

## Contract for the sale and purchase of land 2022 edition

<b>TERM</b>	<b>MEANING OF TERM</b>	<b>NSW DAN:</b>
vendor's agent	<b>Redden Family Real Estate</b> 3 Gilgai Court, Dubbo, NSW 2830	Phone: 0409 844 036 Ref: Michael Redden
co-agent		
vendor	<b>Rebecca Lee Rogers</b> 54 Azure Avenue, Dubbo, NSW 2830	
vendor's solicitor	<b>Orana Conveyancing</b> 6, 173 Darling Street, Dubbo NSW 2830 PO Box 612, Dubbo NSW 2830	Phone: 02 6882 1133 Email: jenny@oranaconveyancing.com.au Fax: 02 6882 1199 Ref: JW:DL:239486
date for completion	<b>42nd day after the contract date</b>	(clause 15)
land (address, plan details and title reference)	<b>54 Azure Avenue, Dubbo, New South Wales 2830</b> <b>Registered Plan: Lot 2816 Plan DP 1259757</b> <b>Folio Identifier 2816/1259757</b>	
improvements	<input checked="" type="checkbox"/> VACANT POSSESSION <input type="checkbox"/> subject to existing tenancies <input checked="" type="checkbox"/> HOUSE <input checked="" type="checkbox"/> garage <input type="checkbox"/> carport <input type="checkbox"/> home unit <input type="checkbox"/> carspace <input type="checkbox"/> storage space <input type="checkbox"/> none <input type="checkbox"/> other:	
attached copies	<input type="checkbox"/> documents in the List of Documents as marked or as numbered: <input type="checkbox"/> other documents:	

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

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

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

**GST AMOUNT** (optional) The price includes GST of: \$  
 buyer's agent

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

BREACH OF COPYRIGHT MAY RESULT IN LEGAL ACTION



**SIGNING PAGE**

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

**Choices**Vendor agrees to accept a **deposit-bond**☐ NO ☒ yes**Nominated Electronic Lodgment Network (ELN)** (clause 4)

PEXA

**Manual transaction** (clause 30)☒ NO ☐ yes

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

**Tax information (the parties promise this is correct as far as each party is aware)****Land tax** is adjustable☒ NO ☐ yes**GST:** Taxable supply☒ NO ☐ yes in full ☐ yes to an extent

Margin scheme will be used in making the taxable supply

☒ NO ☐ yes

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

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

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

If the details below are not fully completed at the contract date, the vendor must provide all these details in a separate notice at least 7 days before the date for completion.

**GSTRW payment (GST residential withholding payment) – details**

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

Supplier's name:

Supplier's ABN:

Supplier's GST branch number (if applicable):

Supplier's business address:

Supplier's representative:

Supplier's contact phone number:

Supplier's proportion of **GSTRW payment**:**If more than one supplier, provide the above details for each supplier.**Amount purchaser must pay – price multiplied by the **GSTRW rate** (residential withholding rate):Amount must be paid: ☐ AT COMPLETION ☐ at another time (specify):Is any of the consideration not expressed as an amount in money? ☐ NO ☐ yes

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

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

## List of Documents

<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 checked="" 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 <i>planning agreement</i></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 occupation certificate</p> <p><input type="checkbox"/> 16 lease (with every relevant memorandum or variation)</p> <p><input type="checkbox"/> 17 other document relevant to tenancies</p> <p><input type="checkbox"/> 18 licence benefiting the land</p> <p><input type="checkbox"/> 19 old system document</p> <p><input type="checkbox"/> 20 Crown purchase statement of account</p> <p><input type="checkbox"/> 21 building management statement</p> <p><input checked="" type="checkbox"/> 22 form of requisitions</p> <p><input type="checkbox"/> 23 <i>clearance certificate</i></p> <p><input type="checkbox"/> 24 land tax certificate</p> <p><b>Home Building Act 1989</b></p> <p><input type="checkbox"/> 25 insurance certificate</p> <p><input type="checkbox"/> 26 brochure or warning</p> <p><input type="checkbox"/> 27 evidence of alternative indemnity cover</p> <p><b>Swimming Pools Act 1992</b></p> <p><input type="checkbox"/> 28 certificate of compliance</p> <p><input type="checkbox"/> 29 evidence of registration</p> <p><input type="checkbox"/> 30 relevant occupation certificate</p> <p><input type="checkbox"/> 31 certificate of non-compliance</p> <p><input type="checkbox"/> 32 detailed reasons of non-compliance</p>	<p><b>Strata or community title (clause 23 of the contract)</b></p> <p><input type="checkbox"/> 33 property certificate for strata common property</p> <p><input type="checkbox"/> 34 plan creating strata common property</p> <p><input type="checkbox"/> 35 strata by-laws</p> <p><input type="checkbox"/> 36 strata development contract or statement</p> <p><input type="checkbox"/> 37 strata management statement</p> <p><input type="checkbox"/> 38 strata renewal proposal</p> <p><input type="checkbox"/> 39 strata renewal plan</p> <p><input type="checkbox"/> 40 leasehold strata - lease of lot and common property</p> <p><input type="checkbox"/> 41 property certificate for neighbourhood property</p> <p><input type="checkbox"/> 42 plan creating neighbourhood property</p> <p><input type="checkbox"/> 43 neighbourhood development contract</p> <p><input type="checkbox"/> 44 neighbourhood management statement</p> <p><input type="checkbox"/> 45 property certificate for precinct property</p> <p><input type="checkbox"/> 46 plan creating precinct property</p> <p><input type="checkbox"/> 47 precinct development contract</p> <p><input type="checkbox"/> 48 precinct management statement</p> <p><input type="checkbox"/> 49 property certificate for community property</p> <p><input type="checkbox"/> 50 plan creating community property</p> <p><input type="checkbox"/> 51 community development contract</p> <p><input type="checkbox"/> 52 community management statement</p> <p><input type="checkbox"/> 53 document disclosing a change of by-laws</p> <p><input type="checkbox"/> 54 document disclosing a change in a development or management contract or statement</p> <p><input type="checkbox"/> 55 document disclosing a change in boundaries</p> <p><input type="checkbox"/> 56 information certificate under Strata Schemes Management Act 2015</p> <p><input type="checkbox"/> 57 information certificate under Community Land Management Act 2021</p> <p><input type="checkbox"/> 58 disclosure statement - off the plan contract</p> <p><input type="checkbox"/> 59 other document relevant to the off the plan contract</p> <p><b>Other</b></p> <p><input type="checkbox"/> 60</p>
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**HOLDER OF STRATA OR COMMUNITY SCHEME RECORDS – Name, address, email address and telephone number**

## **SPECIAL CONDITIONS**

**These are the special conditions to the contract for the sale of land**

**BETWEEN**     **Rebecca Lee Rogers** of 54 Azure Avenue, Dubbo, New South Wales (**Vendor**)

**AND**             of (**Purchaser**)

### **1. Special Conditions to Prevail**

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In the event of any inconsistency between these Special Conditions and the printed form of Contract, these Special Conditions shall prevail to the extent of the inconsistency.

### **2. Notice to Complete**

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- (a) In the event of either party failing to complete this contract within the time specified herein, then the other shall be entitled at any time thereafter to serve a Notice to Complete, requiring the other to complete within 14 days from the date of service of the notice, and this time period is considered reasonable by both parties. For the purpose of this contract, such notice to complete shall be deemed both at law and in equity sufficient to make time of the essence of this contract.
- (b) In the event that a Notice to Complete is issued by the Vendor the Purchaser will pay on completion an amount of \$275.00 (including GST) being the Vendors legal costs in respect of the issue of such notice, the payment of which is an essential term of this contract and will be allowed by the Purchaser in favour of the Vendor as an additional adjustment on completion.

### **3. Death or incapacity**

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Notwithstanding any rule of law or equity to the contrary, should either party, or if more than one any one of them, prior to completion die or become mentally ill, as defined in the Mental Health Act, or become bankrupt, or if a company go into liquidation, then either party may rescind this contract by notice in writing forwarded to the other party and thereupon this contract shall be at an end and the provisions of clause 19 hereof shall apply.

#### **4. Purchaser acknowledgements**

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Without excluding, modifying or restricting the Purchasers rights pursuant to section 52(2)(b) of the *Conveyancing Act 1919 (NSW)* and the *Conveyancing (Sale of Land) Regulation 2017 (NSW)* the Purchaser accepts:

- (a) The property is sold in its current condition and state of repair (including structural repair) as at the contract date and the Purchaser accepts it with all faults and latent and patent defects, and all infestations and dilapidations; and
- (b) By entering into the contract, the Purchaser acknowledges that they are purchasing the property as a result of their own inspections and inquiries and represents and warrants to the Vendor that they have satisfied themselves in relation to:
  - (i) the condition and state of repair of the property;
  - (ii) the position of any improvements on the property and whether or not those improvements comply with the Local Government Act 1993 (NSW) and the Environmental Assessment Act 1979 (NSW);
  - (iii) the area and legal boundaries of the property;
  - (iv) access to the property;
  - (v) the nature, location, availability or non-availability of the services or defects in the services;
  - (vi) whether or not the property is subject to or has the benefits of any rights or easements in respect of the services;
  - (vii) any underground or surface stormwater drain passing through or over the property or any manhole vent on the property; and
- (c) The Purchaser acknowledges and agrees that:
  - (i) The Vendor does not hold a survey report in respect to area and boundaries of the property;
  - (ii) The Vendor does not hold a building certificate in respect to the improvements on the property; and

The Purchaser cannot make a requisition or a claim for compensation or attempt to delay completion or attempt to rescind or attempt to terminate the contract for any matters covered by this clause.

#### **5. Late completion**

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- (a) In the event that completion does not take place on the nominated day for completion due to any reason other than the default of the Vendor then the purchaser shall pay to the Vendor interest on the balance of purchase price at the rate of 10% per annum calculated daily from the date nominated for completion until and including the actual day of completion.

- (b) In addition, in the event that completion does take place at the agreed nominated day for completion due to any reason other than the default of the Vendor then the Purchaser will pay on completion an additional amount of \$165.00 (including GST) being reasonable costs incurred by the Vendor as a consequence of the cancelled or re-arranged settlement, the payment of which is an essential term of this contract and will be allowed by the Purchaser in favour of the Vendor as an additional adjustment on completion.

## **6. Agent**

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

## **7. Whole Agreement**

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- (a) To the extent permitted by law, in relation to the subject matter, this contract:
- (i) Embodies the entire understanding of the parties and constitutes the entire terms agreed by the parties; and
  - (ii) Supercedes any prior written or other agreement of the parties.
- (b) Without limiting 7(a), the Vendor does not warrant or represent that any information or statements contained or referred to in any brochure, advertisement or other document made available by or on behalf of the Vendor in connection with this sale or this contract is accurate or complete.
- (c) The Purchaser acknowledges and agrees:
- (i) This contract constitutes the whole agreement of the parties as to its subject matter;
  - (ii) This contract supersedes all prior representations, agreements, understandings, negotiations, writings, or discussions as to its subject matter; and
  - (iii) The purchaser has not relied on any representations made to it or by or on behalf of the Vendor or its agents in relation to the property and/or the use of the property.
- (d) The Purchaser represents and warrants that the Purchaser:
- (i) Has not relied on any brochure, advertisement or other document referred to in 7(b);

- (ii) Has made its own inquiries in relation to the property;
- (iii) Does not rely on any representation, letter, documents or arrangement (whether oral or in writing) or other conduct as adding to or amending this contract;
- (iv) Is satisfied as to all information relevant to the risks, contingences and other circumstances affecting the purchase of the property; and
- (v) Is satisfied as to the need for and the existence or validity of any development or other approval for the property.

#### **8. Smoke alarms**

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The property has smoke alarms installed.

#### **9. Deposit bond**

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- a) The word bond means the deposit bond issued to the vendor at the request of the purchaser by the bond provider.
- b) Subject to the following clauses the delivery of the bond on exchange to the person nominated in this contract to hold the deposit or the vendor's solicitor will be deemed to be payment of the deposit in accordance with this contract.
- c) The purchaser must pay the amount stipulated in the bond to the vendor in cash or by unendorsed bank cheque on completion or at such other time as may be provided for the deposit to be accounted to the vendor.
- d) If the vendor serves on the purchaser a written notice claiming to forfeit the deposit then to the extent that the amount has not already been paid by the bond provider under the bond, the purchaser must immediately pay the deposit or so much of the deposit as has not been paid to the person nominated in this contract to hold the deposit.

#### **10. Exchange on less than 10% deposit**

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Notwithstanding any other provision of this contract, if the deposit paid by the Purchaser on or before the contract date in accordance with the provisions of clause 2 (Initial Deposit) is less than ten percent (10%) of the price, then the amount of the deposit that may be kept or recovered by the Vendor under clause 9 shall be deemed to be ten percent (10%) of the price.

The difference, if any, between the Initial Deposit and ten percent (10%) deposit of the price (Balance Deposit) will be payable by the Purchaser to the Vendor on the earlier to occur of:

- (a) The date of completion;
- (b) Default by the purchaser entitling the vendor to keep or recover the deposit.

If the Purchaser fails to pay the balance deposit to the Vendor pursuant to this clause, the Vendor is entitled to sue the Purchaser for the Balance Deposit as a liquidated debt in addition to any other remedies available to the Vendor.

#### **11. Electronic Signatures**

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- (a) The Parties agree to accept the signatures by either party which are done way by facsimile, photocopy or any other form of Electronic Signature for the purposes of exchange of Contracts;
- (b) The Parties agree that they shall not make any requisition, objection, claim or delay completion due to the manner of execution of this Contract as referred to in special condition 9(a);
- (c) For the purposes of the Electronic Transactions Act 1999 (Cth) and the Electronic Transactions Act 2000 (NSW) each Party consents to receiving and receiving the Contract electronically.
- (d) The parties agree that the original signatures will be provided to the other party in due course prior to completion.

#### **12. Requisitions on Title**

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The purchaser acknowledges that the Requisitions on Title which follow are deemed to be the requisitions raised by the purchaser pursuant to clause 5.1. No other requisitions shall be made by the purchaser unless permitted by clauses 5.2 or 5.3.

#### **13. Land tax Certificate**

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The vendor will upon exchange of contracts provide the purchasers or their legal representative with a current Section 47 Certificate.

#### **14. Electronic Settlement**

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- (a) The parties agree to settle this sale electronically in accordance and compliance with the Electronic Conveyancing National Law.
- (b) The provisions of this contract continue to apply as modified by the electronic settlement procedures unless for any reason a party notifies the other in writing that settlement can no longer be conducted electronically at which time the matter will proceed as a paper settlement. In this event any disbursements incurred will be shared equally by the parties and adjusted at settlement but each party shall pay their own costs.



- (c) Within 7 days of exchange the vendor will open and populate the electronic workspace, including the date and time of settlement and invite the purchaser and any discharging mortgagee to join, failing which the purchaser may do so.
- (d) Settlement takes place when the financial settlements takes place.
- (e) Anything that cannot be delivered electronically must be given to the relevant party immediately following settlement.
- (f) If time is of the essence of the transaction and settlement fails to proceed due to a system failure then neither party will be in default. If electronic settlement cannot be reestablished the next working day, the parties must settle in the usual non-electronic manner as soon as possible but no later than three (3) working days after the initial electronic failure unless otherwise agreed.

Any notice served on a party in the electronic workspace must also be served in accordance with the condition of this Contract relating to service of notices.

## **15. Covid-19 Virus**

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For the benefit of both parties, should either party:

- (a) Contract the Covid-19 virus;
- (b) be placed in isolation in the property;
- (c) directed to self-isolate in the property; or
- (d) need to care for an immediate member of their household or family in the property who is directly affected by matters (a)-(c) above, then the parties agree that the following provisions shall apply:

- (i) The other party cannot issue a Notice to Complete on that party until such time that the person or persons have been medically cleared by a general practitioner or other specialist and permitted to leave the property.
- (ii) The party seeking the benefit of this clause must provide suitable documentation to provide evidence of the need for isolation immediately upon diagnosis.
- (iii) Completion shall take place within seven (7) days from the date from which the party is permitted to leave the property.
- (iv) If the vendor is the party seeking the benefit of this clause, he shall do all things reasonably possible to vacate the property a minimum of 24 hours prior to completion.
- (v) It is an essential term of this contract that if the vendor is seeking the benefit of this clause, he shall thoroughly disinfect the property prior to completion. For the purpose of clarity, thoroughly disinfect includes, but is not limited to, vacuuming carpets, cleaning air conditioning filters and using disinfectant



products to clean door handles, light switches, hard surfaces, remote controls, windows, appliances and mop floors.

(e) Neither party shall be liable to the other party for any loss caused by any failure to settle by the completion date due to legal or financial representatives being placed in a position where advice or provision of services is unavailable or delayed due to the covid-19 pandemic. The parties will agree on a new settlement date to effect settlement as soon as practicable, time being of the essence.

## **RESIDENTIAL PROPERTY REQUISITIONS ON TITLE**

BETWEEN Rebecca Lee Rogers

(Vendor)

AND

(Purchaser)

PROPERTY: 54 Azure Avenue, Dubbo

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### **Possession & Tenancies**

1. Vacant possession of the property must be given on completion unless the Contract provides otherwise.
2. Is anyone in adverse possession of the property or any part of it?
3.
  - (a) What are the nature and provisions of any tenancy or occupancy?
  - (b) If they are in writing, all relevant documentation should be produced, found in order and handed over on completion with notices of attornment.
  - (c) Please specify any existing breaches.
  - (d) All rent should be paid up to or beyond the date of completion.
  - (e) Please provide details of any bond together with the Rental Bond Board's reference number.
  - (f) If any bond money is held by the Rental Bond Board, the appropriate transfer documentation duly signed should be handed over on completion.
4. Is the property affected by a protected tenancy? (A tenancy affected by Parts 2, 3, 4 or 5 of the *Landlord and Tenant (Amendment) Act 1948*.)
5. If the tenancy is subject to the *Residential Tenancies Act 1987*:
  - (a) has either the vendor or any predecessor or the tenant applied to the Residential Tenancies Tribunal for an order?
  - (b) have any orders been made by the Residential Tenancies Tribunal? If so, please provide details.

### **Title**

6. Subject to the Contract, on completion the vendor should be registered as proprietor in fee simple of the property free from all encumbrances.
7. On or before completion, any mortgage or caveat must be discharged or withdrawn (as the case may be) or an executed discharge or withdrawal handed over on completion.
8. Are there any proceedings pending or concluded that could result in the recording of any writ on the title to the property or in the General Register of Deeds? If so, full details should be provided at least 14 days prior to completion.
9. When and where may the title documents be inspected?
10. Are the inclusions or fixtures subject to any charge or hiring agreement? If so, details must be given and any indebtedness discharged prior to completion or title transferred unencumbered to the vendor prior to completion.

### **Adjustments**

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

### **Survey & Building**

13. Subject to the Contract, survey should be satisfactory and show that the whole of the property is available and that there are no encroachments by or upon the property and that all improvements comply with local government/planning legislation.
14. Is the vendor in possession of a survey report? If so, please produce a copy for inspection prior to completion. The original should be handed over on completion.
15.
  - (a) Have the provisions of the *Local Government Act*, the *Environmental Planning and Assessment Act* and their regulations been complied with?
  - (b) Is there any matter that could justify the making of an upgrading or demolition order in respect of any building or structure?
  - (c) Has the vendor a Building Certificate which relates to all current buildings or structures? If so, it should be handed over on completion. Please provide a copy in advance.
  - (d) Has the vendor a Final Occupation Certificate issued under the *Environmental Planning and Assessment Act 1979* for all current buildings or structures? If so, it should be handed over on completion. Please provide a copy in advance.

- (e) In respect of any residential building work carried out in the last 7 years:
  - (i) please identify the building work carried out;
  - (ii) when was the building work completed?
  - (iii) please state the builder's name and licence number;
  - (iv) please provide details of insurance under the *Home Building Act 1989*.
- 16. Has the vendor (or any predecessor) entered into any agreement with or granted any indemnity to the Council or any other authority concerning any development on the property?
- 17. If a swimming pool is included in the property:
  - (a) when did construction of the swimming pool commence?
  - (b) is the swimming pool surrounded by a barrier which complies with the requirements of the *Swimming Pools Act 1992*?
  - (c) if the swimming pool has been approved under the *Local Government Act 1993*, please provide details.
  - (d) are there any outstanding notices or orders?
- 18.
  - (a) To whom do the boundary fences belong?
  - (b) Are there any party walls?
  - (c) If the answer to (b) is yes, specify what rights exist in relation to each party wall and produce any agreement. The benefit of any such agreement should be assigned to the purchaser on completion.
  - (d) Is the vendor aware of any dispute regarding boundary or dividing fences or party walls?
  - (e) Has the vendor received any notice, claim or proceedings under the *Dividing Fences Act 1991* or the *Encroachment of Buildings Act 1922*?

#### **Affectations**

- 19. Is the vendor aware of any rights, licences, easements, covenants or restrictions as to use other than those disclosed in the Contract?
- 20. Is the vendor aware of:
  - (a) any road, drain, sewer or storm water channel which intersects or runs through the land?
  - (b) any dedication to or use by the public of any right of way or other easement over any part of the land?
  - (c) any latent defects in the property?
- 21. Has the vendor any notice or knowledge that the property is affected by the following:
  - (a) any resumption or acquisition or proposed resumption or acquisition?
  - (b) any notice requiring work to be done or money to be spent on the property or any footpath or road adjoining? If so, such notice must be complied with prior to completion.
  - (c) any work done or intended to be done on the property or the adjacent street which may create a charge on the property or the cost of which might be or become recoverable from the purchaser?
  - (d) any sum due to any local or public authority? If so, it must be paid prior to completion.
  - (e) any realignment or proposed realignment of any road adjoining the property?
  - (f) any contamination?
- 22.
  - (a) Does the property have the benefit of water, sewerage, drainage, electricity, gas and telephone services?
  - (b) If so, do any of the connections for such services pass through any adjoining land?
  - (c) Do any service connections for any other property pass through the property?
- 23. Has any claim been made by any person to close, obstruct or limit access to or from the property or to an easement over any part of the property?

#### **Capacity**

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

#### **Requisitions & Transfer**

- 25. If the transfer or any other document to be handed over on completion is executed pursuant to a power of attorney, then at least 7 days prior to completion a copy of the registered power of attorney should be produced and found in order.
- 26. If the vendor has or is entitled to have possession of the title deeds the Certificate Authentication Code must be provided 7 days prior to settlement.
- 27. Has the vendor installed roof insulation in the property under the Government Insulation Program? If so:
  - (a) When was the work completed?
  - (b) Which company carried out the work?
  - (c) Has a safety inspection been carried out? If so, please provide the appropriate certificate.
- 28. Searches, surveys, enquiries and inspection of title deeds must prove satisfactory.

29. The purchaser reserves the right to make further requisitions prior to completion.
30. Unless we are advised by you to the contrary prior to completion, it will be assumed that your replies to these requisitions remain unchanged as at completion date.

**PPSR**

31. Where the vendor is an individual or are individuals, please supply date of birth for the purpose of undertaking PPSR Searches.

**Solar Panels**

32. (a) Are solar panels on the property?
- (b) Are they subject to any charge or hiring agreement? If so, details must be given and any indebtedness discharged before completion or title transferred unencumbered to the vendor prior to completion.
- (c) Are they in working order?

Provided by CITEC Confirm

NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 2816/1259757

-----

SEARCH DATE	TIME	EDITION NO	DATE
-----	----	-----	----
17/1/2023	5:03 PM	3	22/12/2022

LAND

-----

LOT 2816 IN DEPOSITED PLAN 1259757  
AT DUBBO  
LOCAL GOVERNMENT AREA DUBBO REGIONAL  
PARISH OF DUBBO COUNTY OF LINCOLN  
TITLE DIAGRAM DP1259757

FIRST SCHEDULE

-----

REBECCA LEE ROGERS

(T AQ610575)

SECOND SCHEDULE (7 NOTIFICATIONS)

-----

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 DP1048439 RESTRICTION(S) ON THE USE OF LAND
- 3 DP1259757 POSITIVE COVENANT AFFECTING THE PART(S) SHOWN SO  
BURDENED IN THE TITLE DIAGRAM
- 4 DP1259757 EASEMENT TO DRAIN SEWAGE 2 METRE(S) WIDE AFFECTING  
THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM
- 5 DP1259757 RESTRICTION(S) ON THE USE OF LAND REFERRED TO AND  
NUMBERED (4) IN THE S.88B INSTRUMENT
- 6 DP1259757 RESTRICTION(S) ON THE USE OF LAND REFERRED TO AND  
NUMBERED (5) IN THE S.88B INSTRUMENT
- 7 AS756133 MORTGAGE TO AUSTRALIA AND NEW ZEALAND BANKING GROUP  
LIMITED

NOTATIONS

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UNREGISTERED DEALINGS: NIL

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

250049:239486 Rogers

PRINTED ON 17/1/2023

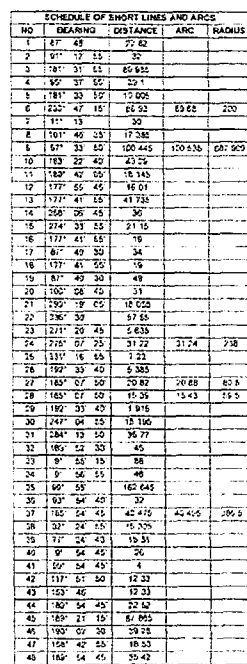
Provided on 17/01/2023 04:03 PM by CITEC Confirm

\* Any entries preceded by an asterisk do not appear on the current edition of the Certificate of Title. Warning: the information appearing under notations has not been formally recorded in the Register.

Property Exchange Australia Limited, a reseller of CITEC Confirm hereby certifies that the information contained in this document has been provided electronically by the Registrar General in accordance with section 96B(2) of the Real Property Act, 1900.

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
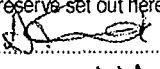
DP1259757

PLAN FORM 2 (A2)

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

Sheet 2 of 2 sheets

ePlan

PLAN FORM 6 (2017)		DEPOSITED PLAN ADMINISTRATION SHEET		Sheet 1 of 4 sheet(s)	
Registered:  11/11/2020		Office Use Only		Office Use Only	
Title System: TORRENS		DP1259757			
PLAN OF SUBDIVISION OF LOT 3331 IN DP 1259781		LGA: DUBBO REGIONAL Locality: DUBBO Parish: DUBBO County: LINCOLN			
<b>Survey Certificate</b> I, CHARLES ROBERT HIGGS of PREMISE PTY LTD, PO BOX 1842 DUBBO 2830 a surveyor registered under the <i>Surveying and Spatial Information Act 2002</i> , certify that: *(a) The land shown in the plan was surveyed in accordance with the <i>Surveying and Spatial Information Regulation 2017</i> , is accurate and the survey was completed on [Choose date]; or *(b) The part of the land shown in the plan (*being/excluding the residue of Lot 2821) was surveyed in accordance with the <i>Surveying and Spatial Information Regulation 2017</i> , the part surveyed is accurate and the survey was completed on, 02/10/2019 the part not surveyed was compiled in accordance with that Regulation, or *(c) The land shown in this plan was compiled in accordance with the <i>Surveying and Spatial Information Regulation 2017</i> . Datum Line: "X" ~ "Y" Type: *Urban/*Rural The terrain is *Level-Undulating / *Steep-Mountainous. Signature:  Dated: 03/10/2019 Surveyor Identification No: 1304 Surveyor registered under the <i>Surveying and Spatial Information Act 2002</i> *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.		<b>Crown Lands NSW/Western Lands Office Approval</b> 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 the preparation of survey/compilation. DP 1234567 DP 1251541 DP 1253121 DP 1256808 DP 1259781		<b>Subdivision Certificate</b> I, <u>Stephen Wallace</u> *Authorised Person/*General Manager/*Accredited Certifier, certify that the provisions of s.6.15 of the <i>Environmental Planning and Assessment Act 1979</i> have been satisfied in relation to the proposed subdivision, new road or reserve set out herein. Signature:  Accreditation number: <u>NA</u> Consent Authority: <u>DUBBO REGIONAL COUNCIL</u> Date of endorsement: <u>23.9.2020</u> Subdivision Certificate number: <u>SL17-586 002</u> File number: <u>1217-586</u> *Strike through if inapplicable.			
Surveyor's Reference: 114135.123D.DP01		Statements of intention to dedicate public roads, create public reserves and drainage reserves, acquire/resume land.			
		Signatures, Seals and Section 88B Statements should appear on PLAN FORM 6A			



ePlan

PLAN FORM 6A (2017) <b>DEPOSITED PLAN ADMINISTRATION SHEET</b>		Sheet 2 of 4 sheet(s)																																																					
<div style="display: flex; justify-content: space-between; align-items: center;"> <div style="display: flex; align-items: center;"> <div> <p>Office Use Only</p> <p>Registered: 11/11/2020</p> <p><b>PLAN OF SUBDIVISION OF LOT 3331 IN DP 1259781</b></p> </div> </div> <div style="text-align: right; padding-top: 20px;"> <p>Office Use Only</p> <p style="font-size: 24px; font-weight: bold;">DP1259757</p> </div> </div>	<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 - See 60(c) <i>SSI Regulation 2017</i></li> <li>Statements of intention to create and release affecting interests in accordance with section 88B <i>Conveyancing Act 1919</i></li> <li>Signatures and seals- see 195D <i>Conveyancing Act 1919</i></li> <li>Any information which cannot fit in the appropriate panel of sheet 1 of the administration sheets.</li> </ul>																																																						
<p>Subdivision Certificate number: <u>SC 17-586 P02</u></p> <p>Date of Endorsement: <u>23.9.2020</u></p>																																																							
<p>PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919 AS AMENDED, IT IS INTENDED TO CREATE:-</p> <ol style="list-style-type: none"> <li>Positive Covenant (D)</li> <li>Easement to Drain Sewage 2 Wide (B)</li> <li>Easement to Drain Water 0.5 and 2 Wide (A)</li> <li>Restrictions on the Use of Land</li> <li>Restrictions on the Use of Land</li> </ol>																																																							
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<p>Surveyor's Reference: 114135.123<del>8</del><sup>5</sup>.DP01</p>																																																							



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PLAN FORM 6A (2017)

DEPOSITED PLAN ADMINISTRATION SHEET

Sheet 3 of 4 sheet(s)



11/11/2020

Office Use Only

Office Use Only

Registered:

PLAN OF SUBDIVISION OF LOT 3331 IN  
DP 1259781

DP1259757

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

- A schedule of lots and addresses - See 60(c) SSI Regulation 2017
- Statements of intention to create and release affecting interests in accordance with section 88B Conveyancing Act 1919
- Signatures and seals- see 195D Conveyancing Act 1919
- Any information which cannot fit in the appropriate panel of sheet 1 of the administration sheets.

Subdivision Certificate number: SC 17-586 Pt 2

Date of Endorsement: 23.9.2020

EXECUTED on behalf of Maas Group Properties Southlakes Pty Limited)

ACN 632 459 628 on the 24 day of September 2020 )

by the authorized persons whose signatures appear below )

I certify that I am an eligible witness and that the attorney whose signature appears opposite signed this instrument in my presence.

Signature of witness:

Name of witness:

Jack Rodgers

Full address of witness:

28 Azura Avenue  
Dubbo NSW 2830

Certified correct for the purposes of the Real Property Act 1900 by the owner.

SIGNED by: Louise Margaret Sullivan as attorney for Maas Group Properties Southlakes Pty Limited under power of attorney registered Book 4758

No. 235

(Signature)

By executing this instrument the attorney states that the attorney has received no notice of the revocation of the power of attorney.

If space is insufficient use additional annexure sheet

Surveyor's Reference: 114135.1238 DP01

D\*



ePlan

PLAN FORM 6A (2017)

DEPOSITED PLAN ADMINISTRATION SHEET

Sheet 4 of 4 sheet(s)



11/11/2020

Office Use Only

Office Use Only

Registered:

PLAN OF SUBDIVISION OF LOT 3331 IN  
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DP1259757

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

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- Statements of intention to create and release affecting interests in accordance with section 88B Conveyancing Act 1919
- Signatures and seals- see 195D Conveyancing Act 1919
- Any information which cannot fit in the appropriate panel of sheet 1 of the administration sheets.

Subdivision Certificate number: SC 17 - S86 P02

Date of Endorsement: 23.9.2020

EXECUTED on behalf of Colin Robert Hood and )

Ann Robyn Hood on the 24<sup>th</sup> day of September 2020 )

by the authorized persons whose signatures appear below )

I certify that I am an eligible witness and that the attorney whose signature appears opposite signed this instrument in my presence.

Signature of witness: MATTHEW

Name of witness: MATTHEW GERARD THORNE

Full address of witness: 161R Burnmay Road  
Dubbo

Certified correct for the purposes of the Real Property Act 1900 by the owner.

SIGNED by: Charlotte Emily Egan as attorney for Ann Robyn Hood under power of attorney registered Book 4757 No.29 and Colin Robert Hood under power of attorney registered Book 4757 No.30

(Signature)

By executing this instrument the attorney states that the attorney has received no notice of the revocation of the power of attorney.

If space is insufficient use additional annexure sheet

Surveyor's Reference: 114135.1238 DP01

D\*



ePlan

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

(Sheet 1 of 8)

Plan **DP1259757**

Plan of Subdivision of Lot 3331 in DP 1259781  
 covered by Subdivision Certificate No *SC 17-586 P02*

Full name and address of the owner of the land

Maas Group Properties Southlakes Pty Limited  
 ACN 632 459 628  
 PO Box 332  
 DUBBO NSW 2830

Full name and address of the mortgagee of the land

Colin Robert Hood and Ann Robyn Hood  
 PO Box 18  
 DUBBO NSW 2830

**Part 1 (Creation)**

Number of item shown in the intention panel on the plan.	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan.	Burdened lot(s) or parcel(s).	Benefited lot(s), road(s), bodies or Prescribed Authorities.
1	Positive Covenant (D)	Part Lots 2814 to 2817 (inclusive)	Dubbo Regional Council
2	Easement to Drain Sewage 2 Wide (B)	Lots 2814 to 2817 (inclusive)	Dubbo Regional Council
3	Easement to Drain Water 0.5 and 2 Wide (A)	Lots 2818 to 2820 (inclusive), Lot 2814	Dubbo Regional Council
4	Restrictions on the Use of Land	Lots 2814 to 2820 (inclusive)	Dubbo Regional Council
5	Restrictions on the Use of Land	Lots 2814 to 2820 (inclusive)	Every lot in the plan other than the lot burdened and Lot 2821

ePlan

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

(Sheet 2 of 8)

Plan **DP1259757**

Plan of Subdivision of Lot 3331 in DP 1259781  
covered by Subdivision Certificate No SC 17-586 P02

**Part 2 (Terms)**

**1. Terms of the Positive Covenant firstly referred to in the plan:**

- (a) The owner of the lot burdened must ensure that:-
  - a. the retaining wall is maintained in a way that does not detract from the stability of or the support provided by the retaining wall
  - b. The use of the site of this easement is protected for purposes of maintaining the stability of or the support provided by the retaining wall.
  - c. The sub-soil drainage line at the base of the retaining wall which forms part of the retaining wall is to be maintained to allow drainage to the drainage points.
- (b) If the owner of the lot burdened does or allows anything to be done which damages the retaining wall or impairs its effectiveness or fails to do something which results in damage to the retaining wall or the impairment of its effectiveness, the Prescribed Authority may serve a notice on the owner of the lot burdened requiring the damage to be repaired or the impairment removed within 14 days.
- (c) If the owner of the lot burdened does not comply with the notice set out in clause 1(b) within 14 days, the Prescribed Authority may:
  - a. Enter the lot burdened and repair the damage or remove the impairment and
  - b. recover its reasonable costs from the owner of the lot burdened.
- (d) In exercising the powers given under clause 1(c), the Prescribed Authority must:
  - a. ensure all work is done properly, and
  - b. cause as little inconvenience as is practicable to the owner and any occupier of the lot burdened, and
  - c. restore the lot burdened as nearly as is practicable to its former condition, and
  - d. make good any collateral damage.

**2. Terms of the Restrictions on the Use of Land fourthly referred to in the plan:**

- (a) That no residential building or buildings shall be erected or be permitted to remain erected on the lots burdened unless the footings of such building have been assessed and designed by a properly qualified geotechnical or structural engineer.
- (b) That no domestic water supply bore may be constructed on the lots burdened without the prior approval of Dubbo Regional Council.
- (c) That no domestic greywater effluent disposal system may be installed and permitted to discharge effluent onto the lots burdened without the prior approval of Dubbo Regional Council.

ePlan

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

(Sheet 3 of 8)

Plan **DP1259757**

Plan of Subdivision of Lot 3331 in DP 1259781  
covered by Subdivision Certificate No SC 17-586 P02

**3. Terms of the Restrictions on the Use of Land fifthly referred to in the plan:**

**Building Requirements**

- (a) No building or buildings shall be erected or be permitted to remain erected on the lot burdened other than with external walls of new materials, being of brick, brick veneer, stone, concrete, glass, cement render or cellulous fibre reinforced cement building sheets externally coated with a seamless textured trowel on acrylic material to a minimum of 2mm thickness ("Specified Materials").

This restriction shall not apply to infill panels and gable ends in a building having external walls of any of the Specified Materials or a combination of Specified Materials where the total area of the infill panels and gable end does not exceed 20% of all the external walls of the building.

- (b) No cladding of any outbuildings on any lot shall be of any materials other than that similar to the main building erected on the lot or of other materials permitted under clause (a) or of a pre-coloured iron.
- (c) No building shall be a transportable building.
- (d) No more than one main building may be constructed on the lot burdened.
- (e) No building shall be erected on any lot burdened having a roof of fibre cement or asbestos cement or fibre glass or any other material of a similar nature or aluminium or steel decking of any nature other than steel treated with a non-reflective surface.
- (f) No dwelling shall be erected on the lot burdened unless in conjunction with a minimum of a two car garage, whether the garage is under the same roof as the dwelling, attached to or detached from the dwelling.
- (g) No dwelling shall be erected on a corner lot unless the facades facing public roads are of similar character and proportion.
- (h) No attached dwelling is to be constructed without the consent of Maas Group Property Southlakes Pty Limited.
- (i) No dwelling attached or detached is to be constructed with a living area that is less than 200 square metres (including garages, carports and verandahs) under the main roof without consent of Maas Group Property Southlakes Pty Limited.
- (j) No additions shall be erected on the lot burdened unless the street facing facade of the addition is constructed with the same material and in a character consistent with the existing dwelling.
- (k) No lot shall be further subdivided, boundary adjusted or changed from the original lot size unless authorised by Maas Group Property Southlakes Pty Limited.

**Residential Use**

- (l) No building shall be used for any purpose other than a single dwelling house which does not include a residential flat building, dual occupancy or duplex building.
- (m) No dairy, brick yard, tannery, poultry farm, piggery, kennels, quarry or other noxious, noisome or offensive occupation, trade or business shall be carried out on the lot burdened.



ePlan

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

(Sheet 4 of 8)

Plan **DP1259757**

Plan of Subdivision of Lot 3331 in DP 1259781  
covered by Subdivision Certificate No *SC 17 - 586 P02*

- (n) No main building on the lot burdened shall be used for temporary housing or for the storage of mobile homes or caravans unless the caravan or mobile home is stored behind the building line referred to in (s).

**Rubbish, Machines and Vehicles**

- (o) No materials (except as required in the course of building) rubbish, old, unused or out of order plant, motor vehicles or machinery shall be kept or stored on any lot.  
(p) No plant, machinery or vehicles having a tare weight in excess of three (3) tonnes shall be kept or stored on any lot.  
(q) No truck yards, earthmoving business or welding shops or operations of a similar nature shall be carried out on any lot.  
(r) No excess soil or building materials may remain on any lot or moved to other lots after completion of construction on the lot.

**Fencing**

- (s) No fence shall be erected or permitted to be erected on the street frontage of each lot burdened between the front street alignment and the house building line as fixed by Dubbo Regional Council. In the case of a corner lot this restriction shall only apply to one street frontage if the section of fencing in the second street is approved in writing by Maas Group Property Southlakes Pty Limited.  
(t) No fence shall be erected on any lot burdened other than of materials and colours as approved in writing by Maas Group Property Southlakes Pty Limited.  
(u) No fence shall be erected on the lot burdened to divide it from any adjoining land owned by Maas Group Properties Southlakes Pty Limited without the written consent Maas Group Properties Southlakes Pty Limited but such consent shall not be withheld if:  
a. Such fence is erected without expense to Maas Group Properties Southlakes Pty Limited its successors and assigns;  
b. The type and construction of the fence is 1.8 metres in height made of colorbond in the colour "Woodland Grey".  
c. No infill is to be placed under the fence unless the infill is of treated pine and complies with the requirements of Dubbo Regional Council.  
This restriction shall remain in force whilst Maas Group Properties Southlakes Pty Limited is the registered proprietor of any land in the plan.

**Advertising**

- (v) No advertisement hoarding sign or matter of any description other than a "for sale" real estate sign, or signage relating to builders display homes or house land package and finance signage is permitted on the lot burdened.

**Carport and Garage**

- (w) That no carport, garage or outbuilding shall be erected or permitted to remain on any lot unless it is constructed after or concurrently with the erection of the main building thereon.  
(x) No carport, garage or outbuilding shall be more than one storey.  
(y) No carport is permitted unless it is under the main roof of the dwelling.

ePlan

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

(Sheet 5 of 8)

Plan **DP1259757**

Plan of Subdivision of Lot 3331 in DP 1259781  
covered by Subdivision Certificate No SC 17-586 102

- (z) No carport or garage is to be enclosed or converted to a habitable area unless the external walls and windows have a character consistent with that of the existing dwelling and constructed from the same materials.

**Landscaping**

- (aa) The owner of the lot burdened must not and must not authorize or permit any removal, damage or harm to the landscaping on the lot burdened including any plants or trees.

**Satellite Dish**

- (bb) No satellite dish may be placed or allowed to remain on any building or structure on the lot burdened unless the satellite dish is placed to minimize the public view of the satellite dish.

**Display Home**

- (cc) The lot burdened must not be used for the purpose of the building of a display home or exhibition house other than by Maas Group Properties Southlakes Pty Limited or with the consent of Maas Group Property Southlakes Pty Limited.

**Animals**

- (dd) No pigs, bees, roosters, pigeons or greyhounds or any other animals other than domestic pets, including cats, dogs, caged birds and fish shall at any time be allowed or kept on the lot burdened and the registered Proprietor of any lot shall not be entitled to maintain more than two (2) dogs and/or (2) cats.

**Subdivision**

- (ee) The lot burdened may not be subject to further subdivision boundary adjustment or be changed from the original lot size unless authorized in writing by Maas Group Property Southlakes Pty Limited.

**Miscellaneous**

- (ff) No rain water tank constructed from silver or uncoloured galvanized iron may remain on any lot  
(gg) No driveway or path shall be constructed or permitted to remain forward of any building erected on the lot burdened unless they are constructed of coloured concrete pavers, clay pavers or coloured concrete. No driveway strips are permitted and neither can the driveway be less than 3 metres wide.  
(hh) No vacant land is to be left unmown or containing noxious weeds therein.  
(ii) No building is to be occupied until an occupation certificate has been issued.

**Release or Modification**

- (jj) No release, variation or modification of any restriction set out in this covenant is permissible unless Maas Group Properties Southlakes Pty Limited has approved such action and in the case of substantial variation (as determined by Maas Group Property Southlakes Pty Limited) unless all adjoining property owners have also been consulted.

ePlan

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

(Sheet 6 of 8)

Plan **DP1259757**

Plan of Subdivision of Lot 3331 in DP 1259781  
covered by Subdivision Certificate No SC 17-586 P02

(kk) Approval or refusal shall be deemed to be unreasonable if a Certified Planner nominated by Maas Group Properties Southlakes Pty Limited has certified that the proposal does/does not conform with the general standards of design and planning of the development and the proposal is desirable/undesirable by reason of the effect that it would have upon the development, appearance, health of amenity of the neighbourhood or any part of it.

Maas Group Properties Southlakes Pty Limited can consent to any exception to the restrictions set out in this covenant where the consent is set out in writing authorized by Maas Group Properties Southlakes Pty Limited

**Name of person or authority empowered to release, vary or modify the Restrictions on the Use of Land fourthly referred to in the plan.**

Dubbo Regional Council

**Name of person or authority empowered to release, vary or modify the Restrictions on the Use of Land fifthly referred to in the plan.**

Maas Group Properties Southlakes Pty Limited while it is the registered proprietor of any lot in the plan, thereafter the registered proprietors of the lots benefited.



ePlan

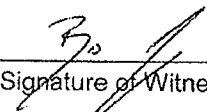
Instrument setting out terms of Easements or Profits à Prendre intended to be created or released and of Restrictions on the Use of Land or Positive Covenants intended to be created pursuant to Sections 88B and 88E Conveyancing Act 1919

(Sheet 7 of 8)


Plan **DP1259757**

Plan of Subdivision of Lot 3331 in DP 1259781  
covered by Subdivision Certificate No SC 17-586 P02

Executed by **DUBBO**  
**REGIONAL COUNCIL** by its Authorised  
Delegate pursuant to S.377 of the Local  
Government Act 1993 in the presence of:

  
Signature of Witness

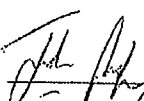
BO MOSHAGE  
Name and Address of Witness  
CNR CHURCH & DARGAVE STS  
DUBBO NSW 2830

  
Signature of Authorised Delegate

Stephen Wallace  
Name and Authorised Delegate

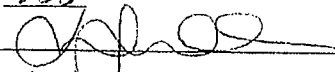
EXECUTED on behalf of Maas Group Properties Southlakes Pty Limited)  
ACN 632 459 628 on the 24 day of September 2020 )  
by the authorized persons whose signatures appear below )

I certify that I am an eligible witness and that the  
attorney whose signature appears opposite signed  
this instrument in my presence.

Signature of witness:   
Name of witness: Jack Rodgers  
Full address of witness: 24 Arundel Avenue  
Dubbo NSW 2830

Certified correct for the purposes of the Real  
Property Act 1900 by the owner.

SIGNED by: Louise Margaret Sullivan as attorney  
for Maas Group Properties Southlakes Pty Limited  
under power of attorney registered Book 4759  
No. 233

  
(Signature)

By executing this instrument the attorney states  
that the attorney has received no notice of the  
revocation of the power of attorney.

ePlan

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

(Sheet 8 of 8)

Plan **DP1259757**

Plan of Subdivision of Lot 3331 in DP 1259781  
covered by Subdivision Certificate No SC 17-586 P02

EXECUTED on behalf of Colin Robert Hood and )  
Ann Robyn Hood on the 24<sup>th</sup> day of September 2020)  
by the authorized persons whose signatures appear below )

I certify that I am an eligible witness and that the attorney whose signature appears opposite signed this instrument in my presence.

Signature of witness:

Name of witness:

Full address of witness:

M. Thorne  
MATTHEW GERARD THORNE  
167 R Burraway Road  
Dubbo

Certified correct for the purposes of the Real Property Act 1900 by the owner.

SIGNED by: Charlotte Emily Egan as attorney for  
Ann Robyn Hood under power of attorney  
registered Book 4757 No.29 and Colin Robert Hood  
under power of attorney registered Book 4757  
No.30

(Signature)

By executing this instrument the attorney states that the attorney has received no notice of the revocation of the power of attorney.

REGISTERED



11/11/2020

[Signature]

# PLAN FORM 2

Plan Drawing only to appear in this space

SIGNATURE, SEALS AND STATEMENTS of intention to dedicate public roads or to create reserves, drainage reserves, easements, restrictions on the use of land or positive covenants.

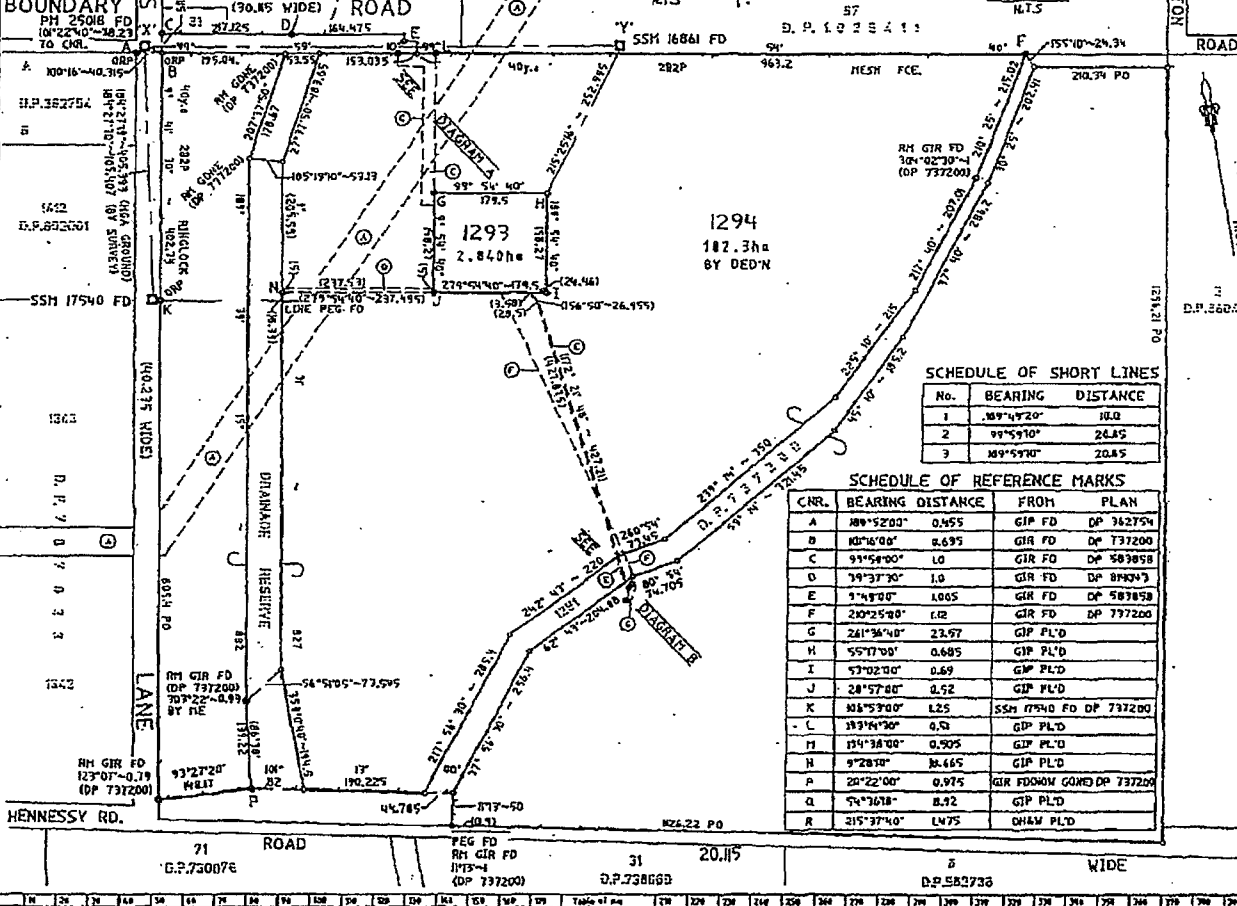
PERSONAL AND PRIVATE COPIES OF THIS PLAN ARE NOT VALID FOR ANY PURPOSES.

SEAN MERU, MARTIN  
SOLE DIRECTOR  
MILLIKEN (DUBBO) PTY LIMITED.

SURVEY PRACTICE REGULATION 2001 CLAUSE 32(2)					
MARK	EASTING	NORTHING	ZONE	CLASS	ORDER
PH 2508	653 17.045	6 428 420.121	55	B	U
SSH 1661	653 143.082	6 428 247.444	55	B	U

SOURCE: H.G.A. CO-ORDINATES ADOPTED FROM  
S.C.H.S. AT 14TH AUGUST 2002  
COMBINED SEA LEVEL & SCALE CORRECTION FACTOR 0.999845

- ① EASEMENT FOR TRANSMISSION LINE 4.572 WIDE (V.D. 130402)
- ② EASEMENT TO DRAIN WATER 40 WIDE (V.D. 81043)
- ③ EASEMENT FOR CARRIAGEWAY 20 WIDE
- ④ EASEMENT TO DRAIN WATER & SEWAGE 5 WIDE
- ⑤ EASEMENT FOR POWER SUPPLY 3 WIDE
- ⑥ EASEMENT FOR WATER SUPPLY OVER EXISTING LINE OF PIPES (APPROXIMATE POSITION)
- ⑦ EASEMENT FOR WATER & POWER SUPPLY 7 WIDE



SCHEDULE OF SHORT LINES

No.	BEARING	DISTANCE
1	N89°49'20"	10.0
2	N9°59'10"	20.45
3	N9°59'10"	20.45

SCHEDULE OF REFERENCE MARKS

CNR.	BEARING	DISTANCE	FROM	PLAN
A	N89°52'00"	0.955	GIP FD	DP 362754
B	N0°16'00"	0.635	GIP FD	DP 737200
C	N1°54'00"	1.0	GIP FD	DP 583058
D	N9°37'30"	1.0	GIP FD	DP 81043
E	N°48'00"	1.065	GIP FD	DP 583058
F	N10°25'00"	1.02	GIP FD	DP 737200
G	N21°36'40"	23.97	GIP PLD	
H	N5°17'00"	0.685	GIP PLD	
I	N7°02'00"	0.69	GIP PLD	
J	N8°57'00"	0.52	GIP PLD	
K	N16°53'00"	1.25	SSH 17540 FD	DP 737200
L	N19°14'30"	0.9	GIP PLD	
M	N19°38'00"	0.905	GIP PLD	
N	N°28'00"	N.465	GIP PLD	
O	N2°22'00"	0.975	GIP PLD	
P	N°22'00"	0.975	GIP PLD	
Q	N°37'40"	8.42	GIP PLD	
R	N15°37'40"	1.475	CH&W PLD	

DP1048439

Registered: 10-10-2003  
C.A.: SEE CERTIFICATE  
Title System: TORRENS  
Purpose: SUBDIVISION  
Ref. Map: P6425-4, 7  
Last Plan: OP 737200

PLANS OF SUBDIVISION OF LOT 1292 IN DP 737200 & EASEMENTS AFFECTING LOT 1294 IN DP 737200.

Longing are in metres. Reduction Ratio 1:5000

LGA: DUBBO  
Suburb/Locality: DUBBO  
Parish: DUBBO  
County: LINCOLN

1. WARREN RAYMOND SAUNDERS  
of TERRA CONSULTING (AUSTRALIA) PTY LTD  
FO: 08 942 0880 FAX: 08 942 0881  
I, the undersigned, being a duly qualified and licensed Surveyor under the Survey Act 1958, do hereby certify that the Survey represented in this plan is accurate, and that the same was completed in accordance with the Survey Act 1958 and was completed on 14th SEPTEMBER 2002.

Plans used in preparation of survey / map include:  
DP 737200 DP 362754 DP 737076  
DP 080493 DP 802000  
DP 547810 DP 103518  
DP 803276 DP 582736  
DP 787623 DP 736069

PAYED FOR USE ONLY for statements of intention to dedicate public roads or to create public reserves, drainage reserves, easements or restrictions on the use of land.

PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1991 AS AMENDED, IT IS INTENDED TO CREATE:  
1. RIGHT OF CARRIAGEWAY 20 WIDE (C).  
2. EASEMENT TO DRAIN WATER AND SEWAGE 5 WIDE (D).  
3. EASEMENT FOR POWER SUPPLY 3 WIDE (E).  
4. EASEMENT FOR WATER SUPPLY OVER EXISTING LINE OF PIPES (F).  
5. EASEMENT FOR WATER AND POWER SUPPLY 7 WIDE (G).  
6. POSITIVE COVENANT.  
7. RESTRICTION ON THE USE OF LAND.

APPROXIMATE POSITION

**SECTION 88B INSTRUMENT**

INSTRUMENT SETTING OUT TERMS OF EASEMENTS, POSITIVE COVENANT  
AND RESTRICTION ON THE USE OF LAND INTENDED TO BE CREATED  
PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919

Lengths are in metres

Sheet 1 of 10 Sheets

**PART I**

**DP1048439**

SUBDIVISION of Lot 1292 in Deposited  
Plan 737200 Parish of Dubbo County of  
Lincoln being the land contained in  
Certificate of Title Folio Identifier  
1292/737200 covered by Shire Clerk's  
Certificate No. 2101 / 1351

Full name and address of  
Proprietor of the land:

HILLVIEW (DUBBO) PTY LIMITED  
(ACN 008 687 623), C/- Darcy Kennedy  
Pty Limited, Accountants, 1<sup>st</sup> Floor, 157  
Brisbane Street, Dubbo NSW 2830

Full name and address of  
Mortgagee of the land:

NIL

1. **IDENTITY OF EASEMENT  
OR RESTRICTION FIRSTLY  
REFERRED TO IN ABOVE-  
MENTIONED PLAN**

Right of Carriageway 20 wide

**Schedule of Lots affected**

**Lot Burdened**

**Lot Benefited**

1294

1293

2. **IDENTITY OF EASEMENT  
OR RESTRICTION SECONDLY  
REFERRED TO IN ABOVE-  
MENTIONED PLAN**

Easement to Drain Water and Sewage 5 wide

**Schedule of Lots affected**

**Lot Burdened**

**Lot Benefited**

1294

1293

**SECTION 88B INSTRUMENT**

INSTRUMENT SETTING OUT TERMS OF EASEMENTS, POSITIVE COVENANT  
AND RESTRICTION ON THE USE OF LAND INTENDED TO BE CREATED  
PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919

Sheet 2 of 10 Sheets

**DP1048439**

**PART 1 Continued**

**Plan:**

SUBDIVISION of Lot 1292 in Deposited  
Plan 737200 Parish of Dubbo County of  
Lincoln being the land contained in  
Certificate of Title Folio Identifier  
1292/737200 covered by Shire Clerk's  
Certificate No. 2001/1351

**3. IDENTITY OF EASEMENT  
OR RESTRICTION THIRDLY  
REFERRED TO IN ABOVE-  
MENTIONED PLAN**

Easement for Power Supply 3 wide

**Schedule of Lots affected**

**Lot Burdened**

**Lot Benefited**

1294 and 1291/737200

1293

**4. IDENTITY OF EASEMENT  
OR RESTRICTION FOURTHLY  
REFERRED TO IN ABOVE-  
MENTIONED PLAN**

Easement for Water Supply Over Existing  
Line of Pipes

**Schedule of Lots affected**

**Lot Burdened**

**Lot Benefited**

1294 and 1291/737200

1293

**SECTION 88B INSTRUMENT**

INSTRUMENT SETTING OUT TERMS OF EASEMENTS, POSITIVE COVENANT  
AND RESTRICTION ON THE USE OF LAND INTENDED TO BE CREATED  
PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919

Lengths are in metres

Sheet 3 of 10 Sheets

**PART 1 Continued**

**DP1048439**

SUBDIVISION of Lot 1292 in Deposited  
Plan 737200 Parish of Dubbo County of  
Lincoln being the land contained in  
Certificate of Title Folio Identifier  
1292/737200 covered by Shire Clerk's  
Certificate No. 2001/1351

**5. IDENTITY OF EASEMENT  
OR RESTRICTION FIFTHLY  
REFERRED TO IN ABOVE-  
MENTIONED PLAN**

Easement for Water and Power Supply  
7 wide

**Schedule of Lots affected**

**Lot Burdened**

**Lot Benefited**

1294

1293

**6. IDENTITY OF EASEMENT  
OR RESTRICTION SIXTHLY  
REFERRED TO IN ABOVE-  
MENTIONED PLAN**

Positive Covenant

**Schedule of Lots affected**

**Lot Burdened**

**Authority Benefited**

1293

The Council of the City of Dubbo

## SECTION 88B INSTRUMENT

INSTRUMENT SETTING OUT TERMS OF EASEMENTS, POSITIVE COVENANT  
AND RESTRICTION ON THE USE OF LAND INTENDED TO BE CREATED  
PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919

Lengths are in metres

Sheet 4 of 10 Sheets

### PART 1 Continued

**DP1048439**

SUBDIVISION of Lot 1292 in Deposited  
Plan 737200 Parish of Dubbo County of  
Lincoln being the land contained in  
Certificate of Title Folio Identifier  
1292/737200 covered by Shire Clerk's  
Certificate No. 2001/1351

**7. IDENTITY OF EASEMENT  
OR RESTRICTION SEVENTHLY  
REFERRED TO IN ABOVE-  
MENTIONED PLAN**

Restriction on the Use of Land

#### Schedule of Lots affected

**Lot Burdened**

**Authority Benefited**

1294

The Council of the City of Dubbo

### PART 2

**1. TERMS OF EASEMENT THIRDLY REFERRED TO IN ABOVEMENTIONED  
PLAN**

Full and free right leave liberty and licence for the owner of the dominant tenement  
and every person authorised by it from time to time:

- (a) to erect construct place inspect alter repair renew maintain and use through  
along and in and remove from the servient tenement electricity transmission  
wires and cables and the supports therefore and other ancillary works for the  
transmission of electricity and for purposes incidental thereto and to repair  
inspect alter renew maintain use and remove any works of the aforementioned  
categories as are already erected constructed or placed in the servient  
tenement; and
- (b) to cause or permit electricity to flow or be transmitted through and along the  
said transmission mains wires and cables; and

**SECTION 88B INSTRUMENT**

INSTRUMENT SETTING OUT TERMS OF EASEMENTS, POSITIVE COVENANT  
AND RESTRICTION ON THE USE OF LAND INTENDED TO BE CREATED  
PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919

Lengths are in metres

Sheet 5 of 10 Sheets

**PART 2 Continued**

**DP1048439**

SUBDIVISION of Lot 1292 in Deposited  
Plan 737200 Parish of Dubbo County of  
Lincoln being the land contained in  
Certificate of Title Folio Identifier  
1292/737200 covered by Shire Clerk's  
Certificate No. 2001/1351

- (c) with or without vehicles plant and equipment to enter and be in the servient tenement for the purpose of exercising any rights granted to it or them hereunder.

And, the owner of the servient tenement from time to time will not:

- (a) do or knowingly suffer to be done any act or thing which may interfere with injure damage or destroy the said wires cables or ancillary works or any of them or obstruct prevent or interfere with the free flow of electricity through and along the said transmission wires and cables.
- (b) erect or place or permit the erection or placing in or on the servient tenement of any building structure plant or apparatus without the permission in writing of the transferee its said successors or assigns.

**2. TERMS OF EASEMENT FOURTHLY REFERRED TO IN ABVEMENTIONED PLAN**

Full and free right for the owner of the dominant tenement and every person authorised by it from time to time and at all times to convey water in any quantities across and through the land herein indicated as the servient tenement together with the right to use for the purposes of the easement any line of pipes already laid within the servient tenement for the purpose of conveying water or any pipe or pipes in replacement or in substitution therefore and where no such line of pipes exist to lay, place and maintain a line of pipes of sufficient internal diameter beneath the surface of the servient tenement and together with the right for the owner of the dominant tenement and every person authorised by it with any tools, implements or machinery necessary for the purpose to enter upon the servient

## SECTION 88B INSTRUMENT

INSTRUMENT SETTING OUT TERMS OF EASEMENTS, POSITIVE COVENANT  
AND RESTRICTION ON THE USE OF LAND INTENDED TO BE CREATED  
PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919

Lengths are in metres

Sheet 6 of 10 Sheets

### PART 2 Continued

**DP1048439**

SUBDIVISION of Lot 1292 in Deposited  
Plan 737200 Parish of Dubbo County of  
Lincoln being the land contained in  
Certificate of Title Folio Identifier  
1292/737200 covered by Shire Clerk's  
Certificate No. 2001 / 1351

tenement and to remain there for any reasonable time for the purpose of laying, inspecting, cleansing, repairing, maintaining or renewing such pipeline or any part thereof and for any of the aforesaid purposes to open the soil of the servient tenement to such extent as may be necessary PROVIDED THAT the body in whose favour this easement is created and the persons authorised by it will take all reasonable precautions to ensure as little disturbance as possible to the surface of the servient tenement and will restore that surface as nearly as practicable to its original condition.

3. TERMS OF EASEMENT FIFTHLY REFERRED TO IN ABOVEMENTIONED PLAN

- (A) Full and free right for the owner of the dominant tenement and every person authorised by it from time to time and at all times to convey water in any quantities across and through the land herein indicated as the servient tenement together with the right to use for the purposes of the easement any line of pipes already laid within the servient tenement for the purpose of conveying water or any pipe or pipes in replacement or in substitution therefore and where no such line of pipes exist to lay, place and maintain a line of pipes of sufficient internal diameter beneath the surface of the servient tenement and together with the right for the owner of the dominant tenement and every person authorised by it with any tools, implements or machinery necessary for the purpose to enter upon the servient tenement and to remain there for any reasonable time for the purpose of laying, inspecting, cleansing, repairing, maintaining or renewing such pipeline or any part thereof and for any of the aforesaid purposes to open the soil of the servient tenement to such extent as may be necessary PROVIDED THAT the body in whose favour this

**SECTION 88B INSTRUMENT**

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS, POSITIVE COVENANT  
AND RESTRICTION ON THE USE OF LAND INTENDED TO BE CREATED  
PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919**

Lengths are in metres

Sheet 7 of 10 Sheets

**PART 2 Continued**

**DP1048439**

**SUBDIVISION of Lot 1292 in Deposited  
Plan 737200 Parish of Dubbo County of  
Lincoln being the land contained in  
Certificate of Title Folio Identifier  
1292/737200 covered by Shire Clerk's  
Certificate No. 2001 / 1351**

easement is created and the persons authorised by it will take all reasonable precautions to ensure as little disturbance as possible to the surface of the servient tenement and will restore that surface as nearly as practicable to its original condition.

- (B) Full and free right leave liberty and licence for the owner of the dominant tenement and every person authorised by it from time to time:
- (a) to erect construct place inspect alter repair renew maintain and use through along and in and remove from the servient tenement electricity transmission wires and cables and the supports therefore and other ancillary works for the transmission of electricity and for purposes incidental thereto and to repair inspect alter renew maintain use and remove any works of the aforementioned categories as are already erected constructed or placed in the servient tenement; and
  - (b) to cause or permit electricity to flow or be transmitted through and along the said transmission mains wires and cables; and
  - (c) with or without vehicles plant and equipment to enter and be in the servient tenement for the purpose of exercising any rights granted to it or them hereunder.

## SECTION 88B INSTRUMENT

INSTRUMENT SETTING OUT TERMS OF EASEMENTS, POSITIVE COVENANT  
AND RESTRICTION ON THE USE OF LAND INTENDED TO BE CREATED  
PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919

Lengths are in metres

Sheet 8 of 10 Sheets

### PART 2 Continued

**DP1048439**

SUBDIVISION of Lot 1292 in Deposited  
Plan 737200 Parish of Dubbo County of  
Lincoln being the land contained in  
Certificate of Title Folio Identifier  
1292/737200 covered by Shire Clerk's  
Certificate No. 2001 / 1351

And, the owner of the servient tenement from time to time will not:

- (a) do or knowingly suffer to be done any act or thing which may interfere with injure damage or destroy the said wires cables or ancillary works or any of them or obstruct prevent or interfere with the free flow of electricity through and along the said transmission wires and cables.
- (b) erect or place or permit the erection or placing in or on the servient tenement of any building structure plant or apparatus without the permission in writing of the transferee its said successors or assigns.

4. TERMS OF POSITIVE COVENANT SIXTHLY REFERRED TO IN ABOVEMENTIONED LAND

The proprietor of the land hereby burdened shall connect the existing house erected on the subject Lot to city services (being town water supply, gravity sewerage and interallotment drainage) as soon as such services become available to the boundary of the subject Lot.

5. TERMS OF RESTRICTION ON THE USE OF LAND SEVENTHLY REFERRED TO IN ABOVEMENTIONED PLAN

That no subdivision of the subject Lot shall be approved without a separate application being lodged with Dubbo City Council and fees, headworks contributions and development conditions may be imposed. Dubbo City Council will not endorse any proposed lot layout in respect of such subdivision until the formal completion of a Development Strategy and subsequent lot layout including public exhibition and formal adoption by Dubbo City Council has been carried out.

**SECTION 88B INSTRUMENT**

INSTRUMENT SETTING OUT TERMS OF EASEMENTS, POSITIVE COVENANT  
AND RESTRICTION ON THE USE OF LAND INTENDED TO BE CREATED  
PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919

Lengths are in metres

Sheet 9 of 10 Sheets

**PART 2 Continued**

**DP1048439**

SUBDIVISION of Lot 1292 in Deposited  
Plan 737200 Parish of Dubbo County of  
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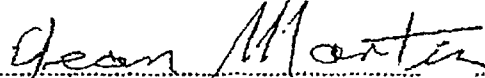
NAME OF PERSONS EMPOWERED TO RELEASE, VARY OR MODIFY THE  
TERMS OF THE EASEMENTS FIRSTLY, SECONDLY, THIRDLY, FOURTHLY  
AND FIFTHLY REFERRED TO IN ABOVEMENTIONED PLAN

The Registered Proprietors from time to time of the Lot Benefited.

NAME OF AUTHORITY EMPOWERED TO RELEASE, VARY OR MODIFY THE  
TERMS OF THE POSITIVE COVENANT AND THE RESTRICTIONS ON THE  
USE OF LAND SIXTHLY AND SEVENTHLY REFERRED TO IN  
ABOVEMENTIONED PLAN

The Council of the City of Dubbo.

EXECUTED by HILLVIEW (DUBBO) )  
PTY LIMITED in accordance with its )  
Constitution by: )

  
.....  
SOLE DIRECTOR  
JEAN MERLA MARTIN

**SECTION 88B INSTRUMENT**

INSTRUMENT SETTING OUT TERMS OF EASEMENTS, POSITIVE COVENANT  
AND RESTRICTION ON THE USE OF LAND INTENDED TO BE CREATED  
PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919

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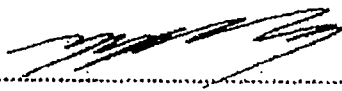
Sheet 10 of 10 Sheets


**PART 2 Continued**

**DP1048439**

SUBDIVISION of Lot 1292 in Deposited  
Plan 737200 Parish of Dubbo County of  
Lincoln being the land contained in  
Certificate of Title Folio Identifier  
1292/737200 covered by Shire Clerk's  
Certificate No.

THE COMMON SEAL OF THE COUNCIL OF )  
THE CITY OF DUBBO was hereto affixed on the )  
29<sup>th</sup> day of ~~November~~ 2002 pursuant to a )  
Resolution of Council made on the 23<sup>rd</sup> day of )  
~~SEPTEMBER~~ 2002. )

  
A. G. KELLY  
GENERAL MANAGER

  
S. K. MATTHEWS  
MAYOR

REGISTERED



90 18.2.2003

Certificate No: 105  
Applicant Ref:  
Receipt No: 81256247

19/01/2023

Orana Conveyancing  
PO Box 612  
DUBBO NSW 2830



## PLANNING CERTIFICATE

Issued under Section 10.7 (2) of the  
Environmental Planning and Assessment Act 1979

**Parcel No:** 62685  
**Property description:** Lot: 2816 DP: 1259757, 54 Azure Avenue DUBBO

### SECTION 10.7 (2) PRESCRIBED MATTERS UNDER SCHEDULE 2 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2021

At the date of the Certificate, the following LEPs, DCPs and SEPPs apply to the subject land:

**Local Environmental Plan (LEP):**

Dubbo Regional Local Environmental Plan 2022, applies to the subject land.

**State Environmental Planning Policies (SEPP):**

State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development, applies to the State.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, applies to the State.

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, applies to the State.

State Environmental Planning Policy (Housing) 2021, applies to the State.

State Environmental Planning Policy (Biodiversity and Conservation) 2021, applies to the State.

State Environmental Planning Policy (Industry and Employment) 2021, applies to the State.

State Environmental Planning Policy (Primary Production) 2021, applies to the State.

All communications to: **CHIEF EXECUTIVE OFFICER**

**ABN 53 539 070 928**

PO Box 81 Dubbo NSW 2830

T (02) 6801 4000 F (02) 6801 4259 E [council@dubbo.nsw.gov.au](mailto:council@dubbo.nsw.gov.au)

Civic Administration Building Church St Dubbo NSW 2830

W [dubbo.nsw.gov.au](http://dubbo.nsw.gov.au)



State Environmental Planning Policy (Resilience and Hazards) 2021, applies to the State.

State Environmental Planning Policy (Resources and Energy) 2021, applies to the State.

State Environmental Planning Policy (Transport and Infrastructure) 2021, applies to the State.

State Environmental Planning Policy (Planning Systems) 2021, applies to the State.

State Environmental Planning Policy (Precincts - Regional) 2021, applies to the State.

**Draft Local Environmental Planning Instrument:**

There are no Draft Local Environmental Plan affecting the subject land.

**Development Control Plan (DCP):**

Dubbo Development Control Plan 2013 including Southlakes Estate Plan 1, applies to the subject land.

**The subject land is zoned:**

Zone R2 Low Density Residential

**(1) Objectives of zone**

- \* To provide for the housing needs of the community within a low density residential environment.
- \* To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- \* To ensure development is consistent with the character of the immediate locality.
- \* To encourage low density housing within a landscaped setting on the fringe of the Dubbo urban area.

**(2) Permitted without consent**

Environmental protection works; Home-based child care; Home occupations; Roads.

**(3) Permitted with consent**

Bed and breakfast accommodation; Boarding houses; Centre-based child care facilities; Community facilities; Dwelling houses; Educational establishments; Environmental facilities; Exhibition homes; Exhibition villages; Group homes; Health consulting rooms; Home businesses; Home industries; Information and education facilities; Medical centres; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Residential accommodation; Respite day care centres; Signage; Tank-based aquaculture; Water reticulation systems.

**(4) Prohibited**

Advertising structures; Attached dwellings; Hostels; Multi dwelling housing; Residential flat buildings; Rural workers' dwellings; Shop top housing; Any other development not



specified in item 2 or 3.

Notwithstanding the above land use permissibility information indicating development 'permitted without consent'; development 'permitted with consent'; and development 'prohibited', the Dubbo Regional Local Environmental Plan 2022 provides in some circumstances additional use provisions and other relevant land use permissibility/prohibition provisions.

It is recommended that consultation of the Dubbo Regional Local Environmental Plan 2022 be undertaken to ascertain precisely the types of land uses permissible or prohibited on the land the subject of this Certificate.

**Additional Permitted Uses:**

The subject land is not identified as permitting any additional uses under Schedule 1 of the Dubbo Regional Local Environmental Plan 2022.

**Development Standards – Dwelling House:**

There are no development standards pursuant to the Dubbo Regional Local Environmental Plan 2022 that fix minimum land dimensions for the erection of a dwelling house on the subject land.

**Outstanding Biodiversity Value:**

The land does not include or comprise 'outstanding biodiversity value' under the Biodiversity Conservation Act 2016

**Conservation area:**

The land is not in a conservation area under Dubbo Regional Local Environmental Plan 2022.

**Heritage:**

A heritage item is not situated on the land under Dubbo Regional Local Environmental Plan 2022.

**Contribution Plans:**

Dubbo Water Supply and Sewerage Contributions Policy, applies to the land.

Section 94 Urban Roads and Car Parking Contributions Plan, applies to the land.

Section 94 Development Contributions Plan for Dubbo Open Space and Recreation Facilities Plan 2016-2026, applies to the land.

Section 7.11 Contributions Plan - Dubbo South-East Stormwater Drainage Headworks Contributions Plan 2019, applies to the land.

**Complying Development:**

Statement Environmental Planning Policy (Exempt and Complying Development Codes) 2008 identifies the below Codes and whether they apply to the land the subject to this Certificate.

*Part 3B. Low Rise Housing Diversity Code:*

Complying Development can be undertaken on the land under this code, as applicable.

*Part 3C. Greenfield Housing Code:*

Complying Development can be undertaken on the land under this code, as applicable.

*Part 3D. Inland Code:*

No - does not apply to the land.

*Part 4. Housing Alterations Code:*

Complying Development can be undertaken on the land under this code, as applicable.

*Part 4A. General Development Code:*

Complying Development can be undertaken on the land under this code, as applicable.

*Part 5. Industrial and Business Alterations Code:*

Complying Development can be undertaken on the land under this code, as applicable.

*Part 5A. and 5B. Industrial and Business Buildings Code and the Container Recycling Facilities Code:*

No - does not apply to the land.

*Part 6. Subdivisions Code:*

Complying Development can be undertaken on the land under this code, as applicable.

*Part 7. Demolition Code:*

Complying Development can be undertaken on the land under this code, as applicable.

*Part 8. Fire Safety Code:*

Complying Development can be undertaken on the land under this code, as applicable.

*Part 9. Agritourism and Farm Stay Accommodation Code:*

No - does not apply to the land.

It is recommended that consultation of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 be undertaken to ascertain precisely the types of development that may be undertaken as complying development under the respective Codes listed above, and the development standards under the relevant Code, on the land the subject of this Certificate.

**Exempt Development**

Exempt Development can be undertaken on land under this code, as applicable.

It is recommended that consultation of Part 2 of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 be undertaken to ascertain precisely the types of development that may be undertaken as exempt development, and the development standards for the exempt development type, on the land the subject of this Certificate

**Affected Building Notices and Building Product Rectification Orders:**

Council is not aware of any current Affected Building Notices or Building Product Rectification Orders applying to the subject land.

**Land Reserved for Acquisition:**

There is no environmental planning instrument, deemed environmental planning instrument or draft environmental planning instrument applying to the subject land that provides for the acquisition of the land by a public authority as referred to in Section 3.15 of the Environmental Planning and Assessment Act, 1979.

**Road Widening and Road Realignment:**

The land is not affected by any road widening or road realignment under:

- (a) Division 2 of Part 3 of the Roads Act 1993; or
- (b) Any environmental planning instrument; or
- (c) Any resolution of the Council.

**Flood Related Development Controls:**

The subject land is not subject to any policy adopted by Council that restricts the use of the land because of the likelihood of flooding.

**Council and Other Public Authority Policies on Hazard Risk Restrictions:**

The land the subject of this Certificate is not affected by any policy adopted by the Council that restricts the use of the land because of the likelihood of land slip, bushfire, tidal inundation, subsidence, acid sulphate soils or any other risk.

The subject land is not affected by a policy adopted by any other public authority and notified to the Council for the express purpose of its adoption by that authority being referred to in planning certificates issued by the Council, that restricts the development of the land because of the likelihood of land slip, bushfire, flooding, tidal inundation, subsidence, acid sulphate soils or any other risk.

The subject land is identified as 'groundwater vulnerability' according to the Natural Resource - Groundwater Vulnerability map of the Dubbo Regional Local Environmental Plan 2022, Clause 7.5. For further information, please contact Council's Development and Environment Division on (02) 6801 4000.

**Bushfire Prone Land:**

The subject land is not identified as Bush Fire Prone Land on the Bush Fire Prone Land Map certified by the Commissioner of the NSW Rural Fire Service under Section 10.3 of the Environmental Planning and Assessment Act, 1979 (EP&A Act 1979).

**Loose-fill Asbestos Insulation:**

Council is not aware of any current loose-fill asbestos insulation applying to the subject land.

**Mine Subsidence:**

The subject land is not within a proclaimed mine subsidence district as defined by Section 20 of the Coal Mine Subsidence Compensation Act, 2017.

**Paper Subdivision Information:**

Council is not aware of any development plan applying to the subject land.



**Property Vegetation Plans:**

Council has not been notified of the existence of a property vegetation plan approved under Part 4 the Native Vegetation Act 2003 (and that continues in force) applying to the land.

**Biodiversity Stewardship Sites:**

Council is unaware that the land is a biodiversity stewardship site under a biodiversity stewardship agreement under Part 5 of the Biodiversity Conservation Act 2016.

**Biodiversity Certified Land:**

Council is unaware of any biodiversity certified land under Part 8 of the Biodiversity Conservation Act 2016.

**Orders under Trees (Disputes Between Neighbours) Act, 2006:**

Council is not aware of any order made under the Trees (Dispute Between Neighbours) Act, 2006 applying to the subject land.

**Annual Charges under Local Government Act 1993 for coastal protection services that relate to existing coastal protection works:**

The subject land is not affected by the operation of Section 5 of the Coastal Management Act, 2016, or Section 496B of the Local Government Act, 1993, relating to coastal protection services.

**Western Sydney Aerotropolis:**

The subject land is not identified within Chapter 4 of the State Environmental Planning Policy (Precincts – Western Parkland City) 2021 as being land affected by the Western Sydney Aerotropolis.

**Development Consent Conditions for Seniors Housing:**

Council is not aware of any current Site Compatibility Certificate (Seniors Housing) or occupancy restrictions applying to the subject land.

**Site Compatibility Certificates and Development Consent Conditions for Affordable Rental Housing:**

Council is not aware of any current Site Compatibility Certificate (Affordable Rental Housing) or management/operational restrictions pertaining to affordable housing on the subject land.

**Matters arising under the Contaminated Land Management Act, 1997**

Pursuant to Section 59(2) of the Contaminated Land Management Act 1997, the subject land is:

- (a) Not within land declared to be significantly contaminated land under Part 3 of that Act;
- (b) Not subject to a Management Order in the meaning of that Act;
- (c) Not the subject of an approved Voluntary Management Proposal of the Environment Protection Authority's agreement under Section 17 of that Act;
- (d) Not subject to an ongoing Maintenance Order under Part 3 of that Act;
- (e) Not the subject of a Site Audit Statement within the meaning of Part 4 of that Act.

For further enquires, please contact Council's Customer Service Centre on 6801 4000.

A handwritten signature in black ink, appearing to read 'Stephen Wallace', with a long horizontal flourish extending to the right.

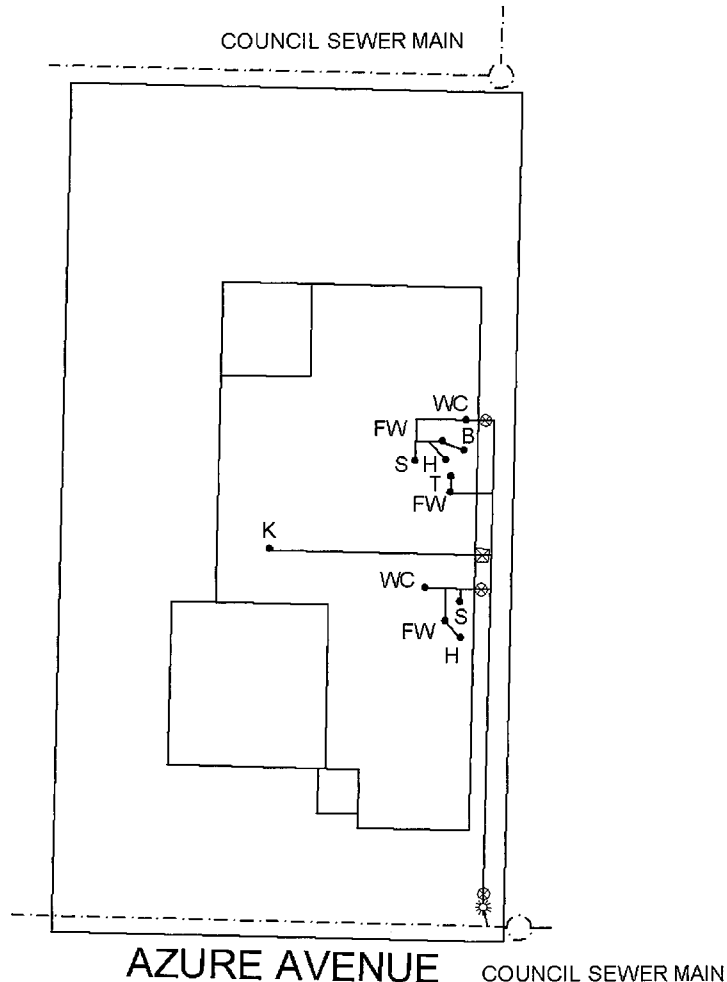
*Stephen Wallace*  
Director Planning and Environment

# PLAN OF SANITARY DRAINAGE

Parcel No. 62685 DA No. D20/646  
 Address 54 Azure Avenue, Dubbo Lot 2816 DP 1259757  
 Junction About \_\_\_\_\_ metres from downstream manhole \_\_\_\_\_ Depth \_\_\_\_\_ m



DUBBO  
REGIONAL  
COUNCIL



AAV Air Admittance Valve	☼ Boundary Shaft	GD Grated Drain	WM Washing Machine	S Shower
GW Glass Washer	⊗ Inspection Opening	R Reflux Valve	U Urinal	B Bath Waste
× Ball Joint	T Tub Waste	WC Water Closet	G Grease Trap	DW Dish Washer
⊙ Existing Main Riser	CS Cleaners Sink	FW Floor Waste	OS Oil Separator	CO Clear Out
⊠ Yard Gully	K Kitchen Sink	SP Sample Point	IV Induct Vent	TD Tundish
○ Manhole	U Urinal	H Hand Basin	V Educt Vent	C Cooling Pit
			GW Glass Washer	

Connected 30/07/21 Plumber I GRATTON  
 Amended \_\_\_\_\_ Plumber \_\_\_\_\_  
 Amended \_\_\_\_\_ Plumber \_\_\_\_\_  
 Drawn 20/01/23 AS

NOTE : COUNCIL SEWER MAIN LOCATIONS ARE INDICATIVE ONLY

PAGE 1 OF 1

SCALE 1 : 215 (A3)  
 SCALE 1 : 300 (A4)

**S.WALLACE**  
 DIRECTOR PLANNING AND ENVIRONMENT

**IMPORTANT NOTICE TO VENDORS AND PURCHASERS**

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

**WARNING—SMOKE ALARMS**

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

**WARNING—LOOSE-FILL ASBESTOS INSULATION**

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

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

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



### **Cooling off period (purchaser's rights)**

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

### **DISPUTES**

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

### **AUCTIONS**

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



**WARNINGS**

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

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



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

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

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

<i>adjustment date</i>	the earlier of the giving of possession to the purchaser or completion;
<i>adjustment figures</i>	details of the adjustments to be made to the price under clause 14;
<i>authorised Subscriber</i>	a <i>Subscriber</i> (not being a <i>party's solicitor</i> ) named in a notice served by a <i>party</i> as being authorised for the purposes of clause 20.6.8;
<i>bank</i>	the Reserve Bank of Australia or an authorised deposit-taking institution which is a bank, a building society or a credit union;
<i>business day</i>	any day except a bank or public holiday throughout NSW or a Saturday or Sunday;
<i>cheque</i>	a cheque that is not postdated or stale;
<i>clearance certificate</i>	a certificate within the meaning of s14-220 of Schedule 1 to the <i>TA Act</i> , that covers one or more days falling within the period from and including the contract date to completion;
<i>completion time</i>	the time of day at which completion is to occur;
<i>conveyancing rules</i>	the rules made under s12E of the Real Property Act 1900;
<i>deposit-bond</i>	a deposit bond or guarantee with each of the following approved by the vendor – <ul style="list-style-type: none"> <li>• the issuer;</li> <li>• the expiry date (if any); and</li> <li>• the amount;</li> </ul>
<i>depositholder</i>	vendor's agent (or if no vendor's agent is named in this contract, the vendor's <i>solicitor</i> , or if no vendor's <i>solicitor</i> is named in this contract, the buyer's agent);
<i>discharging mortgagee</i>	any discharging mortgagee, chargee, covenant chargee or caveator whose provision of a <i>Digitally Signed</i> discharge of mortgage, discharge of charge or withdrawal of caveat is required in order for unencumbered title to the <i>property</i> to be transferred to the purchaser;
<i>document of title</i>	document relevant to the title or the passing of title;
<i>ECNL</i>	the Electronic Conveyancing National Law (NSW);
<i>electronic document</i>	a dealing as defined in the Real Property Act 1900 which may be created and <i>Digitally Signed</i> in an <i>Electronic Workspace</i> ;
<i>electronic transaction</i>	a <i>Conveyancing Transaction</i> to be conducted for the <i>parties</i> by their legal representatives as <i>Subscribers</i> using an <i>ELN</i> and in accordance with the <i>ECNL</i> and the <i>participation rules</i> ;
<i>electronic transfer</i>	a transfer of land under the Real Property Act 1900 for the <i>property</i> to be prepared and <i>Digitally Signed</i> in the <i>Electronic Workspace</i> established for the purposes of the <i>parties' Conveyancing Transaction</i> ;
<i>FRCGW percentage</i>	the percentage mentioned in s14-200(3)(a) of Schedule 1 to the <i>TA Act</i> (12.5% as at 1 July 2017);
<i>FRCGW remittance</i>	a remittance which the purchaser must make under s14-200 of Schedule 1 to the <i>TA Act</i> , being the lesser of the <i>FRCGW percentage</i> of the price (inclusive of GST, if any) and the amount specified in a <i>variation served by a party</i> ;
<i>GST Act</i>	A New Tax System (Goods and Services Tax) Act 1999;
<i>GST rate</i>	the rate mentioned in s4 of A New Tax System (Goods and Services Tax Imposition - General) Act 1999 (10% as at 1 July 2000);
<i>GSTRW payment</i>	a payment which the purchaser must make under s14-250 of Schedule 1 to the <i>TA Act</i> (the price multiplied by the <i>GSTRW rate</i> );
<i>GSTRW rate</i>	the rate determined under 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, 1/11th if not);
<i>incoming mortgagee</i>	any mortgagee who is to provide finance to the purchaser on the security of the <i>property</i> and to enable the purchaser to pay the whole or part of the price;
<i>legislation</i>	an Act or a by-law, ordinance, regulation or rule made under an Act;
<i>manual transaction</i>	a <i>Conveyancing Transaction</i> in which a dealing forming part of the <i>Lodgment Case</i> at or following completion cannot be <i>Digitally Signed</i> ;
<i>normally</i>	subject to any other provision of this contract;
<i>participation rules</i>	the participation rules as determined by the <i>ECNL</i> ;
<i>party</i>	each of the vendor and the purchaser;
<i>property</i>	the land, the improvements, all fixtures and the inclusions, but not the exclusions;
<i>planning agreement</i>	a valid voluntary agreement within the meaning of s7.4 of the Environmental Planning and Assessment Act 1979 entered into in relation to the <i>property</i> ;
<i>populate</i>	to complete data fields in the <i>Electronic Workspace</i> ;

<i>requisition</i>	an objection, question or requisition (but the term does not include a claim);
<i>rescind</i>	rescind this contract from the beginning;
<i>serve</i>	serve in writing on the other <i>party</i> ;
<i>settlement cheque</i>	an unendorsed <i>cheque</i> made payable to the person to be paid and – <ul style="list-style-type: none"> <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</i> by the <i>party</i> ;
<i>TA Act</i>	Taxation Administration Act 1953;
<i>terminate</i>	terminate this contract for breach;
<i>title data</i>	the details of the title to the <i>property</i> made available to the <i>Electronic Workspace</i> by the <i>Land Registry</i> ;
<i>variation</i>	a variation made under s14-235 of Schedule 1 to the <i>TA Act</i> ;
<i>within</i>	in relation to a period, at any time before or during the period; and
<i>work order</i>	a valid direction, notice or order that requires work to be done or money to be spent on or in relation to the <i>property</i> or any adjoining footpath or road (but the term does not include a notice under s22E of the Swimming Pools Act 1992 or clause 22 of the Swimming Pools Regulation 2018).

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

## 2 Deposit and other payments before completion

- 2.1 The purchaser must pay the deposit to the *depositholder* as stakeholder.
- 2.2 *Normally*, the purchaser must pay the deposit on the making of this contract, and this time is essential.
- 2.3 If this contract requires the purchaser to pay any of the deposit by a later time, that time is also essential.
- 2.4 The purchaser can pay any of the deposit by –
- 2.4.1 giving cash (up to \$2,000) to the *depositholder*;
  - 2.4.2 unconditionally giving a *cheque* to the *depositholder* or to the vendor, vendor's agent or vendor's *solicitor* for sending to the *depositholder*; or
  - 2.4.3 electronic funds transfer to the *depositholder's* nominated account and, if requested by the vendor or the *depositholder*, providing evidence of that transfer.
- 2.5 The vendor can *terminate* if –
- 2.5.1 any of the deposit is not paid on time;
  - 2.5.2 a *cheque* for any of the deposit is not honoured on presentation; or
  - 2.5.3 a payment under clause 2.4.3 is not received in the *depositholder's* nominated account by 5.00 pm on the third *business day* after the time for payment.
- This right to *terminate* is lost as soon as the deposit is paid in full.
- 2.6 If the vendor accepts a *deposit-bond* for the deposit, clauses 2.1 to 2.5 do not apply.
- 2.7 If the vendor accepts a *deposit-bond* for part of the deposit, clauses 2.1 to 2.5 apply only to the balance.
- 2.8 If any of the deposit or of the balance of the price is paid before completion to the vendor or as the vendor directs, it is a charge on the land in favour of the purchaser until *termination* by the vendor or completion, subject to any existing right.
- 2.9 If each *party* tells the *depositholder* that the deposit is to be invested, the *depositholder* is to invest the deposit (at the risk of the *party* who becomes entitled to it) with a *bank*, in an interest-bearing account in NSW, payable at call, with interest to be reinvested, and pay the interest to the *parties* equally, after deduction of all proper government taxes and financial institution charges and other charges.

## 3 Deposit-bond

- 3.1 This clause applies only if the vendor accepts a *deposit-bond* for the deposit (or part of it).
- 3.2 The purchaser must provide the *deposit-bond* to the vendor's *solicitor* (or if no *solicitor* the *depositholder*) at or before the making of this contract and this time is essential.
- 3.3 If the *deposit-bond* has an expiry date and completion does not occur by the date which is 14 days before the expiry date, the purchaser must *serve* a replacement *deposit-bond* at least 7 days before the expiry date. The time for service is essential.
- 3.4 The vendor must approve a replacement *deposit-bond* if –
- 3.4.1 it is from the same issuer and for the same amount as the earlier *deposit-bond*; and
  - 3.4.2 it has an expiry date at least three months after its date of issue.
- 3.5 A breach of clauses 3.2 or 3.3 entitles the vendor to *terminate*. The right to *terminate* is lost as soon as –
- 3.5.1 the purchaser *serves* a replacement *deposit-bond*; or
  - 3.5.2 the deposit is paid in full under clause 2.
- 3.6 Clauses 3.3 and 3.4 can operate more than once.



- 3.7 If the purchaser serves a replacement *deposit-bond*, the vendor must serve the earlier *deposit-bond*.
- 3.8 The amount of any *deposit-bond* does not form part of the price for the purposes of clause 16.5.
- 3.9 The vendor must give the purchaser any original *deposit-bond* –
- 3.9.1 on completion; or
- 3.9.2 if this contract is *rescinded*.
- 3.10 If this contract is *terminated* by the vendor –
- 3.10.1 *normally*, the vendor can immediately demand payment from the issuer of the *deposit-bond*; or
- 3.10.2 if the purchaser serves prior to *termination* a notice disputing the vendor's right to *terminate*, the vendor must forward any original *deposit-bond* (or its proceeds if called up) to the *depositholder* as stakeholder.
- 3.11 If this contract is *terminated* by the purchaser –
- 3.11.1 *normally*, the vendor must give the purchaser any original *deposit-bond*; or
- 3.11.2 if the vendor serves prior to *termination* a notice disputing the purchaser's right to *terminate*, the vendor must forward any original *deposit-bond* (or its proceeds if called up) to the *depositholder* as stakeholder.
- 4 Electronic transaction**
- 4.1 This *Conveyancing Transaction* is to be conducted as an *electronic transaction* unless –
- 4.1.1 the contract says this transaction is a *manual transaction*, giving the reason, or
- 4.1.2 a party serves a notice stating why the transaction is a *manual transaction*, in which case the parties do not have to complete earlier than 14 days after service of the notice, and clause 21.3 does not apply to this provision,
- and in both cases clause 30 applies.
- 4.2 If, because of clause 4.1.2, this *Conveyancing Transaction* is to be conducted as a *manual transaction* –
- 4.2.1 each party must –
- bear equally any disbursements or fees; and
  - otherwise bear that party's own costs;
- incurred because this *Conveyancing Transaction* was to be conducted as an *electronic transaction*; and
- 4.2.2 if a party has paid all of a disbursement or fee which, by reason of this clause, is to be borne equally by the parties, that amount must be adjusted under clause 14.
- 4.3 The parties must conduct the *electronic transaction* –
- 4.3.1 in accordance with the *participation rules* and the *ECNL*; and
- 4.3.2 using the nominated *ELN*, unless the parties otherwise agree. This clause 4.3.2 does not prevent a party using an *ELN* which can interoperate with the nominated *ELN*.
- 4.4 A party must pay the fees and charges payable by that party to the *ELNO* and the *Land Registry*.
- 4.5 *Normally*, the vendor must *within 7 days* of the contract date create and *populate* an *Electronic Workspace* with *title data* and the date for completion, and invite the purchaser to the *Electronic Workspace*.
- 4.6 If the vendor has not created an *Electronic Workspace* in accordance with clause 4.5, the purchaser may create and *populate* an *Electronic Workspace* and, if it does so, the purchaser must invite the vendor to the *Electronic Workspace*.
- 4.7 The parties must, as applicable to their role in the *Conveyancing Transaction* and the steps taken under clauses 4.5 or 4.6 –
- 4.7.1 promptly join the *Electronic Workspace* after receipt of an invitation;
- 4.7.2 create and *populate* an *electronic transfer*;
- 4.7.3 invite any *discharging mortgagee* or *incoming mortgagee* to join the *Electronic Workspace*; and
- 4.7.4 *populate* the *Electronic Workspace* with a nominated *completion time*.
- 4.8 If the transferee in the *electronic transfer* is not the purchaser, the purchaser must give the vendor a direction signed by the purchaser personally for that transfer.
- 4.9 The vendor can require the purchaser to include a covenant or easement in the *electronic transfer* only if this contract contains the wording of the proposed covenant or easement, and a description of the land burdened and benefited.
- 4.10 If the purchaser must make a *GSTRW payment* or an *FRCGW remittance*, the purchaser must *populate* the *Electronic Workspace* with the payment details for the *GSTRW payment* or *FRCGW remittance* payable to the Deputy Commissioner of Taxation at least 2 *business days* before the date for completion.
- 4.11 Before completion, the parties must ensure that –
- 4.11.1 all *electronic documents* which a party must *Digitally Sign* to complete the *electronic transaction* are *populated* and *Digitally Signed*;
- 4.11.2 all certifications required by the *ECNL* are properly given; and
- 4.11.3 they do everything else in the *Electronic Workspace* which that party must do to enable the *electronic transaction* to proceed to completion.
- 4.12 If the computer systems of any of the *Land Registry*, the *ELNO*, Revenue NSW or the Reserve Bank of Australia are inoperative for any reason at the *completion time* agreed by the parties, a failure to complete this contract for that reason is not a default under this contract on the part of either party.



- 4.13 If the computer systems of the *Land Registry* are inoperative for any reason at the *completion time* agreed by the *parties*, and the *parties* choose that financial settlement is to occur despite this, then on financial settlement occurring –
- 4.13.1 all *electronic documents Digitally Signed* by the vendor and any discharge of mortgage, withdrawal of caveat or other *electronic document* forming part of the *Lodgment Case* for the *electronic transaction* are taken to have been unconditionally and irrevocably delivered to the purchaser or the purchaser's mortgagee at the time of financial settlement together with the right to deal with the land; and
- 4.13.2 the vendor is taken to have no legal or equitable interest in the *property*.
- 4.14 If the *parties* do not agree about the delivery before completion of one or more documents or things that cannot be delivered through the *Electronic Workspace*, the *party* required to deliver the documents or things –
- 4.14.1 holds them on completion in escrow for the benefit of; and
- 4.14.2 must immediately after completion deliver the documents or things to, or as directed by; the *party* entitled to them.
- 5 Requisitions**
- 5.1 If a form of *requisitions* is attached to this contract, the purchaser is taken to have made those *requisitions*.
- 5.2 If the purchaser is or becomes entitled to make any other *requisition*, the purchaser can make it only by *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 *Normally*, the purchaser can (but only before completion) claim compensation for an error or misdescription in this contract (as to the *property*, the title or anything else and whether substantial or not).
- 6.2 This clause applies even if the purchaser did not take notice of or rely on anything in this contract containing or giving rise to the error or misdescription.
- 6.3 However, this clause does not apply to the extent the purchaser knows the true position.
- 7 Claims by purchaser**
- Normally*, the purchaser can make a claim (including a claim under clause 6) before completion only by *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 vendor serves details of a *GSTRW payment* which the purchaser must make, the purchaser does not have to complete earlier than 5 business days after that service and clause 21.3 does not apply to this provision.
- 13.14 If the purchaser must make a *GSTRW payment* the purchaser must, at least 2 business days before the date for completion, serve evidence of submission of a *GSTRW payment* notification form to the Australian Taxation Office by the purchaser or, if a direction under either clause 4.8 or clause 30.4 has been given, by the transferee named in the transfer the subject of that direction.

**14 Adjustments**

- 14.1 *Normally*, the vendor is entitled to the rents and profits and will be liable for all rates, water, sewerage and drainage service and usage charges, land tax, levies and all other periodic outgoings up to and including the *adjustment date* after which the purchaser will be entitled and liable.
- 14.2 The *parties* must make any necessary adjustment on completion, and –
- 14.2.1 the purchaser must provide the vendor with *adjustment figures* at least 2 *business days* before the date for completion; and
- 14.2.2 the vendor must confirm the *adjustment figures* at least 1 *business day* before the date for completion.
- 14.3 If an amount that is adjustable under this contract has been reduced under *legislation*, the *parties* must on completion adjust the reduced amount.
- 14.4 The *parties* must not adjust surcharge land tax (as defined in the Land Tax Act 1956) but must adjust any other land tax for the year current at the *adjustment date* –
- 14.4.1 only if land tax has been paid or is payable for the year (whether by the vendor or by a predecessor in title) and this contract says that land tax is adjustable;
- 14.4.2 by adjusting the amount that would have been payable if at the start of the year –
- the person who owned the land owned no other land;
  - the land was not subject to a special trust or owned by a non-concessional company; and
  - if the land (or part of it) had no separate taxable value, by calculating its separate taxable value on a proportional area basis.
- 14.5 The *parties* must not adjust any first home buyer choice property tax.
- 14.6 If any other amount that is adjustable under this contract relates partly to the land and partly to other land, the *parties* must adjust it on a proportional area basis.
- 14.7 If on completion the last bill for a water, sewerage or drainage usage charge is for a period ending before the *adjustment date*, the vendor is liable for an amount calculated by dividing the bill by the number of days in the period then multiplying by the number of unbilled days up to and including the *adjustment date*.
- 14.8 The vendor is liable for any amount recoverable for work started on or before the contract date on the *property* or any adjoining footpath or road.

**15 Date for completion**

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

**16 Completion****• Vendor**

- 16.1 *Normally*, on completion the vendor must cause the legal title to the *property* (being the estate disclosed in this contract) to pass to the purchaser free of any charge, mortgage or other interest, subject to any necessary registration.
- 16.2 The legal title to the *property* does not pass before completion.
- 16.3 If the vendor gives the purchaser a document (other than the transfer) that needs to be lodged for registration, the vendor must pay the lodgment fee to the purchaser.
- 16.4 If a *party* serves a land tax certificate showing a charge on any of the land, by completion the vendor must do all things and pay all money required so that the charge is no longer effective against the land.

**• Purchaser**

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

**17 Possession**

- 17.1 *Normally*, the vendor must give the purchaser vacant possession of the *property* on completion.
- 17.2 The vendor does not have to give vacant possession if –
- 17.2.1 this contract says that the sale is subject to existing tenancies; and
- 17.2.2 the contract discloses the provisions of the tenancy (for example, by attaching a copy of the lease and any relevant memorandum or variation).
- 17.3 *Normally*, the purchaser can claim compensation (before or after completion) or *rescind* if any of the land is affected by a protected tenancy (a tenancy affected by Schedule 2, Part 7 of the Residential Tenancies Act 2010).

**18 Possession before completion**

- 18.1 This clause applies only if the vendor gives the purchaser possession of the *property* before completion.
- 18.2 The purchaser must not before completion –
- 18.2.1 let or part with possession of any of the *property*;
  - 18.2.2 make any change or structural alteration or addition to the *property*; or
  - 18.2.3 contravene any agreement between the *parties* or any direction, document, *legislation*, notice or order affecting the *property*.
- 18.3 The purchaser must until completion –
- 18.3.1 keep the *property* in good condition and repair having regard to its condition at the giving of possession; and
  - 18.3.2 allow the vendor or the vendor's authorised representative to enter and inspect it at all reasonable times.
- 18.4 The risk as to damage to the *property* passes to the purchaser immediately after the purchaser enters into possession.
- 18.5 If the purchaser does not comply with this clause, then without affecting any other right of the vendor –
- 18.5.1 the vendor can before completion, without notice, remedy the non-compliance; and
  - 18.5.2 if the vendor pays the expense of doing this, the purchaser must pay it to the vendor with interest at the rate prescribed under s101 Civil Procedure Act 2005.
- 18.6 If this contract is *rescinded* or *terminated* the purchaser must immediately vacate the *property*.
- 18.7 If the *parties* or their *solicitors* on their behalf do not agree in writing to a fee or rent, none is payable.

**19 Rescission of contract**

- 19.1 If this contract expressly gives a *party* a right to *rescind*, the *party* can exercise the right –
- 19.1.1 only by *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 4.8 or clause 30.4);
  - 20.6.2 served if it is served by the *party* or the *party's solicitor*;
  - 20.6.3 served if it is served on the *party's solicitor*, even if the *party* has died or any of them has died;
  - 20.6.4 served if it is served in any manner provided in s170 of the Conveyancing Act 1919;
  - 20.6.5 served if it is sent by email or fax to the *party's solicitor*, unless in either case it is not received;
  - 20.6.6 served on a person if it (or a copy of it) comes into the possession of the person;
  - 20.6.7 served at the earliest time it is served, if it is served more than once; and
  - 20.6.8 served if it is provided to or by the *party's solicitor* or an *authorised Subscriber* by means of an *Electronic Workspace* created under clause 4. However, this does not apply to a notice making an obligation essential, or a notice of *rescission* or *termination*.
- 20.7 An obligation to pay an expense of another *party* of doing something is an obligation to pay –
- 20.7.1 if the *party* does the thing personally - the reasonable cost of getting someone else to do it; or
  - 20.7.2 if the *party* pays someone else to do the thing - the amount paid, to the extent it is reasonable.
- 20.8 Rights under clauses 4, 11, 13, 14, 17, 24, 30 and 31 continue after completion, whether or not other rights continue.
- 20.9 The vendor does not promise, represent or state that the purchaser has any cooling off rights.
- 20.10 The vendor does not promise, represent or state that any attached survey report is accurate or current.
- 20.11 A reference to any *legislation* (including any percentage or rate specified in *legislation*) is also a reference to any corresponding later *legislation*.
- 20.12 Each *party* must do whatever is necessary after completion to carry out the *party's* obligations under this contract.
- 20.13 Neither taking possession nor *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 - 4) are, to the extent of each *party's* knowledge, true, and are part of this contract.
- 20.15 Where this contract provides for choices, a choice in BLOCK CAPITALS applies unless a different choice is marked.
- 20.16 Each *party* consents to –
- 20.16.1 any *party* signing this contract electronically; and
  - 20.16.2 the making of this contract by the exchange of counterparts delivered by email, or by such other electronic means as may be agreed in writing by the *parties*.
- 20.17 Each *party* agrees that electronic signing by a *party* identifies that *party* and indicates that *party's* intention to be bound by this contract.
- 21 Time limits in these provisions**
- 21.1 If the time for something to be done or to happen is not stated in these provisions, it is a reasonable time.
- 21.2 If there are conflicting times for something to be done or to happen, the latest of those times applies.
- 21.3 The time for one thing to be done or to happen does not extend the time for another thing to be done or to happen.
- 21.4 If the time for something to be done or to happen is the 29th, 30th or 31st day of a month, and the day does not exist, the time is instead the last day of the month.
- 21.5 If the time for something to be done or to happen is a day that is not a *business day*, the time is extended to the next *business day*, except in the case of clauses 2 and 3.2.
- 21.6 *Normally*, the time by which something must be done is fixed but not essential.
- 22 Foreign Acquisitions and Takeovers Act 1975**
- 22.1 The purchaser promises that the Commonwealth Treasurer cannot prohibit and has not prohibited the transfer under the Foreign Acquisitions and Takeovers Act 1975.
- 22.2 This promise is essential and a breach of it entitles the vendor to *terminate*.
- 23 Strata or community title**
- **Definitions and modifications**
- 23.1 This clause applies only if the land (or part of it) is a lot in a strata, neighbourhood, precinct or community scheme (or on completion is to be a lot in a scheme of that kind).
- 23.2 In this contract –
- 23.2.1 'change', in relation to a scheme, means –
    - a registered or registrable change from by-laws set out in this contract;
    - a change from a development or management contract or statement set out in this contract; or
    - a change in the boundaries of common property;
  - 23.2.2 'common property' includes association property for the scheme or any higher scheme;
  - 23.2.3 'contribution' includes an amount payable under a by-law;
  - 23.2.4 'information certificate' includes a certificate under s184 Strata Schemes Management Act 2015 and s171 Community Land Management Act 2021;
  - 23.2.5 'interest notice' includes a strata interest notice under s22 Strata Schemes Management Act 2015 and an association interest notice under s20 Community Land Management Act 2021;
  - 23.2.6 'normal expenses', in relation to an owners corporation for a scheme, means normal operating expenses usually payable from the administrative fund of an owners corporation for a scheme of the same kind;
  - 23.2.7 'owners corporation' means the owners corporation or the association for the scheme or any higher scheme;
  - 23.2.8 'the *property*' includes any interest in common property for the scheme associated with the lot; and
  - 23.2.9 'special expenses', in relation to an owners corporation, means its actual, contingent or expected expenses, except to the extent they are –
    - normal expenses;
    - due to fair wear and tear;
    - disclosed in this contract; or
    - covered by moneys held in the capital works fund.
- 23.3 Clauses 11, 14.8 and 18.4 do not apply to an obligation of the owners corporation, or to property insurable by it.
- 23.4 Clauses 14.4.2 and 14.6 apply but on a unit entitlement basis instead of an area basis.
- **Adjustments and liability for expenses**
- 23.5 The *parties* must adjust under clause 14.1 –
- 23.5.1 a regular periodic contribution;
  - 23.5.2 a contribution which is not a regular periodic contribution but is disclosed in this contract; and
  - 23.5.3 on a unit entitlement basis, any amount paid by the vendor for a normal expense of the owners corporation to the extent the owners corporation has not paid the amount to the vendor.

- 23.6 If a contribution is not a regular periodic contribution and is not disclosed in this contract –
- 23.6.1 the vendor is liable for it if it was determined on or before the contract date, even if it is payable by instalments; and
- 23.6.2 the purchaser is liable for all contributions determined after the contract date.
- 23.7 The vendor must pay or allow to the purchaser on completion the amount of any unpaid contributions for which the vendor is liable under clause 23.6.1.
- 23.8 *Normally*, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of –
- 23.8.1 an existing or future actual, contingent or expected expense of the owners corporation;
- 23.8.2 a proportional unit entitlement of the lot or a relevant lot or former lot, apart from a claim under clause 6; or
- 23.8.3 a past or future change in the scheme or a higher scheme.
- 23.9 However, the purchaser can *rescind* if –
- 23.9.1 the special expenses of the owners corporation at the later of the contract date and the creation of the owners corporation when calculated on a unit entitlement basis (and, if more than one lot or a higher scheme is involved, added together), less any contribution paid by the vendor, are more than 1% of the price;
- 23.9.2 in the case of the lot or a relevant lot or former lot in a higher scheme, a proportional unit entitlement for the lot is disclosed in this contract but the lot has a different proportional unit entitlement at the contract date or at any time before completion;
- 23.9.3 a change before the contract date or before completion in the scheme or a higher scheme materially prejudices the purchaser and is not disclosed in this contract; or
- 23.9.4 a resolution is passed by the owners corporation before the contract date or before completion to give to the owners in the scheme for their consideration a strata renewal plan that has not lapsed at the contract date and there is not attached to this contract a strata renewal proposal or the strata renewal plan.
- **Notices, certificates and inspections**
- 23.10 Before completion, the purchaser must serve a copy of an interest notice addressed to the owners corporation and signed by the purchaser.
- 23.11 After completion, the purchaser must insert the date of completion in the interest notice and send it to the owners corporation.
- 23.12 The vendor can complete and send the interest notice as agent for the purchaser.
- 23.13 The vendor must serve at least 7 days before the date for completion, an information certificate for the lot, the scheme or any higher scheme which relates to a period in which the date for completion falls.
- 23.14 The purchaser does not have to complete earlier than 7 days after *service* of the information certificate and clause 21.3 does not apply to this provision. On completion the purchaser must pay the vendor the prescribed fee for the information certificate.
- 23.15 The vendor authorises the purchaser to apply for the purchaser's own information certificate.
- 23.16 The vendor authorises the purchaser to apply for and make an inspection of any record or other document in the custody or control of the owners corporation or relating to the scheme or any higher scheme.
- **Meetings of the owners corporation**
- 23.17 If a general meeting of the owners corporation is convened before completion –
- 23.17.1 if the vendor receives notice of it, the vendor must immediately notify the purchaser of it; and
- 23.17.2 after the expiry of any cooling off period, the purchaser can require the vendor to appoint the purchaser (or the purchaser's nominee) to exercise any voting rights of the vendor in respect of the lot at the meeting.

## 24 Tenancies

- 24.1 If a tenant has not made a payment for a period preceding or current at the *adjustment date* –
- 24.1.1 for the purposes of clause 14.2, the amount is to be treated as if it were paid; and
- 24.1.2 the purchaser assigns the debt to the vendor on completion and will if required give a further assignment at the vendor's expense.
- 24.2 If a tenant has paid in advance of the *adjustment date* any periodic payment in addition to rent, it must be adjusted as if it were rent for the period to which it relates.
- 24.3 If the *property* is to be subject to a tenancy on completion or is subject to a tenancy on completion –
- 24.3.1 the vendor authorises the purchaser to have any accounting records relating to the tenancy inspected and audited and to have any other document relating to the tenancy inspected;
- 24.3.2 the vendor must serve any information about the tenancy reasonably requested by the purchaser before or after completion; and
- 24.3.3 *normally*, the purchaser can claim compensation (before or after completion) if –
- a disclosure statement required by the Retail Leases Act 1994 was not given when required;
  - such a statement contained information that was materially false or misleading;
  - a provision of the lease is not enforceable because of a non-disclosure in such a statement; or
  - the lease was entered into in contravention of the Retail Leases Act 1994.



- 24.4 If the *property* is subject to a tenancy on completion –
- 24.4.1 the vendor must allow or transfer –
- any remaining bond money or any other security against the tenant's default (to the extent the security is transferable);
  - any money in a fund established under the lease for a purpose and compensation for any money in the fund or interest earned by the fund that has been applied for any other purpose; and
  - any money paid by the tenant for a purpose that has not been applied for that purpose and compensation for any of the money that has been applied for any other purpose;
- 24.4.2 if the security is not transferable, each *party* must do everything reasonable to cause a replacement security to issue for the benefit of the purchaser and the vendor must hold the original security on trust for the benefit of the purchaser until the replacement security issues;
- 24.4.3 the vendor must give to the purchaser –
- at least 2 *business days* before the date for completion, a proper notice of the transfer (an attornment notice) addressed to the tenant, to be held by the purchaser in escrow until completion;
  - any certificate given under the Retail Leases Act 1994 in relation to the tenancy;
  - a copy of any disclosure statement given under the Retail Leases Act 1994;
  - a copy of any document served on the tenant under the lease and written details of its service, if the document concerns the rights of the landlord or the tenant after completion; and
  - any document served by the tenant under the lease and written details of its service, if the document concerns the rights of the landlord or the tenant after completion;
- 24.4.4 the vendor must comply with any obligation to the tenant under the lease, to the extent it is to be complied with by completion; and
- 24.4.5 the purchaser must comply with any obligation to the tenant under the lease, to the extent that the obligation is disclosed in this contract and is to be complied with after completion.
- 25 Qualified title, limited title and old system title**
- 25.1 This clause applies only if the land (or part of it) –
- 25.1.1 is under qualified, limited or old system title; or
- 25.1.2 on completion is to be under one of those titles.
- 25.2 The vendor must *serve* a proper abstract of title *within 7 days* after the contract date.
- 25.3 If an abstract of title or part of an abstract of title is attached to this contract or has been lent by the vendor to the purchaser before the contract date, the abstract or part is *served* on the contract date.
- 25.4 An abstract of title can be or include a list of documents, events and facts arranged (apart from a will or codicil) in date order, if the list in respect of each document –
- 25.4.1 shows its date, general nature, names of parties and any registration number; and
- 25.4.2 has attached a legible photocopy of it or of an official or registration copy of it.
- 25.5 An abstract of title –
- 25.5.1 must start with a good root of title (if the good root of title must be at least 30 years old, this means 30 years old at the contract date);
- 25.5.2 in the case of a leasehold interest, must include an abstract of the lease and any higher lease;
- 25.5.3 *normally*, need not include a Crown grant; and
- 25.5.4 need not include anything evidenced by the Register kept under the Real Property Act 1900.
- 25.6 In the case of land under old system title –
- 25.6.1 in this contract 'transfer' means conveyance;
- 25.6.2 the purchaser does not have to *serve* the transfer until after the vendor has *served* a proper abstract of title; and
- 25.6.3 each vendor must give proper covenants for title as regards that vendor's interest.
- 25.7 In the case of land under limited title but not under qualified title –
- 25.7.1 *normally*, the abstract of title need not include any document which does not show the location, area or dimensions of the land (for example, by including a metes and bounds description or a plan of the land);
- 25.7.2 clause 25.7.1 does not apply to a document which is the good root of title; and
- 25.7.3 the vendor does not have to provide an abstract if this contract contains a delimitation plan (whether in registrable form or not).
- 25.8 On completion the vendor must give the purchaser any *document of title* that relates only to the *property*.
- 25.9 If on completion the vendor has possession or control of a *document of title* that relates also to other property, the vendor must produce it as and where necessary.
- 25.10 The vendor must give a proper covenant to produce where relevant.
- 25.11 The vendor does not have to produce or covenant to produce a document that is not in the possession of the vendor or a mortgagee.
- 25.12 If the vendor is unable to produce an original document in the chain of title, the purchaser will accept a photocopy from the *Land Registry* of the registration copy of that document.

**26 Crown purchase money**

- 26.1 This clause applies only if purchase money is payable to the Crown, whether or not due for payment.  
 26.2 The vendor is liable for the money, except to the extent this contract says the purchaser is liable for it.  
 26.3 To the extent the vendor is liable for it, the vendor is liable for any interest until completion.  
 26.4 To the extent the purchaser is liable for it, the *parties* must adjust any interest under clause 14.

**27 Consent to transfer**

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

**28 Unregistered plan**

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

**29 Conditional contract**

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

- 29.8 If the *parties* cannot lawfully complete without the event happening –
- 29.8.1 if the event does not happen *within* the time for it to happen, either *party* can *rescind*;
- 29.8.2 if the event involves an approval and an application for the approval is refused, either *party* can *rescind*;
- 29.8.3 the date for completion becomes the later of the date for completion and 21 days after either *party* serves notice of the event happening.
- 29.9 A *party* cannot *rescind* under clauses 29.7 or 29.8 after the event happens.

### 30 Manual transaction

- 30.1 This clause applies if this transaction is to be conducted as a *manual transaction*.
- **Transfer**
- 30.2 *Normally*, the purchaser must *serve* the transfer at least 7 days before the date for completion.
- 30.3 If any information needed for the transfer is not disclosed in this contract, the vendor must *serve* it.
- 30.4 If the purchaser *serves* a transfer and the transferee is not the purchaser, the purchaser must give the vendor a direction signed by the purchaser personally for that transfer.
- 30.5 The vendor can require the purchaser to include a covenant or easement in the transfer only if this contract contains the wording of the proposed covenant or easement, and a description of the land burdened and benefited.
- **Place for completion**
- 30.6 *Normally*, the *parties* must complete at the completion address, which is –
- 30.6.1 if a special completion address is stated in this contract - that address; or
- 30.6.2 if none is stated, but a first mortgagee is disclosed in this contract and the mortgagee would usually discharge the mortgage at a particular place - that place; or
- 30.6.3 in any other case - the vendor's *solicitor's* address stated in this contract.
- 30.7 The vendor by reasonable notice can require completion at another place, if it is in NSW, but the vendor must pay the purchaser's additional expenses, including any agency or mortgagee fee.
- 30.8 If the purchaser requests completion at a place that is not the completion address, and the vendor agrees, the purchaser must pay the vendor's additional expenses, including any agency or mortgagee fee.
- **Payments on completion**
- 30.9 On completion the purchaser must pay to the vendor the amounts referred to in clauses 16.5.1 and 16.5.2, by cash (up to \$2,000) or *settlement cheque*.
- 30.10 *Normally*, the vendor can direct the purchaser to produce a *settlement cheque* on completion to pay an amount adjustable under this contract and if so –
- 30.10.1 the amount is to be treated as if it were paid; and
- 30.10.2 the *cheque* must be forwarded to the payee immediately after completion (by the purchaser if the *cheque* relates only to the *property* or by the vendor in any other case).
- 30.11 If the vendor requires more than 5 *settlement cheques*, the vendor must pay \$10 for each extra *cheque*.
- 30.12 If the purchaser must make a *GSTRW payment* the purchaser must –
- 30.12.1 produce on completion a *settlement cheque* for the *GSTRW payment* payable to the Deputy Commissioner of Taxation;
- 30.12.2 forward the *settlement cheque* to the payee immediately after completion; and
- 30.12.3 serve evidence of receipt of payment of the *GSTRW payment* and a copy of the settlement date confirmation form submitted to the Australian Taxation Office.
- 30.13 If the purchaser must pay an *FRCGW remittance*, the purchaser must –
- 30.13.1 produce on completion a *settlement cheque* for the *FRCGW remittance* payable to the Deputy Commissioner of Taxation;
- 30.13.2 forward the *settlement cheque* to the payee immediately after completion; and
- 30.13.3 serve evidence of receipt of payment of the *FRCGW remittance*.

### 31 Foreign Resident Capital Gains Withholding

- 31.1 This clause applies only if –
- 31.1.1 the sale is not an excluded transaction within the meaning of s14-215 of Schedule 1 to the *TA Act*; and
- 31.1.2 a *clearance certificate* in respect of every vendor is not attached to this contract.
- 31.2 If the vendor *serves* any *clearance certificate* or *variation*, the purchaser does not have to complete earlier than 5 *business days* after that *service* and clause 21.3 does not apply to this provision.
- 31.3 The purchaser must at least 2 *business days* before the date for completion, *serve* evidence of submission of a purchaser payment notification to the Australian Taxation Office by the purchaser or, if a direction under either clause 4.8 or clause 30.4 has been given, by the transferee named in the transfer the subject of that direction.
- 31.4 The vendor cannot refuse to complete if the purchaser complies with clause 31.3 and, as applicable, clauses 4.10 or 30.13.
- 31.5 If the vendor *serves* in respect of every vendor either a *clearance certificate* or a *variation* to 0.00 percent, clauses 31.3 and 31.4 do not apply.



**32 Residential off the plan contract**

- 32.1 This clause applies if this contract is an off the plan contract within the meaning of Division 10 of Part 4 of the Conveyancing Act 1919 (the Division).
- 32.2 No provision of this contract has the effect of excluding, modifying or restricting the operation of the Division.
- 32.3 If the purchaser makes a claim for compensation under the terms prescribed by sections 4 to 6 of Schedule 3 to the Conveyancing (Sale of Land) Regulation 2022 –
- 32.3.1 the purchaser cannot make a claim under this contract about the same subject matter, including a claim under clauses 6 or 7; and
- 32.3.2 the claim for compensation is not a claim under this contract.

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