

Contract for the sale and purchase of land 2022 edition

TERM	MEANING OF TERM	NSW DAN:
vendor's agent	Lorimer Estate Agents Suite 12, Level 2/14-16 Suakin Street, Pymble NSW 2073	Phone: 0400 844 412 Ref: Duncan Lorimer
co-agent		
vendor	Karen Lillian Cumberlege 65 Bougainvillea Drive, Federal NSW 2480	
vendor's solicitor	Hendriks Lawyers 7/80-84 Ballina Street, Lennox Head NSW 2478 PO Box 221, Lennox Head NSW 2478	Phone: 1300 463 857 Email: neil@hendriks.com.au Ref: NH:25216
date for completion land (address, plan details and title reference)	30th day after the contract date 65 Bougainvillea Drive, Federal NSW 2480 Registered Plan: Lot 2 Plan DP 1220595 Folio Identifier: 2/1220595	(clause 15)
improvements	<input checked="" type="checkbox"/> VACANT POSSESSION <input type="checkbox"/> subject to existing tenancies <input checked="" type="checkbox"/> HOUSE <input type="checkbox"/> garage <input type="checkbox"/> carport <input type="checkbox"/> home unit <input type="checkbox"/> carspace <input type="checkbox"/> storage space <input type="checkbox"/> none <input type="checkbox"/> other: water tanks	
attached copies	<input checked="" type="checkbox"/> documents in the List of Documents as marked or as numbered: <input type="checkbox"/> other documents:	

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

inclusions	<input type="checkbox"/> air conditioning <input type="checkbox"/> clothes line <input checked="" type="checkbox"/> fixed floor coverings <input checked="" type="checkbox"/> range hood <input type="checkbox"/> blinds <input type="checkbox"/> curtains <input checked="" type="checkbox"/> insect screens <input type="checkbox"/> solar panels <input checked="" type="checkbox"/> built-in wardrobes <input type="checkbox"/> dishwasher <input checked="" type="checkbox"/> light fittings <input checked="" type="checkbox"/> stove <input 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 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</p> <p>_____</p> <p>Signature of authorised person</p> <p>_____</p> <p>Name of authorised person</p> <p>_____</p> <p>Name of authorised person</p> <p>_____</p> <p>Office held</p> <p>_____</p> <p>Office held</p>	<p>Signed by 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</p> <p>_____</p> <p>Signature of authorised person</p> <p>_____</p> <p>Name of authorised person</p> <p>_____</p> <p>Name of authorised person</p> <p>_____</p> <p>Office held</p> <p>_____</p> <p>Office held</p>

Choices

- Vendor 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 exemption, in the space below):

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

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

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

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

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

If the 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) – details

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

Supplier's name:

Supplier's ABN:

Supplier's GST branch number (if applicable):

Supplier's business address:

Supplier's 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

General	Strata or community title (clause 23 of the contract)
<input checked="" type="checkbox"/> 1 property certificate for the land <input checked="" type="checkbox"/> 2 plan of the land <input type="checkbox"/> 3 unregistered plan of the land <input type="checkbox"/> 4 plan of land to be subdivided <input type="checkbox"/> 5 document that is to be lodged with a relevant plan <input checked="" type="checkbox"/> 6 section 10.7(2) planning certificate under Environmental Planning and Assessment Act 1979 <input 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 checked="" type="checkbox"/> 10 document that created or may have created an easement, profit à prendre, restriction on use or positive covenant disclosed in this contract <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 checked="" type="checkbox"/> 22 form of requisitions <input type="checkbox"/> 23 <i>clearance certificate</i> <input type="checkbox"/> 24 land tax certificate	<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 2021 <input type="checkbox"/> 58 disclosure statement - off the plan contract <input type="checkbox"/> 59 other document relevant to the off the plan contract Other <input type="checkbox"/> 60
Home Building Act 1989 <input checked="" type="checkbox"/> 25 insurance certificate <input type="checkbox"/> 26 brochure or warning <input type="checkbox"/> 27 evidence of alternative indemnity cover Swimming Pools Act 1992 <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	

HOLDER OF STRATA OR COMMUNITY SCHEME 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.

65 BOUGAINVILLEA DR FEDERAL NSW 2400

SPECIAL CONDITIONS

VENDOR: KAREN LILLIAN CUMBERLEGE

AND

PURCHASER:

33. GENERAL

- 33.1 The terms of the printed contract to which these additional conditions are annexed shall be read subject to the following:
- (a) if there is a conflict between these additional conditions and the printed contract, then these additional conditions shall prevail;
 - (b) in the interpretation of this document words importing the singular number or plural number shall include the plural number and singular number respectively and words importing any gender shall include any other gender; and
 - (c) the parties agree that should any provision be held to be contrary to law, void or unenforceable, then such provision shall be severed from this contract and such remaining provisions shall remain in full force and effect.

34. AMENDMENTS TO STANDARD CONDITIONS

- 34.1 The Law Society of NSW copyright standard conditions of this contract are amended as follows:
- (a) clause 5.1 – at the end of the clause insert “and they are the only form of requisitions the purchaser may make”;
 - (b) clause 5.2 – delete;
 - (c) clause 7.1.1 – delete “5% of the price” and replace with “\$1,000.00”;
 - (d) clause 7.1.3 – delete “14 days” and replace with “7 days”;
 - (e) clause 7.2.1 – delete “10%” and replace with “1%”;
 - (f) clause 7.2.4 – delete “and the costs of the purchaser”;
 - (g) clause 8.1.1 – delete “on reasonable grounds”;
 - (h) clause 8.1.2 – delete from “that” to “grounds” inclusive;
 - (i) clause 10.1 – replace line 1 with “The purchaser cannot make a claim or requisition, delay completion or rescind or terminate in respect of -”;
 - (j) clause 10.1.8 and 10.1.9 – delete each occurrence of “substance” and replace with “existence”;

(k) clause 10 – insert the following additional clause:

“10.1.10 any claim, grant, notice, order or declaration in connection with native title, land rights or heritage protection under legislation, the common law or otherwise”;

(l) clause 10.2 – add “make a claim for compensation or delay completion” after “cannot”;

(m) clause 19 – insert the following additional clause:

“19.3 Despite clause 19.2.3, the purchaser’s only remedy for a breach of warranty prescribed by the Conveyancing (Sale of Land) Regulation 2017 (NSW) is the remedy prescribed by that regulation”;

(n) clause 20.6.4 – insert “provided however that such documents served by post will be deemed received by the other party 3 business days after the date the document is sent by post” at the end of the clause;

(o) clause 23.17 – delete.

35. ENTIRE AGREEMENT

35.1 Notwithstanding any other provision of this contract, this contract constitutes the entire agreement between the parties relating to the sale of the property.

35.2 The parties have not entered into and are not bound by any collateral or other agreement apart from this contract.

35.3 The parties are not bound by any warranty, representation, collateral agreement or implied term under the general law or imposed by legislation unless:

(a) such warranty, representation, agreement or term is contained in the express terms of this contract; or

(b) it is an implied term or warranty imposed by statute which is mandatory and cannot be excluded by the parties’ agreement.

36. DEATH, DISABILITY, BANKRUPTCY OR INSOLVENCY

36.1 If the purchaser:

(a) dies; or

(b) becomes so intellectually, physically or psychologically disabled as to be, in the opinion reasonably held by the other party, unable to complete the contract on time;

before completion then either party may rescind this contract by giving notice in writing to the other party at any time before completion whereupon the provisions of Clause 19 hereof shall apply.

36.2 If a party to this contract is:

- (a) an individual who before completion is declared bankrupt; or
- (b) is a company and before completion enters into a scheme, makes any arrangement for the benefit of creditors, an order is made to wind-up the company, a liquidator, administrator or official manager is appointed or is deemed by any relevant legislation to be unable to pay its debts;

that party will have defaulted in the observance of an essential term of this contract and the other party may terminate this contract.

37. PURCHASER'S ACKNOWLEDGEMENTS

37.1 The purchaser acknowledges that in entering into this contract, the purchaser:

- (a) does not rely on any representations, inducements or warranties made by the vendor or its agents or representatives, except those expressly set out in this contract;
- (b) has relied entirely on the purchaser's enquiries and inspections in relation to the property;
- (c) accepts the property and improvements in their present state of repair or condition subject to all defects both latent and patent, infestations and dilapidation;
- (d) accepts the property subject to the existing water, sewerage, drainage, gas, electricity, telephone installations, lines, posts, services and connections, if any, servicing the property or any other property; and
- (e) accepts the property subject to any encumbrances disclosed in this contract, except for any encumbrance to be discharged on completion.

37.2 The purchaser cannot make any objection, requisition or claim for compensation or rescind or terminate this contract or delay completion because of any matter disclosed or referred to in this clause.

38. USE OF PROPERTY

38.1 The purchaser must satisfy himself on all matters relating to the use of the property because the vendor gives no warranty as to the use to which the property may be put.

38.2 The purchaser will be deemed to have entered into this contract with full knowledge of and subject to any prohibition or restriction upon the use of the property, whether under any Act, Ordinance, Regulation, By-law, Town Planning Scheme, Interim Development Order, Order of Court or otherwise.

38.3 If the use to which the vendor has put the property is permissible only with the consent of any authority under any Act, Ordinance, Regulation, By-law, Town Planning Scheme, Interim Development Order, Order of Court or otherwise, the purchaser must obtain the consent at the purchaser's own expense.

38.4 Completion of this contract will not be conditional or dependent upon any matter referred to in this clause.

39. SEWERAGE

39.1 The purchaser acknowledges that the property is not connected to the sewer and is serviced by an on-site sewage management (OSSM) system.

39.2 The purchaser accepts the OSSM system in its present state of repair or condition.

39.3 The purchaser accepts that the approval to operate the OSSM system has expired and the purchaser will be responsible for obtaining its own approval from the responsible council after completion.

39.4 The purchaser cannot make any objection, requisition or claim for compensation or rescind or terminate this contract or delay completion because of any matter arising either directly or indirectly from the matters disclosed or referred to in this clause.

40. RURAL MATTERS

40.1 The vendor does not warranty the carrying capacity of the property.

40.2 The purchaser acquires the property with the fences, as they are whether they are on the correct boundary lines or not and whether they are 'give and take fences' and in their present condition and state of repair. The vendor is under no obligation to fence or repair fencing before completion.

40.3 The purchaser acquires the property subject to all roads traversing the property fenced or unfenced with gates and grids or otherwise subject to any road reservations enclosure permits or otherwise.

40.4 The purchaser acquires the property subject to all existing water licences and water supply work/use approvals, if any, and the vendor will on completion sign all such documents as required by the purchaser for the transfer of such licences and approvals.

40.5 The purchaser will not make any objection, requisition or claim for compensation nor have any rights of rescission or termination due to the vendor not holding any licence from any responsible authority relating to the use and occupation of the property and its roads, rivers, water, crops, pests, diseases, fencing and other regulated farming activities.

41. AGENT

41.1 The purchaser warrants that they have not been introduced to the vendor or the property by any real estate agent or any employee of any real estate agent or any person having any connection with a real estate agent who may be entitled to claim commission as a result of this sale other than the vendor's agent (if any) referred to in this contract.

41.2 The purchaser agrees to indemnify and keep indemnified the vendor from and against any claim for commission which may be made by any real estate agent or other person arising out of or in connection with the purchaser's breach of this warranty.

41.3 This clause does not merge on completion.

42. INTEREST

42.1 In the event that completion is not effected on the nominated date due to the purchaser's default, the purchaser shall pay to the vendor on completion, in addition to the balance of the purchase price, interest at 10% per annum on the balance of the purchase price computed at a daily rate from the date nominated for completion until and including the actual date of completion. It is agreed that this amount is a genuine pre-estimate of the vendor's loss of interest on the purchase price.

42.2 Interest is not payable during any time that the purchaser is ready, willing and able to complete and the vendor is not.

43. NOTICE TO COMPLETE

43.1 If a party is entitled to serve a notice to complete, a period of not less than 14 days is a reasonable period to allow for completion in that notice.

43.2 The notice will be deemed both at law and in equity sufficient notice to make time of the essence of this contract, notwithstanding that the party serving the notice has not made any previous request or demand for completion.

43.3 A party may withdraw a notice to complete without prejudice to its continuing rights to serve a further notice to complete.

43.4 If the vendor issues a notice to complete, the purchaser shall pay to the vendor on completion an amount of \$440.00 (inclusive of GST) for the legal costs incurred by the vendor in issuing the notice to complete.

44. ELECTRONIC EXCHANGE

44.1 This contract may be signed in any number of counterparts with the same effect as if the signatures to each counterpart were on the same instrument.

44.2 Execution by either or both of the parties to the contract of a facsimile or email copy of this contract and transmission by facsimile or email of a copy of the contract executed by that party to the other party or the other party's solicitors shall constitute a valid and binding execution of this contract by such party or parties.

44.3 For the purposes of the *Electronic Transactions Act 1999* (Cth) and *Electronic Transactions Act 2000* (NSW) each of the parties consents to receiving and sending the contract electronically.

46. GUARANTEE

- 46.1 If the purchaser is a company, this special condition applies and is binding upon each person named as a guarantor below.
- 46.2 In this special condition:
- (a) the Guarantor is _____ (name of guarantor); and
 - (b) **Guaranteed Money** means all amounts which at any time, for any reason and subject to any contingency, are or may become payable by the purchaser to the vendor in connection with, or as a result of any breach of, this contract.
- 46.3 The Guarantor acknowledges that the vendor has entered this contract at the request of the Guarantor and in reliance on the guarantee and indemnity set out in this special condition.
- 46.4 The Guarantor unconditionally and irrevocably guarantees payment to the vendor of the Guaranteed Money.
- 46.5 If the purchaser does not pay the Guaranteed Money on time and in accordance with the terms of this contract, the Guarantor agrees to pay the Guaranteed Money to the vendor on demand whether or not demand has been made on the purchaser. A demand may be made at any time.
- 46.6 In consideration of the vendor selling the property to the purchaser under this contract at the request of the Guarantor, the Guarantor guarantees the performance of all the obligations of the purchaser under this contract. The Guarantor indemnifies the vendor from any liability, claim, expense or loss that the vendor may incur arising out of the purchaser's failure to perform any of its obligations under this contract.
- 46.7 As a separate obligation, the Guarantor indemnifies the vendor against all liability or loss arising from:
- (a) the Guaranteed Money not being recoverable from the purchaser because of any circumstances; and
 - (b) any costs, charges or expenses incurred in connection with clauses 46.5 and 46.6.
- 46.8 This guarantee and indemnity is a continuing security and extends to all of the Guaranteed Money and other money payable under this guarantee and indemnity. The Guarantor cannot require the vendor to proceed against or enforce any other right, power, remedy or security, or claim payment from the purchaser or any other person before claiming from the Guarantor under this guarantee and indemnity.
- 46.9 The liabilities under this guarantee and indemnity of the Guarantor as a guarantor, principal debtor or indemnifier and the rights of the vendor under this guarantee and indemnity are not affected by anything which might otherwise affect them including, without limitation, one or more of the following:
- (a) the vendor or another person granting time or other indulgence to, compounding or compromising with or releasing the purchaser;

- (b) acquiescence, delay, acts, omissions or mistakes on the part of the vendor; or
- (c) any variation or novation of a right of the vendor, or alteration of this contract or a document, in respect of the purchaser.

46.10 Until the Guaranteed Money is paid in full, the Guarantor may not, without the consent of the vendor:

- (a) try to reduce its liability under this guarantee and indemnity, raise a defence, set-off or counter-claim available to it or the purchaser against the vendor, or claim a set-off or make a counter-claim against the vendor;
- (b) make a claim or enforce a right or a security against the purchaser or its property;
- (c) prove in competition with the vendor if a liquidator, provisional liquidator, official manager or trustee in bankruptcy is appointed in respect of the purchaser or if the purchaser is otherwise unable to pay its debts when they fall due; or
- (d) claim to be entitled by way of contribution, indemnity, subrogation, marshalling or otherwise to the benefit of a mortgage, charge, other encumbrance or guarantee held for the Guaranteed Money or other money payable under this guarantee and indemnity.

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

46.12 This special condition is an essential term of this contract.

Signed, sealed and delivered by

_____ (name of
guarantor) in the presence of:

Signature of witness

Signature of guarantor

Name of witness (print)



FOLIO: 2/1220595

SEARCH DATE	TIME	EDITION NO	DATE
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15/10/2025	10:19 AM	5	27/3/2024

LAND

LOT 2 IN DEPOSITED PLAN 1220595
AT FEDERAL
LOCAL GOVERNMENT AREA BYRON
PARISH OF CLUNES COUNTY OF ROUS
TITLE DIAGRAM DP1220595

FIRST SCHEDULE

KAREN LILLIAN CUMBERLEGE (T AK563180)

SECOND SCHEDULE (4 NOTIFICATIONS)

- 1 LAND EXCLUDES MINERALS AND IS SUBJECT TO RESERVATIONS AND CONDITIONS IN FAVOUR OF THE CROWN - SEE CROWN GRANT(S)
- 2 DP1220595 RESTRICTION(S) ON THE USE OF LAND REFERRED TO AND NUMBERED (1) IN THE S.88B INSTRUMENT
AT911947 VARIATION OF RESTRICTION DP1220595
- 3 DP1220595 RESTRICTION(S) ON THE USE OF LAND REFERRED TO AND NUMBERED (2) IN THE S.88B INSTRUMENT
- 4 AS704205 MORTGAGE TO COMMONWEALTH BANK OF AUSTRALIA

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

SURVEYING & SPATIAL INFORMATION REGULATION 2012, CLAUSE 36(1)(a) (CLAUSE 61(2))	
MARK	MGA CO ORDINATES
PM 67924	EASTING 543815
PM 182962	NORTHING 68930325
PM 182962	CLASS U
PM 67924	ORDER U
PM 182962	METHOD GPS
PM 67924	FOUND PLACED
PM 182962	COMBINED SCALE FACTOR 0.9999582
PM 67924	ZONE 56
PM 182962	MGA CO ORDINATES SEARCH DATE FROM SCIMS AS AT 16/2/2015

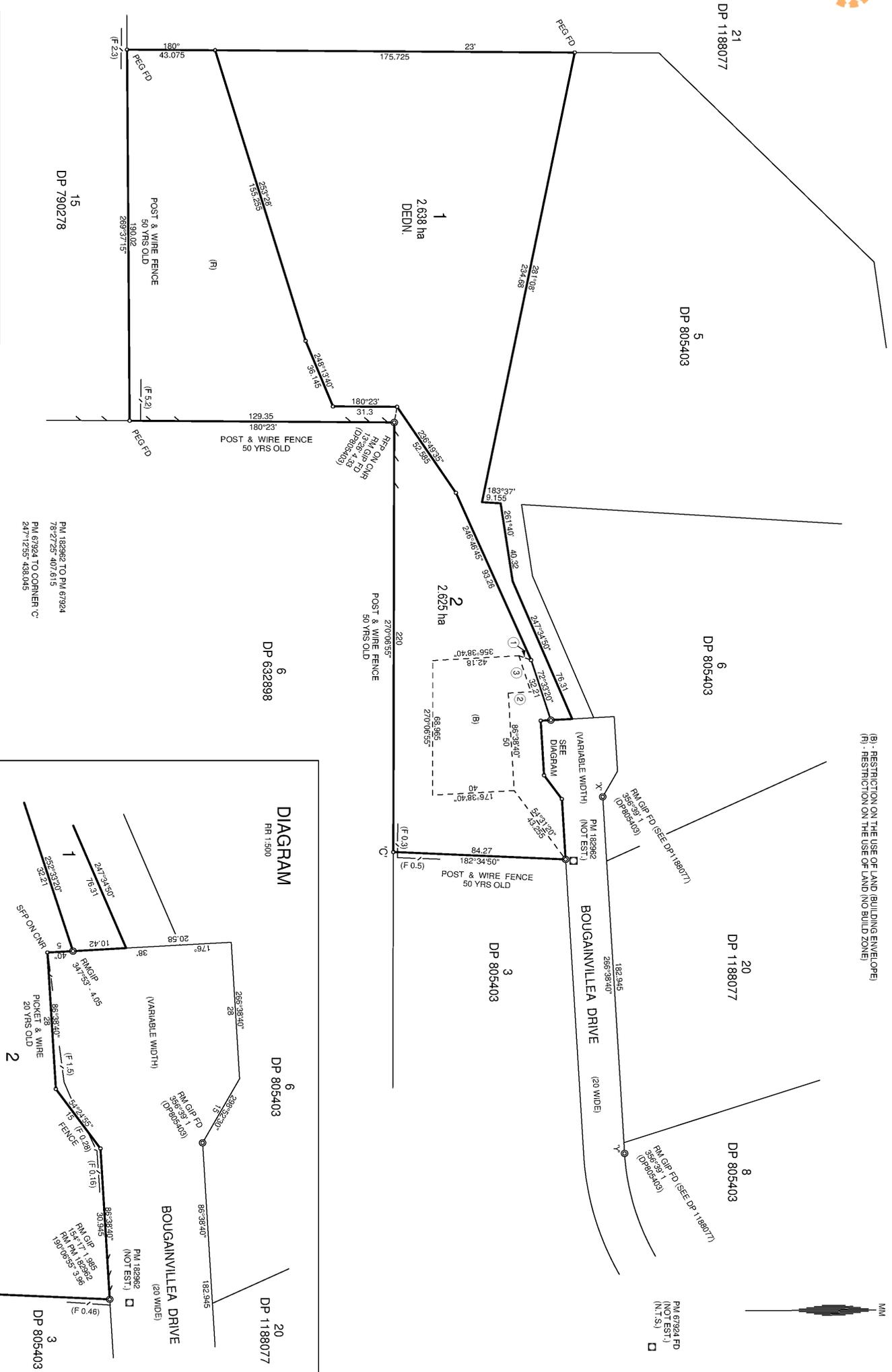
Surveyor: ANTHONY JOHN DENNY
 Date of Survey: 13/7/2015
 Surveyors Ref: 14554

PLAN OF SUBDIVISION OF
 LOT 4 IN DP 805403

LGA: BYRON
 Locality: FEDERAL
 Subdivision No.: 22/16
 Lengths are in metres. Reduction Ratio 1:1250

Registered
 27.5.2016

DP1220595



(B) - RESTRICTION ON THE USE OF LAND (BUILDING ENVELOPE)
 (F) - RESTRICTION ON THE USE OF LAND (NO BUILD ZONE)



DEPOSITED PLAN ADMINISTRATION SHEET

Sheet 1 of 2 sheet(s)

Registered:  27.5.2016 Title System: TORRENS Purpose: SUBDIVISION	Office Use Only <h1 style="margin: 0;">DP1220595</h1> Office Use Only
--	--

PLAN OF SUBDIVISION OF LOT 4 IN DP 805403	LGA: BYRON Locality: FEDERAL Parish: CLUNES County: ROUS
--	---

Crown Lands NSW/Western Lands Office Approval

I, (Authorised Officer) in approving this plan certify that all necessary approvals in regard to the allocation of the land shown herein have been given.

Signature:

Date:

File Number:

Office:

Survey Certificate

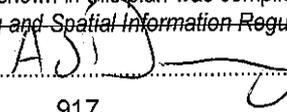
ANTHONY JOHN DENNY

I, of **NEWTON DENNY CHAPELLE**
 a surveyor registered under the *Surveying and Spatial Information Act 2002*, certify that:

~~*(a) The land shown in the plan was surveyed in accordance with the *Surveying and Spatial Information Regulation 2012*, is accurate and the survey was completed on~~

~~*(b) The part of the land shown in the plan (*being/*excluding[^].....
 **LOT 2 AND CONNECTIONS**.....)
 was surveyed in accordance with the *Surveying and Spatial Information Regulation 2012*, is accurate and the survey was completed on, ..13/7/2015.. the part not surveyed was compiled in accordance with that Regulation.~~

~~*(c) The land shown in this plan was compiled in accordance with the *Surveying and Spatial Information Regulation 2012*.~~

Signature:  Dated: 25/01/2016

Surveyor ID: 917.....

Datum Line: 'X' - 'Y'.....

Type: Rural

The terrain is *Level-Undulating / *Steep-Mountainous.

*Strike through if inapplicable.
[^]Specify the land actually surveyed or specify any land shown in the plan that is not the subject of the survey.

Subdivision Certificate

I, **JEFFREY ALAN BEOVIC**
 *Authorised Person/*General Manager/*Accredited Certifier, certify that the provisions of s.109J of the *Environmental Planning and Assessment Act 1979* have been satisfied in relation to the proposed subdivision, new road or reserve set out herein.

Signature: 

Accreditation number:

Consent Authority: **BYRON SHIRE COUNCIL**

Date of endorsement: **19. 4. 2016**

Subdivision Certificate number: **22/16**

File number: **15. 2014. 586. 1**

*Strike through if inapplicable.

Statements of intention to dedicate public roads, public reserves and drainage reserves.	Plans used in the preparation of survey/compilation. DP 805403 DP 1188077
--	---

If space is insufficient continue on PLAN FORM 6A

DEPOSITED PLAN ADMINISTRATION SHEET

Sheet 2 of 2 sheet(s)

Office Use Only
 Registered:  27.5.2016

PLAN OF SUBDIVISION OF
 LOT 4 IN DP 805403

Subdivision Certificate number: 22/116
 Date of Endorsement: 19.4.2016

Office Use Only
DP1220595

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

- A schedule of lots and addresses - See 60(c) SSI Regulation 2012
- Statements of intention to create and release affecting interests in accordance with section 88B Conveyancing Act 1919
- Signatures and seals- see 195D Conveyancing Act 1919
- Any information which cannot fit in the appropriate panel of sheet 1 of the administration sheets.

Schedule of Council Street Numbering

Lot	Street Number	Street Name	Street Type	Locality
1	67	BOUGAINVILLEA	DRIVE	FEDERAL
2	65	BOUGAINVILLEA	DRIVE	FEDERAL

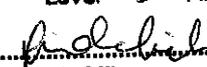
PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, AS AMENDED, 1919, IT IS INTENDED TO CREATE:

- 1) RESTRICTION ON THE USE OF LAND (BUILDING ENVELOPE)
- 2) RESTRICTION ON THE USE OF LAND (NO BUILD ZONE)




Mortgagee under Mortgage No. 5123216
 Signed at this 27th day of 25th GEORGE ST SYDNEY April 2016 for National Australia Bank Limited ABN 12 004 044 937 by RAYMOND LAM its duly appointed Attorney under Power of Attorney No. 39 Book 4512



 Level 3 Attorney


 Witness/Bank Officer
 LINDA TRINH

If space is insufficient use additional annexure sheet

Surveyor's Reference: 14/554

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

Sheet 1 of 3 Sheets

Plan: **DP1220595**

Subdivision of Lot 4 in Deposited Plan
No. 805403 covered by Council's
Subdivision Certificate No. 22/16
Dated 19.4.2016

**Full name and address of the
owner of the land:**

Hugh Downie and Adele Anne Downie
67 Bougainvillea Drive
Federal NSW 2480

**Full name and address of the
mortgagee of the land:**

National Australia Bank Limited

**Part 1
(Creation)**

Number of item shown in the intention panel of the plan.	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan.	Burdened lot(s) or parcel(s)	Benefited lot(s), road(s), bodies or Prescribed Authorities
1. Firstly	Restrictions on use ^{the} of land (building envelope)	Lot 2	Byron Shire Council
2. Secondly	Restrictions on use ^{the} of land (no build zone)	Lot 2	Lot 1

**Part 2
(Terms)**

1. Terms of Restriction on Use ^{the} firstly referred to in the above mentioned plan _{of land}

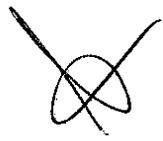
- (a) No dwelling house shall be erected, constructed or placed on the burdened lot that is not located within to the building envelope on that site designated (B) on the Plan.

Name of person, company or authority empowered to release, vary or modify the easement firstly referred to in the above mentioned Plan

Byron Shire Council

A. Downie

Plan: **DP1220595**



Subdivision of Lot 4 in Deposited
Plan No. 805403 covered by Council's
Subdivision Certificate No. 22/16
Dated 19.4.2016

(Sheet 2 of 3 Sheets)

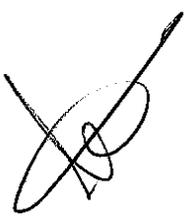
the of land

2. Terms of Restriction on Use secondly referred to in the above mentioned plan

- (a) The registered proprietor of the lot burdened shall not erect, construct or place upon the land hereby burdened being the land on that site designated (R) on the Plan any building, outbuilding, shed, barn, garden shed or other structure whatsoever including any structure of a temporary nature.
- (b) If the registered proprietor of the lot burdened does or allows anything to be done or constructed in contravention of this restriction the registered proprietor of the lot benefited may serve not less than 14 days' notice on the registered proprietor of the lot burdened requiring the impairment or structure removed or the damage (if any) to be repaired. If the owner of the lot burdened does not comply with the notice, the registered proprietor of the lot benefited may enter the lot burdened and remove the impairment or structure or repair the damage (if any) and may recover any reasonable costs from the registered proprietor of the lot burdened.

Name of person, company or authority empowered to release, vary or modify the easement firstly referred to in the above mentioned Plan

Hugh Downie and Adele Anne Downie for such time as they or one of them remain the registered proprietor of Lot 1 in the above mentioned plan and thereafter by the person or persons in whom the legal estate in fee simple is for the time being is vested in the land in the said plan shall be the person empowered to release modify or vary the restriction on use secondly referred to in the abovementioned plan provided such release, variation or modification shall if approved, be made and done in all respects at the cost and expense of the person requesting such release, variation or modification.



SIGNED by the said **HUGH DOWNIE**)
who is personally known to me or as to)
whose identity I am otherwise satisfied:)

Hugh Downie

[Signature]
Signature of Witness

TONY FRANCIS
Name of Witness (Block letters)

17 OCEAN BREEZE DRIVE
LENNOX HEAD
GARDENER
Address and Occupation of Witness

SIGNED by the said **ADELE ANNE DOWNIE**)
who is personally known to me or as to)
whose identity I am otherwise satisfied:)

A. Downie

[Signature]
Signature of Witness

TONY FRANCIS
Name of Witness (Block letters)

17 OCEAN BREEZE DRIVE
LENNOX HEAD
GARDENER
Address and Occupation of Witness

Plan: **DP1220595**

Subdivision of Lot 4 in Deposited
Plan No. 805403 covered by Council's
Subdivision Certificate No. 22/16
Dated 19. 4. 2016

(Sheet 3 of 3 Sheets)

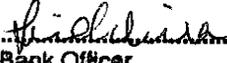
Authorised person Byron Shire Council



National Australia Bank Limited as registered holder of the mortgage no. 5123216 hereby consents to the herein Section 88B Instrument

Signed for National Australia Bank Limited
by

Mortgagee under Mortgage No. 5123216
Signed at this 27th day of
255 GEORGE ST SYDNEY April 2016 for National
Australia Bank Limited ABN 12 004 044 937
by RAYMOND LAM
its duly appointed Attorney under Power of
Attorney No. 39 Book 4512


.....
Level 3 Attorney

.....
Witness/Bank Officer
LINDA TRINH

REGISTERED  27.5.2016

Lodger Details

Lodger Code 504679V
Name CMJ LEGAL
Address 16 BYRON ST
BANGALOW 2479
Lodger Box 1W
Email OFFICE@CMJLEGAL.COM.AU
Reference CUMBERLEGE 3343

Land Registry Document Identification

AT911947

STAMP DUTY:

Variation of Restriction on the Use of Land

Jurisdiction NEW SOUTH WALES

Privacy Collection Statement

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

Land Title Reference	Part Land Affected?	Land Description
2/1220595	N	

Applicant
KAREN LILLIAN CUMBERLEGE

Evidence Date
22/02/2024

Restriction Description

Details Restriction on the use of land (building envelope) (Numbered 1)

Restriction Registration Number

Details DP1220595

Variation of Restriction on the Use of Land

SECTION 88 CONVEYANCING ACT 1919: The applicant applies to have a recording made in the Register of a deed of variation/agreement varying the restriction on the use of land, a copy of which is annexed.

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

Attachment

See attached Terms and Conditions

See attached Mortgagee's Consent

Execution

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

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

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

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

Executed on behalf of KAREN LILLIAN CUMBERLEGE

Signer Name NEIL ROBERT HENDRIKS

Signer Organisation CMJ LEGAL PTY LTD

Signer Role PRACTITIONER CERTIFIER

Execution Date 18/03/2024

Neil Robert Hendriks, Solicitor,
am authorised to make the alteration
NHendriks (Mar 21, 2024 12:49 GMT+11)

DEED OF VARIATION

CMJ Legal
16 Byron Street
Bangalow NSW 2479
PO Box 483, Bangalow NSW 2479
Phone: (02) 6687 0660
Email: office@cmjlegal.com.au
Ref: NH:3343

Table of contents

1. Interpretation 1

2. Variations 2

3. Confidentiality..... 2

4. Entire agreement..... 2

5. Counterparts 2

6. Costs..... 2

Execution page..... 3

THIS DEED dated 22nd day of February 2024

BETWEEN **Karen Lillian Cumberlege** of 65 Bougainvillea Drive, Federal, New South Wales (**Karen**)

AND **Byron Shire Council** of 70 Station Street, Mullumbimby, New South Wales (**Council**)

RECITALS

- A.** Karen is the registered proprietor of the property situated at 65 Bougainvillea Drive, Federal in the State of New South Wales, being Lot 2 in Deposited Plan 1220595 (**the property**).
- B.** The property is burdened by a restriction on the use of land firstly referred to in the Section 88B Instrument DP 1220595 and recorded as No 2 in the second schedule of the register folio (**the restriction**).
- C.** Council is the prescribed authority which benefits from the restriction.
- D.** Council is the prescribed authority empowered to release, vary or modify the restriction.
- E.** This agreement sets out the variation to the restriction agreed and declared between the parties.

OPERATIVE PART

1. Interpretation

This deed is governed by the laws of New South Wales and the parties submit to the non-exclusive jurisdiction of the courts of that state.

In the interpretation of this deed:

- (a) References to legislation or provisions of legislation include changes or re-enactments of the legislation and statutory instruments and regulations issued under the legislation;
- (b) Words denoting the singular include the plural and vice versa, words denoting individuals or persons include bodies corporate and vice versa, references to documents or agreements also mean those documents or agreements as changed, novated or replaced, and words denoting one gender include all genders;
- (c) Grammatical forms of defined words or phrases have corresponding meanings;

-
- (d) Parties must perform their obligations on the dates and times fixed by reference to the capital city of New South Wales;
 - (e) Reference to an amount of money is a reference to the amount in the lawful currency of the Commonwealth of Australia;
 - (f) If the day on or by which anything is to be done is a Saturday, a Sunday or a public holiday in the place in which it is to be done, then it must be done on the next business day;
 - (g) References to a party are intended to bind their executors, administrators and permitted transferees; and
 - (h) Obligations under this deed affecting more than one party bind them jointly and each of them severally.

2. Variations

The parties agree the restriction is varied to extend the area marked (B) in the original Deposited Plan 1220595 to be in accordance with the plan annexed to this Deed, with the effect that the building envelope will now be situated within the areas marked as (BE) on the plan annexed to this Deed.

3. Confidentiality

The parties must keep the terms of this deed confidential, save for any necessary disclosure to their respective legal and financial advisers.

4. Entire agreement

This deed is the entire agreement and understanding between the parties on everything connected with the subject matter of this deed, and supersedes any prior understanding, arrangement, representation or agreements between the parties as to the subject matter contained in this deed.

5. Counterparts

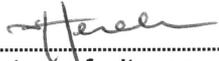
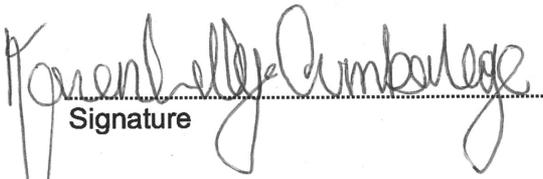
This deed may be executed in any number of counterparts each of which will be an original but such counterparts together will constitute one and the same instrument and the date of the deed will be the date on which it is executed by the last party.

6. Costs

Karen shall pay for all legal costs and disbursements associated with the drafting, execution and registration of this Deed.

Execution page

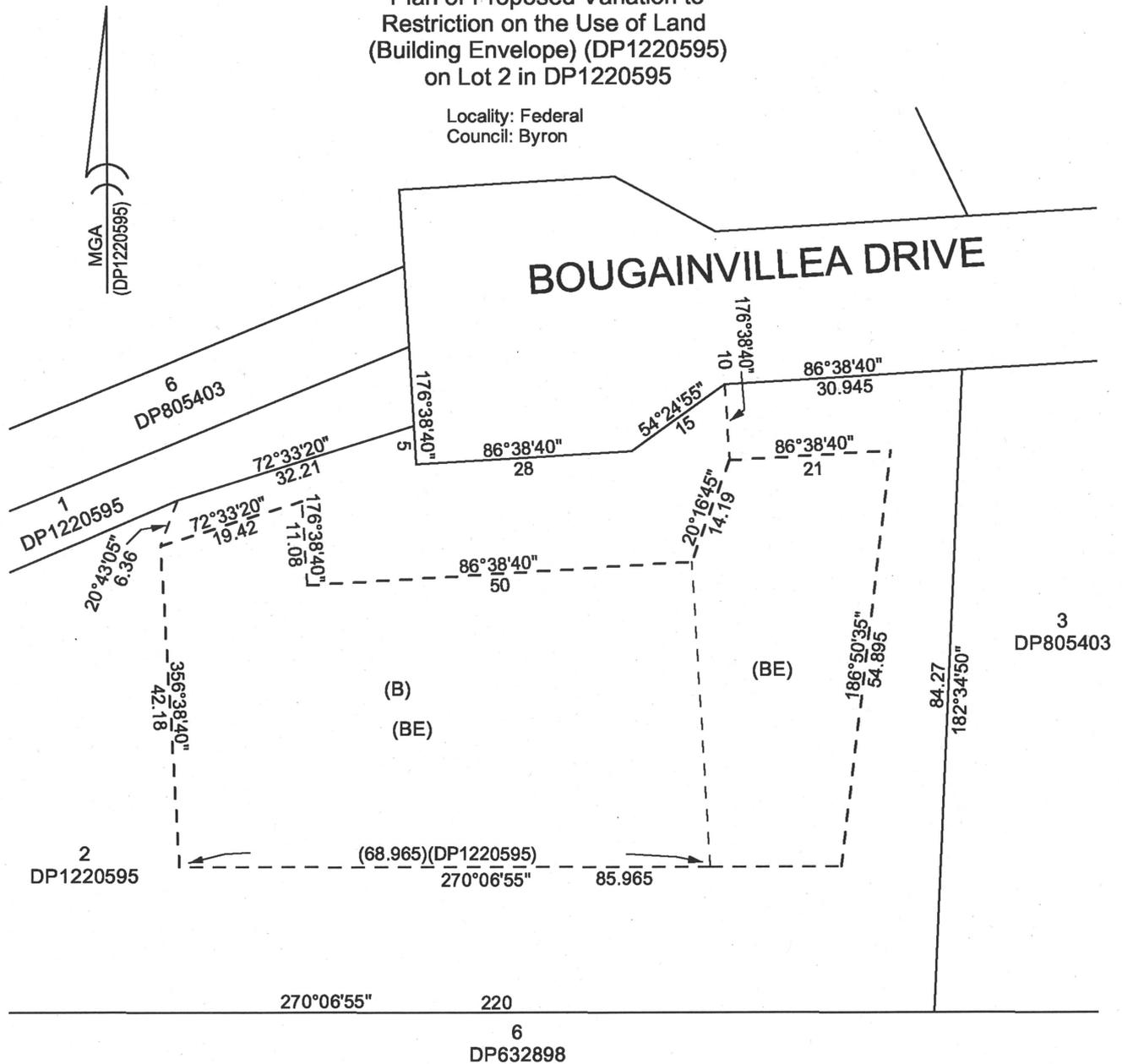
EXECUTED AS A DEED

SIGNED SEALED & DELIVERED BY)
KAREN LILLIAN CUMBERLEGE in)
the presence of:)
	
Signature of witness	Signature
NEIL ROBERT HENDRIKS	
Print name of witness	

SIGNED SEALED & DELIVERED BY)
BYRON SHIRE COUNCIL by its)
authorised officer in the presence of:)
	
Signature of witness	Signature of authorised officer
KELLY MAREE ROCHESTER	JEFFREY ALAN BEGOVIC
Print name of witness	Authorised officer's name
70 STATION STREET	S. 378 OF LOCAL GOVERNMENT ACT 1993
MULLUMBIMBY NSW 2482	Authority of officer

Plan of Proposed Variation to
Restriction on the Use of Land
(Building Envelope) (DP1220595)
on Lot 2 in DP1220595

Locality: Federal
Council: Byron



(B) - RESTRICTION ON THE USE OF LAND (BUILDING ENVELOPE)(DP1220595)

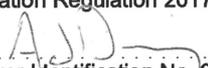
(BE) - PROPOSED RESTRICTION ON THE USE OF LAND (BUILDING ENVELOPE)

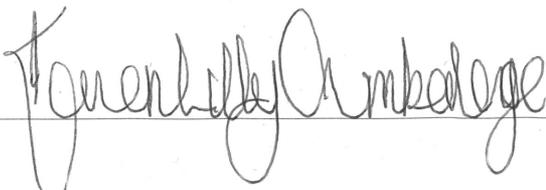

Authorized Person
Byron Shire Council

I, Anthony John Denny of Newton Denny Chapelle, a surveyor registered under the Surveying and Spatial Information Act 2002, certify that the survey represented in this plan/sketch was compiled in accordance with the Surveying and Spatial Information Regulation 2017.

Electronic signature affixed by
Anthony John Denny on 22/11/2023

Reduction ratio - 1:750
Dated: 22/11/2023
Surveyors reference: 230503
LRS reference: 2023M7100 (579) Comp.


Surveyor Identification No. 917
Surveyor registered under the
Surveying and Spatial Information Act 2002



Annexure

Certificate of Title: 2/1220595

Commonwealth Bank of Australia A.B.N. 48 123 123 124 being the Mortgagee under Memorandum Of Mortgage No./dated AS704205 of the premises demised by the within Variation or Modification of Restriction on the Use of Land HEREBY CONSENTS to such Variation or Modification of Restriction on the Use of Land

**SIGNED IN MY PRESENCE BY
Senior Conveyancing Officer**

.....

.....**Yasmin Magalhaes**.....
of the Commonwealth Bank of Australia,
the duly constituted Attorney of the said
bank who is personally known to me.



Aneesha Bowden
Level 2,5-7 Central Avenue,
South Eveleigh, NSW 2015

COMMONWEALTH BANK OF AUSTRALIA by its attorney who is the SENIOR CONVEYANCING OFFICER for the time being at Sydney and who is the attorney mentioned and referred to in Power of Attorney registered in the Land and Property Information Book 4297 No 297


Yasmin Magalhaes

Certificate No: 20251394
Date: 16/10/2025
Receipt No: BSCCERT-15152
Your Reference: 25216



InfoTrack
ecertificates@infotrack.com.au

**PLANNING CERTIFICATE PURSUANT TO
SECTION 10.7(2) ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979**

Property: 65 Bougainvillea Drive FEDERAL 2480
Description: LOT: 2 DP: 1220595
Parish: Clunes
County: Rous
Parcel No: 268137

1 Names of relevant planning instruments and DCPs

- (1) The name of each environmental planning instrument and development control plan that applies to the carrying out of development on the land.**

Byron Local Environmental Plan 2014

State Environmental Planning Policies – refer to Annexure 1

Byron Shire Development Control Plan (DCP) 2014

- (2) The name of each proposed environmental planning instrument and draft development control plan, which is or has been subject to community consultation or public exhibition under the Act, that will apply to the carrying out of development on the land.**

Draft State Environmental Planning Policies – refer to Annexure 1

Planning Proposals – refer to Annexure 2.

2 Zoning and land use under relevant planning instruments.

The following matters for each environmental planning instrument or draft environmental planning instrument that includes the land in a zone, however described:

- (a) the identity of the zone, whether by reference to —
 - (i) a name, such as “Residential Zone” or “Heritage Area” or
 - (ii) a number, such as “Zone No 2(a)”,
- (b) the purposes for which development in the zone —
 - (iii) may be carried out without development consent, and
 - (iv) may not be carried out except with development consent, and
 - (v) is prohibited.
- (c) whether additional permitted uses apply to the land,
- (d) whether development standards applying to the land fix minimum land dimensions for the erection of a dwelling-house on the land and, if so, the fixed minimum land dimensions,
- (e) whether the land is in an area of outstanding biodiversity value under the *Biodiversity Conservation Act 2016*,
- (f) whether the land is in a conservation area, however described,
- (g) whether an item of environmental heritage, however described, is situated on the land.

BYRON LOCAL ENVIRONMENTAL PLAN 2014

2(a) – (b) Land zoning & permissibility of development

Zone R5 Large Lot Residential

1 Objectives of zone

- To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.
- To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.
- To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

2 Permitted without consent

Environmental protection works; Home-based child care; Home occupations; Horticulture

3 Permitted with consent

Bed and breakfast accommodation; Business identification signs; Dual occupancies; Dwelling houses; Extensive agriculture; Home industries; Neighbourhood shops; Oyster aquaculture; Plant nurseries; Pond-based aquaculture; Roads; Roadside stalls; Secondary dwellings; Tank-based aquaculture; Any other development not specified in item 2 or 4

4 Prohibited

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

centres; Crematoria; Dairies (pasture-based); Depots; Eco-tourist facilities; Electricity generating works; Entertainment facilities; Exhibition villages; Extractive industries; Forestry; Freight transport facilities; Function centres; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Information and education facilities; Jetties; Local distribution premises; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Passenger transport facilities; Public administration buildings; Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Residential accommodation; Restricted premises; Rural industries; Service stations; Sewage treatment plants; Sex services premises; Signage; Storage premises; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Warehouse or distribution centres; Waste or resource management facilities; Water recreation structures; Water recycling facilities; Water supply systems; Wharf or boating facilities; Wholesale supplies

Regard must be had for other clauses in Byron Local Environmental Plan 2014, which may affect the purpose for which development may be carried out.

- 2(c) No additional permitted uses apply to the land.
- 2(d) The dimensions of the land have no bearing as to whether or not a dwelling-house may be erected on the land. Further information in regard to whether a dwelling-house is permissible with the consent of council is contained in Section 10.7(5) of this certificate (if applied for).
- 2(e) The land is not in an area of outstanding biodiversity value under the *Biodiversity Conservation Act 2016*
- 2(f) The land is not in a conservation area
- 2(g) An item of environmental heritage is not situated on the land

3 Contributions

- (1) **The name of each contributions plan under the Act, Division 7.1 applying to the land, including draft contributions plans.**
- (2) **If the land is in a region within the meaning of the Act, Division 7.1, Subdivision 4—**
 - (a) **the name of the region, and**
 - (b) **the name of the Ministerial planning order in which the region is identified.**
- (3) **If the land is in a special contributions area to which a continued 7.23 determination applies, the name of the area.**
- (4) **In this section—**
 - continued 7.23 determination* means a 7.23 determination that—**
 - (a) **has been continued in force by the Act, Schedule 4, Part 1, and**
 - (b) **has not been repealed as provided by that part.**

Note—

The Act, Schedule 4, Part 1 contains other definitions that affect the interpretation of this section.

- (1) Applications lodged after 21 November, 2001 and prior to 1 January 2013 are subject to contributions levied in accordance with the Byron Shire Council Section 94 Development Contributions Plan 2005 (incorporating Amendment No 1) for community

facilities, open space, roads, car parking, cycleways, civic and urban improvements, shire support facilities and administration. The Byron Shire Council Section 94 Development Contributions Plan 2005 (incorporating Amendment No 1) remains in force for the purposes of collection of contributions levied under its terms.

Applications lodged after 1 January 2013 are subject to contributions levied in accordance with the Byron Shire Developer Contributions Plan 2012 (Amendment No 2). The plan is split into two parts, Part A being the Byron Section 94 plan that applies to all residential development and Part B being the Byron Section 94A plan that applies to all non residential development.

- (2) The land is not in a region within the meaning of the Act, Division 7.1, Subdivision 4.
- (3) The land is not in a special contributions area to which a continued 7.23 determination applies.

4 Complying Development

- (1) **If the land is land on which complying development may be carried out under each of the complying development codes under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, because of that Policy, clause 1.17A (1) (c) - (e), (2), (3) or (4), 1.18(1)(c3) or 1.19.**
- (2) **If complying development may not be carried out on the land because of 1 of those clauses, the reasons why it may not be carried out under the clause.**
- (4) **If the council does not have sufficient information to ascertain the extent to which complying development may or may not be carried out on the land, a statement that—**
 - (a) **a restriction applies to the land, but it may not apply to all of the land, and**
 - (b) **the council does not have sufficient information to ascertain the extent to which complying development may or may not be carried out on the land.**
- (5) **If the complying development codes are varied, under that Policy, clause 1.12, in relation to the land.**

Complying development under General Housing Code

Complying development may not be carried out on any part of the land due to the zoning of the land.

Complying development under Low Rise Housing Diversity Code

Complying development may not be carried out on any part of the land due to the zoning of the land.

Complying development under Pattern Book Development Code

Complying development may not be carried out on any part of the land due to the zoning of the land.

Complying development under the Greenfield Housing Code

Complying development may not be carried out on any part of the land due to the zoning of the land.

Note:

From 6 July 2021 Complying Development on Greenfield Housing sites may only take place under the Greenfield Housing Code and not the Housing Code.

Complying development under the Rural Housing Code

Because of the provisions of clause 1.19 of SEPP (Exempt & Complying Development Codes) 2008, complying development may not be carried out on any part of the land as the land is wholly unsewered land in a drinking water catchment identified in Byron Local Environmental Plan 2014.

Complying development under the Agritourism and Farm Stay Accommodation Code

Complying development may not be carried out on any part of the land due to the zoning of the land.

Complying development under the Industrial and Business Buildings Code

Complying development may not be carried out on any part of the land due to the zoning of the land.

Complying development under the Container Recycling Facilities Code

Complying development may not be carried out on any part of the land due to the zoning of the land.

Complying development under the General Development Code and Housing Alterations Code

Because of the provisions of clause 1.19 of SEPP (Exempt & Complying Development Codes) 2008, complying development may not be carried out on any part of the land as the land is wholly unsewered land in a drinking water catchment identified in Byron Local Environmental Plan 2014.

Complying development under the Industrial & Business Alterations Code, Subdivision Code, Demolition Code and Fire Safety Code

Complying development may be carried out on any part of the land.

5 Exempt development

- (1) If the land is land on which exempt development may be carried out under each of the exempt development codes under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, because of that Policy, clause 1.16(1)(b1)-(d) or 1.16A.
- (2) If exempt development may not be carried out on the land because of 1 of those clauses, the reasons why it may not be carried out under the clause.
- (3) If the council does not have sufficient information to ascertain the extent to which exempt development may or may not be carried out on the land, a statement that—
 - (a) a restriction applies to the land, but it may not apply to all of the land, and
 - (b) the council does not have sufficient information to ascertain the extent to which exempt development may or may not be carried out on the land.

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

Exempt development may be carried out on the land.

6 Affected building notices and building product rectification orders

- (1) **Whether the council is aware that -**
- (a) **an affected building notice is in force in relation to the land, or**
 - (b) **a building product rectification order is in force in relation to the land that has not been fully complied with, or**
 - (c) **a notice of intention to make a building product rectification order given in relation to the land is outstanding.**

- (2) **In this section —**

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

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

- (1) The council is not aware of any affected building notice (within the meaning of Part 4 of the *Building Products (Safety) Act 2017*) that is in force with respect to the land.
- (2) Council is not aware of any outstanding notice of intention to make a building product rectification (within the meaning of the *Building Products (Safety) Act 2017*) having been given with respect to the land.

7 Land reserved for acquisition

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

BYRON LOCAL ENVIRONMENTAL PLAN 2014

No provision is made for acquisition of the land.

PROPOSED ENVIRONMENTAL PLANNING INSTRUMENT

Not applicable.

8 Road widening and road realignment

Whether the land is affected by any road widening or road realignment under—

- (a) **Division 2 of Part 3 of the *Roads Act 1993*, or**

Not affected

- (b) **any environmental planning instrument, or**

Not affected

- (c) **any resolution of the council**

Not affected

9 Flood related development controls

- (1) **If the land or part of the land is within the flood planning area and subject to flood related development controls.**

It is undetermined if the land or part of the land is within the flood planning area and subject to flood related development controls.

- (2) **If the land or part of the land is between the flood planning area and the probable maximum flood and subject to flood related development controls.**

It is undetermined if the land or part of the land is between the flood planning area and the probable maximum flood boundaries and subject to flood related development controls.

- (3) **In this section—**

flood planning area has the same meaning as in the Flood Risk Management Manual.

Flood Risk Management Manual means the *Flood Risk Management Manual*, ISBN 978-1-923076-17-4, published by the NSW Government in June 2023.

probable maximum flood has the same meaning as in the Flood Risk Management Manual.

10 Council and other public authority policies on hazard risk restrictions

- (1) **Whether any of the land is affected by an adopted policy that restricts the development of the land because of the likelihood of land slip, bush fire, tidal inundation, subsidence, acid sulfate soils, contamination, aircraft noise, salinity, coastal hazards, sea level rise or another risk, other than flooding.**

- (2) **In this section—**

adopted policy means a policy adopted—

(a) by the council, or

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

- (a) The land is affected by a policy adopted by the council or another public authority and notified to the council that restricts the development of the land because of the likelihood of land slip, bushfire, tidal inundation, subsidence, acid sulphate soil and any other risk (other than flooding) known as:

Contaminated Land Management Policy 2024.

The land or part of the land is identified as bush fire prone land in Council's records.

- (b) The land is not affected by a policy adopted by another public authority and notified to the council for the express purpose of its adoption by that authority being referred to in planning certificates issued by the council that restricts the development of the land because of the likelihood of land slip, bushfire, tidal inundation, subsidence, acid sulfate soil and any other risk (other than flooding).

11 Bush fire prone land

- (1) If any of the land is bush fire prone land, designated by the Commissioner of the NSW Rural Fire Service under the Act, section 10.3, a statement that all or some of the land is bush fire prone land.**
- (2) If none of the land is bush fire prone land, a statement to that effect.**

The land or part of the land is identified as bush fire prone land in Council's records.

12 Loose-fill asbestos insulation

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

The land does not include any residential premises (within the meaning of Division 1A of Part 8 of the *Home Building Act 1989*) that are listed on the register that is required to be maintained under that Division.

13 Mine subsidence

Whether the land is declared to be a mine subsidence district, within the meaning of the *Coal Mine Subsidence Compensation Act 2017*.

The land is not proclaimed to be a mine subsidence district.

14 Paper subdivision information

- (1) The name of a development plan adopted by a relevant authority that —**
 - (a) applies to the land, or**
 - (b) that is proposed to be subject to a ballot.**
- (2) The date of any subdivision order that applies to the land.**

Words and expressions used in this section have the same meaning as in this Regulation, Part 10 and the Act, Schedule 7.

- (1) Not applicable.
- (2) Not applicable.

15 Property vegetation plans

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

A property vegetation plan under the *Native Vegetation Act 2003* or private native forestry plan under the *Local Land Services Act 2013* does not apply to the land.

16 Biodiversity stewardship sites

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

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

The land is not a biodiversity stewardship site under a biodiversity stewardship agreement under Part 5 of the *Biodiversity Conservation Act 2016*

17 Biodiversity certified land

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

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

The land is not biodiversity certified land

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

Whether an order has been made under the *Trees (Disputes Between Neighbours) Act 2006* to carry out work in relation to a tree on the land (but only if the council has been notified of the order).

An order under the *Trees (Disputes Between Neighbours) Act 2006* has not been made.

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

(1) If the *Coastal Management Act 2016* applies to the council, whether the owner, or a previous owner, of the land has given written consent to the land being subject to annual charges under the *Local Government Act 1993, section 496B*, for coastal protection services that relate to existing coastal protection works.

**(2) In this section —
existing coastal protection works has the same meaning as in the *Local Government Act 1993, section 553B.***

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

Council is not aware of such a consent.

20 Western Sydney Aerotropolis

Whether under *State Environmental Planning Policy (Precincts—Western Parkland City) 2021, Chapter 4* the land is—

(a) in an ANEF or ANEC contour of 20 or greater, as referred to in that Policy, clause 19, or

- (b) shown on the Lighting Intensity and Wind Shear Map, or
- (c) shown on the Obstacle Limitation Surface Map, or
- (d) in the “public safety area” on the Public Safety Area Map, or
- (e) in the “3 kilometre wildlife buffer zone” or the “13 kilometre wildlife buffer zone” on the Wildlife Buffer Zone Map.

State Environmental Planning Policy (Precincts—Western Parkland City) 2021 does not apply to the land.

21 Development consent conditions for seniors housing

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

Council is not aware of any development consent conditions *State Environmental Planning Policy (Housing) 2021*, Chapter 3, Part 5 that would apply to the land

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

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

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

(2) If *State Environmental Planning Policy (Housing) 2021*, Chapter 2, Part 2, Division 1 or 5 applies to the land, any conditions of a development consent in relation to the land that are of a kind referred to in that Policy, section 21(1) or 40(1).

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

(4) In this section —
former site compatibility certificate means a site compatibility certificate issued under *State Environmental Planning Policy (Affordable Rental Housing) 2009*.

(1) Council is not aware of any current site compatibility certificate (affordable rental housing) in respect of proposed development on the land.

(2) No terms referred to in clause 21(1) or 40(1) of *State Environmental Planning Policy (Housing) 2021* have been imposed as conditions of consent to a development application in respect of the land

(3) No terms referred to in clause 17(1) or 37(1) of *State Environmental Planning Policy (Affordable Rental Housing) 2009* have been imposed as conditions of consent to a development application in respect of the land.

23 Water or sewerage services

Whether water or sewerage services are, or are to be, provided to the land under the *Water Industry Competition Act 2006*.

Note—

A public water utility may not be the provider of some or all of the services to the land. If a water or sewerage service is provided to the land by a licensee under the *Water Industry Competition Act 2006*, a contract for the service will be deemed to have been entered into between the licensee and the owner of the land. A register relating to approvals and licences necessary for the provision of water or sewerage services under the *Water Industry Competition Act 2006* is maintained by the Independent Pricing and Regulatory Tribunal and provides information about the areas serviced, or to be serviced, under that Act. Purchasers should check the register to understand who will service the property. Outstanding charges for water or sewerage services provided under the *Water Industry Competition Act 2006* become the responsibility of the purchaser.

Council is not aware of any water or sewerage services provided to the land under the *Water Industry Competition Act 2006*.

24 Special entertainment precincts

Whether the land or part of the land is in a special entertainment precinct within the meaning of the *Local Government Act 1993*, section 202B.

The land is not in a special entertainment precinct.

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

- (a) that the land to which the certificate relates is significantly contaminated – if the land (or part of the land) is significantly contaminated land at the date when the certificate is issued,
 - (b) that the land to which the certificate relates is subject to a management order – if it is subject to such an order at the date when the certificate is issued,
 - (c) that the land to which the certificate relates is the subject of an approved voluntary management proposal – if it is the subject of such an approved proposal at the date when the certificate was issued,
 - (d) that the land to which the certificate relates is subject to an ongoing maintenance order – if it is subject to such an order at the date when the certificate is issued,
 - (e) that the land to which the certificate relates is the subject of a site audit statement - if a copy of such a statement has been provided at any time to the local authority issuing the certificate.
- (a) The land (or part of the land) is **not** significantly contaminated as at the date this certificate is issued.
 - (b) The land is **not** subject to a management order as at the date this certificate is issued.
 - (c) The land is **not** the subject of an approved voluntary management proposal as at the date this certificate is issued.
 - (d) The land is **not** subject to an ongoing maintenance order as at the date this certificate is issued.

- (e) The land **is not** the subject of a site audit statement as at the date this certificate is issued.

Note: Absence of notification from the EPA under Section 59 of the Contaminated Land Management Act 1997 does not necessarily mean that the land is not subject to some type of contamination

The answer given above only relates to "significantly contaminated" land as defined under the Contaminated Land Management Act 1997. If Council holds sufficient information about whether or not land is contaminated land (as defined under Schedule 6 of the Environmental Planning and Assessment Act 1979), this information will be given in the 10.7(5) certificate

Any statement made or information given in this certificate does not relieve the property owner of obtaining Council's approval required under the Local Government Act 1993, the Environmental Planning & Assessment Act 1979 as amended, or any other Act.

For information relating to Dwelling Entitlement, Contaminated Land, Burials on Private Land, Biodiversity Conservation Agreements, Affordable Housing Contribution Scheme or Voluntary House Purchase Scheme please apply for a Section 10.7(2)(5) Certificate to confirm if any of these matters apply to the land.

Mark Arnold
General Manager



Per

**State Environmental Planning Policies and Draft State Environmental Planning Policies
applicable to land within Byron Shire**

SEPP TITLE	LAND AFFECTED
State Environmental Planning Policy (Resilience and Hazards) 2021	Applies to the State (unless otherwise noted in the SEPP)
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Applies to the State (unless otherwise noted in the SEPP)
State Environmental Planning Policy (Industry and Employment) 2021	Applies to the State (unless otherwise noted in the SEPP)
State Environmental Planning Policy No 65 — Design Quality of Residential Apartment Development	Applies to the State (unless otherwise noted in the SEPP)
State Environmental Planning Policy (Building Sustainability Index: Basix) 2004	Applies to the State (unless otherwise noted in the SEPP)
State Environmental Planning Policy (Resources and Energy) 2021	Applies to the State (unless otherwise noted in the SEPP)
State Environmental Planning Policy (Transport and Infrastructure) 2021	Applies to the State (unless otherwise noted in the SEPP)
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	Applies to the State (unless otherwise noted in the SEPP)
State Environmental Planning Policy (Planning Systems) 2021	Applies to the State (unless otherwise noted in the SEPP)
State Environmental Planning Policy (Primary Production) 2021	Applies to the State (unless otherwise noted in the SEPP)
State Environmental Planning Policy (Housing) 2021	Applies to the State (unless otherwise noted in the SEPP) ¹
State Environmental Planning Policy (Sustainable Buildings) 2022	Applies to the State (unless otherwise noted in the SEPP)

¹ **State Environmental Planning Policy (Housing) 2021: Section 112 Exempt development — non-hosted short-term rental accommodation** provisions for Byron Shire local government area (LGA)

Under the exempt development pathway for STRA, [State Environmental Planning Policy \(Housing\) 2021](#) prescribes a 60-day non-hosted STRA cap for most of Byron Shire LGA, with the exception of two 365-day mapped precincts in and around Byron Bay Town Centre and at Brunswick Heads. These 365-day precincts [are mapped in the Housing SEPP](#)

The 60-day non-hosted STRA cap provisions came into effect on 23 September 2024 and include a maximum 12-month transition period for the community and industry to prepare, depending on the STRA property's registration date.

The new 60-day non-hosted STRA cap applies to:

- all new registrations from 23 September 2024
- existing STRA dwellings from the next renewal date that takes place on or after 23 September 2024.

These provisions apply to all non-hosted STRA dwellings located outside of the two 365-day mapped precincts.

**DRAFT STATE ENVIRONMENTAL PLANNING POLICIES PLACED ON EXHIBITION
PURSUANT TO SCHEDULE 2(1)(2) OF THE ENVIRONMENTAL PLANNING & ASSESSMENT
REGULATION 2021**

**DRAFT LOCAL ENVIRONMENTAL PLAN/S AND DRAFT DEVELOPMENT CONTROL PLAN/S
No/S PLACED ON EXHIBITION PURSUANT TO SCHEDULE 2(1)(2) OF THE
ENVIRONMENTAL PLANNING & ASSESSMENT REGULATION 2021**

26.2022.3.1 - Amendment to Byron LEP 2014 – Stage 4 C zones Planning Proposal (PP4) to apply environmental zones and non-environmental zones to a mix of land owned by public authorities and traditional owners and custodians, as well as private land deferred from the Stage 3 planning proposal (by the then Department of Planning and Environment). The planning proposal represents ‘Stage 4’ of a staged program to integrate land identified as “deferred matters” into Byron Local Environmental Plan (LEP) 2014, and includes the application of environmental zones to certain “non-Deferred Matter” areas already included in LEP 2014. The Planning Proposal will amend the LEP 2014 zoning maps and other related LEP maps such as Minimum Lot Size, Height of Building, Floor Space Ratio, Drinking Water Catchment, Acid Sulfate Soils and Multiple Occupancy & Community Title Maps.

26.2024.7.1 – Amendment to Byron LEP 2014 - Planning Proposal relating to 32 Grays Lane Tyagarah. The objective of this planning proposal is to permit a dwelling on the site with development consent. There is an existing unauthorised dwelling on the site and the site does not have a dwelling entitlement.

SEWER SERVICE DIAGRAM

Lot No. 2 DP No. 1270595 House No. 65
 SUBURB OF FEDERAL
 Licence No. M344561

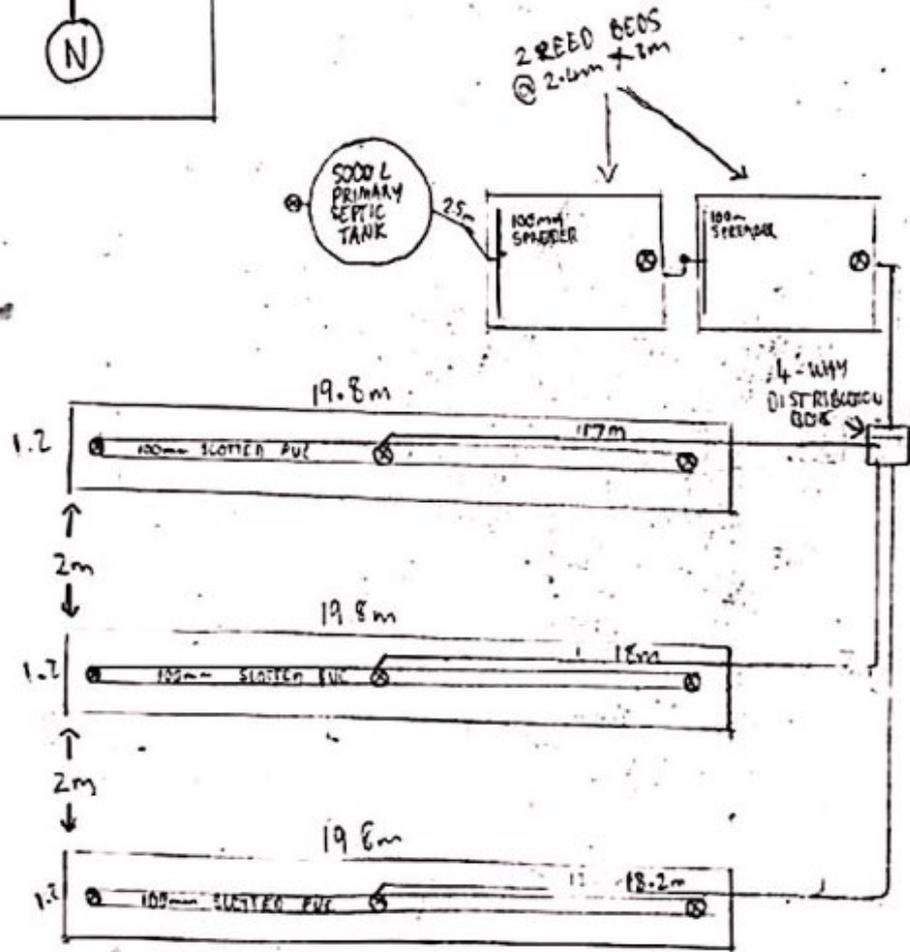
Street BOUGANVILLEA DRIVE PN: 268137
 LGA. BYRON SHIRE COUNCIL
 SCALE _____ SSD No. _____
 Now / COC No. _____ Date 21/4/22

Signature: [Handwritten Signature]

	Boundary Trap	AAV	Air Admittance Valve	BS	Sink (bar)		Chamber
	Inspection Shaft	B	Basin	(L)	Trough (laundry)		PR
	Inspection Opening	Bth	Bath Waste	WC	Water Closet		Grease Interceptor
	Gully	Bld	Bidet		Vertical Pipe		Pump Unit
	FW	CO	Clean Out		Waste Stack		Onsite Treatment System
	Vertical Junction	FW	Floor Waste Gully		Sewer Vent Pipe		Reflux Valve
	Sloped Junction	Shr	Shower		Vent Pipe		Capped Point
	On Back Junction	S	Sink (kitchen)		Induct Pipe Mica Flap		Provisional (future) drain point

NOTE: - This diagram was supplied by the plumber/drafter whose licence number appears above.
 - It has been drawn to show the approximate location of the private sewerage service pipes and may not be accurate.
 - Any broken/dashed lines denote the assumed (not verified) position of private sewerage services.
 - Further acceptable abbreviations may be used as identified in AS/NZS 3500.2:2003 Sanitary Plumbing and Drainage Table 6.1 and Fair Trading's Sewer Service Diagram Requirements document.
 © State of New South Wales through NSW Fair Trading April 2014

BOUGANVILLEA DRIVE



#A2022/41400 File No. 268137 x 70.2020.15.1

28 October 2022

Ms K L Cumberlege
65 Bougainvillea Drive
FEDERAL NSW 2480

Email: karen.mccann1@tafensw.edu.au



Dear Ms Cumberlege

APPROVAL TO OPERATE AN ONSITE SEWAGE MANAGEMENT SYSTEM (OSMS)

Approval To Operate An Onsite Sewage Management System (OSMS) <i>Local Government Act 1993 - Section 68: C6</i>		
Application No.	70.2020.15.1	
Parcel No.	268137	
Property Description	LOT: 2 DP: 1220595 65 Bougainvillea Drive FEDERAL	
Operator	Ms K L Cumberlege	
Structures Connected to OSMS	Three Bedroom Dwelling	
Installed System	Treatment 1	Septic/Greywater Tank
	Treatment 2	Wetland reed bed
	Disposal Type	Evapotranspiration

As the owner of an OSMS (also known as a septic system), you have obligations to manage it so as to minimise the likelihood of adverse impacts to public and environmental health and amenity.

This Approval to Operate (ATO) sets out those obligations.

1. The OSMS shall be maintained and checked annually by a suitably qualified and experience tradesperson.
2. The OSMS has been designed for treatment of a wastewater loading of 748 L/Day (6 Persons / 4 Bedrooms).
3. The OSMS is currently approved to connect to a Three Bedroom Dwelling
4. Council reserves the right to revoke or modify an approval issued for the operation of an OSMS facility. This may include reducing the duration of length of time that an approval is valid and/or placing additional management or monitoring conditions on the approval where a problem with a system is identified.

5. The OSMS wastewater system is to be operated generally in accordance with:

Plan/Report No.	Description	Prepared by	Dated:	Council Record
Byron Shire council: On-Site Sewage Management Systems (OSMS) Approval to Operate (ATO) Conditions and Minimum Maintenance Requirements (attached).				
Application No	70.2020.15.1 and 10.2020.15.1	Byron Shire Council	23/11/2020	E2020/94174
Report	On-Site Effluent Management Report	Sewage Solutions	10/08/2020	E2020/73921
Stamped Plans	70.2020.15.1 and notations (IN RED).	Byron Shire Council	23/11/2020	E2022/104631

Conditions:

1. For general operating conditions refer to the Onsite Sewage Management Systems (OSMS) Approval to Operate (ATO) Conditions and Minimum Maintenance Requirement.
2. Your approval is for one year and will be renewed via the payment of the fee on your rates notice.
3. The duration or other conditions of your ATO may be altered by Council, if so we will let you know when and why.
4. If your system fails or is showing signs of stress such as foul odours or wet patches in the yard, please notify your service technician and Council ASAP. Council needs to know so that we can undertake a risk assessment and advise you of appropriate remedial actions. If your system is not working properly and you fail to take preventative or remedial action you may face penalties under environmental protection legislation.
5. A new approval to operate is required when:
 - a. The system is altered because of an upgrade.
 - b. New plumbing connections are made to the system e.g. an ensuite is added, a shower is installed in the shed or toilet to the studio.
 - c. When the property changes hands.
6. It is important that no additions, alterations or modifications are carried out on the OSMS without first obtaining Council approval. You can contact council at any time to discuss the alterations and approval process.
7. If your property is tenanted you will need to inform your tenants of their obligations when using your OSMS.

Information we are obliged to advise you:

1. An ATO does not mean that the OSMS was approved to be installed, installed as approved or has been previously maintained as required, however Council can help you answer these questions too.
2. An ATO does not mean your OSMS is operating as designed and free of defects. If you are unsure Council highly recommends that you engage a OSMS technician to verify the system is operating as designed and as required by these conditions. Council records may also help you.
3. You have the right to appeal any of these conditions within 28 days of the date of issue of this approval (Section 100 of Local Government Act 1993), fees apply.

Your sincerely

A handwritten signature in black ink that reads "Michael Bingham". The signature is written in a cursive style with a large, stylized 'B'.

Michael Bingham

Environmental Health Officer

Note: *This Notice, inspections relating to it and actions arising there from relate only to OSMS issues. Council's Environmental Services Team is not responsible for the management of compliance issues, such as whether or not the dwelling or any structures on the land are lawful under the Environmental Planning and Assessment Act 1997 (EP&AA) or the Local Government Act 1993 (LGA). This Notice, inspections relating to it, and actions arising from these do not address any other issues. Actions required to be taken by, and those taken in compliance with, Notices and/or Orders issued by Council's Environmental Services Team do not operate as any form of sanction or approval of any other compliance issue which may exist on or relating to the property or activities on it and Council remains empowered to take such compliance action as is available to it in respect any other compliance issue notwithstanding that Notices and/or Orders issued by Council's Environmental Services Team have been complied with.*

Any document forwarded to you by Council's Environmental Services Team is not intended to be, and should not be taken to be, a representation as to whether or not the dwelling or any structures on the land are lawful under the EP&AA or the LGA and should not be relied upon as such

ONSITE SEWAGE MANAGEMENT SYSTEMS ('OSMS') APPROVAL TO OPERATE ('ATO') **CONDITIONS** and

MINIMUM MAINTENANCE REQUIREMENTS

Failure to regularly maintain your OSMS may result in system failure with consequent human and environmental health impacts and legal liabilities, not to mention expensive repairs and or replacement. These conditions will help minimise the likelihood of a failure and maximise the life span of an asset that can be expensive to replace.

General Conditions That Apply To All OSMS

1. Regularly check for OSMS failures which are generally indicated by:
 - a. Plumbing fixtures and fittings not draining properly indicate a damaged or blocked pipe or possible septic tank failure.
 - b. Surcharge of effluent at ground level either around the tank, or down the slope at the land application area/s.
 - c. Foul odour emanating from the tank or land application area/s.
2. Contact your OSMS technician as soon as you suspect a failure or when alarms (where fitted) are activated. Cease all discharges of household wastewater to the OSMS until it is repaired.
3. In the event of OSMS failure always cordon off affected areas so that people, pets and livestock do not come into contact with untreated or partially treated sewage.
4. Minimise water usage in the building/s to reduce the load on the system, via for example dual flush toilets, low flow shower roses, front load washing machines.
5. Minimise the amount of grease, oils, vegetable matter and grit entering the system via sink strainers and putting grease and oil in the garbage or compost. This will help reduce the frequency of septic tank pump outs required.
6. Use only septic safe cleaners and detergents around the home. Chemicals such as disinfectants and bleaches can kill the bacteria in your system leading to foul odours and potential system failure. Do not dispose of other waste, chemicals or medicines down the sinks and drains, for the same reasons.
7. Stormwater, either via connecting pipes or overland flow, should not be allowed to enter tanks and reed beds. Stormwater should be directed away from your Land Application Area/s.
8. Protect all components of your OSMS, including the connecting pipes, from damage by vehicles, hoofed animals (cows, goats, pigs, horse etc), tree roots etc.
9. The OSMS shall be operated in accordance with the manufacturer's recommendation.
10. Use protective clothing and gloves when handling any components associated with waste water management. Always wash yourself well using warm water and soap after coming into contact with any components, sewage, or composted sewage when you are checking your OSMS. Never enter treatment tanks, gases and bacteria can be harmful to your health.
11. Provide copies of pump out receipts, service and repair reports to Council and keep copies. Having a good record of service, repair and pump put history will add value to your asset when it is time to sell.

Recommendation:

If you are unaware of your OSMS service history it is wise to engage an OSMS technician to come out and provide a service report and advise if repairs or a pump out is required, or you can come into Council to examine the records for installation plans, design reports and service records where they exist from the previous owner or installer. An application form is sometimes required to access records, refer: <http://www.byron.nsw.gov.au/faq/public-access-to-documents-and-files#t136n34960>

Important Note:

An application under section 68 of the Local Government Act is required before new systems are installed or replacing existing systems. The application process will enable Council to ensure the system adequately assesses the risks to human health and the environment, is appropriately sized to manage the load and meets Byron Shire and NSW Government guidelines.

Installing or upgrading an OSMS without Council approval is an offence that could lead to notices or penalties being issued and or works having to be redone. Contact Council, we are here to help you protect human health and the environment.

PRIMARY TREATMENT

Septic Tanks, Grey Water Tanks, Aerated Tanks and Biological Filter Tanks.

These tanks are the primary (first) treatment component of an OSMS, they are designed primarily to remove solids, but some nutrients are also removed via the bacteria activity in the tank.

The water coming out of the septic tank is referred to as 'effluent' and is usually quite clear and relatively odourless if your tank is working properly. Beware however; the effluent is very high in bacteria and potentially viruses that have high potential for negative health impacts for humans, animals and the environment. Contact should be avoided at all times.

Effluent from the tank enters the next stage of treatment, see Secondary Treatment section.

Maintaining your Tank/s:

1. Check sludge and scum depth at least annually.
2. Regularly pump out your septic tank to avoid solids discharging to your Land Application Area which can lead to blockages that can be expensive to repair and replace. The pump out frequency will depend on the load, the number of people using the system and how well you keep solids (other than faecal matter) out of the system. Ask your OSMS technician or Council for advice.
3. Your tanks should have an outlet filter or baffle, check and clean regularly. If one is not present ask your plumber to install one to keep solids out of your Land Application Area.
4. As per manufacturer's instructions.
5. Treated grey water is NOT to be connected to handheld hose or spray for garden.

SECONDARY TREATMENT: FURTHER NUTRIENT REMOVAL

Wetlands or Reed Beds

A Wetland or Reed Bed is essentially a large watertight vessel (usually concrete or plastic) that is filled with gravel and planted with water tolerant plants such as reeds and rushes. Effluent from the treatment tank passes through the root zone of the reeds where further solids and dissolved nutrients are removed. The water always remains below the gravel surface, thus excluding human exposure, mosquito breeding and unpleasant odours. Effluent from the Wetland is then discharged to your Land Application Area (see Land Application Areas section).

Maintaining your OSMS including wetland

1. Refer: General Conditions That Apply to All Systems section.
2. Refer to Primary Treatment section.
3. If the home remains empty for an extended period and there is no rain it may be necessary for a small amount of water to be allowed through your system to keep the wetland plants watered e.g. via a dripping tap.
4. Do not apply pesticides or herbicides in close proximity to the wetland. It is important that growing plants are healthy. If plants die, they need to be replaced.
5. Wetland plants and leaf litter will require routine pruning and removal.
6. Plants should not be allowed to block the inlet and outlet pipes or damage the container, check regularly.
7. Please wear protective clothing when undertaking maintenance and avoid maintenance when you feel unwell or have open wounds. Always wash with warm water and soap afterwards.

8. Check for Wetland failure, that are generally indicated by:
 - a. Foul odours.
 - b. plants dying or dead.
 - c. Cracks or leaks in the wetland container.
 - d. Water evident above the gravel or overflowing from the container.
9. Servicing: an annual report by a qualified OSMS technician. A copy of the report is usually sent to Council by your OSMS technician, please check to ensure this is the case

LAND APPLICATION AREAS

Evapotranspiration Beds

Evapotranspiration is the process that removes water from land covered by vegetation through evaporation (loss of water from soil or wet vegetation) and transpiration (loss of water from small openings in the leaves of plants and grasses). Evapotranspiration (ETA) beds reduce reliance on effluent absorption into the soil by maximising water loss through evaporation and transpiration thereby minimising the likelihood of impacts on groundwater and making the water and residual nutrients available to plants.

Effluent is distributed through the bed by a system of slotted pipes. Capillary action draws effluent up from a lower gravel bed through sand to supply the root zone of vegetation (usually grass) on top of the bed. They are wider and shallower than trenches.

There may be a splitter box at the beginning of your ETA beds that is designed to evenly disperse the effluent into each ETA bed.

The ETA beds have been designed specifically for the load that your system has i.e. the more bedrooms you have the larger the land application area needs to be.

Maintaining your OSMS including ETA beds:

1. Refer: General Conditions That Apply To All Systems section
2. Refer to: relevant Primary Treatment section.
3. Refer to relevant Secondary Treatment section.
4. Maintain 100% vegetation cover avoid planting large trees over the bed.
5. Maximise sun exposure, prune shading plants.
6. Whenever you have the ETA beds checked ask your OSMS technician for a written report and provide a copy to Council.
7. Regularly check for signs the system may be failing, indicated by
 - a. Foul odours.
 - b. Excessively wet areas or smelly surface water.
 - c. Lush growth of plants down slope of ET beds trench.
 - d. A diversion drain should be maintained to prevent 'water logging' of the ETA bed via stormwater run-on.
 - e. Roof waters and rain water tank overflows should be diverted away from the ETA area.
 - f. ETA beds may have inspection ports that allow the inspection of the bed to ensure they are getting wet but not waterlogged.

Other Conditions and Information We Are Obligated to Provide Under Legislation

1. Any failure of the OSMS likely to cause a risk to public health or the natural environment should be reported to Council within seven days of the failure occurring.
2. The ATO is valid whilst renewals fees (paid via your rates notice) remain current.
3. Council reserves the right to revoke or modify an ATO, this may include reducing the duration of length of time that an approval is valid and/or placing additional management or monitoring conditions on the approval where a problem with a system is identified.
4. A new approval to operate is required when:
 - a. The system is altered because of an upgrade.
 - b. New plumbing connections are made to the system e.g. an ensuite is added, a shower is or toilet is installed in the shed or the studio etc.
 - c. When the property changes hands.
5. Failure to have a current ATO is an offence under the Local Government Act 1993 and attracts penalties of \$330 (2014). Renewal is now made easier via the payment of the fee on your rates notice.
6. An ATO does not mean that the OSMS was approved to be installed, installed as approved or maintained as required; however Council can help you answer these questions too.
7. An ATO does not mean your OSMS is operating as designed and free of defects. For new owners we highly recommend that you engage an OSMS technician to verify the system is operating as designed and as required by these conditions.

Why Are These Conditions Imposed?

To minimise the likelihood that sewage and waste water management at your property will have adverse and potentially insidious affects on you, your family, visitors and tenants, neighbours, the wider community and the natural environment.

Poorly managed sewage has potential to:

- spread disease: the likelihood that humans and animal come into contact with sewage and waste water must always be minimised,
- contaminate ground and surface water that you or other people may be using,
- create foul odours affecting community amenity,
- attract rodents and undesirable insects that can also spread disease,
- have adverse effects on soils, that are an important component of onsite sewage management,
- have adverse effects on native vegetation.

Management of your system consistent with these requirements is also a legal requirement under the Local Government Act 1993 and associated regulations that also empower Local Government to:

- Enter and inspect properties, via prior written notice.
- Recover costs associated with inspections, notices and court actions.
- Charge an administration fee for service (your Approval to Operate fee).

Local Government also has authority under the Protection of the Environment Operations Act 1997 to

- Enter and inspect any premises at or from which an authorised officer reasonably suspects pollution has been, is being or is likely to be caused-at any time, without prior notice.
- Recover costs associated with inspections, notices and court actions.

Operating your system as required, keeping records and providing copies to Council will also ensure you

- Obtain the most out of an asset that is expensive to replace.
- Ensure you are in a good negotiating position when it comes time to sell.
- Will minimise the likelihood that Council will have to instigate any interventions via notices, penalties and or legal proceedings that can incur fees and charges.

Please keep a copy of this document in a place where you can readily find it.

If you ever have any questions or doubts about your OSMS feel free to contact us.

Council and the Community appreciate your commitment to the protection of human health and the environment for the benefit of all living things.

Policy No: HBCF20058060

Policy Date: 04/11/2020

A contract of insurance complying with sections 92 and 96 of the *Home Building Act 1989* (the Act) has been issued by Insurance and Care NSW (icare) for the insurer, the NSW Self Insurance Corporation (Home Building Compensation Fund). icare provides services to the NSW Self Insurance Corporation under section 10 of the *State Insurance and Care Governance Act 2015*.

Period of Insurance	The contract of insurance provides cover for both the construction period and the warranty period
In respect of	New Single Dwelling Construction
Description of construction as advised by builder^	Construction of a new dwelling
At	65 Bougainvillea Drive Federal New South Wales 2480
Site plan number^	NA
Site plan type^	NA
Homeowner	Peter and Karen Cumberlege
Carried out by	A & S J SAUNDERS
Licence number	187776C
Builder job number^	
Contract amount^	\$1,170,000.00
Contract date^	24/10/2020 (Proposed)
Premium paid	\$5,825.55
Cost of additional products or services under contract	Nil - no additional services
Price (including GST and Stamp Duty) Note: The total price does not include any brokerage or other costs to arrange the insurance contract.	\$6,984.83

^Additional information

Subject to the Act, the Home Building Regulation 2014 and the conditions of the insurance contract, cover will be provided to a beneficiary described in the contract and successors in title to the beneficiary. This Certificate is to be read in conjunction with the policy wording current as at the policy date and available at the icare website at www.icare.nsw.gov.au

There are absolute limits on what you can be paid under this insurance, both in respect of non-completion of the works and as a total policy limit. Please review the policy wording closely for those limits. In summary, the total limit of the policy in any case (including the non-completion of building work, defective building work and any other costs covered by the policy) is \$340,000 per dwelling, with a sub-limit in respect of the non-completion of the building work of 20% of the contract price (as varied). This policy will never pay more than 20% of the contract price (as varied) in respect of the non-completion of building work, and never more than \$340,000 per dwelling for all loss, damage, costs and liabilities covered.

Certificate No: HBCF20058060

Issued on: 04/11/2020



Nathan Agius, General Manager, General Lines Underwriting
Signed on behalf of the insurer

This certificate may only be cancelled within two (2) years of the policy date and only where no work has commenced and no monies have been paid under the building contract.

IMPORTANT NOTE Your contractor must give you either: (a) a certificate of combined cover OR (b) 2 certificates, one covering construction period cover and a second certificate covering the warranty period for the work.

RURAL LAND REQUISITIONS

Vendor:

Purchaser:

Property:

Dated:

Note: If the answer to any of these questions is 'yes', please supply full details and a copy of all relevant documentation at least seven days prior to completion, unless otherwise specified.

1. Capacity

(a) Is the vendor under any legal incapacity?

Such as:

- *Minority.*
- *Bankruptcy or entering a debt agreement under Part IX or an arrangement under Part X of the Bankruptcy Act 1966 (Cth).*
- *If the vendor is a company, any notice, application or order received by the vendor or made at Court for its winding up, or for the appointment of a receiver, an administrator or a controller).*

(b) If the vendor is a trustee, please provide evidence to establish the trustee's power of sale (*such as a copy of the trust deed, under which the trustee was appointed*).

(c) If any document to be handed over on completion (excluding a discharge of mortgage) is executed under a power of attorney, please provide a certified copy of the registered power of attorney.

2. Notices and Orders

(a) Is the vendor aware of or has the vendor received any notice or order or requirement of any authority or any adjoining owner affecting the property?

Such as:

- *Orders under either section 121B of the Environmental Planning and Assessment Act 1979 (NSW) or section 124 of the Local Government Act 1993 (NSW).*
- *Notices or orders from Local Land Services about pests or eradication.*
- *Notices from a local council about noxious weeds.*
- *Notices or orders issued under the Environmentally Hazardous Chemicals Act 1985 (NSW).*
- *Notices or orders under section 142 of the Mining Act 1992 (NSW).*

(b) Has any work been done by any authority which might give rise to a notice, order or liability? (*Such as road works done by local council.*)

(c) Has the vendor received any notice (whether oral or written) of proposed orders from Local Land Services or any local council or government authority concerning any proposed action that could affect the property in any way? If so, please provide particulars including any copies of any relevant correspondence.

3. Title

(a) Subject to the Contract, on completion the vendor should be registered as proprietor in fee simple of the property free from all encumbrances.

(b) On or before completion, any mortgage or caveat or priority notice or writ (other than a caveat or priority notice lodged by or on behalf of the purchaser) must be discharged, withdrawn or cancelled as the case may be or, in the case of a mortgage, priority notice or caveat, an executed discharge or withdrawal handed over on completion.

(c) Are there any proceedings pending or concluded that could result in the recording of any writ on the title to the property or in the General Register of Deeds? If so, full details should be provided at least 14 days prior to completion.

(d) When and where may the title documents be inspected?

4. Adjustments

- (a) All outgoing referred to in clause 14 of the Contract must be paid up to and including the date of completion.
- (b) Is the vendor liable to pay land tax (including surcharge land tax) or is the property otherwise charged or liable to be charged with land tax? If so:
 - (i) To what year has a return been made?
 - (ii) What is the taxable value of the property for land tax purposes for the current year?

5. Unregistered Rights

Is the vendor aware of any unregistered rights over the property, such as an easement, right of way, or any right of use or occupation?

6. Personal Property Securities Act 2009 (Cth) ("PPS Act")

- (a) Are there any interests recorded against the vendor on the Personal Property Securities Register?
If yes:
 - (i) Do such registrations relate to any personal property included in this sale?
 - (ii) In relation to all registrations in respect of the vendor or any personal property included in the sale (including the property and any inclusions), the vendor must provide on or prior to completion:
 - (A) a release from each secured party, in respect of the personal property together with a written undertaking from each secured party to register a financing change statement which reflects that release in the case of serial numbered goods and personal property specifically described; or
 - (B) a statement by each secured party in accordance with section 275(1)(b) of the PPS Act confirming that no debt or obligation is secured by the registration; or
 - (C) a written approval or correction in accordance with section 275(1)(c) of the PPS Act confirming that the personal property is not or will not be as at completion personal property in respect of which the registration is granted.
- (b) Please provide:
 - (i) Full names (including any former names) and dates of birth of all vendors.
 - (ii) ABNs and ACNs of all vendor companies, partnerships and trusts.
 - (iii) Full names (including any former names) and dates of birth of all directors of the vendor companies.

7. Tenancies

- (a) Vacant possession of the property must be given on completion unless the Contract provides otherwise.
- (b) Are there any agreements or arrangements which would create a "tenancy" as defined in section 4 of the *Agricultural Tenancies Act 1990* (NSW), (such as *farming, grazing, share farming or agistment agreements*), or a residential tenancy agreement as defined in section 13 of the *Residential Tenancies Act 2010* (NSW)?
If yes please provide:
 - (i) Particulars of the nature of the tenancy.
 - (ii) The date of any termination of the tenancy.
 - (iii) Particulars of any written instrument (please supply a copy at least 14 days prior to completion).
 - (iv) Particulars of any oral agreement.
 - (v) Particulars of any bond or security.
- (c) Where there is a tenancy:
 - (i) Has the tenant carried out any improvements on the property, with or without the vendor's consent, for which the tenant is entitled to compensation from the vendor?
 - (ii) Has the vendor carried out any improvement on the property for which the tenant is liable to compensate the vendor?
 - (iii) Are there any unresolved disputes between the vendor and a tenant pursuant to an agreement which creates an interest in land?
 - (iv) Are there any fixtures on the property which the tenant may have right to access or removal?
 - (v) Are there any details/documents that record the condition of the property at the commencement of the tenancy? If yes, please provide copies.

8. Buildings

- (a) Are there any structures on the property which require approval for their current use, but do not have such approval?
- (b) Are there any structures on the property that are required to have the approval of the local council but do not?
- (c) Have the provisions of the *Local Government Act 1993* (NSW) and the *Environmental Planning and Assessment Act 1979* (NSW) been complied with?
- (d) Is there any matter that could justify the making of an upgrading or demolition order in respect of any building or structure?
- (e) Has the vendor a survey? If so, please provide a copy.
- (f) Has the vendor a Building Certificate and/or Final Occupation Certificate which relates to any current buildings or structures? If so, it should be handed over on completion. Please provide a copy.
- (g) In respect of any residential building work carried out in the last ten years:
 - (i) Please identify the building work carried out;
 - (ii) When was the building work completed?
 - (iii) Please state the builder's name and licence number (or provide a copy of any owner-builder permit relating to the work);
 - (iv) Please provide details of any insurance under the *Home Building Act 1989* (NSW).
- (h) Has there been any complaint or insurance claim made, or any circumstances known to the vendor which may warrant a complaint or insurance claim due to the non-completion, defective work or otherwise from a breach of the statutory warranties under the *Home Building Act 1989* (NSW) related to residential building work carried out on the property? If so, full details should be provided.
- (i) Do any structures on the property contain loose-fill asbestos insulation? If so:
 - (i) which structures?
 - (ii) is the property listed on the loose-fill asbestos insulation register?
- (j) Have the structures on the property been tested for loose-fill asbestos insulation?

9. Swimming pools

If there is a swimming pool:

- (a) Has the pool been approved by the local council?
- (b) Is it subject to the requirements of the *Swimming Pools Act 1992* (NSW)? If not, why not?
- (c) Does it comply with all the requirements of the *Swimming Pools Act 1992* (NSW) and regulations made under that Act?
- (d) Has a fence and signage been erected around the swimming pool?
- (e) Has the vendor obtained a certificate of non-compliance pursuant to clause 18BA of the *Swimming Pools Regulation 2008* (NSW)? If so, and the certificate is not attached to the contract, please provide a copy of the certificate and the details of the non-compliance.
- (f) Have any notices, directions or orders issued under the *Swimming Pools Act 1992* (NSW) and/or regulations made under that Act?
- (g) Has the vendor obtained a certificate of compliance pursuant to section 22D of the *Swimming Pools Act 1992* (NSW)? If so, and the certificate is not attached to the contract, please provide a copy.
- (h) If a certificate of compliance is not attached to the Contract, please provide evidence of registration, eg. certificate of registration of the swimming pool pursuant to section 30C of the *Swimming Pools Act 1992* (NSW), and a relevant occupation certificate within the meaning of the *Swimming Pools Act 1992* (NSW).
- (i) Any original certificate of non-compliance, certificate of compliance and relevant occupation certificate held must be handed over at completion.
- (j) Where a certificate of compliance includes a reference to an exemption, please provide the details of the exemption granted by council.
- (k) Has the vendor received any notification of the cancellation of a certificate of compliance? If so please provide a copy.

10. Solar Panels

- (a) Do any of the improvements erected at the property have solar panels?
- (b) Is there any energy buy back arrangement in place? If so, can it be assigned to the purchaser?
- (c) Please provide a copy of the supply agreement for the solar panels including particulars of the Contract price.
- (d) Does the supply agreement provide for assignment to a new owner of the property?
- (e) Does the rate per kW of power generated in dollar terms remain constant during the term of the supply agreement?
- (f) Is there a net meter for any solar panels?
- (g) Are there any arrangements in relation to a voluntary feed in tariff?
- (h) Is there a battery storage system? If so please advise details of the system.

11. Rates

- (a) What government, local government or statutory authorities levy rates on the property? (*Such as local council or Local Land Services*).
- (b) Has the property been declared "farmland" for rating purposes under the *Local Government Act 1993* (NSW)?
- (c) Are there any deferred rates attaching to the property? Please provide particulars.

12. Boundary fences

- (a) Are there any boundary or give and take fences on the property? If so where are they located?
- (b) Are there any boundaries along watercourses and, if so, how are they fenced?
- (c) Are there any notices from neighbours or statutory authorities about the erection or repair of any boundary fence or give and take fence?
- (d) Is there any agreement, written or oral, with any neighbour about the erection or repair of a boundary fence?

13. Soil conservation

- (a)
 - (i) Are there any agreements about soil conservation affecting the property?
 - (ii) Please provide copies of any licences or agreements.
 - (iii) Are there any monies outstanding under any licence or agreement?
- (b) Is the land or any part of it within an area of erosion hazard under the *Soil Conservation Act 1938* (NSW)?
- (c) Is there any charge or any other outstanding liability affecting the land under section 22(5) of the *Soil Conservation Act 1938* (NSW)?
- (d) Are there any circumstances known to the vendor that could give rise to soil conservation liabilities in the future?

14. Timber

- (a) Are there any agreements with any authority or anyone else about the felling or removal of timber from the property? If so,
 - (i) Please provide copies of any licences or agreements.
 - (ii) Are there any monies outstanding under any licence or agreement?Please provide details and copies of any relevant documents as soon as possible, and in any event not later than 14 days before completion.
- (b) Is the vendor aware of any of the following being granted to or held by the vendor or any other person under the *Forestry Act 2012* (NSW) in respect of the property:
 - (i) Forest lease or licence;
 - (ii) Forest products licence;
 - (iii) Clearing licence;
 - (iv) Profit-a-prendre; or
 - (v) Any other lease, licence, permit, right or interest?Please provide details and copies of any relevant documents as soon as possible, and in any event not later than 14 days before completion.

15. Water

- (a) Is the vendor entitled to have water supplied to the property by any authority? If so, please supply details and if any meter or works are situated on lands other than the property please advise what rights or agreements exist.
- (b) Is any water available to the property:
 - (i) From any well, bore or dam that is not wholly on the property and if so where?
 - (ii) Under any private water agreement? If so, what rights exist in respect to any private water agreement and please supply copies of any agreement.
- (c) Is the land in a water sharing plan area under the *Water Management Act 2000* (NSW)?
- (d) Does the vendor hold any water rights or licence, permit or authority under the *Water Act 1912* (NSW) or the *Water Management Act 2000* (NSW); or, the benefit of any applications under either Act not yet dealt with? Please supply copies of all licences, permits, authorities, applications or correspondence in respect of such applications.
- (e) Is the vendor liable to any authority, or to any other person, to pay for water or for water rights?
- (f) (i) Have any dams or other earthworks been constructed on any water course on the property?
(ii) If so, was any permission for the construction sought or given by any relevant authority?
- (g) Are there any bore trusts that affect the property? If so, please provide:
 - (i) The name and contact details of the secretary or relevant office bearer of the trust;
 - (ii) Details of licences or permits in respect of the bore;
 - (iii) If water is conveyed from the bore to the property through other properties please supply details of owners of those properties and copies of any easements or agreements.
- (h) If there is a dam on the property which exceeds the maximum harvestable right dam capacity which is used for irrigation or which is used for watering a commercial crop or an intensive livestock industry:-
 - (i) Has the dam been approved by and registered with NSW Office of Water?
 - (ii) Has a licence issued for the dam? If so, please provide a copy of the licence.
 - (iii) Did the dam require the approval of local council? If so, please provide a copy of such approval.
- (i) Are there any points of supply of water not wholly located within the boundaries of the land? If so are appropriate easements in place?
- (j) Are there any levee banks on the property? If so was a licence obtained and are they constructed in accordance with the licence?
- (k) Have all earthworks requiring development consent on the property been fully approved?

16. Electricity

- (a) Which electricity authority supplies electricity to the property?
- (b) Is there any money owing to that authority for capital works? If so, please furnish full particulars.

17. Access, roads and enclosure permits

- (a) Is access to the property at any point over any land other than a main or public road? (*Such as a right of way or access over Local Land Services property.*)
- (b) Are there any rights of way or other easements over the property?
- (c) Is the vendor aware of any proposal to close, or any application or pending application to close or any proposal to purchase any road adjacent to the property?
- (d) Is the vendor aware of any proposed realignment on any road adjacent to the property?
- (e) Is there any main road, public road Crown road or travelling stock route through the property at any point?
- (f) Is there any enclosure permit that attaches to the property? If so, please furnish full particulars.
- (g) Has the vendor or a predecessor in title made an application to close or to purchase a road within the property or any other road which provides access to the property? If so, please advise the status of the application.

18. Rural workers accommodation

- (a) Is there any building situated on the land for the accommodation of rural workers?
- (b) If so:
- (i) Have the requirements of the *Rural Workers Accommodation Act 1969* (NSW) and *Work Health and Safety Act 2011* (NSW) been complied with?
 - (ii) Is the vendor aware of any notice, prosecution or proceedings including enforcement proceedings, under the *Rural Workers Accommodation Act 1969* (NSW) and *Work Health and Safety Act 2011* (NSW) that have been instituted or threatened against the vendor or any previous owner of the property?
 - (iii) Does the vendor have planning approval for rural workers accommodation?

19. Stock diseases

- (a) Are there any quarantine or other notices or orders or undertakings relating to stock on the property including stock on agistment or stock not owned by the vendor? (*Such as notices or orders made about anthrax, lice, brucellosis or footrot, Ovine Johnes Disease (OJD) or Bovine Johnes Disease (BJD).*)
- (b) Has any order been made under section 62 of the *Biosecurity Act 2015* (NSW)?

20. Pollution

- (a) Are there any sheep or other stock dips, whether used or disused, on the property? If so, where on the property are they located?
- (b) Are there any outstanding notices or orders under the *Environmentally Hazardous Chemicals Act 1985* (NSW)?
- (c) Has the vendor or any tenant, share farmer or previous owner used any chemicals on the property which could give rise to any problems with chemical residues under the *Environmentally Hazardous Chemicals Act 1985* (NSW) or the *Contaminated Land Management Act 1997* (NSW)?
- (d) Has any Preliminary Investigation Order been made under section 10 or a Management Order been made under section 14 of the *Contaminated Land Management Act 1997* (NSW)? If so, has the land been declared to be significantly contaminated land within the meaning of section 11 of the *Contaminated Land Management Act 1997* (NSW)?
- (e) Is there, or has there ever been, any underground fuel tank on the property? If so:-
- (i) Where is/was it?
 - (ii) Is it still in use? If not, has it been emptied of fuel and decommissioned?
- (f) Is there or has there been any fuel tank which may have leaked, causing soil pollution? If so, please supply full information about where it is, or was, situated.

21. Effluent Disposal Systems

- (a) Is there a septic sewage disposal system on the property? If so, please supply evidence of registration of it with the local council.
- (b) If there is no septic sewage disposal system and there is a house on the property, please supply details of the effluent disposal system used and evidence of registration with the local council.
- (c) Has the local council inspected the septic sewage disposal system? If so when?
- (d) Please provide copies of any correspondence from the local council in relation to effluent disposal, including as to any septic sewage disposal system on the property.

22. Resumptions

Is the vendor aware of any resumption, proposed resumption, proposed purchase or proposed occupation of the property by any public authority? If so, please furnish full particulars at least 14 days prior to completion.

23. Fixtures

- (a) Are the fixtures or inclusions in the sale free of encumbrances?
- (b) Any chattels not owned by the vendor, or owned by the vendor or any other person and not included in this sale, must be removed prior to completion.

24. Crown land

- (a) Are there any amounts owing to the Crown for rent or for balance of purchase moneys? If so, please supply full details.
- (b) Is there any application or pending application to the Crown for conversion or purchase from the Crown? If so, please advise the status of the application or pending application.

25. Pipelines

Is the vendor aware of any licence, permit or easement for any pipeline over the property, either under the *Pipelines Act 1967* (NSW) or otherwise? If so:-

- (a) Please provide copies any licences, permits or easements.
- (b) Are there any monies outstanding under any licences or permits?
- (c) Please advise the location of any licences, permits or easements.

26. Mining

(a) Has the vendor any rights or entitlements, or received any notices, under the:

- (i) *Mining Act 1992* (NSW); or
- (ii) *Petroleum (Onshore) Act 1991* (NSW)?

If so please provide details and provide a copy of any relevant documentation.

(b) Is the property within a mine subsidence district? If so:

- (i) Has the erection or alteration of any improvement required approval? Please provide a copy.
- (ii) Was the improvement erected or altered in accordance with the terms of the approval?

27. National Parks and Wildlife

(a) Is there any interim protection order in force over any part of the property under section 91B of the *National Parks and Wildlife Act 1974* (NSW)?

(b) Is there a conservation agreement affecting the property, or any part of it, under section 69B of the *National Parks and Wildlife Act 1974* (NSW)?

(c) Is there a Wildlife Refuge Agreement in place in respect of the property under section 68 of *National Parks and Wildlife Act 1974* (NSW)?

If so please provide details and provide a copy of any relevant documentation

28. Native vegetation

(a) Is the property subject to a Property Vegetation Plan as defined in the *Native Vegetation Act 2003* (NSW)(now repealed) or a private native forestry plan under Part 5C of Schedule 11 to the *Biodiversity Conservation Act 2016* (NSW)? If so please provide details and provide a copy of any relevant documentation.

(b) Has the vendor carried out, or caused to be carried out, on the property any clearing of native vegetation? If so:

- (i) Was clearing carried out pursuant to a development consent?
- (ii) If so, was clearing carried out in accordance with the terms and conditions of that consent or plan?
- (iii) Was clearing carried out pursuant to a Property Vegetation Plan approved under the *Native Vegetation Act 2003* (NSW)(now repealed)?
- (iv) If not, was clearing carried out in accordance with Part 5A of the *Local Land Services Act 2013* (NSW)?
- (v) Has the permitted clearing been completed?
- (vi) If not, what is the extent of the clearing yet to be completed?
- (vii) Please provide a copy of any mandatory code compliance certificate that has issued under the *Local Land Services Act 2013* (NSW).
- (viii) Is any part of the property a set-aside area under the provisions of Part 5C of Schedule 11 to the *Biodiversity Conservation Act 2016* (NSW)? If so, please provide details, including any details entered in a public register.

(c) Has the Director General made any 'stop work' order under section 37 or given directions for remedial work under section 38 of the *Native Vegetation Act 2003* (NSW)(now repealed) or the *Biodiversity Conservation Act 2016* (NSW) in respect of the property?

(d) Has the vendor, or any previous owner, ever been prosecuted for clearing native vegetation illegally from the property? If so, please provide full details including a copy of any written outcome of such proceedings.

29. Threatened Species

- (a) Is the vendor aware of any endangered species, endangered populations, endangered ecological communities, vulnerable species or vulnerable ecological communities as defined in the *Threatened Species Conservation Act 1995* (NSW)(now repealed) or threatened species or threatened ecological communities as defined in the *Biodiversity Conservation Act 2016* (NSW) on the property?
- (b) In reference to the *Threatened Species Conservation Act 1995* (NSW)(now repealed) are there, or has there ever been, as far as the vendor is aware, any of the following relating to the property:
 - (i) Critical habitat declared under section 47 and notified on the Register kept by the Director General of the National Parks and Wildlife Service under section 55?
 - (ii) Any recovery plan published under section 67?
 - (iii) Any draft threat abatement plan published under section 84?
 - (iv) Any licence to harm or pick threatened species population or ecological communities or damage habitat, granted under section 91?
- (c) Has there been any species impact statement prepared either for the purposes of the *Threatened Species Conservation Act 1995* (NSW)(now repealed) in accordance with section 110 or for the purposes of the *Environmental Planning and Assessment Act 1979* (NSW)?
- (d) Has there been any stop work order made by the Director General under section 91AA or any interim protection order made under Part 6A of the *National Parks and Wildlife Act 1974* (NSW)?
- (e) Has any part of the property been declared an area of outstanding biodiversity value under the *Biodiversity Conservation Act 2016* (NSW)? If the answer is yes to any of the questions above please supply full details.

30. Native Title

- (a) Is the vendor aware of any Native Title claim lodged under the *Native Title Act 1993* (Cth), or acts validated under the *Native Title (New South Wales) Act 1994* (NSW)?
- (b) If so, has the vendor filed an interest to be involved in the determination of such claim under either the Commonwealth or NSW legislation?
- (c) If the land is a lease from the Crown, has the use purpose of the lease been altered since 1 January 1994 or is it in the process of being altered? If so, please provide a copy of the undertaking from the Crown not to seek from the lessee any reimbursement of compensation payable by the Crown to Native Title holders.

31. Aboriginal Sites

- (a) Has the vendor or any predecessor in title entered into a voluntary or compulsory conservation agreement concerning Aboriginal sites or relics? If so, please provide a copy of that agreement/s.
- (b) Is the vendor aware of any Aboriginal places, objects, artefacts or relics on any part of the property? If so, where are they located?

32. Environment

- (a) Has the vendor undertaken any activity that constitutes a 'controlled action' under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth)? If so please provide details.
- (b) Has the vendor received any order or direction, or given any undertaking, under the *Biosecurity Act 2015* (NSW)? If so please provide details.
- (c) Are there any registered or unregistered conservation agreements under the *Biodiversity Conservation Act 2016* (NSW) affecting the property (such as Biodiversity Stewardship Agreements, Conservation Agreements and Wildlife Refuge Agreements)?
- (d) Are there any registered or unregistered conservation agreements not covered by the *Biodiversity Conservation Act 2016* (NSW)?

33. Foreign resident capital gains withholding measure

- (a) Is the transaction an excluded transaction within the meaning of s14-215 of Schedule 1 to the *Taxation Administration Act 1953* (Cth) ("TA Act")?
- (b) If not attached to the contract, does the vendor hold or has the vendor applied for a clearance certificate within the meaning of s14-220 of Schedule 1 to the TA Act?
- (c) If not attached to the contract, does the vendor hold or has the vendor applied for a variation made under s14-235 of Schedule 1 to the TA Act?

34. Agreements or disagreements affecting the property

- (a) Has the vendor or any predecessor in title entered into any agreements not otherwise referred to in these requisitions, with anyone else affecting the property? If so, please provide details and provide a copy of any relevant documentation.
- (b) Are there any legal proceedings threatened, pending or not concluded that involve the property in any way?

35. Completion

- (a) If the vendor has or is entitled to have possession of the title deeds, any Certificate Authentication Code must be provided seven days prior to completion.
- (b) Please list any documents to be handed over on completion in addition to the certificate of title, transfer and any discharge of mortgage.
- (c) If applicable, has the vendor submitted a Request for CoRD Holder consent to the outgoing mortgagee?
- (d) Unless we are advised by you to the contrary prior to completion, it will be assumed that your replies to these requisitions remain unchanged as at the completion date.