

7/32 Remembrance Avenue
Warwick Farm NSW 2170

Draft Contract

McGrath

Contract for the sale and purchase of land 2019 edition

TERM	MEANING OF TERM	NSW DAN:
vendor's agent	McGrath Real Estate - Liverpool 265B Macquarie Street, Liverpool, NSW 2170	Phone: 02 9824 1100 Fax: 02 9824 1120 Ref: Daniela Mancuso
co-agent		
vendor	Dusan Dautovic 27/18 Mannix Parade, Warwick Farm, NSW 2170	
vendor's solicitor	Donna Fuchs Conveyancing Suite 21a, 171-179 Queen Street, Campbelltown NSW 2560 DX 5110 Campbelltown	Phone: (02) 4627 0056 Fax: (02) 4627 0058 Ref: DF:SL:20/4652 Email: enquiries@donnafuchs.com.au
date for completion land (address, plan details and title reference)	42nd day after the contract date 7/32 Remembrance Avenue, Warwick Farm, New South Wales 2170 Registered Plan: Lot 7 Plan SP 8126 Folio Identifier 7/SP8126	(clause 15)
improvements	<input checked="" type="checkbox"/> VACANT POSSESSION <input type="checkbox"/> subject to existing tenancies <input type="checkbox"/> HOUSE <input type="checkbox"/> garage <input type="checkbox"/> carport <input checked="" type="checkbox"/> home unit <input type="checkbox"/> carspace <input type="checkbox"/> storage space <input type="checkbox"/> none <input type="checkbox"/> other:	
attached copies	<input type="checkbox"/> documents in the List of Documents as marked or as numbered: <input type="checkbox"/> other documents:	

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

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

buyer's agent

vendor

GST AMOUNT (optional)

The price includes

GST of: \$

witness

purchaser JOINT TENANTS tenants in common in unequal shares

witness

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

PEXA

Electronic transaction (clause 30) no YES

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

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

Land tax is adjustable

 NO yes

GST: Taxable supply

 NO yes in full yes to an extent

Margin scheme will be used in making the taxable supply

 NO yes

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

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

Purchaser must make a **GSTRW payment**
(GST residential withholding payment)

NO yes (if yes, vendor must provide
further details)

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

GSTRW payment (GST residential withholding payment) – further details

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

Supplier's name:

Supplier's ABN:

Supplier's GST branch address (if applicable):

Supplier's business address:

Supplier's email address:

Supplier's phone number:

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

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

Amount purchaser must pay – price multiplied by the **GSTRW rate** (residential withholding rate):Amount must be paid: AT COMPLETION at another time (specify):Is any of the consideration not expressed as an amount in money? NO yes

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

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

List of Documents

General	Strata or community title (clause 23 of the contract)
<input checked="" type="checkbox"/> 1 property certificate for the land	<input checked="" type="checkbox"/> 32 property certificate for strata common property
<input type="checkbox"/> 2 plan of the land	<input checked="" type="checkbox"/> 33 plan creating strata common property
<input type="checkbox"/> 3 unregistered plan of the land	<input checked="" type="checkbox"/> 34 strata by-laws
<input type="checkbox"/> 4 plan of land to be subdivided	<input type="checkbox"/> 35 strata development contract or statement
<input type="checkbox"/> 5 document that is to be lodged with a relevant plan	<input type="checkbox"/> 36 strata management statement
<input checked="" type="checkbox"/> 6 section 10.7(2) planning certificate under Environmental Planning and Assessment Act 1979	<input type="checkbox"/> 37 strata renewal proposal
<input type="checkbox"/> 7 additional information included in that certificate under section 10.7(5)	<input type="checkbox"/> 38 strata renewal plan
<input checked="" type="checkbox"/> 8 sewerage infrastructure location diagram (service location diagram)	<input type="checkbox"/> 39 leasehold strata - lease of lot and common property
<input checked="" type="checkbox"/> 9 sewer lines location diagram (sewerage service diagram)	<input type="checkbox"/> 40 property certificate for neighbourhood property
<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"/> 41 plan creating neighbourhood property
<input type="checkbox"/> 11 <i>planning agreement</i>	<input type="checkbox"/> 42 neighbourhood development contract
<input type="checkbox"/> 12 section 88G certificate (positive covenant)	<input type="checkbox"/> 43 neighbourhood management statement
<input type="checkbox"/> 13 survey report	<input type="checkbox"/> 44 property certificate for precinct property
<input type="checkbox"/> 14 building information certificate or building certificate given under <i>legislation</i>	<input type="checkbox"/> 45 plan creating precinct property
<input type="checkbox"/> 15 lease (with every relevant memorandum or variation)	<input type="checkbox"/> 46 precinct development contract
<input type="checkbox"/> 16 other document relevant to tenancies	<input type="checkbox"/> 47 precinct management statement
<input type="checkbox"/> 17 licence benefiting the land	<input type="checkbox"/> 48 property certificate for community property
<input type="checkbox"/> 18 old system document	<input type="checkbox"/> 49 plan creating community property
<input type="checkbox"/> 19 Crown purchase statement of account	<input type="checkbox"/> 50 community development contract
<input type="checkbox"/> 20 building management statement	<input type="checkbox"/> 51 community management statement
<input checked="" type="checkbox"/> 21 form of requisitions	<input type="checkbox"/> 52 document disclosing a change of by-laws
<input type="checkbox"/> 22 <i>clearance certificate</i>	<input type="checkbox"/> 53 document disclosing a change in a development or management contract or statement
<input type="checkbox"/> 23 land tax certificate	<input type="checkbox"/> 54 document disclosing a change in boundaries
Home Building Act 1989	<input type="checkbox"/> 55 information certificate under Strata Schemes Management Act 2015
<input type="checkbox"/> 24 insurance certificate	<input type="checkbox"/> 56 information certificate under Community Land Management Act 1989
<input type="checkbox"/> 25 brochure or warning	<input type="checkbox"/> 57 disclosure statement - off the plan contract
<input type="checkbox"/> 26 evidence of alternative indemnity cover	<input type="checkbox"/> 58 other document relevant to off the plan contract
Swimming Pools Act 1992	Other
<input type="checkbox"/> 27 certificate of compliance	<input type="checkbox"/> 59
<input type="checkbox"/> 28 evidence of registration	
<input type="checkbox"/> 29 relevant occupation certificate	
<input type="checkbox"/> 30 certificate of non-compliance	
<input type="checkbox"/> 31 detailed reasons of non-compliance	

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

Southern Cross Strata Management
 PO Box 130, LIVERPOOL NSW 1871 Phone: 02 9734 7344
 admin@scstrata.com.au

IMPORTANT NOTICE TO VENDORS AND PURCHASERS

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

WARNING—SMOKE ALARMS

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

WARNING—LOOSE-FILL ASBESTOS INSULATION

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

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

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

COOLING OFF PERIOD (PURCHASER'S RIGHTS)

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

DISPUTES

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

AUCTIONS

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

WARNINGS

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

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

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

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

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

<i>adjustment date</i>	the earlier of the giving of possession to the purchaser or completion;
<i>bank</i>	the Reserve Bank of Australia or an authorised deposit-taking institution which is a bank, a building society or a credit union;
<i>business day</i>	any day except a bank or public holiday throughout NSW or a Saturday or Sunday;
<i>cheque</i>	a cheque that is not postdated or stale;
<i>clearance certificate</i>	a certificate within the meaning of s14-220 of Schedule 1 to the <i>TA Act</i> , that covers one or more days falling within the period from and including the contract date to completion;
<i>deposit-bond</i>	a deposit bond or guarantee from an issuer, with an expiry date and for an amount each approved by the vendor;
<i>depositholder</i>	vendor's agent (or if no vendor's agent is named in this contract, the vendor's <i>solicitor</i> , or if no vendor's <i>solicitor</i> is named in this contract, the buyer's agent);
<i>document of title</i>	document relevant to the title or the passing of title;
<i>FRCGW percentage</i>	the percentage mentioned in s14-200(3)(a) of Schedule 1 to the <i>TA Act</i> (12.5% as at 1 July 2017);
<i>FRCGW remittance</i>	a remittance which the purchaser must make under s14-200 of Schedule 1 to the <i>TA Act</i> , being the lesser of the <i>FRCGW percentage</i> of the price (inclusive of GST, if any) and the amount specified in a <i>variation served by a party</i> ;
<i>GST Act</i>	A New Tax System (Goods and Services Tax) Act 1999;
<i>GST rate</i>	the rate mentioned in s4 of A New Tax System (Goods and Services Tax Imposition - General) Act 1999 (10% as at 1 July 2000);
<i>GSTRW payment</i>	a payment which the purchaser must make under s14-250 of Schedule 1 to the <i>TA Act</i> (the price multiplied by the <i>GSTRW rate</i>);
<i>GSTRW rate</i>	the rate determined under s14-250(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>legislation</i>	an Act or a by-law, ordinance, regulation or rule made under an Act;
<i>normally</i>	subject to any other provision of this contract;
<i>party</i>	each of the vendor and the purchaser;
<i>property</i>	the land, the improvements, all fixtures and the inclusions, but not the exclusions;
<i>planning agreement</i>	a valid voluntary agreement within the meaning of s7.4 of the Environmental Planning and Assessment Act 1979 entered into in relation to the <i>property</i> ;
<i>requisition</i>	an objection, question or requisition (but the term does not include a claim);
<i>rescind</i>	rescind this contract from the beginning;
<i>serve</i>	serve in writing on the other <i>party</i> ;
<i>settlement cheque</i>	an unendorsed <i>cheque</i> made payable to the person to be paid and – <ul style="list-style-type: none"> • 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 22 of the Swimming Pools Regulation 2018).

2 Deposit and other payments before completion

- 2.1 The purchaser must pay the deposit to the *depositholder* as stakeholder.
- 2.2 *Normally*, the purchaser must pay the deposit on the making of this contract, and this time is essential.
- 2.3 If this contract requires the purchaser to pay any of the deposit by a later time, that time is also essential.
- 2.4 The purchaser can pay any of the deposit by giving cash (up to \$2,000) or by unconditionally giving a *cheque* to the *depositholder* or to the vendor, vendor's agent or vendor's *solicitor* for sending to the *depositholder* or by payment by electronic funds transfer to the *depositholder*.

- 2.5 If any of the deposit is not paid on time or a *cheque* for any of the deposit is not honoured on presentation, the vendor can *terminate*. This right to *terminate* is lost as soon as the deposit is paid in full.
- 2.6 If the vendor accepts a bond or guarantee for the deposit, clauses 2.1 to 2.5 do not apply.
- 2.7 If the vendor accepts a bond or guarantee for part of the deposit, clauses 2.1 to 2.5 apply only to the balance.
- 2.8 If any of the deposit or of the balance of the price is paid before completion to the vendor or as the vendor directs, it is a charge on the land in favour of the purchaser until *termination* by the vendor or completion, subject to any existing right.
- 2.9 If each *party* tells the *depositholder* that the deposit is to be invested, the *depositholder* is to invest the deposit (at the risk of the *party* who becomes entitled to it) with a *bank*, in an interest-bearing account in NSW, payable at call, with interest to be reinvested, and pay the interest to the *parties* equally, after deduction of all proper government taxes and financial institution charges and other charges.

3 Deposit-bond

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

4 Transfer

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

5 Requisitions

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

6 Error or misdescription

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

7 Claims by purchaser

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

8 Vendor's rights and obligations

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

9 Purchaser's default

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

10 Restrictions on rights of purchaser

- 10.1 The purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of –

- 10.1.1 the ownership or location of any fence as defined in the Dividing Fences Act 1991;
- 10.1.2 a service for the *property* being a joint service or passing through another property, or any service for another property passing through the *property* ('service' includes air, communication, drainage, electricity, garbage, gas, oil, radio, sewerage, telephone, television or water service);
- 10.1.3 a wall being or not being a party wall in any sense of that term or the *property* being affected by an easement for support or not having the benefit of an easement for support;
- 10.1.4 any change in the *property* due to fair wear and tear before completion;
- 10.1.5 a promise, representation or statement about this contract, the *property* or the title, not set out or referred to in this contract;
- 10.1.6 a condition, exception, reservation or restriction in a Crown grant;
- 10.1.7 the existence of any authority or licence to explore or prospect for gas, minerals or petroleum;
- 10.1.8 any easement or restriction on use the substance of either of which is disclosed in this contract or any non-compliance with the easement or restriction on use; or
- 10.1.9 anything the substance of which is disclosed in this contract (except a caveat, charge, mortgage, priority notice or writ).
- 10.2 The purchaser cannot *rescind* or *terminate* only because of a defect in title to or quality of the inclusions.
- 10.3 *Normally*, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* or require the vendor to change the nature of the title disclosed in this contract (for example, to remove a caution evidencing qualified title, or to lodge a plan of survey as regards limited title).
- 11 Compliance with work orders**
- 11.1 *Normally*, the vendor must by completion comply with a *work order* made on or before the contract date and if this contract is completed the purchaser must comply with any other *work order*.
- 11.2 If the purchaser complies with a *work order*, and this contract is *rescinded* or *terminated*, the vendor must pay the expense of compliance to the purchaser.
- 12 Certificates and inspections**
- The vendor must do everything reasonable to enable the purchaser, subject to the rights of any tenant –
- 12.1 to have the *property* inspected to obtain any certificate or report reasonably required;
- 12.2 to apply (if necessary in the name of the vendor) for –
- 12.2.1 any certificate that can be given in respect of the *property* under *legislation*; or
- 12.2.2 a copy of any approval, certificate, consent, direction, notice or order in respect of the *property* given under *legislation*, even if given after the contract date; and
- 12.3 to make 1 inspection of the *property* in the 3 days before a time appointed for completion.
- 13 Goods and services tax (GST)**
- 13.1 Terms used in this clause which are not defined elsewhere in this contract and have a defined meaning in the *GST Act* have the same meaning in this clause.
- 13.2 *Normally*, if a *party* must pay the price or any other amount to the other *party* under this contract, GST is not to be added to the price or amount.
- 13.3 If under this contract a *party* must make an adjustment or payment for an expense of another party or pay an expense payable by or to a third party (for example, under clauses 14 or 20.7) –
- 13.3.1 the *party* must adjust or pay on completion any GST added to or included in the expense; but
- 13.3.2 the amount of the expense must be reduced to the extent the party receiving the adjustment or payment (or the representative member of a GST group of which that party is a member) is entitled to an input tax credit for the expense; and
- 13.3.3 if the adjustment or payment under this contract is consideration for a taxable supply, an amount for GST must be added at the *GST rate*.
- 13.4 If this contract says this sale is the supply of a going concern –
- 13.4.1 the *parties* agree the supply of the *property* is a supply of a going concern;
- 13.4.2 the vendor must, between the contract date and completion, carry on the enterprise conducted on the land in a proper and business-like way;
- 13.4.3 if the purchaser is not registered by the date for completion, the *parties* must complete and the purchaser must pay on completion, in addition to the price, an amount being the price multiplied by the *GST rate* ("the retention sum"). The retention sum is to be held by the *depositholder* and dealt with as follows –
- if *within* 3 months of completion the purchaser *serves* a letter from the Australian Taxation Office stating the purchaser is registered with a date of effect of registration on or before completion, the *depositholder* is to pay the retention sum to the purchaser; but
 - if the purchaser does not *serve* that letter *within* 3 months of completion, the *depositholder* is to pay the retention sum to the vendor; and
- 13.4.4 if the vendor, despite clause 13.4.1, *serves* a letter from the Australian Taxation Office stating the vendor has to pay GST on the supply, the purchaser must pay to the vendor on demand the amount of GST assessed.
- 13.5 *Normally*, the vendor promises the margin scheme will not apply to the supply of the *property*.

- 13.6 If this contract says the margin scheme is to apply in making the taxable supply, the *parties* agree that the margin scheme is to apply to the sale of the *property*.
- 13.7 If this contract says the sale is not a taxable supply –
- 13.7.1 the purchaser promises that the *property* will not be used and represents that the purchaser does not intend the *property* (or any part of the *property*) to be used in a way that could make the sale a taxable supply to any extent; and
- 13.7.2 the purchaser must pay the vendor on completion in addition to the price an amount calculated by multiplying the price by the *GST rate* if this sale is a taxable supply to any extent because of –
- a breach of clause 13.7.1; or
 - something else known to the purchaser but not the vendor.
- 13.8 If this contract says this sale is a taxable supply in full and does not say the margin scheme applies to the *property*, the vendor must pay the purchaser on completion an amount of one-eleventh of the price if –
- 13.8.1 this sale is not a taxable supply in full; or
- 13.8.2 the margin scheme applies to the *property* (or any part of the *property*).
- 13.9 If this contract says this sale is a taxable supply to an extent –
- 13.9.1 clause 13.7.1 does not apply to any part of the *property* which is identified as being a taxable supply; and
- 13.9.2 the payments mentioned in clauses 13.7 and 13.8 are to be recalculated by multiplying the relevant payment by the proportion of the price which represents the value of that part of the *property* to which the clause applies (the proportion to be expressed as a number between 0 and 1). Any evidence of value must be obtained at the expense of the vendor.
- 13.10 *Normally*, on completion the vendor must give the recipient of the supply a tax invoice for any taxable supply by the vendor by or under this contract.
- 13.11 The vendor does not have to give the purchaser a tax invoice if the margin scheme applies to a taxable supply.
- 13.12 If the vendor is liable for GST on rents or profits due to issuing an invoice or receiving consideration before completion, any adjustment of those amounts must exclude an amount equal to the vendor's GST liability.
- 13.13 If the purchaser must make a *GSTRW payment* the purchaser must –
- 13.13.1 at least 5 days before the date for completion, serve evidence of submission of a *GSTRW payment* notification form to the Australian Taxation Office by the purchaser or, if a direction under clause 4.3 has been *served*, by the transferee named in the transfer *served* with that direction;
- 13.13.2 produce on completion a *settlement cheque* for the *GSTRW payment* payable to the Deputy Commissioner of Taxation;
- 13.13.3 forward the *settlement cheque* to the payee immediately after completion; and
- 13.13.4 serve evidence of receipt of payment of the *GSTRW payment* and a copy of the settlement date confirmation form submitted to the Australian Taxation Office.
- 14 Adjustments**
- 14.1 *Normally*, the vendor is entitled to the rents and profits and will be liable for all rates, water, sewerage and drainage service and usage charges, land tax, levies and all other periodic outgoings up to and including the *adjustment date* after which the purchaser will be entitled and liable.
- 14.2 The *parties* must make any necessary adjustment on completion.
- 14.3 If an amount that is adjustable under this contract has been reduced under *legislation*, the *parties* must on completion adjust the reduced amount.
- 14.4 The *parties* must not adjust surcharge land tax (as defined in the Land Tax Act 1956) but must adjust any other land tax for the year current at the *adjustment date* –
- 14.4.1 only if land tax has been paid or is payable for the year (whether by the vendor or by a predecessor in title) and this contract says that land tax is adjustable;
- 14.4.2 by adjusting the amount that would have been payable if at the start of the year –
- the person who owned the land owned no other land;
 - the land was not subject to a special trust or owned by a non-concessional company; and
 - if the land (or part of it) had no separate taxable value, by calculating its separate taxable value on a proportional area basis.
- 14.5 If any other amount that is adjustable under this contract relates partly to the land and partly to other land, the *parties* must adjust it on a proportional area basis.
- 14.6 *Normally*, the vendor can direct the purchaser to produce a *settlement cheque* on completion to pay an amount adjustable under this contract and if so –
- 14.6.1 the amount is to be treated as if it were paid; and
- 14.6.2 the *cheque* must be forwarded to the payee immediately after completion (by the purchaser if the *cheque* relates only to the *property* or by the vendor in any other case).
- 14.7 If on completion the last bill for a water, sewerage or drainage usage charge is for a period ending before the *adjustment date*, the vendor is liable for an amount calculated by dividing the bill by the number of days in the period then multiplying by the number of unbilled days up to and including the *adjustment date*.

- 14.8 The vendor is liable for any amount recoverable for work started on or before the contract date on the *property* or any adjoining footpath or road.
- 15 Date for completion**
The *parties* must complete by the date for completion and, if they do not, a *party* can serve a notice to complete if that *party* is otherwise entitled to do so.
- 16 Completion**
- **Vendor**
 - 16.1 On completion the vendor must give the purchaser any *document of title* that relates only to the *property*.
 - 16.2 If on completion the vendor has possession or control of a *document of title* that relates also to other property, the vendor must produce it as and where necessary.
 - 16.3 *Normally*, on completion the vendor must cause the legal title to the *property* (being an estate in fee simple) to pass to the purchaser free of any mortgage or other interest, subject to any necessary registration.
 - 16.4 The legal title to the *property* does not pass before completion.
 - 16.5 If the vendor gives the purchaser a document (other than the transfer) that needs to be lodged for registration, the vendor must pay the lodgment fee to the purchaser.
 - 16.6 If a *party* serves a land tax certificate showing a charge on any of the land, by completion the vendor must do all things and pay all money required so that the charge is no longer effective against the land.
 - **Purchaser**
 - 16.7 On completion the purchaser must pay to the vendor, by cash (up to \$2,000) or *settlement cheque* –
 - 16.7.1 the price less any:
 - deposit paid;
 - *FRCGW remittance* payable;
 - *GSTRW payment*; and
 - amount payable by the vendor to the purchaser under this contract; and
 - 16.7.2 any other amount payable by the purchaser under this contract.
 - 16.8 If the vendor requires more than 5 *settlement cheques*, the vendor must pay \$10 for each extra *cheque*.
 - 16.9 If any of the deposit is not covered by a bond or guaranteed on completion the purchaser must give the vendor an order signed by the purchaser authorising the *depositor* to account to the vendor for the deposit.
 - 16.10 On completion the deposit belongs to the vendor.
 - **Place for completion**
 - 16.11 *Normally*, the *parties* must complete at the completion address, which is –
 - 16.11.1 if a special completion address is stated in this contract - that address; or
 - 16.11.2 if none is stated, but a first mortgagee is disclosed in this contract and the mortgagee would usually discharge the mortgage at a particular place - that place; or
 - 16.11.3 in any other case - the vendor's *solicitor's* address stated in this contract.
 - 16.12 The vendor by reasonable notice can require completion at another place, if it is in NSW, but the vendor must pay the purchaser's additional expenses, including any agency or mortgagee fee.
 - 16.13 If the purchaser requests completion at a place that is not the completion address, and the vendor agrees, the purchaser must pay the vendor's additional expenses, including any agency or mortgagee fee.
- 17 Possession**
- 17.1 *Normally*, the vendor must give the purchaser vacant possession of the *property* on completion.
 - 17.2 The vendor does not have to give vacant possession if –
 - 17.2.1 this contract says that the sale is subject to existing tenancies; and
 - 17.2.2 the contract discloses the provisions of the tenancy (for example, by attaching a copy of the lease and any relevant memorandum or variation).
 - 17.3 *Normally*, the purchaser can claim compensation (before or after completion) or *rescind* if any of the land is affected by a protected tenancy (a tenancy affected by Schedule 2, Part 7 of the Residential Tenancies Act 2010).
- 18 Possession before completion**
- 18.1 This clause applies only if the vendor gives the purchaser possession of the *property* before completion.
 - 18.2 The purchaser must not before completion –
 - 18.2.1 let or part with possession of any of the *property*;
 - 18.2.2 make any change or structural alteration or addition to the *property*; or
 - 18.2.3 contravene any agreement between the *parties* or any direction, document, *legislation*, notice or order affecting the *property*.
 - 18.3 The purchaser must until completion –
 - 18.3.1 keep the *property* in good condition and repair having regard to its condition at the giving of possession; and
 - 18.3.2 allow the vendor or the vendor's authorised representative to enter and inspect it at all reasonable times.

- 18.4 The risk as to damage to the *property* passes to the purchaser immediately after the purchaser enters into possession.
- 18.5 If the purchaser does not comply with this clause, then without affecting any other right of the vendor –
- 18.5.1 the vendor can before completion, without notice, remedy the non-compliance; and
- 18.5.2 if the vendor pays the expense of doing this, the purchaser must pay it to the vendor with interest at the rate prescribed under s101 Civil Procedure Act 2005.
- 18.6 If this contract is *rescinded* or *terminated* the purchaser must immediately vacate the *property*.
- 18.7 If the *parties* or their *solicitors* on their behalf do not agree in writing to a fee or rent, none is payable.

19 Rescission of contract

- 19.1 If this contract expressly gives a *party* a right to *rescind*, the *party* can exercise the right –
- 19.1.1 only by *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 disclosed in this contract but the lot has a different proportional unit entitlement at the contract date or at any time before completion;
- 23.9.3 a change before the contract date or before completion in the scheme or a higher scheme materially prejudices the purchaser and is not disclosed in this contract; or

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

• **Notices, certificates and inspections**

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

24 Tenancies

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

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

25 Qualified title, limited title and old system title

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

26 Crown purchase money

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

27 Consent to transfer

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

28 Unregistered plan

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

29 Conditional contract

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

30 Electronic transaction

- 30.1 This *Conveyancing Transaction* is to be conducted as an *electronic transaction* if –
- 30.1.1 this contract says that it is an *electronic transaction*;
- 30.1.2 the *parties* otherwise agree that it is to be conducted as an *electronic transaction*; or
- 30.1.3 the *conveyancing rules* require it to be conducted as an *electronic transaction*.
- 30.2 However, this *Conveyancing Transaction* is not to be conducted as an *electronic transaction* –
- 30.2.1 if the land is not *electronically tradeable* or the transfer is not eligible to be lodged electronically; or
- 30.2.2 if, at any time after the *effective date*, but at least 14 days before the date for completion, a *party* *serves* a notice stating a valid reason why it cannot be conducted as an *electronic transaction*.
- 30.3 If, because of clause 30.2.2, this *Conveyancing Transaction* is not to be conducted as an *electronic transaction* –
- 30.3.1 each *party* must –
- bear equally any disbursements or fees; and
 - otherwise bear that *party's* own costs;
- incurred because this *Conveyancing Transaction* was to be conducted as an *electronic transaction*; and
- 30.3.2 if a *party* has paid all of a disbursement or fee which, by reason of this clause, is to be borne equally by the *parties*, that amount must be adjusted under clause 14.2.
- 30.4 If this *Conveyancing Transaction* is to be conducted as an *electronic transaction* –
- 30.4.1 to the extent that any other provision of this contract is inconsistent with this clause, the provisions of this clause prevail;

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

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

31 Foreign Resident Capital Gains Withholding

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

- 31.3 The vendor cannot refuse to complete if the purchaser complies with clauses 31.2.1 and 31.2.2.
- 31.4 If the vendor *serves* any *clearance certificate* or *variation*, the purchaser does not have to complete earlier than 7 days after that *service* and clause 21.3 does not apply to this provision.
- 31.5 If the vendor *serves* in respect of every vendor either a *clearance certificate* or a *variation* to 0.00 percent, clauses 31.2 and 31.3 do not apply.
- 32 Residential off the plan contract**
- 32.1 This clause applies if this contract is an off the plan contract within the meaning of Division 10 of Part 4 of the Conveyancing Act 1919 (the Division).
- 32.2 No provision of this contract has the effect of excluding, modifying or restricting the operation of the Division.
- 32.3 If the purchaser makes a claim for compensation under the terms prescribed by clause 6A of the Conveyancing (Sale of Land) Regulation 2017 –
- 32.3.1 the purchaser cannot make a claim under this contract about the same subject matter, including a claim under clauses 6 or 7; and
- 32.3.2 the claim for compensation is not a claim under this contract.
- 32.4 This clause does not apply to a contract made before the commencement of the amendments to the Division under the Conveyancing Legislation Amendment Act 2018.

7 / 32 Remembrance Avenue WARWICK FARM NSW 2170

SPECIAL CONDITIONS

1. **Deposit payable during cooling off period**

If a cooling off period applies to this contract, the purchaser may pay the deposit holder in two instalments as follows:

- (i) On or before the date of this contract 0.25% of the agreed purchase price; and
- (ii) In the event of the purchaser proceeding with the purchase on or before 5.00 pm on the fifth business day after the date of this contract a further 9.75% of the agreed purchase price.

2. **Discrepancy**

In the event of any conflict between these additional conditions and the clauses contained in the printed conditions to the Contract, then these additional conditions shall prevail.

3. **Severability**

Should any one or more of these provisions or any part of them should be invalid, illegal or unenforceable in any respect, the validity, legality or enforceability of the remaining provisions shall not in any way be affected or impaired.

4. **Amendments to the Printed Form**

The printed form of Contract is amended as follows:-

- (a) Clause 3 is deleted;
- (b) Clause 7.1.1 is to be amended deleting "5%" and replacing it with "\$1.00";
- (c) Clause 8.1 is amended by deleting the words "on reasonable" grounds;
- (d) Clause 14.4.2 is deleted;
- (e) Clause 16.6 is amended by the addition of the wording "provided that the uncleared certificate is served at least 10 days prior to the date of settlement otherwise the purchaser must accept an undertaking on settlement that the Land Tax Certificate will be cleared within 14 days after settlement."
- (f) Clause 16.8 is deleted;
- (g) Clause 16.12 is deleted;
- (h) Clause 18 is amended by the addition of:-
"18.8 The purchaser cannot make a claim or requisition or delay settlement after entering into possession of the property."

5. **Adjustments**

The parties agree to adjust the usual outgoings and all amounts pursuant to this contract on completion, however, if any amount is incorrectly calculated, adjusted or overlooked the parties agree to correct such error and to reimburse each other accordingly after settlement. This clause shall not merge on completion.

6. **Notice to complete**

In the event of either party failing to complete this contract within the time specified herein, then the other shall be entitled at any time thereafter to serve a notice to complete, requiring the other to complete within 14 days from the date of service of the notice, and this time period is considered reasonable by both parties. For the purpose of this contract, such notice to complete shall be deemed both at law and in equity sufficient to make time of the essence of this contract. The party that issues the Notice to Complete can at any time, prior to the expiration of the Notice, revoke or vary the Notice and re-issue another one at any time.

If the Vendor issues a Notice to Complete, then the purchaser must pay to the vendor on completion the costs of the Notice to Complete served on the Purchasers assessed and

agreed at an amount of \$220.00 (incl GST) and payment of that amount is deemed to be an essential term of this Contract.

7. Death or incapacity

Should either party die or become mentally ill, or being a company be wound up or placed into receivership or official management prior to completion of this Contract, then either party may by written notice to the other rescind this contract and the provisions of clause 19 shall apply.

8. Purchaser acknowledgements

The purchaser acknowledges that they are purchasing the property:

- (a) in its present condition and state of repair;
- (b) Subject to all defects latent and patent;
- (c) Subject to any infestations and dilapidation;
- (d) Subject to all existing water, sewerage, drainage and plumbing services and connections in respect of the property; and
- (e) Subject to any non-compliance, that is disclosed herein, with the Local Government Act or any Ordinance under that Act in respect of any building on the land.

The purchaser agrees not to seek to terminate rescind or make any objection requisition or claim for compensation arising out of any of the matters covered by this clause.

9. Late completion

In the event that completion is not effected on the nominated day for settlement, or if the vendor cannot settle on that day then the third day after written notice from the vendor that the vendor is able to settle, then the purchaser shall pay to the vendor interest on the balance of the purchase price at the rate of 10% per annum from the date nominated for completion until and including the actual day of completion.

10. Agent

The purchaser warrants that they were not introduced to the vendor or the property by or through the medium of any real estate agent or any employee of any real estate agent or any person having any connection with a real estate agent who may be entitled to claim commission as a result of this sale other than the vendors agent, if any, referred to in this contract, and the purchaser agrees that they will at all times indemnify and keep indemnified the vendor from and against any claim whatsoever for commission, which may be made by any real estate agent or other person arising out of or in connection with the purchasers breach of this warranty, and it is hereby agreed and declared that this clause shall not merge in the transfer upon completion, or be extinguished by completion of this contract, and shall continue in full force, and effect, notwithstanding completion.

11. Release of deposit for payment of a deposit and stamp duty

The purchasers agree and acknowledge that by their execution of this contract they irrevocably authorise the vendor's agent to release to the vendors such part of the deposit moneys as the vendors shall require to use for the purpose of a deposit and/or stamp duty on any piece of real estate that the vendors negotiate to purchase between the date hereof and the date of settlement hereof.

12. Deposit bond

The parties agree that in the event the Purchaser requests to use a deposit bond, a deposit bond will be accepted provided the deposit bond:

- (a) is underwritten by **QBE Insurance (Australia) Ltd**;
- (b) is for an amount equal to the 10% Deposit or the balance of the 10% Deposit in accordance with the Contract;
- (c) must be valid for the period of the Contract;
- (d) contains the name of the Vendor to whom the guaranteed amount is to be paid on demand;
- (e) contains the name of the Purchaser and makes reference to the Contract and the sale of the property.

There are several agents who are able to provide a deposit bond on behalf of QBE Insurance (Australia) Ltd, including **Deposit Assure Pty Ltd** (www.depositassure.com.au).

13. Particulars of Title

Sufficient particulars of the vendor's title are contained in this Contract and the purchaser shall not require the vendor to provide any further statement of title.

14. Warranties

The Purchaser acknowledges that he or she has not relied on any statement, representation or warranty made by or on behalf of the Vendor whether express or implied as to the property, the neighbourhood in which the property is situated or adjoining properties, the suitability for any use or purpose of the property or any improvements erected thereon, the rights and privileges, if any, pertaining to the property and any matter having or which might have an effect beneficial or otherwise on the property and it is expressly acknowledged that this is the entire agreement between the parties.

15. Swimming Pool

If a swimming pool is included in the property, the purchaser must take the swimming pool and surrounds and fencing, if any, in its present state of repair. The vendor does not warrant that the swimming pool, if any, including any fencing, on the subject property complies with the requirements of the Local Government Act 1993 and/or the Environmental Planning and Assessment Act 1979 and the Swimming Pools Act 1992. The purchaser shall not be entitled to make any objection, requisition, delay settlement or claim for compensation in relation to any defect or fault in respect of these items or other safety measure in respect of the Swimming Pool or surrounding fence and/or gate.

16. Service

The service of any Notice or Document under or relating to this Contract may, in addition to the provisions of Clause 20, be effected and shall be sufficient service on a party and that party's solicitor or conveyance if the Notice or Document is sent by facsimile transmission to the facsimile number noted on the Contract or on their letterhead and in any case shall be deemed to be duly given or made, except where:-

(a) The time of dispatch is not before 5.00pm (Sydney time) on a day on which business is generally carried on in the place to which such notice is sent, in which case the Notice shall be deemed to have been received at the commencement of business on the next such business day in the place:

OR

(b) The sender's machine indicates a malfunction in transmission and the recipient's transmission shall be deemed not to have been given or made.

17. **Reduced Deposit**

Notwithstanding any other provisions of this Contract, if:-

- i) the deposit agreed to be paid (or actually paid) by the Purchaser is less than ten percent (10%) of the purchase price; and
- ii) the vendor becomes entitled to forfeit the deposit actually paid;

the Purchaser will immediately upon demand pay the Vendor the difference between ten percent (10%) of the purchase price and the amount actually paid. The provisions of this condition are in addition to and not in substitution for the rights of the Vendor under Clause 9.3.2 of the contract.

18. **Non-Compliance**

In the event that there is any pergola, carport or any other structures on the property which do not comply with the requirements of the local Council or any other competent authority, then the purchaser shall not raise any objection, make any requisition or claim compensation in respect of such non-compliance or because of failure or refusal of the local Council to issue a Building Certificate by reason of such non-compliance.

19. **Electronic Settlement**

- (a) The parties agree to settle this sale electronically in accordance and compliance with the Electronic Conveyancing National Law.
- (b) The provisions of this contract continue to apply as modified by the electronic settlement procedures unless for any reason a party notifies the other in writing that settlement can no longer be conducted electronically at which time the matter will proceed as a paper settlement. In this event any disbursements incurred will be shared equally by the parties and adjusted at settlement but each party shall pay their own costs.
- (c) Within 7 days of exchange the vendor will open and populate the electronic workspace, including the date and time of settlement and invite the purchaser and any discharging mortgagee to join, failing which the purchaser may do so.
- (d) Within 7 days of receipt of the invitation the purchaser must join and create an electronic transfer and invite any incoming mortgagee to join.
- (e) Settlement takes place when the financial settlement takes place.
- (f) Anything that cannot be delivered electronically must be given to relevant party immediately following settlement.
- (g) If time is of the essence of the transaction and settlement fails to proceed due to a system failure then neither party will be in default. If electronic settlement cannot be re-established the next working day the parties must settle in the usual non-electronic manner as soon as possible but no later than 3 working days after the initial electronic failure unless otherwise agreed.
- (h) Any notice served on a party in the electronic workspace must also be served in accordance with the condition of this contract relating to service of notices.

20. **PEXA**

The purchaser agrees that in the event that this matter is not completed through PEXA due to the purchaser, purchaser's mortgagee, or the purchaser's legal representative being

unable or unwilling to transact in PEXA, then the purchaser will make an adjustment on settlement in favour of the vendor for \$175.00 in payment of the vendor's additional legal costs for completing settlement manually in relation to same and is an essential term of this Agreement.

21. Sewerage Diagram

The vendor warrants and the purchaser acknowledges that the diagram annexed to the contract may only disclose the sewer mains and this is the only diagram available for the property from Sydney Water at the date of this contract. The purchaser agrees to make no objection, requisition or claim for compensation in respect of any matter disclosed therein or ascertainable therefrom.

22. Section 66S

- a) If this contract is exchanged subject to the provisions of Section 66S, then the vendor reserves the right to extend the completion date by the time that has expired under the cooling off period or the vendor may elect to maintain the completion date incorporated within the contract. This is an essential term of the contract and not negotiable;
- b) The vendor is to provide written notification within five (5) business days after the cooling off period has expired, if the completion date is to be extended and the length of time that extension will be, otherwise the date of the contract will remain as indicated. The vendor is not entitled to extend for any longer than the time expired under the cooling off period.
- c) The purchaser shall not make any claim for compensation or objection regarding same, nor shall the purchaser be entitled to rescind, delay or terminate this agreement as a consequence of the vendor electing to extend the completion date.

23. Requisitions on Title

For the purpose of clause 5 of the standard terms, any requisitions about the property or title must be in the form of the attached Requisition on Title. No other form of requisitions may be served by the purchasers.

24. Settlement Default

If the purchaser cancels settlement after appropriate arrangements have been made for completion to take place, the Purchaser must in addition to any other money payable in accordance with the terms of this contract, pay an amount of \$150.00 (plus GST) as an adjustment on completion for each cancellation.

25. FIRB APPROVAL

The purchaser warrants that the provisions of the Foreign Acquisitions and Takeovers Act 1975 requiring the obtaining of consent to certain transactions do not apply to the purchaser in relation to this contract. If the purchaser breaches this warranty, whether deliberately or unintentionally, the purchaser will indemnify and compensate the vendor in respect of any loss, damage, penalty, fine or legal costs which may be incurred by the vendor as a consequence of this breach by the purchaser.

26. GUARANTEE AND INDEMNITY

If the purchaser (and, if comprising more than one person, any one or more of them) is a company, then in consideration of the Vendor entering into this contract with the Purchaser, the directors of the Purchaser.....and..... (“the Guarantors”) hereby jointly and severally agree to guarantee to the Vendor the due

and punctual performance and observance by the Purchaser of its obligations under this contract and indemnify and keep indemnified the Vendor against all losses, damages, liabilities, costs and expenses accruing to the Vendor, resulting or arising from any failure by the Purchaser to perform or observe any of the obligations on its part to be performed or observed. This guarantee and indemnity is a continuing obligation and cannot be abrogated, prejudiced or discharged by reason of any deemed waiver by the Vendor or by any means other than express waiver by the Vendor. Any rescission or termination of this contract will not waive any of the obligations arising pursuant to this clause. This guarantee and indemnity is an essential condition of this contract and is deemed to constitute a principal obligation between the Guarantors and the Vendor.

27. Alteration to Contract

Each party authorises its solicitor/conveyancer or any employee of that solicitor/conveyancer to make alterations to this contract including the addition of annexures after execution by that party and before the date of this contract and any such alteration shall be binding up the party deemed to have authorised the same and any annexure so added shall form part of this contract as if same had been annexed at the time of execution.

STRATA TITLE (RESIDENTIAL) PROPERTY REQUISITIONS ON TITLE

Vendor: Dusan Dautovic
Purchaser:
Property: 7/32 Remembrance Avenue, Warwick Farm
Dated:

Possession and tenancies

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

6. Subject to the Contract, on completion the vendor should be registered as proprietor in fee simple of the property and recorded as the owner of the property on the strata roll, free of all other interests.
7. On or before completion, any mortgage or caveat or writ must be discharged, withdrawn or cancelled (as the case may be) or, in the case of a mortgage or caveat, an executed discharge or withdrawal handed over on completion together with a notice under Section 118 of the *Strata Schemes Management Act 1996 (the Act)*.
8. Are there any proceedings pending or concluded that could result in the recording of any writ on the title to the property or in the General Register of Deeds? If so, full details should be provided at least 14 days prior to completion.
9. When and where may the title documents be inspected?
10. Are the inclusions or fixtures subject to any charge or hiring agreement? If so, details must be given and any indebtedness discharged prior to completion or title transferred unencumbered to the vendor prior to completion.

Adjustments

11. All outgoings referred to in clause 14.1 of the Contract must be paid up to and including the date of completion.
12. Is the vendor liable to pay land tax or is the property otherwise charged or liable to be charged with land tax? If so:
(a) to what year has a return been made?
(b) what is the taxable value of the property for land tax purposes for the current year?

Survey and building

13. 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.
14. Is the vendor in possession of a survey report? If so, please produce a copy for inspection prior to completion. The original should be handed over on completion.
15. 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 7 years:
(i) please identify the building work carried out;
(ii) when was the building work completed?
(iii) please state the builder's name and licence number;
(iv) please provide details of insurance under the *Home Building Act 1989*.

16. Has the vendor (or any predecessor) 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?
17. If a swimming pool is on the common property:
- when did construction of the swimming pool commence?
 - is the swimming pool surrounded by a barrier which complies with the requirements of the *Swimming Pools Act 1992*?
 - if the swimming pool has been approved under the *Local Government Act 1993*, please provide details.
 - are there any outstanding notices or orders?
18. (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* or the *Encroachment of Buildings Act 1922*?

Affectations, notices and claims

19. In respect of the property and the common property:
- Is the vendor aware of any rights, licences, easements, covenants or restrictions as to use of them other than those disclosed in the Contract?
 - 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?
 - Is the vendor aware of:
 - any road, drain, sewer or storm water channel which intersects or runs through them?
 - any dedication to or use by the public of any right of way or other easement over any part of them?
 - any latent defects in them?
 - Has the vendor any notice or knowledge of them being affected by the following:
 - any resumption or acquisition or proposed resumption or acquisition?
 - 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.
 - 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?
 - any sum due to any local or public authority recoverable from the purchaser? If so, it must be paid prior to completion.
 - any realignment or proposed realignment of any road adjoining them?
 - any contamination of them?

Owners corporation management

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

Capacity

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

Requisitions and transfer

25. If the transfer or any other document to be handed over on completion is executed pursuant to a power of attorney, then at least 7 days prior to completion a copy of the registered power of attorney should be produced and found in order.
26. If the vendor has or is entitled to have possession of the title deeds the Certificate Authentication Code must be provided 7 days prior to settlement.
27. Searches, surveys, enquiries and inspection of title deeds must prove satisfactory.
28. The purchaser reserves the right to make further requisitions prior to completion.
29. Unless we are advised by you to the contrary prior to completion, it will be assumed that your replies to these requisitions remain unchanged as at completion date.



LAND
REGISTRY
SERVICES

Title Search

InfoTrack

NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 7/SP8126

SEARCH DATE	TIME	EDITION NO	DATE
-----	----	-----	----
9/3/2020	5:13 PM	4	9/9/2018

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

LAND

LOT 7 IN STRATA PLAN 8126
AT LIVERPOOL
LOCAL GOVERNMENT AREA LIVERPOOL

FIRST SCHEDULE

DUSAN DAUTOVIC (T AC718247)

SECOND SCHEDULE (2 NOTIFICATIONS)

- 1 INTERESTS RECORDED ON REGISTER FOLIO CP/SP8126
- 2 AC718248 MORTGAGE TO NATIONAL AUSTRALIA BANK LIMITED

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

InfoTrack an approved NSW Information Broker hereby certifies that the information contained in this document has been provided electronically by the Registrar General in accordance with Section 96B(2) of the Real Property Act 1900.

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Received: 09/03/2020 17:13:27



NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: CP/SP8126

SEARCH DATE	TIME	EDITION NO	DATE
9/3/2020	5:13 PM	-	-

VOL 8530 FOL 126 IS THE CURRENT CERTIFICATE OF TITLE

LAND

THE COMMON PROPERTY IN THE STRATA SCHEME BASED ON STRATA PLAN 8126
WITHIN THE PARCEL SHOWN IN THE TITLE DIAGRAM

AT LIVERPOOL
LOCAL GOVERNMENT AREA LIVERPOOL
PARISH OF ST LUKE COUNTY OF CUMBERLAND
TITLE DIAGRAM SHEET 1 SP8126

FIRST SCHEDULE

THE OWNERS - STRATA PLAN NO. 8126
ADDRESS FOR SERVICE OF DOCUMENTS:
32 REMEMBRANCE AVE
WARWICK FARM 2170

SECOND SCHEDULE (3 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- * 2 ATTENTION IS DIRECTED TO BY-LAWS SET OUT IN SCHEDULE 2 STRATA SCHEMES MANAGEMENT REGULATION 2016
- * 3 ATTENTION IS DIRECTED TO CLAUSE 3 SCHEDULE 4 STRATA SCHEMES (FREEHOLD DEVELOPMENT) ACT 1973 REGARDING BOUNDARIES BETWEEN LOTS AND COMMON PROPERTY IN STRATA SCHEMES REGISTERED BEFORE 1-7-1974

SCHEDULE OF UNIT ENTITLEMENT (AGGREGATE: 12)

STRATA PLAN 8126

LOT	ENT	LOT	ENT	LOT	ENT	LOT	ENT
1	- 1	2	- 1	3	- 1	4	- 1
5	- 1	6	- 1	7	- 1	8	- 1
9	- 1	10	- 1	11	- 1	12	- 1

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

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Received: 09/03/2020 17:13:28

Form 1

- (a) State if whole or part.
- (b) Refer to number of Lots, Allotments, or Portions and to the Deposited Plan, Town, or as the case may be.

Parcel comprises^(a) PART of^(b) LOT A IN D.P. 390088

STRATA PLAN 8126

(E)

Reference to Title Vol. 69125 Fol. 23

Registered: 24.5.1974

C.A.: NO. 1974/24 OF 18.2.1974

Area/State/City LIVERPOOL

Ref. Map: TOWN OF LIVERPOOL*

Locality WARWICK FARM

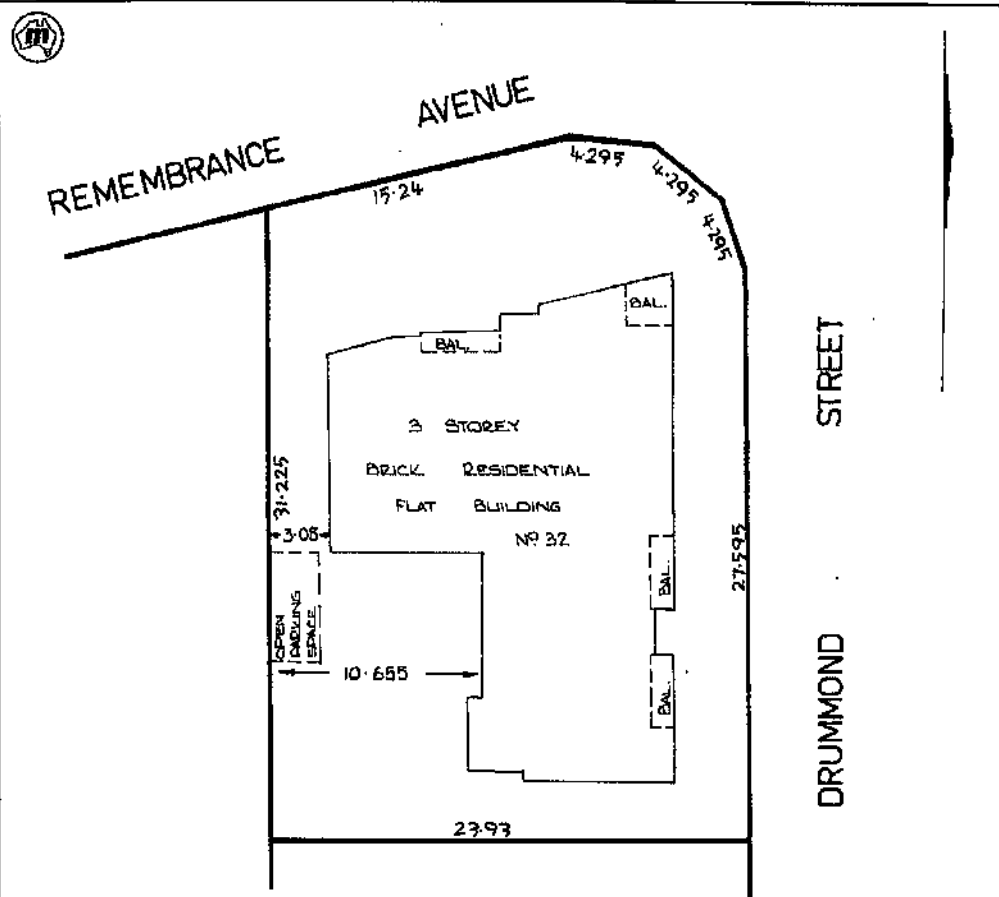
Parish ST. LUKE

County CLIMBERLAND

Last Plan: D.P. 390088

Reduction Ratio 1 : 250

Lengths are in metres



External surface boundaries of the parcel and location of the building in relation thereto to be delineated in space opposite.

(c) For use only where plan contains 10 lots or less. In other cases see out schedule on a separate sheet.

(d) Delete if inappropriate.


Schedule of Unit Entitlements ^(c)		OFFICE USE ONLY
Lot No.	Unit Entitlement	Resubdivision
		I. JOHN WILTON KEOWN of 211A PITT STREET SYDNEY a surveyor registered under the Surveyors Act, 1929, as amended, hereby certify that: (1) the building erected on the parcel described above is within the external boundaries of the parcel ^(d) subject to clause (2) of this certificate; (2) saves or guttering of the building project beyond such external boundaries and on appropriate easement has been granted as an appurtenance of the parcel by registered Transfer No. Dated 17th DECEMBER, 1973. Signature: <i>J. Wilton Keown</i> Approved by the Council for the purposes of the Conveyancing (Strata Titles) Act, 1961. Date: 18th February, 1974 Subdivision No. 1974/24 <i>J. Wilton Keown</i> Council Clerk
AGGREGATE		

The address for service of notices on the body corporate is: THE PROPRIETORS STRATA PLAN NO 8126
 32 REMEMBRANCE AVENUE WARWICK FARM 2170

STRATA PLAN No. 8126

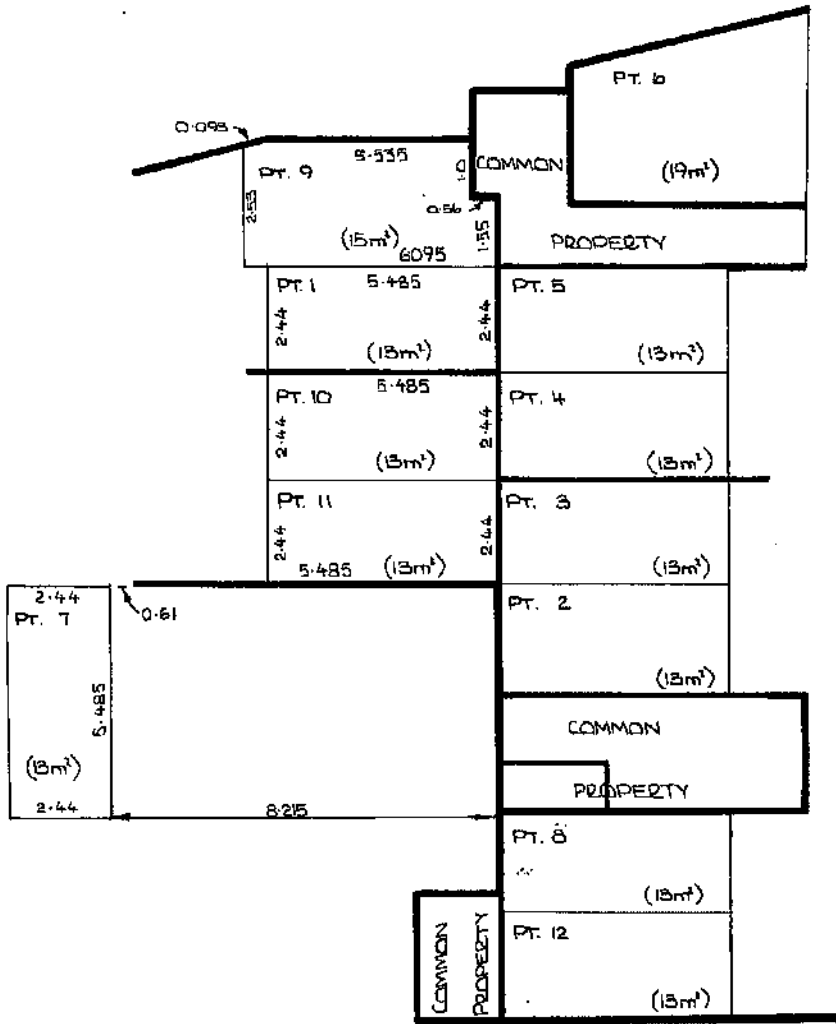
SCHEDULE OF UNIT ENTITLEMENT		OFFICE USE ONLY
LOT NO	UNIT ENTITLEMENT	RESUBDIVISION
1	1	
2	1	
3	1	
4	1	
5	1	
6	1	
7	1	
8	1	
9	1	
10	1	
11	1	
12	1	
AGGREGATE	12	


Surveyor.


Council Clerk.

STRATA PLAN No. 8126

BASEMENT



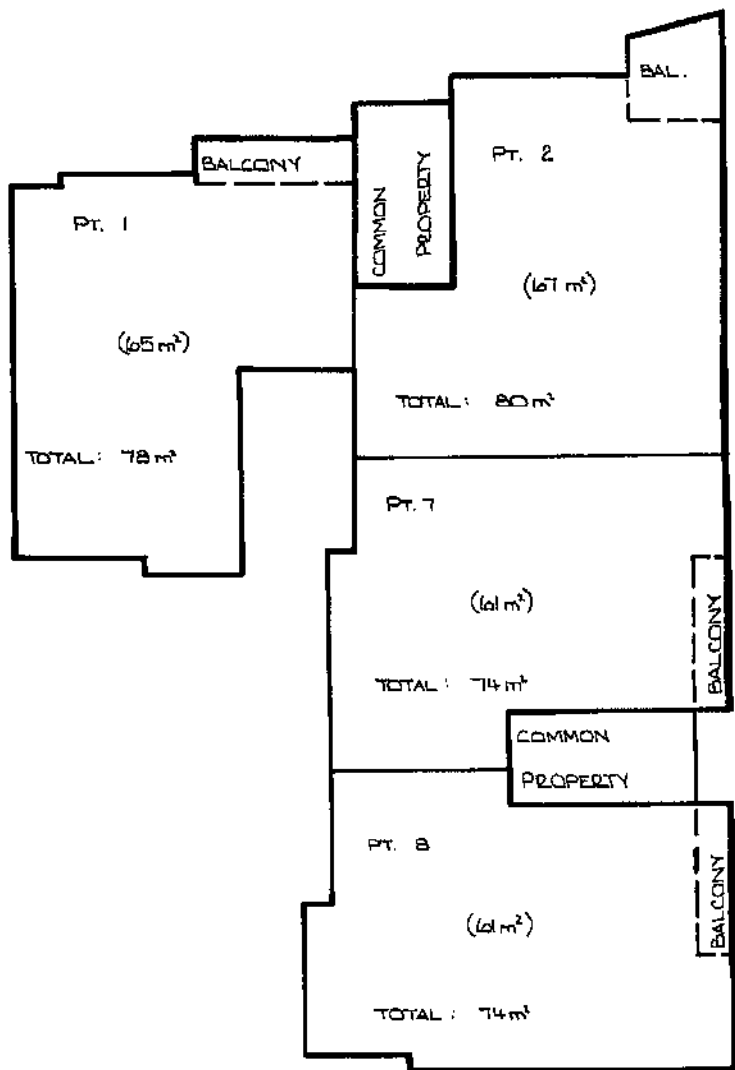
AREAS APPROXIMATE ONLY
 PT. LOTS, 6,5,4,3,2,8 AND 12 ARE LOCK UP GARAGES.
 OPEN PARKING SPACE PT. LOT 7 IS RESTRICTED
 IN HEIGHT TO 2.59 ABOVE GROUND LEVEL.

[Signature]
 Surveyor.

[Signature]
 Council Clerk.

STRATA PLAN No. 8126

LEVEL 1



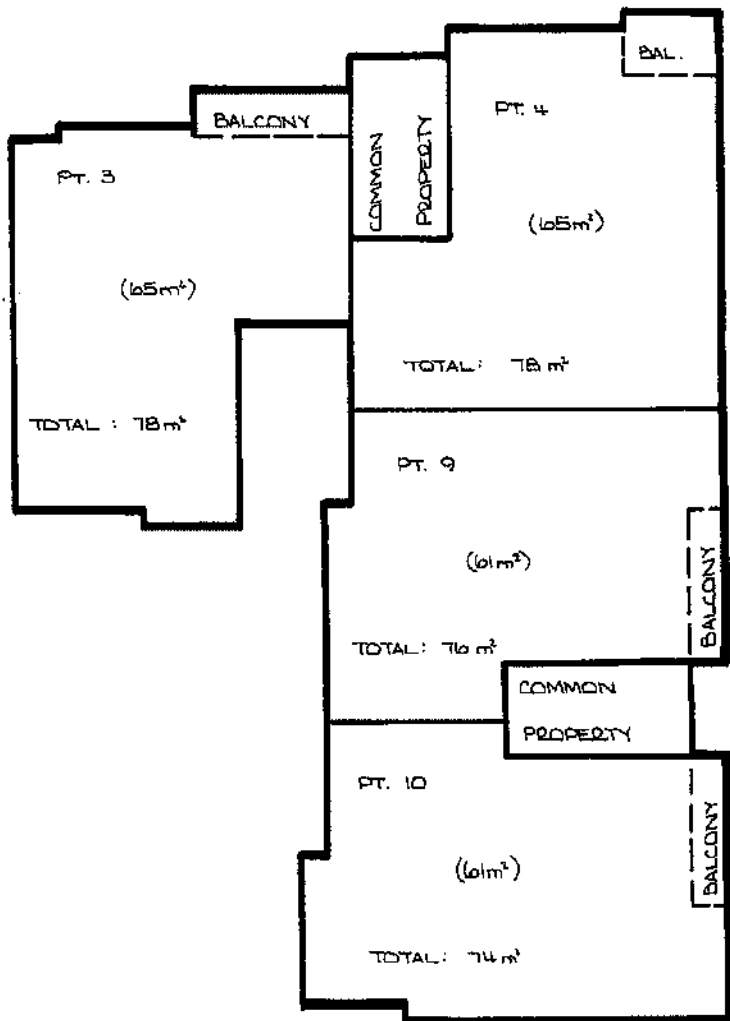
AREAS APPROXIMATE ONLY
AREAS INCLUDE BALCONIES
BALCONY HEIGHT RESTRICTED
TO 2.59 ABOVE FLOOR LEVEL
OF UNIT TO WHICH ATTACHED

[Signature]
Surveyor.

[Signature]
X Council Clerk.

STRATA PLAN No. 8126

LEVEL 2



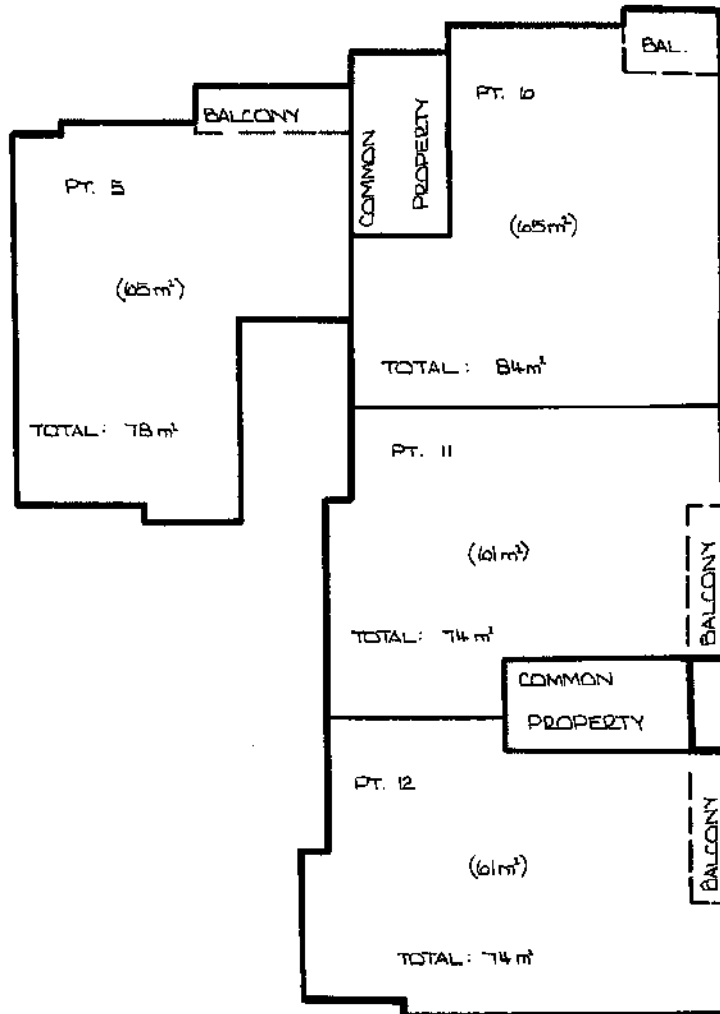
AREAS APPROXIMATE ONLY
AREAS INCLUDE BALCONIES
BALCONY HEIGHT RESTRICTED
TO 2.59 ABOVE FLOOR LEVEL
OF UNIT TO WHICH ATTACHED

[Signature]
Surveyor.

[Signature]
Council Clerk

STRATA PLAN No. 8126

LEVEL 3



AREAS APPROXIMATE ONLY
AREAS INCLUDE BALCONIES
BALCONY HEIGHT RESTRICTED
TO 2.5M ABOVE FLOOR LEVEL
OF UNIT TO WHICH ATTACHED

[Signature]
Surveyor.

[Signature]
Council Clerk.

Strata Schemes Management Regulation 2016

Current version for 18 December 2017 to date (accessed 6 February 2019 at 14:28)

Schedule 2

Schedule 2 By-laws for pre-1996 strata schemes

(Clause 35)

1 Noise

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

Note. This by-law was previously by-law 12 in Schedule 1 to the *Strata Schemes (Freehold Development) Act 1973* and by-law 13 in Schedule 3 to the *Strata Schemes (Leasehold Development) Act 1986*.

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 written approval of the owners corporation.

Note. This by-law was previously by-law 13 in Schedule 1 to the *Strata Schemes (Freehold Development) Act 1973* and by-law 14 in Schedule 3 to the *Strata Schemes (Leasehold Development) Act 1986*.

3 Obstruction of common property

An owner or occupier of a lot must not obstruct lawful use of common property by any person.

Note. This by-law was previously by-law 14 in Schedule 1 to the *Strata Schemes (Freehold Development) Act 1973* and by-law 15 in Schedule 3 to the *Strata Schemes (Leasehold Development) Act 1986*.

4 Damage to lawns and plants on common property

An owner or occupier of a lot must not:

- (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.

Note. This by-law was previously by-law 15 in Schedule 1 to the *Strata Schemes (Freehold Development) Act 1973* and by-law 16 in Schedule 3 to the *Strata Schemes (Leasehold Development) Act 1986*.

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 without the approval in writing of the owners corporation.

Note. This by-law is subject to sections 109 and 110 of the *Strata Schemes Management Act 2015*.

- (2) An approval given by the owners corporation under clause (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
 - (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.
- (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 106 of the *Strata Schemes Management Act 2015*, the owner of a lot must maintain and keep in a state of good and serviceable repair any installation or structure referred to in clause (3) that forms part of the common property and that services the lot.

Note. This by-law was previously by-law 16 in Schedule 1 to the *Strata Schemes (Freehold Development) Act 1973* and by-law 17 in Schedule 3 to the *Strata Schemes (Leasehold Development) Act 1986*.

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.

Note. This by-law was previously by-law 17 in Schedule 1 to the *Strata Schemes (Freehold Development) Act 1973* and by-law 18 in Schedule 3 to the *Strata Schemes (Leasehold Development) Act 1986*.

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.

Note. This by-law was previously by-law 18 in Schedule 1 to the *Strata Schemes (Freehold Development) Act 1973* and by-law 19 in Schedule 3 to the *Strata Schemes (Leasehold Development) Act 1986*.

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.

Note. This by-law was previously by-law 19 in Schedule 1 to the *Strata Schemes (Freehold Development) Act 1973* and by-law 20 in Schedule 3 to the *Strata Schemes (Leasehold Development) Act 1986*.

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 likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or of any person lawfully using the common property.

Note. This by-law was previously by-law 20 in Schedule 1 to the *Strata Schemes (Freehold Development) Act 1973* and by-law 21 in Schedule 3 to the *Strata Schemes (Leasehold Development) Act 1986*.

10 Drying of laundry items

An owner or occupier of a lot must not, except with the consent in writing 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.

Note. This by-law was previously by-law 21 in Schedule 1 to the *Strata Schemes (Freehold Development) Act 1973* and by-law 22 in Schedule 3 to the *Strata Schemes (Leasehold Development) Act 1986*.

11 Cleaning windows and doors

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

Note. This by-law was previously by-law 22 in Schedule 1 to the *Strata Schemes (Freehold Development) Act 1973* and by-law 23 in Schedule 3 to the *Strata Schemes (Leasehold Development) Act 1986*.

12 Storage of inflammable liquids and other substances and materials

- (1) An owner or occupier of a lot must not, except with the approval in writing 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.

Note. This by-law was previously by-law 23 in Schedule 1 to the *Strata Schemes (Freehold Development) Act 1973* and by-law 24 in Schedule 3 to the *Strata Schemes (Leasehold Development) Act 1986*.

13 Moving furniture and other objects on or through common property

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 strata committee so as to enable the strata committee to arrange for its nominee to be present at the time when the owner or occupier does so.

Note. This by-law was previously by-law 24 in Schedule 1 to the *Strata Schemes (Freehold Development) Act 1973* and by-law 25 in Schedule 3 to the *Strata Schemes (Leasehold Development) Act 1986*.

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.

Note. This by-law was previously by-law 25 in Schedule 1 to the *Strata Schemes (Freehold Development) Act 1973* and by-law 26 in Schedule 3 to the *Strata Schemes (Leasehold Development) Act 1986*.

15 Garbage disposal

An owner or occupier of a lot:

- (a) must maintain 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 adequately covered a receptacle for garbage, and
- (b) must ensure that before refuse is placed in the receptacle it is securely wrapped or, in the case of tins or other containers, completely drained, and
- (c) for the purpose of having the garbage collected, must place the receptacle 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 is normally collected, and
- (d) when the garbage has been collected, must promptly return the receptacle to the lot or other area referred to in paragraph (a), and
- (e) must not place any thing in the receptacle 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 collector may have spilled from the receptacle and must take such action as may be necessary to clean the area within which that thing was spilled.

Note. This by-law was previously by-law 26 in Schedule 1 to the *Strata Schemes (Freehold Development) Act 1973* and by-law 27 in Schedule 3 to the *Strata Schemes (Leasehold Development) Act 1986*.

16 Keeping of animals

- (1) Subject to section 157 of the *Strata Schemes Management Act 2015*, an owner or occupier of a lot must not, without the approval in writing of the owners corporation, keep any animal 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.

Note. This by-law was previously by-law 27 in Schedule 1 to the *Strata Schemes (Freehold Development) Act 1973* and by-law 28 in Schedule 3 to the *Strata Schemes (Leasehold Development) Act 1986*.

17 Appearance of lot

- (1) The owner or occupier of a lot must not, without the written consent 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.

Note. This by-law was previously by-law 29 in Schedule 1 to the *Strata Schemes (Freehold Development) Act 1973* and by-law 30 in Schedule 3 to the *Strata Schemes (Leasehold Development) Act 1986*.

18 Notice board

An owners corporation must cause a notice board to be affixed to some part of the common property.

Note. This by-law was previously by-law 3 in Schedule 1 to the *Strata Schemes (Freehold Development) Act 1973* and by-law 3 in Schedule 3 to the *Strata Schemes (Leasehold Development) Act 1986*.

19 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).

Strata Schemes (Freehold Development) Act 1973 No 68

Repealed version for 1 March 2016 to 29 November 2016 (accessed 28 March 2019 at 12:12)

Schedule 4

Schedule 4 Transitional and savings provisions

(Section 160)

Part 1A General

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of any Act that amends this Act.
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 1 Provisions relating to repeal of the former Act

1 Definitions

- (1) In this Schedule, except in so far as the context or subject-matter otherwise indicates or requires:

appointed day means the day appointed and notified under section 2.

former Act means the *Conveyancing (Strata Titles) Act 1961*.

former by-law means a by-law within the meaning of the former Act as that by-law was in force immediately before the appointed day.

former common property means so much of a former parcel as, immediately before the appointed day, was not comprised in any former lot.

former lot means a lot under the former Act as it existed immediately before the appointed day.

former parcel means land which, immediately before the appointed day, comprised the former lots and the former common property the subject of a former strata scheme.

former proprietor means a person who, immediately before the appointed day, was a proprietor, within the meaning of the former Act, of a former lot.

former strata scheme means:

- (a) the manner of division, immediately before the appointed day, of a former parcel into former lots or into former lots and former common property and the manner of allocation, immediately before that day, of unit entitlements under the former Act among the former lots, and
- (b) the rights and obligations, between themselves, immediately before the appointed day, of former proprietors, other persons having property interests in or occupying former lots and the body corporate,

as conferred or imposed by the former Act or by anything done under the authority of the former Act or the *Real Property Act 1900*.

- (2) For the purposes of the application of any provision of this Act to or in respect of a scheme to which the provisions of this Act apply by reason of clause 6:
 - (a) the initial period in relation to the body corporate for that scheme shall be deemed to have expired if on the appointed day the original proprietor within the meaning of paragraph (c) is not the proprietor of any lots the subject of that scheme or is the proprietor of lots the subject of that scheme the sum of whose unit entitlements is less than two-thirds of the aggregate unit entitlement,
 - (b) except where the initial period in relation to the body corporate for that scheme has, under paragraph (a), expired, a reference to the initial period in relation to that body corporate is a reference to the period commencing on the appointed day and ending on the day on which there are proprietors of lots the subject of that scheme (other than the original proprietor within the meaning of paragraph (c)) the sum of whose unit entitlements is at least one-third of the aggregate unit entitlement, and
 - (c) a reference to an original proprietor, in relation to that scheme, is a reference to the person by whom the parcel (being the parcel comprised in the strata plan, within the meaning of the former Act, the registration of which under the former Act initiated the scheme to which the provisions of this Act apply by reason of clause 6) was held in fee simple or under a perpetual lease from the Crown at the time of that registration.
- (3) The express application of any provision of this Act (whether unamended or deemed to be amended) by any provision of this Schedule to or in respect of any act, matter or thing referred to in this Schedule shall not, except in so far as a contrary intention appears, be construed as preventing or limiting the application of any other provision of this Act to that or any other act, matter or thing.
- (4) Where any provision of this Act is deemed to be amended by this Schedule by inserting in that provision any words, those words shall be construed as if they were contained in this Schedule.

2 Registration of unregistered former strata plans

- (1) Notwithstanding section 8 or 9, a strata plan, or a strata plan of resubdivision, within the meaning of the former Act, may be registered as a strata plan or as a strata plan of subdivision, as the case may be, but shall not be so registered unless:
 - (a) it illustrates a division of a building into different parts,

- (b) the requirements of the former Act have been or are complied with in so far as those requirements relate to the registration of a strata plan, or a strata plan of resubdivision, as the case may be, and
 - (c) except in the case of such a strata plan of resubdivision, the certificate referred to in section 4 (3) (b) of the former Act states that the approval given under Part 11 of the *Local Government Act 1919* by the local council to the erection of that building was given not earlier than two years before the appointed day.
- (2) Without limiting the generality of subclause (1) (b), for the purpose of enabling a person to comply, as referred to in subclause (1) (b), with the requirements of the former Act, the provisions of section 20 (subsection (4) (a), (c), (d), (e), (f) and (g) excepted) of the former Act apply to and in respect of an application for a certificate referred to in section 4 (3) (b) of the former Act relating to the proposed subdivision illustrated by a strata plan or strata plan of resubdivision referred to in subclause (1), as if the former Act had not been repealed.
- (3) Where a plan is registered under subclause (1), the land comprised in the plan shall be deemed to have been subdivided under this Act into lots or into lots and common property in the same manner as that land would have been subdivided if that plan had been registered under the former Act, except that:
- (a) where a boundary of any such lot would, if that plan had been validly registered under the former Act, have been, under section 4 (2) of the former Act, the centre of a floor, wall or ceiling, that boundary shall upon the registration of the plan and until it is altered in accordance with this Act be the upper surface of that floor, the inner surface of that wall or the under surface of that ceiling, as the case may be, and
 - (b) where a boundary of any lot is adjusted under paragraph (a), the boundaries of the common property are adjusted reciprocally,
- and any such lots or common property shall, for the purposes of this Act, be deemed to be lots or common property, or to be lots or common property with boundaries adjusted as referred to in paragraph (a) or (b), as the case may be.
- (4) A lot created by the registration of a plan under subclause (1) does not include any structural cubic space unless that structural cubic space was stipulated in that plan as forming part of that lot.
- (5) For the purposes of the registration of a plan under subclause (1), the reference in:
- (a) section 10 (1) to a plan illustrating a proposed subdivision referred to in section 5 (7) (a) shall be construed as a reference to a strata plan of resubdivision within the meaning of section 20 (4) of the former Act,
 - (b) section 10 (2) and (3) to subsection (1) shall be construed as a reference to subsection (1) construed in accordance with paragraph (a),
 - (c) section 38 (2) (a) to a certificate of approval under section 37 (1) (3) or (4) shall be construed as a reference to a certificate issued under section 20 (2) of the former Act,
 - (d) section 39 (1) to any certificate of approval issued under section 37 shall be construed as a reference to any certificate issued under section 20 (2) of the former Act, and

- (c) section 39 (2), (3) and (4) to subsection (1) shall be construed as a reference to section 39 (1) construed in accordance with paragraph (d).
- (6) Where, under any provision of this Act, any act, matter or thing depends on or results from (either directly or indirectly) the registration of a strata plan, that provision operates in relation to the registration of a plan under subclause (1) in the same way as it operates in relation to the registration of a strata plan.
- (7) Subject to this clause, a reference in this Act to a strata plan or a strata plan of subdivision includes a reference to a plan registered under subclause (1) as a strata plan or a strata plan of subdivision, as the case may be.
- (8) The address endorsed, as referred to in section 4 (1) (g) of the former Act, upon a plan registered under subclause (1) shall, for the purposes of this Act, be deemed to be the address for the service of notices on the body corporate concerned until that address is altered in accordance with this Act.
- (9) The schedule endorsed, as referred to in section 18 of the former Act, upon a plan (not being a strata plan of resubdivision within the meaning of section 20 (4) of the former Act) registered under subclause (1) shall, for the purposes of this Act, be deemed to be the schedule referred to in section 8 (1) (d).
- (10) Section 41 (5) does not apply to or in respect of the registration of a plan under subclause (1).
- (11) A reference to a lot shown in a plan capable of being registered under subclause (1) made in any instrument executed before the registration of that plan under subclause (1) (being an instrument relating to the sale or other disposition of an estate or interest in the lot so shown) shall, on and after the registration of that plan, be construed as a reference to the lot which corresponds to the lot so shown.

3 Former lots and former common property to be derived lots and derived common property

- (1) Where immediately before the appointed day:
 - (a) a former lot had any boundary that under section 4 (2) of the former Act was the centre of a floor, wall or ceiling, that former lot, on the appointed day, becomes for the purposes of this Schedule a derived lot corresponding to that former lot and having, subject to subclause (2), as its boundaries:
 - (i) instead of any boundary that was the centre of a floor, wall or ceiling, the upper surface of that floor, the inner surface of that wall or the under surface of that ceiling, as the case may be, and
 - (ii) except as provided by subparagraph (i), the same boundaries as that former lot, and
 - (b) a former lot had no boundary that under section 4 (2) of the former Act was the centre of a floor, wall or ceiling, that former lot, on the appointed day, becomes for the purposes of this Schedule a derived lot corresponding to that former lot and having as its boundaries the same boundaries as that former lot.

- (2) A derived lot does not include any structural cubic space unless that structural cubic space was stipulated, in the relevant strata plan or strata plan of resubdivision, as forming part of the former lot to which that derived lot corresponds.
- (3) On the appointed day, former common property becomes, for the purposes of this Schedule, derived common property corresponding to that former common property but has as its boundaries:
 - (a) where any derived lot has any of its boundaries ascertained in accordance with subclause (1) (a) (i) or (b), boundaries adjusted reciprocally, and
 - (b) except as provided by paragraph (a), the same boundaries as that former common property.
- (4) A reference to a former lot made in any instrument executed before the appointed day (being an instrument relating to the sale or other disposition of an estate or interest in that former lot) shall, on and after that day, be construed as a reference to the derived lot which corresponds to that former lot.

4 Continuation of bodies corporate

A body corporate, constituted under the former Act, in relation to a former strata scheme:

- (a) shall continue notwithstanding the repeal of the former Act,
- (b) shall, on the appointed day, be deemed to be the body corporate constituted under section 54 (1) in respect of the scheme that corresponds to that former strata scheme and to which the provisions of this Act apply by reason of clause 6, and
- (c) notwithstanding section 54 (1), shall have as its corporate name its corporate name under the former Act.

5 Continuation of estates or interests in former lots and former common property and rights in former common property

A person who, immediately before the appointed day:

- (a) had an estate or interest in a former lot, has on that day the same estate or interest in the derived lot which corresponds to that former lot, or
- (b) had an estate or interest (not being a right or special privilege referred to in clause 15) in former common property, has, subject to clause 7 (1), on that day the same estate or interest in the derived common property which corresponds to that former common property.

6 Application of Act to former strata schemes, former parcels, derived lots and derived common property

Subject to this Schedule, the provisions of this Act shall, on and from the appointed day, apply to and in respect of:

- (a) a former strata scheme as if it were a strata scheme,
- (b) a former parcel as if it were a parcel,
- (c) a derived lot as if it were a lot, and

(d) derived common property as if it were common property.

7 Vesting of derived common property in body corporate

- (1) On the appointed day, derived common property is divested from the former proprietors by whom it was, immediately before that day, held as referred to in section 9 (1) of the former Act and, subject to section 20, vests in the body corporate for the estate or interest therein of those former proprietors evidenced by the Register immediately before that day.
- (2) The Registrar-General shall, on the appointed day, issue in the name of any body corporate in which any derived common property vests under subsection (1) a certificate of title for that derived common property.
- (3) For the purpose only of the making of the recordings referred to in section 23 (2) on a certificate of title issued under subclause (2), section 23 (2) shall be construed as if the reference in:
 - (a) section 23 (2) (b) to the address for service of notices on the body corporate were a reference to such an address shown on the strata plan, within the meaning of the former Act, upon the registration, under the former Act, of which the body corporate concerned was constituted or on a later or the latest amendment of that strata plan,
 - (b) section 23 (2) (c) to the schedule of unit entitlement in force in respect of the strata scheme concerned were, subject to subclauses (4) and (5), a reference to a schedule specifying the respective unit entitlements of the lots the subject of the strata scheme concerned, being the unit entitlements as in force under the former Act immediately before the appointed day, and
 - (c) section 23 (2) (d) to any easement or restriction therein referred to were a reference to any such easement or restriction noted on the strata plan referred to in paragraph (a).
- (4) Before recording a schedule on a certificate of title in accordance with section 23 (2) (c) construed in accordance with subclause (3) (b), the Registrar-General, if the unit entitlement for every derived lot to be specified in the schedule is divisible by a whole number so as to produce as the quotient a whole number, may record on that certificate of title as the schedule of unit entitlement a schedule:
 - (a) allocating to each of those derived lots the quotient obtained by making that division in respect of each such lot, and
 - (b) specifying as the aggregate unit entitlement the sum of the quotients so allocated in respect of all of those derived lots.
- (5) Where:
 - (a) under the former Act one or more former lots was or were resubdivided as referred to in section 20 (4) of the former Act, and
 - (b) the aggregate of the unit entitlements of the lots created by the strata plan of resubdivision which effected that resubdivision is not equal to the unit entitlement of the lot, or to the aggregate of the unit entitlements of lots, which was or were so resubdivided,

the Registrar-General, when issuing a certificate of title comprising common property the subject of the former strata scheme concerned, shall record thereon as the schedule of unit entitlement a schedule:

- (c) allocating to each derived lot that corresponds to a former lot the subject of that former strata scheme a unit entitlement, expressed as a whole number, which bears to the aggregate unit entitlement the same proportion as the unit entitlement under the former Act of that former lot bore, immediately before the appointed day, to the aggregate of the unit entitlements under the former Act of all the former lots which, immediately before that day, were the subject of that former strata scheme, and
 - (d) specifying as the aggregate unit entitlement the sum of the unit entitlements so allocated in respect of all of those derived lots.
- (6) The address recorded on a certificate of title in accordance with section 23 (2) (b) construed in accordance with subclause (3) (a) for service of notices on a body corporate shall, for the purposes of, but subject to, this Act, be the address for service of notices on that body corporate as continued by the operation of clause 4.
- (7) The schedule recorded on a certificate of title in accordance with section 23 (2) (c) construed in accordance with subclause (3) (b) or recorded on a certificate of title in accordance with subclause (4) or (5) shall, for the purposes of, but subject to, this Act, be the schedule of unit entitlement in relation to the strata scheme which corresponds to the former strata scheme concerned.
- (8) The unit entitlement, as shown on the schedule referred to in subclause (7), of a derived lot shall, for the purposes of, but subject to, this Act be the unit entitlement of that derived lot.
- (9) Section 49 (3) does not apply where the Registrar-General records a schedule of unit entitlement under this clause on a folio of the Register comprising common property unless the recording was made in accordance with subclause (4) or (5).
- (10) The certificate of title and the folio of the Register for a former lot shall respectively be deemed to be the certificate of title and the folio of the Register for the derived lot corresponding to that former lot and any recording made on that certificate of title or folio in relation to the derived common property shall, for the purposes of section 42 (a) of the *Real Property Act 1900*, be deemed to be excluded therefrom.
- (11) The partial cancellation of a certificate of title for a derived lot made for the purpose of excluding the recording referred to in subclause (10) shall be deemed not to be a partial cancellation of that certificate of title for the purposes of the *Real Property Act 1900*.

8 Modification of section 22 in relation to former strata schemes

Section 22 applies to and in respect of a scheme to which the provisions of this Act apply by reason of clause 6 but, for the purposes only of that application, shall be deemed to be amended:

- (a) by omitting from subsection (1) the words “no part of a parcel is common property the Registrar-General shall, upon registration of a strata plan” and by inserting instead the words “immediately before the appointed day no part of a former parcel was common property, the Registrar-General shall, upon that day”,

- (b) by omitting from subsection (1) (b) the word “plan” and by inserting instead the word “scheme”,
- (c) by omitting from subsection (2) the words “the registration of a strata plan” and by inserting instead the words “the appointed day”,
- (d) by omitting from subsection (2) (a) the words “section 18 (2) or subsection (5), as the case may be” and by inserting instead the words “clause 7 (2) of Schedule 4”, and
- (e) by inserting in subsections (3) and (4) after the matter “(1)” wherever occurring the words “, as deemed to be amended by clause 8 (a) and (b) of Schedule 4,”.

9 Modification of section 23 (3) in relation to former lots

Section 23 (3) shall apply to and in respect of a certificate of title issued under clause 7 (2) but, for the purposes only of that application, shall be deemed to be amended:

- (a) by omitting the word “not”,
- (b) by omitting the words “on the folio of the Register comprising a lot the subject of the strata scheme concerned but shall record the easement or restriction”, and
- (c) by omitting the words “any such lot” and by inserting instead the words “any lot the subject of the strata scheme concerned”.

10 Registration of transfers or leases of derived common property registrable under section 10 of former Act

- (1) Where a transfer or lease of any common property under the former Act:
 - (a) would under section 10 of the former Act have been registrable under the *Real Property Act 1900* had this Act not been enacted but had not, before the appointed day, been registered under that Act, and
 - (b) was executed pursuant to an agreement entered into by the body corporate before the appointed day,that transfer or lease, upon its lodgment in the office of the Registrar-General, shall be dealt with under section 25 (4) as if it were a dealing referred to in section 25 (1).
- (2) For the purposes of section 25 (3), a lease referred to in subclause (1) shall be deemed to have been granted under section 25 (1).

11 General meetings of certain continued bodies corporate

- (1) Where, in relation to a body corporate continued by the operation of clause 4, the original proprietor is not, on the appointed day, the proprietor of any lots the subject of the strata scheme or is the proprietor of lots the subject of the strata scheme the sum of whose unit entitlements is less than two-thirds of the aggregate unit entitlement and:
 - (a) a general meeting of that body corporate has not been held before the appointed day, a general meeting of that body corporate shall be held within three months after the appointed day, and that general meeting shall, for the purposes of this Act (section 57 (4) excepted) be the first annual general meeting of the body corporate, or

- (b) a general meeting of that body corporate has been held before the appointed day, the last general meeting of that body corporate held before that day shall, for the purposes of clause 1 (1) of Part 1 of Schedule 2, be deemed to have been the first annual general meeting.
- (2) If a meeting of the body corporate is not held in accordance with subclause (1) (a), the Commissioner may, pursuant to an application by a proprietor or mortgagee of a lot appoint, by order, a person to convene a general meeting within such time as may be specified in the order and the meeting convened by that person shall for the purposes of this Act (section 57 (4) excepted) be the first annual general meeting of the body corporate.
- (3) An order made under subclause (2) may include such ancillary or consequential provisions as the Commissioner thinks fit.
- (4) The agenda for a meeting convened under subclause (1) (a) or subclause (2) shall be the agenda specified in section 57 (2).
- (5) The original proprietor shall not fail or neglect to deliver to the body corporate (being a body corporate a general meeting of which is required to be held under subclause (1) (a)), within fourteen days after notice in writing is given to him by the body corporate or if the documents referred to in paragraphs (a) and (b) are not then in his possession within fourteen days after they come into his possession or under his control:
- (a) any plan, specification, certificate (other than a certificate of title for a lot), diagram or other document (including any policy of insurance) obtained or received by him and relating to the parcel or building, and
- (b) any book of account, notice or other record relating to the strata scheme,
- other than any such document which exclusively evidences rights or obligations of the original proprietor and which is not capable of being used for the benefit of the body corporate or any of the proprietors, other than the original proprietor.
- Maximum penalty: 10 penalty units.
- (6) Section 70 (1) (b) (iii) shall be deemed to be amended by inserting after the matter “section 57 (4)” the matter “or under clause 11 (5) of Schedule 4”.

12 Meetings of former bodies corporate held within two months after appointed day

Notwithstanding section 57 (5), for the purposes of any general meeting of a body corporate continued by the operation of clause 4, being a general meeting held before the expiration of two months after the appointed day:

- (a) the procedure for the convening and holding of meetings of such a body corporate and the rights of persons to vote at and to requisition meetings of such a body corporate shall be the same as they were under the former Act, and
- (b) where a notice is given to the body corporate under section 81 (3), (5) or (6), the mortgagee specified in the notice shall have the same voting rights as he would have had if the meeting had been held in accordance with the former Act and if the notice were a notice given under section 26 (2) of the former Act.

13 Notices served by public authority or local council before the appointed day

The reference in section 60 to a notice served on the proprietor of a lot by a public authority or local council includes a reference to a notice served, before the appointed day, by such an authority or council on the proprietor of a former lot which has become a derived lot.

14 Effect of former by-laws

- (1) Subject to this clause, the former by-laws relating to a former strata scheme shall, notwithstanding the repeal of the former Act, continue in force in respect of the corresponding scheme to which the provisions of this Act apply by reason of clause 6 except to the extent of any inconsistency of the former by-laws with any provision of this Act except Schedule 1.
- (2) Until the expiration of a period of three months after the appointed day the former by-laws relating to a former strata scheme may be added to, amended or repealed in the manner provided by the former Act, and any such addition, amendment or repeal shall, notwithstanding any other provision of this Act, have force and effect upon a notification thereof, in the form prescribed under the former Act, being recorded on the relevant strata plan registered under the former Act.
- (3) Upon the expiration of a period of three months after the appointed day:
 - (a) any by-laws continued in force by subclause (1) or any by-laws so continued in force, as added to, amended or repealed in accordance with subclause (2), shall cease to have any force or effect, and
 - (b) the by-laws set forth in Schedule 1 and any by-laws, made in accordance with subclause (4), amending, adding to or repealing:
 - (i) the by-laws set forth in Schedule 1, or
 - (ii) any by-laws made under that subclause,shall, subject to subclause (5), be the by-laws in force in respect of the strata scheme concerned.
- (4) During the period commencing two months after the appointed day and ending three months after that day a body corporate continued by the operation of clause 4 may, in the manner provided by section 58, make by-laws amending, adding to or repealing the by-laws set forth in Schedule 1 or any by-laws made under this subclause.
- (5) An amendment of, addition to or repeal of the by-laws in accordance with subclause (4) has no force or effect until:
 - (a) the expiration of the period of three months after the appointed day, or
 - (b) the Registrar-General has, pursuant to a notification in the prescribed form lodged in his office by the body corporate in accordance with section 58 (3), recorded the notification on the folio of the Register comprising the common property,whichever occurs the later.

- (6) Nothing in this clause affects the operation, after the expiration of the period of three months after the appointed day, of section 58 in relation to a body corporate continued by the operation of clause 4.

15 Maintenance of exclusive use etc of, and special privileges in respect of, common property

- (1) Where immediately before the appointed day a proprietor of a former lot was entitled, whether pursuant to a resolution of the body corporate under the former Act or pursuant to a former by-law, to a right of exclusive use and enjoyment of, or special privileges in respect of, any of the former common property, the proprietor for the time being of the derived lot that corresponds to that former lot may at any time after that day serve notice on that body corporate, as continued by the operation of clause 4, requiring it to make a by-law, in terms specified in the notice, confirming that right or those special privileges and indicating the method by which the by-law may be amended, added to or repealed.
- (2) Notwithstanding section 58, the body corporate may make a by-law referred to in subclause (1) otherwise than pursuant to a special resolution or a unanimous resolution.
- (3) Where the body corporate on which a requisition has been served under subclause (1):
- (a) fails to make a by-law (being a by-law adding to the by-laws set forth in Schedule 1) in accordance with the requisition:
- (i) if the requisition was served on the body corporate within two months after the appointed day—before the expiration of three months after the appointed day, or
- (ii) if the requisition was served on the body corporate after the expiration of two months after the appointed day—within one month after the service of the requisition, or
- (b) having made such a by-law and having been tendered the prescribed fee, does not cause the by-law to be recorded in accordance with section 58 (3) within a reasonable time,
- the proprietor who made the requisition may make an application to the Commissioner for an order to be made by the Residential Tribunal under subclause (5).
- (4) The provisions of Part 5 apply to an application made under subclause (3) in the same way as they apply to an application for an order made under that Part and required to be referred by the Commissioner to the Residential Tribunal.
- (5) Where, pursuant to an application by a proprietor under subclause (3), the Residential Tribunal is of the opinion that the applicant or a predecessor in title to the lot of which the applicant is proprietor was, immediately before the appointed day, entitled to a right or to special privileges of the nature referred to in subclause (1), the Residential Tribunal may, having regard to the interests of other persons having an estate or interest in lots the subject of the strata scheme concerned, the extent to which the right or special privileges referred to in the application has or have been exercised or apparent since the appointed day and the justice and merits of the case, order that the applicant is entitled to such rights or special privileges of that nature as may be specified in the order and in that order shall specify the method by which the by-law, giving effect, by virtue of subclause (7), to the terms of the order, may be amended, added to or repealed.
- (6) The provisions of:

- (a) section 130 (subsection (2) (b) and (c) excepted) apply to and in respect of an order under subclause (5) in the same way as they apply to an order under Division 4 of Part 5 (section 117 excepted), and
 - (b) section 141 (subsections (3) and (4) excepted) apply to the recording of an order under subclause (5) in the same way as they apply to the recording of an order referred to in that section.
- (7) An order under subclause (5), when recorded under section 141, has effect, subject to any order with respect thereto made by a superior court, as if its terms were a by-law.
- (8) Notwithstanding section 58, a by-law:
- (a) made pursuant to a requisition under subclause (1), or
 - (b) giving effect, by virtue of subclause (7), to the terms of an order under subclause (5),
- may be amended, added to or repealed in such manner as may be specified in that by-law.
- (9) A by-law:
- (a) made under subclause (1), or
 - (b) giving effect, by virtue of subclause (7), to the terms of an order under subclause (5),
- being a by-law expressed to be for the benefit of a specified derived lot, shall while it remains in force enure as appurtenant to, and for the benefit of, that lot.
- (10) Subject to subclause (8), a by-law:
- (a) made under subclause (1), or
 - (b) giving effect, by virtue of subclause (7), to the terms of an order under subclause (5),
- shall be deemed, for the purposes of this Act, to be a by-law referred to in section 58 (7).

16 Recovery of contributions levied under former Act

- (1) Any contribution levied under the former Act by a body corporate and unpaid at the appointed day may be recovered by the body corporate, and as on and from the appointed day bears interest, as if it were a contribution levied under this Act.
- (2) Any determination made under the former Act by a body corporate specifying amounts to be raised by regular periodic contributions shall be deemed to be a determination made under section 68 (1) (j) of the kind referred to in section 68 (4).

17 Modification of section 68 (1) (e) in relation to continued bodies corporate

In relation to a body corporate continued by the operation of clause 4, section 68 (1) (c) shall be deemed to be amended by inserting after the matter "Division 5" the words " , as notified by clause 25 of Schedule 4".

18 Inspection of former records etc

- (1) A body corporate continued by the operation of clause 4 shall, for the purposes of the strata scheme concerned, cause to be retained, until the expiration of the prescribed period, any records, minutes of meetings, notices and books of account kept or received by it before the appointed day and in its custody or under its control on that day and upon application under section 70 (1) made in respect of a lot the subject of the strata scheme concerned shall make those records, minutes, notices and books available for inspection by the applicant or his agent at a time and place ascertained in accordance with section 70 (1) (b).
- (2) Section 70 (2) applies to the making of an inspection referred to in subclause (1) in the same way as it applies to the making of an inspection referred to in section 70 (1) (b).

19 Administrative and sinking funds of continued bodies corporate

- (1) Where a determination made under section 15 (2) (b) of the former Act by a body corporate continued by the operation of clause 4 was in force immediately before the appointed day, that determination shall be deemed to be the determination required under section 68 (1) (j) to be made by that body corporate.
- (2) Where a fund was, immediately before the appointed day, kept under section 15 (2) (a) of the former Act by a body corporate continued by the operation of clause 4 that fund shall, on the appointed day, be deemed to be the fund required under section 68 (1) (l) to be established by that body corporate.
- (3) In relation to a body corporate continued by the operation of clause 4 which had not, before the appointed day, made a determination under section 15 (2) (b) of the former Act:
 - (a) section 68 (1) (j) shall be deemed to be amended by omitting the words “seven days after the constitution of the body corporate” and by inserting instead the words “three months after the appointed day”, and
 - (b) section 68 (1) (l) shall be deemed to be amended by inserting after the matter “paragraph (j)” the words “, as deemed to be amended by clause 19 (3) (a) of Schedule 4”.
- (4) In relation to a body corporate continued by the operation of clause 4 which had, before the appointed day, made a determination under section 15 (2) (b) of the former Act but had not before that day established a fund under section 15 (2) (a) of the former Act, section 68 (1) (l) shall be deemed to be amended by omitting the words “upon determining the amounts referred to in paragraph (j)” and by inserting instead the words “upon receiving any amounts raised pursuant to a determination referred to in clause 19 (1) of Schedule 4”.
- (5) In relation to a body corporate continued by the operation of clause 4:
 - (a) section 68 (1) (k) shall be deemed to be amended by omitting the words “one month after the constitution of the council or one year after the constitution of the body corporate, whichever first happens” and by inserting instead the words “three months after the appointed day”,
 - (b) section 68 (1) (m) shall be deemed to be amended by inserting after the matter “paragraph (k)” the words “, as deemed to be amended by clause 19 (5) (a) of Schedule 4”.

- (6) Until a body corporate continued by the operation of clause 4 establishes its sinking fund:
 - (a) it may disburse the moneys in its administrative fund for the purpose of meeting its liabilities referred to in section 68 (1) (j) or (k), and
 - (b) section 68 (2) does not apply to that body corporate.
- (7) Upon the establishment of its sinking fund a body corporate continued by the operation of clause 4 shall:
 - (a) determine what part of its administrative fund should be allocated for the purpose of meeting its actual or expected liabilities referred to in section 68 (1) (k), and
 - (b) notwithstanding section 68 (2), transfer the amount so determined to its sinking fund.

20 Modification of section 69 in relation to continued bodies corporate

- (1) Where the initial period in relation to a body corporate continued by the operation of clause 4 has not expired, the original proprietor in relation to the strata scheme concerned may give to the body corporate a notice stating that he is the original proprietor and specifying his name in full and the address for the service of notices on him.
- (2) In relation to a body corporate continued by the operation of clause 4, section 69 (3) (b) shall be deemed to be omitted and the following paragraph inserted instead:
 - (b) the name of, and address for the service of notices on, the original proprietor, as shown in any notice given to the body corporate under clause 20 (1) of Schedule 4.
- (3) Where:
 - (a) a body corporate believes that a person may, under subclause (1), give a notice to it, and
 - (b) the body corporate has not received that notice,the body corporate may serve a notice on that person specifying the capacity in which it believes he is entitled to give the notice and requiring him:
 - (c) to state, within fourteen days, whether or not he is a person entitled to give a notice in that capacity, and
 - (d) if he is such a person, to furnish that notice.
- (4) Where a body corporate has served a notice under subclause (3) on a person who it believes to be a person entitled to give a notice to the body corporate under subclause (1) and that person has not complied with the firstmentioned notice, that person is not entitled to cast a vote at any meeting of the body corporate until he has complied with the firstmentioned notice.
- (5) A notice given under section 26 (2) of the former Act before the appointed day by a mortgagee to a body corporate shall, for the purpose of the making by the body corporate of a recording under section 69 (3) (c) of the name of the mortgagee of the lot specified in the notice, be deemed to be a notice given to that body corporate under section 81 (3) and for the purpose of completing the recording in the strata roll required by section 69 (3) (c):

- (a) the address, if any, specified in the notice as the address of the mortgagee shall be deemed to be the address for the service of notices on the mortgagee shown in a notice given to the body corporate under section 81 (3), and
 - (b) any other mortgage notice which was given under section 26 (2) of the former Act before the notice firstmentioned in this clause was received by the body corporate shall, subject to any notice given to the body corporate under section 81 (3), be deemed to be a mortgage specified in that firstmentioned notice as having priority over the mortgage specified in that firstmentioned notice.
- (6) Any notice given before the appointed day by a mortgagor of a former lot to a body corporate, being a notice of the discharge of a mortgage notice of which had been given to the body corporate under section 26 (2) of the former Act, shall, for the purpose of the making under section 69 (3) (d) by the body corporate of a recording of the discharge of that mortgage, be deemed to be a notice given to that body corporate under section 81 (4).

21 Modification of section 70 (1) (c) in relation to continued bodies corporate

For the purposes of section 70 (1) (c), any contribution levied under the former Act by a body corporate and unpaid before the appointed day shall:

- (a) if levied pursuant to a determination specifying amounts to be raised by regular periodic contributions, be deemed to be a contribution determined under section 68 (1) (j), or
- (b) except as provided in paragraph (a), be deemed to be a contribution determined under section 68 (1) (k).

22 Continuation of councils of former bodies corporate

- (1) The council constituted under the former Act of a body corporate continued by the operation of clause 4 shall, subject to this Act, be, on and from the appointed day, the council of that body corporate.
- (2) A person who is a member of a council of a body corporate referred to in subclause (1) shall, for the purposes of section 72 (1), be deemed to have been elected as a member of that council if he was elected as a member of the council of the body corporate constituted under the former Act.
- (3) Section 73 (1) shall, in relation to a council referred to in subclause (1), be deemed to be amended by omitting therefrom the words “they assume office as such members” and by inserting instead the words “the appointed day”.

23 (Repealed)

24 Operation of section 81 in relation to former strata schemes

Section 81 extends to authorising the giving by any person to a body corporate continued by the operation of clause 4 of a notice after the occurrence of any event specified in that section notwithstanding that that event occurred before the appointed day.

25 Modification of Part 4, Division 5

- (1) Section 83 does not apply to or in respect of a body corporate continued by the operation of clause 4, which has in force on the appointed day a policy of insurance expiring not later than

one year after the appointed day and effected by it in accordance with section 15 (1) (a) of the former Act, until the expiry of that policy.

- (2) Section 84 (1) (a) does not apply to or in respect of a body corporate continued by the operation of clause 4, which has in force on the appointed day a policy of insurance expiring not later than one year after the appointed day and effected by it in accordance with section 15 (1) (b) of the former Act, until the expiry of that policy.
- (3) Sections 85 (2) and 88 apply to and in respect of a policy of insurance entered into in accordance with the former Act before the appointed day between a body corporate continued by the operation of clause 4 and an insurer in the same way as those sections apply to and in respect of a contract of insurance entered into between a body corporate and an insurer pursuant to Division 5 of Part 4.
- (4) Notwithstanding the repeal of the former Act, section 17 of the former Act continues to apply to and in respect of a policy of insurance referred to in that section entered into before the appointed day until the expiry of that policy as if this Act had not been enacted.

26 Effect of section 90 in relation to former parcels

- (1) A valuation of a former parcel made by a valuing authority within the meaning of section 21 of the former Act in accordance with section 21 (2) (a) of the former Act and in force immediately before the appointed day shall, for the purposes of this Act, be deemed to be a valuation made in accordance with section 90 (1) by that valuing authority.
- (2) In relation to a parcel to which the provisions of this Act apply by reason of clause 6 and which corresponds to a former parcel a valuation of which had not, at the appointed day, been made in accordance with section 21 (2) (a) of the former Act, section 90 (2) shall be deemed to be amended by omitting therefrom the words “the registration of a strata plan” and by inserting instead the words “the appointed day”.

27 Evidentiary effect under section 91 of particulars furnished under section 21 (3) of former Act

Except where the Registrar-General furnishes particulars under section 49 (3) of the unit entitlements of the lots the subject of a strata scheme to which the provisions of this Act apply by reason of clause 6, the particulars of the unit entitlements of any former lots shown on a certified copy of the strata plan referred to in section 21 (3) of the former Act or on any amendment of that plan and furnished to any authority referred to in section 21 (3) of the former Act shall for the purposes of section 91 be deemed to be particulars furnished to that authority under section 49 (3) of the unit entitlements of the derived lots that correspond to those former lots.

28 Modification of section 92 (2) (c) in relation to valuations of certain lots

In relation to a lot comprised in a parcel referred to in clause 26 (2), section 92 (2) (c) shall be deemed to be amended by inserting after the figures “90” the words “, as deemed to be amended by clause 26 (2) of Schedule 4”.

29 Modification of section 119 in relation to lots in former strata schemes

In relation to a strata scheme to which the provisions of this Act apply by reason of clause 6, section 119 shall be deemed to be amended by omitting the words “the strata plan was registered or at the time any strata plan of subdivision was registered, as the case may be” and by inserting instead the

words “the strata plan, or strata plan of resubdivision, within the meaning of the former Act, as the case may be, was registered under the former Act”.

30 Destruction of or damage to building under former Act

- (1) Any proceedings under section 19 (1) of the former Act which were pending before the Supreme Court immediately before the appointed day may be continued and completed as if they were proceedings under section 51.
- (2) Any declaration made under section 19 (1) (b) of the former Act before the appointed day shall, notwithstanding the repeal of the former Act, continue to operate and shall have the same force and effect as if this Act had not been enacted.
- (3) Any proceedings for an order referred to in section 19 (3) of the former Act which were pending before the Supreme Court immediately before the appointed day may be continued and completed as if they were proceedings under section 50.
- (4) Any order made under section 19 (3) of the former Act before the appointed day shall, notwithstanding the repeal of the former Act, continue to operate and shall, subject to subclause (5), have the same force and effect as if this Act had not been enacted.
- (5) An order referred to in section 19 (3) of the former Act may be varied in the same way as if it were an order made under section 50 (4).
- (6) Notwithstanding the repeal of the former Act, section 11 of the former Act and the regulations made under that section continue to apply to and in respect of a building which was destroyed under the former Act and the parcel on which that building was situated.

31 Administrators under former Act

- (1) A person who, immediately before the appointed day, held office as an administrator under section 23 of the former Act shall, notwithstanding the repeal of the former Act, continue to have the powers and duties he had, as the holder of that office, immediately before the appointed day.
- (2) The provisions of section 23 of the former Act continue to apply to and in respect of a person holding office as referred to in subclause (1) notwithstanding the repeal of the former Act.
- (3) Where immediately before the appointed day an application under section 23 (1) of the former Act was pending, the Supreme Court shall remit the application to such Board as it thinks fit on such terms and conditions (including terms and conditions relating to the payment of the costs of the application up to the date of the remittal) as it thinks fit and any application so remitted shall be deemed to be an application capable of being made under section 127.

32 Recovery of rates paid by body corporate

A body corporate may recover any amount referred to in section 16 (2) of the former Act paid by it, whether before or after the appointed day, as if section 16 (3) of the former Act had not been repealed by this Act.

33 Keeping of animals

Where at the expiration of a period of three months after the appointed day:

- (a) the by-laws in force in respect of a scheme to which the provisions of this Act apply by reason of clause 6 prohibit the proprietor or occupier of a lot from keeping any animal upon his lot or the common property without the approval in writing of the body corporate, and
- (b) the proprietor or occupier of any lot the subject of that scheme was keeping an animal on that lot or the common property and had not before the expiration of that period been given a notice by the council requiring him not so to keep that animal,

the body corporate shall be deemed to have given its approval under the by-laws referred to in paragraph (a) to the keeping of that animal on that lot or the common property, as the case may be.

34 Regulations—transitional

- (1) The Governor may, for the purposes of bringing lots, common property, bodies corporate and councils, within the meaning of the former Act, under the provisions of this Act and applying the provisions of this Act, with or without modifications, additions or exclusions to or in respect of any such lots, common property, bodies corporate or councils, and for any purposes incidental thereto, make regulations containing such transitional, consequential or savings provisions as to the Governor may appear to be necessary or expedient.
- (2) A regulation made under this clause may make provisions which differ in their application according to such factors as may be specified in the regulation.
- (3) Section 39 (1) (b) of the *Interpretation Act 1987* does not apply to a regulation made under this clause.
- (4) Regulations made under this clause before the appointed day shall take effect on the appointed day or on some later day specified in the regulations.
- (5) Regulations made under this clause after the appointed day shall take effect on the day of publication or on some other day specified in the regulations, being a day before or after the day of publication, but not earlier than the appointed day.
- (6) The *Acts Reprinting Act 1972* does not apply to or in respect of any modifications, additions or exclusions referred to in subclause (1).

Part 2 Provisions relating to the Strata Titles (Part Strata) Amendment Act 1992

1 Definition

In this Part, *amending Act* means the *Strata Titles (Part Strata) Amendment Act 1992*.

2 Exemption from insurance

An order that exempted a body corporate from any requirement of section 83 immediately before the substitution of that section by the amending Act is, on that substitution:

- (a) taken to have been made under that section, as so substituted, and
- (b) taken to exempt the body corporate from the corresponding requirement of that section, as so substituted.

3 Orders under Part 5

- (1) An order that was in force under Part 5 immediately before the commencement of any amendment of that Part made by the amending Act is, on the commencement of the amendment, taken to have been made under that Part, as so amended.
- (2) An application for an order under Part 5 that was pending immediately before the commencement of any such amendment is, on the commencement of the amendment, taken to have been made under that Part, as so amended.

Part 3 Transitional provisions relating to the Strata Titles (Staged Development) Amendment Act 1993

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the *Strata Titles (Staged Development) Amendment Act 1993*.
- (2) Such a provision may, if the regulations so provide, take effect on the date of assent to that Act or on a later date.
- (3) To the extent to which such a provision takes effect on a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of that publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done before the date of that publication.

2 Transitional arrangements for certain development schemes

- (1) The amendments made to this Act by the *Strata Titles (Staged Development) Amendment Act 1993* do not apply to a development scheme provided for, and represented by, a development statement:
 - (a) that was certified under section 28A (4) before 1 January 1995, or
 - (b) that, not needing to be so certified, was duly lodged for registration before 1 January 1995.
- (2) The amendments made to the *Land and Environment Court Act 1979* by the *Strata Titles (Staged Development) Amendment Act 1993* do not apply to any proceedings:
 - (a) that are commenced after 1 January 1995 in the Land and Environment Court, and
 - (b) that relate to any such development scheme or development statement.

3 Proceedings pending in Land and Environment Court

The amendments made to the *Land and Environment Court Act 1979* by the *Strata Titles (Staged Development) Amendment Act 1993* do not apply to any proceedings that are pending at 1 January 1995 in the Land and Environment Court under:

this Act,

the *Strata Titles (Leasehold) Act 1986*, or
the *Community Land Management Act 1989*.

Part 4 Transitional provisions relating to the Strata Schemes Legislation Amendment (Strata Approvals) Act 1999

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the *Strata Schemes Legislation Amendment (Strata Approvals) Act 1999*.
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

2 Application to existing developments

- (1) The amendments made to this Act by the *Strata Schemes Legislation Amendment (Strata Approvals) Act 1999* do not apply to any proposed strata plan, strata plan of subdivision or notice of conversion in respect of which an application for development consent was lodged before the commencement of this clause.
- (2) For the purposes of satisfying section 37 (1) (a) (i), as amended by the *Strata Schemes Legislation Amendment (Strata Approvals) Act 1999*, it is sufficient if the provisions of that subparagraph as in force immediately before that amendment are satisfied in respect of a building.

3 References to approvals under section 37

A reference in any Act (other than in this clause) or in any instrument made under any Act or in any instrument of any kind to:

- (a) an approval under section 37, or
- (b) a certificate of approval under section 37,

is to be read as a reference to a strata certificate issued under section 37 or 37A.

Part 5 Transitional provisions relating to the Strata Schemes Legislation Amendment Act 2001

1 Definition

In this Part:

amending Act means the *Strata Schemes Legislation Amendment Act 2001*.

2 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the amending Act, but only in relation to amendments made to this Act.
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the amending Act or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

3 Surveyors certificates

A certificate duly given by a registered surveyor under section 8 (2) (c), 8A (3) (b) or 9 (3) (c) before the amendment of Schedule 1A by the amending Act is taken to have been duly given under that provision despite that amendment.

4 Transitional arrangements for certain staged development

The amendments made to this Act by the amending Act do not apply to a strata development contract or strata management statement registered before the commencement of this clause.

5 Transfer or lease of common property and creation of variation of easements, restrictions and positive covenants

A transfer or other dealing pursuant to a unanimous resolution passed before the commencement of an amendment made by the amending Act to section 19, 25, 26, 27 or 28 is authorised to be carried out after the commencement as if that section had not been amended.

Part 6 Transitional provisions relating to the Environmental Planning Legislation Amendment Act 2006

1 Strata certificates

Division 4 of Part 2, as amended by the *Environmental Planning Legislation Amendment Act 2006*, does not apply to or in respect of an application for a strata certificate made, but not determined, before the commencement of Schedule 3.3 to that Act and that Division, as in force immediately before that commencement, continues to apply to and in respect of any such application.

**PLANNING CERTIFICATE UNDER SECTION 10.7
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

Ref.: 20/4652 - DAUTOVIC:90170
Ppty: 21514

Cert. No.: 4445

Applicant:
DONNA FUCHS CONVEYANCING
PO BOX 99
CAMPBELLTOWN NSW 2560

Receipt No.: 4535180
Receipt Amt.: 53.00
Date: 09-Mar-2020

The information in this certificate is provided pursuant to Section 10.7(2) of the Environmental Planning and Assessment Act (EP&A Act) 1979, as prescribed by Schedule 4 of the Environmental Planning and Assessment Regulation (EP&A Regulation) 2000. The information has been extracted from Council's records, as they existed at the date listed on the certificate. Please note that the accuracy of the information contained within the certificate may change after the date of this certificate due to changes in Legislation, planning controls or the environment of the land.

The information in this certificate is applicable to the land described below.

Legal Description: LOT 7 SP 8126

Street Address: 7/ 32 REMEMBRANCE AVENUE, WARWICK FARM NSW 2170

Note: Items marked with an asterisk () may be reliant upon information transmitted to Council by a third party public authority. The accuracy of this information cannot be verified by Council and may be out-of-date. If such information is vital for the proposed land use or development, applicants should instead verify the information with the appropriate authority.*

Note: Commonly Used Abbreviations:

LEP: Local Environmental Plan
DCP: Development Control Plan
SEPP: State Environmental Planning Policy
EPI: Environmental Planning Instrument



1. Names of relevant planning instruments and DCPs

(a) The name of each EPI that applies to the carrying out of development on the land is/are listed below:

LEPs:

Liverpool LEP 2008

SEPPs*:

SEPP No. 33 – Hazardous and Offensive Development

SEPP No. 50 – Canal Estate Development

SEPP No. 55 – Remediation of Land

SEPP No. 62 – Sustainable Aquaculture

SEPP No. 65 – Design Quality of Residential Flat Development

SEPP (Building Sustainability Index: BASIX) 2004

SEPP No. 70 – Affordable Housing (Revised Schemes)

SEPP (Infrastructure) 2007

SEPP (Mining, Petroleum Production and Extractive Industries) 2007

SEPP (Miscellaneous Consent Provisions) 2007

SEPP (State and Regional Development) 2011

SEPP (Education Establishments and Child Care Facilities) 2017

SEPP (Vegetation in Non-Rural Areas) 2017

SEPP (Housing for Seniors or People with a Disability) 2004

SEPP (Exempt and Complying Development Codes) 2008

SEPP (Affordable Rental Housing) 2009

SEPP No 19 – Bushland in Urban Areas

SEPP No 21 – Caravan Parks

SEPP No 30 – Intensive Agriculture

SEPP Koala Habitat Protection

SEPP No 64 – Advertising and Signage

Deemed SEPPs*:

Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment

(b) The name of each draft EPI, or Planning Proposal (which has been subject to community consultation).

Draft LEPs:

N/A

Draft SEPPs*:

Draft SEPP (Competition) 2010

(c) The name of each DCP that applies to the carrying out of development on the land.



Liverpool DCP 2008

2. Zoning and land use under relevant LEPs and /or SEPPs

This section contains information required under subclauses 2 and 2A of Schedule 4 of the EP&A Regulation 2000. Subclause 2 of the regulation requires Council to provide information with respect to zoning and land-use in areas zoned by, or proposed to be zoned by, a LEP. Subclause 2A of Schedule 4 of the regulation requires Council to provide information with respect to zoning and land-use in areas which are zoned by, or proposed to be zoned by, the SEPP (Sydney Region Growth Centres) 2006. The land use and zoning information under any EPI applying to the land is given below.

(a) Name of zone, and the EPI from which the land zoning information is derived.

R4 High Density Residential - Liverpool LEP 2008

(b) The purposes for which development may be carried out within the zone without the need for development consent

Home-based child care; Home occupations

(c) The purposes for which development may not be carried out within the zone except with development consent

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Child care centres; Community facilities; Dwelling houses; Educational establishments; Environmental facilities; Environmental protection works; Exhibition homes; Exhibition villages; Flood mitigation works; Home businesses; Home industries; Hostels; Hotel or motel accommodation; Kiosks; Multi dwelling housing; Neighbourhood shops; Places of public worship; Public administration buildings; Recreation areas; Residential care facilities; Residential flat buildings; Respite day care centres; Roads; Secondary dwellings; Serviced apartments; Shop top housing

(d) The purposes for which the instrument provides that development is prohibited within the zone

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

(e) If a dwelling house is a permitted use, are there any principal development standards applying to the land that fix minimum land dimensions for the erection of a dwelling house?

No

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



No

(g) Is the land is in a conservation area (however described):

No

(h) Is there an item of environmental heritage (however described) situated on the land

No

3. Complying development

The information below outlines whether complying development is permitted on the land as per the provisions of clauses 1.17A (1) (c) to (e), (2), (3) and (4), 1.18(1) (c3) and 1.19 SEPP of the (Exempt and Complying Development Codes) 2008.

The first column identifies the code(s). The second column describes the extent of the land in which exempt and complying development is permitted for the code(s) given to the immediate left. The third column indicates the reason as to why exempt and complying development is prohibited on some or all of the land, and will be blank if such development is permitted on all of the land.

Code	Extent of the land for which development is permitted:	The reason(s) as to why development is prohibited:
Housing Code, Rural Housing Code and Greenfield Housing Code	All	
Commercial and Industrial (New Buildings and Additions) Code	All	
General Development Code, Container Recycling Facilities Code, Fire Safety Code, Housing Alterations Code, Commercial and Industrial Alterations Code, Subdivisions Code, and Demolition Code	All	

Note: If council does not have sufficient information to ascertain the extent to which complying development may or may not be carried out on the land, a statement below will describe that a restriction applies to the land, but it may not apply to all of the land, and that council does not have sufficient information to ascertain the extent to which complying development may or may not be carried out on the land.

Nil

4. Coastal protection*

Has the Department of Finance, Services and Innovation notified Council of the land being affected by 38 or 39 of the Coastal Protection Act, 1979?

No

4A. Certain information relating to beaches and coasts*

(a) Has an order has been made under Part 4D of the Coastal Protection Act 1979 on the land (or on public land adjacent to that land)?

No

(b) Has Council been notified under section 55X of the Coastal Protection Act 1979 that temporary coastal protection works have been placed on the land (or on public land adjacent to that land), and if works have been so placed, is council is satisfied that the works have been removed and the land restored in accordance with that Act?

Not applicable

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

Has the owner (or any previous owner) of the land consented, in writing, that the land is 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)?

No

5. Mine subsidence*

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

No



6. Road widening and road realignment

Is the land is affected by any road widening or road realignment under:

(a) Division 2 of Part 3 of the Roads Act 1993?*

No

(b) An EPI?

No

(c) A resolution of the council?

No

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

The following table lists hazard/risk policies that have been adopted by Council (or prepared by another public authority and subsequently adopted by Council). The right-most column indicates whether the land is subject to those policies.

Hazard/Risk	Adopted Policy	Does this hazard/risk policy apply to the land?
Landslip hazard	Nil	No
Bushfire hazard	Liverpool DCP 2008	No
	Liverpool Growth Centre Precincts DCP*	No
	Edmondson Park South DCP 2012	No
	Planning for Bushfire Protection (Rural Fire Services, 2006)*	No
	Pleasure Point Bushfire Management Plan	No
Tidal inundation	Nil	No
Subsidence	Nil	No
Acid Sulphate Soils	Liverpool LEP 2008	No
	Liverpool DCP 2008	No
Potentially Contaminated Land	Liverpool DCP 2008	Yes, see section 10 of Part 1 of the Liverpool DCP 2008
	Liverpool Growth Centre Precincts DCP*	No
Potentially Saline Soils	Liverpool DCP 2008	Yes
	Liverpool Growth Centre Precincts DCP*	No

Note: Land for which a policy applies does not confirm that the land is affected by that hazard/risk. For example, all land for which the Liverpool DCP applies is subject to controls relating to contaminated land, as this policy contains triggers and procedures for identifying potential contamination. Applicants are encouraged to review the relevant policy, and other sections of this certificate, to determine what effect, if any, the policy may have on the land.

7A. Flood related development controls information

(a) For the purpose of residential accommodation (excluding group homes or seniors housing), is the land, or part of the land, within the flood planning area and subject to flood planning controls?

No

For details of these controls, please refer to the flooding section of the relevant DCP(s) as specified in Section 1(c) of this certificate.

(b) Is development on that land, or part of the land, for any other purpose subject to flood related development controls?

Yes

For details of these controls, please refer to the flooding section of the relevant DCP(s) as specified in Section 1(c) of this certificate.

Note: Words and expressions in this clause have the same meanings as in the instrument set out in the Schedule to the Standard Instrument (Local Environmental Plans) Order 2006.

8. Land reserved for acquisition

Does a LEP, draft LEP, SEPP or draft SEPP identify the acquisition of the land, or part of the land, by a public authority, as referred to in section 3.15 of the Act?

No

9. Contribution Plans

Liverpool Contributions Plan 2018 - Liverpool City Centre

9A. Biodiversity certified land*

Is the land, or part of the land, biodiversity certified land (within the meaning of Part 8 of the Biodiversity Conservation Act 2016)?

No



10. Biobanking agreements*

Is the land subject to a bio-banking agreement under Part 6 of the Biodiversity Conservation Act 2016, as notified to Council by the Chief Executive of the Office of Environment and Heritage?

No

10A. Native vegetation clearing set asides

Does the land contain a set aside area under section 60ZC of the Local Land Services Act 2013?

No, Liverpool is excluded from section 60ZC of the Local Land Services Act 2013

11. Bushfire prone land

Is the land or part of the land, bushfire prone land as defined by the EP&A Act 1979?

No

12. Property vegetation plans*

Is Council aware of the land being subject to a Property Vegetation Plan under the Native Vegetation Act 2003?

No, Liverpool is excluded from the operation of the Native Vegetation Act 2003

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

Does an order, made under the Trees (Disputes Between Neighbours) Act 2006 in relation to carrying out of work in relation to a tree on the land, apply?

No, Council has not been notified of an order

14. Directions under Part 3A*

Is there a direction (made by the Minister) that a provision of an EPI in relation to a development does not have effect?

No

15. Site compatibility certificates and conditions for seniors housing*

(a) Is there is a current site compatibility certificate (seniors housing), in respect of proposed development on the land?

No, Council has not been notified of an order.

16. Site compatibility certificates for infrastructure*



(a) Is there is a current site compatibility certificate (infrastructure), in respect of proposed development on the land?

No, Council has not been notified of an order

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

Is there is a current site compatibility certificate (Affordable housing), in respect of proposed development on the land?

No, Council has not been notified of an order.

18. Paper subdivision information*

Does any development plan adopted by a relevant authority (or proposed plan subject to a consent ballot) apply to the land? If so the date of the subdivision order that applies to the land.

No

19. Site verification certificates*

Does a current site verification certificate, apply to the land?

No, Council is not aware of a site verification certificate

20. Loose-fill asbestos insulation *

Is a dwelling on the land listed on the register (maintained by the NSW Department of Fair Trading) as containing loose-fill asbestos insulation?

No

Note: despite any listing on the register, any buildings constructed before 1980 may contain loose-fill asbestos insulation or other asbestos products.

21. Affected building notices and building product rectification orders*

Is there any affected building notice (as in Part 4 of the Building Products (Safety) Act 2017) of which the council is aware that is in force in respect of the land?

No

Is there any building product rectification order (as in the Building Products (Safety) Act 2017) of which the council is aware that is in force in respect of the land and has not been fully complied with?

No

Is there any notice of intention to make a building product rectification order (as in the Building Products (Safety) Act 2017) of which the council is aware has been given in respect of the land and is outstanding?

No

22. Contaminated land

Is the land:

(a) Significantly contaminated land within the meaning of that Act?

No

(b) Subject to a management order within the meaning of that Act?

No

(c) Subject of an approved voluntary management proposal within the meaning of that Act?

No

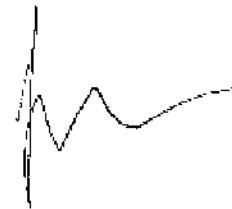
(d) Subject to an ongoing maintenance order within the meaning of that Act?

No

(e) Subject of a site audit statement within the meaning of that Act? *

No

Note: in this clause 'the Act' refers to the Contaminated Land Management Act 1997.



**Kiersten Fishburn
Chief Executive Officer
Liverpool City Council**

For further information, please contact
CALL CENTRE – 1300 36 2170



METROPOLITAN WATER SEWERAGE AND DRAINAGE BOARD

SEWERAGE SERVICE DIAGRAM

Municipality of *Liverpool*

No. *497025*

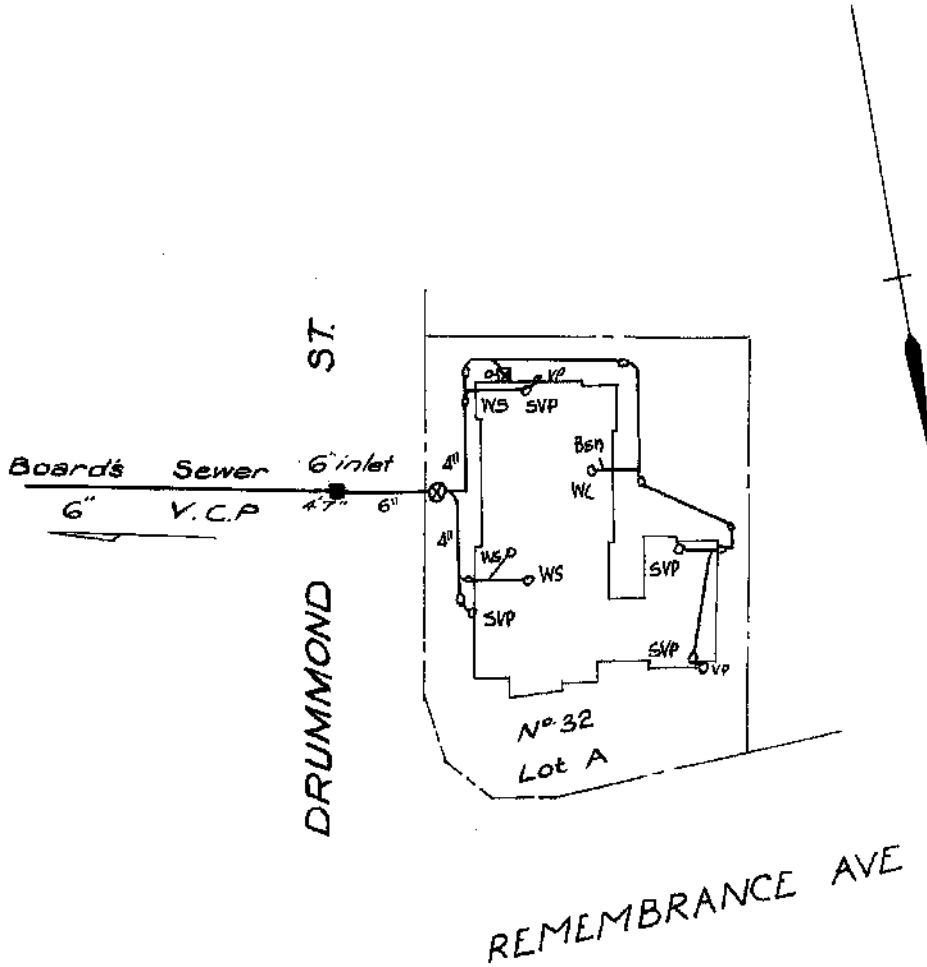
SYMBOLS AND ABBREVIATIONS

- | | | | |
|---------------------------|--------------------------|-------------------|--------------------------|
| □ Boundary Trap | ■ R.V. Reflux Valve | I.P. Inlet Pipe | Bsn. Basin |
| ■ Pit | ⊕ Cleaning Eye | M.F. Mica Flap | Shr. Shower |
| ▨ G.I. Grease Interceptor | ○ Vert. Vertical Pipe | T. Tubs | W.I.P. Wrought Iron Pipe |
| ⊕ Gully | ○ V.P. Vent. Pipe | K.S. Kitchen Sink | C.I.P. Cast Iron Pipe |
| ⊗ P.T. P. Trap | ○ S.V.P. Soil Vent. Pipe | W.C. Water Closet | F.W. Floor Waste |
| ⊗ R.S. Reflux Sink | D.C.C. Down Cast Cowl | B.W. Bath Waste | W.M. Washing Machine |

Scale: 40 Feet To An Inch

SEWER AVAILABLE

Where the sewer is not available and a special inspection is involved the Board accepts no responsibility for the suitability of the drainage in relation to the eventual position of the Board's Sewer



RATE No. _____ W.C.s _____ U.C.s _____ 19____

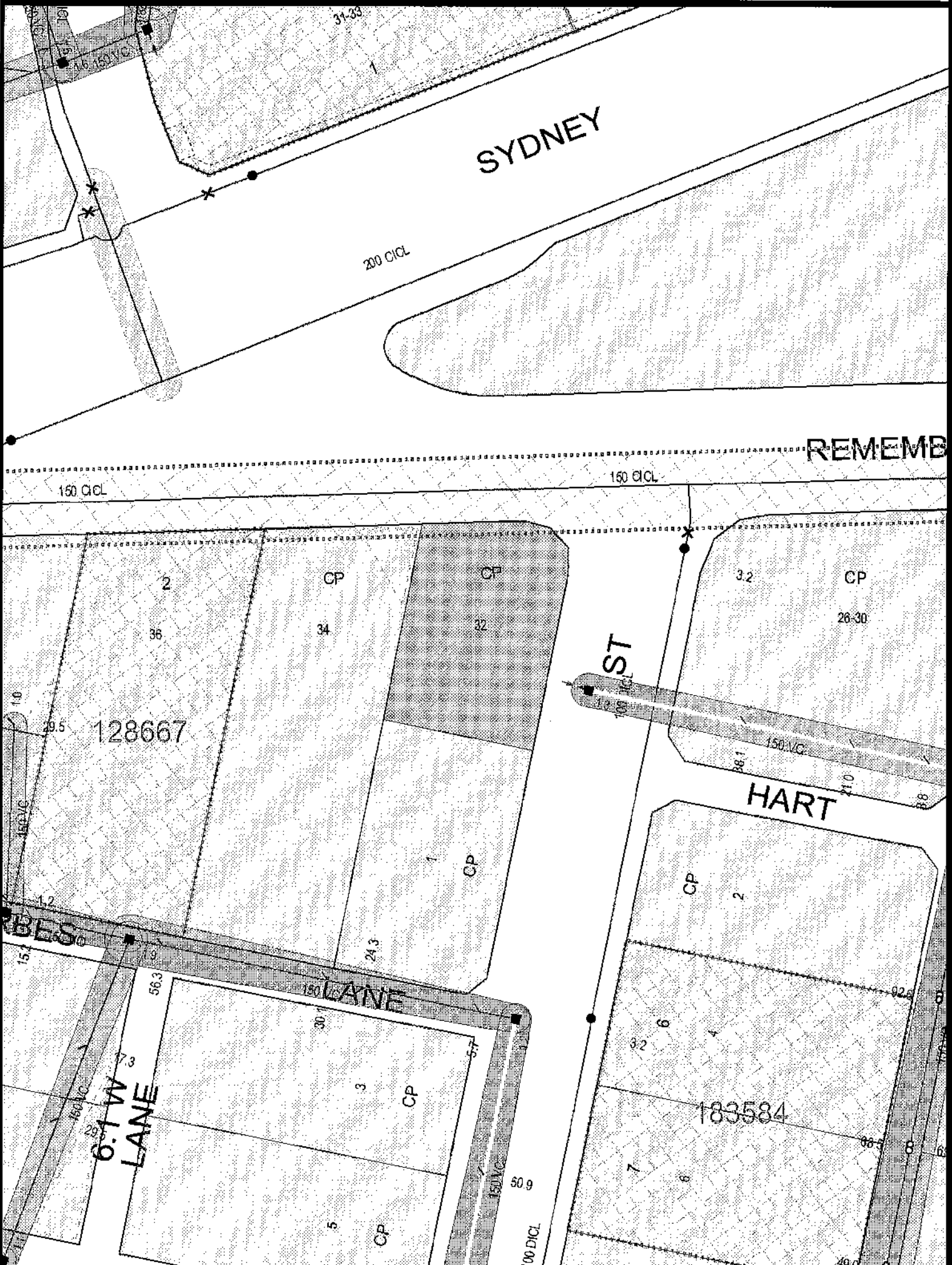
SHEET No. *4/88*

OFFICE USE ONLY

For Engineer House Services

DRAINAGE			PLUMBING		
W.C.	Supervised by	Date	BRANCH OFFICE	Supervised by	Date
Bth.	Inspector	/ /	Date	Inspector	/ /
Shr.			Outfall		
Bsn.	Chief Inspector	/ /	Drainer	<i>486 5/4</i> 1323 123	
K.S.			Plumber		
T.	Tracing Checked	/ /	Boundary Trap		
Pig.			is/is not required		
Dge. Int.					
Dge. Ext.					

NOTE This diagram only indicates availability of a sewer and any sewerage service shown as existing in Sydney Water's records. The existence and position of Sydney Water's sewers, stormwater channels, pipes, mains and structures should be ascertained by inspection of maps available at any of Sydney Water's Customer Centres. Position of structures, boundaries, sewers and sewerage services shown hereon are approximately only.



NOTE This diagram only indicates availability of a sewer and any sewerage service shown as existing in Sydney Water's records. The existence and position of Sydney Water's sewers, stormwater channels, pipes, mains and structures should be ascertained by inspection of maps available at any of Sydney Water's Customer Centres. Position of structures, boundaries, sewers and sewerage services shown hereon are approximately only.