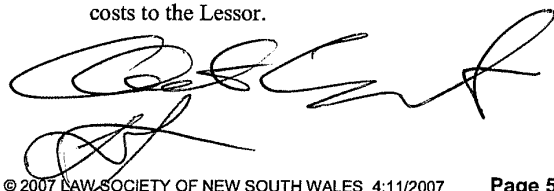
- 20.1 Without limiting the generality of the provisions of Annexure B, the Lessee must also:
- 20.1.1 maintain, service and repair any hot water system servicing the property;
- 20.1.2 promptly replace all broken light globes and tubes and other like items ordinarily used at the property; and
- 20.1.3 remove all or any graffiti that may be found upon the interior of the property within two (2) business days of such graffiti appearing.
- 20.1.4 keep and maintain the waste pipes, drains and conduits originating in the property in a clean, clear and free-flowing condition between their points of origin and their entry into any drain; and
- 20.1.5 employ licensed tradesmen to clear any blockages which may occur in such waste pipes, drains and conduits.

21. COMPLIANCE WITH NOTICES AND ORDERS

- 21.1 Without limiting the generality of any of the provisions of Annexure B, the Lessee must:
- 21.1.1 comply with all notices or orders which may be given by any authority having jurisdiction over the property or to any business or businesses being conducted at the property;
- 21.1.2 provide a copy of all notices or orders to the Lessor within seven (7) days of receipt of such notice or orders; and
- 21.1.3 indemnify and keep the Lessor indemnified for any failure of the Lessee to comply with such notices or orders.
- 21.2 If the Lessee fails to comply with any such notice or order, the Lessor may (but without prejudice to any right of re-entry) enter the property and comply with any such notice or order. Any costs incurred by the Lessor in complying with any such notice or order will constitute costs of remedying a default of the Lessee for the purposes of this lease.
- 21.3 Clause 12.5.8 of Annexure B is inserted in the following terms:
"12.5.7 the obligations of the Lessee in clause 21."

22. SIGNAGE

- 22.1 The Lessee must obtain prior written approval from the Lessor to erect any signage on or outside the property. The Lessee will be responsible for any costs of maintaining the signage at the front of property and will reimburse any costs to the Lessor.



ANNEXURE B

PAGE 1 OF 13 PAGES

SEE A SOLICITOR ABOUT THIS LEASE

ANNEXURE B

**Lessor: MORPETH PROPERTY MANAGEMENT PTY LTD ACN 600 500 749 ATF THE MORPETH
PROPERTY TRUST ABN 54 633 080 262**

Lessee: HUNTER VALLEY BOUTIQUE ESCAPES PTY LTD ACN 150 006 849

This annexure consists of 13 pages.

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NOTE: Any alterations and additions to Lease Covenants in Annexure B **must** be made by additional clauses in Annexure A. The printed clauses in Annexure B are to remain in their copyright form without alteration.

CONTENTS

CLAUSE	SUBJECT	PAGE	CLAUSE	SUBJECT	PAGE
1	Form of this Lease.....	2	11	Lessor's other Obligations.....	9
2	Parties.....	2	12	Forfeiture and End of Lease	9
3	The Property.....	2	13	Guarantee	10
4	Lease Period.....	2	14	Exclusions, Notices and Special Clauses.....	10
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6	Use	5	16	Bank Guarantee	11
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8	Insurance and Damage.....	7	18	Strata Conversion	11
9	Access	7			
10	Transfer and Sublease	8			

RETAIL LEASE CERTIFICATE

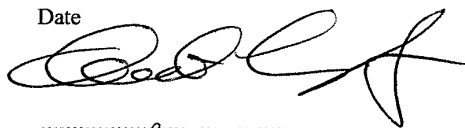
If section 16 of the *Retail Leases Act 1994* applies to this lease, and the term plus any further terms are less than 5 years (subject to section 16(4)), the term will be extended unless a section 16(3) certificate is given. Sections 16(1) and (2) provide –

- 16(1) The term for which a retail shop lease is entered into, together with any further term or terms provided for by any agreement or option for the acquisition by the lessee of a further term as an extension or renewal of the lease, must not be less than 5 years. An agreement or option is not taken into account if it was entered into or conferred after the lease was entered into.
- 16(2) If a lease is entered into in contravention of this section, the validity of the lease is not thereby affected but the term of the lease is extended by such period as may be necessary to prevent the lease contravening this section.

I certify that:

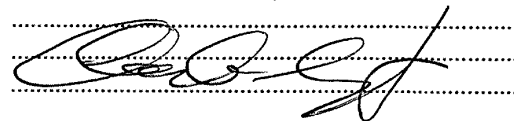
- I am a solicitor not acting for the lessor;
- Before (or within 6 months after) the lessee entered into this lease –
 - the lessee requested me to give this certificate; and
 - I explained to the lessee the effect of sections 16(1) and (2), and that the giving of this certificate would result in section 16 not applying to this lease.

.....
Date



.....
Signature

.....
NAME (BLOCK LETTERS)



CLAUSE 1 FORM OF THIS LEASE

What are the parts to this lease?

- 1.1 There are three parts to this lease – a lease form, Annexure A and this annexure.
- 1.2 This lease is a deed even if it is not registered.
- 1.3 A reference in this deed to the schedule is to the schedule of items commencing at item 1 on the lease form and ending with item 20 in Annexure A.

CLAUSE 2 PARTIES

Who are the parties to this lease?

- 2.1 The lessor is named on page 1 of this lease.
- 2.2 The lessee is named on page 1 of this lease.
- 2.3 The guarantor is named in item 10 in the schedule, if there is a guarantor.
- 2.4 If a party consists of two or more persons, obligations of that party can be enforced against any one or more of them.

CLAUSE 3 THE PROPERTY

What property is leased?

- 3.1 The property leased is described on page 1 of this lease.
- 3.2 The lessor's fixtures are included in the property leased.
- 3.3 If anything else is leased (such as furniture belonging to the lessor) and is described in item 11 in the schedule it is included in the property.
- 3.4 If the property has facilities and services shared in common with other persons in the same building as the property, clause 11.3.2 applies to those common facilities. The lessee shares the common facilities with the lessor, and with other lessees of the lessor. The lessor can set reasonable rules for sharing these common facilities.

CLAUSE 4 LEASE PERIOD

How long is this lease for?

- 4.1 This lease is for the period stated in item 1 in the schedule, commences on the date stated in item 2 in the schedule and ends on the date stated in item 3 in the schedule.
- 4.2 If a further period, commencing when this lease ends, is stated in item 12A in the schedule then the lessee has the option to renew this lease for that period.
- 4.3 The lessee can renew this lease more than once if that is stated in item 12B in the schedule. However the period of tenancy under this lease and under any renewal(s) is, in total, not longer than the maximum period stated in item 12C in the schedule.
- 4.4 The lessee can exercise the option only if –
 - 4.4.1 the lessee serves on the lessor a notice of exercise of option not earlier than the first day stated in item 12D in the schedule and not later than the last day stated in item 12E in the schedule;
 - 4.4.2 there is at the time of service no rent or outgoing that is overdue for payment; and
 - 4.4.3 at the time of service all the other obligations of the lessee have been complied with or fully remedied in accordance with the terms of any notice to remedy given by the lessor.

If this lease is extended by legislation, items 12D and 12E in the schedule are adjusted accordingly.

- 4.5 After exercising the option the lessee must continue to pay all rents and outgoings on time and continue to comply with all of the lessee's obligations under this lease. If the lessee does not do so, the lessor may treat any breach as being a breach of the new lease as well as of this lease.

- 4.6 A new lease will be the same as this lease except for –
- 4.6.1 the new rent;
 - 4.6.2 the commencement date and the termination date;
 - 4.6.3 the omission of clauses 4.2, 4.3, 4.4, 4.5 and 4.6 and items 12A and 12B in the schedule in the last lease allowed in item 12 in the schedule;
 - 4.6.4 item 12B becoming item 12A;
 - 4.6.5 adjustment of item 12C in the schedule; and
 - 4.6.6 adjustment of items 12D and 12E in the schedule. The number of days between the dates stated in items 12D and 12E in the schedule of the new lease and the termination date of the new lease and the number of days between each date stated in items 12D and 12E in the schedule of this lease and the termination date of this lease are to correspond.

If the new rent is to be current market rent it will be decided in the same way that current market rent is to be decided under Method 3 stated in clause 5 assuming that this lease and the new lease were one continuous lease and the commencement date of the new lease was a rent review date.

CLAUSE 5 MONEY

What money must the lessee pay?

- 5.1 The lessee must pay to the lessor or as the lessor directs –
- 5.1.1 the rent stated in item 13A in the schedule;
 - 5.1.2 the share stated in item 14A in the schedule of those outgoings stated in item 14B in the schedule;
 - 5.1.3 the reasonable cost to the lessor of remedying a default by the lessee;
 - 5.1.4 the reasonable cost to the lessor of dealing with any application by the lessee for the lessor's consent under this lease (whether or not it is given);
 - 5.1.5 interest on these moneys at the rate stated in item 15 in the schedule when payment is more than 14 days overdue, calculated from the due date to the date of payment;
 - 5.1.6 registration fee for registration of this lease at Land and Property Information NSW (payable on delivery to the lessor's solicitor of the executed lease);
 - 5.1.7 stamp duty on this lease (payable on delivery to the lessor's solicitor of the executed lease) if not previously paid by the lessee to the Office of State Revenue;
 - 5.1.8 if the lessee defaults, the lessor's reasonable legal costs relating to the default;
 - 5.1.9 the lessor's reasonable costs and expenses in connection with the preparation of this lease but only that part of those costs and expenses which are permitted to be recovered by a lessor under section 14 and section 45 of the *Retail Leases Act, 1994*; and
 - 5.1.10 GST as provided for in clause 15.
- 5.2 The first month's instalment of rent is to be paid by the commencement date. Each later month's instalment of rent is to be paid in advance.
- 5.3 A payment under clause 5.1.2 must be paid on the next rent day after a request for payment is made by the lessor.

A request for payment can be made –

- 5.3.1 after the lessor has paid an outgoing; or
- 5.3.2 after the lessor has received an assessment or account for payment of an outgoing.

If item 14B in the schedule refers to land tax –

- if the property is a strata lot, the relevant land tax is land tax on that lot;
- if the property is not a strata lot but is part of a building, the relevant land tax is land tax on the land on which the building is situated, plus any land of the lessor used or available for use by or for the benefit of lessees conducting business in the building or in connection with trading in the building; and
- in either case, the land tax must be calculated as if the land was the only land owned by the lessor and there was no special trust or non-concessional company involved.

When and how is the rent to be reviewed?

- 5.4 The rent is to be reviewed on the rent review dates stated in item 16 in the schedule.
If this lease is extended by legislation, the rent review dates include each anniversary of the latest rent review date stated in item 16 in the schedule (or if none is stated each anniversary of the commencement date) which falls during the extension.
- 5.5 The lessee must continue to pay rent at the old rate until the new rate is known. After that, the lessee is to pay the new rent from the next rent day. By that rent day the lessee is also to pay any shortfall between the old and new rate for the period since the rent review date. Alternatively, the lessor is to refund to the lessee any overpayment of rent.
- 5.6 There are three different methods described here for fixing the new rent on a rent review date. The method agreed by the lessor and the lessee is stated at item 16 in the schedule. The lessee is entitled to a reduction if the method produces a rent lower than the rent current just before the review date.

Method 1. By a fixed amount or percentage.

- 5.7 In this case the rent beginning on each review date will be increased by the percentage or amount stated in item 16 in the schedule.

Method 2. By reference to Consumer Price Index.

- 5.8 In this case –
- take the yearly rent as of the last review date or if none, the rent at the commencement date (\$X),
 - divide that rent by the Consumer Price Index Number for Sydney (All Groups) for the quarter ended just before that date (CPI 1),
 - multiply the result by the Consumer Price Index Number for Sydney (All Groups) for the quarter ended just before the review date (CPI 2).

The product is the new rent for the year beginning on the review date (\$Y), written as a formula –

$$\frac{\$X}{\text{CPI 1}} \times \text{CPI 2} = \$Y$$

- 5.9 The lessor must calculate the new rent after each review date and give the lessee written notice of the new rent.
- 5.10 If the Australian Bureau of Statistics makes a change in the reference base of the index and there is a published co-relation between the old and new base then the published co-relation is to be applied to convert the CPI 1 figure to the new reference base. If there is none then the lessor and the lessee agree to accept the calculations of the lessor's solicitor who must be retained to determine a fair co-relation between the old and the new series of numbers.
- 5.11 If the index used to calculate the new rent is discontinued the lessor may substitute another index that, as nearly as practicable, serves the same purpose and, if there is no such index, then the rent will be fixed by Method 3.

Method 3. By reference to current market rent.

- 5.12 In this case the rent is to be the current market rent. This can be higher or lower than the rent payable at the rent review date and is the rent that would reasonably be expected to be paid for the property, determined on an effective rent basis, having regard to the following matters –
- 5.12.1 the provisions of this lease;
 - 5.12.2 the rent that would reasonably be expected to be paid for the property if it were unoccupied and offered for renting for the same or a substantially similar use to which the property may be put under this lease;
 - 5.12.3 the gross rent, less the lessor's outgoings payable by the lessee;
 - 5.12.4 where the property is a retail shop, rent concessions and other benefits that are frequently or generally offered to prospective lessees of unoccupied retail shops; and
 - 5.12.5 the value of goodwill created by the lessee's occupation and the value of lessee's fixtures and fittings are to be ignored.

ANNEXURE B

PAGE 5 OF 13 PAGES

- 5.13 The lessor or the lessee can inform the other in writing at least 60 days before the rent review date of the rent that the lessor or lessee thinks will be the current market rent at the review date.
- 5.14 If the lessor and the lessee agree on a new rent then that rent will be the new rent beginning on the rent review date and the lessor and the lessee must sign a statement saying so.
- 5.15 If the lessor and the lessee do not agree on the amount of the new rent 30 days before the rent review date, the current market rent will be decided by a valuer appointed under clause 5.16.
- 5.16
- 5.16.1 Unless 5.16.2 applies the lessor and the lessee can either agree upon a valuer or can ask the President of the Law Society of New South Wales to nominate a person who is a licensed valuer to decide the current market rent.
- 5.16.2 Where the property is a retail shop, the valuer appointed must be a specialist retail valuer appointed by agreement of the parties or, failing agreement, by the Administrative Decisions Tribunal.
- 5.17 The valuer will act as an expert not an arbitrator. The lessor and the lessee can each make submissions in writing to the valuer within 14 days after they receive notice of the valuer's appointment but not later unless the valuer agrees.
- 5.18 The valuer's decision is final and binding. The valuer must state how the decision was reached.
- 5.19 If the valuer
- 5.19.1 does not accept the nomination to act; or
- 5.19.2 does not decide the current market rent within 1 month after accepting the nomination; or
- 5.19.3 becomes incapacitated or dies; or
- 5.19.4 resigns,
- then another valuer is to be appointed in the same way.
- 5.20 The lessor and lessee must each pay half the valuer's costs.
- 5.21 If the lessor and lessee do not agree upon a valuer and neither asks for a valuer to be nominated before –
- 5.21.1 the next rent review date passes; or
- 5.21.2 this lease ends without the lessee renewing it; or
- 5.21.3 this lease is transferred after the rent review date with the lessor's consent; or
- 5.21.4 the property is transferred after the rent review date
- then the rent will not change on that rent review date.

CLAUSE 6 USE

How must the property be used?

- 6.1 The lessee must –
- 6.1.1 use the property for the purpose stated in item 17 in the schedule and not for any other purpose;
- 6.1.2 open for business at times usual for a business of the kind conducted by the lessee;
- 6.1.3 keep the property clean and dispose of waste properly; and
- 6.1.4 comply with all laws relating to strata schemes and all other laws regulating how the property is used, obtain any consents or licences needed, comply with any conditions of consent, and keep current any licences or registrations needed for the use of the property or for the conduct of the lessee's business there.
- 6.1.5 where the property is a lot in a strata scheme:
- 6.1.5.1 use the lessor's common property only in connection with the use of the property;
- 6.1.5.2 co-operate with all other permitted users of the common property;
- 6.1.5.3 comply with so many of the provisions of the *Strata Schemes Management Act 1996* and the *Strata Schemes (Freehold Development) Act 1973* and the by-laws and all lawful orders, motions and directives under these Acts as may be applicable to the exercise of the lessee's rights and obligations under this lease.

ANNEXURE B

PAGE 6 OF 13 PAGES

- 6.2 The lessor can consent to a change of use and cannot withhold consent unreasonably.
- 6.3 The lessee must not –
 - 6.3.1 do anything that might invalidate any insurance policy covering the property or that might increase the premium unless the lessor consents in which case the lessee must pay the increased premium; or
 - 6.3.2 use the property as a residence or for any activity that is dangerous, offensive, noxious, illegal or immoral or that is or may become a nuisance or annoyance to the lessor or to the owner or occupier of any neighbouring property; or
 - 6.3.3 hold any auction, bankrupt or fire sale in the property; or
 - 6.3.4 display signs or advertisements on the outside of the property, or that can be seen from the outside, unless the lessor consents (but the lessor cannot withhold consent unreasonably);
 - 6.3.5 overload the floors or walls of the property; or
 - 6.3.6 without the prior written consent of the lessor and/or the owners corporation, use the common property for any purpose other than for access to and egress from the property.

CLAUSE 7 CONDITION AND REPAIRS

Who is to repair the property?

- 7.1 The lessor must –
 - 7.1.1 maintain in a state of good condition and serviceable repair the roof, the ceiling, the external walls and external doors and associated door jambs, and the floors of the property and must fix structural defects;
 - 7.1.2 maintain the property in a structurally sound condition; and
 - 7.1.3 maintain essential services.
- 7.2 The lessee must otherwise maintain the property in its condition at the commencement date and promptly do repairs needed to keep it in that condition but the lessee does not have to –
 - 7.2.1 alter or improve the property; or
 - 7.2.2 fix structural defects; or
 - 7.2.3 repair fair wear and tear.
- 7.3 The lessee must also –
 - 7.3.1 reimburse the lessor for the cost of fixing structural damage caused by the lessee, apart from fair wear and tear;
 - 7.3.2 maintain and decorate the shop front if the property has one;
 - 7.3.3 decorate the inside of the property in the last 3 months of the lease period (however it ends) – ‘decorate’ here means restoring the surfaces of the property in a style and to a standard of finish originally used e.g. by repainting;
 - 7.3.4 where the property is a lot in a strata scheme:
 - 7.3.4.1 meet the cost of all damage to the common property occasioned by the lessee or any invitee or licensee of the lessee; and
 - 7.3.4.2 permit the owners corporation, temporarily, to close any part of the common property for the purpose of making and effecting repairs to it.
- 7.4 If an authority requires work to be done on the property and it is structural work or work needed to make the property safe to use then the lessor must do the work unless it is required only because of the way the lessee uses the property. But if it is any other work or is required only because of the way the lessee uses the property then the lessee must do the work.
- 7.5 If the lessee fails to do any work that the lessee must do the lessor can give the lessee a notice in writing stating what the lessee has failed to do. After the notice is given the lessee must –
 - 7.5.1 do the work immediately if there is an emergency; and
 - 7.5.2 do the work promptly and diligently in any other case.

If the lessee does not do the work, the lessor can do it and the lessee must reimburse the lessor for the cost of the work.

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- 7.6 The lessee must not make any structural alterations to the property. Any other alterations require the lessor's consent in writing (but the lessor cannot withhold consent unreasonably).

CLAUSE 8 INSURANCE AND DAMAGE

What insurances must the lessee take out?

- 8.1 The lessee must keep current an insurance policy covering –
- 8.1.1 liability to the public in an amount not less than the amount stated in item 18 in the schedule (for each accident or event); and
 - 8.1.2 damage or destruction from any cause to all plate glass in the windows and other portions of the property
- and must produce to the lessor, upon request, the policy and the receipt for the last premium.

What happens if the property is damaged?

- 8.2 If the property or the building of which it is part is damaged (a term which includes destroyed) –
- 8.2.1 the lessee is not liable to pay rent, or any amount payable to the lessor in respect of outgoings and other charges, that is attributable to any period during which the property cannot be used under this lease or is inaccessible due to that damage;
 - 8.2.2 if the property is still useable under this lease but its useability is diminished due to the damage, the lessee's liability for rent and any amount in respect of outgoings attributable to any period during which useability is diminished is reduced in proportion to the reduction in useability caused by the damage;
 - 8.2.3 if the lessor notifies the lessee in writing that the lessor considers that the damage is such as to make its repair impracticable or undesirable, the lessor or the lessee can terminate this lease by giving not less than 7 days notice in writing of termination to the other and no compensation is payable in respect of that termination;
 - 8.2.4 if the lessor fails to repair the damage within a reasonable time after the lessee requests the lessor to do so the lessee can terminate this lease by giving not less than 7 days notice in writing of termination to the lessor; and
 - 8.2.5 nothing in clause 8.2 affects any right of the lessor to recover damages from the lessee in respect of any damage or destruction to which the clause applies.

CLAUSE 9 ACCESS

What are the lessor's rights of access to the property?

- 9.1 The lessee must give the lessor (or anyone authorised in writing by the lessor) access to the property at any reasonable time for the purpose of –
- 9.1.1 inspecting the condition of the property, or how it is being used; or
 - 9.1.2 doing anything that the lessor can or must do under this lease or must do by law; or
 - 9.1.3 viewing the property as a valuer, prospective buyer or mortgagee; or
 - 9.1.4 fixing a notice in a reasonable position on the outside of the property saying that it is for sale; or
 - 9.1.5 viewing the property as a prospective lessee not earlier than 6 months before the lease period ends; or
 - 9.1.6 fixing a notice not earlier than 6 months before the lease period ends in a reasonable position on the outside of the property saying that it is to let; or
 - 9.1.7 inspecting, cleaning or repairing another property or any services to another property.
- 9.2 The lessor must give the lessee at least 2 days written notice for access (except in an emergency). The day of the giving of the notice and any Saturday, Sunday or public holiday on which the property is not open for business are not counted.
- 9.3 The lessor must promptly make good any damage caused to the property and to any of the lessee's belongings which results from exercising these rights.
- 9.4 The lessee must give to the lessor a copy of any notice relating to the property or relating to any neighbouring property immediately after receiving the notice.

CLAUSE 10 TRANSFER AND SUB-LEASE

Can this lease be transferred or the property shared or sub-let?

- 10.1 The lessee must not transfer this lease without consent.
- 10.2 The lessor can withhold consent only if –
 - 10.2.1 the proposed transferee proposes to change the use to which the property is put; or
 - 10.2.2 where the property is a retail shop, the proposed transferee has financial resources or retailing skills inferior to those of the proposed transferor and otherwise the proposed transferee has financial resources or business experience inferior to those of the proposed transferor; or
 - 10.2.3 the lessee has not complied with clause 10.3 and, where the property is a retail shop, clause 10.4.
- 10.3 A request for the lessor's consent to a transfer of lease must be made in writing and the lessee must provide the lessor with such information as the lessor may reasonably require concerning the financial standing and business experience of the proposed transferee.
- 10.4 Where the property is a retail shop, before requesting the consent of the lessor to a proposed transfer of this lease, the lessee must furnish the proposed transferee with a copy of any disclosure statement given to the lessee in respect of this lease, together with details of any changes that have occurred in respect of the information contained in the disclosure statement (being changes of which the lessee was aware or could reasonably be expected to be aware). For the purpose of enabling the lessee to comply with this obligation, the lessee can request the lessor to provide the lessee with a copy of the disclosure statement concerned and, if the lessor is unable or unwilling to comply with such a request within 14 days after it is made, this clause 10.4 does not apply.
- 10.5 Where the lessee has complied with clause 10.3 and where required to do so clause 10.4, and the lessor has not within 42 days or where the *Retail Leases Act 1994* applies 28 days after the request was made or the lessee has complied with paragraphs 41(a) and 41(b) of that Act, whichever is the later, given notice in writing to the lessee either consenting or withholding consent, the lessor is taken to have consented.
- 10.6 The lessee has to pay in connection with any consent the lessor's reasonable legal costs, the reasonable costs of obtaining any mortgagee's consent, the stamp duty and the registration fee for the transfer.
- 10.7 Where the property is a retail shop, the lessee can sub-let, grant a licence or concession, share or part with the possession of the whole or any part of the property or mortgage or otherwise charge or encumber the lessee's estate or interest in this lease only with the written consent of the lessor which can be refused in the lessor's absolute discretion. Otherwise, the lessee cannot do any of these things.

CLAUSE 11 LESSOR'S OTHER OBLIGATIONS

What are the lessor's other obligations?

- 11.1 So long as the lessee does all the things that must be done by the lessee under this lease the lessor must allow the lessee to possess and use the property in any way permitted under this lease without interference from the lessor, or any person claiming under the lessor or having superior title to the title of the lessor.
- 11.2 The lessor must pay all outgoings for the land or the building of which the property is part when they fall due.
- 11.3 If the property is part of a building owned or controlled by the lessor –
 - 11.3.1 the lessor must maintain in reasonable structural condition all parts of the building that the lessee can use under this lease; and
 - 11.3.2 if the property has facilities and service connections shared in common with other persons the lessor must –
 - 11.3.2.1 allow reasonable use of the facilities and service connections including –
 - the right for the lessee and other persons to come and go to and from the property over the areas provided for access;
 - access by the lessee to service connections; and
 - the right for the lessee's customers to park vehicles in any area set aside for customer parking, subject to any reasonable rules made by the lessor.
 - 11.3.2.2 maintain the facilities and service connections in reasonable condition.

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- 11.4 Where registration is necessary for the validity of this lease, the lessor must ensure that this lease is registered.
- 11.5 If a consent is needed for this lease, from someone such as a mortgagee or head lessor of the property, then the lessor must get the consent.

CLAUSE 12 FORFEITURE AND END OF LEASE

When does this lease end?

- 12.1 This lease ends –
 - 12.1.1 on the date stated in item 3 in the schedule; or
 - 12.1.2 if the lessor lawfully enters and takes possession of any part of the property; or
 - 12.1.3 if the lessor lawfully demands possession of the property.
- 12.2 The lessor can enter and take possession of the property or demand possession of the property if –
 - 12.2.1 the lessee has repudiated this lease; or
 - 12.2.2 rent or any other money due under this lease is 14 days overdue for payment; or
 - 12.2.3 the lessee has failed to comply with a lessor's notice under section 129 of the *Conveyancing Act 1919*;
or
 - 12.2.4 the lessee has not complied with any term of this lease where a lessor's notice is not required under section 129 of the *Conveyancing Act 1919* and the lessor has given at least 14 days written notice of the lessor's intention to end this lease.
- 12.3 When this lease ends, unless the lessee becomes a lessee of the property under a new lease the lessee must –
 - 12.3.1 return the property to the lessor in the state and condition that this lease requires the lessee to keep it in; and
 - 12.3.2 have removed any goods and anything that the lessee fixed to the property and have made good any damage caused by the removal.

Anything not removed becomes the property of the lessor who can keep it or remove and dispose of it and charge to the lessee the cost of removal, making good and disposal.
- 12.4 If the lessor allows the lessee to continue to occupy the property after the end of the lease period (other than under a new lease) then –
 - 12.4.1 the lessee becomes a monthly lessee and must go on paying the same rent and other money in the same way that the lessee had to do under this lease just before the lease period ended (apportioned and payable monthly);
 - 12.4.2 the monthly tenancy will be on the same terms as this lease, except for –
 - clause 4;
 - clauses 5.4 to 5.21 inclusive; and
 - clause 6.2 unless consent has previously been given;
 - 12.4.3 either the lessor or the lessee can end the monthly tenancy by giving, at any time, 1 month written notice to the other expiring on any date; and
 - 12.4.4 anything that the lessee must do by the end of this lease must be done by the end of the monthly tenancy.
- 12.5 Essential terms of this lease include –
 - 12.5.1 the obligation to pay rent not later than 14 days after the due date for payment of each periodic instalment (and this obligation stays essential even if the lessor, from time to time, accepted late payment);
 - 12.5.2 the obligations of the lessee in clause 5.1.2 (dealing with outgoing);
 - 12.5.3 the obligations of the lessee in clause 6.1 (dealing with use);
 - 12.5.4 the obligations of the lessee in clause 7 (dealing with repairs);
 - 12.5.5 the obligations of the lessee in clause 10 (dealing with transfer and sub-lease); and
 - 12.5.6 the obligations of the lessee in clause 15 (dealing with GST).

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- 12.6 If there is a breach of an essential term the lessor can recover damages for losses over the entire period of this lease but must do every reasonable thing to mitigate those losses and try to lease the property to another lessee on reasonable terms.
- 12.7 The lessor can recover damages even if –
- 12.7.1 the lessor accepts the lessee's repudiation of this lease; or
 - 12.7.2 the lessor ends this lease by entering and taking possession of any part of the property or by demanding possession of the property; or
 - 12.7.3 the lessee abandons possession of the property; or
 - 12.7.4 a surrender of this lease occurs.

CLAUSE 13 GUARANTEE

What are the obligations of a guarantor?

- 13.1 This clause applies if a guarantor of the lessee is named in item 10A in the schedule and has signed or executed this lease or, if this lease is a renewal of an earlier lease, the earlier lease.
- 13.2 The guarantor guarantees to the lessor the performance by the lessee of all the lessee's obligations (including any obligation to pay rent, outgoings or damages) under this lease, under every extension of it or under any renewal of it or under any tenancy and including obligations that are later changed or created.
- 13.3 If the lessee does not pay any money due under this lease, under any extension of it or under any renewal of it or under any tenancy the guarantor must pay that money to the lessor on demand even if the lessor has not tried to recover payment from the lessee.
- 13.4 If the lessee does not perform any of the lessee's obligations under this lease, under any extension of it or under any renewal of it or under any tenancy the guarantor must compensate the lessor even if the lessor has not tried to recover compensation from the lessee.
- 13.5 If the lessee is insolvent and this lease or any extension or renewal of it is disclaimed the guarantor is liable to the lessor for any damage suffered by the lessor because of the disclaimer. The lessor can recover damages for losses over the entire period of this lease or any extension or renewal but must do every reasonable thing to mitigate those losses and try to lease the property to another lessee on reasonable terms.
- 13.6 Even if the lessor gives the lessee extra time to comply with an obligation under this lease, under any extension of it or under any renewal of it or under any tenancy, or does not insist on strict compliance with the terms of this lease or any extension of it or renewal of it or of any tenancy, the guarantor's obligations are not affected.
- 13.7 If an amount is stated in item 10B in the schedule the guarantor's liability under this clause is limited to that amount.
- 13.8 The terms of this guarantee apply even if this lease is not registered, even if any obligation of the lessee is only an equitable one, and even if this lease is extended by legislation.

CLAUSE 14 EXCLUSIONS, NOTICES AND SPECIAL CLAUSES

- 14.1 No covenant or power is implied in this lease by section 84 or 85 of the *Conveyancing Act 1919*.
- 14.2 A document under or relating to this lease is –
- 14.2.1 served if it is served in any manner provided in section 170 of the *Conveyancing Act 1919*; and
 - 14.2.2 served on the lessee if it is left at the property.
- 14.3 This lease is subject to any legislation that cannot be excluded (for example, the *Retail Leases Act 1994*).
- 14.4 In this lease, 'retail shop' means premises to which the *Retail Leases Act 1994* applies.
- 14.5 In this lease 'Director General' has the same meaning as in the *Retail Leases Act 1994*.

CLAUSE 15 GOODS AND SERVICES TAX

Unless item 13B in the schedule has been completed in a way that indicates that this clause is not to apply:

- 15.1 As consideration in whole or in part for a taxable supply the person receiving the supply must pay to the party making the supply an additional amount equal to the amount of GST payable on the supply.
- 15.2 To the extent that the lessee is required to reimburse the lessor in whole or in part for outgoings incurred by the lessor, for the purposes of this lease the amount of the outgoings must be reduced by the amount of any credit or refund of GST to which the lessor is entitled as a result of incurring outgoings.
- 15.3 Outgoings in item 14B in the schedule are to be calculated after deducting any input tax credit to which the lessor is entitled.
- 15.4 For the purposes of this lease GST means a tax in the nature of a supply of goods and services tax levied or imposed by the Commonwealth of Australia.

CLAUSE 16 BANK GUARANTEE

- 16.1 If a number of months appears in item 19 in the schedule, clauses 16.2 to 16.5 apply.
- 16.2 On or before the commencement date of this lease the lessee will deliver to the lessor a guarantee by a bank trading in the State of New South Wales in the form of an unconditional and irrevocable undertaking to pay drawn in favour of the lessor (unlimited as to time) in a form acceptable to the lessor and for an amount equivalent to the number of months referred to in item 19 in the schedule.
- 16.3 The lessor is entitled to claim under the guarantee an amount equal to any moneys due but unpaid by the lessee to the lessor under this lease.
- 16.4 The lessee agrees to vary the amount of the guarantee immediately upon each rent review so that the amount at all times represents the equivalent of the number of months referred to in the schedule.
- 16.5 The lessor will deliver the guarantee (or so much of it as is then held by the lessor) to the lessee on the last of:
 - 16.5.1 the terminating date of this lease;
 - 16.5.2 the expiry date of any holding over under this lease; and
 - 16.5.3 the date that the lessee has no further obligations under this lease or at law.

CLAUSE 17 SECURITY DEPOSIT

- 17.1 If an amount or a number of months appears in item 20 in the schedule, clauses 17.2 to 17.6 apply.
- 17.2 On or before the commencement date of this lease the lessee will deliver the security deposit to the lessor.
- 17.3 The lessor is entitled to deduct from the security deposit an amount equal to any monies due but unpaid by the lessee to the lessor under this lease.
- 17.4 Where the property is a retail shop, the security deposit will be held in accordance with Section 16C of the *Retail Leases Act 1994*. The lessee will not make an application to the Director General seeking the return of the security deposit (or so much of it as is then held by the Director General) until the later of:
 - 17.4.1 the terminating date of this lease;
 - 17.4.2 the expiry date of any holding over under this lease; and
 - 17.4.3 the date that the lessee has no further obligations under this lease or at law.
- 17.5 Where the property is other than a retail shop the security deposit (or so much of it as is then held by the lessor) will be returned to the lessee on the later of the dates as specified in clause 17.4.
- 17.6 The lessee agrees to vary the amount of the security deposit immediately upon each rent review so that it represents the equivalent of the number of months referred to in the schedule.

CLAUSE 18 STRATA CONVERSION

- 18.1 "Owners corporation", "owner", "strata scheme", "lot" and "parcel" where used in this lease have the meanings given under the *Strata Schemes Management Act 1996* and the *Strata Schemes (Freehold Development) Act 1973*.

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- 18.2 “Strata Acts” means the *Strata Schemes Management Act 1996* and the *Strata Schemes (Freehold Development) Act 1973*, and includes any amending Acts, rules, regulations, ordinances, by-laws, statutory instruments, orders or notices now or hereafter made under those Acts.
- 18.3 “Strata conversion” means a subdivision of the property under the *Strata Schemes (Freehold Development) Act 1973* or the *Community Land Development Act 1989* or the *Community Land Management Act 1989* or other legislation permitting such subdivision.
- 18.4 Strata Titles
- 18.4.1 Lessee consents to registration of strata plan
- 18.4.1.1 By its entry into this lease the lessee acknowledges that the lessor can register a strata plan, a strata schemes plan, a strata plan of subdivision, a strata plan of consolidation or a building alteration plan insofar as any of these may relate to the property, the Building or the land. The lessor will provide the lessee with copies of the proposed strata plan and associated documentation for the lessee’s approval, which approval will not be unreasonably withheld.
- 18.4.1.2 Provided the lessee consents to the strata conversion as per clause 18.4.1.1 then within 7 days of written request by the lessor the lessee will sign and return to the lessor any consents or other documents necessary to enable the lessor to carry out the strata conversion and will make no objection or claim for compensation in relation to the strata conversion.
- 18.4.2 Compliance with the Strata Acts and by-laws:
- 18.4.2.1 **(Covenant):** The lessee and any and all persons acting by, through or under it or with its authority express or implied shall comply with so many of the provisions of the Strata Acts and the by-laws and all lawful orders, motions and directives under the Strata Acts as may be applicable to the exercise of the lessee’s rights and obligations under the provisions elsewhere contained in this lease.
- 18.4.2.2 **Not to prejudice interests of owners corporation.** Without the prior written consent of the owners corporation, the lessee shall not do any act, matter or thing under the exercise of its rights and obligations elsewhere contained in this lease or permit or allow any act, matter or thing to be done which shall or may:
- increase the rate of premium payable by the owners corporation under any policy of insurance taken out by the owners corporation; or
 - invalidate, avoid or suspend the operation of any such policy of insurance or otherwise prejudice the owners corporation rights under any such policy.
- 18.4.2.3 Upon the occurrence of any of the matters previously referred to the lessee shall:
- pay to the lessor or such other person responsible for payment any amounts payable to the owners corporation as a consequence of any such matters;
 - pay to the lessor for and on behalf of the owners corporation any amounts payable by the owners corporation as a consequence of any such matters and not the subject of clause 18.4.2.2; and
 - pay to the lessor for and on behalf of the owners corporation the amount of any and all losses and damages arising from the occurrence of any such matters.
- 18.4.2.4 **(Indemnity):** The lessee shall indemnify the lessor for any loss or damage suffered by the lessor if the lessee or the lessee’s employees fail to comply with the obligations as to conduct imposed upon the lessee or the lessee’s employees by this lease or by reason of the Strata Acts.
- 18.4.3 If the strata conversion occurs:
- 18.4.3.1 any reference in this lease will be deemed to be a reference to the buildings comprised in the registered plan or plans of which the property forms part;
- 18.4.3.2 any levies or other monies payable to the owners corporation will be payable by the lessee with the exception of any contribution to a sinking fund or special levy; and
- 18.4.3.3 this lease will be deemed to be amended in any respect that is necessary to ensure that this lease reflects that the strata conversion has been carried out.

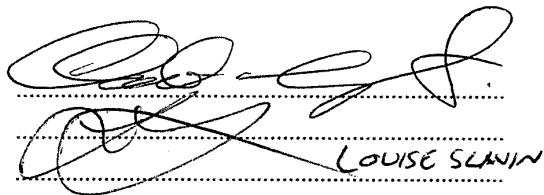
IMPORTANT NOTES

The following notes are for guidance and do not form part of this lease.

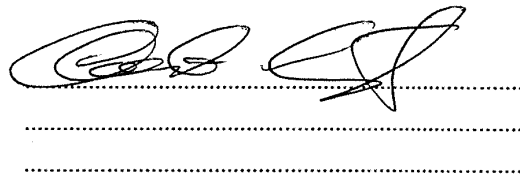
If you are a lessor, a solicitor will prepare this lease for you.

If you are a lessee, a solicitor can advise you about it.

1. This document creates legal rights and legal obligations.
2. Failure to register a lease can have serious consequences.
3. If an option for renewal is not exercised at the right time it will be lost.
4. The lessee can exercise an option for renewal even if there has been a breach of this lease in a case where section 133E of the *Conveyancing Act 1919* applies. The lessor must give a prescribed notice within 14 days after the option is exercised if the lessor wants to rely on the breach to prevent the exercise of the option.
5. The Law Society of New South Wales is not to be responsible for any loss resulting from the use of this lease as printed whether authorised or not.



.....
.....
..... LOUISE SCANLON



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.....
.....

I certify that this and the preceding twelve pages are in exactly the same wording as Annexure B of the copyright Law Society Lease.

.....
Solicitor for the lessor



Results: Document Types="*Repealed Acts, Repealed regulations, Repealed EPIs*", Search In="*All Content*", Exact Phrase="*strata schemes management regulation*", Point In Time="*03/05/2005*" match 0 of 169 provisions

Strata Schemes Management Regulation 1997

Historical version for 24 March 2005 to 30 June 2005 (accessed 31 October 2021 at 14:22)

Schedule 1

Schedule 1 Model by-laws

(Clause 23)

Residential Schemes

1 Noise

An owner or occupier of a lot must not create any noise on a lot or the common property likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or of any person lawfully using common property.

2 Vehicles

An owner or occupier of a lot must not park or stand any motor or other vehicle on common property except with the prior written approval of the owners corporation.

3 Obstruction of common property

An owner or occupier of a lot must not obstruct lawful use of common property by any person except on a temporary and non-recurring basis.

4 Damage to lawns and plants on common property

An owner or occupier of a lot must not, except with the prior written approval of the owners corporation:

- (a) damage any lawn, garden, tree, shrub, plant or flower being part of or situated on common property, or
- (b) use for his or her own purposes as a garden any portion of the common property.

5 Damage to common property

- (1) An owner or occupier of a lot must not mark, paint, drive nails or screws or the like into, or otherwise damage or deface, any structure that forms part of the common property except with the prior written approval of the owners corporation.
- (2) An approval given by the owners corporation under subclause (1) cannot authorise any additions to the common property.
- (3) This by-law does not prevent an owner or person authorised by an owner from installing:

- (a) any locking or other safety device for protection of the owner's lot against intruders or to improve safety within the owner's lot, or
 - (b) any screen or other device to prevent entry of animals or insects on the lot, or
 - (c) any structure or device to prevent harm to children, or
 - (d) any device used to affix decorative items to the internal surfaces of walls in the owner's lot.
- (4) Any such locking or safety device, screen, other device or structure must be installed in a competent and proper manner and must have an appearance, after it has been installed, in keeping with the appearance of the rest of the building.
- (5) Despite section 62, the owner of a lot must:
- (a) maintain and keep in a state of good and serviceable repair any installation or structure referred to in subclause (3) that forms part of the common property and that services the lot, and
 - (b) repair any damage caused to any part of the common property by the installation or removal of any locking or safety device, screen, other device or structure referred to in subclause (3) that forms part of the common property and that services the lot.

6 Behaviour of owners and occupiers

An owner or occupier of a lot when on common property must be adequately clothed and must not use language or behave in a manner likely to cause offence or embarrassment to the owner or occupier of another lot or to any person lawfully using common property.

7 Children playing on common property in building

An owner or occupier of a lot must not permit any child of whom the owner or occupier has control to play on common property within the building or, unless accompanied by an adult exercising effective control, to be or to remain on common property comprising a laundry, car parking area or other area of possible danger or hazard to children.

8 Behaviour of invitees

An owner or occupier of a lot must take all reasonable steps to ensure that invitees of the owner or occupier do not behave in a manner likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or any person lawfully using common property.

9 Depositing rubbish and other material on common property

An owner or occupier of a lot must not deposit or throw on the common property any rubbish, dirt, dust or other material or discarded item except with the prior written approval of the owners corporation.

10 Drying of laundry items

An owner or occupier of a lot must not, except with the prior written approval of the owners corporation, hang any washing, towel, bedding, clothing or other article on any part of the parcel in such a way as to be visible from outside the building other than on any lines provided by the owners corporation for the purpose and there only for a reasonable period.

11 Cleaning windows and doors

An owner or occupier of a lot must keep clean all exterior surfaces of glass in windows and doors on the boundary of the lot, including so much as is common property, unless:

- (a) the owners corporation resolves that it will keep the glass or specified part of the glass clean, or
- (b) that glass or part of the glass cannot be accessed by the owner or occupier of the lot safely or at all.

12 Storage of inflammable liquids and other substances and materials

- (1) An owner or occupier of a lot must not, except with the prior written approval of the owners corporation, use or store on the lot or on the common property any inflammable chemical, liquid or gas or other inflammable material.
- (2) This by-law does not apply to chemicals, liquids, gases or other material used or intended to be used for domestic purposes, or any chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine.

13 Moving furniture and other objects on or through common property

- (1) An owner or occupier of a lot must not transport any furniture or large object through or on common property within the building unless sufficient notice has first been given to the executive committee so as to enable the executive committee to arrange for its nominee to be present at the time when the owner or occupier does so.
- (2) An owners corporation may resolve that furniture or large objects are to be transported through or on the common property (whether in the building or not) in a specified manner.
- (3) If the owners corporation has specified, by resolution, the manner in which furniture or large objects are to be transported, an owner or occupier of a lot must not transport any furniture or large object through or on common property except in accordance with that resolution.

14 Floor coverings

- (1) An owner of a lot must ensure that all floor space within the lot is covered or otherwise treated to an extent sufficient to prevent the transmission from the floor space of noise likely to disturb the peaceful enjoyment of the owner or occupier of another lot.
- (2) This by-law does not apply to floor space comprising a kitchen, laundry, lavatory or bathroom.

15 Garbage disposal

- (1) An owner or occupier of a lot in a strata scheme that does not have shared receptacles for garbage, recyclable material or waste:
 - (a) must maintain such receptacles within the lot, or on such part of the common property as may be authorised by the owners corporation, in clean and dry condition and (except in the case of receptacles for recyclable material) adequately covered, and
 - (b) must ensure that before refuse, recyclable material or waste is placed in the receptacles it is, in the case of refuse, securely wrapped or, in the case of tins or other containers, completely drained, or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and
 - (c) for the purpose of having the garbage, recyclable material or waste collected, must place the receptacles within an area designated for that purpose by the owners corporation and at a time

not more than 12 hours before the time at which garbage, recyclable material or waste is normally collected, and

- (d) when the garbage, recyclable material or waste has been collected, must promptly return the receptacles to the lot or other area referred to in paragraph (a),
 - (e) must not place any thing in the receptacles of the owner or occupier of any other lot except with the permission of that owner or occupier, and
 - (f) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled from the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.
- (2) An owner or occupier of a lot in a strata scheme that has shared receptacles for garbage, recyclable material or waste:
- (a) must ensure that before refuse, recyclable material or waste is placed in the receptacles it is, in the case of refuse, securely wrapped or, in the case of tins or other containers, completely drained, or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and
 - (b) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled in the area of the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.

16 Keeping of animals

Note—

Select option A, B or C. If no option is selected, option A will apply.

Option A

(1)

Subject to section 49 (4), an owner or occupier of a lot must not, without the prior written approval of the owners corporation, keep any animal (except fish kept in a secure aquarium on the lot) on the lot or the common property.

(2)

The owners corporation must not unreasonably withhold its approval of the keeping of an animal on a lot or the common property.

Option B

(1)

Subject to section 49 (4), an owner or occupier of a lot must not, without the prior written approval of the owners corporation, keep any animal (except a cat, a small dog or a small caged bird, or fish kept in a secure aquarium on the lot) on the lot or the common property.

(2)

The owners corporation must not unreasonably withhold its approval of the keeping of an animal on a lot or the common property.

(3)

If an owner or occupier of a lot keeps a cat, small dog or small caged bird on the lot then the owner or occupier must:

- (a) notify the owners corporation that the animal is being kept on the lot, and
- (b) keep the animal within the lot, and
- (c) carry the animal when it is on the common property, and
- (d) take such action as may be necessary to clean all areas of the lot or the common property that are soiled by the animal.

Option C

Subject to section 49 (4), an owner or occupier of a residential lot must not keep any animal on the lot or the common property.

17 Appearance of lot

- (1) The owner or occupier of a lot must not, without the prior written approval of the owners corporation, maintain within the lot anything visible from outside the lot that, viewed from outside the lot, is not in keeping with the rest of the building.
- (2) This by-law does not apply to the hanging of any washing, towel, bedding, clothing or other article as referred to in by-law 10.

18 Change in use of lot to be notified

An occupier of a lot must notify the owners corporation if the occupier changes the existing use of the lot in a way that may affect the insurance premiums for the strata scheme (for example, if the change of use results in a hazardous activity being carried out on the lot, or results in the lot being used for commercial or industrial purposes rather than residential purposes).

19 Provision of amenities or services

- (1) The owners corporation may, by special resolution, determine to enter into arrangements for the provision of the following amenities or services to one or more of the lots, or to the owners or occupiers of one or more of the lots:
 - (a) window cleaning,
 - (b) garbage disposal and recycling services,
 - (c) electricity, water or gas supply,
 - (d) telecommunication services (for example, cable television).
- (2) If the owners corporation makes a resolution referred to in subclause (1) to provide an amenity or service to a lot or to the owner or occupier of a lot, it must indicate in the resolution the amount for which, or the conditions on which, it will provide the amenity or service.

Note—

Section 111 of the Act provides that an owners corporation may enter into an agreement with an owner or occupier of a lot for the provision of amenities or services by it to the lot or to the owner or occupier.

Retirement Village Schemes

1 Noise

An owner or occupier of a lot must not create any noise on a lot or the common property likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or of any person lawfully using common property.

2 Vehicles

An owner or occupier of a lot must not park or stand any motor or other vehicle on common property except with the prior written approval of the owners corporation.

3 Obstruction of common property

An owner or occupier of a lot must not obstruct lawful use of common property by any person except on a temporary and non-recurring basis.

4 Damage to lawns and plants on common property

An owner or occupier of a lot must not, except with the prior written approval of the owners corporation:

- (a) damage any lawn, garden, tree, shrub, plant or flower being part of or situated on common property, or
- (b) use for his or her own purposes as a garden any portion of the common property.

5 Damage to common property

- (1) An owner or occupier of a lot must not mark, paint, drive nails or screws or the like into, or otherwise damage or deface, any structure that forms part of the common property except with the prior written approval of the owners corporation.
- (2) An approval given by the owners corporation under subclause (1) cannot authorise any additions to the common property.
- (3) This by-law does not prevent an owner or person authorised by an owner from installing:
 - (a) any locking or other safety device for protection of the owner's lot against intruders or to improve safety within the owner's lot, or
 - (b) any health or medical equipment that is necessary to preserve the health or well-being of the occupier of the lot, or
 - (c) any screen or other device to prevent entry of animals or insects on the lot, or
 - (d) any device used to affix decorative items to the internal surfaces of walls in the owner's lot.
- (4) Any such locking or safety device, equipment, screen or other device must be installed in a competent and proper manner and must have an appearance, after it has been installed, in keeping with the appearance of the rest of the building.
- (5) Despite section 62, the owner of a lot must:
 - (a) maintain and keep in a state of good and serviceable repair any installation referred to in subclause (3) that forms part of the common property and that services the lot, and
 - (b) repair any damage caused to any part of the common property by the installation or removal of any locking or safety device, equipment, screen or other device referred to in subclause (3) that forms part of the common property and that services the lot.

6 Behaviour of owners and occupiers

An owner or occupier of a lot when on common property must be adequately clothed and must not use language or behave in a manner likely to cause offence or embarrassment to the owner or occupier of another lot or to any person lawfully using common property.

7 Behaviour of invitees

An owner or occupier of a lot must take all reasonable steps to ensure that invitees of the owner or occupier do not behave in a manner likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or any person lawfully using common property.

8 Depositing rubbish and other material on common property

An owner or occupier of a lot must not deposit or throw on the common property any rubbish, dirt, dust or other material or discarded item except with the prior written approval of the owners corporation.

9 Drying of laundry items

An owner or occupier of a lot must not, except with the prior written approval of the owners corporation, hang any washing, towel, bedding, clothing or other article on any part of the parcel in such a way as to be visible from outside the building other than on any lines provided by the owners corporation for the purpose and there only for a reasonable period.

10 Cleaning windows and doors

An owner or occupier of a lot must keep clean all exterior surfaces of glass in windows and doors on the boundary of the lot, including so much as is common property, unless:

- (a) the owners corporation resolves that it will keep the glass or specified part of the glass clean, or
- (b) that glass or part of the glass cannot be accessed by the owner or occupier of the lot safely or at all.

11 Storage of inflammable liquids and other substances and materials

- (1) An owner or occupier of a lot must not, except with the prior written approval of the owners corporation, use or store on the lot or on the common property any inflammable chemical, liquid or gas or other inflammable material.
- (2) This by-law does not apply to chemicals, liquids, gases or other material used or intended to be used for domestic purposes, or any chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine.

12 Moving furniture and other objects on or through common property

- (1) An owner or occupier of a lot must not transport any furniture or large object through or on common property within the building unless sufficient notice has first been given to the executive committee so as to enable the executive committee to arrange for its nominee to be present at the time when the owner or occupier does so.
- (2) An owners corporation may resolve that furniture or large objects are to be transported through or on the common property (whether in the building or not) in a specified manner.
- (3) If the owners corporation has specified, by resolution, the manner in which furniture or large objects are to be transported, then an owner or occupier of a lot must not transport any furniture or large object through or on common property except in accordance with that resolution.

13 Floor coverings

- (1) An owner of a lot must ensure that all floor space within the lot is covered or otherwise treated to an extent sufficient to prevent the transmission from the floor space of noise likely to disturb the peaceful enjoyment of the owner or occupier of another lot.
- (2) This by-law does not apply to floor space comprising a kitchen, laundry, lavatory or bathroom.

14 Garbage disposal

- (1) An owner or occupier of a lot in a strata scheme that does not have shared receptacles for garbage, recyclable material or waste:
 - (a) must maintain such receptacles within the lot, or on such part of the common property as may be authorised by the owners corporation, in clean and dry condition and (except in the case of receptacles for recyclable material) adequately covered, and
 - (b) must ensure that before refuse, recyclable material or waste is placed in the receptacles it is, in the case of refuse, securely wrapped or, in the case of tins or other containers, completely drained, or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and
 - (c) for the purpose of having the garbage, recyclable material or waste collected, must place the receptacles within an area designated for that purpose by the owners corporation and at a time not more than 12 hours before the time at which garbage, recyclable material or waste is normally collected, and
 - (d) when the garbage, recyclable material or waste has been collected, must promptly return the receptacles to the lot or other area referred to in paragraph (a), and
 - (e) must not place any thing in the receptacles of the owner or occupier of any other lot except with the permission of that owner or occupier, and
 - (f) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled from the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.
- (2) An owner or occupier of a lot in a strata scheme that has shared receptacles for garbage, recyclable material or waste:
 - (a) must ensure that before refuse, recyclable material or waste is placed in the receptacles it is, in the case of refuse, securely wrapped, or, in the case of tins or other containers, completely drained, or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and
 - (b) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled in the area of the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.

15 Keeping of animals

Note—

Select option A, B or C. If no option is selected, option A will apply.

Option A

(1)

Subject to section 49 (4), an owner or occupier of a lot must not, without the prior written approval of the owners corporation, keep any animal (except fish kept in a secure aquarium on the lot) on the lot or the common property.

(2)

The owners corporation must not unreasonably withhold its approval of the keeping of an animal on a lot or the common property.

Option B**(1)**

Subject to section 49 (4), an owner or occupier of a lot must not, without the prior written approval of the owners corporation, keep any animal (except a cat, a small dog, a small caged bird or except fish kept in a secure aquarium kept on the lot) on the lot or the common property.

(2)

The owners corporation must not unreasonably withhold its approval of the keeping of an animal on a lot or the common property.

(3)

If an owner or occupier of a lot keeps a cat, small dog or small caged bird on the lot then the owner or occupier must:

- (a) notify the owners corporation that the animal is being kept on the lot, and
- (b) keep the animal within the lot, and
- (c) carry the animal when it is on the common property, and
- (d) take such action as may be necessary to clean all areas of the lot or the common property that are soiled by the animal.

Option C

Subject to section 49 (4), the owner or occupier of a residential lot must not keep any animal on the lot or the common property.

16 Appearance of lot

- (1) The owner or occupier of a lot must not, without the prior written approval of the owners corporation, maintain within the lot anything visible from outside the lot that, viewed from outside the lot, is not in keeping with the rest of the building.
- (2) This by-law does not apply to the hanging of any washing, towel, bedding, clothing or other article as referred to in by-law 9.

17 Change in use of lot to be notified

An occupier of a lot must notify the owners corporation if the occupier changes the existing use of the lot in a way that may affect the insurance premiums for the strata scheme (for example, if the change of use results in a hazardous activity being carried out on the lot, or results in the lot being used for commercial or industrial purposes rather than residential purposes).

18 Provision of amenities or services

- (1) The owners corporation may, by special resolution, determine to enter into arrangements for the provision of the following amenities or services to one or more of the lots, or to the owners or occupiers of one or more of the lots:
 - (a) medical and nursing services,
 - (b) emergency response services,
 - (c) meals,
 - (d) domestic services,
 - (e) window cleaning,
 - (f) transportation,
 - (g) garbage disposal and recycling services,
 - (h) electricity, water or gas supply,
 - (i) telecommunication services (for example, cable television).
- (2) If the owners corporation makes a resolution referred to in subclause (1) to provide an amenity or service to a lot or to the owner or occupier of a lot, it must indicate in the resolution the amount for which, or the conditions on which, it will provide the amenity or service.

Note—

Section 111 of the Act provides that an owners corporation may enter into an agreement with an owner or occupier of a lot for the provision of amenities or services by it to the lot or to the owner or occupier.

Industrial Schemes

1 Vehicles

- (1) An owner or occupier of a lot must not park or stand any motor or other vehicle on common property or permit any invitees of the owner or occupier to park or stand any motor or other vehicle on common property except with the prior written approval of the owners corporation.
- (2) The owners corporation must not unreasonably withhold its approval to the parking or standing of a motor vehicle on the common property.

2 Obstruction of common property

An owner or occupier of a lot must not obstruct lawful use of common property by any person except on a temporary and non-recurring basis.

3 Damage to common property

- (1) An owner or occupier of a lot must not mark, paint, drive nails or screws or the like into, or otherwise damage or deface, any structure that forms part of the common property except with the prior written approval of the owners corporation.
- (2) An approval given by the owners corporation under subclause (1) cannot authorise any additions to the common property.
- (3) This by-law does not prevent an owner or person authorised by an owner from installing:

- (a) any locking or other safety device for protection of the owner's lot against intruders or to improve safety within the owner's lot, or
 - (b) any screen or other device to prevent entry of animals or insects on the lot, or
 - (c) any sign to advertise the activities of the occupier of the lot, or
 - (d) any device used to affix decorative items to the internal surfaces of walls in the owner's lot.
- (4) Any such locking or safety device, screen, other device or sign must be installed in a competent and proper manner and must have an appearance, after it has been installed, consistent with any guidelines established by the owners corporation about such installations or, in the absence of guidelines, in keeping with the appearance of the rest of the building.
- (5) Despite section 62, the owner of a lot must:
- (a) maintain and keep in a state of good and serviceable repair any installation referred to in subclause (3) that forms part of the common property and that services the lot, and
 - (b) repair any damage caused to any part of the common property by the installation or removal of any locking or safety device, screen, other device or sign referred to in subclause (3) that forms part of the common property and that services the lot.

4 Children on common property

An owner or occupier of a lot must not permit any child of whom the owner or occupier has control to remain on common property, unless accompanied by an adult exercising effective control.

5 Behaviour of invitees

An owner or occupier of a lot must take all reasonable steps to ensure that invitees of the owner or occupier do not behave in a manner likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or any person lawfully using common property.

6 Depositing rubbish and other material on common property

An owner or occupier of a lot must not deposit or throw on the common property any rubbish, dirt, dust or other material or discarded item except with the written approval of the owners corporation.

7 Cleaning windows and doors

An owner or occupier of a lot must keep clean all exterior surfaces of glass in windows and doors on the boundary of the lot, including so much as is common property, unless:

- (a) the owners corporation resolves that it will keep the glass or specified part of the glass clean, or
- (b) that glass or part of the glass cannot be accessed by the owner or occupier of the lot safely or at all.

8 Garbage disposal

- (1) An owner or occupier of a lot in a strata scheme that does not have shared receptacles for garbage, recyclable material or waste:
- (a) must maintain such receptacles within the lot, or on such part of the common property as may be authorised by the owners corporation, in clean and dry condition and (except in the case of receptacles for recyclable material) adequately covered, and

- (b) must ensure that before refuse, recyclable material or waste is placed in the receptacles it is, in the case of refuse, securely wrapped or, in the case of tins or other containers, completely drained, or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and
 - (c) for the purpose of having the garbage, recyclable material or waste collected, must place the receptacles within an area designated for that purpose by the owners corporation and at a time not more than 12 hours before the time at which garbage, recyclable material or waste is normally collected, and
 - (d) when the garbage, recyclable material or waste has been collected, must promptly return the receptacles to the lot or other area referred to in paragraph (a), and
 - (e) must not place any thing in the receptacles of the owner or occupier of any other lot except with the permission of that owner or occupier, and
 - (f) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled from the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.
- (2) Subclause (1) does not require an owner or occupier of a lot to dispose of any chemical, biological, toxic or other hazardous waste in a manner that would contravene any relevant law applying to the disposal of such waste.
- (3) An owner or occupier of a lot in a strata scheme that has shared receptacles for garbage, recyclable material or waste:
- (a) must ensure that before refuse, recyclable material or waste is placed in the receptacles it is, in the case of refuse, securely wrapped or, in the case of tins or other containers, completely drained, or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and
 - (b) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled in the area of the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.
- (4) Subclause (3) does not require an owner or occupier of a lot to dispose of any chemical, biological, toxic or other hazardous waste in a manner that would contravene any relevant law applying to the disposal of such waste.

9 Appearance of lot

The owner or occupier of a lot must not, without the prior written approval of the owners corporation, maintain within the lot anything visible from outside the lot that, viewed from outside the lot, is not in keeping with the rest of the building.

10 Change in use of lot to be notified

An occupier of a lot must notify the owners corporation if the occupier changes the existing use of the lot in a way that may affect the insurance premiums for the strata scheme (for example, if the change of use results in a hazardous activity being carried out on the lot).

11 Preservation of fire safety

The owner or occupier of a lot must not do any thing or permit any invitees of the owner or occupier to do any thing on the lot or common property that is likely to affect the operation of fire safety devices in the parcel or to reduce the level of fire safety in the lots or common property.

12 Prevention of hazards

The owner or occupier of a lot must not do any thing or permit any invitees of the owner or occupier to do any thing on the lot or common property that is likely to create a hazard or danger to the owner or occupier of another lot or any person lawfully using the common property.

13 Provision of amenities or services

- (1) The owners corporation may, by special resolution, determine to enter into arrangements for the provision of the following amenities or services to one or more of the lots, or to the owners or occupiers of one or more of the lots:
 - (a) security services,
 - (b) promotional services,
 - (c) cleaning,
 - (d) garbage disposal and recycling services,
 - (e) electricity, water or gas supply,
 - (f) telecommunication services (for example, cable television).
- (2) If the owners corporation makes a resolution referred to in subclause (1) to provide an amenity or service to a lot or to the owner or occupier of a lot, it must indicate in the resolution the amount for which, or the conditions on which, it will provide the amenity or service.

Note—

Section 111 of the Act provides that an owners corporation may enter into an agreement with an owner or occupier of a lot for the provision of amenities or services by it to the lot or to the owner or occupier.

Hotel/Resort Schemes

1 Vehicles

- (1) An owner or occupier of a lot must not park or stand any motor or other vehicle on common property except with the prior written approval of the owners corporation.
- (2) The owners corporation must not unreasonably withhold its approval to the parking or standing of a motor vehicle on the common property.

2 Obstruction of common property

An owner or occupier of a lot must not obstruct lawful use of common property by any person except on a temporary and non-recurring basis.

3 Damage to common property

- (1) An owner or occupier of a lot must not mark, paint, drive nails or screws or the like into, or otherwise damage or deface, any structure that forms part of the common property without the prior written approval of the owners corporation.

- (2) An approval given by the owners corporation under subclause (1) cannot authorise any additions to the common property.
- (3) This by-law does not prevent an owner or person authorised by an owner from installing:
 - (a) any locking or other safety device for protection of the owner's lot against intruders or to improve safety within the owner's lot, or
 - (b) any screen or other device to prevent entry of animals or insects on the lot, or
 - (c) any structure or device to prevent harm to children, or
 - (d) any device used to affix decorative items to the internal surfaces of walls in the owner's lot.
- (4) Any such locking or safety device, screen, other device or structure must be installed in a competent and proper manner and must have an appearance, after it has been installed, consistent with any guidelines established by the owners corporation about such installations or, in the absence of guidelines, in keeping with the appearance of the rest of the building.
- (5) Despite section 62, the owner of a lot must:
 - (a) maintain and keep in a state of good and serviceable repair any installation or structure referred to in subclause (3) that forms part of the common property and that services the lot, and
 - (b) repair any damage caused to any part of the common property by the installation or removal of any locking or safety device, screen, other device or structure referred to in subclause (3) that forms part of the common property and that services the lot.

4 Behaviour of owners and occupiers

An owner or occupier of a lot when on common property must be adequately clothed and must not use language or behave in a manner likely to cause offence or embarrassment to the owner or occupier of another lot or to any person lawfully using common property.

5 Behaviour of invitees

An owner or occupier of a lot must take all reasonable steps to ensure that invitees of the owner or occupier do not behave in a manner likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or any person lawfully using common property.

6 Depositing rubbish and other material on common property

An owner or occupier of a lot must not deposit or throw on the common property any rubbish, dirt, dust or other material or discarded item except with the prior written approval of the owners corporation.

7 Cleaning windows and doors

The owners corporation must keep clean all exterior surfaces of glass in windows and doors on the boundary of the lots, whether common property or part of a lot.

8 Storage of inflammable liquids and other substances and materials

- (1) An owner or occupier of a lot must not, except with the prior written approval of the owners corporation, use or store on the lot or on the common property any inflammable chemical, liquid or gas or other inflammable material.

- (2) This by-law does not apply to chemicals, liquids, gases or other material used or intended to be used for domestic purposes, or any chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine.

9 Keeping of animals

Subject to section 49 (4), an owner or occupier of a lot must not keep any animal on the lot or the common property.

10 Appearance of lot

The owner or occupier of a lot must not, without the prior written approval of the owners corporation, maintain within the lot anything visible from outside the lot that, viewed from outside the lot, is not in keeping with the rest of the building.

11 Preservation of fire safety

The owner or occupier of a lot must not do any thing or permit any invitees of the owner or occupier to do any thing on the lot or common property that is likely to affect the operation of fire safety devices in the parcel or to reduce the level of fire safety in the lots or common property.

12 Provision of amenities or services

- (1) The owners corporation may, by special resolution, determine to enter into arrangements for the provision of the following amenities or services to one or more of the lots, or to the owners or occupiers of one or more of the lots:
- (a) electricity, water or gas supply,
 - (b) telecommunication services (for example, cable television).
- (2) If the owners corporation makes a resolution referred to in subclause (1) to provide an amenity or service to a lot or to the owner or occupier of a lot, it must indicate in the resolution the amount for which, or the conditions on which, it will provide the amenity or service.

Note—

Section 111 of the Act provides that an owners corporation may enter into an agreement with an owner or occupier of a lot for the provision of amenities or services by it to the lot or to the owner or occupier.

Commercial/Retail Schemes

1 Vehicles

- (1) An owner or occupier of a lot must not park or stand any motor or other vehicle on common property or permit any invitees of the owner or occupier to park or stand any motor or other vehicle on common property except with the prior written approval of the owners corporation.
- (2) The owners corporation must not unreasonably withhold its approval to the parking or standing of a motor vehicle on the common property.

2 Obstruction of common property

An owner or occupier of a lot must not obstruct lawful use of common property by any person except on a temporary and non-recurring basis (for example a temporary display).

3 Damage to common property

- (1) An owner or occupier of a lot must not mark, paint, drive nails or screws or the like into, or otherwise damage or deface, any structure that forms part of the common property without the written approval of the owners corporation.
- (2) An approval given by the owners corporation under subclause (1) cannot authorise any additions to the common property.
- (3) This by-law does not prevent an owner or person authorised by an owner from installing:
 - (a) any locking or other safety device for protection of the owner's lot against intruders or to improve safety within the owner's lot, or
 - (b) any screen or other device to prevent entry of animals or insects on the lot, or
 - (c) any sign to advertise the activities of the occupier of the lot if the owners corporation has specified locations for such signs and that sign is installed in the specified locations, or
 - (d) any device used to affix decorative items to the internal surfaces of walls in the owner's lot.
- (4) Any such locking or safety device, screen, other device or sign must be installed in a competent and proper manner and must have an appearance, after it has been installed, consistent with any guidelines established by the owners corporation about such installations or, in the absence of guidelines, in keeping with the appearance of the rest of the building.
- (5) Despite section 62, the owner of a lot must:
 - (a) maintain and keep in a state of good and serviceable repair any installation referred to in subclause (3) that forms part of the common property and that services the lot, and
 - (b) repair any damage caused to any part of the common property by the installation or removal of any locking or safety device, screen, other device or sign referred to in subclause (3) that forms part of the common property and that services the lot.

4 Behaviour of invitees

An owner or occupier of a lot must take all reasonable steps to ensure that invitees of the owner or occupier (including all customers and staff) do not behave in a manner likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or any person lawfully using common property.

5 Depositing rubbish and other material on common property

An owner or occupier of a lot must not deposit or throw on the common property any rubbish, dirt, dust or other material or discarded item except with the prior written approval of the owners corporation.

6 Cleaning windows and doors

The owners corporation must keep clean all exterior surfaces of glass in windows and doors on the boundary of the lots, whether a part of a lot or common property.

7 Garbage disposal

- (1) An owner or occupier of a lot in a strata scheme that does not have shared receptacles for garbage, recyclable material or waste:

- (a) must maintain such receptacles within the lot, or on such part of the common property as may be authorised by the owners corporation, in clean and dry condition and (except in the case of receptacles for recyclable material) adequately covered, and
 - (b) must ensure that before refuse, recyclable material or waste is placed in the receptacles it is, in the case of refuse, securely wrapped or, in the case of tins or other containers, completely drained, or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and
 - (c) for the purpose of having the garbage, recyclable material or waste collected, must place the receptacles within an area designated for that purpose by the owners corporation and at a time not more than 12 hours before the time at which garbage, recyclable material or waste is normally collected, and
 - (d) when the garbage, recyclable material or waste has been collected, must promptly return the receptacles to the lot or other area referred to in paragraph (a), and
 - (e) must not place any thing in the receptacles of the owner or occupier of any other lot except with the permission of that owner or occupier, and
 - (f) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled from the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.
- (2) Subclause (1) does not require an owner or occupier of a lot to dispose of any chemical, biological, toxic or other hazardous waste in a manner that would contravene any relevant law applying to the disposal of such waste.
- (3) An owner or occupier of a lot in a strata scheme that has shared receptacles for garbage, recyclable material or waste:
- (a) must ensure that before refuse, recyclable material or waste is placed in the receptacles it is, in the case of refuse, securely wrapped or, in the case of tins or other containers, completely drained, or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and
 - (b) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled in the area of the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.
- (4) Subclause (3) does not require an owner or occupier of a lot to dispose of any chemical, biological, toxic or other hazardous waste in a manner that would contravene any relevant law applying to the disposal of such waste.

8 Appearance of lot

The owner or occupier of a lot must not, without the prior written approval of the owners corporation, maintain within the lot anything visible from outside the lot that, viewed from outside the lot, is not in keeping with the rest of the building.

9 Change in use of lot to be notified

An occupier of a lot must notify the owners corporation if the occupier changes the existing use of the lot in a way that may affect the insurance premiums for the strata scheme (for example, if the change of use results in a hazardous activity being carried out on the lot).

10 Preservation of fire safety

The owner or occupier of a lot must not do any thing or permit any invitees of the owner or occupier to do any thing on the lot or common property that is likely to affect the operation of fire safety devices in the parcel or to reduce the level of fire safety in the lots or common property.

11 Prevention of hazards

The owner or occupier of a lot must not do any thing or permit any invitees of the owner or occupier to do any thing on the lot or common property that is likely to create a hazard or danger to the owner or occupier of another lot or any person lawfully using the common property.

12 Provision of amenities or services

- (1) The owners corporation may, by special resolution, determine to enter into arrangements for the provision of the following amenities or services to one or more of the lots, or to the owners or occupiers of one or more of the lots:
 - (a) security services,
 - (b) promotional services,
 - (c) advertising,
 - (d) cleaning,
 - (e) garbage disposal and recycling services,
 - (f) electricity, water or gas supply,
 - (g) telecommunication services (for example, cable television).
- (2) If the owners corporation makes a resolution referred to in subclause (1) to provide an amenity or service to a lot or to the owner or occupier of a lot, it must indicate in the resolution the amount for which, or the conditions on which, it will provide the amenity or service.

Note—

Section 111 of the Act provides that an owners corporation may enter into an agreement with an owner or occupier of a lot for the provision of amenities or services by it to the lot or to the owner or occupier.

13 Controls on hours of operation and use of facilities

- (1) The owners corporation may, by special resolution, make any of the following determinations if it considers the determination is appropriate for the control, management, administration, use or enjoyment of the lots or the lots and common property of the strata scheme:
 - (a) that commercial or business activities may be conducted on a lot or common property only during certain times,
 - (b) that facilities situated on the common property may be used only during certain times or on certain conditions.
- (2) An owner or occupier of a lot must comply with a determination referred to in subclause (1).

Mixed Use Schemes

1 Noise

An owner or occupier of a lot must not create any noise on a lot or the property likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or of any person lawfully using common property.

2 Vehicles

- (1) An owner or occupier of a lot must not park or stand any motor or other vehicle on common property or permit any invitees of the owner or occupier to park or stand any motor or other vehicle on common property except with the prior written approval of the owners corporation.
- (2) The owners corporation must not unreasonably withhold its approval to the parking or standing of a motor vehicle on the common property.

3 Obstruction of common property

An owner or occupier of a lot must not obstruct lawful use of common property by any person except on a temporary and non-recurring basis.

4 Damage to lawns and plants on common property

An owner or occupier of a lot must not, except with the prior written approval of the owners corporation:

- (a) damage any lawn, garden, tree, shrub, plant or flower being part of or situated on common property, or
- (b) use for his or her own purposes as a garden any portion of the common property.

5 Damage to common property

- (1) An owner or occupier of a lot must not mark, paint, drive nails or screws or the like into, or otherwise damage or deface, any structure that forms part of the common property except with the written approval of the owners corporation.
- (2) An approval given by the owners corporation under subclause (1) cannot authorise any additions to the common property.
- (3) This by-law does not prevent an owner or person authorised by an owner from installing:
 - (a) any locking or other safety device for protection of the owner's lot against intruders or to improve safety within the owner's lot, or
 - (b) any screen or other device to prevent entry of animals or insects on the lot, or
 - (c) any structure or device to prevent harm to children, or
 - (d) any sign to advertise the activities of the occupier of the lot if the owners corporation has specified locations for such signs and that sign is installed in the specified locations, or
 - (e) any device used to affix decorative items to the internal surfaces of walls in the owner's lot.
- (4) Any such locking or safety device, screen, other device or structure must be installed in a competent and proper manner and must have an appearance, after it has been installed, in keeping with the appearance of the rest of the building.
- (5) Despite section 62, the owner of a lot must:

- (a) maintain and keep in a state of good and serviceable repair any installation or structure referred to in subclause (3) that forms part of the common property and that services the lot, and
- (b) repair any damage caused to any part of the common property by the installation or removal of any locking or safety device, screen, other device or structure referred to in subclause (3) that forms part of the common property and that services the lot.

6 Behaviour of owners and occupiers

An owner or occupier of a lot when on common property must be adequately clothed and must not use language or behave in a manner likely to cause offence or embarrassment to the owner or occupier of another lot or to any person lawfully using common property.

7 Children playing on common property in building

An owner or occupier of a lot must not permit any child of whom the owner or occupier has control to play on common property within the building or, unless accompanied by an adult exercising effective control, to be or to remain on common property comprising a laundry, car parking area or other area of possible danger or hazard to children.

8 Behaviour of invitees

An owner or occupier of a lot must take all reasonable steps to ensure that invitees of the owner or occupier do not behave in a manner likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or any person lawfully using common property.

9 Depositing rubbish and other material on common property

An owner or occupier of a lot must not deposit or throw on the common property any rubbish, dirt, dust or other material or discarded item except with the prior written approval of the owners corporation.

10 Drying of laundry items

An owner or occupier of a lot must not, except with the prior written approval of the owners corporation, hang any washing, towel, bedding, clothing or other article on any part of the parcel in such a way as to be visible from outside the building other than on any lines provided by the owners corporation for the purpose and there only for a reasonable period.

11 Cleaning windows and doors

An owner or occupier of a lot must keep clean all exterior surfaces of glass in windows and doors on the boundary of the lot, including so much as is common property, unless:

- (a) the owners corporation resolves that it will keep the glass or specified part of the glass clean, or
- (b) that glass or part of the glass cannot be accessed by the owner or occupier of the lot safely or at all.

12 Storage of inflammable liquids and other substances and materials

- (1) An owner or occupier of a lot must not, except with the prior written approval of the owners corporation, use or store on the lot or on the common property any inflammable chemical, liquid or gas or other inflammable material.
- (2) This by-law does not apply to chemicals, liquids, gases or other material used or intended to be used for domestic purposes, or any chemical, liquid, gas or other material in a fuel tank of a motor

vehicle or internal combustion engine.

13 Moving furniture and other objects on or through common property

- (1) An owner or occupier of a lot must not transport any furniture, large object or deliveries to or from the lot through or on common property within the building unless sufficient notice has first been given to the executive committee so as to enable the executive committee to arrange for its nominee to be present at the time when the owner or occupier does so.
- (2) An owners corporation may resolve that furniture, large objects or deliveries to and from the lot are to be transported through or on the common property (whether in the building or not) in a specified manner.
- (3) If the owners corporation has specified, by resolution, the manner in which furniture, large objects or deliveries to and from the lot are to be transported, then an owner or occupier of a lot must not transport any furniture, large object or deliveries to and from the lot through or on common property except in accordance with that resolution.

14 Floor coverings

- (1) An owner of a lot must ensure that all floor space within the lot is covered or otherwise treated to an extent sufficient to prevent the transmission from the floor space of noise likely to disturb the peaceful enjoyment of the owner or occupier of another lot.
- (2) This by-law does not apply to floor space comprising a kitchen, laundry, lavatory or bathroom.

15 Garbage disposal

- (1) An owner or occupier of a lot in a strata scheme that does not have shared receptacles for garbage, recyclable material or waste:
 - (a) must maintain such receptacles within the lot, or on such part of the common property as may be authorised by the owners corporation, in clean and dry condition and (except in the case of receptacles for recyclable material) adequately covered, and
 - (b) must ensure that before refuse, recyclable material or waste is placed in the receptacles it is, in the case of refuse, securely wrapped or, in the case of tins or other containers, completely drained, or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and
 - (c) for the purpose of having the garbage, recyclable material or waste collected, must place the receptacles within an area designated for that purpose by the owners corporation and at a time not more than 12 hours before the time at which garbage, recyclable material or waste is normally collected, and
 - (d) when the garbage, recyclable material or waste has been collected, must promptly return the receptacles to the lot or other area referred to in paragraph (a),
 - (e) must not place any thing in the receptacles of the owner or occupier of any other lot except with the permission of that owner or occupier, and
 - (f) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled from the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.

- (2) Subclause (1) does not require an owner or occupier of a lot to dispose of any chemical, biological, toxic or other hazardous waste in a manner that would contravene any relevant law applying to the disposal of such waste.
- (3) An owner or occupier of a lot in a strata scheme that has shared receptacles for garbage, recyclable material or waste:
 - (a) must ensure that before refuse, recyclable material or waste is placed in the receptacles it is, in the case of refuse, securely wrapped or, in the case of tins or other containers, completely drained, or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and
 - (b) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled in the area of the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.
- (4) Subclause (3) does not require an owner or occupier of a lot to dispose of any chemical, biological, toxic or other hazardous waste in a manner that would contravene any relevant law applying to the disposal of such waste.

16 Keeping of animals

Note—

Select option A, B or C. If no option is selected, option A will apply.

Option A

(1)

Subject to section 49 (4), an owner or occupier of a residential lot must not, without the prior written approval of the owners corporation, keep any animal (except fish kept in a secure aquarium on the lot) on the lot or the common property.

(2)

The owners corporation must not unreasonably withhold its approval of the keeping of an animal on a residential lot or the common property.

Option B

(1)

Subject to section 49 (4), an owner or occupier of a residential lot must not, without the prior written approval of the owners corporation, keep any animal (except a cat, a small dog or a small caged bird, or fish kept in a secure aquarium on the lot) on the lot or the common property.

(2)

The owners corporation must not unreasonably withhold its approval of the keeping of an animal on a residential lot or the common property.

(3)

If an owner or occupier of a residential lot keeps a cat, small dog or small caged bird on the lot then the owner or occupier must:

- (a) notify the owners corporation that the animal is being kept on the lot, and

- (b) keep the animal within the lot, and
- (c) carry the animal when it is on the common property, and
- (d) take such action as may be necessary to clean all areas of the lot or the common property that are soiled by the animal.

Option C

Subject to section 49 (4), an owner or occupier of a residential lot must not keep any animal on the lot or the common property.

17 Appearance of lot

- (1) The owner or occupier of a lot must not, except with the prior written approval of the owners corporation, maintain within the lot anything visible from outside the lot that, viewed from outside the lot, is not in keeping with the rest of the building.
- (2) This by-law does not apply to the hanging of any washing, towel, bedding, clothing or other article as referred to in by-law 10.

18 Change in use of lot to be notified

An occupier of a lot must notify the owners corporation if the occupier changes the existing use of the lot in a way that may affect the insurance premiums for the strata scheme (for example, if the change of use results in a hazardous activity being carried out on the lot, or results in the lot being used for commercial or industrial purposes rather than residential purposes).

19 Preservation of fire safety

The owner or occupier of a lot must not do any thing or permit any invitees of the owner or occupier to do any thing on the lot or common property that is likely to affect the operation of fire safety devices in the parcel or to reduce the level of fire safety in the lots or common property.

20 Prevention of hazards

The owner or occupier of a lot must not do any thing or permit any invitees of the owner or occupier to do any thing on the lot or common property that is likely to create a hazard or danger to the owner or occupier of another lot or any person lawfully using the common property.

21 Provision of amenities or services

- (1) The owners corporation may, by special resolution, determine to enter into arrangements for the provision of the following amenities or services to one or more of the lots, or to the owners or occupiers of one or more of the lots:
 - (a) security services,
 - (b) promotional services,
 - (c) advertising,
 - (d) commercial cleaning,
 - (e) domestic services,
 - (f) garbage disposal and recycling services,

- (g) electricity, water or gas supply,
 - (h) telecommunication services (for example, cable television).
- (2) If the owners corporation makes a resolution referred to in subclause (1) to provide an amenity or service to a lot or to the owner or occupier of a lot, it must indicate in the resolution the amount for which, or the conditions on which, it will provide the amenity or service.

Note—

Section 111 of the Act provides that an owners corporation may enter into an agreement with an owner or occupier of a lot for the provision of amenities or services by it to the lot or to the owner or occupier.

22 Controls on hours of operation and use of facilities

- (1) The owners corporation may, by special resolution, make any of the following determinations if it considers the determination is appropriate for the control, management, administration, use or enjoyment of the lots or the lots and common property of the strata scheme:
- (a) that commercial or business activities may be conducted on a lot or common property only during certain times,
 - (b) that facilities situated on the common property may be used only during certain times or on certain conditions.
- (2) An owner or occupier of a lot must comply with a determination referred to in subclause (1).

Certificate No.: PC/2021/3622

Certificate Date: 28/10/2021

Fee Paid: \$53.00

Receipt No.: 1125835

Your Reference: 210860

SECTION 10.7 PLANNING CERTIFICATE

Environmental Planning and Assessment Act, 1979 as amended

APPLICANT:	Infotrack Property Services Pty Ltd ecertificates@infotrack.com.au
PROPERTY DESCRIPTION:	2/145-147 Swan Street MORPETH NSW 2321
PARCEL NUMBER:	43473
LEGAL DESCRIPTION:	Lot 2 SP 74847

IMPORTANT: Please read this Certificate carefully.

This Certificate contains important information about the land described above.

Please check for any item, which could be inconsistent with the proposed use or development of the land. If there is anything you do not understand, please contact Council by phoning (02) 4934 9700, or personally at Council's Administration Building at 285-287 High Street, Maitland.

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

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

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

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

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

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

1. Local Environmental Plan (LEP)

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

Exhibited draft Local Environmental Plans

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

Development Control Plan prepared by Council

Maitland Development Control Plan 2011 applies to the land.

Development Control Plan prepared by the Director General

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

State Environmental Planning Policies

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

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

- SEPP21 Caravan Parks
- SEPP (Mining, Petroleum Production and Extractive Industries) 2007
- SEPP (State and Regional Development) 2011
- SEPP33 Hazardous and Offensive Development
- SEPP36 Manufactured Home Estates
- SEPP (Koala Habitat Protection) 2019
- SEPP50 Canal Estate Development
- SEPP (Housing for Seniors or People with a Disability) 2004
- SEPP55 Remediation of Land
- SEPP Affordable Rental Housing 2009
- SEPP Building Sustainability Index: BASIX 2004
- SEPP (Exempt and Complying Development Codes) 2008
- SEPP (Infrastructure) 2007
- SEPP64 Advertising and Signage
- SEPP Primary Production and Rural Development 2019
- SEPP65 Design Quality of Residential Apartment Development
- SEPP70 Affordable Housing (Revised Schemes)
- SEPP (Concurrences and Consents) 2018
- SEPP Vegetation in Non Rural Areas 2017
- SEPP (Educational Establishments and Child Care Facilities) 2017

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Draft State Environmental Planning Policies

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

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

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

2. Zoning and land use under relevant LEPs

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

B2 Local Centre

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

B2 Local Centre

a) Purpose/Objective

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area
- To encourage employment opportunities in accessible locations
- To maximise public transport patronage and encourage walking and cycling
- To recognise the unique role of the Morpeth local centre as a tourist destination

b) Permitted with Consent

Boarding houses; Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Home-based child care; Home industries; Information and education facilities; Medical centres; Oyster Aquaculture; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Service stations; Shop top housing; Tank-based Aquaculture; Tourist and visitor accommodation; Any other development not specified in item 2 or 4

c) Permitted without Consent

Home occupations

d) Prohibited

Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Biosolids treatment facilities; Boat launching ramps; Boat sheds;

Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Jetties; Marinas; Mooring pens; Moorings; Open cut mining; Pond-based Aquaculture; Recreation facilities (major); Residential accommodation; Resource recovery facilities; Rural industries; Sewerage treatment plants; Sex services premises; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Warehouse or distribution centres; Waste disposal facilities; Water recreation structures; Water recycling facilities; Wharf or boating facilities; Wholesale supplies.

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

For the land zoned B2 Local Centre the Maitland LEP 2011 does not contain a development standard specifying the land dimensions required to permit the erection of a dwelling house on the land.

f) Critical Habitat

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

g) Conservation Area

The land is located within a Heritage Conservation Area. Clause 5.10 in the Maitland Local Environmental Plan 2011 applies. The Heritage Conservation Area is listed in Schedule 5 in the Maitland Local Environmental Plan 2011 and identified on the Maitland Local Environmental Plan 2011 Heritage Map.

h) Item of Environmental Heritage

The land does NOT contain an item of Environmental Heritage.

3. Complying Development

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

Land within a heritage conservation area - unless the development is a detached outbuilding, detached development (other than detached studio) or swimming pool.

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

Land within a heritage conservation area - unless the development is a detached outbuilding, detached development (other than detached studio) or swimming pool.

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

Land within a heritage conservation area - unless the development is a detached outbuilding, detached development (other than detached studio) or swimming pool.

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

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

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

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

Land within a heritage conservation area.

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

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

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

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

Note: Despite the above provisions, if only part of a lot is subject to an exclusion or exemption under Clause 1.17A or Clause 1.19 of State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Commercial and Industrial Development and Other Matters) 2013, complying development may be carried out on that part of the lot that is not affected by the exclusion or exemption.

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

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

5. Coal Mine Subsidence Compensation Act 2017

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

6. Road widening and road realignment

- a) The land is NOT affected by road widening under Division 2 of Part 3 of the Roads Act 1993.
- b) The land is NOT affected by any environmental planning instrument
- c) The land is NOT affected by any road-widening or realignment under any resolution of the Council

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

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

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

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

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

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

7A. Flood Related Development Controls

The land or part of the land IS NOT within the flood planning area and subject to flood related development controls.

The land or part of the land IS NOT between the flood planning area and the probable maximum flood and subject to flood related development controls.

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

8. Land Reserved for Acquisition

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

9. Contribution Plans

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

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

Contributions Plans may be viewed on Council's website or inspected and purchased at Council's Customer Service Centre.

9A. Biodiversity Certified Land

The land is not biodiversity certified land under Part 8 of the Biodiversity

Conservation Act 2016.

10. Biodiversity Stewardship Sites

The Council is not aware if the land is a biodiversity stewardship site under a biodiversity stewardship agreement under part 5 of the *Biodiversity Conservation Act 2016*.

10A. Native Vegetation clearing set asides

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

11. Bushfire Prone Land

The land is NOT identified as being bushfire prone land.

12. Property vegetation plans

The Council has not received any notification from Hunter Local Land Services that this land is affected by a property vegetation plan under Part 4 of the Native Vegetation Act 2003 (and that continues in force).

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

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

14. Directions under Part 3A

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

15. Site Compatibility Certificate and Conditions for Seniors Housing

a) Site Compatibility Certificate

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

b) Conditions of Development Consent since 11 October 2007

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

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

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

17. Site compatibility certificates and conditions for affordable rental housing

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

18. Paper subdivision information

There is no development plan that applies to the:

- 1) Land or that is proposed to be subject to a consent ballot
- 2) There is no subdivision order that applies to the land.

19. Site verification certificates

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

20. Loose-fill asbestos insulation

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

21. Affected building notices and building product rectification orders

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

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

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

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

Contaminated Land

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

David Evans
General Manager



HUNTER WATER CORPORATION

A.B.N. 46 228 513 446

SERVICE LOCATION PLAN

Enquiries: 1300 657 657

APPLICANT'S DETAILS



InfoTrack

145-147 SWAN

MORPETH NSW

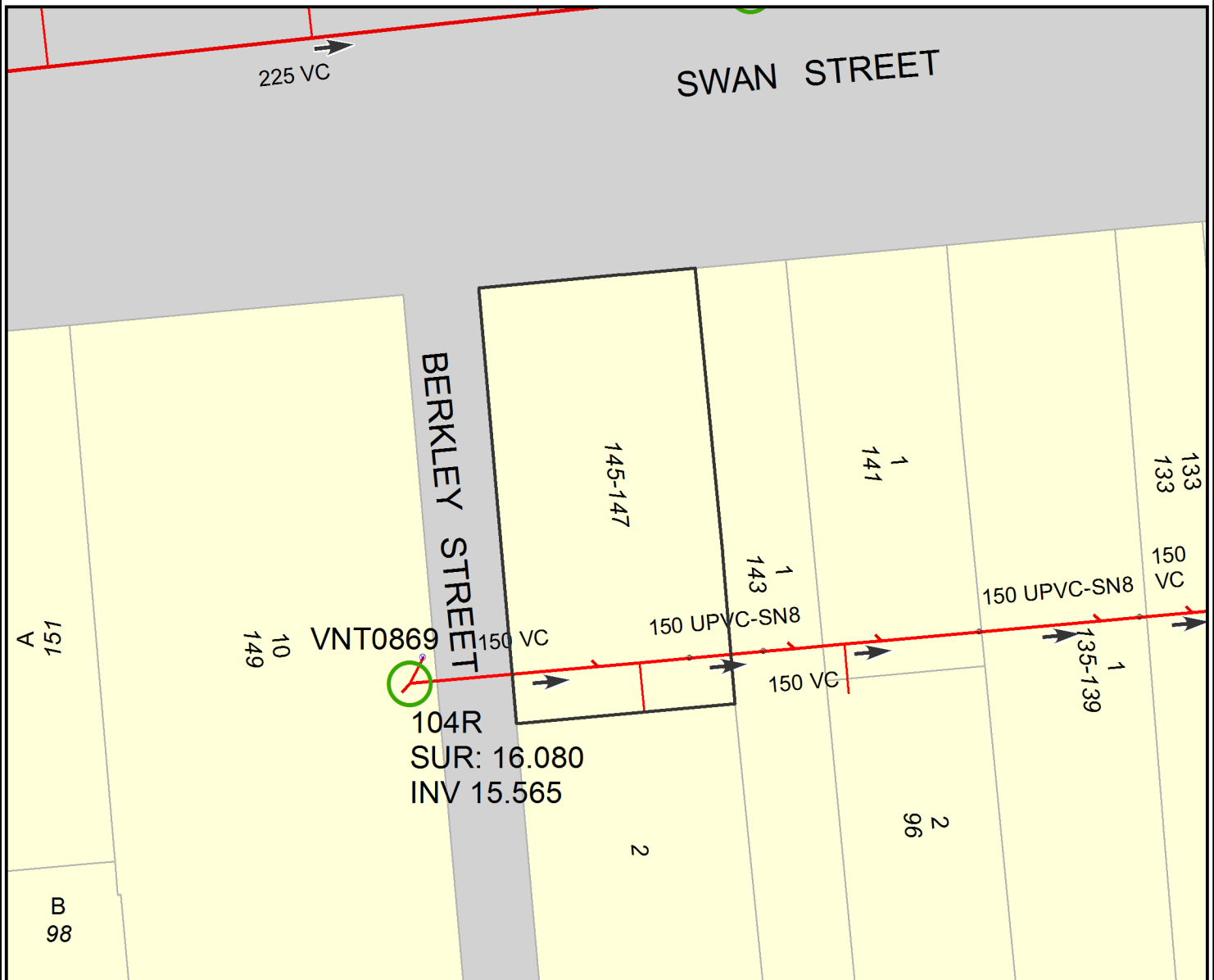
APPLICATION NO.: 1734139

APPLICANT REF: M 210860

RATEABLE PREMISE NO.: 2375810732

PROPERTY ADDRESS: 147 SWAN ST MORPETH 2321

LOT/SECTION/DP:SP: 2//SP 74847



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

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

IMPORTANT:

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

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

Date: 31/05/2022

Scale at A4: 1:500

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

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

RETAIL LEASE

Note: Suitable for shops and other retail premises subject to the *Retail Leases Act 1994 (NSW)* where the term of Lease (including the period of any option) does not exceed three years.

This Lease is made in duplicate on / /

at in the State of New South Wales.

PARTIES

Between	Morpeth Property Trust <small>(Name, address and ABN)</small> P.O. Box 60 ISLINGTON NSW 2296	Landlord
whose agent is	Joan Latter Pty Ltd T/As River <small>(Name, business address and ABN)</small> 7 Church Street MAITLAND NSW 2320 ABN 76 091 972 879	Agent
and	Joan Latter Pty Ltd T/As River <small>(Name, business address and ABN)</small> 7 Church Street MAITLAND NSW 2320 ABN 76 091 972 879	Tenant
		Guarantor
	<small>(Name, business address and ABN)</small>	

GST REGISTRATION

The Landlord is registered for GST. Yes No

The Tenant is registered for GST. Yes No

PREMISES

The Landlord leases the premises known as (the Premises) including all fixtures, fittings and equipment listed in the lessors disclosure statement provided by the Landlord to the Tenant.

PERMITTED USE

The Premises shall be used only as

RENT

Except as otherwise provided the rent shall be (incl GST)

per commencing on / /

and payable in advance by the Tenant on the day of every

to the Landlord/Agent at the above address or at any other reasonable place as the Landlord/Agent notifies in writing.

SECURITY BOND / DEPOSIT (tick applicable box)

as referred to in Clause 37a OR 37b

TERM

The term of the lease shall be commencing on / / and ending on / /

OPTION

Subject to Clause 30 of this lease the Landlord/Agent offers a renewal of this lease for a further term of years.

HOLDING OVER

Unless either party gives the other written notice of termination in accordance with Clause 32a, the lease shall continue as a periodic lease from month to month at the same rent or at a rent to which both parties agree.

OUTGOINGS (tick applicable box)

The Tenant's percentage of outgoings to be paid in accordance with Clause 17a is %

OR

The Tenant's percentage of any increases in outgoings to be paid in accordance with Clause 17b is %

INSURANCE

The amount of cover for public liability referred to in Clause 15e is

CONDITIONS

The parties agree to the conditions set out above and on the following pages and also to those conditions implied by Sections 84 and 85 of the Conveyancing Act 1919 which are not expressly negated or modified by this lease.

NOTE It is advisable for the Tenant to insure the Tenant's own property

CH
deaf

THE LANDLORD AGREES**Possession**

1. To give possession of the Premises to the Tenant on the day on which the term of the lease commences.

Condition of Premises

2. To ensure that the Premises are in a reasonably fit condition for use at the commencement of the lease.

Security

3. To ensure that all external doors and windows contain locks and catches in working order at the commencement of the lease.

Insurance

4. To insure the Premises against damage arising from fire, lightning and explosion and other hazards (including earthquake, storm and tempest, water damage, impact, aircraft, riots/civil commotions and malicious damage).

Use of Premises

5. To allow the Tenant to use and occupy the Premises without unreasonable interference by the Landlord or their Agent.

Rates and Taxes

6. To pay council, water and sewerage rates, land tax and other levies promptly.

Lease copy

7. To provide the Tenant within one (1) month after:
 - a notice of mortgage consent, if required;
 - b execution of the lease; and
 - c stamping, if applicable

with a copy of the lease.

Tax Invoices and Receipts

8. To issue rent receipts and tax invoices (where applicable) showing the Tenant's name, the address of the Premises, the ABN of the parties, the amount received, the date of payment and the period for which the payment was made, and other such requirements as determined by the Australian Taxation Office.

THE TENANT AGREES**Rent**

9. To pay the rent promptly and in advance and in the manner that the Landlord may direct from time to time.

Consents

10. To obtain at their own expense all necessary consents that may be required from local government or other authorities to carry on their proposed business at the Premises (being the use and/or fit-out for which the Premises are leased).

Charges

11. To pay all charges for gas, electricity and telephone and any water, garbage or sanitary rates or charges relating to the Tenant's use of the Premises.

Care of Premises

12. To take care of the Premises and to keep them in a clean condition and in particular:
 - a To make no alterations or additions to the Premises, including the erection of any sign or antenna, without the prior written consent of the Landlord.
 - b To do no decorating that involves marking, defacing or painting any part of the Premises without the prior written consent of the Landlord.
 - c To put nothing down any sink, toilet or drain likely to cause obstruction or damage.
 - d To keep no animals or birds on the Premises without the prior written consent of the Landlord.
 - e To ensure that rubbish is not accumulated on the Premises and to cause all trade refuse to be removed regularly and in a manner acceptable to the Landlord.
 - f To ensure that nothing is done that might prejudice any insurance policy which the Landlord has in relation to the Premises.
 - g To notify the Landlord promptly of any loss, damage or defect in the Premises.
 - h To notify the Landlord promptly of any infectious disease or the presence of rats, cockroaches or similar pests.

Permitted Use and Occupation

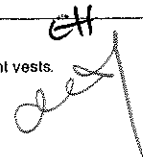
13. a To use the Premises for the purpose stated on the front page of this lease and not for any other purpose.
- b Not to sleep or permit anyone to sleep on the Premises unless the Premises or a portion of the Premises is zoned for residential use.

Rules and Regulations

14. To ensure that they, their employees, licensees and agents observe, obey and perform the rules and regulations forming part of this lease and such further rules and regulations as the Landlord may from time to time make and communicate to the Tenant (not being inconsistent with this lease) for the safety, care and cleanliness of the Premises and the building.

Insurance

15. a To do nothing in the building or keep anything therein that would increase the insurance premium payable by the Landlord in relation to the building except with the prior written consent of the Landlord.
- b To do nothing which would make any insurance policy void.



- c To insure all external fixed glass and window frames for which the Tenant is responsible.
- d To pay any insurance premiums payable by the Landlord increased as a result of the Tenant's actions.
- e To insure for public risk covering liability in respect of bodily injury, property damage, product liability and contractual liability arising from the occupation and use of the Premises by the Tenant for the minimum amount as noted on the front page of the lease.

Indemnity

16. a To compensate and meet all claims of:
- i the Landlord for the loss of or damage to part or whole of the Premises,
 - ii any person for the loss of or damage to their personal property,
 - iii any person for personal injury or death, as a result of any accident or neglect or a deliberate or careless act on the Premises or a breach of any conditions of the lease by the Tenant, their employees or agents or any person present on the Premises with the consent of the Tenant, their employees or agents.
- b In such circumstances, the Tenant shall meet all claims whether they are made directly against them or against the Landlord. Any resultant repairs to the Premises or to any other parts of the building shall be carried out at the expense of the Tenant by a builder or tradesperson approved by the Landlord.

Outgoings

17. a To reimburse the Landlord immediately, when requested, for the Tenant's percentage of outgoings noted on the front page of this lease for all local government rates, water, garbage and sewerage rates, land tax, insurance premiums, waste disposal costs, car park levies and such other outgoings as specified in the lessors disclosure statement. Land tax shall be calculated on the basis that the land on which the building is situated was the only land owned by the Landlord.

OR

17. b To reimburse the Landlord immediately, when requested, for the agreed percentage of all increases in local government rates, water, garbage and sewerage rates, land tax, insurance premiums, waste disposal costs, car park levies and such other outgoings as specified in the lessors disclosure statement above the level at 30 June immediately preceding the commencement of the lease. Land tax shall be calculated on the basis that the land on which the building is situated was the only land owned by the Landlord.

Disclosure

18. a That they received and read and obtained their own independent legal and financial and other advice on all of the disclosure materials as required by the *Retail Leases Act 1994* (NSW) such as a draft lease, the lessor's disclosure statement and the retail tenancy guide before entering into the lease.
- b That they have provided a lessees disclosure statement as required by the *Retail Leases Act 1994* (NSW).

BOTH PARTIES AGREE THAT

Unforeseen event

19. If something happens to the Premises so that the whole or a substantial part can no longer be occupied and the parties are in no way responsible, then either party shall have the right to terminate the lease on the giving of seven (7) days notice in writing.

Inspections

20. The Landlord or Agent shall inspect the Premises at the commencement of the lease and on its termination and take note of the condition of the Premises including the state of cleanliness, state of repair and working order of appliances.

Repairs

21. a The Tenant shall have repaired in a proper manner any damage to the Premises resulting from neglect or a deliberate or careless act or a breach of any condition of the lease by the Tenant or any person on the Premises with their consent.
- b Except as in Clause 21a, the Landlord shall carry out without delay all reasonable repairs necessary for the Tenant's ordinary use and occupation of the Premises, having regard to the condition of the Premises at the commencement of the lease and having regard for fair wear and tear.

Access

22. a The Landlord shall respect the Tenant's right to privacy.
- b The Tenant shall allow access to the Landlord or Agent:
- i when it is reasonable that they or either of them should view the condition of the Premises or to carry out repairs.
 - ii to erect "to let" signs in accordance with the *Retail Leases Act 1994* (NSW) and to show the Premises to prospective tenants after notice terminating the lease has been given; or
 - iii to erect "for sale" signs and to show the Premises to prospective purchasers after the Landlord has given reasonable notice to the Tenant of their intention to sell.
- c The Landlord shall give the Tenant reasonable notice of the time and date for such access. As far as possible it shall be convenient for both parties.
- d The Landlord or Agent may have access to the Premises at any time on reasonable notice to the Tenant or without notice in the case of an emergency or to carry out urgent repairs.

Costs

23. a Each party shall pay their own legal costs in relation to the preparation of this lease.
- b The Tenant shall pay all reasonable costs in connection with making an amendment to this lease that was requested by the Tenant other than:
- i an amendment to insert or vary particulars of the Tenant, the rent or the term; or
 - ii an amendment to remedy a failure by or on behalf of the Landlord to include or omit a term of this lease that was, at the time of the failure to include or omit, agreed between the Landlord and the Tenant to be included in or omitted from the lease; or
 - iii an amendment requested before the Landlord was given a lessee's disclosure statement.
- c The Tenant shall pay the registration fees payable (if any) in connection with this lease.

- d The Landlord shall provide the Tenant with a copy of any account presented to the Landlord in respect of any costs referred to in Clause 23b.
- e The Landlord shall pay any mortgagee consent fees in connection with this lease.

GST

24. Any amounts, including rent and outgoings, referred to in this lease which are payable by the Tenant to the Landlord, or on behalf of the Landlord, under this lease, are expressed inclusive of the Goods and Service Tax ("GST"), (if any), at the rate of 10% (the current rate). If the current rate is increased or decreased, the parties agree that any amounts referred to in this lease will be varied accordingly.

Statutes

25. Each party shall observe as applicable to themselves all relevant statutes, statutory regulations and by-laws relating to work, health, safety, noise and other standards with respect to the Premises.

Notices

26. Any written notice required or authorised by the lease:
- a Shall be served on the Tenant personally or by pre-paid post or by facsimile transmission to the Premises or by being left there in the post box, if any, at the address.
 - b Shall be served on the Landlord or Agent personally or by prepaid post or by facsimile transmission to their address as shown in the lease or as notified in writing.
 - c Shall be deemed to be served on the second business day after posting where it has been sent by pre-paid post.
 - d May take effect on any day of the month if it relates to the termination of a periodic lease provided it gives the required length of notice.
 - e Shall be served on either party to the email address of the addressee or such other email address notified as being the email address to use.
 - f An email will be deemed to have been served if:
 - i where an email is sent during the period between 8:00am to 6:00pm on a business day, upon the return of a receipt which confirms successful transmission of the email to the email address of the recipient or, where no return receipt is produced by the recipient's email system, by the end of 6:00pm on the day the email was sent; or
 - ii where the email is sent after 6:00pm on a business day or on a non-business day, the email will be deemed to be received at 8:00am on the next business day.

Mitigation

27. Where there has been a breach of any of the conditions of the lease by either party, the other party shall take all reasonable steps to minimise any resultant loss or damage.

Disputes

28. In any dispute or proceeding between the parties, both shall act reasonably and without delay and make all admissions necessary to enable the real issues to be decided.

Payment after Notice

29. a After a notice terminating the lease or demanding possession has been given, any acceptance of or demand for rent or money by the Landlord shall not of itself be evidence of a new lease with the Tenant nor alter the legal effect of the notice.
- b Where the Tenant unlawfully remains in possession after the termination of the lease, the Landlord shall be entitled, in addition to any other claim, to payment equal to the rent as compensation for the Tenant's use and occupation of the Premises.

Renewal

30. The Tenant shall give the Landlord or the Agent not more than six (6) months and not less than (3) months prior to the expiration of the term granted in this lease notice in writing if they wish to take a renewal of the lease for the further term offered. Provided the Tenant has duly and punctually paid the rent and shall have duly performed and observed on their part all the conditions and agreements contained in this lease up to the expiration of the term granted, then the Landlord will grant to the Tenant the further term at the current market rent notified in writing by the Landlord. If the parties do not agree as to the current market rent then the rent is to be determined in accordance with Clause 36a ii.

Expiry of Term

31. a Not less than six (6) months and not more than twelve (12) months before the expiry of the lease term the Landlord shall by written notification to the Tenant either:
- i offer the Tenant a renewal or extension of the lease on terms specified in the notification; or
 - ii inform the Tenant that the Landlord does not propose to offer a renewal or extension of the lease.
- b A notification to the Tenant in accordance with Clause 31a.i. shall include terms as to rent and may specify that the Landlord intends to allow the Tenant to remain in possession as a periodic tenant under the holding over provisions of the lease.
- c In the event that the lease is for a term of twelve (12) months or less, the periods of twelve (12) and six (6) months referred to in Clause 31a are shortened to six (6) and three (3) months respectively.

Termination

32. a Upon the expiry of the lease term or where the lease has become a periodic lease from month to month, either party may terminate it by giving one (1) month's written notice to the other party.
- b The Landlord shall have the right to re-enter the Premises peacefully or to continue the lease as a periodic lease from week to week;
- i where the Tenant has failed to pay rent for a period in excess of fourteen (14) days, whether formally demanded or not;
 - ii where the Tenant has seriously or persistently breached any of the conditions of the lease; or
 - iii upon the Tenant and/or Guarantor being declared bankrupt or insolvent according to law or making any assignment for the benefit of creditors or taking the benefit of any Act now or hereafter to be in force for the relief of bankrupts or insolvents.

- c Section 85(1)(d) of the Conveyancing Act 1919 as amended is hereby varied accordingly.
- d If the Landlord intends to exercise their right to continue the lease as a periodic lease from week to week, they shall serve the Tenant with a written notice stating the reason and informing the Tenant of the variation to the lease. Upon service of the notice, the lease shall continue with all its conditions, except for the term and holding over conditions, as a periodic lease from week to week which may be terminated by seven (7) days' written notice from either party.
- e The Landlord shall have the right to re-enter the Premises without giving notice if there are reasonable grounds to believe the Premises have been abandoned.
- f The Tenant shall have the right to terminate the lease if the Landlord has seriously or persistently breached any of its conditions. The Tenant shall give the Landlord written notice of a reasonable period, of no less than fourteen (14) days indicating at the same time the nature of the breach.
- g Any action by the Landlord or the Tenant in accordance with Clauses 32b, d, e, or f, shall not affect any claim for damages in respect of a breach of a condition of the lease.
- h Upon the termination or expiry of the lease the Tenant must remove their own fixtures and shall remove their signs provided that any damage or defacement occasioned to any part of the Premises in the course of such removal shall be remedied by the Tenant immediately or, if they fail to do so, by the Landlord at the Tenant's expense.
- i Upon the termination or expiry of the lease for any reason the Tenant shall promptly and peacefully give the Landlord vacant possession of the Premises in the condition and state of repair required by Clauses 12 and 21a of the lease and shall, at the same time, hand over all keys.

Sub-leasing, etc

33. The Landlord may, at their absolute discretion refuse consent to:
- a the grant of any sub-lease, licence or concession;
 - b the Tenant parting with possession; or
 - c the Tenant mortgaging or otherwise encumbering the Tenant's estate or interest in the lease.

Assignment

34. a The Tenant shall not assign their interest in the whole or any part of the Premises without the written consent of the Landlord.
- b The Landlord shall not withhold consent to any assignment unless:
- i the proposed assignee proposes to change the use to which the Premises are put;
 - ii the proposed assignee has financial resources or retailing skills that are inferior to those of the Tenant; or
 - iii the Tenant has not complied with Section 41 of the *Retail Leases Act 1994* (NSW); or
 - iv in the case of a retail shop lease awarded by public tender, the proposed assignee fails to meet any criteria of the tender.
- c The Tenant shall pay the Landlord all reasonable legal or other expenses incurred in connection with giving consent to the proposed assignment.

Guarantor

35. In consideration of the Landlord leasing the premises to the Tenant in accordance with this lease, the Guarantors for themselves and each of them and each of their executors and administrators by their execution of this lease unconditionally agree that they and each of them, together with the Tenant, will be jointly and severally liable to the Landlord for the payment of rent and all other monies payable by the Tenant and also for the due performance and observance of all the terms and conditions on the part of the Tenant contained or implied in the lease. It is further expressly agreed and declared that the Landlord may grant to the Tenant any time or indulgence and may compound or compromise or release the Tenant without releasing or affecting the liability of the Guarantors.

Rent Review (tick appropriate box - if no choice is selected, Clause 36b i is deemed to be selected)

36. a i The rent payable by the Tenant shall be reviewed within sixty (60) days after the expiration of each period of twelve (12) months during the term and either party may notify the other party in writing that the rent is to be varied to an amount representing the current market rent of the Premises.
- ii If the parties do not agree as to current market rent, the rent is to be determined by valuation carried out by a specialist retail valuer pursuant to the *Retail Leases Act 1994* (NSW) appointed by agreement between the parties or, failing such agreement, by a specialist retail valuer appointed by the Registrar of the Retail Tenancy Disputes pursuant to the *Retail Leases Act 1994* (NSW).

OR

36. b i The rent payable by the Tenant shall be reviewed on the basis that the Landlord shall be entitled by serving on the Tenant written notice to that effect during a review period the rent to be revised. "Review period" means each twelve (12) month anniversary of the date of commencement of the term and expiring on the subject anniversary.
- ii The revised rent shall be determined in accordance with the following formula: $A = B \times C/D$ where
- A = the revised rent;
 - B = the rent payable in the twelve (12) month period immediately preceding the expiration of the relevant review period,
 - C = the Consumer Price Index (Sydney All Groups) last published immediately prior to the expiration of the relevant review period; and
 - D = the Consumer Price Index (Sydney All Groups) last published twelve (12) months prior to the expiration of the relevant review period.

OR

36. c The rent payable by the Tenant shall be adjusted by the monetary or percentage amount and on the dates as specified in the Special Conditions to the lease.

Security

37. a As security for the performance and observance by the Tenant of the terms and conditions of the lease, the Tenant shall on or before the commencement of the term obtain and maintain at their own expense and furnish to the Landlord a continuing guarantee or bond from a bank licensed to carry on banking business in Australia and approved by the Landlord whereby the Bank agrees that it will pay to the Landlord an amount not exceeding the sum noted or calculated on the front page of the lease. The guarantee or bond must be in favour of the Landlord and noted to cover "all the Tenant's obligations under the Lease".

OR

37. b As security for the performance and observance by the Tenant of the terms and conditions of the lease, the Tenant shall pay to the Landlord a security deposit in the amount noted on the front page of the lease which shall be paid to the Secretary of NSW Treasury to be held in accordance with the *Retail Leases Act 1994* (NSW).

Relocation

38. If the Landlord wants to refurbish, redevelop or extend the building or any part thereof and requires the leased Premises or any part thereof then the Landlord may give the Tenant a relocation notice in accordance with the *Retail Leases Act 1994* (NSW). The Tenant acknowledges that the Landlord has the right to relocate the Tenant at any time throughout the term provided the Landlord complies with all and any requirements of the *Retail Leases Act 1994* (NSW) and at law.

Demolition

39. If the Landlord wants to demolish, substantially repair, renovate or reconstruct the building or any part thereof which contains the leased Premises and which cannot be carried out practicably without vacant possession of the Premises, then the Landlord may do so provided the Landlord gives the Tenant sufficient details and notice in accordance with the *Retail Leases Act 1994* (NSW) and at law. The Tenant acknowledges the Landlord has the right to terminate the lease for any or all of these events provided the Landlord complies with the requirements of the *Retail Leases Act 1994* (NSW) and at law.

Strata Title Conversion

40. The Landlord may register a strata plan insofar as the same relates to the building or any part of it. The Landlord will if required by law request the consent of the Tenant to the registration of the strata plan such consent must not be unreasonably withheld by the Tenant and if requested the Tenant will provide their written consent to the strata plan to the Land and Property Information or any other government authority. After registration of the strata plan the Tenant will comply with any by-laws which are not inconsistent with the terms of this lease.

Interpretation

41. a "Agent" in context with "Landlord" includes the Landlord's estate agent or managing agent and any other person authorised to act on behalf of the Landlord.
- b "Landlord" includes the heirs, executors, administrators and assigns of the Landlord, and where the context permits, includes the Landlord's Agent.
- c "Tenant" includes the executors, administrators and permitted assigns of the Tenant.
- d "Fixtures" includes fittings, furnishings, furniture, appliances, plant, machinery and equipment.
- e "Month" means calendar month.
- f "Term" means the term of this lease.
- g Where the context permits, words expressed in the singular include the plural and vice versa and words referred to a person include a company.
- h Where two or more Tenants or Landlords are parties, the terms and conditions of the lease shall bind them jointly and severally.
- i When this lease is signed by both parties and witnessed, it shall operate as a deed at law from that time.
- j Headings in bold have been inserted to assist the parties but do not form a legal part of the lease.

Personal Property Securities Act 2009 (Cth)

42. a In this clause words and expressions that are not defined in this lease but which have a defined meaning in the Personal Property Securities Act 2009 (Cth) have the same meaning as in the Personal Property Securities Act 2009 (Cth).
- b The Tenant:
- i charges its interest in the Tenant's Personal Property in favour of the Landlord, as security for the performance of the Tenant's obligations under this lease;
 - ii acknowledges and agrees that the charge granted by the Tenant under sub-clause (i) above constitutes the grant of a Security Interest which the Landlord is entitled to register; and
 - iii must do all things required by the Landlord from time to time (including signing any documents required by the Landlord) to enable the Landlord to register its Security Interest in the Tenant's Personal Property.
- c On default by the Tenant under this lease the Landlord may take possession of any item of the Tenant's Personal Property, dispose of that item and apply the proceeds of the disposal less the cost of the disposal to pay any money owed to the Landlord under this lease.
- d The Tenant:
- i warrants that it has not granted a Security Interest in the Tenant's Personal Property on or prior to execution of this lease;
 - ii must not create a Security Interest in respect of any Tenant's Personal Property in favour of any person other than the Landlord without the Landlord's prior written consent, which consent may be granted or withheld in the Landlord's absolute discretion; and
 - iii must not create a Security Interest in any Leased Personal Property.
- e The Tenant acknowledges and agrees that:
- i it has no right and waives any entitlement under the Personal Property Securities Act 2009 (Cth) to receive a copy of any verification statement or financing change statement from the Landlord; and
 - ii at the end of the lease, the Tenant must sign (and procure any holder of a registered Security Interest to sign) any document that the Landlord considers necessary or desirable under or as a result of the Personal Property Securities Act 2009 (Cth) to discharge any registered Security Interests in the Leased Personal Property or the Tenant's Personal Property.

SPECIAL CONDITIONS

Special conditions forming part of this lease are to be signed by both parties and attached.

We hereby enter into this lease and agree to all its conditions.

SIGNED BY THE LANDLORD

in the presence of: Carole Larimer [Signature]
Name of Witness Signature of Landlord

[Signature]
Signature of Witness

SIGNED BY THE TENANT

in the presence of: Harriett Rogers [Signature]
Name of Witness Signature of Tenant

[Signature] [Signature]
Signature of Witness Signature of Witness

SIGNED BY THE GUARANTOR

in the presence of: _____
Name of Witness

Signature of Guarantor

Signature of Witness

THE COMMON SEAL of

was hereunto affixed by the authority of the the Board of Directors and in the presence of:

[Signature]
Secretary

THE COMMON SEAL of

was hereunto affixed by the authority of the the Board of Directors and in the presence of:

[Signature]
Secretary

ANNEXURE

If applicable, include additional Terms and Conditions below

- * The rent is inclusive of usage of the adjacent paved courtyard
- * Signage is permitted in front garden bed & front of the building
- * Shared amenities are included in the lease
- * One (1) month free Fit out period included in lease from 01/11/2021 to 30/11/2021
- * Outgoings payable by Tenant to landlord are agreed and set at \$536.71 per year .

deputy

ANNEXURE

STRATA TITLE (COMMERCIAL) PROPERTY REQUISITIONS ON TITLE

Vendor:
Purchaser:
Property: Unit
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 is the nature of any tenancy or occupancy?
 - (b) If it is 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) What is the current rent payable?
 - (e) Please provide details of outgoing or contributions to outgoing payable and the manner in which they have been calculated (e.g. base year figures).
 - (f) All rent and outgoing or contributions to outgoing should be paid up to or beyond the date of completion.
 - (g) Please provide details of any bond money held, which is to be paid or allowed to the purchaser on completion.
 - (h) If the bond money is held by a government entity pursuant to legislation then the appropriate documentation should be handed over on completion to enable the purchaser to acquire the vendor's rights.
 - (i) Please provide details of any bank guarantees or any personal guarantees which are held by the vendor.
 - (j) Appropriate transfer documentation duly signed should be handed over on completion assigning the vendor's interest in the bank guarantees and any personal guarantees.
 - (k) Are there any sub-leases? If so, copies should be provided.
 - (l) Please provide details of current insurances held by the tenant over the improvements and/or for public liability and plate glass, in particular the type of the cover, the name of the insurer, the period of the cover and the amount of the cover.
4. Is any tenancy subject to the *Retail Leases Act 1994*?
If so:
 - (a) complete copies of the disclosure statements as required by that Act should be provided;
 - (b) a copy of a certificate given under Section 16(3) of that Act should be provided or other evidence to confirm that Section 16 would not apply to the lease;
 - (c) is the vendor aware of any provision of the lease which is not enforceable because of a non disclosure in the disclosure statement or any lease which has been entered into in contravention of that Act?
 - (d) Are there any retail tenancy disputes on foot? If so, please provide details;
 - (e) Has any retail tenancy claim or unconscionable conduct claim been made under that Act?
 - (f) Have any orders or appointments been made under Part 8 of that Act? If so, please provide details.
5. Is any part of their property affected by a protected tenancy? (A tenancy affected by Parts 2, 3, 4 or 5 of the *Landlord and Tenant (Amendment) Act 1948*.)
6. If any tenancy is subject to the *Residential Tenancies Act 2010 (NSW)*:
 - (a) has either the vendor or any predecessor or the tenant applied to the Consumer, Trader and Tenancy Tribunal for an order?
 - (b) have any orders been made by the Consumer, Trader and Tenancy Tribunal? If so, please provide details.

Title

7. On completion the vendor should be registered as proprietor in fee simple of the property free from all caveats and encumbrances whether statutory or otherwise and recorded as the owner of the property on the strata roll, free from all other interests.
8. On or before completion, any mortgage or caveat or writ must be discharged, withdrawn or cancelled (as the case may be) or, in the case of a mortgage or caveat, an executed discharge or withdrawal handed over on completion together with a notice under Section 118 of the *Strata Schemes Management Act 1996 (the Act)*.
9. 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.
10. When and where may the title documents be inspected?
11. Are any fixtures, fittings or goods included in the sale subject to:
 - (a) any interest by way of mortgage charge, trust or power; or
 - (b) any right of removal in favour of a third party?

- If so, details must be given and any indebtedness or restriction or right discharged or removed prior to completion or title transferred unencumbered to the vendor prior to completion.
12. A depreciation schedule or all details of the written down values of all fixtures, fittings and chattels included in the property must be provided.
 13. Has any notice been given or received or has an application been made under the *Encroachment of Buildings Act 1922*, *Access to Neighbouring Land Act (2000)*, Section 88K of the *Conveyancing Act 1919*, Section 40 of the *Land & Environment Court Act 1979* or are there circumstances which would give rise to a notice or application under those Acts in respect of the property. If the answer is yes, please provide full details.

Rates and taxes

14. All rates, taxes, levies, other charges and assessments, including land tax, affecting the property must be paid up to the date of completion and receipts produced.
15. Is the vendor liable to pay land tax or is the property otherwise charged or liable to be charged with land tax?
If so:
 - (a) to what year has a return been made?
 - (b) what is the taxable value of the property for land tax purposes for the current year?

Survey and building

16. Subject to the Contract, survey should be satisfactory and show that the whole of the property and the common property is available, that there are no encroachments by or upon the property or the common property and that all improvements comply with local government/planning legislation.
17. 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.
18. In respect of the property and the common property:
 - (a) Have the provisions of the *Local Government Act*, the *Environmental Planning and Assessment Act 1979* and their regulations been complied with?
 - (b) Is there any matter that could justify the making of an upgrading or demolition order in respect of any building or structure?
 - (c) Has the vendor a Building Certificate which relates to all current buildings or structures? If so, it should be handed over on completion. Please provide a copy in advance.
 - (d) Has the vendor a Final Occupation Certificate issued under the *Environmental Planning and Assessment Act 1979* for all current buildings or structures? If so, it should be handed over on completion. Please provide a copy in advance.
 - (e) In respect of any residential building work carried out in the last 6 years:
 - (i) please identify the building work carried out;
 - (ii) when was the building work completed?
 - (iii) please state the builder's name and licence number;
 - (iv) please provide details of insurance under the *Home Building Act 1989*.
19. Are the improvements affected or have they been previously affected by:
 - (a) termite infestation, treatment or repair?
 - (b) flooding or dampness?
 - (c) functional problems with equipment such as air conditioning, roofs, lifts or inclinators, pool equipment, building management and security systems?
 - (d) asbestos, fibreglass or other material injurious to health having been used in the construction of the property?

If so, please provide full details.
20. Has the vendor (or any predecessor) or the Owners Corporation entered into any agreement with or granted any indemnity to the Council or any other authority concerning any development on the property or the common property?
21. If a swimming pool is on the common property:
 - (a) when did construction of the swimming pool commence?
 - (b) is the swimming pool surrounded by a barrier which complies with the requirements of the *Swimming Pools Act 1992*?
 - (c) if the swimming pool has been approved under the *Local Government Act 1993*, please provide details.
 - (d) are there any outstanding notices or orders?
22.
 - (a) If there are any party walls, please 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.
 - (b) Is the vendor aware of any dispute regarding boundary or dividing fences or party walls?
 - (c) Has the vendor received any notice, claim or proceedings under the *Dividing Fences Act 1991*?
23. Are any rainwater downpipes connected to the sewer?

Affectations, notices and claims

24. In respect of the property and the common property:
 - (a) Is the vendor aware of any rights, licences, easements, covenants or restrictions as to use of them other than those disclosed in the Contract?
 - (b) Has any claim been made by any person to close, obstruct or limit access to or from them or to prevent the enjoyment of any easement appurtenant to them?

- (c) Is the vendor aware of:
 - (i) any road, drain, sewer or storm water channel which intersects or runs through them?
 - (ii) any dedication to or use by the public of any right of way or other easement over any part of them?
 - (iii) any latent defects in them such as underground pipes or structures?
- (d) Has the vendor any notice or knowledge of them being affected by the following:
 - (i) any resumption or acquisition or proposed resumption or acquisition?
 - (ii) any notice requiring work to be done or money to be spent on them or any footpath or road adjoining? If so, such notice must be complied with prior to completion.
 - (iii) any work done or intended to be done on them or the adjacent street which may create a charge on them or the cost of which might be or become recoverable from the purchaser?
 - (iv) any sum due to any local or public authority recoverable from the purchaser? If so, it must be paid prior to completion.
 - (v) any realignment or proposed realignment of any road adjoining them?
 - (vi) any charge or liability including liability for remediation of the property, or proceedings under the *Contaminated Land Management Act 1997* or any environment protection legislation (as defined in that Act) or any circumstances which could lead to any such liability, charge or to proceedings being commenced?
- (e) If the answer to any part of Requisition 24(d) is yes, please:
 - (i) provide full details;
 - (ii) advise whether any applicable notice, order, direction, resolution or liability has been fully complied with; and
 - (iii) provide full details regarding the extent of any non-compliance.

Owners corporation management

- 25. Has the initial period expired?
- 26. If the property includes a utility lot, please specify the restrictions.
- 27. If there are any applications or orders under Chapter 5 of the Act, please provide details.
- 28. Do any special expenses (as defined in clause 23.2 of the Contract) exceed 1% of the price?

Capacity

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

Warranties and service contracts

- 30. Please provide copies of any warranty or maintenance or service contract for the property which is assignable on completion.
- 31. Please provide details, or copies if available, of any warranty or maintenance or service contract which is not assignable.

Requisitions and transfer

- 32. 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.
- 33. 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.
- 34. Searches, surveys, enquiries and inspection of title deeds must prove satisfactory.

Completion

- 35. Please confirm that on completion you will hand to us:
 - (a) a discharge of any mortgage and withdrawal of any caveat and the appropriate Section 118 Notice;
 - (b) the Certificate of Title Folio Identifier;
 - (c) Transfer executed by the vendor and Section 118 Notice;
 - (d) the vendor's copies of all leases and disclosure statements;
 - (e) notices of attornment;
 - (f) all keys in the possession of the vendor;
 - (g) original of any Building Certificate;
 - (h) original of any Survey Report;
 - (i) original occupation certificate;
 - (j) instruction manuals and warranties for any plant belonging to the vendor;
 - (k) any third party guarantees together with appropriate assignments;
 - (l) any documents required for the purchaser to have benefit of any bonds;
 - (m) tax invoice;
 - (n) depreciation schedule;
 - (o) any documents required for the purchaser to have good title to any fixtures, fittings or goods;
 - (p) keys and other mechanisms (such as remote control equipment) for access to the premises (internal and external)
- 36. The purchaser reserves the right to make further requisitions prior to completion.
- 37. Unless we are advised by you to the contrary prior to completion, it will be assumed that your replies to these requisitions remain unchanged as at completion date.

Proposed Special Resolution:

1. **Lot 2 Resolution:**

That The Owners – Strata Plan No. 74847 approve by **Special Resolution**, pursuant to sections 108 and 141 of the *Strata Schemes Management Act 2015* ('Act') to:

- (a) Authorise the Owner of Lot 2 to add to, alter and erect new structures on the common property by carrying out of the Works (as that term is defined in the Special By-Law set out below), subject to the terms and conditions of the Special By-Law set out below; and
- (b) Grant the Owner of Lot 2 the exclusive use of the Exclusive Use Area (as that term is defined in the Special By-Law set out below);

subject to the terms and conditions of the Special By-Law set out below, and to make a by-law on the terms and conditions of the Special By-Law set out below, and that notification of this change to the by-laws be lodged for registration in accordance with section 48 of the Act at the Registrar-General's office.

Special By-Law 1: By-law to authorise the owner of Lot 2 to add to, alter and erect new structures on the common property and exclusive use – attached to this resolution as Annexure A.

Explanatory Note to Lot Owners (not intended to form part of the by-law)

The owners of Lot 2 seek consent to make the alterations and additions to include courtyard dining, laundry/storage and accommodation with five (5) car spaces on the common property to the side and rear of the lot. This proposal is set out in the Final Stamped Plans prepared by Hoover Group Design and Development, dated 13 November 2018, annexed to the proposed by-law.

The works will not materially affect the external appearance of the building. Rather, the works will make the common property functional for use by Lot 2.

Under the proposed by-law, the owners of Lot 2 take full responsibility for the ongoing repair and maintenance of the works together with indemnifying the owner's corporation against any costs, losses or damages arising out of the works.

Passed as a special resolution on 29 April 2022 by the representatives of the 2 lot owners

Signature:

Name:

Signature:

Name:

ANNEXURE A

Special By-law 1 By-law to authorise the owner of Lot 2 to add to, alter and erect new structures on the common property and exclusive use

PART 1 DEFINITIONS & INTERPRETATION

1.1. In this by-law:

- (a) **Act** means the *Strata Schemes Management Act 2015* (NSW) as amended from time to time;
- (b) **Authority** means any relevant government, semi government, statutory, public or private or any other authority having any jurisdiction over the Lot or the Building, including the local council;
- (c) **Building** means the building and improvements on the land located at 145 – 147 Swan Street, Morpeth NSW (being SP74847);
- (d) **Common Property** means the common property in the Strata Plan;
- (e) **Costs** means all professional and trade costs, fees and disbursements incurred as a result of or associated with this by-law, the Works and Remedial Works and any damage caused as a result of the Works and/or Remedial Works;
- (f) **Direction** means a written direction from the Owners Corporation to the Owner relating to the Works and/or Remedial Works to ensure compliance with any Authority or the terms of this by-law;
- (g) **Exclusive Use Area** means the Common Property areas:
 - (i) reasonably required to include the Works and/or Remedial Works; and
 - (ii) affected by the Works and/or Remedial Works;

as identified on the Final Stamped Plans prepared by Hoover Group Design and Development, dated 13 November 2018 (a copy of which is **annexed hereto and marked “B”**).
- (i) **Indemnify** means the Owner indemnifying the Owners Corporation in respect of the Works and/or Remedial Works or anything arising from the Works and/or Remedial Works, including, but not limited to the following:
 - (i) all actions, proceedings, claims, demands, costs, damages and expenses which may be incurred by, brought or made against the Owners Corporation;
 - (ii) any sum payable by way of increase premiums; and
 - (iii) any costs or damages for which the Owners Corporation is or becomes liable;

- 1.3. If this by-law empowers the Owners Corporation to take action, it may or may not take such action in its reasonable discretion.

**PART 2
GRANT OF RIGHT**

- 2.1 Subject to the provisions of this by-law, the Owner is authorised to carry out the Works.
- 2.2 Subject to the provisions of this by-law, the Owner has the exclusive use of the Exclusive Use Area.

**PART 3
ENDURING RIGHTS AND OBLIGATIONS**

- 3.1 The Owner:
- (a) is responsible for the ongoing maintenance of the alterations of, additions to and new structures erected on the common property resulting from the Works;
 - (b) is responsible for the proper maintenance of, and keeping in a state of good and serviceable repair, the Exclusive Use Area and the Works;
 - (c) must make good any damage to lot or Common Property arising out of the Works or Remedial Works;
 - (d) will Indemnify and will keep Indemnified the Owners Corporation for any breach of the Owners' obligations under this by-law, to the extent permitted by law; and
 - (e) is required to comply with the terms of this by-law and do all things and sign all necessary documents to give effect to this by-law.
- 3.2 If the Owner fails to comply with a Direction within 3 months of the date of the Direction, the Owners Corporation may:
- i. enter any part of the Lot;
 - ii. carry out all work necessary to comply with the Direction; and
 - iii. recover from the Owner any Costs relating to the carrying out of the work, including charging them to the Owner's lot account as if they were a contribution under the Act, with all the same rights of recovery to apply.
- 3.3 Where the Owners Corporation has incurred Costs on behalf of the Owner, the Owners Corporation may recover those Costs from the Owner, including charging those Costs to the Owner's lot account as if they were a contribution under the Act, with all the same rights of recovery to apply.

Proposed Special Resolution for EGM:

1. Lot 2 Resolution:

That The Owners – Strata Plan No. 74847 approve by **Special Resolution**, pursuant to sections 108 and 141 of the *Strata Schemes Management Act 2015* ('Act') to:

- (a) Authorise the Owner of Lot 2 to add to, alter and erect new structures on the common property by carrying out of the Works (as that term is defined in the Special By-Law set out below), subject to the terms and conditions of the Special By-Law set out below; and
- (b) Grant the Owner of Lot 2 the exclusive use of the Exclusive Use Area (as that term is defined in the Special By-Law set out below);

subject to the terms and conditions of the Special By-Law set out below, and to make a by-law on the terms and conditions of the Special By-Law set out below, and that notification of this change to the by-laws be lodged for registration in accordance with section 48 of the Act at the Registrar-General's office.

Special By-Law 1: By-law to authorise the owner of Lot 2 to add to, alter and erect new structures on the common property and exclusive use – attached to this letter as Annexure A.

Explanatory Note to Lot Owners (not intended to form part of the by-law)

The owners of Lot 2 seek consent to make the alterations and additions to include courtyard dining, laundry/storage and accommodation with five (5) car spaces on the common property to the side and rear of the lot. This proposal is set out in the Final Stamped Plans prepared by Hoover Group Design and Development, dated 13 November 2018, annexed to the proposed by-law.

The works will not materially affect the external appearance of the building. Rather, the works will make the common property functional for use by Lot 2.

Under the proposed by-law, the owners of Lot 2 take full responsibility for the ongoing repair and maintenance of the works together with indemnifying the owner's corporation against any costs, losses or damages arising out of the works.

ANNEXURE A

Special By-law 1 By-law to authorise the owner of Lot 2 to add to, alter and erect new structures on the common property and exclusive use

PART 1 DEFINITIONS & INTERPRETATION

1.1. In this by-law:

- (a) **Act** means the *Strata Schemes Management Act 2015* (NSW) as amended from time to time;
- (b) **Authority** means any relevant government, semi government, statutory, public or private or any other authority having any jurisdiction over the Lot or the Building, including the local council;
- (c) **Building** means the building and improvements on the land located at 145 – 147 Swan Street, Morpeth NSW (being SP74847);
- (d) **Common Property** means the common property in the Strata Plan;
- (e) **Costs** means all professional and trade costs, fees and disbursements incurred as a result of or associated with this by-law, the Works and Remedial Works and any damage caused as a result of the Works and/or Remedial Works;
- (f) **Direction** means a written direction from the Owners Corporation to the Owner relating to the Works and/or Remedial Works to ensure compliance with any Authority or the terms of this by-law;
- (g) **Exclusive Use Area** means the Common Property areas:
 - (i) reasonably required to include the Works and/or Remedial Works; and
 - (ii) affected by the Works and/or Remedial Works;

as identified on the Final Stamped Plans prepared by Hoover Group Design and Development, dated 13 November 2018 (a copy of which is **annexed hereto and marked “B”**).
- (i) **Indemnify** means the Owner indemnifying the Owners Corporation in respect of the Works and/or Remedial Works or anything arising from the Works and/or Remedial Works, including, but not limited to the following:
 - (i) all actions, proceedings, claims, demands, costs, damages and expenses which may be incurred by, brought or made against the Owners Corporation;
 - (ii) any sum payable by way of increase premiums; and
 - (iii) any costs or damages for which the Owners Corporation is or becomes liable;

- (j) **Insurance** means:
 - (i) contractors all risk insurance with an authorised insurer (incorporating cover against public liability insurance risk in respect of claims for death, injury, accident and damage occurring in the course of or by reason of the Works to a minimum of \$10,000,000);
 - (ii) insurance required un the *Home Building Act 1989*, which if permissible by the insurer must note the Owners Corporation as an interested party; and
 - (iii) workers compensation insurance as required by law;
- (k) **Lot** means lot 2 in the Strata Plan;
- (l) **Owner** means the owners of the Lot from time to time;
- (m) **Owners Corporation** means the owners corporation known as The Owners – Strata Plan No. 74847;
- (n) **Remedial Works** means:
 - (i) repair, renewal, maintenance, replacement and/or removal of items relating to the Works and/or Common Property affected by the Works; and
 - (ii) repair, maintenance and keeping in a state of good and serviceable repair the Exclusive Use Area;
- (o) **Strata Manager** means any strata managing agent engaged by the Owners Corporation from time to time;
- (p) **Strata Plan** means registered Strata Plan number 74847;
- (q) **Works** means the following works on the Common Property for the Lot:
 - (a) the work approved in the Final Stamped Plans prepared by Hoover Group Design and Development, dated 13 November 2018 (a copy of which is **annexed hereto and marked “B”**); and
 - (b) any work which is necessary ether to effect any of the work identified in the Final Stamped Plans or which is incidental to any of the work identified in the Final Stamped Plans.

1.2. In this by-law a word which denotes:

- (a) the singular includes plural and vice versa;
- (b) any gender includes the other genders;
- (c) any terms in the by-law will have the same meaning as those defined in the Act; and
- (d) references to legislation includes references to amending and replacing legislation.

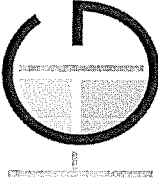
- 1.3. If this by-law empowers the Owners Corporation to take action, it may or may not take such action in its reasonable discretion.

**PART 2
GRANT OF RIGHT**

- 2.1 Subject to the provisions of this by-law, the Owner is authorised to carry out the Works.
- 2.2 Subject to the provisions of this by-law, the Owner has the exclusive use of the Exclusive Use Area.

**PART 3
ENDURING RIGHTS AND OBLIGATIONS**

- 3.1 The Owner:
 - (a) is responsible for the ongoing maintenance of the alterations of, additions to and new structures erected on the common property resulting from the Works;
 - (b) is responsible for the proper maintenance of, and keeping in a state of good and serviceable repair, the Exclusive Use Area and the Works;
 - (c) must make good any damage to lot or Common Property arising out of the Works or Remedial Works;
 - (d) will Indemnify and will keep Indemnified the Owners Corporation for any breach of the Owners' obligations under this by-law, to the extent permitted by law; and
 - (e) is required to comply with the terms of this by-law and do all things and sign all necessary documents to give effect to this by-law.
- 3.2 If the Owner fails to comply with a Direction within 3 months of the date of the Direction, the Owners Corporation may:
 - i. enter any part of the Lot;
 - ii. carry out all work necessary to comply with the Direction; and
 - iii. recover from the Owner any Costs relating to the carrying out of the work, including charging them to the Owner's lot account as if they were a contribution under the Act, with all the same rights of recovery to apply.
- 3.3 Where the Owners Corporation has incurred Costs on behalf of the Owner, the Owners Corporation may recover those Costs from the Owner, including charging those Costs to the Owner's lot account as if they were a contribution under the Act, with all the same rights of recovery to apply.



HOOVERGROUP

DESIGN & DEVELOPMENT

PROPOSED ALTERATIONS AND ADDITIONS

"Bronte Guest House"
145-147 Swan Street
Morpeth NSW 2323



HOOVERGROUP
DESIGN & DEVELOPMENT

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Sheet No.	Sheet Name	Rev
02	GENERAL NOTES	B
03	SITE PLAN	B
04	ISO VIEWS	B
05	FLOOR PLANS	B
06	ELEVATIONS	B
07	SECTIONS	B

Sheet Issue Date: | Date

No.	Description	Date
A	IFA - DA Only	19.05.16
B	Revised DA Upload Deck - FA (DA)	12.02.18

No.	Description	Date

Hoover Group
Bronte Guest House
145 Swan Street
Morpeth NSW 2323

**SHEET 01
COVER SHEET**
Project number 145SS-2017-01
Project Issue Date 23.03.17
Drawn by HTC
Checked & Approved by HG 12.02.18
145SS-2017-01
Scale

THIS DRAWING IS DESIGN, CONSTRUCTION AND CONTRACT DOCUMENTS. IT IS THE PROPERTY OF HOOVERGROUP AND MUST NOT BE REPRODUCED OR CONSTRUCTED WITHOUT THE WRITTEN APPROVAL OF THE HOOVERGROUP.

Sheet Issue Date	Date
A	19.05.16
B	12.02.18
C	31.10.19

Hoover Group
 Bronte Guest House
 145 Swan Street
 Morpeth NSW 2323

SHEET 02
GENERAL NOTES

Project number 145SS-2017-01
 Project Issue Date 23.03.17
 Drawn by HTC
 Checked & Approved by HG 31.10.19

145SS-2017-01
 Scale



KITCHEN
 Kitchen layout is diagrammatic only.
 For exact dimensions and details refer to associated detailed drawings and manufacturers drawings.

CONCRETE EARTHWORKS
 Slope measurements are to the outside face of external skin.
 Refer soil report for footing & slab design.
 All construction is to be in accordance with the Building Code of Australia (BCA), the Building Act 1991 and relevant Australian Standards.
 All Earthworks are to comply with AS3798.
 Masonry construction is to comply with AS2870.
 F-14 of the BCA.
 Walls are to be articulated in accordance with construction Note F103 - Articulated Walling.
 Articulated joints are to be placed at sides of openings and around downpipes unless noted otherwise.
 All wet areas are to have floor wastes with local fall to floor wastes.
 All stormwater is to be drained away from footings and slab. All dimensions and levels on plans are to be confirmed on site prior to commencing construction.
 Where possible all new construction is to match existing when extending and/or renovating.

DOWNPIPES
 Downpipes to comply with BCA 3.5.2.5
 (a) Downpipes must be securely fixed to walls, than 12 m.
 (b) The spacing between downpipes must not be more than 12 m.
 Downpipes must be fixed as close as possible to valley gutters and, if the downpipe is more than 1.2 m from a valley, provision for overflow must be made.

BRACING NOTES
 Angle:- PRYDA galvanised steel angle brace or equivalent.
 BKP:- 350x350 brick pier with a continuous anchor rod lead into footing.
 Brick:- 110mm brick wall with an engaged pier and anchor rod at each end
 CC:- Reinforced concrete column/stump.
 HBD-A:- Hardboard in accordance with AS1684 table 8.18(f).
 HBD-B:- Hardboard in accordance with AS1684 table 8.18(m).
 HDB-A:- 'Hardbrace' in accordance with James Hardie Building Products details.
 HDB-B:- 'Hardbrace' in accordance with James Hardie Building Products details.
 MC:- Reinforced concrete masonry column/stump.
 Ply-A:- Plywood in accordance with AS1684 table 8.18(g).
 Ply-B:- Plywood in accordance with AS1684 table 8.18(h).
 Ply-C:- Plywood in accordance with AS1684 table 8.18(h).
 Ply-D:- Plywood in accordance with AS1684 table 8.18(f).
 SHS:- 100x100x4.0 steel column.
 Strap:- PRYDA galvanised iron looped strap or equivalent.
 TC:- Timber column/stump.
 XB:-

MECHANICAL VENTILATION
 Performance Requirement P2.4.5 is satisfied for a mechanical ventilation system if it is installed in accordance with AS 1688.2.- Mechanical ventilation for acceptable indoor air quality, except that any mechanical ventilation air from a sanitary compartment or bathroom must:
 (a) exhaust directly to outside the building by way of ducts; or
 (b) exhaust into the roof space provided—
 (i) it is adequately ventilated by open eaves, and/or roof vents; or
 (ii) it is adequately ventilated by open eaves, and/or roof vents; or
 (iii) it is adequately ventilated by open eaves, and/or roof vents; or materials which would prevent venting through gaps between tiles.

GENERAL
 Designed in accordance with and shall comply to the Building Code of Australia and all Australian Standards Codes referred to therein.
 ALL DIMENSIONS ARE IN MILLIMETRES.
 Written dimensions take precedence over scale.
 Builder is to confirm all levels and dimensions on site before commencing.
 Top of meter box to be 2100 above FGL.
 Stairs to comply with BCA Vol 2 Part 3.9.1
 Handrails to comply with BCA Vol 2 Part 3.9.2
 Mechanical Ventilation to comply with AS 1668
 Glazing to comply with AS 2047
 Smoke Alarms to comply with AS 3782 & BCA Vol 2 Part 3.7.2
 Wet Areas to comply with BCA Part 3.8.1 and waterproofing to be in accordance with AS 3740. Fall all tiles to floor waste.
 WC doors to BCA clause F2.1
 Min. 70mm end bearing to laminated beams.
 Downpipes to be connected to local authorities stormwater system.
 Sarking required behind planking to outside walls or gable ends.
 Also required to raked areas of ceilings.
 Exposed edges of concrete floor slabs to be treated with approved waterproofing.
 Timber sizes and details are to comply with the BCA Part 3.4.4 and AS1684 National Timber Framing Code.
 Studs to any wall over 3000mm are to be certified by an engineer.
 All truss positions and applicable supporting lintels are to be checked by the truss engineers.
 Builder to verify lintel sizes for girder trusses over openings with truss manufacturer.
 Truss anchorage information provided is for standard trusses only. Builder to obtain from truss manufacturer or engineer anchorage details for all non-standard trusses such as girder, hip, valleys etc.
 All concrete and other structural details to engineer's specification. Report all discrepancies in dimensions to builder and designer before the commencement of work at any stage of construction.
 Gutters shall be quad profile & round down pipes shall be used throughout. They shall be no alteration (including painting or rendering) to the existing or new face brickwork.
 All windows, window hoods, posts, facias, barge boards and balustrades in the new construction shall be of timber construction.
 All external posts shall have minimum square section dimension of 115x115mm (painted out if required)

SITE SURVEY
 All survey pegs are to be located and verified prior to commencement of work.
 Contours and levels as shown are from levels supplied by surveyor or builder. No responsibility is taken for the accuracy or cut/fill levels.
 Cut and fill batters to comply with BCA Vol 2 Part 3.1.1.
 Vehicle access is not to exceed 1:14 slope at any point and is to comply with local authority requirements.
 Battered banks generally 1:4 grade except where Engineer nominates steeper angle of repose. Where directed by council anti-erosion measures (turf) to be the responsibility of the Owner.
 Platform immediately surrounding the residence to fall away from the residence at a slope of 1:20 minimum.
 Roof water and site drainage to comply with BCA Vol 2, Part 3.1.2 and AS/NZS 3500.3.2 - Stormwater Drainage.
 Building platform to be self draining and must not cause nuisance to adjoining properties.
 Site preparation to comply with BCA Vol 2 Part 3.1.2.3.
 Settlement and erosion control measures during construction are to be in accordance with the environmental protection requirements of the Local Government/ Council.

DISCLAIMER
 Site levels are supplied by others therefore Architect takes no responsibility for their accuracy. The builder should verify all levels before commencing work.
AAA WATER FITTINGS
 All water fittings are to be AAA rated where possible.
 Thermostatic mixers to be provided to showers.
MASONRY ARTICULATION
 Masonry articulation centres are to comply with the geotechnical engineer and BCA Part 3.3.1 requirements.
BRICKWORK
 Brickwork to comply with AS 3700

PLUMBING
 Fixture dimensions to be used as a guide only.
 Fixture and fitting sizes may vary; therefore dimensions may not be exact.
 Final discharge of collected stormwater runoff shall be piped in accordance with council's manual of engineering standards to the existing site drainage system, or the streetgutter with a "Kerb Adaptor" (see council's standard drawings), or to an existing street pit (cut flush & stormwater), or as approved by council.
 Stormwater pipes across the footway shall be "100mm sewer grade" and shall be under bored beneath any existing concrete path, or alternatively the removal of one complete slab segment between joints & replaced if concrete dowelled to the existing path and finished similar to the adjoining surface

TERMITE CONTROL
 Kordan termite barrier is to be used as a building perimeter and service penetration termite protection system (AS3660.1 - 2000)
 Kordan termite moisture barrier is to be used as a termite protection (AS3660.1 - 2000) and as a damp proof membrane as per (AS2870)
 Termite caps to all piers.

ACCESS AND MOBILITY
 All access and dedicated areas for people with disabilities to comply with AS 1428. Braille and Tactile signage shall be installed to AS 1428.1 and the NCC specification D3.6 Tactile Ground Surface Indicators (TGSi's) shall be installed to AS 1428.4.1 and the NCC specification D3.8.

FIRE SEPARATION AND FIRE SAFETY REQUIREMENTS
 The proposed food and drink premises and the existing tourist accommodation are inclusive to be fire separated in accordance with part C of the BCA inclusive of the provisions of part C2.9 related to ceilings.
 An external fire sprinkler system shall be provided to the openings in the eastern wall of the building adjacent to the rear wall of the adjoining jewellery shop. Alternatively this portion of the portable fire extinguishers, exit signs, emergency lighting, fire sprinklers are to be in accordance with part E1.5 of the BCA.
 Automatic smoke detection and alarm systems are to be in accordance with specifications E2.2a of the BCA.
 Access for any fire safety routes shall be minimum width of 1.2m at all times through the outdoor dining area.

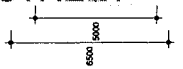
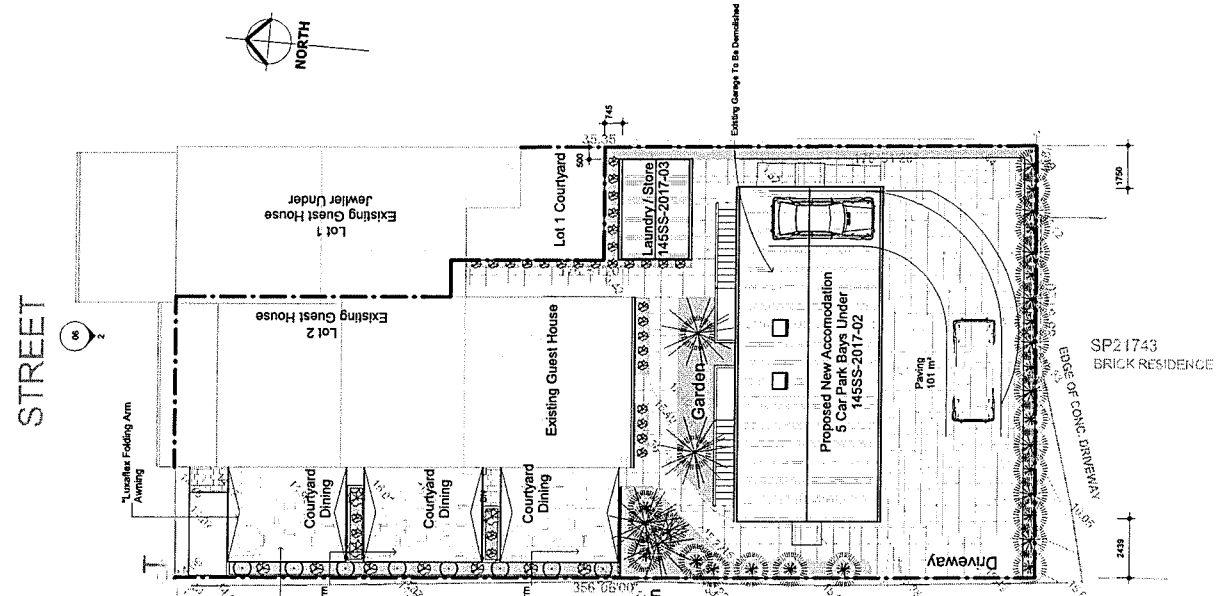
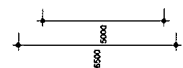
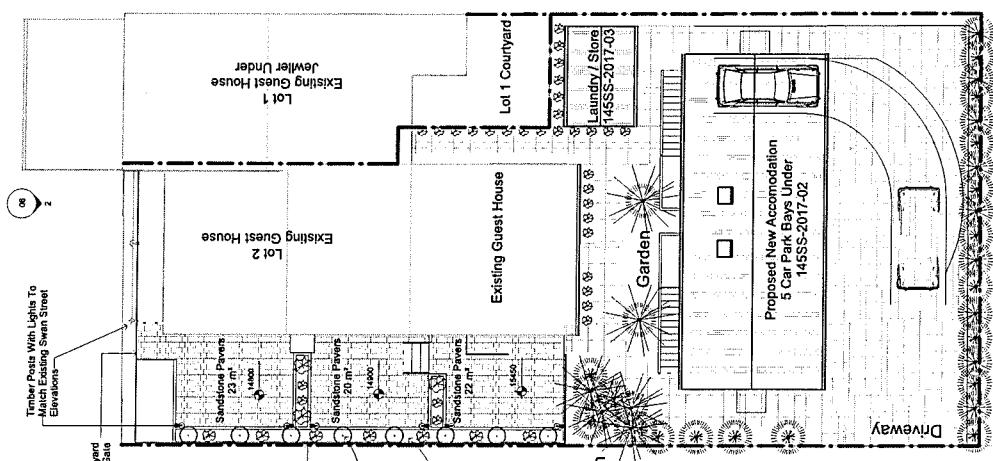
FOOD PREMISES
 The premises, including the construction and installation of all equipment, fixtures and fittings must comply with the requirements of The Food Act 2003, Food Regulation 2004, Food Standards code & AS4674 for the Design, Construction and Fit-out of Food Premises

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 Builder to verify all dimensions and levels prior to starting job.
 No responsibility will be taken after commencement.
 Should any discrepancy be found the Builder is to contact the author of these documents immediately. Where products, materials etc. are specified the builder shall install all strictly in accordance with the manufacturers most current written instructions.

No.	Description	Date
A	I/F A - DA Only	19.05.16
B	I/F A - DA Only Deck, I/F A, (P)	12.02.18

Hoover Group	
Bronte Guest House	
145 Swan Street	
Morpeth NSW 2323	
SHEET 03	
SITE PLAN	
Project number	145SS-2017-01
Project Issue Date	23.03.17
Drawn by	HTC
Checked & Approved by	HG 12.02.18
145SS-2017-01	
Scale	1 : 100

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city council
Approved Plans
NO. DA 16-1463
DEVELOPMENT APPLICATION
13/11/2018



2 Plan Courtyard
1 : 100

1 Site Plan
1 : 100

Sheet Issue Date: Date

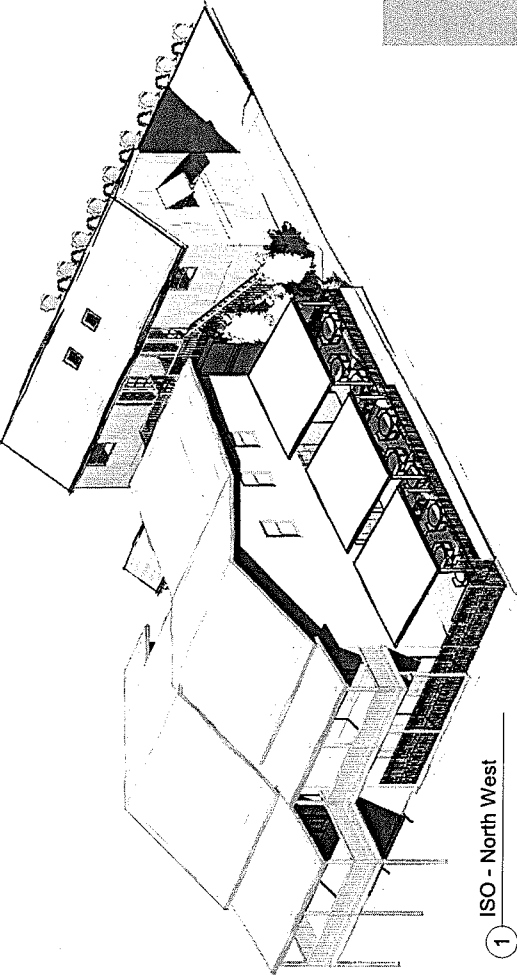
No.	Description	Date
A	IFA- DA Only	19.05.16
B	As per issued to appear	12.02.18
C	(Rev. 1) (S1)	

Hoover Group
 Bronte Guest House
 145 Swan Street
 Morpeth NSW 2323

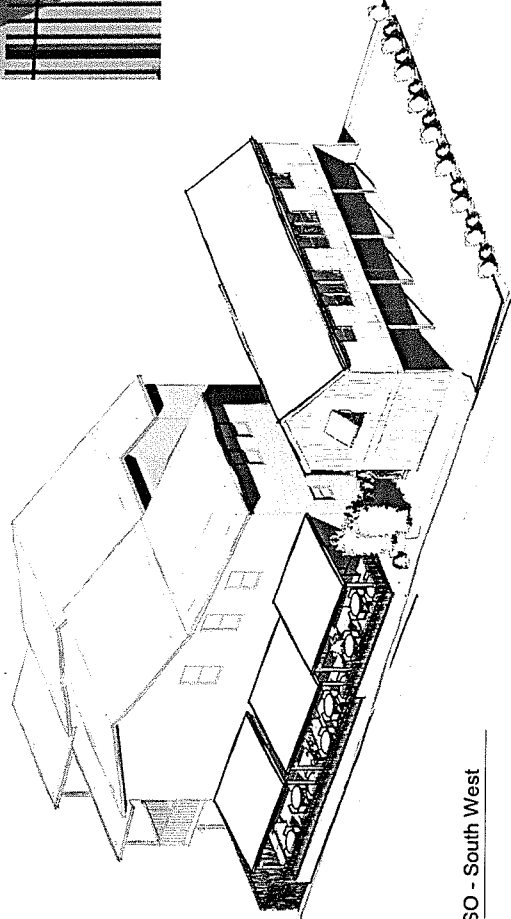
SHEET 04
ISO VIEWS

Project number 145SS-2017-01
 Project Issue Date 23.03.17
 Drawn by HTC
 Checked & Approved by HG 12.02.18
145SS-2017-01

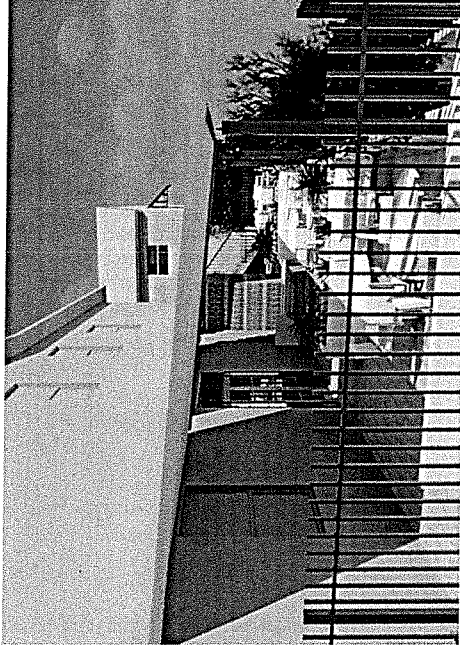
Scale



1 ISO - North West



2 ISO - South West



Views Of Courtyard Dining From Swan Street



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Sheet Issue Date: Date

No.	Description	Date
A	IFA - DA Only	19.05.16
B	toilet Added To Upstairs Deck - IFA, DA	12.02.18

Hoover Group
Bronie Guest House
145 Swan Street
Morpeth NSW 2323

**SHEET 05
FLOOR PLANS**

Project number 145SS-2017-01

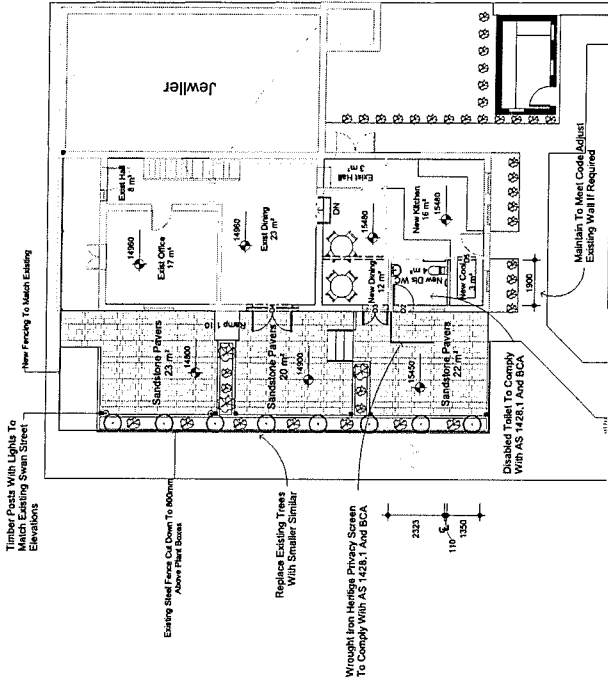
Project Issue Date 23.03.17

Drawn by HTC

Checked & Approved by HG 12.02.18

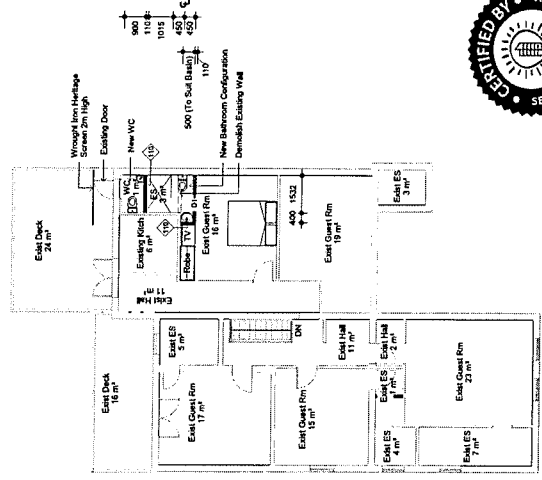
145SS-2017-01

Scale As indicated



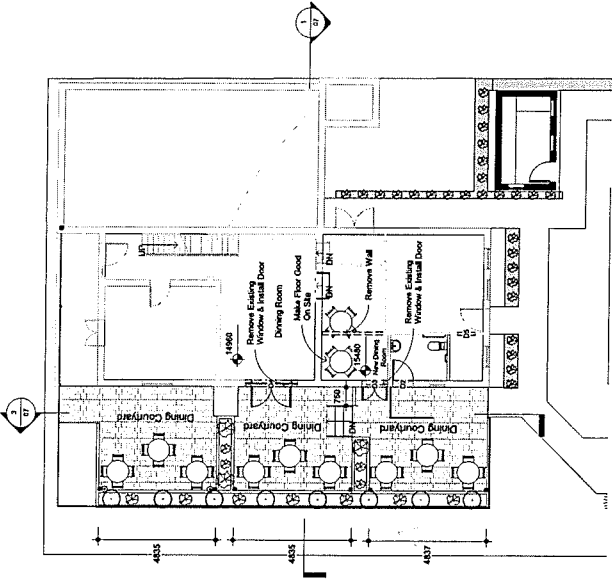
2 Plan View Internal

1:100



3 First floor

1:100



1 Plan View Courtyard

1:100



Type Mark	Wall Schedule	Type Comments
T10	Stud Wall - 90 Timber + 10 + 10 Plasterboard ±110mm Typ UNO.	

Type Mark	Door Schedule	Type Comments	Width	Height	Count
1	Cavity Sliter 750x2040		750	2040	1
2	Door Disabled 850x2040		850	2040	1
3	French Doors 24520 (Match Existing)		1040	2040	1
4	French Doors - 820x24520 To Match Existing - Side And		1640	2040	1
5	Head Fixed Panels To Match Existing Window Opening		720	2040	2

Wall Legend
Existing Walls

New Construction Walls

Wall Legend
1:1



HOOVERGROUP
ARCHITECTS

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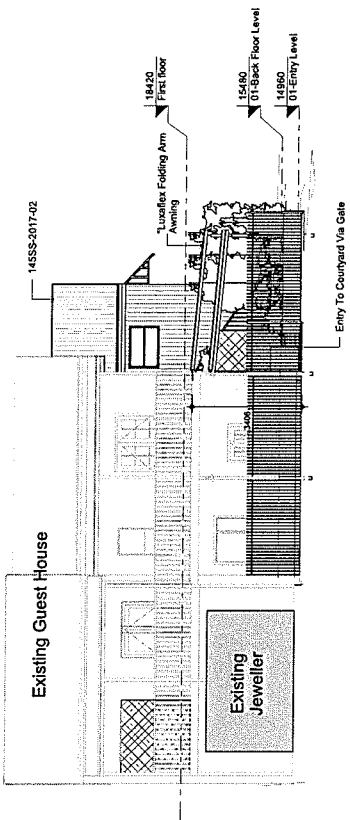
Sheet Issue Date: Date

No.	Description	Date
A	IF - DA Only	19.02.18
B	IF - DA Only Update Deck - F&A (DA)	12.02.18

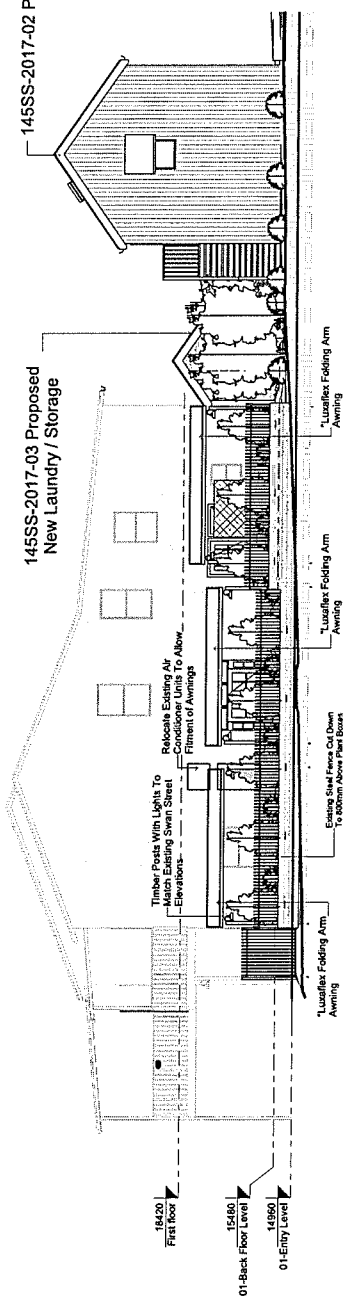
Hoover Group
Bronte Guest House
145 Swan Street
Morpeth NSW 2323

SHEET 06
ELEVATIONS

Project number 145SS-2017-01
Project Issue Date 23.03.17
Drawn by HTC
Checked & Approved by HG 12.02.18
145SS-2017-01
Scale 1 : 75



② North
1 : 75



③ West
1 : 75

145SS-2017-02 Proposed New Accommodation



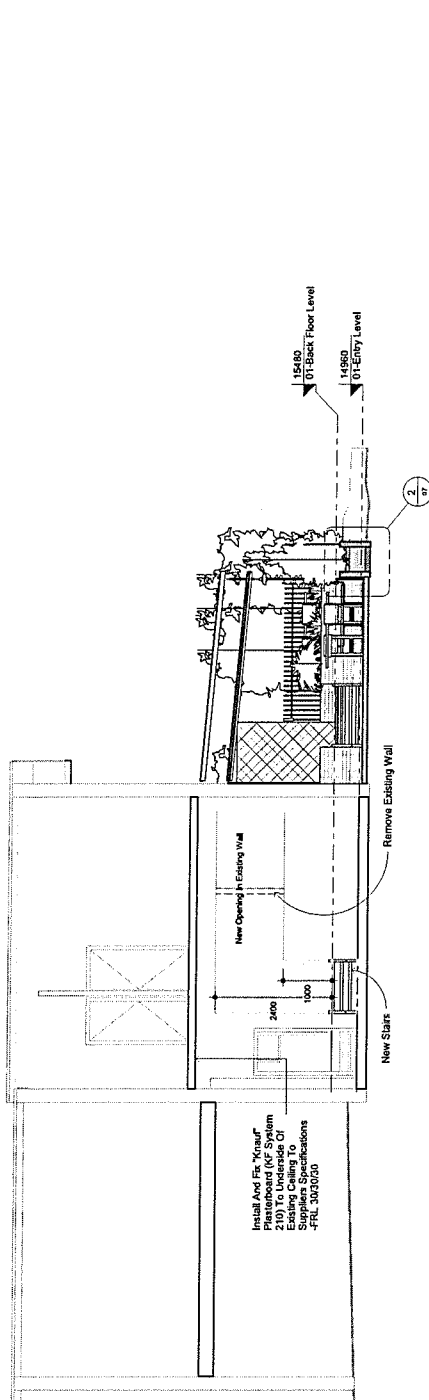


HOOVER GROUP
ARCHITECTS & INTERIORS

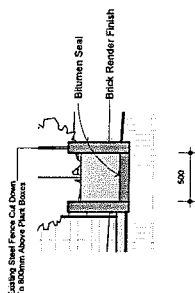
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Sheet Issue		Date
No.	Description	Date
A	[F/A - DA Only	19.05.18
B	Revised Drawing To Update	12.02.18
	Drawn: (F/A) (CP)	

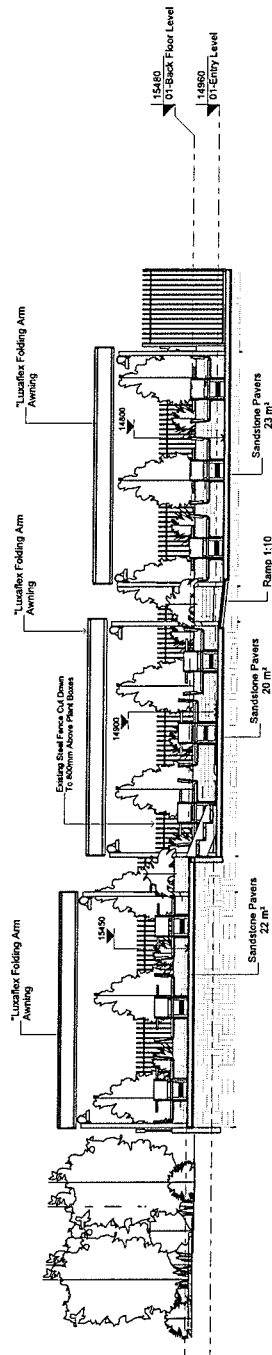
Hoover Group	
Bronte Guest House	
145 Swan Street	
Morpeth NSW 2323	
SHEET 07	
SECTIONS	
Project number	145SS-2017-01
Project Issue Date	23.03.17
Drawn by	HTC
Checked & Approved by	HG 12.02.18
145SS-2017-01	
Scale	As indicated



1 Section 4
1:50



2 Section 4 - Callout 1 - Typ Planter Box
1:25



3 Section 6
1:50



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DEVELOPMENT APPLICATION
13/11/2018

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No.	Description	Date
A	IFA-DA Only	19.05.18

Client - Hoover Group Bronite Guest House Proposed Accommodation 145 Swan Street Morpeth NSW 2323	SHEET 01 Plan, Elevations & Sections
Project number 145SS-2017-02	Project Issue Date 21.03.17
Drawn by HTC	Checked & Approved by HG 19.05.16
145SS-2017-02	
Scale 1 : 100	

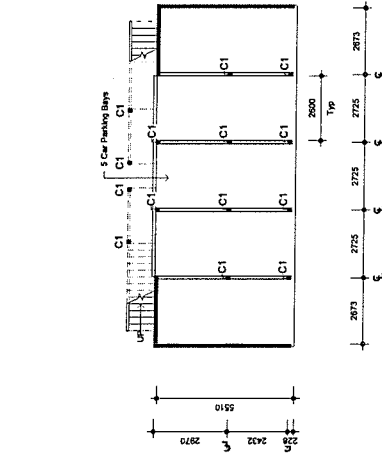
Mark	Type Mark	Width	Height	Count
1	Door Bi-Fold - Frosted Glass	1330	2100	4
2	Door French 2x720	1440	2040	2
3	Door Hinged Internal	820	2040	2

Mark	Type Mark	Height	Width	Count
1	Window OED Timber	1370	2170	2
2	Window DH Timber	1370	1370	2
3	Window DH Timber	860	1370	2
4	Window DH Timber	1370	1650	2
5	Window SluVia	866	865	2

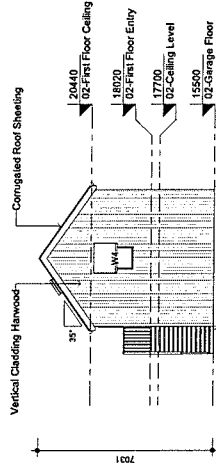
Names	Level	Area
Bdrm	02-First Floor Entry	12 m ²
Bdrm	02-First Floor Entry	12 m ²
Bth	02-First Floor Entry	5 m ²
Bth	02-First Floor Entry	5 m ²
Living	02-First Floor Entry	17 m ²
Living	02-First Floor Entry	17 m ²

Mark	Type Mark	Count
1	100x100 SHS	14

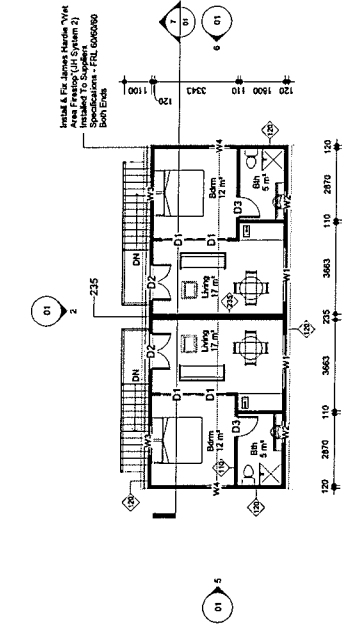
Type Mark	Type Comments
110	Stud Wall - 90 Timber +10 +10 Plasterboard +10mm Typ U.N.O.
120	Stud Wall - 90 Timber +10 Plasterboard +20 Weatherboard +120mm
235	Reveal James Hardie (UH 335 System) - FPL 909090 Installed To Suppliers Specifications



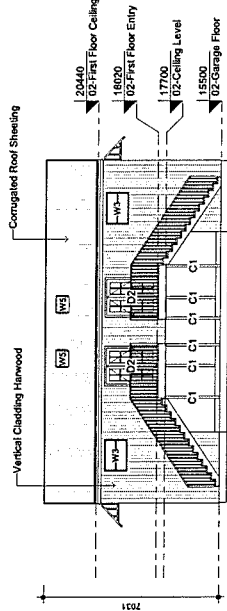
4 1 : 100



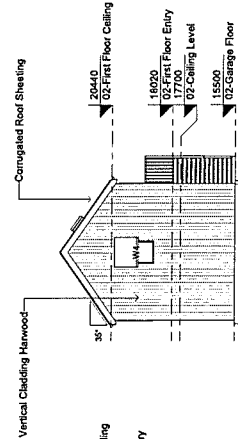
5 West 1 : 100



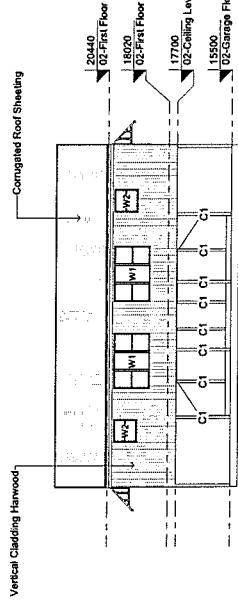
1 1 : 100



2 North 1 : 100



6 East 1 : 100

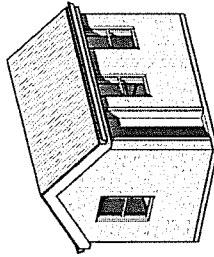


3 South 1 : 100

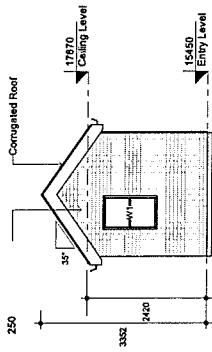


7 Section 1 1 : 100

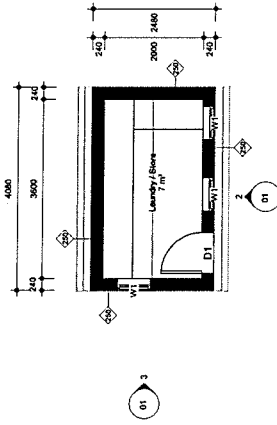
Window Schedule					
Mark	Type Mark	Width	Height	Count	
1	Window DH Timber	610	1030	3	
Door Schedule					
Mark	Type Mark	Width	Height	Count	
1	Door Hinged Timber	820	2040	1	
Wall Schedule					
Type Mark	Type Comments				
250	Rendered Brick Veneer - Brick 110 * Cavity 40 * Stud 50 * Plasterboard 10 = 250mm				



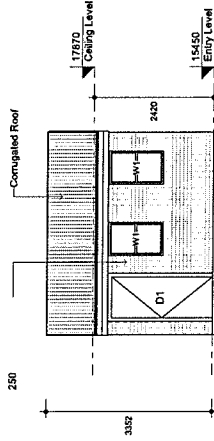
4 ISO - South West



3 West 1 : 50



1 Entry Level 1 : 50



2 South 1 : 50



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Sheet Issue Date: _____ Date		
No.	Description	Date
A	HFA	23.03.17

Hoover Group Bronte Guest House 145 Swan Street Morpeth NSW 2323	SHEET 01 FLOOR PLANS	Project number 145SS-2017-03 Project Issue Date 23.03.17 Drawn by HTC Checked & Approved by HG 23.03.17	145SS-2017-03
Scale			1 : 50



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Approved Plans
NO. DA 16-1403
DEVELOPMENT APPLICATION
13/11/2018

Form: 15CH
Release: Quarry
Licence: 01-05-086
Licensee: LEAP Legal Software Pty Limited
Firm name: Jenkins Legal Services

CONSOLIDATION/ CHANGE OF BY-LAWS

Leave this space clear. Affix additional pages to the top left-hand corner.

New South Wales
Strata Schemes Management Act 2015
Real Property Act 1900

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

(A) TORRENS TITLE	For the common property CP/74847	
(B) LODGED BY	Document Collection Box	Name Company Address Email Customer Account Number
		Contact Number Reference
		CODE CH

- (C) The Owners-Strata Plan No _____ certify that a special resolution was passed on
- (D) pursuant to the requirements of section 141 of the Strata Schemes Management Act 2015, by which the by-laws were changed as follows —
- (E) Repealed by-law No. N/A
Added by-law No. Special By-Law 1
Amended by-law No. N/A
as fully set out below:
- (F) A consolidated list of by-laws affecting the above mentioned strata scheme and incorporating the change referred to at Note (E) is annexed hereto and marked as Annexure A.
- (G) The seal of the Owners-Strata Plan No 74847 was affixed on _____ in the presence of the following person(s) authorised by section 273 Strata Schemes Management Act 2015 to attest the affixing of the seal:

Signature: _____

Name:

Authority:

Signature: _____

Name:

Authority:

Approved Form 23

The seal of The Owners - Strata Plan No was affixed on
..... in the presence of the following person(s) authorised by section 273
Strata Schemes Management Act 2015 to attest the affixing of the seal.

Signature: Name: Authority:

Signature: Name: Authority:

CONSOLIDATED BY-LAWS

1 Vehicles

(1) An owner or occupier of a lot must not park or stand any motor or other vehicle on common property or permit any invitees of the owner or occupier to park or stand any motor or other vehicle on common property except with the prior written approval of the owners corporation.

(2) The owners corporation must not unreasonably withhold its approval to the parking or standing of a motor vehicle on the common property.

2 Obstruction of common property

An owner or occupier of a lot must not obstruct lawful use of common property by any person except on a temporary and non-recurring basis (for example a temporary display).

3 Damage to common property

(1) An owner or occupier of a lot must not mark, paint, drive nails or screws or the like into, or otherwise damage or deface, any structure that forms part of the common property without the written approval of the owners corporation.

(2) An approval given by the owners corporation under subclause (1) cannot authorise any additions to the common property.

(3) This by-law does not prevent an owner or person authorised by an owner from installing:

(a) any locking or other safety device for protection of the owner's lot against intruders or to improve safety within the owner's lot, or

(b) any screen or other device to prevent entry of animals or insects on the lot, or

(c) any sign to advertise the activities of the occupier of the lot if the owners corporation has specified locations for such signs and that sign is installed in the specified locations, or

(d) any device used to affix decorative items to the internal surfaces of walls in the owner's lot.

(4) Any such locking or safety device, screen, other device or sign must be installed in a competent and proper manner and must have an appearance, after it has been installed, consistent with any guidelines established by the owners corporation about such installations or, in the absence of guidelines, in keeping with the appearance of the rest of the building.

(5) Despite section 62, the owner of a lot must:

(a) maintain and keep in a state of good and serviceable repair any installation referred to in subclause (3) that forms part of the common property and that services the lot, and

(b) repair any damage caused to any part of the common property by the installation or

removal of any locking or safety device, screen, other device or sign referred to in subclause (3) that forms part of the common property and that services the lot.

4 Behaviour of invitees

An owner or occupier of a lot must take all reasonable steps to ensure that invitees of the owner or occupier (including all customers and staff) do not behave in a manner likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or any person lawfully using common property.

5 Depositing rubbish and other material on common property

An owner or occupier of a lot must not deposit or throw on the common property any rubbish, dirt, dust or other material or discarded item except with the prior written approval of the owners corporation.

6 Cleaning windows and doors

The owners corporation must keep clean all exterior surfaces of glass in windows and doors on the boundary of the lots, whether a part of a lot or common property.

7 Garbage disposal

(1) An owner or occupier of a lot in a strata scheme that does not have shared receptacles for garbage, recyclable material or waste:

(a) must maintain such receptacles within the lot, or on such part of the common property as may be authorised by the owners corporation, in clean and dry condition and (except in the case of receptacles for recyclable material) adequately covered, and

(b) must ensure that before refuse, recyclable material or waste is placed in the receptacles it is, in the case of refuse, securely wrapped or, in the case of tins or other containers, completely drained, or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and

(c) for the purpose of having the garbage, recyclable material or waste collected, must place the receptacles within an area designated for that purpose by the owners corporation and at a time not more than 12 hours before the time at which garbage, recyclable material or waste is normally collected, and

(d) when the garbage, recyclable material or waste has been collected, must promptly return the receptacles to the lot or other area referred to in paragraph (a), and

(e) must not place any thing in the receptacles of the owner or occupier of any other lot except with the permission of that owner or occupier, and

(f) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled from the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.

(2) Subclause (1) does not require an owner or occupier of a lot to dispose of any chemical, biological, toxic or other hazardous waste in a manner that would contravene any relevant law applying to the disposal of such waste.

(3) An owner or occupier of a lot in a strata scheme that has shared receptacles for garbage, recyclable material or waste:

(a) must ensure that before refuse, recyclable material or waste is placed in the receptacles it is, in the case of refuse, securely wrapped or, in the case of tins or other containers, completely drained, or, in the case of recyclable material or waste, separated and prepared in accordance with the applicable recycling guidelines, and

(b) must promptly remove any thing which the owner, occupier or garbage or recycling collector may have spilled in the area of the receptacles and must take such action as may be necessary to clean the area within which that thing was spilled.

(4) Subclause (3) does not require an owner or occupier of a lot to dispose of any chemical, biological, toxic or other hazardous waste in a manner that would contravene any relevant law applying to the disposal of such waste.

8 Appearance of lot

The owner or occupier of a lot must not, without the prior written approval of the owners corporation, maintain within the lot anything visible from outside the lot that, viewed from outside the lot, is not in keeping with the rest of the building.

9 Change in use of lot to be notified

An occupier of a lot must notify the owners corporation if the occupier changes the existing use of the lot in a way that may affect the insurance premiums for the strata scheme (for example, if the change of use results in a hazardous activity being carried out on the lot).

10 Preservation of fire safety

The owner or occupier of a lot must not do any thing or permit any invitees of the owner or occupier to do any thing on the lot or common property that is likely to affect the operation of fire safety devices in the parcel or to reduce the level of fire safety in the lots or common property.

11 Prevention of hazards

The owner or occupier of a lot must not do any thing or permit any invitees of the owner or occupier to do any thing on the lot or common property that is likely to create a hazard or danger to the owner or occupier of another lot or any person lawfully using the common property.

12 Provision of amenities or services

(1) The owners corporation may, by special resolution, determine to enter into arrangements for the provision of the following amenities or services to one or more of the lots, or to the owners or occupiers of one or more of the lots:

- (a) security services,
- (b) promotional services,
- (c) advertising,
- (d) cleaning,
- (e) garbage disposal and recycling services,
- (f) electricity, water or gas supply,
- (g) telecommunication services (for example, cable television).

(2) If the owners corporation makes a resolution referred to in subclause (1) to provide an amenity or service to a lot or to the owner or occupier of a lot, it must indicate in the resolution the amount for which, or the conditions on which, it will provide the amenity or service.

Note: Section 111 of the Act provides that an owners corporation may enter into an agreement with an owner or occupier of a lot for the provision of amenities or services by it to the lot or to the owner or occupier.

13 Controls on hours of operation and use of facilities

(1) The owners corporation may, by special resolution, make any of the following determinations if it considers the determination is appropriate for the control, management, administration, use or enjoyment of the lots or the lots and common property of the strata scheme:

(a) that commercial or business activities may be conducted on a lot or common property only during certain times,

(b) that facilities situated on the common property may be used only during certain times or on certain conditions.

(2) An owner or occupier of a lot must comply with a determination referred to in subclause (1).

Special By-law 1 - By-law to authorise the owner of Lot 2 to add to, alter and erect new structures on the common property and exclusive use

PART 1

DEFINITIONS & INTERPRETATION

1.1. In this by-law:

- (a) **Act** means the *Strata Schemes Management Act 2015* (NSW) as amended from time to time;
- (b) **Authority** means any relevant government, semi government, statutory, public or private or any other authority having any jurisdiction over the Lot or the Building, including the local council;
- (c) **Building** means the building and improvements on the land located at 145 – 147 Swan Street, Morpeth NSW (being SP74847);
- (d) **Common Property** means the common property in the Strata Plan;
- (e) **Costs** means all professional and trade costs, fees and disbursements incurred as a result of or associated with this by-law, the Works and Remedial Works and any damage caused as a result of the Works and/or Remedial Works;
- (f) **Direction** means a written direction from the Owners Corporation to the Owner relating to the Works and/or Remedial Works to ensure compliance with any Authority or the terms of this by-law;
- (g) **Exclusive Use Area** means the Common Property areas:
 - (i) reasonably required to include the Works and/or Remedial Works; and
 - (ii) affected by the Works and/or Remedial Works;

as identified on the Final Stamped Plans prepared by Hoover Group Design and Development, dated 13 November 2018 (a copy of which is **annexed hereto and marked "B"**).

- (h) **Indemnify** means the Owner indemnifying the Owners Corporation in respect of the Works and/or Remedial Works or anything arising from the Works and/or Remedial Works, including, but not limited to the following:
- (i) all actions, proceedings, claims, demands, costs, damages and expenses which may be incurred by, brought or made against the Owners Corporation;
 - (ii) any sum payable by way of increase premiums; and
 - (iii) any costs or damages for which the Owners Corporation is or becomes liable;
- (i) **Insurance** means:
- (i) contractors all risk insurance with an authorised insurer (incorporating cover against public liability insurance risk in respect of claims for death, injury, accident and damage occurring in the course of or by reason of the Works to a minimum of \$10,000,000);
 - (ii) insurance required un the *Home Building Act 1989*, which if permissible by the insurer must note the Owners Corporation as an interested party; and
 - (iii) workers compensation insurance as required by law;
- (j) **Lot** means lot 2 in the Strata Plan;
- (k) **Owner** means the owners of the Lot from time to time;
- (l) **Owners Corporation** means the owners corporation known as The Owners – Strata Plan No. 74847;
- (m) **Remedial Works** means:
- (i) repair, renewal, maintenance, replacement and/or removal of items relating to the Works and/or Common Property affected by the Works; and
 - (ii) repair, maintenance and keeping in a state of good and serviceable repair the Exclusive Use Area;
- (n) **Strata Manager** means any strata managing agent engaged by the Owners Corporation from time to time;
- (o) **Strata Plan** means registered Strata Plan number 74847;
- (p) **Works** means the following works on the Common Property for the Lot:
- (i) the work approved in the Final Stamped Plans prepared by Hoover Group Design and Development, dated 13 November 2018 (a copy of which is **annexed hereto and marked “B”**); and
 - (ii) any work which is necessary ether to effect any of the work identified in the Final Stamped Plans or which is incidental to any of the work identified in the Final Stamped Plans.

1.2. In this by-law a word which denotes:

- (a) the singular includes plural and vice versa;

- (b) any gender includes the other genders;
- (c) any terms in the by-law will have the same meaning as those defined in the Act; and
- (d) references to legislation includes references to amending and replacing legislation.

1.3. If this by-law empowers the Owners Corporation to take action, it may or may not take such action in its reasonable discretion.

PART 2

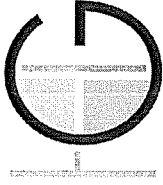
GRANT OF RIGHT

- 2.1 Subject to the provisions of this by-law, the Owner is authorised to carry out the Works.
- 2.2 Subject to the provisions of this by-law, the Owner has the exclusive use of the Exclusive Use Area.

PART 3

ENDURING RIGHTS AND OBLIGATIONS

- 3.1 The Owner:
 - (a) is responsible for the ongoing maintenance of the alterations of, additions to and new structures erected on the common property resulting from the Works;
 - (b) is responsible for the proper maintenance of, and keeping in a state of good and serviceable repair, the Exclusive Use Area and the Works;
 - (c) must make good any damage to lot or Common Property arising out of the Works or Remedial Works;
 - (d) will Indemnify and will keep Indemnified the Owners Corporation for any breach of the Owners' obligations under this by-law, to the extent permitted by law; and
 - (e) is required to comply with the terms of this by-law and do all things and sign all necessary documents to give effect to this by-law.
- 3.2 If the Owner fails to comply with a Direction within 3 months of the date of the Direction, the Owners Corporation may:
 - (a) enter any part of the Lot;
 - (b) carry out all work necessary to comply with the Direction; and
 - (c) recover from the Owner any Costs relating to the carrying out of the work, including charging them to the Owner's lot account as if they were a contribution under the Act, with all the same rights of recovery to apply.
- 3.3 Where the Owners Corporation has incurred Costs on behalf of the Owner, the Owners Corporation may recover those Costs from the Owner, including charging those Costs to the Owner's lot account as if they were a contribution under the Act, with all the same rights of recovery to apply.



HOOVERGROUP

DESIGN & DEVELOPMENT

PROPOSED ALTERATIONS AND ADDITIONS

"Bronte Guest House"
145-147 Swan Street
Morpeth NSW 2323



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Sheet List

Sheet No.	Sheet Name	Rev
02	GENERAL NOTES	B
03	SITE PLAN	B
04	ISO VIEWS	B
05	FLOOR PLANS	B
06	ELEVATIONS	B
07	SECTIONS	B

Sheet Issue Date	Date

No.	Description	Date
A	JFA - JFA only	19.05.15
B	Table Added To Update Deck - JFA (DA)	12.02.18

Hoover Group
Bronte Guest House
145 Swan Street
Morpeth NSW 2323

SHEET 01
COVER SHEET

Project number	145SS-2017-01
Project Issue Date	23.03.17
Drawn by	HTC
Checked & Approved by	HG 12.02.18
	145SS-2017-01

Scale

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Sheet Issue	Date
A	19.05.16
B	12.02.18
C	31.10.19

No.	Description	Date
A	IFA-DA (only)	19.05.16
B	Table Added To Upstar Deck - FFA (DA)	12.02.18
C	Notes Added And FC	31.10.19

Hoover Group	
Bronte Guest House	
145 Swan Street	
Morpeth NSW 2333	

GENERAL NOTES	
Project number	145SS-2017-01
Project Issue Date	23.03.17
Drawn by	HTC
Checked & Approved by	HG 31.10.19
145SS-2017-01	
Scale	



KITCHEN
 Kitchen layout is diagrammatic only.
 For exact dimensions and details refer to detailed drawings and manufacturers drawings.

CONCRETE EARTHWORKS
 Slab measurements are to the outside face of external skin.
 Refer soil report for footing & slab design.
 All construction is to be in accordance with the Building Code of Australia (BCA), the Building Act 1991 and relevant Australian Standards.
 All Earthworks are to comply with AS3798.
 Masonry construction is to comply with AS22870.
 Walls to be articulated in accordance with construction note TN16 'Articulated Walling'.
 Articulated joints are to be placed at sides of openings and behind downpipes, unless noted otherwise.
 All wall areas are to have floor wastes with local fall to floor wastes.
 All Swales are to be drained away from footings and slab. All downpipes and levels on plans are to be confirmed on site prior to commencing construction.
 Where possible all new construction is to match existing when extending and/or renovating.

DOWNPIPES
 Downpipes to comply with BCA 3.5.2.5
 (a) Downpipes must be securely fixed to walls.
 (b) The spacing between downpipes must not be more than 12 m.
 (c) Downpipes must be fixed as close as possible to valley gutters and, if the downpipe is more than 1.2 m from a valley, provision for overflow must be made.

BRACING NOTES
 Angle:- PRYDA galvanised steel angle brace or equivalent.
 BKP:- 350x350 brick pier with a continuous anchor rod tied into footing.
 Brck:- 110mm brick wall with an engaged pier and anchor rod at each end
 CC:- Reinforced concrete column/stump.
 HBD-A:- Hardboard in accordance with AS1684 table 8.18(i).
 HBD-B:- Hardboard in accordance with AS1684 table 8.18(m).
 HDB-A:- 'Hardbrace' in accordance with James Hardie Building Products details.
 HDB-B:- 'Hardbrace' in accordance with James Hardie Building Products details.

MCC:- Reinforced concrete masonry column/stump.
 Ply-A:- Plywood in accordance with AS1684 table 8.18(j).
 Ply-B:- Plywood in accordance with AS1684 table 8.18(h).
 Ply-C:- Plywood in accordance with AS1684 table 8.18(i).
 Ply-D:- Plywood in accordance with AS1684 table 8.18(f).
 SHS:- 100x100x4.0 steel column.
 Strap:- PRYDA galvanised in from looped strap or equivalent.
 TC:- Timber column/stump.
 XB:-

MECHANICAL VENTILATION
 Performance Requirement P2.4.5 is satisfied for a mechanical ventilation system if it is installed in accordance with AS 1688.2-- Mechanical Ventilation for acceptable indoor air quality, except that any contaminated air from a sanitary compartment or bathroom must:
 (a) exhaust directly to outside the building by way of ducts; or
 (b) be drawn into the roof space provided--
 (i) it is sealed by a fire-rated door, and
 (ii) the roof is clad with waterproofing and similar materials which would prevent venting through gaps between tiles.

GENERAL
 Designed in accordance with and shall comply to the Building Code of Australia and all Australian Standards Codes referred to therein.
 ALL DIMENSIONS ARE IN MILLIMETRES.
 Written dimensions take precedence over scale.
 Builder is to confirm all levels and dimensions on site before commencing.
 Top of meter box to be 2100 above FGL.
 Stairs to comply with BCA Vol 2 Part 3.9.1
 Handrails to comply with BCA Vol 2 Part 3.9.2
 Mechanical Ventilation to comply with AS 1688
 Glazing to comply and be certified to AS 2047
 Smoke Alarms to comply with AS 3782 & BCA Vol 2 Part 3.7.2
 Wet Areas to comply with BCA Part 3.8.1 and waterproofing to be in accordance with AS 3740. Fall all tiles to floor waste.
 WC doors to BCA clause F2.1
 Min. 70mm and bearing to laminated beams.
 Downpipes to be connected to local authorities stormwater system.
 Sarking required behind planing to outside walls or gable ends.
 Also required to raked areas of ceilings.
 Exposed edges of concrete floor slabs to be treated with approved waterproofing.
 Timber sizes and details are to comply with the BCA Part 3.4.4 and AS 1684 National Timber Framing Code.
 Studs to any wall over 3000mm are to be certified by an engineer.
 All truss positions and applicable supporting linels are to be checked by the truss engineers.
 Builder to verify linel sizes for girder trusses over openings with truss manufacturer.
 Truss anchorage information provided is for standard trusses only.
 Builder to obtain from truss manufacturer or engineer anchorage details for all non-standard trusses such as girder, hip, valleys etc.
 All concrete and other structural details to engineer's specification.
 Report all discrepancies in dimensions to builder and designer before the commencement of work at any stage of construction.
 Gutters/shall be quad profile & round down pipes shall be used throughout. There shall be no alteration (including painting or rendering) to the existing or new face brickwork
 All windows, window hoods, posts, facias, barge boards and balustrades to the new accommodation shall be of timber construction.
 All external posts shall have minimum square section dimension of 110x115mm (packed out if required)

SITE SURVEY
 All survey pegs are to be located and verified prior to commencement of work.
 Contours and levels as shown are from levels supplied by surveyor or builder. No responsibility is taken for the accuracy or cut/fill levels.
 Cut and Fill batters to comply with BCA Vol 2 Part 3.1.1.
 Vehicle access is not to exceed 1:14 slope at any point and is to comply with local authority requirements.
 Battered banks generally 1:4 grade except where Engineer nominates steeper angle of repose. Where directed by council anti-erosion measures (turf) to be the responsibility of the Owner.
 Platform immediately surrounding the residence to fall away from the residence at a slope of 1:20 minimum.
 Roof water and site drainage to comply with BCA Vol 2, Part 3.1.2 and AS/NZS 3500.3.2 - Stormwater Drainage.
 Building platform to be self draining and must not cause nuisance to adjoining properties.
 Site preparation to comply with BCA Vol 2, Part 3.1.2.3.
 Settlement and erosion control measures during construction are to be in accordance with the environmental protection requirements of the Local Government / Council.

DISCLAIMER
 Site levels are supplied by others therefore Acrostud takes no responsibility for their accuracy. The builder should verify all levels before commencing work.
AAA WATER FITTINGS
 All water fittings are to be AAA rated where possible.
 Thermostatic mixers to be provided to showers.

MASONRY ARTICULATION
 Masonry articulation centres are to comply with the geotechnical engineer and BCA Part 3.3.1 requirements.
BRICKWORK
 Brickwork to comply with AS 3700

PLUMBING
 Fixture dimensions to be used as a guide only.
 Fixture and fitting sizes may vary, therefore dimensions may not be exact.
 Fixture and fitting dimensions are to be checked on site.
 Final discharge of collected stormwater runoff shall be piped in accordance with council's manual of engineering standards to the existing site drainage system, or the streetgutter with a "Kerb Adaptor" (see council's standard drawings), or to an existing street pit (cut flush & mortared), or as approved by council.
 Stormwater pipes across the footway shall be "100mm sewer grade" and shall be under bored beneath any existing concrete path, or alternatively the removal of one complete slab segment between joints & replaced if concrete dowelled to the existing path and finished similar to the adjoining surface

TERMITE CONTROL
 Kordan termite barrier is to be used as a building perimeter and service penetration termite protection system (AS3660.1 - 2000)
 Kordan termite moisture barrier is to be used as a termite protection (AS3660.1 - 2000) and as a damp proof membrane as per (AS27870)
 Termite caps to all piers.

ACCESS AND MOBILITY
 All access and dedicated areas for people with disabilities to comply with AS 1428.
 Braille and Tactile signage shall be installed to AS 1428.1 and the NCC specification D3.6
 Tactile Ground Surface Indicators (TGSIs) shall be installed to AS 1428.4.1 and the NCC specification D3.8.

FIRE SEPARATION AND FIRE SAFETY REQUIREMENTS
 The proposed food and drink premises and the existing tourist accommodation are inclusive to be fire separated in accordance with part C of the BCA inclusive of the provisions of part C2.9 related to ceilings.
 An external fire sprinkler system shall be provided to the openings in the eastern wall of the building adjacent to the rear wall of the adjoining jewellery shop. Alternatively this portion of the building is to be upgraded to comply with the provisions of part C of the BCA.
 Portable fire extinguishers, exit signs, emergency lighting, fire sprinklers are to be in accordance with part E1.5 of the BCA.
 Automatic smoke detection and alarm systems are to be in accordance with specifications E2.2a of the BCA
 Access for any fire safety routes shall be minimum width of 1.2m at all times through the outdoor dining area.

FOOD PREMISES
 The premises, including the construction and installation of all equipment, fixtures and fittings must comply with the requirements of The Food Act 2003, Food Regulation 2004, Food Standards code & AS4674 for the Desgn, Construction and Fit-out of Food Premises

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 Builder to verify all dimensions and levels prior to starting job.
 No responsibility will be taken after commencement.
 Should any discrepancy be found the Builder is to contact the author of these documents immediately. Where products, materials etc. are specified the builder shall install all strictly in accordance with the manufacturers most current written instructions.

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Sheet No.	Description	Date
A	IFA - DA (DA)	12.02.18
B	Total Addict To Upgrade Deck - IFA (DA)	12.02.18

Hoover Group
 Bronte Guest House
 145 Swan Street
 Morpeth NSW 2323

SHEET 03
SITE PLAN

Project number 145SS-2017-01

Project Issue Date 23.03.17

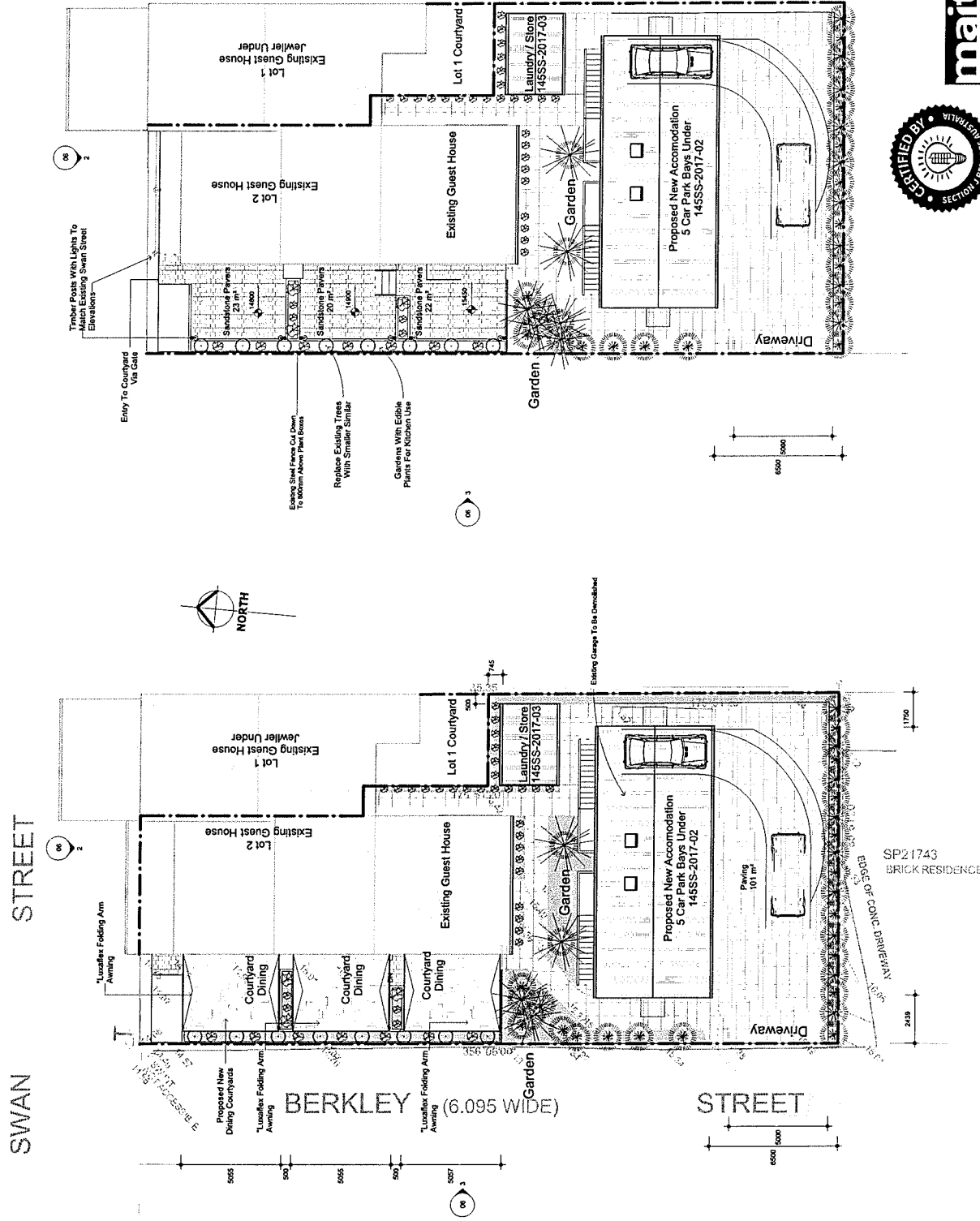
Drawn by HTC

Checked & Approved by HG 12.02.18

145SS-2017-01

Scale 1 : 100

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 No. DA 14-1403
 DEVELOPMENT APPLICATION
 13/11/2018



① Site Plan
1 : 100

② Plan Courtyard
1 : 100

Sheet	Issue	Date	Date
No.	Description	Date	
A	IFA - DA Only	18.06.18	
B	Total Access To Usenet Diect - FA (DA)	12.02.18	

Hoover Group
 Bronte Guest House
 145 Swan Street
 Morpeth NSW 2323

**SHEET 04
 ISO VIEWS**

Project number 145SS-2017-01

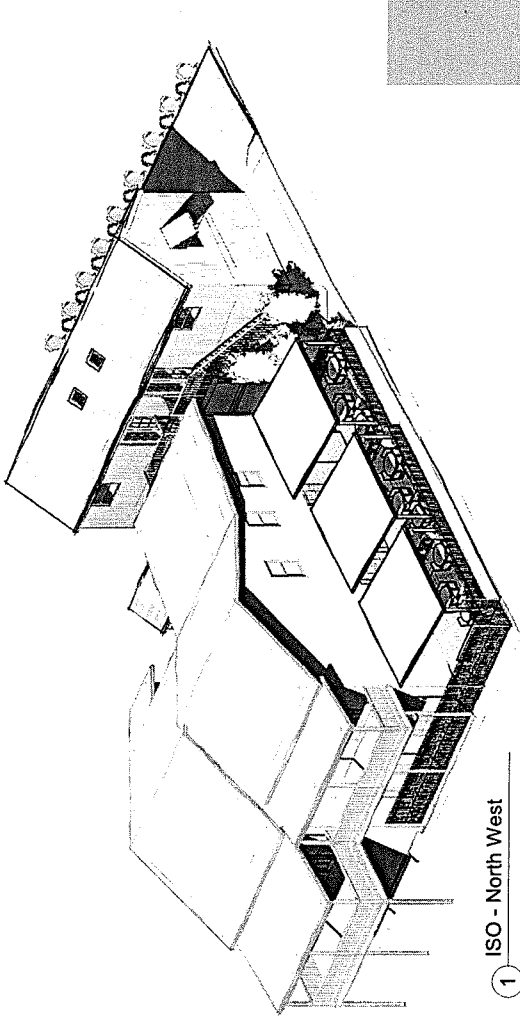
Project Issue Date 23.03.17

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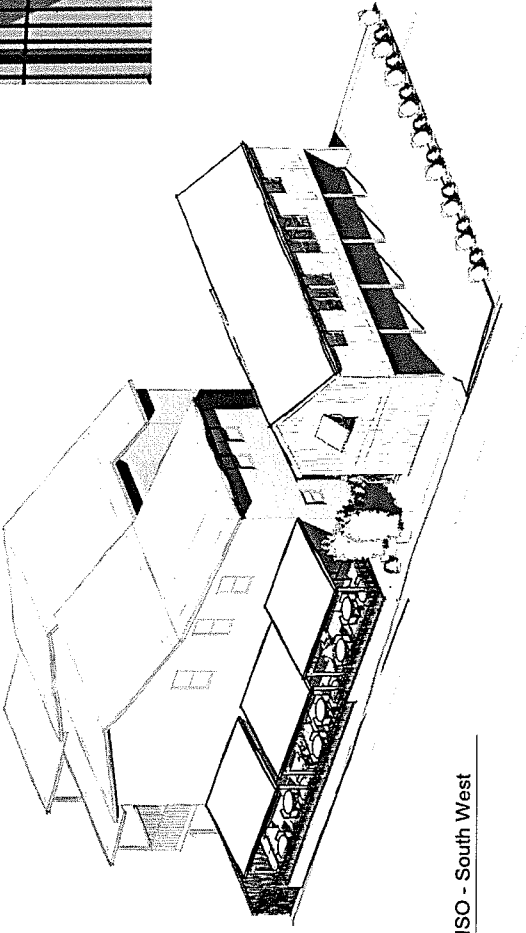
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145SS-2017-01

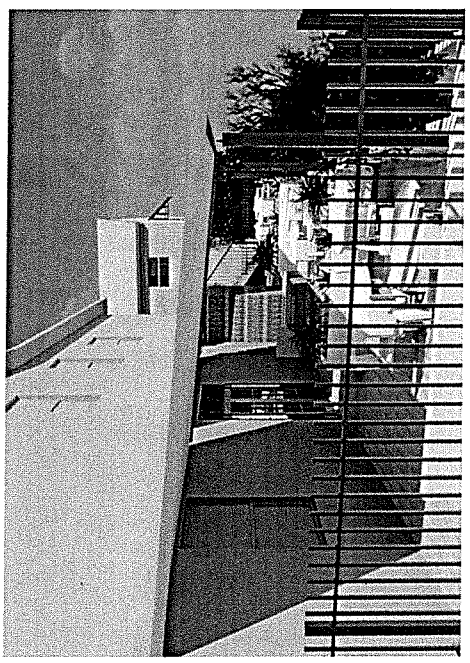
Scale



1 ISO - North West



2 ISO - South West



Views Of Courtyard Dinning From Swan Street



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 DEVELOPMENT APPLICATION
 13/11/2016



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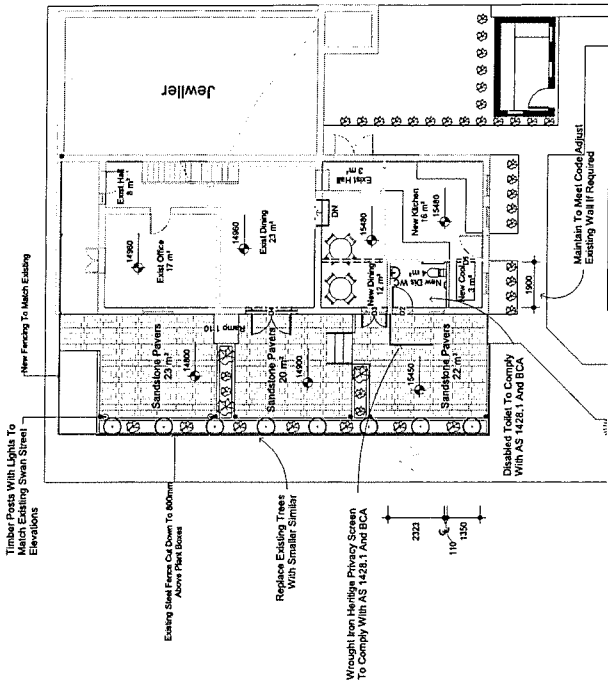
No.	Description	Date
A	IFA - DA Only	19.05.18
B	Final IFA - Upstairs Deck - IFA (DA)	12.02.18

Hoover Group
Bronte Guest House
145 Swan Street
Morpeth NSW 2323

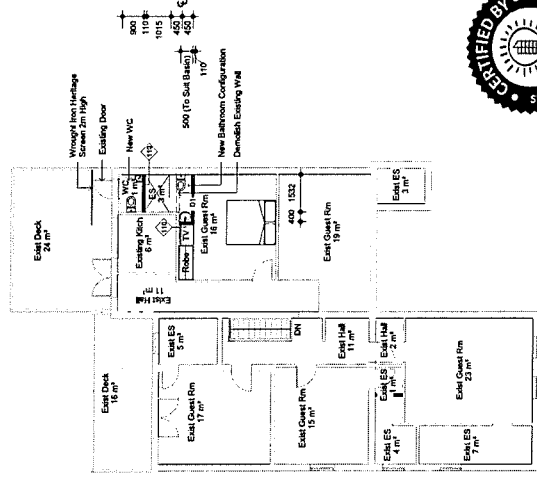
SHEET 05
FLOOR PLANS

Project number 145SS-2017-01
Project Issue Date 23.03.17
Drawn by HTC
Checked & Approved by HG 12.02.18

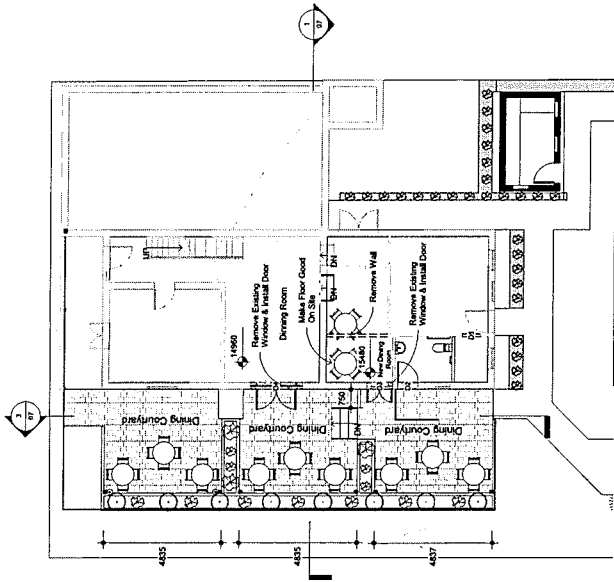
145SS-2017-01
Scale As indicated



2 Plan View Internal
1 : 100



3 First floor
1 : 100



1 Plan View Courtyard
1 : 100



Type Mark	Type	Comments
I10	Stud Wall - 90 Timber - 10 x 10 Plasterboard - 10mm Typ. U.N.O.	

Type Mark	Type	Comments	Width	Height	Count
1	Carly Siller 720x2040		720	2040	1
2	Door Disabled 850x2040		850	2040	1
3	French Doors 2x520 (Match Existing)		1040	2040	1
4	French Doors - 620x2 To Match Existing - Side And Head Fixed Panels To Match Existing Window Opening		1640	2040	1
5	Opening 720x2040		720	2040	2

Wall Legend
 Existing Walls
 New Construction Walls

Wall Legend
 1:1



HOOVERGROUP
ARCHITECTS

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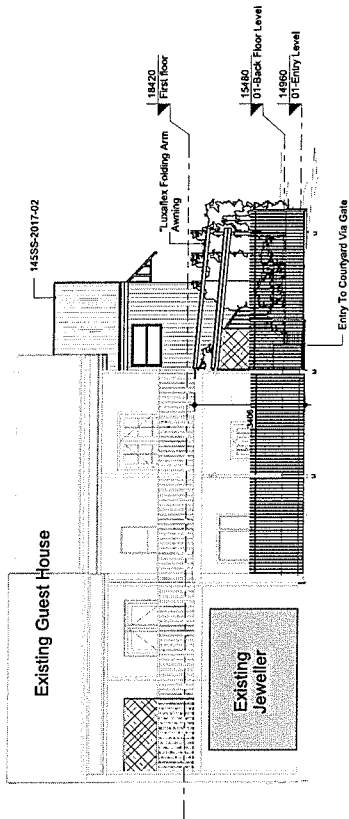
Sheet Issue Dates: Date

No.	Description	Date
A	IFA - DA Only	16.05.18
B	Tables Added To Upstar Deck - IFA (DA)	12.02.18

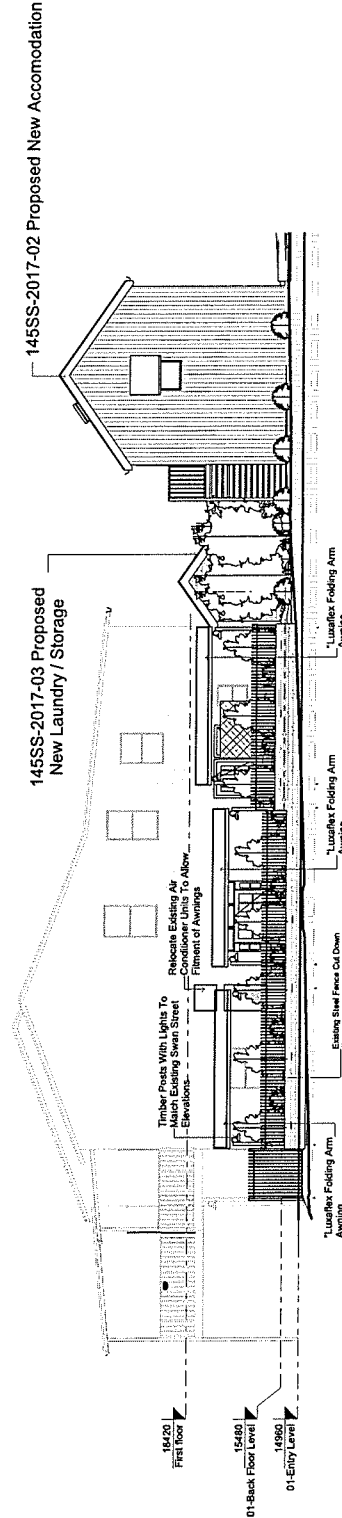
Hoover Group
Bronte Guest House
145 Swan Street
Morpeth NSW 2323

SHEET 06
ELEVATIONS

Project number	145SS-2017-01
Project Issue Date	23.03.17
Drawn by	HTC
Checked & Approved by	HG 12.02.18
145SS-2017-01	
Scale	1:75



② North
1:75



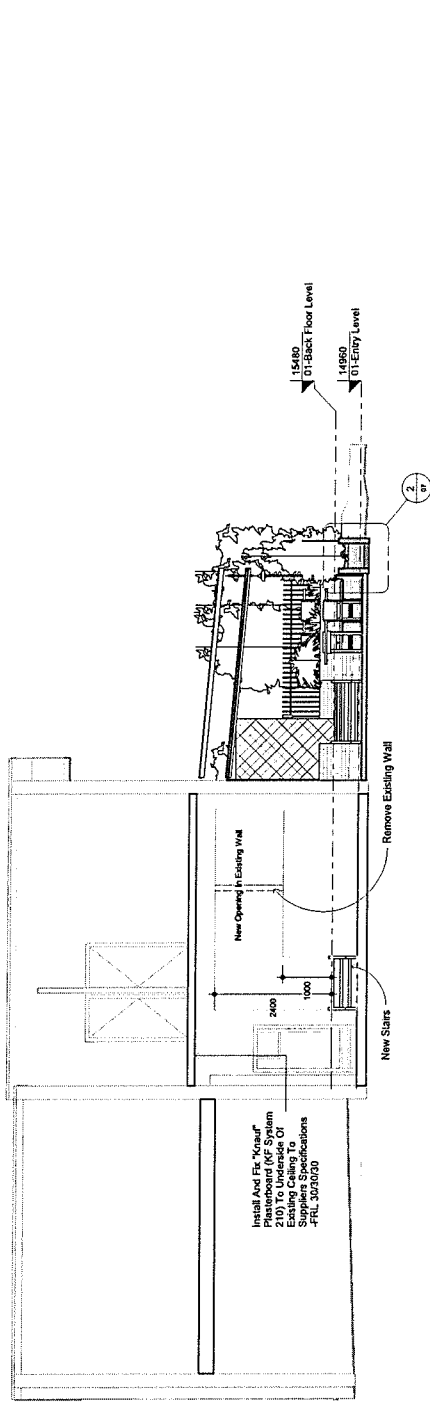
③ West
1:75



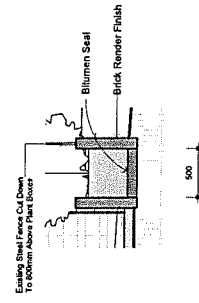
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No.	Description	Date
A	IFA - 01-031	10.02.18
B	Take As Issued To Update Deck - IFA (DA)	12.02.18

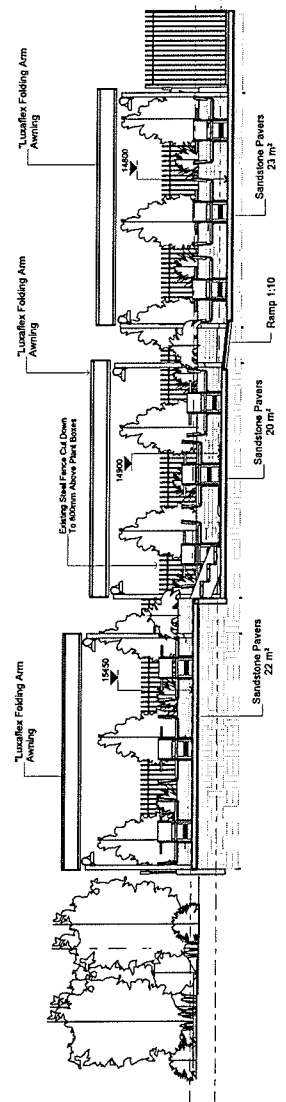
Hoover Group	
Bronte Guest House 145 Swan Street Morpheh NSW 2323	
SHEET 07 SECTIONS	
Project number	145SS-2017-01
Project Issue Date	23.03.17
Drawn by	HTC
Checked & Approved by	HG 12.02.18
145SS-2017-01	
Scale	As indicated



1 Section 4
1:50



2 Section 4 - Callout 1 - Typ Planter Box
1:25



3 Section 6
1:50



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NO. DA 16-1403
DEVELOPMENT APPLICATION
13/11/2018

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Door Schedule				
Mark	Type Mark	Width	Height	Count
1	Door BiFold - Frosted Glass	1330	2100	4
2	Door French 2x720	1440	2040	2
3	Door Hinged Internal	820	2040	2

Window Schedule				
Mark	Type Mark	Width	Height	Count
1	Window DFD Timber	1370	2170	2
2	Window DH Timber	860	850	2
3	Window DH Timber	860	1210	2
4	Window DH Timber	1370	850	2
5	Window Stylee	665	665	2

Room Schedule		
Name	Level	Area
Bedrm	02-First Floor Entry	12 m ²
Bedrm	02-First Floor Entry	12 m ²
Bedrm	02-First Floor Entry	12 m ²
Bth	02-First Floor Entry	5 m ²
Bth	02-First Floor Entry	5 m ²
Living	02-First Floor Entry	17 m ²
Living	02-First Floor Entry	17 m ²

Structural Column Schedule		
Mark	Type Mark	Count
1	100x100 SHS	14

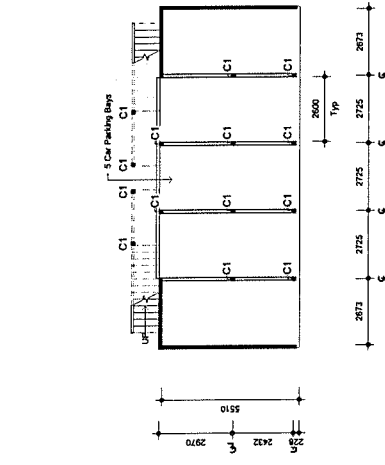
Wall Schedule	
Type Mark	Type Comments
110	Stud Wall - 90 Timber x 10 x 10 Plasterboard + 110mm Typ U.L.C.
120	Stud Wall - 90 Timber x 10 Plasterboard + 20 Waterboard = 120mm
235	Firewall James Hardie (JH 235 System) - FRL 90/90/90 Installed To Suppliers Specifications

Sheet Issue Date: Date	
No.	Description
A	IFA - DA Only
	Date
	19.05.16

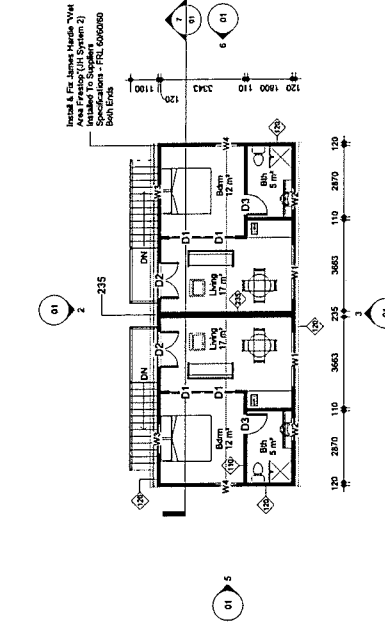
Client - Hoover Group
 Bronte Guest House
 Proposed Accommodation
 145 Swan Street
 Morpeth NSW 2323

SHEET 01
 Plan, Elevations &
 Sections

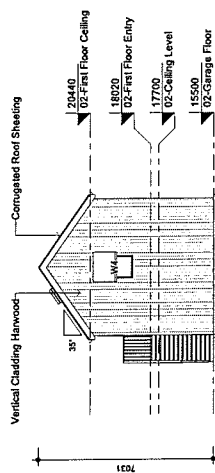
Project number 145SS-2017-02
 Project Issue Date 21.03.17
 Drawn by HTC
 Checked & Approved by HG 19.05.16
145SS-2017-02
 Scale 1 : 100



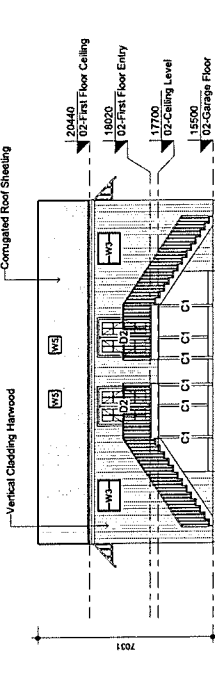
4 02-Garage Floor
 1 : 100



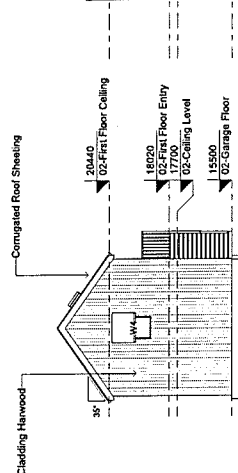
1 02-First Floor Entry
 1 : 100



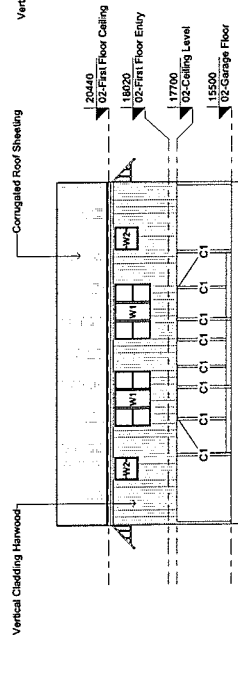
5 West
 1 : 100



2 North
 1 : 100



6 East
 1 : 100

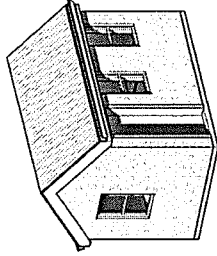


3 South
 1 : 100

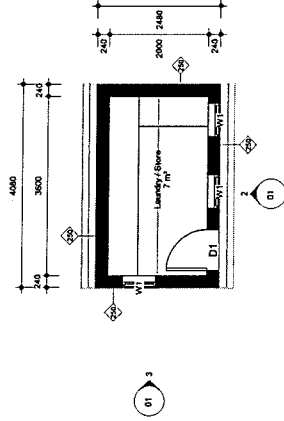


Section 1
 1 : 100

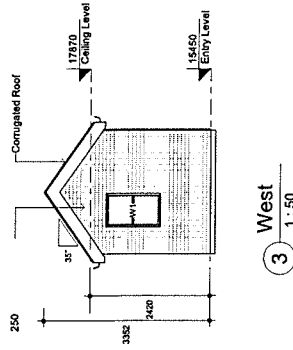
Window Schedule			
Mark	Type Mark	Width	Height Count
1	Window DH Timber	610	1050 3
Door Schedule			
Mark	Type Mark	Width	Height Count
1	Door Hinged Timber	630	2040 1
Wall Schedule			
Type Mark	Type Comments		
250	Rendered Brick Veneer - Brick T10 + Cavity 40 + Stud 50 + Plasterboard 10 = 250mm		



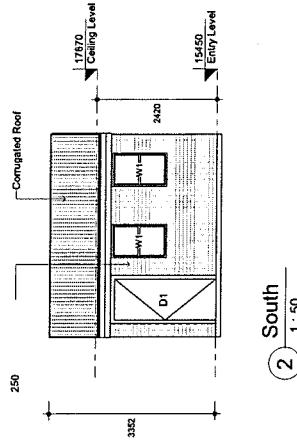
④ ISO - South West



① Entry Level
1 : 50



③ West
1 : 50



② South
1 : 50



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Sheet Issue		Date
No.	Description	Date
A	IFA	23.03.17

Hoover Group
 Bronte Guest House
 145 Swan Street
 Morpeth NSW 2323

SHEET 01
 FLOOR PLANS

Project number 145SS-2017-03

Project Issue Date 23.03.17

Drawn by HTC

Checked & Approved by HG 23.03.17

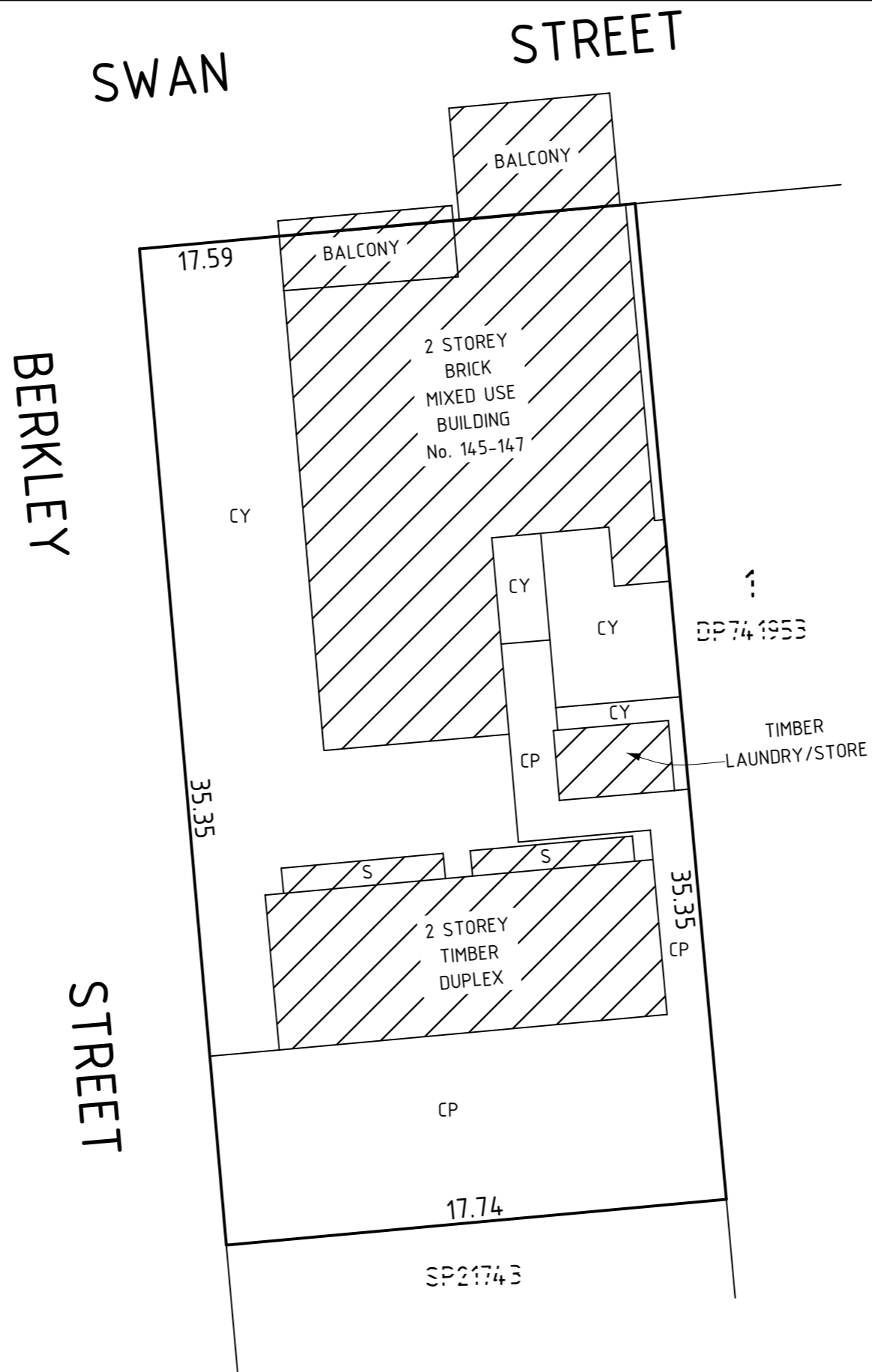
145SS-2017-03

Scale 1 : 50



LOCATION PLAN

LOCATIONS, DIMENSIONS AND AREAS HAVE BEEN DERIVED FROM DRAWINGS
 PREPARED BY: HOOVER GROUP P/L
 REFERENCED: 145SS-2017-02
 DATED: 19/05/2016 REV A
 AND COMPILED FROM SP74847 DATED 23/03/2005



S - STAIRS
 W - PROLONGATION OF EXTERNAL FACE OF WALL
 CY- COURTYARD
 CP- COMMON PROPERTY

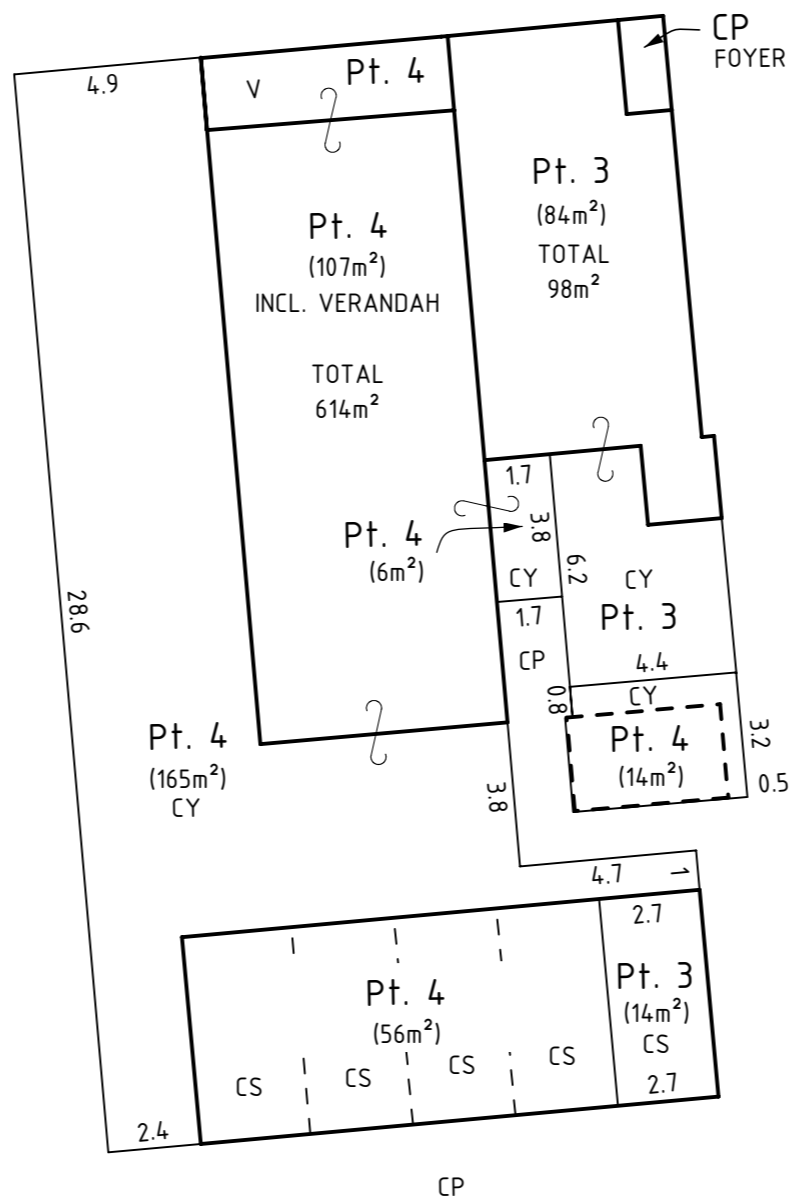
NOTE

- THIS PLAN WAS PREPARED FOR THE PURPOSE AND EXCLUSIVE USE OF
 Strata Scheme SP74847
 TO ACCOMPANY AN APPLICATION TO
 Maitland City Council
 FOR APPROVAL TO SUBDIVIDE THE LAND DESCRIBED IN THE PLAN AND IS NOT TO BE USED FOR ANY OTHER PUPOSE OR BY ANY OTHER PERSON OR CORPORATION.
 DAVID CANT SURVEYORS ACCEPTS NO RESPONSIBILITY FOR ANY LOSS OR DAMAGE SUFFERED HOWSOEVER ARISING TO ANY PERSON OR CORPORATION WHO MAY USE OR RELY ON THIS PLAN IN CONTRAVENTION OF THE TERMS OF THIS CLAUSE OR CLAUSES 2 OR 3 HEREOF.
- THE DIMENSIONS, AREA, SIZE AND LOCATION OF IMPROVEMENTS, FLOOD INFORMATION (IF SHOWN) AND LOTS SHOWN ON THIS PLAN ARE APPROXIMATE ONLY AND MAY VARY.
- THIS PLAN MAY NOT BE PHOTOCOPIED UNLESS THIS NOTE IS INCLUDED.

Surveyor: David William Cant David Cant Surveyors PO Box 418 Maitland NSW 2320 Date: / / Reference: 22-128 Morpeth	<p align="center">PLAN OF PROPOSED BOUNDARY ADJUSTMENT OF LOTS 1 & 2 SP74847 & COMMON PROPERTY SP74847.</p>	L.G.A. MAITLAND MORPETH Locality: MORPETH Reduction Ratio 1:200 Lengths are in metres.	Registered:	<p align="center">DRAFT STRATA</p> REV 2 DATED: 10/06/2022
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GROUND FLOOR PLAN

LOCATIONS, DIMENSIONS AND AREAS HAVE BEEN DERIVED FROM DRAWINGS
 PREPARED BY: HOOVER GROUP P/L
 REFERENCED: 145SS-2017-02
 DATED: 19/05/2016 REV A
 AND COMPILED FROM SP74847 DATED 23/03/2005



THE STRATUM OF THE COURTYARDS IS LIMITED IN HEIGHT FROM 5 METRES BELOW TO 15 METRES ABOVE THE UPPER SURFACE OF THEIR RESPECTIVE CONCRETE GARAGE FLOOR.

- CP - COMMON PROPERTY
- CS - CAR SPACE FULLY COVERED
- V - VERANDAH FULLY COVERED
- W - PROLONGATION OF EXTERNAL FACE OF WALL
- CY- COURTYARD

THE WHOLE OF THE LAUNDARY/STORE WITHIN LOT 4 INCLUDING WALLS, FLOORS, CEILINGS, ROOFS, TIMBER DECKS AND CONCRETE STANDS FORM PART OF THE LOT AND IS NOT COMMON PROPERTY.

ANY SERVICE LINE WITHIN ONE LOT SERVICING ANOTHER LOT IS COMMON PROPERTY.
 ALL COMMON SERVICE LINES ARE COMMON PROPERTY

MEASUREMENTS OF FLOOR AREA SHOWN ON THE FLOOR PLAN ARE APPROXIMATE AND CALCULATED FOR THE PURPOSE OF THE STRATA SCHEMES DEVELOPMENT ACT 2015 ONLY. THEY MAY DIFFER FROM MEASUREMENTS OF FLOOR AREA FOR OTHER PURPOSES.

NOTE

1. THIS PLAN WAS PREPARED FOR THE PURPOSE AND EXCLUSIVE USE OF
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3. THIS PLAN MAY NOT BE PHOTOCOPIED UNLESS THIS NOTE IS INCLUDED.

Surveyor: David William Cant
 David Cant Surveyors
 PO Box 418 Maitland NSW 2320
 Date: / /
 Reference: 22-128 Morpeth

**PLAN OF PROPOSED BOUNDARY ADJUSTMENT
 OF LOTS 1 & 2 SP74847 & COMMON PROPERTY
 SP74847.**

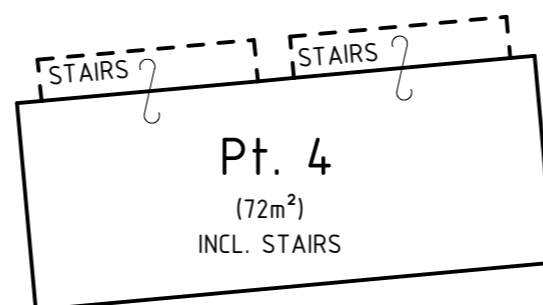
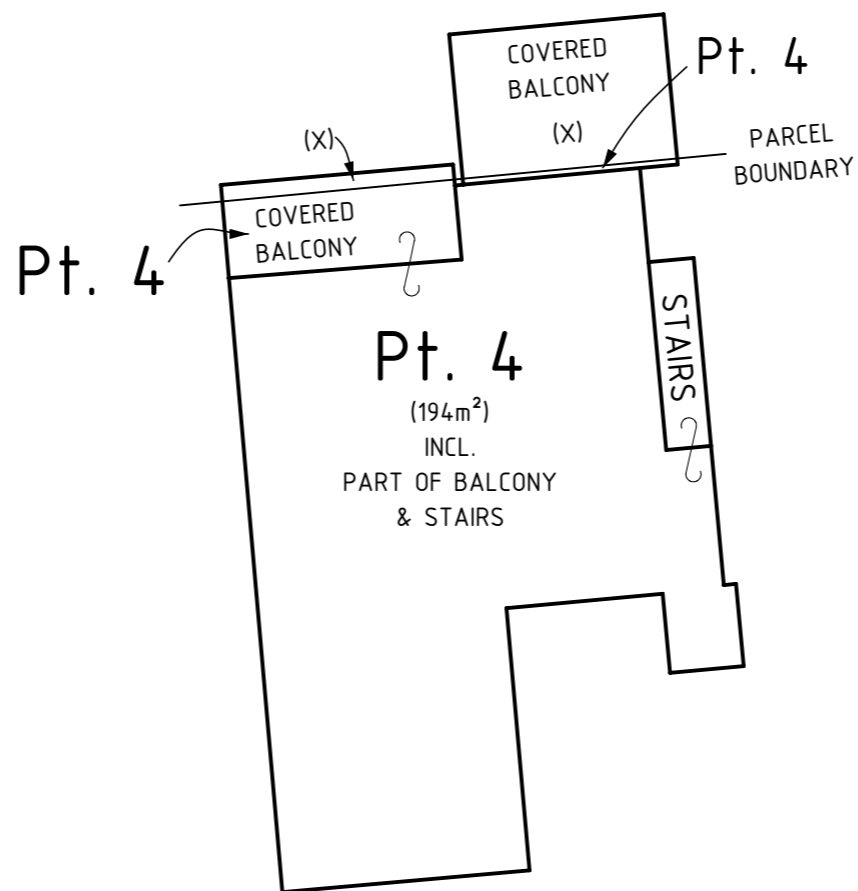
L.G.A. **MAITLAND MORPETH**
 Locality:
 Reduction Ratio 1:200
 Lengths are in metres.

Registered:

DRAFT STRATA
 REV 2
 DATED: 10/06/2022

FIRST FLOOR PLAN

LOCATIONS, DIMENSIONS AND AREAS HAVE BEEN DERIVED FROM DRAWINGS
 PREPARED BY: HOOVER GROUP P/L
 REFERENCED: 145SS-2017-02
 DATED: 19/05/2016 REV A
 AND COMPILED FROM SP74847 DATED 23/03/2005



(X) - THE PART OF THE FIRST FLOOR BALCONIES WHICH ENCROACH OVER SWAN STREET ARE FOR THE EXCLUSIVE USE OF LOT 4. THE PROVISIONS OF THE ACT APPLY TO THIS AREA OTHER THAN THOSE RELATING TO THE OWNERSHIP AND CERTIFICATE OF TITLE.

THE WHOLE OF THE STAIRS ATTACHED TO THE TWO STOREY TIMBER DUPLEX WITHIN LOT 4 INCLUDING WALLS, FLOORS, CEILINGS, ROOFS, TIMBER DECKS AND CONCRETE STANDS FORM PART OF THE LOT AND IS NOT COMMON PROPERTY.

ANY SERVICE LINE WITHIN ONE LOT SERVICING ANOTHER LOT IS COMMON PROPERTY.
 ALL COMMON SERVICE LINES ARE COMMON PROPERTY

MEASUREMENTS OF FLOOR AREA SHOWN ON THE FLOOR PLAN ARE APPROXIMATE AND CALCULATED FOR THE PURPOSE OF THE STRATA SCHEMES DEVELOPMENT ACT 2015 ONLY. THEY MAY DIFFER FROM MEASUREMENTS OF FLOOR AREA FOR OTHER PURPOSES.

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Surveyor: David William Cant
 David Cant Surveyors
 PO Box 418 Maitland NSW 2320
 Date: / /
 Reference: 22-128 Morpeth

**PLAN OF PROPOSED BOUNDARY ADJUSTMENT
 OF LOTS 1 & 2 SP74847 & COMMON PROPERTY
 SP74847.**

L.G.A. **MAITLAND
 MORPETH**
 Locality:
 Reduction Ratio 1:200
 Lengths are in metres.

Registered:

DRAFT STRATA
 REV 2
 DATED: 10/06/2022

Form: 07L
Release: 4.7
Licence: 01-05-028
Licensee: LEAP Legal Software Pty Limited
Firm name: Jenkins Legal Services

LEASE
New South Wales
Real Property Act 1900

Leave this space clear. Affix additional pages to the top left-hand corner.

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

STAMP DUTY

Insert Duties Assessment No. as issued by Revenue NSW Office.

Duties Assessment No. _____

(A) TORRENS TITLE

Property leased: if appropriate, specify the part or premises
PART 2/SP74847, BEING "BRONTE HOUSE", 145 - 147 SWAN STREET, MORPETH, NEW SOUTH WALES 2323, INCLUDING DINING ROOM, KITCHEN, COURTYARD AND ROOMS 1 - 8

(B) LODGED BY

Document Collection Box	Name, Address or DX, Telephone, and Customer Account Number if any	CODE
	Email: _____ Reference: _____	L

(C) LESSOR

MORPETH PROPERTY MANAGEMENT PTY LTD ACN 600 500 749

The lessor leases to the lessee the property referred to above.

(D)

Encumbrances (if applicable):

(E) LESSEE

HUNTER VALLEY BOUTIQUE ESCAPES PTY LTD ACN 150 006 849

(F)

TENANCY:

(G)

- TERM** Three (3) years
- COMMENCING DATE**
- TERMINATING DATE**
- With an **OPTION TO RENEW** for a period of Three (3) Years set out in item 12 of Annexure A
- With an **OPTION TO PURCHASE** set out in clause N/A of N/A
- Together with and reserving the **RIGHTS** set out in clause N/A of N/A
- Incorporates the provisions or additional material set out in **ANNEXURE(S)** A & B hereto.
- Incorporates the provisions set out in N/A No.
- The **RENT** is set out in item No. 13 of Annexure A

DATE / /

(H) Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the corporation named below by the authorised person(s) whose signature(s) appears(s) below pursuant to the authority specified.

Corporation: Morpeth Property Management Pty Ltd ACN 600 500 749
Authority: section 127 of the Corporations Act 2001
Signature of authorised person:

Signature of authorised person:

Name of authorised person:
Office held: Director/Secretary

Name of authorised person:
Office held: Director/Secretary

Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the corporation named below by the authorised person(s) whose signature(s) appears(s) below pursuant to the authority specified.

Corporation: Hunter Valley Boutique Escapes Pty Ltd ACN 150 006 849
Authority: section 127 of the Corporations Act 2001
Signature of authorised person:

Signature of authorised person:

Name of authorised person:
Office held: Director

Name of authorised person:
Office held: Director

(I) STATUTORY DECLARATION *

I solemnly and sincerely declare that—

- 1. The time for the exercise of option to renew in expired lease No. has ended;
2. The lessee under that lease has not exercised the option.

I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act 1900.

Made and subscribed at in the State of New South Wales on
in the presence of

- [] Justice of the Peace (J.P. Number:) [] Practising Solicitor
[] Other qualified witness [specify]

who certifies the following matters concerning the making of this statutory declaration by the person who made it:

- 1. I saw the face of the person OR I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had special justification for not removing the covering; and
2. I have known the person for at least 12 months OR I have confirmed the person's identity using the identification document and the document I relied on was a

Signature of witness: Signature of lessor:

* As the services of a qualified witness cannot be provided at lodgment, the declaration should be signed and witnessed prior to lodgment. ** If made outside NSW, cross out the witness certification. If made in NSW, cross out the text which does not apply.

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

Lessor: MORPETH PROPERTY MANAGEMENT PTY LTD ACN 600 500 749

Lessee: HUNTER VALLEY BOUTIQUE ESCAPES PTY LTD ACN 150 006 849

This annexure consists of 4 pages.

NOTE: Any alterations and additions to Lease Covenants in Annexure B **must** be made by additional clauses in Annexure A. The printed clauses in Annexure B are to remain in their copyright form without alteration.

SCHEDULE OF ITEMS (continued)

Item 10
(cls 2.3, 13.1)
(cl 13.7)

- A. **The guarantor:**
- B. **Limit of guarantor’s liability:**

Item 11
(cl 3)

Additional leased property:

Item 12
(cl 4)

Option to renew

- A. Further period of Three (3) years from to
- B. Further period of from to
- C. Further period of from to
- D. Further period of from to

Maximum period of tenancy under this lease and permitted renewals: 6 years

- E. First day option for renewal can be exercised: 9 months prior to the terminating date
- F. Last day option for renewal can be exercised: 1 month prior to the terminating date

Item 13
(cl 5)

A. **Rent**

For the lease period:

From the commencement date
to the first rent review date:

\$104,000.00 plus GST per annum payable by
equal monthly instalments in advance of
\$8,666.66 plus GST

Afterwards:

At the new yearly rent beginning on each
review date by monthly instalments of one
twelfth of the new yearly rent.

For the further period in items 12A – 12D:

From the commencement date
to the first rent review date:
(for example: Current market rent)
Afterwards:

Current market rent, to be paid by monthly
instalments.

At the new yearly rent beginning on each
review date by monthly instalments of one
twelfth of the new yearly rent.

Item 13
(cl 15)

B. GST

Clause 15 provides for payment by the lessee of GST unless otherwise here indicated:

Item 14
(cl 5)

Outgoings

- A. Share of outgoings: 94.38%
- B. Outgoings –
 - (a) local council rates and charges;
 - (b) water sewerage and drainage charges;
 - (c) building insurance;
 - (d) yard and general repairs and maintenance;

for the land or the building of which the property is part, fairly apportioned to the period of this lease.

Item 15
(cl 5.1.5)

Interest rate: 10%

Item 16
(cl 5.4)

Rent review

Rent review date	Method of rent review	If Method 1 applies, increase by (the increase should show percentage or amount)
On each anniversary of the commencing date, including during any period after the option to renew is exercised (but not including the first commencing date after exercise an option to renew)	Method 2	
On the first commencing date after an option to renew is exercised	Method 3	

Method 1 is a fixed amount or percentage.

Method 2 is Consumer Price Index.

Method 3 is current market rent.

Method 2 applies unless another method is stated.

Item 17
(cl 6.1)

Permitted use: Boutique Hotel, including without limitation bed and breakfast, guest house accommodation, food and drink premises, catering, events and any other similar uses approved by Council.

Item 18
(cl 8.1.1)

Amount of required public liability insurance: \$20,000,000.00

Item 19
(cl 16)

Bank Guarantee

Not applicable.

Item 20 **Security Deposit**

(cl 17)

An amount equivalent to three months' rent.

~~Details of strata manager/secretary of the owners corporation (if applicable)~~

The following alterations and additions are to be made to the Lease Covenants in Annexure B:

19. UTILITIES

- 19.1 The Lessee will arrange accounts for and be responsible for all charges for utilities provided to or consumed upon the property, including but not limited to water usage, electricity, trade waste, telephone, garbage, waste removal, air conditioning service and maintenance and other like and similar charges.
- 19.2 If any such charges are rated jointly with other premises not forming part of the property, then the Lessee's proportion of the overall charges will be that proportion that is obtained by taking the lettable area of the property leased and dividing it by the area of all premises jointly rated (including the area of the property) that was actually occupied during the period covered by the account.
- 19.3 For any charges payable by the Lessee under clause 19.2, the Lessor will, when requesting payment by the Lessee, provide to the Lessee a copy of the invoice and calculation of the Lessee's proportion of the overall charge.

20. CONDITION AND REPAIRS

- 20.1 The lessee agrees to maintain and keep in good repair the lessor's existing contents, fixtures and fittings and is responsible for any repairs or replacement of such items. This includes the regular maintenance of the air-conditioning system as recommended by duly licensed and qualified technicians. Any capital replacement costs relating to the air-conditioning services shall be borne by the lessor.
- 20.2 The lessee shall also be required to regularly service and maintain all fire services within their tenancy in accordance with the relevant fire safety standards. If, at any time during the lease term and any option periods there is a significant change in the fire regulations surrounding the type of operations that the Lessee undertakes at the premises, both parties agree to mediate immediately to determine how the changes are to be implemented and how the associated costs are determined.
- 20.3 In the event that any of the hotel bathrooms have waterproofing issues, both parties must agree to attend mediation immediately to determine if any tiling has been affected. If so, both parties must meet immediately to determine the cause of the affectation and how the associated costs to rectify are determined.
- 20.4 The lessor will promptly carry out any structural or capital repairs that it is required to do under this lease or otherwise agrees to as part of any mediation.

21. SIGNAGE

- 21.1 The Lessee must obtain prior written approval from the Lessor to erect any signage on or outside the property. The lessor must not unreasonably withhold consent. The Lessee will be responsible for any costs of maintaining the signage at the front of property and will reimburse any costs to the Lessor.

22. INTENTIONALLY DELETED

23. LESSEE SALE OF BUSINESS AND ASSIGNMENT

- 23.1 Notwithstanding any other term of this lease, if the lessee wishes to assign this lease:
- (a) the lessor must not unreasonably withhold its consent to any assignment provided that the lessee establishes to the lessor's satisfaction (acting reasonably) that any proposed assignee is of good reputation, and that any assignee is financially capable of meeting the obligations of the tenant under this Lease; and
 - (b) the lessee may request that the lessor re-set the lease term and options and the parties must negotiate in good faith in relation to the new lease term and options to assist in any sales process. Neither party may unreasonably withhold consent to these negotiations.

24. RATCHET CLAUSE

Notwithstanding any other term of this lease, the parties acknowledge and agree that if any rent review rent would result in a rent that is less than the rent payable for the corresponding period immediately preceding the rent review, then the rent will remain unchanged.

ANNEXURE B

Lessor: MORPETH PROPERTY MANAGEMENT PTY LTD ACN 600 500 749

Lessee: HUNTER VALLEY BOUTIQUE ESCAPES PTY LTD ACN 150 006 849

This annexure consists of 13 pages.

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CONTENTS

Table with 6 columns: CLAUSE, SUBJECT, PAGE, CLAUSE, SUBJECT, PAGE. Lists clauses 1-18 and their corresponding subjects and page numbers.

RETAIL LEASE CERTIFICATE

If section 16 of the Retail Leases Act 1994 applies to this lease, and the term plus any further terms are less than 5 years (subject to section 16(4)), the term will be extended unless a section 16(3) certificate is given. Sections 16(1) and (2) provide –

- 16(1) The term for which a retail shop lease is entered into, together with any further term or terms provided for by any agreement or option for the acquisition by the lessee of a further term as an extension or renewal of the lease, must not be less than 5 years. An agreement or option is not taken into account if it was entered into or conferred after the lease was entered into.
16(2) If a lease is entered into in contravention of this section, the validity of the lease is not thereby affected but the term of the lease is extended by such period as may be necessary to prevent the lease contravening this section.

I certify that:

- I am a solicitor not acting for the lessor;
Before (or within 6 months after) the lessee entered into this lease –
- the lessee requested me to give this certificate; and
- I explained to the lessee the effect of sections 16(1) and (2), and that the giving of this certificate would result in section 16 not applying to this lease.

Date

Signature

NAME (BLOCK LETTERS)

CLAUSE 1 FORM OF THIS LEASE**What are the parts to this lease?**

- 1.1 There are three parts to this lease – a lease form, Annexure A and this annexure.
- 1.2 This lease is a deed even if it is not registered.
- 1.3 A reference in this deed to the schedule is to the schedule of items commencing at item 1 on the lease form and ending with item 20 in Annexure A.

CLAUSE 2 PARTIES**Who are the parties to this lease?**

- 2.1 The lessor is named on page 1 of this lease.
- 2.2 The lessee is named on page 1 of this lease.
- 2.3 The guarantor is named in item 10 in the schedule, if there is a guarantor.
- 2.4 If a party consists of two or more persons, obligations of that party can be enforced against any one or more of them.

CLAUSE 3 THE PROPERTY**What property is leased?**

- 3.1 The property leased is described on page 1 of this lease.
- 3.2 The lessor's fixtures are included in the property leased.
- 3.3 If anything else is leased (such as furniture belonging to the lessor) and is described in item 11 in the schedule it is included in the property.
- 3.4 If the property has facilities and services shared in common with other persons in the same building as the property, clause 11.3.2 applies to those common facilities. The lessee shares the common facilities with the lessor, and with other lessees of the lessor. The lessor can set reasonable rules for sharing these common facilities.

CLAUSE 4 LEASE PERIOD**How long is this lease for?**

- 4.1 This lease is for the period stated in item 1 in the schedule, commences on the date stated in item 2 in the schedule and ends on the date stated in item 3 in the schedule.
- 4.2 If a further period, commencing when this lease ends, is stated in item 12A in the schedule then the lessee has the option to renew this lease for that period.
- 4.3 The lessee can renew this lease more than once if that is stated in item 12B in the schedule. However the period of tenancy under this lease and under any renewal(s) is, in total, not longer than the maximum period stated in item 12C in the schedule.
- 4.4 The lessee can exercise the option only if –
 - 4.4.1 the lessee serves on the lessor a notice of exercise of option not earlier than the first day stated in item 12D in the schedule and not later than the last day stated in item 12E in the schedule;
 - 4.4.2 there is at the time of service no rent or outgoing that is overdue for payment; and
 - 4.4.3 at the time of service all the other obligations of the lessee have been complied with or fully remedied in accordance with the terms of any notice to remedy given by the lessor.

If this lease is extended by legislation, items 12D and 12E in the schedule are adjusted accordingly.

- 4.5 After exercising the option the lessee must continue to pay all rents and outgoings on time and continue to comply with all of the lessee's obligations under this lease. If the lessee does not do so, the lessor may treat any breach as being a breach of the new lease as well as of this lease.

ANNEXURE B

- 4.6 A new lease will be the same as this lease except for –
- 4.6.1 the new rent;
 - 4.6.2 the commencement date and the termination date;
 - 4.6.3 the omission of clauses 4.2, 4.3, 4.4, 4.5 and 4.6 and items 12A and 12B in the schedule in the last lease allowed in item 12 in the schedule;
 - 4.6.4 item 12B becoming item 12A;
 - 4.6.5 adjustment of item 12C in the schedule; and
 - 4.6.6 adjustment of items 12D and 12E in the schedule. The number of days between the dates stated in items 12D and 12E in the schedule of the new lease and the termination date of the new lease and the number of days between each date stated in items 12D and 12E in the schedule of this lease and the termination date of this lease are to correspond.

If the new rent is to be current market rent it will be decided in the same way that current market rent is to be decided under Method 3 stated in clause 5 assuming that this lease and the new lease were one continuous lease and the commencement date of the new lease was a rent review date.

CLAUSE 5 MONEY

What money must the lessee pay?

- 5.1 The lessee must pay to the lessor or as the lessor directs –
- 5.1.1 the rent stated in item 13A in the schedule;
 - 5.1.2 the share stated in item 14A in the schedule of those outgoings stated in item 14B in the schedule;
 - 5.1.3 the reasonable cost to the lessor of remedying a default by the lessee;
 - 5.1.4 the reasonable cost to the lessor of dealing with any application by the lessee for the lessor's consent under this lease (whether or not it is given);
 - 5.1.5 interest on these moneys at the rate stated in item 15 in the schedule when payment is more than 14 days overdue, calculated from the due date to the date of payment;
 - 5.1.6 registration fee for registration of this lease at Land and Property Information NSW (payable on delivery to the lessor's solicitor of the executed lease);
 - 5.1.7 stamp duty on this lease (payable on delivery to the lessor's solicitor of the executed lease) if not previously paid by the lessee to the Office of State Revenue;
 - 5.1.8 if the lessee defaults, the lessor's reasonable legal costs relating to the default;
 - 5.1.9 the lessor's reasonable costs and expenses in connection with the preparation of this lease but only that part of those costs and expenses which are permitted to be recovered by a lessor under section 14 and section 45 of the *Retail Leases Act, 1994*; and
 - 5.1.10 GST as provided for in clause 15.
- 5.2 The first month's instalment of rent is to be paid by the commencement date. Each later month's instalment of rent is to be paid in advance.
- 5.3 A payment under clause 5.1.2 must be paid on the next rent day after a request for payment is made by the lessor.
- A request for payment can be made –
- 5.3.1 after the lessor has paid an outgoing; or
 - 5.3.2 after the lessor has received an assessment or account for payment of an outgoing.

If item 14B in the schedule refers to land tax –

- if the property is a strata lot, the relevant land tax is land tax on that lot;
- if the property is not a strata lot but is part of a building, the relevant land tax is land tax on the land on which the building is situated, plus any land of the lessor used or available for use by or for the benefit of lessees conducting business in the building or in connection with trading in the building; and
- in either case, the land tax must be calculated as if the land was the only land owned by the lessor and there was no special trust or non-concessional company involved.

When and how is the rent to be reviewed?

- 5.4 The rent is to be reviewed on the rent review dates stated in item 16 in the schedule.

If this lease is extended by legislation, the rent review dates include each anniversary of the latest rent review date stated in item 16 in the schedule (or if none is stated each anniversary of the commencement date) which falls during the extension.

- 5.5 The lessee must continue to pay rent at the old rate until the new rate is known. After that, the lessee is to pay the new rent from the next rent day. By that rent day the lessee is also to pay any shortfall between the old and new rate for the period since the rent review date. Alternatively, the lessor is to refund to the lessee any overpayment of rent.

- 5.6 There are three different methods described here for fixing the new rent on a rent review date. The method agreed by the lessor and the lessee is stated at item 16 in the schedule. The lessee is entitled to a reduction if the method produces a rent lower than the rent current just before the review date.

Method 1. By a fixed amount or percentage.

- 5.7 In this case the rent beginning on each review date will be increased by the percentage or amount stated in item 16 in the schedule.

Method 2. By reference to Consumer Price Index.

- 5.8 In this case –

- take the yearly rent as of the last review date or if none, the rent at the commencement date (\$X),
- divide that rent by the Consumer Price Index Number for Sydney (All Groups) for the quarter ended just before that date (CPI 1),
- multiply the result by the Consumer Price Index Number for Sydney (All Groups) for the quarter ended just before the review date (CPI 2).

The product is the new rent for the year beginning on the review date (\$Y), written as a formula –

$$\frac{\$X}{\text{CPI 1}} \times \text{CPI 2} = \$Y$$

- 5.9 The lessor must calculate the new rent after each review date and give the lessee written notice of the new rent.
- 5.10 If the Australian Bureau of Statistics makes a change in the reference base of the index and there is a published co-relation between the old and new base then the published co-relation is to be applied to convert the CPI 1 figure to the new reference base. If there is none then the lessor and the lessee agree to accept the calculations of the lessor's solicitor who must be retained to determine a fair co-relation between the old and the new series of numbers.
- 5.11 If the index used to calculate the new rent is discontinued the lessor may substitute another index that, as nearly as practicable, serves the same purpose and, if there is no such index, then the rent will be fixed by Method 3.

Method 3. By reference to current market rent.

- 5.12 In this case the rent is to be the current market rent. This can be higher or lower than the rent payable at the rent review date and is the rent that would reasonably be expected to be paid for the property, determined on an effective rent basis, having regard to the following matters –
- 5.12.1 the provisions of this lease;
 - 5.12.2 the rent that would reasonably be expected to be paid for the property if it were unoccupied and offered for renting for the same or a substantially similar use to which the property may be put under this lease;
 - 5.12.3 the gross rent, less the lessor's outgoings payable by the lessee;
 - 5.12.4 where the property is a retail shop, rent concessions and other benefits that are frequently or generally offered to prospective lessees of unoccupied retail shops; and
 - 5.12.5 the value of goodwill created by the lessee's occupation and the value of lessee's fixtures and fittings are to be ignored.

- 5.13 The lessor or the lessee can inform the other in writing at least 60 days before the rent review date of the rent that the lessor or lessee thinks will be the current market rent at the review date.
- 5.14 If the lessor and the lessee agree on a new rent then that rent will be the new rent beginning on the rent review date and the lessor and the lessee must sign a statement saying so.
- 5.15 If the lessor and the lessee do not agree on the amount of the new rent 30 days before the rent review date, the current market rent will be decided by a valuer appointed under clause 5.16.
- 5.16
- 5.16.1 Unless 5.16.2 applies the lessor and the lessee can either agree upon a valuer or can ask the President of the Law Society of New South Wales to nominate a person who is a licensed valuer to decide the current market rent.
- 5.16.2 Where the property is a retail shop, the valuer appointed must be a specialist retail valuer appointed by agreement of the parties or, failing agreement, by the Administrative Decisions Tribunal.
- 5.17 The valuer will act as an expert not an arbitrator. The lessor and the lessee can each make submissions in writing to the valuer within 14 days after they receive notice of the valuer's appointment but not later unless the valuer agrees.
- 5.18 The valuer's decision is final and binding. The valuer must state how the decision was reached.
- 5.19 If the valuer
- 5.19.1 does not accept the nomination to act; or
- 5.19.2 does not decide the current market rent within 1 month after accepting the nomination; or
- 5.19.3 becomes incapacitated or dies; or
- 5.19.4 resigns,
- then another valuer is to be appointed in the same way.
- 5.20 The lessor and lessee must each pay half the valuer's costs.
- 5.21 If the lessor and lessee do not agree upon a valuer and neither asks for a valuer to be nominated before –
- 5.21.1 the next rent review date passes; or
- 5.21.2 this lease ends without the lessee renewing it; or
- 5.21.3 this lease is transferred after the rent review date with the lessor's consent; or
- 5.21.4 the property is transferred after the rent review date
- then the rent will not change on that rent review date.

CLAUSE 6 USE

How must the property be used?

- 6.1 The lessee must –
- 6.1.1 use the property for the purpose stated in item 17 in the schedule and not for any other purpose;
- 6.1.2 open for business at times usual for a business of the kind conducted by the lessee;
- 6.1.3 keep the property clean and dispose of waste properly; and
- 6.1.4 comply with all laws relating to strata schemes and all other laws regulating how the property is used, obtain any consents or licences needed, comply with any conditions of consent, and keep current any licences or registrations needed for the use of the property or for the conduct of the lessee's business there.
- 6.1.5 where the property is a lot in a strata scheme:
- 6.1.5.1 use the lessor's common property only in connection with the use of the property;
- 6.1.5.2 co-operate with all other permitted users of the common property;
- 6.1.5.3 comply with so many of the provisions of the *Strata Schemes Management Act 1996* and the *Strata Schemes (Freehold Development) Act 1973* and the by-laws and all lawful orders, motions and directives under these Acts as may be applicable to the exercise of the lessee's rights and obligations under this lease.

- 6.2 The lessor can consent to a change of use and cannot withhold consent unreasonably.
- 6.3 The lessee must not –
- 6.3.1 do anything that might invalidate any insurance policy covering the property or that might increase the premium unless the lessor consents in which case the lessee must pay the increased premium; or
 - 6.3.2 use the property as a residence or for any activity that is dangerous, offensive, noxious, illegal or immoral or that is or may become a nuisance or annoyance to the lessor or to the owner or occupier of any neighbouring property; or
 - 6.3.3 hold any auction, bankrupt or fire sale in the property; or
 - 6.3.4 display signs or advertisements on the outside of the property, or that can be seen from the outside, unless the lessor consents (but the lessor cannot withhold consent unreasonably);
 - 6.3.5 overload the floors or walls of the property; or
 - 6.3.6 without the prior written consent of the lessor and/or the owners corporation, use the common property for any purpose other than for access to and egress from the property.

CLAUSE 7 CONDITION AND REPAIRS

Who is to repair the property?

- 7.1 The lessor must –
- 7.1.1 maintain in a state of good condition and serviceable repair the roof, the ceiling, the external walls and external doors and associated door jambs, and the floors of the property and must fix structural defects;
 - 7.1.2 maintain the property in a structurally sound condition; and
 - 7.1.3 maintain essential services.
- 7.2 The lessee must otherwise maintain the property in its condition at the commencement date and promptly do repairs needed to keep it in that condition but the lessee does not have to –
- 7.2.1 alter or improve the property; or
 - 7.2.2 fix structural defects; or
 - 7.2.3 repair fair wear and tear.
- 7.3 The lessee must also –
- 7.3.1 reimburse the lessor for the cost of fixing structural damage caused by the lessee, apart from fair wear and tear;
 - 7.3.2 maintain and decorate the shop front if the property has one;
 - 7.3.3 decorate the inside of the property in the last 3 months of the lease period (however it ends) – ‘decorate’ here means restoring the surfaces of the property in a style and to a standard of finish originally used e.g. by repainting;
 - 7.3.4 where the property is a lot in a strata scheme:
 - 7.3.4.1 meet the cost of all damage to the common property occasioned by the lessee or any invitee or licensee of the lessee; and
 - 7.3.4.2 permit the owners corporation, temporarily, to close any part of the common property for the purpose of making and effecting repairs to it.
- 7.4 If an authority requires work to be done on the property and it is structural work or work needed to make the property safe to use then the lessor must do the work unless it is required only because of the way the lessee uses the property. But if it is any other work or is required only because of the way the lessee uses the property then the lessee must do the work.
- 7.5 If the lessee fails to do any work that the lessee must do the lessor can give the lessee a notice in writing stating what the lessee has failed to do. After the notice is given the lessee must –
- 7.5.1 do the work immediately if there is an emergency; and
 - 7.5.2 do the work promptly and diligently in any other case.

If the lessee does not do the work, the lessor can do it and the lessee must reimburse the lessor for the cost of the work.

- 7.6 The lessee must not make any structural alterations to the property. Any other alterations require the lessor's consent in writing (but the lessor cannot withhold consent unreasonably).

CLAUSE 8 INSURANCE AND DAMAGE

What insurances must the lessee take out?

- 8.1 The lessee must keep current an insurance policy covering –
- 8.1.1 liability to the public in an amount not less than the amount stated in item 18 in the schedule (for each accident or event); and
 - 8.1.2 damage or destruction from any cause to all plate glass in the windows and other portions of the property
- and must produce to the lessor, upon request, the policy and the receipt for the last premium.

What happens if the property is damaged?

- 8.2 If the property or the building of which it is part is damaged (a term which includes destroyed) –
- 8.2.1 the lessee is not liable to pay rent, or any amount payable to the lessor in respect of outgoings and other charges, that is attributable to any period during which the property cannot be used under this lease or is inaccessible due to that damage;
 - 8.2.2 if the property is still useable under this lease but its useability is diminished due to the damage, the lessee's liability for rent and any amount in respect of outgoings attributable to any period during which useability is diminished is reduced in proportion to the reduction in useability caused by the damage;
 - 8.2.3 if the lessor notifies the lessee in writing that the lessor considers that the damage is such as to make its repair impracticable or undesirable, the lessor or the lessee can terminate this lease by giving not less than 7 days notice in writing of termination to the other and no compensation is payable in respect of that termination;
 - 8.2.4 if the lessor fails to repair the damage within a reasonable time after the lessee requests the lessor to do so the lessee can terminate this lease by giving not less than 7 days notice in writing of termination to the lessor; and
 - 8.2.5 nothing in clause 8.2 affects any right of the lessor to recover damages from the lessee in respect of any damage or destruction to which the clause applies.

CLAUSE 9 ACCESS

What are the lessor's rights of access to the property?

- 9.1 The lessee must give the lessor (or anyone authorised in writing by the lessor) access to the property at any reasonable time for the purpose of –
- 9.1.1 inspecting the condition of the property, or how it is being used; or
 - 9.1.2 doing anything that the lessor can or must do under this lease or must do by law; or
 - 9.1.3 viewing the property as a valuer, prospective buyer or mortgagee; or
 - 9.1.4 fixing a notice in a reasonable position on the outside of the property saying that it is for sale; or
 - 9.1.5 viewing the property as a prospective lessee not earlier than 6 months before the lease period ends; or
 - 9.1.6 fixing a notice not earlier than 6 months before the lease period ends in a reasonable position on the outside of the property saying that it is to let; or
 - 9.1.7 inspecting, cleaning or repairing another property or any services to another property.
- 9.2 The lessor must give the lessee at least 2 days written notice for access (except in an emergency). The day of the giving of the notice and any Saturday, Sunday or public holiday on which the property is not open for business are not counted.
- 9.3 The lessor must promptly make good any damage caused to the property and to any of the lessee's belongings which results from exercising these rights.
- 9.4 The lessee must give to the lessor a copy of any notice relating to the property or relating to any neighbouring property immediately after receiving the notice.

CLAUSE 10 TRANSFER AND SUB-LEASE**Can this lease be transferred or the property shared or sub-let?**

- 10.1 The lessee must not transfer this lease without consent.
- 10.2 The lessor can withhold consent only if –
- 10.2.1 the proposed transferee proposes to change the use to which the property is put; or
 - 10.2.2 where the property is a retail shop, the proposed transferee has financial resources or retailing skills inferior to those of the proposed transferor and otherwise the proposed transferee has financial resources or business experience inferior to those of the proposed transferor; or
 - 10.2.3 the lessee has not complied with clause 10.3 and, where the property is a retail shop, clause 10.4.
- 10.3 A request for the lessor's consent to a transfer of lease must be made in writing and the lessee must provide the lessor with such information as the lessor may reasonably require concerning the financial standing and business experience of the proposed transferee.
- 10.4 Where the property is a retail shop, before requesting the consent of the lessor to a proposed transfer of this lease, the lessee must furnish the proposed transferee with a copy of any disclosure statement given to the lessee in respect of this lease, together with details of any changes that have occurred in respect of the information contained in the disclosure statement (being changes of which the lessee was aware or could reasonably be expected to be aware). For the purpose of enabling the lessee to comply with this obligation, the lessee can request the lessor to provide the lessee with a copy of the disclosure statement concerned and, if the lessor is unable or unwilling to comply with such a request within 14 days after it is made, this clause 10.4 does not apply.
- 10.5 Where the lessee has complied with clause 10.3 and where required to do so clause 10.4, and the lessor has not within 42 days or where the *Retail Leases Act 1994* applies 28 days after the request was made or the lessee has complied with paragraphs 41(a) and 41(b) of that Act, whichever is the later, given notice in writing to the lessee either consenting or withholding consent, the lessor is taken to have consented.
- 10.6 The lessee has to pay in connection with any consent the lessor's reasonable legal costs, the reasonable costs of obtaining any mortgagee's consent, the stamp duty and the registration fee for the transfer.
- 10.7 Where the property is a retail shop, the lessee can sub-let, grant a licence or concession, share or part with the possession of the whole or any part of the property or mortgage or otherwise charge or encumber the lessee's estate or interest in this lease only with the written consent of the lessor which can be refused in the lessor's absolute discretion. Otherwise, the lessee cannot do any of these things.

CLAUSE 11 LESSOR'S OTHER OBLIGATIONS**What are the lessor's other obligations?**

- 11.1 So long as the lessee does all the things that must be done by the lessee under this lease the lessor must allow the lessee to possess and use the property in any way permitted under this lease without interference from the lessor, or any person claiming under the lessor or having superior title to the title of the lessor.
- 11.2 The lessor must pay all outgoing for the land or the building of which the property is part when they fall due.
- 11.3 If the property is part of a building owned or controlled by the lessor –
- 11.3.1 the lessor must maintain in reasonable structural condition all parts of the building that the lessee can use under this lease; and
 - 11.3.2 if the property has facilities and service connections shared in common with other persons the lessor must –
 - 11.3.2.1 allow reasonable use of the facilities and service connections including –
 - the right for the lessee and other persons to come and go to and from the property over the areas provided for access;
 - access by the lessee to service connections; and
 - the right for the lessee's customers to park vehicles in any area set aside for customer parking, subject to any reasonable rules made by the lessor.
 - 11.3.2.2 maintain the facilities and service connections in reasonable condition.

- 11.4 Where registration is necessary for the validity of this lease, the lessor must ensure that this lease is registered.
- 11.5 If a consent is needed for this lease, from someone such as a mortgagee or head lessor of the property, then the lessor must get the consent.

CLAUSE 12 FORFEITURE AND END OF LEASE

When does this lease end?

- 12.1 This lease ends –
- 12.1.1 on the date stated in item 3 in the schedule; or
 - 12.1.2 if the lessor lawfully enters and takes possession of any part of the property; or
 - 12.1.3 if the lessor lawfully demands possession of the property.
- 12.2 The lessor can enter and take possession of the property or demand possession of the property if –
- 12.2.1 the lessee has repudiated this lease; or
 - 12.2.2 rent or any other money due under this lease is 14 days overdue for payment; or
 - 12.2.3 the lessee has failed to comply with a lessor's notice under section 129 of the *Conveyancing Act 1919*; or
 - 12.2.4 the lessee has not complied with any term of this lease where a lessor's notice is not required under section 129 of the *Conveyancing Act 1919* and the lessor has given at least 14 days written notice of the lessor's intention to end this lease.
- 12.3 When this lease ends, unless the lessee becomes a lessee of the property under a new lease the lessee must –
- 12.3.1 return the property to the lessor in the state and condition that this lease requires the lessee to keep it in; and
 - 12.3.2 have removed any goods and anything that the lessee fixed to the property and have made good any damage caused by the removal.
- Anything not removed becomes the property of the lessor who can keep it or remove and dispose of it and charge to the lessee the cost of removal, making good and disposal.
- 12.4 If the lessor allows the lessee to continue to occupy the property after the end of the lease period (other than under a new lease) then –
- 12.4.1 the lessee becomes a monthly lessee and must go on paying the same rent and other money in the same way that the lessee had to do under this lease just before the lease period ended (apportioned and payable monthly);
 - 12.4.2 the monthly tenancy will be on the same terms as this lease, except for –
 - clause 4;
 - clauses 5.4 to 5.21 inclusive; and
 - clause 6.2 unless consent has previously been given;
 - 12.4.3 either the lessor or the lessee can end the monthly tenancy by giving, at any time, 1 month written notice to the other expiring on any date; and
 - 12.4.4 anything that the lessee must do by the end of this lease must be done by the end of the monthly tenancy.
- 12.5 Essential terms of this lease include –
- 12.5.1 the obligation to pay rent not later than 14 days after the due date for payment of each periodic instalment (and this obligation stays essential even if the lessor, from time to time, accepted late payment);
 - 12.5.2 the obligations of the lessee in clause 5.1.2 (dealing with outgoing);
 - 12.5.3 the obligations of the lessee in clause 6.1 (dealing with use);
 - 12.5.4 the obligations of the lessee in clause 7 (dealing with repairs);
 - 12.5.5 the obligations of the lessee in clause 10 (dealing with transfer and sub-lease); and
 - 12.5.6 the obligations of the lessee in clause 15 (dealing with GST).

- 12.6 If there is a breach of an essential term the lessor can recover damages for losses over the entire period of this lease but must do every reasonable thing to mitigate those losses and try to lease the property to another lessee on reasonable terms.
- 12.7 The lessor can recover damages even if –
- 12.7.1 the lessor accepts the lessee's repudiation of this lease; or
 - 12.7.2 the lessor ends this lease by entering and taking possession of any part of the property or by demanding possession of the property; or
 - 12.7.3 the lessee abandons possession of the property; or
 - 12.7.4 a surrender of this lease occurs.

CLAUSE 13 GUARANTEE

What are the obligations of a guarantor?

- 13.1 This clause applies if a guarantor of the lessee is named in item 10A in the schedule and has signed or executed this lease or, if this lease is a renewal of an earlier lease, the earlier lease.
- 13.2 The guarantor guarantees to the lessor the performance by the lessee of all the lessee's obligations (including any obligation to pay rent, outgoings or damages) under this lease, under every extension of it or under any renewal of it or under any tenancy and including obligations that are later changed or created.
- 13.3 If the lessee does not pay any money due under this lease, under any extension of it or under any renewal of it or under any tenancy the guarantor must pay that money to the lessor on demand even if the lessor has not tried to recover payment from the lessee.
- 13.4 If the lessee does not perform any of the lessee's obligations under this lease, under any extension of it or under any renewal of it or under any tenancy the guarantor must compensate the lessor even if the lessor has not tried to recover compensation from the lessee.
- 13.5 If the lessee is insolvent and this lease or any extension or renewal of it is disclaimed the guarantor is liable to the lessor for any damage suffered by the lessor because of the disclaimer. The lessor can recover damages for losses over the entire period of this lease or any extension or renewal but must do every reasonable thing to mitigate those losses and try to lease the property to another lessee on reasonable terms.
- 13.6 Even if the lessor gives the lessee extra time to comply with an obligation under this lease, under any extension of it or under any renewal of it or under any tenancy, or does not insist on strict compliance with the terms of this lease or any extension of it or renewal of it or of any tenancy, the guarantor's obligations are not affected.
- 13.7 If an amount is stated in item 10B in the schedule the guarantor's liability under this clause is limited to that amount.
- 13.8 The terms of this guarantee apply even if this lease is not registered, even if any obligation of the lessee is only an equitable one, and even if this lease is extended by legislation.

CLAUSE 14 EXCLUSIONS, NOTICES AND SPECIAL CLAUSES

- 14.1 No covenant or power is implied in this lease by section 84 or 85 of the *Conveyancing Act 1919*.
- 14.2 A document under or relating to this lease is –
- 14.2.1 served if it is served in any manner provided in section 170 of the *Conveyancing Act 1919*; and
 - 14.2.2 served on the lessee if it is left at the property.
- 14.3 This lease is subject to any legislation that cannot be excluded (for example, the *Retail Leases Act 1994*).
- 14.4 In this lease, 'retail shop' means premises to which the *Retail Leases Act 1994* applies.
- 14.5 In this lease 'Director General' has the same meaning as in the *Retail Leases Act 1994*.

CLAUSE 15 GOODS AND SERVICES TAX

Unless item 13B in the schedule has been completed in a way that indicates that this clause is not to apply:

- 15.1 As consideration in whole or in part for a taxable supply the person receiving the supply must pay to the party making the supply an additional amount equal to the amount of GST payable on the supply.
- 15.2 To the extent that the lessee is required to reimburse the lessor in whole or in part for outgoings incurred by the lessor, for the purposes of this lease the amount of the outgoings must be reduced by the amount of any credit or refund of GST to which the lessor is entitled as a result of incurring outgoings.
- 15.3 Outgoings in item 14B in the schedule are to be calculated after deducting any input tax credit to which the lessor is entitled.
- 15.4 For the purposes of this lease GST means a tax in the nature of a supply of goods and services tax levied or imposed by the Commonwealth of Australia.

CLAUSE 16 BANK GUARANTEE

- 16.1 If a number of months appears in item 19 in the schedule, clauses 16.2 to 16.5 apply.
- 16.2 On or before the commencement date of this lease the lessee will deliver to the lessor a guarantee by a bank trading in the State of New South Wales in the form of an unconditional and irrevocable undertaking to pay drawn in favour of the lessor (unlimited as to time) in a form acceptable to the lessor and for an amount equivalent to the number of months referred to in item 19 in the schedule.
- 16.3 The lessor is entitled to claim under the guarantee an amount equal to any moneys due but unpaid by the lessee to the lessor under this lease.
- 16.4 The lessee agrees to vary the amount of the guarantee immediately upon each rent review so that the amount at all times represents the equivalent of the number of months referred to in the schedule.
- 16.5 The lessor will deliver the guarantee (or so much of it as is then held by the lessor) to the lessee on the last of:
 - 16.5.1 the terminating date of this lease;
 - 16.5.2 the expiry date of any holding over under this lease; and
 - 16.5.3 the date that the lessee has no further obligations under this lease or at law.

CLAUSE 17 SECURITY DEPOSIT

- 17.1 If an amount or a number of months appears in item 20 in the schedule, clauses 17.2 to 17.6 apply.
- 17.2 On or before the commencement date of this lease the lessee will deliver the security deposit to the lessor.
- 17.3 The lessor is entitled to deduct from the security deposit an amount equal to any monies due but unpaid by the lessee to the lessor under this lease.
- 17.4 Where the property is a retail shop, the security deposit will be held in accordance with Section 16C of the *Retail Leases Act 1994*. The lessee will not make an application to the Director General seeking the return of the security deposit (or so much of it as is then held by the Director General) until the later of:
 - 17.4.1 the terminating date of this lease;
 - 17.4.2 the expiry date of any holding over under this lease; and
 - 17.4.3 the date that the lessee has no further obligations under this lease or at law.
- 17.5 Where the property is other than a retail shop the security deposit (or so much of it as is then held by the lessor) will be returned to the lessee on the later of the dates as specified in clause 17.4.
- 17.6 The lessee agrees to vary the amount of the security deposit immediately upon each rent review so that it represents the equivalent of the number of months referred to in the schedule.

CLAUSE 18 STRATA CONVERSION

- 18.1 "Owners corporation", "owner", "strata scheme", "lot" and "parcel" where used in this lease have the meanings given under the *Strata Schemes Management Act 1996* and the *Strata Schemes (Freehold Development) Act 1973*.

- 18.2 “Strata Acts” means the *Strata Schemes Management Act 1996* and the *Strata Schemes (Freehold Development) Act 1973*, and includes any amending Acts, rules, regulations, ordinances, by-laws, statutory instruments, orders or notices now or hereafter made under those Acts.
- 18.3 “Strata conversion” means a subdivision of the property under the *Strata Schemes (Freehold Development) Act 1973* or the *Community Land Development Act 1989* or the *Community Land Management Act 1989* or other legislation permitting such subdivision.
- 18.4 Strata Titles
- 18.4.1 Lessee consents to registration of strata plan
- 18.4.1.1 By its entry into this lease the lessee acknowledges that the lessor can register a strata plan, a strata schemes plan, a strata plan of subdivision, a strata plan of consolidation or a building alteration plan insofar as any of these may relate to the property, the Building or the land. The lessor will provide the lessee with copies of the proposed strata plan and associated documentation for the lessee’s approval, which approval will not be unreasonably withheld.
- 18.4.1.2 Provided the lessee consents to the strata conversion as per clause 18.4.1.1 then within 7 days of written request by the lessor the lessee will sign and return to the lessor any consents or other documents necessary to enable the lessor to carry out the strata conversion and will make no objection or claim for compensation in relation to the strata conversion.
- 18.4.2 Compliance with the Strata Acts and by-laws:
- 18.4.2.1 **(Covenant):** The lessee and any and all persons acting by, through or under it or with its authority express or implied shall comply with so many of the provisions of the Strata Acts and the by-laws and all lawful orders, motions and directives under the Strata Acts as may be applicable to the exercise of the lessee’s rights and obligations under the provisions elsewhere contained in this lease.
- 18.4.2.2 **Not to prejudice interests of owners corporation.** Without the prior written consent of the owners corporation, the lessee shall not do any act, matter or thing under the exercise of its rights and obligations elsewhere contained in this lease or permit or allow any act, matter or thing to be done which shall or may:
- increase the rate of premium payable by the owners corporation under any policy of insurance taken out by the owners corporation; or
 - invalidate, avoid or suspend the operation of any such policy of insurance or otherwise prejudice the owners corporation rights under any such policy.
- 18.4.2.3 Upon the occurrence of any of the matters previously referred to the lessee shall:
- pay to the lessor or such other person responsible for payment any amounts payable to the owners corporation as a consequence of any such matters;
 - pay to the lessor for and on behalf of the owners corporation any amounts payable by the owners corporation as a consequence of any such matters and not the subject of clause 18.4.2.2; and
 - pay to the lessor for and on behalf of the owners corporation the amount of any and all losses and damages arising from the occurrence of any such matters.
- 18.4.2.4 **(Indemnity):** The lessee shall indemnify the lessor for any loss or damage suffered by the lessor if the lessee or the lessee’s employees fail to comply with the obligations as to conduct imposed upon the lessee or the lessee’s employees by this lease or by reason of the Strata Acts.
- 18.4.3 If the strata conversion occurs:
- 18.4.3.1 any reference in this lease will be deemed to be a reference to the buildings comprised in the registered plan or plans of which the property forms part;
- 18.4.3.2 any levies or other monies payable to the owners corporation will be payable by the lessee with the exception of any contribution to a sinking fund or special levy; and
- 18.4.3.3 this lease will be deemed to be amended in any respect that is necessary to ensure that this lease reflects that the strata conversion has been carried out.

IMPORTANT NOTES

The following notes are for guidance and do not form part of this lease.

If you are a lessor, a solicitor will prepare this lease for you.

If you are a lessee, a solicitor can advise you about it.

1. This document creates legal rights and legal obligations.
2. Failure to register a lease can have serious consequences.
3. If an option for renewal is not exercised at the right time it will be lost.
4. The lessee can exercise an option for renewal even if there has been a breach of this lease in a case where section 133E of the *Conveyancing Act 1919* applies. The lessor must give a prescribed notice within 14 days after the option is exercised if the lessor wants to rely on the breach to prevent the exercise of the option.
5. The Law Society of New South Wales is not to be responsible for any loss resulting from the use of this lease as printed whether authorised or not.

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I certify that this and the preceding twelve pages are in exactly the same wording as Annexure B of the copyright Law Society Lease.

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 Solicitor for the lessor