

# Contract for the sale and purchase of land 2018 edition

<b>TERM</b>	<b>MEANING OF TERM</b>	<b>eCOS ID:</b>	<b>NSW Duty:</b>
vendor's agent	<b>JKL Real Estate</b> <b>PO Box 666 Forster NSW 2428</b>		Phone <b>02 6554 8717</b> Fax <b>02 6555 8664</b> Ref <b>Karen Hoswell</b>
co-agent vendor	<b>Edward John Tipton</b> <b>408 Failford Road</b> <b>FAILFORD NSW 2430</b>		
vendor's solicitor	<b>Stacks Law Firm</b> <b>207 Victoria Street Taree NSW 2430</b> <b>DX 7006 Taree NSW</b>		Phone <b>02 6592 6592</b> Fax <b>02 6592 6593</b> Ref <b>NJS:SP:190025</b> Email <b>nstack@stacklaw.com.au</b>
date for completion	<b>42nd day after the contract date</b> (clause 15)		
land	<b>Lot 4 Wallaby Creek Close, Failford NSW 2430</b>		
(Address, plan details and title reference)	<b>Registered Plan: Lot 4 Plan DP 271218</b> <b>Folio Identifier 4/271218</b>		
	<input checked="" type="checkbox"/> Vacant Possession <input type="checkbox"/> subject to existing tenancies		
improvements	<input type="checkbox"/> HOUSE <input type="checkbox"/> garage <input type="checkbox"/> carport <input type="checkbox"/> home unit <input type="checkbox"/> carspace <input type="checkbox"/> storage space <input type="checkbox"/> none <input checked="" type="checkbox"/> other: Vacant Land		
attached copies	<input checked="" type="checkbox"/> documents in the List of Documents as marked or as numbered: 1, 2, 6, 10, 48, 51 <input type="checkbox"/> other documents:		

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

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

buyer's agent

\_\_\_\_\_  
**vendor**

\_\_\_\_\_  
**witness**

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

\_\_\_\_\_  
**purchaser**

☐ JOINT TENANTS ☐ tenants in common ☐ in unequal shares

\_\_\_\_\_  
**witness**

## Choices

vendor agrees to accept a **deposit-bond** (clause 3) ☐ NO ☐ yes  
**proposed electronic transaction** (clause 30) ☐ NO ☒ yes

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

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

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

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

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

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

**RW payment (residential withholding payment) – further details**

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

Supplier's name: Mr Edward J Tipton  
 Supplier's ABN: 95 239 200 790  
 Supplier's business address: 408 Failford Road, Failford NSW 2430  
 Supplier's email address: mr\_edd1951@hotmail.com  
 Supplier's phone number: (02) 6554 3180  
 Supplier's proportion of RW payment: \$

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

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

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

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

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

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

## List of Documents

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

## ***SPECIAL CONDITIONS***

BETWEEN: Edward John Tipton (Vendor)

AND: (Purchaser)

Notwithstanding anything otherwise herein contained in this contract:

### **1. Amendments to Standard Clauses**

Amendments to the standard form Contract for the sale and purchase of land 2018 edition:

1.1 Clause 8.1.1: delete the words “on reasonable grounds”.

1.2 Clause 8.1.2: delete the words “and those grounds”.

### **2. Notice**

Fourteen (14) days shall be sufficient time for the compliance with any notice pursuant to this Contract, which notice may be forwarded by post, document exchange, facsimile or by email.

### **3. Claims by Purchaser**

Any claim pursuant to Clauses 6 and 7 shall be deemed to be a requisition with which the Vendor is unable or unwilling to comply for the purpose and application of Clause 8 of the Contract.

### **4. Condition of Property**

The property together with the improvements thereon is sold in its present state of repair and condition and the Purchaser acknowledges that the Purchaser buys the property not relying upon any warranties or representations made to the Purchaser by or on behalf of the Vendor not contained in this Contract. The Purchaser shall not call upon the Vendor to carry out any repairs to the property, or to any furnishings and chattels, assume any liability towards, or payment of any monies relative to, a work order or decision of any statutory authority, Owners Corporation or local Council made after the date hereof nor effect any treatment for pest infestation.

### **5. Notice to Complete**

In the event of either party failing to complete this Contract on or prior to the date for completion referred to in this Contract, the other party shall be entitled to serve on the defaulting party a notice requiring completion of the Contract, within fourteen (14) days from service of such notice and such completion within such time shall be deemed to be an essential term of this Contract. In the event such notice issues, the

defaulting party shall allow on completion the other's costs in that regard in the sum of \$275.00, payment of which is an essential term of this Contract.

## **6. Completion of the Contract**

It is an essential term of this Contract that, if completion does not take place on or before the date for completion due to the Purchaser's default:

- (a) in addition to the balance of the price and any other money payable hereunder to the Vendor on completion the Purchaser shall pay to the Vendor interest on the balance of the price and any other moneys payable hereunder to the Vendor at the rate of 10.00 per centum per annum computed from the date for completion up to and including the actual completion date of this Contract; and
- (b) notwithstanding anything herein contained and Clause 14.1 hereof, the date at which adjustments are to be made in respect of rates taxes and outgoings between the parties hereto shall be the earlier of:
  - (i) the date possession of the property is given to the Purchaser; or
  - (ii) the date for completion stipulated on the front page of this Contract;
- (c) it is agreed that the amount payable pursuant to this condition is a genuine pre-estimate of the Vendors' loss of interest for the purchase money and liability for rates and outgoings.

Nothing in this clause shall derogate from the right to make time of the essence as set out in the Contract.

## **7. Vendor's Agent**

The Purchaser warrants that the Purchaser was not introduced to the property or to the Vendor by any Agent other than the Vendor's Agent herein named and will indemnify and keep indemnified the Vendor at all times hereafter from any claim whatsoever for commission which may be made by any Real Estate Agent other than the Vendor's Agent as herein named in respect of the within sale. The Vendor warrants that the Vendor has not entered into any sole Agency Agreement with any Real Estate Agency other than the Vendor's Agent herein named regarding the sale of this property which Agreement would be current as at the date hereof. This condition shall not merge upon completion.

## **8. Facsimile or Email Communication**

- 8.1 The parties acknowledge that prior to signing this Contract they agreed that either facsimile transmission or email could be used as a mode of communication between the parties and their agents.

- 8.2 This Contract becomes binding on the parties by both parties sending a fully signed Contract by either facsimile transmission or email to the other party's agent or Solicitor. Once the Contract has been deemed identical both parties agree to date the Contract and effect an exchange of Contracts.
- 8.3 The Contract referred to in 9.2 above, will then be posted to the other party's agent or Solicitor following exchange. Delivery of a counterpart of the Contract bearing a facsimile or email signature will bind the party whose signature is so represented.

**9. Death and Incapacity**

Without any manner negating, limiting or restricting any rights or remedies which would have been available to the Vendor or Purchaser in law or in equity had this clause not been included herein, should the Purchaser or Vendor or any one or more of them: die; become mentally ill; commit an act of bankruptcy upon which a Bankruptcy Petition can be commenced; or being a Company goes into liquidation or administration or receivership or calls a meeting of creditors; prior to completion then the other party may rescind the within Contract by notice in writing forwarded to that party's Solicitor or Conveyancer named herein, whereupon this Contract shall be at an end and the provisions of clause 19.2.1 and 19.2.4 hereof shall apply.



FOLIO: 4/271218

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SEARCH DATE	TIME	EDITION NO	DATE
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7/8/2019	4:13 PM	1	20/6/2019

LAND

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LOT 4 IN COMMUNITY PLAN DP271218  
AT FAILFORD  
LOCAL GOVERNMENT AREA MID-COAST  
PARISH OF TUNCURRY COUNTY OF GLOUCESTER  
TITLE DIAGRAM DP271218

FIRST SCHEDULE

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EDWARD JOHN TIPTON

SECOND SCHEDULE (9 NOTIFICATIONS)

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- 1 LAND EXCLUDES MINERALS AND IS SUBJECT TO RESERVATIONS AND  
CONDITIONS IN FAVOUR OF THE CROWN - SEE CROWN GRANT(S)
- 2 INTERESTS RECORDED ON REGISTER FOLIO 1/271218
- 3 ATTENTION IS DIRECTED TO THE MANAGEMENT STATEMENT OF THE  
COMMUNITY SCHEME FILED WITH THE COMMUNITY PLAN
- 4 DP830075 RESTRICTION(S) ON THE USE OF LAND
- 5 AK700403 MORTGAGE TO STACKS MANAGED INVESTMENTS LIMITED  
AN260324 VARIATION OF MORTGAGE AK700403  
AP164452 VARIATION OF MORTGAGE AK700403
- 6 DP271218 RESTRICTION(S) ON THE USE OF LAND REFERRED TO AND  
NUMBERED (1) IN THE S.88B INSTRUMENT (DOC.1)
- 7 DP271218 POSITIVE COVENANT REFERRED TO AND NUMBERED (3) IN  
THE S.88B INSTRUMENT (DOC.1)
- 8 DP271218 POSITIVE COVENANT REFERRED TO AND NUMBERED (5) IN  
THE S.88B INSTRUMENT (DOC.1)
- 9 DP271218 RESTRICTION(S) ON THE USE OF LAND REFERRED TO AND  
NUMBERED (8) IN THE S.88B INSTRUMENT (DOC.1)

NOTATIONS

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UNREGISTERED DEALINGS: NIL

\*\*\* END OF SEARCH \*\*\*



FOLIO: 1/271218

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SEARCH DATE	TIME	EDITION NO	DATE
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7/8/2019	4:18 PM	1	20/6/2019

LAND

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THE COMMUNITY PROPERTY WITHIN LOT 1 IN COMMUNITY PLAN DP271218  
AT FAILFORD  
LOCAL GOVERNMENT AREA MID-COAST  
PARISH OF TUNCURRY COUNTY OF GLOUCESTER  
TITLE DIAGRAM DP271218

FIRST SCHEDULE

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COMMUNITY ASSOCIATION DP271218  
ADDRESS FOR SERVICE OF DOCUMENTS:  
408 FAILFORD ROAD  
FAILFORD  
NSW 2430

SECOND SCHEDULE (7 NOTIFICATIONS)

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- 1 LAND EXCLUDES MINERALS AND IS SUBJECT TO RESERVATIONS AND CONDITIONS IN FAVOUR OF THE CROWN - SEE CROWN GRANT(S)
- 2 ATTENTION IS DIRECTED TO THE MANAGEMENT STATEMENT OF THE COMMUNITY SCHEME FILED WITH THE COMMUNITY PLAN
- 3 DP830075 RESTRICTION(S) ON THE USE OF LAND
- 4 DP271218 POSITIVE COVENANT REFERRED TO AND NUMBERED (2) IN THE S.88B INSTRUMENT (DOC.1)
- 5 DP271218 POSITIVE COVENANT REFERRED TO AND NUMBERED (3) IN THE S.88B INSTRUMENT (DOC.1)
- 6 DP271218 EASEMENT FOR ACCESS AFFECTING THE WHOLE OF THE LAND ABOVE DESCRIBED (DOC.1)
- 7 DP271218 EASEMENT FOR DRAINAGE OF WATER AFFECTING THE WHOLE OF THE LAND ABOVE DESCRIBED (DOC.1)

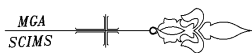
NOTATIONS

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UNREGISTERED DEALINGS: NIL

\*\*\* END OF SEARCH \*\*\*





### LOCATION DIAGRAM

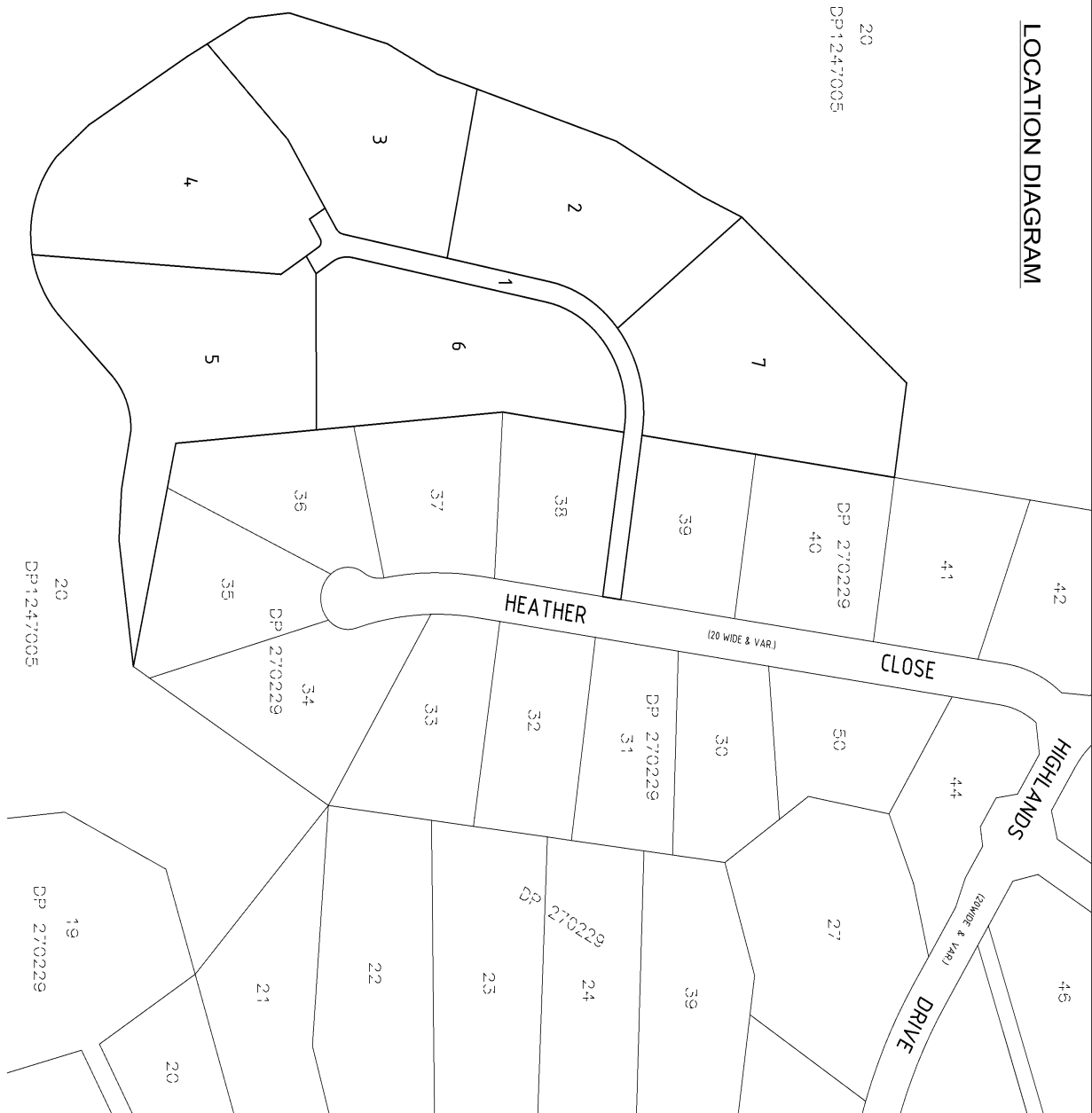
**WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION**

ePlan


Sheet 1 of 3 sheets

THIS SHEET IS BEING CONTINUALLY UPDATED TO SHOW THE CURRENT SUBDIVISION PATTERN OF THE SCHEME. FOR DETAILS UPDATES AND ADDITIONAL AND REPLACEMENT SHEETS SEE SCHEDULE BELOW

SCHEDULE OF CHANGES TO THE SCHEME		
LOT No	DETAILS	SHEET No



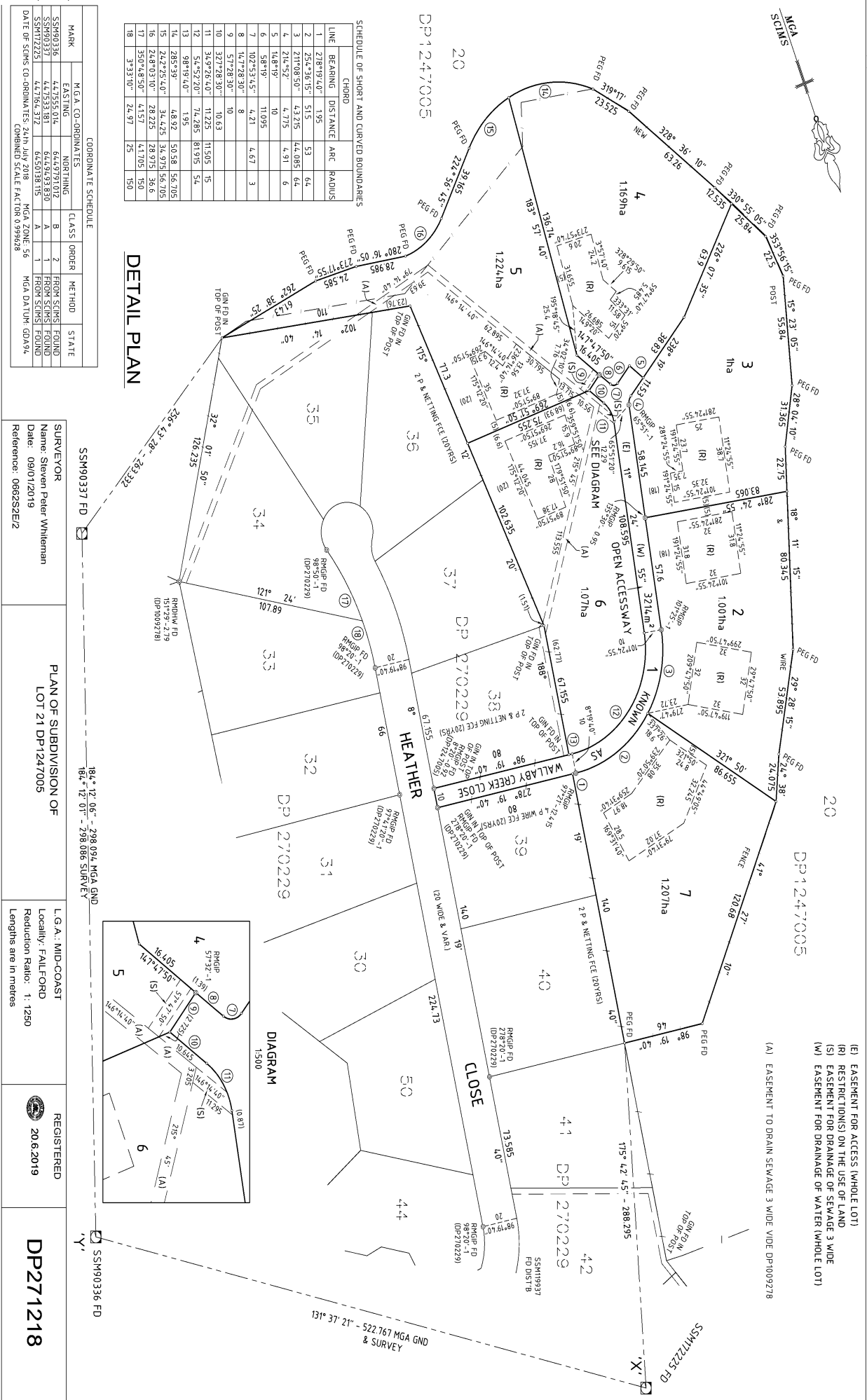
Reduction Ratio 1: 1500

<p>Subscription Certificate No. 392/2019</p> <p>Date 27th May 2019</p> <p>Surrey: Steven Peter Whiteman</p> <p>Surrey: Ref. 0662S2E2</p> <p>REGISTERED:  20.6.2019</p> <p>COMMUNITY/FREIGHT/INTEGRATION/HOBB PLAN</p> <p>DP271218</p>
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PLAN FORM 2 (A2)

WARNING: CREASING OR FOLDING WILL LEAD TO REFLECTION

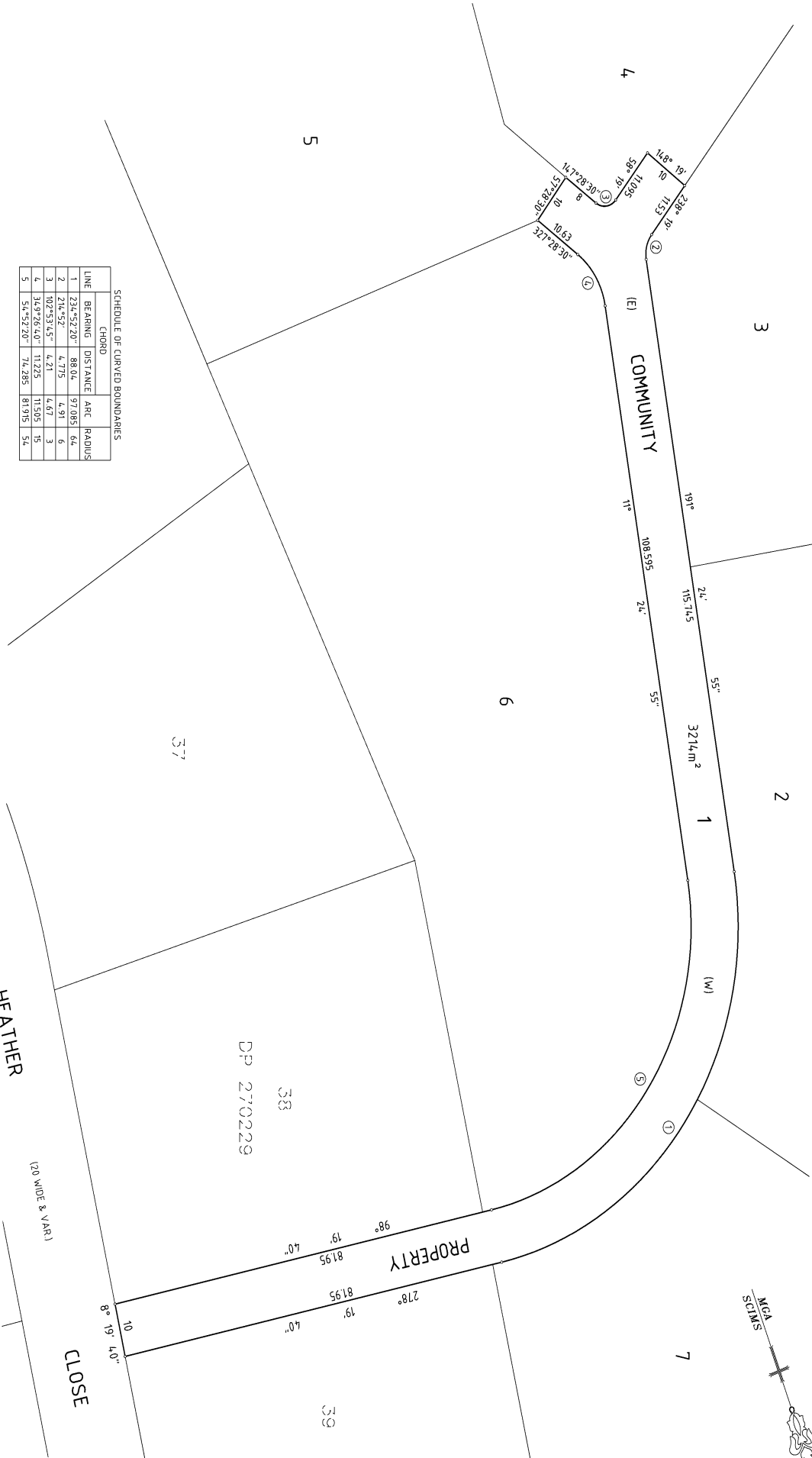
Plan SHEET 2 OF 3 SHEETS



PLAN FORM 2 (A2)

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

ePlan SHEET 3 OF 3 SHEETS



SCHEDULE OF CURVED BOUNDARIES			
LINE	BEARING	DISTANCE	ARC RADIUS
1	234°52'20"	88.04	97.095
2	214°52'	6.775	4.91
3	102°53'45"	4.71	4.67
4	34.9°26'40"	11.225	11.505
5	54°52'20"	74.285	81.975

(E) EASEMENT FOR ACCESS (WHOLE LOT)  
(W) EASEMENT FOR DRAINAGE OF WATER (WHOLE LOT)

COMMUNITY PROPERTY PLAN

SURVEYOR Name: Steven Peter Whiteman Date: 09/01/2019 Reference: 0682S2E/2	PLAN OF SUBDIVISION OF LOT 21 DP1247005	L.G.A.: MID-COAST Locally: FAIRFORD Reduction Ratio: 1: 500 Lengths are in metres	REGISTERED 20.6.2019	DP271218

(CAD F:\0682S2E\Proposed\Parade\SCS2E\Stamp.dwg) (V2 - 8/20/2019)

## DP271218

**COVER SHEET FOR SIGNATURE/ADMINISTRATION SHEETS**


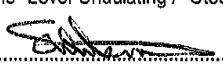

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**ATTENTION**

A Community Plan may be subject to future subdivision that may contain a Signature/Administration Sheet. This document will then comprise separate Signature/Administration Sheets registered on different dates.

Particulars of each Signature/Administration Sheet are as follows:-

[illegible]


ePlan

PLAN FORM 6 (2018)	DEPOSITED PLAN ADMINISTRATION SHEET	Sheet 1 of 4 sheet(s)
Registered:  20.6.2019 Title System: TORRENS		Office Use Only <div style="text-align: center; font-size: 2em; font-weight: bold;">DP271218</div> <div style="text-align: right;">(DOC.A)</div>
PLAN OF SUBDIVISION OF LOT 21 DP1247005		LGA: MID-COAST Locality: FAILFORD Parish: TUNCURRY County: GLOUCESTER
<b>Survey Certificate</b> I, <u>Steven Peter Whiteman</u> of <u>3 Wharf Street Forster, Po Box 510</u> 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 2017, is accurate and the survey was completed on: <u>2-1-19</u> , or <del>*(b) The part of the land shown in the plan (*being*excluding**.....)</del> <del>was surveyed in accordance with the Surveying and Spatial Information Regulation 2017, the part surveyed is accurate and the survey was completed on..... the part not surveyed was compiled in accordance with that Regulation, or</del> *(c) The land shown in this plan was compiled in accordance with the <del>Surveying and Spatial Information Regulation 2017.</del> Datum Line: <u>'X'-Y'</u> Type: *Urban/*Rural The terrain is *Level-Undulating / * <del>Steep-Mountainous</del> Signature:  Dated: <u>19-1-19</u> Surveyor Identification No.: <u>2309</u> Surveyor registered under the Surveying and Spatial Information Act 2002  *Strike out inappropriate words. **Specify the land actually surveyed or specify any land shown in the plan that is not the subject of the survey.		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: .....
Plans used in preparation of survey/compilation. DP270229, DP1009278, DP1247005		<b>Subdivision Certificate</b> I, <u>Allison Anthony</u> *Authorised Person/*General Manager/*Accredited Certifier, certify that the provisions of section 6.15 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: <u>Mid-Coast Council</u> Date of Endorsement: <u>27 May 2019</u> Subdivision Certificate number: <u>39/2019</u> File number: <u>DA-46412017</u>  *Strike through Inapplicable parts
Statements of intention to dedicate public roads, create public reserves and drainage reserves, acquire/resume land.		Surveyor's Reference: 0662S2E/2
Signatures, Seals and Section 88B Statements should appear on PLAN FORM 6A		


PLAN FORM 6D (2016) (Community annexure) WARNING: Creasing or folding will lead to rejection ePlan

DEPOSITED PLAN ADMINISTRATION SHEET		Sheet 2 of 4 sheet(s)																													
<div style="text-align: right; font-size: small;">Office Use Only</div> <div style="display: flex; justify-content: space-between; align-items: center;"> <div>Registered: </div> <div>20.6.2019</div> </div> <div style="border: 1px solid black; padding: 5px; margin-top: 5px;">           PLAN OF SUBDIVISION OF            LOT 21 DP1247005         </div> <div style="margin-top: 10px;">           Subdivision Certificate number: <u>39/2019</u>            Date of endorsement: <u>27 May 2019</u> </div> <div style="border: 1px solid black; padding: 5px; margin-top: 5px;">           Name of Development (Optional)         </div>	<div style="text-align: right; font-size: small;">Office Use Only</div> <div style="text-align: center; font-size: 2em; font-weight: bold; margin-top: 20px;">DP271218</div> <div style="text-align: right; margin-top: 10px;">(DOC.A)</div> <div style="margin-top: 20px; font-size: small;">           Signatures and Consents, a schedule of lots and addresses and statements relating to a section 88B instrument should be provided on Plan Form 6A.         </div> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;">           Address for Service of Notices   <b>408 FAILFORD ROAD</b>  <b>FAILFORD NSW 2430</b> </div>																														
<div style="text-align: center; font-weight: bold; font-size: small;">WARNING STATEMENT (Approved Form 7)</div> <p style="font-size: x-small;">This document shows an initial schedule of unit entitlements for the *Community/*Precinct/*Neighbourhood scheme which is liable to be altered as the scheme is developed or on completion of the scheme, in accordance with the provisions of section 30 Community Land Development Act 1989. Any changes will be recorded in a replacement schedule.</p>	<div style="text-align: center; font-weight: bold; font-size: small;">VALUER'S CERTIFICATE (Approved Form 9)</div> <p style="font-size: x-small;">I, <u>Jeffery Rogers AAPI CPV 60593 MRCS</u>  of <u>113 High St Wauchope NSW 2446</u>  being a Valuer registered under the Valuers Registration Act 1975, certify that;</p> <p style="font-size: x-small;">*(a) The unit entitlements shown in the schedule herewith are based upon valuations made by me on  <u>27 March 2019</u></p> <p style="font-size: x-small;">*(b) <del>The unit entitlements shown in the schedule herewith, for the new lots created by the subdivision, are based upon their market value on <u>27 March 2019</u> being the date of the valuer's certificate lodged with the original initial schedule or the revised schedule.</del></p> <p style="font-size: x-small;">Signature: <u></u> Date: <u>28 May 2019</u></p> <p style="font-size: x-small;">* Strike through if inapplicable  ^ Insert date of valuation</p>																														
<div style="font-weight: bold; font-size: small;">SCHEDULE OF UNIT ENTITLEMENT</div> <div style="font-weight: bold; font-size: 1.2em; margin-top: 10px;">INITIAL SCHEDULE</div> <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <thead> <tr> <th colspan="3" style="padding: 5px;">SCHEDULE OF UNIT ENTITLEMENT</th> </tr> <tr> <th style="width: 15%; padding: 5px;">LOT</th> <th style="width: 55%; padding: 5px;">UNIT ENTITLEMENT</th> <th style="width: 30%; padding: 5px;">SUBDIVISION</th> </tr> </thead> <tbody> <tr> <td style="padding: 5px;">1</td> <td style="padding: 5px;">COMMUNITY PROPERTY</td> <td style="padding: 5px;"></td> </tr> <tr> <td style="padding: 5px;">2</td> <td style="padding: 5px;">16</td> <td style="padding: 5px;"></td> </tr> <tr> <td style="padding: 5px;">3</td> <td style="padding: 5px;">16</td> <td style="padding: 5px;"></td> </tr> <tr> <td style="padding: 5px;">4</td> <td style="padding: 5px;">17</td> <td style="padding: 5px;"></td> </tr> <tr> <td style="padding: 5px;">5</td> <td style="padding: 5px;">17</td> <td style="padding: 5px;"></td> </tr> <tr> <td style="padding: 5px;">6</td> <td style="padding: 5px;">17</td> <td style="padding: 5px;"></td> </tr> <tr> <td style="padding: 5px;">7</td> <td style="padding: 5px;">17</td> <td style="padding: 5px;"></td> </tr> <tr> <td style="padding: 5px;">TOTAL</td> <td style="padding: 5px;">100</td> <td style="padding: 5px;"></td> </tr> </tbody> </table> <p style="font-size: x-small; margin-top: 5px;">(If space is insufficient use annexure sheet - Plan Form 6A)</p>		SCHEDULE OF UNIT ENTITLEMENT			LOT	UNIT ENTITLEMENT	SUBDIVISION	1	COMMUNITY PROPERTY		2	16		3	16		4	17		5	17		6	17		7	17		TOTAL	100	
SCHEDULE OF UNIT ENTITLEMENT																															
LOT	UNIT ENTITLEMENT	SUBDIVISION																													
1	COMMUNITY PROPERTY																														
2	16																														
3	16																														
4	17																														
5	17																														
6	17																														
7	17																														
TOTAL	100																														
Surveyor's Reference: <b>0662S2E/2</b>																															

ePlan

PLAN FORM 6A (2017)		DEPOSITED PLAN ADMINISTRATION SHEET		Sheet 3 of 4 sheet(s)	
Office Use Only		Office Use Only			
Registered:  20.6.2019		<b>DP271218</b>  (DOC.A)			
PLAN OF SUBDIVISION OF LOT 21 DP1247005					
Subdivision Certificate Number: 39/2019		<p>This sheet is for the provision of the following information as required:</p> <ul style="list-style-type: none"><li>• A schedule of lots and addresses - Sec 60(c) SSI Regulation 2017</li><li>• Statements of intention to create and release affecting interests in accordance with section 88B Conveyancing Act 1919.</li><li>• Signatures and seals - see 195D Conveyancing Act 1919.</li><li>• Any information which cannot fit in the appropriate panel of sheet 1 of the administration sheets.</li></ul>			
Date of Endorsement: 27 May 2019					
<p>PURSUANT TO Sec.88B OF THE CONVEYANCING ACT 1919 IT IS INTENDED TO CREATE:-</p> <ol style="list-style-type: none"><li>1. RESTRICTION(S) ON THE USE OF LAND (R)</li><li>2. PUBLIC POSITIVE COVENANT</li><li>3. POSITIVE COVENANT</li><li>4. EASEMENT FOR DRAINAGE OF SEWAGE 3 WIDE (S)</li><li>5. PUBLIC POSITIVE COVENANT</li><li>6. EASEMENT FOR ACCESS (WHOLE LOT) (E)</li><li>7. EASEMENT FOR DRAINAGE OF WATER (WHOLE LOT) (W)</li><li>8. RESTRICTION(S) ON THE USE OF LAND</li></ol>					
<p>STREET ADDRESSES OF ALL LOTS ARE NOT AVAILABLE</p>					
<p>If space is insufficient use additional annexure sheet</p>					
Surveyor's Reference: 0662S2E/2					

ePlan

PLAN FORM 6A (2017)		DEPOSITED PLAN ADMINISTRATION SHEET		Sheet 4 of 4 sheet(s)	
Office Use Only		Office Use Only			
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<p><i>E. J. Tipton</i>  <b>EDWARD JOHN TIPTON</b></p> <p>Stacks Managed Investments Limited ACN 085 843 125</p> <p><i>Raymond Thomas Stack</i>  <b>Raymond Thomas Stack</b>          Director</p> <p><i>Tania Lee McMullen</i>  <b>Tania Lee McMullen</b>          Secretary.</p> <div data-bbox="651 1321 893 1601" data-label="Image"> </div>					
If space is Insufficient use additional annexure sheet					
Surveyor's Reference: 0662S2E/2					



[illegible]

**Instrument setting out Terms of Easements/Profits a Prendre intended to be created or released and of Restrictions on the Use of Land and Positive Covenants intended to be created pursuant to Section 88B of the Conveyancing Act, 1919.**

(DOCUMENT 1)  
 (Sheet 1 of 7 sheets)

**Plan: DP271218**

Plan of Subdivision of Lot 21  
 in DP 1247005 covered by  
 Subdivision Certificate No 39/2019

**Full name and address of proprietor of land:**

Edward John Tipton  
 400 Failford Road, Failford NSW 2430

**Part 1 (Creation)**

Number of Item shown in The Intention Panel on the Plan	Identity of easement, profit a 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	Restriction(s) on the Use of Land (R)	Lot 2-7 inclusive	Mid-Coast Council
2	Public Positive Covenant	Lot 1	Mid-Coast Council
3	Positive Covenant	Lot 1-7 inclusive	Mid-Coast Council
4	Easement for Drainage of Sewage 3 Wide (S)	Lot 5 and 6	Mid-Coast Council
5	Public Positive Covenant	Lot 2,3,4 & 7	Mid-Coast Council
6	Easement for Access (Whole Lot) (E)	Lot 1	Mid-Coast Council
7	Easement for Drainage of Water (Whole Lot) (W)	Lot 1	Mid-Coast Council
8	Restriction(s) on the Use of Land	Lot 2-7 inclusive	Lot 2-7 inclusive

**Instrument setting out Terms of Easements/Profits a Prendre intended to be created or released and of Restrictions on the Use of Land and Positive Covenants intended to be created pursuant to Section 88B of the Conveyancing Act, 1919.**

(DOCUMENT 1)  
(Sheet 2 of 7 sheets)

**Plan: DP271218**

Plan of Subdivision of Lot 21  
in DP 1247005 covered by  
Subdivision Certificate No 32/2019

## **PART 2**

**1. Terms of restriction(s) on the use of land firstly referred to in the abovementioned plan**

- (a) No main dwelling is to be erected outside the area denoted (R) on the Plan.
- (b) The two areas denoted (R) on the Plan within Lot 2 are alternatives only given the configuration of the Lot and are not to be interpreted as permitting two (2) areas.

**2. Terms of Public Positive Covenant secondly referred to in the abovementioned plan**

The Registered Proprietor of the burdened lot must not harm or remove the significant trees as identified as significant trees on the Plan titled "Plan of Amended Lot Boundary and Significant Trees" prepared by Council Officer Matt Bell and dated 24/10/17. Removal of any significant tree is permitted only with the written consent of Council.

**3. Terms of Positive Covenant thirdly referred to in the abovementioned plan**

The burdened lot shall be managed as an asset protection zone (APZ) as outlined within Schedule 1 Bushfire Protection Measures of the Bushfire Protection Assessment report, prepared by Travers Bushfire and Ecology dated August 2017, in accordance with section 4.1.3 and Appendix 5 of "Planning for Bush Fire Protection 2006" and the NSW Rural Fire Service's document "Standards for asset protection zones".

**4. Terms of Easement for Drainage of Sewage 3 Wide fourthly referred to in the abovementioned plan**

Terms as set out in Part B of Registered Memorandum AF 361750. Any reference to MidCoast County Council is a reference to Mid-Coast Council.

**5. Terms of Public Positive Covenant fifthly referred to in the abovementioned plan**

- a. The Registered Proprietor of the burdened lot shall purchase and install a Mid-Coast Council approved pump station and connect to the available sewage system.
- b. The Registered Proprietor of the burdened lot shall duly undertake to operate, maintain and renew the approved pump station and attached rising mains and endure all costs associated.
- c. The Registered Proprietor of Lot 2 shall duly undertake to operate, maintain and renew the rising main within Lot 1 and endure all costs associated.

**Instrument setting out Terms of Easements/Profits a Prendre intended to be created or released and of Restrictions on the Use of Land and Positive Covenants intended to be created pursuant to Section 88B of the Conveyancing Act, 1919.**

(DOCUMENT 1) 7  
(Sheet 3 of 8 sheets)

**Plan: DP271218**

Plan of Subdivision of Lot 21  
in DP 1247005 covered by  
Subdivision Certificate No 39/2019

- d. This Public Positive Covenant shall bind any successors on title of the burdened lot to the above terms.

**6. Terms of Easement for Access (Whole Lot) sixthly referred to in the abovementioned plan**

Terms as set out in Part C of Registered Memorandum AF 361750. Any reference to MidCoast County Council is a reference to Mid-Coast Council.

**7. Terms of Easement for Drainage of Water (Whole Lot) seventhly referred to in the abovementioned plan**

Terms as set out in Part A of Registered Memorandum AF 361750. Any reference to Midcoast County Council is a reference to Mid-Coast Council

**8. Terms of restriction(s) on the use of land eighthly referred to in the abovementioned plan**

- a. No lot shall be used otherwise than for the purposes of private dwelling, provided that this shall not prevent:
- (i) the use of part of any building by a professional person in the practice of his/her profession; or
  - (ii) the use of any building for the purposes of exhibition or display of that building.
- b. No garage or outbuilding shall be erected or permitted to remain erected upon any lot except until after or concurrently with the erection of the main building and no such garage or outbuilding may be erected or permitted to remain erected unless it is constructed of new materials.
- c. No building previously either wholly or in part erected elsewhere shall be moved to, placed upon, re-erected, reconstructed or permitted to remain on any lot, unless of new materials.
- d. No structure of a temporary character, tent, shack, garage, trailer, camper, caravan, lawnlocker or any outbuilding shall be used at any time as a dwelling on any lot.

**Instrument setting out Terms of Easements/Profits a Prendre intended to be created or released and of Restrictions on the Use of Land and Positive Covenants intended to be created pursuant to Section 88B of the Conveyancing Act, 1919.**

(DOCUMENT 1) 7  
(Sheet 4 of 8 sheets)

**Plan: DP271218**

Plan of Subdivision of Lot 21  
in DP 1247005 covered by  
Subdivision Certificate No

39/2019

- e. No run-off water from any building, impervious surface or other material or structure laid or constructed on any lot shall be permitted to run outside the boundaries of that lot except to a street gutter or into or through the inter-allotment drainage system within any easements to drain water as shown on the plan.
- f. No hoarding or advertising signs shall be erected or displayed on any lot unless with the exception of a 'for sale' sign.
- g. No boat, trailer, caravan or motor vehicle shall be permitted to remain upon or adjacent to any lot unless garaged or otherwise screened from public view.
- h. No building shall be erected or permitted to remain erected upon any lot with the external wall or walls of materials other than brick, stone, concrete, glass, timber, hardiplank, aluminium or fibrous cement or any combination thereof.
- i. No solar panels are to be erected on lawns or any non-fixed structure on any Lot.
- j. No clothes drying apparatus may be erected or permitted to remain erected on the lot which is visible from any street or public walkway.
- k. No pigs, commercial dog kennels, noxious, noisome or offensive occupation, trade, business, manufacture, factories, warehouses, building storage, veterinary surgeons, veterinary hospitals or home industry other than the professional occupations of Doctors, Dentists, Solicitors, Architects, Valuers or Surveyors shall be kept, conducted or carried out as the case may be on any lot hereby burdened without written permission of Edward John Tipton.
- l. No caravans, trailers or boats shall be kept or stored on any lot hereby burdened without adequate screening from any road or road reserve and such screening shall not be of a material other than hedge, lattice work, pergolas or stone fencing or brick or rendered masonry or unless fully enclosed by a building structure which complies with the terms of this Restriction as to User numbered 6 in the plan.
- m. At no time shall any plant, earth moving equipment, machinery, materials, goods or rubbish be kept or stored on any lot hereby burdened.
- n. No motor truck or lorry or semi-trailer with a loading capacity exceeding 2 tonnes tare weight (other than vehicles used in connection with the erection of a dwelling or structure or deliveries) shall be parked adjacent to or remain on any lot hereby burdened.

**Instrument setting out Terms of Easements/Profits a Prendre intended to be created or released and of Restrictions on the Use of Land and Positive Covenants intended to be created pursuant to Section 88B of the Conveyancing Act, 1919.**

(DOCUMENT 1)  
(Sheet 5 of 7 sheets)

**Plan: DP271218**

Plan of Subdivision of Lot 21  
in DP 1247005 covered by  
Subdivision Certificate No 39/2019

- o. No unregistered motor vehicle or motor cycle is to be kept or stored on any lot hereby burdened unless fully enclosed in a garage or screened from any road, road reserve or adjoining allotments in the manner hereinbefore referred to.
- p. No building to be erected on any lot hereby burdened shall have a flat roof or be roofed with material other than tile or slate provided however that nothing preclude or prohibit the use of material commonly known as Colourbond or any similar material.
- q. No building to be erected on any lot hereby burdened shall have an A-frame design.
- r. Except where otherwise required by any Public Body or Authority no sanitary convenience erected or permitted to remain on any lot hereby burdened shall be detached or separated from any main building erected thereon.
- s. For the benefit of any adjoining land owned by the registered proprietor but only during the ownership thereof by the registered proprietor its successors in title or assigns other than purchasers on sale no fences shall be erected on any lot to divide the same from such adjoining land without the consent of the registered proprietor but such consent shall not be withheld if such fence is erected without expense to the registered proprietor and in favour of any person dealing with the transferee such consent shall be deemed to have been given in respect of every such fence for the time being erected.
- t. No boundary fence shall have less than three (3) strain plain fencing wire and must comprise of timber strainers and timber or metal posts. However no dividing or boundary fence shall be erected in whole or in part with barbed wire or electronically charged wire.

**Instrument setting out Terms of Easements/Profits a Prendre intended to be created or released and of Restrictions on the Use of Land and Positive Covenants intended to be created pursuant to Section 88B of the Conveyancing Act, 1919.**

(DOCUMENT 1) 7  
(Sheet 6 of 8 sheets)

**Plan: DP271218**

Plan of Subdivision of Lot 21  
in DP 1247005 covered by  
Subdivision Certificate No 39/2019

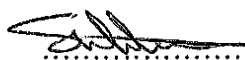
**Name of person empowered to Release, Vary or Modify Restrictions firstly, secondly thirdly, fourthly, fifthly, sixthly and seventhly referred to in the abovementioned plan**

Mid-Coast Council

**Name of person empowered to Release, Vary or Modify Restrictions eighthly referred to in the abovementioned plan**

Edward John Tipton

SIGNED SEALED AND DELIVERED by )  
the said EDWARD JOHN TIPTON )  
In the presence of: )

  
.....  
Signature of witness

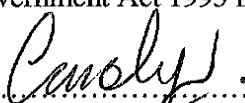
  
.....  
EDWARD JOHN TIPTON

Steven Peter Whiteman  
.....  
Name of Witness

108 Strand Street, Forster NSW 2428  
.....  
Address of Witness

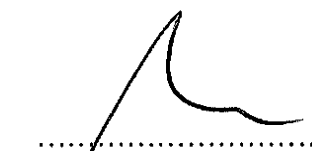
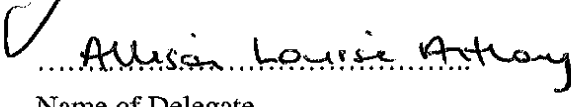
**EXECUTED BY MID-COAST COUNCIL**

By its authorised delegate under s.377 Local  
Government Act 1993 in the presence of:-

  
.....  
Signature of Witness

CAROLYN D PESTON  
.....  
Name of Witness

25 HAWAII AVE FORSTER 2428  
.....  
Address of Witness

  
.....  
Signature of Delegate  
  
.....  
Name of Delegate


Instrument setting out Terms of Easements/Profits a Prendre intended to be created or released and of Restrictions on the Use of Land and Positive Covenants intended to be created pursuant to Section 88B of the Conveyancing Act, 1919.


(DOCUMENT 1)  
(Sheet 7 of 7 sheets)

Plan: **DP271218**

Plan of Subdivision of Lot 21  
in DP 1247005 covered by  
Subdivision Certificate No 39/2019

Stacks Managed Investments Limited ACN 085 843 125

  
Raymond Thomas Stack  
Director

  
Tania Lee McMullen  
Secretary



REGISTERED



20.6.2019



# DP271218

PAGE 1 OF 12

Approved Form 28

COMMUNITY LAND DEVELOPMENT ACT, 1989  
COMMUNITY LAND MANAGEMENT ACT, 1989

## COMMUNITY MANAGEMENT STATEMENT

### WARNING

The terms of this management statement are binding on the community association, each subsidiary body within the community scheme and each person who is a proprietor, lessee, occupier or mortgagee in possession of a community lot within the community scheme.

### DEFINITIONS

In the Community Management Statement unless the Statement otherwise provides the following words shall have the meanings set out adjacent to those words:

"Association Property" means Lot 1 in the Community Plan.

"Bushfire Protection Assessment" means the report prepared by Travers Bushfire & Ecology dated August 2017 approved by Council and required under the terms of the approved DA.

"Community Titles Legislation" means the Community Title Development Act, 1989 and the Community Title Management Act, 1989.

"Council" shall mean the Mid-Coast Council.

"DA Plans" shall mean the then current development approval plans approved for the proposed subdivision of Lot 21 in DP 1247005 Heather Close, Failford.

"Executive Committee" means the Committee of the Community Association as constituted from time to time under this Community Management Scheme and Community Titles Legislation.

"Service" means water, sewerage, drainage, electricity, and telephone services.

"Service Line" means a pipe, wire, cable, duct, conduit or pole by means of which a Service is or is to be provided, the location of which is illustrated in the Services Plan.

"Services Plan" means the plan showing the location of the Services. "Service Provider" means the statutory or government agency that provides a Service.

"the Original Proprietor" shall mean Edward John Tipton ABN 95 239 200 790.

TERMS OF INSTRUMENT NOT CHECKED  
IN NSW LAND REGISTRY SERVICES

REGISTERED



20.6.2019

# DP271218

PAGE 2 OF ~~10~~ 12

## PART 1

### BY-LAWS FIXING DETAILS OF DEVELOPMENT

These by-laws relate to the control and preservation of the essence or theme of the community scheme and as such may only be amended or revoked by a unanimous resolution of the community association (see Section 17(2) Community Land Management Act, 1989).

- 1.1 The theme of the Community Scheme is of a rural residential subdivision of 6 Lots.
- 1.2 The Community Scheme incorporates ongoing maintenance of Lot 1 (Association Property) as an asset protection zone by the Community Association.
- 1.3 The proprietor or occupier of a Lot must keep the Lot including, but without limitation, the exterior of the building on the Lot, clean and tidy and in good repair and condition.
- 1.4 If an owner or occupier of a Lot, in the reasonable opinion of the Community Association does not comply with the Bushfire Protection Assessment, the Community Association may give notice, to the proprietor of the Lot, requiring them to comply with the terms of the Bushfire Protection Assessment.
- 1.5 Should the proprietor having been given such notice fail to comply within the time allowed the Community Association may enter the subject Lot and undertake all necessary methods to meet any directive of the Council's Fire Control Officer and any cost incurred will be added to the Lot owners Association Contribution requirements.

## PART 2

### RESTRICTED COMMUNITY PROPERTY

These by-laws may not be amended during the initial period and may only be amended after expiry of the initial period by special resolution and with the written consent of each person entitled by the by-law to use the restricted community property (see Section 54 Community Land Management Act, 1989).

- 2.1 There is no restricted property within the Community Scheme.

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## PART 3

### MANDATORY MATTERS

#### **Open Access Ways and Private Access Ways**

3.1.1 The Community Property has been set apart as an Open Access Way.

#### **Permitted Uses of and Special Features on the Community Property**

3.2.1 The Community Association is responsible for the control, management, operation, maintenance and repair of the Community Property including asset protection zone maintenance and implementation of a Bushfire Protection Assessment in accordance with this Management Statement and the Management Act.

3.2.2 A proprietor or occupier of a Lot must obtain written approval of the Executive Committee before it does any of the following on the Community Property:

- (a) Leave anything on it;
- (b) obstruct its use;
- (c) uses any part of it for the proprietor's or occupier's own purpose;
- (d) erect on it any structure;
- (e) attaches to it an item;
- (f) does or permits anything which might damage it; or
- (g) alters it.

#### **Internal Fencing**

3.3.1 The Dividing Fences Act, 1991 applies to any external and internal boundary fences within the Community Scheme, provided however that should the Original Proprietor own any adjoining Lot, no fence shall be erected on any Lot to divide the same from such adjoining Lot without the consent of the Original Proprietor but such consent shall not be withheld if such fence is erected without expense to the Original Proprietor.

#### **Landscaping**

3.4.1 All future landscaping on community lots shall comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

#### **Stormwater Measures**

3.5.1 The Community Association is to maintain the stormwater treatment in accordance with the approved Water Sensitive Design Maintenance Plan for the life of the development. This includes all stormwater treatment measures within the Community Lots and generally in accordance with terms set out in Part 8 of Schedule 8 of the Conveyancing Act 1919 (NSW).

# DP271218

PAGE 4 OF 12

## Garbage

- 3.5.1 The containers for garbage and recyclable materials must be secured and stored so they:
- (a) are to be stored out of view from the open access way; and
  - (b) do not emit odours.
- 3.5.2 On the Council nominated collection days the containers are to be placed at the front of each Lot for the minimum time that will permit collection.
- 3.5.3 A proprietor or occupier of a Lot must comply with any rules or by-laws relating to garbage collection made by:
- (a) the Council;
  - (b) the Community Association; and
  - (c) this management statement.

## Insurance

- 3.6.1 The Community Association shall, at all times, maintain adequate insurance in accordance with Section 40 (3) (h) and Regulation 6 (1) (2) of the Act which shall include:
- (a) Building insurance for the replacement value of all structures on the Community Property;
  - (b) Workers' Compensation;
  - (c) Public Liability;
  - (d) Voluntary Worker's Insurance; and
  - (e) Any other insurance required.
- 3.6.2 A proprietor or occupier of a Lot must not, except with the approval of the Community Association, do anything that might:
- (a) void or prejudice the insurance effected by the Community Association; or
  - (b) increase any insurance premium payable by the Community Association.

# DP271218

PAGE 5 OF 10 12

## Executive Committee

- 3.7.1 The Chairperson, Secretary and Treasurer of the Community Association shall comprise the Executive Committee of the Community Association and must be established under the Management Act.
- 3.7.2 The Executive Committee shall be responsible for the day to day running of the affairs of the Community Association subject nonetheless to the overriding authority of the Community Association in general meeting.
- 3.7.3 The Chairperson shall:
- (a) chair and control meetings of the Executive Committee and the Community Association;
  - (b) supervise the powers and duties of the Treasurer and Secretary of the Executive Committee; and
  - (c) oversee generally the running of the Community Association.
- 3.7.4 The Secretary shall
- (a) keep proper minutes of all meetings of the Executive Committee and the Community Association;
  - (b) prepare and distribute agendas and minutes of meetings of the Executive Committee and the Community Association;
  - (c) advise members of the Community Association of decisions of the Executive Committee and the Community Association in general meeting within seven (7) days of such meeting;
  - (d) give notices in accordance with this Management Statement and Management Act;
  - (e) attend to matters of an administrative or secretarial nature in connection with the exercise and performance by the Executive Committee and the Community Association of their functions;
  - (f) answer communications addressed to the Community Association or the Executive Committee;
  - (g) convene meetings of the Executive Committee and the Community Association; and
  - (h) keep and maintain the Community Association rolls as required by Schedule 3 of the Management Act.

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## 3.7.5 The Treasurer shall;

- (a) keep accounting records and prepare financial statements as required under Part 4 of Schedule 1 of the Management Act and submit them to the Executive Committee and the Community Association;
- (b) notify the proprietors of any contributions levied pursuant to the Management Act;
- (c) receive, acknowledge, bank and account for any monies paid to the Community Association; and
- (d) provide any certificate required under Schedule 4 of the Management Act.

## 3.7.6 Members of the Executive Committee are not entitled to any remuneration for the performance of their functions but are entitled to reimbursement for reasonable out of pocket expenses.

## 3.7.7 Not less than seventy two (72) hours' notice in writing shall be given by the Secretary to the members of the Executive Committee for the holding of Executive Committee meetings and a detailed agenda for the meeting shall be included in the notice.

## 3.7.8 Any member of the Executive Committee may call for a meeting of the Executive Committee and, in the absence of the Secretary doing so, the member so calling for the meeting shall be required to give notice and other particulars specified in By-Law 3.7.7.

## 3.7.9 Where:

- (a) By-Law 3.7.7 has been complied with in relation to a meeting;
- (b) Each member of the Executive Committee has been served with a copy of a motion for a proposed resolution to be submitted at the meeting; and
- (c) The resolution has been approved in writing by a majority of the members of the Executive Committee,

then the resolution will, subject to Section 38(3) of the Management Act, be as valid as if it had been passed at a duly convened meeting of the Executive Committee even though the meeting was not held.

## 3.7.10 A quorum shall be three (3) members.

# DP271218

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- 3.7.11 Each member shall be entitled to one (1) vote in person or by written proxy handed to the Chairperson at the commencement of the meeting.
- 3.7.12 A proprietor of a Lot or, where the proprietor is a corporation, the company nominee of the corporation, may attend a meeting but that person may not address the meeting unless authorized by a resolution of the Executive Committee.
- 3.7.13 Where:
- (a) this Management Statement and the Management Act have been observed in relation to convening a meeting;
  - (b) each member of the Executive Committee has been served with a copy of a motion for a proposed resolution to be submitted at the meeting; and
  - (c) the resolution has been approved in writing by a majority of members of the Executive Committee then subject to Section 38(3) of the Management Act, the resolution will be as valid as if it had been passed at a duly convened meeting of the Executive Committee even though the meeting was not held.
- 3.7.14 The Executive Committee must, at least seventy two (72) hours before a meeting:
- (a) notify members of the Community Association of the meeting including details of the meeting; and
  - (b) provide each member of the Community Association with a copy of the agenda for the meeting advising of all business the Executive Committee will deal with at the meeting.
- 3.7.15 The Secretary (or in the Secretary's absence, the Chairperson) must ensure that:
- (a) minutes of agenda and minutes of meetings of the Executive Committee;
  - (b) records of decisions of the Executive Committee; and
  - (c) records of notices.
- are properly kept and minutes of the Executive Committee are sent to each member of the Community Association within seven (7) days of the meeting.
- 3.7.16 A Proprietor of a Lot must pay:
- (a) contributions levied in accordance with this Management Statement and the Community Titles Legislation when they fall due; and
  - (b) on demand any costs, charges and expenses of the Community Association incurred in connection with the contemplated or actual enforcement, or preservation of any rights under the By-Laws in relation to the proprietor or occupier.

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- 3.7.17 If a contribution or amount payable under this Management Statement or the Community Titles Legislation is not paid when due, then interest is payable under Section 20(11) of the Management Act.
- 3.7.18 A certificate signed by the Community Association, its managing agent (if any) or the Secretary of the Executive Committee about a matter or a sum payable to the Community Association is prima facie evidence of the amount or any factual matter stated in it.

## Statutory Services

- 3.8.1 The Services will be supplied as shown on the Services Plan.
- 3.8.2 On installation of a Service Line, a statutory easement will be created over the parts of the Community Property or individual Lots for the provision of services through the Service Lines.
- 3.8.3 The Service Providers and other providers of Service Lines will maintain and repair their respective Service Lines.
- 3.8.4 It is estimated that Statutory Easements for the Services will be created upon the Registration of the Community Plan, the location of which are set out on the Services Plan.

## PART 4

### OPTIONAL MATTERS

#### Keeping of Animals

- 4.1.1 Each proprietor or occupier of a Lot shall be required to obtain the approval of the Community Association to keep any animal on their Lot other than a domestic animal.
- 4.1.2 All domestic animals are to be confined to dwellings or buildings associated with the dwellings on private lots between dusk and dawn. No animal is permitted whatsoever to enter the Environmental and Wildlife Protection Zones as designated by Council.
- 4.1.3 If any domestic animal is permitted under these By-Laws then the proprietor or occupier;
- (a) must ensure that the animal is at all times kept under control;
  - (b) must, when on any part of the Community Property, keep the animal properly tethered and under control;
  - (c) is liable to the proprietors and occupiers of other Lots and each other person lawfully on the Community Property for;
    - (i) any noise which is disturbing to the extent to which it is unreasonable; and
    - (ii) for any damage to or loss of property or injury to any person or other animal caused by the animal; and
  - (d) is responsible for cleaning up after the animal has used any part of another Lot or any other part of the Community Property.



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## Laundry

4.2.1 No laundry shall be hung on any Lot so that it is visible from the open access way.

## Safety and Security Measures

4.3.1 The Community Association has adopted a Bushfire Protection Assessment. Fuel free zones are to be maintained adjacent to dwellings and a fuel reduced zone is to be maintained adjacent to the source of bushfire hazard.

4.3.2 Asset Protection Zones and the Association Lot are to be maintained by the Community Association at the perimeter of the Community Property and Lots.

## Conduct

4.4.1 A proprietor or occupier of a Lot must not;

- (a) obstruct lawful use of Association Property; or
- (b) use language or behave in a manner likely to cause offence or embarrassment to a proprietor or occupier of another Lot.

## Business or Trading Activities

4.5.1 No business, trading or home occupation are to be conducted or operated on any Lot without the express approval of the Community Association and the consent of the Council.

## Lawn Mowing

4.6.1 All verges in front of each individual Lot are to be mowed by the owner of that Lot.

## PART 5

### BY-LAWS REQUIRED BY PUBLIC AUTHORITIES

#### 5.1.1

- (b) Where the proprietor of the Lots so burdened fails to comply with any written request and/or direction issued by the Association the said authority shall be permitted to perform all such maintenance repair work and replacement work as specified in the written request/or direction and the proprietor of the Lot/s so burdened shall pay the said Association the reasonable costs incurred by it in completing the said maintenance, repair and/or replacement works described in the written request/or direction.
- (c) Full and free right for the Association to whom this covenant benefits and every person authorised by it to enter upon the Lot burdened in order to inspect, maintain, cleanse, replace, repair any pipeline, grate, pit or other structure or alter structure or alter structure levels to ensure any on lot water detention system functions as it is designed provided that such persons will take all reasonable caution to ensure as little disturbance as possible to the Lots so burdened.

5.1.2 The Community Association Property is to be maintained in the form of an IPA as defined in Planning for Bushfire Protection (2006).

# DP271218

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## Signatures Consents and Approvals

DATED 27th day of May 2019

Executed by

  
~~John Edward Tipton~~ EDWARD JOHN TIPTON 

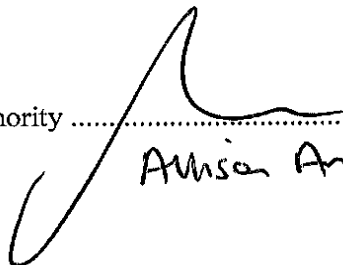
## Certificate of Approval

It is certified;


- (a) That the consent authority has approved of the Development described in Development Application number DA- 464/2017; and
- (b) That the terms and conditions of these By-Laws are not inconsistent with that development as approved.


Date 27 May 2019

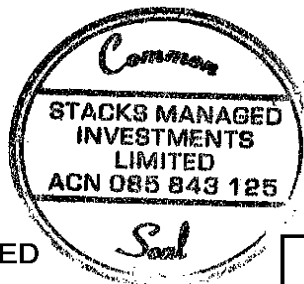
Signature on behalf of Consent Authority .....

  
Alison Anthony

Stacks Managed Investments Limited ACN 085 843 125

  
Raymond Thomas Stack  
Director

  
Tania Lee McMullen  
Secretary



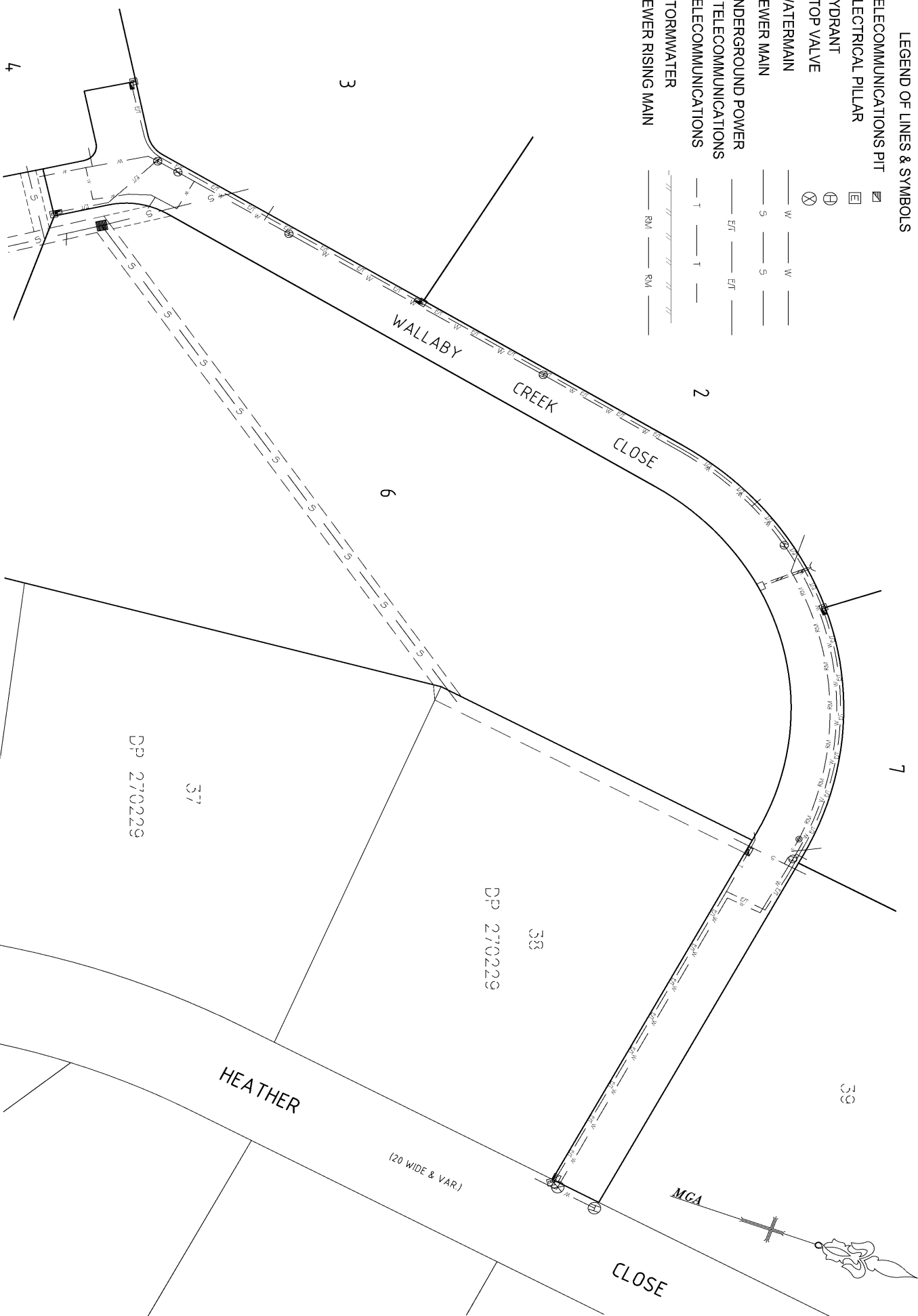
TERMS OF INSTRUMENT NOT CHECKED  
IN NSW LAND REGISTRY SERVICES

REGISTERED



20.6.2019

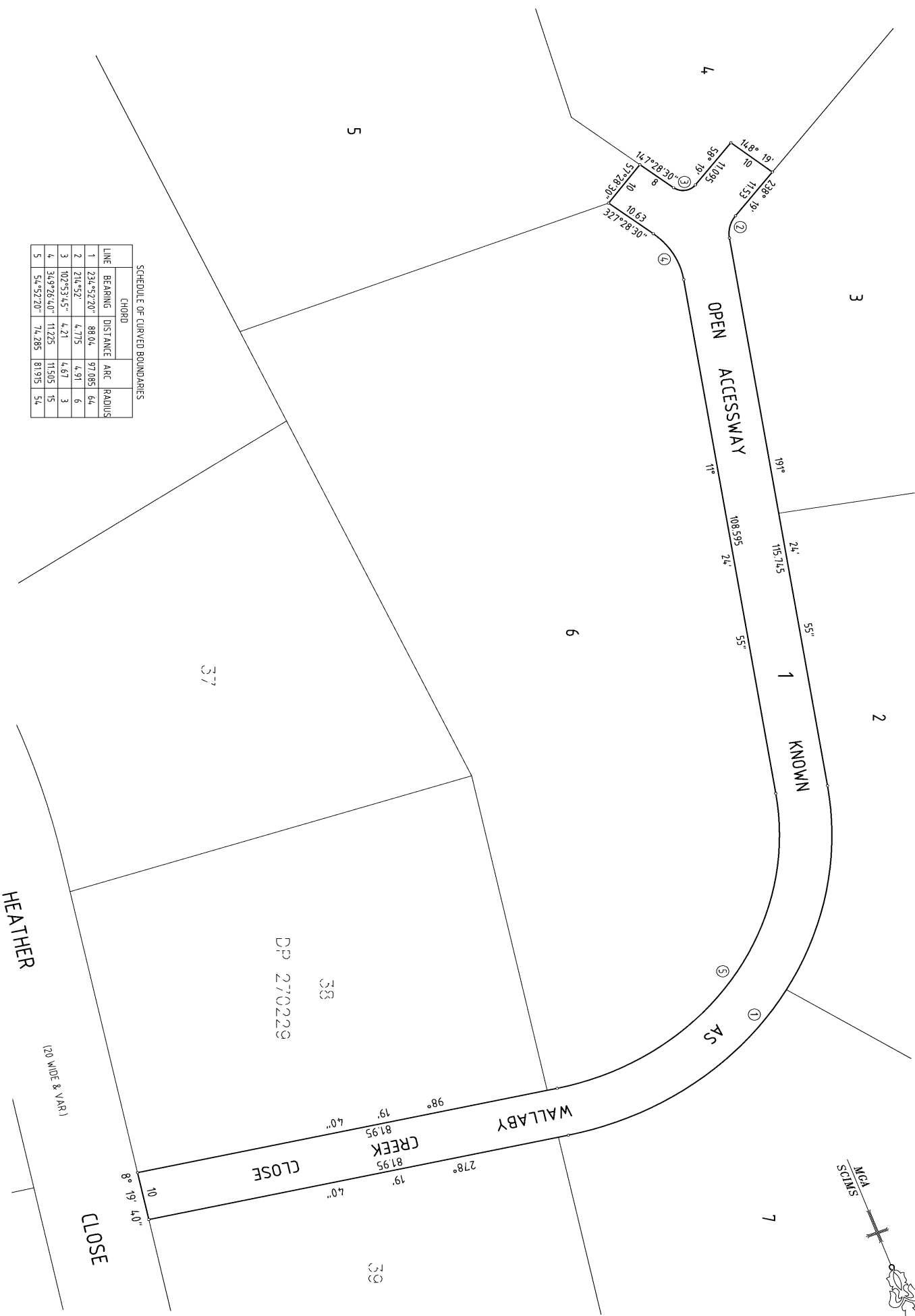
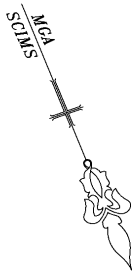
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HYDRANT	<input type="checkbox"/>	
STOP VALVE	<input type="checkbox"/>	
WATERMAIN	_____ W _____	
SEWER MAIN	_____ S _____	
UNDERGROUND POWER & TELECOMMUNICATIONS	_____ E/P _____	
TELECOMMUNICATIONS	_____ T _____	
STORMWATER	_____ S _____	
SEWER RISING MAIN	_____ R/M _____	



 **DIAL BEFORE  
YOU DIG**  
[www.1100.com.au](http://www.1100.com.au)

Reduction Ratio 1:500

DP271218



SCHEDULE OF CURVED BOUNDARIES

LINE	BEARING	DISTANCE	ARC RADIUS
1	234°52'20"	88.04	97.085 64
2	214°52'	4.775	4.91 6
3	102°53'45"	4.21	4.67 3
4	349°26'40"	11.225	11.505 15
5	54°52'20"	74.285	81.915 54

NOTE REGARDING ACCESS WAYS

This plan illustrates "Open and Private-Access Way(s)" which are Association Property and are not public roads within the meaning of the Roads Act 1993.

ACCESSWAY PLAN

R.R. 1:500

PLAN OF ACCESS WAY FOR

SUBDIVISION OF LOT 21 DP1247005

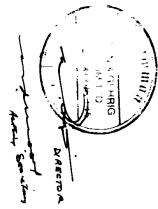
DP271218

REGISTERED



20.6.2019

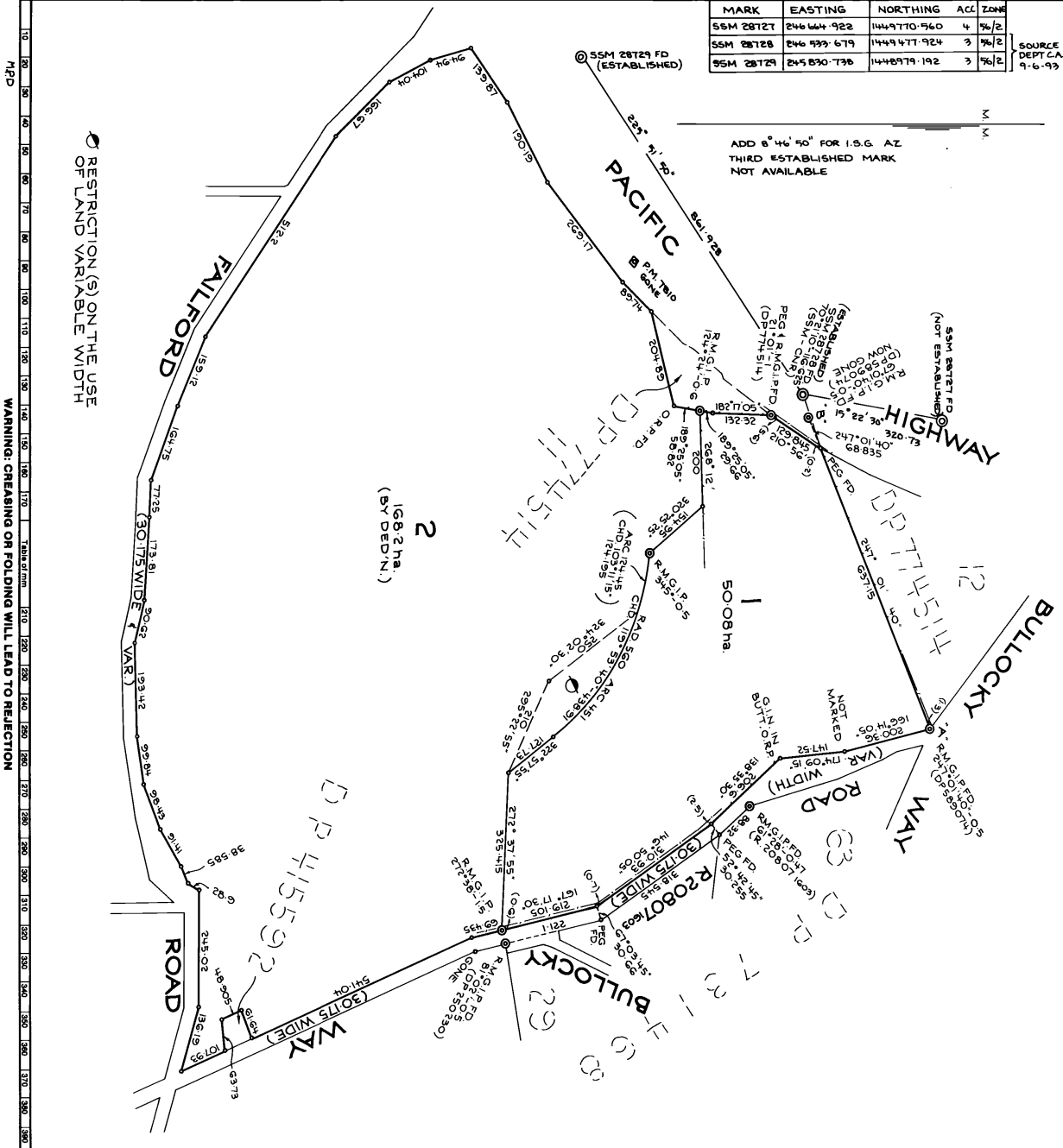
PLAN FORM 2  
SIGNATURE AND SEALS ONLY



MARK	EASTING	NORTHING	ACC	ZONE
SSM 28127	246 444.922	1444770.560	4	%/2
SSM 28128	246 433.679	1444771.924	3	%/2
SSM 28129	245 830.736	1444771.912	3	%/2

SOURCE  
DEPT CALM  
9-6-93

ADD 8°46'50" FOR I.S.G. AZ  
THIRD ESTABLISHED MARK  
NOT AVAILABLE



Plan Drawing only to appear in this space

DP 830075

Registered:  
CA. No 10/1993 of 6-4-1993

Title System: TORRENS

Purpose: SUBDIVISION

Ref. Map: PARISH #

Last Plan: DP774514

PLAN OF SUBDIVISION OF  
LOT 10 DP774514

Lengths are in meters. Reduction Ratio 1:6000

Map/Title: GREAT LAKES

Locality: FALFORD

Parish: TUNCURRY

County: GLOUCESTER

State: New South Wales (Australia)

Surveyor: BRIAN ALBERT LIDBURY  
4. Registered Surveyor (Professional)

Notes:  
1. The boundaries shown on this plan are the boundaries of the land as shown on the plan of the Survey of the State of New South Wales, 1993, and are not to be taken as evidence of title.  
2. The boundaries shown on this plan are the boundaries of the land as shown on the plan of the Survey of the State of New South Wales, 1993, and are not to be taken as evidence of title.  
3. The boundaries shown on this plan are the boundaries of the land as shown on the plan of the Survey of the State of New South Wales, 1993, and are not to be taken as evidence of title.

Plans used in preparation of survey/compilation:  
DP 731428, DP774514, R 808071003.

PANEL FOR USE ONLY for statements of intention  
to dedicate public roads, to create public reserves,  
drainage reserves, easements, restrictions on the  
use of land, or for any other purpose, in accordance  
with the provisions of the CONVEYANCING ACT 1919-1924 IT IS  
INTENDED TO CREATE ( ) ON THE USE  
OF LAND VARIABLE WIDTH

Approved:  
Council Clerk.

INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS  
AS TO USER INTENDED TO BE CREATED PURSUANT TO  
SECTION 88B OF THE CONVEYANCING ACT, 1919

Lengths are in metres

(sheet 1 of 2 sheets)

PART 1.

Plan: DP 830075

Subdivision covered by  
Shire Clerk's Certificate  
No. 30/1993  
comprised in Certificate  
of Title Folio Identifier  
10/774514

Full name and address of  
proprietor of the land

Tipton & Gehrig Pty  
Limited of Failford Road,  
Failford NSW 2430

Full name and address of  
Mortgagee of the land

1. Identity of restriction as to  
user firstly referred to in the  
above-mentioned plan

Restriction(s) on use of  
land variable width

Schedule of lots etc affected

Lots Burdened

Lots road or Authority  
Benefited

2

The Council of the Shire  
of Great Lakes

PART 2

2. TERM OF RESTRICTION(S) ON USE OF LAND FIRSTLY REFERRED TO IN  
THE ABOVE-MENTIONED PLAN

No habitable buildings shall be erected within that part of  
the lot burdened shown on the above-mentioned plan as  
"Restriction(s) on use of land variable width".

APPROVED BY THE COUNCIL OF  
THE SHIRE OF GREAT LAKES

.....

REGISTERED



24/17.5.1993

INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS  
AS TO USER INTENDED TO BE CREATED PURSUANT TO  
SECTION 88B OF THE CONVEYANCING ACT, 1919

Lengths are in metres

(sheet 2 of 2 sheets)

PART 1.

Plan: DP830075

Subdivision covered by  
Shire Clerk's Certificate  
No. 30/1993  
comprised in Certificate  
of Title Folio Identifier  
10/774514

Full name and address of  
proprietor of the land

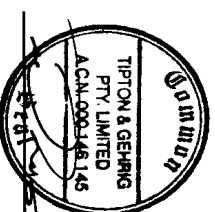
Tipton & Gehrig Pty  
Limited of Failford Road,  
Failford NSW 2430

Full name and address of  
Mortgagee of the land

THE COMMON SEAL OF TIPTON &  
GERHIG PTY LIMITED was  
hereunto affixed in accord-  
ance with its Articles of  
Association in the presence  
of:  
)  
)  
)  
)  
)

Secretary

Director



APPROVED BY THE COUNCIL OF  
THE SHIRE OF GREAT LAKES

.....

REGISTERED



24/17.5.1993

## PLANNING CERTIFICATE

**Section 10.7**  
**Environmental Planning & Assessment Act 1979**

<b>Cert No.</b>	<b>194 / 2020</b>
-----------------	-------------------

### **Applicant**

STACKS THE LAW FIRM  
PO Box 234  
TAREE NSW 2430

Receipt No. :  
Date of Issue : 8 August 2019  
Ref : NJS:SP:190025:7815

Property Key : 40613

### **Property Description**

Lot 4 Wallaby Creek Close, FAILFORD NSW 2430  
Lot 4 DP 271218

### **Owner (as recorded by Council):**

Mr E J Tipton  
408 Failford Rd  
FAILFORD NSW 2430

## **A — Advice provided in accordance with Section 10.7(2)**

### **1. Names of relevant planning instruments and DCPs**

**Great Lakes Local Environment Plan 2014**

**Great Lakes Development Control Plan**

**The land is subject to the following planning proposal(s)**

#### **Short-term Holiday Rental of Dwellings**

The proposal seeks to introduce a new local clause to allow the use of dwellings for short term holiday accommodation. It is proposed to allow dwellings that have up to 4 bedrooms to be used for short term holiday rentals without development consent, and to require those with 5 or more bedrooms to be permitted with development consent.

#### **Liveable Housing and Flexible Zone Boundaries**

The planning proposal seeks to amend the Great Lakes Local Environmental Plan 2014 by (1) replacing references to the Australian Standard AS 4299-1995 Adaptable Housing with the Liveable Housing Guidelines (LHA Third Edition 2015) and expand the application of these provisions; and (2) introduce a new clause to provide flexible zone boundaries in urban release areas.

#### **The name of each State Environmental Planning Policy which may apply to the carrying out of development on the land**

SEPP	COASTAL MANAGEMENT 2018 (PART OF LOT)
SEPP NO. 1	DEVELOPMENT STANDARDS
SEPP NO. 21	CARAVAN PARKS
SEPP NO. 33	HAZARDOUS & OFFENSIVE DEVELOPMENT
SEPP NO. 36	MANUFACTURED HOME ESTATES

SEPP NO. 44	KOALA HABITAT PROTECTION
SEPP NO. 50	CANAL ESTATE DEVELOPMENT
SEPP NO. 55	REMEDICATION OF LAND
SEPP NO. 64	ADVERTISING AND SIGNAGE
SEPP NO. 65	DESIGN QUALITY OF RESIDENTIAL APARTMENT DEVELOPMENT
SEPP NO. 70	AFFORDABLE HOUSING (REVISED SCHEME)
SEPP	BUILDING SUSTAINABILITY INDEX: (BASIX) 2004
SEPP	HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY 2004
SEPP	STATE SIGNIFICANT PRECINCTS 2005
SEPP	MINING, PETROLEUM PRODUCTION & EXTRACTIVE INDUSTRIES 2007
SEPP	INFRASTRUCTURE 2007
SEPP	MISCELLANEOUS CONSENT PROVISIONS 2007
SEPP	EXEMPT AND COMPLYING DEVELOPMENT CODES 2008
SEPP	AFFORDABLE RENTAL HOUSING 2009
SEPP	STATE AND REGIONAL DEVELOPMENT 2011
SEPP	VEGETATION IN NON-RURAL AREAS 2017 - This Policy applies to the specifically designated non-rural zones under clause 5 of the Policy.
SEPP	EDUCATIONAL ESTABLISHMENTS AND CHILD CARE FACILITIES 2017
SEPP	CONCURRENCES 2018
SEPP	PRIMARY PRODUCTION AND RURAL DEVELOPMENT 2019

## 2. Zoning and land use under relevant LEPs

### Great Lakes Local Environment Plan 2014

#### 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.
- To enable development that has minimal environmental and visual impact and is compatible with residential land uses within the zone.

##### 2 Permitted without consent

Home occupations.

##### 3 Permitted with consent

Agriculture; Animal boarding or training establishments; Bed and breakfast accommodation; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Cellar door premises; Centre-based child care facilities; Community facilities; Dual occupancies (attached); Dwelling houses; Eco-tourist facilities; Educational establishments; Emergency services facilities; Environmental protection works; Exhibition homes; Farm buildings; Farm stay accommodation; Flood mitigation works; Helipads; Home-based child care; Home businesses; Home industries; Information and education facilities; Jetties; Landscaping material supplies; Moorings; Oyster aquaculture; Places of public worship; Plant nurseries; Pond-based aquaculture; Recreation areas; Respite day care centres; Roads; Roadside stalls; Secondary dwellings; Sewerage systems; Tank-based aquaculture; Veterinary hospitals; Water recreation structures; Water supply systems



#### 4 Prohibited

Any other development not specified in item 2 or 3.

### 3. Complying development

#### **Housing Code**

Complying development under this code MAY be undertaken on land Zoned R2, R3, R4, or RU5 in Great Lakes LEP 2014

#### **Rural Housing Code**

Complying development under this code MAY be undertaken on land Zoned RU1, RU2, RU3, RU4, or R5 in Great Lakes LEP 2014

#### **Greenfield Housing Code**

Complying development under this code CAN NOT be undertaken on the land

#### **Demolition Code**

Complying development under this code MAY be undertaken on the land

#### **Commercial and Industrial (Alterations) Code**

Complying development under this code MAY be undertaken on the land

#### **Commercial and Industrial (New Buildings and Additions) Code**

Complying development under this code MAY be undertaken on the land

#### **General Development Code**

Complying development under this code MAY be undertaken on the land

#### **Housing Alterations Code**

Complying development under this code MAY be undertaken on the land

#### **Subdivisions Code**

Complying development under this code MAY be undertaken on the land

#### **Fire Safety Code**

Complying development under this code MAY be undertaken on the land

#### **Container Recycling Facilities Code**

Complying development under this code MAY be undertaken on land Zoned B1, B2, B3, B4, B5, IN1, IN2, IN4 or SP3 in Great Lakes LEP 2014

### 4. Coastal protection

Coastal Protection Act 1979 repealed

4A Repealed

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

No annual charges apply to the land

<b>5. Mine subsidence</b>
---------------------------

The land is not proclaimed as a mine subsidence district

<b>6. Road widening and road realignment</b>
--

The land is not affected by plans for road widening or realignment

<b>7. Council and other public authority policies on hazard risk restrictions</b>
---

The land is not affected by a policy adopted by Council that restricts the development of the land because of the likelihood of landslip, bushfire, tidal inundation, subsidence, acid sulphate soils or any other risk (other than flooding)

The information provided in item 7 is based on the data and information presently available to the Council and on adopted policies and development controls in force as at the date of this certificate

<b>7A. Flood related development controls information</b>
---

**Yes - Adopted Council Policy(s)**

**LEP2014 - 2100 Flood Planning Area**

Yes - the land is subject to clause 7.3 (Flood Planning) of Great Lakes Local Environment Plan 2014 and clause 4.2 (Flooding) of The Great Lakes Development Control Plan due to the likelihood of future and/or current flooding.

*Details relating to flood risk and flood planning levels may be provided on a Flood Level Certificate. This can be obtained from Council's flood investigation engineer*

The information provided in item 7A is based on the data and information presently available to the Council and on adopted policies and development controls in force as at the date of this certificate

<b>8. Land reserved for acquisition</b>
---

The land is not reserved for acquisition

<b>9. Contributions plans that apply to the land</b>
--

- S94-Forster District Contributions Plan 2015
- S94-Great Lakes Wide Contributions Plan 2015

<b>9A. Biodiversity certified land</b>
--

The land is not Biodiversity certified

<b>10. Biodiversity stewardship sites</b>
---

No biodiversity stewardship agreements apply to the land

**10A. Native vegetation clearing set asides**

Council has not received advice advising of the existence of a set aside area of land under section 60ZC of the Local Land Services Act 2013

**11. Bush fire prone land**

Yes the land is Bush Fire Prone Land

**12. Property vegetation plans**

No property vegetation plans apply to the subject land

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

Council has not received any such order

**14. Directions under Part 3A of the EP&A Act**

Not applicable

**15. Site compatibility certificates and conditions for seniors housing**

No Site Compatibility Certificate for Seniors Housing applies to the land

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

No Site Compatibility Certificate for Infrastructure, Schools or TAFE establishments applies to the land

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

No Site Compatibility Certificate for Affordable Rental Housing applies to the land

**18. Paper subdivision information**

No development plan applies to the land

**19. Site verification certificates**

No site verification certificate applies to the land

**20. Loose-fill asbestos insulation**

Council has not received advice from any Authority advising of the presence of loose-fill asbestos insulation within any residence that may exist on the property

<b>21. Affected building notices and building product rectification orders</b>
--

No affected building notice or building product rectification order applies to the subject land

<b>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:</b>
---

No additional matters under the Contaminated Land Management Act 1997

*For further information, please contact Karen Bee, Planning & Natural Systems division, MidCoast Council on (02) 6591 7222.*

**IMPORTANT NOTICE TO VENDORS AND PURCHASERS**

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

**WARNING—SMOKE ALARMS**

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

**WARNING—LOOSE-FILL ASBESTOS INSULATION**

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

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

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

### COOLING OFF PERIOD (PURCHASER'S RIGHTS)

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

### DISPUTES

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

### AUCTIONS

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

**WARNINGS**

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

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

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

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

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

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

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

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

## 2 Deposit and other payments before completion

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



- 2.8 If any of the deposit or of the balance of the price is paid before completion to the vendor or as the vendor directs, it is a charge on the land in favour of the purchaser until *termination* by the vendor or completion, subject to any existing right.
- 2.9 If each *party* tells the *depositholder* that the deposit is to be invested, the *depositholder* is to invest the deposit (at the risk of the *party* who becomes entitled to it) with a *bank*, in an interest-bearing account in NSW, payable at call, with interest to be reinvested, and pay the interest to the *parties* equally, after deduction of all proper government taxes and financial institution charges and other charges.

### 3 Deposit-bond

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

### 4 Transfer

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

### 5 Requisitions

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

### 6 Error or misdescription

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

## 7 Claims by purchaser

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

## 8 Vendor's rights and obligations

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

## 9 Purchaser's default

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

## 10 Restrictions on rights of purchaser

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

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

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

#### 14 Adjustments

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

#### 15 Date for completion

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

**16 Completion****• Vendor**

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

**• Purchaser**

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

**• Place for completion**

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

**17 Possession**

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

**18 Possession before completion**

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

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

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

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

## 19 Rescission of contract

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

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

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

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

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

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

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

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

## 20 Miscellaneous

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

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

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

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

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

20.6 A document under or relating to this contract is –

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## 21 Time limits in these provisions

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

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

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

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

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

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

## 22 Foreign Acquisitions and Takeovers Act 1975

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

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

## 23 Strata or community title

### • Definitions and modifications

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

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

• **Notices, certificates and inspections**

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

• **Meetings of the owners corporation**

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

**24 Tenancies**

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



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

## **25 Qualified title, limited title and old system title**

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

## **26 Crown purchase money**

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

## **27 Consent to transfer**

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

**28 Unregistered plan**

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

**29 Conditional contract**

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

**30 Electronic transaction**

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

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

30.13.2 if both *parties* choose that financial settlement is to occur despite such failure and financial settlement occurs –

- all *electronic documents Digitally Signed* by the vendor, the *certificate of title* and any discharge of mortgage, withdrawal of caveat or other *electronic document* forming part of the *Lodgement Case* for the *electronic transaction* shall be taken to have been unconditionally and irrevocably delivered to the purchaser or the purchaser's mortgagee at the time of financial settlement together with the right to deal with the land comprised in the *certificate of title*; and
- the vendor shall be taken to have no legal or equitable interest in the *property*.

30.14 A *party* who holds a *certificate of title* must act in accordance with any *Prescribed Requirement* in relation to the *certificate of title* but if there is no *Prescribed Requirement*, the vendor must serve the *certificate of title* after completion.

30.15 If the *parties* do not agree about the delivery before completion of one or more documents or things that cannot be delivered through the *Electronic Workspace*, the *party* required to deliver the documents or things –

30.15.1 holds them on completion in escrow for the benefit of; and

30.15.2 must immediately after completion deliver the documents or things to, or as directed by; the *party* entitled to them.

30.16 In this clause 30, these terms (in any form) mean –

<i>adjustment figures</i>	details of the adjustments to be made to the price under clause 14;
<i>certificate of title</i>	the paper duplicate of the folio of the register for the land which exists immediately prior to completion and, if more than one, refers to each such paper duplicate;
<i>completion time</i>	the time of day on the date for completion when the <i>electronic transaction</i> is to be settled;
<i>conveyancing rules</i>	the rules made under s12E of the Real Property Act 1900;
<i>discharging mortgagee</i>	any discharging mortgagee, chargee, covenant chargee or caveator whose provision of a <i>Digitally Signed</i> discharge of mortgage, discharge of charge or withdrawal of caveat is required in order for unencumbered title to the <i>property</i> to be transferred to the purchaser;
<i>ECNL</i>	the Electronic Conveyancing National Law (NSW);
<i>effective date</i>	the date on which the <i>Conveyancing Transaction</i> is agreed to be an <i>electronic transaction</i> under clause 30.1.2 or, if clauses 30.1.1 or 30.1.3 apply, the contract date;
<i>electronic document</i>	a dealing as defined in the Real Property Act 1900 which may be created and <i>Digitally Signed</i> in an <i>Electronic Workspace</i> ;
<i>electronic transfer</i>	a transfer of land under the Real Property Act 1900 for the <i>property</i> to be prepared and <i>Digitally Signed</i> in the <i>Electronic Workspace</i> established for the purposes of the <i>parties' Conveyancing Transaction</i> ;
<i>electronic transaction</i>	a <i>Conveyancing Transaction</i> to be conducted for the <i>parties</i> by their legal representatives as <i>Subscribers</i> using an <i>ELN</i> and in accordance with the <i>ECNL</i> and the <i>participation rules</i> ;
<i>electronically tradeable</i>	a land title that is Electronically Tradeable as that term is defined in the <i>conveyancing rules</i> ;
<i>incoming mortgagee</i>	any mortgagee who is to provide finance to the purchaser on the security of the <i>property</i> and to enable the purchaser to pay the whole or part of the price;
<i>mortgagee details</i>	the details which a <i>party</i> to the <i>electronic transaction</i> must provide about any <i>discharging mortgagee</i> of the <i>property</i> as at completion;
<i>participation rules</i>	the participation rules as determined by the <i>ENCL</i> ;
<i>populate</i>	to complete data fields in the <i>Electronic Workspace</i> ; and
<i>title data</i>	the details of the title to the <i>property</i> made available to the <i>Electronic Workspace</i> by the <i>Land Registry</i> .

### 31 Foreign Resident Capital Gains Withholding

31.1 This clause applies only if –

31.1.1 the sale is not an excluded transaction within the meaning of s14-215 of Schedule 1 to the *TA Act*; and

31.1.2 a *clearance certificate* in respect of every vendor is not attached to this contract.

31.2 The purchaser must –

31.2.1 at least 5 days before the date for completion, serve evidence of submission of a purchaser payment notification to the Australian Taxation Office by the purchaser or, if a direction under clause 4.3 has been *served*, by the transferee named in the transfer *served* with that direction;

31.2.2 produce on completion a *settlement cheque* for the *remittance amount* payable to the Deputy Commissioner of Taxation;

31.2.3 forward the *settlement cheque* to the payee immediately after completion; and

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

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