

# Contract for the sale and purchase of land 2022 edition

TERM	MEANING OF TERM	eCOS ID: 115639111	NSW DAN:
vendor's agent	Infinity Property Agents Suite 38, 112-122 McEvoy St, Alexandria NSW 2015		Phone: 9699 9179 Fax: Ref:
co-agent			
vendor	SUNCHEN HOLDINGS PTY LIMITED		
vendor's solicitor	Goh Lawyers World Square Suite 57, 650 George Street Sydney NSW 2000		Phone: 9283 1998 Fax:
date for completion	42 days after the contract date (clause 15)		Email: alice@gohlawyers.com
land	9/94-96 YORKTOWN PDE MAROUBRA NSW 2035 (Address, plan details and title reference) LOT 9 IN STRATA PLAN 73388 9/SP73388		
	<input type="checkbox"/> VACANT POSSESSION <input checked="" type="checkbox"/> Subject to existing tenancies		
improvements	<input type="checkbox"/> HOUSE <input type="checkbox"/> garage <input type="checkbox"/> carport <input checked="" type="checkbox"/> home unit <input checked="" type="checkbox"/> carspace <input type="checkbox"/> storage space <input type="checkbox"/> none <input type="checkbox"/> other:		
attached copies	<input checked="" type="checkbox"/> documents in the List of Documents as marked or as numbered: <input type="checkbox"/> other documents:		

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

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

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

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

buyer's agent

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

## SIGNING PAGE

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

vendor agrees to accept a **deposit-bond**

☒ NO ☐ yes

**Nominated Electronic Lodgment Network (ELN)** (clause 4)

**Manual transaction** (clause 30)

☒ NO ☐ yes

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

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

**land tax** is adjustable

☐ NO ☒ yes

**GST: Taxable supply**

☒ NO ☐ yes in full ☐ yes to an extent

Margin scheme will be used in making the taxable supply

☒ NO ☐ yes

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

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

Purchaser must make an *GSTRW payment*  
(residential withholding payment)

☒ NO ☐ yes (if yes, vendor must provide further details)

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

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

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

Supplier's name:

Supplier's ABN:

Supplier's GST branch number (if applicable):

Supplier's business address:

Supplier's representative:

Supplier's phone number:

Supplier's proportion of *GSTRW payment*: \$

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

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

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

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

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

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

## List of Documents

General	Strata or community title (clause 23 of the contract)
<input checked="" type="checkbox"/> 1 property certificate for the land	<input checked="" type="checkbox"/> 33 property certificate for strata common property
<input checked="" type="checkbox"/> 2 plan of the land	<input checked="" type="checkbox"/> 34 plan creating strata common property
<input type="checkbox"/> 3 unregistered plan of the land	<input type="checkbox"/> 35 strata by-laws
<input type="checkbox"/> 4 plan of land to be subdivided	<input type="checkbox"/> 36 strata development contract or statement
<input type="checkbox"/> 5 document to be lodged with a relevant plan	<input type="checkbox"/> 37 strata management statement
<input checked="" type="checkbox"/> 6 section 10.7(2) planning certificate under Environmental Planning and Assessment Act 1979	<input type="checkbox"/> 38 strata renewal proposal
<input type="checkbox"/> 7 additional information included in that certificate under section 10.7(5)	<input type="checkbox"/> 39 strata renewal plan
<input checked="" type="checkbox"/> 8 sewerage infrastructure location diagram (service location diagram)	<input type="checkbox"/> 40 leasehold strata - lease of lot and common property
<input checked="" type="checkbox"/> 9 sewer lines location diagram (sewerage service diagram)	<input type="checkbox"/> 41 property certificate for neighbourhood property
<input type="checkbox"/> 10 document that created or may have created an easement, profit à prendre, restriction on use or positive covenant disclosed in this contract	<input type="checkbox"/> 42 plan creating neighbourhood property
<input type="checkbox"/> 11 <i>planning agreement</i>	<input type="checkbox"/> 43 neighbourhood development contract
<input type="checkbox"/> 12 section 88G certificate (positive covenant)	<input type="checkbox"/> 44 neighbourhood management statement
<input type="checkbox"/> 13 survey report	<input type="checkbox"/> 45 property certificate for precinct property
<input type="checkbox"/> 14 building information certificate or building certificate given under <i>legislation</i>	<input type="checkbox"/> 46 plan creating precinct property
<input type="checkbox"/> 15 occupation certificate	<input type="checkbox"/> 47 precinct development contract
<input type="checkbox"/> 16 lease (with every relevant memorandum or variation)	<input type="checkbox"/> 48 precinct management statement
<input type="checkbox"/> 17 other document relevant to tenancies	<input type="checkbox"/> 49 property certificate for community property
<input type="checkbox"/> 18 licence benefiting the land	<input type="checkbox"/> 50 plan creating community property
<input type="checkbox"/> 19 old system document	<input type="checkbox"/> 51 community development contract
<input type="checkbox"/> 20 Crown purchase statement of account	<input type="checkbox"/> 52 community management statement
<input type="checkbox"/> 21 building management statement	<input type="checkbox"/> 53 document disclosing a change of by-laws
<input type="checkbox"/> 22 form of requisitions	<input type="checkbox"/> 54 document disclosing a change in a development or management contract or statement
<input type="checkbox"/> 23 <i>clearance certificate</i>	<input type="checkbox"/> 55 document disclosing a change in boundaries
<input type="checkbox"/> 24 land tax certificate	<input type="checkbox"/> 56 information certificate under Strata Schemes Management Act 2015
<b>Home Building Act 1989</b>	<input type="checkbox"/> 57 information certificate under Community Land Management Act 1989
<input type="checkbox"/> 25 insurance certificate	<input type="checkbox"/> 58 disclosure statement - off the plan contract
<input type="checkbox"/> 26 brochure or warning	<input type="checkbox"/> 59 other document relevant to off the plan contract
<input type="checkbox"/> 27 evidence of alternative indemnity cover	<b>Other</b>
<b>Swimming Pools Act 1992</b>	<input type="checkbox"/> 60
<input type="checkbox"/> 28 certificate of compliance	
<input type="checkbox"/> 29 evidence of registration	
<input type="checkbox"/> 30 relevant occupation certificate	
<input type="checkbox"/> 31 certificate of non-compliance	
<input type="checkbox"/> 32 detailed reasons of non-compliance	

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

Stratamark Strata Management  
401/410 Elizabeth Street, Surry Hills NSW 2010

Tel: 9387 6052  
email: info@stratamark.com.au

# SECTION 66W CERTIFICATE

I,  
of , , certify as follows:

1. I am a currently admitted to practise in New South Wales;
2. I am giving this certificate in accordance with section 66W of the Conveyancing Act 1919 with reference to a contract for the sale of property at 9/94-96 YORKTOWN PDE MAROUBRA NSW 2035 from SUNCHEN HOLDINGS PTY LIMITED to in order that there is no cooling off period in relation to that contract;
3. I do not act for SUNCHEN HOLDINGS PTY LIMITED and am not employed in the legal practice of a solicitor acting for SUNCHEN HOLDINGS PTY LIMITED nor am I a member or employee of a firm of which a solicitor acting for SUNCHEN HOLDINGS PTY LIMITED is a member or employee; and
4. I have explained to :
  - (a) The effect of the contract for the purchase of that property;
  - (b) The nature of this certificate; and
  - (c) The effect of giving this certificate to the vendor, i.e. that there is no cooling off period in relation to the contract.

Date:

**IMPORTANT NOTICE TO VENDORS AND PURCHASERS**

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

**WARNING—SMOKE ALARMS**

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

**WARNING—LOOSE-FILL ASBESTOS INSULATION**

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

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

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

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

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

### **DISPUTES**

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

### **AUCTIONS**

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

**WARNINGS**

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

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



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

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

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

<i>adjustment date</i>	the earlier of the giving of possession to the purchaser or completion;
<i>adjustment figures</i>	details of the adjustments to be made to the price under clause 14;
<i>authorised Subscriber</i>	a <i>Subscriber</i> (not being a <i>party's solicitor</i> ) named in a notice served by a <i>party</i> as being authorised for the purposes of clause 20.6.8;
<i>bank</i>	the Reserve Bank of Australia or an authorised deposit-taking institution which is a bank, a building society or a credit union;
<i>business day</i>	any day except a bank or public holiday throughout NSW or a Saturday or Sunday;
<i>cheque</i>	a cheque that is not postdated or stale;
<i>clearance certificate</i>	a certificate within the meaning of s14-220 of Schedule 1 to the <i>TA Act</i> , that covers one or more days falling within the period from and including the contract date to completion;
<i>completion time</i>	the time of day at which completion is to occur;
<i>conveyancing rules</i>	the rules made under s12E of the Real Property Act 1900;
<i>deposit-bond</i>	a deposit bond or guarantee with each of the following approved by the vendor – <ul style="list-style-type: none"> <li>• the issuer;</li> <li>• the expiry date (if any); and</li> <li>• the amount;</li> </ul>
<i>depositholder</i>	vendor's agent (or if no vendor's agent is named in this contract, the vendor's <i>solicitor</i> , or if no vendor's <i>solicitor</i> is named in this contract, the buyer's agent);
<i>discharging mortgagee</i>	any discharging mortgagee, chargee, covenant chargee or caveator whose provision of a <i>Digitally Signed</i> discharge of mortgage, discharge of charge or withdrawal of caveat is required in order for unencumbered title to the <i>property</i> to be transferred to the purchaser;
<i>document of title</i>	document relevant to the title or the passing of title;
<i>ECNL</i>	the Electronic Conveyancing National Law (NSW);
<i>electronic document</i>	a dealing as defined in the Real Property Act 1900 which may be created and <i>Digitally Signed</i> in an <i>Electronic Workspace</i> ;
<i>electronic transaction</i>	a <i>Conveyancing Transaction</i> to be conducted for the <i>parties</i> by their legal representatives as <i>Subscribers</i> using an <i>ELN</i> and in accordance with the <i>ECNL</i> and the <i>participation rules</i> ;
<i>electronic transfer</i>	a transfer of land under the Real Property Act 1900 for the <i>property</i> to be prepared and <i>Digitally Signed</i> in the <i>Electronic Workspace</i> established for the purposes of the <i>parties' Conveyancing Transaction</i> ;
<i>FRCGW percentage</i>	the percentage mentioned in s14-200(3)(a) of Schedule 1 to the <i>TA Act</i> (12.5% as at 1 July 2017);
<i>FRCGW remittance</i>	a remittance which the purchaser must make under s14-200 of Schedule 1 to the <i>TA Act</i> , being the lesser of the <i>FRCGW percentage</i> of the price (inclusive of GST, if any) and the amount specified in a <i>variation served by a party</i> ;
<i>GST Act</i>	A New Tax System (Goods and Services Tax) Act 1999;
<i>GST rate</i>	the rate mentioned in s4 of A New Tax System (Goods and Services Tax Imposition - General) Act 1999 (10% as at 1 July 2000);
<i>GSTRW payment</i>	a payment which the purchaser must make under s14-250 of Schedule 1 to the <i>TA Act</i> (the price multiplied by the <i>GSTRW rate</i> );
<i>GSTRW rate</i>	the rate determined under ss14-250(6), (8) or (9) of Schedule 1 to the <i>TA Act</i> (as at 1 July 2018, usually 7% of the price if the margin scheme applies, 1/11 <sup>th</sup> if not);
<i>incoming mortgagee</i>	any mortgagee who is to provide finance to the purchaser on the security of the <i>property</i> and to enable the purchaser to pay the whole or part of the price;
<i>legislation</i>	an Act or a by-law, ordinance, regulation or rule made under an Act;
<i>manual transaction</i>	a <i>Conveyancing Transaction</i> in which a dealing forming part of the <i>Lodgment Case</i> at or following completion cannot be <i>Digitally Signed</i> ;
<i>normally</i>	subject to any other provision of this contract;
<i>participation rules</i>	the participation rules as determined by the <i>ECNL</i> ;
<i>party</i>	each of the vendor and the purchaser;
<i>property</i>	the land, the improvements, all fixtures and the inclusions, but not the exclusions;
<i>planning agreement</i>	a valid voluntary agreement within the meaning of s7.4 of the Environmental Planning and Assessment Act 1979 entered into in relation to the <i>property</i> ;
<i>populate</i>	to complete data fields in the <i>Electronic Workspace</i> ;

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

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

## 2 Deposit and other payments before completion

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

## 3 Deposit-bond

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

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

- 4.13 If the computer systems of the *Land Registry* are inoperative for any reason at the *completion time* agreed by the *parties*, and the *parties* choose that financial settlement is to occur despite this, then on financial settlement occurring –
- 4.13.1 all *electronic documents Digitally Signed* by the vendor and any discharge of mortgage, withdrawal of caveat or other *electronic document* forming part of the *Lodgment Case* for the *electronic transaction* are taken to have been unconditionally and irrevocably delivered to the purchaser or the purchaser's mortgagee at the time of financial settlement together with the right to deal with the land; and
- 4.13.2 the vendor is taken to have no legal or equitable interest in the *property*.
- 4.14 If the *parties* do not agree about the delivery before completion of one or more documents or things that cannot be delivered through the *Electronic Workspace*, the *party* required to deliver the documents or things –
- 4.14.1 holds them on completion in escrow for the benefit of; and
- 4.14.2 must immediately after completion deliver the documents or things to, or as directed by; the *party* entitled to them.

## 5 Requisitions

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

## 6 Error or misdescription

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

## 7 Claims by purchaser

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

## 8 Vendor's rights and obligations

- 8.1 The vendor can *rescind* if –
- 8.1.1 the vendor is, on reasonable grounds, unable or unwilling to comply with a *requisition*;
- 8.1.2 the vendor *serves* a notice of intention to *rescind* that specifies the *requisition* and those grounds; and
- 8.1.3 the purchaser does not *serve* a notice waiving the *requisition* *within* 14 days after that *service*.

- 8.2 If the vendor does not comply with this contract (or a notice under or relating to it) in an essential respect, the purchaser can *terminate* by *serving* a notice. After the *termination* –
- 8.2.1 the purchaser can recover the deposit and any other money paid by the purchaser under this contract;
  - 8.2.2 the purchaser can sue the vendor to recover damages for breach of contract; and
  - 8.2.3 if the purchaser has been in possession a *party* can claim for a reasonable adjustment.

## 9 Purchaser's default

If the purchaser does not comply with this contract (or a notice under or relating to it) in an essential respect, the vendor can *terminate* by *serving* a notice. After the *termination* the vendor can –

- 9.1 keep or recover the deposit (to a maximum of 10% of the price);
- 9.2 hold any other money paid by the purchaser under this contract as security for anything recoverable under this clause –
  - 9.2.1 for 12 months after the *termination*; or
  - 9.2.2 if the vendor commences proceedings under this clause *within* 12 months, until those proceedings are concluded; and
- 9.3 sue the purchaser either –
  - 9.3.1 where the vendor has resold the *property* under a contract made *within* 12 months after the *termination*, to recover –
    - the deficiency on resale (with credit for any of the deposit kept or recovered and after allowance for any capital gains tax or goods and services tax payable on anything recovered under this clause); and
    - the reasonable costs and expenses arising out of the purchaser's non-compliance with this contract or the notice and of resale and any attempted resale; or
  - 9.3.2 to recover damages for breach of contract.

## 10 Restrictions on rights of purchaser

- 10.1 The purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of –
  - 10.1.1 the ownership or location of any fence as defined in the Dividing Fences Act 1991;
  - 10.1.2 a service for the *property* being a joint service or passing through another property, or any service for another property passing through the *property* ('service' includes air, communication, drainage, electricity, garbage, gas, oil, radio, sewerage, telephone, television or water service);
  - 10.1.3 a wall being or not being a party wall in any sense of that term or the *property* being affected by an easement for support or not having the benefit of an easement for support;
  - 10.1.4 any change in the *property* due to fair wear and tear before completion;
  - 10.1.5 a promise, representation or statement about this contract, the *property* or the title, not set out or referred to in this contract;
  - 10.1.6 a condition, exception, reservation or restriction in a Crown grant;
  - 10.1.7 the existence of any authority or licence to explore or prospect for gas, minerals or petroleum;
  - 10.1.8 any easement or restriction on use the substance of either of which is disclosed in this contract or any non-compliance with the easement or restriction on use; or
  - 10.1.9 anything the substance of which is disclosed in this contract (except a caveat, charge, mortgage, priority notice or writ).
- 10.2 The purchaser cannot *rescind* or *terminate* only because of a defect in title to or quality of the inclusions.
- 10.3 *Normally*, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* or require the vendor to change the nature of the title disclosed in this contract (for example, to remove a caution evidencing qualified title, or to lodge a plan of survey as regards limited title).

## 11 Compliance with work orders

- 11.1 *Normally*, the vendor must by completion comply with a *work order* made on or before the contract date and if this contract is completed the purchaser must comply with any other *work order*.
- 11.2 If the purchaser complies with a *work order*, and this contract is *rescinded* or *terminated*, the vendor must pay the expense of compliance to the purchaser.

## 12 Certificates and inspections

The vendor must do everything reasonable to enable the purchaser, subject to the rights of any tenant –

- 12.1 to have the *property* inspected to obtain any certificate or report reasonably required;
- 12.2 to apply (if necessary in the name of the vendor) for –
  - 12.2.1 any certificate that can be given in respect of the *property* under *legislation*; or
  - 12.2.2 a copy of any approval, certificate, consent, direction, notice or order in respect of the *property* given under *legislation*, even if given after the contract date; and
- 12.3 to make 1 inspection of the *property* in the 3 days before a time appointed for completion.

### 13 Goods and services tax (GST)

- 13.1 Terms used in this clause which are not defined elsewhere in this contract and have a defined meaning in the *GST Act* have the same meaning in this clause.
- 13.2 *Normally*, if a *party* must pay the price or any other amount to the other *party* under this contract, GST is not to be added to the price or amount.
- 13.3 If under this contract a *party* must make an adjustment or payment for an expense of another party or pay an expense payable by or to a third party (for example, under clauses 14 or 20.7) –
- 13.3.1 the *party* must adjust or pay on completion any GST added to or included in the expense; but
  - 13.3.2 the amount of the expense must be reduced to the extent the party receiving the adjustment or payment (or the representative member of a GST group of which that party is a member) is entitled to an input tax credit for the expense; and
  - 13.3.3 if the adjustment or payment under this contract is consideration for a taxable supply, an amount for GST must be added at the *GST rate*.
- 13.4 If this contract says this sale is the supply of a going concern –
- 13.4.1 the *parties* agree the supply of the *property* is a supply of a going concern;
  - 13.4.2 the vendor must, between the contract date and completion, carry on the enterprise conducted on the land in a proper and business-like way;
  - 13.4.3 if the purchaser is not registered by the date for completion, the *parties* must complete and the purchaser must pay on completion, in addition to the price, an amount being the price multiplied by the *GST rate* ("the retention sum"). The retention sum is to be held by the *depositholder* and dealt with as follows –
    - if *within* 3 months of completion the purchaser serves a letter from the Australian Taxation Office stating the purchaser is registered with a date of effect of registration on or before completion, the *depositholder* is to pay the retention sum to the purchaser; but
    - if the purchaser does not serve that letter *within* 3 months of completion, the *depositholder* is to pay the retention sum to the vendor; and
  - 13.4.4 if the vendor, despite clause 13.4.1, serves a letter from the Australian Taxation Office stating the vendor has to pay GST on the supply, the purchaser must pay to the vendor on demand the amount of GST assessed.
- 13.5 *Normally*, the vendor promises the margin scheme will not apply to the supply of the *property*.
- 13.6 If this contract says the margin scheme is to apply in making the taxable supply, the *parties* agree that the margin scheme is to apply to the sale of the *property*.
- 13.7 If this contract says the sale is not a taxable supply –
- 13.7.1 the purchaser promises that the *property* will not be used and represents that the purchaser does not intend the *property* (or any part of the *property*) to be used in a way that could make the sale a taxable supply to any extent; and
  - 13.7.2 the purchaser must pay the vendor on completion in addition to the price an amount calculated by multiplying the price by the *GST rate* if this sale is a taxable supply to any extent because of –
    - a breach of clause 13.7.1; or
    - something else known to the purchaser but not the vendor.
- 13.8 If this contract says this sale is a taxable supply in full and does not say the margin scheme applies to the *property*, the vendor must pay the purchaser on completion an amount of one-eleventh of the price if –
- 13.8.1 this sale is not a taxable supply in full; or
  - 13.8.2 the margin scheme applies to the *property* (or any part of the *property*).
- 13.9 If this contract says this sale is a taxable supply to an extent –
- 13.9.1 clause 13.7.1 does not apply to any part of the *property* which is identified as being a taxable supply; and
  - 13.9.2 the payments mentioned in clauses 13.7 and 13.8 are to be recalculated by multiplying the relevant payment by the proportion of the price which represents the value of that part of the *property* to which the clause applies (the proportion to be expressed as a number between 0 and 1). Any evidence of value must be obtained at the expense of the vendor.
- 13.10 *Normally*, on completion the vendor must give the recipient of the supply a tax invoice for any taxable supply by the vendor by or under this contract.
- 13.11 The vendor does not have to give the purchaser a tax invoice if the margin scheme applies to a taxable supply.
- 13.12 If the vendor is liable for GST on rents or profits due to issuing an invoice or receiving consideration before completion, any adjustment of those amounts must exclude an amount equal to the vendor's GST liability.
- 13.13 If the vendor serves details of a *GSTRW payment* which the purchaser must make, the purchaser does not have to complete earlier than 5 *business days* after that *service* and clause 21.3 does not apply to this provision.
- 13.14 If the purchaser must make a *GSTRW payment* the purchaser must, at least 2 *business days* before the date for completion, serve evidence of submission of a *GSTRW payment* notification form to the Australian Taxation Office by the purchaser or, if a direction under either clause 4.8 or clause 30.4 has been given, by the transferee named in the transfer the subject of that direction.

## 14 Adjustments

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

## 15 Date for completion

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

## 16 Completion

### • Vendor

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

### • Purchaser

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

## 17 Possession

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

**18 Possession before completion**

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

**19 Rescission of contract**

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

**20 Miscellaneous**

- 20.1 The *parties* acknowledge that anything stated in this contract to be attached was attached to this contract by the vendor before the purchaser signed it and is part of this contract.
- 20.2 Anything attached to this contract is part of this contract.
- 20.3 An area, bearing or dimension in this contract is only approximate.
- 20.4 If a *party* consists of 2 or more persons, this contract benefits and binds them separately and together.
- 20.5 A *party's solicitor* can receive any amount payable to the *party* under this contract or direct in writing that it is to be paid to another person.
- 20.6 A document under or relating to this contract is –
- 20.6.1 signed by a *party* if it is signed by the *party* or the *party's solicitor* (apart from a direction under clause 4.8 or clause 30.4);
  - 20.6.2 served if it is served by the *party* or the *party's solicitor*;
  - 20.6.3 served if it is served on the *party's solicitor*, even if the *party* has died or any of them has died;
  - 20.6.4 served if it is served in any manner provided in s170 of the Conveyancing Act 1919;
  - 20.6.5 served if it is sent by email or fax to the *party's solicitor*, unless in either case it is not received;
  - 20.6.6 served on a person if it (or a copy of it) comes into the possession of the person;
  - 20.6.7 served at the earliest time it is served, if it is served more than once; and
  - 20.6.8 served if it is provided to or by the *party's solicitor* or an *authorised Subscriber* by means of an *Electronic Workspace* created under clause 4. However, this does not apply to a notice making an obligation essential, or a notice of *rescission* or *termination*.
- 20.7 An obligation to pay an expense of another *party* of doing something is an obligation to pay –
- 20.7.1 if the *party* does the thing personally - the reasonable cost of getting someone else to do it; or
  - 20.7.2 if the *party* pays someone else to do the thing - the amount paid, to the extent it is reasonable.
- 20.8 Rights under clauses 4, 11, 13, 14, 17, 24, 30 and 31 continue after completion, whether or not other rights continue.
- 20.9 The vendor does not promise, represent or state that the purchaser has any cooling off rights.
- 20.10 The vendor does not promise, represent or state that any attached survey report is accurate or current.
- 20.11 A reference to any *legislation* (including any percentage or rate specified in *legislation*) is also a reference to any corresponding later *legislation*.
- 20.12 Each *party* must do whatever is necessary after completion to carry out the *party's* obligations under this contract.
- 20.13 Neither taking possession nor *serving* a transfer of itself implies acceptance of the *property* or the title.



- 20.14 The details and information provided in this contract (for example, on pages 1 - 4) are, to the extent of each *party's* knowledge, true, and are part of this contract.
- 20.15 Where this contract provides for choices, a choice in BLOCK CAPITALS applies unless a different choice is marked.
- 20.16 Each *party* consents to –
- 20.16.1 any *party* signing this contract electronically; and
  - 20.16.2 the making of this contract by the exchange of counterparts delivered by email, or by such other electronic means as may be agreed in writing by the *parties*.
- 20.17 Each *party* agrees that electronic signing by a *party* identifies that *party* and indicates that *party's* intention to be bound by this contract.

## 21 Time limits in these provisions

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

## 22 Foreign Acquisitions and Takeovers Act 1975

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

## 23 Strata or community title

### • Definitions and modifications

- 23.1 This clause applies only if the land (or part of it) is a lot in a strata, neighbourhood, precinct or community scheme (or on completion is to be a lot in a scheme of that kind).
- 23.2 In this contract –
- 23.2.1 'change', in relation to a scheme, means –
    - a registered or registrable change from by-laws set out in this contract;
    - a change from a development or management contract or statement set out in this contract; or
    - a change in the boundaries of common property;
  - 23.2.2 'common property' includes association property for the scheme or any higher scheme;
  - 23.2.3 'contribution' includes an amount payable under a by-law;
  - 23.2.4 'information certificate' includes a certificate under s184 Strata Schemes Management Act 2015 and s171 Community Land Management Act 2021;
  - 23.2.5 'interest notice' includes a strata interest notice under s22 Strata Schemes Management Act 2015 and an association interest notice under s20 Community Land Management Act 2021;
  - 23.2.6 'normal expenses', in relation to an owners corporation for a scheme, means normal operating expenses usually payable from the administrative fund of an owners corporation for a scheme of the same kind;
  - 23.2.7 'owners corporation' means the owners corporation or the association for the scheme or any higher scheme;
  - 23.2.8 'the *property*' includes any interest in common property for the scheme associated with the lot; and
  - 23.2.9 'special expenses', in relation to an owners corporation, means its actual, contingent or expected expenses, except to the extent they are –
    - normal expenses;
    - due to fair wear and tear;
    - disclosed in this contract; or
    - covered by moneys held in the capital works fund.
- 23.3 Clauses 11, 14.8 and 18.4 do not apply to an obligation of the owners corporation, or to property insurable by it.
- 23.4 Clauses 14.4.2 and 14.6 apply but on a unit entitlement basis instead of an area basis.
- ### • Adjustments and liability for expenses
- 23.5 The *parties* must adjust under clause 14.1 –
- 23.5.1 a regular periodic contribution;
  - 23.5.2 a contribution which is not a regular periodic contribution but is disclosed in this contract; and
  - 23.5.3 on a unit entitlement basis, any amount paid by the vendor for a normal expense of the owners corporation to the extent the owners corporation has not paid the amount to the vendor.

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

## 24 Tenancies

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

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

**26 Crown purchase money**

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

**27 Consent to transfer**

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

**28 Unregistered plan**

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

**29 Conditional contract**

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

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

### 30 Manual transaction

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

### 31 Foreign Resident Capital Gains Withholding

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

**32 Residential off the plan contract**

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

9/94-96 YORKTOWN PDE MAROUBRA NSW 2055

## SPECIAL CONDITIONS ANNEXED TO CONTRACT FOR THE SALE OF LAND 2022

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### 1. Amendments to standard terms

The Printed Conditions are amended as follows:-

- |     |                |   |
|-----|----------------|---|
| (a) | Clause 4.1.2   | Delete and replaced with "a party serves, at least 14 days before the date for completion, a notice stating a valid reason why it cannot be conducted as an electronic transaction".  |
| (b) | Clause 6.1     | Words "or anything else and whether substantial or not" in the second line – deleted.   |
| (c) | Clause 6.2     | Deleted.  |
| (d) | Clause 7.1.1   | "5%" replaced with "1%".  |
| (e) | Clause 7.2.1   | "10%" replaced with "1%".   |
| (f) | Clause 8.1.1   | the words "on reasonable grounds" deleted.  |
| (g) | Clause 8.1.2   | the words "and those grounds" deleted.  |
| (h) | Clause 10.1    | add the words "or delay completion" after the word "terminate" in the first line.   |
| (i) | Clause 10.1.8  | the word "substance" replaced with the word "existence".  |
| (j) | Clause 14.1    | delete the first word "Normally".   |
| (k) | Clause 14.4.2  | deleted.  |
| (l) | Clause 14.8    | delete the words "or any adjoining footpath or road".   |
| (m) | Clause 20.6.8  | deleted.  |
| (n) | Clause 20.10   | add the words "or building certificate" after the words "survey report".  |
| (o) | Clause 23.13   | is deleted and substituted with "The purchaser is authorized and directed by the vendor, to apply for a certificate under section 184 Strata Schemes Management Act 2015 or Section 26 Community Land Management Act 1989 in relation to the lot, the scheme or any higher Scheme." |
| (p) | Clause 23.14   | deleted.  |
| (q) | Clause 24.3.1  | deleted.  |
| (r) | Clause 24.3.2: | delete the words "or after"   |
| (s) | Clause 24.3.3  | deleted.  |
| (t) | Clause 24.4.2  | delete and replace with "The Vendor will deliver the original security to the purchaser".   |
| (u) | Clause 24.4.3  | delete the words "a copy of any Disclosure Statement given to the tenant under the Retail Leases Act 1994.  |
| (v) | Clause 31.2    | deleted.  |
| (w) | Clause 31.3    | delete the words "at least 2 business days".  |

## **2. Inspection by Purchaser**

The property and any furnishings or chattels referred to in this Contract are sold in their conditions and state of repairs subject to all defects (latent or patent) infestation and dilapidation and all damages wear and tear pending completion. The Purchaser cannot make a claim, objection or requisition or rescind or terminate in respect of a defect in or any lack of repair of the improvements (or any part of the improvements), furnishings or chattels.

## **3. Representations, Warranties & Acknowledgments**

The Purchaser enters into this Contract entirely as a result of the Purchaser's own enquiries and the Purchaser warrants that the Vendor has not nor has anyone on the Vendor's behalf made any representation other than as set out in this Contract which has in any manner influenced the Purchaser to enter into this Contract. The Purchaser does not rely on any representation letter document correspondence or arrangement whether oral or in writing as adding to or amending the terms conditions warranties and arrangements set out in this written Contract.

## **4. Provisions for death, mental illness, liquidation**

Without in any manner negating limiting or restricting any rights or remedies which would have been available to the Vendor or the Purchaser at Law or in Equity had this clause not been included herein, should the Vendor or the Purchaser or if more than one, any one of them, prior to completion:-

- (a) Being a natural person, die, become bankrupt or subject to the provisions of the Mental Health Act;
- (b) being a company resolve to go into liquidation or have a petition for the winding up of the Purchaser presented or enter into any scheme or arrangement with its creditors pursuant to the provisions of Corporations Law or should any Receiver liquidator (provisional or otherwise) or Receiver Manager be appointed;

the other party may rescind this Contract by notice in writing forwarded to the Solicitor named as the other party's Solicitor in this Contract and thereupon this Contract shall be at an end and the provisions of Clause 19 shall apply.

## **5. Purchaser warranty on Agent**

The Purchaser warrants that the Purchaser was not introduced to the Vendor of the Property by any real estate agent except the agent (if any) named in this Contract and the Purchaser indemnifies the Vendor against any claim for commission which might be made by any agent resulting from an introduction forming a breach of such warranty and against all costs and expenses incidental to defending any such claim.

It is agreed that these indemnities shall be continuing not merging on completion.

## **6. Purchaser's Obligations**

In the event that the Purchaser changes solicitor without notifying the Vendor in writing of such change then the solicitor lastly acting for the Purchaser shall be deemed to remain and be the solicitor for the Purchaser for the purpose of this Contract until notice in writing signed by the Purchaser of such change is received by the Vendor.



## **7. Interest for late completion**

- (a) The Purchaser shall pay interest to the Vendor on the balances of purchase price as from the date herein stipulated for completion at the rate of 10% per annum until completion unless at the date stipulated for completion the Vendor is unable or unwilling to complete in which event interest shall not commence to run until the Vendor is ready willing and able to complete.
- (b) If the Purchaser fails to complete this Contract on or before the Completion Date otherwise than through the default of the Vendor, then in addition to the payment of interest pursuant to Special Condition 7(a) hereof, the Purchaser shall also pay to the Vendor the sum of three hundred and thirty dollars (\$350.00 plus GST) to cover legal costs and other expenses incurred as a consequence of the delay, as a genuine pre-estimate of those additional expenses, to be allowed by the Purchaser as an additional adjustment on completion.

## **8. FIRB Approval**

The Purchaser warrants it does not require the consent of the Foreign Review Board to the purchase of the property and in the event, notwithstanding this warranty, that any fine or penalty is incurred by the Vendor for any non-compliance to the Act relating to the foreign acquisition of certain land interests and to foreign control of certain business enterprises and mineral rights then the Purchaser shall indemnify and keep indemnified the Vendor against such fine or penalty.

## **9. Completion**

The Purchaser shall not be entitled to require the Vendor prior to completion to register a Discharge of any Mortgage or Charge or Withdrawal or any Caveat affecting the subject land. If at the date of completion of this Contract there is noted on any Certificate of Title in respect of the property or any part thereof any Mortgage, Charge or Caveat, the Purchaser will accept a Discharge or Withdrawal thereof so far as the same relates to the property.

## **10. Investment of Deposit**

Further to clause 2 of the Contract the Vendor and the Purchaser acknowledge that each is aware of the provisions of the taxation laws relating to tax file numbers and in particular that if a tax file number or claim for exemption is not quoted to an investment body, it will deduct tax from the unattributed income. Unattributed income is income from an investment for which the investor has not quoted a tax file number or informed the investment body that the investor is exempt from quoting the investor's tax file number.

## **11. Pest Control**

The Purchaser shall not call upon the Vendor to carry out any repairs or chemical treatment for pest infestation, if any, whatsoever in relation to the property sold nor shall the Vendor call upon the Purchaser to contribute to the cost of such repairs of chemical treatment.

## **12. Release of Deposit**

The Purchaser agrees to release the whole or that part of the deposit as the Vendor requires at such time as the Vendor may require to be used by the Vendor for the

payment of the whole or part of the deposit payable by the Vendor on another property and stamp duty on the contract in respect of the purchase of such other property. If such release is required at the time of making this contract, then the deposit shall be paid in the manner directed by the Solicitor for the Vendor otherwise the deposit or part thereof shall be released by the depositholder as directed in writing by the Vendor's solicitors. The Purchaser shall not be entitled to make any claim for loss of interest which could otherwise be payable pursuant to clause 2 thereof.

### **13. Services**

The Purchaser acknowledges that they are purchasing the property and shall take title thereto subject to existing Water, Sewerage, Drainage, Gas and Electricity, Telephone or other installations or services (hereinafter in the condition referred to as 'any service') and shall not make any requisition, objection or claim for compensation in respect of:-

- (a) the nature, location, availability or non-availability of any services; or
- (b) if any service for any other property or properties of the mains, pipes, wires or connections therefore pass through or over the property and vice versa; or
- (c) whether or not the property is subject to or has the benefit of any rights, easements or agreements in respect of any service or the mains, pipes, or connections therefore.

### **14. Swimming Pool**

If the property contains a swimming pool, then:-

- (a) The Vendor does not warrant that the swimming pool on the property complies with the requirements imposed by the Swimming Pool Act 1992 and the regulations prescribed under that Act.
- (b) The Purchaser agrees that after completion the Purchaser will comply with the requirements of the Act and regulations relating to access to the swimming pool, fencing and the erection of a warning notice and this special condition shall not merge upon completion of this Contract.
- (c) The Purchaser may not make any claim or raise any requisition whatsoever in relation to the swimming pool or any non-compliance with the Swimming Pool Act 1992 or other relevant legislation.

### **15. State Environmental Planning Policy (SEPP) 25 and 28**

The Vendor discloses that SEPP 28 has been repealed and that some provisions of SEPP 25 and SEPP 12 that allowed subdivision of dual occupancies have been repealed, and the attached Section 149 Certificate may be inaccurate in respect of those matters.

### **16. Notice to Complete**

It is expressly agreed between the parties hereto that in circumstances justifying the issue of a Notice to Complete either party may issue a Notice to Complete requiring completion within fourteen (14) days from the date of service of the said Notice and this period of fourteen (14) days in relation thereto shall be regarded as a reasonable and essential time for completion under this Contract notwithstanding any rule of law or equity

to the contrary. A party issuing such a notice shall be at liberty to extend the compliance with the said Notice without prejudice to his/her continuing right to rely of same or to give any such further Notice.

## 17. Deposit

In the event that:

- (a) the purchaser has paid a deposit of less than 10% of the purchase price;
- (b) the purchaser defaults in the observance of any obligations hereunder; and
- (c) the vendor terminates this contract

the vendor shall be entitled to recover from the purchaser an amount equal to 10% of the purchase price less the deposit paid as liquidated damages and it is agreed that this right shall be in addition to and shall not limit any other remedies available to the vendor herein contained or implied notwithstanding any rule or law or in equity to the contrary. This clause shall not merge on completion of this contract.

## 18. Requisitions on Title

The Purchaser shall be permitted to make the standard requisitions as follow:

- (a) If Strata Title, Form 800 STRATA TITLE, 2004 Australian Law Stationers Pty Ltd.; or
- (b) If Torrens Title, 2011 Residential Property Requisitions on Title, Law Society of NSW or 2011 Commercial Requisitions on Title, Law Society of NSW.

## 19. Fencing

The property is sold and the Purchaser shall take title thereto subject to the present boundary fences and boundary walls and no objection, requisition or claim shall be made by the Purchaser in respect of any boundary of the property not being fenced or any boundary fence or wall not being upon or within such boundary.

## 20. Land Tax

If land tax is marked as adjustable, land tax shall be adjusted on the amount payable on the land tax assessment.

If the vendor owns property other than the contract property, then land tax shall be adjusted using the following formula:

$$\text{Amount to be adjusted} = \frac{\text{Taxable land value for the contract property}}{\text{Total aggregated land value}} \times \text{Total land tax payable}$$

## 21. Goods & Services Tax

The amounts payable under this Contract do not include reference to any amount payable pursuant to the *A New Tax System (Goods and Services Tax) Act 1999* or any cognate legislation ("the GST Legislation"). If any amount is or becomes payable by the Vendor pursuant to the GST Legislation ("GST Amount"), then the Purchaser shall be liable for such amount in addition to any other amount payable by the Purchaser under

this Contract. The Purchaser agrees to pay the GST Amount to the Vendor within 14 days after the Vendor's liability is confirmed by correspondence or an assessment from the Commissioner of Taxation, including any additional penalty and interest.

It is agreed that this obligation shall be continuing and does not merge on completion.

## **22. Guarantor**

If the Purchaser is a company then the Vendor has entered into this Contract with the Purchaser at the request of \_\_\_\_\_ (the "Guarantor") and in consideration thereof. By signing this Contract the Guarantor guarantees the performance of each and every condition contained in this Contract to be performed by the Purchaser including but without limitation the payment of the Purchase Price and any other money payable under this Contract. The Guarantor also agrees that in this Contract, the Guarantor will in place of the Purchaser honour all such obligations and any failure on the part of the Guarantor to do so will render the Guarantor liable to the Vendor as if the Guarantor was the Purchaser named in this Contract. This clause does not merge on completion.

\_\_\_\_\_  
Guarantor

\_\_\_\_\_  
Guarantor

\_\_\_\_\_  
Name of Guarantor

\_\_\_\_\_  
Name of Guarantor



FOLIO: 9/SP73388

-----

SEARCH DATE	TIME	EDITION NO	DATE
-----	----	-----	----
1/5/2023	2:09 PM	6	1/9/2018

LAND

----

LOT 9 IN STRATA PLAN 73388  
AT MAROUBRA  
LOCAL GOVERNMENT AREA RANDWICK

FIRST SCHEDULE

-----

SUNCHEN HOLDINGS PTY LIMITED (T AJ278516)

SECOND SCHEDULE (4 NOTIFICATIONS)

-----

1	INTERESTS RECORDED ON REGISTER FOLIO CP/SP73388
2	SP73388 RESTRICTION(S) ON THE USE OF LAND
3	SP73388 POSITIVE COVENANT
4	AJ278517 MORTGAGE TO AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED

NOTATIONS

-----

UNREGISTERED DEALINGS: NIL

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



FOLIO: CP/SP73388

SEARCH DATE	TIME	EDITION NO	DATE
1/5/2023	2:09 PM	5	9/3/2018

LAND

THE COMMON PROPERTY IN THE STRATA SCHEME BASED ON STRATA PLAN 73388  
WITHIN THE PARCEL SHOWN IN THE TITLE DIAGRAM

AT MAROUBRA  
LOCAL GOVERNMENT AREA RANDWICK  
PARISH OF BOTANY COUNTY OF CUMBERLAND  
TITLE DIAGRAM SP73388

FIRST SCHEDULE

THE OWNERS - STRATA PLAN NO. 73388  
ADDRESS FOR SERVICE OF DOCUMENTS:  
94-96 YORKTOWN PARADE  
MAROUBRA 2035

SECOND SCHEDULE (4 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 SP73388 RESTRICTION(S) ON THE USE OF LAND
- 3 SP73388 POSITIVE COVENANT
- 4 AN178041 CONSOLIDATION OF REGISTERED BY-LAWS

SCHEDULE OF UNIT ENTITLEMENT (AGGREGATE: 100)

STRATA PLAN 73388

LOT	ENT	LOT	ENT	LOT	ENT	LOT	ENT
1	- 6	2	- 6	3	- 6	4	- 6
5	- 6	6	- 5	7	- 5	8	- 5
9	- 5	10	- 5	11	- 12	12	- 10
13	- 10	14	- 13				

NOTATIONS

UNREGISTERED DEALINGS: NIL

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

# STRATA PLAN FORM 1

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

OFFICE USE ONLY

## Strata Certificate

Name of Owner/ Accredited Certifier: **SG JOHNSON**  
 being satisfied that the requirements of the Strata Schemes  
 (Registration) Act 1975 and the Strata Schemes  
 (Management) Act 1986 have been complied with,  
 approve of the proposed Strata Plan.

Strata Plan / Strata Plan of Subdivision

Registered in the measure to this certificate.

The accredited certifier is satisfied that the plan is consistent with a  
 relevant development consent in force, and that all conditions of the  
 development consent that by its terms are required to be complied with  
 before a strata certificate may be issued, have been complied with.

The accredited certifier is satisfied that the plan is  
 consistent with any applicable conditions of any development consent  
 and that the plan gives effect to the scope of the strata development  
 contract to which it relates.

The council does not object to the enrolment of the building  
 beyond the agreement.

The accredited certifier is satisfied that the building complies with  
 a relevant development consent in force that allows the enrolment.

This approval is given on the condition that the use of the building  
 for the purposes of the Strata Schemes (Management) Act 1986  
 or the Strata Schemes (Registration) Act 1975 is restricted to the use  
 proposed in the plan (not being such a use as is the subject of the strata  
 scheme development consent, as referred to in section 29 of the Strata Schemes  
 (Management) Act 1986 or section 66 of the Strata Schemes  
 (Registration) Act 1975).

Date: **16 SEPTEMBER 2004**

Stratification No.: **16 SEPTEMBER 2004**

Accredited Certifier No.: **16 SEPTEMBER 2004**

Accredited Certifier Name: **SG JOHNSON**

Accredited Certifier Address: **SG JOHNSON**

Accredited Certifier Contact: **SG JOHNSON**

Accredited Certifier Signature: **SG JOHNSON**

Accredited Certifier Stamp: **SG JOHNSON**

Accredited Certifier Seal: **SG JOHNSON**

Accredited Certifier Mark: **SG JOHNSON**

Accredited Certifier Note: **SG JOHNSON**

Accredited Certifier Comment: **SG JOHNSON**

Accredited Certifier Footer: **SG JOHNSON**

Accredited Certifier Page: **SG JOHNSON**

Accredited Certifier Total: **SG JOHNSON**

Accredited Certifier End: **SG JOHNSON**

Accredited Certifier Close: **SG JOHNSON**

Accredited Certifier Exit: **SG JOHNSON**

Accredited Certifier Stop: **SG JOHNSON**

Accredited Certifier Wait: **SG JOHNSON**

Accredited Certifier End: **SG JOHNSON**

Accredited Certifier Close: **SG JOHNSON**

Accredited Certifier Exit: **SG JOHNSON**

Accredited Certifier Stop: **SG JOHNSON**

Accredited Certifier Wait: **SG JOHNSON**

Accredited Certifier End: **SG JOHNSON**

Accredited Certifier Close: **SG JOHNSON**

Accredited Certifier Exit: **SG JOHNSON**

Accredited Certifier Stop: **SG JOHNSON**

## Surveyors Certificate

Name of Surveyor: **JOHN BALLENDEN**

Address: **PO BOX 333 CARINGBAH 2229**

Signature: **JOHN BALLENDEN**

Date: **9 AUGUST 2004**

Signature: **JOHN BALLENDEN**

Date: **9 AUGUST 2004**

Signature: **JOHN BALLENDEN**

Date: **9 AUGUST 2004**

Signature: **JOHN BALLENDEN**

Date: **9 AUGUST 2004**

Signature: **JOHN BALLENDEN**

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Date: **9 AUGUST 2004**

Signature: **JOHN BALLENDEN**

Date: **9 AUGUST 2004**

Signature: **JOHN BALLENDEN**

Date: **9 AUGUST 2004**

PLAN OF SUBDIVISION OF LOT 101 IN DP 1069712

SP733388

Registered: **20-09-2004**

Purpose: **STRATA PLAN**

Ref Map: **U1837-52**

Last Plan: **DP1069712**

L.G.A.: **RANDWICK** Suburb/ Locality: **MAROUBRA**

Parish: **BOTANY** County: **CUMBERLAND**

Name of, and address for  
 service of notices on, the  
 owners corporation.  
 (Address required on  
 original strata plan only)

THE OWNERS  
 STRATA PLAN No. 73388  
 94-96 YORKTOWN PARADE,  
 MAROUBRA NSW 2035

## FOR LOCATION PLAN SEE SHEET 2

Signatures, seals and statements of intention to create easements, restrictions on the use of land or positive covenants.

PURSUANT TO SECTION 88B & 88C OF THE CONVEYANCING ACT 1919 AS AMENDED,  
 AND SECTION 7(3) OF THE STRATA SCHEMES (GREENFIELD DEVELOPMENT) ACT 1977,  
 IT IS INTENDED TO CREATE:

1. RESTRICTION ON THE USE OF LAND
2. POSITIVE COVENANT

Executed by **CORPORATE RYLYN**

ACN 071568 016. In accordance with the  
 provisions of Section 127 of Corporations  
 Law, 2001 in the presence of:-

**Napoleon Fend**  
 S.E. Director Secretary

Executed by **WILLIS & BOWRING MORTGAGE  
 INVESTMENTS LIMITED ACN 089 265 127** in  
 accordance with the provisions of Section 127  
 of Corporations Law, 2001 in the presence of:-

**LOU POLITO**  
 Director

**RON TOSOLINI**  
 Director

## SCHEDULE OF UNIT ENTITLEMENT

LOT No.	UNIT ENTITLEMENT
1	6
2	6
3	6
4	6
5	6
6	6
7	6
8	6
9	6
10	6
11	6
12	6
13	6
14	6
TOTAL	100

STRATA PLAN FORM 2

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

Sheet No. 2 of 4 Sheets

LOCATION PLAN

229  
DP 36345

24.98

231  
DP 36345

SP73388

228  
DP 36345

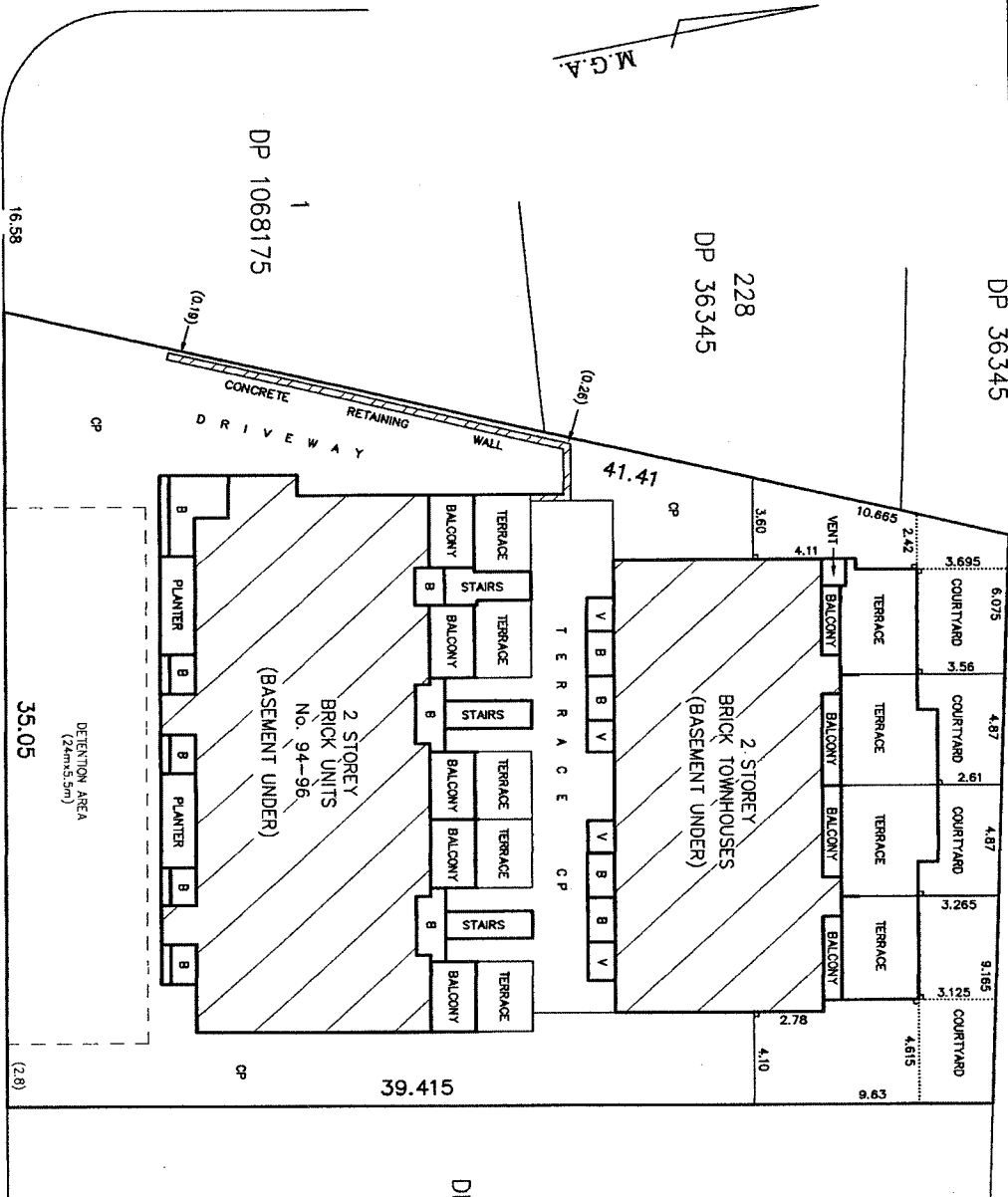
224  
DP 36345

NEW ORLEANS CRESCENT

DP 1068175

YORKTOWN

PARADE



CP DENOTES COMMON PROPERTY  
 V DENOTES VERANDAH  
 B DENOTES BALCONY  
 L DENOTES PERPENDICULAR

Reduction Ratio 1:300

Lengths are in metres

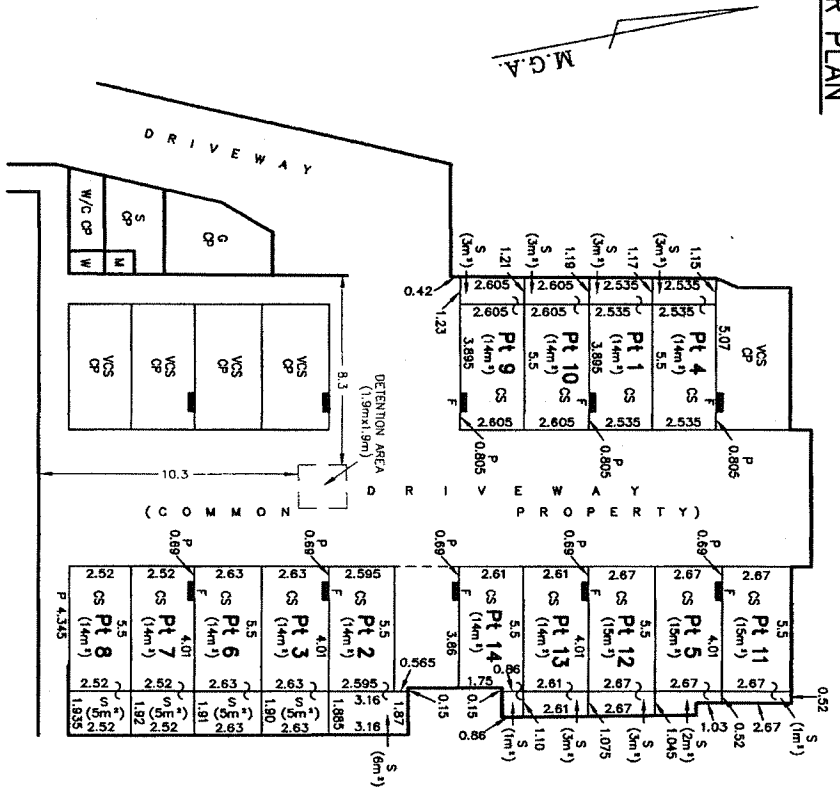
*T.P. Hollander*  
 Registered Surveyor

SURVEYOR'S REFERENCE: 20040393

*A. J. Brown*  
 Authorised Person/General Manager/Accredited Certifier



FLOOR PLAN



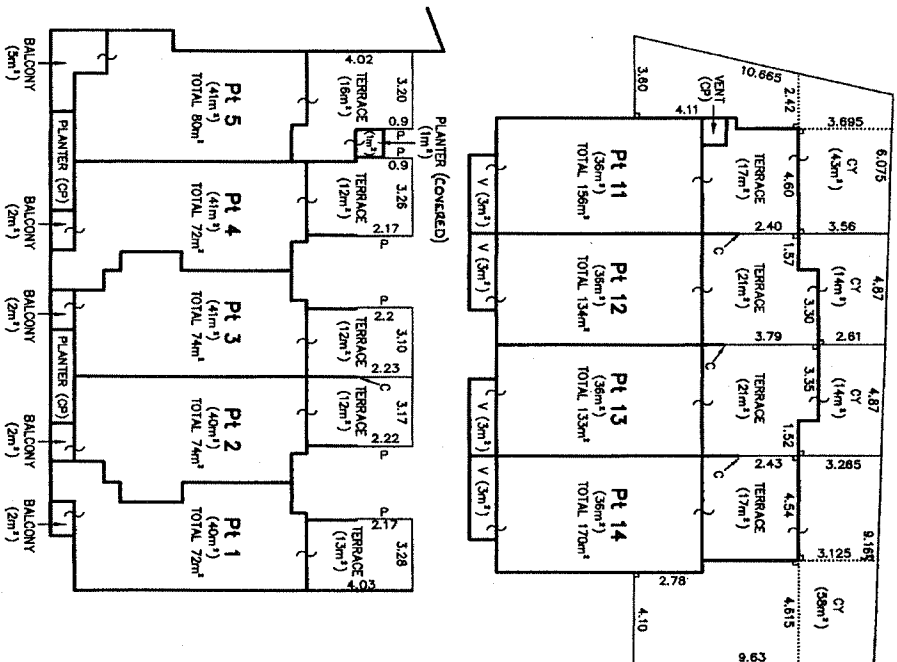
LEVEL 1 (BASEMENT)

- CS DENOTES CARSPACE  
VCS DENOTES VISITOR CARSPACE  
CP DENOTES COMMON PROPERTY  
C DENOTES CENTRELINE OF WALL  
F DENOTES FACE OF COLUMN  
P DENOTES PROLONGATION OF FACE OF WALL  
L DENOTES PERPENDICULAR
- V DENOTES VERANDAH  
CY DENOTES COURTYARD  
S DENOTES STORE  
G DENOTES GARBAGE ROOM (CP)  
M DENOTES MEETER ROOM (CP)  
W DENOTES SWITCH ROOM (CP)  
W/C DENOTES TOILET (CP)

AREAS ARE APPROXIMATE AND HAVE BEEN MEASURED FOR THE PURPOSE OF THE STRATA TITLE ACT, 1973 AS AMENDED.

TERRACES, BALCONIES AND VERANDAHS WHERE NOT COVERED ARE LIMITED IN HEIGHT TO THE UNDERSIDE OF THE CEILING OF THEIR RESPECTIVE UNIT

COURTYARDS ARE LIMITED IN DEPTH TO 5 METRES BELOW THE UPPER SURFACE OF THE FLOOR LEVEL OF THEIR RESPECTIVE UNIT AND WHERE NOT COVERED ARE LIMITED IN HEIGHT TO THE UNDERSIDE OF THE CEILING OF THEIR RESPECTIVE UNIT



LEVEL 2 (GROUND FLOOR)

Reduction Ratio 1:200

Lengths are in metres

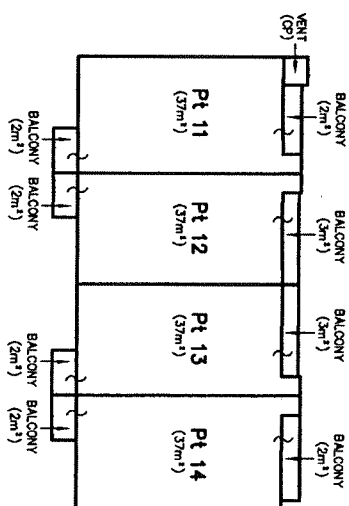
SP73388

J.P. Ballantine  
Registered Surveyor

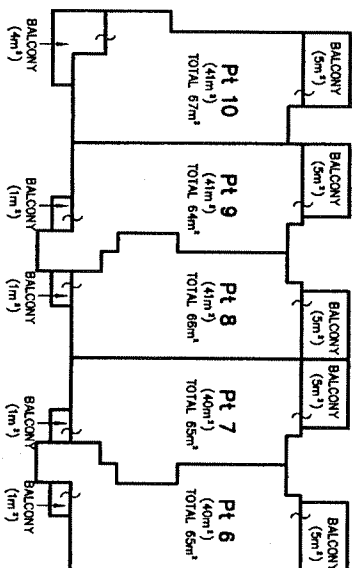
SURVEYOR'S REFERENCE: 20040393

Authorised Surveyor/Engineer/Accountant/Certifier

SP73388



M.G.A.



### LEVEL 3 (FIRST FLOOR)

CP DENOTES COMMON PROPERTY

BALCONIES WHERE NOT COVERED ARE LIMITED IN HEIGHT TO THE UNDERSIDE OF THE CEILING OF THEIR RESPECTIVE UNIT

Reduction Ratio 1:200

Lengths are in metres

*J. P. S. Allen*  
Registered Surveyor

SURVEYOR'S REFERENCE: 20040393

~~Authorized Person/General Manager/Accredited Certifier~~

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

(Sheet 1 of 3 sheets)

**SP73388**

Plan of Strata Sub-division of Lot 101 in DP1069712  
Covered by Strata Certificate No. *10677 16/09/04.*

**Full name and address  
of the owners of the land.**

Corpstate Pty Limited  
PO Box 265, Randwick NSW 2031

**Part 1 (Creation)**

No. of Item shown in the intention panel on the plan	Identity of restriction and positive covenant to be created and referred to in the plan	Burdened lot(s) or parcel(s)	Benefited lot(s) or Prescribed Authorities:
1	Restriction on the Use of Land	All & Common Property	Randwick City Council
2	Positive Covenant	All & Common Property	Randwick City Council

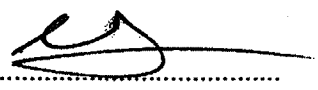
**Part 2 (Terms)**

**Item 1. Terms of Restriction numbered 1 in the plan**

There shall be no erection of any buildings or structures nor the carrying out of any works on or over the land and/or structure described as "on-site stormwater detention system" that may adversely affect the design function of the system. The on-site stormwater detention system includes all ancillary gutters, pipes, drains, walls, kerbs, pits, trenches, grates, chambers, basins and surfaces designed to temporarily detain stormwater as shown on the plans approved by the Certifying Authority, Drainage Plan No <sup>2703C-1</sup>~~2703C-2~~ by *Haddad Khairi Partners* (hereinafter called "the system").

Works in this context shall be taken to mean the excavation or replacement of soil or landscape material upon this detention system that may affect the design function of the said area, or any variation to the size or shape of the "on-site stormwater detention system".

Approved by Randwick City Council

  
General Manager/Authorised Officer

Executed by WILLIS & BOWRING MORTGAGE  
INVESTMENTS LIMITED ACN 089 265 127 in  
accordance with the provisions of Section 127  
of Corporations Law, 2001 in the presence of:-

  
**LOU POLITO**  
Director

  
**RON TOSOLINI**  
Director

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

(Sheet 2 of 3 sheets)

**SP73388**

Plan of Strata Sub-division of Lot 101 in DP1069712  
Covered by Strata Certificate No. *10677 16/09/04.*

**Full name and address  
of the owners of the land.**

Corpstate Pty Limited  
PO Box 265, Randwick NSW 2031

**Part 2 (Terms)**

**Item 2. Terms of the Positive Covenant numbered 2 on the plan**

1. The registered proprietors of the lot(s) burdened will in respect to the system described in the Restriction firstly referred to in this instrument:
  - a. Permit stormwater to be temporarily detained by the system.
  - b. Keep the system clean and free from silt, rubbish and debris.
  - c. Maintain, renew and repair the system so that it functions in a safe and efficient manner, and in doing so complete the same within the time and in the manner specified in written notice issued by the Council.
  - d. Carry out the matters referred to in paragraphs (b) and (c) at the proprietor's expense.
  - e. Not make any alterations to the detention facility or elements thereof without prior consent in writing of the Council.
  - f. Permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time without notice in the case of an emergency) to enter and inspect the land for compliance with the requirements of this clause.
  - g. Comply with the terms of any written notice issued by the Council in respect to the requirements of this Clause within the time stated in the notice.
2. In the event of the proprietor/s failing to comply the terms of any written notice served in respect of the matters in Clause 1 above, the Council or its authorised agents may enter with all necessary equipment and carry out any work required to ensure the safe, efficient operation of the system and recover from the proprietor the cost of carrying out the work, and if necessary, recover the amount due by legal proceedings (including legal costs and fees) and entry of a covenant charge on the lots burdened under section 88F of the Conveyancing Act, 1919. In carrying out any work under the Clause, the Council shall take reasonable precautions to ensure that the land is disturbed as little as possible.
3. In this Covenant "Council" means **Randwick City Council**

Approved by Randwick City Council .....

Executed by WILLIS & BOWRING MORTGAGE  
INVESTMENTS LIMITED ACN 089 265 127 in  
accordance with the provisions of Section 127  
of Corporations Law, 2001 in the presence of:

General Manager/Authorised Officer

**LOU POLITO**  
Director

**RON TOSOLINI**  
Director

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

(Sheet 3 of 3 sheets)

**SP73388**

Plan of Strata Sub-division of Lot 101 in DP1069712  
Covered by Strata Certificate No. *10677 16/09/04.*

**Full name and address  
of the owners of the land.**

Corpstate Pty Limited  
PO Box 265, Randwick NSW 2031

The name of the person empowered to release, vary or modify the Restriction on Use and Positive Covenant numbered items 1 and 2 in the plan - **Randwick City Council**

The Common Seal of Corpstate Pty Limited  
ACN 076 568 066 was hereunto affixed by  
authority of the Board of Directors in the presence of:

*affix  
common  
seal here*



.....  
Secretary

*N. Per*  
Sole Director/Secretary.

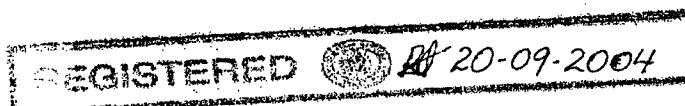
Consent of Mortgagee:

Approved by Randwick City Council .....  
General Manager/Authorised Officer

Executed by WILLIS & BOWRING MORTGAGE  
INVESTMENTS LIMITED ACN 089 265 127 in  
accordance with the provisions of Section 127  
of Corporations Law, 2001 in the presence of:-

*[Signature]*  
**LOU POLITO**  
Director

*[Signature]*  
**RON TOSQUINI**  
Director



Form: 15CH  
Release: 2-0

**CONSOLIDATION/  
CHANGE OF BY-LAWS**

New South Wales

Strata Schemes Management Act 2

Real Property Act 1900



**AN178041M**

**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.

**(A) TORRENS TITLE**

For the common property *CP/SP73388*  
SP 73388 ✓

**(B) LODGED BY**

Document Name Address or PO Telephone and Customer Account Number if any  
Collection  
Box  
**659M** **SCOTT ASHWOOD PTY LTD**  
LLPN: 123482P  
Ph: 9099 7400

CODE

**CH**

Reference: *STRM 02921245*

- (C) The Owners-Strata Plan No. 73388 certify that a special resolution was passed on 8/2/2018
- (D) pursuant to the requirements of section 141 of the Strata Schemes Management Act 2015, by which the by-laws were changed as follows—
- (E) Repealed by-law No. NOT APPLICABLE  
Added by-law No. By-Laws 21 & 22  
Amended by-law No. By-Law 1  
as fully set out below:  
See 'Annexure A' ✓

- (F) A consolidated list of by-laws affecting the above mentioned strata scheme and incorporating the change referred to at Note (E) is annexed hereto and marked as Annexure B
- (G) The seal of The Owners-Strata Plan No. 73388 was affixed on 6/3/2018 in the presence of the following person(s) authorised by section 273 Strata Management Act 2015 to attest the affixing of the seal:

Signature:

Name: George Kminiak

Authority: Strata Manager

Signature:

Name:

Authority:



## ANNEXURE A TO CONSOLIDATION/CHANGE OF BY-LAWS

**Parties:** Strata Plan 73388

**Dated:** 06.03.18

### 1 Vehicles & Car Spaces

1. An Owner or occupier of a lot must not park or stand any motor or other vehicle on common property except with the written approval of the owners corporation.
2. An Owner or occupier of a lot must only use the car space part of the respective lot for the keeping or storage of motor vehicles and push bikes. An Owner or occupier of a lot must not install a storage box or cage except with the written approval of the owners corporation. For the avoidance of doubt, the storage of trailers, furniture, appliances, building material, waste or household items in the car space part of a lot or upon the common property is expressly prohibited except with the written approval of the owners corporation.

### **Right to Remedy Default**

3. The Owner and occupier acknowledge that if the Owner or occupier fail to comply with any obligation under this by-law, the Owners Corporation may take steps to remedy that failure or non-compliance. In doing so, the Owners Corporation has the right to:
  - (a) perform that obligation;
  - (b) enter upon any part of the parcel to perform that obligation; and
  - (c) recover costs of carrying out that work from the Owner as a debt (and include reference of that debt on levy notices and any other levy reports or information).
4. The Owner acknowledges that any debt for which the Owner is liable under this by-law is due and payable on written demand or at the direction of the Owners Corporation and, if not paid at the end of 1 month from the date on which it is due, will bear simple interest at the rate of 10% per annum (accrued daily) until paid and the interest will form part of that debt.

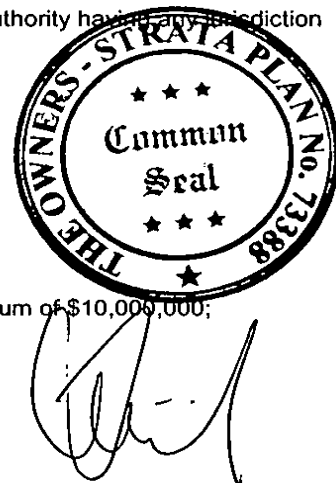
### 21 Minor Renovation Works

#### **Operation of by-law**

1. The Owner under this by-law is the owner or owners of lots 1-14.
2. In the event of an inconsistency between this by-law and any other by-law applicable to strata scheme 73388, the terms of this by-law shall prevail to the extent of that inconsistency.
3. The Owner has the right to perform Minor Renovation Works and keep the Minor Renovation Works installed on the common property subject to the conditions set out in this by-law.
4. The rights and obligations conferred under this by-law are conferred jointly and severally.

#### **Definitions**

5. In this by-law, unless the context otherwise requires:
  - (a) **Act** means the *Strata Schemes Management Act, 2015*.
  - (b) **Authority** means any government, semi government, statutory, public or other authority having any jurisdiction over the Lot or the Building including the Council.
  - (c) **Building** means the building situated at 94-96 Yorktown Parade, Maroubra.
  - (d) **Council** means Randwick City Council.
  - (e) **Insurance** means:
    - (i) contractors all risk insurance (including public liability insurance) in the sum of \$10,000,000;



- (ii) workers compensation insurance; and
  - (iii) insurance required under the *Home Building Act, 1989* (if any).
- (f) **Lot** means lots 1-14 in strata scheme 73388.
- (g) **Minor Renovation Works** means the Owner's works to the Lot and the common property to be carried out for and in connection with:
  - (i) renovating a kitchen;
  - (ii) changing recessed light fittings;
  - (iii) installing or replacing wood or other hard floors;
  - (iv) installing or replacing wiring or cabling or power or access points;
  - (v) work involving reconfiguring walls (excluding common property and/or load bearing walls);
  - (vi) removing carpet or other soft floor coverings to expose underlying wooden or other hard floors;
  - (vii) installing a rainwater tank;
  - (viii) installing a clothesline;
  - (ix) installing a reverse cycle split system air conditioner;
  - (x) installing double or triple glazed windows;
  - (xi) installing a heat pump;
  - (xii) installing ceiling insulation; and
  - (xiii) any other worked prescribed by section 110 of the Act or regulation 28 of the Regulations as being minor renovation works together with:
    - (A) ancillary works to facilitate the works referred to above; and
    - (B) restoration of lot and common property (including the Lot) damaged by the works referred to above, and to be conducted strictly in accordance with the provisions of this by-law and any consents provided pursuant to this by-law.
- (h) **Owner** means the owner or owners of the Lot.
- (i) **Owners Corporation** means The Owners – Strata Plan No. 73388.
- (j) **Plans** means the plans, documents, drawings and images for the Minor Renovation Works (if applicable).
- (k) **Regulations** means the *Strata Schemes Management Regulation, 2016*.

6. In this by-law, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) any gender includes the other gender;
- (c) any terms in the by-law will have the same meaning as those defined in the Act;



- (d) references to legislation include references to amending and replacing legislation;
- (e) references to the Owner in this by-law include any of the Owner's executors, administrators, successors, permitted assigns or transferees;
- (f) references to any Minor Renovation Works under this by-law include ancillary equipment and fittings whatsoever and any obligation under this by-law applies to all such ancillary equipment.

#### Conditions

7. Before the Works commence, the Owner must:

- (a) provide a copy of the Plans to the Owners Corporation;
- (b) obtain all necessary approvals from any Authority and provide a copy to the Owners Corporation;
- (c) obtain the written approval for the location, type, size and make of the Minor Renovation Works from the Owners Corporation (such approval not to be unreasonably withheld) and the strata committee is hereby delegated the function of giving such approvals on behalf of the Owners Corporation;
- (d) provide the Owners Corporation's nominated representative(s) access to inspect the Lot within forty-eight hours of any request from the Owners Corporation; and
- (e) effect and maintain Insurance and provide a copy to the Owners Corporation (if requested by the Owners Corporation).

8. To be compliant under this by-law, the Minor Renovation Works (if approved) must:

- (a) be in keeping with the appearance and amenity of the Building in the reasonably held opinion of the Owners Corporation;
- (b) be manufactured and designed to specifications for domestic use;
- (c) comply with the provisions of the Building Code of Australia and Australian Standards (where relevant);
- (d) comply with the *Home Building Act, 1989* (where relevant); and
- (e) comprise materials that are new and suitable for the purpose for which they are used.

9. To be compliant under this by-law, any air-conditioning works (if approved) must have a condenser unit (external) that:

- (a) is installed unobtrusively on the balcony or courtyard part of the Lot (or as otherwise specified by the Owners Corporation);
- (b) is not visible from street level;
- (c) has all pipe work covered with steel piping in the same colour from time to time as the exterior walls of the Building or as otherwise reasonably directed by the Owners Corporation;
- (d) has all hole and/or penetrations made in order to facilitate the installation adequately sealed and waterproofed; and
- (e) does not exceed 45Db(A) during the day and 35Db(A) at night or such other acceptable sound rating as may be specified by an Authority or the Owners Corporation from time to time.

10. While the Minor Renovation Works are in progress the Owner of the Lot must:

- (a) use duly licensed employees, contractors or agents to conduct the Minor Renovation Works;

- (b) ensure that the Minor Renovation Works are carried out utilising only highest quality materials which are fit for purpose and used in accordance with the manufacturer's directions;
- (c) ensure the Minor Renovation Works are conducted in a proper and workmanlike manner and comply with the relevant building codes and standards;
- (d) ensure that the Minor Renovation Works are carried out expeditiously and with a minimum of disruption;
- (e) ensure that any electricity or other services required to operate the Minor Renovation Works are installed so that they are connected to the Lot's electricity or appropriate supply;
- (f) only carry out the Minor Renovation Works at times reasonably approved by the Owners Corporation;
- (g) perform the Minor Renovation Works within three (3) months of their commencement or such other period as reasonably approved by the Owners Corporation;
- (h) transport all construction materials, equipment and debris in the manner described in this by-law and as otherwise reasonably directed by the Owners Corporation;
- (i) protect all affected areas of the Building outside the Lot from damage relating to the Minor Renovation Works;
- (j) ensure that the Minor Renovation Works do not interfere with or damage the common property or the property of any other lot owner other than as approved in this by-law and if this occurs the Owner must rectify that interference or damage within a reasonable period of time;
- (k) provide the Owners Corporation's nominated representative(s) access to inspect the Lot within forty-eight (48) hours of any request from the Owners Corporation; and
- (l) not vary or increase the scope of Minor Renovation Works without first obtaining the consent in writing from the Owners Corporation.

11. After the Minor Renovation Works have been completed, the Owner must:

- (a) notify the Owners Corporation that the Minor Renovation Works have been completed;
- (b) notify the Owners Corporation that all damage, if any, to lot and common property caused by the Minor Renovations Works and not permitted by this by-law has been rectified;
- (c) provide the Owners Corporation's nominated representative(s) access to inspect the Lot within forty-eight (48) hours of any request from the Owners Corporation to assess compliance with this by-law or any consents provided under this by-law from time to time;
- (d) provide the Owners Corporation with a copy of any certificate or certification required by an Authority to approve the Minor Renovation Works.

12. The Owners Corporation's right to access the Lot arising under this by-law expires as soon as it is reasonably satisfied that the provisions of Clause 11 above have been complied with.

13. The Owner:

- (a) must not carry out any alterations or additions or do any works (other than Minor Renovation Works expressly approved under this by-law);
- (b) must properly maintain and upkeep the Minor Renovation Works;
- (c) must ensure that the Minor Renovation Works and their use do not contravene any statutory requirements of any Authority;
- (e) must use reasonable endeavours to cause as little disruption as possible when using the Minor Renovation Works;

- (f) must ensure that the Minor Renovation Works do not create any noise likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or of any person lawfully using the common property;
- (g) must ensure that the Minor Renovation Works do not cause water escape or water penetration to lot or common property;
- (h) must comply with all directions, orders and requirements of any Authority relating to the Minor Renovation Works and their use;
- (i) remains liable for any damage to lot or common property (including the Lot) arising out of the Minor Renovation Works;
- (j) indemnifies and shall keep indemnified the Owners Corporation against any costs or losses arising out of or in connection with the Minor Renovations Works including their use.

14. If the Owner fails to comply with any obligation under this by-law, then the Owners Corporation may:

- (a) carry out all work necessary to perform that obligation;
- (b) enter upon any part of the Lot to carry out that work; and
- (c) recover the costs of carrying out that work from the Owner as a debt (and include reference of that debt on levy notices and any other levy reports or information) and the Owner acknowledges that any debt for which the Owner is liable under this by-law, is due and payable on written demand or at the direction of the Owners Corporation and, if not paid at the end of 1 month from the date on which it is due, will bear until paid, simple interest at an annual rate of 10 per cent or, if the regulations provide for another rate, that other rate and the interest will form part of that debt.

15. The Minor Renovation Works will always remain the property of the Owner

16. In the event that the Owner desires to remove the Minor Renovation Works, the provisions of Clauses 10-13 will apply.

## **22** **Works Affecting Common Property**

### **Part 1.1 – Grant of Right**

- (a) Notwithstanding anything contained in the by-laws applicable to the scheme, an Owner has the right to carry out Works (at the Owner's cost and to remain the Owner's fixture) subject to the provisions of Part 3 of this by-law.
- (b) An occupier has no right to carry out any Works contemplated by this by-law or otherwise.
- (c) The purpose of this by-law is to allow Owners to install works affecting common property and to regulate their maintenance.

### **Part 1.2 – This By-law to Prevail**

If there is any inconsistency between this by-law and any other by-law applicable to the scheme, then the provisions of this by-law shall prevail to the extent of that inconsistency.

### **Part 2 – Definitions & Interpretation**

#### **2.1 Definitions**

- (a) **Act** means the *Strata Schemes Management Act 2015*.
- (b) **Authority** means any government, semi-government, statutory, public or other authority having any jurisdiction over the Lot or the Building including the Council.

- (c) **Bond** means the bond for the works payable to the Owners Corporation being \$1,000.00 (inclusive of GST) upon the making of this by-law and to be reviewed and determined by the Owners Corporation or the strata committee of the Owners Corporation from time to time.
- (d) **Building** means the building situated at 94-96 Yorktown Parade, Maroubra.
- (e) **Council** means Randwick City Council.
- (f) **Essential Works** means any essential maintenance, repair, replacement, upgrading or emergency works that the Owners Corporation is required to do under section 122(1) of the Act or any other law to any part of the common property structure or services including within a lot.
- (g) **Insurance** means:
  - (i) contractors all risk insurance (including public liability insurance) in the sum of \$10,000,000.00;
  - (ii) insurance required under the *Home Building Act, 1989* (if any); and
  - (iii) workers' compensation insurance.
- (h) **Lot** means any lot in strata plan number 73388.
- (i) **Works** means works affecting the common property in the strata scheme pursuant to section 111 of the Act, including:
  - i. works involving structural changes including the removal of common property walls;
  - ii. works which change the external appearance of a Lot, including the installation of an external access ramp;
  - iii. works involving waterproofing;
  - iv. the installation of air-conditioning (other than a reverse cycle split system air-conditioner to which section 110 of the Act applies), hot water systems, security/alarm systems, security grilles, shutters and any additions to the common property, for example, pergolas and vergolas, whirly birds, solar panels, garage door motors, skylights and satellite dishes, television cables and antennae

but does not include any works which are cosmetic works for the purposes of section 109 of the Act, and works which are minor renovation works for the purposes of section 110 of the Act.
- (j) **Owner** means the owner of the Lot from time to time.
- (k) **Owners Corporation** means the owners corporation created by the registration of strata plan registration number 73388.

## 2.2 Interpretation

In this by-law, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) any gender includes the other genders;
- (c) any terms in the by-law will have the same meaning as those defined in the Act;
- (d) references to legislation include references to amending and replacing legislation;
- (e) reference to the Owner in this by-law includes any of the Owner's executors, administrators, successor, permitted assigns or transferees; and

- (f) references to any Works under this by-law include, where relevant, all other ancillary equipment, appurtenance and fittings whatsoever and any obligation under this by-law applies to all such ancillary equipment, appurtenance and fitting.

### Part 3.1 – Before Commencement

- (a) Before commencement of any Works, the Owner must:

- (i) prepare and provide to the Owners Corporation:

- (I) a new by-law under the Act, to amend the definition of "Works", "Lot" and include a definition of "Plans" to cover the specific scope of Works to be carried out; and

- (II) the Owner's written consent to:

- (A) the passing of the by-law; and

- (B) be responsible for the maintenance, repair and replacement of the Works,

such by-law and written consent to be prepared in terms of that set out in "Annexure A" and "Annexure B" by a solicitor appointed by the Owners Corporation and to be considered at the next general meeting of the Owners Corporation;

- (ii) provide a complete proposal concerning the Works including but not limited to:

- (I) plans and specifications of the proposed works;

- (II) specifications for any sound rating, type, size, together with the manufacturer's or suppliers brochure regarding same;

- (III) a diagram depicting the location of or proposed installation points of all parts of the works;

- (IV) engineering plans, dilapidation reports and certifications if requested by the Owners Corporation;

- (V) any necessary approvals/consents/permits from any Authority;

- (VI) a report(s) from an engineer nominated by the Owners Corporation concerning the impact of the works on the structural integrity of the Building and Lot and common property;

- (iii) pay for all costs of the Owners Corporation including:

- (I) legal fees for reviewing the proposal;

- (II) fees for convening any meeting to consider the proposal;

- (III) any other reasonable professional fees required to consider the proposal including strata management fees; and

- (IV) registration fees for the by-law contemplated in clause 3.1(a)(i)(I);

- (iv) pay the Bond if required by the Strata Committee, Such Bond to be refunded within sixty (60) days from completion of any Works less any costs incurred by the Owners Corporation for or in connection with the carrying out of the Works or breach of this by-law; and

- (v) obtain the written consent to commencement of the Works from the Owners Corporation upon satisfaction of its obligations in paragraphs (a)(i)-(iv) above.

- (d) Upon receipt of a by-law under clause 3(a)(i)(I) the Owners Corporation (or strata committee) will review the proposal and stipulate any relevant conditions to be contained in the common property rights by-law. Such conditions to include (but not be limited to) those set out in clauses 3.2, 3.3, 3.4, 3.5 and 3.6.

### Part 3.2 – Compliant Works

3.2 To be compliant under this by-law, the Works:

- (a) must be in keeping with the appearance and amenity of the Building in the opinion of the Owners Corporation;
- (b) must be manufactured and designed to specifications for domestic use;
- (c) comply with the provisions of the Building Code of Australia and Australian Standards (where relevant);
- (d) comply with the *Home Building Act, 1989* (where relevant);
- (e) comprise materials that are new and suitable for the purpose for which they are used; and
- (f) for air-conditioning, must:
  - (i) be installed in a manner to minimise noise and vibration;
  - (ii) be installed unobtrusively in a location as approved by the Owners Corporation;
  - (iii) have an acceptable sound rating as specified by the Owners Corporation in writing, such rating not to exceed the original specifications in respect of the Building; and
  - (iv) have all external piping and electrical work covered with the same style downpipe used for the existing guttering of the Building.

### Part 3.3 – During Construction

The aim of this clause is to regulate construction so that (among other things) the Works do not interfere with the peaceful enjoyment of the owner or occupier of another lot or of any person lawfully using the common property, and protect the Owners Corporation in the event that damage is caused to the common property in the course of construction.

3.3 Whilst the Works are in progress the Owner of the Lot at the relevant time must:

- (a) use duly licensed employees, contractors or agents to conduct the Works;
- (b) ensure the Works are conducted in a proper and workmanlike manner and comply with the current Australian Building Codes and Standards;
- (c) ensure the Works are carried out expeditiously and with a minimum of disruption;
- (d) only carry out the Works between the hours permitted by Council. No Works are to be carried out on a Sunday or public holiday unless they are silent works (eg painting) and Council permits;
- (e) transport all construction materials, equipment and debris in the manner described in this by-law and as otherwise reasonably directed by the Owners Corporation. For the avoidance of doubt, no building items may be disposed of or left anywhere on or about the common property;
- (f) not allow waste bins or skips to be placed on or near the common property without the prior written consent of the Owners Corporation;
- (g) not cause or permit storage, mixing, preparation, cutting or any other work in connection with the Works to be conducted on the common property;

- (h) protect all affected areas of the Building outside the Lot from damage relating to the Works or the transportation of construction materials, equipment and debris;
- (i) keep the Lot's front entrance door closed at all times (where possible);
- (j) provide to the strata committee at least forty-eight (48) hours prior written notice of any noisy works (eg, jackhammering, the use of any pneumatic, rotary or powder actuated tools);
- (k) comply with Council regulations about noise;
- (l) ensure that the Works do not interfere with or damage the common property or the property of any other lot owner other than as approved in this by-law and if this occurs the Owner must rectify that interference or damage within a reasonable time;
- (m) provide the Owners Corporation's nominated representative(s) access to inspect the Lot within forty-eight (48) hours of any request from the Owners Corporation (for clarity, more than one inspection may be required);
- (n) observe all of the other by-laws applicable to the strata scheme; and
- (o) not vary the Works or their scope without first obtaining the written consent of the Owners Corporation.

#### **Part 3.4 – After Construction**

3.4.1 After the Works have been completed the Owner must without unreasonable delay:

- (a) notify the Owners Corporation that the Works have been completed;
- (b) notify the Owners Corporation that all damage, if any, to lot and common property caused by the Works and not permitted by this by-law has been rectified;
- (c) provide the Owners Corporation with a copy of any certificate or certification required by an Authority to approve the Works;
- (d) provide the Owners Corporation with certification from a suitably qualified engineer approved by the Owners Corporation that the Works or works required to rectify any damage to lot or common property have been completed in accordance with the terms of this by-law;
- (e) provide the Owners Corporation's nominated representative(s) access to inspect the Lot within forty-eight (48) hours of any request from the Owners Corporation to check compliance with this by-law or any consents provided under this by-law; and
- (f) provide the Owners Corporation with a report(s) from an engineer nominated by the Owners Corporation concerning the impact of the works on the structural integrity of the Building and Lot and common property;

3.4.2 The Owners Corporation's right to access the Lot under this by-law expires once it is reasonable satisfied that paragraphs (a) to (e) above have been complied with.

#### **Part 3.5 – Enduring Rights and Obligations**

3.5 An Owner shall:

- (a) protect all affected areas of the Building outside of the Lot from damage relating to the installation, repair, replacement or removal of the Works;
- (b) use reasonable endeavours to ensure no nuisance is caused as a result of the use of the Works including where relevant the prevention of water escape or noise;
- (c) maintain, replace, and keep in good and serviceable repair any Works installed by them or the occupier of their Lot;

- (d) maintain and upkeep those parts of the common property in contact with the Works;
- (e) remain liable for any damage to lot or common property arising out of or in connection with the installation, repair, replacement or removal of the Works;
- (f) repair and/or reinstate the common property or personal property of the Owners Corporation to its original condition if the Works are removed or relocated;
- (g) comply with all directions, orders and requirements of any Authority relating to the use of the Works;
- (h) remove any Works which contravene the requirements of this by-law or any Authority and reinstate the common property, as and when directed by the Owners Corporation;
- (i) must ensure that the Works within the Lot are not likely to disturb the peaceful enjoyment of the Owner or occupier of another Lot;
- (j) ensure that the Works (where applicable) do not cause water escape or water penetration to lot or common property (including the Lot);
- (k) ensure that any electricity or other services required to operate the Works (where applicable) are installed so they are connected to the Lot's electricity or appropriate supply;
- (l) indemnify and keep indemnified the Owners Corporation against any costs or losses arising out of the installation, use, repair, replacement or removal of any Works including any liability in respect of the property of the Owner, and
- (m) without derogating from the generality of paragraph (l) above, indemnifies and shall keep indemnified the Owners Corporation against any loss, damage to or destruction of the Works caused howsoever by the Owners Corporation, its officers, employees, contractors or agents carrying out any Essential Works where the Owner or occupier is in breach of clause 3.7.

### **Part 3.6 – Recovery of Costs**

3.6 If an Owner fails to comply with any obligation under this by-law, the Owners Corporation may:

- (a) carry out all work necessary to perform that obligation;
- (b) enter upon any part of the Lot to carry out that work;
- (c) apply the Bond towards the costs incurred by the Owners Corporation to carry out that work;
- (d) recover from the Owner the amount of any fine or fee which may be charged to the Owners Corporation for the cost of any inspection, certification or order; and
- (e) recover any costs from the Owner as a debt due.

### **Part 3.7 – Essential Works**

3.7 No Owner or occupier shall refuse or restrict the Owners Corporation's (or its officers, employees, contractors or agents) lawful entry, or access to all or any part of the Works to carry out Essential Works to the common property (at the cost of the Owners Corporation) which may be attached to, in, under or about the Works including the common property structures or services provided that the Owners Corporation shall give prior notice to the Owner or occupier (emergencies excepted).

### **Part 3.8 – Applicability**

3.8.1 For the avoidance of doubt, this clause applies to all Works installed prior to and after this by-law being made.

3.8.2 In the event that the Owner desires to remove the Works installed under this by-law (or otherwise), the provisions of Part 3 shall also apply in relation to that removal.



**CONSENT UNDER SECTION 143 (1)**

**STRATA SCHEMES MANAGEMENT ACT, 2015**

TO: The Registrar-General

Land & Property Information NSW

Queens Square

SYDNEY NSW 2000

I/We, \_\_\_\_\_, CONSENT to the making of a by-law conferring rights over the common property for the installation of <DESCRIBE WORKS> to be carried out by the owner/s of lot [insert lot] in our scheme and conferring on them the responsibility to repair and maintain such works.

The by-law is to be made by the Owners Corporation at a general meeting on ...., or any adjournment of that meeting.

Dated: .....

.....

Signature of [insert name]

Owner of Lot [insert lot number]

Cc: The Owners – Strata Plan No 73388

## ANNEXURE B TO CONSOLIDATION/CHANGE OF BY-LAWS

**Parties:** Strata Plan 73388

**Dated:** 06.03.18

### 1 Vehicles & Car Spaces

1. An Owner or occupier of a lot must not park or stand any motor or other vehicle on common property except with the written approval of the owners corporation.
2. An Owner or occupier of a lot must only use the car space part of the respective lot for the keeping or storage of motor vehicles and push bikes. An Owner or occupier of a lot must not install a storage box or cage except with the written approval of the owners corporation. For the avoidance of doubt, the storage of trailers, furniture, appliances, building material, waste or household items in the car space part of a lot or upon the common property is expressly prohibited except with the written approval of the owners corporation.

### Right to Remedy Default

3. The Owner and occupier acknowledge that if the Owner or occupier fail to comply with any obligation under this by-law, the Owners Corporation may take steps to remedy that failure or non-compliance. In doing so, the Owners Corporation has the right to:
  - (a) perform that obligation;
  - (b) enter upon any part of the parcel to perform that obligation; and
  - (c) recover costs of carrying out that work from the Owner as a debt (and include reference of that debt on levy notices and any other levy reports or information).
4. The Owner acknowledges that any debt for which the Owner is liable under this by-law is due and payable on written demand or at the direction of the Owners Corporation and, if not paid at the end of 1 month from the date on which it is due, will bear simple interest at the rate of 10% per annum (accrued daily) until paid and the interest will form part of that debt.

### 2 Changes to common property

- (1) An owner or person authorised by an owner may install, without the consent of the owners corporation:
  - (a) any locking or other safety device for protection of the owner's lot against intruders or to improve safety within the owner's lot, or
  - (b) any screen or other device to prevent entry of animals or insects on the lot, or
  - (c) any structure or device to prevent harm to children.
- (2) Any such locking or safety device, screen, other device or structure must be installed in a competent and proper manner and must have an appearance, after it has been installed, in keeping with the appearance of the rest of the building.
- (3) Clause (1) does not apply to the installation of any thing that is likely to affect the operation of fire safety devices in the lot or to reduce the level of safety in the lots or common property.
- (4) The owner of a lot must:
  - (a) maintain and keep in a state of good and serviceable repair any installation or structure referred to in clause (1) that forms part of the common property and that services the lot, and
  - (b) repair any damage caused to any part of the common property by the installation or removal of any locking or safety device, screen, other device or structure referred to in clause (1) that forms part of the common property and that services the lot.

### 3 Damage to lawns and plants on common property

An owner or occupier of a lot must not, except with the prior written approval of the owners corporation:

- (a) damage any lawn, garden, tree, shrub, plant or flower being part of or situated on common property, or
- (b) use for his or her own purposes as a garden any portion of the common property.

### 4 Obstruction of common property

An owner or occupier of a lot must not obstruct lawful use of common property by any person except on a temporary and non-recurring basis.

### 5 Keeping of animals

#### Option B

- (1) An owner or occupier of a lot may keep an animal on the lot or the common property with the written approval of the owners corporation.

- (2) The owners corporation must not unreasonably withhold its approval of the keeping of an animal on a lot or the common property and must give an owner or occupier written reasons for any refusal to grant approval.
- (3) If an owner or occupier of a lot keeps an animal on the lot, the owner or occupier must:
  - (a) keep the animal within the lot, and
  - (b) supervise the animal when it is on the common property, and
  - (c) take any action that is necessary to clean all areas of the lot or the common property that are soiled by the animal.
- (4) An owner or occupier of a lot who keeps an assistance animal on the lot must, if required to do so by the owners corporation, provide evidence to the owners corporation demonstrating that the animal is an assistance animal as referred to in section 9 of the Disability Discrimination Act 1992 of the Commonwealth.

## **6 Noise**

An owner or occupier of a lot, or any invitee of an owner or occupier of a lot, must not create any noise on a lot or the common property likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or of any person lawfully using common property.

## **7 Behaviour of owners, occupiers and invitees**

- (1) An owner or occupier of a lot, or any invitee of an owner or occupier of a lot, when on common property must be adequately clothed and must not use language or behave in a manner likely to cause offence or embarrassment to the owner or occupier of another lot or to any person lawfully using common property.
- (2) An owner or occupier of a lot must take all reasonable steps to ensure that invitees of the owner or occupier:
  - (a) do not behave in a manner likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or any person lawfully using common property, and
  - (b) without limiting paragraph (a), that invitees comply with clause (1).

## **8 Children playing on common property**

- (1) Any child for whom an owner or occupier of a lot is responsible may play on any area of the common property that is designated by the owners corporation for that purpose but may only use an area designated for swimming while under adult supervision.
- (2) An owner or occupier of a lot must not permit any child for whom the owner or occupier is responsible, unless accompanied by an adult exercising effective control, to be or remain on common property that is a laundry, car parking area or other area of possible danger or hazard to children.

## **9 Smoke penetration**

### **Option A**

- (1) An owner or occupier, and any invitee of the owner or occupier, must not smoke tobacco or any other substance on the common property.
- (2) An owner or occupier of a lot must ensure that smoke caused by the smoking of tobacco or any other substance by the owner or occupier, or any invitee of the owner or occupier, on the lot does not penetrate to the common property or any other lot.

## **10 Preservation of fire safety**

The owner or occupier of a lot must not do any thing or permit any invitees of the owner or occupier to do any thing on the lot or common property that is likely to affect the operation of fire safety devices in the parcel or to reduce the level of fire safety in the lots or common property.

## **11 Storage of inflammable liquids and other substances and materials**

- (1) An owner or occupier of a lot must not, except with the prior written approval of the owners corporation, use or store on the lot or on the common property any inflammable chemical, liquid or gas or other inflammable material.
- (2) This by-law does not apply to chemicals, liquids, gases or other material used or intended to be used for domestic purposes, or any chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine.

## **12 Appearance of lot**

- (1) The owner or occupier of a lot must not, without the prior written approval of the owners corporation, maintain within the lot anything visible from outside the lot that, viewed from outside the lot, is not in keeping with the rest of the building.
- (2) This by-law does not apply to the hanging of any clothing, towel, bedding or other article of a similar type in accordance with by-law 14.

## **13 Cleaning windows and doors**

- (1) Except in the circumstances referred to in clause (2), an owner or occupier of a lot is responsible for cleaning all interior and exterior surfaces of glass in windows and doors on the boundary of the lot, including so much as is common property.

- (2) The owners corporation is responsible for cleaning regularly all exterior surfaces of glass in windows and doors that cannot be accessed by the owner or occupier of the lot safely or at all.

**14 Hanging out of washing**

- (1) An owner or occupier of a lot may hang any washing on any lines provided by the owners corporation for that purpose. The washing may only be hung for a reasonable period.
- (2) An owner or occupier of a lot may hang washing on any part of the lot other than over the balcony railings. The washing may only be hung for a reasonable period.
- (3) In this by-law:  
washing includes any clothing, towel, bedding or other article of a similar type.

**15 Disposal of waste—bins for individual lots [applicable where individual lots have bins]**

- (1) An owner or occupier of a lot must not deposit or throw on the common property any rubbish, dirt, dust or other material or discarded item except with the prior written approval of the owners corporation.
- (2) An owner or occupier of a lot must not deposit in a toilet, or otherwise introduce or attempt to introduce into the plumbing system, any item that is not appropriate for any such disposal (for example, a disposable nappy).
- (3) An owner or occupier must:
  - (a) comply with all reasonable directions given by the owners corporation as to the disposal and storage of waste (including the cleaning up of spilled waste) on common property, and
  - (b) comply with the local council's guidelines for the storage, handling, collection and disposal of waste.
- (4) An owner or occupier of a lot must maintain bins for waste within the lot, or on any part of the common property that is authorised by the owners corporation, in clean and dry condition and appropriately covered.
- (5) An owner or occupier of a lot must not place any thing in the bins of the owner or occupier of any other lot except with the permission of that owner or occupier.
- (6) An owner or occupier of a lot must place the bins within an area designated for collection by the owners corporation not more than 12 hours before the time at which waste is normally collected and, when the waste has been collected, must promptly return the bins to the lot or other area authorised for the bins.
- (7) An owner or occupier of a lot must notify the local council of any loss of, or damage to, bins provided by the local council for waste.
- (8) The owners corporation may give directions for the purposes of this by-law by posting signs on the common property with instructions on the handling of waste that are consistent with the local council's requirements or giving notices in writing to owners or occupiers of lots.
- (9) In this by-law:  
bin includes any receptacle for waste.  
waste includes garbage and recyclable material.

**16 Disposal of waste—shared bins [applicable where bins are shared by lots]**

- (1) An owner or occupier of a lot must not deposit or throw on the common property any rubbish, dirt, dust or other material or discarded item except with the prior written approval of the owners corporation.
- (2) An owner or occupier of a lot must not deposit in a toilet, or otherwise introduce or attempt to introduce into the plumbing system, any item that is not appropriate for any such disposal (for example, a disposable nappy).
- (3) An owner or occupier must:
  - (a) comply with all reasonable directions given by the owners corporation as to the disposal and storage of waste (including the cleaning up of spilled waste) on common property, and
  - (b) comply with the local council's guidelines for the storage, handling, collection and disposal of waste.
- (4) The owners corporation may give directions for the purposes of this by-law by posting signs on the common property with instructions on the handling of waste that are consistent with the local council's requirements or giving notices in writing to owners or occupiers of lots.
- (5) In this by-law:  
bin includes any receptacle for waste.  
waste includes garbage and recyclable material.

**17 Change in use or occupation of lot to be notified**

- (1) An occupier of a lot must notify the owners corporation if the occupier changes the existing use of the lot.
- (2) Without limiting clause (1), the following changes of use must be notified:
  - (a) a change that may affect the insurance premiums for the strata scheme (for example, if the change of use results in a hazardous activity being carried out on the lot, or results in the lot being used for commercial or industrial purposes rather than residential purposes),
  - (b) a change to the use of a lot for short-term or holiday letting.
- (3) The notice must be given in writing at least 21 days before the change occurs or a lease or sublease commences.

**18 Compliance with planning and other requirements**

- (1) The owner or occupier of a lot must ensure that the lot is not used for any purpose that is prohibited by law.
- (2) The owner or occupier of a lot must ensure that the lot is not occupied by more persons than are allowed by law to occupy the lot.

### Operation of by-law

1. The Owner under this by-law is the owner of lot 4.
2. In the event of an inconsistency between this by-law and any other by-law applicable to strata scheme 73388, the terms of this by-law shall prevail to the extent of that inconsistency.
3. The Owner has the special privilege to perform the Works and keep the Works on the common property, subject to the terms and conditions set out in this by-law.

### Definitions

4. In this by-law, unless the context otherwise requires:
  - (a) **Act** means the *Strata Schemes Management Act, 1996*.
  - (b) **Air-Conditioning Unit** means the Owner's Fujitsu 5.0kw split system reverse cycle air-conditioning system (model no. AST618KMIA) exclusively servicing the Lot and having an external unit to be installed on courtyard part of the Lot as described in the Plan.
  - (c) **Authority** means any government, semi government, statutory, public or other authority having any jurisdiction over the Lot or the Building including the Council.
  - (d) **Building** means the building situated at 94 – 96 Yorktown Parade, Maroubra.
  - (e) **Council** means Randwick City Council.
  - (f) **Insurance** means:
    - (i) contractors all risk insurance (including public liability insurance) in the sum of \$10,000,000;
    - (ii) workers compensation insurance; and
    - (iii) insurance required under the *Home Building Act, 1989* (if any).
  - (g) **Lot** means lot 4 in strata scheme 73388.
  - (h) **Owner** means the owner or owners of the Lot.
  - (i) **Owners Corporation** means The Owners – Strata Plan No. 73388.
  - (j) **Plan** means the sketch for the Works which is attached to this by-law.
  - (k) **Works** means the Owner's works to the Lot and the common property to be carried out for and in connection with the Owner's installation, repair, maintenance and replacement (if necessary) of an Air-Conditioning Unit (and any required drainage) together with the restoration of lot and common property (including the Lot) damaged by the works

together with:

  - (A) ancillary works to facilitate the works referred to above; and
  - (B) restoration of lot and common property (including the Lot) damaged by the works referred to above, and to be conducted strictly in accordance with the provisions of this by-law and the Plan.

5. In this by-law, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) any gender includes the other gender;
- (c) any terms in the by-law will have the same meaning as those defined in the Act;
- (d) references to legislation include references to amending and replacing legislation;
- (e) reference to the Owner in this by-law includes any of the Owner's executors, administrators, successors, permitted assigns or transferees; and
- (f) references to any Works under this by-law include, where relevant, the condenser, coils, pipes, conduits, wires, flanges, valves, ductwork, caps, insulation and other ancillary equipment and fittings whatsoever and any obligation under this by-law applies to all such ancillary equipment.

#### Conditions

6. Before the Works commence, the Owner must:

- (a) obtain all necessary approvals from any Authority and provide a copy to the Owners Corporation;
- (b) provide the Owners Corporation's nominated representative(s) access to inspect the Lot within forty-eight hours of any request from the Owners Corporation;
- (c) effect and maintain Insurance and provide a copy to the Owners Corporation (if requested by the Owners Corporation); and
- (d) pay the Owners Corporation's reasonable costs in preparing, making and registering this by-law (including legal and strata management costs).

7. To be compliant under this by-law, the Works (if approved) must:

- (a) be in keeping with the appearance and amenity of the Building in the reasonable opinion of the Owners Corporation; and
- (b) have an external unit that
  - (i) is mounted on rubber vibration pads in a location so to minimise noise and vibration;
  - (ii) is installed on the courtyard part of the Lot;
  - (iii) has all pipe work from the condenser unit to the fan coil unit (internal) covered with steel piping in the same colour from time to time as the exterior walls of the Building (or as otherwise approved by the Owners Corporation);
  - (iv) has an acceptable sound rating of less than 75 decibels (or as otherwise specified by the Owners Corporation in writing);
  - (v) does not have any drippers on the exterior of the building.

8. While the Works are in progress the Owner of the Lot must:

- (a) use duly licensed employees, contractors or agents to conduct the Works;
- (b) ensure the Works are conducted in a proper and workmanlike manner and comply with the relevant building codes and standards;

- (c) ensure that the Works are carried out expeditiously and with a minimum of disruption;
- (d) ensure that any electricity or other services required to operate the Air-Conditioning Unit are installed so they are connected to the Lot's electricity or appropriate supply;
- (e) only carry out the Works at the times reasonably approved by the Owners Corporation;
- (f) perform the Works within one (1) months of their commencement or such other period as reasonably approved by the Owners Corporation;
- (g) transport all construction materials, equipment and debris in the manner described in this by-law and as otherwise reasonably directed by the Owners Corporation;
- (h) protect all affected areas of the Building outside the Lot from damage relating to the Works;
- (i) ensure that the Works do not interfere with or damage the common property or the property of any other lot owner other than as approved in this by-law and if this occurs the Owner must rectify that interference or damage within a reasonable period of time;
- (j) provide the Owners Corporation's nominated representative(s) access to inspect the Lot within twenty-four (24) hours of any request from the Owners Corporation;
- (k) comply with the reasonable directions of the Owners Corporation in relation to the performance of the Works; and
- (l) not vary or increase the scope of Works approved under this by-law without first obtaining the consent in writing from the Owners Corporation.

9. After the Works have been completed, the Owner must:

- (a) notify the Owners Corporation that the Works have been completed;
- (b) notify the Owners Corporation that all damage, if any, to lot and common property caused by the Works and not permitted by this by-law has been rectified;
- (c) provide the Owners Corporation's nominated representative(s) access to inspect the Lot within forty-eight (48) hours of any request from the Owners Corporation to assess compliance with this by-law or any consents provided under this by-law from time to time; and
- (d) provide the Owners Corporation with a copy of any certificate or certification required by an Authority to approve the Works.

10. The Owner:

- (a) must not carry out any alterations or additions or do any works (other than Works expressly approved under this by-law);
- (b) must properly maintain, upkeep and replace, if necessary the Works;
- (c) must ensure that the Works and their use do not contravene any statutory requirements of any Authority;
- (d) must maintain and upkeep those parts of the common property in contact with the Works;
- (e) must use reasonable endeavours to cause as little disruption as possible when using the Air-Conditioning Unit;
- (f) must comply with all directions, orders and requirements of any Authority relating to the Works and their use;
- (g) must ensure the Air-Conditioning Unit does not cause water escape or water penetration to lot or common property (including the Lot);

- (h) remains liable for any damage to lot or common property (including the Lot) arising out of the Works; and
- (i) indemnifies and shall keep indemnified the Owners Corporation against any costs or losses arising out of or in connection with the Works including their use.

11. If the Owner fails to comply with any obligation under this by-law, then the Owners Corporation may:

- (a) carry out all work necessary to perform that obligation;
- (b) enter upon any part of the Lot to carry out that work; and
- (c) recover the costs of carrying out that work from the defaulting Owner.

12. The Works will always remain the property of the Owner, even though they may be installed by an occupier.

13. In the event that the Owner desires to remove the Works, the provisions of Clauses 8-11 will apply to that removal.

## 20 Service of documents on owner of lot by Owners Corporation

A document may be served on the owner of a lot by electronic means if the person has given the owners corporation an e-mail address for the service of notices and the document is sent to that address.

## 21 Minor Renovation Works

### Operation of by-law

- 1. The Owner under this by-law is the owner or owners of lots 1-14.
- 2. In the event of an inconsistency between this by-law and any other by-law applicable to strata scheme 73388, the terms of this by-law shall prevail to the extent of that inconsistency.
- 3. The Owner has the right to perform Minor Renovation Works and keep the Minor Renovation Works installed on the common property subject to the conditions set out in this by-law.
- 4. The rights and obligations conferred under this by-law are conferred jointly and severally.

### Definitions

- 5. In this by-law, unless the context otherwise requires:
  - (a) **Act** means the *Strata Schemes Management Act, 2015*.
  - (b) **Authority** means any government, semi government, statutory, public or other authority having any jurisdiction over the Lot or the Building including the Council.
  - (c) **Building** means the building situated at 94-96 Yorktown Parade, Maroubra.
  - (d) **Council** means Randwick City Council.
  - (e) **Insurance** means:
    - (i) contractors all risk insurance (including public liability insurance) in the sum of \$10,000,000;
    - (ii) workers compensation insurance; and
    - (iii) insurance required under the *Home Building Act, 1989* (if any).
  - (f) **Lot** means lots 1-14 in strata scheme 73388.



- (g) **Minor Renovation Works** means the Owner's works to the Lot and the common property to be carried out for and in connection with:
- (i) renovating a kitchen;
  - (ii) changing recessed light fittings;
  - (iii) installing or replacing wood or other hard floors;
  - (iv) installing or replacing wiring or cabling or power or access points;
  - (v) work involving reconfiguring walls (excluding common property and/or load bearing walls);
  - (vi) removing carpet or other soft floor coverings to expose underlying wooden or other hard floors;
  - (vii) installing a rainwater tank;
  - (viii) installing a clothesline;
  - (ix) installing a reverse cycle split system air conditioner;
  - (x) installing double or triple glazed windows;
  - (xi) installing a heat pump;
  - (xii) installing ceiling insulation; and
  - (xiii) any other worked prescribed by section 110 of the Act or regulation 28 of the Regulations as being minor renovation works together with:
    - (A) ancillary works to facilitate the works referred to above; and
    - (B) restoration of lot and common property (including the Lot) damaged by the works referred to above, and to be conducted strictly in accordance with the provisions of this by-law and any consents provided pursuant to this by-law.
- (h) **Owner** means the owner or owners of the Lot.
- (i) **Owners Corporation** means The Owners – Strata Plan No. 73388.
- (j) **Plans** means the plans, documents, drawings and images for the Minor Renovation Works (if applicable).
- (k) **Regulations** means the *Strata Schemes Management Regulation, 2016*.

6. In this by-law, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) any gender includes the other gender;
- (c) any terms in the by-law will have the same meaning as those defined in the Act;
- (d) references to legislation include references to amending and replacing legislation;
- (e) references to the Owner in this by-law include any of the Owner's executors, administrators, successors, permitted assigns or transferees;

- (f) references to any Minor Renovation Works under this by-law include ancillary equipment and fittings whatsoever and any obligation under this by-law applies to all such ancillary equipment.

## Conditions

7. Before the Works commence, the Owner must:

- (a) provide a copy of the Plans to the Owners Corporation;
- (b) obtain all necessary approvals from any Authority and provide a copy to the Owners Corporation;
- (c) obtain the written approval for the location, type, size and make of the Minor Renovation Works from the Owners Corporation (such approval not to be unreasonably withheld) and the strata committee is hereby delegated the function of giving such approvals on behalf of the Owners Corporation;
- (d) provide the Owners Corporation's nominated representative(s) access to inspect the Lot within forty-eight hours of any request from the Owners Corporation; and
- (e) effect and maintain Insurance and provide a copy to the Owners Corporation (if requested by the Owners Corporation).

8. To be compliant under this by-law, the Minor Renovation Works (if approved) must:

- (a) be in keeping with the appearance and amenity of the Building in the reasonably held opinion of the Owners Corporation;
- (b) be manufactured and designed to specifications for domestic use;
- (c) comply with the provisions of the Building Code of Australia and Australian Standards (where relevant);
- (d) comply with the *Home Building Act, 1989* (where relevant); and
- (e) comprise materials that are new and suitable for the purpose for which they are used.

9. To be compliant under this by-law, any air-conditioning works (if approved) must have a condenser unit (external) that:

- (a) is installed unobtrusively on the balcony or courtyard part of the Lot (or as otherwise specified by the Owners Corporation);
- (b) is not visible from street level;
- (c) has all pipe work covered with steel piping in the same colour from time to time as the exterior walls of the Building or as otherwise reasonably directed by the Owners Corporation;
- (d) has all hole and/or penetrations made in order to facilitate the installation adequately sealed and waterproofed; and
- (e) does not exceed 45Db(A) during the day and 35Db(A) at night or such other acceptable sound rating as may be specified by an Authority or the Owners Corporation from time to time.

10. While the Minor Renovation Works are in progress the Owner of the Lot must:

- (a) use duly licensed employees, contractors or agents to conduct the Minor Renovation Works;
- (b) ensure that the Minor Renovation Works are carried out utilising only highest quality materials which are fit for purpose and used in accordance with the manufacturer's directions;
- (c) ensure the Minor Renovation Works are conducted in a proper and workmanlike manner and comply with the relevant building codes and standards;

- (d) ensure that the Minor Renovation Works are carried out expeditiously and with a minimum of disruption;
- (e) ensure that any electricity or other services required to operate the Minor Renovation Works are installed so that they are connected to the Lot's electricity or appropriate supply;
- (f) only carry out the Minor Renovation Works at times reasonably approved by the Owners Corporation;
- (g) perform the Minor Renovation Works within three (3) months of their commencement or such other period as reasonably approved by the Owners Corporation;
- (h) transport all construction materials, equipment and debris in the manner described in this by-law and as otherwise reasonably directed by the Owners Corporation;
- (i) protect all affected areas of the Building outside the Lot from damage relating to the Minor Renovation Works;
- (j) ensure that the Minor Renovation Works do not interfere with or damage the common property or the property of any other lot owner other than as approved in this by-law and if this occurs the Owner must rectify that interference or damage within a reasonable period of time;
- (k) provide the Owners Corporation's nominated representative(s) access to inspect the Lot within forty-eight (48) hours of any request from the Owners Corporation; and
- (l) not vary or increase the scope of Minor Renovation Works without first obtaining the consent in writing from the Owners Corporation.

11. After the Minor Renovation Works have been completed, the Owner must:

- (a) notify the Owners Corporation that the Minor Renovation Works have been completed;
- (b) notify the Owners Corporation that all damage, if any, to lot and common property caused by the Minor Renovations Works and not permitted by this by-law has been rectified;
- (c) provide the Owners Corporation's nominated representative(s) access to inspect the Lot within forty-eight (48) hours of any request from the Owners Corporation to assess compliance with this by-law or any consents provided under this by-law from time to time;
- (d) provide the Owners Corporation with a copy of any certificate or certification required by an Authority to approve the Minor Renovation Works.

12. The Owners Corporation's right to access the Lot arising under this by-law expires as soon as it is reasonably satisfied that the provisions of Clause 11 above have been complied with.

13. The Owner:

- (a) must not carry out any alterations or additions or do any works (other than Minor Renovation Works expressly approved under this by-law);
- (b) must properly maintain and upkeep the Minor Renovation Works;
- (c) must ensure that the Minor Renovation Works and their use do not contravene any statutory requirements of any Authority;
- (e) must use reasonable endeavours to cause as little disruption as possible when using the Minor Renovation Works;
- (f) must ensure that the Minor Renovation Works do not create any noise likely to interfere with the peaceful enjoyment of the owner or occupier of another lot or of any person lawfully using the common property;
- (g) must ensure that the Minor Renovation Works do not cause water escape or water penetration to lot or common property;

- (h) must comply with all directions, orders and requirements of any Authority relating to the Minor Renovation Works and their use;
  - (i) remains liable for any damage to lot or common property (including the Lot) arising out of the Minor Renovation Works;
  - (j) indemnifies and shall keep indemnified the Owners Corporation against any costs or losses arising out of or in connection with the Minor Renovations Works including their use.
14. If the Owner fails to comply with any obligation under this by-law, then the Owners Corporation may:
- (a) carry out all work necessary to perform that obligation;
  - (b) enter upon any part of the Lot to carry out that work; and
  - (c) recover the costs of carrying out that work from the Owner as a debt (and include reference of that debt on levy notices and any other levy reports or information) and the Owner acknowledges that any debt for which the Owner is liable under this by-law, is due and payable on written demand or at the direction of the Owners Corporation and, if not paid at the end of 1 month from the date on which it is due, will bear until paid, simple interest at an annual rate of 10 per cent or, if the regulations provide for another rate, that other rate and the interest will form part of that debt.
15. The Minor Renovation Works will always remain the property of the Owner
16. In the event that the Owner desires to remove the Minor Renovation Works, the provisions of Clauses 10-13 will apply.

## **22**

## **Works Affecting Common Property**

### **Part 1.1 – Grant of Right**

- (a) Notwithstanding anything contained in the by-laws applicable to the scheme, an Owner has the right to carry out Works (at the Owner's cost and to remain the Owner's fixture) subject to the provisions of Part 3 of this by-law.
- (b) An occupier has no right to carry out any Works contemplated by this by-law or otherwise.
- (c) The purpose of this by-law is to allow Owners to install works affecting common property and to regulate their maintenance.

### **Part 1.2 – This By-law to Prevail**

If there is any inconsistency between this by-law and any other by-law applicable to the scheme, then the provisions of this by-law shall prevail to the extent of that inconsistency.

### **Part 2 – Definitions & Interpretation**

#### **2.1 Definitions**

- (a) **Act** means the *Strata Schemes Management Act 2015*.
- (b) **Authority** means any government, semi-government, statutory, public or other authority having any jurisdiction over the Lot or the Building including the Council.
- (c) **Bond** means the bond for the works payable to the Owners Corporation being \$1,000.00 (inclusive of GST) upon the making of this by-law and to be reviewed and determined by the Owners Corporation or the strata committee of the Owners Corporation from time to time.
- (d) **Building** means the building situated at 94-96 Yorktown Parade, Maroubra.
- (e) **Council** means Randwick City Council.

- (f) **Essential Works** means any essential maintenance, repair, replacement, upgrading or emergency works that the Owners Corporation is required to do under section 122(1) of the Act or any other law to any part of the common property structure or services including within a lot.
- (g) **Insurance** means:
  - (i) contractors all risk insurance (including public liability insurance) in the sum of \$10,000,000.00;
  - (ii) insurance required under the *Home Building Act, 1989* (if any); and
  - (iii) workers' compensation insurance.
- (h) **Lot** means any lot in strata plan number 73388.
- (i) **Works** means works affecting the common property in the strata scheme pursuant to section 111 of the Act, including:
  - i. works involving structural changes including the removal of common property walls;
  - ii. works which change the external appearance of a Lot, including the installation of an external access ramp;
  - iii. works involving waterproofing;
  - iv. the installation of air-conditioning (other than a reverse cycle split system air-conditioner to which section 110 of the Act applies), hot water systems, security/alarm systems, security grilles, shutters and any additions to the common property, for example, pergolas and vergolas, whirly birds, solar panels, garage door motors, skylights and satellite dishes, television cables and antennae

but does not include any works which are cosmetic works for the purposes of section 109 of the Act, and works which are minor renovation works for the purposes of section 110 of the Act.
- (j) **Owner** means the owner of the Lot from time to time.
- (k) **Owners Corporation** means the owners corporation created by the registration of strata plan registration number 73388.

## 2.2 Interpretation

In this by-law, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) any gender includes the other genders;
- (c) any terms in the by-law will have the same meaning as those defined in the Act;
- (d) references to legislation include references to amending and replacing legislation;
- (e) reference to the Owner in this by-law includes any of the Owner's executors, administrators, successor, permitted assigns or transferees; and
- (f) references to any Works under this by-law include, where relevant, all other ancillary equipment, appurtenance and fittings whatsoever and any obligation under this by-law applies to all such ancillary equipment, appurtenance and fitting.

### Part 3.1 – Before Commencement

(a) Before commencement of any Works, the Owner must:

(i) prepare and provide to the Owners Corporation:

(I) a new by-law under the Act, to amend the definition of "Works", "Lot" and include a definition of "Plans" to cover the specific scope of Works to be carried out; and

(II) the Owner's written consent to:

(A) the passing of the by-law; and

(B) be responsible for the maintenance, repair and replacement of the Works,

such by-law and written consent to be prepared in terms of that set out in "Annexure A" and "Annexure B" by a solicitor appointed by the Owners Corporation and to be considered at the next general meeting of the Owners Corporation;

(ii) provide a complete proposal concerning the Works including but not limited to:

(I) plans and specifications of the proposed works;

(II) specifications for any sound rating, type, size, together with the manufacturer's or suppliers brochure regarding same;

(III) a diagram depicting the location of or proposed installation points of all parts of the works;

(IV) engineering plans, dilapidation reports and certifications if requested by the Owners Corporation;

(V) any necessary approvals/consents/permits from any Authority;

(VI) a report(s) from an engineer nominated by the Owners Corporation concerning the impact of the works on the structural integrity of the Building and Lot and common property;

(iii) pay for all costs of the Owners Corporation including:

(I) legal fees for reviewing the proposal;

(II) fees for convening any meeting to consider the proposal;

(III) any other reasonable professional fees required to consider the proposal including strata management fees; and

(IV) registration fees for the by-law contemplated in clause 3.1(a)(i)(I);

(iv) pay the Bond if required by the Strata Committee, Such Bond to be refunded within sixty (60) days from completion of any Works less any costs incurred by the Owners Corporation for or in connection with the carrying out of the Works or breach of this by-law; and

(v) obtain the written consent to commencement of the Works from the Owners Corporation upon satisfaction of its obligations in paragraphs (a)(i)-(iv) above.

(d) Upon receipt of a by-law under clause 3(a)(i)(I) the Owners Corporation (or strata committee) will review the proposal and stipulate any relevant conditions to be contained in the common property rights by-law. Such conditions to include (but not be limited to) those set out in clauses 3.2, 3.3, 3.4, 3.5 and 3.6.

### Part 3.2 – Compliant Works

3.2 To be compliant under this by-law, the Works:

- (a) must be in keeping with the appearance and amenity of the Building in the opinion of the Owners Corporation;
- (b) must be manufactured and designed to specifications for domestic use;
- (c) comply with the provisions of the Building Code of Australia and Australian Standards (where relevant);
- (d) comply with the *Home Building Act, 1989* (where relevant);
- (e) comprise materials that are new and suitable for the purpose for which they are used; and
- (f) for air-conditioning, must:
  - (i) be installed in a manner to minimise noise and vibration;
  - (ii) be installed unobtrusively in a location as approved by the Owners Corporation;
  - (iii) have an acceptable sound rating as specified by the Owners Corporation in writing, such rating not to exceed the original specifications in respect of the Building; and
  - (iv) have all external piping and electrical work covered with the same style downpipe used for the existing guttering of the Building.

### Part 3.3 – During Construction

The aim of this clause is to regulate construction so that (among other things) the Works do not interfere with the peaceful enjoyment of the owner or occupier of another lot or of any person lawfully using the common property, and protect the Owners Corporation in the event that damage is caused to the common property in the course of construction.

3.3 Whilst the Works are in progress the Owner of the Lot at the relevant time must:

- (a) use duly licensed employees, contractors or agents to conduct the Works;
- (b) ensure the Works are conducted in a proper and workmanlike manner and comply with the current Australian Building Codes and Standards;
- (c) ensure the Works are carried out expeditiously and with a minimum of disruption;
- (d) only carry out the Works between the hours permitted by Council. No Works are to be carried out on a Sunday or public holiday unless they are silent works (eg painting) and Council permits;
- (e) transport all construction materials, equipment and debris in the manner described in this by-law and as otherwise reasonably directed by the Owners Corporation. For the avoidance of doubt, no building items may be disposed of or left anywhere on or about the common property;
- (f) not allow waste bins or skips to be placed on or near the common property without the prior written consent of the Owners Corporation;
- (g) not cause or permit storage, mixing, preparation, cutting or any other work in connection with the Works to be conducted on the common property;
- (h) protect all affected areas of the Building outside the Lot from damage relating to the Works or the transportation of construction materials, equipment and debris;
- (i) keep the Lot's front entrance door closed at all times (where possible);

- (j) provide to the strata committee at least forty-eight (48) hours prior written notice of any noisy works (eg, jackhammering, the use of any pneumatic, rotary or powder actuated tools);
- (k) comply with Council regulations about noise;
- (l) ensure that the Works do not interfere with or damage the common property or the property of any other lot owner other than as approved in this by-law and if this occurs the Owner must rectify that interference or damage within a reasonable time;
- (m) provide the Owners Corporation's nominated representative(s) access to inspect the Lot within forty-eight (48) hours of any request from the Owners Corporation (for clarity, more than one inspection may be required);
- (n) observe all of the other by-laws applicable to the strata scheme; and
- (o) not vary the Works or their scope without first obtaining the written consent of the Owners Corporation.

### **Part 3.4 – After Construction**

3.4.1 After the Works have been completed the Owner must without unreasonable delay:

- (a) notify the Owners Corporation that the Works have been completed;
- (b) notify the Owners Corporation that all damage, if any, to lot and common property caused by the Works and not permitted by this by-law has been rectified;
- (c) provide the Owners Corporation with a copy of any certificate or certification required by an Authority to approve the Works;
- (d) provide the Owners Corporation with certification from a suitably qualified engineer approved by the Owners Corporation that the Works or works required to rectify any damage to lot or common property have been completed in accordance with the terms of this by-law;
- (e) provide the Owners Corporation's nominated representative(s) access to inspect the Lot within forty-eight (48) hours of any request from the Owners Corporation to check compliance with this by-law or any consents provided under this by-law; and
- (f) provide the Owners Corporation with a report(s) from an engineer nominated by the Owners Corporation concerning the impact of the works on the structural integrity of the Building and Lot and common property;

3.4.2 The Owners Corporation's right to access the Lot under this by-law expires once it is reasonable satisfied that paragraphs (a) to (e) above have been complied with.

### **Part 3.5 – Enduring Rights and Obligations**

3.5 An Owner shall:

- (a) protect all affected areas of the Building outside of the Lot from damage relating to the installation, repair, replacement or removal of the Works;
- (b) use reasonable endeavours to ensure no nuisance is caused as a result of the use of the Works including where relevant the prevention of water escape or noise;
- (c) maintain, replace, and keep in good and serviceable repair any Works installed by them or the occupier of their Lot;
- (d) maintain and upkeep those parts of the common property in contact with the Works;
- (e) remain liable for any damage to lot or common property arising out of or in connection with the installation, repair, replacement or removal of the Works;



- (f) repair and/or reinstate the common property or personal property of the Owners Corporation to its original condition if the Works are removed or relocated;
- (g) comply with all directions, orders and requirements of any Authority relating to the use of the Works;
- (h) remove any Works which contravene the requirements of this by-law or any Authority and reinstate the common property, as and when directed by the Owners Corporation;
- (i) must ensure that the Works within the Lot are not likely to disturb the peaceful enjoyment of the Owner or occupier of another Lot;
- (j) ensure that the Works (where applicable) do not cause water escape or water penetration to lot or common property (including the Lot);
- (k) ensure that any electricity or other services required to operate the Works (where applicable) are installed so they are connected to the Lot's electricity or appropriate supply;
- (l) indemnify and keep indemnified the Owners Corporation against any costs or losses arising out of the installation, use, repair, replacement or removal of any Works including any liability in respect of the property of the Owner, and
- (m) without derogating from the generality of paragraph (l) above, indemnifies and shall keep indemnified the Owners Corporation against any loss, damage to or destruction of the Works caused howsoever by the Owners Corporation, its officers, employees, contractors or agents carrying out any Essential Works where the Owner or occupier is in breach of clause 3.7.

### **Part 3.6 – Recovery of Costs**

3.6 If an Owner fails to comply with any obligation under this by-law, the Owners Corporation may:

- (a) carry out all work necessary to perform that obligation;
- (b) enter upon any part of the Lot to carry out that work;
- (c) apply the Bond towards the costs incurred by the Owners Corporation to carry out that work;
- (d) recover from the Owner the amount of any fine or fee which may be charged to the Owners Corporation for the cost of any inspection, certification or order; and
- (e) recover any costs from the Owner as a debt due.

### **Part 3.7 – Essential Works**

3.7 No Owner or occupier shall refuse or restrict the Owners Corporation's (or its officers, employees, contractors or agents) lawful entry, or access to all or any part of the Works to carry out Essential Works to the common property (at the cost of the Owners Corporation) which may be attached to, in, under or about the Works including the common property structures or services provided that the Owners Corporation shall give prior notice to the Owner or occupier (emergencies excepted).

### **Part 3.8 – Applicability**

3.8.1 For the avoidance of doubt, this clause applies to all Works installed prior to and after this by-law being made.

3.8.2 In the event that the Owner desires to remove the Works installed under this by-law (or otherwise), the provisions of Part 3 shall also apply in relation to that removal.

CONSENT UNDER SECTION 143 (1)

STRATA SCHEMES MANAGEMENT ACT, 2015

TO: The Registrar-General

Land & Property Information NSW

Queens Square

SYDNEY NSW 2000

I/We, \_\_\_\_\_, CONSENT to the making of a by-law conferring rights over the common property for the installation of <DESCRIBE WORKS> to be carried out by the owner/s of lot [insert lot] in our scheme and conferring on them the responsibility to repair and maintain such works.

The by-law is to be made by the Owners Corporation at a general meeting on ...., or any adjournment of that meeting.

Dated: .....

.....  
Signature of [insert name]

Owner of Lot [insert lot number]

Cc: The Owners – Strata Plan No 73388



# PLANNING CERTIFICATE

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

InfoTrack Pty Ltd  
DX 578  
SYDNEY NSW

**Description of land:** Lot 9 SP 73388

**Address:** 9/94-96 Yorktown Parade, MAROUBRA NSW 2035

**Date of Certificate:** 4 May 2023

**Certificate No:** 65643

**Receipt No:** 5196249

**Amount:** \$62.00

**Reference:** SUNCHEN - YORKTOWN:76050

This planning certificate should be read in conjunction with the **Randwick City Council Local Environmental Plan 2012**. This is available on the NSW Legislation website at <https://www.legislation.nsw.gov.au/#/view/EPI/2013/36>

The land to which this planning certificate relates, being the lot or one of the lots described in the application made for this certificate, is shown in the Council's record as being situated at the "Address" stated above. The legal "description of land" (by lot(s) and DP/SP numbers) is obtained from NSW Land Registry Services. It is the responsibility of the applicant to enquire and confirm with NSW Land Registry Services the accuracy of the lot(s) and DP/SP numbers pertaining to the land for which application is made for the certificate.

*There is more information about some property conditions than is included on this property certificate.*

*If this case, after the condition text, there is a URL and a square bar code or 'QR code' which provides the address of a page on the Randwick City Council website.  
You will need internet access and either:*

1. **Download a QR code scanner** app to your phone and scan the QR code  
or
2. **Type the URL** into your internet browser



## INFORMATION PROVIDED UNDER SECTION 10.7 (2)

In accordance with the requirements of section 10.7 of the Environmental Planning and Assessment Act 1979 and Schedule 2 of the Environmental Planning and Assessment Regulation 2021 (as amended), the following prescribed matters relate to the land as at the date of this certificate. The information provided in reference to the prescribed matters has been obtained from Council's records and/or from other authorities/government department. The absence of any reference to a matter affecting the land shall not imply that the land is not affected by that matter not referred to in this certificate. Council provides the information in good faith but disclaims all liability for any omission or inaccuracy. Please contact Council's Strategic Planning team on 1300 722 542 for further information about this Planning Certificate.

### 1 Names of relevant planning instruments and DCPs

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

#### State Environmental Planning Policies (SEPPs)

- |  |  |
|--|--|
| • <b>Biodiversity and Conservation SEPP 2021</b> | - Chapter 2 – Vegetation in non-rural areas                            |
| • <b>Biodiversity and Conservation SEPP 2021</b> | - Chapter 6 – Bushland in urban areas                                  |
| • <b>Housing SEPP 2021</b>                       | - Chapter 2 – Affordable Housing                                       |
| • <b>Housing SEPP 2021</b>                       | - Chapter 2, Part 3 – Retention of affordable rental housing           |
| • <b>Housing SEPP 2021</b>                       | - Chapter 3, Part 5 – Housing for seniors and people with a disability |
| • <b>Housing SEPP 2021</b>                       | - Chapter 3, Part 9 – Caravan Parks                                    |
| • <b>Industry and Employment SEPP 2021</b>       | - Chapter 3 – Advertising and Signage                                  |
| • <b>Planning Systems SEPP 2021</b>              | - Chapter 2 – State and regional development                           |
| • <b>Planning Systems SEPP 2021</b>              | - Chapter 4 – Concurrences and consents                                |
| • <b>Resilience and Hazards SEPP 2021</b>        | - Chapter 2 – Coastal management                                       |
| • <b>Resilience and Hazards SEPP 2021</b>        | - Chapter 3 – Hazardous and Offensive Development                      |
| • <b>Resilience and Hazards SEPP 2021</b>        | - Chapter 4 – Remediation of Land                                      |
| • <b>Resources and Energy SEPP 2021</b>          | - Chapter 2 – Mining, petroleum production and extractive industries   |
| • <b>Transport and Infrastructure SEPP 2021</b>  | - Chapter 2 – Infrastructure   |
| • <b>Transport and Infrastructure SEPP 2021</b>  | - Chapter 3 – Educational establishments and childcare facilities      |
| • <b>Transport and Infrastructure SEPP 2021</b>  | - Chapter 5 – Three Ports – Port Botany, Port Kembla and Newcastle     |
| • <b>Codes SEPP 2008</b>                         | - (Exempt and Complying Development Codes) 2008                        |
| • <b>SEPP No. 65</b>                             | - Design Quality of Residential Flat Development                       |
| • <b>BASIX SEPP 2004</b>                         | - BASIX (Building Sustainability Index) 2004                           |
| • <b>MCP SEPP 2007</b>                           | - (Miscellaneous Consent Provisions) 2007                              |

**Note:** Any questions regarding State Environmental Planning Policies and Regional Environmental Plans should also be directed to the Department of Planning and Environment 1300 420 596 or [www.planning.nsw.gov.au](http://www.planning.nsw.gov.au).

#### Local Environmental Plan (LEP) Gazetted 15 February 2013

- **Randwick LEP 2012 (Amendment No1) - Gazetted 21 November 2014**



Applies to part of Royal Randwick Racecourse (identified as "Area A" on the LEP Additional Permitted Uses Map). Permits additional uses of hotel or motel accommodation, serviced apartments and function centres with development consent.

- **Randwick LEP 2012 (Amendment No2) - Gazetted 2 April 2015**  
Applies to land at Young Street Randwick – Inglis Newmarket Site (shown as Area 1 on the LEP Key Sites Map). Amendment to planning controls, including zoning, height of buildings, heritage items and heritage area, FSR (subject to new Clause 6.16) and inclusion of the site as a Key Site.
- **Randwick LEP 2012 (Amendment No3) - Gazetted 15 July 2016**  
Amends Schedule 1 to include 'childcare centre' as an additional permitted use (with development consent) at 270 Malabar Road, Maroubra (Lot 3821, DP 752015).
- **Randwick LEP 2012 (Amendment No4) - Gazetted 25 January 2018**  
Applies to part of the land at 1T Romani Way, MATRAVILLE (Lot 1 DP 107189). Amendment to planning controls, including zoning, height of buildings and FSR.
- **Randwick LEP 2012 (Amendment No5) - Gazetted 17 August 2018**  
Applies to subdivision of dual occupancies (attached) in the Zone R2 Low Density Residential for which development consent was granted before 6 July 2018. Permits development consent to be granted for the Torrens Title or Strata subdivision of a dual occupancy if the development meets certain standards specified in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
- **Randwick LEP 2012 (Amendment No 6) – Gazetted 22 February 2019**  
Applies to the following land in Coogee, 38 Dudley Street (Lot 17 DP 6489), 40 Dudley Street (Lot 18 DP 6489), 42 Dudley Street (Lot 19 DP 6489), 44 Dudley Street (Lot 20 DP 6489 & Lot 1 DP 952229), 46 Dudley Street (Lot 2 in DP 952229) and 122 Mount Street (Lot 22 DP 6489) by incorporating these properties into the Dudley Street Heritage Conservation Area. Further, 38 Dudley Street (Lot 17 DP 6489), 42 Dudley Street (Lot 19 DP 6489), 44 Dudley Street (Lot 20 DP 6489 & Lot 1 DP 952229) and 122 Mount Street (Lot 22 DP 6489) have been listed as local heritage items in Schedule 5 the Randwick LEP 2012.
- **Randwick LEP 2012 (Amendment No 7) – Gazetted 10 July 2020**  
Applies to the following land in Coogee, 39 Dudley Street (Lot B DP 301192), 41 Dudley Street (Lot C DP 301192) and 148 Brook Street (Lot B DP 305284) which have now been listed as Local Heritage Items in Schedule 5 the Randwick LEP 2012.
- **Randwick LEP 2012 (Amendment No. 8) - Gazetted 14 August 2020**  
Applies to all land located within the Kensington and Kingsford town centres. Amendment to planning controls to include maximum height of buildings, FSR, Non-residential FSR, active street frontages, affordable housing inclusionary zoning, a Community Infrastructure Contribution, design excellence and architectural competition requirements and inclusion of the following land in the B2 Local Centre zone: 7 Addison Street KENSINGTON NSW 2033 (SP 11800), 157 Todman Avenue KENSINGTON NSW 2033 (SP 45348), 16,18 & 20 Barker Street, KENSINGTON NSW 2033 (Lot 1 DP 950767, Lot 1 DP 954209 & SP 65941), 582-584 Anzac Parade KINGSFORD NSW 2032 (Lot 1 DP 516025), 586-592 Anzac Parade KINGSFORD NSW 2033 (Lot 1 DP 942606, Pt Lot 1 DP 949009), 63 Harbourne Road, KINGSFORD NSW 2032 (SP 39850) and 12,14,16 & 18 Rainbow Street KINGSFORD NSW 2032 (Lot 13 DP 6134, SP 45197, Lot 15 DP 6134 & Lot 16 DP 6134).
- **Randwick LEP 2012 (Amendment No 10) – Gazetted 28 April 2023**  
Applies to 11A Marcel Avenue Coogee (Lot 51 DP 318884) which has been listed as a Local Heritage Item in Schedule 5 of the Randwick LEP 2012. Further, the boundary of the adjacent Moira Crescent Heritage Conservation Area is extended to incorporate the property at 11A Marcel Avenue Coogee.

#### Development control plans that apply to the carrying out of development on the land

- **Randwick DCP adopted by Council on the 28 May 2013 and came into effect on the 14<sup>th</sup> of June 2013**  
Provides detailed planning controls and guidance for development applications



- **Amendment to Randwick DCP 2013 Newmarket Green, Randwick (E5)**  
Site-specific DCP controls to supplement Randwick LEP 2012 (Amendment No 2)
- **Amendment to Randwick DCP 2013, Public Notification (A3)**  
Section A3 of the DCP was repealed on the 15 January 2020. The Randwick City Council Community Participation Plan now guides notification requirements previously outlined in Section A3.
- **Amendment to Randwick DCP 2013, Kensington and Kingsford Town Centres (E6)**  
Section E6 of the DCP provides Centre based and site specific DCP controls for land in the Kensington and Kingsford Town Centres.

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

- **State Environmental Planning Policy (Sustainable Buildings) 2022 – to commence on 1<sup>st</sup> October 2023**
- **On the 15<sup>th</sup> of May 2019, Council received a Gateway Determination from the Department of Planning, Industry and Environment with conditions to progress a Planning Proposal to amend Schedule 5 of the Randwick Local Environmental Plan 2012 (RLEP) which relates to Environmental Heritage. Part of the proposal seeks to create a new Heritage Conservation Area (HCA) known as 'Edgecumbe Estate' incorporating properties at 142A to 152 Brook Street, COOGEE, 37 to 41 Dudley Street, COOGEE and 5 Edgecumbe Avenue, COOGEE. The proposal was publicly exhibited from Tuesday 28 May to 25 June 2019 and the proposal is now subject to due process.**
- **On the 12 September 2021, Council received a Gateway Determination from the Department of Planning, Industry and Environment with conditions to progress the Comprehensive Planning Proposal to amend the Randwick Local Environmental Plan 2012 (RLEP). The public exhibition period for the proposal is Tuesday 31 May to Tuesday 5 July 2022. The proposal is now subject to due process. Key changes proposed as part of the Draft Planning Proposal include:**
  - **New planning controls (zoning, height of building and FSR) in five identified Housing Investigation Areas proximate to the light rail alignment or town and strategic centres**
  - **Application of an Affordable Housing Contribution Scheme in the five Housing Investigation Areas**
  - **Changes to controls for the construction and subdivision of attached dual occupancies in the R2 Low Density Residential zone**
  - **Proposed new heritage items, archaeological sites and boundary adjustments to heritage conservation areas**
  - **Controls to promote environmental resilience**
  - **Strengthening open space requirements and creation of new open space zones**
  - **Supporting a diverse, safe and inclusive night time economy through changes to zone objectives and new exempt development provisions**
  - **New planning controls including changes to zoning and density of 20 neighbourhood clusters zoned residential to protect existing shops and businesses**
  - **New employment zones to replace existing B1 Neighbourhood Centre, B2 Local Centre and IN1 Light Industrial zones to align with State government reforms**
  - **Updating land zoning and development control maps to reflect the Randwick Hospital Expansion area and the Randwick Racecourse (Light Rail Stabling Yard)**
  - **Rezoning and increased development standards for several sites based on owner-initiated rezoning requests; and**
  - **Housekeeping amendments to correct zoning and boundary anomalies.**

**For further information on the Comprehensive Planning Proposal, please see the link provided below:**



[www.randwick.nsw.gov.au/planning-and-building/planning/local-environmental-plan-lep/randwick-comprehensive-planning-proposal](http://www.randwick.nsw.gov.au/planning-and-building/planning/local-environmental-plan-lep/randwick-comprehensive-planning-proposal)



(3) Subsection (2) does not apply in relation to a proposed environmental planning instrument or draft development control plan if—

- (a) it has been more than 3 years since the end of the public exhibition period for the proposed instrument or draft plan, or
- (b) for a proposed environmental planning instrument—the Planning Secretary has notified the council that the making of the proposed instrument has been deferred indefinitely or has not been approved.

(4) In this section—

**proposed environmental planning instrument** means a draft environmental planning instrument and includes a planning proposal for a local environmental plan.

## **2 Zoning and land use under relevant LEPs**

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

- (a) The identity of the zone, whether by reference to —
  - (i) a name, such as "Residential Zone" or "Heritage Area", or
  - (ii) a number, such as "Zone No 2 (a)",
- (b) the purposes for which development in the zone—
  - (i) may be carried out without development consent, and
  - (ii) may not be carried out except with development consent, and
  - (iii) is prohibited,

**Zone R3** (Medium Density Residential) in Randwick LEP 2012.

### **1. Objectives of zone**

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.
- To protect the amenity of residents.
- To encourage housing affordability.
- To enable small-scale business uses in existing commercial buildings.

### **2. Permitted without consent**

Home occupations; Recreation areas

### **3. Permitted with consent**

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Business premises; Car parks; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Group homes; Home businesses; Hostels; Hotel or motel accommodation; Multi dwelling housing; Neighborhood shops; Office premises; Oyster Aquaculture; Passenger transport facilities; Places of public worship; Recreation facilities (indoor);





Recreation facilities (outdoor); Residential flat buildings; Respite day care centres; Restaurants or cafes; Roads; Semi-detached dwellings; Seniors housing; Serviced apartments; Shops; Tank-based aquaculture

#### 4. Prohibited

Funeral homes; Any other development not specified in item 2 or 3.

*(c) whether additional permitted uses apply to the land,*

*(d) whether development standards applying to the land fix minimum land dimensions for the erection of a dwelling house on the land and, if so, the fixed minimum land dimensions,*

The land IS NOT subject to any development standards that fix minimum land dimensions for the erection of a dwelling house.

*(e) whether the land is in an area of outstanding biodiversity value under the Biodiversity Conservation Act 2016,*

The land DOES NOT include or comprise a critical habitat area under the Threatened Species Conservation Act 1995.

*(f) Whether the land is in a conservation area, however described*

The land IS NOT located in a heritage conservation area under the Randwick LEP 2012.

*(g) whether an item of environmental heritage, however described, is located on the land.*

The land IS NOT listed as a heritage item under the Randwick LEP 2012.

The land IS NOT listed on the State Heritage Register under Heritage Act 1977.

### 3 Contributions plans

*(1) The name of each contributions plan under the Act, Division 7.1 applying to the land, including draft contributions plans.*

*(2) If the land is in a special contributions area under the Act, Division 7.1, the name of the area.*

Randwick City Council Section 7.12 (previously Section 94A) Development Contributions Plan (effective 21 April 2015).

### 4 Complying Development

*(1) If the land is land on which complying development may be carried out under each of the complying development codes under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, because of that Policy, clause 1.17A(1)(c)–(e), (2), (3) or (4), 1.18(1)(c3) or 1.19.*

*(2) If complying development may not be carried out on the land because of 1 of those clauses, the reasons why it may not be carried out under the clause.*

*(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) a restriction applies to the land, but it may not apply to all of the land, and*

*(b) the council does not have sufficient information to ascertain the extent to which complying development may or may not be carried out on the land.*

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





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## **Housing Code**

Complying development under the Housing Code **MAY** be carried out on the land.

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## **Low Rise Housing Diversity Code**

Complying development under the Low Rise Housing Diversity Code **MAY** be carried out on the land.

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## **Rural Housing Code**

Complying development under the Rural Housing Code **MAY** be carried out on the land.

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## **Housing Alterations Code**

Complying development under the Housing Alterations Code **MAY** be carried out on the land.

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## **General Development Code**

Complying development under the General Development Code **MAY** be carried out on the land.

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## **Commercial and Industrial Alteration Code**

Complying development under the Commercial and Industrial Alteration Code **MAY** be carried out on the land.

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

Complying development under the Commercial and Industrial (New Buildings and Additions) Code **MAY** be carried out on the land.

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## **Container Recycling Facilities Code**

Complying Development under the Container Recycling Facilities Code **MAY** be carried out on the land.

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## **Subdivisions Code**

Complying development under the Subdivisions Code **MAY** be carried out on the land.

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## **Demolition Code**

Complying development under the Demolition Code **MAY** be carried out on the land.

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## **Fire Safety Code**

Complying development under the Fire Safety Code **MAY** be carried out on the land.

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A copy of the Codes SEPP is available at [www.planning.nsw.gov.au](http://www.planning.nsw.gov.au). For further information please call the Department of Planning and Environment Centre on Free call 1300 305 695.

**Note:** To be complying development, the development must meet the General requirements set out in clause 1.18 of the Codes SEPP. Development must also meet all development standards set out in the relevant code.

**Note:** This information needs to be read in conjunction with the whole of the State Environment Planning Policy. If an identification, restriction or characteristic of land referred to above is not located on or does not comprise, the whole of the relevant land, complying development may be carried out on any part of the land not so identified, restricted or characterised.

**Note:** Information regarding whether the property is affected by flood related development controls or is bushfire prone land is identified in other sections of this certificate. If your property is identified as being impacted by bushfire or flooding, a specific technical assessment of these issues will be required as part of any Complying Development Certificate



application under the State Environment Planning Policy, or a development application for any other type of development requiring consent from Council.

**Note:** Despite any references above advising that Complying Development may be undertaken on the land, certain Complying Development may be precluded from occurring on the land due to requirements contained in the remainder of State Environment Planning Policy (Exempt and Complying Development Codes) 2008. It is necessary to review the State Environment Planning Policy in detail to ensure that specific types of complying development may be undertaken on the land.

## 5 Exempt Development

(1) If the land is land on which exempt development may be carried out under each of the exempt development codes under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, because of that Policy, clause 1.16(1)(b1)–(d) or 1.16A.

(2) If exempt development may not be carried out on the land because of 1 of those clauses, the reasons why it may not be carried out under the clause.

(3) If the council does not have sufficient information to ascertain the extent to which exempt development may or may not be carried out on the land, a statement that—

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

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

### Division 1 General Code

Exempt development under the Code **MAY** be carried out on the land.

### Division 2 Advertising and Signage Code

Exempt development under the Code **MAY** be carried out on the land.

### Division 3 Temporary Uses and Structures Code

Exempt development under the Code **MAY** be carried out on the land.

### Division 4 Special Provisions – COVID 19

Repealed

**Note:** Despite any references above advising that Exempt Development may be undertaken on the land, certain Exempt Development may be precluded from occurring on the land due to requirements contained in the remainder of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. It is necessary to review the State Environmental Planning Policy in detail to ensure that specific types of exempt development may be undertaken on the land.

**Note:** Under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, demolition of a heritage item, draft heritage item, in a heritage conservation area, or a draft conservation area is not permitted.

**Note:** In heritage conservation areas and draft heritage conservation areas, some exempt development types may be restricted to the rear yard only.

## 6 Affected building notices and building product rectification orders

(1) *Whether the council is aware that—*



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

(2) In this section—

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

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

The land IS NOT affected by any notice or order within the meaning of the Building Products (Safety) Act 2017.

## **7 Land reserved for acquisition**

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

### State Environmental Planning Policies

Council is unable to provide any site-specific information on the provisions of any State Environmental Planning Policy regarding the acquisition of land. Information on State Environmental Planning Policies listed in this certificate is available at NSW Legislation – In force legislation. Any enquiries regarding State and Regional Environmental Planning Policies should be directed to the Department of Planning and Environment's website.

### Draft State Environmental Planning Policies

Council is unable to provide site-specific information on the provisions of any draft State Environmental Planning Policy regarding the acquisition of land. Information on the draft State Environmental Planning Policies listed in this certificate is available on the Department of Planning and Environment Have Your Say webpage for Draft plans and policies. Any enquiries regarding State and Regional Environmental Planning Policies should be directed to the Department of Planning and Environment's website.

### Local Environmental Plan

The land IS NOT affected by any environmental planning instrument or proposed environmental planning instrument referred to in section 1 that makes provision in relation to the acquisition of the land by an authority of the State, as referred to in the Act, section 3.15.

## **8 Road widening and road realignment**

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

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

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

- (b) an environmental planning instrument, or

The land IS NOT affected by any road widening or road realignment under the provisions of Randwick LEP 2012.

- (c) a resolution of the Council.

The land IS NOT affected by any resolution of the Council for any road widening or road realignment.

**Note:** This item relates to Council's road proposals only. Other authorities, including Transport for NSW may have road widening proposals.



## 9 Flood related development controls

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

**No.**

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

**Yes.**

(3) *In this section—*

**flood planning area** has the same meaning as in the Floodplain Development Manual.

**Floodplain Development Manual** means the Floodplain Development Manual (ISBN 0 7347 5476 0) published by the NSW Government in April 2005.

**probable maximum flood** has the same meaning as in the Floodplain Development Manual.

**Note:** The information provided in Item 9 is based on the data and information presently available to the Council and on development controls in force as at the date of this certificate. The identification of land as not being subject to flood related development controls does not mean that the land is not, or may not be, subject to flooding or that the land will not in the future be subject to flood related development controls, as additional data and information regarding the land become available.

Details relating to flood risk and flood planning levels may be provided on a Flood Level Certificate. The application form is available on Council's website.

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

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

Council HAS NOT adopted a policy or been notified of any adopted policy of another public authority, that restricts development on the land because of the likelihood of land slip, bush fire, tidal inundation, subsidence; salinity, coastal hazards, or sea level rise.

Council DOES HAVE adopted policies or has been notified of adopted policies of another public authority on matters relating to the risk of acid sulphate soils; contamination; low-lying lands; aircraft noise; Malabar Treatment Plant odour; and Former Matraville Incinerator land.

(2) *In this section—*

**adopted policy** means a policy adopted—

(a) *by the Council, or*

Excluding Councils Contaminated Land Policy, the subject land IS NOT affected by any other council policy relating to hazard risk restrictions.

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

The land **IS** affected by a policy adopted by a public authority as follows:

Acid Sulphate Soils Manual, which forms part of an 'all of government' approach to the management of acid sulphate soils in NSW. The manual provides information on the formation of acid sulphate soil, the likely effects if it is to be disturbed and best practice in the assessment and management of works undertaken in acid sulphate area. Acid Sulphate Soils Planning Maps have been prepared by the Department of Land and Water Conservation, and apply to Randwick City. The Manual and Maps are available to view at Council.



**For more information please see**

[www.randwick.nsw.gov.au/149-AcidSulfate](http://www.randwick.nsw.gov.au/149-AcidSulfate)



#### **11 Bush fire prone land**

*(1) If any of the land is bush fire prone land, designated by the Commissioner of the NSW Rural Fire Service under the Act, section 10.3, a statement that all or some of the land is bush fire prone land.*

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

The land IS NOT bush fire prone land (as defined in the Act).

#### **12 Loose-fill asbestos insulation**

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

The land DOES NOT include any residential premises (within the meaning of the Home Building Act 1989, Part 8, Division 1A) that are listed on the register kept under that Division.

#### **13 Mine subsidence**

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

The land IS NOT declared to be a mine subsidence district within the meaning of the Coal Mine Subsidence Compensation Act 2017.

#### **14 Paper subdivision information**

*(1) The name of a development plan adopted by a relevant authority that—*

- (a) applies to the land, or Page 151 Environmental Planning and Assessment Regulation 2021 [NSW] Schedule 2 Planning certificates Published LW 17 December 2021 (2021 No 759)*
- (b) is proposed to be subject to a ballot.*

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

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

The land IS NOT land to which a development plan or subdivision order applies.

#### **15 Property vegetation plans**

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

Council HAS NOT been notified of any property vegetation plan under the Native Vegetation Act 2003, Part 4 applying to the land.



## 16 Biodiversity stewardship sites

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

Council HAS NOT been notified that the land is a biodiversity stewardship site by the Biodiversity Conservation Trust.

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

## 17 Biodiversity certified land

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

The land IS NOT biodiversity certified land.

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

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

*Whether an order has been made under 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.*

The land IS NOT land to which an order under Trees (Disputes Between Neighbours) Act 2006 applies.

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

- (1) *If the Coastal Management Act 2016 applies to the council, whether the owner, or a previous owner, of the land has given written consent to the land being subject to annual charges under the Local Government Act 1993, section 496B, for coastal protection services that relate to existing coastal protection works.*
- (2) *In this section—  
**existing coastal protection works** has the same meaning as in the Local Government Act 1993, section 553B.*

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

Not applicable.

## 20 State Environmental Planning Policy (Western Sydney Aerotropolis) 2020

*Whether under State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 the land is—*

- (a) *in an ANEF or ANEC contour of 20 or greater, as referred to in that Policy, clause 19, or*
- (b) *shown on the Lighting Intensity and Wind Shear Map, or*
- (c) *shown on the Obstacle Limitation Surface Map, or*
- (d) *in the "public safety area" on the Public Safety Area Map, or*
- (e) *in the "3 kilometre wildlife buffer zone" or the "13 kilometre wildlife buffer zone" on the Wildlife Buffer Zone Map.*

Not applicable.



## **21 Site compatibility certificates and conditions for seniors housing**

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

The land IS NOT subject of a current site compatibility certificate (of which the Council is aware) that has been issued under Chapter 3, Part 5 of the Housing SEPP 2021.

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

- (1) *Whether there is a current site compatibility certificate under State Environmental Planning Policy (Housing) 2021, or a former site compatibility certificate, of which the council is aware, in relation to proposed development on the land and, if there is a certificate—*
  - (a) *the period for which the certificate is current, and*
  - (b) *that a copy may be obtained from the Department.*
- (2) *If State Environmental Planning Policy (Housing) 2021, Chapter 2, Part 2, Division 1 or 5 applies to the land, any conditions of a development consent in relation to the land that are of a kind referred to in that Policy, clause 21(1) or 40(1).*
- (3) *Any conditions of a development consent in relation to land that are of a kind referred to in State Environmental Planning Policy (Affordable Rental Housing) 2009, clause 17(1) or 38(1).*
- (4) *In this section— former site compatibility certificate means a site compatibility certificate issued under State Environmental Planning Policy (Affordable Rental Housing) 2009.*

The land IS NOT subject to a current or former site compatibility certificate (of which the council is aware) for affordable rental housing.





### **Contaminated Land Management Act 1997**

**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,*

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

*(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,*

The land IS NOT subject to a management order within the meaning of the Contaminated Land Management Act 1997.

*(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,*

The land IS NOT the subject of an approved voluntary management proposal within the meaning of the Contaminated Land Management Act 1997.

*(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,*

The land IS NOT the subject to an ongoing maintenance order within the meaning of the Contaminated Land Management Act 1997.

*(e) that the land to which the certificate relates is the subject of a site audit statement within the meaning of that Act—if a copy of such a statement has been provided at any time to the local authority issuing the certificate,*

Council HAS NOT received a copy of a site audit statement, within the meaning of the Contaminated Land Management Act 1997, for this land.

**Note.** Section 53B requires site auditors to furnish local authorities with copies of site audit statements relating to site audits for the purposes of statutory requirements.

**Stella Agagiotis**  
**Manager Strategic Planning**  
**1300 722 542**

Date:04-May-2023





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**NOTE:**

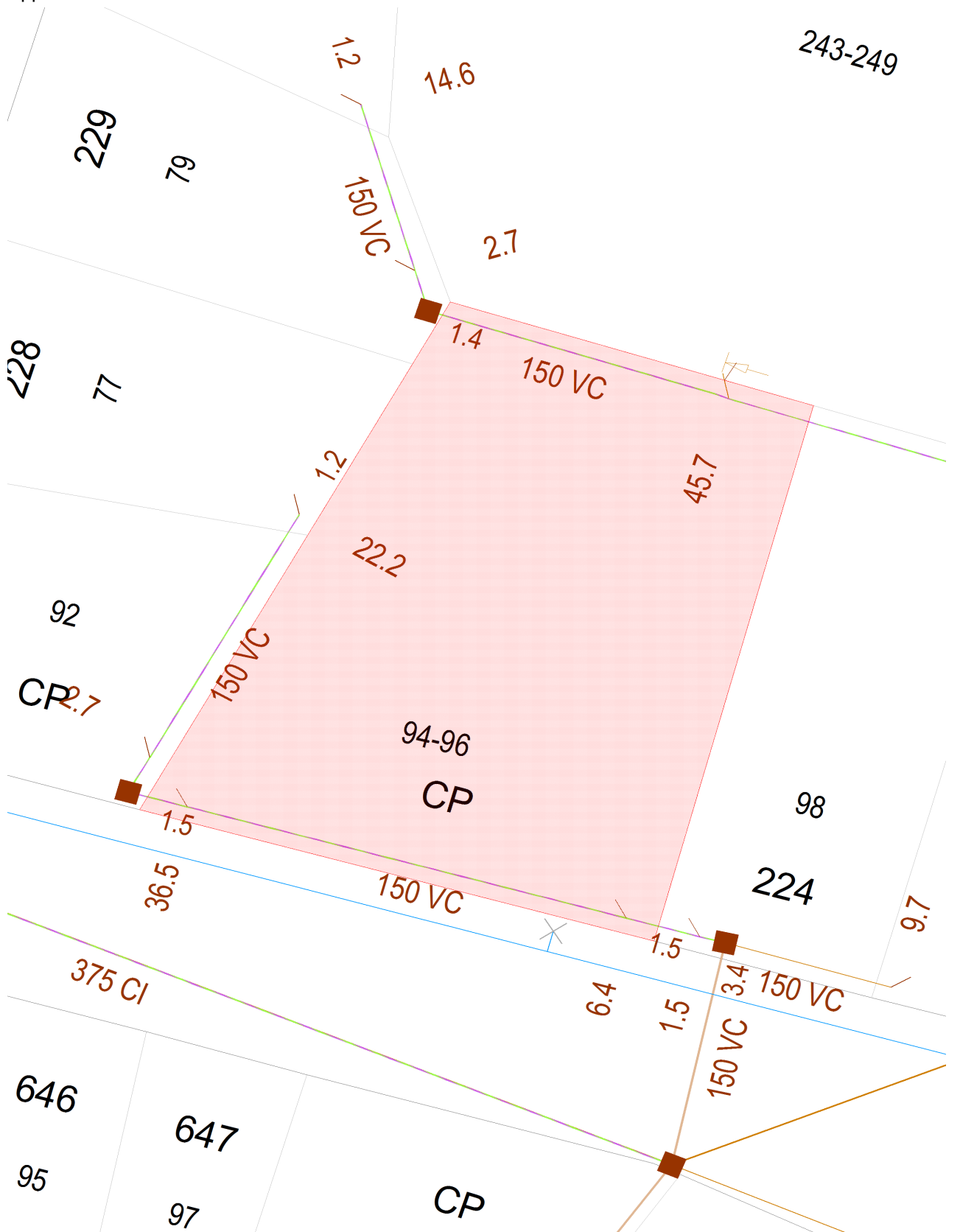
**Section 10.7(5) Matters:**

You may also wish to obtain advice on additional relevant matters affecting the land, under section 10.7(5) of the Environmental Planning and Assessment Act 1979. This advice relates to the following matters:

- Council resolutions to prepare draft local Environmental Plans.
- Terrestrial Biodiversity
- Foreshore Scenic Protection Areas
- Ground Water extraction embargo or water shortage area
- Ground water investigations of 128 Barker St. Randwick (Service Station)
- Flood Studies
- Resident Parking Schemes

# Service Location Print

Application Number: 8002434265



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## Disclaimer

The information on this print shows if we provide any water, wastewater or stormwater services to this property. It may not be accurate or to scale. If you'd like to see the location of private wastewater pipes on the property, please buy a **Sewer service diagram**.

# Asset Information

## Legend

Sewer		Property Details	
Sewer Main (with flow arrow & size type text)		Boundary Line	
Disused Main		Easement Line	
Rising Main		House Number	
Maintenance Hole (with upstream depth to invert)		Lot Number	
Sub-surface chamber		Proposed Land	
Maintenance Hole with Overflow chamber		Sydney Water Heritage Site (please call 132 092 and ask for the Heritage Unit)	
Ventshaft EDUCT			
Ventshaft INDUCT			
Property Connection Point (with chainage to downstream MH)			
Concrete Encased Section			
Terminal Maintenance Shaft			
Maintenance Shaft			
Rodding Point			
Lamphole			
Vertical			
Pumping Station			
Sewer Rehabilitation			
Pressure Sewer		Water	
Pressure Sewer Main		WaterMain - Potable (with size type text)	
Pump Unit (Alarm, Electrical Cable, Pump Unit)		Disconnected Main - Potable	
Property Valve Boundary Assembly		Proposed Main - Potable	
Stop Valve		Water Main - Recycled	
Reducer / Taper		Special Supply Conditions - Potable	
Flushing Point		Special Supply Conditions - Recycled	
Vacuum Sewer		Restrained Joints - Potable	
Pressure Sewer Main		Restrained Joints - Recycled	
Division Valve		Hydrant	
Vacuum Chamber		Maintenance Hole	
Clean Out Point		Stop Valve	
Stormwater		Stop Valve with By-pass	
Stormwater Pipe		Stop Valve with Tapers	
Stormwater Channel		Closed Stop Valve	
Stormwater Gully		Air Valve	
Stormwater Maintenance Hole		Valve	
		Scour	
		Reducer / Taper	
		Vertical Bends	
		Reservoir	
		Recycled Water is shown as per Potable above. Colour as indicated	
Private Mains		Potable Water Main	
		Recycled Water Main	
		Sewer Main	
		Symbols for Private Mains shown grey	

### Disclaimer

The information on this print shows if we provide any water, wastewater or stormwater services to this property. It may not be accurate or to scale. If you'd like to see the location of private wastewater pipes on the property, please buy a **Sewer service diagram**.

## Pipe Types

<b>ABS</b>	Acrylonitrile Butadiene Styrene	<b>AC</b>	Asbestos Cement
<b>BRICK</b>	Brick	<b>CI</b>	Cast Iron
<b>CICL</b>	Cast Iron Cement Lined	<b>CONC</b>	Concrete
<b>COPPER</b>	Copper	<b>DI</b>	Ductile Iron
<b>DICL</b>	Ductile Iron Cement (mortar) Lined	<b>DIPL</b>	Ductile Iron Polymeric Lined
<b>EW</b>	Earthenware	<b>FIBG</b>	Fibreglass
<b>FL BAR</b>	Forged Locking Bar	<b>GI</b>	Galvanised Iron
<b>GRP</b>	Glass Reinforced Plastics	<b>HDPE</b>	High Density Polyethylene
<b>MS</b>	Mild Steel	<b>MSCL</b>	Mild Steel Cement Lined
<b>PE</b>	Polyethylene	<b>PC</b>	Polymer Concrete
<b>PP</b>	Polypropylene	<b>PVC</b>	Polyvinylchloride
<b>PVC - M</b>	Polyvinylchloride, Modified	<b>PVC - O</b>	Polyvinylchloride, Oriented
<b>PVC - U</b>	Polyvinylchloride, Unplasticised	<b>RC</b>	Reinforced Concrete
<b>RC-PL</b>	Reinforced Concrete Plastics Lined	<b>S</b>	Steel
<b>SCL</b>	Steel Cement (mortar) Lined	<b>SCL IBL</b>	Steel Cement Lined Internal Bitumen Lined
<b>SGW</b>	Salt Glazed Ware	<b>SPL</b>	Steel Polymeric Lined
<b>SS</b>	Stainless Steel	<b>STONE</b>	Stone
<b>VC</b>	Vitrified Clay	<b>WI</b>	Wrought Iron
<b>WS</b>	Woodstave		

## Further Information

Please consult the Dial Before You Dig enquiries page on the Sydney Water website.

**For general enquiries please call the Customer Contact Centre on 132 092**

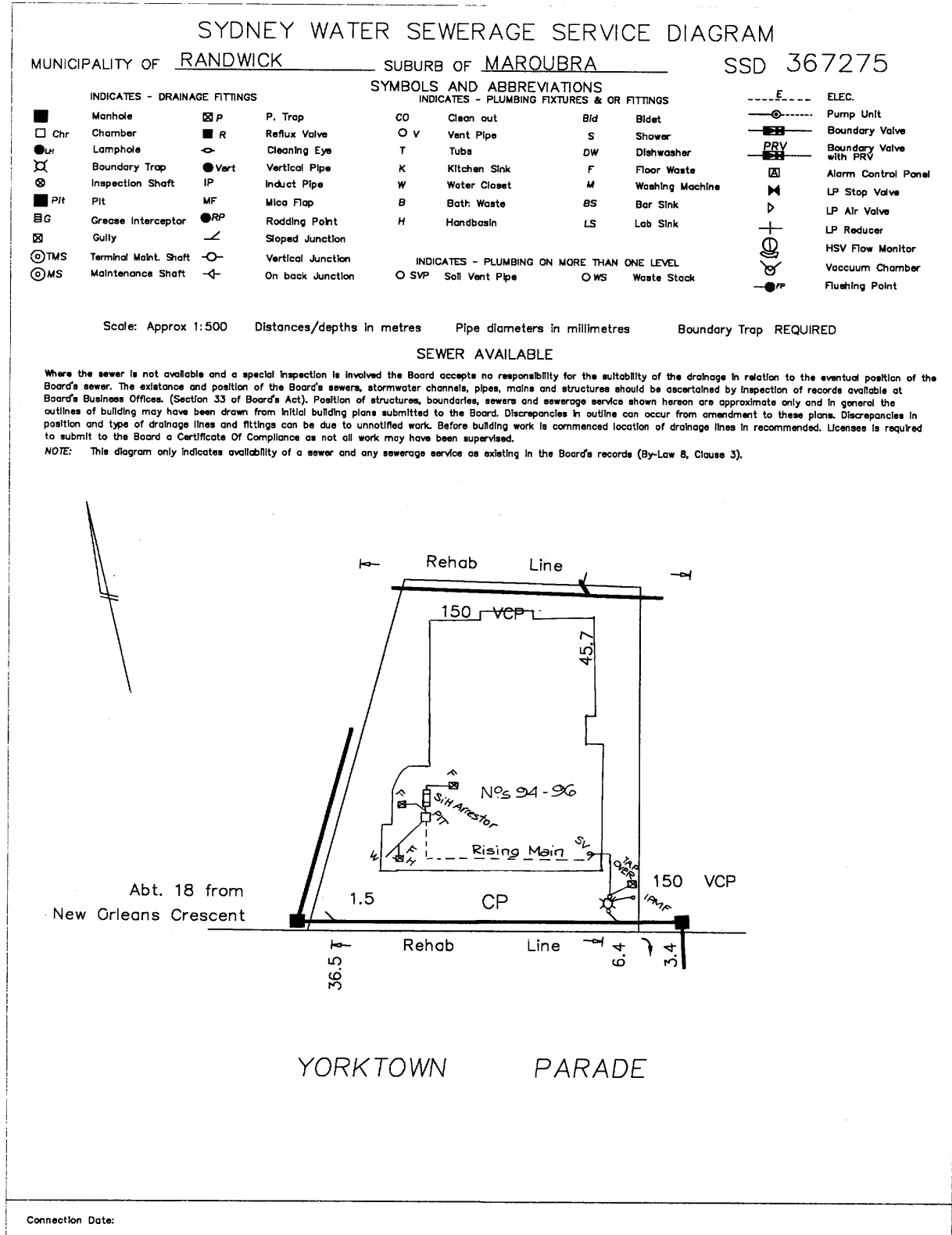
**In an emergency, or to notify Sydney Water of damage or threats to its structures, call 13 20 90 (24 hours, 7 days)**

### Disclaimer

The information on this print shows if we provide any water, wastewater or stormwater services to this property. It may not be accurate or to scale. If you'd like to see the location of private wastewater pipes on the property, please buy a **Sewer service diagram**.

# Sewer Service Diagram

Application Number: 8002434266



Document generated at 01-05-2023 02:21:13 PM

## Disclaimer

The information in this diagram shows the private wastewater pipes on this property. It may not be accurate or to scale and may not show our pipes, structures or all property boundaries. If you'd like to see these, please buy a **Service location print**.

## Standard Form Residential Tenancy Agreement

*Residential Tenancies Regulation 2019, Schedule 1, Clause 4(1)*

### IMPORTANT INFORMATION

Please read this before completing the residential tenancy agreement (the Agreement).

1. This form is your written record of your tenancy agreement. This is a binding contract under the *Residential Tenancies Act 2010*, so please read all terms and conditions carefully.
2. If you need advice or information on your rights and responsibilities, please call NSW Fair Trading on 13 32 20 or visit [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au) before signing the Agreement.
3. If you require extra space to list additional items and terms, attach a separate sheet. All attachments should be signed and dated by both the landlord or the landlord's agent and the tenant to show that both parties have read and agree to the attachments.
4. The landlord or the landlord's agent must give the tenant a copy of the signed Agreement and any attachments, two copies or one electronic copy of the completed condition report and a copy of NSW Fair Trading's Tenant Information Statement publication.

### AGREEMENT

This Agreement is made on 12 / 04 / 2023 at: Infinity Property Agents NSW **BETWEEN**

### LANDLORD

Insert name and telephone number or other contact details of Landlord(s).

Name/s: Sunchen Holdings Pty Ltd

Phone: \_\_\_\_\_ Mobile: \_\_\_\_\_ Email: JJ8933@outlook.com

Other Contact Details: \_\_\_\_\_

If the landlord does not ordinarily reside in New South Wales, specify the State, Territory or, if not in Australia, country in which the landlord ordinarily resides: \_\_\_\_\_

**Note.** The above details must be provided for landlord(s), including at least one contact method, whether or not there is a landlord's agent.

Address for service of notices (can be an Agent's business address): \_\_\_\_\_

**Note.** Business or Residential address must be provided for landlord(s) if there is no landlord's agent.

### TENANT(S) (insert name of Tenant(s) and contact details)

Name/s: Conor Dunne, Chloe Mary Clogher

Address for service of notices (if not address of Residential Premises): \_\_\_\_\_

9/94-96 Yorktown Parade, Maroubra NSW 2035

Phone: \_\_\_\_\_ Mobile: 0490 129 179 Email: conor.dunne@hotmail.com

### LANDLORD'S AGENT DETAILS (insert name of Landlord's Agent (if any) and contact details)

Name/s: Infinity Property Agents

Address: C/- Suite 38, 112-122 McEvoy Street ACN: \_\_\_\_\_

Alexandria NSW 2015 ABN: 54 104 841 974

Phone: (02) 9699 9179 Mobile: \_\_\_\_\_ Email: rent@infinityproperty.com.au

Licence No.: 1415072 Licence Expiry: 30/11/2025

### TERM OF AGREEMENT

The term of this Agreement is:

☐ 6 Months ☐ 12 Months ☐ 18 Months ☐ 2 Years ☐ 3 Years ☐ 5 Years

☒ Other (Please specify) 52 weeks

☐ Periodic (no end date)

starting on: 24 / 05 / 2023 and ending on: 21 / 05 / 2024 (cross out if not applicable)

**Note.** For a residential tenancy agreement having a fixed term of more than 3 years, the agreement must be annexed to the form approved by the Registrar-General for registration under the *Real Property Act 1900*.

## RESIDENTIAL PREMISES *Note: insert any excluded items in the Other Additional Terms Item on the signature page*

The residential premises are: **9/94-96 Yorktown Parade, Maroubra NSW 2035**

The residential premises include: *(include any inclusions, for example, a parking space, garages or furniture provided. Attach additional pages if necessary.)*

**1 x Car Park, 1 x Dishwasher, 1 x Dryer**

**No Storage**

## RENT/RENT INCREASE

The rent is: **\$1,200.00** per: **fortnight** payable in advance starting on: **24 / 05 / 2023**

**Note.** Under section 33 of the Residential Tenancies Act 2010, a landlord, or landlord's agent, must not require a tenant to pay more than 2 weeks rent in advance under this Agreement.

Rent Increase 1: Then from: **/ /** pay: **/** per: **fortnight**

Rent Increase 2: Then from: **/ /** pay: **/** per: **fortnight**

**Note.** Where the fixed term tenancy is for a term of two years or more the above Rent Increases are not to be completed. See Clause 74.2.

The tenant must pay the rent in advance on the **By the Due Date** of every **fortnight** (see Clause 4.2)

The method by which the rent must be paid:

(a) to: **Nil** at: **Nil**  
by cash or Electronic Funds Transfer (EFT), or

(b) into the following account:

Account Name: **INFINITY PROPERTY AGENTS** Bank: **Macquarie Bank**

BSB: **182-222** Account No.: **303 101 281** Payment Reference: **20207104**

or any other account nominated by the landlord; or

(c) as follows: **NONE**

**Note.** The Landlord or Landlord's Agent must permit the Tenant to pay the rent by at least one means for which the Tenant does not incur a cost (other than bank fees or other account fees usually payable for the Tenant's transactions) (see Clause 4.1) and that is reasonably available to the Tenant.

## RENTAL BOND *(Cross out if there is not going to be a bond)*

A rental bond of \$ **1,720.00 (Lodged)** must be paid by the Tenant on signing this Agreement. The amount of the rental bond must not be more than 4 weeks rent.

The tenant provided the rental bond amount to:

☐ the landlord or another person, or

☐ the landlord's agent, or

☒ NSW Fair Trading through Rental Bonds Online.

**Note.** All rental bonds must be lodged with NSW Fair Trading. If the bond is paid to the landlord or another person, it must be deposited within 10 working days after it is paid using the Fair Trading approved form. If the bond is paid to the landlord's agent, it must be deposited within 10 working days after the end of the month in which it is paid.

## IMPORTANT INFORMATION

### MAXIMUM NUMBER OF OCCUPANTS

No more than **2** persons may ordinarily live in the Premises at any one time.

Other people who will ordinarily live at the premises may be listed here: *(cross out if not needed)*

### URGENT REPAIRS

Nominated tradespeople for urgent repairs:

Electrical Repairs: **Real Power – Harrison** Phone: **0426 885 821**

Plumbing Repairs: **NV Plumbing- Nick** Phone: **0404 966 411**

Building Repairs: Phone:

Other Repairs: Phone:

## WATER USAGE

Will the Tenant be required to pay separately for water usage? ☐ Yes ☒ No If 'yes', see Clauses 12 and 13

## UTILITIES

Is electricity supplied to the premises from an embedded network? ☒ Yes ☐ No

Is gas supplied to the premises from an embedded network? ☒ Yes ☐ No

For more information on consumer rights if electricity or gas is supplied from an embedded network contact NSW Fair Trading.

## SMOKE ALARMS

Indicate whether the smoke alarms installed in the residential premises are hardwired or battery operated:

☐ Hardwired smoke alarm ☒ Battery operated smoke alarm

If the smoke alarms are battery operated, are the batteries in the smoke alarms of a kind the tenant can replace? ☒ Yes ☐ No

If yes, specify the type of battery that needs to be used if the battery in the smoke alarm needs to be replaced:

**Alkaline V**

If the smoke alarms are hardwired, are the back-up batteries in the smoke alarms of a kind the tenant can replace? ☐ Yes ☐ No

If yes, specify the type of back-up battery that needs to be used if the back-up battery in the smoke alarm needs to be replaced:

If the *Strata Schemes Management Act 2015* applies to the residential premises, is the owners corporation of the strata scheme responsible for the repair and replacement of smoke alarms in the residential premises? ☒ Yes ☐ No

## STRATA BY-LAWS

Are there any strata or community scheme by-laws applicable to the residential premises? ☒ Yes ☐ No

If 'yes', see Clauses 38 and 39

## GIVING NOTICES AND OTHER DOCUMENTS ELECTRONICALLY [OPTIONAL]

[Cross out if not applicable]

Indicate below for each person whether the person provides express consent to any notice and any other document under section 223 of the *Residential Tenancies Act 2010* being given or served on them by email. The *Electronic Transactions Act 2000* applies to notices and other documents you send or receive electronically.

[You should only consent to electronic service if you check your emails regularly. If there is more than one tenant on the agreement, all tenants should agree on a single email address for electronic service. This will help ensure co-tenants receive notices and other documents at the same time.]

### Landlord

Does the landlord give express consent to the electronic service of notices and documents? ☒ Yes ☐ No If yes, see clause 50.

Email Address: **agent@infinityproperty.com.au**

[Specify email address to be used for the purpose of serving notices and documents.]

### Tenant

Does the tenant give express consent to the electronic service of notices and documents? ☒ Yes ☐ No If yes, see clause 50.

Email Address: **conor.dunne@hotmail.com**

[Specify email address to be used for the purpose of serving notices and documents.]

## CONDITION REPORT

A condition report relating to the condition of the premises must be completed by or on behalf of the Landlord before or when this Agreement is given to the tenant for signing.

If this Agreement is for premises already occupied by the tenant under a previous agreement, **the landlord and tenant agree** that the condition report, prepared for a tenancy agreement dated **23 / 11 / 2020** and entered into by the tenant, applies to this Agreement.

## TENANCY LAWS

The *Residential Tenancies Act 2010* and the *Residential Tenancies Regulation 2019* apply to this Agreement. Both the Landlord and the Tenant must comply with these laws.



## STANDARD TERMS OF AGREEMENT

### RIGHT TO OCCUPY THE PREMISES

1. **The landlord agrees** that the tenant has the right to occupy the residential premises during the tenancy. The residential premises include the additional things (if any) noted under "Residential premises".

### COPY OF AGREEMENT

2. **The landlord agrees** to give the tenant:
  - 2.1 a copy of this agreement before or when the tenant gives the signed copy of the agreement to the landlord or landlord's agent, and
  - 2.2 a copy of this agreement signed by both the landlord and the tenant as soon as is reasonably practicable.

### RENT

3. **The tenant agrees:**
  - 3.1 to pay rent on time, and
  - 3.2 to reimburse the landlord for the cost of replacing rent deposit books or rent cards lost by the tenant, and
  - 3.3 to reimburse the landlord for the amount of any fees paid by the landlord to a bank or other authorised deposit-taking institution as a result of funds of the tenant not being available for rent payment on the due date.
4. **The landlord agrees:**
  - 4.1 to provide the tenant with at least one means to pay rent for which the tenant does not incur a cost (other than bank fees or other account fees usually payable for the tenant's transactions) and that is reasonably available to the tenant, and
  - 4.2 not to require the tenant to pay more than 2 weeks rent in advance or to pay rent for a period of the tenancy before the end of the previous period for which rent has been paid, and
  - 4.3 not to require the tenant to pay rent by a cheque or other negotiable instrument that is post-dated, and
  - 4.4 to accept payment of unpaid rent after the landlord has given a termination notice on the ground of failure to pay rent if the tenant has not vacated the residential premises, and
  - 4.5 not to use rent paid by the tenant for the purpose of any amount payable by the tenant other than rent, and
  - 4.6 to give a rent receipt to the tenant if rent is paid in person (other than by cheque), and
  - 4.7 to make a rent receipt available for collection by the tenant or to post it to the residential premises or to send it by email to an email address specified in this agreement by the tenant for the service of documents of that kind if rent is paid by cheque, and
  - 4.8 to keep a record of rent paid under this agreement and to provide a written statement showing the rent record for a specified period within 7 days of a request by the tenant (unless the landlord has previously provided a statement for the same period).

**Note.** The landlord and the tenant may, by agreement, change the manner in which rent is payable under this agreement.

### RENT INCREASES

5. **The landlord and the tenant agree** that the rent cannot be increased after the end of the fixed term (if any) of this agreement or under this agreement if the agreement is for a fixed term of 2 years or more, unless the landlord gives not less than 60 days written notice of the increase to the tenant. The notice must specify the increased rent and the day from which it is payable.

**Note.** Section 42 of the *Residential Tenancies Act 2010* sets out the circumstances in which rent may be increased during the fixed term of a residential tenancy agreement. An additional term for this purpose may be included in the agreement.

6. **The landlord and the tenant agree** that the rent may not be increased after the end of the fixed term (if any) of this agreement more than once in any 12-month period.

7. **The landlord and the tenant agree:**

- 7.1 that the increased rent is payable from the day specified in the notice, and
- 7.2 that the landlord may cancel or reduce the rent increase by a later notice that takes effect on the same day as the original notice, and
- 7.3 that increased rent under this agreement is not payable unless the rent is increased in accordance with this agreement and the *Residential Tenancies Act 2010* or by the Civil and Administrative Tribunal.

### RENT REDUCTIONS

8. **The landlord and the tenant agree** that the rent abates if the residential premises:
  - 8.1 are destroyed, or become wholly or partly uninhabitable, otherwise than as a result of a breach of this agreement, or
  - 8.2 cease to be lawfully usable as a residence, or
  - 8.3 are compulsorily appropriated or acquired by an authority.
9. The landlord and the tenant may, at any time during this agreement, agree to reduce the rent payable.

### PAYMENT OF COUNCIL RATES, LAND TAX, WATER AND OTHER CHARGES

10. **The landlord agrees** to pay:
    - 10.1 rates, taxes or charges payable under any Act (other than charges payable by the tenant under this agreement), and
    - 10.2 the installation costs and charges for initial connection to the residential premises of an electricity, water, gas, bottled gas or oil supply service, and
    - 10.3 all charges for the supply of electricity, non-bottled gas or oil to the tenant at the residential premises that are not separately metered, and
- Note 1.** Clause 10.3 does not apply to premises located in an embedded network in certain circumstances in accordance with clauses 34 and 35 of the *Residential Tenancies Regulation 2019*.
- Note 2.** Clause 10.3 does not apply to social housing tenancy agreements in certain circumstances, in accordance with clause 36 of the *Residential Tenancies Regulation 2019*.
- 10.4 the costs and charges for the supply or hire of gas bottles for the supply of bottled gas at the commencement of the tenancy, and
  - 10.5 all charges (other than water usage charges) in connection with a water supply service to separately metered residential premises, and
  - 10.6 all charges in connection with a water supply service to residential premises that are not separately metered, and
  - 10.7 all charges for the supply of sewerage services (other than for pump out septic services) or the supply or use of drainage services to the residential premises, and
  - 10.8 all service availability charges, however described, for the supply of non-bottled gas to the residential premises if the premises are separately metered but do not have any appliances, supplied by the landlord, for which gas is required and the tenant does not use gas supplied to the premises, and
  - 10.9 the costs and charges for repair, maintenance or other work carried out on the residential premises which is required to facilitate the proper installation or replacement of an electricity meter, in working order, including an advanced meter, if the meter installation is required by the retailer to replace an existing meter because the meter is faulty, testing indicates the meter may become faulty or the meter has reached the end of its life.

## 11. The tenant agrees to pay:

- 11.1 all charges for the supply of electricity or oil to the tenant at the residential premises if the premises are separately metered, and
- 11.2 all charges for the supply of non-bottled gas to the tenant at the residential premises if the premises are separately metered, unless the premises do not have any appliances supplied by the landlord for which gas is required and the tenant does not use gas supplied to the premises, and

**Note.** Charges for the supply of gas in certain circumstances may also be payable by a tenant under a social housing agreement in accordance with clause 36 of the *Residential Tenancies Regulation 2019*.

- 11.3 all charges for the supply of bottled gas to the tenant at the residential premises except for the costs and charges for the supply or hire of gas bottles at the start of the tenancy, and
- 11.4 all charges for pumping out a septic system used for the residential premises, and
- 11.5 any excess garbage charges relating to the tenant's use of the residential premises, and
- 11.6 water usage charges, if the landlord has installed water efficiency measures referred to in clause 10 of the *Residential Tenancies Regulation 2019* and the residential premises:
  - 11.6.1 are separately metered, or
  - 11.6.2 are not connected to a water supply service and water is delivered by vehicle.

**Note.** *Separately metered* is defined in the *Residential Tenancies Act 2010*.

## 12. The landlord agrees that the tenant is not required to pay water usage charges unless:

- 12.1 the landlord gives the tenant a copy of the part of the water supply authority's bill setting out the charges, or other evidence of the cost of water used by the tenant, and
- 12.2 the landlord gives the tenant at least 21 days to pay the charges, and
- 12.3 the landlord requests payment of the charges by the tenant not later than 3 months after the issue of the bill for the charges by the water supply authority, and
- 12.4 the residential premises have the following water efficiency measures:
  - 12.4.1 all internal cold water taps and single mixer taps for kitchen sinks or bathroom hand basins on the premises have a maximum flow rate of 9 litres a minute,
  - 12.4.2 on and from 23 March 2025, all toilets are dual flush toilets that have a minimum 3 star rating in accordance with the WELS scheme,
  - 12.4.3 all showerheads have a maximum flow rate of 9 litres a minute,
  - 12.4.4 at the commencement of the residential tenancy agreement and whenever any other water efficiency measures are installed, repaired or upgraded, the premises are checked and any leaking taps or toilets on the premises have been fixed.

## 13. The landlord agrees to give the tenant the benefit of, or an amount equivalent to, any rebate received by the landlord for water usage charges payable or paid by the tenant.

### POSSESSION OF THE PREMISES

#### 14. The landlord agrees:

- 14.1 to make sure the residential premises are vacant so the tenant can move in on the date agreed, and
- 14.2 to take all reasonable steps to ensure that, at the time of signing this agreement, there is no legal reason why the premises cannot be used as a residence for the term of this agreement.

### TENANT'S RIGHT TO QUIET ENJOYMENT

#### 15. The landlord agrees:

- 15.1 that the tenant will have quiet enjoyment of the residential premises without interruption by the landlord or any person claiming by, through or under the landlord or having superior title to that of the landlord (such as a head landlord), and
- 15.2 that the landlord or the landlord's agent will not interfere with, or cause or permit any interference with, the reasonable peace, comfort or privacy of the tenant in using the residential premises, and
- 15.3 that the landlord or the landlord's agent will take all reasonable steps to ensure that the landlord's other neighbouring tenants do not interfere with the reasonable peace, comfort or privacy of the tenant in using the residential premises.

### USE OF THE PREMISES BY TENANT

#### 16. The tenant agrees:

- 16.1 not to use the residential premises, or cause or permit the premises to be used, for any illegal purpose, and
- 16.2 not to cause or permit a nuisance, and
- 16.3 not to interfere, or cause or permit interference, with the reasonable peace, comfort or privacy of neighbours, and
- 16.4 not to intentionally or negligently cause or permit any damage to the residential premises, and
- 16.5 not to cause or permit more people to reside in the residential premises than is permitted by this agreement.

#### 17. The tenant agrees:

- 17.1 to keep the residential premises reasonably clean, and
- 17.2 to notify the landlord as soon as practicable of any damage to the residential premises, and
- 17.3 that the tenant is responsible to the landlord for any act or omission by a person who is lawfully on the residential premises if the person is only permitted on the premises with the tenant's consent and the act or omission would be in breach of this agreement if done or omitted by the tenant, and
- 17.4 that it is the tenant's responsibility to replace light globes on the residential premises.

#### 18. The tenant agrees, when this agreement ends and before giving vacant possession of the premises to the landlord:

- 18.1 to remove all the tenant's goods from the residential premises, and
- 18.2 to leave the residential premises as nearly as possible in the same condition, fair wear and tear excepted, as at the commencement of the tenancy, and
- 18.3 to leave the residential premises reasonably clean, having regard to their condition at the commencement of the tenancy, and
- 18.4 to remove or arrange for the removal of all rubbish from the residential premises in a way that is lawful and in accordance with council requirements, and
- 18.5 to make sure that all light fittings on the premises have working globes, and
- 18.6 to return to the landlord all keys, and other opening devices or similar devices, provided by the landlord.

**Note.** Under section 54 of the *Residential Tenancies Act 2010*, the vicarious liability of a tenant for damage to residential premises caused by another person is not imposed on a tenant who is the victim of a domestic violence offence, or a co-tenant who is not a relevant domestic violence offender, if the damage occurred during the commission of a domestic violence offence (within the meaning of that Act).

### LANDLORD'S GENERAL OBLIGATIONS FOR RESIDENTIAL PREMISES

#### 19. The landlord agrees:

- 19.1 to make sure that the residential premises are reasonably clean and fit to live in, and

**Note 1.** Section 52 of the *Residential Tenancies Act 2010* specifies the minimum requirements that must be met for residential premises to be fit to live in. These include that the residential premises:

- (a) are structurally sound, and
- (b) have adequate natural light or artificial lighting in each room of the premises other than a room that is intended to be used only for the purposes of storage or a garage, and
- (c) have adequate ventilation, and
- (d) are supplied with electricity or gas and have an adequate number of electricity outlet sockets or gas outlet sockets for the supply of lighting and heating to, and use of appliances in, the premises, and
- (e) have adequate plumbing and drainage, and
- (f) are connected to a water supply service or infrastructure that supplies water (including, but not limited to, a water bore or water tank) that is able to supply to the premises hot and cold water for drinking and ablution and cleaning activities, and
- (g) contain bathroom facilities, including toilet and washing facilities, that allow privacy for the user.

**Note 2.** Premises are structurally sound only if the floors, ceilings, walls, supporting structures (including foundations), doors, windows, roof, stairs, balconies, balustrades and railings:

- (a) are in a reasonable state of repair, and
  - (b) with respect to the floors, ceilings, walls and supporting structures-are not subject to significant dampness, and
  - (c) with respect to the roof, ceilings and windows-do not allow water penetration into the premises, and
  - (d) are not liable to collapse because they are rotted or otherwise defective.
- 19.2 to make sure that all light fittings on the residential premises have working light globes on the commencement of the tenancy, and
- 19.3 to keep the residential premises in a reasonable state of repair, considering the age of, the rent paid for and the prospective life of the premises, and
- 19.4 not to interfere with the supply of gas, electricity, water, telecommunications or other services to the residential premises (unless the interference is necessary to avoid danger to any person or enable maintenance or repairs to be carried out), and
- 19.5 not to hinder a tradesperson's entry to the residential premises when the tradesperson is carrying out maintenance or repairs necessary to avoid health or safety risks to any person, or to avoid a risk that the supply of gas, electricity, water, telecommunications or other services to the residential premises may be disconnected, and
- 19.6 to comply with all statutory obligations relating to the health or safety of the residential premises, and
- 19.7 that a tenant who is the victim of a domestic violence offence or a co-tenant who is under the same agreement as the victim of the domestic violence offence but is not a relevant domestic violence offender is not responsible to the landlord for any act or omission by a co-tenant that is a breach of this agreement if the act or omission constitutes or resulted in damage to the premises and occurred during the commission of a domestic violence offence.

#### URGENT REPAIRS

- 20. The landlord agrees** to pay the tenant, within 14 days after receiving written notice from the tenant, any reasonable costs (not exceeding \$1,000) that the tenant has incurred for making urgent repairs to the residential premises (of the type set out below) so long as:
- 20.1 the damage was not caused as a result of a breach of this agreement by the tenant, and
- 20.2 the tenant gives or makes a reasonable attempt to give the landlord notice of the damage, and
- 20.3 the tenant gives the landlord a reasonable opportunity to make the repairs, and

- 20.4 the tenant makes a reasonable attempt to have any appropriate tradesperson named in this agreement make the repairs, and
- 20.5 the repairs are carried out, where appropriate, by licensed or properly qualified persons, and
- 20.6 the tenant, as soon as possible, gives or tries to give the landlord written details of the repairs, including the cost and the receipts for anything the tenant pays for.

**Note.** The type of repairs that are **urgent repairs** are defined in the *Residential Tenancies Act 2010* and are defined as follows-

- (a) a burst water service,
- (b) an appliance, fitting or fixture that uses water or is used to supply water that is broken or not functioning properly, so that a substantial amount of water is being wasted,
- (c) a blocked or broken lavatory system,
- (d) a serious roof leak,
- (e) a gas leak,
- (f) a dangerous electrical fault,
- (g) flooding or serious flood damage,
- (h) serious storm or fire damage,
- (i) a failure or breakdown of the gas, electricity or water supply to the premises,
- (j) a failure or breakdown of any essential service on the residential premises for hot water, cooking, heating, cooling or laundering,
- (k) any fault or damage that causes the premises to be unsafe or insecure.

#### SALE OF THE PREMISES

**21. The landlord agrees:**

- 21.1 to give the tenant written notice that the landlord intends to sell the residential premises, at least 14 days before the premises are made available for inspection by potential purchasers, and
- 21.2 to make all reasonable efforts to agree with the tenant as to the days and times when the residential premises are to be available for inspection by potential purchasers.

**22. The tenant agrees** not to unreasonably refuse to agree to days and times when the residential premises are to be available for inspection by potential purchasers.

**23. The landlord and the tenant agree:**

- 23.1 that the tenant is not required to agree to the residential premises being available for inspection more than twice in a period of a week, and
- 23.2 that, if they fail to agree, the landlord may show the residential premises to potential purchasers not more than twice in any period of a week and must give the tenant at least 48 hours notice each time.

#### LANDLORD'S ACCESS TO THE PREMISES

**24. The landlord agrees** that the landlord, the landlord's agent or any person authorised in writing by the landlord, during the currency of this agreement, may only enter the residential premises in the following circumstances:

- 24.1 in an emergency (including entry for the purpose of carrying out urgent repairs),
- 24.2 if the Civil and Administrative Tribunal so orders,
- 24.3 if there is good reason for the landlord to believe the premises are abandoned,
- 24.4 if there is good reason for serious concern about the health of the tenant or any other person on the residential premises and a reasonable attempt has been made to obtain consent to the entry,
- 24.5 to inspect the premises, if the tenant is given at least 7 days written notice (no more than 4 inspections are allowed in any period of 12 months),
- 24.6 to carry out, or assess the need for, necessary repairs, if the tenant is given at least 2 days notice each time,

- 24.7 to carry out, or assess the need for, work relating to statutory health and safety obligations relating to the residential premises, if the tenant is given at least 2 days notice each time,
- 24.8 to show the premises to prospective tenants on a reasonable number of occasions if the tenant is given reasonable notice on each occasion (this is only allowed during the last 14 days of the agreement),
- 24.9 to value the property, if the tenant is given 7 days notice (not more than one valuation is allowed in any period of 12 months),
- 24.10 to take photographs, or make visual recordings, of the inside of the premises in order to advertise the premises for sale or lease, if the tenant is given reasonable notice and reasonable opportunity to move any of their possessions that can reasonably be moved out of the frame of the photograph or the scope of the recording (this is only allowed once in a 28 day period before marketing of the premises starts for sale or lease or the termination of this agreement),
- 24.11 if the tenant agrees.

- 25. The landlord agrees** that a person who enters the residential premises under clause 24.5, 24.6, 24.7, 24.8, 24.9 or 24.10 of this agreement:
- 25.1 must not enter the premises on a Sunday or a public holiday, unless the tenant agrees, and
- 25.2 may enter the premises only between the hours of 8.00 a.m. and 8.00 p.m., unless the tenant agrees to another time, and
- 25.3 must not stay on the residential premises longer than is necessary to achieve the purpose of the entry to the premises, and
- 25.4 must, if practicable, notify the tenant of the proposed day and time of entry.
- 26. The landlord agrees** that, except in an emergency (including to carry out urgent repairs), a person other than the landlord or the landlord's agent must produce to the tenant the landlord's or the landlord's agent's written permission to enter the residential premises.
- 27. The tenant agrees** to give access to the residential premises to the landlord, the landlord's agent or any person, if they are exercising a right to enter the residential premises in accordance with this agreement.

#### PUBLISHING PHOTOGRAPHS OR VISUAL RECORDINGS

- 28. The landlord agrees** that the landlord or the landlord's agent must not publish any photographs taken or visual recordings made of the inside of the residential premises in which the tenant's possessions are visible unless they first obtain written consent from the tenant.

**Note.** See section 55A of the *Residential Tenancies Act 2010* for when a photograph or visual recording is published.

- 29. The tenant agrees** not to unreasonably withhold consent. If the tenant is in circumstances of domestic violence, within the meaning of section 105B of the *Residential Tenancies Act 2010*, it is not unreasonable for the tenant to withhold consent.

#### FIXTURES, ALTERATIONS, ADDITIONS OR RENOVATIONS TO THE PREMISES

- 30. The tenant agrees:**
- 30.1 not to install any fixture or renovate, alter or add to the residential premises without the landlord's written permission, and
- 30.2 that certain kinds of fixtures or alterations, additions or renovations that are of a minor nature specified by clause 22(2) of the *Residential Tenancies Regulation 2019* may only be carried out by a person appropriately qualified to carry out those alterations unless the landlord gives consent, and

- 30.3 to pay the cost of a fixture, installed by or on behalf of the tenant, or any renovation, alteration or addition to the residential premises, unless the landlord otherwise agrees, and
- 30.4 not to remove, without the landlord's permission, any fixture attached by the tenant that was paid for by the landlord or for which the landlord gave the tenant a benefit equivalent to the cost of the fixture, and
- 30.5 to notify the landlord of any damage caused by removing any fixture attached by the tenant, and
- 30.6 to repair any damage caused by removing the fixture or compensate the landlord for the reasonable cost of repair.
- 31. The landlord agrees** not to unreasonably withhold consent to a fixture, or to an alteration, addition or renovation that is of a minor nature.

**Note.** The *Residential Tenancies Regulation 2019* provides a list of the kinds of fixtures or alterations, additions or renovations of a minor nature to which it would be unreasonable for a landlord to withhold consent and which of those fixtures, or alterations, additions or renovations the landlord may give consent to on the condition that the fixture or alteration, addition or renovation is carried out by an appropriately qualified person.

#### LOCKS AND SECURITY DEVICES

- 32. The landlord agrees:**
- 32.1 to provide and maintain locks or other security devices necessary to keep the residential premises reasonably secure, and
- 32.2 to give each tenant under this agreement a copy of the key or opening device or information to open any lock or security device for the residential premises or common property to which the tenant is entitled to have access, and
- 32.3 not to charge the tenant for the cost of providing the copies except to recover the cost of replacement or additional copies, and
- 32.4 not to alter, remove or add any lock or other security device without reasonable excuse (which includes an emergency, an order of the Civil and Administrative Tribunal, termination of a co-tenancy or an apprehended violence order prohibiting a tenant or occupant from having access) or unless the tenant agrees, and
- 32.5 to give each tenant under this agreement a copy of any key or other opening device or information to open any lock or security device that the landlord changes as soon as practicable (and no later than 7 days) after the change.
- 33. The tenant agrees:**
- 33.1 not to alter, remove or add any lock or other security device without reasonable excuse (which includes an emergency, an order of the Civil and Administrative Tribunal, termination of a co-tenancy or an apprehended violence order prohibiting a tenant or occupant from having access) or unless the landlord agrees, and
- 33.2 to give the landlord a copy of the key or opening device or information to open any lock or security device that the tenant changes within 7 days of the change.
- 34.** A copy of a changed key or other opening device need not be given to the other party if the other party agrees not to be given a copy or the Civil and Administrative Tribunal authorises a copy not to be given or the other party is prohibited from access to the residential premises by an apprehended violence order.

#### TRANSFER OF TENANCY OR SUB-LETTING BY TENANT

- 35. The landlord and the tenant agree** that:
- 35.1 the tenant may, with the landlord's written permission, transfer the tenant's tenancy under this agreement or sub-let the residential premises, and
- 35.2 the landlord may refuse permission (whether or not it is reasonable to do so) to the transfer of the whole of the tenancy or sub-letting the whole of the residential premises, and



- 35.3 the landlord must not unreasonably refuse permission to a transfer of part of a tenancy or a sub-letting of part of the residential premises, and
- 35.4 without limiting clause 35.3, the landlord may refuse permission to a transfer of part of the tenancy or to sub-letting part of the residential premises if the number of occupants would be more than is permitted under this agreement or any proposed tenant or sub-tenant is listed on a residential tenancy database or it would result in overcrowding of the residential premises.

**Note.** Clauses 35.3 and 35.4 do not apply to social housing tenancy agreements.

36. **The landlord agrees** not to charge for giving permission other than for the landlord's reasonable expenses in giving permission.

#### CHANGE IN DETAILS OF LANDLORD OR LANDLORD'S AGENT

##### 37. The landlord agrees:

- 37.1 if the name and telephone number or contact details of the landlord change, to give the tenant notice in writing of the change within 14 days, and
- 37.2 if the address of the landlord changes (and the landlord does not have an agent), to give the tenant notice in writing of the change within 14 days, and
- 37.3 if the name, telephone number or business address of the landlord's agent changes or the landlord appoints an agent, to give the tenant notice in writing of the change or the agent's name, telephone number and business address, as appropriate, within 14 days, and
- 37.4 if the landlord or landlord's agent is a corporation and the name or business address of the corporation changes, to give the tenant notice in writing of the change within 14 days, and
- 37.5 if the State, Territory or country in which the landlord ordinarily resides changes, to give the tenant notice in writing of the change within 14 days.

#### COPY OF CERTAIN BY-LAWS TO BE PROVIDED

[Cross out if not applicable]

38. **The landlord agrees** to give to the tenant, before the tenant enters into this agreement, a copy of the by-laws applying to the residential premises if they are premises under the *Strata Schemes Management Act 2015*.
39. **The landlord agrees** to give to the tenant, within 7 days of entering into this agreement, a copy of the by-laws applying to the residential premises if they are premises under the *Strata Schemes Development Act 2015*, the *Community Land Development Act 1989* or the *Community Land Management Act 1989*.

#### MITIGATION OF LOSS

40. **The rules of law** relating to mitigation of loss or damage on breach of a contract apply to a breach of this agreement. (For example, if the tenant breaches this agreement, the landlord will not be able to claim damages for loss which could have been avoided by reasonable effort by the landlord.)

#### RENTAL BOND

[Cross out this clause if no rental bond is payable]

41. **The landlord agrees** that, where the landlord or the landlord's agent applies to the Rental Bond Board or the Civil and Administrative Tribunal for payment of the whole or part of the rental bond to the landlord, the landlord or the landlord's agent will provide the tenant with:
- 41.1 details of the amount claimed, and
- 41.2 copies of any quotations, accounts and receipts that are relevant to the claim, and
- 41.3 a copy of a completed condition report about the residential premises at the end of the residential tenancy agreement.

#### SMOKE ALARMS

##### 42. The landlord agrees to:

- 42.1 ensure that smoke alarms are installed in accordance with the *Environmental Planning and Assessment Act 1979* if that Act requires them to be installed in the premises and are functioning in accordance with the regulations under that Act, and
- 42.2 conduct an annual check of all smoke alarms installed on the residential premises to ensure that the smoke alarms are functioning, and
- 42.3 install or replace, or engage a person to install or replace, all removable batteries in all smoke alarms installed on the residential premises annually, except for smoke alarms that have a removable lithium battery, and
- 42.4 install or replace, or engage a person to install or replace, a removable lithium battery in a smoke alarm in the period specified by the manufacturer of the smoke alarm, and
- 42.5 engage an authorised electrician to repair or replace a hardwired smoke alarm, and
- 42.6 repair or replace a smoke alarm within 2 business days of becoming aware that the smoke alarm is not working unless the tenant notifies the landlord that the tenant will carry out the repair to the smoke alarm and the tenant carries out the repair, and
- 42.7 reimburse the tenant for the costs of a repair or replacement of a smoke alarm in accordance with clause 18 of the *Residential Tenancies Regulation 2019*, that the tenant is allowed to carry out.

**Note 1.** Under section 64A of the *Residential Tenancies Act 2010*, repairs to a smoke alarm includes maintenance of a smoke alarm in working order by installing or replacing a battery in the smoke alarm.

**Note 2.** Clauses 42.2-42.7 do not apply to a landlord of premises that comprise or include a lot in a strata scheme (within the meaning of the *Strata Schemes Management Act 2015*) if the owners corporation is responsible for the repair and replacement of smoke alarms in the residential premises.

**Note 3.** A tenant who intends to carry out a repair to a smoke alarm may do so only in the circumstances prescribed for a tenant in clause 15 of the *Residential Tenancies Regulation 2019*.

**Note 4.** Section 64A of the Act provides that a smoke alarm includes a heat alarm.

##### 43. The tenant agrees:

- 43.1 to notify the landlord if a repair or a replacement of a smoke alarm is required, including replacing a battery in the smoke alarm, and
- 43.2 that the tenant may only replace a battery in a battery-operated smoke alarm, or a back-up battery in a hardwired smoke alarm, if the smoke alarm has a removable battery or a removable back-up battery, and
- 43.3 to give the landlord written notice, as soon as practicable if the tenant will carry out and has carried out a repair or replacement, or engages a person to carry out a repair or replacement, in accordance with clauses 15-17 of the *Residential Tenancies Regulation 2019*.

**Note.** Clauses 43.2 and 43.3 do not apply to tenants under social housing tenancy agreements or tenants of premises that comprise or include a lot in a strata scheme (within the meaning of the *Strata Schemes Management Act 2015*) if the owners corporation is responsible for the repair and replacement of smoke alarms in the residential premises.

44. **The landlord and the tenant each agree** not to remove or interfere with the operation of a smoke alarm installed on the residential premises unless they have a reasonable excuse to do so.

**Note.** The regulations made under the *Environmental Planning and Assessment Act 1979* provide that it is an offence to remove or interfere with the operation of a smoke alarm or a heat alarm in particular circumstances.

## SWIMMING POOLS

[Cross out this clause if there is no swimming pool]

**45. The landlord agrees** to ensure that the requirements of the *Swimming Pools Act 1992* have been complied with in respect of the swimming pool on the residential premises.

[Cross out the following clause if there is no swimming pool or the swimming pool is situated on land in a strata scheme (within the meaning of the *Strata Schemes Management Act 2015*) or in a community scheme (within the meaning of the *Community Land Development Act 1989*) and that strata or community scheme comprises more than 2 lots]

**46. The landlord agrees** to ensure that at the time that this residential tenancy agreement is entered into:

- 46.1 the swimming pool on the residential premises is registered under the *Swimming Pools Act 1992* and has a valid certificate of compliance under that Act or a relevant occupation certificate within the meaning of that Act, and
- 46.2 a copy of that valid certificate of compliance or relevant occupation certificate is provided to the tenant.

**Note.** A swimming pool certificate of compliance is valid for 3 years from its date of issue.

## LOOSE-FILL ASBESTOS INSULATION

**47. The landlord agrees:**

- 47.1 if, at the time that this residential tenancy agreement is entered into, the premises have been and remain listed on the LFAI Register, the tenant has been advised in writing by the landlord that the premises are listed on that Register, or
- 47.2 if, during the tenancy, the premises become listed on the LFAI Register, to advise the tenant in writing, within 14 days of the premises being listed on the Register, that the premises are listed on the Register.

## COMBUSTIBLE CLADDING

**48. The landlord agrees** that if, during the tenancy, the landlord becomes aware of any of the following facts, the landlord will advise the tenant in writing within 14 days of becoming aware of the fact:

- 48.1 that the residential premises are part of a building in relation to which a notice of intention to issue a fire safety order, or a fire safety order, has been issued requiring rectification of the building regarding external combustible cladding,
- 48.2 that the residential premises are part of a building in relation to which a notice of intention to issue a building product rectification order, or a building product rectification order, has been issued requiring rectification of the building regarding external combustible cladding,
- 48.3 that the residential premises are part of a building where a development application or complying development certificate application has been lodged for rectification of the building regarding external combustible cladding.

## SIGNIFICANT HEALTH OR SAFETY RISKS

**49. The landlord agrees** that if, during the tenancy, the landlord becomes aware that the premises are subject to a significant health or safety risk, the landlord will advise the tenant in writing, within 14 days of becoming aware, that the premises are subject to the significant health or safety risk and the nature of the risk.

## ELECTRONIC SERVICE OF NOTICES AND OTHER DOCUMENTS

**50. The landlord and the tenant agree:**

- 50.1 to only serve any notices and any other documents, authorised or required by the *Residential Tenancies Act 2010* or the regulations or this agreement, on the other party by email if the other party has provided express consent, either as part of this agreement or otherwise, that a specified email address is to be used for the purpose of serving notices and other documents, and

- 50.2 to notify the other party in writing within 7 days if the email address specified for electronic service of notices and other documents changes, and
- 50.3 that they may withdraw their consent to the electronic service of notices and other documents at any time, by notifying the other party in writing, and
- 50.4 if a notice is given withdrawing consent to electronic service of notices and other documents, following the giving of such notice, no further notices or other documents are to be served by email.

## BREAK FEE FOR FIXED TERM OF NOT MORE THAN 3 YEARS

**51. The tenant agrees** that, if the tenant ends the residential tenancy agreement before the end of the fixed term of the agreement, the tenant must pay a break fee of the following amount if the fixed term is not more than 3 years:

- 51.1 4 weeks rent if less than 25% of the fixed term has expired,
- 51.2 3 weeks rent if 25% or more but less than 50% of the fixed term has expired,
- 51.3 2 weeks rent if 50% or more but less than 75% of the fixed term has expired,
- 51.4 1 week's rent if 75% or more of the fixed term has expired.

This clause does not apply if the tenant terminates a fixed term residential tenancy agreement for a fixed term of more than 3 years or if the tenant terminates a residential tenancy agreement early for a reason that is permitted under the *Residential Tenancies Act 2010*.

**Note.** Permitted reasons for early termination include destruction of residential premises, breach of the agreement by the landlord and an offer of social housing or a place in an aged care facility, and being in circumstances of domestic violence. Section 107 of the *Residential Tenancies Act 2010* regulates the rights of the landlord and tenant under this clause.

**52. The landlord agrees** that the compensation payable by the tenant for ending the residential tenancy agreement before the end of the fixed term of not more than 3 years is limited to the amount specified in clause 51 and any occupation fee payable under the *Residential Tenancies Act 2010* for goods left on the residential premises.

**Note.** Section 107 of the *Residential Tenancies Act 2010* also regulates the rights of landlords and tenants for a residential tenancy agreement with a fixed term of more than 3 years.

## ADDITIONAL TERMS

[Additional terms may be included in this agreement if:

- (a) both the landlord and the tenant agree to the terms, and
- (b) they do not conflict with the *Residential Tenancies Act 2010*, the *Residential Tenancies Regulation 2019* or any other Act, and
- (c) they do not conflict with the standard terms of this agreement.

ANY ADDITIONAL TERMS ARE NOT REQUIRED BY LAW AND ARE NEGOTIABLE.]

## ADDITIONAL TERM - PETS

[Cross out this clause if not applicable]

**53. The landlord agrees** that the tenant may keep the following animal on the residential premises [specify the breed, size etc]:

**No Pets.** In the event a pet has been approved by the landlord, the tenant must conduct pest control and carpet cleaning at their expense on vacate.

**54. The tenant agrees:**

- 54.1 to supervise and keep the animal within the premises, and
- 54.2 to ensure that the animal does not cause a nuisance, or breach the reasonable peace, comfort or privacy of neighbours, and
- 54.3 to ensure that the animal is registered and micro-chipped if required under law, and

- 54.4 to comply with any council requirements.
55. **The tenant agrees** to have the carpet professionally cleaned or to pay the cost of having the carpet professionally cleaned at the end of the tenancy if cleaning is required because an animal has been kept on the residential premises during the tenancy.

**56.1 The tenant agrees:**

- (a) to have the residential premises fumigated, at the tenant's own expense, if the fumigation is required because animals have been kept on the residential premises during the tenancy.
- (b) where there is any damage to the residential premises as a result of animals having been kept on the residential premises, to repair such damage at the tenant's own expense.
- (c) to indemnify the landlord in respect of any damage to property or claims made as a result of damage to any person or property caused or arising from animals having been kept on the residential premises during the tenancy.
- (d) when requested, to provide written evidence of compliance with Clauses 55, 56.1(a) and 56.1(b) to the landlord/landlord's agent.

- 56.2 **The tenant agrees** not to keep animals on the residential premises without obtaining the landlord's consent, as may be provided in the space allowed in clause 53 or otherwise and where such consent is provided, the provisions of clauses 53, 54, 55 and 56.1 will apply to all animals kept on the premises.

**ADDITIONAL TERM - CONDITION REPORT**

57. Where the landlord has in compliance with the *Residential Tenancies Act 2010* provided the tenant with the signed condition report and the tenant has not returned the condition report within 7 days after taking possession of the residential premises the tenant will be deemed to have accepted the condition report.
- 57.1 The condition report will form part of and be included in this agreement.
- 57.2 The tenant acknowledges that prior to signing this agreement, the tenant was provided with two physical copies (or one electronic copy) of any applicable condition report required to be provided to the tenant under the *Residential Tenancies Act 2010*.

**ADDITIONAL TERM - INSPECTIONS**

- 58.1 The tenant will permit the landlord/landlord's agent, on entering the residential premises in accordance with Clause 24.5 (inspect the premises) of the Standard Terms, to record the condition of the residential premises by taking photos and/or videos. The photos or videos will be used to compare with any photos or videos taken in the preparation of the condition report provided to the tenant at the start of the tenancy. Such comparison is to assist in identifying any damage or defects that may arise during the tenancy. Photos or videos may not be used for advertising or any other purpose and copies will be provided to the tenant on request at no charge. Should the landlord/landlord's agent require photos or videos of the residential premises for any purpose other than as outlined above the landlord/landlord's agent must obtain the tenant's written authorisation.
- 58.2 Reasonable care will be taken to avoid including details of the tenant's personal property and effects in such photos or videos.

**ADDITIONAL TERM - CARE AND USE OF PREMISES**

59. **The tenant agrees**, in addition to the requirements of Clauses 16, 17 and 18 of this agreement:
- 59.1 they must only use the premises as their place of residence. Should the tenant wish to use the premises for a purpose other than or in addition to their place of residence (including but not limited to sub-letting), the tenant must first make a request in writing to the landlord. Any consent will be at the absolute discretion of the landlord, and if granted, must be in writing and may be subject to additional terms.
- 59.2 to not paint, mark, affix posters, use nails, screws or adhesives, or in any way deface the premises (whether internally or externally) without first obtaining the prior written consent of the landlord.
- 59.3 to place all household rubbish suitably bagged and wrapped in the bin provided by the local authority and to put the bin out for collection on the designated day for collection and to remove the bin to the premises as soon as practicable after it has been emptied and return it to its allotted place. Where bins are lost or stolen it is the tenant's responsibility to replace the bins at the tenant's cost.
- 59.4 not to use any sink, basin, toilet, drain or like facility in or connected to the premises for other than their intended use or do anything that might damage or block the plumbing drainage or sewerage system on the premises.
- 59.5 not to hang washing or other articles outside anywhere but the areas designated for this purpose.
- 59.6 to maintain all garden areas including watering trees and other plants, to mow the lawn and remove garden rubbish (including pet waste) from the garden and lawn areas.
- 59.7 keep the premises free of rodents, cockroaches and other vermin and to notify the landlord promptly of any vermin or pest infestation which, should the presence of such vermin or infestation have arisen due to act or neglect on the part of the tenant, shall be the tenant's responsibility to remedy.
- 59.8 where a product, fixture or fitting provided with the premises has a warning label or safety instructions attached the tenant is not to deface, damage or remove such label.
- 59.9 to properly look after and not alter or remove any landlord's property including fixtures, furniture, electrical and other appliance and equipment let with the premises and only to operate appliances or equipment in accordance with the manufacturer's instructions or landlord's directions.
- 59.10 where a water efficiency device is installed on the premises, not to remove, modify, tamper with, or damage in any way (whether directly or indirectly) such device.
- 59.11 not to affix any television antenna to the premises.
- 59.12 not to maliciously or negligently damage the premises or any part of the premises.
- 59.13 to replace cracked and/or broken glass where such breakage has arisen as a result of malicious damage or other action on the part of the tenant or it's guest/s.
- 59.14 at the commencement of the tenancy, the Landlord has provided the premises with all light bulbs, LED lights and fluorescent tubes in good working order. The Tenant will promptly replace, at the Tenant's cost, blown or damaged light bulbs, LED lights or fluorescent tubes (and starters, if required) and ensure all are in a working condition at the end of the tenancy. Where damage has been occasioned by the Landlord or its Agent, it shall be the Landlord's responsibility to replace such damaged equipment.
- 59.15 to take all reasonable steps to prevent the occurrence of mould or dampness in or about the premises and will advise the landlord promptly of the occurrence of mould and dampness at the premises.
- 59.16 to notify the landlord of any infectious disease at the premises.



59.17 where, for the purposes of Clause 43.1 of this agreement, the tenant becomes aware or suspects that any smoke alarm (or similar device) present in the residential premises is faulty, to promptly notify the landlord/landlord's agent.

#### ADDITIONAL TERM - SWIMMING POOL SAFETY AND MAINTENANCE

*If Clause 45 is deleted this clause is not applicable.*

##### 60. Swimming Pool Safety and Maintenance

60.1 At the commencement of the tenancy, the landlord will:

- (a) handover the pool in a condition that is safe for use
- (b) provide to the tenant a copy of the pool compliance certificate together with all relevant documentation and instructions on the use and maintenance of the swimming pool.

60.2 During the term of the tenancy:

- (a) the tenant must comply with all safety requirements of the *Swimming Pools Act 1992* in particular ensure:
  - (1) child-restraint barriers are in place and properly maintained,
  - (2) access gates and doors are securely closed at all times,
  - (3) at all times to maintain and not interfere with, move or obscure in any way warning notices and resuscitation signs in the immediate vicinity of the swimming pool,
  - (4) at all times, there are no climbable objects near the child-restraint barriers that would allow children to access the swimming pool.
- (b) where a child-restraint barrier, warning sign or resuscitation sign is damaged and becomes ineffective the tenant must advise the landlord or the agent immediately.
- (c) the tenant is responsible for general maintenance including:
  - (1) regular cleaning of filter baskets
  - (2) maintaining required water levels
  - (3) removing vegetation and other rubbish from the pool
  - (4) maintaining the pool water condition
  - (5) regular pool services
  - (6) payment of costs for all required pool chemicals
  - (7) advising the landlord or the agent immediately of any pool related problem.

60.3 Immediately prior to the end of the term of the tenancy the tenant will provide to the landlord or the agent:

- (a) opportunity to inspect the pool; and/or
- (b) a pool condition report completed by a professional pool service company.

The tenant is to return the pool in good order and condition as at the beginning of the tenancy.

60.4 The landlord is responsible for repair of the pool and repair or replacement of the pool equipment resulting from general wear and tear and for reasons beyond the tenant's control and responsibility however, the tenant will be responsible for any damage or want of repair arising from the tenant's failure to comply with its obligations.

60.5 If the tenant does not maintain the pool and pool equipment to the satisfaction of the landlord acting reasonably, the tenant will be in default and the landlord may seek to recover, in compliance with the Act, any loss or damage incurred.

#### ADDITIONAL TERM - RENTAL BOND

61. The parties agree the rental bond cannot be used for payment of the rent unless the landlord and tenant both agree in writing.

#### ADDITIONAL TERM - TERMINATION

62. On termination or expiration of the term **the tenant agrees:**

- (a) to deliver vacant possession in accordance with the termination notice; and
- (b) to deliver up all keys and security devices; and
- (c) to advise as soon as possible of the tenants contact address.

63. The termination of this agreement by notice or otherwise shall not affect in anyway either party's right to compensation for breach of the terms of this agreement nor either party's obligations to comply with this agreement and the *Residential Tenancies Act 2010*.

64. Should a fixed term agreement for more than 3 years be terminated by the tenant (other than as permitted under the *Residential Tenancies Act 2010*) before the ending date:

- (a) the tenant will be required to pay rent until the tenant has moved out and handed back the keys; and
- (b) the tenant may be liable to pay for the balance term of the tenancy, any loss of rent incurred by the landlord in re-letting the premises where the landlord/landlord's agent has taken reasonable steps to reduce or minimise rental losses; and
- (c) the parties are not relieved from their obligations to mitigate any loss on termination; and
- (d) the landlord may seek Tribunal orders for compensation, including out of pocket and other reasonable expenses, as provided by sections 187(1)(c) and (d) and 187(2) of the Act.

65.1 Acceptance by the landlord of payment of rent or other monies owing by the tenant after service of a notice of termination by the tenant will not amount to or be seen as a waiver of such notice or any of the landlord's rights under this agreement, the *Residential Tenancies Act 2010* or any other applicable law.

65.2 Where the tenancy is at an end and the tenant does not vacate the premises, the landlord is entitled to and expressly reserves the right to make an application to the Civil and Administrative Tribunal for vacant possession and/or compensation.

#### ADDITIONAL TERM - END OF TERM OR OCCUPANCY

66. The tenant will on vacating the premises:

- (a) Return all keys, keycards and other security devices (if any) and make good the cost of replacement should any of these items not be returned or be lost at any time.
- (b) At the end of the tenancy have all carpets cleaned to a standard no less than the standard as provided by the landlord/landlord's agent at the start of the tenancy.
- (c) Fair wear and tear excepted, repair damage to the premises arising or as a result of the tenant's or its guest's actions including damage (if any) caused by the tenant's pets.
- (d) Remove all the tenant's property from the premises including rubbish and property on the premises not the property of the landlord.
- (e) Leave the premises (including the grounds) in a neat and tidy condition.
- (f) Fumigate as reasonably required if pets have been on the premises.
- (g) Provide written evidence (eg. receipt, invoice) of compliance with the requirements of Clauses 66 (c) and (f) to the landlord/landlord's agent on or before vacating.
- (h) Return all remote control devices in good working order and condition including batteries, and where not returned, make good the cost of replacement.



## ADDITIONAL TERM - OCCUPANTS

67. Taking into account the provisions of Clause 17.3 of this agreement, all persons using the premises as occupants or otherwise must comply with the provisions of this agreement and the *Residential Tenancies Act 2010*.

## ADDITIONAL TERM - TELECOMMUNICATION SERVICES

68. On termination **the tenant agrees** to leave telecommunication services (for example telephone, internet, television or cable) and associated hardware, fittings and fixtures, in the same condition as at the start of the tenancy, and ensure (if required) the services continue, are transferred or terminated (as the landlord/agent may direct).
69. Prior to entering into this agreement the tenant must satisfy itself as to the availability and suitability of any telecommunication services and associated hardware, fixtures and fittings to the premises.
70. The landlord gives no warranty as to the provision or adequacy of such telecommunication services or as to the provision or serviceability of any hardware, fixtures and fittings in the premises relating to such services.

## ADDITIONAL TERM - STATUTES AND BY-LAWS

71. The tenant will at all times comply with all applicable statutes, orders, regulations, by-laws (including by-laws referred to in Clauses 38 and 39 if applicable) and management statements relating to the premises including health and safety, noise or the tenant's occupation of the premises generally.

## ADDITIONAL TERM - INSURANCE

72. The landlord is not responsible for insuring the tenant's own property.
73. **The tenant agrees** not to, by act or omission, either directly or indirectly, do anything which would:
- cause any increase in the premium of any insurance the landlord may have over the premises (or their contents); or
  - cause or expose the landlord to any claim on any such insurance policy; or
  - cause any such insurance policy to be invalidated.

## ADDITIONAL TERM - RENT INCREASE DURING THE TERM

- 74.1 In the case of a fixed term agreement of less than 2 years the landlord and tenant agree, if a rent increase is stated in the rent/rent increase item on the second page of this agreement only then may the rent be increased during the term and such increase shall be as set out in the rent/rent increase item on the second page of this agreement.
- 74.2 In the case of a fixed term agreement of 2 years or more the landlord and the tenant agree, rent payable during the term may only be increased once in any period of 12 months and where the tenant has been given at least 60 days written notice before the increased rent is payable specifying the increased rent and the day from which it is payable.

## ADDITIONAL TERM - PRIVACY

75. (a) The landlord's agent must comply with the provisions of the Australian Privacy Principles (*Privacy Act 1988 (CTH)*) and where required maintain a Privacy Policy.
- (b) The Privacy Policy outlines how the landlord's agent collects and uses Personal Information provided by you as the tenant, or obtained by other means, to provide the services required by you or on your behalf.

- (c) You as the tenant agree the landlord's agent may, subject to the *Privacy Act 1988 (CTH)* (where applicable), collect, use and disclose such information to:
- the landlord of the premises to which this agreement applies, insofar as such information is relevant to the managing and/or leasing of the premises; and/or
  - residential tenancy databases for the purpose of enabling a proper assessment of the risk in providing you with the tenancy and if applicable listing tenancy agreement breaches (subject to the provisions of Part 11 Division 2 of the *Residential Tenancies Act 2010*); and/or
  - previous managing agents or landlords and nominated referees to confirm information provided by you; and/or
  - tradespeople and similar contractors engaged by the landlord/landlord's agent in order to facilitate the carrying out of works with respect to the premises; and/or
  - the landlord's insurance companies; authorised real estate personnel; courts and tribunals and other third parties as may be required by the landlord's agent relating to the administration of the premises and use of the landlord's agent's services; and/or
  - a utility connection provider where you request the landlord's agent to facilitate the connection and/or disconnection of your utility services; and/or
  - Owners Corporations.
- (d) Documents or copies of documents provided to establish the identity of the tenant or persons entitled to deal on behalf of the tenant, will be retained by the landlord's agent in accordance with the Australian Privacy Principles and will not be used for any purpose other than confirming the identity of such person/s.
- (e) Without provision of certain information the landlord's agent may not be able to act effectively or at all in the administration of this agreement.
- (f) The tenant has the right to access such Personal Information and may require correction or amendment of any inaccurate, incomplete, out of date or irrelevant information.
- (g) The landlord's agent will provide (where applicable), on request, a copy of its Privacy Policy.

## ADDITIONAL TERM - DATA COLLECTION

76. Upon signing this agreement the parties agree the landlord's agent, and the form completion service provider providing this form, may without disclosing Personal Information collect, use and disclose to Data Collection Agencies information contained in this agreement.

## ADDITIONAL TERM - RELATED DOCUMENTS / NOTICES / ELECTRONIC COMMUNICATIONS

77. (a) The parties agree and confirm any documents and communications in relation to this Agreement may, subject to clause 50, be forwarded electronically and where this document has been forwarded electronically (either for signing or otherwise) the party receiving the document confirms having consented to the delivery of the document (and any other materials) by way of the electronic means of delivery before receiving the documentation.
- (b) A Related Document to be served on any party under this Tenancy Agreement shall be in writing and may be served on that party:
- by delivering it to the party personally; or

- (2) by leaving it for the party at that party's address as stated in this Tenancy Agreement; or
- (3) by posting it to the party by ordinary mail or security mail as a letter addressed to the party at the address as stated in this Tenancy Agreement; or
- (4) by email, where the party has given express consent in accordance with clause 50; or
- (5) by delivery to an alternative address, provided in writing by the party, by any of the methods outlined in Clauses 77(b)(1) to (4) above.
- (c) A document posted shall be deemed to have been served, unless the contrary is shown, at the time when, by the ordinary course of post, the document would be delivered.
- (d) A document sent by electronic communication will be deemed to have been received in accordance with Section 13A of the *Electronic Transactions Act 2000 (NSW)*.
- (e) Documents given by a party's solicitor will be deemed to have been given by and with the authority of the party.
- (f) Documents must be served before 5pm on a business day, failing which, such document will be deemed to have been served on the next business day.
- (g) The parties acknowledge and agree an Electronic Document readily accessible via a link within a Related Document is received when the Related Document is served and will be opened when the Related Document is opened.
- (h) The parties agree to execution, delivery and service of documents electronically by a method provided by DocuSign or such other agreed electronic signature service provider.

## NOTES

### 1. DEFINITIONS

In this agreement:

- (1) **data collection agency** means an agency or organisation that collects real estate data to provide information to the real estate, finance and property valuation industries to enable data analysis.
- (2) **electronic document** means any electronic communication (including Notices) as defined in the *Electronic Transactions Act 2000 (NSW)* including any electronically generated document situated on an external server readily accessible via a link within an electronic communication or other electronically generated document.
- (3) **landlord** means the person who grants the right to occupy residential premises under this agreement, and includes a successor in title to the residential premises whose interest is subject to that of the tenant and a tenant who has granted the right to occupy residential premises to a sub-tenant.
- (4) **landlord's agent** means a person who acts as the agent of the landlord and who (whether or not the person carries on any other business) carries on business as an agent for:
  - (a) the letting of residential premises, or
  - (b) the collection of rents payable for any tenancy of residential premises.
- (5) **LFAI Register** means the register of residential premises that contain or have contained loose-fill asbestos insulation that is required to be maintained under Division 1A of Part 8 of the *Home Building Act 1989*.

- (6) **personal information** means personal information as defined in the *Privacy Act 1988 (CTH)*.
- (7) **related document** means any written communication (including Notices) with regard to this matter between the parties, including any Electronic Documents.
- (8) **rental bond** means money paid by the tenant as security to carry out this agreement.
- (9) **residential premises** means any premises or part of premises (including any land occupied with the premises) used or intended to be used as a place of residence.
- (10) **tenancy** means the right to occupy residential premises under this agreement.
- (11) **tenant** means the person who has the right to occupy residential premises under this agreement, and includes the person to whom such a right passes by transfer or operation of the law and a sub-tenant of the tenant.

### 2. CONTINUATION OF TENANCY (if fixed term agreement)

Once any fixed term of this agreement ends, the agreement continues in force on the same terms as a periodic agreement unless the agreement is terminated by the landlord or the tenant in accordance with the *Residential Tenancies Act 2010* (see notes 3 and 4). Clauses 5 and 6 of this agreement provide for rent to be able to be increased if the agreement continues in force, with certain restrictions.

### 3. ENDING A FIXED TERM AGREEMENT

If this agreement is a fixed term agreement, it may be ended by the landlord or the tenant by giving written notice of termination. The notice may be given at any time up until the end of the fixed term but cannot take effect until the term ends. The landlord must give at least 30 days notice and the tenant must give at least 14 days notice.

### 4. ENDING A PERIODIC AGREEMENT

If this agreement is a periodic agreement, it may be ended by the landlord or the tenant by giving written notice of termination. The notice may be given at any time. The landlord must give at least 90 days notice and the tenant must give at least 21 days notice.

### 5. OTHER GROUNDS FOR ENDING AGREEMENT

The *Residential Tenancies Act 2010* also authorises the landlord and the tenant to end this agreement on other grounds. The grounds for the landlord ending the agreement include sale of the residential premises requiring vacant possession, breach of this agreement by the tenant, due to hardship or if the agreement is frustrated because the premises are destroyed, become wholly or partly uninhabitable or cease to be lawfully usable as a residence or are appropriated or acquired by any authority by compulsory process.

The grounds for the tenant include breach by the landlord of information disclosure provisions under section 26 of the Act (not revealed when this agreement was entered into), breach of this agreement by the landlord, due to hardship or if the agreement is frustrated because the premises are destroyed, become wholly or partly uninhabitable or cease to be lawfully usable as a residence or are appropriated or acquired by any authority by compulsory process.

For more information refer to that Act or contact NSW Fair Trading on 13 32 20.

### 6. WARNING

It is an offence for any person to obtain possession of the residential premises without an order of the Civil and Administrative Tribunal or a judgment or order of a court if the tenant does not willingly move out. A court can order fines and compensation to be paid for such an offence.

## OTHER ADDITIONAL TERMS

Additional Terms to this Agreement where inserted at the direction of either party were prepared by that party or an Australian Legal Practitioner under instruction from the party and not from the Agent. No warranty is given by the Agent with respect to such Additional Terms. Legal advice should be sought.

The tenant/s acknowledge/s and agree/s in accordance with the Residential Tenancies Act 2010 Additional Terms - Clause 3 to 77 are all application and highlight sections for emphasis.

- Clause 3.1 to PAY RENT ON TIME. (This is very IMPORTANT. If you failed, this agreement will not be renewed.)
- Clause 11.6 to pay water usage charges if the residential premises are separately metered.
- Clause 17.1 to keep the residential premises reasonably clean
- Clause 56.2 to not keep animals on the residential premises without obtaining the landlords consent, Where such consent is provide, the provisions of clauses 53, 54, 55 and 56.1 will apply to all animals kept on the premises. Both pest control and carpet cleaning will be required at vacate at the tenants expenses - invoices will be required.
- Clause 59.4 to maintain all garden areas including watering trees and other plants, to mow the lawn and remove garden rubbish (including pet waste) from the garden and laws areas.
- Clause 59.11 to replace any light bulbs and fluorescent tubes that have blown during the tenancy.
- Clause 59.12 to take all reasonable steps to prevent the occurrence of mould or dampness in or about the premises and will advise the landlord promptly of the occurrence of mould and dampness at the premises. Including but not limited to; clean mould off grout, especially behind sinks, showers, between tiles in wet areas.
- Clause 70 The landlord gives no warrant as to the provision of adequacy of such telecommunication services or as to the provision of serviceability of fittings in the premises relating to such services.

## SIGNATURES

**THE LANDLORD AND THE TENANT ENTER INTO THIS AGREEMENT AND AGREE TO ALL ITS TERMS.**

**Note.** Section 9 of the Electronic Transactions Act 2000 allows for agreements to be signed electronically in NSW if the parties consent. If an electronic signature is used then it must comply with Division 2 of Part 2 of the Electronic Transactions Act 2000.

SIGNED BY THE LANDLORD:



(Signature of landlord or landlord's agent on behalf of the landlord)

Date:

17/04/2023

## LANDLORD INFORMATION STATEMENT

The landlord acknowledges that, at or before the time of signing this residential tenancy agreement, the landlord has read and understood the contents of an information statement published by NSW Fair Trading that sets out the landlord's rights and obligations.

SIGNED BY THE LANDLORD:



(Signature of landlord or landlord's agent on behalf of the landlord)

Date:

17/04/2023

**Note.** May only be signed by the Landlord's Agent where the Landlord has first provided a signed Landlord's Information Statement Acknowledgement.

SIGNED BY THE TENANT:



(Signature of tenant)

Date:

16/04/2023

SIGNED BY THE TENANT (2):



(Signature of tenant 2)

Date:

16/04/2023

SIGNED BY THE TENANT (3):

(Signature of tenant 3)

Date:

/ /

SIGNED BY THE TENANT (4):

(Signature of tenant 4)

Date:

/ /

## TENANT INFORMATION STATEMENT

The tenant acknowledges that, at or before the time of signing this residential tenancy agreement, the tenant was given a copy of an information statement published by NSW Fair Trading.

SIGNED BY THE TENANT/S:




(Signatures of tenants)

Date:

16/04/2023

16/04/2023

For information about your rights and obligations as a landlord or tenant, contact:

- (a) NSW Fair Trading on 13 32 20 or [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au), or
- (b) Law Access NSW on 1300 888 529 or [www.lawaccess.nsw.gov.au](http://www.lawaccess.nsw.gov.au), or
- (c) your local Tenants Advice and Advocacy Service at [www.tenants.org.au](http://www.tenants.org.au)