

Contract for the sale and purchase of land 2022 edition

TERM	MEANING OF TERM	NSW DAN:
vendor's agent	McGrath Newcastle Suite 1/38 Llewellyn Street, Merewether, NSW 2291	Phone: 4989 4000 Ref: Sean Redpath - 0411 474 316
co-agent		
vendor	Michelle Esmeralda Walker and Andrew Paul Dillon 109 Cleary Street, Hamilton, NSW 2303	
vendor's solicitor	O'Brien Winter Partners Pty Ltd Ground Floor, 360 Hunter Street, Newcastle NSW 2300	Phone: 02 4949 2000 Email: damien@owplaw.com.au Fax: 02 4949 2001 Ref: DOB:23561
date for completion land (address, plan details and title reference)	42nd day after the contract date 109 Cleary Street, Hamilton, New South Wales 2303 Registered Plan: Lot A Plan DP 361649 Folio Identifier A/361649	(clause 15)
improvements	<input checked="" type="checkbox"/> VACANT POSSESSION <input type="checkbox"/> subject to existing tenancies <input checked="" type="checkbox"/> HOUSE <input checked="" type="checkbox"/> garage <input type="checkbox"/> carport <input type="checkbox"/> home unit <input type="checkbox"/> carspace <input type="checkbox"/> storage space <input type="checkbox"/> none <input type="checkbox"/> other:	
attached copies	<input type="checkbox"/> documents in the List of Documents as marked or as numbered: <input type="checkbox"/> other documents:	

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

inclusions	<input checked="" type="checkbox"/> air conditioning <input checked="" type="checkbox"/> clothes line <input checked="" type="checkbox"/> fixed floor coverings <input checked="" type="checkbox"/> range hood <input checked="" type="checkbox"/> blinds <input type="checkbox"/> curtains <input checked="" type="checkbox"/> insect screens <input checked="" type="checkbox"/> solar panels <input checked="" type="checkbox"/> built-in wardrobes <input checked="" type="checkbox"/> dishwasher <input checked="" type="checkbox"/> light fittings <input checked="" type="checkbox"/> stove <input checked="" type="checkbox"/> ceiling fans <input type="checkbox"/> EV charger <input type="checkbox"/> pool equipment <input checked="" type="checkbox"/> TV antenna <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)

Where there is more than one purchaser JOINT TENANTS
 tenants in common in unequal shares, specify:

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

buyer's agent

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

SIGNING PAGE

VENDOR	PURCHASER
<p>Signed by</p> <p>_____</p> <p>Vendor</p> <p>_____</p> <p>Vendor</p>	<p>Signed by</p> <p>_____</p> <p>Purchaser</p> <p>_____</p> <p>Purchaser</p>
VENDOR (COMPANY)	PURCHASER (COMPANY)
<p>Signed by _____</p> <p>in accordance with s127(1) of the Corporations Act 2001 by the authorised person(s) whose signature(s) appear(s) below:</p> <p>_____</p> <p>Signature of authorised person Signature of authorised person</p> <p>_____</p> <p>Name of authorised person Name of authorised person</p> <p>_____</p> <p>Office held Office held</p>	<p>Signed by _____</p> <p>in accordance with s127(1) of the Corporations Act 2001 by the authorised person(s) whose signature(s) appear(s) below:</p> <p>_____</p> <p>Signature of authorised person Signature of authorised person</p> <p>_____</p> <p>Name of authorised person Name of authorised person</p> <p>_____</p> <p>Office held Office held</p>

ChoicesVendor agrees to accept a **deposit-bond**NO yes**Nominated *Electronic Lodgment Network (ELN)*** (clause 4):pexa**Manual transaction** (clause 30)NO yes

(if yes, vendor must provide further details, including any applicable exception, in the space below):

Tax information (the parties promise this is correct as far as each party is aware)**Land tax** is adjustableNO yes**GST:** Taxable supplyNO 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* NO yes (if yes, vendor must provide

(GST residential withholding payment)

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 at least 7 days before the date for completion.

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 representative:

Supplier's contact 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

<p>General</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> 1 property certificate for the land <input checked="" type="checkbox"/> 2 plan of the land <input type="checkbox"/> 3 unregistered plan of the land <input type="checkbox"/> 4 plan of land to be subdivided <input type="checkbox"/> 5 document to be lodged with a relevant plan <input checked="" type="checkbox"/> 6 section 10.7(2) planning certificate under Environmental Planning and Assessment Act 1979 <input type="checkbox"/> 7 additional information included in that certificate under section 10.7(5) <input type="checkbox"/> 8 sewerage infrastructure location diagram (service location diagram) <input checked="" type="checkbox"/> 9 sewer lines location diagram (sewerage service diagram) <input type="checkbox"/> 10 document that created or may have created an easement, profit à prendre, restriction on use or positive covenant disclosed in this contract <input type="checkbox"/> 11 <i>planning agreement</i> <input type="checkbox"/> 12 section 88G certificate (positive covenant) <input type="checkbox"/> 13 survey report <input type="checkbox"/> 14 building information certificate or building certificate given under <i>legislation</i> <input type="checkbox"/> 15 occupation certificate <input type="checkbox"/> 16 lease (with every relevant memorandum or variation) <input type="checkbox"/> 17 other document relevant to tenancies <input type="checkbox"/> 18 licence benefiting the land <input type="checkbox"/> 19 old system document <input type="checkbox"/> 20 Crown purchase statement of account <input type="checkbox"/> 21 building management statement <input type="checkbox"/> 22 form of requisitions <input type="checkbox"/> 23 <i>clearance certificate</i> <input type="checkbox"/> 24 land tax certificate <p>Home Building Act 1989</p> <ul style="list-style-type: none"> <input type="checkbox"/> 25 insurance certificate <input type="checkbox"/> 26 brochure or warning <input type="checkbox"/> 27 evidence of alternative indemnity cover <p>Swimming Pools Act 1992</p> <ul style="list-style-type: none"> <input type="checkbox"/> 28 certificate of compliance <input type="checkbox"/> 29 evidence of registration <input type="checkbox"/> 30 relevant occupation certificate <input type="checkbox"/> 31 certificate of non-compliance <input type="checkbox"/> 32 detailed reasons of non-compliance 	<p>Strata or community title (clause 23 of the contract)</p> <ul style="list-style-type: none"> <input type="checkbox"/> 33 property certificate for strata common property <input type="checkbox"/> 34 plan creating strata common property <input type="checkbox"/> 35 strata by-laws <input type="checkbox"/> 36 strata development contract or statement <input type="checkbox"/> 37 strata management statement <input type="checkbox"/> 38 strata renewal proposal <input type="checkbox"/> 39 strata renewal plan <input type="checkbox"/> 40 leasehold strata - lease of lot and common property <input type="checkbox"/> 41 property certificate for neighbourhood property <input type="checkbox"/> 42 plan creating neighbourhood property <input type="checkbox"/> 43 neighbourhood development contract <input type="checkbox"/> 44 neighbourhood management statement <input type="checkbox"/> 45 property certificate for precinct property <input type="checkbox"/> 46 plan creating precinct property <input type="checkbox"/> 47 precinct development contract <input type="checkbox"/> 48 precinct management statement <input type="checkbox"/> 49 property certificate for community property <input type="checkbox"/> 50 plan creating community property <input type="checkbox"/> 51 community development contract <input type="checkbox"/> 52 community management statement <input type="checkbox"/> 53 document disclosing a change of by-laws <input type="checkbox"/> 54 document disclosing a change in a development or management contract or statement <input type="checkbox"/> 55 document disclosing a change in boundaries <input type="checkbox"/> 56 information certificate under Strata Schemes Management Act 2015 <input type="checkbox"/> 57 information certificate under Community Land Management Act 1989 <input type="checkbox"/> 58 disclosure statement - off the plan contract <input type="checkbox"/> 59 other document relevant to off the plan contract <p>Other</p> <ul style="list-style-type: none"> <input type="checkbox"/> 60
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HOLDER OF STRATA OR COMMUNITY TITLE RECORDS – Name, address, email address and telephone number

IMPORTANT NOTICE TO VENDORS AND PURCHASERS

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

WARNING—SMOKE ALARMS

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

WARNING—LOOSE-FILL ASBESTOS INSULATION

Before purchasing land that includes residential premises, within the meaning of the *Home Building Act 1989*, Part 8, Division 1A, 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 the *Home Building Act 1989*, Part 8, Division 1A. In particular, a purchaser should—

- (a) search the Register required to be maintained under the *Home Building Act 1989*, Part 8, Division 1A, and
- (b) ask the relevant local council whether it holds 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 the *Conveyancing Act 1919*, section 66X. This statement 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 before 5pm on—
 - (a) for an off the plan contract—the tenth business day after the day on which the contract was made, or
 - (b) in any other case—the fifth business day after the day on which the contract was made.
- 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 the Act, section 66W, 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 the Act, section 66ZG.
- 4 A purchaser exercising the right to cool off by rescinding the contract forfeits 0.25% of the purchase price of the property to the vendor.
- 5 The vendor is entitled to recover the forfeited amount from an amount paid by the purchaser as a deposit under the contract. 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 and Stock 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 and Environment Department of Primary Industries Electricity and gas Land and 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. Most purchasers will have to pay transfer duty (and, sometimes, if the purchaser is not an Australian citizen, surcharge purchaser duty) on this contract. Some purchasers may be eligible to choose to pay first home buyer choice property tax instead of transfer duty. If a payment is not made on time, interest and penalties may be incurred.
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)

1.1	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>adjustment figures</i>	details of the adjustments to be made to the price under clause 14;
<i>authorised Subscriber</i>	a <i>Subscriber</i> (not being a <i>party's solicitor</i>) named in a notice <i>served</i> by a <i>party</i> as being authorised for the purposes of clause 20.6.8;
<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>completion time</i>	the time of day at which completion is to occur;
<i>conveyancing rules</i>	the rules made under s12E of the Real Property Act 1900;
<i>deposit-bond</i>	a deposit bond or guarantee with each of the following approved by the vendor – <ul style="list-style-type: none"> • the issuer; • the expiry date (if any); and • the amount;
<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>discharging mortgagee</i>	any discharging mortgagee, chargee, covenant chargee or caveator whose provision of a <i>Digitally Signed</i> discharge of mortgage, discharge of charge or withdrawal of caveat is required in order for unencumbered title to the <i>property</i> to be transferred to the purchaser;
<i>document of title</i>	document relevant to the title or the passing of title;
<i>ECNL</i>	the Electronic Conveyancing National Law (NSW);
<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 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>electronic transfer</i>	a transfer of land under the Real Property Act 1900 for the <i>property</i> to be prepared and <i>Digitally Signed</i> in the <i>Electronic Workspace</i> established for the purposes of the <i>parties' Conveyancing Transaction</i> ;
<i>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</i> by a <i>party</i> ;
<i>GST Act</i>	A New Tax System (Goods and Services Tax) Act 1999;
<i>GST rate</i>	the rate mentioned in s4 of A New Tax System (Goods and Services Tax Imposition - General) Act 1999 (10% as at 1 July 2000);
<i>GSTRW payment</i>	a payment which the purchaser must make under s14-250 of Schedule 1 to the <i>TA Act</i> (the price multiplied by the <i>GSTRW rate</i>);
<i>GSTRW rate</i>	the rate determined under ss14-250(6), (8) or (9) of Schedule 1 to the <i>TA Act</i> (as at 1 July 2018, usually 7% of the price if the margin scheme applies, 1/11 th if not);
<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>legislation</i>	an Act or a by-law, ordinance, regulation or rule made under an Act;
<i>manual transaction</i>	a <i>Conveyancing Transaction</i> in which a dealing forming part of the <i>Lodgment Case</i> at or following completion cannot be <i>Digitally Signed</i> ;
<i>normally</i>	subject to any other provision of this contract;
<i>participation rules</i>	the participation rules as determined by the <i>ECNL</i> ;
<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>populate</i>	to complete data fields in the <i>Electronic Workspace</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</i> by the <i>party</i> ;
<i>TA Act</i>	Taxation Administration Act 1953;
<i>terminate</i>	terminate this contract for breach;
<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> ;
<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).

- 1.2 Words and phrases used in this contract (italicised and in Title Case, such as *Conveyancing Transaction*, *Digitally Signed*, *Electronic Workspace*, *ELN*, *ELNO*, *Land Registry*, *Lodgment Case* and *Subscriber*) have the meanings given in the *participation rules*.

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 –
- 2.4.1 giving cash (up to \$2,000) to the *depositholder*;
- 2.4.2 unconditionally giving a *cheque* to the *depositholder* or to the vendor, vendor's agent or vendor's *solicitor* for sending to the *depositholder*; or
- 2.4.3 electronic funds transfer to the *depositholder's* nominated account and, if requested by the vendor or the *depositholder*, providing evidence of that transfer.
- 2.5 The vendor can *terminate* if –
- 2.5.1 any of the deposit is not paid on time;
- 2.5.2 a *cheque* for any of the deposit is not honoured on presentation; or
- 2.5.3 a payment under clause 2.4.3 is not received in the *depositholder's* nominated account by 5.00 pm on the third *business day* after the time for payment.
- This right to *terminate* is lost as soon as the deposit is paid in full.
- 2.6 If the vendor accepts a *deposit-bond* for the deposit, clauses 2.1 to 2.5 do not apply.
- 2.7 If the vendor accepts a *deposit-bond* 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 the vendor accepts a *deposit-bond* for the deposit (or part of it).
- 3.2 The purchaser must provide the *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 16.5.
- 3.9 The vendor must give the purchaser any original *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 any original *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 any original *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 any original *deposit-bond* (or its proceeds if called up) to the *depositholder* as stakeholder.
- 4 Electronic transaction**
- 4.1 This *Conveyancing Transaction* is to be conducted as an *electronic transaction* unless –
- 4.1.1 the contract says this transaction is a *manual transaction*, giving the reason, or
- 4.1.2 a *party* *serves* a notice stating why the transaction is a *manual transaction*, in which case the *parties* do not have to complete earlier than 14 days after *service* of the notice, and clause 21.3 does not apply to this provision,
- and in both cases clause 30 applies.
- 4.2 If, because of clause 4.1.2, this *Conveyancing Transaction* is to be conducted as a *manual transaction* –
- 4.2.1 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
- 4.2.2 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.
- 4.3 The *parties* must conduct the *electronic transaction* –
- 4.3.1 in accordance with the *participation rules* and the *ECNL*; and
- 4.3.2 using the nominated *ELN*, unless the *parties* otherwise agree. This clause 4.3.2 does not prevent a *party* using an *ELN* which can interoperate with the nominated *ELN*.
- 4.4 A *party* must pay the fees and charges payable by that *party* to the *ELNO* and the *Land Registry*.
- 4.5 *Normally*, the vendor must *within 7 days* of the contract date create and *populate* an *Electronic Workspace* with *title data* and the date for completion, and invite the purchaser to the *Electronic Workspace*.
- 4.6 If the vendor has not created an *Electronic Workspace* in accordance with clause 4.5, the purchaser may create and *populate* an *Electronic Workspace* and, if it does so, the purchaser must invite the vendor to the *Electronic Workspace*.
- 4.7 The *parties* must, as applicable to their role in the *Conveyancing Transaction* and the steps taken under clauses 4.5 or 4.6 –
- 4.7.1 promptly join the *Electronic Workspace* after receipt of an invitation;
- 4.7.2 create and *populate* an *electronic transfer*;
- 4.7.3 invite any *discharging mortgagee* or *incoming mortgagee* to join the *Electronic Workspace*; and
- 4.7.4 *populate* the *Electronic Workspace* with a nominated *completion time*.
- 4.8 If the transferee in the *electronic transfer* is not the purchaser, the purchaser must give the vendor a direction signed by the purchaser personally for that transfer.
- 4.9 The vendor can require the purchaser to include a covenant or easement in the *electronic transfer* only if this contract contains the wording of the proposed covenant or easement, and a description of the land burdened and benefited.
- 4.10 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.
- 4.11 Before completion, the *parties* must ensure that –
- 4.11.1 all *electronic documents* which a *party* must *Digitally Sign* to complete the *electronic transaction* are *populated* and *Digitally Signed*;
- 4.11.2 all certifications required by the *ECNL* are properly given; and
- 4.11.3 they do everything else in the *Electronic Workspace* which that *party* must do to enable the *electronic transaction* to proceed to completion.
- 4.12 If the computer systems of any of the *Land Registry*, the *ELNO*, Revenue NSW 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*.

- 4.13 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 –
- 4.13.1 all *electronic documents Digitally Signed* by the vendor and any discharge of mortgage, withdrawal of caveat or other *electronic document* forming part of the *Lodgment Case* for the *electronic transaction* are 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; and
- 4.13.2 the vendor is taken to have no legal or equitable interest in the *property*.
- 4.14 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 –
- 4.14.1 holds them on completion in escrow for the benefit of; and
- 4.14.2 must immediately after completion deliver the documents or things to, or as directed by; the *party* entitled to them.

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 vendor *serves* details of a *GSTRW payment* which the purchaser must make, the purchaser does not have to complete earlier than 5 *business days* after that *service* and clause 21.3 does not apply to this provision.
- 13.14 If the purchaser must make a *GSTRW payment* the purchaser must, at least 2 *business 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 either clause 4.8 or clause 30.4 has been given, by the transferee named in the transfer the subject of that direction.

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, and –
- 14.2.1 the purchaser must provide the vendor with *adjustment figures* at least 2 *business days* before the date for completion; and
- 14.2.2 the vendor must confirm the *adjustment figures* at least 1 *business day* before the date for 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 The *parties* must not adjust any first home buyer choice property tax.
- 14.6 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.
- 14.7 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 *Normally*, on completion the vendor must cause the legal title to the *property* (being the estate disclosed in this contract) to pass to the purchaser free of any charge, mortgage or other interest, subject to any necessary registration.
- 16.2 The legal title to the *property* does not pass before completion.
- 16.3 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.
- 16.4 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

- 16.5 On completion the purchaser must pay to the vendor –
- 16.5.1 the price less any –
- deposit paid;
 - *FRCGW remittance* payable;
 - *GSTRW payment*; and
 - amount payable by the vendor to the purchaser under this contract; and
- 16.5.2 any other amount payable by the purchaser under this contract.
- 16.6 If any of the deposit is not covered by a *deposit-bond*, at least 1 *business day* before the date for completion the purchaser must give the vendor an order signed by the purchaser authorising the *depositholder* to account to the vendor for the deposit, to be held by the vendor in escrow until completion.
- 16.7 On completion the deposit belongs to the vendor.

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 4.8 or clause 30.4);
 - 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;
 - 20.6.7 *served* at the earliest time it is *served*, if it is *served* more than once; and
 - 20.6.8 *served* if it is provided to or by the *party's solicitor* or an *authorised Subscriber* by means of an *Electronic Workspace* created under clause 4. However, this does not apply to a notice making an obligation essential, or a notice of *rescission* or *termination*.
- 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 4, 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 - 4) 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.
- 20.16 Each *party* consents to –
- 20.16.1 any *party* signing this contract electronically; and
- 20.16.2 the making of this contract by the exchange of counterparts delivered by email, or by such other electronic means as may be agreed in writing by the *parties*.
- 20.17 Each *party* agrees that electronic signing by a *party* identifies that *party* and indicates that *party's* intention to be bound by this contract.

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 s171 Community Land Management Act 2021;
- 23.2.5 'interest notice' includes a strata interest notice under s22 Strata Schemes Management Act 2015 and an association interest notice under s20 Community Land Management Act 2021;
- 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 14.6 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 Before completion, the purchaser must *serve* a copy of an interest notice addressed to the owners corporation and signed by the purchaser.
- 23.11 After completion, the purchaser must insert the date of completion in the interest notice and send it to the owners corporation.
- 23.12 The vendor can complete and send the interest notice as agent for the purchaser.
- 23.13 The vendor must *serve* at least 7 days before the date for completion, an information certificate for the lot, the scheme or any higher scheme which relates to a period in which the date for completion falls.
- 23.14 The purchaser does not have to complete earlier than 7 days after *service* of the information certificate and clause 21.3 does not apply to this provision. On completion the purchaser must pay the vendor the prescribed fee for the information certificate.
- 23.15 The vendor authorises the purchaser to apply for the purchaser's own information 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 –
- at least 2 *business days* before the date for completion, a proper notice of the transfer (an attornment notice) addressed to the tenant, to be held by the purchaser in escrow until completion;
 - 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 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 On completion the vendor must give the purchaser any *document of title* that relates only to the *property*.
- 25.9 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.
- 25.10 The vendor must give a proper covenant to produce where relevant.
- 25.11 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.
- 25.12 If the vendor is unable to produce an original document in the chain of title, the purchaser will accept a photocopy from the *Land Registry* 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.

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 Manual transaction

- 30.1 This clause applies if this transaction is to be conducted as a *manual transaction*.
- **Transfer**
- 30.2 *Normally*, the purchaser must *serve* the transfer at least 7 days before the date for completion.
- 30.3 If any information needed for the transfer is not disclosed in this contract, the vendor must *serve* it.
- 30.4 If the purchaser *serves* a transfer and the transferee is not the purchaser, the purchaser must give the vendor a direction signed by the purchaser personally for that transfer.
- 30.5 The vendor can require the purchaser to include a 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 burdened and benefited.
- **Place for completion**
- 30.6 *Normally*, the *parties* must complete at the completion address, which is –
- 30.6.1 if a special completion address is stated in this contract - that address; or
- 30.6.2 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
- 30.6.3 in any other case - the vendor's *solicitor's* address stated in this contract.
- 30.7 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.
- 30.8 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.
- **Payments on completion**
- 30.9 On completion the purchaser must pay to the vendor the amounts referred to in clauses 16.5.1 and 16.5.2, by cash (up to \$2,000) or *settlement cheque*.
- 30.10 *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 –
- 30.10.1 the amount is to be treated as if it were paid; and
- 30.10.2 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).
- 30.11 If the vendor requires more than 5 *settlement cheques*, the vendor must pay \$10 for each extra *cheque*.
- 30.12 If the purchaser must make a *GSTRW payment* the purchaser must –
- 30.12.1 produce on completion a *settlement cheque* for the *GSTRW payment* payable to the Deputy Commissioner of Taxation;
- 30.12.2 forward the *settlement cheque* to the payee immediately after completion; and
- 30.12.3 *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.
- 30.13 If the purchaser must pay an *FRCGW remittance*, the purchaser must –
- 30.13.1 produce on completion a *settlement cheque* for the *FRCGW remittance* payable to the Deputy Commissioner of Taxation;
- 30.13.2 forward the *settlement cheque* to the payee immediately after completion; and
- 30.13.3 *serve* evidence of receipt of payment of the *FRCGW remittance*.

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 If the vendor *serves* any *clearance certificate* or *variation*, the purchaser does not have to complete earlier than 5 *business days* after that *service* and clause 21.3 does not apply to this provision.
- 31.3 The purchaser must at least 2 *business 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 either clause 4.8 or clause 30.4 has been given, by the transferee named in the transfer the subject of that direction.
- 31.4 The vendor cannot refuse to complete if the purchaser complies with clause 31.3 and, as applicable, clauses 4.10 or 30.13.
- 31.5 If the vendor *serves* in respect of every vendor either a *clearance certificate* or a *variation* to 0.00 percent, clauses 31.3 and 31.4 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 sections 4 to 6 of Schedule 3 to the Conveyancing (Sale of Land) Regulation 2022 –
- 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.

109 CLEARY ST, HAMILTON 2303

SECTION 66W CERTIFICATE

I, _____ of _____, certify as follows:

1. I am a _____ currently admitted to practise in New South Wales;
2. I am giving this certificate in accordance with section 66W of the Conveyancing Act 1919 with reference to a contract for the sale of property at:

From:

to _____ in order that there is no cooling off period in relation to that contract;

3. I do not act for:

_____ and am not employed in the legal practice of a solicitor acting for:

_____ nor am I a member or employee of a firm of which a solicitor acting for:

_____ is a member or employee; and

4. I have explained to :

(a) _____ The effect of the contract for the purchase of that property;

(b) _____ The nature of this certificate; and

(c) _____ The effect of giving this certificate to the vendor, i.e. that there is no cooling off period in relation to the contract.

Dated: _____

Conditions of sale of land by auction

- (a) The Bidders' record means the bidders' record to be kept pursuant to clause 13 of the Property and Stock Agents Regulation 2014 and section 68 of the Property and Stock Agents Act 2002.
- (b) The vendor's reserve price must be given in writing to the auctioneer before the auction commences.
- (c) A bid for the vendor cannot be made unless the auctioneer has, before the start of the auction, announced clearly and precisely the number of bids that may be made by or on behalf of the vendor.
- (d) The highest bidder is the purchaser, subject to any reserve price.
- (e) In the event of a disputed bid, the auctioneer is the sole arbitrator and the auctioneer's decision is final.
- (f) The auctioneer may refuse to accept any bid that, in the auctioneer's opinion, is not in the best interests of the vendor.
- (g) A bidder is taken to be a principal unless, before bidding, the bidder has given to the auctioneer a copy of a written authority to bid for or on behalf of another person.
- (h) A bid cannot be made or accepted after the fall of the hammer.
- (i) As soon as practicable after the fall of the hammer the purchaser is to sign the agreement for sale.

In addition to the conditions above the following conditions apply to the sale by auction of residential property or rural land:

- (j) All bidders must be registered in the bidders' record and display an identifying number when making a bid.
- (k) The auctioneer may make only one vendor bid at an auction of residential property or rural land.
- (l) Immediately before making a vendor bid the auctioneer must announce that the bid is made on behalf of the seller.

In addition to the conditions set out above the following conditions apply to the sale by auction of co-owned residential property or rural land or the sale of such land by a seller as executor or administrator

- (m) More than one vendor bid may be made to purchase the interest of a co-owner.
- (n) A bid by or on behalf of an executor or administrator may be made to purchase in that capacity.
- (o) Before the commencement of the auction, the auctioneer must announce that bids to purchase the interest of another co-owner or to purchase as executor or administrator may be made by or on behalf of the seller.
- (p) Before the commencement of the auction, the auctioneer must announce the bidder registration number of any co-owner, executor or administrator or any person registered to bid on behalf of any co-owner, executor or administrator.

SPECIAL CONDITIONS

1. Solicitor/Conveyancer Authority

- 1.1. The parties agree that the solicitor or conveyancer acting for them, or any employee of that solicitor or conveyancer, have the authority to make amendments to this contract on behalf of the party they represent pursuant to the instructions of that party, including the addition of annexures after execution up until the date of this contract and any such alteration shall be binding upon the party deemed hereby to have authorized the same and any annexure so added shall form part of the contract as if same was annexed prior to the contract being executed.

2. Where Purchaser is a Company

- 2.1. In the event of the purchaser purporting to be a Company, each of the persons in whose presence the common seal of the Company purports to have been affixed, or in the event the contract is not signed under common seal, each person who signs by or on behalf of the Company, warrants that the Company has been incorporated and those persons acknowledge and agree that they shall be personally liable under this contract, both jointly and severally, as if they had been named as purchasers.
- 2.2. In the event that the purchaser Company defaults in its obligations under this contract, the Directors of that Company and the persons in whose presence the common seal of the Company has been affixed to this contract, or in the event the contract is not signed under common seal, each person who signs by or on behalf of the Company, hereby guarantee both jointly and severally, the due performance of the Company in relation to its obligations pursuant to the terms of this contract in every respect as if they had personally entered into this contract themselves.

3. Variations to printed conditions

- 3.1. The provisions of this contract as specified are deemed amended as follows:
- 3.2. Clause 2.9 is amended as follows:
 - 3.2.1. "if this contract is completed" is inserted before "pay" on the 3rd line, and
 - 3.2.2. the following is inserted at the end of the clause: "If the deposit is forfeited to the vendor in accordance with this contract all interest will be paid to the vendor. If the deposit is refunded to the purchaser in accordance with this contract all interest will be paid to the purchaser."
- 3.3. Clause 5 of this contract is deleted and replaced with the following:
 - 3.3.1. For the purposes of Clause 5 there will be no requisitions attached to the contract and no requisitions raised by the purchase will be answered.
- 3.4. Clause 7.1.1 shall be amended by substitution of "5%" with "1%".



- 3.5. Clause 8 is varied by omitting from 8.1 the words “on reasonable grounds” and by omitting from 8.2 the words “and those grounds.”
- 3.6. Clause 10.1 is varied by deleting line 1 and inserting, “The purchaser cannot make a claim, requisition, delay completion, rescind or terminate in respect of ”.
- 3.7. Clause 10 – add the following additional clause; “10.4 For the purposes of this contract, the vendor discloses all the matters and material appearing in the documents copies of which are attached to this contract”.
- 3.8. Clause 14.1 of this contract is hereby varied by the addition of the following sentence after the word “liable” where lastly appearing “Water usage must be adjusted on the adjustment date even where the amounts and figures for water consumption furnished by the relevant water rating authority are estimated or provisional. The purchaser may obtain a water meter reading at their own expense for the purposes if adjusting water usage.”
- 3.9. Clause 14.4 of this contract is hereby varied by inserting the word “and” at the end of Clause 14.4.1.
- 3.10. Clause 18 – add the following additional clause:
 - 3.10.1. “18.8 If any fee or rent payable by the purchaser is arrears for a period exceeding 7 days, or if the purchaser is in breach of some provision of this clause, the purchaser must vacate the property immediately upon receipt by the purchaser of a Notice requiring such vacation.”
- 3.11. Clause 23.15 the purchaser will obtain and provide a section 184 Certificate.
- 3.12. Clause 24.3.3 of this contract is deleted.

4. Purchaser’s Warranty as to Real Estate Agent

- 4.1. The purchaser warrants that the purchaser was not introduced to the vendor by a real estate agent other than the real estate agent, if any, disclosed on the front page of the contract and the purchaser agrees to indemnify the vendor against any claim for commission, including the vendor’s costs of defending any such claim, which arises as a result of the purchaser’s breach of this warrant.
- 4.2. The vendor warrants that they have not entered into a sole or exclusive or non-exclusive agency agreement as at the date hereto with any agent other than the agent, if any, named on the front page of the contract.
- 4.3. These warranties and the warranty indemnity will not merge on completion.

5. Excluding Pre-contractual Representations

- 5.1. This contract constitutes the entire agreement between the vendor and the purchaser relating to the sale of the land.
- 5.2. It is hereby agreed and declared that the purchaser has not entered into this contract as a result of any representation, whether oral or in writing, by the vendor or anyone on acting on behalf of the vendor, including any estate agent.

- 5.3. The parties acknowledge that they have not entered into and are not bound by any warranty, representation, collateral or other agreement unless such is contained in the express terms of this contract.
- 5.4. The parties acknowledge they have not entered into and are not bound by any implied term under the general law or imposed by legislation unless it is an implied term or warranty imposed by statute which is mandatory and cannot be excluded by the parties' agreement.
- 5.5. The purchaser acknowledges that they have made all such enquiries and investigations as they deem appropriate prior to entering into this contract.
- 5.6. The purchaser acknowledges that, when entering into this contract they relied exclusively on the following matters independently of any statement, inducement or representation, whether oral or in writing, made by or on behalf of the vendor, including those made by any estate agent acting on behalf of the vendor;
 - 5.6.1. the inspection of and investigations relating to the land made by or on behalf of the purchaser, including its suitability for the purposes of the purchaser, the improvements erected on the property, any contamination relating to, caused by, or affecting the property or any proposed work to be done to the property;
 - 5.6.2. the warranties and representations expressly contained in the contract,
 - 5.6.3. the skill and judgment of the purchaser, its consultants and representatives,
 - 5.6.4. opinions or advice obtained by the purchaser independently of the vendor or of the vendor's agents or employees.

6. Qualified and/or Limited Title

- 6.1. If the title to the property is Limited then;
 - 6.1.1. the word "limited" is removed from clause 25.1.1, and
 - 6.1.2. the vendor is under no obligation to serve an Abstract of Title with respect to the Limitation.
- 6.2. If the title to the property is Qualified then:
 - 6.2.1. Clause 25.2 is deleted, and
 - 6.2.2. A new Clause 25.2 is inserted as follows:
 - 6.2.3. "The vendor will only be required to serve an Abstract of Title if the qualification was entered within a period of six (6) years prior to the date of this contract."

7. No warranty as to Fitness or Condition of Improvements

- 7.1. The purchaser purchases the property and all improvements in their existing condition and state of repair, whether or not they have inspected the property prior to signing this contract, and shall be deemed to purchase the property with full notice of the condition and state of repair thereof in all respects, including;
 - 7.1.1. subject to all defects latent and patent,
 - 7.1.2. subject to any infestations and dilapidation,

- 7.1.3. subject to all existing water, sewerage, drainage and plumbing services and connections in respect of the property,
- 7.1.4. 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,
- 7.2. The purchaser will not seek to terminate or rescind, or make any objection, requisition or claim for compensation in relation thereto or in respect of any fixture, chattel or any item of personal property or any utility service connected to the property.

8. No requirement for Building Certificate

- 8.1. The purchaser agrees that the vendor is not required to do any work or expend any money on or in relation to the property nor to make application for or do anything towards obtaining a building certificate under section 149E or the Environmental Planning and Assessment Act 1979.
- 8.2. If the purchaser desires to obtain a Building Certificate, the purchaser will apply for it at the purchaser's expense.
- 8.3. Should the purchaser become entitled to rescind this contract for breach of the warranty in clause 19 Part 5 of the Conveyancing (Sale of Land) Regulation 2000 or later regulations the vendor is also entitled to rescind the contract provided such right is exercised before the purchaser has served its notice of rescission. In the event of rescission by the vendor in accordance with this clause the provisions of clause 19 of this contract will apply.

9. Title to Inclusions

- 9.1. Title to the inclusions shall pass on completion of this contract and the vendor shall not be required to give formal delivery of the inclusions to the purchaser. The vendor shall not be responsible for any mechanical breakdown in respect of any of the inclusions or all of them.

10. No Warranty as to Fitness of Inclusions

- 10.1. The inclusions listed in this contract are included in the purchase and the purchase price. The purchaser;
 - 10.1.1. acknowledges that none of the inclusions are new, and
 - 10.1.2. acknowledges that the vendor has not made and does not make any representation or warranty as to the state or repair or condition of the inclusions, and
 - 10.1.3. shall accept the inclusions on the date on which the purchaser is entitled to possession of the property in the state of repair and condition that the inclusions are now in, reasonable wear and tear between the date of this contract and the date upon which the purchaser becomes entitled to possession of the property under this contract excepted.

11. Deposit less than 10%

11.1. In the event that the purchaser pays a deposit equal to less than 10% of the purchase price then the balance of the deposit to an amount equal to 10% of the purchase price shall be due and payable to the vendor immediately upon the first event to occur being either a breach of the contract by the purchaser entitling the vendor to forfeit the deposit or on the date and time of settlement.

12. Deposit and Termination or Default

12.1. The purchaser acknowledges that the payment of the deposit referred to in clause 9.1 upon the termination or default of this contract shall be in addition to and shall not limit any other remedies available to the vendor contained or implied in this contract notwithstanding any other rule of Law or equity. This clause shall not merge upon completion.

13. Release of the Deposit

13.1. Notwithstanding anything else contained, the deposit or any part of the deposit as the vendor may require shall be released to the vendor or as the vendor may direct for the sole purpose of deposit, stamp duty, rental bond, pre-paid rent or balance of purchase monies for the rent or purchase of Real Estate providing that such deposit is held in a Trust Account of the solicitors' or Real Estate Agent. The execution of this Contract shall be a full and irrevocable authority to the stakeholder named herein to release such deposit.

14. Claims by the Purchaser

14.1. Notwithstanding the provisions of Clauses 6 and 7 hereof, the parties expressly agree that any claim for compensation shall be deemed to be an objection or requisition for the purposes of Clauses 7 and 8 hereto entitling the vendor to rescind this contract.

15. Delay in Settlement

15.1. If completion does not occur on or before the completion date, as a result of the delay, breach or default of the purchaser, the vendor is entitled to recover from the purchaser as liquidated damages, payable on completion;

15.2. interest on the balance of the purchase price at the rate of eight per cent (8%) per annum calculated at a daily rate from the completion date to the actual date of completion, to compensate the vendor for the delay, to be added to the balance payable on completion. The purchaser acknowledges that the payment of interest to the vendor herein shall be contemporaneous with payment of the purchase price on settlement. It is agreed that this amount is a genuine pre-estimate of the vendor's loss of interest for the purchase money and liability for rates and outgoings, and

15.3. the sum of two hundred and seventy five dollars (\$275.00) (including GST) to cover legal costs and expenses incurred as a consequence of the delay, as a genuine pre-estimate of those additional expenses, to be allowed by the purchaser as an additional adjustment on completion in the event that

the vendor is required to issue a Notice to Complete due to the purchaser's failure to settle on the completion date (provided that the said sum of \$275.00 shall be limited solely to the issue on any Notice to Complete and the vendor reserves the right to claim further costs in respect of any additional work in pursuing any equitable or contractual right pursuant to the contract herein); and

- 15.4. In the event settlement does not take place at the scheduled time, due to default of the Purchaser or their Mortgagee and through no fault of the Vendor, in addition to any other monies payable by the Purchaser on completion of this Contract, the Purchaser must pay an additional \$220.00 (GST inclusive) on settlement, to cover the legal costs and other expenses incurred as a consequence of the delay and the Purchaser shall have reciprocal rights.

16. Time under notice

- 16.1. The parties agree that 14 days shall be reasonable notice for the purpose of any notice served by either party, including a notice to complete, making time of the essence.

17. Fencing

- 17.1. Should any fencing be found not to be on its correct boundary or that any give and take fences exist or that any boundaries of the property sold are not fenced the vendor shall not be liable to make any compensation in respect thereof or to erect or contribute to the expense of erection of any new fencing on its correct line or otherwise.

18. Death, mental illness or assignment of estate

- 18.1. If the purchaser or vendor or any one or more of them shall die, become mentally incapacitated, or assign their estate for the benefit of their creditors,
- 18.2. or being a company, goes into liquidation, has a petition for its winding up presented and not withdrawn within thirty (30) days of presentation, enters into any scheme of arrangement with its creditors under the relevant provisions of the Corporations Law or any similar legislation, has a liquidator, provisional liquidator, administrator, voluntary administrator, controller, controlling manager or official manager, receiver, receiver manager, of it appointed,
- 18.3. prior to completion of this contract, then either party may by notice in writing to the other party's solicitor or licensed conveyancer rescind this contract whereupon the provisions of this contract as to rescission shall apply.

19. Mine Subsidence

- 19.1. The purchaser may rescind this agreement if the owner of the improvements on the land is not entitled, as at the date of this agreement, to claim compensation from the Mine Subsidence Board in respect of any damage to the land and/or improvements arising from mine subsidence, and written communication from the Mine subsidence Board to that effect shall be conclusive for the purposes of this condition.

20. Electronic Signature

The parties acknowledge and agree that the execution of this contract by the vendor may be effected by the use of either facsimile, email or photocopy signatures. The parties agree that they shall not make a requisition, objection or claim, nor any right to terminate or rescind this contract, or delay completion due to the manner of the vendor's execution of the contract.

21. Sewer Line Location Diagram

21.1. The vendor discloses that Hunter Water Corporation will not provide a sewer line location diagram for the subject property. The purchaser cannot make any objection, requisition, claim for compensation, rescind or terminate in respect of this disclosure.

22. Digital Signature

22.1. For the purpose of interpreting this clause, 'Digital Signature' and 'Digitally Sign' have the meaning given to those terms in the Electronic Conveyancing National Law (NSW).

22.2. This clause 23 applies in addition to, and not in substitution for, any applicable provisions of clause 30 of this contract or any applicable law.

22.3. The Vendor, or the Vendor's attorney, may Digitally Sign this contract using whatever software programme the Vendor or Vendor's attorney (as the case may be) wishes to use for that purpose.

22.4. If this contract is electronically sent to the Purchaser's solicitor's email address noted on the front page of this Contract bearing the Digital Signature of the Vendor or Vendor's attorney, then it will be taken to have the same effect as physical delivery of that document, bearing the original signature of the person that Digitally Signed it.

23. Extension of Cooling off Period or Finance Clause

23.1. If this Contract is subject to a cooling off period or finance clause, the purchaser agrees and acknowledges that in the event that an extension of the cooling off period or finance clause beyond that agreed as at the date of this Contract is required by the purchaser, then the purchaser will make an allowance in the sum of \$110.00 (inclusive of GST) in favour of the vendor's solicitor as recognition of fees that the vendor shall incur on account of arranging the extension. This sum shall fall due and payable on settlement, or in the event the Contract does not proceed, upon rescission whereby the purchaser authorises the Agent to release that sum to the vendor's solicitor. This is an essential term of this Contract.

24. Settlement during Christmas Closure

24.1. Notwithstanding anything contained herein, if the completion date is due on or between 20 December 2023 and 9 January 2024, then the completion date is deemed to be 9 January 2024. If the Purchaser



requires completion during a business day between 20 December 2023 and 9 January 2024 the Purchaser will pay the Vendor's solicitor \$990.00 (including GST) at settlement, to attend to settlement during the Christmas Closure period.

25. Settlement during Christmas Closure

25.1. Notwithstanding anything contained herein, if the completion date is due on or between 20 December 2024 and 7 January 2025, then the completion date is deemed to be 7 January 2025. If the Purchaser requires completion during a business day between 20 December 2024 and 7 January 2025 the Purchaser will pay the Vendor's solicitor \$1100.00 (including GST) at settlement, to attend to settlement during the Christmas Closure period.



FOLIO: A/361649

SEARCH DATE	TIME	EDITION NO	DATE
-----	----	-----	----
11/12/2023	2:15 PM	8	2/3/2022

LAND

LOT A IN DEPOSITED PLAN 361649
AT HAMILTON
LOCAL GOVERNMENT AREA NEWCASTLE
PARISH OF NEWCASTLE COUNTY OF NORTHUMBERLAND
TITLE DIAGRAM DP361649

FIRST SCHEDULE

ANDREW PAUL DILLON
MICHELLE ESMERALDA WALKER
AS JOINT TENANTS (T AR927684)

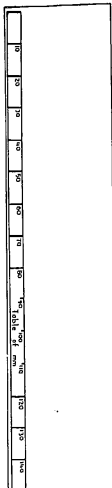
SECOND SCHEDULE (4 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 BK 169 NO 984 LAND EXCLUDES MINERALS
- 3 D791439 RIGHT OF CARRIAGEWAY APPURTENANT TO THE LAND ABOVE
DESCRIBED AFFECTING THE PART(S) SHOWN SO BURDENED IN
THE TITLE DIAGRAM
- 4 D791439 RIGHT OF CARRIAGEWAY AFFECTING THE PART(S) SHOWN SO
BURDENED IN THE TITLE DIAGRAM

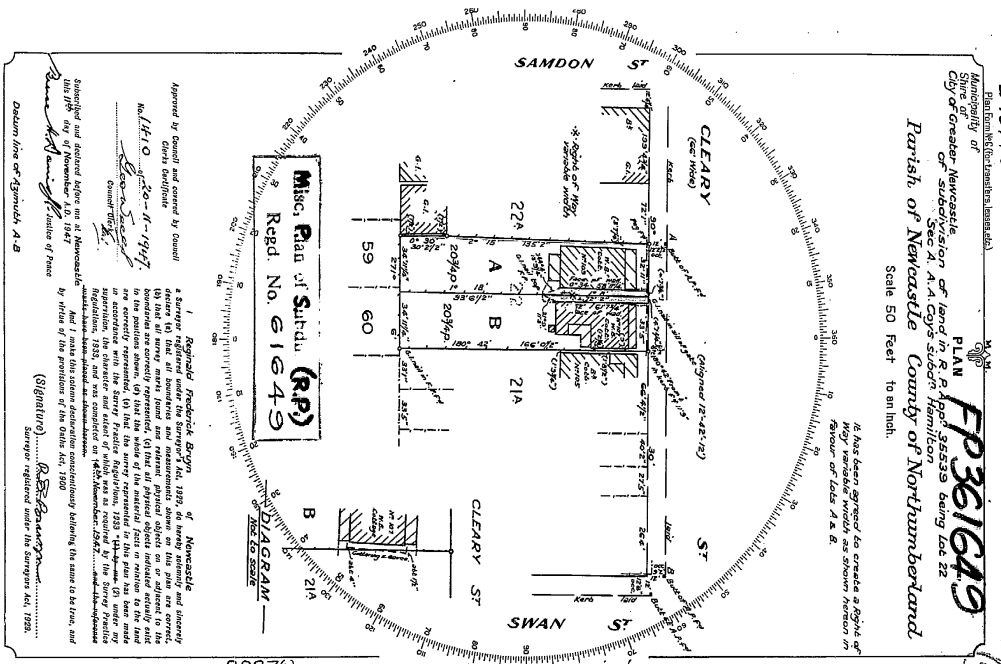
NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***



I, Bruce Richard Davies, Registrar General for New South Wales, certify that this negative is a photograph made as a permanent record of a document in my custody, this 1st day of May, 1979.



D791439

Plan of Subdivision of Land in the Parish of Newcastle County of Northumberland

PLAN No. **FP361649**

Scale 50 Feet to an Inch.

It has been agreed to create a Right of Way variable width as shown herein in favour of Lots A & B.

Approved by Council and covered by Council Rates Certificate No. **1410** of 11-1-1947.

Witnessed by the Registrar General for New South Wales on the 17th day of November A.D. 1947.

Deputy Registrar General for New South Wales

This is the plan marked "15" referred to in *Home of transfer*
 Dated *17th December 1947*.

Signatures of parties to be made in this margin.
 Allan A. Whiff

DP 361649	CONVERSION TABLE ADDED IN DEPARTMENT OF LANDS
AC RD P	524.8
1 1/2	0.438
7 1/2	0.191
9 3/4	0.229
1 3/4	0.479
9 3/4	0.352
7 1/4	1.099
3/4	1.416
1 1/2	3.429
9	3.581
1 1/2	3.558
3	3.121
1 1/2	3.764
2	3.810
1 1/4	4.197
4	8.026
4	8.026
2 1/2	9.208
1 1/2	10.033
1 1/2	10.033
1	10.084
1	10.084
6 1/2	10.324
1 1/4	10.549
2	12.243
1 1/4	12.802
1 1/4	18.790
1 1/4	20.117
4 1/2	20.431
7 1/2	21.994
6 1/2	28.512
2 1/2	41.199
0 1/2	50.510
3/4	80.449
2 1/4	80.449





FEB 9 10 14 1948

MEMORANDUM OF TRANSFER

(REAL PROPERTY ACT, 1900)

F 2 248 R

F 2 248 R

787809

D791439

Fees: ---
Lodgment ... 12.6
Endorsement ... 0.0
Certificate ... 5.0
Plan 1.176
9.248

(Trusts must not be disclosed in the transfer.)

I, MARY MARGARET GIBBONS of Maroubra Bay, Spinster

(herein called transferor)

a If a less estate, strike out "in fee simple," and interline the required alteration.

being registered as the proprietor of an estate in fee simple in the land hereinafter described, subject however, to such encumbrances, liens and interests as are notified hereunder in consideration of Six hundred and seventy five pounds

(£ 675--) (the receipt whereof is hereby acknowledged) paid to me by

ALLAN ALBERT WHIPP of Hamilton Railway Guard

(herein called transferee)

b If to two or more, state whether as joint tenants or tenants in common.

do hereby transfer to the said transferee

ALL such my Estate and Interest in ALL THE land mentioned in the schedule following:—

c If all the references cannot be conveniently inserted, a form of annexure (obtainable at L.T.O.) may be added. Any annexure must be signed by the parties and their signatures witnessed.

County.	Parish.	Reference to Title (c)			Description of Land (if part only). (d)
		Whole or Part.	Vol.	Fol.	
Northumberland	Newcastle	Part whole	5566	150	Lot B in plan annexed hereto and marked with the letter "A"

d If part only of the land comprised in a Certificate of Title is transferred add "and being lot sec. D.P. or being the land shown in the plan annexed hereto," or "being the residue of the land in certificate for grant registered Vol. ()"

And the transferor covenants with the transferee TOGETHER with (as appurtenant to the land hereby transferred) a right of carriage way over the land edged green of the said plan being part of the land in Certificate of Title Volume 5566 Folio 150 of which the transferor is registered proprietor BUT RESERVING to the transferor (as appurtenant to Lot A in the said plan) a right of carriage way over the land edged red in the said plan AND IT IS HEREBY AGREED that the expense of keeping the said land edged green and red in good and sufficient repair shall be borne by the transferor his Executors Administrators and Assigns and the transferee his Executors Administrators and Assigns in equal proportions. Pursuant to section 88 of the Conveyancing Act 1919-1943 IT IS HEREBY DECLARED:

- (1) That the land to which the benefit of the Easement is appurtenant is the subject land.
- (2) The land which is subject to the burden of such Easement is Lot A in the said plan and the subject land respectively.
- (3) The Transferor his successors or assigns are the parties to whom or by whose consent the said Easement can be released varied or modified.

ENCUMBRANCES, &c., REFERRED TO.

A very short notice will suffice. Reservations notifications and conditions noted in and endorsed on the said Certificate of Title.

Signed at Sydney the 8th day of December 1947

Signed in my presence by the transferor

WHO IS PERSONALLY KNOWN TO ME

W. Allan (Signature)
Mary Gibbons (Signature)
Transferor

Signed

PLAN FILED IN PLAN ROOM AS 361649

h Repeat attestation if necessary.

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

If the Transferor or Transferee signs by a mark, the attestation must state "that the instrument was read over and explained to him, and that he appeared fully to understand the same."

Signed in my presence by the transferee

WHO IS PERSONALLY KNOWN TO ME

Janet George (Signature)
Allan A. Whipp (Signature)
Solicitor for Transferee,
whose signature cannot be obtained without difficulty and delay

Hamilton

* If signed by virtue of any power of attorney, the original power must be registered, and produced with each dealing, and the memorandum of non-revocation on page 2 signed by the attorney before a witness.

† N.B.—Section 117 requires that the above Certificate be signed by Transferee or his Solicitor, and renders any person falsely or negligently certifying liable to a penalty of £50; also to damages recoverable by parties injured. Unless the instrument contains some special covenant by the transferee, the solicitor may sign in cases where it is established that the transferee's signature cannot be obtained without difficulty. The Solicitor must sign his own name and not that of his firm.

No alterations should be made by erasure. The words rejected should be scored through with the pen, and those substituted written over them, the alteration being verified by signature or initials in the margin, or noticed in the attestation.

THIS SPACE TO BE LEFT FREE FROM NOTATION.

Handwritten notes:
150/14
T
K

THE COUNCIL OF THE CITY OF GREATER NEWCASTLE

Certificate of New Road or Subdivision

LOCAL GOVERNMENT ACT, 1919, SEC. 327, ORDINANCE No. 32 FORM 1.

Certificate No. 1410 CITY HALL,
NEWCASTLE, N.S.W.
20th. November, 1947.

APPLICANTS

(Name) HARRIS, WHEELER AND WILLIAMS - H.V.
(Surname First)
(Address) Box 48. P.O.,
HAMILTON.

OWNER

(Name) GIBBONS - MARY MARGARET,
(Address) 61 Forrington Road,
MAROUBRA.

NEW ROAD (particulars of) NIL.

SUBDIVISION (particulars of) Lot 22. Section "A" - Cleary Street,
Hamilton.

B

CERTIFICATE

I hereby certify that the requirements of the Local Government Act, 1919 (other than the requirements for the registration of plans) have been complied with by the above-named applicant in relation to the proposed subdivision above described, and more particularly set out on the accompanying plan showing the ~~Section's~~ ~~Sub~~ and marked "Covered by Town Clerk's Certificate No. 1410 of 20th. November, 1947."

Official Receipt No. No _____
Amount fee _____
Date payable. _____
Geo. Seely
Town Clerk



City of
Newcastle

Planning Certificate

Section 10.7, Environmental Planning and Assessment Act 1979

To: Infotrack
Gpo Box 4029
Sydney Nsw 2001

Certificate No: PL2023/06655
Fees: \$67.00
Receipt No(s): D002877322

Your Reference: 23561

Date of Issue: 12/12/2023

The Land: Lot A DP 361649 109 Cleary Street Hamilton NSW 2303

Advice provided on this Certificate:

Advice under section 10.7(2): see items 1 – 23

IMPORTANT: Please read this certificate carefully

This certificate contains important information about the land.

Please check for any item which could be inconsistent with the proposed use or development of the land. If there is anything you do not understand, phone our **Customer Contact Centre** on (02) 4974 2000, or come in and see us.

The information provided in this certificate relates only to the land described above. If you need information about adjoining or nearby land, or about the City of Newcastle (CN) development policies for the general area, contact our **Customer Contact Centre**.

All information provided is correct as at 12/12/2023. However, it's possible for changes to occur within a short time. We recommend that you only rely upon a very recent certificate.

City of Newcastle

PO Box 489
NEWCASTLE NSW 2300

Phone: (02) 4974 2000
Facsimile: (02) 4974 2222

Customer Contact Centre

Ground floor,
12 Stewart Avenue
Newcastle West NSW 2302

Office hours:

Mondays to Fridays 8.30 am to 5.00 pm

Part 1:

Advice provided under section 10.7(2)

ATTENTION: The explanatory notes appearing in italic print within Part 1 are provided to assist understanding, but do not form part of the advice provided under section 10.7(2). These notes shall be taken as being advice provided under section 10.7(5).

1. Names of relevant planning instruments and development control plans

- A. The following environmental planning instruments and development control plans apply to the land, either in full or in part.

State Environmental Planning Policies

State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

State Environmental Planning Policy (Housing) 2021

State Environmental Planning Policy (Biodiversity and Conservation) 2021

State Environmental Planning Policy (Industry and Employment) 2021

State Environmental Planning Policy (Planning Systems) 2021

State Environmental Planning Policy (Precincts - Regional) 2021

State Environmental Planning Policy (Primary Production) 2021

State Environmental Planning Policy (Resources and Energy) 2021

State Environmental Planning Policy (Resilience and Hazards) 2021

State Environmental Planning Policy (Transport and Infrastructure) 2021

State Environmental Planning Policy (Sustainable Buildings) 2022

Local Environmental Plans and Development Control Plans

Newcastle Local Environmental Plan 2012

Newcastle Development Control Plan 2012

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

Proposed State Environmental Planning Policies

There are currently no draft State Environmental Planning Policies that apply to this land.

Detailed information of any draft State Environmental Planning Policies is available at the NSW Department of Planning and Environment website.

Planning Proposals for Local Environmental Plans and Draft Development Control Plans

Draft Newcastle Development Control Plan 2023 is on exhibition from 28 September 2023 to 27 October 2023.

Detailed information of any draft environmental planning instruments is available at the NSW Department of Planning and Environment website and on City of Newcastle's website.

2. Zoning and land use under relevant planning instruments

Newcastle Local Environmental Plan 2012

Zoning: The Newcastle Local Environmental Plan 2012 identifies the land as being within the following zone(s):

Zone R3 Medium Density Residential

Note: Refer to www.newcastle.nsw.gov.au or www.legislation.nsw.gov.au website for LEP instrument and zoning maps.

The following is an extract from the zoning provisions contained in Newcastle Local Environmental Plan 2012:

Zone R3 Medium Density Residential

- **Objectives of zone**

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To allow some diversity of activities and densities if:
 - (i) the scale and height of proposed buildings is compatible with the character of the locality, and
 - (ii) there will be no significant adverse impact on the amenity of any existing nearby development.
- To encourage increased population levels in locations that will support the commercial viability of centres provided that the associated new development:
 - (i) has regard to the desired future character of residential streets, and
 - (ii) does not significantly detract from the amenity of any existing nearby development.

- **Permitted without consent**

Environmental protection works; Home occupations

- **Permitted with consent**

Attached dwellings; Boarding houses; Car parks; Centre based child care facilities; Community facilities; Educational establishments; Emergency services facilities; Exhibition homes; Exhibition villages; Flood mitigation works; Group homes; Health services facilities; Home-based child care; Home businesses; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Recreation areas; Residential accommodation; Respite day care centres; Roads; Seniors housing; Tank-based aquaculture; Tourist and visitor accommodation

- **Prohibited**

Pond-based aquaculture; Any development not specified in, permitted without consent or permitted with consent

- **Additional permitted uses**

The land does not have additional permitted uses.

- **Minimum land dimensions for erection of a dwelling-house**

The Newcastle Local Environmental Plan 2012 contains development standards relating to minimum land dimensions for the erection of a dwelling house. Refer to clause 4.1 Minimum subdivision lot size and Part 4 Principle development standards of the Newcastle LEP 2012 for provisions relating to minimum lot sizes for residential development.

- **Critical habitat:** The Newcastle Local Environmental Plan 2012 does not identify the land as including or comprising critical habitat.

- **Area of Outstanding Biodiversity Value**

The land is not within a declared area of outstanding biodiversity value under the Biodiversity Conservation Act 2016.

- **Heritage conservation area**

The land is not within a heritage conservation area under an environmental planning instrument.

- **Heritage items**

There are no heritage items listed under an environmental planning instrument.

3. Contributions plans

The following contribution plan/s apply to the land.

Section 7.11 Development Contributions Plan: Effective 1 January 2022.

The Plan specifies section 7.11 contributions that may be imposed as a condition of development consent.

Section 7.12 Development Contributions Plan: Effective 1 January 2022.

The Plan specifies section 7.12 contributions that may be imposed as a condition of development consent.

NOTE: Contributions plans are available on our website or may be viewed at our Customer Contact Centre.

Housing and Productivity Contribution: Effective 1 October 2023.

The Lower Hunter region is subject to Division 7.1 of the Environmental Planning and Assessment Act 1979 and is affected by the Housing and Productivity Contribution.

The Housing and Productivity Contribution may be imposed as a condition of development consent.

NOTE: For further information visit the Department of Planning website.

4. Complying development

The following information details whether the land is land on which there is a restriction to the effect that complying development may, or may not, be carried out under each of the complying development codes under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, because of clause 1.17A(1)(c)–(e), (2), (3) or (4), 1.18(1)(c3) or 1.19 of that policy:

Wilderness area

The land is NOT, and is NOT part of, a wilderness area, within the meaning of the *Wilderness Act 1987*.

State Heritage Register

The land is NOT land that is, or on which there is, an item that is listed on the State Heritage Register under the *Heritage Act 1977*, or that is subject to an interim heritage order under that Act.

Other Heritage Item

The land is NOT identified as an item of environmental heritage, or a heritage item, by an environmental planning instrument, or on which is located an item that is so identified.

Environmentally Sensitive Area or Environmentally Sensitive Land

Except as otherwise provided by *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, the land is NOT within an environmentally sensitive area.

State Heritage Exemption

Council does NOT have information about any exemption, granted by the Minister under Section 57(2) of the *Heritage Act 1977*, that may apply to the land.

There is NOT an interim heritage order or exemption thereto, made by Council under Section 57(1A) or (3) of the *Heritage Act 1977*, that applies to the land.

Draft Heritage Item

The land is NOT land that comprises, or on which there is, a draft heritage item in a local environmental plan.

Heritage Conservation Area

The land is NOT within a heritage conservation area in an environmental planning instrument or a draft heritage conservation area in a local environmental plan.

Reserved for a Public Purpose

The land is NOT reserved for a public purpose by an environmental planning instrument.

Acid Sulfate Soil

The land is NOT identified on an Acid Sulfate Soils Map as being Class 1 or Class 2.

Significantly contaminated land

The land is NOT significantly contaminated land within the meaning of the *Contaminated Land Management Act 1997*.

Biobanking agreement or property vegetation plan

The land is NOT subject to a biobanking agreement under Part 7A of the *Threatened Species Conservation Act 1995* or a property vegetation plan approved under the *Native Vegetation Act 2003*.

Private land conservation agreement or set aside area

The land is NOT subject to a private land conservation agreement under the *Biodiversity Conservation Act 2016*. Council does not have information to identify whether the land is a set aside area under section 60ZC of the *Local Land Services Act 2013*.

Buffer area, river front area, ecologically sensitive area or protected area

The land is NOT identified by an environmental planning instrument as being within a buffer area, within a river front area, within an ecologically sensitive area or within a protected area.

Coastline hazard, coastal hazard or coastal erosion hazard

The land is NOT identified by an environmental planning instrument, a development control plan or a policy adopted by Council as being or affected by a coastline hazard, a coastal hazard or a coastal erosion hazard.

Foreshore area

The land is NOT in a foreshore area.

25 ANEF contour or higher ANEF contour

The land is NOT in the 25 ANEF contour or higher ANEF contour.

Special area

The land is NOT declared to be a special area under the *Water NSW Act 2014*.

Unsewered land

The land is NOT unsewered land to which Chapter 8 of *State Environmental Planning Policy (Biodiversity and Conservation) 2021* applies or is located in any other drinking water catchment identified in any other environmental planning instrument.

Schedule 5 of the Codes SEPP

The land is NOT described or otherwise identified on a map specified in Schedule 5 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

General

If any restriction is identified above, the restriction may not apply to all of the land and Council does not have sufficient information to ascertain the extent to which complying development may, or may not, be carried out on the land.

Note: restrictions other than those arising from the identified clauses of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* may exclude complying development from being carried out on the land.

5. Exempt development

The following information details whether the land is land on which there is a restriction to the effect that exempt development may, or may not, be carried out under each of the exempt development codes under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, because of clause 1.16(1)(b1)–(d) or 1.16A of that policy:

Area of Outstanding Biodiversity Value

The land IS NOT within a declared area of outstanding biodiversity value under the *Biodiversity Conservation Act 2016*.

Area of Declared Critical Habitat

The land IS NOT within a declared critical habitat under Part 7A of the *Fisheries Management Act 1994*.

Wilderness area

The land is NOT, and is NOT part of, a wilderness area, within the meaning of the *Wilderness Act 1987*.

Listed on the State Heritage Register

This land IS NOT listed on the State Heritage Register under the *Heritage Act 1977* and IS NOT subject to an interim heritage order under that Act.

Listed on Schedule 4 of the Exempt and Complying Development Codes State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

The land is NOT listed on Schedule 4 of the Exempt and Complying Development Codes State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Siding Spring Observatory

The land is NOT within 18 kilometres of Siding Spring Observatory.

General

If any restriction is identified above, the restriction may not apply to all of the land and Council does not have sufficient information to ascertain the extent to which exempt development may, or may not, be carried out on the land.

Note: restrictions other than those arising from the identified clauses of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* may exclude exempt development from being carried out on the land.

6. Affected building notices and building product rectification orders

The land IS NOT AFFECTED by any affected building notice of which CN is aware that is in force in respect of the land.

The land IS NOT AFFECTED by any building product rectification order that has not been fully complied with, of which CN is aware that is in force in respect of the land.

The land IS NOT AFFECTED by an outstanding notice of intention to make a building product rectification order of which CN is aware.

An affected building notice has the same meaning as in Part 4 of the *Building Products (Safety) Act 2017*.

Building product rectification order has the same meaning as in the *Building Products (Safety) Act 2017*.

7. Land reserved for acquisition

The land is not identified for acquisition by a public authority (as referred to in section 3.15 of the Act) by any environmental planning instrument or proposed environmental planning instrument applying to the land.

8. Road widening and road realignment

NOTE: Transport for NSW (TfNSW) may have proposals that are not referred to in this item. For advice about affection by TfNSW proposals, contact Transport for NSW, Locked Mail Bag 30 Newcastle 2300. Ph: 131 782.

The land IS NOT AFFECTED by any road widening or road realignment under Division 2 of Part 3 of the Roads Act 1993.

The land IS NOT AFFECTED by any road widening or road realignment under an environmental planning instrument.

The land IS NOT AFFECTED by road widening or road realignment under a resolution of the Council.

9. Flood related development controls

9(1) Mapping information is not available and it is unknown if the land or part of the land is within the flood planning area.

9(2) Mapping information is not available and it is unknown if the land or part of the land is between the flood planning area and the probable maximum flood.

Our information currently indicates that the property is, or contains, flood prone land as defined in the Floodplain Development Manual: the management of flood liable land, April 2005 published by the NSW Government.

Section 4.01 Flood Management of Newcastle Development Control Plan (DCP) 2012 provides guidelines with respect to all development of flood prone land. This includes development for the purpose of dwelling houses, dual occupancies, multi dwelling housing or residential flat buildings. The DCP may be viewed on our website, inspected or purchased at our Customer Contact Centre.

NOTE: More detailed flood information specific to the property is available on separate flooding certificate application through our Customer Contact Centre on (02) 4974 2000

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

Except as stated below, the land is not affected by a policy referred to in Item 10 of Schedule 2 of the Environmental Planning and Assessment Regulation 2021 that restricts the development of the land because of the likelihood of land slip, bush fire, tidal inundation, subsidence, acid sulfate soils, contamination, aircraft noise, salinity, coastal hazards, sea level rise or another risk, other than flooding.

Potential acid sulfate soils: Works carried out on the land must be undertaken in accordance with Clause 6.1 Acid sulfate soils of the Newcastle Local Environmental Plan 2012.

Land Contamination: Council has adopted a policy of restricting development or imposing conditions on properties affected by Land Contamination. Refer to the Newcastle Development Control Plan 2012, which is available to view and download from City of Newcastle's website.

NOTE: The absence of a policy to restrict development of the land because of the likelihood of a particular risk does not imply that the land is free from that risk. City of Newcastle (CN) considers the likelihood of natural and man-made risks when determining development applications under section 4.15 of the Environmental Planning and Assessment Act 1979. Detailed investigation carried out in conjunction with the preparation or assessment of a development application may result in CN either refusing development consent or imposing conditions of consent on the basis of risks that are not identified above.

11. Bush fire prone land

The land IS NOT bush fire prone land for the purposes of the Environmental Planning and Assessment Act 1979.

12. Loose-fill asbestos insulation

Property HAS NOT been notified: Council HAS NOT been notified that: - a residential dwelling erected on this land has been identified in the Loose-fill Asbestos Insulation Register maintained by NSW Fair Trading as containing loose-fill asbestos insulation.

13. Mine Subsidence

The land IS NOT WITHIN a Mine Subsidence District declared under section 20 of the Coal Mine Subsidence Compensation Act 2017.

NOTE: The above advice is provided to the extent that City of Newcastle (CN) has been notified by Subsidence Advisory NSW.

14. Paper subdivision information

The land IS NOT AFFECTED by any development plan that applies to the land or that is proposed to be subject to a consent ballot.

15. Property vegetation plans

Not applicable. The Native Vegetation Act 2003 does not apply to the Newcastle local government area.

16. Biodiversity stewardship sites

The land IS NOT land (of which CN is aware) under a biodiversity stewardship agreement under Part 5 of the Biodiversity Conservation Act 2016.

17. Biodiversity certified land

The land IS NOT biodiversity certified land under Part 8 of the Biodiversity Conservation Act 2016.

18. Orders under Trees (Disputes Between Neighbours) Act 2006

CN HAS NOT been notified that an order has been made under the *Trees (Disputes between Neighbours) Act 2006* to carry out work in relation to a tree on the land.

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

The land IS NOT subject to an agreement for annual charges under section 496B of the *Local Government Act 1993* for coastal protection services (within the meaning of section 553B of that Act).

20. Western Sydney Aerotropolis

The land is not within the Western Sydney Aerotropolis, as defined by Chapter 4 of State Environmental Planning Instrument (Precincts - Western Parkland City) 2021.

21. Development consent conditions for seniors housing

(a) The land IS NOT AFFECTED by a current site compatibility certificate (of which CN is aware) issued under the State Environmental Planning Policy (Housing) 2021.

(b) The land IS NOT AFFECTED by any terms of kind referred to in clause 88(2) of the State Environmental Planning Policy (Housing) 2021, that have been imposed as a condition of consent to a development application granted after 11 October, 2007 in respect of the land.

22. Site compatibility certificates and development consent conditions for affordable rental housing

The land IS NOT AFFECTED by a valid site compatibility certificate (of which CN is aware) issued under the State Environmental Planning Policy (Affordable Rental Housing) 2009.

23. Matters prescribed under the Contaminated Land Management Act 1997

Note: *There are no matters prescribed by section 59(2) of the Contaminated Land Management Act 1997 to be disclosed, however if other contamination information is held by the Council this may be provided under a section 10.7(5) certificate.*

Issued without alterations or additions, 12/12/23
Authorised by

JEREMY BATH
CHIEF EXECUTIVE OFFICER



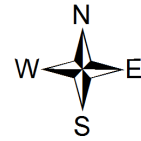
HUNTER WATER CORPORATION

A.B.N. 46 228 513 446

SERVICE LOCATION PLAN

Enquiries: 1300 657 657

APPLICANT'S DETAILS



InfoTrack
109 CLEARY
HAMILTON NSW

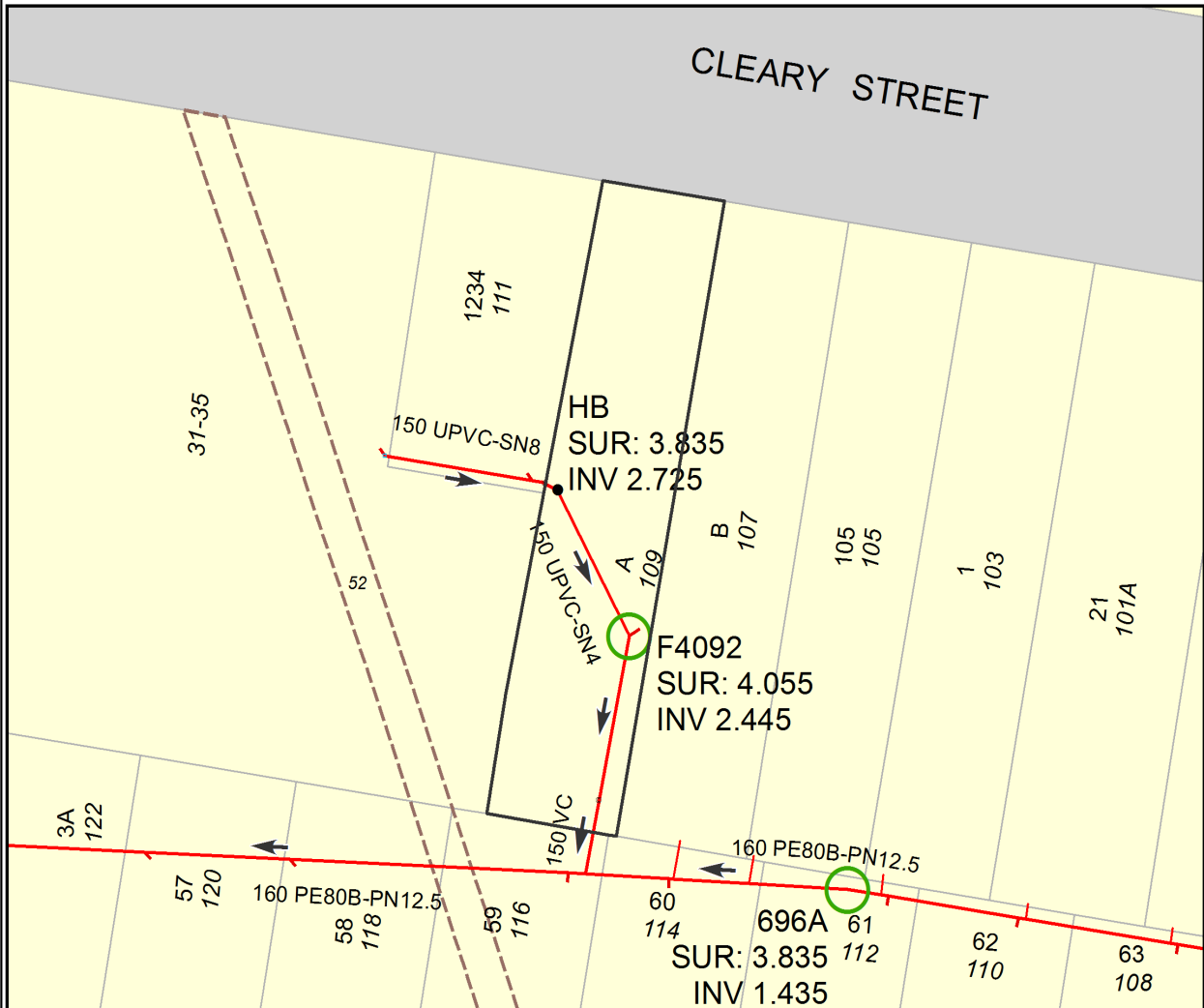
APPLICATION NO.: 2156035

APPLICANT REF: M 23561

RATEABLE PREMISE NO.: 3651110564

PROPERTY ADDRESS: 109 CLEARY ST HAMILTON 2303

LOT/SECTION/DP:SP: A/DP 361649



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

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

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

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

Date: 11/12/2023

Scale at A4: 1:500

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CONTOUR DATA © AAMHatch
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SEWER/WATER/RECYCLED WATER
UTILITY DATA
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