

Contract for the sale and purchase of land 2016 edition

TERM	MEANING OF TERM	NSW Duty:
vendor's agent	RICHARDSON & WRENCH DAPTO 59 Princes Highway, Dapto 2530	phone 02 4261 3822 fax 02 4262 1640 ref Alan Chaffers
co-agent	Not Applicable	
vendor	JOMAND PTY LTD (A.C.N. 137 226 530) 3/172 Cowper Street, Warrawong 2502	
vendor's solicitor	STACKS HEARD McEWAN 91 Crown Street, Wollongong 2500 DX 27848 WOLLONGONG COURT	phone 02 4254 5222 fax 02 4254 5221 ref PPF:170791
date for completion	In accordance with clause 36 (clause 15)	
land (address, plan details and title reference)	LOT _____ "GREENVIEW ESTATE", HORSLEY Proposed Lot _____ in an unregistered plan which is part of Lot 1 in Deposited Plan 607456 Part folio identifier 1/607456 <input checked="" type="checkbox"/> VACANT POSSESSION <input type="checkbox"/> subject to existing tenancies	
improvements	<input type="checkbox"/> HOUSE <input type="checkbox"/> garage <input type="checkbox"/> carport <input type="checkbox"/> home unit <input type="checkbox"/> carspace <input type="checkbox"/> storage space <input checked="" type="checkbox"/> none <input type="checkbox"/> other:	
attached copies	<input checked="" type="checkbox"/> documents in the List of Documents as marked or numbered: <input type="checkbox"/> other documents:	

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

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

buyer's agent

vendor

witness

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

purchaser

JOINT TENANTS tenants in common in unequal shares

witness

Choices

- vendor agrees to accept a **deposit bond** (clause 3) NO yes
proposed electronic transaction (clause 30) NO yes
 parties agree that the deposit be invested (clause 2.9) NO yes

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

- land tax is adjustable NO yes
GST: Taxable supply NO yes in full yes to an extent
 margin scheme will be used in making the taxable supply NO yes
 This sale is not a taxable supply because (one or more of the following may apply) the sale is:
 not made in the course or furtherance of an enterprise that the vendor carries on (section 9-5(b))
 by a vendor who is neither registered nor required to be registered for GST (section 9-5(d))
 GST-free because the sale is the supply of a going concern under section 38-325
 GST-free because the sale is subdivided farm land or farm land supplied for farming under Subdivision 38-O
 input taxed because the sale is of eligible residential premises (sections 40-65, 40-75(2) and 195-1)

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

List of Documents

General	Strata or community title (clause 23 of the contract)
<input type="checkbox"/> 1 property certificate for the land	<input type="checkbox"/> 29 property certificate for strata common property
<input type="checkbox"/> 2 plan of the land	<input type="checkbox"/> 30 plan creating strata common property
<input checked="" type="checkbox"/> 3 unregistered plan of the land	<input type="checkbox"/> 31 strata by-laws not set out in <i>legislation</i>
<input checked="" type="checkbox"/> 4 plan of land to be subdivided	<input type="checkbox"/> 32 strata development contract or statement
<input type="checkbox"/> 5 document that is to be lodged with a relevant plan	<input type="checkbox"/> 33 strata management statement
<input checked="" type="checkbox"/> 6 section 149(2) certificate (Environmental Planning and Assessment Act 1979)	<input type="checkbox"/> 34 leasehold strata - lease of lot and common property
<input checked="" type="checkbox"/> 7 section 149(5) information included in that certificate	<input type="checkbox"/> 35 property certificate for neighbourhood property
<input checked="" type="checkbox"/> 8 service location diagram (pipes)	<input type="checkbox"/> 36 plan creating neighbourhood property
<input type="checkbox"/> 9 sewerage service diagram (property sewerage diagram)	<input type="checkbox"/> 37 neighbourhood development contract
<input checked="" type="checkbox"/> 10 document that created or may have created an easement, profit à prendre, restriction on use or positive covenant disclosed in this contract	<input type="checkbox"/> 38 neighbourhood management statement
<input type="checkbox"/> 11 section 88G certificate (positive covenant)	<input type="checkbox"/> 39 property certificate for precinct property
<input type="checkbox"/> 12 survey report	<input type="checkbox"/> 40 plan creating precinct property
<input type="checkbox"/> 13 building certificate given under <i>legislation</i>	<input type="checkbox"/> 41 precinct development contract
<input type="checkbox"/> 14 insurance certificate (Home Building Act 1989)	<input type="checkbox"/> 42 precinct management statement
<input type="checkbox"/> 15 brochure or warning (Home Building Act 1989)	<input type="checkbox"/> 43 property certificate for community property
<input type="checkbox"/> 16 lease (with every relevant memorandum or variation)	<input type="checkbox"/> 44 plan creating community property
<input type="checkbox"/> 17 other document relevant to tenancies	<input type="checkbox"/> 45 community development contract
<input type="checkbox"/> 18 old system document	<input type="checkbox"/> 46 community management statement
<input type="checkbox"/> 19 Crown purchase statement of account	<input type="checkbox"/> 47 document disclosing a change of by-laws
<input type="checkbox"/> 20 building management statement	<input type="checkbox"/> 48 document disclosing a change in a development or management contract or statement
<input type="checkbox"/> 21 form of requisitions	<input type="checkbox"/> 49 document disclosing a change in boundaries
<input type="checkbox"/> 22 <i>clearance certificate</i>	<input type="checkbox"/> 50 certificate under Management Act – section 109 (Strata Schemes)
<input type="checkbox"/> 23 land tax certificate	<input type="checkbox"/> 51 certificate under Management Act – section 26 (Community Land)
Swimming Pools Act 1992	Other
<input type="checkbox"/> 24 certificate of compliance	<input type="checkbox"/> 52 Other:
<input type="checkbox"/> 25 evidence of registration	
<input type="checkbox"/> 26 relevant occupation certificate	
<input type="checkbox"/> 27 certificate of non-compliance	
<input type="checkbox"/> 28 detailed reasons of non-compliance	

WARNING— SWIMMING POOLS

An owner of a property on which a swimming pool is situated must ensure that the pool complies with the requirements of the *Swimming Pools Act 1992*. Penalties apply. Before purchasing a property on which a swimming pool is situated, a purchaser is strongly advised to ensure that the swimming pool complies with the requirements of that Act.

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.

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.

COOLING OFF PERIOD (PURCHASER'S RIGHTS)

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

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:

<p>Australian Taxation Office Council County Council Department of Planning and Environment Department of Primary Industries East Australian Pipeline Limited Electricity and gas authority Land & Housing Corporation Local Land Services Mine Subsidence Board</p>	<p>NSW Department of Education NSW Fair Trading NSW Public Works Office of Environment and Heritage Owner of adjoining land Privacy Roads and Maritime Services Telecommunications authority Transport for NSW Water, sewerage or drainage authority</p>
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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 may become payable when the transfer is registered.
4. If a consent to transfer is required under legislation, see clause 27 as to the obligations of the parties.
5. The vendor should continue the vendor's insurance until completion. If the vendor wants to give the purchaser possession before completion, the vendor should first ask the insurer to confirm this will not affect the insurance.
6. The purchaser will usually have to pay stamp duty on this contract. If duty is not paid on time, a purchaser may incur penalties.
7. If the purchaser agrees to the release of deposit, the purchaser's right to recover the deposit may stand behind the rights of others (for example the vendor's mortgagee).
8. The purchaser should arrange insurance as appropriate.
9. Some transactions involving personal property may be affected by the Personal Property Securities Act 2009.
10. A purchaser should be satisfied that finance will be available at the time of completing the purchase.
11. Where the market value of the property is \$2 million or more, 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.

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 or mediation (for example mediation under the Law Society Mediation Model and Guidelines).

AUCTIONS

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

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

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

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

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

2 Deposit and other payments before completion

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

3 Deposit-bond

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

4 Transfer

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

5 Requisitions

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

6 Error or misdescription

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

7 Claims by purchaser

- The purchaser can make a claim (including a claim under clause 6) before completion only by *serving* it with a statement of the amount claimed, and if the purchaser makes one or more claims before completion –
- 7.1 the vendor can *rescind* if in the case of claims that are not claims for delay –
- 7.1.1 the total amount claimed exceeds 5% of the price;
 - 7.1.2 the vendor *serves* notice of intention to *rescind*; and
 - 7.1.3 the purchaser does not *serve* notice waiving the claims *within* 14 days after that *service*; and

- 7.2 if the vendor does not *rescind*, the *parties* must complete and if this contract is completed –
- 7.2.1 the lesser of the total amount claimed and 10% of the price must be paid out of the price to and held by the *depositholder* until the claims are finalised or lapse;
- 7.2.2 the amount held is to be invested in accordance with clause 2.9;
- 7.2.3 the claims must be finalised by an arbitrator appointed by the *parties* or, if an appointment is not made *within* 1 month of completion, by an arbitrator appointed by the President of the Law Society at the request of a *party* (in the latter case the *parties* are bound by the terms of the Conveyancing Arbitration Rules approved by the Law Society as at the date of the appointment);
- 7.2.4 the purchaser is not entitled, in respect of the claims, to more than the total amount claimed and the costs of the purchaser;
- 7.2.5 net interest on the amount held must be paid to the *parties* in the same proportion as the amount held; 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.
- 8 Vendor's rights and obligations**
- 8.1 The vendor can *rescind* if –
- 8.1.1 the vendor is, on reasonable grounds, unable or unwilling to comply with a *requisition*;
- 8.1.2 the vendor *serves* a notice of intention to *rescind* that specifies the *requisition* and those grounds; and
- 8.1.3 the purchaser does not *serve* a notice waiving the *requisition within* 14 days after that *service*.
- 8.2 If the vendor does not comply with this contract (or a notice under or relating to it) in an essential respect, the purchaser can *terminate* by *servicing* a notice. After the *termination* –
- 8.2.1 the purchaser can recover the deposit and any other money paid by the purchaser under this contract;
- 8.2.2 the purchaser can sue the vendor to recover damages for breach of contract; and
- 8.2.3 if the purchaser has been in possession a *party* can claim for a reasonable adjustment.
- 9 Purchaser's default**
- If the purchaser does not comply with this contract (or a notice under or relating to it) in an essential respect, the vendor can *terminate* by *servicing* a notice. After the *termination* the vendor can –
- 9.1 keep or recover the deposit (to a maximum of 10% of the price);
- 9.2 hold any other money paid by the purchaser under this contract as security for anything recoverable under this clause –
- 9.2.1 for 12 months after the *termination*; or
- 9.2.2 if the vendor commences proceedings under this clause *within* 12 months, until those proceedings are concluded; and
- 9.3 sue the purchaser either –
- 9.3.1 where the vendor has resold the *property* under a contract made *within* 12 months after the *termination*, to recover –
- the deficiency on resale (with credit for any of the deposit kept or recovered and after allowance for any capital gains tax or goods and services tax payable on anything recovered under this clause); and
 - the reasonable costs and expenses arising out of the purchaser's non-compliance with this contract or the notice and of resale and any attempted resale; or
- 9.3.2 to recover damages for breach of contract.
- 10 Restrictions on rights of purchaser**
- 10.1 The purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of –
- 10.1.1 the ownership or location of any fence as defined in the Dividing Fences Act 1991;
- 10.1.2 a service for the *property* being a joint service or passing through another property, or any service for another property passing through the *property* ('service' includes air, communication, drainage, electricity, garbage, gas, oil, radio, sewerage, telephone, television or water service);
- 10.1.3 a wall being or not being a party wall in any sense of that term or the *property* being affected by an easement for support or not having the benefit of an easement for support;
- 10.1.4 any change in the *property* due to fair wear and tear before completion;
- 10.1.5 a promise, representation or statement about this contract, the *property* or the title, not set out or referred to in this contract;
- 10.1.6 a condition, exception, reservation or restriction in a Crown grant;
- 10.1.7 the existence of any authority or licence to explore or prospect for gas, minerals or petroleum;
- 10.1.8 any easement or restriction on use the substance of either of which is disclosed in this contract or any non-compliance with the easement or restriction on use; or
- 10.1.9 anything the substance of which is disclosed in this contract (except a caveat, charge, mortgage 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 In this clause, enterprise, input tax credit, margin scheme, supply of a going concern, tax invoice and taxable supply have the same meanings as in the *GST Act*.
- 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, pay an expense of another party or pay an amount 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 amount; but
- 13.3.2 if this contract says this sale is a taxable supply, and payment would entitle the *party* to an input tax credit, the adjustment or payment is to be worked out by deducting any input tax credit to which the party receiving the adjustment is or was entitled and adding 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, 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.

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

15 Date for completion

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

16 Completion

• Vendor

- 16.1 On completion the vendor must give the purchaser any *document of title* that relates only to the *property*.
- 16.2 If on completion the vendor has possession or control of a *document of title* that relates also to other property, the vendor must produce it as and where necessary.

- 16.3 *Normally*, on completion the vendor must cause the legal title to the *property* (being an estate in fee simple) to pass to the purchaser free of any mortgage or other interest, subject to any necessary registration.
- 16.4 The legal title to the *property* does not pass before completion.
- 16.5 If the vendor gives the purchaser a document (other than the transfer) that needs to be lodged for registration, the vendor must pay the lodgment fee to the purchaser, plus another 20% of that fee.
- 16.6 If a *party serves* a land tax certificate showing a charge on any of the land, on completion the vendor must give the purchaser a land tax certificate showing the charge is no longer effective against the land.
- **Purchaser**
- 16.7 On completion the purchaser must pay to the vendor, by cash (up to \$2,000) or *settlement cheque* –
- 16.7.1 the price less:
- any deposit paid;
 - if clause 31 applies, the *remittance amount*; and
 - any amount payable by the vendor to the purchaser under this contract; and
- 16.7.2 any other amount payable by the purchaser under this contract.
- 16.8 If the vendor requires more than 5 *settlement cheques*, the vendor must pay \$10 for each extra *cheque*.
- 16.9 If any of the deposit is not covered by a bond or guarantee, on completion the purchaser must give the vendor an order signed by the purchaser authorising the *depositholder* to account to the vendor for the deposit.
- 16.10 On completion the deposit belongs to the vendor.
- **Place for completion**
- 16.11 *Normally*, the *parties* must complete at the completion address, which is –
- 16.11.1 if a special completion address is stated in this contract - that address; or
- 16.11.2 if none is stated, but a first mortgagee is disclosed in this contract and the mortgagee would usually discharge the mortgage at a particular place - that place; or
- 16.11.3 in any other case - the vendor's *solicitor's* address stated in this contract.
- 16.12 The vendor by reasonable notice can require completion at another place, if it is in NSW, but the vendor must pay the purchaser's additional expenses, including any agency or mortgagee fee.
- 16.13 If the purchaser requests completion at a place that is not the completion address, and the vendor agrees, the purchaser must pay the vendor's additional expenses, including any agency or mortgagee fee.
- 17 Possession**
- 17.1 *Normally*, the vendor must give the purchaser vacant possession of the *property* on completion.
- 17.2 The vendor does not have to give vacant possession if –
- 17.2.1 this contract says that the sale is subject to existing tenancies; and
- 17.2.2 the contract discloses the provisions of the tenancy (for example, by attaching a copy of the lease and any relevant memorandum or variation).
- 17.3 *Normally*, the purchaser can claim compensation (before or after completion) or *rescind* if any of the land is affected by a protected tenancy (a tenancy affected by Part 2, 3, 4 or 5 Landlord and Tenant (Amendment) Act 1948).
- 18 Possession before completion**
- 18.1 This clause applies only if the vendor gives the purchaser possession of the *property* before completion.
- 18.2 The purchaser must not before completion –
- 18.2.1 let or part with possession of any of the *property*;
- 18.2.2 make any change or structural alteration or addition to the *property*; or
- 18.2.3 contravene any agreement between the *parties* or any direction, document, *legislation*, notice or order affecting the *property*.
- 18.3 The purchaser must until completion –
- 18.3.1 keep the *property* in good condition and repair having regard to its condition at the giving of possession; and
- 18.3.2 allow the vendor or the vendor's authorised representative to enter and inspect it at all reasonable times.
- 18.4 The risk as to damage to the *property* passes to the purchaser immediately after the purchaser enters into possession.
- 18.5 If the purchaser does not comply with this clause, then without affecting any other right of the vendor –
- 18.5.1 the vendor can before completion, without notice, remedy the non-compliance; and
- 18.5.2 if the vendor pays the expense of doing this, the purchaser must pay it to the vendor with interest at the rate prescribed under s101 Civil Procedure Act 2005.
- 18.6 If this contract is *rescinded* or *terminated* the purchaser must immediately vacate the *property*.
- 18.7 If the *parties* or their *solicitors* on their behalf do not agree in writing to a fee or rent, none is payable.

19 Rescission of contract

- 19.1 If this contract expressly gives a *party* a right to *rescind*, the *party* can exercise the right –
- 19.1.1 only by *servicing* a notice before completion; and
 - 19.1.2 in spite of any making of a claim or *requisition*, any attempt to satisfy a claim or *requisition*, any arbitration, litigation, mediation or negotiation or any giving or taking of possession.
- 19.2 *Normally*, if a *party* exercises a right to *rescind* expressly given by this contract or any *legislation* –
- 19.2.1 the deposit and any other money paid by the purchaser under this contract must be refunded;
 - 19.2.2 a *party* can claim for a reasonable adjustment if the purchaser has been in possession;
 - 19.2.3 a *party* can claim for damages, costs or expenses arising out of a breach of this contract; and
 - 19.2.4 a *party* will not otherwise be liable to pay the other *party* any damages, costs or expenses.

20 Miscellaneous

- 20.1 The *parties* acknowledge that anything stated in this contract to be attached was attached to this contract by the vendor before the purchaser signed it and is part of this contract.
- 20.2 Anything attached to this contract is part of this contract.
- 20.3 An area, bearing or dimension in this contract is only approximate.
- 20.4 If a *party* consists of 2 or more persons, this contract benefits and binds them separately and together.
- 20.5 A *party's solicitor* can receive any amount payable to the *party* under this contract or direct in writing that it is to be paid to another person.
- 20.6 A document under or relating to this contract is –
- 20.6.1 signed by a *party* if it is signed by the *party* or the *party's solicitor* (apart from a direction under clause 4.3);
 - 20.6.2 *served* if it is *served* by the *party* or the *party's solicitor*;
 - 20.6.3 *served* if it is *served* on the *party's solicitor*, even if the *party* has died or any of them has died;
 - 20.6.4 *served* if it is *served* in any manner provided in s170 of the Conveyancing Act 1919;
 - 20.6.5 *served* if it is sent by fax to the *party's solicitor*, unless it is not received;
 - 20.6.6 *served* on a person if it (or a copy of it) comes into the possession of the person; and
 - 20.6.7 *served* at the earliest time it is *served*, if it is *served* more than once.
- 20.7 An obligation to pay an expense of another *party* of doing something is an obligation to pay –
- 20.7.1 if the *party* does the thing personally - the reasonable cost of getting someone else to do it; or
 - 20.7.2 if the *party* pays someone else to do the thing - the amount paid, to the extent it is reasonable.
- 20.8 Rights under clauses 11, 13, 14, 17, 24, 30 and 31 continue after completion, whether or not other rights continue.
- 20.9 The vendor does not promise, represent or state that the purchaser has any cooling off rights.
- 20.10 The vendor does not promise, represent or state that any attached survey report is accurate or current.
- 20.11 A reference to any *legislation* includes a reference to any corresponding later *legislation*.
- 20.12 Each *party* must do whatever is necessary after completion to carry out the *party's* obligations under this contract.
- 20.13 Neither taking possession nor *servicing* a transfer of itself implies acceptance of the *property* or the title.
- 20.14 The details and information provided in this contract (for example, on pages 1 and 2) are, to the extent of each *party's* knowledge, true, and are part of this contract.
- 20.15 Where this contract provides for choices, a choice in BLOCK CAPITALS applies unless a different choice is marked.

21 Time limits in these provisions

- 21.1 If the time for something to be done or to happen is not stated in these provisions, it is a reasonable time.
- 21.2 If there are conflicting times for something to be done or to happen, the latest of those times applies.
- 21.3 The time for one thing to be done or to happen does not extend the time for another thing to be done or to happen.
- 21.4 If the time for something to be done or to happen is the 29th, 30th or 31st day of a month, and the day does not exist, the time is instead the last day of the month.
- 21.5 If the time for something to be done or to happen is a day that is not a *business day*, the time is extended to the next *business day*, except in the case of clauses 2 and 3.2.
- 21.6 *Normally*, the time by which something must be done is fixed but not essential.

22 Foreign Acquisitions and Takeovers Act 1975

- 22.1 The purchaser promises that the Commonwealth Treasurer cannot prohibit and has not prohibited the transfer under the Foreign Acquisitions and Takeovers Act 1975.
- 22.2 This promise is essential and a breach of it entitles the vendor to *terminate*.

23 Strata or community title

- 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 –
 'change', in relation to a scheme, means –
- a registered or registrable change from by-laws set out in this contract or set out in *legislation* and specified 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;
- 'common property' includes association property for the scheme or any higher scheme;
 'contribution' includes an amount payable under a by-law;
 '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;
 'owners corporation' means the owners corporation or the association for the scheme or any higher scheme;
 'the *property*' includes any interest in common property for the scheme associated with the lot;
 '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 sinking fund.
- 23.3 Clauses 11, 14.8 and 18.4 do not apply to an obligation of the owners corporation, or to property insurable by it.
- 23.4 Clauses 14.4.2 and 14.5 apply but on a unit entitlement basis instead of an area basis.
- 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 levied before the contract date (unless it relates to work not started by that date), even if it is payable by instalments;
- 23.6.2 the vendor is also liable for it to the extent it relates to work started by the owners corporation before the contract date; and
- 23.6.3 the purchaser is liable for all other contributions levied 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.
- 23.8 *Normally*, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of –
- 23.8.1 an existing or future actual, contingent or expected expense of the owners corporation;
- 23.8.2 a proportional unit entitlement of the lot or a relevant lot or former lot, apart from a claim under clause 6; or
- 23.8.3 a past or future change in the scheme or a higher scheme.
- 23.9 However, the purchaser can *rescind* if –
- 23.9.1 the special expenses of the owners corporation at the later of the contract date and the creation of the owners corporation when calculated on a unit entitlement basis (and, if more than one lot or a higher scheme is involved, added together), less any contribution paid by the vendor, are more than 1% of the price;
- 23.9.2 in the case of the lot or a relevant lot or former lot in a higher scheme –
- a proportional unit entitlement for the lot is not disclosed in this contract; or
 - a proportional unit entitlement for the lot is disclosed in this contract but the lot has a different proportional unit entitlement at the contract date or at any time before completion; or
- 23.9.3 a change before the contract date or before completion in the scheme or a higher scheme substantially disadvantages the purchaser and is not disclosed in this contract.
- 23.10 The purchaser must give the vendor 2 copies of a proper form of notice of the transfer of the lot addressed to the owners corporation and signed by the purchaser.
- 23.11 The vendor must complete and sign 1 copy of the notice and give it to the purchaser on completion.
- 23.12 Each *party* can sign and give the notice as agent for the other.
- 23.13 The vendor must *serve* a certificate under s109 Strata Schemes Management Act 1996 or s26 Community Land Management Act 1989 in relation to the lot, the scheme or any higher scheme at least 7 days before the date for completion.
- 23.14 The purchaser does not have to complete earlier than 7 days after *service* of the certificate and clause 21.3 does not apply to this provision.

- 23.15 On completion the purchaser must pay the vendor the prescribed fee for the certificate.
- 23.16 The vendor authorises the purchaser to apply for the purchaser's own certificate.
- 23.17 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.
- 23.18 If a general meeting of the owners corporation is convened before completion –
- 23.18.1 if the vendor receives notice of it, the vendor must immediately notify the purchaser of it; and
- 23.18.2 after the expiry of any cooling off period, the purchaser can require the vendor to appoint the purchaser (or the purchaser's nominee) to exercise any voting rights of the vendor in respect of the lot at the meeting.

24 Tenancies

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

25 Qualified title, limited title and old system title

- 25.1 This clause applies only if the land (or part of it) –
- 25.1.1 is under qualified, limited or old system title; or
- 25.1.2 on completion is to be under one of those titles.
- 25.2 The vendor must *serve* a proper abstract of title *within 7 days* after the contract date.
- 25.3 If an abstract of title or part of an abstract of title is attached to this contract or has been lent by the vendor to the purchaser before the contract date, the abstract or part is *served* on the contract date.

- 25.4 An abstract of title can be or include a list of documents, events and facts arranged (apart from a will or codicil) in date order, if the list in respect of each document –
- 25.4.1 shows its date, general nature, names of parties and any registration number; and
- 25.4.2 has attached a legible photocopy of it or of an official or registration copy of it.
- 25.5 An abstract of title –
- 25.5.1 must start with a good root of title (if the good root of title must be at least 30 years old, this means 30 years old at the contract date);
- 25.5.2 in the case of a leasehold interest, must include an abstract of the lease and any higher lease;
- 25.5.3 *normally*, need not include a Crown grant; and
- 25.5.4 need not include anything evidenced by the Register kept under the Real Property Act 1900.
- 25.6 In the case of land under old system title –
- 25.6.1 in this contract 'transfer' means conveyance;
- 25.6.2 the purchaser does not have to *serve* the form of transfer until after the vendor has *served* a proper abstract of title; and
- 25.6.3 each vendor must give proper covenants for title as regards that vendor's interest.
- 25.7 In the case of land under limited title but not under qualified title –
- 25.7.1 *normally*, the abstract of title need not include any document which does not show the location, area or dimensions of the land (for example, by including a metes and bounds description or a plan of the land);
- 25.7.2 clause 25.7.1 does not apply to a document which is the good root of title; and
- 25.7.3 the vendor does not have to provide an abstract if this contract contains a delimitation plan (whether in registrable form or not).
- 25.8 The vendor must give a proper covenant to produce where relevant.
- 25.9 The vendor does not have to produce or covenant to produce a document that is not in the possession of the vendor or a mortgagee.
- 25.10 If the vendor is unable to produce an original document in the chain of title, the purchaser will accept a photocopy from the Registrar-General of the registration copy of that document.
- 26 Crown purchase money**
- 26.1 This clause applies only if purchase money is payable to the Crown, whether or not due for payment.
- 26.2 The vendor is liable for the money, except to the extent this contract says the purchaser is liable for it.
- 26.3 To the extent the vendor is liable for it, the vendor is liable for any interest until completion.
- 26.4 To the extent the purchaser is liable for it, the *parties* must adjust any interest under clause 14.1.
- 27 Consent to transfer**
- 27.1 This clause applies only if the land (or part of it) is restricted title land (land that cannot be transferred without consent under *legislation*).
- 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 If the *legislation* is the Western Lands Act 1901 each period in clause 27.6 becomes 90 days.
- 27.8 If the land or part is described as a lot in an unregistered plan, each time in clause 27.6 becomes the later of the time and 35 days after creation of a separate folio for the lot.
- 27.9 The date for completion becomes the later of the date for completion and 14 days after *service* of the notice granting consent to transfer.
- 28 Unregistered plan**
- 28.1 This clause applies only if some of the land is described as a lot in an unregistered plan.
- 28.2 The vendor must do everything reasonable to have the plan registered *within 6 months* after the contract date, with or without any minor alteration to the plan or any document to be lodged with the plan validly required or made under *legislation*.
- 28.3 If the plan is not registered *within* that time and in that manner –
- 28.3.1 the purchaser can *rescind*; and
- 28.3.2 the vendor can *rescind*, but only if the vendor has complied with clause 28.2 and with any *legislation* governing the rescission.
- 28.4 Either *party* can *serve* notice of the registration of the plan and every relevant lot and plan number.
- 28.5 The date for completion becomes the later of the date for completion and 21 days after *service* of the notice.
- 28.6 Clauses 28.2 and 28.3 apply to another plan that is to be registered before the plan is registered.

29 Conditional contract

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

30 Electronic transaction

- 30.1 This *Conveyancing Transaction* is to be conducted as an *electronic transaction* if –
- 30.1.1 this contract says that it is a proposed *electronic transaction*; and
- 30.1.2 the purchaser serves a notice that it is an *electronic transaction* within 14 days of the contract date.
- 30.2 However, this *Conveyancing Transaction* is not to be conducted as an *electronic transaction* if, at any time after it has been agreed that it will be conducted as an *electronic transaction*, a *party* serves a notice that it will not be conducted as an *electronic transaction*.
- 30.3 If, because of clause 30.2, this *Conveyancing Transaction* is not to be conducted as an *electronic transaction* –
- 30.3.1 each *party* must –
- bear equally any disbursements or fees; and
 - otherwise bear that *party*'s own costs;
- associated with the agreement under clause 30.1; and
- 30.3.2 if a *party* has paid all of a disbursement or fee which, by reason of this clause, is to be borne equally by the *parties*, that amount must be adjusted under clause 14.2.
- 30.4 If this *Conveyancing Transaction* is to be conducted as an *electronic transaction* –
- 30.4.1 to the extent, but only to the extent, that any other provision of this contract is inconsistent with this clause, the provisions of this clause prevail;
- 30.4.2 *normally*, words and phrases used in this clause 30 (italicised and in Title Case, such as *Electronic Workspace* and *Lodgment Case*) have the same meaning which they have in the *participation rules*;
- 30.4.3 the *parties* must conduct the *electronic transaction* in accordance with the *participation rules* and the *ECNL*;
- 30.4.4 a *party* must pay the fees and charges payable by that *party* to the *ELNO* and the *Land Registry* as a result of this transaction being an *electronic transaction*;

- 30.4.5 any communication from one *party* to another *party* in the *Electronic Workspace* made –
- after receipt of the purchaser's notice under clause 30.1.2; and
 - before the receipt of a notice given under clause 30.2;
- is taken to have been received by that *party* at the time determined by s13A of the Electronic Transactions Act 2000; and
- 30.4.6 a document which is an *electronic document* is served as soon as it is first *Digitally Signed* in the *Electronic Workspace* on behalf of the *party* required to serve it.
- 30.5 Normally, the vendor must *within 7 days* of receipt of the notice under clause 30.1.2 –
- 30.5.1 create an *Electronic Workspace*;
- 30.5.2 *populate* the *Electronic Workspace* with *title data*, the date for completion and, if applicable, *mortgagee details*; and
- 30.5.3 invite the purchaser and any *discharging mortgagee* to the *Electronic Workspace*.
- 30.6 If the vendor has not created an *Electronic Workspace* in accordance with clause 30.5, the purchaser may create an *Electronic Workspace*. If the purchaser creates the *Electronic Workspace* the purchaser must –
- 30.6.1 *populate* the *Electronic Workspace* with *title data*;
- 30.6.2 create and *populate* an *electronic transfer*;
- 30.6.3 *populate* the *Electronic Workspace* with the date for completion and a nominated *completion time*; and
- 30.6.4 invite the vendor and any *incoming mortgagee* to join the *Electronic Workspace*.
- 30.7 Normally, *within 7 days* of receiving an invitation from the vendor to join the *Electronic Workspace*, the purchaser must –
- 30.7.1 join the *Electronic Workspace*;
- 30.7.2 create and *populate* an *electronic transfer*;
- 30.7.3 invite any *incoming mortgagee* to join the *Electronic Workspace*; and
- 30.7.4 *populate* the *Electronic Workspace* with a nominated *completion time*.
- 30.8 If the purchaser has created the *Electronic Workspace* the vendor must *within 7 days* of being invited to the *Electronic Workspace* –
- 30.8.1 join the *Electronic Workspace*;
- 30.8.2 *populate* the *Electronic Workspace* with *mortgagee details*, if applicable; and
- 30.8.3 invite any *discharging mortgagee* to join the *Electronic Workspace*.
- 30.9 To complete the financial settlement schedule in the *Electronic Workspace* –
- 30.9.1 the purchaser must provide the vendor with *adjustment figures* at least *2 business days* before the date for completion; and
- 30.9.2 the vendor must *populate* the *Electronic Workspace* with payment details at least *1 business day* before the date for completion.
- 30.10 At least *1 business day* before the date for completion, the *parties* must ensure that –
- 30.10.1 all *electronic documents* which a *party* must *Digitally Sign* to complete the *electronic transaction* are *populated* and *Digitally Signed*;
- 30.10.2 all certifications required by the *ECNL* are properly given; and
- 30.10.3 they do everything else in the *Electronic Workspace* which that *party* must do to enable the *electronic transaction* to proceed to completion.
- 30.11 If completion takes place in the *Electronic Workspace* –
- 30.11.1 payment electronically on completion of the price in accordance with clause 16.7 is taken to be payment by a single *settlement cheque*;
- 30.11.2 the completion address in clause 16.11 is the *Electronic Workspace*; and
- 30.11.3 clauses 16.8, 16.12, 16.13, 31.2.2 and 31.2.3 do not apply.
- 30.12 If the computer systems of any of the *Land Registry*, the *ELNO* or the Reserve Bank of Australia are inoperative for any reason at the *completion time* agreed by the *parties*, a failure to complete this contract for that reason is not a default under this contract on the part of either *party*.
- 30.13 If the *Electronic Workspace* allows the *parties* to choose whether financial settlement is to occur despite the computer systems of the *Land Registry* being inoperative for any reason at the *completion time* agreed by the *parties* –
- 30.13.1 normally, the *parties* must choose that financial settlement not occur; however

- 30.13.2 if both *parties* choose that financial settlement is to occur despite such failure and financial settlement occurs –
- all *electronic documents Digitally Signed* by the vendor, the *certificate of title* and any discharge of mortgage, withdrawal of caveat or other *electronic document* forming part of the *Lodgment Case* for the *electronic transaction* shall be taken to have been unconditionally and irrevocably delivered to the purchaser or the purchaser's mortgagee at the time of financial settlement together with the right to deal with the land comprised in the *certificate of title*; and
 - the vendor shall be taken to have no legal or equitable interest in the *property*.
- 30.14 A *party* who holds a *certificate of title* must act in accordance with any *Prescribed Requirement* in relation to the *certificate of title* but if there is no *Prescribed Requirement*, the vendor must serve the *certificate of title* after completion.
- 30.15 If the *parties* do not agree about the delivery before completion of one or more documents or things that cannot be delivered through the *Electronic Workspace*, the *party* required to deliver the documents or things –
- 30.15.1 holds them on completion in escrow for the benefit of; and
- 30.15.2 must immediately after completion deliver the documents or things to, or as directed by; the *party* entitled to them.
- 30.16 In this clause 30, these terms (in any form) mean –
- | | |
|-------------------------------|---|
| <i>adjustment figures</i> | details of the adjustments to be made to the price under clause 14; |
| <i>certificate of title</i> | the paper duplicate of the folio of the register for the land which exists immediately prior to completion and, if more than one, refers to each such paper duplicate; |
| <i>completion time</i> | the time of day on the date for completion when the <i>electronic transaction</i> is to be settled; |
| <i>discharging mortgagee</i> | any discharging mortgagee, chargee, covenant chargee or caveator whose provision of a <i>Digitally Signed</i> discharge of mortgage, discharge of charge or withdrawal of caveat is required in order for unencumbered title to the <i>property</i> to be transferred to the purchaser; |
| <i>ECNL</i> | the Electronic Conveyancing National Law (NSW); |
| <i>electronic document</i> | a dealing as defined in the Real Property Act 1900 which may be created and <i>Digitally Signed</i> in an <i>Electronic Workspace</i> ; |
| <i>electronic transfer</i> | a transfer of land under the Real Property Act 1900 for the <i>property</i> to be prepared and <i>Digitally Signed</i> in the <i>Electronic Workspace</i> established for the purposes of the <i>parties' Conveyancing Transaction</i> ; |
| <i>electronic transaction</i> | a <i>Conveyancing Transaction</i> to be conducted for the <i>parties</i> by their legal representatives as <i>Subscribers</i> using an <i>ELN</i> and in accordance with the <i>ECNL</i> and the <i>participation rules</i> ; |
| <i>incoming mortgagee</i> | any mortgagee who is to provide finance to the purchaser on the security of the <i>property</i> and to enable the purchaser to pay the whole or part of the price; |
| <i>mortgagee details</i> | the details which a <i>party</i> to the <i>electronic transaction</i> must provide about any <i>discharging mortgagee</i> of the <i>property</i> as at completion; |
| <i>participation rules</i> | the participation rules as determined by the <i>ENCL</i> ; |
| <i>populate</i> | to complete data fields in the <i>Electronic Workspace</i> ; and |
| <i>title data</i> | the details of the title to the <i>property</i> made available to the <i>Electronic Workspace</i> by the <i>Land Registry</i> . |

31 Foreign Resident Capital Gains Withholding

- 31.1 This clause applies to contracts made on or after 1 July 2016 but only if –
- 31.1.1 the sale is not an excluded transaction within the meaning of s14-215 of Schedule 1 to the *TA Act*; and
- 31.1.2 a *clearance certificate* in respect of every vendor is not attached to this contract.
- 31.2 The purchaser must –
- 31.2.1 at least 5 days before the date for completion, serve evidence of the purchaser's submission of a purchaser payment notification to the Australian Taxation Office;
- 31.2.2 produce on completion a *settlement cheque* for the *remittance amount* payable to the Deputy Commissioner of Taxation;
- 31.2.3 forward the *settlement cheque* to the payee immediately after completion; and
- 31.2.4 serve evidence of receipt of payment of the *remittance amount*.
- 31.3 The vendor cannot refuse to complete if the purchaser complies with clauses 31.2.1 and 31.2.2.
- 31.4 If the vendor serves any *clearance certificate* or *variation*, the purchaser does not have to complete earlier than 7 days after that *service* and clause 21.3 does not apply to this provision.
- 31.5 If the vendor serves a *clearance certificate* in respect of every vendor, clauses 31.2 and 31.3 do not apply.

ADDITIONAL PROVISIONS

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32. Inconsistencies between clauses

If there is any inconsistency between any of the clauses 1 to 29 inclusive and the following clauses, then the provisions of the following clauses shall prevail.

33. Development Approval

This Contract is subject to the Vendor obtaining from Wollongong City Council development consent upon terms satisfactory to it for the subdivision ("the Approval"). The Vendor shall use its best endeavours to obtain the Approval, but if the Vendor fails to obtain the Approval by 28 February 2018, either party may rescind this Contract by written notice to the other, whereupon the provisions of printed clause 19 shall apply.

34. Registration of plan

34.1 Completion is also subject to the registration of the plan prior to 30 June 2020 ("the Sunset Date").

34.2 In the event that registration of the plan has not occurred by the Sunset Date or any extension of it, either party or their respective Solicitors may, by notice in writing, to the other or their Solicitor served at any time after the expiry of that date, but before registration, rescind this Contract whereupon the provisions of printed clause 19 hereof shall apply. If the said right to rescind is not so exercised this Contract becomes and remains binding in all respects as though the right of rescission had not arisen.

34.3 The Vendor reserves the right to make such alterations to the plan as may be required to comply with requirements of the LPI NSW or other Authority whose consent is required.

34.4 The Vendor may:

- (a) create further easements covenants and restrictions as to user in addition to those set out and disclosed in this Contract (if any) and, in that event, such further documents required to bring about such creation shall be deemed to have been attached to and to form part of this Contract;
- (b) without limiting this clause, change the location of easements as set out in the plan which the Vendor reasonably considers necessary or desirable and as required by any of the terms and conditions of any Development Approval (provided however, no such creation or change may result in any substantially detrimental effect upon the value or amenity of the property sold).

34.5 Notwithstanding anything contained elsewhere in this Contract, the numbering of lots, the dimensions of lots and the positions of lots shown on the plan are provisional and are subject

to the numbering of lots, the total area of lots and the position of lots shown on the plan as registered and the Purchaser may not make any objection, requisition or claim, delay completion or rescind or terminate this Contract because of any alteration in the numbering of lots between the plan and the plan as registered or because of any variations or discrepancies between the total area of lots or the positions of lots as shown on the plan as registered PROVIDED that if there are variations or discrepancies between the dimensions or the position of the property as shown on the plan and the plan as registered which detrimentally affect the land to an extent which is other than minor, the Purchaser may rescind this Contract by written notice to the Vendor whereupon the provisions of printed clause 19 shall apply, with the Purchaser not having any action, right, claim or demand against the Vendor arising out of this Contract for costs, damages, expenses or otherwise. A variation in total area of up to five per cent (5%) shall be deemed minor.

- 34.6 The right of rescission conferred by clause 34.5 shall be exercised (if it arises at all) within fourteen (14) days of the date upon which the Vendor gives notice to the Purchaser of registration of the plan. If not exercised within the said 14 days this Contract becomes and remains binding in all respects as though the right of rescission had not arisen.

35. Death etc of a party

If, before completion, the Purchaser or any one of them:

- (a) dies or becomes mentally ill or becomes incapable of managing his or her affairs, the Vendor can rescind; or
- (b) is declared bankrupt or enters into any scheme or makes any assignment for the benefit of creditors or (being a company) resolves to go into liquidation or has a petition for its winding up presented or enters into any scheme or arrangement with its creditors or has a liquidator, provisional liquidator, receiver or official manager appointed, the Purchaser is in default under this Contract and the Vendor may terminate the Contract forthwith by notice in writing to the Purchaser.

36. Completion

- 36.1 Printed clause 28.5 is deleted.
- 36.2 Completion date is the later of:
- (a) Twenty one (21) days after the date the Vendor serves upon the Purchaser notice of registration of the plan referred to in printed clause 28; and
 - (b) thirty (30) days after the date of this Contract.
- 36.3 Completion must take place by 3.00 pm on the completion date.

37. Notice to serve form of transfer and/or complete

- 37.1 If this Contract is not completed on the completion date by the time specified in this Contract:
- (a) the Vendor can serve a notice including a notice served after that time:
 - (i) if the Purchaser has failed to serve the form of transfer, to require the Purchaser to do so within not less than 2 business days after service of the notice; or
 - (ii) to require the Purchaser to complete within not less than 14 days after service of the notice; or
 - (iii) to require both,
and to make the time for doing so essential;
 - (b) the Purchaser can serve a notice to require the Vendor to complete within not less than 14 days after service of the notice and to make the time for doing so essential.
- 37.2 The periods referred to in this clause are deemed reasonable for all purposes.
- 37.3 The party giving a notice under this clause can withdraw that notice and subsequently serve a further notice instead of that notice.

38. Delayed Completion

- 38.1 If the Purchaser shall not complete this purchase by the completion date, without default by the Vendor, the Purchaser shall pay to the Vendor on completion, in addition to the balance purchase money:
- (a) an amount calculated as ten per cent (10%) per annum interest on the balance purchase money, computed at a daily rate from the day immediately after the completion date to the day on which this sale shall be completed; and
 - (b) the sum of three hundred fifty dollars plus GST (\$350.00 + GST) to cover legal costs and other expenses incurred as a consequence of the delay to be allowed by the Purchaser as an additional adjustment on completion;
- 38.2 It is agreed that these amounts are a genuine pre-estimate of the Vendor's loss of interest on the purchase money and for outgoings and additional expenses.

39. Notices

Despite clause 20.6.5, a document is served for the purposes of this Contract if it is sent by facsimile transmission to the party's solicitor at that solicitor's facsimile number (whether or not stated in this Contract) and it is deemed to have been received when the transmission has been completed except where:

- (a) the sender's machine indicates a malfunction in transmission or the recipient immediately notifies the sender of an incomplete transmission, in which case the notice or document is deemed not to have been given or received; or
- (b) the time of dispatch is later than 5.00 pm on a business day in the place to which the notice or document is sent, in which case it is deemed to have been received at 9.00 am on the next business day at that place.

40. Requisitions

- 40.1 The printed conditions of this Contract are amended by deleting "twenty-one (21) days" where those numbers and words appear in clause 5.2 and replacing them with "ten (10) days".
- 40.2 For the purposes of clause 5.1 the Purchaser must only and is deemed to have submitted requisitions in the attached form of requisitions and the Vendor is deemed to have answered those requisitions in accordance with the answers shown on that attached form of requisitions.

41. Council rate adjustment

- 41.1 Notwithstanding any other provision of this Contract, in the event there is at completion no separate assessment of Council rates:
 - (a) the Vendor and Purchaser agree that the amount of the Council rates to be apportioned and adjusted on completion will be \$1,500.00 per annum as though they have not been paid by the Vendor and that there shall be no further adjustment following completion;
 - (b) the Purchaser shall not require the Vendor to pay unpaid Council rates (if any) on, prior to or after completion and shall accept from the Vendor on completion (in full satisfaction of the Vendor's obligation to adjust Council rates) an allowance apportioned for the period commencing the date the plan is registered and ending on the completion date referred to in printed clause 28.5.
- 41.2 The benefits of this clause shall not merge on completion.

42. Purchaser may not lodge caveat

The Purchaser must not lodge a Caveat for notation on the folio of the register for the property prior to registration of the plan, but in the event the Purchaser so lodges a Caveat in contravention of this clause, the Purchaser appoints the Vendor its Attorney for the purposes of doing anything necessary to have that Caveat withdrawn.

43. Entire agreement

The parties acknowledge that the terms and conditions set out in this Contract contain the entire agreement as concluded between the parties as at the date of this Contract notwithstanding any

negotiations or discussions held or documents signed or brochures produced or statements made by the Vendor or any agent or person on behalf of the Vendor prior to the execution of this Contract.

44. Adjoining Land Owned by Vendor

The Purchaser acknowledges that adjoining land is/may be owned by the Vendor and that the Vendor is not obliged to contribute to fencing work. The benefit of this clause does not merge on completion.

45. Deposit Bond

- 45.1 In this contract, the word "Bond" means the deposit bond issued to the vendor at the request of the purchaser by an entity in clause 45.9, or a bank guarantee issued by a bank in clause 45.10 (in either case, "the Issuer").
- 45.2 The purchaser may pay the deposit by way of a Bond provided that it is issued by one of the entities referred to in clause 45.9 and if the Bond contains an expiry date it is not earlier than twelve months after the Sunset Date.
- 45.3 Subject to clauses 45.4 and 45.4 below, the delivery of the Bond, upon the making of this contract shall, to the extent of the amount guaranteed under the Bond, be deemed for the purposes of this contract to be payment of the deposit in to the deposit holder in accordance with this contract.
- 45.4 The purchaser shall pay the amount stipulated in the Bond to the vendor by unendorsed bank cheque on completion of this contract or at such time as may be provided for the deposit to be accounted to the vendor.
- 45.5 If the vendor serves on the purchaser a notice in writing claiming to forfeit the deposit then, to the extent that the amount has not already been paid by the Issuer under the Bond, the purchaser shall forthwith pay the deposit (or so much thereof as has not been paid) to the vendor.
- 45.6 The vendor acknowledges that payment by the Issuer under the Bond shall, to the extent of the amount paid, be in satisfaction of the purchaser's obligation to pay the deposit.
- 45.7 Where a bond pursuant to this clause is given to the vendor the amount guaranteed under the Bond shall be not less than 10% of the price.
- 45.8 Notwithstanding any other provision of this contract, if the Bond (in this paragraph referred to as the "Original Bond"):
- (a) contains an expiry date or a date after which the vendor may not be able to enforce the Original Bond; or

(b) is or, in the reasonable opinion of the vendor is likely to be, unenforceable for any reason,

the purchaser must provide to the vendor a replacement Bond securing the same amount as the Original Bond or a bank cheque of equivalent value ("New Bond") on the earlier of:

(a) 1 month prior to the date in clause 45.8(a); and

(b) 7 days after the vendor notifies the purchaser that it has formed the opinion in clause 45.8(b)

If the New Bond contains an expiry date, it must be not earlier than 12 months from the date of the New Bond. Upon the receipt of the New Bond the vendor will release the Original Bond to the purchaser. If the purchaser does not comply with this clause 45.8, the vendor may, in addition to any other rights and remedies at law, terminate this contract. Time shall be of the essence of the contract in this clause 45.8.

45.9 The vendor will not accept a deposit bond from entities other than the following:

Bond Provider	Underwriter
Aussie Bonds Australia	QBE Insurance (Australia) Ltd
Deposit Bonds Australia	QBE Insurance (Australia) Ltd
Deposit Underwriters	QBE Insurance (Australia) Ltd

45.10 The vendor will not accept a bank guarantee from banks other than the following:

Citibank
Westpac Banking Corp
National Australia Bank
Commonwealth Bank of Australia
ANZ
BankWest
HSBC
St George Bank
Macquarie Bank
Suncorp-Metway
IMB Bank
Adelaide and Bendigo Bank

46. Foreign Investment Review Board

46.1 If the Purchaser is a "foreign person" as defined under Sections 21A or 4(6) of the *Foreign Acquisitions and Takeovers Act*, then in addition to the Purchaser's other obligations under this Contract, the following conditions in this clause will apply.

46.2 The sale and purchase of the property is conditional upon the Treasurer advising the Purchaser that the Treasurer has no objection to the acquisition of the property by the Purchaser either:

- (a) unconditionally; or
- (b) subject to conditions with which the Purchaser must comply within thirty (30) business days from the date of notice from the Treasurer.

46.3 The Purchaser must:

- (a) give notice to the Treasurer under Section 26A of the *Foreign Acquisitions and Takeovers Act* in the prescribed form; or
- (b) comply with all directions on that form, within five (5) Business Days from the Contract Date.

46.4 The Purchaser must:

- (a) use its best endeavours to obtain the approval of the Treasurer under the Foreign Acquisitions and Takeovers Act; and
- (b) do all things and provide all information and documents required by the Treasurer or the Foreign Investment Review Board in connection with the application for approval under the Foreign Acquisitions and Takeovers Act promptly and, in any event, within three (3) Business Days of being notified by the Treasurer.

46.5 This Condition:

- (a) is for the benefit of both parties; and
- (b) may not be waived.

46.6 If:

- (a) this Condition is not satisfied within the period specified in clause 53.2(b); or
- (b) approval of the Treasurer is denied,

then this Contract will terminate automatically without notice and subject to the Vendor's rights in respect of any antecedent breach of the provisions of this Contract:

- (a) the Vendor will repay all money paid by the Purchaser to the Vendor or the Vendor's Representative under this Contract; and
- (b) neither the Purchaser nor the Vendor shall have any claim against the other.

46.7 The Purchaser must give the Vendor or the Vendor's Representative a written notice within two (2) Business Days of this Condition being satisfied or otherwise.

46.8 The Purchaser warrants to the Vendor that the information provided by the Purchaser on the front printed page of this Contract as to his/her/its foreign purchaser status is true and correct and the Purchaser acknowledges he/she/it is aware that the Vendor will rely upon such information in order to comply with its requirements imposed by law.

47. Guarantee

- 47.1 Where the Purchaser is a corporation (including as a trustee of a trust), in consideration of the Vendor entering into this Contract at the request of the Guarantor, the Guarantor (jointly and severally if more than one):
- (a) guarantees to the Vendor:
 - (i) payment of all moneys payable by the Purchaser; and
 - (ii) the Purchaser's performance of all other obligations, under this Contract; and
 - (b) indemnifies the Vendor against any liability, loss, damage, expense or claim incurred by the Vendor arising directly or indirectly from any breach of this Contract by the Purchaser.
- 47.2 For the purpose of this clause, "Guarantor" means that person or those persons shown on Australian Securities and Investments Commission's register as at the date of this Contract as Directors and/or Secretaries of the Purchaser (being those persons who have executed this Contract on behalf of the Purchaser).
- 47.3 This guarantee and indemnity is a principal obligation of the Guarantor and is not collateral to any other obligation.
- 47.4 The liabilities of a Guarantor are not affected by:
- (a) the granting to the Purchaser or to any other person of any time, waiver, indulgence, consideration or concession or the discharge or release;
 - (b) the Purchaser's death, bankruptcy or liquidation, the Guarantor or any one of them;
 - (c) reason of the Vendor becoming a party to or bound by any compromise, assignment of property or scheme of arrangement or composition of debts or scheme or reconstruction by or relating to the Purchaser, the Guarantor or any other person;
 - (d) the Vendor exercising or refraining from exercising any of the rights, powers or remedies conferred on the Vendor by law or by any contract or arrangement with the Purchaser, the Guarantor or any other person or any guarantee, bond, covenant, mortgage or other security; or
 - (e) the Vendor obtaining a judgment against the Purchaser, the Guarantor or any other person for the payment of the moneys payable under this Contract.
- 47.5 This guarantee and indemnity will continue notwithstanding:
- (a) the Vendor has exercised any of the Vendor's rights under this Contract including any right of termination;
 - (b) the Purchaser is wound up; or

- (c) this Contract is for any reason unenforceable against the Purchaser either in whole or in part.

47.6 This guarantee and indemnity:

- (a) is of a continuing nature and will remain in effect until final discharge of the guarantee or indemnity is given by the Vendor to the Guarantor;
- (b) may not be considered wholly or partially discharged by the payment of the whole or any part of the amount owed by the Purchaser to the Vendor; and
- (c) extends to the entire amount that is now owed or that may become owing at any time in the future to the Vendor by the Purchaser pursuant to or contemplated by this Contract including any interest, costs or charges payable to the Vendor under this Contract.

47.7 If any payment made to the Vendor by or on the Purchaser's behalf by the Guarantor is subsequently avoided by any statutory provision or otherwise:

- (a) that payment is to be treated as not discharging the Guarantor's liability for the amount of that payment; and
- (b) the Guarantor and the Vendor will be restored to the position in which each would have been and will be entitled to exercise all rights which each would have had if that payment had not been made.

47.8 The Vendor can proceed to recover the amount claimed as a debt or damages from the Guarantor without having instituted legal proceedings against the Purchaser and without first exhausting the Vendor's remedies against the Purchaser.

47.9 The Guarantor shall be deemed to have signed this Contract by reason of having executed it also on behalf of the Purchaser as any Director and/or Secretary as the case may be.

48. Trustee provisions

48.1 This clause shall apply if the Purchaser enters into this Contract as trustee of any trust (Trust).

48.2 The Purchaser covenants with the Vendor that:

- (a) the Purchaser has full, complete and valid authority pursuant to the Trust and the document evidencing the establishment and terms of the Trust (Trust Deed) to enter into this Contract;
- (b) the Purchaser is unconditionally liable both in its own right and as trustee of the Trust for the performance of all covenants and agreements on the Purchaser's part contained in this Contract;
- (c) the Purchaser is entering into this Contract and the transactions evidenced by this Contract as part of the due and proper administration of the Trust and for the benefit of all of the beneficiaries or unit holders of the Trust.

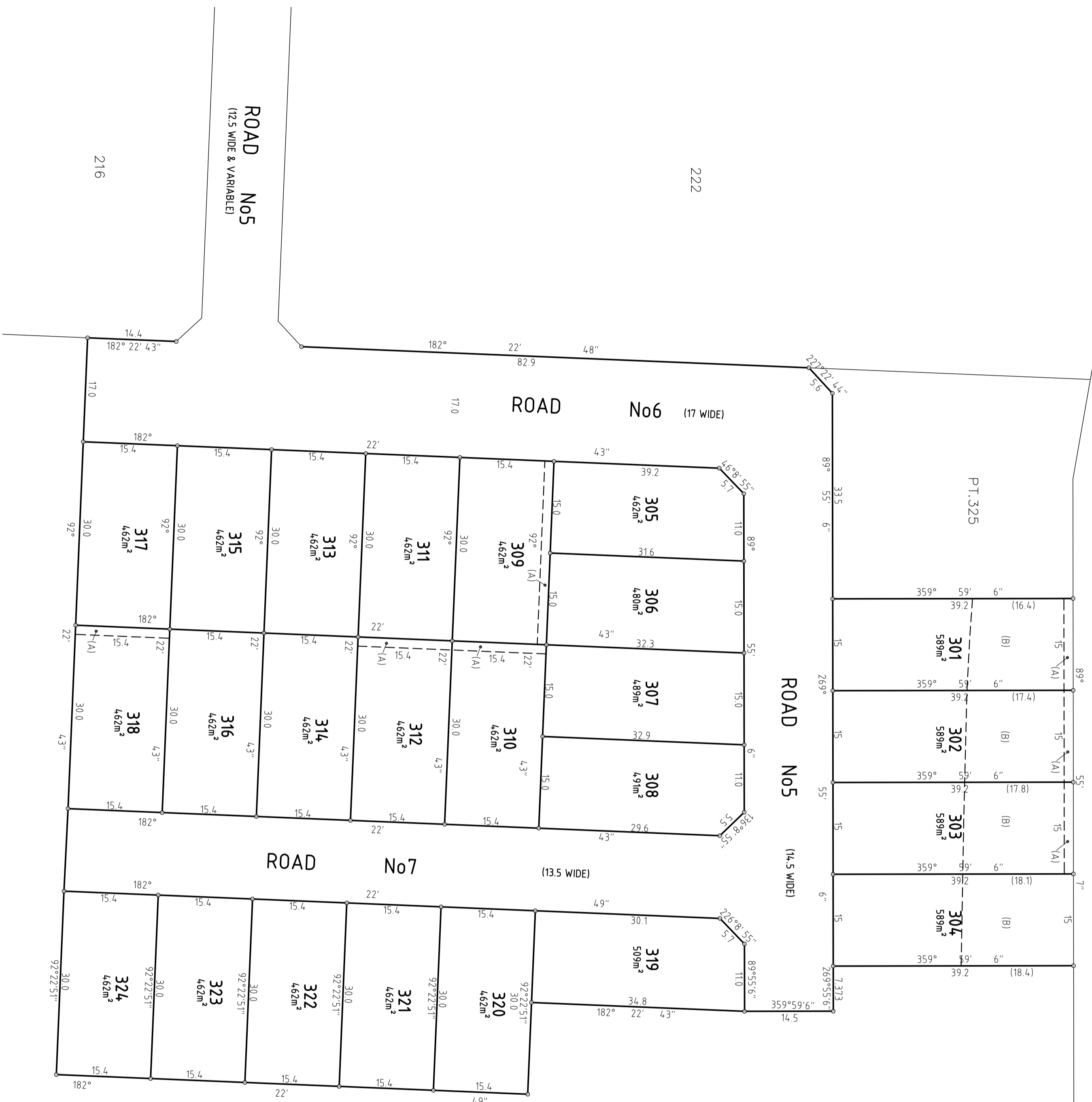
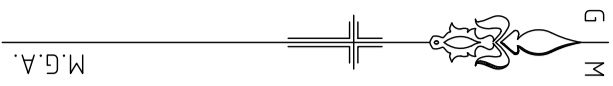
- 48.3 The Purchaser acknowledges that:
- (a) it is the sole trustee of the Trust;
 - (b) the powers under the Trust Deed have not been revoked;
 - (c) it has not been removed from office as trustee of the Trust and has not ceased to act as trustee of the Trust;
 - (d) no property of the Trust has been resettled or transferred to any other person;
 - (e) the Trust has not been terminated;
 - (f) any event or date for the vesting of the property of the Trust has occurred.
- 48.4 The Purchaser's rights of indemnity which the Purchaser has against the trust assets or the beneficiaries or unit holders of the Trust will not be limited.

49. Deposit Investment

- 49.1 The definition of depositholder in printed clause 1 is deleted and replaced with "Vendor's Solicitors".
- 49.2 In the event this Contract on printed page 1 indicates that the deposit shall be invested, the parties hereby, for the purposes of printed clause 2.9, tell the Vendor's Solicitors that the deposit is to be invested, but notwithstanding, they shall not be obliged to invest such deposit until the Purchaser's Solicitor has provided to them details of the Purchaser's Tax File Number and date of birth.
- 49.3 The Purchaser and Vendor authorise the deduction of \$300.00 + GST from the interest to be shared between them as reimbursement of expenses the Vendor incurs in relation to the investing of the deposit and its withdrawal.

50. Selling and Leasing Activities

- 50.1 The Purchaser acknowledges and unconditionally accepts that, both before and after completion, the Vendor and persons authorised by the Vendor may, in its absolute discretion:
- (a) conduct selling and leasing activities in the Project; and
 - (b) place and maintain in, on and about the Project, an office or other sale facilities.
- 50.2 The Purchaser agrees that in the event, prior to completion, it desires to resell the property, no other real estate agent or third party other than the Vendor's agent shall be utilised by the Purchaser for this purpose without the prior written approval of the Vendor acting reasonably.
- 50.3 The provisions of this clause shall not merge on completion of this Contract.



(A) EASEMENT FOR DRAINAGE OF WATER 1.5 WIDE
 (B) RESTRICTED BUILDING AREA (NOISE AND VIBRATION)

Surveyor: NEIL CRAIG JOHNSON
 Date of Survey: 2nd May 2017
 Surveyor's Ref: KF112093_DP

PLAN OF SUBDIVISION OF LOT 1 DP 26069

LGA: WOLLONGONG
 Locality: WONGAWILLI
 Subdivision No:
 Lengths are in metres.
 Reduction Ratio: 500

Registered:

DRAFT PLAN
 SUBJECT TO SERVICE AUTHORITY
 ADVICES, DEVELOPMENT CONSENT
 SUBDIVISION CERTIFICATE
 APPROVAL, LPI PLAN REGISTRATION
 DATE OF ISSUE: 02/05/2017

00 10 20 30 40 50 60 70 80 90 100 110 120 130 140

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

Plan:

Plan of Subdivision of Lot 1 DP26069
and Covered by Wollongong City Council's
Subdivision Certificate No.

DRAFT COPY ONLY

Subject to service authority
advices, Development Consent,
Subdivision Certificate
Approval, LPI Plan Registration

Date of issue 2/05/17

No

Dated

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

Jomand Pty Limited
(ACN 137 226 530)
P O Box 258
UNANDERRA 2526

Part 1 (Creation)

Number of item shown in the intention panel on the plan	Identity of easement, profit a prendre, restriction or positive covenant to be created and referred to in the plan.	Burdened lot(s) or parcel(s):	Benefited lot(s), road(s), bodies or Prescribed Authorities:
1	Easement for Drainage of Water 1.5 Wide	301 302 303 309 310 312 318	302,303,304 303,304 304 310,312,314 312,314 314 316
2	Restriction on the use of land	301-304 inclusive	The Council of the City of Wollongong
3	Restriction on the use of land	301-324 inclusive	The Council of the City of Wollongong
4	Restriction on the use of land	301-324 inclusive	The Council of the City of Wollongong
5	Restriction on the use of land	301-324 inclusive	The Council of the City of Wollongong
6	Restriction on the use of land	Each lot, excepting 325	Every other lot excepting 325
7	Restriction on the use of land	301-324 inclusive	The Council of the City of Wollongong
8	Positive Covenant	301-324 inclusive	The Council of the City of Wollongong

Plan: Plan of Subdivision of Lot 1 DP26069
and Covered by Wollongong City
Council’s Subdivision Certificate No.

No

Dated

Part 2

Terms of Restriction on the use of land numbered 2 in the plan

No habitable dwelling shall be erected or permitted to remain on the land hereby burdened within the restricted building zone (noise and vibration) shown as ‘B’ on the plan.

The name of the Authority empowered to release, vary or modify the terms of this Restriction on the use of land numbered 1 in the plan is The Council of the City of Wollongong.

Terms of Restriction on the use of land numbered 3 in the plan

No building shall be erected or permitted to remain on the land hereby burdened, which has been filled above its natural or previously excavated level unless the footing and foundations of the building have been in accordance with plans and specifications which have been:

- a) prepared by a suitably qualified Structural and / or Civil Engineer and investigated, reviewed and approved by a suitably qualified and experienced Consulting Geotechnical Engineer, also taking into account the recommendations of Report Noon geotechnical assessment dated
- b) and filed in the offices of The Council of the City of Wollongong

The name of the Authority empowered to release, vary or modify the terms of this Restriction on the use of land numbered 1 in the plan is The Council of the City of Wollongong.

Terms of Restriction on the use of land numbered 4 in the plan

No building shall be erected or permitted to remain on the land hereby burdened unless the footings and foundations of the building have been erected in accordance with plans and specifications which have been:

- a) prepared by a suitably qualified Structural and /or Civil Engineer and investigated, reviewed and approved by a suitably qualified and experienced Consulting Geotechnical Engineer, also taking into account the

Plan: Plan of Subdivision of Lot 1 DP26069
and Covered by Wollongong City
Council’s Subdivision Certificate No.

No

Dated

recommendations of Report No.....
on geotechnical assessment dated

b) and filed in the offices of The Council of the City of Wollongong

The name of the Authority empowered to release, vary or modify the terms of this Restriction on the use of land numbered 2 in the plan is The Council of the City of Wollongong

Terms of Restriction on the use of land numbered 5 in the plan

No fence shall be erected on the burdened lots, unless made of lapped and capped timber paling screen fencing.

The name of the persons empowered to release, vary or modify the terms of this Restriction on the use of land numbered 3 in the plan is Jomand Pty Limited until 30 June 2017 and thereafter the person/s who own lots in the deposited plan (other than streets or other public areas) having a common boundary with the lot in relation to which the release, variation or modification is sought.

Terms of Restriction on the use of land numbered 6 in the plan

4.1 While the land adjoining a lot burdened is owned by *Jomand Pty Limited*, no dividing fence or wall shall be erected on the boundary with the adjoining land unless it is erected at no expense to *Jomand Pty Limited*.

4.2 No structure of a temporary nature, basement, garage, shed, trailer, camper, caravan or any outbuilding may be erected or permitted to remain on a lot burdened except after or concurrently with the erection of a dwelling house and no such building or a moveable chattel shall be used at any time as a dwelling house

4.3 No run-off water from any building, impervious surface or other material or surface laid or constructed on a lot burdened shall be permitted to drain outside the boundaries of that lot except into or through:

a) the inter-allotment drainage system within an easement for drainage of water shown in the plan; or

Plan: Plan of Subdivision of Lot 1 DP26069
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Council's Subdivision Certificate No.

No

Dated

b) a gutter or storm water pipeline in a public street ; or

c) a public reserve

4.4 No driveway shall be constructed on a lot burdened of materials other than hardstand concrete or paving finish.

4.5 No fuel storage tanks (except any such tank or tanks used for oil heating purposes) shall be placed upon or permitted to remain on any lot burdened.

4.6 No noxious, noisome or offensive occupation, trade, business, manufacturing or home industry shall be conducted or carried out on any lot burdened.

4.7 No commercial or boarding kennels shall be constructed or permitted to remain on any lot burdened.

4.8 No motor truck, lorry or semi-trailer with a load carrying capacity exceeding two point five (2.5) tonnes shall be parked or permitted to remain on any lot burdened unless the same is used in connection with the erection of a dwelling on the relevant lot burdened.

4.9 No air conditioning plant and/ or equipment shall be installed or permitted to remain on any building erected on the lot burdened unless the same is either:-

- a) not visible from any public road and/or place: or
- b) screened from any public road

4.10 No burdened lot may be re subdivided or have more than 1 dwelling erected on the lot without the prior written consent of Jomand Pty Limited or their assign, such consent may be granted or withheld at the Vendor's absolute discretion.

The name of the persons empowered to release, vary or modify the terms of this Restriction on the use of land numbered 4 in the plan is Jomand Pty Limited or their successor or assign, for the later of a period of five years from the date of registration of the Plan or while ever it owns a lot in the Plan or a lot in any subdivision of a residual lot in the Plan.

Plan: Plan of Subdivision of Lot 1 DP26069
and Covered by Wollongong City
Council’s Subdivision Certificate No.

No

Dated

Terms of Restriction on the use of land numbered 7 in the plan

The Registered Proprietor of the lot burdened must not make or permit or suffer the making of any alterations to any on-site storm water detention system on the lot(s) burdened without the prior consent in writing of the authority benefited. The expression “on-site storm water detention system” shall include all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces design to temporarily detain storm water as well as all surfaces graded to direct storm water to those structures.

The name of the Authority empowered to release, vary or modify the terms of this Restriction on the Use of Land numbered 5 in the plan is The Council of the City of Wollongong.

Terms of Positive Covenant numbered 8 in the plan

6.1. The Registered Proprietor of the lot burdened must in respect of the on site storm water detention system on the lot burdened as referred to in the Restriction on the Use of Land numbered 5 in the plan:

- a) Keep the system clean and free from silt, rubbish and debris;
- b) Maintain and repair the system so that it functions in a safe and efficient manner;
- c) Permit the prescribed authority or its authorised agents from time to time and upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land for the compliance with the requirements of this covenant; and
- d) Comply with the terms of any written notice issued by the prescribed authority in respect of the requirements of this covenant.

6.2 Under Section 88F (3) of the Conveyancing Act 1919 the prescribed authority has the following additional powers:

- (a) If the registered proprietor fails to comply with the terms of any written notice issued by prescribed authority under part 1 (d) above the prescribed authority may enter the land with all necessary materials and equipment and carry out any work which the prescribed authority in its discretion considers necessary to comply with that notice
- (b) The prescribed authority may recover from the registered propriety of the

Plan:

Plan of Subdivision of Lot 1 DP26069
and Covered by Wollongong City
Council's Subdivision Certificate No.

No

Dated

burdened lot in any court of competent jurisdiction

- i. Any expense reasonably incurred by it in exercising its powers under Part 2(a) above including reasonable wages for the prescribed authority's employees engaged in carrying out and supervising and administering the work and the costs of materials, machinery, tools and equipment used to carry out the work.

- ii. Legal costs on an indemnity basis for issue of the notices for recovery of the costs and expenses for registration of a covenant charge under Section 88B of the Act for providing any Certificate required under Section 88G of the Act and for obtaining any injunction under Section 88H of the Act

The name of the Authority empowered to release, vary or modify the terms of this Positive Covenant numbered 6 in the plan is The Council of the City of Wollongong.

Executed by **JOMAND PTY LTD**)
(ACN 137 226 530))
under Section 127(1) of the)
Corporation Act, 2001, by being)
Signed by)

.....
Signature

.....
Signature

.....
Name of Director

.....
Name of Secretary

LAND AND PROPERTY INFORMATION NEW SOUTH WALES - TITLE SEARCH

FOLIO: 1/607456

SEARCH DATE -----	TIME -----	EDITION NO -----	DATE -----
5/5/2017	9:33 AM	5	3/2/2017

LAND

LOT 1 IN DEPOSITED PLAN 607456
AT WONGAWILLI
LOCAL GOVERNMENT AREA WOLLONGONG
PARISH OF KEMBLA COUNTY OF CAMDEN
TITLE DIAGRAM DP607456

FIRST SCHEDULE

JOMAND PTY LIMITED (T AI886349)

SECOND SCHEDULE (4 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 LAND EXCLUDES MINERALS BY SEC 49 OF THE ILLAWARRA HARBOUR & LAND CORPORATION ACT, 1890, AS REGARDS THE LAND SHOWN SO AFFECTED IN DP607456
- 3 DP1186026 EASEMENT FOR DRAINAGE OF WATER VARIABLE WIDTH AFFECTING THE PART(S) SHOWN SO BURDENED IN DP1186026
- 4 AM127256 PLANNING AGREEMENT PURSUANT TO SECTION 93H ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

NOTATIONS

UNREGISTERED DEALINGS: NIL

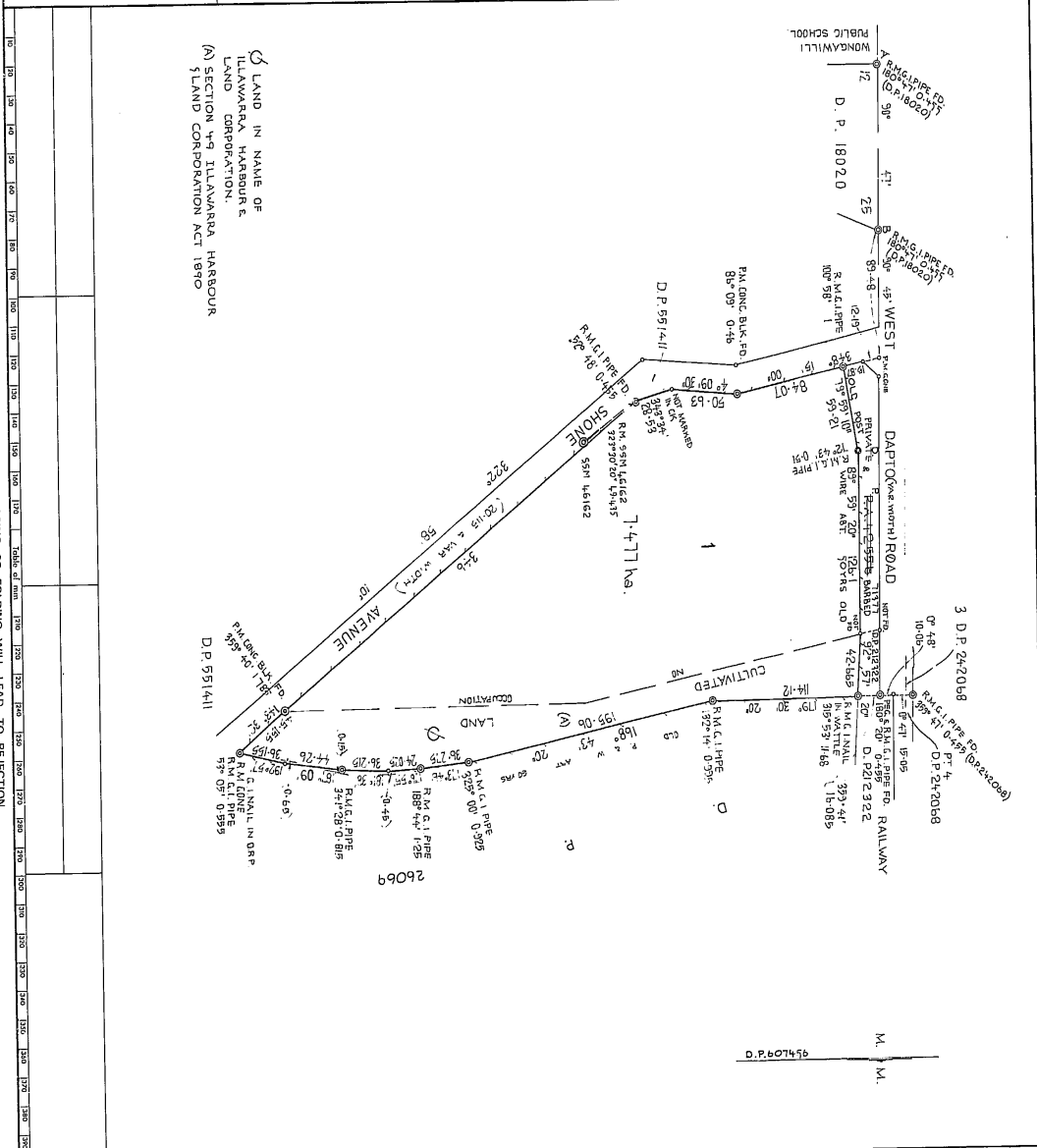
*** END OF SEARCH ***

PLAN FORM 2

Signatures and seals only

Walter Macleod
Koshima Madanga

1. Number of the plan -
 2. Name of the landowner or person in whose name the land is held -
 3. Name of the land -
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LAND IN NAME OF
 ILLAWARRA HARBOUR &
 LAND CORPORATION.
 (A) SECTION 49 ILLAWARRA HARBOUR
 ISLAND CORPORATION ACT 1890

1. Bruce Richard Davies, Under Secretary for Lands and
 Registrar General for New South Wales, certify that this
 document is a true and correct copy of the original as
 submitted in my custody this 28th day of October, 1980

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

OFFICE USE ONLY

D. P. 607456

Registered: 23/10/1980

Title System: OLD SYSTEM &
 CONSENSUS

Purpose: PARTIAL CONSOLIDATION

Ref. Map: W 7977-24

Last Part: DP 51893(P)

PLAN OF LAND IN N.S.W. P.S. R.P.
 2183 AND ILLAWARRA HARBOUR
 & LAND CORPORATION.

Indication Plan 1:2000
 Lengths are in metres

Suburb:
 City: WOLLONGONG

Locality: WOLLONGONG

Parish: KERRIBLA

County: CAMDEN

State: NEW SOUTH WALES

Prepared by: ROBERT DOWDES
 Date: 1980

Checked by: ROBERT DOWDES
 Date: 1980

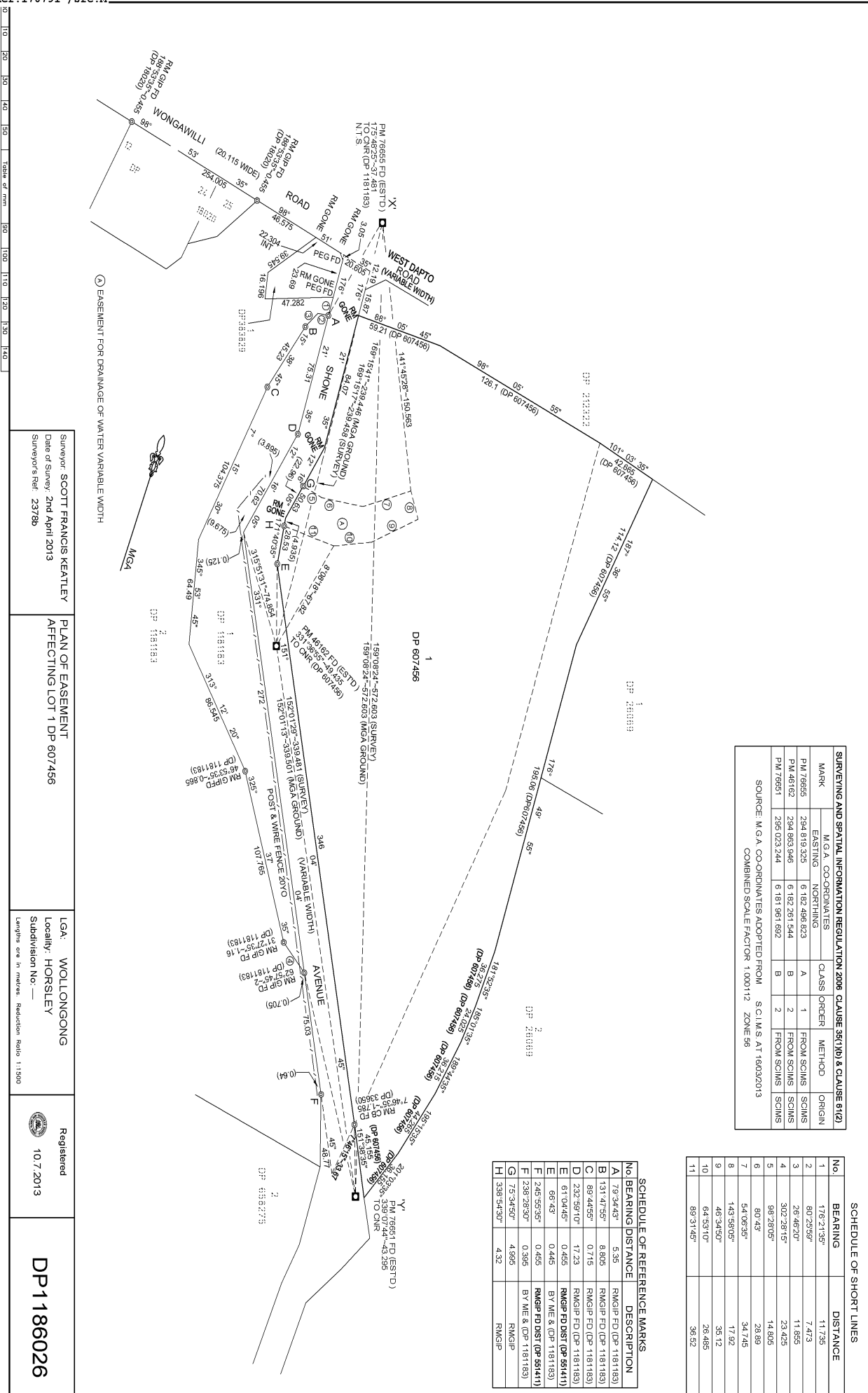
Approved by: ROBERT DOWDES
 Date: 1980

Final for use only for stamp, & if intention
 to dedicate public road or to create public res.
 as to other matters, conditions or restrictions
 as to use

DATE OF REFERENCE: 31/78

D b P O L 2 P

D b P O L 2 P



SURVEYING AND SPATIAL INFORMATION REGULATION 2006 CLAUSE 36(1)(b) & CLAUSE 61(2)

MARK	M.G.A. CO-ORDINATES	CLASS ORDER	METHOD	ORIGIN
PM 76655	294 819 325	1	FROM SCIMS	SCIMS
PM 46162	294 893 946	B	FROM SCIMS	SCIMS
PM 76651	293 023 244	B	FROM SCIMS	SCIMS

SOURCE: M.G.A. CO-ORDINATES ADOPTED FROM: S.C.I.M.S. AT 16032013
 COMBINED SCALE FACTOR: 1.00012 ZONE 56

SCHEDULE OF SHORT LINES

No.	BEARING	DISTANCE
1	175° 21' 35"	11.735
2	80° 29' 59"	7.473
3	28° 46' 20"	11.855
4	302° 28' 15"	23.425
5	98° 29' 05"	14.805
6	80° 42'	28.89
7	54° 08' 39"	34.745
8	143° 58' 05"	17.92
9	48° 34' 50"	35.12
10	64° 53' 10"	26.485
11	89° 31' 45"	36.52

SCHEDULE OF REFERENCE MARKS

No.	BEARING	DISTANCE	DESCRIPTION
A	79° 34' 43"	5.35	RMGIP FD (DP 1181183)
B	131° 47' 55"	8.805	RMGIP FD (DP 1181183)
C	89° 44' 55"	0.715	RMGIP FD (DP 1181183)
D	232° 59' 10"	17.23	RMGIP FD (DP 1181183)
E	61° 04' 45"	0.485	RMGIP FD DIST (DP 55141)
F	66° 43'	0.445	BY ME & (DP 1181183)
G	245° 55' 35"	0.455	RMGIP FD DIST (DP 55141)
H	75° 34' 50"	4.985	BY ME & (DP 1181183)
I	338° 54' 30"	4.32	RMGIP

Surveyor: SCOTT FRANCIS KEATLEY
 Date of Survey: 2nd April 2013
 Surveyor's Ref: 2378b

PLAN OF EASEMENT AFFECTING LOT 1 DP 607456

LGA: WOLLONGONG
 Locality: HORSLEY
 Subdivision No: —

Registered 10.7.2013

DP1186026

Lengths are in metres. Reduction Ratio 1:1500





⊕ EASEMENT FOR DRAINAGE OF WATER VARIABLE WIDTH

PLAN FORM 6 (2012)

WARNING: Creasing or folding will lead to rejection

ePlan

DEPOSITED PLAN ADMINISTRATION SHEET		Sheet 1 of 2 sheet(s)
<p>Registered:  10.7.2013</p> <p>Title System: TORRENS</p> <p>Purpose: EASEMENT</p>	<p>Office Use Only</p> <p>Office Use Only</p> <h1 style="margin: 0;">DP1186026</h1>	
<p>PLAN OF EASEMENT AFFECTING LOT 1 DP 607456</p>	<p>LGA: WOLLONGONG</p> <p>Locality: HORSLEY</p> <p>Parish: KEMBLA</p> <p>County: CAMDEN</p>	
<p style="text-align: center;">Crown Lands NSW/Western Lands Office Approval</p> <p>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.</p> <p>Signature:</p> <p>Date:</p> <p>File Number:</p> <p>Office:</p>	<p style="text-align: center;">Survey Certificate</p> <p>I, SCOTT FRANCIS KEATLEY of KEATLEY SURVEYORS PO BOX 3101 MINNAMURRA NSW 2533 PH 42376211 a surveyor registered under the <i>Surveying and Spatial Information Act 2002</i>, certify that:</p> <p>*(a) The land shown in the plan was surveyed in accordance with the <i>Surveying and Spatial Information Regulation 2012</i>, is accurate and the survey was completed on 02/04/2013</p> <p>*(b) The part of the land shown in the plan (*being**excluding* PART LOT 1 DP 607456 & CONNECTIONS) was surveyed in accordance with the <i>Surveying and Spatial Information Regulation 2012</i>, is accurate and the survey was completed on, 02/04/2013 the part not surveyed was compiled in accordance with that Regulation.</p> <p>*(c) The land shown in this plan was compiled in accordance with the <i>Surveying and Spatial Information Regulation 2012</i>.</p> <p style="text-align: right;">Signature:  Dated: 02/04/2013</p> <p>Surveyor ID: 1392</p> <p>Datum Line: 'X'-'Y'</p> <p>Type: *Urban**Rural</p> <p>The terrain is *Level-Undulating / *Steep-Mountainous-</p> <p>*Strike through if inapplicable.</p> <p>*Specify the land actually surveyed or specify any land shown in the plan that is not the subject of the survey.</p>	
<p style="text-align: center;">Subdivision Certificate</p> <p>I, *Authorised Person/*General Manager/*Accredited Certifier, certify that the provisions of s.109J 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.</p> <p>Signature:</p> <p>Accreditation number:</p> <p>Consent Authority:</p> <p>Date of endorsement:</p> <p>Subdivision Certificate number:</p> <p>File number:</p> <p>*Strike through if inapplicable.</p>	<p>Statements of intention to dedicate public roads, public reserves and drainage reserves.</p> <p style="text-align: center;">PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919 AS AMENDED, IT IS INTENDED TO CREATE:</p> <p>1. EASEMENT FOR DRAINAGE OF WATER VARIABLE WIDTH</p>	
<p>Signatures, Seals and Section 88B Statements should appear on PLAN FORM 6A</p>	<p>Plans used in the preparation of survey/compilation.</p> <p>DP1167701 DP 852119 DP 1050150 DP 159140 DP 1043034 DP21643 DP 998345</p> <p style="text-align: right;">If space is insufficient continue on PLAN FORM 6A</p> <p>Surveyor's Reference: 2378B</p>	


PLAN FORM 6A (2012)

WARNING: Creasing or folding will lead to rejection

ePlan

DEPOSITED PLAN ADMINISTRATION SHEET

Sheet 2 of 2 sheet(s)

<p style="text-align: right;">Office Use Only</p> <p>Registered:  10.7.2013</p> <p>PLAN OF EASEMENT AFFECTING LOT 1 DP 607456</p> <p>Subdivision Certificate number:</p> <p>Date of Endorsement:</p>	<p style="text-align: right;">Office Use Only</p> <p style="font-size: 24pt; text-align: center;">DP1186026</p> <p>This sheet is for the provision of the following information as required:</p> <ul style="list-style-type: none"> A schedule of lots and addresses - See 60(c) <i>SSI Regulation 2012</i> Statements of intention to create and release affecting interests in accordance with section 88B <i>Conveyancing Act 1919</i> Signatures and seals- see 195D <i>Conveyancing Act 1919</i> Any information which cannot fit in the appropriate panel of sheet 1 of the administration sheets.
---	---

Lot	Street number	Street name	Street type	Locality
Lot 1 DP 607456	21	Shone	Avenue	Horsley

A Malanga

A Malanga

A Iera

If space is insufficient use additional annexure sheet

Surveyor's Reference: 2378B

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

Sheet 1 of 3 sheets

Plan **DP1186026**

Plan of Easement
affecting Lot 1 DP 607456

Full name and address
Of owner of land

Antonio Malanga,
Giuseppe Malanga
and
Gaetana Iera
21 Shone Avenue
Horsley NSW 2530

PART 1 (Creation)

Number of item shown in the intention panel on the plan	Identity of easement, profit á 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	Easement for drainage of water variable width.	Lot 1 DP 607456	Wollongong City Council

Approved by Wollongong City Council

.....dated..... 2378b88b

Plan DP1186026

Plan of Easement
Affecting Lot 1 DP 607456
Covered by Subdivision Certificate
No.

Signed in my presence by
Antonio Malanga who is
personally known to me.



Signature of Witness


Antonio Malanga

LINDA ALANIA
Name of Witness (BLOCK LETTERS)

BLUCAS DRIVE
HORSLEY NSW 2530

Signed in my presence by
Giuseppe Malanga who is
personally known to me.


Signature of Witness


Giuseppe Malanga

LINDA ALANIA
Name of Witness (BLOCK LETTERS)

B LUCAS DRIVE
HORSLEY NSW 2530

Plan **DP1186026**

Plan of Easement
Affecting Lot 1 DP 607456
Covered by Subdivision Certificate
No.

Signed in my presence by
Gaetana Iera who is
personally known to me.

Linda Alania
Signature of Witness

Gaetana Iera
Gaetana Iera

LINDA ALANIA
Name of Witness (BLOCK LETTERS)

8 LUCAS DRIVE
HORSLEY NSW 2530

REGISTERED  10.7.2013

.....
authorised officer – Wollongong City Council

Form: 11R
Release: 4.2

REQUEST

New South Wales
Real Property Act 1900



AM127256C

PRIVACY NOTE: Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

All Statutory Declarations and evidence that are lodged in support of land dealings will be treated as publicly accessible and will be disclosed to persons upon request.

(A) **STAMP DUTY**

If applicable. Office of State Revenue use only

(B) **TORRENS TITLE**

1/607456

(C) **REGISTERED DEALING**

Number	Torrens Title
--------	---------------

(D) **LODGED BY**

Document Collection Box 392 C	Name, Address or PO Address and Telephone and Customer Account Number if any SYDNEY LEGAL AGENCIES LLP : 128005 Y	CODE R
Reference:	Heard 321946	

(E) **APPLICANT**

Jomand Pty Limited ACN 137 226 530

(F) **NATURE OF REQUEST**

Registration of Planning Agreement pursuant to s93H Environmental Planning and Assessment Act 1979
--

(G) **TEXT OF REQUEST**

Jomand Pty Ltd (ACN 137 226 530) as registered proprietor of folio identifier 1/607456 and the Minister for Planning as planning authority request that the planning agreement in Annexure B to this request, be registered on the title of the lot listed above at (B).

DATE 20/01/2017

(H) Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the company named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified.

Company: Jomand Pty Limited
Authority: Section 127 of the Corporations Act 2001

Signature of authorised person: *Frances Cochia*
Name of authorised person: Frances Cochia
Office held: Director

Signature of authorised person: *Joseph Frank Cachia*
Name of authorised person: JOSEPH FRANK CACHIA
Office held: Secretary

(I) This section is to be completed where a notice of sale is required and the relevant data has been forwarded through eNOS. The applicant certifies that the eNOS data relevant to this dealing has been submitted and stored under eNOS ID No. _____ Full name: _____ Signature: _____

Annexure **A** to

Parties:

Jomand Pty Limited and the Minister for Planning

Dated: 20/01/2017

I certify that I am an eligible witness and that an authorised officer of the planning authority signed this dealing in my presence.

Certified correct for the purpose of the Real Property Act 1900 by the authorised officer named below.

M Gaynor
Signature of witness

Brendan Nelson
Signature of authorised officer

MARY-ROSE GAYNOR
Name of witness

BRENDAN NELSON
Authorised officer's name

320 PITT ST, SYDNEY
Address of witness

DEPUTY SECRETARY
Authority of officer

Signing on behalf of Minister for Planning

Planning Agreement
Environmental Planning and Assessment Act 1979

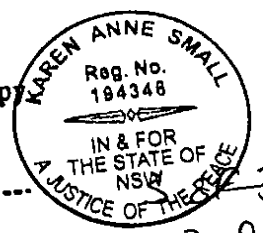
Minister for Planning (ABN 38 755 709 681)

and

Jomand Pty Ltd (ACN 137 226 530)

Handwritten signatures:
1. *Handwritten signature*
2. *Handwritten signature*
3. *Handwritten signature*

I certify that this is a true and correct copy of the original instrument.



Signed: *Handwritten signature*
28 pages

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This deed is dated **15 DECEMBER 2016**

Parties:

Minister

Minister for Planning (ABN 38 755 709 681)
of Level 15, 52 Martin Place, Sydney, New South Wales 2000

Developer

Jomand Pty Ltd ACN 137 226 530 of 20 William James Drive, Mount Kembla NSW 2526

Introduction:

- A The Developer owns the Land.
- B The Developer proposes to carry out the Development on the Land.
- C The Developer's consultant KFW (KF Williams & Associates Pty Ltd) has made a Development Application to the Consent Authority in respect of the Land.
- D Clause 6.1 of the Wollongong Local Environmental Plan 2009 provides that the Consent Authority must not grant Development Consent to the Development unless the Secretary has certified in writing to the Consent Authority that satisfactory arrangements have been made to contribute to the provision of designated State infrastructure referred to in clause 6.1 of the Wollongong Local Environmental Plan 2009.
- E The Developer has offered to enter into this deed with the Minister to secure the Development Contribution in order to enable the Secretary to provide the certification required by the LEP.

It is agreed:

1. Definitions and interpretation

1.1 Definitions

In this deed, unless the context clearly indicates otherwise:

Act means the *Environmental Planning and Assessment Act 1979* (NSW).

Address for Service means the address of each party appearing in Schedule 2 or any new address notified by any party to all other parties as its new Address for Service.

Authority means any Federal, State or local government or semi-governmental, statutory, judicial or public person, instrumentality or department.

Bank Guarantee means an irrevocable and unconditional undertaking:

- (a) by an Australian bank which is an eligible financial institution for the purposes of Treasury Circular NSW TC14/01 dated 24 January 2014 as amended, supplemented or substituted from time to time; and
 - (b) on terms acceptable to the Minister, in the Minister's absolute discretion,
- to pay the face value of that undertaking (being such amount as is required under this deed) on demand.

Base CPI means the CPI number for the quarter ending 31 March 2016.

JF Bank
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[Handwritten signature]
[Handwritten initials]

Business Day means any day that is not a Saturday, Sunday, public holiday or bank holiday in Sydney, and concludes at 5 pm on that day.

Consent Authority has the same meaning as in the Act.

Contribution Amount means the amount of the monetary contribution to be paid by the Developer as described in Schedule 4.

CPI means the Sydney Consumer Price Index (All Groups) published by the Commonwealth Statistician, or if that index no longer exists, any similar index that the Minister specifies, in his or her sole discretion, for the purposes of this deed.

CPI Adjustment Date means 1 July 2017 and each anniversary of 1 July 2017.

Current CPI means the CPI number for the quarter ending immediately before 31 March in the year in which the relevant adjustment is made.

Developer means the Developer and the Landowner, unless otherwise specified in this deed.

Development means residential subdivision to create 37 residential lots and a residual lot and approval for earth works generally in accordance with Development Application 2015/1411.

Development Application has the same meaning as in the Act.

Development Consent has the same meaning as in the Act.

Development Contribution means the contributions to be provided by the Developer in accordance with Schedule 4.

Explanatory Note means the note exhibited with a copy of this deed when this deed is made available for inspection by the public pursuant to the Act, as required by the Regulation.

General Register of Deeds means the land register maintained under the *Conveyancing Act 1919* (NSW) and so titled.

GST means any form of goods and services tax payable under the GST Legislation.

GST Legislation means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Insurance Bond means an irrevocable and unconditional undertaking:

- (a) by an Insurance Company which is an eligible financial institution for the purposes of Treasury Circular NSW TC14/01 dated 24 January 2014 as amended, supplemented or substituted from time to time; and
- (b) on terms acceptable to the Minister, in the Minister's absolute discretion,

to pay the face value of that undertaking (being such amount as is required under this deed) on demand.

Insurance Company means an insurance company authorised under the *Insurance Act 1973* and who is subject to prudential supervision by Australian Prudential Regulatory Authority.

Land means the land described in Schedule 3 and shown at Annexure A.

LEP means Wollongong Local Environmental Plan 2009.

Mediation Program means the Mediation Program of the Law Society of New South Wales as published on its website and as varied from time to time.

Minister means the Minister for Planning and includes the Secretary and the Secretary's nominee.

Planning Application means:

- (c) a Development Application; or
- (d) any other application required under the Act,

which seeks approval for the subdivision of the Land.

Real Property Act means the *Real Property Act 1900 (NSW)*.

Register means the Torrens title register maintained under the Real Property Act.

Regulation means the *Environmental Planning and Assessment Regulation 2000 (NSW)*.

Satisfactory Arrangements Certificate means a certificate issued by the Secretary that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in accordance with clause 6.1 of the LEP.

Secretary means the Secretary of the Department of Planning and Environment.

Security means a Bank Guarantee or an Insurance Bond.

SIC Amount means the amount of a monetary contribution calculated in accordance with a Special Infrastructure Contribution that would be payable for a stage of the subdivision authorised by the relevant Development Consent had section 94EF of the Act not been excluded by this deed.

Subdivision Certificate has the same meaning as in the Act.

Tax means a tax, duty (including stamp duty and any other transaction duty), levy, impost, charge, fee (including a registration fee) together with all interest, penalties, fines and costs concerning them.

1.2 Interpretation

In this deed unless the context clearly indicates otherwise:

- (a) a reference to **this deed** or another document means this deed or that other document and any document which varies, supplements, replaces, assigns or novates this deed or that other document;
- (b) a reference to **legislation** or a **legislative provision** includes any statutory modification, or substitution of that legislation or legislative provision and any subordinate legislation issued under that legislation or legislative provision;
- (c) a reference to a **body** or **authority** which ceases to exist is a reference to either a body or authority that the parties agree to substitute for the named body or authority or, failing agreement, to a body or authority having substantially the same objects as the named body or authority;
- (d) a reference to the **introduction**, a **clause**, a **schedule** or an **annexure** is a reference to the introduction, a clause, a schedule or an annexure to or of this deed;
- (e) **clause headings**, the **introduction** and the **table of contents** are inserted for convenience only and do not form part of this deed;
- (f) the **schedules** and **annexures** form part of this deed;

- (g) a reference to a **person** includes a natural person, corporation, statutory corporation, partnership, the Crown or any other organisation or legal entity;
- (h) a reference to a **natural person** includes their personal representatives, successors and permitted assigns;
- (i) a reference to a **corporation** includes its successors and permitted assigns;
- (j) a reference to a right or obligation of a party is a reference to a right or obligation of that party under this deed;
- (k) an **obligation** or **warranty** on the part of 2 or more persons binds them jointly and severally and an **obligation** or **warranty** in favour of 2 or more persons benefits them jointly and severally;
- (l) a requirement to do any thing includes a requirement to cause that thing to be done and a requirement not to do any thing includes a requirement to prevent that thing being done;
- (m) **Including** and **includes** are not words of limitation;
- (n) a word that is derived from a defined word has a corresponding meaning;
- (o) **monetary amounts** are expressed in Australian dollars;
- (p) the singular includes the plural and vice-versa;
- (q) words importing one gender include all other genders;
- (r) a reference to a thing includes each part of that thing; and
- (s) neither this deed nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting.

2. Operation and application of this deed

2.1 Operation

This deed commences on the date that this deed is signed by all the parties.

2.2 Planning agreement under the Act

This deed constitutes a planning agreement within the meaning of section 93F of the Act and the parties agree on the matters set out in Schedule 1.

2.3 Application

This deed applies to:

- (a) the Land; and
- (b) the Development.

3. Application of sections 94, 94A and 94EF of the Act

The application of sections 94, 94A and 94EF of the Act are excluded to the extent stated in Schedule 1.

4. Development Contribution

4.1 Developer to provide Development Contribution

The Developer undertakes to provide to the Minister, or the Minister's nominee, the Development Contribution in accordance with the provisions of Schedule 4 to this deed.

4.2 Special Infrastructure Contribution

(a) This clause applies where:

- (i) the Minister determines a special infrastructure contribution (SIC) under section 94EE of the Act for a special contributions area that includes any part of the Land (SIC Determination); and
- (ii) the SIC Determination takes effect on or after the commencement of this deed, but before the Development Contribution has been paid in full.

(b) If the SIC Amount for a stage of the subdivision authorised by the relevant Development Consent is less than the Contribution Amount that would otherwise be payable under this deed for that stage, then:

- (i) the Developer is required to pay only the SIC Amount; and
- (ii) that amount is to be treated as the relevant Contribution Amount for the purposes of clause 4.1 and clauses 1(b) and 2(b) of Schedule 4.

(c) Clause 4.2(b) applies only to a Contribution Amount that has not been paid and is not due and payable at the time the SIC Determination takes effect. To avoid doubt, the Minister is not required to refund or reimburse any part of the Development Contribution paid before that time.

(d) In this clause 4.2, a reference to the SIC Amount for a stage of the subdivision authorised by the relevant Development Consent is a reference to the amount of the monetary contribution for that stage calculated in accordance with the SIC Determination, being the amount that would have been payable if the application of section 94EF of the Act had not been excluded by this deed and the Development Consent had been granted before the SIC Determination took effect.

4.3 Acknowledgement

The Developer acknowledges and agrees that, subject to section 93E of the Act, the Minister:

- (a) has no obligation to use or expend the Development Contribution for a particular purpose despite any provision of this deed to the contrary and has no obligation to repay the Development Contribution; and
- (b) in circumstances where the Development Contribution is transferred to any Authority, has not made any representation or warranty that the Development Contribution will or must be used for a particular purpose by that Authority.

5. Interest

5.1 Interest for late payment

- (a) If the Developer fails to pay a Contribution Amount (as indexed in accordance with Schedule 4) due to the Minister on the due date for payment, the Developer must also pay

to the Minister interest at a rate of 2% above the loan reference rate charged by the Commonwealth Bank of Australia from time to time.

- (b) Interest is payable on the daily balance of amounts due from the due date for payment of those amounts until all outstanding amounts (including interest on those amounts) have been paid to the Minister.

6. Enforcement

6.1 Developer to provide Security

The Developer has agreed to provide security to the Minister for the performance of the Developer's obligations under this deed by providing the Security to the Minister in accordance with the terms and procedures set out in Schedule 5.

7. Registration

7.1 Registration of deed

- (a) Within 10 Business Days of receiving a copy of this deed executed by the Minister, the Developer at its own expense is to take all practical steps and otherwise do anything to procure:
 - (i) the consent of each person, as required by the Registrar-General, who:
 - (A) has an estate or interest in the Land registered under the Real Property Act; or
 - (B) is seized or possessed of an estate or interest in the Land,to the registration of this deed on the title to the Land and to the terms of this deed; and
 - (ii) the execution of any documents;
 - (iii) the production of the relevant certificates of title; and
 - (iv) the lodgement of this deed in a registrable form at the Land and Property Information for registration by the Registrar-General in the relevant folio of the Register for the Land, or in the General Register of Deeds if this deed relates to land not under the Real Property Act.
- (b) The Developer will take all practical steps and otherwise do anything to procure the registration of this deed within three months of the date of this deed in the relevant folio of the Register for the Land, or in the General Register of Deeds if this deed relates to land not under the Real Property Act, including promptly responding to any requisitions made by the Registrar-General in respect of this deed and/or any ancillary documents.

7.2 Evidence of registration

- (a) The Developer must provide the Minister with evidence of the lodgement of this deed pursuant to clause 7.1(a)(iv) within 10 Business Days of such lodgement at the Land and Property Information.
- (b) The Developer will provide the Minister with a copy of the relevant folio of the Register for the Land and a copy of the registered dealing containing this deed within 10 Business Days of registration of this deed.

7.3 Release and discharge of deed

The Minister agrees to do all things reasonably required by the Developer to release and discharge this deed with respect to any part of the Land upon the Developer satisfying all of its obligations under this deed in respect of that part of the Land.

7.4 Developer's interest in Land

The Developer represents and warrants that it is:

- (a) the owner of the Land; or
- (b) legally and beneficially entitled to become the owner of the Land and will become the legal and beneficial owner of the Land, prior to the date that this deed is required to be registered under clause 7.1 of this deed; and
- (c) legally and beneficially entitled to obtain all consents and approvals and to compel any person referred to in or contemplated by clause 7.1(a)(i) to assist, cooperate and to otherwise do all things necessary for the Developer to comply with its obligations under clause 7.

8. Dispute Resolution

8.1 Not commence

A party must not commence any court proceedings relating to a dispute unless it complies with this clause 8.

8.2 Written notice of dispute

A party claiming that a dispute has arisen under or in relation to this deed must give written notice to the other party specifying the nature of the dispute.

8.3 Attempt to resolve

On receipt of notice under clause 8.2, the parties must endeavour in good faith to resolve the dispute expeditiously using informal dispute resolution processes such as mediation, expert evaluation or other methods agreed by them.

8.4 Mediation

If the parties do not agree within 21 Business Days of receipt of notice under clause 8.2 (or any further period agreed in writing by them) as to:

- (a) the dispute resolution technique and procedures to be adopted;
 - (b) the timetable for all steps in those procedures; or
 - (c) the selection and compensation of the independent person required for such technique,
- the parties must mediate the dispute in accordance with the Mediation Program. The parties must request the president of the Law Society of NSW or the president's nominee to select the mediator and determine the mediator's remuneration.

8.5 Court proceedings

If the dispute is not resolved within 60 Business Days after notice is given under clause 8.2 then any party which has complied with the provisions of this clause 8 may in writing terminate any

dispute resolution process undertaken under this clause and may then commence court proceedings in relation to the dispute.

8.6 Not use information

The parties acknowledge the purpose of any exchange of information or documents or the making of any offer of settlement under this clause 8 is to attempt to settle the dispute. No party may use any information or documents obtained through any dispute resolution process undertaken under this clause 8 for any purpose other than in an attempt to settle the dispute.

8.7 No prejudice

This clause 8 does not prejudice the right of a party to institute court proceedings for urgent injunctive or declaratory relief in relation to any matter arising out of or relating to this deed.

9. GST

9.1 Definitions

Words used in this clause that are defined in the GST Legislation have the meaning given in that legislation.

9.2 Intention of the parties

The parties intend that:

- (a) Divisions 81 and 82 of the GST Legislation apply to the supplies made under and in respect of this deed; and
- (b) no additional amounts will be payable on account of GST and no tax invoices will be exchanged between the parties.

9.3 Reimbursement

Any payment or reimbursement required to be made under this deed that is calculated by reference to a cost, expense, or other amount paid or incurred must be limited to the total cost, expense or amount less the amount of any input tax credit to which any entity is entitled for the acquisition to which the cost, expense or amount relates.

9.4 Consideration GST exclusive

Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under this deed are exclusive of GST. Any consideration that is specified to be inclusive of GST must not be taken into account in calculating the GST payable in relation to a supply for the purposes of this clause 9.

9.5 Additional Amounts for GST

To the extent an amount of GST is payable on a supply made by a party (**Supplier**) under or in connection with this deed (**the GST Amount**), the recipient must pay to the Supplier the GST Amount. However, where a GST Amount is payable by the Minister as recipient of the supply, the Developer must ensure that:

- (a) the Developer makes payment of the GST Amount on behalf of the Minister, including any gross up that may be required; and
- (b) the Developer provides a tax invoice to the Minister.

9.6 Non monetary consideration

Clause 9.5 applies to non-monetary consideration.

9.7 Assumptions

The Developer acknowledges and agrees that in calculating any amounts payable under clause 9.5 the Developer must assume the Minister is not entitled to any input tax credit.

9.8 No merger

This clause does not merge on completion or termination of this deed.

10. Assignment and transfer

10.1 Right to assign or novate

- (a) Prior to a proposed assignment or novation of its rights or obligations under this deed, the party seeking to assign its rights or novate its obligations (**Assigning Party**) must seek the consent of the Minister and:
 - (i) satisfy the Minister (acting reasonably) that the person to whom the Assigning Party's rights or obligations are to be assigned or novated (**Incoming Party**) has sufficient assets, resources and expertise required to perform the Assigning Party's obligations under this deed insofar as those obligations are to be novated to the Incoming Party;
 - (ii) procure the execution of an agreement by the Incoming Party with the Minister on terms satisfactory to the Minister (acting reasonably) under which the Incoming Party agrees to comply with the terms and conditions of this deed as though the Incoming Party were the Assigning Party; and
 - (iii) satisfy the Minister, acting reasonably, that it is not in material breach of its obligations under this deed.
- (b) The Assigning Party must pay the Minister's reasonable legal costs and expenses incurred under this clause 10.1.

10.2 Right to transfer Land

- (a) The Developer must not sell or transfer to another person (**Transferee**) the whole or part of any part of the Land:
 - (i) on which this deed remains registered under section 93H of the Act; or
 - (ii) for which the Development Contribution required under this deed remains outstanding.
- (b) Notwithstanding clause 10.2(a) the Developer may sell or transfer the whole or any part of the Land to a Transferee if prior to the proposed sale or transfer the Developer:
 - (i) satisfies the Minister, acting reasonably, that the proposed Transferee has sufficient assets, resources and expertise required to perform any of the remaining obligations of the Developer under this deed or satisfies the Minister, acting reasonably, that the Developer will continue to be bound by the terms of this deed after the transfer has been effected;
 - (ii) procures the execution of an agreement by the Transferee with the Minister on terms satisfactory to the Minister, acting reasonably, under which the Transferee

agrees to comply with the terms and conditions of this deed as though the Transferee were the Developer; and

- (iii) satisfies the Minister, acting reasonably, that it is not in material breach of its obligations under this deed.
- (c) The Developer must pay the Minister's reasonable legal costs and expenses incurred under this clause 10.2.

10.3 Replacement Security

Provided that:

- (a) the Developer has complied with clause 10.1 and 10.2; and
- (b) the Transferee or Incoming Party (as the case may be) has provided the Minister with a replacement Security in accordance with the requirements of Schedule 5 and on terms acceptable to the Minister,

the Minister will promptly return the Security to the Developer.

11. Capacity

11.1 General warranties

Each party warrants to each other party that:

- (a) this deed creates legal, valid and binding obligations, enforceable against the relevant party in accordance with its terms; and
- (b) unless otherwise stated, it has not entered into this deed in the capacity of trustee of any trust.

11.2 Power of attorney

If an attorney executes this deed on behalf of any party, the attorney declares that it has no notice of the revocation of that power of attorney.

12. Reporting requirement

- (a) By 1 September each year or as otherwise agreed with the Secretary, the Developer must deliver to the Secretary a report (in a format acceptable to the Secretary) for the period 1 July to 30 June of the preceding financial year which must include the following matters, as applicable:
 - (i) details of all Development Consents and Subdivision Certificates issued in relation to the Development;
 - (ii) a description of the status of the Development including a plan that identifies what parts of the Development have been completed, are under construction and are to be constructed;
 - (iii) a forecast in relation to the anticipated progression and completion of the Development;
 - (iv) a compliance schedule showing the details of all Contribution Amounts provided under this deed as at the date of the report and indicating any non-compliance with this deed and the reason for the non-compliance; and

- (v) when the Developer expects to lodge the next Planning Application.
- (b) Upon the Secretary's request, the Developer must deliver to the Secretary all documents and other information which, in the reasonable opinion of the Secretary are necessary for the Secretary to assess the status of the Development and the Developer's compliance with this deed.

13. General Provisions

13.1 Entire deed

This deed constitutes the entire agreement between the parties regarding the matters set out in it and supersedes any prior representations, understandings or arrangements made between the parties, whether orally or in writing.

13.2 Variation

This deed must not be varied except by a later written document executed by all parties.

13.3 Waiver

A right created by this deed cannot be waived except in writing signed by the party entitled to that right. Delay by a party in exercising a right does not constitute a waiver of that right, nor will a waiver (either wholly or in part) by a party of a right operate as a subsequent waiver of the same right or of any other right of that party.

13.4 Further assurances

Each party must promptly execute all documents and do every thing necessary or desirable to give full effect to the arrangements contained in this deed.

13.5 Time for doing acts

- (a) If:
 - (i) the time for doing any act or thing required to be done; or
 - (ii) a notice period specified in this deed,expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.
- (b) If any act or thing required to be done is done after 5 pm on the specified day, it is taken to have been done on the following Business Day.

13.6 Governing law and jurisdiction

- (a) The laws applicable in New South Wales govern this deed.
- (b) The parties submit to the non-exclusive jurisdiction of the courts of New South Wales and any courts competent to hear appeals from those courts.

13.7 Severance

If any clause or part of any clause is in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal. If this is not possible, the clause (or where possible, the offending part) is to be severed from this deed without affecting the enforceability, validity or legality of the remaining clauses (or parts of those clauses) which will continue in full force and effect.

13.8 Preservation of existing rights

The expiration or termination of this deed does not affect any right that has accrued to a party before the expiration or termination date.

13.9 No merger

Any right or obligation of any party that is expressed to operate or have effect on or after the completion, expiration or termination of this deed for any reason, does not merge on the occurrence of that event but remains in full force and effect.

13.10 Counterparts

This deed may be executed in any number of counterparts. All counterparts taken together constitute one instrument.

13.11 Relationship of parties

Unless otherwise stated:

- (a) nothing in this deed creates a joint venture, partnership, or the relationship of principal and agent, or employee and employer between the parties; and
- (b) no party has the authority to bind any other party by any representation, declaration or admission, or to make any contract or commitment on behalf of any other party or to pledge any other party's credit.

13.12 Good faith

Each party must act in good faith towards all other parties and use its best endeavours to comply with the spirit and intention of this deed.

13.13 No fetter

Nothing in this deed is to be construed as requiring the Minister to do anything that would cause the Minister to breach any of the Minister's obligations at law and without limitation, nothing in this deed shall be construed as limiting or fettering in any way the discretion of the Minister in exercising any of the Minister's statutory functions, powers, authorities or duties.

13.14 Explanatory note

The Explanatory Note must not be used to assist in construing this deed.

13.15 Expenses and stamp duty

- (a) The Developer must pay its own and the Minister's reasonable legal costs and disbursements in connection with the negotiation, preparation, execution and carrying into effect of this deed.
- (b) The Developer must pay for all costs and expenses associated with the giving of public notice of this deed and the Explanatory Note in accordance with the Regulation.
- (c) The Developer must pay all Taxes assessed on or in respect of this deed and any instrument or transaction required or contemplated by or necessary to give effect to this deed (including stamp duty and registration fees, if applicable).
- (d) The Developer must provide the Minister with bank cheques, or an alternative method of payment if agreed with the Minister, in respect of the Minister's costs pursuant to clauses 13.15(a) and (b):

- (i) where the Minister has provided the Developer with written notice of the sum of such costs prior to execution, on the date of execution of this deed; or
- (ii) where the Minister has not provided the Developer with prior written notice of the sum of such costs prior to execution, within 30 Business Days of demand by the Minister for payment.

13.16 Notices

- (a) Any notice, demand, consent, approval, request or other communication (**Notice**) to be given under this deed must be in writing and must be given to the recipient at its Address for Service by being:
 - (i) hand delivered; or
 - (ii) sent by facsimile transmission; or
 - (iii) sent by prepaid ordinary mail within Australia; or
 - (iv) in the case of a Notice to be given by the Minister or Secretary, sent by email.
- (b) A Notice is given if:
 - (i) hand delivered, on the date of delivery but if delivery occurs after 5pm New South Wales time or a day that is not a Business Day, is taken to be given on the next Business Day;
 - (ii) sent by facsimile and the sending party's facsimile machine reports that the facsimile has been successfully transmitted;
 - (A) before 5 pm on a Business Day, on that day;
 - (B) after 5 pm on a Business Day, on the next Business Day after it is sent; or
 - (C) on a day that is not a Business Day, on the next Business Day after it is sent; or
 - (iii) sent by prepaid ordinary mail within Australia, on the date that is 2 Business Days after the date of posting; or
 - (iv) sent by email:
 - (A) before 5 pm on a Business Day, on that Day;
 - (B) after 5 pm on a Business Day, on the next Business Day after it is sent; or
 - (C) on a day that it is not a Business Day, on the next Business Day after it is sent, and the sender does not receive a delivery failure notice.

Schedule 1

Table 1 - Requirements under section 93F of the Act (clause 2.2)

The parties acknowledge and agree that the table set out below provides for certain terms, conditions and procedures for the purpose of the deed complying with the Act.

Requirement under the Act	This deed
<p>Planning instrument and/or development application – (section 93F(2))</p> <p>The Developer has:</p> <p>(a) sought a change to an environmental planning instrument.</p> <p>(b) made, or proposes to make, a Development Application.</p> <p>(c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies.</p>	<p>(a) No</p> <p>(b) No</p> <p>(c) Yes</p>
<p>Description of land to which this deed applies – (section 93F(3)(a))</p>	See Schedule 3
<p>Description of development to which this deed applies – (section 93F(3)(b))</p>	See definition of Development in clause 1.1
<p>Description of change to the environmental planning instrument to which this deed applies – (section 93F(3)(b))</p>	Not Applicable
<p>The scope, timing and manner of delivery of contribution required by this deed – (section 93F(3)(c))</p>	See Schedule 4
<p>Applicability of sections 94 and 94A of the Act – (section 93F(3)(d))</p>	The application of sections 94 and 94A of the Act is not excluded in respect of the Development.
<p>Applicability of section 94EF of the Act – (section 93F(3)(d))</p>	The application of section 94EF of the Act is excluded in respect of the Development.
<p>Consideration of benefits under this deed if section 94 applies – (section 93F(3)(e))</p>	No
<p>Mechanism for Dispute Resolution – (section 93F(3)(f))</p>	See clause 8
<p>Enforcement of this deed – (section 93F(3)(g))</p>	See clause 6
<p>No obligation to grant consent or exercise functions – (section 93F(10))</p>	See clause 13.13

Table 2 – Other matters

Requirement under the Act	This deed
Registration of the Planning Agreement – (section 93H of the Act)	Yes (see clause 7)
Whether the Planning Agreement specifies that certain requirements of the agreement must be complied with before a construction certificate is issued – (clause 25E(2)(g) of the Regulation)	No
Whether the Planning Agreement specifies that certain requirements of the agreement must be complied with before an occupation certificate is issued – (clause 25E(2)(g) of the Regulation)	No
Whether the Planning Agreement specifies that certain requirements of the agreement must be complied with before a subdivision certificate is issued – (clause 25E(2)(g) of the Regulation)	Yes (see clause 3 of Schedule 4)

Schedule 2

Address for Service (clause 1.1)

Minister

Contact: The Secretary
Address: Department of Planning and Environment
23-33 Bridge Street
SYDNEY NSW 2000
Facsimile No: (02) 9228 6455

Developer

Contact: Joseph Cachia, Director of Jomand Pty Ltd
Address: 20 William James Drive, Mount Kembla NSW 2526
Facsimile No: (02) 4272 1120
Email: admin@piruse.com.au

Schedule 3

Land (clause 1.1)

1. Lots proposed for development

Lot	Deposited Plan	Folio Identifier
That part of Lot 1 as shown hatched in the plan at Annexure A	607456	1/607456

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Schedule 4

Development Contributions (clause 4)

1. Development Contributions

- (a) For the purposes of this Schedule, Net Developable Area, in relation to a part of the Land means the net developable area of that part as defined and determined in accordance with Schedule 6.
- (b) The Developer undertakes to provide the Development Contribution in the manner set out in the table below:

Development Contribution	Value	Timing
Contribution Amount - Cash contribution towards designated State public infrastructure	\$55,668 per hectare of Net Developable Area for any part of the Land to which a Subdivision Certificate application relates.	Pursuant to clause 3 of this Schedule 4

- (c) The Minister and Developer acknowledge and agree that the sum of the Contribution Amounts form the Development Contribution under this deed.

2. Calculation of the value of a Contribution Amount

- (a) Each Contribution Amount will be an amount equal to the sum represented by "X" in the following formula:

$$X = N \times \$55,668$$

"N" means the number of hectares comprised in the Net Developable Area of the part of Land to which a Subdivision Certificate application relates.

- (b) On the CPI Adjustment Date, each Contribution Amount is to be adjusted by multiplying the Contribution Amount payable (as previously adjusted in accordance with this clause, where relevant) by an amount equal to the Current CPI divided by the Base CPI.

3. Payment of Contribution Amounts

- (a) The Developer must pay to the Minister or the Minister's nominee each Contribution Amount prior to the issue of the relevant Subdivision Certificate.
- (b) The Developer must provide the Minister with not less than 10 Business Days' written notice of its intention to lodge an application for the relevant Subdivision Certificate.
- (c) The parties agree that the requirement to make a payment under this clause is a restriction on the issue of the relevant Subdivision Certificate within the meaning of section 109J(1)(c1) of the Act.

Schedule 5

Security terms (clause 6)

1. Developer to provide Security

- (a) In order to secure the payment or performance of the Development Contribution the Developer has agreed to provide the Security.
- (b) The Security must:
 - (i) name the "Minister for Planning" and the "Department of Planning and Environment ABN 38 755 709 681" as the relevant beneficiaries; and
 - (ii) not have an expiry date.

2. Security

- (a) At the time the Developer signs this deed, the Developer must provide the Security to the Minister having a face value amount of \$20,000 (**Security Amount**) in order to secure the Developer's obligations under this deed.
- (b) From the date of execution of this deed until the date that the Developer has provided the Development Contribution, the Minister is entitled to retain the Security.

3. Claims under Security

- (a) The Minister may:
 - (i) call upon the Security where the Developer has failed to pay a Contribution Amount for the Development on or after the date for payment under this deed; and
 - (ii) retain and apply such monies towards the Contribution Amount and any costs and expenses incurred by the Minister in rectifying any default by the Developer under this deed.
- (b) Prior to calling upon the Security the Minister must give the Developer not less than 10 Business Days written notice of his or her intention to call upon the Security.
- (c) If:
 - (i) the Minister calls upon the Security; and
 - (ii) applies all or part of such monies towards the Contribution Amount and any costs and expenses incurred by the Minister in rectifying any default by the Developer under this deed; and
 - (iii) has notified the Developer of the call upon the Security in accordance with clause (b) of this Schedule 5,

then the Developer must provide to the Minister a replacement Security to ensure that at all times until the date that the Security is released in accordance with clause 4 of this Schedule, the Minister is in possession of Security for a face value equivalent to the Security Amount.

4. Release of Security

If:

- (a) the Developer has satisfied all of its obligations under this deed secured by the Security;
and
- (b) the whole of the monies secured by the Security has not been expended and the monies accounted for in accordance with clause 2 of this Schedule 5,

then the Minister will promptly return the Security (less any costs, charges, duties and taxes payable), or the remainder of the monies secured by the Security (as the case may be), to the Developer.

Schedule 6

Definition of Net Developable Area (Schedule 4, clauses 1 and 2)

1. The net developable area of a part of the Land (*the net developable area for the proposed subdivision*) is the area of land, in hectares, shown on the proposed plan of subdivision (that is, the area to which the relevant application for a subdivision certificate for that part of the Land relates), subject to the other provisions of this Schedule 6.
2. The net developable area does not include the area of any land that the proposed subdivision reserves, dedicates or otherwise sets aside as, or for the purpose of, any of the following:
 - (a) school;
 - (a) TAFE establishment;
 - (b) emergency services facility;
 - (c) health services facility owned or operated by a public authority;
 - (d) golf course;
 - (e) passenger transport facility;
 - (f) place of public worship;
 - (g) public open space, including a public reserve (within the meaning of the *Local Government Act 1993*);
 - (h) drainage reserve (within the meaning of the *Local Government Act 1993*);
 - (i) public utility undertaking;
 - (j) bus depot;
 - (k) recreation area;
 - (l) cemetery (within the meaning of the *Cemeteries and Crematoria Act 2013*);
 - (m) public roads; and
 - (n) public amenities or public services, in connection with which development contributions have been imposed under section 94 or section 94A of the Act or may be imposed in accordance with a contributions plan approved under section 94EA of the Act.
3. The following areas of land are not to be included in the calculation of the net developable area for the proposed subdivision:
 - (a) any area of land that is at or below the level of a 1:100 ARI (average recurrent interval) flood event, if the Secretary is satisfied that the area is unsuitable for developing for the purposes of the subdivision by virtue of it being at or below that level;
 - (b) any area of land that is identified as public open space in a development control plan or in a contributions plan approved under section 94EA of the Act;
 - (c) any area of land that is within Zone E2 Environmental Conservation;
 - (d) any area of land within the curtilage of a building listed on the State Heritage Register;
 - (e) any area of land this is within an asset protection zone:
 - (i) that is specified in a bush fire safety authority issued under the *Rural Fires Act 1997*; or

- (ii) that is required to be established by the development consent relating to the subdivision,
if the Secretary is satisfied that the area is unsuitable for developing for the purposes of the subdivision by virtue of it being within that zone;
 - (f) an area of land that is subject to an easement in favour of a public utility undertaking for the purpose of the supply of the utility service to the public as shown on the title to that land or as confirmed in writing by the public utility undertaking, if the Secretary is satisfied that the area is unsuitable for developing for the purposes of the subdivision by virtue of the easement; and
 - (g) any area of land that is within a public transport corridor (other than a road corridor) as shown on a Land Zoning Map for the purposes of an environmental planning instrument or a development control plan made under the Act, if the Secretary is satisfied that the area is unsuitable for development for the purposes of the subdivision by virtue of it being within the public transport corridor.
4. The net developable area does not include the area of any lot in the proposed plan of subdivision that may be further subdivided (other than under a strata scheme) in accordance with the development consent relating to the subdivision.
 5. The net developable area does not include the area of any lot in the proposed plan of subdivision that the Secretary has determined (in writing), at the Secretary's discretion and having regard to the relevant planning controls, will be further subdivided (other than under a strata scheme) in accordance with a future development consent for the purpose of the orderly development of the land for urban purposes in the future.
 6. If a proposed lot contains an existing lawful habitable dwelling (being a dwelling that lawfully existed on the proposed lot at the date this deed commences) and:
 - (a) is no more than 0.1 hectare, the net developable area does not include the area of the lot, or
 - (b) is more than 0.1 hectare in area, the net developable area is reduced by 0.1 hectare, for the purpose of calculating the net developable area for the proposed subdivision.
 7. If a proposed lot is wholly within Zone E3 Environmental Management, Zone E4 Environmental Living or Zone R5 Large Lot Residential and is more than 0.1 hectare, that lot is taken to be 0.1 hectare for the purpose of calculating the net developable area for the proposed subdivision.
 8. The parties agree that the Secretary may make any determination required to be made for the purpose of calculating the net developable area for the proposed subdivision in accordance with this clause and, for that purpose, may have regard to any information available at the time, such as construction plans and any measurements made by a registered surveyor of the land concerned.
 9. In this Schedule 6, the following words or expressions have the same meanings as they have in the Standard Instrument (that is, the standard instrument for a principal local environmental plan prescribed by the Standard Instrument (Local Environmental Plans) Order 2006 (Standard Instrument):
 - (a) emergency services facility;
 - (b) health services facility;
 - (c) passenger transport facility;

- (d) place of public worship;
- (e) public utility undertaking;
- (f) recreation area; and
- (g) school.

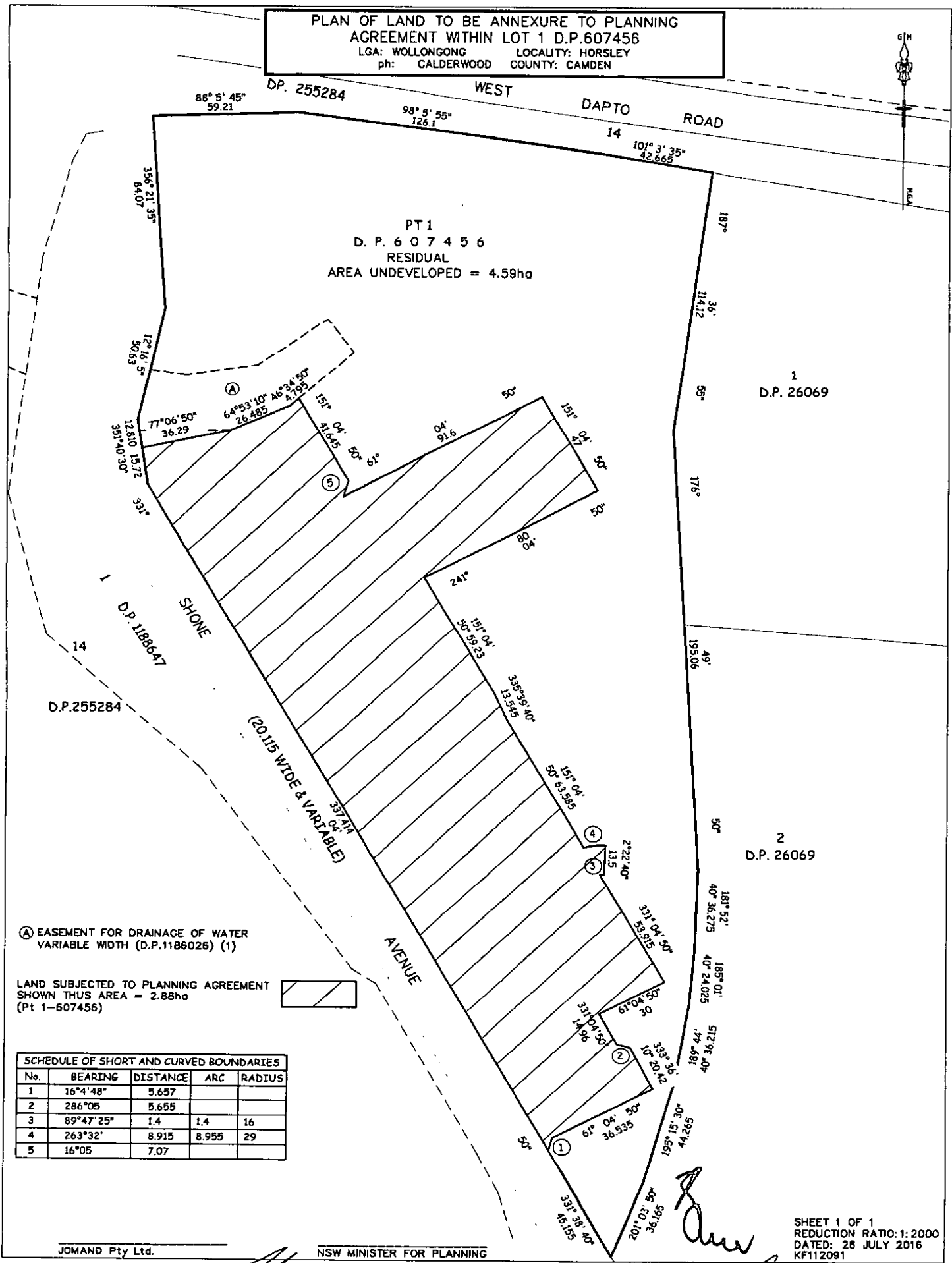
10. In this Schedule, a reference to:

- (h) a land use zone is a reference to a land use zone specified in the Standard Instrument and to a land use zone that is equivalent to any such land use zone; and
- (i) curtilage of a building listed on the State Heritage Register is a reference to the curtilage of that building, or the site of that building, as specified or described in the listing of the building on the State Heritage Register kept under Part 3A of the *Heritage Act 1977*; and
- (j) a "strata scheme" means a reference to a strata scheme as that term is defined in the Strata Scheme (Freehold Development) Act 1973 or a leasehold strata scheme as that term is defined in the Strata Scheme (Leasehold Development) Act 1986.

Annexure A

Land to which this Deed applies

PLAN OF LAND TO BE ANNEXURE TO PLANNING AGREEMENT WITHIN LOT 1 D.P.607456
 LGA: WOLLONGONG LOCALITY: HORSLEY
 ph: CALDERWOOD COUNTY: CAMDEN



Ⓐ EASEMENT FOR DRAINAGE OF WATER VARIABLE WIDTH (D.P.1186026) (1)

LAND SUBJECT TO PLANNING AGREEMENT SHOWN THUS AREA = 2.88ha (Pt 1-607456)

SCHEDULE OF SHORT AND CURVED BOUNDARIES				
No.	BEARING	DISTANCE	ARC	RADIUS
1	16°4'48"	5.657		
2	286°05'	5.655		
3	89°47'25"	1.4	1.4	16
4	263°32'	8.915	8.955	29
5	16°05'	7.07		

JOMAND Pty Ltd.

NSW MINISTER FOR PLANNING


SHEET 1 OF 1
 REDUCTION RATIO: 1:2000
 DATED: 26 JULY 2016
 KF112091

[Handwritten signatures and notes]
 30 of 31

Execution page

Executed as a deed

Signed , sealed and delivered for and on behalf of the Minister for Planning ABN 38 755 709 681, in the presence of:


.....
Signature of witness

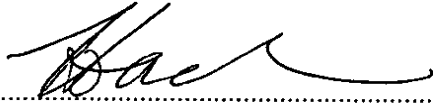
Lisa Chan
.....
Name of witness in full

320 Pitt St, Sydney
.....
Address of witness



.....
Signature of the Minister for Planning or delegate

BRENDAN NELSON
.....
Name of Minister for Planning or delegate

Executed by Jomand Pty Ltd (ACN 137 226 530) in accordance with section 127 of the Corporations Act 2001:


.....
Signature of Director

Frances Cachia
.....
Name of Director in full


.....
Signature of Director/Secretary

JOSEPH FRANK CACHIA
.....
Name of Director/Secretary in full



016

Infotrack Pty Ltd
GPO BOX 4029
SYDNEY NSW 2001

CERTIFICATE	201702128
Issued	3 May 2017
Certificate Type	Sections 149(2) & (5)
Fee	\$133.00
Your Reference	160765:128851
Council Property Reference	339262

PLANNING CERTIFICATE

Issued Under Section 149 of the Environmental Planning and Assessment Act 1979

PROPERTY DETAILS	Legal Description	Lot 1 DP 607456
	Location	21 Shone Avenue HORSLEY NSW 2530

This certificate provides information on how a property (such as land and buildings) may be used and the limits on its development. The certificate contains information Council is aware of through its records and environmental plans, along with data supplied by the State Government.

SECTION 149 (2) DETAILS

As at the date of this certificate, the following prescribed matters under section 149(2) of the Act relate to the abovementioned land:

1. NAMES OF RELEVANT PLANNING INSTRUMENTS & DEVELOPMENT CONTROL PLANS

(1) The name of each environmental planning instrument that applies to the carrying out of development on the land

Wollongong Local Environmental Plan 2009

State Environmental Planning Policies

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Urban Renewal) 2010
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy (Exempt and Complying Codes) 2008
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007
- State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007
- State Environmental Planning Policy (State Significant Precincts) 2005
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Housing for seniors or People with a Disability) 2004
- State Environmental Planning Policy No. 71 – Coastal Protection
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development
- State Environmental Planning Policy No. 64 – Advertising and Signage

State Environmental Planning Policy No. 55 – Remediation of Land
State Environmental Planning Policy No. 50 – Canal Estates
State Environmental Planning Policy No. 44 – Koala Habitat Protection
State Environmental Planning Policy No. 36 – Manufactured Home Estates
State Environmental Planning Policy No. 21 – Caravan Parks
State Environmental Planning Policy No. 33 – Hazardous and Offensive Development
State Environmental Planning Policy No. 30 – Intensive Agriculture
State Environmental Planning Policy No. 62 – Sustainable Aquaculture
Paper Subdivisions: Exhibition of draft Environmental Planning & Assessment Amendment
(Subdivision works) Regulation 2013
Draft SEPP Educational Establishments and Childcare Facilities.

(2) The name of each proposed environmental planning instrument that will apply to the carrying out of development on the land and that is or has been the subject of community consultation or on public exhibition under the Act (unless the Director-General has notified the council that the making of the proposed instrument has been deferred indefinitely or has not yet been approved)

Nil.

(3) The name of each development control plan that applies to the carrying out of development on the land

Wollongong Development Control Plan 2009

Wollongong Development Control Plan 2009, contains detailed development controls which supplement the provisions of Wollongong Local Environmental Plan 2009.

Note: The Wollongong Development Control Plan 2009 should be consulted to ascertain its full effect on the land.

(4) In this clause, proposed environmental planning instrument includes a planning proposal for a Local Environmental Plan or a draft environmental planning instrument.

2. ZONING AND LAND USE UNDER RELEVANT LEPs

Wollongong Local Environmental Plan 2009.

Zones Applying to the Land

R2 Low Density Residential
E3 Environmental Management

The objectives for and the uses permissible and prohibited by Wollongong Local Environmental Plan 2009

For each environmental planning instrument or proposed instrument referred to in clause 1 (other than a State Environmental Planning Policy or proposed State Environmental Planning Policy) that includes the land in any zone (however described):

- (a) **the identity of the zone, whether by reference to a name (such as "Residential Zone" or "Heritage Area") or by reference to a number (such as "Zone No 2(a))"**

R2 – Low Density Residential

- (b) **the purposes for which the instrument provides that development may be carried out within the zone without the need for development consent**

Home occupations.

- (c) **the purposes for which the instrument provides that development may not be carried out within the zone except with development consent**

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Boat launching ramps; Child care centres; Community facilities; Dual occupancies; Dwelling houses; Environmental facilities; Exhibition homes; Exhibition villages; Group homes; Health consulting rooms; Home based child care; Hospitals; Hostels; Information and education facilities; Jetties; Multi dwelling housing; Neighbourhood shops; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Residential flat buildings; Respite day care centres; Roads; Semi-detached dwellings; Seniors housing; Shop top housing; Signage; Veterinary hospitals.

- (d) **the purposes for which the instrument provides that development is prohibited within the zone.**

Any development not specified in subclause (2) or (3).

Note: For subdivision consent requirements see Clause 2.6, of Wollongong Local Environmental Plan 2009.

Demolition of a building or work requires consent see Clause 2.6AA, of Wollongong Local Environmental Plan 2009.

Development below the mean high water mark requires consent see Clause 5.7, of Wollongong Local Environmental Plan 2009.

Note: Wollongong Local Environmental Plan 2009 should be consulted to ascertain its full effect on the land.

For each environmental planning instrument or proposed instrument referred to in clause 1 (other than a State Environmental Planning Policy or proposed State Environmental Planning Policy) that includes the land in any zone (however described):

- (a) the identity of the zone, whether by reference to a name (such as “Residential Zone” or “Heritage Area”) or by reference to a number (such as “Zone No 2(a)”)**

E3 – Environmental Management

- (b) the purposes for which the instrument provides that development may be carried out within the zone without the need for development consent**

Home occupations.

- (c) the purposes for which the instrument provides that development may not be carried out within the zone except with development consent**

Animal boarding and training establishments; Bed and breakfast accommodation; Building identification signs; Business identification signs; Community facilities; Dwelling houses; Environmental facilities; Environmental protection works; Extensive agriculture; Farm buildings; Farm stay accommodation; Forestry; Home based child care; Recreation areas; Roads; Secondary dwellings.

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

Industries; Multi dwelling housing; Residential flat buildings; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any development not specified in subclause (2) or (3).

Note: For subdivision consent requirements see Clause 2.6, of Wollongong Local Environmental Plan 2009.

Demolition of a building or work requires consent see Clause 2.6AA, of Wollongong Local Environmental Plan 2009.

Development below the mean high water mark requires consent see Clause 5.7, of Wollongong Local Environmental Plan 2009.

Note: Wollongong Local Environmental Plan 2009 should be consulted to ascertain its full effect on the land.

Clause 4.2A Erection of dwelling houses in certain rural and environmental protection zones

1. This clause applies to land in the following zones:

Zone RU1 Primary Production,
Zone RU2 Rural Landscape,
Zone E3 Environmental Management.

2. Development consent must not be granted for the erection of a dwelling house on land to which this clause applies, and on which no dwelling house has been erected, unless the land is:

- (a) a lot created in accordance with 4.1, or
(b) a lot created before this Plan commenced that met the minimum lot size specified to permit the erection of a dwelling house under Wollongong Local Environmental Plan 1990 in effect immediately before that commencement, or
(c) a lot created before this Plan commenced that is at least the minimum lot size

- (d) specified for that lot by the Lot Size Map, or land that will be a lot in a subdivisions for which development consent was granted or approval under Part 3A of the Act was given before this Plan commenced and on which the erection of a dwelling house would have been permissible immediately before that commencement, or
- (e) an existing holding with an area of not less than 10 hectares, or
- (f) a lot that was created after 30 April 1971 but before 23 February 1984 and which has an area of not less than 20 hectares, or
- (g) a lot that was created on or after 23 February 1984 but before the commencement of this Plan and which has an area of not less than 40 hectares, or
- (h) a lot that was created before the commencement of this Plan, but only if the subdivision requirements for the land, or number of dwelling houses to be erected on the land, were specified in Schedule 2 to the *Wollongong Local Environmental Plan 1990* immediately before that commencement.

Note. A dwelling cannot be erected on a lot created under clause 9 of State Environmental Planning Policy (Rural Lands) 2008 or clause 4.2.

3. Land ceases to be an existing holding for the purposes of subclause (2) (e), if an application for development consent referred to in subclause (2) is not made in relation to that land before 31 December 2012.
4. Despite any other provision of this clause, development consent may be granted for the erection of a dwelling house on land in a zone to which this clause applies if:
 - (a) there is a lawfully erected dwelling house on the land and the dwelling house to be erected is intended only to replace the existing dwelling house, or
 - (b) the land would have been a lot or a holding referred to in subclause (2) had it not been affected by:
 - (i) a minor realignment of its boundaries that did not create an additional lot, or
 - (ii) a subdivision creating or widening a public road or public reserve or for another public purpose.
5. In determining whether to grant consent for the erection of a dwelling house, the consent authority must consider the extent to which the development is likely to affect the environmental and ecological conservation of the land with respect to the extent of clearing required for the development, including any clearing required for the provision of infrastructure, access and any asset protection zone identified for the land in a bush fire risk management plan in force under the *Rural Fires Act 1997*.
6. In this clause:

existing holding means all adjoining land, even if separated by a road or railway, held in the same ownership:

 - (a) on 30 April 1971, and
 - (b) at the time of lodging a development application for the erection of a dwelling house under this clause, and includes any other land adjoining that land acquired by the owner since 30 April 1971.

Note: The owner in whose ownership all the land is at the time the application is lodged need not be the same person as the owner in whose ownership all the land was on the stated date.

(e) Whether any development standards applying to the land fix minimum land dimensions for the erection of a dwelling- house on the land, and if so, the minimum land dimensions so fixed

See Clauses 4.1, 4.1AA, 4.1A, 4.2 and 4.2A of the Local Environmental Plan.

(f) Whether the land includes or comprises critical habitat

Nil

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

Nil.

(h) Whether an item of environmental heritage (however described) is situated on the land

Nil.

2A. ZONING AND LAND USE UNDER STATE ENVIRONMENTAL PLANNING POLICY (SYDNEY REGIONAL GROWTH CENTRES) 2006

To the extent that the land is within any zone (however described) under:

- (a) a Precinct Plan (within the meaning of the 2006 SEPP), or
- (b) a Precinct Plan that is or has been the subject of community consultation or on public exhibition under the Act,
- (c) a proposed Precinct Plan that is or has been the subject of community consultation or on public exhibition under the Act,

the particulars referred to in clause 2 (a) – (h) in relation to that land (with a reference to “the instrument” in any of those paragraphs being read as a reference to Part 3 of the 2006 SEPP, or the Precinct Plan or proposed Precinct Plan, as the case requires).

Not Applicable.

3. COMPLYING DEVELOPMENT

(1) The extent to which the land is land on which complying development may be carried out under each of the codes for complying development because of the provisions of clauses 1.17A (1) (c) to (e), (2), (3) and (4), 1.18 (1), (c3) and 1.19 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

(2) The extent to which complying development may not be carried out on that land because of the provisions of clauses 1.17A (1) (c) to (e), (2), (3) and (4) and 1.19 of that Policy and the reasons why it may not be carried out under those clauses.

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

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

(1) Subject to the terms of each code, and the zoning of the land, complying development **may be** carried out for the following codes to the extent that the land is not affected by the provisions identified at (2) below.

- General Housing Code
- Rural Housing Code
- Housing Alterations Code
- General Development Code
- Commercial and Industrial (New Buildings and Additions) Code
- Commercial and Industrial (Alterations) Code
- Subdivision Code
- Demolition Code

(2) Complying development **may not** be carried out on the land to the extent that it is **partially identified as Environmentally Sensitive Land** zoned RU1, E2, E3, W1 or W2 because of the provisions of clauses 1.17A, 1.18 or 1.19 of *State Environmental Planning Policy (Exempt and Complying Codes) 2008*

- General Housing Code
- Rural Housing Code
- Commercial and Industrial (New Buildings & Additions) Code
- Commercial and Industrial (Alterations) Code

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

(1) Subject to the terms of each code, and the zoning of the land, complying development **may be** carried out for the following codes to the extent that the land is not affected by the provisions identified at (2) below.

- General Housing Code
- Rural Housing Code
- Housing Alterations Code

- General Development Code
- Commercial and Industrial (New Buildings and Additions) Code
- Commercial and Industrial (Alterations) Code
- Subdivision Code
- Demolition Code

(2) Complying development **may not** be carried out on the land to the extent that it is **partially affected by Ecologically Sensitive Land – Natural Resource/ Biodiversity** because of provisions of clauses 1.17A, 1.18 or 1.19 of *State Environmental Planning Policy (Exempt and Complying Codes) 2008*

- General Housing Code
- Rural Housing Code
- Commercial and Industrial (New Buildings and Additions) Code

4. COASTAL PROTECTION

Whether or not the land is affected by the operation of section 38 or 39 of the Coastal Protection Act 1979, but only to the extent that the council has been so notified by the Department of Services, Technology and Administration.

The Department of Services, Technology and Administration has not notified Council that the land is affected by the operation of sections 38 and 39 of the Coastal Protection Act 1979.

4A. CERTAIN INFORMATION RELATING TO BEACHES AND COASTS

(1) In relation to a coastal council – whether an order has been made under Part 4D of the Coastal Protection Act 1979 in relation to temporary coastal protection works (within the meaning of that Act) on the land (or on public land adjacent to that land), except where the council is satisfied that such an order has been fully complied with.

Nil

(2) In relation to a coastal council:

(a) whether the council has been notified under section 55X of the Coastal Protection Act 1979 that temporary coastal protection works (within the meaning of that Act) have been placed on the land (or on public land adjacent to that land) and,

Nil

(b) if works have been so placed – whether the council is satisfied that the works have been removed and the land restored in accordance with that Act.

Not applicable

4B. ANNUAL CHARGES UNDER LOCAL GOVERNMENT ACT 1993 FOR COASTAL PROTECTION SERVICES THAT RELATE TO EXISTING COASTAL PROTECTION WORKS

In relation to a coastal council- whether the owner (or any previous owner) of the land has consented in writing to the land being subject to annual charges under section 496B of the Local Government Act 1993 for coastal protection services that relate to existing coastal protection works (within the meaning of section 553B of that Act)

Note: “Existing coastal protection works” are works to reduce the impact of coastal hazards on the land (such as seawalls, revetments, groynes and beach nourishment) that existed before the commencement of section 553B of the Local Government Act 1993

Not applicable

5. MINE SUBSIDENCE

Whether or not the land is proclaimed to be a mine subsidence district within the meaning of section 15 of the Mine Subsidence Compensation Act 1961

The land is not proclaimed to be a mine subsidence district within the meaning of section 15 of the Mine Subsidence Compensation Act 1961.

6. ROAD WIDENING AND ROAD REALIGNMENT

Whether or not the land is 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**

Council has no record that the land is 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.

7. COUNCIL AND OTHER PUBLIC AUTHORITY POLICIES ON HAZARD RISK RESTRICTIONS

Whether or not the land is affected by a policy:

- a) adopted by the council, or**
- b) 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, tidal inundation, subsidence, acid sulfate soils or any other risk (other than flooding).**

Council has adopted “Wollongong Development Control Plan 2009 – Chapter E12 Geotechnical Assessment”.

Council has adopted Acid Sulfate Maps, Wollongong Local Environmental Plan 2009 – Clause 7.5 Acid Sulfate Soils.

Council has adopted “Wollongong Development Control Plan 2009 – Chapter E16 Bushfire Management”. The Rural Fire Service has endorsed the Bush Fire Prone Land map.

Unhealthy Building Land Policy, adopted by the Environmental Protection Authority.

Council has adopted Wollongong City Council Coastal Zone Study (Cardno, Lawson, Treloar 2010).

Draft Coastal Management SEPP 2016.

7A. FLOOD RELATED DEVELOPMENT CONTROLS INFORMATION

(1) Whether or not development on that land or part of the land for the purposes of dwelling houses, dual occupancies, multi dwelling housing or residential flat buildings (not including development for the purposes of group homes or seniors housing) is subject to flood related development controls.

Development on the land or part of the land for the purposes of dwelling houses, dual occupancies, multi dwelling housing or residential flat buildings (not including development for the purposes of group homes or seniors housing) is subject to flood related development controls as contained in Wollongong Development Control Plan 2009 Chapter E13 Floodplain Management and Wollongong Local Environmental Plan 2009 Clause 7.3 Flood Planning.

(2) Whether or not development on that land or part of the land for any other purpose is subject to flood related development controls.

Development on the land or part of the land for any other purpose is subject to flood related development controls as contained in Wollongong Development Control Plan 2009 Chapter E13 Floodplain Management and Wollongong Local Environmental Plan 2009 Clause 7.3 Flood Planning.

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

Further flood information relating to this parcel of land is available by application under section 149(5) of the Environmental Planning & Assessment Act 1979.

8. LAND RESERVED FOR ACQUISITION

Whether or not any environmental planning instrument or proposed environmental planning instrument referred to in clause 1 makes provision in relation to the acquisition of the land by a public authority, as referred to in section 27 of the Act.

Nil.

9. CONTRIBUTION PLANS

The name of each contributions plan applying to the land.

West Dapto Area Section 94 Plan

West Dapto Release Area Section 94 Contributions Plan (2010) was adopted by Council on 14 December 2010, the plan came into effect on 23 December 2010.

The plan establishes Council's policy regarding the administration and accounting of monies collected for the provision of appropriate public facilities in the West Dapto Release Area pursuant to section 94 of the Environmental Planning and Assessment Act 1979.

9A. BIODIVERSITY CERTIFIED LAND

If the land is biodiversity certified land (within the meaning of Part 7AA of the Threatened Species Conservation Act 1995), a statement to that effect.

Nil.

10. BIOBANKING AGREEMENTS

If the land is land to which a biobanking agreement under Part 7A of the Threatened Species Conservation Act 1995 relates, a statement to that effect (but only if the council has been notified of the existence of the agreement by the Director- General of the Department of Environment, Climate Change and Water)

Nil

11. BUSH FIRE PRONE LAND

If any of the land is bush fire prone land (as defined in the Act), a statement that all or, as the case may be, some of the land is bush fire prone land.

If none of the land is bush fire prone land, a statement to that effect.

The land is recorded in Council's records as bushfire prone land.

12. PROPERTY VEGETATION PLANS

If the land is land to which a property vegetation plan under the Native Vegetation Act 2003 applies, a statement to that effect (but only if the council has been notified of the existence of the plan by the person or body that approved the plan under the Act).

The Southern Rivers Catchment Management Authority has not notified Council that the land is affected by a Property Vegetation Plan issued under the Native Vegetation Act 2003.

13. ORDERS UNDER TREES (DISPUTES BETWEEN NEIGHBOURS) ACT 2006

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

Nil.

14. DIRECTIONS UNDER PART 3A

If there is a direction by the Minister in force under section 75P (2) (c1) of the Act that a provision of an environmental planning instrument prohibiting or restricting the carrying out of a project or a stage of a project on the land under Part 4 of the Act does not have effect, a statement to that effect identifying the provision that does not have effect.

The minister via Government Gazette No. 146, 16 October 2009 declared the following development to be a Project under part 3A of the Environmental Planning and Assessment Act 1979.

The water and wastewater services of the West Dapto Urban Release Area and Adjacent Growth Areas (Tallawarra) comprising:

- the construction and operation of drinking water and wastewater pipelines, pumping stations, drinking water, reservoirs and associated infrastructure, and
- upgrades to the Wollongong and Shellharbour sewerage treatment plants.

15. SITE COMPATIBILITY CERTIFICATES AND CONDITIONS FOR SENIORS HOUSING

If the land is land to which State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies:

(a) statement of whether there is a current site compatibility certificate (seniors housing), of which the council is aware, in respect of proposed development on the land and, if there is a certificate, the statement is to include:

- (i) the period for which the certificate is current, and**
- (ii) that a copy may be obtained from the head office of the Department of Planning, and**

(b) a statement setting out any terms of a kind referred to in clause 18(2) of that Policy that have been imposed as a condition of consent to a development application granted after 11 October 2007 in respect of the land

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
Nil.

16. SITE COMPATIBILITY CERTIFICATE FOR INFRASTRUCTURE

A statement of whether there is a valid site compatibility certificates (infrastructure), of which the council is aware, in respect of proposed development on the land and , if there is a certificate, the statement is to include

- (a) the period for which the certificate is valid, and**
- (b) that a copy may be obtained from the head office of the Planning and Infrastructure Agency.**

State Environmental Planning Policy (Infrastructure) 2007

Nil.

17. SITE COMPATIBILITY CERTIFICATE AND CONDITIONS FOR AFFORDABLE RENTAL HOUSING

(1) A statement of whether there is a current site compatibility certificate (affordable rental housing), of which the council is aware, in respect of proposed development on the land and, if there is a certificate, the statement is to include

- (a) the period for which the certificate is current, and
- (c) that a copy may be obtained from the head office of the Planning and Infrastructure Agency.

(2) A statement setting out any terms of a kind referred to in clause 17 (1) or 38 (1) of State Environmental Planning Policy (Affordable Rental Housing) 2009 that have been imposed as a condition of consent to a development application in respect of the land.

State Environmental Planning Policy (Affordable Rental Housing) 2009

Nil.

18. PAPER SUBDIVISION INFORMATION

(1) The name of any development plan adopted by a relevant authority that applies to the land or that is proposed to be subject to the consent ballot.

Nil

(2) The date of any subdivision order that applies to the land.

Not applicable

(3) Words and expressions used in this clause have the same meaning as they have in Part 16C of this Regulation.

19. SITE VERIFICATION CERTIFICATES

A statement of whether there is a current site verification certificate, of which the council is aware, in respect of the land and, if there is a certificate, the statement is to include:

- (a) the matter certified by the certificate, and

Note: A site verification certificate sets out the Director-General's opinion as to whether the land concerned is or is not biophysical strategic agricultural land or critical industry cluster land-see Division 3 of Part 4AA of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries 2007).

- (b) the date on which the certificate ceases to be current (if any), and
- (c) that a copy may be obtained from the head office of the Planning and Infrastructure Agency,

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

- (a) that the land to which the certificate relates is significantly contaminated land within the meaning of that Act-if the land (or part of the land) is significantly contaminated land at the date when the certificate is issued,**
- (b) that the land to which the certificate relates is subject to a management order within the meaning of that Act-if it is subject to such an order at the date when the certificate is issued,**
- (c) that the land to which the certificate relates is the subject of an approved voluntary management proposal within the meaning of that Act-if it is the subject of such an approved proposal at the date when the certificate is issued.**

Nil.

20. LOOSE-FILL ASBESTOS INSULATION REGISTER

If the land includes any residential premises (within the meaning of Division 1A and Part 8 of the Home Building Act 1989) that are listed on the register, that is required to be maintained under that Division, a statement to that effect.

Nil.

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

- (a) that the land to which the certificate relates is significantly contaminated within the meaning of that Act- if the land (or part of the land) is significantly contaminated land at the date when the certificate is issued,**
- (b) that the land to which the certificate relates is subject to a management order within the meaning of the Act- if it is subject to such an order at the date when the certificate is issued,**
- (c) that the land to which the certificate relates is the subject of an approved voluntary management proposal within the meaning of that Act – if it is the subject of such an approved proposal at the date when the certificate is issued,**
- (d) that the land to which the certificate relates is subject to an ongoing maintenance order within the meaning of that Act – if it is subject to such an order at the date when the certificate is issued,**
- (e) that the land to which the certificate relates is the subject of a site audit statement within the meaning of the Act – if a copy of such a statement has been provided at any time to the local authority issuing the certificate**

Council has not been advised that:

- a) The land is significantly contaminated land within the meaning of the Contaminated Land Management Act 1997
- b) The land is subject to a management order within the meaning of the Contaminated Land

Management Act 1997

- c) The land is subject to an approved voluntary management proposal within the meaning of the Contaminated Land Management Act 1997
- d) The land is subject to an ongoing maintenance order within the meaning of the Contaminated Land Management Act 1997
- e) The land is the subject of a site audit statement within the meaning of the Contaminated Land Management Act 1997.

SECTION 149 (5) DETAILS

As at the date of this certificate, the following additional information, provided in good faith pursuant to section 149 (5) of the Act, relate to the abovementioned land. Council has selected these matters as those most likely to be of concern but they do not comprise an exhaustive list of matters likely to affect the land.

When information pursuant to section 149 (5) is requested the Council is under no obligation to furnish any of the information supplied herein pursuant to that section. Council draws your attention to section 149 (6) which states that a council shall not incur any liability in respect of any advice provided in good faith pursuant to subsection (5). The absence of any reference to any matter affecting the land shall not imply that the land is not affected by any matter referred to in this certificate.

RESOLUTION TO PREPARE PLANNING PROPOSAL

Nil.

PROPOSED DRAFT DEVELOPMENT CONTROL PLANS

The following plans have been placed on exhibition pursuant to the provisions of section 72 of the Environmental Planning and Assessment Act 1979:

Draft Development Control Plan 2009 Review

The Wollongong Development Control Plan 2009 came into force on 3 March 2010. A review commenced after 6 months of operation. The following chapters are available for public exhibition.

1. D14 Wollongong Innovation Campus 2.

LAND STABILITY

Council's land constraint/stability assessment maps do not show that the land is located in an area where landslip and/or subsidence have occurred, or where land instability is suspected. If you have any doubt as to whether the land is affected by landslip and/or subsidence the services of a suitably qualified engineer should be obtained.

Note: the advice provided by Council in respect of the stability of the land is based on information contained in Council's land constraint maps. The maps have been compiled from data received by Council and considered by Council to be reasonably reliable. Council does not warrant that its land constraint maps contain all information ever received by Council relating to the stability of the land.

FLOOD AND DRAINAGE

1 Classification of Flood Risk

Council records indicate that this property is located within a **Low, Medium and High Flood Risk** precinct.

Land that is potentially subject to inundation is classified as low, medium or high flood risk. Council has prepared a development control plan known as Wollongong Development Control Plan 2009 that provides details of flood related development controls that may be applicable.

Where the owner/ applicant has detailed survey available which identifies the property to be within another risk precinct or not in one at all, it may be presented to Council for reassessment.

Definitions:

- **High Flood Risk (and Interim Riverine Corridor) Precinct**

This has been defined as the area within the envelope of land subject to a high hydraulic hazard (in accordance with the provisional criteria outlined in the Floodplain Management Manual) in a 100 year flood event plus all land within a corridor 10m from the top of the creek bank (Interim Riverine Corridor). The high flood risk precinct is where high flood damages, potential risk to life, evacuation problems would be anticipated or development would significantly and adversely effect flood behaviour. Most development should be restricted in this precinct. In this precinct, there would be a significant risk of flood damages without compliance with flood related building and planning controls.

- **Medium Flood Risk Precinct**

This has been defined as land below the 100 year flood level (plus 0.5m freeboard) that is not within the High Flood Risk (and Interim Riverine Corridor) Precinct. It is land subject to low hydraulic hazard (in accordance with the provisional criteria outlined by the Floodplain Management Manual). In this precinct there would still be a significant risk of flood damage, but these damages can be minimised by the application of appropriate development controls.

- **Low Flood Risk Precinct**

This has been defined as all other land within the floodplain (i.e. within the extent of the probable maximum flood) but not identified within either the High Flood Risk (and Interim Riverine Corridor) or the Medium Flood Risk Precinct, where risk of damages are low for most land uses. The Low Flood Risk Precinct is that area above the 100 year flood (plus 0.5m freeboard) and most land uses would be permitted within this precinct.

2 Estimated Flood Levels

Estimated and/or historical flood levels in the vicinity of this property may be available from Council. Requests may be made by completing a Flood Enquiry Form available from council's website, in writing or from the Level 6 front counter of the Administration Building. A cost is involved for this service. Payment must be made prior to information being provided.

Please contact Council's Drainage Duty Officer on 42277181 to ensure the availability of information before submitting this request form. Council does not hold flood information for every property.

Council on the 30 May 2016 endorsed the WMA Water Review of Conduit Blockage Policy, and agreed to review Council's Flood Studies based on the new policy. The flood study reviews will occur over the following 2 years and may result in a change in flood levels.

ACID SULFATE SOILS

Nil.

CONTAMINATED LAND

No advice provided.

STATE SIGNIFICANT DEVELOPMENT

Nil.

BUILDING LINES

Wollongong Development Control Plan 2009 details the setbacks applicable to the land.

OTHER HERITAGE MATTERS KNOWN TO COUNCIL

Aboriginal Heritage

All development within the Wollongong Local Government Area is subject to the Aboriginal Heritage requirements of the National Parks and Wildlife Act 1974. To determine if your property is affected by an Aboriginal Site, it is recommended that an Aboriginal Heritage Information Management System (AHIMS) search be undertaken by contacting the AHIMS Administrator on (02) 9995 5000. Further detail on Council's Aboriginal Heritage requirements for Development is contained within Chapter E10 of the Wollongong Development Control Plan 2009.

DEVELOPMENT HISTORY

Application may be made for a Building Certificate under section 149B of Environmental Planning and Assessment Act 1979 if written certification of existing buildings on the land is required.

The history of development consent approval applicable to the land may be obtained by consulting the Development Consent Register. Enquiries concerning the register may be made at Council's Customer Service Centre, 41 Burelli Street Wollongong during office hours.

LOOSE-FILL ASBESTOS INSULATION REGISTER

Council recommends you make your own enquiries as to the age of the buildings on the land to which this certificate relates and, if it contains a building constructed prior to 1980, the Council also strongly recommends that any potential purchaser obtain advice from a licensed asbestos assessor to determine whether loose-fill asbestos is present in any building on the land and, if so, the health risks (if any) this may pose for the building's occupants.

Contact NSW Fair Trading for further information.

OTHER INFORMATION

Illawarra Regional Strategy

The Minister for Planning released the Illawarra Regional Strategy on 1 February 2007. The strategy is the NSW Government 25 year land use strategy for the Illawarra Region.

The Department of Planning and Environment released the Illawarra Shoalhaven Regional Plan, November 2015.

Obstacle Limitation

The land is subject to a 110 metre to 200 metre Australian Height Datum Obstacle Limitation Surface due to operational requirements of Illawarra Regional Airport. Special consideration should be given to any structure which breaches this level.

The land is included in the Natural Resources Biodiversity Sensitivity Maps of Wollongong Local Environmental Plan 2009.

GENERAL INFORMATION

The following general information is brought to the attention of land owners.

1. Tree Management Policy

The Wollongong Tree Management Policy allows proper assessment to be made of the environmental importance and viability of trees before they are pruned, removed or damaged in any way. This Policy prohibits the ringbarking, cutting down, topping, lopping, removing, injuring or destruction of any tree except with the prior written consent of Council.

The Tree Management Policy applies to any tree that:

- Is 3 metres or more in height,
- Has a trunk diameter of 200mm or more at a height of 1 metre from the ground, or
- Has a branch spread of 3 metres or more

Please note that:

- A dead/dying tree is subject to the Tree Management Policy
- Pruning of major structural or anchor roots is also subject to the Tree Management Policy

Some trees may be exempt and do not require a permit to prune or remove them. Following is a list of the exempt tree species:

Salix Species	Willow
Erythrina X Sykesii	Coral Tree
Cupressus Macrocarpa “Brunniana”	Golden Cypress
Laganuria Pattersonii	Itchy Pod Tree
Harpephyllum Caffrum	Kaffir Plum
Syagrus Romanzoffina	Cocos Palm
Poplar Species	Poplar
Ficus Elastica “Decora” and hybrids	Ornamental Rubber tree
Ligustrum Lucidum	Large Leafed Privet
Cinnamomum Camphora	Camphor Laurel
Schefflera Actinophylla	Umbrella Tree
False Acacia	Black Locust
Peppercorn	Pepper Tree
Alnus	Alder
Acer negundo	Box Elder

For the full list of other exemptions please refer to the Tree Management Policy document available via Council’s website.

Any person acting on a permit issued under this Policy must comply with all conditions of that permit.

Any person who contravenes, or causes or permits the contravention of this Policy is guilty of an offence under the Environmental Planning and Assessment Act 1979.

Development Consents may contain restrictions relating to trees.

Further information regarding Council’s Tree Management Policy including how to lodge an application can be made by contacting Council’s Customer Service on telephone 4227 7111. Alternatively information can be obtained from Council’s website via the following link <http://www.wollongong.nsw.gov.au/services/household/trees/Pages/Lodgeatmp.aspx>.

2. Termite Management for Buildings

Australian Standards 3660.1-2000 (New Buildings) AS 3660.2-2000 (Existing Buildings) Termite Management, recommends that buildings be inspected and be maintained in order to achieve termite management of buildings. Licensed Pest Control Contractors should be contacted to achieve necessary termite control.

3. Lead Paint and Building Renovations

Your attention is drawn to the hazards associated with lead-based paints during building renovation. Suitable precautions should be taken when removing flaking paint or sanding painted surfaces suspected to have been treated with lead-based paint to prevent contamination of the immediate environment and associated health risk from lead dust.

AS 4361 – Part 2 – Guide to Lead Paint Management – Residential and Commercial.

4. Sewage Management Systems

Where a property has on-site sewage management system (this includes septic tanks, disposal trenches, aerated waste water treatment systems, composting toilets and pump out systems) the new owner must obtain an “Approval to Operate” from Council within 3 months of land ownership being transferred or otherwise conveyed.

5. Asbestos

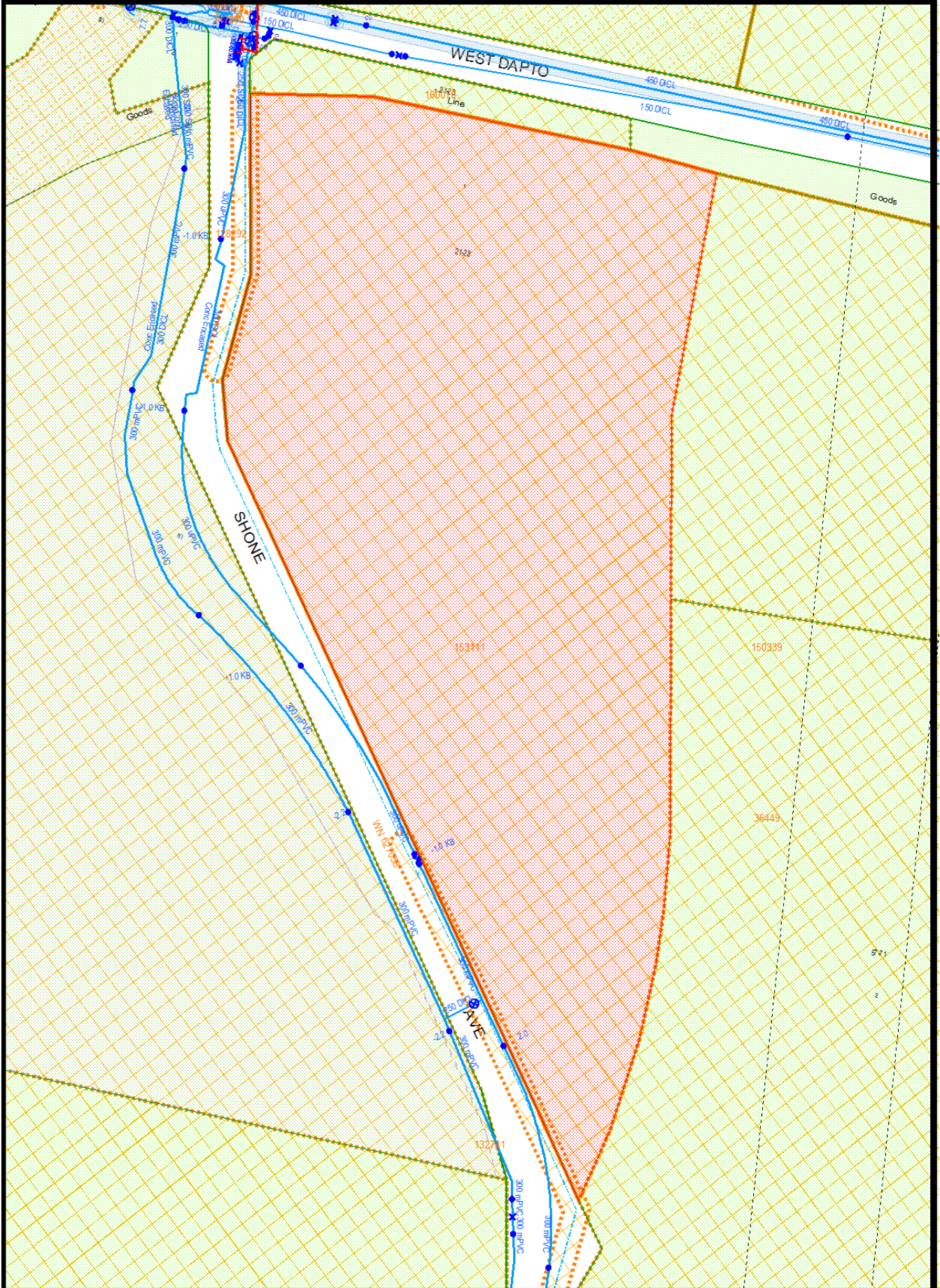
Exposure to asbestos is a serious health hazard. In Australia, asbestos was gradually phased out of building materials in the 1980s and the supply and installation of asbestos containing goods has been prohibited since 31 December 2003. However, asbestos legacy materials still exist in many homes, buildings and other assets and infrastructure.

Council on the 27 October 2014 adopted an Asbestos policy which states Council’s commitment to and responsibilities for safely managing asbestos, and provides information for Council and the local community on safely managing asbestos. The policy can be viewed on Council’s website: www.wollongong.nsw.gov.au.

This letter is authorised by

Margaret Kampen

LIS Information Officer Section 149 Systems
Wollongong City Council
Telephone (02) 4227 7319



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

From.....Purchasers Solicitor

To.....Vendors Solicitor

Date:

REQUISITIONS ON TITLE

2008 EDITION

RE:..... Purchase From

Property:.....

(In these Requisitions the terms "Vendor" and "Purchaser" should be read as expressing the appropriate number and gender including neuter gender and the terms Clause and Clauses refer to a Clause or Clauses in the 2005 Edition of the Contract for Sale of Land).

REQUISITIONS	REPLIES	RESPONSE
1. The Vendor must comply on completion with Clauses 15, 16.1, 16.2, 16.3, 16.5, 16.8 and 17.1.	Noted	
2. The Vendor must comply before completion with Clause 16.12.	Noted	
3. Rates and Taxes must be adjusted in accordance with Clause 14 and the Vendor must comply with Clause 16.6.	Noted	
4. The Vendor must before completion comply with any work order in accordance with Clauses 11.1 and 14.8.	Noted Subject to Contract	
5. Has any claim been made on the Vendor to contribute to the cost of the boundary fences or is the Vendor aware of any such claim being made? If so, the Vendor should satisfy such claim before completion and produce receipt on or before completion.	No	
6. Is the Vendor aware of:- (a) any unregistered easements such as a right of way which affect the property? If so, please give full details. (b) the breach of any covenant noted on the title? If so, such breach must be remedied before completion.	No No	As disclosed in Contract
7. Has the Vendor received any notification from the Roads and Traffic Authority or local Council that the land or part of it is to be realigned, widened, altered or resumed? If so, please give full details.	No	Purchaser should rely on own enquiries
8. Is there any outstanding notification, claim or requirement of:- (a) a statutory or local authority, or (b) an adjoining owner which affects the property or any part of it? Any such notice, claim or requirement issued before contracts were exchanged must be complied with by the Vendor before completion.	No No	
9. Is there any permissive occupancy of any part of the property or is any one in adverse possession? If so, the Purchaser relies on Clauses 16.3 and 17.1.	No	
10. Has any party (including corporation) acquired any rights in the property by prescription? The Purchaser relies on Clauses 16.3 and 17.1.	No	
11. If the sale of the property is subject to an existing tenancy:- (a) (if not already supplied) the Vendor should provide the Purchaser with a copy of the lease and advise the current rent and outgoings and the date to which they have been paid. (b) has there been any breach of the lease in which case such breach must be remedied before completion. (c) rent and outgoings should be apportioned in accordance with Clauses 14.1 and 14.2. (d) the lease (stamped and, if necessary, registered) should be handed over to the Purchaser on completion. (e) if applicable, the Vendor must obtain the consent in writing of the mortgagee to the transfer of the lease to the Purchaser on and from completion.	Does not Apply Does not Apply Does not Apply Does not Apply Does not Apply	

REQUISITIONS	REPLIES	RESPONSE
(f) The Vendor must comply with Clauses 24.3.2, 24.4.1, 24.4.3 and 24.4.4 on or before completion.	Does not Apply	
12. Have the provisions of the Local Government Act 1919, or the Local Government Act 1993, as the case may be, its ordinances and regulations relating to buildings, subdivisions, alterations and additions been complied with in relation to the subject land and improvements? Any non-compliance must be advised before settlement.	As far as Vendor is Aware	
13. If any statutory or local authority has a valid claim to money due by the Vendor in respect of the property, such monetary claim or claims should be settled and discharged by the Vendor before completion.	Subject to Contract	
14. The Purchaser reserves his contractual rights to make a claim on the Vendor before completion as provided in Clauses 6, 7, 11.2 and 14.8.	Noted	
15. Has the Vendor or any predecessor in title:- (a) been bankrupt or are there any pending bankruptcy proceedings against the Vendor? (b) entered into any development or other agreement with a statutory or local authority which binds the subject land and which will bind the Purchaser on and from completion? If so, please give details?	No No	
16. The Vendor must ensure all mortgages, writs and caveats are removed from the subject title prior to completion or in the alternative the appropriate registerable forms to remove them, properly executed, must be tendered at completion.	Noted	
17. Is there any pending litigation in respect of the property?	No	
18. Is the Vendor aware of any rights to, or restrictions on, access to the property? If so, please give full details.	No	
19. Is the Vendor aware of any restrictions on the use or development of the land?	No	Purchaser should rely on own enquiries
20. Survey should be satisfactory and certify (or report) that:- (a) the whole of the land sold will be available to the Purchasers on completion and (b) there is no encroachment by or upon the subject land and (c) the improvements sold are erected on the subject land.	Subject to Contract	
21. Has the Vendor been served with any order under Section 124 of the Local Government Act 1993 requiring him to demolish, repair or make structural alterations to a building which is erected on the subject land? If such order has not been complied with, the Vendor should do so before completion, and notify the Purchaser of his compliance.	No	
22. Has the Vendor or his mortgagee:- (a) a survey report? (b) a building certificate issued under Section 317A or Section 317AE of the Local Government Act 1913? (c) a building certificate issued under Section 149 of the Environmental Planning and Assessment Act 1979, Section 149D? If so, please obtain and forward a copy and ensure that the originals are handed over on completion.	If attached to Contract	
23. Has the Vendor been served with an order issued by the local Council or a consent authority under Section 121B of the Environmental Planning and Assessment Act 1979? If so, please give details.	No	
24. Is the land affected by the:- (a) National Parks and Wildlife Act 1974? If so, has the land or any part of it been set aside for conservation purposes? Please give full details. (b) Rural Fires Act 1997? If so, is the land a bushfire hazard or bushfire-prone land? Please give full details. (c) Threatened Species Conservation Act 1995? If so, please give full details. (d) Contaminated Land Management Act 1997? If so, please give full details. (e) Local Government Act 1993, Section 124? If so, please give full details. (f) Noxious Weeds Act 1993? If so, please give full details.	Vendor → not Aware	Purchaser should rely on own enquiries

REQUISITIONS	REPLIES	RESPONSE
(g) Heritage Act 1977? If so, please give full details. (h) Unhealthy Building Land Act 1990? If so, please give full details.	Vendor not Aware	
25. Has the Vendor been served with any notice, order or claim arising under the following statutes:- (a) Family Law Act 1975 (Commonwealth Statute)? (b) Property (Relationships) Act 1984 (NSW Statute)? (c) Family Provision Act 1982 (NSW Statute)? (d) Encroachment of Building Act 1922 (NSW Statute)? If so, please advise full details.	No No No No	
26 If the property sold "off-the-plan":- (a) the Vendor must provide the Purchaser on or before completion with:- (i) an Occupation Certificate (or a copy) issued as required by section 109M(1) of the Environmental Planning and Assessment Act 1979. (ii) a Certificate of Insurance (or a copy) as required by Section 92 of the Home Building Act 1989 at least 14 business days before completion. (iii) a Building Certificate (or a copy) in accordance with Section 149D of the Environmental Planning and Assessment Act 1979. (iv) Evidence that a final Fire Safety Certificate has been issued for the building. (b) Has the Vendor complied fully with the local Councils Conditions of Development Consent in respect of the Subdivision which created the Lot? If not, the Vendor should do so before completion or else provide the Purchaser with an Undertaking signed by the Vendor (or in the case of a company, signed by the Directors of that company under its common seal) to fully comply with such conditions within such period as the local Council specified. (c) The Vendor must comply with Clause 28.2 before completion.	Noted Noted Noted Noted Noted Noted	
27. Is the subject land inclosed land within the meaning of the Inclosed Lands Protection Act 1901?	Purchase should rely on own enquiries	
28. If a Swimming Pool is included in the sale:- (a) was its construction approved by the Local Council? Please furnish a copy of such approval. (b) have the requirements of the Swimming Pools Act 1992 and its Regulations (in particular as to access and fencing) been complied with? (c) the Vendor should assign in writing to the Purchaser the benefit of any current warranties or guarantees in relation to the contract for the construction of the Swimming Pool. Do any such warranties and guarantees exist? (d) all pool chemicals and equipment should be left behind by the Vendors for the Purchasers use.	Noted Noted Noted Noted	
29. If the Vendor is a company, are any of its officers aware of:- (a) a resolution having been passed to wind up the company? (b) a summons having been filed to wind up the company? (c) the appointment of a receiver? (d) an application having been made to the Australian Securities and Investments Commission under Section 573 of the Corporations Act 2001 to cancel the registration of the company? (e) any statutory demand having been served on the company pursuant to Section 459E(2) of the Corporations Act 2001? (f) the appointment of a voluntary administrator under Part 5.3A of the Corporations Act 2001?	Noted Noted Noted Noted Noted Noted	
30. Are any of the inclusions specified in the Contract subject to any credit contract, hire purchase agreement, security interest in goods, leasing agreement, lien, charge or otherwise encumbered? If so, the Vendor should satisfy any such liability on or before completion.	No	
31. If the Vendor is an executor and/or trustee:- (a) The Vendor should be present at settlement to receive the amount payable to him and to give a trustees receipt. (b) Alternatively, do you require payment of the amount payable to the Vendors to be made into an Estate bank account? (c) Alternatively, do you rely on Section 53 of the Trustee Act 1925? If so, please	Noted Noted Noted	

REQUISITIONS	REPLIES	RESPONSE
produce your written authority before settlement. (d) If applicable, Section 66B of the Conveyancing Act 1919 should be complied with.	Noted	
32. In the case of Old System Title land:- (a) The Deeds and documents listed on Annexure "A" to these Requisitions should be produced for our inspection and found satisfactory prior to completion. (b) The Deeds and documents listed on Annexure "B" to these Requisitions relating solely to the subject property should be produced for inspection and found satisfactory and handed over at settlement. (c) As the Vendors will not retain any estate in the lands dealt with by the Deeds listed on Annexure "C" to these Requisitions after conveyance of the subject property to the Purchasers, they should be permanently deposited in the office of the Land and Property Information (NSW), Sydney, in accordance with Section 53(2)(e) of the Conveyancing Act 1919 and a certified copy of the Lodgement receipt furnished at settlement or, a written undertaking to furnish such certified copy handed over at settlement. (d) The Vendor must comply with Clauses 25.2 and 25.8 before completion.	Noted Noted Noted Noted	
33. Have any building works been carried out at the property to which the Building Services Corporation Act 1989 and/or the Home Building Act 1989 applies? If so, please provide before completion satisfactory evidence that such legislation has been complied with.	Vendor not Aware	
34. If the Transfer (or in the case of Old System Title, the Deed of Conveyance) will be signed under Power of Attorney:- (a) Please produce before completion a copy of the registered Power of Attorney, and (b) Written evidence should be provided at settlement of its non-revocation.	Noted Noted	
35. Is the subject property situated within an aircraft flight path? If so, on what basis and what curfew applies?	Vendor not Aware	
36. Satisfactory evidence must be produced before completion that any:- (a) improvements erected over the sewer, and/or (b) rainwater downpipes connected to the sewer water was authorised or permitted in writing by Sydney Water Corporation or its predecessor.	Noted as Required	
37. Is there any encroachment:- (a) onto any adjoining land by any improvements erected on the subject land? (b) by any improvements erected on adjoining land onto the subject land to the Vendors knowledge? If so, please give details of any such encroachment which should be removed before completion.	No No	
38. Has the Vendor been served with any notice or order relating to fire safety issued under Section 124 of the Local Government Act 1993 which the Vendor has not fully complied with? If so, the Vendor must satisfy the terms of such notice or order before completion.	No	
39. The Vendor must comply with Clause 4.2.	Noted	
40. The Vendor should provide at settlement a direction in accordance with Clause 20.5.	Noted	
41. (If applicable) The Vendor must comply with Clauses 13.4.2, 13.9 and 13.10 on and before completion.	Noted Subject to Contract	

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Solicitor for Vendor